



March 24, 2020

President Donald J. Trump
White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Re: Commute Federal Prison Sentences for Populations Most Vulnerable to Coronavirus

Dear President Trump,

On behalf of the undersigned organizations, we urge you to utilize your clemency power to commute the federal sentences of people eligible for compassionate release, and other populations that are exceptionally vulnerable to coronavirus.

As the United States continues to combat the global health pandemic rapidly spreading throughout the country, it is critical that we not forget the millions of people working and detained in jails, prisons and detention centers. Some Federal Bureau of Prisons staffers in New Hampshire, Texas,¹ and Wisconsin² and an Immigration and Customs Enforcement medical staff member at the Elizabeth Detention Center in New Jersey³ have all tested positive for COVID-19. On Saturday, a person jailed at the Metropolitan Detention Center in New York City tested positive for COVID-19, which marks the first confirmed case of an incarcerated individual in the

¹ David Shortell & Kara Scannell, *New Coronavirus cases in US jails heighten concerns about an unprepared system*, CNN (Mar. 18, 2020, 8:44 PM), <https://www.cnn.com/2020/03/18/politics/coronavirus-in-us-jails-heighten-concerns/index.html>.

² Morgan G Stalter, *Wisconsin prison doctor tests positive for coronavirus, 18 inmates quarantined: report*, THE HILL (Mar. 19, 2020, 3:26 PM), <https://thehill.com/homenews/state-watch/488499-wisconsin-prison-doctor-tests-positive-for-coronavirus-18-inmates>.

³ Emily Kassie, *First ICE Employee Tests Positive for Coronavirus*, MARSHALL PROJECT (Mar. 19, 2020, 8:15 PM) <https://www.themarshallproject.org/2020/03/19/first-ice-employee-tests-positive-for-coronavirus>.

federal prison system.⁴ On Sunday, two people incarcerated at the Federal Corrections Complex in Oakdale, Louisiana tested positive for COVID-19.⁵

These initial reports of COVID-19 at our nation's jails and prisons are not surprising given the inability to adhere to Center for Disease Control (CDC) best practices in these facilities. According to the CDC, proper hygiene practices and social distancing are the most effective tools to combat the spread of COVID-19.⁶ The CDC is advising law enforcement to “maintain a distance of at least six feet” and “ensure only trained personnel wearing appropriate personal protective equipment (PPE) have contact with individuals who have or may have COVID-19.”⁷ Disturbingly, federal prison employees in Florida have reported shortages of essential protective gear including masks, soap, hand sanitizer and gloves, with existing supplies not likely to last them through the week.⁸

The public health concerns presented by coronavirus in confined spaces creates an urgent need to ensure the health of staff and those incarcerated, particularly those who are elderly and those with chronic health conditions. Public health experts and groups such as Dr. Gregg Gonsalves⁹, doctors working in New York City Hospitals¹⁰, Dr. Marc Stern¹¹, Dr. Oluwadamilola T. Oladeru and Adam Beckman¹², Dr. Anne Spaulding¹³, Homer Venters¹⁴, and Josiah Rich¹⁵ have all clearly stated that preventing the harm inflicted by SARS-CoV-2 and COVID-19 can become immensely more difficult for people involved in the criminal legal system. In response, some public health experts, including John Hopkins public health experts Brendan Saloner and Sachini

⁴ Michael Balsamo, *1st fed inmate tests positive for coronavirus*, AP (Mar. 21, 2020), <https://apnews.com/ec49cc7f4d1b00bc5010dfb6d935e042>.

⁵ Sarah N. Lynch, *U.S. prison union official warns of coronavirus spread by inmate transfers from outbreak hotspots*, REUTERS THOMPSON (Mar. 23, 2020), <https://news.trust.org/item/20200323162647-76lyw/>.

⁶ CDC, *What Law Enforcement Personnel Need to Know about Coronavirus Disease 2019 (COVID-19)* (Mar. 14, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-law-enforcement.html>.

⁷ *Id.*

⁸ Cassidy McDonald, *Federal prison workers say conflicting orders on coronavirus response is putting lives at risk*, CBS NEWS (Mar. 19, 2020, 12:40 PM), <https://www.cbsnews.com/news/coronavirus-prison-federal-employees-say-conflicting-orders-putting-lives-at-risk-2020-03-19/>.

⁹ Kelan Lyons, *Elderly prison population vulnerable to potential coronavirus outbreak*, CONNECTICUT MIRROR (Mar. 11, 2020), <https://ctmirror.org/2020/03/11/elderly-prison-population-vulnerable-to-potential-coronavirus-outbreak/>.

