

# THE DUAL PATHWAYS

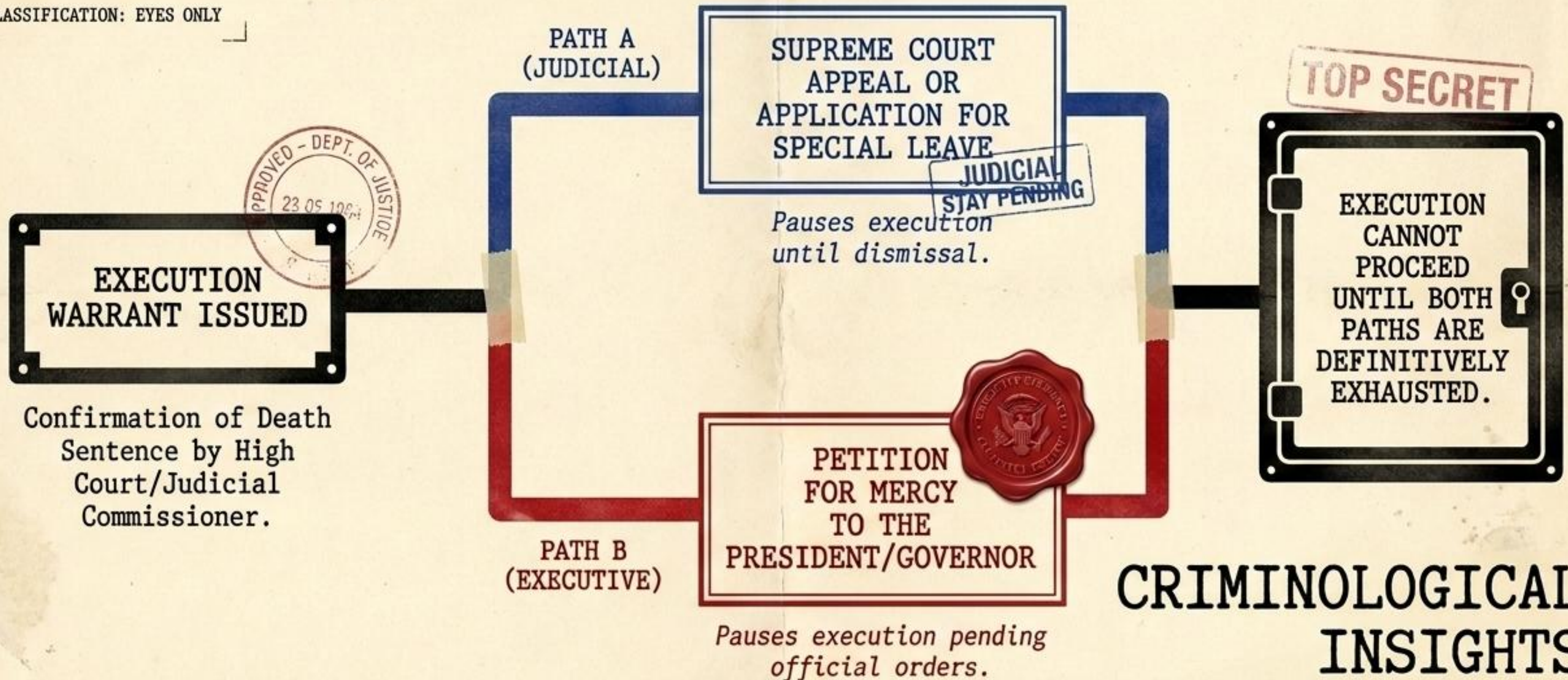
CLASSIFIED ARCHIVAL PROCEDURAL MANUAL // PAGE 1 // REV. 1964 // DO NOT DUPLICATE

