

**NATIONAL  
IMMIGRATION  
PROJECT**

Lawyers for the Movement

# THE POWER OF A PARDON

Breaking Down the Intersection of Pardons and Immigration

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## WHAT DIFFERENCE DOES A PARDON MAKE? ALL THE DIFFERENCE IN THE *WORLD*.



Phal Sok

Phal Sok was born in a Thai refugee camp and came to the United States as an infant - at just 61 days old. He grew up in Long Beach, raised by a single, disabled father, and when he was still 18 years old, was sentenced to 23 years in prison. After serving 16 years, Phal became eligible for parole, which he received, but Phal did not go home: instead, ICE picked him up and took him to a detention center, where he spent the next year fighting for his freedom. Upon his release in 2016, at the advent of the Trump Administration, and still facing deportation to Cambodia, Phal began to organize for the rights and safety of other immigrants in Los Angeles. The same community he stood up for also came together to support him, and advocated for Phal to receive a pardon. When Governor Brown pardoned Phal in 2018, the pardon resolved Phal's deportation case and he became a lawful permanent resident once more. Free from the looming threat of exile, Phal focused on living life to the

fullest: he got married, bought a house, and continues to organize and support other immigrants, especially those who, like him, need a pardon to remain home.

In fact, Phal currently supports Sithy Bin's pardon campaign. Sithy, like Phal, was born in a Thai refugee camp and grew up lacking robust social support. Like Phal, Sithy was also sentenced to a long prison term as a young person. And, like Phal, Sithy received parole, only to be transferred to ICE detention. Sithy, too, was released from detention and immediately began serving his community: he works full-time as a reentry case manager, while also organizing and advocating with his church and several community organizations. In addition to being a certified counselor and peer support specialist, Sithy is also a father, grandfather, and mentor to many. As in Phal's case, a pardon and only a pardon would resolve Sithy's immigration case. But while Governor Brown pardoned over 1,300 people during his tenure, including Phal, Governor Newsom has so far pardoned fewer than 200. An accident of timing and political whim has left Sithy at risk of being separated from his loved ones, and from all of the people who rely on him.



Phal Sok (l) and Sithy Bin (r) at the CLUE Justice Gala.

Criminal convictions of all degrees of severity cause devastating consequences for noncitizens: convictions may make a person deportable; render them ineligible for relief from deportation; or lead to their arrest and detention by ICE, sometimes without any opportunity for release on bond. The criminal legal system in the United States disproportionately and unjustly harms

people of color and poor people. Black people especially are more likely to be stopped, searched, arrested, convicted, and subjected to longer sentences than their white peers. Partly in response to growing recognition of the systemic racism inherent in the criminal legal system, and sometimes with the intention of protecting their immigrant residents, many states have increasingly provided opportunities for post-conviction relief. However, many forms of post-conviction relief will not have effect in the immigration context, including some full pardons, due to several wrongly decided Board of Immigration Appeals and Attorney General decisions.

Even within these limitations, a pardon remains one of the most transformative acts of clemency a governor, pardoning body, or the president can undertake. People rebuild their lives under the most trying circumstances and communities embrace people returning from prison even without any formal state intervention. But in order to relieve people of the legal disabilities that come with a conviction – and especially the threat of deportation – in many states,<sup>1</sup> pardons and other acts of clemency remain one of the most powerful tools to allow people to fully reintegrate and to truly have a second chance to build their lives. As the United States’ draconian immigration laws stagnate or worsen, and as structural failings impede reform, pardon campaigns, as well as campaigns for state post-conviction relief, have increased in importance and visibility. When certain kinds of convictions lead to exile, hitting the “undo” button may be the only means of reprieve. And, even though some convictions will still carry immigration consequences that a pardon cannot cure, pursuing a pardon can still be a strong – and for some, the only – option in a removal defense case.

