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Commutation Application Guide

This document is intended to support incarcerated people and advocates in submitting commutation applications to Governor Newsom of California. Former Governor Jerry Brown commuted the sentences of 283 people in California state prisons — a major increase compared to past governors. 52% of people commuted by Brown were serving Life Without Possibility of Parole (LWOP) sentences. In the hopes that Governor Newsom will take a stance against mass incarceration and commute many more people, we offer this guidance for people applying for commutation based on conversations across prison walls.

Governor Newsom posted his pardon and commutation information and applications online in March 2019. Governor Newsom's commutation application process is slightly different than that of Governor Brown. This guide offers our understanding of some of these changes, as well as a copy of the new commutation application (see Appendix A). We also include the commutation instructions from the Governor's website (see Appendix D).

One of the important changes in 2019 is a one-page *Re-application for Commutation and Pardon* form for those who already submitted an application within the past three years (since 2016). If you want the Governor to consider your previously submitted application, you should fill out the re-application form (see Appendix B).

Given that the process of seeking commutation is filled with many challenges, we want to support people in submitting as strong an application as possible as we continue to organize for people's freedom. We appreciate any additional information from applicants and advocates about their experiences with this process. Please contact us at the above address if you would like to provide any feedback.

The material included is for informational purposes only and not for the purpose of providing legal advice.

Use of this Guide

Please share the guide as a resource to support incarcerated people and their loved ones seeking sentencing relief through commutation. We offer this guide as a labor of mutual aid and solidarity from a collective of volunteers.

Note to attorneys: We urge attorneys to support commutation applicants *pro bono* (free of charge). Please do not use the information in this guide to charge incarcerated people fees for commutation application support. This guide is intended to redistribute resources and increase access to freedom.

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1. What is commutation?

People serving a sentence for a criminal conviction can petition the California Governor to have their sentence reduced or eliminated by applying for a commutation of sentence. Executive Clemency is another term for commutation.

Pardons are a separate process. Generally, pardon applications are only considered after someone is released from prison and discharged from parole or probation for at least 10 years.

The commutation application is included at the end of this document as Appendix A and available online here:

<https://www.gov.ca.gov/wp-content/uploads/2019/03/Commutation-Application.pdf>

2. Who can apply for commutation?

All people serving sentences for criminal convictions can apply for a commutation of sentence. This includes people who have been incarcerated for less than 10 years. People with active appeals in the courts can also apply; they just have to mention this in their application. People with prior felony convictions can also apply. See section 7 of this guide for more information if you have a prior conviction (or convictions).

Applicants do not need an attorney to apply for commutation. Some applicants do work with attorneys, but it is not necessary.

The application has three main questions (questions 2, 3, and 4) that require longer and more personal answers. Below are ideas to consider when answering these questions.

We offer different suggestions on how to approach the answers based on whether:

- I. you take full responsibility for the crime
- II. you take partial responsibility for your conviction but were not the person who caused direct harm
- III. you maintain your innocence

3. What if you already applied?

With Governor Newsom's new commutation process, some applicants who applied for commutation during the previous administration can choose to re-open their application. Applicants must have applied within three years of when Governor Newsom announced his commutation process in March 2019. People who applied for commutation during this time frame, and don't want to start over, must fill out a one-page *Re-application for Commutation and Pardon* form to allow the Governor's Office to re-open their application.

The *Re-application for Commutation and Pardon* form asks for your basic information (name, date of birth, etc.). It also asks for contact information, including cell phone numbers, because most people seeking pardons have already been released (with the exception of people in ICE detention). Please skip the phone number and email questions if you are still incarcerated, or write N/A (not applicable).

The re-application form has two additional questions. The first asks you to specify what application you previously submitted that you want to re-open (see below). Please check the first box, "Application for Commutation of Sentence." The second two boxes relate to the pardon process. People seeking a pardon can apply for a Certificate of Rehabilitation through the courts to increase their chances of receiving a pardon.

I previously submitted: Application for Commutation of Sentence
 Certificate of Rehabilitation
 Application for Pardon

The second question asks if you received a case number or any correspondence from the Governor's Office or the Board of Parole Hearings regarding the application you previously submitted. They also ask if you were interviewed about your application. Please answer both questions in the space provided. If you did receive a case number (sometimes called a log number or file number), please include the number in your answer. If you were interviewed for commutation under the previous governor but did not receive a commutation, indicating that you were interviewed may bring more attention to your application. Because this process is so new, we do not have information yet about how it might unfold.

Please find the re-application form in Appendix B and see Appendix D for instructions from the Governor's Office about the re-application process.

For supporters outside prison, re-application instructions are available online:
<https://www.gov.ca.gov/commutations/>. The re-application form is available online:
<https://www.gov.ca.gov/wp-content/uploads/2019/03/Clemency-Re-Application.pdf?cache=0>)

4. Responding to commutation application questions 1, 2, 3, and 4

A. Question #1: Conviction Summary (*Note: The Governor's Office will review a complete copy of your criminal history report.*)

List conviction(s) for which you are requesting a commutation of sentence.

In this box simply list each crime, date of conviction, county of conviction and the sentence you were given. This information is included in your original court documents, if you have access to them. No explanations of any crimes are needed here. List only the crimes for which you are asking for a commutation of sentence. You will be asked about any prior convictions in the next box.

Were you under 26 years of age at the time of the crime(s) for which you are seeking a commutation of sentence? YES NO

It is important to check one of the boxes above. Governor Newsom is acknowledging that youth makes a difference in a person's ability to reason and act under difficult circumstances.

List all prior conviction(s) in California, any other state or country, or in federal court.

This box is asking for a list only (not an explanation) of any *prior* convictions you may have.

B. Question #2: Describe the circumstances of your crime(s).

The answer to this question can be just a few sentences, clearly describing your crime and its circumstances. If you have access to your court documents, you might use brief, to-the-point version of the wording from them for consistency.

If you maintain your innocence and cannot state that you committed the crime, you can phrase it as “I was convicted of _____.”

You may also add an explanation of any mitigating factors regarding the crime here: your age if under 26 years old; any history of domestic or sexual violence; addiction of any kind, including a history of addiction in your family; impact of discrimination due to race, gender, economic status, disability.

C. Question #3: Describe how a commutation of sentence may impact your life.

General guidelines:

This is the section where you summarize your understanding of your life, patterns, major events, abuse histories, etc. and their impact on your conviction. It is important to share any factors that may have impacted the original crime and/or conviction, for example: violence and abuse in the home when you were growing up or in your adult life; a history of addiction, either your own or family members. Governor Newsom’s administration has also opened the door to other factors that may impact your life, such as: aging in prison; ongoing, serious health or disability problems or terminal illness; your family circumstances, including serious illness or death of family members or children in need of your parental love and support.

If you are applying for a commutation because you are suffering from a terminal illness, or have a severe chronic disability or illness that would be helped by release from prison or sentence reduction, you will also need to submit an *Authorization for Release of Protected Health Information* so the Governor’s Office can access your medical records. You will find a copy of this form, CDCR Form 7385, in Appendix E of this guide.

If you have a life without parole sentence: you might consider beginning by explaining that you are requesting commutation so that you can have the opportunity to go before the Board of Parole Hearings to demonstrate your growth, insight, accomplishments while imprisoned, and your overall preparedness for release.

To answer this question, consider resources developed to support people preparing for parole hearings (please see Appendix J).

1. If you take full responsibility for your crime of conviction:

Acknowledge personal responsibility and individual culpability; describe how you understand the harm you caused, how you feel and show remorse about your actions and choices.

Describe anything about the context of your life at the time that mitigates the crime, for instance:

- if you were young and have youthful factors defined in *Miller v. Alabama* or the Youthful Offender Parole laws
- if you were a victim of abuse (i.e. childhood sexual abuse, domestic violence, sexual violence, sex trafficking, physical violence, gender-based violence)
- if you were suffering from an addiction
- if you experienced neglect in the child welfare system
- if you were homeless, etc.

It is important to frame your contextual information not as an excuse for what you did but rather, along the lines of, “I’m trying to understand how I could have committed the crime.”

Share context that helps explain any negative information in your Central file, for example, explain the context for any Rule Violation Reports/Counseling Chronos (i.e. 115s/128As), etc. If you received many Rule Violation Reports earlier in your time in prison, explain your insight into your emotional state and behaviors that led to those incidents, and how you changed over time.

II. If you take partial responsibility for your crime of conviction but were not the person who caused direct harm:

Describe why you believe that although you were partially responsible, you were assigned too much responsibility for the crime. This can be tricky, because you have to do so while at the same time acknowledging some personal responsibility and also while being diplomatic about any direct criticism of the court’s decision.

One strategy is to describe a road map of the choices you made that led you to the situation in which the crime occurred, for example, what led you to participate in a robbery that ended in murder.

Describe anything about the context of your life at the time that mitigates the crime, for instance:

- if you were young and have youthful factors defined in *Miller v. Alabama* or the Youthful Offender Parole laws
- if you were a victim of abuse (i.e. childhood sexual abuse, domestic violence, sexual violence, sex trafficking, physical violence, gender-based violence)
- if you were suffering from an addiction
- if you experienced neglect in the child welfare system
- if you were homeless, etc.

It is important to frame your contextual information not as an excuse for what you did but rather, along the lines of, “I’m trying to understand how I could have participated in the crime.”

Describe how you understand any harm you caused, how you feel and show remorse about your actions and choices.

Share context that helps explain any negative information in your Central file, for example, explain the context for any Rule Violation Reports/Counseling Chronos (i.e. 115s/128As), etc. If you received many Rule Violation Reports earlier in your time in prison, explain your show that you have insight into your emotional state and behaviors that led to those incidents, and explain how you changed over time.

III. If you maintain your innocence:

Describe why you maintain your innocence and the circumstances in which you were convicted for the crime. This can be tricky because you have to do so while at the same time expressing some degree of personal accountability and while being diplomatic if directly criticizing the court's decision. For example, we know that the Board of Parole Hearings (BPH) routinely rules against innocence claims as a "lack of insight," barring people from parole.

While applying for commutation through the Governor's Office is not the same as going through the BPH, we recommend that applicants still be careful about how they maintain their innocence. This is in part because staff from the Board of Parole Hearings will be the ones investigating commutation applications that the Governor's Office selects for review.

Describe anything about the context of your life at the time of your conviction or choices you do take responsibility for, while maintaining your innocence, for instance:

- if you were young and have youthful factors defined in *Miller v. Alabama* or the Youthful Offender Parole laws
- if you were a victim of abuse (i.e. childhood sexual abuse, domestic violence, sexual violence, sex trafficking, physical violence, gender-based violence)
- if you were suffering from an addiction
- if you experienced neglect in the child welfare system
- if you were homeless, etc.

It is important to frame your contextual information, for instance: "I'm trying to understand how I could have put myself into a situation where I was implicated in this crime."

Explain that you feel remorse about whatever actions and choices led you to the situation where you were convicted of a crime you did not commit. We understand that this might feel like a contradictory position, but it is important to demonstrate personal accountability.

