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## THE QUALITY OF THE PRESIDENT'S MERCY

BY MARGARET COLGATE LOVE

**W**ASHINGTON Almost two years into his presidency, George Bush has yet to grant a single pardon or commute a single prison sentence. This unusual record may reflect a certain indifference to the value and purpose of executive clemency. With the holidays upon us, it is fair to ask President Bush how he intends to use his constitutional power to pardon.

At this point in their respective terms, Ronald Reagan had granted 85 pardons; Jimmy Carter, 162; Gerald Ford, 253; and Richard Nixon, 82. All had also commuted some prison sentences. Even George H.W. Bush had by this time granted nine pardons and commuted one sentence.

The only president in the past 100 years to have granted no pardons at all by the end of his second year in office is Bill Clinton, whose pardoning practices were hardly exemplary. Mr. Clinton waited until the end of his term to start thinking about his pardoning legacy. Mr. Bush should not make the same mistake.

Presidential pardons have both a symbolic and practical function in America's justice system. Most pardons are not controversial; one former presidential adviser has described them as the "housekeeping business" of the presidency. Dozens of ordinary people apply for pardons every year, not only to confirm their rehabilitation but also to regain rights of full citizenship lost as a result of their convictions. Hundreds of federal prisoners petition the president to commute their sentences. By making available executive grace to at least a few of these people who have made mistakes but have fully paid the price, the president could set an example for us all. In government as well as in personal relationships, the capacity and willingness to forgive is a sign of courage and character and makes for a stronger community.

For most of our history, presidents have used their power to pardon frequently and generously. The recent decline of regular pardoning is disturbing not so much because of its effect on disappointed individuals but because of what it reflects about the federal justice system. As that system has become more expansive, it has also become more rigid and less forgiving. Truth-in-sentencing laws make no provision for a change of heart. The collateral consequences of conviction linger long after the sentence imposed by the court has been served, disqualifying convicted people from many jobs and public benefits, discouraging rehabilitation and helping to create a class of people who live permanently at the margins of the law. The restorative power of the pardon has been largely ignored by those responsible for this system.

The framers of the Constitution understood the president's power to pardon not as a personal privilege but as an obligation of office. They understood that the president had a duty to be merciful, to mitigate the sometimes harsh results of the legal system. A president who uses his pardon power courageously and creatively can bolster public confidence in the overall morality of the criminal justice system.

Even if the legal system were foolproof and no mistakes were ever made, post-sentence pardons would still offer the president an opportunity to recognize criminal justice success stories. If the president neglects the pardon power, it may become effectively unavailable to serve the benign purposes the framers envisioned for it. In this way, failure to exercise the power may have the same consequence as abuse of it.

This is the time of year when Americans pause to take stock of their lives and resolve to improve, to be kinder, fairer, more compassionate. By exercising his pardon power wisely and generously, President Bush can send a sign that forgiveness and reconciliation are still and always within our grasp.

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