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April 25, 2024

Patricia K. Cushwa  
Acting Chairman  
United States Parole Commission  
90 K Street NW, 3<sup>rd</sup> Floor  
Washington, DC 20530

Re: Leonard Peltier, Parole Request

Dear Chairman Cushwa:

We write on behalf of Human Rights Watch and the American Civil Liberties Union (ACLU) to urge you to carefully consider granting Mr. Leonard Peltier (#89637-132) parole in his upcoming hearing before the United States Parole Commission on May 6, 2024.

Human Rights Watch monitors and reports on human rights abuses in about 100 countries around the world, including the United States. Human Rights Watch recognizes that racial justice and equity is a fundamental human right. Human Rights Watch has reported extensively on the international human rights abuses that occur within the US prison system.

For more than 100 years, the ACLU has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution, ratified treaties and the laws of the United States guarantee to all people in this country, including Indigenous Peoples and Tribes. The ACLU defends and advocates for Indigenous Justice as part of its mission to advance human rights and protect individual rights under the law, regardless of race, religion, gender, sexual orientation, gender identity, or expression, disability, national origin, political status, or record of arrest or conviction.

Addressing the disparate treatment of incarcerated people is central to Indigenous Justice and the ACLU's mission. This is particularly true when Indigenous people are frequently over-policed and over-represented in prison systems. Indeed, Indigenous prisoners are frequently discriminated and denied access to religious practices and other key basic Constitutional and civil rights.

The United States has imprisoned Mr. Peltier for more than 46 years. Mr. Peltier is America's longest-held Indigenous prisoner.<sup>1</sup> Mr. Peltier is 79 years old and suffers from a range of severe health issues. If the Parole Board denies Mr. Peltier parole, it is foreseeable that he will spend the rest of his life in prison, effectively sentencing Mr. Peltier to death in slow motion.<sup>2</sup> We urge you to consider Mr. Peltier's parole request carefully, and with the utmost favor towards granting parole.

In 2012, Human Rights Watch published the report "The Answer is No: Too Little Compassionate Release in US Federal Prisons."<sup>3</sup> For this report, we interviewed scores of federal prisoners, family members, advocates, and Bureau of Prisons and Justice Department officials regarding the incarceration of older people, often including those with serious illnesses.<sup>4</sup> We found that:

to be consistent with human rights, a decision regarding whether a prisoner should remain confined despite, for example, terminal illness or serious incapacitation, should include careful consideration of whether continued imprisonment would be inhumane, degrading, or otherwise inconsistent with human dignity. Key to that analysis is what, if any, legitimate purposes of punishment are furthered by continued incarcerations. Decision-makers must consider, for example, whether continued incarceration meaningfully furthers the goals of retribution, incapacitation, rehabilitation, and deterrence.<sup>5</sup>

These same factors are relevant in parole hearings. In Mr. Peltier's case, we strongly encourage the Parole Commission to consider whether the continued incarceration of Mr. Peltier would be inhumane, degrading, or otherwise inconsistent with human dignity.<sup>6</sup> When considering these factors, we urge you to first consider whether the circumstances of Mr. Peltier's trial, earlier parole hearings, and continued incarceration raise arbitrary detention concerns.

In 2022, the United Nations Working Group on Arbitrary Detention (UNWGAD) called for Mr. Peltier's immediate release, ruling definitively that:

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<sup>1</sup> Janene Yazzie and Nick Estes, "Leonard Peltier is America's longest-held Indigenous prisoner. He should be freed." *The Guardian*, February 2, 2022, <https://www.theguardian.com/commentisfree/2022/feb/02/leonard-peltier-is-americas-longest-held-indigenous-prisoner-he-should-be-freed>

<sup>2</sup> Human Rights Watch, *United States - I Just Want to Give Back: The Reintegration of People Sentenced to Life Without Parole*, June 2023, [https://www.hrw.org/sites/default/files/media\\_2023/06/usa\\_lwop0623.pdf](https://www.hrw.org/sites/default/files/media_2023/06/usa_lwop0623.pdf), p. 7.

<sup>3</sup> Human Rights Watch and Families Against Mandatory Minimums, *United States - The Answer is No: Too Little Compassionate Release in US Federal Prisons*, November 12, 2012, <https://www.hrw.org/report/2012/11/30/answer-no/too-little-compassionate-release-us-federal-prisons>.

<sup>4</sup> Human Rights Watch and Families Against Mandatory Minimums, *The Answer is No*, p. 15.

<sup>5</sup> *Ibid.*, p. 75-76.

<sup>6</sup> *Ibid.*, p. 76.

