



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

Corrections Division
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Thank you for your interest in the Clemency and Pardons Board (Board). Washington State Attorney General's Office employs me as a paralegal to assist the Board with processing petitions for pardons and commutations. My goals include making the petition process more user-friendly while ensuring that the Board and Governor receive all information necessary for thorough consideration of each petition. I am here to answer your questions and to ensure petitions follow their normal course in accordance with the Board's policies and procedures.

Article III, Section 9 of the Washington Constitution gives the Governor exclusive power to grant clemency. The term "clemency" is a general term describing a variety of different acts of mercy. The Governor can grant a reprieve, commute a sentence, commute a death sentence to life in prison, grant a pardon, and restore a felon's civil right to hold public office and own firearms. The power to grant clemency in the State of Washington only applies to crimes committed under Washington State law. The Governor does not have the authority to grant a pardon or commute a sentence for crimes committed under federal law or the laws of any other state. This power to grant clemency is an awesome responsibility, and the Governor only exercises it after careful consideration of all relevant facts.

The Washington State Legislature established the Board in 1981 to assist the Governor with the clemency process. The Board consists of up to five unpaid volunteers appointed by the Governor and confirmed by the State Senate. The Board's responsibilities include receiving clemency petitions, publicly considering petitions during quarterly hearings, and making recommendations whether to grant clemency.

After the petition deadline for the quarterly hearing, a Preliminary Review Committee ("Committee") reviews each petition to determine whether appearance before the full Board is warranted. When reviewing each petition, both the Committee and the Board focus on whether the petition demonstrates anything "extraordinary" about the petitioner's case, pursuant to Revised Code of Washington (RCW) 9.94A.728(4) and RCW 9.94A.885(1). Washington law does not define "extraordinary" circumstances, and there is no limitation on the factors that the Committee may consider when making its decision to select a petition for hearing. With that said, you should understand that there is no "particular reason" for accepting a petition for further consideration. Rather, the totality of the circumstances compels the Committee in their decision.

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Describing the factors that give rise to the term “extraordinary” is difficult as each member personally defines “extraordinary”. Factors that have affected previous petitions include the following:

- **The Severity of the Offense:** Certain crimes are so serious and so objectionable that it would be difficult, if not impossible, to forgive punishment;
- **The Impact on any Victims:** Both the Committee and Board lend strong consideration to the personal appearances and/or letters from the victim(s) during the decision making process. Also, letters or testimony from a probation agent or other members of the public can and do affect the final recommendation. Please note that you should never attempt to contact any victim(s) or victim’s family members;
- **The Offender’s Criminal History and Other Relevant Background;**
- **Acceptance of Responsibility, Remorse, and Atonement;**
- **Compliance with All Financial Obligations Imposed by the Court;**
- **The Amount of Elapsed Time since the Offense Occurred;**
- **Personal Development and Positive Life Change since Conviction:** A petitioner must demonstrate that he or she has undergone a productive change by positively affecting those around him or her as well as society at large. A petitioner may find it beneficial to submit commendations, awards, certificates of completion, transcripts, and diplomas in support of a petition. Additionally, volunteering to assist the community or aid the less fortunate reflects a productive personal change as well as a benefit to the community;
- **Any Benefit or Risk to the Community:** The petitioner’s actions should reflect his/her efforts to live a responsible productive life and/or give back to the community. To support a favorable recommendation, petitioners often submit letters of support from persons who hold positions of respect and trust in the community – local law enforcement officials, community leaders, employers, coworkers, etc. The author of the letter should know the petitioner and acknowledge awareness of the crime from which the petitioner seeks relief. Substantial contact with law enforcement authorities after the criminal conviction may be cause for a recommendation to deny the petition; and,
- **Position of Prosecuting Attorney and/or Sentencing Judge –** If a petition is selected for hearing before the full Board, Washington statute requires that we notify the prosecuting attorney who prosecuted the crime. The prosecuting attorney is then given the opportunity to provide comments to the Board (and therefore to the Governor) on whether clemency is justified. Typically, a prosecuting attorney will be either neutral or unresponsive. However, when available, a prosecuting attorney’s adverse response may have a detrimental impact on the

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Board's decision. Conversely, a favorable response oftentimes positively impacts the decision. While there is no requirement to notify the sentencing judge, his or her comments may also have a substantial impact on the petition. With these factors in mind, you may contact the prosecuting attorney who tried the case or the sentencing judge at your discretion and request support for the petition.

