



DEFENSE
NATIONAL DEFENSE CENTER
FOR CRIMINALIZED SURVIVORS

Clemency for Criminalized Survivors

Understanding this important path to relief



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Introduction

In the United States, many people in jails and prisons are survivors of domestic violence, sexual assault, trafficking, or stalking (Vera Institute of Justice, 2016; The Sentencing Project, 2020). Research consistently shows that between 70% and 90% of incarcerated women have experienced serious physical or sexual abuse before their arrest (Council on Criminal Justice, 2024; Salisbury & Van Voorhis, 2009). Rates of intimate partner violence among this population reach roughly 70% to 80% (VAWnet, 2018; Golder et al., 2014), and histories of childhood physical or sexual abuse appear in more than 60% of cases (Bureau of Justice Statistics, 1999; Jones et al., 2018).

For many of these survivors, the criminal legal system does not protect them. Instead, it punishes the very strategies they used to stay alive. When someone is arrested for an act of self-defense, or for conduct connected to their own victimization, the sentence that follows often fails to reflect the full context of what happened.

Once a survivor has been convicted, executive clemency, which is decided by a jurisdiction’s lead executive (such as a governor or the President), represents one of the few remaining paths to meaningful relief.

People who help survivors pursue clemency do more than traditional legal advocacy. They have to work against common assumptions about “remorse” and “good behavior,” and push back on the myth of the “perfect victim” — the idea that only certain kinds of survivors deserve belief or relief.

This handbook is written for the everyone interested in the clemency process, and how it can be used to seek relief for criminalized survivors. Its goal is to explain, in plain language, what clemency is, how the

process generally works for criminalized survivors, the unique obstacles they face, and where to find trusted resources and organizations doing this work.

Understanding the Issue

A “criminalized survivor” is someone who has been arrested, charged, or convicted for an action that was connected to their own experience of abuse. For example, survivors are often arrested for defending themselves against a violent partner, or being coerced by an abusive partner into committing a crime.

The criminal legal system is built around individual incidents, not lifetimes of context. A trial is designed to answer two narrow queries – was the act in question a crime, and did this person commit this act – and it is often not equipped to fully weigh years of coercive control, fear, or trauma.

As a result, survivors can be convicted and sentenced as though the abuse never happened. Clemency exists, in part, to correct for that gap and allow a decision-maker outside the courts to consider the fuller picture.

What Is Clemency?

Clemency is an act of mercy or relief granted by an executive (a governor, pardons board, the President) rather than by a court. It sits outside the normal appeals process and is often described as the justice system’s “fail-safe”: a final safety net for cases where the ordinary legal process did not produce a fair outcome.

Types of Clemency Relief

- **Commutation:** A reduction of an ongoing sentence. This might mean early release, immediate release for time already served, or an earlier date at which someone becomes eligible for parole.
- **Pardon:** Official forgiveness for a conviction. A pardon restores civil rights and can relieve someone of the lasting consequences of a conviction, even after their sentence is complete.
- **Reprieve or remission:** A temporary pause on punishment, or relief from a fine or forfeiture.

Clemency is discretionary — there is no guarantee it will be granted, even in a strong case. It is generally considered only after other legal options, like appeals, have been used or are no longer available.

How the Clemency Process Generally Works

Every state handles clemency differently, and the federal process is different still. But most cases move through a similar general arc. This is not a legal how-to or a substitute for working with experienced advocates, but understanding the shape of the process is important for anyone wishing to pursue clemency or learn more about it.

1. **Determining the right path.** The first step is figuring out which jurisdictional rules apply and which form of relief fits the situation. Rules vary widely between states, and some states may have specialized initiatives in place to prioritize petitions from criminalized survivors. For example, as of September 2026, at least one state, New Jersey, has created a clemency initiative specifically for criminalized survivors.

