

Clemency and Consequences

State governors and the impact of granting clemency to death row inmates

July 2002

Perhaps no decision in the course of a governor's term has a more direct or immediate effect on the welfare of an individual and his or her family than executive clemency. Yet, it is a prickly issue in that it concerns a readily identifiable individual who the state has successfully prosecuted, and who may be perceived to have committed a crime (which may or may not be true). The act of clemency is not like other executive powers that are easily generalized as matters of policy, the ultimate fate of an individual who is easily identified and known to the public -- and perhaps even despised -- is in question.

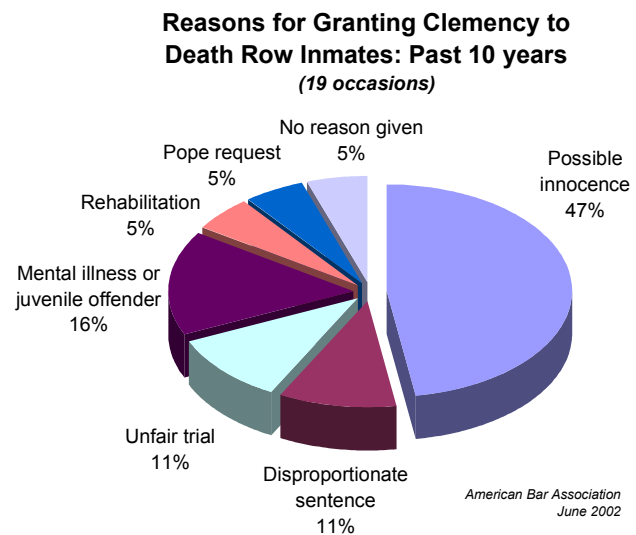
This report examines the consequences of granting clemency, focusing on the last 10 years. Clemency is a broad power that rests in the executive branch of government as part of the system of checks and balances. It includes pardons (which invalidate both the guilt and punishment of the defendant), reprieves (which temporarily postpone punishment) and commutations (which reduce the severity of the punishment). In cases of death row inmates, most clemencies are commutations to a long prison sentence, such as life in prison without parole. This paper demonstrates that, despite the popular assumption, governors have not suffered any measurable political consequences for granting clemency to death row inmates.

When Governors Grant Clemency

Since reinstatement of the US death penalty in 1976, executive clemency has been granted 48 times on "humanitarian" grounds (rather than legal technicality or judicial expedience). Of these, the leading reasons were: possible innocence 15 times (31%); disproportionate sentence 10 times (21%); and opposition to the death penalty in principle 9 times (19%).¹

This article focuses on the most recent clemencies, the 19 that have been granted in the past 10 years (June 1992-June 2002).² The reasons given are in comparable proportion to the 48, with the exception of a governor's opposition to the death penalty in principle, which has not occurred in the past 10 years.

Since 1993, possible innocence was given as a reason nine times (47%); mental illness or juvenile status three times (16%); unfair trials twice (11%); disproportionate sentencing twice (11%); rehabilitation once (5%); request from the Pope once (5%); and no reason given once (5%).

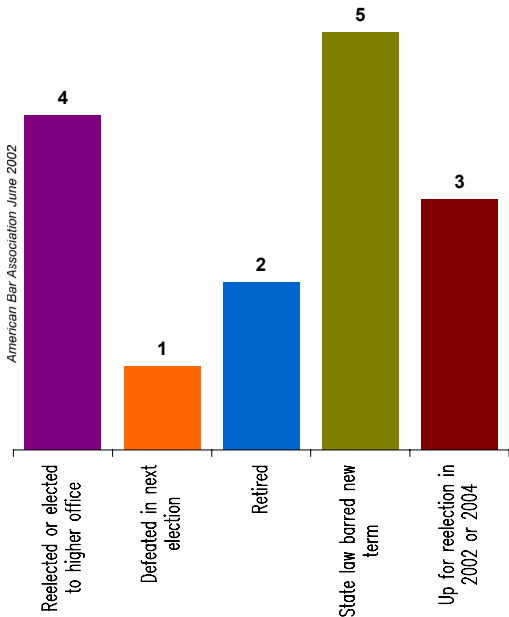


¹ See Michael L. Radelet and Barbara A. Zsembik; "Executive Clemency in Post-Furman Capital Cases," *University of Richmond Law Review* (Winter 1993). Updates to paper are posted on www.deathpenaltyinfo.org by the Death Penalty Information Center, Washington, DC.

