

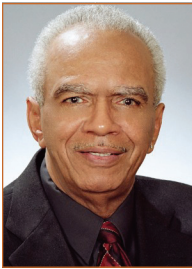


Arizona Board of Executive Clemency

Report for Fiscal Years 2008, 2009 and 2010

May 2011

A Message from the Chairman/Executive Director:



Duane Belcher, Sr.

It is with great pleasure and a sense of accomplishment that I offer this report of the Arizona Board of Executive Clemency covering the period July 1, 2007, through June 30, 2010. The data and information that follow are largely self-explanatory and clearly illustrate the commitment of the Board members and staff to serving the public through sound, fair decisions that are in the interest of public safety.

The staff continues to support, in exemplary fashion, the Board's mission, goals and statutory responsibilities. Likewise, the Board continues its tradition of participating actively in the area of victims' issues and is justifiably pleased with its reputation for service and responsiveness to 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 interests and safety, I invite you to contact me at 602-542-5656.

Respectfully,

Duane Belcher, Sr.

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 consider Work Furlough; Home Arrest; Absolute Discharge from Imprisonment or from Parole Supervision; Parole Rescission; and Parole Revocation. 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 2009, as a result of budget reductions, Board members (not including the Chairman) were placed on part-time status, limited to no more than 30 hours per week and made ineligible for paid leave or for benefits provided to State employees.

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

Board Members

Duane Belcher, Sr. (*Tucson*) is the Board's Chairman/Executive Director. A Tucson resident, Mr. Belcher brings to the Board over 32 years of experience in the criminal justice field. He has served as the Board's Chairman/Executive Director since 2004, when the Legislature combined the two positions. He was reappointed by Governor Napolitano to the Board in 2006.

Mr. Belcher was initially appointed to the Board in September 1992 by Governor Symington and served two terms until April 2002. He also served as Chairman from September 1993 until February 1997.

After receiving his Bachelor of Science degree in 1971 from Central State University in Wilberforce, Ohio, Mr. Belcher worked as a probation/parole officer in the Cleveland area until he relocated to Arizona in 1980 to become a correctional service officer. He was promoted through the ranks to his last Department of Corrections position as the supervisor of the Home Arrest program.

Mr. Belcher is a member of the National Association of Blacks in Criminal Justice; the Arizona Probation, Parole & Corrections Association; American Correctional Association; and the Association for Paroling Authorities International.

He frequently speaks to community groups about the Board of Executive Clemency and his experiences in the Criminal Justice field.

Ellen Stenson (*Phoenix*) was appointed to the Board in 2007 by Governor Napolitano. She has 10 years of experience as a member of the Legislature's Ombudsman-Citizens' Aide Office, the last five as ombudsman for Child Protective Services (CPS). In that capacity, she served on the Citizen Review Panel that reviewed deaths and near-deaths of children in the State's custody and on various interim legislative committees involving children and families. In addition, she helped draft the 2003 Governor's Action Plan on CPS Reform. She has volunteered as a mediator with the Maricopa County Justice Courts for nine years and is a member of the Arizona Chapter of the Association for Conflict Resolution. She has also volunteered in various capacities with the City of Phoenix, including as a member for the Parks Subcommittee of the 2006 Citizens' Bond Committee and start-up of the city's first dog park at Washington Park.

Ms. Stenson earned a bachelor's degree in political science from Arizona State University and served in the U.S. Air Force.

Board Members **Jack LaSota** and **Marilyn Wilkens** were appointed to the Board by Governor Brewer in May 2010.

Board Member Terms

	<i>Appointed</i>	<i>Reappointed</i>	<i>Term</i>
Duane Belcher, Sr.	2002	2006	2006-11
Ellen Stenson	2007	-	2007-12
Jack LaSota	2010	-	2010-14
Marilyn Wilkens	2010	-	2010-12
PAST MEMBERS WHO SERVED DURING THE PERIOD OF THIS REPORT			
Olivia V. Meza	2004	-	2004-10
Leonard Tad Roberts	2005	-	2005-09
Marian M. Yim	2006	-	2006-09

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 (§ 31-411) or parole supervision (§ 31-414) 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 their crime and conviction. Pursuant to A.R.S. § 31-402, the Governor cannot grant a pardon without Board recommendation.

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.

Reprieve (A.R.S. §§ 31-443 through -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 Board recommendation.

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.

Structure

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

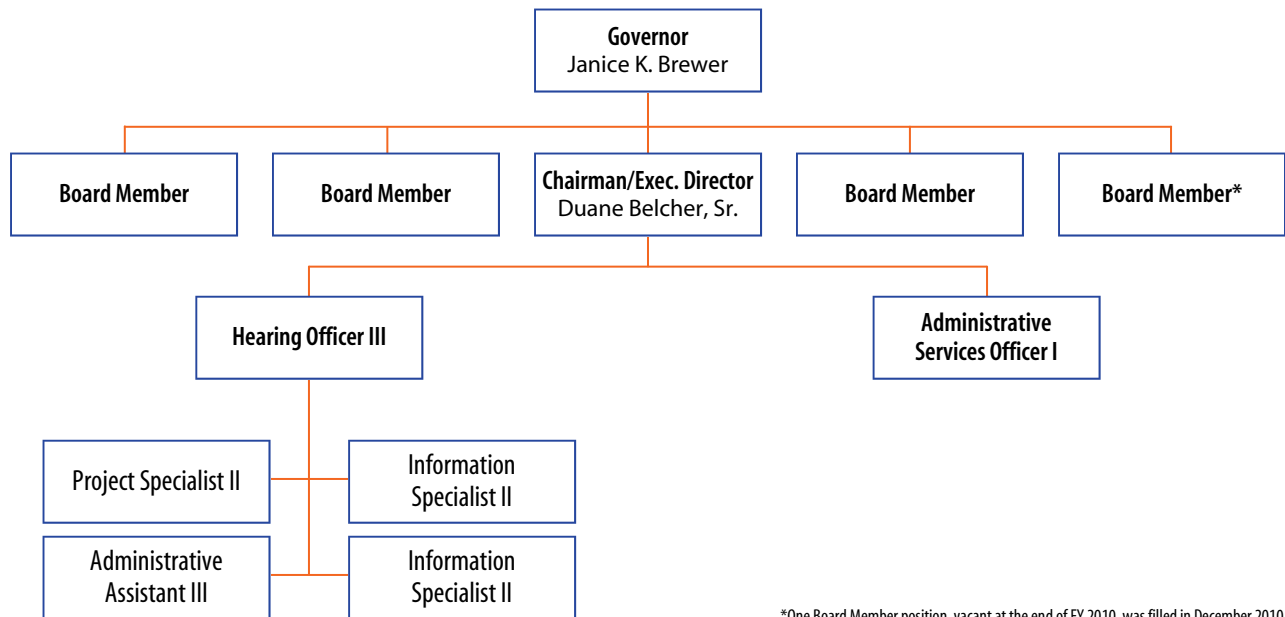
Chairman/Executive Director. In 2004, the Legislature combined the positions of Chairman and the Executive Director through 2007. The combining of positions was again extended before being made permanent during a 2010 special session (per H.B. 2006).

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 Officer III. The Board's 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 manages the Board's Administrative Support Staff members.

Project Specialist II. This staff member drafts policies and procedures, performs special projects as determined by the Chairman/Executive Director, maintains statistical information and acts 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.



*One Board Member position, vacant at the end of FY 2010, was filled in December 2010.

Board Actions

Yearly Totals, Fiscal Years 2008-2010

	FY 2008	FY 2009	FY 2010
PHASE 1's SCHEDULED.....	556	616	370
Hearings Conducted.....	538	606	366
New Code (TIS).....	516	593	356
Passed to Phase II.....	62	52	26
Not Passed to Phase II.....	454	541	327
Old Code (Pre-TIS).....	0	0	0
Passed to Phase II.....	0	0	0
Not Passed to Phase II.....	0	0	0
Continued.....	22	13	11
Ineligible, Removed from Agenda.....	3	1	0
PHASE 2's SCHEDULED.....	104	114	59
Hearings Conducted.....	94	97	53
New Code (TIS).....	65	60	30
Recommended to Governor.....	28	20	10
Not Recommended to Governor.....	37	40	18
Old Code (Pre-TIS).....	1	1	0
Recommended to Governor.....	1	1	0
Not Recommended to Governor.....	1	0	0
13-603 L.....	19	27	10
Recommended to Governor.....	8	11	6
Not Recommended to Governor.....	11	16	4
Imminent Danger.....	9	9	15
Recommended to Governor.....	8	5	5
Not Recommended to Governor.....	1	4	7
Continued.....	10	17	8
Ineligible, removed from agenda.....	0	0	0
PARDONS SCHEDULED.....	48	50	46
Hearings Conducted.....	47	50	40
Recommended to Governor.....	9	12	10
Not Recommended to Governor.....	23	27	14
Continued.....	15	11	22
Ineligible.....	0	0	0
ABSOLUTE DISCHARGE'S SCHEDULED.....	24	13	14
Hearings Conducted.....	24	13	13
Granted.....	9	8	6
Denied.....	11	4	5
Continued.....	4	1	3
Ineligible.....	0	0	0
MODIFICATIONS SCHEDULED.....	3	0	1
Hearings Conducted.....	1	0	0
Granted.....	0	0	0
Denied.....	1	0	0
Continued.....	2	0	1
REPRIEVES SCHEDULED.....	1	0	0
Hearings Conducted.....	0	0	0
Warrants of Execution Received.....	1	0	0
Recommended to Governor.....	0	0	0
Not Recommended to Governor.....	0	0	0

GOVERNOR'S ACTIONS

Granted	7	9	6
Denied	35	33	15
Grant by Governor's Default	0	0	2
Packets Sent to Governor	47	37	23

PAROLE HEARINGS SCHEDULED725 701 539

Hearings Conducted	458	472	439
31-412A	0	0	4
Granted	0	0	0
Denied	0	0	4
Appeared & Waived	0	0	0
31-412A/HA	0	0	27
Granted	0	0	5
Denied	0	0	20
Appeared & Waived	0	0	2
31-412A/411	27	30	33
Granted	4	5	8
Denied	22	23	20
Appeared & Waived	1	2	4
31-412A/411/HA	285	305	268
Granted	54	53	33
Denied	208	227	191
Appeared & Waived	23	25	34
31-412B(CS)/411	122	120	102
Granted	21	30	21
Denied	81	77	55
Appeared & Waived	20	13	24
31-412B(DET)/411	6	2	3
Granted	3	0	1
Denied	3	1	2
Appeared & Waived	0	1	0
Work Furlough	2	0	3
Granted	1	0	0
Denied	0	0	2
Appeared & Waived	1	0	0
WF/HA	0	0	0
Granted	0	0	0
Denied	0	0	0
Appeared & Waived	0	0	0
EP/WF/HA	0	0	0
EP/WF	0	0	0
EP/HA	0	0	0
Early Parole	0	0	0
Continued	69	47	37
Refused To Appear	176	147	68
SED/Released/Ineligible/OTC/MLT	22	35	22

PROBABLE CAUSE HEARINGS SCHEDULED 153 157 255

Hearings Held	93	107	209
Requests Received	145	171	219
Waived	48	47	44
Rescheduled	6	3	4
DOC SED	8	15	6

WARRANT REQUESTS RECEIVED	2,126	2,667	2,781
Technical.....	2,084.....	2,627.....	2,616
Pending New Charges.....	28.....	37.....	163
Technical/Pending New Charges.....	14.....	3.....	2
VIOLATOR HEARINGS SCHEDULED	2,443	2,529	2,463
Hearings Conducted.....	2,335.....	2,469.....	2,463
CSR Revocation.....	2,323.....	2,465.....	2,448
Revoked.....	1,998.....	2,180.....	2,086
Not in Violation.....	53.....	53.....	50
Reinstated.....	178.....	176.....	246
Hearings Continued.....	16.....	56.....	66
Parole Revocation.....	94.....	2.....	16
Revoked.....	11.....	2.....	10
Not in Violation.....	13.....	0.....	1
Reinstated.....	1.....	0.....	2
Hearings Continued.....	0.....	0.....	1
WF Revocation.....	0.....	0.....	0
Revoked.....	0.....	0.....	0
Not in Violation.....	1.....	0.....	0
Reinstated.....	1.....	0.....	0
Hearings Continued.....	0.....	0.....	0
HA Revocation.....	0.....	2.....	2
Revoked.....	0.....	1.....	1
Not in Violation.....	0.....	0.....	0
Reinstated.....	0.....	1.....	1
Hearings Continued.....	0.....	0.....	0
SED/Released/OTC.....	0.....	0.....	0
SDM GUIDELINES
Within guidelines.....	0.....	0.....	0
Outside guidelines.....	0.....	0.....	0
Guidelines Not Applied.....	374.....	373.....	188
MODE OF HEARINGS CONDUCTED.....	3,918	3,689	3,332
Telephonic.....	1,511.....	1,685.....	1,938
Video.....	561.....	201.....	612
Personal.....	325.....	354.....	185
In Absentia.....	1,521.....	1,449.....	597
POST-CONVICTION NOTIFICATIONS RECEIVED	1,590	1,670	943
Victims.....	890.....	999.....	608
Officials.....	700.....	671.....	335
NOTIFICATIONS * June 2010, Revised 10-25-10	24,401	24,950	14,370
Victims.....	2,743.....	2,467.....	1,483
Officials.....	20,860.....	21,599.....	12,335
Courtesy.....	65.....	91.....	63
Inmates.....	733.....	793.....	489
TOTAL HEARINGS CONDUCTED	3,641	3,878	3,583
TOTAL HEARINGS SCHEDULED.....	4,057	4,180	3,747

NOTE

In response to recent budget reductions, the agency holds commutation hearings quarterly instead of monthly.

Members of the Arizona Board of Executive Clemency

1966-Present

Current Members Appear in Blue Type

1966-1967	W.W. Witt	1989-1991	Luis M. Vega
1966-1969	Peter Byrne	1989-1994	Robert L. Tucker
1966-1970	William P. Reilly	1989-1998	Stan F. Turley
1966-1971	A. Alan Hanshaw	1990-1995	Anna May Riddell
1966-1973	Donald Welker	1991-1992	Jones Osborn
1967-1972	Art Van Haren	1991-1992	Ruben Coronado
1969-1973	Walter Michaels	1991-2001	Kathryn Brown
1969-1974	Abraham Cruz	1992-1993	Craig R. Runbeck
1969-1975	Keith Edwards	1992-2000	Edward Leyva
1971-1975	Walter Jacobs	1992-2011	Duane Belcher, Sr.
1973-1978	Daniel Simmons	1993-1998	Tom Freestone
1974-1975	Olive O'Kier	1994-1999	Donna Flanigan
1975-1978	Barnetta Anderson	1995-2000	Howard M. Jarrett
1975-1985	Robert L. Araza	1999-2004	Edith Richardson
1978-1980	Jerry Thompson	1999-2005	Carrol de Broekert
1978-1981	Carol Pavilack	2001-2002	John Waugh
1978-1987	John Sloss	2002-2006	Marshall H. Porter
1978-1991	Arter L. Johnson	2002-2007	Barbara Lynn Bloss
1981-1989	Richard M. Ortiz	2004-2009	Leonard Tad Roberts
1983-1989	Patricia V. Gilbert	2004-2010	Olivia V. Meza
1984-1988	Robert W. Kennerly	2006-2009	Marian M. Yim
1984-1989	Ron Johnson	2007-2012	Ellen Stenson
1986-1990	Ray R. Flores	2010-2012	Marilyn Wilkens
1987-1992	Frank R. Startzell	2010-2014	Jack LaSota
1989-1990	Robert L. Araza		

Arizona Board of Executive Clemency

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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.