

2022
Criminal
Justice &
Clemency
Symposium
Final Report

2023

TABLE OF CONTENTS

01 IMPETUS FOR ACTION

03 THE SYMPOSIUM

09 RESULTING ACTION

**IMPETUS
FOR
ACTION**



White House Engagement

In early 2020, **The Weldon Project's MISSION [GREEN]** began working with the White House under the Biden Administration on efforts to employ the federal clemency process, both to correct lingering injustices of federal cannabis prohibition and to ensure a more efficient and fair judicial system. At the end of 2021, the **National Cannabis Roundtable (NCR)** and the **Academy for Justice at the Arizona State University's Sandra Day O'Connor College of Law (ASU Law)** joined forces to support the leadership of **The Weldon Project** through its **MISSION [GREEN]** initiative. With this in mind, these collective organizations proposed a **Cannabis Clemency Initiative** that would fulfill President Biden's campaign pledge to help those incarcerated in federal prison for cannabis offenses.

The **Cannabis Clemency Initiative** would affect up to 2,700 people whose continued incarceration is inconsistent with public opinion and is an artifact of applying outdated drug policies borne largely by people of color in our most vulnerable communities. As summarized below, the proposed criteria represent an important first step in a larger criminal justice reform effort that builds upon the experience gained from the 2014 Obama/Biden clemency program. By addressing a category of cases already implicated by a national rethinking of drug policy and widespread calls for racial justice, the **Cannabis Clemency Initiative** is well-timed and well-positioned to succeed, laying the groundwork for further reforms. In April 2022, these efforts resulted in a meeting at the White House to discuss this approach and the path forward.

THE SYMPOSIUM

The Players

Participants, Sponsors, and Audience

Following the April 2022 meeting at the White House, the Weldon Project's MISSION [GREEN], the National Cannabis Roundtable (NCR), and ASU Law's Academy for Justice brought in the Justice Roundtable to build out a criminal justice and clemency symposium on Capitol Hill. On July 20, 2022, the groups hosted an in-person, invite-only symposium at the Rayburn House Office Building in the U.S. Capitol Complex to discuss clemency policy and criminal justice reform within the current landscape of American cannabis laws.



Speakers at the event included former U.S. Health and Human Services Secretary, and current NCR honorary co-chair, **Kathleen Sebelius**; former U.S. Deputy Attorney General, and NCR advisory board member, **James Cole**; U.S. Pardon Attorney **Elizabeth G. Oyer**; members of Congress from both parties; directly-impacted advocates; leading criminal justice experts; and a bipartisan group of Congressional champions for criminal justice and cannabis reform.



Policy

Discussion and Takeaways

The symposium sessions focused on the federal law, policy, and politics of cannabis prohibition and criminal justice reform, with prominent speakers, expert panels, and small-group discussions on models for clemency and expungement as well as in-depth consideration of bipartisan legislative proposals for cannabis-related criminal justice reform. Throughout the event, speakers held panels on cannabis justice, public safety, and legislative proposals in the 117th Congress. Participants also heard perspectives from advocates who have been directly impacted by the criminal justice system and federal cannabis prohibition.

"It is unthinkable that our country continues to incarcerate non-violent cannabis offenders in federal prisons," said **Weldon Angelos, President and co-founder of The Weldon Project**. "This symposium was an opportunity for us to come together and discuss a path forward to securing justice for the individuals who have been hurt by the war on cannabis. We know the Biden Administration is dedicated to criminal justice reform - now it's time for action."



"This Cannabis Clemency Initiative would be an important first step in recognizing that our current system of mass incarceration does not make us safer. We need to prioritize redemption, correcting what is wrong and unifying families." - Kemba Smith Pradia with *The Justice Roundtable*



"In the early 90s, I was the Poster Child for the War on Drugs gone wrong. As a first-time non-violent drug offender, I was sentenced to 294 months in prison after giving birth to my first child while incarcerated, even though the federal government noted on record that I didn't use, handle, or sell the drugs within my then deceased boyfriend's crack-cocaine conspiracy," said **Kemba Smith Pradia with *The Justice Roundtable***. "After going public with my case and garnering a tremendous amount of support, in December 2000, I received clemency from President Clinton. It has been my life mission to advocate for reform because of the many people that I left behind in our criminal justice system who deserve a second chance at life."

