

# EXECUTIVE INACTION

*States and the federal government  
fail to use commutations as  
a release mechanism*

## About the authors

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## About the Prison Policy Initiative

The non-profit, non-partisan Prison Policy Initiative was founded in 2001 to expose the broader harm of mass criminalization and spark advocacy campaigns to create a more just society. The organization is known for its [visual breakdown of mass incarceration](#) in the U.S., as well as its data-rich analyses of how [U.S. states vary](#) in their use of punishment. Alongside reports like these, the organization leads the nation’s fight to keep the prison system from exerting undue influence on the political process (a.k.a. [prison gerrymandering](#)) and plays a leading role in protecting the families of incarcerated people from the predatory prison and jail [telephone industry](#) and the [video calling industry](#).

## Acknowledgements

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## Introduction

On April 26, 2022, President Joe Biden used his executive powers to [commute the federal sentences of 75 people](#)<sup>1</sup> — a first step toward addressing his [campaign promise](#) to release some individuals “facing unduly long sentences.” While this action is promising and will be life-altering for each of the 75 individuals, **it took nearly 100 days into his second year in office for Biden to act on his promise and grant clemency to a single person.** What’s more, many of the people receiving commutations are already released on home confinement due to the COVID-19 pandemic, and all were convicted of “nonviolent” drug offenses.

If Biden intends to truly deliver on his promises to enact large-scale criminal justice reform, this set of commutations should merely mark the beginning of a broader initiative. In fact, nothing is holding him back: the President has the power to grant commutations to large categories of people in federal prisons independently — without any action by Congress, the Department of Justice, or another third party. Despite this broad power, most U.S. presidents in the era of mass incarceration have been hesitant to use their powers of commutation.

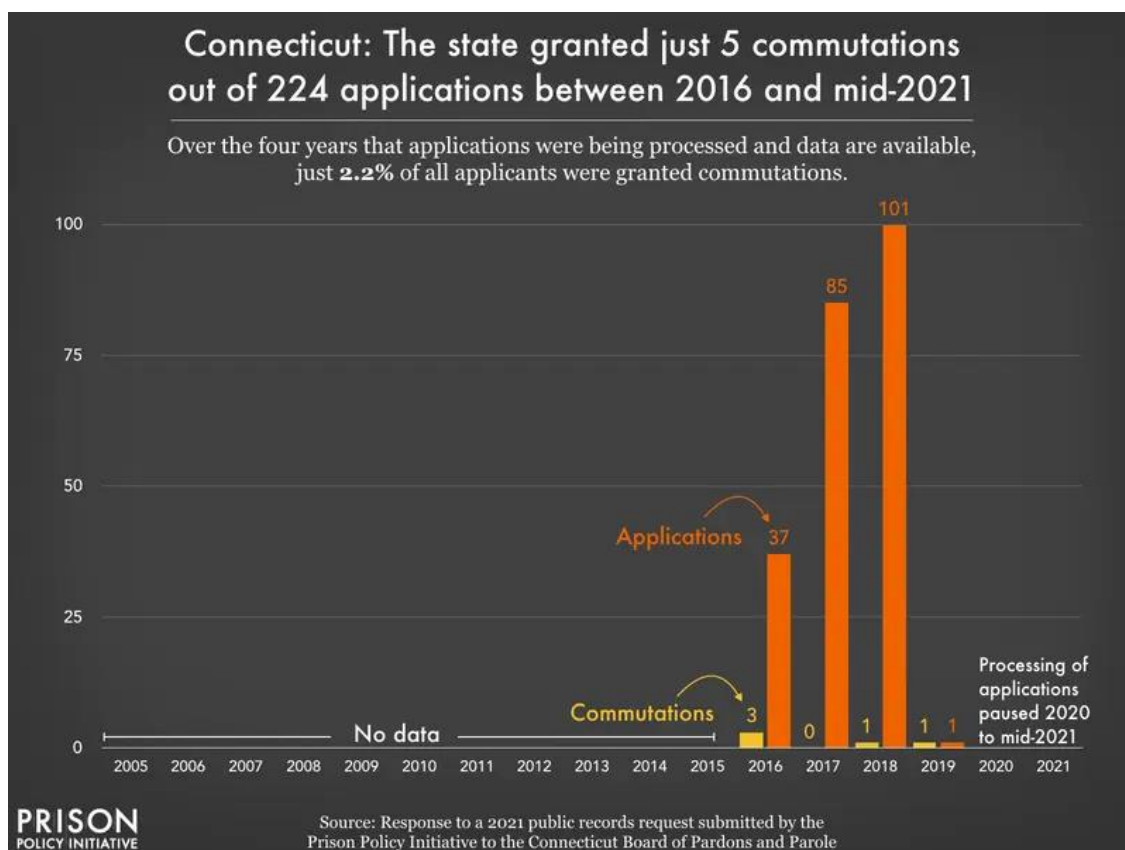
### ***What are commutations and how do they fit into the bigger picture?***

A **commutation** is granted by the executive branch of a state or the federal government to reduce a sentence, usually of a person who is currently incarcerated. Commutations are one of a number of executive actions that **fall under the broader umbrella of clemency.** (Another commonly discussed type of clemency is a **pardon**, which is a forgiveness of a sentence or release from penalties associated with an offense; while pardons are sometimes granted to incarcerated people, they are more generally used as a means of removing collateral consequences for formerly incarcerated people, such as bans on voting, serving on a jury, holding political office, or obtaining certain professional certifications.) For a glossary providing more details about the forms of clemency that may be available, see the “understanding the terminology” section below.

While many people incorrectly think of commutations as a get-out-of-jail free card (and many politicians consider them a political risk), that is far from the case. Commutations, as demonstrated by the results of our public record requests, are extremely rare and, when granted, often do not result in immediate release, may require the recommendation or approval of the parole board before someone is actually released, and may still result in a lengthy period of supervised release.

It is important to note that commutations are just one of many tools that states and the federal government can use to protect against [excessive sentences](#) — and, in fact, should function as a last resort or release valve when other parts of the system fail to deliver justice. Ideally, states should make changes to reduce incarceration on the front end: decriminalize behaviors related to [homelessness](#), [poverty](#), and [drug use](#); implement [robust diversion programs](#); and reform their [draconian sentencing policies](#). They should also operate functioning [parole systems](#) and ensure [sentencing reforms are applied retroactively](#) on the back end — all of which would reduce the need for commutations to correct injustices. Jurisdictions should also offer meaningful methods of shortening a sentence through the courts. However, since the federal and all state criminal legal systems are dysfunctional at nearly every level, understanding how, and with what frequency, commutations are used is important.<sup>2</sup>

In 2021, at the request of advocates working on clemency reform in the northeast, we submitted records requests to eight northeastern states<sup>3</sup> seeking information about their commutation processes. And as our survey of these eight states finds, state executive branches also chronically underuse their commutation powers.<sup>4</sup> **The states in our sample reported granting just 210 commutations from 2005 through mid-2021,<sup>5</sup> for a total average of 13 grants a year across the eight states.** For comparison, the average total prison population across these eight states from 2005 to 2020 was about 130,000<sup>6</sup> — meaning that **each year, this group of states commuted about one out of every 10,000 sentenced and imprisoned individuals.** In fact, five of the states each reported granting just five commutations or fewer over the 16.5 years for which we requested data.<sup>7</sup> And concerningly, almost no states in the sample increased their rate of commutations during the pandemic, at a time when reducing prison populations is critical to save lives.

