

## Law Clerk

---

**From:** GLEIM Kevin \* GOV <Kevin.GLEIM@oregon.gov>  
**Sent:** Monday, November 22, 2021 5:09 PM  
**To:** Monique DeSpain  
**Subject:** RE: Your Public Records Request

Monique,

Regarding part one below, I estimate the cost to compile these records such that we can determine “[w]hich ones listed in those three exhibits submitted a clemency application to the Governor” will be \$1,000.

Depending on how many applications exist after that search (to the extent there are any), I can prepare a separate cost estimate for part two to review and produce the applications at that time.

As you may be aware, our office policy requires fee waivers to be submitted in writing (relevant portion pasted below). If you decide to request a fee waiver, you may send it in reply to this email.

I will wait to hear from you to begin my review. If you decide to pay the \$1,000, I will send you instructions on submitting payment. Let me know if you have any questions. If you would like to narrow your request, I would be happy to work with you.

Thank you,  
Kevin

**Kevin Gleim** | Public Records and Special Projects Attorney  
Office of Governor Kate Brown  
(503) 378-6246

### **Fee waivers for public records requests.**

Requests for fee waivers or reduced fees must be made in writing to the Office of General Counsel, 254 State Capitol, 900 Court St. NE, Salem OR 97301. The General Counsel's office may furnish copies without charge or at a substantially reduced fee if it is determined that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public. The General Counsel's office will determine the appropriateness of fee waivers or adjustments based on the guidance of the relevant law including ORS 192.440(5), the Attorney General's Public Records and Meetings Manual, and DAS Policy 107-001-030.

---

**From:** Monique DeSpain <Monique@Commonsensefororegon.org>  
**Sent:** Friday, November 5, 2021 1:26 PM  
**To:** GLEIM Kevin \* GOV <Kevin.GLEIM@oregon.gov>  
**Subject:** RE: Your Public Records Request

Kevin,

Yes, please do prepare a cost estimate for us. This request has two parts as to the clemency applications (so please provide two price quotes). My third request is a reminder as to the re-offenders.

Part 1: Regarding the exhibits to the Governor's June 25, 2021 clemency report to the legislature (Exhibits A, B, C): Which ones listed in those three exhibits submitted a clemency application to the Governor? If none of them applied, just tell me that. You have already told me that most did not apply.

Part 2: We request all the clemency applications, once you identify them. I understand you may not be able to price this until you respond and produce Part 1 of this request (which I submitted quite some time ago, in August).

Also, in our October 6<sup>th</sup> phone call, I shared with you my concerns that we already have re-offenders from batches listed in Exhibits A, B, C, above. You confirmed that Governor Brown is aware of what you called "a handful" of re-offenders.

Since October 6<sup>th</sup>, I have been asking you for the names of and crimes committed by those re-offenders. And, importantly, I asked what has happened to the re-offenders (are they back in prison?). If not, why not? I also asked for information explaining how the Governor is keeping track of nearly 1,000 released felons as to their re-offenses so that she knows when her conditional commutation terms have been breached.

This aging public records request is still active and open. Standing by for your responses. Thank you.

*Sincerely,*

*Monique DeSpain*  
*Associate Counsel*  
Common Sense for Oregon  
<https://commonsensefororegon.org>  
Tel: (503) 364-1913 Cell: (541) 556-0675

CONFIDENTIAL AND PRIVILEGED ATTORNEY WORK PRODUCT The information contained in this correspondence message is intended for the use of the individual or entity to which it is addressed and may contain information which is attorney privileged and/or other confidential information and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by e-mail or telephone, and return the original message to us at the above address. Thank you.

---

**From:** GLEIM Kevin \* GOV <[Kevin.GLEIM@oregon.gov](mailto:Kevin.GLEIM@oregon.gov)>  
**Sent:** Wednesday, November 3, 2021 12:58 PM  
**To:** Monique DeSpain <[Monique@Commonsensefororegon.org](mailto:Monique@Commonsensefororegon.org)>  
**Subject:** RE: Your Public Records Request

Monique,

Thanks for the suggestion! Given that the applications are not submitted in a searchable format, my staff would need to compare the names on the list in the exhibit one-by-one with the clemency application database to see if an application had been submitted separate from the early release process. My staff estimates that this would take 40 hours to do. Would you like me to prepare a cost estimate for this?

