



THE FLORIDA COMMISSION ON OFFENDER REVIEW

SERVING THE CITIZENS OF FLORIDA SINCE 1941

Monthly Accomplishments Report – September 2015

Chair's Message

Tena M. Pate

As the seasons transitioned, the Commission began planning for the upcoming 2016 Legislative Session with the legislature holding the first of six committee weeks scheduled throughout the next four months. The Commission presented its 2016-17 budget request to the House Justice Appropriations Subcommittee and supplied a brief overview of the agency for new and returning committee members. In addition to the Commission's base budget, the request also included funding to support needed updates of our informational technology resources and funds for the Victim Offender Dialogue (VOD) program. Funding requests must first be approved by the members of the legislature and receive final approval from the governor.

The Commission was able to share best practices at the recent Association of Paroling Authorities International's (APAI) committee chairperson mentoring meeting in Denver, Colorado this month. As Commission Chair, APAI President-elect and immediate-past crime victims committee chair, I was invited to participate and provide input and guidance to both new and seasoned committee chairpersons in the development and planning stages of the organization's upcoming projects. I was also asked to share some of the successful evidence based practices we have implemented in our state. Opportunities to participate in training sessions such as these allow the Commission to stay abreast of current trends in criminal justice and continue to contribute to the parole and public safety industry.

The Board of Executive Clemency, comprised of the Governor and Cabinet, held its third quarterly clemency hearing of the year on the final day of September. For the second time, Commission staff successfully utilized the clemency software program created to access clemency case files digitally. The software was first used at the June hearing and eliminates the need to transport paper cases to and from the hearings. A total of eighty cases were investigated and placed before the Clemency Board for consideration.

In closing, one of the Commission's state agency partners in public safety, the Department of Corrections, released an update this month on the important steps they've taken toward reforming, improving and modernizing the agency since the beginning of the year. These changes include a name transition to the Florida Department of Corrections (FDC), a new logo, a new set of core values, and new vision and mission statements. The Commission supports the agency in their improvement efforts and looks forward to continuing the collaboration and partnership we currently enjoy with the FDC to provide outstanding service to the citizens of our state. I invite you to continue reading this report to learn more about the Commission's accomplishments during the month of September.

Respectfully,

Tena M. Pate, Chair

Division of Operations

The Division of Operations is comprised of four sections: Revocations; Victims' Services; Office of the Commission Clerk; and Field Services. Twelve field offices are divided into five regional areas across the state. Operations is responsible for multiple, diverse functions relating to the administration of post-prison supervisory release programs. These supervised release programs include parole, conditional release, conditional medical release, addiction recovery, and control release supervision. The Division, through its Field Services' staff, conducts administrative hearings for violations of supervision, as well as clemency investigations for the Board of Executive Clemency.

The Division of Operations continues to move forward at a rapid pace and September was no exception, starting with a demonstration by Marquis Software of the Electronic Offender Management Information System (eOMIS), where we saw firsthand the latest, greatest program for inmate and offender tracking, docketing, etc. Marquis Software is the same company that created OBIS in 1981 and only produces corrections software. The presentation gave us great ideas about how to improve our own Commission Management System.

Internally, we've updated or created a number of procedure directives on subjects including Notices to Appear, Docketing and Redocketing, and Witness Subpoenas. We are continuing to respond to audit questions and anticipate the Auditor General's preliminary report sometime during the holidays. Kim Dickey, Kristin Lambert and Paula Bryant have updated our CDC Codebook and expect it to be available online within a week or two.

We have moved on to the next stage of APAI Training Conference planning and have begun reaching out to potential presenters, with a lot of positive responses. Our monthly APAI Planning and Programming Committee conference calls yielded many good ideas which we are exploring and implementing.

Our October out-of-town hearing will be in Broward County and we look forward to working with FCOR Region IV staff, the City of Ft. Lauderdale host team, DJJ and FDLE to make this as successful and productive as our last out-of-town hearing in August.

Accomplishments: September 2015

Office of the Commission Clerk

The number of cases docketed included: 837

- Parole – 74 (0 granted, 0 denied)
- Conditional Medical -7 (3 granted, 4 denied, 0 deceased prior to the vote)
- Conditional Release - 663
- Addiction Recovery Supervision - 93

Revocations

- Warrants Issued - 224
- Cases Reviewed and Prepared for Docket - 139*

**Includes parole, conditional release, addiction recovery release, and conditional medical release and control release cases.*

Victims' Services

- Victims' requests for information on parole, conditional release, and conditional medical cases - 212
- Victims located - 59
- Status updates to victims on parole, conditional medical and clemency cases – 203
- Assisted victims who attended parole or clemency hearings - 36

