



COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS

County of San Diego

2011 MAR 4 PM 3 48

THOMAS J. SZKA
CLERK OF THE BOARD
OF SUPERVISORS

BOARD OF SUPERVISORS

1600 PACIFIC HIGHWAY, ROOM 335, SAN DIEGO, CALIFORNIA 92101-2470

DATE: March 15, 2011

TO: Board of Supervisors

**SUBJECT: SUPPORT STATE LEGISLATION TO MODIFY GOVERNOR'S
COMMUTATION POWER (DISTRICT: ALL)**

Overview:

Esteban Nunez, the son of former State Assembly Speaker Fabian Nunez, pled guilty to voluntary manslaughter and assault with a deadly weapon on June 25, 2010, in relation to the stabbing death of 22-year-old Luis Santos in a fight near San Diego State University. This plea was an agreement between all the parties. A veteran San Diego Superior Court Judge heard all the evidence, accepted the plea and rendered what he considered appropriate punishment based on the violent nature of the crime. The judge sentenced Esteban Nunez to 16 years in prison for the murder.

On January 2, 2011, his last day in office, Governor Arnold Schwarzenegger used his executive power to commute the sentence of Esteban Nunez from 16 years to seven years. However, the commutation document provided by the Governor's office was actually dated December 31, 2010. Due to ambiguities in the current statutes, it is not clear whether, prior to the granting of Nunez's commutation of sentence, the Governor was required to notice the District Attorney of jurisdiction. He was not required to notice the victim's family. We want to be very clear that this legislation is not, in any way, attacking the Governor's authority to grant pardons, reprieves or commutations.

Assembly Bill 648 would modify the notification requirements and create greater transparency in such cases. Authored by Assemblymen Marty Block and Nathan Fletcher and sponsored by the San Diego Office of the District Attorney, this legislation would provide the District Attorney of jurisdiction 30 days to respond to the Governor's intended commutation. In addition, the bill would also require the District Attorney to notify the victim's family to allow them to respond. Prosecutors, victims and their families would have the opportunity to submit written recommendations to the governor in favor of or against proposed pardons or commutations.

AB 648 also contains a provision that requires the Governor to submit a written report to the Legislature, including the original application, which would remain accessible to the public. In the Nunez case the application has been sealed, thereby denying the public and the Office of

the District Attorney a process to verify the veracity of the statements made by the applicant under perjury of law.

AB 648 calls for substantive changes to the commutation process and gives voice to affected parties. We urge your support of this legislation.

Recommendation(s)

SUPERVISOR PAM SLATER-PRICE AND DISTRICT ATTORNEY BONNIE DUMANIS:

1. Direct the Chief Administrative Officer to draft a letter for signature by the Chairman to members of the San Diego delegation in Sacramento and the Governor of California in support of AB 648.
2. Direct the Chief Administrative Officer, with the assistance of our Sacramento lobbyist, to urge the California State Legislature to expedite passage of AB 648.
3. Direct the Chief Administrative Officer to include in the County's Legislative Program support for legislation and legislative efforts to improve notification and transparency within the application process for the exercise of the governor's commutation power.

Fiscal Impact:

There is no fiscal impact associated with these recommendations.

Background:

The State of California constitution provides the governor with the executive authority to grant clemency through pardons, reprieves, and commutations of sentences for any and all persons imprisoned in state prison. Clemency allows the governor to show leniency toward criminals, and usually erases a criminal record, restores civil rights, or makes a punishment less severe.

In the case of Esteban Nunez, Governor Arnold Schwarzenegger reduced by more than half a 16-year sentence imposed by a San Diego Superior Court judge. Calling the sentence "excessive", Governor Schwarzenegger used his executive power to commute the sentence down to seven years.

AB 648 would make important revisions to the application process for clemency requests.

For any governor to consider clemency, an application by the prisoner would have to be submitted along with verification that the district attorney's office where the conviction occurred has received notice of the application. The district attorney would then be required to notify the victim and victim's family. Each would then have an opportunity to provide a recommendation for or against clemency.

As it stands now, when an applicant is seeking a commutation of sentence the law does not require or even recommend the governor solicit input from the victim, the victim's family, or the district attorney.

AB 648 would make certain that the governor has access to all of the relevant information necessary to make a decision by ensuring notice to the appropriate parties of the application for clemency. It would enable the district attorney to provide a recommendation for or against a pardon or sentence commutation. In addition, the victim and the victim's family would be able to state their case to the governor, as AB 648 would require the district attorney to notify the victims and their families so they could submit a recommendation about the pardon or commutation request.

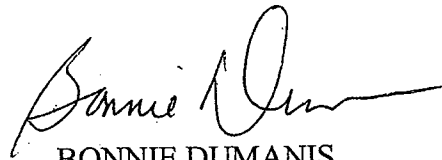
AB 648 would also bring transparency to the clemency process. This legislation would require written reports from the governor along with the applications for pardon or commutation remain available for public review.

All parties involved should be heard prior to such an important decision. AB 648 would improve transparency in government, communication, and notification efforts for victims and their families.

Respectfully submitted,



PAM SLATER-PRICE
Supervisor
Third District



BONNIE DUMANIS
District Attorney
San Diego County

BOARD OF SUPERVISORS
AGENDA ITEM
INFORMATION SHEET

**SUBJECT: SUPPORT STATE LEGISLATION TO MODIFY GOVERNOR'S
COMMUTATION POWER (DISTRICT: ALL)**

SUPV. DIST.: Three

COUNTY COUNSEL APPROVAL: Form and Legality () Yes (X) N/A
() Standard Form () Ordinance (X) Resolution
Review Board Letter Only: [] Yes [] No

CHIEF FINANCIAL OFFICER REVIEW: () Yes (X) No
4 VOTES: () Yes (X) No

DEPARTMENT OF HUMAN RESOURCES [] Yes [X] No

CONTRACT REVIEW PANEL: () Approved (X) N/A

PREVIOUS RELEVANT BOARD ACTION: N/A

BOARD POLICIES APPLICABLE: N/A

CITIZEN COMMITTEE STATEMENT: N/A

CONCURRENCES: N/A

ORIGINATING DEPARTMENTS: District Three

CONTACT PERSON(S): Mark Olson 531-5533 MS A500
Gail Stewart 531-3790 MS D421

DEPARTMENT AUTHORIZED REPRESENTATIVE

MEETING DATE