Criteria Established

How it Works

The **Cannabis Clemency Initiative** developed a comprehensive model to evaluate commutation eligibility for two categories of individuals currently serving federal prison sentences for marijuana-only offenses. The model, which is ready for immediate implementation, can be summarized as follows:

- 1. Expedited Review.** Some applicants may receive expedited consideration for clemency because they pose no risk to public safety and are incarcerated despite:
 - The existence of and compliance with a given state's marijuana laws.
 - Subsequent changes in the state's marijuana laws that would make prosecution unlikely today because the applicant's conduct would have been in substantial compliance with those laws.
 - An applicant's case fitting within the prior DOJ policy concerning non-prosecution of marijuana offenses.
 - An applicant's time served being longer than his or her likely sentence under current federal law.
- 2. Totality of Circumstances Review.** Other applicants may be eligible for clemency based on the totality of the circumstances, using a multi-factor analysis that includes (but is not limited to) the following:
 - Type of offense.
 - Whether the applicant was a significant participant in a violent drug trafficking organization or a drug cartel.
 - Any history of violent criminal conduct.
 - Considerations of conduct while incarcerated.

Establishment of Temporary Board of Review

To expedite the process, we propose the establishment by Executive Order of a temporary **Board of Review** comprised of designees from the U.S. Department of Justice, representation from federal defender organizations, prominent formerly incarcerated individuals, and presidential appointees. In executing the proposed process, the Board would be responsible for reviewing an applicant's eligibility under the established criteria, and where appropriate, making recommendations to the President for the use of his clemency powers.

Prioritizes Urgency of Lives and Livelihoods

This proposal's focus on those incarcerated for marijuana-only offenses represents a crucial first step — freeing non-violent individuals imprisoned under policies Americans no longer support, which should be followed by the restoration of rights for those whose lives have been hobbled by a federal marijuana conviction. The **Cannabis Clemency Initiative** is thus part of broader efforts to address incarceration under outdated drug policies, as well as a call to restore the individual rights lost by such policies.

The criteria were crafted by legal experts and reviewed by criminal justice scholars and reform advocates during the July 2022 symposium, with the ultimate work-product distributed to federal officials, including the U.S. Pardon Attorney.

“After suffering through decades of a belligerently enforced criminal ban, America stands at the precipice of peace along the drug war’s marijuana front,” said **ASU Law Professor Erik Luna and founder of the Academy for Justice**. “While federal officials debate the terms of prohibition’s end, it’s past time to release all people incarcerated for non-violent marijuana offenses and to restore the lives of those convicted of such offenses. Our clemency criteria offer a carefully designed means to help achieve this imperative of justice at the twilight of marijuana prohibition.”



“As I said in 2014 when we launched a new clemency initiative at the Department of Justice during the Obama Administration, for our criminal justice system to be effective, it needs to not only be fair; but it also must be perceived as being fair. Nearly 10 years later, we still have much work to do towards this end,” said **James Cole, Former Deputy Attorney General of the United States**. “There are now 38 states with legal cannabis programs, yet due to outdated, stringent sentencing requirements, too many Americans continue to suffer due to cannabis-related charges and incarceration. We must look at meaningful ways we can move forward needed policy changes to address the differences between federal and state cannabis laws as well as to help those disproportionately harmed by the drug war. What this criteria establish is a thoughtful approach to do just that, expediting the process with the urgency it demands when it comes to individuals lives and livelihoods.”

Honoring a True Champion

Award Presentation for James Cole

Former U.S. Deputy Attorney General James Cole was honored in a [tribute video](#) by Jason Hernandez, who was granted clemency by President Barack Obama in 2013 in large part due to Mr. Coles' efforts.



Announced in 2013, the “**Cole Memo**” developed a new set of guidelines and priorities for federal prosecutors operating in states that had legalized the medical or adult use of cannabis. This memo helped pave the way for cannabis reform throughout the country.



“I am extremely thankful I am in the comfort of my home and not in the prison system, and that comes in large part out of the vision James Cole had during his time in the Obama Administration,” **said Jason Hernandez**. “We talk about being creative and innovative when it comes to technology, but Mr. Cole was creative and innovative when it came to criminal justice reform. I have no doubt in my mind that had Mr. Cole not taken the extraordinary steps that he did, myself and the other 1,700 individuals released through clemency would still be in prison today.”

