

# **Arizona Board of Pardons and Paroles**



## **ANNUAL REPORT**

**July 1, 1980 - June 30, 1981**

BRUCE BABBITT  
GOVERNOR



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

ARTER L. JOHNSON  
CHAIRMAN

JOHN J. SLOSS  
VICE-CHAIRMAN

MEMBERS  
ROBERT L. ARAZA  
CAROL M. PAVILACK  
RICHARD M. ORTIZ

TO: THE HONORABLE BRUCE BABBITT, GOVERNOR OF THE STATE OF ARIZONA  
and  
MEMBERS OF THE 36TH LEGISLATURE OF THE STATE OF ARIZONA

The Arizona Board of Pardons and Paroles has, during the past fiscal year, begun to experience the total impact of the New Criminal Code. The challenge this has presented to the Board has served as a growth experience to each of us as individuals and to us as a Board.

On behalf of the Board of Pardons and Paroles, I have the honor of herewith submitting the Annual Report of the Arizona Board of Pardons and Paroles for the period of July 1, 1980 through June 30, 1981.

Respectively,

  
Arter L. Johnson  
Chairman

**BRUCE BABBITT**  
GOVERNOR



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A N N U A L   R E P O R T

July 1, 1980 - June 30, 1981

TO:

The Honorable Bruce Babbitt  
Governor of the State of Arizona

and

The Thirty-Sixth Legislature of the State of Arizona

SUBMITTED BY:

Arter L. Johnson, Chairman

John L. Sloss, Vice-chairman

Robert L. Araza, Member

Richard M. Ortiz, Member

Carol M. Pavilack, Member





CHAPTER I  
STATUTORY PROVISIONS

The Arizona Board of Pardons and Paroles consists of 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 the State Prison at least monthly and other times and places it deems necessary 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 of sentence or parole is being considered, the Board must notify at least 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 the Administrative Procedures Act. Board rules filed with the Secretary of State clarify the procedures for all actions taken by the Board and its staff.

## 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.

Fiscal year 1980-1981 found Robert L. Araza serving his term as Chairman ending January, 1981.

As per statute, an election was held in January, 1981, and Jerry L. Thompson was elected Chairman for the statutory term of January, 1981, to January, 1983. In July, 1981, Mr. Thompson was appointed to a post at the Department of Corrections, which left the Chairmanship vacant. The Board unanimously elected Arter L. Johnson as Chairman.

### MEMBERS - BOARD RESUMES

Robert L. Araza was appointed January, 1975, reappointed January, 1978, and reappointed January, 1981. He was elected Chairman of the Board for fiscal year 1975-76, Vice-chairman for 1977-78, and Chairman from 1978-81. 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 Supervisory Board since 1976. Mr. Araza holds a B.A. degree in Public Management.

Arter L. Johnson, appointed in 1978, 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.

Richard M. Ortiz was appointed by Governor Babbitt in October of 1981. Prior to assuming this position he was serving as Justice of the Peace for the Flagstaff Precinct in Coconino County. Mr. Ortiz also served as Chief Juvenile Probation Officer of Coconino County, Chief Adult Probation Officer, and was also a police officer for the City of Flagstaff during his undergraduate studies at Northern Arizona University. Mr. Ortiz holds a B.S. degree in Police Science and Administration from Northern Arizona University. Mr. Ortiz is awaiting Senate confirmation in the 36th legislative session.

Carol McGrew Pavilack received a B.A. degree from Wellesley College and an M.S. from Arizona State University in Criminal Justice. Ms. Pavilack has been involved in various volunteer endeavors; some are in the criminal justice area. Since her appointment in October of 1978 and reappointment in January of 1980 to the Board, she coordinated the American Paroling Authority mid-winter conference in Phoenix in 1980. She is a member of the Maricopa County Alternatives to Incarceration Committee. During this fiscal year Ms. Pavilack was considered for a position as a U.S. Parole Commissioner.

John J. Sloss, appointed in October, 1978, received his B.S. degree in Public Administration and an M.S. degree in Addiction Studies. He has been involved with the criminal justice system in Arizona since 1967. His experience includes working for the Arizona Department of Corrections in both institutional and community programs and serving 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. In November, 1980, he received an award from the University of Arizona Corrections Society for his contributions to Corrections.

Jerry L. Thompson, appointed in October of 1978, 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. He left the Board in July, 1981, to accept the position of Deputy Director for Adult Services of the Arizona Department of Corrections.



## CASE ANALYSTS

During fiscal year 1980-81 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. The summaries are compiled from Court and Corrections records for each individual applicant scheduled for hearings in the areas of paroles, commutations, pardons, reprieves and parole revocations. During the past fiscal year the Board established 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.

During the year the analysts compiled 1,970 reports. Of those, the analysts averaged 163 monthly parole reports, and the remaining were executive clemency reports, preliminary hearings and special assignments. The analysts also attended training seminars and conferences in Phoenix and Tucson.

The analysts have also assisted in the Board's slide show presentations as well as attending public speaking engagements.

## 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, and 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 beginning date, and may re-apply 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 been 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 vs. Brewer decision. 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 vs. Brewer 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 factfinder 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 A.R.S. 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 travelled to all state adult correctional institutions to conduct hearings. The Board travelled 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; Arizona Correctional Training Center, Perryville. Hearings are also held at the Board office in Phoenix. Preliminary hearings are conducted in the county jurisdiction where the alleged violation occurred.

## VII. BOARD PROCESSES

After the Director of the Department of Corrections has certified an inmate's eligibility, the Board conducts investigations. 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; however, three (3) members constitute a quorum. A majority vote determines the action, and all votes are recorded in the minutes. In an Executive Clemency recommendation both majority and minority opinions are presented to the Governor.

