



Washington State Senate

Dear Governor Inslee,

April 17, 2020

We, the undersigned legislators, representing districts across the state of Washington, urge you to avoid following through with the early release of offenders in the custody of the Department of Corrections (DOC) as a means for protecting inmates from the COVID-19 virus.

DOC submitted a response brief to Washington's Supreme Court indicating plans for the early release of approximately 600 to 950 offenders in DOC custody. This number would be in addition to the approximately 1200 community-supervision violators DOC has recently declined to re-confine. DOC's response brief indicates it is investigating avenues for early release that include: graduated reentry under RCW 9.94A.733; expanded work release under RCW 72.65; use of extraordinary medical placements under RCW 9.94A.728(1)(c), furloughs via RCW 72.66.012; and the governor's pardon and commutation power granted by the Washington Constitution.

While we understand the court has ordered you to take "all necessary steps" to protect inmates, the public deserves better. DOC's stated mission is to improve public safety. Efforts to secure early releases for offenders do not comport with this commitment. The state has options that do not require the early release of convicted felons. And the plan to release these prisoners without notice to crime victims and their families is a clear violation of the Washington constitution.

First, let us address the constitutional violation. Your public statements have indicated that neither your office nor DOC intends to notify crime victims of prisoner releases, and by extension, that no crime victims will be afforded the opportunity to protest. Article 1, Section 35 of the Washington constitution guarantees crime victims the right to make a statement at any proceeding where release is considered. This section of the Washington constitution was approved by the people of Washington in 1989, and it explicitly states that its goal is "to ensure victims a meaningful role in the criminal justice system and to accord them due dignity and respect." If your office and DOC choose to release convicted felons without notice, we would appreciate clarification from your office regarding its authority to ignore the requirements of the Washington constitution.

Because the constitutional violation appears evident on its face, we also are concerned about liability for the state if and when these convicted felons commit new crimes. You may recall that this was an issue in 2015, when the inadvertent release of thousands of dangerous felons led to two deaths and other criminal acts. The primary difference here is that in the former case, the early releases were accidental. In this case, the releases will be deliberate, and the state's responsibility for any crimes that may occur is all the more clear.

Secondly, there are a number of unanswered questions about your early-release plan. How will DOC ensure adequate supervision of the releasing offenders when face-to-face contacts and warrant enforcement activities have been intentionally limited via proclamation? There has been no mention of including a mandatory two-week quarantine for any offender granted early release -- shouldn't such a requirement be a given?

Thirdly, we believe there are better options than the mass release of felons who ought to be behind bars. The safest place to house these prisoners would appear to be within the confines of DOC correctional facilities. There, DOC maintains a well-stocked inventory of CDC-recommended personal protection equipment, conducts rigorous screening procedures for offenders and staff, and has implemented social distancing protocols with strict adherence from staff and the offender population. If you and the court wish to protect this particular set of Washington residents from COVID-19, it seems apparent that releasing them from such a controlled environment exposes them to more risk – not less.

DOC's order to limit contact with offenders on community supervision already impairs the state's ability to respond to repeat criminal behavior and offenders who reoffend. As mentioned earlier, the state already has declined to reconfine more than 1,200 offenders who have violated the terms of their community supervision. Adding another 600 to 950 offenders into the community via early release represents an unacceptable risk to public safety.

Because of the nature of their crimes, certain offenders are not amenable to supervision or management once released; also, the offender recidivism rate is approximately 33%, so if DOC were to release offenders early, statistics say that at least one-third of those offenders would not comply with the terms of their release, nor would they be expected to respect your “Stay Home, Stay Healthy” order. Furthermore, once released, offenders are more likely to engage in risky or criminal behavior; if they lack a stable home or living situation, they are more likely to be exposed to COVID-19, and to expose others to COVID-19 once infected.

Instead of releasing convicted felons, DOC should consider alternatives that allow a higher degree of control over offender movement and therefore better protect public safety. These options include expanding work-release placements through new contract procurement, or the use of secure portables on facility recreation grounds. The leading option may be to transfer offenders to the Maple Lane corrections facility in southern Thurston County, which has already been identified by the state Department of Health as a possible isolation and quarantine site for COVID-19 patients. DOC was previously approved for 128 new placements at Maple Lane and its central pharmacy is located on the Maple Lane campus, so access to necessary medicines would be virtually guaranteed. Add Maple Lane's location (less than 30 miles from the DOC Emergency Operations Center and multiple emergency rooms and hospitals) and this facility becomes an administratively and logistically appealing alternative.

Again, we urge you to avoid the early-release option as a path to honoring the court's order. However, if you do move forward with plans for early release, each victim and their family should be notified at least 30 days prior to release, and the offender should, at minimum, be required to have an approved residence, employment, and appropriate programming and treatment. Early release will surely fail to meet its aim if the releasing offenders do not have access to necessary treatment and programming in the community, which under current circumstances, may be difficult to find.

We look forward to your response and hope to remain partners in the ongoing fight against COVID-19.

Sincerely,



Senator Mike Padden
4th Legislative District



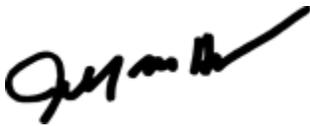
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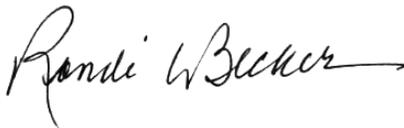
Senator Sharon Brown
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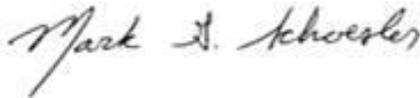
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