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PROFILES IN PAROLE RELEASE AND REVOCATION:

Examining the Legal Framework in the United States

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PROFILES IN PAROLE RELEASE AND REVOCATION:

Examining the Legal Framework in the United States

Oklahoma

By

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In contrast to many of the parole profiles already posted, in-state experts did not review this document. We encourage readers to use this profile as an informative guide, but to exercise caution in relying solely on the description of the parole process in Oklahoma without checking additional sources. We also welcome corrections to the profile.

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1. Background; Sentencing System

a. Sentencing Framework

There is currently no sentencing commission¹ and there are no sentencing guidelines in Oklahoma. Courts may, in their discretion, consider evidence of aggravating and mitigating factors at the sentencing phase to determine the exact punishment.² In the late 1990s, Oklahoma enacted truth in sentencing and a community corrections scheme for certain crimes.³

The Oklahoma Parole Board was created by a constitutional amendment in 1944.⁴ In 2012, after working with the Council of State Governments' Justice Reinvestment Initiative, Oklahoma enacted a law that provides for the supervision of all adults released from prison and an increased number of possible sanctions for parole violations.⁵

b. Does the State Have a Parole Board or Other Agency with Discretionary Prison Release Authority?

Yes, the Oklahoma Pardon and Parole Board. However, it is important to note that the Board only has plenary discretionary release authority with regard to non-violent offenses. The governor grants parole to violent offenders based on the Board's recommendation.⁶

<https://www.ok.gov/ppb/>

c. Which Agencies Are Responsible for the Supervision of Released Prisoners?

The Oklahoma Department of Corrections' ("DOC") Probation and Parole Services Unit is responsible for supervising released prisoners.⁷

https://www.ok.gov/doc/Organization/Field_Operations/Field_Services/Probation,_Parole_&_Interstate_Compacts/

d. Which Agency Has Authority Over Parole Revocation?

The governor, the Board and the DOC each share a clearly defined measure of authority over parole revocation. The DOC initiates the process, but the Board conducts a final revocation hearing and makes a recommendation. The governor must then make the final revocation determination.⁸

2. Parole Release and Other Prison-Release Mechanisms

a. Parole Release Eligibility Formulas; Degree of Indeterminacy in System

General rules of release eligibility. Each felony in Oklahoma has a statutory punishment; there are currently no “classes” or “levels” of crimes as found in other states.⁹

Inmates convicted of crimes committed on or after July 1, 1998 are eligible for parole release after serving one-third of their sentence, unless they are serving a life sentence without the possibility of parole. Inmates serving consecutive sentences are not eligible for parole consideration until one-third of the consecutive sentence has been served.¹⁰ However, Oklahoma has enacted truth in sentencing laws which require inmates convicted of certain crimes to serve at least 85% of their sentence of imprisonment without any reduction due to sentencing credits.¹¹ Some crimes, such as first-degree rape, have statutory minimum penalties.¹² There are also statutory minimum penalties for second or subsequent convictions for certain crimes.¹³

Violent and sex offenders. Violent offenders are subject to truth in sentencing laws, and may be paroled only after serving 85% of their sentence.¹⁴ However, release at this point is not automatic as this category of offender may only be recommended for parole by the Board; release occurs only if their parole is approved by the governor.

Life sentences. Life sentences may be imposed for any crime where there is a mandatory minimum and no maximum term is specified by statute.¹⁵ This sentencing scheme appears to apply to homicide or rape cases.¹⁶ For any sentence over 45 years, the Board approximates the sentence to 45 years for the purposes of the 85% rule or any other parole eligibility calculation.¹⁷

Recurring eligibility after denial of release. Under Board policy, non-violent offenders are reconsidered for parole release one year from the date of the Board denial. If a violent offender was denied parole by the Board or the governor before their initial eligibility date, they may be reconsidered at their one-third date unless that date is within 24 months of the initial consideration. If the one-third date is within that time frame, they will be reconsidered for parole two years after the date of denial. Once a violent offender has been considered for parole *after* eligibility, they must be reconsidered every three years.¹⁸

b. Good Time, Earned Time, and Other Discounts

Inmates may earn credits each month based on their current inmate class level. If a maximum and minimum term of imprisonment is imposed, the credits only apply to the maximum term. Each credit is worth one day of incarceration. However, inmates who have previously been convicted of one of 65 different crimes listed in the statute earn credits at a lower rate (see “Credit Rate with Prior” column in the table below).

Class	Description	Credit Rate	Credit Rate With Prior
Level 1	Inmates who are on “escape status,” those not otherwise eligible to participate in other class levels.	0 credits/month	0 credits/month
Level 2	Inmates who have been given a work, education, or program assignment and have received a good evaluation as well as a good evaluation for personal hygiene and maintenance of living area.	22 credits/month	22 credits/month
Level 3	Inmates who have been incarcerated at least three months, have received excellent work, education, or program evaluation, and have received an excellent evaluation for personal hygiene and maintenance of living area.	45 credits/month	33 credits/month
Level 4	Inmates who have been incarcerated at least eight months, have received outstanding work, education, or program evaluation and have received an outstanding evaluation for personal hygiene and maintenance of living area.	60 credits/month	60 credits/month

Inmates may also earn achievement credits for completion of programs or other goals: for example, an inmate may earn 200 credits for a Bachelor’s degree or 70 credits for completion of an alcohol/chemical abuse treatment program.¹⁹

c. Principles and Criteria for Parole Release Decisions

Statutory standard There is no apparent statutory standard for release decisions. However, the Board asserts in its published materials that:

“In making their decisions, members of the Pardon and Parole Board constantly strive to balance public safety, protecting victims’ rights, and providing offenders with the opportunity for positive change. There are a number of factors which are considered in the granting or recommending of parole, including: 1) nature of the offense; 2) prior criminal history; 3) prison program participation; 4) whether the offender has made significant behavioral changes while incarcerated; 5) length of time served as compared to the imposed sentence; 6) misconducts; 7) demonstration of appropriate behavior while in prison; 8) family and /or community support; and, 9) victim and/or District Attorney protests or opposition.”²⁰

In addition, the Board writes that it “considers the safety of the victim and citizens when making their decision. Before granting parole, the Board strongly considers whether or not an offender has demonstrated appropriate behavior while in an institution which ensures an opportunity for success socially and economically. Each offender’s situation is reviewed on a case-by-case basis.”²¹

Factors that must be considered. No recommendations to the governor for parole shall be made nor any paroles granted by the Board in relation to any inmate in a penal institution in the State of Oklahoma unless the Pardon and Parole Board considers the victim impact statements if presented to the jury, or the judge in the event a jury was waived.²²

d. Parole Release Guidelines

It does not appear that parole release guidelines are used by the Board.

e. Risk and Needs Assessment Tools

Statutory Mandate. It does not appear that risk assessments are mandated during the parole consideration process.

Risk instruments utilized. It does not appear that the Board utilizes a policy-driven risk assessment tool as part of its release consideration process.

f. Medical or Compassionate Release

The Director of the DOC has the authority to request that the Board place an inmate who is not serving a life without parole sentence on the Board’s hearing docket for the purposes of medical parole. The Executive Director of the Board must grant the first available review to any inmate who is dying or near death as certified by the medical director of the Department; or whose medical condition has rendered the inmate no longer an unreasonable threat to public safety. Medical parole is recommended by a three board member concurrence vote. The governor, however, must make a final decision to grant or deny release. Subsequent to release, any change in the inmate’s medical condition or an increased risk to the public may result in revocation of medical parole.²³

g. Executive Clemency Power

The governor has the power to grant commutations, pardons, and paroles for all offenses, except in cases involving conviction for impeachment. Before the governor can grant relief, the Board must make an official recommendation in favor of executive clemency, including for the parole of violent felons.²⁴

h. Emergency Release for Prison Crowding

If all facilities reach maximum capacity and the DOC is required to contract for bed space to house state inmates, the Board is required to consider nonviolent offenders who are within six months of their scheduled release for parole. Prior to contracting with a private prison operator to provide housing for state inmates, the Department must send notification to county jails in Oklahoma that bed space is required. The Department may enter into agreements with county sheriffs to house inmates.²⁵

3. Parole Release Hearing Process

a. Format of Release Hearings

The Board first considers inmates for parole two months prior to their initial eligibility date.²⁶ As the Board website states, “when an offender’s [docket] eligibility date arrives an investigative report will be prepared and presented to the Pardon and Parole Board and a hearing will be scheduled.”²⁷ Board members review each case and consider the information presented at the hearing and in the offender’s file.²⁸

Board members, one after another, review and vote on the matter independently until a final decision is reached. A majority of the Board, or three members, must vote favorably for parole to be granted for non-violent offenses or recommended to the governor for violent offenses.²⁹ Parole for violent offenders is a two-stage process. During stage one, the Board will vote on whether or not to pass the offender to stage two for parole consideration. During stage two, the Board will vote to determine whether parole is recommended.³⁰

b. Information Before the Board; Factors the Board May Consider

The DOC maintains a parole docket for each inmate. It must report misconduct information or expungements, escapes, law violations, medical or psychological treatment/commitment, program completion, failure, or removal, movements to and from court, and any pertinent information that the case manager or supervising officer needs to bring to the attention of the Board or circumstances that may change the Board’s recommendation.³¹

The Board conducts an investigation into the case before considering parole release; and must “cause a continuing study to be made of the prisoner” after they have been committed to a correctional facility.³² Parole investigators employed by the Board must interview offenders who are on the current parole docket prior to parole consideration.³³

c. Prisoners’ Procedural Rights

Board policy directives mention that inmates scheduled for parole release hearings are prepared for a personal appearance at their hearing.³⁴ All Board hearings are open to the public. The hearings provide an opportunity for Board Members to receive written and oral input from

offenders’ families and delegations, community members, and other interested persons regarding their possible parole. Presumably these rights extend to the offender themselves as well.³⁵ Offenders can also waive parole consideration.³⁶

d. Victims and Other Participants

Victims (or their representatives) may request prior notification of parole consideration. They will receive notice at least 20 days prior to the meeting.³⁷ The Board, in deciding to release an individual on parole, must consider any victim impact statements submitted to the jury or to the court.³⁸

If an offender was convicted of a violent crime, the Board holds an initial hearing to examine the parole report and decide whether to consider parole. If the Board considers parole, it holds a second hearing during which it may hear from any victims that wish to contest the granting of parole before voting to recommend parole.³⁹ It is unclear how much of the information from this hearing is disclosed to the inmate.

