

EXPEDITING PARDONS IN PENNSYLVANIA:

**AN ANALYSIS OF 1,143 PARDON DECISIONS MADE BY THE BOARD
OF PARDONS AND THEIR POTENTIAL FOR PROCESS
IMPROVEMENTS AND COST SAVINGS**

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Expediting Pardons in Pennsylvania: An Analysis of 1,143 Pardon Decisions Made by the Board of Pardons and their Potential for Process Improvements and Cost Savings

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Project Overview and Context

In Pennsylvania, as in most states, the Governor is entrusted with the power to grant clemency to those who have run afoul of the criminal laws; but here, the Governor can only consider people who have first been recommended by the state's Board of Pardons. Clemency is of two main types: commutations, which are a shortening of a sentence; and pardons, which are a complete forgiveness of the crime. Only in unique and compelling situations will someone currently under sentence in Pennsylvania—be it incarceration, probation, or parole—be recommended for, or receive, a pardon without their sentence first being completed or commuted. For that reason, this study is limited to an analysis of pardon applications submitted by those who are not currently under carceral control.

The purpose of this study is to investigate and determine if there are objective data by which the Pennsylvania Board of Pardons can identify pardon applications that they are very likely to recommend, using their past decisions as a guide. These criteria could then be used to expedite similar applications in the future, reducing the cost to the state and more quickly freeing certain applicants from the constraints of their criminal records that are holding them back from their fullest potential.

Significant administrative changes made by the Board of Pardons since February of 2019 have coincided with, and likely contributed to, an unprecedented increase in application volume as more Pennsylvanians seek to clear their criminal records by obtaining a pardon.² The number of pardon applications received by the Board of Pardons more than quintupled between 2015 and 2021, when it received a record-breaking 1,393 pardon applications alone.³ The increase will inevitably continue as a result of the creation of community-based, volunteer "pardon projects" around the state, and with online applications expected in 2023.⁴

In addition to longer processing times for applicants, who currently wait over two years to have their applications "merit reviewed",⁵ the increase in application volume has also placed substantial burdens on the Board of Pardons, the Department of Corrections (which investigates pardon applicants on behalf of the Board of Pardons), and their staff.

Recent Board of Pardons staff estimates are that it is taking them eight hours, at an estimated cost of \$240, to review and correct applications for clemency before the application can even be filed,⁶ and as of January 2022, approximately 1,300 pardon applications were awaiting review before filing.⁷ Increasing burdens are similarly placed on the Department of Corrections (DOC), which is charged by law with investigating applications for clemency before their merits are reviewed by the Board of Pardons.⁸ The DOC estimates that each pardon application requires an average of 21 hours of staff time to perform the investigation and write their report, at a cost in personnel time of \$1,126.21 per pardon application.⁹ In total, it costs an estimated \$1,366.21 per case in staff time between the two agencies to prepare pardon applications for merit review by the Board of Pardons.

As application volume continues to swell, it will become increasingly necessary for the Board of Pardons to modernize their internal review processes so that clearly meritorious applicants may be advanced to the Governor's desk for a final determination in the shortest possible time and with the least investment of staff resources. Several efforts to reduce these burdens and streamline the investigative and review processes are already under way, such as the use of expedited review programs. This began in October of 2019 with convictions for non-violent, marijuana-specific convictions.¹⁰ When that pilot project proved effective, the program was expanded to include convictions for non-violent crimes that occurred at least fifteen years ago, and, as a third category, applicants who have the support of their local District Attorney are now eligible for expedited review. These expedited review programs have the potential to significantly reduce the depth and breadth of the investigation and review for those who qualify, cutting the processing time in half, from two-and-a-half years to approximately one year.

At the same time, consensus is building among state agencies, the business community, and everyday Pennsylvanians that pardons are, in the words of the Economy League, "no-cost workforce development and neighborhood investment tools." The Economy League's April 2020 study "Pardons as an Economic Investment Strategy" found that granting pardons resulted in millions of dollars flowing into communities across the Commonwealth at no cost to the state or taxpayers.¹¹ The study noted, "If the processing time were reduced by 25%, those who received pardons over the past 10 years could have generated \$6.9 million in additional income," and over \$11.25 million if processing time were cut in half.¹² In addition to the economic benefits, recidivism rates for pardon applicants, even those who were denied a pardon, are extremely low, with just two of the 3,037 pardon applicants—less than one tenth of one percent, 0.066%—in the same Economy League study period later being convicted of a crime of violence.¹³

Calls to accelerate the pardon process are growing.¹⁴ In June of 2019, the Philadelphia Bar Association passed a resolution encouraging the Board of Pardons to develop policies and procedures that would allow the Board of Pardons to hear as many pardon applications as possible within one year of filing.¹⁵ In June of 2020, the Pennsylvania Auditor General called for the Board of Pardons to “modernize its administrative operations and its application process,” with the goal of awarding more pardons, faster.¹⁶ And in November of 2021, the Pennsylvania Workforce Development Board unanimously adopted the recommendation that the state:

ensure the prompt review (within one year) by the Board of Pardons of 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.¹⁷

Anticipating that the Board of Pardons will respond positively to these calls and that the number of pardon applications will continue to increase, the purpose of this study is to determine if past decisions made by the Board of Pardons could lead to any process improvements that would allow for more pardons to be heard in less time and at no additional cost. This report analyzes the votes by the Board of Pardons on all 1,143 pardon applications filed in the study period for which a final determination had been made between January 2018 and July 2021, with the goal of identifying objective data points common to those that are being recommended to the Governor at very high rates.

These criteria are then used to support evidence-based recommendations for formalizing and expanding the expedited review programs for those with a very high likelihood of being recommended for a pardon. Expediting the review of these applicants would in turn allow the Board of Pardons, as well as the Department of Corrections, to invest their limited resources in investigating and evaluating those applicants whose records are less clear and who therefore require a greater degree of scrutiny, reducing administrative overhead while improving pardon outcomes overall.

Key Findings

As of July 31, 2021, the Board of Pardons had made final determinations on 1,143 pardon applications which were filed between January 1, 2018 and December 31, 2020.¹⁸ Analysis of these applications confirm that, as a general matter, the longer it has been since the most recent conviction, the higher the likelihood that an application for a pardon will be recommended. Similarly, the older the applicants are, which often correlates with increased time since the most recent conviction as they “age out” of crime, the more likely they are to have been recommended for a pardon.

Using 80% as the baseline criterion for likelihood of success, the voting patterns of the Board of Pardons provide statistically significant support for expedited review of several different types of cases, all of which involved convictions that occurred at least ten years before the filing date and/or an applicant who was at least 40 years of age at the time of filing. Notably, applicants who had at least one drug-related conviction and no convictions for crimes of violence and whose most recent conviction was ten or more years before the filing date were recommended for a pardon over 90% of the time.

These rates are compared to the overall pardon recommendation rate for the study period of 76.8%—878 of the 1,143 applicants reviewed in this study were recommended for a pardon. 87.4% (999 applicants) had their applications heard at a public hearing, and of those, 87.9% (878 of the 999) were recommended to the Governor. The remainder were denied: 12.6% (144 applicants) were denied a hearing at the merit review stage, and 10.6% (121 applicants) were denied after receiving a public hearing.¹⁹

Pardon Application Outcomes, Board of Pardons (n=1143)

Finally Determined Applications Filed 2018-2020

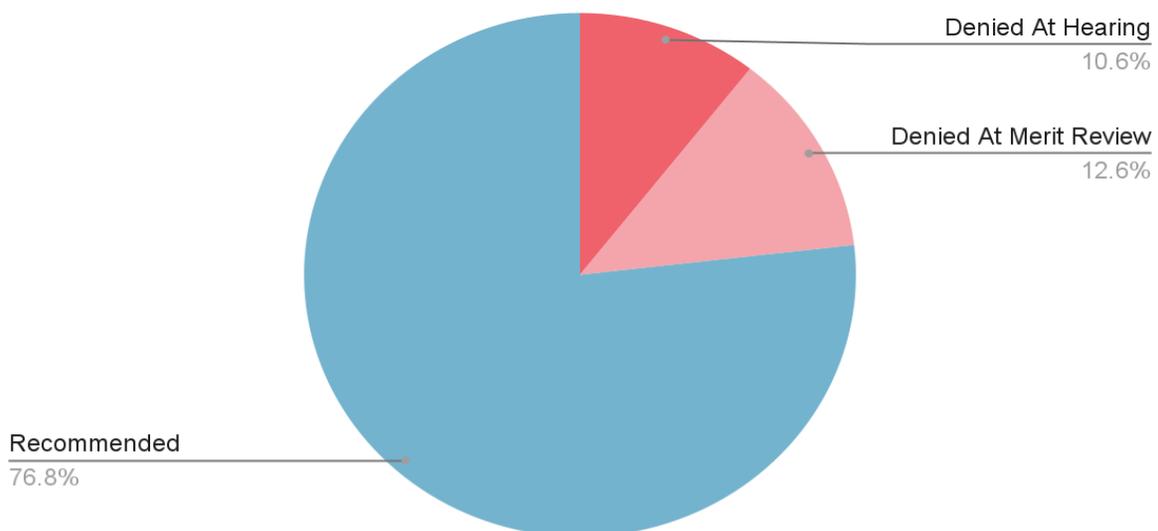


Figure 1 Pardon Application Outcomes, Board of Pardons

The overall pardon recommendation rate of 76.8% is returned to and used throughout this study as a reference to compare the recommendation rates of various subgroups of applicants according to conviction category, time since the most recent conviction, and the applicant's age at the time of filing.²⁰

The report identifies ten categories of cases that the Board of Pardons might consider using to expedite applications and projects the savings in personnel time that could result therefrom. With respect to the one category that the Board is already utilizing – people whose only crime(s) occurred 15 or more years ago and did not involve violence or sex – the report estimates a three-year cost savings of between \$476,687 (for those who received at least two votes at merit review, awarding them a public hearing) and \$441,474 (for those who received at least three votes at the public hearing, securing a recommendation to the Governor). The cost savings from each of the ten categories of cases highlighted in this study as having a greater than 80% likelihood of being recommended to the Governor are set forth in Appendix H.

General Definitions and Methodology

This investigation includes a review of anonymized data obtained from the Board of Pardons from the 1,545 pardon applications filed between January 1, 2018 and December 31, 2020. To analyze recent trends in voting and recommendation rates, those 1,545 applications were further narrowed to a subset of 1,143 pardon applications where the Board had made a final determination by July 31, 2021.²¹

To analyze general trends, these 1,143 pardon applications were first sorted into two non-mutually exclusive conviction categories based on the applicant's full list of convictions: (1) whether they had at least one drug-related conviction, and (2) whether they had at least one conviction for a crime of violence according to the Board's definition in 37 Pa. Code § 81.202.²²

They were then sorted into four mutually exclusive conviction categories based on the applicant's full conviction history:

1. Non-Drug-Related and Non-Violent (565 applications),
2. Drug-Related and Non-Violent (440 applications),
3. Violent and Non-Drug-Related (117 applications), and
4. Violent and Drug-Related (21 applications).

