

DECLARATION OF MATTHEW RUBENSTEIN REGARDING PREPARATION TIME
BETWEEN CAPITAL INDICTMENT (OR NOTICE OF REVIEW OF PRIOR “NO SEEK”)
AND MEETING WITH ATTORNEY GENERAL’S CAPITAL CASE REVIEW COMMITTEE

1. I am a Capital Resource Counsel attorney in the federal public defender program and a member of the Federal Capital Trial Project. The Capital Resource Counsel and the Federal Death Penalty Resource Counsel (FDPRC) projects comprise the Federal Capital Trial Project (or “Trial Project”).¹ Established in early 1992, a core function of the Trial Project is to provide consultation, training, and assistance to counsel and courts to improve the quality of representation and the cost-effectiveness of defense services in federal capital prosecution cases.² I joined the Trial Project in 2010 as a Capital Resource Counsel attorney, was the Director of the Capital Resource Counsel (CRC) project from 2015 to 2025, and in 2025 transitioned back to a Capital Resource Counsel attorney position in the project. The Trial Project is funded and

¹ The Trial Project assigns a CRC or FDPRC attorney to work with the defense team in every federal capital eligible case as a “resource counsel.” In their role as resource counsel, the CRC attorneys (full-time salaried federal defender staff) and FDPRC attorneys (part-time contractors) are not counsel of record; rather, they provide advice, assistance, and helpful information and resources to the defense team. In addition to their work as resource counsel, the CRC attorneys often serve as death-qualified “learned” counsel as part of their Project responsibilities; and the FDPRC attorneys are often appointed to serve as “learned” counsel as CJA counsel outside their role with the Project.

² The work of the Trial Project is described in a report prepared by the Subcommittee on Federal Death Penalty Cases, Committee on Defender Services, Judicial Conference of the United States, *Federal Death Penalty Cases: Recommendations Concerning the Cost and Quality of Defense Representation* (May 1998), at 28 – 30, http://www.uscourts.gov/sites/default/files/original_spencer_report.pdf [Perma.cc archive: <https://perma.cc/SU25-GWMV>]. The Subcommittee report “urges the judiciary and counsel to maximize the benefits of the Federal Death Penalty Resource Counsel Project . . . , which has become essential to the delivery of high quality, cost-effective representation in death penalty cases” *Id.* at 50.

An update to the Report states: “Many judges and defense counsel spoke with appreciation and admiration about the work of Resource Counsel. Judges emphasized their assistance in recruiting and recommending counsel for appointments and their availability to consult on matters relating to the defense, including case budgeting. Defense counsel found their knowledge, national perspective, and case-specific assistance invaluable.” *Report to the Committee on Defender Services, Judicial Conference of the United States, Update on the Cost and Quality of Defense Representation in Federal Death Penalty Cases* (September 2010) at 63. <https://www.uscourts.gov/sites/default/files/fdpc2010.pdf> [Perma.cc archive: <https://perma.cc/LPH6-K8QB>].

administered by the Defender Services Office of the Administrative Office of the United States Courts.

2. My responsibilities in the Federal Capital Trial Project include the monitoring of all federal capital prosecutions throughout the United States to assist in the delivery of adequate defense services to indigent capital defendants in such cases. This effort includes overseeing the collection of data on the initiation and prosecution of federal capital cases.³

3. Pursuant to these responsibilities, I have compiled the information in Exhibit A regarding cases authorized for capital prosecution since 2010. This information includes the date of the capital eligible indictment and the date of the meeting with the Attorney General's Capital Case Review Committee (AGCRC meeting). During the Obama, Trump (45), and Biden administrations, the average number of months⁴ between capital eligible indictment and the AGCRC meeting was 15.0 months.

4. During the Trump (47) administration, the average number of months between capital eligible indictment and the AGCRC meeting for defendants that do not involve a reconsideration of a previous government "no seek" decision (cases in which the Department of Justice during the Biden administration had previously decided not to pursue the death penalty) is 5.1 months. (This calculation excludes four defendants for whom the AGCRC meeting did not occur after an indictment with capital counts. Three defendants were indicted with capital counts *after* their AGCRC meeting and one defendant was authorized for a capital prosecution when no AGCRC meeting occurred.)