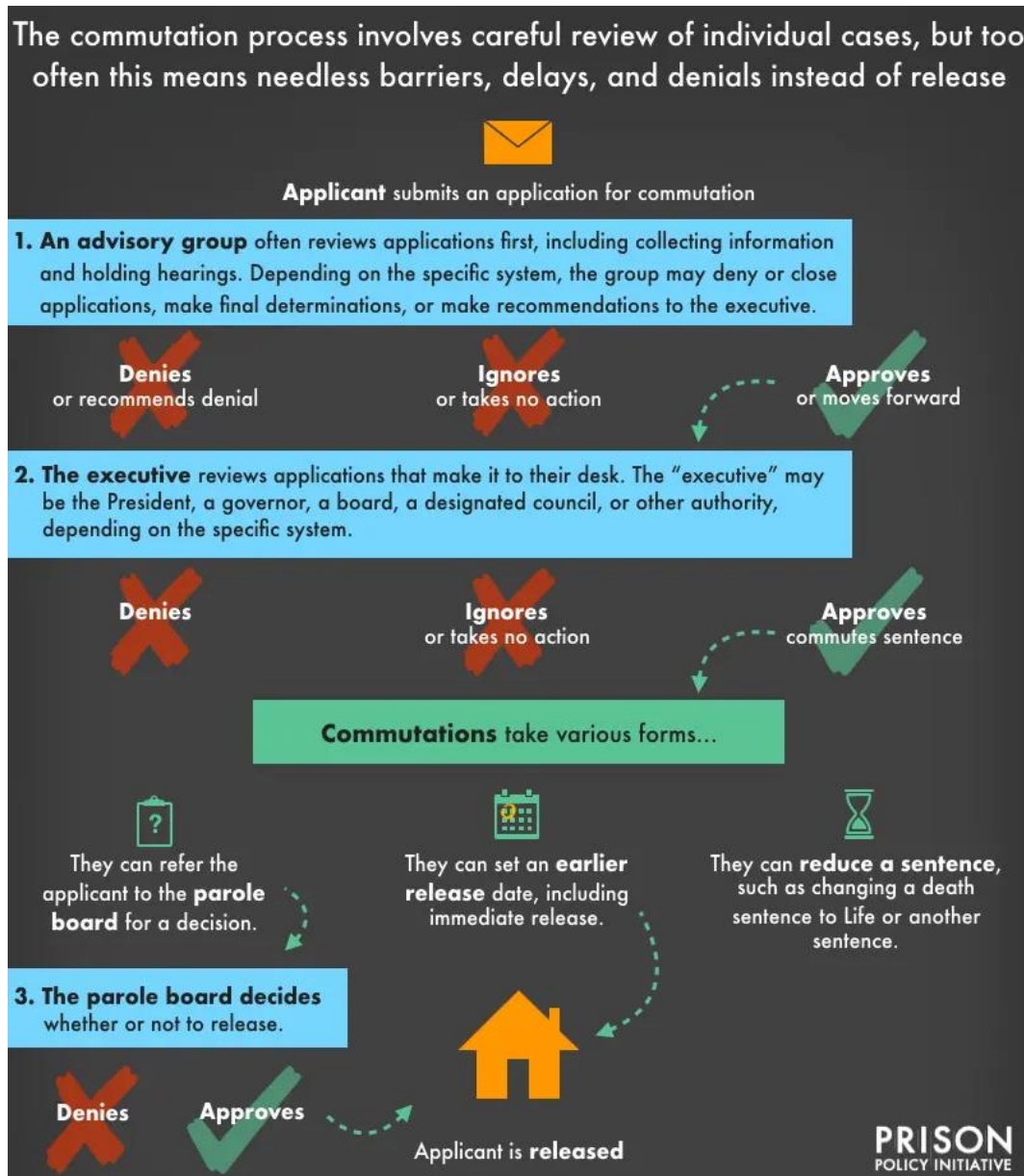


*Graphics for each of the eight states discussed in this report are provided in the individual state appendices below.*

In addition to granting few commutations, most of the states in our sample do not appear to maintain robust data on their commutation systems. Several states did not have access to commutation records for all the years we requested, and others implied in their responses that they do not keep this information in a centralized database, and had to review individual applications in order to fulfill our request.

This lack of transparency and inadequate data keeping makes it difficult or impossible for people who are incarcerated to know if they are even eligible for commutation,<sup>8</sup> how the process is

being administered, or the current status of their own applications.<sup>9</sup> It also prevents advocates from determining where commutation applications are being held up or thrown out, and identifying any characteristics – such as the race, age, sex, or type of offense a person was convicted for – shared by those who are granted (or denied) commutations.



*This conceptual flowchart does not represent any state or federal commutation process; rather, it shows a typical process in very general terms. The federal system is unique, and the specific processes by which commutation and other clemency decisions are made can vary significantly by state, but most involve several layers of review and decision-making, and only sometimes result in early release.*



## Biden should make regular and more continuous use of his commutation power

President Biden's recent announcement that he is commuting the sentences of 75 individuals<sup>10</sup> is promising, and marks a higher level of action than his recent predecessors had taken at this point in their presidencies. The President should continue to use the federal commutation power to reduce prison sentences for broader categories of people, and states should follow suit.

It is notable, however, that while the President has set a positive precedent by issuing commutations relatively early in his presidency, the impact of these specific commutations may be less than you would expect. None of the sentences commuted will expire immediately,<sup>11</sup> and many of the individuals who received commutations were already placed on home confinement during the COVID-19 pandemic. This means that the commutations will have little impact on the number of people held too long in federal prison, whose numbers have only risen during Biden's tenure in office.<sup>12</sup>

Further, these commutations were limited to "people who are serving long sentences for non-violent drug offenses."<sup>13</sup> This is certainly not unusual; executives and legislators often seek to avoid political risk by limiting relief to people who have been convicted of "non-violent" crimes. However, this creates carve-outs in the commutation process, reduces the potential impact commutations can have, and prevents them from being a real tool in the fight to end the injustices of mass incarceration.<sup>14</sup>

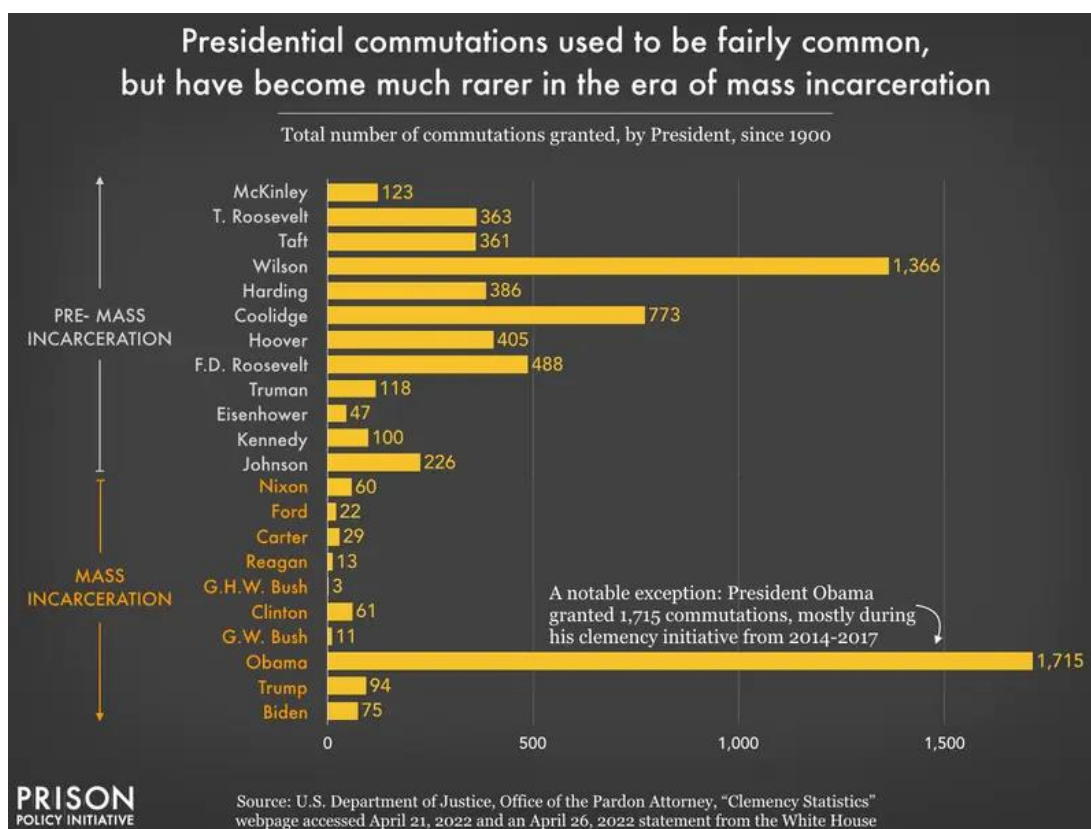
Looking past the commutations granted by President Biden and at the operation of the federal clemency process more generally — it is clear that changes to the status quo are necessary. First, there is far too great a backlog in federal clemency applications. Data released on April 1, 2022 showed that approximately 18,270 applications<sup>15</sup> for federal clemency are pending, nearly 15,000 of which are for a commutation of sentence. And, until April 2022, all of the 2,415 applications for clemency that had been acted on since the President took office in January 2021, had been administratively closed.<sup>16</sup> This means that Biden had taken no action to either grant or deny clemency applications.

Second, in recent decades, and especially since the onset of the era of mass incarceration, relatively few federal applications for clemency have been granted. This is partially due to a complex bureaucratic system: Federal clemency applications are routed through the Office of the Pardon Attorney in the Department of Justice (DOJ), then to the deputy attorney general, then to the White House counsel, and finally to the President. There have been calls to change this system for quite some time, including to remove the inherent conflict of interest that exists with the DOJ, which is tasked with reviewing applications for clemency, being the agency that led the original prosecutions. Advocates also note that the current review structure "includes redundant levels of scrutiny by Department of Justice staff who can unilaterally prevent a clemency application from reaching the President."

To address these problems, Rep. Ayanna Pressley (D-Mass.) has introduced the Fair and Independent Experts in Clemency (FIX Clemency) Act, H.R. 6234, which would shift the body tasked with reviewing federal clemency applications from the DOJ to a new, independent

clemency board that would send recommendations directly to the President and provide greater transparency into the federal clemency process.

However, it is important to note that, regardless of how the clemency process is structured, there are no obstacles to prevent the President from acting unilaterally: The President has the authority to independently grant commutations and other forms of clemency without receiving a recommendation. At the end of the day, the use of federal commutation powers — or lack thereof — is entirely in the hands of the Chief Executive.



*While the Obama Administration granted significantly more commutations than other administrations that have operated during the era of mass incarceration, it was still only a tiny portion of the number of people released from the federal prison system during Obama's eight years in office. (When one takes the total number of commutations granted by the Obama Administration and compares it to the number of people released from federal prison in 2009 through 2016, only 0.37% — or 1,715 of 468,289 — of those released received a commutation.)*

Only 138 commutations have been granted since the onset of the COVID-19 pandemic in March 2020<sup>17</sup> — demonstrating that this tool has not been effectively used to spare lives, reduce the spread of disease, or respond to a pandemic unlike any other in our lifetime. While only about 11% of people incarcerated in the United States are held in federal facilities, more extensive use of commutations by a president could provide an example to the states of how they can more effectively use their own commutation powers.



## States also fail to use commutations to respond to the injustices of mass incarceration

States also drastically underutilize this powerful tool. As noted above, the eight states in our survey granted a total of 210 commutations in the 16.5 years from 2005 to mid-2021, an overall average of just 13 grants a year.

The paltry rate at which these states grant commutations has not budged during the pandemic. In fact, between 2020 and mid-2021, only two of the eight states surveyed (New York and Pennsylvania) told us that they granted *any* commutations. And, Connecticut indicated that its commutation process was paused throughout this entire period.