These categories were classed based on each applicant's full list of convictions. For example:

- An applicant's record would be classed as "Non-Violent and Drug-Related" if they had zero convictions for crimes of violence and at least one drug-related conviction on their record.

- An applicant’s record would be classed as “Violent and Drug-Related” if they had at least one conviction for a crime of violence and at least one drug-related conviction on their record.

It was not possible to identify or separately analyze applicants who had only one criminal incident because Offense Tracking Numbers (OTNs) were not in the data obtained from the Board of Pardons. Therefore, “at least one” does not suggest that there was more than one conviction, and multiple convictions could stem from the same arrest. Moreover, being classed in either the violent- and/or drug-related category does not preclude the possibility of having other non-violent and/or non-drug-related convictions as well.

The “Drug-Related” category includes delivery, possession, manufacturing, dispensing, sale, and distribution of a controlled substance; intent or conspiracy to do any of the above; and paraphernalia convictions.²³ It was not possible to isolate drug-related convictions that involved only marijuana based on this dataset, and the category excludes convictions for Driving Under the Influence. See Appendix A for more information on how the drug-related filter was constructed.

The “Violent Conviction” category uses the Board of Pardons’ definition of “Crimes of Violence” in 37 Pa. Code § 81.202. This category includes murder, voluntary manslaughter, rape, sexual assault, involuntary deviate sexual intercourse, aggravated assault, robbery, and kidnapping; as well as intent or conspiracy to do any of the above. With no available data on whether individuals were in visible possession of a firearm and whether crimes were sentenced pursuant to 42 Pa.C.S. § 9712 (Sentences for Offenses Committed with Firearms), convictions were also classed as violent if they (1) had a conviction on the list of violent crimes from 42 Pa.C.S. § 9714, and (2) they had an explicitly firearm-related conviction on the same date, implying they were likely sentenced under 42 Pa.C.S. § 9712. See Appendix B for more information on how the filter for crimes of violence was constructed.

The pardon recommendation rates were also analyzed by the amount of time since the applicant’s most recent conviction, calculated from the filing date by the Board of Pardons. For example, if an applicant’s most recent conviction was in 2010 at the filing date, they would be included in the “10+ Years Since Most Recent Conviction” category.

Because the provided Board and public records data do not include the date that the sentence was actually completed, it was not possible to analyze applications by sentence completion, which likely also influences recommendation rates. For example, although an applicant’s most recent conviction could have been twenty years before the filing date, they could have been on probation for fifteen of those years, meaning that they had only been free of carceral control for five years.

In addition to descriptive statistics, statistical significance tests were used to confirm the validity of the relationships between the conviction categories, time since conviction, and pardon application outcomes.²⁴

In previous studies conducted on behalf of the Board of Pardons, Philadelphia Lawyers for Social Equity found that the age of the applicant at the time the application for clemency was filed could also be an objective data point upon which the Board could inform its decisions. In those studies, age 40 was highlighted as the age when data from criminologists indicate almost no likelihood of repeated crimes of violence, and the age of 50 was highlighted as a conservative indicator of when most people have aged out of crime.²⁵ For that reason, age at the time of filing was also included in this analysis of pardon applications. In order to preserve anonymity, the data obtained from the Board of Pardons included only birth year rather than birth date. Therefore, each of the 1,143 applicants in this analysis were assigned the same birth date of January 1 of the provided birth year. Age at the time of filing is thus an approximate calculation that could be up to one year *younger* than the applicant's actual age.²⁶

Analysis

I. Recommendation Rates by Conviction Category

This section describes recommendation rates when the 1,143 pardon applications were sorted into broad conviction categories, beginning with whether they had any convictions for a crime of violence, followed by whether they had any drug-related convictions. Then they were sorted into the four mutually exclusive conviction categories.

Findings

Convictions for Crime(s) of Violence (Y/N) or Drug-Related Convictions (Y/N)

Of the applications reviewed in this analysis, 87.9% of applicants (1005 people) had never been convicted of a crime of violence, meaning 12.1% (138 applicants) had been convicted of at least one crime of violence. Those who had never been convicted of a crime of violence were recommended for a pardon 78.5% of the time, compared to a recommendation rate of 64.5% for those who had.

Pardon Recommendations by Conviction Category: Crime(s) of Violence (Y/N)				
Finally Determined Applications Filed 2018-2020 (n=1143)				
Category	Denied at Merit Review	Denied at Hearing	Recommended	% Total Recommended
No Crimes of Violence (n=1005)	119	97	789	78.51%
At Least One Crime of Violence (n=138)	25	24	89	64.49%

Figure 2 Pardon Recommendations by Conviction Category: Crime(s) of Violence (Y/N)

These same 1,143 applications were also sorted according to whether they included any drug-related convictions. 59.7% of applicants (682 people) had never had any drug-related convictions, whereas 40.3% (461 people) had at least one drug-related conviction. Applicants who had at least one drug-related conviction were recommended for a pardon 85.7% of the time, compared to 70.8% of the time for those with no drug-related convictions.

Pardon Recommendations by Conviction Category: Drug-Related (Y/N)				
Finally Determined Applications Filed 2018-2020 (n=1143)				
Category	Denied at Merit Review	Denied at Hearing	Recommended	% Total Recommended
At Least One Drug-Related Conviction (n=461)	37	29	395	85.68%
No Drug-Related Convictions (n=682)	107	92	483	70.82%

Figure 3 Pardon Recommendations by Conviction Category: Drug-Related (Y/N)

Mutually Exclusive Conviction Categories

When further sorted into the four mutually exclusive conviction categories, the overall recommendation rates varied.

Pardon Recommendations by Conviction Category

Finally Determined Applications Filed 2018-2020 (n=1143)

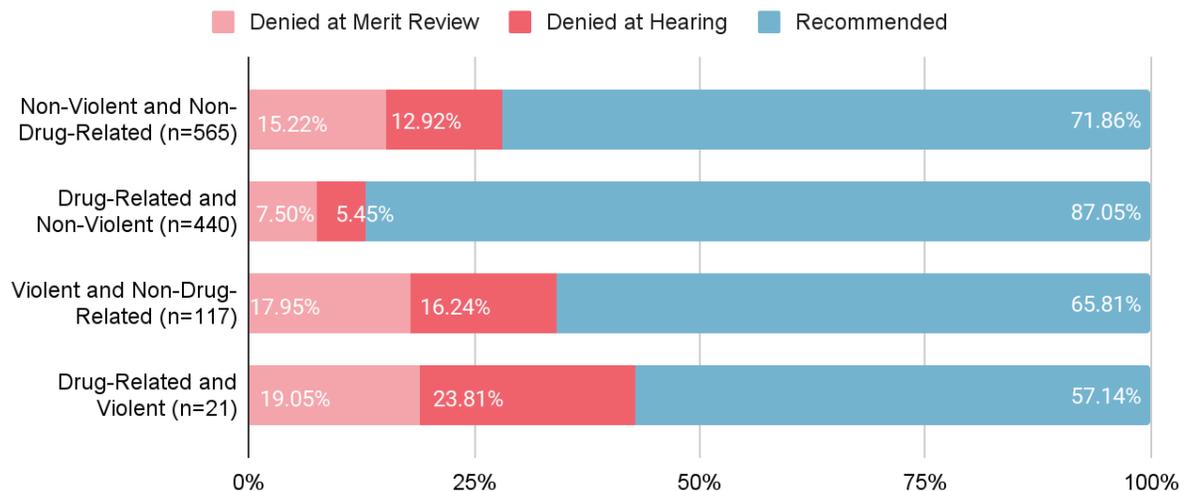


Figure 4 Pardon Recommendations by Conviction Category

Pardon Recommendations by Conviction Category
 Finally Determined Applications Filed 2018-2020 (n=1143)

Category	Denied at Merit Review	Denied at Hearing	Recommended	% Total Recommended
Non-Violent and Non-Drug-Related (n=565)	86	73	406	71.86%
Drug-Related and Non-Violent (n=440)	33	24	383	87.05%
Violent and Non-Drug-Related (n=117)	21	19	77	65.81%
Drug-Related and Violent (n=21)	4	5	12	57.14%

Figure 5 Pardon Recommendations by Conviction Category -- Table

Those with at least one drug-related conviction and no crimes of violence were recommended for a pardon at the highest rate of 87.1%. This was also the only conviction category whose average recommendation rate was higher than the 76.8% overall average. As the table shows, those in the “non-violent and non-drug-related” category were recommended for a pardon 71.9% of the time. Those convicted of a crime of violence with no drug-related convictions were recommended for a pardon 65.8% of the time. Those who had at least one drug-related conviction and at least one conviction for a crime of violence were recommended for a pardon at the lowest rate of 57.1%, though this group also had the smallest sample size of just 21 people.

To determine if the relationship between conviction category and application outcome had statistical significance—meaning that these findings are not due to chance—chi-square tests were conducted. For each of these four categories, the relationship between the conviction category and application outcome was significant at the $p < 0.001$ level, meaning that it is extremely unlikely that the relationship between variables was due to chance.ⁱ

Summary

Almost nine out of ten (87.9%) pardon applicants had never been convicted of a crime of violence. Of them, four out of five (78.5%) were recommended for a pardon, compared to only 64.5% of those who had been convicted of at least one crime of violence. The majority of applicants (59.7%) did not have any drug-related convictions, but this group was less likely to be recommended for a pardon than those who did have a drug-related conviction—70.8% compared to 85.7%, respectively.

When sorted into the four mutually exclusive conviction categories, recommendation rates varied, though the relationship between conviction categories and application outcomes had statistical significance, meaning it’s unlikely due to chance.

ⁱ Chi-square score for Outcome_Ordinal x Crime_Type = 47.073, $p < 0.001$; Chi-square score for Recommended x Crime_Type = 46.169, $p < 0.001$.

Those in the “drug-related and non-violent” category were recommended at the highest rate of 87.1%, considerably higher than the 76.8% recommendation rate overall. The other three conviction categories were all below the overall average, with those in the “drug-related and violent” category having the lowest recommendation rate at 57.1%.

II. Recommendation Rates by Time Since the Most Recent Conviction

This next section explores recommendation rates when analyzed by time since the applicants’ most recent conviction, calculated from the date the application for a pardon was filed by the Board of Pardons (“filing date”).²⁷

Findings

Time and Recommendation Rates Overall

It had been 20 or more years since the applicant’s most recent conviction for the greatest percentage of pardon applicants, 29.9%. Between 10 and 15 years was the next largest share of applicants (24.0%), followed by 5-10 years (21.2%) and 15-20 years (16.4%). At 8.5% of applicants, the smallest group was those for whom it had been less than five years since their most recent conviction. In short, nearly 80% of all pardon applicants waited for at least a decade before their applications were filed.

