



March 26, 2020

Maura S. Doyle, Clerk
Supreme Judicial Court for The County of Suffolk
John Adams Court house, 1st Floor
One Pemberton Square –Suite 1300
Boston, MA 02108-1707

Re: Committee for Public Counsel Services and Massachusetts Association of Criminal Defense Lawyers v. Chief Justice of the Trial Court, No. SJC-12926

Dear Clerk Doyle,

The Boston chapter of Black and Pink¹ has 160 members that identify as LGBTQ or living with HIV currently incarcerated in Massachusetts. We offer our members a monthly newsletter and an opportunity to be paired with a pen pal. We provide re-entry services to formerly incarcerated people such as emergency housing, food, clothing, and referrals to medical care. Finally, we serve on the Special Commission to Study the Health and Safety of LGBTQI Prisoners².

¹ Black and Pink is a 501(3)c non-profit that serves LGBTQ (lesbian, gay, bisexual, transgender, those questioning their sexual identity), and those living with HIV who are, or were, incarcerated. We send a monthly newsletter to over 14,000 incarcerated LGBTQ people and coordinate a robust pen pal program that connects incarcerated members with someone from the “free world”.

² Michael Cox, director of policy for the Boston chapter of Black and Pink, was appointed by Massachusetts Attorney General, Maura Healey, to serve on the Special



We write in support of the Petitioners' request for relief and respectfully urge that any relief granted be as broad and far reaching as possible.

A. COVID-19 and People Living with HIV

The **Massachusetts Department of Correction** (DOC) houses approximately 108 people living with HIV. Of those living with this disease, only 89% are virally suppressed. When someone living with HIV is not virally suppressed, the HIV is actively replicating and attacking a person's immune system. Should a person living with HIV who is not virally suppressed contract COVID-19, their immune system may be too compromised to fight off the disease. Even those who are virally suppressed suffer from chronic inflammation which would be exacerbated should a respiratory illness be caused by COVID-19. People living with HIV who contract COVID-19 may not have a strong enough immune system to survive a battle with COVID-19.

Between 2016-2017 there were 304 people living with HIV in **county facilities**, under the custody of their local Sheriff. Between 2017-2018, there were 274. For the

Commission to Study the Health and Safety of LGBTQI Prisoners, recently formed in the Criminal Justice Reform Act (2018). In large part, this commission is tasked with investigating the correctional system's treatment of LGBTQI people and to issue recommendations for improvement.



first half of 2018, there were at least 126 people living with HIV in county facilities.

Data is not available to indicate to what degree they are virally suppressed.

However, it should be noted that incarcerated people housed in county facilities, compared to those committed to the DOC, receive lower quality food, fewer opportunities to exercise, and have higher stress levels which further impairs an otherwise healthy immune system.

Those living with HIV, regardless of their underlying crime, should be prioritized in any relief granted by this Court.

B. Broad Relief

The Petitioner's in this matter are seeking relief based on various criteria including: pre-existing medical conditions, parole eligibility, amount of time left to serve on a committed sentence, those serving criminal sentences or subject to a detainer for technical violations of probation, those over 60 years of age, and those who qualify for medical parole. This Court should grant the requested relief and consider expanding the petitioned criteria.



We encourage this Court to go one step further and to not deny relief to incarcerated people based on their underlying criminal charge. In this case, that means those who have committed a crime against another person. To deny them relief, would exclude many vulnerable people from the mercy and compassion that the COVID-19 requires. It would hamper the amount of decarceration necessary to effectuate a positive public health outcome. Surely, a simple assault and battery should not preclude relief from this Court. We suggest a different metric be used to address release of incarcerated people.

C. Preparedness for Release

To date, no correctional official has contacted Black and Pink for support, re-entry resources, or to coordinate housing or transportation for anyone in their custody. We remain on stand-by should anyone released need our assistance. We have several modes of contact including a publicly available website and several social media accounts.

D. Death Is Final



The State has always taken a vested interest in punishing those who break the law. However, Commonwealth outlawed the death penalty years ago. TO not grant relief may very well equate to a death sentence for some of the most vulnerable people in the Commonwealth. Granting the release of incarcerated people could save their lives. It could spare their families the agony and grief of death. These are extraordinary times and they require extraordinary relief. Most people serving committed sentences will be released one day. They will return to their children, family, and friends. But not if they are denied relief and succumb to COVID-19.

Conclusion

We respectfully request this Court grant all relief requested by the Petitioners and to consider expanding relief regardless of the underlying criminal charge. We beg this Court to move in haste and to defer to public health experts. The Boston chapter of Black and Pink remains on stand-by to assist anyone released to find housing and appropriate care.

Respectfully submitted by,

Michael Joseph



Michael Cox,
On behalf of the Boston Chapter of Black and Pink
32 McPhee Road
Framingham, MA 01701

CERTIFICATE OF SERVICE

On March 27 2020, I served a copy of this letter on all parties by email.

Michael Cox

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Date: March 27, 2020