



# LAW ENFORCEMENT LEADERS

To Reduce Crime & Incarceration

Hon. Chuck Grassley  
United States Senate  
135 Hart Office Building  
Washington, D.C. 20510

Hon. Richard J. Durbin  
United States Senate  
711 Hart Office Building  
Washington, D.C. 20510

Hon. Kevin Cramer  
United States Senate  
400 Russell Office Building  
Washington, D.C. 20510

Hon. Thom Tillis  
United States Senate  
113 Dirksen Office Building  
Washington, D.C. 20510

Hon. Christopher A. Coons  
United States Senate  
218 Russell Office Building  
Washington, D.C. 20510

Hon. Roger F. Wicker  
United States Senate  
555 Dirksen Office Building  
Washington DC 20510

Hon. Sheldon Whitehouse  
United States Senate  
530 Hart Office Building  
Washington, D.C. 20510

August 7, 2020

**RE: Law Enforcement Leaders Support for the COVID-19 Safer Detention Act of 2020 (S. 4034)**

Dear Senators Grassley, Durbin, Cramer, Tillis, Coons, Wicker, and Whitehouse:

We write on behalf of Law Enforcement Leaders to Reduce Crime & Incarceration, a national coalition of over 200 current and former law enforcement officials from all 50 states, across the political spectrum. We have dedicated our careers to fighting crime and keeping our communities safe. In support of our commitment to protecting and improving public safety, we urge Congress to address the unique and deadly challenges posed by the COVID-19 pandemic by enacting the COVID-19 Safer Detention Act, S. 4034. This proposed bipartisan legislation, which has been sponsored by Senators Grassley and Durbin, would expand the availability of compassionate release and Elderly Home Detention for low-risk, nonviolent individuals who could otherwise be at risk of severe COVID-19 complications while incarcerated.

A recent study showed that people in prison are 550 percent more likely to contract COVID-19, and 300 percent more likely to die from the disease.<sup>1</sup> Federal prisons currently house approximately 160,000 individuals, of whom nearly 20 percent are aged 51 and older.<sup>2</sup> Statistical analyses have found that the COVID-19 mortality rate is approximately 2.9 percent for those aged 50 to 64, making it more than 25 times as deadly as the seasonal flu — and the mortality rate climbs to 10.4 percent for those aged 65 to 74, and to 20.8 percent for those aged 75 to 84.<sup>3</sup> For elderly and

vulnerable incarcerated individuals, jails and prisons further heighten the existing risks of infection and complications from the disease.<sup>4</sup> Additionally, estimates indicate that approximately 40 percent of all inmates suffer from a chronic health condition, an aggravating factor for COVID-19 complications.<sup>5</sup>

As of today, there have been more than 10,800 documented cases of COVID-19 in federal prisons.<sup>6</sup> Further delays to adequate protections for vulnerable incarcerated people will exacerbate the severe risks these susceptible individuals face, as well as the dangers to the broader federal prison population, correctional officers, and surrounding communities.<sup>7</sup> Additionally, holding vulnerable, elderly offenders in federal prisons as the COVID-19 pandemic continues does little to promote public safety. Research shows that people are increasingly unlikely to recidivate as they age, and recidivism rates are particularly low among elderly individuals.<sup>8</sup>

Although the First Step Act streamlined the compassionate release application process, providing for more time-sensitive and efficient review, the number of people who have procured compassionate release has been quite limited.<sup>9</sup> Only 3.1 percent of compassionate release requests have been granted since the First Step Act's enactment in December 2018.<sup>10</sup> Moreover, as of June 2020, between the start of the pandemic and the introduction of the COVID-19 Safer Detention Act, only approximately 500 individuals were granted compassionate release, and nearly all such releases resulted from court orders over objections posed by the Department of Justice or the Bureau of Prisons.<sup>11</sup>

The COVID-19 Safer Detention Act would improve the compassionate release application process and help prevent suitable recipients from being excluded or denied. The legislation would permit COVID-19 vulnerability to serve as a justification for compassionate release and allow people to seek judicial review of their application 10 days after requesting relief from the BOP rather than the current 30-day waiting period. In addition to expediting and increasing access to compassionate release, the COVID-19 Safer Detention Act would enlarge the Elderly Home Detention Pilot Program as an alternative to traditional incarceration. Program eligibility would be expanded to include nonviolent individuals who have completed more than 50 percent of their sentence as well as elderly individuals convicted for nonviolent D.C. Code violations who are in BOP custody.

