PERFORMANCE AUDIT

BOARD OF PARDONS AND PAROLES

Report to the Arizona Legislature
By the Auditor General
March 1990
90-2

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March 13, 1990

Members of the Legislature
State of Arizona

The Honorable Rose Mofford
Governor of the State of Arizona

Mr. Arter L. Johnson, Chairman
Board of Pardons and Paroles

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Board of Pardons and Paroles. This report is in response to a June 14, 1989, resolution of the Joint Legislative Oversight Committee and was conducted as a part of the Sunset Review set forth in A.R.S. §§41-2351 through 41-2379.

The report concludes that the Board of Pardons and Paroles can strengthen its ability to decide parole cases by establishing a structured decision-making process. At the present time, the Board lacks clear guidelines for evaluating prisoners seeking release and members often differ on which factors are most important and how they should be applied. We also found that the Board needs to improve its ability to manage a growing case load to allow members sufficient time to prepare for and hold hearings for inmates.

In addition, we found that the Board can save up to $356,000 annually by making more effective use of its staff. The Board currently uses hearing officers to gather and summarize information that is already available from existing sources. We question the need to use hearing officers for this purpose and present options for reducing the cost of gathering information.

The Board generally agrees with our findings and recommendations. The Board's response is contained on the yellow pages of the report. However,

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one Board member disagrees with our report and has submitted an individual response following the Board response.

My staff and I will be pleased to discuss or clarify items in the report.

Sincerely,

Douglas R. Norton

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SUMMARY

The Office of the Auditor General has conducted a performance Audit of the Board of Pardons and Paroles (BPP) in response to a June 14, 1989, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as part of the Sunset Review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

The Board of Pardons and Paroles consists of seven members appointed by the Governor and confirmed by the Senate. The board has jurisdiction over all adult felons sentenced to the Arizona Department of Corrections (DOC) and certified as eligible for parole. During fiscal year (FY) 1989, BPP held hearings for 6,403 prisoners and approved 2,295 releases. The board is assisted by a 36 FTE staff and has a budget of $1,563,800 for FY 1990.

The Board of Pardons and Paroles Should Establish a Structured Decision-making Process **(see pages 7 - 12)**

Currently, BPP has no clear guidelines or criteria for evaluating prisoners for release. As a result, each member determines which factors are the most significant and how they should be applied. Although there is some agreement among board members as to what factors are considered, they disagree about which factors are most important. For example, some board members place a considerable importance on family support, while others believe it is of lesser value. Further, board members sometimes disagree as to whether a factor weighs "for" or "against" a prisoner. When we asked board members to tell what factors positively or negatively influenced their decisions in 50 cases, board members responded in opposite ways 16 percent of the time.

Parole boards in 22 states and the District of Columbia used guidelines for decision-making. BPP should develop its own guidelines to assist in release decisions and to provide greater accountability and consistency in decision-making. The board can obtain financial and technical assistance for developing these guidelines from the National Institute of Corrections.

The Board of Pardons and Paroles Needs to Improve Its Ability to Manage a Growing Caseload (see pages 13 - 20)

The number of prisoners certified for parole hearings has grown dramatically in the past decade, more than two and a half times faster than Arizona's prison population. As a result, the board has difficulty managing its caseload. Board members may hear as many as 50 cases during 10 to 12 hour days. The average hearing lasts 13 minutes, and board members have little or no time to review an inmate's file and other information before seeing the inmate. In contrast, professional standards suggest that parole authorities hear no more than 20 cases per day and allow an average of 30 minutes, including preparation time, per case.

Although the board has taken some steps to increase its ability to handle its caseload, additional action is needed. One change would be for the Legislature to lengthen the time between parole hearings from four to six months. However, this change would affect only prisoners sentenced after the change is made.

A more immediate solution would be for the board to divide into three panels. The use of three panels would enable the board to meet recommended standards for the foreseeable future. The board is requesting legislation that would allow it to hear cases in three, two-member panels. Although this appears to be the most economical option available, it may create problems such as tie votes. If two-member panels are authorized by the Legislature, the board should establish procedures to minimize the impact of tie votes on processing parole dispositions.

The Board of Pardons and Paroles Can Save Up to $356,000 Annually through More Effective Use of Staff (see pages 21 - 31)

BPP does not use its hearing officers effectively. Unlike hearing officers at other State agencies, most of the board's 12 hearing officers do not preside over quasi-judicial proceedings or make decisions that

serve as the basis for final agency action. Instead, the board primarily uses hearing officers to collect and summarize information that is already available to the board. Further, most members rely primarily on presentencing investigation reports and their own impressions of inmates during personal hearings rather than the hearing officers' reports to determine suitability for parole.

We question the need for the board to use hearing officers as information collectors. The board could save approximately $356,000 annually by eliminating most of its hearing officer positions and several related support positions, and replacing them with four case analysts who would be able to compile information from central record sources. However, some board members feel that a summary report is essential. In that case, we estimate that nine case analysts can produce the desired reports. This could still produce savings of approximately $187,000.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Board of Pardons and Paroles in response to a June 14, 1989, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as part of the Sunset Review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

History

The opportunity for parole was first provided to Arizona's prisoners in 1901, with the establishment of a Board of Control, consisting of the Governor, the territorial auditor, and one citizen appointed by the Governor to serve a two-year term. The Board of Control had authority to grant paroles, until the State's first Criminal Code became effective in October 1913. At that time, the Board of Pardons and Paroles (BPP) was established as an independent State agency with "exclusive power to pass upon and recommend reprieves, commutations, paroles, and pardons."

The composition of the Board of Pardons and Paroles has been modified several times since its establishment. The original Board of Pardons and Paroles was a three-member board, consisting of the State Superintendent of Public Instruction, the Attorney General, and one citizen member, who acted in the capacity of board chairman. In 1966, the composition of the board was changed to five lay members. Board membership became full-time in 1968, when the board was modified to consist of three full-time members. Board size was then increased to five members in 1978 and seven members in 1984.

Parole Process

BPP has jurisdiction over all adult felon offenders, male and female, sentenced to the State Department of Corrections (DOC) and certified as eligible to be heard for release by the board. Pursuant to A.R.S.

§41-1604.06, DOC certifies inmates eligible for parole. Under the present criminal code, a "prisoner's earliest parole eligibility occurs when the prisoner has served one-half of his sentence unless such prisoner is sentenced according to any provisions of law which prohibit the release on any basis until serving not less than two-thirds of the sentence imposed by the court." However, there are certain offenses that, by statute, do not allow the possibility for parole. For example, a prisoner convicted of a dangerous crime against children under the age of 15 (such as sexual assault, kidnapping, aggravated assault resulting in serious injury, or second degree murder) is not afforded the possibility for parole. As another example, a prisoner convicted of second degree murder between August 3, 1984, and August 13, 1986, must serve the entire sentence imposed without the possibility of parole.

Once an inmate is certified, it is BPP's responsibility to authorize (or deny) the release of an applicant if the inmate has reached his or her earliest parole eligibility date, and "it appears to the board, in its sole discretion, that there is a substantial probability that the applicant will remain at liberty without violating the law." If approved by the board, the applicant is then paroled to the legal custody of DOC until expiration of the term specified in the sentence or until absolute discharge from parole. If a prisoner is denied release by the board, a subsequent parole hearing is scheduled for either four or six months from the date of denial, depending on the criminal code under which the prisoner was sentenced.

Although BPP has sole discretion over parole decisions, the board is only one part of the system by which prisoners are released. DOC also has substantial authority to make release decisions under a variety of programs enacted by the Legislature in recent years (see Other Pertinent Information, pages 33 - 36). In fact, DOC releases almost twice as many inmates as does BPP. According to both DOC and board officials, out of approximately 6,000 releases each year, BPP is responsible for only 2,000 of those releases, while DOC releases the remaining 4,000. However, by law, an inmate becomes eligible for parole or other release granted by the board before becoming eligible for DOC administrative releases.

Personnel and Budget

BPP consists of 7 full-time members who are appointed by the Governor and confirmed by the Senate. Statutory requirements for appointment to the board require that members have "broad professional or educational qualifications and experience and shall have demonstrated an interest in the state's correctional program." The law also requires that no more than two members at one time may be of the same professional discipline. In addition to the 7 board members, BPP was allocated 36 FTEs in FY 1989-90, which includes 15 hearing officers, clerical staff, a project specialist, fiscal services specialist, a planner, and an executive director.[1]

TABLE 1

STATEMENT OF FTEs, AND ACTUAL AND BUDGETED EXPENDITURES FOR FISCAL YEARS 1987-88, 1988-89, AND 1989-90
(Unaudited)

	1987-88 Actual	1988-89 Actual	1989-90 Budgeted
FTEs	40	40	43
Personal services	$1,051,777	$ 981,149	$1,074,500
Employee-related	198,943	200,351	316,200
Travel, in-state	32,563	40,345	33,100
out-of-state	1,248	1,225	
Equipment	8,624	68,537	
Other operating	202,903	184,066	140,000
TOTAL	**$1,496,058**	**$1,475,673**	**$1,563,800**

Source: Arizona Financial Information System and the State of Arizona Appropriations Report for the Fiscal Year Ending June 30, 1990

(1) As of January 25, 1990, there were two vacant hearing officer positions. In addition, one of the current hearing officers is on leave without pay indefinitely. Additionally, there is a position for an assistant executive director that has been vacant since October, 1987. However, due to budgetary constraints, that position has not been filled for this current fiscal year.

Scope and Methodology

This audit was conducted as a Sunset Review as defined by A.R.S. §41-2352. The purpose of the audit was to determine whether the Board of Pardons and Paroles is needed and the extent to which it has accomplished its statutory goals. The audit focuses primarily on how well the board manages the process for making parole decisions and presents three findings:

- The need for guidelines for board decisions
- The board's ability to manage its workload
- The need for hearing officers in the parole process

We addressed these areas because they encompass the board's major activities and provide an assessment of the agency's performance in carrying out assigned responsibilities. Information on the need for the board is presented in the Sunset Factors section (see page 43). Although the board makes recommendations to the Governor for pardons, reprieves, and commutations, these activities make up a relatively small portion of its workload (approximately 1.7 percent) and were, therefore, not reviewed as part of the audit.

Much of the information on management of the parole process was gathered by observing board members and staff and attending hearings during October and November 1989. The observations also included data recorded by board members and staff as they completed action on cases during those months. The detailed methodology is presented in Appendix II.

We also developed information regarding potential disincentives to parole and the board's use of early release, home arrest, and work furlough (see Other Pertinent Information, page 36 - 42).

This audit was conducted in accordance with generally accepted governmental auditing standards.

The Auditor General and staff express appreciation to the board members, Executive Director, and staff of the Board of Pardons and Paroles for their cooperation and assistance during the course of our audit.

FINDING I

THE BOARD OF PARDONS AND PAROLES SHOULD ESTABLISH A STRUCTURED DECISION-MAKING PROCESS

The Arizona Board of Pardons and Paroles (BPP) needs to establish a structured process for decision making. Currently, the board does not have clear guidelines for making decisions. Such guidelines could provide greater accountability and consistency in decision making while still allowing board members to exercise their own discretion.

Background

In an effort to handle its growing caseload, the seven-member Board of Pardons and Paroles considers most of its cases in two three-member panels. The panel membership is determined by a random drawing and panels are changed every three months. Each of the two panels deliberates on parole decisions in two ways. First, some release decisions are made after a review of cases in the Parole Board's offices. This process is called board review. Second, if a release is not approved in board review, a personal hearing with the prisoner is held at the institution, and a decision is made after the hearing. The panels rotate each month between institutions to insure that both panels visit all institutions and consider prisoners convicted of all types of offenses.

