



October 9, 2024

Governor Roy Cooper
20301 Mail Service Center
Raleigh, NC 27699

Via electronic and physical mail

Dear Governor Cooper,

Please use your clemency authority to its fullest extent during your remaining time in office. Clemency is a bedrock of the American criminal justice system – understood as a critical check on excessive sentencing and a mechanism of redemption since the ratification of the U.S. Constitution.

Unfortunately, throughout the country and in North Carolina, excessive sentences have become the rule rather than the exception. Nationally, one in seven incarcerated people is serving a life or virtual life sentence. In North Carolina, there are 4,171 people serving life or virtual life sentences of 50 years or longer.¹ There are also many serving sentences longer than 15 years with no hope for relief or a second chance outside of the clemency powers bestowed upon your office. We know that long sentences do not make us safer. They are a drain on public safety resources and fail to deter crime. It is the certainty of being caught and held accountable, not the severity of punishment, that deters criminal behavior.

Given the limited time remaining in your term, we encourage you to urge the Governor's Clemency Office, the Juvenile Sentence Review Board, and the Post Release Supervision and Parole Commission to review as many clemency petitions as they can and to recommend cases where the petitioning individual has shown a clear record of rehabilitation, would not be an elevated risk to public safety upon release, and has a good home plan. This is consistent with the recommendations issued by the North Carolina Task Force for Racial Equity in Criminal Justice.²

We believe that clemency consideration should be open to everyone regardless of offense. Determinations should be made based on their record of rehabilitation and readiness for release at the time of review. We know that many North Carolina families and communities are prepared to assist with reentry. We also believe that everyone whose clemency petition makes it before your desk should receive a fair and individualized assessment. However, we would like to flag for you two populations of incarcerated people for whom clemency is an urgent and appropriate consideration: people who were under 25 at the time of their offense and those who are currently over the age of 55.

¹ The Sentencing Project (2024). U.S. Criminal Justice Data. <https://www.sentencingproject.org/research/us-criminal-justice-data/>.

² North Carolina Governor's Task Force on Racial Equity. <https://ncdoj.gov/trec/reports/>



Research has shown that, due to their still-developing brains, people under the age of 25 have diminished culpability and greater propensity for rehabilitation and change than is currently reflected in North Carolina sentencing laws.

Fortunately, people mature as they age – even those who have committed serious offenses. For example, Washington, D.C. allows judges to resentencing individuals who committed an offense before their 25th birthday once the individual has served 15 years of their sentence. As of June 2023, 195 people had been released under this expanded second look law and only 4 percent rearrested.³

To that end, we encourage you to provide strong consideration to people seeking clemency who were under the age of 25 at the time of their offense. Not only would this be a righteous use of your clemency powers, but it would lessen the burden on the North Carolina prison system.

In addition, research has shown that elderly individuals are the least likely to reoffend yet the most expensive to incarcerate. American prisons were not designed to serve as gerontological wards, and our communities are not best served by spending finite resources on incarcerating the elderly.

Older adults who return to the community after serving long sentences pose little public safety risk. One study found that only 1 percent of people released at age 55 or older after serving sentences for violent crimes were reincarcerated for any new crime within three years.⁴ Similarly, in Maryland, 200 people were released from prison after a state court found the jury instructions used in their trials to be unconstitutional. Their average age when released was 64, and all had served 30 years or more. As of May 2021, only 3 percent had been re-incarcerated.⁵

Clemency is one of the most powerful tools at your disposal. As a critical component of your gubernatorial powers and invaluable piece of North Carolina’s criminal justice system, we hope that you will take our recommendations under strong consideration and use your clemency powers to their fullest extent during your remaining time in office. Data and evidence show that you can embrace public safety while leading with justice and mercy. These values are not mutually exclusive; rather, they are intrinsically linked.

Thank you for your time and consideration of our views. If you have questions or would like to discuss this further, please feel free to contact me at mgoellner@famm.org.

³ Testimony of Warren Allen at Hearing on B25-291 before the Committee on the Judiciary and Public Safety of the Council of the District of Columbia (2023). <https://www.sentencingproject.org/app/uploads/2023/06/Warren-Allen-Safer-Stronger-Amendment-Act-2023-Testimony.pdf>.

⁴ Prescott, J.J., Pyle, B., and Starr, S.B. (2020). Understanding Violent-Crime Recidivism. *Notre Dame Law Review*, 95:4, 1643-1698. <http://ndlawreview.org/wp-content/uploads/2020/05/9.-Prescott-et-al..pdf>

⁵ Millemann, M., Chapman, J.E., and Feder, S.P. (2022). Releasing Older Prisoners Convicted of Violent Crimes: The Unger Story, *U. MD. L.J. RACE, RELIGION, GENDER & CLASS*, 21:2, 185-247, <https://secondchanceslibrary.org/wp-content/uploads/2022/06/Releasing-older-prisoners.pdf>



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Families for Justice Reform