

STATE BOARD OF PARDONS AND PAROLES



Garland R. Hunt, Esq.
Chairman

2 Martin Luther King, Jr., Drive, S.E.
Balcony Level, East Tower
Atlanta, Georgia 30334-4909
(404) 656-5651
www.pap.state.ga.us

L. Gale Buckner
Vice-Chair
Garfield Hammonds, Jr.
Member
Milton E. "Buddy" Nix, Jr.
Member
Robert E. Keller
Member

December 3, 2007

PUBLIC NOTICE OPEN MEETING State Board of Pardons and Paroles

PURSUANT TO THE TERMS OF O.C.G.A. § 50-14-1 NOTICE IS HEREBY GIVEN TO THE PUBLIC THAT THE OPEN MEETING OF THE STATE BOARD OF PARDONS AND PAROLES SCHEDULED FOR FRIDAY, **DECEMBER 7, 2007**, AT 10 A.M. HAS BEEN CHANGED TO MONDAY, DECEMBER 10, 2007, AT 9 A.M. THE MEETING WILL BE HELD IN THE BOARD'S FIFTH FLOOR HEARING ROOM AT 2 MARTIN LUTHER KING, JR. DRIVE, ATLANTA, GEORGIA 30334.

A handwritten signature in blue ink that reads "Tracy D. Masters".

Tracy D. Masters
Secretary to the Board

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BOARD MEETING AGENDA December 10, 2007

LOCATION: PAROLE BOARD HEARING ROOM

Time: 9:00 A.M.

**2 Martin Luther King, Jr. Drive
5th Floor, East Tower
Atlanta, Georgia 30334**

- I. CALL TO ORDER
- II. WELCOME - Chairman Hunt
- III. APPROVAL OF AGENDA
- IV. ADOPTION OF MINUTES FROM NOVEMBER 8, 2007 MEETING
- V. OLD BUSINESS
 - A. REVIEW OF PROPOSED AMENDMENTS TO BOARD RULE 475-3-.5:
PAROLE CONSIDERATION. – Tracy Masters
 - B. PUBLIC COMMENT ON PROPOSED AMENDMENT
 - C. VOTE ON PROPOSED AMENDMENTS
- VI. NEW BUSINESS
 - A. DIRECTOR'S REPORT – Beth Oxford
 - i. "Streamlined" Banking Project – Dan Ebersole, Director of Office of
Treasury and Financial Services
- VII. ADJOURNMENT

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BOARD MEETING SUMMARY

December 10, 2007

Members Present:

Chairman Garland R. Hunt, Esq.; L. Gale Buckner, Vice-Chair;
Garfield Hammonds, Jr; Milton E. Nix, Jr.; and, Robert E. Keller.

Motions and Other Business:

1. Chairman Hunt called the meeting to order at 11:00 a.m. The meeting was held in the Board's Hearing Room, 5th Floor, East Tower, 2 M. L. King Jr. Drive, Atlanta, Georgia. Chairman Hunt, Vice-Chair Buckner, Mr. Hammonds, Mr. Nix, and Mr. Keller were present.
2. Chairman Hunt welcomed everyone to the meeting.
3. Mr. Hammonds made a motion to adopt the agenda as written. Vice-Chair Buckner seconded the motion and the motion carried unanimously.
4. Mr. Hammonds made a motion to adopt the minutes of the Board meeting of November 8, 2007. Mr. Nix seconded the motion and the motion carried unanimously.
5. Tracy Masters, Director of Legal Services, reviewed proposed amendments to Board Rule 475-3-.5: Parole Consideration that the Board provisionally adopted on November 8, 2007. Specifically, the Board had provisionally amended its Agency Rule 475-3-.05, relating to Parole Consideration, by renumbering paragraph seven as paragraph nine and amending said paragraph; and renumbering paragraph eight as paragraph 18; and adding new paragraphs seven, eight, ten, 11, 12, 13, 14, 15, 16 and 17 as reflected in the attached Synopsis dated November 8, 2007.

The floor was open for public comment on this issue. Public comments were received from the following citizens:

McNeill Stokes – Mr. Stokes spoke against the proposed amendment. He stated, "You [the Board] follow discretion, not law; that's lawless. You five people answer to no one." He also informed the Board that if they pass this proposed rule, it would generate a cost of five billion dollars over the next ten years.