The deprivation of liberty of Leonard Peltier, being in contravention of articles 2, 7 and 9 of the Universal Declaration of Human Rights and articles 2 (1), 9 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories III and V.<sup>7</sup>

The UNWGAD found that irregularities in Mr. Peltier's parole hearings have contributed to the arbitrariness of his detention.<sup>8</sup> In 1991, a senior federal judge on the Eighth Circuit Court of Appeals expressed concern that "the FBI used improper tactics in securing Peltier's extradition from Canada and in otherwise investigating and trying the Peltier case," which in his view, are "factors that merit consideration in any petition for leniency filed."<sup>9</sup> In 2023, the issue of Mr. Peltier's long imprisonment was raised at the 139th session of the Human Rights Committee, a body of independent experts which monitors the implementation of the International Covenant on Civil and Political Rights, which the United States ratified in 1992. Dr. Changrok Soh, vice chair of the Human Rights Committee, asked the United States delegation:

Civil society shadow reports have noted that death by incarceration disproportionately impacts Black and Indigenous Peoples in the United States. Can the state party describe what it is doing regarding life sentences for political prisoners, in particular, the case of Indigenous political prisoner Leonard Peltier, who is now at 78 years old the longest serving US political prisoner and has served 48 years in prison?<sup>10</sup>

Many renowned political and religious leaders as well as human rights bodies and other entities also have raised concerns regarding the fairness of Mr. Peltier's trial and urged his release from imprisonment.<sup>11</sup>

We also ask the Commission to carefully consider Mr. Peltier's severe medical conditions when determining whether his continued incarceration is warranted, humane, and consistent with human dignity. Mr. Peltier is 79 years old and has spent more than 46 years in prison. According to the UNWGAD, he suffers from a potentially fatal aortic aneurysm as well as kidney disease, diabetes, hypertension, and partial blindness.<sup>12</sup> Furthermore, he

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<sup>7</sup> UN Human Rights Council Working Group on Arbitrary Detention, "Opinion No. 7/2022 concerning Leonard Peltier (United States of America)," A/HRC/WGAD/2022/7.

<sup>8</sup> Ibid.

<sup>9</sup> Letter from Gerald H. Heaney, U.S. Senior Cir. Judge, 8th Cir., to Daniel K. Inouye, Chairman, U.S. Senate Select Comm. on Indian Affairs (Apr. 18, 1991), <http://www.whoisleonardpeltier.info/download/Heaney.pdf>.

<sup>10</sup> 4050<sup>th</sup> Meeting, 139<sup>th</sup> Session, Human Rights Committee (CCPR), Consideration of the United States of America, <https://webtv.un.org/en/asset/k1t/k1tu2vqwgo>

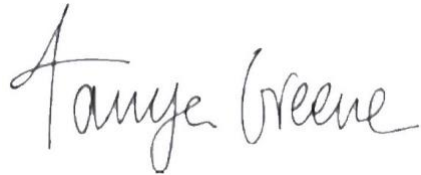
<sup>11</sup> This list includes support from Nelson Mandela, Saint Mother Teresa, Pope Francis, the Dalai Lama, Archbishop Desmond Tutu, as well as the United Nations High Commissioner on Human Rights, the United Nations Working Group on Indigenous Populations, the European Parliament, the Belgian Parliament, the Italian Parliament, and Amnesty International.

<sup>12</sup> UN Human Rights Council Working Group on Arbitrary Detention, "Opinion No. 7/2022 concerning Leonard Peltier (United States of America)," A/HRC/WGAD/2022/7.

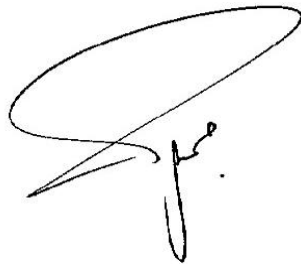
was diagnosed with Covid-19 in January of 2022.<sup>13</sup> Mr. Peltier's age and pre-existing conditions put him at increased risk for serious symptoms or even death.<sup>14</sup>

Human Rights Watch and the ACLU respectfully encourages the Parole Commission to carefully consider the factors in Mr. Peltier's case and make a parole decision that complies with international human rights standards and is consistent with human dignity.

Sincerely,

A handwritten signature in cursive script that reads "Tanya Greene".

Tanya Greene  
Director, US Program  
Human Rights Watch

A handwritten signature in cursive script that reads "Jamil Dakwar".

Jamil Dakwar  
Director, Human Rights Program  
American Civil Liberties Union

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<sup>13</sup> Ibid.

<sup>14</sup> Ibid.