

# Pathways to Pardons



Lt. Governor Mike Stack, Chairman  
Mavis Nimoh, Secretary



John E. Wetzel, Secretary  
Steve Burk, Interagency Liaison



# Pathways to Pardons

The Office of Lieutenant Governor, PA Board of Pardons, and the PA Department of Drug and Alcohol Programs teamed up to create **Pathways to Pardons** in collaboration with PRO.A, PA Department of Corrections, PA Probation and Parole, Lawyers for Social Equity and many stakeholders throughout Pennsylvania.

# Pathways to Pardons

## What is clemency?

- Clemency can be defined as mercy, especially to moderate the severity of punishment.

Clemency is generally broken down into two categories: **Pardons** and **Commutations**

# Pathways to Pardons

## The Board of Pardons Function

- Reviews applications for clemency of felony and misdemeanor convictions to determine whether an individual should be recommended to the Governor, who will then grant or deny the recommendation.
- The Governor is prohibited from bypassing normal procedure and granting clemency on the basis of special circumstances.
- He can grant clemency only upon a favorable recommendation by the Board of Pardons. The Governor may accept or reject the recommendation of the Board of Pardons.



# Pathways to Pardons

Board of Pardons-The Board of Pardons is made up of five members:

- Lieutenant Governor- Michael J. Stack (Chairman)
- Attorney General- Josh Shapiro
- Corrections Expert- Harris Gubernick
- Psychiatrist- John P. Williams, MD
- Victim Representative- Marsha H. Grayson, Esquire

# Pathways to Pardons

## Pardons

A pardon relieves an individual of the consequences, generally in the nature of legal disabilities, resulting from conviction for a crime. A pardon constitutes total **forgiveness** by the state. A pardon does not remove, clear, or expunge a conviction, but it allows a person to petition the court for expungement. It allows a job applicant for example to deny she/he was ever convicted of the crime. It is recommended that such a denial be explained based on the existence of a pardon from the Governor.

- Board does not decide innocence or guilt.



# Pathways to Pardons

## Some of the rights and privileges restored after a pardon

- Serving on a jury
- Holding public office
- Owning and carrying a firearm
- Service in the military
- International travel
- Employment in varying fields i.e. nursing, education, security, legal, etc.



# Pathways Pardons

## How to complete an application

- You can go to [www.bop.pa.gov](http://www.bop.pa.gov) and print an application from BOP website.
- You can request an application by mail by writing to the BOP.
- \$8.00 application fee.
- Letter sent when application is 'filed'.
- \$25.00 filing fee- must be a money order or cashier's check
- In forma pauperis- Form applicant requests from BOP to request fee waiver.
- Takes approx. 3 years for review of application from the date it is filed. New changes may lower that timeframe.





# Pathways to Pardons

Lt. Governor Mike Stack's actions to reduce pardons review time by 50%:

1. Added a fifth merit review and public hearing
2. Increased the number of cases merit reviewed by 50% to 150 cases per review
3. Staffing – Permanent and Temporary
4. GO TIME CPI Study
5. Collaboration with Probation and Parole and DOC
6. Online Applications
7. Student Volunteers



# Pathways to Pardons

## DOCUMENTS NEEDED FOR APPLICATION

### **If handled by the Court of Common Pleas:**

- Criminal Complaint
- Affidavit of Probable Cause
- Criminal Information/Indictment
- Final Plea or Verdict
- Disposition/Sentencing Order
- Proof of payment of fines, costs and/or restitution

### **If handled by a Magisterial District Judge:**

- Citation or Criminal Complaint and Affidavit of Probable Cause
- Disposition/Sentencing Order
- Proof of payment of fines, costs and/or restitution

### **Other Required Documents:**

- Access & Review Criminal History Record from the Pennsylvania State Police
- Full or Certified Driving Record
- Original Application & 5 Copies
- Filing Fee of \$25.00 (money order, cashier's/certified check) made payable to the Commonwealth of PA.
- 1 color passport size picture

# Pathways to Pardons

## Procedure

The Board of Pardons sends copies of your application to the following:

- Board of Probation and Parole
- Department of Corrections, if applicable
- District Attorney, sentencing Judge/President Judge, sentencing Magisterial District Judge/current Magisterial District Judge in the county where the crime occurred.
- When applicable, victims are notified of filed applications.



