



Searching for Clemency in the Constitution State

Executive clemency was an important release mechanism in Connecticut until the 1990s, when commutation grants stopped completely. The Board of Pardons granted 36 commutations between 1991 and 1994, then granted none in the following nine years. The commutation process ceased operating entirely in 2019: the Board stopped accepting commutation applications pending revised guidelines and instructions, which the Board has yet to release. As of May 2020, there is no way for someone incarcerated in Connecticut to apply for a commutation.¹

This marks a striking departure from historical practice. Between 1968 and 1994, the Connecticut Board of Pardons² averaged more than eight commutations each year, usually to people serving long prison terms.³ The tipping point came in 1995; not only did the Board grant no commutations that year, but none of the 223 commutation applicants received a hearing before the Board.⁴ The most commutations granted in a single year since 1995 was three, in 2016.

¹ The Board of Pardons is purportedly working on new clemency guidelines, which it originally stated would be complete in August or September of 2019. E-mail from Connecticut Board of Pardons and Paroles, (Aug. 8, 2019) (on file with author). The Board’s website states that it is currently “in the process of revising the application and policy, and hope to begin accepting applications again in Spring 2020.” <https://portal.ct.gov/BOPP/Pardon-Division/Pardon/Pardon-Commutation> (last visited May 6, 2020).

² Since 2004, clemency and parole have been carried out by a single agency, the Connecticut Board of Pardons and Paroles.

³ See Meah Dell Rothman, *The Pardoning Power: Historical Perspective and Case Study of New York and Connecticut*, 12 Colum. J. L. & Soc. Probs. 149, 192 (1976) (reporting that between 1968 and 1974, 82 percent of commutations went to individuals convicted of violent crimes).

⁴ Tom Condon, *Pardons Board Should Show Some Clemency*, Hartford Courant, Apr. 16, 1996, at A3.

No formal policy change explains why Connecticut stopped commuting sentences in the mid-1990s. The year 1995 saw Connecticut elect Governor John G. Rowland, a self-proclaimed champion of “tough on crime” policies; but in Connecticut the governor—while responsible for appointing Board members—is not involved in the clemency decision-making process. Whatever Rowland’s influence on commutations during his two terms in office, clemency has remained largely dormant in the fifteen years since he left, a stretch during which both parties have controlled the state’s executive branch.

Yet Rowland’s election coincided with a broad shift in Connecticut’s approach to punishment—a shift that dispensed with second chances in favor of harsher, determinate sentences. Parole grant rates dropped, at the same time that commutations stopped completely.⁵ In 1995, the legislature enacted a truth-in-sentencing statute and raised mandatory minimums for a range of violent and drug-related offenses, and Connecticut’s corrections population soared.⁶ These developments illustrate an unfortunate tendency in the modern administration of clemency; when the need for clemency is greatest—when sentencing and parole policies are most punitive—commutations are least attainable.

⁵ See *infra* pages 5-6.

⁶ See Criminal Justice Policy & Planning Division, Annual Report—2008 Connecticut Prison Population Projection Study, 15 (Feb. 2008) (referring to 21 public acts in 1995 that “added new crimes, increased penalties, and limited offenders eligible for [the Alternatives to Incarceration Program].”).

Figure 1: CT Commutations & Prison Population⁷

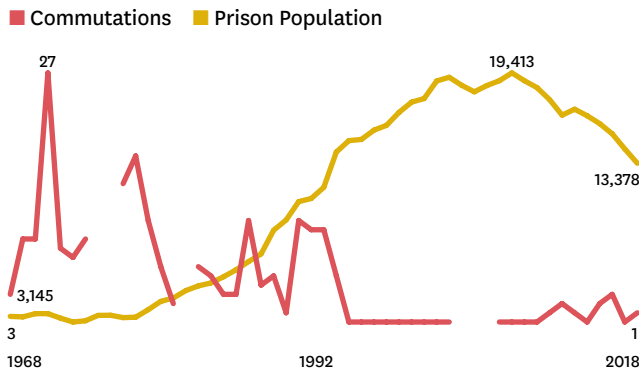
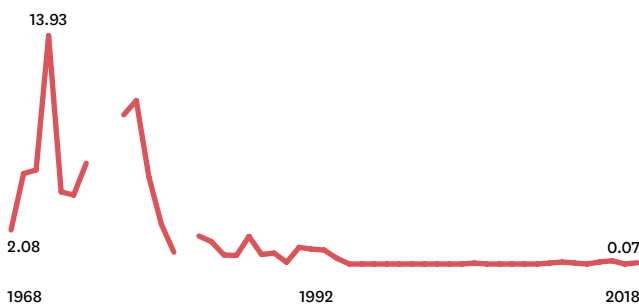