5. On February 5, 2025, Attorney General Bondi issued a directive ordering the review of all pending capital eligible cases in which the Department of Justice during the Biden

³ In order to carry out the duties entrusted to me, I rely on the data gathered by Kevin McNally who served as Resource Counsel with FDPRC since the inception of the Trial Project in January 1992, served as the Director of FDPRC between 2007 and 2018, and continued overseeing the collection of data on the initiation and prosecution of federal capital cases until 2024 when I took over this responsibility. This information is gathered from a variety of sources including PACER case dockets and case filings, transcripts, the Administrative Office of the United States Courts, Department of Justice press releases, Federal Defender offices and CJA counsel, and information gathered and received from Federal Capital Trial Project Resource Counsel. This information is regularly updated and checked for accuracy. The Project's information regarding federal capital prosecutions has been relied upon by the Administrative Office of the United States Courts, by the Federal Judicial Center and by various federal district courts.

⁴ The average does not include those cases in which there is no known AGCRC meeting, cases in which the AGCRC meeting occurred before indictment, or cases in which the defendant died before indictment.

administration had previously decided not to pursue the death penalty (cases in which the government previously filed a “no seek” notice). Using the date when these defendants were notified that the government again considered them in jeopardy for a capital prosecution – as equivalent to the date of a capital eligible indictment, the average number of months between this notification and the AGCRC meeting is 3.0 months.

I declare under penalty of perjury under the laws of the United States of America, 28 U.S.C. §1746, that the foregoing is true and correct. Executed July 31, 2025.