**...a pardon remains one of the most transformative acts of clemency a governor, pardoning body, or the president can undertake.**

This report will detail the intersection of pardons and immigration and explain why increasing the accessibility, transparency, and frequency with which governors, pardoning bodies, and the president grant pardons should be an advocacy priority.

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<sup>1</sup> In some states, a pardon will go so far as to seal the criminal record; it is as if the conviction never happened. In others, while the fact of a conviction may not be used to disqualify a person, the underlying conduct may still be used in an assessment of the person’s character, such as for a professional license. See Restoration of Rights Project, *50-State Comparison: Pardon Policy & Practice*, Collateral Consequences Resource Center (Oct. 2022), <https://ccresourcecenter.org/state-restoration-profiles/50-state-comparisoncharacteristics-of-pardon-authorities-2/> (providing a detailed comparison of all 50 states’ pardon laws and practices, including frequency of grants) (hereinafter Restoration of Rights Project, *Pardon Policy & Practice*); see also Margaret Colgate Love, *The Reintegration Report Card*, Collateral Consequences Resource Center (Mar. 2022), <https://ccresourcecenter.org/wp-content/uploads/2022/03/The-Reintegration-Report-Card.3.2122.pdf>.

## PARDON BASICS

In most states and in the federal government, only the executive – the governor or president – has the power to grant a pardon. Only a governor or the designated state body can pardon a state criminal offense; only the president can pardon a federal one. Some states place limitations on the pardon power by requiring another body’s (in some states, the Parole Board, in others, a distinct board) prior approval before the governor may grant a pardon. Others require consultation with another body before granting a pardon. In three states, the Governor is one member of a board that holds the pardon power.<sup>2</sup> Meanwhile, six states have completely independent pardon boards, though in all such states the governor appoints the members of the board.<sup>3</sup> States may also establish eligibility requirements for receiving a pardon and place other limitations on the governor’s pardon power. For example, in California, in order to pardon a person who has two felonies arising out of different incidents, a majority of the state Supreme Court must review and approve the governor’s decision.<sup>4</sup> However, currently no state imposes on the governor an obligation to pardon. Historically, the pardon has been a discretionary power: the governor or the president may grant or not grant pardons as they choose.

**...pardons have served an important role in the criminal legal system of the United States since before the country’s founding.**

Nevertheless, pardons have served an important role in the criminal legal system of the United States since before the country’s founding.<sup>5</sup> A pardon can work as a corrective to remedy too harsh or unjust criminal consequences, and is usually intended to allow a person full reintegration into the community. The exact effects of a pardon vary significantly by state, and several states issue different degrees of pardons. In most states, a pardon removes any legal disabilities (such as being ineligible for certain services) and restores any civil rights (such as the right to vote); but in many states, a pardoned conviction can still

serve as a predicate offense.<sup>6</sup> In some states, a pardon will expunge the conviction or seal the court record, or relieve the grantee from being required to report it.<sup>7</sup> Other states go further, and receiving a pardon makes it as if the conviction had never happened and the grantee is innocent.<sup>8</sup> Connecticut even requires the destruction of the record of the conviction after three

2 Restoration of Rights Project, *Pardon Policy & Practice*

3 *Id.*

4 See Cal. Const. art. V, § 8 (“The Governor may not grant a pardon or commutation to a person twice convicted of a felony except on recommendation of the Supreme Court, 4 judges concurring.”)

5 See Jason A. Cade, *Deporting the Pardoned*, 46 UC Davis L.Rev. 355 (2012), [https://lawreview.law.ucdavis.edu/issues/46/2/Articles/46-2\\_Cade.pdf](https://lawreview.law.ucdavis.edu/issues/46/2/Articles/46-2_Cade.pdf).