Parole hearings are open to the public. Friends and family members of offenders are allowed to attend and may communicate with the Board regardless of whether the offender is scheduled for a “jacket review” and is not present or if the offender is scheduled for a personal appearance. They may also write a letter to the Board.⁴⁰

e. Burden of Proof or Standards of Persuasion

There is no specific burden of proof associated with parole release.

f. Possible Outcomes at Parole Release Hearings; Form of Decisions

The Pardon and Parole Board makes one of four (4) decisions at a parole hearing. The decisions are:

1. Recommend parole for violent offenders to the governor.
2. Grant parole for non-violent offenders;
3. Pass to another docket for rescheduling. This option is rarely used and is typically done when the Board needs time to gather additional information.
4. Deny parole for the offender.⁴¹

g. Administrative or Judicial Review of Parole Denial

There appear to be very few recent state-level cases on parole release, except on issues related to parole eligibility jury instructions at the sentencing phase.⁴² The last major parole release decision made by the Oklahoma Supreme Court was *Shabazz v. Keating* in 1999. This decision reiterated that prisoners have no constitutionally protected claim to release on parole and that due process protection does not exist in the release phase. However, the decision also held that a lower court order imposing sanctions against Shabazz for filing a petition in the case was considered a violation of his right of access to the courts.⁴³

Federal judicial review of parole board decisions, policy, and procedure has been initiated by prisoners through federal civil rights claims⁴⁴ or through writ of habeas corpus.⁴⁵

h. Rescission of Parole Release Dates

It appears that scheduled parole hearing dates can be rescinded if an offender receives an institutional misconduct charge within 60 days of the hearing. Under such circumstances, "the offender's parole date would be passed to the next calculated docket."⁴⁶ Escape, law violations, or misconduct that results in disciplinary segregation will likewise trigger a rescission from the time of the inmate's recommendation until the time of the final action concerning parole.⁴⁷

4. Supervision Practices

Parole supervision rate. On December 31, 2016, there were 64 parolees per 100,000 adult residents in Oklahoma. This is much lower than the 50-state average rate of 303 parolees per 100,000 adults.⁴⁸

a. Purposes of Supervision

By policy, probation and parole officers are expected to supervise offenders "in a manner that fulfills the mission of the Department of Corrections, safeguards the community, and meets the programmatic needs of the offender." The content of supervision draws upon evidenced-based practices to change offender attitudes and behaviors, which in turn, reduces the likelihood of criminal behavior. The long term goal of supervision, according to the Probation and Parole unit is the reduction of offender risk through enhancing offender's intrinsic motivation for pro-social change."⁴⁹

b. Are All or Only Some Releasees Placed on Supervision?

All parolees must initially be placed on supervision.⁵⁰

c. Length of Supervision Term

Maximum supervision terms. Active supervision of parolees, excluding sex offenders, may not exceed three years. For sex offenders, the term of active supervision may not exceed the maximum term or terms for which they were sentenced.⁵¹

Courts may also sentence offenders to community supervision, which is a term of post-release supervision that may constitute no less than three years of the total term allowed by law for imprisonment.⁵²

Early termination. It does not appear that there are any provisions for early termination of parole.

Extension of supervision term. It appears that parole supervision may not be extended past the three-year statutory term, except for sex offenders whose term of supervision is tied to the length of their sentence. Sex offenders' terms of supervision may be extended further based on a determination by Probation and Parole Services that the best interests of the public and the parolee will be served by such an extended period of supervision.⁵³

Incentives; "goal parole." While there are graduated sanctions related to parole violations, it does not appear that there are incentives related to adherence to parole conditions.

d. Conditions of Supervision

Oklahoma requires several mandatory conditions of supervision. These conditions are listed on parole certificates, and require the following:⁵⁴

1. Parolee must obey all city, state, and federal laws and must report to his/her parole officer any new arrests or contact with any law enforcement authority. The report must be made no later than close of business on the third working day following the new arrest or contact with law enforcement.
2. Parolee must report in person to his/her parole officer and employer upon arrival at the city or town indicated on his/her parole plan. The initial report must be made no later than close of business on the third working day following the parolee's arrival. Subsequently, he/she must report in person and/or in writing, and/or by telephone, as directed by the parole officer, on forms provided by the parole officer.

3. Parolee must allow the parole officer to visit the parolee's home, work, and other convenient places.
4. Parolee shall be subject to search, without a warrant, at any time or place. Searches may be made of the parolee's person, any vehicle in the parolee's possession or under the parolee's control, and other personal or real property in the parolee's possession or under the parolee's control, to the full extent allowed by law.
5. Parolee may not leave the State of Oklahoma without prior written permission of the parole officer and may not leave the county in which he/she resides without permission of the parole officer or the District Office.
6. Parolee must comply with all lawful directives issued by the parole officer or any member of the Department of Corrections.
7. Parolee must report to the parole officer any changes in residence, employment, or marital status. The report must be made in person and/or in writing, and/or by telephone, as directed by the parole officer, and in no case shall the report be made later than close of business on the working day following the change in residence, employment, or marital status.
8. Parolee may not use or possess drugs other than those legally prescribed by a licensed health care provider. Parolee may not use alcohol nor go:
 - a. Onto the premises where the consumption of alcoholic beverages is the primary activity, notwithstanding that as an incidental service, meals, or short-order foods are made available; or
 - b. Into the "bar area" of any premises that also has an area whose main purpose is the sale of food, with the sale of alcoholic beverages being incidental.
9. Parolee shall not provide false information of any nature or otherwise misrepresent the truth to any office of the government.
10. Unless the parole officer gives prior permission because of work or for other good reason, parolee may not associate with persons on parole or probation or persons with criminal convictions, or communicate with inmates of any penal institution, except for members of parolee's immediate family.
11. Parolee may not own, possess, or travel in a vehicle with firearms or explosives.
12. Parolee must pay parole fees of \$40 per month, payable in cashier's check or money order to "Department of Corrections Restitution and Accounting."
13. Parolee must pay, during the term of parole, all court-imposed fines, court costs, and restitution.
14. Parolee must submit to urinalysis or any other substance abuse testing procedures, as required by the parole officer.
15. Parolees may be required to abide by special rules applicable to persons convicted of sex offenses.
16. Parolees may be required to abide by special conditions applicable to persons convicted of drug or alcohol offenses or otherwise determined to be in need of special supervision in connection with drugs or alcohol as set forth in Procedure 005-3. *Other special conditions as directed by the Governor or Department of Corrections.*
17. Violations of any conditions of parole may result in the imposition of intermediate sanctions prior to the revocation of parole, including but not limited to:
 - Financial Planning
 - Reintegration Training
 - Electronic Monitoring
 - Mental Health Counseling
 - Curfew
 - Community Service
 - Weekend Incarceration
 - Nighttime Incarceration
 - Alcoholics Anonymous (AA)
 - Attend meeting of Victim Impact Panel
 - GED Courses
 - Attend Moral Reconciliation Therapy
 - Attend Narcotics Anonymous (NA)
 - Day Reporting
 - Intensive Parole Supervision (Level I)
18. Parolee agrees to follow the special condition(s) listed below:

In addition, the Board must require that a parolee who has not attained a sufficient proficiency in reading, writing, and computation skills participate in a high school equivalency course or get a GED.⁵⁵ The governor or the DOC may impose discretionary special conditions and there does not appear to be any statute or regulation limiting the potential conditions that could be imposed.⁵⁶

The Board tracks which special conditions are given, as well as how many conditions are part of each parole agreement in its annual statistics. For example, in fiscal year 2017, 83.4% of non-violent offenders were required to submit monthly urinalysis and 82.2% were required to attend substance abuse treatment. In fiscal year 2017, the average number of special conditions per offender was 3.2.⁵⁷

Sex offenders. Sex offenders must be subjected to a risk assessment after being released to supervision; assessments utilized include the Static 99-R and the Level of Supervision Inventory – Revised (LSI-R). Sex offenders are classified from low- to high-risk based on the results of the assessment, and may be subject to additional conditions

of parole based on routine reassessment.⁵⁸ Sex offenders must also agree to submit to blood or saliva tests, agree to not work with or provide services to children, and several other conditions.⁵⁹

Modification of conditions. Requests for modification of conditions must be submitted to the Board, but can be made by the parolee, the DOC, the governor, or the Board itself. Discretionary conditions of parole may be modified by mutual agreement of the parolee, the Board, the DOC, and the Office of the Governor. A modification may include the substitution of one condition for another if the new condition is not more restrictive; or, a special condition may be withdrawn.⁶⁰ There is an administrative review process for imposing additional parole conditions recommended by the DOC. There is also a “special review” requiring a Board vote and a recommendation to the governor in cases where the Board seeks to impose additional conditions based on “newly obtained information.”⁶¹

Incentives; lighter conditions. There do not appear to be any specific incentives related to lighter conditions of parole.

e. Fees and Other Financial Sanctions

Parole supervision fees. Parolees are required by statute to pay a supervision fee to the DOC as a condition of parole. The fee is set at \$40 per month, unless this would pose an unnecessary hardship on the person. In hardship cases, the Department must waive all or part of the fee.⁶²

Payments for drug and alcohol testing and treatment. Parolees may be required to undergo drug and alcohol testing and treatment, however, it is unclear whether there is a fee associated with this.

Restitution. A sentencing court will not impose a condition of restitution if the defendant is not able to pay such restitution without imposing manifest hardship on the defendant or their immediate family and if the extent of the damage to the victim is determinable with reasonable certainty.⁶³

Child support. There is no specific requirement that a parolee pay child support; however, a parolee must obey all laws including those that reinforce child support orders.

Other financial obligations. The parolee must pay all court-imposed fines and court costs.⁶⁴

Incentives; reduction of economic sanctions. It does not appear that there are any incentives related to the reduction of economic sanctions.

5. Parole Revocation

Parole revocation proceedings. There is no recent data on parole revocation for Oklahoma.

Absconders. There is no data on absconders for Oklahoma.

a. Principles and Criteria of “When to Revoke”

Policy considerations. Oklahoma has had a system of intermediate sanctions for parole violators since the early 2000s that supervising agents may use to address technical violations and even minor crimes. One keystone of this approach is a referral to an intermediate placement facility where violators can serve a sanction in lieu of revocation.⁶⁵

Legal predicates. Any violation of the terms and conditions of parole may be grounds for revocation.⁶⁶

b. Revocation Guidelines

The Board and the governor do not appear to utilize parole revocation guidelines. In addition, it appears that the DOC bases its choice to impose intermediate sanctions at a staffing meeting discussing the individual case rather than relying on a more structured or progressive sanctions grid.⁶⁷

c. Risk and Needs Assessment Tools

It does not appear that a risk assessment is used at the revocation phase.

d. Preliminary and Final Revocation Procedures

Arrest or summons. If a parole officer has reasonable grounds to believe that a parolee has violated the terms and conditions of parole, they must notify the DOC. If the Department determines that the facts justify revocation action, it will issue a warrant for the parolee’s arrest.⁶⁸