The Board affords the inmate a private interview and also allows his attorney's presence. After the initial interview by a Board member, other members may solicit additional information. The friends, families, and program representatives or anyone opposing the positive action are then invited to share information with the Board. Decisions are generally made on the same day, and the institution and the inmate are notified. The inmate and the 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 important when a person's case is being considered by the Board. However, the Board is not limited to 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 consider any or all of the following factors:

### 1. 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.

2. 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.

3. 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 projects upon release.
- d. The availability of community resources to assist the inmate.

IX. 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 to a blood or urine sample when requested, and securing a permit before travelling 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 ACTION STATISTICS

	1978-79	1979-80	1980-81
<u>PAROLES:</u>			
Refused to appear	556	408	351
No. of hearings	659	895	1370
No. of paroles approved	300	541	782
No. of paroles denied	359	354	588
% approved	46%	61%	57%
<u>PAROLES TO CONSECUTIVE SENTENCES:</u>			
No. of hearings	81	61	98
No. of paroles approved	39	51	50
No. of paroles denied	42	10	48
% approved	48%	84%	51%
<u>PAROLE TO DETAINERS:</u>			
No. of hearings	18	57	57
No. of paroles approved	10	50	56
No. of paroles denied	8	7	1
% approved	56%	88%	98%
<u>PRELIMINARY HEARINGS:</u>			
No. of hearings	83	58	78
Probable cause found	74	56	75
Probable cause not found	9	2	3
% of probable cause found	89%	97%	96%
<u>PAROLE REVOCATION HEARINGS:</u>			
No. of hearings	130	77	119
No. of paroles revoked	129	77	116
No. of paroles not revoked	1	0	3
% of parole hearings resulting in paroles revoked	99%	100%	97%
No. & (%) of revocation for technical violation		18(23%)	44(37%)
No. & (%) of revocation for new offense		59(77%)	75(63%)
<u>COURTESY HEARINGS</u>	13	4	9



	1978-79	1979-80	1980-81
<u>ABSOLUTE DISCHARGE FROM PAROLE:</u>			
No. of hearings	82	73	95
No. of discharges granted	44	43	35
No. of discharges not granted	38	30	60
% granted	54%	59%	37%
<u>TIME FORFEITURES:</u>			
No. of hearings	2	0	0
No. with time forfeited	0	0	0
<u>TIME RESTORATIONS:</u>			
No. of hearings	2	2	0
No. with time restored	0	1	0
<u>COMMUTATION OF SENTENCES:</u>			
No. of application/hearings	391	338	138
No. recommended to Governor	5	13	12
No. not recommended to Governor	386	325	126
% recommended to Governor	1.5%	4%	8%
No. granted by Governor	2	2	4
No. denied by Governor	1	1	8
<u>PARDONS:</u>			
No. of hearings	3	6	11
No. recommended to Governor	1	6	4
No. not recommended to Governor	2	0	7
% recommended to Governor	33%	100%	36%
No. granted by Governor	0	4	4
No. denied by Governor	0	0	0
<u>REPRIEVES:</u>			
No. of hearings	0	2	2
No. recommended to Governor	0	0	0
No. not recommended to Governor	0	2	2
% recommended to Governor	0%	0%	0%
No. granted by Governor	0	0	0
No. denied by Governor	0	0	0
<u>TOTAL NUMBER OF HEARINGS</u>			
	1464	1575	1970
<u>AVERAGE NO. OF HEARINGS PER MONTH</u>			
	122	131	164

## 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. When invited, members have also addressed several civic and community groups.

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.

The Arizona Board of Pardons and Paroles published and distributed Rule Books to the Governor's Office, the Legislature, Department of Corrections 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.

With the valuable assistance of two filmmakers from the Department of Economic Security, the Arizona Board of Pardons and Paroles compiled a slide presentation. This twelve-minute script explains the duties and responsibilities of the Arizona Board and reinforces the information which is contained in the Rule Book published in July, 1980.

The Board has used this presentation to conduct workshops in each of the adult correctional facilities. Also, the workshops have been given to community service groups, university classes, and criminal justice agencies. The case analysts also have used the slide presentation as an introduction to workshops for various groups, among them being the counsellors in the adult institutions.

During the last five months of this fiscal year, the Board members and analysts have presented twenty-five workshops to over 500 people. The reception of Arizona Department of Corrections personnel and the community to the presentation has been most gratifying. The Board is planning a joint presentation on parole with the Parole Division of the Department of Corrections.

## CHAPTER V

### PROJECTED PLANS 1981 - 1982

The Board intends to reorganize the office staff members and their duties for increased efficiency. The Board will continue in-service training for the staff, case analysts, and its 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 will continue to attend training seminars, conferences, workshops, etc. in order to gain new ideas and knowledge in our growing field, and we shall continue to be active members of the Criminal Justice System in Arizona.

A slide show presentation by the Board will be available for workshops or interested groups. The workshops will be presented to Superior Court Judges, Probation Departments, Department of Corrections personnel, community organizations and inmates.

The Board will translate its Rule Book into Spanish. These shall be distributed to libraries and counsellors in the Arizona Department of Corrections institutions to be utilized by those inmates whose basic language is Spanish.

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. In conjunction with the Department of Corrections, the Board will prepare a plan to modernize equipment such as computer terminals, word processing, etc.

The Personnel Committee of the Board of Pardons and Paroles will implement an approved affirmative action plan. The Board will continue to fulfill duties and responsibilities entrusted to the Board by the Legislature and the Governor in a positive and constructive manner.

