

#1495.1-#1495.6

From: "Weinsheimer, Bradley (ODAG)" <Bradley.Weinsheimer@usdoj.gov>

To: "Evans, DeAnna E. EOP/WHO" <DeAnna.E.Evans@who.eop.gov>, "Dixon, Tyeesha I. EOP/WHO" <Tyeesha.I.Dixon@who.eop.gov>

Cc: "English, Jared S. EOP/WHO" <Jared.S.English@who.eop.gov>, "Gillespie, Kira (PARDON)" <Kira.Gillespie@usdoj.gov>, "Sargent-Burns, Rosalind A. (PARDON)" <Rosalind.Sargent-Burns@usdoj.gov>, "Bruck, Andrew (ODAG)" <Andrew.Bruck@usdoj.gov>, "Raymond.P.Tolentino@who.eop.gov" <Raymond.P.Tolentino@who.eop.gov>, "Oyer, Elizabeth G. (PARDON)" <Elizabeth.G.Oyer@usdoj.gov>, "Wan, Elysa Q. (ODAG)" <Elysa.Q.Wan@usdoj.gov>

Subject: RE: clemency list

Date: Sat, 18 Jan 2025 11:01:09 -0500

Importance: Normal

I think the language "offenses described to the Department of Justice" in the warrant is highly problematic and in order to resolve its meaning appropriately, and consistent with the President's intent, we will need a statement or direction from the President as to how to interpret the language. I can think of four possibilities, only the last of which is satisfying:

1. The commutation applies to all federal offenses for which the inmate is under sentence. It is our practice not to look beyond the four corners of the warrant, and there is nothing in the warrant to give meaning to that language. I understand BOP is likely to use this interpretation absent some other direction, and is doing so now as they work to process the commutations. This is unsatisfying because it renders the language superfluous, which couldn't be the intent. It also likely will result in commutations in circumstances, including for crimes of violence, that was not intended.
2. The offenses described to the Department refers to the U.S. Sentencing Commission spreadsheets. I have not seen the spreadsheets so I do not know if this is a reasonable interpretation, nor do I know if it is a limiting factor (did the spreadsheets only include drug offenses, for example?). A significant problem with this interpretation is that it is a guess as to what is meant by the warrant language, and goes beyond the four corners of the warrant, something we do not normally do.
3. Because no offenses have been described to the Department from the President, the commutations do not take effect. In essence, describing offenses to the Department is a condition precedent to the commutations being effective, and without a description, they do not take effect. I have no idea what interpretation the incoming Administration will give to the warrant, but they may find this interpretation attractive, as it gives effect to the language but does not go beyond the four corners of the warrant.
4. There is yet to come clear direction from the President giving meaning to the language "for the offenses described to the Department of Justice." Ideally, this would be a list as to each inmate listing the offenses that are covered by the commutation. By far, this is the clearest and least problematic alternative.

Given the above, I think it best that we receive a statement or direction from the President as to the meaning of the warrant language. That will allow us to give full effect to the commutation warrant in the manner intended by the President. In the absence of such a statement or direction, I am concerned option 3 above will be the interpretation that is given to the warrant. While that is a logical construction legally, it can't possibly be what the President intended. So I would like to avoid that outcome.

One other important note – in communication about the commutations, the White House has described those who received commutations as people convicted of non-violent drug offenses. I think you should stop saying that because it is untrue or at least misleading. As you know, even with the exceedingly limited review we were permitted to do of the individuals we believed you might be considering for commutation action, we initially identified 19 that were highly problematic. That was based only upon running your initial priority list against the list of those who had submitted clemency petitions (a small percentage of the overall total). Even in that number, we identified violent offenders, including those who committed acts of violence during the offense of

conviction, or who otherwise have a history of violence such that it is misleading to suggest that they are non-violent drug offenders. 16 of those 19 received grants of clemency from the President. Pardon separately highlighted for you dozens more highly problematic candidates; despite the flags raised, most of these individuals also received grants of clemency. There are likely many more problematic cases in the ones we have not yet been able to review. Unfortunately and despite repeated requests and warnings, we were not afforded a reasonable opportunity to vet and provide input on those you were considering. And as you know, we only were provided the actual warrants and information on those for whom the President was granting clemency minutes before you posted the list online.