2. **Confirming eligibility.** Many jurisdictions require that other legal options, like appeals, be exhausted first, and some require a survivor to have served a minimum portion of their sentence before applying. Even if complete legal exhaustion is not required, it is often advisable to try other pathways to relief before applying for clemency.
3. **Gathering the full record.** This includes court documents, sentencing records, and institutional records from prison or jail — including disciplinary history (“tickets” or “write ups”) which advocates often have to re-examine and attempt to reframe, since infractions can reflect trauma responses rather than dangerousness or “insolence.”
4. **Documenting growth and rehabilitation.** Petitions include evidence such as completed education or treatment programs, work history, mentorship roles, and records from before incarceration, like shelter or crisis-hotline documentation.
5. **Bringing in experts.** Specialists in domestic violence, sexual assault, or trafficking are often asked to explain dynamics like coercive control or trauma responses — including why a survivor might not have reported abuse or left an abusive relationship. If there was an expert previously involved in the survivor’s case, evaluate whether comparing their assessment from the time of trial to the time of the clemency petition adds value to the narrative. When possible, use the expert’s evaluation to explain and contextualize likely questions that will arise about the survivor’s experiences of abuse, such as why the survivor remained in the abusive relationship, did not report abuse to police, or did not present mitigating abuse evidence during the original trial or plea proceedings.
6. **Preparing a statement of accountability.** Decision-makers typically expect an applicant to express remorse. Advocates work with survivors to acknowledge the harm caused without being forced to apologize for having survived. Advocates can work closely with petitioners to
 - Craft a personal statement that reflects remorse for the harm caused; this statement can be sincere without the petitioner apologizing for surviving.
 - Address the harm caused to victims and the community without relitigating guilt, minimizing conduct.
 - Validate that a lack of remorse for surviving does not equate to a lack of remorse for a loss of life or pain inflicted on the complainant’s loved ones.
 - Articulate ways the survivor has shown personal growth.
7. **Building a trauma-informed release plan.** A strong petition shows that a survivor has a safe place to go and a support network — housing, therapy, employment, and legal help with things like child custody.
 - **Housing:** When possible, secure firm commitments from specialized survivor transitional housing if the survivor will not or cannot reside in private housing or with family., shelter
 - **Continuum of Care:** Arrange access to specialized therapy, survivor support networks, employment opportunities, and legal aid for child custody or family reunification.
8. **Collecting letters of support.** Petitions usually include a number of detailed letters — from family, employers, faith leaders, or even, where possible, non-opposition from the original prosecutor or

judge. Sometimes corrections officers can offer powerful support by attesting to the petitioner's positive influence, personal growth, or other characteristics.

9. **Filing the petition.** The petition itself weaves together the legal argument (such as sentencing disparities) with the survivor's personal narrative, explaining why executive relief is warranted where the courts could not fully account for what happened.
10. **Waiting, and preparing for a hearing.** Review can take a long time. Some jurisdictions hold hearings, where the survivor and witnesses may face difficult or even hostile questioning.

You can find a state-by-state summary of clemency laws through [FAMM's Second Chances resource library](#).

Unique Challenges Survivors Face

Clemency is difficult to obtain for almost anyone who seeks it. Though often referred to as the “fail safe” of the justice system, clemency is almost always an uphill battle. Decisionmakers often weigh the political risks (appearing “soft on crime”) heavily against the equity each case presents. High volume and limited administrative capacity are also a substantial factor. For criminalized survivors, several additional and often overlooked barriers make the process even harder.

The “Remorse Trap”

Clemency boards weigh heavily whether an applicant shows full, unqualified remorse. For a survivor whose offense was self-defense, coercion, or duress, this creates a genuine bind: explaining the reality of coercive control or fear for one's life is often dismissed by decision-makers as “making excuses.” But requiring a survivor to fully claim moral blame for an act of survival distorts what actually happened.

Credibility Discounts

Legal scholar Deborah Tuerkheimer coined the term “credibility discount” to describe an unwarranted failure to believe someone's account, not because of the facts, but because of bias and stereotype. Decision-makers often expect “official” proof of abuse, like police reports, protective orders, or medical records. But survivors — particularly Black, Indigenous, LGBTQ+, and undocumented survivors — often avoid calling police out of fear of retaliation, arrest, or child welfare interventions. That means their history of abuse may exist only in personal or family accounts, which boards can wrongly discount as unverified or self-serving fabrications.

Discipline Records Behind Bars

Petitions depend heavily on a clean disciplinary record. But correctional environments routinely trigger trauma responses in survivors, and those responses are frequently punished rather than understood. Setting a physical boundary with a correctional officer, or refusing an invasive search, can result in a write-up for “disobeying orders” or “insolence.” A panic response can be misread by staff as aggression — and then treated by clemency reviewers as evidence of ongoing danger, rather than untreated trauma.