Federal prisons are hotspots for COVID-19 infections and complications, with tens of thousands of vulnerable people at risk. Through research and our experience in law enforcement, we know that vulnerable and elderly individuals present minimal safety risks to our communities. The COVID-19 Safer Detention Act would expand eligibility to vulnerable, low-risk prisoners for expedited releases from federal prison during the COVID-19 pandemic. Lowering the number of people incarcerated during the pandemic will in turn reduce the risks facing the general prison population and correctional officers by encouraging greater social distancing in facilities and implementation of the

CDC guidelines.<sup>12</sup> We urge Congress to act on this critical issue by enacting the COVID-19 Safer Detention Act immediately before more lives are needlessly lost to the pandemic.

Respectfully yours,



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<sup>1</sup> Brendan Saloner, et al., *COVID-19 Cases and Deaths in Federal and State Prisons*, *Journal of the American Medical Association*, 2020, <https://jamanetwork.com/journals/jama/fullarticle/2768249>.

<sup>2</sup> Federal Bureau of Prisons, "BOP Statistics: Average Inmate Age," accessed July 2, 2020, [https://www.bop.gov/about/statistics/statistics\\_inmate\\_offenses.jsp](https://www.bop.gov/about/statistics/statistics_inmate_offenses.jsp).

<sup>3</sup> Holly Secon, "The Coronavirus Death Rate in the US Is Almost 50 Times Higher than That of the Flu. See How They Compare by Age Bracket," *Business Insider*, June 23, 2020, <https://www.businessinsider.com/coronavirus-death-rate-us-compared-to-flu-by-age-2020-6>.

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- <sup>4</sup> David Cloud, *On Life Support: Public Health in the Age of Mass Incarceration*, Vera Institute of Justice, 2014, 12, <https://www.vera.org/publications/on-life-support-public-health-in-the-age-of-mass-incarceration>.
- <sup>5</sup> Laura M. Maruschak and Marcus Berzofsky, *Medical Problems of State and Federal Prisoners and Jail Inmates, 2011-12*, Bureau of Justice Statistics, 2015, 1, <https://www.bjs.gov/content/pub/pdf/mpsfj1112.pdf>.
- <sup>6</sup> Federal Bureau of Prisons, “COVID-19 Coronavirus,” accessed August 6, 2020, <https://www.bop.gov/coronavirus/>.
- <sup>7</sup> Lauren-Brooke Eisen, *How Coronavirus Could Affect U.S. Jails and Prisons*, Brennan Center for Justice, 2020, <https://www.brennancenter.org/our-work/analysis-opinion/how-coronavirus-could-affect-us-jails-and-prisons>.
- <sup>8</sup> Marc Mauer, *Long-Term Sentences: Time to Reconsider the Scale of Punishment*, The Sentencing Project, 2018, <https://www.sentencingproject.org/publications/long-term-sentences-time-reconsider-scale-punishment/>; Lauren-Brooke Eisen, et al., *How Many Americans Are Unnecessarily Incarcerated?*, Brennan Center for Justice, 2016, <https://www.brennancenter.org/our-work/research-reports/how-many-americans-are-unnecessarily-incarcerated>.
- <sup>9</sup> “How the First Step Act Changed Compassionate Release,” accessed July 1, 2020, <https://compassionaterelease.com/first-step-act-compassionate-release/>.
- <sup>10</sup> Durbin, Grassley Introduce New, Bipartisan Legislation To Reform Elderly Home Detention And Compassionate Release Amid COVID-19 Pandemic, 2020, <https://www.durbin.senate.gov/newsroom/press-releases/durbin-grassley-introduce-new-bipartisan-legislation-to-reform-elderly-home-detention-and-compassionate-release-amid-covid-19-pandemic>.
- <sup>11</sup> Ibid.
- <sup>12</sup> Centers for Disease Control and Prevention, “Coronavirus Disease 2019 (COVID-19): Guidance for Correctional and Detention Facilities,” 2020, <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>.