# Pathways to Pardons

## Procedure

Probation and Parole agents conduct investigations on behalf of the Board of Pardons.

Probation and Parole Inquiry includes:

- Residence
- Marital Status and Family Composition
- Employment
- Resources
- Liabilities and Indebtedness
- Membership in organizations and/or other volunteer activities
- Military experience
- Community reputation



# Pathways to Pardons

## Procedure

### **\*\*\*NOTICE\*\*\***

Before submitting your application, please be sure that you are willing to make yourself available to the investigating agent. The Board determines these requirements and you must adhere to them. Failure to make yourself available to the agent and provide the requested information will result in your application being administratively withdrawn.



# Pathways to Pardons

## Procedure

**Merit Review** - Once reports are received from the investigation, the Board of Pardons votes to determine if an application will be granted a public hearing.

## Public Hearing

- The Board will grant a hearing if two (2) of the five Board members approve. Hearings for lifers or prisoners serving time for crimes of violence may only be granted upon approval of three (3) Board members. Attempted crimes of violence while in visible possession of a firearm, for which sentencing was imposed, will require a three (3) member vote. If the required number of votes are not obtained, the process ended and the applicant will not receive a recommendation for a pardon or commutation.
- Hearings are held in the Supreme Court Courtroom in Harrisburg.
- Applicants must present; others may speak in support of the applicant.
- Victims have the opportunity to oppose any application.

# Pathways to Pardons

## Some factors that the BOP weighs in their decision making...

- How much time has elapsed since the date of conviction?
- Has the applicant complied with all court requirements, i.e. drug and alcohol evaluation and/or treatment, mental health evaluation and/or treatment; anger management etc.
- Has the applicant made positive changes to his/her life since the offense(s), i.e. education, volunteer work, other contributions etc.
- What is the specific need for clemency?
- What is the impact on the victim(s) of the offense(s)?
- Is the applicant remorseful?



# Pathways to Pardons

## Denial of a Hearing/or Recommendation

**Reconsideration** - A request for reconsideration of any decision may be made to the Board. The applicant must show a change in circumstances since the application was filed, or other compelling reasons, sufficient to justify reconsideration. Dissatisfaction with the Board's decision is not grounds to request reconsideration.

**Reapplication** – An application may not be filed before the expiration of 12 months from the Board's "no" vote in a merit review or public hearing. If an application receives two consecutive "no" votes, an application may not be filed again until 24 months has passed from the last "no" vote.





# Pathways to Pardons

## Common Questions

### **Will my record be cleared if I am given a pardon?**

*No, a pardon does not remove or clear your record, but it makes it possible to have your record expunged.*

### **How can I get my record cleared?**

*The only way to remove the pardoned conviction is to file a petition for expungement in the court where the conviction occurred.*

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# Pathways to Pardons

**If I am denied a public hearing or denied a recommendation to the Governor, will the Board of Pardons provide me with an explanation for the denial?**

*No. The Board of Pardons does not provide verbal and/or written explanation for a denial of a public hearing or denial of a recommendation to the Governor. The Board of Pardons reviews applications on a case-by-case basis to determine if clemency is appropriate. Neither the Pennsylvania Constitution nor the laws and regulations governing the Board establish a specific list of factors that the Board must consider in evaluating applications. As a result, each of the five Board members is free to rely upon the information that he or she feels is most important both in deciding to grant a public hearing and in deciding to recommend clemency to the Governor.*



# Board of Pardons

## Commutations

- A commutation is for the reduction of a prison sentence currently being served by an applicant. Inmates serving life sentences must apply for commutation, as a commutation is the only means of release for people serving life sentences in Pennsylvania. \*
- Indeterminate sentenced inmates may apply for commutation of their min and/or max sentence, but generally parole is more appropriate.

\*Individuals who received life sentences for crimes committed while they were juveniles, who may now have the opportunity to be re-sentenced to a lesser amount of time.

