

centerforconstitutionalrights
on the front lines for social justice

February 2, 2016

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Re: Leonard Peltier, Request for Executive Clemency

Dear Mr. President:

I write in my capacity as Legal Director of the Center for Constitutional Rights (CCR) in support of the broad-based request for executive clemency for Leonard Peltier. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a legal organization that has a long history of advocacy on behalf of Native American activists, including defense of American Indian Movement activists, and civil litigation in relation to treaty rights and in support of people in detention. CCR co-founder William Kunstler defended Mr. Peltier in his criminal appeals between 1978 and 1993.

Mr. Peltier has been incarcerated for 40 years and is located far from his family and community, which has made it difficult for him to stay in contact with them. He is now 71 years old and suffers from the effects of diabetes, high blood pressure, a heart condition, a previous stroke, a jaw condition, partial blindness in one eye, and a recently diagnosed abdominal aortic aneurysm. As an aging prisoner with serious medical issues, Mr. Peltier should be given special consideration for release.

The Department of Justice has voiced support for compassionate release of elderly prisoners. Former Attorney General Eric Holder has stated publicly his support for release of elderly prisoners who have served a significant portion of their sentences and who do not pose a danger to the community.¹ The Department of Justice recently updated its compassionate release guidelines to include inmates who are elderly and who suffer from medical conditions.² As one of over 245,000 elderly people in prison,³ Mr. Peltier, after serving 40 years, suffers from medical conditions that are best treated outside of prison. Additionally, the International Covenant on Civil and Political Rights, to which the United States is party, should be taken into consideration. The ICCPR views

¹ Eric Holder, Office of the Att’y Gen., Remarks at the Ann. Meeting of the American Bar Ass’n’s House of Dels. (Aug. 12, 2013), <http://www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-130812.html>.

² U.S. Dep’t of Justice, Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582(c)(1)(A) and 4205(g), (Apr. 22, 2013), http://www.bop.gov/policy/progstat/5050_049_CN-1.pdf.

³ AMERICAN CIVIL LIBERTIES UNION, AT AMERICA’S EXPENSE: THE MASS INCARCERATION OF THE ELDERLY (2012), available at https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf. Elderly prisoners are much less likely to re-offend than their younger counterparts, and remain incarcerated at great cost to the public, yet are often unable to receive necessary care in prison. See *Reports on Elderly Prisoners Spur Calls for Reforms*, PRISON LEGAL NEWS (May 19, 2014), <https://www.prisonlegalnews.org/news/2014/may/19/reports-elderly-prisoners-spur-call-reforms/>; Jamie Fellner, *Graying Prisoners*, N. Y. TIMES, Aug. 18, 2013, <http://www.nytimes.com/2013/08/19/opinion/graying-prisoners.html>.

incarceration as reform-oriented rather than punitive.⁴ International protocols encourage authorities to take into account individual circumstances of prisoners, including age, state of health, and length of sentence, when considering whether to release them.⁵ Given these commitments, Mr. Peltier's release from prison is appropriate.

Despite being incarcerated for over 40 years, Mr. Peltier has dedicated himself to humanitarian work. He has won international human rights awards for improving the lives and welfare of Native Americans and promoting non-violence. Mr. Peltier has been recognized by organizations and state officials in Spain, Uruguay, Bolivia, Canada, and the United States for his efforts to improve health care, education, and economic initiatives for Native Americans, as well as his advocacy for peaceful resolution of conflict between tribes and for environmental justice. His awards include the 1993 North Star Fund Frederick Douglass Award and the 2015 Defender of Pachamama (Mother Earth) Award from President Evo Morales, he is acknowledged on the Smithsonian's National Museum of the American Indian Honor Wall, and he has been nominated multiple times for the Nobel Peace Prize. Mr. Peltier has also organized numerous charity drives, disaster relief fundraisers, and non-profit and social services support efforts from prison. He has received excellent evaluations from his work supervisors and acts as a mentor to younger prisoners, especially Native prisoners.

Mr. Peltier's release is supported by a broad range of high-profile national and international public figures and bodies, among them numerous human rights organizations, several Nobel Laureates, dozens of members of Congress and other government officials, and various international authorities.⁶ James Anaya, former Special Rapporteur on the Rights of Indigenous Peoples, recommended in a 2012 report on the status of indigenous peoples in the United States that "[o]ther measures of reconciliation should include efforts to identify and heal particular sources of open wounds. And hence, for example . . . new or renewed consideration should be given to clemency for Leonard Peltier."⁷ He noted that "[a] more recent incident that continues to spark feelings of injustice among indigenous peoples around the United States is the well-known case of Leonard Peltier. . .

