Pennsylvania Association of Pardon Projects

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December 17, 2025

Justice Delayed is Justice Denied

To: The Honorable Austin Davis, Chair
Pennsylvania Board of Pardons

On October 30, 2025, you addressed the leadership of the Pennsylvania Association of Pardon Projects and invited us to submit to you recommendations on how to improve the pardon process. The following recommendations are submitted in response to that invitation.

We represent Pardon Projects and Pardon Hubs in 30 counties across Pennsylvania. Our volunteers help people who have turned their lives around apply for pardons so that their criminal history records won't continue holding them back as they seek jobs, housing, education, and loans for which they are qualified. Our work gives hope for a new day to everyone whom we meet and their families. It encourages us all to know that over 80% of all Pennsylvanians receiving a hearing before the Board of Pardons end up being recommended for a pardon.

That hope is shattered when we tell them that it is going to take ten years or more to have that hearing. That's often enough to make the best candidates walk away. Paradoxically, it encourages applications by those who haven't yet really proven themselves, because they think they have lots of time to do that while they wait. As a result, the backlog and the delay are only going to get worse, and thousands of deserving individuals and their families and communities will suffer.

Over the past six weeks, a special Task Force of pardon leaders drawn from seven counties worked together to draft these recommendations. Its proposals were then discussed, edited and approved unanimously (in all but two respects) by the statewide Pennsylvania Association of Pardon Projects at its meeting on December 11, 2025. These recommendations are not "all that we would want" as advocates, but modest proposals that the Board could immediately implement by itself[1] and which would streamline the pardon application process, thereby enabling the Board

[1] It is clear beyond question that the Board has the power to establish its own rules, operating procedures, and criteria. In one of the earliest cases interpreting the pardon power as reformed by the 1874 Constitution (when the Board of Pardons was created), the Pennsylvania Supreme Court explained that a pardon is the "exercise of the sovereign's prerogative of mercy" and that "the pardoning power cannot be "restricted, or its operation limited, by legislation." *Diehl v. Rogers*, 32 A. 424, 425, 426 (Pa. 1895). In affirming this principle more recently, the Supreme Court held that even "[c]ourts cannot "impinge upon the exclusive jurisdiction of the executive branch in showing clemency," and that "[a]ction by the Board of Pardons is in accordance with constitutional provisions and in no way comes under the aegis of the courts." *Commonwealth ex rel. Cater v. Myers*, 194 A.2d 185, 187 (Pa. 1963). As such, the Board's decisions regarding how it decides to do its work is almost beyond review much less instruction by either of the other two branches of government.

We have included in Appendix A recommendations that would require action by the legislature, the Governor, or others.

and staff to provide timely hearings and recommendations to the Governor for far, far more pardon applicants.

We thank you for your consideration of these proposals and look forward to hearing your responses to them.

Respectfully submitted,
Task Force on Expediting Pardons

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- Megan Foy, Onboarding and Resource Coordinator, Tableland Services , Westmoreland County
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- Zach Keasling, Founder and CEO Pathways To Hope, and Chair, Pardon Project Steering Committee, Cumberland County
- Nikki Schnovel, Co-Executive Director, Connections Work, and co-founder, Pardon Project of Berks County
- Mark Walmer, Esq, Private Attorney, Founder, Record Eraser, and co-founder, Pardon Project of Lancaster County

CONTEXT

In 2020, the Economy League published a pathbreaking study on pardons.[2] It analyzed ten years of pardons data in Pennsylvania (2008 – 2018) and projected their impact on counties all across the state. It concluded that pardons are best understood as "workforce development and community investment policies." Noting that "on average the length of time between application filed and application granted was 3.68 years," it recommended that pardons be granted faster. The opposite has occurred as the wait time has tripled.

The Governor's Workforce Development Board has agreed that pardons should be understood as a workforce development initiative. In August 2020, it recommended that the Governor "[i]ncrease the capacity of the Board of Pardons (BOP) to both decrease the amount of time for an application to be considered and to increase the number of individuals who can have their pardons heard within one year." A year later it unanimously recommended:

> The Commonwealth should take all requisite steps, including, if necessary, promulgating new regulations to ensure the prompt review (within one year) by the Board of Pardons of

[2] *Pardons as an Economic Development Strategy: Evaluating a Decade of Data in Pennsylvania* (April 2020), http://economyleague.org/pardonimpact

all applications for pardon from Pennsylvanians who completed their sentences five or more years ago on convictions that did not include crimes of violence and who have remained arrest-free ever since.

We join with the Economy League and the Workforce Development Board in now making the following recommendations which are born from our experience over the years of helping good people apply for pardons.