6 Restoration of Rights Project, *Pardon Policy & Practice*

7 *Id.*

8 *Id.*

years.<sup>9</sup> In contrast, in Tennessee, a pardon has limited legal effect and does not remove legal disabilities or restore any rights, though it may serve as a basis for expungement.<sup>10</sup>

In the federal system, the President has the sole power to pardon any person. There is no statutory scheme establishing a pardon process, but under current federal regulations, the Office of the Pardon Attorney within the Department of Justice receives pardon applications, reviews them, and serves an advisory role. In order to receive a federal pardon, generally a person must have been out of prison for at least five years. They must also reside within the United States, a requirement that excludes people who have been deported.

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Grant rates for pardons vary widely by state and even by different gubernatorial or presidential administrations. For example, in 2018, Connecticut granted 77% of the pardon applications its pardon board received; in Delaware, recent statistics show that 80% of pardon applications are approved by the board, of which 90% are approved by the governor.<sup>11</sup> In Florida and Georgia, the grant rates are lower, but pardons are regularly granted.<sup>12</sup> Meanwhile, in Kansas and Rhode Island, pardons are almost never granted, and in other states the grant rates can vary by orders of magnitude between gubernatorial administrations.<sup>13</sup>

Because they usually fall within the discretion of the governor or president, pardons can be subject to political calculations. They have been used to reward cronies or to make an ideological statement, such as President Trump’s pardon of Sheriff Joe Arpaio; in other instances, governors and presidents have withheld them to avoid political consequences. Depending on the state, and the power the governor has over the process, seeking a pardon may be a political process as much as it is a legal one.

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9 *Id.*

10 *Id.*

11 *Id.*

12 *Id.*

13 *Id.* For example, in Louisiana, former Governor Bobby Jindal pardoned only 83 people during his entire 8 years in office, while Governor John Bel Edwards pardoned 167 people in only his first term, a majority of the pardons that reached his desk, and former Governor Edwin Edwards granted over 1,300 clemency requests during his 16 years in office. Likewise, current Governor Newsom in California has only granted a small fraction of the over 3,300 pardons that former Governor Brown granted during his term.

## PARDONS AND IMMIGRATION CONSEQUENCES

Pardons will cure some, but not all, immigration consequences. In order to do so, a pardon must meet some threshold requirements: it must be a “full and unconditional” pardon, and it must be granted by the Executive, whether at the state or federal level. Foreign pardons will not prevent deportation.

### DEPORTABILITY

The Immigration and Nationality Act (INA) lays out various grounds of deportability in Section 237 (8 U.S.C. § 1227(a)(2)). The first section, (A) lists “General Crimes,” which it numbers as subsections i through v (simplified in the list below):

- i. Crime involving moral turpitude (if convicted within 5 years of admission and if sentence of a year or more may be imposed)
- ii. Multiple criminal convictions for crimes involving moral turpitude
- iii. Aggravated felony
- iv. High speed flight, and
- v. Failure to register as a sex offender

The next numeral still under section (A) then provides that the grounds of deportability listed at (i), (ii), (iii), and (iv) “shall not apply...if the [person] subsequent to the criminal conviction has been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States.” During the Trump Administration, ICE refused to recognize Connecticut pardons as executive pardons because they are granted by a pardon board, and not by the governor.<sup>14</sup> As of August 2022, the Biden Administration had reversed course and DHS now honors Connecticut pardons.<sup>15</sup> “Governor” currently can encompass boards like Connecticut’s, but another administration might adopt a different interpretation.<sup>16</sup>

Per the statute, the pardon exception does not apply to (v), failure to register as a sex offender. The following sections of the statute, (B)-(E) lay out the remaining criminal grounds of deportability, which include:

- Any controlled substance conviction
- Certain firearms offenses (referring to various possession, purchase, and sale crimes)
- Domestic violence, stalking, and child abuse

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<sup>14</sup> See Mark Pazniokas, CT Mirror, *Tong says ICE must recognize Connecticut pardons* (Jul. 23, 2019), <https://ctmirror.org/2019/07/23/tong-says-ice-must-recognize-connecticut-pardons/>.