**Approximately 15% of clemency applications are for commutation of sentences**



# **Monthly Institutional Profile**

## **As of January 31, 2017**

### **Pa. Department Of Corrections Inmate Population**

- **Population total 47,612**
- **25 Correctional Institutions and Quehanna Boot Camp**
  - **Female Prisons – Muncy, 1418 and Cambridge Springs, 1178,**
- **14 Community Corrections Facilities and 40 Contract Facilities, Reenterants-1017,**
- **Approximately 16,000 Staff Members**
- **Total Lifer population 5,476**
- **Capital Cases- 173**
- **Average Sentence Length**
  - **maximum sentence-16 years**
  - **minimum sentence- 7 years**
- **Average Age- 38**

# Statistics

- Approximately 70% of offenders have an Substance Use Disorder
- Approximately 35,700 offenders have a Substance Use Disorder
- The Department has 41 Therapeutic Community Treatment Programs
- The Department averages 288 Outpatient sessions a week
- Primary ages of offenders in SUD treatment are 16 to 27 years of age (35%-46%) and 28 to 35 years of age (25%-29%)



# Incarcerated Veterans

- Approximately 4848 Veterans are under either DOC or PBPP supervision.
- The DOC has a Statewide Veterans Coordinator, as well as Facility Veterans Coordinator's at each institution to help identify and assist inmate Veterans with obtaining Veteran Services and support. Together, we are committed to preparing incarcerated Veterans for successful reentry back into society.
- Once an Inmate Veteran is identified during reception, he/she is provided an Inmate Veteran Information Packet. This packet contains pertinent information regarding benefits and services offered by the DOC. In addition, each packet contains applications for a DD-214 (SF180) as well as enrollment for VA health benefits (10-10EZ)
- The DOC has established (3) regional Veterans Service Units (VSU) designed to prepare Veterans for successful transition back into the community.
- These units provide Veteran specific programs and services to include acquiring a DD214, forms of identification, life skills, substance abuse, home/employment plans, Veteran specific workshops, education/vocational programs, M.H. services (to include PTSD) and assistance with VA benefits and services. VSU staff consists of a Unit Management Team, Facility Veterans Coordinator, Psychological Services Specialist, Re-entry Parole Agent and a Social Worker.

# Attention Incarcerated Veterans!



- Are you an incarcerated veteran with verified military service?
- Are you 12-36 months from your minimum or release?
- Are you interested in being on an **all** veteran transitional housing unit specifically designed for veterans?
- Are you interested in obtaining all of your entitled VA benefits as well as your DD-214, PA I.D. Card, Birth Certificate and Social Security Card?
- Are you interested in learning more about the American Legion, Vietnam Veterans of America, the VFW and other veteran service organizations?
- Are you willing to participate in various re-entry workshops specifically oriented towards veterans' needs and services as you transition back into society?
- Are you a long-term incarcerated veteran looking for an opportunity to contribute to the veteran community as a peer facilitator?
- The Department of Corrections currently offers VSU's (Veterans Service Units) in each region. If you are an incarcerated veteran who meets the minimum criteria and wants to **volunteer** for the VSU, please contact your Unit Management Team and your Facility Veterans Coordinator for additional information.

# Department Of Corrections

## Representation

Confined Applicants serving Pa. sentences

- County
- State
- Federal
- ICE-Deportation Cases
- Inter-State Transfers
- Confined Applications Processed
- 2015-34 Applications
- 2016-96 Applications processed to date
- Governor Wolf commuted 2 lifers during his Administration
- 2 Lifer Applications are pending his review



# Commutation Filing

- Commutation Categories

Applicants can apply to the Governor to commute death sentence to life imprisonment

commute life imprisonment to life on parole

commute my minimum sentence

commute my maximum sentence

grant me a pardon



# Board of Pardons

## Process-Incarcerated

- The notification to the Superintendent begins the staffing process and completion of the Commutation Summary Packet.
- Conduct, academic, vocational work, religion, medical, counseling, psychological and psychiatric reports are prepared.
- The staff, specifically the Superintendent, recommends for or against clemency based on the merits of the application and the findings of the reports.
- The reports and recommendations are sent to the Bureau of Treatment Services for additional recommendations. Completed reports and recommendations are forwarded to the Board.
- Pa. Board Of Probation and Parole complete a Summary Investigative Report for the Board Of Pardons.

# Board of Pardons

## **Personal interview with The Board Members:**

- Applicants are typically interviewed at SCI-Camp Hill by Board.
- 30 minutes scheduled interview.
- Applicant and representative answer questions from Board.