Kevin

**Kevin Gleim** | Public Records and Special Projects Attorney  
Office of Governor Kate Brown  
(503) 378-6246

---

**From:** Monique DeSpain <[Monique@Commonsensefororegon.org](mailto:Monique@Commonsensefororegon.org)>  
**Sent:** Tuesday, November 2, 2021 12:49 PM  
**To:** GLEIM Kevin \* GOV <[Kevin.GLEIM@oregon.gov](mailto:Kevin.GLEIM@oregon.gov)>  
**Subject:** RE: Your Public Records Request

Wouldn't a staff person just compare the list of applications filed (word search) to the list on the exhibit? Just a suggestion...

---

**From:** GLEIM Kevin \* GOV <[Kevin.GLEIM@oregon.gov](mailto:Kevin.GLEIM@oregon.gov)>  
**Sent:** Tuesday, November 2, 2021 12:45 PM  
**To:** Monique DeSpain <[Monique@Commonsensefororegon.org](mailto:Monique@Commonsensefororegon.org)>  
**Subject:** RE: Your Public Records Request

Monique,

I'm sorry. I thought my previous response was enough. As I mentioned, it's going to take my staff a long time to figure that out. I can send a cost estimate for that if you're still interested.

Kevin

**Kevin Gleim** | Public Records and Special Projects Attorney  
Office of Governor Kate Brown  
(503) 378-6246

---

**From:** Monique DeSpain <[Monique@Commonsensefororegon.org](mailto:Monique@Commonsensefororegon.org)>  
**Sent:** Tuesday, November 2, 2021 11:58 AM  
**To:** GLEIM Kevin \* GOV <[Kevin.GLEIM@oregon.gov](mailto:Kevin.GLEIM@oregon.gov)>  
**Subject:** RE: Your Public Records Request

Kevin, I am hoping you can definitively answer one undone issue this week. I know you reported to me that 'most' of the felons listed on the exhibits to the June 25, 2021 letter did not apply for clemency. (Exhibits A, B, C.) Would you please confirm that none of those applied or identify those who did?

Thanks!  
Monique

---

**From:** GLEIM Kevin \* GOV <[Kevin.GLEIM@oregon.gov](mailto:Kevin.GLEIM@oregon.gov)>  
**Sent:** Tuesday, November 2, 2021 9:19 AM  
**To:** Monique DeSpain <[Monique@Commonsensefororegon.org](mailto:Monique@Commonsensefororegon.org)>  
**Subject:** RE: Your Public Records Request

Monique,

I don't have a copy of that letter. At the ODAA meeting, I will be sharing the same information that I already shared with you. As for information about the historical application of clemency, there are plenty of law review articles, documentaries, etc. made on the topic. I don't have those saved in a neat spot or anything.

Kevin

**Kevin Gleim** | Public Records and Special Projects Attorney  
Office of Governor Kate Brown  
(503) 378-6246

---

**From:** Monique DeSpain <[Monique@Commonsensefororegon.org](mailto:Monique@Commonsensefororegon.org)>  
**Sent:** Monday, November 1, 2021 9:44 AM  
**To:** GLEIM Kevin \* GOV <[Kevin.GLEIM@oregon.gov](mailto:Kevin.GLEIM@oregon.gov)>  
**Subject:** RE: Your Public Records Request

Thank you, Kevin. Good Morning!

You mentioned a letter would be sent to all those eligible (about 73) for clemency, asking if they want to apply, if they need a lawyer etc. Would you provide me a copy of that letter or if there is any guidance from the Governor to DOC regarding how the ball is going to get rolling for inmates in that category (the ones not going to a parole board)? Again, looking to understand the governor's process...

I was not able to get an invite to the ODAA meeting, so if you have any info you'd like to share about how this process will go as it pertains to the DAs, victim notification, etc, I would appreciate that information. Hoping to save us both time.

You mentioned you have more accurate information than we have in our white paper about the historical application of clemency power in Oregon. If you have it handy, I'd love to see your references.