Preliminary hearing. At the preliminary hearing, a hearing officer must find probable cause that a parole violation has occurred. Hearing officers are appointed by the Board and must be licensed to practice law in the state.⁶⁹

It appears that offenders may opt to waive either the Probable Cause Hearing or the final Revocation Hearing by completing a waiver form, which must be signed and

witnessed. If the offender chooses to waive the latter, the hearing officer will review the offender's "jacket" (or DOC file), and all submitted evidence and make a recommendation based upon the evidence presented.⁷⁰

Final hearing. The final hearing is termed an "executive parole hearing." A hearing officer conducts the hearing live or through videoconference. The parolee and a parole officer or representative of the DOC must be present. Witnesses and observers may also attend.⁷¹

e. Offenders' Procedural Rights

The parolee and their legal counsel (if any) must be present while the DOC presents evidence of the violation. The parolee may call witnesses. The hearing officer must allow the parolee to cross-examine all witnesses presented by the opposing party. However, Board policy states that in no case will harassment or intimidation be tolerated; in addition, the hearing officer has the right to sequester witnesses for safety reasons.

If a parolee requests that the Board appoint counsel, the hearing officer must decide whether to do so based on the individual's:

- Age, intelligence, criminal experience, ability to communicate, and complexity of the case;
- Whether the offender denies committing the alleged violation(s);
- Whether there are mitigating factors, which are complex or otherwise difficult to develop or present; and
- Whether the offender appears to be capable of speaking effectively.⁷²

f. Victims and Other Participants

It does not appear that there is a requirement to notify victims or other parties not involved in the parole violation. However, it appears that the public may attend parole revocation hearings as observers.⁷³

g. Burden of Proof or Standards of Persuasion

The DOC must prove by a preponderance of the evidence that the allegations are true and that revocation is warranted under the circumstances. A preponderance of evidence means that the evidence indicates that the facts to be proved are credible and more probable than not.⁷⁴

h. Revocation and Other Sanctions

After the hearing, the hearing officer must make a recommendation to the governor. The recommendations may include that parole be reinstated, that parole be revoked in its entirety, or that a portion of the remaining parole term be revoked. In addition, the hearing officer must prepare either a proposed Certificate of Parole Reinstatement or a proposed Certificate of Parole Revocation to forward to the Governor's office.⁷⁵

Per statute, parolees receive credit against their sentence for time spent on parole.⁷⁶ This credit ceases to run after a warrant for arrest on a parole violation is issued and during any time when the parolee is incarcerated pending revocation action by the governor.⁷⁷ The hearing officer must make a recommendation about whether or not the parolee can retain the credit for the time spent on parole.⁷⁸ Once the Board makes a recommendation, the governor has 120 days or longer depending on various circumstances to process the final revocation determination. After a final decision is made, the governor files the revocation certificate with the secretary of state and notifies the Board and the DOC.⁷⁹

Before the hearing process occurs, the DOC may give a parolee the option of placement in a disciplinary sanctions facility in lieu of revocation. The governor may also require this option after a revocation hearing. Under these circumstances, it may become a required additional condition of remaining on parole.⁸⁰

The team supervisor and the supervising parole officer make decisions about intermediate sanctions at the DOC level after a review of an offender's file. Note that in any intermediate sanction decision made prior to a hearing, the parolee must accept the sanction and waive their right to a hearing. Other intermediate sanctions may include:⁸¹

- Financial Planning
- Reintegration Training
- Electronic Monitoring
- Mental Health Counseling
- Curfew
- Community Service
- Weekend Incarceration
- Nighttime Incarceration
- Alcoholics Anonymous (AA)
- Attend meeting of Victim Impact Panel
- GED Courses
- Attend Moral Reconciliation Therapy
- Attend Narcotics Anonymous (NA)
- Day Reporting
- Intensive Parole Supervision (Level I)

i. Issuing Parole Revocation Decisions

The hearing officer must prepare a written hearing summary with a recommendation as to whether the governor should revoke parole.⁸²

j. Administrative or Judicial Review of Parole Revocation Decisions

Judicial appeal is available through the Post-Conviction Procedure Act after revocation occurs. Through the act, relief is available to any person convicted of, or sentenced for a crime who claims:

- (a) that the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this state;
- (b) that the court was without jurisdiction to impose sentence;
- (c) that the sentence exceeds the maximum authorized by law;
- (d) that there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
- (e) that his sentence has expired, his suspended sentence, probation, parole, or conditional release was unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
- (f) that the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; and thus may institute a proceeding under this act in the court in which the judgment and sentence on conviction was imposed to secure the appropriate relief.⁸⁴

k. Re-Release Following Revocation

Parole revocation cases are docketed for parole consideration one year from the month of rebill or reception if the time left to serve equals or exceeds 28 months. Parole dockets are not assigned on shorter cases.⁸⁵

6. Parole Board; Institutional Attributes

a. Source of Authority and Jurisdiction

The Board was created through an amendment to the state constitution. It has sole jurisdiction over the release of non-violent prisoners; it serves in an advisory role with regard to the release of violent offenders and parole revocation.⁸⁶

b. Location in Government

The Board is an independent agency located within the executive branch of state government.

c. Purpose (Vision/Principles/Rationale)

The Board's stated mission is to "serve the citizens of Oklahoma by ensuring public safety, protecting victim's rights, and providing offenders with positive change through careful and informed decisions on the parole of non-violent offenders and recommendations to the governor regarding the parole of violent offenders, as well as for pardons, commutations, and clemency requests."⁸⁷

