

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

January 13, 2015

The Honorable Eric Holder
Attorney General of the United States
Department of Justice
10th Street and Constitution Avenue, N.W.
Washington, DC 20530

Dear Mr. Attorney General:

It is with concern that I write to inquire about the “Clemency Project 2014.” According to press reports, four advocacy organizations have formed a consortium that is reviewing applications for pardons. It has been reported that the involvement of these organizations has been established as an alternative process to the Department’s standard process for seeking a pardon to which any American may avail himself or herself.

Under the Constitution, the power to pardon is a core presidential power. As Chief Justice Marshall wrote, “this power has been exercised from time immemorial by the executive....” It is exercised following recommendations from the Office of the Pardon Attorney at the Department of Justice to the extent that the President chooses to give them weight. Taxpayers fund that office precisely to establish an orderly and fair process for review of all pardon applications, and civil servants not subject to political pressures make recommendations to others concerning the suitability of individuals or classes of individuals for pardons.

I am unaware of any time in history in which the Department of Justice has delegated any of these core attributes of presidential power to private parties beholden to no one, and who have their own agendas that may not coincide with the President’s. It has been reported that these entities are reviewing pardon applications by “nonviolent offenders.” If this is the case, I ask that you provide the definition of the term “nonviolent offenders” that these organizations are following. Further, please tell me what formal arrangements exist between the Department and the Clemency Project 2014 to coordinate the processing of pardon applications, including what direction Clemency Project lawyers are given, what actions they take for the Department, and how, if at all, Department of Justice lawyers consider the work product provided by these organizations or follow their recommendations.

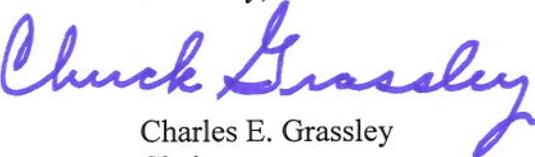
I am also concerned that according to press reports, the delegation of core presidential and public power to the Clemency Project is enhancing the status of these organizations compared to ordinary pardon applicants who have not received the favor of the apparently official Clemency Project process. It has been reported that “some lawyers claim that the close coordination between the Clemency Project and the administration suggests that prisoners going

through the project will have a faster, insider track. The attorneys say comments from project organizers have reinforced that impression.”

In this connection, please inform me whether outside organizations are seeking to enhance their status by virtue of any claims that they enjoy enhanced access to the Department or greater chance for securing a pardon for applicants who proceed through the Clemency Project. In addition, please tell me whether anyone in the Department is aware that anyone affiliated with these organizations have made comments suggesting that they have superior access to the Department’s pardon process, and, if so, whether the Department has responded to these comments.

Justice in the award of presidential pardons requires a transparent, fair process, in which all elements of the President’s power to pardon are exercised by people who exercise a public trust. When private entities are wrongly given the ability to exercise any role in that public trust, then both the fairness of the pardon process and the appearance of its fairness are jeopardized.

Sincerely,



Charles E. Grassley
Chairman