ARIZONA STATE BOARD

OF

EXECUTIVE CLEMENCY

ANNUAL REPORT

FY-1999

JANE DEE HULL
GOVERNOR

EDWARD M. LEYVA
CHAIRMAN

MEMBERS
DUANE BELCHER, SR.
KATHRYN D. BROWN
CARROL de BROEKERT
EDITH RICHARDSON

ARIZONA
BOARD OF EXECUTIVE CLEMENCY

1645 WEST JEFFERSON
SUITE 326
PHOENIX, ARIZONA 85007
(602) 542-5656
FAX (602) 542-5680

THE HONORABLE JANE D. HULL
GOVERNOR OF THE STATE OF ARIZONA
and
MEMBERS OF THE 44TH LEGISLATURE

The Board is pleased to present this FY1999 Annual Report for the period of July 1, 1998 to June 30, 1999. We are continuing to adjust to the impact of the implementation of 1994's Truth-in-Sentencing (TIS) legislation. For the reporting period, the Board's parole workload has decreased 20.5% from 4,095 parole hearings in FY 98 to 3,254 parole hearings in FY99. Conversely, the Board's Commutation workload increased 69% from 166 commutations in FY 98 to 281 commutations in FY 99. Additionally, the Board's revocation workload has increased 15% from 1,430 revocations in FY 98 to 1,643 revocations in FY 99. The Board conducted a total of 5,240 hearings in FY 99.

Of the 3,254 parole hearings conducted, the Board granted 1,188 (36.5%) releases and denied 2,066 (63.5%) releases. Of the 281 commutation requests, the Board recommended 32 (11.4%) for consideration. Of the 1,643 revocations, the Board revoked 1,501 (91%). Relating to revocations, the workload consists of 528 (32%) parolees and 1,077 (68%) community service releases (TIS inmates). The Board also heard 7 reprieves of which 1 was recommended.

As we prepare to move into the new millennium, we will remain vigilant toward our statutory obligations of protecting Arizona citizens while, hopefully, engaging policy makers in dialogue that establishes a clear vision for our future efforts in supporting the State's Criminal Justice System.

Thank you for your interest and your continued cooperation.

Respectfully submitted,

Edward M. Leyva
Chairman

ARIZONA STATE BOARD OF EXECUTIVE CLEMENCY
FISCAL YEAR 1999 ANNUAL REPORT
REPORTING PERIOD JULY 1, 1998 TO JUNE 30, 1999

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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. All appointments, however, became subject to Senate confirmation. A full decade passed before the Board experienced change in its composition.

In 1978, the Legislature increased Board size to five full-time members. The Governor appointed all members to five-year terms, and appointments 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

A full-time staff of 17 supports the five Board Members. The current biennial budget represents a loss of 9 staff and the agency is already in position to manage with the required loss. 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.

Management Analyst II – This position is responsible for managing the Board's business functions, and serves as computer network administrator.

Hearing Officers – The Chief Hearing Officer manages and supervises 2 Hearing Officers who 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.

Case Analyst (Administrative Assistant III) - The Chief Hearing Officer manages and supervises the 3 Case Analysts who gather information and prepare reports for the Board's use when considering inmates certified eligible for parole and commutation.

Administrative Support Supervisor II - This position is responsible for the supervision of the Administrative Support staff. Additionally, the Administrative Support Supervisor II is the problem solving liaison for the Board in matters involving time computation and inmate eligibility.

Administrative Assistant II - This position is responsible for monitoring and responding to written and telephonic inquiries. This position also creates the monthly hearing calendar and makes travel arrangements.

Legal Secretary I - This position provides administrative support for the Hearing Report Section in processing applications for clemency actions, requests for revocation and/or rescission of parole.

Administrative Support Positions – The 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.

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. 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. Inmates will have the opportunity to provide information as it pertains to the most serious offense behavior.

After considerable discussion, the Board reached a consensus on the placement of offense behaviors into eight severity levels. Level of victimization and amount of property or drugs involved in the offense function as primary criteria for the ranking of offense behaviors.

Severity level 1 contains the most serious offense behaviors and severity level 8 contains the least serious offense behaviors. Board analysts locate the corresponding severity level for 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 statue 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 FROM PAROLE (A.R.S. §31-411 & 31-414) The Board may discharge a person from parole supervision prior to the expiration date of the parole pursuant to **A.R.S. §31-414**. Generally, the Parole Division of the Department of Corrections recommends the discharge to the Board because of exceptional performance while on 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.

FY1999 PAROLE WORKLOAD

Certification Type	Grant	Deny	Total
Work Furlough/Home Arrest	87	81	168
Early Parole	0	3	3
Work Furlough	7	3	10
Early Parole/ Home Arrest	0	0	0
Early Parole/ Work Furlough/ Home Arrest	7	19	26
Early Parole/ Work Furlough	0	0	0
General Parole(412-A)/Absolute Discharge/Home Arrest	726	1,392	2,118
Parole to Detainer(412-B)/ Absolute Discharge	237	287	524
Parole to Consecutive Sentence(412-B)/ Absolute Discharge	124	281	405
Totals	1,188	2,066	3,254
	Grant	**Deny**	**Total**
Percent	36.5%	63.5%	100%

Type of Parole Granted	Total
General Parole(412-A)	719
Parole to Consecutive Sentence(412-B)	124
Home Arrest	281
Work Furlough	60
Absolute Discharge	4
Total Paroles Granted	1,188

Structured Decision Making (SDM)

The Board applied Structured Decision-Making Guidelines to 1,916 hearings or 59% of the total parole hearings conducted. The Board granted within the guidelines 990 times or 52% and outside the guidelines 926 times or 48%. SDM is not used for offenses of 1st or 2nd degree murder or serious sexual offenses.

