

# Defender Guide to Michigan's Commutation Process



A publication of the Criminal Defense Resource Center of the  
Michigan State Appellate Defender Office

**Copyright © 2015  
Michigan State Appellate Defender Office**

## PREFACE

This Guide is intended, but not guaranteed, to provide accurate information. The information contained herein does not create an attorney-client relationship, and does not constitute legal advice. Users should always seek the advice of counsel. It is intended to provide a starting place for understanding the commutation process and to assist in filing an application. It is current as of the publication date. The Parole Board may change its procedures at any time. It is not a substitute for research and critical thinking. Read all statutes, administrative rules, and policies. It is important that this information not be relied upon as a final source. The reader should always check current statutes, rules, and policies as they relate to this matter.

Users may also wish to consult other resources on these subjects, including the MDOC's website, <http://www.michigan.gov/corrections>.

The Criminal Defense Resource Center is a division of the Michigan State Appellate Defender Office, and has been serving Michigan's Criminal Defense Community since 1977. To learn more about our products or services, find us on the web at [www.sado.org](http://www.sado.org). To order additional copies of this Guide, or for questions or concerns about the content of this publication, or any of our products including the Defender Books, should contact Heather Waara at [hwaara@sado.org](mailto:hwaara@sado.org) or the address below.

Marla R. McCowan  
Manager, Criminal Defense Resource Center  
3300 Penobscot Building  
645 Griswold  
Detroit, Michigan 48226  
313-256-9833  
[mmccowan@sado.org](mailto:mmccowan@sado.org)

## ACKNOWLEDGEMENTS

The 2015 edition of the Defender Guide to Michigan's Commutation Process for Attorneys was made possible through the efforts of many devoted and talented people. Special thanks to the project team of:

Frank C. Rodriguez, Paralegal, State Appellate Defender Office, principal author for writing the core of the Guide;

Bill Moy, principal production manager, for layout;

Eric Buchanan, for database development;

Heather A. Waara, for word processing, database maintenance, layout, distribution and production assistance;

Joanne Moritz, for fielding phone inquiries about our publications;

Marla R. McCowan, editor and administrator of the project; and

Dawn Van Hoek, Director of the State Appellate Defender Office and the original Editor and Project Administrator of the Defender Books, and invaluable source of information on the entire Defender Book Series.

The State Appellate Defender Office was indispensable to this publication for funding staff, equipment and overhead on the project.

Special thanks are also given to Jackie MacKinnon for her assistance in editing and support.

Thanks to the following persons who contributed to the manual:

Laura Sager, Citizens Alliance of Prisons and Public Spending (CAPPS)

Debra S. Wright, MSW

Jessica Zimbelman, Assistant Defender, State Appellate Defender Office (SADO)

Ronald W. Emery, a former Michigan Assistant Attorney General

Sandra Bailiff Girard, Attorney

Natalie Holbrook & Peter Martel, American Friends Service Committee (AFSC)

Several organizations were also indispensable to this publication: Prison Legal Services of Michigan, Inc. Staff and Staff Paralegals; Citizens Alliance of Prisons and Public Spending (CAPPS) and Families Against Mandatory Minimums (FAMM).

### **A note from the principal author of the Defender Guide to Michigan's Commutation Process:**

My background includes work as staff paralegal for Prison Legal Services of Michigan, Inc. (PLSM), prior to its dissolution. I have also assisted the State Appellate Defender Office (SADO) with its Clemency and Commutation Project and currently work at SADO. After searching through several law books on the subject of Michigan's commutation procedure, I found that very little had been written on the actual process the Michigan Parole Board uses. I saw a need for a manual which explains that process in light of current law, rules, policies, and internal practices of the Michigan Parole Board.

Questions or Comments. Users of the Defender Guide to Michigan's Commutation Process may address questions or comments to:

Frank Rodriguez  
Commutation & Parole Consulting, LLC  
PO Box 14036  
Lansing, MI 48901-4036  
248-410-3121  
[paroleconsulting@gmail.com](mailto:paroleconsulting@gmail.com)

**TABLE OF CONTENTS**

Pardons, Reprieves and Commutations..... 1

Parole Board's Mandate to Assist Governor with Applications for Clemency..... 1

Definitions ..... 1

Who May Apply for a Commutation? ..... 2

Obtaining a Commutation Application..... 2

Information That the Commutation Application Must Contain ..... 3

Tips on Completing a Commutation Application ..... 3

Filing the Commutation Application ..... 7

Initial Review of Commutation Application ..... 8

Parole Board Members Determine Merit..... 9

The Process for Determining Merit..... 9

Determination Regarding Merit..... 9

Notice of the Commutation Application to the Judge and Prosecutor ..... 11

Medical Commutation..... 13

Public Hearing..... 14

Proceedings at the Public Hearing..... 16

Where to Find Public Hearing Information on the MDOC's Website ..... 18

After the Public Hearing..... 19

Recommendation of Parole Board ..... 19

Governor's Decision..... 20

Obtaining a Prisoner's File After the Governor's Decision ..... 21

Appealing a FOIA Denial..... 22

Conclusion ..... 23

## APPENDICES

<b>Appendix A:</b>	Application for Parole or Commutation.....	27
	– Current Michigan Prisoner (Rev. 7/11)	
<b>Appendix B:</b>	Patient’s Authorization for Disclosure of Health Information (CHJ-121, 9/14) <a href="http://www.michigan.gov/documents/corrections/CHJ-121_Medical_Release_Form_469929_7.pdf">http://www.michigan.gov/documents/corrections/CHJ-121_Medical_Release_Form_469929_7.pdf</a> .....	31
<b>Appendix C:</b>	Sample Character Letter.....	32
<b>Appendix D:</b>	Parole Eligibility/Lifer Review Reports - Policy Directive 06.05.103 (01/01/01) <a href="http://www.michigan.gov/documents/corrections/06_05_103_432541_7.pdf">http://www.michigan.gov/documents/corrections/06_05_103_432541_7.pdf</a> .....	34

## PARDON, REPRIEVES, AND COMMUTATIONS

Article 5, §14 of the Michigan Constitution gives exclusive power to the Governor to grant reprieves, commutations, and pardons to prisoners of this state, except in cases of impeachment:

The governor shall have power to grant reprieves, commutations, and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations prescribed by law. He shall inform the legislature annually of each reprieve, commutation, and pardon granted, stating reasons therefor.

### PAROLE BOARD'S MANDATE TO ASSIST GOVERNOR WITH APPLICATIONS FOR CLEMENCY

The Michigan Legislature created a Parole Board within the Michigan Department of Corrections (MDOC) to, among other things, assist the Governor in considering applications for executive clemency. M.C.L. 791.231 *et. seq.* All applications for reprieves, commutations, and pardons must be filed with the Parole Board on forms provided by the Parole Board and must contain the information, records, and documents the Parole Board requires by rule. M.C.L. 791.243.

The Director of the MDOC is authorized to promulgate administrative rules to provide for the manner in which applications for a reprieve, medical commutation, commutation, or pardon may be made to the Governor. M.C.L. 791.206. The procedures the Parole Board must follow in processing these applications are found in M.C.L. 791.244 and Administrative Rule 791.7760.

### DEFINITIONS

As used in this guide:

The term **pardon** means to excuse someone for committing a crime. It also describes the formal document the Governor uses to release someone from prison or the formal action the Governor takes to release someone. Some people use this term interchangeably with "commutation," but the terms mean different things.

The term **reprieve** means the Governor can postpone or delay the start of the punishment imposed on someone for a criminal conviction. In other words, with a reprieve the Governor can step in when the court sentences someone to serve time in prison and prevent that person from being sent to prison.

The term **commutation** means the reduction in severity of punishment imposed by law. In other words, if the Governor grants a commutation, the legally imposed sentence is reduced; the person is not pardoned for the crime committed. Commutation is also referred to as "clemency."

The term **self-initiated** is the Parole Board's definition when anyone files an application besides the Board. Prisoners in the past have misunderstood this term to only apply to them filing an application for commutation, not their family or friends.

## WHO MAY APPLY FOR A COMMUTATION?

Any prisoner, except someone convicted of impeachment, may file an application for commutation regardless of when he or she was sentenced. The Governor can grant a commutation to an eligible person serving any amount of time: nonparolable life (natural life), parolable life, mandatory (determinate), or indeterminate sentences (sentences with a minimum and maximum term of years). The number of years a person is serving does not matter, even though the commutation laws are found in part of the "Lifer Law" statute, M.C.L. 791.234.

## OBTAINING A COMMUTATION APPLICATION

According to Administrative Rule 791.7760(1), the Parole Board requires the Applicant to use the "appropriate application" when submitting the request for commutation. *See also* M.C.L. 791.243. The appropriate application referred to is form CFJ-515 (rev. 07/11).

For your convenience, the application form is reproduced as Appendix A. The form can also be obtained by prisoners from the prison law library at the cost of 10 cents per page. Or a free form can be obtained from the Parole Board by writing:

Michigan Department of Corrections  
Office of the Parole and Commutation Board  
Pardons and Commutations Coordinator  
PO Box 30003  
Lansing, MI 48909

Family and friends can also print the form by going online at: [http://www.michigan.gov/documents/corrections/application\\_for\\_pardon\\_or\\_commutation\\_-\\_current\\_prisoner\\_331014\\_7.pdf](http://www.michigan.gov/documents/corrections/application_for_pardon_or_commutation_-_current_prisoner_331014_7.pdf). The form can then be mailed into the prison.

When the Commutation Application form is received directly from the Parole Board, it will be accompanied by a letter which reads in relevant part:

As required by Michigan law, upon review of the Application packet, the Parole Board will determine if the Application has "Merit" and take one of the following actions:

1. If the Parole Board determines the Application has merit, the Judge and Prosecutor in the sentencing county will be asked for their position on the Application. If neither objects to the Application, a Public Hearing on the Application will be held. After the Public Hearing, the Parole Board will send the Application, a transcript of the Public Hearing, and its determination of merit to the Governor's Office for a final decision. *[EDITOR'S NOTE: Written objections from the Judge and Prosecutor in the sentencing county do not automatically stop the Parole Board from voting to move forward and recommending that a public hearing be held on a commutation.]*
2. If the Board determines that the application does not have merit, the Board will send the application and its determination of "no merit" directly to the Governor's Office for a final decision.