² All clemencies were granted by governors except one by President Clinton, who granted clemency in 2001 to David Ronald Chandler on the grounds of possible innocence.

Governors who have made the decision to grant clemency have not suffered politically, although some did receive pointed criticism. Of the 15 governors who granted clemency since 1993, only one was defeated for re-election (James) while three were re-elected or elected to higher office (Carnahan re-elected Governor, Allen, Bush, Carnahan elected Senator).³ Five were barred by law from seeking re-election (Wilder, Gilmore, Hunt, Glendening, Keating); two retired (Edgar, Batt); and three face re-election in 2002 or 2004 (Huckabee, Easley, Barnes) [see appendix].

Fate of governors who granted clemency to death row inmates from 6/92 through 6/02



Interestingly, the three most politically successful politicians in this group granted clemency twice during their gubernatorial tenures. Missouri Governor Mel Carnahan (D), granted clemency in his first term and was re-elected comfortably with 57% of the vote in 1996. He granted a much more controversial clemency (the “Pope clemency,” discussed below) during his second term, but still won a US Senate seat in 2000, defeating the incumbent, John Ashcroft.⁴ Virginia Governor George Allen (R), granted clemency twice during his single term after which he defeated incumbent Charles “Chuck” Robb for the US Senate, where he now serves. In North Carolina, Governor Jim Hunt (D), who granted clemency once in 1999 and again in 2000, was the first person in North Carolina history to be elected governor for two sets of consecutive terms (1977-1985 and 1993-2001). His successor, Michael Easley has already granted clemency twice in his first term, and as of May 2002 was enjoying 60% approval rate. Easley is the favorite in his bid for re-election in 2004 [see appendix].

Governors (and President Clinton)⁵ received approval ratings of 55% or higher after 15 of the 19 clemencies granted in the past ten years. Only once was approval lower than 55% (Wilder at 39% in 1994). Note that relevant approval polling was not available or found by researchers for three clemencies (Governors James, Hunt in 2000 and Barnes) [see appendix].

These findings show that granting clemency does not result in low approval ratings or threaten success in a future election, since *nearly all governors who granted clemency received high approval ratings or were re-elected if they sought re-election or higher office.*

Of course, Governors receive criticism for their positions or actions, regardless of the issue – and such decisions of life and death are no exception. Opportunists will attack a governor’s grant of clemency, since it may seem an easy target, but there is no evidence to support the assumption that granting clemency impacts public approval or success at election time.

Even Missouri Governor Mel Carnahan’s highly publicized “Pope clemency” illustrates this point. Carnahan commuted the sentence of triple-murderer Darrell Meese in 1999 upon the personal request of Pope John Paul II during his visit to St. Louis. Carnahan was roundly criticized by death penalty supporters for compromising his principles to appease the Pope, and criticized by some death penalty opponents for being arbitrary, arguing that cases with more compelling claims had proceeded to execution. Despite this

³ Governor Carnahan granted clemency twice: once in his first term, after which he was re-elected governor, and again in his second term, after which he was elected to the US Senate.

⁴ A month before the 2000 election Governor Carnahan died in a plane crash. His name remained on the ballot, and his widow, Jean Carnahan, carried out the campaign and now serves as US Senator for Missouri.

⁵ Per footnote 2, President Clinton granted one clemency in 2001.