Figure 2: Clemency Rate (per 1,000 incarcerated persons)



Connecticut's Clemency Model

Connecticut is one of several states in which the governor does not partake in clemency decisions. Instead, the legislature delegated that responsibility to the Connecticut Board of Pardons and Paroles.⁸ The current Board consists of nine full-time members and two part-time members,⁹ appointed by the governor with the advice and consent of both houses of the General Assembly. The governor designates one member as chairperson, responsible for establishing procedures for conducting hearings and making decisions.¹⁰ The enabling

statute provides that members “shall be qualified by education, experience or training in the administration of community corrections, parole or pardons, criminal justice, criminology, the evaluation or supervision of offenders or the provision of mental health services to offenders.” The current chairperson is Carleton J. Giles, a former Connecticut¹¹ police officer.

The enabling statute does not include substantive criteria for granting commutations. Rather, the statute charges the Board’s chairperson with responsibility for “adopting policies in all areas of pardons and paroles, including, but not limited to, granting pardons, commutations of punishments or releases...”¹² As of May 2020, the Board is not accepting commutation applications, pending release of an updated commutation policy and application.¹³ Accordingly, this report draws from the most recent iteration of the Board’s commutation instructions.

The first stage of the clemency process is a Qualification Review, during which each application is screened for compliance with eligibility requirements, which are set by the Board without any formal rule-making.¹⁴ To be eligible for commutation, an applicant must prove he or she exhausted all judicial remedies. Further, the applicant must set forth one of the following premises for clemency, supported with evidence: (1) excessive penalty; (2) facts not available at trial/sentencing; (3) statutory change in penalty for the crime which renders the sentence excessive; or (4) a medical disability that renders the applicant physically incapable of endangering society. During the second stage, Merit Review, the Board determines whether the evidence is sufficient to grant clemency on the stated premise. In the past, the Board has also required that a person sentenced to eight or more years serve at least four years before applying for commutation.¹⁵

Applicants must also comply with arduous documentation requirements in order to move forward in the process. The Board requires copies of a Victim Services Notice form, which must also be sent to the Office of Victim Services and Department of Correction—Victim Services Unit; proof that all judicial remedies have been exhausted; proof of payment

⁷ Commutation numbers were drawn from the following sources. Years 1968-1974: Meah Dell Rothman, *The Pardoning Power: Historical Perspective and Case Study of New York and Connecticut*, 12 Colum. J.L. & Soc. Probs. 149, 203 (1975); years 1977-1981: Susan E. Martin, *Commutation of Prison Sentences: Practice, Promise and Limitation*, 29 Crime & Delinq. 593 (1983); years 1983-2002: George Coppolo, Memorandum Regarding “Inmate Pardons,” Office of Legislative Research (Oct. 31 2002). Data from 1992 through 2018 was obtained through a public information request. Data for years 1975, 1976, and 1982 was unavailable.

⁸ C.G.S.A. § 54-124a. Prior to 2004, clemency and parole were administered separately, by a Board of Pardons and a Board of Parole. See Christopher Reinhart, Office of Legislative Research, *Legislature’s Power to Commute Death Sentences and Effect on Pending Cases*, 2004-R-0930 (Dec. 6, 2004).

⁹ https://portal.ct.gov/BOPP/_resources/Common-Elements/About-Us/Meet-the-Parole-Board

¹⁰ The chairperson also appoints an executive director to “oversee the administration of the agency.” C.G.S.A. § 54-124a(i).

¹¹ *Id.*

¹² C.G.S.A. § 54-124a(d).

