

June 29, 2020

Honorable Gavin Newsom
Governor of the State of California
1303 10th Street, Suite 1173
Sacramento, CA 95814
VIA Electronic Mail

RE: Saving Lives in Prison during COVID-19 Pandemic

Dear Governor Newsom:

We are calling on you to take immediate and bold action to protect the lives of the people living and working inside state prisons. To date, there have been nearly 5,000 confirmed cases of COVID-19 inside California's state prisons, and the actual number is likely much higher due to limited testing. As of June 25, 2020, the California Department of Corrections and Rehabilitation had tested only 28 percent of its total incarcerated population, despite the fact that COVID-19 positivity rates in CDCR institutions are over seven times higher than the general California population. This vulnerable population is full of people who have transformed their lives, become accountable for their past actions, and are on the pathway home. These individuals also have loved ones consumed with worry about their safety. They certainly don't deserve to die in prison. Without your immediate action, they might.

The current outbreak at San Quentin State Prison is only one example on a long list of failures on the part of the CDCR to prevent the spread of COVID-19, but it has publicly demonstrated how ill-equipped the department is to manage the pandemic. Without your leadership on the following common-sense efforts, COVID-19 will continue to spread inside state prisons, causing needless suffering and death behind bars and in the surrounding community. We implore you to use the following levers to save lives and provide rapid relief to those inside prisons throughout the state.

Early Releases

We are asking you to commit to monthly releases for all those who are either within one year of their scheduled release date or have served at least 70 percent of their sentence. While we applaud the newly announced plan to expedite the release of approximately 3,500 individuals who are within 180 days of their scheduled release dates, this action alone does not have a meaningful impact on California's overall prison population.

Commutations

You have the authority to commute sentences under Article V, Section 8, of the California Constitution. We ask you to expand your use of this lever to give relief to:

- Those with a compromised immune system or high-risk medical condition. In 2019 alone, nearly 1,400 people were eligible for medical and/or elderly parole. We urge you to review all pending commutations, paying special attention to people over the age of 50 who have served at least 20 years in state custody.
- All parole-eligible people currently deemed “low-risk” on either their Comprehensive Risk Assessment or their California Static Risk Assessment. Roughly 10,000 “Lifers” (those serving indeterminate sentences) are currently eligible for release. Many of these individuals are aging and at-risk from the spread of COVID-19; what’s more, they pose the lowest risk upon their release. They must be given their best chance for survival.
- Finally, we urge you to thoroughly review and consider any commutation petitions for those who have served at least 10 years and have credible evidence indicating their offenses were directly related to intimate partner violence.

End ICE Collaboration

You must immediately stop cooperating with ICE to facilitate the deportation of those released from state prison. The current practice does no more than transfer people from the frying pan into the fire, providing no relief from the threat of serious injury or death COVID-19 presents.

Parole

You should immediately release those who:

- Have already been found suitable for parole by the Board of Parole Hearings.
- Have terminal conditions and have six months to live or less.
- Are eligible for expanded medical parole. They should be discharged from custody and not subject to further parole consideration.
- Are eligible for youth parole consideration as long as they have been free of violence for at least five years. In 2019 alone, the parole board held over 3,300 youth parole hearings – meaning their crimes occurred before age 26 and they have served at least 15 years in custody.

Funding

During this pandemic, Community-Based Organizations (CBOs) have performed heroically, from providing PPE to people inside to providing transportation, housing and other support for those being released – including some released people who are positive with COVID-19. Additional funding for these services is necessary for CBOs to continue rising to this momentous occasion. You should allocate \$10 million in emergency funding for CBOs to provide pre- and post-release planning for people transitioning back to the community under any of the release measures recommended above. You must also ensure that CBOs have timely access to institutions and identifying data to perform this function.

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Testing and Safety

We are calling on you to immediately test every person who lives and works inside a state prison. Our state institutions must provide appropriate PPE and social distancing for everyone inside a state institution, as well as safe, sanitary, respectful isolation protocols for those who test positive. Solitary confinement is neither an effective nor appropriate method of containing those who have contracted the virus.

If you recognize and value the inherent dignity and humanity of all Californians, we urge you to take action on these measures. Please reach out to us at 510-271-0310 to discuss these matters in further detail.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'KW' or similar, representing Keith Wattley.

Keith Wattley and
The UnCommon Law Team