RULES OF EXECUTIVE CLEMENCY

1. STATEMENT OF POLICY

Executive Clemency is a power vested in the Governor by the Florida Constitution of 1968. Article IV, Section 8(a) of the Constitution provides:

> Except in cases of treason and in cases where impeachment results in conviction, the governor may, by executive order filed with the custodian of state records, suspend collection of fines and forfeitures, grant reprieves not exceeding sixty days and, with the approval of two members of the cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines and forfeitures for offenses.

The Governor and members of the Cabinet collectively are the Clemency Board. Clemency is an act of mercy that absolves the individual upon whom it is bestowed from all or any part of the punishment that the law imposes.

2. ADMINISTRATION

A. These rules were created by mutual consent of the Clemency Board to assist persons in applying for clemency. However, nothing contained herein can or is intended to limit the authority or discretion given to the Clemency Board in the exercise of its constitutional prerogative.

B. The Office of Executive Clemency was created to assist in the orderly and expeditious exercise of this executive power.

C. The Governor, with the approval of at least two members of the Clemency Board, appoints a Coordinator who hires all assistants. The Coordinator and assistants comprise the Office of Executive Clemency. The Coordinator must keep a proper record of all proceedings and is the custodian of all records.

3. PAROLE AND PROBATION

The Clemency Board will neither grant nor revoke parole or probation.

4. CLEMENCY

The Governor has the unfettered discretion to deny clemency at any time, for any reason. The Governor, with the approval of at least two members of the Clemency Board, has the unfettered discretion to grant, at any time, for any reason, the following forms of clemency:

I. Types of Clemency

A. Full Pardon

A Full Pardon unconditionally releases a person from punishment and forgives guilt for any Florida convictions. It restores to an applicant all of the rights of citizenship possessed by the person before his or her conviction, including the right to own, possess, or use firearms.

B. Pardon Without Firearm Authority

A Pardon Without Firearm Authority releases a person from punishment and forgives guilt. It entitles an applicant to all of the rights of citizenship enjoyed by the person before his or her conviction, except the specific authority to own, possess, or use firearms.

C. Pardon for Misdemeanor

A Pardon for a Misdemeanor Conviction releases a person from punishment and forgives guilt.

D. Commutation of Sentence

A Commutation of Sentence may adjust an applicant's penalty to one less severe but does not restore any civil rights, and it does not restore the authority to own, possess, or use firearms. (See also Rule 15 on commutation of death sentences.)

E. Remission of Fines and Forfeitures

A Remission of Fines or Forfeitures suspends, reduces, or removes fines or forfeitures.

F. Specific Authority to Own, Possess, or Use Firearms

The Specific Authority to Own, Possess, or Use Firearms restores to an applicant the right to own, possess, or use firearms, which were lost as a result of a felony conviction. Due to federal

firearms laws, the Clemency Board will not consider requests for firearm authority from individuals convicted in federal or out-of-state courts. In order to comply with the federal laws, a Presidential Pardon or a Relief of Disability from the Bureau of Alcohol, Tobacco and Firearms must be issued in cases involving federal court convictions. A pardon or restoration of civil rights with no restrictions on firearms must be issued by the state where the conviction occurred.

G. Restoration of Civil Rights in Florida

The Restoration of Civil Rights restores to an applicant all of the rights of citizenship in the State of Florida enjoyed before the felony conviction, except the specific authority to own, possess, or use firearms. Such restoration shall not relieve an applicant from the registration and notification requirements or any other obligations and restrictions imposed by law upon sexual predators or sexual offenders.

H. Restoration of Alien Status under Florida Law

The Restoration of Alien Status Under Florida Law restores to an applicant who is not a citizen of the United States such rights enjoyed by him or her, under the authority of the State of Florida, which were lost as a result of a conviction of any crime that is a felony or would be a felony under Florida law, except the specific authority to own, possess, or use firearms. However, restoration of these rights shall not affect the immigration status of the applicant (i.e., a certificate evidencing Restoration of Alien Status Under Florida Law shall not be a ground for relief from removal proceedings initiated by the United States Immigration and Naturalization Service).

II. <u>Conditional Clemency</u>

All of the preceding forms of clemency may be granted subject to various conditions. If the conditions of clemency are violated or breached, such clemency may be revoked by the Clemency Board, returning the applicant to his or her status prior to receiving the conditional clemency.