¹³ <https://portal.ct.gov/BOPP/Pardon-Division/Pardon/Pardon-Commutation> (last visited May 9, 2020).

¹⁴ Connecticut Board of Pardons and Paroles, *Commutation Information and Instructions* (on file with author).

¹⁵ Office of Legislative Research, George Coppolo, 99-R-0255 (Jul. 20, 1998).

of court costs, fines, and restitution; a Supervising Officer Questionnaire; police reports; and a notarized Background Investigation Authorization Form.¹⁶ Failure to provide any one of these documents prevents an application from moving forward to the Merit Review stage.

If the Board finds sufficient evidence of merit, it schedules a commutation hearing, otherwise it denies relief. The Board conducts clemency hearings twice throughout the calendar year. Each clemency application is reviewed by a panel of three Board members. Although members must issue written statements explaining the reason for rejecting pardon applications, the Board has no corresponding requirement for commutation denials.¹⁷

Prior to a hearing, the Board conducts an investigation and an interview of the applicant, during which the applicant “will be asked a series of questions ... and given the opportunity to make a statement as to why they are requesting commutation.”¹⁸ Victims are notified and invited to testify at the hearing, as are the State’s Attorneys. An applicant’s friends and family may also attend the hearing and submit letters of support, but may not testify. After the hearing, if at least two of the three Board members vote in favor of commutation, the application is granted.¹⁹

Recent commutation statistics paint a troubling picture. Of the 186 applications that the Board reportedly processed between 2017 and 2018, 183 (or about 98%) were deemed “ineligible.”²⁰ According to the Board, this designation means that an applicant failed to include all documentation required for processing and review.²¹ That so few applicants²² were considered eligible for a commutation suggests that eligibility is either ill-defined or that the unusually onerous documentation requirements described above are unreasonably demanding.

¹⁶ *Id.*

¹⁷ Office of Legislative Research, George Coppola, 99-R-0233 (Feb. 5, 1999)

¹⁸ *Id.*

¹⁹ C.G.S.A. § 54-124a(p) (“Any decision of the board or panel of the board shall be made by a majority of those members present.”).

²⁰ See Connecticut Board of Pardons and Paroles, Pardon Statistics by Calendar Year, available at <https://portal.ct.gov/BOPP/Research-and-Development-Division/Statistics/Statistics> (last visited Sept. 10, 2019). Over the ten year period from 2009 and 2018, 366 out of 618 (or 59.2%) applications for commutation were considered “incomplete” or “ineligible.” *Supra*.

²¹ E-mail from Connecticut Board of Pardons and Paroles, (Aug. 8, 2019) (on file with author).

²² See State of Connecticut, Board of Pardons and Paroles, Historical Information, <https://portal.ct.gov/BOPP/Research-and-Development-Division/Statistics/Statistics> (last visited Sept. 16, 2019).

