

December 7, 2020

The Honorable Eleanor Holmes Norton 2136 Rayburn HOB United States House of Representatives Washington, D.C. 20515

### Dear Representative Norton:

As a coalition of community and advocacy groups in Washington, D.C., we are committed to protecting the rights and safety of fellow community members who are incarcerated — within our city and in facilities across the country. We are writing to express our deep concerns regarding the treatment of D.C. residents who are incarcerated as the COVID-19 pandemic continues to devastate lives. We ask that you demand that the Bureau of Prisons (BOP), the United States Parole Commission (USPC) and the United States Marshal Service (USMS) take the following steps to protect DC community members who are in the custody of or within the oversight of those agencies:

- 1. The BOP must take all possible steps to reduce the population at its facilities, including by making further use of home confinement, and implement public health guidelines within its facilities in a safe and humane way.
- 2. The USMS must follow public health guidelines and protocols for individuals within their care.
- 3. The USPC must actively seek to release as many people as possible on parole as quickly as possible, and stop revoking parole for people unless necessary.

#### **Bureau of Prisons**

Carceral facilities maintained by the Bureau of Prisons have seen some of the worst COVID-19 outbreaks in the country. As of October 8, 2020, at least 125 incarcerated individuals and two staff members had died from COVID-19 in BOP custody. Twenty-five percent of all COVID-19 testing of individuals incarcerated across BOP facilities had come back positive, with certain facilities experiencing even higher positive rates: at Seagoville Federal Correctional Institution in Texas, for example, 80 percent of all COVID-19 tests have come back positive, amounting to 1,350 confirmed cases. Because the BOP neither tests nor reports "presumed positive" cases, and because the BOP had completed testing on only 35 percent of individuals incarcerated across its facilities, these figures likely vastly underestimate the extent of coronavirus outbreaks across federal prisons. <sup>1</sup>

<sup>&</sup>lt;sup>1</sup> All statistics in this paragraph from "COVID-19 Cases," Federal Bureau of Prisons, accessed October 8, 2020, <a href="https://www.bop.gov/coronavirus/">https://www.bop.gov/coronavirus/</a>.



The BOP's catastrophic response to the COVID-19 pandemic is of particular concern to incarcerated D.C. residents. Because Washington, D.C. has no independent prison, approximately 3,000 of its residents are currently incarcerated at BOP facilities throughout the country, far away from their loved ones and their community.<sup>2</sup>

The BOP's response to these dangerous, life-threatening outbreaks has been <u>dismal</u>. The BOP has not properly planned for a pandemic nor implemented professional guidance from the Centers for Disease Control and other public health experts. The agency has purportedly been implementing two pandemic response plans: the first, created in 2012, calls for creating "social distance" between incarcerated individuals, quarantining and isolating incarcerated people exposed to those who have fallen ill, and using personal protective equipment, and the second, created in February 2020, which is specific to COVID-19. However, these protective measures are not being faithfully implemented across BOP facilities.<sup>3</sup> Once outbreaks emerged in numerous facilities, carceral staff neglected or downplayed the COVID-19 symptoms of incarcerated people; they mistakenly relied on fevers as the sole indicator of a need for testing or treatment; and BOP continued to house people who are sick and those who are healthy together in long-vacated buildings or previously-flooded tents, creating abysmally ineffective quarantines and living conditions that encourage further spread of the virus.<sup>4</sup> These troubling practices continue to this day.

To the extent BOP has implemented any measures toward halting the spread of the virus, these measures have been largely inhumane and ineffective. In the name of social distancing, the BOP has subjected incarcerated people to solitary confinement for extended periods of time, despite the U.N. Standards Minimum Rules for the Treatment of Prisoners describing prolonged solitary confinement (defined as any period of solitary confinement beyond 15 days) as "cruel" and "inhuman." And, the use of punitive solitary confinement to respond to the pandemic is ineffective: a report by Unlock the Box and Solitary Watch found that the use of solitary confinement can actually worsen the pandemic for three reasons: first, the fear of being placed in solitary discourages incarcerated people from reporting symptoms of illness; second, time in solitary can weaken the immune system or exacerbate underlying physical conditions that increase the risk of contracting and suffering serious health effects from COVID-19; and third, most solitary confinement cells lack any means for sick residents to call for help.<sup>5</sup>

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<sup>&</sup>lt;sup>2</sup> There have been many calls to bring D.C.'s incarcerated residents home, including most recently by the D.C. Jails and Justice Task Force. The Task Force recommended that all people convicted of D.C. Code offenses, including those incarcerated in the federal BOP, should serve their sentences under local control, beginning with a plan to allow vulnerable populations to serve the last 6-12 months of their sentences here.

