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.\(^1\) Federal prisons currently house approximately 160,000 individuals, of whom nearly 20 percent are aged 51 and older.\(^2\) 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.\(^3\) For elderly and
vulnerable incarcerated individuals, jails and prisons further heighten the existing risks of infection and complications from the disease.\(^6\) Additionally, estimates indicate that approximately 40 percent of all inmates suffer from a chronic health condition, an aggravating factor for COVID-19 complications.\(^5\)

As of today, there have been more than 10,800 documented cases of COVID-19 in federal prisons.\(^6\) 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.\(^7\) 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.\(^8\)

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.\(^9\) Only 3.1 percent of compassionate release requests have been granted since the First Step Act’s enactment in December 2018.\(^10\) 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.\(^11\)

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. 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,

Ronal W. Serpas
Executive Director
Law Enforcement Leaders to Reduce Crime & Incarceration
Former Police Superintendent
New Orleans, Louisiana

Taryn A. Merkl
Senior Counsel
Law Enforcement Leaders to Reduce Crime & Incarceration
Former Assistant U.S. Attorney
Eastern District of New York

Eric Atkinson
Police Chief
Menomonie, Wisconsin

Kami Chavis
Former Assistant U.S. Attorney
District of Columbia

John Choi
County Attorney
Ramsey County, St. Paul, Minnesota

Brendan Cox
Director of Policing Strategies
LEAD National Support Bureau
Former Police Chief
Albany, New York

John Diaz
Director
Department of Adult and Juvenile Detention
King County, Washington
Former Police Chief
Seattle, Washington
Thomas Donovan
Attorney General
Vermont
Former State’s Attorney
Chittenden County, Vermont

Richard Doran
Former Attorney General
Florida

Dean Esserman
Senior Counselor
Police Foundation
Former Police Chief
New Haven, Connecticut

Neill Franklin
Executive Director
Law Enforcement Action Partnership
Former Police Commander
Baltimore, Maryland

Hal Hardin
Board of Directors Member
National Association of Former United States Attorneys
Former U.S. Attorney
Middle District of Tennessee

Peter Holmes
City Attorney
Seattle, Washington

John Hummel
District Attorney
Deschutes County, Oregon

Kevin Joyce
Sheriff
Cumberland County, Maine

Chris Magnus
Police Chief
Tucson, Arizona
Beth McCann  
District Attorney  
Denver, Colorado

Joel Merry  
Sheriff  
Sagadahoc County, Maine

Mark Osler  
Former Assistant U.S. Attorney  
Eastern District of Michigan

Brad Pigott  
Former U.S. Attorney  
Southern District of Mississippi

Bryan Porter  
Commonwealth’s Attorney  
Alexandria City, Virginia

Karl A. Racine  
Attorney General  
Washington, District of Columbia

Rick Raemisch  
Former Executive Director  
Colorado Department of Corrections  
Former Sheriff  
Dane County, Wisconsin

Dan Satterberg  
Prosecuting Attorney  
King County, Washington

Thomas B. Wine  
Commonwealth’s Attorney  
Jefferson County, Kentucky

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11 Ibid.