



April 1, 2020

Governor Mike DeWine  
Riffe Center  
77 South High Street, 30<sup>th</sup> Floor  
Columbus, OH 43215

SENT VIA EMAIL

Dear Governor DeWine:

At your March 31 press conference, you discussed the possibility of reducing Ohio's prison population because of COVID-19 concerns. As you know, a coalition of Ohio organizations, including the ACLU of Ohio, contacted you on March 27<sup>th</sup> to encourage such reductions and identify the Ohio laws and the powers of your office that can make such reductions a reality.

At that time, we also expressed a desire to be as helpful as possible regarding this matter. Accordingly, we now follow-up with additional and specific thoughts and recommendations.

One way to approach this issue is to recognize Ohio's prison system currently operates at about 10,000 people above capacity. So, for example, if a reduction of 10,000 were to happen, that would *still* leave the system at 100% capacity. Given this, a 10,000 person reduction feels like a potential floor, but not ceiling, for overall system numbers in this crisis situation.

But we also know any solutions should not consider only the overall number of those locked up. To be most effective, reductions must be considered on a facility-by-facility basis because of variables such as the capacity of each prison, the current population of each prison, and other factors such as the security level(s) of each prison.

For this reason we encourage you to develop a plan that first establishes numerical goals to ensure, as much as possible, each facility can operate effectively and safely to minimize COVID-19 risks and manage all necessary post-exposure steps.

Ideal minimum and maximum numbers of people per prison should be identified as determined/recommended by the Department of Health, Department of Rehabilitation & Correction, and any additional relevant entities and sources with knowledge on best practices specific to prison environments and variables. These ideal numbers then drive the solutions.

In other words, we discourage an approach that selects a handful of categories for reduction with the hope those categories/reductions lead to a much more manageable prison environment. We believe settling on ideal numbers then implementing a comprehensive plan to realize those numbers is the far better approach. Too small of a reduction does not solve these problems.

More specifically, we urge you to consider the following thoughts and categories when considering where to make reductions. We have previously communicated similar ideas and thoughts to you in the past that were not this expansive. However, as we have witnessed how this general situation has proceeded, what is occurring here and in other states, what others have recommended elsewhere, and as we develop new ideas for Ohio, we feel compelled to now offer as much as we can hoping it will prove helpful.

We realize some of these categories will overlap depending on the person in question. When they do overlap, release becomes even more sensible and desirable for that individual and Ohio.

**Health vulnerabilities** – Those with poor health making them particularly vulnerable to COVID-19. This includes those with immune deficiencies, the chronically ill, and the infirmed with (as a floor) less than two years remaining on their sentence.

**Age 60+** – Those 60+ years of age. The January 2019 Census of ODRC Institutional Population identified 311 men and 19 women as 60-69 years old; 39 men and 1 woman as 70-79 years old; and 1 women 80+ years old.

**Six months left** – Those with only six months or less remaining on their sentence. Benefits, if any, of further incarceration for these people is outweighed by numerous COVID-19 considerations.

**Technical violations** – Recent figures show an astonishing 22.3% of those entering Ohio prisons are there for a “technical” (non-criminal) violation of post-release conditions. This figure is very troubling at any time. At this particular time, it is a commonsense target for *significantly* reducing numbers.

**Drug Possession** – As of the January 2019 ODRC Census, 2,491 people were serving time with Drug Possession as their most serious offense. This is the highest number of any individual offense/most serious offense. It represents 14.55% of the total prison population. 1,063 of the 2,491 were for the lowest felony level/F5. Certainly, these numbers are ripe for meaningful reduction.

**Non-Violent** – The 2019 ODRC Annual Report identifies 15,529 people as “Non-Violent” in the prison system. With such a large number considered non-violent, this category is another to be widely considered for meaningful reduction.

To be clear, we do not suggest potential reductions be viewed only through a lens of non-violent vs. violent designations. At this point, there are surely many currently incarcerated who should be considered for release based on any number of considerations. They should not be disqualified or left behind simply because they once were considered “violent” when they can otherwise be safely released.

**Overall F5 & F4** – The January 2019 ODRC Census reveals 1,456 men (3.25% of total pop) in prison for a felony of the fifth degree and 2,682 men (5.99%) for fourth degree felonies. For women, those numbers are 385 for F5 (9.63%) and 392 (9.8%) for F4 offenses.

If F5 offenses were considered as a broad category for eligible release, that number would be approximately/at least 1,800 people.

There are likely other categories deserving of serious consideration. This is not meant to be an exhaustive list. But, it does demonstrate meaningful avenues exist to significantly and safely depopulate our bursting prison system now subject to unprecedented risk.

Finally, we urge special attention be devoted to reentry support for any released. We are confident with proper planning and implementation, a smooth transition can be accomplished for those who leave prison and in ways that do not further increase COVID-19 risks or overall health and stability. This aspect must not be overlooked if Ohio is to be successful in this regard.

Earlier this week, the entire Marion Correctional Institution (2,500 people) was placed on quarantine after a staff person tested positive for COVID-19. With current and increasing knowledge about the spread of COVID-19, especially behind bars, it is highly unlikely the only person now with COVID-19 at Marion CI is that staff person. Or that Marion CI is the only Ohio prison where this will occur.

How effective the State of Ohio is in responding to COVID-19 in our prisons (and jails, youth facilities, immigrant detention, halfway houses, etc.) will be further revealed in the coming days and weeks. The safety of those incarcerated and prison staff demand our leaders act quickly and equipped with proper knowledge to most effectively combat the COVID-19 crisis.

As always, we remain willing to assist to ensure all Ohioans, including those locked up, are kept as safe as possible.

Sincerely,



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