



TEXAS DEPARTMENT OF CRIMINAL JUSTICE
BRYAN COLLIER
Executive Director



BOARD OF PARDONS AND PAROLES
DAVID GUTIÉRREZ
Presiding Officer (Chair)

December 28, 2022

The Honorable Greg Abbott
Office of the Governor
Post Office Box 12428
Austin, Texas 78711

Dear Governor Abbott,

The Texas Department of Criminal Justice (TDCJ) and the Texas Board of Pardons and Paroles (BPP) received your letter requesting an investigation into two incidents where parolees on electronic monitoring senselessly took the lives of innocent Texans. The TDCJ and BPP worked jointly on this report which details the results of that investigation, action taken by both agencies, and provides legislative recommendations that may help deter individuals from future criminal activity. Please know that both agencies are committed to providing public safety and will take any action necessary to help ensure that a tragedy like this does not happen again.

Nestor Hernandez

Incident Synopsis

On October 20, 2022, Nestor Hernandez traveled with his girlfriend to Methodist Hospital in Dallas, Texas for the delivery of their baby. He continued to visit the mother and child over the course of the next two days at the medical facility. On October 22, 2022, Hernandez became argumentative with his girlfriend, produced a handgun, and without explanation, killed two Methodist employees - Katie Flowers and Jacqueline Pokuaa. Hernandez was then shot by a Methodist Hospital police officer but survived his injuries. He is being held in the Dallas County Jail on capital murder charges. A judge has set his bond at three million dollars. The TDCJ has also issued a no-bond parole warrant.

Hernandez's TDCJ History

The thirty-year old was on parole supervision after being released from prison on October 20, 2021, to live with a family member in the Dallas area. Hernandez had been to TDCJ on two separate occasions on numerous felony charges originating out of Dallas County.

- Aggravated Robbery with Serious Bodily Injury – eight years
- Burglary of a Habitation – four years
- Robbery – two years
- Unlawful Possession of a Firearm – two years
- Burglary of a Habitation – two years
- Possession of Heroin – six months

Hernandez was convicted of aggravated robbery with serious bodily injury and sentenced to eight years on May 20, 2015. His sentence was scheduled to be complete on January 7, 2023.

BPP Findings

Hernandez' first parole review, on January 7, 2019, resulted in a parole denial, with his next parole review being set for on/about January 2021. On December 9, 2020, he was approved for release pending the completion of a six-month rehabilitation program. He completed the program and was subsequently released on October 20, 2021. In addition to the general conditions of parole, he also had special conditions to attend anger management classes and to wear an electronic monitor.

When released, Hernandez had served six years and nine months (85%) of his eight-year sentence. It is not uncommon for a parole panel to provide treatment and supervision as an inmate approaches the end of their sentence, as opposed to a flat discharge. In this case, one of the approval reasons provided by the voting panel was for treatment and supervision.

After his release on supervision, there were two separate violations presented to the BPP for appropriate action (sanctions). Offender Hernandez was arrested on March 9, 2022, on a pre-revocation (blue) warrant for an alleged curfew violation. Insufficient evidence was submitted to the BPP to show that a violation occurred, and his parole was reinstated after spending 12 days in the county jail.

On June 17, 2022, Hernandez was arrested on another pre-revocation warrant for tampering with his electronic monitoring strap. On June 28, 2022, the parole panel voted to place him in an Intermediate Sanction Facility (ISF) as a result of the violation. He was released on September 28, 2022, after serving 100 days incarcerated (county jail and ISF) on this violation.

Discretionary actions taken by the parole panel in determining release and addressing violations were consistent with board rules, policies, and statutory authority.

No findings or lapses were identified in the discretionary decisions rendered by the BPP.

Electronic Monitoring of Hernandez

Individuals on electronic monitoring must remain at their residence and comply with a curfew unless on an approved activity. The electronic monitor notifies parole officials if he is not at his residence during the pre-arranged time period. The monitor does not track movement. During his time on supervision, Hernandez had a total of six violations resulting in a warrant prior to the incident at Methodist Hospital. Two of those were resolved due to an equipment or scheduling error, the others are as follows:

- On December 28, 2021, a warrant was issued due to a curfew violation. The parole officer investigated and closed the warrant on January 3, 2022, after verbally counseling Hernandez.
- On January 16, 2022, a warrant was issued due to a curfew violation. Hernandez stopped reporting to his parole officer, and he was arrested on March 9, 2022, by the Dallas Police Department. Hernandez was released from custody on April 8, 2022.

- On April 11, 2022, a warrant was issued due to a curfew violation and removal of the monitor. Hernandez was arrested on June 17, 2022, by the Carrollton Police Department. The BPP voted to send him to an ISF for programming.
- On October 20, 2022, a warrant was issued due to a curfew violation. Hernandez was contacted and the investigation showed he went to the hospital for the birth of the child and the warrant was withdrawn.

TDCJ Supervision Findings

Hernandez was non-compliant regarding his obligation to attend anger management and aftercare support groups. While it appears he was verbally counseled, his parole officer did not properly document interactions in the record or elevate the sanctions as required through the graduated sanctions model. Hernandez was also subject to enhanced drug testing. He had a total of 10 tests while on supervision. Nine of those tests had negative results.