5. Eligibility

A. Pardons

A person may not apply for a pardon unless he or she has completed all sentences imposed for the applicant's most recent felony conviction and all conditions of supervision imposed for the applicant's most recent felony conviction have expired or been completed, including but not limited to, parole, probation, community control, control release and conditional release, for a period of no less than 10 years. The applicant may not have outstanding detainers, or any pecuniary penalties or liabilities which total more than $1,000 and result from any criminal conviction or traffic infraction. In addition, the applicant may not have any outstanding victim restitution, including, but not limited to, restitution pursuant to a court order or civil judgment, or obligations pursuant to Chapter 960, Florida Statutes.

Persons who had adjudication of guilt withheld and were not convicted may apply for a pardon if they otherwise meet the eligibility requirements of this rule.

B. Commutations of Sentence

A person may not be considered for a commutation of sentence unless he or she has been granted a Request for Review pursuant to Rule 8 or has had his or her case placed upon a Clemency Board agenda pursuant to Rule 17.

C. Remission of Fines and Forfeitures

A person may not apply for a remission of fines and forfeitures unless he or she has completed all sentences imposed and all conditions of supervision have expired or been completed, including, but not limited to, parole, probation, community control, control release, and conditional release.

D. Specific Authority to Own, Possess, or Use Firearms

A person may not apply for the specific authority to own, possess, or use firearms unless he or she has completed all sentences imposed for the applicant's most recent felony conviction and all

conditions of supervision imposed for the applicant's most recent felony conviction have expired or been completed, including but not limited to, parole, probation, community control, control release, and conditional release, for a period of no less than eight (8) years. The applicant may not have outstanding detainers, or any pecuniary penalties or liabilities which total more than $1,000 and result from any criminal conviction or traffic infraction. In addition, the applicant may not have any outstanding victim restitution, including, but not limited to, restitution pursuant to a court order or civil judgment, or obligations pursuant to Chapter 960, Florida Statutes. Persons convicted in a federal, military, or out-of-state court are not eligible to apply.

E. Restoration of Civil Rights or Alien Status under Florida Law

A person who meets the requirements of Rule 9 may have his or her civil rights restored by the Clemency Board. Persons who do not qualify for restoration of civil or alien rights under Rule 9 may request restoration of civil rights pursuant to Rule 6 if the person has completed all sentences imposed and all conditions of supervision have expired or been completed, including but not limited to, imprisonment, parole, probation, community control, control release, and conditional release; has no pending outstanding detainers or pending criminal charges; has paid all restitution pursuant to a court order or civil judgment and obligations pursuant to Chapter 960, Florida Statutes; and has met the seven (7) year time requirement. Restoration of civil rights includes all rights of citizenship enjoyed by the person before his or her conviction, except the specific authority to own, possess or use firearms.

If the person was convicted in a court other than a court of the State of Florida, he or she must be a legal resident of the State of Florida at the time the application is filed, considered, and acted upon. If the person is applying for Restoration of Alien Status under Florida Law, he or she must be domiciled in the State of Florida at the time the application is filed, considered, and acted upon.

Notwithstanding any provision of this rule, an individual who has previously had his or her civil rights or Alien Status under Florida Law restored and is subsequently convicted of any offense listed in Rule 9(A) shall be ineligible for restoration of civil rights or Alien Status under Florida law for a period of no less than seven (7) years after completing all sentences and conditions of supervision (including but not limited to, parole, probation, community control, control release and conditional release) arising from the subsequent conviction.

6. Applications

A. Application Forms

All correspondence regarding an application for clemency should be addressed to Coordinator, Office of Executive Clemency, 4070 Esplanade Way, Tallahassee, Florida, 32399-2450. Those persons seeking clemency shall complete an application and submit it to the Office of Executive Clemency.

Persons seeking Restoration of Civil Rights or Alien Status under Florida Law must submit an application. Application forms will be furnished by the Coordinator upon request or they may be downloaded from the clemency website at https://fpc.state.fl.us/Clemency.htm. All applications for clemency must be filed with the Coordinator on the form provided by the Office of Executive Clemency.

