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IDEAS

Healey's plan for clemency is courageous, but it once would have been unremarkable

For much of the 20th century, it was the norm for governors to act on the idea that prisoners had been rehabilitated.

By **Reiko Hillyer** Updated January 21, 2024, 3:00 a.m.

MCI-Shirley Correctional Center in 2011. JESSEY DEARING FOR THE BOSTON GLOBE

Last October, Governor Maura Healey unveiled new guidelines designed to make the clemency process in Massachusetts "more compassionate and more just." She said she intended to address racism and inequity in the justice system and grant pardons and commute prison sentences more frequently than previous governors. Massachusetts governors have approved only four commutation petitions in the last 25 years.

Healey's break with decades of convention could be perceived as a progressive or even radical stroke. However, her way of thinking isn't especially new. In the not so distant past, governors around the country in both parties were generous in their use of clemency and the practice was uncontroversial.

Prior to the 1970s, a "life" sentence often spanned 10 to 20 years, coming with a review process and a realistic expectation of release based on good conduct in prison. Even at the height of Jim Crow, Southern governors commuted the sentences of hundreds of prisoners each year. In Louisiana, it was common practice for governors to grant commutations to lifers who had served 10 ½ years of their sentences, as long as they had demonstrated good behavior.

However, in the late 20th century, clemency became politicized and fewer governors, regardless of party affiliation, exercised their clemency powers.

In the 1960s, conservatives throughout the United States began to equate nonviolent civil disobedience with lawlessness and protest with criminal activity. Thus began the language of "law and order" characteristic of Barry Goldwater and Richard Nixon: a fear-mongering rhetoric that blamed the gains of the civil rights movement and the growth of liberal social welfare programs for a rise in crime. As expressions of overt racism fell out of favor, they were replaced with supposedly neutral language about "crime in the streets," which gained bipartisan traction in the urban North and West and reinforced the notion that a growth in prison populations was a commonsense response to social turmoil.

Politicians from both political parties fueled the surge from the 1970s into the 1990s. From Nixon declaring a "war on drugs" to Clinton signing the 1994 Crime Bill to show that the Democratic Party was "tough on crime," the assumption took hold that prisoners should be defined by the worst thing they had ever done, regardless of their actions while in prison.

Out of the 267 commutations granted in Massachusetts since 1945, a substantial 89 percent (238 cases) occurred before 1980. Governor Michael Dukakis, a Democrat, commuted 50 sentences during his first term as governor, from 1975 to 1979, which ended after he lost a Democratic primary to Edward J. King. Under King's administration, commutations sharply declined, and they have never recovered. Governor Deval Patrick, a Democrat, granted a mere four pardons and one commutation during his tenure from 2007 to 2015. Republican Charlie Baker, Healey's immediate predecessor, commuted three sentences near the end of his time in office.

A flashpoint in the overall decline of clemency happened in 1987, when Willie Horton, who was serving a sentence of life without parole on a murder conviction, fled to Maryland while on furlough from a Massachusetts prison and assaulted a man and raped a woman. When Dukakis ran for president in 1988, his opponent, Vice President George H.W. Bush, frequently mentioned Horton and used the story in a campaign ad.

The fear of "future Willie Hortons" accelerated a paradigm shift. Merely a decade earlier, furloughs were hailed as a means to enhance public safety; for governors considering clemency, successful furloughs were crucial evidence of a prisoner's potential to reintegrate into free society. But furloughs were discontinued in Massachusetts and other states, symbolizing a waning dedication to rehabilitation and reintegration. Such a position denies that people are capable of transformation.

To be sure, politicians today face a similar uphill battle when it comes to the public's tolerance of risk. Personal safety concerns in the United States have skyrocketed to levels not seen in three decades, and the majority of Americans believe that our criminal justice system lacks the toughness needed to effectively handle crime. However, according to research by the Prison Policy Initiative, people who have served decades in prison, even those who were convicted of violent crimes, are not likely to commit crimes again.

In our present moment, when the decline of clemency has contributed to a significant increase in the number of people serving life without the possibility of parole, restoring clemency would help mitigate our prison overpopulation. The United States locks up more people per capita than any other nation, according to the Prison Policy Initiative. There are 2 million people in the nation's prisons and jails — a sixfold increase over the last 40 years. Clemency is one tool to confront this crisis of mass incarceration and racial injustice.

For the last decade, I've taught a history course at the Inside-Out Prison Exchange Program, where undergraduate students at Lewis & Clark College learn alongside men who are incarcerated at the Columbia River Correctional Institution, a minimum-security men's facility in Portland, Ore. The integration of incarcerated and free students provides a chance for all of us to imagine a new world where we lead with empathy once again and see the humanity and dignity of people who are ready to be integral members of our communities. For governors to show more political courage, as Healey has, requires the public to shift the narrative about people in prison. Instead of seeing them as inherently

threatening, dangerous, and disposable, we can recognize that many of them are people who made mistakes and deserve a second chance. After all, this way of thinking was commonplace for a very long time.

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