

TESTIMONY BEFORE
THE HOUSE JUDICIARY COMMITTEE
FEBRUARY 18, 1993
BY
JOHN A. LORD, SECRETARY
BOARD OF PARDONS

Chairman Caltagirone, members of the Committee, thank you for asking me here today. I am pleased to share with you some of the duties and responsibilities of the Pardons Board.

The membership of the Board of Pardons is specified in Article IV Section 9 of the Pennsylvania Constitution. The Lt. Governor serves as Chairman and the Attorney General is a member. The three other members are appointed by the Governor and subject to Senate confirmation. One must be a member of the bar, one must be a penologist and one must be a medical doctor a psychiatrist or psychologist.

Prior to the Constitution of 1874, the governor had exclusive pardoning power. From 1874 to the enactment of the 1967 constitution, any pardon issued by the governor first needed to be recommended by at least three members of the Pardons Board which included the Lt. Governor, the Attorney General, the Secretary of the Commonwealth and the Secretary of Internal Affairs.

Today, at least three of the five member Board must vote in favor of an application for it to be recommended to the Governor.

The Board can recommend clemency in five ways.

They can recommend that a death sentence be commuted to life imprisonment. They can recommend that a life sentence be commuted to a prescribed minimum sentence. They can recommend that a maximum sentence be commuted. They can recommend that a minimum sentence be commuted. And they can recommend a pardon.

The majority of applications we receive are either for a commutation of a life sentence or for a pardon.

The entire process from the time an applicant files, to the time it is either granted or denied by the governor usually takes between 10 and 14 months.

To be considered for clemency an applicant must file an official application, which they can get from us for \$4.00. Once it is received by us with a \$20.00 filing fee, the application is reviewed by our staff to ensure that all questions have been answered. Copies are sent to the Board of Probation and Parole, the sentencing judge, and to the district attorney of the county where the crime was committed. When an applicant is incarcerated, we also send the Department of Corrections a copy of the application.

The Board of Probation and Parole conducts a background investigation on the applicant, which takes about three to four months. During this time we usually receive the comments from the sentencing court and the district attorney.

Once all of the necessary information is received, the case is listed for Merit Review by the Members of the Board. If two of the five Board Members vote to hear a case, it will be listed for the next month's hearing. About half of the

applications are approved for a hearing.

Our office will then notify the victim or the victim's family of the hearing. Victims are invited to attend the hearing and are offered an opportunity to place written comments into the record.

At the hearings, the applicant (or the applicant's authorized representative) offers the reasons why clemency should be recommended. After the presentation and questions from the Board Members, the district attorney and the victim (or the victim's family) are given the opportunity to present their views on the case.

The Board votes in public session. If the application receives the necessary three votes, it is recommended to the Governor. The Governor is not required to act on the recommendation within a given time period. However most cases are returned to us about six months after they are sent to the Governor's Office.

To best understand the functions of the Board of Pardons, it is important to know that we hear a broad range of cases. We get everything from Retail Theft to First Degree Murder. In each case the board members take their responsibility very seriously. The members take the time to thoroughly review all aspects of the case. Some of the factors they consider include: the facts of crime, the original sentence imposed, the degree of demonstrated remorse, the likelihood of the crime being repeated, and the positions of the court, district attorney and the victim. If the applicant is currently in prison, the Board also considers the

position of the institutional staff and the Commissioner of Corrections.

Incarcerated applicants are not permitted to appear before the Board, but they are provided with a representative by the Department of Corrections. Non-incarcerated applicants are required to appear.

There is one problem which I would like to share with the Judiciary Committee. We are getting an increasing number of applications for multiple driving violations. Many of these cases involve violations which are over ten years old and were committed when the applicant was a teenager or in his early twenties. I have seen cases where the violations have piled up to where the driver's license has been suspended until the year 2007, 2011 and 2014.

Many of the driving violation applicants seem to have turned their lives around and seem to deserve a hearing. But the board is reluctant to hear such cases because of the numbers of suspended licenses and because the Board of Pardons does not seem to be the correct agency for review of traffic offenses. It is the position of the Board of Pardons that clemency from the governor, requiring his personal attention and his direct action, is not appropriate for most suspended license cases.

