

IN THE

Supreme Court of Pennsylvania

70 MM 2020

In Re: the Petition of the Pennsylvania Prison Society, Brian McHale, Jeremy Hunsicker, Christopher Aubry, Michael Foundos, and Frederick Leonard, on behalf of similarly situated individuals,
Petitioners

RESPONSE OF THE PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION
AS *AMICUS CURIAE* IN OPPOSITION TO THE PETITION

RESPONSE TO THE APPLICATION FOR EXTRAORDINARY RELIEF UNDER THE
CORUT'S KING'S BENCH JURISDICTION.

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I. INTEREST OF *AMICUS CURIAE*

Amicus curiae, the Pennsylvania District Attorneys Association (“PDAA”) is the only organization representing the interests of District Attorneys and their assistants in the Commonwealth of Pennsylvania. These prosecutors represent the collective interests of the people of the Commonwealth in criminal matters, which directly impact citizens’ well-being and safety. The release of inmates incarcerated in county correctional institutions in response to the COVID-19 pandemic is of significant importance in the prosecution of criminal charges generally and the protection of the community at large. Consequently, *amicus curiae* has a substantial interest in the issues raised in the instant petition before this Court, and thus presents this response in opposition to the Application for Extraordinary Relief Under the Court’s King’s Bench Jurisdiction (“Petition”). Pa. R.A.P. 531(a).

II. ARGUMENT

A. SIGNIFICANT PROCEDURES HAVE BEEN IMPLEMENTED IN PENNSYLVANIA TO PROTECT THE COUNTY PRISON POPULATIONS IN RESPONSE TO THE COVID-19 PANDEMIC.

The Petitioners allege that this Court’s intervention is necessary because, according to them, most county courts have been a “business-as-usual approach” toward the COVID-19 pandemic. *See* Petition at 26. Petitioners note Allegheny and Lackawanna counties as the lone exceptions.¹ This is untrue.

The Pennsylvania Courts of Common Pleas are working diligently, along with local district attorneys, public defenders, defense bars, and correctional institutions to limit and decrease the local prison populations. They are doing so rapidly yet responsibly. They are also seeing great progress in this collaborative effort with some of the same methods proposed by the Petitioners, but with a major difference. The Petitioners advocates a one-size-fits-all approach that strips discretion from the courts, probation departments, district attorneys, and defense bar. To balance the safety of the prisoners with the safety of the public, however, requires meaningful consideration of each individual case, in light of many factors and circumstances, such as the nature (rather than mere category) of the crime, its impact on the victim and community, the defendant’s personal background and potential addiction problems, and his or her prior record of crime and appearing for court. This Court’s intervention is not only

¹ Petitioners base their claims about Allegheny and Lackawanna counties on news articles. They do not reveal their basis of information for their allegations about other counties.

unnecessary but would risk dangerous consequences to our local communities at a time when they will be most vulnerable.

The Petitioners are incorrect that Pennsylvania courts are acting with a “business-as-usual approach.” This is far from reality. The judges, district attorneys, defense bar, and corrections officials are working together to responsibly address the COVID-19 health issues at the county level. For example, in Montgomery County, prisoners eligible for parole through August 2020 are being reviewed for early parole. The prison has released employed work release prisoners on electronic monitoring, and unemployed work release prisoners are being reviewed for possible release on electronic monitoring. This county has indefinitely deferred all weekend sentences. The courts expedited the administrative disposition of technical probation violations. The emergency judge promptly reviews all emergency petitions for release. The president judge advised all magisterial district judges to consider the least restrictive option for pretrial release while still ensuring public safety. The District Attorney ordered his prosecutors to negotiate plea deals, where appropriate under the totality of the circumstances, that might result in release. The court is beginning to take these pleas today, April 1, 2020. These and other collaborative efforts are occurring all over the Commonwealth, with district attorneys, defense attorneys, probation and prison officials working collaboratively with the courts. Importantly, they are giving individual consideration to each prisoner. These unprecedented efforts are detailed in

the attachments to this response. See Exhibit A.

This work by the courts and their criminal justice partners is succeeding. The counties have reduced the county prison populations by significant amounts, despite having to deal with daily intakes for serious crimes, and they continue to do so. Here are several examples of the recent progress:

- Berks County reduced its jail population from 922 mid-March to 733 by end of month;
- Bucks County reduced its jail population from 909 mid-March to 724 by end of month;
- Crawford County reduced its jail population from 250 mid-March to 150 end of month;
- Delaware County reduced its jail population from a daily average of 1,880 to 1,229 end of month, with 296 inmates released in the last 2 weeks;
- Lancaster County reduced its jail population from 757 mid-March to 680 end of month;
- Montgomery County reduced its jail population from 1342 mid-March to 1242 end of month.

See Exhibit A. Local self-governance is working; and it allows for the individualized assessment of every case, the balancing of interests, and the protection of the public.

Petitioners, in contrast, want to approach this complex balance-weighting process by blind judicial fiat, such as releasing all county prisoners over age 45. By forcing counties to release inmates based on mere categories rather than on individualized assessments of their particular cases, however, the Commonwealth risks exchanging a public health crisis for a public safety crisis. Release of inmates needs to be done in a methodical and particularized way to best ensure that those inmates' reentry into the

community succeeds and will not risk their safety or the safety of others, and does not undermine public confidence in our criminal justice institutions at a time when public confidence in government is most essential.

Using the grading of the offense for which the inmate is incarcerated as a shorthand for whether they should be released is shortsighted and imprecise. Inmates are classified upon entry into the jails and on regular intervals afterward using proven individualized risk assessment tools to determine the level of risk that person poses to others. These assessment tools consider such factors as mental health, drug and alcohol abuse, and prior criminal history. Grading of offenses also ignores specific victims who may be at risk by an offender's premature release. Mere substitution of offense grading for risk level of an individual offender is a false equivalency. Again, case-by-case assessments are the surest way to release those who do not pose a danger to the community.

In conclusion, Petitioners make the sweeping and uninformed assertion that counties are not doing enough to reduce the population of county jails. This is simply untrue. As a result, the Petition overreaches and manufactures an urgency that does not exist statewide. If Petitioners have evidence that an individual county is not appropriately reacting to the danger of COVID-19 to its jail system, they should seek relief in that county. Accordingly, because the Petition fails to consider measures taken by each county in response to the COVID-19 crisis, as well as the individual

characteristics of each offender, the relief requested in the Petition should be denied.

B. THE RELIEF REQUESTED IN THE PETITION IS OVERBROAD AND FAILS TO CONSIDER THE INDIVIDUAL NEEDS OF EACH DEFENDANT.

1. The relief requested by Petitioner far exceeds the relief granted in the “best practice” jurisdictions cited in the Petition.

In recognition of, and in response to, the threat posed by COVID-19, jurisdictions throughout the country have taken steps to reduce prison populations. Petitioners highlight these “best-practice” jurisdictions’ actions and contrast them with Pennsylvania’s supposed “business-as-usual” approach. *See* Petition at 22-27. Petitioners, therefore, urge this Court to implement an extreme set of measures. Yet, Petitioners’ descriptions of these model jurisdictions’ approaches are incomplete. A more robust understanding of other jurisdictions’ approaches demonstrates that Pennsylvania counties’ efforts (already undertaken independent of this Court’s oversight) are indeed similar. A comparison of the model jurisdictions with the proposal of Petitioners, however, highlights the extreme nature of Petitioners’ request.

A brief review of the model jurisdictions’ actions:

- New Jersey

Petitioners highlight that the Supreme Court of New Jersey ordered the release of “*all* prisoners.” Petition at 23. The New Jersey order, however, does not impact any person in pre-trial status in New Jersey county jails. Nor does petitioner mention that this order resulted from a consent decree² negotiated among multiple criminal justice stakeholders.

² Order of March 22, 2020 In re: The Matter of the Request to Commute or Suspend County Jail Sentences. <https://www.njcourts.gov/notices/2020/n200323a.pdf>

- South Carolina

The order to release those held on bond in South Carolina was directed to “Magistrates, Municipal Judges, and Summary Court staff.”³ Municipal and Magistrate judges generally have jurisdiction only over those criminal cases where maximum imprisonment is less than 30 days or the fines are less than \$500.00.⁴

- Montana

The Chief Justice of the Montana Supreme Court “requested that judges of the state release as many prisoners as they are able to,” leaving trial judges to make case-by-case determinations about hastened release.

- Washington

Petitioners properly (yet incompletely) quote the Washington Supreme Court’s directive. *See* Petition at 23. The full text of the order states that trial courts shall hear motions for pretrial release on an expedited basis “but only if victims or witnesses can participate on an expedited basis.” The order leaves all decision about which prisoners should be released and under what circumstances “to the sound discretion of the trial court.”

The actions of counties across the Commonwealth to reduce county prison populations over the past few weeks are consistent with the actions of those jurisdictions relied upon by Petitioners as model jurisdictions. For example, Montgomery, Crawford, and Lancaster counties have, like the Montana Order, focused on releasing, without bond, as many prisoners as possible, especially those being held for non-violent offenses. Similarly, like South Carolina, Commonwealth counties have endeavored to release those in pre-trial status whose maximum sentence would be less

³ <https://www.sccourts.org/whatsnew/displaywhatsnew.cfm?indexID=2460>

⁴ Jurisdiction of Magistrate Judges <https://www.sccourts.org/magistrateCourt/>; Jurisdiction of Municipal Judges <https://www.sccourts.org/municipalCourt/>

than 30 days unless there was “unreasonable danger” or an “extreme flight risk” by doing so. Like Washington state, Lancaster county has included notification to victims as a part of any early release disposition. Also consistent with Washington state, Delaware, Lehigh, and Lancaster counties have explicitly focused on directing fast-track prison population reduction efforts toward “vulnerable” or “high risk” inmates.

This comparison of Commonwealth counties’ efforts with that of those jurisdictions relied on by the Petitioners underscores the value of a case-by-case analysis of each potential instance of early release by each individual county. The counties of the Commonwealth vary widely in ways that could affect whether early release is appropriate. Many of the declarations submitted by the counties show sharp declines in overall prison population. Where the prisons are significantly under-filled, their ability to provide the necessary social distancing increases. In some counties, no staff members of the county prisons nor any inmates have been diagnosed with COVID-19. In such instances, keeping prisoners in the county prison may provide better protection from the virus than early release into the public where COVID-19 is present. Some counties have few violent pre-trial detainees, whereas other county prisons have a larger number of serious, violent felony defendants awaiting trial within the county prison. These differences emphasize the short-sightedness of a single, broad directive to all counties without recognition of the variation among the prisons and their populations.

The comparison of Pennsylvania counties with these other jurisdictions also highlights how extreme and far-removed the Petitioners' proposal is from the very examples it relies on. First, unlike most jurisdictions mentioned by Petitioners, the request here would instruct all county jails to "release the following categories of people" subject only to the proposed objection procedure it outlines. *See* Petition at 29. The proposal makes no allowance for a determination of a prisoner's suitability for release, availability of medical, rehabilitation, or mental health services outside of the prison system, the potential threat to the community, or flight risk before an order requiring release is issued. Rather, the proposal gives a district attorney only 24-hours (during a period of significantly reduced staffing due to the Governor's and this Court's directives for staff to stay home and judicial proceedings to be curtailed) to object to the ordered release. Even then, the proposal allows for a single category of objection: the potential "significant risk" to the safety of a specific person or the public. The proposal supplies no ability for a district attorney to object based on flight risk or inaccessibility of services necessary to the prisoner.

So too, the "categories of people" Petitioners recommend for release are far broader than even the "best practice" jurisdictions they rely on. It demands the release of anyone detained solely due to a cash bail order, including those (perhaps, especially those) accused of committing violent crimes including murders, aggravated assaults, sexual assaults and rapes, and robberies. It allows those under a probation detainer

with a direct violation in the form of misdemeanor offenses to be released without any opportunity for consideration of the type of misdemeanor. It requires the outright release of anyone over the age of forty-five years old and further demands the release of any person of any age with an enumerated underlying condition.

The objections procedure – in addition to requiring a district attorney’s response in a tight timeframe under regular circumstances, but which is wholly unworkable given current circumstances – provides no standard of review or guidance for the “appointed judicial authority” to determine whether to sustain the district attorney’s objection. The complete lack of a review framework is particularly objectionable given that the proposal only permits a district attorney to object on a single basis.