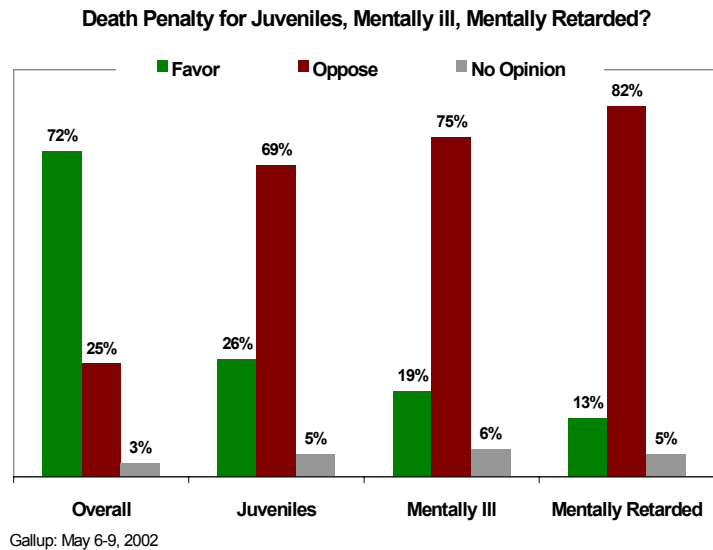
heavy criticism, his approval ratings remained favorable and he went on to defeat the incumbent and win a seat in the US Senate.⁶

In this case, the reason for granting clemency was highly unusual and clearly controversial, and consequently criticism was unusually high. It is critical to note that in this example, clemency was granted on grounds *other than the merits of the case*. When clemency has been granted based on the merits, the public can be expected to understand and approve.

What Does the Public Think?

In the past three years, support for capital punishment has ranged between 65% and 72% (Gallup). Although Americans support capital punishment in general, they do not support capital punishment for all people who commit murder.

The most recent national poll (Gallup, May 2002) found that US adults strongly oppose the death penalty for juveniles (69% oppose), the mentally ill (75%), and the mentally retarded (82%). Also, roughly 50% think that life in prison without parole is an appropriate sentence for murder, and slightly more think that the death penalty is an appropriate sentence for murder.



An April 2001 *ABC News/Washington Post* poll found that: 68% agreed with the statement that “the death penalty is unfair because sometimes an innocent person is executed”; 63% agreed with the statement “the death penalty is unfair because it is applied differently from county to county, state to state”; and 51% supported (43% opposed) a “halt in all executions” to study fairness. A June 2000 *CNN/USA Today/Gallup* poll found that 94% think that innocent people are on death row and 80% think that innocent people have been executed.

A July 2000 *NBC News/Wall Street Journal* Poll found that 63% supported a suspension of executions to address issues of fairness. The fact that newspapers and the public have strongly supported the moratoria that Governors Ryan (Illinois) and Glendening (Maryland) established illustrates that governors can make major decisions limiting executions without negative consequences.

Furthermore, public opinion has been fairly constant during the past five years across all major polling organizations. This shows that Americans support capital punishment, but do not think it is appropriate for murderers who are juvenile offenders, mentally ill or mentally retarded. The public also thinks that there are problems with the death penalty, and we should halt all executions to examine these problems.

The Increased Responsibility of Governors to Grant Clemency

“Executive clemency has proved to be the ‘fail safe’ in our criminal justice system.... It is an unalterable fact that our judicial system, like the human beings who administer it, is fallible.” *Herrera v. Collins, 506 U.S. 390, 415 (1993)*

⁶ See footnote 4.

As Supreme Court Chief Justice William H. Rehnquist wrote in *Herrera*, the system is not perfect and clemency is a critical safeguard. The role of clemency in addressing miscarriages of justice has increased as a result of legislation restricting an inmate's ability to appeal (Anti-Terrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214) and Supreme Court decisions such as *Herrera*, which held that the federal courts could not intervene on an inmate's freestanding innocence claim. *Id.* at 412.

The role of these since-barred safeguards is illustrated in the well-known case of boxer Rubin "Hurricane" Carter, who was falsely convicted of a 1966 triple homicide. In 1985, Federal District Court Judge Lee Sarokin, upon review of old and new evidence, ruled that the case against Carter was groundless and granted his freedom. The Anti-Terrorism and Effective Death Penalty Act removed this level of Federal habeas review, placing greater responsibility on governors to remedy the failures of our legal system. Indeed, if the Carter case took place today his fate would be gravely different, since his innocence claim would not be heard in federal court and several governors had denied his clemency requests.

