

Why the Time to Start Thinking about Capital Clemency is **Now**



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The CCRI is a Joint ABA Project of the:

**Death Penalty Due
Process Review Project**

**Death Penalty
Representation Project**

**Commission on
Disability Rights**

Forms of Clemency



“EXTRA-JUDICIAL” POWER

LAST DITCH EFFORT TO SECURE RELIEF FROM SENTENCE OR CONVICTION:

Pardon: “undoes” the conviction and its consequences

Commutation: converts a sentence to a lesser sentence

Reprieve: offers temporary relief from the imposition of sentence



“This is indeed **one of the great advantages of monarchy in general**,...that there is a magistrate, who has it in **his power to extend mercy**, wherever he thinks it is deserved: holding a **court of equity in his own breast**, to soften the rigour of the general law, in such criminal cases as **merit an exemption from punishment.**”

- William
Blackstone,
1769

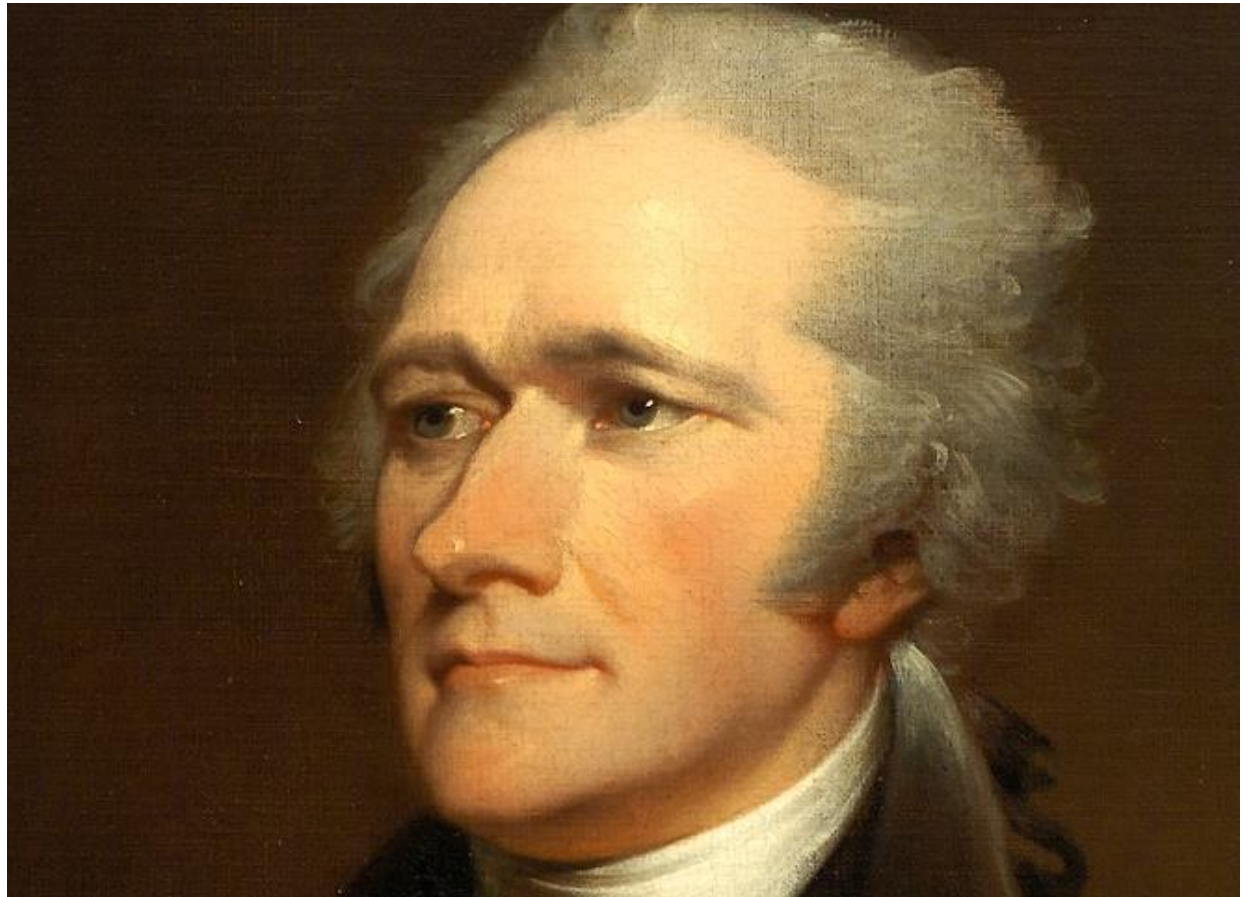


**Monarchical Underpinnings of the
“Mercy Function”**



“Humanity and good policy conspire to dictate, that the **benign prerogative of pardoning should be as little as possible fettered** or embarrassed. The criminal code of every country partakes so much of necessary severity, that **without an easy access to exceptions in favor of unfortunate guilt**, justice would wear a countenance too **sanguinary and cruel.**”

- Alexander
Hamilton,
1788



The Founders’ Belief in the “Benign Prerogative of Pardoning”



“Until I can be sure that **everyone sentenced to death in Illinois is truly guilty**, until I can be sure with moral certainty that **no innocent man or woman is facing lethal injection**, no one will meet that fate. We must ensure the public safety of our citizens but, in doing so, we must ensure that the **ends of justice are served.**”

- Gov. George Ryan,
Illinois, 2000



Modern Exercises in Sovereignty: the Clemency Power

Capital Commutations Before 1976



“In the first half of the twentieth century, 1 out of every 4-5 death sentences was commuted”

Adam M. Gershowitz, *Rethinking the Timing of Capital Clemency*, 4
(2014)

EXECUTIONS 1932-1972: N = 3,581
CLEMENCY RATE 1900-1950: ~ 20-25%

Capital Commutations After 1976



EXECUTIONS: 1,431

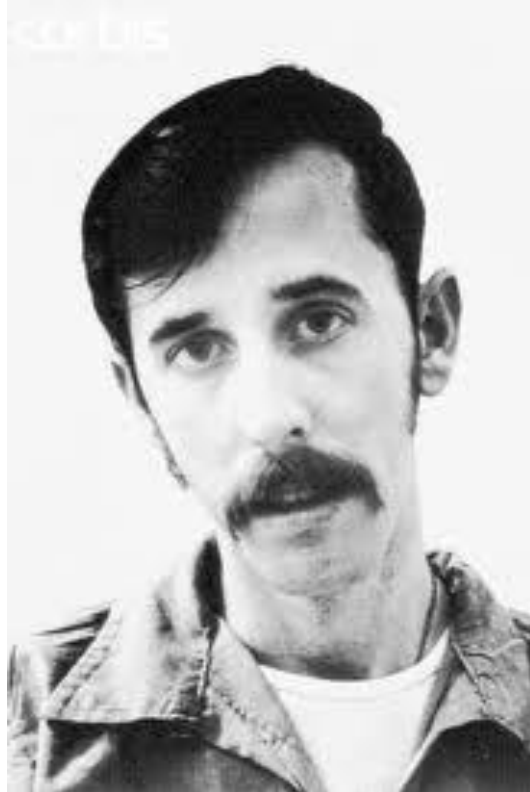
CLEMENCY FROM MASS GRANT: 213

CLEMENCY FROM INDIVIDUAL GRANT: 67

TODAY'S INDIVIDUAL CLEMENCY RATE:

~ 4%

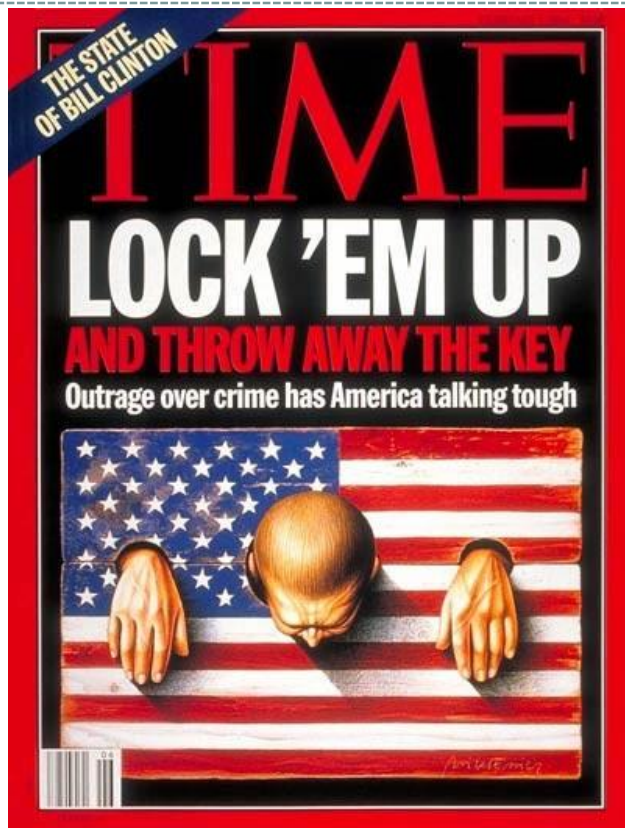
Why Have Individual Commutations Ground to a Halt?



- ***GREGG WAS SEEN TO ADDRESS OVERLY ARBITRARY/HARSH SENTENCES***

Troy Leon Gregg

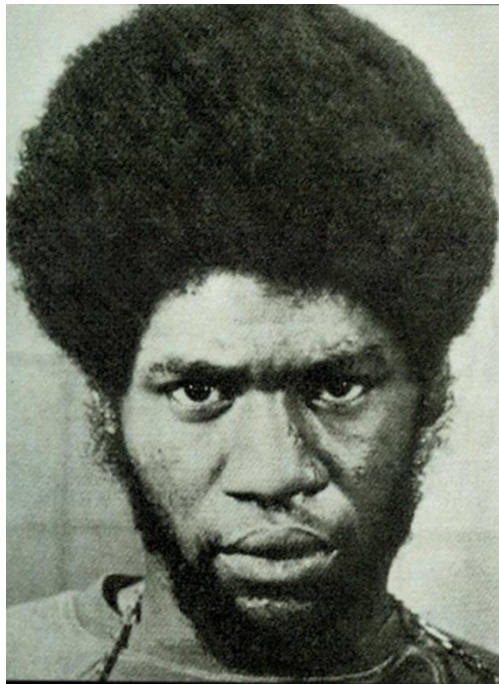
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“Tough on Crime” Policies



Why Have Individual Commutations Ground to a Halt?



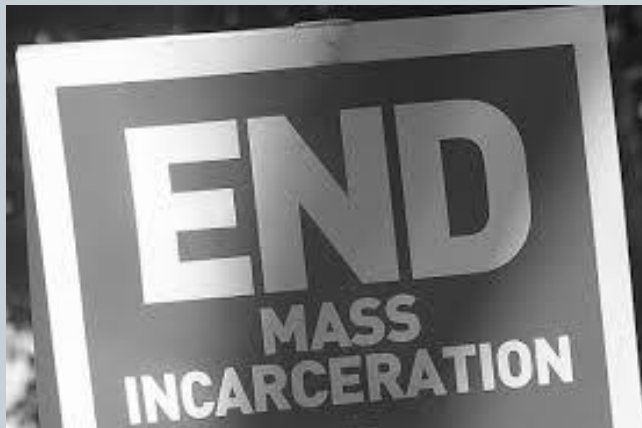
Willie Horton

Fears of “Political Suicide”

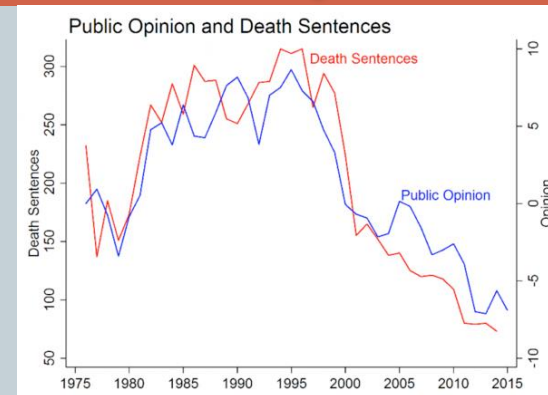


Why Regain Hope?

New Social Movements & Support for Reform



Reconsideration of the Death Penalty



SUPREME COURT OF THE UNITED STATES

Syllabus

GLOSSIP ET AL. *v.* GROSS ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE TENTH CIRCUIT

New Effort to Resuscitate Capital Clemency



- CAPITAL CLEMENCY RESOURCE INITIATIVE (“CCRI”)
 - WWW.CAPITALCLEMENCY.ORG