## INFORMATION THAT THE COMMUTATION APPLICATION MUST CONTAIN

There is no MDOC Policy Directive exclusively written on the commutation process. Administrative Rule 791.7760 provides the specific information an Applicant must provide when submitting a commutation application.

1. Date of conviction and sentence imposed for the crime for which the person is seeking commutation or clemency.
2. Personal history, including all of the following: age; citizenship; marital status; number of dependents; if on parole or discharged from sentence, employment history and personal references.
3. Criminal record.
4. Circumstances of crime for which the person is seeking clemency.
5. Reasons for seeking clemency.
6. Other relevant information requested by the Parole Board.

According to Administrative Rule 791.7760(2) the Parole Board must handle the Application pursuant to the procedures set forth in M.C.L. 791.244.

***[EDITOR'S NOTE:** The Parole Board is not required to act upon an application that is substantially identical to one which has been denied within two years of the date of the present application. Administrative Rule 791.7760(2). The Applicant may reapply for a commutation of sentence after two years from the date of the Board's receipt of the last application.*

## TIPS ON COMPLETING A COMMUTATION APPLICATION

While there is no guarantee that doing everything right will earn an Applicant's freedom, there is no downside to investing the time to present the Applicant's case to the Parole Board and/or to the Governor in the best possible light. Remember, you have to show why the Applicant deserves to have a commutation granted -- more than the many others who have filed for commutations.

To give some insight into how to improve an Applicant's chances, the questions from the application form are reproduced below, with tips for answering each question.

1. The first section deals with a prisoner's biographical information such as name, inmate number, location, date of birth, and if the Applicant is a United States citizen or not.

***Tip:** Always double-check this information for accuracy.*

2. The second section deals with Michigan conviction(s) for which the Applicant is requesting a pardon or commutation of sentence. It asks for the Crime Title (statute number) and Type (felony or misdemeanor), date, Court and location, Judge, and sentence imposed.

***Tip:** Always double-check dates, statutes, etc. for accuracy. A friend or family member can access the Offender Tracking Information System (OTIS) website to obtain specific inmate information using an inmate's MDOC number at <http://mdocweb.state.mi.us/OTIS2/otis2.html>.*

3. The third section asks the Applicant to briefly describe the circumstances of the crime(s) for which he or she is requesting a commutation.

---

**Tip:** *Keep in mind that the Parole Board will compare your description of the events against the official version from the Presentence Investigation Report (PSI). The factual allegations of the PSI are considered to be true. Review your PSI very closely when preparing your commutation application and make sure your petition and the PSI contain a similar description of the facts of the crime and the details of your life before the crime and your sentencing.*

It is critical that the prisoner accept responsibility (admit guilt) and not re-litigate the case. You should NOT "minimize" your part in the crime. A commutation of sentence asks for forgiveness, not exoneration, and it assumes guilt. This is also not the time to argue trial error, ineffective assistance of counsel, prosecutorial misconduct, or why evidence should have been suppressed. Arguments about the merits of the case are likely to be ignored and will probably hurt your chances for a commutation. Finally, do not blame other people or circumstances for your past choices. Even if the PSI places the primary guilt on the co-defendant(s), the prisoner must accept responsibility for whatever role he/she played in the crime and for having chosen to associate with the co-defendant(s).

Public hearings are very problematic for people who have consistently claimed to be completely innocent. If he/she changes positions and admits guilt that may be used against him/her unless a solid reason for having falsely maintained innocence is presented. (E.g., the crime was so horrible that I just couldn't face what I had done. Participating in AA helped me to accept responsibility for my behavior.) If the prisoner continues to maintain his innocence, he must still express the appropriate sympathy for the victim(s) of the crime. He should be prepared to answer very tough questions about the evidence that was presented at trial that led to the conviction. If he played even a minor peripheral role at any point during the crime he/she must accept full responsibility for those actions.

4. The fourth section asks the Applicant to provide a brief statement explaining why he or she is requesting a commutation.

**Tip:** *Clearly explain the compelling reasons why the Parole Board should recommend that the Governor reduce your sentence. This lets you put your own culpability in context. Describe mitigating circumstances, but do not blame others for what happened to you.*

You may want to explain your substance abuse history. Explain how this played a role in leading you to commit your crime. Also, this is the place to include any current health information such as any chronic disease, or mental or physical limitations, or any information about an impoverished upbringing, low IQ, that has affected your decision-making previously in your life. This should not be written as if these problems are an excuse for your bad behavior, but you may want to include the information as part of your petition. You need to demonstrate insight into why you were abusing substances or how you got to the point in life where you made the decisions you made to commit the crime(s) you committed.

If your sentencing judge questioned the fairness of a mandatory sentence or the required guideline level, he/she may be willing to write a letter of support, make a telephone call, stand by his or her statements at sentencing, and/or not oppose a commutation. Some prosecutors may also be willing to stand aside, if not actively support, an Applicant's petition and may be willing to write a letter to that effect. Even without their support, reproduce any such statements from the sentencing transcript to attach to the application. It is a good idea to have someone contact the prosecutor or judge before you submit your commutation application to discuss their potential position on your application. Once the prosecutor or judge takes a negative position it will be almost impossible to

convince him or her to change positions. If the prosecutor or judge is going to oppose your application you should consider holding off on filing the commutation for a year or so to give them or their successor a chance to reconsider since you can only file it once every two years.

5. The fifth section asks the Applicant to provide a brief statement explaining why he or she should be granted commutation.

***Tips:** Legal arguments resulting from the non-retroactivity of laws should not be included. Neither the Parole Board nor the Governor generally care about a prisoner's view whether or not the law has treated him/her fairly.*

It cannot be stressed enough that both the Parole Board and the Governor want to hear why you will not commit any crime again if you are released. Statements of remorse and personal insight about who you were when you committed the crime compared with who you are now are good ways to discuss this. You can explain how you became involved in your crime(s); why you committed it; why you know it is wrong; how you have changed; and why you will not return to a life of crime.

You should take time to express yourself and to demonstrate your remorse for your actions (not for getting caught), and how you have changed so that you will not fall into the same trap if you are released into society. Discuss your character weaknesses when you committed your crime(s). Discuss how you have overcome these weaknesses. Describe how you will continue to overcome these weaknesses if you are released. Both the Parole Board and the Governor look for reassurance that you will not return to your old lifestyle as soon as you get out or as soon as things get a little rough for you on the outside.

Additionally, if there are medical or physical reasons that will prevent you from re-offending, explain those conditions. But make sure not to only use these medical/mental health facts as your rationale for why you will not re-offend. There should be some depth of understanding and evidence of introspective reflection as to why you are a different person today than you were at the time of the crime no matter what your physical or mental health is like (unless you are suffering from severe cognitive impairment due to senility, Alzheimer's disease, or other cognitive issues that limit your ability to comprehend these concepts).

Include any reasons that can reassure the Board that you will not re-offend.

This is also the place to really express pride in your accomplishments. Elaborate on the Reception and Guidance Center recommendations you completed while in prison. List each class, vocational training, psychological counseling, or seminar attended; the topic(s) covered, and whether or not you completed the class/training/seminar. List each job you have held while incarcerated. Set forth what you have done while in prison to improve yourself. Are you active in religious services? Do you attend non-mandatory self-help classes, etc.? When was the last time you received a ticket? Be advised that poor behavior can be considered a sign that an inmate will be a danger to the community if released. Explain how you have bettered yourself so that you will "make it" in society and not end up back in prison as so many do.

Take time to organize your thoughts as to how you have spent your time in prison to better yourself; the classes you have taken; the jobs you have been assigned; etc.. It is very important that you discuss these things specifically and in detail, not merely refer to attached letters. You need to let the Parole Board know in your own words who you are and especially the "new and improved" person you have become. Was there an event that triggered your change? If so, discuss that.

Have you maintained a close and continuing relationship with your family? If so, identify with whom and what relationship are they to you? What is your marital status? Do you have dependents? If so, how many? Do you write your family regularly? Do they write you regularly? Do they visit you? How often? Do you speak to them by telephone? How often? You should not write about how your family needs you, but rather about how close you are to them and how you have maintained this closeness since you were incarcerated. **NOTE: Do not explain how much your family needs you.** *The Parole Board considers the impact on your family to be a direct result of your crime(s) and not a reason to reward you with a parole.*

If you do not have solid family support or if your loved ones have died since you've been incarcerated, have you developed meaningful relationships with support outside of your family? Have you reached out to religious communities, volunteer organizations, and other individuals who have now become supporters?

**NOTE:** *The Parole Board and ultimately the Governor see thousands of these applications. Although not unlimited, both bodies have a finite number of recommendations and ultimately commutations that they feel it is appropriate to make/grant. It behooves an Applicant to stand out. Why should **that applicant in particular** be forgiven, as opposed to all of the other thousands of applicants?*

6. The sixth section asks the Applicant about home and job placement plans in the event he or she is released.

**Tip:** *This is where you should mention if you have a home and job waiting for you upon release or do you plan to attend college or continue schooling. If you have employment, include a letter from your future employer and letters of support for your plans. The letters should be as specific as possible. Example: If Mr./Ms. \_\_\_\_\_ is granted a commutation, he/she will be employed at my cleaning company. I will pay him/her \$10.00 an hour and provide thirty hours of work per week as a probation period. Upon three months of demonstrating a strong and responsible work ethic, I will provide forty hours per week at \$11.00.*

**Tip:** *Applicants are more likely to receive consideration if they have a support network once they get out.*

If you are not a United States citizen, you may want to explain that you could possibly be deported upon release. If you have had deportation proceedings, you may want to include the INS hold and deportation documents with the commutation application.

