

Release of N.J. Mafioso Angers Justice Officials

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Last Dec. 20, President Nixon commuted the sentences of four federal prisoners, setting them free in time to get home for the holidays. One of the four was a sick old man from Mountainside, N.J., and his release has created more internal turmoil in the Department of Justice than the controversial commutation granted a year earlier to Jimmy Hoffa.

The old man was Angelo (Gyp) DeCarlo, 70, a major figure in organized crime, leading gambling and loan-sharking entrepreneur in northern New Jersey, and a high-ranking capo (captain) in the Mafia family of the late Vito Genovese. DeCarlo was characterized by one federal prosecutor as "violent... homicidal... and a man who orders executions."

DeCarlo was one of only five federal prisoners in the nation to be granted a presidential commutation in this fiscal year (there were hundreds of requests).

The whole matter of his clemency, from the filing of the petition last June to the President's signature in De-



ANGELO (GYP) DeCARLO
... sentence commuted

cember, apparently was accomplished without the knowledge of anyone in the federal law enforcement apparatus who had played a role in making the case against DeCarlo.

The mobster had served about two years of a 12-year sentence for extortion when his prison term was commuted. "Before we even knew he was up," said one Justice

See DECARLO, A10, Col. 3

DECARLO, From A1

official, "He was out." According to the latest FBI reports, DeCarlo is still running his gang.

The DeCarlo petition for executive clemency, based on claims of ill health, was not handled by his regular criminal attorneys in New York and New Jersey.

Sometime in late May, 1972, a young Atlanta lawyer named Robert McHaney, just getting under way in a new practice, received a handwritten letter from DeCarlo, then serving his time at the federal penitentiary in Atlanta, asking his help in preparing the petition. McHaney told Newsday that he had never heard from DeCarlo in any way since his release, and has not yet been paid.

The petition was filed in Washington by McHaney with the office of the Justice Department pardon attorney, Lawrence Traylor.

Traylor says he routinely requested medical records from the Atlanta prison. On the basis of these, he moved the petition, with his endorsement, to the office of Attorney General Richard G. Kleindienst. From there, it went to the office of John W. Dean III, counsel to the President, and finally to the President for his signature.

The Justice Department officials who are angered over the DeCarlo release say that it sailed right through without the customary check with various law enforcement agencies on whether such a request should be granted.

"This is Gyp DeCarlo," said one Justice Department official, putting emphasis in his voice when he spoke the name. "He is a very bad guy, with a history of political connections in New Jersey all laid out on public records.

"I can see where the pardon attorney might have forwarded it as a routine terminal illness case; but from there on, something or someone just had to give that thing a push.

"The question is how? Who? The potential for embarrassment was too obvious. The A.G. (Attorney General) and the White House have been talking tough on organized crime too long to let this one slip by unnoticed."

Asked about that, Traylor

replied, "We handle all terminal illness cases about the same way. We were certainly aware of dissatisfaction within the department over this case, and we're sorry they're not pleased with what the President did."

Federal prison policy, one Justice spokesman noted, is to avoid having prisoners die in prison whenever possible. "It's considered detrimental to prison morale," he said.

The White House declined to comment. It referred all questions on the case to the Justice Department.

Not even the most irate critics of the DeCarlo commutation are contending that the mobster isn't a very sick man. He has a history of diabetes, a bad heart and assorted dysfunctions stemming from extensive cancer surgery which apparently was not totally successful.

But some federal officials point out that he was pleading terminal illness before his sentencing back in 1970, and re-

peatedly thereafter on his appeals. And the federal prison system, they assert, has exceptionally good medical facilities.

DeCarlo is now under FBI surveillance. According to the FBI, he is still conducting his old business—organized crime meetings with former associates. These occur in scattered locations to which DeCarlo is chauffeured from his home, FBI sources say.

Critics of his commutation contend that DeCarlo has cheated the criminal justice system. "Gyp DeCarlo is just bad," said a former Justice Department official, still incredulous at the gangster's release. "I don't care how sick he is; putting him back on the streets is not a routine thing—certainly not with an administration as tough as this one on criminals."

His comments were echoed by another Justice attorney who served in three administrations. "Lyndon Johnson, in his early years, used to hand

out commutations with both hands," he recalled. "Under those circumstances, even a man like DeCarlo might get out on a terminal illness plea with no big fuss. But it's strange in the present context. My God, five commutations has to be one of the lowest since George Washington!

"Those people really went through a sieve. For a guy like DeCarlo to get through, someone had to make a bigger hole."

DeCarlo's 1970 trial was one of the most sensational in the government's long war against organized crime. From 1961 to 1965, there was an FBI microphone in DeCarlo's place of business, an edifice called "The Barn" located near the gangster's home in Mountainside, N.J.

Recordings taped from conversations in "The Barn" were introduced into evidence in DeCarlo's trial. They revealed, among other things, several discussions of the philosophy and mechanics of violence,

particularly the techniques of necessary murders. In these, DeCarlo was the humanist, preferring to kill by injecting air into the victim's blood vessels if only there were a way of getting him to hold still. Explosives were too non-specific, DeCarlo contended—innocent children might be killed.

During the trial, the government produced testimony and evidence that the victim, an insurance broker and labor racketeer named Louis B. Saperstein, had been called to "The Barn" concerning some delinquent loan payments and had been beaten until "his face was purple, his tongue bulged and he was pleading for mercy."

Not long after the beating, Saperstein had written a letter to the FBI concerning his forbodings. Not long after that, Saperstein died suddenly; an autopsy revealed enough arsenic in his body, according to authorities, "to kill a mule."