

September 20, 2021

Dear Oregon District Attorneys and Sheriffs,

As you are aware, since March of 2020, Governor Kate Brown has released unprecedented numbers of convicted felons from prisons before the completion of their sentences, by either pardon or commutation. This included at least **22 Measure 11 Mandatory Minimum sentence violent offenders, including ten convicted murderers**. While 65 felons may have been released under arguably standard clemency powers, an additional 953 were not.¹ These other releases fail to follow proper procedural constitutional standards and harms our efforts to keep our communities safe, respect the will of the people, and adhere to the promise of transparency in governance and sentencing.

While the Governor's clemency powers are broad, there is a legal process and requirement for transparency. Governor Brown did not follow requirements for properly granting clemency. For your convenience, I have attached an overview of the clemency laws and processes for Oregon.

In her June 25, 2021, letter to Senate President Courtney and House Speaker Kotek, which serves as her Report to the Legislative Assembly regarding her clemency actions since March 9th, 2020, Governor Brown failed to provide the minimum amount of information required by law. In addition to scant information regarding each of the 65 felons she pardoned or whose sentences she commuted, the Governor explained, in her report, in the broadest terms, that 912 felons were released en mass because of concerns regarding the COVID-19 global pandemic. Notably, she did not require vaccinations as a condition of early release, which was completely within her power to do and would have, presumably, at least protected the community from exposure. The Governor reports that she delegated to the Department of Corrections (DOC) the case-by-case analysis of all inmates, *on a rolling basis*, to see if they met her criteria:

1. That the inmate was particularly vulnerable to COVID-19;
2. Was not serving a sentence for a person crime;
3. Had served at least 50% of his or her sentence;
4. Had a record of good conduct for the last 12 months;
5. Had a suitable housing plan;
6. Had out-of-custody health care needs assessed and adequately addressed; and
7. Did not present an unacceptable safety, security, or compliance risk to the community.

¹ We have compared the numbers in the Governor's report to reports compiled by the Department of Corrections. When considering the DOC report, the total number released is 998.

The Governor's report gives no information as to each felon released under these criteria aside from the felon's name, the crime for which the felon was convicted, the sentence and the commutation date. We have filed public records requests to obtain all information as to the circumstances and criteria surrounding these releases, including: whether the felons requested clemency or some other immediate relief; whether they were tested and vaccinated against COVID-19 before their release; and what housing plan was confirmed before each felon's release. We have requested information regarding required notifications to the appropriate district attorneys and the victims of each felon.

In her report, Governor Brown notified the legislature that on March 5, 2021, "in recognition of the extraordinary efforts made by adults in custody who were deployed to fight the historic wildfires that ravaged the state around Labor Day 2020" she **delegated** to the DOC the case-by-case analysis of all felons who fought in the 2020 fires to be considered for a one-year reduction of their sentences.

Of the 53 inmates deemed eligible by the DOC under the Governor's criteria, Governor Brown released 41 felons, listed on Exhibit C of her Report to the Legislature. Six of them are Measure 11 offenders for crimes including Assault II and Robbery I. We have requested from DOC and the Governor's office all information pertaining to these "clemency" actions.

Wildfires continue to ravage Oregon at this moment and most likely will continue in years ahead. COVID-19 and its Delta variant rage in Oregon as well. We are gravely concerned that Governor Brown may continue her requirements that DOC work to identify and release many more felons on a "rolling basis."

The attached white paper sets out the applicable clemency laws and explains the basic procedures set by the Governor's office for an inmate to request clemency of the Governor. Historically, clemency is **requested** by inmates and granted very rarely.

Oregonians, in their vote for Measure 11, made clear to the Legislature and Governor that they demand predictability in sentences for violent crimes. The Oregon Constitution requires that justice be administered openly and in constant adherence to the principles of protecting society, personal responsibility, accountability for one's actions and reformation. There is ample instruction in our constitution as to our obligation to honor victims' rights and significant detail regarding the purpose, intent, and operation of our criminal justice system's robust inmate work programs.

As succinctly stated by Marion County District Attorney Paige Clarkson in her statement provided to KYKN in March 2021,

".....While these people may have assisted during a crisis, there is an important distinction between these offenders and our first responders and law-abiding community members who heroically did the same. Each of these offenders has a victim who deserves justice. Each of these offenders chose to hurt another person. Each of these offenders put our community at risk with their violent behavior. Releasing them early poses a risk to

public safety and directly undermines the faith and confidence that victims have a right to expect in our criminal justice system.”

The information we have received thus far in response to our comprehensive public records requests supports all assertions in this letter. In the weeks ahead, we expect more information regarding each released felon in all categories of releases outlined above.

I hope this is helpful to you, in the sense that you know we support your hard work in prosecuting and convicting criminals so as to hold them accountable, and to protect our communities.

I welcome your comments or questions. Please contact me directly at (503) 364-1913.

Sincerely,

Kevin L. Mannix
President
Common Sense for Oregon
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Attachment:
White Paper (10 pgs)