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September 15, 2016

Dear President Barack Obama:

I write to express my deep frustration and disappointment with the response to my multiple requests for information about the executive clemency process and status of the clemency petition submitted by Oscar López Rivera, who has served 35 years of a disproportionate 70 year sentence, despite the fact that he was not convicted of harming or killing anyone.

You will recall that at our meeting on June 8 about PROMESA (PL 114-187) and the Puerto Rican fiscal crisis, I asked you about the status of Mr. López Rivera's petition and raised concerns that the process, unlike in years past, was opaque. I also asked if the case was "on your desk," as Lin-Manuel Miranda reported after meeting with you at the White House. You said that in fact it was not on your desk and you were unsure about the status of the clemency petition. You encouraged me to get more information from Denis McDonough, your Chief of Staff, with whom I happened to be meeting that same afternoon.

I met with Mr. McDonough and he was also unable to answer my questions, but referred me to the Deputy Attorney General Sally Yates who, he assured me, could answer my questions and would make herself available. I pursued that route immediately thereafter, and having no success with the Deputy Attorney General's scheduling department, followed up with my request to meet with her in a letter dated June 24.

Ten weeks later, my staff received a call from Legislative Affairs within the Department of Justice (DOJ) and was informed that Deputy Attorney General Yates would not meet with me, any other Member of Congress or anyone else who requests a meeting about this issue. In addition, my office was told that DOJ would only discuss a pending clemency case with individuals outside of the DOJ's Pardon Attorney's office as a part of the review of the clemency case itself. For example, to examine a clemency candidate's likelihood to be a danger to society, DOJ would communicate or visit with members of the community who knew or had knowledge of the candidate.

That no one from the Administration will meet with me is frustrating enough. But I also know that there is no engagement by the DOJ with members of the community on Mr. López Rivera's petition—a fact that can only signal that his case is likely not being reviewed at all. The Pardon Attorney has certainly heard from the community, from people who know him well and the national and international community which has raised their collective voice in support of fairness and justice.

With the help of Mr. López Rivera's counsel, extensive documentation of this broad support has been submitted on a regular basis to the Pardon Attorney since 2010. It is unlikely that any petition for executive clemency has ever accumulated the amount of support as has Mr. López Rivera's. And, with regard to Mr. López Rivera's ability to live a productive and peaceful life if released, we must only look to his co-defendants, most of whose sentences were commuted in 1999 and who are productive, law-abiding citizens.

Like many of your supporters, I cheer as you announce clemency and commuted sentences for hundreds of low-level, non-violent drug offenders. This has been an historic act of justice delivered by you and your team. I have also witnessed the release of a person who shot a President and numerous other high-profile offenders who were released after it was determined they had served ample time for their crimes. But in the case of Mr. López Rivera, the time has not fit the crimes for which he was convicted and you are Puerto Rico's last chance for our son – now an elder statesman – to return home to his family and his people.

At the end of the day, Mr. President, the buck stops with you. As a Harvard University law graduate and a professor of constitutional law, you well know that the U.S. Constitution grants total and unconditional power to pardon to the President. And while the DOJ Pardon Attorney reviews and recommends applications for you to consider, you need not wait for the Attorney's recommendation. You can, in fact, consider pardons and grant them at any time and no one, not DOJ or the U.S. Congress or anyone else, can disapprove or reject your pardon.

Please put Mr. López Rivera's case onto your desk and consider his petition. After 35 years in prison, he deserves an answer. There is a community of people—Puerto Ricans and others around the globe—who after all this time deserve an answer. Please be transparent with us and assure us that Oscar López Rivera's petition is receiving the attention it deserves by your Administration.

Sincerely,



Luis V. Gutierrez  
Member of Congress