

**1978  
HANDBOOK ON PAROLE,  
MANDATORY  
SUPERVISION, AND  
EXECUTIVE CLEMENCY  
of the**

**Texas Board of Pardons and Paroles**



Austin Building 17th and Congress Avenue  
Austin, Texas 78701

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**HANDBOOK ON PAROLE,  
MANDATORY  
SUPERVISION, AND  
EXECUTIVE CLEMENCY  
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**Texas Board of Pardons and Paroles**



*This Handbook supersedes the Handbook on Parole and Executive Clemency in Texas, 1970. See also the Annual Statistical Report of the Board of Pardons and Paroles.*

# Texas Board of Pardons and Paroles

## BOARD MEMBERS

Clyde E. Whiteside  
Appointed by  
Governor Preston Smith  
Member since 1971

George G. Killinger, Ph.D.  
Chairman  
Appointed by  
Honorable John F. Onion  
Member since 1977

Connie L. Jackson  
Appointed by  
Honorable Joe Greenhill  
Member since 1977

Clyde E. Whiteside, Interstate Probation and Parole Compact  
Administrator

## PAROLE COMMISSIONERS

Gilberto de Leon  
Appointed 1975

Paul J. Mansmann  
Appointed 1975

Helen Copitka  
Appointed 1975, 1977

Edward O. Johnson  
Appointed 1975

Charles G. Shandera  
Appointed 1975

Kenneth Coleman  
Appointed 1978

by

by

by

Honorable Dolph Briscoe  
Governor  
State of Texas

Honorable John F. Onion  
Presiding  
Court of Criminal Appeals

Honorable Joe Greenhill  
Chief Justice  
Texas Supreme Court

## STAFF

Ken Casner, Executive Director

Robert J. Tapscott  
Director of Field Services

Nelson Fayette  
Director of Institutional Services

Gladys Sommers  
Director of Staff Services

Henry Johnson  
Director of Personnel

Dianne Martin  
Information Specialist

George Cross  
Director of Board and Commissioner Services

John Jasuta  
General Counsel

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*NOTE: See Appendix 7 for Directory of Field Offices, Institutional Offices and Parole Commissioner Offices*

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# **Chapter I**

## **Introduction**

### **THE BOARD OF PARDONS AND PAROLES**

The Texas Board of Pardons and Paroles is the Constitutional authority for the State of Texas which performs two broad functions: (1) administration of the Statewide Parole and Mandatory Supervision System in accordance with Article 42.12, Code of Criminal Procedure (Adult Probation, Parole and Mandatory Supervision Law); and (2) investigating and recommending acts of executive clemency by the Governor as provided by the Texas Constitution, Article IV, Section 11 and the Code of Criminal Procedure, Articles 42.12, 48.01 and 48.04.

Parole functions include determining which prisoners are to be paroled from institutions operated by the Department of Corrections; establishing the conditions of parole; investigating and supervising all prisoners released on parole; conducting parole revocation hearings and recommending appropriate disposition to the Governor; establishing necessary parole policy within the statutory limits; and, carrying out the Interstate Parole and Probation Compact. Both parole and executive clemency acts require the affirmative action of the Board of Pardons and Paroles and the Governor before relief is given.

Executive clemency includes temporary reprieves from prison; reprieve of execution of the death penalty; commutation of sentence from death to lesser punishment; commutation of prison sentence or fine or both; full pardon; restoration of civil rights lost as a result of felony conviction; conditional pardons; trial reprieves of jail sentences; remission of bond forfeiture; and, restoration of the right to drive and operate a motor vehicle.

The system of mandatory supervision, created by the 65th Legislature, provides a period of post-prison supervision for all other releasees of the Department of Corrections who are not released to parole or conditional pardon. A prisoner released to mandatory supervision is deemed as if released on parole. Mandatory supervision will affect only those felons whose offense was committed on or after August 29, 1977.

## PARDONS AND PAROLES DISTINGUISHED

Pardons and paroles are two entirely different functions in the process of criminal justice. The terms pardon and full pardon are used interchangeably in this text and have the same meaning. Except for the conditional pardon which is used in Texas almost exclusively for sending foreign convicts back to their own countries, full pardons are generally not granted until an individual has discharged his sentence either by serving his time in an institution or on parole. The pardon involves forgiveness and is a remission of punishment. Parole is part of the punishment. Pardoned prisoners are free whereas parolees may be arrested and re-imprisoned without a trial. Whereas pardons are acts of executive clemency or mercy, parole is an administrative expedient.

A pardon is an act of grace, a remission of guilt, and serves to absolve the party from the legal consequences of his crime and conviction, though it does not release the convict from the payment of costs adjudged in a criminal case. The full pardon restores civil rights and rights of citizenship which may have been lost as a result of the conviction for which the pardon is granted. Pardon does not relieve a person from the consequences of the Habitual Criminal Act or enhancement provisions of the penal law. The pardoned crime may, therefore, be used for enhancement and as part of the crime under the Habitual Criminal Act.

"The whole question of parole is one of administration. A parole does not release the parolee from custody; it does not discharge or absolve him from the penal consequences of his act; it does not mitigate his punishment; it does not wash away the stain or remit the penalty; it does not reverse the judgment of the Court or declare him to have been innocent or affect the record against him. Unlike the pardon, it is not an act of grace or of mercy, of clemency, or leniency. The granting of parole is merely permission to a prisoner to serve a portion of his sentence outside the walls of the prison. He continues to be in the custody of the authorities, both legally and actually, and is still under restraint. The sentence is in full force and at any time he does not comply with the conditions upon which he is released, or does not want to conduct himself properly, he may be returned for his own good and in the public interest."<sup>1</sup>

Article 42.12, C.C.P., states that "Parole shall mean the release of a prisoner from imprisonment but not from the legal custody of the State, for rehabilitation outside of prison walls under such conditions and provisions for disciplinary supervision as the Board of Pardons and Paroles may determine. Parole shall not be construed to mean a commutation of sentence or any other form of executive clemency."

<sup>1</sup>American Prison Association, *Proceedings of 36th Congress*, (1916) p. 548.

Parole is a quasi contract or agreement between the recipient of parole and the State of Texas whereby an inmate may be released from confinement in prison, under certain rules and conditions, to serve the remainder of his sentence under parole supervision in the community, though still in the legal custody of the Texas Department of Corrections.<sup>2</sup> While serving the remainder of his sentence on parole, the inmate is carefully monitored by Parole Officers. The intensity of supervision is geared to the individual and may be reduced as the parolee continues to adjust to the free world in a satisfactory manner. On the other hand, parole can be taken away or revoked if a parolee fails to live within the rules and conditions of his parole agreement.

Parole is a protective measure designed to bridge the gap between the abnormal environment of prison and the free surroundings of the community. Parole serves two purposes. Parole gives protection to society by providing close supervision which can lead to reincarceration of the parolee. Parole today is a casework service geared to meet the needs of parolees on an individualized basis. The parole officer is oftentimes a broker of community services which he uses to assist the parolee in finding a job, to obtain medical care, psychological counseling, drug abuse counseling, and other needs.

It is the final and most delicate phase of the correctional process. It is that point where the product of the correctional effort is once again exposed to society. It is the testing ground where it can be determined whether or not the individual can resist the pressures of normal social existence. Similarly, it is a period wherein society, through the paroling authority, is allowed to determine whether its welfare will be enhanced or endangered by the presence of the offender in the community.

### **PROBATION AND PAROLE DISTINGUISHED**

Parole and probation are two different methods of dealing with offenders although the two terms are often confused. Parole is a form of conditional release granted to a prisoner who has served a portion of his sentence in a correctional institution. Probation is granted to an offender by a judge or jury without requiring incarceration. Parole is an administrative act of the executive (the Governor) and the executive's agent, the parole board. Probation is a judicial act of the court. Therefore, so-called bench parole, which is nothing more than a suspension of sentence without supervision, is not parole at all but a form of probation. The use of the word parole in this connection is improper and should not be used.

<sup>2</sup>*Clifford v. Beto*, 464 F.2d 1191 (5th Cir. 1972).

## HISTORY OF EXECUTIVE CLEMENCY

Our word clemency is derived from the Latin *clemens*, meaning merciful. The pardoning power is the most well-known form of executive clemency. The idea that justice should be tempered with mercy is as old as recorded history and many early peoples recognized gods of mercy. The law of Moses created the six cities of refuge to which one killing another involuntarily could flee and after a trial in the Temple court, could live under the protection of the high priest. Upon the death of the high priest, those under his protection were granted amnesty<sup>3</sup> and could return home.

Under Roman law there was a diffusion of the pardoning power into both the judicial and legislative branches of government. By the time of the Emperors, however, the senate had acquired the power to pardon either before trial or after sentence. The power apparently was also exercised by the emperor's governors in the conquered territories, for example, Pontius Pilate offered to release Jesus of Nazareth on the Eve of Passover.

Clemency was introduced in England along with Christianity at the end of the 6th Century. Throughout the history of the British throne the king sought to strengthen the central government by consolidating the king's control over the judiciary. The power of pardoning was one such show of authority.

After the new world colonists obtained their freedom from England, the authors of the new state constitution were faced with finding a new source of the pardoning power which had been exercised previously by the king. There were conflicts about which branch of the people's government should exercise the pardoning power. Most of the states left the power with the chief executive or the governor but some restricted his power in clemency matters. Six states provided that the governor could pardon only with the consent of an executive council. Only five states left the pardoning power with the Governor alone. Executive councils which had been set up in several states proved to be unwieldy and were later abolished, leaving the pardoning power solely with the state governor. Most of the new states being admitted to the Union placed the pardoning power in the governor's hands. In the late 19th Century, states began providing their governors with advisory pardoning boards. Pennsylvania was the first to do so in 1874. During the years 1897 to 1918, advisory boards were set up in 23 states. Some states gave the actual pardoning power to these boards, rather than to the governor.

In most states today, the power to pardon is placed in the governor, either acting alone or in conjunction with some official or board.

<sup>3</sup>Amnesty is the form of executive clemency whereby pardons are granted to a large group of individuals.

## HISTORY OF PARDONS IN TEXAS

The first constitution of the state adopted in 1845 gave the Governor power to grant reprieves and pardons and to remit fines and forfeitures in all criminal cases except treason and impeachment. In treason cases, he could grant reprieves or pardons with the consent of the senate. In 1876, he was given power to commute sentences. Although he was required to file his reasons for clemency actions in the office of the Secretary of State until the 1936 Constitutional Amendment, the Governor had sole power in all clemency matters.

Historically, Texas courts have been very watchful of the encroachment upon this power by either the judicial or legislative branches of government. In *Ferguson v. Wilcox*, 119 Tex. 280, 28 S.W.2d 526 (1930), the Supreme Court of Texas declared unconstitutional an act passed by the Legislature providing pardon for a former impeached governor. Likewise, whenever the power to discharge convicts before they had served their terms was conferred upon other officials, the statutes were held invalid. (See *Ex Parte Gore*, 109 Cr. R. 244, 4 S.W.2d 38 (1928).)

It was soon recognized, however, that the Governor could not single-handedly exercise the numerous problems of criminal treatment continually brought to his attention. Hence, to partially relieve the Governor, the Legislature in 1893 created the Board of Pardons Advisors. It was to consist of two qualified voters of the state appointed at the will of the Governor (then James Hogg) with such duties as he might direct, upon condition that these functions at all times be consistent with the Constitution.

In 1929, its name was changed to the Board of Pardons and Paroles and a third member was added. The 1929 Act provided that the members be appointed by the Governor for a six-year overlapping term, one vacancy occurring each two years, and that it was to maintain its offices and hold hearings in the Capitol in Austin.

Although most governors used pardons discreetly, some were indiscriminate. Between 1915 and 1917, Governor James E. Ferguson granted 1,774 pardons and 479 conditional pardons; between 1917 and 1921 Governor W.P. Hobby granted 1,319 pardons and 199 conditional pardons; between 1925 and 1926, Governor Miriam A. Ferguson granted 384 pardons and 777 conditional pardons. This led to a demand to curb the Governor's pardoning power, and in 1936 the Constitution was amended so as to create a constitutional Board of Pardons and Paroles and to limit the clemency powers of the Governor by providing that in all criminal cases except treason and impeachment, the Governor should

have the power, after conviction, on the written signed recommendation and advice of the Board of Pardons and Paroles, or a majority thereof, to grant reprieves and commutations of punishment and pardons. This provision remains unchanged today.

The Texas courts have laid down the doctrine that the effect of a full or absolute pardon is to absolve the party from all legal consequences of his crime and of his conviction, direct and collateral. See *Carr v. State*, 19 Tex. Crim. 635, 657 (1885). Also see *Scott v. State*, 6 Tex. Civ. 343, 25 S.W. 337 (1894) and *Easterwood v. State*, 34 Tex. Crim. 400, 410, 31 S.W. 294, 296 (1895).

### HISTORY OF PAROLE

While clemency had its origin in ancient religious and government systems, parole originated in the English penal system of the 19th Century.

Captain Alexander Manconochie, who was Governor of Norfolk Island, a penal colony east of Australia, was an important contributor to the historical development of parole. At the time of his appointment in 1840, the system of transportation of prisoners from England to the island for penal servitude had been under criticism by many humanitarians because of serious abuses in both the transportation of and treatment of inmates in the penal colonies. Manconochie had proposed changes in the treatment regimen and after he was appointed governor, established a grading system under which convicts could move ahead by grades of progress for good conduct and labor. The stages included strict imprisonment at first, then work on government chain gangs, followed by a period of partial freedom, and finally a ticket-of-leave that enabled the inmate to be transferred to Australia for the remainder of his time before obtaining full liberties. The ticket-of-leave man was required to report to the local constabulary in his community directly after release and monthly thereafter and was further ordered to conform to a series of rules, restrictive of his conduct on pain of revocation.

The English Penal Servitude Act of 1853, governing prisoners in England and Ireland, substituted prisons for transportation to penal colonies. The ticket-of-leave system was retained, however, and began a new stage of development.

Sir William Crofton became head of the Irish Prison System in 1854. He is credited with beginning prison programs designed to reform offenders and to provide for their release based on meritorious penal servitude. Crofton's plan was followed by Zebulon Brockway, the

Superintendent of the Elmira Reformatory in New York in 1877. Brockway made provisions for release on parole when the prisoner was considered fit for freedom. He is credited with being the father of parole in the United States. To receive parole, the prisoner was required to maintain good conduct for a period of one year and to propose a suitable employment plan. After release, he was directed to report regularly to a guardian or sponsor for a period of six months. The first state parole law was enacted in New York State in 1887. That law was drafted by Superintendent Brockway.

Once established at Elmira, parole was accepted rapidly in the United States. By 1900, parole had been introduced in twenty states, in thirty-two states by 1910, and forty-five states by 1922. Currently, all of the states and Puerto Rico have some parole program.

### HISTORY OF PAROLE IN TEXAS

The first parole law was enacted by the Texas Legislature in 1905. That law gave power to the Board of Prison Commissioners and the Board of Pardons Advisors, with the approval of the Governor, to make rules and regulations under which certain meritorious prisoners might be paroled. Those who had served two years or one-fourth of their terms were eligible for parole provided they were first offenders and had not been sentenced for certain offenses.

In 1911, legislation was passed which empowered the Board of Prison Commissioners alone to make rules and regulations, subject to the Governor's approval, for the parole of prisoners. This law provided that meritorious prisoners were to be eligible for parole after having served the minimum terms fixed by statute for the crime and conviction. It also provided for a parole agent or supervisor to keep the state informed about the conduct of parolees. However, no system of supervision existed. In 1913, the addition of an indeterminate sentence law increased the use of parole and gave the Governor the sole power to grant paroles. The Board of Prison Commissioners was still to establish rules and regulations under which prisoners could be paroled but such rules and regulations had to be approved by the Governor.

In 1929, the Board of Pardons Advisors was revitalized by the Legislature and a third member added so as to create the Board of Pardons and Paroles with power to recommend prisoners for parole to the Governor as well as to advise on clemency matters. Parole applied only to those who had never before been convicted of a crime punishable by sentence to the penitentiary. This restriction was changed in 1930 and only those who had actually been in prison before became ineligible. In 1936, the Constitution was amended so as to create a constitutional

three-member Board of Pardons and Paroles. The amendment gave the Board authority to recommend paroles and all acts of clemency to the Governor, (except that the Governor could grant one 30-day capital reprieve without such recommendation), and the Governor was given sole power to revoke paroles and conditional pardons. This act may be said to be the birthplace of parole in Texas.

Parole was to be recommended only if the Board was of the opinion that the prisoner would remain at liberty without violating the law and that his release was not incompatible with the welfare of society. The Board was empowered to prescribe conditions of parole and was required to furnish a written copy of such conditions to the parolee. The parolee did not have to have a job to be paroled, but if offered one, he had to accept. He was not to leave the state without the Board's consent. He was required to support his dependents, make restitution for his crime and abandon evil associates and ways. Upon release from prison, a parolee was given a suit of clothing, two suits of underwear, \$5.00, and a railroad ticket to the place of his conviction.

While there were no parole officers, a supervisor of parolees was provided to keep records of parolees and if they lapsed into criminal ways or violated any condition of parole, the matter was to be reported to the Governor, who could issue a warrant for the retaking of the prisoner. After his return to prison, the Board was required to hold a hearing to consider the case of the parole violator. A parole violator was required to serve the balance of his maximum sentence calculated from the day of his delinquency. Therefore, the time spent on parole counted as time served on his sentence until parole was revoked. A violator who committed a new offense while on parole was required to serve the balance of his original sentence before beginning to serve the new sentence.

In 1937, the Governor called for the formation of voluntary parole boards. These boards consisted of citizens of the state who performed supervisory services to parolees without compensation. Prior to this time, no actual supervision of parolees was possible since only one supervisor of parolees was provided in the law. Voluntary parole supervisors were appointed in 242 of the 254 counties in Texas. They assisted parolees in obtaining jobs and required them to make reports.

The present general framework for the operation of Adult Probation and Parole in Texas was established by enactment of the Adult Probation and Parole Law by the 50th Legislature in 1947. Prior to that time, parole releases from prison were actually by executive clemency and were called conditional pardons or executive paroles. However, since no additional funds for parole operation were appropriated in the 1947 Legislature, supervision given to those released on parole or conditional pardon was entirely by the volunteer parole boards.

When the number of paroled persons grew to more than 2,000, the limits of a completely voluntary system became apparent. Recognizing this, the 55th Legislature enacted the Adult Probation and Parole Law of 1957 which made an appropriation of operating funds and established the Division of Parole Supervision under the Board of Pardons and Paroles. Parole had finally come into its own in Texas. The Board hired Mr. Vincent O'Leary who came to Texas from the state of Washington to set up a system of parole supervision which remains virtually unchanged today. This original division consisted of the director (O'Leary), four area supervisors and a force of forty parole officers. These officers were required by law to have a college background and two years experience in human services fields.

By September 1958, twenty district offices located throughout the state were opened and operating. Each legislature since has strengthened the parole system with appropriations for operation and for additional personnel. By the end of 1967, field parole officers numbered 68 plus 12 institutional parole officers. Presently, there are over 200 field parole officers and 25 institutional parole officers.

In 1965, the 59th Legislature, in its revision of the Code of Criminal Procedure, re-enacted the Adult Probation and Parole Law as Article 42.12, C.C.P., with few changes. Several amendments to the Code have been passed by the 60th, 63rd, 64th and 65th Legislatures. The 1975 amendments provided for the appointment of a six-member Parole Commission to assist the Board in matters of parole selection and parole revocation. In 1977, the 65th session added the provisions of mandatory supervision of all dischargees of the Texas Department of Corrections and the law is now called the Adult Probation, Parole and Mandatory Supervision Law. The 65th Legislature made perhaps the most dramatic impact upon the agency since 1957 by increasing the agency budget to allow for the hiring of 100 new parole officers.

## MANDATORY SUPERVISION

Until 1977, parole had been the only form of community supervision for offenders released from prison provided by Texas law. Parole currently reaches 68% of the total number of offenders annually released from Texas prisons. Inmates who are not considered good risks for early release into the community on parole serve out their entire sentence in prison. When these offenders complete their sentence, they leave prison to re-enter their communities without formal assistance, guidance or supervision. Since this group is considered to have greater problems and liabilities, the absence of post-release supervision has represented a serious gap in the criminal justice system in Texas.

The Texas Department of Corrections does provide limited community based services for discharges such as employment assistance or halfway house placement. Or the discharges may seek placement in halfway houses through their own initiative. The discharged offender's only preparation for release has been the pre-release school of the Texas Department of Corrections and the assistance provided to discharged offenders has been limited to whatever assistance family and friends could provide. After spending years in an institutional environment in which dependence is conditioned, the offender is suddenly placed on the street and expected to provide for himself within the constraints of the law. This expectation has often proved unrealistic. The six-month period immediately following an offender's release from prison is the most critical and it is during this period that backsliding into criminal behavior is most likely to occur. After this transitional shock period, the recidivism rate begins to drop significantly. The presence of a professional helping person to provide guidance and assistance during the critical six-month period and thereafter should prove to be an important factor in reducing the recidivism rate.

Because of these identifiable needs of releasees of the Texas prison system, in 1977 the 65th Legislature of the State of Texas amended Article 42.12 of the Texas Code of Criminal Procedure to include the mandatory supervision of all discharges of the Texas Department of Corrections. It was the intent of the article to aid all prisoners to readjust to society upon completion of their period of incarceration by providing a program of mandatory supervision for those prisoners not released on parole or through executive clemency and to designate the Board of Pardons and Paroles as the agency of government responsible for these programs. A prisoner released to mandatory supervision is deemed as if released to parole, with the same provision made for his supervision and for his reincarceration. To the extent practicable, arrangements for the prisoner's employment, maintenance and care are made prior to his release just as is done for parolees.

The period of mandatory supervision is equivalent to the maximum term for which the prisoner was sentenced, less calendar time actually served on the sentence. Just as in parole, every prisoner while under mandatory supervision remains in the legal custody of the institution from which he was released but is amenable to the orders of the Board of Pardons and Paroles. The new act will affect only those convicted felons whose offense occurred on or after August 29, 1977.

## INTERSTATE PROBATION AND PAROLE COMPACT

All of the fifty states are signators to a compact or agreement for out-of-state parole and probation supervision. The compact was entered into by and among the states through a 1934 Act of Congress granting consent to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes. Texas became a party to this compact on June 15, 1951, and the act was incorporated into Texas law as the Uniform Act for Out-of-State Parolee Supervision. (Article 42.11, C.C.P., Appendix 3).

The Interstate Probation and Parole Compact provides a method of granting probationers and parolees the privilege of moving outside the state in which they were sentenced, and into other jurisdictions where they may have better opportunities for adjustment while providing for full protection to society by their continued supervision. The compact further provides for the apprehension and retaking of these persons across state jurisdictions.

Each state has an official Interstate Compact Administrator whose duty is to administer the compact for that state and to provide, by conference with his fellow state administrators, rules and regulations for carrying out its provisions. In addition, each state has its own informal procedures for complying with the compact. These procedures are discussed under the Parole Supervision Chapter in regard to parolees and in the Interstate Probation Chapter in regard to probationers.

In Texas, the official Compact Administrator is called the Interstate Parole Compact Administrator and is appointed by the Governor. The Administrator has historically been and remains a member of the Board of Pardons and Paroles and is assisted by two Deputy Parole Compact Administrators as further provided in Article 42.11, C.C.P.

In matters of probation, the Compact Administrator and the Board of Pardons and Paroles act as a clearinghouse for county probation departments in placing probationers in other states and in assigning out-of-state probationers to probation offices in Texas. To insure uniformity of procedure, county probation departments are discouraged from corresponding directly with other states in attempting to establish out-of-state supervision for a probationer. Requests or other matters regarding an out-of-state probation arrangement should be directed to the Board of Pardons and Paroles.

In matters of parole, the Compact Deputies handle the clerical procedures of transferring parolees to another state or from another state to Texas. The Board's Division of Parole Supervision supervises out-of-state cases in the same manner as Texas parolees. All out-of-state parolees are required to obey the parole rules of the sending state as well as the receiving state.

### **CONCLUSION**

The following chapters deal with the structure and administration of the agency; a synopsis of the procedures for selecting parolees; supervision of parolees and mandatory supervision; revocation of parole; and the administrative procedures of executive clemency, as well as a chapter on interstate probation. The constitutional and statutory articles governing the Board of Pardons and Paroles are also included in the appendices as well as the formal rules and procedures of the agency. The appendices also trace the interpretation of parole and clemency laws and policies by the courts and by the Texas Attorney General.

## **Chapter II**

# **Structure of the Agency**

### **THE GOVERNOR**

The Office of the Governor holds the ultimate authority in parole, parole revocation, and executive clemency as provided in the Texas Constitution and the Code of Criminal Procedure.

Article 4, Section 11 of the Texas Constitution and Article 48.01 and 48.04 C.C.P. give the Governor the power of executive clemency. That is, after conviction and upon the recommendation and advice of the Board of Pardons and Paroles, he may grant reprieves, commutations of sentence and pardons in all cases except treason and impeachment. Also, by advice and recommendation of the Board of Pardons and Paroles, he has the power to remit fines and forfeitures. Without advice of the Board, he may grant one reprieve in capital cases for a period not to exceed thirty days. He also has the sole power to revoke paroles and conditional pardons, and with the advice and consent of the legislature, he may grant reprieves, commutations of punishment and pardons in cases of treason.

Article 42.12, Sec. 1, provides that the Governor's role in determination of paroles is dependent upon the recommendation of the Board of Pardons and Paroles. While revocation of releaseses to mandatory supervision, parole and conditional pardons is not dependent upon recommendation of the Board, the Board is empowered to make such recommendations to the Governor (Sec. 12).

### **THE BOARD**

The Board of Pardons and Paroles is composed of three full-time, salaried members. One is appointed by the Governor, one by the Chief Justice of the Supreme Court and one by the Presiding Judge of the Court of Criminal Appeals as provided in Article 4, Section 11 of the Texas Constitution. All appointments must have the concurrence of two-thirds of the Senate present and are for overlapping six-year terms of office. Members must have been residents and citizens of the State for not less than two years immediately preceding appointment. The Chairmanship of the Board of Pardons and Paroles is decided by a majority vote of the members and is for a term of two years. It has been the policy of the Board to rotate the Chairmanship so that each member occupies that position for the last two years of his term. The Chairman acts as spokesman for the Board and in doing so, acts in

collaboration with the other Board members. The Board is the administrative head of the agency and provides the rules and procedures of the agency published herein. The Board is assisted by the Executive Director, an Attorney and a Director of Board and Commissioner Services.

The Board is in session Monday through Friday of each week in the agency headquarters, 711 Stephen F. Austin Building, Austin, Texas, and convenes otherwise at the call of the Chairman. All meetings of the Board are conducted in compliance with the Open Meetings Act (Art. 6252-17 V.T.C.S.). All minutes of the Board and decisions relating to parole, pardon and clemency are matters of public record. However, information concerning individuals applying for or on parole, or the identity of other individuals connected with a parole case, is privileged information and is not for public record.

### THE PAROLE COMMISSIONERS

In 1975, the 64th Legislature of Texas amended the Code of Criminal Procedure to provide for assistance to the Board of Pardons and Paroles through the appointment of six Parole Commissioners (Art. 42.12, Sec. 14A, C.C.P.). Two are appointed by the Governor, two by the Chief Justice of the Supreme Court and two by the Presiding Judge of the Court of Criminal Appeals. All appointments are for overlapping six-year terms of office. One member appointed by each of the appointing authorities must reside in Walker County where the headquarters of the Texas Department of Corrections is located. Parole Commissioners are full-time, salaried employees of the State.

Parole Commissioners do not exercise authority in acts of executive clemency, nor in the administration of the agency. Their role is limited to matters of parole, parole revocation and mandatory supervision revocation. (Art. 42.12, Sec. 14A(e), C.C.P.). One of the major functions of the Parole Commissioners has been the personal interviewing of inmates eligible for parole. With up to 1600 cases a month that must be reviewed and voted on, it was physically impossible for the previous three-member Board alone to conduct personal interviews in each case. The Parole Commissioners are subject to the rules and regulations of the agency as established by the Board.

## **PAROLE PANEL**

In matters of parole, parole revocation, and mandatory supervision revocation, the Board members and Commissioners may act in panels comprised of three persons as provided in Article 42.12, Sec. 14A, C.C.P. The composition of the panels is designated by the Board. A majority of each panel constitutes a quorum for the transaction of its business and its decision is by majority vote. The Parole Panel may act in parole recommendations and may conduct parole and mandatory supervision revocation hearings.

## **STAFF OF THE AGENCY**

### **The Executive Director**

The Executive Director of the agency carries the responsibility for the operation and administration of the various functions of the agency. The Executive Director is one and the same as the Director of Parole Supervision provided for in Article 42.12 and is appointed by the Board. The Director is responsible for carrying out the policies of the Board. As chief administrator of the agency, he is responsible for planning, organizing, directing and coordinating all activities of the agency and provides administrative direction and supervision for all personnel of the agency through subordinate staff directors. These are the Director of Institutional Services, Director of Field Services and Director of Staff Services. The Executive Director is assisted by a Personnel Director and an Information Specialist.

### **Institutional Services Section**

This service section is composed of a Director, Assistant Director, two Parole Analysts, and an Administrative Technician located in the Board's Central Office at Austin. Institutional Parole Supervisors, Institutional Parole Officers, Parole Examiners, Institutional Parole Caseworkers and clerical staff are located in agency offices in Huntsville, Angleton and Palestine, and parole officers and caseworkers are assigned to all TDC prison units. The Institutional Services section is responsible for providing direct pre-parole services to the inmate population of TDC and for obtaining information on prospective parolees for use by the Board.

At the present time, approximately twenty-five Institutional Parole Officers (IPO's) and Caseworkers work within the confines of the units of TDC to provide pre-parole services and counseling to prospective parolees. These officers are responsible for the preparation of reports called Parole Summaries on all inmates who become eligible for parole consideration. These reports are based on background information provided by TDC files and personal interviews with the inmate conducted by the IPO or Caseworker. The Parole Summary is used by the Board and Commissioners in their review of the inmate's case for consideration of parole. The IPO's and Caseworkers are also responsible for providing parole information to inmates and families of inmates who visit TDC. The IPO and Caseworker also function in assisting the prospective parolee to develop a workable parole plan, and are responsible for delivery of the parole decision to the inmate.

### **Community Services Office**

The Board of Pardons and Paroles has for some time seen the need for more programs for parolees and dischargees. In support of the community-based concept of offender rehabilitation, the Board developed a program for providing halfway house services to parolees and in April, 1976, was awarded a two-year grant from the Governor's Criminal Justice Division to provide the services. The agency contracts with twenty-five halfway houses in fourteen Texas cities to provide twenty-four hour supervised living, counseling services and basic living needs to parolees who may not otherwise be able to develop a parole plan.<sup>1</sup> The program is administered by the Community Services Office located in San Antonio. The staff consists of an administrator, two technicians and a secretary. The program is an alternative for inmates who do not have families or friends that will provide a home for them upon release from prison. The service is available to male and female parolees of all ages for a limited time period until the parolee can make arrangements for living in the community on his own. The halfway house program is also used to help those parolees already in the community who may be having difficulties with their home situation that could lead to infraction of the parole rules. In some cases, it has prevented the revocation of parole. The Community Services section also assists those parolees who have special requirements because of age or infirmity, such as nursing home placement or medical treatment. In the past, some inmates could not be paroled because of their inability to develop a parole plan that could take care of their special needs. The Community Services Office

<sup>1</sup>See Rules, Appendix 1, for policies of Board on contracting with Halfway Houses.

assists these inmates and any needy parolee in securing assistance from agencies such as the Social Security Administration, Texas Rehabilitation Commission, Mental Health/Mental Retardation Department, Texas Department of Community Affairs, Department of Human Resources, state hospitals and veteran's hospitals.

The Community Services office is under direction of the Institutional Service Section.

### **Field Services Section**

The Field Services section consists of a Director, Assistant Director, two Parole Analysts, six Regional Supervisors, plus all District Parole Officers, Parole Caseworkers, and clerical staff located in the thirty-five district parole offices and regional offices located throughout the state. This service section is directly responsible for the supervision of released inmates under jurisdiction of the Board, for conducting pre-release investigations, and for reporting parole violations to the Board.

The role of the District Parole Officer and the Parole Caseworker is to offer help to the parolee and protection to the community by maintaining long-term relationships with the client, his family and the community. The main goal of the Board of Pardons and Paroles as a service agency is carried out by the District Parole Officer and Caseworker whose job is to assist the parolee to maintain himself in his own community in a law-abiding manner. At the present time, some 212 District Parole Officers and Caseworkers are responsible for the supervision of nearly 10,000 parolees across the state.

The Field Services Section is also responsible for supervising and assisting inmates released to Mandatory Supervision and for reporting violations of the release agreement. The inmate under Mandatory supervision is deemed as if on parole for the purposes of supervision and revocation.

### **The Texas Parole Officer**

Parole officers may be assigned to work with pre-parole cases within the institutions of the Texas Department of Corrections or to a field assignment in one of the 254 counties in the state. Because of the high degree of responsibility these individuals are given, parole officers are chosen on the basis of education and experience in corrections or related human service fields. The Parole Caseworker II is the entry level for qualification as a Parole Officer and after two or more years of satisfactory employment, the advancement to Parole Officer is made when Parole Officer vacancies occur. Not everyone can be successful

as a parole officer and careful screening helps to insure hiring of individuals who can meet the demands of the job. Persons who are honest, secure with themselves, open, patient, willing to learn, flexible about work and life, persons who are aware of prejudices and what they mean, who believe people can change, who have a good sense of humor, and good physical stamina are sought. New parole officers are trained through study of the procedures and rules of the agency and through on-the-job experience. Because Texas covers such a vast area, Texas law provides for Volunteer Parole Officers to assist parole officers in sparsely settled areas.