## **If the Board Recommends Clemency:**

- If the applicant receives the required majority or unanimous votes, the application and written recommendation goes to the Governor's Counsel for further investigation and then to the Governor for final decision.
- Legislative Act 16 of 1995, defines the procedures regarding the placement of a COMMUTED Life Offender in Community Corrections.

# Board of Pardons

- Recommendations from the Board and the Warrant of Commutation from the Governor states applicants for commutation of Murder, Voluntary Manslaughter and attempts to commit Murder or Voluntary Manslaughter must serve at least one year in a Community Corrections Center, unless the applicant is certified terminally ill, before becoming eligible for parole.
- Once parole is granted, the applicant will serve life on parole and be interviewed weekly for the first six months.
- Capital cases applying for commutation within 10 days after receiving a warrant of execution will be interviewed and receive a public hearing by the Board of Pardons prior to the date set for the week of execution.

# Commutation Executive Review Criteria

Some factors that the DOC weighs in their decision making...

1. Years served along with the sentence structure; number of applications filed
2. Number of State commitments – criminal history – type of prior offenses: assaultive, property, drug-related and sexual
3. Institutional adjustment – most recent misconduct activity and period of time misconduct-free – work and housing evaluations
4. Educational programming, Vocational Programming, higher education involvement, transferable vocational accomplishments – completion of standardized programming and programming of this type yet to complete
5. Assessment Testing – LSI-R, RST, CSS-M, OVRT, and TCU

# Commutation Executive Review Criteria Continued

6. Release Planning – Re-entry (home and job plans) very important
7. Level of remorse, 4 levels of victim empathy and responsibility for his or her actions
8. Change in the Applicant's values (development of pro-social values) Positive Role Model/Mentor, Community Outreach, Peer Support/Tutor, Religious participation
9. Institutional Endorsement/Support and rationale
10. Merits of the application
11. Public Safety risk, potential for relapse and recidivism to commit future criminal acts

# Penn Inmate Project

- Dr. Brown from the University Of Pa. coordinates this project.
- Students from University Of Pa.
- Assists Applicants in processing/enhancing Applications
- Meritorious cases referred by DOC only
- Institutional Visits plus Video-Conference
- Letter Of Understanding, (LOU)

# Pathways to Pardons

Mike Lee Esq. PLSE

## Relief from criminal history record information

Note: this information does not include the Post-Conviction Relief Act, appeals, and other forms of relief for active cases.





# Pathways to Pardons

## What is a Limited Access order?

- Created to reduce recidivism, relieve the pardon system, and provide ex-offenders greater opportunity to join the workforce.
- More about restricting dissemination than destroying a record.
- A court or the Administrative Office of Pennsylvania Courts **may not** disseminate to an individual, a noncriminal justice agency or an Internet website any information relating to a conviction, arrest, indictment or other information leading to a conviction, arrest, indictment or other information, which is the subject of a court order for limited access as provided in section 9122.1.

# Pathways to Pardons

## Limited Access Orders

Pennsylvania's newest form of relief

- person who has been free of arrest or prosecution following conviction for a period of 10 years from final release of confinement or supervision,
- the court of common pleas in the jurisdiction where the conviction occurred may enter an order that criminal history record information maintained by any criminal justice agency pertaining to a
  - conviction for a misdemeanor of the second degree,
  - a misdemeanor of the third degree or
  - an ungraded offense which carries a maximum penalty of no more than two years
- be disseminated only to a criminal justice agency or a government agency as provided in section 9121 (b.1) and (b.2) (relating to general regulations).

