

Embracing Clemency

How governors can liberate thousands of people from state prisons.

The
Redemption
Campaign





The Redemption Campaign – Embracing Clemency is a nationwide effort to **liberate 50,000 people** from state prisons by executing state-level campaigns that push governors to use their existing clemency powers in new and transformational ways, forcefully confronting mass incarceration and racial injustice by granting categorical commutations to release large groups of people who are unjustifiably imprisoned.

There are four categories of people for whom we will initially demand release by categorical commutation:

1. people who, were they convicted under current laws, would serve a lesser sentence than what they are serving;
2. people convicted of drug distribution and possession offenses, regardless of underlying substance;
3. people incarcerated for technical probation or parole violations; and
4. older incarcerated people.

The Power of Clemency

Throughout U.S. history, presidents and governors have had the power of clemency – the power to begin redressing the harm the criminal legal system has caused in a person’s life. Clemency can come in the

form of a pardon, which legally undoes a criminal conviction, or in the form of a commutation, which reduces or ends someone’s incarceration. In each form, the core legal and moral concepts underpinning clemency remain the same: **Chief executives have the power to correct systemic injustices and end imprisonment that is unjust or no longer necessary.**



“What does clemency really mean? For me it meant my freedom. It meant I would not die in prison. Clemency is a gift that is as close to divine intervention as one could get on this earth.

“But I have learned the granting of clemency says more about the individual who has this extraordinary power and uses it than those who receive it. For it is the rare individual who exercises this power to save a person from prison rather than allowing him or her to perish in prison.”

— **Jason Hernandez**
President Obama clemency recipient;
Author, “Get Clemency Now”;
Founder, Crack Open the Door



“The road to redeeming our criminal legal system is long. The system is rotted by racism and a casual willingness to separate families and throw away human beings. And because the system values finality over humanity, it

seems that there are dead ends everywhere preventing mistakes from being corrected — preventing people from living free.

“Clemency is a way around those dead ends. Through exercising their powers of clemency, governors can mitigate the harm our system has caused and make progress towards building a system that reflects our best values instead of our basest instincts.”

— **Emma Andersson**
Senior Staff Attorney, ACLU Criminal Law Reform Project

There are other ways to reduce incarcerated populations, such as changing policies through legislation and ballot initiatives, or advocating for police and prosecutors to more humanely wield their discretion. However, these approaches can take many

years to bring about change and, even if enacted, often do not apply to people who are currently in prison. But in many states, governors can use their executive clemency authority to immediately help imprisoned people. Governors can grant commutations as an act of compassion or mercy and free people from state prisons.

The Redemption Campaign is the ACLU’s nationwide effort to push governors to do just that.

Governors’ Power and Responsibility

The United States continues to have an unjust, unnecessary, and self-inflicted mass incarceration epidemic. There are 2.3 million people incarcerated in the U.S., **1.3 million of whom are incarcerated in state prisons**. Hundreds of thousands of people are trapped by extraordinarily long and punitive sentences that were never warranted in the first place.

The criminal laws that fuel this crisis were all the product of a governor’s signature. A stroke of a pen brought legislation to life and put it into practice. Governors can use that same authority to remedy the crisis. Some governors have the power to unilaterally commute people’s sentences. Where they do not have that power, governors can still call for the initiation



“Across the country, people are rising up to demand change. They are calling for an end to the systemic racism that has defined so much of the American experience, particularly in the criminal legal system.

“There are 1.3 million people trapped in state prisons, most of whom are Black and Brown and all of whom are being denied real opportunity for hope, healing, and redemption. Governors across the country could — and must — bring an end to this, and many of them have the power to do that unilaterally through the power of clemency.

“That is why we are launching the Redemption Campaign. We will push governors to use their executive powers in impactful and transformative ways to forcefully confront mass incarceration and racial inequity. It is long past time for governors on both sides of the aisle to join us in the long march toward justice.”

— **Anthony Romero**
Executive Director, ACLU

of a mass clemency process. **That the power to immediately release or initiate the release of thousands of people rests in the hands of a single actor makes it all the more important, because justice cannot wait.**

Still, individual commutations are not enough to tackle the enormity of this challenge. We must transform the concept of clemency from a case-by-case extension of individual mercy into an essential systemic response to decades of racist, punitive, and degrading incarceration. For most people in state prisons, a governor's grant of clemency — acknowledging their right to redemption — is the only chance they have of timely release and a pathway to healing.



“Twenty years of working in the criminal legal system taught me many lessons, chief among which was the fact that people are not disposable despite how our system too often views them — particularly Black people. Rather than

building people up, the system breaks people down — from the arrest, through the trial, conviction, sentencing, and incarceration and re-entry.

