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United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, DC 20510-6025

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March 31, 2016

The Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20535-0001

Dear Attorney General Lynch:

I am writing to you in response to yesterday's announcement that President Barack Obama granted sentence commutations to 61 individuals. I have strong concerns that 12 of these 61 individuals were convicted of one, if not more, firearm-related offenses. These include:

- Seven convictions of possession of a firearm in furtherance of a drug trafficking crime;
- Four convictions of possession of a firearm by a felon; and
- Two convictions of use of a firearm in furtherance of a drug trafficking offense.

In August 2014, the Department of Justice announced its rubric for considering federal inmates for the President's new initiative for executive clemency. Part of these criteria included: non-violent individuals who would not pose a threat to public safety if released; low-level offenders without significant ties to large-scale criminal organizations, gangs, or cartels; inmates who do not have a significant criminal history; and those who have no history of violence prior to, or during, their current term of imprisonment.

By my count, the President has commuted the sentences of over 200 of these "non-violent" federal inmates, of which 33 were convicted of firearm-related offenses. I am troubled by the nature of the firearm-related convictions and the fact that some individuals are previously convicted felons who continued to commit crimes. This announcement clearly demonstrates that the Administration is not following its own selection criteria. Frankly, I am left wondering why the President and the Justice Department consider individuals who carry guns to drug deals as "non-violent".

More importantly, it is unclear to me how these sentence commutations are making our communities safer. Two of the individuals with firearm-related convictions are residents of Alabama and will soon return home in July, their sentences reduced. Communities in my state,

like other towns and cities all over America, are working hard to clean up their streets and make their communities safer. This is a constant struggle for some areas. Yet, this announcement from the President sends an unfortunate and resounding message to criminals everywhere: if you are convicted of a crime involving a gun, the federal government will go easy on you.

These recent sentence commutations come on the heels of the President's newly proposed executive actions on restricting firearms announced in January 2016. While I still feel these actions do more to restrict the rights of law-abiding citizens while having little direct impact on reducing gun violence, I have supported federal proposals to improve the enforcement and implementation of existing firearm laws. However, enforcing existing firearm laws seems like an uphill battle when this Administration has made a point of commuting the sentences of criminals with firearm convictions.

When you testified at my hearing on January 20, 2016, regarding the President's executive actions, I brought up prior commutations that involved releasing individuals with firearm convictions. I asked you if you felt that the President is sending a mixed message to Americans when he issues new executive actions in an attempt to change gun regulations one day, and then pardons criminals with gun-related convictions the next. I also asked you how the President can say he is "committed to using every tool at the Administration's disposal to reduce gun violence" when his own Administration is not even following through with the sentences of criminals with firearm-related convictions.

At the time, you said that you were not aware of the particular sentence commutations involving firearm-related convictions, but that you would look into these cases. We have yet to hear back from you or the Department about these or any other questions from the hearing, which were due at the end of February. I request that your Department immediately provide responses to my questions, and those of my subcommittee members, from the January hearing.

As a follow-up to the Justice Department's plans for spending fiscal year 2016 funds, I specifically conveyed that the Committee prohibits the use of funding related to the review, consideration, or approval of clemency or pardon petitions as part of the Department's April 23, 2014, announcement on executive clemency requesting relief from convictions for gun crimes or crimes involving violence. I felt this was a very sensible stipulation, but the Justice Department obviously feels that letting convicted gun-toting drug dealers out of prison was much more reasonable.

Given this latest announcement, I have no confidence in the ability of the Office of the Pardon Attorney to properly screen requests for executive clemency or to effectively convey any recommendations throughout the Administration. Approving clemency requests for felons with firearm-related convictions runs counter to the Pardon Attorney's own criteria, and these

commutations are not what taxpayers had in mind when the Administration said it would let non-violent offenders out of prison early. Therefore, I do not approve any current requests to reprogram funds from fiscal year 2016, or any previous fiscal years, to increase operations at the Pardon Attorney's office.

The President may have the executive authority to commute sentences and pardon individuals, however, this special power is a privilege, not an obligation. The President is not required to pardon anyone or to commute any sentence. As the Attorney General overseeing the Pardon Attorney and Bureau of Prisons, you have a responsibility to provide the President with the facts of these cases, if not your recommendations and advice.

I want to do everything I can to keep our communities safer, and that includes keeping guns out of the hands of criminals, the mentally ill, and violent offenders. Right now, I am unsure if the Administration shares this goal.

Sincerely,

A handwritten signature in blue ink that reads "Richard Shelby". The signature is written in a cursive style with a long, sweeping underline.

Richard C. Shelby
Chairman
Senate Subcommittee on Commerce,
Justice, Science and Related Agencies