<sup>15</sup> See Dave Collins, AP News, *Feds agree to honor Connecticut pardons, stop deportations* (Aug. 12, 2022), <https://apnews.com/article/crime-immigration-connecticut-hartford-william-tong-80a114c1472b4d56e9c2bf048c96fa5>; see also, Department of Homeland Security, *DHS Statement on Treatment of a Full and Unconditional Pardon Issued Under the Law and Process Currently in Place in Connecticut as Effective for Purposes of the INA § 237(a)(2)(A)(vi) Pardon Waiver Clause and 8 C.F.R. § 316.10(c)(2)*, <https://www.dhs.gov/news/2021/03/23/dhs-statement-connecticut-pardons-and-immigration>.

<sup>16</sup> See *id.*

- Violators of protective orders, and
- Human trafficking

The BIA has likewise relied on the pardon exception's location in section (A) to conclude that the statute does not provide a pardon exception for any of the remaining criminal grounds of deportability. The BIA and Department of Homeland Security (DHS) interpretation of the INA holds that a pardon will not excuse the grounds of deportability if a person has one of those convictions. See *Matter of Suh*, 23 I&N Dec. 626 (BIA 2003).

Sometimes, multiple grounds of deportability could apply to the same conviction. For example, a person could be convicted of a drug sale crime. Such an offense is both a controlled substance conviction and an aggravated felony drug trafficking crime. Even though the pardon will remove the aggravated felony ground of deportability, it will not remove the controlled substances ground, and the person would still likely be subject to deportation. Because aggravated felonies render people ineligible for several forms of relief from deportation, a pardon in this case could still potentially benefit them, even if it did not completely shield them from being deportable.

## **INADMISSIBILITY**

Of course, a person could be deportable for reasons other than those listed in the criminal grounds, including being undocumented. However, many criminal convictions not only cause a person to be deportable, but also "inadmissible," meaning ineligible to enter the United States, and several forms of relief from deportation require that a person be "admissible," meaning that they do not fall under any of the inadmissibility grounds. The criminal grounds of inadmissibility lay out a separate but overlapping list of offenses from the grounds of deportability, including:

- Any crime involving moral turpitude
- Any controlled substance conviction
- Multiple convictions (any offenses, so long as aggregate sentences totalled 5 or more years of imprisonment)
- Trafficking in controlled substances
- Prostitution

Unlike the grounds of deportability, the grounds of inadmissibility do not contain a provision laying out a pardon exception. Some Courts of Appeals have held that this absence means that there is no pardon exception to the grounds of inadmissibility.<sup>17</sup> However, several Board of Immigration Appeals decisions dating from the decades following the passage of the INA in 1952 state clearly that the pardon exception applies equally to the grounds of deportability

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<sup>17</sup> See, e.g., *Balogun v. United States Atty. Gen.*, 425 F.3d 1356, 1362-63 (11th Cir. 2005);

and inadmissibility.<sup>18</sup> Scholars have also made compelling arguments that it would violate the separation of powers principle for Congress to limit the president’s pardon power as it applies to immigration.<sup>19</sup> In fact, a 1995 Office of Legal Counsel memo states that a presidential pardon should immunize a person from any immigration consequences that stem from the pardoned conviction, regardless of the limits in the INA.<sup>20</sup> Some scholars have further suggested that it would violate equal protection to impose immigration consequences on a person who received a gubernatorial pardon, but not on a person who received a presidential one.<sup>21</sup> However, these theories have yet to be accepted by any courts.

## **PROSECUTORIAL DISCRETION**

**Even if a pardon will not remove a ground of deportability or make a person admissible, receiving a pardon can be a strong factor weighing in favor of DHS exercising prosecutorial discretion.**

Even if a pardon will not remove a ground of deportability or make a person admissible, receiving a pardon can be a strong factor weighing in favor of DHS exercising prosecutorial discretion (PD). Most people who have criminal convictions must demonstrate “rehabilitation” in order to receive PD, and a pardon can be especially strong evidence. Moreover, the application materials for a pardon often overlap with those of a prosecutorial discretion request.