**Additional Tips:** *Although a cover letter is not required, it can be the most important part of the Application. When you are done filling out the commutation application, write a cover letter which summarizes the request for commutation and your reasons for seeking it. Highlight the compelling reasons that make your case stand out. Mention supporters and extract a sentence or two from the most important letters. Also, list the documents attached to the application. The application does allow an Applicant to submit supporting documentation, and this is a chance to provide background materials. Include letters of support if you have them, relevant portions of the sentencing transcript if it is cited in the application, Certificates of Accomplishment, and other documents that support your position or provide case information. Add information about your progress in prison, such as diplomas earned, programs completed, employment and volunteer activities. Include any "meritorious conduct" contained in any "critical incident report" or letter of commendation that would be in your MDOC file.*

***NOTE:** All letters of support should be sent to the Applicant before the letters are submitted to the board. Terrible letters of support have gone to the board without the inmate reading the letter first. Nevertheless, a bad letter could prove detrimental to the prisoner's success. In addition, it is really important that the letters of support not minimize the prisoner's involvement in the crime. These support letters, like the prisoner's own submissions, must remain minimization free.*

*Furthermore, an Applicant must remember that the Governor's Office sometimes receives letters not only from the prosecutors and judges but from the victims' families. These are very compelling. They are letters from the Governor's constituents asking the Governor not to grant a commutation based on the pain they suffered because of the Applicant's crime. It seems very unlikely, but if the Applicant has any connection or good will with the victim's family, it would benefit an Applicant immensely to have a letter of support. At the very least, the Applicant might write to the victim's family to let them know that he/she is seeking commutation and explain why. Then the victim's family is not blind-sided by a phone call from the prosecutor. The more sympathetic the victim's family is to the Applicant, the better off the Applicant may be. In other words: Applicants might want to know that the amount of opposition to the Applicant's commutation (be it from the Judge, the Prosecutor, or the Victims) is half of the story presented in the complete commutation application file.*

Remember, you want the cover letter to make a good impression. The letter and application will be compared with those the Parole Board receives from other prisoners. In a very real sense, you are in competition with every other prisoner requesting a commutation. The Governor will grant only a few commutations out of all the applications she or he receives (if any). This may not seem fair, but it is the reality. Invest the time and energy necessary to make your paperwork stand out. The Parole Board members are busy and do not have time to read long, drawn-out applications. Avoid unnecessarily long words and complex sentences. Get to the point quickly. Keep paragraphs short. Make things easier for your readers and keep them from losing interest.

## FILING THE COMMUTATION APPLICATION

According to the commutation forms provided by the Parole Board, Applicants are required to:

1. Submit the application and any supporting documentation. The application must have the signature of the applicant (or the person applying for the Applicant) and, unless the applicant is a prisoner, the notary's stamp and signature. (***EDITOR'S NOTE:** If the Applicant is a prisoner their identity must be verified by facility staff.*)
2. Complete all items and questions fully, using additional sheets as necessary.
3. Mail the Application and supporting documentation to:

Michigan Department of Corrections  
Office of the Parole Board  
Pardons and Commutations Coordinator  
PO Box 30003  
Lansing, MI 48909

***Tip:** Use a Certified Mail Receipt card in mailing the Commutation Application to the Parole Board. This way you will know it was received and the date of filing for your own records.*

---

## INITIAL REVIEW OF COMMUTATION APPLICATION

After the Pardons and Commutations Coordinator receives the Commutation Application, it is reviewed to determine whether the Parole Board has jurisdiction to process the Application and to make a recommendation to the Governor as to whether or not the Application has merit.

If the initial review shows that the papers are not completed properly or if sections are left blank, the Commutations Coordinator will acknowledge receipt of the Application but return it to the Applicant with instructions on what errors the Application contains. The following is an example of a letter sent to an Applicant:

*Dear Sir or Madame,*

*This letter acknowledges receipt of your Application for Pardon or Commutation of Sentence.*

*Your Application is being returned because question [#2 or #3] is not complete. Please briefly describe the circumstances of the crime(s) and return it to the Parole Board. Once the Application is received back from you, the Board will make a recommendation to the Governor.*

*Sincerely,*

*The Michigan Parole Board*

After the Applicant returns the corrected Application to the Parole Board, the Commutation Coordinator will review it again. If no further corrections are needed, the Application is sent to the Chairperson of the Parole Board for further processing with a letter which states:

*Dear Chairperson,*

*Upon review of the attached Self-Initiated Application for Pardon or Commutation of Sentence, it is evident that this Application relates to conviction(s) of one or more violations of laws of the State of Michigan. It appears that the Michigan Parole Board has jurisdiction to process this Application and to make a recommendation to the Governor regarding whether or not this Application has merit.*

*Sincerely,*

*The Michigan Parole Board*

There is also a "Pardon or Commutation Worksheet Summary" form that is prepared by the staff of the Parole Board after the Application is submitted. The summary includes such information as the inmate's number, name, current age, time served, next review date, crime, sentence, date of sentence, description of the crime, and any additional relevant information (i.e., programming, medical status, major misconducts, etc.).

## PAROLE BOARD MEMBERS DETERMINE MERIT

Once the Chairperson receives the Application, she or he directs all 10 Parole Board members to conduct a review to determine within 60 days whether an Application for commutation has merit. M.C.L. 791.244(2)(a).

The current Chairperson and members of the Parole Board can be found online at: [http://www.michigan.gov/corrections/0,4551,7-119-1435\\_11601-223101--,00.html](http://www.michigan.gov/corrections/0,4551,7-119-1435_11601-223101--,00.html).

## THE PROCESS FOR DETERMINING MERIT

The Parole Board determines if an Application has merit by circulating the Application and a form entitled "Parole Board Action - Executive Session" to all 10 members of the board, requesting their vote on whether or not the Application has merit. The form consists of all the Parole Board members' names and a place for each to indicate his or her vote with a signature and date.

The "Pardon or Commutation Worksheet Summary" mentioned above, which is prepared after the Application is submitted, also has two boxes (a "Yes" and a "No"), for recording if the Parole Board has preliminary interest. **NOTE:** *This is not a commitment of merit by the Parole Board member that interviewed the prisoner, the Parole Board Chair, or any members of the Parole Board.*

Once all members vote at Executive Session, the Application and attachments are returned to the Pardons and Commutations Coordinator.

## DETERMINATION REGARDING MERIT

After reaching a *majority vote*, the Parole Board sends either the written documentation of the initiation or the original Application with the Parole Board's determination regarding merit to the Governor. It retains a copy in its file pending an investigation and hearing. M.C.L. 791.244(2)(b).

After the Parole Board has made its determination on whether an Application for a commutation has merit, it takes one of two different and distinct steps.

**First:** If the Parole Board determines that the Application **does not have merit**, the Application with the determination of "No merit" is sent directly to the Governor's office for a final decision, without further investigation. The letter sent with the Application to the Governor's office reads:

*Dear Governor:*

*Attached is a copy of the Self-initiated Application for Pardon or Commutation of Sentence filed by the above-named individual. This Application is being submitted to you in accordance with the provisions of M.C.L. 791.244.*

*In compliance with the provisions of said statute, the Parole Board has conducted a review of the Application to determine if the request has merit.*

*By majority vote, the Parole Board has determined that the Application does **NOT** have merit and that Executive Clemency is not warranted. Therefore, denial of the Application is recommended.*

*Sincerely,*

*The Michigan Parole Board*

---

**Tip:** After the Parole Board has made its determination on whether an Application for commutation has merit, it has also been mailing prisoners a letter which reads:

*Dear Prisoner,*

*Your application was forwarded to the Governor's Office for consideration on [date sent].  
You will be notified directly from the Governor on his decision.*

*Sincerely,*

*The Michigan Parole Board*

Generally, this letter means the Parole Board has **not** found merit in the Application, and the prisoners who have received this letter have not received any further investigation by the Parole Board based on their Commutation Applications.

**Second:** If the Parole Board determines that the **Application does have merit**, and further investigation is warranted, the Parole Board sends a request to the Parole Board Coordinator at the facility where the prisoner is located asking that a Parole Eligibility Report (PER) or Lifer Review Report (LRR) be prepared.

Generally, the Resident Unit Manager (RUM) or the Assistant Resident Unit Supervisor (ARUS) is assigned to prepare the PER/LRR using the Parole Eligibility/Lifer Review Report form (CSJ-123) for the prisoner in the time requested by the Parole Board.

According to PD 06.05.103(O) (eff. 09/02/2013), (see *Appendix D*), the report shall contain information as required by M.C.L. 791.235 and any other information requested by the Parole Board, including but not limited to the following:

1. The active offenses for which the prisoner is serving time. For a prisoner subject to disciplinary time, the amount of disciplinary time the prisoner has accumulated which has not been reduced shall be indicated for each active sentence.
2. The prisoner's prior criminal record.
3. The prisoner's overall adjustment while incarcerated or since the last Parole Board review date, as appropriate. This shall include a summary of major misconduct violations by the prisoner.
4. The prisoner's current progress toward completion of programs recommended in accordance with PD 04.01.105 "Reception Center Services" and PD 05.01.100 "Prisoner Program Classification." For a prisoner sentenced to serve a minimum sentence of two years or more for a crime committed after December 15, 1998, the PER shall indicate whether the prisoner is exempt from General Education.
5. Development (GED) requirements pursuant to PD 05.02.112 [http://www.michigan.gov/corrections/0,1607,7-119-1441\\_44369--,00.html](http://www.michigan.gov/corrections/0,1607,7-119-1441_44369--,00.html) "Education Programs for Prisoners." If not exempt and currently enrolled in GED programming, an estimated date of completion shall be included.
6. The prisoner's adjustment while in Community Residential Programs (CRP) or on parole for an



active sentence if applicable.

7. The prisoner's cooperation in providing information regarding his or her financial assets as required pursuant to PD 04.02.140 "Reporting of Offender Assets."
8. The prisoner's parole plans.

***Tip:*** Policy Directive PD 06.05.103(L) (eff. 9-2-13) provides that "A copy of the completed PER shall be provided to the prisoner. The prisoner shall attempt to resolve any questions regarding the content of the PER with the PER preparer prior to the PER being submitted to the Parole Board. The prisoner may present any unresolved questions regarding the content of the PER to the Parole Board member." It is very important to correct any inaccurate or misleading information at this point. Once it goes to the Board, it will be much more difficult to dispute anything in it. If you have someone helping you with the commutation, send that person a copy of the PER before you sign off on it.

