

UPDATE: Police shot and [killed Maurice Clemmons](#) early this morning in Seattle. They still don't know what prompted him to shoot four police officers as they did paperwork on their laptops Sunday morning.

---

It's hard for those of us with a liberal bent (like me) — who argue for a more forgiving and *restorative* criminal justice system — to resist calling out any conservative who commutes the sentence of a criminal who goes on to commit a heinous act. [The acts](#) Maurice Clemmons is accused of committing are particularly heinous. And Mike Huckabee is [not just any](#) conservative. Still, I'll try.

In [How Clemmons Went From Prisoner To Alleged Cop Killer — And Why It Matters For Mike Huckabee](#), Justin Elliott just lays out the facts. He points to [an ABC report](#) that many suggest Huckabee was swayed to commute Maurice Clemmons' sentence by his religious views. That doesn't sound like an unreasonable exercise of religious influence to me.

In [Fox News Lets Huckabee Off the Hook for Releasing Clemmons](#), Dominic Holden quotes Huckabee saying that commuting Clemmons' sentence is “not something I'm happy about at this particular moment.” Bill O'Reilly responds, “It's not your fault, governor... I'm not saying it's your fault. I don't think anybody watching thinks it's your fault.”

Holden went on to catch a [typical O'Reilly factual error](#), and I will [follow The Slog for updates](#) on the hunt for Clemmons. But I will not so quickly jump on the [make Clemmons Huckabee's Willie Horton bandwagon](#) (even as I am tempted by [Jeralyn's persuasive suggestion](#) that several of [Huckabee's pardons made no sense](#)).

I'm [in favor of clemency](#) and the fact that Huckabee cited Clemmons' youth in commuting his sentence is precisely the kind of thing [I called for](#) a couple weeks back. And I was pleased to read last week in the NYTimes that [Right and Left are joining forces on criminal justice](#):

Edwin Meese III, who was known as a fervent supporter of law and order as attorney general in the Reagan administration, now spends much of his time criticizing what he calls the astounding number and vagueness of federal criminal laws.

Mr. Meese once referred to the American Civil Liberties Union as part of the “criminals' lobby.” These days, he said, “in terms of working with the A.C.L.U., if they want to join us, we're happy to have them.”

Dick Thornburgh, who succeeded Mr. Meese as attorney general under President Ronald Reagan and stayed on under President George Bush, echoed that sentiment in Congressional testimony in July.

“The problem of overcriminalization is truly one of those issues upon which a wide variety of constituencies can agree,” Mr. Thornburgh said. “Witness the broad and strong support from such varied groups as the Heritage Foundation, the Washington Legal Foundation, the National Association of Criminal Defense Lawyers, the A.B.A., the Cato Institute, the Federalist Society and the A.C.L.U.” [...]

Harvey A. Silverglate, a left-wing civil liberties lawyer in Boston, says he has been surprised and delighted by the reception that his new book, “Three Felonies a Day: How the Feds Target the Innocent,” has gotten in conservative circles. (A Heritage Foundation official offered this reporter a copy.)

The book argues that federal criminal law is so comprehensive and vague that all Americans violate it every day, meaning prosecutors can indict anyone at all.

I hardly even care that Meese blames the “liberal ideas of extending the power of the state” for an out-of-control criminal justice system. The [Economist interview with Radley Balko](#) that Nick [pointed to here on TMV](#) over the weekend is also getting good [traction](#):

[T]he incentive problems are most apparent with prosecutors. Prosecutors get no credit for cases they decide not to bring, either because of a lack of evidence or because pressing charges wouldn't be in the interest of justice. They're only rewarded for winning convictions. That's what gets them promoted, or re-elected, or gives them the elevated profile to run for higher office. Every incentive points toward winning convictions. And particularly with prosecutors, there's really no penalty at all for going too far to get a guilty verdict. One real disservice the Duke lacrosse case did for the criminal-justice system is it put in the public consciousness the idea that bad actors like Mike Nifong are regularly disciplined for misconduct. In truth, that case was really exceptional.

I believe our criminal justice system is brutal and broken. I want a system that keeps those guilty of heinous crimes locked up. But I also want it to work harder to keep people out of it and try to restore those who will leave it to become productive contributors to society. That clearly did not happen for Maurice Clemmons. And now those crimes he is accused of committing will make it harder to move the criminal justice system in that direction.