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STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

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DEPUTY AUDITOR GENERAL

March 21, 2018

The Honorable Anthony Kern, Chair
Joint Legislative Audit Committee

The Honorable Bob Worsley, Vice Chair
Joint Legislative Audit Committee

Dear Representative Kern and Senator Worsley:

Our Office has recently completed a 42-month followup of the Arizona Board of Executive Clemency (Board) regarding the implementation status of the 26 audit recommendations (including sub-parts of the recommendations) presented in the performance audit report released in September 2014 (Auditor General Report No. 14-105). As the attached grid indicates:

- 13 have been implemented;
- 2 have been substantially implemented;
- 1 has been partially implemented;
- 7 are in the process of being implemented;
- 2 are not yet applicable; and
- 1 is not applicable.

Unless otherwise directed by the Joint Legislative Audit Committee, this concludes our followup work on the Arizona Board of Executive Clemency's efforts to implement the recommendations from the September 2014 performance audit report.

Sincerely,

Dale Chapman, Director
Performance Audit Division

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Attachment

cc: Ellen Kirschbaum, Executive Director
Arizona Board of Executive Clemency

Dr. C.T. Wright, Chair
Arizona Board of Executive Clemency

Arizona Board of Executive Clemency

Auditor General Report No. 14-105

42-Month Follow-Up Report

Recommendation	Status/Additional Explanation
Finding 1: Board should strengthen efforts to help ensure that its members are free from conflicts of interest	
1.1 The Board should develop its own conflict-of-interest form that covers the policies and procedures it established in 2014 regarding conflicts of interest.	Implemented at 6 months
1.2 The Board should develop a formal process for ensuring board members periodically, such as annually, review and sign its conflict-of-interest form.	Substantially implemented at 42 months The Board revised its conflict of interest policy in July 2017. This policy requires that within the first week of employment, all board members receive a policy and procedure manual and fill out an acknowledgment form indicating that specific policies were read, including the conflict of interest policy. In addition, board members are required to resubmit this acknowledgment form annually at the beginning of each fiscal year. However, for fiscal year 2018, due to an oversight, one board member did not timely submit this acknowledgement form.
1.3 The Board should develop and implement formal training on the Board's policies and procedures for identifying, managing, and resolving conflicts of interest.	Implemented at 6 months
1.4 The Board should periodically review and update its conflict-of-interest policies and procedures and provide training on any changes made.	Implemented at 18 months
1.5 The Board should develop policies and procedures to guide the victim services coordinator's interaction with victims and appropriate provision of victim information to board members.	Implemented at 6 months

Finding 2: Board should further enhance its decision-making process

2.1 The Board should continue working to develop and implement an SDM model that is appropriate for use in Arizona to guide its decisions and help to ensure transparency, consistency, and accuracy in its decision making. To ensure that it implements an effective and appropriate model that conforms to best practice standards, the Board should ensure that its model incorporates the following components:

Recommendation

Status/Additional Explanation

- a. Risk assessment using evidence-based, validated risk-assessment tools appropriate to the type of offender being considered for release;

Implementation in process

As indicated in the 6-month followup, the Board accepted an offer to participate in a pilot program hosted by the National Institute of Corrections (NIC). As a part of this pilot program, the NIC is helping the Board develop and implement an Arizona-specific structured decision-making (SDM) framework to help standardize decision-making criteria and provide a rationale for its decisions. In fall 2017, the Board conducted a site visit with the Ohio Parole Board as part of receiving technical assistance related to SDM. Although not developed as a part of a formal SDM framework, the Board is using two validated risk assessment tools. Specifically, according to the Board, it is using the Department of Corrections' classification scores and risk assessment tool as part of its decision-making process for parole hearings, and the Department of Corrections Community Corrections tool for parole revocation hearings. In addition, the Board reported it continues to use decision-making guidelines as part of its decision-making process and is using a voting record form which documents the factors considered in making its decisions. The Board reported that as a part of the SDM pilot project, the NIC will review its processes, policies, and procedures. However, according to the Board, due to funding constraints, the pilot program is still on hold.

- b. Consideration of general factors found to be correlated with recidivism, including:

Implementation in process

See explanation for Recommendation 2.1a.

- o Inmate's criminal and parole history;
- o Inmate's ability to control his/her behavior;
- o Inmate's response to treatment programming;
- o Inmate's institutional and community behavior;
- o Evidence of change in inmate's attitude or behavior; and
- o Inmate's plan for successful reintegration into society.

- c. Consideration of case-specific factors;

Implementation in process

See explanation for Recommendation 2.1a.

- d. Inmate interview and reconciliation of discordant information between the interviews and case files; and

Implementation in process

See explanation for Recommendation 2.1a.

- e. Appropriate documentation of board decisions.

Implementation in process

See explanation for Recommendation 2.1a.

