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Seizing the Moment: President Biden's Opportunity to Take Bold Clemency Action

- 1. President Biden can and should use his executive clemency power to address disproportionate prison sentences, advance racial justice, and safely reduce the federal prison population.**

America is a nation of second chances. President Biden can cement his legacy as a champion for racial justice and fundamental fairness by using his clemency powers to give people the opportunity to reunite with their families and return to their communities.

- 2. President Biden should grant relief to people in federal prison who are serving sentences that would not be handed down today.**

Thousands of people are currently serving lengthy federal prison terms for offenses that would receive significantly shorter sentences today. This includes people who did not receive retroactive relief under the First Step Act, those affected by the 18:1 crack-powder cocaine sentencing disparity, and "old law" individuals who have spent decades in prison but cannot apply for compassionate release simply because of when they were sentenced.

- 3. Federal sentences are too long and don't protect public safety.**

More than half of people in the federal prison system are serving sentences of 10 years or more, with over 26,000 people serving sentences of 20 years or more. This leaves many to spend decades behind bars—often past the age of retirement—without any additional benefit to public safety.

4. Clemency is a powerful tool to help address the racial disparities that permeate every aspect of the federal prison system.

Black people make up just 14% of the U.S. population but nearly 40% of the federal prison population. According to the U.S. Sentencing Commission, Black men are more likely to be charged with offenses carrying mandatory minimums than white men and make up a disproportionate number of people serving sentences for drug offenses. Similarly, Hispanic people make up 20% of the U.S. population, but represent 29% of people in federal prison and 39% of people in federal prison for drug offenses.

5. Second chances are a critical part of any public safety agenda.

Evaluations of the First Step Act, the CARES Act home confinement program, and retroactive applications of changes to the Federal Sentencing Guidelines show that reducing sentences can make the federal criminal justice system fairer without compromising public safety.

6. President Obama set the modern benchmark with his Clemency Initiative, which resulted in almost 1,700 commutations for people serving time in prison, saving them close to 20,000 years in prison sentences.

One in eight people in prison in this country is in federal custody. President Biden has a chance now to make a real difference in the fight to end mass incarceration by bringing people home.

Additional Resources:

With the Stroke of a Pen: A Primer on Presidential Clemency, available at <https://www.fwd.us/wp-content/uploads/2024/10/Presidential-Clemency-Primer.pdf>.

The Case for Clemency: Reducing Lengthy Federal Prison Sentences and Advancing Public Safety, available at <https://www.fwd.us/wp-content/uploads/2024/09/JustClemency-Recidivism-Brief.pdf>.

Fact Sheet on the Federal Prison Population, available at <https://www.fwd.us/wp-content/uploads/2024/09/FWD-NAACP-Federal-Prison-Fact-Sheet.pdf>