FY1999 MODIFICATION, RESCISSION AND REVOCATION WORKLOAD

Modification	Rescission	Revocation	Total	
19 grants were modified	33 rescission hearings resulted in 26 rescissions.	Parole revoked	413	The Board revoked 1,501 releases for a 91% revocation rate based on a workload of 528 (32%) parole and 1,115 (68%) community service releases.
		Parole revoked and reverted to Home Arrest	11	
		Community Service Release revoked	1,077	
		Parole not revoked	104	
		Community Release not revoked	38	
		Total revocations	1,643	

FY1999 CLEMENCY WORKLOAD

Clemency Type	Recommend	Deny	Totals
Pardon	0	3	3
Reprieve	(Governor denied) 1	6	7
Commutation-Phase I	43	197	240
Phase II	32	9	41
Governor Grant	4		
Total Clemency Actions			291

BOARD MEMBERS

EDWARD M. LEYVA, A lifelong Glendale resident was appointed to the Board by Governor Symington in June 1992, and re-appointed in February, 1997. Also, Governor Symington appointed Mr. Leyva as the Chairman of the Board in February, 1997. Prior to his appointment to the Board he served Maricopa County as a Deputy Sheriff for twenty-two years, retiring with the rank of Major on May 31, 1992. During his career he worked all facets of law enforcement. His most recent assignment was that of Commander of the Community Services Division, which is responsible for all training of personnel, search and rescue functions, community relations programs and liaison to the Sheriff's posse and reserve personnel. He has been actively involved with local and national law enforcement associations during his career and has held a Board position. Mr. Leyva is a former U. S. Army Paratrooper having served with the 173rd Airborne Brigade and the 101st Airborne Division between January, 1963 and January, 1966. He has an A.A. Degree in Police Science Administration from Glendale Community College, a B.A. Degree in Administration of Justice from Golden Gate University, San Francisco, California and a M.S. Degree in Police Science Administration from Northern Arizona University. He is a certified Community College instructor and substitute teacher. Mr. Leyva and his wife, Donna, have been married for 36 years. They have three adult children and seven grandchildren.

KATHRYN D. BROWN, the first Afro-American female appointed to the Board by Governor Symington on April 8, 1992 and reappointed on May 28, 1996, is also the Vice-Chairperson for the Board. Ms. Brown brings to the Board 14 years of experience from the Arizona Department of Corrections starting as a Corrections Service Officer in 1978. Ms. Brown has previously worked as a Correctional Program Officer I and II and Correctional Program Supervisor supervising the Adult Parole Office in eastern Maricopa County. She is a native of Arizona, born in Phoenix and raised in Phoenix, Los Angeles and Long Beach California. She attended Arizona State University and has a B.A. degree in Sociology. She was a member of the Metro Tech VIP, Law Enforcement Advisory Committee and has given presentations at the Law Enforcement Academy to students with an interest in criminal justice. She is also a member of National Association of Blacks in Criminal Justice, Phoenix Chapter and worked as Chair of NABCJ 1989 training conference. Additional organizational memberships are Alpha Kappa Alpha Sorority, Inc., Delta Beta Omega Chapter, SGI International, USA, Rocky Mountain Territory, Arizona Headquarters and The Black Womens Task Force. Ms. Brown also volunteers her services with the Black Nurses Association at health fairs and seminars throughout the valley.

DUANE BELCHER, SR., a resident of Tucson, Arizona, was appointed as Board Chairman in September 1993 and served in that capacity until February, 1997. Governor Symington originally appointed him to the Board in August 1992. Mr. Belcher brings to the Board 21 years of a wide variety of experiences in the Criminal Justice field. After receiving his Bachelor of Science Degree in 1971 from Central State University in Wilberforce, Ohio, he worked as a probation/parole officer in the Cleveland, Ohio area until his relocation to the state of Arizona in 1980. He began working for Arizona State Government in 1980 as a correctional service officer and 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 following professional organizations: National Association of Blacks in Criminal Justice; Arizona Probation, Parole and Correctional Officers Association; and the American Correctional Association. He has given presentations to several high schools in the Tucson area regarding the Criminal Justice field.

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 Mecham 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.

CARROL de BROEKERT, a resident of Goodyear, Arizona was appointed to the Board in March 1999 with a term expiration date of January 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.

PAST MEMBERS OF THE ARIZONA BOARD OF EXECUTIVE CLEMENCY

MEMBERS'S NAME	APPOINTED	RE-APPOINTED	TERM
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

PRESENT MEMBERS OF THE ARIZONA BOARD OF EXECUTIVE CLEMENCY

MEMBER'S NAME	APPOINTED	RE-APPOINTED	TERM
Edward M. Leyva	1992	1997	1992-02
Kathryn D. Brown	1991	1996	1991-01
Duane Belcher Sr.	1992	1997	1992-02
Edith Richardson	1999		1999-04
Carrol de Broekert	1999		1999-00