

April 22, 2020

Governor Tom Wolf
Office of the Governor
508 Main Capitol Building
Harrisburg, PA 17120



AMERICAN CIVIL LIBERTIES UNION

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Dear Governor Wolf:

Thank you for using your constitutional power of reprieve to make nearly two-thousand people eligible for release from Pennsylvania prisons during this unprecedented emergency. Only a handful of other governors have used their executive authority to address the pending crises in their state prisons. However, these laudable efforts are not enough to protect the health of the residents, staff, or communities that surround state facilities. In light of the rapid spread of the disease in [Ohio's state system](#), where nearly 4,000 residents have tested positive for COVID-19 (2,011 people in just one facility),¹ we are asking you to take additional urgent action. You must increase the number of prisoners who are eligible for reprieve and relax procedural conditions for approving reprieves. At the rate people are being released, [67 as of April 22](#),² it would take 27 weeks to release the 1,800 eligible for reprieve. This is unacceptable.

As numerous public health officials have warned, an outbreak in one of our state prisons or county jails could lead to unnecessary and preventable deaths of hundreds of people, both inside the institutions and in the surrounding communities. This could threaten to erase the progress we've made in the commonwealth.

As of April 21, there are [49 employees and 27 incarcerated](#)³ people who have tested positive for COVID-19 in our state prison facilities. And we recently learned of the death of an SCI Phoenix resident due to COVID-19. All of the 1,500 to 1,800 people who are reportedly eligible should be granted reprieve, as a first step. But the number of eligible people should be expanded given the fact that:

- ❑ [43.9%](#)⁴ of people incarcerated at state facilities are designated as “minimum custody level inmates.”
- ❑ Every year, roughly [18,000](#)⁵ people are released to the community anyway, either because they were paroled or completed their sentence.

¹ Welsh-Huggins, A. (2020, April 21) Virus outbreak in Ohio prisons highlights risk at US lockups. Washington Post, at https://www.washingtonpost.com/health/virus-outbreak-in-ohio-prisons-highlights-risk-at-us-lockups/2020/04/21/bf5566a6-841d-11ea-81a3-9690c9881111_story.html

² Pennsylvania Department of Corrections, Coronavirus and the DOC; Daily Population Report as of 4/22/2020, at <https://www.cor.pa.gov/Pages/COVID-19.aspx>

³ Pennsylvania Department of Corrections, Coronavirus and the DOC; Inmate and Employee Testing as of 4/21/2020, at <https://www.cor.pa.gov/Pages/COVID-19.aspx>

⁴ Pennsylvania Department of Corrections, Bureau of Planning, Research, and Statistics, *Monthly Institutional Profile as of March 31, 2020*, pg. 2, at <https://www.cor.pa.gov/About%20Us/Statistics/Documents/Current%20Monthly%20Profile.pdf>

⁵ PA Department of Corrections Calendar Year Releases, 2018, at <https://pa-doc-prs.maps.arcgis.com/apps/MapSeries/index.html?appid=1299751e74c54eba817680fb1f151628>

This virus not only poses a threat to incarcerated people and staff in Pennsylvania's prisons, but, if the prisons become local epicenters of infection, they will endanger the local communities in which they are located. The clock is ticking and we urge you to take additional and immediate action using your executive authority in the following three ways:

Reprieve order: Expand eligibility for temporary release

- ❑ **Offense type:** Expand the current reprieve order to include anyone with a drug trafficking offense.
- ❑ **Time served:** Expand the current reprieve order to include people who are farther away from their minimum sentence.
- ❑ **Elderly:** There are [4,011 people](#) over 60 who are currently in DOC custody.⁶ The DOC should conduct a case by case review of everyone over 60 regardless of offense type and recommend for reprieve everyone who the DOC does not consider a significant public safety risk and believes can safely shelter at home with family or friends. The elderly are the least likely to reoffend and have a lower recidivism rate than even people convicted of non-violent offenses.
- ❑ **Medically vulnerable:** Secretary Wetzel estimated that there are approximately [12,000 people](#),⁷ about 25% of the total population, currently incarcerated that the CDC would consider "medically vulnerable." The DOC should conduct a case by case review of everyone who is medically vulnerable regardless of offense type and granting reprieves to everyone who the DOC believes is not a significant public safety risk and who they believe can safely shelter at home with family or friends.
- ❑ **Parole violations:** Release people who are incarcerated for technical violations of parole. As of [March 31, 2020](#),⁸ 15.5% or 6,993 of the [45,120](#)⁹ people currently under DOC jurisdiction are there for parole violations, many of whom are currently incarcerated for **technical** violations of their supervision, violations that would otherwise not be considered crimes.

Admissions: Stem the tide of people entering state correctional institutions

In a [2019 report](#),¹⁰ The Council of State Governments Justice Center found that 54% of new admissions to Pennsylvania's state facilities are for supervision violations of parole or probation. A new order of reprieve could suspend the sentences of those being returned to prison for technical violations of parole or probation (again, these are violations that would otherwise not be considered crimes). By reducing the number of new admissions, facilities could increase their ability to properly and safely distance residents from one another.

Commutation: Sign applications for commutation

There are [three commutation applications](#) of people sentenced to life without parole,¹¹ all recommended by the Pennsylvania Board of Pardons, currently pending your signature. We urge you to grant those commutations post haste.

⁶ Pennsylvania Department of Corrections, Inmate/Parolee Locator, at <http://inmatelocator.cor.pa.gov/#/>

⁷ Moselle, A. (2020, April 1). Pa. prison system mulls releasing hundreds to prevent coronavirus spread. WHYY, at <https://whyy.org/articles/pa-prison-system-mulls-releasing-hundreds-to-prevent-coronavirus-spread/>

⁸ Pennsylvania Department of Corrections, Bureau of Planning, Research, and Statistics, *Monthly Institutional Profile as of March 31, 2020*, pg. 3, at <https://www.cor.pa.gov/About%20Us/Statistics/Documents/Current%20Monthly%20Profile.pdf>

⁹ Pennsylvania Department of Corrections, Bureau of Planning, Research, and Statistics, *Monthly Population Report as of March 31, 2020*, pg. 1, at <https://www.cor.pa.gov/About%20Us/Statistics/Documents/Current%20Monthly%20Population.pdf>

¹⁰ Council of State Governments Justice Center, *Confined and Costly*, June 2019, at <https://csgjusticecenter.org/wp-content/uploads/2020/01/confined-and-costly.pdf>

¹¹ Pennsylvania Board of Pardons, Lifers Granted Public Hearings, at <https://www.bop.pa.gov/Statistics/Pages/Lifers-Granted-Public-Hearings.aspx>

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