

ARIZONA STATE BOARD
OF
EXECUTIVE CLEMENCY



FISCAL YEAR 2002
ANNUAL REPORT



ARIZONA
BOARD OF EXECUTIVE CLEMENCY

THE HONORABLE JANET NAPOLITANO

GOVERNOR OF THE STATE OF ARIZONA

And

MEMBERS OF THE 46TH LEGISLATURE

The Board is pleased to present this FY 2002 Annual report for the period of July 1, 2001 to June 30, 2002. During the past budget cycle, the Board has successfully adjusted to the impact of Truth-in-Sentencing which eliminated parole for offenses committed after January of 1994. In FY 01 and FY 02 the Board gave up ten (10) positions and restructured the organization to achieve and accommodate to our adjusted mission. It is critical to note that our workload is actually projected to increase in FY 03. The reason for the increase is that although the parole workload increased by 3%, the revocation workload has increased by 26% and the commutation/pardon workload has increased by 65%. Additionally, the parole denial rate has increased from 63% in FY 01 to 70% in FY 02. The increase in the denial rate will continue to push the approximately 2,273 parole eligible inmates into the future. It is also important to note that by FY 04, the parole eligible pool remaining should be approximately 2300 inmates. Conservative projections indicate that total hearing held will increase from 4304 in FY 02 to 5000 in FY 04.

Of the 1,844 parole hearings scheduled, 1262 (68%) were conducted. Of these the Board granted 374 (30%) releases and denied 754 (70%) releases. Of the 582 commutation requests, the Board recommended 39 (7%) for consideration by the Governor. Of the 2,395 revocations, the Board revoked 2,193 (92%). The Board did not conduct reprieve hearings during FY 02.

The Board will remain vigilant toward the statutory obligations of protecting Arizona citizens.

Thank you for your interest and your continued cooperation.

Respectfully submitted,

A handwritten signature in cursive script, reading "Carrol de Broekert".

Carrol de Broekert
Chairman

ARIZONA STATE BOARD OF EXECUTIVE CLEMENCY
FISCAL YEAR 2002 ANNUAL REPORT
REPORTING PERIOD JULY 1, 2001 TO JUNE 30, 2002

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MISSION STATEMENT

The mission of the Arizona Board of Executive Clemency is to ensure public safety by considering and granting parole to inmates certified by the Department of Corrections and who appear not to pose a threat to society, and by recommending to the Governor only those executive clemency actions which are in the best interest and safety of the citizens of Arizona.

AGENCY DESCRIPTION

Each month the Board conducts parole hearings for inmates who have committed offenses prior to January 1994. Parole hearings include consideration for home arrest, work furlough, release, rescission, modification, revocation and absolute discharge. The Board also conducts clemency hearings, which include commutation, pardon and reprieve.

HISTORY OF THE ARIZONA BOARD OF EXECUTIVE CLEMENCY

Change and adaptation best characterize the history of the Arizona Board of Executive Clemency. The state of Arizona first afforded inmates the opportunity for parole in 1901. The Board of Control functioned as the state'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 Criminal Code became effective in October of 1913.

In 1913, the Legislature established the Board of Pardons and Paroles, which assumed the discretionary releasing function of its predecessor, the Board of Control. Board membership consisted of a citizen appointed by the Governor to serve as Board chairperson, the Superintendent of Public Instruction, and the Attorney General. Board composition remained unchanged for the next five decades.

The Legislature expanded Board membership to five part-time members in 1966. The Governor appointed all members to five-year terms. In 1968, the Legislature amended this expansion and created a Board comprised of three full-time members. The Governor appointed all members to three-year terms and the appointments became subject to Senate confirmation. A full decade passed before the Board experienced a change in its composition.

In 1978, the Legislature increased Board size to five full-time members. The appointments were to five-year terms and remained subject to Senate confirmation. This legislative action coincided with the passage of the new Criminal Code.

The Legislature again expanded Board membership to seven full-time members in 1984.

In 1993, Legislation passed which eliminated all Board releases for inmates whose offense was committed after January 1, 1994. In addition, the Board's name changed from **Board of Pardons and Paroles** to the **Board of Executive Clemency**.

In 1997, Legislation passed which decreased the membership of the Board from seven to five members. This change became effective in January 1998.

Arizona Revised Statutes § 31-401 and subsequent sections detail the operating authority and duties of the Arizona Board of Executive Clemency.

ORGANIZATION OF THE ARIZONA BOARD OF EXECUTIVE CLEMENCY

Due to budget cuts, the Board has been reduced from a full-time staff of 17 to a full-time staff of 7. This staff supports the five Board Members. The staff is comprised of:

Executive Director - The Executive Director is responsible for the administrative, operational and financial functions for the Board.

Program and Project Specialist II - This position is the Board's liaison to the Department of Correction's Adult Information Management System (AIMS) for the purpose of maintaining Board statistical information, drafts policies and procedures, monitors staff training, and completes special projects.

Administrative Service Officer I - This position is responsible for managing the Board's business functions, and serves as computer network administrator, and maintains statistical information.

Hearing Officers - The Hearing Officer III manages and supervises 1 Hearing Officer and 3 support staff. The Hearing Officers conduct 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 release consideration the Board's use when considering inmates certified eligible for parole and commutation.

Administrative Support Positions - The 3 (previously 6) Administrative Support staff provide critical support to the Board by monitoring hearings, processing packets for the Board's use in making release decisions, providing statutorily mandated notifications to victims, officials and other concerned individuals and entities, managing and maintaining individual files and the file room and completing dispositions and proclamations for decisions made by the Board.

PAROLE GUIDELINES AND STRUCTURED DECISION MAKING

Structured Decision Making (SDM) involves the guidelines that provide the Board with a common framework in which to make decisions. SDM guidelines consist of explicitly stated goals; policy statements; and measurement instruments designed to systematically assess an inmate's suitability for release. Risk Assessment and Offense Severity function as two of the core components of SDM. **Due to budget cuts this instrument is no longer being used. The instrument requires specialized training and research, which was previously done by the 3 Case Analysts.**

I. Risk Assessment

The risk assessment component assesses the likelihood that an inmate may commit a new felony offense while on a Board release. While no Board member or instrument can predict an inmate's future behavior with total confidence, the best measure of the future still remains the past. As such, the Board conducted a study on 1988 releases to identify those factors predictive of success or failure on release. Four factors emerged as significant predictors of success or failure. These factors include:

- (1) Age at First Juvenile Incarceration
- (2) Current Age at Time of Hearing
- (3) History of Property Offenses
- (4) ADOC Institutional Risk Score

The combination of these factors results in a score that indicates an inmate's likelihood to commit a new offense once released. The higher the risk score, the greater the likelihood to re-offend. Board analysts score inmates for risk and place them into one of four risk assessment groups.

II. Offense Severity

The offense severity component involves an initial determination of an inmate's most serious offense behavior, and the subsequent placement of this offense behavior into one of eight severity levels. Severity level 1 contains the most serious offense behaviors and severity level 8 contains the least serious offense behaviors. Level of victimization and amount of property or drugs involved in the offense function as primary criteria for the ranking of offense behaviors.

The most serious offense behavior reflects what the offender actually did. Board analysts determine the most serious offense behavior based on official documents that depict the actual offense behavior. Official documents include pre-sentence investigation reports; police reports; court documents; and any additional probation/parole officer reports. The Board, however, makes the ultimate determination of the most serious offense behavior.

Board analysts then enter the risk assessment group and the offense severity level on the Guidelines Classification Matrix. Each cell on the matrix contains a percentage that Board analysts apply to the conviction sentence length. They use this percentage to calculate the amount of additional time, if applicable, an inmate may need to serve beyond his or her release eligibility date to be within the SDM recommended time frame for release.

The Board uses SDM guidelines for all hearings except for revocation and rescission hearings; Executive Clemency recommendations; those inmates whose offense behavior or conviction offense is of a sexual nature; and those inmates whose conviction offenses include first or second degree murder (A.R.S. §13-1105 and 13-1104, respectively).

TYPES OF HEARINGS CONDUCTED BY THE BOARD

GENERAL PAROLE (A.R.S. §31-412.A) A conditional release from incarceration which entitles the parolee to serve the remainder of the parolee's term outside the confines of a penal institution if the parolee satisfactorily complies with all 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 their general parole eligibility date. This type of release consideration is used when there is a lack of bed space within the Department of Correction's 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 those inmates who are eligible to complete their prison sentence in the community. The Home Arrest program is a restrictive program designed to confine an inmate to their residence using 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, which 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 & 31-414) 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. Generally, Community Corrections, a Division of the Department of Corrections, recommends a 414 to the Board because of exceptional performance while under supervision.

PARDON (A.R.S. §31-441, 31-442, 31-443, 31-444, 31-445, 31-446) An act of grace or a remission of guilt, which absolves the convicted felon of the legal consequences of their crime and conviction. A full pardon restores those civil rights, which may have been lost as a result of the conviction for which the pardon is granted. The Governor cannot grant a pardon unless the Board (A.R.S. §31-402) has first recommended it.

REPRIEVE (A.R.S. §31-443, 31-444, 31-445, 31-446) A delay or temporary suspension of the carrying out of punishment. The Governor may only grant a reprieve upon recommendation of the Board (A.R.S. §31-402).

COMMUTATION OF SENTENCE (A.R.S. §31-411, 31-443, 31-445, 31-446, 13-603.L) 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, mitigating circumstances may exist which indicate that justice would be better served if a commutation were recommended to the Governor. The Governor may only grant a commutation of sentence upon recommendation of the Board (A.R.S. §31-402).

RESCISSION a withdrawal of an action previously granted by the Board before the inmate actually enters the action status.

REVOCATION (A.R.S. §31-415, 31-416, 31-417) A 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.

CLEMENCY BOARD WORKLOAD

FY 1990 - 2002

Fiscal Year	Parole Workload (Absolute Discharge-Abs. Dis.)				Modification, Rescission & Revocation Workload				Clemency Workload (RTG-Recommend to Governor) (NR-Not recommended)							
	Hearings Scheduled/ Held	Grants # %	Denials # %	Abs. Dis. Grant/Den %	Modification Mod/Not Mod %Modified	Rescission Res/Not Res %Rescinded	Revocation Rev/Not Rev %Revoked	Pardon RTG/NR % RTG	Reprieve RTG/NR % RTG	Commutation RTG/NR % RTG						
FY 95	14,020 9,503	4,373 46%	5,130 54%	11 8/3 73%	12 12/0 100%	187 174/13 93%	880 792/88 90%	2 0/2 0%	0	26 10/16 38%						
FY 96	12,192 7,995	3,322 42%	4,673 58%	7 6/1 86%	44 40/4 91%	153 135/18 88%	1,006 897/109 89%	3 0/3 0%	1 0/1 0%	67 22/45 33%						
FY 97	8,892 5,794	2,473 43%	3,321 57%	11 3/8 27%	33 33/0 100%	109 96/13 88%	1,026 933/93 91%	5 3/2 60%	4 0/4 0%	105 17/88 16%						
FY 98	6,371 4,095	1,633 40%	2,462 60%	6 3/3 50%	34 34/0 100%	77 61/16 79%	1,430 1,271/159 89%	9 4/5 44%	5 0/5 0%	166 38/128 23%						
FY 99	4,362 3,254	1,188 37%	2,066 63%	4 4/0 100%	19 19/0 100%	31 26/5 84%	1,643 1,501/142 91%	3 0/3 0%	7 1/6 14%	281 32/249 11%						
FY 00	3,864 2,631	763 29%	1,868 71%	7 5/2 71%	13 9/4 69%	35 30/5 86%	2,071 1,943/128 94%	7 4/3 57%	3 0/3 0%	437 42/349 10%						
FY 01	3,010 1,916	515 27%	1,401 73%	11 7/4 64%	8 6/2 75%	26 23/3 88%	2,473 2,304/169 93%	15 6/9 40%	1 0/1 0%	401 24/377 6%						
FY 02	1844 1262 1521 1646	374 30% 423 45%	754 70% 5590 55%	20 14/5 70%	2 2/0 100%	13 12/1 92%	2395 2193/202 92%	30 15/13 50%	0 0 0%	582 39/543 7%						
	Total Hearings Held				Additional workload included in Total Hearings Held:											
FY 95	10,621 + 1,491=12,112				Setting Conditions of Supervision-655; Disproportionality Review-836 (Total 1,491)											
FY 96	9,276 + 751=10,027				Setting Conditions of Supervision-76; Disproportionality Review-675 (Total 751)											
FY 97	7,087															
FY 98	5,822 + 144=5,966				Proposition 200-139; Domestic Violence-5 (Total 144)											
FY 99	5,242															
FY 00	5,203				Board Budget in Millions/Number of Staff including Board Members											
FY 01	4,896 + 34 Domestic Violence = 4,930				FY 95				FY 96	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FY 02	4304				1.8/40				1.7/39	1.7/37	1.4/36	1.7/33	1.4/26	1.4/22	1.4/22	0.9/16*

*allocated 16 FTE's but only 12 FTE's are funded.

FY 02

Denials include RTA's & New Recommendations

CLEMENCY BOARD WORKLOAD

FY 1990 - 2002

Fiscal Year	Parole Workload (Absolute Discharge-Abs. Dis.)				Modification, Rescission & Revocation Workload				Clemency Workload (RTG-Recommend to Governor) (NR-Not recommended)			
	Hearings Scheduled/ Held	Grants # %	Denials # %	Abs. Dis. Grant/Den %	Modification Mod/Not Mod %Modified	Rescission Res/Not Res %Rescinded	Revocation Rev/Not Rev %Revoked	Pardon RTG/NR % RTG	Reprieve RTG/NR % RTG	Commutation RTG/NR % RTG		
FY 90	Not available 7258	3221 44%	4037 56%	Not available	61 59/2 97%	67 56/11 84%	614 559/55 91%	9 2/7 22%	0 0 0%	65 7/58 11%		
FY 91	NA 8460	3569 42%	5,130 58%	NA	37 36/1 97%	27 23/27 85%	633 578/55 91%	26 18/8 69%	1 0/1 0%	54 19/35 35%		
FY 92	NA 8579	2910 34%	5669 66%	NA	44 42/2 96%	73 67/6 92%	593 550/43 93%	11 8/3 73%	1 0/1 0%	71 26/45 36%		
FY 93	14151 7858	3617 46%	4241 54%	23 18/5 78%	32 30/2 94%	97 72/25	645 535/110	4 3/1	2 0/2	58 16/42		
FY 94	14,083 9,155	3,945 43%	5,210 57%	9 5/4 56%	20 17/3 85%	158 140/18 89%	643 557/86 87%	5 3/2 60%	0	26 1/25 4%		
	Total Hearings Held				Additional workload included in Total Hearings Held:							
FY 90	8074											
FY 91	9238											
FY 92	9372											
FY 93	8696											
FY 94	10016											

BOARD MEMBERS

CARROL de BROEKERT, a resident of Goodyear, Arizona was appointed to the Board in 1999 and reappointed to the Board in 2000. Mr. De Broekert was the Chairman and CEO of Southwest Venture Capital Network from 1987 to 1999. Between 1984 and 1987 he was the Vice President and Dean of Palo Verde Community College in Blythe, California. During the years between 1969 and 1984 he rose through the ranks to become the Commissioner of Oregon's Community College system. Mr. De Broekert also dedicates time to civic and community activities. He has served as a Planning and Zoning Commission member for the City of Goodyear, he chaired the City's Utility Cost Study Committee for 3 years, and has held numerous other committee posts for the City. Mr. De Broekert is a member of the White Tanks Rotary Club having served as the President and Treasurer as well as Rotarian of the Year. His education includes a Bachelor of Arts in Political Science, a Masters in History and Political Science and a Ph.D. in Educational Administration.

BARBARA-LYNN GARZA, a resident of Phoenix, Arizona, was appointed to the Board in February 2000 by Governor Hull. Ms. Garza has worked in several areas of the criminal justice system, most recently as a member of the Juvenile Justice Commission in San Diego County and in the past as a caseload management specialist for the Arizona Supreme Court. She also served with the Arizona Criminal Justice Commission and as a caseworker for Child Protective Services. Additionally, Ms. Garza has worked with children and youth in psychiatric treatment settings and she teaches Freshman Composition at Mesa Community College. Her education includes an Associate degree from Phoenix College; a Bachelor's in English and a Masters of Science in Justice Studies from Arizona State University. She participated in the 1989 Arizona Town Hall on Mental Health, the 1992 National Youth Gang Symposium, the 1995 Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders and contributed to the 1992 Arizona Town Hall on Violence. Immediately prior to her appointment to the Board, Mr. and Ms. Garza celebrated the birth of her first child.

EDITH RICHARDSON, a resident of Scottsdale, Arizona, was appointed to the Board in February 1999 with a term expiration date of January 2004. Prior to her appointment to the Board, Ms. Richardson served as the Director of Community Relations for the Arizona Attorney General's Office. In the early 90's, she was the Director for Candidate Development for the Arizona Republican Party and a Political and Business Consultant. Additionally, Ms. Richardson served as a Special Assistant to Governor Mechem with oversight responsibility for the Departments of Economic Security, Revenue, Racing and the Lottery Commission. She was the District Representative for Congressman Conlan when the 4th Congressional District was first formed and was also the first female Executive Director of the Arizona Republican Party. Ms. Richardson also dedicates time to civic and community activities as a member of the Maricopa County Sheriff's Executive Posse, the Scottsdale Historical Society, Minister of Care and Hospitality at St. Patrick's Church in Scottsdale, and a 1988 Arizona Town Hall Participant. Ms. Richardson graduated as a Registered Nurse from Good Samaritan School of Nursing located in Cincinnati, Ohio.

MARSHALL H. PORTER. A resident of Phoenix Arizona for over 25 years is the most recent addition to the Board. He was appointed in April Of 2002. Prior to retiring from Honeywell in 1999 Mr. Porter held positions as a Program Manager and Contract Administrator for 23 years. While working at Honeywell Mr. Porter was active in various volunteer community organizations, some of which he continues to support: State Foster Care Review Board, Arizona State Juvenile Justice Coordinating sub-committee; Paradise Valley Unified School District Community Human Relations Diversity Council; Gompers Center for Disabled Children and Adults. His education includes a Masters of Business Administration from UCLA, and an undergraduate Business degree from California State College at Los Angeles.

PAST MEMBERS OF THE ARIZONA BOARD OF EXECUTIVE CLEMENCY

<u>MEMBERS'S NAME</u>	<u>APPOINTED</u>	<u>RE-APPOINTED</u>	<u>TERM</u>
W.W. Witt	1966	--	1966-67
Donald Welker	1966	1968	1966-73
William P. Reilly	1966	--	1966-70
A. Alan Hanshaw	1966	--	1966-71
Peter Byrne	1966	--	1966-69
Art Van Haren	1967	--	1967-72
Walter Michaels	1969	1971	1969-73
Abraham Cruz	1969	1971	1969-74
Keith Edwards	1969	1972	1969-75
Walter Jacobs	1971	--	1971-75
Daniel Simmons	1973	1976	1973-78
Olive O'Kier	1974	--	1974-75
Barnetta Anderson	1975	--	1975-78
Robert L. Araza	1975	1978, 1981	1975-85
Arter L. Johnson	1978	1984, 1989	1989-91
Jerry Thompson	1978	1979	1978-80
Carol Pavilack	1978	1980	1978-81
John Sloss	1978	1982	1978-87
Richard M. Ortiz	1981	1985	1981-89
Patricia V. Gilbert	1983	1985	1983-89
Robert W. Kennerly	1984	--	1984-88
Ron Johnson	1984	1987	1984-89
Ray R. Flores	1986	--	1986-90
Robert L. Araza	1989	--	1989-90
Luis M. Vega	1989	--	1989-91
Ruben Coronado	1991	--	1991-92
Jones Osborn	1991	--	1991-92
Frank R. Startzell	1987	--	1987-92
Craig R. Runbeck	1992	--	1992-93
Robert L. Tucker	1989	--	1989-94
Anna May Riddell	1990	--	1990-95
Tom Freestone	1993		1993-98
Stan F. Turley	1989	1993	1989-98
Donna Flanigan	1994		1994-99
Howard M. Jarrett	1995		1995-00
Edward Leyva	1992	1997	1992-00
Kathryn Brown	1991	1996	1991-01
Duane Belcher	1992	1997	1992-02
John Waugh	2001		2001-06

PRESENT MEMBERS OF THE ARIZONA BOARD OF EXECUTIVE CLEMENCY

<u>MEMBER'S NAME</u>	<u>APPOINTED</u>	<u>RE-APPOINTED</u>	<u>TERM</u>
Edith Richardson	1999		1999-04
Carrol de Broekert	1999	2000	1999-05
Barbara Lynn Garza	2000	2002	2002-07
Marshall Porter	2002		2002-07