Thank you!

Monique

MONIQUE J. DeSPAIN  
*Associate Counsel*  
Common Sense For Oregon Foundation  
541-556-0675 (cell)  
2007 State Street  
Salem, Oregon 97301-4349

---

**From:** GLEIM Kevin \* GOV <[Kevin.GLEIM@oregon.gov](mailto:Kevin.GLEIM@oregon.gov)>  
**Sent:** Thursday, October 28, 2021 12:00 PM  
**To:** Monique DeSpain <[Monique@Commonsensefororegon.org](mailto:Monique@Commonsensefororegon.org)>  
**Subject:** RE: Your Public Records Request

Monique,

Attached is the list of 217 being considered—through the thorough review process that we discussed—for a commutation that would release them from custody on an individual basis after serving 50% of their sentence. Also attached is the letter than the Governor sent to DOC asking for this list. The Governor's Office communications team sent the following to representatives of the news media and I sent this to staff members of the legislature:

Governor Brown believes that we must put more emphasis on preventing crime and rehabilitating youth than on harsh punishments and lengthy and costly prison sentences. We can no longer rely solely on imprisonment as the only solution. Youth should be held accountable for their actions, but the fact is that adolescent brains are still growing and developing, especially in skills such as reasoning, planning, and self-regulation. Yet, too often our criminal justice responses do not take this into account. In particular, Measure 11 removed many routes for young people to demonstrate their capacity for change and positive growth.

Fortunately, SB 1008 opened up a sensible pathway out of imprisonment for youth sentenced as adults. Recognizing that SB 1008 itself was not applied retroactively, the Governor intends to use her constitutional clemency powers to consider youth—on an individualized basis—who didn't benefit from that legislation.

The Governor's approach varies slightly for the two distinct groups being considered, but results in these youth getting a similar consideration as their peers—either through a review for potential conditional release or the opportunity for a parole hearing.

For the youth who DOC has determined meet the first set of criteria (was a juvenile at the time of committing the offense for which they are in custody; be serving a sentence that was ordered prior to January 1, 2020; not be serving a sentence for which any convictions are for crimes that were committed as an adult; and has served 50% of their sentence or will have served 50% of their sentence by December 31, 2022), the Governor's Office will engage in an individualized review process to determine whether the youth has made exemplary progress and if there is considerable evidence of rehabilitation, as well as taking into account input from the DA and victims, if any. If the Governor determines that a commutation is warranted, the youth will be granted a conditional release. We anticipate that these reviews will occur throughout the next several months. The earliest the Governor would make any decisions on conditional releases would likely be in December or January, and the process will continue until a final decision has been made on each case.

For the youth who DOC has determined meet the second set of criteria (was a juvenile at the time of committing the offense; be serving a sentence that was ordered prior to January 1, 2020; be serving a sentence of fifteen years or more of imprisonment; not be serving a sentence for which any convictions are for crimes that were committed as an adult; and not be serving a sentence with a current projected release date in 2050 or later), the Governor granted a commutation last week that will allow these youth (73 total) the opportunity for a parole hearing, as described in [ORS 144.397](#). The commutation will take effect in 45 days, which is the earliest possible date that the Parole Board could schedule a hearing. To be clear, the Governor is not making any decision to conditionally release these youth; that discretion lies with the Parole Board in these cases. Victims and their families will receive notifications in accordance with the standard victim notification procedures for commutations, and they will have an opportunity to participate in the hearing process, which is not anticipated to begin until 2022.

**Kevin Gleim** | Public Records and Special Projects Attorney  
Office of Governor Kate Brown  
(503) 378-6246

---

**From:** Monique DeSpain <[Monique@Commonsensefororegon.org](mailto:Monique@Commonsensefororegon.org)>  
**Sent:** Thursday, October 28, 2021 11:31 AM  
**To:** GLEIM Kevin \* GOV <[Kevin.GLEIM@oregon.gov](mailto:Kevin.GLEIM@oregon.gov)>  
**Subject:** RE: Your Public Records Request

Thanks, Kevin. Thanks for all the info on the new batch process.