Percent of Applicants by Time Since Most Recent Conviction

Finally Determined Applications Filed 2018-2020 (n=1143)

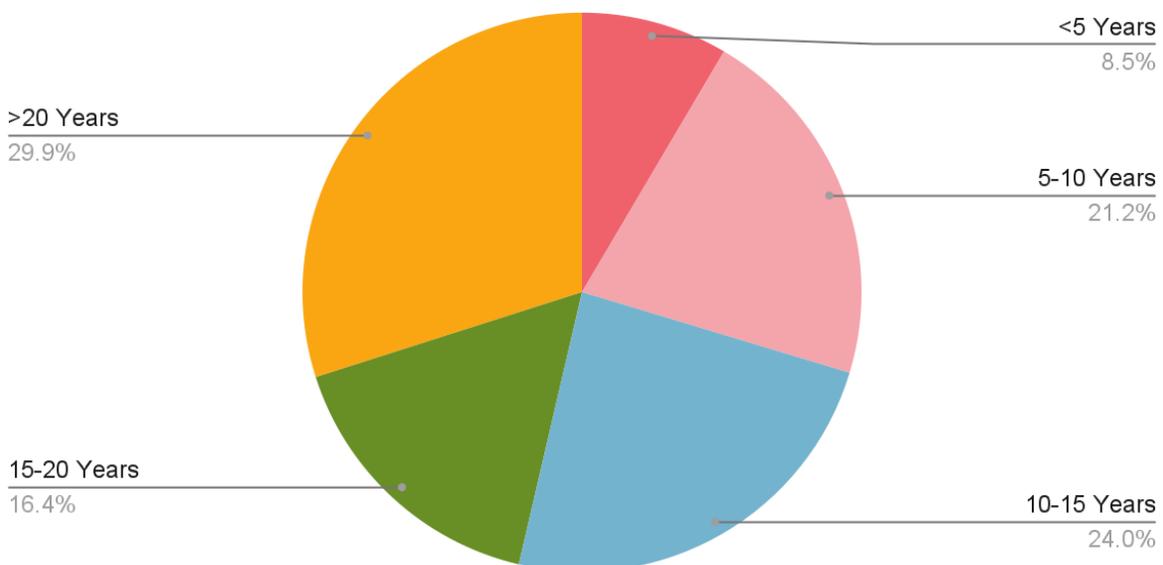


Figure 6 Percent of Applicants by Time Since the Most Recent Conviction

As time since the most recent conviction increased, the recommendation rate also increased.

Pardon Recommendation Rates by Time Since Most Recent Conviction

Finally Determined Applications Filed 2018-2020 (n=1143)



Figure 7 Pardon Recommendations by Time Since the Most Recent Conviction

Those who were 20 or more years beyond their most recent conviction were recommended 89.8% of the time, followed by 79.8% for those 15-20 years beyond their most recent conviction, 75.6% for the 10-15-year group, 69.4% for the 5-10-year group, and lastly, 47.4% for those whose most recent conviction was less than five years before the filing date.

Recommendation Rates for Fully Processed Pardon Applications Filed 2018-2020 by Time Range Since Most Recent Conviction (n=1143)

Time Range	Applications Considered	Applications Recommended	Recommendation Rate
<5 Years	97	46	47.42%
5-10 Years	242	168	69.42%
10-15 Years	274	207	75.55%
15-20 Years	188	150	79.79%
>20 Years	342	307	89.77%

Figure 8 Pardon Recommendations by Time Range Since Most Recent Conviction

Chi-square scores determined that the relationship between time since the most recent conviction and application outcome had statistical significance at the $p < 0.001$ level, meaning that it is extremely unlikely that the relationship between time and application outcomes was due to chance.ⁱⁱ

Applicants were also sorted by time since the most recent conviction for two subgroups: those whose most recent conviction was ten or more years before the filing date, and those whose most recent conviction was fifteen or more years before the filing date.²⁸

Ten or More Years Since the Most Recent Conviction

Taken as a whole, the recommendation rate for everyone whose most recent conviction was at least ten years before the filing date was 82.6% (664 out of 804 applicants). This compares to a recommendation rate of 63.1% (214 out of 339 applicants) for those whose most recent conviction was less than ten years before the filing date.

Finally Determined Pardon Applications Filed 2018-2020 - 10+ Years Since Most Recent Conviction (n=804)		
Category	Frequency	Percentage
Denied At Hearing	73	9.08%
Denied At Merit Review	67	8.33%
Recommended	664	82.59%

Figure 9 Pardon Outcomes, 10+ Years Since Conviction

Fifteen or More Years Since the Most Recent Conviction

The recommendation rate for those whose most recent conviction was fifteen or more years before the filing date was even higher at 86.2% (457 out of 530 applicants). This compares to 68.7% (421 out of 613 applicants) for those whose most recent conviction was less than fifteen years before the filing date. Significance testing revealed these relationships were significant at the 0.05 level or below, meaning that the likelihood is very low that the relationships are due to chance.ⁱⁱⁱ

Finally Determined Pardon Applications Filed 2018-2020 - 15+ Years Since Most Recent Conviction (n=530)		
Category	Frequency	Percentage
Denied At Hearing	44	8.30%
Denied At Merit Review	29	5.47%
Recommended	457	86.23%

Figure 10 Pardon Outcomes, 15+ Years Since Conviction

ⁱⁱ Chi-square score for Outcome_Ordinal x Time.Since.Conviction = 102.009, $p < 0.001$; Chi-square score for Recommended x Time.Since.Conviction = 87.871, $p < 0.001$.

ⁱⁱⁱ Chi-square score of Outcome_Ordinal x Crime_Type x 10+ = 33.194 T / 28.813 F, $p < 0.001$ T / $p < 0.001$ F. Chi-square score of Outcome_Ordinal x Crime_Type x 15+ = 20.393 T / 44.296 F, $p = 0.002$ T / $p < 0.001$ F. Chi-square of Recommended x Crime_Type x 10+ = 31.732 T / 27.318 F, $p < 0.001$ T / $p < 0.001$ F. Chi-square of Recommended x Crime_Type x 15+ = 19.130 T / 44.272 F, $P < 0.001$ T / $p < 0.001$ F.

Summary

Overall, the data confirm that as the time since the most recent conviction increased, the recommendation rate also increased. The recommendation rate almost doubles, from 47.4% for those whose most recent conviction was less than five years before the filing date, to 89.8% for those whose most recent conviction was 20 or more years before the filing date.

The data provide a statistically-significant measure of time by which to assess the likelihood of receiving a recommendation: four out of five—82.6%—applicants who were ten or more years past their most recent conviction were recommended for a pardon, and the recommendation rate was even higher—86.2%—for those fifteen or more years past their most recent conviction. It should be noted that these rates are without regard to the conviction category. Conviction category is added to the analysis of time since conviction in the following section.

III. Recommendation Rates by Conviction Category and Time Since the Most Recent Conviction

In this section, the previous variables—the conviction categories, as well as time since the most recent conviction—are analyzed together to evaluate their combined influence on recommendation rates.

Findings

Crime of Violence (Y/N) and Time Since Conviction

The first tables show the recommendation rates for the broad categories of whether an applicant had at least one conviction for a crime of violence for those whose most recent conviction was (1) ten or more and (2) fifteen or more years before the filing date.

Pardon Recommendations by Conviction Category: Crimes of Violence (Y/N), 10+ Years Finally Determined Applications Filed 2018-2020 (n=804)		
Category	Recommended	% Total Recommended
No Crimes of Violence (n=690)	583	84.49%
At Least One Crime of Violence (n=114)	81	71.10%

Figure 11 Pardon Recommendations by Crime(s) of Violence (Y/N), 10+ Years Since Conviction

Pardon Recommendations by Conviction Category: Crimes of Violence (Y/N), 15+ Years Finally Determined Applications Filed 2018-2020 (n=530)

Category	Recommended	% Total Recommended
No Crimes of Violence (n=443)	392	88.49%
At Least One Crime of Violence (n=87)	65	74.71%

Figure 12 Pardon Recommendations by Crime(s) of Violence (Y/N), 15+ Years Since Conviction

The first section showed that the overall recommendation rate was 78.5% for those with no convictions for a crime of violence and 64.5% for those who had at least one conviction for a crime of violence. These tables show that the overall recommendation rate increased for both categories with greater time since the most recent conviction. For those ten or more years beyond their most recent conviction, the recommendation rates increase to 84.5% for those who have never been convicted of a crime of violence and to 71.1% for those who have been convicted of a crime of violence. For those fifteen or more years beyond their most recent conviction, the recommendation rates further increase to 88.5% for those never convicted of a crime of violence and to 74.7% for those who have.

Drug-Related (Y/N) and Time Since Conviction

The next tables show the recommendation rates for the broad categories of whether an applicant had at least one drug-related conviction for those whose most recent conviction was (1) ten or more years and (2) fifteen or more years before the filing date.

Pardon Recommendations by Conviction Category: Drug-Related (Y/N), 10+ Years Finally Determined Applications Filed 2018-2020 (n=804)

Category	Recommended	% Total Recommended
At Least One Drug-Related Conviction (n=314)	282	89.81%
No Drug-Related Convictions (n=490)	382	77.96%

Figure 13 Pardon Recommendations by Drug-Related (Y/N), 10+ Years Since Conviction

Pardon Recommendations by Conviction Category: Drug-Related (Y/N), 15+ Years Finally Determined Applications Filed 2018-2020 (n=530)

Category	Recommended	% Total Recommended
At Least One Drug-Related Conviction (n=191)	176	92.15%
No Drug-Related Convictions (n=339)	281	82.90%

Figure 14 Pardon Recommendations by Drug-Related (Y/N), 15+ Years Since Conviction

The previous section showed that the overall recommendation rate was 85.7% for those with at least one drug-related conviction and 70.8% for those with no drug-related convictions. These tables show that the overall recommendation rate increased for both those with and those without drug-related convictions as time since conviction increased. For those ten or more years beyond their most recent conviction, the recommendation rate increased to 89.8% for those with at least one drug-related conviction and to 78.0% for those without any drug-related convictions.

For those fifteen or more years beyond their most recent conviction, the recommendation rates further increase to 92.2% for those with at least one drug-related conviction and to 82.9% for those who do not.

Mutually Exclusive Conviction Categories and Time Since Conviction

The following tables and graphs explore the specific interaction between the four mutually exclusive conviction categories and time for those whose most recent conviction was (1) ten or more and (2) fifteen or more years before the filing date.