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Dec. 10, 2007

Gregg Poe – Mr. Poe spoke against the proposed amendment. He stated, “The new revised guidelines, as with your [the Board] old guidelines, is useless. It’s useless because they’re not followed. Because this Board decides to leave the door open to your own discretion, to do as you please.”

Mr. Nix made a motion to adopt the proposed amendments to Board Rule 475-3-.05 and Mr. Keller seconded the motion. The motion carried unanimously. The amendments to Board Rule 475-3-.05 will become effective on January 1, 2008.

6. Beth Oxford, Director of Parole, informed the Board that Dan Ebersole, Director of the Office of Treasury and Financial Services had a conflict today and would not be able to make his scheduled presentation to the Board on the “Streamlined” Banking Project. Ms. Oxford said she would reschedule his presentation for a future Board meeting.
7. With no further business, Vice-Chair Buckner made a motion for adjournment. Mr. Keller seconded the motion and the motion carried unanimously.


Tracy D. Masters
Secretary to the Board

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OFFICIAL MINUTES

Open Meeting of December 10, 2007

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2. Chairman Hunt welcomed everyone to the meeting.
3. Mr. Hammonds made a motion to adopt the agenda as written. Vice-Chair Buckner seconded the motion and the motion carried unanimously.
4. Mr. Hammonds made a motion to adopt the minutes of the Board meeting of November 8, 2007. Mr. Nix seconded the motion and the motion carried unanimously.

OLD BUSINESS

Tracy Masters, Director of Legal Services, reviewed proposed amendments to Board Rule 475-3-.5: Parole Consideration that the Board provisionally adopted on November 8, 2007. Specifically, the Board had provisionally amended its Agency Rule 475-3-.05, relating to Parole Consideration, by renumbering paragraph seven as paragraph nine and amending said paragraph; and renumbering paragraph eight as paragraph 18; and adding new paragraphs seven, eight, ten, 11, 12, 13, 14, 15, 16 and 17 as reflected in the attached Synopsis dated November 8, 2007.

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Mr. Nix made a motion to adopt the proposed amendments to Board Rule 475-3-.05 and Mr. Keller seconded the motion. The motion carried unanimously. The amendments to Board Rule 475-3-.05 will become effective on January 1, 2008.

6. NEW BUSINESS

a. DIRECTOR'S REPORT

Beth Oxford, Director of Parole, informed the Board that Dan Ebersole, Director of the Office of Treasury and Financial Services had a conflict today and would not be able to make his scheduled presentation to the Board on the "Streamlined" Banking Project. Ms. Oxford said she would reschedule his presentation for a future Board meeting.

7. With no further business, Vice-Chair Buckner made a motion for adjournment. Mr. Keller seconded the motion and the motion carried unanimously.

Approved by the Board on the 5th day of January 200⁸.

Garland R. Hunt, Esq.
Garland R. Hunt, Esq.
Chairman

Attachment

**STATEMENT OF MCNEILL STOKES
TO
STATE BOARD OF PARDONS AND PAROLES
ON
PROPOSED RULE MAKING**

DECEMBER 10, 2007

Mr. Chairman and Members of the Board:

I am McNeill Stokes, an attorney who has been involved in the aftermath of the ninety percent to serve policy in various cases brought against the Members of the Board contesting the validity of the actions of the Board's adopting and continuing the de facto application of the substantially extended sentences to serve policy. This substantially extended sentences to serve policy was adopted without legal authority or rulemaking contrary to the enacted statutory parole laws and the Parole Decision Guidelines to require that inmates in twenty offense categories serve at least ninety percent of their judicial sentences before being practically eligible for release on parole.

I commend the Board for abandoning the ninety percent to serve policy following Judge T. Jackson Bedford's Order in *Griffin, et al. v. Nix, et al.*, Superior Court of Fulton County, Civil Action No. 2004-CV-92152 (March 3, 2005) as announced in your news release on March 10, 2005. This should have unblocked inmates who have previously been foreclosed from

consideration for release on parole because of the ninety percent extended sentences to serve policy, but as telegraphed in your news release of announced reconsiderations the Members of this Board are still continuing a de facto substantially extended sentences to serve policy and are not following the enacted parole laws entitling inmates to consideration for release on parole after serving the greater of one-third of their judicial sentences or the months to serve calculated in accordance with the Parole Decision Guidelines.