Field Services

Field Services' Statewide Activity Totals / Monthly Interviews and Hearings Conducted:

- Parole Interviews - 45
- Revocation Interviews - 243
- Revocation Hearings - 67
- Total Interviews and Hearings for the Month - 355

| REGION | I | II | III | IV | V |
|-----------------------------------|---|--|--|--|--|
| COURTESY INTERSTATE COMPACT TASKS | 3 | 4 | 5 | 1 | 6 |
| PENDING CLEMENCY CASES | With Hearing: 420 W/o a Hearing: 6 Total Cases: 426 | With Hearing: 793 W/o a Hearing: 11 Total Cases: 804 | With Hearing: 806 W/o a Hearing: 20 Total Cases: 826 | With Hearing: 1,603 W/o a Hearing: 26 Total Cases: 1,629 | With Hearing: 1,054 W/o a Hearing: 12 Total Cases: 1,066 |

Division of Administration

The Division of Administration provides administrative support to the Commission's Central Office and 12 field offices. Administration includes Human Resources, Finance and Accounting, Purchasing, Safety, Grants, Contracts, Inventory, Emergency Management and General Services.

Accomplishments: September 2015

- FCOR achieved 100% prompt payment compliance.
- Submitted 18 requisitions, 42 Security request, 7 revisions to the website, 98 invoices, 105 inner office requests, 6 work orders and made 33 deliveries.
- Assisted with the Newsletter
- Revised Procedure Directives
- Conducted Attractive Property Inventory
- Prepared Safety article for new letter and distributed Wellness information
- Attended the 360 Training Classes
- Drafted and submitted the agency LBR
- Revised and distributed FCOR Employee Handbook
- Submitted Bonus Plan to OPB
- Completed FCHR Survey
- Hosted Capital Insurance site visit
- Reviewed documents for the LRPP

Office of General Counsel

The Office of the General Counsel is charged with successfully prevailing on litigation filed against the Commission; providing quality legal advice and representation in a prompt manner; and engaging in proactive legal counseling to prevent unnecessary litigation in the future.

Accomplishments: September 2015

- Since the last summary on August 24, 2015 we have completed **16** court actions (including responses, briefs and motions).
- Recent litigation trends:
 - The imposition of conditional release supervision and its constitutionality seems to be making the rounds again. Many are re-raising the arguments that their sentences are complete once they are released from incarceration and the courts never ordered supervision to follow. In these arguments are also the challenges to certain conditions of supervision. These issues have been resolved long ago, however, and such arguments are rejected swiftly by the courts.
 - We continue to see developing arguments challenging the “reasons and record support” for the Commission’s PPRD/EPRD actions. These arguments will continue to seep into other corners of any parole actions until it has run its course. If a Commission action is not clear and the inmate cannot understand the action that the Commission took, then such challenges will continue.
- I have attached five orders this month. We had so many good ones that I had trouble narrowing it down. Attached orders include:
 - For our clemency people (we don’t want you to feel left out) - **Hernandez v. Office of Executive Clemency**: In this case the incarcerated petitioner was challenging how the Office of Executive Clemency interpreted the Rules to find that he was not eligible to apply for a commutation. The court declined to intervene in the matter finding it was without such jurisdiction and the petitioner did not establish that there was a failure to perform a required ministerial duty on the part of the Office.
 - **Anekey v. Department, Et Al.**: This revoked conditional releasee argued to the court that even though the Commission issued a warrant prior to the end of his term of supervision, that the Commission lost jurisdiction over him at the end date and could not take any actions after that date. The court soundly rejected this argument finding that the case law is clear that the issuance of the warrant within the term, for violations occurring within the term, stops the time.
 - **Kersey v. Commission**: In this short opinion, the court accepted that petitions seeking declaratory judgment relief (usually used for inmate challenges to our rules) may be dismissed as untimely if filed four years after the action. Specifically in this case, the argument was to how the rules are applied to allow the Commission to assess aggravators in setting an initial PPRD. This particular inmate’s PPRD was set in September 2010. He filed his instant petition 4 years and 10 months later. Therefore, it was considered time barred.
 - **Swain v. Pate**: This is a long case, but worth the read. The initial arguments stated that the Commission failed to state its specific record support for the reason of “lack of program participation” for the continued suspension of his PPRD, evidencing that the Commission did not review the entire DOC record. The court found the Commission’s statement, after remand, to be of sufficient specificity to meet its obligation. His next arguments focus on the Commission’s continued suspension reason of the serious nature of the offense. The court maintained the long-held case law that the Commission may continue to deny parole for “old information” like the serious nature of the offense. The court then considered and denied each of his other challenges, including: consideration of a state attorney letter, consideration of a victim’s letter, use of mental health information, release of another inmate with the same crime and not him, the reasons for the extended subsequent interview date, and various additional concerns.
 - **Blue v. Commission**: In this case the inmate contended that the Commission was obligated to reassess his initial PPRD, completed in 1983, based on a change/correction in 2011 to his original sentencing. The court initially held that the challenge was time barred since the petition was filed more than 1 year after the 2011 sentencing correction. It then also held that the challenge was without merit since the sentence correction did not significantly affect his overall sentencing, the importance of the initial 1983 PPRD deteriorated with each subsequent review, and there was no violation of any rule by the Commission.