Conviction Category and Ten or More Years Since the Most Recent Conviction

Pardon Recommendations by Conviction Category, 10+ Years Since Most Recent Conviction

Finally Determined Applications Filed 2018-2020 (n= 804)

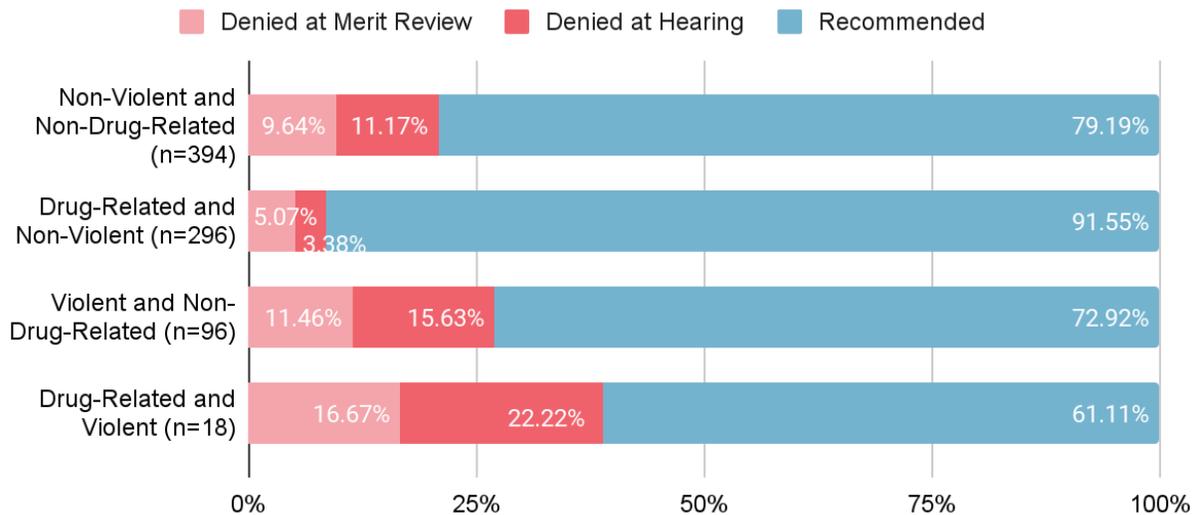


Figure 15 Pardon Recommendations by Conviction Category, 10+ Years Since Conviction

Pardon Recommendations by Conviction Category, 10+ Years Since Most Recent Conviction			
Finally Determined Applications Filed 2018-2020 (n=804)			
Category	% Denied at Merit Review	% Denied at Hearing	% Recommended
Non-Violent and Non-Drug-Related (n=394)	9.64%	11.17%	79.19%
Drug-Related and Non-Violent (n=296)	5.07%	3.38%	91.55%
Violent and Non-Drug-Related (n=96)	11.46%	15.63%	72.92%
Drug-Related and Violent (n=18)	16.67%	22.22%	61.11%

Figure 16 Pardon Recommendations by Conviction Category, 15+ Years Since Conviction -- Table

In this case, the two categories that exclude a crime of violence both have higher recommendation rates than the overall average of 76.8%, and the recommendation rates increase for the two categories including a crime of violence, suggesting the Board of Pardons may be more likely to recommend these individuals with greater passage of time, though still less often than those who have never been convicted of a crime of violence. Chi-square scores indicate that these relationships have statistical significance below the 0.001 level, meaning it is extremely unlikely they are due to chance.^{iv}

Conviction Category and Fifteen or More Years Since the Most Recent Conviction

Pardon Recommendations by Conviction Category, 15+ Years Since Most Recent Conviction

Finally Determined Applications Filed 2018-2020 (n=530)

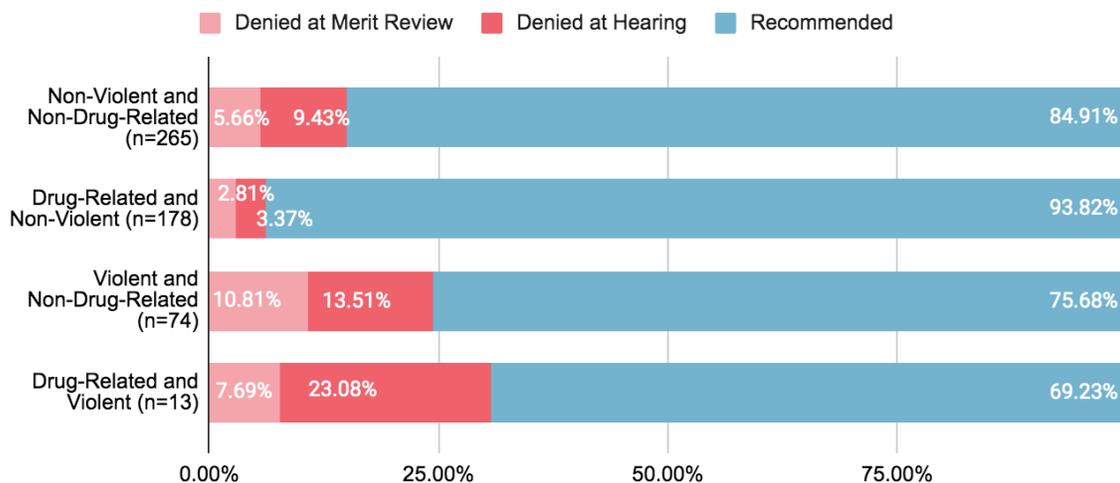


Figure 17 Pardon Recommendations by Conviction Category, 15+ Years Since Conviction

Pardon Recommendations by Conviction Category, 15+ Years Since Most Recent Conviction			
Finally Determined Applications Filed 2018-2020 (n=530)			
Category	% Denied at Merit Review	% Denied at Hearing	% Recommended
Non-Violent and Non-Drug-Related (n=265)	5.66%	9.43%	84.91%
Drug-Related and Non-Violent (n=178)	2.81%	3.37%	93.82%
Violent and Non-Drug-Related (n=74)	10.81%	13.51%	75.68%
Drug-Related and Violent (n=13)	7.69%	23.08%	69.23%

Figure 18 Pardon Recommendations by Conviction Category, 15+ Years Since Conviction -- Table

^{iv} Chi-square score for Outcome_Ordinal x Crime_Type x 10+ = 33.194 T, 28.813 F, p < 0.001 T / p < 0.001 F; Chi-square score for Recommended x Crime_Type x 10+ = 31.732 T / 27.318 F, p < 0.001 T / p < 0.001 F.

These figures further demonstrate that as time since the most recent conviction increased, recommendation rates also increased across all conviction categories. The recommendation rate reaches a high of 94% for those in the “drug-related and non-violent” category whose most recent conviction was fifteen or more years before the filing date. Furthermore, chi-square scores determined that the relationships between application outcomes and conviction category for the fifteen-or-more-years subgroup were significant at the 0.002 level or below, meaning it is extremely unlikely that the relationships are due to chance.^v

Summary

When analyzed by conviction category and time since the most recent conviction, the recommendation rates increased across all conviction categories as more time elapsed. Of note, for those with at least one drug-related conviction and no crimes of violence, 91.6% were recommended for a pardon when it had been ten or more years since their most recent conviction, and 93.8% were recommended for a pardon when it had been fifteen or more years since their most recent conviction.

Having a gap of at least ten or fifteen years between the most recent conviction and the Board’s action improved the likelihood of being recommended for a pardon across all conviction categories compared to those with fewer years since their most recent conviction, including for those convicted of a crime of violence.

IV. Recommendation Rates by Age of Applicant at Filing, Conviction Category, and Time Since the Most Recent Conviction

In this section, the age of the applicant at the time of filing is analyzed together with the previous variables—conviction categories, as well as time since the most recent conviction—to evaluate the combined effect on pardon recommendation rates.

^v Chi-square score for Outcome_Ordinal x Crime_Type x 15+ = 20.393 T, 44.296 F, p = 0.002 T / p < 0.001 F; Chi-square score for Recommended x Crime_Type x 15+ = 19.130 T / 44.272 F, p < 0.001 T / p < 0.001 F.

Findings

Age and Pardon Recommendation Rates

For all 1,143 applicants, the average (mean) age at the time of filing was 45 years old. Ages ranged from a low of 22 to a high of 86. The median (middle) age was 43, and the most common age (mode) was 40.

Of the 878 applicants who were successfully recommended for a pardon, the average ages were the same (mean of 45, median of 43), but the most common age was older: 45 instead of 40. Of the 266 applicants who were denied recommendation at either the merit review or public hearing phase, the mean age was 44, the median was 42, and the mode was 38—all slightly younger than those who were recommended.²⁹

The following chart shows the recommendation rates sorted by the age group of applicants, without regard to the time since the most recent conviction or the conviction category.

Pardon Recommendation Rates by Age at Time of Filing

Finally Determined Applications Filed 2018-2020 (n=1143)

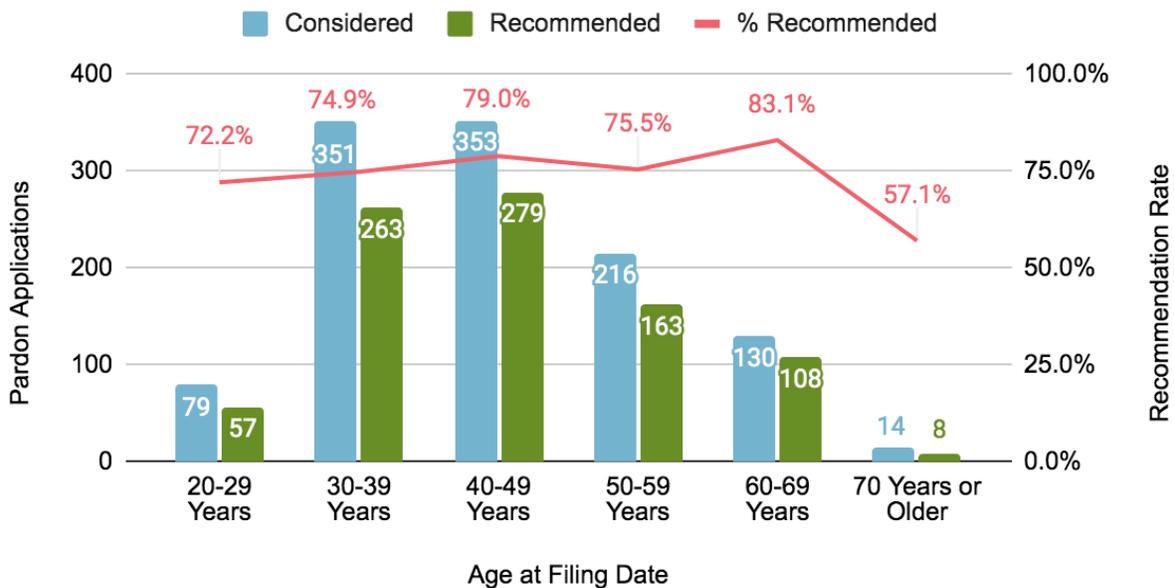


Figure 19 Pardon Recommendations by Age at Filing

Pardon Recommendation Rates by Age at Time of Filing

Finally Determined Applications Filed 2018-2020 (n=1143)

Age Group	Total	Recommended	% Recommended
20-29 Years	79	57	72.2%
30-39 Years	351	263	74.9%
40-49 Years	353	279	79.0%
50-59 Years	216	163	75.5%
60-69 Years	130	108	83.1%
70 Years or Older	14	8	57.1%

Figure 20 Pardon Recommendations by Age at Filing -- Table

The groups were then sorted into subgroups based on whether they were 30 years or older, 40 years or older, 50 years or older, and 60 years or older at the time of filing, shown below. Note that because the youngest applicant was 22 years old, “20 years or older” includes every applicant and is thus the same as the total.