This lack of urgency is part of a disturbing larger trend: Nationwide, state and federal prisons actually released 10% fewer people in 2020 than in 2019, and on average, we found that state parole boards released fewer people in 2020 than in 2019. (Because of decreased prison admissions, overall prison populations have seen a modest decrease of 15% from pre-pandemic levels, which is not enough to allow for safe social distancing behind bars.)

Because comprehensive data on the commutation process was typically not available on government websites, we had to obtain data through public records requests. Through these requests we found that:

- Massachusetts, Rhode Island, and Vermont do not seem to have granted *any* commutations from 2005 to mid-2021.<sup>18</sup>
- In fact, **Rhode Island has granted only one commutation or pardon since 1950**. In 2011, the governor granted a posthumous pardon to a person who was executed in 1845.
- Our public record responses indicate that New Hampshire granted just one commutation from 2005 to mid-2021, and Connecticut granted just five.<sup>19</sup>
- Vermont noted that it found no requests for commutations and, as a result, none had been granted.
- None of the eight states provided all of the information we requested, including demographic information of commutation applicants and grantees.

For more information on each state, see our state appendices.

As the table below shows, state commutation processes are opaque. This lack of transparency prevents advocates from effectively determining how the commutation process is being administered, at what point and why applications are being denied, and what interventions would be most effective. The sparse data kept and supplied about state commutation processes also serve as one more indicator that states have deprioritized their commutation processes.

**Which pieces of requested information did each state provide about commutations?**

		<b>All years from 2005 to Aug. 2021?</b>	<b>Race?</b>	<b>Age?</b>	<b>Sex?</b>	<b>Crime of Conviction?</b>
<b>Connecticut</b>	<b>Applications</b>	N	N	N	N	N
	<b>Grants</b>	N	Y	Y	Y	N
<b>Maine</b>	<b>Applications</b>	Y	N	N	N	N
	<b>Grants</b>	Y	N	Y	N	Y
<b>Massachusetts</b>	<b>Applications</b>	Y	N	N	N	N
	<b>Grants†</b>					
<b>New Hampshire</b>	<b>Applications</b>	N	N	Y*	Y	N
	<b>Grants</b>	N	N	Y*	Y	N
<b>New York</b>	<b>Applications</b>	Y	N	N	N	N
	<b>Grants</b>	Y	N	N	N	N
<b>Pennsylvania</b>	<b>Applications</b>	Y	N	Y	Y*	Y
	<b>Grants</b>	Y	N	Y	Y*	Y
<b>Rhode Island</b>	<b>Applications†</b>					
	<b>Grants†</b>					
<b>Vermont</b>	<b>Applications†</b>					
	<b>Grants†</b>					

*We requested a variety of data and demographic info regarding commutation applicants and grantees. No state provided all of the information we requested. The table above outlines what data was — and was not — available from each state. To view the data we received from each state, please visit the Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island and Vermont appendices.*

*\* Indicates that the data is available for some, but not all, applicants or grantees.*

*† Indicates that the state noted that there was not responsive data available, so we cannot determine what information would be provided if there was data available.*

***How can I get data on the commutation process in my state?***

When seeking data on the commutation process in your state, the first step will be to check whether the information is already available on a state government website, such as the website of a state Board of Pardons.

However, few of the states in our survey posted data about their commutation processes online (and when they did, it was not as comprehensive as the information we were able to obtain through records requests). So more likely than not, you will need to submit a public records request. In order to effectively craft the request, you should first determine the answers to several questions:

*First, how does the commutation process work in your state?* To understand this, you'll want to examine what agencies and actors are involved in your state's clemency process and ask yourself:

- Does a board or agency receive applications and make any unilateral decisions (such as to close applications, hold hearings, or recommend applicants for clemency)?
- Does the governor hold the power to grant or deny commutation applications independently, or only on a recommendation from a specified board or agency?
- Does someone other than the governor have the power to grant commutation applications?

Answering these questions will help you determine who is likely to hold the answers to each of your questions. This will allow you to determine where to send records requests, and whether you're going to have to send requests to multiple agencies or offices.

*Second, what do you want to know?* For example, are you trying to understand:

- What happens from the point an application is submitted until a final determination is made?
- How many people are applying for commutations?
- Where are applications getting stopped in the process?
- How many applications are automatically closed?
- What percentage of applications are granted?
- Are there common characteristics (i.e., age, sex, race, crime of conviction) shared by people whose commutation applications are — or are not — successful?
- The average time it takes, after an application is submitted, until a final determination is made?

Once you know how the commutation process works in your state and have decided what questions you want answered, you'll have to *decide how many years worth of data you want*.

While the exact questions asked in a records request will vary by state and need to be adjusted based on the questions you are seeking to answer, your request might potentially ask for data that provides, or information that would allow you to determine:

- From [year] to present, by month and year, the number of:
  - requests for commutation of sentence;
  - requests for commutation of sentence that were administratively closed;
  - requests for commutation of sentence that were withdrawn;
  - requests for commutation of sentence that were denied a hearing;
  - requests for commutation of sentence that received a hearing and were denied;
  - requests for commutation that received a hearing and a positive recommendation that a commutation be granted; and
  - commutations granted.
- If no commutations have been granted since [year], the most recent date of the last commutation granted.
- For each of the requests above, demographic data (gender, race, age), as well as the category of offense for which the person requesting a commutation was convicted.

We have designed a [public records training](#) with a sample records request and the laws of each state that can be used to help craft your request.

## Why are commutations used so infrequently?

Historically, commutations were used much more frequently. In Massachusetts, for example, [218 commutations were granted](#) in the 50s, 60s, and 70s, and 84% of them went to people serving life sentences for murder. Connecticut was still granting regular commutations even more recently: The state [granted 36 commutations](#) between 1991 and 1994.

But grants have since slowed down drastically and become exceedingly rare across the country. Massachusetts granted just [29 commutations](#) in the 80s, 90s, 2000s, and 2010s; Connecticut reported granting five from 2016 to mid-2021. Today, commutations are often explicitly reserved for — or, in practice, awarded only to — narrowly defined groups, such as people who have served at least half of their sentence or those convicted of “nonviolent” offenses.

Several factors contribute to the current lack of commutations.

First, politicians fear being seen as “soft on crime.” There is an outsized fear of releasing someone who might go on to commit another crime, and an undersized appreciation for the benefits of prison releases. (A longstanding challenge for criminal justice reform is that it is difficult to quantify the fiscal, familial, and community benefits of people returning to their homes and communities.) This fear is particularly unfounded because in many cases, commutation *does not trigger immediate release* but simply reduces a sentence or makes someone parole-eligible. Throughout American history, there have in fact been many instances of [large-scale releases](#), and recent mass releases have resulted in lower-than average levels of recidivism.<sup>20</sup>

Second, politicians and the public frequently misunderstand clemency’s place in American history. Individuals on both sides of the political aisle have expressed hesitancy in revisiting the sentencing decisions of judges.<sup>21</sup> But the concept of revisiting judgements and forgiving sentences is a longstanding American tradition, [enshrined in the Constitution](#) and core to the country’s (and states’) founding. Clemency is a foundational, basic legal principle, praised by [Alexander Hamilton](#) and the first Supreme Court Chief Justice, [John Marshall](#).

Finally, as discussed above, clemency is hindered by understaffing, conflicts of interest and complicated, bureaucratic systems. Allocating insufficient staff to review commutation applications can result in long delays processing applications.<sup>22</sup> At the federal level, and in many states, the offices involved in the original prosecution of a person's case are involved in clemency determinations. Additionally, applications for clemency can be complicated or require obtaining materials that an incarcerated person does not have in their immediate possession. And because of the lack of visibility into clemency processes, individuals who are incarcerated often do not know they are eligible to apply for clemency and may not be able to access information on the status of their application.

## Potential reforms

Commutations can grant relief to individuals impacted by the criminal legal system and serve as a tool in decarceration efforts. However, commutation powers are widely underutilized, even by chief executives (such as the President of the United States and governors of some states) who have the power to act unilaterally.

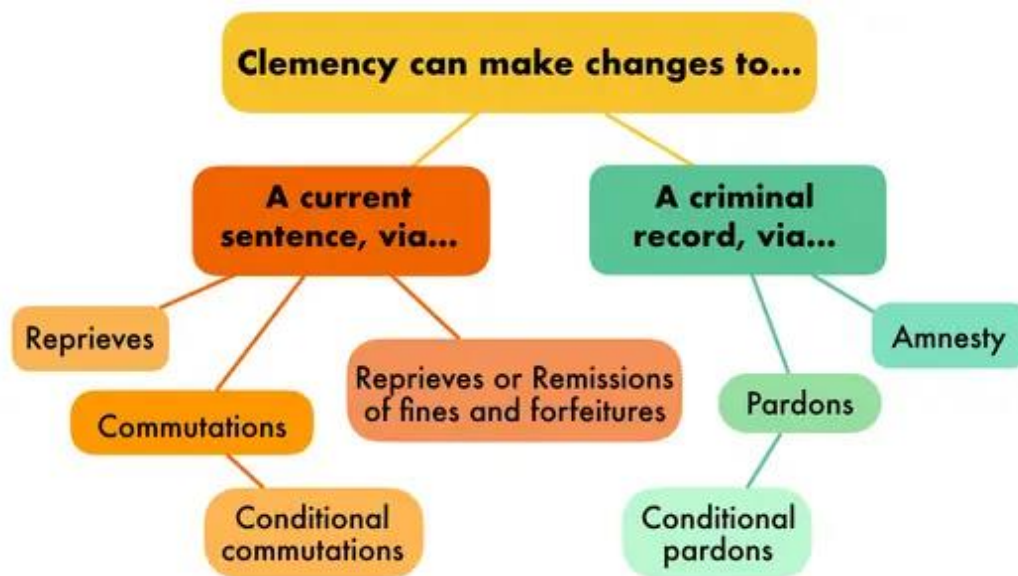
In order to more effectively and consistently use commutation powers at the federal and state level, a number of reforms should be adopted, including:

1. **Congress should pass the FIX Clemency Act.** This bill would, among other things, eliminate the Office of the Pardon Attorney at the U.S. Department of Justice and create an independent board of experts<sup>23</sup> who would provide the President with recommendations on who should receive clemency.
2. **Act unilaterally to provide relief when possible.** The President of the United States and when applicable, state governors, should use their power to grant commutations to swiftly provide relief and aid decarceration efforts.
3. **Conduct regular, affirmative outreach to those individuals who qualify for commutations.** States and the federal government should ensure incarcerated individuals are provided accessible materials explaining the commutation process, conduct regular outreach to individuals who qualify to apply for a commutation of that fact,<sup>24</sup> supply such individuals with applications for a commutation, and provide free assistance in completing these applications and navigating the process.
4. **Use the clemency power to grant mass commutations.** Rather than relying on a case-by-case review, categorical commutations should be granted. Categorical commutations can be used to adjust sentences or release people who: (a) were sentenced under laws that have since been repealed or for crimes that have been reclassified, or (b) share certain personal characteristics (i.e., current age or age at time of conviction) or experiences (i.e., survivors of sex or labor trafficking).<sup>25</sup>
5. **Simplify commutation applications.** Applications should be made as simple and straightforward as possible. The government should be responsible for gathering information that it maintains, such as official court documents.
6. **Expediently process, review, and act on commutation applications.** Commutation grants should not be treated as a rare, seasonal, or end-of-term act, but rather should occur with regularity throughout a President or governor's term of office. Applications should not remain pending for long periods of time, but rather a strict and short time-limit should be established within which review must take place.<sup>26</sup> An adequate number of people must be assigned the responsibility of reviewing these applications in order to meet these limits.
7. **When a group must approve a commutation application, do not require unanimous consent or set different vote requirements based on the crime of conviction.** In some states, action can only be taken to grant a commutation if a board or council first vote to approve it. Applications should move forward on a majority vote and applicants should not need to obtain a different number of votes — i.e., majority versus unanimous — based on the crime of conviction.<sup>27</sup>

- 8. Equally consider all people who qualify for relief, regardless of their crime of conviction.** Whether a person was convicted of a “violent” or “non-violent” crime,<sup>28</sup> their application should be equally considered.<sup>29</sup> Qualified individuals should not be denied relief purely based on their crime of conviction.
- 9. Increase transparency.** The many ways in which the commutation process lacks transparency need to be addressed. For example:
- Applicants should be able to easily obtain information regarding where their application is in the process,
  - Individuals whose applications are denied should receive written confirmation with the reasons for denial specified, and
  - Data should be made publicly available that provides an effective picture of how the commutation process is operating.<sup>30</sup>



## Understanding the terminology



**Amnesty.** Amnesty is essentially the same as a pardon, but is applied to a class of individuals, such as people who evaded the draft during the Vietnam War.

**Commutation.** A commutation amends a court-imposed sentence. Commutations can serve a number of functions; for example, a commutation can result in a person being released from incarceration early, early termination of parole, or changes in sentencing, such as changing a death sentence to life imprisonment or life imprisonment to life on parole.

**Conditional commutations.** Conditional commutations are commutations that are dependent on compliance with a set of conditions.

**Conditional pardon.** A conditional pardon can release a person from the conditions of their sentence (or rights forfeit as a result of the person's conviction), subject to conditions.

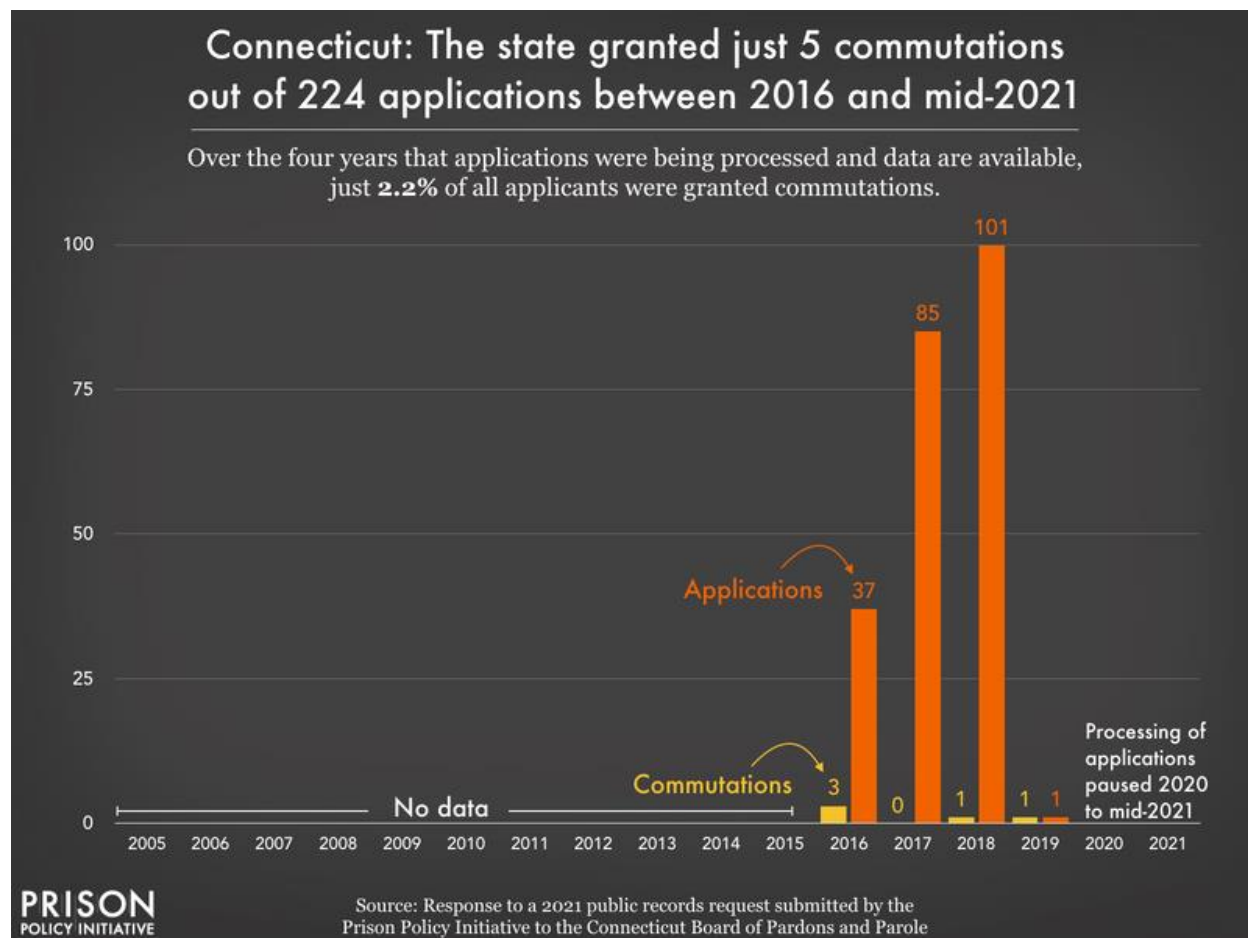
**Pardon.** A pardon has the power to release a person with a conviction history of punishment, and restore civil rights that were forfeit upon conviction, such as the right to vote, serve as a juror, hold public office, and bear arms. It can be granted prior to charge or conviction, or following a conviction.

**Reprieve.** A reprieve delays punishment for someone convicted of a crime. In some states reprieves are granted when an applicant is experiencing a medical emergency or in instances of a family emergency. They also may be used to delay an execution.

**Reprieve or remission of fines and forfeitures.** A reprieve or remission of fines or forfeitures is when an executive reduces or removes a fine or forfeiture attached to a person's sentence.

## State Appendices

## Connecticut appendix



**Connecticut granted five commutations from 2016 to mid-2021, resulting in a 2.2% grant rate among applicants.** Most people who applied in that time frame were deemed ineligible (for example, 98% of applicants were deemed ineligible in 2018).

Concerningly, Connecticut's Board of Pardons and Paroles recently took a nearly two-year pause in processing commutation applications while it revamped the program, which coincided with much of the COVID-19 pandemic. The state began accepting applications again in the summer of 2021.

Following the revamp, Connecticut's new commutation policies seem somewhat promising in their attention to people serving long sentences: Applicants must have already served 10 years and cannot be within two years of parole eligibility. And since becoming active again, the Board [commuted one sentence in late 2021 and 11 in early 2022](#), all for people serving long sentences for offenses committed under the age of 25.

