RUTH GREENBERG
--ATTORNEY AT LAW--
450B PARADISE ROAD #166
SWAMPSCOTT, MASSACHUSETTS 01907
(781) 632-5959

March 26, 2020

Chief Justice Ralph D. Gants
Supreme Judicial Court
John Adams Courthouse Contact Information
1 Pemberton Square
Boston, MA 02108

RE: CPCS, et al v. Chief Justice of the Trial Court
SJC-12926

Dear Justice Gants,

I write specifically on behalf of the inmates named, all of whom I represent at various stages of the medical parole process. I am certain that I represent the interest of many others similarly terminally ill or permanently incapacitated currently in the custody of the Department of Correction whose names I do not know who are either terminally ill or permanently incapacitated and who might be well be entitled to medical parole, whom DOC has neglected to acknowledge and to exercise its statutory authority to petition for medical parole on their behalf. I note with particularity that DOC acknowledges, by way of reply to public records request, that there are nine inmates DOC has determined are incompetent to make medical or litigation choices currently confined at MCI Shirley. These inmates might well be entitled to medical parole and DOC needs no permission from them to initiate and process medical petitions, because medical parole does not require the consent of the medically paroled.

I write also, unbidden, on behalf of the guards and staff and DOC facilities, their families, and the public, all of whom are at great risk when highly infectious disease is highly likely to run rampant behind the wall, as outlined in the pleading filed by CPCS, et al. Keeping persons who are permanently incapacitated and/or terminally ill behind the all at this time increases the risk to these prisoners, other prisoners, guards, staff, and all the world.

I write specifically to urge, when fashioning relief, instead of the category of persons

"qualified for medical parole"

you see in the pleadings filed by Petitioners, you instead grant specific relief, among other groups, to

"persons deemed eligible for medical parole because of terminal illness or permanent incapacity as diagnosed by a licensed medical provider".

This is a distinction with a real difference; DOC may otherwise take the position that an inmate is not "qualified" for medical parole and thus eligible for emergency relief, absent the filing of a petition and a 66-day review process. By that time, given the pace of the pandemic, relief is highly likely futile. Furthermore, placement for inmates without means may prove impossible. Furthermore, if the 66-day process of qualification results in a denial which must be appealed, the current wait time in Superior Court for resolution of such an appeal is approximately ten months. By that time, relief is almost certainly futile.

The terminally ill exhaust enormous resources. So do the wheelchair bound at the dialysis unit at Shirley. So do the clients 60 and over who suffer from preexisting conditions placing them at risk. The difference between a 60 year old person with hypertension and diabetes being immediately terminally ill and not, given COVID-19, might be a matter of hours. Joseph Buckman, age 73, has only one lung. He has been hospitalized six times in the past year. Abdul Mahdi is 89 years old and has not left his wheelchair for nine years. James Judge has Stage Four metastatic prostate cancer and only months to live and his mother is willing to take him home. These people present no risk to the public if released despite convictions of crimes against a person, and great risk to the public and to DOC staff if infected with COVID-19 while confined.

For these reasons, public policy supports the early release of the terminally ill and permanently incapacitated as diagnosed by DOC medical staff or outside providers, without the 66-day time period waiting for them to be "qualified" under the medical parole statute. They should be given relief. Even if they have committed crimes in

violation of Chapter 265, they present little risk by virtue of confirmed immediately terminal illness or incapacity. The social calculus has changed; they incur greater cost and create greater risk to society inside than out. In the unique public health crisis in which we find ourselves, these at-risk inmates, whose diagnosis and vulnerability is confirmed, should be excused from the 66 day waiting period now required to "qualify" for medical release.

I go further to suggest that DOC be asked, ordered, to identify the terminally ill and permanently incapacitated inmates now in DOC custody, and to immediately initiate petitions for medical parole on these inmates' behalf. Relief should not be granted only to those inmates with the capacity and strength to self-identify. It should be equally available to all. The statute itself supports your conclusion that DOC must now act affirmatively on behalf of these inmates, whose continued imprisonment actually creates a public health risk. Were the Commissioner to conclude that the release of these terminally ill and incapacitated inmates was more compatible with the welfare of society than not, she would be duty bound to grant them medical parole even over their (unlikely) objection. Nobody has a right to volunteer to be a prisoner. DOC, as this Court has lately acknowledged, has direct access to the medical record of every inmate and knows who is terminally ill and who is not. At a minimum, this Court should direct DOC to process petitions for those deemed incompetent at Shirley and elsewhere.

Most respectfully,

Ruth Greenberg

RG/ls
Enclosure
cc: (see attached list)