Pardon Recommendations by Age Group

Finally Determined Applications Filed 2018-2020 (n=1143)

Category	Recommended	% Recommended
Total (n=1143)	878	76.8%
30 Years or Older at Filing (n=1064)	821	77.2%
40 Years or Older at Filing (n=713)	558	78.3%
50 Years or Older at Filing (n=360)	279	77.5%
60 Years or Older at Filing (n=144)	116	80.6%

Figure 21 Pardon Recommendations by Age Group

While the 30+, 40+, 50+, and 60+ age groups all had average recommendation rates higher than the overall average of 76.8%, those who were 50 years or older at the time of filing had a slightly lower average than those who were 40 years or older as well as those who were 60 years or older. This is also reflected when looking at the 50-59-year-old age group in isolation, above. In order to better understand why this may be, the next subsections organize applicants by age at the time of filing, time since the most recent conviction, and conviction category.

Age and Ten or More Years Since the Most Recent Conviction

It had been ten or more years since the most recent conviction for 804 (70.3%) of the 1,143 pardon applicants considered in this study. The overall recommendation rate for this group was 82.6%, without regard to the conviction category. The comparative recommendation rates by age group are shown in the table below. Note that the “30 years or older” subgroup is excluded from the analyses that include time since the most recent conviction because all but two applicants are 30 or older in the 10+ year since conviction group, and all are 35 or older in the 15+ years since conviction group.

Pardon Recommendations by Age Group, 10+ Years Since Most Recent Conviction
 Finally Determined Applications Filed 2018-2020 (n=804)

Category	Recommended	% Recommended
Total, 10+ Years Since Most Recent Conviction (n=804)	664	82.6%
40 Years or Older at Filing (n=584)	484	82.9%
50 Years or Older at Filing (n=299)	245	81.9%
60 Years or Older at Filing (n=115)	98	85.2%

Figure 22 Pardon Recommendations by Age Group, 10+ Years Since Conviction

In this table, those who were 50 years or older at the time of filing again had a slightly lower recommendation rate compared to the overall average and to the other age groups in this subset, though all were recommended for a pardon more than 80% of the time.³⁰

The next table compares the overall recommendation rate by age group for those whose most recent conviction was ten or more years before the filing date to two subsets: those who had never been convicted of a crime of violence, and further, those who had at least one drug-related conviction and no convictions for a crime of violence (i.e., the “drug-related and non-violent” category).

Pardon Recommendations by Age Group and Conviction Category, 10+ Years Since Most Recent Conviction

Finally Determined Applications Filed 2018-2020 (n=804)

	Total (n=804)	No Crimes of Violence (n=690)	Drug-Related and Non-Violent (n=296)
Total, 10+ Years Since Most Recent Conviction	82.6%	84.5%	91.6%
40 Years or Older at Filing	82.9%	84.5%	90.8%
50 Years or Older at Filing	81.9%	84.1%	91.5%
60 Years or Older at Filing	85.2%	86.7%	100.0%

Figure 23 Pardon Recommendations by Age Group and Conviction Category, 10+ Years Since Conviction

In this table, those who had never been convicted of a crime of violence had higher recommendation rates overall. Those who had never been convicted of a crime of violence and who had at least one drug-related conviction had the highest recommendation rates overall and across each age group—over 90% were recommended for a pardon.

For those whose most recent conviction was 10 or more years before the filing date, the difference in the lower recommendation rate in the 50 years or older group compared to the 40 years or older group is smaller than in previous tables, and it disappears altogether in the “drug-related and non-violent” conviction category. This indicates that at least some of the difference in the overall recommendation rates between these groups explored above can be explained by the fact that a greater number of people in the 50 years or older group had been convicted of a crime of violence, yielding a lower recommendation rate and reducing the average overall.

The fact that the recommendation rates are nearly identical for those 40 years or older and those 50 years or older at filing suggests that age may not be as important of a factor in this case if the other criteria—ten or more years since the most recent conviction, and no crimes of violence—are met.

Notably, 100% of the individuals whose most recent conviction was ten or more years before the filing date and who fell into the “drug-related and non-violent” conviction category were recommended for a pardon when they were 60 years or older at filing.

Fifteen or More Years Since the Most Recent Conviction

It had been fifteen or more years since the most recent conviction for 530 (46.4%) of the applicants in this data set. As shown previously, the overall recommendation rate for this group was 86.2%, without regard to the conviction category. This table shows the overall recommendation rates by age group for the 530 applicants for whom it had been fifteen or more years since their most recent conviction.

Pardon Recommendations by Age Group, 15+ Years Since Conviction		
Finally Determined Applications Filed 2018-2020 (n=530)		
Category	Recommended	% Recommended
Total, 15+ Years Since Conviction (n=530)	457	86.2%
40 Years or Older at Filing (n=468)	403	86.1%
50 Years or Older at Filing (n=255)	215	84.3%
60 Years or Older at Filing (n=103)	93	90.3%

Figure 24 Pardon Recommendations by Age Group, 15+ Years Since Conviction

The next table compares the overall recommendation rate by age group for those whose most recent conviction was fifteen or more years before the filing date to two subsets: (1) those who had never been convicted of a crime of violence, and (2) those who had at least one drug-related conviction and no convictions for a crime of violence.

Pardon Recommendations by Age Group and Conviction Category, 15+ Years Since Most Recent Conviction			
Finally Determined Applications Filed 2018-2020 (n=530)			
	Total (n=530)	No Crimes of Violence (n=443)	Drug-Related and Non-Violent (n=178)
Total, 15+ Years Since Most Recent Conviction	86.2%	88.5%	93.8%
40 Years or Older at Filing	86.1%	88.1%	93.3%
50 Years or Older at Filing	84.3%	86.7%	91.2%
60 Years or Older at Filing	90.3%	93.0%	100.0%

Figure 25 Pardon Recommendations by Age Group and Conviction Category, 15+ Years Since Conviction

As with those whose most recent conviction was ten or more years before the filing date, who are also included in the fifteen or more years subgroup, the overall recommendation rates are higher for those who had never been convicted of a crime of violence, and higher still for those who had at least one drug-related conviction and no crimes of violence. The lower recommendation rate for those who were 50 years or older compared to the other groups emerges again in this table. While further research is necessary, it is possible that other factors not analyzed here, such as the amount of time since the applicant had been free of carceral control and whether the conviction involved a victim who was a minor, may reduce recommendation rates and have a more noticeable effect in this subgroup due to greater representation and/or smaller sample size.

Summary

Recommendation rates were higher overall for those who were at least 40 years old at the time of filing compared to those who were not. While there was some variation in the recommendation rates when analyzed by a combination of age, conviction category, and time since the most recent conviction, being at least 40 at the time of filing typically resulted in a slightly higher recommendation rate than the group of total applicants. In some cases, the 40+ age group even had higher recommendation rates than the 50+ age group, though this difference was less apparent when crimes of violence were excluded for those whose most recent conviction was ten or more years before the filing date. The recommendation rates were especially remarkable for those who were 60 years or older and whose most recent conviction was at least ten years old—increasing from 87% overall, to as high as 100% for those who had at least one drug-related conviction.

Implications

The above analysis shows that some groups of pardon applicants within these categories are recommended for pardons at very high rates—more than eight out of every ten applications reviewed:

- 100% of applicants (35/35) who were 60 years of age or older at the time of filing, whose most recent conviction was ten or more years before the filing date, and who had at least one drug-related conviction and no convictions for crimes of violence
- 94% of applicants (167/178) whose most recent conviction was fifteen or more years before the filing date and who had at least one drug-related conviction and no convictions for crimes of violence, without regard to their age

- 93% of applicants (80/86) who were 60 years or older at the time of filing, whose most recent conviction was fifteen or more years before the filing date, and who had no convictions for crimes of violence
- 92% of applicants (271/296) whose most recent conviction was ten or more years before the filing date and who had at least one drug-related conviction and no convictions for crimes of violence, without regard to their age
- 90% of applicants (307/342) whose most recent conviction was twenty or more years before the filing date, without regard to their age or conviction category
- 89% of applicants (392/443) whose most recent conviction was fifteen or more years before the filing date and who had never been convicted of a crime of violence, without regard to their age
- 86% of applicants (457/530) whose most recent conviction was fifteen or more years before the filing date, without regard to their age or the conviction category
- 85% of applicants (583/690) whose most recent conviction was ten or more years before the filing date and who had never been convicted of a crime of violence, without regard to their age
- 85% of applicants (98/115) who were 60 years old or older at the time of filing and whose most recent conviction was ten or more years before the filing date, without regard to the conviction category
- 83% of applicants (664/804) whose most recent conviction was ten or more years before the filing date, without regard to their age or the conviction category

Very high recommendation rates, combined with the statistical significance of the relationships among variables, suggest that these groups of applicants do not warrant the same level of scrutiny—and the substantial investment of time, money, and resources—as others. With high confidence, those applicants in the highest categories (e.g., 90% and above) could be scheduled for merit review following confirmation that they had no open arrests. Those in the next highest categories (e.g., 80% to 89%) could be subject to a narrowed investigation by the Department of Corrections that focused on elements of particular interest or concern to the Board of Pardons from their full range of criteria. Expediting these applications would allow clearly meritorious applicants to have their cases heard and determined more quickly, allowing them to resume full participation in society, with all the resulting personal, familial, social, and economic benefits—for themselves and for the Commonwealth.

Moreover, in consideration of the \$1,366.21 cost in personnel time incurred by the Board of Pardons and Department of Corrections in reviewing and then fully investigating each pardon application, it makes fiscal sense for the Board and the Commonwealth to expedite hearings by substantially reducing the time spent on review and investigation for applicants with demonstrated likelihood of being granted a hearing and/or recommended to the Governor at very high rates.