<sup>&</sup>lt;sup>3</sup> Federal Bureau of Prisons Health Services Division, "Pandemic Influenza Plan Module 1: Surveillance and Infection Control," October 2012, <a href="https://prisonology.com/wp-content/uploads/2020/05/BOP.PANDEMIC-PLAN.pdf">https://prisonology.com/wp-content/uploads/2020/05/BOP.PANDEMIC-PLAN.pdf</a>.

<sup>&</sup>lt;sup>4</sup> Keri Blakinger and Keegan Hamilton, "'I Begged Them To Let Me Die': How Federal Prisons Became Coronavirus Death Traps," *The Marshall Project*, June 18, 2020, <a href="https://www.themarshallproject.org/2020/06/18/i-begged-them-to-let-me-die-how-federal-prisons-became-coronavirus-death-traps">https://www.themarshallproject.org/2020/06/18/i-begged-them-to-let-me-die-how-federal-prisons-became-coronavirus-death-traps</a>.

<sup>&</sup>lt;sup>5</sup> Unlock the Box, "Solitary Confinement is Never the Answer: A Special Report on the COVID-19 Pandemic in Prisons and Jails, the Use of Solitary Confinement, and Best Practices for Saving the Lives of Incarcerated People



Three facilities provide poignant examples of BOP's failures: Elkton FCI, FCC Butner and Federal Medical Center Springfield, Missouri. D.C. residents incarcerated in the BOP have experienced some of the worst outbreaks of the pandemic; for example, 14 D.C. residents are currently incarcerated at Elkton Federal Correctional Institute (FCI) in Ohio, and 95 D.C. residents are housed at the Butner FCI complex in North Carolina. Elkton and Butner are the sites of the fourth and first most deadly COVID-19 outbreaks in BOP facilities, respectively.<sup>6</sup> While the conditions described below have led to the filing of federal lawsuits to enjoin the worst of BOP's behavior, litigation has not been successful at decarcerating facilities to stop the spread of COVID-19. As a result, it is imperative that public officials take the steps outlined here to protect DC's incarcerated residents.

#### 1. Elkton

Elkton FCI reflects many of the numerous issues with the BOP's pandemic response. People incarcerated at Elkton reported that social distancing was impossible and the use of PPE not prioritized; and the facility was not sanitized. BOP staff is not properly identifying and quarantining symptomatic individuals, 7, and staff is moving between quarantine and non-quarantine areas of the facility. 8

People incarcerated at Elkton brought an emergency court action in April seeking the release of medically-vulnerable people in response to the abhorrent situation in the facility. In his ruling, a federal judge ordered the expedited release of 837 medically vulnerable prisoners at Elkton, citing the prison's unsafe environment and stalling tactics. Yet, the BOP continued to drag its feet on releasing vulnerable people, leaving hundreds in Elkton at a heightened risk of becoming ill or dying: only five people were released in the month after the court's preliminary injunction was issued.<sup>9</sup>

### 2. Butner

FCC Butner is another example of BOP's failure to respond appropriately to the COVID-19 pandemic. More than 1000 incarcerated persons at Butner have been infected with COVID and 27 have died. Everyone who has died from COVID-19 at Butner had a known medical condition that made them more vulnerable to the virus, yet officials didn't take adequate steps to protect them, in violation of the Rehabilitation Act. The BOP has failed to take steps to reduce the population to allow for physical distancing or

and Correctional Staff," June 2020, <a href="https://prisonology.com/wp-content/uploads/2020/07/COVID-19-Solitary-Confinement-Report.pdf">https://prisonology.com/wp-content/uploads/2020/07/COVID-19-Solitary-Confinement-Report.pdf</a>.