### **The Volunteer Parole Officer**

The Texas Parole Law (42.12, Sec. 30, C.C.P.) provides that in addition to the regular professional system of parole supervision, there is to exist a supplementary volunteer system. Implementing this provision of the law, the policy of the Division of Parole Supervision requires the use of volunteers in parole supervision as much as possible. The volunteer basically serves as an advisor and friend of the parolee and as a valuable aid to the supervising parole officer.

The volunteer can be very effective, but is not thought of as a professional parole officer and consequently the limits of his responsibility and authority are clearly defined. Currently there are forty-two volunteer parole officers in Texas.

Since 1975, the Board has also utilized volunteer lawyers who are members of the Junior Bar of Texas. These lawyer volunteers are assigned to act as counselors to individual parolees and may assist the parolee in employment or other problems. They do not act for the parolee in legal matters, however. The volunteer coordinates with the parole officer in providing assistance to the parolee. There are currently 185 lawyer volunteers active in the state.

### **Staff Services Section**

The Staff Services section provides clerical and support services to the Institutional and Field staffs and to the Board and Commissioners. The staff consists of 86 personnel including a Director, Assistant Director, five staff supervisors, a large clerical section, and a data processing section with its programming and operations staff. This section is responsible for compiling and maintaining some 37,000 parolee and inmate files located at the agency headquarters and for all clerical functions of executive clemency and parole. The staff is divided into five areas of responsibility: clerical, clemency, accounting, planning and research, and data processing.

# **Chapter III**

## **The Parole Selection Process**

### **INITIATING THE PAROLE SELECTION PROCESS**

New convicted felons of the state who are sentenced to serve time in the Texas Department of Corrections (TDC) are received at the Diagnostic Unit of the Department in Huntsville. Commitment data on each inmate is obtained by TDC and is transmitted to the Board of Pardons and Paroles in Austin by computer tape each week. The following information is included: inmate's name under which convicted, prison number assigned, offense(s), court of conviction and cause number, date inmate received at TDC, total sentence, beginning date of sentence and the minimum and maximum discharge dates. Shortly after the inmate's arrival, a social and criminal history summary is prepared by the Department of Corrections and copies of this are also sent to the Board.

This information forms the beginning of the case file used by the Board in each parole or executive clemency case. Shortly after receiving this information, the Board sends an official notice of the month and year each inmate will be eligible for initial parole consideration to the Texas Department of Corrections and to the inmate. The notice also advises the inmate briefly of the parole procedure.

### **PAROLE ELIGIBILITY**

The date of an inmate's minimum legal eligibility for parole is determined by the parole laws in effect at the time of the commission of the offense for which the inmate was convicted. Various legislatures have changed the laws governing parole eligibility by amendment of Article 42.12, Sec. 15(a), C.C.P. (See Appendix 2). By provision of the amendments, different requirements for calculating parole eligibility are distinguished for four groups of offenders, based on the date of the commission of the instant offense. Thus, the amendment of the 55th Legislature of 1957 governs felons whose offense occurred prior to January 1, 1966. The amendment of the 59th Legislature in 1965 governs felons whose offense occurred between January 1, 1966 and August 28, 1967. The amendment of 1967 by the 60th Legislature governs felons whose offense occurred between August 28, 1967 and August 29, 1977. The 65th Legislature's amendment of 1977 affects felons whose offense occurred on or after August 29, 1977. Basically,

these amendments changed minimum parole eligibility requirements. The 65th Legislature further toughened parole eligibility requirements by removing good conduct credit toward parole from certain classes of violent offenders.

No persons under sentence of death are eligible for parole. However, except for certain violent offenders governed by the 1977 amendment of Sec. 15(a), most convicts accrue "good conduct time" toward their parole eligibility.

Good conduct time is a provision of Article 6181-1, R.C.S., governing the Texas Department of Corrections, which allows inmates to receive extra time credit on their prison sentences for good behavior. By this law, some inmates can accrue up to 60 days credit for each 30 days served. This credit plus any commutation received from the Governor explains how many inmates serve their sentences in less than the calendar sentence. In any case, the granting of or taking away of good time credit is solely the responsibility of the Department of Corrections.

Good conduct time credit applies only for purposes of parole or mandatory supervision eligibility in the current law. Inmates accrue good conduct time based upon their classification as follows:

**Class I:** For each 30 calendar days served, 20 days credit for good time. In this class an inmate will receive 50 days credit on his sentence for each 30 calendar days served.

**Class II:** For each 30 calendar days served, 10 days credit for good time. In this class an inmate will receive 40 days credit on his sentence for each 30 calendar days served.

**Class III:** No good time is allowed. Only calendar time is credited on the inmate's sentence.

**State Approved Trusty:** Each State Approved Trusty receives 60 days credit on his sentence for each 30 calendar days served.

Initial parole eligibility dates are calculated by the Board of Pardons and Paroles based upon the inmate earning ordinary good conduct time of twenty days for each thirty days served as a Class I inmate. In cases where an inmate earns extra good time, TDC notifies the Board so that the case may be placed in the parole process at the proper time.

Some inmates are eligible for parole consideration at the time of their admission to TDC due to time credit received for jail time served before transfer to TDC. Such cases are set for immediate review and the Notice of Parole Eligibility will indicate that the inmate is under special review for parole panel consideration at the earliest possible date.

New arrivals to TDC are given the facts about parole eligibility in orientation classes conducted by Institutional Parole Officers at the

Diagnostic Unit. In addition, any inmate may get the facts concerning his own parole eligibility from an Institutional Parole Officer upon request.

The use of the term eligibility or legal eligibility for parole consideration should not be construed to mean that the inmate is entitled to, or will be granted a parole as a matter of right. Parole eligibility is, in fact, that time when the Board's statutory authority to parole may be employed. The parole decision is placed with the Board by law, subject to approval by the Governor. Parole is ordered only for the best interest of society, not as an award of clemency and is not to be considered as a commuted sentence or a pardon.

A prisoner must be physically in the custody of and confined in the Texas Department of Corrections before he is eligible for parole. Parole eligibility does not mean release on parole. It is a time in the sentence when the case may be evaluated for possible release.

### **No Application Required**

The inmate does not have to make a formal application with the Board for consideration of his parole. A case is automatically placed in the parole process at the appropriate time. Interested persons, families, attorneys or friends may appear before the Board on behalf of an inmate. The Parole Board has available comprehensive records, files and parole officer investigations upon which to base a decision. There is no need for the employment of legal counsel by the inmate or his family although there is no restriction of this practice. However, under the Parole Law, any person appearing before the Board in regard to an inmate must submit an affidavit stating whether or not and how much they were paid to do so.

### **THE ROLE OF THE INSTITUTIONAL PAROLE OFFICER**

The parole selection process begins when the Board sends a list of the inmates to receive parole review to the Institutional Parole Office in Huntsville. This is done twice monthly and the list names those inmates who will reach eligibility in seven months. Each case for review is assigned to an Institutional Parole Officer or Caseworker whose task is to investigate and interview the inmate in order to provide data to the Board concerning the inmate, and to ascertain the inmate's plans for employment and residence if paroled. The IPO spends as much time as necessary studying file material and background material including TDC classification records and case history summaries before interviewing the inmate. He may also

interview wardens and other prison officials to determine the inmate's attitude and adjustment. After the IPO completes his interviews, he prepares a detailed Parole Summary and a parole placement request or "parole plan" which are used by the Parole Panel in evaluating the case.

The Parole Summary includes the following information: 1) Detailed history; 2) Instant offense — facts as shown in the official report; 3) Inmate's statement; 4) Special facts — such as assaultive behavior or use of narcotics; 5) Family history; 6) Personal history; 7) Marital history; 8) Collateral contacts with TDC officials; 9) Institutional assignment; 10) Disciplinary record; 11) Institutional adjustment; 12) Physical condition; 13) Mental condition; and 14) Summary of positive and negative factors relating to the case.

The parole placement request or parole plan consists of the inmate's plans for residence, maintenance, employment, and other activities in case he is released on parole. The Institutional Parole Officer is available at anytime to counsel with the inmate regarding his parole and assist him in the formulation of the parole plan. The IPO may assist the inmate in planning resources for maintenance, employment, or halfway house placement in case the inmate has no available residence.

The parole summary then goes to a Parole Examiner who in turn interviews the inmate, writes an evaluation report based upon the case material and the interview, and submits the combined material to the Parole Panel.

### **PAROLE PANEL REVIEW**

The Board of Pardons and Paroles desires that each inmate eligible for parole receive a personal interview from a decision maker in matters of parole. For this reason, the Board assigns each parole case to a Parole Commissioner located in Huntsville, Angleton or Palestine. The Parole Commissioner reviews all of the file material and may personally interview the inmate. He then casts a decision vote regarding the case. The Commissioner is acting as a member of a three-member Parole Panel when he carries out this function. After casting his decision vote, the file is passed on to another member of the Parole Panel. If two of the three members of the Parole Panel recommend parole, the file is then forwarded to the Governor marked "Parole Subject to Approved Release Plan", and a field investigation of the inmate is ordered. It is then up to the Governor if parole is to be granted. However, up to the time the parole certificate is signed by the inmate, the Board can withdraw its recommendation for parole. At this point we will consider the factors affecting the decision made by the Parole Panel.

## Factors Affecting the Parole Decision

The decision of the Parole Panel comes after a close evaluation of the inmate to determine his or her readiness to re-enter the free world. No offender should be paroled until it can be shown that it is for the better interest of the community to have him back than to keep him in prison. Release should be effected as soon as possible but only if it is in the public interest. The parole law recognizes this when it says "a prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and when the Board believes that he is able and willing to fulfill the obligations of a law abiding citizen."

The evaluation by the Parole Panel involves various factors, none of which taken alone is controlling, but all of which must be considered along with, and as a part of, the case as a whole.

The first step in considering an inmate for parole is to determine the readiness of the offender for parole. Some of the factors considered are discussed below.

**1. Developmental and criminal history** constituting the behavior pattern should give insight into the underlying cause of how criminal habit patterns and attitudes developed. Several convictions for major crimes will reduce the chances for parole. Minor offenses tend to show a pattern of maladjustment.

**2. The habitual excessive use of either alcohol or narcotics** may indicate serious character disorder, psychotic or psychopathic tendencies or other emotional problems. The use of either does not contribute to a successful parole adjustment.

**3. The inmate's attitude toward the crime committed** and the future may indicate the degree to which he has developed a sense of proportion and his ability to place the proper values upon the proper things. The ability to recognize his criminal actions as socially unacceptable, coupled with a sincere desire to improve, is viewed as a definite asset.

**4. Adjustments and improvements while in prison.** A clear conduct record is not, in itself, sufficient grounds for granting parole. Prison adjustment and personal improvement is an important factor. However, the traditional prison program of religion, work, education and discipline, even at its best, will not guarantee rehabilitation nor genuine readiness for parole. A prisoner may participate zealously in the religious program, he may work hard and he may achieve in educational programs; he may keep a spotless conduct record and yet not be genuinely ready for parole. What he achieves in prison in these areas may not be indicative of real feelings, real attitudes and readiness

for society. The inmate must be studied from all possible angles to determine if his good behavior is for the benefit of the Parole Board or is actually indicative of a real desire to change.

**5. Sexual Deviation.** Crimes involving sex are classified as situational or as an indication of character, personality or emotional disorder. The manner of commission of the offense and the psychological factors involved are carefully evaluated.

**6. Intellectual and emotional status.** A psychological evaluation may indicate frustration tolerance, positive or negative orientation, self concept, or paranoid drives. Imprisonment has served no purpose if it does not result in some positive change or growth of personality and the change must be motivated by more than a desire for parole. Offenders are of varying intelligence quotient levels and emotional and mental disturbances range from mild neurosis to psychosis. The mental health factor becomes a more difficult problem when cases involve borderline psychotics, psychotics in remission, psychopaths or psychoneurotics.

**7. Family background and marital history** are carefully evaluated and viewed as a factor in rating stability and maturity. The mere fact that an inmate's spouse has filed for, or has received, a divorce will not affect his parolability. The destitute condition of the inmate's family has no bearing on his fitness for parole or Executive Clemency and will not be considered, in itself, as grounds for release.

**8. Psychological Summary** — Psychological evaluation will help determine intellectual and emotional stability.

**9. Point Incentive Program Ratings.** In 1959, the Texas Department of Corrections initiated a Point Incentive Program to encourage inmates to engage in self-improvement activities. Ratings are made on a quarterly basis by wardens, supervisors and directors of the various self-improvement programs, and are referred to as P.I.P. Ratings. Points can be earned for work, conduct, attitude, educational, and recreational participation. Participation in Alcoholics Anonymous, choirs, bands, orchestras, etc., are included. P.I.P. Ratings have a distinct bearing upon parole selection, but are not considered alone. The Point Incentive Program is an effort to set goals for inmates, to direct their activities toward the realization of these goals, and to provide a measure of each inmate's progress. If properly executed, the Point Incentive Program should create in the inmate a desire to achieve meaningful goals, assume responsibility for self, and provide intrinsic rewards.

**10. Personal habits and associates of an inmate,** both in prison and out, may reflect his ability to make decisions and to place proper values upon important things.

**11. Educational achievements** of an inmate are rated at the time of entering prison, as well as during his period of incarceration, as positive, negative or neutral. Education in prison should serve to remove illiteracy and to increase the offender's skills to live in society without violating the law.

The Department of Corrections offers elementary and high school education through the Department's Windham School District, junior college coursework, Associate degree programs from neighboring junior colleges, and Bachelor's degrees from several universities. The Department's many vocational programs are considered among the best in the nation.

**12. Age of the inmate at the time of first arrest**, and the regularity of involvement in law violations thereafter, have some bearing on parole selection and parole success. In general, the younger the offender at the time of his first arrest and the greater frequency of violations, the poorer are his chances for parole adjustment. The earlier a pattern is established in life, the more ingrained it becomes and the more difficult it is to change. The peak age of reformation is generally accepted to be between the ages of twenty and thirty-five. If crime is still pursued after that age, there is usually a decreasing possibility of reform.

**13. Military record** is evaluated as it reflects behavior adaptability and attitude towards authority.

**14. Time served on a sentence** is considered, along with all other factors, to determine whether or not parole will be granted at primary eligibility, during the intermediate period or during the terminal period of the sentence. Time served, in itself, is not considered as grounds for parole.

The **Primary Period** is that time when legal parole eligibility is first reached, that is, when the inmate has received credit for the minimum time set by the parole law. The Board must decide whether or not the inmate is entitled to parole at reaching the minimum eligibility. During the **Intermediate Period** of the sentence the Board searches for improvements, maturation and stabilization factors. The **Terminal Period**, shortly before the end of a sentence, is when the Board must decide between allowing an unconditional discharge (for those not subject to Mandatory Supervision) from prison with no post-prison supervision, or to allow him to be under parole supervision for the remainder of the sentence for his benefit and for the protection of the public. Under the provisions of the Mandatory Supervision law, all inmates whose crimes were committed on or after August 29, 1977, who are not otherwise paroled, will be under post-prison supervision.

The **second step** in the parole decision is consideration of the type and seriousness of the offense, the number of prior commitments and the

manner in which each offense was committed. Statistics show that certain crimes are more recidivistic than others. All offenses are considered from the standpoint of the danger to society. Every detail of the manner of commission of the offense is part of the prisoner's personality and may help to predict future conduct.

**The third step** is the consideration of the readiness of the community to receive the parolee. The willingness of the offender's family to take him back can be important. The attitudes of the sentencing judge, the district attorney and local law-enforcement officials are often reflections of community sentiment, and are weighed in the matter of selection for parole as required by the parole law.

After a complete analysis and study of all available information, the Parole Panel makes its decision guided by the general rules that an inmate should not be released upon parole:

1. If the assaultive potential is high
2. If there is substantial risk that he will not conform to the conditions of parole
3. If release at that time would have a substantial adverse effect on prison discipline
4. If release at that time would depreciate the seriousness of the offense or promote disrespect for the law or the system of parole
5. If there is need for continued care (physical or mental) or continued vocational training.

### **Aid in Determining Disposition Project**

Statistics show a remarkable success within the current system of parole selection in use in Texas. In FY 1976 only 6% of the total persons on parole, (over 8,000) were returned to prison as parole violators. Only 3% of those persons paroled in 1976 were returned in the same year. However, those failures of the parole system are disturbing to the public. In support of current scientific methods of psychological evaluation, in 1976 the Board obtained grant monies to conduct a two-year study of parolee success and failure factors. Predictors of recidivistic tendencies are being developed by qualified consultants with the hope that the failures of the system can be further reduced. The project, termed "Aid in Determining Disposition", will add a scientific basis to what has been established by the human judgment of the Paroling Authorities, and will serve as an additional evaluative tool towards determining readiness for parole.

## PAROLE PANEL DECISION

Based on evaluation of the above factors, the Parole Panel can take one of four actions: (1) defer case for request and receipt of further information; (2) deny a favorable parole action at this time and set for further review on a future specific month and year (set-off); (3) deny parole, in which case the inmate must serve all the sentence in prison (serve-all); or (4) determine that the total situation seems to favor the inmate's release on parole and that further investigation, including notification of trial officials and investigation of the parole plan should be carried out prior to making a final decision. This fourth action indicates a tentative parole approval.

The decision to grant or deny parole is independent of any appeal, Writ, or legal action that may be pending. All inmates confined in the Texas Department of Corrections whose convictions are on appeal or who have filed Writs are still considered for parole at the time set under the laws and rules governing the Board's operation. By law, the inmate must be physically present in the Texas Department of Corrections to be eligible for parole. He cannot be paroled from a jail, hospital or other facility. Also, an inmate in solitary confinement is deferred for parole consideration until release from such confinement.

### Set-Off or Serve-All

In the case of the Panel's decision to set-off the parole or order a serve-all, a notice of parole panel action is sent to the Director of TDC for the inmate files and a copy of the notice is hand-delivered to the inmate by Institutional Parole staff. The notice shows the decision of the panel, the reasons for the panel's decision and when applicable, shows recommendations for improving parolability.

### Tentative Parole Approval Pending Further Investigation

In the event that the majority of the Parole Panel favors the inmate's release on parole, the Board's first action in compliance with the parole law, (Art. 42.12, C.C.P.) is to notify the trial officials in the county where the inmate was convicted that parole is being considered. The Board requests that the District Judge, District Attorney and Sheriff make a written statement of their reasons for recommending or protesting the parole. The officials are given at least 10 days to respond in compliance with the law. After the ten day period has expired, the Parole Panel may order a set-off or a serve-all, or send the case to the Governor with a recommendation to grant parole subject to

investigation and approval of the release plan. The inmate is notified of the parole panel action in any case. Any additional information received from a trial official up to the time of release is evaluated by the Parole Panel.

### **THE GOVERNOR'S DECISION**

If the Parole Panel recommends parole and it is denied by the Governor, the next parole review date of the inmate is computed by the Board as shown in the Rules (Appendix 1), and the inmate is notified of the subsequent date he will be considered for parole. However, the Governor or the Board may initiate a special earlier review of the case if additional favorable information is discovered which would merit such attention.

If the Parole Panel recommends parole and it is approved by the Governor, an investigation of the proposed parole plan is ordered by the Board. This pre-parole investigation is conducted by a District Parole Officer in the appropriate area or by the receiving state if the plan is for out-of-state placement. However, up to the time that the parole is finalized by the inmate's signing of the Parole Certificate, the Parole Panel's recommendation of parole can be withdrawn and either a set-off or serve-all ordered.

### **INVESTIGATION OF PAROLE PLAN**

#### **Pre-Parole Investigation for In-State Parole Plan**

The Institutional Parole Officer submits as a part of the Parole Summary a request for a placement investigation which contains the inmate's plans for employment and residence if released on parole. Upon the Governor's approval of a parole recommendation, the Board orders an investigation of the placement request. Each pre-parole investigation is assigned to a District Parole Officer or Caseworker by the appropriate Regional Supervisor and a reply date is fixed. The investigation includes contacts by the District Parole Officer (DPO) with the inmate's family, prospective employer and others in the community who may have an interest in the inmate. Parole success or failure can well depend upon the preparation that has been made for an inmate's release. Ideally, each parolee should have adequate employment, a decent residence and an opportunity for wholesome social contacts. Neither the parolee nor society is benefited when an inmate returns to a community or family situation which is hostile to him.

It is difficult to obtain all these conditions for every parolee, but it is the goal. If the placement request is investigated by the District Parole

Officer and found unsuitable or unavailable, the DPO's duty is to modify the plan and substitute a workable placement plan. The DPO does not merely investigate and describe the situation, he must take positive action in placing the inmate. He then reports his findings and any modifications in a pre-parole report to the Board. The report assists the Board in determining when to release the inmate, since by law, he should not be released until plans have been made for his employment, residence or maintenance.

The pre-parole report shows: (1) Employment: a) The name, address and business of the employer, how long the employment will be available, whether there is a definite job opening; b) Rate of pay and brief description of the actual duties to be performed including such factors as required travel; c) A statement of the reasons why the employer is offering the job, and how he was contacted about the inmate. If other parolees have worked for the employer, this is evaluated; d) Specific conditions of employment are clearly stated, such as requirement of a driver's license. If the employment involves sale of alcoholic beverages, it is necessary to check on the character of the establishment and exactly what the parolee's involvement will be; e) The reputation of the employer is checked with law enforcement officials. (2) Residence: The address where the parolee will live, and comments on the housing; (3) Comments: Includes an evaluation of how the plan meets the needs of the particular inmate. If maintenance in a halfway house is all that is available, a review of the housing, its financial and employment prospects, is outlined, and community attitudes towards the house are included; (4) Reporting Instructions: Specific reporting instructions to the inmate include the name of the supervising parole officer and address and telephone number of the parole office.

### **Pre-Parole Investigation for Out-of-State Parole Plan**

A parolee may be considered for release on parole in a state other than the State of Texas by application for Interstate Probation and Parole Compact services. Texas is signatory to the compact with each of the other 49 states, as provided by Texas law under Article 42.11, C.C.P., which is called the Uniform Act for Out-of-State Parolee Supervision. (See Appendix 3).

Through the Compact, a parolee may be allowed to live and work in another state where he has better opportunities and at the same time be under a program of supervision in the receiving state.

If the parolee is a resident of, or has family or employment in the other state, the consent of the receiving state to supervise is not

required. However, the compacting states have agreed that opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person. Therefore, no parolee or probationer may be sent to another state without suitable notice first being given to that state.

If the parolee or probationer does not have the necessary residence and employment qualifications, he may not be sent under the authority of the Compact unless the receiving state consents.

If the inmate submits an out-of-state parole plan for tentative approval, a request is sent by the Compact Administrator in Texas to the Compact Administrator in the receiving state for investigation of the plan to determine if a suitable plan exists and to ascertain the willingness of that state to accept him for supervision. While under supervision in the receiving state the parolee is subject to the parole agreement rules of Texas and to any additional rules of the receiving state.

The parolee must also sign a Waiver of Extradition form before leaving Texas so that he can be returned to Texas as a parole violator without the expensive and time consuming process of extradition.

## **DETAINER INVESTIGATION**

### **In-State Detainer Investigation**

In some instances, an inmate will serve sufficient time to be reviewed by the Board for possible parole and will have a detainer warrant filed against him by a law enforcement agency for an offense which has never been completely adjudicated. In such cases, the Board requests a report from the Division of Parole Supervision regarding the facts of the detainer and a District Parole Officer conducts a Detainer Investigation.

This investigation involves contacts with the prosecuting officials, the law enforcement agency filing the detainer and any other interested official. The investigation is not a request to remove the detainer, but to supply information which is then reported to the Board.

In the event the officials involved indicate that they are planning to remove the detainer, the District Parole Officer will request that they notify the Texas Department of Corrections and the Board.

If the detainer remains in effect, parole may be ordered "to the detainer or approved release plan." In that event, the charge upon which the detainer is based must be satisfied before the parolee can be released on parole. If a new felony conviction results and the inmate is returned to the Texas Department of Corrections, parole may be revoked without prejudice.

## **Out-of-State or Federal Detainer Investigation**

In some cases detainers are filed by Federal or another state's law enforcement authorities. Such detainers may be based upon a final judgment or upon a pending charge. These are referred to as out-of-state detainers, and as either adjudicated or unadjudicated. If the inmate has an out-of-state detainer in his file at the time he is being considered for parole, the Board sends a detainer investigation form to the agency placing the detainer to establish if the detainer is still in effect or has been removed.

If the out-of-state detainer is unadjudicated, the Board may order "parole to detainer or approved release plan." This means that if the detainer is not exercised or if conviction does not result, the subject will report to his approved release plan according to the instructions in his parole certificate.

If the out-of-state detainer has previously been adjudicated and the subject is faced with incarceration in another jurisdiction, the Board may order "parole to detainer only." In making this decision, the Board will consider the time to be served in the out-of-state jurisdiction as time served on parole and the inmate will receive time credit towards his discharge of the parole period.

## **FOLLOWING INVESTIGATION**

During any of the above-mentioned investigations and up to the time that the parole certificate is actually signed by the inmate, a Parole Panel may withdraw the recommendation for parole. This may be due to disciplinary infractions of the inmate within the institution or the unavailability of a workable parole plan. Following the arrival of the pre-parole investigation from the field office and the receipt of the approval of the parole recommendation from the Governor's Office, a Parole Certificate is prepared. The certificate is signed by a Board Member and sent to the Huntsville Institutional Parole Office and to TDC officials who arrange for the release of the inmate.

## **RELEASE ON PAROLE**

If parole is approved by the Governor and not otherwise withdrawn by the Board, release on parole is tentatively scheduled for the actual month of the inmate's determined month of eligibility. For inmates being released on parole to detainers, no release date can be set since the Board cannot predict the arrival date of agents of the detaining

authority. Also, in the case of out-of-state parole plans, a release date cannot be set until acceptance is received from the other state. In either of the above cases, release dates are arranged administratively by TDC officials.

Inmates to be released on parole who have served more than three calendar years of incarceration and are not being released to a halfway house program which would ease the transition into free society, are scheduled for the TDC Pre-Release School at the request of the Institutional Parole Officer. The Pre-Release School is conducted at the Buford Jester Unit of TDC at Richmond, Texas, and consists of ten days of instruction and orientation in such living skills as family counseling, employment aids, money management, personal health, first aid, drugs and alcohol, consumer fraud, human relations, etc. Individual counseling is conducted as needed. Inmates may also apply for driver's licenses and social security cards at this time. Inmates at Pre-Release School enjoy a relaxed, low-security atmosphere and may be visited by their families in accordance with TDC visitation rules. Also, each inmate is given the opportunity to dress in civilian clothing and attend recreational activities in the neighboring communities.

Inmates not required to attend Pre-Release School are transferred to the Huntsville Unit for the release process. This process includes discussion of the individual's parole plan and the parole rules with an Institutional Parole Officer. The IPO at this time obtains the inmate's signature on the Parole Certificate.

The Parole Certificate orders the release of the inmate on parole, tells him where to report, and establishes the conditions of parole and the date the inmate is expected to discharge if he satisfactorily completes the parole period. The rules of parole are printed on the reverse side of the certificate (see Rules, Appendix 1), and these are explained thoroughly to the inmate by the IPO before release. The inmate's signature on the Parole Certificate constitutes a contractual agreement to abide by the rules and conditions of parole. The Certificate clearly states that any violation of the conditions of parole can cause revocation of parole and that time served on parole will be forfeited in case of revocation.

### **Special Condition**

The Board or the Governor may stipulate special conditions beyond the basic rules of parole for certain parolees, such as a drug surveillance program for those with histories of drug abuse, or attendance at Alcoholics Anonymous meetings for alcohol abusers. These conditions are entered on the Parole Certificate and are part of the parole contract signed by the inmate prior to release from TDC.

Though these special conditions of parole may seem to be unnecessarily restrictive to the parolee, their compliance may make the difference for parolees with a compelling weakness to return to their previous lifestyle of drugs and alcohol. Other special conditions may be residence in a certain halfway house, limitations on personal contacts, or travel restrictions to certain cities or counties. For an out-of-state parolee, the Governor or Board may stipulate that the parolee not return to Texas.

The original, signed copy of the Parole Certificate is given to the inmate on the day he is actually released on parole from prison. A copy is furnished to the Department of Corrections, and remaining copies are distributed to the Board's central office, the Department of Public Safety and the District Parole Officer to whom the parolee will report. The District Parole Officer is also sent a Notice of Arrival so that he will know the exact date to expect the parolee to report.

After release, the parolee may proceed directly to his destination either by public conveyance or with an approved person. Upon arrival at his destination, he must report directly to his assigned Parole Officer shown on the Parole Certificate to begin his program of parole supervision. Parole supervision is discussed in the following chapter.

## **Chapter IV**

# **Parole Supervision/Mandatory Supervision\***

When an inmate of the Texas Department of Corrections is released on parole, or to mandatory supervision; though still in legal custody of TDC, his supervision becomes the responsibility of the Division of Parole Supervision of the Board of Pardons and Paroles. Texas is divided into six geographical regions for the purpose of supervision of parolees. The offices of the regions are located in Dallas, Houston, San Antonio, Angleton, Lubbock and Fort Worth. Each region is headed by a Regional Supervisor who is responsible for directing and coordinating parole casework in his area. The actual supervision and surveillance of the parolee is carried out by the District Parole Officer and the Parole Caseworker who submit periodic reports on the adjustment of the parolee. These reports are reviewed and approved by the Regional Supervisor.

Upon release, the parolee is instructed by the Institutional Parole Officer to report to his District Parole Officer immediately upon arrival at his destination. At their initial meeting, the Parole Officer reviews with the parolee the terms of his specific parole contract and establishes a schedule of reporting for the parolee. The Parole Officer then reports to the Supervisor that the parolee has arrived and is reporting under active supervision. The Parole Officer studies the file material on the parolee in advance and tries to establish rapport with the parolee in the initial interview.

The first few months of supervision are the most significant in terms of ultimate parole success. Nearly all parolees meet adjustment difficulties in this period and the likelihood of recidivism is very high in the first months following release.

### **THE ROLE OF THE DISTRICT PAROLE OFFICER**

The Parole Officer recognizes that there are two responsibilities of supervision: (1) the protection of society; and, (2) the rehabilitation of the offender. Parole supervision is partly preventive supervision,

\*Those released to mandatory supervision are deemed as if released on parole. Art. 42.12, C.C.P., as amended, 65th Leg.

which requires that a Parole Officer be able to responsibly investigate the activities of the parolee. If he can see trouble coming, perhaps he can head it off and prevent the parolee from losing his parole status and being reincarcerated. The Parole Officer's other concern is the guidance of the parolee. The Parole Officer must be able to use his professional skills and knowledge of counseling techniques and of community services to help bring about satisfactory adjustment in the parolee.

A Parole Officer in the discharge of his supervisory responsibilities is called on to do a variety of things. Ideally, he is a guide and counselor; but he also has investigative responsibilities and must enforce the policies of the Board. He must establish his own authority with the parolee, yet he must permit the parolee to choose his own path within the limits of the parole contract. He must be friendly without being intimate, he must be authoritative without being intimidating.

While the parole officer is not a social worker, neither is he a law enforcement officer. He is prohibited from carrying a weapon while on duty and does not have the powers of arrest and seizure.

One of the most valuable tools available to the Parole Officer is the proper and regular use of those social agencies established and operating in the community which can be of service to the parolee. These include the Texas Employment Commission, the Department of Human Resources, the Veteran's Administration, the Texas Rehabilitation Commission, Alcoholics Anonymous, the various State Hospitals, the Salvation Army, Legal Aid societies, Mental Health-Mental Retardation clinics, Planned Parenthood, county health departments, etc. The Parole Officer may actually serve as a kind of broker of community services to the parolee.

Practically all of the duties and responsibilities of the Parole Officer in regard to parolee supervision hinge upon interviewing the parolee and evaluating and reporting the results of such interviews. These interviews take place in the Parole Office, the parolee's home, his place of employment, in jails, and on the streets. Texas Parole Officers are trained in interviewing techniques, counseling techniques, cultural awareness and report writing and are regularly evaluated on how well they perform their responsibilities.

### **TERMS AND CONDITIONS OF PAROLE**

Perhaps no single factor has greater significance to the parolee's eventual success or failure on parole than his ability to obtain and hold a steady and a relatively satisfying job. The parole contract requires that parolees sustain themselves and their families. However,

certain types of employment may be prohibited to parolees, such as employment requiring travel. The parolee is also required to request permission in order to change his employment, or to travel beyond the surrounding counties. All of the terms and conditions of parole are explained to the parolee before his release and at the initial interview by the District Parole Officer. The terms and conditions of parole are defined in the Rules section of this handbook. (See Appendix 1).

Parolees are subject to arrest as is any citizen. Parole Officers are expected to render authorized law enforcement officers every assistance in their efforts to detect and apprehend known or suspected criminals who may be on parole. If a parolee is arrested on suspicion of the commission of any offense, it is the duty of the Parole Officer not to interfere in any way with the case until the police or the courts have disposed of it. The Parole Officer is also responsible for issuing permits for in-state and out-of-state travel to the parolee. The Parole Officer must submit a progress report on each person in his caseload at the frequency determined by the parolee's level of supervision. However, parolees are required to submit monthly reports regardless of their supervision status, except for those approved for annual reporting or non-reporting status. Whether these reports are made in person or by mail is determined by the Supervisor.

