



ARIZONA BOARD OF EXECUTIVE CLEMENCY

September 16, 2014

Ms. Debbie Davenport
Auditor General – Arizona
2910 N. 44th Street
Suite 410
Phoenix, Arizona 85018

Dear Ms. Davenport,

On behalf of the Board of Executive Clemency I wish to express my appreciation for the review conducted at the Board of Executive Clemency. Your team of auditors acted in a professional and deliberate manner as was viewed most favorably by the employees of the board. I am pleased and take this opportunity to commend their work ethic and professionalism to you.

The Board's final response to the Sunset Review Audit is below. Our final determination was a collaborative effort utilizing the expertise of all members of the Board, our attorney general's representative and current administrator.

Audit Findings

Finding #1

Recommendations: (1.1; 1.2; 1.3; 1.4; 1.5)

Recommendation 1.1 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Recommendation 1.2 – Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Recommendation 1.3 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Recommendation 1.4 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented. A review of all standing policies will be conducted following each legislative session to insure compliance with current statutory, administrative and procedural requirements.

Recommendation 1.5 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented. Victim Service Advocate policies and procedures are currently under development. Funding is still pending from the grant. The hiring of the specialist is still pending.

Finding #2

Recommendations: (2.1; 2.2; 2.3; 2.4)

Recommendation 2.1 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented. The Board will utilize current SDM models as guides to develop and implement a decision making best practice policy for Board members. *Notable areas [2.1 b; c; d; e] are currently utilized in the training of new board members but are not formalized into a Board policy. This new training process began in November 2013 and was implemented with the hiring of the first new Board member in 2014.

Recommendation 2.1 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented. Implementing this recommendation will take significant research time before it can be implemented but this recommendation will be pursued with an eye towards the development of an Arizona based risk assessment tool. This tool will be adapted for each type of hearing conducted by the Board.

Recommendation 2.2 - Board Response: The revision of current policies and practices will be conducted upon the development and implementation of each risk assessment tool.

Recommendation 2.3 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Recommendation 2.4 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented

Finding #3

Recommendations: (3.1; 3.2; 3.3; 3.4; 3.5; 3.6; 3.7; 3.8)

Recommendation 3.1 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Recommendation 3.2 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Recommendation 3.3 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Recommendation 3.4 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented. This has been and will remain a current practice of the Board.

Recommendation 3.5 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented. The Board can only recommend an action plan to AZDOC on this issue. Discussions on the adoption of a new action plan and/or methodology are underway.

Recommendation 3.6 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented. The implementation of the recommendation is already underway.

Recommendation 3.7 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented. The provisions within this recommendation are already underway.

Recommendation 3.8 - Board Response: The finding of the Auditor General is agreed to and the audit recommendation has been implemented. Implementation and use of the new form was initiated last month by AZDOC.

Finding #4

Recommendation 4.1

Board Response: The finding of the Auditor General is agreed to and the audit recommendations will be implemented.

- Note - The Board of Executive Clemency implemented a plan of action to formally separate the singular position of Chairman of the Board/Executive Director into two separate positions on June 25, 2014. The Board expects to complete the Chairman/Executive Director bifurcation process by no later than October 2, 2014.

Sunset Factors

Sunset Factor #1

No current concerns noted.

Sunset Factor #2

Board Response: New Form (Conflict of Interest) - The Board will implement a new Conflict of Interest form. The form will be specifically designed to address public concerns related to the Conflict of Interest of Board members. The Board has adopted a Recusal Policy which addresses many of the concerns related to past appearances of Conflict of Interest.

Board Response: Meeting and Hearing Notification Requirements – The Board is currently in discussion with AZDOC on ways to reduce the time from the re-incarceration of an inmate to an inmate’s revocation hearing. The Board has also requested an appropriation to hire a Hearing Officer. The Hearing Officer duties will include the holding of Probable Cause hearings at an outside or local detention facility.

Board Response: Separating the combined Executive Director and Chairman of the Board positions – As previously stated, the Board expects to have the separation of the singular position into two positions completed by October 2, 2014.

Sunset Factor #3

Board Response: No current concerns noted. The Board has addressed the notification of hearing process and implemented staff procedures and training to insure hearing notification requirements are met. The Board’s website has been totally revamped and significantly more information has been added to enhance public disclosure of our policies, rules, statutes and practices.

Sunset Factor #4

Board Response: No current concerns noted.

Sunset Factor #5

The Board of Executive Clemency has changed our hearing notices to the public. The Board’s web site has also been upgraded to provide more information on our business and hearing practices.

Board Response: The finding of the Auditor General is agreed to and the audit recommendations have been implemented. The Board of Executive Clemency currently utilizes two recording systems for its hearings. Previously the Board utilized only one recording device for this purpose. When that system failed the Board was not in a position to recover the hearing information for the day/s in question because the Board was unaware of the systems failure. The recording device appeared to be running normally but only later did the Board discover that no recording of the events of the day were made. There was also no policy in place that required the downloading of the previous day's events. Since this occurrence the Board has purchased back up recording system software and a back-up recording device should the primary recording device become inoperative. Two recording devices are now utilized to capture Board activity. Additionally, administrative staff personnel are required to obtain a copy of the previous day's recording at the beginning of the next business day. Once the recording is received the Board's internal policy requires this recording be uploaded to the web within three business days. If, when downloading the previous day's recording, it is discovered that the previous day's hearing are not recorded properly the Chairman of the Board will be alerted of the device's failure prior to the next set of hearings taking place and the replacement recording device will be utilized. Since the failure of the recording device in October, with the exception of when the Board travels to external facilities, the Board's policy is to utilize two recording devices to capture Board actions.

Board Response: The finding of the Auditor General is agreed to and the audit recommendations have been implemented. The Board initiated a policy to get hearing information on the web more readily. Our new devices permit the daily downloading of the previous day's hearing. With the implementation of the new recording devices with their web format capabilities the adding of new recorded information should be completed quickly and within expected time frames. The website itself will be amended to add the advisory disclaimer notice as recommended.

Sunset Factor #6

No concerns noted.

Sunset Factor #7

No concerns noted.

Sunset Factor #8

No concerns noted.

Sunset Factor #9

No concerns noted.

Sunset Factor #10

No concerns noted.

Sunset Factor #11

No concerns noted.

Sunset Factor #12

No concerns noted.

The Board of Executive Clemency wishes to express their appreciation for the work performed by your staff and looks forward to continued cooperation and support as we move forward to implement your recommendations for improvement.

Sincerely,

Brian L. Livingston
Chairman/Executive Director