

Crime victims challenge ACLU's Supreme Court petition requesting faster inmate releases amid pandemic

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SALT LAKE CITY — Attorneys for crime victims' groups are opposing an emergency petition by civil libertarians that seeks accelerated releases of prison and jail inmates because of the pandemic.

"All too often, crime victims' interests are overlooked in a criminal justice system that often seems hostile to them," the victims' attorneys argued in a request to intervene in the Utah Supreme Court matter.

The American Civil Liberties Union of Utah and the Disability Law Center on April 1 filed a petition for extraordinary relief, saying close quarters in jails and prisons pose a severe COVID-19 infection risk in the lockups.

The petition seeks an order from the state's high court increasing the pace of inmate releases, to protect not only those behind bars but the community as a whole.

But the Utah Attorney General's Office, the Salt Lake County District Attorney's Office and others since have filed lengthy memorandums urging the court to reject the petition on various grounds.

The government agencies say jails and prisons are following the state's pandemic response plan and their local initiatives to lower populations behind bars without releasing dangerous criminals.

And the Utah Crime Victims Legal Clinic and the Utah Appellate Project at the University of Utah College of Law have weighed in with their own filing against the petition.

The victims' lawyers said state and county officials have been working diligently to protect the health of detainees and convicts "while at the same time ensuring the safety of the state's citizens — and particularly crime victims, who are at special risk if those accused or convicted of harming them are released."

If the court appoints a special master to oversee releases during the pandemic, it would strip the state Board of Pardons and Parole and other state and county entities of their constitutional powers over corrections, they argued.

Processes for notifying victims of perpetrators' release from custody may be short-circuited, the attorneys said.

"Notice to crime victims of potential release of those being held in custody can be literally a life-and-death matter," the victims' document said.

In its response to the petition, the Attorney General's Office said the state began aggressive steps to reduce coronavirus risk to inmates as the pandemic arose in March.

The parole board already has released hundreds of inmates, the state said in its April 27 filing. The state attorneys call the progress "remarkably effective" because no known cases of COVID-19 had been reported in the state prisons as of that date.

According to the attorney general, the parole board cut time or ordered the release of 637 inmates due to COVID-19 concerns between March 1 and April 24.

"The board is still balancing the health care needs of the inmates with the risk to public safety if they are released," the court filing said.

Further, the total number of inmates in Utah Department of Corrections custody has fallen to a five-year low of 6,096 — down 525 since March 1.

The state attorneys also warned against deeper releases, because half the remaining prison inmates are repeat offenders and have failed on probation and parole.

And about 4,200 of the remaining inmates are there on first- or second-degree felonies.

Those inmates, the state said, “present a mix of potentially very dangerous individuals, including 734 murderers, 1,981 sex offenders, and 887 inmates convicted of crimes of violence against people or weapons charges.”

The Salt Lake County Jail reported 15 COVID-19 cases so far, the county said in its objection to the ACLU petition, but the outbreak was isolated to one unit and the patients were quarantined.

The county’s inmate count was down by 760 inmates as of April 20, a 35% drop from the 2,149 population on March 1.

Dangerous releases of inmates are possible, according to the county document.

It said the district attorney unsuccessfully objected to a judge’s release of a suspect in a first-degree felony rape “based on a perceived higher risk of COVID-19 due to a lifetime of smoking.”

The Davis and Weber county jails also have reduced their populations and implemented infection prevention policies since the pandemic began.

Supreme Court judicial assistant Michaela Choppin said the court has not yet scheduled a hearing on the ACLU petition.

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