This higher responsibility is underscored by findings of far more serious error in the death penalty system than was previously thought. In 2000, Professor of Law James S. Liebman's groundbreaking study of 5,760 capital convictions between 1973-1995 found that 68% of them were subject to "serious reversible error" (error that directly impacted a finding of guilt or the sentence imposed) by the courts.⁷ The findings of this report should be alarming since Congress removed Federal habeas review – a level of review which discovered 40% of these errors.⁸ In addition, the moratoria imposed by Governor's Ryan and Glendening underscore the prevalence of problems, given that their states, Illinois and Maryland, have executed relatively few (twelve and three, respectively).

It stands to reason that states that execute more should grant clemency more, yet this is not so. Among the five highest executing states, three of them are substantially below the national clemency to execution ratio of 6.14%: Texas (one clemency, 272 executions, ratio of 0.37%),; Missouri (2 clemencies, 57 executions, ratio of 3.51%; and Oklahoma (50 executions, one clemency, ratio of 2%) [see appendix].

Conclusion

Executive clemency has been granted 48 times on humanitarian grounds since reinstatement of the death penalty in 1976. There is no evidence suggesting that a governor will suffer any political loss for granting clemency, especially if it is done for good reasons on the merits of the case. Three governors have granted clemency twice during a single term in the past 10 years without negative consequence, and have had the most successful political careers of all governors covered in the scope of this paper.⁹ Although Americans support capital punishment, they do not think that it is appropriate for juveniles, persons with mental illness and persons with mental retardation. In addition, they think that the system can be unfair and can sentence innocent people to death.

Governors have a heightened degree of responsibility in considering clemency appeals since there is less review by the courts as the result of the Anti-Terrorism and Effective Death Penalty Act of 1996 and the Supreme Court ruling in *Herrera*. Given the widespread acknowledgement that serious flaws exist in capital punishment, Governors in some of the highest executing states (Texas, Missouri and Oklahoma) have used this power at significantly lower rates than the national average.

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⁷ James S. Liebman, Jeffery Fagan, Valarie West, "A Broken System: Error Rates in Capital Cases, 1973-1995," online at: justice.policy.net/jpreport/.

⁸ In the above study, Liebman addressed this point in the Summary of Central Findings, finding #11: "the ... policy of cutting back on judicial inspection makes no more sense than responding to the insolvency fo the Social Security System by forbidding it to be audited."

⁹ After his term as governor, George Allen defeated incumbent Senator Charles Robb for his seat in the US Senate; Governors Hunt and Easley of North Carolina both enjoyed high approval ratings and Easley presently enjoys a 60% approval rating and he is up for re-election in 2004.

Appendix:

I: Clemency Table, Cases

Executive Clemency: June 1992-June 2002						
Year	State	Governor	Inmate	Reason for Clemency	Re-elected?	Approval Rating, post-clemency
June-Dec 1992	/	No	<i>clemencies</i>	<i>granted</i>	/	/
1993	MO	Carnahan	Bobby Shaw	Mental illness ¹	Re-elected in '96 ²	71% in Feb. '94 ³
1994	VA	Wilder	Earl Washington	Possible innocence ⁴	State law bars consecutive terms	39% in Feb. '94 ⁵
1996	IL	Edgar	Gwen Garcia	Disproportionate sentence ⁶	Retired. ⁷	Over 60% in Sept. '98. ⁸
	VA	Allen	Joseph Payne	Possible innocence ⁹	State law bars consecutive terms	65% in Jan. '97 ¹⁰
	ID	Batt	Donald Paradis	Possible innocence ¹¹	Retired ¹²	No applicable polls
1997	VA	Allen	William Saunders	Rehabilitation of inmate ¹³	Elected to US Senate in 2000.	70% in Feb. '98 ¹⁴
1998	TX	Bush	Henry Lee Lucas	Possible innocence ¹⁵	Elected President in 2000	78% in Apr. '99 ¹⁶
1999	AL	James	Judith Ann Neelley	No reason publicly given. ¹⁷	Lost re-election in 1998 ¹⁸	[No data found]
	MO	Carnahan	Darrell Mease	Granted at Pope John Paul II's request ¹⁹	Elected to US Senate in 2000	56.6% in fall '00 ²⁰
	AR	Huckabee	Bobby Ray Fretwell	Unfair trial ²¹	Up for re-election in 2002	70% in May '99 ²²
	VA	Gilmore	Calvin Swann	Mental illness ²³	State law bars consecutive terms	56% in June '01 ²⁴
	NC	Hunt	Wendell Flowers	Possible innocence ²⁵	State law bars more than two consecutive terms	68% in May '00 ²⁶
2000	MD	Glendening	Eugene Colvin-el	Possible innocence ²⁷	State law bars more than two consecutive terms	56% in Jan. '01 ²⁸
	NC	Hunt	Marcus Carter	Unfair trial ²⁹	State law bars more than two consecutive terms	[No data found] ³⁰
2001	Fed.	Clinton (Federal)	David Ronald Chandler	Possible innocence ³¹	Federal law bars more than two consecutive terms	65% in Jan. '01 ³²
	OK	Keating	Phillip Dewitt Smith	Possible innocence ³³	State law bars more than two consecutive terms	56% in Dec. '01 ³⁴
	NC	Easley	Robert Bacon, Jr.	Disproportionate sentence ³⁵	Up for re-election in 2004	60% in May '02 ³⁶
Charlie M. Alston			Possible innocence ³⁵			
2002	GA	Barnes	Alexander Williams	Mental illness and juvenile offender ³⁷	Up for re-election in 2002 ³⁸	[No data found]