DOC. REF: DP-64-001A

CLASSIFICATION: EYES ONLY

DOC. REF: DP-64-001A

CLASSIFICATION: EYES ONLY



## CRIMINOLOGICAL INSIGHTS

BY DR. MRIDUL SRIVASTAVA

**CLASSIFIED**

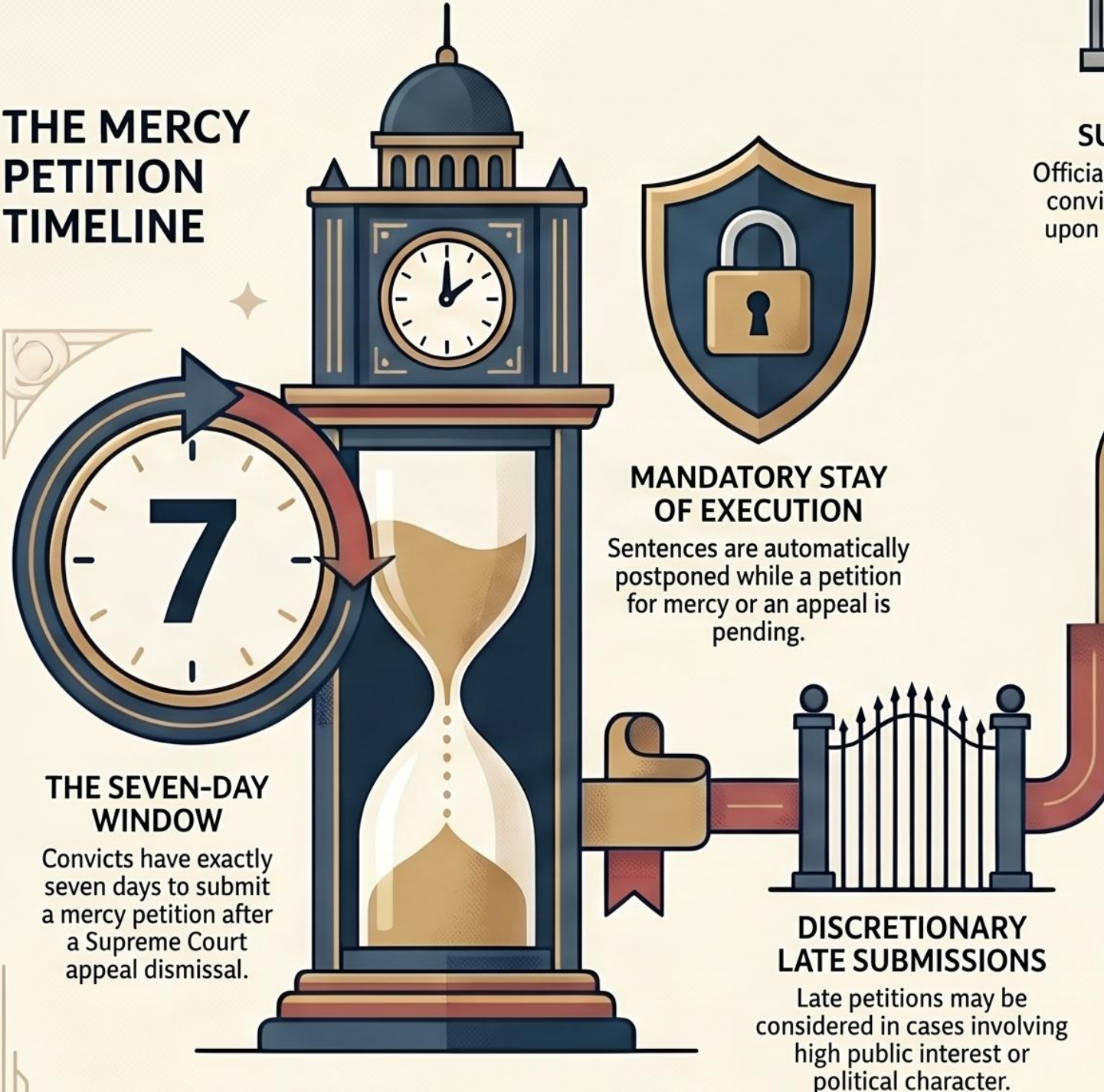
# **Anatomy of a Stay: Procedures for Capital Petitions and Appeals**

---

A procedural mapping of Supreme Court appeals, mercy petitions, and the duties of Jail Superintendents.

# LEGAL PROCEDURES FOR DEATH ROW PETITIONS AND APPEALS

## THE MERCY PETITION TIMELINE



## PROCEDURAL WORKFLOW



**DUTY OF JAIL SUPERINTENDENTS**  
Officials must immediately inform convicts of their right to appeal upon receiving a death warrant.



