

Commutation Application Guide

This document is intended to support incarcerated people and advocates to prepare commutation applications to submit to the California Governor’s office. From 2017- 2018, under Jerry Brown, 147 LWOP have received a commutation of sentence in California. As of 2019, under Gavin Newsom, 7 LWOP have received a commutation of sentence. We offer this guidance for people applying for a commutation.

Given that the process of applying for a commutation is filled with many challenges, we want to support people in submitting as strong an application as possible as we continue to fight for people’s freedom.

The material included is for informational purposes only and not for the purpose of providing legal advice.

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1. What is commutation?

People serving a sentence for a criminal conviction can petition to the California Governor to have their sentence reduced or eliminated by applying for a commutation of sentence.

The commutation application is included in this packet.

2. Who can apply for commutation?

All people serving sentences for criminal convictions can apply for a commutation of sentence. This includes people who have been incarcerated for less than 10 years. People with active appeals in the courts can also apply; they just have to mention this in their application. People with prior convictions can also apply. If you submitted a commutation application in the last three years and would like Governor Newsom re-open your prior application and consider it, you may submit a Reapplication for Clemency.

The application has three main questions (questions 2, 3, and 4) that require longer and more personal answers. Below are ideas to consider when answering these questions.

We offer different suggestions on how to approach the answers based on whether:

- I. you take full responsibility for the crime
- II. you take partial responsibility for your conviction but were not the person who caused direct harm
- III. you maintain your innocence

3. Responding to commutation application:

If you have an LWOP sentence: begin by explaining that you are requesting commutation so that you can have the opportunity to go before the Parole Board to demonstrate your growth, insight, accomplishments while imprisoned, and your overall preparedness for release.

I. If you take full responsibility for your crime of conviction:

Acknowledge personal responsibility and individual culpability; describe how you understand the harm you caused, how you feel and show remorse about your actions and choices.

Describe anything about the context of your life at the time that mitigates the crime, for instance:

- if you were young and have youthful factors defined in Miller v. Alabama (or SB 260/261 AB 1308)
- if you were a victim of abuse (i.e. childhood sexual abuse, domestic violence, physical violence)
- if you were suffering from an addiction

It is important to frame your contextual information not as an excuse for what you did but rather, in the vein of, "I'm trying to understand how I could have committed the crime."

Share context that helps explain any negative information in your C-file, for example, explain the context for any disciplinary infractions, etc. If you received many disciplinaries earlier in your prison time, explain how you changed over time.

II. If you take partial responsibility for your crime of conviction but were not the person who caused direct harm:

Describe why you believe that although you were partially responsible, you were assigned too much responsibility for the crime. This can be tricky, because you must do so while at the same time acknowledging some personal responsibility and individual culpability and also without directly criticizing the court's decision.

One strategy is to describe a road map of the choices you made that led you to the situation in which the crime occurred, for example, what led you to participate in a robbery that ended in murder.

Describe anything about the context of your life at the time that mitigates the crime, for instance:

- if you were young and have youthful factors defined in Miller v. Alabama (or SB 260/261 AB 1308)
- if you were a victim of abuse (i.e. childhood sexual abuse, domestic violence, physical violence)
- if you were suffering from an addiction

It is important to frame your contextual information not as an excuse for what you did but rather, in the vein of, "I'm trying to understand how I could have committed the crime."

Describe how you understand any harm you caused, how you feel and show remorse about your actions and choices.

Share context that helps explain any negative information in your C-file, for example, explain the context for any disciplinary infractions, etc. If you received many disciplinaries earlier in your prison time, explain how you changed over time.

III. If you maintain your innocence:

Describe why you maintain your innocence and the circumstances in which you were convicted for the crime. This can be tricky because you must do so while at the same time expressing some degree of personal accountability and not directly criticizing the court's decision. For example, we know that the Parole Board routinely rules against innocence claims as a "lack of insight," barring people from parole. While applying for commutation through the governor's office is not the same as going through the Parole Board, we recommend that applicants still be careful about how they maintain their innocence.

Describe anything about the context of your life at the time of your conviction or choices you do take responsibility for, while maintaining your innocence, for instance:

- if you were young and have youthful factors defined in Miller v. Alabama (or SB 260/261 AB 1308)
- if you were a victim of abuse (i.e. childhood sexual abuse, domestic violence, physical violence)
- if you were suffering from an addiction

It is important to frame your contextual information, for instance: "I'm trying to understand how I could have put myself into a situation where I was implicated in this crime."