Therefore, for immigration purposes, a pardon most clearly works to nullify the grounds of deportation based on convictions for a crime involving moral turpitude, multiple convictions for crimes involving moral turpitude, aggravated felonies, and high speed flight. The people most likely to benefit from a pardon are lawful permanent residents (LPR) who have such convictions, because it is unlikely an LPR would be

subject to another ground of deportability.

<sup>18</sup> See, Jason A. Cade, *Deporting the Pardoned* at 377, fn 2 (citing *Matter of K*, 9 I&N Dec.121 (B.I.A., 1960) (holding that Congress did not intend to eliminate judicial recommendation against deportation and pardon exceptions that existed in the 1917 Immigration Act when it wrote the INA); *Matter of Rahman*, 16 I. & N. Dec. 579, 580 (B.I.A. 1978) (holding that reentering lawful permanent residents fell within President Carter’s 1977 pardons to Vietnam War draft resisters, which specifically included noncitizens who were excludable for violation of the Military Selective Service Act); *Matter of H*, 6 I. & N. Dec. 90, 96 (B.I.A. 1954) (finding “no sound basis in logic or in reason to hold that this pardoning forgiveness or immunity” ineffective to prevent deportation on ground of inadmissibility); *Matter of E-V*, 5 I. & N. Dec. 194, 196 (B.I.A. 1953) (holding that noncitizen seeking admission who has been pardoned cannot be excluded on the ground that he has admitted the essential elements of the pardoned offense)).

<sup>19</sup> See, e.g., Jason A. Cade, *The Immigration Implications of Presidential Pot Pardons*, *UCLA L. Rev. Discourse* (forthcoming 2023), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4255925](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4255925); see also, Jason A. Cade, *Deporting the Pardoned*.

<sup>20</sup> Office of Legal Counsel, Memorandum for the Pardon Attorney: Effects of a Presidential Pardon (Jun. 19, 1995), <https://www.justice.gov/file/20206/download>.

<sup>21</sup> See Samuel T. Morison, *Presidential Pardons and Immigration Law*, 6 *Stan. J. Civ. Rts. & Civ. Liberties* 253, 273 (Oct. 2010).



## EXAMPLE CHART

Case	Admissibility
A lawful permanent resident charged with deportability for an aggravated felony crime of violence, who is pardoned	No longer deportable (but possibly still inadmissible, complicating travel)
An undocumented person who has a controlled substance conviction, who is pardoned	Still inadmissible
A lawful permanent resident who has a drug trafficking aggravated felony conviction, who is pardoned	Still deportable under the controlled substance ground, but aggravated felony ground is cleared (so could apply for cancellation of removal <sup>22</sup> if otherwise eligible)
An undocumented person who has a crime involving moral turpitude conviction, who is pardoned	Likely to be found inadmissible, but see fn 18 supra

<sup>22</sup> Cancellation of removal for lawful permanent residents (LPR) terminates the removal proceedings and restores LPR status. A person can only receive cancellation of removal if they lived in the U.S. for at least 7 years, were an LPR for at least 5 years before they were convicted of the deportable offense, and if the offense was not an aggravated felony. A person can only receive cancellation of removal once. There is another form of cancellation of removal for non-permanent residents, but several grounds of inadmissibility will bar eligibility (and, depending on the jurisdiction, would not be nullified by a pardon) and also requires that the applicant have resided in the U.S. for at least 10 years, and show that their removal would cause “exceptional and extremely unusual hardship” to a citizen or LPR spouse, parent, or child. See 8 U.S.C. § 1229b(a) & (b).