As I describe above, the petitioner is responsible for submitting information and supporting documentation that demonstrates extraordinary circumstances warranting relief. While this information cannot guarantee consideration before the full Board or clemency from the Governor, everything that demonstrates a petitioner's efforts to make amends and become a valuable member of society encourages a favorable outcome. Unfortunately, the Board often finds it necessary to deny a request for hearing or, if set for hearing, deny the petition all together simply because the applicant failed to provide sufficient supporting information.

The Board may only make a recommendation to grant clemency after considering the petition before a public hearing, pursuant Chapter 9.94A.885(3), RCW. Therefore, Board hearings are open to the public, and any information that the Board obtains may be subject to public disclosure under the Washington Public Records Act, Chapter 42.56 RCW. Also, a court reporter records and transcribes all Board hearings, and the state public affairs network, TVW, ordinarily broadcasts the hearings. You may view the Board's prior hearings via the TVW site, www.tvw.org/index.php?option=com_tvwsearch&keywords=clemency+and+pardons+board.

At the hearing, the petitioner, his/her family, and character witnesses may advocate on behalf of the petition. Although not required, a petitioner may also elect to obtain legal representation. The County Prosecutor's Office where the crime was committed as well as the victims, if applicable, and their families are entitled to speak at their discretion. After listening to the statements of interested parties, the Board openly discusses the petition and votes on whether to recommend that the Governor grant clemency. There are no specific guidelines that bind the Board's decisions. Each Board member votes based on his/her experience in life and interpretation of the petition. The Board then forwards its recommendation to the Governor's office.

The Governor is not bound by the Board's recommendation. The Governor reviews the full case in great detail and may conduct his/her own investigation. Only after fully understanding the circumstances of the crime and the reasons for the petition does the Governor make a final decision. Clemency is granted in the rarest and most extraordinary cases, and the Governor is free to place conditions on a pardon or commutation, such as requiring a conviction free record for a specified period of time following clemency. Failure to abide by any such conditions may be grounds to ultimately deny clemency.

A commutation is the reduction of criminal penalties in terms of imprisonment and is often conditional. A commutation does not nullify the conviction. Additionally, a commutation is not a contract, possible settlement or offer requiring legal advice from a lawyer as to whether to

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accept or reject it. Nor is a commutation comparable to a court proceeding or order of judgment. The process is strictly administrative, as is the commutation. Neither a pardon nor a commutation is a right, duty, or privilege. A person cannot earn or deserve either.

If the Governor grants a pardon, the Governor's Office sends a copy of the pardon to the Washington State Patrol (WSP) and requests that they remove the conviction from the petitioner's criminal history available to the public. However, the conviction remains on a separate criminal history available to law enforcement and others who are entitled to non-conviction data under chapter 10.97 RCW. The Governor's Office also requests that the WSP add a note to the restricted criminal history, reflecting the pardon.

The Governor does not have the authority to expunge or vacate a criminal record; only the courts have that authority. Also, a pardon does not automatically remove the record of the conviction from court files and does not relieve the party from reporting the conviction on an application for employment. The party may, however, indicate the receipt of a Governor's pardon. Other remedies allow a party to state that he/she has never been convicted of a crime, such as the vacation of a criminal record in accordance with RCW 9.94A.640.

An alternative form of relief may be available, and the Board will only entertain a petition if all alternative forms of relief are exhausted. This includes exhausting all appellate processes in cases where the sentence is ongoing. To determine whether another form of relief applies to a particular conviction, you can find information about vacating or expunging convictions at <http://www.courts.wa.gov/newsinfo/index.cfm?fa=newsinfo.displayContent&theFile=content/guideToCrimHistoryRecords>. In the event that all other remedies are already exhausted, please include documentary evidence demonstrating your efforts and the Court's decision.

We are currently accepting petitions for the March 2016 quarterly hearings. The deadline to submit a petition for these hearings is September 11, 2015. The deadline to submit a petition for the June 2016 hearings is December 11, 2015. Within a year, the Board may receive hundreds of petitions for pardon or commutation, and the Board only accepts a few of those for review and consideration at each quarterly hearing. The majority of petitions end in denial. Please be patient as this is a thorough time consuming process.

