

April 9, 2020

President Donald J. Trump
The White House
1600 Pennsylvania Avenue, NW
Washington, DC

Dear President Trump:

We write to you at a time when the lives of some of the most vulnerable people in America's prisons and jails are being threatened by the spread of COVID-19. We are grateful for the efforts your administration has made so far to prevent deaths in federal prisons by beginning to move hundreds of at-risk people to home confinement. We ask today that you expand these life-saving efforts by directing the Department of Justice (DOJ) and Bureau of Prisons (BOP) to act, consistent with the historic First Step Act, to secure compassionate release for even more people whose lives and health are threatened by COVID-19.

As of yesterday, 253 federal prisoners and 85 BOP staff members have tested positive for COVID-19. That number has risen sharply over the past week and is likely to climb even higher in the coming weeks. Eight federal prisoners have died, including Patrick Jones, who died on March 28. Mr. Jones was just 49 years old and suffered from pre-existing conditions that made him extremely vulnerable to COVID-19. Like Matthew Charles, Mr. Jones was sentenced to a lengthy prison term for drug-related crimes. Sadly, he died before he was able to regain his freedom and rejoin his family, as Matthew was able to do, thanks in large part to your leadership.

We were pleased to see that Attorney General Barr directed the BOP to identify at-risk federal prisoners for home confinement on April 3, 2020. We are glad the Attorney General has invoked the new authority granted to him under the CARES Act to expand the amount of time a person can spend on home confinement. The DOJ has said that it has approved more than 600 people for home confinement placement since the directive was issued. These actions will undoubtedly save lives.

We are concerned, however, that the Attorney General's April 3, 2020, directive will still leave in harm's way many at-risk federal prisoners. There are people, like Mr. Jones, who almost certainly would not qualify for home confinement under the Attorney General's directive due to its many limitations on release. These people were not sentenced to die in prison, and yet they are as vulnerable to COVID-19 – and as unlikely to reoffend – as those being released to home confinement.

A solution for that group of at-risk individuals already exists. The BOP has authority to seek compassionate release for people in federal prison whose sentences no longer fit due to an "extraordinary and compelling" change in circumstances. For many people in federal prison, who are elderly or have pre-existing medical conditions, the threat of being exposed to a deadly disease while confined in a prison cell clearly presents such a change. Unfortunately, the BOP has not used its authority to identify vulnerable people and bring motions to secure early release.

Instead, according to recent press reports, even as the disease began to spread, the BOP and DOJ are opposing compassionate release motions brought by at-risk prisoners. The DOJ has argued that the BOP has COVID-19 under control, a position that becomes less defensible every day.

We strongly ask you to direct the DOJ and BOP to immediately use all of the tools they have to protect vulnerable people from COVID-19, including the authority to seek compassionate release. The BOP can start by quickly identifying people whose lives or health will be severely threatened by exposure to the disease and promptly urge the DOJ to file compassionate release motions in federal court. In addition, the DOJ should stop reflexively opposing compassionate release motions brought by people in prison. This opposition undermines your administration's commitment to protecting vulnerable people from COVID-19. In fact, to save more lives, the DOJ should in many cases waive the requirement that at-risk people wait 30 days before seeking release in federal court. These simple steps, using authority the agencies already have, will save lives both inside and outside prison, and would not jeopardize public safety.

Had you not given Matthew a second chance, he would certainly have been among the prisoners without hope of release to home confinement due to the length of his sentence. Removing barriers to compassionate release will help save lives just like his. We are grateful for your consideration of our ideas, and we remain ever thankful for the second chances you have given us.

Sincerely,



Matthew Charles
First beneficiary of The First Step Act



Bernie Kerik
Former NYC Correction Commissioner & retired
NYC Police Commissioner