

Wisconsin's Legacy of Gubernatorial Clemency
Through Commutation of Sentence for Imprisoned Petitioners

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This report describes the history and tradition of granting clemency to incarcerated petitioners in Wisconsin and provides commutation of sentence data from five previous governors.

Since Wisconsin's inception in 1848, governors have liberally granted clemency to imprisoned petitioners. When the death penalty was replaced with life in prison in Wisconsin over 150 years ago, the only way convicted murderers could be released from prison was by pardoning them. Governors routinely pardoned lifers after serving an average of five years.¹ The creation of a parole system in Wisconsin did not stop governors from granting commutation of sentences for prisoners. Before the Mass Incarceration Movement hijacked Wisconsin's criminal justice system in 1987, governors were still routinely granting commutation of sentences to imprisoned citizens.

Attached to this report is a list of prisoners who were granted commutation of sentence while still imprisoned from 1969 to 1986². Governors Warren Knowles, Patrick Lucey, Martin Schrieber, Lee Dreyfus and Tony Earl all commuted the sentences of numerous prisoners. The reason for granting the bulk of these commutations was to permit a prisoner to become eligible for parole (and then released on parole) at an earlier date than allowed by statute³.

Note 1: This data is available in the biannual reports of Waupun State Prison from the 1800s. These reports are held in the State Historical Society archives (askarchives@wisconsinhistory.org).

Note 2: Governor Tommy Thompson took office in 1987 espousing a "get tough on crime" agenda which was the birth of the Mass Incarceration Movement in Wisconsin.

Note 3: Previously, prisoners were eligible for release on parole after serving one year - except for persons convicted of 1st or 2nd degree murder. 1st degree murder required serving 11 years, 3 months while 2nd degree murder required serving 5 years before reaching parole eligibility.

When Governor Thompson took office in 1987, one of his first acts was to bar prisoners from petitioning for clemency. That restriction has become entrenched in gubernatorial clemency guidelines. The only way a prisoner can now seek a commutation of sentence is to file a form requesting permission to file for clemency. To the best of this author's knowledge, no prisoner has succeeded in establishing the extraordinary circumstances necessary to overcome this restriction. Each governor since 1987 has supported the Mass Incarceration Movement and refrained from granting any prisoner a commutation of sentence. Governor Scott Walker took it one step further and refused to accept a petition for clemency from anyone.

The adherence to the doctrines of the Mass Incarceration Movement by Wisconsin governors has led to historical levels of imprisonment and monitoring of citizens through probation, parole and extended supervision.

Wisconsin Corrections Data - Approximate Totals
Wisconsin Blue Book 2011-12

Year	1970	1980	1990	2000
Imprisoned	2900	3200	6200	19000
On Supervision	8900	20000	30000	64000

In 1990, Governor Thompson commissioned a "Ten Year Plan" for the Department of Corrections which projected that the Wisconsin prison population would soar to 20,000. It became a self-fulfilling prophecy accomplished by imprisoning more citizens for longer periods based on eliminating release on parole and enacting harsher sentencing laws.

The data on persons serving life sentences in Wisconsin demonstrates the effect the Mass Incarceration Movement had on how much time they served. Four graphs are attached to this report: Number of Lifers With 20+ Consecutive Years Incarcerated (as of May 2009), Time Served by Persons with Life Sentences Who Are Still Incarcerated In Wisconsin (May 2017, showing number of lifers with 30 or 40 consecutive years served), Time Served to Release for Persons Serving Life Sentences in Wisconsin (May 2017) and Average Time Served/Number of Persons Released for Persons Serving Life Sentences in Wisconsin (May 2017). This data begins at 1980 or 81 and goes up through the date of preparation.

In 1980, only two lifers had served more than 20 years in prison and no lifer had served 30 years in prison. By 2009, there were 255 lifers who had served over 20 years in prison. In 1990, there was only one lifer who had served more than 30 years in prison; by 2017, there were 136. In 2000, there was only one lifer who had served over 40 years in prison; by 2017, there were 23.

The refusal to grant commutation of sentence to incarcerated lifers contributed to this decades-long warehousing which is still going on. Data on how much time lifers served to release on parole in the early 1980s is scarce because so few lifers reached parole eligibility without being granted commutation of sentence before that. In 1981 and 1982, two lifers were released in each year, all of them having served less than 4 years. In 2002, not one lifer was released on parole in spite of hundreds of lifers being eligible. By May 2017, the average time served to release on parole was almost 30 years. Many lifers are still languishing in prison with more than 30 years served.

Before the Mass Incarceration Movement, Wisconsin governors understood that merely because a citizen committed a crime, it did not make him or her irredeemable or in need of endless incarceration to "protect the public" (persons convicted of murder historically have the lowest recidivism rates - in the single digits - yet are the ones who suffer most from the Mass Incarceration Movement).

The attached list of prisoners granted commutation of sentence shows that frequently the sole basis for granting commutation was the conduct of the petitioner after coming to prison. However, current parole and security classification policies give little or no weight to institution conduct or achievements for persons serving long sentences.

Governor Tony Evers is in a position to put an end to the Mass Incarceration Movement in Wisconsin by restoring the right to petition for clemency to incarcerated citizens. Billions of dollars have been wasted on unnecessary warehousing of prisoners since Governor Thompson brought the Mass Incarceration Movement to Wisconsin.

Governor Evers is urged to restore the policy of granting commutation of sentence to imprisoned citizens.