The Board Lacks Guidance for Decision-Making

The board does not currently use a structured process in evaluating prisoners for release. Currently, the statutes do not offer any substantive guidance to the board regarding criteria for release. They state only that the board may release any eligible candidate if "it appears to the board, in its sole discretion, that there is a substantial probability that the applicant will remain at liberty without violating the law."

The only written criteria are found in some annual reports published by the board. The board's 1986 annual report and the draft 1989 report state that when making decisions on release, "the Board will be guided by its knowledge of human nature and of the ways of the world." In addition, some annual reports provided a list of factors for consideration when releasing a prisoner. The list included such factors as the nature of the offense for which the prisoner was committed, past history of convictions and arrests, the pattern of conduct while incarcerated and any changes in that pattern, participation in educational or training programs, and prisoner's willingness to participate in rehabilitative programs if paroled.(1) Even though the list of factors was referred to as "guidelines," they offer no specific guidance as to the relative importance of the various factors. Moreover, board members do not appear to consider these factors to be guidelines. When board members were asked if formal guidelines were used in their parole decision making, all seven members responded negatively.

Finally, there is no board training to provide structure to the decision-making process. Although some board members have participated in training sessions offered by the National Institute of Corrections (NIC) on matters relevant to all paroling authorities, the board does not provide training for its members as to decision-making criteria. The board relies primarily on on-the-job training during hearings to familiarize new members with the parole decision-making process.

In the absence of any structured process, each board member makes an independent decision based on his or her personal beliefs and experience. Although there is some agreement among board members as to what factors are generally considered, they disagree about which factors are the most important. For example, some board members place a considerable importance on family support, while other members believe it is of lesser value. Board members even differ about whether a factor weighs "for" or "against" a prisoner. We asked board members to complete a questionnaire after they reached a decision in 50 cases. Some of the questions dealt with whether specific factors influenced the decisions in positive or

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(1) 1980 and 1984 Annual Reports, and the draft 1989 report

negative ways. Approximately 16 percent of the time, board members responded in opposite ways.

In addition to the lack of consensus about the importance of certain factors, board members differ in the factors they consider. For instance, risk assessments are available for the early release and home arrest candidates being considered by the board, but when board members were asked how often they considered risk assessments when making their decisions, the responses varied widely.[1] One member considers risk assessments in only about 20 percent of his decisions; another says he nearly always uses them.

The lack of guidelines takes on added significance with the board's use of two panels for decisionmaking. As stated earlier, most board decisions are made by panels of three members. Persons appearing before the board should have a reasonable expectation of being treated equally by either of the two panels. However, the lack of guidelines may contribute to variation in the decisions of the two panels. For example, we compared the approval rates for the two panels for the months of October and November.[2] Although the two panels saw approximately the same "mix" of persons during this period,[3] one panel had a 14 percent higher approval rate than the other panel.[4] Guidelines may help ensure such differences are minimized and/or that such differences occur mainly because of the facts of the cases.

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(1) A risk assessment is a model that attempts to measure the risk of violence and recidivism.

(2) Auditor General analysis of board decisions is based on a review of the period October through November 1989. We developed data on approval rates for individual board members and the two panels. Although the detailed data are limited to two months, the overall approval rate for all parole decisions from October through November is generally consistent with the data from the preceding three months.

(3) The two panels alternate among institutions each month so that for the two months we reviewed, each panel heard cases from the same institutions and from all custody levels.

(4) The differences in the approval rates of panels have been noted by the prisoners. Board members and staff have said that prisoners sometimes waive their appearances before the board after seeing which members are going to hear their case.

Structured Decision-Making Would Promote Greater Consistency in Parole Decisions

A structured decision-making process can provide greater accountability and consistency in parole decisions. Many parole authorities throughout the United States use guidelines to make their decisions. Professional associations also advocate structured decision making and provide assistance to states in developing decision-making processes.

Benefits of a structured process - Several benefits can be derived from a structured decision-making process. Guidelines combine the variety of backgrounds and experience represented on the board into a set of principles to guide the entire membership and thus promote greater consistency in decision making. Guidelines can also communicate standards to others in the system and to the public, provide a defensible basis for individual decisions, and allow for the collection of data and analysis regarding the effectiveness of decision making.

Although guidelines can promote consistency, they do not have to be unnecessarily rigid or restrictive. Guidelines are intended to reflect the parole policy of the board as a whole and, as such, may be revised in response to changes in board membership or public and professional opinion regarding paroling policy. They also do not eliminate individual discretion; members may deviate if they see fit, as long as the reasons for the deviations are documented. In fact, a recent survey of the 50 states and the District of Columbia reported that 57 percent of the parole chairs felt that guidelines did not limit board discretion excessively, while only 20 percent felt that they did. In addition, 76 percent felt parole guidelines contributed to consistency.[1]

Guidelines for decision making are supported by professional associations such as the American Correctional Association (ACA), the Association of Paroling Authorities International (APAI), and the National Institute of

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(1) Information compiled by the American Correctional Association's Parole Task Force, 1989.

Corrections (NIC). ACA standards require written criteria which are "specific enough to permit consistent application to individual cases." It is further stated that the criteria "should go beyond statutory minimums to include the types of information which have a consistent relationship to parole success or failure." In addition to the immediate benefits of guidelines, some criminal justice professionals believe that guidelines will play a role in the future survival of the parole process. The use of discretion by parole board members is one area that has come under attack, and parole boards are developing structured decision-making policies in response to the challenges.

Guidelines in use on state and federal level - Structured decision making is used widely throughout the United States. Twenty-two state parole boards, the District of Columbia's board, and the U.S. Parole Commission use some form of guidelines. Most of these systems also incorporate some form of risk assessment. The initiative for guidelines has been both internal and external, coming from parole boards in some states and from legislatures in other states.

The Federal Parole Guidelines, created in the early to mid-seventies, have served as a model for some state parole boards. The federal system combines assessments of the severity of the offense and the offender's recidivism risk. It does not replace the board's discretionary authority but provides a reference point for all board members to enable more uniformity in decision making. The Georgia Board of Pardons and Paroles is similar to the federal system; however, it has its own set of criteria for assessing probability, including a severity index and parole success score, which when intersected on a grid, provides a presumptive parole date. The severity index ranks offenses by relative seriousness, and the parole success score is determined by assigning points for factors such as age, prior criminal behavior, history of drug use, employment, and diagnostic testing scores. The total points determine the parole success score (or risk level) with higher scores representing lower risks. For example, if the offender were 27 years or older at the time of his or her first conviction, 5 points would be added to the score. However, if he or she were 19 to 26 years of age, only 3 points would be added.

Professional association provides assistance in developing processes - The Arizona Board of Pardons and Paroles can obtain assistance in developing its own guidelines. For several years, the National Institute of Corrections (NIC) has been providing technical assistance to states in establishing consistent, responsible, and objective parole decision-making processes. NIC involves the parole decision makers and their staff in defining the factors of importance to the board, the components of the decision, the decision options, and the priority of each component. It is an individualized process, and the end result is a decision-making tool that retains the discretion needed, and reflects the standards and policies of the individual state and board.

Funding for technical assistance can also be obtained through NIC and does not require any matching funds from the requesting agency.(1) Short-term technical assistance provides up to $6,000 in travel, per diem, and fees for on-site consultants, and long-term technical assistance provides up to $15,000. Since NIC has been active in this process for some time, they can also recommend other consultants experienced in working with State paroling authorities.(2)

RECOMMENDATIONS

1. The Board of Pardons and Paroles should develop a structured process to assist in release decisions and to provide greater accountability and consistency in decision making.

2. The Board of Pardons and Paroles should consider contacting the National Institute for Corrections to obtain technical assistance in developing a structured decision-making process.

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(1) Assistance can be requested by writing to the Community Corrections Division of the National Institute of Corrections in Washington, D.C. and outlining the type of assistance needed.

(2) According to an NIC staff member, the cost of consultants to assist in the development of the process would most likely be covered completely by the grant. However, the implementation of the process would require State funding.

FINDING II

THE BOARD OF PARDONS AND PAROLES NEEDS TO IMPROVE ITS ABILITY TO MANAGE A GROWING CASELOAD

The Arizona Board of Pardons and Paroles needs to improve its ability to manage a growing caseload. The board's caseload has increased by 710 percent over the last ten years, and this growth has limited the board's ability to process and evaluate cases. Although the board has taken some steps to manage caseload, additional action is necessary.

BPP's Caseload Has Increased Dramatically

The number of inmates certified eligible to be seen by BPP for a parole or other type of release consideration has increased substantially in recent years. In fiscal year 1979-80, an estimated average of 118 inmates were certified eligible for consideration each month.[1] In the first half of fiscal year 1989-90, an average of 956 inmates were certified each month. This represents a 710 percent increase over the ten-year period.

Increase due to prison population growth and statutory changes - Much of the increased caseload is traceable to the growing prison population and statutory changes that affect eligibility for release.

- **Prison population growth** - Arizona's prison population has grown approximately 270 percent in the past ten years: the approximate 3,500 inmate count in fiscal year 1979-80 has grown to a current population in excess of 13,000.

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(1) The board considers inmates certified by DOC on a variety of parole and other types of releases. The release types include: a) early release on general parole, b) general parole, c) parole to a consecutive sentence in Arizona Department of Corrections, d) parole to a detainer from another jurisdiction, another state, or the Immigration and Naturalization Service (INS), e) home arrest, or f) work furlough. In addition, the board is responsible for commutations, pardons, absolute discharges, reprieves, paroles in absentia, parole revocations, and parole recissions. However, this last group comprises a proportionally small part of the board's work and is, therefore, not included in the workload estimates presented in this finding.

- **More frequent rehearings** - In 1978, modification of the criminal code changed the time period for recertification for an inmate who has been heard and denied by BPP. The interval was changed from six months to a maximum of four for those sentened after the effective date of the law. We estimate that this change caused the number of hearings conducted by the board to increase by approximately 32 percent.(1)

- **Earlier eligibility** - Two forms of release, early parole release and the home arrest program, have allowed some inmates to be certified eligible for board consideration before reaching their regular work furlough or parole eligibility dates.(2) Prior to implementation of these programs, an inmate was not eligible for release until half or two-thirds of his or her sentence had been served or, in the case of work furlough, until 14 months before parole eligibility. Now candidates certified for these releases can be seen repeatedly even before reaching their regular parole eligibility date. These early release mechanisms currently add over 100 personal hearings to the board's agenda each month.

- **Work furlough changes** - In 1982, the Legislature gave the responsibility for consideration of inmates for work furlough to the board, a function previously performed by the Department of Corrections. This change, coupled with a change in the DOC certification process, has added approximately 90 hearings each month.(3)

Increased Caseload Has Limited the Board's Ability to Evaluate and Process Cases

The increase in the board's caseload limits the time the board has to process and evaluate cases. This in turn may affect the quality of the board's decisions.

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(1) The estimate assumes a 40 percent parole rate. The number of hearings are calculated for those denied and reheard at four-month intervals, and at six-month intervals during a one-year period.

(2) Early parole release, A.R.S. §31-233I, is an option allowing DOC to certify certain inmates for parole prior to their parole eligibility date when the institutions are housing over 98 percent of capacity. The option was enacted in 1982 and first used in November of that year. It has been in effect since that date except for a period of less than two months in 1987.
The home arrest program, A.R.S. §31-236, was created in July 1988, and the first inmates were released in December 1988.