/s/ Matthew Rubenstein
Matthew Rubenstein

Defendant	Docket No.	Status	President (Auth)	Ind - Cap Counts	DOJ Mtg [SORT]	Months Ind to DOJ
Obama, Trump (45), and Biden Authorization of Defendants						
Lopez, Enrique	N.D. TX No. 3:09-CR-00320-M	Guilty plea	(44th) Barack Obama	2/18/2010	Unkown	NA
Candelario-Santana, Alexis	D. PR No. 3:09-CR-00427-JAF	Life Sentence Reversed - Life Sentence	(44th) Barack Obama	2/28/2011	Unkown	NA
Briseno, Juan	N.D. IN No. 2:11-CR-00077-PPS-APR	Life sentence from jury	(44th) Barack Obama	6/2/2011	Unkown	NA
Williams, Connell C.	W.D. OK No. 5:11-CR-00298-F	Guilty plea at trial	(44th) Barack Obama	9/7/2011	Unkown	NA
Jimenez-Bencevi, Xavier	D. PR No. 3:12-CR-00221-JAF	Life sentence from jury	(44th) Barack Obama	3/23/2012	Unkown	NA
Roland, Farad	D. NJ No. 2:12-CR-00298-ES	Dismissal after notice by Judge	(44th) Barack Obama	12/5/2012	Unkown	NA
Con-ui, Jessie	M.D. PA No. 3:13-CR-00123-ARC	Life sentence from jury	(44th) Barack Obama	6/25/2013	Unkown	NA
Ciancia, Paul Anthony	C.D. CA No. 2:13-CR-00902-PSG	Guilty plea	(44th) Barack Obama	12/17/2013	Unkown	NA
Cramer, Christopher Emory	E.D. TX No. 1:16-CR-00026-MAC-ZJH	Death Sentence - Clemency	(44th) Barack Obama	3/3/2016	Unkown	NA
Fackrell, Ricky Allen	E.D. TX No. 1:16-CR-00026-MAC-ZJH	Death Sentence - Clemency	(44th) Barack Obama	3/3/2016	Unkown	NA
Cacace, Joel J.	E.D. NY No. 1:08-CR-00240-NG	Authorization Withdrawn	(44th) Barack Obama	7/8/2010	4/27/2009	DOJ before Ind.
Andrews, Patrick	N.D. WV No. 1:12-CR-00100-IMK-JSK	Guilty plea	(44th) Barack Obama	10/2/2012	8/2/2010	DOJ before Ind.
Watland, Gary	D. CO No. 1:11-CR-00038-JLK	Guilty plea	(44th) Barack Obama	1/25/2011	8/10/2010	DOJ before Ind.
Santiago, Richard	D. CO No. 1:10-CR-00164-LTB	Guilty plea	(44th) Barack Obama	3/24/2010	12/6/2010	8.4
Merritt, Robert	E.D. PA No. 2:07-CR-00550-RBS	Acquittal	(44th) Barack Obama	4/8/2009	12/17/2010	20.3
Northington, Steven	E.D. PA No. 2:07-CR-00550-RBS	Life sentence from jury	(44th) Barack Obama	4/8/2009	12/17/2010	20.3
Savage, Kaboni	E.D. PA No. 2:07-CR-00550-RBS	Death Sentence - Clemency	(44th) Barack Obama	4/8/2009	12/17/2010	20.3
Coonce, Wesley Paul	W.D. MO No. 6:10-CR-03029-GAF	Death Sentence - Clemency	(44th) Barack Obama	4/7/2010	4/14/2011	12.2
Hall, Charles Michael	W.D. MO No. 6:10-CR-03029-GAF	Death Sentence - Clemency	(44th) Barack Obama	4/7/2010	4/14/2011	12.2
Millner, John Travis	E.D. KY No. 7:13-CR-00015-ART-REW	Guilty plea	(44th) Barack Obama	9/6/2013	5/16/2011	DOJ before Ind.
Pleau, Jason W.	D. RI No. 1:10-CR-00184-DLM	Guilty plea	(44th) Barack Obama	12/14/2010	6/13/2011	6.0
Stone, Samuel	E.D. CA No. 1:12-CR-00072-AWI-DLB	Guilty plea	(44th) Barack Obama	3/22/2012	6/20/2011	DOJ before Ind.
McCluskey, John Charles	D. NM No. 1:10-CR-02734-JCH	Life sentence from jury	(44th) Barack Obama	9/29/2010	8/8/2011	10.3
Taylor-Keller, Lorie Ann	W.D. VA No. 5:10-CR-00015-GEC-JGW	Guilty plea	(44th) Barack Obama	5/20/2010	11/14/2011	17.8
Torrez, Jorge Avila	E.D. VA No. 1:11-CR-00115-LO	Death Sentence - Clemency	(44th) Barack Obama	5/26/2011	12/5/2011	6.3