<sup>6 &</sup>quot;COVID-19 Cases," Federal Bureau of Prisons, accessed August 31, 2020, https://www.bop.gov/coronavirus/.

<sup>&</sup>lt;sup>7</sup> Marcia Brown, "A Federal Inmate Speaks About Life in Prison During a Pandemic," *Prospect*, April 7, 2020, <a href="https://prospect.org/coronavirus/federal-inmate-speaks-about-life-in-prison-during-pandemic/">https://prospect.org/coronavirus/federal-inmate-speaks-about-life-in-prison-during-pandemic/</a>.

<sup>&</sup>lt;sup>8</sup> Blakinger and Hamilton, "'I Begged Them To Let Me Die."

<sup>&</sup>lt;sup>9</sup> "A Federal Judge Issues Order to Enforce Compliance, Requiring Elkton Prison Officials to Expedite Transfer & Release of Medically Vulnerable Subclass through Home Confinement and Compassionate Release," ACLU Ohio, May 19, 2020, <a href="https://www.acluohio.org/archives/press-releases/a-federal-judge-issues-order-to-enforce-compliance-requiring-elkton-prison-officials-to-expedite-transfer-release-of-medically-vulnerable-subclass-through-home-confinement-and-compassionate-release.">https://www.acluohio.org/archives/press-releases/a-federal-judge-issues-order-to-enforce-compliance-requiring-elkton-prison-officials-to-expedite-transfer-release-of-medically-vulnerable-subclass-through-home-confinement-and-compassionate-release.</a>



implemented well-established and widely published infection control practices. The failure to do what is necessary to stop the spread of the virus continues to today. There has been a stunning lack of testing at the facility, despite widespread reporting of symptomatic individuals, and when men serving time at the minimum security camp were finally tested at the end of April, 87 percent of the tests returned positive. <sup>10</sup> Careless movement of employees, transfers of incarcerated men between units, a failure to use hygienic practices, <sup>11</sup> and a failure to properly educate the population about the extent of COVID-19 cases have contributed to the facility's severe outbreak. <sup>12</sup> People who need medical care for issues other than COVID-19 also haven't been able to access it during the pandemic. <sup>13</sup>

A defining feature of Butner's outbreak has been its shortage of space within the facility, and BOP's failure to take steps to reduce the population to allow individuals to observe social distancing. In a particularly inhumane move, the prison reopened a building formerly used for disciplinary confinement that had been closed for years — nicknamed "The Hole" — as its sick ward. Men experiencing symptoms piled into the building, two per cell, and endured reduced food rations and extreme temperature variations. These conditions only exacerbated the toll of the virus on their bodies and led some other men to hide their symptoms in order to avoid being housed in The Hole (which they could effectively do, since so few were being tested).

### 3. Federal Medical Center, Springfield, MO

As of November 12, 2020, the BOP reported that 134 residents and 41 staff were positive for COVID-19 at the Federal Medical Center in Springfield, Missouri. Four residents died in the first week of November. An additional 108 residents and 54 staff have recovered from COVID-19 at the facility. The inability of BOP to control this outbreak within a medical facility where there should be more knowledge about preventing the spread of COVID-19 should be a call to action for decarceration.

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 $<sup>^{10}</sup>$  Joseph Neff, The Marshall Project and Dane Kane, "They were freed from an NC prison – but couldn't escape COVID-19," *The News & Observer*, July 10, 2020,

https://www.newsobserver.com/news/coronavirus/article244131227.html.

<sup>&</sup>lt;sup>11</sup> Joel Brown, "It was chaos': Former Butner prison inmate describes life inside a coronavirus hot zone," *ABC 11*, April 17, 2020, <a href="https://abc11.com/coronavirus-nc-richard-cephas-brian-bronson/6112184/">https://abc11.com/coronavirus-nc-richard-cephas-brian-bronson/6112184/</a>.