First Name	Last Name	Title	Agency	Email Address
Maura	Healey	Attorney General	Attorney General's Office	Maura.Healey@state.ma.us
Joanna	Lydgate	Deputy Attorney General	Attorney General's Office	joanna.lydgate@state.ma.us
Alicia	Robello-Pradas	Chief, Policy & Government Division	Attorney General's Office	Alicia.Rebello-Pradas@mass.gov
Gina	Kwon	Chief, Criminal Bureau	Attorney General's Office	gina.kwon@state.ma.us
Abigail	Taylor	Chief, Civil Rights Division	Attorney General's Office	abigail.taylor@state.ma.us
Robert	Toone	Chief, Government Bureau	Attorney General's Office	robert.toone@state.ma.us
Timothy	Casey	Chief, Administrative Law Division	Attorney General's Office	timothy.casey@state.ma.us
Randall	Ravitz	Chief, Appeals Division	Attorney General's Office	randall.ravitz@mass.gov
Carol	Mici	Commissioner	Department of Correction	carol.mici@doc.state.ma.us
Nancy	White	General Counsel	Department of Correction	nancy.white@doc.state.ma.us
Stephen	Dietrick	Deputy General Counsel	Department of Correction	stephen.dietrick@doc.state.ma.us
Tara	Maguire	Executive Director	Massachusetts District Attorneys' Association	Tmaguire@state.ma.us
Andrea	Harrington	District Attorney	Berkshire District Attorney's Office	andrea.harrington@state.ma.us
Thomas	Quinn	District Attorney	Bristol District Attorney's Office	Thomas.m.quinn@state.ma.us
Michael	O'Keefe	District Attorney	Cape & Islands District Attorney's Office	Michael.okeefe@state.ma.us
Jonathan	Blodgett	District Attorney	Essex District Attorney's Office	Jonathan.blodgett@state.ma.us
Anthony	Gulluni	District Attorney	Hampden District Attorney's Office	Anthony.gulluni@state.ma.us
Katherine	McMahon	Chief of Appeals Division	Hampden District Attorney's Office	katemcmahon@state.ma.us
Marian	Ryan	District Attorney	Middlesex District Attorney's Office	Marian.ryan@state.ma.us
David	Sullivan	District Attorney	Northwestern District Attorney's Office	David.e.sullivan2@state.ma.us
Michael	Morrissey	District Attorney	Norfolk District	Michael.w.morrissey@state.ma.us

			Attorney's Office	
Timothy	Cruz	District Attorney	Plymouth District Attorney's Office	Timothy.j.cruz@state.ma.us
Rachel	Rollins	District Attorney	Suffolk District Attorney's Office	Rachael.rollins@state.ma.us
Joseph	Early	District Attorney	Worcester District Attorney's Office	Joseph.early@state.ma.us
Gloriann	Moroney	Chair	Massachusetts Parole Board	gloriann.moroney@mass.gov
Carrie	Hill	Executive Director	Massachusetts Sheriffs' Association	Carrie.hill@massmail.state.ma.us
Donna	Buckley	General Counsel	Barnstable County Sheriff's Office	dbuckley@bsheriff.net
Jim	Cummings	Sheriff	Barnstable County Sheriff's Office	jcummings@bsheriff.net
Daniel	Sheridan	General Counsel	Berkshire County Sheriff's Office	daniel.sheridan@sdb.state.ma.us
Thomas	Bowler	Sheriff	Berkshire County Sheriff's Office	thomas.bowler@sdb.state.ma.us
Robert	Novack	General Counsel	Bristol County Sheriff's Office	robertnovack@bcso-ma.org
Thomas	Hodgson	Sheriff	Bristol County Sheriff's Office	sheriff@bcso-ma.org
James	Neville	Special Sheriff, House of Correction Superintendent	Dukes County Sheriff's Office	jdneville@dcsoma.org
Robert	Ogden	Sheriff	Dukes County Sheriff's Office	rogden@dcsoma.org
Richard	Jeffrey	General Counsel	Essex County Sheriff's Office	rjeffery@essexsheriffma.org
Kevin	Coppinger	Sheriff	Essex County Sheriff's Office	kcoppinger@essexsheirffma.org
Lori	Streeter	House of Correction Superintendent	Franklin County Sheriff's Office	lori.streeter@fcs.state.ma.us
Chris	Donelan	Sheriff	Franklin County Sheriff's Office	chris.donelan@fcs.state.ma.us
Theresa	Finnegan	General Counsel	Hampden County Sheriff's Office	theresa.finnegan@sdh.state.ma.us
Katie	Fitzgerald	Secretary	Hampden County Sheriff's Office	katie.fitzgerald@SDH.state.ma.us
Nicholas	Cocchi	Sheriff	Hampden County Sheriff's Office	nick.cocchi@sdh.state.ma.us
Charles	Maguire	Special Assistant Attorney General	Hampshire County Sheriff's Office	charles@charPlesmaguire.com

Patrick	Cahillane	Sheriff	Hampshire County Sheriff's Office	Patrick.Cahillane@state.ma.us
Jim	Perelman	Sheriff	Nantucket County Sheriff's Office	perelman@islandsheriff.com
Amoroso	Cefalo	General Counsel	Middlesex County Sheriff's Office	acefalo@sdm.state.ma.us
Peter	Koutoujian	Sheriff	Middlesex County Sheriff's Office	pkoutoujian@sdm.state.ma.us; peter.j.koutoujian@state.ma.us
Greg	Casey	Chief of Staff	Norfolk County Sheriff's Office	gcasey@norfolksheriffma.org
Kirsten	Hughes	General Counsel	Norfolk County Sheriff's Office	KHughes@norfolksheriffma.org
Jerome	McDermott	Sheriff	Norfolk County Sheriff's Office	jmcdermott@norfolksheriffma.org
Patrick	Lee	General Counsel	Plymouth County Sheriff's Office	plee@pcsdma.org
Joe	McDonald	Sheriff	Plymouth County Sheriff's Office	jmcdonald@pcsdma.org
Allen	Forbes	General Counsel	Suffolk County Sheriff's Office	aforbes@scsdma.org
Steven	Tompkins	Sheriff	Suffolk County Sheriff's Office	stompkins@scsdma.org
Andrew	Abdella	General Counsel	Worcester County Sheriff's Office	aabdella@sdw.state.ma.us
Lewis	Evangelidis	Sheriff	Worcester County Sheriff's Office	levangelidis@sdw.state.ma.us