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The need to restore freedom and opportunity

As a long-time criminal defense lawyer and a former law enforcement officer, the two of us bring very different perspectives to the fight for criminal justice reform. One of us has defended the accused and is now working with partners in the legal profession to support Clemency Project 2014. The other devoted a career to law enforcement and then learned firsthand how much invaluable human talent needlessly languishes in prison.

But the recent announcement by the Department of Justice that it intends to launch a robust program to promote clemency consideration for certain non-violent federal offenders has not only brought us together, it has provided a hopeful sign to countless inmates in the United States. Indeed, just last week, the Department of Justice and the Bureau of Prisons sent the notification to every federal inmate, alerting the entire federal inmate population that the project has been launched.

Deputy Attorney General James Cole announced criteria that significantly broaden the class of inmates eligible to seek sentence commutation. The program sensibly focuses on those non-violent offenders who have served at least ten years in prison and would have received a significantly lesser sentence if they were sentenced under current sentencing law and policies. It also limits eligibility to those whose background and institutional record suggest that their early release will present no discernible risk to public safety.

An equally hopeful sign is the launch of Clemency Project 2014, an effort by the legal community to provide free assistance to inmates. By organizing and recruiting volunteer attorneys, the program ensures that no person eligible for the clemency program is overlooked. This extraordinary mobilization, combined with Cole's announcement of a similar commitment by the Justice Department to expeditiously review the influx of petitions, offers many inmates the hope of an early return to freedom.

Despite our different backgrounds, we agree that this initiative to commute lengthy sentences is long overdue. We stand together in applauding the significant executive action taken here and the enthusiastic response by the bar, but we both know that lasting sentencing change cannot occur until mandatory minimums are abolished. This requires bold legislative efforts.

However, this new clemency program is only a token acknowledgement that a problem exists. Even if the president grants a significant number of commutations, it will remain an incomplete and inadequate solution.

On both the federal and the state levels of government, legislative action is needed to end the country's infatuation with incarceration. We should eliminate mandatory minimums because they unnecessarily restrict judicial discretion, apply a cookie cutter approach to a process that should focus on the unique circumstances of the individual offender, and they imbue prosecutors with a bludgeon to extract guilty pleas from the accused, even those who are innocent. Additionally, we should provide significant credit for good time and should couple eligibility for good time with vocational and educational training for inmates so that they can leave prison with the skills necessary to become productive members of society.

But that is not all that is required. It is not just harsh sentences that must be addressed. We must also take steps to ensure that those who have paid their debt have a meaningful opportunity to become productive members of society. We must tear down the barriers that confront those with a criminal record, often making it impossible for individuals with criminal records to obtain housing, jobs and access to opportunity. A recent study by the American Bar Association has identified more than 45,000 collateral consequences embedded in a vast network of legal barriers, debarments and disabilities. These are the silent penalties and the secret sentences that have relegated more than 65 million Americans with criminal records to second class status.

It is time to devote resources to rehabilitating instead of handcuffing, and to building communities instead of prisons. Along with the clemency petitions, the Justice Department must work with advocacy groups to help reintegrate those who are released back into society. They will need jobs and opportunity. And to achieve that, those who have emerged from the criminal justice system need to have fundamental civil rights restored. Clemency Project 2014 offers the hope of early release for some. But we must match that initiative with an equal commitment to restore rights and status to those who have paid their debt to society.

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