(3) Prior to January 1989, work furlough candidates were required to submit an application to the board in order to be considered. Under this process, the board heard an average of 21 inmates a month for work furlough. However, after the change, DOC began certifying all inmates for work furlough as soon as they served enough time to meet statutory time requirements. The change more than quadrupled the number of work furlough hearings held by the board. For example, in October 1989, 165 inmates were certified eligible for work furlough consideration by the board, and 90 were heard.

To provide for adequate review and evaluation of the facts to be considered in a parole decision, professional standards set by the American Correctional Association (ACA) suggest that a board should not hear more than 20 cases per day, and should allow for a minimum of 30 minutes per case. The 30 minute time frame is suggested in part to allow a board adequate preparation as well as hearing time.

Arizona's two panels each may hear as many as 40 to 50 cases per day. And despite often working 10- to 12-hour days, the panels average only 13 minutes (approximate) per hearing. This allows little or no preparation time and only limited hearing time. The 13 minutes is not only below standards, but it is below the average hearing time of other states we contacted. We found these states average 21 minutes per hearing.

Given the nature of the decisions the board makes and their possible consequences for society, providing adequate time for hearings seems critical.

Some Changes Have Been Made to Handle Increased Caseload

In an attempt to manage the board's large caseload, both the Legislature and the board have made some changes. The Legislature has increased both support staff and the number of board members, and the board has implemented a variety of procedural changes.

- **Members added to the board** - Since fiscal year 1978, the board size has been statutorily increased twice: from three to five members and then to the present size of seven. In an effort to divide the caseload, most considerations are decided by panels of three members.

- **Staffing increases** - Since fiscal year 1983-84, 25 FTEs have been added to the board, including both hearing officers and clerical staff.

- **Work furlough hearings to be conducted by hearing officers** - Because the board itself is not statutorily bound to see all inmates denied work furlough as they are with all other releases, hearing officers will conduct the only personal hearings on work furlough as

of February 1, 1990. In the past, the board has seen all work furlough candidates not approved in board review.

- **Board review reinstituted** - The board reviews cases prior to a hearing at an institution. This process is called board review. Its purpose is to identify and parole prisoners who appear to be good candidates for parole, and eliminates the need for personal hearings. Although the board had previously suspended board review, it has been reinstituted as yet another measure to control caseload.

Additional Steps to Improve Caseload Management Are Necessary

Additional steps could be taken to improve caseload management. As a long-range strategy, the board could seek a statutory change to increase the time between hearings. In addition, a small amount of relief might also be obtained by making greater use of the board's administrative powers to delay hearings for inmates who have little chance of parole in the near future. A third, more immediate strategy would be to form a third panel to conduct field hearings to increase the board's capacity to hear cases.

Time between hearings should be increased - As a long-range strategy the board should pursue a statutory change to increase the interval for rehearing inmates from four to six months or even longer.[1] As mentioned earlier, the reduced interval from six months to four months increased the board's caseload by approximately 32 percent. Changing to a six-month interval would still leave Arizona with one of the most frequent rehearing intervals, and would not unduly limit the number of inmates released on parole.

The majority of the 20 states we researched have a rehearing interval of one year or more. Only one, North Dakota, required a rehearing period of less than one year. North Dakota requires recertification from six to nine months after denial. Setting the rehearing interval in Arizona at

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(1) ACA standards recommend that the intervals be no longer than one year.

six months rather than four should not greatly impact the number of inmates paroled since most inmates paroled are paroled at their first hearing. According to the 1988 report of the Arizona Cost Efficiency Commission, 76 percent of parole releases are granted at the inmate's first hearing before the board.

This, however, is a long-term strategy. The increased interval would not impact the board's caseload for several years because, according to legal counsel, it could not apply to inmates already in the system; only new inmates entering the system would be subject to it. However, it would be a proactive step curbing future caseload problems as the prison population grows.

Administratively delaying more rehearings - As an additional measure, the board could make greater use of its prerogative to postpone an inmate's recertification for up to one year.(1) Currently, this option is seldom used. The legislative intent of this provision was to allow the board to avoid having to hear, every four months, inmates that have little chance of being paroled in the near future. By statute, inmates whose offenses were committed after July 1, 1984, are the only ones eligible for the provision. According to the board chairman, the majority of inmates that come before the board fall into this group. However, board members believe this option should be limited to prisoners who are exceptional problems, or who exhibit violent or disruptive behavior. They believe applying this provision too frequently might: 1) violate the spirit of the law calling for more frequent hearings; 2) dilute the message currently being sent when problem inmates receive the postponement; and 3) allow inmates to be released with less supervision under a DOC administrative release. (See Other Pertinent Information, pages 33 - 36.) While it is difficult to assess how many problem inmates' hearings could be postponed, board members admit that the provision could be used more frequently than it is at present.

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(1) Pursuant to A.R.S. §41-1604.06, BPP can postpone an inmate's recertification for a period of up to one year. However, the board uses its option to postpone recertification only infrequently.

Going to three panels - Because increasing the rehearing interval will not help control the board's caseload for some time, additional changes are needed. We estimate that if the board were to comply with the ACA standards mentioned earlier, the two panels could conduct approximately 400 field hearings per month.(1) The present number of field hearings required of the board is approximately 550 per month.(2) Therefore, the two panels could not meet ACA standards at present. To meet standards the board could, as some other states do, use hearing officers to hold hearings in place of the board hearings. However, because the board currently lacks a structured decision-making process (see Finding I, page 7), delegation of this responsibility to several hearing officers would make it even more difficult to provide consistent decisions. In addition, according to an NIC official, it is preferred that individuals with decision-making authority conduct personal hearings with release candidates. Furthermore, board members have stated that they would be most comfortable holding personal hearings themselves. Thus, the most feasible solution to assist the board in handling its caseload appears to be moving from two to three panels.

If the board divides into three panels, we estimate it could conduct up to 600 field hearings per month. The board has proposed creating three, two-member panels under some circumstances and is currently requesting the necessary statutory change. However, the proposed legislative change suggests that this is a measure designed to meet emergency peaks in caseload. Because the board's caseload is tied to the prison population, and neither is projected to decrease, we see the move to a three-panel system as a permanent move.

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(1) The recommended 20 hearings per day of 30 minutes each constitutes a ten-hour work day. Three and one-third (ten hour) days of hearings plus over six hours travel time approximate a 40-hour work week for each board member. In reality some hearing days may be shorter than others, and travel time may vary. Given these conditions, each panel can conduct approximately 200 field hearings per month.

(2) This does not include commutations, in absentia parole hearings, parole revocation or rescission hearings, or absolute discharges. Phase I commutation, in absentia, and absolute discharge hearings are held at the board's office and comprise only a very small number of hearings each month. A relatively small number of parole revocations are held at various institutions during the month.

A move to three, two-member panels could result in tie votes, creating the need for additional review by a third board member. This could slow the processing of hearing dispositions which in turn might slow releases. The board has proposed handling ties by having the chairman cast a third vote in the board's office. The board should develop and formalize explicit internal policies to handle tie votes in order to minimize delays and encourage consistency. However, because members will have more time available to come to a decision, there may be greater opportunity for dialogue which may increase the consensus within panels and reduce the likelihood of tie votes. In addition, board members have unanimously expressed a willingness to develop guidelines for structured decision making that could reduce potential differences in approval rates between panels. Finally despite concerns regarding tie votes, the use of two-member panels would be more economical than other available options.(1)

A more costly option is to request that the Legislature increase the board size to nine so that three panels of three could hold deliberations. Several states we contacted have increased their board size in the last year in response to growing caseloads.(2) If membership of BPP were increased by two members, the additional expense in salary and employee-related expenses would be $115,000.

RECOMMENDATIONS

1. The Legislature should consider:

    - Amending A.R.S. §41-1604.06 to increase the interval at which inmates are recertified for release consideration before the board from 4 to 6 months,

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(1) The cost of the third panel of two would include an additional panel secretary, $18,000 in salary and ERE, and approximately $13,000 in additional travel expenses.

(2) Florida, Tennessee, Utah, and Texas have increased their board membership by at least two in the last year.

- Amending A.R.S. §31-401.H to allow two members to constitute a quorum except in executive clemency matters or business meetings so that the board may conduct hearings at the institutions with panels of two.

2. If the Legislature authorizes the board to hear parole cases with two-member panels, the board should establish procedures to ensure that tie votes do not unduly delay the processing of hearing dispositions.

3. The board should make greater use of its prerogative to postpone an inmate's recertification for up to one year when appropriate.

FINDING III

THE BOARD OF PARDONS AND PAROLES CAN SAVE UP TO $356,000 ANNUALLY THROUGH MORE EFFECTIVE USE OF STAFF

The Board of Pardons and Paroles does not effectively use most of its hearing officers. The majority of the board's hearing officers do not perform typical hearing officer duties, and board members question the need for some hearing officer functions. The board could save between $186,000 and $356,000 annually without limiting its access to relevant information by restructuring its information-gathering process.(1)

Board Hearing Officers Do Not Function As Typical Hearing Officers

For the most part, the board's hearing officers do not perform typical hearing officer duties. While some hearing officers conduct actual hearings, the major function of the board's hearing officers is to gather information from various sources and prepare a summary report for the board to use in its decision-making process.

Few of the hearings conducted by BPP hearing officers are actual hearings. One hearing officer is generally assigned a disproportionate number of "special hearings." Most special hearings are preliminary parole revocation or rescission hearings to determine probable cause. These proceedings are adversarial and are usually held in a formal, quasi-judicial manner in which expert testimony may be presented, witnesses may be called, and other evidence presented. In special hearings, the board's hearing officers function like typical hearing officers at other agencies. For example, hearing officers at other agencies may preside over hearings in which disputing parties are present, testimony and evidence are offered, and findings of fact and

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(1) For details of the cost analysis and workload calculations, see Appendix I.

conclusions of law are developed. These hearing officers have substantial influence as they prepare what generally serves as the basis for the final order or action of their agency.

However, most BPP hearing officers do not conduct the special hearings typically associated with hearing officers. On average, only about 10 percent of the cases heard monthly by board hearing officers are special hearings. Instead, their work more typically consists of the following:

- **Extracting and compiling information on inmates from the DOC files.** Typically, such information includes criminal history, nature of present offense, education and work history, programming during incarceration, and so forth. Hearing officers note significant points as they review the files.

- **Interviewing inmates at the institutions.** Interviews with the inmates are generally very informal: usually no counsel or witnesses are present; evidence is not normally introduced; and the interview is not recorded.

- **Dictating reports to include information obtained in the preliminary review.** The hearing officer reports generally summarize information extracted from other sources and rarely include additional information gathered during the inmate interview. Included in the report is the hearing officer's recommendation, which board members may or may not consider when making their decision.

In addition, although hearing officers in other agencies are generally lawyers, only one of the BPP hearing officers is a lawyer. Most are former Department of Corrections employees or have backgrounds in areas such as criminal justice, social services, and education.

Questionable Need for Hearing Officers

We question the usefulness of hearing officer activities since most information needed by board members in making parole decisions is readily available to the board. Hearing officer interviews and recommendations add little to this information. Board members also express concerns about the accuracy and reliability of the hearing officer reports.