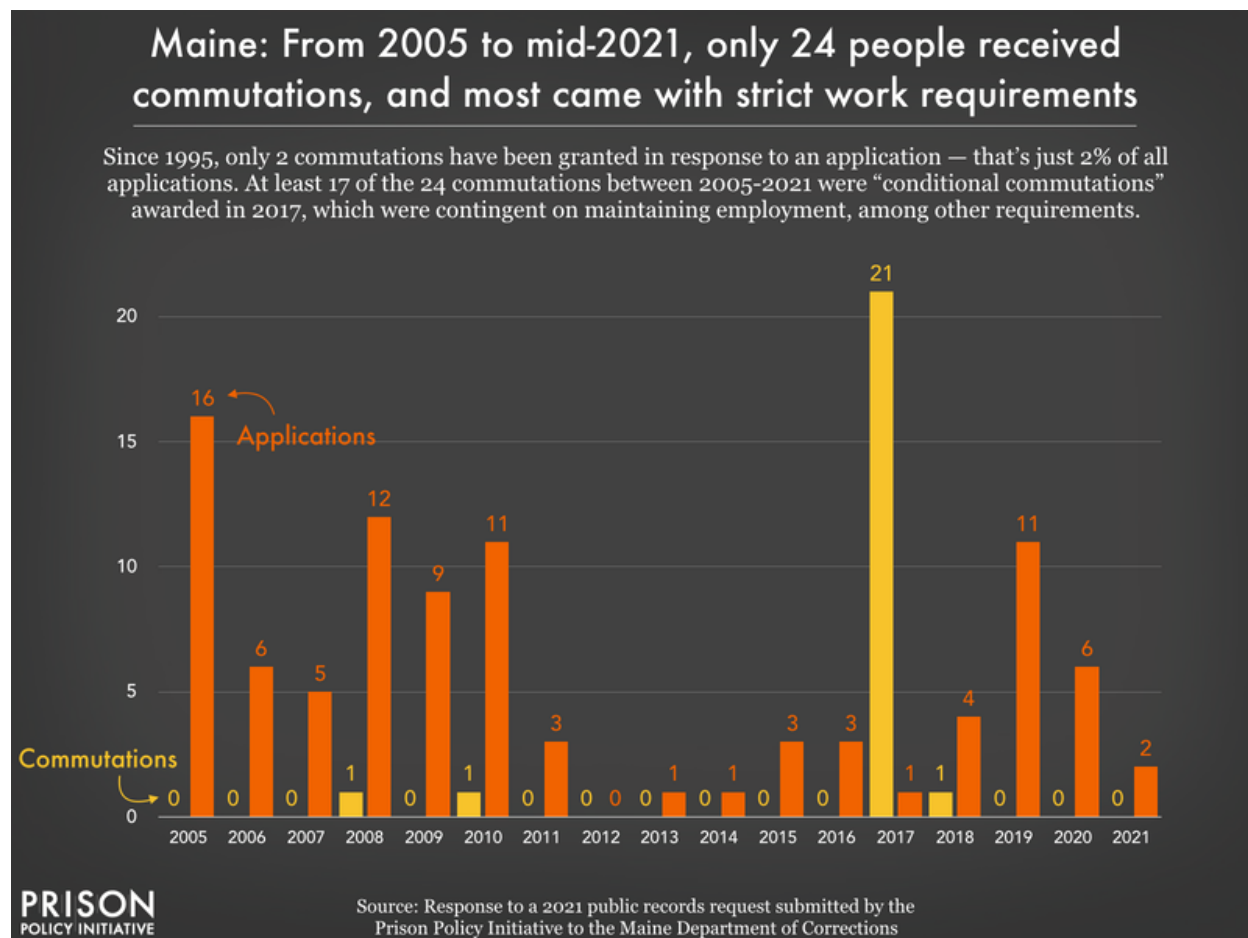
More information on the state's commutation process is available on the [Connecticut Board of Pardons and Paroles website](#).

***Commutation applications and grants since 2016 in Connecticut***

<b>Year</b>	<b>Applications</b>	<b>Ineligible</b>	<b>Denied</b>	<b>Granted</b>	<b>Sex / Age / Race of Grantees</b>
2016	37	26	1	3	F / 27 / Asian
					F / 35 / Black
					M / 50 / Black
2017	85	83	0	0	
2018	101	99	1	1	M / 24 / White
2019	1	0	0	1	M / 55 / Asian
2020	Commutation process suspended				
2021 (through Sept. 20)	Commutation process suspended for part of year/ No data provided				

*No data prior to 2016 was provided by the state.*

## Maine appendix



Few commutation petitions are submitted in Maine, and very few are granted; even in 2020, during the onset of a pandemic, only six people submitted petitions, of which zero were granted. **Since 1995, just two commutations have been granted in response to a petition — a 2% grant rate.**

**From 2005 to mid-2021, 24 people received commutations in Maine**, the majority of which were a [batch of 17](#) “conditional commutations” awarded in May 2017, which then-Gov. Paul LePage pitched as a way to [fill holes in the workforce](#). These individuals, who were recommended by the department of corrections, were released with what the governor’s office called “stringent conditions,” including a work requirement. This set of conditional commutations, while small and with complicated requirements, show that clemency does not need to be awarded on a completely individual basis. (Prior to the 2017 conditional commutations, LePage had not granted commutation to a single person since taking office in 2011 — but had [pardoned a dog](#).)

Current Gov. Janet Mills has not granted any commutations since taking office; she [recently responded](#) to a letter supporting one man’s clemency application with a single sentence: “He needs to pay for what he did.” (That applicant was since released under a new state law that broadens early release criteria.)

More information on the state clemency process is available on the [Maine Pardon Board website](#).

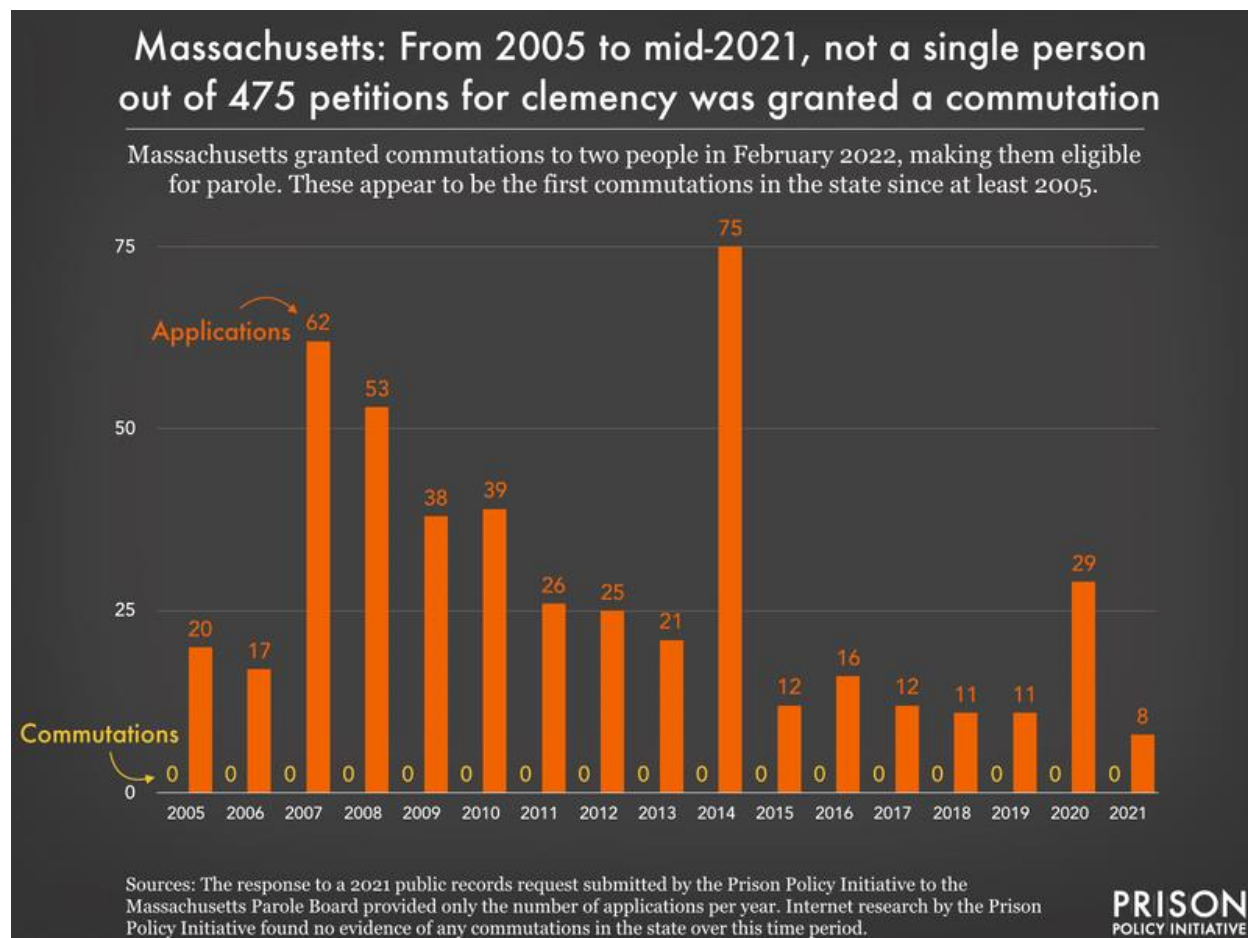
***Commutation applications and grants since 2005 in Maine***

<b>Year</b>	<b>Applications</b>	<b>Granted in response to application</b>	<b>Granted with no application having been submitted</b>
2005	16	0	0
2006	6	0	0
2007	5	0	0
2008	12	1	0
2009	9	0	0
2010	11	1	0
2011	3	0	0
2012	0	0	0
2013	1	0	0
2014	1	0	0
2015	3	0	0
2016	3	0	0
2017	1	0	21
2018	4	0	1
2019	11	0	0
2020	6	0	0
2021 (through Aug. 20)	2	0	0

Maine produced data on the 24 individuals who received commutations since 2005. For each of these individuals, the state provided the year of birth, court of conviction, category of offense, issuing governor, and the date on which the commutation was issued. If you would like access to this information, please [contact us](#) and we can provide the document, with personal identifiable information redacted.



## Massachusetts appendix



Massachusetts did not provide data on any commutation grants in response to our request (instead only providing the number of requests each year from 2005 to mid-2021, which amounted to 475 petitions). **We did not find evidence of any commutation grants in Massachusetts from 2005 through mid-2021.** In fact, a [2021 Boston Globe editorial](#) noted that in the preceding six years, the Massachusetts Parole Board held just one commutation hearing.