B. Supporting Documents

Each application for clemency shall have attached to it a certified copy of the charging instrument (indictment, information, or warrant with supporting affidavit) for each felony conviction, or misdemeanor conviction if seeking a pardon for a misdemeanor, and a certified copy of the judgment and sentence for each felony conviction, or misdemeanor conviction if seeking a pardon for a misdemeanor. (Note: The Office of Executive Clemency or Parole Commission may assist in preparation of applications in unique situations.) Each application for clemency may include

character references, letters of support, and any other documents that are relevant to the application for clemency.

C. Applicant Responsibility

It is the responsibility of the applicant to answer all inquiries fully and truthfully and to keep the Office of Executive Clemency advised of any change in the information provided in the application, including change of address and phone number.

D. Failure to Meet Requirements

If any application fails to meet the requirements of the Rules of Executive Clemency, the Coordinator may return it without further consideration.

E. Notification

Upon receipt of a completed application that meets the requirements of the Rules of Executive Clemency, the Coordinator shall make reasonable attempts to notify the victims of record, the respective State Attorney's Office, the Office of the Statewide Prosecutor, if applicable, and the Office of the Attorney General, Bureau of Advocacy and Grants.

7. Applications Referred to the Florida Parole Commission

Every application which meets the requirements of these Rules may be referred to the Florida Parole Commission for an investigation, report, and recommendation.

All persons who submit applications shall comply with the reasonable requests of the Florida Parole Commission in order to facilitate and expedite investigation of their cases. Failure to comply with such requests by the Commission, without adequate explanation, may result in denial of the application without further consideration.

8. Commutation of Sentence

A. Request for Review

An applicant who applies for commutation of sentence under Rule 5(B) may do so only if he or she has completed at least one third of the sentence imposed, or, if serving a minimum mandatory

sentence, has completed at least one half of the sentence.

Individuals eligible for commutation of sentence consideration may receive a "Request for Review" form by contacting the Office of Executive Clemency or it may be downloaded from the clemency website at https://fpc.state.fl.us/Clemency.htm. Upon receipt of the original and four (4) copies of the Request for Review form, clemency application, and any other material to be considered, the Coordinator shall forward copies of the documents to the Clemency Board and the Florida Parole Commission. The Commission shall review the documents and make an advisory recommendation to the Clemency Board. Notification of receipt by the Office of Executive Clemency of such a request shall be provided as indicated under Rule 6.

Rule 17 may also be invoked by any member of the Clemency Board.

B. Referral to Commission

Upon receipt by the Coordinator of written notification from the Governor and at least one member of the Clemency Board granting a Request for Review, or notification invoking Rule 17, the Coordinator may refer the request to the Parole Commission for a full investigation and place the case on an agenda to be heard by the Clemency Board.

C. Notification

The Coordinator shall attempt to provide individuals seeking a request for commutation of sentences, and the respective prosecuting authority, with approximately 20 days notice prior to any such request being heard by representatives of the Clemency Board.

D. § 944.30 Cases

All remaining § 944.30, Florida Statutes, cases will be processed under this rule.

E. Domestic Violence Case Review

Domestic violence cases that meet the criteria adopted by the Clemency Board on December 18, 1991, as amended, will be processed as requests for review.

9. Restoration of Civil Rights or Alien Status under Florida Law Without A Hearing

A. Criteria for Eligibility

A person may have his or her civil rights or alien status under Florida Law restored by approval of the Clemency Board, excluding the specific authority to own, possess, or use firearms, without a hearing if the person has committed no crimes and has not been arrested for a misdemeanor or felony for five (5) years from the date of completion of all sentences and conditions of supervision imposed and the following requirements are met:

1. The person has completed all sentences imposed and all conditions of supervision have expired or been completed, including but not limited to, imprisonment, parole, probation, community control, control release, and conditional release;

2. The person has no outstanding detainers or pending criminal charges;

3. The person has paid all restitution pursuant to a court order or civil judgment and obligations pursuant to Chapter 960, Florida Statutes;

4. The person has never been convicted of one of the following crimes:

a. murder, attempted murder, attempted felony murder, manslaughter (F.S. Chapter 782);

b. DUI manslaughter, DUI Serious Bodily Injury (F.S. 316.193);

c. leaving the Scene of Accident involving Injury or Death;

d. sexual battery, attempted sexual battery, unlawful sexual activity with a minor, female genital mutilation (F.S. Chapter 794)

e. any violation of F.S. Chapter 800;

f. lewd or lascivious offense upon or in the presence of an elderly or disabled person, attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person (F.S. 825.1025);

g. sexual performance by a child, attempted sexual performance by a child (F.S. 827.071);

h. aggravated child abuse (F.S. 827.03);

i. failure to register as a sexual predator (F.S. 775) or sexual offender (F.S. 943.0435);

j. computer pornography, transmission of computer pornography, or any crime involving a minor in violation of F.S. Chapter 847;

k. kidnapping, attempted kidnapping, false imprisonment, or luring and enticing a child (F.S. Chapter 787);

l. aggravated battery, attempted aggravated battery (F.S. 784.045), felony battery, domestic battery by strangulation (F.S. 784.041);

m. robbery, carjacking, attempted carjacking, home invasion, attempted home invasion (F.S. Chapter 812);

n. poisoning of food or water (F.S. 859.01);

o. abuse of a dead human body (F.S. 872.06);

p. burglary of a dwelling, first degree burglary, or attempted first degree burglary (F.S. 810.02);

q. arson, attempted arson, or conspiracy to commit arson (F.S. 806.01);

r. aggravated assault (F.S. 784.021);

s. aggravated stalking (F.S. 784.048);

t. aggravated battery, battery, or aggravated assault on a law enforcement officer or other specified officer (F.S. 784.07);

u. trafficking or conspiracy to traffic in illegal substances (F.S. 893.135); all other first and second degree felonies described in F. S. Chapter 893.

v. aircraft piracy (F.S. 860.16);

w. unlawful throwing, placing, or discharging of a destructive device or bomb (F.S. 790.161);

x. facilitating or furthering terrorism (F.S. 775.31);

y. treason (F.S. 876.32);

z. possession of a firearm by a convicted felon (F.S. 790.23) or possession of a firearm or ammunition by a violent career criminal (F.S. 790.235);

aa. bribery, misuse of public office (F.S. Chapter 838); extortion by officers of the state (F. S. 839.11); misappropriations of moneys by commissioners to make sales (F.S. 839.17);

bb. any crime committed by an elected official while in office;

cc. illegal use of explosives;

dd. RICO;

ee. exploitation of the elderly;

ff. public corruption;

gg. any felony violation of an election law;

hh. any crime designated a "dangerous crime" under F.S. 907.041;

ii. any offense committed in another jurisdiction that would be an offense listed in this paragraph if that offense had been committed in this State;

5. The person has not been declared to be one of the following:

a. Habitual Violent Felony Offender under F.S. 775.084(1)(b);

b. Three-time Violent Felony Offender under F.S. 775.084(1)(c);

c. Violent Career Criminal under F.S. 775.084;

d. Prison Releasee Reoffender under F.S. 775.082(9)(a);

e. Sexual Predator under F.S. 775.21;

6. In the case of restoration of civil rights, (a) the person must be a citizen of the United States; and (b) if convicted in a court other than a Florida court, the person must be a legal resident of Florida;

7. In the case of restoring alien status under Florida Law, the person must be domiciled in Florida.

B. Action by Clemency Board

The Florida Parole Commission shall accept and retain the records of individuals released by the Department of Corrections by expiration of sentence or from community supervision. In a manner approved by the Board of Clemency, the Parole Commission may provide individuals released by the Department of Corrections with a written explanation of the Rules determining eligibility to apply for restoration of civil rights. The Parole Commission shall review the applications of individuals who have applied for restoration of civil rights pursuant to Rule 6. If an individual meets all requirements under Rule 9(A), then the Coordinator shall issue a preliminary review list of individuals eligible for restoration of civil rights or alien status under Florida law without a hearing to the Clemency Board members. If the Governor plus two members approve an individual's restoration of civil rights or alien status under Florida law without a hearing within 60 days of issuance of the preliminary review list, the Coordinator shall, pursuant to executive order, issue a certificate that grants the individual restoration of civil rights or alien status under Florida law in the State of Florida, without the specific authority to own, possess, or use firearms. Article IV, Section 8 of the Florida Constitution provides that an executive order granting clemency requires the signature of the Governor and two members of the Florida Cabinet. If approval is not granted, that candidate will be notified, and may elect to pursue restoration of civil rights with a hearing pursuant to Rule 10.