Board members rely on various information sources - Board members use a wide range of information sources in making release decisions. Although

hearing officer reports provide some of this information, much of this same information is readily available to the board from other sources. For the most part, members base their decisions on two sources: the parole hearing and the inmate's presentencing investigation (PSI) report.[1]

Most board members rated the inmate's parole hearing with the board as an important source of information in making their decisions. They feel that the opportunity to see the inmate provides additional information about the inmate (such as attitude, demeanor, and the extent to which the inmate has accepted responsibility for his or her offense) that enables them to evaluate the information available from file documents.

Members also describe the PSI as a useful information source for board decisions. County probation departments prepare the PSI for the court's use in determining sentences. PSIs provide a broad range of personal and criminal history information about an inmate, and may include a description of the crime, statements to the court, arrest record, social history, family history, health, military service, restitution statement, and victim's statement. Thus, the PSI provides much pertinent information about the inmate and the offense.

Although hearing officers summarize information from the PSI and other sources, they do not appear to provide the board with unique information. Likewise, other sources reviewed by hearing officers appear to be easily understandable by board members. Along with the PSI and the hearing officer summary, the following source documents are provided to the board at each hearing:

- **Adult Information Management System reports** - Prepared by DOC. Include sentencing information, DOC facilities and levels of custody housing the inmate, and the inmate's disciplinary record.
- **Inmate progress reports** - Prepared by DOC counselors to assess the

(1) We asked board members to indicate the importance of the various sources of information available to them at selected parole hearings during November 1989. On average, three board members rated the board hearing as the most important source, while the other three indicated that the PSI was the most important.

inmate's risk to society, describe participation in prison programs and release plans, and give the counselor's comments.

- **Sentencing/time computation reports** - DOC reports that list general sentencing and parole eligibility dates.

- **An institutional file** - Each institution maintains files for its inmates. These files may contain copies of the inmate's disciplinary records work, and housing assignments; certificates of achievement; and a record of schooling and programming.

- **A risk assessment report** - Prepared by board staff to measure an inmate's risk of violence and recidivism. Currently, the board only uses risk assessments for inmates eligible for home arrest and early release.

- **Other information** - Includes letters from victims, and testimony from the inmate's family and friends. Such information provides additional perspective about the inmate.

Although hearing officers may develop some original information through interviews with inmates, the hearing officers do not normally summarize the new information in their reports to the board. Further, board members often cover the same information with the inmates at board hearings.

Thus, the board appears able to obtain needed information without using hearing officer reports. In fact, five of the seven members indicated that they could make release decisions without hearing officer reports, if other information continues to be available. However, most prefer to have a report available. Due to the workload, the board has already reduced its use of hearing officers for some cases; it no longer uses hearing officers to provide information for home arrest and early release decisions.[1] Instead, board members use the available records and the hearing with the inmate for these cases.

Board members question value of recommendations - Throughout the audit, board members also questioned the value of hearing officer recommendations to their release decisions. Statutes require that hearing officers prepare recommendations for all cases in which they

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(1) Due to a large caseload, the hearing officers have not been handling cases of inmates certified for home arrest and early parole release since August 1989. According to board staff, this is only a temporary measure.

conduct a hearing. Although hearing officers spend time preparing recommendations, only two board members think the recommendations are relatively important. Four board members told auditors that they seldom or never refer to hearing officer recommendations before making their decisions. One board member said that he looks at the recommendations only after making his decision. In addition, when comparing hearing officer recommendations to board votes, we found that, overall, the board's October 1989 votes differed from hearing officer recommendations 32 percent of the time.

Concerns about quality - Board members also express concerns about the quality of the hearing officers' reports. Few members feel that the reports are the most reliable sources for information. Only one board member considered hearing officer reports to be the most reliable source for criminal history information, while three members considered them to be the least reliable source. Even a member who generally considered hearing officer reports to be accurate and reliable noted several improvements that could be made to the reports. Five board members noted that the reports sometimes contain inaccurate information. Further, board members have also questioned the completeness of the reports. For example, three board members pointed out that in some cases, new information that should have been identified by the hearing officer was provided by the inmate at the personal hearing.

Hearing Officer and Other Positions Can Be Eliminated

The board can make more effective use of its staff resources and achieve significant savings by restructuring its information-gathering process for parole decisions. Restructuring would eliminate most of the existing hearing officer positions, reduce some related administrative and support positions, and allow the use of more appropriately graded staff for collecting information. Successful restructuring would also require the board to provide clear direction to the staff.

Restructured process and staffing - We believe that the board does not need hearing officers for much of its information gathering. Eliminating

the unnecessary hearing officer positions and related staff would enable the board to obtain necessary information at a lower cost. The board could effectively restructure the process in this manner, and replace eleven hearing officer positions and six information processing positions. Depending on the format of the information provided to the board, these positions would be replaced with a clerk typist and either four or nine case analysts for a net annual savings of approximately $186,000 to $356,000.

As noted above, four board members agree that hearing officer interviews and recommendations are seldom beneficial. However, six board members also express reservations about hearing the inmates without some summary report, but lack consensus on what should be included in them. Board members agree that case analysts could provide the same type of report to the board that is presently provided by hearing officers.

Based on our analysis and board member comments, we have developed two options for implementing a restructured system. We offer the cost savings for both options (see pages 29 through 30). The first option uses case analysts to gather and compile information, but the analyst will not interview inmates, make recommendations, or prepare reports for the board. The second option is based on case analysts collecting information and preparing summaries as hearing officers do now, but without interviewing inmates or offering recommendations to the board.(1)

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(1) See Appendix I for calculations of staffing costs for each option.

OPTION A

Replace Eleven Hearing Officers with Four Case Analysts

There are currently 15 hearing officer positions at the board, of which 12 are filled.[1] Most are employed at a Grade 20, which has a salary range of $26,887 to $40,690. The total cost for hearing officers including employee-related expenses (ERE) and travel expenses for inmate interviews is more than $530,000.

We estimate that the board needs to maintain one hearing officer to conduct special hearings and three hearing officers to conduct work furlough hearings. As illustrated in Table 2 (see page 28), by using hearing officers to manage only those cases that require substantial judgment or involve formal legal procedures, the board could save over $376,000 annually.

Eliminating eleven hearing officer positions would also allow the board to reduce some other staff positions. Six Information Processing Specialists (IPSs) are devoted mainly to typing hearing officer reports. One IPS II mainly tracks dictation tapes used by the hearing officers, while another IPS I assists in special hearing preparation. We estimate that six of these eight positions could be eliminated if the number of hearing officers were reduced. The board could save an additional $98,000 annually by eliminating these positions.

However, the board will need to create several positions to secure needed information that is now provided by the hearing officers. These persons would need to ensure that the board receives accurate and appropriate information prior to board review or board hearings. This would largely encompass photocopying and collating information from DOC central files.

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(1) One of the current hearing officers is on leave without pay.

Statutes already allow the board to employ "case analysts" to "aid the board in making investigations, securing information and in performing necessary administrative functions to assist the board in passing upon applications for parole and commutation." Thus, without amending present statutes, the board could hire case analysts to assemble and verify information, but they would not provide summary reports, interview inmates, or offer recommendations. We estimate that the board would need four Grade 17 case analysts and another Grade 8 clerk typist I at an annual cost of approximately $118,000.

As illustrated in Table 2, the board could save over $356,000 annually by implementing the above recommended changes. Such changes would reduce costs but would still ensure that the board receives necessary information for decision making.

TABLE 2

ESTIMATED ANNUAL SAVINGS BY IMPLEMENTING OPTION A

Positions to Eliminate	Savings	
11 Hearing Officers	$376,834	
6 Information Processing Specialists	98,563	
Total savings		475,397
Positions to Add	**Costs**	
4 Case Analysts	103,068	
1 Clerk Typist I	15,344	
Total costs		118,412
NET SAVINGS		**$356,985**

Source: Auditor General analysis and estimates based on figures obtained from the Department of Administration Classification Unit and the board's fiscal services specialist

OPTION B

Replace Eleven Hearing Officers with Nine Case Analysts

All board members express reservations about eliminating summary reports. As noted above, they agree that case analysts could compile summary reports. However, they state that more than four case analysts would be needed to prepare these reports every month. Although we question the degree to which board members rely on the reports, we agree that more than four case analysts would be needed to prepare reports for every case. We believe that the board could still save over $186,000 if case analysts prepared reports for the board.

Option B, like Option A, eliminates eleven hearing officer and six information processing specialist positions. It differs from Option A in that it provides more case analysts to prepare summary reports for the board. In order to produce reports for each case, we estimate that the board would need to establish nine case analyst positions and one clerk typist I position at an estimated annual cost of about $246,000 (see Table 3, page 30). The board could avoid the need for information processing specialists to produce summary reports by obtaining computers for the analysts, who could prepare reports for parole hearings directly from source documents. The initial cost for implementing such a system would be less than the cost of maintaining the IPSs, and would decrease after the first year. We estimate that nine case analysts could be supplied with and trained in the use of new computers for about $41,200.

TABLE 3

ESTIMATED SAVINGS BY IMPLEMENTING OPTION B

Positions to Eliminate	Savings	
11 Hearing Officers	$376,834	
6 Information Processing Specialists	98,563	
Total savings		475,397
Positions to Add	**Costs**	
9 Case Analysts	231,903	
1 Clerk Typist I	15,344	
Computer Equipment and Training[a]	41,200	
Total costs		288,447
FIRST YEAR SAVINGS[b]		**$186,950**

(a) Cost during first year only.

(b) Computer equipment and training costs would be minimal after the first year. Therefore, estimated savings would amount to approximately $228,150 in the second and subsequent years.

Source: Auditor General analysis and estimates based on figures obtained from the Department of Administration Classification Unit and the board's fiscal services specialist

Board should provide clear direction to staff - Regardless of the option chosen for restructuring the board's information gathering process, the board will need to provide clear direction to its staff. Currently, board members are dissatisfied with the hearing officer reports, yet they feel that some form of summary report is necessary. However, they admit that they have not translated this perceived need into direction for the staff who must collect and organize the information. Such direction may be lacking primarily because the board itself cannot reach a consensus

about the kind of information needed for its decision making. To ensure that the restructured process meets the board's needs, the board should define the kinds of information it wants and the appropriate format for providing the information. This direction should be incorporated into the board's policies and procedures.

RECOMMENDATIONS

1. The Board of Pardons and Paroles should restructure its process for gathering information for parole hearings by eliminating eleven hearing officer positions and six IPS I positions, and replacing them with a clerk typist I and either

    - Four case analysts to assemble documents for board use at hearings, or

    - Nine case analysts to assemble documents and produce summary reports for board use at hearings.

2. If the board chooses the second option, it should

    - Provide clear justification for the additional case analyst positions based on the need for summary information, and

    - Provide the case analysts with computers for note taking and report drafting.

3. The board should determine what information is required to make effective decisions, and establish clear policies and procedures to provide direction to staff regarding information collection and analysis.

OTHER PERTINENT INFORMATION

During the audit, other pertinent information was developed on administrative releases which provide an incentive for prisoners to refuse parole. Information was also developed on the board's use of alternative release programs.

Administrative Releases Provide Incentive to Refuse Parole

The availability of several different administrative releases makes it advantageous in many instances for prisoners to refuse parole. The Department of Corrections has authority to release prisoners through a variety of mechanisms that are not part of the parole process. In some cases, the timing and the post-release supervision requirements of the alternative releases are more advantageous to the inmate than parole release. These advantages contribute to the large number of prisoners that refuse to appear (RTA) before the board for parole consideration.

