



State of Louisiana

**OFFICE OF
STATE INSPECTOR GENERAL**

BOARD OF PARDONS

Report by

Inspector General Bill Lynch

Prepared for

Governor M.J. "Mike" Foster, Jr.

JANUARY 13, 1998

File No. 1-98-0031



State of Louisiana

**OFFICE OF
STATE INSPECTOR GENERAL**

Board of Pardons

December 18, 1997

Report by

 **Inspector General Bill Lynch**

Approved by

 **Governor M.J. "Mike" Foster, Jr.**

File No. 1-98-0031

Board of Pardons

Circumstances surrounding a changed vote by the State Pardon Board in October, 1995, which allowed a convicted murderer to obtain clemency, indicate the change was made outside of a public meeting in violation of state law.

Board member Larry Clark acknowledged that he switched his vote, based on the records, but could not recall the specific case. Mr. Clark and other members of the board at the time insisted they would not have voted except in public session.

However, family members of one victim, who attended the meeting, stated they were present for the entire meeting and the only vote announced was to reject the clemency petition. Other information supports their position.

Background

The Louisiana State Board of Pardons operates under the authority of La. R.S. 15:572. It consists of five members appointed by and serving at the pleasure of the governor.

The board is responsible for deciding whether to recommend to the governor clemency (pardon or commutation of sentence) for persons convicted of crimes in Louisiana.

This investigation involved the board's decision in October, 1995, whether to recommend commuting the sentence of Paul "Tex" Chandler, an inmate serving two life sentences for a double murder.

Members of the board at that time were Chairwoman Cynthia Fayard of Denham Springs, Lynise Kennedy of Boston, Mass., Nettie Millican of Baton Rouge, John Grasso of Houma and Larry Clark of Alexandria. Mr. Clark was reappointed to the current board by Gov. Mike Foster. The board's administrator then and now is Ms. Thomas Hollins.

Routinely, the board receives applications for clemency, then schedules a public meeting to hear each case. Usually, about 20 cases are heard at a single public meeting.

Board of Pardons

Page 2

According to law, the board notifies interested parties, including families of victims and relevant law enforcement personnel. At the meeting, the board first hears evidence in all the cases scheduled for that day. After hearing all the cases, members go into an executive session to discuss them. The meeting is re-opened and the board votes and announces publicly its decision on each case.

If interested parties have no questions, the meeting is concluded.

The meetings are not recorded on video or audio tape. The minutes reflect the votes on each case, the vote on motions to go into executive session and the times of the public and private sessions. There is nothing relating to the discussions held either in public or private sessions.

Changed Vote

Paul "Tex" Chandler was convicted in Bossier Parish in 1975 of two counts of second-degree murder after he shot to death two persons and wounded two others. Chandler was a well-known figure in the Department of Corrections, serving as a worker in the headquarters building, which included the Pardon Board offices. Members of the board stated they knew who Chandler was.

Chandler applied for clemency in 1995 and was granted a hearing before the Pardon Board, which was held Oct. 3, 1995.

The board convened at 9 a.m. Witnesses for and against clemency testified on the Chandler case, including the Hoffpauirs, the family of one of the men murdered. Tracey Hoffpauir, spokesperson for the family, objected to a clemency recommendation. The board completed hearing all of the cases at 12:30 p.m. At 12:35 p.m., the board convened in executive session. At 12:40 p.m., the executive session was concluded.

After a 10 minute break, the board reconvened in public session at 12:50 p.m., when it commenced voting and announcing the decision on each case. The entire process took only five minutes, according to the meeting minutes. The board adjourned at 12:55 p.m.

The Chandler case was the fifth of 14 cases heard that day.

Board of Pardons

Page 3

Ms. Hoffpauir stated that it was not until after all of the case decisions were announced, that the family was advised that the meeting was over and they could leave. She stated that the the family left with the understanding that the clemency petition had been rejected by a 3 to 2 vote. She stated there was no further discussion of the case after the decision was announced and by the time the meeting was concluded.

The Hoffpauirs received a letter dated Dec. 13, 1995, from the board stating that inmate Chandler had been granted a recommendation for clemency and commutation of sentence from life to 75 years with parole eligibility.

A review of the Pardon Board vote sheet on this case revealed that Mr. Clark originally voted to deny clemency. The denial was whited out, however, and changed to a vote to grant. This made the vote 3 to 2 to recommend clemency for the inmate.

The minutes for the hearing also show the change from a vote to deny to a vote to grant. While Mr. Clark's initials denoting the changed vote are on the vote sheet, the initials of the board member denoting the changed vote on the minute sheet are scratched out and unreadable.

Mr. Clark, said he could not remember this specific case, but that he and other members occasionally changed their votes. He said in this case, he must have changed his vote, whited out the denial and voted to grant. He said he was certain this would have occurred at the public meeting, not out of public view. Mr. Clark said he did not recall why he changed his vote.

Other members of the board who were interviewed did not specifically recall the Chandler case, but stated they would not have voted outside the public meeting.

Ms. Hoffpauir said she and her family purposefully stayed past the announcement of denial on the Chandler case, and waited until all business of the board was concluded. When they left, they believed the board had denied clemency for the inmate. They said no member of the board changed a vote while they were there.

