

Arizona

When Arizona adopted truth-in-sentencing legislation, “early release credits” replaced the discretionary parole system. As long as an incarcerated individual has served 85% of their sentence, has not received Department of Corrections disciplinary tickets, and does not have a specific flat-time charge, then early release is automatically applied. After release, the individual spends the remaining 15% of their sentence under community supervision. However, there is still a parole process for individuals sentenced in 1994 or earlier. At present, these parole cases are heard by the Arizona Board of Clemency--a five-member board that is appointed by the governor. Unlike other states, the governor has sole discretion about who to appoint to the board; the governor’s appointees do not have to be confirmed by the state legislature or other elected body. This represents a policy change in Arizona: prior to truth-in-sentencing, the parole board was a democratically elected board. Little information is available about the backgrounds of the individuals on the Board of Clemency, though enough information exists to know that all five members come from either a law enforcement or department of corrections background. In a parole case, the board reviews an individual’s convictions, DOC disciplinary record, and asks the individuals questions, though some hearings can occur without the presence of the individual seeking parole, in which case no questions are asked. Victims or their loved ones are also given the opportunity to speak to support or oppose parole. The board then votes and a simple majority is needed for parole to be granted. If an individual is denied parole, then they may reapply in six months.

Significantly, despite the dissolution of the discretionary parole system in 1993, district attorneys in Arizona continued to offer plea bargains with sentences that offered the possibility of parole. In 2018, SB1211 created parole eligibility for individuals affected by these plea bargain sentences, as the state has so-far failed to create a viable parole alternative since implementing its truth-in-sentencing legislation. Individuals sentenced to “life with the chance of release” are not included in SB1211 because a strict reading of the terms of the sentence suggests it is technically possible that, with a successful application for executive clemency, the individual may be released. It is worth noting two things: first, that whether an individual signed a deal for “life with the chance of release” or “life with the possibility of parole” was likely a semantic accident that potentially carries tremendous consequences, and second, that clemency does not represent a viable option for release in Arizona. Arizona grants approximately 2% of clemency applications, and each successful clemency application has been granted under threat of imminent death.

An individual is eligible for a commutation under the following conditions: the sentence is longer than three years and the individual has served two years of the sentence; the court has issued a special order at the time of sentencing that the sentence is excessive; the individual is terminally ill and has less than four months to live; or the individual is facing imminent execution. The clemency process itself consists of three parts, with four of the five board members hearing the case. The first stage is based on the individual’s application the board, without an in-person hearing. Most applications are rejected at this stage; however, if the board unanimously votes to send the application to the second stage, then the individual is granted an in-person hearing

with the board during which they are asked to explain why they should be granted release and what they have accomplished during their time in prison. In order to be advanced through this stage, the board must once again be unanimous in its decision. The third and final stage is gubernatorial review, where the governor has full say over whether or not to grant clemency.

In Arizona, our attendees are working in many areas to end perpetual punishment. The AFSC Arizona affiliate focuses on sentencing reform and legislation changes at the state level. Unlike in other states where activists are able to go door-to-door at the capitol, visits to Arizona legislators must be scheduled ahead of time; there is no viable way to even get inside the building without a prior appointment. The AFSC is also conducting a report on sentencing patterns in Arizona, collecting qualitative and quantitative information from a wide-range of incarcerated individuals, which will be released as a three-part series (pre-incarceration, sentences and experiences inside, and release concerns).

Though the AFSC Arizona is invested in research and data about the impact of perpetual punishment, they are also finding that audiences are quite responsive to the stories and experiences of individuals directly impacted by incarceration. These individuals are able to speak to the ways that the system, which contours are established by data-driven reports, amplifies trauma within particular lives and communities. The Reframing Justice podcast has been one way to share these individuals' stories, with the purpose of educating the public about perpetual punishment and the realities of long-term incarceration. Here, as in all things, the experience of directly impacted people is essential. Other public education strategies have included workshops around legislative advocacy (understanding the process, how to contact legislators) and speaking engagements with other community-based organizations, such as those focused on harm-reduction efforts.

Sources

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