The “Perfect Victim” Stereotype

Because clemency is discretionary, it is especially vulnerable to cultural assumptions about what a “legitimate” victim looks like: passive, cooperative, non-violent. Survivors who fought back, who used

substances to cope with ongoing abuse, or who stayed with an abusive partner often face harsher scrutiny as a result, even though these are extremely common victim behaviors.

Opposition From the Abuser's Family

In many of these cases, the victim of the underlying offense was the survivor's own abuser. Because clemency proceedings often require notifying victims or their families, an abuser's relatives can submit statements opposing clemency. This can recreate the same dynamic of control and silencing the survivor originally experienced, and clemency boards or other decisionmakers, without training in the dynamics of abusive relationships, may give that opposition significant weight.

State-by-State Variation

Clemency law and practice differ significantly from state to state, and from the federal system. Some states grant clemency relatively often; others rarely use it at all. The application process, eligibility rules, and whether a hearing is held all vary by jurisdiction.

For a broader look at how clemency and pardon practices differ across all 50 states, see the Collateral Consequences Resource Center's [50-State Comparison of Pardon Policy & Practice](#).

How to Get Involved

There are several ways members of the public can support criminalized survivors and the broader push for clemency reform:

- Learn and share: Read survivor stories and share accurate information about how clemency works and why it matters.
- Support letter-writing campaigns: Advocacy organizations often coordinate letters of support for specific clemency petitions.
- Volunteer or donate: Organizations listed in this handbook rely on volunteers and donations to support their casework, research, and policy advocacy.
- Follow policy efforts: Many states are considering reforms to make clemency more accessible and trauma-informed; contacting state representatives can help.
- Attend or organize community education events: Webinars and trainings, like those listed in the resources section, are often open to the public.

Resources & Further Reading

American Bar Association (ABA) Capital Clemency Resource Initiative — CCRI Clearinghouse

A dedicated clearinghouse offering state-by-state capital clemency memos, decision-maker profiles, procedural tracking tools, and practice guides, geared toward defense counsel and post-conviction advocates.

Access: <https://www.capitalclemency.org/>

ABA Capital Clemency Resource Initiative — Repository of Successful Petitions

An organized digital repository of granted capital clemency petitions and executive statements, offering concrete drafting models that highlight mitigating factors such as trauma and domestic abuse.

Access: <https://www.capitalclemency.org/resource-type/petition/successful-petition/>

American Friends Service Committee (AFSC) Michigan Criminal Justice Program — Recommendations for Clemency Process: A Community-Centered Approach (2024)

A policy roadmap outlining reforms for state executive clemency boards, recommending trauma-informed evaluations and survivor-centered approaches to sentence commutation.

Access: <https://afsc.org/sites/default/files/2024-08/recommendations-for-clemency-process-a-community-centered-approach-afsc-mi-july-2024.pdf>

Battered Women’s Justice Project (BWJP), National Defense Center for Criminalized Survivors — The Liberation Project

A multi-part legal training and webinar series led by national clemency litigators, covering how to compile evidence, document intimate partner violence, and build a clemency presentation.

Access: <https://lms.thelearningcommunitytoendviolence.org/group/259>

California Coalition for Women Prisoners (CCWP) — Commutation Application Guide

A step-by-step guide for incarcerated individuals and defense campaigns in California, covering official application forms, parole board interview preparation, and organizing letters of support.

Access: <https://survivedandpunished.org/wp-content/uploads/2019/07/ccwp-commutation-application-guide-revised-july-2019.pdf>

Collateral Consequences Resource Center (CCRC) — 50-State Comparison: Pardon Policy & Practice

A national benchmark analyzing clemency administration across all 50 states, federal jurisdiction, and D.C., categorized by frequency of use, governing law, and hearing format.

Access: <https://ccresourcecenter.org/state-restoration-profiles/50-state-comparisoncharacteristics-of-pardon-authorities-2/>

Criminal Justice Policy Foundation (CJPF) — State Clemency Guide

A public reference guide for incarcerated people, families, and attorneys, with core jurisdictional criteria and direct links to state clemency boards and application forms.