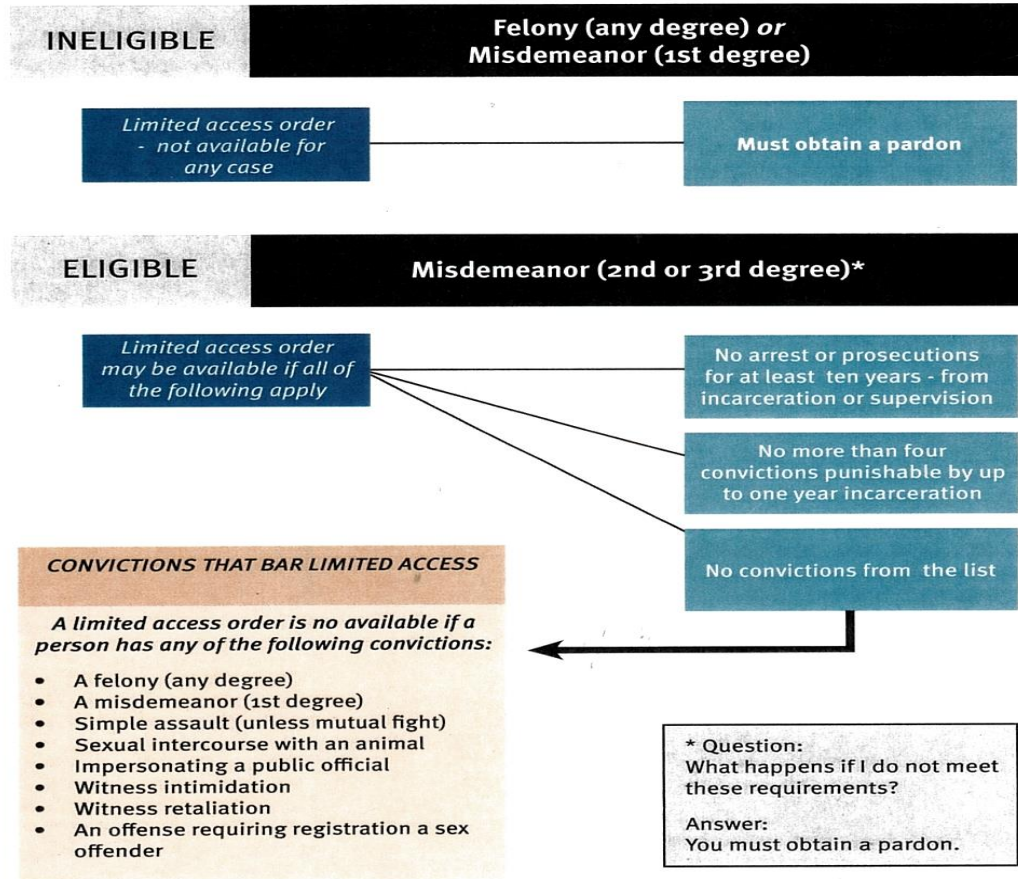
# Pathways to Pardons

## Convictions that bar limited access eligibility

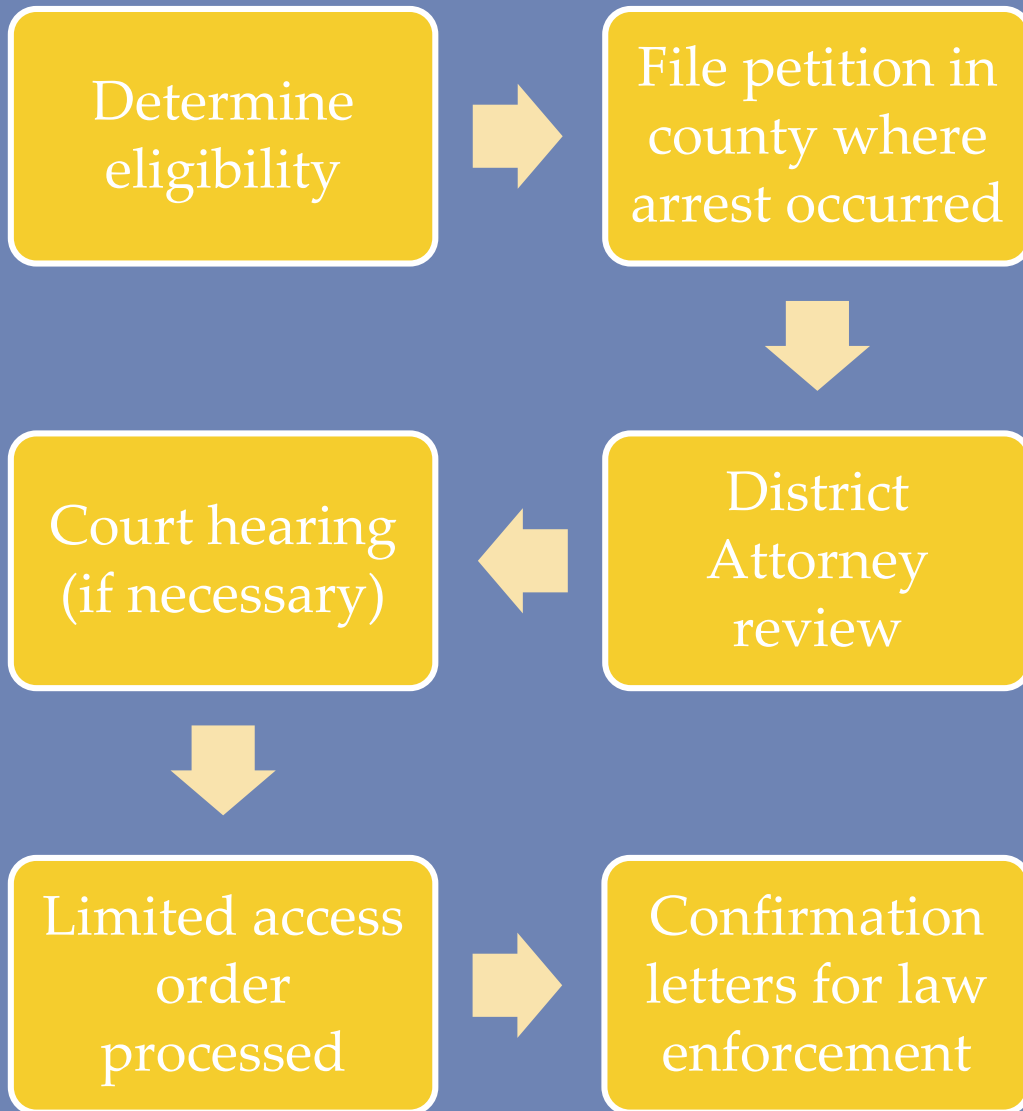
- An individual who has been convicted at any time of any of the following is ineligible to have a limited access order
  - 1) An offense punishable by imprisonment of more than two years.
  - 2) Four or more offenses punishable by imprisonment of one or more years.
  - 3) A violation of section 2701 (relating to simple assault), except when the offense is graded as a misdemeanor of the third degree.
  - 4) A violation of section 3129 (relating to sexual intercourse with animal).
  - 5) A violation of section 4912 (relating to impersonating a public servant).
  - 6) A violation of section 4952 (relating to intimidation of witnesses or victims).
  - 7) A violation of section 4953 (relating to retaliation against witness, victim or party).
  - 8) A violation of section 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).
  - 9) An offense which requires registration under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

# LIMITED ACCESS OF CRIMINAL RECORDS IN PENNSYLVANIA

*A limited access order removes a conviction from public view, and restricts access to law enforcement and state licensing agencies*



