



EXODUS FOUNDATION.ORG

Exodus Plan Executive Summary

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The Exodus Track for Clemency

In an effort to seek justice, spare lives from the cage, and return loved ones to each other to become productive citizens, Exodus Foundation.org and its allies offer an additional set of clemency standards that will make it possible for clemency to be granted to those left behind, denied, or who are uninformed about clemency (see Appendix A).

Notwithstanding the adroit review of commutation applications by the staffs of the Clemency Project 2014 and the White House Office of Pardons, under the current guidelines for granting clemency, the structural barriers to success for Federal inmates are legion. One has only a 10 percent chance of being granted a commutation of one's sentence. Those convicted of white collar crimes are largely excluded and do not receive the same preference.

Mr. President, before you leave office, we ask you to adopt our proposed additional track to clemency. We aim to assist the White House in achieving a goal that is just, promotes the general welfare, improves public perception of the justice system, and accomplishes the decarceration of all nonviolent prisoners, both citizens and immigrants, including but not limited to drug-related crimes, and the decarceration of eligible prisoners with violent crimes who were overcharged and over sentenced, but no longer pose a threat to public safety.

Definitions for the Exodus Track for Clemency

Overcharged: A prisoner is considered overcharged if he/she meets one or more of the following conditions:

- a) The prisoner is able to make a reasonable case that the prosecutor added charges with additional sentences that were not necessary to ensure justice and with respect to the most serious charge has already served his/her time.
- b) The prisoner did not receive a trial by jury and reports being coerced or tricked into plea bargaining (Garagos 2013, 124). Coercion is explicit when a guilty conviction after trial would result in a sentence of 5 years or more and a guilty plea bargain would result in substantially less time. In the case of attempted murder or accessory to murder, the prisoner is not proven to have ordered the murder or attempted to commit the murder him/herself.

The case of a young African-American male, Tavaris Harris, serving 12 years in a Federal prison is representative. Four years ago, Tavaris was arrested for attempted murder as a minor and convicted as an adult before a Judge who openly acknowledged that Tavaris was not the trigger man. The trigger man was a Vietnamese high school dropout selling weed in Tavaris' high school. Tavaris was an honor roll student who tried to stop the fight that led to the shooting. The defense congratulated the prosecutor in front of Tavaris' mother who mortgaged her house to pay for the unsuccessful defense team that offered no closing arguments on Tavaris' behalf.

- c) The sentence handed down is lengthened by the presence of a weapon during the crime or an unrelated crime or discovered without a warrant, and the weapon is not discharged or used in the commission of the crime.

Nonviolent: Any charge in which the prisoner has *not* been convicted of terrorism, rape, incest, murder, or an assault leading to the permanent physical injury of a victim/s. This includes white collar crimes.

Time Served: In determining total Federal time served for the purposes of Exodus's clemency, Federal time served will be calculated by adding to Federal time, the time actually served in jail, and state time served or owed. Governors will be notified of commutes with state sentences and asked to consider commutations of those sentences or the distribution of credit for Federal time actually served as calculated above.

Eligibility

Whereas the cage and punishment is too harsh a remedy for almost every Federal offense, and whereas the cage itself is a threat to public safety and the safety of the guilty and innocent it contains, be it resolved that all Federal inmates, without any waiting period, **both nonviolent and overcharged**, including those previously denied a commutation during the current administration, who successfully complete the *Exodus Track for Clemency* screening tool and process described below and fit the following qualifications, is considered to have made a request through the application submitted by Exodus Foundation.org to the White House Office of Pardons on March 4, 2015, if nonviolent, and if overcharged, will have the entire remaining sentence commuted or will be pardoned according to the definitions above and specifications for eligibility below:

- A. Any Federal prisoner convicted and sentenced for a **nonviolent** charge, a conspiracy charge, or accessory charge, who has served at least 3 years of their sentence or more will be informed that they have paid their debt to society. They will be released from Bureau of Prisons (BOP) custody as soon as they *have adequate supports in place according to their own judgment*, and all civil rights, including Federal election voting rights will be restored.
- B. Regarding weapons offenses addressed in *Welch v. U.S.*, any Federal prisoner convicted and sentenced for a **violent** crime (excluding terrorism, rape, incest, and murder) who has served at least 5 years of their sentence, will be informed that they have paid their debt to society. They will be released from BOP custody *as soon as they are prepared and have adequate supports in place according to their own judgment*. Excluding firearm rights, all civil rights, including Federal voting rights will be restored. For violent offenses, 2nd Amendment rights will require petition to state authorities, and/or a separate petition for a Federal pardon post-release.
- C. Any Federal prisoner who has served 1 year of their sentence who can reasonably make the case that guilt was determined by their *mere association* with a business, an intimate partner or family member, that their participation in criminal activity was unintentional, coerced or that domestic violence and abuse was a mitigating factor in the commission of a crime, shall be released immediately. All civil rights, including Federal election voting rights will be restored.
- D. Any Federal prisoner who is not an American citizen who has been confined and falls under any of the above categories (A-C) shall either be released and returned to their country of origin if so desired, or released to the custody of Federal probation to serve their remaining

- sentence in the community with their family, or preferred community until citizenship or legal status is achieved, whichever time period is *longer*.¹
- E. *Seriously violent offenses (rape, incest, murder, 18 USC §924c and 924e) and offenders with severe cognitive impairment*, will have a network of teams of forensic psychologists who are subject matter experts in the Exodus Coalition who will individually or in groups treat and assess the risk to public safety and make recommendations for containment in a locked mental health facility or supervised release. Those who are evaluated as a low risk to public safety with 924 related sentences who have served at least 10 years of their sentence will have the remaining portion of their sentences commuted as time served.
 - F. Excluding offenses for terrorism, murder, rape and incest, all currently released and previously convicted persons with no new violent charges of any kind in the past 10 years will be pardoned both posthumously and with certificates of pardon in due course.
 - G. Excluding those falling under category “E” above, any Federal prisoner over 59 years of age who has served at least 15 years of their sentence shall be released.

¹ Immigrants and illegal aliens should be protected from deportation upon release. Thus BOP supervision lasts until they achieve citizenship or legal status. Remaining in the custody of BOP after release reduces trauma from incarceration and reunites them with their families.