Share context that helps explain any negative information in your Central file, for example, explain the context for any Rule Violation Reports/Counseling Chronos (i.e. 115s/128As), etc. If you received many Rule Violation Reports earlier in your time in prison, explain your show that you have insight into your emotional state and behaviors that led to those incidents, and explain how you changed over time.

D. Question #4: Describe your life since your conviction (e.g., efforts in self-development, including identifying and addressing treatment needs, professional and educational achievements; any setbacks, conduct violations, or new convictions; insight about past conduct; and future goals.)

This is where you describe how you've changed internally (the ways you think, feel, react to different situations and circumstances), and what you've accomplished in prison. This is also an important place to share any factors you believe should be weighed in considering your sentence commutation.

Here are suggested areas to cover when answering this question:

I. Change and rehabilitation:

Describe your process of change and rehabilitation, and what programs or groups helped you through this process, for example, work for the community (both inside and outside of prison), self-help groups, independent study, mental health groups, educational accomplishments, substance use programs, violence prevention, etc. Explain insights that you have developed about your circumstances, behaviors, and patterns, and describe the skills you've developed to respond to personal challenges differently.

Make sure to highlight specific accomplishments, since this continues to come up in the previous governor's press releases about commutations.

For example:

- Programs completed, including participation in self-help groups, job/vocational training, etc.
- Educational progress, courses taken, degrees earned
- Positive work record
- Attendance at church or other religious/spiritual activities
- Participation in charity events or efforts
- Positive chronos from COs, supervisors, etc.
- Admission to honor dorms or other accomplishments

If you have been barred from programs because of where you are housed and/or discrimination you've faced, but you've managed to find ways to educate yourself and become more self-aware, we encourage you to share this information too. This can include any coping skills you've developed to overcome challenges in prison.

II. Undue burdens:

Explain if you face undue burdens because of imprisonment, for example, if you are elderly, disabled, ill, face particular forms of discrimination, etc.

III. Factors against recidivism:

Describe factors that will ensure against recidivism, including your parole plan, access to family and community support once you're released, job prospects or plans for education, etc.

5. Where to send your commutation application

Governor Gavin Newsom
Attn: Clemency/Legal Affairs
State Capitol, Suite 1173
Sacramento, CA 95814

DA Notification:

To apply for commutation, applicants need to send a notification form to the District Attorney's Office in their county of conviction. This notice, called the *Notice of Intent to Apply for Clemency*, must be mailed to the DA's Office at least 10 days before submitting your application to the Governor's Office.

We suggest making two copies of your completed DA notification form before you send it — we recommend saving a copy for yourself and including a copy with your application to the Governor’s Office. We also strongly recommend that applicants send their DA notification form by certified mail, so that applicants can show documentation of notice to the Governor’s Office. Please see Appendix G for DA notification regulations in Penal Code § 4805.

6. After submitting your commutation application

Once you submit your commutation application, you can continue to send in supporting documents (i.e. positive chronos, support letters, mental health evaluations, and any other documentation that supports your application). When sending additional supporting documents, make sure to include your name and CDCR number on all materials.

If selected for further review, applicants will be interviewed by a Board of Parole Hearings (BPH) investigator and the investigator will submit their report and recommendation to the Governor’s Office. As per AB 2845 (Pardon & Commutation Reform Act, in effect as of January 2019), the Board of Parole Hearings is required to send you notice that they will be reviewing your application at the recommendation of the Governor’s Office. This process will likely take a while to get in motion.

7. Special application process for people with a prior felony

Application process: Applicants with a prior felony (or felonies) must apply for commutation using the same application as people without priors, but in addition to that, applicants with priors have to be reviewed by the Board of Parole Hearings (BPH) commissioners and then by the California Supreme Court (CSC). We know this sounds intimidating, but we have successfully worked with people through these extra processes under the previous governor.

Section 4802 from the California Penal Code outlines the BPH part of the process for applicants with a prior felony: “In the case of a person twice convicted of felony, the application for pardon or commutation of sentence shall be made directly to the Governor, who shall transmit all papers and documents relied upon in support of and in opposition to the application to the Board of Parole Hearings.”

Just as with applicants without priors, applicants with priors who are selected by the Governor’s Office will be interviewed by a BPH investigator and the investigator will submit their report and recommendation back to the Governor’s Office. The Governor’s Office then decides whether to recommend the applicant for further review, called an *En Banc* referral (see Penal Code section 4802 in Appendix G). In the case of people with priors, the same investigator who interviewed the applicant will present the person’s case for commutation to the BPH commissioners. The parole commissioners vote on whether to recommend the person to the Governor for commutation after holding an administrative hearing during their monthly Executive Board meetings.

BPH Public En Banc Hearing: Applicants with priors must receive a majority BPH commissioner vote in their favor to continue on the path towards commutation. The vote takes

place in closed session after the public administrative hearing. The BPH usually posts the results of their *en banc* votes on their website by end of business on the same day.

The administrative hearing will take place in Sacramento during the monthly Executive Board meetings of the BPH. Supporters can check the Board of Parole Hearings website under “Executive Board Meetings” to see the meeting agendas, schedule, and decisions (<https://www.cdcr.ca.gov/BOPH/>). The applicant’s name will be listed on the agenda for an “*en banc* referral” hearing when the time comes, and the person should be notified in advance by the BPH investigator. The applicant should also be given the opportunity to submit written testimony since they cannot be there in person, but we have heard that applicants have not always been given enough notice. If your case is in review, we suggest that you ask your BPH investigator in advance that they give you early notification of any hearings.

At the hearing, members of the public can testify to support or oppose commutation for the applicant. We recommend that applicants ask close supporters to attend the hearing and testify in support. We suggest family members, friends, clergy members, advocates — anyone you trust to speak in support of your commutation. As supporters enter the meeting room, they must sign up to speak with the staff person sitting at the entrance. Each person has a maximum of 5 minutes to publicly address the parole commissioners.

The hearing begins when the commissioners announce the name of the person applying for commutation and then open the floor for scheduled public comment. The chair will call speakers up one at a time by name, based on the sign-up list at the door. The commissioners sit on a panel and listen to members of the public speak from a podium. They will not ask questions of the speaker. Someone from the District Attorney’s Office of the county of conviction may speak in opposition. The DA’s representative can also speak for a maximum of 5 minutes, and they are likely to be scheduled to speak last. Once they reach the end of the list of speakers, the commissioners move to the next item on the agenda and do not vote on the case until they are in closed session later that day. Supporters outside of prison can access hearing results to share with the applicant here: <https://www.cdcr.ca.gov/BOPH/enbanc.html>.

California Supreme Court Review: If the BPH votes in favor of the applicant, they send their recommendation back to the Governor’s Office who can then submit their file to the Supreme Court of California for review. The Court issued an administrative order on March 28, 2018 that clarifies the procedures for reviewing commutation applications. This order restricts their review to an examination of any abuses of power by the Governor, rather than as an additional review of the merits of the case. Please see Appendix I to read the order.

A commutation applicant with priors can still be considered for commutation by the Governor even if the BPH does not recommend the person, but the Governor cannot commute an applicant whom the California Supreme Court does not recommend.

Once an applicant’s file is referred to the California Supreme Court, there is no set (or even average) amount of time between when the case is filed and when it’s reviewed. The shortest review period we’ve heard of so far was three months between the BPH vote and a Court decision. If an applicant receives a Court decision in favor of their commutation, there is similarly no set or average time between a positive Court decision and a commutation grant.

To sign up to get email notifications about the Court's decision on an applicant's commutation application, please follow these steps:

- Go to: <https://appellatecases.courtinfo.ca.gov/search.cfm?dist=0>
- Enter the applicant's last name (or last and first names) under "Search by Party"
- Once you see their name listed, look for a case that includes the word "clemency" (it will be in this format: "LAST NAME (FIRST NAME) ON CLEMENCY")
- Click on the case number above and you can see their "Case Summary," including their "Case Status"
- Sign up for email notifications at the very bottom of the "Case Summary" page.

See Appendices G, H & I for more information on the application process for people with priors.

8. Additional support for your application

Support Letters: Letters supporting your commutation are important and can be submitted with your application or sent in afterwards (include your File # or CDCR #). Many people can submit letters including family, friends, clergy or spiritual leaders, group facilitators, CDCR staff, etc. Your supporters should describe the concrete support they can offer you if you were to be released and demonstrate their knowledge of your rehabilitation. (See Appendix J, UnCommon Law guide to writing support letters.)

Supporting Documents Template: Appendix L is a Supporting Documents Template intended to help you provide more context and details about your history, insight, and parole plans. This template was developed by people serving LWOP who have applied for commutation and specifically from the perspective of survivors of abuse whose convictions are tied to their abuse. This template should not take the place of answering the questions on the Commutation Application but can be used as a guide for developing supplemental material which can be included in the application or sent in separately.

Public Support: One strategy that can be very helpful is asking family members, friends, or organizations to solicit more community support for your commutation. This can take the form of online petitions, individual postcards, and/or support letters — all of which should be addressed and sent to the Governor. The goal here is to bring attention to your application and show community support for your commutation. See Appendix K for a guide on how to start an online petition.

9. Interview preparation

After you submit your commutation application, you may be called for an interview. This section details people's experience with these interviews.

Staff from the Board of Parole Hearings conduct the interviews. The interviewers are BPH investigators or retired CDCR staff working on contract. At some interviews, the investigator was familiar with much of the details in the applicant's files, and at others, they knew less. Some of the investigators encouraged interviewees to write them directly afterwards and send any follow-up thoughts, more chronos, etc. Some asked that additional support letters be sent directly to them before they finished their reports. All interviews were recorded and many people

have been told by investigators that the Governor will be listening to all recordings and reading all the notes.

After the interviews, many investigators made follow-up calls to family members of the applicant, victims in their case, etc. Many applicants reported that the questions to supporters focused on any hardships they discussed from their childhood or adult life, as well as offers to support the applicant should they be commuted and released.

Once they complete their investigation, the investigator prepares their report about the applicant to send to the Governor, which includes their recommendation regarding commutation.

Many of the interviews followed a format that focused on nine specific topics:

1. Childhood and home life history
2. History of abuse, if any
3. When and if drug/alcohol use was involved and at what age it started
4. Educational info/background
5. Disciplinary history in prison
6. All in-custody programming and training, including self-help courses taken and how they have made a difference in your life
7. List of accomplishments, positive chronos, awards, and commendations
8. Why you think you should be commuted
9. What your parole plans are or what you imagine they will be

As with the commutation application, it is very important to express remorse and take personal responsibility during the interview, in whatever ways make sense given your relationship to your conviction. We also recommend that you avoid overtly criticizing the police or courts for your conviction or blaming the prison for your record while incarcerated. That being said, sharing painful experiences of policing, prosecution and incarceration can paint a very important picture of the real conditions you've had to manage, so if that's important for you, being as diplomatic as possible will likely increase your chances of commutation.