## **LEVELS OF SUPERVISION**

Most new parolees are placed under the normal supervision level; however, the degree of supervision given depends on the quality of the parolee's adjustment, as well as his risk factor to the community. After four months of normal supervision, it is possible to change supervision status to medium supervision. If the Parole Officer decides that the parolee's adjustment is such that less than medium supervision is required, he may request that the level of supervision be lowered to a minimal level. However, at any time during the period of parole, a parolee can be placed on a more intensive level if warranted. From minimal supervision the parolee can go to an annual reporting status. After four years of successful annual reporting, the parolee can be approved for a non-reporting status. These changes in supervision are dependent upon the parolee fulfilling his obligations to his parole contract and his continued satisfactory adjustment to a law-abiding lifestyle. Supervision is maintained by direct contact with the parolee, his family, his employer and others in the community who may have some part in the parolee's life. The six levels of parole supervision are discussed below.

### **Intensive Supervision**

The District Parole Officer (DPO), is required to make one home parolee visit per month,\* one office parolee visit per month,\*\* and one field parolee visit per month.\*\*\*

### **Normal Supervision**

The DPO is required to make one home parolee visit per month, one office parolee visit per month, and one field parolee visit every other month.

### **Medium Supervision**

The DPO is required to make one home parolee visit every other month, one office parolee visit per month, and one field parolee visit every third month.

### **Minimal Supervision**

The DPO is required to make one home parolee visit every third month, one office parolee visit per month, and occasional field collateral contacts for employment verification.

### **Annual Report Status**

A part of parole philosophy is that at certain optimum point each individual is ready for discharge. This may be reached before the maximum term expires. The optimum point is evaluated in terms of risk to society, the welfare of the correctional system, and further assistance that might be effectively rendered to an individual by parole supervision. However, a recommendation for a full discharge to the Governor at that time might not be desirable. Therefore, the Board has approved the use of an administrative discharge as a simple means of relieving the parolee from full supervision short of the maximum term. This administrative discharge is called the Order of Annual Report which results in a modification of the original parole agreement.

When the Parole Officer feels that the parolee has reached a satisfactory level of adjustment and a chance of further criminal activity is remote, a report and recommendation is made to the Executive Director.

The Order of Annual Report does not remove the parolee from legal jurisdiction of the Board. If at any time the Board feels that more rigid

\*visit to home of parolee

\*\*parolee reports to parole office

\*\*\*a contact other than home or parole office, usually place of employment

control is necessary, it may void the Order of Annual Report and return the parolee to active supervision. The Annual Report status does not impair the power of the Governor to revoke the parole and order the parolee's return to the Texas Department of Corrections at any time short of the maximum term of the sentence.

The Order of Annual Report directs the parolee to submit a yearly report of his activities to the Director of Parole Supervision. It must be signed and accepted by the parolee. The rules for a parolee on Annual Report status are included in the Rules section of this handbook. (See Appendix 1).

### **Non-Reporting Status**

Parolees may be released from the terms and conditions of annual report status after completion of four years of satisfactory annual reporting. Transfer to non-reporting status, however, in no way affects the authority of the Governor to revoke a parole. The non-reporting parolee is still subject to Board jurisdiction and promises to obey all laws and maintain himself and his dependents by lawful employment.

### **Active Supervision**

A parolee is considered to be under full or active supervision until annual report status is granted. During this time, submission of monthly reports and adherence to all rules of parole are required. The minimum length of time a parolee is subject to active supervision is based on the presumption of adequate adjustment within an individual parolee's particular set of circumstances. The basic lengths of time required under active supervision have been established by the Board as follows:

- (1) Any parolee having a life sentence for any reason must be under active supervision for at least two years.
- (2) Any parolee for whom the court sets a maximum term of ten years or more must be under active supervision for at least eighteen months.
- (3) All other cases must be under active supervision for at least one year.

### **COMPLETION OF PAROLE PERIOD**

Article 42.12 C.C.P., as amended by the 65th Legislature provides a longer period of parole supervision for convicts whose offense occurred on or after August 29, 1977. For convicts whose offense occurred prior to August 29, 1977, the period of parole supervision is

the maximum sentence minus the actual calendar time served in prison plus time credit received for good conduct. For convicts whose offense occurred on or after August 29, 1977, the period of parole supervision is the maximum sentence minus actual calendar time served in prison. That is, any good conduct time accrued in prison is applied for purposes of parole eligibility only and will be added back to the period of parole supervision. No good conduct time is accrued during parole supervision, so that time served on parole is calculated as calendar time.

The stated provisions do not interfere with the constitutional power of Executive Clemency during the parole period.

When any paroled prisoner has fulfilled the obligations of his parole and has served out his term, the Board orders discharge from parole and a Certificate of Discharge is issued to the parolee by the Texas Department of Corrections.

Not all parolees end the term of the parole period by discharge. Six percent of the total persons on parole in FY 1975-76 were reincarcerated for new felonies or for violation of the parole rules. In either case, their parole was revoked after careful consideration by the Board.

### **MANDATORY SUPERVISION**

The 65th Legislature, by amendment of Article 42.12, C.C.P., created in Texas a system of post-prison supervision for all dischargees of the Department of Corrections who are not otherwise released to parole. This new provision will affect only those convicts whose offense occurred on or after August 29, 1977. The Legislature placed the responsibility for supervision of inmates under Mandatory Supervision with the Board of Pardons and Paroles.

The law states that a prisoner who is not on parole, except a person under sentence of death, shall be released to mandatory supervision by order of the Board when the calendar time he has served plus any accrued good conduct time equal the maximum term to which he was sentenced. In addition, a prisoner who has not been released to parole supervision and has 180 calendar days or less remaining on his sentence may be released by order of the Board to mandatory supervision. A prisoner released to mandatory supervision shall, upon release, be deemed as if released on parole, and is subject to all rules formulated by the Board.

To the extent practicable, arrangements for the prisoner's proper employment, maintenance, and care are made prior to his release to

mandatory supervision. The period of mandatory supervision is equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. The time served under mandatory supervision is calculated as calendar time. As in parole, every prisoner while on mandatory supervision remains in the legal custody of the institution from which he was released but is amendable to the orders of the Board. The inmate under mandatory supervision is subject to revocation and reincarceration just as are parolees.

Upon satisfactory completion of the period of mandatory supervision, the inmate is issued a certificate of discharge by the Department of Corrections.

### INTERSTATE PAROLE SUPERVISION

Through provisions of the Interstate Probation and Parole Compact, the Division of Parole Supervision is responsible for supervision of over 900 parolees from other states who reside and work in Texas. These parolees are subject to the rules of parole of the sending state as well as the Texas parole rules. Out-of-state parolees receive the same supervision as Texas parolees and periodic progress reports on these parolees are submitted to the sending state through the Compact Administrator.

In case of a violation of parole by the out-of-state parolee, the Texas parole officer submits a report of the violation to the sending state through the Compact Administrator, and requests instructions. Upon the request of the sending state, the Board of Pardons and Paroles conducts an On-Site Hearing for the concerned parolee and the hearing report is transmitted to the sending state. If the sending state wishes to revoke the parole, they will issue a warrant for the parolee's arrest to the Texas authorities so that the parolee may be detained in Texas until authorities from the sending state arrive to transfer the parolee back to the sending state.

However, if the violation involves an arrest for breaking a Texas state law, the parolee is subject to conviction and its penalty as is any citizen and cannot be returned to the sending state for parole revocation until satisfying the Texas penalty.

In the case of Texas parolees under supervision in other states, the same procedures above are applied by the receiving state. There are currently over 900 Texas parolees under supervision in other states.

## Chapter V

# Revocation of Parole\*

The Parole Certificate states that any violation of the conditions of parole imposed upon the parolee constitutes a violation of parole. A violation of parole can constitute grounds for the parolee's revocation and return to a penal institution. Normally, parolees convicted of a felony while on parole are by policy revoked. Revoking a parole is considered by the Board of Pardons and Paroles as one of its most serious responsibilities. A revocation recommendation will be made to the Governor only after a careful study of all the facts involved. Although the Governor is restricted in his power over the granting of parole, he has the exclusive power to revoke paroles, and such a power is not necessarily dependant upon a recommendation by the Board. The Board does not have the power to revoke paroles, only to recommend revocation to the Governor.

With the approval of the Governor, the Board is authorized to issue two classes of warrants for parole violators: (1) Pre-revocation Warrants which direct the arrest of a paroled prisoner before a parole is revoked by the Governor; and, (2) a Revocation Warrant which directs the arrest of a paroled prisoner after the Governor has ordered a revocation of parole.

The Pre-revocation Warrant does not presume termination of parole and is used as a tool to hold the parolee in custody pending further investigation. A parolee for whom a Pre-revocation Warrant has been issued by the Board is deemed a fugitive from justice and is not subject to bail.

When a parolee has apparently violated the conditions of parole, the supervising Parole Officer promptly submits the facts of the violation to the Board. Although breaking the law is a violation of parole, an arrest, of itself, does not mean an automatic revocation, nor must there be an arrest or conviction to justify revocation. The Board reviews each law violation or parole rule violation and decides which course of action will best protect the interests of the public and the parolee.

When a violation occurs, whether major or minor, the Parole Officer does an intensive investigation and the results of the investigation are forwarded to the Board in the Report of Violation. The Report of Violation has one of two recommendations by the Parole Officer: (1) continue on parole; or, (2) issue a Pre-revocation Warrant. The Report of Violation is sent to the Central Office and is reviewed by a Parole Analyst at this point. The Analyst researches the investigated material

\*The procedures of parole revocation are also applicable to mandatory supervision revocation as provided in Art. 42.12, C.C.P., as amended, 65th Leg.

and issues his recommendation to the Board to do one of the following: continue on parole under the present status; change the status; impose special conditions; defer decision pending disposition or adjudication of charges; or, to issue a Pre-revocation Warrant.

The Board then reviews the case and determines whether or not to continue the parole with or without modification, or to issue a warrant for the parolee's arrest. If the Board's decision is to continue on parole, a letter of reprimand and the modification to the parole status may be sent to the parolee.

If the decision is for a Pre-revocation Warrant, the Board sends a request to the Governor for permission to issue the warrant, stating all the reasons for the request. When the permission to issue the warrant is returned from the Governor's Office, the Board may issue the warrant. It is then sent to the reporting Parole Officer who is responsible for its delivery to the proper law enforcement agency for execution.

If the parolee is not already in custody at the time the warrant is delivered, the Parole Officer leaves the warrant with the appropriate law enforcement agency. If the parolee is in custody, the Parole Officer sees the parolee in jail and reads and thoroughly explains the notice of violation of the conditions of parole, and the rights and privileges of an alleged parole violator form to the parolee.

When a Pre-revocation Warrant is issued, the parolee is entitled to two hearings: an On-Site Hearing at or near the location of the alleged violation, which is conducted by an impartial hearing officer; and, a Parole Violation Hearing before a Parole Panel at the Diagnostic Unit of the Texas Department of Corrections in Huntsville. These hearings are held at the request of the parolee or may be waived by the parolee. Should the parolee desire to admit to the violation and waive the hearings, he may do so by signing Waiver Forms provided by his Parole Officer. The Waiver Forms are executed before two impartial witnesses. Law enforcement or parole officers cannot be used as witnesses in this process.

If the parolee requests the hearings, he has a right to be represented by legal counsel. If he is indigent, legal counsel may be provided for him by the State Bar of Texas Counsel for Indigent Parolees Program at both the On-Site Hearing and at the Parole Violation Hearing in Huntsville after submittal of a Pauper's Affidavit.

The parolee may, however, elect to waive the right to an attorney at either hearing. Waiver forms are also provided for this purpose.

Should the parolee admit to the alleged parole violation and elect to waive his rights to the On-Site and Parole Panel Hearings, the Board will review all relative information and make a decision on the basis of the written reports.

Each accused parole violator is furnished a copy of the alleged parole violation and a notice of the hearing, giving the date, time and place of the hearing. The On-Site Hearing is usually held twelve to fifteen days after arrest on the Pre-revocation Warrant. The Parole Violation Hearing is held within forty-five days, sixty days, or ninety days after the arrest.<sup>1</sup> If the parolee refuses to admit to any parole violation or to sign any forms, he is automatically scheduled for a Parole Violation Hearing.

### ON-SITE HEARINGS

Authority for the On-Site Hearing is based on a United States Supreme Court ruling of June 29, 1972, in the case of *Morrissey vs. Brewer*. This ruling states that parole should not be revoked prior to a preliminary investigation (On-Site Hearing) being offered to the accused parolee. The On-Site Hearing provides an opportunity for the parolee to be advised of how he is alleged to have violated the terms of parole and for confrontation by his accusers. The parolee may be represented by private counsel or one secured by submittal of the Pauper's Affidavit. During the hearing, the parolee or his attorney has the right to present witnesses, letters, affidavits and other materials in his behalf. The hearing is informal and is not a court proceeding. The parolee and all concerned are notified in writing of the date, place and time of the hearing at least ten days prior to the hearing.

The Board of Pardons and Paroles has appointed experienced District Parole Officers around the state to serve as impartial hearing officers. The Hearing Officer for a particular On-Site Hearing is one not directly involved in the supervision of that parolee. The Hearing Officer is responsible for reviewing the material, organizing the hearing and insuring that all necessary persons and documents are present.

The format of the On-Site Hearing is: (a) Identify those present; (b) Advise of the purpose of the hearing; (c) Present persons and/or documents in his defense; (e) Advise that a full report on the hearing will be submitted to the Board for their action, and that the parolee and his attorney will receive a copy of the report.

The Hearing Officer prepares a full report on the hearing which includes the following information: (a) Date, time and place of hearing; (b) Identity of those present and what they contributed to the hearing; (c) A statement of what if any rule violation(s) the parolee admits; (d) A statement regarding whether or not the hearings sustained the rule

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<sup>1</sup>Within forty-five days for parolees whose offense occurred prior to June 15, 1973; sixty days for offenses occurring between June 15, 1973, and August 29, 1977; ninety days for offenses occurring on or after August 29, 1977. See Article 42.12, Sec. 22, C.C.P.

violation(s), and any evidence which sustained the findings. This information and the recommendations made by the Hearing Officer are then submitted to the Board along with any waivers submitted by the parolee. The Board is assisted by a Parole Analyst who screens the facts of the case and recommends to the Board (1) to withdraw the Warrant and continue on parole; or, (2) set a Board Hearing.

The parolee is notified in writing of the Board action taken. If the decision is to withdraw the Pre-revocation Warrant, the parolee is released from custody and is continued on parole under the same rules or with special conditions in addition to the rules of parole.

If the Board decision is to schedule a Parole Violation Hearing before the Parole Panel, the parolee is transferred to the Texas Department of Corrections Diagnostic Unit where the hearings take place.

## PAROLE REVOCATION HEARINGS

Authority for Parole Revocation Hearings is also based on the 1972 U.S. Supreme Court ruling in the case of *Morrissey vs. Brewer* and in Texas law under Article 42.12, Sec. 22, C.C.P., (See Appendix 2). Parole revocation hearings are held twice monthly at the Diagnostic Unit of the Texas Department of Corrections in Huntsville.

The purpose of the Parole Revocation Hearing is to advise the accused parolee of how he is alleged to have violated the terms of his parole (what rules were violated, how and when); to present information, affidavits, documents and persons, and/or statements to sustain the allegation; to provide the accused parolee or his attorney an opportunity to present information, affidavits, documents, persons or statements rebutting the allegations or to present reasonable mitigating circumstances. If the parolee has received a new conviction, it is not the purpose of the hearing to relitigate the conviction, whether misdemeanor or felony.

The Parole Panel hearing of the revocation case is simply to find the facts and is not an adversary proceeding. The hearing is not a court proceeding. The hearing is conducted according to adopted policies of the Board of Pardons and Paroles and only those persons pertinent to the hearing are allowed to be present. The accused parolee may be represented by counsel if he secures one, or counsel may be obtained for him by submittal of the Pauper's Affidavit. The hearing is electronically recorded in its entirety and each hearing is opened with the following statement:

This is a Board Hearing in the matter of Parole Revocation in the case of \_\_\_\_\_ TDC# \_\_\_\_\_, held at \_\_\_\_\_ Unit of the Texas Department of Corrections, \_\_\_\_\_, Texas, on \_\_\_\_\_, at \_\_\_\_\_, Those present being: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

In accordance with Board policy, this entire proceeding will be taped (or video taped).

Once the Hearing has been opened and identified for recording purposes, the following procedure is followed:

- 1. Establish the identity of the parolee by name and TDC number;
2. Establish if inmate has secured an Attorney, and if fee affidavit by such Attorney is required to be submitted;
3. Advise purpose of Hearing;
4. Establish On-Site Hearing information;
5. Advise of alleged rule violation(s) (number, how and when); present documents to sustain rule violation(s);
6. Determine purpose of request for Board Hearing:
a) Denial of allegations of violations of Conditions of Parole and findings of On-Site Hearing, or;
b) Admission of allegations of violations with offerings of evidence in mitigation;
7. The Hearing is concluded by the presiding Panel Member advising the body that all concerned will be notified in writing of the final Board decision within 10 days.

Upon review of the information and evidence presented at the hearing, a decision is made within ten days to continue on parole or recommend to the Governor revocation of the parole. In some instances, it is not possible for the Panel to make a decision based on the information available and the parolee may have to be rescheduled for a subsequent Parole Panel Hearing. This may be allowed to gather missing information so that witnesses can be accommodated, or for the parolee's return for an On-Site Hearing. The parolee is furnished a finding of facts relative to the Parole Panel's decision. Should the Governor accept the Parole Panel's recommendation for revocation, a Revocation Warrant is issued and the parolee is remanded to the custody of the Texas Department of Corrections. Should the decision be made to continue on parole, the Pre-Revocation Warrant is withdrawn by the Board and the parolee is released.

## AFTER REVOCATION

When the Governor revokes a parole, the parolee is remanded to the Texas Department of Corrections. Under Article 42.12, Sec. 22, C.C.P., when the Governor revokes a person's parole, mandatory supervision, or conditional pardon, that person may be required to serve the portion remaining of the sentence on which he was released, such portion remaining to be calculated without credit for the time from the date of his release to the date of revocation. Such time credit may be reinstated by the Board should parole be continued, however.

The revoked parolee has no statutory right to consideration for re-parole on his original sentence after revocation. Revoked parolees are, however, considered for re-parole one year from the date of return to the Texas Department of Corrections on the revocation. Revoked parolees who have received prison sentences because of new convictions are eligible for parole on the new conviction under the applicable statutory requirements for parole eligibility, but must have served a minimum of one year before eligibility is reached.

## Chapter VI

# Executive Clemency

Executive Clemency is the power of the Governor to grant pardons, reprieves, commutations, and to remit fines and forfeitures resultant of criminal conviction in Texas courts. Executive Clemency is a constitutional and statutory right of the Governor found in Article IV, Section 11 of the Texas Constitution, Article 42.12, Sec. 24, 25, C.C.P., and Article 48.01, C.C.P. The Governor acts upon the written recommendation and advice of a majority of the Board of Pardons and Paroles in all areas of Executive Clemency except in capital reprieves in which case the Governor may grant one 30-day stay of execution without the advice of the Board of Pardons and Paroles. Executive Clemency is prohibited by the Constitution in cases of treason except on consent of the Legislature and in no cases of impeachment. The Governor grants the various forms of Executive Clemency by use of Proclamation.

The areas of Executive Clemency are discussed separately below. See the Rules section of this handbook (Appendix 1) for further clarification of the procedures.

### FULL PARDON AND/OR RESTORATION OF FULL CIVIL RIGHTS OF CITIZENSHIP

Conviction for a felony in Texas carries with it, besides a judicially determined punishment, a deprivation of certain rights of citizenship (Texas Constitution, Art. 16, Sec. 2; Election Code, Arts 1.05 (holding office) and 5.01 (voting); Art. 2133, V.T.C.S. (serving on trial juries); C.C.P., Arts. 19.08, 35.12, 35.16 (serving on grand and petit juries). Additionally, conviction of a felony (and in some cases, a certain type of misdemeanor) bars entry into and continuance in a great number of businesses and professions. See, for example, Art. 311, V.T.C.S. (the practice of law); Art. 581-14, V.T.C.S. (security dealer or salesman); and Art. 8451a, V.T.C.S. (cosmetology).

The Governor may pardon convicted felons on the recommendation of the Board of Pardons and Paroles (Art. 4, Sec. 11; Texas Constitution, Art. 48.01, C.C.P.), which has the effect of restoring the rights of citizenship.<sup>1</sup> The terms Restoration of Citizenship and Restoration of Full Rights of Citizenship are synonymous.

A pardon is an act of grace or a remission of guilt and is full when it freely and unconditionally absolves the party from the legal

<sup>1</sup>Atty. Gen. Opinion No. H-587, 4-18-75, cf. Appendix.

consequences of his crime and conviction.<sup>2</sup> However, pardon does not operate as a release of the payment of costs adjudged in a criminal case and will not automatically restore collateral privileges associated with a license to engage in certain businesses or professions, but may open the door to reinstatement.<sup>3</sup> Conviction, as respects pardoning power of the Governor, is not restricted to final judgment on the verdict,<sup>4</sup> and a pardon granted pending appeal is valid.<sup>5</sup> Full Pardon restores those civil rights which may have been lost as a result of the conviction for which the pardon is granted, unless specifically limited in the Governor's proclamation. The terms pardon and full pardon are used interchangeably and have the same meaning.

In the case of *Hunnicut v. State*, 18 Texas Court of Appeals 498 (1885), it was held that: "A pardon in order to be complete, must, in contemplation of law, be delivered and accepted. The principles applicable to the delivery of a pardon and an ordinary deed must be considered analogous, and in either case its delivery is complete when the grantor has parted with his entire control or dominion over the instrument, with the intention that it shall pass to the grantee or obligee, and the latter assents to it either by himself or agent." Thus, the Board has no authority to recommend nor the Governor to grant a posthumous full pardon to a deceased convicted felon. The pardon not being delivered to the convict during his lifetime, it could not be accepted by him. Even had he appointed an agent to accept the pardon during his lifetime, his death would have the effect of terminating such relationship.<sup>6</sup>

The granting of a pardon does not preclude the State from using a former conviction against a defendant on subsequent prosecution under the enhancement statutes.<sup>7</sup>

A person who has discharged a felony sentence by serving out his time in the Texas Department of Corrections or by parole or mandatory supervision can make application for full pardon and/or restoration of full civil rights of citizenship by written request to the Board. However, for releasees under supervision of the Board of Pardons and Paroles, the Board will automatically initiate the application for full pardon upon completion of the parole period.

Where there exists one or more convictions for felony offenses in other states or in federal court prior to the last Texas conviction, the Board will consider an application for full pardon and/or restoration of full civil rights of citizenship only if the applicant provides a clearance by full pardon and/or restoration of rights of citizenship from the jurisdiction(s) of the previous conviction(s) or furnishes proof in writing that the other jurisdiction(s) will not act until a full pardon

<sup>2</sup>*Carr v. State*, 19 Cr. R. 635.

<sup>4</sup>Atty. Gen. Opinion, No. C-417, 7-28-65.

<sup>3</sup>*Cameron v. State*, 22 S.W. 682; *Hankamer vs. Templin*, 187 S.W. 2d 549.

<sup>7</sup>*Jones v. State*, 147 S.W.2d 508; *Square v. State*, 167 S.W.2d 192.

<sup>6</sup>*Duke vs. State*, 291 S.W. 539.

<sup>5</sup>*Goss vs. State*, 298 S.W. 585.

and/or restoration of the rights of citizenship is granted by the Governor of Texas for the Texas conviction(s).

To apply for a full pardon and/or restoration of full civil rights of citizenship, the applicant, or a person acting for him, may write to the Board giving the name of the applicant, the name under which convicted and the Texas Department of Corrections identification number. If the applicant was not incarcerated in the Texas Department of Corrections, a full explanation should be made. Upon receipt of a request, the appropriate application form and instructions for its completion are mailed. The application must be made on the forms furnished by the Board.

Upon request from the applicant or person acting for him, the Board may also recommend full pardon and/or restoration of rights of citizenship for a suspended sentence as a result of a felony conviction.<sup>8</sup> The applicant's name, the county of conviction, offense, and sentence must be furnished when the request for an application form is made.

The Board will consider recommending a full pardon and/or restoration of rights of citizenship for a probated sentence only upon a showing of receipt of maximum relief available through the court of conviction, and then, only in an extreme or unusual circumstance which prevents the applicant from gaining a livelihood or in the event of loss of civil rights. The burden of showing such unusual conditions rests upon the applicant. The applicant, or person acting for him, may write the Board requesting full pardon consideration and stating the reasons for the request. A certified copy of the judgment and sentence and order of dismissal should be enclosed. If it is determined that an application is appropriate, forms and instructions will be sent.

The Board will consider an application for full pardon in misdemeanor cases only when exceptional circumstances exist, such as immigration cases or other extreme and unusual circumstances which might prevent the applicant from gaining a livelihood. The burden of showing such unusual conditions rests upon the applicant. Certified copies of the judgment and sentence, or if conviction is in a Justice of the Peace Court, a certified copy of the docket entry should accompany the request for full pardon. If it is determined that an application is appropriate, forms and instructions will be sent. The application must be made using the forms furnished by the Board.

When the appropriate completed forms with other information and exhibits are returned to the Board's central office, the application will be evaluated by the Board and one of three actions taken: 1) denial of full pardon and restoration of full civil rights of citizenship; or, 2) a recommendation to the Governor that full pardon and restoration of

<sup>8</sup>Atty. Gen. Opinion No. 0-5662, 10-29-43.

full civil rights of citizenship be granted; or, 3) a recommendation to the Governor for restoration of full rights of citizenship only. Under actions (2) or (3), the Governor's action is either to deny or grant the clemency. If the Board's recommendation is granted, a copy of the Governor's proclamation is sent to the applicant by the Board. If the action of the Board or the Governor is to deny, the Board notifies the applicant of the denial.

The Governor's power to grant an unconditional full pardon does not carry with it the right to revoke it once accepted and acted upon, and is irrevocable unless it is procured by fraud.<sup>9</sup>

### CONDITIONAL PARDONS

A Conditional Pardon is a form of Executive Clemency which serves to release the grantee from the conditions of his or her sentence and/or any disabilities imposed by law thereby subject to the conditions contained in a Clemency Proclamation signed by the Governor. Historically, the conditional pardon was the form of executive clemency used in Texas in lieu of parole prior to September 1, 1956, and served to release the inmate from the Texas Department of Corrections to serve the remainder of his sentence out of prison, subject to the conditions contained in the clemency proclamation.

A pardon is conditional when it does not become operative until the grantee has performed some specified act, or if it becomes void after the occurrence of some specified event. A conditional pardon must be accepted by the grantee in order to be effective.<sup>10</sup> If, after acceptance, the grantee fails to fulfill the conditions of the clemency proclamation, the Governor is authorized to revoke such clemency.<sup>11</sup>

As it is used today, the conditional pardon serves to release an inmate to another country or to immigration officials for deportation or in cases where extreme, exceptional and unusual circumstances exist. Conditional pardons are granted only after minimum statutory parole eligibility has been attained. A conditional pardon, such as in the case of aliens who are pardoned upon condition that they will be deported and will remain away and also conditioned that they will lead an exemplary life thereafter, is not effective to restore the full civil rights of the grantee. The restoration of full civil rights would require further executive clemency in the form of a full pardon and/or restoration of full civil rights of citizenship. Conditional pardon may be breached at any time during the continuance of the condition, and any subsequent violation of the condition occasioned by the alien's returning to this country or failure to lead an exemplary life will work a forfeiture of the conditional pardon and render the grantee liable to rearrest and recommitment under the original sentence.

<sup>9</sup>Ex parte Redwine, 236 S.W.96, Atty. Gen. Opinion No. 0-2413, 1940, Ex parte Rice, 162 S.W.891.

<sup>10</sup>Ex parte Lefors, 303 S.W.2d 394.

<sup>11</sup>Ex parte Bryant, 230 S.W.2d 824.

## REPRIEVES

A reprieve is a delay or a temporary suspension of the carrying out of a punishment. The Governor may grant a reprieve upon the written recommendation of the Board of Pardons and Paroles and in a capital case the Governor may grant one 30-day reprieve of execution without advice of the Board of Pardons and Paroles. Reprieves for business reasons are not allowed.

The types of reprieves discussed below are: reprieve of execution, emergency reprieve to attend civil court proceedings, reprieve of misdemeanor jail sentence and/or fine, and emergency reprieves to obtain medical treatment, to attend funerals, and to visit critically ill relatives. See Rules, (Appendix 1), for clarification of all procedures discussed below.

### Emergency Reprieves

Until the 65th Legislature, recommendations of all temporary furloughs and reprieves to inmates of the Texas Department of Corrections were by recommendation to the Governor by the Board of Pardons and Paroles. The 65th Legislature, through Senate Bill 150, adding Art. 66184-N *Revised Civil Statutes of Texas*, 1925, placed three areas of temporary furloughs within the authority of the Texas Department of Corrections. These are temporary furloughs to inmates to obtain medical treatment, to attend funerals, and to visit critically ill relatives.

However, because TDC is authorized to permit temporary furloughs on a restricted time basis of five days only with an additional 10-day extension and in the case that more furlough time is needed, the inmate may petition the Board for an emergency reprieve.

All requests for such emergency reprieves are to be made in writing and are subject to the Rules of the Board of Pardons and Paroles. (See Appendix 1).

### Reprieve of Execution

The Board is empowered to recommend reprieve of execution of the death sentence to the Governor. The Board will consider such recommendation upon receipt of a written request from the condemned felon or his representative. The written request must state all grounds upon which the request is based and must include the full name of the condemned felon, the county of conviction and the execution date.

The Board may act upon the written request or may hold a hearing to consider the request. If a hearing is set, notice is given to the

prosecuting officer of the county of conviction and to the press and the hearing is an open meeting. Rules for the presentation of information to an argument before the Board are informal, but generally follow procedures of a court of record.

After consideration of the case, the Board may or may not recommend the reprieve of execution to the Governor. Upon recommendation, however, the decision to grant the reprieve is the Governor's. In addition, the Governor has the power to grant one reprieve in any capital case for a period not to exceed thirty days by his own authority and without the advice or recommendation of the Board of Pardons and Paroles. (Art. 48.01, C.C.P., Tex. Const., Art. IV, Sec. 11). (See Rules, Appendix 1).

### **Emergency Reprieves to Attend Civil Court Proceedings**

Inmates confined in the Texas Department of Corrections may be reprieved in order to attend civil court proceedings. If for any reason the case is not tried as scheduled, the grantee must return to prison immediately. The grantee may not conduct any other business or visitation during a reprieve. See the Rules (Appendix 1), for these procedures.

### **Reprieve of Misdemeanor Jail Sentence and/or Fine**

While the Parole Law applies in felony cases, the reprieve of misdemeanor jail sentences may be allowed in order to temporarily suspend the execution of the penalty imposed by the court in a misdemeanor case. It does not release the subject from the sentence nor does time out on such reprieve count as time served on the sentence. It releases the subject from jail for the specified time set out in the clemency proclamation. If such reprieve is not extended, or the penalty is not commuted by additional clemency, the grantee must return to jail at the expiration thereof or be subject to arrest without further action of the Governor.

Reprieve of a misdemeanor jail sentence or fine is given only for medical reasons or for reasons of financial hardships, (loss of home or business, or lack of support for family), or other compelling hardships. If reprieve is granted and the applicant is released, it is required that he notify the Board at least two weeks before the expiration of the reprieve in order that the Board might decide if additional clemency should be recommended or if the subject should be returned to jail.

The Board will consider recommending to the Governor a

commutation of the remainder of time left to serve on a jail sentence and/or commutation of the fine after satisfactory completion of reprieve of the jail sentence. This executive clemency does not extend to court costs levied as part of the penalty, however.

## **COMMUTATION**

A commutation is a change or alteration of a sentence, and historically, it is a lessening of a sentence imposed by the Court. The reasons for which the Board of Pardons and Paroles may recommend to the Governor commutation or the lessening of the sentence of a particular inmate are discussed below. See the Rules (Appendix 1), for further clarification of the procedures.

### **Commutation of Sentence (Felony and Misdemeanor)**

Commutation of sentence involves the changing or modification of the penalty assessed by the court and if granted, results in a lower penalty. Any commutation of sentence is based upon facts directly related to the case and not upon outside or unrelated matters. The Board will not consider such reasons as hardship to inmate or family, position or standing in community, comparison of penalty, good behavior or adjustment in prison, rehabilitative qualities of inmate, or other reasons not connected to the case as sufficient basis for commutation. Commutation of sentence in a felony or misdemeanor case is considered only upon recommendation of the trial officials. Their recommendation must comply with Agency rules, however, compliance does not mean that favorable action will result. If commutation of sentence is granted, and the shortened sentence makes the inmate eligible for parole consideration, it does not necessarily follow that parole will be granted. When an inmate becomes eligible for parole consideration under the parole laws, the consideration of the parole is unaffected by any prior commutations of sentence.

No forms are furnished for application for commutation of sentence, however, instruction sheets are available from the Board's Central Office upon written request.

### **Commutation of Remainder of Jail Sentence and/or Fine After Reprieve**

Since the nature of a reprieve of a jail sentence or fine on a misdemeanor conviction is clearly for cases of hardship and medical reasons, only the inmate may petition the Board for a commutation of

the remainder of time left to serve on the sentence for the same reason. The commutation of the misdemeanor fine does not apply to court costs levied as part of the sentence, however.

#### **Commutation for Jail Time Served before Sentence for Felony Conviction**

While an inmate is awaiting sentencing on a felony conviction, he may spend several months or more in a county jail. If the inmate has been continuously in jail during the entire period while awaiting sentencing, the Board will consider recommending commutation resulting in a credit for the time served in jail from the time of arrest to the time of sentencing.

#### **Commutation for Time out of Prison on a Reprieve**

The Board will not accept an application for commutation for time out of prison on reprieve if the basis for the reprieve is for some convenience or business of the inmate applicant. The Board will consider a request for commutation for time out of prison on reprieve only for medical reprieves. See the Rules (Appendix 1) for this procedure.