Also, the cost of processing drivers cases far exceeds any other type of clemency application, including commutation of a life sentence. Because habitual driving offenders usually have violations in numerous municipalities, and often in different counties, we must initiate contact with many more courts and district attorneys than with other cases. Also, the Board of

Probation and Parole, which is already overburdened in at least one county, must conduct a complete background investigation into these cases. In their report they must include information on employment, education and family history as well as findings on the applicant's community reputation and financial situation. This work is costly and time consuming.

The members of the board sympathize with people who have suffered great hardships because they have lost driving privileges. We have received applications from family wage earners who are about to lose their jobs and their homes because they need to drive for employment. One distraught applicant I spoke with mentioned suicide as his only option when he was denied a hearing.

Long-term license suspensions are a serious problem for many Pennsylvanians. The Department of Transportation has drafted legislation which would provide a process to review long-term suspensions and allow PennDOT to issue probationary licenses. This legislation would make a real difference in the lives for hundreds of Pennsylvanians. The Board of Pardons supports such a move and hopes that speedy action can be taken on this issue.

Another area which I understand that the members of the Judiciary Committee are concerned about is the battered woman syndrome. Lieutenant Governor Singel wanted me to convey to the Committee his deep concern on this issue. He also asked me to let you know that the Board of Pardons is open to any ideas you might have concerning our role in bringing justice to this unique class of crime victims.

In 1991, Governor William Shafer in Maryland granted

clemency to eight battered women. In Ohio, Governor Richard Celeste granted clemency for victims of domestic abuse to 26 women just before he left office. In Pennsylvania we have had only one application in recent years where abuse by a husband was a factor in an application. However, there has been a number of cases where the husband or boyfriend has killed his partner and then he has asked the Board for a commutation of his life sentence. I do not recall any of these cases being granted a hearing.

Another common type of application involves retail theft convictions. Although the first conviction for retail theft is only a summary offense, future arrests may result in more serious charges. Therefore, the conviction is entered on an individual's criminal history with the Pennsylvania State Police. Because a criminal record check is required before someone gets a job teaching children, many of the requests for pardon come from recent college graduates ready to begin their teaching careers.

We commonly hear that when these applicants appeared before the district magistrate, they were told that pleading guilty was just like paying a traffic ticket and that the record would be destroyed after a certain number of years. While the record at the magisterial level may have been destroyed, records are still kept by the State Police unless the individual is pardoned.

Another area of concern is the issue of granting inmates serving life sentences probation after a set number of years. Having spoken to many family members of victims of murder, I know that Pennsylvania's current policy of "life meaning life, unless commuted by the governor" brings these families great comfort.

Because executive clemency already provides the opportunity for a lifer to be considered for early release, there seems to be no need to change the current policy. The pardons process is by no means perfect, but for the purpose of reviewing commutation applications for lifers, it works well.

I have included some statistical information with the copies of my testimony. While the number of applicants has remained fairly constant the last two years, we anticipate an increase of lifers seeking commutations during the last two years of Governor Casey's second term. We also anticipate an increase in driving cases unless there is a change in the law.

Thank you again for allowing me to share with you the operation of the Pardons Board and some of our more pressing issues. I would be happy to answer any questions you have.

**BOARD OF PARDONS
STATISTICS FOR 1991 AND 1992**

	1991	1992
Merit Reviewed for Hearing.....	263	249
Granted Hearing.....	112 (43%)	119 (48%)
Denied Hearing.....	151 (57%)	130 (52%)
Total Cases Heard.....	137	123
Commutation of Life Sentence Recommended....	24	20
Pardons Recommended.....	57	69
Total Cases Recommended to Governor.....	93	97

As of January 26, 1993 there were 85 recommendations in the Governor's Office awaiting action and 81 applications on file in the Pardons Office being processed.

COMMONWEALTH OF PENNSYLVANIA



LIEUTENANT GOVERNOR'S OFFICE
BOARD OF PARDONS
333 MARKET STREET
HARRISBURG, PA 17126-0333

PHONE: (717) 787-2596

January 26, 1993

Mr. Mario Pirritano
Deputy Secretary for Safety Administration
1200 Transportation and Safety Building
Harrisburg, PA 17120

Dear Mr. Pirritano:

Enclosed is a copy of a letter I received from District Justice Gloria Morgan of Montgomery County concerning suspended driver's licenses. I believe Judge Morgan makes some compelling arguments in favor of the need to re-evaluate Pennsylvania's policy on long term driving suspensions.