We also note that there was no consideration given to victim input in these cases involving violent crimes. In the cases of Terrence Richardson and Ferrone Claiborne, who were included in the clemency grants, the Department has received voluminous objections to clemency from the family of the victim, public officials, and local and national law enforcement organizations. Richardson and Claiborne were sentenced to life imprisonment for drug trafficking offenses during which a police officer was killed.

Among those who received commutations that we previously highlighted as problematic are Russell McIntosh, who has a history of violent crimes, including having shot to death a woman who had threatened to expose his drug business to the authorities and her two-year-old child. McIntosh pleaded guilty to state charges related to murder. It also includes Calvin Odom and Terance Young, who were denied clemency in 2016 because trial testimony revealed that on one occasion during the course of the conspiracy, a defendant responded to a female participant's desire to leave the conspiracy by putting a gun in her mouth and ordering her to keep working for him. Evidence also revealed that in December 1994, while conducting drug business in Shreveport, a defendant accidentally shot a child who was present when he struggled with another drug trafficker during an attempted robbery. Also receiving commutation, and previously highlighted as problematic, is Robert Gillins who from 1989 to 1994 led a cocaine and crack distribution organization that operated in multiple cities. The organization used violence to accomplish its aims. For example, in August 1991, petitioner and others assaulted and beat a coconspirator and held him at gunpoint for the loss of \$180,000 of the drug organization's money. In April 1992, Gillins shot an informant who provided information on a member of the drug organization.

And there is Steven Fowler who received a commutation despite that his petition was denied in 2023 as a result of violent conduct. He ordered his employee to commit several violent attacks, and ultimately received a sentence within the guideline range likely applicable today. Fowler employed an enforcer who admitted to shooting at least five people who owed Fowler money and firing guns at many more. In one incident, the enforcer burned the face and forearms of a suspected informant with a butane torch while petitioner and others looked on. Jason Best was denied clemency in 2023, but now received a commutation, despite that he recently received a reduction from the district court to a term within his current guideline range, has a criminal history that includes his recklessly causing the death of a minor child, and showed poor prison adjustment. Best and his codefendant were involved in a shooting in which they caused the death of a young child asleep in his home. Plaze Anderson, for whom we had recommended denial of clemency, received a commutation. Anderson was a high-ranking member of the Gangster Disciples gang and was personally involved in two murders, and an attempted murder and kidnapping, and threatened his girlfriend with a weapon. He also obstructed justice by contacting codefendants to influence their decision-making. He has a criminal history involving statutory rape of a 17-year-old and participating in a shooting that struck an occupied vehicle. Not to mention numerous inmates who have engaged in brutal acts of violence while incarcerated.

We also have started to hear from the U.S. Attorney community about concerns relating to some of the clemency grants. For example, the Acting U.S. Attorney in Connecticut informed us that Adrian Peeler, who had no pending clemency application, was sentenced many years ago to 35 years of imprisonment for a federal drug offense, but that term was imposed to run consecutively to a 25-year state sentence for conspiracy to commit murder (which resulted in the murder of an 8-year-old witness and his mother). The family of those victims has been very involved in opposing Mr. Peeler's motion for compassionate release and other relief over the years and will be extremely upset to learn of this development. Had we been provided a reasonable opportunity to vet the list and to engage in a process to flag problematic cases, we could have brought this to your attention prior to the President granting clemency.