**STATE GOVERNMENTS**



**MINISTRY OF HOME AFFAIRS**

**HIERARCHICAL SUBMISSION**  
Petitions must first be sent to State Governments before escalating to the Ministry of Home Affairs.

## ADDRESSING THE AUTHORITIES



**GOVERNOR**  
(Part A States)



**RAJPRAMUKH**  
(Part B States)

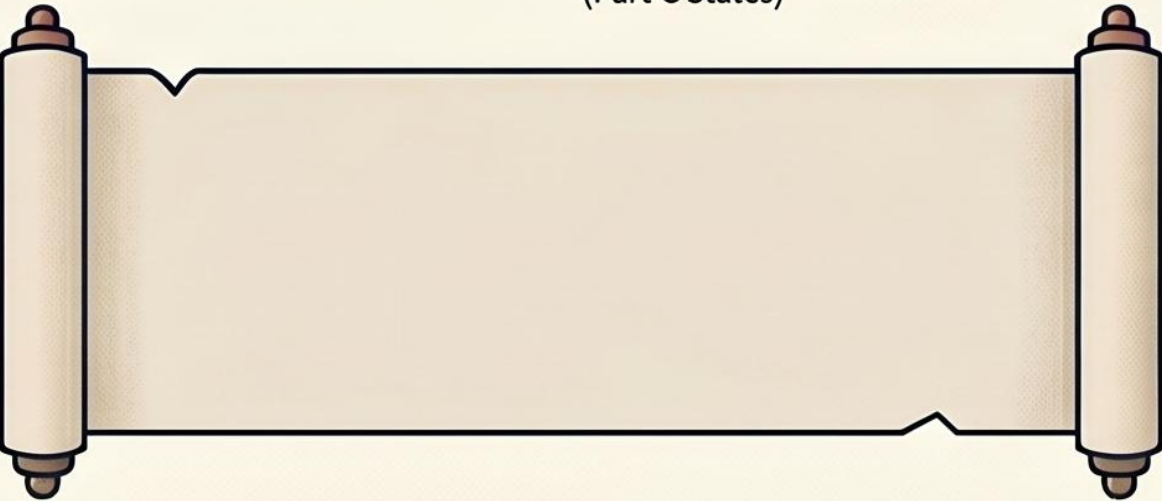


**CHIEF COMMISSIONER**  
(Part C States)



**PRESIDENT OF INDIA**  
(Central Authority)

Depending on the State type, petitions are addressed to the Governor, Rajpramukh, or President.



DATELINE: 23-05-1964  
SECTION: SUPREME COURT APPEALS  
CLASSIFICATION: EYES ONLY

CLASSIFIED ARCHIVAL PROCEDURAL MANUAL // PAGE 2 // REV. 1964 // DO NOT DUPLICATE

DOC. REF: DP-64-002B  
CLASSIFICATION: EYES ONLY



JAIL SUPERINTENDENT



T-ZERO

RECEIPT OF WARRANT OF EXECUTION

Confirmation of Death Sentence by High Court/Judicial Commissioner.

**ACTION 1:**  
Superintendent MUST inform the convict of their right to appeal to the Supreme Court under the Constitution

JUDICIAL STAY PENDING

**ACTION 2:**  
Superintendent informs convict of the prescribed period under Supreme Court Rules, 1950.

JUDICIAL STAY PENDING

**CRUCIAL RULE:**  
If a sentence is passed on multiple persons in the same case, and only one person appeals to a higher court, the execution is postponed for ALL persons involved.

10070  
BATA DESICR DTTCOO  
SECURITY BIT 3.09  
DO- 00-CP 2075 500  
10' 03 30  
CARTY 53  
0/41722

# SUPREME COURT INTIMATION PROTOCOL

JUDICIAL STAY PENDING  
TOP SECRET

## Opposing the Appeal Protocol

- Three copies of the Paper Book & High Court Judgment (one certified)
- Power of Attorney in SC-prescribed form
- Formal instructions

State  
Government /  
Chief  
Commissioner

Required Data:  
Name of convict and  
particulars of appeal.