The Board's stated vision is to "be guided by sound application of the discretionary authority vested by the Constitution of the State of Oklahoma, allowing the offender to make a successful transition back into the community."⁸⁸

Finally, the Board has also written a values statement: "The Pardon and Parole Board strongly believes and is committed to the ethical, unbiased, and professional performance of duties and will continually strive for excellence and fairness by making decisions that maintain a delicate balance between public safety, victim's rights, and the successful re-integration of the offender."⁸⁹

d. Appointment and Qualifications of Board Members

There are five members on the Board. Three are appointed by the governor; one by the chief justice of the state supreme court, and one by the presiding judge of the Criminal Court of Appeals.⁹⁰

Qualifications? A board member must possess at least one of the following minimum qualifications: (1) A bachelor's degree in the social sciences from an accredited college or university and five (5) years of experience in the criminal justice field; (2) A master's degree and four (4) years of experience in the criminal justice field; or (3) A juris doctorate and three (3) years of experience in the criminal justice field.⁹¹

e. Tenure of Board Members, Ease of Removal

The appointed members hold their offices coterminous with that of the governor, but may be reappointed upon the expiration of the governor's term in office.⁹² Board members are removable for cause only in the manner provided by law for elective officers not liable to impeachment.⁹³

f. Training and Continuing Education

Each member of the Board must receive at least twelve (12) hours of training for the first year and six (6) hours of training per year thereafter on matters relating to the duties of the Board. The training must be provided by personnel of the Board and according to guidelines adopted by the Board.⁹⁴

g. Workload

The Board held 2,458 parole review hearings in fiscal year 2017. Of those, 900 were for violent crimes. The Board had a grant rate of 27.4% for non-violent crimes, but only advised the governor to grant release for 2.5% of violent crimes.⁹⁵

h. Reporting and Accountability of Parole Board

The Board must communicate to the Legislature, at each regular session, all paroles granted, stating the names of the persons paroled, the crimes of which the persons were convicted, the dates and places of conviction, and the dates of paroles.⁹⁶ Parole votes are made public after they are finalized.⁹⁷ The Board must also comply with the state's open meetings act and allow them to be public. It reserves, however, the authority to limit the number of attendees in support of, or in opposition to, any inmate being considered for parole and has the authority to exclude individuals from attendance due to security or capacity issues.⁹⁸