RECOMMENDATIONS

1. **The Board of Pardons should publish its minimum eligibility requirements in order to provide clarity about who is eligible to be considered by the Board.[3]**

We encourage the Board to be explicit in the criteria that they are using to evaluate pardon applications and make recommendations to the Governor. This should greatly reduce the amount of time spent by the staffs of both the Board of Pardons and Department of Corrections on applications that have virtually no chance of success. The following recommendations are based on our observations about decisions the Board has been making, and not necessarily because we agree with them.

To help facilitate the issuance of more pardons faster, we propose the following eligibility criteria:

In the absence of exceptional circumstances:[4]

a. Time since Conviction: An applicant is eligible to apply for a pardon if:
   i. More than five (5) years have passed since the completion of the applicant's sentence for their most recent conviction or more than ten (10) years have passed since the completion of the applicant's sentence for their most recent conviction if it was for a crime of violence as defined in 37 Pa. Code §81.202;

[3] One member of the Association dissented from this Recommendation: "I won't support any recommendations that create published eligibility rules or allow administrative denial that keeps people from ever reaching the Board. I'm sorry if that's disappointing, but those pieces cut against why I got into this work in the first place and I believe they would have a devastating impact on people who have truly worked toward a second chance. I didn't start this for small compromises. I joined to push for change that expands access while still improving how the system handles volume."

[4] We appreciate, and therefore explicitly state, that there will continue to be applicants who can demonstrate that they deserve forgiveness and a second chance without having satisfied published criteria. By using the phrase "exceptional circumstances," we mean to underscore that the Board always retains discretion to recognize "exceptions" to its general rules.

The proposed criteria suggesting a waiting period of five years, or more, are therefore not directed at merit but the passage of sufficient time in which to evaluate conduct, which we appreciate is a legitimate criterion for the Board to use; and we urge the Board to exercise it in favor of applicants at the earliest possible time so that their potentials may be released to the benefit of themselves, their families and their communities.

ii. The applicant has not been convicted of a crime[5] or been subject to a finding of abuse pursuant to a final Protection from Abuse (PFA) Order[6] within the five (5) years immediately preceding the application; and
iii. The applicant has no open criminal proceedings against him/her.

These criteria apply without regard to whether the offense or proceedings were in Pennsylvania or some other jurisdiction, either federal or another state. These criteria would also apply throughout the time that a pardon application is pending, authorizing the Secretary to administratively deny an application no longer meeting the criteria.

b. Payment of Court Costs, Fines, Fees and Restitution (Legal Financial Obligations)

We do not agree that the Board of Pardons should use its power as a "gatekeeper" to serve as a collections agent for unpaid fines, fees and costs. Unlike issuing pardons, the Governor's Constitutional power to "remit fines and forfeitures" is not limited to cases recommended by the Board. Using that power to deny access to pardons is especially unfair to the people whom we represent who are indigent and the court debt therefore uncollectible.[7] However, if the Board decides to continue using unpaid LFOs as a factor to consider in recommending clemency, then we recommend these procedures:

i. An applicant may still apply if there are unpaid courts costs, fines, fees and restitution for the convictions in the application. This current practice should be continued.
ii. Add to Section 6 of the application, right above the applicant's signature, a box to check with the statement "I hereby agree to use best efforts to

[5] Given how many times we have seen our clients charged with offenses that were later withdrawn, dismissed or non prossed, we do not think it is fair to disqualify someone because they have simply been arrested.

[6] Judges routinely grant temporary PFA Orders based solely on the complainant's ex parte testimony, pending a full hearing. For that reason, it is important that only final Orders, issued by a judge after a hearing, not temporary PFAs be used as a barrier to seeking a pardon.

[7] The longstanding position of the Pennsylvania Association of Pardon Projects is that unpaid legal financial obligations (LFOs) should never be used as a reason to delay or deny a hearing or a recommendation to someone who is indigent. In this regard, we join with the Pennsylvania Bar Association https://plsephilly.org/wp-content/uploads/2021/12/11-22-2021-Lgl-Svcs-to-Public-Cmte-Ltr.pdf, the Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness, https://plsephilly.org/wp-content/uploads/2021/12/Interbranch-Commission-ltr-to-BOP-re-costs-and-fees.pdf, and others who have petitioned the Board on this very point.

Most of our clients were poor at the time of their convictions, having been represented by the public defender or court-appointed counsel, so they did not have the money to pay any fines, fees and costs that were imposed on them at the time of their conviction. They don't have the money now. Pardons are key to getting better-paying jobs, so we do not think it makes sense to exclude them from the only pathway they have to financial stability.

eliminate any unpaid fines, fees, costs, and/or restitution within eighteen (18) months of submitting this application."

iii. Charge the Dept of Corrections to investigate and report what efforts the applicant has made. Indigency itself should excuse such efforts. If the Board determines, based on all the evidence, that the applicant did not use "best efforts" available to them, then that would be a "breach of contract" and a reason to deny a public hearing and/or a recommendation to the Governor..

iv. Make it a requirement for expedited review that the individual not have unpaid court debt.

c. Juvenile records.
   i. The instructions should include notice that Juvenile records are eligible to be included on a pardon application.

d. Letters of Recommendation are *strongly* encouraged. An applicant may still apply without such letters; however, the website and instructions should say that the Board greatly values input from third parties as a way of confirming the applicant's statements about his/her positive life changes.

2. The Secretary should be given the authority to administratively deny pardon applications[8] that do not meet the above eligibility or that, in his/her judgment, would not receive a hearing before the Board (that is, receive at least two (2) votes at Merit Review), provided that the Secretary shall explain the reason(s) for the denial. The applicant may then resubmit the application in the future "without prejudice" when the stated reason(s) have been addressed.[9]

3. The Board of Pardons should greatly expand its current Expedited Pardon Review Program in recognition that many cases before the Board present minimal (if any) public safety concerns and strong evidence of rehabilitation.[10]

a. An applicant should be eligible for expedited review for:

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[8] One member of the Association dissented from this Recommendation, for the reason set forth in fn. 3, above.

[9] The disappointed applicant would also have the right to seek reconsideration by the full Board pursuant to 37 Pa. Code § 81.301(a). In that event, however, and unlike an administrative denial, a denial by the Board itself would be a "final adverse decision" and the applicant would then have to wait one full year before re-applying. 37 Pa. Code § 81.223

[10] The August 2020 report on the recidivism of pardon applicants studied by the Economy League made this finding: "To the extent that the Board of Pardons has tried to predict who poses a risk to public safety when making its decisions, it has denied pardons to an enormously high percentage of applicants who could have benefitted from them. Of the 1,461 applicants who did not receive a hearing on their pardon applications, 1,415 did not thereafter commit a crime that resulted in incarceration (whether for a Crime of Violence or otherwise)." *Pardons and Public Safety: Examining A Decade Of Recidivism Data In Pennsylvania,* Philadelphia Lawyers for Social Equity (August 2020) https://plsephilly.org/pardon-recidivism-study.

i. Misdemeanor convictions: (a) The applicant completed their sentence for their most recent conviction more than five (5) years prior to applying if they have one (1) conviction or seven (7) years prior to applying if they have more than one (1) conviction, (b) has not been convicted of any offense in the interim, (c) has never been convicted of a crime of violence as defined in 37 Pa. Code §81.202, and (d) has no unpaid court debt;
ii. Felony convictions: (a) The applicant completed their sentence for their most recent conviction more than seven (7) years prior to applying if they have one (1) conviction or more than ten (10) years prior to applying if they have more than one (1) conviction, (b) has not been convicted of any offense in the interim, (c) has never been convicted of a crime of violence as defined in 37 Pa. Code §81.202, and (d) has no unpaid court debt;
iii. Desistance. The applicant (a) is at least 40 years old[11], (b) completed their sentence for their most recent sentence more than ten (10) years earlier, and (c) has no unpaid court debt; or
iv. District Attorney recommendation: If the District Attorney of the county in which the applicant resides provides written support for the applicant's request for a pardon, the application may be expedited. However, the applicant will not be eligible for expedited review if (a) it is opposed by the District Attorney of the county in which a conviction occurred, or (b) there is unpaid court debt.
v. Other good cause. The Secretary should be given the discretion to expedite a pardon application if, in his/her judgment, there is good cause to do so.

4. The Board should publish a Review process for pardon applications based on whether the application is expedited or non-expedited and should define the scope of investigation for each category.

a. Upon intake, Board staff reviews application based on eligibility criteria requirements and separates applications:
vi. Ineligible
vii. Regular process
viii. Expedited process
b. BOP staff investigates applications that appear to satisfy the eligibility criteria for expedited review, relying solely on the application and information available to criminal justice agencies.
c. If the application is determined by the BOP staff to qualify,

[11] Studies of "desistance" prove that people "age out of crime." See, e.g., Day, A., & Halsey, M. (2022). Desistance theory and forensic practice. In C. M. Langton & J. R. Worling (Eds.), Facilitating desistance from aggression and crime: Theory, research, and strength-based practices (pp. 3–18). John Wiley & Sons Ltd. https://doi.org/10.1002/9781119166504.ch1. Setting the age at 40 would take advantage of current scholarship and allow people who finished their sentences in their 20s without further criminal conduct thereafter to get the jobs and incomes they need to support their families.

i. The applicant is sent an Expedited Review Questionnaire to be completed and returned.
ii. All this information is then provided to the Board and the applicant listed for the next Merit Review, without any further investigation.

d. BOP staff forwards regular (non-expedited) applications to DOC for investigation. DOC adds to its investigation whether there is unpaid court debt at the time of the present status interview and, if so, investigates and reports on what efforts the applicant has made to eliminate court debt and explanations for why additional steps were not taken.

5. **The Board should create a portal which allows applicants to determine the status of their applications.** This will greatly reduce the amount of time that the BOP staff spends answering inquiries.

6. **The Board of Pardons should clarify the rules regarding public hearings.**

a. Any applicant who receives a 5-0 or 4-0 favorable vote at the merit review meeting should be immediately recommended for pardon[12].

b. Increase the number of days on which public hearings for pardons are held in order to decrease the backlog; suggestions include one day per month[13] or increasing the number of three-day sessions currently being held.[14]

c. Increase the number of merit review sessions as necessary.

d. Consider narrowing the scope of questioning at the hearing, to allow more applications to be heard in each session:

i. Focus less on the details of the crime (which were considered by the Judge in imposing the sentence). Instead, use the hearing as an opportunity to ask questions about the applicant's determination to change their life and their successes in overcoming the obstacles their convictions presented

[12] As per the Opinion Letter from Duane Morris LLP dated June 24, 2019, provided to the Board of Pardons at that time, the public Merit Review satisfies the Constitutional Requirement for a public hearing. Note, though, that this would require the Board to publish the names of all people who will be considered at Merit Review. We recommend this for other reasons, including transparency of the process.

[13] This is the schedule utilized by the Delaware Board of Pardons. https://pardons.delaware.gov/meeting-calendar. As in Pennsylvania, the Delaware BOP functions as a gatekeeper to the Governor. It includes five (not just 2) state officials: Lt. Governor (chair), Secretary of State, Chancellor of the Court of Chancery, State Treasurer, and Auditor of Accounts. https://pardons.delaware.gov/current-board-members. To the extent that time limitations of our Lt. Governor and Attorney General are what is slowing the process down, perhaps shifting to this model would work better than trying to schedule hearings in three-day blocks of time.

[14] If the number of sessions were to be doubled, that would make the Board of Pardons the effective equivalent of the Civil Service Commission. We appreciate that this would make the BOP a full-time position for the three Gubernatorially-appointed members who, unlike the Lt. Governor and Attorney General, do not have staffs assisting them in performing their functions. But we believe the purpose of the BOP is every bit as important to the individuals and to the Commonwealth as a whole as that of the Civil Service Commission.

ii. Eliminate questions about:
    1. current employment, current housing, level of educational achievement, current impediments, etc. This is all in the reports previously supplied to the Board, and changes between Merit Review and Public Hearing on those topics should not matter. Housing, job and career instability is often caused by the collateral consequences of criminal history records.
    2. disciplinary records while under carceral control. If they have successfully completed their sentences and not reoffended, they should be regarded as having been "corrected" by the corrections system.
    3. asking "why do you need a pardon". Pennsylvania's Constitution identifies "reputation" as an "inalienable right" and the fact that criminal records keep people in "paper prisons" is beyond dispute. Unless there is good reason, people should not be forever known by the worst things they ever did.
    4. nonconviction data, expunged and expungable offenses. If the individual knew the law and could afford an attorney, then they would have expunged all those things before coming to the Board for a pardon; and expungement is granted only when a court has held that the individual's need for erasing the information outweighs the government's interest in keeping it.
    5. lawful conduct such as drinking alcohol, medical marijuana use, gun ownership, etc. unless the conviction was directly related to unlawful conduct involving the same factor.
    6. medications applicants are taking, the names of their doctors, medical treatments they are receiving, etc. If relevant and material, these could be included in the investigation but should not have to be aired publicly because they are Protected Health Information, confidential under the law, and being used legally, subject to a doctor's involvement.

Appendix A

Recommendations proposed that Board cannot implement by itself

1. Seek increased budget from Legislature to expand staff at BOP
2. Seek increased budget from Legislature to expand staff at DOC investigating clemency requests on behalf of the BOP
3. Support legislation to reduce from 70 to 40 the age at which a judge can grant expungements
4. When holding additional hearing days, increase the pay for Board members, e.g., so that they are in line with those who serve on Pennsylvania's Civil Service Commission.
5. Recommend that Legislature amend Clean Slate to expunge non-violent misdemeanors after 7 years instead of just sealing them
6. Recommend that Legislature amend Clean Slate to expunge non-violent felonies after 10 years instead of just sealing them
7. Support legislation that is aligned with Workforce development and other funded entities that expedites applications, identifying criteria to "automatically expunge and clear" records without even applying
8. Support legislation (and constitutional amendment) that would allow the Lt. Governor and Attorney General to have designees attend BOP hearings in their stead.
9. Request that government appointed officials work with universities et al to review best practices in other states/countries so PA can stand as a forward-thinking state for pardon process
10. Consider incentivizing employers to enroll employees into fines/fees/cost payment through payroll deduction
11. Ask Governor to consider having Lt Governor sign off on reduced risk applications (criteria TBD)