



April 23, 2020

Greetings from Your Executive Director:

As the COVID-19 crisis continues, we all continue to work through the unprecedented and sometimes unexpected challenges -- as I am sure many of you have seen, every day it's something new. On we go...

Let us start with the hearings that started today at the **State Supreme Court regarding the case filed by advocates** against the State and Department of Corrections asking the Court to order a mass release of inmates due to COVID-19. The rhetoric has started a-flying as the media is running lots of stories about the personal emotions and feelings of families of inmates and how worried they are -- as you have likely noticed, victims of the crimes that got the inmates placed in DOC in the first place are strangely ignored. I thought it may be helpful to offer a sort of "fact check" list for you as well as a summary of our Amicus Curiae brief that we submitted for this case (it can be found in its entirety in a recent newsletter I sent out, or just let Deb know and she can email you the briefs).

The overall summary of the amicus is [here](#), and the case itself is [here](#). Here is a [link](#) to the videoconference of the Supreme Court hearing.

From the hearing itself this morning, a really good summary was given by the Assistant Attorney General representing the state -- this is from today's Seattle Times:

John Samson, an assistant state attorney general, defended the state Department of Corrections and Governor Jay Inslee, saying they have already taken reasonable steps to protect people in prisons, including the ongoing early release of about 1,100 people through commutations and other measures.

"They have made difficult decisions on how best to protect the incarcerated population, how best to protect public safety, how best to avoid future harm to victims, and how best to protect those individuals who are released when they go to the community," Samson said.

Here are a few items as a "fact check" as you consider and communicate about this issue:

- First, just so we are all on the same page- the lawsuit is filed by a group of inmates, assisted by advocacy groups, including Columbia Legal Services. There are similar suits in many states. The person being sued is Gov. Inslee as the executive over the Dept. of Corrections. The attorney representing the Governor and the State is the Attorney General's Office, and Jeff Even from the AG's office is the lead counsel for the state in this case. So- it's not the Governor trying to release more inmates, it's the advocacy groups doing that and the Governor and AG are defending against that. The previous release of 950-1100 inmates we discussed last week was the DOC's response plan for an

emergency order issued by the Supreme Court in relation to this case. The current hearing is basically to determine if, as the advocates say, the 950-1100 already released and the other actions taken by the DOC are not enough, and more must be released.

- Part of the public confusion and debate over this case is how "narratives" and media coverage have created certain impressions. The widespread use of terms like "mass incarceration" have led to the impression that there are huge numbers of "low-level drug offenders" in our state prison system. There are not. 74% of inmates are there on murder, manslaughter, sex crimes, robbery or assault convictions. Here is a [link](#) to the Washington DOC "Data Card" that has some useful information about who is actually in the state prison system. It is also noteworthy that each and every person in state prison has received due process, received a jury trial or pled guilty, and their sentence was imposed and signed by a Judge. Every single one. Also, the State of Washington does not incarcerate at a high level. The state is in the bottom quarter of states in incarceration rate (inmates per thousand population). By no measure does Washington State over-incarcerate. Washington incarcerated 336 individuals in state or federal custody per 100,000 population, according to the most recent 2017 data. The national average is 568.
- I used to serve on the State's Clemency and Pardons Board, so I know this topic pretty well. The state has been looking at reducing prison populations before, and there has been political pressure to do that for a long time, in all states. The legislature has chosen not to do that. If you want to reduce prison population, and to get to meaningful numbers of reductions, there are really only three ways to get there- 1) release older inmates who have committed very serious violent crimes- murder, armed robbery, and sex offenses; 2) stop incarcerating chronic property offenders that have committed large numbers of auto thefts and burglaries, and/or 3) stop incarcerating most or all drug offenders, including large scale distribution of meth and opioids. Those are the only ways to get there, or reduce sentence length, which does not reduce populations in the short term. Those are the stubborn facts. It is really difficult to go from "let's reduce prison population" which is easy and somewhat popular as a concept, to the reality of "let's release older murderers, armed robbers, and sex offenders, and people to have burglarized scores of homes, stolen dozens or hundreds of cars, and distribute meth." No one wants to go there, but those are the stubborn facts.
- Almost all states have seen these lawsuits- it is a coordinated effort at a time of a national public health crisis. As former Chicago Mayor Rahm Emanuel says, "never let a good crisis go to waste." There is a Twitter hashtag making the rounds of "#FreeThemAll" but the conversation has not included much mention of specifics or victims. Overreacting to a public health crisis that results in fragmented public policy initiatives don't add up to criminal justice reform. If reform is needed, we are ready to engage and be at the table for it- this is not the way to do it.
- The big picture is this- this case is telling the Court that they must place the health and well-being of inmates over the health and well-being of the public and victims. Period. Inmates are fellow human beings, their health and well-being are absolutely important, but it must be balanced with public safety and respect for

victims. At this critical time of a public health emergency, we need to balance competing interests. The State and the DOC have already taken significant action to reduce their inmate population and change procedures.

- Finally, while so many are disregarding victims, I am grateful that this [video](#) has started to get attention- because it should. The victim in this case is referring to the person who killed six people in our state in 2008, including Skagit County Sheriff's Deputy Anne Jackson.

Finally, and I think this fits the definition of "irony", this week is Crime Victims' Rights Week...

On to the next topic. Just for your information, the **Washington State Sheriff's Association** issued this [statement](#) yesterday regarding the response to COVID and the Governor's Order.

Also, I am [including](#) a community response to questions about enforcement of the order from **Whatcom County Sheriff Bill Elfo**. Sheriff Elfo is a great communicator, so I am passing it along with his permission.

In my previous newsletter I gave you a copy of a [letter](#) we submitted to **State Rep. Sutherland asking for clarification** of his comments about "goons with guns" and whether he was advocating for violence against law enforcement. I wanted to let you know the letter was sent and emailed on Monday and as of today we still have not heard any response of any kind from the State Representative. We sent another [letter](#) today. We do know that the Minority Leader, J.T. Wilcox, criticized Sutherland's remarks on a radio interview, but there has been no response received from the representative himself.

Finally, **Starbucks has extended their free cup of coffee program** for first responders -- see their release below:

Starbucks just announced they will extend the free cup of coffee program to first-line responders through May 31st. To date, Starbucks partners have reportedly served more than 1 million cups of free coffee to front-line responders across U.S. and Canada.

Here's a [link](#) to the story if that's easier to share - just want to make sure law enforcement is aware and takes advantage of this program!

Stay Safe!

Steve

Steven D. Strachan, Executive Director
Washington Association of Sheriffs & Police Chiefs