10. Appendices

- A. Blank Application for a Commutation of Sentence form
- B. Blank Re-application for Commutation and Pardon form
- C. Notice of Intent to Apply for Clemency (DA notification)
- D. Governor's Office clemency description and application instructions
- E. CDCR Form 7385, Authorization for Release of Protected Health Information form
- F. Youthful factors definition
- G. California Penal Code sections on commutations
- H. California Code of Regulations (Title 15) sections on commutations
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- J. UnCommon Law guide to parole hearing preparation and to writing support letters (for parole, but applicable to commutation)
- K. How to start an online petition
- L. Supporting documents template

Appendix A: Blank Application for a Commutation of Sentence Form
(attached on next page)



Governor Gavin Newsom · State Capitol · Sacramento, California 95814

APPLICATION FOR A COMMUTATION OF SENTENCE

Complete this application to request a commutation of sentence (a reduction of sentence/punishment) from the Governor. If you have submitted a commutation application in the last three years, please complete the [re-application form](#). The Governor's Office and/or the Board of Parole Hearings may contact you for additional information relating to this application. If the Governor grants you a commutation, some information from your application will appear in an annual public report about clemency the Governor is required to submit to the California Legislature. Learn more about commutation application at www.gov.ca.gov/clemency or mail a request for information to: **Office of the Governor, State Capitol, Attn: Legal Affairs/Clemency, Sacramento, CA 95814.**

APPLICANT INFORMATION
(Attach additional pages as necessary.)

Name (Last/First/Middle): _____ Date of Birth: _____

CDCR Number: _____ Social Security Number: _____

Name of Facility/Prison: _____ Facility/Prison Address: _____

1. Conviction Summary *(Note: The Governor's Office will review a complete copy of your criminal history report.)*

List conviction(s) for which you are requesting a commutation of sentence.			
Crime(s):	Date(s) of conviction:	County of conviction(s):	Sentence(s):

Were you under 26 years of age at the time of the crime(s) for which you are seeking a commutation of sentence? YES NO

List all prior conviction(s) in California, any other state or country, or in federal court.			
Crime(s):	Date(s) of conviction:	Location of conviction(s):	Sentence(s):

2. Describe the circumstances of your crime(s).

3. Describe how a commutation of sentence may impact your life.

4. Describe your life since your conviction (e.g., efforts in self-development, including identifying and addressing treatment needs, professional and educational achievement; any set-backs, conduct violations, or new convictions; insight about past conduct; and future goals).

5. If you have paid any money or given any gift to anyone to assist you in preparing this application, you are required by law to list their name, address, phone number, email address, the nature of your relationship, and amount paid or gift given.

APPLICANT DECLARATION

Complete the following statement after you have served your Notice of Intent

I, _____, declare under penalty of perjury under the laws of the State of
(Print Applicant Full Name)

California that the information I have provided on this application is true and correct. I further declare that I have served (mailed or

delivered) my notice of intent to apply for clemency on the District Attorney of the County of _____.
(Name of County or Counties)

Applicant Signature

Date

Submit this completed 2-page form to the **Office of the Governor, State Capitol, Attn: Legal Affairs/Clemency, Sacramento, CA 95814**. You may, but are not required to, include copies of relevant documents that support your application (e.g., certificates of achievement, photographs, letters of support, etc.). Do not send original documents, as application documents cannot be returned. Please update the Governor’s Office promptly if your contact information changes. Submit a completed [Notice of Intent to Apply for Clemency](#) to the district attorney in the county of your convictions for which you are seeking a commutation of sentence.

Appendix B: Blank Re-Application for a Commutation of Sentence Form
(attached on next page)



Governor Gavin Newsom · State Capitol · Sacramento, California 95814

RE-APPLICATION FOR COMMUTATION AND PARDON

Complete this form if in the last three years, you submitted a commutation or pardon application to a past administration, or obtained a Certificate of Rehabilitation, and wish Governor Newsom to consider your application. Do not submit any additional documents about your case until requested to do so by the Governor’s Office or the Board of Parole Hearings. If you submitted an application to Governor Newsom after January 7, 2019, your application is pending; do not submit this form. Learn more about the commutation and pardon process at www.gov.ca.gov/clemency or mail a request for information to: **Office of the Governor, State Capitol, Attn: Legal Affairs/Clemency, Sacramento, CA 95814.**

APPLICANT INFORMATION

Name (Last/First/Middle): _____ Name on Prior Application (if different): _____

Date of Birth: _____ Social Security Number: _____

CDCR Number: _____ Name of Facility/Prison: _____

Residence Address: _____

Mailing Address (if different): _____

Home/Cell Phone: _____ Work Phone: _____ Email: _____

- I previously submitted:
- Application for Commutation of Sentence
 - Certificate of Rehabilitation
 - Application for Pardon

Did you receive a case number or any correspondence from the Governor’s Office or the Board of Parole Hearings regarding your application? Have you been interviewed regarding your application? If yes, please describe:

Applicant Signature

Date

**SUBMIT COMPLETED FORM TO:
THE OFFICE OF THE GOVERNOR, STATE CAPITOL, ATTN: LEGAL AFFAIRS/CLEMENCY, SACRAMENTO, CA 95814.
DO NOT SUBMIT ANY OTHER DOCUMENTS AT THIS TIME.**

Appendix C: Notice of Intent to Apply for Clemency (DA notification)
(attached on next page)



Governor Gavin Newsom · State Capitol · Sacramento, California 95814

NOTICE OF INTENT TO APPLY FOR CLEMENCY

You must send notice of your intent to apply for clemency (commutation of sentence or pardon) to the district attorney when you apply. Complete and mail this form to the district attorney in the county/counties of your conviction(s) for which you are seeking a commutation or pardon when you submit your application for clemency to the Governor’s Office.

To the District Attorney of _____ County: Please take notice that I, _____,
(Name of County) (Print Full Name of Applicant)

was convicted of _____ on the date of _____,
(Name of Crime) (Date of Conviction)

committed in _____ County, California.
(Name of County)

I will submit this application for (check one) **commutation** **pardon** to the Governor of the State of California.

Applicant Signature

Date

**This section to be completed by the District Attorney only.
DISTRICT ATTORNEY ACKNOWLEDGEMENT**

I, _____, District Attorney of the County of _____,
(Name of District Attorney) (Name of County)

do hereby acknowledge receipt of notice from _____, that applicant intends to
(Name of Applicant)

apply to the Governor of the State of California for clemency.

Signed _____

Date _____

District Attorney:

Please return this Notice to the Governor’s Office, Attn: Legal Affairs, Clemency, State Capitol, Sacramento, CA 95814.

Appendix D: Governor's Office clemency description and application instructions
(attached on next page)



COMMUTATIONS

People who have been convicted of a crime and are currently serving their sentence in California may apply for a commutation (reduction of sentence).

In deciding whether to grant a commutation, the Governor's Office will carefully review each commutation application and consider:

- the impact of a commutation on the community, including whether the grant is consistent with public safety and in the interests of justice;
- the age and circumstances of the offense and the sentence imposed, and the age of the applicant at the time;
- the applicant's self-development and conduct since the offense, including whether the applicant has made use of available rehabilitative programs and has identified and addressed treatment needs;
- the applicant's need for a commutation; and
- the applicant's plans upon release from custody.

Applicants will be notified when the Governor takes action on a commutation application.

INVESTIGATION & REVIEW

The Board of Parole Hearings, a division of the California Department of Corrections and Rehabilitation, investigates commutation applications. The investigation will include a review of the applicant's criminal history records, court and police records, and records and information about the applicant's period of incarceration from the applicant's C-File and other sources.

HOW TO APPLY FOR A COMMUTATION OF SENTENCE

COMMUTATION – REAPPLICATION

If you submitted a commutation application to a prior governor and did not receive notice of a commutation grant, your application is deemed closed. If you submitted a commutation application in the last three years and would like Governor Newsom to re-open your prior application and consider it, you may submit a Reapplication for Clemency. To re-apply for a commutation:

- Submit a completed [Reapplication for Clemency Form](#) (1 page). Do not re-submit your original application or other documents unless requested to do so by the Governor's Office.
- Submit an [authorization for release of medical information](#) if you are applying for a commutation because you are suffering from a terminal illness or have a severe and chronic disability that would be substantially mitigated by release from prison or reduction of sentence.

COMMUTATION – NEW APPLICATION

To apply for a commutation for the first time or for the first time in three years:

- Submit a completed [Commutation Application](#) (2 pages) to the Governor's Office. You may, but are not required to, submit additional information or copies of relevant documents in support of your application, such as letters of support or certificates of achievement. Please do not send original documents because application materials cannot be returned; and

- Submit a completed [Notice of Intent to Apply for Clemency](#) (1 page) to the district attorney in the county of the conviction for your commitment offense; and
- Submit an [authorization for release of medical information](#) if you are applying for a commutation because you are suffering from a terminal illness or have a severe and chronic disability that would be substantially mitigated by release from prison or reduction of sentence.

If you would like to request forms by mail, please send a letter to:

**Office of the Governor, State Capitol, Attn: Legal Affairs/Clemency, Sacramento, CA
95814**



**Appendix E: CDCR Form 7385, Authorization for Release of Protected Health Information
form**

(attached on next page)

All sections must be completed for the authorization to be honored. Use "N/A" if not applicable.

I. Patient Information

Last Name: _____ First Name: _____ Middle Name: _____
CDCR #: _____ Date of Birth: _____
Street Address: _____ City/State/Zip: _____

II. Individual/Organization Authorized to Release Personal Health Records if Other Than CDCR

Name: _____
Address: _____ City/State/Zip: _____

III. Individual/Organization to Receive the Information
[45 C.F.R. § 164.508(c)(1)(ii), (iii) & Civ. Code § 56.11(e), (f)]
The undersigned hereby authorizes CDCR's Health Information Management to release the below health information pursuant to this authorization.

Name: _____ Relationship to Inmate: _____
Address: _____ City/State/Zip: _____
Phone: _____ Fax: _____

**IV. Authorization Expiration Event or Expiration Date for Release of Verbal Information/
Written Correspondence**
[45 C.F.R. § 164.508(c)(1)(v) & Civ. Code § 56.11(h)]

Unless otherwise revoked by the inmate, this authorization for the release of my health care information to the above-named person or organization will expire upon (choose one):

Date (mm/dd/yyyy): _____ Release from Custody

Happening/conclusion of this event: _____
(e.g., conclusion of litigation, completion of surgery)

V. Hardcopy Health Care Records to be Released
[45 C.F.R. § 164.508(c)(1)(i) & Civ. Code § 56.11(d), (g)]

A separate authorization is required for each request to release hardcopy records. Records for the following period of time are requested (must be completed to receive records):

From (mm/dd/yyyy): _____ To (mm/dd/yyyy): _____

Medical Services Dental Services Mental Health Services
 Communicable Disease Genetic Testing HIV Test Results
 Substance Abuse/Alcohol Other: _____

Requests for Psychotherapy Notes require a separate CDCR 7385 in order to be fulfilled and may not be combined with any other request for health care records.