As we have discussed, the Board of Pardons is quickly becoming overwhelmed by individuals seeking clemency by the Governor simply to get their driving privileges restored. The growing number of driving violation cases is severely hindering our ability to process the applications in a timely manner. The purpose of the Board is to make recommendations directly to the Governor on those rare cases which merit executive clemency. Because most of these cases deal with convictions for theft, assault, burglary, robbery and murder, the Pardons Board is required to follow detailed guidelines when processing each application. The sentencing court, district attorney, victim, and Board of Probation and Parole all must be notified in all cases. A detailed background investigation must be conducted and all relevant facts must be gathered for each application.

Because suspended driver's license cases often involve moving violations in multiple jurisdictions, the cost of notifying all individuals involved in these cases usually exceeds that of more serious crimes, including first degree murder. Also, the five member Board, which includes the Lieutenant Governor and Attorney General, rarely support hearing a driving violation case. Therefore, the Commonwealth is giving false hope to individuals seeking the Governor's pardon for suspended licenses.

page 2
Mr. Mario Pirritano
January 26, 1993

It is vital that a workable solution to this situation be found as soon as possible. I understand that the Department of Transportation is drafting legislation which will address the problem of long term suspensions. Please keep me informed of the progress of such legislation and let me know if this office can be of assistance.

Sincerely,

John A. Lord, Secretary
Board of Pardons

CC: Lt. Governor Singel
Enclosures



COMMONWEALTH OF PENNSYLVANIA
LIEUTENANT GOVERNOR'S OFFICE
HARRISBURG 17120-0002
717-787-3300

MARK S. SINGEL
LIEUTENANT GOVERNOR

November 5, 1992

RECEIVED

NOV 9 1992

BOARD OF PARDONS

Honorable J. Doyle Corman
Chairman
Senate Transportation Committee
9 East Wing, Main Capitol
Harrisburg, PA 17120

Dear Doyle:

As Chairman of the Board of Pardons, I face a continual stream of individuals seeking clemency for past wrongdoings. In my opinion, the Board has been firm but fair in dealing with the gamut of felony offenders ranging from shoplifters to rapists and murderers.

Increasingly, we are faced with individuals whose livelihoods are interrupted because of the strict provisions of Title 75 relating to suspension of operators' licenses. As you know, there are mandatory suspensions outlined in the law which are impossible for the Department of Transportation to circumvent. The Board of Pardons, being a constitutional entity, does have the right to pardon offenders and thereby clear the way for reinstatement of driving privileges. We have been hesitant to do so because (1) we believe in stiff penalties for offenses like drunken driving and driving under suspension and (2) the Pardons process is an exacting one that should not be used for every driver who has a gripe with the Department of Motor Vehicles.

Still, there are genuine hardship cases that should receive some consideration. Attached please find a letter I received recently that gives some idea of the disruption that a loss of driving privileges can have.

Here's my suggestion: Let us develop some legislative remedy that will allow the Secretary of Transportation to exercise discretion on a limited basis in these cases. Something as simple as "the Secretary of Transportation shall have the right to waive these 'mandatory suspension' restrictions if the health, safety, or livelihood of the offender is at risk."

Naturally, we should all be careful so that the waiver power is used very sparingly, but I do envision instances where it would be a necessary and reasonable remedy.

Honorable J. Doyle Corman
Page 2
November 5, 1992

I look forward to discussing this matter with you in Harrisburg soon.

With best wishes,

MARK S. SINGEL
Lieutenant Governor

MSS/jeb
Enclosure

cc: Honorable J. Barry Stout
Walter L. Carmo

bcc: ✓ John Lord
Ronald P. King

Mill Ken, PA
15467

Dear Mr. Lord,

I'm writing to ask you if you can tell me the reasons why I was not granted a hearing. In your letter you said that only one license hearing was granted. If it is based on merit then I feel I should be at least heard. ① My 15 year old child tried to commit suicide again, the only help for her is in Uniontown, which is 25 miles from our home. ② My girlfriend who is about to have a baby any day now. But because my life has went to shit and I can't do anything to help her, so she is about to take my son that is 19 month old, and the baby to come and leave in ③ I lost my car, I'm about to lost my home, I've sold everything that I have just to survive over the past year. On Dec. 8 about two weeks before Christs My Employment runs out, so my family will have none this year. ④ I've had two jobs offered to me but I can't take it, because I can't drive to or from work. Sir I'm saying what I'm trying to say is my life is over until 1998 I'm under arrest. I guess if I feel

