



**TEXAS BOARD
OF
PARDONS AND PAROLES**

Number: BPP-DIR. 145.304

Date: April 8, 2009

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Supersedes: None

BOARD DIRECTIVE

SUBJECT: CUMULATIVE OR CONSECUTIVE SENTENCES

PURPOSE: To provide guidance for the voting members to process those cases where an offender received a cumulative or consecutive sentence.

AUTHORITY: Texas Government Code §§508.0441, 508.045 and 508.150
Texas Administrative Code Title 37, Part 5, Chapter 145, Sections 145.12, 145.13, 145.15 and 145.16
Board Policy BPP-POL 04-01.20

DISCUSSION: Many years ago, all cumulative or consecutive sentences received into TDCJ were simply added together and treated as a single sentence. All offenses were reviewed together as if the offender had one total sentence.

Today, and for most of the past 10 years, after Texas Government Code 508.150 became effective in 1997, cumulative sentences are ordered to be served in a series. One qualifier the Courts imposed in rulings on such sentencing is that if any of the cumulative sentences in the series are for offenses that occurred prior to 9/1/1987, then they are to be served as previously required (i.e., added together and all offenses were reviewed together).

DEFINITIONS: Cumulative Sentence – the total number of years the court imposed or suspended sentences when a defendant is convicted of two or more cases.

Consecutive Sentence – when a defendant is convicted in two or more cases, the court imposed a judgment and sentence in the second and subsequent convictions to begin when the judgment and sentence imposed in the first conviction ceases to operate.

PROCEDURES:

Introduction - Board Policy BPP-POL. 04-01.20 Eligibility for Release; Consecutive (Cumulative) Felony Sentencing governs how the board considers cases with consecutive or cumulative sentences. If all of the offenses in the series of cumulative sentences occurred on or after September 1, 1987, then each sentence in the series must be considered separately and apart from the other cumulative sentences in the series.

- I. When an offender is required to serve a consecutive or cumulative sentence, the offender is in effect required to serve these sentences separately. Parole eligibility and cease to operate dates would be calculated only on the first cumulative sentence in the series, and the second in the series would have those calculations determined when the first in the series ceases to operate or receives a parole approval vote.
 - A. In fact, the board or parole panel (panel) determines a date that causes the second cumulative sentence to become effective (start running) and TDCJ then determines appropriate time calculations. This process continues for each sentence in the series and there is no limit on how many cumulative sentences a Court can order for a defendant.
 - B. For example, a defendant sentenced to 10-year and 5-year cumulative sentences would be incarcerated on the first cumulative sentence in the series (the 10-year sentence). Parole eligibility would be calculated on that 10-year sentence, and a cease to operate date is also calculated. If not approved for parole on initial or subsequent reviews on that cause number, the second sentence in the cumulative series, the 5-year sentence, would not begin until the cease to operate date of the first in the series.
- II. Voting Options
 - A. Board Rule Section 145.13 (Action Upon Review – Consecutive or Cumulative Felony Sentencing) governs how the board or a panel will vote these types of cases. When the board or a panel reviews a consecutive felony sentencing case for parole, the vote shall indicate the Cause Number of the consecutive felony sentencing case it is considering. The board or panel will:
 1. Vote CU/FI (Month/Year Cause Number of the first CU sentence in the series), designate a new specific date on which the first CU sentence in the series ceases to operate and the second CU sentence in the series begins, or
 2. Vote CU/NR (Month/Year Cause Number of the first CU sentence in the series), deny favorable parole action and set the next review date per Government Code 508.141(g) and BPP-Policy 04-01.17, or

3. Vote CU/SA (Month/Year Cause Number of the first CU sentence in the series), deny favorable parole action and issue a serve-all per Government Code 508.141(g) and BPP-Policy 04-01.17.
 - B. Board Rule Section 145.12 Action Upon Review governs how the board or a panel will vote the case for the last consecutive or cumulative felony sentencing case in the series. The case shall be voted the same as in non-cumulative cases, i.e., FI-1, FI-2, etc., or NR Month/Year or Serve-All.
- III. In the Series – There are cases where the offender may be sentenced to more than two sentences and one or more of the sentences may be cumulative to each other but NOT to the concurrent sentence(s). When cases are cumulative to each other, these offenses are considered in the series of cumulative sentences, and if both occurred on or after September 1, 1987, they are treated separately from each other but concurrent to the concurrent sentence(s).
- A. So when the offender becomes eligible for parole on the concurrent sentence(s) and the first in the series of cumulative sentences, the board or a parole panel will review all the eligible sentences for parole and the first in the series of cumulative sentences. Anytime voting involves the first in the series of cumulative sentences, whether alone or with concurrent sentences, it always requires CU voting as outlined in Board Rule Section 145.13.
 - B. For Example: Defendant sentenced to a single 20-year sentence (which occurred in 1981), but has a concurrent 15-year sentence (which occurred after 9/1/1987) with a 10-year sentence (which also occurred after 9/1/1987) cumulative to the 15-year sentence only. The board or a parole panel will vote the 15-year sentence pursuant to Board Rule Section 145.13 (Action Upon Review – Consecutive or Cumulative Felony Sentencing).

SIGNED THIS, THE 8TH DAY OF APRIL, 2009.

RISSIE OWENS, PRESIDING OFFICER (CHAIR)

** Signature on file.*