Two-thirds of all the prisoners released prior to the expiration of their sentence are released by DOC through an administrative release. These releases, many of which can be combined, include:

- Mandatory Release (MR) applies to those offenders serving time for an offense committed prior to August 7, 1985. Eligible offenders may be released on MR six months prior to sentence expiration if: a) there are no previous release violations; b) one calendar year has been served; c) inmate's sentence allows for the possibility of early release; d) the offense is not under a statutory exception; and e) a consecutive sentence does not follow the current sentence.[1] Prisoners are placed under the supervision of a parole officer and are required to meet certain conditions after release such as maintaining employment, regular contact with the parole officer, and participation in a treatment program if indicated. Failure to comply with the conditions may result in a return to custody. The offender usually remains under the supervision of a parole officer for six months.

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(1) Statutory exceptions include sentences for certain drug or sexual offenses.

- **Provisional Release (PR)** applies to those offenders serving time for an offense committed on or after August 7, 1985. Essentially, the same eligibility criteria must be met as are required for Mandatory Release, but release is also dependent upon the approval of the director of DOC. Eligible offenders may be released on PR six months prior to the sentence expiration date or earned release credit date. Offenders are placed under the supervision of a parole officer and must meet the same conditions as persons on mandatory release or parole. Supervision lasts approximately six months, or until the offender reaches his or her earned release credit date.

- **Earned Release** credits are accrued by those offenders serving time for an offense committed on or after August 13, 1986, unless they are serving "flat time." After reaching parole eligibility, credits are earned for good behavior and are accrued at a rate depending upon the sentence structure. If a prisoner has not been released on parole or provisional release, he or she is automatically released on the Earned Release Credit Date (ERCD). This is an unsupervised release.

- **Discretionary Release** provisions vary depending upon whether an offender was sentenced for a crime committed prior to October 1, 1978. Those sentenced for crimes committed prior to the October date may be granted a discretionary release 360 calendar days prior to the mandatory release date. Those sentenced for crimes committed on or after October 1, 1978, who are not eligible for MR or PR, may be released 180 days early. Prisoners released under the discretionary release provision are placed under the supervision of a parole officer and must meet the same types of conditions as persons on MR or PR.

- **Temporary Release (TR)** may be granted to those offenders who have been approved for another form of release or are within 90 days of the expiration of sentence. If MR, PR, ERCD or parole has been approved, the director of DOC may release the offender on TR status up to 90 days prior to the eligibility date of the granted release. During the time a prisoner is on TR, he or she is supervised by a parole officer and must comply with the same conditions as in MR, PR, and parole.

Parole is not a viable option in some cases - Given the current eligibility structure, parole is not a viable option for persons sentenced to relatively short sentences. The following example illustrates this point.

- **Example** - A person was sentenced to two years, and the sentence began on January 5, 1989. His sentence required that he serve one-half of his term prior to parole eligibility which made him eligible for parole release on January 5, 1990, eligible for provisional release on February 11, 1990, and eligible for earned credit release on

August 10, 1990. If he were granted provisional release and released on temporary release status 60 days prior to that eligibility date, his release date would be approximately one month prior to his parole eligibility date.

As shown in the example, an administrative release may occur just after, or even just before, parole eligibility. Even when administrative release occurs after parole, some prisoners choose the DOC release because it may require less supervision. When a person is released on parole, he or she is supervised by a parole officer until the expiration of the sentence, or until an absolute discharge from supervision is granted by the parole board. The administrative releases often require less, or no supervision. To illustrate, if the person in the above example was paroled, he would be supervised until January 5, 1991. Under the DOC releases, supervision would end on August 10, 1990. In fact, in some cases where a nonsupervised release is imminent, the board may choose to parole a prisoner because of a belief that he or she would benefit from some supervision.

Some prisoners may also favor a DOC release because it does not require them to pay a supervision fee. When a prisoner is released on parole, the law requires that a monthly fee of not less than $30 be assessed, unless the board waives all or part of the fee due to inability to pay. This fact, when combined with the timing and supervision of the administrative releases, may make the DOC releases seem more advantageous than parole.

Many inmates choose a release other than parole - Approximately 25 percent of all prisoners certified as eligible for parole, refuse to appear (RTA) for parole consideration. Most refuse to appear because of the availability of administrative releases.

During our audit, we reviewed RTAs for the period August through October 1989, and found that 69 percent of all RTAs during that period were due to other DOC releases. Additionally, we interviewed 32 prisoners in 3 different units that had recently waived their parole hearing. In 10 of the 32 cases reviewed, the offender had seen the board on one occasion

and had been denied parole. However, the date of the second hearing was so close to an administrative DOC release, they chose to waive a second parole hearing in favor of the other upcoming DOC release. In 4 of the 32 cases, the offenders waived their first appearance before the board due to an imminent DOC release.

BPP's Use of Alternative Release Programs Is Increasing

Regular parole accounts for approximately 55 percent of the Board of Pardons and Paroles' caseload. In addition to regular parole, there are three other alternative means of release over which the board has authority: early release due to overcrowding, home arrest, and work furlough. During our audit, we reviewed the board's use of these alternative forms of release and found that the approval rate has shown a steady increase from July through November 1989 for home arrest and early release, and has remained fairly stable for work furlough releases. We also found that due to errors, changes in prisoner status, and prisoner waivers, more prisoners are certified as eligible for these programs than the board ever actually considers.

Early release - A.R.S §31-233(I) provides for suspension of normal parole eligibility procedures for certain classifications of prisoners when the prisoner population exceeds 98 percent of capacity. This is considered a form of general parole. In addition to the prison population requirement, in order to be eligible for this type of parole release, the prisoner must:

- Be serving time for a Class 4, 5, or 6 felony that did not involve the use of a weapon or the infliction of serious injury;
- Have no consecutive sentences; and
- Have no prior felony convictions.

Since early release is technically a form of regular parole, the same level of supervision is provided, and the prisoner must agree to comply with certain conditions in order to remain at liberty. These conditions

include such things as regular contact with the parole officer, maintaining employment, and participation in treatment programs if indicated. As is the case with all parole releases, the board is required by statute to assess a supervision fee of no less than $30 per month unless they find the prisoner is unable to pay. If this occurs, the board may waive all or part of the fee. The payment of the supervision fee and any restitution ordered by the court are included as conditions to parole. Failure to comply with the conditions of parole can result in reincarceration.

As shown in Table 4, (see page 39) the BPP has approved 122 offenders for early release during the period of July through November 1989. Due to the fact that some of these persons were certified as eligible for only early release and some were certified eligible for both early release and home arrest, it is not possible to calculate an approval rate for just the early release category. However, the approval rate for early release and home arrest was 52 percent for the period reviewed.

Home arrest - A.R.S §31-236 established the home arrest program and provides for a conditional, discretionary release granted to eligible prisoners. In order to be eligible for the home arrest program, a prisoner must:

- Be serving time for a Class 4, 5, or 6 felony which was not a sexual offense and which did not involve serious physical injury or a weapon, and not have any prior felony convictions; or
- Have served at least one year and be certified as eligible under A.R.S. §31-233(I).

Home arrest may also be used for parolees who commit technical violations. A technical violation is the violation of a condition of parole by an act that is not against the law (i.e., failure to appear for an appointment with the parole officer). Persons with technical violations can be returned to confinement. The home arrest program allows some offenders to remain in the community, but under closer supervision.

The home arrest program has been in effect approximately one year. It was originally designed to accommodate approximately 225 participants and is restricted to metropolitan Phoenix and Tucson. Participants in the home arrest program are under constant surveillance by means of an electronic monitoring device in addition to frequent contacts with a parole officer. The participants are required to remain at home except for approved activities such as work or participation in a treatment program. Home arrest participants are assessed a fee of $3.35 per day for the electronic monitoring device in addition to the monthly supervision fee of $30. These two fees total approximately $130 monthly; however, the board may waive all or part of this fee if the prisoner is unable to pay.

Table 4 (see page 39) shows that the BPP approved 136 candidates for this program during the period of July through November 1989. During that time, concern was expressed regarding the slow implementation of the program, and the board was criticized for not approving more of the candidates. Board members acknowledged that there had been communication problems between BPP and DOC, but these problems have since been rectified. In a recent report to the Legislature, Dr. Dennis Palumbo stated that the home arrest program has not been cost-effective thus far because it has not been fully implemented. According to Dr. Palumbo, however, when fully implemented, the program could save the State approximately $30 per day for each participant. Regarding the board's use of the home arrest program, Dr. Palumbo found that the board approved 48 percent of those prisoners that were eligible and suitable.

TABLE 4

APPROVALS OF EARLY RELEASE AND HOME ARREST CANDIDATES JULY THROUGH NOVEMBER 1989

	Heard	Early Release Approved	Home Arrest Approved	Total Approved[a]	Rate
July	73	16	16	32	43.8%
August	54	8	21	29	53.7%
September	213	50	68	118	55.4%
October	104	37	23	60	57.7%
November	51	11	8	19 [b]	37.3%
TOTAL	**495**	**122**	**136**	**258**	**52.1%**

(a) The statistics for early release and home arrest include many candidates who are certified as eligible for both categories. Therefore, the number approved shown here are for the combination of early release and home arrest.

(b) Due to the fact that DOC missed the deadline for submitting new certifications, the only candidates considered for early release and home arrest in November were those that had been considered previously and denied.

Source: The data for July, August, and September were taken from the board's monthly reports, and the data for October and November were compiled by Auditor General staff from board agendas

Work furlough - A.R.S §31-233(C) provides for release on work furlough for prisoners who meet statutory requirements and specific eligibility criteria. In order to satisfy the statutory requirements, the prisoner must be within 14 months of his or her parole eligibility date and have served a minimum of 6 months. In addition to the statutory requirements, the board requires that the prisoner be in a minimum or lesser custody status; have no major disciplinary violations within the previous six months; and be free of detainers and warrants. Table 5 (see page 40) shows that during the period of July through November 1989, the BPP approved 141 of the 379 work furlough candidates considered, an approval rate of 37.2 percent. However, it should be noted that those certified

by DOC as eligible for work furlough were only screened for the statutory requirements and not the board's requirements. This fact could explain the lower approval rate for this category of release since some of those seen by the board would be denied due to the fact that they did not meet the board's basic requirements.

TABLE 5

APPROVALS OF WORK FURLOUGH CANDIDATES
JULY THROUGH NOVEMBER 1989

	Heard	Approved	Rate
July	25	9	36.0%
August	97	34	35.1%
September	86	31	36.0%
October	90	46	51.1%
November	81	21	25.9%
TOTAL	**379**	**141**	**37.2%**

Source: The data for July, August, and September were taken from the board's monthly reports, and the data for October and November were compiled by Auditor General staff from board agendas

Numbers certified vs. numbers heard and approved - In assessing the board's use of alternative releases, it is necessary to determine the number of persons actually considered by the board. The number of persons that are certified by DOC as eligible for release is much larger than the number that are eventually heard by the board. This is true for all release categories. Some persons are found to be ineligible after certification, and some waive their hearing.

- **Ineligibles** - Approximately 13 percent of all prisoners certified by DOC are found to be ineligible for consideration by the board. Ineligibilities may be the result of an error in certification or an occurrence since the certification such as a disciplinary violation. DOC notifies the board of the ineligibilities, and the names are removed from the board's agenda for that month. Without notification from DOC, the board is required by statute to consider all those certified as eligible by DOC.

- **Waivers** - Approximately 25 percent of all prisoners certified by DOC waive consideration. Those who waive their hearing are removed from the board's agenda for that month.