Explain that you feel remorse about whatever actions and choices led you to the situation where you were convicted of a crime you did not commit. We understand that this might feel like a contradictory position, but it is important to demonstrate personal accountability.

Share context that helps explain any negative information in your C-file, for example, explain the context for any disciplinary infractions, etc. If you received many disciplinaries earlier in your prison time, show that you have insight into your emotional state and behaviors that led to those incidents, and explain how you changed over time.

A. Question #2: Describe the circumstances of your crime(s):

The answer to this question can be just a few sentences, clearly and concisely describing your crime and its circumstances. If you have access to your court documents, you might use brief, to-the-point version of the wording from that for consistency.

B. Question #3: Describe how a commutation of sentence may impact your life. (attach additional pages as necessary)

This is the section where you describe how you've changed internally and what you've accomplished in prison. This is also an important place to share any factors you believe should be weighed in considering your sentence commutation.

Factors against recidivism: Describe factors that will ensure against recidivism, including your parole plan, access to family and community support once you're released, job prospects or plans for education, etc.

C. Question #4 Describe your life since your conviction (e.g., efforts in self-development, including identifying an addressing treatment needs, professional and educational achievements; any setbacks, conduct violations; insight about past conduct; and future goals). (attach additional pages as necessary):

I. Change and rehabilitation: Describe your process of change and rehabilitation, and what programs or groups helped you through this process, for example, work for the community (both inside and out, mental health groups, educational accomplishments, substance use programs, Beyond Violence, etc.) Explain insights that you have achieved about your circumstances, behaviors, and patterns, and describe the skills you've developed to respond to personal challenges differently.

If you have a positive prison record, make sure to highlight specific accomplishments, since this continues to come up in the Governor's press releases about his commutations. For example:

- Programs completed, including participation in self-help groups, job/vocational training, etc.
- Educational progress, courses taken, degrees earned
- Work record
- Attendance at church or other religious/spiritual activities
- Participation in charity events or efforts
- Chronos from COs, supervisors, etc.
- Admission to honor dorms or other accomplishments

II. Undue burdens: Explain if you face undue burdens because of imprisonment, for example, if you are elderly, disabled, ill, or suffering from a terminal illness that would be substantially mitigated by release from prison or reduction of sentence. Governor Newsom has added CDCR form 7385 Authorization for Release of Protected Health Information.

4. Where to send your commutation application

The Office of Governor Gavin Newsom
Attn: Legal Affairs /Clemency
State Capitol, Suite 1173
Sacramento, CA 95814

5. After submitting your commutation application

Once you submit your commutation application, you can continue to send in supporting documents (i.e. chronos, support letters, mental health evaluations, and any other documentation that supports your application).

The Governor's office is supposed to send a Commutation Log number to you once they have received your application, but they rarely do this. The Governor's office has confirmed that you do not need a Commutation Log number to continue to send in supporting documents; you only need your name and CDCR#.

6. Special application process for people with a prior felony

Applicants with a prior felony must apply for commutation using the same application as people without priors, but applicants with priors have to go through a more intensive investigation by the Board of Parole Hearings. The BPH investigation will end in an En Banc hearing where parole commissioners consider the applicant for commutation by the governor and vote on whether they recommend the person. As far as we understand it, an applicant with priors can only fully be considered for commutation by the governor if they are recommended by the Board of Parole Hearings.

Section 4802 from the California Penal Code outlines the process for applicants with a prior felony:

"In the case of a person twice convicted of felony, the application for pardon or commutation of sentence shall be made directly to the Governor, who shall transmit all papers and documents relied upon in support of and in opposition to the application to the Board of Parole Hearings."

7. Additional support for your application

Support Letters: Letters supporting your commutation are important and can be submitted with your application or sent in afterwards (include your CDCR #). Many people can submit letters including family, friends, clergy or spiritual leaders, group facilitators, CDCR staff, etc. Your supporters should describe the concrete support they can offer you if you were to be released and demonstrate their knowledge of your rehabilitation.

Public Support: One strategy that can be very helpful is asking family members or friends to solicit more community support for your commutation. This can take the form of online petitions, individual postcards, and/or support letters — all of which should be addressed and sent to the Governor. The goal here is to bring attention to your application and show community support for your commutation.

What is a Support Letter?

This should be a short letter (usually only one page) that typically explains the writer's relationship to the prisoner and why he or she should be paroled. These letters should almost always avoid discussing legal statutes or cases. There are three main types of support letters: (1) Parole Plans; (2) General Support; and (3) Testimonial. Each type is discussed below.

1. Parole Plans

This letter is the most important for most lifers. It should provide specific information on where the person would live, identifying the number of rooms and the persons living arrangements. A letter should also describe actual (not potential) employment, including duties and pay, and any other information about how he or she would support himself or herself. The home and job should both be in the same county, but this does not have to be in the county of last legal residence or the county of conviction. The Board can approve parole in any California county.

If the person had a drug or alcohol problem at the time of the offense, the letter should identify places nearby where treatment can be obtained. The websites for Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) often provide listings of all the available 12-step meetings in whichever geographic location you search for. This information is critical for showing where the person would seek this type of support once out on parole. A closely related issue to address in the letter is a relapse prevention plan, which should explain the steps to be taken when the urge to relapse arises. This plan should explain who the person would call or meet with to support his or her continued sobriety.

2. General Support

This letter should explain the writer's personal knowledge of how the person has changed during incarceration, and why the writer believes the person deserves to be paroled. This letter should not try to minimize the seriousness of the crime or the persons role in it (leave that to the lawyer at the hearing or in court). Focusing on such issues here would harm the writer's credibility with the Board. Also, "petitions" signed by people without personal knowledge of the case should generally be avoided because they have very little impact on the Board and can take up a lot of space in a hearing packet with almost no benefit.

3. Testimonial Letters

The testimonial letter should come from someone familiar with the case over a long period of time, but this generally should not include family members and friends. Typical writers include the defense attorney, judge or prosecutor at the time of trial, investigating officers, jurors, etc. These writers (unlike those writing "general support letters") may be able to explain the persons role in the offense without appearing overly biased in the persons favor. Many times, the people involved at the time of trial did not expect the person to remain in prison decades later, and many times they will explain why the person has done enough time for his or her role. Since some of these writers will be from the same segment of the community (i.e., law enforcement) as the parole board members, their input may be very influential.

Testimonial writers may also come from within the prison community. Educational or vocational instructors, volunteers in self-help and therapy programs, and work supervisors offer some of the best current evidence of how a person gets along with others and how he or she approaches his or her responsibilities. Many times, these people have had the opportunity to observe a particular person over a long period of time and can either talk about positive changes they have observed or discuss the persons consistently positive conduct throughout a variety of situations. These letters can also help minimize the impact of negative information in the prison file, such as 115s or 128s, either by providing

important background information or by explaining how the person has changed in the period since those write-ups occurred.

When and Where Should You Send your Support Letters?

You can either (1) include your support letters with your commutation application or (2) send them yourself after you've submitted your commutation or (3) ask the person writing the letter to send it themselves. In every case, make sure that your full name and CDCR# is on the letter, as well as your commutation log number (if you have one). Send letters here:

The Office of Governor Gavin Newsom
Attn: Legal Affairs / Clemency
State Capitol, Suite 1173
Sacramento, CA 95814

8. Interview preparation

After you submit your commutation application, you may be called for an interview. What follows is information that has been gathered about people's experience with these interviews.

Staff from the Board of Parole Hearings conduct the interviews. At some interviews, the interviewer was familiar with much of the details in the person's files, and at others, they knew very little. Some of the interviewers encouraged interviewees to write them directly afterwards and send any follow-up thoughts, more chronos, etc. All interviews were recorded, and many people were told that the Governor will be listening to all recordings and reading all the notes.

After the interviews, the interviewer prepares their report about the applicant to send to the Governor, which includes their recommendation for or against commutation.

Most of the interviews seemed to follow a format that focused on nine specific topics:

1. Childhood and home life history
2. History of abuse, if any
3. When and if drug/alcohol use was involved and at what age it started
4. Educational info/background
5. Disciplinary history in prison
6. All in-custody programming and training/self-help courses that you have taken and how they have made a difference in your life
7. List of accomplishments, positive chronos, awards, and commendations
8. Why you think you should be commuted
9. What your parole plans are or what you imagine they will be

As with the commutation application, it is very important to express remorse and take personal responsibility during the interview, in whatever ways make sense given your relationship to your conviction. We also recommend that you avoid criticizing the police or courts for your conviction or the prison for your record while incarcerated.

9. Supporting documents template

Index:

1. An Overview of My Life, History and Crime
2. Sobriety Maintenance Plan
3. Self-Help Highlights
4. Work Experience
5. Accomplishments
6. Parole Plans
7. Letters of Accountability to Victims
8. Letters of Support and Agency Letters

Section 1: AN OVERVIEW OF MY LIFE, HISTORY, AND CRIME

[In this section, include a couple of paragraphs to summarize your understanding of your life, patterns, major events, abuse histories, etc. and impact on the crime. Also, mentions briefly what has changed in your life, lessons you have learned, your rehabilitation and insight. This section functions as an introduction to the rest of the information in your packet.]

Example language: “Through my years in prison, I’ve achieved a deeper understanding of my crime and myself...I will share my insights on my life experiences, how they affected my beliefs and behavior and led me to be involved in my crime.” Impacting Events in my Life [This section is an overview of the events in your life that led to your set of beliefs and behavior that impacted crime and/or led to your participation in crime. Identify major themes like abuse, fear, co-dependency, etc.] Example language: “Fear was a motivating force throughout my life. As a child, I witnessed my father abuse my mother. I believed that if my mother would only have done what my father wanted; he would not have hit her. This is where I developed my belief that a relationship includes violence and control and that fear was a part of love.”

[Below is a list of examples of impacting events; create a list for your own life. For each one, write a short paragraph that outlines the events and provides details regarding the events. Use this space to provide factual information. (In the following section, “Understanding my Crime” you will have a chance to connect these events to the crime).]

Examples:

- Witnessing Violence in Childhood
- Drug Use
- Sexual Abuse History

- Experiences with My Mother
- Experiences with My Father
- Experience with My Siblings
- My Behavior

Understanding my Crime

[In this section you connect your past events to the unhealthy behaviors and beliefs that were functioning at the time of the crime. Address where the behaviors and beliefs came from and how they played a role in your participation in the crime.]

Example language: “I have spent time in self-help groups understanding my past and crime in order to understand my character and actions. Below I name the unhealthy behaviors, beliefs and characteristics that I was dealing with at the time of my crime and I identify where they came from.”

Examples:

- Witnessing Pervasive Violence:
- Witnessing Drug Addiction:
- Physical Abuse from Mother:
- Lack of Protection or Nurturing from Parents:
- Absence of Father in Childhood and Adolescence:
- Coercion into Manipulative Behavior:

Example language: Lack of Protection or Nurturing from Parents: “Due to my parent’s lack of nurturing and neglect, I developed a belief that I was unwanted and unlovable. This was reinforced with my relationship with my co-defendant. At the time of the crime, I believed I would only receive love and nurturing if I did as he said.”

These are the ways my unhealthy behavior and beliefs impacted my actions during my crime:

[In this section, name specifically the decisions, indecisions or actions in your crime that were specifically related to these unhealthy behaviors and beliefs]

Examples:

- I acted out of fear of physical violence and abuse when...
- I lied about ____ because I believed that lying was a part of life. I was taught to lie by my mother...

[Follow up this section with describing your understanding of how these beliefs led to your role in the crime. Connect your understanding to the therapeutic work you’ve done since. This will serve as an introduction to Self-Help Highlights].

Example language: “I now understand the causative factors that led to my role and actions in my crime...As a result of therapeutic work, self-reflection and self-help groups I have...”

Section 2: SOBRIETY MAINTENANCE PLAN

[This section is just another example of highlighting a particular issue that was relevant to your history or crime. If you choose to include a Sobriety Maintenance Plan, you can include red flags, triggers, warning signs, recovery plan, relapse prevention, support systems, resources in the community. Give an overview before the sections. Below is example language for the overview, as well as examples for the section What a Sober Life Looks Like.]

Example language: “Drug use was a major factor in my life and my crime. I was raised in a household with consistent drug-use and began abusing drugs and alcohol at an early age, as a way to escape the abuse and neglect I experienced. For the past 20 years, I have taken my sobriety seriously and done the daily work to prevent relapse and understand and heal from the root causes of my drug use...”

What Does a Sober Life Looks Like?

[In this section, describe what a sober life looks like for yourself. This section shows your understanding of what sobriety means as it relates to drug use and addictive behaviors in a broader sense.]

Example Language: A sober life includes maintaining a balance between time spent in my intimate relationships and time spent by myself. In doing so, I will have time to conduct a self-inventory to know if I am falling back on addictive behaviors or negative thought patterns, rather than distracting myself by spending my time in social situations. A sober life includes prioritizing expressing my feelings in healthy ways through therapy, conversations with good friends, and journaling. When I can express my feelings, I am less likely to rely on substance use to cope with stress and emotions.

Section 3: SELF HELP HIGHLIGHTS

[In this section, you will provide the names and years of each self-help group you participated in that was significant to your “rehabilitation.” Also, including details of what you learned in the group is helpful in communicating a deeper understanding of the issues and your recovery. Do more than just listing what is in your chrono; talk about what you got from the group to show a blueprint of your growth and recovery.]

Coping Skills (DATES)

- **Example language:** In this workshop, I learned...

Power of Positive Thinking (DATES)

- **Example language:** Through this group I learned that...

Seven Habits for Healthy Relationship (DATES)

- **Example language:** This group taught me...

AWARE: Accountability Workshop & Restorative Education (DATES)

- **Example language:** This course made me understand...

Victim Awareness Certificate (DATES)

- **Example language:** These sessions taught me...

Healing from Trauma from Abuse (DATES)

- **Example language:** In this group I began to heal from...

Section 4: WORK EXPERIENCE

[This section essentially functions as a resume. It should include the jobs you've had while incarcerated or before including the role, dates of your employment, a list of the skills you've acquired, and a few sentences about how you will be able to apply these skills upon your release.]

Examples:

Optician

Dates: 2004 – 2013

Skills Acquired:

- Auto-edge, spot, mount, hand-edge, and block finish glasses
- Conduct final inspections on all glasses for customer distribution
- Problem-solving and detection of errors in orders
- Met daily quotas of 1,500 products; completed special orders of high-end products

My acquired skills and knowledge of Optometry industry will enable me to obtain employment in optometry offices and labs. I will be able to complete orders for customers and train other employees in the skills mentioned above.

Janitorial Services and Inventory Specialist

Dates: 2005 – 2006

Skills Acquired:

- Knowledge of various chemicals and chemical safety
- Inventory of industrial chemicals
- Ordering and re-stocking items
- Basic janitorial services
- Responsible for equipment safety
- Maintaining equipment

My acquired skills and knowledge of janitorial work prepares me for employment in any cleaning/janitorial service including within personal homes, businesses, or large facilities. I experience includes not only janitorial work itself but knowledge of products and equipment.

Section 5: ACCOMPLISHMENTS

[In this section, include a list of the workshops, trainings, educational, vocational, certifications, activity groups, support groups, and any other accomplishments since your incarceration. This section can function as a list and not necessarily descriptions.]

List everything you've participated in under these headings or others if relevant. (It's OK if you mentioned them in the Self-Help Highlights)

Workshops/Self-Help

Trainings

Educational/Vocational Classes

Certifications

Activity Groups

Section 6: PAROLE PLANS

[This section makes clear that you have thought about and made steps towards plans upon your release and that you have support/resources outside. Even if this section is not determined, it's OK to put what your ideal plan would be.]

Housing

Explain your housing plans briefly here.

Example language: "My first choice in housing is to parole to the Los Angeles Area and participate in the transitional housing program, Amity. I have peers who have been successful in this program and I believe I will benefit from the programs and structure they offer."

Employment

Explain your employment plans briefly here.

Example language: "If paroled to the Los Angeles Area, I will seek employment through employment agencies, job listing on the internet, and contact with potential employers."

Medical Needs

Explain what your medical needs are and how you will obtain care.

Clothing/Basic Living Needs

Explain how you will meet your basic living needs here.

Transportation

Explain how you will access transportation here.

Continued Self-Help

Explain how you will continue to access self-help groups, programs, etc.

Example language: "In addition to the programming offered by Amity, I will seek out support groups through my parole officer, internet searches, and social service agencies. These groups will help me create healthy friendships and a strong support system."

Relationships

Explain how you will approach relationship building upon your release.

Example language: “I plan to spend time with my father upon my release. I am also eager to deepen my friendships with members of the California Coalition for Women Prisoners. I will wait to develop any romantic relationships until I am settled and have a strong support network around me. I will do this to ensure that the relationship is healthy and I can maintain my healthy relationship plan.”

Education

Explain any educational goals here and/or if/how you plan to continue your education.

Volunteer Activities

Explain any ways you plan to be involved in volunteer efforts, community service, etc.

Section 7: LETTERS OF ACCOUNTABILITY TO VICTIMS

[Attach letters to victims in separate section]

Section 8: LETTERS OF SUPPORT AND AGENCY LETTERS

[Attach support letters, program letters, employment letters, volunteer center letters, etc. in a separate section]

*Credit to California Coalition for Women Prisoners (CCWP) for creating this Commutation Application Guide. Updated edits done by Families United to End LWOP (F.U.E.L.)