**For Educational Purposes Only.** Consult PLSE or an attorney with specific questions about limited access orders.



# Limited Access Orders procedure

# Pathways to Pardons

**SOME CRIMINAL RECORDS CAN BE FULLY EXPUNGED**, including:

- Non-conviction charges (charge was dismissed, withdrawn, nolle prossed, not guilty, etc.).
- ARD/Section 17 if you complete the program and pay the fine.
- Summary convictions if you have a five-year arrest free period since the conviction.
- Any conviction if you are 70+ years old and have a ten-year arrest free period since the conviction(s).




# Pathways to Pardons

## Expungement

**Information** regarding your case(s) and offenses to include the Offense Tracking Number (OTN) can be found on the case docket sheets available at the PA Unified Judicial System's website at <http://ujportal.pacourts.us/> . See "Reference Guides" on the menu bar located on the left side of the screen for information on how to navigate to both the Magisterial District and Common Pleas Court case docket sheets.

**\*NOTE - By law, expungements of criminal offenses (misdemeanors/felonies) may only be considered for expungement if the charges were either dismissed, withdrawn, nolle prossed, found not guilty. The ONLY exception a guilty disposition may be considered, by law, is if the defendant is 70 years of age or older and has not committed any new offenses in the past ten years following any period of incarceration or is deceased.**



# Pathways to Pardons

**Questions?**

