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Thank you for your interest in the Clemency and Pardons Board (Board). 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, 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/deny clemency.

Please note, the Board only considers a Petition for Commutation/Pardon where the conviction is 10 years **post-conviction**. On your Judgment and Sentence for your conviction you can use the date the order was entered by the court of conviction and add 10 years. You also need to be serious infraction free for 2 years, prior to submitting your petition.

After a complete petition is received, 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(d) 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.

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;

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- **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 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 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 described above, the petitioner is responsible for submitting information and supporting documentation that demonstrates extraordinary circumstances warranting relief. You are limited to 25 pages, in addition to the actual petition form and the required Judgment and Sentence. If your file is selected for hearing, you can submit any remaining documents for the Board's review, prior

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to your hearing date. 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.

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 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.

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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 relief under the following: **SB 5164**, Resentencing of individuals sentenced as a persistent offender due to a robbery in the second degree; **RCW 36.27.130**, permits prosecutors in Washington state to ask a court to resentence defendants "if the person's sentence no longer advances the interests of justice;" **RCW 10.73.090**, if a minor at time of the crime, and requested re-sentencing hearing. Also, all direct appeals been exhausted or has the time within which to appeal expired.

In the event that all other remedies are already exhausted, please include documentary evidence demonstrating your efforts and the Court's decision.

After you complete the petition and send it to the Board, the petition will be reviewed in the order it was received. Within a year, the Board may receive hundreds of petitions for pardon or commutation, so be patient as this is a thorough time consuming process.

Just a reminder, 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.*

If you have any additional questions, comments or concerns regarding the clemency process, please do not hesitate to contact me.

Sincerely,

Jennifer Rhéaume

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