1. St. Louis Post-Dispatch, June 3, 1993, at 1A.

2. Received 57% of the vote (St. Louis Post-Dispatch, Nov. 7, 1996, at 17A).

3. Kansas City Star, Feb. 13, 1994, at B2.

4. Associated Press, Jan. 14, 1994. 16 years later, a court found Washington innocent on account of new DNA tests and was granted a full pardon (Associated Press Newswires, Oct. 2, 2000).

5. Wilder granted clemency to Washington the day before he left office. (The Associated Press, Jan. 14, 1994). State law bars consecutive terms. "Wilder's final performance was rated excellent or good by 39 percent of Virginians,

- remaining consistent with figures from polls taken in his final year in office." (Virginian-Pilot & Ledger-Star, Feb. 3, 1994, at D5).
6. Los Angeles Times, Jan. 17, 1996, at 7.
 7. Chicago Tribune, Aug. 20, 1997, at 1.
 8. "More than three out of five voters expressed a favorable opinion of [Edgar]" in a Sept. '98 poll; left office with highest gubernatorial approval rating in state history (Chicago Sun-Times, Sept. 15, 1998, at 8).
 9. Four jurors ask for clemency, doubting their verdict (St. Louis Post-Dispatch, Nov. 8, 1996, at 19A).
 10. "The Mason-Dixon Political/Media Research poll found that 65 percent of those surveyed rated Allen's performance as excellent or good, up from 58 percent last fall." (Associated Press, Jan. 23, 1997). State law bars consecutive terms.
 11. Salt Lake Tribune, May 25, 1996, at E4. Paradis' murder conviction was overturned, & he was released in '01 (Associated Press Newswires, Nov. 15, 2001).
 12. Associated Press labeled Batt an "overwhelming favorite" of Idahoans (The Associated Press Political Service, Sept. 18, 1997).
 13. Trial judge and prosecutor recommended clemency (Virginian-Pilot and Ledger-Star, Sept. 16, 1997, at A1).
 14. "Allen received a 70 percent excellent or good job performance rating for his four-year term" (Virginian-Pilot & Ledger-Star, Feb. 21, 1998, at B4). Allen is currently serving as US Senator for Virginia. He was elected in 2000.
 15. San Antonio Express-News, Dec. 20, 1998, at 29A.
 16. San Antonio Express-News, Apr. 24, 1999, at 3B. Elected President in '00.
 17. Associated Press Newswires, Jan. 20, 1999. Clemency petition focused on rehabilitation of inmate, but Gov. James publicly gave no reason for his decision.
 18. Washington Post, Nov. 4, 1998, at A27. Notably, Gov. James granted clemency as one of his final acts before leaving office, approximately ten weeks after he lost the election.
 19. Los Angeles Times, Jan. 19, 1999, at A1.
 20. St. Louis Post-Dispatch, Sept. 10, 2000, at A12. State law prohibits more than two consecutive terms. Elected to Senate in 2000.
 21. Juror said he was pressured to vote in favor of sentencing Fretwell to death although he was opposed. Associated Press, Feb. 5, 1999.
 22. Associated Press Newswires, May 20, 2002. Up for re-election this year.
 23. Virginian-Pilot and Ledger-Star, May 13, 1999, at A1.
 24. "56% of voters rate[d] Virginia Gov. James S. Gilmore III's job performance as 'good' or 'excellent'" (Washington Times, June 24, 2001, at A11). State law bars consecutive terms.
 25. News & Observer, Dec. 16, 1999, at A1.
 26. Associated Press Newswires, May 9, 2000. State law barred him from seeking re-election.
 27. Washington Post, June 8, 2000, at A1.
 28. Baltimore Sun, Jan. 17, 2001, at 1B. State law bars governor from serving more than two consecutive terms.
 29. Concerns were raised that Carter's trial was unfair because of racial bias (News & Observer, Nov. 22, 2000, at A1).
 30. No polls were taken between Hunt's grant of clemency to Carter (Nov. '00) and leaving office (Jan. '01), but *Roll Call* reported that he left office with "strong job-approval" (Roll Call, March 29, 2001).
 31. An essential witness recanted his testimony (Washington Post, Jan. 21, 2001, at A1).
 32. Clinton pardoned Chandler a few days before he officially left office (Washington Post, Jan. 21, 2001, at A1).
 33. An essential witness recanted his testimony (Associated Press, Apr. 10, 2001).
 34. Tulsa World, Jan. 8, 2002, at 11. State law bars governors from serving more than two consecutive terms.
 35. Winston-Salem Journal, Oct. 3, 2001, at 1B. Charlotte Observer, Jan. 11, 2002, at 1A.
 36. US Newswire, May 3, 2002.
 37. Los Angeles Times, Feb. 26, 2002, at A18.
 38. Michael Binford, political science professor at Georgia State University said, "Barnes is ahead" in the race for Governor (Florida Times-Union, Mar. 15, 2002, at B1).

