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Via Electronic Mail Only

November 23, 2020

Cathy Sheehan, Esq.
Acting Deputy Commissioner and Counsel
NYS Department of Corrections and Community Supervision
1220 Washington Avenue, Building #9
Albany, New York 12226

Cal Whiting
Assistant Secretary for Public Safety
Office of Governor Andrew M. Cuomo
New York State Capitol Building
Albany, New York 12224

Re: Governor's Early Release Plan to Fight COVID-19

Dear Deputy Commissioner Sheehan and Assistant Secretary Whiting:

We write to urge you to meaningfully implement the Governor's plan for early release from state custody for all individuals within 90 days of their release date who are not incarcerated for a violent offense or sex offense. If the program is expected to decarcerate the prisons during this dangerous pandemic, DOCCS must engage with advocates and timely review the eligibility of incarcerated individuals. We are concerned that eligible people remain incarcerated as the novel coronavirus continues to spread. Currently, we ask that you take the necessary steps to release four of our clients who qualify for immediate release under the plan: Tanaile Jones, known to DOCCS as Trent Jones (DIN 19A3339) at Woodbourne Correctional Facility; [REDACTED] [J.P.] ([REDACTED]) at Fishkill Correctional Facility; Richard Ramos (DIN 18R2128) at Wallkill Correctional Facility; and Jorge Santiago (DIN 19R0853) also at Wallkill Correctional Facility.

As you know, positive tests for the virus and cases of COVID-19 among DOCCS staff and people in custody have jumped in recent weeks. The infection rate in the general population is also climbing statewide. As this new wave of the pandemic hits, it is time to do more to safeguard the health of all New Yorkers, including those who live and work in

DOCCS facilities. At the very least, DOCCS and the Executive Office should fully implement the Governor's own plan as announced in the spring.

When the Governor's COVID-19 release plan was originally implemented, a number of eligible persons were released close to 90 days before their previously fixed release date. Moreover, at that point, when our attorneys made inquiries to DOCCS counsel's office, we received feedback about the status of specific clients. In recent months, our inquiries to DOCCS have been answered only with pro forma messages that do not address the situation of specific clients. We understand that DOCCS is responsible for generating lists of eligible persons, and the Executive Office is responsible for approving those lists. It is our impression that the lists are being created less frequently, with the result that approved releases are significantly delayed. To give proper effect to the Governor's plan, and to keep as many incarcerated people and DOCCS staff as safe and healthy as possible, the lists should be generated regularly and frequently enough to allow pre-planning for immediate release of those who are eligible once they cross the 90-day threshold.

Moreover, lack of private housing is not a valid basis for delaying release. The New York City Mayor's Office of Criminal Justice ("MOCJ"), working with Exodus Transitional Community, has been able to provide non-congregate hotel rooms for persons who would otherwise be ineligible for early release. But since DOCCS personnel are not currently providing a channel of communication about specific candidates for early release, it has proved difficult or impossible for our office to ensure that clients who would benefit from the MOCJ housing option are considered for early release.

Information on Our Eligible Clients

Tanaile Jones has a conditional release date of January 21, 2021, meaning she was eligible for release on October 23, 2020. She is serving a sentence of one and a half to three years for non-violent, non-sex-based convictions for attempted criminal possession of a forged instrument and grand larceny (non-auto). She is a Black 38-year-old transgender woman who is HIV positive and suffers from Acquired Immunodeficiency Syndrome (AIDS), which has, at times, caused her T-cell count to be as low as 156. A T-cell count this low is indicative of persistent lifelong immunosuppression and puts her at extreme risk of dying from COVID-19. She has non-congregate housing: as a HASA client, she will be given a single-room-occupancy placement on the day of her release.

[REDACTED] **[J.P.]** was granted a parole date of January 21, 2021, meaning he was eligible for release on October 23, 2020, after a highly unusual *recommendation* of parole by the Manhattan District Attorney's Office, which prosecuted him. He was convicted of the non-violent offense of reckless endangerment in the first degree and is serving a sentence of one to three years. This is his first criminal conviction. Mr. [REDACTED] **[J.P.]** is 27 years of age and HIV positive, making him extremely vulnerable to COVID-19 complications should he contract the coronavirus. He has non-congregate housing: he is being paroled to his mother's home at [REDACTED] [REDACTED]

[REDACTED], which has reportedly been cleared by Albany, but not yet by the local parole office.

Richard Ramos was granted a merit release date of February 14, 2021; because that is a Sunday, we expect the actual release to occur on February 12, meaning he was eligible for release on November 14, 2020. He was convicted of two non-violent class D felonies (both burglary in the third degree), and is serving a sentence of four to eight years. He has non-congregate housing: he is being paroled to his parents' home so that he can be their caretakers. They are Carmen and Eddie Ramos, both age 90, and they live at [REDACTED]. His wife, Laura, and their two children live a two-minute drive away.

Jorge Santiago was granted a parole date of January 22, 2021, meaning he was eligible for release on October 24, 2020. He was convicted of a non-violent class D felony, grand larceny in the third degree (auto), and he is serving a sentence of three to six years. He is 58 years old and medically vulnerable to COVID, as he suffers from severe asthma, for which he takes both Albuterol and Fluticasone/Salmeterol. He has non-congregate housing to return to: he will live with his wife, Brenda Negron, in their home at [REDACTED].

We call for the immediate release of these four clients.

Furthermore, for the sake of all New Yorkers, we call for better implementation of the Governor's early release plan.

Finally, now that a second wave of the pandemic is upon us, we also urge the Governor to consider expanding eligibility for early release. Public health experts agree that the only sure method of stopping the spread of the coronavirus is social distancing, which of course is impossible in densely populated prisons.

Thank you. We look forward to your response to our specific requests.

Respectfully,

Lawrence T. Hausman

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