The announcement in the news release that "the vast majority of these inmates can expect to serve most of their sentence in prison" forewarned the ominous projected implication that the Members of this Board would continue a substantially extended sentences to serve policy regardless of the Superior Court of Fulton County striking down their ninety percent extended sentences to serve policy. In fact the Board has continued a substantially extended sentences to serve policy and will still not follow the statutory parole laws and the statutorily mandated Parole Decision Guidelines in the reconsiderations of the inmates whose parole has been previously foreclosed by the now declared illegal actions of this Board. In not a single case has the Board followed the parole laws or the Parole Decision Guidelines for any inmates formerly covered by the ninety percent to serve policy.

The Board codified in changes to the Parole Decision Guidelines to perpetuate the previous de facto extended sentences to serve policy in its previously proposed Rule 475-3-.05 which requires that inmates serve 65%, 75%, or 90% of their judicial sentences before being eligible for release on parole. At least the previously unpublished substantially extended sentences to serve policy has been forced out in the open. The adopted Rule provided for release on parole for inmates in the covered offender categories after serving 65% to 90% of judicial sentences will continue to have the effect of wholesale foreclosing release for all covered inmates. The adopted rule covered 23 offender categories including the 20 offender categories which were previously covered in the ninety percent to serve policy as Level VIII offenses.

Now the Board is proposing additional rule changes to Rule 475-3-.05 which will further practically extend the sentences to serve of inmates in all categories, but very significantly encompasses Level I through Level IV offender categories which includes most non-violent offenses. I oppose the adoption of the proposed amendments to Rule 47-3-.05 as I opposed the previous adoption of changes essentially codifying the 90 % to serve extended sentences to serve policy. The Board continues to totally disregard

the parole laws that declare inmates eligible for release on parole after serving one third of their sentences.

The proposed Rule, just as the previous Rule change, that substantially extends sentences to serve cannot constitutionally be retroactively applied to extend the sentences to serve of inmates whose offenses were committed prior to its effect date which would have the certain effect of increasing their punishment after they have committed their offenses in violation of Ex Post Facto prohibitions of the United States Constitution. The parole laws in effect at the time of commission of offenses attach to determine offenders likely sentences to serve and any parole action which increase their sentences to serve beyond their likely sentences to serve under the parole laws and the Parole Decision Guidelines in effect at the time of commission of their offenses violates Ex Post Facto. An unspoken issue is will the Members of this Board continued to de facto retroactive substantially increasing of inmates sentences to serve who offenses were committed prior to the effective date of this proposed codification of the previously de facto enforced substantially extended sentences to serve policy? The history is that they will retroactively increase sentences to serve and will not follow the parole laws and the Parole Decision Guidelines in

effect at the time of commission of offenses regardless of the constitutional prohibitions.

The proposed rule as well as the previous codification of the substantially extended sentences to serve policy is just fundamentally flawed. It is inconsistent with the legislatively enacted parole laws which as you well know provide in O.C.G.A. § 42-9-45 (b) that inmates serving fixed term judicial sentences shall be eligible for release on parole after serving one-third of their judicial sentences or a maximum of seven years. The proposed Rule as well as the previous Rule change totally ignore the legislatively enacted parole laws and would wholesale foreclose inmates from consideration for parole after serving one-third of their sentences. O.C.G.A. § 42-9-45 limits rulemaking authority to rules and regulations "not inconsistent with this Chapter."

The legally controlling parole laws contained in O.C.G.A. §§ 42-9-45 and 42-9-40 are the existing laws dictating when inmates are to be eligible for release on parole. The statutorily parole laws provide for denial of release only by an objective determination on an individual basis that an inmate's release on parole would not be compatible with the inmate's own welfare or the welfare of society pursuant to O.G.C.A. § 42-9-42 (c).

This de facto extended sentences to serve policy was formalized in the unpublished ninety percent to serve policy that was held to have been in violation of the Georgia Administrative Procedure Act. The Members of this Board are expected to follow the enacted parole laws and the Parole Decision Guidelines in reconsidering inmates previously blocked from release on parole. Not following the parole laws and guidelines would be tantamount to lawlessness by the Members of this Board. The Members of this Board have not only a sworn duty to follow the laws of our state, but not following the enacted parole laws and guidelines makes a mockery of the enacted parole laws by the very Members of the Board who should be setting a legal example for the inmates to whom you are charged to administer the parole laws and guidelines according to the law.