Figure 3: Commutation Applications and Grant Rate

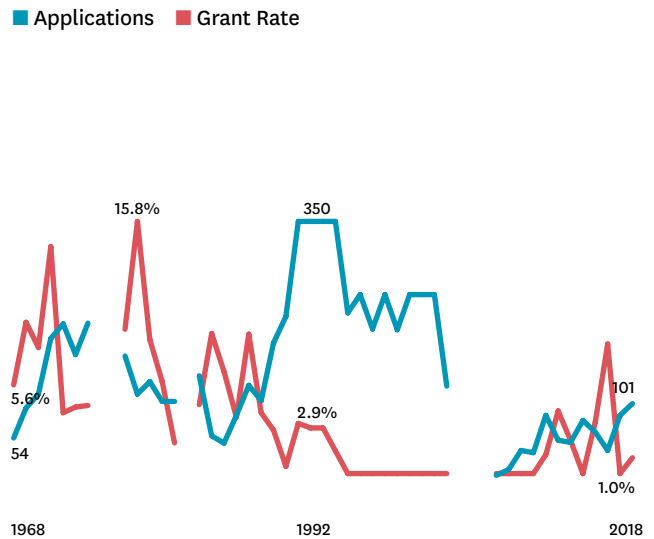


Figure 4: Connecticut Board of Pardons and Paroles

| Member Name | Position | Appointed | Background |
|----------------------|------------------|-----------|------------------------|
| Carleton J. Giles | Chairperson | 2014 | Police officer |
| Rufaro Berry | Full-Time Member | 2014 | Paralegal |
| Patricia Thomas Camp | Full-Time Member | 2016 | Lawyer/Teacher |
| Joy Chance | Full-Time Member | 2014 | Parole |
| Stephen D. Dargan | Full-Time Member | 2017 | Politics/Public Policy |
| Michael Pohl | Full-Time Member | 2019 | Teacher/Public Policy |
| Carmen Sierra | Full-Time Member | 2016 | Victim Services |
| Nancy Turner | Full-Time Member | 2017 | Public Policy |
| Jennifer Zaccagnini | Full-Time Member | 2014 | Social Worker |
| Pamela Richards | Part-Time Member | 2008 | Corrections |
| Kelly Smayda | Part-Time Member | 2008 | Corrections |

*State of Connecticut Board of Pardons and Paroles, Meet the Parole Boards, https://portal.ct.gov/BOPP/_resources/Common-Elements/About-Us/Meet-the-Parole-Board (last visited 5/14/20).

What Happened to Clemency in Connecticut in the 1990s?

This section recounts developments both within and outside Connecticut’s criminal justice system during the 1990s that provide context for clemency’s decline. No specific policy change accounts for clemency’s decline in the 1990s. Rather, structural changes to Connecticut’s sentencing and release systems, occurring around the same time that commutations fell off, suggest that clemency’s decline was part of a broader shift toward more punitive criminal justice policy. Thus, even where an independent board (rather than the governor) wields exclusive authority over the decision-making process, clemency remains sensitive to changes in the political environment. Unfortunately, this means that commutations are often least available when they are most needed.

Clemency’s decline in the 1990s was not unique to Connecticut. The number of commutation grants also fell in the mid-1990s in other nearby states, including Pennsylvania²³ and Massachusetts.²⁴ The tough-on-crime era was in full swing in the election year of 1994, both in Connecticut and across the nation. Incarceration rates had grown nationally by roughly 400 percent since 1970.²⁵ Congress passed the Violent Crime Control and Law Enforcement Act (the 1994 Crime Bill), which included a federal “three strikes” provision as well as financial incentives for states to incarcerate more offenders.

Connecticut was one of nine states that enacted “truth-in-sentencing” laws in order to qualify under the 1994 Crime Bill for federal funding for prison construction.²⁶ Connecticut’s version of the law required people convicted of “serious, violent” offenses to serve 85% of their sentences before becoming eligible for parole; it also restricted the use of “good time credits.” The effect of truth-in-sentencing on the state’s prison population was undeniable. In 1999, individuals convicted of “part 1

violent crimes” were serving on average 80% of their maximum sentence, up from 54% in 1993.²⁷ At the same time that offenders were serving a greater portion of their sentences, sentence terms grew longer. In 1994, Connecticut significantly increased maximum penalties for many repeat offenders; the maximum term for a second “violent felony” increased from 25 years to 40 years, and the maximum term for a third such offense increased from 25 years to life imprisonment.²⁸ A separate statute imposed a three-year mandatory minimum sentence for a broad category of drug crimes committed within 1,500 feet of a day care center.²⁹

Amidst these legislative reforms, Connecticut elected John G. Rowland governor in 1994. Rowland portrayed himself as a quintessential tough-on-crime candidate, summarizing his policies in a 24-page “crime fighting plan.”³⁰ He claimed that Connecticut’s prisoners, who at the time were crammed into overcrowded facilities, were being treated “like prep school kids on vacation.”³¹ He called for more police and more prosecutors, broader use of capital punishment, and greater reliance on mandatory minimums.