I had really done something wrong this
would be easier to face, but I feel my
life is over now because no one feels that
my case has enough merit to be heard.
I'm about to kill myself for I have
nothing left that I've worked all my life
for. I need help.

Ron King



COMMONWEALTH OF PENNSYLVANIA
LIEUTENANT GOVERNOR'S OFFICE
HARRISBURG 17120-0002
717-787-3300

MARK S. SINGEL
LIEUTENANT GOVERNOR

January 5, 1993

Honorable J. Barry Stout
Chairman
Senate Transportation Committee
337 Main Capitol
Harrisburg, PA 17120

Dear Barry:

In November I sent a letter to Doyle Corman with a copy to you concerning the possibility of a legislative remedy for mandatory operators' license suspensions. Attached for your review is a copy of that letter.

Now that you are the chairman of the Transportation Committee, I thought we could revisit this and determine what appropriate legislative actions can be taken.

Let me know if you would be willing to discuss this matter with me or my staff at any time.

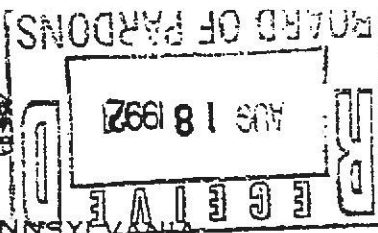
With best wishes,

MARK S. SINGEL
Lieutenant Governor

MSS/jeb

Enclosure

✓ bcc: John Lord



COMMONWEALTH OF PENNSYLVANIA

DISTRICT JUSTICE
GLORIA M. MORGAN
414 SOUTH YORK ROAD
SUITE 200
HATBORO, PA 19040
PHONE 215-967-5935

MONTGOMERY COUNTY
DISTRICT COURT 38-1-14

August 6, 1992

John A. Lord, Secretary
Board of Pardons
333 Market Street
Harrisburg, PA 17126-0333

Re: Thomas A. Bye

Dear Mr. Lord,

In response to your letter of July 30, 1992, please be advised that this Court has no record on the above applicant.

However, I have read the minutes of the Pardon interview and can easily relate to the facts as stated. In my opinion, the Commonwealth is well past the time for a review of our suspension of license legislation. Unfortunately, we are putting citizens in the position to commit crimes (driving without a license or driving under suspension) without allowing them any recourse for violations committed when they were relatively young and immature. Additionally, they are really unaware of the punitive life-long penalty they will eventually need to endure as a result of these actions.

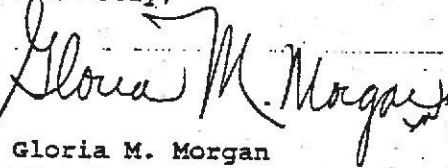
When they do mature and wish to be a responsible member of Society, they are prevented from earning a living by virtue of their, usually youthful, past because our laws as presently formed, allow no amnesty. Yet our laws allow "real" criminals to walk free with little restrictions and therefore they continue to menace citizens and society with no great penalties imposed.

Mr. Bye is only one of hundreds of citizens who are deprived of a right to earn a decent living once a repentent lifestyle is evidenced. Survival is paramount to the human condition and he and others risk much in order to meet family responsibilities with no recourse to rectify the past.

I would not stand in the way of a successful pardon for Mr. Bye, I have seen too much of the inequities relating to this situation. I believe he should be given a chance to prove his willingness to be productive—should this fail, the system is still there for further punishment.

Thank you for the opportunity to respond to this very important issue. I intend to pursue a change in this legislation in the near future.

Sincerely,

A handwritten signature in cursive script that reads "Gloria M. Morgan". The signature is written in dark ink and is positioned above the typed name.