This unpublished policy had an unpublished "effective date" of January 1, 1998, but the Board slavishly applied the ninety percent to serve policy retroactively to inmates whose offenses were prior to January 1, 1998 as well as prospectively to inmates whose offenses after that date to foreclose any parole until the inmates in the listed categories had served ninety percent of their sentences. Judge William C. O'Kelley in *Coleman Jackson v. State Board of Pardons and Paroles*, United States District Court for the Northern District of Georgia, Civil No. 2:01-CV-068-WCO (May 29,

2002), held unconstitutional in violation of Ex Post Facto prohibitions the retroactive application of the unpublished policy of the Board which substantially extended inmates' sentences to serve to at least ninety percent of their judicial sentences. Following the holding that the retroactive application of the ninety percent to serve rule was unconstitutional, the Members of the Board on the advice of the office of the Attorney General adopted a Resolution Amendment, September 9, 2002, resolving that, "Those offenders previously considered for parole under the ninety percent policy who committed their offenses before January 1, 1998, shall be reconsidered for parole under the parole decision guidelines that do not include the ninety percent policy."

However, the Members of this Board did not and have not reconsidered any of the previously covered inmates under the Parole Decision Guidelines. In spite of committing to reconsider inmates under the Parole Decision Guidelines, they did not follow the Parole Decision Guidelines in a single inmate's case. The Board only gave lip service that they would reconsider the previously blocked inmates for parole under the Parole Decision Guidelines and in no case did the Board follow the Parole Decision Guidelines. The Board in reconsidering these inmates' sentences to serve in bad faith only made token adjustments in the sentences to serve

varying only a few months in order to avoid the mathematical ninety percent figure. Some were decreased a few months, some were increased a few months, some stayed the same and some were not even considered. Twice now the courts have told the Members of this Board that you have violated the law in applying extended sentences to serve policy. It is submitted that the Members of this Board must follow the statutory parole laws and the statutorily mandated Parole Decision Guidelines in the reconsiderations of the parole dates for the inmates who have formerly had their sentences to serve extended by the illegal de facto ninety percent extended sentences to serve policy. It is time for the Members of this Board to not only abandon the substantially extended sentences to serve policy, but to set a course in the future of following the enacted parole laws and the Parole Decision Guidelines subject only the statutory exceptions of O.C.G.A. 42-9-42 (c).

When the Members of this Board in each inmate's case slavishly applied (actually the staff) the extended sentences to serve policy to override the existing parole laws affecting the length of the inmate's sentence to serve before consideration for parole, the Board is de facto and practically changing the enacted parole laws without fair legal notice of the increase of the inmates' punishment beyond the enacted parole laws and Parole Decision Guidelines in effect at the time of commission of their offenses.

Constitutionally the enacted parole laws and guidelines which are in existence at the time of commission of the offense attach to judicial sentences and those parole laws and guidelines provide for release on parole of inmates after serving one-third of judicial sentences or the months to serve calculated pursuant to the Parole Decision Guidelines.

The sentencing laws in Georgia provide for very long sentences which are substantially longer than most states' sentencing laws and guidelines because the statutory parole laws contemplate that deserving inmates will be released after serving one-third of their judicial sentences or the months to serve calculated under the Parole Decision Guidelines. The underlying economic motivation for the substantially extended sentences to serve policy was the desire of obtain grant funds from the federal government under Violent Offenders Incarceration - Truth in Sentencing Act ("VOITIS"), 42 U.S.C. § 13704, *et seq.* Rather than reducing the sentencing periods as other states did in order to comply with the 85% requirement for funding pursuant to the "VOITIS"), Georgia went the other way and required that inmates in seven most serious violent offender categories serve mandatory sentences without parole O.C.G.A. § 10-10-6.1. When a similar legislative attempt failed to increase sentences to serve for other violent felonies, the Board adopted and even retroactively implemented an unpublished "policy" that all

offenders in twenty other violent offense and residential burglary categories must serve ninety percent of their judicial sentences before being practically eligible for release on parole.

The Georgia "1998 Application for Violent Offenders Incarceration and Truth in Sentencing Incentive Grant" evidences that the ninety percent to serve policy was adopted to qualify for VOITIS grant funds. This Georgia application explains in bold type the Board's extended time to serve "policy" changes that were in effect tantamount to law in order for Georgia to be eligible for grant funds that: "The new policy makes it mandatory that these violent offenders serve 90% of their court imposed sentence prior to consideration of parole." A 1998 Supplemental Application even attaches a State Board of Pardons and Paroles' news release and explanation of the Board's "Amended Policy for the Parole of Violent Offenders" in order to qualify for tier two VOITIS grant funds. Georgia was then successful and did receive funds through FY 2000 for a total of \$82,236,509 received from the federal government under VOITIS.

Thus the Faustian deal, motivated to receive VOITIS grant funds, traded the freedom of many, many inmates to substantially retroactively extend their sentences to serve de facto ninety percent for the receipt by Georgia of over eighty-two million dollars in federal grant funds to build

new prisons. It is constitutionally shocking that in order to receive VOITIS federal grant funds, Georgia did increase its parole threshold for inmates in twenty offender categories from one-third to de facto ninety percent of judicial sentences by the this Board administratively adopting an unpublished policy having the practical force and effect of law that substantially and retroactively extended as well as continues to de facto substantially extend tens of thousands of inmates' sentences to serve motivated initially by money.

This substantially extended sentences to serve policy is the driving force of the explosion of inmate populations and has caused the Department of Corrections' budget crisis. The overcrowding of Georgia's prisons and back up of state prisoners in jails as well as the previous and current budget crisis are solely the responsibility of the State Board of Pardons and Paroles because many, many thousands of inmates are being held in prison beyond the time that they should be released on parole because the de facto extended sentences to serve policy has foreclosed their parole until they have served practically their entire judicial sentences. The de facto extended sentences to serve policy has caused an estimated additional eighteen thousand inmates in all twenty covered offender categories to serve extended incarcerations beyond their eligibilities for parole.

This enormity of the substantially extended sentences to serve policy being slavishly enforced by the staff at the Board is illustrated by the testimony of Michael Sullivan in 2003 as the Board's then designated representative established the reality that only 18 out of more than ten thousand inmates have been released on parole prior to serving ninety percent and all of those were prosecution deals. So essentially no inmates in these covered offense categories were being released on parole in accordance with the existing parole laws and the Parole Decision Guidelines and the Board has de facto changed the parole laws and ignored the Parole Decision Guidelines.

The annual upkeep costs are a staggering financial draft on the State's budget which the legislature has been forced to fund. The total number of inmates affected by the de facto ninety percent to serve policy is approximately 18,000 arrived at by adding up the number of offenders in the twenty previously covered categories of which all are being required to serve sentences substantially beyond their statutory and guidelines eligibility for release on parole. Using the average annual cost for an inmate's upkeep published by the Department of Corrections of \$17,332 per inmate per year calculates to an additional \$311,976,000 annually that the Georgia tax payers are required to pay to keep inmates incarcerated whose sentences to

serve have long since been served and who should have been released under the parole laws and Parole Decision Guidelines. These administratively snared inmates are mainly offenders with good prison records, offenders who score high on Parole Success Likelihood Scores, first offenders and youthful offenders who have had their sentences to serve substantially extended from the statutory one-third to serve to de facto ninety percent or more to serve before any consideration for parole. The Board would still have the authority to withhold release on parole on an individually determined basis, if an offender's release would not be compatible with the welfare of society under O.C.G.A. § 42-9-42 (c).

This enormous costs of upkeep of inmates which has increased from 19,700 inmates in 1989 to 55,000 inmates today (54,918 as of December 7, 2007 and 104 % of capacity), plus an additional 4,000 state prisoners being held and paid for in county jails, has been driven by the extended sentences to serve of the extended sentences to serve policy of the Board. Not surprisingly when the sentences to serve before parole is virtually tripled, the inmate population in the affected offender categories is ultimately tripled driving the Department of Corrections budget to have to be sharply increased. The Department's expenditures have increased from \$478.5 million in 1991 for 22,945 inmates to a budget for 2008 of \$1,122 billion for

a total inmate population of 59,000 inmates including state prisoners being held in jails. The projected cost for the increased sentences to serve incarcerating inmates beyond their statutory parole eligibility release dates will be in excess of \$5 billion over the next ten years. And as former Board Member Whitworth maintained that the state will "have to" fund the necessary costs of increased prison populations thereby effectively drafting the States' budget process.

