



Arizona Board of Executive Clemency



A Message from the Chairman/Executive Director:

The Arizona Board of Executive Clemency is pleased to offer you this report covering the period July 1, 2012 through June 30, 2013. The data and information contained in this report is largely self-explanatory and clearly illustrates the commitment of the Board members and staff to serving the public through sound, thorough and fair decision making processes that are in the best interest of the state of Arizona. Through these processes the public can be assured that their safety and welfare is of primary concern to the board.

The Board of Executive Clemency has experienced many challenges and changes over the past year. But even with these challenges the staff continues to support, in highly professional manner, the Board's mission, goals and statutory responsibilities. Likewise, the Board continues its tradition of professionalism and is pleased with its reputation for service and responsiveness to all its stakeholders.

The Board of Executive Clemency strives to be a model of efficiency and effectiveness in serving the citizens of Arizona. Should you have any questions about the Board or its work in protecting the public's interest and safety please call me at 602- 542-5656.

Respectfully,

A handwritten signature in black ink, appearing to read "Brian L. Livingston".

Brian L. Livingston

Chairman/Executive Director

The Board's Mission

The mission of the Arizona Board of Executive Clemency is to ensure public safety by:

- considering and granting parole to inmates who are certified by the Department of Corrections and who appear not to pose a threat to society, and
- recommending to the Governor only those executive clemency actions that are in the best interests of the citizens of Arizona.

The Board's Purpose

The Board conducts monthly Parole hearings for inmates who were convicted of offenses committed on or before January 1, 1994. Hearings may also be held to consider Work Furlough; Home Arrest; Absolute Discharge from Imprisonment or from Parole Supervision; Parole Rescission; and Parole Revocation requests. The Board also conducts hearings for clemency actions that include Pardon, Commutation of Sentence, and Reprieve.

History of the Board

Change and adaptation best characterize the Board's history. Arizona first afforded inmates the opportunity for parole in 1901, prior to becoming a state. The agency then known as the Board of Control functioned as the Territory's discretionary releasing mechanism and consisted of the Governor, Territorial Auditor, and one citizen appointed by the Governor.

The Board of Control retained its releasing authority until the first Arizona Criminal Code became effective in October 1913, when it was replaced by the Board of Pardons and Paroles. The three-person Board consisted of a Governor-appointed citizen chairperson, the Superintendent of Public Instruction and the Attorney General. Board composition remained unchanged for the next five decades.

In 1966, the Legislature expanded Board membership to five part-time members appointed by the Governor to five-year terms. Two years later, legislation replaced the five part-time members with three full-time members. The Governor appointed all members to three-year terms, subject to Senate confirmation.

In 1978, as part of the new Criminal Code, the Legislature expanded the Board to five full-time members serving five-year terms, with gubernatorial appointments remaining subject to Senate confirmation. In 1984, the Legislature further expanded the Board to seven full-time members.

The 1993 Legislative session included legislation that eliminated all Board releases for inmates whose offenses were committed after January 1, 1994, and changed the agency's name to the Board of Executive Clemency.

In 1997, the Board's membership was decreased from seven to five. That change became effective in January 1998.

In 2012, the Board membership consists of 5 members who may perform their duties on a full time basis. Current Board members are appointed by the Governor to five-year terms.

Arizona Revised Statutes § 31-401 and subsequent sections detail the Board's operating authority and duties.

Structure

The Board is supported by 5 full-time administrative staff members:

Chairman/Executive Director. In 2004, the Legislature combined the positions of Chairman and the Executive Director through 2007. In 2006, the combining of positions was extended through 2009.

Administrative Service Officer I. Under the direction of the Chairman/Executive Director, this officer is responsible for managing the Board's business and human resource functions and serves as computer network administrator.

Hearing Officers III. A Hearing Officer III conducts probable-cause hearings for rescission and revocation actions, provide information to the Board for all clemency actions, and prepare reports for inmates certified eligible for other releases. The Hearing Officer III supervises and manages the Board's three Administrative Support Staff members.