<sup>&</sup>lt;sup>12</sup> Justin Wm. Moyer and Neena Satija, "Frail inmates could be sent home to prevent the spread of covid-19. Instead, some are dying in federal prisons," *The Washington Post*, August 3, 2020,

 $<sup>\</sup>frac{https://www.washingtonpost.com/local/public-safety/frail-inmates-could-be-sent-home-to-prevent-the-spread-of-covid-19-instead-some-are-dying-in-federal-prisons/2020/08/02/992fd484-b636-11ea-9b0f-c797548c1154\ story.html.$ 

<sup>&</sup>lt;sup>13</sup> The Washington Lawyers' Committee for Civil Rights, ACLU, and ACLU of North Carolina filed a lawsuit challenging the BOP's actions on October 27, 2020. More information is available at <a href="https://www.washlaw.org/civil-rights-groups-file-class-action-lawsuit-to-protect-incarcerated-people-at-the-deadliest-federal-prison/">https://www.washlaw.org/civil-rights-groups-file-class-action-lawsuit-to-protect-incarcerated-people-at-the-deadliest-federal-prison/</a>.



In addition to these unacceptable conditions and ongoing neglect at BOP facilities, the agency has failed to engage in decarceral efforts, including those authorized by the federal CARES Act, to help stem the spread of the virus. Specifically, the CARES Act authorizes the release of certain incarcerated people to RRCs or to home confinement, but the BOP has been slow to actually facilitate these releases — leading to many people, including many of our D.C. community members, remaining incarcerated despite being eligible for release. The failure to urgently move forward with these releases endangers not only those who would be released, but also the remaining incarcerated people, staff, and communities surrounding BOP facilities, which will continue to also be impacted by the increasing medical needs of those on the inside.

Finally, transfers and the role of the United States Marshal Service have also played a role in the spread of the virus within BOP facilities. Based on reporting by the Marshall Project, before prison transfers were halted in March, thousands of people were brought into various BOP prisons, bringing the virus with them. The USMS has continued transferring people to BOP facilities throughout the pandemic. The USMS does not test the people it is transferring because of an agreement it has with the BOP that delegates testing and quarantining responsibilities to the BOP. As a result, the USMS has brought people from overflowing jails with known COVID-19 outbreaks to BOP facilities, where they subsequently test positive and cause new outbreaks to proliferate. As of August, even the transfers facilitated by the BOP had begun to resume.

### **USPC**

The United States Parole Commission (USPC) has also failed to act with the urgency the COVID-19 pandemic requires, and as a result many people who should be released on parole are languishing in dangerous BOP facilities. We ask that you advocate for the USPC to engage in broader decarceration efforts by (1) expanding the categories of those it will consider for parole; (2) ending its practice of revoking parole for administrative or technical violations of parole or supervised release, or for re-arrests that have already been resolved in the individual's favor through dismissal or acquittal, or in a pending matter where a judge has determined that an individual's release is not contrary to public safety; and (3) conducting revocation hearings that comport with constitutional due process guarantees<sup>16</sup> within sixty five days and minimizing transfers between the D.C. Jail and BOP facilities that do not serve the needs of detained individuals.

First, we ask that you urge the USPC to immediately release people who fall under one or more of the following categories because of the grave risk to their health and safety:

<sup>&</sup>lt;sup>14</sup> Keegan Hamilton and Keri Blakinger, "'Con Air' Is Spreading COVID-19 All Over the Federal Prison System," *The Marshall Project*, August 13, 2020, <a href="https://www.themarshallproject.org/2020/08/13/con-air-is-spreading-covid-19-all-over-the-federal-prison-system">https://www.themarshallproject.org/2020/08/13/con-air-is-spreading-covid-19-all-over-the-federal-prison-system</a>.

<sup>&</sup>lt;sup>15</sup> Walter Pavlo, "As Bureau of Prisons Enters 'Phase 9' of COVID-19 Plan, BOP Staff Wonder If There Is a Real Plan," *Forbes*, August 7, 2020, <a href="https://www.forbes.com/sites/walterpavlo/2020/08/07/as-bureau-of-prisons-enters-phase-9-of-covid-19-plan-bop-staff-wonder-if-there-is-a-real-plan">https://www.forbes.com/sites/walterpavlo/2020/08/07/as-bureau-of-prisons-enters-phase-9-of-covid-19-plan-bop-staff-wonder-if-there-is-a-real-plan</a>

<sup>&</sup>lt;sup>16</sup> The Public Defender Service of D.C. filed a lawsuit challenging this issue.



- People incarcerated in BOP facilities who have been given parole effective or presumptive parole.
- People who have been recommended for parole by a hearing examiner, but ultimately denied by the Commission.
- People whose full terms expire in less than a year should be paroled particularly given the near-total halt on programming within BOP facilities and the abysmal living conditions that harm physical and mental health.

Next, the USPC should consider for parole the following categories of people, given the extreme public health risks to which they are subject.

- People incarcerated in BOP facilities where people have tested positive for or died from COVID-19 should be given a wide berth for parole grants due to the urgent need to decarcerate in those facilities.
- People who are particularly vulnerable to becoming severely ill from COVID-19 should be a top priority for release, since they are most likely to be victimized by an outbreak.
- People who are eligible for an upcoming parole hearing should be heard on an earlier parole docket. These are individuals for whom the possibility of receiving a parole grant is in reach, and time is of the essence during this pandemic.
- People who received a set off after a parole hearing should be eligible for reconsideration for parole now. While any of a number of factors may have resulted in the denial of a parole grant at their hearing, the weighing of factors has shifted during the pandemic to account for dire public health concerns, and this new balance may very well make parole a decisive choice now for many people in this category.

The USPC also appears to be actively impeding decarceration efforts by using their discretion to issue new warrants for individuals who have violated some term of their parole or supervised release without consideration of the circumstances surrounding that violation. The USPC's decision to consider revoking parole or supervised release on the basis of administrative violations in the middle of a pandemic — when these violations may occur due to uncertain living conditions during the crisis, family or personal interest, and so on — and potentially require individuals to reenter BOP carceral facilities as they experience catastrophic outbreaks is troubling, and it stands in direct contrast to the stated goal of decarceration. For example, for individuals who are found to have committed an administrative violation of parole — such as by failing to report for individual supervision or treatment appointments, or by failing to notify their supervisor of a change in residence — the USPC will apparently "consider reinstating the offender to supervision without revocation." And, despite attempts to reduce the number of new warrants being issued, the categories for which new warrants are issued are still far too broad.

Finally, the USPC is taking the position that residents currently in the D.C. Jail would have to be transferred to BOP facilities for parole grant hearings, even though such transfers during the pandemic endanger the individual involved as well as the populations in multiple facilities. The USPC should establish, as needed, a parole grant docket in the DC Department of Corrections.



### **Recommendations for Follow-Up Actions**

In light of the immense harm and suffering experienced by incarcerated D.C. residents and their families as a direct result of the BOP's handling of COVID-19 outbreaks in its facilities and USPC's failure to act urgently as a result of the pandemic, we urge you to ensure that the BOP, USPC, USMS and lawmakers implement the following short-term relief measures:

# 1. Expand the number of individuals eligible for compassionate release and home confinement, and enforce the utilization of current release measures outlined in the CARES Act.

Public health experts have made clear that significantly reducing the number of people incarcerated is the best and most effective way to prevent transmission of the virus; in other words, decarceration must be a priority.

The BOP must take steps to place individuals incarcerated on D.C. Code offenses ontohome confinement. Data on the number of individuals sentenced on D.C. Code offenses who have been placed on home confinement is not publicly available, but our understanding is that very few have been granted home confinement, presumably due to the lack of urgency in the BOP's efforts to release them. The potential for flexibility in these criteria is reflected in the releases of Michael Cohen and Paul Manafort from federal prison, which demonstrate that it is not a matter of whether the BOP is able to release other people in addition to those that fit its strict criteria, but rather whether they make the effort to do so.

Additionally, the BOP should provide data specifically about the number of D.C. Code offenders who have been granted home confinement and compassionate release since the beginning of the pandemic.

# 2. Mandate the provision by the BOP of essential medical and mental health care and implementation of CDC-recommended guidelines, including the use and provision of proper PPE, to prevent further transmission of the virus.