Table 6 (see page 42) provides an example of how these factors impact the caseload. This example pertains to home arrest cases for the month of October 1989, but the impact can be found in all categories in any given month. It should be noted that 48 percent of those certified were not seen by the board. If the board's approval rate were based on the total certified, the rate would be only 19.2 percent. However, if the approval rate were based on the actual number considered, after subtracting those ineligibles, waivers, and approvals for other categories, the rate would be approximately 49 percent.

TABLE 6

OUTCOME OF HOME ARREST CERTIFICATIONS
OCTOBER 1989

	Number	Percent
Total certified for home arrest	**120**	**100.0%**
Less: Waived consideration for home arrest	(31)	(25.8%)
Ineligible for home arrest	(27)	(22.5%)
Denied home arrest or passed to next month	(24)	(20.0%)
Approved on another type of certification[a]	(15)	(12.5%)
TOTAL APPROVED FOR HOME ARREST	**23**	**19.2%**

(a) Some of those certified as eligible for home arrest were also eligible for early release (233[I]) or general parole (412a).

Source: Statistics compiled from board agendas by Auditor General staff

SUNSET FACTORS

In accordance with A.R.S. §41-2354, the Legislature should consider the following 12 factors in determining whether the Board of Pardons and Paroles should be continued or terminated.

1. Objective and purpose in establishing the board

   The Board of Pardons and Paroles was established as an independent agency to have "exclusive power to pass upon and recommend reprieves, commutations, paroles and pardons." As such, the board has sole discretion to approve a prisoner for parole prior to completion of his or her sentence only if "it appears...that there is a substantial probability that the applicant will remain at liberty without violating the law." If approved for release, the applicant is then paroled to the legal custody of the Department of Corrections which is responsible for parole supervision. A prisoner released on parole by the board remains on parole status until expiration of the term specified in the sentence or until his or her absolute discharge by the Board of Pardons and Paroles.

2. The effectiveness with which the board has met its objective and purpose and the efficiency with which it has operated

   The board has generally met its objective and purpose by reviewing prisoners' eligibility for parole and approving those who meet its criteria for release. During FY 1988-89, the board held release hearings for 6,403 prisoners and approved 2,295 releases. However, there is no available data to determine if the board's decisions have been effective. Currently, neither the board nor DOC maintains statistics on recidivism.

   The board's efficiency in meeting its objective and purpose is hampered by an increasing caseload and severe time constraints

resulting from the high numbers of cases that have to be processed each month (see Finding II, page 13). In addition, the efficiency of board operations can be further improved by restructuring its information-gathering process. Changes in the current process can save the board between $187,000 and $356,000 annually. (See Finding III, page 21 - 31.)

3. **The extent to which the board has operated in the public interest**

When considering any inmate for release, the board attempts to take all factors into account in determining if there is a substantial probability that the inmate will remain at liberty without violating the law. However, the board could provide greater accountability and consistency in their parole decisions by establishing and implementing a structured decision-making process (see Finding I, pages 7 - 12).

4. **The extent to which rules and regulations promulgated by the board are consistent with the legislative mandate**

The board's current rules were promulgated in 1980. These rules were consistent with the legislative mandate in place at that time. However, since 1980, changes in legislation have occurred. The board is currently in the process of drafting revisions to the rules to assure all new legislative mandates are promulgated by rule.

5. **The extent to which the board has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public**

The board is conscientious about notifying the public of upcoming meetings and hearings held in the parole board's office. During our audit, we found no evidence that the board's meetings were not held in accordance with the open meeting laws (A.R.S. §38-431). All notices of open meetings are posted in conspicuous places to assure that the public is aware of the date, time, and place of the meetings.

In addition, in accordance with A.R.S. §31-411.G, before holding a parole hearing, the board must notify the Attorney General, the

presiding judge of the superior court, the county attorney in the county in which the prisoner was sentenced, and the victim of the offense for which the prisoner is incarcerated 15 days prior to the hearing. The notice to the victim or the victim's immediate family is mailed to the last known address, but board staff do not follow up if the victim does not respond.

We found that the board generally complies with the victim notification requirement. We reviewed a sample of 68 inmates that were scheduled to appear for the November 1989 board hearings and found that of the 43 inmates that had victims, 33 victims were notified. Board staff did not notify the remaining 10 victims either because they could not find an address or because the board found the inmates were ineligible for parole. In addition, 12 of the inmates scheduled to appear had no victims, and the board was unable to determine if 13 other cases involved victims. We also found that, for the most part, the board met the specified time requirement. However, there were two cases in which the victims were not notified until seven and five days prior to the hearing.

Finally, as noted in factor number 4, the board is currently in the process of revising its rules and regulations. Board staff anticipate that hearings on the revisions will be held in midsummer 1990.

6. **The extent to which the board has been able to investigate and resolve complaints that are within its jurisdiction**

This factor does not apply since the Board of Pardons and Paroles is not a regulatory agency.

7. **The extent to which the Attorney General or any other applicable agency of State government has the authority to prosecute actions under enabling legislation**

This factor does not apply since the Board of Pardons and Paroles is not a regulatory agency.

8. **The extent to which the board has addressed deficiencies in its enabling statutes which prevent it from fulfilling its statutory mandate**

The board has formed a legislative committee to review the current statutes; identify deficiencies, amendments, and repeals; and develop new legislation needed in order to enhance board operations. For example, for the 1990 legislative session, the board is proposing two changes: 1) create three two-member panels to conduct parole hearings, and 2) revise the work furlough notification process to make it consistent with the notification process for all other types of releases. (Currently, notification to victims, prosecuting attorneys, the Attorney General, and others regarding work furlough hearings is given 30 days prior to the release hearing. All other types of releases have a notification deadline of 15 days.)

The board, in conjunction with the Department of Corrections, was instrumental in developing the home arrest program that was enacted in July 1988.

9. **The extent to which changes are necessary in the laws of the board to adequately comply with factors listed in the Sunset law**

Based on our audit work, we recommend the following legislative changes:

- The Legislature should consider amending A.R.S. §31-401.H to allow the board to hear cases using three panels by revising statutes to allow panels to be composed of two rather than three members (see Finding II, pages 13 - 20).

- As another option to better caseload management, the Legislature should consider amending A.R.S. 41-1604.G to change the length of time between parole hearings (for individuals previously denied parole) to six months from the *current four-month* provision (see Finding II, pages 13 - 20).

10. **The extent to which the termination of the board would significantly harm the public health, safety, or welfare**

Because the Board of Pardons and Paroles grants the release of only

one-third of the inmates released yearly from Arizona's prisons, the termination of the board would not significantly harm the public health, safety, or welfare. The Department of Corrections would continue to release inmates based upon its determination that an individual is ready for release without posing danger upon the community. In fact, in some states, parole boards have little or no role in discretionary releases. One state, Minnesota, does not have a parole board. Additionally, nine other states have parole authorities with limited jurisdiction over discretionary release decisions. For instance, California's parole board has discretionary release jurisdiction only over prisoners sentenced to life in prison. In Oregon, the parole board has no authority to grant discretionary release, but is still responsible for setting conditions for those released.

Although terminating BPP would not necessarily harm public health, safety, or welfare, there are several reasons for continuing its existence. According to a recent National Institute of Corrections study, parole boards provide "checks and balances within our system of criminal sanctioning." As noted earlier, Arizona's board was purposely set up as an independent agency to pass upon paroles and commutations. Moreover, 49 states continue to use parole boards for at least some release decisions. Elimination of this independent review of release candidates in Arizona would place full responsibility with DOC and could possibly lead to inappropriate release decisions. The state of Florida, which previously abolished its parole board, reestablished its board because state officials felt that the release formula did not adequately differentiate between low-risk and high-risk inmates. The Florida Control Release Authority was created to add some discretion to the release formula.

11. <u>The extent to which the level of regulation exercised by the board is appropriate and whether less or more stringent levels or regulation would be appropriate</u>

This factor does not apply since the Board of Pardons and Paroles is not a regulatory agency.

12. **The extent to which the board has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished**

To assist the board panels in the hearing process, the board has attempted to use private contractors as interpreters for the non-English speaking inmates. However, according to board staff, the board has not been satisfied with the quality of interpreters that have been hired. As a result, the board has chosen to use DOC staff as interpreters whenever possible.

ROSE MOFFORD
GOVERNOR

MICHAEL D. GARVEY
EXECUTIVE DIRECTOR

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March 9, 1990

Douglas R. Norton, CPA, Auditor General
Office of the Auditor General
2700 North Central Avenue, Suite 700
Phoenix, Arizona 85004

Dear Mr. Norton:

The Arizona Board of Pardons and Paroles is in receipt of the final draft of the Auditor General's Sunset Review of the Agency.

The Board would like to thank your staff for the opportunity they provided to give comments and expand on some of the areas addressed. This letter shall serve as the final response to the report and constitutes the consensus of the Board.

FINDING I - ESTABLISH A STRUCTURED DECISION-MAKING PROCESS

The Board is in agreement with the Auditor General's recommendation of pursuing structured decision-making. The National Institute of Corrections (NIC) will be contacted to request funding for a consultant to aid the Board in this area. It should be noted that State funding would also be required to enhance the grant monies received in order to fully implement a structured decision-making process. Additionally, the time involved with establishing such a process along with training and participation time will require a minimum of one year before this process would be operational.

FINDING II - MANAGEMENT OF GROWING CASELOAD

The Board is in agreement with the Auditor General's recommendations of amending A.R.S. §41-1604.06 to increase the interval at which inmates are recertified for release consideration from four to six months and amending A.R.S.

§31-401.H to allow two members to constitute a quorum except in executive clemency matters or business meetings. Legislation has been introduced in the current session to allow for two-member Board panels (See SB1514). Additionally, the Board has taken other action to help manage the growing caseload. Beginning February 1, 1990, all work furlough applications first have a personal hearing with a hearing officer and are then heard by the Board, in-absentia. The Work Furlough hearings and Board Review process have been expanded from once per month to twice per month.

FINDING III - UTILIZATION OF HEARING OFFICERS

The Board is in agreement with the Auditor General's option B recommendation which includes:

1. employing nine case analysts to research and validate documents and produce summary reports;
2. providing computers for the case analysts for note taking and report drafting;
3. determining what information is required to make educated recommendations; and
4. establishing clear policies and procedures to provide direction to staff regarding information collection and analysis.

It is the consensus of the Board that the summary report prepared by staff is a necessary document.

A concern the Board has in reclassifying nine of the hearing officer positions to case analyst positions is the current Department of Administration, Personal Rules. Because of the manner in which a reduction in force is made in State government, the salary savings quoted in this report are illusory and would not be realized for at least a period of two years, if the turnover rate is high, due to "red-linning" of salaries.

The Board has some concern with the elimination of clerical staff. Prior to making the reduction in force, there is a need to train case analysts on the use of computers while their caseload demands continue. With the anticipated increase in certifications from the Department of Corrections, any shortage of clerical staff would impair the Agency's ability to perform its duties. Additionally, there is a high volume of legislation being considered during this legislative session which will have an impact on the Boards clerical workload. An example of this is SB1505 which would require victim notifications to be sent registered mail, return receipt requested. Further, the area of

victim notification is an issue because, despite the increase in workload, the Board still has only one Information Processing Specialist II (IPS II) position to mail over 1,000 victim notification letters and an equal number of notification letters to the Attorney General, the presiding judge of the superior court, and county attorneys each month. The Board is unable to research and follow up on victim notification letters returned because of the lack of staff to do so. Reducing clerical staff in an agency as small as the Board will result in lack of backup for the remaining positions. Without backup and cross trained staff, no one would be able to fill in for the Board Secretaries, Agenda Clerk or Victim Notification Clerk during their absences.

