

The Ohio Association of Criminal Defense Lawyers

*Susan Carr, Executive Director
Columbus*

The Honorable Mike DeWine
77 S. High Street, Floor 30
Columbus, OH 43215

April 1, 2020

Governor DeWine:

First and foremost, the Ohio Association of Criminal Defense Lawyers (OACDL) sincerely thanks you and your Administration for tirelessly working to protect the health, safety, and well-being of all Ohioans. Your efforts have made Ohio the example for smart and effective management of this pandemic. We also applaud all the time, considerations, and hard work you and Director Chambers-Smith have done to prevent the spread of coronavirus (COVID-19) throughout our prisons and to keep the prisons as safe as possible.

As we are sure you understand, we are deeply concerned COVID-19 will spread through Ohio prisons, impacting corrections officers, other prison employees, vendors, and inmates. In that regard, we submit this letter to you, on behalf of our association, as a prayer of obligation – both legal and moral – to protect everyone associated in the Ohio prison system, including prison employees, vendors and prisoners.

As COVID-19 has swept through the nation, we have learned the importance of critical medical actions, including social distancing, through your Administration. Dr. Acton said today in your press conference, “*we have a calm before the storm,*” emphasizing the critical medical actions needed to contain the virus, and social distancing is paramount. Your Administration has rightly prioritized social distancing as medically essential to slow the spread of the virus. Respectfully, we submit the ability to social distance should be a right as many of us can practice as possible, regardless of our status. Prison inmates, particularly those in facilities operating above maximum capacity, are regrettably limited in their ability to engage in social distancing. As a result, it appears to be a matter of when, not if, the virus spreads in our prisons. With the recent announcement that a first corrections officer has contracted the virus, the spread seems sadly inevitable.

We applaud our State leaders who have taken such bold and decisive action to help prevent the spread of the virus in Ohio and save lives. We now humbly write to ask that you continue to take bold and decisive action to protect the most vulnerable among us who have no autonomy to care for themselves – Ohio’s inmates, as well as the corrections officers, other prison employees and vendors.

With these concerns in mind, the OACDL is respectfully requesting that you make use of your authority under the Ohio Constitution, Ohio Revised Code and Ohio Administrative Code to efficiently and responsibly release prisoners who could be reintroduced to society without threatening the safety of our Ohio communities. Specifically, we believe that you have the clear constitutional authority, along with the Department of Health, to broadly make use of the power of commutation and reprieve as an effective means to achieve this goal.

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Through numerous OACDL committee meetings and discussions, we understand that we do not have the tools or expertise to propose the release of a certain number of prisoners. Instead, we request that your Administration work with the Ohio Department of Rehabilitation and Corrections (ODRC) to ascertain what population size at each individual prison would be safe under the circumstances of this pandemic. We believe a population size would be safe if it is one which ensures the prison staff is not overwhelmed and provides safety, medical care, and the ability to socially distance for the remaining inmates.

To that end, we urge you to consider the immediate release of:

- inmates whose **most serious** offense is either a **Fourth - or Fifth - Degree felony**;
- who have **either** under one year of their sentence left to serve in prison, or, who have served **at least 75%** of their sentence;
- who are **Level 1 or Level 2 security**, and;
- who have **verified addresses** for necessary two-week self-quarantining and post release supervision.

If the release of those individuals does not reduce each prison's population to a safe level, we request that you consider releasing:

- inmates whose **most serious** offense is a **Third-Degree Felony**;
- who have **less than 18 months** left on their sentence or have served **at least 75%** of their sentence;
- who are **Level 1 or Level 2 security**, and;
- who have **verified addresses** for necessary two-week self-quarantining and post release supervision.

If information from the Ohio Department of Health and the Ohio Department of Rehabilitation & Correction indicates the additional release of individuals would preserve safety for our prison population for both inmates and prison staff, we next request you consider releasing:

- individuals serving sentences for **non-violent offenses** (regardless of the level of offense);
- who are **either** above a certain age, or, with a **pre-existing health condition**, that would compromise their health and/or safety;
- who are **Level 1 or Level 2 security**, and;
- who have **verified addresses** for necessary two-week self-quarantining and post release supervision.

We encourage a rolling release method to be commenced immediately. We appreciate the need for post-release supervision may be necessary for some of the released prisoners, as well as the need to consider the security levels of current inmates in your decision-making.

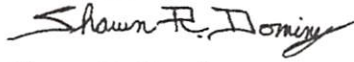
We recognize reducing prison density by releasing prisoners is an unprecedented and courageous act. We believe you have not only the courage to do so but the Constitutional authority as well. Whether the release is accomplished through commutation, judicial release, reprieve or other procedural mechanism, we believe it must be done soon to protect the health and safety of the prisoners as well as the tens of thousands of individuals currently employed in Ohio's prison system.

When you take this step, you will not be alone. The OACDL stands ready to assist your Administration with the responsible release of the prisoners. We will help, in every way possible, to verify addresses and otherwise be the "boots on the ground", to assist in the responsible release of prisoners. We share your goal to ensure that no inmate is more susceptible to the virus upon release due to the lack of a residence or support network, and, appreciate the difficult and epic decisions you have already made to further it.

We understand that our proposal, outlined above, is but one solution to the challenge of how to safely reduce the prison population to prevent the spread of this disease. We appreciate the opportunity to share this proposal with you, and we stand ready and willing to work with your Administration to lend our resources and expertise to assist you in this endeavor. Thank you for your consideration of our proposal, and please do not hesitate to reach out to us if we can be helpful in any way.

Again, thank you for everything you and your Administration have done and continue to do. We're all in this together.

Sincerely,



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