The prisoner is then called to Health Care to have a physical and mental health examination by the appropriate Bureau of Health Care Service staff.

The prisoner is asked by Health Care to sign a Medical Release Form for the Parole Board to receive and review the prisoner's medical file. The medical release information is also sent to: the Circuit Court where the prisoner was sentenced, the County Prosecuting Attorney, Michigan Department of Attorney General, and the Governor's Office. The Parole Board generally asks the prison's Health Care staff to complete a two page medical status update form on the prisoner regarding the prisoner's general health.

The fact that a PER/LRR is prepared does not mean that the prisoner will receive a personal interview with the Parole Board. However, some prisoners who have had a PER/LRR prepared have been scheduled for an interview with one member of the Parole Board and have been provided 30 days' notice of the interview. At the conclusion of the interview, the prisoner is generally told that he/she will be receiving a decision within 30 days; however, prisoners have had to wait more than 30 days to hear from the Parole Board.

***NOTE:*** After a personal interview, some prisoners have received the letter discussed at the beginning of this section. This letter, it is believed, indicates that the Parole Board has withdrawn interest in proceeding on the Application and at this point would then send the Governor a letter of no merit.

### **NOTICE OF THE COMMUTATION APPLICATION TO THE JUDGE AND PROSECUTOR**

According to M.C.L. 791.244(2)(c), the Parole Board is required to forward a written notice of the filing of any Application, or a Parole Board initiated Application, to the sentencing judge and the prosecuting attorney of the county having original jurisdiction of the case. This must be done within 10 days after the Parole Board initiates an Application or determines that an Application has merit. The Board must include copies of the Application, any supporting affidavits, and a brief summary of the case.

A form letter which was sent to a sentencing judge and prosecutor's office reads:

*Dear Judge or Prosecutor:*

*Article V, Section 14 of the 1963 Constitution provides the Governor with authority to grant*

*reprieves, commutations, and pardons after convictions for all offenses except impeachment. However, M.C.L. 792.244 provides that the initial consideration of a reprieve, commutation, or pardon, and where appropriate, the subsequent holding of a public hearing shall be carried out by the Michigan Parole Board.*

*Pursuant to the authority found in M.C.L. 791.244, the Michigan Parole Board has conducted an interview of the above-referenced prisoner and has preliminarily determined there is merit to considering the commutation of [his or her] sentence.*

*M.C.L. 791.244(2)(c) provides that the sentencing judge and prosecuting attorney or their successors in office may file information at their disposal and/or any objections to the commutation of sentence.*

*This letter is to inform you that as [the sentencing judge, successor judge, or prosecuting attorney] in this matter, pursuant to M.C.L. 791.244(2)(c), you have 30 days to file said information, comments, and/or objections. Thereafter, the Michigan Parole Board will determine whether to proceed with a public hearing.*

*Attached is a copy of the Pre-sentence Investigation Report, Parole Eligibility Report, and other relevant documents.*

*Please review the enclosed documents and send any information, comments, and/or objections to [the Parole Board's Public Hearing Coordinator] at P.O. Box 30003, Grandview Plaza, Lansing, Michigan 48909 within the next 30 days.*

*Sincerely,*

*The Michigan Parole Board*

The sentencing judge and prosecuting attorney, or their successors in office, may file information they wish to introduce, along with any objections, within 30 days after receipt of notice of an Application. M.C.L. 791.244(c).

If a judge or a prosecutor objects to an Applicant's request for sentence commutation, these comments are made part of the prisoner's file. But, unlike the Lifer Law (M.C.L. 791.234(8)(c)), in which objections can veto the consideration of parole, it is not the same for the commutation process. Written objections do not automatically stop the Parole Board from voting to move forward and recommending that a public hearing be held on a commutation. The power to commute sentences, for any reason whatsoever, rests exclusively with the Governor, and any judicial action or law restricting this power would be unconstitutional and void. *People v. Freleigh*, 334 Mich. 306 (1952).

One letter of objection from the prosecutor read:

*Dear Parole Board Chairperson:*

*I have reviewed the materials that you have provided. Please allow me to express my strong objection to the prisoner's request for sentence commutation. To commute the sentence of this prisoner would send a terrible message and represent a clear injustice to the law-abiding citizens of this county.*

*Sincerely,*

*County Prosecutor*

In at least one case, the Parole Board sent the following letter to the county prosecutor's office after that office objected to a commutation:

*Dear Prosecutor:*

*The Michigan Parole Board carefully reviewed the letter objecting to parole, previously sent by [the trial judge] and now your letter and attachments dated [00/00/00] have been reviewed and carefully considered as well.*

*By majority vote, in executive session, the Michigan Parole Board has withdrawn it's [sic] preliminary interest to proceed to public hearing in this matter.*

*I want to thank-you for taking the time to respond on behalf of the [county] Prosecutor's Office. Please do not hesitate to contact [the Parole and Commutation Board] with any questions you may have.*

*Sincerely,*

*The Michigan Parole Board*

If the sentencing judge and the prosecuting attorney, or their successors, do not respond within 30 days, the Parole Board shall proceed with the Application. M.C.L. 791.244(c).

**NOTE:** *In the past, if an Applicant's case involved a final decision being made by a governor who was leaving office prior to the 30-day notice of filing objections, the Parole Board had requested that the judge and/or the prosecutor waive the 30- day notice provision for comment, if they felt it was appropriate. The waiver the Board has provided in the past reads:*

**MICHIGAN DEPARTMENT OF CORRECTIONS  
Office of the Parole Board  
WAIVER**

I, [Name of Judge, Successor, or Prosecuting Attorney for the County where the prisoner was sentenced], hereby waive the notice provisions pursuant to M.C.L. 791.244(2)(c), which provides that a 30-day notice period for filing comments and objections to a commutation of sentence must be provided to the sentencing court and prosecuting attorney. I also waive the notice provisions pursuant to M.C.L. 791.244(2)(g), which provide that at least 30 days' notice is provided of the public hearing. [The prisoner's name, number, and court docket number appear here, and the waiver is signed and dated by the Judge, Successor, or Prosecuting Attorney.]

At the same time as the Judge and Prosecutor are sent the 30-day notice letter, the Governor and Attorney General are sent letters explaining that the Michigan Parole Board has an interest in proceeding toward a possible recommendation for commutation of sentence.

**MEDICAL COMMUTATION**

Pursuant to M.C.L. 791.244(2)(d), if an Application or initiation for Commutation is based on physical or mental incapacity, the Parole Board must direct the Department's Bureau of Health Care Services (BHCS) to evaluate and report on the condition of the prisoner.

If the BHCS determines that the prisoner is physically or mentally incapacitated, they must appoint a specialist in the appropriate field of medicine who is not employed by the MDOC to evaluate the condition of the prisoner. These reports are protected by the doctor-patient privilege of confidentiality except that the reports shall be provided to the Governor for review.

A prosecutor may obtain records of a prisoner's psychological or psychiatric treatment for purposes of evaluating the Parole Board's decision; these records are not protected by psychologist-patient privilege. *Oakland Co. Prosecutor v. Dep't of Corrections*, 222 Mich. App. 654 (1997).

Policy Directives PD 01.06.11O(G) (eff. 05/01/12) allow prisoners to obtain their medical records by requesting them, in writing, from the MDOC's Medical Records Section. The Medical Records Section sends back a Response to Request for Health Record Information form (CHI-268) which itemizes the cost of the request and includes a Patient's Authorization for Disclosure of Health Information form (CHI-121) which the inmate must sign.

Non-prisoners may also obtain copies of a prisoner's medical records if the prisoner gives them authorization to do so. The prisoner must use the Department's form, "Patient's Authorization for Disclosure of Health Records," CHI-121. See Appendix B. This form must be on file with the Department before the non-patient can receive any information from a health care worker about the prisoner. When ordering medical records, the **specific** records must be identified; e.g., all records, blood test results, progress notes, specialty consult reports, psychological records, etc. To obtain psychological reports, these reports must be **specifically** listed on the prisoner's authorization release. The approximate dates of the desired records must be included, and copies are 25 cents per page.

Typically called medical paroles, these cases follow the general commutation process described above. M.C.L. 791.235(10) authorizes the Parole Board to grant a medical parole for a prisoner determined to be physically or mentally incapacitated. A decision to grant a medical parole under this statute shall be initiated upon the recommendation of the BHCS and shall be reached only after a review of the medical, institutional, and criminal records of the prisoner.

Commutation is the only avenue of release available in the case of a prisoner serving a Proposal B offense identified in M.C.L. 791.233b for whom a medical parole has been requested prior to completion of his or her minimum sentence.

## PUBLIC HEARING

M.C.L. 791.244(2) states that upon its own initiation, or upon receipt of any Application for a reprieve, commutation, or pardon, the Parole Board is required to do all the following as applicable:

1. The Parole Board must make a full investigation and determination of whether or not to proceed to a public hearing within 270 days after initiation of the process by the Parole Board or receipt of an Application that the Board has determined to have merit. M.C.L. 791.244(2)(e).
2. The Parole Board must conduct a public hearing no later than 90 days after making a decision to proceed with consideration of a recommendation for the granting of a reprieve, commutation, or pardon. The public hearing shall be held before a formal recommendation is transmitted to the Governor. One member of the Parole Board who will be involved in the formal recommendation may conduct the hearing and the public shall be represented by the Attorney General or a member of the Attorney General's staff. M.C.L. 791.244(2)(f).