After his election victory, Rowland announced a criminal justice agenda that largely reflected recommendations of Chief State’s Attorney John M. Bailey.³² In addition to harsher penalties for juveniles, the plan called for eliminating parole for a broad swath of offenders, including those convicted of a previous offense, those convicted of certain felonies, and people convicted of selling drugs.³³ Meanwhile, Rowland nominated hardline prosecutors to the state’s highest court in an effort to shape a legal system that would embrace his new policies.³⁴ His appointees to the Board of Parole had similar leanings, especially former police chief and new Board chairperson John E. Meeker. Shortly after his appointment, Meeker oversaw an immediate drop in parole grant rates.³⁵

23 Center on the Administration of Criminal Law, *The Demise of Clemency for Lifers in Pennsylvania* (April 2019), available at https://www.law.nyu.edu/sites/default/files/CACL%20Clemency%20PA_Accessible.pdf.

24 Center on the Administration of Criminal Law, *Willie Horton’s Shadow: Clemency in Massachusetts* (May 2019), available at https://www.law.nyu.edu/sites/default/files/CACL%20Clemency%20MA___June%203%2C%202019%20Accessible.pdf.

25 Inimai M. Chettiar and Lauren-Brooke Eisen, *The Complex History of the Controversial 1994 Crime Bill*, The Brennan Center for Justice, (April 14, 2016), <https://www.brennancenter.org/blog/complex-history-controversial-1994-crime-bill>.

26 *Id.*

27 Bureau of Justice Statistics, *Trends in State Parole (1990–2000)*.

28 H.B. 5385, An Act Concerning Persistent Dangerous Felony Offenders.

29 H.B. 5410, An Act Concerning Prison Sentences for Selling or Possessing Controlled Substances Within the Vicinity of Day Care Centers.

30 Hilary Waldman, *Seasoned Rowland Aims for Top*, Hartford Courant, Sept. 7, 1994, A1.

31 Editorial, *Out Toughing Each Other on Crime*, Hartford Courant, July 31, 1994, at D2.

32 Jonathan Rabinovitz, *Rowland Unveils a Plan to Toughen State’s Stand on Crime*, Feb. 7, 1995, B6.

33 *Id.*

34 Lynne Tuohy, *Top Court May Shift to Right*, Hartford Courant, Apr. 26, 1996, at A1.

35 Dana Tofig, *After Serving 32 Years for Murder, Exemplary Prison Inmate Seeks Parole*, Hartford Courant, Apr. 24, 1996, at A3.

Lastly, the media in the mid-1990s became increasingly prone to sensationalizing acts of violence, which fueled the public’s anxiety about violent crime and its frustration with parole and clemency. When a formerly-incarcerated person re-offended or was suspected of a new crime, the media reflexively blamed the event on discretionary release policies, particularly in high-profile cases.³⁶ In Connecticut, a parolee named German Montanez killed two men in Hartford. It appears that Meeker used the incident as a basis for adopting more conservative standards for parole.³⁷ Months before the 1994 election, Reginald McFadden was arrested in nearby Rockland County, NY, for committing multiple murders and a rape after his life sentence was commuted by Pennsylvania governor Robert P. Casey. It was probably no coincidence that in some states in the region—including Pennsylvania and Massachusetts—clemency for a time ceased completely after these incidents.

Clemency for Lifers in Connecticut: *Dumschat v. Connecticut Board of Pardons*

The Board of Pardons once routinely granted commutations to individuals serving life sentences in Connecticut. In fact, the process was so routine that in 1977 in *Dumschat v. Connecticut Board of Pardons*, a federal district judge ruled that due process obligated the Board to provide an explanation whenever it denied a clemency application for someone serving a life sentence.³⁸

Although the Supreme Court ultimately overruled the decision, *Dumschat* provides a glimpse into a time when clemency for lifers was the norm, not the exception. The district court observed that, although clemency and parole were handled by separate agencies at that time, more than 90% of lifers granted clemency were in indeed released on parole within one year

of receiving clemency, and that all grantees were paroled “within a few years.”³⁹ The Chairman of the Board of Pardons testified that “no more than 10 or 15 per cent” of individuals serving life sentences in Connecticut served their 20-year minimum terms.⁴⁰ Thus, clemency operated as an important component of the state’s criminal justice system, particularly with respect to those serving the most severe sentences.