Recommendation	Status/Additional Explanation
2.2 The Board should develop and implement policies and procedures that document and support the Arizona-specific SDM model it adopts.	Not yet applicable Because an Arizona-specific SDM model has not yet been developed, this recommendation is not yet applicable (see Recommendation 2.1a for more information).
2.3 The Board should ensure that board members receive sufficient initial and ongoing training on the use of its Arizona-specific SDM model that is consistent with best practice standards.	Not yet applicable Because an Arizona-specific SDM model has not yet been developed, this recommendation is not yet applicable (see Recommendation 2.1a for more information). However, the Board indicated that it will develop in-house and ongoing training for board members and staff once its model is established.
2.4 To help offset the resource cost associated with the development of its Arizona-specific SDM model, the Board should consider pursuing opportunities for assistance in developing its model offered by the National Institute of Corrections, and how it can best make use of the information already available to it.	Implemented at 42 months See explanation for Recommendation 2.1a.
Finding 3: Board should continue taking steps to better meeting hearing time frame goals and notification requirements	
3.1 The Board should continue to develop its policies and procedures. It should ensure that its policies and procedures refer to any statutory requirements and provide step-by-step guidance on how to properly schedule hearings, meet notification requirements including time frames, and document pertinent information in the Department of Corrections' data system or the Board's files.	Implemented at 6 months
3.2 The Board should develop and implement a supervisory review process for key requirements, such as scheduling revocation hearings and ensuring victims are notified of parole hearings and decisions in a timely manner. This process should be outlined in the Board's policies and procedures.	Implemented at 6 months
3.3 The Board should develop and implement staff training, including: <ul style="list-style-type: none"> a. Training on its new policies and procedures; b. Continuing with its efforts to cross-train staff; and c. A process for regularly updating its staff training and for providing refresher training. 	<ul style="list-style-type: none"> Implemented at 6 months Implemented at 18 months Implemented at 6 months

Recommendation

Status/Additional Explanation

3.4 The Board should continue to collaborate with the Department of Corrections on addressing data system issues related to victim notification letters.

Implementation in process

As of March 2018, the Department of Corrections is still in the process of developing and testing its new inmate management system, and the Board continues to work with it to communicate its various requirements, including those related to victim notification letters.

3.5 The Board should continue to collaborate with the Department of Corrections to identify ways to further improve the timeliness of a parole/community supervision revocation hearing.

Substantially implemented at 42 months

The Board generally receives notifications from the Department of Corrections about the need to hold parole/community revocation hearings in a timely manner and based on a review of notifications sent during the months of November and December 2017 and January 2018, the Board scheduled most hearings within the required 60-day time frame. The Board also reported that it will be electronically notified of the need for such hearings once the Department implements its new inmate management system, which the Board believes will further increase the timeliness of hearings.

3.6 The Board should work with the Department of Corrections to establish appropriate management reports from the Department of Corrections' inmate management system that will help it assess whether it is meeting hearing and notification requirements, such as time frame requirements.

Partially implemented at 6 months

Although the Board has worked with the Department of Corrections to establish management reports in its current inmate management system, the Department of Corrections is focusing its resources on developing a new inmate management system rather than invest additional resources into its current system. See explanation for Recommendation 3.7.

3.7 The Board should work with the Department of Corrections as it is developing its new inmate management system to ensure that the new system can produce the management reports the Board needs.

Implementation in process

As of March 2018, the Department of Corrections is in the process of developing and testing its new inmate management system. The Board has continued to work with the Department of Corrections as it develops its new system to ensure the system can produce the management reports the Board needs. According to information the Board received from the Department, the Department of Corrections anticipates that its new system will be implemented statewide in June 2018.

3.8 The Board should work with its Assistant Attorney General and the Department of Corrections to develop a form that would allow an individual to waive his/her right to a parole/community supervision revocation hearing if his/her parole or community supervision end date will occur before the next soonest available revocation hearing date.

Implemented at 6 months

Recommendation**Status/Additional Explanation****Finding 4: Board should separate the combined board chair and executive director positions to enhance administrative leadership and oversight**

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| 4.1 | The Board should develop and implement a plan for separating the board chair/executive director positions. The board-approved transition plan should include various steps, such as developing position descriptions, responsibilities, and qualifications for the board chair and executive director positions to ensure the duties are distinct and appropriate for each position, creating a formalized process for selecting the executive director, and establishing time frames for completing the various plan activities. | Implemented at 6 months |
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Sunset Factor #5: The extent to which the Board has encouraged input from the public before adopting its rules and the extent to which is has informed the public as to its actions and their expected impact on the public.

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| 1. | The Board should ensure it has functioning audio equipment to record and produce minutes for the public within 3 working days. | Implemented at 6 months |
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| 2. | The Board should add to its substantive policy statements the required notice about them being advisory only. | Not applicable
Upon conducting additional research, the Board's Assistant Attorney General has determined that Arizona Revised Statutes §41-1005(A)(7) exempts the Board from statutes regarding rule making and substantive policy statements. |
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