Psychotherapy Notes

All sections must be completed for the authorization to be honored. Use "N/A" if not applicable.

VI. Purpose for the Release or Use of the Information

[45 C.F.R. § 164.508(c)(1)(iv)]

- Health Care Personal Use Legal
- Other (please specify): _____

VII. Authorization Information

I understand the following:

1. I authorize the use or disclosure of my individually identifiable protected health information as described above for the purpose listed. I understand this authorization is voluntary.
2. I have the right to revoke this authorization. To do so I understand I can sign a cancellation notice and send it to my current institution's Health Information Management (health records). The authorization will stop further release of my protected health information on the date my valid revocation request is received by Health Information Management. [45 C.F.R. § 164.508(c)(2)(i)]
3. I am signing this authorization voluntarily and understand that my health care treatment will not be affected if I do not sign this authorization. [45 C.F.R. § 164.508(c)(2)(ii)]
4. Under California law, the recipient of the protected health information under the authorization is prohibited from re-disclosing the protected health information, except with a written authorization or as specifically required or permitted by law. [Civ. Code § 56.13]
5. If the organization or person I have authorized to receive the protected health information is not a health plan or health care provider, the released information may no longer be protected by federal and state privacy regulations. [45 C.F.R. § 164.524(a)(2)(v)]
6. I have the right to receive a copy of this authorization. [45 C.F.R. § 164.508(c)(4) & Civ. Code § 56.11(i)]
7. Reasonable fees may be charged to cover the cost of copying and postage related to releasing this protected health information. [45 C.F.R. § 164.524(c)(4) et seq. & California Health and Safety Code § 123110, et seq.]

VIII. Patient Signature

[45 C.F.R. § 164.508(c)(1)(vi) & Civ. Code § 56.11(c)(1)]

Name (Print): _____

Signature: _____ Date: _____

Instructions

Note: Part IV is the request for release of verbal health care information or health care information as part of written correspondence, and Part V is the request for release of paper health care records.

Part I - "Patient Information": Records the patient's full name (last, first, and middle), CDCR number, date of birth, and address if he/she is paroled or released (incarcerated patients do not need to provide an address).

Part II - "Individual/Organization to Release Personal Health Records if Other Than CDCR": Records the name and address of the individual or organization to release personal health records if other than CDCR.

Part III - "Individual/Organization to Receive the Information": Records who is to receive the information.

Part IV - "Authorization Expiration Event or Expiration Date for Release of Verbal Information/Written Correspondence": Used by the patient to limit the time period during which information may be shared. The patient selects one of the three check boxes.

- If the "Date" check box is selected, the patient enters the date he/she wants the authorization to expire.
- If the "Happening/conclusion of this event" check box is selected, the patient enters the event he/she wants the authorization to expire upon. This must be an event from which a date can be established.

Part V - "Hardcopy Health Care Records to be Released": Contains a designated line for the date range of hardcopy health care records to be released.

The bottom half contains nine check boxes. Patients check the boxes to release each specific type of information as detailed below:

- **"Medical Services"** is checked when the patient wishes to have information released related to medical care.
- **"Dental Services"** is checked when the patient wishes to have information released related to dental treatment.
- **"Mental Health Services"** is checked when the patient wishes to have information released related to mental health.
- **"Communicable Disease"** is checked when the patient wishes to have information released related to communicable disease testing and treatment. Communicable disease includes sexually transmitted infections.
- **"Genetic Testing"** is checked when the patient wishes to have information released related to genetic testing.
- **"HIV Test Results"** is checked when the patient wishes to have HIV test results released.
- **"Substance Abuse/Alcohol"** is checked when the patient wishes to have substance abuse/alcohol records released.
- **"Other"** is checked when the patient wishes to further restrict or further authorize the release of his/her medical information, and he/she is to write those wishes on the line provided.
- **"Psychotherapy Notes"** is checked when the patient wishes to have psychotherapy notes released. Requests for psychotherapy notes require a separate CDCR 7385 and may not be combined with any other request for health care records.

Under HIPAA, there is a difference between regular personal health information and psychotherapy notes. The following is HIPAA's definition of psychotherapy notes (§164.501):

Psychotherapy notes means notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's medical record. Psychotherapy notes excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

AUTHORIZATION FOR RELEASE OF PROTECTED HEALTH INFORMATION

CDCR 7385 (Rev. 11/14)

Instructions (continued)

Part VI - "Purpose for the Release or Use of the Information": Should have at least one box checked. The patient may utilize this section to check the provided boxes or select "Other" and describe the reason(s) he/she wants to have the information released. If the patient does not want to designate a purpose, he/she may check the "Other" box and state "At the request of the individual authorizing the release."

Part VII - "Authorization Information": Below this section are seven points which detail patient rights in regard to authorizing release of information.

1. Tells the patient that he/she is giving authorization voluntarily.
2. Explains how to stop this authorization. The patient may revoke the authorization by sending a notice stopping the authorization to the institution's Health Information Management. The authorization will be removed from the patient's medical record when the revocation is received by Health Information Management.
3. Explains that signing this authorization is voluntary and will not affect treatment.
4. Explains that the recipient of the protected health care information under the authorization is prohibited from re-disclosing the information, except with a written authorization from the patient or as specifically required under law.
5. Explains that the released information may no longer be protected by federal privacy regulations depending on the intended recipient of the released information.
6. Explains that the patient has the right to receive a copy of this authorization. This will be sent to the patient by Health Information Management.
7. Explains that reasonable fees may be charged to cover copying and postage costs related to releasing the patient's health information.

Part VIII - "Patient Signature": The bottom of page two is for the patient's or his/her representative's signature. The patient's printed name, signature, and date are to be entered in the boxes provided. If this authorization is completed by a patient representative (e.g., power of attorney, estate representative, next of kin), his/her printed name and relationship to patient, signature, and date are to be entered in the boxes provided. Also attached must be a copy of either the Power of Attorney, letters issued in estate proceeding, or declaration of next of kin.

Appendix F: Youthful Factors Definition

In *Miller v. Alabama*, the U.S. Supreme Court recognized that youth are different from adults in constitutionally significant ways, and that “those differences counsel against irrevocably sentencing them to a lifetime in prison.”

These differences include: “immaturity, impetuosity, and failure to appreciate risks and consequences, recklessness, heightened capacity for change,” and an inability to extricate oneself from a family or home environment “no matter how brutal or dysfunctional.”

These are the “youthful factors” that the parole board is expected to give “great weight” to in Youthful Offender Parole Hearings. If you were young at the time of your conviction, it may be important to include language about these “youthful factors” as mitigating information regarding your participation in the crime.

When conducting Youthful Offender Parole Hearings, the Board of Parole Hearings is supposed to give “great weight” to:

- The fact that youth are less responsible than adults for their actions (the “diminished culpability” of youth);
- The “hallmark features” of youth (for example, that youth are, as compared to adults, not as good at understanding the risks and consequences of their actions; resisting impulses and peer pressure; or less in control of their life circumstances, etc.); and
- Any subsequent growth and increased maturity of the prisoner. PC 4801(c).

Appendix G: Penal Code Sections Related to Commutation

PENAL CODE

PART 3. OF IMPRISONMENT AND THE DEATH PENALTY [2000 - 10007]

(Part 3 repealed and added by Stats. 1941, Ch. 106.)

TITLE 6. REPRIEVES, PARDONS AND COMMUTATIONS [4800 - 4906]

(Title 6 added by Stats. 1941, Ch. 106.)

CHAPTER 1. Powers and Duties of Governor [4800 - 4813]

(Chapter 1 added by Stats. 1941, Ch. 106.)

4801.

(a) The Board of Parole Hearings may report to the Governor, from time to time, the names of any and all persons imprisoned in any state prison who, in its judgment, ought to have a commutation of sentence or be pardoned and set at liberty on account of good conduct, or unusual term of sentence, or any other cause, including evidence of intimate partner battering and its effects. For purposes of this section, "intimate partner battering and its effects" may include evidence of the nature and effects of physical, emotional, or mental abuse upon the beliefs, perceptions, or behavior of victims of domestic violence if it appears the criminal behavior was the result of that victimization.

(b) (1) The board, in reviewing a prisoner's suitability for parole pursuant to Section 3041.5, shall give great weight to any information or evidence that, at the time of the commission of the crime, the prisoner had experienced intimate partner battering, but was convicted of an offense that occurred prior to August 29, 1996. The board shall state on the record the information or evidence that it considered pursuant to this subdivision, and the reasons for the parole decision. The board shall annually report to the Legislature and the Governor on the cases the board considered pursuant to this subdivision during the previous year, including the board's decisions and the specific and detailed findings of its investigations of these cases.

(2) The report for the Legislature to be submitted pursuant to paragraph (1) shall be submitted pursuant to Section 9795 of the Government Code.

(3) The fact that a prisoner has presented evidence of intimate partner battering cannot be used to support a finding that the prisoner lacks insight into his or her crime and its causes.

(c) When a prisoner committed his or her controlling offense, as defined in subdivision (a) of Section 3051, prior to attaining 23 years of age, the board, in reviewing a prisoner's suitability for parole pursuant to Section 3041.5, shall give great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner in accordance with relevant case law.

(Amended by Stats. 2015, Ch. 471, Sec. 2. Effective January 1, 2016.)

4802.

In the case of a person twice convicted of felony, the application for pardon or commutation of sentence shall be made directly to the Governor, who shall transmit all papers and documents relied upon in support of and in opposition to the application to the Board of Parole Hearings.

(Amended by Stats. 2011, Ch. 437, Sec. 2. Effective January 1, 2012.)

4803.

When an application is made to the Governor for pardon or commutation of sentence, or when an application has been referred to the Board of Parole Hearings, the Governor or the board may require the judge of the court before which the conviction was had, or the district attorney by whom the action was prosecuted, to furnish the Governor or the board, without delay, with a summarized statement of the facts proved on the trial, and of any other facts having reference to the propriety of granting or refusing said application, together with his or her recommendation for or against the granting of the same and his or her reason for such recommendation.

(Amended by Stats. 2011, Ch. 437, Sec. 3. Effective January 1, 2012.)

4804.

At least 10 days before the Governor acts upon an application for a pardon, written notice of the intention to apply therefor, signed by the person applying, must be served upon the district attorney of the county where the conviction was had, and proof, by affidavit, of the service must be presented to the Governor.

(Added by Stats. 1941, Ch. 106.)

4805.

(a) At least 10 days before the Governor acts upon an application for a commutation of sentence, written notice of the intention to apply therefor, signed by the person applying, shall be served upon the district attorney of the county where the conviction was had, and proof, by affidavit, of the service shall be presented to the Governor.

(b) The district attorney may submit a written recommendation to the Governor for or against commutation of sentence.

(c) The district attorney shall make reasonable efforts to notify the victim or victims of the crime or crimes related to the application and the victims' families who may also submit a recommendation to the Governor for or against commutation of sentence.