Program Project Specialist II. This staff member drafts policies and procedures, performs special projects as determined by the Chairman/Executive Director, maintains statistical information and may act as the Board's legislative liaison.

Administrative Support Staff. The Administrative Support Staff members monitor hearings; process packets for the Board's use in making release decisions; provide statutorily mandated notifications to victims, officials and other concerned individuals and entities; manage and maintain individual files and the file room; and complete dispositions and proclamations for Board decisions.

Current Board Members

Brian L. Livingston. (*Phoenix*) is the Board's Chairman/Executive Director. Appointed by Governor Brewer to the Board, as a board member, in April 2012 and became Executive Director and Chairman in August 2013.

John (Jack) LaSota (*Phoenix*) was appointed by Governor Brewer to the Board in May 2010.

Ellen Kirschbaum (*Phoenix*) was appointed by Governor Brewer to the Board in December 2010.

Donna Harris (*Avondale*) was appointed to the Board by Governor Brewer in September 2013.

PAST MEMBERS WHO SERVED DURING THE PERIOD OF THIS REPORT

Term Ended

Jesse Hernandez	8/2013
Melvin Thomas	8/2013
Duane Belcher, Sr.	4/2012
Ellen Stenson	4/2012
Marilyn Wilkens	4/2012

Types of Board Hearings

General Parole (A.R.S. § 31-412[A]) A conditional release from incarceration that entitles the parolee to serve the remainder of the parolee's term outside of the confines of a penal institution, if the parolee satisfactorily complies with all of the terms and conditions provided in the parole order.

Parole to a Consecutive Sentence or Another Jurisdiction (A.R.S. § 31-412.B) A mechanism to parole an inmate to a consecutive sentence to be served in an institution or parole to another jurisdiction.

Early Parole (A.R.S. §41-1604.11[K]) A conditional release from incarceration before the inmate has reached his or her general parole eligibility date. This type of release consideration is used when there is a lack of bed space in the Department of Corrections' institutions. An inmate eligible for release under this statute may be considered for parole, home arrest or work furlough.

Home Arrest (A.R.S. § 41-1604.13) A program for inmates who are eligible to complete their prison sentence in the community. The Home Arrest program is a restrictive program that uses active electronic monitoring surveillance and the supervision of a Home Arrest officer. A person in the Home Arrest program is under inmate status and subject to all of the rules and regulations of the Department of Corrections. Except for authorized movements out of the residence, such as employment and mandated treatment programming, the inmate is confined to his residence.

Work Furlough (A.R.S. § 41-1604.11) A release from prison that allows the inmate to maintain gainful employment and pay restitution to the victim of the inmate's offense.

Absolute Discharge (A.R.S. §§ 31-411 and -414) The Board may discharge a person from imprisonment (-411) or parole supervision (-414) prior to the sentence expiration date or prior to the expiration of parole. Community Corrections (a division of the Department of Corrections) may recommend a parolee for an absolute discharge to the Board because of his/her exceptional performance while under parole supervision.

Pardon (A.R.S. §§ 31-441 through -446) An act of grace by the Governor that absolves the convicted felon of the legal consequences of his or her crime and conviction. Pursuant to A.R.S. § 31-402, the Governor cannot grant a pardon unless the Board has first recommended it.

Reprieve (A.R.S. §§ 31-443 through 31-446) A delay or temporary suspension of the carrying out of punishment. Pursuant to A.R.S. §31-402, the Governor may grant a reprieve only upon recommendation of the Board.

Commutation of Sentence (A.R.S. §§ 13-603[L], 31-402, 31-403, 31-411[H], 31-411[I][1], and 38-431.01) A change or modification of a sentence imposed by the court. The Board assumes that sentences imposed by the court are fair and correct; however, either by Judicial request or by inmate application, the Board may find mitigating circumstances under which justice would be better served if a commutation were recommended to the Governor. Pursuant to A.R.S. § 31-402, the Governor may grant a commutation of sentence only upon recommendation of the Board.

Rescission Withdrawal of an action previously granted by the Board before the inmate actually enters the action status.

Revocation (A.R.S. §§ 31-415 through 31-417) Withdrawal of an action previously granted by the Board after the inmate has entered the action status.

Modification A hearing held to determine if conditions of release should be modified or changed. A modification hearing is usually held at the request of a Parole Officer.

Board Actions

Yearly Total - Fiscal Year 2013

7-1-12 to 6-30-13

PHASE 1 Commutation Hearings Scheduled	1204
Hearings Conducted	1191
New Code (TIS)	1128
Passed to Phase II	49
Not Passed to Phase II	1034
Old Code (Pre-TIS)	0
Passed to Phase II	0
Not Passed to Phase II	0
Continued	85
Ineligible, Removed from Agenda	15
PHASE 2 Commutation Hearings Scheduled	71
Hearings Conducted	71
New Code (TIS)	38
Recommended to Governor	7
Not Recommended to Governor	27
Old Code (Pre-TIS)	0
Recommended to Governor	0
Not Recommended to Governor	0
13-603 L	13
Recommended to Governor	3
Not Recommended to Governor	7
Imminent Danger	7
Recommended to Governor	7
Not Recommended to Governor	3
Continued	13
Ineligible, removed from agenda	0
PARDONS Scheduled	43
Hearings Conducted	41
Recommended to Governor	5
Not Recommended to Governor	25
Continued	11
Ineligible	2

ABSOLUTE DISCHARGES Scheduled	20
Hearings Conducted	20
Granted	8
Denied	10
Continued	2
Ineligible	0
REPRIEVES Scheduled	3
Hearings Conducted	1
Warrants of Execution Received	2
Recommended to Governor	0
Not Recommended to Governor	1
GOVERNOR'S ACTIONS	
Granted	6
Denied	11
Grant by Governor's Default	1
Packets Sent to Governor	16
PAROLE HEARINGS Scheduled	418
Hearings Conducted	355
31-412A/411 Conducted	29
Granted	6
Denied	15
Refused to Appear	13
Appeared and Waived	2
Continued	6
SEC/Released/Ineligible/OTC/MLT	1
31-412A/411/HA Conducted	228
Granted	48
Denied	148
Refused to Appear	22
Appeared & Waived	5
Continued	27
SED/Released/Ineligible/OTC/	0
31-412B (CS)/411/Conducted	85
Granted	27
Denied	45
Refused to Appear	20
Appeared & Waived	4
Continued	9

SED/Released/Ineligible/OTC/MLT.....	1
31-412B(DET)/411 Conducted.....	7
Granted	2
Denied	2
Refused to Appear.....	6
Appeared & Waived	0
Continued.....	9
SED/Released/Ineligible/OTC/MLT.....	0
Work Furlough Conducted	6
Granted	3
Denied	2
Refused to Appear.....	0
Appeared & Waived	0
Continued.....	1
SED/Released/Ineligible/OTC/.....	0
WF/HA Conducted	0
Granted	0
Denied	0
Appeared & Waived	0
VIOLATORS Scheduled	1630
Hearings Conducted	1627
CSR Revocation Conducted	1625
Revoked	1448
Not Revoked.....	20
Revoked & Reinstated	107
Hearings Continued	50
Parole Revocation.....	2
Revoked	0
Not Revoked.....	0
Revoked & Reinstated	1
Hearings Continued	3
MODE OF HEARINGS CONDUCTED	3,188
Telephonic.....	1,675
Video	0
Personal	67
In Absentia	1,446
TOTAL HEARINGS CONDUCTED	3,306
TOTAL HEARINGS SCHEDULED	3,389

Submitted By:

Arizona Board of Executive Clemency

1645 W. Jefferson St., Suite 101

Phoenix, Arizona 85007

602-542-5656

www.azboec.gov

Provisions for Individuals with Disabilities

Individuals who have a disability and require reasonable accommodation in order to use this document are encouraged to contact the Board of Executive Clemency at 602-542-5656.