Since responding to this public records request, Massachusetts [granted commutations to two people](#) in February 2022, making them parole eligible. These were the first commutations granted by Gov. Charlie Baker, and appear to be the first in the state since at least 2005.

More information on the state clemency process is available on the [Massachusetts Pardons and Commutations website](#).

### *Commutation applications and grants since 2005 in Massachusetts*

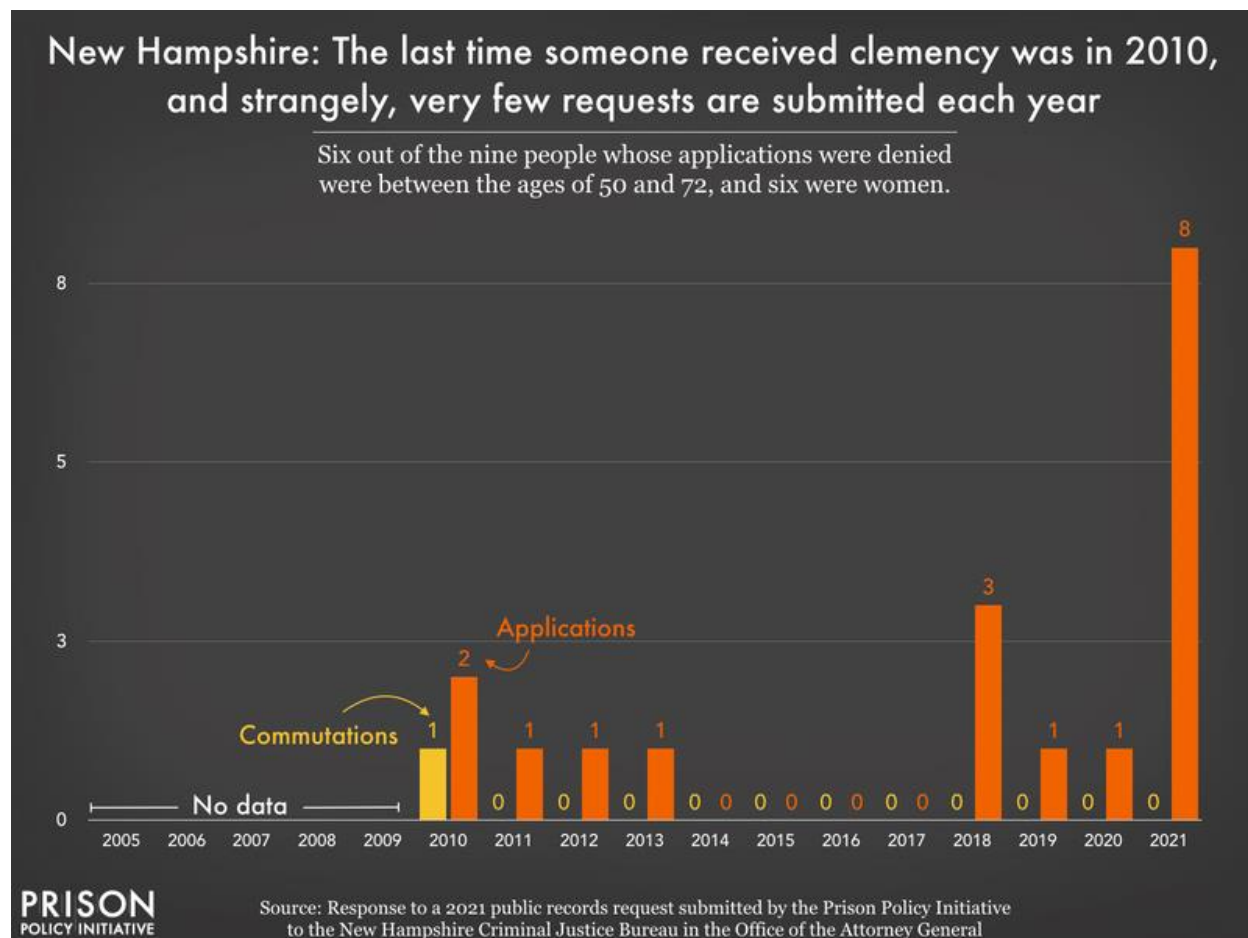
Year	Applications	Grants*
2005	20	0
2006	17	0

2007	62	0
2008	53	0
2009	38	0
2010	39	0
2011	26	0
2012	25	0
2013	21	0
2014	75	0
2015	12	0
2016	16	0
2017	12	0
2018	11	0
2019	11	0
2020	29	0
2021 (through Aug. 13)	8	0

*\* Massachusetts did not provide data on commutation approvals, but multiple sources suggest that no commutations were granted from 2005 to 2021.*

There has been recent advocacy seeking to increase the use of clemency in Massachusetts, including by organizations like [Families for Justice as Healing](#), as well as in a [2021 report](#) from the Massachusetts Bar Association Clemency Task Force, which suggested principles the Board could adopt.

## New Hampshire appendix



Only 10 requests for commutations have been submitted in New Hampshire since 2010, and **the last time a person received a commutation was in 2010.**

A copy of the New Hampshire clemency application is available [here](#).

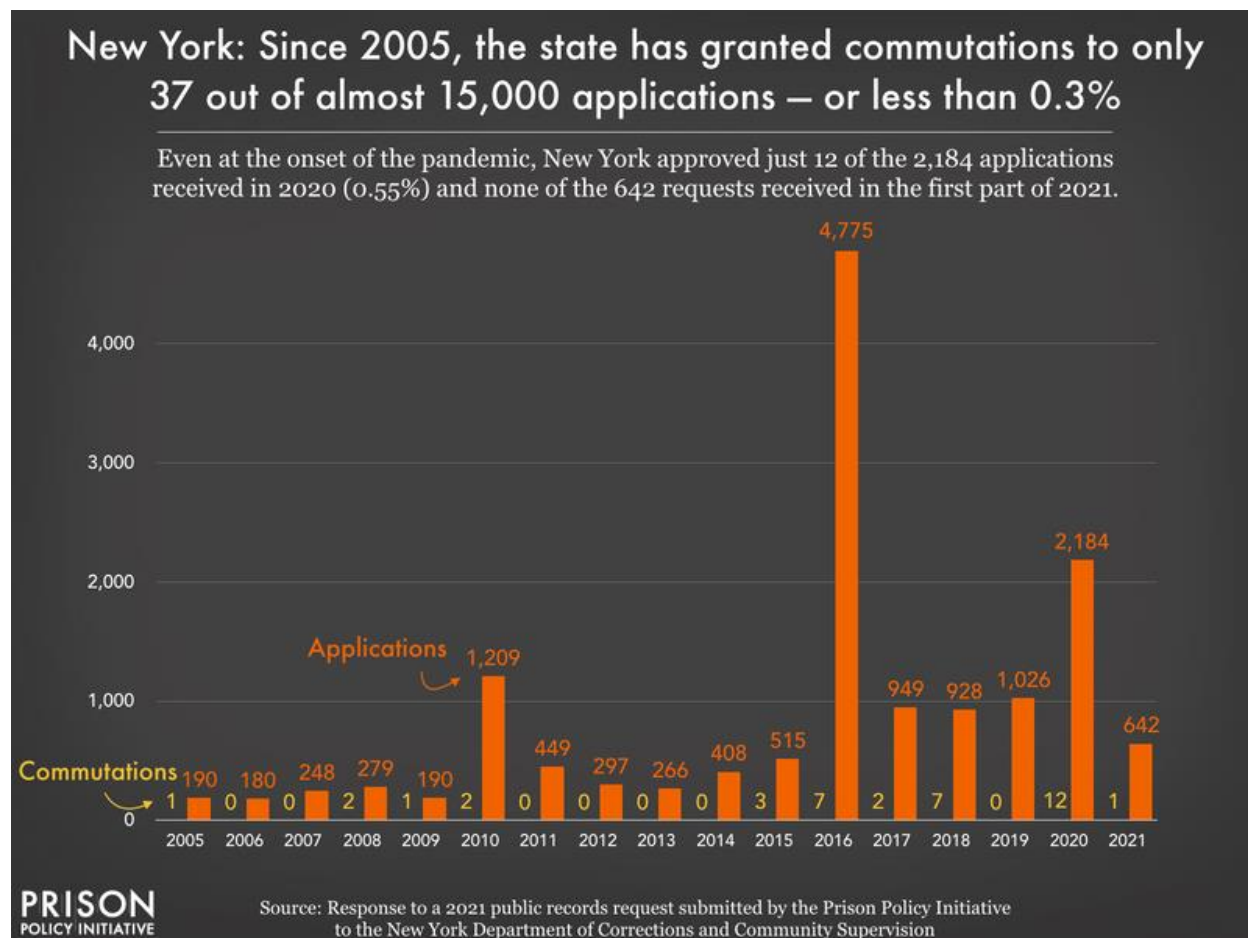
### *Commutation applications and grants since 2010 in New Hampshire*

Year	Applications	Grants	Sex / Age of Applicants
2010	2	1	M / 60 (approved) F / 60 (denied)
2011	1	0	M / 28 (denied)
2012	1	0	F / 62 (denied)
2013	1	0	M / 57 (denied)
2014	0	0	
2015	0	0	
2016	0	0	

2017	0	0	
2018	3	0	M / 72 (denied) F / 50 (denied) F / 68 (denied)
2019	1	0	F/ 33 (denied)
2020	1	0	F / 42 (denied)
2021 (through Aug. 30)	0	0	

*No data prior to 2010 was provided by the state.*

## New York appendix



New York has granted commutations to 37 out of 14,735 applications since 2005, for an overall grant rate of 0.3% (assuming there have been no grants awarded independent of an application). The highest percentage of applications granted in a year was 0.75% in 2018. Even at the onset of a pandemic, New York approved just 12 of the 2,184 applications received in 2020 (0.55%) and 0 of the 642 requests received through mid-2021. It was reported that Gov. Hochul granted [one individual clemency](#) in December 2021, after these records were received.

