

ROB KAUFFMAN, MEMBER
89TH LEGISLATIVE DISTRICT



House of Representatives
Commonwealth of Pennsylvania
Harrisburg

COMMITTEES

MAJORITY CHAIRMAN,
JUDICIARY COMMITTEE

CONSUMER AFFAIRS

RULES

March 24, 2020

Dear Mr. Chief Justice,

It has come to my attention that individual legislators may be writing to the Court, urging its intervention to order the categorical release of inmates from Pennsylvania's jails and prisons. I share the concern of many about the safety of our inmates, as I do for all Pennsylvanians. I write now, however, to express my deep reservations about the Court using the current public health emergency to order unilaterally the kind of policy-shifting criminal justice reform that is properly the responsibility of the political branches of state government.

As the Court may be aware, the General Assembly has been engaged in extensive debate and negotiations with regard to Pennsylvania's criminal justice system. Earlier this legislative session, the General Assembly passed historic "Justice Reinvestment Initiative" reforms. The House of Representatives has advanced numerous other initiatives, including expanding expungement of certain criminal records and reforming occupational licensure processes with regard to stale criminal records. Notably, another major issue that has been the subject of debate has been potential reforms to county probation. The legislative debates on this issue reveal the varied and difficult policy choices to be made with regard to that issue, as well as the realities that belie nomenclature. So-called "technical" probation or parole violators can be offenders who represent serious risks to public safety, as can be those who are subject to detainers or held pretrial. The individual facts of each case, and the individual impact on victims of decisions regarding community release, matter.

Individual judges have been responding to the current emergency readily. Many counties are working to identify particularly vulnerable inmates for release through the tools already at the judges' disposal, including county parole, probation, work release or other measures. This permits judges to evaluate the specific circumstances of each case and weigh the importance of public safety in the context of current events. Similarly, the Department of Corrections and the Pennsylvania Board of Probation and Parole are taking proactive steps to segregate vulnerable inmates and expedite consideration of those eligible for parole. In both instances, these are individualized decisions by thoughtful decision-makers, not sweeping categorical orders. If additional powers are required to handle the current crisis, the General Assembly has taken steps to convene remotely to provide those powers through the lawmaking process.

Although the current public health emergency facing Pennsylvania has prompted dramatic action by many in government to protect public safety, there is no time at which it is more important scrupulously to honor the institutional roles of each branch of our government than when our Commonwealth is experiencing crisis. I ask the Court to show the same faith in the ability of the General Assembly to act expeditiously to address emergent policy concerns that the General Assembly shows in the ability of our Commonwealth's judges to rule with fairness and humanity in individual cases.

Respectfully,

A handwritten signature in black ink that reads "Rob Kauffman".

Rep. Rob Kauffman
MAJORITY CHAIRMAN – HOUSE JUDICIARY COMMITTEE

cc: Speaker of the House Mike Turzai, Majority Leader Bryan Cutler

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