Let me digest what you have sent and I'll respond shortly.

As discussed: You'll send me the news/info release that Gov Brown sent out to announce the juv sentences. Also, you'll send me the accurate list of 217 under consideration and the letter to DOC that sets out the Governor's criteria to get to that list of 217.

You've agreed to keep me informed along with the DAs in an effort to expand transparency regarding the process on this newly implemented review process and save yourself time.

And, importantly, you agreed a week or so ago to send me the list of re-offenders from any of the people released since March of 2020 under the clemency actions (including the COVID and firefighter releases).

I really appreciate all the time you shared with me today. Thank you.

Monique

---

**From:** GLEIM Kevin \* GOV <[Kevin.GLEIM@oregon.gov](mailto:Kevin.GLEIM@oregon.gov)>  
**Sent:** Thursday, October 28, 2021 9:49 AM  
**To:** Monique DeSpain <[Monique@Commonsensefororegon.org](mailto:Monique@Commonsensefororegon.org)>  
**Subject:** Your Public Records Request

Monique,

You requested the clemency applications of 41 individuals, listed in the attached document. I have received the records that are potentially responsive to this request. There are over 2,000 pages of records, which has required and will continue to require detailed review due to the sensitive and personal nature of the documents.

I have waived fees incurred in responding to an initial portion of this request and am now closing that portion of the request as complete. You may view records responsive to this portion of your request at the following link:  
<https://drive.google.com/file/d/1cq-hLTVdh7vr87XeCj6n1lrSs8-vYx0y/view?usp=sharing>

The Office of the Governor redacted records in this response pursuant to the following exemptions established by the public records law: ORS 192.355(2) (information of a personal nature) and ORS 192.355(5) (Department of Corrections information when disclosure would interfere with rehabilitation or would impede functions of the department), as well as ORS 192.398(1) (information about an individual's physical or mental health) and ORS 192.398(3) (records of a person who is or has been in custody when disclosure would interfere with the person's rehabilitation). A requester may seek review of the public body's determination that one or more requested records are exempt from public disclosure pursuant to ORS 192.401, 192.411, 192.415, 192.418, 192.422, 192.427 and 192.431.

I estimate the cost to review and produce the remaining records will be \$2,420.00. As you may be aware, our office policy requires fee waivers to be submitted in writing (relevant portion pasted below). If you decide to request a fee waiver, you may send it in reply to this email.

I will wait to hear from you to begin my review of the remaining portion. If you decide to pay the \$2,420.00, I will send you instructions on submitting payment. Let me know if you have any questions. If you would like to narrow your request to a select few of the remaining applications, I would be happy to work with you. As I have mentioned, the Governor's Office is currently and has been simultaneously processing a high volume of other requests, so I appreciate your patience.

Thank you,  
Kevin

**Kevin Gleim** | Public Records and Special Projects Attorney  
Office of Governor Kate Brown  
(503) 378-6246

**Fee waivers for public records requests.**

Requests for fee waivers or reduced fees must be made in writing to the Office of General Counsel, 254 State Capitol, 900 Court St. NE, Salem OR 97301. The General Counsel's office may furnish copies without charge or at a substantially reduced fee if it is determined that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public. The General Counsel's office will determine the appropriateness of fee waivers or adjustments based on the guidance of the relevant law including ORS 192.324(5), the Attorney General's Public Records and Meetings Manual, and DAS Policy 107-001-030.

## Law Clerk

---

**From:** Monique DeSpain  
**Sent:** Wednesday, December 15, 2021 3:39 PM  
**To:** Law Clerk  
**Subject:** FW: Welcome Back!

Use the words Vast Majority

MONIQUE J. DeSPAIN  
*Associate Counsel*  
Common Sense For Oregon Foundation  
541-556-0675 (cell)  
2007 State Street  
Salem, Oregon 97301-4349

---

**From:** GLEIM Kevin \* GOV <Kevin.GLEIM@oregon.gov>  
**Sent:** Friday, September 24, 2021 11:11 AM  
**To:** Monique DeSpain <Monique@Commonsensefororegon.org>  
**Subject:** RE: Welcome Back!

Enjoy your time outdoors and have a good weekend!