⁴ Int'l Covenant on Civil and Political Rights, Articles 9-10, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, available at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>; Human Rights Comm., Gen. Comment 21, Article 10 (44th Sess., 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 33 (1994), available at <http://www1.umn.edu/humanrts/gencomm/hrcom21.htm>.

⁵ Eur. Parl. Ass., *Recommendation Rec(2003)22 of the Comm. of Ministers to member states on conditional release (parole)*, 853rd Sess. (Sept. 24, 2003), available at <https://wcd.coe.int/ViewDoc.jsp?id=70103>; United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), G.A. Res. 70/175, U.N. Doc. A/Res/70/175 (Dec. 17, 2015), available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/175; United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), G.A. Res. 45/110, annex, 45 U.N. GAOR Supp. (No. 49A) at 197, U.N. Doc. A/45/49 (Dec. 14, 1990), available at <http://www1.umn.edu/humanrts/instreet/i6unsmr.htm>; *Vinter & Others v. U.K.*, Apps. Nos. 66069/09, 130/10 and 3896/10, Eur. Ct. H.R. (July 9, 2013), available at <http://hudoc.echr.coe.int/sites/ra/pages/search.aspx?i=001-122664#%7B%22itemid%22:%7B%22001-122664%22%7D%7D>; Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa, African Commission on Human and People's Rights ACHPR/Res.64(XXXIV)03, 34th Sess. (Nov. 20, 2003), available at <http://www.achpr.org/instruments/ouagadougou-planofaction>.

⁶ See full list of supporters at <http://www.whoisleonardpeltier.info/home/about-peltier/support/statements/>.

⁷ Special Rapporteur on the Rights of Indigenous Peoples, *The Situation of Indigenous Peoples in the U.S.*, Human Rights Council, U.N. Doc. A/HRC/21/47/Add.1 (Aug. 30, 2012), available at http://unsr.jamesanaya.org/docs/countries/2012-report-usa-a-hrc-21-47-add1_en.pdf.

Pleas for presidential consideration of clemency by notable individuals and institutions have not borne fruit. This further depletes the already diminished faith in the criminal justice system felt by many indigenous peoples throughout the country.”⁸ This call for healing was echoed by Judge Gerald Heaney, who presided over Mr. Peltier’s 1984 and 1986 criminal appeals, when he wrote in a letter to Senator Daniel Inouye, “[a]t some point, a healing process must begin. We as a nation must treat Native Americans more fairly. . . Favorable action by the President in the Leonard Peltier case would be an important step in this regard.”⁹

During your first visit as President to a Native American reservation, you acknowledged in a speech at the Standing Rock Sioux Indian Reservation, “I know that throughout history, the United States often didn’t give the nation-to-nation relationship the respect that it deserved. So I promised when I ran to be a President who’d change that – a President who honors our sacred trust, and who respects your sovereignty, and upholds treaty obligations, and who works with you in a spirit of true partnership, in mutual respect, to give our children the future that they deserve.”¹⁰ You recognized the struggles of Native Americans and called for change, stating, “[l]et’s put our minds together to advance justice – because like every American, you deserve to be safe in your communities and treated equally under the law. . . There’s no denying that for some Americans the deck has been stacked against them, sometimes for generations. And that’s been the case for many Native Americans. But if we’re working together, we can make things better. We’ve got a long way to go. But if we do our part, I believe that we can turn the corner. We can break old cycles.”¹¹ Certainly, Leonard Peltier’s release would go far in improving relations with Native nations and promoting healing from old cycles of discrimination and violence.

Mr. Peltier has engaged for decades in productive and peaceful activities that evidence his readiness for release. Given his age, state of health, and strong connections to and work on behalf of his community, Mr. Peltier is well-prepared for and well-deserving of release and poses no risk to the community. I urge you to take into account these factors, as well as new consideration of aging prisoners by the Department of Justice and international human rights norms, in evaluating the compelling case for executive clemency for Mr. Peltier.

Thank you for your attention to this important matter.

Respectfully,



Baher Azmy
Legal Director

⁸ *Id.*

⁹ Letter from Judge Gerald Heaney to Sen. Daniel Inouye (Apr. 18, 1991), <https://web.archive.org/web/20021017142959/http://freepeltier.org/statements6.htm>.

¹⁰ President Barack Obama, Remarks by the President at the Cannon Ball Flag Day Celebration (June 13, 2014), <https://www.whitehouse.gov/the-press-office/2014/06/13/remarks-president-cannon-ball-flag-day-celebration>.

¹¹ *Id.*