More information on the state clemency process is available on the [New York State website](#).

### *Commutation applications and grants since 2005 in New York*

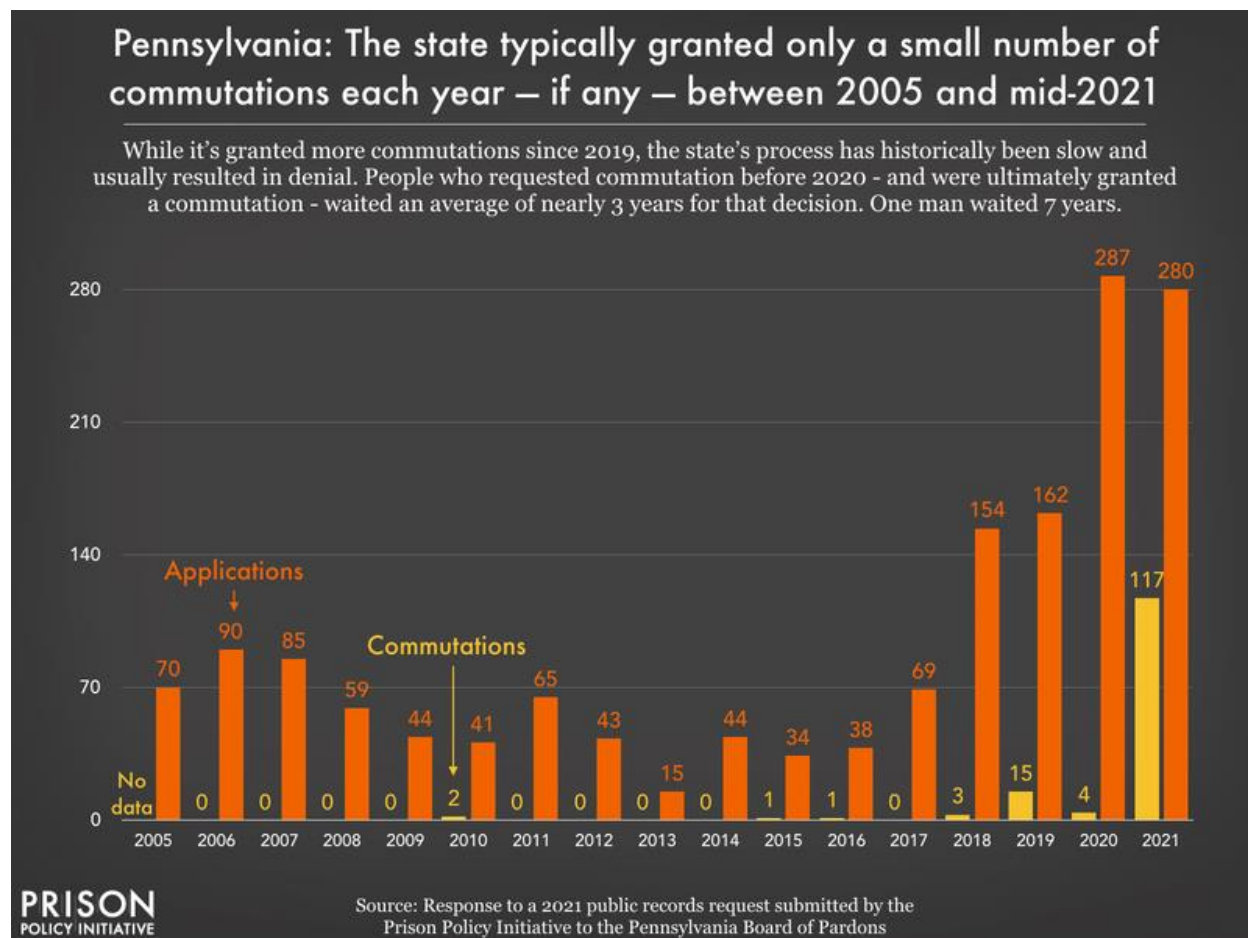
Year	Applications	Grants
2005	190	1
2006	180	0
2007	248	0
2008	279	2
2009	190	1
2010	1209	2

2011	449	0
2012	297	0
2013	266	0
2014	408	0
2015	515	3
2016	4775	7
2017	949	2
2018	928	7
2019	1026	0
2020	2184	12
2021 (through Aug. 9)	642	0

There is a robust movement to reform the clemency process in New York. The campaign [New Yorkers for Clemency](#), which was initiated by [Release Aging People from Prison](#) (RAPP), [calls for](#) clemency to be used more frequently and inclusively (including across demographics and across categories of offenses), as well as for the process to be more transparent.



## Pennsylvania appendix



Pennsylvania provided the most robust data out of the eight states. **Historically, Pennsylvania has granted very few commutations — just seven from 2005 to 2018.** The state has awarded more commutation grants in recent years, including 117 in the first eight months of 2021.

More information on the clemency process is available on the [Pennsylvania Board of Pardons website](#), and [Let's Get Free](#), a program of the Women and Trans Prisoner Defense Committee, has a [commutation support kit](#).

### *Commutation applications and grants since 2005 in Pennsylvania*

Year	Applications	Grants
2005	70	0
2006	90	0
2007	85	0
2008	59	0
2009	44	0

2010	41	2
2011	65	0
2012	43	0
2013	15	0
2014	44	0
2015	34	1
2016	38	1
2017	69	0
2018	154	3
2019	162	15
2020	287	4
2021 (through Aug. 26)	280	117

*We encourage readers to download the full response we received from Pennsylvania [here](#), which includes more information on applicants and grantees, including their age, the date the application was filed, and the crime of conviction.*

## Rhode Island appendix

### Rhode Island: Granted only one commutation or pardon since the 1950s, and that was for a man hanged by the state in 1845

Excerpt of a Rhode Island Office of the Governor's response to a public records request for information about commutations requested and granted since 2005

"This Office has a number of outstanding requests for a full pardon but they are not public records....

Additionally, to our knowledge, **there has been only one pardon given by a Rhode Island Governor since the 1950's and that was a posthumous pardon for John Gordon who was hanged for a murder conviction in 1845.** This pardon was given by Governor Chafee in 2011.

This Office has no responsive records to your request."

**PRISON**  
POLICY INITIATIVE

**Rhode Island did not inform us of any commutation grants.** In response to our records request it was **stated that the only pardon granted since 1950 was a posthumous 2011 grant to someone who was executed in 1845.**

The state did not provide the number of pending petitions, claiming that this information is exempt from release.

## Vermont appendix

### Vermont: No one seems to be aware that the Governor has the power to grant commutations, so none have been granted

Vermont Office of the Governor's response to a public records request for information about commutations requested and granted since 2005

"We have no records responsive to your request. You may wish to note that the Vermont Constitution and statutes do not address commutations. **While we believe this power is inherent in the Governor's pardon power, we get requests for pardons but not commutations.** We have reviewed our pardon request files and found **no requests for commutations.** Accordingly, Governor Scott has not granted any commutations."

**PRISON**  
POLICY INITIATIVE

In response to our record request, the Office of the Governor noted: "The Vermont Constitution and statutes do not address commutations." The Office further noted that "While we believe this power is inherent in the Governor's pardon power, **we get requests for pardons but not commutations... Accordingly, Governor Scott has not granted any commutations.**"

While the Vermont [statutes](#) provide that people who are incarcerated may apply for pardons, the [pardon application guidelines](#) state that "A pardon will not be considered for a person who is currently incarcerated or under sentence except in very unusual circumstances." Our independent research failed to produce any articles or press releases that suggest that any commutations (or pardons to incarcerated people) have been granted in recent years.

## Endnotes

<sup>1</sup> In addition to using his federal clemency powers to commute 75 sentences, Biden also granted pardons to three people.

<sup>2</sup> The commutation process does not exist in a vacuum. Considering the data in this report alongside other information available about the specific federal and state criminal legal systems (such as their sentencing policies and parole grant rates) can help advocates determine where to prioritize efforts.

<sup>3</sup> We submitted public record requests to Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont. Because data on commutations is often not available on state websites or easily accessible, the Prison Policy Initiative wanted to make this information available for broader use. Of course, we recognize that there are important differences between each state, and our inclusion of these states (and exclusion of others) does not imply that these states have comparable justice or commutation systems, or that they can be meaningfully compared based on commutation outcomes alone. Please see this report's sidebar *How can I get data on the commutation process in my state?* for more information on making a similar request in your state.

<sup>4</sup> Each state has a distinctive commutation system, which fits within that state's unique criminal legal system, including its differing sentencing structures and parole policies. In many states, the governor holds the power to grant commutations unilaterally, but [depending on the state](#), the decision may first require recommendation by a board or members of the legislature, or lie entirely in the hands of an independent board.

<sup>5</sup> States provided data that typically covered a timeframe up to August 2021, though the exact cut-off date for records varied by state. Several states did not provide application and grant data going back to 2005:

- The Vermont Governor's Office noted that they found no requests for commutations in their records, and directed us to the Secretary of State's Archivist for any records predating January 1, 2017 (in other words, it had almost no records from the prior administration). However, the Secretary of State directed us back to the Governor's Office.
- We did not receive data from Connecticut from the years prior to 2016. The state noted: "We do not have information for the entire time frame you have requested and will only be able to provide limited information."
- New Hampshire stated that its data prior to 2010 was "not consistent or not available."
- Massachusetts provided us with the number of commutation petitions received each year, but no data on the number of commutations granted.