C. Out-of-State or Federal Convictions

If the person has been convicted in a court other than a court of the State of Florida, a request for the restoration of civil rights or alien status under Florida law must be submitted in accordance with Rule 6. Such request shall be reviewed by the Florida Parole Commission to determine if the requirements under Rule 9(A) are met. If the Commission certifies that all of the requirements in Rule 9(A) are met, the Coordinator shall follow procedures for the restoration of civil rights as enumerated herein.

10. Restoration of Civil Rights or Alien Status under Florida Law With a Hearing

A. Criteria for 7 Year Eligibility

An individual who does not qualify to be granted clemency under Rule 9 must comply with Rule 6 by filing an application to have his or her civil rights or alien status under Florida law restored, excluding the specific authority to own, possess, or use firearms, with a hearing. An individual is eligible to apply only if the following requirements are met:

1. The person has had no new felony convictions for a period of 7 years or more after completion of all sentences imposed for the applicant's most recent felony conviction and all conditions of supervision for the applicant's most recent felony conviction have expired or been completed, including but not limited to, imprisonment, parole, probation, community control, control release, and conditional release;

2. The person has paid all restitution pursuant to a court order or civil judgment and obligations pursuant to Chapter 960, Florida Statutes;

3. In the case of restoration of civil rights, (a) the person must be a citizen of the United States; and (b) if convicted in a court other than a Florida court, the person must be a legal resident of Florida;

4. In the case of restoring alien status under Florida Law, the person must be domiciled in Florida.

B. Out-of-State or Federal Convictions

If the person has been convicted in a court other than a court of the State of Florida, a request for the restoration of civil rights or alien status under Florida law must be submitted in accordance with Rule 6. Such request shall be reviewed by the Florida Parole Commission to determine if the requirements under Rule 10(A) are met. If the Commission certifies that all of the requirements in Rule 10(A) are met, the Coordinator shall follow procedures for the restoration of civil rights or alien status with a hearing as enumerated herein.

11. Hearings by the Clemency Board on Pending Applications

A. Cases on the Agenda

After the Parole Commission investigation is complete, the Coordinator may place upon the agenda for consideration by the Clemency Board at its next scheduled meeting:

1. Timely applications that meet the eligibility requirements under Rule 5 for which any investigation, report and recommendation, conducted under Rule 7, has been completed;

2. Cases in which an applicant has requested a commutation of sentence under Rule 8 or when Rule 17 has been invoked so long as any investigation, report and recommendation conducted under Rule 7 has been completed.

B. Distribution of Agenda

The Coordinator shall prepare an agenda which shall include all cases that qualify for a hearing under Subsection A of this Rule. A preliminary agenda shall be distributed to the Clemency Board at least 10 days before the next scheduled meeting.

C. Failure of Applicant to Comply With Rules

An applicant's failure to comply with any rule of executive clemency may result in refusal, without notice, to place an application on the agenda for consideration.

12. Hearings Before the Clemency Board

A. Scheduled Meetings

The Clemency Board will meet in the months of March, June, September, and December of each year, or at such times as set by the Clemency Board. The Governor may call a special meeting at any time for any reason.

B. Notice of Appearance

While applicants are not required to appear at the hearing, the Clemency Board encourages applicants to attend. The applicant, or any other person intending to speak on behalf of the applicant,

must notify the Office of Executive Clemency at least 10 days prior to the scheduled meeting of the Clemency Board.

C. Time Limits

Any person making an oral presentation to the Clemency Board will be allowed no more than five minutes. All persons making oral presentations in favor of an application shall be allowed cumulatively no more than 10 minutes. All persons making oral presentations against an application, including victims, shall be allowed cumulatively no more than 10 minutes.

D. Filing of Executive Orders

Subsequent to the hearings of the Clemency Board, the Coordinator shall prepare executive orders granting clemency as directed and circulate them to the members of the Clemency Board. After the Executive Orders are fully executed, the Coordinator shall certify and mail a copy to the applicant. The original executive order shall be filed with the custodian of state records. The Coordinator shall send a letter to each applicant officially stating the disposition of his or her application. A seal is not used by the Office of Executive Clemency.

13. Continuance and Withdrawal of Cases

An interested party may apply for a continuance of a case if the continuance is based on good cause. The Governor will decide if the case will be continued. Cases held under advisement for further information desired by the Governor will be marked "continued" and noted on each subsequent agenda until the case is decided.

