

**Congress of the United States**  
**Washington, DC 20515**

March 9, 2020

Rosalind Sargent-Burns  
Acting Pardon Attorney  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC  
20530

Dear Acting Pardon Attorney Sargent-Burns,

We write to urge you to use your authority when reviewing requests for clemency to consider individual criminal sentences that are significantly harsher than the original sentence offered by the prosecuting attorney in exchange for a guilty plea.

These harsher sentences - also referred to as the “trial penalty” - can be imposed when a criminal defendant decides against accepting a guilty plea. Instead of accepting a guilty plea, a criminal defendant decides to pursue their 6<sup>th</sup> Amendment right to a jury trial. The trial penalty results in a significantly longer prison sentence than those imposed on more culpable defendants who voluntarily waive their constitutional right to a jury trial.

The “trial penalty” also impacts the criminal justice system when criminal defendants plead guilty to avoid a threatened or perceived consequence of going to trial. These criminal defendants may have valid claims or a defense that could be raised at a trial. However, these defendants are made aware of or are advised that taking the chance to go to trial could lead to unduly harsh penalties.

Harsher trial sentences have been used to deter people from exercising their 6<sup>th</sup> Amendment right to a trial. A 2018 study by the National Association of Criminal Defense Lawyers found that 97% of criminal cases are resolved in a plea. This strongly suggests that the risk of going to trial is too great for all but 3% of federal criminal defendants.

We therefore request that, when reviewing individual petitions for clemency, you request information from U.S. Attorneys on what sentencing offers were extended to the defendant as part of any plea deal. This information can be compared with the sentence that the criminal defendant received to determine if they received a “trial penalty.” The “trial penalty” should be considered in clemency petitions by the President.

Sincerely,



Theodore E. Deutch  
Member of Congress



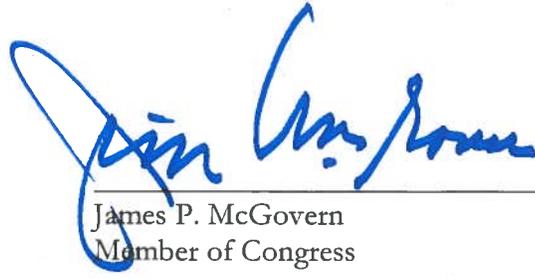
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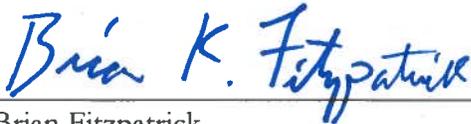
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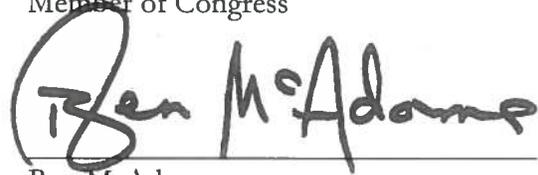
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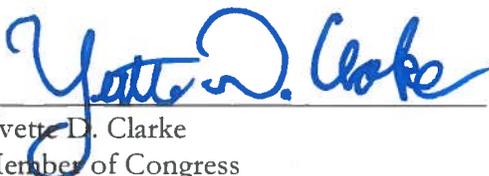
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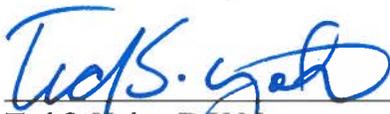
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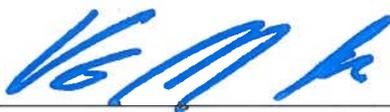
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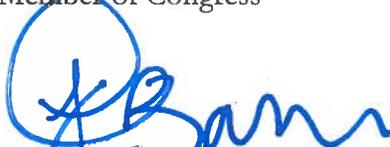
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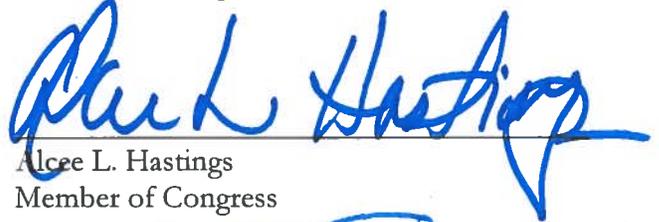
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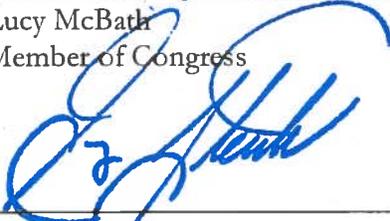
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