An internet search for information on commutations granted in these four states in the requested time period did not produce any results.

<sup>6</sup> This total is based on the jurisdictional population sentenced to more than one year in the eight states (i.e., not including anyone held pretrial or serving short jail sentences). This reflects the general population of people who are held under state authority. We used population data through 2020, because 2021 data were not yet available from the Bureau of Justice Statistics at the time of publication.

<sup>7</sup> Despite the eight states' underwhelming use of commutations, we have seen some minor encouraging increases in its use in some of these states, in the nearly one year since states responded to our records request — something we hope to see more of. In the time period since states sent us their responses in mid-2021, we know that New York commuted at least one sentence in late 2021, Massachusetts commuted two sentences in 2022, and [Connecticut](#) commuted one in 2021 and 11 in 2022.

<sup>8</sup> For example, the Vermont Governor's Office noted in response to our records request:

"The Vermont Constitution and statutes do not address commutations. While we believe this power is inherent in the Governor's pardon power, we get requests for pardons but not commutations. We have reviewed our pardon request files and found no requests for commutations."

Of course, if Vermont were to advertise that commutations are available, or conduct outreach to individuals incarcerated in state prison, the Governor would almost certainly start receiving applications for commutation.

<sup>9</sup> For example, [New Yorkers for Clemency](#) state:

"In 2014, after former Governor Cuomo launched a clemency initiative, thousands of incarcerated people and their families submitted clemency applications. Since then, most of those people have never received a response from the executive branch about the nature of their application. There is no public information about who in the Governor's office is responsible for reviewing clemency applications or how applications are processed and evaluated. There is also no publicly available data provided documenting the number of

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clemency applications submitted, responded to, granted, or denied. This leaves many incarcerated people and their families in a state of despair.”

<sup>10</sup> Since Biden assumed office, advocates have called for him to use his commutation power. For example, The National Council for Incarcerated and Formerly Incarcerated Women and Girls spearheaded a [campaign](#) to push President Biden to grant clemency to 100 women in his first 100 days in office, and the American Civil Liberties Union has a [petition asking the President](#) to “grant clemency to 25,000 people, namely those serving sentences longer than those handed out today, nonviolent drug offenders, and the elderly.”

While the Administration itself offered assurances in May 2021 that the President was [prepared to use his clemency powers](#), it took nearly a year for the President to follow through with this promise. Until April 26, 2022, President Biden’s executive clemency powers had been used to provide relief in only two instances — to [turkeys named Peanut Butter and Jelly](#).

<sup>11</sup> The vast majority of sentences commuted are set to expire on April 26, 2023, with some expiring a year after that. Further, each person who received a commutation will have to serve the full term of supervised release ordered at sentencing (ranging from 3 to 20 years), and the fines and restitution set at sentencing remain unchanged.

<sup>12</sup> Recent [data published](#) by the Vera Institute of Justice noted that from 2020 to 2021, there were increases in the year-end count of the number of people detained in federal prisons (3.6%), as well as those detained by the U.S. Marshals Service (1%) and U.S. Immigration and Customs Enforcement (33.7%). The increase in numbers could be, in part, due to the [suspension of jury trials and grand jury proceedings](#) during parts of the pandemic, leading to COVID-related court backlogs.

<sup>13</sup> In his [statement](#), President Biden noted that many of these individuals “would have received a lower sentence if they were charged with the same offense today, thanks to the First Step Act.”

<sup>14</sup> Our report [Reforms without Results](#) provides more details on why “violent” offenses should not be carved out from criminal justice reforms.

<sup>15</sup> This number and the others reflected in this section were obtained from a [spreadsheet](#) the Department of Justice maintains that provides details on the number of applications for pardons and commutations that are pending or, from 1989 to present, have been granted, denied, or administratively closed. The spreadsheet, at the time of publication, had been last updated on April 1, 2022. The numbers reflected in the spreadsheet do not always match those provided on the Office of the Pardon Attorney’s [webpage](#).

<sup>16</sup> 2,337 of the applications that were administratively closed were seeking commutation of sentence. As [noted](#) by the Office of the Pardon Attorney, applications that are administratively closed are closed without presidential action because “(1) an applicant withdraws their application from consideration, (2) an applicant repeatedly fails to respond to a request by the Pardon Attorney for required information, (3) an applicant dies before a decision is made on their request, (4) we learn that the applicant is no longer a resident of the United States during the course of our review, (5) an applicant is released from Federal prison during the processing of a commutation petition that seeks only the reduction of his/her prison sentence, or (6) we learn that the applicant has not yet exhausted all legal remedies or has pending litigation.” Information on the reason an application was administratively closed is not publicly available.

<sup>17</sup> Before Biden’s April 26, 2022 commutations, only 63 had been issued during the pandemic. All of these had been issued by Trump, with 61 of the commutations granted between December 23, 2020 and January 19, 2021 — nearly a year after the onset of the pandemic and immediately prior to Trump vacating office.

<sup>18</sup> Although this occurred outside the time range of our requests, for the first time in many years, Massachusetts [granted commutations to two people](#) in February 2022, making them eligible for parole.

<sup>19</sup> New Hampshire did not provide data prior to 2010, and Connecticut did not provide data prior to 2016. Although this happened outside of the time range of our requests, Connecticut granted commutations to one person in November 2021 and [11 people in January 2022](#), bringing many of these individuals close to parole eligibility.

<sup>20</sup> For example, a [recent report](#) from the Oregon Criminal Justice Commission indicates that the 266 individuals whose sentences were first commuted in response to the COVID-19 pandemic had lower one-year recidivism rates than is typical among those released. A 2012 case, *Unger v Maryland*, led to the release of 192 people who had served more than 30 years in Maryland prisons; after five years, this cohort had a [recidivism rate of just 3%](#). And a [2020 report](#) that looked at 174 Philadelphians who were released from 2017 through 2019, after being resentenced from life-without-parole sentences they received as children, found that just two had been reconvicted of a new crime by the end of 2019.



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<sup>21</sup> For example, in an Office of the Inspector General report [looking back](#) at the Obama administration's clemency initiative the OIG noted that, according to one former Deputy Attorney General, the Office of the Pardon Attorney "was minimally involved in planning the initiative, which may have been due to philosophical differences" about whether pardons or commutations should be prioritized. According to the report, "his impression was that [the Office of the Pardon Attorney] viewed commutations as extraordinary and thought that the judge had imposed a prison sentence so there was nothing more to be done about it."

<sup>22</sup> During Obama's clemency initiative, for example, additional staff were added to handle the massive number of applications. Because the staffing levels have since decreased, if the Biden administration is going to make a meaningful dent in the approximately 15,000 pending federal commutation applications, a similar commitment is needed.

<sup>23</sup> These experts would include a person who was formerly incarcerated, a person who has been directly impacted by crime, a person who currently serves (or previously served) in a federal defender organization, and a representative from the Department of Justice.

<sup>24</sup> The Obama Administration's Clemency Initiative involved affirmative outreach to incarcerated individuals. While the Initiative hit some [stumbling blocks](#) — such as reaching out to many people who did not meet the six criteria that were being prioritized, thereby giving them false hope and slowing down the review of clemency applications — it did show that large-scale, affirmative outreach can have positive results.

<sup>25</sup> [How Governors Can Use Categorical Clemency as a Corrective Tool](#) is an insightful report that provides numerous examples of how categorical commutations have been used across the U.S.

<sup>26</sup> The [Pennsylvania Board of Pardons website](#) states that, due to increased background checks since 9/11, "it is taking approximately 2 ½ years from receipt of an application until the Board members merit review the application to determine if a hearing will be granted. If a hearing is granted, it will be heard at the next scheduled session." If an "application is recommended to the Governor, there is no time frame for the Governor to act."

<sup>27</sup> For example, in [Pennsylvania](#), the majority of individuals only need to receive a majority vote from the Board of Pardons for their application to be recommended to the governor, but individuals who have been sentenced to life or death must receive a unanimous vote in order for their application to be recommended. It appears that this majority vote requirement was not always in place, as Pennsylvania advocates like [Let's Get Free](#) are advocating that the Board of Pardons "return" the "vote requirement for a recommendation of commutation for a lifer to 3 out of 5 votes, rather than the unanimous vote requirement."

<sup>28</sup> As the fourth myth in [Mass Incarceration: The Whole Pie 2022](#) explains, the distinction between "violent" and "nonviolent" crime is dubious. A wide range of crimes designated as "violent" involve no physical harm. "Violent" and "nonviolent" simply cannot be used as simple substitutes for serious and non-serious. Excluding people convicted of "violent" crimes from being truly considered for a commutation [guts the potential impact](#) real clemency reform could have in responding to mass incarceration.

<sup>29</sup> State laws frequently require applicants to have served specific amounts of time. For example:

- In [Maine](#), a person is only qualified to apply for a commutation of sentence after they "have served at least one half of thei[ir] original sentence (not including 'good time'), or a minimum of one year of a sentence, whichever is... longer.
- In [New York](#), a person can apply for a commutation if their minimum term of imprisonment is greater than one year, they've served at least half of their term, and they are not parole-eligible within one year of the date on which their application is submitted.

It is clear the states already made policy decisions in setting forth these time requirements and, if a person meets the requirements, their crime of conviction should not stand as an impediment to their application being fairly considered.

<sup>30</sup> Data could include: the number of applications pending, the average length of time it takes for a determination to be made on an application, the number of applications submitted, the number of applications automatically closed, the number of applications that receive a hearing, the number of applications on which a recommendation is made, and the number of applications on which the governor or chief executive acted. In addition, demographic breakdowns should be provided for each step that indicate, among other things, the sex, race, age, length of time served, and crime of conviction or category of crime.