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‘It’s a Slap in the Face’: Victims Are Angered as Jails Free Inmates

More people are being released as outbreaks spread behind bars. But there is a growing conflict over who should be let out.



By **John Eligon**

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Her cellphone buzzed with a new text message, and Tracy Fehrenbacher grew furious. An alert from the circuit court notified her that the man accused of a hit-and-run that left her daughter dead was being released from a St. Louis [jail](#).

A day later, Anthony Cromwell Sr. got a phone call from someone he had not heard from in a while. “Hey, Daddy,” said his son, who had been facing felony charges but had been released from confinement as part of an effort to protect inmates from the [coronavirus](#). “Happy, happy,” the elder Mr. Cromwell said, describing his reaction.

The accused, Anthony Cromwell Jr., was among thousands of [inmates freed](#) across the country in an effort to slow the [coronavirus’s](#) spread behind bars. Health experts urged officials to take action as the disease caused by the virus swept through places like [Rikers Island in New York](#) and [Cook County Jail in Chicago](#), and advocates have filed lawsuits seeking the release of many more incarcerated people as outbreaks continue to grow.

Anthony Cromwell Jr. had been charged with leaving the scene of an accident that resulted in a death.

But as more inmates have walked free, the releases have faced a growing backlash in St. Louis and other parts of the country.

“It’s a slap in the face,” said Ms. Fehrenbacher, whose 28-year-old daughter was run over after a baseball game. “Just the fact that he’s out there living, doing whatever he wants to do, and yet my daughter is never going to be able to do that again.”

The debate over who should be let out has become fierce in some places. In Texas, [Gov. Greg Abbott issued an executive order](#) barring the release of some inmates, arguing that it “would not only gravely threaten public safety, but would also hinder efforts to cope with the Covid-19 disaster.” The order was fought in Texas’ highest court, which [ruled on procedural grounds](#) in Mr. Abbott’s favor this week.

[Law enforcement officials in Massachusetts expressed concern](#) that the state’s highest court had held a closed-door hearing on inmate releases. In Washington State, some law enforcement officials argued that a plan by the governor [to grant early release to nearly 1,000 inmates](#) could include people who had committed assault and sexual crimes. “I feel the release of these additional offenders is of great risk to public safety,” Sheriff Robert Snaza of Lewis County said in a statement.

Many opponents have pointed to a case in Florida, where a Tampa man was [accused of shooting and killing someone](#) the day after he and more than 160 other inmates were freed from Hillsborough County jails last month.

Releasing inmates carries risks, acknowledged Miriam Krinsky, the executive director of Fair and Just Prosecution, a national network of progressive prosecutors. But leaving things the way they are would cause even more harm, she said. More inmates and employees would be infected in crowded facilities, and because of the high turnover rate in local [jails](#), would then carry the disease into the community.

“Doing nothing is going to ensure that there will be tens of thousands of additional deaths,” she said.

Earlier this week, a prison in Marion, Ohio, became the [largest-known source of coronavirus cases in the country](#), with more than 1,800 inmates — about three-quarters of its population — testing positive. Two inmates and one staff member have died.

In St. Louis, the debate came to a head after the local prosecutor, known as the circuit attorney, and the public defender announced in late March that they had agreed to seek the release of dozens of defendants awaiting trial, including some accused of felonies such as burglary and firearms possession.

The state's attorney general, Eric Schmitt, a Republican, wrote to the prosecutor, Kimberly M. Gardner, a Democrat, blasting her decision. "Given the public's anxiety, this is no time to quietly negotiate the release of dangerous criminals," Mr. Schmitt said.

Ms. Gardner accused the attorney general of fearmongering and said her office had objected to letting out many defendants with violent records.

Kimberly Gardner, the top prosecutor in St. Louis, said her charge to protect public safety included ensuring the health of inmates. Christopher Smith for The New York Times

Since she was elected four years ago, Ms. Gardner, the first black person to hold the post of circuit attorney, has been [locked in a heated battle](#) with the local police union and city officials over her efforts to crack down on police misconduct and to make changes in the criminal justice system.