Jones, Ulysses	W.D. MO No. 6:10-CR-03090-DGK	Life sentence from jury	(44th) Barack Obama	10/3/2012	2/12/2012	DOJ before Ind.
Abbar, Shani Nurani	E.D. VA No. 2:11-CR-00034-RBS-DEM	Life sentence from jury	(44th) Barack Obama	3/8/2011	2/21/2012	11.4
Beyle, Abukar Osman	E.D. VA No. 2:11-CR-00034-RBS-DEM	Life sentence from jury	(44th) Barack Obama	3/8/2011	2/21/2012	11.4
Salad, Ahmed Muse	E.D. VA No. 2:11-CR-00034-RBS-DEM	Life sentence from jury	(44th) Barack Obama	3/8/2011	2/21/2012	11.4
Sanders, Thomas Steven	W.D. LA No. 1:10-CR-00351-DDD-JDK	Death Sentence - Clemency	(44th) Barack Obama	11/18/2010	5/14/2012	17.9
Duran-Gomez, Wilmar Rene	S.D. TX No. 4:10-CR-00459	Dismissal after notice by Judge	(44th) Barack Obama	7/1/2010	7/2/2012	24.0
Montgomery, Chastain Sr.	W.D. TN No. 2:11-CR-20044-JPM	Guilty plea	(44th) Barack Obama	2/24/2011	1/7/2013	22.4
Tsarnaev, Dzhokhar	D. MA No. 1:13-CR-10200-GAO	Death Sentence - Death row - Appeal	(44th) Barack Obama	6/27/2013	12/19/2013	5.7
Ham, James Wayne	S.D. TX No. 4:13-CR-00363	Authorization Withdrawn	(44th) Barack Obama	6/13/2013	7/14/2014	13.0
Aranda-Soto, Noe	S.D. TX No. 6:10-CR-00095	Guilty plea	(44th) Barack Obama	8/21/2014	1/26/2015	5.2
Watts, James	S.D. IL No. 4:14-CR-40063-JPG	Guilty plea	(44th) Barack Obama	6/3/2014	3/10/2015	9.2
Rogers, Andrew	S.D. IN No. 2:16-CR-00018-WTL-CMM	Guilty plea	(44th) Barack Obama	5/17/2016	3/16/2015	DOJ before Ind.
Rodriguez-Mendoza, Efrain	S.D. TX No. 4:10-CR-00459	Authorization Withdrawn	(45th) Donald J. Trump	7/1/2010	10/19/2015	63.6
Roof, Dylann Storm	D. SC No. 2:15-CR-00472-RMG	Death Sentence - Death row - 2255	(44th) Barack Obama	7/22/2015	2/1/2016	6.3
Ashley, Frederick James	None - C.D. CA	Killed or died after authorization	(45th) Donald J. Trump	Died before Ind	6/26/2017	NA
Siler, Morgan Wayne	D. AZ No. 4:23-CR-01300-SHR-MAA	Authorization Withdrawn	(45th) Donald J. Trump	8/30/2023	9/18/2017	DOJ before Ind.
Hammer, David Paul	None - D. AZ	Killed or died after authorization	(45th) Donald J. Trump	Died before Ind	9/18/2017	NA
Mills, Edwin	E.D. MI No. 2:16-CR-20460-MAG-RSW	Authorization Withdrawn	(45th) Donald J. Trump	6/22/2016	9/25/2017	15.1
Wilson, Carlo	E.D. MI No. 2:16-CR-20460-MAG-RSW	Authorization Withdrawn	(45th) Donald J. Trump	6/22/2016	9/25/2017	15.1
Cleveland, Kirby	D. NM No. 1:17-CR-00965-MCA	Authorization Withdrawn	(45th) Donald J. Trump	4/12/2017	9/25/2017	5.4
Madison, Jarvis Wayne	M.D. FL No. 6:17-CR-00015-RBD-KRS	Authorization Withdrawn	(45th) Donald J. Trump	1/12/2017	10/2/2017	8.7
Laurel, Ruben	N.D. WV No. 1:17-CR-00039-IMK-MJA	Authorization Withdrawn	(45th) Donald J. Trump	5/1/2018	10/16/2017	DOJ before Ind.
Owle, Michael	N.D. WV No. 1:17-CR-00039-IMK-MJA	Authorization Withdrawn	(45th) Donald J. Trump	5/1/2018	10/16/2017	DOJ before Ind.
Pedro-Vidal, Juan R.	D. PR No. 3:16-CR-00778-GAG	Authorization Withdrawn	(45th) Donald J. Trump	12/14/2016	10/23/2017	10.3
Arnold, Billy Darrell	E.D. MI No. 2:15-CR-20652-GCS-DRG	Authorization Withdrawn	(45th) Donald J. Trump	2/17/2016	11/21/2017	21.1
Christensen, Brendt A.	C.D. IL No. 2:17-CR-20037-CSB-EIL	Life sentence from jury	(45th) Donald J. Trump	10/3/2017	12/4/2017	2.0