#### **Commutation of Sentence for Blood Donation**

The Board will consider commutation of sentence for an inmate who makes a voluntary blood donation of 500 c.c. of blood to approved facilities upon petition of the Texas Department of Corrections in behalf of the inmate. Only one 30-day commutation of sentence per inmate is considered per calendar year. Commutation for blood donations while in jail prior to transfer to TDC is not allowed except under special conditions set out in the Rules.

#### **Commutation of Death Sentence to Lesser Penalty**

Upon request from the majority of the trial officials of the court of conviction or the request of the convicted person or his representative, or upon request by the Governor, the Board will consider investigating and recommending to the Governor a commutation of the death sentence to a sentence of life imprisonment or an appropriate maximum penalty.

## **REMISSION OF FINES AND FORFEITURES**

Often a judgment in a misdemeanor or felony conviction will result in the levy of a fine. For the same reasons that a reprieve may be granted under certain circumstances, a petitioner may be relieved of paying such fines by executive clemency. The Board will consider a request to remit a fine only for medical reasons or for reasons of financial hardship, such as loss of home or business or lack of support for the family or other compelling hardships.

Failure to appear at trial often is penalized by forfeiture of bond. However, if the trial officials and the commissioners court of the county in which the final judgment of forfeiture was entered make recommendation, and other requirements as set out in the Rules are met, a remission of the bond forfeiture will be considered by the Board. The Governor's power to remit forfeitures of bail bond is found in Art. 48.04, C.C.P.

## **RESTORATION OF RIGHT TO DRIVE AND OPERATE A MOTOR VEHICLE**

The penalty for some infractions of the law carries a revocation or suspension of the driver's license or the suspension or revocation may result from administrative action by the Texas Department of Public Safety. Under Article 6687b V.T.C.S., the suspension or revocation of a driver's license is subject to executive clemency as any other fine or punishment. However, prior to application for executive clemency the subject must make an application for an occupational license to the district court having jurisdiction within the county of his residence. If the application for an occupational license is denied by the District Court, the applicant may then petition the Board for executive clemency to restore the right to drive and operate a motor vehicle. If a recommendation is made by the Board to the Governor and if the petition is granted by the Governor, a clemency proclamation is prepared, a copy of which is sent to the Texas Department of Public Safety. At that point, the applicant must contact the Driver Improvement Control Division of the Texas Department of Public Safety, 5805 North Lamar, Austin, Texas, 78752, if he wishes to pursue regaining the license.

The Board has no authority to recommend the restoration of the right to drive and operate a motor vehicle in cases where the license has been suspended due to failure to comply with the Safety Responsibility Law of the State of Texas.

## **Chapter VII**

### **Interstate Probation**

Through provisions of the Interstate Probation and Parole Compact, enacted in Texas as the Uniform Act for Out-of-State Parolee Supervision in 1951, (Art. 42.11, C.C.P.), probationers and parolees may have the privilege of moving outside the state in which they were sentenced and into other states where they may have better opportunities. There are currently over 2,000 out-of-state probationers under supervision of Texas probation departments.

The Texas Compact Administrator, who is a member of the Board of Pardons and Paroles, and the Deputy Compact Administrators, who are employees of the Board, are responsible for the coordination of the compact services to probationers between the compacting states and the affected probation departments. In compliance with the Compact, the following procedures must be followed by probation departments when a probationer wishes to transfer to another state. For a discussion of interstate parole, see the chapter on parole supervision.

#### **PLACEMENT IN OTHER STATES**

Whenever a Texas probationer wishes to take up residence in another state, the responsible probation authority must make the request for compact services through the Compact Administrator at the Board of Pardons and Paroles. At that time, a request for investigation of the placement in the other state is sent to that state by the compact administrator. This request should be made before the individual leaves the State of Texas and such requests are subject to the receiving state's acceptance. Probationers should be instructed early in their supervision program that a request for a transfer to another state will take four to six weeks to be investigated. When a probation department needs immediate action, this should be indicated in the request for placement so that it can be expedited.

## How to Apply

The following materials should be submitted in triplicate to the Compact Administrator by the probation office when requesting that a probationer be transferred to another state:

1. Three photostat copies of the judgment and sentence. These need not be certified copies.
2. Three copies of descriptive material including a description of the crime, criminal history, date of sentence, date supervision will terminate, and personal and social data about the individual being transferred, *or* a copy of the pre-sentence report, if available.
3. Three copies of a statement of the reasons for the transfer and the transfer plans, including address at which the probationer expects to reside and the names of relatives or friends with whom he will reside and associate with; and plans for employment including name and address of employer and whether or not the job has been verified.
4. Any special instructions affecting the transfer.
5. Any conditions of probation, including court costs or restitution should be clearly indicated in the placement request. However, such matters should be cleared up as much as possible before allowing the probationer to transfer.
6. Three copies of signed Waiver of Extradition form.

## Waiver of Extradition

One of the requirements of the interstate compact is that a probationer must sign a waiver of extradition before leaving the State of Texas so that he can be returned to the State of Texas as a probation violator without the expensive and time consuming process of extradition. This feature of the interstate compact law has been tested in many states and has been uniformly upheld. Four copies of the Waiver of Extradition should be obtained when allowing a probationer to go to another state so that one copy can be retained at the probation department and three copies can be sent to the compact administrator when the request for out-of-state supervision is made. In the event that return to the State of Texas is necessary, the agent returning the probationer will generally be able to use the waiver of extradition in the other states. However, it is wise to check with the detaining authority before leaving the state of Texas to retake a probationer to make certain that the waiver will be recognized in the particular jurisdiction.

### **Travel Permits**

Both Texas and out-of-state probationers and parolees may be permitted to leave the State of Texas and visit other states. This permission must be granted directly by the supervising officer with the use of the out-of-state travel permit. If a visit to another state is thirty days or less, no copies of the out-of-state travel permit need to be sent to the administrator. However, if a probationer is allowed to leave the State of Texas on a travel permit for more than thirty days, three copies of the travel permit should be sent to the compact administrator's office to provide a record of the probationer's whereabouts.

The only limitation to the general travel policy is that an out-of-state case should not be permitted to return to his sending state without first getting permission of that state. This permission can be obtained by sending a letter in triplicate to the compact administrator's office describing the purpose of the request.

### **Quarterly Reports**

Under the terms of the interstate compact, states are required to submit periodic progress reports to the probation department which has sent an individual to another state. These reports are received in the compact administrator's office and in turn are sent to the probation departments for their information and records. Should these reports be inadvertently sent directly to the probation department by the other state, copies of the reports and any other correspondence between the other state and the probation department should be sent in triplicate to the compact administrator's office.

### **Violation Reports**

On occasion, receiving states will report that a Texas probationer has violated the terms of his probation in that state. These states will sometimes recommend return to the State of Texas. The reports are forwarded to the probation department having jurisdiction over the

case, and should be handled as quickly as possible. In the event that the sentencing judge wishes to take no action, this information should be sent to the compact administrator's office in triplicate for transmission to the sending state. On the other hand, if the sentencing judge wishes the return of the probationer to the State of Texas, this can be accomplished by having a warrant sent directly by the county granting probation to the supervising probation authorities in the other state. When this bench warrant is issued, which causes the person to be taken into custody, the probation department should notify the compact administrator's office by letter in triplicate. The compact administrator's office will in turn notify the supervising state. At that time, the interstate compact supervision arrangement ceases and correspondence should then be carried on directly between the county and the detaining authorities concerning the return of the probationer to the State of Texas for court hearing.

On occasion, probationers will be apprehended or located in states other than the state in which they are supposed to be under supervision. In that case, the probation department having jurisdiction over the case will be notified and it can decide what action it wishes to take on the case. Notice of this decision should be sent to the compact administrator's office so that the supervising state can be notified. Direct contact with the detaining authorities can be undertaken if there is a desire to return the probationer to Texas. On the other hand, if there is a desire to investigate the situation, a letter in triplicate sent to the administrator's office can cause the other state to do so.

### **Termination of Probation**

When the interstate probation case has reached the point where it can be terminated, all documents relating to termination should be routed through the compact administrator's office for referral to the supervising state.

### **OUT-OF-STATE CASES IN TEXAS**

This state is required to accept supervision of an out-of-state probation case when factors in the case indicate a suitable placement. This state agrees to exercise the same care and treatment that is given to Texas probation cases, to promptly notify the sending state of any violations that may occur, and in the event of arrest to request the permission of the sending state before placing any legal hold against the individual. Texas agrees to submit periodic progress reports on all out-of-state cases and enforce the rules of the sending state in addition to the rules of the local probation department.

## **Placement Investigation**

Whenever a probation department in another state requests that a probationer be supervised in the State of Texas, a request for an investigation is sent to the appropriate Texas adult probation department by the compact administrator. The investigation should be conducted as soon as possible and the report submitted to the Compact Administrator in triplicate.

In case there are no probation services in the area where placement is requested, the probationer may be supervised by Parole Officers. The investigation should verify the employment and residence plans of the individual and include any pertinent comments.

## **Progress and Conduct Report**

The interstate compact requires that the supervising probation department submit a periodic progress report to the sending state. Any reports relative to a probationer qualify as a progress report. If no report of any kind has been submitted for more than a four-month period, then a progress and conduct report, which is an official interstate compact form, should be sent in triplicate to the receiving state through the administrator's office. The progress and conduct report forms can be obtained from the compact administrator's office.

## **In-State Transfer Procedures**

When an out-of-state case is transferred between counties within the State of Texas, the procedure should be coordinated by the administrator's office. A letter in quadruplicate should be sent to the compact administrator's office from the authorized probation office so that two copies can be sent to the sending state and a copy can be sent to the county to which the person is being transferred. This letter will form the basis upon which an investigation can be conducted. When a probation department receives a letter with a request for investigation, their reply should be to the administrator's office in quadruplicate for distribution purposes.

## **Records**

In order to provide a convenient manner of maintaining a record of all out-of-state probationers being supervised in the State of Texas, a computerized list is periodically sent from the administrator's office to

Texas probation departments. This list shows the name of each out-of-state probationer presently assigned to the probation department according to the record in the administrator's office. Two copies of this list are sent to the probation department. One copy is to be corrected and returned by the probation department to the compact administrator. This is done by simply noting after the name of the probationer any discrepancies, and adding to the list the names of any out-of-state probationers who do not appear.

# **APPENDIX 1 RULES OF THE TEXAS BOARD OF PARDONS AND PAROLES**

**These rules are promulgated under authority of Article 42.12, Section 15(d), C.C.P., and are subject to revision. The rules of the Board of Pardons and Paroles are filed with the Office of the Secretary of State in compliance with the Administrative Procedure and Texas Register Act, 1975.**

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**RULES**  
**TEXAS BOARD OF PARDONS AND PAROLES**  
**Chapter I**  
**General Provisions**

**Board of Pardons and Paroles**  
**205.01.01.001-.010**

.001. Origin and Purpose of the Board. The Texas Board of Pardons and Paroles was created by Constitutional Amendment in 1936, to recommend to the Governor, after conviction, reprieves and commutations of punishment and pardons, and remission of fines and forfeitures. In 1947, the 50th Legislature passed the Adult Probation and Parole Law which vested the Board with the authority to release prisoners on parole upon the approval of the Governor, and also to investigate and supervise parolees, including general direction of the Division of Parole Supervision. (Tex. Const., Art. IV, Sec. 11, C.C.P., Art. 42.12)

.002. Composition of the Board. The Board is composed of three full time Members, resident citizens of the State of Texas for not less than two years, with terms of office set at six years. One appointment is made every two years. One Member is appointed by the Governor, one by the Chief Justice of the Supreme Court, and one by the Presiding Judge of the Court of Criminal Appeals, subject to the advice and consent of two-thirds of the Senate present. (Tex. Const., Art. IV, Sec. 11)

.003. Chairmanship. The chairmanship is decided by majority vote of the Members and is for a term of two years and until his/her successor is qualified. (C.C.P., Art. 42.12, Sec. 13) It is the policy of the Board to rotate the chairmanship so that each member will occupy that position for the last two years of his/her term. The Chairman acts as spokesman for the Board after obtaining the views and collaboration of his/her colleagues whenever possible and practicable. A majority of the Board may elect a temporary Chairman in the event the Chairman is incapacitated or for any reason fails to serve a full term.

.004. Quorum. Major questions of policy and procedure require consideration of all members of the Board. A majority of the Board shall constitute a quorum for the transaction of all business.

.005. Majority Vote. All decisions shall be made by majority vote.

.006. Regular Meetings. The Board is in session Monday through Friday of each week in the Central Office, Austin, Texas, or elsewhere as necessary to conduct routine business relative to parole and executive clemency matters and the administration of the agency.

.007. Special Meetings. The Board meets at the call of the Chairman and from time to time as otherwise may be determined by majority vote of the Board.

.008. Open Meetings. All meetings of the Board shall be conducted in compliance with the requirements of the Open Meetings Act. (Art. 6252-17)

.009. Parliamentary Authority. *Robert's Rules of Order*, current edition, shall govern the conduct of all meetings of the Board except as may be otherwise specified herein.

.010. Official Seal. The Board has adopted an official seal in compliance with Article 42.12, Section 13, Code of Criminal Procedure. The seal is a circle with the words "Board of Pardons and Paroles, State of Texas" circularly arranged about the inner edge, and in the center of the circle there is a five-pointed star, together with the live oak and olive branches common to other official State seals.

### **Parole Commissioners 2.05.01.02.001-.003**

.001. Origin and Purpose of Parole Commissioners. The appointment of Parole Commissioners was authorized by Senate Bill 240 passed by the 64th Legislature, 1975, (which amended Art. 42.12, C.C.P., to include a new Sec. 14A) to aid and assist the Board in the granting, denying, or revocation of parole, and in the conduct of parole violation hearings.

.002. Appointment of Parole Commissioners. There are authorized no less than six Parole Commissioners; one-third being appointed by the Governor; one-third by the Chief Justice of the Supreme Court of Texas; and one-third by the Presiding Judge of the Texas Court of Criminal Appeals. One of the Commissioners appointed by each of the appointing authorities shall reside in Walker County. (C.C.P., Art. 42.12, Sec. 14A)

.003. Authority of Parole Commissioners. In matters of parole decisions, the Parole Commissioners have the same duties and authority as the Board Members and may have such additional authority as may be authorized by the Board. (C.C.P., Art. 42.12, Sec. 14A)

**Parole Panels**  
**205.01.03.001-.005**

.001. Parole Panels. A Parole Panel shall be composed of any three Parole Commissioners, or the Parole Board, or any combination thereof, as named from time to time by the Board. (C.C.P., 42.12, Sec. 14A)

.002. Duties and Authority of Parole Panels. Parole Panels may recommend granting, denying, or revocation of parole, and may conduct parole violation hearings.

.003. Meetings. Parole Panels shall meet from time to time as necessary for the conduct of business, and all meetings shall be conducted in compliance with the Open Meeting Act. (Art. 6252-17)

.004. Quorum. A majority of each panel shall constitute a quorum for the transaction of its business.

.005. Majority Vote. All case decisions shall be by majority vote.

**Rulemaking**  
**205.01.04.001-.007**

.001. Purpose of Rules. These rules and regulations, referred to as "rules" are adopted for the purpose of facilitating the fair and uniform administration and enforcement of the Pardon and Parole laws of the State in a manner which attempts to assure both protection to the citizens of the State and the opportunity for offenders to adjust to the free world. To the end that these objectives be attained, these rules shall be given a fair and impartial construction.

.002. Incorporation by Reference. There is incorporated and made a part of these rules, whether explicitly written here or not, every article, provision, requirement, rule, regulation or limitation imposed, ordered, required or provided for and all existing statutory and constitutional provisions relating to the Pardon and Parole laws of this State. In the event of any conflict between provisions contained in the Texas Statutes or between provisions of these rules, the Board reserves the right to proceed under that provision of the statutes of rules, as appropriate, which in the opinion of the Board is in the best interest of the State of Texas and its citizens.

.003. Use and Effect of Rules. These rules are prescribed for the performance of the Constitutional and statutory powers and functions vested in the Board and the statutory powers and functions vested in the Commissioners. In no event shall they, or any of them, be construed as a limitation or restriction upon the exercise of any discretion by the Board, by the Commissioners, or by a Parole Panel.

.004. Suspension of Rules. The Board may suspend the provisions of any procedure or rule when the enforcement of the rule would unduly complicate or prolong the process and the suspension would not result in significant harm to the interest of any person and would be in the best interest of justice for all interested persons.

.005. Amending of Rules. These rules may be amended or repealed and new rules adopted by the Board in accordance with the procedures set out in the Administrative Procedure and Texas Register Act, Article 6252-13a.

.006. Request for Notice of Rulemaking. The Board shall maintain a file of all requests received from all persons for advance notice of proposed Board rules. Within five days after filing notice of proposed rule changes with Secretary of State, the Board shall also send such notice by regular mail to each person of record in the file.

.007. Petition for Adoption of Rules. Any interested person may petition the Board requesting the adoption of a rule.

(a) Petition shall be submitted in writing, must be initially identified as such, and comply with the following requirements:

(1) Each rule requested must be requested by separate petition;

(2) Each petition must state the name and address of the petitioner;

(3) Each petition must be addressed to the Board at its Austin office;

(4) Each petition shall include:

(A) A brief explanation of the proposed rule;

(B) The text of the proposed rule prepared in a manner to indicate the words to be added or deleted in the current text if any;

(C) A statement of the statutory or other authority under which the rule is to be promulgated; and

(D) An allegation of injury to the petitioner which could result from the failure to adopt the proposed rule.

(b) Within sixty days after receipt of a petition by the Board at its office in Austin, Texas, the Board shall consider the petition at a regular meeting and thereafter shall either deny it in writing, stating its reasons for the denial, or shall initiate rulemaking proceedings in accordance with the Administrative Procedure and Texas Register Act, Article 6252-13a. A petition may be denied for failure to comply with the petition requirements of this rule.

**Records and Reports**  
**205.01.05.001-.004**

.001. Minutes of the Board. All minutes of the Board and Parole Panels, decisions relating to parole, pardons, and clemency, statistical and general information concerning the parole program and system, including the names of paroled prisoners and data recorded in connection with parole services, shall be matters of public record and subject to public inspection at all reasonable times.

.002. Record of Decisions. The Board, Commissioners, and Parole Panels shall keep records of their acts and shall notify each institution of any decisions relating to the persons who are to have been confined therein.

.003. Privileged Information. All information obtained in conjunction with inmates of the Texas Department of Corrections subject to parole or executive clemency or individuals who may be on parole and under the supervision of the Division, or persons directly identified in any proposed plan of release for a parolee, shall be privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the Governor, the Board, and the Commissioners upon request. (C.C.P., Art. 42.12, Sec. 27)

.004. At the close of each fiscal year, the Board shall submit to the Governor and to the legislature a report with statistical and other data of its work.

**Registration of Visitors and Fee Affidavits**  
**205.01.06.001-.002**

.001. Registration of Visitors. Any person who appears before the Board of a Parole Panel, or before any Board Member, Commissioner, or any staff member whether in an interview or at a hearing, for the purpose of submitting or presenting information or arguments for and in behalf of any person within the jurisdiction of the Board, shall register in the record of the Board as required by law. (Art. 6252-23)

.002. Fee Affidavits. Any person who appears before the Board or any Member, before a Parole Panel, or before a Hearing Officer for any of the purposes stated in rule .001. above, shall additionally submit at the time of such appearance, an affidavit stating whether any fee has been or is to be paid for his/her services in the case, the amount of such fee, if any, and by whom such fee is paid or is to be paid. (C.C.P., Art. 42.12, Sec. 18)

**Interviews**  
**205.01.07.001-.004**

.001. Purpose of Interview. The Board, or any Member, or any Commissioner, or any representative of the Board or the Commissioners may interview, upon proper registration and presentation of any necessary fee affidavit, any person who wishes to present or submit information for and in behalf of any person within the jurisdiction of the Board.

.002. Interview not a Public Hearing. Such an interview shall not be deemed to be a hearing and shall not be public.

.003. Record of Interview. The date, place, persons involved and purpose of such an interview shall be of record and notes may be kept thereof for purposes of entering any information received into the file of the person on whose behalf the interview is conducted.

.004. No Decision Permitted. No decision to recommend or deny parole, to recommend revocation of parole or to recommend any form of executive clemency or the revocation thereof shall be made by the Board or any member of the Board and no decision to recommend parole or to recommend revocation thereof shall be made by any Commissioner during such an interview. All such actions are by law, matters of public information and record, required to be taken in open meetings.

**Subpoenas**  
**205.01.08.001-.002**

.001. Issuance.

(a) The Board may issue subpoenas requiring the attendance of such witnesses and the production of such records, books, papers, and documents as it may deem necessary for the investigation of the case of any person before it.

(b) Subpoenas may be signed and oath administered by any member of the Board.

.002. Service and Enforcement. Subpoenas issued by the Board shall be served and may be enforced according to law.

205.01.09.000 reserved for expansion

205.01.10.000 reserved for expansion

**Definitions**  
**205.01.11.001-.029**

.001. "Area Supervisor" means the regional staff officer supervising the parole officer to whom the parolee reports.

.002. "Board" means the Texas Board of Pardons and Paroles.

.003. "Class I Inmate" means inmate of statutory Class I status for commutation of time served as provided by law (Art. 61841).

.004. "Commissioner" means one or more Texas Parole Commissioners.

.005. "Commutation of Sentence" means an act of clemency by the Governor which serves to modify the conditions of a sentence.

.006. "Conditional Pardon" means a form of executive clemency granted by the Governor which serves to release the grantee from the conditions of his/her sentence and/or any disabilities imposed by law thereby, subject to the conditions contained in the clemency proclamation.

.007. "Constitutional and Statutory References" are articles of the Texas Constitution (Tex. Const.); the Texas Code of Criminal Procedure (C.C.P.); or the Texas Revised Civil Statutes Annotated (Vernons) (indicated by Article or Art.).

.008. "Director" means the Director of the Division of Parole Supervision.

.009. "Division" means the Division of Parole Supervision of the Board of Pardons and Paroles.

.010. "Full Pardon" means an unconditional act of executive clemency by the Governor which serves to release the grantee from the conditions of his/her sentence and from any disabilities imposed by law thereby.

.011. "Further Investigation (FI)" means an initial determination by a Parole Panel favorable to parole of an inmate, subject to additional investigation and processing.

.012. "Hearing Officer" means a Parole Officer or other staff member assigned to conduct a preliminary inquiry into an allegation of the violation of one or more conditions of parole; when used in connection with violation hearings, Hearing Officer means a Parole Panel or the Member chairing same; and when used in connection with Board Hearings, Hearing Officer means the Board or the Member chairing the hearing.

.013. "Inmate" means a person incarcerated in the Texas Department of Corrections, other penal institution or jail serving a sentence imposed upon conviction of a crime.

- .014. "Pardon" — See Full Pardon.
- .015. "Parole" means the release of a prisoner from imprisonment but not from the legal custody of the state, for rehabilitation outside of prison walls under such conditions and provisions for disciplinary supervision as the Board may determine. Parole shall not be construed to mean a commutation of sentence or any other form of executive clemency.
- .016. "Parole Agreement" means an agreement by an inmate to abide by all of the terms and conditions of parole, the acceptance, and signing of which by an inmate are pre-requisite to release on parole.
- .017. "Parole Certificate" means an order of a Parole Panel, incorporating a parole agreement which, when fully executed authorizes the release of an inmate from the Texas Department of Corrections on parole.
- .018. "Parole Officer" means a person duly appointed by the Director of Parole Supervision and assigned the duties of investigating and supervising paroled prisoners to see that the parolees comply with the conditions of parole.
- .019. "Parole Panel" means a three member decision-making body authorized to act in parole matters.
- .020. "Parole Plan" means proposed community and place of residence and proposed employment or proposed provision for maintenance and care of the parolee.
- .021. "Parolee" means a person released from prison on parole. (See definition of Parole)
- .022. "Party" means each person or agency named or admitted as a party.
- .023. "Remission of Fine or Forfeiture" means an act of clemency by the Governor releasing the grantee from payment of all or a portion of a fine or cancelling a forfeiture of a bond.
- .024. "Reprieve" means a temporary release from the terms of an imposed sentence.
- .025. "Restoration of Rights of Citizenship" means an unconditional pardon limited to the restoration of the right to vote, which in turn restores any other civil rights conditioned upon the right to vote.
- .026. "Revocation" means the cancellation of parole or of a conditional act of executive clemency which subjects the grantee of the parole or act of clemency to immediate incarceration to serve the remainder of the sentence or, in the instance of reprieve of a fine, to immediate payment of the fine.

.027. "Serve-All (SA)" means a decision by a Parole Panel to deny a recommendation for parole, with the further recommendation that the inmate be required to serve the remainder of the sentence in prison.

.028. "Statutory References" — See Constitutional and Statutory References.

.029. "Trial Officials" means the present sheriff, prosecuting attorney and judge in the county and court of conviction.

## **Chapter II**

### **Executive Clemency**

#### **Full Pardon and Restoration of Rights of Citizenship** **205.02.01.001-.010**

.001. Authority to Grant Pardons. Except in cases of treason or impeachment, after conviction, the Governor may grant a full pardon and/or the restoration of the rights of citizenship upon the recommendation of the Board. (Tex. Const., Art. IV, Sec. 11; C.C.P., Art. 42.12, Sec. 24)

.002. Twelve Months on Parole. When any prisoner has served for twelve months on parole in a manner acceptable to the Board, the Board shall review the prisoner's record and make a determination whether to recommend to the Governor that the prisoner be pardoned and finally discharged from the sentence under which he is serving. (C.C.P., 42.12, Sec. 24) If the Board determines not to recommend to the Governor that the prisoner be pardoned, it may recommend to the Governor that the prisoner be restored to the full rights of citizenship.\*

.003. Parolee Discharging Sentence. Whenever any prisoner who has been paroled has complied with the rules and conditions governing his parole until the end of the term to which he was sentenced, and without a revocation of his parole, the Board shall report such fact to the Governor prior to the issuance of the final order of discharge, together with its recommendation as to whether the prisoner should be restored to citizenship. (C.C.P., Art. 42.12, Sec. 24.) The Board may at this time, recommend to the Governor a full pardon. (Tex. Const., Art. IV, Sec. 11)

.004. Discharged Prisoner. Upon request from a person who has discharged a felony sentence, the Board will consider recommending a full pardon, and/or restoration of the rights of citizenship. Applicant's name, prison number, county of conviction, offense and length of sentence shall be furnished for identification.

\*Sec. 24, as amended by the 65th Leg., removed the automatic review for pardon and/or restoration of civil rights after 12 months on parole, effective Aug. 29, 1977.

.005. Inmate in Texas Department of Corrections. A full pardon will not be considered for an inmate while in prison, except when exceptional circumstances exist.

.006. Prior Out-of-State or Federal Convictions. Where there exists one or more convictions for offenses of felony grade in other states or in federal court, prior to the last Texas conviction, the Board will consider recommending a pardon and/or restoration of rights of citizenship only if the applicant:

(a) Provides a clearance by full pardon and/or restoration of rights of citizenship from the jurisdiction(s) of the previous conviction(s); or

(b) Furnishes proof in writing that the other jurisdiction(s) will not act until a full pardon and/or restoration of rights of citizenship is granted by the Governor of Texas.

.007. Suspended Sentence (Felony Conviction). Upon request from the applicant or person acting for him, the Board will consider recommending full pardon and/or restoration of rights of citizenship for a suspended sentence. Applicant's name, the county of conviction, offense and sentence shall be furnished when the request is made.

.008. Probated Sentence (Felony Conviction). The Board will consider recommending a full pardon and/or restoration of rights of citizenship for a probated sentence only upon a showing of receipt of maximum relief available through the court of conviction, and then, only in an extreme or unusual circumstance which prevents the applicant from gaining a livelihood or in the event of loss of civil rights. The burden of showing such unusual conditions rests upon the applicant.

.009. Misdemeanor. The Board will consider recommending a full pardon in misdemeanor cases only when exceptional, extreme and unusual circumstances exist. The burden of showing such exceptional, extreme and unusual circumstance rests upon the applicant.

.010. Request of Governor. The Board shall consider a recommendation for a full pardon in any case upon the request of the Governor. (C.C.P., Art. 42.12, Sec. 25)

**Conditional Pardon**  
**205.02.02.001-.004**

.001. Definition. A conditional pardon is a form of executive clemency which, upon request, may be recommended by the Board to the Governor, except in cases of treason or impeachment, and if granted, serves to release the grantee from the conditions of his/her sentence and/or any disabilities imposed by law thereby, subject to the conditions contained in the clemency proclamation.

.002. Consideration of Request. The Board will consider a request for conditional pardon, only to release an inmate to another country or to the immigration officials for deportation, and/or in cases where extreme, exceptional and unusual circumstances exist, and only after minimum statutory parole eligibility has been attained.

.003. Revocation of Conditional Pardon. A conditional pardon may be revoked if the terms and conditions of the clemency proclamation are breached.

.004. Request of Governor. The Board shall consider a recommendation for conditional pardon in any case upon the request of the Governor. (C.C.P., Art. 42.12, Sec. 25)

**Reprieve**  
**205.02.03.001-.005**

.001. General Rules.

(a) The Governor may grant a reprieve upon the written recommendation of the Board (Tex. Const., Art. IV, Sec. 11)

(b) A reprieve is not recommended as a matter of right and each request will be judged on the merits of the case and the security risk involved;

(c) Except at the request of the Governor, the Board will consider only such requests for reprieves as meet the general and specific criteria set out in these rules;

(d) The Board will not consider a reprieve request from a prison sentence which involves travel outside the State of Texas;

(e) The Board will not consider a reprieve from a prison sentence requested for business reasons;

(f) The Board may recommend a reprieve either in custody of a peace officer or without custody;

(g) The Board will not recommend a reprieve without custody if the inmate has a detainer filed against his release;

(h) Except as otherwise specified in these rules, a Board recommendation for a reprieve shall be for a specified time, including a beginning and ending date, and a grantee of a reprieve who remains at large upon the expiration of the reprieve is subject to arrest without further action of the Board or the Governor.

(i) The Board will consider a request for an extension of a reprieve only if the request meets the requirements for the original reprieve; and

(j) If at any time the Board is made aware that the conditions of a reprieve have been violated, the Board may recommend to the Governor the revocation of such reprieve.

**.002. Reprieve for Family Emergency.**

(a) The Board will consider a request for reprieve for a family emergency only in cases of critical illness or death of a member of the inmate's immediate family.

(b) The immediate family includes only the parents, spouse and children of the inmate, and a person other than a parent who assumed the responsibilities and acted as the parent of the inmate during his/her childhood.

(c) Prior to consideration of a request for reprieve for family emergency, the Board may require written:

(1) Verification of the critical illness by the attending physician;

or

(2) Verification of the death and of the time and place of the funeral, by the mortician; and

(3) Proof of the parent-child relationship if the request is for the illness or death of a person, not a parent, who acted as the inmate's parent during his/her childhood.

(d) A Board recommendation for reprieve in the continuous custody of a peace officer is contingent upon a verified arrangement by the inmate's family to secure and pay the expense of a peace officer to guard the inmate.

**.003. Emergency Reprieve to Attend Civil Court Proceedings.**

(a) An emergency reprieve to attend a civil court proceeding cannot be used for any other purpose unless specific permission is given in the Governor's Proclamation, and if for any reason the cause is not tried as scheduled, the grantee shall immediately return to prison. The grantee may not, during the reprieve, take temporary employment or travel for any purpose, be it business, visiting relatives, or for an unsolicited visit to the Board of Pardons and Paroles.

(b) The Board will consider recommending an emergency reprieve to attend civil court proceedings only upon receipt in writing of the following:

(1) A request for reprieve by the inmate or his representative stating the inmate's vested interest in the cause; and

(2) A letter signed by the presiding judge of the court in which the cause is pending, stating:

(A) The style and number of the cause;

(B) That a special setting for trial has been made on the docket of the court stating the date of such setting;

(C) That the presence of the inmate is an absolute necessity for the protection of his/her interest in the litigation, and that his/her deposition would not suffice to protect that interest; and

(D) The estimated approximate time required to complete the trial.

.004. Emergency Medical Reprieve.

(a) The Board will consider recommending to the Governor an Indefinite Medical Emergency Reprieve in instances such as terminal illness, total disability, or for needed medical care which cannot be provided by the medical facilities of the Texas Department of Corrections.

(b) A medical reprieve to private facilities, to a state hospital, to a mental hospital, to a tubercular hospital, or a medical reprieve for childbirth must be requested by the Medical Director of the Texas Department of Corrections, and approved by the management of the Texas Department of Corrections.

.005. Reprieve of Misdemeanor Jail Sentence and/or Fine.

(a) The Board will consider recommending reprieve of a misdemeanor jail sentence and/or fine upon the unanimous written recommendation of trial officials,

(b) The Board will also consider recommending reprieve of a misdemeanor jail sentence and/or fine, only for medical reasons or reasons of financial hardship (loss of home or business, or the lack of support for family) or other compelling hardships, only upon receipt in writing of the following information:

(1) A request for reprieve clearly stating the nature of the hardship or medical reason for the request; and

(2) A certified copy of the judgment and sentence for each cause for which the applicant is presently confined; and

(3) If the request is for medical reasons, a statement from the attending physician indicating the condition of the applicant and medical treatment recommended; and a clear statement of financial responsibility for hospitalization or other treatment; or

(4) If a financial hardship request, a statement from the prospective employer stating the nature of the employment offer and whether or not the employment offered will be permanent if duties are performed satisfactorily.

**Reprieve of Execution**

**205.02.04.001-.002**

.001. Governor's Reprieve. The Governor shall have the power to grant one reprieve in any capital case for a period not to exceed 30 days. (Tex. Const., Art. IV, Sec. 11)

.002. Reprieve Recommended by Board. The Board will consider recommending to the Governor a reprieve of execution resulting in a stay of execution of death sentence upon receipt of a written request stating all grounds upon which the request is based, stating the full name of the condemned felon, the county of conviction, and the execution date.

### **Commutation of Sentence**

#### **205.02.05.001-.008**

.001. Commutation of Sentence. Except in cases of treason and impeachment, upon the recommendation of the Board, the Governor may grant a commutation of sentence. (Tex. Const., Art. IV, Sec. 11)

.002. Commutation of Sentence (Felony and Misdemeanor.)

(a) The Board will consider recommending to the Governor a commutation of sentence upon a request accompanied by the written recommendation of a majority of the trial officials.

(b) If the convicted person has the recommendation of two of the trial officials and no written communication is received from the third trial official, the Board shall give the remaining trial official at least 10 days notice that such a clemency recommendation is being considered by the Board. (C.C.P., Art. 42.12, Sec. 15e)

(c) In cases tried prior to the tenure of the present office-holders, the recommendation of persons holding such offices at the time of the trial of the case may be used to bolster and support the recommendation of the present trial officials, if in compliance with the requirements of section (d) below.

(d) The requirements of a recommendation of trial officials for commutation of sentence must include:

(1) Statement that the penalty now appears to be excessive.

(2) A recommendation of a definite term now considered by the officials as just and proper.

(3) A statement of the reasons for the recommendation based upon facts directly related to the facts of the case and in existence but not available to the court or jury at the time of the trial, or a statutory change in penalty for the crime which would appear to make the original penalty excessive.

(e) If the convicted person is not confined in the Texas Department of Corrections, a certified copy of the judgment and sentence must be furnished.

.003. Commutation of Remainder of Jail Sentence and/or Fine after Reprieve. The Board will consider recommending to the Governor a Commutation of the remainder of the time left to serve on a jail sentence and/or commutation of fine after satisfactory completion of reprieve of the jail sentence and/or fine.

.004. Commutation for Jail Time Served Before Sentence for Felony Conviction. The Board will consider a written request for commutation, on a felony conviction, resulting in credit for time served in jail from the time of sentence only if the applicant has been continuously in jail during the entire period for which the application is made and only upon receipt in writing of the following information from the judge of the court of conviction:

- (a) The name of the convicted defendant;
- (b) The cause number and court in which the conviction occurred;
- (c) A statement that it was the intent of the sentencing judge, at the time of sentencing, that the applicant be given credit for the jail time served, but that such credit was not given through oversight or error, as the case may be;
- (d) A statement of the exact number of days, months or years which should be credited on the sentence;
- (e) A statement that the applicant was continuously in custody and in jail for the total credit period requested;
- (f) A request that the Board make favorable recommendation to the Governor that such time credit be allowed.

.005. Commutation for Time Out of Prison on Reprieve.

- (a) The Board will consider a request for commutation for time out of prison on reprieve only for medical reprieves.
- (b) A request for commutation for time out of prison on medical reprieve will be considered only if:
  - (1) The inmate has returned to the Texas Department of Corrections;
  - (2) Such commutation is recommended by the Medical Director of the Texas Department of Corrections and approved by the management of the Texas Department of Corrections;
  - (3) The calendar time under consideration for commutation is time the inmate was actually confined as a resident patient (not an out-patient) in a hospital or institution designated by the Texas Department of Corrections;
  - (4) The inmate has in all things complied with the rules of the hospital or institution and the rules of the Texas Department of Corrections during the emergency medical reprieve;
- (c) Such commutation shall not exceed the actual amount of calendar time that the inmate is absent from the Texas Department of Corrections on emergency medical reprieve.

.006. Commutation of Sentence for Blood Donation. The Board will consider recommending a 30 day commutation of sentence for an inmate who makes a voluntary blood donation of 500 cc's of blood to the blood banks of approved facilities under the following conditions:

(a) Only one 30 day commutation of sentence per inmate will be considered for recommendation per calendar year; and

(b) Approved facilities shall be those approved by agreement between the Texas Department of Corrections and the Board;

(c) A request for the 30 day commutation of sentence furnishing the information required by the Board to give due consideration must come from the Texas Department of Corrections Medical Director and be approved by the Texas Department of Corrections management; and

(d) An exception to (a) above will be considered by the Board only in accordance with the agreement between the Board and the Texas Department of Corrections regarding emergency blood donations.

.007. Commutation of Death Sentence to Lesser Penalty. The Board will consider recommending to the Governor a commutation of death sentence to a sentence of life imprisonment or the appropriate maximum penalty that can be imposed upon receipt of:

(a) A request from the majority of the trial officials of the court of conviction; or

(b) A written request of the convicted person or his/her representative setting forth all grounds upon which the application is based, stating the full name of the condemned felon, the county of conviction, and the execution date.

.008. Request of the Governor. The Board shall investigate and consider a recommendation of commutation of sentence in any case, upon the request of the Governor. (C.C.P., Art. 42.12, Sec. 25)

### **Remission of Fines and Forfeitures 205.02.06.001-.004**

.001. Remission of Fine.

(a) The Board will consider a request to remit a fine upon the unanimous written recommendation of the trial officials.

(b) The Board will also consider a request to remit a fine, only for medical reasons, or reasons of financial hardship (loss of home or business, or the lack of support for family) or other compelling hardships only upon receipt in writing of the following information:

(1) A request to remit a fine(s) clearly stating the nature of the hardship or medical reason for the request; and

(2) a certified copy of the judgment and sentence for each cause for which the applicant is presently confined; and

(3) if a request for medical reasons, a statement from the attending physician indicating the condition of the applicant and medical treatment recommended; and a clear statement of financial responsibility for hospitalization or other treatment; or

(4) if a financial hardship request, a written statement from the prospective employer stating the nature of employment offer and whether or not the employment offered will be permanent, if duties are performed satisfactorily; and

(5) the recommendation of a majority of the trial officials that the fine be remitted.

.002. Remission of Fine after Reprieve. The Board will consider a request to recommend that the Governor remit a fine after satisfactory completion of a reprieve of fine upon receipt of a written request from the applicant or person acting from him and a recommendation of a majority of the trial officials.

.003. Remission of Bond Forfeiture. The Board will consider a recommendation to the Governor to remit a Bond Forfeiture upon receipt of:

(a) A written unanimous recommendation of the trial officials and the Commissioner's court in the county of forfeiture; or

(b) A written request accompanied by the following:

(1) A letter setting out the necessity for the executive clemency;

(2) A certified copy of the final judgment of forfeiture;

(3) Letters from trial officials setting out their attitude toward remitting the bond forfeiture;

(4) A recommendation of the commissioner's court of the county in which final judgment of forfeiture was entered;

(5) A sworn statement as to whether or not either of the sureties received a fee for making the bond or bail involved in this application; whether or not they are then, or have been in the past, engaged in making bail or appearance bonds for a fee or any consideration of value;

(6) A summary statement of the amount of assets and liabilities of the applicant, or applicants;

(7) A statement from the sheriff or county treasurer as to whether or not the judgment or any part thereof has been paid or satisfied in any manner;

(8) A statement, verified by the sheriff of the county of conviction, as to whether or not the principal is in custody, or has been tried for the criminal offense subsequent to his failure to appear.

.004. Request of the Governor. The Board shall consider a recommendation for remission of fine or forfeiture in any case upon the request of the Governor. (C.C.P., Art. 42.12, Sec. 25)

**Restoration of Driver's License**  
**205.02.07.001-.002**

.001. Preliminary Requirements. The Board will consider recommending to the Governor restoration of a driver's, chauffeur's or commercial operator's license only after denial of an application for an occupational driver's, chauffeur's or commercial operator's license by the district court having jurisdiction; the applicant must furnish an official statement of the reason(s) for the court's denial.

.002. Subsequent Requirements. Upon making a preliminary determination to recommend to the Governor the restoration of a driver's, chauffeur's or commercial operator's license, the Board will require from the applicant or person acting for him, certified copies of all judgments which resulted in the revocation or suspension of the license; or if the suspension or revocation resulted from administrative action by the Texas Department of Public Safety, a copy of the final departmental Order of Suspension is required. No further action will be taken by the Board prior to receipt of the required judgment(s) or order.

**Chapter III**  
**Parole**

**Parole Process**  
**2.05.03.01.001-.015**

.001. Parole Panel. A Parole Panel may recommend to the Governor the parole of any eligible prisoner confined in the Texas Department of Corrections, and upon the approval of the Governor may release such a prisoner on parole. (C.C.P., Art. 42.12, Sec. 12, 14A and 15)

.002. Denial of Parole. If the Governor denies parole after favorable recommendation by a Parole Panel, or should a Parole Panel deny parole at any time during the parole process, the inmate shall be notified in writing with the reasons given for the decision.

.003. Initial Review Date. Each inmate shall be notified in writing of the scheduled initial parole review date. Such date shall mean the month and year.

.004. Parole Interview. Prior to consideration for parole by a Parole Panel, the inmate may be interviewed by an Institutional Parole Officer, a Parole Commissioner or a Board Member, whether it be the initial review or a subsequent review, at which time the inmate may submit his proposed parole plan.

.005. Eligibility Date. The initial eligibility date for parole consideration is set by calculating the time credit which would be earned by being continuously in Class I.

.006. Review Date Subject to Change. Initial and/or subsequent review dates are subject to change in cases where an inmate's status is changed.

.007. Initial Action upon Review. A case reviewed by a Parole Panel for parole consideration may be:

- (a) Deferred for request and receipt of further information; or
- (b) Denied a favorable parole action at this time and set for further review on a future specific month and year (set off); or
- (c) Denied (Serve All); or
- (d) Determined that the total situation seems to favor the inmate's release on parole and further investigation, including notification of trial officials and investigation of the parole plan, should be developed prior to making a final decision (favorable initial action).

.008. Favorable Initial Action: Notice to Trial Officials. When favorable initial action is taken, trial officials shall be notified and given 10 days to respond in compliance with the law. (C.C.P., Art. 42.12, Section .15(e))

.009. Subsequent Action: Notice to Trial Officials. When the 10 day period for notice to trial officials has expired, the Parole Panel's decision may be:

- (a) Denied for favorable parole recommendation at this time and set for review at a future specific month and year (set off);
- (b) Denied (Serve All);
- (c) Recommended to the Governor for parole subject to an approved release plan.

.010. Parole Denied by the Governor: Subsequent Review Date.

(a) If the Parole Panel recommends parole and parole is denied by the Governor, the next parole review date of the inmate will be computed by the Board from the date the Parole Panel recommended parole to the discharge date and calculated as follows:

- (1) One year or less to serve — the case is made a Serve All;
- (2) Thirteen to eighteen months to serve — divide number of months by two (2) and add amount to month and year Parole Panel recommended parole;
- (3) Nineteen months or more to serve — set off one year from month and year Parole Panel recommended parole.

(b) If the Governor denies parole and desires to reconsider parole prior to the new review date, he may request in writing that a Parole Panel bring the case up to date and resubmit it to the Governor for further consideration, if a majority of the Parole Panel agree to do so.

(c) If a Parole Panel receives additional information on a case denied parole by the Governor which it feels merits reconsideration prior to the scheduled review date, the case may be brought up to date for parole consideration and the Board may resubmit the case to the Governor with the reasons pointed out for the Governor's consideration.

.011. Approval by the Governor: Further Investigation. If the Parole Panel recommends parole and it is approved by the Governor, the proposed parole plan shall be investigated by:

(a) A member of the Division of Parole Supervision field staff if the plan is in-state (Texas.), or

(b) The receiving state, via the Interstate Parole Compact, if the plan is out-of-state.

.012. Parole Plan Approval. Prior to issuance of the Parole Certificate authorizing release on parole the parole plan must be approved by a Parole Panel or a designated staff member.

.013. Pre-Release Program. Unless exempt by a Parole Panel or the Texas Department of Corrections, the inmate shall attend the Texas Department of Corrections Pre-Release Program.

.014. Tentative Parole Release Date. A tentative parole release date shall be set on all approved parole plans unless a Parole Panel has determined that the case should be expedited.

.015. Parole Certificate.

(a) When the parole plan has been approved, the Parole Certificate shall be issued and signed by a Board Member or a Commissioner and forwarded to the Institutional Parole Office to process the inmate for release on parole at the appropriate time.

(b) The parole approval is not effective or final until a formal parole agreement is executed by the inmate. The approval may be withdrawn by a Parole Panel or the Governor at any time prior to the acceptance and execution by the inmate of the formal parole agreement which is contained in the Parole Certificate.

(c) The Parole Certificate shall not become effective and in force until the conditions are agreed to, signed, and accepted by the inmate.

### **Terms and Conditions of Parole** **205.03.02.001-.007**

.001. Terms and Conditions of Parole. The following terms and conditions of parole must be agreed to and accepted by the inmate as a pre-requisite to parole. Continuation on parole is conditioned upon continuing compliance with the standard terms and conditions of parole and upon compliance with any special conditions imposed by a Parole Panel.

(a) Release and Reporting:

(1) I shall go directly to the destination approved by the Board of Pardons and Paroles.

(2) Upon arrival, I shall report (*as instructed*) immediately to the Parole Officer or person whose name and address appears on my parole certificate.

(3) I shall submit a full and truthful report to my Parole Officer, on forms provided for that purpose, before the fifth (5th) day of each month or as instructed by my Parole Officer.

(4) I shall promptly and truthfully answer all inquiries directed to me and furnish all information requested of me by the Board of Pardons and Paroles or by my Parole Officer.

(5) If at any time it becomes necessary to communicate with my Parole Officer for any purpose and he is not available, I shall direct my communication to the Board of Pardons and Paroles, Room 711, Stephen F. Austin Building, Austin, Texas, 78701, telephone (area code 512) 475-4525 or 475-3363.

(b) Employment and Residence:

(1) I shall report to my place of employment; work diligently in a lawful occupation; and support my dependents, if any, to the best of my ability.

(2) I shall secure the *written* permission of my Parole Officer before changing my residence or place of employment, and will allow my representative of the Board of Pardons and Paroles to visit my residence and place of employment at any reasonable time.

(c) Travel:

I shall secure the *written* permission of my Parole Officer before I leave the state to which I am paroled; I will secure *written* permission of my Parole Officer to travel beyond the boundaries of the counties adjoining the county to which I am paroled.

(d) Alcohol and Drugs:

(1) I shall not use alcoholic beverages or liquors to excess or in a manner injurious to my parole.

(2) I shall not go into, remain about, or frequent business establishments whose primary function is the sale or dispensing of alcoholic beverages or liquors for on-premises consumption.

(3) I shall not illegally possess, use, or traffic in any narcotic drugs, marijuana, or other controlled substances. I further agree to participate in chemical abuse treatment programs in accordance with instructions from my Parole Officer.

(4) I shall freely cooperate and voluntarily submit to medical and/or chemical tests and examinations for the purpose of determining

whether or not I am using or am under the influence of alcohol, narcotic drugs, marijuana, or other controlled substance.

(e) Weapons:

I shall not own, possess, use, sell nor have under my control any firearms or other prohibited weapon.

(f) Associates:

(1) I shall avoid association with persons of criminal background unless specifically approved by my Parole Officer in writing.

(2) I shall not enter into any agreement to act as an "informer" or special agent for any law enforcement agency.

(g) Legal Obligation:

I shall obey *all* municipal, county, state, and federal laws.

(h) General Provisions:

(1) I shall consult with my Parole Officer before entering marriage.

(2) I agree to abide by any special conditions of parole as stipulated in writing by the Board of Pardons and Paroles or my Parole Officer.

(3) I hereby agree to abide by all rules of parole and all laws relating to the revocation of parole, including, but not limited to, appearance at any hearings or proceedings required by the law of the jurisdiction in which I may be found or of the state of Texas. I further agree and consent that the receiving state, if I am under compact supervision, or any state wherein I may be found while on parole or under parole jurisdiction, may conduct such hearings as the Board shall deem proper or which may be required by law.

(i) Out of State Parole:

In the event I am granted the privilege of residing in and being under the supervision of any other state or territory under the Interstate Compact for the Supervision of Parolees and Article 42.11 Tex. Code Crim. Pro. and in consideration of being granted parole by the Texas Board of Pardons and Paroles or for any other reason I may be outside of the State of Texas, I hereby agree and I hereby do waive extradition to the State of Texas, from any jurisdiction in or outside the United States where I may be found. I do hereby further agree that I will not in any matter contest any effort by the State of Texas, or any state or jurisdiction, to return me to the State of Texas.

.002. Texas Parolees Supervised in Other States. Texas parolees accepted for supervision in other states under the terms of the Interstate Parole Compact (C.C.P., Art. 42.11) are required to abide by both the rules of parole for Texas (Rule 03.02.001 above) and the rules of parole of the receiving state.

.003. Out of State Parolees Supervised in Texas. Parolees from outside the State of Texas accepted in Texas for supervision by the Division of Parole Supervision under the terms of the Interstate Parole Compact (C.C.P., Art. 42.11) are required to abide by both the rules of parole for Texas parolees (Rule .03.02.001 above) and the rules of parole of the sending state.

.004. Visits to Penal Institutions — Parolee under Active Supervision. As exceptions to Rule 6 of the Rules of Parole, a parolee may enter a penal institution during the period of supervised parole under the following circumstances:

(a) With permission of the proper authorities of the penal institution as designated by the Director of the Texas Department of Corrections, a parolee may visit a close relative (parent, sibling, spouse or child) confined in that institution upon approval of the Area Supervisor.

(b) If the parolee is working in a rehabilitation program which has been approved by the Director, and such program requires the parolee to visit a penal institution, such visit may be allowed if approved by the proper authorities of the penal institution, and the Director.

(c) If called as a witness at a parole hearing, the parolee will be allowed to visit the penal institution for this specific purpose only upon approval of the Area Supervisor.

.005. Annual Report Status.

(a) Annual report status is a parolee status which releases the parolee from the original terms and conditions of parole, releases the parolee from the direct supervision of a Parole Officer, and is conditional upon the parolees acceptance of and compliance with the Annual Report Rules.

(b) A parolee may be considered for annual report status upon the recommendation of his/her Parole Officer after having been satisfactorily under parole supervision for:

(1) A minimum of 12 months if paroled from a sentence of less than 10 years; or

(2) A minimum of 18 months if paroled from a sentence for a term of 10 or more years; or

(3) A minimum of two years if paroled from a life sentence.

(c) A recommendation for transfer to annual report status must be approved by the Director of the Division of Parole Supervision or his/her designated staff representative.

(d) Transfer to annual report status in no way affects the authority of a Parole Panel to recommend the revocation or the authority of the Governor to revoke a parole. The parolee remains subject to the jurisdiction of the Board and subject to its orders while on annual report status.

(e) A Parole Panel may at its discretion and without notice set aside an order of transfer to annual report status and impose any additional rules of parole as the Parole Panel may deem to be proper.

(f) The rules for a parolee on Annual Report status are:

(1) Each year, from the date of the acceptance of this order for annual report, the parolee will submit, in writing, to the Director, Division of Parole Supervision, 711 Stephen F. Austin Building, Austin, Texas, 78701, a report showing his employment and residence. This Annual Report will be made until the term of his parole expires. Failure to submit this report each year could result in his being returned to active parole supervision, or the issuance of a pre-revocation warrant for his arrest and possible return to the Texas Department of Corrections.

(2) The parolee will in all respects conduct himself honorably, obey all federal, state and municipal laws and ordinances, work diligently at a lawful occupation, and support his dependents, if any, to the best of his ability.

(3) The parolee will not associate with persons having a criminal record and will not communicate with any inmate of a penal institution nor visit any such institution, unless requested in writing to do so by a warden or general manager of the penal institution; the original or a copy of such request shall be immediately sent to the Director, Division of Parole Supervision, 711 Stephen F. Austin Building, Austin, Texas, 78701, by the parolee.

(4) The parolee will cooperate with and abide by any written instructions given by the Board of Pardons and Paroles, or any of its duly authorized officers.

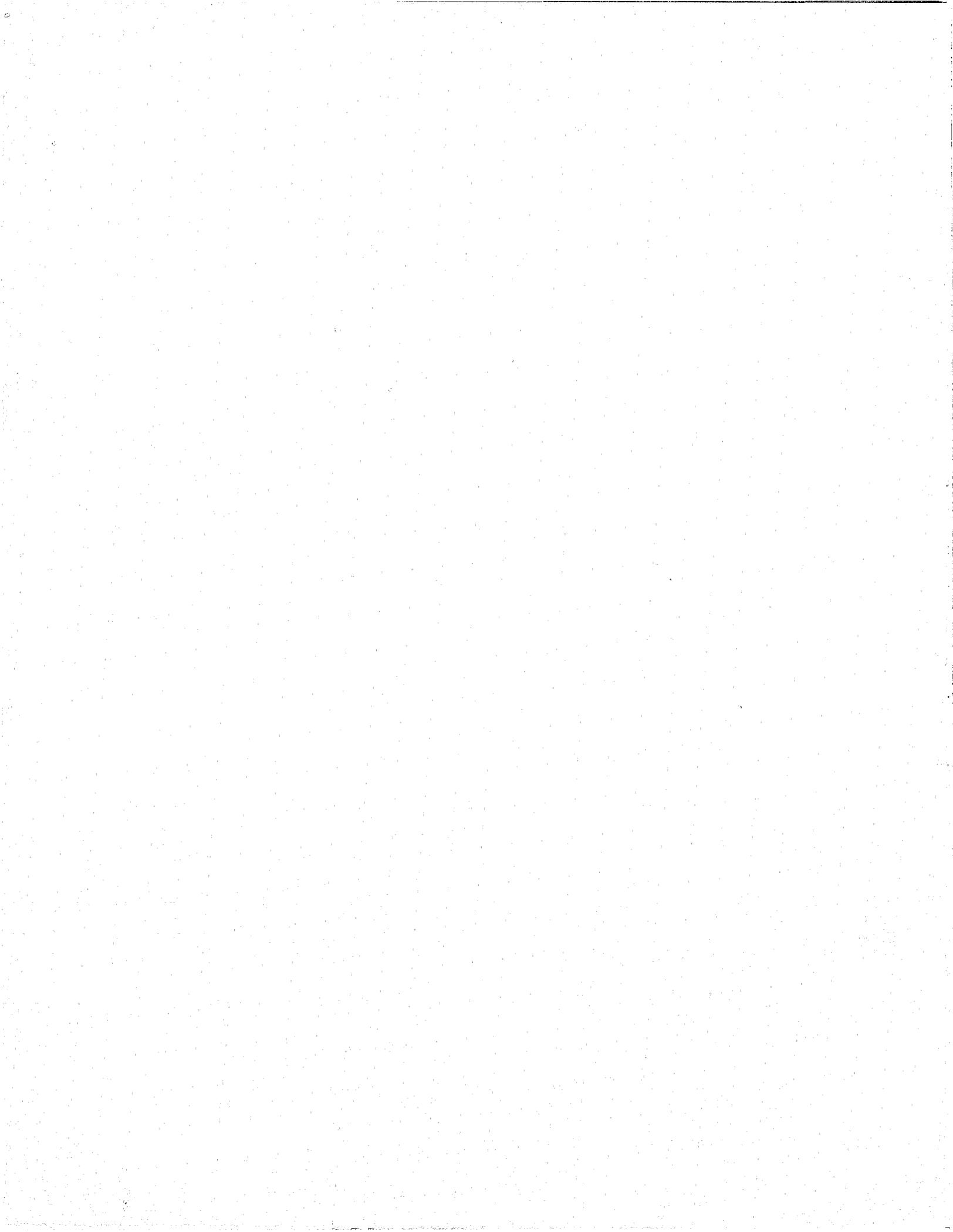
(5) The parolee will not own, possess, use, sell, nor have under his or her control any firearms or other prohibited weapons.

.006. Employment of Parolees in Positions Requiring Contact with Persons of Criminal Background. As an exception to parole rule f.(1) and annual report rule 3, a parolee may accept employment with approved half-way house programs, drug abuse or alcohol abuse programs upon the specific approval of the Director of Parole Supervision.

.007. Non-reporting status.

(a) Non-reporting status is a parolee status which releases the parolee from the terms and conditions of annual report status and is conditional upon the parolee's acceptance of and compliance with the non-reporting status rules.

(b) A parolee may be considered for non-reporting status upon the recommendation of his or her parole officer after having been on annual report status for four years; if,



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**1 OF 2**

(1) There has been no disciplinary action taken for that period;  
and,

(2) There have been no convictions for violations of the penal law, either of the felony or misdemeanor grade.

(c) A recommendation for transfer to non-reporting status must be approved by the executive director of the Board of Pardons and Paroles or his or her designated representative.

(d) Transfer to non-reporting status in no way affects the authority of the Governor to revoke a parole. The parole shall remain subject to the jurisdiction of the Board and subject to its orders while on non-reporting status.

(e) A parole panel may, at its discretion and without notice, set aside an order of transfer to non-reporting status and impose any additional rules of parole as the parole panel may deem to be proper.

(f) The rule for a parolee on non-reporting status is: The parolee will in all respects conduct himself or herself honorably, obey all federal, state and municipal laws and ordinances; work diligently at a lawful occupation; and support his or her dependents, if any, to the best of his or her ability.

#### **Revocation of Parole 205.03.03.001-.011**

##### **.001. Allegation of Violation: Review and Initial Disposition.**

(a) At such time as the Board learns of an allegation of violation of one or more terms and conditions of parole by a parolee, the Board shall refer the matter to a Parole Panel for review and initial determination of disposition.

(b) A Parole Panel shall review the information and make an initial determination to:

(1) Request the Governor to order the issuance of a pre-revocation warrant; or

(2) Order the issuance of a notice of allegation of parole violation; or

(3) Continue the alleged parole violator on parole pending disposition of any charges; or

(4) Make final disposition of the matter by continuation of parole under the same or modified conditions.

.002. Pre-revocation Warrant, Issuance. Upon the receipt of an order of the Governor, a pre-revocation warrant shall issue to appropriate law enforcement authorities, authorizing any sheriff, peace officer or other addressee named therein to arrest and hold the named parolee until such time as he/she may be placed in the custody of an

agent of the Texas Department of Corrections, or until further order of the Governor or the Board.

.003. Notice of Allegations; Counsel; Request for Hearing; Waivers.

(a) Upon order of a Parole Panel or at such time as an alleged parole violator is arrested on a pre-revocation warrant, he/she shall be personally served with written notice of:

(1) The parole violations alleged; and

(2) His/her right to an on-site investigation (preliminary hearing) upon request; and

(3) His/her right to a parole violation hearing, upon request, within such time as provided by law.

(b) The alleged parole violator shall be notified of his/her right to the assistance of a retained attorney during the investigation and/or parole violation hearing, and of his/her right to have an attorney appointed if he/she is indigent.

(c) Upon written request by the parolee, accompanied by an executed pauper's affidavit, an attorney shall be appointed to represent the alleged parole violator during the on-site investigation.

(d) The alleged parole violator shall, at the time of service of notice of alleged violation(s), be given the opportunity to make a written request for an on-site investigation and for a parole violation hearing, and to waive in writing both the on-site investigation and/or the parole violation hearing. Written waivers must include an admission of violation of the terms and conditions of parole. Any hearing previously requested may be waived in writing at any time prior to the hearing.

.004. Procedure after Waiver and Admission. Upon receipt of an admission of parole violation and waiver of rights to an on-site investigation and parole violation hearing, a Parole Panel shall review the case and make a final disposition by:

(a) Withdrawing the warrant (if any) and continuing the parole under the same or modified conditions; or

(b) Recommending to the Governor the revocation of parole.

.005. Procedure after Request for Investigation and Hearing; Schedule; Notice; Hearing Officer.

(a) An on-site investigation shall be scheduled for a date within a reasonable time after the date of the written request for such investigation, and shall be scheduled at or near the place of the alleged violation(s);

(b) Not less than 10 days prior to the on-site investigation, the alleged parole violator shall be personally served with written notice of the date, time and place of the investigation, the purpose of the

investigation, the matters to be investigated, and the legal authority for the conduct of the investigation.

(c) A staff Hearing Officer who is not otherwise involved in the case shall be assigned to conduct the on-site investigation.

.006. On-Site Investigation. The Hearing Officer shall conduct the on-site investigation in accordance with the rules of procedure for hearings herein, and shall forward to the Board:

- (a) All documents entered into the record of the investigation; and
- (b) A summary report of the investigation setting out the findings of fact concerning the alleged parole violations and stating conclusions as to whether or not the facts found provide reasonable grounds and probable cause to believe that the parolee has violated one or more terms and conditions of his/her parole.

.007. Review of On-Site Investigation: Findings and Further Disposition.

(a) The Board shall refer the record and report of the on-site investigation to a Parole Panel.

(b) A Parole Panel shall review the findings of the hearing officer and take one of the following actions:

- (1) Withdraw the warrant and continue parole under the same or modified conditions, whether or not a parole violation hearing has been requested (final disposition); or
- (2) Continue the parole revocation process, if a parole violation hearing has been requested; or
- (3) Request the Governor to order the issuance of a pre-revocation warrant and continue the parole revocation process; or
- (4) Recommend to the Governor the revocation of parole, only if a parole violation hearing has been waived (final disposition).

.008. Parole Violation Hearing: Setting; Notice; Counsel.

(a) Immediately after a determination by a Parole Panel to continue the parole revocation process, a parole violation hearing shall be scheduled, unless it has been waived in writing by the alleged parole violator, to be held at the Texas Department of Corrections, or other place determined by a Parole Panel. The hearing shall be scheduled so as to be held within the time limits prescribed by law.

(i) Not less than 10 days prior to the date of the hearing, the alleged parole violator shall be personally served with written notice of the date, time and place of the parole violation hearing, the matters to be heard, and the legal authority for the conduct of the hearing.

(c) The alleged parole violator shall also be notified again of his/her right to the assistance of retained counsel at the hearing, and of his/her right to have an attorney appointed if he/she is indigent.

(d) Upon receipt of a written request by the parolee, accompanied by an executed pauper's affidavit, an attorney shall be appointed to represent the alleged parole violator at the parole violation hearing.

**.009. Parole Violation Hearing: Conduct; Final Disposition.**

(a) A parole violation hearing shall be before a full Parole Panel, or a quorum thereof.

(b) The hearing shall be conducted in accordance with the rules of procedure for hearings herein.

(c) At the conclusion of the hearing, or within a reasonable time thereafter, a Parole Panel shall make a final decision to:

(1) Withdraw the warrant and continue parole under the same or modified conditions; or

(2) Recommend to the Governor the revocation of parole.

(d) If the final disposition is a recommendation to the Governor to revoke parole, the parolee shall be so notified in writing including findings of fact and conclusions of law, separately stated.

**.010. Revocation of Parole: Recommendation; Proclamation; Warrant.**

(a) At any time a Parole Panel makes a determination to recommend to the Governor revocation of a parole, the recommendation shall be transmitted, together with the record of the case, to the office of the Governor;

(b) If the Governor determines not to revoke the parole, any applicable pre-revocation warrant shall be withdrawn, and the parole continued;

(c) If the Governor revokes the parole, upon receipt by the Board of the Governor's proclamation of revocation, the proclamation shall be delivered to the Texas Department of Corrections or to such other penal institution in which the revoked parolee may be incarcerated.

(d) Also upon receipt of the Governor's proclamation of revocation, a revocation warrant shall issue and be transmitted to the proper authorities, authorizing and directing any sheriff, peace officer, warden or other addressee named therein to arrest and hold the named revoked parolee, and to deliver him/her to the Texas Department of Corrections or yield him/her to the custody of officers of the Texas Department of Corrections for return thereto.

**.011. Revocation without Prejudice.** In the event that a parolee is incarcerated in an institution of the Texas Department of Corrections to serve a sentence for a new conviction for a crime committed prior to incarceration for the sentence for which he/she was paroled, or to serve a sentence for a previous conviction for which judgment became final while on parole, a Parole Panel may, after a hearing, revoke the parole without prejudice to the parolee, in order to enable him/her to receive "good time" credit on the original sentence.

**Re-Parole after Revocation**  
**205.03.04.001-.002**

**.001. Re-parole after Revocation.**

(a) There is no statutory entitlement to consideration for re-parole on his/her original sentence after revocation.

(b) Revoked parolees are, however, considered for re-parole through the normal parole review process.

**.002. Review Dates.**

(a) Initial review dates for revoked parolees are determined according to the statutory requirements of parole eligibility if the revoked parolee is also serving a sentence for a new conviction. If parole eligibility for a new conviction is less than one (1) year from the date of his/her return to prison on the revocation, the initial review for re-parole consideration may be set one (1) year from the date of his/her return to prison on the revocation, notwithstanding the fact of possible earlier eligibility on the new conviction.

(b) If the revoked parolee is not also serving a sentence for a new conviction, he/she may be set for initial review for re-parole consideration one year from the date of his/her return to prison on the revocation.

(c) In the event a Texas parolee whose parole was revoked while out of the state is released from a non-Texas Prison upon discharge or parole of a non-Texas sentence, he/she may be given special consideration for re-parole from the Texas sentence.

**Reinstatement of Parole after Revocation**  
**205.03.05.001-.002**

**.001. Reinstatement.** (a) There is no entitlement to consideration for reinstatement of a revoked parole.

(b) A Parole Panel may, under exceptional circumstances consider recommending to the Governor the reinstatement of a parole previously revoked.

(c) Upon the approval of the Governor and receipt by a Parole Panel of his proclamation of reinstatement, such proclamation shall be delivered to the person whose parole is reinstated.

**.002. Terms and Conditions.** Upon reinstatement of parole, the parolee is bound by the original terms and conditions of his/her parole as they may have been subsequently modified by a Parole Panel and/or the reinstatement proclamation.

**Contractual Placement Services**  
**205.03.06.001.-.007**

These rules are promulgated under the authority of the Texas Constitution, Article IV, Section 11, and Section 19, Appropriations bill, 64th Legislature, 1975.