At this time, please be aware that the citizens and state government have called upon state agencies to aid in eliminating unnecessary expenditures. State agencies operate firmly under directive to embrace technology by, among other things, expanding online access and utilizing electronic resources whenever possible. In keeping with the request and directive, the Board has transitioned to as paperless a process as possible by providing and receiving Board related materials in electronic format.

We ask that you please support this endeavor. Unless internet access is unavailable to you, we attempt to send all communications from the Board via email. We also ask that you send all future communications concerning the petition process via email to CPBoard@atg.wa.gov, and

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that you submit any future supporting documentation in a format comparable to Adobe PDF. However, we understand that each petitioner has a unique set of circumstances and that internet access may be unavailable or restricted. Physical petitions carry equal weight through the clemency process, but please note that we will not return documents. With the exception of the signed signature page and Waiver and Authorization to Release Information, *please do not submit original documents.*

Please visit the Board's website, <http://www.governor.wa.gov/boards-commissions/clemency-pardon-board>, to access useful information about the clemency process, including the Board's policies, procedures, and forms for submitting a petition. I also enclosed these forms for your convenience. However, I do encourage you to make full use of all available resources by browsing the Board's website, when available, for information. If you have any additional questions, comments or concerns regarding the clemency process, please do not hesitate to contact me.

Sincerely,

Ishmael Scarborough

Ishmael Scarborough
Paralegal - Office of the Attorney General
Clemency and Pardons Board Support Staff
(360) 586-0047

IS/
Enclosures

INSTRUCTIONS FOR FILING A PETITION FOR REPRIEVE, COMMUTATION, OR PARDON

Complete the [Petition for Reprieve, Commutation or Pardon form](#) in its entirety, giving detailed information, and when necessary, attaching additional sheets of paper sufficient to provide a response.

There are two ways to submit a Petition.

1. The Washington State Clemency and Pardons Board (“Board”) has implemented the efficiency of a paperless process. In so doing, the Board now receives and sends Board related notices and materials in electronic format whenever possible. In keeping with this process, we ask that you submit your Petition electronically in an Adobe Reader compatible format via email to CPBoard@atg.wa.gov. After we receive your Petition electronically, we will send an email confirming receipt of your Petition. Please be patient as we occasionally experience high volumes of petitions for clemency.

We have found that by communicating with the Petitioner via email, we can provide a faster and more efficient application processing time.

2. If you do not have access to a computer and/or the internet, you may mail your Petition to the:

Washington State Clemency and Pardons Board
c/o Ishmael Scarborough
Office of the Attorney General
PO Box 40116
Olympia, Washington 98504-0116

If you are submitting your Petition by mail, please enclose one copy of the Petition and all attachments in addition to the original.

Please carefully read the directions below to ensure you allow for timely processing of your petition. Failure to comply with these instructions may result in a request for more information or, in some instances, rejection.

Regardless of whether you submit your Petition electronically or via U.S. Mail, you **MUST** send the **original, signed signature page, and the Waiver and Authorization to Release Information** to the address specified above.

A copy of the Judgment and Sentence from which the Petitioner seeks relief is mandatory. A copy of the Judgment and Sentence can be obtained by contacting the Clerk of the Court where the petitioner was sentenced; or, if incarcerated, by requesting a copy from the petitioner’s Central File. *The Governor cannot pardon a federal criminal offense. Accordingly, if you are seeking clemency for a federal criminal conviction, you should not complete this petition. Instead, you should contact the United States Department of Justice, Office of the Pardon Attorney.*

Attach copies of supporting documents evidencing whether all court ordered restitution, fees, and fines were paid in full.

You are strongly encouraged to provide letters of recommendation from all sources. Letters of recommendation must state the full name, address and daytime telephone number of the author and acknowledge the author's awareness of your conviction and intent to request a pardon or commutation.

You may submit with your Petition, copies of documentation such as commendations, awards, certificates of completion, transcripts, and diplomas in support of your Petition. Please do not submit original documents as they will not be returned to you. We randomly verify authenticity of submitted documentation. **DO NOT** attach tax returns, paycheck stubs, or other financial documents.

