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September 13, 2016

The Honorable Barack Obama
President of the United States
The White House
Washington, D.C.

Dear Mr. President:

I write to share my profound concern with your use of the Constitutional pardon power.

No one disputes that the President has the authority to issue pardons and commutations. Article II of the Constitution states that "The President...shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment."¹ However, during your presidency, you have commuted the sentences of no fewer than 673 federal offenders – more than the previous 10 presidents combined.² This is despite the fact that the Justice Department's own U.S. Attorney's Manual states that "commutation of sentence is an extraordinary remedy that is rarely granted."³ The vast majority of these commutations have been granted during your second term, and the vast majority of recipients have been federal drug trafficking offenders.

The Justice Department's Clemency Initiative, formed in 2014, established criteria for the consideration of commutation petitions for drug trafficking offenders.⁴ However, in many cases the individuals whose sentences you have commuted have been convicted of serious violent felonies. As an example, the enclosed letter is from Sheriff Donald L. Smith of Augusta County, in Virginia's Sixth Congressional District. Sheriff Smith is deeply concerned about the impending release of a habitual drug trafficking felon, who will be released on December 1, 2016, after serving only nine years of a 33-year sentence. This individual has prior convictions

¹ U.S. CONST. art. II § 2 cl. 1.

² See, e.g., President Obama Grants 111 Additional Commutations, the Most Commutations Granted in a Single Month," available at <https://www.whitehouse.gov/blog/2016/08/30/president-obama-grants-111-additional-commutations-most-commutations-granted-single>.

³ U.S. Attorneys' Manual § 1-2.113, available at <http://www.justice.gov/usam/usam-1-2000-organization-and-functions#1-2.113>.

⁴ The Clemency Initiative criteria include inmates who "are non-violent, low-level offenders without significant ties to large scale criminal organizations, gangs or cartels," (see <https://www.justice.gov/pardon/clemency-initiative>).

for, among other things, possession of a firearm in furtherance of a drug trafficking offense, which is classified as a serious violent felony under federal law.⁵

Many of the offenders whose sentences you have commuted have been convicted of similar firearms-related offenses. An alarming number of offenders whose sentences you have commuted were convicted of possession of a firearm during the commission of a felony under 18 U.S.C. § 924(c). And other offenders have been convicted under 21 U.S.C. § 848, commonly known as the “Kingpin statute,” which applies to offenders who committed a felony violation of the federal Controlled Substances Act “as part of a continuing series of violations,” in concert with “five or more persons,” over whom the offender “occupie[d] a position of organizer, a supervisory position, or any other position of management,” and obtained “substantial income or resources” as a result.⁶ These are clearly not low-level, non-violent drug offenders.

Commuting the sentences of individuals who have serious violent felony convictions, significant connections to organized crime or gangs, or individuals convicted under the Kingpin statute, is extremely troubling. It is also plainly at odds with the Department’s own published criteria for considering commutation petitions, and poses a significant danger to public safety. If your Administration believes the sentences for certain drug trafficking offenses are too harsh, it should work through Congress, which is the branch of government responsible for assigning the penalties for federal criminal offenses, rather than using the clemency process to circumvent congressional intent.

I trust that any additional commutations issued before the end of your presidency will not be awarded to serious violent felons and other drug traffickers who pose a threat to America’s public safety. Thank you for your attention to this important matter.

Sincerely,



BOB GOODLATTE
Chairman

Enclosure

⁵ See 18 U.S.C. § 3559(c)(2)(F).

⁶ 21 U.S.C. § 848(c).