

## Will Obama pick up the pace on pardons in his 2nd term?

Written by David A. Love

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President Obama pardoned a turkey for Thanksgiving, but will he do the same for people in his second term?

On a recent edition of her MSNBC show, Melissa Harris-Perry raised the issue of Obama's stinginess when it comes to executive acts of mercy. A presidential pardon is the power of the nation's chief executive to nullify a conviction for a federal crime. Governors issue pardons for state crimes. A pardon gives a person a new lease on life, allowing him or her to vote, obtain licenses and work in certain professions, for example.

During his first term in the White House, the president has pardoned a mere 2 percent of those who applied (22 pardons and 1,019 denials), which translates to 1 in 47, the lowest rate of any president in recent memory. And all of those pardoned had already served their time.

According to ProPublica, at this time in their respective presidencies, George W. Bush had pardoned 1 in 33 people, while Clinton had pardoned 1 in 8, George H.W. Bush had pardoned 1 in 16, and Reagan had done so in 1 out of every 3 cases.

Similarly, President Obama lags way behind his predecessors in commutations, the power to reduce the sentence of a convicted person.

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There is a case to be made for an uptick in pardons during Obama's final four years. Now he is unencumbered by the need to campaign for reelection, and does not risk being painted as soft on crime. Other presidents have used the pardon power more liberally after their reelection.

Perhaps with November 6 under his belt — not to mention a huge victory over Mitt Romney and arguably a mandate to do his thing — this will liberate Obama to liberate others, so to speak.

There are other issues competing for his attention, including immigration reform, the so-called fiscal cliff, cabinet nominations and others, but the issue of pardons could help Obama leave his mark on criminal justice reform.

However, a major stumbling block is the pardons process itself. Presidents rely on recommendations from the Office of the Pardon Attorney, which is a part of the Department of Justice.

The problem is that these days, the office recommends to reject the vast majority of applicants. Further, the process is rife with injustice, as applicants with congressional support are three times more likely to receive a pardon, whites four times more likely to be pardoned than applicants of color, and blacks the least likely to catch a break from the president.

Voices on the left and the right have called for a reform of the system. The Open Society Foundations support a Gerald-Ford-style pardon board to address racially disparate drug sentencing, and the Heritage Foundation's Paul Rosenzweig advocates for a removal of the pardons process from federal prosecutors who don't like to admit their mistakes.

Surely the president knows what is at stake. During his first run for the office, Obama vowed to look at mandatory minimum sentences "to see where we can be smarter on crime and reduce the ineffective warehousing of nonviolent drug offenders."

Meanwhile, the U.S. claims the world's largest prison population — due in part to draconian, out-of-control, drug-war-driven sentencing — and leadership in the use of the death penalty. There's lots of punishment in the land of the free, too much even, but is there justice?

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Something's gotta give.

One of the people most deserving of a presidential pardon is Clarence Aaron, who in 1992 was sentenced to three concurrent life sentences without the possibility of parole in his mid 20s — all for a nonviolent drug offense with no priors.

A college student at the time, Aaron was convicted of conspiracy to distribute crack cocaine, although he did not buy, sell or supply. Aaron's sentencing demonstrates the piling on of mandatory minimum sentencing, which treats the lowest man on the totem pole like a drug kingpin in the mold of Nino Brown. Aaron's pardon application was rejected by the Bush administration.

Stephanie George is serving life in a federal prison for conspiracy to possess with intent to distribute cocaine base. She was sentenced in 1997 at age 26. George dated a few men who sold drugs and at times helped support her family. Police raided her house in Florida and found 500 grams of powder cocaine, money and paraphernalia belonging to her former boyfriend. The boyfriend confessed that these items belonged to him, and said the \$797 in his pants pocket came from 500 grams of crack he sold.

George was held responsible for the 500 grams of powder found in her home, as well as the 500 grams of crack the boyfriend claimed he sold. Several drug-dealing co-defendants testified against her for lighter sentences, and she was deemed a career criminal.

Others are regarded as political prisoners. A lawyer and Texas gubernatorial candidate, Ramiro "Ramsey" Muñiz was sentenced to life without parole in 1994 under "three strikes" guidelines. His supporters say Muñiz, 70, is innocent, framed on a bogus drug charge and targeted because of his political activism.

Muñiz was active in the Chicano civil rights movement, spoke out against the injustices facing Mexican Americans, and fought for the inclusion of Latinos in the political realm. Civil rights groups have called on President Obama to commute Muñiz's sentence and release him.

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A petition on the White House website calls for President Obama to free Army Pfc Bradley Manning, a military whistleblower who was arrested and detained for allegedly releasing hundreds of thousands of classified U.S. government documents to WikiLeaks. These documents included military reports for the U.S. wars in Iraq and Afghanistan. Desmond Tutu, Michael Moore and other high-profile figures have called for Manning's release.

Meanwhile, former Alabama Governor Don Siegelman is serving an over 6 year sentence for bribery. Siegelman wanted to create a state lottery to allow Alabama students to attend college for free. A healthcare executive donated \$500,000 to a campaign to create the lottery.

Siegelman and his supporters claim he did not personally benefit from the contribution, and that he was a victim of a witch hunt by Karl Rove, the Bush Justice Department, and Mississippi Indian casinos represented by Jack Abramoff who opposed the lottery.

Siegelman's supporters also claim that his real crimes were being a Democrat with Jewish and Catholic origins in a Republican state, having an affinity with minorities, and seeking a second term. One of Siegelman's character witnesses was Sephira Shuttlesworth, widow of the late civil rights icon Fred Shuttlesworth. Siegelman's cause has drawn widespread support from law professors and state attorneys general, and his daughter seeks a pardon from President Obama.

Other high-profile political prisoners include Assata Shakur and Leonard Peltier. Shakur, who was targeted by the FBI's COINTELPRO for her involvement in the Black Panthers and the Black Liberation Army, was charged with the shooting death of a New Jersey state trooper. Step-aunt of the late Tupac Shakur, she escaped and fled to Cuba.

Peltier, an activist of the American Indian Movement, has been imprisoned since 1977, sentenced to two life terms for the killing of two FBI agents during a shootout at the Pine Ridge Indian Reservation.

Serious questions have been raised about Peltier's guilt, the FBI and the prosecutor were accused of mishandling the case, and the trial was regarded by critics as a sham.

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Amnesty International listed Peltier's case under the "unfair trials" category of their 2010 annual report.

The president said he is wary of overreaching in his second term. But lame ducks should pardon more than turkeys.

Re-elected presidents can accomplish bold things because they have nothing to lose. They have the power to give a second chance to those who already have lost everything.

*Follow David A. Love on Twitter at @davidalove*