.001. Organization and Staff. The organization of this project falls under the authority of the Field Services Section. The program will be supervised by a coordinator paid under a coordination grant who will report directly to the Director of Field Services.

The Coordinator will provide overall direction for the project staff.

.002. Staff Duties. The staff will provide monitoring, inspection and technical assistance to halfway houses either being utilized or being considered as a contract resource for the agency.

.003. Selection Review Procedures. Contractual agreements between the Board of Pardons and Paroles and eligible halfway houses will be initiated by the Director of Field Services within the guidelines set out herein.

(A) No payment under any arrangement may be made prior to the signing of a formal agreement by the Executive Director of the Board of Pardons and Paroles and the Board of Pardons and Paroles.

(B) A committee, known hereafter as the Review Committee, will be set up to review and provide recommendations for or against certification of halfway houses by the board prior to the board's entering into any contractual agreement with the said halfway house.

(1) The Review Committee shall be made up of the members of the Board of Pardons and Paroles or others designated by the board as established in guidelines set out herein. These persons so designated shall have knowledge of halfway houses and of the rehabilitation processes.

(2) The following areas and other agencies may be represented on the Review Committee:

- (a) The Director of Parole Supervision or his designate;
- (b) A representative of the Field Services Division;
- (c) A representative of the Institutional Services Division;
- (d) A representative of the State Bar of Texas;
- (e) A representative of the Texas Commission on Alcoholism Field Services Section;
- (f) A representative of the Texas Criminal Justice division, acting in an advisory capacity only to the committee;
- (g) A representative from a Probation department; and
- (h) A representative from interested citizen's groups.

(3) The Review Committee will review all proposals for services submitted to the Correctional Offender Program Effort (COPE) staff, which staff is charged with the responsibility for gathering all such information as may be necessary for the Review Committee to use in reaching a decision for qualification of a particular halfway house.

(4) The Review Committee will compile a working file on each halfway house which shall contain the following items of information unless expressly waived by the Review Committee and, if approved a provisional certificate may be issued;

(a) A formal application for consideration as a contract referral halfway house;

(b) A report detailing the results of a site visit by a member of the COPE staff;

(c) A copy of the articles of incorporation of the halfway house which shall contain the following clearly stated:

(1) Identification of the corporate entity;

(2) Purpose of the corporate entity;

(3) Provisions for tax-exempt status, except when the halfway house is a private corporation;

(4) Provisions against conflicts of interest;

(5) Provisions for amendments to the Articles of Incorporation;

(6) Provision for distribution of assets in the event of dissolution.

(d) A copy of the bylaws of the halfway house, which shall contain the following clearly stated:

(1) Membership in the halfway house including the types of membership qualification for membership and rights and duties of the members of the facility;

(2) Provisions for the governing body;

(3) Number of members in the governing body;

(4) Method of selecting members of the governing body;

(5) Terms of office for members of the governing body;

(6) Provisions for officers of the body;

(7) Method of selection of officers;

(8) Term of office for all officers;

(9) Specification of duties of officers and members of the halfway house/corporation;

(10) Provision for standing committees;

(11) Provision for regular and special meetings;

(12) Establishment of a quorum for meetings;

(13) Responsibilities of the governing body;

- (14) Use of parliamentary procedures;
- (15) Provisions for recording the minutes of meetings;
- (16) Method of amending the bylaws;
- (17) Provisions against conflicts of interest of members;
- (18) Specification of the relationship of the chief executive officer to the governing body.

.004. Personnel Policy of the Halfway House. (A) Each halfway house will establish, within a reasonable period of time after contracting with the Board of Pardons and Paroles, personnel policies and make them available to all employees.

(B) A copy of the personnel policies will be filed with the Board of Pardons and Paroles within 180 days after a contract between the board and the affected house is signed and will contain the following information;

- (1) An organizational chart;
- (2) Method of employment and promotion;
- (3) Method of resignation, suspensions, and terminations;
- (4) The person or persons responsible for employment, promotion, resignation, suspension and termination;
- (5) A grievance procedure;
- (6) Job qualifications and job descriptions;
- (7) Employee evaluation processes;
- (8) Personnel records;
- (9) Salaries;
- (10) Hours of work;
- (11) Benefits;
- (12) Provisions relating to attendance at academic and training courses related to the work;
- (13) Attendance at workshops and conferences related to the work;

.005. Fiscal Affairs of Halfway Houses. (A) The halfway house facility will manage its financial affairs in accordance with standard accounting practices of the State of Texas, legal requirements, and the guidelines and regulations of the funding source. A copy of the annual budget and a cost estimate per client will be attached to the material for inclusion in the permanent file referred to in Rule 205.03.06.003(b) (4).

(B) The budget should reflect and anticipate the following:

- (1) The needs and goals along with the resources for meeting these goals;
- (2) Provisions for a full audit to be conducted annually by an independent firm;
- (3) Provisions for financial reports to be prepared and submitted to the Board of Pardons and Paroles at regular intervals;

- (4) Provisions for a standard system of internal fiscal control;
- (5) A written fiscal policy statement;
- (6) Provisions to bond halfway house staff who have responsibility for funds;
- (7) A written policy statement for cash disbursements;
- (8) Provisions for the maintenance of employee time records;
- (9) A written policy statement for the purchase and receipt of orders;
- (10) A written policy statement relating to inventory control and for a regularly scheduled inventory.

.006. Standards and Services. (A) All halfway houses providing contractual services through the above outlined program will adhere to following minimal standards:

(1) The physical condition of the building will be such as to meet the minimum electrical, plumbing, sanitation, building, fire, and other applicable codes of the governmental jurisdiction in which the halfway house is located.

(2) Adequate food service facilities, meeting all sanitation and health department codes, will be made available for halfway houses.

(3) The halfway house should be located in an area reasonably close to public transportation, employment, and vocational opportunities; medical, psychiatric, recreational, and other community resources; and agencies to be utilized by the halfway house for its clients or provide transportation to such services.

(4) The halfway house must be adequate in size to meet the needs of the program and comfortably accommodate the number of clients it serves. Adequate provision must be made, not only for sleeping space, but for lounging areas, staff offices, rooms for group and individual counseling, etc., as determined by the governing regulatory body.

(5) The resident capacity of a halfway house must not exceed or be in violation of any city code or ordinance.

(6) First aid equipment will be available at all times to handle cases of medical emergency. Obviously, this standard refers to minor injuries or to those serious injuries requiring immediate action before professional medical attention can possibly be obtained. Staff members should be knowledgeable in the basics of first aid.

(7) The halfway house will develop, have in written form, distribute to its staff and post in a conspicuous location, the details of an emergency fire plan.

(8) The halfway house will clearly state in writing its purposes, programs, and services offered. This will be done in a form suitable for

distribution to staff, clients, referral sources, funding agencies, and the general public.

(B) A halfway will provide the following services:

- (1) Shelter;
- (2) Food service;
- (3) Individual counseling and/or group counseling;
- (4) Vocational Counseling;
- (5) Vocational training referral;
- (6) Employment counseling and referral;

(C) The halfway house will, where possible, see that its clients have referral to:

- (1) Medical services;
- (2) Psychological evaluation;
- (3) Psychological counseling or therapy;
- (4) Vocational training;
- (5) Vocational and/or employment evaluation;
- (6) Employment placement;
- (7) Academic upgrading, E.G., GED, college courses, etc.;
- (8) Any other services as needed by the type of program operated and the particular needs of individual clients.

(D) In general, the halfway house will identify and document resources that are relevant and essential to the successful conduct of its programs, and will utilize or refer clients to the resources in order to provide services needed by its clientele, but which cannot or should not be provided by the halfway house.

(E) The halfway house will establish clearly defined and written treatment policies and procedures. Such policies and procedures will state the type of client acceptable for admission to the program.

(1) Intake policies will be disseminated to appropriate referral sources.

(2) Clearly defined age limits for admission to the program will be established by the halfway house.

(3) Any category or categories of potential clients not eligible for admission into the program must be stated clearly in the intake policies.

(4) Prospective clients ineligible for admission for services, and their referral sources, must be informed of the reasons for their ineligibility. When possible, the ineligible clients should be referred to other agencies for services.

(F) Program goals and services to be offered will be discussed with the individual client and the parole officer.

(1) The individual treatment program established will be done with a maximum degree of involvement of the client and parole officer.

(2) The halfway house will develop procedures for evaluation of its clients in order to determine client progress in the program; conferences with the parole officer, the client, and the halfway staff, formal or informal, will be held regularly to review such progress and to alter or develop further treatment plans.

(3) The halfway house should actively participate in the community planning organizations as they relate to the halfway house field of services and should conduct a program of public information, using appropriate forms of communication such as the news media, brochures, speaking engagements, etc., to encourage understanding, acceptance, and support of its program. Information should be disseminated to other agencies, civic, religious, fraternal, labor, business, and industrial groups.

(G) The halfway house will maintain accurate and complete case records, reports, and statistics necessary for the conduct of its program:

(1) Appropriate safeguards will be established to protect the confidentiality of the records and minimize the possibility of theft, loss or destruction;

(2) The minimum standard will be locked file cabinet accessible only to staff;

(3) A single case record for each client admitted to the program or served by the halfway house will be maintained so as to communicate clearly, concisely, and completely, appropriate case information;

(4) Individual case records will be maintained on a current basis and will include;

- (a) Identification date;
- (b) Reports from referring sources;
- (c) Pertinent case history;
- (d) Diagnosis, when appropriate;
- (e) Problems and goals;
- (f) Referrals for service to other agencies;
- (g) Evaluation or progress reports;
- (h) Correspondence pertinent to the case;
- (i) Record of significant incidents, both positive and negative;
- (j) Signed release of information form, where appropriate;
- (k) Current employment data, including place of employment, date of employment, job title, rate of pay, records of client earnings, and an on-going record of employment verification;
- (l) Discharge report, including summary statement;
- (m) Other information necessary and appropriate to the program and/or individual client's case.

(5) Appropriate safeguards will be established to enable the halfway house to ascertain the whereabouts of each resident at all times.

(H) A procedure for disciplinary action and/or dismissal shall be established as provided by law.

(I) Halfway houses will establish methods and procedures for evaluating the effectiveness of the program.

(J) The results of evaluation and research should be reviewed on a systematic basis by the staff and governing body to determine;

(1) The effectiveness of program and services in fulfilling the stated purposes and goals of the agency;

(2) As the basis for change, modification, or addition to the program and services offered by the agency.

(K) The halfway house must employ competent and qualified staff to provide the services essential to achievement of program goals and client needs.

(L) Each halfway house must provide 24-hour in-house supervision by a qualified non-client staff member.

.007. Financial Contribution by Client. (A) The Board may require the client to pay a portion of the costs of his/her residence as the person's financial circumstances may warrant or require.

(B) The amount paid by the Board must be reduced accordingly by the halfway house.

## **Chapter IV Hearings**

### **General Rules for Hearings 205.04.01.001-.007**

.001. Public Hearings. All hearings on matters not privileged by law shall be open to the public.

.002. Authority of Hearing Officers.

(a) A Hearing Officer shall have the authority to administer oaths, to examine witnesses, to rule on the admissibility of evidence, to rule on motions and to recess any hearing from time to time and place to place.

(b) If a Hearing Officer fails to complete an assigned case, another officer may complete the case without the necessity of duplicating any duty or function performed by the previous Hearing Officer.

.003. Ex Parte Consultations. Unless required for the disposition of matters authorized by law, staff members or Parole Panels assigned to

render a decision or to make findings of fact and conclusions of law in an individual case may not communicate, directly or indirectly, in connection with any issue of fact or law with any party, except on notice and opportunity for all parties to participate.

.004. Motions. Unless made during a hearing, motions shall be made in writing, set forth the relief or order sought, and shall be filed with the Board. Motions based on matters which do not appear of record shall be supported by affidavit.

.005. Witnesses.

(a) In a hearing concerning an alleged parole violator, the hearing officer may exclude any witness from the hearing room during the testimony of any other witness.

(b) All witnesses are subject to cross-examination.

.006. Record.

(a) The record in any case includes all pleadings, motions, and intermediate rulings; evidence received or considered; matters officially noticed; questions and offers of proof, objections, and rulings on them; all relevant staff memoranda or reports submitted to or considered by the Hearing Officer involved in making the decision, and any decision, opinion or report by the Hearing Officer presiding at the hearing.

(b) All hearings shall be electronically recorded in their entirety, and shall be transcribed upon the request and deposit of estimated costs by any party.

.007. Decisions.

(a) A final decision or order adverse to any party shall be in writing.

(b) A final decision shall include findings of fact and conclusions of law, separately stated.

(c) Any party, as defined herein, shall be notified personally or by mail of any decision or order.

#### **Evidence**

#### **205.04.02.001-.008**

.001. Order. The Hearing Officer shall determine the order of presentation of evidence.

.002. Rules. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence as applied in nonjury civil cases in the district courts of this state shall apply. When necessary to ascertain facts not reasonably susceptible of proof under these rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

.003. Privilege. Hearing Officers shall give effect to the rules of privilege recognized by law.

.004. Relevant Testimony. Testimony shall be confined to the subject of the pending matter. In the event any party at a hearing shall pursue a line of questioning that is clearly irrelevant, incompetent, or immaterial, such questioning shall be terminated.

.005. Staff Reports. Relevant staff reports may be admitted as evidence in any hearing.

.006. Stipulation. Evidence may be stipulated by agreement of all parties.

.007. Objections. Objections to evidentiary offers may be made and shall be noted in the record.

.008. Subpoenas. Subpoenas may be issued in accordance with the rules for their issuance herein.

**Special Rules for Hearings Concerning Parole Violations**  
**205.04.03.001-.003**

.001. Hearings on cases. Hearings concerning individual cases of violation of parole are not public hearings since the information presented is, by law, privileged.

.002. On-Site Investigation (Preliminary Hearing).

(a) An on-site investigation shall be conducted by a staff Hearing Officer.

(b) Only witnesses, attorneys representing the alleged parole violator and/or witnesses, necessary staff members and other persons approved by both the alleged parole violator and the Hearing Officer may be present at the investigation.

.003. Parole Violation Hearing; Parole Panel; Appearance; Continuance.

(a) A parole violation hearing shall be before a full Parole Panel, or a quorum thereof.

(b) If the alleged parole violator does not make an appearance, either in person or by attorney, and it is known to the hearing body that he/she is in custody elsewhere than at the site of the hearing, then the hearing shall be recessed until such time as the Board is able to determine that he/she has been returned to the Texas Department of Corrections or has been released from the Texas Department of Corrections Treatment Unit, and the hearing shall be re-opened within a reasonable time thereafter, no further notice to any party being required.

(c) Only witnesses, attorneys representing the alleged parole violator and/or witnesses, necessary staff members, and other persons

approved by both the alleged parole violator and the Hearing Officer may be present at the hearing.

**Rules and Conditions of Mandatory Supervision**  
**205.05.01.001**

.001. Rules and Conditions of Mandatory Supervision. The following rules and conditions of mandatory supervision must be acknowledged by the inmate being released to mandatory supervision and the releasee must recognize that his release is conditional and that he is deemed as if on parole. Continuation on mandatory supervision is conditional upon continuing compliance with the standard terms and conditions of mandatory supervision and upon compliance with any special conditions imposed by a Parole Panel.

(a) Release and Reporting:

(1) I shall go directly to the destination approved by the Board of Pardons and Paroles.

(2) Upon arrival, I shall report (*as instructed*) immediately to the Parole Officer or person whose name and address appear on my Certificate for Mandatory Supervision.

(3) I shall submit a full and truthful report to my Parole Officer, on forms provided for that purpose, before the fifth (5th) day of each month or as instructed by my Parole Officer.

(4) I shall promptly and truthfully answer all inquiries directed to me and furnish all information requested of me by the Board of Pardons and Paroles or by my Parole Officer.

(5) If at any time it becomes necessary to communicate with my Parole Officer for any purpose and he is not available, I shall direct my communication to the Board of Pardons and Paroles, Room 711, Stephen F. Austin Building, Austin, Texas, 78701, Telephone (Area Code 512) 475-4525 or 475-3363.

(b) Employment and Residence:

(1) I shall report to my place of employment; work diligently in a lawful occupation; and support my dependents, if any, to the best of my ability.

(2) I shall secure the written permission of my Parole Officer before changing my residence or place of employment, and will allow any representative of the Board of Pardons and Paroles to visit in my residence and place of employment at any reasonable time.

(c) Travel:

I shall secure the *written* permission of my Parole Officer before

I leave the state to which I am released; and I will secure *written* permission from my Parole Officer to travel beyond the boundaries of the counties adjoining the county to which I am released.

(d) Alcohol and Drugs:

(1) I shall not use alcoholic beverages or liquors to excess or in a manner injurious to my mandatory supervision release.

(2) I shall not go into, remain about, or frequent business establishments whose primary function is the sale or dispensing of alcoholic beverages or liquors for on-premises consumption.

(3) I shall not illegally possess, use, or traffic in any narcotic drugs, marijuana, or other controlled substances. I further agree to participate in chemical abuse treatment programs in accordance with instructions from my Parole Officer.

(4) I shall freely cooperate and voluntarily submit to medical and/or chemical tests and examinations for the purpose of determining whether or not I am using or am under the influence of alcohol, narcotic drugs, marijuana, or other controlled substances.

(e) Weapons:

I shall not own, possess, use, sell, nor have under my control any firearm or other prohibited weapon.

(f) Associates:

(1) I shall avoid association with persons of criminal background unless specifically approved by my Parole Officer in writing.

(2) I shall not enter into any agreement to act as "informer" or special agent for any law-enforcement agency.

(g) Legal Obligation:

I shall obey all municipal, county, state and federal laws.

(h) General Provisions:

(1) I shall consult with my Parole Officer before entering marriage.

(2) I agree to abide by any special conditions of mandatory supervision as stipulated in writing by the Board of Pardons and Paroles or my Parole Officer.

(3) I hereby agree to abide by all rules of Mandatory Supervision and all laws relating to the revocation of mandatory supervision including, but not limited to, appearance at any hearings or proceedings required by the law of the jurisdiction in which I may be found or of the State of Texas. I further agree and consent that the receiving state, if I am under compact supervision, or any state wherein I may be found while on mandatory supervision or under mandatory supervision jurisdiction, may conduct such hearings as the Board shall deem proper or which may be required by law.

**(i) Out of State as a Mandatory Supervision Releasee:**

In the event I am granted the privilege of residing in and being under the supervision of any other state or territory under the Inter-State Compact for the Supervision of Parolees and Article 42.11 Texas Code of Criminal Procedure, and in consideration of being granted mandatory supervision by the Texas Board of Pardons and Paroles, or for any reason I may be outside of the State of Texas, I hereby agree and I hereby do waive extradition to the State of Texas, from any jurisdiction in or outside the United States where I may be found; I do hereby further agree that I will not in any manner contest any effort by the State of Texas, or any state of jurisdiction to return me to the State of Texas.

**APPENDIX 2**

**ADULT PROBATION, PAROLE  
AND MANDATORY SUPERVISION  
LAW:  
ARTICLE 42.12, SECTIONS 1, 2, 3f, AND 12-35,  
TEXAS CODE OF CRIMINAL PROCEDURE**

**WITH AMENDMENTS BY THE 55TH, 59TH, 60TH,  
63RD, 64TH, AND 65TH LEGISLATURES**

# **ADULT PROBATION, PAROLE AND MANDATORY SUPERVISION LAW: ARTICLE 42.12, SECTIONS 1, 2, 3f, AND 12-35, TEXAS CODE OF CRIMINAL PROCEDURE**

As amended by the 65th Legislature, 1977, (Senate Bill 152), and including sections still effective as amended by past Legislatures. The probation portion of Article 42.12, Sections 3 through 11, are omitted from this text, except for Section 3f. Notes to the left of the text show pertinent changes or effective dates of the provisions of the amended sections.

## **SENATE BILL 152:**

An Act relating to eligibility for and conditions, revocations, and administration of probation, parole, mandatory supervision, work furloughs, conditional pardons, emergency reprieves or furloughs, and other types of prisoner supervision and release from incarceration; amending Article 42.12, Code of Criminal Procedure, 1965, as amended, by amending Sections 1, 2, 12, 13, Subsections (a), (e), and (l) of Section 14A, Sections 15, 20, 21, 22, 24, 26, 27, 28, 30, and 31, and by adding Section 3f; adding Article 6181—1 to Title 108, Revised Civil Statutes of Texas, 1925, as amended; amending Section 28, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 6166z1, Vernon's Texas Civil Statutes); amending Sections 1 and 6, Chapter 493, Acts of the 61st Legislature, Regular Session, 1969 (Article 6166x—3, Vernon's Texas Civil Statutes); repealing Article 48.05, Code of Criminal Procedure, 1965; repealing Section 23, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927 (Article 6166v, Vernon's Texas Civil Statutes); and repealing Chapter 361, Acts of the 48th Legislature, Regular Session, 1943, as amended (Article 6184l, Vernon's Texas Civil Statutes).

### **A. Purpose of Article and Definitions**

Sec. 1:  
Mandatory  
supervision added

“Section 1. It is the purpose of this Article to place wholly within the State courts of appropriate jurisdiction the responsibility for determining when the imposition of sentence in certain cases shall be suspended, the conditions of probation, and the

supervision of probationers, in consonance with the powers assigned to the judicial branch of this government by the Constitution of Texas. It is also the intent of this Article to provide for the release of persons on parole and for the method thereof, to designate the Board of Pardons and Paroles as the responsible agency of State government, to recommend determination of paroles and to further designate the Board of Pardons and Paroles as responsible for the investigation and supervision of persons released on parole. It is the intent of this Article to aid all prisoners to readjust to society upon completion of their period of incarceration by providing a program of mandatory supervision for those prisoners not released on parole or through executive clemency and to designate the Board of Pardons and Paroles as the agency of government responsible for the program. It is the final purpose of this Article to remove from existing statutes the limitations, other than questions of constitutionality, that have acted as barriers to effective systems of probations and paroles in the public interest.

Sec. 2:  
Mandatory  
supervision added

"Sec. 2. This Article may be cited as the 'Adult Probation, Parole, and Mandatory Supervision Law'.

"Unless the context otherwise requires, the following definitions shall apply to the specified words and phrases as used in this Article:

"a. 'Courts' shall mean the courts of record having original criminal jurisdiction;

"b. 'Probation' shall mean the release of a convicted defendant by a court under conditions imposed by the court for a specified period during which the imposition of sentence is suspended;

"c. 'Parole' shall mean the release of a prisoner from imprisonment but not from the legal custody of the State, for rehabilitation outside of prison walls under such conditions and provisions for disciplinary supervision as the Board of Pardons and Paroles may determine. Parole shall not be construed to mean a commutation of sentence or any other form of executive clemency;

"d. 'Mandatory supervision' shall mean the release of a prisoner from imprisonment but not on parole and not from the legal custody of the State, for rehabilitation outside of prison walls under such conditions and provisions for disciplinary supervision

as the Board of Pardons and Paroles may determine. Mandatory supervision may not be construed as a commutation of sentence or any other form of executive clemency;

"e. 'Probation officer' shall mean either a person duly appointed by one or more courts of record having original criminal jurisdiction, to supervise defendants placed on probation; or a person designated by such courts for such duties on a part-time basis;

"f. 'Parole officer' shall mean a person duly appointed by the Director of the Division of Parole Supervision and assigned the duties of investigating and supervising paroled prisoners and prisoners released to mandatory supervision to see that the conditions of parole or mandatory supervision are complied with;

"g. 'Board' shall mean the Board of Pardons and Paroles;

"h. 'Division' shall mean the Division of Parole Supervision of the Board of Pardons and Paroles; and

"i. 'Director' shall mean the Director of the Division of Parole Supervision."

## **B. Probation**

Sections 3 through 11, the Probation Laws, are omitted from this text except for Section 3f.(1) and (2). See Sec. 15(b) for application of 3f to parole.

"Sec. 3f. (a) The provisions of Sections 3 and 3c of this Article do not apply:

"(1) to a defendant adjudged guilty of an offense defined by the following sections of the Penal Code:

"(A) Section 19.03 (Capital murder);

"(B) Section 20.04 (Aggravated kidnapping);

"(C) Section 21.03 (Aggravated rape);

"(D) Section 21.05 (Aggravated sexual abuse);

"(E) Section 29.03 (Aggravated robbery); or

"(2) to a defendant when it is shown that the defendant used or exhibited a deadly weapon as defined in Section 1.07(a)(11), Penal Code, during the commission of a felony offense or during immediate flight therefrom. Upon affirmative finding that the defendant used or exhibited a deadly weapon during the commission of an offense or during immediate flight therefrom, the trial court shall enter the finding in the judgment of the court. Upon an affirmative finding that the deadly weapon the defendant used or exhibited was a firearm, the court shall enter that finding in its judgment.

### C. Paroles

Sec. 12:  
Effective before  
August 29, 1977

Sec. 12. The Board of Pardons and Paroles created by Article 4, Section 11 of the Constitution of this State, shall administer the provisions of this Act respecting determinations of which prisoners shall be paroled from an institution operated by the Department of Corrections, the conditions of such paroles, and may recommend the revocation of paroles by the Governor.

Sec. 12:  
Effective on or  
after August 29,  
1977

"Sec. 12. The Board of Pardons and Paroles created by Article 4, Section 11 of the Constitution of this State, shall administer the provisions of this Act respecting determinations of which prisoners shall be paroled from an institution operated by the Department of Corrections, the conditions of parole and mandatory supervision, and may recommend the revocation of releases to mandatory supervision, paroles, and conditional pardons by the Governor. Keeping the goals of this Act in mind, the Board shall have the authority to determine the degree and intensity of supervision a prisoner released on parole or released to mandatory supervision should receive.

Sec. 13:  
Mandatory  
Supervision  
added

"Sec. 13. The members of the Board shall give full time to the duties of their office and shall be paid such salaries as the Legislature may determine in Appropriation Acts. The members of the Board shall elect one of their number as chairman, who shall serve for a period of two years and until his successor is elected and qualified.

"The Board shall meet at the call of the chairman and from time to time as may otherwise be determined by majority vote of the Board. A majority of the Board shall constitute a quorum for the transaction of all business.

"The Board shall adopt an official seal of which the courts shall take judicial notice. Decisions of the Board shall be by majority vote.

"The Board shall keep a record of its acts and shall notify each institution of its decision relating to the persons who are confined therein. At the close of each fiscal year the Board shall submit to the Governor and to the Legislature a report with statistical and other data of its work.

"All minutes of the Board and decisions relating to mandatory supervision, parole, pardon, and clemency

shall be matters of public record and subject to public inspection at all reasonable times."

Sec. 14. The necessary office quarters shall be provided for the Board in the manner that the same are furnished to other departments, boards, commissions, bureaus and offices of the State.

Sec. 14A added,  
64th Leg., 1975.  
Subsections (a),  
(e) and (i)  
amended, 65th  
Leg., 1977,  
adding mandatory  
supervision.

Sec. 14A.

"(a) To aid and assist the Board of Pardons and Paroles in parole and mandatory supervision decisions, provision is hereby made for the appointment of parole commissioners."

(b) There shall be appointed no less than six commissioners.

(c) One-third of the commissioners shall be appointed by the governor; one-third of the commissioners by the Chief Justice of the Supreme Court of Texas; and one-third of the commissioners by the Presiding Judge of the Texas Court of Criminal Appeals. One of the commissioners appointed by each of the appointing authorities shall reside in Walker County.

(d) Each commissioner shall hold office for a term of six years; provided that of the commissioners first appointed, the commissioners appointed by one of the appointing authorities shall serve for two years; the commissioners appointed by one of the appointing authorities shall serve for four years; and the other one-third of the commissioners shall serve for six years. Prior to appointment, the appointing authority shall draw lots for the length of the first term for his respective appointees. All terms shall begin on September 1, 1975.

"(e) In matters of parole decisions and mandatory supervision revocation decisions, the commissioners shall have the same duties and authority as the board members. A parole panel, as hereinafter provided, may recommend the granting, denying, or revocation of parole, the revocation of mandatory supervision status, and may conduct parole revocation hearings and mandatory supervision revocation hearings. The commissioners may interview inmates for parole consideration, and they shall perform their duties as directed by the board in its rules and regulations affecting these commissioners."

(f) The board may provide and promulgate a written

plan for the administrative review of actions taken by a parole panel.

"(g) The commissioners shall be compensated while holding office at a salary to be set by the legislature. They shall be reimbursed for their expenses in the manner and in the same amount as are board members.

(h) The board members shall continue to exercise their responsibility for the administrative operation of the board of pardons and paroles.

"(i) In matters of parole and release to mandatory supervision, the board members and commissioners may act in panels comprised of three persons in each panel. The composition of the respective panels shall be designated by the board. A majority of each panel shall constitute a quorum for the transaction of its business, and its decisions shall be by a majority vote. The functions given to the board throughout Article 42.12, Code of Criminal Procedure, 1965, as amended, may be enlarged and extend to the parole panels, as provided by board rules. The powers of the board and the board members can be delegated by the board to the parole panels and to the commissioners as needed for the convenience of and assistance to the board."

(j) In case of a vacancy among the parole commissioners, the appointing authority who appointed the commissioner now absent shall fill the vacancy with another appointment, and the person so appointed shall continue in office for the unexpired portion of the term for which the commissioner so vacating his office has been appointed."

Sec. 15 (Art. 781d) 55th Leg., 1957. Applies to paroles of sentences for crimes committed before Jan. 1, 1966.

Sec. 15. (Art. 781d). The Board is hereby authorized to release on parole with the approval of the Governor any person confined in any penal or correctional institution of this state, except persons under sentence of death, who has served one-third (1/3) of the maximum sentence imposed; provided that in any case he may be paroled after serving fifteen years; and provided further that where the maximum sentence is not four times as great as the minimum sentence, and the convict has served the minimum sentence, and where the maximum sentence is greater than four times the minimum sentence, and the convict has served one-fourth (1/4) of the maximum sentence, such convict may be paroled during good behavior for the balance of the term imposed upon him. All paroles shall issue upon order of the Board, duly adopted and approved by the Governor.

Sec. 15: 59th  
Leg., 1965,  
applies to paroles  
from sentences  
for crimes  
committed on or  
after Jan. 1, 1966  
and before Aug.  
28, 1967.

Sec. 15(a):  
60th Leg., 1967,  
applies to paroles  
from sentences  
for crimes  
committed on or  
after Aug. 28,  
1967 and before  
Aug. 29, 1977.

Sec. 15. The Board is hereby authorized to release on parole, with the approval of the Governor, any person confined in any penal or correctional institution of this State, except persons under sentence of death, who has served one-fourth of the maximum sentence imposed, provided that in any case he may be paroled after serving fifteen years. Time served shall be a total calendar time served and all credits allowed under the laws governing the operation of the Department of Corrections, and executive clemency. All paroles shall issue upon order of the Board, duly adopted and approved by the Governor.

Sec. 15. (a) The Board is hereby authorized to release on parole, with the approval of the Governor, any person confined in any penal or correctional institution of this State, except persons under sentence of death, who has served one-third of the maximum sentence imposed, provided that in any case he may be paroled after serving 20 calendar years. Time served on the sentence imposed shall be the total calendar time served and all credits allowed under the laws governing the operation of the Department of Corrections, and executive clemency. All paroles shall issue upon order of the Board, duly adopted and approved by the Governor.

(b) Within one year after a prisoner's admittance to the penal or correctional institution and at such intervals thereafter, as it may determine, the Board shall secure and consider all pertinent information regarding each prisoner, except any under sentence of death, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made.

(c) Before ordering the parole of any prisoner, the Board may have the prisoner appear before it and interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the Board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal

custody of the institution from which he was released but shall be amenable to the orders of the Board.

(d) The Board may adopt such other reasonable rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of prisoners for parole, the conduct of parole hearings, or conditions to be imposed upon parolees. Whenever an order for parole is issued it shall recite the conditions thereof in clear and intelligible language.

(e) It shall be the duty of the Board at least ten days before ordering the parole of any prisoner or upon the granting of executive clemency by the Governor to notify the sheriff, the district attorney and the district judge in the county where such person was convicted that such parole or clemency is being considered by the Board or by the Governor.

(f) If no parole officer has been assigned to the locality where a person is to be released on parole or executive clemency the Board shall notify the chairman of the Voluntary Parole Board of such county prior to the release of such person. The Board shall request such Voluntary Parole Board, in the absence of a parole office, for information which would herein be required of such duly appointed parole officer. This shall not, however, preclude the Board from requesting information from any public agency in such locality.

Sec. 15:  
65th Leg., 1977,  
applies to paroles  
and mandatory  
supervision for  
crimes committed  
on or after Aug.  
29, 1977.

“Sec. 15. (a) The Board is authorized to release on parole, with the approval of the Governor, any person confined in any penal or correctional institution of this State who is eligible for parole under Subsection (b) of this Section. The period of parole shall be equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. All paroles shall issue upon order of the Board, duly adopted and approved by the Governor.

“(b) A prisoner under sentence of death is not eligible for parole. If a prisoner is serving a sentence for the offenses listed in Section 3f(a)(1) of this Article or if the judgment contains an affirmative finding under Section 3f(a)(2) of this Article, he is not eligible for release on parole until his actual calendar time served, without consideration of good conduct time, equals one-third of the maximum sentence or 20 calendar years, whichever is less, but in no event shall he be eligible for release on parole in less than two

calendar years. All other prisoners shall be eligible for release on parole when their calendar time served plus good conduct time equals one-third of the maximum sentence imposed or 20 years, whichever is less.

