



November 21, 2024

The Honorable Joseph R. Biden, Jr.  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear President Biden:

On behalf of the undersigned legacy civil rights organizations, we urge you to use your constitutional authority to issue pardons and commutations broadly, and to consider individuals in the categories included, but not limited to, those listed below. From the beginning of your administration, you have made racial equity a central goal.<sup>1</sup> We ask that you take this opportunity to fulfill your promises to our community and redress some of the harms that mass incarceration has disproportionately inflicted on Black and Brown communities. Although we hoped to secure systemic criminal justice reform during your term, granting commutations and pardons will have lasting impact, reuniting incarcerated individuals with their families and communities while simultaneously chipping away at mass incarceration. We request a meeting to discuss the requested relief in more detail. The following are examples of categories of individuals that should be considered.

**CARES Act** (estimated impact: 1,500<sup>2</sup>)

---

<sup>1</sup> Exec. Order No. 13,985, 87 Fed. Reg. 7009 (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

<sup>2</sup> Hugh Hurwitz, *Biden's Easy case for clemency: prisoners in home confinement*, THE HILL, (Nov. 26, 2024), <https://thehill.com/opinion/criminal-justice/5008249-biden-pardons-criminal-justice/>.

In 2020, Congress gave the Bureau of Prisons (BOP) authority to release individuals from federal custody in favor of home confinement through the CARES Act.<sup>3</sup> This legislation allowed over 13,000 individuals to serve the remainder of their sentences at home. In the four years since this change was implemented, only 22 individuals—or .17% of the released population—have been rearrested for new offenses.<sup>4</sup> Despite the success of this program, President-elect Trump has expressed his desire to return to tough on crime policies that would force these individuals back into federal custody, at great cost to taxpayers and BOP staff with no discernible benefit to public safety. A BOP study found that people released from home confinement under the CARES Act were less likely to recidivate one year after their release compared with similar individuals released to home confinement not under the CARES Act.<sup>5</sup> We ask that you commute the sentences of the roughly 1,500 individuals who remain on home confinement before the incoming administration has a chance to dismantle the program.<sup>6</sup>

### **Death Row** (estimated impact: 40<sup>7</sup>)

Currently, there are 40 men on federal death row. Over half of those individuals are non-white, including 38% of whom are Black – a glaring disparity, as Black adults represent only 11.7% of the U.S. population.<sup>8</sup> We urge you to commute their death sentences. During your campaign you promised to end the use of the federal death penalty,<sup>9</sup> and commuting these sentences is the only action you can now take to prevent the incoming administration from carrying out mass executions. During his first term, President Trump was responsible for 81% of the federal executions that have taken place in the past 50 years.<sup>10</sup> The federal death penalty is plagued with all the same irrevocable errors as the use of

---

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Jason Gwinn, CARES Act: Analysis of Recidivism, Federal Bureau of Prisons (Mar. 2024), [https://www.bop.gov/resources/research\\_projects/published\\_reports/recidivism/202403-cares-act-white-paper.pdf](https://www.bop.gov/resources/research_projects/published_reports/recidivism/202403-cares-act-white-paper.pdf).

<sup>6</sup> *Id.* at 2.

<sup>7</sup> Federal Capital Habeas Project, Federal Death Row Population by Race (Jan., 1, 2024), <https://2255.capdefnet.org/General-Statistics/Federal-Death-Row-Population-By-Race>.

<sup>8</sup> Angelica Menchaca, Bev Pratt, Eric Jensen, and Nicholas Jones, “Examining the Racial and Ethnic Diversity of Adults and Children” (May 22, 2023), [https://www.census.gov/newsroom/blogs/random-samplings/2023/05/racial-ethnic-diversity-adults-children.html#:~:text=\\*%20The%20White%20alone%2C%20non%2DHispanic%20group%20accounted.adults%2C%20and%2013.2%20of%20the%20younger%20population](https://www.census.gov/newsroom/blogs/random-samplings/2023/05/racial-ethnic-diversity-adults-children.html#:~:text=*%20The%20White%20alone%2C%20non%2DHispanic%20group%20accounted.adults%2C%20and%2013.2%20of%20the%20younger%20population). A person must be at least 18 years old to be sentenced to death.

<sup>9</sup> Tucker Higgins, *Civil Rights Groups are pushing Biden to fulfill promise of ending the death penalty*, CNBC, (Feb.17, 2021), <https://www.cnbc.com/2021/02/17/civil-rights-groups-are-pushing-biden-to-fulfill-promise-of-ending-death-penalty.html>.

<sup>10</sup> Eric Lewis, *Why a Trump win could lead to record numbers of death row executions*, THE INDEP. (Oct. 28, 2024), [A Trump win would lead to record numbers of death row executions | The Independent](https://www.theindependent.com/news/2024/10/28/a-trump-win-would-lead-to-record-numbers-of-death-row-executions/).

capital punishment at the state level.<sup>11</sup> The 13 federal executions that took place during the Trump administration featured the same irreparable themes of racial bias, ineffective legal representation, and the execution of defendants with intellectual disabilities and severe mental illness that have led us to oppose this punishment altogether. Given this record and the close connection between the death penalty and the history of lynching, we are deeply concerned about the potential return of federal executions.