(Added by Stats. 2011, Ch. 437, Sec. 4. Effective January 1, 2012.)

4806.

The provisions of Sections 4804 and 4805 are not applicable:

(a) When there is imminent danger of the death of the person convicted or imprisoned.

(b) When the term of imprisonment of the applicant is within 10 days of its expiration.

(Amended by Stats. 2011, Ch. 437, Sec. 5. Effective January 1, 2012.)

4807.

(a) At the beginning of every regular session of the Legislature, the Governor shall file a written report with the Legislature that shall include each application that was granted for each case of reprieve, pardon, or commutation by the Governor, or his or her predecessor in office, during the immediately preceding regular session of the Legislature, stating the name of the person convicted, the crime of which the person was convicted, the sentence and its date, the date of the reprieve, pardon, or commutation, and the reason for granting the same. The report shall be submitted in compliance with Section 9795 of the Government Code.

(b) Notwithstanding any other law, the written report filed with the Legislature pursuant to subdivision (a) shall be available to the public.

(Amended by Stats. 2012, Ch. 162, Sec. 133. Effective January 1, 2013.)

4810.

(a) The Board of Parole Hearings shall succeed to and shall exercise and perform all powers and duties granted to and imposed upon the Advisory Pardon Board by law.

(b) The Advisory Pardon Board is abolished.

(c) The report required of the Board of Parole Hearings by Section 4814 may be included in the report of the department.

(Amended by Stats. 2011, Ch. 437, Sec. 7. Effective January 1, 2012.)

4812.

Upon request of the Governor, the Board of Parole Hearings shall investigate and report on all applications for reprieves, pardons, and commutation of sentence and shall make such recommendations to the Governor with reference thereto as to it may seem advisable. To that end the board shall examine and consider all applications so referred and all transcripts of judicial proceedings and all affidavits or other documents submitted in connection therewith, and shall have power to employ assistants and take testimony and to examine witnesses under oath and to do any and all things necessary to make a full and complete investigation of and concerning all applications referred to it. Members of the board and its administrative officer are, and each of them is, hereby authorized to administer oaths.

(Amended by Stats. 2011, Ch. 437, Sec. 8. Effective January 1, 2012.)

4813.

In the case of applications of persons twice convicted of a felony, the Board of Parole Hearings, after investigation, shall transmit its written recommendation upon such application to the Governor, together with all papers filed in connection with the application.

(Amended by Stats. 2011, Ch. 437, Sec. 9. Effective January 1, 2012.)

CHAPTER 3. Duties of Supreme Court [4850 - 4852]

(Chapter 3 added by Stats. 1941, Ch. 106.)

4850.

An application that has not received a recommendation from the Board of Parole Hearings favorable to the applicant shall not be forwarded to the Clerk/Executive Officer of the Supreme Court, unless the Governor, notwithstanding the fact that the board has failed to make a recommendation favorable to the applicant, especially refers an application to the justices for their recommendation.

(Amended by Stats. 2017, Ch. 36, Sec. 18. (AB 452) Effective January 1, 2018.)

4851.

In all cases where the Board of Parole Hearings has made a recommendation favorable to the applicant and in those cases referred by the Governor, notwithstanding an adverse recommendation, the application, together with all papers and documents relied upon in support of and in opposition to the application, including prison records and recommendation of the Board of Prison Terms, shall be forwarded to the Clerk/Executive Officer of the Supreme Court for consideration of the justices.

(Amended by Stats. 2017, Ch. 36, Sec. 19. (AB 452) Effective January 1, 2018.)

4852.

If a majority of the justices recommend that clemency be granted, the Clerk/Executive Officer of the Supreme Court shall transmit the application, together with all papers and documents filed in the case, to the Governor; otherwise the documents shall remain in the files of the court. (Amended by Stats. 2017, Ch. 36, Sec. 20. (AB 452) Effective January 1, 2018.)

Appendix H: California Code of Regulations Related to Commutation

Title 15, Division 2: Board of Parole Hearings

Chapter 7. Executive Clemency

Article 2. Traditional Pardon Procedures

§ 2815. General.

The procedures in this article apply to persons sentenced to life imprisonment without possibility of parole, to persons residing outside of California, and to persons discharged or released on parole before May 13, 1943. § 2816. Application Direct to Governor.

(a) Persons Eligible. The following persons shall apply directly to the Governor: persons residing outside California, persons discharged or released on parole prior to May 13, 1943, and persons serving sentences of life imprisonment without possibility of parole who have suffered more than one felony conviction.

(b) Board Investigation. Upon request of the Governor the board shall investigate and report on any application for reprieves, pardons and commutations of sentence. The board shall consider the application, the transcripts of judicial TITLE 15 Board of Parole Hearings 135 proceedings and all documents submitted with the application. Investigators for the board may take testimony, examine witnesses under oath and take all action necessary to conduct a full and complete investigation of the application. The board may require the court in which the conviction was had or the district attorney who prosecuted the action, to furnish it immediately with a summary of the facts proved at trial, any other facts relevant to issuing or denying the pardon, and any recommendations, including the reasons, concerning granting or denying the pardon.

§ 2817. Board Referral to Governor. [Repealed]

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 4801 and 5076.1, Penal Code.

§ 2817.1. Board Hearing, Clemency. [Repealed]

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 4801 and 5076.1, Penal Code.

§ 2818. Board Recommendation.

Prior to *en banc* consideration the executive officer shall assign a deputy commissioner or the chief investigator or his or her designee to complete a background investigation and submit a written report. In all cases referred to the board for investigation by the Governor, the full board shall consider the recommendation to be made to the Governor regarding pardon and/or commutation. The recommendation of a majority of the full board shall be the board's recommendation to the Governor. If the case was referred by a hearing panel and the board

does not recommend pardon, the board shall not refer the case to the Governor but shall provide the prisoner with its reasons for not recommending pardon.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 4801 and 5076.1, Penal Code.

§ 2819. Governor's Action. [Repealed]

Article 3. Battered Woman Syndrome; Commutation or Court Referral

§ 2830. Recommendation to Governor or Other Action.

Upon referral from the Executive Officer, a Commissioner, or a Deputy Commissioner, the Board shall investigate cases with information or evidence that the prisoner suffered Battered Woman Syndrome (BWS), as defined in section 2000(b), to determine whether the criminal behavior was the result of that victimization. If the investigation substantiates that the criminal behavior was the result of that victimization, the Board shall then decide whether further action, which may include a recommendation to the Governor that the prisoner's sentence be commuted pursuant to Penal Code section 4801, or a referral of the case back to the court pursuant to Penal Code section 1170(d), is appropriate. Board staff shall document the results of investigations from all referrals. Note: Authority cited: Sections 3052 and 5076.2(a), Penal Code. Reference: Sections 1170(d), 4801, 5075.5 and 5076.1, Penal Code.

Appendix I: Supreme Court of California, Administrative Order 3/28/2018

**Procedures for Considering Requests for Recommendations Concerning
Applications for Pardon and Commutation**

(attached on next page)

MAR 28 2018

ADMIN. ORDER 2018-03-28

Jorge Navarrete Clerk

IN THE SUPREME COURT OF CALIFORNIA

EN BANC

**PROCEDURES FOR CONSIDERING REQUESTS FOR
RECOMMENDATIONS CONCERNING APPLICATIONS FOR PARDON OR
COMMUTATION**

Article V, section 8 of the California Constitution provides that the Governor may not grant a pardon or commutation to a twice-convicted felon without a recommendation of this court. Although the court has often been asked to make such recommendations, we have not before provided a comprehensive explanation of our understanding of the nature of our article V, section 8 function. The purpose of this minute order is to provide such an explanation.

Under the California Constitution, the power to grant clemency to a person convicted of crime is an executive power, and its exercise often, and permissibly, rests on extrajudicial considerations. The role of this court under article V, section 8, is not to express a substantive view on the merits of an application; the court takes no position on whether the Governor should, as an act of mercy or otherwise, extend clemency to a particular applicant. It is, rather, to perform a more traditional judicial function: to determine whether the applicant's claim has sufficient support that an act of executive clemency, should the Governor choose to grant it, would not represent an abuse of that power. In accord with this understanding of the court's role, we have revised the standard letter by which we

convey our recommendations on these matters to the Governor. (See part III, *infra*.)

I.

The power to grant clemency is among the executive powers enumerated in article V of the California Constitution. Section 8 of that article provides:

“(a) Subject to application procedures provided by statute, the Governor, on conditions the Governor deems proper, may grant a reprieve, pardon, and commutation, after sentence, except in case of impeachment. The Governor shall report to the Legislature each reprieve, pardon, and commutation granted, stating the pertinent facts and the reasons for granting it. The Governor may not grant a pardon or commutation to a person twice convicted of a felony except on recommendation of the Supreme Court, 4 judges concurring.”

The statutory application procedures for twice-convicted felons require that an application for pardon or commutation of sentence be made to the Governor, who then must transmit the application to the Board of Parole Hearings. (Pen. Code, § 4802.) After an investigation, the Board of Parole Hearings transmits a written recommendation to the Governor. (*Id.*, § 4813.) If the recommendation is favorable, or if the Governor chooses to forward the application notwithstanding an unfavorable recommendation, the application is forwarded to this court for our consideration. (*Id.*, §§ 4850, 4851.) “If a majority of the justices recommend that clemency be granted, the Clerk/Executive Officer of the Supreme Court shall transmit the application . . . to the Governor . . .” (*Id.*, § 4852.)

By historical tradition, clemency is an executive power rooted in the royal prerogative to forgive crimes against the state. “Executive clemency,” it has been observed, “exists to afford relief from undue harshness or evident mistake in the operation or enforcement of the criminal law. . . . [I]t has always been thought

essential in popular governments, as well as in monarchies, to vest in some other authority than the courts power to ameliorate or avoid particular criminal judgments. It is a check entrusted to the executive for special cases.” (*Ex parte Grossman* (1925) 267 U.S. 87, 120–121.) The power of clemency may be exercised for a variety of reasons. One recognized function of the clemency power is the exercise of mercy — a value that has generally been thought to be peculiarly the province of the executive. (See Brown, *Retrospective Forum: The Robert Alton Harris Execution: The Quality of Mercy* (1992) 40 UCLA L.Rev. 327, 328 [“Mercy cannot be quantified or institutionalized. It is properly left to the conscience of the executive entitled to consider pleas and should not be bound by court decisions meant to do justice.” (Fn. omitted.)].)