## ELEMENTS OF A PARDON APPLICATION & PARDON CAMPAIGNS

Different states have different application processes and requirements for applying for a gubernatorial pardon. However, in general, a pardon application should include:

- A cover letter summarizing the evidence;
- A letter or statement from the applicant explaining what led them to be convicted, how they have changed from the time of conviction, what they have done since the time of conviction, and what they hope to do in the future;
- Certificates of any education, courses, or achievements the applicant has received;
- Relevant records from the conviction;
- Letters of support from family, close friends, and colleagues;
- Letters of support from elected officials and other influential individuals;
- Letters of support from organizations;
- Any public petitions prepared at the time of submission;
- Photographs of the applicant and the applicant's loved ones;
- Any additional material that conveys the applicant's character or personal qualities, including artwork, creative writing, videos, etc.

In at least some states, it is possible to supplement a pardon application after submitting it initially. It may take more time, for example, to get letters of support from elected officials or to circulate a campaign petition, than to put together the rest of the application. Some states have an office within the governor's office dedicated to considering pardon applications, and it may be possible to have any additional support letters, or those generated via an online platform, sent directly to them.

**...getting members of the public to contact the governor's office repeatedly about a particular pardon case may get the governor's attention.**

Because receiving a pardon is often a political process, an applicant should consider whether those who will decide on the pardon application would be susceptible to public pressure and/or would favorably weigh a public showing of community support. In some cases, a campaign that builds public support and applies pressure to the governor is just as important as the application itself. Unlike court proceedings, where the opposing party must respond and the court must hear properly filed cases, in many states, the governor might never even consider an application. But, getting members of the public to contact the governor's office repeatedly about a particular pardon case

may get the governor's attention. A public pardon campaign might include a mass email or phone call action, a petition, seeking the support of other elected officials or influential people, garnering media attention, and even direct actions. Several pardon campaigns on behalf of people who need pardons for immigration purposes have had success over the past several years

## ADVOCACY FOR GREATER ACCESS TO PARDONS AND CLEMENCY GENERALLY

Because a pardon can be a powerful form of post-conviction relief, and, for some immigrants the only means of avoiding deportation, increasing access to pardons and transparency around the process is an urgent priority.

The structure of a state’s pardon-granting apparatus may influence the number of pardons the state grants. As discussed above, in states where the governor is the sole person who has the authority to grant pardons, the process is more clearly subject to political considerations. Governors concerned with the political ramifications of granting pardons may exercise the power infrequently and irregularly. In contrast, in five of the six states that have fully independent pardon boards (Alabama, Connecticut, Georgia, Idaho, and South Carolina) the Restoration of Rights Project describes the grant rate as “frequent and regular” and in all of the five states, the boards grant the large majority of pardon applications.<sup>23</sup> In the sixth state, Utah, the pardon board rarely grants pardons, but that may be because the board receives few applications (about 3 per year) and because the state’s expungement process serves the needs of most people seeking post-conviction relief.<sup>24</sup>

However, a pardon board system also comes with several potential drawbacks. First, states may place fewer restrictions and eligibility requirements for a pardon if state law views a pardon as a governor’s exercise of discretion, than if it establishes a pardon process. Second, a governor may be able to move more quickly than a pardon board, which would be required to follow its own procedures. Finally, a governor may be more susceptible to public pressure than a pardon board – while this could lead to a governor granting fewer pardons or limiting their pardon grants to politically palatable applicants, a governor’s vulnerability to public campaigns could also result in more pardons than a more insulated board might grant. Furthermore, future presidential administrations may attempt, as did the Trump Administration, to disqualify pardons granted by pardon boards for immigration purposes.

Aside from the structure of the pardon-granting apparatus in a state, other policies can make pardons easier to obtain. For example, Alabama ensures that the application is available in language that people “who lack formal education” can understand – making a lawyer’s assistance unnecessary and the process more accessible.<sup>25</sup> A state could also fund criminal appellate public defenders to assist with pardon applications, and/or assign a case worker from another social services agency to aid in gathering evidence and in seeking the kinds of educational and rehabilitative programs that make a pardon more likely.

