

ARIZONA BOARD OF EXECUTIVE CLEMENCY

BOARD POLICY #107

Policy Title: WARRANTS OF EXECUTION	Effective Date: July 06, 2017	Policy #107
	Supersedes: February 26, 2014	Pages: 5

PURPOSE:

The purpose of this policy is to outline the general procedures and guidelines associated with the processing and scheduling of a commutation, reprieve and/or pardon hearing for an inmate who is subject to a warrant of execution.

AUTHORITY:

Arizona Constitution-Article 5, § 5

A.R.S. 31-402

A.R.S. 31-403

Board of Executive Clemency: Commutation of Sentence-Board Policy #114

PROCEDURE:

107.01 Notice of Warrant

1.1 Upon receipt of a Warrant of Execution, the Executive Director shall immediately advise the Chairman of the Board of the:

- a. date and time of receipt;
- b. inmate's name and ADC number; and
- c. execution date.

1.1.1 If the Court advises that the Warrant is a "move along" then the Chairman shall be advised that the inmate's case is going to be reviewed by the District Court and a stay could be forthcoming.

1.2 Within 24 hours of receiving the Warrant of Executive, the assigned staff person shall obtain the inmate's ADC file to obtain the designated documents for Board member review.

1.2.1 The designated documents shall include, but not limited to:

- a. presentence report;
- b. court related documents;
- c. disciplinary reports;
- d. psychological evaluations; and
- e. program certificates.

1.2.2 The ADC file must be returned within three business days.

107.02 Notification and Scheduling Instructions

2.1 The Executive Director shall contact the inmate's attorney to determine if the inmate wishes to exercise their right to a Commutation of Sentence and/or Reprieve hearing and if they will be present at the hearing.

2.1.1 The Board should provide notice of all three options to inmate and inquire whether the inmate is applying for a pardon. The Board should not make a pardon consideration an automatic part of Clemency hearing if the inmate does not request it.

2.1.2 The Board's assigned staff shall provide the "Hearing Attendance Form" to the Inmate's Counsel. The form shall identify if the inmate wishes a Commutation of Sentence/Reprieve hearing and if so, whether or not they plan to attend.

2.1.3 Inmates are not required to be present or provide testimony at the hearing.

2.2. If the inmate has chosen to have the hearings, then the Board shall set a date no earlier than one day after a date of execution has been set and no later than 7 days prior to the execution date set by the Arizona Supreme Court.

2.2.1 The reprieve, commutation and/or pardon hearing for the inmate subject to execution will be held on the same day at one of the following locations:

- a. If the inmate has chosen to be physically present at his hearing then the hearing will be conducted at the facility designated by the Arizona Department of Corrections; or,
- b. If the inmate has chosen to participate by telephone, then the Board will conduct the hearing in its Boardroom at the main office location.

2.2 Once the date has been selected, written letters notifying the designated parties of the hearing shall be generated. All letters are reviewed by the Executive Director and Board Counsel prior to mailing. Notification letters are directed to:

- a. Governor,
- b. Arizona State Supreme Court,
- c. Director, Arizona Department of Corrections,
- d. assigned defense attorney
- e. inmate
- f. County Attorney
- g. Victims, and
- h. Complex Warden where hearing is located.

2.3 The Executive Director shall ensure that the official public notice is in compliance with the Open Meeting Law and is posted at the Board's office location and its website.

2.3.1 The number and type of hearing posted will be determined by the type of hearing requested by the inmate. The Board will schedule the hearing(s) start time as 9:00 a.m. unless otherwise determined due to security or other facility issues.

2.4 In the event an inmate chooses to forego his right to a hearing, the Board will schedule and convene in hearing to confirm the process of notification and the inmate's refusal of hearing.

107.03 Hearing Procedures

3.1. All hearings shall be conducted and concluded on the scheduled and the Chairman of the Board shall serve as the Panel Chairman. Prior to the start of the hearing, the Chairman will begin the hearing(s) by noting on the record:

- a. date, time, and place of the meeting;
- b. identification of the Board members as either present or absent;
- c. general description of the matter to be considered; and
- d. if time limitations are placed and that the limitations apply to all presenters.

3.2.2 The nature of these hearings are serious matters. Members should maintain professional decorum at all times. The Chairman should be cognizant of the need for short breaks during the hearing.

3.2 The Board Chairman should address the inmate and counsel at the beginning of proceeding on how the Board intends to conduct the hearing and how the inmate wants to present evidence. Both the inmate and his/her counsel should have the opportunity to speak first to the Board or present information to the Board.

- 3.3.1 Following the presentation and questions from the Board, the Chairman shall allow the prosecutorial, officials representing the interests of the State of Arizona and/or victims to make any statements or presentation to the Board.
- 3.3.2 If the Chairman wishes, he/she may close with the final word from the inmate and/or his counsel.
- 3.3.3 Once all presentations have been completed, the Board will begin its discussion and finalize its determination with the vote. Members may vote:
 - a. to recommend or not recommend to the Governor to commute the sentence
 - b. Board can vote to recommend or not recommend a reprieve to the Governor. If the Board recommends a reprieve, the recommendation should include the time period of the reprieve or the occurrence of an event that will mark the end of the reprieve.
 - c. to recommend or not recommend a pardon to the Governor.
- 3.4 If there is a tie vote, there is no recommendation made to the governor. The Chairman shall not re-open, reconvene or call for another vote.
- 3.5 The Chairman reserves the right to order the removal of any person from a hearing who causes a disruption to the process.
- 3.6 All members of the Board will remain available up to the time of execution should it be determined by the Chairman that sufficient cause exists to reconvene.

107.04 Hearing Disposition Record

- 4.1 All Clemency, Reprieve and/or Pardon hearings based on a Warrant of Execution shall be recorded as audio. If possible, the hearing may be videotaped.
- 4.2 Once the hearing is concluded, the Chairman shall contact the Executive Director, as soon as possible to verbally notify of Board's decision(s).
 - 4.2.1 The Executive Director shall contact the Governor's Office and inform of the Board's decision(s).

4.2.2 All documents and forms related to the Board's decisions will be forwarded to the Governor's Office. No later than the next business day all documents and forms

4.2.2.1 Prior to delivery at the Governor's Office, the assigned staff shall contact the Governor's Office to notify of the delivery.

4.2.3. All other notifications will follow in no less than 3 working days.

4.3 In the case of a recommendation on either hearing, the Board may submit a recommendation letter along with the audio and/or videotape of the hearing. The disposition notices will be distributed to:

- a. ADC Time Compilation
- b. Offender Information Unit
- c. Inmate
- d. Inmate Counsel

IMPLEMENTATION

This policy was adopted by the Arizona Board of Executive Clemency in accordance with law.