



## RAYBIN & WEISSMAN, P.C.

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March 27, 2020

VIA US MAIL AND EMAIL: [Rob.Clark@tn.gov](mailto:Rob.Clark@tn.gov)

Chairman Richard Montgomery

Tennessee Board of Parole

404 James Robertson Parkway, Suite 1300

Nashville, Tennessee 37243

### **RE: Prompt Release of Already-Paroled Inmates**

Dear Mr. Montgomery:

Tennessee statutes provide that the Parole Board has exclusive authority to parole inmates from prison. I am aware the Board has granted parole in numerous cases, but the inmate remains incarcerated because of the unavailability of pre-parole programs mandated by the Board as a condition of release. Considering the increasing danger presented by the COVID-19 virus, I respectfully request the Board accelerate the release of already-paroled prisoners.

Governor Lee's Criminal Justice Task Force issued a report last year to the effect that thousands of individuals granted parole were never actually released on parole. The Governor's report found that: "One cause of this discrepancy between the number of individuals granted parole and the number subsequently released on parole is that the Board of Parole has increasingly placed conditions on parole grants requiring a treatment or other program be completed while in custody in order to secure final release."

Because these programs are not always available at TDOC, the prisoner remains incarcerated for a prolonged period awaiting a program which may never emerge. Some prisoners just "flatten out" their sentences and are released with no supervision or programs at all.

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As a result of our current healthcare emergency, and the recognized vulnerability of prison inmates to infection of the COVID-19 virus, I request the Board accelerate the release of already-paroled inmates by removing the in-prison rehabilitative program requirement during such time as the Supreme Court's *Order Suspending In-Person Proceedings* remains in effect. Alternatively, the Board could release the individual and mandate comparable programs to be performed while on parole. The programs may not be identical, but some program is better than no program at all.

The seriousness of the COVID-19 virus is profound. An epidemic can run through a prison in weeks or perhaps even days. Reducing the prison population, as suggested, would reduce the chances of infection, and enhance TDOC's treatment capability for those inmates who remain incarcerated.

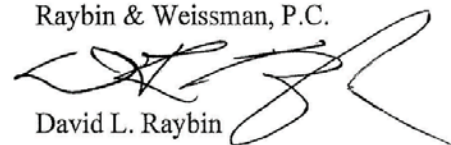
I understand that one solution is for TDOC to provide the required programs, but not every prisoner is in an institution where the program is offered. Significantly, these programs may be reduced or eliminated entirely while the COVID-19 virus is rampant in our nation. We certainly do not want to have classes in prison if there are no classes in our schools. The teachers who provide these prison classes may understandably want to avoid being exposed to the inmate population.

The Board uses good judgement as to the parole of inmates. If the inmate has passed this rigorous test, I believe the inmate is fit to be released with post-parole programs, rather than in-prison programs which might not be available. I know that the Board and staff are working at full capacity, but I would ask that the Board immediately take steps to implement this recommendation, which benefits everyone.

I am authorized to state that the Tennessee Association of Criminal Defense Lawyers has reviewed this correspondence and endorses the recommendation made in this letter.

Very truly yours,

Raybin & Weissman, P.C.

A handwritten signature in black ink, appearing to read "David L. Raybin", is written over the typed name below.

David L. Raybin

cc: Governor Bill Lee (via email)  
Chief Justice Jeff Bivins (via email)