Gloria M. Morgan
District Justice

GMM:ln

Commonwealth of Pennsylvania



BOARD OF PARDONS

Clemency In Pennsylvania

"Humanity and good policy conspire to dictate that the benign prerogative of pardon should be as little as possible fettered or embarrassed. The criminal code of every country must also be made so much of necessity, severity that without an easy access to it."



Lieutenant Governor's Office
Board of Pardons

MARK S. SINGEL
Lieutenant Governor
Chairman

JOHN LORD
SECRETARY

1982
Revised 1988

The Board of Pardons Commonwealth of Pennsylvania

TABLE OF CONTENTS

History.....	Page No. 1
Definitions	3
Membership of the Board	5
Categories of Clemency	5
The Process	6
How to Apply	6
The Hearing.....	8
The Results	8
Post Result Actions.....	8
Schedule and Locations	9
Capital Cases	9
Miscellaneous	9

SEWARD & STRUBB
PHILADELPHIA

When Charles II granted the charter of Pennsylvania in 1681, he gave William Penn the power to pardon all crimes and offenses except treason and willful and malicious murder and in these cases to grant reprieves until the pleasure of the crown might be known.

The first state Constitution of 1776, Section 20, specified that the Governor had the authority to grant clemency and remit fines in all cases except in cases of impeachment (but only with the consent of the supreme executive council). In cases of treason and murder, the supreme executive council had power to grant reprieves but not to pardon until the end of the next General Assembly. There were no remissions, mitigation of punishments, or impeachments except by act of the legislature.

The Constitutions of 1790 and 1838, Article II, Section 9, provided that the Governor exclusively should have power to remit fines and forfeitures and grant reprieves and pardons except in cases of impeachment. The fourth Governor under the 1790 Constitution, William Findley (1817-1820), a former State Treasurer, who was nearly impeached on charges of misuse of state funds while serving in that office, granted 530 pardons and 774 remissions of fines and forfeitures during his single three year term. Largely due to Governor Findley's abuse of his pardoning power and due to the constant suspicion of alleged gubernatorial abuse of pardoning power, several remedies were applied.

An Act of 1829, revising the penal code, led to the decline of pardons granted by Governor Wolf (1829-1835), but criticism continued. Two optional designs to limit the Governor's pardoning power were proposed at the Constitutional Convention of 1837, but both were struck down by wide margins. The pardoning power remained unchanged for two decades while Governors continued to receive criticism for their real or imagined abuse.

Regardless of the efficacy of the charges levied at Pennsylvania's Governors from 1776 to 1874, the Constitutional Convention of November 12, 1872 seemed certain to bring about a change in the executive function of pardoning power. Former Governor Andrew Gregg Curtin chaired that Convention's Committee on the Executive. The Committee proposed several options:

1. The Governor be allowed to pardon "only upon recommendation of the Secretary of the Commonwealth, the Attorney General, the Superintendent of Public Instruction, the Secretary of Internal Affairs, or any three of them."

3. Create a Board of Pardons comprising all living ex-Governors.

The first Board of Pardons was finally created in 1874 by Article IV, Section 9 of the Constitution of Pennsylvania. The Board's membership included the Lieutenant Governor, the Secretary of the Commonwealth, the Attorney General, and the Secretary of Internal Affairs. On January 15, 1874, the newly elected Governor, John F. Hartranft, wrote to the Secretary of the Commonwealth and to the Attorney General instructing them on how to operate the Board of Pardons. On May 4, 1875, the Board's first list of rules (ten in number) took effect.

Act 4 of 1919 reorganized the department of the Secretary of the Commonwealth and specified that its Executive Bureau should have one chief law clerk be the Secretary of the Board of Pardons. Prior to the creation of a Board Secretary position, a secretary of the Commonwealth Recorder kept the Board's records.

From 1874 until 1923, the Board was attached to the Department of State. Because the Secretary of the Commonwealth was a Board Member, his department recorded and filed certain of the Pardon Board's records. The Administrative Code of 1923 gave control of the Board of Pardons to the Department of Justice. In 1980, the Commonwealth Attorneys Act, Act 164, placed the Board under the direct jurisdiction of the Lieutenant Governor.