- Mark and I also had the privilege to attend a lecture at FSU Law School presented by Attorney Fred Gray who was instrumental in the civil rights movement. He discussed the paths he took as an attorney for cases he received from the NAACP and briefly talked about what he sees as continuing challenges for the young upcoming law students in the civil rights field.

Office of Legislative Affairs

The Office of Legislative Affairs is charged with overseeing the Commission's legislative program as the agency's chief legislative advocate.

Accomplishments: September 2015

- Presented legislative budget requests (LBR) for the 2016 Session to the House Appropriations Subcommittee on Civil and Criminal Justice.
- Attended Executive Office of the Governor Legislative Affairs Director's Meetings.
- Conducted ongoing legislative constituent relations regarding various Commission functions.
- Prepared and present the Legislative Affairs Education Course

Office of Communications

The Office of Communications is charged with overseeing the agency's communications and public information program.

Accomplishments: September 2015

- Designed and finalized 2016-17 Long Range Program Plan (LRPP) for distribution.
- Created and distributed September Employee Newsletter.
- Continued building connections with possible Crime Prevention Initiative partners including school board members and Leon County Sheriff's Office.
- Met with Rebecca Green and Tim Jacques with the Florida Department of Correction's IT to further discuss layout, design and deadline for FCOR Intranet site.
- Determined necessary equipment and programs needed for potential in-house video production capabilities.
- Provided press materials and media relations for the September 30th Executive Clemency Board Meeting.

Office of Executive Clemency

The Office of Executive Clemency (OEC) reports directly to the Governor and Cabinet who sit as the Clemency Board in the performance of their duties and responsibilities. This office is responsible for coordinating all clemency meetings, referring applications for investigation and serves as the official custodian of all clemency records.

Accomplishments: September 2015

- Clemency experienced another successful clemency meeting on September 30, 2015. There were 12 pardons and 20 Restoration of Civil Rights cases granted by the Clemency Board. Eighty cases were heard with a total of 81 individuals appearing presenting as applicants, friends, family, victims and those in opposition. Notifications will now be processed and forwarded to the applicants regarding the outcome of the meeting.

Webpage Statistics

- <https://FCOR.state.fl.us> has received **7,340,669** hits with **1,132,291** searches for Restoration of Civil Rights (RCR) grants.
- **130,794** names were located and **79,058** certificates have been printed.
- Currently **376,671** RCR certificates are available for printing through the www.FLrestoremyrights.com

Office of Clemency Investigations

The Office of Clemency Investigations is charged with investigating, reviewing, evaluating, and reporting to the Clemency Board in all types of clemency cases, including, but not limited to, the restoration of civil rights, restoration of alien status under Florida law, full pardons, firearm authority, commutations of sentence, remission of fines, and capital punishment cases.

Accomplishments: September 2015

- On September 1, 2015, Slade Walker, OPS Clerk, transferred to our office from the Office of Executive Clemency.
- On September 10, 2015, training provided to the Regional Administrators and Supervisors during a conference call to include procedures related to clemency investigations.
- On September 24, 2015, the Offices of Executive Clemency and Clemency Investigations held a joint meeting to share information and exchange ideas between the two offices. Pete Murray, Legislative Affairs Director gave a presentation on an overview of the legislative and bill process.
- On September 30, 2015, the Governor and Cabinet, sitting collectively as the Clemency Board, held its third quarterly Clemency Board Meeting. The Commission completed and submitted 80 in-depth clemency investigations for consideration by the Board. The Chair provided detailed information related to the Confidential Case Analyses and processes to the Board Members in response to their inquiries. In addition, this office researched the specific reasons why the 47 RCR applicants were requesting their rights. Several applicants indicated multiple reasons in their statements, and the following information is a brief summary of what our research revealed:
 - 91% of the applicants specifically indicated that they were interested in regaining their right to vote, sit on a jury or hold public office.
 - 30% of the applicants specifically indicated that they were interested in obtaining their civil rights to help them with employment, ranging from specific licenses or occupations to general job opportunities.
 - 4% of the applicants did not provide any specific reason for requesting their civil rights.
 - In addition, 26% of the applicants voted in an election without having their civil rights restored.