II: Profiles of Governors who granted clemency twice between 1993-2002

Governor George Allen (R)

State: Virginia

Term: 1994-1998

Political fate: Elected US Senator

Clemency process: Governor has exclusive authority to grant clemency

Total state executions at present: 85

Total state clemencies at present: 6

A poll conducted in September 1995 showed Allen's approval rating at 52%. In November 1996, he granted clemency to Joseph Payne, who while serving time for another murder conviction, had been found guilty of setting another inmate on fire. The prosecution's principal witness against Payne, fellow inmate Robert Smith, recanted his testimony twice, and another witness later said he saw Smith carrying the can of paint thinner to the victim's cell and running away (St. Louis Post-Dispatch, Nov. 8, 1996). In January 1997, a Mason-Dixon Research poll found that 65 percent of those surveyed rated Allen's performance as "excellent" or "good" (Associated Press, Jan. 23, 1997). Allen then granted clemency to William Saunders in September 1997. A jury convicted Saunders of shooting a local businessman in the back of the head in what police described as a botched drug deal (Associated Press, Sept. 15, 1997). The trial judge, prosecutor, and the chief of police who investigated the crime all requested the governor grant clemency, arguing that Saunders was not the same violent criminal as he was when he received the death penalty. In February 1998, Allen's approval rate for his overall job performance had increased to 70% (Virginian-Pilot & Ledger-Star, Feb. 21, 1998). In 2000, he was elected to the US Senate defeating incumbent Charles "Chuck" Robb.

Governor Mel Carnahan (D)

State: Missouri

Terms: 1993-2000

Political fate: Re-elected in 1996; elected US Senator in 2000

Clemency process: Governor received non-binding recommendations by Board of Pardons.

Total state executions at present: 57

Total state clemencies at present: 2

Carnahan granted clemency twice during his career as Missouri's Governor, and his approval rating remained solid throughout, was re-elected as governor after granting his first clemency and was elected to the US Senate after granting his second. He granted clemency for two-time killer Bobby Shaw in June 1993 over concerns of Shaw's mental capacity after doctors asserted Shaw was borderline retarded and mentally ill. In the previous year Carnahan had won the 1992 election with 59% of the vote (Associated Press, Nov. 4, 1992), and after granting this clemency his approval rate increased to 71% (Kansas City Star, Feb. 13, 1994). Carnahan's second grant of clemency, and most controversial, came in the case of Darrell Mease, a triple murderer, in response to the request of Pope John Paul II in February 1999 (LA Times, Jan. 9, 1999, at A1). Nonetheless, Carnahan received a "favorable" rating of 56.6% in a poll taken for the Post-Dispatch and KMOV in the fall of 2000 (St. Louis Post-Dispatch, Sept. 10, 2000) and was elected to the US Senate in the same year.