Consistent with this legal tradition, both state and federal Constitutions generally confer on the executive the power to grant clemency on whatever grounds he or she deems appropriate. (See *Ohio Adult Parole Authority v. Woodard* (1998) 523 U.S. 272, 280–281 (plur. opn.) [clemency is granted “as a matter of grace, thus allowing the executive to consider a wide range of factors not comprehended by earlier judicial proceedings and sentencing determinations.”].) Indeed, “in most states, ‘the only oversight of clemency rest[s] with voters who elect the Governors.’ ” (Moylan & Carter, *Clemency in California Capital Cases* (2009) 14 Berkeley J. of Crim. L. 37, 41, fn. 25.) In some states, the Governor shares this power to some degree with the Legislature or with an executive body. In a small number of states, the Governor shares this power with a multimember pardon board whose members include high court justices. (See Minn. Const., art. V, § 7; Nev. Const., art. V, § 14.) The California Constitution is unusual, however, in that it assigns to members of the judicial branch — sitting in their judicial capacity — a formal role in the clemency process.

The unique nature of California’s constitutional provision raises the question whether, in exercising that role in the case of twice-convicted felons, the justices of this court are to make the same sort of substantive judgments the Governor is permitted to make in determining whether to grant clemency to a particular convict. That is to say, in order to make a favorable recommendation must we take the view, on the merits, that a particular convict should be shown mercy, or for some other reason granted clemency? Considering separation of powers principles, we conclude our proper role is more limited. Rather than assume some portion of the executive clemency function, the court’s proper role is a traditional judicial one: to provide a check on potential abuses of the power conferred on the executive.

The history of article V, section 8 supports this view. California’s original 1849 Constitution conferred on the Governor the power to grant pardons except in cases of treason and impeachment, which were subject to the control of the Legislature. (Cal. Const. of 1849, art. V, § 13; 1 Willis & Stockton, *Debates and Proceedings, Cal. Const. Convention 1878–1879*, p. 7 (hereafter *Debates*)). In the 1878–1879 constitutional convention, the delegates considered several additional restrictions on the pardon power — including provisions requiring concurrence of the Chief Justice or Attorney General for pardons and commutations generally, allowing the Legislature to regulate the exercise of clemency, and imposing a complete bar on clemency for two- or three-time felons — before settling on the requirement that a majority of this court recommend clemency for twice-convicted felons. (See 1 *Debates*, pp. 354–357; 3 *Debates*, p. 1195.)

Delegates speaking in favor of such restrictions observed that Governors were frequently importuned for pardons and commutations by family and friends of those convicted, and that in some cases clemency was granted where it appeared to be undeserved. (1 *Debates*, pp. 274, 355–356.) “There may be

exceptions to the rule, but generally pardons are granted through pressure brought to bear upon the Chief Executive by reason of great political influence or the influence of friends.” (*Id.*, p. 358, col. 2 [remarks of Mr. Beerstecher].) In addition to personal or factional influence, and petitions based on misrepresentations of fact, the delegates feared the potential for outright corruption: “If we should be unfortunate enough at some future time to have a corrupt Governor, we might see the absolute necessity of taking the pardoning power out of his hands.” (*Id.*, p. 356, col. 1 [remarks of Mr. Townsend].) Giving a role to the Chief Justice or another officer would “hold in check” the Governor. (*Id.*, p. 357, col. 1 [speech of Mr. Johnson].)

The provision that was ultimately adopted originated with a delegate, Isaac S. Belcher, who earlier had served as an associate justice of this court. His amendment to a proposed clause absolutely barring clemency for twice-convicted felons provided instead that they could not be pardoned or their sentences commuted “[u]nless upon the written recommendation of a majority of the Judges of the Supreme Court.” (3 Debates, p. 1195, col. 2.) His amendment would be effective, Mr. Belcher argued, “because a majority of the Supreme Court will never sign a paper recommending the Governor to pardon, in a particular instance, unless there be something that clearly recommends him to the mercy of the Governor.” (*Ibid.*)

The delegates considered objections that the Belcher amendment would involve the Supreme Court too deeply in the exercise of executive clemency, to which a supporting speaker observed that it “does not make the Supreme Court the pardoning power at all. It merely is a restriction upon the power of the Governor. When the Supreme Court have recommended the Governor to exercise the pardoning power, after an examination of the case, he still has to exercise his judgment.” (3 Debates, p. 1196, col. 2 [remarks of Mr. Wilson].) The Belcher

amendment was approved, and the executive clemency section ultimately adopted as article VII, section 1 of the new Constitution, and later moved to article V, section 8, substantively unchanged as relevant here. It provided in part: “Neither the Governor nor the Legislature shall have power to grant pardons, or commutations of sentence, in any case where the convict has been twice convicted of felony, unless upon the written recommendation of a majority of the Judges of the Supreme Court.” (*Id.*, p. 1515; see *id.*, pp. 1197–1198.)

The convention debates reveal two essential points: First, the delegates’ primary concern in adopting what is now article V, section 8, was to provide some check on the arbitrary use of the pardon power in the case of twice-convicted felons. But second, and critically, the debates contain no indication that the delegates intended for the justices of the court to supplement or supplant the Governor’s executive clemency authority. They instead believed the court could serve as a check on the Governor within the confines of its traditional judicial role, determining whether there exists a legitimate basis on which the Governor could choose to grant clemency to the applicant.

II.

We acknowledge that the court’s practice has not always been consistent with this understanding. Indeed, in the only known case in which the justices provided a set of reasons for their recommendations, the majority took a different approach. (*In re Billings* (1930) 210 Cal. 669 (*Billings*)). The court’s experience with that approach is, however, itself instructive.

The *Billings* case concerned the 1930 pardon application of Warren K. Billings. Billings was a radical labor activist who, along with an accomplice, was charged and convicted of murder for a bombing in San Francisco that killed 10 people and injured scores more. Billings was sentenced in 1916 to life in prison. Because he had a previous felony conviction for transporting dynamite, his 1930

pardon application came before this court for a recommendation pursuant to what was then article VII, section 1, of the Constitution. Because of the intense public controversy regarding the case, the court undertook an extraordinary investigation — going so far as to hear live testimony and visit the applicant in state prison — and published statements explaining our denial of the recommendation (with a dissenting view). (*Billings, supra*, 210 Cal. at pp. 670–672, 691.)

The court’s majority concluded Billings had not cast sufficient doubt on the validity of his conviction to justify a pardon recommendation. (*Billings, supra*, 210 Cal. at p. 685.) Nor had Billings demonstrated his innocence, a showing the majority believed he “was bound to tender . . . as a basis for his application for a pardon.” (*Ibid.*) But Justice Langdon, in a dissenting statement, argued that given the existence of doubt regarding the conviction the court should not “preclude the Governor from taking such action upon the application as in his judgment he may deem proper.” (*Billings*, at p. 690 (dis. opn. of Langdon, J.)) Expanding on this view, he argued the Constitution did not give the court the power to grant or withhold pardons: “That power rests with the Governor, and may be exercised by him for reasons of his own. Proof of innocence has never been an essential requirement for its exercise. It cannot be required as a condition to a recommendation which is itself not final. If we find that there has been a failure of proof of guilt, it is proper for us to make the recommendation on that ground. Our task is then ended. The Governor is then free to act as he may desire.” (*Billings*, at pp. 784–785.)

The controversy surrounding the *Billings* case continued. In 1939, Billings again applied for clemency. This time, with our recommendation, Governor Cuthbert Olson commuted his sentence, and in 1961, Governor Edmund G. (Pat) Brown pardoned Billings. So far as the record reveals, the court has never again undertaken an extraordinary investigation of the sort it undertook in the early

rounds of the *Billings* case to evaluate the applicant's claim of innocence. Subsequent history is consistent with a recognition that an intensive examination of the merits of a clemency petition exceeds this court's proper role in our system of separated powers. That was the position taken by Justice Langdon's dissent, which we believe captures the better view of the nature of this court's article V, section 8 function: The clemency power "rests with the Governor, and may be exercised by him for reasons of his own" (*Billings, supra*, 210 Cal. at p. 784 (dis. opn. of Langdon, J.)); the court's only role is to ensure that the application has sufficient support that the exercise of the power would not be improper.

III.

From our general understanding of separation of powers principles and from the history discussed above, we conclude article V, section 8 of the California Constitution does not require the justices of this court to determine whether, in the view of each justice, an applicant deserves clemency, whether based on claimed innocence of the crime, rehabilitation, mercy, or other grounds. We instead interpret it as calling for a more conventionally judicial judgment: Does the claim have sufficient support that an act of executive clemency, should the Governor decide to grant it, would not represent an abuse of that power? The recommendation called for by article V, section 8, in other words, is not a recommendation that the Governor grant the application; it is merely an acknowledgment that the Governor may legitimately consider granting the application in the exercise of the power conferred on him by article V.

In light of the conclusions expressed above, the court has altered the wording of the letters by which we convey to the Governor our recommendation regarding pardon or commutation applications from twice-convicted felons. It has been our practice to announce our decision in these matters by sending the Governor a letter that read: "The justices of the Supreme Court of California have

considered the above application for [a pardon] [commutation] and a majority of the justices recommend that the application [not] be granted.” The standard letter will now read: “On the application of [name] for [pardon] [commutation of sentence], the court, with at least 4 judges concurring, hereby [makes] [declines to make] the recommendation required by article V, section 8 of the California Constitution for the Governor to grant a [pardon] [commutation of sentence].”

CANTIL-SAKAUYE

Chief Justice

CHIN, J.

Associate Justice

CORRIGAN, J.

Associate Justice

LIU, J.

Associate Justice

CUÉLLAR, J.

Associate Justice

KRUGER, J.

Associate Justice

Appendix J: UnCommon Law guide to parole hearing preparation and writing support letters (for parole but applicable to commutation)

(attached on next page)

When and Where Should You Send your Support Letters? (edited by CCWP to be relevant for commutation applications)

You can either (1) include your support letters with your commutation application or (2) send them yourself after you've submitted your commutation or (3) ask the person writing the letter to send it themselves. In every case, make sure that your full name and CDCR# is on the letter, as well as your commutation file number (if you have one). Send letters here:

**Governor Gavin Newsom
Attn: Clemency/Legal Affairs
State Capitol, Suite 1173
Sacramento, CA 95814**

Please Note: The information contained in this Guide is not intended as legal advice in any individual's case. There are many exceptions and variations in the parole consideration process. If you have questions, please consult with an experienced parole attorney.

HOW TO WRITE A LETTER OF SUPPORT

This Guide is intended to help you draft a strong letter of support. Letters of support are an important part of the documentation the person you support will provide to the Board in advance of or during their parole consideration hearing.

I. Purpose & Types of Letters of Support

Your letter will show the Board that the person you support has a strong support network. Even if you are far away, your support is important, as it shows the Board that they have positive people in their life. There are three main types of support letters: (1) Parole Plans; (2) General Support; and (3) Testimonial. Each type is discussed below.

Parole Plans: A parole plans letter is one that outlines a specific offer of assistance – residence, employment, transportation, counseling, mentorship, etc. If you are offering any of these types of support, do not hide or bury this information in the letter because this is the most important part of the letter. The information you provide about your offer should be as specific as possible. If you are offering a place to live, state where it is, how many rooms are available, and who else is living there. If you are offering a job, describe where it is, what they will be doing in that job, and what the starting pay is.