END NOTES

- ¹ The Oklahoma Sentencing Commission was created in 1997 but was dissolved in 1999; it proposed legislation that offered a scheme of sentencing matrices and classifications that was eventually rejected for being soft on crime and too complicated. See Jim Campbell, Tulsa World, *Oklahoma Prison Sentencing Reform has Factious History* (Feb. 14, 2011), http://www.tulsaworld.com/archives/oklahoma-prison-sentencing-reform-has-factious-history/article_14b721b7-f108-5419-8d3b-1385d95a4569.html.
- ² Okla. Stat. tit. 22, §§ 973, 975 (2018).
- ³ Okla. Laws 1999, 1st Ex. Sess., c. 4, §§ 3, 29; codified as Okla. Stat. tit. 21, § 12.1, Okla. Stat. tit. 22, § 988.3 *et seq.* (2018).
- ⁴ Okla. Pardon & Parole Bd., *Oklahoma Pardon and Parole Board History*, https://www.ok.gov/ppb/Agency_and_Board_Meeting_Information/Agency_History/index.html (last visited Jun. 15, 2018).
- ⁵ Council of State Governments, *Oklahoma*, <https://csgjustice-center.org/jr/ok/> (last visited Jun. 15, 2018).
- ⁶ Okla. Const. Art. VI, § 10; Okla. Stat. tit. 57, § 332.7.
- ⁷ Okla. Stat. tit. 57, § 512 (2018).
- ⁸ Okla. Stat. tit. 57, § 516 (2018); Okla. Pardon & Paroles Bd., *Revocations*, https://www.ok.gov/ppb/Paroles_and_Revocations/Revocations/ (last visited Jun. 15, 2018).
- ⁹ See, e.g., Okla. Stat. tit. 21, § 1402 (2018) (“Arson in the Second Degree” Any person who willfully and maliciously sets fire to or burns or by the use of any explosive device or substance or while manufacturing or attempting to manufacture a controlled dangerous substance in violation of subsection G of Section 2-401 of Title 63 of the Oklahoma Statutes destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels or procures the burning or destruction of any uninhabited or unoccupied building or structure or contents thereof, whether the property of himself or another, shall be guilty of arson in the second degree, which is a felony, and upon conviction thereof shall be punished by a fine not to exceed Twenty Thousand Dollars (\$20,000.00) or be confined in the State Penitentiary for not more than twenty-five (25) years or both.”).
- ¹⁰ Okla. Stat. tit. 57, § 332.7 (2018).
- ¹¹ Okla. Stat. tit. 21, § 12.1 (2018). Crimes under this statute include first- and second-degree murder, first-degree manslaughter, poisoning, or assault with intent to kill, shooting or discharging firearm with intent to kill or use of a vehicle to facilitate use of a deadly weapon, conjoint robbery, robbery with a dangerous weapon, first-degree robbery, rape, arson, or burglary, bombing, abuse/neglect of a child, forcible sodomy, child pornography, child prostitution, lewd molestation of a child, abuse of a vulnerable adult, aggravated trafficking, aggravated assault and battery upon any person defending another from assault and battery, or human trafficking.
- ¹² See Okla. Stat. tit. 21, § 1115 (2018).
- ¹³ Okla. Stat. tit. 21, § 51.1 (2018).
- ¹⁴ A violent crime is one of over fifty crimes defined by statute including certain forms of assault, battery, murder, manslaughter, kidnapping, burglary, robbery, child abuse, rape, rioting, arson, sabotage, terrorism, extortion, and various other crimes. See Okla. Stat. Ann. tit. 57, § 571(2) (2018).
- ¹⁵ Okla. Stat. tit. 21, § 62.1 (2018).
- ¹⁶ See, e.g., *Fields v. State*, 501 P.2d 1390 (Okla. 1972), *Ex parte Jones*, 119 P.2d 254 (Okla. Ct. App. 1941).
- ¹⁷ *Anderson v. State*, 130 P.3d 273, 278 (Okla. Crim. App. 2006).
- ¹⁸ Okla. Admin. Code § 515:3-7-1.
- ¹⁹ Okla. Stat. Ann. tit. 57, § 138 (2018).
- ²⁰ Okla. Pardon & Parole Bd., *Frequently Asked Questions on Parole* at 2, <https://www.ok.gov/ppb/documents/FAQs/Paroles.pdf> (last visited Jun. 15, 2018) [hereinafter “Parole FAQs”].
- ²¹ Okla. Pardon & Parole Bd., *Parole Process*, https://www.ok.gov/ppb/Parole_Process/ (last visited Jun. 15, 2018) [hereinafter “Parole Process”].
- ²² Okla. Stat. Ann. tit. 57, § 332.8 (2018).
- ²³ Okla. Stat. Ann. tit. 57, § 332.18 (2018).
- ²⁴ Okla. Const. art. VI, § 10.
- ²⁵ Okla. Stat. Ann. tit. 57, § 37(A) (2018).
- ²⁶ Okla. Admin Code §§ 515:3-5-1, 515:3-5-2.
- ²⁷ Parole Process, *supra* note 21.
- ²⁸ Parole FAQs, *supra* note 20 at 2.
- ²⁹ *Id.*
- ³⁰ Okla. Admin Code § 515:3-5-2(b).
- ³¹ Okla. Dep’t of Corr., Procedure OP-060205 (Parole Process Procedures) at 6–7 (eff. Feb. 27, 2018), <http://doc.ok.gov/Websites/doc/images/Documents/Policy/op060205.pdf> [Hereinafter “Procedure OP-060205”].
- ³² Okla. Stat. Ann. tit. 57, § 354 (2018); Okla. Pardon & Parole Bd. *Policy and Procedures Manual: Procedures* at 52 (eff. Jan. 11, 2001), <https://www.ok.gov/ppb/documents/ProcedureManual.pdf> [hereinafter Bd. Procedure Manual].
- ³³ *Id.* at 50.
- ³⁴ Procedure OP-060205, *supra* note 31 at 9.
- ³⁵ Okla. Pardon & Parole Bd., *Attendance at Hearings*, https://www.ok.gov/ppb/Parole_Process/Hearing_Process/Hearing_Attendance/ (last visited Jun. 15, 2018).
- ³⁶ Okla. Stat. Ann. tit. 57, § 332.7(D) (2018).
- ³⁷ Okla. Admin. Code § 515: 1-5-1(d).
- ³⁸ Okla. Stat. Ann. tit. 21, § 142A-8(E) (2018).
- ³⁹ Okla. Stat. Ann. tit. 57, § 332.7(C) (2018).
- ⁴⁰ Parole FAQs, *supra* note 20 at 3.
- ⁴¹ Parole Process, *supra* note 21.
- ⁴² See, e.g., *Florez v. State*, 239 P.3d 156 (Okla. Crim. App. 2010), *Anderson v. State*, 130 P.3d 273 (Okla. Crim. App. 2006).
- ⁴³ *Shabazz v. Keating*, 977 P.2d 1089 (Okla. 1999).
- ⁴⁴ *Ford v. Jenks*, 262 Fed. Appx. 94 (10th Cir., 2008).
- ⁴⁵ *Dugger v. Attorney Gen. of Okla.*, 27 Fed. Appx. 992 (10th Cir., 2001); *Henderson v. Scott*, 260 F. 3d 1213 (10th Cir., 2001).
- ⁴⁶ Parole FAQs, *supra* note 20 at 8.
- ⁴⁷ Procedure OP-060205, *supra* note 31 at 13.
- ⁴⁸ Danielle Kaebler, Bureau of Justice Statistics, Probation and Parole in the United States, 2016 at 18-19 (Appendix Table 5) (Apr. 2018), <https://www.bjs.gov/content/pub/pdf/ppus16.pdf>.
- ⁴⁹ Okla. Dep’t of Corr. Div. of Cmty. Corr., *Annual Report FY 2013*, <https://www.ok.gov/doc/documents/communityCorrectionsAnnualReport2013.pdf>.
- ⁵⁰ Okla. Stat. Ann. tit. 57, § 512 (2018).
- ⁵¹ *Id.*
- ⁵² Okla. Stat. Ann. tit. 22, § 991a(1)(f) (2018).
- ⁵³ Okla. Stat. Ann. tit. 57, § 512(2) (2018).
- ⁵⁴ Interstate Comm’n for Adult Offender Supervision, *Conditions of Supervision (Oklahoma)* <http://www.interstatecompact.org/LinkClick.aspx?fileticket=1TR5Ecdh8Ws=&tabid=1289&portalid=0&mid=43> (last visited Mar. 2, 2017) (no longer published online).
- ⁵⁵ Okla. Stat. Ann. tit. 57, § 332.8 (2018).
- ⁵⁶ Conditions of Supervision, *supra* note 54.
- ⁵⁷ Okla. Pardon & Parole Bd., *Voting for Fiscal Year 2017* at 2 – 3, <https://www.ok.gov/ppb/documents/FY%202017%20Final%20Stats.pdf>.
- ⁵⁸ Okla. Dep’t of Corr., Procedure OP-160601 (Supervision of Sex Offenders) at 4-9 (effective Jan. 12, 2017), <https://www.ok.gov/doc/documents/op160601.pdf>.
- ⁵⁹ Okla. Dep’t of Corr., Oklahoma Sex Offender Registration Act Notice of Duty to Register, <http://doc.ok.gov/Websites/doc/Images/Documents/Policy/020307b.pdf> (last visited Jun. 21, 2018).
- ⁶⁰ Okla. Pardon & Parole Bd. *Policy and Procedures Manual: Policy* at 26-27, <https://www.ok.gov/ppb/documents/Policy%20Manual.pdf> (last visited April 19, 2017) [hereinafter “Board Policy Manual”].
- ⁶¹ *Id.* at 33-34.
- ⁶² Okla. Stat. Ann. tit. 22, § 991d(A)(1), (B) (2018).
- ⁶³ Okla. Stat. Ann. tit. 22, § 991f (2018).
- ⁶⁴ Conditions of Supervision, *supra* note 54.
- ⁶⁵ Okla. Stat. Ann. tit. 57, § 516 (2018).
- ⁶⁶ *Id.*