3. The Parole Board must provide written notice of a public hearing by mail to the Attorney General, the sentencing judge, the prosecuting attorney, or their successors in office, and each victim who requests notice pursuant to the Crime Victim's Rights Act at least 30 days before conducting the public hearing. M.C.L. 791.244(2)(g). An example of such a letter follows:

*Dear [Judge, Successor, or Prosecuting Attorney]:*

*In a previous letter, the Michigan Parole Board informed you that it was conducting proceedings on the possible commutation of the above-referenced prisoner's sentence pursuant to M.C.L. 791.244 and the Governor's constitutional power to grant reprieve, commutation, or pardons under Article 5, Section 14 of the 1963 Constitution. Thirty days having elapsed since you were so informed, the Michigan Parole Board is now prepared to proceed on the commutation public hearing for the above-referenced prisoner.*

*M.C.L. 791.244(2)(g) provides that at least 30 days before conducting a public hearing, the Parole Board shall provide written notice of the public hearing by mail to the attorney general, the sentencing trial judge, and the prosecuting attorney, or their successors in office, and each victim who requests notice pursuant to the Crime Victim's Rights Act.*

*Pursuant to this section you are therefore informed that a public hearing on the commutation of sentence of the above-referenced prisoner is scheduled for:*

*DATE: [Day of the week and date]*

*TIME: [Time]*

*PLACE: [Location of Public Hearing]*

*At said public hearing, any person having information in connection with the commutation may appear and may be sworn as a witness. Further, the person who is the victim may submit written testimony for the hearing. At the hearing, the Michigan Parole Board shall give liberal construction to any technical rules of evidence. Further, the records of the hearing and any related files of the Michigan Parole Board shall be a matter of public record.*

*Sincerely,*

*The Michigan Parole Board*

4. Any person having information in connection with the pardon, commutation, or reprieve shall be sworn as a witness. (Any member of the Parole Board may administer the oath to any witness, M.C.L. 791.245.) A person who is a victim shall be given an opportunity to address and to be questioned by the Parole Board at the hearing, or to submit written testimony for the hearing. During the hearing, the Parole Board shall give liberal construction to any technical rules of evidence. M.C.L. 791.244(2)(h).
5. The Parole Board is required to conduct the public hearing pursuant to the rules promulgated by the MDOC. Administrative Rule 791.7760 states that:

- a) notice of the public hearing shall be provided to the press;
- b) the Parole Board member who conducts the hearing will be involved in the formal recommendation;
- c) the prisoner may testify and present relevant witnesses and documentary evidence;
- d) the prisoner may be represented by retained or appointed counsel;
- e) the presiding Parole Board member shall summarize all statements and documents presented both for and against the Application for clemency;
- f) the Parole Board shall give liberal construction to any technical rules of evidence.

The Parole Board is under no obligation to hold a public hearing unless it initially determines that it has interest in proceeding to the next step in the process, in which case the public hearing must be held before parole may be granted. A prisoner has no right to a public hearing absent the Parole Board's decision to hold one. *Middleton v. Parole Bd.*, 208 Mich. App. 563 (1995).

## PROCEEDINGS AT THE PUBLIC HEARING

The purpose of the public hearing is to allow the public an opportunity to speak on the record for or against parole or commutation. After initial interest has been taken and the case has been forwarded by a majority of the Parole Board in Executive Session, the Public Hearing is the next step. The public hearing is probably the most important step in the commutation process.

The public hearing is conducted by at least one member of the Parole Board, and the People of the State of Michigan are represented by the Office of the Attorney General (OAG). Members of the public (which can include the prisoner's friends or family members), as well as any victim(s) or victim(s)' representative may testify in support of or opposition to the Applicant's commutation. Alternatively, they may submit written testimony. "The victim shall be given notice if a commutation has been granted." Administrative Rule 791.7760(6).

The Board member and the Assistant Attorney General (AAG) may and usually do question the prisoner and may elect to question others who testify at the hearing. According to Policy Directive PD 06.05.104(C) (eff. 03/01/13): "A Department employee shall not make a recommendation to the Parole Board for or against parole of a prisoner, except if the employee is the victim of the offense for which the prisoner is serving. If the employee is the victim, s/he may address, or submit a written statement for consideration by, the Parole Board pursuant to the Crime Victim's Rights Act and PD 01.06.120 'Victim Notification'."

Prior to the prisoner being brought into the hearing room, anyone wishing to attend will be asked to show their identification, be patted down, their bags searched (it is a good idea to leave personal belongings in the vehicle), then they will be brought into the hearing room, asked to sign an attendance sheet and seated in the attendees section of the room. It is best to dress in business attire for this hearing.

The panel members who will be questioning the prisoner will be sitting at a long table near the front of the hearing room. There will be one Parole Board member running the proceedings, an AAG, and a court recorder transcribing the proceedings. Sometimes additional Board members or Assistant AGs will be present.

The prisoner is brought into the room by at least two Correction Officers (COs). Due to security, the prisoner will be dressed in prison uniform (commonly known as "prison blues"), and he or she will be secured with belly chains and handcuffs, along with leg shackles; these security restraints will remain on during the whole proceeding. The prisoner will be seated at a chair facing the Board member, Assistant AG, and court recorder.

The individuals who have come to attend the hearing will be sitting directly behind the prisoner. Any attorney who is representing the prisoner will also sit in the audience. **EDITOR'S NOTE:** *According to Administrative Rule 791.7760(5) ("[t]he applicant may be represented by retained or appointed counsel").* According to an email received from Thomas R. Combs, former Chair of the Michigan Parole Board "The Department may appoint counsel, if in the Department's judgment, the case is so complicated that the prisoner may need assistance. This is extremely rare. There is no application process for the prisoner to request counsel; the Board makes this determination based on their interaction with the prisoner or information received from the facility."

Once the prisoner is seated, he or she will have a recording device (a mini-microphone) clipped to the lapel of his or her prison shirt.

The Board member running the hearing will use an Opening Statement to introduce the process and the people sitting at the table. The Board prepares this opening statement several days prior to the Public Hearing.

The Board member will administer an oath to the Applicant and any witnesses.

**Tip:** *It is imperative to tell the truth. You will not gain favor if you lie, or bend the truth or omit any information whatsoever. This is your hearing, and it's time to be honest and set the record straight about the incarcerating offense if there have been any inconsistencies over the years.*

After the Board member is finished with the preliminary matters, he or she will turn the proceedings over to the AAG, who will go over an affidavit prepared by the Commutation Coordinator to ensure that the law (M.C.L. 791.244 *et seq.*) has been followed, and that all notifications have been sent. Then the AAG will start to question the prisoner. Toward the end of the hearing, the AAG will announce whether the AAG will support, object to, or not comment on the commutation of the prisoner.

These proceedings are like a mini-trial and the AAG will be very determined to have the prisoner tell the truth. Be prepared to answer questions regarding specifics, i.e., the name, address, etc. of anyone involved in the crime. Also the AAG might be extremely tough when questioning the prisoner. The prisoner may feel as if their goal is to anger him or her. **Tip:** *It is important that you do not take their questions personally, and do not get angry. Answer the questions truthfully, no matter how bad you think the answers may sound.* The kinds of questions to expect from the AAG will be:

- Why the prisoner is seeking a commutation?
- What was going on in the prisoner's life at the time you committed this offense?
- What the true details of the crime are. The AAG will ask very specific questions about the details of the crime. "Who were you with?" "What address were you at?" "Why were you there?" "Who gave you the gun?" "Were you doing drugs?" "What type of drugs?" "How much?"
- How the prisoner was involved in the crime.
- What the prisoner was thinking at the time of the crime and what the prisoner is thinking now.
- What actions the prisoner can point to that can do more than just say, "I'm a changed person."
- Why should the victim(s) family feel equally as secure with the prisoner out of prison than still in prison?
- What the prisoner feels for the victim of the crime (and those connected to the victim).
- What if anything had the prisoner done to repay or "make up" for the damage or impact done to the victim or his or her family?
- What the prisoner's institutional conduct and adjustment has been like during their entire period of confinement? **Tip:** *Be prepared to explain every ticket you have ever received in prison, especially the assaultive ones, which would include Threatening Behavior tickets. Do not minimize receiving any tickets, no matter if you think they are not a big deal.*
- What kind of support would the prisoner have outside of prison?

The AAG will also ask open-ended questions, in a slightly different tone or on a different subject. Therefore, it is imperative that a prisoner is prepared for the public hearing. It is important to retain composure at all times; angry reactions can only hurt.

In order to prepare for a public hearing, a prisoner should review the information in the Presentence Investigation Report, Parole Eligibility Report(s), major misconduct reports, and any psychological or therapy reports. If a prisoner has a co-defendant(s), the prisoner needs to make sure they understand the co-defendant(s) version of the events, too, because the AAG is most likely to use any conflicting statements against the Applicant.

If the co-defendant(s) agreed about what happened, then they may agree to let each other read the Presentence Investigation Reports and PERs. However, if the co-defendant(s) blamed each other, it will be difficult to get the other's current version of events. If the co-defendant(s) ever appealed the conviction then the transcripts will be on file with the court. The prisoner should review the co-defendant(s)' testimony at trial or the factual basis at a plea hearing and any statements made at sentencing and any statements given to law enforcement agencies.

The Board expects a prisoner to take full responsibility for the crime(s) they were convicted of. They expect honesty and for the prisoner to be straightforward with them. The Board members' biggest frustration in public hearings is that they spend a whole lot of time talking about what happened, and prisoners just cannot let go of their hesitation to tell the truth. So the Board ends up talking about the inconsistencies of what happened, instead of dwelling on what the prisoner has become since his or her conviction. Simply put, the public hearing is the prisoner's chance to come clean. It is understandable that it can be difficult to be completely truthful at a public hearing, especially when the prisoner's family, friends, or the victim's relatives are present. However, the Parole Board and Attorney General have been holding such hearings for decades, and easily pick up on hesitations, inconsistencies, or lies.

### **WHERE TO FIND PUBLIC HEARING INFORMATION ON THE MDOC'S WEBSITE**

The State of Michigan has a website which lists the public hearings scheduled: [http://www.michigan.gov/corrections/0,1607,7-119-1441\\_26969---,00.html](http://www.michigan.gov/corrections/0,1607,7-119-1441_26969---,00.html). A typical press release found on the web site reads:

A public hearing to consider the possible commutation of sentence for [prisoner's name and number]

Contact: [MDOC Public Information Officer], (517)373-6391

[Date]

The Michigan Parole Board will hold a public hearing on [day of the week and date], to consider the possible commutation of sentence for [prisoner's name and number]. It will be held at [time] at the T-IOO Training Center, G. Robert Cotton Correctional Facility, Jackson, Michigan.

[Prisoner] is serving a life sentence for [crime]. He was sentenced on [sentencing date] from [name of county].

The hearing is required under M.C.L.A 791.244 prior to any recommendation for executive clemency by the Michigan Parole Board.



At present, the public hearings are held at three locations:

T -100 Training Center (seating for about 50 people)  
G. Robert Cotton Correctional Facility  
3500 N. Elm Rd  
Jackson.MI49201

Handlon Michigan Training Center (seating for about 40 people)  
Richard A Handlon Correctional Facility  
1728 Bluewater Highway  
Ionia, Michigan 48846

Duane Waters Hospital (DWH)  
3857 Cooper St  
Jackson, Michigan 49201

### **AFTER THE PUBLIC HEARING**

The Parole Board will type up the attendance sheet from the public hearing. The court reporter will create transcripts of the testimony from the public hearing. The prisoner's time will be recalculated only after the parole board votes to recommend commutation. Once the transcripts have been prepared and all documents compiled by the Parole Board, copies will be sent to the Attorney General along with the recommendation of the Board to the Governor.

### **RECOMMENDATION OF PAROLE BOARD**

M.C.L. 791.246 mandates that all decisions and recommendations of the Parole Board be by a majority vote of the Board or of the Parole Board panel created pursuant to M.C.L. 791.206(2) to consider the application. A majority of the Parole Board or the Parole panel for that application must consider and make a recommendation on each commutation case. *See also* Administrative Rule 791.7765(2).

The Parole Board must transmit its formal recommendation to the Governor, making all data in its files available if it recommends the granting of a reprieve, commutation, or pardon. M.C.L. 791.244(2)(i). An example of a formal recommendation by the Parole Board to the Governor reads as follows:

*To [him/her] Excellency, the Honorable [Governor's name], Governor of Michigan  
[Sir/Madam]:*

*This is to report to you that pursuant to the provisions of M.C.L.A 791.244, a statutory public hearing was conducted on [date of hearing] at [location of public hearing], in the matter of application for commutation of sentence filed [date filed] by [prisoner's name and number].*

*Preparation for said public hearing was made in accordance with the statute and approved by Assistant Attorney General [AAG's name], who declared that in his opinion the Michigan Parole Board had jurisdiction to proceed.*

*A copy of the affidavit is attached, as well as a copy of the report prepared for the sentencing Judge, Prosecuting Attorney, and Attorney General. A copy of the Transcript of Testimony, which was tape recorded at said public hearing, is herewith submitted to Your Excellency.*

---

*From the evidence adduced at said public hearing held on [date], and from the records of the Parole Board including continuous reports from institution officials during [prisoner's name] confinement, we submit the following conclusions and recommendation.*

**CONCLUSION:** *That a public hearing was conducted by [Parole Board member's name], held pursuant to statute on [date], and thereafter a transcript was prepared. That on [date], a majority of the Michigan Parole Board voted in executive session to recommend to Your Excellency that commutation of sentence for [prisoner's name] be approved for the following reasons:*

*That after a careful review of all the material(s) presented, the Michigan Parole Board believes that [prisoner's name] is not a risk to public safety.*

**RECOMMENDATION:** *That the sentence of [term of imprisonment] imposed on [prisoner's name] be commuted by Your Excellency to a minimum term of [years and months], making the applicant eligible for parole on [date].*

*Sincerely,*

*The Parole Board*

The files in these cases are matters of public record except for medical records protected by the doctor-patient privilege of confidentiality. M.C.L. 791.244(3).

## GOVERNOR'S DECISION

There is no statutory or constitutional time limit imposed on the Governor to reach a final decision in cases which are referred by the Michigan Parole Board. The Governor may accept or reject the Parole Board's recommendation, according to his or her own judgment of the facts of the case.

If the Commutation Application is granted, the Governor signs a "Commutation of Sentence." Once the Parole Board receives the certificate of commutation, it will prepare a "Parole Board Referral Sheet" that includes a parole action. The parole action will be a **mandatory 48 months parole**. (Policy Directive 06.05.104, Section "DD. ")

If the Governor receives a recommendation of **no merit** from the Parole Board, the Deputy Legal Counsel for the Governor sends the following letter to the prisoner:

*Dear Prisoner,*

*The Parole Board has completed its review of your Self- initiated Application for Pardon or commutation of Sentence and forwarded its determination to the Governor. Based on the Parole Board's recommendation, the Governor has denied your Application.*

*Sincerely,*

*Deputy Legal Counsel*

Of course, the Governor is not bound by the Parole Board's recommendation, and the Governor still reviews Applications on a case-by-case basis; but this writer has not found any reported instances where the Governor has granted commutation over the "no merit" recommendation of the Parole Board.

**EDITOR'S NOTE:** On December 22, 2010, then Governor (Jennifer Granholm) commuted the nonparolable life sentence of a prisoner by the name of Matthew Makowski following the recommendation of the Parole Board. Four days after the commutation was signed and sealed by the Secretary of State, Granholm decided to revoke it and all copies of the commutation certificate were destroyed. Makowski filed an action in the Court of Claims seeking a declaratory judgment and injunctive relief against Granholm and the Michigan Secretary of State. The Court of Claims granted summary disposition in favor of the defendants, holding that it lacked jurisdiction and Makowski appealed. The Michigan Court of Appeals affirmed the lower court's decision, concluding that Granholm's exercise of the commutation power presented a nonjusticiable political question. *Makowski v. Governor*, 299 Mich. App. 166 (2012). The Michigan Supreme Court then granted Makowski's application for leave to appeal. On June 3, 2014 the Court held that the state constitution did not grant the governor the power to revoke a validly granted commutation. *Makowski v. Governor*, 495 Mich. 465 (2014).

Except for the type of situation above, there is no basis for an appeal of the Governor's decision either to grant or deny a pardon or commutation. The only avenue for the inmate at this point would be to attempt to determine the reasons for the denial and try to address those in the next commutation request in two years. The only avenue to **attempt to determine** the reasons for denial would be to obtain the inmate's Parole Board file to see what is written in the parole interview case summary notes; this may give an Applicant an idea why they were denied. **NOTE:** *the parole board is not required to give a reason for not recommending commutation.*

### **OBTAINING A PRISONER'S FILE AFTER THE GOVERNOR'S DECISION**

**NOTE:** *This could be an expensive process for family members of the Applicant and may not result in the family determining why a recommendation for commutation was not supported by the Board. However, this is the only way to review the Parole Board's file.*

According to M.C.L. 15.231, Section 2 of the Freedom of Information Act (FOIA), prisoners are not eligible to request public records if they are incarcerated in a state or local correctional facility. However, a prisoner's family members and friends are allowed to obtain the prisoner's Parole Board file under FOIA.

The following is an example of a FOIA request for the Michigan Parole Board to receive the information in a prisoner's Parole Board file:

*Name of Family Member or Friend*  
*Address*  
*City, State, Zip*

*Date*

*[Name], FOIA Coordinator*  
*Michigan Department of Corrections*  
*Litigation and Freedom of Information Division*  
*P.O. Box 30003*  
*Lansing, Michigan 48909*

*RE: Freedom of Information Act Request on prisoner [name/number]*

Dear [Name]:

*Under the provisions of the Freedom of Information Act, M.C.L. Section 15.231 et. seq., I request a complete and legible copy of the following documents of public record that pertain to the above-referenced prisoner, including but not limited to:*

- 1. Any and all e-mails, memoranda, records, notes, Lifer Interview/Review Logs, Parole Eligibility/Lifer Review Reports (PER), case reports, Parole Board Action - Executive Session forms, commutation work sheets, written notices of public hearing, notices regarding merit, formal recommendations on commutation, Parole Board Referral Sheet (CSJ-48SA), database files, or transcript of testimony which was recorded at any public hearing generated by any members of the Michigan Parole Board regarding the above-named prisoner's Application for Pardon or Commutation of Sentence; and*
- 2. Any and all written notices or e-mails forwarded to the sentencing judge and/or to the prosecutor's office regarding the above-named prisoner's Application for Pardon or Commutation of Sentence, and responses from those notices.*
- 3. I also request a list of any materials that may have been deleted. If any of those documents do not exist in your files, please indicate that in your response, as well as the name of the agency where these documents can be located. Please let me know the cost of these materials. I look forward to hearing from you within the 5-day statutory deadline. If you have further questions, please call me at \_\_\_\_\_ or email me at \_\_\_\_\_*

### **APPEALING A FOIA DENIAL**

According to M.C.L. 15.235, if the Applicant's request under FOIA has been denied in whole or in part, the Applicant may do one of the following:

1. Submit a written appeal to the Director specifying the word "appeal" and identifying the reasons the denial should be reversed. The appeal should be sent to: Litigation and FOIA Division, Office of Audit, Internal Affairs and Litigation, Michigan Department of Corrections, PO Box 30003, Lansing, Michigan 48909.
2. Commence an action in the circuit court to compel disclosure of the public records within 180 days after the MDOC's final determination. If the circuit court orders disclosure of all or a portion of the record, the applicant has the right to receive reasonable attorney fees, costs, and disbursements. If the circuit court determines that the MDOC arbitrarily and capriciously denied the request, the applicant also has the right to receive punitive damages in the amount of \$500.

For more information on the Freedom of Information Act, see M.C.L. 15.231 et. seq.

## CONCLUSION

The purpose of this manual is not to tell a prisoner specifically what he or she should put into a Commutation Application, but to give some insight as to how the process works. The manual is current as of January, 2015. It is not a substitute for proper research or critical thinking. The Applicant is encouraged to read the latest statutes, cases, policy directives, operation procedures, administrative rules, and Director's Office Memoranda.



**APPENDICES**

- Appendix A: Application for Parole or Commutation**  
– Current Michigan Prisoner (Rev. 7/11)
- Appendix B: Patient's Authorization for Disclosure of Health Information**  
(CHJ-121, 9/14)  
[http://www.michigan.gov/documents/corrections/CHJ-121\\_Medical\\_Release\\_Form\\_469929\\_7.pdf](http://www.michigan.gov/documents/corrections/CHJ-121_Medical_Release_Form_469929_7.pdf)
- Appendix C: Sample Character Letter**
- Appendix D: Parole Eligibility/Lifer Review Reports**  
– Policy Directive 06.05.103 (01/01/01)  
[http://www.michigan.gov/documents/corrections/06\\_05\\_103\\_432541\\_7.pdf](http://www.michigan.gov/documents/corrections/06_05_103_432541_7.pdf)





**Appendix A: Application for Parole or Commutation  
– Current Michigan Prisoner (Rev. 7/11)**



CFJ-515  
REV. 7/11

RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF CORRECTIONS  
LANSING

DANIEL H. HEYNS  
DIRECTOR

**OFFICE OF THE PAROLE BOARD**

Attached is the Application for Pardon or Commutation -- Current Michigan Prisoner you requested. If you choose to apply for a pardon or commutation, you should complete this application **and submit one copy of it and any supporting documentation to the Office of the Parole Board (OPB).**

As required by Michigan law, upon review of the application packet, the Parole Board (the Board) will determine if the application has “merit” and take one of the following actions:

1. If the Board determines that the application **has merit**, the Judge and Prosecutor in the sentencing county will be asked for their position on the application. If neither objects to the application, a public hearing on the application will be held. After the public hearing, the Board will send the application, a transcript of the public hearing and its determination of merit to the Governor’s Office for a final decision.
2. If the Board determines that the application **does not have merit**, the Board will send the application and its determination of no merit directly to the Governor’s Office for a final decision.

In accordance with Administrative Rule 791.7760(2), the Board will accept an application only one time every two years. The Governor’s Office will notify the applicant once a final decision has been made.

Sincerely,

MICHIGAN PAROLE BOARD

Pardons and Commutations Coordinator

Attachments

## DIRECTIONS FOR FILING AN APPLICATION FOR PARDON OR COMMUTATION OF SENTENCE

1. A pardon or a commutation of sentence is a matter of clemency – it is not a right. Please understand what it is you are requesting:

**Pardon** – The Governor uses his or her executive clemency powers to forgive a person convicted of a crime. A pardon removes the conviction and the associated penalty from the books.

**Commutation of Sentence** – The Governor uses his or her executive clemency powers to reduce a criminal sentence. This is not the same as a pardon, which wipes out the conviction.

2. The Parole Board (PB) is not required to act upon an application which is substantially identical to one that was previously denied within the last two years. The two year time period is measured from the date the previous application was received at the Office of the PB. If you file a substantially identical application within that time period, it will be returned to you.
3. Respond to every question. Be sure to list every crime for which you are requesting clemency. Be specific, detailed, and most important – be accurate. Be direct in your answers, but give enough information for the PB to understand your case. Type or print each response so that it is clearly understandable and legible. If there is not enough room on the form for your answers, you may attach additional sheets to complete your answer. If you do so, be sure to identify the question(s) you are answering on the attached sheets.
4. If your answers are incomplete, unclear, or unresponsive to the question asked, the application will be returned to you to properly complete and resubmit. This will delay consideration, so be direct, accurate, and complete in your answers.
5. When responding to question no. 3, give the **facts** of the crime and clearly describe the extent of your participation or your role in the offense.
6. Your answers to question no. 4 and no.5 should demonstrate to the PB what insight you have gained into your past criminal mindset and behavior. Your answers should explain how you have changed and what you have accomplished during your incarceration to bring about that change. Clearly describe why you are not a risk to the community. If you are requesting clemency due to a **serious** health issue, identify your diagnosis, prognosis, and the manner in which the condition is debilitating or affects your daily activity.
7. Please give as much detail as possible in your answer to question no. 6. List what plans you have made for life in the community and be specific. Let the PB know where you will live, what support systems you have, what programs you have looked into in the community, how you will support yourself, and generally what activities you will be involved in which will reduce the likelihood of future criminal behavior.
8. Additional documentation is not required but may be provided if it is relevant and clearly serves the purpose of verifying or adding additional information to your response. If you have filed prior applications with the same documents attached, please do not resubmit them. Instead, request that the PB review the documents you submitted with a previous application and provide a document list.

CFJ-515  
7/11

**MICHIGAN DEPARTMENT OF CORRECTIONS  
OFFICE OF THE PAROLE BOARD  
APPLICATION FOR PARDON OR COMMUTATION OF SENTENCE  
(CURRENT MICHIGAN PRISONERS ONLY)**

I hereby petition, as provided by law, for a pardon or commutation of sentence for the following conviction(s) in the State of Michigan and submit the following information in support of this petition:

1. Name: \_\_\_\_\_ Number: \_\_\_\_\_ Location: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ U.S. Citizen?  Yes  NO

2. Michigan conviction(s) for which you are requesting a pardon or commutation of sentence:

<b>Crime Title and Type (Misdemeanor or Felony)</b>	<b>Date</b>	<b>Court and Location</b>	<b>Judge</b>	<b>Sentence</b>
1.				
2.				
3.				
4.				

3. Briefly describe the circumstances of the crime(s) for which you are requesting a pardon or commutation:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Provide a brief statement explaining why you are requesting a pardon or commutation:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CFJ-515  
7/11

5. Provide a brief statement explaining why you should be granted a pardon or commutation:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

6. What are your home and job placement plans in the event you are released?

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SIGNATURE MUST BE NOTARIZED EXCEPT IF SUBMITTED BY A PRISONER**

Note: If this application is not signed by the applicant personally, it is signed by \_\_\_\_\_,  
(Name)

\_\_\_\_\_, for the following reason: \_\_\_\_\_  
(Relationship)

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature)

**Notary:**

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the petitioner, \_\_\_\_\_ personally appeared before me, known to me to be the person who signed the foregoing petition, and who made an oath that he or she had read the foregoing application by him/her subscribed and knew the contents thereof to be true of his/her own knowledge, except those matters therein stated to be on information or belief, and as to those matters he/she believes to be true.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
County State

My Commission Expires on \_\_\_\_\_

**IF SUBMITTED BY PRISONER, STAFF MUST VERIFY PRISONER'S IDENTITY BELOW**

\_\_\_\_\_  
**Staff Signature**

\_\_\_\_\_  
**Staff Title/Classification**

\_\_\_\_\_  
**Date**

**INSTRUCTIONS:**

1. Submit the application and any supporting documentation. The application must have the signature of the applicant (or the person applying for the applicant) and, unless the applicant is a prisoner, the Notary's stamp and signature.
2. Complete all items and questions fully, using additional sheets as necessary.
3. Mail the application and any supporting documentation to:  
 Michigan Department of Corrections  
 Office of the Parole Board  
 Pardons and Commutations Coordinator  
 Post Office Box 30003  
 Lansing, Michigan 48909

**Appendix B: Patient's Authorization for Disclosure of Health Information (CHJ-121, 9/14)**

[http://www.michigan.gov/documents/corrections/CHJ-121\\_Medical\\_Release\\_Form\\_469929\\_7.pdf](http://www.michigan.gov/documents/corrections/CHJ-121_Medical_Release_Form_469929_7.pdf)

MICHIGAN DEPARTMENT OF CORRECTIONS – Bureau of Health Care Services

CHJ-121  
9/14

**PATIENT'S AUTHORIZATION FOR DISCLOSURE OF HEALTH INFORMATION**

<b>Name:</b> <small>(PRINT OR TYPE FULL NAME OF PATIENT)</small>	<b>Number:</b>	<b>D.O.B.</b>
---	----------------	---------------

<b>Information to be released from:</b>	
<b>Facility:</b>	<b>Address:</b>

<b>Information to be released to:</b>		
	<b>Address</b>	<b>Organization (if applicable)</b>

<b>SPECIFIC DATES OF INFORMATION TO BE RELEASED:</b>	<b>Beginning Date:</b>	<b>Ending Date:</b>
--	------------------------	---------------------

Written     Verbal

**SPECIFIC INFORMATION:**     Medical     Dental     Mental Health     Complete Health Record

**Other – Specify:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Purpose of Release:**

By signing this form I am attesting to the fact that the records I am requesting be released, and may include alcohol, substance abuse, mental health status,<sup>1</sup> and serious infectious and communicable diseases (including venereal diseases, tuberculosis, Hepatitis C, and HIV infection)<sup>2</sup> are protected under State of Michigan and Federal confidentiality regulations and cannot be disclosed without my written consent unless otherwise provided for in the regulation.

I understand that I may revoke this authorization in writing at any time and that this authorization pertains to fulfillment of the above stated request. No information collected beyond this date will be released unless it pertains to this request. This release expires one year from the date of signature.

I have read the above and acknowledge that I am familiar with and fully understand the terms and conditions of this authorization.

**I DO HEREBY CONSENT TO THE DISCLOSURE OF THE ABOVE DESCRIBED INFORMATION CONTAINED IN THE HEALTH RECORD IDENTIFIED ON THIS FORM.**

<b>Date:</b>	<b>PATIENT / MINOR'S PARENT / GUARDIAN / MEDICAL POWER OF ATTORNEY SIGNATURE</b>
--------------	--

<b>Date:</b>	<b>WITNESS SIGNATURE</b>
--------------	--------------------------

1 Prohibition of Redisclosure: This information has been disclosed to you from records whose confidentiality is protected by Federal and State Law. Federal regulations (42 CFR Part 2) prohibit you from making any further disclosure of this information except with the specific written consent of the person to whom it pertains. A general authorization for the release of medical or other information if held by another party is not sufficient for this purpose (21 USC 1175; 42 USC 4582).  
 2 Michigan Public Health Code (MCL 333.1101 et seq.); Medical Records Access Act (MCL 333.26261 et seq.); 2014-2015 Appropriation Bill.

---

**Appendix C: Sample Character Letter**

*The character letter sent to the Parole Board should express support for the prisoner's commutation and should discuss: how you know the prisoner, personal insights, support of family and friends, rehabilitation, home placement if you are offering it, job placement if you are offering it, any other specific support you are offering.*

**SAMPLE LETTER**

Name of family member or friend

Address

City, State, Zip Code

Date

Michigan Department of Corrections  
Office of the Parole Board  
Pardons and Commutations Director  
P.O. Box 30003  
Lansing, MI 48909

RE: John Doe, #111111

To Whom It May Concern:

It is my understanding that John Doe, #111111, is submitting a petition for commutation. I am writing to support commutation of his sentence.

I am John's maternal aunt and I have known him all his life. He lost his father at a very young age, and his mother (my sister) worked hard to raise John and his four younger sisters. I'm sure those circumstances contributed to his getting involved in the wrong crowd, and he also had a very bad temper as a teen-ager. He was headstrong and did not want to attend school or listen to the adults in his life. As a result, he was in trouble as a juvenile and ended up in serious trouble, held up a gas station with two of his friends, and is serving a long sentence.

When John first went to prison, he was still an angry young man and was in trouble in prison, too. But after he was there a year, he began to take classes. He started to develop some art talent he had as a child. He got some anger management counseling while he was at one facility and additional psychological counseling where he is now. That all made a huge impact.

I have always visited John. What a difference I have seen over the ten years he has been incarcerated! He got his GED and then went on to college classes; he has sold several pictures he has painted; even more important, now he is actively trying to reach out and help younger men in prison. Our family is really proud of what he has done and how he has turned his life around.

John says he would like to be a teacher and try to help boys who are in a place he once was. I am an administrator with my local school system and have talked to my superiors and to college admission people about John. With the classes he has already taken, he is eligible to be enrolled in the education curriculum and will have a place here to student-teach when the time comes. He has always had a job

while in prison and has proved to be a hard-worker. I am confident that he will absolutely stay out of trouble and contribute a great deal when he is released.

If I can answer any questions or be of any assistance in the matter, please do not hesitate to contact me at the above address or by telephone at ( ) - \_\_\_\_\_.

Sincerely,

Name

**Appendix D: Parole Eligibility/Lifer Review Reports**  
**- Policy Directive 06.05.103 (01/01/01)**  
[http://www.michigan.gov/documents/corrections/06\\_05\\_103\\_432541\\_7.pdf](http://www.michigan.gov/documents/corrections/06_05_103_432541_7.pdf)

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>	EFFECTIVE DATE 09/02/13	NUMBER 06.05.103
SUBJECT PAROLE ELIGIBILITY/LIFER REVIEW REPORTS	SUPERSEDES PD 06.05.103 (01/01/01)	
	AUTHORITY MCL 791.203; 791.233d; 791.235; 800.403a	
	PAGE 1 OF 3	

**POLICY STATEMENT:**

Parole Eligibility/Lifer Review Reports (PERs) shall provide a summary of a prisoner's prior record, adjustment and other information to be considered by the Parole Board, as set forth in this policy.

**POLICY:**

GENERAL INFORMATION

- A. This policy does not apply to prisoners in the Special Alternative Incarceration Program.
- B. The Parole Board shall consider prisoners for parole as set forth in PD 06.05.104 "Parole Process".
- C. For prisoners serving a sentence of a term of years, the parole eligibility date is the calendar minimum less applicable good time or disciplinary credits or, for habitual offenders, as set forth in PD 03.01.102 "Habitual Offenders".

INITIATION OF PAROLE ELIGIBILITY/LIFER REVIEW REPORT (PER)

- D. The Administrator of Office of Research and Planning (ORP) shall notify Wardens when PERs are due for prisoners under their supervision who are serving a sentence of a term of years. Such notification shall be provided at least eight months prior to the prisoner's parole eligibility date or, for a prisoner previously denied parole, the parole reconsideration date. For a prisoner received less than eight months prior to the parole eligibility date, such notification will not be provided; instead, the PER shall be due as soon as possible and prepared as set forth in Paragraph G.
- E. Pursuant to PD 06.05.104 "Parole Process", the Parole Board is required to interview a prisoner who is serving a life sentence at the conclusion of ten calendar years of the sentence, and review the prisoner's file every five years thereafter until the prisoner is granted a reprieve, commutation, pardon or, if applicable, parole. This includes prisoners serving a life sentence for a violation of the Controlled Substances Act (MCL 333.7101, et seq.). The Parole Board shall notify Wardens that a PER is due for a prisoner serving a life sentence at least eight months prior to each scheduled interview and review date.
- F. A PER also may be requested by the Parole Board for prisoners being considered for a special parole pursuant to PD 06.05.104 "Parole Process".
- G. Each Warden shall ensure PERs are prepared for prisoners under their supervision when notified by ORP or the Parole Board that a PER is due. Wardens of reception facilities shall ensure PERs are prepared as soon as possible for newly committed prisoners who are past due or eligible for parole consideration within eight months of reception. Wardens also shall ensure PERs are prepared as soon as possible when a special parole is recommended pursuant to PD 06.05.104 "Parole Process" for a prisoner under their supervision and when requested by the Parole Board.
- H. When notification is received that a PER is due for a prisoner being considered for transfer, every attempt shall be made to complete the PER prior to the prisoner's transfer. When it is not possible to complete the PER prior to transfer, adequate information shall be provided to the receiving facility to enable timely preparation of the PER. Appropriate staff at the receiving facility shall complete the PER as required.



DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 09/02/2013	NUMBER 06.05.103	PAGE 2 OF 3
-----------------------------------	------------------------------	---------------------	-------------

#### PER PREPARER

- I. Each Warden shall designate staff to prepare PERs for prisoners under their supervision. The PER preparer shall interview the prisoner and review with him/her the parole consideration process.
- J. Prior to the completion of the PER, the prisoner shall be provided a reasonable opportunity to review the contents of his/her Counselor file, unless the information is exempt from disclosure pursuant to PD 01.06.110 "Freedom of Information Act-Access to Department Public Records".
- K. The prisoner may present letters, offers of employment and other information supporting parole to the PER preparer. The PER preparer shall make note of this information in the PER and return to the prisoner all written information provided. The prisoner also may present this information directly to the Parole Board if interviewed.
- L. A copy of the completed PER shall be provided to the prisoner. The prisoner shall attempt to resolve any questions regarding the content of the PER with the PER preparer prior to the PER being submitted to the Parole Board. The prisoner may present any unresolved questions regarding the content of the PER to the Parole Board member.
- M. The PER preparer shall complete the Prisoner Record/Report Check-Off List (CSR-472) and ensure appropriate reports are requested. Reports of results from any physical and mental health examinations shall be requested from appropriate Bureau of Health Care Service (BHCS) staff. BHCS staff shall forward such reports directly to the Parole Board with notification to the PER preparer as to when the reports were sent. The PER preparer shall ensure all requested reports are received and placed in the prisoner's file or are sent directly to the Parole Board, as appropriate, prior to parole consideration. Questions from the Parole Board regarding receipt of required reports shall be directed to the appropriate Warden for resolution.
- N. Notice of the completed PER shall be forwarded to the Parole Board, via e-mail notification to the Outlook PER mailbox (PER-PRB@michigan.gov) at least seven months prior to the prisoner's parole eligibility or reconsideration date. A PER prepared upon the request of the Parole Board shall be forwarded as requested by the Parole Board.
- O. For prisoners serving life sentences, a 90 day notice containing a list of prisoners eligible for review will be provided by the Parole Lifer and Commutation Unit within the Parole Board, Field Operations Administration (FOA). A Parole Eligibility/Lifer Review Report form (CSJ-123) should be completed within 2 business days with notice sent to the Parole Board as indicated in Paragraph N.

#### CONTENT OF PER

- P. Each PER shall be prepared in accordance with OP 06.05.103 "Preparing Parole Eligibility/Lifer Review Reports", using the Parole Eligibility/Lifer Review Report form (CSJ-123). The report shall contain information as required by MCL 791.235 and any other information requested by the Parole Board, including but not limited to the following:
  - 1. The active offenses for which the prisoner is serving. For a prisoner subject to disciplinary time, the amount of disciplinary time the prisoner has accumulated which has not been reduced shall be indicated for each active sentence.
  - 2. The prisoner's prior criminal record.
  - 3. The prisoner's overall adjustment while incarcerated or since the last Parole Board review date, as appropriate. This shall include a summary of major misconduct violations by the prisoner.
  - 4. The prisoner's identification as a Security Threat Group member, pursuant to PD 04.04.113 "Security Threat Groups", including group name and validation level and date.

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 09/02/2013	NUMBER 06.05.103	PAGE 3 OF 3
-----------------------------------	------------------------------	---------------------	-------------

5. The prisoner's current status toward completion of programs recommended in accordance with PD 04.01.105 "Reception Facility Services" and PD 05.01.100 "Prisoner Program Classification". For a prisoner sentenced to serve a minimum sentence of two years or more for a crime committed after December 15, 1998, the PER shall indicate if the prisoner is exempt from General Education Development (GED) requirements pursuant to PD 05.02.112 "Education Programs for Prisoners". If not exempt and currently enrolled in GED programming, an estimated date of completion shall be included.
  6. The prisoner's adjustment while on parole for an active sentence, if applicable.
  7. The prisoner's cooperation in providing information regarding his/her financial assets as required pursuant to PD 04.02.140 "Reporting of Offender Assets".
  8. The prisoner's parole plans unless the PER is being prepared for a prisoner serving a life sentence or being considered for a special parole pursuant to PD 06.05.104 "Parole Process". In such cases, the prisoner's parole plans shall be included only upon request of the Parole Board.
- Q. The PER shall be prepared using information contained in the prisoner's files unless noted as an opinion of the PER preparer or as a statement by the prisoner. The PER shall not include a recommendation for or against parole.

#### OPERATING PROCEDURE

- R. Each Correctional Facilities Administration (CFA) Regional Prison Administrator and the FOA Deputy Director shall ensure that within 60 days of its effective date, procedures necessary to implement this policy directive are developed.

#### AUDIT ELEMENTS

- S. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self-audit of this policy pursuant to PD 01.05.100, Self Audit of Policies and Procedures.

APPROVED: DHH 8/19/13