"(c) A prisoner who is not on parole, except a person under sentence of death, shall be released to mandatory supervision by order of the Board when the calendar time he has served plus any accrued good conduct time equal the maximum term to which he was sentenced. A prisoner released to mandatory supervision shall, upon release, be deemed as if released on parole. To the extent practicable, arrangements for the prisoner's proper employment, maintenance, and care shall be made prior to his release to mandatory supervision. The period of mandatory supervision shall be for a period equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. The time served on mandatory supervision is calculated as calendar time. Every prisoner while on mandatory supervision shall remain in the legal custody of the institution from which he was released but shall be amenable to the orders of the Board.

"(d) A prisoner who has not been released to mandatory supervision and has 180 calendar days or less remaining on his sentence may be released by order of the Board to mandatory supervision.

"(e) Within one year after a prisoner's admittance to the penal or correctional institution and at such intervals thereafter, as it may determine, the Board shall secure and consider all pertinent information regarding each prisoner, except any under sentence of death, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment and attitude in prison, and his physical and mental health.

"(f) Before ordering the parole of any prisoner, the Board may have the prisoner appear before it and interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and, as may be, in part, evidenced by the prisoner's having made, in whole or in part, restitution or reparation to the victim of his crime, the total amount of such

restitution or reparation as may be established by the court and entered in the judgment of the court which sentenced the prisoner to his term of imprisonment, and when the Board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the institution from which he was released but shall be amenable to the orders of the Board.

“(g) The Board may adopt such other reasonable rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of prisoners for parole and mandatory supervision, the conduct of parole and mandatory supervision hearings, or conditions to be imposed upon parolees and persons released to mandatory supervision. Each person to be released on parole shall be furnished a written statement and contract setting forth in clear and intelligible language the conditions and rules of parole. The conditions may include the making of restitution or reparation to the victim of the prisoner’s crime, the total amount of such restitution or reparation as may be established by the court and entered in the judgment of the court which sentenced the prisoner to his term of imprisonment. Acceptance, signing, and execution of the contract by the inmate to be paroled shall be a precondition to release on parole. Persons released on mandatory supervision shall be furnished a written statement setting forth in clear and intelligible language the conditions and rules of mandatory supervision.

“(h) It shall be the duty of the Board at least ten days before ordering the parole of any prisoner or upon the granting of executive clemency by the Governor to notify the sheriff, the district attorney and the district judge in the county where such person was convicted that such parole or clemency is being considered by the Board or by the Governor.

“(i) If no parole officer has been assigned to the locality where a person is to be released on parole, mandatory supervision, or executive clemency the Board shall notify the chairman of the Voluntary Parole Board of such county prior to the release of such person. The Board shall request such Voluntary Parole Board, in the absence of a parole officer, for information which would herein be required of such duly appointed parole officer. This shall not, however, preclude the Board from requesting information from

any public agency in such locality.”

Sec. 16. It shall be the duty of any judge, district attorney, county attorney, police officer or other public official of the state, having information with reference to any prisoner eligible for parole, to send in writing such information as may be in his possession or under his control to the Board, upon request of any member or employee thereof.

Sec. 17. It shall be the duty of all prison officials to grant to the members of the Board, or its properly accredited representatives, access at all reasonable times to any prisoner, to provide for the Board or such representatives facilities for communicating with and observing such prisoner, and to furnish to the Board such reports as the Board shall require concerning the conduct and character of any prisoner in their custody and any other facts deemed by the Board pertinent in determining whether such prisoner shall be paroled.

Sec. 18. The Board shall formulate rules as to the submission and presentation of information and arguments to the Board for and in behalf of any person within the jurisdiction of the Board.

All persons presenting information or arguments to the Board shall submit therewith an affidavit stating whether any fee has been paid or is to be paid for their services in the case, the amount of such fee, if any, and by whom such fee is paid or to be paid.

Sec. 19. The Board shall have power to issue subpoenas requiring the attendance of such witnesses and the production of such records, books, papers, and documents as it may deem necessary for investigation of the case of any person before it. Subpoenas may be signed and oath administered by any member of the Board. Subpoenas so issued may be served by a sheriff, constable, police, parole, or probation officer, or other law enforcement officer, in the same manner as similar process in courts of record having original jurisdiction of criminal actions. Any person who testifies falsely or fails to appear when subpoenaed, or fails or refuses to produce such material pursuant to the subpoena, shall be subject to the same orders and penalties to which a person before a court is subject. Any courts of record having original

jurisdiction of criminal actions upon application of the Board, may in their discretion compel the attendance of witnesses, the production of such material and the giving of testimony before the Board, by an attachment for contempt or otherwise in the same manner as production of evidence may be compelled before such courts of record; having original jurisdiction of criminal actions.

Sec. 20:  
Effective on or  
after Aug. 29,  
1977, added  
mandatory  
supervision.

“Sec. 20. The Board shall have the power and duty to make rules for the conduct of persons placed on parole and of persons released to mandatory supervision.

Sec. 21:  
Effective before  
Aug. 29, 1977.

Sec. 21. Upon order by the Governor, the Board is authorized to issue a warrant for the return of any paroled prisoner to the institution from which he was paroled. Such warrant shall authorize all officers named therein to return such paroled prisoner to actual custody in the penal institution from which he was paroled. Pending hearing, as hereinafter provided, upon any charge of parole violation, the prisoner shall remain incarcerated in such institution.

A parolee for whose return a warrant has been issued by the Board shall, after the issuance of such warrant, be deemed a fugitive from justice and if it shall appear that he has violated the provisions of his parole, then the time from the issuing of such warrant to the date of his arrest shall not be counted as any part of the time to be served under his sentence. The law now in effect concerning the right of the State of Texas to extradite persons and return fugitives from justice, and Article 42.11 of this Code concerning the waiver of all legal requirements to obtain extradition of fugitives from justice, from other states to this State, shall not be impaired by this Act and shall remain in full force and effect.

Sec. 21:  
Effective on or  
after August 29,  
1977.

“Sec. 21. (a) A warrant for the return of a paroled prisoner, a prisoner released to mandatory supervision, a prisoner released on emergency reprieve or on furlough, or a person released on a conditional pardon to the institution from which he was paroled; released, or pardoned may be issued by the Board on order by the Governor when there is reason to believe that he has

committed an offense against the laws of this State or of the United States, violated a condition of his parole, mandatory supervision, or conditional pardon, or when the circumstances indicate that he poses a danger to society that warrants his immediate return to incarceration. Such warrant shall authorize all officers named therein to take actual custody of the prisoner and return him to the institution from which he was released. Pending hearing, as hereinafter provided, upon any charge of parole violation or violation of the conditions of mandatory supervision, the prisoner shall remain incarcerated.

“(b) A prisoner for whose return a warrant has been issued by the Board shall, after the issuance of such warrant, be deemed a fugitive from justice and if it shall appear that he has violated the conditions or provisions of his mandatory supervision or parole, then the time from the issuing of such warrant to the date of his arrest shall not be counted as any part of the time to be served under his sentence. The law now in effect concerning the right of the State of Texas to extradite persons and return fugitives from justice, and Article 42.11 of this Code concerning the waiver of all legal requirements to obtain extradition of fugitives from justice, from other states to this State, shall not be impaired by this Act and shall remain in full force and effect.

Sec. 22:  
59th Leg., 1965,  
applies to paroles  
from sentences  
for crimes  
committed before  
June 14, 1973.

Sec. 22. Whenever a paroled prisoner is accused of a violation of his parole on information and complaint by a law enforcement officer or parole officer, he shall be entitled to be heard on such charges before the Board under such rules and regulations as the Board may adopt; providing, however, said hearing shall be held within forty-five days of the date of arrest and at a time and place set by the Board. When the Board has heard the facts, it may recommend to the Governor that the parole be continued, or revoked, or modified in any manner the evidence may warrant. When the Governor revokes a prisoner's parole, he may be required to serve the portion remaining of the sentence on which he was released on parole, such portion remaining to be calculated without credit for the time from the date of his release on parole to the date of his arrest or charge of parole violation.

Sec. 22:  
63rd Leg., 1973,  
applies to paroles  
from sentences  
for crimes  
committed on or  
after June 14, 1973  
and before Aug.  
29, 1977.

Sec. 22. Whenever a paroled prisoner is accused of a violation of his parole on information and complaint by a law enforcement officer or parole officer, he shall be entitled to be heard on such charges before the Board under such rules and regulations as the Board may adopt; providing, however, said hearing shall be held within sixty days of the date of arrest under a warrant issued by the Board of Pardons and Paroles or the Governor and at a time and place set by the Board. When the Board has heard the facts, it may recommend to the Governor that the parole be continued, or revoked, or modified in any manner the evidence may warrant. When the Governor revokes a prisoner's parole, he may be required to serve the portion remaining of the sentence on which he was released on parole by the Governor on the charge of parole violation. When a warrant is issued by the Board of Pardons and Paroles or the Governor charging a parole violation, the sentence time credit shall be suspended until a determination is made by the Board of Pardons and Paroles or the Governor in such case and such suspended time credit may be re-instated by the Board of Pardons and Paroles should such parole be continued.

Sec. 22:  
65th Leg., 1977,  
applies to persons  
paroled from  
sentences for  
crimes committed  
on or after Aug.  
29, 1977.

Sec. 22. Whenever a prisoner or a person granted a conditional pardon is accused of a violation of his parole, mandatory supervision, or conditional pardon on information and complaint by a law enforcement officer or parole officer, he shall be entitled to be heard on such charges before the Board or its designee under such rules and regulations as the Board may adopt; providing, however, said hearing shall be a public hearing and shall be held within ninety days of the date of arrest under a warrant issued by the Board of Pardons and Paroles or the Governor and at a time and place set by the Board. When the Board has heard the facts, it may recommend to the Governor that the parole, mandatory supervision, or conditional pardon be continued, or revoked, or modified in any manner the evidence may warrant. When the Governor revokes a person's parole, mandatory supervision, or conditional pardon, that person may be required to serve the portion remaining of the sentence on which he was released, such portion remaining to be calculated without credit for the time from the date of his release to the date of revocation. When a warrant is issued by the Board of Pardons and Paroles or the Governor charging

a violation of release conditions, the sentence time credit shall be suspended until a determination is made by the Board of Pardons and Paroles or the Governor in such case and such suspended time credit may be re-instated by the Board of Pardons and Paroles should such parole, mandatory supervision, or conditional pardon be continued.

Sec. 23. In order to complete the parole period, a parolee shall be required to serve out the whole term for which he was sentenced, subject to the deduction of the time he had served prior to his parole and to any diminution of sentence earned for good behavior while imprisoned in the Department of Corrections. The time on parole shall be calculated as calendar time. This provision, however, shall not be construed so as to interfere with the constitutional power conferred upon the Governor to grant pardons and to commute sentences.

When any paroled prisoner has fulfilled the obligations of his parole and has served out his term as conditioned in the preceding paragraph, the Board shall make a final order of discharge and issue to the parolee a certificate of such discharge.

Sec. 24:  
Effective before  
Aug. 29, 1977.

Sec. 24. Whenever any prisoner serving an indeterminate sentence, as provided by law, shall have served for twelve months on parole in a manner acceptable to the Board, it shall review the prisoner's record and make a determination whether to recommend to the Governor that the prisoner be pardoned and finally discharged from the sentence under which he is serving.

When any prisoner who has been paroled has complied with the rules and conditions governing his parole until the end of the term to which he was sentenced, and without a revocation of his parole, the Board shall report such fact to the Governor prior to the issuance of the final order of discharge, together with its recommendation as to whether the prisoner should be restored to citizenship.

Sec. 24:  
Effective on or  
after Aug. 29,  
1977.

Sec. 24. When any prisoner who has been paroled or released to mandatory supervision has complied with the rules and conditions governing his release until the end of the term to which he was sentenced, and without a revocation of his parole or mandatory supervision,

the Board shall make a final order of discharge and issue the prisoner a certificate of discharge.

Sec. 25. On request of the Governor the Board shall investigate and report to the Governor with respect to any person being considered by the Governor for pardon, commutation of sentence, reprieve, or remission of fine or forfeiture, and make recommendations thereon.

#### **D. Supervision of Parolees**

Sec. 26:  
Effective on or  
after Aug. 29,  
1977, added  
mandatory  
supervision.

Sec. 26. The Board of Pardons and Paroles shall have general responsibility for the investigation and supervision of all prisoners released on parole and to mandatory supervision. For the discharge of this responsibility, there is hereby created with the Board of Pardons and Paroles, a Division of Parole Supervision. Subject to the general direction of the Board of Pardons and Paroles, the Division of Parole Supervision, including its field staff shall be responsible for obtaining and assembling any facts the Board of Pardons and Paroles may desire in considering parole eligibility, in establishing a mandatory supervision plan, and for investigating and supervising paroled prisoners and prisoners released to mandatory supervision to see that the conditions of parole and mandatory supervision are complied with, and for making such periodic reports on the progress of parolees and prisoners released to mandatory supervision as the Board may desire.

Sec. 27:  
Effective on or  
after Aug. 29,  
1977, added  
mandatory  
supervision.

Sec. 27. All information obtained in connection with inmates of the Texas Department of Corrections subject to parole, release to mandatory supervision, or executive clemency or individuals who may be on mandatory supervision or parole and under the supervision of the division, or persons directly identified in any proposed plan of release for a prisoner, shall be confidential and privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the Governor and the Board of Pardons and Paroles upon request. It is further provided, that statistical and general information respecting the parole and mandatory supervision program and system, including the names of paroled prisoners, prisoners released to mandatory supervision, and data recorded in

connection with parole and mandatory supervision services, shall be subject to public inspection at any reasonable time.

Sec. 28:  
Deleted age requirements for parole officers; added mandatory supervision.

Sec. 28. Salaries of all employees of the Division of Parole Supervision shall be governed by Appropriation Acts of the Legislature. The Board of Pardons and Paroles shall appoint a Director of the Division, and all other employees shall be selected by the Director, subject to such general policies and regulations as the Board may approve.

It is expressly provided, however, that no person may be employed as a parole officer or supervisor, or be responsible for the investigations or supervision of persons on parole or mandatory supervision, unless he meets the following qualifications together with any other qualifications that may be specified by the Director of the Division, with the approval of the Board of Pardons and Paroles; four years of successfully completed education in an accredited college or university, and two years of full time paid employment in responsible correctional work with adults or juveniles, social welfare work, teaching, or personnel work. Additional experience in the above categories may be substituted year for year for the required college education, with a maximum substitution for two years.

Sec. 29. Any parole officer or supervisor employed by the Division of Parole Supervision may, with the approval of the director, be designated as a probation officer by the judge of a court of the State having original jurisdiction of criminal actions. Any proportional part of the salary paid to a parole officer or supervisor so designated, however, in compensation for his service as a probation officer, shall be only with the prior written approval of the director; and all such proportional salary payments shall be periodically reported to the Governor and the Legislature by the director.

Sec. 30:  
Added mandatory supervision.

Sec. 30. In order to provide supervision of parolees, persons released to mandatory supervision, and persons granted executive clemency who reside in sparsely settled areas of the State and in localities not served by regularly employed parole officers, the Governor of this State is authorized to appoint

chairmen of Voluntary Parole Boards for such areas or localities. The appointed chairman may with the advice and approval of the Director of the Division of Parole Supervision, appoint additional members of such Voluntary Parole Boards. The term of service by such appointed chairmen of Voluntary Parole Boards shall not exceed the term of office of the appointing Governor; and the terms of service of locally appointed additional members of such Voluntary Parole Boards shall not exceed the terms of office of the director. However, it is expressly provided that the terms of service by such chairmen and additional members of Voluntary Parole Boards may be continued by appropriate reappointments. The chairman of the Voluntary Parole Board shall be responsible for assigning supervision of parolees and of persons released to mandatory supervision to the members of such board.

Sec. 31:  
Added mandatory  
supervision.

Sec. 31. No person who is serving as a sheriff, deputy sheriff, constable, deputy constable, city policeman, Texas Ranger, state highway patrolman, or similar law enforcement officer, or as a prosecuting attorney, shall act as a parole officer or be responsible for the supervision of persons on parole or released to mandatory supervision.

Sec. 32. Any parole officer or supervisor employed by the Division of Parole Supervision may, upon request of the Governor or the Board of Pardons and Paroles and by direction of the director, be responsible for supervising persons placed on conditional pardon or furlough.

#### **E. General Provisions**

Sec. 33. The provisions of this Act shall not be construed to prevent or limit the exercise by the Governor of powers of executive clemency vested in him by the Constitution of this State.

Sec. 34. The provisions of this Act shall not apply to parole from institutions for juveniles.

Sec. 35. This Article shall not be deemed to alter or invalidate any probationary period fixed under statutes

in force prior to the effective date of this Code or to limit the jurisdiction or power of a court to modify or terminate such probationary period. In other respects, persons placed on probation or parole prior to the effective date of this Code shall be amenable to the provisions of this Code insofar as it may be made applicable to them. All other actions pertaining to probations and paroles granted prior to the effective date of this Code shall be regulated according to the law in force at the time the probation or parole was granted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**APPENDIX 3**

**UNIFORM ACT FOR  
OUT-OF-STATE PAROLEE  
SUPERVISION**

**ARTICLE 42.11, CODE OF CRIMINAL  
PROCEDURE**

Sec. 1. This Act may be cited as the Uniform Act for out-of-State parolee supervision.

Sec. 2. The Governor of this State is hereby authorized and directed to execute a compact on behalf of the State of Texas with any of the United States legally joining therein in the form substantially as follows:

**A COMPACT**

Entering into by and among the contracting state, signatories hereto, with the consent of the Congress of the United States of America, granted by an Act entitled "An Act granting the consent of Congress to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes".

The contracting States solemnly agree:

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a State party to this compact (herein called "sending State"), to permit any person convicted of an offense within such State and placed on probation or released on parole to reside in any other State party to this compact (herein called "receiving State"), while on probation or parole, if

(a) Such person is in fact a resident of or has his family residing within the receiving State and can obtain employment there; and

(b) Though not a resident of the receiving State and not having his family residing there, the receiving State consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving State to investigate the home and prospective employment of such person.

A resident of the receiving State, within the meaning of this section is one who has been an actual inhabitant of such State continuously for more than one year prior to his coming to the sending State and has not resided within the sending State more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving State will assume the duties of visitation of and supervision over probationers or parolees of any sending State and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending State may at all times enter a receiving State and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of States party hereto, as to such persons. The decision of the sending State to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving State; provided, however, that if at the time when a State seeks to retake a probationer or parolee there should be pending against him within the receiving State any criminal charge, or he should be suspected of having committed within such State a criminal offense, he shall not be retaken without the consent of the receiving State until discharged from prosecution or from any imprisonment for such offense.

(4) That the duly accredited officers of the sending State will be permitted to transport prisoners being retaken through any and all States party to this compact, without interference.

(5) That the Governor of each State may designate an officer who, acting jointly with like officers of other contracting States, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its execution by any State as between it and other State or States so executing. When executed it shall have the full force and effect of law within such State, the form of execution to be in accordance with the laws of the executing State.

(7) That this compact shall continue in force and remain binding upon each executing State until renounced by it. The duties and obligations hereunder of a renouncing State shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending State. Renunciation of this compact shall be by the same authority which executed it, by sending six months notice in writing of its intention to withdraw from the compact to the other States party hereto. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Sec. 3. The officer designated by the Governor under Subdivision (5) of the compact shall be entitled the Interstate Parole Compact Administrator and is authorized to appoint two Deputy Parole Compact Administrators.

Sec. 3 added by Acts 1973, 63rd Leg., p. 547, ch. 233, § 1, eff. Aug. 27, 1973.

## APPENDIX 4

# EXECUTIVE CLEMENCY AND THE BOARD OF PARDONS AND PAROLES

### ARTICLE IV, SECTION 11 TEXAS CONSTITUTION

#### (Reprieves, Commutations and Pardons; Remission of Fines and Forfeitures)

Sec. 11. There is hereby created a Board of Pardons and Paroles, to be composed of three members, who shall have been resident citizens of the State of Texas for a period of not less than two years immediately preceding such appointment, each of whom shall hold office for a term of six years; provided that of the members of the first board appointed, one shall serve for two years, one for four years and one for six years from the first day of February, 1937, and they shall cast lots for their respective terms. One member of said Board shall be appointed by the Governor, one member by the Chief Justice of the Supreme Court of the State of Texas, and one member by the presiding Justice of the Court of Criminal Appeals; the appointments of all members of said Board shall be made with the advice and consent of two-thirds of the Senate present. Each vacancy shall be filled by the respective appointing power that theretofore made the appointment to such position and the appointive powers shall have the authority to make recess appointments until the convening of the Senate.

In all criminal cases, except treason and impeachment, the Governor shall have power, after conviction, on the written signed recommendation and advice of the Board of Pardons and Paroles, or a majority thereof, to grant reprieves and commutations of punishment and pardons; and under such rules as the Legislature may prescribe, and upon the written recommendation and advice of a majority of the Board of Pardons and Paroles, he shall have the power to remit fines and forfeitures. The Governor shall have the power to grant one reprieve in any capital case for a period not to exceed thirty (30) days; and he shall have power to revoke paroles and conditional pardons. With the advice and consent of the Legislature, he may grant reprieves, commutations of punishment and pardons in cases of treason.

The Legislature shall have power to regulate procedure before the Board of Pardons and Paroles and shall require it to keep record of its actions and the reasons therefor, and shall have authority to enact parole laws. As amended Nov. 3, 1936.

## **ARTICLE 48.01 (952) (1051) (1016)**

### **CODE OF CRIMINAL PROCEDURE**

**(Governor may pardon)**

In all criminal cases, except treason and impeachment, the Governor shall have power, after conviction, on the written signed recommendation and advice of the Board of Pardons and Paroles, or a majority thereof, to grant reprieves and commutations of punishments and pardons; and upon the written recommendation and advice of a majority of the Board of Pardons and Paroles, he shall have the power to remit fines and forfeitures. The Governor shall have the power to grant one reprieve in any capital case for a period not to exceed 30 days; and he shall have power to revoke paroles and conditional pardons. With the advice and consent of the Legislature, the Governor may grant reprieves, commutations of punishment and pardons in cases of treason. Acts 1965, 59, Leg., vol. 2, p. 317, ch. 722.

**Note: See Also Article 42.12, Sec. 24 and 25, C.C.P.**

## APPENDIX 5

# TEXAS ATTORNEY GENERAL OPINIONS AFFECTING PARDONS AND PAROLES

Beginning initials denote which A.G. LO means letter opinion. LA means letter advisory. ORD means Open Records Decision. The below summaries do not necessarily indicate all opinions expressed in a particular opinion.

- May 19 1937 Board has authority to recommend remission of fines and forfeitures. 1936 Constitutional Amendment clarified.
- Dec 9 1937 Article 6166v, C.C.P., commutation of sentence earned by good conduct time clarified. Good conduct time cannot be accrued while on parole.
- 0-70 1939 When a person is convicted of murder and afterwards adjudged insane, then an action is brought in the court of conviction to declare him sane, so long as this latter action is pending, that court has exclusive jurisdiction to determine the issue of sanity and that jurisdiction cannot be given to another court even though sentence was commuted.
- 0-689 1939 Insanity of convict has no effect upon authority of Board to recommend or Governor to grant commutation of death sentence. Consent of convict not needed for such commutation.
- 0-2413 1940 Unconditional pardon may not be revoked unless procured by fraud. On conditional pardon, if condition has been performed, pardon may not be revoked. Revocation of pardons and paroles not dependent upon recommendation of Board.

- 0-3215 1941 Unless a person violates stated conditions of pardon proclamation, he cannot be revoked on the conditional pardon. A conditional pardon becomes absolute upon fulfillment of its conditions and cannot be revoked, although the conditionally pardoned offenses can be used for purposes of enhancement.
- 0-3648 1941 (To Mac Bennitt) TDC cannot forfeit good time of an inmate earned before discharge on conditional pardon. However, time spent at large under conditional pardon should not be considered as time spent on original sentence.
- 0-3648a 1941 Further explanation of Opinion 0-3648.
- 0-3972 1941 After revocation, time spent on parole not counted towards unexpired sentence.
- 0-5662 1943 Conviction defined as ordinarily meaning verdict of guilty or confession of defendant in open court and does not mean the sentence or judgement. Board can recommend a pardon after conviction accompanied by a suspension of sentence. Person on suspended sentence forfeits right to serve on jury.
- 0-6052 1944 The Governor may remit the forfeiture of driver's license after conviction for the offense of driving while intoxicated. (Overruled by WW-567).
- 0-6142 1944 (To DPS) Governor's power to restore driver's license not invoked if cancellation of license was not part of penalty for criminal conviction.
- 0-7141 1946 Clarification of 1936 Constitutional amendment explaining duties and power of Board.
- 0-7256 1946 Clarification of 1936 Constitutional Amendment, Art. IV, Sec. 11 and of Art. 6203, C.C.P. (parole law), as amended by 41st Legislature. The amendment created 3-member Board to recommend to Governor in matters of clemency. Art. 6203 defined Board's duties regarding parole.
- 0-7367 1946 Case of E.E. Porras was determined as fully pardoned.

- LO 9-22 1947 Conditional pardon to aliens pardoned on condition they will be deported does not restore the full civil rights of grantee, although conditions were not breeched. Such conditional pardon may be breeched at any time during life of grantee even though original term of sentence has expired.
- LO 6-23 1948 Board should use Volunteer Parole Boards, County officials and peace officers to carry out amended Probation and Parole Law, 50th Legislature, in absence of paid parole officers.
- V-561 1948 Board has jurisdiction to recommend to Governor a reprieve or commutation of punishment of an inmate for such purpose, such length of time and upon such conditions as Board may recommend as appropriate.
- LO 1948 (To M.E. Gates) A County or District Attorney is not prohibited from appearing before the Board in behalf of an applicant for clemency.
- V-712 1948 Articles 921, 922, C.C.P. explained. Insane inmate must be tried in District court of his conviction to establish insanity while out of penitentiary on parole, conditional pardon or reprieve. (Overruled by Art. 3186a, V.T.C.S.).
- V-793 1949 A district judge has no authority to appoint a probation and parole officer to serve without cost to state or county. This authority exclusive to Director of Parole Supervision subject to Board approval.
- V-1029 1950 Court of McLennan County was without jurisdiction to try the issue of insanity of subject convict. Purported conviction of lunacy being void, subject not precluded from accepting clemency of such a nature as requires acceptance to be operative. (Opinion V-712 overruled).
- MS-165 1954 Conflicting statutes clarified. Art. 962, C.C.P. conflicted with Sec. 12 of Art. 781b, C.C.P. and was repealed by Sec. 34 of 781b, hence Art. 962 held inoperative.

- S-190 1956 Board cannot recommend and Governor cannot grant restoration of Texas driver's license suspended by DPS for a conviction in another state nor of non-residents license suspended by DPS for conviction in another state.
- WW-174 1957 Members of the 55th Legislature not disqualified from being appointed Director of Parole Supervision. Director need not possess qualifications required of parole officers or supervisors.
- WW-386 1958 Adult Probation and Parole law of 1957 explained. A parolee who is being held in jail on revocation has same legal status as one convicted of a felony and cannot be released on bond.
- WW-567 1959 The Board cannot recommend and Governor cannot restore drivers license after conviction of offense which under law carries an automatic suspension of driver's license. Overruled Opinion 0-6052. (Superseded by Art. 6687b, V.T.C.S., amended, 59th Leg.)
- WW-989 1961 Uniform Act for Out-of-State Parolee Supervision, Art. 781c, C.C.P., clarified. Out-of-State parolees not subject to bail.
- C-115 1963 Age limit of parole officers not changed by H.B. 395, 58th Legislature. Remained at 26-55.
- C-238 1964 (To McLennan Co. D.A.) An inmate in TDC serving a sentence of not less than two years nor more than 8 years is entitled to consideration for parole after he has served 2 years, that is  $\frac{1}{4}$  of the maximum. (Art. 781d, Sec. 15, C.C.P.)
- C-252 1964 District Court cannot commute a sentence, only the Governor upon recommendation of Board.
- C-310 1964 Parole occurs only after imprisonment in T.D.C.
- C-471 1965 Board cannot recommend and Governor cannot grant posthumous full pardon because pardon must be accepted by grantee. (See *Hunnicut v. State*, 18 Tex. Ct. App. 498 (1885).

- M-100      1967    Section 15, Art. 42.12, C.C.P., as amended in 60th Legislature clarified. Parole eligibility changed to 1/3 of maximum sentence or 20 years less time allowed for good conduct.
- M-833      1971    A conditional commutation of sentence by one Governor is not binding on a later Governor's power to grant further clemency or parole, but that Governor is required to give great weight to reasons that compelled the prior Governor to act.
- M-981      1971    The Board can recommend and the Governor can commute a sentence anytime after conviction without regard to whether the conviction is on appeal or has become a final conviction. Consent of convict not needed to commute.
- M-1042     1972    The Board has authority by act of the 62d Legislature to employ and pay two Deputy Compact Administrators each \$600 annually.
- M-1178     1972    Procedural rules established in *Morrissey v. Brewer*, 408 U.S. 471 (1972), not retroactive to revocation — prior to June 29, 1972.
- M-1187     1972    Discussion of effects of *Furman v. Georgia*, 408, U.S. 238 (1972). Present death penalties at any stage between jury verdict and granting of new trial may be commuted to life. Board may recommend and Governor may grant commutation over protest of condemned person.
- ORD-11     1973    Open records decision. All information obtained in connection with inmates of TDC subject to parole or executive clemency or any individual on parole or persons identified in parole plan is privileged information.
- LA-12      1973    (To Briscoe) TDC's granting of temporary emergency furloughs does not intrude on prerogative of Governor and Board to pass upon prisoner's right to actual reprieve, commutation, pardon or parole.
- H-53        1973    Sentence to be imposed upon a convict and the manner in which it is to be served is determined by the statutes existing at time of commission of crime.

- H-132 1973 Receipt of Criminal Justice Division grant by Board of Pardon and Paroles does not reduce appropriation of General Revenue funds.
- ORD-33 1974 Basic information on prisoners receiving commutation, including name, county and date of conviction, offense and sentence and date of commutation may be made public.
- H-295 1974 Board can recommend and Governor can grant indefinite medical reprieve, emergency reprieve or parole to prisoners whose convictions are still on appeal.
- H-240 1974 Art. 42.12, Sec. 22, C.C.P., amended, 63rd Legislature, changing parole eligibility from 15 to 20 years on life sentence applies to persons whose offense occurred on or after June 14, 1973.
- H-312 1974 Review of Supreme Court rulings in *Morrissey v. Brewer* and *Gagnon v. Scarpelli*. Board responsible to provide counsel to indigent parolee whose parole is to be revoked, if the parolee disputes violation or has mitigating cause.
- H-409 1974 Director of Parole Supervision not head of state agency within the meaning of Art. 6252-9b, V.T.C.S.
- H-427 1974 Open Records Act does not require Board to reveal inmate files to individual legislators.
- ORD-87 1975 Summary or compilation of information from public records not required of agency to requestor.
- ORD-92 1975 Upheld ORD 33. Last known address of persons pardoned is public information.
- H-127 1975 Government body not obligated to compile or extract information for requestor if such information is available in state library.
- H-587 1975 For purposes of Art. 42.12, Sec. 24, C.C.P. there is no difference in rights reinstated by pardon or by restoration of citizenship.
- H-987 1977 Board may make a rule forbidding legislators from representing inmates for a fee in proceedings which are either nonadversary or non-public before the Board.
- H-1051 1977 Board is authorized to adopt a rule requiring a Parole Commissioner to accept a new duty station.

## APPENDIX 6

### JUDICIAL DECISIONS AFFECTING PARDONS AND PAROLES:

#### SUPREME COURT, TEXAS COURT OF CRIMINAL APPEALS, FIFTH FEDERAL CIRCUIT DECISIONS

**NOTE:** The following cases reflect the state of the law in Texas regarding pardons and paroles at the time of writing.

#### SUPREME COURT DECISIONS

*Morrissey v. Brewer*, 408 U.S. 471 (1972).

Due process guaranteed to parole violator: (1) Preliminary hearing to determine probable cause of violation of parole conditions, conducted by someone not directly involved in the case.

(2) A hearing prior to the final decision on revocation to admit evidence, witnesses, etc.

*Gagnon v. Scarpelli*, 411 U.S. 778 (1973).

Re. parole violator's right to counsel. In most cases counsel is constitutionally unnecessary or undesirable. However, counsel may be necessary where the probationer or parolee requests counsel upon the claim that he is innocent of parole violation or can mitigate the circumstances of the violation. Agency should consider parolee's ability to speak effectively for himself.

*Moody v. Daggett*, 97 U.S. 274 (1977).

A subsequent, final conviction is sufficient for revocation of parole with no due process attaching, *i.e.*, *Morrissey* type hearing not required. Execution of the warrant triggers *Morrissey* timely due process rights. Thus, the Board of Pardons and Paroles can: (1) stack the remainder of an original sentence after revocation onto any subsequent conviction; or, (2) can grant concurrent sentence on the balance of the original sentence; or, (3) Board has option of retroactively withdrawing the warrant without execution, thus reinstating parole.

## TEXAS COURT OF CRIMINAL APPEALS DECISIONS

*Carr v. State*, 19 Tex. Cr.R. 635 (1885).

A pardon is an act of grace or a remission of guilt and is full when it freely and unconditionally absolves the party from the legal consequences of his crime and conviction.

*Hunnicut v. State*, 18 Tex. Cr.R., 498 (1885).

A pardon in order to be complete, must be delivered and accepted. The Board cannot recommend and Governor cannot grant a posthumous full pardon.

*Camron v. State*, 22 S.W. 682 (Tex. Crim. App. 1893).

Pardon does not operate as a release of the payment of costs adjudged in a criminal case. See also, *Hankamer v. Templin*, 187 S.W.2d 549 (Tex. Crim. App. 1945).

*Ex parte Rice*. 162 S.W. 891 (Tex. Crim. App. 1914).

A full pardon is irrevocable. Pardons and pardoning power defined.