END NOTES

- ⁶⁷ Okla. Dep't of Corr. Policy OP-160901 § 1(A), at 2 (effective Jan. 6, 2017), <https://www.ok.gov/doc/documents/op160901.pdf>.
- ⁶⁸ Okla. Stat. Ann. tit. 57, § 516 (2018).
- ⁶⁹ Bd. Policy Manual, *supra* note 60, at 1.
- ⁷⁰ Okla. Pardon & Parole Bd., *Revocations*, https://www.ok.gov/ppb/Paroles_and_Revocations/Revocations/index.html (last visited Jun. 18, 2018).
- ⁷¹ Bd. Policy Manual, *supra* note 60, at 2.
- ⁷² *Id.* at 4.
- ⁷³ *Id.* at 2.
- ⁷⁴ *Id.* at 3.
- ⁷⁵ *Id.* at 3-4.
- ⁷⁶ Okla. Stat. Ann. tit. 57, § 350 (2018).
- ⁷⁷ Okla. Stat. Ann. tit. 57, § 516(A) (2018).
- ⁷⁸ Bd. Policy Manual, *supra* note 60, at 3.
- ⁷⁹ *Revocations*, *supra* note 70.
- ⁸⁰ Okla. Stat. Ann. tit. 57, § 516(B) (2018).
- ⁸¹ Conditions of Supervision, *supra* note 54.
- ⁸² Bd. Policy Manual, *supra* note 60, at 4.
- ⁸³ See, e.g., *Frazier v. State*, 59 P.3d 512 (Okla. Ct. Crim. App., 2002) In this case, the petitioner was denied relief because the governor had not yet made a final decision to revoke parole. Before the revocation process is complete, a petitioner can only bring a challenge on the grounds that there is no lawful authority whatsoever for his restraint, or that such authority has lapsed or been exceeded. *Id.* at 515.
- ⁸⁴ Okla. Stat. Ann. tit. 22, § 1080 (2018).
- ⁸⁵ Bd. Policy Manual, *supra* note 60, at 17.
- ⁸⁶ Okla. Const. art. VI, § 10.
- ⁸⁷ Okla. Pardon & Parole Bd., *Home*, <https://www.ok.gov/ppb/> (last visited Mar. 2, 2017).
- ⁸⁸ *Id.*
- ⁸⁹ *Id.*
- ⁹⁰ Okla. Const. art. VI, § 10.
- ⁹¹ Okla. Stat. Ann. tit. 57, § 332.1B (2018).
- ⁹² Okla. Const. art. VI, § 10.
- ⁹³ *Id.*
- ⁹⁴ Okla. Stat. Ann. tit. 57, § 332.1A (2018); see also Okla. Pardon & Parole Bd., *Employee Handbook Policy 101* at 1 ("The training shall be provided according to guidelines adopted by the Board. Training may consist of, but is not limited to the following: a. Seminars attended by Board Members; b. Conferences and Regional Meetings attended by Board Members; c. Criminal Justice, Mental Health, and Drug and Alcohol related meetings; d. Staff training performed by the PPB Agency; e. Program training given at Board Meetings; and f. Any other type of training provided by the Board Members.") (2017), https://www.ok.gov/ppb/Agency_and_Board_Meeting_Information/Administrative_Rules_Policies_and_Procedures/index.html.
- ⁹⁵ Okla. Pardon & Parole Bd., *Voting for Fiscal Year 2017* at 1, <https://www.ok.gov/ppb/documents/FY%202017%20Final%20Stats.pdf>.
- ⁹⁶ Okla. Const. art. VI, § 10.
- ⁹⁷ Okla. Pardon & Parole Bd., *Board Hearing Process*, https://www.ok.gov/ppb/Paroles_and_Revocations/Board_Hearing_Process/index.html (last visited Jun. 18, 2018).
- ⁹⁸ Okla. Stat. Ann. tit. 57, § 332.2 (2018).