



State of Oklahoma
PARDON AND PAROLE BOARD

PARDON AND PAROLE BOARD
Special Meeting Minutes

Monday, February 22, 2021
9:00 a.m.

- MEMBERS PRESENT:** Kelly Doyle, Adam Luck, Allen McCall, and Larry Morris were present via Zoom Webinar.
- MEMBERS ABSENT:** None
- STAFF:** Tom Bates, Melinda Romero, and Kyle Counts. All staff appeared as panelists via Zoom Webinar.
- GUESTS:** Glen Blake, Margaret DeShazer

I. Call to Order – Adam Luck, Chairman

The Business Meeting of the Pardon and Parole Board (PPB) was called to order at 9:00 a.m. by Acting Chairman Adam Luck, on Monday, February 22, 2021.

A. Roll Call

The members attending were Adam Luck, Kelly Doyle, Larry Morris, and Allen McCall. The voting order was announced as Adam Luck, Larry Morris, Allen McCall, and Kelly Doyle.

B. Assurance of Compliance with Open Meeting Act

General Counsel Kyle Counts provided assurance of compliance with the Open Meeting Act. The business meeting of the Pardon and Parole Board was convened via Zoom Webinar in accordance with the Oklahoma Open Meeting Act as amended under HB 661. This special meeting was preceded by an amended advance notice of the date, time, and place filed with the Oklahoma Secretary of State on February 16, 2021. Notice of this meeting was also given at least twenty-four (24) hours in advance of the meeting by posting notice of the date, time, virtual meeting place, and agenda of the meeting on February 18, 2021, on our website, www.ok.gov/ppb. The notice included notification that the meeting would include videoconferencing and identified each member's method of appearance. The meeting is in compliance with the Open Meeting Act.

II. Discussion and Possible Action on FY2019 Annual Report – Tom Bates and Melinda Romero

Director Bates reported that there had been difficulties getting the FY2019 report prepared so Ms. Romero took on the project and completed the report herself. Resources from the past are no longer available to the Board to assist with preparing the report. Ms. Romero advised the Board

that the contents of the report are what is required by statute. In the future, the agency will look to bolster the information once the agency has the manpower. Ms. Doyle confirmed that the voting numbers for members combined Stage 1 and Stage 2 hearings for violent paroles, and advised she would like those numbers separated when it is possible. The Board briefly discussed the report and confirmed that FY2020 will bring the Board up to date with its reporting requirements. Mr. McCall moved to approve the FY2019 Annual Report, Mr. Morris seconded, and the Board voted to approve the motion 4-0.

III. Opening Remarks for Public Hearing on the Pardon and Parole Board's Proposed Administrative Rules – Tom Bates and Kyle Counts

Director Bates reported the hearing was the next step in the process to adopting new rules. Director Bates stated that he and Mr. Counts had visited with the District Attorneys Council and the Attorney General's office about the rules. Mr. Counts plans to provide those to the Board before they vote to adopt. The purpose of the hearing is for the public to comment. Mr. Counts briefed the Board on the timeline of the rules being published and being open to public comment. Mr. Counts then provided the email address to comment and advised that any comments received through the end of the hearing would be part of the rulemaking record. Mr. Counts also provided instructions for requesting to speak at the hearing and reiterated the request to limit comments to the contents of the rules. Mr. Counts stated the Board would vote in March on whether to adopt the rules. The rules would then go to the Governor and Oklahoma Legislature for approval and go into effect in July or August. Mr. Counts stated that stakeholders raised issues about the Board abiding by the current rules with respect to things such as time limitations. Mr. Counts stated there was one person registered to speak on Chapter 1. Ms. Doyle asked if the timeliness would be affected if any changes are required and Mr. Counts confirmed the rules will still be on time.

IV. Receive Public Comments Regarding the Proposed Procedures of the Pardon and Parole Board Administrative Rules – Tom Bates and Kyle Counts

Chairman Luck opened up the discussion and Mr. Counts stated that attorney Glen Blake had requested to speak on this Chapter. Mr. Blake entered the videoconference and advised he would like to reserve his time for the commutation chapter. Margaret DeShazer then entered the videoconference. She stated she was interested in speaking about her daughter who is a victim of someone upcoming on the commutation docket. Director Bates confirmed with Ms. DeShazer that the February docket had been postponed to March, and the Board apologized for the inconvenience. Ms. DeShazer was assured she would have all the same protest rights at the regular meeting. Chairman Luck asked if there were any other speakers for this Chapter and Mr. Counts confirmed there were not and that it was now past 9:15 AM, the time by which a speaker would have needed to register. Chairman Luck concluded the discussion for agenda item IV.

V. Public Comments Regarding the Proposed Parole Procedures Administrative Rules – Tom Bates and Kyle Counts

Chairman Luck asked if there were any speakers for this Chapter. Mr. Counts advised that there were no requests to speak on the parole Chapter. Chairman Luck confirmed with Mr. Blake that he would like to wait until agenda item VII to comment on the rules. Mr. Counts confirmed that there were no call or emails requesting to speak on the parole Chapter and Chairman Luck closed discussion on this agenda item.

