



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
PRISON/REENTRY/FIELD
FACILITY/SPANISH MANUALS

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POLICY

TITLE

CLEMENCY

REVIEW/REVISION HISTORY:

Effective: 2/2/21
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SUMMARY OF REVISION/REVIEW:

II.B., III.A., IV.A.6., V.C., and VI.B. - Adjusted language for clarification
VI.D.2.a.2) - Adjusted as person-centered language

APPROVED:

Signature on file

CHERYL STRANGE, Secretary
Department of Corrections

12/8/21

Date Signed

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REFERENCES:

DOC 100.100 is hereby incorporated into this policy; [RCW 9.94A.728](#); [RCW 9.94A.880](#); [RCW 9.94A.885](#); [RCW 9.95.260](#); DOC 320.160 Tolling of Supervision in the Community; DOC 350.240 Ten Day Release; DOC 380.605 Interstate Compact; DOC 380.650 Travel for Individuals Supervised in the Community; DOC 420.390 Arrest and Search; DOC 460.000 Disciplinary Process for Prisons; DOC 460.130 Response to Violations and New Criminal Activity; DOC 460.135 Disciplinary Procedures for Work Release

POLICY:

- I. Per RCW 9.94A.728, the Governor may:
 - A. Commute (i.e., reduce or modify) an individual's sentence,
 - B. Pardon any individual who has committed a crime, or
 - C. Upon recommendation from the Clemency and Pardons Board, grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances.
- II. The Department has established guidelines for gathering and providing information for petitions being reviewed by the Clemency and Pardons Board and the Governor's Office.
- III. Unless authorized in this policy, Department employees, contract staff, and volunteers are restricted from providing input in relation to a petition for clemency.

DIRECTIVE:

- I. General Requirements
 - A. Petitions for commutation, pardon, or extraordinary release may be filed with the Washington State Clemency and Pardons Board.
 - B. Individuals being granted commutation(s) will be considered for 10 day release per DOC 350.240 Ten Day Release.
 - C. Individuals may travel if approved per DOC 380.650 Travel for Individuals Supervised in the Community, unless restricted by the commutation order.
 - D. Individuals being granted commutation will not be eligible for Graduated Reentry or the Mutual Reentry Program.
 - E. Individuals will be tolled per DOC 320.160 Tolling of Supervision in the Community.

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F. Only the Governor can modify a commutation order or the conditions set in a commutation order.

II. Responsibilities

A. The Assistant Secretary for Community Corrections has designated the Community Corrections Northwest Regional Administrator as the Clemency Liaison between the Department and the Clemency and Pardons Board and Governor's Office. The Clemency Liaison/designee will:

1. Be the only one authorized to contact the Clemency and Pardons Board or Governor's Office regarding clemency unless specifically mentioned in this policy,
2. Develop commutation plans, and
3. Maintain a tracking system of active clemency orders for individuals being supervised in the community.

B. The Chief of Classification/designee will attend Clemency and Pardons Board hearings to provide testimony related to an individual under the Department's jurisdiction.

III. Commutation Petition Review

A. When notification is received by the Clemency and Pardons Board that a hearing has been granted to review a petition, Headquarters Classification Unit employees will review the petition and prepare DOC 12-031 Clemency and Pardons Board Case Analysis to submit to the Clemency and Pardons Board, the Clemency Liaison, and the Attorney General's Office. The case analysis will contain any relevant information to include:

1. Complete criminal history
2. Disciplinary record
3. Detainers and warrants
4. Security Threat Group affiliation and current status
5. Legal Financial Obligations
6. Health status
7. Proposed release address
8. The individual's history of:
 - a. Facility assignments
 - b. Classification custody
 - c. Risk Level Classification (RLC)

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- d. Program completion
- e. Work assignments
- f. Visits
- g. Community concerns
- h. End of Sentence Review, if applicable
- i. Behavior Observation Entries

B. A Headquarters Classification Unit employee will notify the Victim Services Program Manager of a petition review hearing as soon as practical.

IV. Commutation Plan

A. When requested by the Governor, the Clemency Liaison will review the case analysis and develop a commutation plan that will contain:

1. Recommendations based on input received from the following affected employees/units:
 - a. Headquarters Classification Unit
 - b. Field Offices
 - c. Hearings Unit
 - d. Case manager
 - e. Records
2. Treatment requirements (e.g., substance use disorder, mental health)
3. Identified risk factors
4. Any active prohibitions/no-contact orders
5. An approved investigation release plan
6. Reentry Center reunification/family support planning
7. Notification requirements (e.g., law enforcement, victims)
8. Recommendations for:
 - a. Length of supervision
 - b. Amount of mandatory contacts
 - c. Imposed conditions
 - d. Supervision
9. The Judgment and Sentence for any cause that has not been closed

B. The Clemency Liaison will forward the completed commutation plan to the Assistant Secretary for Community Corrections to review, approve, and forward to the Governor's Office.

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C. The case manager will initiate an out of state transfer plan, if applicable, per DOC 380.605 Interstate Compact.

V. Clemency Decision

A. Upon notification from the Governor's Office of a decision made regarding clemency:

1. For commutation, the Clemency Liaison/designee will ensure notification is made to all affected units and/or employees.
 - a. When commutation is granted by the Governor, the commutation order will be sent to:
 - 1) The Headquarter Classification Unit to be scanned into the individual's electronic imaging file,
 - 2) The individual's case manager,
 - 3) The appropriate Field Office, if applicable, and
 - 4) Prison/Statewide Records to update the supervision type and entering commutation conditions.
2. For pardons, Statewide Records will enter the pardon into the individual's electronic file and initiate case closure, including:
 - a. Entering the modified sentence structure, and
 - b. Record the commutation release date as a chronological event on the Cause Information section.
3. The Business Office will be notified to reinstate a savings deduction in preparation of release for individuals sentenced to life or beyond life expectancy who are granted clemency.

B. Conditions in a commutation order can only be modified by the Governor.

1. If the duration of the commutation period or the conditions of the commutation order need to be modified (e.g., unable to meet release goals before commutation release date, individual has new disciplinary/behavioral concerns, lack of imposed conditions in the order), the Correctional Unit Supervisor/Community Corrections Supervisor will submit a completed DOC 09-223 Clemency - Special and any supporting documentation to the Clemency Liaison for approval.

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2. If the Clemency Liaison supports the modification, the form will be forwarded to the Governor for consideration with a copy to the individual.
 - a. If an individual has not completed all requirements before release from confinement, the individual will be held until a response from the Governor's Office is received. This does not apply to community violators.
 - b. The case manager will ensure the modification order is received by the individual and discuss next steps.
 - c. If the Governor provides a modified commutation order, the order will:
 - 1) Supersede the previous order, and
 - 2) Be sent to Statewide Records to scan into the electronic imaging file and update conditions in the individual's electronic file.

C. Individuals will be supervised only per the conditions in the commutation order regardless of RLC.

VI. Infractions/Violations of the Clemency Order

A. If an individual commits any serious infraction, violates conditions of the commutation order, or has a new law violation in the community, the case manager will notify the Clemency Liaison.

B. Infractions in Prisons and Reentry Centers

1. Individuals are still subject to obey all facility rules and laws in addition to the commutation order.
2. Infraction behaviors will be addressed per DOC 460.000 Disciplinary Process for Prisons or DOC 460.135 Disciplinary Procedures for Work Release.

C. Violations in the Community

1. If the individual commits any violation of the commutation order, the individual may be detained per DOC 420.390 Arrest and Search.
 - a. Low and High Level violation behaviors will be addressed per DOC 460.130 Response to Violations and New Criminal Activity.

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- 1) Individuals will be arrested and held in confinement for new felony charges until further notice.
 - 2) Negotiated sanctions will not be used.
- D. Upon receipt of sufficient evidence of a new guilty finding for a serious infraction or community violation, the Clemency Liaison will notify the Governor's Office to determine if the commutation order will be modified.
1. The Department will hold the individual in custody pending the Governor's decision.
 - a. If the decision is to maintain the current commutation order, the individual will be released.
 2. The Governor may order a commutation hearing be held to determine if the commutation order will be modified to revoke or modify conditions.
 - a. If a hearing is held:
 - 1) The individual may be provided attorney representation regardless of the individual's competency or complexity of the issues presented.
 - 2) The Hearing Officer will only order the release of the individual from the Department's jurisdiction when stated in writing by the Governor or Clemency Liaison.
 - 3) The Hearing Officer will:
 - a) Forward the following to the Clemency Liaison within 3 business days:
 - (1) Completed DOC 09-233 Hearing and Decision Summary
 - (2) Discovery
 - (3) Confinement order, if applicable
 - (4) DOC 09-224 Conditional Commutation Hearing Report including a recommendation regarding compliance with the clemency order
 - b) Ensure all hearing documents are scanned into the electronic imaging file.

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- 4) The Clemency Liaison will review documentation to ensure accuracy of information and forward to the Governor's Office for consideration.
- 5) Upon notification of the Governor's decision, the assigned case manager will:
 - a) Notify the individual as soon as possible,
 - b) Document results/decisions as a chronological entry in the individual's electronic file within 3 days, and
 - c) If the individual's commutation was not revoked, provide a copy of any modifications to the individual within 3 days or at the next office visit.

VII. Closure of Supervision

- A. The assigned case manager will notify the Clemency Liaison 60 days before an upcoming Scheduled End Date (SED) of any conditions in the clemency order that have not been completed.
 1. If all conditions have been completed, the individual's case will be closed on the SED unless otherwise ordered by the Governor.
 2. If the individual has not completed all requirements or poses a safety/security concern, DOC 09-223 Clemency - Special will be completed to reflect that the case will not be closed on the SED, and the individual will remain on supervision until a response is received from the Governor's Office.

DEFINITIONS:

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Clemency, Commutation, Pardon. Other words/terms appearing in this policy may also be defined in the glossary section.

ATTACHMENTS:

None

DOC FORMS:

DOC 09-223 Clemency - Special
 DOC 09-224 Conditional Commutation Hearing Report



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DOC 09-233 Hearing and Decision Summary

DOC 12-031 Clemency and Pardons Board Case Analysis