I have no idea if the President was aware of these backgrounds when making clemency decisions, the Department was largely excluded from the process, which we otherwise opposed. The President of course has the constitutional power to use his clemency power as he chooses. But I do not think it is close to accurate to describe all the clemency recipients as those convicted of non-violent drug offenses. At minimum, such a statement is highly misleading, based on the history and backgrounds of the few we know about and have

highlighted previously and above. For those reasons, I don't think characterizing clemency grants as relating to non-violent drug offenses should be repeated.

Thanks, Brad.

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From: Wan, Elysa Q. (ODAG) <Elysa.Q.Wan@usdoj.gov>
Sent: Friday, January 17, 2025 5:43 PM
To: Evans, DeAnna E. EOP/WHO <DeAnna.E.Evans@who.eop.gov>; Oyer, Elizabeth G. (PARDON) <Elizabeth.G.Oyer@usdoj.gov>
Cc: Dixon, Tyesha I. EOP/WHO <Tyesha.I.Dixon@who.eop.gov>; English, Jared S. EOP/WHO <Jared.S.English@who.eop.gov>; Gillespie, Kira (PARDON) <Kira.Gillespie@usdoj.gov>; Sargent-Burns, Rosalind A. (PARDON) <Rosalind.Sargent-Burns@usdoj.gov>; Weinsheimer, Bradley (ODAG) <Bradley.Weinsheimer@usdoj.gov>; Bruck, Andrew (ODAG) <Andrew.Bruck@usdoj.gov>
Subject: RE: clemency list

Tyesha, DeAnna, and Jared,

The attached warrant states, "I hereby commute to a term of [X] months' imprisonment the sentence of imprisonment, **for the offenses described to the Department of Justice**, imposed upon XX." We do not know how to interpret "offenses described to the Department of Justice." Could you please clarify?

Thanks,
Elysa

From: Evans, DeAnna E. EOP/WHO <DeAnna.E.Evans@who.eop.gov>
Sent: Friday, January 17, 2025 3:24 PM
To: Oyer, Elizabeth G. (PARDON) <Elizabeth.G.Oyer@usdoj.gov>
Cc: Dixon, Tyesha I. EOP/WHO <Tyesha.I.Dixon@who.eop.gov>; English, Jared S. EOP/WHO <Jared.S.English@who.eop.gov>; Gillespie, Kira (PARDON) <Kira.Gillespie@usdoj.gov>; Sargent-Burns, Rosalind A. (PARDON) <Rosalind.Sargent-Burns@usdoj.gov>; Wan, Elysa Q. (ODAG) <Elysa.Q.Wan@usdoj.gov>; Weinsheimer, Bradley (ODAG) <Bradley.Weinsheimer@usdoj.gov>
Subject: [EXTERNAL] RE: clemency list

Please see the attached chart. It should go live on our site momentarily.

DeAnna

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From: Oyer, Elizabeth G. (PARDON) <Elizabeth.G.Oyer@usdoj.gov>
Sent: Friday, January 17, 2025 1:39 PM
To: Evans, DeAnna E. EOP/WHO <DeAnna.E.Evans@who.eop.gov>

Cc: Dixon, Tyeesha I. EOP/WHO <Tyeesha.I.Dixon@who.eop.gov>; English, Jared S. EOP/WHO <Jared.S.English@who.eop.gov>; Gillespie, Kira (PARDON) <Kira.Gillespie@usdoj.gov>; Sargent-Burns, Rosalind A. (PARDON) <Rosalind.Sargent-Burns@usdoj.gov>; Wan, Elysa Q. (ODAG) <Elysa.Q.Wan@usdoj.gov>; Weinsheimer, Bradley (ODAG) <Bradley.Weinsheimer@usdoj.gov>

Subject: RE: clemency list

I know I sound like a broken record, but our incoming is nonstop, and folks are becoming increasingly upset and concerned, including congressional staff, US Courts/Probation, and stakeholder orgs. I have no explanation to offer them as to why a list is not available. Would greatly appreciate any update.