If the person you support struggled with substance use at the time of the life crime, the letter might also identify places nearby where treatment can be obtained, including the locations of A.A. and/or N.A. meetings and mental health care providers. This information is critical for showing the Board where the person you support would seek this type of assistance once out on parole.

General Support: A general support letter is one that offers general support, including financial support, emotional and spiritual support, or connections to necessary services or resources in the community. If you are offering financial or emotional support, be specific and explain how you will provide that. For example, you will send a monthly check for \$100; you will call every week; you will attend 12 Step meetings or church together, etc. If you are offering to connect the person you support with other services or resources, be as specific as you can about what those services or resources are, and how you will do that.

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Keith Wattley Glen Cole Sam Johnson, Sr. Sara Norman Edie DeGraff Megan Comfort
Ernest Hammond III Frankie Guzman Amanda Berger Troy Williams Satch Slavin

Testimonial: A testimonial letter is one that comes from someone familiar with the case over a long period of time, but this is generally not a family member and/or friend. Typical writers of testimonial letters include the defense attorney, judge or prosecutor at the time of trial, investigating officers, or jurors. These letters, unlike parole plans or general support letters, may be able to explain the parole candidate's role in the life crime without appearing overly biased in the individual's favor. Many times, the people involved at the time of trial did not expect the individual to remain in prison decades later, and many times they will explain why the individual has done enough time for his or her role in the crime. Since some of these letters will be from the same part of the community as the Board, their input may be very influential.

Testimonial letters may also come from within the prison community. Educational or vocational instructors, volunteers in self-help and therapy programs, work supervisors, and other people in prison who have been helped by the person seeking parole offer some of the best current evidence of how an individual gets along with others and how he or she approaches his or her responsibilities. Many times, these people have had the opportunity to observe a particular individual over a long period of time and can either talk about positive changes they have observed or discuss the individual's consistently positive conduct throughout a variety of situations. These letters can also help minimize the impact of negative information, such as 115s or 128s, either by providing important background information or by explaining how the individual has changed in the period since those write-ups occurred.

II. What to Include in Your Letter & Where to Send It

Regardless of the type of letter that you are providing, below are some guidelines on the information that you should include in your letter, how to format and address it, and where and when to send it.

What to Include in Your Letter

- At the top of the letter, include the date, your full name, and contact information (address, phone, and email). You can also add a title: "Letter of Support for [Full Name] [CDC Number]."
- Open with "Dear Commissioners" or "To the Board of Parole Hearings."
- State who you are and how you are related to the person for whom you are writing the letter. If you have stayed in contact over the years, it is helpful to say that.
- Briefly explain your personal knowledge of how the person for whom you are writing the letter has positively changed during their incarceration, and why you believe they are ready to be released.
- At the end of your letter, please write your full name and sign it.

What *Not* to Include in Your Letter

- Do not say anything to suggest that the crime was not serious, or that the person for whom you are writing had only limited or accidental involvement, or that they are serving too much time. Do not refer to the crime as a “mistake.” Do not state that the person for whom you are writing has always been a “model prisoner,” especially if that has not always been true. The Board tends to give little weight to such statements when made by supporters, and may even react negatively if the person’s prison record has not been consistently positive.
- Do not say anything that sounds like you are directing the Board how to do their job. Instead, focus on helping them see how much you care about the person for whom you are writing the letter, the positive things you personally know about them, and how you will provide support.

When and Where to Send Your Support Letter

People preparing to go to the Board should start gathering support letters once they know their hearing will be scheduled within 8 or 10 months. Ideally, your letter of support should be dated no earlier than 6 to 8 months in advance of the hearing. If you have written a letter of support for a prior hearing, you should either write an updated version or a short letter to say that your support (or offer) from the prior letter (specify the prior date) is still valid. While the content of the letter can be the same, submitting an update shows the Board that the support you previously offered remains current and reliable.

No matter the date of your letter, you should send your letter to the Board (Board of Parole Hearings, Post Office Box 4036, Sacramento, CA 95812-4036), to the person you support, and to their attorney. At the very least, the person you are supporting should keep a copy of all the letters because, too often, no one else has copies at the time of the hearing. Late letters that get to the individual or their attorney on the eve of the hearing can also be provided to the Board at the time of the hearing. However, sending a letter in advance of the hearing creates a higher likelihood that the Board will have received and read the letter in advance.

Appendix K

How to Start an Online Petition

What is an online petition?

A petition is a way to build and show public support for a person and/or an issue. An online petition is shared on the internet, so anyone with internet access can search for and read online petitions. Online petition sites allow readers to sign petitions and to post comments about why they support petitions. Typically, petition sites only allow supporters who sign the petition to post comments, so public comment on petitions themselves tend to display only positive support.

Decide if you want to post an online public petition

If you want to build public support for yourself or someone else, first consider any risks of increased public attention. Asking for public support will bring more attention to a person, so carefully consider the risks of increasing public attention to yourself, your loved one, or someone you work with. For example, we encourage you to consider potential concerns about any victims who may be upset by public efforts to support you or your loved one. Consider any harms that could be caused to yourself and others and carefully weigh this in making your decision.

We also encourage caution about sharing detailed information about your/a person's case if there's an active appeal or potential opportunity for resentencing. In some cases, people choose to keep the petition focused on an applicant's personal development and community service in prison, steering clear of conviction info and/or mitigating factors.

Choose who will be named as the petition host

Anyone can host an online petition – including an individual, group, or organization. The host of the petition will show up on the petition as the person or group asking for support. It could be the incarcerated/detained person, their parent, sibling, friend, church, community organization, etc. Choose what makes the most sense for you while considering what might be most likely to increase your chances of building public support.

Choose a title for your petition

Choose a short and action-oriented title. Supporters should be able to tell on quick glance what the petition is about and why it's important.

Sample: "Please Grant Clemency for My Mother, [Name]!"

Choose the decision-maker(s) for your petition

For commutations or pardons, California Governor Gavin Newsom is the decision-maker. While it is not necessary, you can choose additional decision-makers if you plan to advocate to others who may have influence with your main decision-maker.

Draft a short pitch for your petition

This is your petition “pitch” where you explain what you’re asking for and make a pitch to supporters about why you need their help. The narrative pitch should be from the perspective of whoever is hosting the petition – so if you’re a parent with a child in prison, write your narrative from your perspective as a parent. If you’re incarcerated, write the narrative from your own perspective – why are you asking for support and why do you believe supporters should take action on your behalf?

Sample:

In 1996, my son, [name], was sentenced to Life Without Possibility of Parole for self-defense...

Draft a direct message to your decision-maker

This direct message should explain why you want your decision-maker to take action. This message will be sent directly to your decision-maker with automated petition updates via email, and it will be what your decision-makers sees on the first page of your printable petition.

Sample:

Dear Governor Newsom,

We urge you to commute the sentence of [Name]... because...

Choose a photo to use for your petition

Petitions get much more circulation when there is a photo included. Select a photo that the incarcerated person wants to share publicly and scan it or take a photo so that you can upload it to the petition site. (Please choose a legal photo from visiting or from a photo sale, or use a photo from before incarceration.)

Choose a petition platform

Different companies have websites where members of the public can host online petitions (i.e. Change.org, Action Network, etc.). These are called petition platforms and they offer petitioners different features. There are several free petition platforms to choose from. Some petition platforms allow petitioners to download the contact information for supporters who sign their petition (i.e. Action Network), others allow petitioners to engage with supporters in various ways but do not allow hosts to download contact information. Some petition sites (i.e. Change.org) promote a selected number of petitions/issues, which can greatly increase the circulation of petitions and thus the number of potential supporters. Most petition platforms will ask you how many signatures you’d like as your goal. It’s generally good strategy to choose a number you think it attainable, rather than a very large number that you might never be able to make. Some petition sites set their own goals (i.e. starting at one hundred) and then increase the goals as the petition gains support.

Most petition sites allow you to create an account and post petitions for free. Once you choose your petition platform, create an account and sign in.

Create your petition online

Log into your petition platform and choose the option to create a petition (this will be named differently on different sites). Follow the prompts for creating your petition – this will include adding your title, your petition pitch, your direct message to your decision-maker, and uploading your photo on the site. Most sites give you the option of previewing your petition before you “publish” it. In any case, once you publish your petition, you can always select the “edit” feature to make changes.

Posting petition updates

Most sites allow hosts to post petition updates, which adds update posts to your online petition and sends an email to all petition signers so far. Posting updates can increase petition circulation, which is a great way to reach more potential supporters. Updates can include “thank you” messages to supporters, requests that supporters continue to share the petition to help build more support, updates from the incarcerated person you are supporting, updates on the campaign, etc.

Circulating and publicizing your petition

Once you’ve created and published a petition, it’s time to circulate and publicize it. What social media platforms will you use? What organizations could help you publicize? What individuals do you want to contact directly with a link to the petition? Consider making a list of individuals and organizations to contact with your petition.

Appendix L: Supporting documents template

Index:

1. An Overview of My Life, History and Crime
2. Healthy Relationship Maintenance Plan
3. Sobriety Maintenance Plan
4. Self-Help Highlights
5. Work Experience
6. Accomplishments
7. Parole Plans
8. Letters of Accountability to Victims
9. Letters of Support and Agency Letters

Section 1: AN OVERVIEW OF MY LIFE, HISTORY, AND CRIME

[In this section, include a couple of paragraphs to summarize your understanding of your life, patterns, major events, abuse histories, etc. and impact on the crime. Also, mention briefly what has changed in your life, lessons you have learned, your rehabilitation and insight. This section functions as an introduction to the rest of the information in your packet.]

Example language: *“Through my years in prison, I’ve achieved a deeper understanding of my crime and myself...I will share my insights on my life experiences, how they affected my beliefs and behavior and led me to be involved in my crime.”*

Impacting Events in my Life

[This section is an overview of the events in your life that led to your set of beliefs and behavior that impacted crime and/or led to your participation in crime. Identify major themes like abuse, fear, co-dependency, etc.]

Example language: *“Fear was a motivating force throughout my life. As a child, I witnessed my father abuse my mother. I believed that if my mother would only have done what my father wanted, he would not have hit her. This is where I developed my belief that a relationship includes violence and control and that fear was a part of love.”*

[Below is a list of examples of impacting events; create a list for your own life. For each one, write a short paragraph that outlines the events and provides details regarding the events. Use this space to provide factual information. (In the following section, “Understanding my Crime” you will have a chance to connect these events to the crime).]

Examples:

- Witnessing Violence in Childhood
- Drug Use
- Sexual Abuse History
- Experiences with My Mother
- Experiences with My Father
- Experience with My Siblings
- My Behavior
- My Relationship with co-Defendant

Understanding my Crime

[In this section you connect your past events to the unhealthy behaviors and beliefs that were functioning at the time of the crime. Address where the behaviors and beliefs came from and how they played a role in your participation in the crime.]

