



CRIME VICTIMS UNITED



April 22, 2020

Governor Kate Brown
Office of the Governor
900 Court Street NE, Suite 254
Salem, OR 97301-4047

Dear Governor Brown:

This week is National Crime Victims' Rights Week, the theme of which is "Seek Justice, Ensure Victims' Rights, Inspire Hope." While this is the week created to specifically recognize victims' rights, those of us who work with victims every day know how critical it is that we ensure those rights *each and every week*. Towards that end, in February of this year the Oregon Crime Victims Law Center began to gauge interest in the creation of a coalition of organizations and individuals whose work involves representing the interests of victims of crime in Oregon, including defending their constitutional and statutory rights. That coalition writes to you today about the reported list of approximately 3,000 inmates being considered for release due to COVID 19 concerns. This coalition has many concerns about the release process currently in development, however, we want to specifically address one of our most urgent worries: we fear that the right to victim notification may be deemphasized or dismissed altogether as the issue of inmate release is being considered. We appreciate the measured approach that is being taken with regard to inmate release, and we understand that rapidly changing conditions are causing decisions to be made quickly. However, we want to ensure that victims' rights are taken into consideration when balancing the response to a public health crisis and the rights guaranteed by the constitution.

Under the Oregon Constitution, crime victims have the right to be notified of the future release of a convicted defendant. OR Const, Art I §42(1)(b). That same right is provided by statute. ORS 147.421(1) (providing that upon the victim's request a "public body" that is the custodian of

information “about the defendant or convicted criminal” must provide the victim with information about defendant’s “future release from physical custody”).

This right to notification is critically important. Not only does it provide the victim with information that they are constitutionally entitled to, but it gives victims time to prepare themselves and their family members for the impending release, and to make important decisions regarding their safety. While we are all facing difficult decisions during this public health crisis, asking victims to plan for their safety with little to no notice would be in violation of a victim’s right to be treated with “due dignity and respect” as is guaranteed by the Oregon Constitution. Or Const, Art I §42.

The Oregon Constitution guarantees victims “(t)he right to be reasonably protected from the criminal defendant or the convicted criminal throughout the criminal justice process and from the alleged youth offender or youth offender throughout the juvenile delinquency proceedings.” Or Const Art I, § 43. That right is enumerated to ensure that a “fair balance” is struck between the rights of the defendant and the rights of the victim. This balance must be taken into account even when current circumstances are forcing extraordinary measures. In order for victims to be fully prepared with a safety plan for their protection it is critical that they receive actual and substantial notice of inmate release.

With a reported list of approximately 3,000 inmates being considered for release, it is reasonable to assume that there are a significant number of victims who will need to be notified of the releases. There is concern regarding how these notifications will be carried out, as well as ensuring that victims receive notification from a trained advocate rather than through media sources. There is also concern that if the releases happen quickly there will be insufficient time for essential “no contact” orders to be put into place. These issues need to be considered before undertaking a release of the magnitude that is reportedly being discussed.

Victims’ rights are a critical part of the administration of justice, and are protected as such by the Oregon Constitution, which promises victims a “meaningful role in the criminal justice system.” Or Const, Art I §42. We ask that when considering the release of potentially thousands of inmates that careful thought is put into the question regarding notification and the issues surrounding it. It is vital that victims be notified sufficiently in advance of an inmate’s release to make necessary plans for the protection of themselves and their families.

Respectfully,

OCVLC
ODAA

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CC: The Honorable Peter Courtney, President, Oregon Senate
The Honorable Tina Kotek, Speaker, House of Representatives
The Honorable Martha Walters, Chief Justice Oregon Supreme Court
Chair Michael Hsu, Oregon Board of Parole and Post-Prison Supervision
Director Colette Peters, Oregon Department of Corrections
Jeremiah Stromberg, Community Corrections
Executive Director Michael Schmidt, Criminal Justice Commission