From: Evans, DeAnna E. EOP/WHO <DeAnna.E.Evans@who.eop.gov>

Sent: Friday, January 17, 2025 12:42 PM

To: Oyer, Elizabeth G. (PARDON) <Elizabeth.G.Oyer@usdoj.gov>

Cc: Dixon, Tyeesha I. EOP/WHO <Tyeesha.I.Dixon@who.eop.gov>; English, Jared S. EOP/WHO <Jared.S.English@who.eop.gov>; Gillespie, Kira (PARDON) <Kira.Gillespie@usdoj.gov>; Sargent-Burns, Rosalind A. (PARDON) <Rosalind.Sargent-Burns@usdoj.gov>; Wan, Elysa Q. (ODAG) <Elysa.Q.Wan@usdoj.gov>; Weinsheimer, Bradley (ODAG) <Bradley.Weinsheimer@usdoj.gov>

Subject: [EXTERNAL] RE: clemency list

Will do.

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From: Oyer, Elizabeth G. (PARDON) <Elizabeth.G.Oyer@usdoj.gov>

Sent: Friday, January 17, 2025 12:39 PM

To: Evans, DeAnna E. EOP/WHO <DeAnna.E.Evans@who.eop.gov>

Cc: Dixon, Tyeesha I. EOP/WHO <Tyeesha.I.Dixon@who.eop.gov>; English, Jared S. EOP/WHO <Jared.S.English@who.eop.gov>; Gillespie, Kira (PARDON) <Kira.Gillespie@usdoj.gov>; Sargent-Burns, Rosalind A. (PARDON) <Rosalind.Sargent-Burns@usdoj.gov>; Wan, Elysa Q. (ODAG) <Elysa.Q.Wan@usdoj.gov>; Weinsheimer, Bradley (ODAG) <Bradley.Weinsheimer@usdoj.gov>

Subject: RE: clemency list

A spreadsheet, please.

From: Evans, DeAnna E. EOP/WHO <DeAnna.E.Evans@who.eop.gov>

Sent: Friday, January 17, 2025 12:37 PM

To: Oyer, Elizabeth G. (PARDON) <Elizabeth.G.Oyer@usdoj.gov>

Cc: Dixon, Tyeesha I. EOP/WHO <Tyeesha.I.Dixon@who.eop.gov>; English, Jared S. EOP/WHO <Jared.S.English@who.eop.gov>; Gillespie, Kira (PARDON) <Kira.Gillespie@usdoj.gov>; Sargent-Burns, Rosalind A. (PARDON) <Rosalind.Sargent-Burns@usdoj.gov>; Wan, Elysa Q. (ODAG) <Elysa.Q.Wan@usdoj.gov>; Weinsheimer, Bradley (ODAG) <Bradley.Weinsheimer@usdoj.gov>

Subject: [EXTERNAL] RE: clemency list

All –

In terms of the clemency recipient list, do you want a spreadsheet of all the names and BOP Nos. or would you prefer for me to let you know when it is ready to go live on our website so you can pull the info from our website?

DeAnna

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From: Evans, DeAnna E. EOP/WHO
Sent: Friday, January 17, 2025 12:02 PM
To: 'Oyer, Elizabeth G. (PARDON)' <Elizabeth.G.Oyer@usdoj.gov>
Cc: Dixon, Tyeesha I. EOP/WHO <Tyeesha.I.Dixon@who.eop.gov>; English, Jared S. EOP/WHO <Jared.S.English@who.eop.gov>; Gillespie, Kira (PARDON) <Kira.Gillespie@usdoj.gov>; Sargent-Burns, Rosalind A. (PARDON) <Rosalind.Sargent-Burns@usdoj.gov>; Wan, Elysa Q. (ODAG) <Elysa.Q.Wan@usdoj.gov>; Weinsheimer, Bradley (ODAG) <Bradley.Weinsheimer@usdoj.gov>
Subject: RE: clemency list

Understood and thank you for flagging, We will circle back shortly.