Her charge to protect public safety includes ensuring the health and safety of those behind bars, Ms. Gardner said in an interview. "They are not throwaways. They also have families."

"We have to protect everybody," she said. "This is a broken criminal justice system that intersects with our broken health care system."

Even before the pandemic, activists had fought to reduce the jail population in St. Louis, particularly at the city's Medium Security Institution, commonly called the

Workhouse, where inmates have reported black mold, giant rats and extreme temperature swings. Its population has dropped about 80 percent since a campaign to close the facility started two years ago.

Activists say poor defendants should not be locked up and exposed to the coronavirus just because they cannot afford bail.

“It literally means that poverty can become a death sentence,” said Robin Steinberg, the founder and chief executive of the Bail Project, a national nonprofit group that has bailed out nearly 10,000 inmates over the past two years, including more than 1,200 from St. Louis.

Advocates say that since the city began releasing inmates because of the coronavirus, there has not been a spike in crime. In fact, it is the other way around: [Crime is down 21 percent](#) in St. Louis over about the past month.

But for Ms. Fehrenbacher, whose daughter, Meagen Hudson, was killed last year, none of that means the man accused of hitting her with his car and leaving should be let out.

“He ran someone over and left them,” Ms. Fehrenbacher said. “That’s a threat to anybody. That’s crazy.”

Meagen Hudson was killed last year in a hit-and-run in St. Louis.

She was particularly incensed that no one contacted her before deciding to release him.

“It just seems like criminals are getting more insight and more information than what the victims are,” she said. “I was mad at everybody, and I was even mad at myself to that point, because I felt like I was failing my daughter.”

Ms. Hudson was crossing a street near the stadium after a St. Louis Cardinals game, which she watched with friends in her company's suite. She was not in a crosswalk because of construction in the area, according to police records and interviews.

Mr. Cromwell had the right of way, his lawyer, Cecilia Appleberry, said. He did not stop after the collision because he was a black man who had hit a white woman and feared what the police might do, given the history of racial tension in the community, she said.

Mr. Cromwell's father said his son should not be lumped in with dangerous criminals.

"What about these guys out here that are shooting, taking people's lives, killing them cold-blooded?" he said. "That's a big difference. Those are the people who are a threat to the streets."

Ms. Gardner, the prosecutor, said that when evaluating whether Mr. Cromwell should be released during the pandemic, her office felt that although he had a record of misdemeanor domestic assault and felony drug possession, he did not have a violent history that would make him a danger to the public. The charge he is facing — leaving the scene of an accident that resulted in a death — is among the lowest level of felonies.

Ms. Gardner consented to his release, but it was a tough call, she said. "That was one that was right on the line."

But given that the accusations against Mr. Cromwell were serious enough that the court initially denied bond, Mr. Schmitt, the attorney general, argued that he should not have been let out.

"As the state's chief law enforcement officer, I've raised issue with the release of inmates charged with violent crimes," he said in a statement, "and yes, the release of Anthony Cromwell Jr. does present a danger to public safety."

Ultimately, the decision came down to Rex M. Burlison, the presiding judge of the circuit court in St. Louis, who approved Mr. Cromwell's release without bail.

Judge Burlison said in an interview that he relied heavily on the judgment of the prosecutors, who know the facts of the case best. If convicted and sentenced to the maximum penalty, Mr. Cromwell would be eligible for parole after serving about 12 months, based on the charge against him and his record, the judge said. He had already been locked up for about half of that time while his case was pending.

The judge said he layered all of those factors on top of an unprecedented health crisis putting the lives of inmates and jail staff members at risk.

"The defendant has constitutional rights, too," he said. "This is pretrial. You know that the families will take it hard, but as a judge, you've got to make tough decisions and weigh out the rights of all parties."