Reduction in clerical staff will cause further problems in the management of the agendas, screening and correction of certifications received from DOC, researching and responding to inquiries from the Attorney General's Office and complete accuracy on executive clemency actions.

The Board views this report as the first step toward developing long-range planning over a period of the the next twenty-four months to deal with the issues of caseload growth, decision making, utilization of hearing officers, prison overcrowding and budget constraints. However, caution is urged in making dramatic staff and budget cuts.

Again, the Board would like to thank the staff of the Auditor General's Office for their professionalism and dedication while preparing this report.

Sincerely,

Arter L. Johnson

ARTER L. JOHNSON, Chairman
Arizona Board of Pardons and Paroles

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March 9, 1990

Douglas R. Norton, CPA, Auditor General
Office of the Auditor General
2700 North Central Avenue, Suite 700
Phoenix, Arizona 85004

Dear Mr. Norton:

Because of the potential adverse ramifications regarding the Auditor General's Sunset Review Report, I feel obligated and compelled to write this letter of dissent. I'm concerned that instituting and imposing any reductions in staff or financial resources will diminish the effectiveness of future Boards to fully comply with all statutory requirements.

The report presents three (3) findings regarding 1) decision making process, 2) manageability of caseload, and 3) use of staff. While the report appears to offer some solutions to problems and recommendations to improve the efficiency of the Arizona Board of Pardons and Paroles (ABOPP), it is my opinion it has the potential to create more problems of a greater magnitude than it will solve. The report fails to recognize the impact the ABOPP has on the prison overcrowding issue and the enormous cost it saves the public by virtue of its responsibilities. The report also fails to recognize the impact new legislation and other Criminal Justice Agencies have on the ABOPP when they institute changes. The recommendations in the report are inadequate to address the magnitude and complexity of the problems we are facing now and will continue to face in the future.

The report suggests the ABOPP develop and adopt a structured decision making process. As justification, the report mentions that this will improve uniformity among decisions and that 22 states utilize this method. While I am not opposed to exploring other decision making methods or expanding our knowledge in this area, I am reluctant to modify our present system without fully investigating the logistical, social and financial impact on the other systems which will be affected by such a change. Notwithstanding its harmless and progressive appearance, I believe it will create more problems of a greater magnitude than it will solve.

Structured decision making is based on the development of sets of criteria which must be satisfied by inmates before they receive favorable consideration. Structured decision making also contains standards within the sets of criteria which must be met. A structured decision making model may contain as many as six (6) sets of criteria such as 1) past criminal history, 2) employment skills, 3) academic skills, 4) programming, 5) social and psychological support and 6) adequacy of release plans. The controversy with these models occurs when someone challenges the adequacy of existing services to meet these standards. Other challenges often come from the public sector who demands objectiveness in their development and the demand that they be discriminatory free in the manner they are applied. I simply feel that someone has to be accountable when these challenges are made, and inadequate responses can result in political reprecussions. I feel this recommendation has the potential to result in more tedious paperwork, the creation of new documents, result in fewer paroles which will aggravate the overcrowding problem and increase public scrutiny which could result in more law suits levied against the ABOPP. The eclectic method utilized by the ABOPP at the present time is adequate. Board members consider a multitude of factors in making their decisions which fall in the following areas, 1) prior history, 2) institutional record and 3) forward view.

With regards to finding #2, the ABOPP is already addressing this area adequately and will continue to do so.

Finding #3, which is the most radical and critical part of the report is where I have the most problems. It suggests a reduction in staff and financial capability in the face of a growing prison population I believe everyone would agree the prison population will continue to grow as well as the cost of prison construction. There are many reasons for the increase in prison population which at the present time is approximately 61 new inmates in the Arizona Department Of Corrections (ADOC) per month. This trend will continue and grow to 80 new inmates per month for ADOC for 1991. While the number of commitments to the ADOC affects the caseload of the ABOPP, so will the new legislative proposals that are up for approval. Before the end of 1990, the ABOPP and ADOC will be pressured to deal with an overcrowding problem. The ABOPP needs all the resources it has at the present time to deal with this problem effectively.

The ABOPP and ADOC will have to develop methods of expediting inmates through the system. Staff cuts by the ABOPP will certainly increase the risk for errors which may present an undue risk and harmful effect on public safety. The report recommends the hearing officer program be eliminated for two reasons, 1) because the majority of board members don't rely on the hearing officer report for their decisions and 2) because it could save

up to $356,000 per year. The report states some board members prefer to rely on the presentence report (PSI) prepared by the probation officer to make their decisions. This is despite the fact that the information in the PSI is usually three (3) years and older, in some cases there is no PSI. Many of the conclusions of the PSI are no longer applicable when inmates are seen for parole. I am bewildered as to why someone would choose to rely on information that is better than three years old and prepared by someone whom they've never laid eyes on for their decisions over information that is relevant, current and prepared by someone who works for your Agency. I do not feel that staff has to be affected through terminations.

The report also suggests that up to $356,000 could be saved by eliminating the hearing officer program. While this sounds appealing and noble, I submit the cost savings will be close to nothing when applicable personnel rights are exercised. The report also does not provide all the financial and actual details as to how this cost savings will be realized.

Losing the hearing officer program will seriously weaken the ability of this and future Boards to maintain pace with a burgeoning caseload which will have a tremendous effect on the prison overcrowding issue. Elimination of the hearing officer program will rob the Board of the flexibility to broaden the base of the decision making process and organize itself into workable arrangements of hearing officers and board members capable of handling caseloads of up to 2,500 per month. The loss of the hearing officer program may also result in the loss of many already trained criminal justice practitioners that know the system, they will have to be replaced with new, untrained personnel who will be asked to do more for less pay, the morale of the Agency will diminish and the ABOPP will once again be in the midst of controversy and turmoil. I do not believe the cost savings to be realized through the proposed cuts of the report are hardly worth the problems we will be facing in the near future.

A much better recommendation would have been to convert the hearing officers to commissioners and broaden their decision making responsibilities. This would provide the Board with the flexibility to organize four (4) panels consisting of two (2) commissioners and one (1) board member. Organizing the Board in this manner would enable the Board to provide a hearing for every request regarding every kind of release. We can organize in this manner with the present staff we have at no cost now and no increase in the foreseeable future. If cuts in staff are instituted, I can foresee the ABOPP appealing for the restoration of lost staff through this report as early as next year.

I ask the responsible people who can effect changes in the ABOPP through this report to, at a minimum, delay any action for at least two (2) years in order to provide the ABOPP with an opportunity to reorganize itself in a manner that will enable it to maintain pace with the growing prison population

Sincerely,

Luis M. Vega

LUIS M. VEGA, Board Member
Arizona Board of Pardons and Paroles

APPENDIX I

METHODOLOGY FOR ESTIMATING SAVINGS FROM RESTRUCTURING BPP INFORMATION COLLECTION PROCESS

Auditor General staff used a three-step methodology to estimate the potential savings possible to the Board of Pardons and Paroles under the restructuring process presented in Finding III. The first step calculates the number of hearing officers the board would need after restructuring its information-gathering process. The second step estimates the number of information processing specialists needed. The third step calculates the number of case analysts needed and presents two options which provide varying staff levels to meet different information requirements.

Step 1. Calculate Estimated Savings by Eliminating Unnecessary Hearing Officers (H/Os)

To determine what savings are possible, we first determined how many of the 15 current BPP hearing officer positions would be needed if the information-collecting process is restructured. Because hearing officers hold some special hearings and manage work furlough cases, some, but not all, hearing officer positions should be retained.

We estimate that the board needs one H/O to conduct special hearings and three H/Os to manage work furlough hearings. Our estimate is based on the current and projected levels of special and work furlough hearings, and the average number of hearings a hearing officer can handle each month. Thus, the board could eliminate 11 H/O positions for an annual savings of approximately $376,000 (see Table I-1, page I-2).

TABLE I-1

ESTIMATED ANNUAL SAVINGS BY REDUCING 11 HEARING OFFICER POSITIONS

	11 Hearing Officers Present Cost	4 Hearing Officers Estimated Cost	Estimated Savings
Salary	$410,289	$119,701	$290,588
ERE	104,008	30,344	73,664
Travel[a]	19,664	7,082	12,582
TOTAL	$533,961	$157,127	$376,834

(a) Annual travel expenses were projected using available data for the first half of FY 1989-90.

Source: Auditor General analysis and estimates based on figures obtained from the board's fiscal services specialist

Step 2. Calculate Estimated Savings by Eliminating Unnecessary Information Processing Specialists (IPSs)

Eliminating 11 hearing officer positions also creates the possibility for additional savings because it eliminates the need for six information processing specialists. The board currently has eight IPS positions whose workloads consist largely of preparing H/O reports, tracking dictation tapes, and preparing for special hearings. We estimate that the board would need two IPSs to manage the workload created by the four H/Os recommended in Step 1. Our calculation is based on current IPS productivity levels and the anticipated number of hearing reports produced by the four H/Os recommended in Step 1. These two IPSs would type work furlough and special reports, and track the dictation tapes. Eliminating 6 IPSs could save the board an estimated $98,563 annually.

Step 3. Calculate the Number of Case Analyst Positions To Be Created

The board's restructured information-gathering process would use case analysts to gather information rather than hearing officers. We

estimate the number of case analyst positions for two options. Option A uses case analysts to prepare information packets for the board, but they would not prepare summary reports. Option B also uses case analysts to prepare information packets but allows for the analysts to prepare a summary of the information included in the packets. Our staffing estimates are based on the actual time currently spent on activities that would be performed by case analysts and projected board caseloads through December 1991. In addition, all cost estimates include employee-related expenses.

OPTION A

Create Case Analyst Positions to Prepare Packets for the Board But Not to Prepare Summary Reports

The board could save over $356,000 by implementing the changes recommended in Option A. Under this option, four case analysts (C/As) and another clerk typist I would be hired. The case analysts would typically not prepare reports for the board. The clerk typist would assist in board packet preparation. The number of case analysts needed was determined by identifying existing tasks that would still need to be performed (e.g., reviewing inmate files, assembling material for board packets), estimating time requirements based on the time currently required to perform these tasks, and projecting case loads through calendar year 1991. The clerk typist position was determined by estimating the number of inmate packets prepared and the time needed to prepare them. The cost of adding four Grade 17 case analysts (starting salary: $20,556 each) to the board would be approximately $103,068. We estimate the cost of adding one Grade 8 clerk typist I (starting salary: $12,241) to the board to be $15,344. Overall, we estimate that the board could achieve an annual net savings of $356,985 (see Table I-2, page I-4) by implementing the changes in Option A.

TABLE I-2

ESTIMATED ANNUAL SAVINGS BY IMPLEMENTING OPTION A

Positions to Eliminate	Savings	
11 Hearing Officers	$376,834	
6 Information Processing Specialists	98,563	
Total savings		475,397
Positions to Add	**Costs**	
4 Case Analysts	103,068	
1 Clerk Typist	15,344	
Total costs		118,412
NET SAVINGS		**$356,985**

Source: Auditor General analysis and estimates based on figures obtained from the Department of Administration Classification Unit and the board's fiscal services specialist

OPTION B

Create Case Analyst Positions to Prepare Packets and Summary Reports for the Board

The board could still save over $186,000 by implementing the changes recommended in Option B. Under this option, nine case analysts (C/As) and one clerk typist I would be hired, and personal computers would be provided for the analysts. The case analysts would prepare reports for the board but would not interview inmates or offer recommendations. The clerk typist would assist in board packet preparation. The number of case analysts needed was determined by identifying existing tasks that would still need to be performed (e.g., reviewing inmate files, assembling material for board packets, and preparing summary reports), estimating time requirements based on the time currently required to perform these tasks, and projecting case loads through calendar year 1991. The clerk typist position was determined by estimating the number of inmate packets prepared and the time needed to prepare them.