Pursuant to the 1967 Constitution, the Board's membership changed to its current composition. The Secretaries of the Commonwealth and of Internal Affairs were deleted and replaced by three gubernatorial appointees. The 1980 Constitution amended only the length of the appointees terms. Article IV, Section 9 states:

Pardoning Power; Board of Pardons

(a) In all criminal cases except impeachment, the Governor shall have the power to remit fines and forfeitures, to grant reprieves, commutation of sentences, and pardons; but no pardon shall be granted, nor sentence commuted, except on the recommendation in writing of a majority of the Board of Pardons, after full hearing in open session, upon due public notice. The recommendation, with the reasons therefor at length, shall be delivered to the Governor and a copy thereof shall be kept on file in the office of the Lieutenant Governor in a docket kept for that purpose.

(b) The Board of Pardons shall consist of the Lieutenant Governor who shall be chairman, the Attorney General and three

...of a majority of the members elected to the Senate as is specified by law for terms of six years. The three members appointed by the Governor shall be residents of Pennsylvania and shall be recognized leaders in their fields; one shall be a member of the bar, one a penologist, and the third a doctor of medicine, psychiatrist, or psychologist. The Board shall keep records of its actions, which shall at all times be open for public inspection.

DEFINITIONS

Advocate's presentation — the representative or applicant himself addresses the Board. He has fifteen minutes to present the case and may use supportive speakers (family and friends) or witnesses to augment the presentation. The Board Members may, and usually do, ask questions of any speakers.

NOTE: If a confined inmate has no representative, he may request the services of the Pardons Case Specialist, a clemency expert employed by the Department of Corrections to represent indigent inmates. The Pardons Case Specialist can be contacted at:

Department of Corrections
P.O. Box 598
Camp Hill, Pennsylvania 17011

Amnesty — the act of an authority by which pardon is granted to a large group of individuals; the abolition and forgetfulness of the offense; usually exerted in behalf of certain classes of persons subject to trial, but not convicted.

Clemency — an act of leniency or a disposition to be merciful, from the Latin clementia (mildness) or clemens (merciful); kindness.

Commonwealth's presentation — the district attorney is called if he is present, and opposing parties (i.e. victims and their relatives) may speak at this time. Again, the Board may question them.

Commutation — a change of a legal penalty or punishment to a lesser one; alteration; substitution.

Continuance — once an application is filed, granted a hearing, and listed for a public hearing, the Secretary of the Board or the Board may grant a continuance upon written request of the applicant or his representative. After two continuances, a new filing shall be required.

a criminal sentence.

Expungement — to strike out, obliterate, mark for deletion; to efface completely; destroy, erase; the act of physically destroying information (e.g. criminal records).

Forfeiture — something to which the right is lost by the commission of a crime; loss of some right, property, or money as a penalty for some illegal act.

In Forma Pauperis — if an applicant is indigent, he or she may request a waiver of the fees by filing the Board's official form to proceed in forma pauperis.

Merit Review — applications filed (except capital cases) are subject to review by the Board, and must receive two affirmative votes to be granted a public hearing.

Pardon — forgiveness; an act of grace from governing power which mitigates the punishment the law demands for the offense and restores the rights and privileges forfeited on account of the offense; in Pennsylvania this means forgiveness and intended restoration of the civil disabilities created by the conviction (it does not mean expungement of the record).

Penology — a branch of criminology dealing with prison management and the treatment of offenders.

Proof of service — certification that the necessary parties were served documents or applications either personally or by first class mail.

Recuse — to disqualify oneself from a hearing because of interest or prejudice.

Remission — a release or extinguishment of a debt; forgiveness or condonation of an offense or injury; the act by which a forfeiture or penalty is forgiven.

Representation — applicants may represent themselves (if not confined), retain a lawyer, or ask a non-lawyer to represent them. Only lawyers admitted to practice before any court of record in any state and in good standing may charge for their services before the Board. A confined indigent inmate may request free representation from the Department of Corrections.

Reprieve — temporary relief from or postponement of execution of criminal punishment or sentence; ordinarily an act of clemency extended to a prisoner to afford him an opportunity to procure some amelioration of the sentence imposed.

Stay — a stopping; the act of arresting a judicial proceeding by the order of the court.

Stay of execution — the stopping of the execution of capital punishment, commonly to permit further appeals by defendant.

MEMBERSHIP OF THE BOARD

Lieutenant Governor — chairman of the Board by constitutional mandate.

Attorney General — a member of the Board by constitutional mandate.