The voting data examined in this study allowed the calculation of potential savings for one of the Board's current expedited review tracks: applicants whose most recent conviction was at least fifteen years ago and did not involve violence. For those in this category who received at least two votes at merit review, awarding them a public hearing, the estimated cost savings from expedited review would have been \$476,686.63; for those who received at least three votes at the public hearing, securing a recommendation to the Governor, the estimated savings would have been \$441,474.32. The cost savings in nine other categories of cases are calculated in Appendix H. Accordingly, these three years of data demonstrate that streamlining the review and investigation processes for presumptively meritorious cases will result in significant efficiencies and cost savings, which will in turn reduce the need to increase public funding for the Board of Pardons and Department of Corrections as will otherwise be required to meet the increased demand for pardons that is certain to come.

Appendix A: Drug-Related Conviction Filter

As noted in the General Definitions and Methodology section, the following convictions have been classed as “drug-related” for the purpose of this analysis:

Drug-Related Convictions:
Delivery of a Controlled Substance
Possession of a Controlled Substance (including but not limited to Possession with Intent to Deliver)
Manufacture of a Controlled Substance
Dispensing of a Controlled Substance
Sale of a Controlled Substance
Marijuana - Small Amount Personal Use
Distribution of Small Amount of Marijuana
Drug Paraphernalia
Intent to do any of the above
Conspiracy to do any of the above

To accurately classify applicants’ records as “drug-related” or “not drug-related,” our team followed a four-step process:

- 1) Create a column with a text string containing the full list of each applicant’s convictions.
- 2) Remove DUI convictions from the text strings in this field, as DUIs are not classified as drug-related for the purpose of this analysis.
- 3) Search for “Level 1” phrases in the conviction text strings to identify applications with definite drug-related convictions.
- 4) Search for “Level 2” phrases in the conviction text strings to identify all additional applications that could contain drug-related convictions. Manually review these applications to determine whether they were, in fact, drug-related.

Example: The level 2 filter “possess” flags applications with convictions for “possession of small amount” and convictions for “possessing instruments of crime.” Some manual review is required to accurately classify these convictions.

Phrase	Type
Drug Paraphernalia	Level 1 Filter
Deliver a Controlled Substance	Level 1 Filter
Delivery of a Controlled Substance	Level 1 Filter
Delivery of Controlled Substance	Level 1 Filter
Possession With Intent to Deliver Controlled Substance	Level 1 Filter
Possession of a Controlled Substance	Level 1 Filter
Possession of controlled substance	Level 1 Filter

Possessing a controlled substance	Level 1 Filter
possessing controlled substance	Level 1 Filter
Manufacture of a Controlled Substance	Level 1 Filter
Manufacture of Controlled Substance	Level 1 Filter
Dispensing of a Controlled Substance	Level 1 Filter
Sale of a Controlled Substance	Level 1 Filter
Drug - Manufacture/Sale/Delivery	Level 1 Filter
Marijuana - Small Amount Personal Use	Level 1 Filter
Possession of Small Amount Marijuana	Level 1 Filter
Possession of Small Amount of Marijuana	Level 1 Filter
Distribute Small Amt Marijuana	Level 1 Filter
Distribution Small Amount Marijuana	Level 1 Filter
Distribution of small amounts of marijuana	Level 1 Filter
Distribution of Small Amount of Marijuana	Level 1 Filter
Distribution of small amount marijuana	Level 1 Filter
possession of marijuana	Level 1 Filter
possession small amount of marijuana	Level 1 Filter
Distrib	Level 2 Filter
Manufact	Level 2 Filter
Dispens	Level 2 Filter
Possess	Level 2 Filter
Deliv	Level 2 Filter
Small Amount	Level 2 Filter
Sale	Level 2 Filter
Sell	Level 2 Filter
Paraphernalia	Level 2 Filter
controlled substance	Level 2 Filter
drug	Level 2 Filter
Driving Under the Influence of Alcohol or Controlled Substance	DUI Phrase Removed
Driving Under Influence of Alcohol or Controlled Substance	DUI Phrase Removed
Driving Under the Influence of Alcohol and Controlled Substances	DUI Phrase Removed
Driving Under the Influence - Controlled Substance	DUI Phrase Removed
Driving Under the Influence of Alcohol and/or Controlled Substance	DUI Phrase Removed
Driving a Vehicle While Under the Influence of Alcohol and/or a Controlled Substance	DUI Phrase Removed
Driving Under the Influence of Alcohol and/or a Controlled Substance	DUI Phrase Removed
Driving Under the Influence of Alcohol or a Controlled Substance	DUI Phrase Removed
Driving Under the Influence: Controlled Substance	DUI Phrase Removed
DUI: Controlled Substance	DUI Phrase Removed
Driving Under the Influence of Controlled Substance	DUI Phrase Removed

Driving Under the Influence Controlled Substance	DUI Phrase Removed
Driving Under the Influence of a Controlled Substance	DUI Phrase Removed
DUI: Controlled Substance - Combination Alcohol/Drugs	DUI Phrase Removed
Driving Under the Influence - Alcohol or Drugs	DUI Phrase Removed
Driving Under the Influence/Drugs and Alcohol Combination	DUI Phrase Removed
Driving Under the Influence of Alcohol and/or Drugs	DUI Phrase Removed
Driving Under the Influence: Controlled Substance	DUI Phrase Removed
DUI: Controlled Substance	DUI Phrase Removed
Driving Under the Influence of Controlled Substance	DUI Phrase Removed
Driving Under the Influence Controlled Substance	DUI Phrase Removed
Driving Under the Influence of a Controlled Substance	DUI Phrase Removed
DUI: Controlled Substance - Combination Alcohol/Drugs	DUI Phrase Removed
Driving Under the Influence - Alcohol or Drugs	DUI Phrase Removed
Driving Under the Influence/Drugs and Alcohol Combination	DUI Phrase Removed
Driving Under the Influence of Alcohol and/or Drugs	DUI Phrase Removed

Appendix B: Crimes of Violence Conviction Filter

As noted in the General Definitions and Methodology section, the definition of “crime of violence” used in this analysis is based on the Board of Pardons’ definition of “Crimes of Violence” (37 Pa. CODE § 81.202). First-degree and second-degree murder have also been classified as violent, though they are not included in the BOP definition. With no available data on whether applicants were in visible possession of a firearm at the time of the crime, we classed convictions as violent if sentencing was imposed under 42 Pa.C.S. § 9712 and the applicant had an identifiable firearm-related conviction on the same date. Note that 42 Pa.C.S. § 9712 relies on the definition of “crime of violence” found in 42 Pa.C.S. § 9714 (see below).

BOP Definition (37 Pa. CODE § 81.202. Definitions (“Crime of Violence”)):

- (i) Murder of the third degree, voluntary manslaughter, rape, sexual assault, involuntary deviate sexual intercourse, aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) (relating to aggravated assault), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i),(ii) or (iii) (relating to robbery) or kidnapping.
- (ii) An attempt to commit murder of the third degree, voluntary manslaughter, rape, sexual assault, involuntary deviate sexual intercourse, aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1), robbery as defined in 18 Pa.C.S. § 3701 (a)(1)(i),(ii) or (iii) or kidnapping.
- (iii) An offense committed while in visible possession of a firearm for which sentencing was imposed under 42 Pa.C.S. § 9712 (relating to sentences for offenses committed with firearms).[1]

42 Pa.C.S. § 9714 Definition (“Crime of Violence”):

As used in this section, the term "crime of violence" means murder of the third degree, voluntary manslaughter, manslaughter of a law enforcement officer as defined in 18 Pa.C.S. § 2507(c) or (d) (relating to criminal homicide of law enforcement officer), murder of the third degree involving an unborn child as defined in 18 Pa.C.S. § 2604(c) (relating to murder of unborn child), aggravated assault of an unborn child as defined in 18 Pa.C.S. § 2606 (relating to aggravated assault of unborn child), aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault), assault of law enforcement officer as defined in 18 Pa.C.S. § 2702.1 (relating to assault of law enforcement officer), use of weapons of mass destruction as defined in 18 Pa.C.S. § 2716(b) (relating to weapons of mass destruction), terrorism as defined in 18 Pa.C.S. § 2717(b)(2) (relating to terrorism), strangulation when the offense is graded as a felony as defined in 18 Pa.C.S. § 2718 (relating to strangulation), trafficking of persons when the offense is graded as a felony of the first degree as provided in 18 Pa.C.S. § 3011 (relating to trafficking in individuals), rape, involuntary deviate sexual intercourse, aggravated indecent assault, incest, sexual assault, arson endangering persons or aggravated arson as defined in 18 Pa.C.S. § 3301(a) or (a.1) (relating to arson and related offenses), ecoterrorism as classified in 18 Pa.C.S. § 3311(b)(3) (relating to ecoterrorism), kidnapping, burglary as defined in 18 Pa.C.S. § 3502(a)(1) (relating to burglary), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery), or robbery of a motor vehicle, drug delivery resulting in death as defined in 18 Pa.C.S. § 2506(a) (relating to drug delivery resulting in death), or criminal attempt, criminal conspiracy or criminal solicitation to commit murder or any of the offenses listed above, or an equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense or an equivalent crime in another jurisdiction.

To accurately classify applicants’ records as “violent” or “nonviolent,” our team followed a four-step process:

- 1) Create a column with a text string containing the full list of each applicant’s convictions.
- 2) Identify applications with convictions including the words “murder,” “voluntary manslaughter,” “rape,” “sexual assault,” “involuntary deviate sexual intercourse,” “aggravated assault,” “robbery,” and “kidnapping.” Mark these applications as “violent.”
- 3) Identify conviction lists including the above phrases that also include the word “conspiracy.” Manually review these applications and reclassify applications with no crimes of violence (conspiracy to commit any of the crimes listed above is not considered violent, according to the BOP’s definition, unless the applicant was in visible possession of a firearm).
- 4) Identify conviction lists that contain the word “firearm” that have not already been classified as violent. Manually review these records to determine if the applicant was convicted of a firearm-related offense and a crime that would be considered violent according to Pa.C.S. § 9714 on the same date.

Appendix C: Missing Data

To enable analysis, some records with missing data were entirely removed from the sample (listwise deletion). A full list of removed records can be found below.

When analyzing recommendation rates, we removed the following:

- Applications with missing data in the “Filed Date” field, including pardon applications that appeared to have been filed and fully processed, based on the information in the “Current Status” field (126 applications)

When analyzing outcomes at the merit review and hearing stages, we removed the following:

- Merit review votes for which we lacked information on the applicant and their criminal record (10 votes)*
- Hearing votes for which we lacked information on the applicant and their criminal record (18 votes)*

* These votes appeared in the “PLSE Data Request Item 1” file received from the BOP, but corresponding records were not available in the “PLSE Data Request Items 1 and 3” file.

Appendix D: Logistic Regressions

In addition to significance testing, exploratory logistic regression modeling was used to determine the extent to which the various categories were able to predict application outcomes. In the first table, the “non-violent and non-drug-related” category is the reference.