“Redemption, through clemency, is an essential part of building people back up and restoring to them the grace that we all want for ourselves. Clemency also offers hope for all of us, whether incarcerated or not. It reminds us that people are seen and that the system's brutal excesses can be curtailed.

“When we redeem one of us, we redeem all of us. That's why this campaign and this work matter so much.”

— **Cynthia W. Roseberry**

*Project Manager, Clemency Project 2014;
Deputy Director of Policy, ACLU Justice
Division*

Racial and Economic Justice

Millions of people across the country are calling for an end to the systemic racism that has defined so much of the American experience, particularly in the criminal legal system. Black and Latinx people make up 57 percent of state prison populations despite comprising just 29 percent of the overall population. A Black person has a one in three chance of ending up in prison at some point in their lifetime. In fact, Black people are imprisoned at 5.9 times the rate of white people; for Latinx people, it's 3.1 times the rate of imprisonment.

This is a result of decades of punitive policies that deliberately targeted Black and Brown people. Clemency is an opportunity to reexamine those cases and free people who should not be imprisoned. Correcting these prior injustices by liberating people who have spent years or even decades in prison is a critical step we can take toward racial justice and healing.

There is also growing recognition that we must divest from systems of punishment and invest that money into the communities most harmed by those systems. States spend \$43 billion every year on their prisons. Prison population reductions achieved through mass clemency would allow states to shut down facilities, save millions of dollars, and then direct those dollars into community-based, community-led services.

The Path Forward

Mass clemency is a common sense approach that is overwhelmingly popular among governors' constituents. Polling by Bully Pulpit Interactive shows that 80 percent of voters — 86 percent of Democrats, 81 percent of Independents, and 73 percent of Republicans — support reducing prison populations, undoing prior injustices, and offering incarcerated people a path toward redemption with clemency. Also, **62 percent of voters recognize that reducing prison populations would strengthen communities by reuniting families and saving taxpayer dollars that can be reinvested into the community.**

Looking at the categories of people for whom we will initially demand release: 84 percent of Americans support clemency for people who, were they convicted today, would serve a lesser sentence than what they are serving; 66 percent support clemency for people convicted of a drug offense; 68 percent support clemency for people imprisoned for supervision violations; and 72 percent support clemency for older incarcerated people.

Moreover, our initial goal of freeing 50,000 people is readily achievable and relatively modest. Of the 1.3 million people in state prisons: 165,000 are over the age of 55 and that number is growing; 191,000 are there for drug-related convictions; and 280,00 people are imprisoned for probation or parole violations. It is clear from any metric that **far too many people are being harmed by the brutal excesses of the criminal legal system — serving sentences that serve no purpose other than to punish and degrade.** Our work to free people from state prisons is as urgent as it is possible.

The Road to Redemption

Across the country, dozens of advocacy organizations have been fighting for decarceration and calling for the safe release of people from jails and prisons. The Redemption Campaign aims to join and fuel this national movement, offering another tool and another path toward significant, permanent decarceration with a focus on the people often excluded from proactive legislative or reform efforts.

We are committed to leaving no one behind in this work. We also recognize that a commutation does not, in and of itself, erase the burdens or obstacles that people face after being released from prison. Through allyship with partners and directly impacted leaders committed to dismantling systemic barriers, we aim to replace the architecture of mass punishment with a roadmap to redemption.

Our mission is to redeem lives, redeem the ideal of “justice” in a system currently unworthy of that name, and offer communities a path toward redemption by



“It is impossible for us to say who and where we will be as people years down the road. That especially applies to people who commit crimes out of impulse, circumstance, and poor judgment. To seal someone’s fate without leaving an avenue to

reconsider their punishment, in light of rehabilitation efforts and an evolved understanding of the circumstances surrounding their offense, is not only reckless, but it reeks of inhumanity.

“The executive power of clemency was created to stand in that gap. But if clemency is seldom used, or only used when politically convenient, then what hope do people really have when it comes to justice?”

— **Cyntoia Brown Long**

Author, “Free Cyntoia: My Search for Redemption in the American Prison System”; President and Co-Founder, The Justice, Freedom, and Mercy Foundation

ending the generational, intolerable disregard for Black and Brown lives, bodies, health, and opportunities. Even while we commit the full force of the ACLU to this work, we cannot do this alone.

We need you to join us in this fight. **Visit [ACLU.org/clemency](https://www.aclu.org/clemency) to take action.** Add your voice to the chorus of people demanding justice, and together will achieve our goal: the liberation, through categorical commutation, of 50,000 people in the next five years.