### **Drug-Related Offenses** (estimated impact: 9,000<sup>12</sup>)

Under your leadership, the Department of Justice (DOJ) has taken important steps towards undoing the extensive harm to Black and Brown communities caused by the War on Drugs. We appreciate the pardons you have already issued to federal and D.C. offenders for simple marijuana use or possession and the December 2022 General Policies Memorandum issued by Attorney General Garland directing prosecutors to treat crack and powder cocaine offenses equally.<sup>13</sup> We hope that you continue that work through the following means. First, we ask that you commute the sentence of anyone convicted for crack cocaine offenses by extending retroactivity in accordance with the 2022 charging memo issued by AG Garland. In 2021, your administration came out in support of the EQUAL Act, noting that the sentencing disparity is “not based on evidence, yet has caused significant harm for decades, particularly to individuals, families, and communities of color.”<sup>14</sup> President-elect Trump could easily undo the progress and policy your administration has set, returning to the 18:1 crack to powder cocaine ratio. Second, we ask that you commute the sentences of women who have been convicted for conspiracy, accomplice liability, and/or constructive possession due to their personal relationships with someone involved in drug trafficking. In the past, federal sentencing laws failed to consider the many reasons – including domestic violence, economic dependence, and dependent immigration status – that have compelled

---

<sup>11</sup> Fool’s Gold: How the Federal Death Penalty Has Perpetuated Racially Discriminatory Practices Throughout History, Death Penalty Info. Ctr. (2024), <https://dpic-cdn.org/production/documents/Fools-Gold-DPI-Federal-Report.pdf?dm=1731601647>.

<sup>12</sup> Gabby Birenbaum, The EQUAL Act would finally close the cocaine sentencing disparity, VOX, (Mar. 19, 2021), <https://www.vox.com/2021/3/19/22336224/equal-act-cocaine-sentencing-disparity-war-on-drugs>.

<sup>13</sup> Memorandum from Merrick Garland, Att’y Gen., Dep’t of Justice, to all Fed. Prosecutors: Additional Department Policies Regarding Charging, Pleas, and Sentencing in Drug Cases (Dec. 16, 2022), <https://www.justice.gov/d9/2022-12/attorney-general-memorandum-additional-department-policies-regarding-charges-pleas-and-sentencing-in-drug-cases.pdf>.

<sup>14</sup> Testimony of Regina LaBelle, Acting Director of National Drug Control Policy, “Examining Federal Sentencing for Crack and Powder Cocaine” Senate Committee on the Judiciary, (June 22, 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/06/ONDCP-AD-LaBelle-Testimony-Senate-Judiciary-Committee-Crack-Cocaine-Disparity-June-22-2021.pdf>.

women to remain silent or not report a partner or family member's drug activity to authorities.

**First Step Act** (estimated impact: 4,000<sup>15</sup>)

Retroactivity is a vital part of any meaningful sentencing reform, yet the First Step Act ultimately only provided retroactive relief to people convicted of crack cocaine offenses. The legislation excluded benefits to individuals based solely on their prior offenses, namely citizenship and immigration status, as well as certain prior drug convictions and their “risk score” as determined by a discriminatory risk assessment system. While the First Step Act took an important step to reduce the length of certain sentences prospectively, some of these reforms left behind those sentenced before the law was enacted. We ask you to grant clemency to those sentenced before the First Step Act was implemented in a way that retroactivity would apply to their sentences, including reform to the “recidivist penalty” or 21 U.S.C. § 851 enhancements for federal drug trafficking offenders with prior felony drug convictions, and the elimination of 18 U.S.C. § 924(c) “stacking penalty” provision or consecutive sentences for gun charges stemming from a single incident committed during a drug crime or a crime of violence. These provisions in federal law have resulted in very long and unjust sentences. According to the Sentencing Project, bipartisan retroactive sentencing provisions left out of the First Step Act could reduce sentences for an additional 4,000 people.<sup>16</sup> Taking this step would be transformative for many of those who have been subjected to harsh and overly long sentences.

**Conclusion**

Though you have prioritized racial justice throughout your presidency, we feel strongly that more needs to be done to address the disproportionate incarceration of our communities. We urge you to take this opportunity to cement your legacy by providing relief to those who have experienced the harms of mass incarceration and systemic neglect firsthand. Given the urgency of the matter, we ask to schedule a meeting on this matter as soon as possible.

Thank you in advance for your time and attention to this matter. Please have your team contact Tara Murray, Executive Director of the National Urban League’s Washington Bureau and Senior Vice President for Policy and

---

<sup>15</sup> Kara Gotsch, *One Year After the First Step Act: Mixed Outcomes*, THE SENTENCING PROJECT (Dec. 17, 2019), <https://www.sentencingproject.org/policy-brief/one-year-after-the-first-step-act-mixed-outcomes/>.

<sup>16</sup> *Id.*

Advocacy at [tmurray@nul.org](mailto:tmurray@nul.org) to arrange a meeting with the signatories to this letter.

Very sincerely,

Marc H. Morial  
President and Chief Executive Officer  
National Urban League

Reverend Al Sharpton  
Founder and President  
National Action Network

Melanie Campbell  
President and Chief Executive Officer  
National Coalition on Black Civic Participation  
Black Women's Roundtable

Derrick Johnson  
President and Chief Executive Officer  
NAACP

Janai Nelson  
President and Director-Counsel  
NAACP Legal Defense & Educational Fund, Inc.

Damon Hewitt  
President and Executive Director  
Lawyers' Committee for Civil Rights Under Law

Maya Wiley  
President and Chief Executive Officer  
Leadership Conference on Civil and Human Rights

Shavon Arline-Bradley  
President and Chief Executive Officer  
National Council of Negro Women