The situations at Elkton and Butner are not unique and, in fact, are representative of BOP facilities. We call for expanded policies governing the provision of medical and mental health care in federal prisons. By nature, carceral institutions lend themselves to heightened transmission of COVID-19: they are indoors and generally lack airflow; they consist of compact housing units; facilities are shared communally; and they house people at high density. Individuals who are incarcerated sometimes lack access to soap and other hygiene products. Furthermore, their inhabitants are at a disproportionately high risk of becoming severely ill with the virus, being both disproportionately Black or Latinx and being more likely to have one or more of the CDC-verified pre-existing medical conditions for the virus.



We ask that you advocate for policies mandating that the BOP become more accountable for providing and ensuring the implementation of essential medical and mental health care practices in its facilities during and beyond during this crisis. At a minimum, the BOP should be adhering to the basic guidelines for COVID-19 prevention and treatment laid out by the CDC in its advisory for jails and prisons.<sup>17</sup>

### 3. Eliminate the BOP's use of solitary confinement and punitive isolation as a response to this public health crisis.

While the BOP needs to improve the social distancing tools available in its facilities, exclusively relying on punitive solitary confinement is not the appropriate mechanism to achieve that goal. The agency must allow all people who are incarcerated, infected and uninfected, to participate in as much safe socially distanced human contact and programming as is medically safe and reasonable. This includes recreational time outdoors. Such interaction and activity not only is humane but also promotes long-term physical and mental health, in accordance with item #2. Thus, we urge you to argue that solitary confinement signals not compliance but rather contradiction with the health standards presented in #2.

# 4. Create a presumption that, during the pandemic, the BOP will follow the recommendations by D.C. judges who sentence D.C. residents about which facilities they will be sent to.

D.C. judges at times make recommendations to the BOP about which facilities D.C. residents should serve sentences in, but the BOP has full discretion to disregard these recommendations. In light of the BOP's flagrant disregard for the health and safety of D.C. residents incarcerated in its facilities during the pandemic, and because D.C. judges can make such recommendations based on an assessment of the most dangerous facilities, medical and mental health needs and history, family issues, and much more, the BOP should have to seek approval to depart from the recommendation of a D.C. judge in the event that logistical or safety concerns are in conflict with the judicial recommendation.

### 5. Establish pandemic-specific re-entry services for D.C. residents released from BOP facilities.

Given that D.C. residents may be incarcerated at facilities far from home — under the First Step Act, the BOP must, with some exceptions, house incarcerated D.C. residents within 500 miles of D.C..Nonetheless, 50 to 500 miles is a significant distance for family members to travel. Reentry to their home community tends to be exceptionally difficult. Moreover, the difficulties of acquiring housing, employment, and food post-incarceration are exacerbated by the pandemic situation. We call for the allocation of resources to support the reentry of those released from

<sup>&</sup>lt;sup>17</sup> Centers for Disease Control and Prevention, "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities," https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html.



federal prisons during the COVID-19 crisis. We also call for, to the extent that it is applicable to D.C. residents, Congressional support for removing the barriers that prevent formerly incarcerated people from accessing social security and Supplemental Nutrition Assistance Program (SNAP) benefits.

### 6. Increase or remove all time limits on incarcerated individuals' social phone and video calls.

To attempt to counteract the harm of the intense social isolation caused by pandemic-related lockdowns and the suspension of in-person social visits, the BOP has made social phone calls free for all incarcerated individuals and increased their monthly phone-time allowance from 300 to 500 minutes. While we applaud these developments, we believe more can be done to alleviate incarcerated people's widespread struggles to stay in contact with their loved ones. The BOP should lift the current limit of 15 minutes per phone call, which does not provide incarcerated individuals with sufficient social contact during these incredibly isolating times. And, we urge you to push for the introduction of electronic tablets for use by those incarcerated in the BOP, and to provide for video visitation alongside phone calls, without any charges for either.

Restrictions on social phone calls has long been an issue of paramount importance for D.C. residents living in federal prisons throughout the country, given that their increased physical distance from their loved ones renders in-person visits less frequent. We therefore urge you to advocate that changes in this policy be extended to the long term, even after BOP resumes social visits.

### 7. Require the USMS to follow protocols that prevent further spreading of the virus.

The agreement exempting the USMS from properly testing or quarantining individuals in its custody poses an inexcusable risk to federal prison populations and communities around the country. The agreement must be amended, therefore, to require that the USMS ensure that the individuals in its custody can be transferred safely. Rather than just transferring individuals between the custody of the local Department of Corrections and the Bureau of Prisons, every effort should be taken to decrease the incarcerated populations through measures such as the expanded use of home confinement.

### 8. Strengthen the USPC's role in de-carcerating BOP facilities and minimizing transmission of the virus.

The USPC must take numerous steps to reduce the number of D.C. residents exposed to the coronavirus, and to minimize its spread. First and foremost, the USPC should actively seek to release as many people as possible on parole as quickly as possible. Some specific paths to decarceration (although by no means an exhaustive list) include:



- adjusting the requirements of parole to align with situations created by the COVID-19 crisis,
- not re-incarcerating any individuals for administrative parole or supervised release violations during the pandemic,
- expanding the categories of people eligible for early release,
- reducing the number and type of new warrants being issued,
- conduct revocation hearings within sixty five days that comport with constitutional due process guarantees,
- limiting the transfers of people to BOP for institutional revocation hearings.
- not alleging new violations for failures to pay fines, fees, and court debt penalties required
  as a condition of parole during the pandemic because the economic regression has affected
  recently-incarcerated people on parole disproportionately due to their increased likelihood
  of belonging to a vulnerable socioeconomic class and the additional barriers they face in
  obtaining employment, housing, and services.

The USPC can expand early release is by removing the requirement that a person's release date be within 30 days. By extending consideration for early release to individuals with release dates within 90 days, the USPC may broaden the pool of individuals eligible for release and accelerate decarceration efforts. The USPC can also remove the broad category of "serious criminal offense" for new warrants, as the enumerated offenses already list the most serious possible offenses, and can also remove the category of those who have not served a certain proportion of their potential USPC guidelines sentence. The pandemic should urge a reconsideration of these traditional approaches to incarceration, given the grave public health risks. The USPC should also eliminate transfers of people from D.C. to BOP facilities for institutional revocation and parole grant hearings, unless specifically requested by the person facing revocation or grant. If people are to be incarcerated by the USPC, care should be taken to ensure that they are not placed in facilities that have known outbreaks and documented lack of care and poor conditions. For example, the USPC should not transfer any individuals into BOP facilities like Butner and Seagoville, whose outbreaks persist uncontrolled. Finally, the USPC must adjust parole requirements to comply, to the best of its ability, with social distancing guidelines.

### 9. Direct the Office of the Inspector General to Conduct a Study.

We request that a study by the Office of the Inspector General be completed to assess the degree to which the identified agencies are complying with requirements and protocols and protecting those in their custody.

#### Conclusion

While we understand the immense pressure COVID-19 has placed on elected officials across various areas for reform, we cannot emphasize enough the importance of advocating for and supporting this unprotected, underserved population right now. Many people in BOP facilities are still contracting COVID-19 and dying. Outbreaks in federal prisons will continue to impact



the everyday lives of thousands of incarcerated D.C. residents and their families, and we believe that both short and long-term relief and reform are crucial to improving the lives of this vulnerable population. In addition to the requests above we also hope that these pervasive injustices will lead you to reconsider the current levels of federal and local incarceration and advocate for steps that Congress can take to reduce its scope. We look forward to hearing from you as to whether you will share these requests with the identified agencies. We are more than ready to assist however we can, and we are thankful for your consideration of the situation and our recommendations.

Sincerely,

ACLU-DC Insight on the Inside

Amazing Gospel Souls, Inc.

Jubilee Housing

Campaign for the Fair Sentencing of Youth

Justice Policy Institute

Catholic Charities Open City Advocates

Church of Scientology National Affairs Public Defenders' Service for D.C.

Office

The Campaign for Youth Justice DC Jail & Prison Advocacy Project

The National Reentry Network for Returning

DC Project Connect Citizens

Defender Impact Initiative School Justice Project

Free Minds Book Club & Writing Workshop Thrive DC

Hope Foundation Reentry Network Washington Lawyers' Committee for Civil

Rights & Urban Affairs

cc:

Mayor Muriel Bowser Interim Deputy Mayor for Public Safety & Justice Roger Mitchell Charles Allen, Chairperson of the Committee on the Judiciary & Public Safety