Council, Brandon Michael	D. SC No. 4:17-CR-00866-CRI	Death Sentence - Clemency	(45th) Donald J. Trump	9/20/2017	2/12/2018	4.7
Smith, John Pearl	D. AK No. 3:16-CR-00086-SLG-DMS	Authorization Withdrawn	(45th) Donald J. Trump	3/22/2017	4/4/2018	12.4
Jordan, Anthony	E.D. MO No. 4:15-CR-00404-HEA-NAB	Authorization Withdrawn	(45th) Donald J. Trump	8/26/2015	6/11/2018	33.5
George, LilBear	E.D. LA No. 2:17-CR-00201-LMA-DEK	Authorization Withdrawn	(45th) Donald J. Trump	11/2/2017	6/12/2018	7.3
Johnson, Curtis Jr.	E.D. LA No. 2:17-CR-00201-LMA-DEK	Authorization Withdrawn	(45th) Donald J. Trump	11/2/2017	6/12/2018	7.3
Ofomata, Chukwudi	E.D. LA No. 2:17-CR-00201-LMA-DEK	Authorization Withdrawn	(45th) Donald J. Trump	11/2/2017	6/12/2018	7.3
Skates, Victor	N.D. CA No. 5:15-CR-00285-LHK	Authorization Withdrawn	(45th) Donald J. Trump	10/28/2015	7/9/2018	32.4
Saipov, Sayfullo Habibullaevic	S.D. NY No. 1:17-CR-00722-VSB	Life sentence from jury	(45th) Donald J. Trump	11/21/2017	7/23/2018	8.1
Hardison, Brandon Durrell	M.D. TN No. 3:17-CR-00124	Authorization Withdrawn	(45th) Donald J. Trump	6/29/2017	8/27/2018	13.9
Brown, Ronald Donell	S.D. TX No. 4:17-CR-00567	Authorization Withdrawn	(45th) Donald J. Trump	9/21/2017	9/10/2018	11.6
Hutchinson, Antwan	S.D. OH No. 2:17-CR-00077-MHW	Guilty plea	(45th) Donald J. Trump	4/25/2017	12/10/2018	19.5
Tartaglione, Nicholas	S.D. NY No. 7:16-CR-00832-KMK	Authorization Withdrawn	(45th) Donald J. Trump	12/19/2016	12/17/2018	23.9
Burkhalter, Shawn	W.D. MO No. 4:18-CR-00036-BCW	Authorization Withdrawn	(45th) Donald J. Trump	2/21/2018	1/14/2019	10.8
Nesbitt, Joshua	W.D. MO No. 4:18-CR-00036-BCW	Authorization Withdrawn	(45th) Donald J. Trump	2/21/2018	1/14/2019	10.8
Wood, Jr., William D.	N.D. NY No. 5:19-CR-00058-TJM-1	Authorization Withdrawn	(45th) Donald J. Trump	2/14/2019	3/11/2019	0.9
Wiggins, Steven Joshua	M.D. TN No. 3:19-CR-00194	Authorization Withdrawn	(45th) Donald J. Trump	8/7/2019	4/22/2019	DOJ before Ind.
Rebolledo, Michael Manuel	N.D. CA No. 3:18-CR-00119-RS	Authorization Withdrawn	(45th) Donald J. Trump	3/20/2018	5/13/2019	13.8
Bowers, Robert	W.D. PA No. 2:18-CR-00292-DWA	Death Sentence - Death row - Appeal	(45th) Donald J. Trump	10/31/2018	7/22/2019	8.7
Zelaya Martinez, Elmer	E.D. VA No. 1:18-CR-00123-TSE	Authorization Withdrawn	(45th) Donald J. Trump	5/22/2018	10/21/2019	17.0
Nantz, Daniel S.	E.D. KY No. 6:19-CR-00016-REW-HAI	Authorization Withdrawn	(45th) Donald J. Trump	7/24/2019	1/27/2020	6.1
Schlesinger, Ryan Phillip	D. AZ No. 4:18-CR-02719-RCC-BGM	Authorization Withdrawn	(45th) Donald J. Trump	12/27/2018	3/16/2020	14.6
Saenz, Alexi	E.D. NY No. 2:16-CR-00403-JFB	Authorization Withdrawn	(45th) Donald J. Trump	3/2/2017	4/6/2020	37.1
Silva, Samuel	W.D. VA No. 2:20-CR-00017-JPJ-PMS	Authorization Withdrawn	(45th) Donald J. Trump	11/12/2020	6/15/2020	DOJ before Ind.
Saenz, Jairo	E.D. NY No. 2:16-CR-00403-JFB	Authorization Withdrawn	(45th) Donald J. Trump	3/2/2017	9/14/2020	42.4
Silvers, Victor Everette	W.D. KY No. 5:18-CR-00050-TBR	Authorization Withdrawn	(45th) Donald J. Trump	11/13/2018	12/14/2020	25.0