**VI. Receive Public Comments Regarding the Proposed Clemency Hearing Procedures
Administrative Rules – Tom Bates and Kyle Counts**

Chairman Luck asked if there were any speakers for this Chapter. Mr. Counts advised that there were no requests to speak on the clemency Chapter. Chairman Luck confirmed there were no questions among the Board and, hearing none, moved on to agenda item VII.

**VII. Receive Public Comments Regarding the Proposed Commutation Procedures
Administrative Rules – Tom Bates and Kyle Counts**

Chairman Luck brought Mr. Blake back into the videoconference. Mr. Blake commended Director Bates and Mr. Counts for their work on the rules. Mr. Blake advised that he liked several rule changes such as increasing delegate speaking time, allowing withdraw of applications, and granting the Board discretion to give personal appearances to inmates with misconducts. Mr. Blake expressed concern with changing the definition of commutation, which would remove the Board's ability to commute the suspended portion of a split sentence. Mr. Blake stated there is proposed legislation that contradicts this rule. Mr. Blake understood that the suspended portion is moving over to the pardon Chapter and said he would address it during that agenda item if necessary. His concern with that approach is that fines and costs would prevent someone on probation from seeking the pardon. Mr. Blake liked the petition for reconsideration rule but is concerned that it is bar on reapplying unless the inmate successfully petitions the Board or there is a law change. Mr. Blake would also like to know what is on the one-page petition form before fully forming an opinion on that proposal. Director Bates asked Mr. Counts to address those concerns and what is intended with the rules. Mr. Counts stated that the rule for the petition for reconsideration is written so that the Board has flexibility to change the form on a rolling basis to reflect what information the Board wants to be considered. Mr. Counts gave the example of misconducts or offense types as information that the Board may want on the petition to determine whether to reconsider the inmate for commutation. Mr. Counts stated that Mr. Blake's interpretation of the amended commutation definition is correct and that the pardon process would be the relief for reducing paper time under the proposed rules. Mr. Counts stated the pardon application process was more robust than the commutation process, taking into consideration more factors, and therefore more efficient for an applicant seeking reduction of probation or parole. Mr. Counts stated the five-year requirement creates a minimum threshold of success that an applicant must have while on parole or probation before being considered for a pardon. Mr. Counts advised that the changes in the commutation Chapter and the pardon Chapter work with one another, and that if the definition of commutation is not changed than an applicant with a suspended sentence could simultaneously apply for a pardon and a commutation. Ms. Doyle confirmed that a commutation currently reduces an entire sentence and under the change it would only reduce the incarceration portion of a split sentence. Mr. Counts advised that was correct and that under the proposed rules, upon release an inmate would need five years of success on probation and/or parole and then could apply for a pardon for any remaining paper time. Mr. McCall stated there may be a case where he is comfortable reducing the probation or parole but not necessarily a full pardon. Mr. McCall asked if there is a way to separate that out or is the pardon a one-fail-swoop. Mr. Counts advised that under the current rules it could not be separated out but that is something he could research if the Board wanted to go that direction. Mr. Counts advised that other states do have partial pardons and other mechanisms that could grant an applicant limited relief and not a full pardon. Mr. McCall suggested getting together

with the Governor's office to see how they feel about being able to reduce the suspended sentence without granting a full pardon. Mr. Counts advised there were no more speakers for agenda item VII but Mr. Blake had signed up for VIII. Chairman Luck moved on to agenda item VIII.

VIII. Receive Public Comments Regarding the Proposed Pardon Procedures Administrative Rules – Tom Bates and Kyle Counts

Chairman Luck asked Mr. Blake for his comments on the pardon chapter. Mr. Blake said his concern with moving relief for paper time to the pardon chapter is the inability of a lot of applicants to pay off their fines and costs. Director Bates asked how split sentences are currently being handled. Mr. Counts stated that on commutations, DOC is commuting the entire sentence to what is indicated on the commutation certificate, not just the incarceration term. Under the proposed changes, the Board would only recommend commuting the incarceration term and upon being paroled or discharging the incarceration term, the inmate would either serve the paper time or apply for a pardon after five years of success. Chairman Luck asked if the Board could split it a commutation recommendation between the incarceration term and the suspended portion. Mr. Counts advised he believed the Board had that authority under the current rules but that he would like to research it further before confirming to the Board that they may make recommendations on split sentences in that way. Chairman Luck asked about the Board's ability to pardon if an applicant has not paid off their fines and costs but is otherwise successful. Mr. Counts said under the current and proposed rules, the applicant is ineligible if they have unpaid court costs or fines, but that is something that could be changed in future amendments to the rules in order to grant the Board greater discretion. Ms. Doyle confirmed that the Board would be provided the comments from the Attorney General's office as well as a summary of the comments received from the District Attorneys Council. Director Bates said he would also like to visit with the Governor's office to confirm their thoughts on splitting a commutation order to commute the two portions of a split sentence to specific terms.


IX. Receive Comments Regarding the Proposed Revocation of the IT Accessibility Compliance Representative Administrative Rules – Tom Bates and Kyle Counts

No speakers requested to comment on the proposed revocation of the IT Accessibility Compliance Representative administrative rules.

X. Adjournment of Business Meeting – Adam Luck

The meeting was adjourned at 9:52 a.m.

Respectfully Submitted,



Kyle Counts
General Counsel

The minutes for the February 2021 Pardon and Parole Board Special Meeting were approved by a majority vote on the 8th day of March 2021.