It is not clear how many lifers, if any, have received clemency since the Supreme Court’s decision in *Dumschat*, since the state does not always publicly identify commutation recipients. In 2007, the Board requested a formal opinion from the state’s attorney general as to whether the Board has authority to commute a parole-ineligible sentence. The answer, according to Opinion 2007-18, is no. The attorney general wrote that “[the] power to commute a parole ineligible sentence and transform it to a parole eligible sentence is barred by the express language of Conn. Gen. Stat. § 54-125a(b)(1).” That provision excludes from parole eligibility certain homicide offenses and aggravated sexual assault in the first degree.⁴¹ According to the opinion, the statute’s exclusion of this category of offenders operates as a “specific limitation” on the Board’s power to commute sentences imposed for the enumerated offenses, and to hold otherwise “would render the provisions of [the statute] meaningless.”⁴²

Since the attorney general issued Opinion 2007-18, the Board has said nothing about the eligibility of lifers for clemency.⁴³ If adopted by the Board, Opinion 2007-18 may have ramifications for virtually all prospective clemency applicants, not just those serving parole-ineligible sentences under § 54-125a(b)(1). Consider people for whom the state’s truth-in-sentencing act requires serving 85% of the full sentence imposed; may the Board use clemency to render somebody parole-eligible prior to that person serving 85% of the original sentence, or does the truth-in-sentencing statute operate as a “specific limitation” on the Board’s power to grant clemency in such cases?

36 See John Pfaff, *The never-ending ‘Willie Horton effect’ is keeping prisoners too full for America’s good*, LA Times, May 14, 2017, available at <https://www.latimes.com/opinion/op-ed/la-oe-pfaff-why-prison-reform-isnt-working-20170514-story.html>.

37 Dana Tofig, *After Serving 32 Years for Murder, Exemplary Prison Inmate Seeks Parole*, Hartford Courant, Apr. 24, 1996, at A3.

38 *Dumschat v. Bd. of Pardons, State of Conn.*, 432 F. Supp. 1310, 1314 (D. Conn. 1977), *aff’d*, 593 F.2d 165 (2d Cir. 1979), *vacated sub nom. Connecticut Bd. of Pardons v. Dumschat*, 442 U.S. 926 (1979) (Where ... the state has set up a statutory process for granting commutations ... and granted such relief to at least three-quarters of the long-term inmates appearing before it, I think it clear that the denial of [commutation] ... implicates a liberty interest requiring due process protections).

39 *Connecticut Bd. of Pardons v. Dumschat*, 452 U.S. 458, 461, n. 4 (1981).

40 *Id.*

41 2007 WL 2800958, at *2 (Conn. A.G. Sept. 20, 2007)

42 *Id.* at *3. An opinion of the attorney general is considered by Connecticut courts to be “highly persuasive,” but not binding. With that in mind, the legal analysis in Opinion 2007-18 is far from conclusive. Putting aside Connecticut’s longstanding practice of commuting life sentences, it seems strange to characterize § 54-125a(b)(1) as a “specific limitation” on the Board’s clemency power given that the provision makes no reference to clemency, for it is unlikely that the legislature intended to limit that power without doing so explicitly.

43 At least one observer suggests that people serving sentences of life without parole are ineligible for clemency. Jing Cao, *Commuting Life Without Parole Sentences: The Need for Reason and Justice over Politics*, S.J.D. Dissertations, 29 (2015), Paper 1.

Indeed, it is difficult to accept Opinion 2007-18 without considering whether there remains any role for commutations in Connecticut. One purpose of commutation is for an independent authority to revisit a sentence that, while lawfully imposed, is excessive or otherwise unnecessary. Further, some of the most excessive sentences occur when judges are statutorily constrained to impose a term that may not be called for under a unique set of facts and circumstances. By requiring the Board to act within the parameters of Connecticut’s sentencing statutes, Opinion 2007-18 would go a long way toward rendering the clemency power obsolete.