A member of the bar — appointed by Governor, resident of Pennsylvania; a recognized leader in law; needs the consent of two-thirds or a majority of the members elected to the Senate as is specified by law for a term of six years.

A penologist — appointed by Governor, resident of Pennsylvania; a recognized leader in penology; needs the consent of two-thirds or a majority of the members elected to the Senate as is specified by law for a term of six years.

A doctor of medicine, psychiatrist, or psychologist — appointed by Governor, resident of Pennsylvania; a recognized leader in medicine, psychiatry or psychology; needs the consent of two-thirds or a majority of the members elected to the Senate as is specified by law for a term of six years.

CATEGORIES OF CLEMENCY

Commutation of Death Sentence to Life Imprisonment

Any prisoner under a sentence of death may apply to the Board of Pardons for recommendation of clemency. The Governor has the final authority if the Board recommends commutation of the death sentence to life imprisonment.

Commutation of Life Imprisonment to Life on Parole

Any prisoner serving life imprisonment may apply to the Board of Pardons for recommendation for a tangible minimum sentence. Parole consideration is possible for a life prisoner when his life sentence is commuted. The Governor has the final authority.

Commutation of Minimum Sentence

Any prisoner serving the minimum sentence given by the court may apply to the Board of Pardons for recommendation to have the existing minimum term reduced so as to become eligible for parole earlier. The Governor has the final authority.

ALLY FOLLOWS MAY APPLY TO THE BOARD OF PARDONS FOR COMMUNITY REFORMATION. THE GOVERNOR HAS THE FINAL AUTHORITY TO GRANT A SHORTER TERM OF SUPERVISION EARLIER. THE GOVERNOR HAS THE FINAL AUTHORITY TO GRANT A SHORTER TERM OF SUPERVISION EARLIER. THE GOVERNOR HAS THE FINAL AUTHORITY TO GRANT A SHORTER TERM OF SUPERVISION EARLIER.

Pardon

Any individual who has been convicted may apply to the Board of Pardons to be pardoned. A pardon is forgiveness from the Executive and intended restoration of the rights and privileges forfeited on account of the offense. The Governor has the final authority to grant a pardon.

Special Maximum

When the Pennsylvania Board of Probation and Parole endorses a parolee for reduction of his maximum sentence to the Board of Pardons, the Board of Pardons can recommend to the Governor that the parole term be shortened. The Governor has the final authority. These cases are announced at the end of each session.

Arbitration for Pre-Release

When the staff of an institution in the Department of Corrections decides to support an inmate for pre-release and the judge objects, the staff may forward a referral packet to the Board of Pardons for arbitration. The Chairman of the Board announces the names of these cases at the end of each session. The Board has final authority on arbitration cases. (See 61 P.S. Section 1052 (c), Release Plan for Prison Inmates).

THE PROCESS

How to file an application:

1. Applications may be purchased from the Board of Pardons Office in Harrisburg, Pennsylvania, for a nominal fee. Checks or money orders are payable to "Commonwealth of Pennsylvania." Mail to Board of Pardons, 333 Market Street, Harrisburg, PA 17126-0333. Phone: (717) 787-2596.

The original application must be completed by the applicant or representative and returned to the Board office in Harrisburg along with ten photocopies (not less than 8-1/2" x 11" of the application, the \$20.00 filing fee and a self-addressed stamped business size envelope. If the applicant is not confined, five passport size photographs of the applicant are to be included.

The current application fee is \$4.00.

4. When the application is received at the Board office along with the filing fee (or an official form which states that the applicant wishes to proceed in forma pauperis), and is found to be complete

AND HIS REPRESENTATIVE ACKNOWLEDGING THAT THE APPLICATION HAS BEEN FILED. IF INCOMPLETE, IT WILL NOT BE CONSIDERED FILED UNTIL ALL REQUIREMENTS HAVE BEEN FULFILLED.

