

The Department of Justice (DOJ) Office of the Inspector (OIG) today released a report finding that the DOJ Pardon Attorney did not accurately represent material information transmitted to the White House in connection with DOJ's recommendation that the clemency application of Clarence Aaron be denied.

In 1993, Clarence Aaron – then 24 years old – was convicted of several federal drug-related offenses and sentenced to three concurrent life terms in prison. DOJ recommended in 2004 that the President deny Aaron's petition for commutation of sentence, but the White House took no action until 2007, when it requested that DOJ reconsider the still-pending petition. In connection with that reconsideration, both the U.S. Attorney and the sentencing judge supported a commutation of sentence for Aaron.

The OIG determined that the Pardon Attorney, however, did not accurately represent the U.S. Attorney's views regarding Aaron's petition in an e-mail that the Pardon Attorney sent to the White House Counsel's Office in December 2008. We found that the text of that email had been reviewed and approved by a relatively inexperienced counsel to the then-Deputy Attorney General. In the e-mail, the Pardon Attorney also used ambiguous language that risked misleading the White House Counsel's Office about the sentencing judge's position supporting commutation of Aaron's sentence.

The December 2008 e-mail from the Pardon Attorney to the White House was the result of a decision by the Office of the Deputy Attorney General, at the Pardon Attorney's suggestion, to allow DOJ's initial 2004 "letter of advice" to the President to be supplemented by email, rather than providing the President with a new recommendation and "letter of advice." The OIG found that the decision to follow this abbreviated process, which we concluded was most likely approved by the career Associate Deputy Attorney General, contributed to erroneous information being sent to the White House Counsel's Office. We also concluded that, in the particular circumstances of this case, either a new memorandum should have been prepared or the e-mail should have been reviewed and approved by one of the senior officials within the Office of the Deputy Attorney General who had been delegated responsibility for such matters, as opposed to the relatively inexperienced counsel to the Deputy Attorney General.

Based on its investigation, the OIG referred its findings regarding the Pardon Attorney's conduct to the Office of the Deputy Attorney General for a determination as to whether administrative action is appropriate. The OIG also recommended that the Office of the Pardon Attorney review its files to locate any other instances where the office relied upon a supplementary e-mail to the White House, rather than a new "letter of advice" when making recommendations regarding clemency applications to determine if similar events occurred.

The report can be found at the following link: <http://www.justice.gov/oig/reports/2012/s1212.pdf>.