Transmission Method:  
Telegram

Solicitor to the  
Government of India  
(Ministry of Law)

Transmission Method:  
Telegram

Secretary to  
Government of India  
(Ministry of Home  
Affairs)

JUDICIAL STAY  
PENDING  
TOP SECRET

CARBON COPY

# CALCULATING THE 7-DAY WINDOW

DATELINE: 25-05-1964  
SECTION: MERCY PETITION PROCEDURES

DO NOT DUPLICATE

**Scenario A  
(SC Appeal  
Lodged)**

TOP SECRET

Clock begins on the date after the Superintendent informs the convict that the SC has dismissed their appeal.

**Scenario B  
(No SC Appeal  
Lodged)**

JUDICIAL STAY  
PENDING

Clock begins on the date after the legal period allowed for lodging an SC appeal expires.



**The 7-Day  
Mercy Window**

## Superintendent Duty

On expiry of SC appeal time, if no mercy petition exists, the Superintendent **MUST** proactively inform the convict they have 7 days to submit one in writing.

DO NOT DUPLICATE

**TOP SECRET**

DATELINE: 25-05-1964  
SECTION: MERCY PETITION PROCEDURES

# ADDRESSING THE MERCY PETITION (WITHIN THE 7-DAY WINDOW) ←

PART A STATES	PART B STATES	PART C STATES
<p>Addressed to the Governor of the State AND the President of India.</p>	<p>Addressed to the Rajpramukh AND the President of India.</p>	<p>Addressed solely to the President of India.</p>

**MANDATORY**

Universal Rule: The execution of sentence shall in all cases be postponed pending receipt receipt of their orders.

DO NOT DUPLICATE

# MERCY PETITION: CHAIN OF COMMAND & SAFEGUARDS

DATELINE: 25-05-1964

SECTION: MERCY PETITION PROCEDURES

TOP SECRET

## Step 3: Ministry of Home Affairs

If rejected at State level, it MUST be forwarded to Secy to Govt of India, MHA (with reasons for previous rejections included).

## Step 2: State Government

Considers the petition.

## Step I: Jail Superintendent

Dispatches petition to State Secy / Chief Comm with a cover letter certifying execution is stayed.

## The 15-Day Safeguard

If the Superintendent receives NO REPLY within 15 days of dispatch, they must telegraph the State Govt/Chief Comm to draw attention to the fact, but SHALL NOT carry out the execution before receiving a reply.

**MANDATORY**

DO NOT DUPLICATE

**TOP SECRET**

DATELINE: 25-05-1964  
SECTION: MERCY PETITION PROCEDURES

# THE LATE PETITION LOGIC GATE

OFFICIAL GOVERNMENT  
(Persecutionist Attorney)  
APPROVED  
DATE: \_\_\_\_\_  
APPROVED  
OFFICIAL GOVERNMENT  
APPROVED  
DATE: \_\_\_\_\_  
SECTION: APPROVED

Petition submitted AFTER 7 days.

**Default Status: Discretionary**  
State Govt/Chief Comm decides whether to consider, postpone execution, or withhold.

**OVERRIDE: Mandatory Forward to MHA**  
Discretion is removed, and execution MUST be postponed, IF either of the following conditions are met:

1. Death sentence was passed by an appellate court reversing an acquittal or enhancing a sentence.

2. Circumstances involve a "political character" or arouse "considerable public interest".

GOVERNMENT  
(Persecutionist Attorney)  
APPROVED  
APPROVED

OFFICIAL GOVERNMENT  
(Persecutionist Attorney)  
APPROVED  
APPROVED

DO NOT DUPLICATE



## THE 11TH HOUR PROTOCOL

- **Trigger:** Late petition received later than noon on the day preceding the fixed execution date.
- **Action:** Superintendent must forward it at once, telegraph the substance.
- **Mandate:** State that the sentence WILL NOT be carried out unless contrary orders are received.



