

1975 WL 29051 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 4, 1975

\*1 Mr. J. P. Pratt, II  
Deputy Director  
South Carolina Probation  
Parole and Pardon Board  
Post Office Box 11368  
Capitol Station  
Columbia, South Carolina 29211

Dear Mr. Pratt:

Your letter of July 15, 1975, encloses proposed policy procedures which are being considered by your Board and which set certain criteria to determine eligibility for pardon consideration.

The proposed policy would establish eligibility of individuals for consideration for the granting of pardon in accordance with their probationary status, discharge from service of sentence, parole status, and subsequent consideration after previous rejection; all circumstances dictating the elapse of varying time periods before consideration for pardon will be given.

Article IV, Section 11 of the Constitution of South Carolina vests the granting of all clemency, except reprieves and commutations of a death sentence, 'absolutely in a Probation, Parole and Pardon Board—.' The statutes of the State (Section 55-643, Code of Laws, 1962) do not touch upon the matter. While the constitutional provision grants the General Assembly certain authority with respect to the staff for the Board and defining the duties and powers of the Board not in conflict with the absolute power of pardon vested in the Board, it is clear, in my opinion, that policies of this nature must be established by the Board itself if they are to be established at all. The power granted to the Board with respect to pardons is not subject to restriction but rests in the Board's judgment alone.

It is my opinion that the proposed policy submitted by you in your letter of July 15, 1975, is in accordance with the constitutional power vested exclusively in the Probation, Parole and Pardon Board and may therefore be adopted by it.

Very truly yours,

Daniel R. McLeod  
Attorney General

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