

Colorado Department of Corrections

Case Management Manual



Component: **Commute and Pardon**

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Any updates to this component will be posted in the change log

REFERENCES: Colorado Constitution, Article IV, Section 7; CRS 16-17-101; CRS 16-17-102

INTRODUCTION: EXECUTIVE CLEMENCY

Offender Services is the liaison between the Department of Corrections and the Governor's Director for Executive Clemency in providing offenders with access to the clemency process through the Executive Clemency Advisory Board (ECAB) and the Juvenile Clemency Board (JCB) to be used specifically for commute applicants who were juvenile offenders convicted as an adult of a Colorado crime.

The case manager is responsible for working with the offender and explaining the Governor's commute eligibility criteria. The case manager assists the offender in completing the Sentence & Character Certificate along with application forms and pertinent documents to complete the packet of information to be reviewed.

Once the facility review of the information has been completed and signed off by the Warden, within 30 days, it is to be sent to the Office of Offender Services at Headquarters in Colorado Springs. The case will be reviewed and submitted to the Executive Director for review and then sent to, Mark Noel, the Governor's Director for Executive Clemency located at Adult Parole, Community Corrections and YOS, 12157 W. Cedar Drive, Lakewood, Colorado 80228; Phone (303) 763-2400 X2421; FAX (303) 763- 2445; E-mail mark.noel@doc.state.co.us.

The Governor's Director for Executive Clemency, upon receipt of the commute application packet shall attempt to solicit additional responses and input from sentencing jurisdictions including the present district attorney, the presiding judge, the prosecuting attorney. The additional responses and victim impact will be made a part of the confidential commute application packet which will be submitted to the ECAB or JCB.

The ECAB and JCB after reviewing a case make a recommendation to the Governor concerning the merits of requests for commutation of sentence. The Governor's Director for Executive Clemency takes the requests for commutation of sentence before the Governor for review. The Governor makes a final decision to grant, deny, table or take no action concerning the commutation request.

When clemency is granted, an executive order from the Governor's Director for Executive Clemency granting clemency shall be transmitted to the Office of Offender Services. Upon receipt of the executive order, the Office of Offender Services will forward the original to Time/Release Operations to execute the appropriate time adjustment.

When clemency is denied, the Governor's Director for Executive Clemency will forward a letter of denial to the offender with a copy sent to the Office of Offender Services for dissemination. In cases where the ECAB has agreed to review the application at a later date, the next review date will be forwarded to the offender in the denial letter.

JUVENILE CLEMENCY BOARD (JCB) APPLICATION ELIGIBILITY CRITERIA FOR COMMUTATION OF SENTENCE

An inmate who, while a juvenile, was tried and convicted as an adult of a Colorado crime and who meets the eligibility criteria set forth below may submit an Executive Clemency Application for Commutation of Sentence together with a Character Certificate (Attachment Form B) to the Juvenile Clemency Board and the Executive Director for the Department of Corrections (DOC). The application shall be initiated by the inmate with the assistance of his or her Case Manager at the facility where the inmate is housed.

It is the responsibility of the inmate's Case Manager and the DOC Offender Services to assist the Executive Director of DOC, the Director for Executive Clemency, and the JCB, by monitoring and providing inmates with access to the clemency process. Applications shall be processed and presented to the Director for Executive Clemency within thirty (30) working days of the date the application is signed and witnessed. The Director for Executive Clemency may grant an additional thirty (30) days, if necessary, to complete the clemency application process.

1. Confinement:

- a) The inmate must be housed in a DOC facility, including a private facility, public contract facilities, and out of state facilities.

2. Time Served:

- a) An inmate serving a life sentence(s) must have served ten (10) calendar years.
- b) An inmate serving a sentence(s) in the Youth Offender System (YOS) must have served 1/3 of their actual sentence.
- c) An inmate serving any sentence other than those described above must serve 1/3 of their actual sentence, or ten (10) calendar years, whichever is less.

3. Parole Eligibility:

- a) The inmate shall not have less than fifteen (15) months remaining to his/her parole eligibility at the time of the commutation application.
- b) The inmate shall not be on parole or under the jurisdiction of the Colorado Board of Parole at the time of the commutation application.

4. Conduct:

- a) An inmate having been convicted of a Code of Penal Discipline (COPD) Class I violation may not apply for clemency until two years after the date of conviction. An inmate convicted of a COPD Class II violation may not apply until one year after the date of conviction.

5. Crimes not eligible for commutation consideration:

- a) As mandated by the Constitution of the State of Colorado, an inmate convicted of the offense of treason is not eligible for commutation consideration.
- b) An inmate who has been convicted of an offense involving any assaultive behavior against a peace officer or staff person within the Department of Correction is not eligible for commutation review.

6. Pending Criminal Charges/Sentences:

- a) An inmate with unresolved criminal charges is not eligible for commutation review.

7. Judicial Remedies:

- a) An inmate with a pending judicial appeal or a pending reconsideration of sentence is not eligible for commutation review.

8. Waiver of Criteria:

The Governor or the Executive Director for the DOC may grant a waiver of these criteria in cases involving medical emergency or for compelling cases that demonstrate:

- a) Catastrophic medical and/or mental health problems.
- b) Highly extraordinary circumstances or unique situations such as heroism, severe sentence disparity or for the purposes of rehabilitation or in the interests of justice.

Notification: Pursuant to C.R.S. 16-17-102, the current district attorney, sentencing judge, and prosecuting attorney, if available, shall be contacted for comment concerning the merits of the application for commutation of sentence. All reasonable efforts shall be made to contact the crime victim(s) or their representatives. Applicants are eligible to re-apply three (3) years after receiving official notification of denial from the Governor or the Director for Executive Clemency. Cases not reviewed or that are tabled are deemed terminated without further action one year from the date of application.

Approved: Bill Ritter Jr. Date: Dec. 18, 2007
Governor of Colorado

**JUVENILE CLEMENCY BOARD APPLICATION FOR COMMUTATION OF
SENTENCE & CHARACTER CERTIFICATE**

(Note: This application is to be used for juvenile offenders convicted as an adult of a Colorado crime)

I. GENERAL INFORMATION

Applicant Name (s) and Alias: _____
Facility: _____ Parole Eligibility Date: _____
Address: _____
Previous Address: _____
Date of Birth: _____ Soc. Security Number: _____
FBI No: _____ Department of Corrections No: _____
Education Level/Occupation: _____
(attach resume or work history and list any hobbies or special work skills)

II. CRIME INFORMATION - Crime No.1

List original charge(s) & final conviction:

Sentence: _____ Date Sentenced: _____
Court Docket No.: _____ Sentencing County: _____
Presiding Judge: _____ Prosecutor: _____
Defense Attorney: _____
List attempted post conviction remedies: _____

CRIME INFORMATION - Crime No. 2

List original charge(s) & final conviction:

Sentence: _____ Date Sentenced: _____
Court Docket No.: _____ Sentencing County: _____
Presiding Judge: _____ Prosecutor: _____
Defense Attorney: _____
List attempted post conviction remedies: _____

(List additional crime(s) on duplicate form)

I, the undersigned, hereby authorize the review and release of all information and documents to include but not limited to legal, medical, psychological, sociological, and scholastic achievement data, needed to complete my petition/application for commutation of sentence.

Inmate Signature Date: _____

Witness Signature Date: _____

III. ADDITIONAL ATTACHMENTS

- A personal letter to Governor Bill Ritter, Jr. stating specific reasons/circumstances for requesting clemency.
- A recent Performance Review Summary (PRS); if older than ninety (90) days, a new PRS should be submitted.
- The Admission Data Summary (ADS) and Diagnostic Summary completed upon DOC admission.
- Psychological/psychiatric reports which include diagnostic information from clinical staff or contractors.
- Reports of disciplinary actions and sanctions; including investigative reports if applicable.
- The most recent time computation.
- Current FBI record or arrest.
- Detainers/notifications requests, or other request pertinent law enforcement communications.
- Pre-sentence investigation report and/or offense report.
- Reports of adjustment to community placement if applicable.
- If serious medical/mental health problems exist, a current report containing the diagnosis, prognosis, and recommendations.
- Any additional documents, character references or exhibits that would assist the Governor in making an informed decision.

PRIMARY LEGAL AUTHORITY

Article IV State Constitution, Section 7. Governor may grant reprieves and pardons. The governor shall have power to grant reprieves, commutations and pardons after conviction, for all offenses except treason, and except in case of impeachment, subject to such regulations as may be prescribed by law relative to the manner of applying for pardons, but he shall in every case where he may exercise this power, send to the general assembly at its first session thereafter, a transcript of the petition, all proceedings, and the reasons for his action.

C.R.S. 16-17-101. Governor may commute sentence. The governor is hereby fully authorized, when he deems it proper and advisable and consistent with the public interests and the rights and interests of the condemned, to commute the sentence in any case by reducing the penalty in a capital case to imprisonment for life or for a term of not less than twenty years at hard labor.

C.R.S. 16-17-102. Application - character certificate. After a conviction, all applications for commutation of sentence or pardon for crimes committed shall be accompanied by a certificate of the respective superintendent of the correctional facility, showing the conduct of an applicant during his confinement in the correctional facility, together with such evidences of former good character as the applicant may be able to produce. Before the governor approves such application, it shall be first submitted to the present district attorney of the district in which the applicant was convicted and to the judge who sentenced and the attorney who prosecuted at the trial of the applicant, if available, for such comment as they may deem proper concerning the merits of the application, so as to provide the governor with information upon which to base his action. The governor shall make reasonable efforts to locate the judge who sentenced and the attorney who prosecuted at the trial of the applicant and shall afford them a reasonable time, not less than ten days, to comment on such applications. The requirements of this section shall be deemed to have been met if the persons to whom the application is submitted for comment do not comment within ten days of their receipt of the application or within such other reasonable time in excess of ten days as specified by the governor, or if the sentencing judge or prosecuting attorney cannot be located, are incapacitated, or are otherwise unavailable for comment despite the good-faith efforts of the governor to obtain their comments. Good character previous to conviction, good conduct during confinement in the correctional facility, the statements of the sentencing judge and the district attorneys, if any, and any other material concerning the merits of the application shall be given such weight as to the governor may seem just and proper, in view of the circumstances of each particular case, a due regard being had to the reformation of the accused. The governor shall have sole discretion in evaluating said comments and in soliciting other comments he deems appropriate.

