

Budget Testimony
House Appropriations Committee Budget Hearing
Governor's 2020-2021 Budget
140 Main Capitol Building
February 20, 2020

Good afternoon Chairman Saylor and Chairman Bradford and esteemed members of the House Appropriations Committee. First and foremost, I would like to thank you all for your collective indulgence. Secondly, I would like to take this opportunity to formally introduce myself to this body. My name is Brandon Flood and I serve as the Secretary of the Pennsylvania Board of Pardons (BOP). On April 1, 2019, I was appointed to this post by our 34th Lieutenant Governor of the Commonwealth of Pennsylvania, the Honorable John Fetterman.

Specifically, my primary responsibility as Secretary is to oversee the administration of Pennsylvania's executive clemency process. However, this also includes but is not limited to processing the intake of clemency applications, preparing applications and supplemental documentation for our Board members to review and assess, the scheduling of public hearings, and driving the internal policymaking of the agency. In addition, I am tasked with undertaking extensive outreach and education efforts across the commonwealth to ensure that more eligible and deserving Pennsylvanians are availing themselves of the executive clemency process.

Prior to me going into greater detail about the various successes and challenges that my agency has experienced, both in recent months and historically, I would like to take this opportunity to inform the members of the committee of my own personal and professional background. Many of you may remember that I previously served as a longtime staffer with the Pennsylvania House of Representatives, prior to going on to serve as Legislative Director for the Service Employees International Union and then as Policy & Reporting Specialist for the Pennsylvania Department of General Services. While the aforementioned posts were certainly considered positions of import, what makes me uniquely qualified to serve in my current capacity is that I was also a recipient of executive clemency issued by Governor Wolf on March 17, 2019.

Specifically, it is my experience of being directly impacted by the collateral consequences of a criminal conviction as well as my public policymaking background that serves as the bedrock of my vision to utilize executive clemency as an additional tool to drive down overall rates of recidivism in Pennsylvania. That said, I am grateful to the Lieutenant Governor for his confidence in me to capably serve in this enormously important capacity.

In an effort to further contextualize the role that the Pennsylvania Board of Pardons plays in our criminal justice system, it is important that I provide a little bit of history about our agency. First and foremost, we are not a new agency. We have been around since 1872, at least in a formalized sense. In addition, we are wholly distinct from the Pennsylvania Board of Probation & Parole, with whom we are oftentimes conflated with. For the edification of this committee, probation and parole deals with the supervision of individuals that have been convicted in a court of competent jurisdiction and sentenced to a definitive period. Whereas, executive clemency deals with the modification or reduction of either a definitive or indefinite sentence or it can potentially relieve someone convicted of a crime of their criminal conviction altogether (as if the crime had never occurred).

Historically, we have never been a very large agency (we currently only have six full-time staffers, including myself). In addition, when it comes to how active or inactive our Board is, this matter has largely been dictated by the will of the executive branch. As you can see from the agency-related materials that I have provided the Committee, there has been an ebb and flow dynamic over the years relating to Board activity. However, I am proud to report that in calendar year 2019 we experienced more than a 100 percent increase in the number of applications that my agency has received as compared to the previous calendar year. This uptick in applications can be directly attributed to the ushering in of a new Lieutenant Governor, who serves as the chairman of the Board and sets its tone and tenor. In addition, we also attribute this increased interest to my appointment as Secretary. Much akin to the old Hair Club for Men commercial, where the pitchman of that company famously quipped “Not only am I the president, I am a client,” this was the first time that justice-involved Pennsylvanians had an opportunity to witness someone at the helm of the Board of Pardons who himself was the successful recipient of executive clemency.

This, coupled with a number of common sense reforms that both I and the Lieutenant Governor have enacted since our brief tenure, has cast the Board of Pardons in a favorable light as more Pennsylvanians now view executive clemency as a real and viable option. For the sake of the Committee, included with my testimony today is a handout that exhibits a county-by-county breakdown of the number of applications that we filed and heard in calendar 2019. As you can see, although the counties of Philadelphia and Allegheny represent a significant number of the applications that we processed, there are many other individuals representing counties across our commonwealth that request much needed relief from our Board.

