

## United States Senate

January 26, 2022

President Joseph R. Biden  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear President Biden:

I commend your administration's commitment to righting past wrongs in our criminal justice system. In continuing that work as you consider recommendations for individuals to receive clemency, I write to urge you to grant a commutation of Leonard Peltier's sentence. Mr. Peltier meets appropriate criteria for commutation: (1) his old age and critical illness, (2) the amount of time he has already served, and (3) the unavailability of other remedies.<sup>1</sup> Given these factors, Mr. Peltier should be granted a commutation of his sentence.

Mr. Peltier is 77 years old and suffers from severe health problems.<sup>2</sup> During the COVID-19 pandemic, Peltier's age and health have made him particularly vulnerable in federal prison. As a result, he has been placed in prolonged social isolation due to COVID-19-related safety measures.<sup>3</sup> In addition, Mr. Peltier has served more than 44 years in the federal prison system.

In terms of other remedies, compassionate release is available to most other individuals who are at least 70 years old and have served at least 30 years of their sentence.<sup>4</sup> However, Mr. Peltier is ineligible for compassionate release because he is an "old law" incarcerated person—having been convicted before November 1, 1987, when federal parole was abolished and the compassionate release process was established. While there are a number of congressional efforts to fix this eligibility gap, such as my *Emergency GRACE Act*, passage of legislation will take too long in Mr. Peltier's case.

As an "old law" individual, another remedy is parole. However, the U.S. Parole Commission has denied parole multiple times because Mr. Peltier has not accepted criminal responsibility for the murder of two FBI agents who were serving an arrest warrant on the Pine Ridge Reservation in South Dakota in 1977. Mr. Peltier has consistently maintained his innocence because the facts of his case, as well as the actions of federal agents and prosecutors involved, raise serious questions

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<sup>1</sup> "Standards for Consideration of Clemency Petitioners: Section 9-140.113 – Standards for Considering Commutation Petitions," <https://www.justice.gov/pardon/about-office-0>.

<sup>2</sup> Jennifer Bendery, "Leonard Peltier Is America's Longest-Serving Political Prisoner. Biden May Be His Last Hope," *HuffPost*, 12 Nov. 2021, [https://www.huffpost.com/entry/leonard-peltier-prison-clemency-biden\\_n\\_618049f3e4b059d0bfc19e5c](https://www.huffpost.com/entry/leonard-peltier-prison-clemency-biden_n_618049f3e4b059d0bfc19e5c).

<sup>3</sup> Jennifer Bendery, "Leonard Peltier Pleads For Help Amid Constant COVID Lockdowns In Prison," *HuffPost*, 23 Jan. 2022, [https://www.huffpost.com/entry/leonard-peltier-prison-covid\\_n\\_61eb2a5be4b03216750ab8ea](https://www.huffpost.com/entry/leonard-peltier-prison-covid_n_61eb2a5be4b03216750ab8ea).

<sup>4</sup> "Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582 and 4205(g)," Federal Bureau of Prisons, U.S. Department of Justice, 17 Jan. 2019, [https://www.bop.gov/policy/progstat/5050\\_050\\_EN.pdf](https://www.bop.gov/policy/progstat/5050_050_EN.pdf).

about whether he received a fair trial. In fact, last year, the U.S. Attorney handling his prosecution, James Reynolds, raised concerns about Mr. Peltier's prosecution and his subsequent prison sentence in a July 2021 letter, writing that "the prosecution and continued incarceration of Mr. Peltier was and is unjust."<sup>5</sup>

I strongly support your administration's work to pursue a fair and constitutionally sound justice system. In keeping with those principles, I urge you to commute Mr. Peltier's sentence. Thank you for your attention to this matter, and I look forward to your response.

Sincerely,

  
BRIAN SCHATZ  
United States Senator

cc: The Honorable Merrick B. Garland  
Attorney General  
U.S. Department of Justice

Rosalind Sargent-Burns  
Acting Pardon Attorney  
Office of the Pardon Attorney  
U.S. Department of Justice

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<sup>5</sup> Bendery, "Leonard Peltier Is America's Longest-Serving Political Prisoner."