On September 30, 2022, he reported to a parole office and tested positive for drugs. His supervising officer instructed him to attend AA/NA support groups; however, the officer failed to also refer him to outpatient treatment as required. Hernandez had several parole officers assigned to him while on supervision. The officer who supervised him upon release for three of the four months while he was on active supervision is no longer with the agency. The agency's investigation also determined that disciplinary action was warranted for five other individuals who either supervised Hernandez or were in supervisory positions. Two left the agency during the disciplinary process, two others were disciplined, and the fifth person was recommended for dismissal.

Zeric Jackson

Incident Synopsis

On November 3, 2022, Zeric Jackson was arrested for the murder of Brian Dillard in Dallas, Texas. Police indicate that Jackson followed his former girlfriend to her residence, entered the home, and shot Dillard to death. Jackson is in the Dallas County Jail and charged with murder. A judge has set a one-million-dollar bond. The TDCJ has also issued a no-bond warrant.

Jackson's TDCJ History

Jackson was convicted of aggravated robbery and sentenced to 18 years on March 30, 2007. His sentence was scheduled to be complete on May 25, 2023. Jackson had one prior incarceration in the TDCJ beginning November 18, 2004, where he was released on shock probation after serving three months for injury to a child. Other prior offenses include theft of property and evading arrest.

BPP Findings

By statute, based on the offenses, Jackson was required to serve one-half of his sentence before becoming eligible for parole consideration. He became parole eligible in May 2014.

Below is a summary of his parole reviews:

June 25, 2014, parole was denied, and his next review set for on/about June 2017

May 11, 2017, parole was denied, and his next review set for on/about May 2020

March 19, 2020, parole was denied, and his next review set for on/about March 2021

March 31, 2021, parole was denied, and his next review set for on/about March 2022

April 1, 2022, parole was approved

On May 6, 2022, Jackson was released on parole. He served nearly 17 years (95%) of his sentence prior to release. One of the conditions of his release was to participate in the Super Intensive Supervision Program (SISP). Additionally, one of the reasons provided by the parole panel for release was to provide for a period of supervision, as opposed to a flat discharge with no supervision. He was scheduled to discharge his parole on May 25, 2023.

No findings or lapses were noted in this discretionary decision to release Jackson after serving 95% of his sentence to be placed in SISP.

GPS Monitoring of Jackson

The SISP is the highest level of supervision provided by the TDCJ's Parole Division. All offenders on SISP are monitored with Global Positioning System (GPS) technology and are required to comply with 24 hours a day schedules, which must be pre-approved in writing by their parole officer.

Individuals on SISP are supervised by specially trained parole officers with smaller caseloads. Parole officers are required to complete multiple face-to-face contacts per month and review the offenders' GPS location information each business day. SISP parole officers are trained to respond to all violations that are generated during normal business hours and can request parole violation warrants 24 hours a day, seven days a week.

During his time on supervision, Jackson had a total of two violations resulting in a warrant prior to this incident.

- On July 15, 2022, a warrant was issued due to an equipment alert. The parole officer investigated and closed the warrant after determining it was a battery issue.
- On August 11, 2022, a warrant was issued because the GPS monitor indicated that it was tampered with. The parole officer investigated the incident and determined that it was an equipment malfunction.

However, during this investigation, it was determined that Jackson was deviating from his pre-determined schedule and going to the home of his former girlfriend. A review of the GPS coordinates determined that he made 16 unapproved visits to the location.

TDCJ Supervision Findings

An administrative investigation revealed that Jackson's parole officer failed to properly check his GPS coordinates and failed to follow policy to complete necessary in-person and collateral contacts with the parolee.

Based on these findings, the officer was recommended for dismissal.

TDCJ Actions

Beyond the administrative actions, the TDCJ has taken additional steps to ensure staff are following policies. A comprehensive review of operations for the Dallas Parole Offices pertaining to program referrals and supervision of all electronic monitoring caseloads was completed. A statewide review was also conducted. All employees who have direct interactions with parolees were retrained on supervision requirements.

The Parole Division has designated a team of administrators to conduct unannounced field audits to ensure compliance. The TDCJ is instituting changes in its oversight department to ensure long term solutions are in place to include enhancing operational review processes. In addition, the Parole Division is reviewing all related supervision policies.

Finally, the agency is exploring ways to maximize the use of technology for those at the highest level of parole supervision and will be piloting a new supervision model that is a team approach rather than parole officer specific.

Legislative Recommendations

An area of consideration for the Legislature is the consequences associated with the cutting off an ankle monitor. The act is currently treated as an administrative violation and causes the immediate issuance of an arrest warrant. However, it is not a criminal offense. Enhancing the penalties may act as a deterrent and dissuade those already on heightened supervision from attempting to evade supervision. A new law violation is weighed heavily by the BPP when making decisions on returning individuals to prison. Approximately 75% of parole revocations are for law violations.

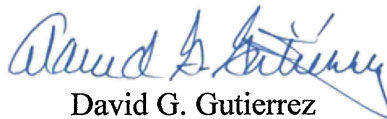
Legislation requiring law enforcement to prioritize the arrest and apprehension of Super Intensive Supervision Program clients for which a warrant has been issued would be beneficial. This action may expedite the arrest and assist in preventing law violations by these offenders.

While separate agencies, both the TDCJ and the BPP share the same mission, public safety. We recognize the importance of our role in the Criminal Justice System and strive to carry out our missions to ensure public safety. While over 26,000 individuals completed their parole obligations last year and successfully discharged, our agencies will continue to improve upon our operations and minimize risk to the public.

Sincerely,



Bryan Collier
Executive Director
Texas Department of Criminal Justice



David G. Gutierrez
Chairman
Texas Board of Pardons & Paroles