The human cost is even more incalculable. Inmates may be able to be rehabilitated back into society after serving one-third of their sentences, but it becomes almost impossible for inmates to be successfully rehabilitated into society after serving almost triple their sentences to serve. The Board's unpublished internal policy also engenders a disrespect for the law and an understandable resentment when the Board (actually the staff) calculates and in every case tells the inmates their Temporary Parole Month calculated under the enacted parole laws and the Parole Decision Guidelines, but then tells the inmates that the Board does follow the parole laws and the Parole Decision Guidelines arbitrarily almost tripling their sentences to serve not just on an individual case but for all inmates in these categories.

The Board is not subject to the core principles of the normal checks and balances of the Republic. The Board is constitutionally independent of

the Executive Branch, they obviously do not follow the legislatively enacted parole laws and legislatively mandated Parole Decision Guidelines, and unless the courts exercise judicial supervision to cabin the Board's excesses they will continue their self proclaimed "unfettered discretion" to de facto wholesale extend tens of thousands of inmates' sentences to serve beyond their sentences to serve under the enacted parole laws and the Parole Decision Guidelines.

It is time for legislative changes that the State Board of Pardons and Paroles files are declared "confidential state secrets" under O.C.G.A. § 42-9-53(c). Total secrecy coupled with unfettered discretion do not comport with our constitutional protections and is simply un-American. It was un-American by the President of the United States claiming presidential privilege to hide the Watergate scandal. The claim of secrecy of the Board files and even the votes of the members in granting or denying parole when coupled with their self-serving claim of unfettered discretion creates a very unusual confluence of secret unchecked power indeed. It is time that the Star Chamber secrecy of the Board be brought into the light of the twenty-first century. It is also time for the Board to afford inmates Due Process hearings. The public thinks that the this board affords inmates a right to a face to face hearing as to their parole like forty-six other state do, but that is

a myth and there are no hearings or Due Process for inmates in Georgia. Madison cautioned that "temporary deviations from fundamental principle are more or less dangerous because once the deviation is made it becomes the rule."

The fact is that the Members of the Board re-sentence inmates to what they think their sentence to serve should be and often re-convict inmates of counts of which they think the inmates should have been convicted under such non-statutory rhetoric of "because of the circumstances of your offense" and "due to the seriousness of your crime." The seriousness of the offenses is already calculated into the Crime Severity Level of the offense. It is not the function of the Members of this Board to re-sentence or re-convict inmates, but it is the responsibility of the Members of this Board to follow the enacted parole laws and Parole Decision Guidelines dictating when deserving inmates should be released. The proposed rulemaking codification continuing the substantially extended sentences to serve policy is reminiscent of the scorer's apprentice who just could not figure out how to turn off what he had started. It is submitted that it is time for the Board to stop re-sentencing inmates to substantially extended sentences to serve and to start following enacted parole laws and previous Parole Decision Guidelines.

The extended sentences to serve policy is perpetrating one of the most massive civil rights violations of our times. The Southern Center for Human Rights reports that Georgia now has the most incarcerated and offender supervised per capita rate of any state or country in the world. I am told that the extended sentences to serve policy has also resulted in a higher per capita rate of incarceration of African-Americans than South Africa incarcerated of their black population at the height of Apartheid.

The Board must not only abandon the ninety percent sentences to serve policy but as well cease and desist their de facto extended sentences to serve policy, written or otherwise, and the Members of this Board must follow the law - the legislative enacted parole laws and legislatively mandated Parole Decision Guidelines.

This 10th day of December, 2007.