The proposal is overbroad in its approach to any future arrestees. It forbids the setting of cash bail yet requires the release of individuals on reasonable and non-monetary conditions. *See* Petition at 31, ¶ 3a. It thus forbids, even for the most serious crimes, keeping any new arrestee in prison pending trial. It also insists on a designated special master to ensure county compliance, a demand that wholly ignores the herculean efforts independently undertaken by the counties thus far to accomplish the very outcomes Petitioners incorrectly insist the counties failed to prioritize. For these reasons, the relief requested in the Petition is overbroad, as it far exceeds that which has been granted in the “best practice” jurisdictions cited therein. Accordingly, the Petition should be denied.

2. Due to the diversity in prison populations, the decision to release

inmates must be made on a case-by-case basis.

The relief requested by the Petitioners suggests that all County inmates are nothing more than a number and fall into simple clear-cut categories. Not only is this antithetical to the requirement that bail, sentencing, and parole decisions be individualized, but Petitioner's "good faith understanding of the components of the populations in the Commonwealth's county jails" is woefully deficient. *See* Petition 29.

The population within County Jails are vastly diverse. Releasing individuals based on the scant criteria set forth by Petitioners is reckless. It not only fails to take into any consideration the importance of the safety of the public and the rights of victims, it fails to consider the individual needs of inmates.

With regard to the pre-trial population, simply releasing those unable to satisfy monetary requirements of bail or detained as a result of a probation detainer due to a new arrest, fails to take into consideration any factors regarding bail, let alone some that cannot be ignored, such as: the nature and circumstances surrounding the charges; mental health and substance abuse issues; homelessness, and lack of family support. Outright release of individuals based solely on whether they have a probation detainer or are detained due to an order imposing cash bail would be turning a blind eye to reality. It is potentially harmful not only to the detainee, but to the community.

Some actual examples of pre-trial inmates currently detained in County Jails:

- Inmate A is charged with 3 misdemeanor crimes and 1 summary offense. He is homeless and drug dependent. Pre-trial services have recommended he remain in jail until he can be released to a treatment facility. Under the present circumstances, the availability of such services is far more limited. In the meantime, in order to improve the likelihood of success, inmate A remains in a supervised setting where he receives the care he requires and monitoring he needs.
- Inmate B is charged with misdemeanor offenses. He is diagnosed with schizophrenia, abuses alcohol, and has no verifiable address. While in the County Jail, he will receive a mental health and drug and alcohol evaluation. Upon agreement, his bail will then be reduced so he can follow any of the recommendations based on his evaluations and with the services in place that he needs.
- Inmate C, is incarcerated and awaiting trial on Burglary and related charges. Victim A is the defendant's on again, off again paramour and the two share two children. The defendant drove from New York to where the victim was staying in Bucks County. He followed her, jumped onto her car while she was driving and caused her windshield to shatter all while their toddler was in the backseat of the car. The victim called police who responded while she was still in the vehicle, but had driven away because he was still following her. The victim was too scared to go home that night, so she stayed with a friend. When she went back to her apartment the next day, she had a police escort. She found her laptop was stolen and her TV smashed.
 - Although Inmate C is only 26 years old, he has an extensive history of domestic violence convictions, most of which were resolved as Misdemeanors.
- Inmate D is incarcerated on a Probation detainer. He was on probation for being a person not to possess a firearm when he was yet again arrested for possession of a firearm. Inmate D is not in any high risk category for contracting COVID-19.
- Inmate E is charged with Felony 2 Aggravated Assault for stabbing his neighbor in the neck causing serious wounds near the victim's jugular vein and spine. Inmate E has no verifiable address. Inmate E is not in a high risk category for contracting COVID-19.

- Inmate F is charged with indecent, unlawful contact. The District Attorney will be amending the complaint to include charges of rape of a child, IDSI of a child and manufacturing child pornography. It is alleged that Inmate F was sexually abusing his stepdaughter, as well as his son and daughter. The abuse occurred with the participation of Inmate F's girlfriend, Inmate G, and the abuse was captured on videotape.
- Inmate H is awaiting trial on charges of rape and robbery. It is alleged that this defendant went to the victim's apartment to buy marijuana. While there, the defendant tied the victim's hands, held her at knife point and raped her before stealing drugs and cash and leaving. Inmate H was previously convicted of a Robbery in Philadelphia where he was sentenced to three (3) to ten (10) years. He also has a prior Indecent Assault conviction.

As these examples highlight, the pre-trial population is vastly diverse. There are many factors that require consideration prior to release. Pursuant to Pennsylvania

Rule of Criminal Procedure 523. Release Criteria:

- (A) To determine whether to release a defendant, and what conditions, if any, to impose, the bail authority shall consider all available information as that information is relevant to the defendant's appearance or nonappearance at subsequent proceedings, or compliance or noncompliance with the conditions of the bail bond, including information about:
- (1) the nature of the offense charged and any mitigating or aggravating factors that may bear upon the likelihood of conviction and possible penalty;
 - (2) the defendant's employment status and history, and financial condition;
 - (3) the nature of the defendant's family relationships;
 - (4) the length and nature of the defendant's residence in the community, and any past residences;
 - (5) the defendant's age, character, reputation, mental condition, and whether addicted to alcohol or drugs;
 - (6) if the defendant has previously been released on bail, whether he or she appeared as required and complied with the conditions of the bail bond;

- (7) whether the defendant has any record of flight to avoid arrest or prosecution, or of escape or attempted escape;
 - (8) the defendant's prior criminal record;
 - (9) any use of false identification; and
 - (10) any other factors relevant to whether the defendant will appear as required and comply with the conditions of the bail bond.
- (B) The decision of a defendant not to admit culpability or not to assist in an investigation shall not be a reason to impose additional or more restrictive conditions of bail on the defendant.

Additionally, specific to domestic violence cases, pursuant to 18 Pa. C.S.A. § 2711(c), judges are required to consider the extent to which defendant poses a threat to the safety of the victim. This determination has to be made on a case-by-case basis, as the facts are always specific to the parties involved. The individualized nature of these determinations is borne out by the development of a pretrial risk assessment tool used in domestic violence cases as directed in Section 2711(c.2). Moreover, because Section 2711(c) requires a bail condition that the defendant remain out of the victim's household, it's necessary for pretrial services to confirm an appropriate address as a condition of bail to ensure compliance.

Pre-trial decisions must continue to be reviewed on a case-by-case basis and with consideration of a myriad of factors, including the current unprecedented factor of COVID-19. In many instances, inmates are drug and/or alcohol dependent; suffer from mental illness and/or intellectual disabilities; have anger management deficits and/or have exhibited violent behavior; and, in some cases, are homeless. Because of COVID-19 there is a very limited ability in our community for evaluations and/or

treatment for persons within the foregoing categories. The safety of the community as well as the health of the accused—not just limited to COVID-19, cannot be devalued. All of these factors must be balanced.

For those serving a sentence in County Jail, just as one category does not fit all for the pre-trial population, the same is true of the sentenced population. Contrary to the representations of Petitioner, an individual serving a sentence in a County Jail for a misdemeanor does not automatically categorize that individual as a “low-level offender.” Such characterization fails to take into consideration all of the factors that resulted in his or her sentence. If the legislature wanted bail to only be based on felony offenses, it has had ample opportunity to do so, but has not because each case, each defendant deserves individual consideration. At the time of sentencing, the trial court is required to consider a multitude of factors. Indeed, if a court were to consider only a crime for which a defendant was convicted, this would be a blatant abuse of discretion. The same applies when deciding whether or not to release a sentenced defendant early.

Consideration of only the crime for which a defendant was convicted, fails to consider the circumstances of the crime, the defendant’s prior violent history, the individual needs of the defendant, the safety of the community, and input from the victims. It also fails to consider all of the intangibles that resulted in the sentence the defendant is serving. Often times the sentence is the result of a plea agreement. That

agreement may have included the withdrawal of other counts or cases, contemplation of certain conditions, as well as input from victims. Implementing the broad strokes suggested by Petitioner devalues the individual factors specific to this case and this defendant that both the prosecutor and the defense used in reaching the agreement.

Sentencing requires a fact-specific inquiry that goes well beyond the scope of the raw numbers set forth in an “offense gravity” score and prior record score. The same must be true for early release decisions. Simply releasing individuals within three months of or beyond their minimum is fraught with the same pitfalls as releasing pre-trial detainees based on one category. Many will have no parole plan in place, which could result in a lack of needed services and an unreliable or undesirable residence. This threatens not only the safety of the community but also success of the parolee.

In *Martin v. Pennsylvania Bd. of Prob. & Parole*, 840 A.2d 299 (Pa. 2003), this

Court observed:

The objective of the parole system was to enable prisoners to “re-enter society through a gradual amelioration of their restraint and a substitution of controlled freedom for continued incarceration” under certain, proscribed conditions. *Id.* at 901. As we noted in *Young v. Pennsylvania Bd. of Probation and Parole*, 487 Pa. 428, 409 A.2d 843 (1979), the United States Supreme Court in *Morrissey v. Brewer*, 408 U.S. 471, 477, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972), made the following observations pertinent to our inquiry as to the purposes of parole:

During the past 60 years, the practice of releasing prisoners on parole before the end of their sentences had become an integral part of the penological system. Rather than being an

ad hoc exercise of clemency, parole is an established variation on imprisonment of convicted criminals. Its purpose is to help individuals reintegrate into society as constructive individuals as soon as they are able, without being confined for the full terms of the sentence imposed. It also serves to alleviate the cost to society of keeping an individual in prison. The essence of parole is release from prison, before the completion of sentence, on the condition that the prisoner abide by certain rules during the balance of the sentence.

Young, 409 A.2d at 847 (footnote and internal citation omitted). “The effectiveness of parole as a penological device to assist in the reintegration of the offender into society as a useful member is dependent on the state's power to impose reasonable conditions” of parole and its concomitant responsibility to treat parole violators equitably. *Id.* The state must also consider the protection of the society into which it reintegrates an offender. *See, e.g., Commonwealth v. Brown*, 240 Pa.Super. 190, 361 A.2d 846 (1976).

Martin, 840 A.2d at 302.

Instantly and massively releasing inmates based on the scant criteria Petitioner sets forth would thwart these objectives. Individualized assessment, monitoring, and treatment are necessary for success. Release cannot be based solely on time served or offense committed.

Additionally, releasing vast numbers of inmates, especially without the benefit of parole plans, will overload the ability of probation departments to tailor treatment plans to parolees’ needs and to provide the individual supervision required for success.

Moreover, such a blanket decision is contrary to the courts’ obligation to give victims of violent crimes the opportunity to be heard before parole decisions are made. 61 Pa.

C.S.A. § 6134.1. Failing to address treatment needs and victim safety would do a disservice to inmates and victims alike, all of whom rightfully expect that the court will make its best efforts to protect and consider their interests.

Petitioner's proposal is shortsighted and omits the required consideration and balancing of many factors when making pre-trial and parole decisions. This Court need look no further than some of the inmates highlighted by Petitioner as to why it is necessary that the whole picture be presented when making parole decisions:

Petitioner Jeremy Hunsicker

- Petitioner Hunsicker is currently incarcerated at the Lehigh County Community Correction Center (work release). Contrary to the representation made in the Petition, this incarceration is not only the result of Driving While his License was Suspended as a result of prior DUI (75 Pa. C.S.A. § 1543(B)(1)(iii)). Petitioner Hunsicker also pled guilty to leaving the scene of an accident (75 Pa. C.S.A. § 3743).
- In CP-39-CR-3926-2019, Petitioner Hunsicker was driving his vehicle despite his license having been suspended due to a prior Driving Under the Influence (CP-39-CR-633-2017). Petitioner Hunsicker hit a pedestrian and fled the scene. On November 1, 2019, he pled guilty to both of these charges and was sentenced to an aggregate term of six (6) to twelve (12) months incarceration.
- At the time defendant committed the offenses at 3926-2019, Petitioner Hunsicker was on parole in Case No. 633-2017.
- In Case No. 633-2017, Petitioner Hunsicker was arrested for Driving Under the Influence. Blood tests revealed the presence of active cocaine at the time of his arrest. At the time of his arrest, Petitioner Hunsicker was under the ARD supervision for a prior Driving Under the Influence (CP-39-CR-3522-2015). His license was also suspended.

- On August 1, 2017, Petitioner Hunsicker pled guilty to Driving Under the Influence – 2nd Offense. He was sentenced to five (5) years of Intermediate Punishment with one-hundred thirty-five days of house arrest.
- Petitioner failed to comply with multiple conditions of his house arrest, including failure to remain drug and alcohol free, and as a result on November 29, 2017, Petitioner Hunsicker was resentenced to ninety (90) days to two (2) years in Lehigh County Prison to be followed by a consecutive term of three years probations.
- On January 17, 2019, Petitioner Hunsicker was paroled. While on parole, Petitioner Hunsicker violated conditions of his supervision.
- On May 17, 2019, following a hearing, Petitioner Hunsicker's parole and probation were revoked and he was resentenced to serve the balance of his sentence to be followed by three years' probation.
- Three days later, on May 20, 2019, Petitioner Hunsicker was paroled to an inpatient treatment center.
- Three months later, on August 14, 2019, Petitioner Hunsicker was arrested for the hit and run of a pedestrian and driving while his license was suspended in Case No. 3926-2019.
- On November 20, 2019 following his guilty plea in Case No. 3626-2019, Petitioner's Hunsicker parole and probation in Case No. 633-2017 were again revoked and he was resentenced to serve his balance to be followed by three years' probation.
- Relevant to Petitioner Hunsicker's crimes for which he is currently serving sentences, is his horrendous driving record. In addition to his current conviction for Driving While his License was Suspended due to a DUI, defendant driver's license has been suspended at least, ten other times since 2003. No less than five of these suspensions were the result of Petitioner Hunsicker continuing to drive while his license was suspended, including following suspensions the resulted from each of his prior DUI convictions.

- Petitioner Hunsicker presents a risk to public safety due to his continued pattern of substance abuse and insistence on driving while not properly licensed. The Lehigh County Community Corrections Center (work release) has four hundred available beds. As of March 31, 2020, only eighty-eight (88) inmates, including Petitioner Hunsicker, occupy that facility.⁵ Petitioner Hunsicker has presented no specific health risk as a result of his current incarceration. He is not within the CDC at risk age guidelines and has failed to identify any underlying medical condition. He is 33 years of age and without more presumed to be otherwise healthy.

Petitioner Brian McHale

The Montgomery County probation department aptly summarized McHale's recidivist background as follows while unsuccessfully recommending a state prison sentence:

- The defendant is a forty-four-year-old male that is appearing before Court for his eighth violation of supervision on all of the above files. The defendant has a long history of drug addiction which has resulted in multiple arrests and convictions, as well as non-compliance with the terms of his supervision with the Montgomery County Adult Probation and Parole Department.
- The defendant's files indicate that he has a lengthy criminal history that spans more than two decades. He has been in and out of the Montgomery County Correctional Facility on **twenty** separate occasions having served a cumulative period of five and one-half years. As previously noted, he has a lengthy, severe, drug abuse history. The availability of help for the defendant to achieve sobriety has been as consistent as his unwillingness to take advantage of it. On numerous occasions, the defendant has been afforded multiple treatment modalities that include both inpatient and outpatient treatment. Additionally, he was a participant in Drug Treatment Court and State Intermediate Punishment and was unsuccessfully discharged from both programs. The defendant claimed he needed inpatient treatment, however, had been offered such treatment two days prior to his most recent detainment and he chose to leave the facility. It should also be noted that within hours of his admission into the Montgomery County Correctional Facility on January 8, 2020, the defendant received a misconduct for smoking K2 in the bathroom. This behavior is not indicative of one who has a genuine desire to

⁵ See Declaration of James B. Martin, District Attorney of Lehigh County. (Exhibit A).

achieve sobriety. His only motivation for treatment is to avoid incarceration. He continues to behave under the mindset of a drug addict, assuming no responsibility for his actions and even blaming his Probation Officer for his recent maladaptive behavior.

- The probation department is requesting a State Prison sentence of 9 to 36 months

See Exhibit B: Adult Probation and Parole Report to the Honorable Steven T. O'Neill

Petitioner Christopher Aubry

Aubry was convicted of simple assault. The conviction stemmed from an incident at a restaurant. He used the “n-word” racial epithet directed toward a baby sitting with her family at a nearby table when he was confronted about his loud and belligerent behavior. He thereafter attacked the victim, who had voiced his disgust at his statements, and kicked him in the face.

These examples demonstrate the diversity in the county prison populations and the various factors that must be considered when making pre-trial and parole decision to release an inmate. Because the Petition fails to account for these various factors, and instead requests the unfettered release of general categories of inmates without individualized assessment, the relief requested in the Petition is overbroad. Accordingly, the Petition should be denied.

3. The Petition fails to consider the requirements of the Crime Victim's Act.

Relevant to persons, both juvenile and adult, who are housed either in pre-trial detention, or following adjudication or conviction, sentenced to local facilities, is the

Crime Victim's Act, 18 P.S. § 11.101, *et seq.*, which provides, in relevant part:

Victims of crime have the following rights:

(1) To receive basic information concerning the services available for victims of crime.

(2) To be notified of certain significant actions and proceedings within the criminal and juvenile justice systems pertaining to their case. This paragraph includes all of the following:

(i) Access to information regarding whether the juvenile was detained or released following arrest and whether a petition alleging delinquency has been filed.

(ii) Immediate notification of a juvenile's pre-adjudication escape from a detention center or shelter facility and of the juvenile's subsequent apprehension.

(iii) Access to information regarding the grant or denial of bail to an adult.

(iv) Immediate notification of an adult offender's pretrial escape from a local correctional facility and of the offender's subsequent apprehension.

* * * *

(8) In personal injury crimes where the adult is sentenced to a local correctional facility, to:

(i) receive notice of the date of the release of the adult, including work release, furlough, parole, release from a boot camp or community treatment center placement; ...

(9) If the adult is subject to an order under 23 Pa.C.S. Ch. 61 (relating to protection from abuse) and is committed to a local correctional facility for a violation of the order or for a personal injury crime against a victim protected by the order, to receive immediate notice of the release of the adult on bail.

At a minimum, all victims of persons released from the county facilities must be provided notice of their release from custody. Just as local district attorneys and pre-trial service offices are in the best position to review and evaluate whether individual

offenders are suitable for release, they are also best equipped to provide notice of victims, and is consistent with the Act. *See* 18 P.S. § 11.213, “Responsibilities of prosecutor’s office.” But given the very expedited basis upon which releases would occur, no meaningful notification can occur, especially with personal injury or burglary cases, without petition and review. It must be remembered that some of these individuals have yet to be formally arraigned, and therefore, in many counties, the district attorney’s office may not yet be involved in the case, and therefore, it would be incumbent upon local law enforcement to notify victims in these circumstances, which would be further hampered in smaller departments and those who employ part time officers. Moreover, the wholesale early parole is not, in fact, early parole, but is a *de facto* modification of sentence, which, by statute, should have input from the victims. Meaningfully fulfilling these requirements cannot occur within 24 hours. But more to the point, however, is the fact that the Act provides that victims of crimes are entitled to notice and an opportunity to be heard prior to any parole of a defendant:

(a) Persons to be notified.--No later than 90 days prior to the parole date of an offender, the victim advocate shall notify the victim of the offense for which the offender was sentenced, the parent or legal guardian of a victim who is a minor or a member of the family if the victim is incapable of communicating or has died and shall provide the appropriate person with an opportunity to submit a preparole statement expressing concerns or recommendations regarding the parole or parole supervision of the offender.

18 P.S. § 11.501(a). While it would appear that this Section is only applicable to

actions occurring before the Parole Board, it is certainly consistent with the overarching scheme set forth by the Legislature that victims be notified of any early release from a county sentence as well, and an opportunity to raise their concerns to the court. If this Honorable Court were to provide the petitioners the relief they request, it would be acting contrary to both the letter and the spirit of the statute which was enacted specifically by the Legislature to protect victims from those who have done them harm. Because the relief requested in the petition is overbroad, and because it fails to properly consider the requirements of the Crime Victim's Act, the Petition should be denied.

IV. CONCLUSION

For the foregoing reasons, Petitioners' proposal and general request for King Bench jurisdiction is overbroad. King's Bench jurisdiction is properly granted only where there is a demonstrated need and universal application across the Commonwealth is necessary. Neither situation is present here, as argued above. Thus Petitioners have failed to prove a need for this Court to intervene and likewise have failed to prove that a single, universal approach would best serve the counties of the Commonwealth. Accordingly, the Pennsylvania District Attorneys Association, as *amicus curiae*, respectfully requests that this Court deny the relief requested in the Application for Extraordinary Relief Under the Court's King's Bench Jurisdiction.

Respectfully submitted,

/s/ Catherine Kiefer

Catherine B. Kiefer

Chief District Attorney

Delaware County

Robert M. Falin

Deputy District Attorney

Chief, Appellate Division

Montgomery County

Heather F. Gallagher

Chief Deputy District Attorney

Lehigh County

Kevin F. McCarthy

Allegheny County

Assistant District Attorney

Members, Amicus Committee

Pennsylvania District Attorney's
Association

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

/s/ Catherine Kiefer

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EXHIBIT A

DECLARATION OF THE HONORABLE DAVID J. LOZIER

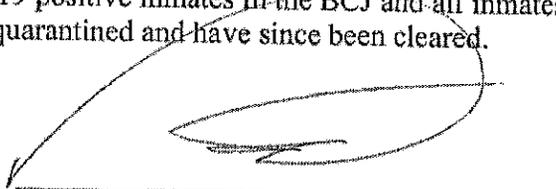
I, David J. Lozier, District Attorney of Beaver County, do hereby state that the following facts are true and correct to the best of my knowledge, information, and belief. I understand that the statements contained herein are subject to the penalties under 18 Pa. C.S. §4904:

1. I am the elected District Attorney of Beaver County and have been serving in that capacity for the past 4 years.
2. Beginning the second week of March 2020, when it became apparent that COVID-19 would affect all aspects of the criminal justice system in Beaver County, the Beaver County District Attorney's Office (DAO) began working closely with the Beaver County Jail (BCJ), the Beaver County Public Defender's Office (BCPD), the Beaver County Adult Probation and Parole Department (APPD), and the Court of Common Pleas to identify and assess pre-trial detainees and probation violators who could immediately and safely be released into the community.
3. My office, in conjunction with the above criminal justice agencies, achieved this goal in a number of ways:
 - a. First, beginning on March 13, 2020, BCJ starting providing inmate population data to the DAO, the BCPD, and APPD to specifically identify those inmates who were in pretrial detention for non-violent and low level offenses, those incarcerated for probation/parole violation matters, and those inmates who are considered "high risk" for experiencing severe COVID-19 symptoms.
 - b. Upon agreement of all the above-named agencies, all inmates identified by BCJ as potentially eligible for release based on the above-stated criteria were forwarded to the DAO and/or APPD to determine whether those individuals could be safely released into the community.
 - c. In considering whether such individuals should be released from custody, my office has taken a balanced and case-by-case approach. We make every effort to notify victims and arresting officers to get their input. We also consider the nature of the offense and whether there are safe supervision alternatives to incarceration. Public safety is then weighed against BCJ's need to have the anticipated ability to quarantine and isolate inmates for medical reasons.
 - d. These actions resulted in the coordinated release of qualified pre-trial and probation violation detainees to house arrest or low level bond.
4. In addition, because in-person probation/parole violation hearings have been suspended due to the judicial emergency, my office worked with APPD, BCJ and the BCPD to identify those incarcerated on probation/parole violation matters who can be safely released into the community by way of stipulated violation orders. The Court of Common Pleas permitted administrative Violation Hearings and Final Violation

ML
2/21/2020

Hearings to be conducted by video conferencing, thereby ensuring the release of inmates who would otherwise have to wait until normal court operations resume and hearings could be scheduled. This also resulted in the agreed termination of some qualified violators who were being held only for technical violations.

5. On March 23, 2020, my office communicated to all 35 Beaver County municipal and county law enforcement agencies that officers should exercise their common sense and informed discretion to avoid custodial arrest or arrest on outstanding warrants for low-level non-violent offenders or matters which could safely be served by summons in the current emergency. This substantially reduced the inflow of defendants into the BCJ.
6. While the process of reviewing inmates for early release continues on a daily basis, the number of new admissions has significantly decreased, there are fewer defendants being admitted on new bail orders, fewer defendants being committed for probation/parole violations, and fewer defendants being held on warrants. My office has also agreed to suspend the execution of some deferred sentencing to further limit the admission of new inmates into the county facilities.
7. I am aware that within the Beaver County Jail, steps are being taken to minimize the movement of people in and out of the facility and to enforce safety measures within the facility. For example;
 - a. In-person visitations have been suspended.
 - b. All attorney visitations are via-glass or video conference.
 - c. My office, working with the above agencies, has expedited the scheduling of all hearings involving jailed defendants. All court appearances are done by video conference so that inmates need not be transported in and out of the facility.
 - d. Social distancing at mealtimes is enforced, and additional sanitizing of high traffic areas has been implemented.
 - e. The BCJ has taken steps to obtain Covid-19 testing kits. Working with a contracted lab all inmates may be tested (urine screen) to determine whether they carry the Covid-19 antibody and may require further testing or quarantine.
 - f. As of today there are no Covid-19 positive inmates in the BCJ and all inmates who displayed symptoms were quarantined and have since been cleared.


David J Lozier
Beaver County District Attorney
Beaver County, PA

Date: March 31, 2020

2 *DL* 3/31/2020

DECLARATION OF THE HONORABLE JOHN T. ADAMS

I, John T. Adams, District Attorney of Berks County, do hereby state that the following facts are true and correct to the best of my knowledge, information, and belief. I understand that the statements contained herein are subject to the penalties under 18 Pa. C.S. §4904:

1. I am the elected District Attorney of Berks County and have been serving in that capacity for the past 12 years.
2. In mid-March 2020, as it became apparent that COVID-19 would affect all aspects of the criminal justice system, the Berks County District Attorney's Office began working closely with the Berks County Jail System (BCJS), the Berks County Public Defender's Office (BCPD), the Berks County Adult Probation and Parole Department (APPD), and the Berks County Court of Common Pleas to identify and assess both pre-trial detainees and convicted defendants serving their sentences in BCJS to determine who could immediately and safely be released into the community.
3. My office, in conjunction with these other criminal justice agencies, established new procedures specifically designed to reduce the BCJS inmate population:
 - a. In Berks County, the Berks County Jail System ("BCJS") provides a daily spreadsheet of all persons committed to the jail, the purpose of their commitment, and if new charges were filed, the bail set for the new charges. This spreadsheet is reviewed on a daily basis by several court personnel, including me and my senior staff. If the bail set for the charges looks inappropriate, measures are taken to adjust the bail to an appropriate amount or release the inmate, if necessary.

For example, last week an inmate was committed to BCJS for Retail Theft, and bail was set at \$5,000 secured. However, upon review of the facts, it was discovered that the inmate stole a tube of toothpaste. BCJS contacted me, and I contacted the President Judge. The inmate's bail was adjusted, and he was released from BCJS the next day.

- b. Regarding the reduction of the number of inmates awaiting trial, the Assistant District Attorneys in Berks County were instructed to review all cases assigned to them. For inmate cases, the file was reviewed to determine whether bail can be modified to release the inmate from custody, or if the cases can be resolved quickly with a time served sentence. The continuing focus is on the resolution of all misdemeanor and low-level felony cases as quickly and efficiently as possible.
 - c. All probation and parole violation hearings are heard on a timely basis, and many cases have been moved forward on the court schedule to resolve these cases quickly. APPD, BCPA and my office have identified all *Gagnon II* hearings that will result in a time served recommendation, and those cases are all being expedited.

- d. Like the resolution of pre-trial bail issues, all cases where the defendant is incarcerated and awaiting sentencing are resolved as quickly as possible through the use of video conferencing equipment.
 - e. BCJS has reviewed their records to identify those inmates who are close to their minimum dates, and assure that these inmates are timely released. In addition, earned time credit has been awarded most inmates to release them prior to their minimum date.
 - f. All cases where the defendant is out of custody – either pre-conviction or post-conviction – have been deferred to give preference to those defendants who are incarcerated.
5. Prior to the advent of the COVID-19 crisis, the BCJS population averaged over 900 inmates. On March 16, 2020, the BCJS population was 922 inmates. However, on March 31, 2020, the population has been reduced to 733, largely due to these policies created to reduce the number of inmates in BCJS.
 6. In addition, for all of these cases, video conferencing equipment is used to avoid the exposure of inmates and court personnel as much as possible. BCJS is located approximately 10 miles from the Berks County Courthouse, so the use of videoconferencing equipment is essential to reduce exposure to the virus for all parties involved.
 7. While the process of reviewing inmates for early release continues on a daily basis, the number of new admissions has significantly decreased. There are fewer defendants being admitted on new bail orders, fewer defendants being committed for probation/parole violations, fewer defendants being held on bench warrants, and fewer defendants being committed on new sentences.
 8. I am also aware that within the county detention facilities, steps are being taken to minimize the movement of people in and out of the facilities and to enforce safety measures within the facilities. For example, in-person visitations have been suspended except for attorney visitations, and the court have made video conferencing equipment available to allow attorney visitations by video.
 9. In order to ensure the appropriate balance between the current public health crisis caused by COVID-19 and the enduring need to ensure public safety and community protection, the determination of which inmates should be released from county detention must be done on a case-by-case balance. My office, the BCPD, BCJS, the courts and private counsel will continue to work together as we move forward with the common goal to reduce our inmate population without jeopardizing the safety of our community. We all remain committed to reduce this population moving forward.

March 31, 2020


John T. Adams
Berks County District Attorney
Berks County, PA

DECLARATION OF THE HONORABLE MATTHEW D. WEINTRAUB

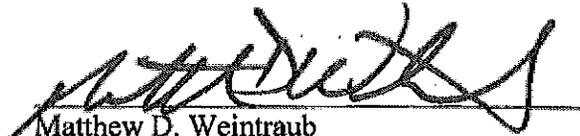
I, Matthew D. Weintraub, District Attorney of Bucks County, do hereby state that the following facts are true and correct to the best of my knowledge, information, and belief. I understand that the statements contained herein are subject to the penalties under 18 Pa. C.S. §4904:

1. I am the elected District Attorney of Bucks County and have been serving as District Attorney since 2016.
2. Beginning the second week of March 2020, when it became apparent that COVID-19 would affect all aspects of the criminal justice system in Bucks County, the Bucks County District Attorney's Office (DAO) began working closely with the Bucks County Correctional Facility (BCCF), the Bucks County Public Defender's Office (BCPD), the Bucks County Adult Probation and Parole Department (APPD), and the Court of Common Pleas to identify and assess both pre-trial detainees and convicted defendants serving their sentences in county detention facilities to determine who could immediately and safely be released into the community.
3. My office, in conjunction with these other criminal justice agencies, achieved this goal in a number of ways:
 - a. First, beginning on March 11, 2020, BCCF started providing inmate population data to the DAO, the BCPD, APPD, and the court, and specifically identified those inmates who were in pretrial detention on low bail amounts and/or for low level offenses, those in on probation/parole violation matters, those inmates who had completed a substantial portion of their sentence, and those inmates who are considered "high risk" for experiencing severe COVID-19 symptoms.
 - b. Upon agreement of all the above-named agencies, inmates who had two weeks or less to serve on their minimum sentences were made immediately eligible for parole to a verifiable address.
 - c. In addition, all other inmates identified by BCCF as potentially eligible for early release based on the above-stated criteria were forwarded to the DAO and/or APPD to determine whether those individuals could be safely released into the community.
 - d. In considering whether such individuals should be released from custody, my office has taken a balanced and case-by-case approach. We notify victims to get their input. We also consider the nature of the offense, temporal proximity to minimum date, and whether there are safe supervision alternatives to incarceration. Public safety is then weighed against BCCF's need to have the anticipated ability to quarantine and isolate inmates for medical reasons.

4. In addition, because probation/parole violation hearings have been suspended due to the judicial emergency, my office has worked with APPD and the BCPD to identify those incarcerated on probation/parole violation matters who can be safely released into the community by way of stipulated violation orders. The Court of Common Pleas has permitted those orders to be presented and entered, thereby ensuring the release of numerous inmates who would otherwise have to wait until normal court operations resume and hearings can be scheduled. I am aware that APPD also continually reviews parole applications to determine who can be safely released and considers only the most egregious and violent misconducts inside the jail to be a reason for opposition to parole.
5. Bail applications filed on behalf of inmates housed in county detention facilities have also dramatically increased over the last two weeks, allowing for judicial review on a case-by-case basis of whether pretrial detainees can be safely released into the community while awaiting trial. My office and the court are available to review emergency bail applications on a daily basis, in addition to the regularly-scheduled twice-weekly bail hearings. Over the last two weeks alone, approximately 200 bail applications have been presented to the court. This is more than double the number of bail applications that were presented in any of the preceding three-week periods. I am aware that APPD has assisted in facilitating the release of pretrial detainees by increasing its screening assessments to determine which pretrial detainees can be released on pretrial supervision pending their trial dates.
6. Finally, while petitions for house arrest are not currently being scheduled during the judicial emergency, defense attorneys have been able to directly contact BCCF to ask that particular inmates be reviewed for release for house arrest. Those requests are then forwarded to my office and reviewed on a case-by-case basis to ensure that inmates who can be safely released to house arrest are so released. I am also aware that BCCF has increased its supply of electronic monitoring devices in order to facilitate the increased number of inmates who are able to serve their sentence on house arrest.
7. As a result of the coordinated efforts by the various criminal justice agencies and the defense bar within Bucks County, the inmate population at both BCCF and the Community Corrections Centers (CCC) has significantly decreased. On March 11, 2020, the inmate population at BCCF was 711 and 198 at CCC. In the following two week period, Bucks County reduced its county inmate population by a total of 115 inmates so that, as of March 30, 2020, there were 628 inmates at BCCF and 166 at CCC.
8. While the process of reviewing inmates for early release continues on a daily basis, the number of new admissions has significantly decreased. There are fewer defendants being admitted on new bail orders, fewer defendants being committed for probation/parole violations, fewer defendants being held on bench warrants, and fewer defendants being committed on new sentences since sentencing hearings have been suspended during the judicial emergency. My office has also agreed to suspend the execution of some deferred sentencings to further limit the admission of new inmates into the county facilities. Additionally, I have advised law enforcement personnel to

initiate arrests through summons whenever it can be done without jeopardizing public safety, thus further reducing the number of arrestees who will be detained pretrial.

9. I am also aware that within the county detention facilities, steps are being taken to minimize the movement of people in and out of the facilities and to enforce safety measures within the facilities. For example, in-person visitations have been suspended except for attorney visitations, and BCCF is transitioning to allow attorney visitations by video. All staff members, incoming detainees, and attorney visitors who enter the facilities have their temperature taken before entering. If staff or an attorney visitor present with an elevated temperature, they are turned away and referred to their primary care provider. Any inmate with an elevated temperature is medically isolated in a special module that has been set aside to allow for quarantine. All court appearances are done by video so that inmates need not be transported in and out of the facility. Social distancing at mealtimes is enforced, and additional sanitizing of high traffic areas has been implemented. Thus far, there have been zero cases of any inmate or staff member at either BCCF or COC having tested positive for COVID-19.
10. In order to ensure the appropriate balance between the current public health crisis caused by COVID-19 and the enduring need to ensure public safety and community protection, the determination of which inmates should be released from county detention must be done on a case-by-case basis. My office, along with the court system, the defense bar, APPD, and the county detention facilities have been working and will continue to work consistently and cooperatively to ensure a balanced, case-by-case approach.



Matthew D. Weintraub
Bucks County District Attorney
Bucks County, PA

Date: April 1, 2020

DECLARATION OF THE HONORABLE DEBORAH S. RYAN

I, Deborah S. Ryan, District Attorney of Chester County, do hereby state that the following facts are true and correct to the best of my knowledge, information, and belief. I understand that the statements contained herein are subject to the penalties under 18 Pa. C.S. §4904:

1. I am the elected District Attorney of Chester County and have been serving in that capacity since January 6, 2020.
2. Beginning in mid-March 2020, when it became apparent that COVID-19 would affect all aspects of the criminal justice system in Chester County, the Chester County District Attorney's Office (DAO) began working closely with the Chester County Prison (CCP), the Chester County Public Defender's Office (PD), the Chester County Adult Probation Office and Parole Department (APO), and the Court of Common Pleas to identify and assess both pre-trial detainees and convicted defendants serving their sentences in county detention facilities to determine who could immediately and safely be released into the community.
3. My office, in conjunction with these other criminal justice agencies, achieved this goal in a number of ways:
 - a. On March 13, 2020, CCP Warden McFadden directly contacted District Attorney Deborah Ryan requesting to stop operations of the County Prison work release program. Our office agreed to allow any and all work-release participants to be granted early parole or furlough.
 - b. On March 18, 2020, Deputy Warden Ronald Phillips provided inmate information to the DAO, the PD, and APO specifically identifying inmates of advanced age who were serving sentences and could be eligible for early release. All parties reviewed this population and our office and APO agreed to the release of any advanced age inmates who did not pose a threat to the safety of the community.
 - c. That same day, information was developed by CCP and forwarded to DAO, PD and APO regarding inmates with health issues or compromised immunity. This population was also reviewed and agreements were made to release appropriate inmates who did not pose a threat to the safety of the community.
 - d. On March 20, 2020, DAO, APO and PDs were provided with information for all inmates currently in the prison pre-release center. From this list, the DAO reviewed all inmates currently sentenced for misdemeanor offenses due to be paroled by the end of April, and agreed to early parole for any who could be safely released. Our office has agreed to continue to review this list on an on-going basis and agree to early releases where possible.

- e. On March 27, 2020, Warden McFadden made a specific request that we reduce the number of female inmates to allow space to create a "quarantine unit" for females, should that become necessary. With the assistance of APO we developed a list of releasable inmates. We are currently working with the PDs to process early parole or furlough orders to allow for additional space in CCP.
 - f. When considering whether individuals should be released from custody, my office has taken a balanced and case-by-case approach. We notify victims to get their input. We also consider the nature of the offense, temporal proximity to minimum date, and whether there are safe supervision alternatives to incarceration. Public safety is then weighed against CCP's need to have the anticipated ability to quarantine and isolate inmates for medical reasons. For all released individuals, APO and the PD have worked to provide appropriate release planning and where appropriate, mental health and substance abuse treatment upon release.
- 4. In addition, because probation/parole violation hearings have been suspended due to the judicial emergency, my office has worked with APO and the PDs to identify those incarcerated on probation/parole violation matters that can be safely released into the community by way of stipulated violation orders. The Court of Common Pleas has permitted those orders to be presented and entered, thereby ensuring the release of numerous inmates who would otherwise have to wait until normal court operations resume and hearings can be scheduled. I am aware that APO continually reviews parole applications to determine who can be safely released and considers only the most egregious and violent misconducts inside the jail to be a reason for opposition to parole.
 - 5. In order to reduce the number of inmates being admitted to CCP, our office has revised its protocol for reviewing individuals who are stopped with a Chester County warrant. Previously, all individuals stopped in neighboring counties or states were automatically brought to CCP to be held for a bail hearing the following day, and thereafter for potential incarceration. During the course of the pandemic our office is now requiring all authorities to contact an on-call ADA who will review each matter. For matters that do not pose a threat to public safety, our ADAs are instructing those authorities to release the individuals with instructions to turn themselves into the Sheriff's Office or the Chester County Bail Agency.
 - 6. We have asked our ADAs to review any matter that can be handled with a time-served sentence and had them reach out to defense counsel, make offers, and dispose of those matters in a timely manner.
 - 7. We are developing a system to allow Preliminary Hearings for incarcerated inmates in a manner that conforms to social distancing requirements.
 - 8. Bail applications filed on behalf of inmates housed in county detention facilities have also increased over the last two weeks, allowing for judicial review on a case-by-case basis of whether pretrial detainees can be safely released into the community while

awaiting trial dates. We have been working in conjunction with the Pre-trial services, as well as the PDs, to expedite bail reviews. Our courts remain open to address bail motions three times per week.

9. As a result of the coordinated efforts by the various criminal justice agencies and the defense bar within Chester County, the inmate population at CCP has significantly decreased. Our population on February 29, 2020 was 766. As a result of all the efforts described herein, as of today it is 649, a decreased of 117 inmates. This reduction occurred in an environment where the joint efforts of all criminal justice agencies had already reduced our prison population from recent historical levels. For example, in January of 2019, the CCP population was 863 inmates.
10. While the process of reviewing inmates for early release continues on a daily basis, the number of new admissions has significantly decreased. There are fewer defendants being admitted on new bail orders, fewer defendants being committed for probation/parole violations, fewer defendants being held on bench warrants, and fewer defendants being committed on new sentences since sentencing hearings have been suspended during the judicial emergency. In January 2020, there were 434 commitments to CCP. In February, there were 402. As of today there have only been 303 commitments to CCP in March 2020.
11. Within CCP, steps are being taken to minimize the movement of people in and out of the facilities and to enforce safety measures from within. For example, in-person visitations have been suspended except for attorney visitations, and CCP is transitioning to allow attorney visitations by video. All incoming inmates are being medically monitored and quarantined for fourteen days before they are moved into the general population of the prison. All staff members, incoming detainees, and attorney visitors who enter the facilities have their temperature taken before entering. If staff or an attorney visitor present with an elevated temperature, they are turned away and referred to their primary care provider. Any inmate with an elevated temperature is medically isolated in a special module that has been set aside to allow for quarantine. All court appearances are done by video so that inmates need not be transported in and out of the facility. Inmates eat in their cells and additional sanitizing of high traffic areas has been implemented. Thus far, there have been zero cases of any inmate or staff member at CCP with a positive test for COVID-19.
12. In order to ensure the appropriate balance between the current public health crisis caused by COVID-19 and the enduring need to ensure public safety and community protection, the determination of which inmates should be released from county detention must be done on a case-by-case balance. My office, along with the court system, the PD, the defense bar, APO and the county detention facilities have been working and will continue to work consistently and cooperatively to ensure a balanced, case-by-case approach.

/s/ Deborah S. Ryan
Deborah S. Ryan
Chester County District Attorney
Chester County, PA

Date: March 31, 2020

DECLARATION OF THE HONORABLE FRANCIS J SCHULTZ

I, Francis J. Schultz, District Attorney of Crawford County, do hereby state that the following facts are true and correct to the best of my knowledge, information and belief.

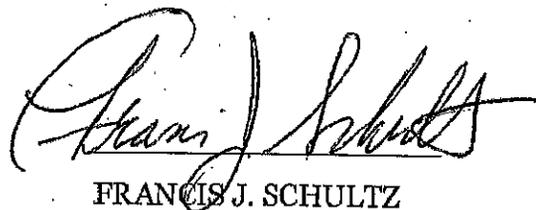
I understand that the statements contained herein are subject to the penalties of 18 Pa.C.S. §4904:

1. I am the elected District Attorney of Crawford County. I have been serving as the District Attorney of Crawford County for the past 20 years. I am a Past President of the Pennsylvania District Attorneys Association and a past member of the Pennsylvania Commission on Sentencing.
2. During the week of March 16th, 2020, Crawford County officials began examining how COVID-19 could impact the population and the employees at the Crawford County Correctional Facility. Our judges, members of my office, members of our adult probation and parole department and members of the defense bar began to identify inmates that could potentially be released in order to reduce the population at the correctional facility in an effort to safeguard the inmates and employees of the facility. Because defendants are sentenced on an individual basis, it was crucial, in order to balance the safety of our citizens with the desire to temporarily reduce the correctional facility's population, that each case was examined individually.
3. Defendants who were close to serving their minimum sentence were identified. Some of these inmates were granted early parole and placed in the house arrest/electronic monitoring program. Our judges and adult probation officers identified inmates who were incarcerated on probation/parole violations. The

court in appropriate cases released some of these inmates under supervision of the adult probation/parole department.

4. On March 18, 2020, the Warden of the Crawford County Correctional Facility suspended our work release program in an effort to limit the number of people coming in and out of the facility. Our judges, members of my office and members of the defense bar identified those affected inmates who might now lose their employment because of the suspension of the work release program. None of us wanted these inmates to lose their jobs. By agreement, these inmates were granted furloughs from the facility so that they could still maintain their employment. Once the crisis is over, they will return to the facility to serve the balance of their minimum term of incarceration.
5. Our judges have continued sentence court dates for all defendants who are at liberty pending sentencing. This has further reduced our correctional facility's population.
6. I have been informed by several of our Magisterial District Judges that they are setting cash bail only in serious felony cases in which they believe the defendant is a threat to the community or is a definite flight risk.
7. By being proactive and working together, members of our local criminal justice system were able to drastically reduce the population of the Crawford County Correctional Facility. Our average population is approximately 250 inmates. We are now down to a population of 150 inmates. That is by far the lowest our population has ever been during my 20 years as district attorney.
8. Our judges, our adult probation and parole department, my office and the defense bar will continue to attempt to identify inmates for potential release

during this current pandemic. It is imperative that this be done on a case by case, inmate by inmate basis. The mass release of certain classes of inmates, without examining the individual case and the individual background of the inmate, is not in the best interest of our community.

A handwritten signature in cursive script, appearing to read "Francis J. Schultz".

FRANCIS J. SCHULTZ
DISTRICT ATTORNEY
CRAWFORD COUNTY, PA

March 31, 2020

DECLARATION OF THE HONORABLE JACK STOLLSTEIMER

I, Jack Stollsteimer, District Attorney of Delaware County, do hereby state that the following facts are true and correct to the best of my knowledge, information, and belief. I understand that the statements contained herein are subject to the penalties under 18 Pa. C.S. §4904:

1. I am the elected District Attorney of Delaware County and have been serving in that capacity since January 6, 2020.
2. Beginning the third week of March 2020, when it became apparent that COVID-19 would affect all aspects of the criminal justice system in Delaware County, the Delaware County District Attorney's Office (DAO) began working closely with the Delaware County Court of Common Pleas, the Delaware County Public Defender's Office (DCPD), the Delaware County Adult Probation and Parole Department (APPD), and members of the Criminal Defense Bar to identify and assess both pre-trial detainees and convicted defendants serving their sentences in our county detention facility to determine who could immediately and safely be released into the community.
3. My office, in conjunction with these other criminal justice agencies, achieved this goal in a number of ways:
 - a. First, beginning on March 14, 2020, the DAO began working with the DCPD and the Criminal Defense Bar to identify those inmates who were in custody at our county jail, the George W. Hill Correctional Facility (GWH), for pretrial detention on low bail amounts and/or for low level offenses, those in on probation/parole violation matters, those inmates who had completed a substantial portion of their sentence, and those inmates who are considered "high risk" for experiencing severe COVID-19 symptoms.

During this ongoing review, the DAO has taken a balanced and case-by-case approach in considering whether identified individuals should be released from custody. We consider the nature of the offense, temporal proximity to minimum date, and whether there are safe supervision alternatives to incarceration. Whenever appropriate, we notify victims to get their input. Public safety is then weighed against GWH's need to have the anticipated ability to quarantine and isolate inmates for medical reasons.

- b. On March 18, 2020, the President Judge of Delaware County issued an Order postponing service for all defendants serving sentences of weekend confinement at GWH.
 - c. On March 19, 2020, the President Judge of Delaware County issued an Order, in agreement with the DAO, directing APPD to conduct an Early Parole Review of all cases of defendants currently serving a sentence of total confinement at GWH. Under this Order, APPD is to make recommendations to the Court consistent with assuring adequate community protection, the recognition of

victims interests, offender accountability, and an individual's rehabilitative needs, to determine if early parole under the following schedule is warranted: For those defendants serving a four (4) month or less minimum total confinement term, the early release date would be one (1) week prior to the otherwise applicable term; for those defendants serving sentences of total confinement with minimum terms greater than four (4) months, but less than eight (8) months, the early release date would be two (2) weeks before the otherwise applicable minimum; and for those serving sentences of total confinement where the minimum terms are greater than eight (8) months but less than eight (12) months, the early release date would be three (3) weeks prior to the otherwise applicable minimum.

- d. On March 26, 2020, the President Judge of Delaware County, in agreement with the DAO, issued an Order allowing for *Re-Parole Review and Possible Release*. This Order directs APPD to review all cases of defendants currently serving at GWH Gagnon II sentences of back-time total confinement imposed by the Delaware County Court of Common Pleas and make recommendations to the Court consistent with assuring adequate community protection, the recognition of victims interests, offender accountability, and an individual's rehabilitative needs, to determine if whether a *re-parole* under the following schedule is warranted: For those defendants serving one hundred twenty (120) day or less total confinement back-time term, the *re-parole* date would be seven (7) days prior to the otherwise applicable release date; those defendants serving sentences of total confinement greater than one hundred twenty (120) days but less than two hundred and forty days (240) days, the *re-parole* date would be fourteen (14) days prior to the otherwise applicable release date; and for those serving back-time sentences of total confinement greater than two hundred and forty (240) days, the *re-parole* date would be twenty-one (21) days prior to the otherwise applicable parole date.
4. On March 16, 2020, by way of a letter to the President Judge of Delaware County, I recommended release on own recognizance (ROR) bail for any new arrestee during the Judicial Emergency caused by COVID-19, unless the magistrate determines, in consultation with the arresting law enforcement agency, the individual presents a danger to anyone in the community pending the resolution of their criminal case.
5. Our Courts and the DAO remains open to receive applications for motions for bail reduction, GAGNON hearings, and guilty pleas for defendants incarcerated at GWH. To the extent possible, these hearing will be scheduled and conducted by video conference from GWH on a weekly basis during the Judicial Emergency in Delaware County caused by COVID-19.
6. As a result of the coordinated efforts by the various criminal justice agencies and the defense bar within Delaware County, the inmate population at GWH has decreased significantly, with 296 individuals being released in just the last two weeks. As of

today, March 31, 2020, the inmate population at GWH was 1,229 compared to the benchmark of 1,880 daily average.

7. While the process of reviewing inmates for early release continues on a daily basis, the number of new admissions has significantly decreased. There are fewer defendants being admitted on new bail orders, fewer defendants being committed for probation/parole violations, fewer defendants being held on bench warrants, and fewer defendants being committed on new sentences since sentencing hearings have been suspended during the judicial emergency.
8. I am also aware that within GWH steps are being taken to minimize the movement of people in and out of the facility and to enforce safety measures and protocols that have been implemented under the direction of the Chester County Health Department. For example, in-person visitations have been suspended except for attorney visitations (GWH is providing two free phone calls per prisoner to help ease social isolation). All staff members, incoming detainees, and attorney visitors who enter the facilities have their temperature taken before entering. If staff or an attorney visitor present with an elevated temperature, they are turned away and referred to their primary care provider. Any inmate with an elevated temperature is medically isolated in a special module that has been set aside to allow for quarantine. All court appearances are done by video so that inmates need not be transported in and out of the facility. Social distancing at mealtimes is enforced, and additional sanitizing of high traffic areas has been implemented. Thus far, there have been twenty-two (22) cases of staff or inmates tested positive for COVID-19. Those individuals have been isolated, quarantined and treated.
9. In order to ensure the appropriate balance between the current public health crisis caused by COVID-19 and the enduring need to ensure public safety and community protection, the determination of which inmates should be released from county detention must be done on a case-by-case balance. My office, along with the court system, the defense bar, APPD, and the county detention facilities have been working and will continue to work consistently and cooperatively to ensure a balanced, case-by-case approach.



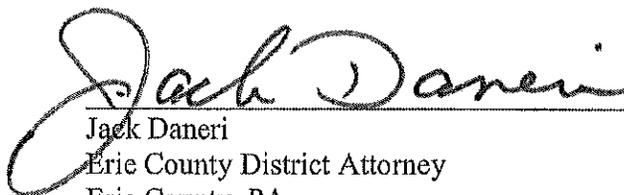
Jack Stollsteimer
Delaware County District Attorney
Delaware County, PA

Date: March 31, 2020

DECLARATION OF THE HONORABLE JACK DANERI

I, JACK DANERI District Attorney of ERIE County, do hereby state that the following facts are true and correct to the best of my knowledge, information, and belief. I understand that the statements contained herein are subject to the penalties under 18 Pa. C.S. §4904:

1. I am the elected District Attorney of ERIE County and have been serving in that capacity for the past 10 years.
2. In response to the question "what is Erie County doing to reduce its jail population?" I can attest to the following:
 - Motions to Reduce Bail, Motions for Early Parole, Motions for Termination of Work Release are being filed by defense counsel, reviewed by the District Attorney's office, and ruled upon by the Court;
 - Adult Probation has lifted detainers on 56 inmates (as of 3/27/20);
 - Preliminary hearings for incarcerated defendants have continued to take place via video;
 - it's anticipated time-sensitive pleas, sentencings, and revocations will commence in the near future;
 - the number of incoming inmates to the Erie County prison has reduced significantly as a result of less arrests being made for low-level, non-violent criminal offenses.



Jack Daneri
Erie County District Attorney
Erie County, PA

Date: March 31, 2020

DECLARATION OF THE HONORABLE HEATHER L. ADAMS

I, Heather L. Adams, District Attorney of Lancaster County, do hereby state that the following facts are true and correct to the best of my knowledge, information, and belief. I understand that the statements contained herein are subject to the penalties under 18 Pa. C.S. §4904:

1. I am the elected District Attorney of Lancaster County and have been serving in that capacity since January 6, 2020.
2. Beginning the third week of March 2020, when it became apparent that COVID-19 would affect all aspects of the criminal justice system in Lancaster County, the Lancaster County District Attorney's Office (DAO) began working closely with the Lancaster County Prison (LCP), the Lancaster County Public Defender's Office (LCPD), the Lancaster County Adult Probation and Parole Services (APPS), and President Judge David L. Ashworth, Lancaster County Court of Common Pleas, to identify and assess both pre-trial detainees, probation/parole violators, and convicted defendants serving their sentences in LCP to determine who could immediately and safely be released into the community.
3. My office, in conjunction with these other criminal justice agencies, achieved this goal in a number of ways:
 - a. On March 19, 2020, following an initial prison reduction action, LCP started providing a list of inmates at or near their minimum sentence to APPS, the DAO and President Judge Ashworth. This was the first step in a phased review of LCP's inmate population to determine which inmates could be released early consistent with their rehabilitative needs, and with consideration for safety and security of the community.
 - b. Priority was given to inmates who were considered "high risk" for experiencing severe COVID-19 symptoms due to age or underlying medication conditions.
 - c. Upon agreement of all the above-named agencies, inmates in this category who were not a threat to the safety of the community were granted early parole or unsecured bail.
 - d. In addition, all other inmates identified by LCP as potentially eligible for early release based on the above-stated criteria were forwarded to the DAO and/or APPS to determine whether those individuals could be safely released into the community.
 - e. In considering whether such individuals should be released from custody, my office has taken a balanced and case-by-case approach. We notify victims to get their input. We also consider the nature of the offense, temporal proximity to minimum date, and whether there are safe supervision alternatives to incarceration. Public safety is then weighed against LCP's need to have the anticipated ability to quarantine and isolate inmates for medical reasons.

4. In addition, because probation/parole violation hearings have been suspended due to the judicial emergency, my office has worked with APPS and the LCPD to identify those incarcerated on probation/parole violation matters who can be safely released into the community by way of stipulated "Fast-Track" violation orders. The Court of Common Pleas has permitted those orders to be presented and entered, thereby ensuring the release of numerous inmates who would otherwise have to wait until normal court operations resume and hearings can be scheduled. I am aware that APPS also continually reviews parole applications to determine who can be safely released and takes a measured case-by-case approach in making such determinations to include the inmate's supervision history, underlying charges, and severity of the violation.
5. Bail applications filed on behalf of inmates housed in LCP have also seen a slight increase over the last two weeks, allowing for judicial review on a case-by-case basis of whether pretrial detainees can be safely released into the community while awaiting trial dates. Additionally, LCP has provided a list to APPS, the DAO, and the President Judge of inmates on low level bail to be considered for release on unsecured bail. Further, addition to bail applications, our office has addressed a number of petitions for early parole filed by defense counsel.
6. In cooperation with the LCPD and the local defense bar, my office has worked with Court Administration and LCP to identify those inmates whose negotiated plea offers call for time served or probationary sentences. Those cases have been and are being scheduled for video guilty pleas. This serves the dual role of reducing the prison population and removing cases from the court's docket.
7. As a result of the coordinated efforts by the various criminal justice agencies and the defense bar within Lancaster County, the inmate population at LCP has seen a consistent reduction of the last two-weeks, even with eb and flow of new commitments. Prison officials have informed me that on March 18, 2020, the inmate population at LCP was 757. The morning of March 31, 2020, the inmate population was 690, and is projected to fall to 680 by the end of the day, resulting in a population decrease of 77 inmates in 13 days.
8. While the process of reviewing inmates for early release, "Fast-Track" violation orders, unsecured bail, and/or guilty pleas continues daily, the number of new admissions has also decreased. Prison officials have informed me that there are fewer new commitments than they would normally expect to see. Additionally, my office has worked with LCP to suspend the execution of most, if not all, deferred sentencings to further limit the admission of new inmates into LCP.
9. I am also aware that within LCP, steps are being taken to minimize the movement of people in and out of the facility and to promote safety measures within LCP. For example, in-person visitations have been suspended except for attorney visitations. To further limit the need for physical attorney visitations, LCP is consistently working with attorneys to set-up video and/or telephone conferences. All staff members,

incoming detainees, arresting officers, and attorney visitors who enter the facility have their temperature taken before entering. If staff, an officer, or an attorney visitor present with an elevated temperature, they are turned away and referred to their primary care provider and/or told to self-isolate. Any inmate with an elevated temperature is put on isolation protocol. All court appearances are done by video so that inmates need not be transported in and out of the facility. Social distancing, frequent handwashing, and other mitigation measures are emphasized to all inmates, and additional sanitizing of high traffic areas has been implemented. Thus far, there have been no cases of any inmate or staff member at LCP testing positive for COVID-19.

10. In order to ensure the appropriate balance between the current public health crisis caused by COVID-19 and the enduring need to ensure public safety and community protection, the determination of which inmates should be released from county detention must be done on a case-by-case basis. My office, along with the court system, the defense bar, APPS, and LCP have been working and will continue to work consistently and cooperatively to ensure a balanced, case-by-case approach during this pandemic and period of judicial emergency.



Heather L. Adams
Lancaster County District Attorney
Lancaster County, PA

Date: March 31, 2020

DECLARATION OF JAMES B. MARTIN

I, James B. Martin, District Attorney of Lehigh County, do hereby state that the following facts are true and correct to the best of my knowledge, information and belief. I understand that the statements contained herein are subject to the penalties under 18 Pa. C.S. §4904:

1. I am the elected District Attorney of Lehigh County and have been serving in that capacity since January, 1998, twenty-two plus years.
2. On or about March 6, 2020, I began participating in meetings with Lehigh County officials concerning our response to COVID-19. I am informed that date was the first time confirmed cases were identified in the Commonwealth of Pennsylvania.
3. For many years in Lehigh County, the District Attorney, the Public Defender, Lehigh Valley Pretrial Services (the bail agency), and the Courts have worked cooperatively and effectively to ensure that pretrial detainees are afforded the rights guaranteed them by the Constitutions of the United States and the Commonwealth and that the provisions of the Rules of Criminal Procedure pertaining to bail are followed.
4. Over the latter part of 2019 and the early months of 2020 as bail procedures were being scrutinized on a national level, the aforesaid entities took concerted action in an effort to ensure that pretrial detainees in Lehigh County were being released on unsecured bail where appropriate.
5. Beginning on or about Monday, March 16, 2020, information was requested of the Lehigh County Director of Corrections, Jeanine Donate, regarding pretrial detainees, inmates serving county sentences and "vulnerable inmates." During the course of that week and into the following weeks, names and identifications were provided to the Office of the District Attorney. Information was also requested regarding inmates housed at the Lehigh County Community Corrections Center (work release).
6. On or about March 17, 2020, representatives of the District Attorney's Office, the Public Defender's Office, Pretrial Services, and Probation and Parole, met to review a list of pretrial detainees and collectively agreed upon stipulations that approximately nineteen (19) such pretrial detainees could be released on unsecured bail. Since that first meeting, such information has been exchanged on a daily basis; and over the past two weeks a total of sixty (60) defendants have been released on pretrial supervision. Those sixty (60) include releases from Lehigh County Jail as

well as twenty-three (23) non-commitments to Lehigh County Jail. It breaks down to thirty-seven (37) persons being released based upon agreements to reduce bail to unsecured, and twenty-three (23) releases prior to defendants even being committed to Lehigh County Jail, i.e. at Preliminary Arraignment.

7. The District Attorney and the Public Defender continue to review Lehigh County Jail population on a daily basis; and an effort is made to release any defendant that can be safely released into the community.

8. The information provided by the Lehigh County Jail to the District Attorney showed one hundred thirty-nine (139) county-sentenced inmates. Each of those cases was individually reviewed and a list of thirty-nine (39), or twenty-five percent (25%), was provided to Lehigh County Probation and Parole for consideration for early parole and release. In other words, the District Attorney indicated to Probation and Parole that if the court were so inclined, there would be no objection on his part to releasing the aforesaid thirty-nine (39) inmates, assuming continuing supervision as determined in the discretion of the Court and the Probation Office.

9. As a point of information: Lehigh County Jail has a total capacity of thirteen hundred sixty three. It has an "operational bed capacity" of one thousand two hundred sixty seven, ie. there are ninety-six beds held for an emergency and not typically occupied. However, as of March 31, 2020, there are six hundred twenty-two (622) inmates in Lehigh County Jail. Of that number, seventy-one (71) are being housed for Federal authorities over which the Lehigh County District Attorney has no jurisdiction. There are three (3) inmates who have been "7Xed" from other jails; four (4) inmates being housed for Philadelphia Corrections and four (4) inmates here on Writs. Thus, as of March 31, there are five hundred forty (540) Lehigh County inmates in either a pretrial or post-dispositional status.

10. Lehigh County Community Corrections Center (work release) has four hundred available beds. As of March 31, 2020, only eighty-eight (88) inmates occupy that facility.

11. The District Attorney, Public Defender, Pretrial Services and the Court continue to cooperate fully in an effort to maintain a reduced population at Lehigh County Jail. Stipulations have been entered with respect to Gagnon Waivers, and prior to the Emergency Orders issued by the Pennsylvania Supreme Court and the Court of Common Pleas of Lehigh County limiting court activities, "fast action plans" were implemented to move cases forward for pleas in both the Court of

Common Pleas and at Preliminary Hearings in Central Court (for incarcerated defendants).

12. It is the intent of all parties in the criminal justice system in Lehigh County to continue the efforts described in the foregoing paragraphs for as long as it is deemed necessary. With the caveat that inmates who are charged with or serving sentences for a crime of violence, a personal injury crime, a Megan's Law offense, or firearms, would likely be met with an objection from the District Attorney and would not be released upon stipulation.

13. Finally, it should be noted and it is our practice which will continue, that inmates be reviewed on a case-by-case basis. In many instances inmates are drug and/or alcohol dependent; suffer from mental illness and/or intellectual disabilities; have anger management deficits and/or have exhibited violent behavior; and, in some cases, are homeless. Because of COVID-19 there is a very limited ability in our community for evaluations and/or treatment for persons within the foregoing categories. Therefore, not everyone can or should be released.

14. All of the foregoing paragraphs are true and correct to the best of my knowledge, information and belief.


James B. Martin, District Attorney
Lehigh County, Pennsylvania

Date: March 31, 2020

IN THE SUPREME COURT OF PENNSYLVANIA

In re: the Petition of :
the Pennsylvania Prison Society, :
Brian McHale, Jeremy Hunsicker, : No. _____
Christopher Aubry, Michael Foundos, :
and Frederick Leonard, on behalf of :
all similarly situated individuals :

**DECLARATION
OF THE HONORABLE STEFANIE J. SALAVANTIS,
DISTRICT ATTORNEY OF LUZERNE COUNTY**

AND NOW, comes, STEFANIE J. SALAVANTIS, District Attorney of Luzerne County, stating that the following facts are true and correct to the best of my knowledge, information, and belief. I understand that the statements contained herein are subject to the penalties under 18 Pa. C.S. §4904:

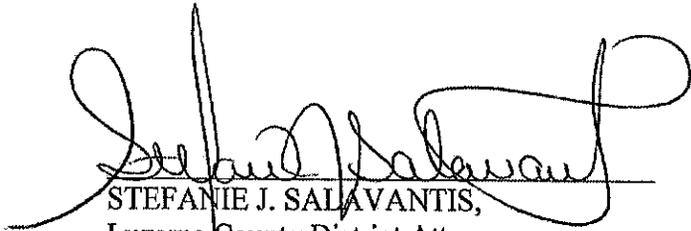
1. I am the elected District Attorney of the above county and have been serving in that capacity for over eight (8) years.
2. Upon learning that COVID-19 would affect all aspects of the criminal justice system in our county, the Luzerne County District Attorney's Office (LCDAO) met with the Court of Common Pleas (Court), the Public Defender (PD), the Luzerne County Department of Corrections (LCDC) and Luzerne County Adult Probation and Parole (LCAP).
3. The purpose of the meeting was to identify and assess both any detainees and convicted defendants in county or state detention facilities in our county to determine who was eligible for (or if not technically eligible, whether accommodations could reasonably and safely be made) for immediate or relatively prompt and safe transfer to home confinement, a rehabilitation facility or release.
4. My office, in conjunction with these other criminal justice agencies, achieved this goal in a number of ways:
 - a. Initially, LCDC provided inmate data to the LCDAO, the LCPD, LCAP, and the court, and specifically identified those inmates who were in pretrial detention on unattainable bail amounts and/or for offenses potentially eligible for release, probation/parole violators, inmates who had completed a substantial portion of their sentence, and inmates who are considered "high risk" for experiencing severe COVID-19 symptoms.
 - b. Upon receipt of this information, the PD drafted petitions for bail modification, furlough, release or parole, as they deemed appropriate.

- c. Thereafter, conflict counsel and private counsel also began submitting similar petitions.
- d. I assigned my First Assistant District Attorney to review each petition (or review with the assigned ADA or supervisor where appropriate) to determine upon which cases we could agree, under the circumstances, could safely be released or transferred as above set forth.
- e. I directed that our responses be filed within twenty-four (24) hours or as reasonably quickly as was possible given the facts/complexity of the case.¹
- f. If the Commonwealth consented, and the Court agreed without more, an Order was issued directing the agreed-upon remedy; otherwise, the Court scheduled a hearing within days.²
- g. In considering whether an inmate should be released from custody, my office made a determination on a case-by-case basis considering:
- The nature of the offense;
 - Any violations of conditions of bail, probation, parole, etc.
 - The nature of those violations;
 - The inmate's proximity to his/her maximum sentence;
 - The inmate's proximity to his/her minimum sentence;
 - Whether release/transfer upon the minimum is appropriate given the above considerations;
 - Whether the inmate could reasonably and safely be released/transferred earlier than the minimum given the above consideration;
 - Consideration of any victim input and reasonableness thereof;
 - The existence of any other safe supervision alternatives to incarceration not previously raised or considered in light of the circumstances.
 - The personal health and safety of the inmate as incarcerated vs. that safety upon the proposed method and location of release;
 - The personal health and safety of the inmate as incarcerated vs. risk to the public if released/transferred per the various methods considered;
 - The urgency of the need for quarantine and isolation of the inmate and/or other inmates;
 - The likelihood of the inmate to commit further offenses of the nature demonstrated previously by the inmate, if any;
 - Any other factor which became relevant upon review of each case.

¹ Nearly every response was filed within twenty-four (24) hours of receipt if not within hours of receipt

² As the Courthouse was not allowing the public to enter or transfers of prisoners into the Courthouse for everyone's safety, the hearing was scheduled via video from LCDC.

5. We estimate that, since the declaration of the instant emergency, approximately two hundred (200) inmates have been reviewed.
6. As a result of the coordinated efforts by the various criminal justice agencies and the defense bar, a significant number of the petitions for release or transfer have been granted.
7. While the petition and review process continues on a daily basis, the number of new admissions has significantly decreased. Luzerne County has experienced fewer defendants being admitted on new bail orders, fewer defendants being committed for probation/parole violations, fewer defendants being held on bench warrants, and fewer defendants being committed on new sentences.³
8. LCDC has taken measures to minimize the movement of people between facilities, has suspended in-person visitations except for attorney visitations, and is transitioning to allow attorney visitations by video.
9. I know of zero cases of any inmate or staff member at either LCDC having tested positive for COVID-19.
10. In order to ensure the appropriate balance between the current public health crisis caused by COVID-19 and the enduring need to ensure public safety and community protection, the determination of which inmates should be released from county detention must be done on a case-by-case balance. My office, along with the court system, the defense bar, LCAP, and LCDC have been working and will continue to work consistently and cooperatively to ensure a balanced, case-by-case approach.



STEFANIE J. SALAVANTIS,
Luzerne County District Attorney
200 North River Street
Wilkes-Barre, Pennsylvania

Date: March 31, 2020

³ Although admittedly, sentencing hearings have been suspended during the judicial emergency.

DECLARATION OF THE HONORABLE KEVIN R. STEELE

I, Kevin R. Steele, District Attorney of Montgomery County, do hereby state that the following facts are true and correct to the best of my knowledge, information, and belief. I understand that the statements contained herein are subject to the penalties under 18 Pa. C.S. §4904:

1. I am the elected District Attorney of Montgomery County and have been serving in that capacity since 2016.
2. Since the inception of the current Judicial Emergency, declared by the President Judge of Montgomery County on March 12, 2020, the Court, Montgomery County Correctional Facility, Probation and Parole, District Attorney's Office, the Private Defense Bar as well as the Public Defender's Office have been working diligently to minimize/reduce the number of individuals being housed at the Montgomery County Correctional Facility (MCCF). We have appropriately released some inmates and have worked on ways to appropriately reduce new admissions.
3. By way of background, all of our criminal justice partners previously mentioned have been working diligently over a period of years to reduce our prison population in Montgomery County in numerous ways. In 2015, the high number of inmates in August went to 2,078, and the average daily population at MCCF for the year was 1,998. (The correctional facility's capacity is 2,080.) On March 12, 2020, the average daily population at MCCF was 1,342. As of March 29, 2020, the average daily population at MCCF was 1,242. The average number of daily commits from January 1, 2020 thru March 12, 2020 was 28. The average number of daily commits from March 13 thru March 29, 2020 was 8.
4. My office, in conjunction with the other criminal justice agencies, are lowering the prison population in a number of ways:
 - a. Any defendant eligible for work release, and who is working, was released on electronic monitoring (over 50 to date).
 - b. Work release defendants who are not currently working are being reviewed for possible release on electronic monitoring.
 - c. All defendants directed to serve weekend sentences were deferred until further notification by the Court.
 - d. Administrative Dispositions (technical violations of non-violent offenses) are being handled by the Court and Probation. The assigned Judge has also been taking guilty pleas on new cases.
 - e. Further, any defendant eligible for parole through the end of March was reviewed for early parole as of March 12, 2020.

- f. Although we are operating with only one emergency Criminal Court right now, the assigned Judge is entertaining guilty plea agreements for incarcerated defendants on new charges where the disposition is either time-served or probation.
 - g. President Judge DelRicci also instructed all Magisterial District Judges to consider the least restrictive option for pretrial release while still insuring that public safety is not ignored. That information was relayed to the law enforcement community in Montgomery County.
 - h. It should also be noted that President Judge DelRicci said in a March 30, 2020 update to the County Commissioners regarding the population at our correctional facility that "EVERY decision involving release from detention is reviewed individually—on the merits—and no release will be authorized if such release appears to pose a danger to the community at large....The safety of our community remains paramount."
5. Ensuring the appropriate balance between the current public health crisis caused by COVID-19 and the enduring need to ensure public safety, the determination of which inmates should be released from county detention must be done on a case-by-case basis where a balance must be struck. My office, along with the court, the defense bar, probation and parole department, and the county correctional facilities will continue to ensure a balanced, case-by-case approach that meets the needs of the citizens of Montgomery County. I anticipate, with the current working relationship, we will be able to lower the population further.



Kevin R. Steele
District Attorney
Montgomery County, PA

Date: March 31, 2020



Hon. Thomas M. DelRicci
President Judge
Montgomery County Courthouse
P.O. Box 311
Norristown, Pennsylvania 19404
610-278-3771

Date: March 30, 2020
To: County Commissioners

Subject: Court's COVID-19 Response – MCCF Population

Dear Commissioners:

Since the inception of the current Judicial Emergency, declared by this Court on March 12, 2020, the Court has been working diligently to minimize/reduce the number of individuals being housed at the Montgomery County Correctional Facility (MCCF) – looking at both the appropriate release of current inmates and methods to appropriately reduce new admissions. This memo will summarize our efforts to date.

Initially, it bears noting that the Court and our criminal justice partners have been working diligently to reduce our prison population for more than a decade. In 2010, for example, the average daily population at MCCF was as high as 2,000. On March 12, 2020, the average daily population at MCCF was **1,342**. As of March 29, 2020, the average daily population at MCCF was **1,242**. The average number of daily commits from January 1, 2020 thru March 12, 2020 was **28**. The average number of daily commits from March 13 thru March 29 was **8**.

The above reductions are attributed to a number of Court directives implemented since the inception of the Judicial Emergency, including the following:

- Any defendant eligible for parole thru the end of March was reviewed for early parole as of March 12, 2020;
- Any defendant eligible for work release, and still working, was released on electronic monitoring (over 50 to date);
- All defendants directed to serve weekend sentences were deferred until further notification by the Court;

- Administrative Dispositions of APO violations were expedited;
- Emergency Petitions for release were reviewed by the Emergency Judge;
- All MDJs were instructed to consider the least restrictive option for pretrial release – while still insuring public safety;

Moving forward from today, the Court, with the assistance of the District Attorney, Public Defender and MCCF, has agreed to expand our efforts as follows:

- Any defendant eligible for parole thru the end of August 2020 will be reviewed for early parole;
- Administrative Dispositions (technical violations of non-violent offenses) will be increased;
- Work release defendants who are not currently working will be reviewed for possible release on electronic monitoring;
- The Court will entertain guilty plea agreements for incarcerated defendants on new charges where the disposition is either time-served or probation;

It's the Court's belief that the above efforts will have a significant impact on the prison population. **It must be stressed that EVERY decision involving release from detention is reviewed individually – on the merits – and no release will be authorized if such release appears to pose a danger to the community at large.** No defendant will be released or considered for release if they are serving a mandatory minimum sentence, or charged with or convicted of a sexual offense, or charged with or convicted of a crime of violence. The safety of our community remains paramount.

Thank you.

EXHIBIT B

Parole Date: October 19, 2019
Probation Date: March 19, 2021

RE: Brian McHale

PAGE 2

CP-46-CR-0000899-2013

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0000899-2013

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #0899-13 (Count 1)/ Violation of Probation (Retail Theft)/F3/The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the expiration of parole.

Bill of Information #/Penalty:

Bill #0899-13 (Count 1)/ Seventeen (17) months backtime/ One (1) year, two (2) months exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

CP-46-CR-0000446-2013

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0000446-2013

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #0446-13 (Count 1)/ Violation of Probation (Retail Theft)/F3/The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the expiration of parole.

Bill of Information #/Penalty:

Bill #0446-13 (Count 1)/Seventeen (17) months backtime/ One (1) year, two (2) months exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

RE: Brian McHale

PAGE 4

CP-46-CR-0000663-2013

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0000663-2013

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #0663-13 (Count 1)/ Violation of Probation (Retail Theft)/F3/The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the expiration of parole.

Bill of Information #/Penalty:

Bill #0663-13 (Count 1)/ Seventeen (17) months backtime/ One (1) year, two (2) months exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

CP-46-CR-0006007-2015

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0006007-2015

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #06007-15 (Count 1)/ Violation of Probation (Retail Theft)/F3/The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the expiration of parole.

Bill of Information #/Penalty:

Bill #06007-15 (Count 1)/ Seventeen (17) months backtime/ Three (3) year, one (1) month

exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

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CP-46-CR-0001994-2013

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0001994-2013

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #1994-13 (Count 1)/ Violation of Probation (Retail Theft)/F3/The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the expiration of parole.

Bill of Information #/Penalty:

Bill #1994-13 (Count 1)/ Seventeen (17) months backtime/ One (1) year, two (2) months exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

CP-46-CR-0007416-2014

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0007416-2014

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #7416-14 (Count 1)/ Violation of Probation (Retail Theft)/F3/The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the expiration of parole.

Bill of Information #/Penalty:

Bill #7416-14 (Count 1)/ Seventeen (17) months backtime/ One (1) year, two (2) months exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

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CP-46-CR-0008677-2014

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0008677-2014

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #8677-14 (Count 1)/ Violation of Probation (Retail Theft)/F3/The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the expiration of parole.

Bill of Information #/Penalty:

Bill #8677-14 (Count 1)/ Seventeen (17) months backtime/ One (1) year, two (2) months exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

CP-46-CR-0008544-2014

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0008544-2014

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #8544-14 (Count 2)/ Violation of Probation (Access Device Fraud)/M1/ The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the expiration of parole.

Bill of Information #/Penalty:

Bill #8544-14 (Count 2)/ Seventeen (17) months backtime/One (1) year, one (1) month exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

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CP-46-CR-0006828-2015

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0006828-2015

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #6828-15 (Count 1)/ Violation of Probation (Retail Theft)/F3/The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the expiration of parole.

Bill of Information #/Penalty:

Bill #6828-15 (Count 1)/ Seventeen (17) months backtime/ Three (3) years, one (1) month exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

CP-46-CR-0006180-2015

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0006180-2015

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #6180-15 (Count 1)/ Violation of Probation (Retail Theft)/F3/The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the expiration of parole.

Bill of Information #/Penalty:

Bill #6180-15 (Count 1)/Seventeen (17) months backtime/ Three (3) years, one (1) month exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

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CP-46-CR-0006294-2015

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0006294-2015

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #6294-15 (Count 1)/ Violation of Probation (Retail Theft)/F3/The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the expiration of parole.

Bill of Information #/Penalty:

Bill #6294-15 (Count 1)/ Seventeen (17) months backtime/ Three (3) years, one (1) month exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

CP-46-CR-0006295-2015

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0006295-2015

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #6295-15 (Count 1)/ Violation of Probation (Retail Theft)/F3/The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the

expiration of parole.

Bill of Information #/Penalty:

Bill #6295-15 (Count 1)/ Seventeen (17) months backtime/ Three (3) years, one (1) month exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

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CP-46-CR-0006178-2015

Hearing Type Requested: Gagnon I

Case Number: CP-46-CR-0006178-2015

Judge: Honorable Steven T. O'Neill

Date of Last Appearance: April 19, 2019

Bill of Information #/Charge/Grading/Sentence:

Bill #6178-15 (Count 1)/ Violation of Probation (Retail Theft)/F3/The defendant was sentenced to undergo imprisonment for not less than six (6) months nor more than twenty-three (23) months in the Montgomery County Correctional Facility, commitment to date from April 19, 2019. He was also placed on probation for a period of one (1) year, to run consecutive to the expiration of parole.

Bill of Information #/Penalty:

Bill #6178-15 (Count 1)/ Seventeen (17) months backtime/ Three (3) years, one (1) month exposure

Parole Date: October 19, 2019

Probation Date: March 19, 2021

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OFFENDER INFORMATION

Violations Charged: *(See attached violation letter)*

Notice of Violation: January 13, 2020, accepted

Probable Cause Established: N/A

Custody: Montgomery County Correctional Facility

Detainers/Bail: A Montgomery County Adult Probation and Parole Departmental Detainer was lodged on January 8, 2019.

Counsel: Public Defender's Office, unless otherwise notified

Multiple Judge Cases: N/A

PSI/PPI: Presentence Investigation (PSI) Reports were completed on May 11, 1995 and October 22, 2018. Probation and Parole Intervention (PPI) Evaluations were completed on October 10, 2001, December 18, 2001 and January 12, 2019.

Number of Violation Convictions: Seven (7)/ Five (5) on expired dockets

Sanction History: N/A

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RECOMMENDATION

The following recommendation is made upon information available that is true and current to the best of our knowledge and belief. The department reserves its right to withdraw and/or modify this recommendation, upon production of new evidence and/or information, relative to the offender and/or offender's legal standing.

The defendant is a forty-four-year-old male appearing before your Honor for his eighth violation of supervision. It should be noted that the defendant was at liberty for two months prior to being incarcerated on the instant violation which is due to technical violations. The defendant has a long history of drug addiction which has resulted in multiple arrests and convictions, as well as non-compliance with the terms of his supervision with the Montgomery County Adult Probation and Parole Department.

A review of the defendant's file indicates that he has a lengthy criminal history that spans more than two decades. He has been in and out of the Montgomery County Correctional Facility on twenty separate occasions having served a cumulative period of five and one-half years. As previously noted, he has a lengthy, severe, drug abuse history. The availability of help for the defendant to achieve sobriety has been as consistent as his unwillingness to take advantage of it. On numerous occasions, the defendant has been afforded multiple treatment modalities that include both inpatient and outpatient treatment. Additionally, he was a participant in Drug Treatment Court and State Intermediate Punishment and was unsuccessfully discharged from both programs. The defendant stated that he needed inpatient treatment, however, had been offered such treatment two days prior to his most recent detainment and he chose to leave the facility. It should also be noted that within hours of his admission into the Montgomery County Correctional Facility on January 8, 2020, the defendant received a misconduct for smoking K2 in the bathroom. This behavior is not indicative of one who has a genuine desire to achieve sobriety. His only motivation for treatment is to avoid incarceration. He continues to behave under the mindset of a drug addict, assuming no responsibility for his actions and even blaming this Officer for his recent maladaptive behavior.

The defendant suffers from a genetic blood disorder that apparently interrupts the blood flow to his limbs. Consequently, he claims to be in need of a double hip replacement. In October of 2019, he was paroled prior to having a Level of Care Assessment completed in an effort to have him seek necessary medical attention. At that time, he was prescribed Hydrocodone for

pain. He made feeble attempts to address his medical condition and when he was no longer able to receive the prescribed pain medication, the defendant returned to the use of illicit drugs. While at liberty since his parole until his most recent incarceration, the defendant has been deceitful and manipulative. He would relate that his main focus was to achieve sobriety, be a presence in his children's lives and become a productive member of the community. He would leave messages for this Officer that he was entering inpatient treatment, however, it would not come to fruition. In one instance, he stated that while enroute to Malvern Institute, he could not breathe and was admitted to Abington Hospital with a diagnosis of pneumonia. After much questioning by this Officer, he admitted that he snorted Methamphetamine and had a bad reaction, hence his hospital admission.

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To say that all resources at the county level have been exhausted is an understatement. Hopefully, a period of incarceration in a state correctional institution, preferably at SCI Chester, will afford the defendant, once again, the opportunity to address his addiction and succeed at recovery.

If the defendant is found in violation of his probation and parole, the following recommendation is submitted for your Honor's consideration:

Bill No. 6007-15 (Count 1), the defendant's probation should be revoked and he should be sentenced to undergo imprisonment for not less than nine (9) months nor more than thirty-six (36) months in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at Phoenix for this purpose, commitment to date from January 8, 2020.

No action to be taken on the parole.

Bill No. 6178-15 (Count 1), the defendant's probation should be revoked and he should be sentenced to undergo imprisonment for not less than nine (9) months nor more than thirty-six (36) months in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at Phoenix for this purpose, commitment to date from January 8, 2020.

No action to be taken on the parole.

Bill No. 6180-15 (Count 1), the defendant's probation should be revoked and he should be sentenced to undergo imprisonment for not less than nine (9) months nor more than thirty-six (36) months in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at Phoenix for this purpose, commitment to date from January 8, 2020.

No action to be taken on the parole.

Bill No. 6294-15 (Count 1), the defendant's probation should be revoked and he should be sentenced to undergo imprisonment for not less than nine (9) months nor more than thirty-six (36) months in such State Correctional Institution as shall be designated by the Deputy

Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at Phoenix for this purpose, commitment to date from January 8, 2020.

No action to be taken on the parole.

Bill No. 6295-15 (Count 1), the defendant's probation should be revoked and he should be sentenced to undergo imprisonment for not less than nine (9) months nor more than thirty-six (36) months in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at Phoenix for this purpose, commitment to date from January 8, 2020.

No action to be taken on the parole.

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Bill No. 6828-15 (Count 1), the defendant's probation should be revoked and he should be sentenced to undergo imprisonment for not less than nine (9) months nor more than thirty-six (36) months in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at Phoenix for this purpose, commitment to date from January 8, 2020.

No action to be taken on the parole.

Bill No. 0446-13 (Count 1), no further action to be taken.

Bill No. 0663-13 (Count 1), no further action to be taken.

Bill No. 0899-13 (Count 1), no further action to be taken.

Bill No. 1994-13 (Count 1), no further action to be taken.

Bill No. 6122-14 (Counts 1 & 2), no further action to be taken.

Bill No. 7416-14 (Count 1), no further action to be taken.

Bill No. 8544-14 (Count 2), no further action to be taken.

Bill No. 8677-14 (Count 1), no further action to be taken.

PREPARED AND SUBMITTED BY:

Mary Beth Tammany

Adult Probation Officer

cc: District Attorney
Defense Attorney
File: