

Board of Pardons and Paroles



ANNUAL REPORT

July 1, 1979 - June 30, 1980

BRUCE BABBITT
GOVERNOR



ROBERT L. ARAZA
CHAIRMAN

ARIZONA
BOARD OF PARDONS AND PAROLES
1812 W. MONROE
SUITE 202
PHOENIX, ARIZONA 85007
(602) 255-5656

MEMBERS
ARTER L. JOHNSON
CAROL M. PAVILACK
JOHN J. SLOSS
JERRY L. THOMPSON

TO: THE HONORABLE BRUCE BABBITT, GOVERNOR OF THE STATE OF ARIZONA
and
MEMBERS OF THE 35th LEGISLATURE OF THE STATE OF ARIZONA

Two years have elapsed since the implementation of the New Criminal Code. Since then, the Board of Pardons and Paroles have set and accomplished many of its goals and in doing so, have continued to strive for professional excellence. The last few years as Chairman of the Board of Pardons and Paroles have been most rewarding to me, and it has been an honor to serve on the Board with such distinguished professionals.

This will be my last report as Chairman of the Board of Pardons and Paroles. I feel that a change in Chairmanship at this time will be healthy for the system. I will continue to function as a productive member, and offer my assistance in any capacity if needed.

On behalf of the Arizona Board of Pardons and Paroles, I have the honor of herewith submitting the Annual Report of the Board for the period of July 1, 1979 through June 30, 1980.

Respectfully,

Robert L. Araza
Chairman



BRUCE BABBITT
GOVERNOR

ARIZONA
BOARD OF PARDONS AND PAROLES
1812 W. MONROE
SUITE 202
PHOENIX, ARIZONA 85007
(602) 255-5656

ROBERT L. ARAZA
CHAIRMAN

MEMBERS
ARTER L. JOHNSON
CAROL M. PAVILACK
JOHN J. SLOSS
JERRY L. THOMPSON

A N N U A L R E P O R T

July 1, 1979 - June 30, 1980

TO

The Honorable Bruce Babbitt
Governor of the State of Arizona

and

The Thirty-Fifth Legislature of the State of Arizona

SUBMITTED BY

Robert L. Araza, Chairman
Arter L. Johnson, Member
Carol M. Pavilack, Member
John J. Sloss, Member
Jerry L. Thompson, Member

Chapter 1

STATUTORY PROVISIONS

Statutorily, the Arizona Board of Pardons and Paroles has been enlarged to five (5) members appointed by the Governor and confirmed by the Senate for staggered five (5) year terms. According to A.R.S. 31-402, Board members shall be appointed on the basis of broad professional or educational qualifications and experience and shall have demonstrated interest in the State's correctional program. No more than two members shall be from the same professional discipline. A.R.S. 31-402 states:

"The Board of Pardons and Paroles shall have exclusive power to pass upon and recommend reprieves, commutations, paroles and pardons. No reprieve, commutation or pardon may be granted by the Governor unless it has first been recommended by the Board".

Statute 31-411 requires the Board to meet at State correctional institutions and allow inmates who have been certified as eligible for parole or absolute discharge to have the opportunity to appear and be considered for release. The statute also requires the Board to prepare and deliver to the inmate and the Director of the Department of Corrections a written statement specifying individualized reasons for denial of parole or absolute discharge. When a commutation or parole is being considered, the Board must notify thirty (30) days prior to the hearing the presiding Judge of the Superior Court and the County Attorney of the county in which the inmate was sentenced.

The Board may make rules and regulations not inconsistent with law, as it deems proper for the conduct of its business as provided for in Administrative Procedures Act. Board rules filed with the Secretary of State clarify the procedure for applying for commutations, pardons, and reprieves. The rules also outline the process for parole violations.

CHAPTER II

HISTORY

Since Arizona became a state, the Board of Pardons and Paroles has undergone a number of significant changes. In 1914 the Legislature established a three-member Board with the Chairman appointed by the Governor, and the Superintendent of Public Instruction and the Attorney General serving as the other two members. In 1966 the Board was expanded to include five part-time members, each appointed by the Governor and serving five-year terms. This was amended in 1968 by the creation of the three-person full-time Board with members appointed by the Governor and confirmed by the State Senate. Each of these members served a three-year term. In 1978 the Legislature increased the size of the Board to five full-time members, each serving a five-year staggered term, appointed by the Governor and confirmed by the State Senate. This action by the Legislature was done in conjunction with the passage of the New Criminal Code and was following the trends across the country of increasing the size of the Boards to a minimum of five members.

During fiscal year '79-'80, Robert L. Araza continued serving as Chairman of the Board of Pardons and Paroles and the Vice-Chairmanship was rotated among the other four members exposing each of them to the duties and responsibilities of the Chairmanship.

MEMBERS - BOARD RESUMES

Robert L. Araza was appointed to the Board of Pardons and Paroles in 1975. He was selected Chairman of the Board for fiscal year 1975-76, Vice Chairman for 1977-78, and Chairman from 1978 to 1981. Mr. Araza has a total of 19 years in experience in the Criminal Justice Field, which includes Chief Juvenile Probation Officer and Administrator of the Yuma County Juvenile Court Center. He has been a member of the Arizona Justice Planning Supervising Board since 1976. Also, he was a delegate to the Third National Parole Symposium, Washington, D. C. in 1980. Mr. Araza holds a B.A. degree in Public Management.

Arter L. Johnson, Member, was the first Operational Manager of a statewide offender rehabilitation program under the auspices of the Department of Economic Security. During his ten (10) years with the Model Ex-Offender Program he also served on the Board of Directors of 7th Step, O.K. Community, B.L.K. (pilot project for older ex-offenders) and Women in Transition. He holds a B.S. Degree in Criminology.

Carol McGrew Pavilack received a B. A. Degree from Wellesley College and a M. S. from Arizona State University in Criminal Justice. Ms. Pavilack has been involved in various volunteer areas and capacities for many years, seven (7) in the Criminal Justice field. Most recently she was a volunteer institutional probation officer for the Maricopa County Juvenile Court Center.

John J. Sloss received a B. S. degree in Public Administration and an M. S. degree in Addiction Studies. He has been involved with the criminal justice systems since 1967. His experience includes having worked for the Arizona Department of Corrections in both institutional and community programs and served as the Community Coordinator for Pima County Juvenile Justice collaboration. He is also a graduate of a Special Institute for Criminal Justice Executives, sponsored by the National Institute for Corrections.

Jerry L. Thompson, Member, has worked in the Arizona Criminal Justice System for eighteen (18) years in the capacity of Assistant Director of Education, Institution Superintendent, and parole officer. He holds a B. A. degree from Arizona State University and a Masters from Northern Arizona University.

CASE ANALYSTS

During fiscal year '79-'80 the Board continued to upgrade and professionalize the case analysts positions. They prepare comprehensive summaries on each case being considered by the Board; these summaries were utilized by individual Board members during their decision making process. These summaries are compiled from Court and Corrections records for each individual applicant scheduled for hearings in the areas of parole, commutation, pardons, reprieves, and parole revocations. During the past fiscal year, the Board also moved toward establishing case analysts as hearing officers for preliminary parole revocation hearings in order to comply with the Morrissey vs Brewer requirements outlined in the United States Supreme Court decision. It was the intent of the Board with the upgrading of the analysts position to begin phasing the case analysts into these new duties beginning July 1, 1980.

CHAPTER III

BOARD RESPONSIBILITIES

I. TYPES OF PAROLES

A. Parole

Parole is the conditional release of an inmate from confinement after he has served a specific portion of his sentence. When released, he is supervised by the Arizona Department of Corrections under conditions imposed by that department. Sometimes the Parole Board imposes additional special conditions. Anyone violating any of these conditions may be returned to prison. A parolee may complete his sentence in either Arizona or in another jurisdiction. (A.R.S. 31-411 and 31-412)

B. Parole to Consecutive Sentence

As of October 1, 1978 the Arizona Board of Pardons and Paroles has Legislative authority, pursuant to the provisions of A.R.S. 31-412, to parole inmates to a consecutive sentence to be served in an institution. When an inmate is paroled to a consecutive sentence, the time remaining on the sentence from which he was paroled is held in abeyance to be later served under community supervision.

C. Parole to Detainer

The Arizona Board may consider releasing an inmate to serve a sentence in the custody of another jurisdiction. (A.R.S. 31-412).

II. TYPES OF EXECUTIVE CLEMENCY

The Governor has the power to grant clemency in all commutations, pardons, or reprieves upon the written recommendation and advice of the Arizona Board of Pardons and Paroles.

A. Commutation

Commutation is 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, sometimes circumstances occur during incarceration which indicate that justice would be better served if a commutation were recommended to the Governor.

During the past year the Board modified their administrative rules regarding commutations. Now commutations are heard in two phases. At the first phase hearing, the Board reviews the application, the Department of Corrections file, any available material, and hears testimony of all witnesses. The second phase (for those moved to this phase) is a personal interview with the inmate. According to the Board rules, an inmate is entitled to apply for a commutation of sentence after serving 2 years from his sentence begins date, and may reapply every 2 years thereafter, as long as he is not within 1 year of his parole eligibility date or Mandatory Release date (A.R.S. 31-402).

B. Pardon

A pardon is an act of grace or a remission of guilt, which absolves the convicted felon of the legal consequences of his crime and conviction. A full pardon restores those civil rights (except the right to bear arms) which may have been lost as a result of the conviction for which the pardon is granted. A pardon cannot be granted by the Governor unless it has first be recommended by the Board. (A.R.S. 31-402)

C. Reprieve

A reprieve is a delay or temporary suspension of the carrying out of a punishment. The Governor may grant a reprieve upon written recommendation of the Board of Pardons and Paroles. (A.R.S. 31-402)

III. PAROLE REVOCATIONS

A. Preliminary Hearing

If conditions established by the Department of Corrections or the Board are violated...the Board shall grant an inquiry in the nature of a preliminary hearing conducted by a hearing officer in accordance with the United States Supreme Court's *Morrissey v Brewer* decision (71-5103:1972). If probable cause is found that the detained parolee is believed to be in violation, he will be remanded for a Revocation hearing before the Board, where it shall be factually determined if a violation has occurred and if the parolee is to be revoked or reinstated on parole. Both hearings shall be conducted under auspices of Morrissey where due process requires written notice of the alleged violation of parolee, disclosure of evidence, an opportunity to appear and speak, and to present witnesses and documentary evidence, the right to confront and cross examine adverse witnesses (unless specifically disallowed by the hearing officer for good cause); and a written statement by the fact finder as to the evidence relied upon and the reasons on which probable cause was established. Every arrested parolee shall receive written notification of the hearing at least five (5) working days prior to scheduled date.

B. Parole Revocation Hearings

A parole revocation hearing is held when it is believed that a violation of one or more conditions of parole imposed by the Department of Corrections or the Board of Pardons and Paroles has occurred. A violation can constitute grounds for parole revocation and return to an institution.

Parole revocation hearings are scheduled to determine if a parolee has violated one or several conditions of his parole. If a violation has occurred, the Board determines how much of the street time is taken away.

IV. ABSOLUTE DISCHARGE

There are two types of absolute discharge actions the Arizona Board may take. One is discharge from an institution pursuant to ARS 31-411.

Also, the Board may discharge a person from parole supervision prior to the expiration date of the parole. Generally the Parole Division recommends the discharge to the Board because of exceptional performance while on supervision. (A.R.S. 31-414)

V. OTHER HEARINGS

If requested by the Director of the Department of Corrections, the Board may consider forfeiture of time. Inmate(s) may petition the Board to restore time forfeited.

Upon request from another state, the Board conducts courtesy hearings for inmates from other states imprisoned in Arizona and submits impressions and reports but not recommendations to the requesting jurisdiction.

VI. HEARING LOCATIONS

During each month, members of the Board traveled to all state adult correctional institutions to conduct hearings. The Board traveled to the following: Arizona State Prison, Florence; Arizona Correctional Training Facility, Tucson; Safford Conservation Center, Safford; Fort Grant Training Center, Fort Grant; Alhambra Reception and Treatment Center, Phoenix; Arizona Center for Women, Phoenix. Hearings are also held in the Board Office at 1812 West Monroe, Suite 202, Phoenix, Arizona. Preliminary hearings were conducted in the County jails where the prisoner was incarcerated.

VII. BOARD PROCESSES

After the Director of the Department of Corrections has certified an inmate's eligibility, the Board conducts investigations and the detailed reports become part of an individual's file; most of this research is done by the Case Analyst who assists the Board in securing this information. Thirty (30) days prior to the hearing the Board notifies the Presiding Judge of the Superior Court and the County Attorney of the County in which the applicant was sentenced.

The Board impanels five (5) members, but three (3) members present constitutes a quorum. A majority vote determines the action, and all votes are recorded in the minutes. In an Executive Clemency recommendation, if the decision is not unanimous, both majority and minority opinions are presented to the Governor.

The Board affords the inmate a private interview unless he requests his attorney's presence during the private interview. After the interview by a Board member, assigned on a rotating basis, other members may solicit additional information. The friends, families, and program representatives are then invited to share information with the Board. Decisions are generally made on the same day and the institution is informed. The inmate and Department of Corrections are officially notified in writing of the decision within ten (10) days of the hearing, however, occasionally the Board postpones a decision for additional information.

VIII.

GUIDELINES FOR BOARD DECISIONS

Certain factors have been designated by the Board as especially important when a person is considered for parole. The Board is not, however, limited to just these factors. The Board will not parole an inmate if there is substantial reason to believe he will engage in further criminal conduct or will not conform to specified conditions of parole. In its thorough and impartial investigations the Board will take into account any or all of the following factors:

I. Prior History

- A. The inmate's employment history, education, and occupational skills and training (including military training).
- B. The inmate's illegal use of controlled substances or past habitual and excessive use of alcohol or drugs.
- C. Any recommendations made by the sentencing Court.
- D. The inmate's behavior and attitude during any previous experience of probation or parole, and the recency of such experience.
- E. Circumstances of the offense for which the inmate is serving a sentence.
- F. Any protests or recommendations filed with the Board regarding the inmate's suitability for parole.
- G. Any record which the inmate may have of past offenses.

II. Prison Record

- A. The inmate's ability and readiness to assume obligations and undertake responsibilities.
- B. The inmate's vocational, educational, and other training since incarceration.
- C. The inmate's conduct during his term of imprisonment.
- D. Any noticeable attitudinal change since the offense for which the inmate was incarcerated.
- E. The physical and emotional status of the inmate.
- F. The inmate's positive efforts on behalf of himself or on behalf of others.

III. Forward View

- A. The inmate's family status, including whether his relatives display an interest in him or whether he has other close and constructive associations in the community.
- B. The inmate's immediate and long range residential plans.
- C. The adequacy of the inmate's plans or prospects upon release.
- D. The availability of community resources to assist the inmate.

1X. NOTIFICATION OF PAROLE DECISIONS

Granted:

If the Board approves a parole, eight (8) standard conditions are imposed by the Department of Corrections. Some of these are: reporting to a parole officer within 24 hours of arrival time, submitting a blood or urine sample when requested, and securing a permit before traveling from Arizona. In addition, the parole officer may attach special conditions.

The Parole Board also may impose special conditions, and, in fact, did attach those conditions in excess of 75% of the paroles granted during this fiscal year. The Arizona Board of Pardons and Paroles might condition, for example, an appropriate mental health or substance abuse program, require no alcohol or drug use, or request a residential in-patient drug program.

Denied:

When an inmate appears before the Board and his parole is denied, the Board shall within ten (10) days prepare and deliver to the person and the Director of the Department of Corrections a written statement specifying individualized reasons for denial.

Under previous criminal codes those denied shall not be reheard until a period of six (6) months has elapsed. With the New Criminal Code, the Director of the Department of Corrections will certify those eligible to be heard.

Chapter IV

BOARD ACTIONS

During the fiscal year of July 1, 1979 to June 30, 1980, the Arizona Board of Pardons and Paroles heard 1,575 cases. In addition, there were more than 400 individuals who had been certified eligible to be heard who refused a hearing for various reasons - An inmate has this option.....

Sec. 30. Temporary release; parole

- A. In addition to the temporary release provisions in 31-411, Arizona Revised Statutes, every prisoner, upon conviction of a crime committed prior to October 1, 1978 and sentenced to the custody of the Department of Corrections may be temporarily released, in the discretion of the Director and according to the rules and regulations of the department, three hundred and sixty days prior to the expiration of his maximum sentence and shall remain under the control of the Department of Corrections until expiration of the maximum term specified in the sentence. If the release violates any condition of his release, he may be returned to custody without further process.

During this fiscal year, 895 parole hearings were held and the majority of the Board members voted to parole 541 individuals appearing or 61% of those cases. This reflects an increase of 15% over the two previous fiscal years. Of the 541 inmates receiving parole, 451 were paroled in the State of Arizona and 90 were paroled to other states. Additionally, the Board heard 61 cases for parole to Consecutive Sentence and 57 for paroles to detainers. Of those, 51 (83.6%) and 50 (87.7%) were granted respectively. This reflects an increase of 36% and 32% from the previous year.

The Arizona Board of Pardons and Paroles reviewed 346 Executive Clemency applicants in this fiscal year. There were 338 Commutation of Sentence applicants, 6 Pardon applicants, and 2 Reprieve Hearings. Of these, the Board recommended to Governor Babbitt that he grant 13 Commutations of Sentence and 6 Pardons.

The statistical breakdown of all Board Actions appears on the following pages.

BOARD ACTION STATISTICS

	1977-78	1978-79	1979-80
<u>Paroles:</u>			
Refused to appear	499	556	408
No. of Hearings	982	659	895
No. of Paroles Approved	453	300	541
No. of Paroles Denied	529	359	354
% Approved	46%	46%	61%
<u>Paroles to Consecutive Sentence:*</u>			
No. of Hearings	0	81	61
No. of Paroles Approved	0	39	51
No. of Paroles Denied	0	42	10
% Approved	0	48%	84%
* The Board was not authorized to parole to Consecutive Sentences until October 1, 1978.			
<u>Parole to Detainers:</u>			
No. of Hearings	29	18	57
No. of Paroles Approved	27	10	50
No. of Paroles Denied	2	8	7
% Approved	93%	56%	88%
<u>Preliminary Hearings:</u>			
No. of Hearings	72	83	58
Probable Cause Found	58	74	56
Probable Cause Not Found	14	9	2
% of Probable Cause Found	81%	89%	97%
<u>Parole Revocation Hearings:</u>			
No. of Hearings	138	130	77
No. of Paroles Revoked	120	129	77
No. of Paroles Not Revoked	18	1	0
% of Parole Hearings Resulting in Paroles Revoked	87%	99%	100%
No. & (%) of Revocation for Technical Violation	**	**	18(23%)
No. & (%) of Revocation for New Offense	**	**	59(77%)
<u>Courtesy Hearings</u>	13	13	4

	1977-78	1978-79	1979-80
<u>Absolute Discharge From Parole:</u>			
No. of Hearings	91	82	73
No. of Discharges Granted	57	44	43
No. of Discharges Not Granted	34	38	30
% Granted	63%	54%	59%
<u>Time Forfeiture</u>			
No. of Hearings	7	2	0
No. with Time Forfeited	1	0	0
<u>Time Restoration:</u>			
No. of Hearings	7	2	2
No. with Time Restored	1	0	1
<u>Commutation of Sentence:</u>			
No. of Application/Hearings	430	391	338
No. Recommended to Governor	3	5	13
No. Not Recommended to Governor	427	386	325
% Recommended to Governor	1%	1.5%	4%
No. Granted by Governor	2	2	2
No. Denied by Governor	0	1	1
<u>Pardons:</u>			
No. of Hearings	10	3	6
No. Recommended to Governor	9	1	6
No. Not Recommended to Governor	1	2	0
% Recommended to Governor	90%	33%	100%
No. Granted by Governor	9	0	4
No. Denied by Governor	0	0	0
<u>Reprieves:</u>			
No. of Hearings	0	0	2
No. Recommended to Governor	0	0	0
No. Not Recommended to Governor	0	0	2
% Recommended to Governor	0%	0%	0%
No. Granted by Governor	0	0	0
No. Denied by Governor	0	0	0
Total Number of Hearings	1779	1464	1575
Average No. of Hearings Per Month	148	122	131

*Statistics not accumulated for this category in previous years.

OTHER BOARD ACTIVITIES

Other Board activities included the Board attending numerous Criminal Justice workshops which allowed Board members to interact with Department of Corrections Officials, Legislators, Criminal Justice Faculty, Attorneys, Judges, and others working within the system.

The Board now schedules a monthly meeting with the Department of Corrections personnel and also with representatives from the Attorney General's office who are assigned to represent the Board. These meetings are held to discuss Board matters and clarify law or procedure.

Board members attended several national conferences such as the American Correctional Association Conference. One (1) Board Member was invited to be a guest at the Arizona Town Hall; several members have attended Department of Corrections conferences. When invited, members have also addressed several civic and community groups.

The Arizona Board of Pardons and Paroles published and distributed Rule Books to the Governor's Office, the Legislature, DOC Personnel, Libraries, Attorneys, Judges, and others. The expanded and revised rules were reviewed and approved by the Attorney General's Office and were certified by the Secretary of State. The assistance of the Junior League in accomplishing this goal was acknowledged.

Included in the rule changes was one revising the commute process. The process is now in two phases; initially applicants certified as eligible by the Department of Corrections are reviewed by the Board in absentia. If a majority votes affirmatively, the process moves to phase two. At the phase two hearing, the inmate, his attorney, and witnesses are allowed to appear. If the majority votes in favor, the recommendation is submitted to the Governor for final decision. If a majority votes not to recommend, the process is halted until the two year eligibility requirement is reached and a new application is submitted.

The Board researched the feasibility of becoming accredited by the American Correctional Association.

The Board also continued the possibility of tying into the Department of Corrections information system. In addition to this system, the Board is also considering the possibility of informational holding, retrieval, and printing systems.

Chapter V

PROJECTED PLANS 1980 - 1981

The Board intends to reorganize the office staff members and their duties for increased efficiency. The Board will continue training for the staff, case analysts, and Board members.

During this fiscal year the case analysts will serve as hearing officers for preliminary hearings. This will avoid any possible conflict and make certain the revocation procedure in Arizona is in accordance with the 1972 United States Supreme Court decision in *Morrissey vs. Brewer*. The Board intends to investigate the possibility of utilizing the parole analysts or hearing officers for other types of hearing.

The Board will continue to attend training seminars, conferences, workshops, etc. to gain new ideas and knowledge in our growing field and we will also continue to be active members of the Criminal Justice System in Arizona. Members of the Arizona Board were selected as participants in the Parole Seminar - West Region, a Conference sponsored by the National Council on Crime and Delinquency.

The Board is writing, filming, and assembling a slide presentation. This ten minute presentation will explain the duties and responsibilities of the Arizona Board. Also, the presentation will discuss the recently revised rules and the policies and procedures of the Board.

When the presentation is completed, the Board intends to conduct mini workshops for interested groups. The workshops will be presented to Superior Court Judges, Probation Departments, DOC Personnel, Community Organizations, and inmates.

The Board is pursuing having the Rule Book translated into Spanish. These would be distributed to libraries and Counselors in the Arizona Department of Corrections Institutions.

The Board will attempt to obtain office space in the same facility as the Department of Corrections in order to share files, keep communications open, and avoid duplication of efforts and expense.

The Board will continue to strive to fulfill duties and responsibilities entrusted to the Board by the Legislature and the Governor in a positive and constructive manner.

