



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 30, 2015

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter to the Attorney General dated January 13, 2015, regarding Clemency Project 2014 and its relationship to the considerations of the Department of Justice (the Department) with respect to executive clemency petitions.

Your letter inquires about what “actions [Clemency Project 2014] take[s] for the Department.” The answer is simple: none. Clemency Project 2014 is a collaboration of five legal associations – the American Bar Association, the National Association of Criminal Defense Lawyers, the Federal Defenders, Families Against Mandatory Minimums, and the American Civil Liberties Union – that provide *pro bono* assistance to federal prisoners seeking clemency. These associations provide assistance to prisoners, not to the Department.

These organizations are not engaging in an alternative process to the Department’s standard clemency process. Rather, they provide representation to prisoners, under the ethical rules governing attorney-client relationships and other attorney conduct, which enables the prisoners submit complete and thorough petitions. Their assistance to prisoners is consistent with the Department’s long-standing policy that a petitioner for executive clemency has the right to be represented by counsel. The Clemency Project 2014 enhances an inmate’s opportunity to identify and secure such representation.

To be clear, the work of Clemency Project 2014 involves only the submission of a petition, which both historically and currently, may be submitted by an inmate *pro se* or by their legal counsel. A petition submitted by Clemency Project 2014 lawyers receives no deference or special treatment with regard to its merits. Instead, petitions submitted by Clemency Project 2014 lawyers are prioritized for review based on the completeness of the submissions and clarity in addressing the criteria for clemency. These cases are prioritized because the Department’s Office of the Pardon Attorney (OPA) can often review these petitions more quickly given the inclusion of all the necessary documentation that OPA would otherwise need to research and the attention in the petition to the Clemency Initiative criteria.

Your letter further states that you are unaware of any time in history when the Department has delegated "core attributes of presidential power to private parties." No such delegation has occurred here. The President has not delegated his constitutional power to the Department, any other agency, or any private entity.

The Department continues to serve in its historical and regulatory-mandated advisory role to the President regarding clemency matters. The OPA undertakes an extensive review of every petition submitted. The Pardon Attorney makes an independent recommendation on all clemency petitions, which are then reviewed and assessed by the Deputy Attorney General. The petitions, accompanied by the Deputy Attorney General's recommendation, are ultimately submitted to the President for a final determination.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional information regarding this or any other matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter J. Kadzik", is written over the word "Sincerely,".

Peter J. Kadzik
Assistant Attorney General

cc: The Honorable Patrick J. Leahy
Ranking Minority Member