RESULTING ACTION

Bipartisan Bill

Shortly after the July symposium, U.S. Representatives Troy Carter (D-LA) and Rodney Davis (R-IL) introduced bipartisan legislation in the 117th Congress that would create an expungement mechanism for low-level violations of federal marijuana law and provide an expedited, orderly process that clears the deck of non-felony marijuana offenses lingering in the federal system.

The Marijuana Misdemeanor Expungement Act (H.R. 8557) would deliver justice for countless Americans whose lives have been disrupted and deprived because of a misdemeanor marijuana offense, activity now lawful for either adult use or medical purposes in 38 states.

“I’m proud to introduce the Marijuana Misdemeanor Expungement Act, bipartisan legislation that will restore justice to millions of Americans who have suffered inordinate collateral consequences associated with marijuana-related misdemeanors,” **said Congressman Troy Carter.** “These misdemeanors – even without a conviction – can result in restrictions to peoples’ ability to access educational aid, housing assistance, occupational licensing and even foster parenting. Delivering justice for our citizens who have been impacted by marijuana-related misdemeanors is a key component of comprehensive cannabis reform.”



“Given the number of states, like Illinois, where marijuana has long been legalized for adult-use, we must ensure that our criminal justice system keeps pace so that individuals with low-level misdemeanor violations related to its use does not preclude them from getting jobs and participating in society,” **said Congressman Rodney Davis.**

Presidential Proclamation

On October 6, 2022, President Joe Biden issued a proclamation **granting a full pardon for individuals with convictions for simple marijuana possession offenses under federal and DC law**. When announcing this general pardon, the President also **called on governors to take similar actions** for those with non-federal cannabis convictions, as the majority of such cases occur at the state and local levels. Additionally, President Biden directed his Administration to **review the current Schedule I status of marijuana**. These historic criminal justice and cannabis reform actions came on the heels of the April 2022 meeting at the White House and the July 2022 symposium on Capitol Hill.

"Sending people to jail for possessing marijuana has upended too many lives — for conduct that is legal in many states. That's before you address the clear racial disparities around prosecution and conviction. Today, we begin to right these wrongs." - President Joe Biden on his October 6th Proclamation on Marijuana Possession

Federal Pardon Impact

The October 6th Presidential pardon is estimated to impact at least 6,500 people with federal convictions, restoring the civil rights lost when an individual is convicted of certain crimes, including the right to vote, sit on a jury, and hold elected office. An act of clemency does not expunge criminal records, remove them from public view, and the President's powers do not extend beyond federal crimes and violations of the DC Code. Nonetheless, his action demonstrates the value of pardons to lift barriers imposed by non-violent cannabis offenses. It also shows the viability of applying a categorical approach to those presently or formerly incarcerated for such offenses—both on the federal level and, as the President encouraged, on the state level where most minor cannabis convictions occur—thereby extending the positive impact stemming from the President's historic pardon.

Scheduling Review

The Biden Administration is currently engaged in its review of the Schedule I status of marijuana, which is the strictest classification of a drug and is the basis for continued federal prohibition. This process involves both the U.S. Department of Health and Human Services, with a scientific eight-factor analysis carried out by the U.S. Food and Drug Administration, before being considered by the Drug Enforcement Administration at the U.S. Department of Justice. Both agencies have committed to moving this review forward "expeditiously," with a stated goal of presenting a decision to the President by the end of 2023.

Clemency Petitions

Since the symposium, **The Weldon Project** and **NCR** have been working with **Oklahoma Appleseed** and the **Academy for Justice** in preparing petitions for individuals currently incarcerated because of cannabis convictions. In December 2022, this **Cannabis Clemency Initiative** turned around more than a dozen petitions, delivering them as a group to the U.S. Pardon Attorney to then be presented to the President for action as an entire category rather than on an individual basis, with the goal of expediting the process for individuals currently incarcerated for cannabis convictions to be able to finally return to their homes, families, lives, and livelihoods.



