

CAMPAIGN DETAILS

CANNABIS CLEMENCY

NOTES

As federal authorities currently have little authority to expunge, seal, and/or set aside federal cannabis-related convictions, clemency grants represent the only way to ensure relief for individuals currently or formerly incarcerated for those offenses.

But while this use of the clemency power will alleviate some of the legal disabilities imposed on his particular population, it will not bring about all of the necessary relief for individuals burdened by these “meritorious” cannabis-related cases.

As such, classwide clemency should not be considered a substitute for more robust legislative action. Congress must also proactively seek to alleviate the burden of federal collateral consequences through legislative action.

ACCOMPANYING LEGISLATION

Even after the receipt of a clemency grant, the collateral consequences of a federal cannabis-related conviction all-too-often prevent individuals from being able to access public housing, public assistance, and employment opportunities. They also leave recipients subject to deportation, disenfranchisement, and other issues that work to prevent a successful reentry.

Evidence shows that these deficiencies not only have a deleterious impact on the lives of system-impacted individuals, but that they work against the safety, health, and prosperity of the broader American public.

To that end, here are some additional criminal justice reforms Congress should prioritize.

- Securing additional record-related protections by enacting a federal expungement and/or judicial sealing statute.
- Ensure that released individuals are expeditiously re-enfranchised, and other legal and civic rights subsequently restored.
- Promulgate fair chance hiring regulations.
- End the felony drug ban for income and nutrition assistance, as well as housing assistance.
- Raise the standard for stops above “reasonable suspicion of criminal activity”.
- Recalibrate the apparatus for distributing federal funds to local and state law enforcement agencies by ensuring cannabis-arrest numbers no longer factor into grant calculations.
- Disincentivize the use of civil asset forfeiture by local, state, and federal authorities.

CLEMENCY BOARD SUGGESTED GUIDELINES

ELIGIBILITY GUIDELINES

Operationally, Ford's board first reviewed tens of thousands of petitions for an initial baseline reduction determination. They then further assessed the applications based on a list of mitigating or aggravating factors. The Presidential Cannabis Clemency Board should consider a similar approach. They should also use some of the guidelines developed during President Obama's 2014 Clemency Initiative to assess cases.

While we understand that a commutation is traditionally "granted upon conditions similar to those imposed pursuant to parole or supervised release", the Board should take pains to scale back the scope and punitiveness of those conditions.

And as the Board would decline to recommend clemency for individuals who "pose a serious threat to public safety or national security," we would ask that relevant authorities be barred from reflexively honoring ICE detainers and/or immediately deporting non-citizens granted "cannabis clemency" through this initiative.

THE SCOPE

Without direct cooperation with the Federal Bureau of Prisons, it's difficult to ascertain the exact number of individuals convicted of cannabis-related offenses since May 1, 1971 (the effective date of The Federal Comprehensive Drug Abuse Prevention and Control Act of 1970).

Given historical trends, we imagine that the total number of impacted individuals is in the low hundreds of thousands (3,000 - 5,000 of whom we estimate are currently in BOP custody). However, as cannabis law enforcement has ebbed and flowed over the past five decades, the total number of potential grant recipients is somewhat difficult to estimate.

For reference, we've included recent statistics from the U.S. Sentencing Commission on federal marijuana-related convictions and incarceration.

150,000+

TOTAL NUMBER OF INDIVIDUALS CONVICTED OF FEDERAL MARIJUANA-RELATED OFFENSES, 1992 - 2019

OFFENSE*	DESCRIPTION	CASES
USSG §2D1.1	Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy	1,665 (2019)
USSG §2D1.2	Drug Offenses Occurring Near Protected Locations or Involving Underage or Pregnant Individuals; Attempt or Conspiracy	4 (2019)
USSG §2D1.6	Use of Communication Facility in Committing Drug Offense; Attempt or Conspiracy	6 (2019)

*Effective November 1, 1987. Amended effective November 1, 2007 (amendment 711).