Other policy interventions may also improve the pardon process. For example, advocates

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23 Restoration of Rights Project, *Pardon Policy & Practice*

24 *Id.*

25 *Id.*

in California succeeded in passing a law in 2018, AB 2845, which, among other provisions, increases transparency and accessibility by requiring the Governor to publish the application for a pardon online, requiring the Board of Parole Hearings to initiate an investigation and make a recommendation on every application, and further requiring the Board to notify applicants when they receive an application and when they issue a recommendation.<sup>26</sup> Crucially, the bill also allows for expedited consideration of pardon applications when the applicant indicates “an urgent need for the pardon or commutation, including, but not limited to, a pending deportation order or deportation proceeding.”<sup>27</sup> AB 2845 further makes clear that applicants are eligible regardless of their immigration status.<sup>28</sup>

**The most important policy intervention, of course, is simply to grant more pardons.**

The most important policy intervention, of course, is simply to grant more pardons. Advocates have achieved greater pardon grant rates at various points. Some governors, like Governor Andrew Cuomo in New York, increased the rates with which they granted pardons in response to the Trump Administration’s attacks on immigrant communities.<sup>29</sup> In 2010, years before Trump or Cuomo came into office, then New York Governor

David Paterson created a pardon panel specifically for immigrants facing deportation. It was short-lived and resulted in only 33 pardons, but advocates have since referred to it as a possible model for expediting and increasing pardons intended to forestall deportation.<sup>30</sup>

When it comes to federal pardons, advocates have long urged a more accessible and transparent process, and have decried the eligibility limitation that restricts pardons to people who are physically present in the United States.<sup>31</sup> While President Biden, following years of pressure from multiple movements, last year issued an executive order granting pardons to people who were convicted of simple possession of marijuana, he restricted the pardons to U.S. citizens and lawful permanent residents who were lawfully present at the time of conviction.<sup>32</sup> Advocates immediately pushed back<sup>33</sup>, but there remains much work to do to expand access to federal pardons.

26 Text available at [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB2845](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2845).

27 *Id.*

28 *Id.*

29 John Leland, *With a Fresh Swipe at Trump, Cuomo Pardons 22 Immigrants*, The New York Times (Dec. 31, 2018), <https://www.nytimes.com/2018/12/31/nyregion/cuomo-pardons-immigrants-trump.html>.

30 See Stacy Caplow, *Governors Seize the Law: A Call to Expand the Use of Pardons to Provide Relief from Deportation*, 22 B.U. Pub. Int. L.J. 293 (2013).

31 See, e.g., Joint Letter: Pardon Process Must Also Include Immigration (Jun. 2, 2021), available at [https://nipnl.org/PDFs/2021\\_02June\\_Pardon-Power-Letter.pdf](https://nipnl.org/PDFs/2021_02June_Pardon-Power-Letter.pdf).

32 President Biden, A Proclamation on Granting Pardon for the Offense of Simple Possession of Marijuana (Oct. 6, 2022), <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/10/06/granting-pardon-for-the-offense-of-simple-possession-of-marijuana/>.

33 National Immigration Project, 130+ Civil Rights Groups Call On President Biden To Include Immigrants In Pardon Process (Nov. 4, 2022), [https://nipnl.org/sites/default/files/2023-07/2022\\_2Nov-Biden-letter-marijuana.pdf](https://nipnl.org/sites/default/files/2023-07/2022_2Nov-Biden-letter-marijuana.pdf).

## CONCLUSION

In this moment of greater understanding of the systemic racism within the criminal legal system in the United States, it is important to push for greater access to pardons and to clemency of all kinds. Especially following years of Congressional inaction on immigration, and the draconian state of immigration law that doubly punishes immigrants with convictions and deprives them of any meaningful options for second chances, advocates should revisit ideas like an immigration-specific pardon panel or laws like California's that provide for expedited consideration of the pardon applications of people facing deportation. Pardons have always served as a necessary corrective, and the criminal legal system is desperately in need of such correction. Pardons are potentially extremely powerful tools to spare people from life-shattering collateral consequences, including deportation, and to allow people to rebuild their lives and fully rejoin their communities.



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