¹⁰ NYC Council Members Brad Lander & Ritchie Torres, *Doctors in NYC Hospitals, Jails, and Shelters Call on the City to take More Aggressive Action to Combat the Spread of Coronavirus*, MEDIUM (Mar. 12, 2020), <https://medium.com/@bradlander/doctors-in-nyc-hospitals-jails-and-shelters-call-on-the-city-to-take-more-aggressive-action-to-fb75f0b131c2>.

¹¹ Memorandum from Dr. Marc F. Stern, Affiliate Assistant Professor, School of Public Health, University of Washington on “Washington State Jails Coronavirus Management Suggestions in 3 ‘Buckets’” (Mar. 5, 2020), <https://www.themarshallproject.org/documents/6796536-Suggestions-for-Jails-3-5-20>.

¹² Oluwadamilola T. Oladeru et al., *What COVID-19 Means For America's Incarcerated Population- And How To Ensure It's Not Left Behind*, HEALTH AFFAIRS (Mar. 10, 2020), <https://www.healthaffairs.org/doi/10.1377/hblog20200310.290180/full/>.

¹³ Ann C. Spaulding MD MPH, *Coronavirus COVID-19 and the Correctional Facility* (2020) https://www.ncchc.org/filebin/news/COVID_for_CF_HC_W_3.9.20.pdf.

¹⁴ Madison Pauly, *To Arrest the Spread of Coronavirus, Arrest Fewer People*, MOTHER JONES (Mar. 12, 2020), <https://www.motherjones.com/crime-justice/2020/03/coronavirus-jails-bail-reform-arrests/>.

¹⁵ Amanda Holpuch, *Calls mount to free low-risk US inmates to curb coronavirus impact on prisons*, GUARDIAN (Mar. 13, 2020, 3:00 EDT), <https://www.theguardian.com/us-news/2020/mar/13/coronavirus-us-prisons-jails>.

Bandara, have advised government officials to “[r]elease — and better still don’t incarcerate — people who pose no threat.¹⁶ Several localities have heeded that advice.¹⁷ Therefore, we call upon you to commute the federal sentences of individuals who could benefit from compassionate release¹⁸, including those who:

- Are older and elderly;
- Have a terminal medical condition;
- Have a debilitated medical condition;
- Suffer from a chronic medical condition; or
- Have suffered a death of a family member who is a primary caregiver to a child of the person incarcerated.

In addition to commuting the federal sentences of individuals who could benefit from compassionate release, we call upon you to use your clemency power to release those incarcerated at the federal level who are elderly and/or particularly vulnerable to serious illness or death from COVID-19 due to underlying health conditions as identified by the Centers for Disease Control and Prevention, including:

- Blood disorders;
- Chronic kidney disease;
- Chronic liver disease;
- Compromised immune system (immunosuppression);
- Current or recent pregnancy;
- Endocrine disorders;
- Metabolic disorders;
- Heart disease;
- Lung disease;
- Neurological and neurologic and neurodevelopment conditions; and
- Hypertension.

As we work to combat the spread of the coronavirus pandemic, it is essential that we not forget about the millions of Americans currently incarcerated and working in jails, prisons and detention centers, and that we take action to protect those who are the most vulnerable to COVID-19. Again, we ask you to commute the sentences for those populations at the federal level most vulnerable to coronavirus.

¹⁶ Brendan Saloner & Sachini Bandara, *To protect inmates and the nation from COVID-19, release offenders who pose no threat*, USA TODAY (Mar. 17, 2020), <https://www.usatoday.com/story/opinion/policing/2020/03/17/protect-nation-covid-19-release-inmates-who-pose-no-threat/5072004002/>.

¹⁷ *US jails begin releasing prisoners to stem Covid-19 infection*, BBC (Mar. 19, 2020), <https://www.bbc.com/news/world-us-canada-51947802>. New York City, Los Angeles County, and Cuyahoga County, Ohio have released people from jail who are vulnerable to coronavirus due to underlying health problems and/or were arrested for minor offenses.

¹⁸ See DOJ, BOP, Program Statement: Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582 and 4205(g), Jan. 17, 2019, *available at* https://www.bop.gov/policy/progstat/5050_050_EN.pdf.

Thank you in advance for your consideration.

Sincerely,

American Civil Liberties Union
Due Process Institute
FreedomWorks
Justice Action Network
Justice Roundtable
The Leadership Conference on Civil and Human Rights
R Street
The Sentencing Project
We Got Us Now