Gendron, Payton	W.D. NY No. 1:22-CR-00109-LJV-HKS	Pending trial	(46th) Joseph Biden	7/14/2022	9/18/2023	14.1
				77 Defendants (53 w data)		Average 15.0
Trump (47) Authorization of Defendants (not involving a prior Biden admin "no seek")						
Petty, Ishmael	D. CO No. 1:25-CR-00123-DDD-1	Pending trial	(47th) Donald J. Trump	4/8/2025	1/22/2024	DOJ before Ind.
Reed, Jasper	W.D. OK No. 5:25-CR-00156-SLP	Pending trial	(47th) Donald J. Trump	5/6/2025	12/16/2024	DOJ before Ind.
Mangione, Luigi Nicholas	S.D. NY No. 1:25-CR-00176-MMG	Pending trial	(47th) Donald J. Trump	4/17/2025	1/13/2025	DOJ before Ind.
McBean, Dajahn	S.D. NY No. 1:24-CR-00541-PAE	Pending trial	(47th) Donald J. Trump	10/17/2024	3/24/2025	5.2
Tsethlikai, Labar	D. NM No. 1:24-CR-00539-DHU-1	Pending trial	(47th) Donald J. Trump	7/31/2024	5/5/2025	9.2
Franklin, Jason Javon	E.D. OK No. 6:24-CR-00167-RAW	Pending trial	(47th) Donald J. Trump	10/9/2024	1/8/2025	3.0
Smith, Marielle Tramanie	E.D. OK No. 6:24-CR-00167-RAW	Pending trial	(47th) Donald J. Trump	10/9/2024	1/8/2025	3.0
Diaz-Bautista, Rosniel	D. VI No. 1:24-CR-00020-WAL-EAH	Pending trial	(47th) Donald J. Trump	12/17/2024	none	No DOJ meeting
				8 Defendants (4 w data)		Average 5.1
Trump (47) Authorization of Defendants with a Prior Biden admin "No Seek"						
Spurlock, Cory	D. NV No. 3:23-CR-00022-ART-CLB	Dismissal after notice by Judge	(47th) Donald J. Trump	2/5/2025	3/10/2025	1.2
Constanza-Galdomez, Wilson Arturo	D. MD No. 1:22-CR-00409-SAG	Dismissal after notice by Judge	(47th) Donald J. Trump	2/5/2025	4/23/2025	2.6
Valenzuela-Rodriguez, Edis Omar	D. MD No. 1:22-CR-00409-SAG	Dismissal after notice by Judge	(47th) Donald J. Trump	2/5/2025	4/23/2025	2.6
Pesquera-Puerto, Jonathan	D. MD No. 1:22-CR-00409-SAG	Dismissal after notice by Judge	(47th) Donald J. Trump	2/5/2025	4/23/2025	2.6
Dangleben, Jr., Richardson	D. VI No. 3:23-CR-00072-RAM-RM	Pending trial	(47th) Donald J. Trump	2/5/2025	4/28/2025	2.8
Merrell, Monroe	N.D. WV No. 3:20-CR-00046-GMG-RWT	Pending trial	(47th) Donald J. Trump	2/5/2025	5/12/2025	3.2
Cole, Enock	D. VI No. 1:23-CR-00016-WAL-EAH	Pending trial	(47th) Donald J. Trump	2/5/2025	6/25/2025	4.7
Smith, Jiovani	D. VI No. 1:23-CR-00016-WAL-EAH	Pending trial	(47th) Donald J. Trump	2/5/2025	6/25/2025	4.7
				8 Defendants (8 w data)		Average 3.0