EDWIN WALTER RUBIS

Total Sentence: 480 months (40 years) | **Time Served:** 22 years

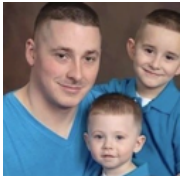
Convicted Crime: Conspiracy to possess marijuana and possession of marijuana with intent to distribute marijuana (12 counts).



DANIEL DARIO TREVINO

Total Sentence: 16 years | **Time Served:** Two years

Convicted Crime: Conspiracy to manufacture with intent to distribute marijuana.



JERRY AUSTIN

Total Sentence: 200 months (16.7 years) | **Time Served:** Six years

Convicted Crime: Conspiracy to possess with intent to distribute 1,000 kilograms or more of marijuana.



CHARLES IRVIN TROGDON

Total Sentence: 240 months (20 years) | **Time Served:** 15 years

Convicted Crime: Conspiracy to distribute 1,000 kilograms or more of marijuana.



JOSE RAMON VALERO JR.

Total Sentence: Seven years | **Time Served:** 1<

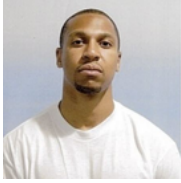
Convicted Crime: Conspiracy to distribute marijuana and possession of a firearm in furtherance of a drug crime.



JASON JAY NORTON

Total Sentence: 12 years | **Time Served:** Six years

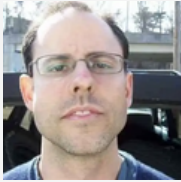
Convicted Crime: Conspiracy to distribute marijuana and conspiracy to engage in money laundering.



PARKER ANTRON COLEMAN

Total Sentence: 60 years | **Time Served:** 12 years

Convicted Crime: Conspiracy to possess with intent to distribute marijuana; conspiracy to engage in money laundering; possession of firearm by felon; possession of firearm in furtherance of drug crime.



JEFFREY STUART PUTNEY

Total Sentence: 96 months (eight years) | **Time Served:** Three years

Convicted Crime: Maintaining drug-involved premises and distribution and possession with intent to distribute marijuana.



DEANA MARIE MARTIN

Total Sentence: 48 months (four years) | **Time Served:** Five months

Convicted Crime: Trafficking and Conspiracy to traffic marijuana, money laundering.



DANIEL BUCKLEY MUESSIG

Total Sentence: 60 months (five years) | **Time Served:** Three months

Convicted Crime: Conspiracy to distribute marijuana.



JAMES EDWARD MAXWELL JR.

Total Sentence: 120 months (10 years) | **Time Served:** Five years

Convicted Crime: Two charges of Possession with intent to distribute marijuana.



IRA CHISTOPHER JACKSON

Total Sentence: 120 months (10 years) | **Time Served:** 63 months

Convicted Crime: Possession with intent to distribute marijuana.



CHARLES STARKS

Total Sentence: 162 months (13.5 years) | **Time Served:** 10 years

Convicted Crime: Possession with intent to distribute marijuana and possession of ammunition by a convicted felon.



ANTOINE DYMETRAE TURNER

Total Sentence: 160 months (13.3 years) | **Time Served:** Four years

Convicted Crime: Conspiracy to distribute less than 50 kilograms of marijuana and felon in possession of firearms and ammunition.

"The fact that so many individuals remain incarcerated on cannabis charges when a majority of the states have legal programs is not only nonsensical but is wholly unjust, causing irreparable damage to those lives, families, and communities that have been upended due to federal prohibition," said **Saphira Galoob, Executive Director of the National Cannabis Roundtable**. "It is our duty to fight for the freedom of cannabis prisoners as we work to build a more equitable legal industry and a more equitable society. NCR is humbled to have been a part of this lifechanging work with The Weldon Project and Oklahoma Appleseed to help more than a dozen individuals seeking clemency."



"Our Cannabis Clemency Fellows worked hand in glove with these applicants and their families to complete these vital clemency applications. We recognize the fundamental unfairness of these folks losing years of their lives to outdated cannabis policy while millions of people partake in cannabis legally," said **Colleen McCarty, Founding Executive Director of Oklahoma Appleseed**. "We are grateful to have been included in this historic initiative and continue to call for freedom for all prisoners being held on non-violent cannabis cases."