Governor Jim Hunt (D)

State: North Carolina

Terms: 1977-1985 and 1993-2001

Political fate: first Gov. elected to consecutive terms twice; retired.

Clemency process: Governor has exclusive authority to grant clemency

Total state executions at present: 21

Total state clemencies at present: 5

As the first governor in North Carolina history elected to two consecutive terms twice, Hunt's popularity remained high throughout his last term, a time when he granted clemency twice. In March of 1999, the Raleigh News & Observer reported his approval rating at 72% (March 30, 1999). He granted November of that year to twice convicted killer Wendell Flowers because he "had doubts about the role Flowers played" in the killing of a fellow inmate (News & Observer, December 16, 1999). A May 2000 poll indicated that Hunt's approval was at 68% (Associated Press Newswires, May 9, 2000). Hunt granted clemency again in November 2000, this time to Marcus Carter because of racial bias during the trial (News & Observer, November 22, 2000). Hunt left office two months later with "strong job approval ratings" (Roll Call, March 29, 2001). His high approval helped set the stage for succession by fellow Democrat Michael Easley who was elected Governor in the 2000 election.

Governor Michael Easley (D)

State: North Carolina

Terms: 2001-present

Political fate: faces re-election in 2004

Clemency process: Governor has exclusive authority to grant clemency

Total state executions at present: 21

Total state clemencies at present: 5

Easley's approval rating increased during a time when he twice granted clemency. The North Carolina Center for Voter Education reported that in March 2001, 47.5% of those polled approved of Easley's job performance (PR Newswire, Mar. 30, 2001). In May of 2002, this approval rate increased to 60% (US Newswire, May 3, 2002). During this period, Governor Easley granted clemency for convicted murderers Robert Bacon, Jr. (October 2, 2001) and Charlie Mason Alston (January 10, 2002). In regards to the Bacon clemency, Easley stated, "my review of this matter in its totality causes me to conclude that the appropriate sentence for [Bacon] is life without parole" as defense counsel raised concerns of racism (Winston-Salem Journal, Oct. 3, 2001, at 1B). Easley granted clemency for Charlie Alston amidst questions of his guilt and misplaced evidence (Charlotte Observer, Jan. 11, 2002, at 1A)..

III: Clemency table, state comparison

State	Execu- tions	Clem- encies	Clem./Exec'n. Ratio	(State)	(Execu- tions)	(Clem- encies)	(Clem./Exec'n. Ratio)
Texas	272	1	0.37%	Nevada	9	0	0.00%
Virginia	86	5	5.81%	Utah	6	0	0.00%
Missouri	57	2	3.51%	Mississippi	4	0	0.00%
Florida	51	6	11.76%	Ohio	4	8	200.00%
Oklahoma	50	1	2.00%	Washington	4	0	0.00%
Georgia	29	5	17.24%	Maryland	3	2	66.67%
Louisiana	27	1	3.70%	Nebraska	3	0	0.00%
South Carolina	26	0	0.00%	Pennsylvania	3	0	0.00%
				<i>Federal</i>	2	1	50.00%
Alabama	24	1	4.17%	Kentucky	2	0	0.00%
Arkansas	24	1	4.17%	Montana	2	1	50.00%
Arizona	22	0	0.00%	Oregon	2	0	0.00%
North Carolina	21	5	23.81%	Colorado	1	0	0.00%
				Idaho	1	1	100.00%
Delaware	13	0	0.00%	New Mexico	1	5	500.00%
Illinois	12	1	8.33%	Tennessee	1	0	0.00%
California	10	0	0.00%	Wyoming	1	0	0.00%
Indiana	9	0	0.00%	Total	782	48	6.14%
				Total w/o TX	510	47	9.22%