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State of Colorado

EXECUTIVE CHAMBERS

136 State Capitol
Denver
80203

RICHARD D. LAMM
Governor

839-2471

EXECUTIVE ORDER

REORGANIZING THE EXECUTIVE CLEMENCY ADVISORY BOARD

WHEREAS, the Executive Clemency Advisory Board was created by statute on July 1, 1969, for the purpose of making recommendations to the Governor relative to reduction or modification of sentences of persons serving criminal sentences in the adult correctional institutions of this State and for the purpose of making recommendations concerning applications for pardon, reprieve or commutation; and

WHEREAS, the statutory authority of the Executive Clemency Advisory Board was repealed in 1975; and

WHEREAS, such a board provides invaluable assistance in screening persons who are seeking executive clemency; and

WHEREAS, the Board was recreated by Executive Order dated February 13, 1975, and amended by Executive Orders dated October 12, 1975, and September 17, 1981; and

WHEREAS, a reorganization of the Board is necessary because of recent changes in state criminal statutes and in light of experience in administering the Board's functions; and

WHEREAS, such a reorganization will provide the Board with sufficient procedural flexibility to carry out its functions in an efficient and effective manner and will enable clemency decisions to be made in a just and equitable manner;

NOW, THEREFORE, I, Richard D. Lamm, Governor of the State of Colorado, pursuant to the authority vested in me by the Constitution and laws of this State, DO HEREBY ORDER THAT the previous Executive Orders identified above be repealed and reenacted by this Order, as follows:

1. The Executive Clemency Advisory Board is hereby established within the Office of the Governor, with staff assistance to be provided by principal departments as needed. The Board shall review and make recommendations of clemency for persons convicted of Colorado offenses.

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2. The Board shall consist of nine to twelve members appointed by the Governor to serve at his pleasure, and shall include State officials, private citizens, the chairman of the State Board of Parole, the Executive Director of the Department of Corrections, and private attorneys. Four members of the Board shall constitute a quorum for the purpose of transacting business. Affirmative recommendations for clemency must receive favorable votes of at least three members of the Board or a majority of those members present and voting, whichever is great, before a recommendation of clemency is forwarded to the Governor.
3. The chairman of the Board shall be the Executive Director of the Department of Corrections or such other member of the Board as he may designate. The vice-chairman of the Board shall be the chairman of the State Board of Parole. The chairman shall exercise the usual and necessary duties and powers of such an office as he may determine to be appropriate. The chairman or his designee may appoint an acting chairman from among the members of the Board to perform the duties of the chairman in the absence of the chairman and vice-chairman.
4. The Board shall meet at least one time every two months and may also meet more frequently as the Board may deem to be appropriate. The Board may divide itself into two or more panels for the purpose of interviewing inmates, reviewing records, and making recommendations of clemency. The quorum for each such panel shall be the same as set forth in paragraph 2 above.
5. The Board may establish procedures as it deems appropriate for the conduct of its business. Such procedures shall not be subject to the provisions of the State Administrative Procedure Act or any other requirement of State law. All Board proceedings and records shall be confidential and shall be available solely to the Governor and his staff, members of the Board and its staff, and superintendents of correctional facilities. Persons under review will be interviewed by the Board only upon their request and the Board's concurrence.
6. The Board may make a favorable recommendation of commutation or reprieve only for one or more of the following purposes:
 - a. To correct serious inequities and disparities in sentences.

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- b. To provide an additional mechanism to reward appropriate institutional behavior.
 - c. To provide an additional method to handle unique and compelling situations within the Department of Corrections, such as emergency medical needs, need for extraordinary protection, and as a safety valve in extreme situations of overcrowding.
7. The Board may make a favorable recommendation for pardon only if the person has not committed any felony offenses subsequent to the offense for which he is seeking a pardon and only for one or more of the following purposes:
- a. The pardon is a prerequisite to a person attending professional school, obtaining a professional license, or obtaining other employment for which they are trained, experienced, or educated.
 - b. The crime for which the person was convicted has been decriminalized.
 - c. The pardon is needed to allow the person to carry a weapon in relation to bona fide law enforcement related work or for other bona fide occupational reasons, or related to utilizing a weapon for sports purposes.
 - d. The person is seeking a pardon to "clear his name" and he was convicted of no more than one nonviolent felony offense and has been a good citizen for at least ten years after completing his sentence, parole, or probation for the offense.

The person must have completed his probation or his incarceration and parole (if any) at least five years prior to being considered by the Governor for a pardon.

The Governor may ask that the Board review a pardon request, regardless of whether the person meets the previously stated criteria.

8. Case managers within each correctional facility shall be responsible for reviewing the files of inmates for the purpose of consideration for commutation or reprieve. Each inmate who meets the following criteria shall be reviewed by the Board, unless the case manager notifies the Board that an inmate is ineligible for review. Eligibility for review shall be based upon the following criteria:

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- a. At least two years of confinement by the Colorado Department of Corrections.
- b. At least nine months to parole eligibility.
- c. No class 1 institutional misconduct (assault, escape, rape, robbery, possession of contraband, possession of a facility key, etc.) within the preceding two years.
- d. No class 2 institutional misconduct within the preceding six months.
- e. The inmate is not being prosecuted for a crime committed within the institution.
- f. The judicial appeals process has been completed for the conviction on which the sentence subject to the Board's review was imposed.
- g. The inmate is not confined in administrative segregation, regardless of the point in time at which the violation occurred which led to the administrative segregation.
- h. The inmate is not presently serving a sentence for a violation of parole.
- i. If the inmate is serving a life sentence, he has been confined within the Department of Corrections for at least five years.
- j. If the inmate has been sentenced to the penalty of death, the Governor has asked the Board to review the sentence.
- k. If the inmate was sentenced under the presumptive sentencing law, section 18-1-105, C.R.S. 1973 (as amended), the inmate was sentenced to a term of incarceration greater than the presumptive range. Inmates sentenced below or within the presumptive range may be reviewed by the Board upon the request of the superintendent of the facility in which the inmate is confined, if the inmate meets the other criteria set forth in this order.
- l. The Governor may ask that the Board review the sentence of an inmate, regardless of whether the inmate meets the previously stated criteria.

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9. If the Board does not recommend clemency for an inmate, the Board may schedule that inmate for a subsequent review. The Board shall schedule subsequent review for those inmates who have been recommended to the Governor but who the Governor chooses to have reviewed again by the Board at a subsequent date.
10. All proceedings of the Board shall be conducted in conformance with the provisions of this Executive Order and in conformance with such other procedures and provisions which the Board may deem appropriate and which are not in conflict with this order.

GIVEN under my hand and the
Executive Seal of the State of
Colorado, this sixteenth day
of September, A.D., 1982.



Richard D. Lamm
Governor