

March 24, 2020

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

Re: Assist Incarcerated Individuals and Corrections Staff amid COVID-19 pandemic

Dear President Trump,

As COVID-19 brings uncertainty across American communities, your administration and federal and state lawmakers are pursuing unprecedented efforts to mitigate this pandemic's public health and economic costs. In this time, it is imperative we do not neglect the needs of uniquely vulnerable—and easily forgotten—populations. Positive cases of COVID-19 at correctional facilities in New York, Alabama, Georgia, Louisiana, and elsewhere underscore the virus' particular threat to incarcerated individuals and correctional staff.¹ Contained physical space, limited medical resources, constant circulation of prisoners and staff, and substantial populations who are aging or immunocompromised make our prisons and jails vulnerable to exceptionally contagious and harmful COVID-19 outbreaks.

Your administration has demonstrated its leadership on criminal justice reform, whether in your enactment of the First Step Act, emphasis on Second Chance hiring, or support for Pell Grant restoration for incarcerated students.² As concerned faith-based organizations, we respectfully request that you consider the following steps for the safety and well-being of incarcerated people and corrections staff:

- Expedite clemency decisions. We urge you to act on behalf of those who have served a proportional sentence and demonstrated their desire to make amends during their incarceration, while prioritizing those who are uniquely vulnerable to the impact of COVID-19 due to age or medical history.
- Expand the use of existing elderly and compassionate release mechanisms.³ Greater use by the Department of Justice of these tools will allow select federal prisoners to complete

¹ NBC, *21 Inmates, 17 Employees Test Positive for COVID-19 on Rikers: Officials*, NBC 4 New York (March 23, 2020), <https://www.nbcnewyork.com/news/coronavirus/21-inmates-17-employees-test-positive-for-covid-19-on-rikers-island-officials/2338242/>; AJC, *3 Georgia Prison Inmates Test Positive for COVID-19, others monitored*, The Atlanta Journal-Constitution (March 21, 2020), <https://www.ajc.com/news/local/breaking-georgia-prison-inmate-tests-positive-for-covid/2U3hEo9fRS6WG9SMHOYZ7I/>; Montgomery Advertiser, *Alabama Department of Corrections Employee Tests Positive for Coronavirus*, USA Today Network (March 19, 2020), <https://www.montgomeryadvertiser.com/story/news/2020/03/19/alabama-prisons-employee-positive-covid-19-coronavirus-infection/2879847001/>.

² White House Briefing, *President Donald J. Trump Is Committed to Building on the Successes of the First Step Act*, The White House (April 1, 2019), <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-committed-building-successes-first-step-act>; White House Briefing, *Remarks by President Trump at 2019 Prison Reform Summit and FIRST STEP Act Celebration*, The White House (April 1, 2019), <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-2019-prison-reform-summit-first-step-act-celebration/>; Department of Education, Statement by Betsy DeVos Secretary of Education on the U.S. Department of Education Fiscal Year 2021 Education Budget, U.S. Department of Education (2020), <https://docs.house.gov/meetings/AP/AP07/20200227/110550/HHRG-116-AP07-Wstate-DeVosB-20200227.pdf>.

³ 28 CFR § 572.40; Federal Bureau of Prisons, *Home Confinement Under the First Step Act*, U.S. Department of Justice (April 4, 2019), <https://www.bop.gov/policy/om/001-2019.pdf>.

an appropriate term of punishment in settings more conducive to their health and safety, while still being held accountable for their crimes

- Advocate for federal funding to support COVID-19 response strategies among state and local correctional leaders in forthcoming congressional relief packages. State and local criminal justice systems are responsible for the overwhelming majority of the United States' incarcerated population.⁴ Without federal assistance, these stakeholders will be constrained in their ability to contain, mitigate, and treat COVID-19 outbreaks.
- Fund the costs for increased phone or video minutes for incarcerated individuals and explore creative solutions for continued rehabilitative programming and religious worship, in lieu of limited volunteer and family visitation.⁵
- Ensure more individuals accused of a federal crime await their trial in the community and reserve pre-trial detention for individuals who pose a significant risk of flight risk or danger to the community.⁶

Additionally, we are concerned about the Department of Justice's reported policy requests for expanded discretion to delay or suspend court proceedings during a national emergency and delaying the statute of limitations for criminal investigations during and one year following an emergency.⁷ COVID-19 creates exceptional hurdles for federal criminal law's standard procedures, however, these proposals, if implemented, erode core civil liberties, specifically habeas corpus and the right to a fair, swift, and public trial, at the heart of our nation's legal and civic heritage.

Finally, reentry is already a demanding, complex journey for most former prisoners. Our fellow citizens who are recently or soon to be released must now navigate an even more strenuous return home given new uncertainties caused by COVID-19. Prior Second Chance Month proclamations and events by your White House helped make April a time for sustained reflection by communities, churches, and businesses about the talents and capacities of formerly incarcerated individuals.⁸ We request your administration issue a similar proclamation in 2020 to ensure this often-forgotten population is still remembered.

Thank you for your consideration and for all you are doing to bring hope, safety, and security to our communities and the most vulnerable in our midst.

Respectfully,

⁴ Jennifer Bronson & E. Ann Carson, *Prisoners in 2017*, Bureau of Justice Statistics (April 2019), <https://www.bjs.gov/content/pub/pdf/p17.pdf>.

⁵ Federal Bureau of Prisons, *BOP Implementing Modified Operations*, U.S. Department of Justice (March 2020), https://www.bop.gov/coronavirus/covid19_status.jsp.

⁶ Prison Fellowship, *Testimony Before the House Judiciary Committee*, Prison Fellowship (November 14, 2019), https://www.prisonfellowship.org/wp-content/uploads/2020/01/Testimony-of-Prison-Fellowship-Bail-Reform_Final.pdf.

⁷ Betsy Woodruff Swan, *DOJ Seeks New Emergency Powers Amid Coronavirus*, Politico (March 21, 2020), <https://www.politico.com/news/2020/03/21/doj-coronavirus-emergency-powers-140023>; Allan Smith, *AOC Slams Reported DOJ Effort to Indefinitely Detain People During Emergency: 'Abhorrent'*, NBC News (March 22, 2020), <https://www.nbcnews.com/politics/justice-department/aoc-slams-reported-doj-effort-indefinitely-detain-people-during-emergency-n1166031>; Jerry Dunleavy, *Justice Department Responds to 'Confusion' About 'Emergency Powers' Request During Coronavirus Outbreak*, Washington Examiner (March 23, 2020), <https://www.washingtonexaminer.com/news/justice-department-responds-to-confusion-about-emergency-powers-request-during-coronavirus-outbreak>.

⁸ White House, *President Donald J. Trump Proclaims April 2018 as Second Chance Month*, The White House (March 30, 2018), <https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-proclaims-april-2018-second-chance-month/>; President Donald J. Trump, *Proclamation on Second Chance Month*, The White House (March 29, 2019), <https://www.whitehouse.gov/presidential-actions/proclamation-second-chance-month-2019/>.

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