Ms. Hoffpauir's position was supported by another person who attended the meeting, Sidney Touchet of Lafayette, head of a pro-inmate group known as CONVICTS. He said he never leaves a hearing until all business is concluded and this day was no different. He said he remembered the Chandler case and he heard no discussion of the case after the chairwoman announced the board's decision. He said no member changed a vote on the Chandler case while he was there until the end of the meeting.

In search of an explanation, Ms. Hoffpauir contacted Ms. Hollins, the board's administrator. Ms. Hollins stated that the chairwoman had simply misread the vote. No mention of a change in votes was given, Ms. Hoffpauir stated. Ms. Hoffpauir contacted Sandy Krasnoff, a victim's rights advocate, and related the information. Mr. Krasnoff contacted Ms. Hollins who told him the same thing she had told Ms. Hoffpauir.

In an interview with the Inspector General investigator, Ms. Hollins acknowledged giving that explanation to Ms. Hoffpauir and Mr. Krasnoff, but realized later it was wrong. Ms. Hollins said she did not become aware of the vote change until sometime later. Ms. Hollins said she did not recall anything about the Chandler hearing and was in and out of the room during the meeting.

Governor's Action

On the same date that the letter notifying Ms. Hoffpauir of the board's changed decision, the recommendation for clemency was forwarded to Governor Edwin W. Edwards for his consideration.

In another unusual aspect to this case, the governor's executive counsel, Connie Koury, notified the Pardon Board by letter dated Dec. 20, 1995, that the governor had reviewed and decided not to grant clemency to Chandler. However, on Dec. 29, 1995, the governor signed the order granting the inmate clemency.

Gov. Edwards said he could not recall the specific case.

Ms. Koury, now First Assistant Attorney General, said she could not recall the specific case but said she may have erred by including this inmate's name among cases that the governor intended to deny. She said that Chandler's situation fell into the same category as others who were being approved.

The governor acted on a large number of clemency applications during the final days of his administration.

Parole

Upon becoming eligible for parole, the Department of Corrections determined the date when Chandler could seek release. A hearing was held by the State Board of Parole on July 17, 1997. The Hoffpaur family voiced its opposition to the parole application and it was turned down by a two to one vote. The Parole Board is a separate entity from the Pardon Board.

Inmate Chandler, who remains in prison, may continue to seek parole. He becomes eligible for good time release in 2013.

Open Meetings

As noted earlier in this report, the Pardon Board voted to go into executive session to discuss the suitability of the applicants. The law pertaining to the Pardon Board requires it to meet in public session. La. R.S. 15:573 states: "All sessions of the Board of Pardons shall be public." There are no exceptions cited in the statute allowing for the board to adjourn to executive session to discuss cases. In addition, the state Open Meetings Law also requires that sessions of a public body be conducted in public, with certain exceptions, none of which in our judgment apply to the Pardon Board in this situation.

Conclusions:

1. A member of the Pardon Board changed his recorded vote on the vote sheet from a vote to deny clemency to a vote to grant a clemency recommendation, and indications are the change was made outside of a public meeting in violation of state law.
2. Minutes of the meeting reflect the board would have had to cast its vote and

and announce a change in the vote on that case all in five minutes, in order to have accomplished the vote change in public session. In our opinion, this was not enough time.

Recommendations:

1. The board should not act on any vote changes except in public session.
2. The board should meet only in public session, as required by law.

Management Statement:

Chairwoman Fayard said that, although she was sure that no member of the board ever voted out of public view, she either should have been certain that the Hoffpauirs were aware of the vote change before they left the hearing or they should have been contacted immediately by telephone and provided an explanation.

She said that when a vote was changed, a new vote sheet should have been recorded or at least the changed vote should not have been whited out, but instead crossed out and the new vote recorded.

BL/JW/fs

File No. 1-98-0031

DEPARTMENT OF
PUBLIC SAFETY AND CORRECTIONS

M. J. "MIKE" FOSTER, JR., GOVERNOR



RICHARD L. STALDER, SECRETARY

December 9, 1997

Mr. Bill Lynch
State Inspector General
Post Office Box 94095
State Capitol Annex
Baton Rouge, LA 70804-9095

Dear Mr. Lynch:

The Board of Pardons has received the draft report concerning the clemency hearing for Paul "Tex" Chandler held October 3, 1995.

First, the Board of Pardons would like to thank Mr. Wilsford for conducting this investigation in such a professional manner.

Secondly, effective August 5, 1997, the Board of Pardons has audio taped all meetings to include a voice vote by Board members as well as a vote sheet on each case. Additionally, abbreviated minutes are taken by Ms. Hollins which includes the signature of the chairman.

We are hopeful that issues of this nature will not recur and we will continue to work toward improving the policies and procedures of the Board of Pardons to better serve all parties concerned in the clemency process.

If there are any additional questions, please contact me at (504) 342-5421.

Yours for a better criminal justice system,

Sally L. McKissack
Sally L. McKissack
Chairman - La. Board of Pardons
(504) 342-5421
(504) 342-2289 (FAX)

SLMK/tah

xc: Mr. Cheney Joseph
Mr. Richard Stalder
Ms. Debbie Rutledge
Mr. Larry Clark
Ms. Thomas A. Hollins