Access: <https://www.cjpf.org/state-clemency>

FAMM (Families Against Mandatory Minimums) — State Clemency and Compassionate Release Resources

A nationwide clearinghouse tracking compassionate release and clemency laws, with state-by-state memos and eligibility standards.

Access: <https://secondchanceslibrary.org/>

Tewkunzi Green, “Surviving Everywhere” (Inquest, 2022)

A personal essay by survivor advocate Tewkunzi Green reflecting on her 12 years of incarceration, self-defense criminalization, and eventual commutation by the Illinois governor.

Access: <https://inquest.org/surviving-everywhere/>

National Association of Criminal Defense Lawyers (NACDL) — Clemency and Expungement Resources

A hub compiling pro bono legal initiatives, record-sealing resources, and state-level clemency project information.

Access: <https://www.nacdl.org/Content/ClemencyandExpungementResources>

Survived & Punished — Clemency and Parole Guide

A frontline advocacy toolkit for criminalized survivors covering sentence reduction, commutation, and parole eligibility, including how to build a defense campaign and support coalition.

Access: https://survivedandpunished.org/wp-content/uploads/2019/07/SP_ClemencyParoleGuide_Digital.pdf

Glossary of Terms

Clemency: An act of mercy or relief from a governor or the President, granted outside of the court system.

Commutation: A reduction of a sentence that is already being served.

Pardon: Official forgiveness for a conviction, which can restore civil rights and remove lasting legal consequences.

Reprieve / Remission: A temporary suspension of punishment, or relief from a fine.

Coercive control: A pattern of behavior an abuser uses to dominate and restrict a partner's freedom, often including isolation, threats, and manipulation.

Intimate partner violence (IPV): Physical, sexual, or psychological harm caused by a current or former partner.

Credibility discount: A term coined by legal scholar Deborah Tuerkheimer for the unwarranted failure to believe someone's account of abuse due to bias rather than the facts.

“Perfect victim” stereotype: The mistaken cultural assumption that only passive, cooperative, non-violent victims deserve to be believed.

Victim-impact statement: A statement submitted by a victim or their family describing the impact of a crime, which can be used to support or oppose clemency.

Exhaustion (of appeals): The requirement that other legal options, such as direct appeals, be used or resolved before clemency is considered.

Post-conviction relief: Legal remedies available after a conviction, separate from a direct appeal.

Sources & References

Vera Institute of Justice (2016). *Overlooked: Women and Jails in an Era of Reform*. Documents that 86% of women in local jails report experiencing sexual violence in their lifetime, and 77% report intimate partner violence.

Access: <https://www.vera.org/publications/overlooked-women-and-jails-report>

Council on Criminal Justice (2024). *A Preliminary Assessment of Women in the Criminal Justice System*. Finds that over 70% of incarcerated women report direct intimate partner violence victimization prior to arrest.

Access: <https://counciloncj.org/womens-justice-a-preliminary-assessment-of-women-in-the-criminal-justice-system/>

Stanford Criminal Justice Center (2024). *Fatal Peril: Unheard Stories From the IPV to Prison Pipeline*. Finds that nearly three out of four incarcerated women interviewed experienced intimate partner violence in the year leading up to their arrest.

Access: <https://law.stanford.edu/publications/fatal-peril-unheard-stories-from-the-ipv-to-prison-pipeline/>

Bureau of Justice Statistics. *Prior Abuse Reported by Inmates and Probationers (NCJ 172879)*. Finds that among women in state prisons, nearly 60% reported prior physical or sexual abuse, with some system-involved surveys reaching 80% to 90%.

Access: <https://bjs.ojp.gov/library/publications/prior-abuse-reported-inmates-and-probationers>

VAWnet (2018). *Women's Experiences of Abuse as a Risk Factor for Incarceration*. Details how childhood trauma (60% to 70%) and adult intimate partner violence (70% to 80%) create distinct pathways to arrest through coercion and defensive action.

Access: https://vawnet.org/sites/default/files/materials/files/2016-09/AR_IncarcerationUpdate.pdf

This handbook is for general educational purposes only and is not a substitute for legal advice. Anyone pursuing clemency should consult a qualified attorney or advocacy organization.