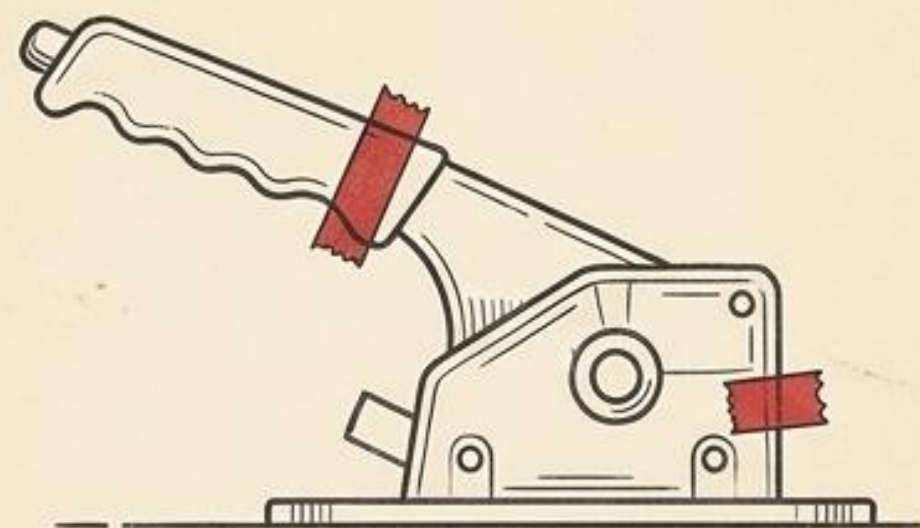
CLASSIFICATION: EYES ONLY

DO NOT DUPLICATE

TOP SECRET

DATELINE: 25-05-1964

SECTION: MERCY PETITION PROCEDURES



## EXCEPTIONAL CIRCUMSTANCES

- **Trigger:** Superintendent learns of "altogether exceptional circumstances" demanding reconsideration at any time before execution.
- **Action:** Superintendent is "at liberty" to report by telegraph to the State Govt/Chief Comm.
- **Mandate:** Defer execution until explicit orders are received.



DOC. REF: DP-64-005D



## EXCLUSIVE UNION POWER

Petitions regarding offences exclusively relatable to Union executive power bypass State Govt and go forthwith to MHA.

APPROVED FOR BYPASS



## DUPLICATE PETITIONS

Petitions shall be withheld if a similar prayer has already been submitted to the President.

Petitioner must be informed of withholding

PETITIONER INFORMED



## THIRD-PARTY PETITIONS

Petitions submitted on behalf of a convict are dealt with mutatis mutandis (in the same manner).

First signatory and the convict must both be informed

ACTION REQUIRED:  
INFORM CONVICT & SIGNATORY

# TRANSMISSION OF ORDERS

	Outcome: Rejection	Outcome: Commutation
All Govt. of Assam Cases	Telegram <b>TELEGRAM</b> (Acknowledged by Telegram)	Telegram <b>TELEGRAM</b> (Acknowledged by Telegram)
Other States	Express Letter <b>EXPRESS LETTER</b> (Acknowledged by Express Letter)	Telegram <b>TELEGRAM</b> (Acknowledged by Express Letter or Telegram)

Delhi Exception: Commutations communicated by Express Letter.

**Superintendent Rule:** Must repeat back all telegrams communicating orders by way of acknowledgment.

DECLARATION  
APPROVED

# CLEARING THE STAY OF EXECUTION

Execution of the sentence SHALL NOT be carried out until both of the following conditions are met:

## Lock 1 (Judicial):

Receipt of the certified copy of the judgment of the Supreme Court dismissing the appeal (supplied by the Solicitor).



## Lock 2 (Executive):

An intimation received from the Ministry of Home Affairs confirming the rejection by the President of India of the petition for mercy (if submitted).



**DUAL CLEARANCE REQUIRED**



CLASSIFICATION  
APPROVED



## Master Synthesis: The Superintendent Duty Roster

<input type="checkbox"/>	<b>Phase 1: Notification</b> Ensure convict is informed of SC rights and the strict 7-day Mercy window.
<input type="checkbox"/>	<b>Phase 2: Transmission</b> Forward petitions immediately; certify execution is stayed.
<input type="checkbox"/>	<b>Phase 3: The 15-Day Check</b> Telegraph state authorities if no reply is received within 15 days of dispatch.
<input type="checkbox"/>	<b>Phase 4: Acknowledgment</b> Repeat back all official telegrams received regarding mercy orders.
<input type="checkbox"/>	<b>Phase 5: Emergency Protocols</b> Enact halts for petitions received past noon on the eve of execution, or for "altogether exceptional circumstances."
<input type="checkbox"/>	<b>Phase 6: Final Clearance</b> Demand both SC certified copies and MHA mercy rejections before proceeding.