*Ex parte Redwine*, 236 S.W. 96 (Tex. Crim. App. 1921).

The Governor's power to grant an unconditional full pardon does not carry with it the right to revoke it, once accepted and acted upon, and is irrevocable unless it was procured by fraud. See also AG opinion No. 0-2413, 1940, and *Ex parte Rice*.

*Duke v. State*, 291 S.W. 539 (Tex. Crim. App. 1927).

The pardoning power of the Governor is not restricted to final judgment on the verdict. Conviction defined.

*Goss v. State*, 298 S.W. 585 (Tex. Crim. App. 1927).

A pardon granted pending appeal is valid.

*Ex Parte McBride*, S.W.2d 267 (Tex. Crim. App. 1928).

Held that prisoners after conviction are not guaranteed the right of bail. See also *Ex Parte McConkle*, 135 S.W. 991 (1890).

*Jones v. State*, 147 S.W.2d 508 (Tex. Crim. App. 1941).

The granting of a pardon does not preclude the State from using of a former conviction against a defendant on subsequent prosecution under the enhancement statute. See also *Square v. State*, 167 S.W.2d 192 (Tex. Crim. App. 1943).

*Ex parte Bryant*, 230 S.W.2d 824 (Tex. Crim. App. 1950)

If, after acceptance, the grantee has failed to fulfill the conditions of the clemency proclamation, the Governor is authorized to revoke such clemency.

*Ex parte Lefors*, 303 S.W.2d 394 (Tex. Crim. App. 1957).

Commutation is a form of clemency but does not remove the disabilities arising from conviction. A conditional pardon must be accepted by the grantee in order to be effective.

*Ex parte Smith*, 339 S.W.2d 671 (Tex. Crim. App. 1960).

When authorized and directed by the sending state, an out-of-state probationer or parolee may be held in custody upon order of the Texas Compact Administrator until a revocation warrant can be obtained from the sending state.

*Ex parte Sellars*, 384 S.W.2d 351 (Tex. Crim. App. 1964).

After revocation, time spent on parole not credited to sentence. Inmate required to serve remainder of sentence. See also *Betts v. Beto*, 424 F.2d 1299 (5th Cir. 1970).

*Jackson v. State*, 403 S.W.2d 145 (Tex. Crim. App. 1966). *cert. denied*, 385 U.S. 938.

The Court held that it is common knowledge that persons assessed life or a term of years in prison can become eligible for parole.

*Graham v. State*, 422 S.W.2d 922, (Tex. Crim. App. 1968).

Court said that is common knowledge that inmates are released on parole from TDC.

*Ex parte Alegria*, 464 S.W.2d 868 (Tex. Crim. App. 1971).

Court held that a law adversely affecting a prisoner's eligibility for parole consideration was *ex post facto* to the extent that it applied to persons already convicted and sentenced when the new law became effective.

*Cooper v. State*, 509 S.W.2d 568, (Tex. Crim. App. 1974).

Juror's discussion of parole law not grounds for a new trial unless law was mistated.

## 5TH FEDERAL CIRCUIT DECISIONS

*United States v. Smith*, 414 F.2d 630 (5th Cir. 1969).

One who chooses to accept the benefits of probation must also accept its restrictions.

*Betts v. Beto*, 424 F. 2d 1299 (5th Cir. 1970).

One whose parole is revoked is not entitled to credit on his

sentence for time spent on parole. See also *Ex parte Sellars*, 384 S.W.2d 351 (Tex. Crim. App. 1964).

*U.S. v. Bryant*, 431 F.2d 425 (5th Cir. 1970)

In a probation revocation hearing the proof required is such as to reasonably satisfy the judge that conditions of probation were violated.

*Clifford v. Beto*, 464 F.2d 1191 (5th Cir. 1972).

Parole does not occur until the inmate has signed the Certificate of Parole, that is, parole must be accepted by inmate before parole process is complete.

*United States v. Johnson*, 455 F.2d 932 (5th Cir. 1972). (per curiam), cert. denied. 409 U.S. 856 (1972).

Miranda warnings held inapplicable to probation revocation hearings.

*Cook v. Whiteside*, 505 F.2d 32 (5th Cir. 1974).

Psychological stress an inmate experiences as a result of denial of parole is not cruel and unusual punishment. Inmate has no constitutional right to see materials in his parole file. Also, the printed form on which Board members indicate specific ground for refusal of a parole does in fact provide sufficient notification to an inmate denied parole.

*Cook v. U.S. Attorney General*, 488 F.2d 667 (5th Cir. 1974).

Revocation proceedings may be deferred when the parolee is in another jurisdiction's prison on a new conviction. It is the execution of the parole violation warrant and not the issuance which determines when due process procedures must be instigated. See *Moody v. Dagget*, 97 U.S. 74 (1977).

*Cottle v. Wainwright*, 493 F.2d 397 (5th Cir. 1974).

Decision to appoint counsel or not must be made in the first instance by the Parole Board and not by federal district court.

*Sexton v. Wise*, 494 F.2d 1176 (5th Cir. 1974).

Parole revocation procedures do not apply to rescission of parole while the inmate is still incarcerated.

*Knight v. Estelle*, 501 F.2d 963 (5th Cir. 1974). cert. denied, 421 U.S. 1000 (1974).

Culpability is not a concern in a parole revocation process. Thus, a parolee may be revoked for acts committed while insane.

*Cox v. Estelle*, 512 F.2d 523 (5th Cir. 1975).

Parole is not a constitutional and fundamental right.

*Calabro v. U.S. Board of Parole*, 525 F.2d 660 (5th Cir. 1975).

The standard of review of parole board decision is to

determine whether the decision is arbitrary, capricious or an abuse of discretion. Factual errors in parole file are not prejudicial where inmate has provided the parole board with his own statement of the factual data before the decision.

*Clay v. Henderson*, 524 F.2d 921(5th Cir. 1975). cert. denied, 425 U.S. 995.

Transfer of inmate from federal prison to state institution was parole and not transfer and thus the inmate ceased to earn federal good time upon the transfer.

*McIntosh v. Woodward*, 514 F.2d 95 (5th Cir. 1975).

A Parole Board can rescind its parole order without applying the revocation procedures mandated by *Morrissey* decision.

*United States v. Tucker*, 524 F.2d 77 (5th Cir. 1975).

No preliminary hearing required on probation revocation where revocation is based on new conviction.

*Baker v. Wainwright*, 527 F.2d 372 (5th Cir. 1976) (Florida).

Parole revocation proceeding violated *Morrissey* in that board 1) failed to delay hearing to permit attendance of retained counsel; 2) denied cross-examination of principal witness without a statement of basis thereof; 3) denied preliminary hearing before neutral hearing officer; and 4) report of the proceedings before the examiner was inaccurate.

*Brown v. Lundgren*, 528 F.2d 1050 (5th Cir. 1976), cert denied, \_\_\_\_\_ U.S. \_\_\_\_\_.

Federal prisoners have no right to be released on parole. They have only a statutory right to have Parole Board comply with administrative procedures Act and its own rules and guidelines. Parole is not a right. Denial of parole is not a "grievous loss" requiring due process.

*Berkley v. Benson*, 531 F.2d 1050 (5th Cir. 1976).

A court may not review the correctness of a Parole Board's decision to continue a prisoner in custody.

*Williams v. McCall*, 531 F.2d 1247 (5th Cir. 1976).

Parole Board need not give a hearing to each and every inmate being considered for parole, but where it is undertaken to select some inmate for hearings, an inmate who was not so selected has an action to attack the criteria employed for such selection.

*Gray v. Sigler*, 532 F.2d 1008 (5th Cir. 1976) (Atlanta).

Where the parolee is in custody on a new sentence, he has no right to a parole revocation hearing until the expiration of that intervening sentence.

- Bistram v. U.S. Board of Parole*, 535 F.2d 329 (5th Cir. 1976).  
 (Atlanta) The parole board is permitted to look to that portion of the charge which was dropped in plea bargaining in determining the severity of the offense.
- Payne v. United States*, 539 F.2d 443 (5th Cir. 1976).  
 (Texas) The court cannot review the U.S. Board of Parole's choice of factors on its salient factor table for a particular individual.
- Thomas v. United States*, 539 F.2d 572 (5th Cir. 1976). (Alabama)  
 The paroling authority need not conduct a prompt revocation hearing where the individual is in custody under a new sentence.
- United States v. Norton*, 539 F.2d 1082 (5th Cir. 1976).  
 The determination of eligibility for parole is within the discretion of the paroling authority.
- Coronado v. U.S. Board of Parole*, 540 F.2d 216 (5th Cir. 1976).  
 Requiring individuals released on mandatory release to comply with and conform to the standard parole conditions violates neither due process nor double jeopardy.
- Howard v. Maggio*, 540 F.2d 1280 (5th Cir. 1976).  
 Statute prohibiting parole for individual convicted of armed robbery did not violate equal protection or the 8th Amendment.
- Shaw v. Briscoe*, 541 F.2d 489 (5th Cir. 1976).  
 Inmate being considered for parole has no right to: examine the records and files to be employed by the Parole Board, a hearing before the Board, a written narrative of the reasons for the Board's decision, nor the right to appeal from an adverse decision. Court noted that inmates are notified of the reasons and factors for denial of parole.
- Cruz v. Skelton*, 543 F.2d 86 (5th Cir. 1976).  
 Due process does not apply in the parole granting process except insofar as the courts can review a denial of parole to determine whether it was arbitrary and capricious. The inmate is not entitled to appointment of counsel to represent him at parole grant hearing. Lack of programs at the institution did not deny equal protection or due process.
- Craft v. Texas B.P.P.*, 550 F.2d 1054 (5th Cir. 1977), *cert. denied*,  
 \_\_\_\_\_ U.S. \_\_\_\_\_.  
 Inmate has no right to view parole file. Expectancy of release on parole is not a constitutionally protected liberty and one's expectation of parole denied is not cruel and unusual punishment. Board's notice of denial sufficient notice of reasons for denial.

# APPENDIX 7

## DIRECTORY OF OFFICES OF THE TEXAS BOARD OF PARDONS AND PAROLES

### CENTRAL OFFICE

711 Stephen F. Austin Bldg.  
Austin, Texas 78701  
Phone: 512/475-4525

### COMMISSIONERS OFFICES

P.O. Box 1207  
228½ N. Velasco  
Angleton, Texas 77515  
Phone: 713/849-3031

P.O. Box 1516  
127 E. Gooch  
Palestine, Texas 78501  
Phone: 214/729-3568

2503 Lake Road  
Huntsville, Texas 77340  
Phone: 713/291-2161

### INSTITUTIONAL OFFICES

**Northern Section**  
P.O. Box 99  
1036 11th Street  
Huntsville, Texas 77340  
Phone: 713/291-2106

**Southern Section**  
228½ N. Velasco  
Angleton, Texas 77515  
Phone: 713/849-6491

127 E. Gooch St.  
Palestine, Texas 78501  
Phone: 214/729-3698

Jester State Farm No. 1  
Richmond, Texas 77469  
Phone: 713/494-7134

**Community Services Office**  
El Monterrey Professional Bldg.  
3838 Northwest Loop 410  
Suite 104  
San Antonio, Texas 78229  
Phone: 512/736-1550

## FIELD OFFICES BY REGION

### REGION I

Louis J. Schoenfeld, Supervisor  
444-B Lancaster-Kiest  
Shopping Center  
Dallas, Texas 75216  
Phone: 214/371-1374

Dallas District Office I  
444-B Lancaster-Kiest  
Shopping Center  
Dallas, Texas 75216  
Phone: 214/371-1374  
Counties Covered: Dallas

Dallas District Office II  
1142-D Garland Rd.  
Dallas, Texas 75218  
Phone: 214/328-8443  
Counties Covered: Dallas

Dallas District Office III  
Westmoreland Plaza  
Shopping Center  
821 North Westmoreland  
Dallas, Texas 75204  
Phone: 214/330-7226  
Counties Covered: Dallas

Denton District Office  
G & T Office Bldg.  
122 N. Locust, Suite 200  
Denton, Texas 76201  
Phone: 817/383-3423  
Counties Covered: Collin, Cooke,  
Denton, Grayson

Waxahachie District Office  
Dwarf Building  
209 Sycamore St.  
Waxahachie, Texas 75165  
Phone: 214/927-6077

Counties Covered: Ellis, Kaufman,  
Navarro

Nacogdoches District Office  
206 West Pillar  
Nacogdoches, Texas 75961  
Phone: 713/569-6234  
Counties Covered: Angelina,  
Nacogdoches, Sabine, San  
Augustine, Shelby

Longview District Office  
Suite 412  
202 East Whaley St.  
Longview, Texas 75601  
Phone: 214/258-0282

Counties Covered: Camp, Franklin,  
Gregg, Morris, Red River, Titus,  
Upshur

Tyler District Office  
119 South Spring  
Tyler, Texas 75072  
Phone: 214/595-4276  
Counties Covered: Anderson,  
Cherokee, Henderson, Rusk, Smith  
Wood, Van Zandt

Greenville District Office  
Greenville National Bank Bldg.  
Suite 707  
Greenville, Texas 75401  
Phone: 214/455-6757

Counties Covered: Hunt, Fannin,  
Lamar, Delta, Raines, Rockwall,  
Hopkins

Marshall District Office  
110 Travis Terrace Bldg.  
505 East Travis St.  
Marshall, Texas 75670  
Phone: 214/938-1277

Counties Covered: Bowie, Cass,  
Harrison, Marion, Panola

## REGION II

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Counties Covered: Harris

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Counties Covered: Harris

## REGION III

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Counties Covered: Atascosa,  
Bandera, Bexar, Comal, Dimmit,  
Edwards, Frio, Gillespie,  
Guadalupe, Karnes, Kendall, Kerr,  
Kimble

San Antonio District Office II  
Professional Bldg.  
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Counties Covered: Bexar, Kinney,  
LaSalle, Maverick, McMullen,  
Medina, Menard, Real, Uvalde, Val  
Verde, Wilson, Zavala

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Austin, Texas 78701  
Phone: 512/474-7327

Counties Covered: Bastrop, Blanco,  
Burlinson, Burnet, Caldwell,  
Fayette, Hays, Lee, Llano, Mason,  
Milam, San Saba, Travis,  
Williamson

Corpus Christi District Office  
Klee Square Bldg.  
Suite 531  
505 South Water St.  
Corpus Christi, Texas 78401  
Phone: 512/883-4331

Counties Covered: Aransas, Bee,  
Brooks, Duval, Jim Hogg, Jim  
Wells, Kleberg, Live Oak, Nueces,  
San Patricio, Webb

Harlingen District Office  
P.O. Box 2621  
Room 209 Matz Bldg.  
513 E. Jackson  
Harlingen, Texas 78550  
Phone: 512/423-2604

Counties Covered: Cameron,  
Hidalgo, Kenedy, Starr, Willacy,  
Zapata

Victoria District Office  
2nd Floor, Old County Courthouse  
101 North Bridge St.  
Victoria, Texas 77901  
Phone: 512/578-6021

Counties Covered: Calhoun, Dewitt,  
Goliad, Gonzales, Jackson, Lavaca,  
Refugio, Victoria

## REGION IV

Edward Barkley, Supervisor  
M.O. Owens Bldg.  
913 Avenue K  
P.O. Box 2218  
Lubbock, Texas 78408  
Phone: 806/762-0359

Lubbock District Office  
M.O. Owens Bldg.  
913 Avenue K  
P.O. Box 2218  
Lubbock, Texas 79408  
Phone: 806/762-0359  
Counties Covered: Cochran,  
Crosby, Dawson, Dickens, Gaines,  
Garza, Hockley, King, Lubbock,  
Lynn, Terry, Yoakum

Amarillo District Office  
Amarillo Bldg.  
Suite 439  
301 Polk  
Amarillo, Texas 79101  
Phone: 806/376-9102

Counties Covered: Armstrong,  
Carson, Collingworth, Dallam, Deaf  
Smith, Donley, Gray, Hansford,  
Hartley, Hemphill, Hutchinson,  
Lipscomb, Moore, Ochiltrie,  
Oldham, Potter, Randall, Roberts,  
Sherman, Wheeler

Odessa District Office  
Room 3  
Ector County Courthouse  
Odessa, Texas 76760  
Phone: 915/332-3501  
Counties Covered: Andrews, Crane,  
Ector, Loving, Pecos, Reeves,  
Terrell, Ward, Winkler

Midland District Office  
Courthouse Annex  
218 West Illinois  
Midland, Texas 78704  
Phone: 915/682-1301

Counties Covered: Borden,  
Crockett, Glasscock, Howard,  
Martin, Midland, Reagan, Upton

San Angelo District Office  
Room 307  
Tom Green County Courthouse  
San Angelo, Texas 76901  
Phone: 915/655-3834  
Counties Covered: Brown, Coke,  
Coleman, Concho, Irion,  
McCulloch, Runnels, Schleicher,  
Sterling, Sutton, Tom Green

Plainview District Office  
Skaggs Bldg.  
Suite 318  
7th and Broadway  
Plainview, Texas 79072  
Phone: 806/293-4612  
Counties Covered: Castro,  
Childress, Cottle, Bailey, Briscoe,  
Floyd, Hale, Hall, Lamb, Motley,  
Parmer, Swisher

El Paso District Office  
4428 Montana  
Room No. 1, Wardy Bldg.  
El Paso, Texas 79903  
Phone: 915/565-2100  
Counties Covered: Brewster,  
Culberson, El Paso, Hudspeth, Jeff  
Davis, Presidio

## REGION V

Joe M. Gunn, Supervisor  
721 Seminary South  
Office Bldg.  
Ft. Worth, Texas 76115  
Phone: 817/921-3537

Fort Worth District Office  
721 Seminary South  
Office Bldg.  
Ft. Worth, Texas 76115  
Phone: 817/921-3537  
Counties Covered: Erath, Hood,  
Jack, Johnson, Montague, Palo

Pinto, Parker, Somervell, Tarrant,  
Wise

**Waco District Office**

Liberty Bldg.

Suite 410

104 N. 6th Street

Waco, Texas 76701

Phone: 817/756-3726

Counties Covered: Bosque,  
Freestone, Falls, Hills, Limestone,  
McLennan

**Abilene District Office**

Mims Bldg.

North 3rd at Cypress

Abilene, Texas 79601

Phone: 915/673-5401

Counties Covered: Callahan,  
Eastland, Fisher, Haskell, Jones,  
Kent, Mitchell, Nolan, Scurry,  
Shackleford, Stephens, Stonewall,  
Taylor, Throckmorton, Young

**Wichita Falls District Office**

123 Fre-Mar Valley

Wichita Falls, Texas 76301

Phone: 817/322-2721

Counties Covered: Archer, Baylor,  
Clay, Foard, Hardeman, Knox,  
Wichita, Wilbarger

**Temple District Office**

First National Bank Bldg.

Suite 509

18 South Main

Temple, Texas 76501

Phone: 817/773-6036

Counties Covered: Bell, Lampasas,  
Coryell, Comanche, Hamilton, Mills

**REGION VI**

Clark Porter, Supervisor  
228½ North Velasco

P.O. Box 1666

Angleton, Texas 77515

Phone: 713/849-6491

**Angleton District Office**

228½ North Velasco

Angleton, Texas 77515

Phone: 713/849-6491

Counties Covered: Brazoria, Fort  
Bend, Matagorda, Wharton, Austin,  
Colorado

**Beaumont District Office**

480 Interstate 10, North

Beaumont, Texas 77702

Phone: 713/838-4830

Counties Covered: Hardin, Jasper,  
Jefferson, Newton, Orange, Tyler

**Huntsville District Office**

1037 11th Street

Huntsville, Texas 77340

Phone: 713/205-5217

Counties Covered: Brazos, Grimes,  
Houston, Leon, Madison,  
Robertson, Trinity, Walker,  
Washington

**Galveston District Office**

207 National Hotel Bldg.

2221 Market Street

Galveston, Texas 77550

Phone: 713/765-9558

Counties Covered: Galveston

**Conroe District Office**

Douglass Building

1112 North Frazier

Conroe, Texas 77301

Phone: 713/756-0420

Counties Covered: Chamber,  
Liberty, Montgomery, Polk, San  
Jacinto, Waller

# APPENDIX 8

## THE PAROLE OFFICER'S CODE OF ETHICS

As a Parole Officer, I shall:

Abide by and uphold the laws of my community, state and nation, remembering always my duty to protect the community which I serve; and, share, within the limits of my office, in a general responsibility for making my community a better place in which to live.

Regard as my professional obligation, consistent with public welfare, the interests of those assigned to my supervision; and, respect both their legal and moral rights at all times;

Assure that professional responsibility and objectivity take precedence over my personal convenience or biases; and, when not inconsistent with my obligation to my Agency or the welfare of society, to maintain in strict confidence any personal revelations which are given to me;

Support the policies of my agency; work to improve its standards and performance; and, dedicate myself to improve my knowledge and understanding in order to better serve my community and those from whom I have responsibility;

Treat the accomplishments of my colleagues with respect and express critical judgment of them only through established Agency channels; support them always in fulfilling their responsibilities, respect difference of opinion between myself and my colleagues and take positive steps to resolve them;

Work cooperatively with other agencies in matters affecting the welfare and protection of the community; protect the confidentiality of shared information; and, respect the functions and limitations of other agencies;

Conduct myself, both privately and publicly, in such a manner as to enhance public confidence in my agency and its objectives; neither grant nor receive favors in the performance of the duties of my office; and, treat all persons with whom I have contact with courtesy and respect;

Always recognize my office as a sacred trust which has been given to me to guard and sustain.

*Adopted by the Members and Staff of the Board of Pardons and Paroles of the State of Texas, January 1, 1961.*

## GLOSSARY\*

**Absconder:** A parolee who disappears in order to avoid supervision.

**Active Supervision:** Supervision status of parolee in which the parolee must report regularly to a field Parole Officer.

**Annual Statistical Report:** A booklet produced and distributed for each fiscal year by the Texas Board of Pardons and Paroles in accordance with Article 42.12 of the Texas Code of Criminal Procedure containing a summary report of Board and Agency activities.

**Board:** The Board of Pardons and Paroles, which is composed of three members: one member appointed by the Governor; one member appointed by the Chief Justice of the Supreme Court; and one member appointed by the Presiding Judge of the Court of Criminal Appeals.

**Commissioner:** Parole Commissioners; two appointed by the Governor; two by the Chief Justice of the Supreme Court of Texas; and two by the Presiding Judge of the Texas Court of Criminal Appeals; with the same duties as Board in matters of parole and parole revocation.

**Commutation of Sentence:** Form of executive clemency whereby the sentence of the court may be lessened.

**Conditional Pardon:** A form of executive clemency which serves to release the grantee from the conditions of his/her sentence and any disabilities imposed by law thereby, subject to the grantee's performance of the conditions contained in the clemency proclamation.

**Denial:** Refusal by the Governor to approve the Board's recommendation for parole or executive clemency.

**Detainer Warrant:** A written legal instrument issued by a competent authority to retain an inmate in prison for a valid purpose.

**Director:** Director of the Division of Parole Supervision.

**District Parole Officer:** Person responsible for supervision of parolees and releasees to mandatory supervision. His/her duties are to investigate, to counsel with parolees and families, and to submit reports to the Board.

**Division:** Division of Parole Supervision of the Board of Pardons and Paroles.

**Eligibility for Parole Consideration — Legal Eligibility:** The time during an inmate's confinement at which the inmate's case may be evaluated for possible release on parole as provided by law.

\*Note: See Rules Section 205.01.11.001-.029, for additional definitions.

**Emergency Reprieve:** A form of executive clemency allowing an inmate's temporary release from prison. (1) to enter a private or state hospital, (2) to attend civil court proceedings, or (3) to attend a funeral of an immediate family member, or (4) to be with critically ill immediate family members. Also called Temporary Furlough as administered by TDC.

**Executive Clemency:** Acts of the Governor including granting of a special privilege to an inmate while imprisoned; stay of execution of the death sentence; full pardons; conditional pardons; commutation of sentence imposed in felony or misdemeanor cases; emergency reprieves; medical reprieves; reprieves to attend civil court proceedings; or a reprieve of jail sentence.

**Full Pardon:** An unconditional act of executive clemency by the Governor which serves to release the grantee from the conditions of his/her sentence and from any disabilities imposed by law thereby.

**Further Investigation (FI):** An initial determination by the Parole Panel favorable to parole of an inmate, subject to additional investigation and Governor approval.

**Good Time:** Commutation of time by the Texas Department of Corrections (*not* by the Board of Pardons and Paroles) for good conduct, industry, and obedience. Inmates are credited with extra days of service towards parole or mandatory supervision eligibility.

**Hearing Officer:** A Parole Officer or staff member assigned to conduct a preliminary inquiry into an allegation of the violation of parole; when used in connection with violation hearings, hearing officer means the member chairing same.

**Inmate:** A person incarcerated in the Texas Department of Corrections, other penal institution, or jail.

**Institutional Parole Officer (IPO):** Parole officer working within the Texas Department of Corrections who works with inmates and their families in matters concerning parole procedures, parole planning and executive clemency and submits reports to the Board.

**Interstate Probation and Parole Compact:** An agreement between Texas, the other 49 states, the Virgin Islands, and Puerto Rico to allow probationers and parolees to serve their parole terms in a jurisdiction other than the jurisdiction in which the offense was committed.

**Mandatory Supervision:** The release of a prisoner from imprisonment but not on parole and not from the legal custody of the State, for rehabilitation outside of prison walls under such conditions and provisions for disciplinary supervision as the Board of Pardons and

Paroles may determine. Mandatory supervision may not be construed as a commutation of sentence or any other form of executive clemency.

**Morrissey v. Brewer:** A United States Supreme Court ruling on June 29, 1972 that requires an On-Site Investigation and Hearing (unless waived) for the parolee who is charged with an alleged parole violation by the Board of Pardons and Paroles.

**On-Site Hearing:** A review of the facts of a suspected violation of parole by a parolee held before an impartial hearing officer at or near the site of the alleged offense. The parolee may waive the right to an On-Site Hearing.

**Pardon:** (See Full Pardon.)

**Parole:** Release of an inmate from imprisonment but not from legal custody of the State to serve his sentence day-for-day outside of prison walls under such conditions and provisions for disciplinary supervision as the Board may determine. Parole shall not be construed to mean a commutation of sentence or any form of executive clemency.

**Parolee:** Inmate who is released from incarceration on parole.

**Parole Agreement:** An agreement by an inmate to abide by all of the terms and conditions of parole, the acceptance, and signing of which by an inmate are prerequisite to release on parole. Part of the Parole Certificate.

**Parole Analyst:** Employee of the Board who reviews and evaluates written reports in all phases of parole supervision, parole selection, and parole revocations.

**Parole Certificate:** An order of the Board incorporating a parole agreement which, when fully executed, authorizes the release of an inmate from the Texas Department of Corrections on parole.

**Parole Officer:** Person duly appointed by the Director of Parole Supervision and assigned the duties of investigating and supervising paroled prisoners and mandatory supervision prisoners.

**Parole Panel:** A panel composed of any three Commissioners or the Parole Board, or any combination thereof, as named from time to time by the Board, for purposes of parole selection, parole revocation or mandatory supervision revocation.

**Parole Plan:** Proposal for residence and employment, or proposed provision for maintenance and care of the parolee.

**Point Incentive Program:** Program of the Texas Department of Corrections which rates inmates on participation in various self-improvement programs.

**Pre-Parole Investigation:** Investigation by the District Parole officer of the prospective parolee's parole plan necessary before release on parole can be effected.

**Pre-Revocation Warrant:** Warrant authorizing the arrest by any peace officer of a parolee for alleged violation of conditions of his parole.

**Probation:** Release of a convicted offender by a court under conditions imposed by the court for a specified period during which the imposition of sentence is suspended.

**Probation Officer:** Person duly appointed by one or more courts of record having original criminal jurisdiction to supervise defendants placed on probation; or a person designated by such courts for such duties on a part-time basis.

**Probationer:** Convicted offender who is released (usually to local or county law enforcement officials, *not* the State as in the case of parolees) under conditions imposed by the court for a specified period during which the imposition of sentence (imprisonment) is suspended.

**Release Plan:** Proposal for parolee's employment, housing, family life, etc. after release from prison. Also called Parole Plan.

**Remission of Fine or Forfeiture:** An act of clemency by the Governor releasing the grantee from payment of all or a portion of a fine or cancelling a forfeiture of a bond.

**Reprieve:** A form of executive clemency granting temporary suspension of the execution of a sentence.

**Restoration of Rights of Citizenship:** An act of executive clemency limited to the restoration of the right to vote, which in turn restores any other civil rights conditioned upon the right to vote; *not* a Full Pardon.

**Revocation:** The cancellation of parole or of a conditional act of executive clemency which subjects the grantee of the parole or act of clemency to immediate incarceration to serve the remainder of the sentence or, in the instance of a fine, to immediate payment of the fine.

**State Approved Trustee (SAT):** Receives 60 days of good time for each 30 days of calendar-time served. (See Good Time.)

**Serve-All (SA):** A decision by the Parole Panel to deny a recommendation for parole, with the further recommendation that the inmate be required to serve the remainder of the sentence in prison.

**Set-Off (SO):** Decision by Parole Panel in which the offender is not paroled but his case is set for review at a later date.

**Tentative Parole Approval:** Approval by the Board for the release of the inmate dependent upon the District Parole Officer's investigation of the release plan.

**Texas Department of Corrections (TDC):** The agency which manages the state's adult institutional correctional system with responsibility for the treatment and management of the prisoners confined in its facilities.

**Trial Officials:** The present sheriff, prosecuting attorney, and judge in the county and court of conviction.

**Trial Reprieve:** A form of executive clemency used in jail cases in which an inmate is released for a specified time. It does not release the inmate from the penalty of the sentence nor does the time away from the jail count as time served on the sentence.

**Violation Hearing:** The second step in the parole revocation process in which the facts of the alleged violation are presented to the Board at the Texas Department of Corrections unit where the parolee is being held.

**Volunteer Parole Officer:** Citizen who contributes his time and counseling abilities to help both the parolee and the professional Parole Officer.

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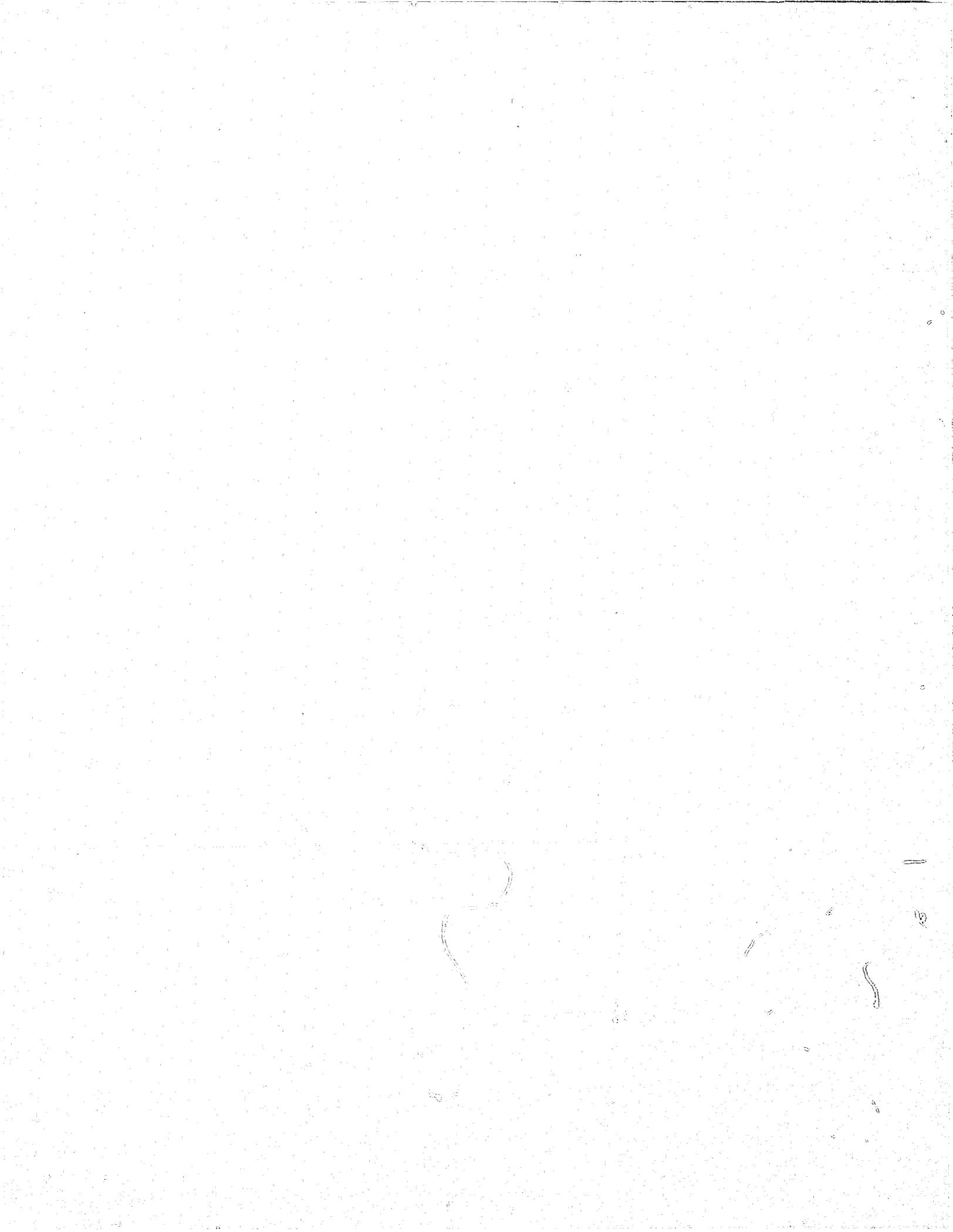
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