Binary Logistic Regression, Outcome = Recommended (all applications)

Variable	Conviction Category (CC)		
	B	SE	Odds Ratio (OR)
Drug-Related, Non-Violent	.968***	.170	2.631
Violent, Non-Drug-Related	-.283	.216	.754
Violent, Drug-Related	-.650	.451	.522
Constant	.937***	.094	2.553
N		1143	
Pseudo R ²		.062	

*p ≤ .10. **p ≤ .05. ***p ≤ .01. ****p ≤ .001 (two-tailed tests). Non-Violent, Non-Drug Related = Reference

In the above table, any odds ratio less than one indicates a negative relationship – for example, the odds ratio of 0.754 for the violent, non-drug-related variable means that this conviction category reduces the likelihood of being recommended for a pardon. On the other hand, this table shows that applicants in the “drug-related, non-violent” category are 2.631 times more likely to be recommended for a pardon than those in the “non-violent, non-drug-related” category at the p < 0.001 level.

This means that, among those who have never been convicted of a crime of violence, the Board of Pardons is more likely to recommend those who have at least one drug-related conviction compared to those who do not. Neither of the categories for those convicted of a crime of violence have statistical significance in this model, and the weak Pseudo R² score indicates that other variables are likely more impactful on pardon recommendations than conviction category alone.

Binary logistic regression modeling was again used for the 10+ and 15+ years subgroups, shown in the following table.

Binary Logistic Regression: Outcome = Recommended (All Applications) – 10+ & 15+ Only

VARIABLE	10+ YEARS			15+ YEARS		
	B	SE	OR	B	SE	OR
10+ years	1.019***	.146	2.770			
15+ years				1.049***	.153	2.855
Constant	.538***	.113	1.712	.785***	.087	2.193
N		1143			1143	
Pseudo R ² (Nagelkerke)		.062			.066	

†p ≤ .10. *p ≤ .05. **p ≤ .01. ***p ≤ .001 (two-tailed tests). Non-Violent, Non-Drug Related = Reference.

This table shows that those whose most recent conviction was 10 or more years before the filing date are 2.770 times more likely to be recommended for a pardon than those who are not, and those whose most recent conviction was 15 or more years before the filing date are 2.855 times more likely to be recommended for a pardon than those who are not. However, the weak Pseudo R² scores (0.062 and 0.066) indicate that other variables are likely more impactful on pardon recommendations than being 10 or 15 years past the most recent conviction alone.

A binary logistic regression model was then used to test how well the variables of conviction category and 10+ or 15+ years since the most recent conviction predict recommendation rates, shown in the table below.

Binary Logistic Regression, Outcome = Recommended (all applications) – Conviction Category + 10+, 15+ Years

Variable	Conviction Category + 10+			Conviction Category + 15+		
	B	SE	OR	B	SE	OR
Drug-Related, Non-Violent	1.057***	.176	2.877	1.094***	.175	2.986
Violent, Non-Drug-Related	-.466*	.224	.627	-.525*	.229	.591
Violent, Drug-Related	-.898†	.462	.407	-.909†	.474	.403
10+ Years	1.186***	.154	3.275			

15+ Years				1.261***	.162	3.528
Constant	.170	.134	1.185	.435***	.110	1.544
N		1143			1143	
Pseudo R ²		.136			.145	

†p ≤ .10. *p ≤ .05. **p ≤ .01. ***p ≤ .001 (two-tailed tests). Non-Violent, Non-Drug Related = Reference

This model shows that falling in the 10+ and 15+ subgroups has the greatest positive effect on pardon recommendation rates, increasing the likelihood of being recommended for a pardon 3.275 times to 3.528 times respectively compared to those who have less than 10 or 15 years since their most recent conviction. After the variables of 10+ and 15+ years, the “drug-related, non-violent” category is the second greatest predictor, increasing the odds of being recommended for a pardon 2.986 times compared to those in the “non-violent, non-drug-related” category. This model also shows that the two categories that include a crime of violence reduce the odds of being recommended for a pardon compared to the “non-violent, non-drug-related” category.

Appendix F: Age and Recommendation Rates

By Category: All Drug-Related (Y/N) and Crime(s) of Violence (Y/N)

Age by Conviction Category: Drug-Related (Y/N), Board of Pardons Finally Determined Applications Filed 2018-2020 (n=1143)			
Category	Mean	Median	Mode
At Least One Drug-Related Conviction (n=461)	42.7	41	36
<i>Denied (n=66)</i>	42.4	42	42
<i>Recommended (n=395)</i>	42.8	41	36
No Drug-Related Convictions (n=682)	45.9	45	47
<i>Denied (n=199)</i>	44.6	43	38
<i>Recommended (n=483)</i>	46.5	46	40

Age by Conviction Category: Crime(s) of Violence (Y/N), Board of Pardons Finally Determined Applications Filed 2018-2020 (n=1143)			
Category	Mean	Median	Mode
No Crime(s) of Violence (n=1005)	44.4	43	45
<i>Denied (n=216)</i>	44.0	43	49
<i>Recommended (n=789)</i>	44.6	43	45
At Least One Crime(s) of Violence (n=138)	46	45	38
<i>Denied (n=49)</i>	44.1	42	38
<i>Recommended (n=89)</i>	47.1	46	41

By Category: All Conviction Categories

Age by Conviction Category and Recommendation, Board of Pardons Finally Determined Applications Filed 2018-2020 (n=1143)			
Category	Mean	Median	Mode
Non-Violent and Non-Drug-Related (n=565)	45.9	45	47
<i>Denied (n=159)</i>	44.9	44	47
<i>Recommended (n=406)</i>	46.3	46	40
Drug-Related and Non-Violent (n=440)	42.5	41	36
<i>Denied (n=57)</i>	41.7	42	49
<i>Recommended (n=383)</i>	42.6	41	36
Violent and Non-Drug-Related (n=117)	45.8	45	38
<i>Denied (n=40)</i>	43.4	40	38
<i>Recommended (n=77)</i>	47.1	46	38
Drug-Related and Violent (n=21)	47.2	45	42
<i>Denied (n=9)</i>	47.2	43	42
<i>Recommended (n=12)</i>	47.2	47	48

Appendix G: Pardon Outcomes Overview

Finally Determined Pardon Applications Filed 2018-2020 (n=1143)		
Outcome	Frequency	Percentage
Denied At Hearing	121	10.59%
Denied At Merit Review	144	12.60%
Recommended	878	76.82%

All Finally Determined Pardon Applications Filed 2018-2020 - 10+ Years Since Most Recent Conviction (n=804)		
Category	Frequency	Percentage
Denied At Hearing	73	9.08%
Denied At Merit Review	67	8.33%
Recommended	664	82.59%

Finally Determined Pardon Applications Filed 2018-2020 - 15+ Years Since Most Recent Conviction (n=530)		
Category	Frequency	Percentage
Denied At Hearing	44	8.30%
Denied At Merit Review	29	5.47%
Recommended	457	86.23%

Appendix H: Cost Implications of Expedited Reviews

In this appendix, we use the following Cost to the Commonwealth per Application for Review (by the Board of Pardons staff) and Investigation (by the probation or parole staff of the Department of Corrections):

Board of Pardons: \$240.00^{vi}

Department of Corrections: \$1,126.21^{vii}

Total: \$1,366.21

Assuming that the same staff time is required by the Board of Pardons to prepare applications for filing even for expedited applications, the following calculations use the cost per Department of Corrections investigation (\$1,126.21) to estimate the potential savings had everyone in the study population who met the proposed expedited criteria and was recommended for a pardon been expedited.

Proposed Expedited Criteria and Savings for Those Recommended for a Pardon:

- *100% of applicants who were 60 years of age or older at the time of filing, whose most recent conviction was ten or more years before the filing date, and who had at least one drug-related conviction and no convictions for crimes of violence: 35/35 applicants*

Potential Savings: \$39,417.35

- *94% of applicants whose most recent conviction was fifteen or more years before the filing date and who had at least one drug-related conviction and no convictions for crimes of violence, without regard to their age: 167/178 applicants*

Potential Savings: \$188,077.07

- *93% of applicants who were 60 years or older at the time of filing, whose most recent conviction was fifteen or more years before the filing date, and who had no convictions for crimes of violence: 80/86 applicants*

Potential Savings: \$90,096.80

- *92% of applicants whose most recent conviction was ten or more years before the filing date and who had at least one drug-related conviction and no convictions for crimes of violence, without regard to their age: 271/296 applicants*

Potential Savings: \$305,202.91

- *90% of applicants whose most recent conviction was twenty or more years before the filing date, without regard to their age or conviction category: 307/342 applicants*

Potential Savings: \$345,746.47

^{vi} Estimated provided on November 5, 2021 by Brandon Flood, Secretary, Board of Pardons

^{vii} Estimate provided on November 15, 2021, by Thomas E. Greishaw, Director, PA Department of Corrections, Bureau of Standards, Audits, Assessments and Compliance.

- 89% of applicants whose most recent conviction was fifteen or more years before the filing date and who had never been convicted of a crime of violence, without regard to their age: 392/443 applicants

Potential Savings: \$441,474.32

- 86% of applicants whose most recent conviction was fifteen or more years before the filing date, without regard to their age or the conviction category: 457/530 applicants

Potential Savings: \$514,677.94

- 85% of applicants whose most recent conviction was ten or more years before the filing date and who had never been convicted of a crime of violence, without regard to their age: 583/690 applicants

Potential Savings: \$656,580.43

- 85% of applicants who were 60 years old or older at the time of filing and whose most recent conviction was ten or more years before the filing date, without regard to the conviction category: 98/115 applicants

Potential Savings: \$110,368.58

- 83% of applicants whose most recent conviction was ten or more years before the filing date, without regard to their age or the conviction category: 664/804 applicants

Potential Savings: \$747,803.44

The following table shows the number of individuals in each proposed expedited category who were granted a public hearing, as well as the number of those ultimately recommended for a pardon. Cost savings are calculated as if: (1) everyone who was granted a public hearing was expedited, and (2) everyone who was recommended for a pardon was expedited. The savings cannot be summed because individual applicants meet more than one criterion.

Potential Savings for Proposed Expedited Review Tracks

Criteria	Total Applicants	Granted Public Hearing	Recommended for a Pardon	Savings (1): Public Hearing Granted	Savings (2): Pardon Recommended
60+ Years Old; 10+ Conviction; D(Y) & V(N)	35	35	35	\$39,417.35	\$39,417.35
15+ Conviction; D(Y) & V(N)	178	173	167	\$194,834.33	\$188,077.07
60+ Years Old; 15+ Conviction; V(N)	86	81	80	\$91,223.01	\$90,096.80
10+ Conviction; D(Y) & V(N)	296	281	271	\$316,465.01	\$305,202.91
20+ Conviction	342	328	307	\$369,396.88	\$345,746.47
15+ Conviction; V(N)	443	423	392	\$476,386.83	\$441,474.32
15+ Conviction	530	501	457	\$564,231.21	\$514,677.97
10+ Conviction; V(N)	690	637	583	\$717,395.77	\$656,580.43
60+ Years Old; 10+ Conviction	115	100	98	\$112,621.00	\$110,368.58
10+ Conviction	804	737	664	\$830,016.77	\$747,803.44

These projected savings would be reduced for whatever time was incurred in a limited review and/or investigation. By way of example, the Board of Pardons could decide that the only review or investigation required of an applicant whose crimes were more than 15 years ago and did not involve violence was to confirm the truth of those facts and the absence of any open charges or prosecutions. In that case, the personnel cost for staff (of either the BOP or the DOC) would be less than one hour, that is, approximately \$50 per applicant (salary plus benefits of a parole auditor). That would reduce the anticipated savings in the **15+ Conviction; V(N)** category to (1) \$455,237 (\$476,387 - \$21,150) for those granted public hearings and (2) \$421,874 for those recommended for pardons (\$441,474 - \$19,600).

Endnotes

¹ Andrea Lindsay is the Lead Investigator and Mitigation Specialist for Philadelphia Lawyers for Social Equity. Rebecca Harris was a Public Policy and Data Analytics intern with PLSE, and Jamie Boschan served as a Research Analyst. PLSE wishes to acknowledge and thank the Pennsylvania Board of Pardons and its staff, particularly its Secretary—initially Brandon Flood and followed by Celeste Trusty—for providing the data for this report, as well as The Heinz Endowments for its grant to PLSE to fund this report. The authors would also like to thank Carl (Tobey) Oxholm III for his assistance with editing and research.

² In March of 2019, the five-member Board of Pardons unanimously voted to eliminate application fees, making the process free. In June of the same year, the Board released a simpler, streamlined application form and instructions. Efforts to make pardons more accessible have continued up to the present, with the Board releasing its newest version of the form in January 2022. Online applications are expected by the Spring of 2023.

³ 251 pardon applications were received by the Board of Pardons in 2015 compared to 837 in 2020 and 1,393 in 2021. Data provided by the PA Board of Pardons. All data in this study are reported on a calendar year basis.

⁴ López, S. & Pacheco, T. (2022). Pardon Projects: Communities Coming Together in Restorative Justice, *The Pennsylvania Lawyer*. Pennsylvania Bar Association, Jan-Feb 2022. <https://www.plsephilly.org/wp-content/uploads/2022/01/PBA-Article-on-Pardons-Jan-2022.pdf>.

⁵ Once an investigation has been conducted into an applicant, the application is scheduled for a “merit review” by the Board of Pardons. It is there, in a public meeting, that the five members vote on whether an application “merits” the public hearing the Pennsylvania’s Constitution requires be held before any candidate can be considered by the Governor.

⁶ Email dated November 5, 2021 from Board of Pardons Secretary Brandon Flood.

⁷ This is in addition to approximately 1,000 commutation applications awaiting staff review. Estimates provided on January 27, 2022 by Pamela Brightbill, Board of Pardons Administrative Assistant. During the years reviewed in this study, it took the Board of Pardons between nine to fifteen months from receiving the application in the mail until it was accepted and filed. Therefore, the applicants submitted their applications approximately one year before the “filing date” analyzed in this report.

⁸ 61 Pa. Code § 6142.

⁹ Estimate provided on November 15, 2021, by Thomas E. Greishaw, Director, PA Department of Corrections, Bureau of Standards, Audits, Assessments and Compliance.

¹⁰ <https://www.bop.pa.gov/Apply%20for%20Clemency/Pages/Expedited-Review-Program.aspx>

¹¹ The study documented that \$16.5 million had been generated over the course of a decade simply by allowing those who were pardoned to compete for jobs they were qualified for. The Economy League of Greater Philadelphia. (2020). *Pardons as an Economic Investment Strategy: Evaluating a Decade of Data in Pennsylvania* at p. 6.

¹² Id at 34, 35.

¹³ Philadelphia Lawyers for Social Equity. (2020). *Pardons and Public Safety: Examining a Decade of Recidivism Data in Pennsylvania*. <https://www.plsephilly.org/wp-content/uploads/2020/08/PA-Pardon-Recidivism-Study-2008-2018-pv-August-2020.pdf>.

¹⁴ *Economy League* at 7.

¹⁵ The Philadelphia Bar Association. (2019). “Philadelphia Bar Association Resolution Calling on the Pennsylvania Board of Pardons to Expedite the Process by which Pardon Applications from Non-Incarcerated Citizens Can Be Heard.” https://www.philadelphiabar.org/page/ResApr19_1?appNum=4. See, also, Resolution of the Asian Pacific American Bar Association of Pennsylvania, adopted November 30, 2021 (“calls on the Board of Pardons to develop policies and procedures that will allow the Board to hear within one year from the date the application is filed as many applications as possible from non-incarcerated individuals who have been successfully living and working in our communities”). <https://www.plsephilly.org/wp-content/uploads/2022/01/APABA-PA-Resolution-re-Expediting-Pardon-Process-2021-11-10.pdf>.

¹⁶ Auditor General Eugene A. DePasquale. (2020). *Criminal Justice Reforms to Improve Lives and Save Money*. https://www.paauditor.gov/Media/Default/Reports/RPT_CJR_060920_FINAL.pdf.

¹⁷ Pennsylvania Workforce Development Board. (2021). “Quarterly Meeting Briefing Book.” <https://www.dli.pa.gov/Businesses/Workforce-Development/wdb/Documents/11-9-21-WDB-Briefing-Book.pdf> (at 63).

¹⁸ The data analyzed include hearings held January 1, 2018 through July 31, 2021.

¹⁹ The Board has also developed procedures by which its staff identify during their initial review those applications that have virtually no chance of success and submit them for merit review without undergoing a needless DOC investigation. See above, endnote 5 for the definition of “merit review”.

²⁰ We hasten to note that there are several other factors that are material to the Board’s decision-making, including but not limited to the amount of time that has passed since the crime and/or the completion of the sentence, and the applicant’s age at the time of the offense and at the time of application. As to the importance of these latter factors, see PLSE’s reports on people serving sentences of life without parole for second-degree murder, *Life Without Parole for Second-Degree Murder in Pennsylvania*, <https://www.plsephilly.org/wp-content/uploads/2021/01/PLSE-Second-Degree-Murder-Audit-Jan-19-2021.pdf>, and *An Objective Assessment of Race*, https://www.plsephilly.org/wp-content/uploads/2021/04/PLSE_SecondDegreeMurder_and_Race_Apr2021.pdf.

²¹ The category “finally determined applications” excludes those which, as of July 31, 2021, remained pending further Board action, such as filing, merit review, hearing, or reconsideration, as well as applications which are withdrawn. It should be noted that the time between filing and review by the Board is considerably shorter than the total time between when an applicant submits their application and it is reviewed by the Board because the latter includes an additional nine to fifteen months before the application is filed.

²² 37 Pa. Code § 81.202. Definitions. “Crime of violence—Includes the following:

(i) Murder of the third degree, voluntary manslaughter, rape, sexual assault, involuntary deviate sexual intercourse, aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) (relating to aggravated assault), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i),(ii) or (iii) (relating to robbery) or kidnapping.

(ii) An attempt to commit murder of the third degree, voluntary manslaughter, rape, sexual assault, involuntary deviate sexual intercourse, aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1), robbery as defined in 18 Pa.C.S. § 3701 (a)(1)(i),(ii) or (iii) or kidnapping.

(iii) An offense committed while in visible possession of a firearm for which sentencing was imposed under 42 Pa.C.S. § 9712 (relating to sentences for offenses committed with firearms).”

²³ Per Appendix A, Drug-Related Convictions include: Delivery of a Controlled Substance, Possession of a Controlled Substance (including but not limited to Possession with Intent to Deliver), Manufacture of a Controlled Substance, Dispensing of a Controlled Substance, Sale of a Controlled Substance, Marijuana – Small Amount Personal Use, Distribution of a Small Amount of Marijuana, Drug Paraphernalia, Intent to do any of the preceding offenses, Conspiracy to do any of the preceding offenses.

²⁴ See Boschan, J. (2022). *Inferential Statistics of PLSE Investigation of Pardon Recommendation Rates*. Analysis available upon request.

²⁵ Sampson, R., & Laub, J. (2003). Life-Course Desisters? Trajectories of Crime Among Delinquent Boys Followed to Age 70. *Criminology* 41(3), 555-592. <https://doi.org/10.1177%2F0002716205280075>.

Piquero, A., Jennings, W., & Barnes, J. (2012). Violence in Criminal Careers: A Review of the Literature from a Developmental Life-Course Perspective. *Aggression and Violent Behavior*, 17(3), 171-179. <https://doi.org/10.1016/j.avb.2012.02.008>. “Age at the time of offense and age at the time of review for the purpose of commutation are significant factors in assessing an applicant’s risk of recidivism. Because the prefrontal cortex has not fully matured, younger people – age 25 or younger at the time of offense – more often respond to impulse than planning, and they are more susceptible to both peer pressure and aggressive action. As the U.S. Supreme Court has also noted, younger individuals have a strong capacity to change as a simple result of normative developmental maturation. Because people ‘age out’ of crime by their 40s, recidivism rates also go down over time, and acts of violence are hardly ever repeated. Data are now well-established that older people, and especially those over the age of 50, have very low risks of recidivism, with particular respect to repeated crimes of violence.” *Life Without Parole for Second-Degree Murder in Pennsylvania: An Objective Assessment of Sentencing* (January 2021) at pages 26-27

(citations omitted). <https://www.plsephilly.org/wp-content/uploads/2021/01/PLSE-Second-Degree-Murder-Audit-Jan-19-2021.pdf>

²⁶ During the years in question, it was taking the Board of Pardons between nine to fifteen months from the date of receiving the application in the mail to approving and subsequently filing it. The applicants were therefore approximately a year younger than the filing date at the time they applied.

²⁷ This is not the date the Board of Pardons received the application, which was typically nine to fifteen months earlier. See 26, above.

²⁸ These are not mutually exclusive; those whose most recent convictions were more than 10 years before the filing date were also counted in the 15+ years group.

²⁹ Full tables in the Appendix.

³⁰ 47 applicants were 65 years or older at the time of filing. For them, the recommendation rate was 78.7%. While the expected trend may be for recommendation rates to increase as the applicant's age increased, it is possible that the nature of the conviction(s) outweighed the applicant's age and time since the most recent conviction. For example, of the 10 who were denied, three were convicted of at least one crime of violence (including second-degree murder), and five others had convictions involving minors. Three years of observation lead to the conclusion that it is extremely difficult for applicants with those crimes to be recommended by the Board.