

April 10, 2023

Governor Ned Lamont

By email: <https://portal.ct.gov/Office-of-the-Governor>

Office of the Governor
State Capitol
210 Capitol Avenue
Hartford, CT 06106

Dear Governor Lamont:

I write to express concern about the recent change in leadership of the Board of Pardons and Paroles and the cancellation of the April 13 hearing to pre-screen commutation applications. I strongly support BOPP's decision to resume commutation proceedings in 2021, and I hope that BOPP continues its efforts to address a substantial backlog – decades in the making – of individuals whose long sentences warrant a second look.

Recent critics of BOPP have mischaracterized its work. The commutations over the last two years do not represent a skyrocketing rate of commutations but instead reflect a serious effort to deal with a backlog of unreviewed sentences that resulted from (1) a sharp increase in extreme sentences in the 1990s and 2000s and (2) an essentially non-functioning commutation process between 1995 and 2021.¹

Before 1995, commutation was a regular feature of Connecticut's criminal system. Between 1968 and 1994, Connecticut commuted at least 198 sentences,² for an average of eight or nine commutations per year. Before the process slowed in 1994, the Board was granting 10 or 11 commutations per year.³

Beginning in 1995, the number of commutations flatlined. There were no recorded commutations between 1995 and 2010,⁴ even though board members saw as many as 350 applications in a given year during the 1990s. Applications dropped sharply during the 2000s, presumably because any hope of a sentence reduction had evaporated. In 2007, only three people applied for commutations. In the 26 years leading up to 2021, only ten commutations were granted.

These trends coincided with a dramatic rise in extreme sentences and prison populations. In 1988, Connecticut's prison population was 4,723. By 1996, it was 12,465. A 2000 report on Connecticut's prison overcrowding attributed the state's rapidly growing prison population to a rise in harsh prison sentences handed down amid the tough-on-crime politics of the 1990s.⁵ Although the prison population has now dropped, the decrease resulted from programs aimed at reducing recidivism and diverting people who committed low-level offenses, not from any meaningful effort to address extreme sentencing.⁶

The numbers bear this out. In 2000, 764 people in Connecticut prisons had been incarcerated for over a decade; by 2019, that figure had more than doubled.⁷ In 2020, there were 741 people serving life or virtual life sentences in Connecticut; 34 percent of those individuals were elderly.⁸ In short, many of those who received the harshest sentences in the 1990s and 2000s remain in prison today.

Some of the most extreme sentences were given to the youngest individuals. This trend is attributable, at least in part, to a false, racist theory of the "superpredator," which warned in 1996 that "the number of young [B]lack criminals [was] likely to surge. . . ."⁹ Although the US Surgeon General announced in 2001 that the superpredator theory was a myth, the idea had taken hold in the media. It set in motion a long-term shift in sentencing trends, and many of the tough-on-crime policies that were passed during the heyday of the superpredator myth remain in place.¹⁰

If Connecticut had kept up a rate of 8 or 9 commutations per year, around 210-230 individuals would have received commutations between 1995 and 2021. Given the increasingly harsh sentences of the late 1990s and 2000s, it is likely that a much larger number should have received a second look.

It is no surprise then that BOPP faced a tremendous backlog when it resumed commutations after a 26-year hiatus. Undoubtedly, its work is not finished. Second chances are critical to a functioning criminal system, and BOPP is in the business of assessing which individuals in Connecticut's prisons present the lowest risk to communities. We know far more about people who have committed crimes – and their potential to turn their lives around – years after their sentences were handed down, and BOPP is appropriately vested with the authority to review their cases.

Given the challenges created by the sentencing practices of the last three decades, I commend BOPP for the progress it has made. I urge the administration not to return to the misguided sentencing policies that for decades gave hundreds of incarcerated people in Connecticut little hope beyond a life and death in prison.

Sincerely,

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Director, Criminal Defense Clinic
University of Connecticut School of Law

Cc: Jonathan Dach
Marc Pelka

¹ See *Searching for Clemency in the Constitution State*, NYU CENTER ON THE ADMINISTRATION OF CRIMINAL LAW (May 2020), available at

https://www.law.nyu.edu/sites/default/files/CT_4_15_A%20CACL%20Clemency_Final%20.pdf.

² Data are unavailable for 1975, 1976, and 1982.

³ Annual commutation figures for Connecticut were provided by the authors of the report, *Searching for Clemency in the Constitution State*, see supra note 1.

⁴ Data are unavailable for 2003-2006.

⁵ *Factors Impacting Prison Overcrowding*, CONNECTICUT GENERAL ASSEMBLY, LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE, at 1 (December 2000), available at https://www.cga.ct.gov/pri/archives/fipo/20001201FINAL_Full.pdf (“The driving force behind prison overcrowding, however, is the aggressive “tough on crime” approach taken by policymakers, criminal justice administrators, and the court since the mid-1990s.”).

⁶ See Joshua Petersen, James Cavallaro, and Andrew Clark, *Connecticut at the Crossroads*, UNIVERSITY NETWORK FOR HUMAN RIGHTS, at 76-82 (January 2021), available at https://static1.squarespace.com/static/5b3538249d5abb21360e858f/t/600f29b9d383732f202b08dc/1611606459237/ConnecticutAtTheCrossroads_25Jan21.pdf.

⁷ *How Many People Are Spending Over a Decade in Prison?* SENTENCING PROJECT (September 2022), available at <https://www.sentencingproject.org/app/uploads/2022/10/How-Many-People-Are-Spending-Over-a-Decade-in-Prison.pdf>.

⁸ *No End in Sight: America’s Enduring Reliance on Life Imprisonment*, SENTENCING PROJECT, at 10, 22 (February 2021), available at <https://www.sentencingproject.org/app/uploads/2022/08/No-End-in-Sight-Americas-Enduring-Reliance-on-Life-Imprisonment.pdf>.

⁹ *State v. Belcher*, 342 Conn. 1, 14, 268 A.3d 616, 624 (2022) (quoting the proponent of the superpredator theory) (ordering new sentencing hearing where judge explicitly invoked superpredator theory during sentencing).

¹⁰ See James Forman, Jr. & Kayla Vinson, *The Superpredator Myth Did a Lot of Damage: Courts Are Beginning to See the Light*, NY TIMES, April 20, 2022, available at <https://www.nytimes.com/2022/04/20/opinion/sunday/prison-sentencing-parole-justice.html> (“To meaningfully shrink the prison system will require states to do something few have wanted to do: reduce some of the extremely long sentences imposed in the 1990s.”).