To the extent that the following are available to you, they may be helpful to the Board in deciding your Petition:

- Original charging document including the Certificate of Probable Cause or the Affidavit of Probable Cause.
- Police Reports that were either relied upon by the State in bringing the charges, or were provided to opposing counsel in discovery.
- Psychological Evaluation Reports provided to opposing counsel by either party or filed with the court by either party.
- Sex Offender Evaluation Reports provided by the defense to opposing counsel or to the Court.
- Medical Reports or records provided by the defense to opposing counsel or to the Court.
- Plea Agreement.
- The Statement of Defendant on plea of guilty.
- Department of Corrections Pre-Sentence Report.
- Sentencing memoranda filed by either party.
- No Contact / Restraining Orders.

DO NOT STAPLE or otherwise permanently bind your Petition and/or any portion of the attachments. A Petition with attachments may be clipped, clamped, placed in three-ring binders, or otherwise packaged in a temporary fashion.

DO NOT enclose your Petition and/or attachments in plastic sheet protectors.

If you are enclosing CDs or DVDs in support of your Petition, you must submit 7 copies.

DO NOT submit double-sided documents in the original Petition as this interferes with the scanning process.

DO NOT use tabs or other dividers as this interferes with the scanning process.

The petition and materials submitted with it will become property of the Office of the Governor and will not be returned to the petitioner. Please keep a copy of the petition and attachments for your personal records.

Please be aware that all or some information on the Petition, including attachments, and any information obtained by the Clemency and Pardons Board staff may be considered public record and subject to public disclosure under the Washington Public Records Act, chapter 42.56 RCW.

Written notification must be given to the Clemency and Pardons Board if you change your email address, place of residence, telephone number or place of employment prior to the final disposition of the Petition. If you are convicted or charged with a new offense after filing your Petition, please notify the Clemency & Pardons Board immediately.

If you decide to withdraw your Petition, you must notify the Clemency and Pardons Board immediately in writing at the address below.

Although not required, you have the right to retain counsel to prepare your Petition and if selected for hearing, to represent you at the hearing. If you acquire legal counsel, all further communications between you and the Board Staff must be through your attorney.

Please understand that the Governor in only grants clemency or pardon under the most rare and exceptional of circumstances. Restoration of firearms rights requires personal action by the Governor through his pardon power. To date, firearms rights have rarely been restored—and in fact those rights have specifically *not* been restored in most pardons granted. Requests for restoration of the right to possess firearms are treated the same as any other request for clemency. The Federal government, Division of Alcohol, Tobacco, and Firearms has the power to restore firearms rights. However, we understand that Congress has barred them from exercising that power.

JAY INSLEE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR
P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 902-4111 • www.governor.wa.gov

PETITION FOR REPRIEVE, COMMUTATION, OR PARDON

TO THE GOVERNOR OF THE STATE OF WASHINGTON:

Under the authority granted to the Governor pursuant to The Washington State Constitution, Article III, Section 9, and RCW 10.01.120, the undersigned hereby makes application for a pardon or commutation of sentence or reprieve and respectfully represents the facts as follows:

NAME OF PETITIONER:

LAST Name	FIRST Name	MIDDLE Name
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ALIASES, if any:

LAST Name	FIRST Name	MIDDLE Name
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LAST Name	FIRST Name	MIDDLE Name
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LAST Name	FIRST Name	MIDDLE Name
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RESIDENCE

Address	Apartment, Lot, Suite, Space, etc.
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City	State	Zip Code
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TELEPHONE NUMBER: _____ EMAIL ADDRESS: _____

Date of Birth	Place of Birth	Citizenship	Social Security Number	Prison Number
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DRIVER'S LICENSE NUMBER (Including State of Issuance): _____

Specify the Action You Are Requesting of the Governor

- PARDON (complete relief from sentence and/or disabilities related to conviction)
- COMMUTATION (reduction of sentence)
- REPRIEVE (delay in imposition of sentence)

Date of Application: _____

Have you previously applied for a commutation or pardon? YES

(If yes, WHEN?) _____

NO

If less than three years have passed, are their new circumstances that you believe justify your petition?

this application concerns medical issues Yes No

this application concerns deportation or removal issues Yes No

The Board reviews and hears Petitions for pardon or commutation only in cases in which judicial remedies for the conviction have been concluded to a final decision. Have all direct appeals been exhausted or has the time within which to appeal expired? YES NO

If you are incarcerated, are you under the jurisdiction of the Indeterminate Sentencing Review Board? _____

Are you on community custody for an offense that places you under the jurisdiction of the Indeterminate Sentencing Review Board? Yes No

If you are represented by an attorney or other party pertaining to this Petition, please indicate to whom all communications relating to this petition should be addressed.

NAME: _____

ADDRESS: _____

TELEPHONE: _____

ARE YOU A U.S. CITIZEN? YES NO

Have you exhausted all other applicable remedies available to you under the law, including a motion to vacate or motion to expunge or motion to seal the record?

YES NO

If yes, please attach all documentary evidence demonstrating your efforts and the Court's decision.

If not, please explain why: _____

For Each Conviction(s) for Which You Are Seeking Pardon or Commutation (Use additional paper, as needed, to complete your response.)

Crime or Offense: _____

Date of the Crime: _____

Date of Conviction: _____

County and State of Conviction: _____

Sentence Imposed: _____

Was there a Protective Order as a Result of this Crime: _____

_____ If Yes, is it still active: _____

Restitution/Costs Imposed: _____

If Restitution/Costs Imposed, what amount have you paid? _____

Were you represented by an attorney: YES NO

If yes, please provide:

NAME: _____

ADDRESS: _____

TELEPHONE: _____

Was a weapon used in perpetration of the crime(s)? YES NO

If yes, what kind: _____

If the offense was committed against a person, please answer the following:

1. Was the victim known to you? _____
2. If yes, the relationship _____
3. Was the victim injured? _____
4. Age of victim at time of offense _____
5. More than one victim? If yes, how many? _____
6. Was restitution ordered? _____
If yes, how much and has it been paid? _____

Please provide the following information:

Are you currently:

- Serving a sentence? If yes, when is your earliest possible release date? _____
- On parole? If yes, when is your discharge date? _____
- On probation? If yes, when is your discharge date? _____

Prior Convictions:

Have you ever been arrested, charged, or convicted of any offense at any other time? _____
The Board expects that all offenses, including gross misdemeanor and misdemeanor offenses, will be included in answer to this question.

If yes, please provide the following information for each offense (use additional paper, as needed, to complete response for each conviction):

- a. Crime or Offense: _____
- b. Date of Crime or Offense: _____
- c. Sentence Imposed and date: _____
- d. County and state where convicted or charged: _____

(A copy of the JUDGMENT AND SENTENCE for each offense for which you desire relief is REQUIRED before the Board will review your petition. PLEASE ATTACH A COPY TO THIS PETITION.)

Statement of All Pending Proceedings:

Please identify all cases that are pending against you in any State or Federal or local court, and provide the nature of each such case pending against you. If you have no cases pending against you, you must so state.

Identity of Court	Case / Docket No.	Status

Petitioner’s Statement:
(Use additional paper, as needed, to complete your response.)

For each conviction, fully explain the facts of the crime for which relief is being sought:

Please describe the “extraordinary” circumstances that you think would justify granting your Petition for clemency:

Please describe your rehabilitation efforts after your conviction, if any:

Describe your prison record, if any, (include commendations, disciplinary actions, etc.):

Are you currently, or have you at anytime in the past been, the subject of a do not contact order, restraining order or protective order? YES NO

If Yes, for each such order, please describe, in detail, the nature of the order and identify the parties and case in which such order was issued.

If yes, please attach a copy of each such Order.

This petition and materials submitted with it will become a matter of public record once received by the Clemency and Pardons Board.

Falsification of any portion of this application can be reason for denial.

This petition and materials submitted with it will become property of the Office of the Governor and will not be returned to the petitioner. Please keep a copy of the petition and attachments for your personal records.

I DECLARE UNDER PENALTY OF PERJURY THAT ALL THE CONTENTS OF THE ABOVE PETITION ARE TRUE AND CORRECT. I am aware that all or some information on this application and any information obtained by the Clemency and Pardons Board staff may be considered public records under the Washington Public Records Act, chapter 42.56 RCW and subject to public disclosure.

Signature of Petitioner: _____

Date of Signature: _____