Example language: *“I have spent time in self-help groups understanding my past and crime in order to understand my character and actions. Below I name the unhealthy behaviors, beliefs and characteristics that I was dealing with at the time of my crime and I identify where they came from.”*

Examples:

- Witnessing Pervasive Violence:
- Witnessing Drug Addiction:
- Physical Abuse from Mother:
- Lack of Protection or Nurturing from Parents:
- Absence of Father in Childhood and Adolescence:
- Coercion into Manipulative Behavior:
- Abusive Intimate Relationship:

Example language: Lack of Protection or Nurturing from Parents: *“Due to my parent’s lack of nurturing and neglect, I developed a belief that I was unwanted and unlovable. This was reinforced with my relationship with my co-defendant. At the time of the crime, I believed I would only receive love and nurturing if I did as he said.”*

These are the ways my unhealthy behavior and beliefs impacted my actions during my crime:

[In this section, name specifically the decisions, indecisions or actions in your crime that were specifically related to these unhealthy behaviors and beliefs]

Examples:

- I acted out of fear of physical violence and abuse when...
- When _____ asked me to get in the car, I did so out of fear of his anger...
- I overly depended on men because I grew up without a father...
- I was unable to go against my violent co-defendant due to a belief that I was powerless...
- I lied about _____ because I believed that lying was a part of life. I was taught to lie by my mother...

[Follow up this section with describing your understanding of how these beliefs led to your role in the crime. Connect your understanding to the therapeutic work you’ve done since. This will serve as an introduction to Self-Help Highlights].

Example language: *“I now understand the causative factors that led to my role and actions in my crime...As a result of therapeutic work, self-reflection and self-help groups I have...”*

Section 2: HEALTHY RELATIONSHIP MAINTENANCE PLAN

[In this section, you can highlight a particular issue that was a part of your history and the crime. For example, if unhealthy/abusive relationships were part of your crime, you want to explain the ways in which you are approaching this issue differently, how you’ve healed, and what your “maintenance plan” is regarding this issue. If it’s not abusive relationships and if there was another important factor, such as Drug Use or Anger/Violence, you can highlight that and

explain in detail your understanding of this issue, i.e. red flags, triggers for anger or drug use, exit strategies, recovery plan, relapse prevention, support systems, resources in the community. Explain your plan to develop healthier patterns and mitigate harm related to the whatever issue you choose to highlight. You can choose more than one issue to highlight.

In this section, discuss your understanding of the importance of this issue in your life and the ways in which you take seriously your healing from this issue and your new approach based on the self-help work you've done.]

Example language: *“The majority of my intimate relationships prior to my time in prison have been abusive or neglectful or both. I used coping strategies of numbing myself through drug and alcohol use, which further increased the unhealthy relationship patterns. For the past 18 years I have taken many self-help workshops and classes on domestic violence, trauma, communication, and self-growth that have helped me heal from my traumatic past and also develop healthier relationship patterns.*

Red Flags in Abusive Relationships

Examples:

- Controlling Behavior
- Stalking
- Isolation
- Name-Calling
- Physical Abuse
- Sexual Abuse
- Verbal Abuse
- Manipulation/Lying
- Controlling me through money
- Threats of harm to self, me or my loved ones

My Warning Signs

Examples:

- I'm scared to communicate with my partner.
- I rationalize or excuse my partner for angry outbursts.
- I begin to isolate myself from my support system.
- I stop doing things on my Relapse Prevention Checklist (see below).

Exit Strategies

Examples:

- Ask for help
- Call 911/Police Department or a Battered Women's Shelter or Hotline
- Make copies of extra keys and identification
- Always have enough cash for a bus ticket or taxi ride

Relapse Prevention Checklist

Examples:

- Maintain close contact with family and loved ones
- Personal work on...
- Participate in self-help groups such as...
- Individual or group therapy including...
- 12-step programs
- Maintain my own schedule
- Self-inventory (Give examples of questions you would ask yourself)
- Exercise

- Mindfulness activities

General Support System

Examples:

- Domestic Violence Hotlines
- Counseling services
- 12-Step programs
- Law enforcement
- Parole Office
- Women's Advocacy Groups

Specific Support System

- NAME (Friend)
- NAME (Family members)
- NAME (Psychologist)
- NAME (Mentor)
- NAME (California Coalition for Women Prisoner member)
- NAME (Sister-in-law)
- NAME (12-step Sponsor)
- Etc....

What is a Healthy Relationship?

[In this section, describe what a healthy relationship looks like for yourself. This section shows your understanding of what aspects are important in a healthy relationship and serves as a way to measure whether or not you are engaging in unhealthy and/or abusive relationship patterns.]

Example Language: *In a healthy relationship there is a balance of power. No one person has more control or power over decision-making than the other person. It is important for me to be aware of this because of my past patterns of being controlled by my partners.*

A healthy relationship consists of mutual respect for boundaries. This means that my partner will understand and honor the boundaries I establish regarding my body, my time, my sobriety, and my values. I feel consistently respected and safe. In return, I will respect my partner's needs for boundaries.

Section 3: SOBRIETY MAINTENANCE PLAN

[This section is just another example of highlighting a particular issue that was relevant to your history or crime. If you choose to include a Sobriety Maintenance Plan, you can follow the same sections as what is listed above in the Healthy Relationships Maintenance Plan, including red flags, triggers, my warning signs, recovery plan, relapse prevention, support systems, resources in the community. Give an overview before the sections. Below is example language for the overview, as well as examples for the section What a Sober Life Looks Like.]

Example language: *“Drug use was a major factor in my life and my crime. I was raised in a household with consistent drug-use and began abusing drugs and alcohol at an early age, as a way to escape the abuse and neglect I experienced. For the past 20 years, I have taken my*

sobriety seriously and done the daily work to prevent relapse and understand and heal from the root causes of my drug use...”

What Does a Sober Life Looks Like?

[In this section, describe what a sober life looks like for yourself. This section shows your understanding of what sobriety means as it relates to drug use and addictive behaviors in a broader sense.]

Example Language: *A sober life includes maintaining a balance between time spent in my intimate relationships and time spent by myself. In doing so, I will have time to conduct a self-inventory to know if I am falling back on addictive behaviors or negative thought patterns, rather than distracting myself by spending my time in social situations.*

A sober life includes prioritizing expressing my feelings in healthy ways through therapy, conversations with good friends, and journaling. When I can express my feelings, I am less likely to rely on substance use to cope with stress and emotions.

Section 4: SELF HELP HIGHLIGHTS

[In this section, you will provide the names and years of each self-help group you participated in that was significant to your “rehabilitation.” Also, including details of what you learned in the group is helpful in communicating a deeper understanding of the issues and your recovery. Do more than just listing what is in your chrono; talk about what you got from the group to show a blueprint of your growth and recovery.]

Coping Skills (DATES)

- **Example language:** In this workshop, I learned...

Power of Positive Thinking (DATES)

- **Example language:** Through this group I learned that...

Seven Habits for Healthy Relationship (DATES)

- **Example language:** This group taught me...

Domestic Violence Ultimate Relationship (DATES)

- **Example language:** Through these workshops I began to understand...

Domestic Violence Group (DATES)

- **Example language:** This group taught me...

AWARE: Accountability Workshop & Restorative Education (DATES)

- **Example language:** This course made me understand...

Victim Awareness Certificate (DATES)

- **Example language:** These sessions taught me...

Healing from Trauma from Abuse (DATES)

- **Example language:** In this group I began to heal from...

CoDA: Codependency Anonymous (DATES)

- **Example language:** This course taught me about...

Section 5: WORK EXPERIENCE

[This section essentially functions as a resume. It should include the jobs you've had while incarcerated or before including the role, dates of your employment, a list of the skills you've acquired, and a few sentences about how you will be able to apply these skills upon your release.]

Examples:

Optician

Dates: 2004 – 2013

Skills Acquired:

- Auto-edge, spot, mount, hand-edge, and block finish glasses
- Conduct final inspections on all glasses for customer distribution
- Problem-solving and detection of errors in orders
- Met daily quotas of 1,500 products; completed special orders of high-end products

My acquired skills and knowledge of Optometry industry will enable me to obtain employment in optometry offices and labs. I will be able to complete orders for customers and train other employees in the skills mentioned above.

Janitorial Services and Inventory Specialist

Dates: 2005 – 2006

Skills Acquired:

- Knowledge of various chemicals and chemical safety
- Inventory of industrial chemicals
- Ordering and restocking items
- Basic janitorial services
- Responsible for equipment safety
- Maintaining equipment

My acquired skills and knowledge of janitorial work prepares me for employment in any cleaning/janitorial service including within personal homes, businesses, or large facilities. I experience includes not only janitorial work itself but knowledge of products and equipment.

Section 6: ACCOMPLISHMENTS

[In this section, include a list of the workshops, trainings, educational, vocational, certifications, activity groups, support groups, and any other accomplishments since your incarceration. This section can function as a list and not necessarily descriptions.]

List everything you've participated in under these headings or others if relevant. (It's OK if you mentioned them in the Self-Help Highlights)

Workshops/Self-Help

Trainings

Educational/Vocational Classes

Certifications

Activity Groups

Section 7: PAROLE PLANS

[This section makes clear that you have thought about and made steps towards plans upon your release and that you have support/resources outside. Even if this section is not determined, its OK to put what your ideal plan would be.]

Housing

Explain your housing plans briefly here.

Example language: *“My first choice in housing is to parole to the San Francisco Bay Area and participate in the transitional housing program, Health Right 360 on Treasure Island. I have peers who have been successful in this program and I believe I will benefit from the programs and structure they offer.”*

Employment

Explain your employment plans briefly here.

Example language: *“If paroled to the San Francisco Bay Area, I will seek employment through employment agencies, job listing on the internet, and contact with potential employers.”*

Medical Needs

Explain what your medical needs are and how you will obtain care.

Clothing/Basic Living Needs

Explain how you will meet your basic living needs here.

Transportation

Explain how you will access transportation here.

Continued Self-Help

Explain how you will continue to access self-help groups, programs, etc.

Example language: *“In addition to the programming offered by HealthRight 360, I will seek out support groups for domestic violence survivors and formerly incarcerated people. I will stay informed about groups through my parole officer, internet searches, social service agencies including the California Coalition for Women Prisoners. These groups will help me create healthy friendships and a strong support system.”*

Relationships

Explain how you will approach relationship building upon your release.

Example language: *“I plan to spend time with my father upon my release. I am also eager to deepen my friendships with members of the California Coalition for Women Prisoners. I will wait to develop any romantic relationships until I am settled and have a strong support network around me. I will do this to ensure that the relationship is healthy and I can maintain my healthy relationship plan.”*

Education

Explain any educational goals here and/or if/how you plan to continue your education.

Volunteer Activities

Explain any ways you plan to be involved in volunteer efforts, community service, etc.

Section 8: LETTERS OF ACCOUNTABILITY TO VICTIMS

[Attach letters to victims in separate section]

Section 9: LETTERS OF SUPPORT AND AGENCY LETTERS

[Attach support letters, program letters, employment letters, volunteer center letters, etc. in a separate section]