Sentence Review Division

An alternate, more limited way to revisit sentences in Connecticut is a process called sentence modification. This relief, while administered by courts, bears certain similarities to executive clemency. Individuals convicted of a crime who receive a sentence of three years or more⁴⁴ have 30 days to apply for a sentence reduction before the Superior Court’s Sentence Review Division. Established by the legislature in 1957, the Division consists of three judges appointed by the Chief Justice of the Connecticut Supreme Court.⁴⁵ Victims are entitled to provide input in person or in writing.⁴⁶

An important limitation of the Division’s power is that it cannot impose a modified sentence that could not have been imposed initially. For sentences imposed pursuant to mandatory minimums, which are often the harshest and most disproportionate, clemency remains the only hope for relief. The Division is further prohibited from reconsidering a sentence that resulted from plea bargaining or that is less than the term proposed in a plea agreement.⁴⁷

Beyond these limitations, the legislature provides no substantive criteria for conducting sentence modifications. According to the Connecticut Superior Court’s Practice Book, modifications may occur where a sentence is “inappropriate or disproportionate in the light of the nature of the offense, the character of the offender, the protection of the public interest, and the deterrent, rehabilitative, isolative, and denunciatory purposes for which the sentence was intended.”⁴⁸ The Division is required by statute to state its reasons for all decisions.⁴⁹

In the past, the Division has distinguished its function from that of clemency, by noting that “sympathy cannot properly serve as a basis for a modification of a sentence.”⁵⁰ In practice, however, the substantive review process bears some similarities to clemency. For instance, the Division has recognized that a sentence that appeared reasonable at the time it was imposed may in hindsight prove excessive in comparison to sentences received by co-defendants,⁵¹ rationale common to the clemency context.

Between 1958 and 1982, the Sentence Review Division granted approximately nine sentence modifications per year.⁵² Between 1995 and 2008, the number of sentence modifications per year dropped to about 1.5. Of the 20 sentences modified during this latter period, nine were imposed for drug-related offenses, two for homicide offenses, two for weapons offenses, four for robbery, two for sexual assault, and one for a probation violation.⁵³

Although the state’s prison population grew from around 3,000 in the early 1970s to almost 20,000 in 2008, records of the Sentence Review Division show no corresponding increase in the number of sentences reviewed annually over that time. This observation captures an important trend in contemporary criminal justice policy: as prison populations grew to unprecedented levels, tools of discretionary release—parole, clemency, and sentence review, etc.—remained fixed or were scaled back.

44 Individuals sentenced to less than three years have access to a separate review process that involves asking the sentencing judge for a reduction. See Sandra Norman-Eady, *Sentence Review and Modification*, 2008-R-0372.

45 Conn. Gen. Stat. Ann. § 51-194. The authorizing statute provides that the decision of two of the three judges shall suffice to either modify or affirm a sentence, and that no judge shall review a sentence that he or she imposed. *Supra*.

46 § 51-196(c).

47 See *supra* note 43.

48 Conn. Super. Ct. Pro. Sec. 43-28.

49 § 51-196(e).

50 Pamela Samuelson, *Sentence Review and Sentence Disparity: A Case Study of the Connecticut Sentence Review Division*, 10 Conn. L. Rev. 5, 53, n. 16 (1977-1978) (quoting *State v. McCann*, 158 A.2d 753 (SRD Oct. 17, 1958)).

51 Samuelson at 53-54.

52 Data was not available for years 1972-75, 1976, 1978, and 1981.

53 2008-R-0372; 2003-R-0511.

Moving Forward with Clemency in Connecticut

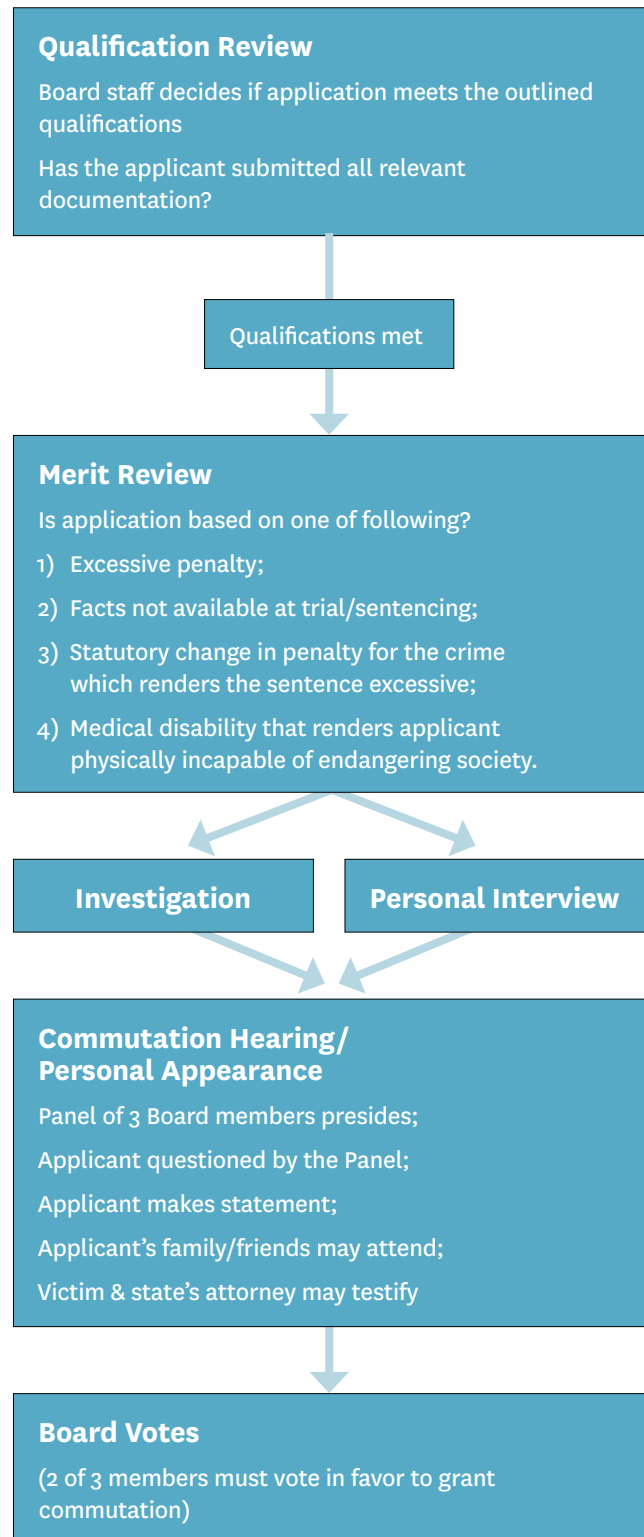
Granting clemency is essential to a healthy criminal justice system. Like many of its neighboring states, Connecticut has failed to grant clemency at a rate commensurate with the enormous growth of its prison population. In fact, commutations came to a complete stop in 1994, just as incarceration in Connecticut was peaking. The state is purportedly developing new commutation guidelines; in the meantime, however, there is currently no way to apply for a commutation in Connecticut. This is striking—particularly in a state where clemency was once a routine release mechanism for people serving life sentences.

Assuming that new substantive criteria for clemency are forthcoming, there are problems with the Board’s composition and structure. First, although the Board’s current members represent a fairly diverse range of professional backgrounds, its Chairman is a lifelong police officer. That is significant, not because law enforcement should not be represented on the Board, but because police officers are not experts in correctional policy or rehabilitation, and the Board’s enabling statute vests the Chairman with broad informal rulemaking authority.

Going forward, the legislature must clarify who is eligible for clemency. Opinion 2007-18 of the Attorney General states that those serving life-without-parole sentences are ineligible for clemency by virtue of being ineligible for parole. This is a strange and dubious position, as the very purpose of granting clemency is to modify the original terms of the sentence, whether the sentence consists of incarceration, parole or both. To the extent that the Board of Pardons and Paroles has adopted the Attorney General’s position, it has done so in direct contradiction of Connecticut’s longstanding practice of commuting most of the state’s lifers.

Finally, the public should be able to learn who receives clemency in Connecticut, as it can in many other states. Without information about which people are receiving relief, it is difficult to examine how clemency is being used and how it can be improved.

Appendix 1



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Acknowledgements

This report was drafted by Research Fellow Ben Notterman and edited by the Center's Executive Director, Courtney M. Oliva. The Center thanks the Vital Projects Fund for its financial support. The report was designed by Michael Bierman. The Center also thanks the Connecticut State Library for its assistance in locating important historical documents.

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May 2020.

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