We estimate that the annual cost of adding nine Grade 17 case analysts (starting salary: $20,556 each) to the board to be $231,902. Adding one Grade 8 clerk typist I (starting salary: $12,241) to the board would cost $15,344 annually. The cost of purchasing personal computers and related equipment to enable case analysts to prepare summary reports would be approximately $41,200. Therefore, we estimate that the board could achieve a net annual savings of $186,950 during the first year (see Table I-3, page I-6) by implementing the changes in Option B. Subsequent year's savings would total $228,150.

TABLE I-3

ESTIMATED SAVINGS BY IMPLEMENTING OPTION B

Positions to Eliminate	Savings	
11 Hearing Officers	$376,834	
6 Information Processing Specialists	98,563	
Total savings		475,397
Positions to Add	**Costs**	
9 Case Analysts	231,903	
1 Clerk Typist I	15,344	
Computer Equipment and Training	41,200	
Total costs		288,447
FIRST YEAR SAVINGS		**$186,950**

Source: Auditor General analysis and estimates based on figures obtained from the Department of Administration Classification Unit and the board's fiscal services specialist

APPENDIX II

METHODOLOGY FOR OBSERVATIONS OF HEARING OFFICER INTERVIEWS AND BOARD HEARINGS

Purpose

We conducted observations of both hearing officer interviews and board hearings for several purposes: 1) to determine how effective and efficient the hearing officers' information gathering process is; 2) to determine the degree of variation between hearing officers' recommendations and the board's decisions; 3) to determine the extent to which board members use particular information sources in decision making, including the hearing officer report; and 4) to determine whether board members have adequate guidance and information available to make decisions.

Sample Selection

Auditors selected a purposive sample of eight hearing days with eight different hearing officers from the October 1989 hearing officer schedule.(1) A mixture of institutional custody levels (maximum to minimum), and male and female institutions were included in the sample. The inmate cases observed in these days then became the units of analysis for the board hearings. Hearing officers were scheduled to hear 655 cases in October. The total sample size was 68. Auditors followed the individual inmates through the board hearings to a hearing disposition.

The sample size changed during the course of our observations. Due to inmates waiving their rights to a hearing and becoming ineligible for parole, the board only heard 50 inmates from our original sample of 68.

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(1) A purposive sample is a nonprobability sample that cannot be used to make generalizations to the entire population.

Hearing Officer Observations

The hearing officer interviews with inmates were observed, and a structured interview with each hearing officer was conducted regarding each case observed. Questions solicited hearing officers' thoughts on each inmate's strengths and weaknesses, recommendations regarding the inmate, and the reasons for making certain recommendations. (See the hearing officer observation form, page II-5 used to structure the interview and record responses.) Hearing officer reports on the cases auditors observed were collected. Auditors reviewed the information that was synthesized into the report and noted if any information from the interview was included and if any critical information was missing.

Board Hearing Observations

Auditors observed board hearings with the selected inmates. Auditors asked board members to fill out a standard worksheet regarding each case and the information available. (See page II-3 and II-4 for the questionnaire.) Members were asked about the completeness of the information available, the usefulness of the sources, as well as general questions concerning the case. Members noted the inmates strengths and weaknesses and listed the reasons for the action they took on the case.

Analysis

Board member comments concerning the factors considered in the case and whether the factor was a strength or weakness for the inmate's case were compared to the responses the hearing officer made on the same case. Also, frequencies were run on the coincidence of the hearing officer recommendation and board decision. Board member comments on the quality of information available to them were noted. The analysis was used as one source for estimating the need for hearing officers (see Finding III, pages 21 - 31) and also as a source for evaluating the board's decision-making process (see Finding I, page 7 - 12).

BOARD MEMBER: TYPE OF HEARING:

INSTITUTION: INMATE:
SEX OF INMATES: INMATE NUMBER:
TYPE OF CUSTODY:

BOARD MEMBER PACKETS

PLEASE CIRCLE THE ANSWER THAT MOST CLOSELY APPROXIMATES YOUR FEELINGS REGARDING THE INFORMATION WITH WHICH YOU WERE PROVIDED FOR THE HEARING.

A. HOW USEFUL WERE THE FOLLOWING IN ASSISTING IN YOUR DECISION?

0=NO USE 1=SOMEWHAT USEFUL 2=VERY USEFUL 3=INVALUABLE

1.	INMATE PROGRESS REPORT	0	1	2	3
2.	AIMS REPORT	0	1	2	3
3.	PSI	0	1	2	3
4.	HEARING OFFICER REPORT	0	1	2	3
5.	INSTITUTIONAL FILE	0	1	2	3
6.	HEARING WITH INMATE	0	1	2	3

B. WAS ANY OTHER INFORMATION USED IN YOUR DECISION? Y N
WHAT WAS THAT INFORMATION?_____
HOW USEFUL WAS IT? 0 1 2 3

C. WAS THERE INFORMATION IN THE INSTITUTIONAL FILE THAT YOU FEEL SHOULD HAVE BEEN IN YOUR PACKET? Y N
WHAT WAS THAT INFORMATION?_____

D. WAS THERE ANY INFORMATION PROVIDED BY THE INMATE THAT YOU FEEL SHOULD HAVE BEEN IN YOUR PACKET? Y N
WHAT WAS THAT INFORMATION?_____

E. TO THE BEST OF YOUR KNOWLEDGE, WAS THE TIME COMPUTATION ACCURATE?
Y N

F. PLEASE PROVIDE ANY ADDITIONAL COMMENTS REGARDING THE INFORMATION YOU RECEIVED THAT EITHER ASSISTED OR HINDERED YOU IN MAKING THE BEST DECISION POSSIBLE.

_____

_____

_____

_____

_____

G. BEFORE SEEING THIS INMATE (THAT IS, BASED ONLY ON THE THE PAPERWORK), HOW WOULD YOU HAVE VOTED?

FOR AGAINST NOT SURE

H. WHAT WAS YOUR VOTE?

FOR AGAINST ABSTAIN CONTINUE

I. FOR EACH FACTOR LISTED BELOW, PLEASE DETERMINE WHETHER THE FACTOR WEIGHTED FOR THE INMATE (+), AGAINST THE INMATE (-), OR WAS NOT SIGNIFICANT (NS) IN YOUR PARTICULAR VOTE. CIRCLE THE CORRESPONDING SYMBOL.

FACTORS	FOR THE INMATE	AGAINST THE INMATE	NOT SIGNIF
EXTENSIVE CRIMINAL HISTORY	+	-	NS
EXTENSIVE JUVENILE HISTORY	+	-	NS
HISTORY OF VIOLENCE	+	-	NS
RECENT DISCIPLINARIES	+	-	NS
HIGH # OF DISCIPLINARIES	+	-	NS
PROBATION VIOLATIONS	+	-	NS
PAROLE VIOLATIONS	+	-	NS
SUBSTANCE ABUSE PROBLEM	+	-	NS
SUBSTANCE ABUSE ADDRESSED	+	-	NS
INSTITUTIONAL RECORD	+	-	NS
JOB IN INSTITUTION	+	-	NS
SERIOUS NATURE OF THE OFFENSE	+	-	NS
ATTITUDE OF INMATE	+	-	NS
ACCEPTS/DOES NOT ACCEPT RESPONSIB.	+	-	NS
HAS FAMILY SUPPORT	+	-	NS
HAS JOB LINED UP	+	-	NS

OTHER SIGNIFICANT FACTORS: _____

_____

_____

_____

J. TOP THREE REASONS WHY YOU WOULD RECOMMEND FOR/AGAINST PAROLE:

1. _____

2. _____

3. _____

K. (PANEL CHAIRMAN ONLY)

WHAT WAS THE BOARD'S FINAL VOTE?

FOR INMATE # AGAINST # TO CONTINUE

L. ADDITIONAL COMMENTS REGARDING YOUR VOTE OR THE DECSIONMAKING PROCESS:

_____

_____

_____

HEARING OFFICER: TYPE OF HEARING:

INSTITUTION: INMATE:
SEX OF INMATES: INMATE NUMBER:
TYPE OF CUSTODY: OFFENSE(S):

MINUTES SPENT REVIEWING INSTITUTIONAL FILE: _____
MINUTES SPENT INTERVIEWING INMATE: _____

PREPATORY WORKUP

DID THE H/O COMPLETE A WRITE UP BEFORE THE HEARING?	Y	N
WAS A PSI AVAILABLE TO THE H/O?	Y	N
WAS THE DOC FILE CURRENT TO THE H/O'S SATISFACTION?	Y	N
WAS THE DOC TIME COMP ACCURATE?	Y	N

INSTITUTIONAL FILE REVIEW

DID THE H/O REVIEW THE FILE BEFORE BEGINNING THE HEARING?	Y	N
DID THE H/O REVIEW THE FILE AT ANY TIME DURING THE HEARING?	Y	N
DID THE H/O RECEIVE AN "INMATE PROGRESS REPORT"?	Y	N
WAS THERE INFO IN INSTITUTIONAL FILE THAT SHOULD HAVE BEEN IN THE MAIN DOC FILE?	Y	N

HEARING WITH THE INMATE

WAS ANY INFO PROVIDED BY INMATE THAT H/O THINKS SHOULD HAVE BEEN IN THE MAIN DOC OR INSTITUTIONAL FILE?	Y	N
WOULD THE H/O HAVE RECOMMENDED PAROLE BEFORE SEEING THE INMATE?	Y	N

DECIDING FACTORS IN THE H/O'S RECOMMENDATION

ASK THE H/O WHETHER THE FOLLOWING FACTORS WEIGHTED SIGNIFICANTLY FOR OR AGAINST THE INMATE, OR WERE NOT SIGNIFICANT IN THE DECISION.

FACTORS	FOR THE INMATE	AGAINST THE INMATE	NOT SIGNIF
EXTENSIVE CRIMINAL HISTORY	+	-	NS
EXTENSIVE JUVENILE HISTORY	+	-	NS
HISTORY OF VIOLENCE	+	-	NS
RECENT DISCIPLINARIES	+	-	NS
HIGH # OF DISCIPLINARIES	+	-	NS
PROBATION VIOLATIONS	+	-	NS
PAROLE VIOLATIONS	+	-	NS
SUBSTANCE ABUSE PROBLEM	+	-	NS
SUBSTANCE ABUSE ADDRESSED	+	-	NS
INSTITUTIONAL RECORD	+	-	NS
JOB IN INSTITUTION	+	-	NS
ATTITUDE OF INMATE	+	-	NS
ACCEPTS/DOES NOT ACCEPT RESPONSIB.	+	-	NS
HAS FAMILY SUPPORT	+	-	NS
HAS JOB LINED UP	+	-	NS

OTHER SIGNIFICANT FACTORS NOTED BY THE H/O: _____

WILL THE H/O RECOMMEND PAROLE AT THIS POINT? Y N NOT SURE

TOP THREE REASONS WHY H/O WILL RECOMMENDED FOR/AGAINST PAROLE:

1. _____
2. _____
3. _____

(SEE BACK OF FORM FOR ADDITIONAL COMMENTS REGARDING THE HEARING.)