Yes, when I referenced 2021 below, I was referring to the 6/25/2021 letter with exhibits.

I'm still working on that information and will keep you updated. I guess I'm curious how much value a detailed set of that information (which is pretty labor intensive to figure out) has to you knowing that the vast majority did not apply for the type of clemency that was granted to them, anyway.

Thank you!  
Kevin

**Kevin Gleim** | Public Records and Special Projects Attorney  
Office of Governor Kate Brown  
(503) 378-6246

---

**From:** Monique DeSpain <[Monique@Commonsensefororegon.org](mailto:Monique@Commonsensefororegon.org)>  
**Sent:** Friday, September 24, 2021 10:33 AM  
**To:** GLEIM Kevin \* GOV <[Kevin.GLEIM@oregon.gov](mailto:Kevin.GLEIM@oregon.gov)>  
**Subject:** RE: Welcome Back!

Hi Kevin!

No worries. I'm behind as well and won't get those questions to you today as planned. Planning to head to Crescent Lake later today for the final sunbeams of summer.

Thanks for sending that report. It doesn't seem to be posted with the others (my clerk found the previous 4) so thank you.



About 2021....do you mean the June 25<sup>th</sup> 2021 letter with the three exhibits?

One thing we talked about you providing was the answer to the question, how many of those in the June 2021 report actually applied for clemency? You told me most didn't but I'm hoping for a definitive response on that (I'll clarify in the questions I send). I think I sent you the attached but at least it is on top of your email. The White Paper is the better version – skip the primer draft. Anyway, you will see that our thought is that clemency should be requested with an application from the inmate not the governor reaching out to tap candidates (or place that task on the DOC).

Have a great weekend and I'll touch base with you next week.

Monique

---

**From:** GLEIM Kevin \* GOV <[Kevin.GLEIM@oregon.gov](mailto:Kevin.GLEIM@oregon.gov)>  
**Sent:** Friday, September 24, 2021 9:28 AM  
**To:** Monique DeSpain <[Monique@Commonsensefororegon.org](mailto:Monique@Commonsensefororegon.org)>  
**Subject:** RE: Welcome Back!

Monique,

So sorry for the delay! I also took a bit of time off last week, so I still feel like I'm catching up. I hope you were able to enjoy the last bit of summer!

Attached is the prior report. Keep in mind that these are submitted at the end of each session, so the 2021 report followed a long session and spanned 15 months, whereas the 2020 report followed a short session and spanned roughly 9 months. Notice also how many more applications the Governor received and denied in 2021. Let me know if you have questions!

I've skimmed the memo and look forward to when I have time to take a deeper dive!

Thank you,  
Kevin

**Kevin Gleim** | Public Records and Special Projects Attorney  
Office of Governor Kate Brown  
(503) 378-6246

---

**From:** Monique DeSpain <[Monique@Commonsensefororegon.org](mailto:Monique@Commonsensefororegon.org)>  
**Sent:** Wednesday, September 22, 2021 3:54 PM  
**To:** GLEIM Kevin \* GOV <[Kevin.GLEIM@oregon.gov](mailto:Kevin.GLEIM@oregon.gov)>  
**Subject:** Welcome Back!

Hello Kevin,

I left you a brief VM. Hoping you can provide me with the governor's clemency report to the legislature that was sent to them before the June 25, 2021, report that you and I have been reviewing. The report prior....It would have been submitted to them prior to the close of the previous legislative session per ORS 144.660. Thank you!

I'll be sending you the questions we discussed, soon. Aiming to send them to you Friday.

I have attached the new and improved review of the clemency law – we reformatted it a bit. Same content. Looking forward to hearing your thoughts.

*Sincerely,*

*Monique DeSpain*

*Associate Counsel*

Common Sense for Oregon Foundation

Tel: (503) 364-1913 Cell: (541) 556-0675

CONFIDENTIAL AND PRIVILEGED ATTORNEY WORK PRODUCT The information contained in this correspondence message is intended for the use of the individual or entity to which it is addressed and may contain information which is attorney privileged and/or other confidential information and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by e-mail or telephone, and return the original message to us at the above address. Thank you.