Most notably, our Board has achieved a number of successes over the past year. This includes but is not limited to our current modernization project which seeks to make Pennsylvania only the second state in the nation to enable applicants to pursue executive clemency online. My agency considers this as a top priority as we keenly understand that digitizing the executive clemency process not only makes for a more efficient administrative process, it also significantly reduces overall operational costs, while also resulting in a more safe and secure exchange of information between our Board members and the critical decisionmakers of other criminal justice agencies (this includes the Office of Victim Advocate, which plays an integral role in the executive clemency process). In addition, I would be remiss if I did not thank the members of this Committee for approving a line-item increase in last year's Commonwealth Budget that enabled us to put this project out for bid. Please know that I will be sure to keep the members of this Committee apprised of the progress of this project as it continues to develop.

Which leads me to my last area of my testimony – the challenges presently confronting our Board. As I had mentioned earlier in my testimony, our agency is only comprised of six full-time staffers (including myself). Therefore, in our quest to ensure that more deserving and eligible Pennsylvanians with criminal convictions are applying for relief, we are both bracing for and have already experienced the increased influx of executive clemency applications. Again, it is both the belief of the Lieutenant Governor and I that the more deserving Pennsylvanians that view executive clemency as a real and viable opportunity to restart their lives, the less inclined they will be to recidivate. The Pennsylvania Department of Corrections is experiencing a 60 percent recidivism rate (those who return within three-years of being released) when it comes to the 12,000 plus prisoners that it releases annually.

At a price tag of approximately \$42,000 a year per inmate, the more worthwhile investment would be to enable us to build the infrastructure necessary to process more applications of deserving Pennsylvanians.

To put it more in numerical terms, the IT consultants for our modernization project estimates that our current workflow requires approximately eight (8) human hours per application. There are potentially 260 workdays in a year. An additional Board of Pardons staffer making \$42,000 a year would be able to process potentially 260 applications per year (perhaps double once we are able to fully digitize this process). This provides us with a potential pool of 260 (or 520) applicants who would be both hopeful and appreciative of a chance to start their lives over. What this translates into is that an allocation of \$42,000 a year for a Board of Pardon staffer (as opposed to an inmate) could potentially yield an annual net savings of \$10,920,000 by diverting those 260 applicants from a life of hopelessness and despair.

In the scenario that I provided, even if only one-fourth of the 260 hypothetical applicants never recidivated again, the work product of the hypothetical staffer would still yield an annual net benefit of \$2,730,000 a year to the commonwealth. In an effort to objectively underscore what the recidivism rate is for successful executive clemency recipients, since October of 2015 through December 31, 2019, only 61 out of 2,387 recipients of executive clemency have incurred new criminal charges. This translates into an estimated (not all were found guilty of the new charges) recidivism rate of 2.6 percent. You read that correctly, folks! Successful recipients of executive clemency recidivate at a rate less than 3 percent (meaning only 8 of the 260 hypothetical applicants would be prone to reoffend). To be clear, my agency's intent is not to request more resources simply to provide the same level of production and historical outcomes. On the contrary, my agency asking for more resources so that we can provide more deserving Pennsylvanians with an opportunity to restart their lives. As such, we ask that this Committee at the very least sustain the line-item proposed in the Governor's 2020-2021 Proposed Line-Item Budget.

However, I would like to qualify the preceding statement by mentioning that our ultimate desire is to receive a sustained increased line-item appropriation (approximately \$120,000) so that we can hire two additional full-time clerical staffers (entry-level) as well as underwrite long overdue efforts to provide translative services for our English As a Second Language (ESL) customers.

In closing, I once again would like to thank Chairman Saylor, Chairman Bradford and the members of this Committee for your indulgence. I trust that this Committee will hold my agency accountable should we not be able to make good on our professed deliverables. Please know that I am happy to entertain any questions that you may have about either my testimony or the scope and function of my agency.

Clemency Cases Filed and Heard by County (2019)

In 2019, the Board of Pardons filed and heard a total of 563 clemency applications. 404 were classified as non-violent cases and 159 were classified as violent cases. Below you will find a breakdown of the number of applications that we received classified by county.

Violent Offenders

County	Total Applications	Type of Crime
Allegheny	5	Violent
Armstrong	1	Violent
Bedford	1	Violent
Berks	5	Violent
Blair	3	Violent
Bucks	4	Violent
Cambria	3	Violent
Centre	2	Violent
Chester	4	Violent
Clearfield	1	Violent
Cumberland	2	Violent
Dauphin	5	Violent
Delaware	8	Violent
Erie	2	Violent
Fayette	1	Violent
Indiana	2	Violent
Juniata	1	Violent
Lancaster	6	Violent
Lawrence	1	Violent
Lehigh	9	Violent
Luzerne	1	Violent
Lycoming	1	Violent
Mercer	1	Violent
Monroe	1	Violent
Montgomery	5	Violent
Northampton	1	Violent
Northumberland	1	Violent
Philadelphia	69	Violent

Schuylkill	2	Violent
Somerset	1	Violent
Washington	1	Violent
Westmoreland	3	Violent
Wyoming	2	Violent
York	4	Violent

Non-Violent Offenders

County	Total Applications	Type of Crime
Adams	3	Non-violent
Allegheny	29	Non-violent
Beaver	3	Non-violent
Bedford	2	Non-violent
Berks	8	Non-violent
Blair	5	Non-violent
Bucks	17	Non-violent
Butler	2	Non-violent
Cambria	10	Non-violent
Carbon	1	Non-violent
Centre	8	Non-violent
Chester	14	Non-violent
Clearfield	1	Non-violent
Clinton	1	Non-violent
Columbia	3	Non-violent
Crawford	4	Non-violent
Cumberland	10	Non-violent
Dauphin	17	Non-violent
Delaware	17	Non-violent
Elk	1	Non-violent
Erie	3	Non-violent
Fayette	4	Non-violent
Franklin	8	Non-violent
Greene	1	Non-violent
Huntingdon	1	Non-violent
Indiana	3	Non-violent
Jefferson	2	Non-violent

Lackawanna	2	Non-violent
Lancaster	12	Non-violent
Lawrence	1	Non-violent
Lebanon	1	Non-violent
Lehigh	8	Non-violent
Luzerne	7	Non-violent
Lycoming	5	Non-violent
McKean	3	Non-violent
Mercer	3	Non-violent
Monroe	4	Non-violent
Montgomery	22	Non-violent
Northampton	1	Non-violent
Northumberland	1	Non-violent
Philadelphia	109	Non-violent
Pike	1	Non-violent
Potter	3	Non-violent
Schuylkill	1	Non-violent
Snyder	1	Non-violent
Somerset	4	Non-violent
Sullivan	1	Non-violent
Susquehanna	1	Non-violent
Union	2	Non-violent
Venango	1	Non-violent
Washington	3	Non-violent
Westmoreland	11	Non-violent
Wyoming	2	Non-violent
York	16	Non-violent

**PA Board of Pardons
By the Numbers
(2015-2020)**

	2015	2016	2017	2018	2019	2020 (As of 2/7)	To Date Totals
Applications							
Received	295	513	575	578	1177	268	3406
Filed	193	201	307	683	811	58	2253
Reviewed by Board	439	502	345	563	527	130	2506
Heard by Board	154	364	194	320	385	0	1417
Sent to Governor	114	290	166	272	317	0	1159
Granted by Governor	112	288	165	269	72	0	906

As is indicated in the above graphic, between calendar years 2018 and 2019, our Board experienced more than a 100 percent increase in the number of applications that we received. In addition, based upon preliminary numbers as of February 7, 2020, we are poised to receive more than 1600 applications by the end of calendar year 2020.

While our modernization efforts will certainly play a tremendous role in assisting us with absorbing this significant increase of applications, the fact of the matter remains that we will still need to add at least two entry-level clerical positions to current staff complement.