The applicant may withdraw his or her application by notifying the Office of Executive Clemency at least 20 days prior to the next scheduled meeting of the Clemency Board. A request to withdraw a case made within 20 days of the hearing on the application will be allowed if the Governor or the Coordinator for the Office of Executive Clemency determines that there is good cause. Cases that are withdrawn from the agenda will not be considered again until the application is re-filed.

14. Reapplication for Clemency

Any otherwise eligible person who has been granted or denied any form of executive clemency may not reapply for further executive clemency for at least two years from the date that such action became final. Any person who has been denied a Rule 8 commutation of sentence may not apply for another request for at least five years from the date the prior request was denied.

15. Commutation of Death Sentences

This Rule applies to all cases where the sentence of death has been imposed. The Rules of Executive Clemency, except Rules 1, 2, 3, 4, 15 and 16 are inapplicable to cases where inmates are sentenced to death.

A. Confidentiality

Notwithstanding incorporation of Rule 16 by reference in cases where inmates are sentenced to death, the full text of Rule 16 is repeated below for clarification: Due to the nature of the information presented to the Clemency Board, all records and documents generated and gathered in the clemency process as set forth in the Rules of Executive Clemency are confidential and shall not be made available for inspection to any person except members of the Clemency Board and their staff. Only the Governor and no other member of the Clemency Board, nor any other state entity that may be in the possession of Clemency Board materials, has the discretion to allow such records and documents to be inspected or copied. Access to such materials shall not constitute a waiver of confidentiality.

B. Parole Commission Investigation

In all cases where the death penalty has been imposed, the Florida Parole Commission may conduct a thorough and detailed investigation into all factors relevant to the issue of clemency and provide a final report to the Clemency Board. The investigation shall include, but not be limited to, (1) an interview with the inmate, who may have clemency counsel present, by the Commission; (2)

an interview, if possible, with the trial attorneys who prosecuted the case and defended the inmate; (3) an interview, if possible, with the presiding judge and; (4) an interview, if possible, with the defendant's family. The Parole Commission shall provide notice to the Office of the Attorney General, Bureau of Advocacy and Grants, that an investigation has been initiated. The Office of the Attorney General, Bureau of Advocacy and Grants shall then provide notice to the victims of record that an investigation is pending and at that time shall request written comments from the victims of record. Upon receipt of comments from victims of record or their representatives, the Office of the Attorney General, Bureau of Advocacy and Grants shall forward such comments to the Parole Commission to be included in the final report to the Clemency Board.

C. Monitoring Cases for Investigation

The investigation by the Parole Commission shall begin at such time as designated by the Governor. If the Governor has made no such designation, the investigation shall begin immediately after the defendant's initial petition for writ of habeas corpus, filed in the appropriate federal district court, has been denied by the 11th Circuit Court of Appeals, so long as all post-conviction pleadings, both state and federal, have been filed in a timely manner as determined by the Governor. An investigation shall commence immediately upon any failure to timely file the initial motion for postconviction relief in state court, and any appeal therefrom, or the initial petition for writ of habeas corpus in federal court, and any appeal therefrom. The time frames established by this rule are not tolled during the pendency of any petition for rehearing or reconsideration (or any similar such motion for clarification, etc.), request for rehearing en banc in the 11th Circuit Court of Appeals, or petition for writ of certiorari in the U.S. Supreme Court. Failure to conduct or complete the investigation pursuant to these rules shall not be a ground for relief for the death penalty defendant. The Parole Commission's Capital Punishment Research Specialist shall routinely monitor and track death penalty cases beyond direct appeal for this purpose. Cases investigated under previous administrations may be reinvestigated at the Governor's discretion.

D. Parole Commission Report

After the investigation is concluded, the Commissioners who personally interviewed the inmate shall prepare and issue a final report on their findings and conclusions. The final report shall include (1) any statements made by the defendant, and defendant's counsel, during the course of the investigation; (2) a detailed summary from each Commissioner who interviewed the inmate; and (3) information gathered during the course of the investigation. The final report shall be forwarded to all members of the Clemency Board within 120 days of the commencement of the investigation, unless the time period is extended by the Governor.

