

May 8, 2020

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
Washington, DC 20515

Dear Majority Leader McConnell, Speaker Pelosi, Minority Leader Schumer, and Minority Leader McCarthy:

In the face of the COVID-19 pandemic, American values of resilience and care for others are on full display. Now more than ever, we must continue to be a voice for the vulnerable—including those serving time behind bars. Contained physical space, limited medical resources, and substantial populations who are aging or immunocompromised make correctional facilities susceptible to acute COVID-19 outbreaks.¹ Meanwhile, over 600,000 federal and state prisoners returning to our communities face new uncertainties in their pursuit of a law-abiding, productive future.² We urge you and your colleagues to take further steps to protect incarcerated men and women, correctional staff, and returning citizens in future legislative responses to COVID-19.

Our organizations' deeply held faith values inspire our commitment to “remember the prisoner” (Hebrews 13:3) and those responsible for their care. As this pandemic escalates, we risk seeing more incarcerated individuals and law enforcement staff endure severe medical complications; more overwhelmed regional health care systems; and more negative reentry outcomes. These threats to public health and public safety are tragically unfolding day by day. Seven of the nation's ten largest coronavirus outbreaks are in correctional facilities.³ In late April, Andrea Circle Bear, an incarcerated Native American woman convicted for a non-violent drug offense, died from COVID-19 in federal custody after giving birth to her son while on a ventilator.⁴

The rapidly growing crisis of COVID-19 in our justice system demands a bold legislative response that builds on positive steps already taken by Congress and state, local, and federal criminal justice stakeholders.⁵ We request the inclusion of the following proposals in future legislation:

- **Expand eligibility for compassionate release in the federal prison system.** The Bureau of Prisons (BOP) and federal courts use this tool to reduce sentences for federal

¹ James Ackerman, *An Open Letter to State and Federal Lawmakers and Correctional Leaders*, Prison Fellowship (March 2020), <https://www.prisonfellowship.org/2020/03/an-open-letter-to-state-and-federal-policymakers-and-corrections-leaders/>.

² E. Ann Caron, *Prisoners in 2018*, Bureau of Justice Statistics (April 2020), <https://www.bjs.gov/content/pub/pdf/p18.pdf>.

³ N.Y. Times, *Coronavirus in the U.S.: Latest Map and Case Count*, New York Times (May 5, 2020), <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>.

⁴ Office of Public Affairs, *Inmate Death at FMC Carswell*, Federal Bureau of Prisons (April 28, 2020), https://www.bop.gov/resources/news/pdfs/20200428_press_release_crw.pdf.

⁵ Prison Fellowship, *How Will the CARES Act Impact Prisons and Jails*, Prison Fellowship (April 2020), <https://www.prisonfellowship.org/2020/04/how-will-the-cares-act-impact-prisons-and-jails/>.

prisoners on a case by case basis for “extraordinary and compelling reasons.”⁶ Congress should expand compassionate release during the covered emergency period so that more people at high-risk of experiencing grave COVID-19 complications are eligible for relief, such as the elderly, medically at-risk, and pregnant prisoners. Congress should also temporarily reduce the current 30-day waiting period for such federal prisoners to file a motion for compassionate release directly with a federal court.

- **Use Digital Programming.** Federal prisons have restricted traditional face-to-face programming and visitation given social distancing guidelines. Distribution of electronic tablets among those in federal prisons will guarantee safe continued, access to rehabilitative programming while the threat of COVID-19 persists.
- **Increase reentry funding.** Unemployment, addiction, housing insecurity, and recidivism mark the return home for too many returning citizens.⁷ COVID-19’s disruption to labor markets and local and state social services could exacerbate these outcomes.⁸ Reentry service providers often provide the supportive housing, mentoring, and workforce development needed for flourishing after incarceration. However, reentry providers are struggling during this pandemic; in a recent survey, 75% of providers reported suspending services or closing and half fear a permanent end to operations.⁹ Whether through increasing Second Chance Act grants or other funding mechanisms, Congress must ensure adequate funding for these community institutions to meet urgent reentry needs.
- **Stop penalizing second-chance entrepreneurs.** An estimated one in three Americans have a criminal record.¹⁰ The Paycheck Protection Program (PPP) eligibility rules deny vital emergency relief to the numerous small business owners among them. Replacing current PPP sanctions with narrowly tailored guidelines that exclude only those with recent fraud convictions would judiciously use federal dollars without prohibiting relief for valuable small businesses. Like other Main Street leaders, entrepreneurs with a criminal record face an unprecedented crisis and ought not be excluded from access to the lifeline they may need to keep their businesses afloat and their staff employed.¹¹

We recognize the numerous priorities related to COVID-19 now before your offices. We are confident that responsible sentencing reforms, continued rehabilitative programming, and investment in support of second chances will benefit our communities both during this pandemic and in the demanding recovery ahead.

⁶ Nathan James & Michael Foster, *Federal Prisoners and COVID-19: Background and Authorities to Grant Release*, Congressional Research Service (April 23, 2020), <https://crsreports.congress.gov/product/pdf/R/R46297>.

⁷ Hearing Before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security, 116 Cong. (2020) (Testimony of Jesse Wiese, Prison Fellowship)

<https://docs.house.gov/meetings/JU/JU08/20200227/110564/HHRG-116-JU08-Wstate-WieseJ-20200227.pdf>.

⁸ Phill Swagel, *CBO’s Current Projections of Output, Employment, and Interest Rates and a Preliminary Look at Federal Deficits for 2020 and 2021*, Congressional Budget Office (April 24, 2020),

<https://www.cbo.gov/publication/56335>; Elizabeth McNichol, et al., *States Need Significantly More Fiscal Relief to Slow the Emerging Deep Recession*, Center on Budget and Policy Priorities (April 14, 2020),

<https://www.cbpp.org/research/state-budget-and-tax/states-need-significantly-more-fiscal-relief-to-slow-the-emerging-deep>.

⁹ Justice Center, *Survey Shows Reentry Services Halting Across U.S.*, Council for State Governments Justice Center (April 2020), <https://csgjusticecenter.org/survey-shows-reentry-services-halting-across-u-s/>.

¹⁰ Small Business Administration, *Paycheck Protection Program Loans Frequently Asked Questions (FAQ)*, U.S. Department of the Treasury (April 2020), <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>.

¹¹ Prison Fellowship, et al., Letter to U.S. Senate Committee on Small Business and Entrepreneurship regarding Paycheck Protection Program, Prison Fellowship (April 20, 2020), <https://www.prisonfellowship.org/wp-content/uploads/2020/04/SBA-PPP-letter-to-Chairman-Rubio-4.21.20.pdf>.

History—and the Author of Life—will demand an account from our nation of how we remembered “the least of these” (Matthew 25) during this crisis. It is our sincere hope that our collective treatment of the incarcerated will not be found wanting. We implore you and your colleagues to incorporate our recommendations in COVID-19 relief legislation and remember the needs of incarcerated individuals, correctional staff, and returning citizens in your bipartisan deliberations.

Sincerely,

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Secretary
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Walter Kim
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