5. The Board will grant a public hearing for an applicant only if two of the members approve listing the application for a hearing. (ALL capital [death] cases filed shall receive a public hearing.) After the merit review by the Board the applicant and his representative will be notified whether a public hearing has been granted or denied. If granted, a tentative date will be specified for the hearing.
6. A copy of the application goes to each Board member, the trial judge or president judge, the district attorney, the correctional institution where the applicant is confined (if incarcerated), and the Board of Probation and Parole. In cases involving more than one jurisdiction, a copy will also go to the appropriate judge and the district attorney in that county.
7. Victim(s) or survivor(s) will be notified only when a public hearing has been approved by the Board. Notification is made by letter and a copy of the hearing month calendar.
8. A notice is sent to a newspaper of general circulation in each county where an applicant has committed the crime(s) for which he is seeking clemency. At least one week prior to the public hearing notice must be published stating the applicant's true name, aliases, the crime(s) with respect to which the applicant has applied for clemency, the institution, if any, in which the applicant is confined and the time and place of the hearing at which the application will be heard. Newspaper publication is required for every application to be heard by the Board.
9. Between the filing date and the merit review date, interested parties (i.e. judges, district attorneys) forward opinions to the Board. Criminal justice agencies (i.e. Corrections, Parole Board) prepare summaries of prison and/or community adjustment. Act 323 of 1941 (the Parole Act) specifies that the Board of Probation and Parole "shall be charged with the duty of making investigations and recommendations to the Pardon Board in cases coming before it, and upon its request." 61 P.S. Section 331.34.
10. All of the pertinent opinions, reports, and recommendations are compiled by the Board Secretary and his staff and sent to each Board Member in advance of the executive merit review session and subsequent public hearing, if granted.

the specified public session. It is distributed to all interested parties in advance of the public session.

The Hearing:

On the scheduled day, the Board convenes at 9:00 A.M., calling the first case on the docket. Each case is called in consecutive order with each informal presentation adhering to the following format:

1. Advocate's presentation
2. Supportive speakers' presentations
3. Commonwealth's presentation
4. Victim's and/or victim's family's presentation

NOTE: Special Maximum case names and Arbitration case names are announced following the pardon and commutation hearings and comments are welcome from any interested persons.

The Results:

Following the public hearing session, the Board meets in Executive Session where each application is considered and voted upon. If a majority of the Board vote in favor of an application, the Board recommends favorable action to the Governor. If less than a majority of the Board vote in favor, the result is a denial by the Board and the application is not forwarded to the Governor. The Governor, at his discretion, may approve or disapprove any favorable recommendation submitted by the Board. When the Governor's action has been received by the Secretary of the Board, public announcement of the final disposition is made.

Published results are:

- Granted — Board recommended and Governor agreed.
- Denied by Governor — Board recommended but Governor denied.
- Held by Governor — Recommended by Board; Governor liberating.
- Held under advisement — Board made no final decision.
- Denied — Board did not recommend.
- Continued — Case not heard but relisted for subsequent hearing.
- Passed — Case called but no representative present; put at end of day's list. If no one connected with the case appears by the end of public session, the case is stricken from the list until a written request for reinstatement is received by the Board from the applicant or his representative.
- Withdrawn — Case not heard and removed from active docket.

Post Result Actions:

Rehearing — Request for reconsideration following a merit re-

Reapplication — An application may not be filed before the expiration of twelve months from a previous filing. If an applicant files for two consecutive years and receives adverse decisions from the Board on both applications, an application may not be filed before the expiration of twenty-four months from the last filing date.

Schedule and Locations:

The Board of Pardons will meet at such time as the Board may designate except that no meeting shall be held during the months of January, July and August. Hearings will be held in Harrisburg or at such other place or places as the Board may designate. Applicants and their representatives will be notified of the tentative hearing date and location well in advance of their hearings.

CAPITAL CASES

Filing an application to commute a Death sentence to Life imprisonment entails special procedures. No filing fee is charged, the presentation may last thirty minutes, and every filed capital application is granted a public hearing. A capital applicant must submit five copies of every pertinent piece of material at least ten days prior to the date of hearing.

MISCELLANEOUS

- Rules** — See 37 Pa. Code, Chapter 81, Board of Pardons.
- Fees** — Amounts charged for applications and filing are subject to change. Telephone the Board office for current fees (717-787-2596).
- Hearing Time Limit** — No more than fifteen minutes is allowed for each applicant's presentation. The representative shall insure the observance of this rule.
- Applicant's Change of Address** — From time of filing until final disposition, the applicant or his representative must notify the Board office of any change of address.