E. Request for Hearing by any Clemency Board Member

After the report is received by the Clemency Board, the Coordinator shall place the case on the agenda for the next scheduled meeting or at a specially called meeting of the Clemency Board if, as a result of the investigation, or final report, any member of the Clemency Board requests a hearing within 20 days of transmittal of the final report to the Clemency Board. Once a hearing is set, the Coordinator shall provide notice to the appropriate state attorney, the inmate's clemency counsel, the victim's rights coordinator in the Executive Office of the Governor and the Office of Attorney General, Bureau of Advocacy and Grants. The Office of the Attorney General, Bureau of Advocacy and Grants shall then notify the victims of record of the hearing.

F. Request for Hearing by Governor

Notwithstanding any provision to the contrary in the Rules of Executive Clemency, in any case in which the death sentence has been imposed, the Governor may at any time place the case on the agenda and set a hearing for the next scheduled meeting or at a specially called meeting of the Clemency Board.

G. Transcript of Interview

Upon request, a copy of the actual transcript of any statements or testimony of the inmate relating to a clemency investigation shall be provided to the state attorney, the inmate's clemency

counsel, or victim's family. The attorney for the state, the inmate's clemency counsel, the victim's family, the inmate, or any other interested person may file a written statement, brief or memorandum on the case within 90 days of initiation of the investigation under Rule 15, copies of which will be distributed to the members of the Clemency Board. The person filing such written information should provide five (5) copies to the Coordinator of the Office of Executive Clemency.

H. Time Limits

At the clemency hearing for capital punishment cases, the inmate's clemency counsel and the attorneys for the state may make an oral presentation, each not to exceed 15 minutes collectively. Representatives of the victim's family may make oral statements not to exceed an additional five minutes collectively. The Governor may extend these time frames at his or her discretion.

I. Distribution and Filing of Orders

If a commutation of a death sentence is ordered by the Governor with the approval of at least two members of the Clemency Board, the original order shall be filed with the custodian of state records, and a copy of the order shall be sent to the inmate, the attorneys representing the state, the inmate's clemency counsel, a representative of the victim's family, the Secretary of the Department of Corrections, and the chief judge of the circuit where the inmate was sentenced. The Office of the Attorney General, Bureau of Advocacy and Grants shall inform the victim's family within 24 hours of such action by the Clemency Board.

16. <u>Confidentiality of Records and Documents</u>

Due to the nature of the information presented to the Clemency Board, all records and documents generated and gathered in the clemency process as set forth in the Rules of Executive Clemency are confidential and shall not be made available for inspection to any person except members of the Clemency Board and their staff. Only the Governor, and no other member of the Clemency Board, nor any other state entity that may be in the possession of Clemency Board

materials, has the discretion to allow such records and documents to be inspected or copied. Access to such materials, as approved by the Governor, does not constitute a waiver of confidentiality.

17. Cases Proposed by the Governor or Members of the Clemency Board

In cases of exceptional merit, any member of the Clemency Board may place a case on an upcoming agenda for consideration.

18. Collection of Statistics and Evaluation of Clemency Action

The Office of Executive Clemency, in conjunction with the Florida Parole Commission and Department of Corrections, shall collect and submit to the Clemency Board an annual written report providing statistics and evaluations regarding the status of those individuals whose rights were restored during the previous two calendar years. The first report shall be filed on July 1, 2011.

19. Effective Dates

History. - Adopted September 10, 1975, Rule 6 (formerly Rule 9) effective November 1, 1975; Rule 7 adopted December 8, 1976; Rule 6 amended December 8, 1976, effective July 1, 1977; revised September 14, 1977; Rule 12 amended October 7, 1981; revised December 12, 1984; amended January 8, 1985; amended July 2, 1985; Rule 12 amended September 18, 1986; Rules amended December 18, 1991, effective January 1, 1992; Rule 10 and Rule 15 amended June 22, 1992; Rules amended December 29, 1994, effective January 1, 1995. Rules amended January 7, 1997, effective January 15, 1997; Rule 4 and Rule 9 revised October 28, 1999, effective January 1, 2000; Rules revised June 14, 2001, effective June 14, 2001; Rules revised March 27, 2003; effective March 27, 2003; Rules revised June 20, 2003; effective June 20, 2003; Rules revised December 9, 2004; effective December 9, 2004; Rules revised April 5, 2007, effective April 5, 2007; Rules revised March 9, 2011, effective March 9, 2011.