

Role of the District Attorney Office in Successful Pardon Projects

June 2021

Pardon Projects are being created around Pennsylvania to help people with criminal records (all of whom have completed their sentences by years if not decades) get beyond those histories so that they can pursue their potential for themselves, their families and their neighborhoods.¹ We are training “Pardon Coaches” throughout the state in what the pardon process is and how it works, and linking them with community organizations serving low-income people, so that the information and support they need to best present their applications will be available where they live and work.

Each county is responsible for deciding what the eligibility criteria are for clients wanting assistance. The key criteria are of three types: **income** (to ensure that we are only providing services for free to those whose poverty precludes them from paying for the services), **crime** (the offense(s) for which a pardon is sought), and **time** (how many years have passed since the completion of the sentence). Other criteria relate to the connection between the individual and the county (e.g., do they need to be a resident) and the absence of any open prosecution.

The underlying crime is clearly of importance to the Board of Pardon: it has a specific definition for “Crime of Violence,” and any crime that fits that definition has specific procedures applicable to it. It is also of obvious importance to volunteer programs: if volunteers thought they could be asked to represent a murderer, rapist or child molester (for example), they could simply decide that they just were not going to volunteer at all – and given how many people there are with conviction for crimes nowhere near as serious, that could end the volunteer program before it starts.

In Philadelphia County, for example, the eligibility criteria for the Pardon Project Pro Bono Program specified “No conviction, at any time, in any jurisdiction, of any ‘crime of violence’ as defined in 37 PA Code § 81.202.” Other counties have modified this exclusion, but in such cases, they uniformly require a deeper case-by-case consideration of the applicant and the crime.

The major reason to obtain the input from the District Attorney’s Office early-on in the process of establishing eligibility criteria for a Pardon Project is that DAOs are routinely asked by the Board of Pardons for their input on every pardon applicant whose conviction(s) occurred in their county. (The text of the current form letter is below.) If the DAO is vehemently opposed to a candidate, obtaining a pardon becomes quite unlikely, and therefore a poor use of volunteer time. That is why Pardon Project around the state have been developing their intake criteria to be responsive to the DAO’s interests, if not identical to them.

Moreover, the Board of Pardons is developing an “accelerated track” for pardon applicants who have the support of the local DAO. This faster track would cut the current 2.5-year-long process in half. Once a Pardon Project client has submitted her/his application to the Board, the intention is to share that application with the DAO and ask for its review.

¹ As the April 2020 study of the Economy League demonstrated, granting pardons resulted in \$16.5 million flowing to communities across Pennsylvania in less than a decade; and are a “no cost community development and neighborhood investment policy”. <http://economyleague.org/pardonimpact>

It is hoped that by engaging with the DAO, they will more fully understand the goals and the role of the county's Pardon Project, and the economic and social importance of pardons to the community (not just the individual and her/his family). As institutions devoted to justice and the safety and security of the community, it is hoped that the DAO will voluntarily decide to try and provide early attention to pardon requests coming from the Project, as well as to other deserving individuals.

The input from DAOs has been sought by people brainstorming Pardon Projects in Allegheny, Beaver, Erie, Lancaster, and Lackawanna Counties; and are being invited to participate in McKean and Washington Counties, which are just having their first meetings.

To date, six DAOs have formally agreed to provide early reviews of pardon applications coming from Pardon Projects in Allegheny, Beaver, Delaware, Lackawanna, Montgomery and Philadelphia Counties.²

BOP letter to DAs

March 12, 2021

Honorable _____
District Attorney
___County Courthouse

RE:

Board of Pardons Number:

Application Number:

Dear District Attorney _____:

This letter is to inform you that the Board of Pardons has filed the enclosed clemency application.

Pursuant to 37 Pa. Code § 81.226 (a), the Board is required to send the district attorney a copy of the application to obtain expressions of opinion as to the merits of the application. Your comments are valued by the Board and will potentially affect two decisions it makes: whether to grant the applicant a public hearing, and if so, whether to recommend to the Governor that the application be granted.

Thank you in advance for your cooperation in this matter.

Respectfully,

Brandon Flood
Secretary
Board of Pardons

² The DAO Early Review protocol (as of March 31, 2021) is available at:
<https://www.plsephilly.org/wp-content/uploads/2021/03/DAO-review-of-pardon-applications-March-2021-1.pdf>