Respectfully Submitted,



McNeill Stokes

1040 Peachtree Battle Ave.
Atlanta, Georgia 30327
Tel. 404-352-2144
Fax 404-357-0353

STATE BOARD OF PARDONS AND PAROLES



NOTICE OF INTENT TO CONSIDER AMENDING AN AGENCY RULE

Synopsis

The Board finds that it is in the public's best interest and specifically in the best interest of the criminal justice community (Superior Court Judges, District Attorneys, defense attorneys and law enforcement) to know what to expect from the Board when a sentence is imposed upon a felony offender. A "certainty in sentencing" is established by the Board setting minimal time-to-serve guidelines that incorporate risk factors and are tied to the length of sentences imposed by a majority of Superior Court Judges. The following new Parole Decision Guidelines represent a three-year study and analysis of risk factors utilized in granting clemency to a particular offender, past clemency practices and the effects of the new guidelines on the prison capacity of the state. As a result of the study, the Board's new Parole Decision Guidelines represents its best effort to protect the public from harm by maximizing the utility of the state's prison system by ensuring that the most dangerous offenders are incarcerated for the longest period of time possible, given the State's available resources. Therefore, pursuant to its grant of authority under the Georgia Constitution and in accordance with O.C.G.A. §50-13-4, the Board hereby gives notice to the public of the Board's intent to amend its rules pertaining to Parole Consideration as it relates to Parole Decision Guidelines.

Proposal

Note: Underlined text is proposed to be added to Agency Rule 475-3-.05 and struck-through text deleted from it.

Pursuant to the provisions of the Administrative Procedures Act, notice is hereby given to all interested persons that the State Board of Pardons and Paroles proposes to amend its Agency Rule 475-3-.05, relating to Parole Consideration, by renumbering paragraph seven as paragraph nine and amending said paragraph; and renumbering paragraph eight as paragraph 18; and adding new paragraphs seven, eight, ten, 11, 12, 13, 14, 15, 16 and 17 as follows:

475-3-.05 Parole Consideration.

(7) The minimum mid-point Parole Decision Guidelines recommendation for each Crime Severity Level represents one-third, or more, of the Statewide-average prison sentence for all crimes assigned said Crime Severity Level.

(8)(a) The Parole Board will use the following factors to compute a Risk to Re-Offend Score for each inmate it considers for parole using its Parole Guidelines System.

(b) Number of Felony Convictions: (none = 0 pts.), (1-2 = 1 pt.), (3 = 2 pts.), (4-5 = 3 pts.), (6-7 = 4 pts.), (8 = 5 pts.), (9 or more = 6 pts.).

(c) Number of Prior Prison Incarcerations: (none = 0 pts.), (1 = 1 pt.), (2 = 3 pts.), (3 = 4 pts.), (4 or more = 6 pts.).

(d) Current Prison Sentenced Offenses (score is cumulative) includes: (offense(s) not listed = 0 pts.), (burglary = 1 pt.), (drug possession = 1 pt.), (forgery = 2 pts.), (felony obstruction of an officer = 3 pts.), (theft = 5 pts.).

(e) Age at Current Prison Admission: (20 or less = 0 pts.), (more than 20 to 40 = minus 1 pt.), (more than 40 = minus 2 pts.).

(f) History of drug or alcohol abuse: (no = 0 pts.), (yes = 2 pts.).

(g) Employed at time of current arrest: (no = 0 pts.), (yes = minus 3 pts.).

(9)(a) Offenders considered for parole using the Parole Decision Guidelines System who have been convicted of the following crimes shall be assigned a Crime Severity Level of VIII: voluntary manslaughter, statutory rape, homicide by vehicle while under the influence of alcohol/drugs or as a habitual traffic violator, aggravated battery on a police officer, aggravated assault on a police officer, attempted rape, involuntary manslaughter, hijacking a motor vehicle, criminal attempt to murder, aggravated assault (with injury or weapon), enticing a child for an indecent purpose, cruelty to children, child molestation, feticide by vehicle, incest, bus hijacking, robbery, aggravated stalking, aggravated battery, burglary of an occupied residence, VGCSA - Cocaine or Methamphetamine – 400 or more grams, VGCSA - Marijuana -10,000 or more pounds, or VGCSA - Opiates – 28 or more grams.

(b) Crime Severity Level VIII offenders with a ~~Parole Success Score~~ Risk to Re-Offend Score of ~~0 to 8~~ seven or more shall receive a Parole Guidelines recommendation of 90% of the prison sentence.

(c) Crime Severity Level VIII offenders with a ~~Parole Success Score~~ Risk to Re-Offend Score of ~~9 to 13~~ three to six shall receive a Parole Guidelines recommendation of 75% of the prison sentence.

(d) Crime Severity Level VIII offenders with a ~~Parole Success Score~~ Risk to Re-Offend Score of ~~14 to 20~~ two or less shall receive a Parole Guidelines recommendation of 65% of the prison sentence.

(10)(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of VII: