

COMMUTATION APPLICATION + INNOCENCE

Thanks for reaching out for support with your application for commutation. I see you are claiming that you are innocent of the crimes for which you've been convicted. We are happy to help you if this is the path you want to take, but also want you to be aware it is a difficult road. Have you already reached out to one of Michigan's innocence clinics? Claiming innocence can be a tricky thing to maintain in this application because the Parole Board is looking for candidates to specifically take responsibility for their crimes, demonstrate empathy and remorse for the impact their crime had on others, etc. If you have not committed a crime, this can create some uncertainty regarding how to complete the application and answer each required question.

First, it might be helpful to have this general information on terms:

- ***Pardon versus commutation***

Pardon is a forgiveness of a crime. Commutation is a lowering of the penalty/punishment. Pardon wipes out the conviction. Commutation leaves the conviction intact, but reduced the punishment.

Pardons exonerate. Commutations say enough is enough.

A commutation basically says the crime isn't forgiven, but the penalty has been reduced. On the other hand, a pardon is granted for a number of reasons: because the punishment doesn't fit the crime, the person is innocent, or the prosecutors abused their discretion.

- ***Clemency can be both***

a: disposition to be merciful and especially to moderate the severity of punishment due *The judge ignored the prisoner's pleas for clemency.* **b:** an act or instance of leniency *The governor's clemencies saved the lives of many death-row prisoners.*

Our aim is to support your efforts to obtain the most positive outcomes as possible. While we don't have proof that any particular way is more effective than another, we do have some basic considerations developed from our years of experience with other clients and interactions with the Parole Board. We hope you find these tips helpful along the way.

There are three questions on the application where your claim of innocence will shape some specific areas of your response – questions 3, 4, and 5.

Question 3 reads: *Briefly describe the circumstances of the crime(s) for which you are requesting a commutation.*

Of course, this immediately creates a problem because it is specifically looking for you to explain a crime you are saying you did not commit. The allegations of the PSI are considered to be factual. The Parole Board will read what is on your record and what is written in your PSI as 100% true. Typically, an applicant doesn't want any differences or discrepancies or arguments with the conviction or PSI. This is the trickiest part for obvious reasons.

If you cannot take ownership and claim responsibility for the crime, there is still a crime that took place; one for which you have been convicted. For your response to this question, instead of simply saying you didn't do it, you can still craft a meaningful and reflective reply. Try to take a look at the crime that did happen and describe the circumstances of how you did end up being convicted of it. Perhaps you were there. Perhaps you are associated with the person who did do it. Perhaps your life-choices or lifestyle mirrored that of the person who is responsible. In any of these cases, you can use your response to question #3 to take ownership and claim responsibility for what part you did play in getting where you are today. You didn't commit the crime, but what *did* you do? What *can* you claim was your role and is your responsibility for the events that unfolded? Focus on what you *can* take ownership of. What behaviors, decisions, events are you responsible for that may have contributed to you being wrongfully convicted? Don't put all of the focus on your innocence or on arguing misconduct or point at others. We don't feel this will be effective at getting your voice heard. That is a totally appropriate approach for an appeal, but is less appropriate for an application for a commuted sentence.

Q4 - Provide a brief statement explaining why you are requesting a commutation:

Why should the Parole Board recommend a commutation/reduced sentence/forgiveness? We suggest you don't simply rely on "because I didn't do it." Much like what we've stated above, put your own culpability in context. Describe mitigating circumstances of how you got where you are today. You will want to do this in a way that does not blame other people or other life events. Share this background as explanation and/or insight, not as an excuse. We may see things here such as:

- Potential substance abuse history as it relates to role in leading to crime
- Health issues such as mental or physical limitations
- Impoverished upbringing
- Low IQ or other things affecting your decision-making leading to the crime
- Statement from sentencing judge or prosecutor if they questioned the fairness of a mandatory sentence or the required guideline level (if no statement available, you can reproduce any such statements from the sentencing transcript to attach to your application)

Q5 – Provide a brief statement explaining why you should be granted a commutation:

This response is the place where the PB wants to hear why you will not commit any crime in the future. They want to know the person you are today. They want as much assurance as possible that if you are released you will not be a threat to anyone. Basically, they are looking for as much evidence as possible that you are a changed person. Statements of remorse and personal insight about who you used to be before your conviction compared with who you are now are good ways to discuss this.

If you have had any events or particular moments in your personal growth that demonstrate change or transition, you will want to share that with the Parole Board. They are looking to understand how you feel and demonstrate remorse, empathy, responsibility, prosocial values, etc. – basic assurances that you lack propensity for engaging in future criminal activity. Proof positive qualities should not come in the form of a statement declaring to have these qualities, but rather it should flow or become evident during the course of the interview. Use one or two examples of events or interactions you've had where you've demonstrated these qualities.