DeAnna

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From: Oyer, Elizabeth G. (PARDON) <Elizabeth.G.Oyer@usdoj.gov>
Sent: Friday, January 17, 2025 11:58 AM
To: Evans, DeAnna E. EOP/WHO <DeAnna.E.Evans@who.eop.gov>
Cc: Dixon, Tyeesha I. EOP/WHO <Tyeesha.I.Dixon@who.eop.gov>; English, Jared S. EOP/WHO <Jared.S.English@who.eop.gov>; Gillespie, Kira (PARDON) <Kira.Gillespie@usdoj.gov>; Sargent-Burns, Rosalind A. (PARDON) <Rosalind.Sargent-Burns@usdoj.gov>; Wan, Elysa Q. (ODAG) <Elysa.Q.Wan@usdoj.gov>; Weinsheimer, Bradley (ODAG) <Bradley.Weinsheimer@usdoj.gov>
Subject: RE: clemency list

Hello, following up on timing. We are fielding numerous inquiries from government officials and the public. Anxiety is especially high among applicants and their families. I hope you can share this soon.

From: Evans, DeAnna E. EOP/WHO <DeAnna.E.Evans@who.eop.gov>
Sent: Friday, January 17, 2025 7:25 AM
To: Oyer, Elizabeth G. (PARDON) <Elizabeth.G.Oyer@usdoj.gov>
Cc: Dixon, Tyeesha I. EOP/WHO <Tyeesha.I.Dixon@who.eop.gov>; English, Jared S. EOP/WHO <Jared.S.English@who.eop.gov>; Gillespie, Kira (PARDON) <Kira.Gillespie@usdoj.gov>; Sargent-Burns, Rosalind A. (PARDON) <Rosalind.Sargent-Burns@usdoj.gov>; Wan, Elysa Q. (ODAG) <Elysa.Q.Wan@usdoj.gov>; Weinsheimer, Bradley (ODAG) <Bradley.Weinsheimer@usdoj.gov>
Subject: [EXTERNAL] Re: clemency list

It is our intent to send you all a copy before the list goes live on our website. We will then make separate arrangements related to the warrant.

DeAnna

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On Jan 17, 2025, at 7:17 AM, Oyer, Elizabeth G. (PARDON) <Elizabeth.G.Oyer@usdoj.gov> wrote:

Ok. Would appreciate receiving an advance copy and also knowing your plans for completing the paperwork. Thanks very much.

From: Evans, DeAnna E. EOP/WHO <DeAnna.E.Evans@who.eop.gov>

Sent: Friday, January 17, 2025 7:11 AM

To: Oyer, Elizabeth G. (PARDON) <Elizabeth.G.Oyer@usdoj.gov>

Cc: Dixon, Tyeesha I. EOP/WHO <Tyeesha.I.Dixon@who.eop.gov>; English, Jared S. EOP/WHO <Jared.S.English@who.eop.gov>; Gillespie, Kira (PARDON) <Kira.Gillespie@usdoj.gov>; Sargent-Burns, Rosalind A. (PARDON) <Rosalind.Sargent-Burns@usdoj.gov>; Wan, Elysa Q. (ODAG) <Elysa.Q.Wan@usdoj.gov>; Weinsheimer, Bradley (ODAG) <Bradley.Weinsheimer@usdoj.gov>

Subject: [EXTERNAL] Re: clemency list

Liz -

Understood. The clemency recipient list will be made public in a few hours (likely around noon as was done for the CAHC rollout).

DeAnna

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On Jan 17, 2025, at 6:16 AM, Oyer, Elizabeth G. (PARDON) <Elizabeth.G.Oyer@usdoj.gov> wrote:

Good morning,

Would WHCO kindly share the list of today's clemency recipients? We are already receiving inquiries from stakeholders, advocates, and applicants.

Many thanks.

Liz

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