



March 19, 2020

The Honorable Roy Cooper  
North Carolina Office of the Governor  
20301 Mail Service Center Raleigh, NC 27699-0301  
*Via US Mail & Personal Delivery*



Dear Governor Cooper:

On March 6, 2020, you declared a state of emergency and issued Executive Order 116 to prevent human suffering as a result of the COVID-19 crisis. As a group of advocates who work on behalf of persons currently incarcerated in North Carolina and their friends and loved ones, we write regarding the anticipated spread of COVID-19 to people incarcerated in North Carolina prisons. Last April, 2019, many of us wrote you with concerns about some of the same matters we raise again today. We are writing now to urge you to take further action to protect the lives of North Carolinians by reducing the risk of contagion in our prisons.



Prisons are closed environments that therefore present the highest risk of illness from COVID-19. While there currently aren't yet any documented cases of anyone in our state prison system having contracted the virus, these are places where many people live and work and return daily to our communities. A rampant outbreak is inevitable. Our current prison staffing, both custodial and clinical, are stretched thin.



Now is the time to take measures to reduce the risk of an outbreak by using your authority to extend the limits of confinement, commute sentences, grant medical release, and expedite release and parole to the elderly and chronically ill in our prisons. Recidivism risks are low with this population and the benefits of reduced risks to our communities as well as to the people who live and work in our prisons is incalculable. Taking these steps allows our state institutions to more effectively comply with the mandate of "social distancing" to prevent further spread of the virus.



All available public health guidance identifies social distancing and vigilant hygiene as the primary tools to combat the spread of COVID-19. Currently, the only known effective measure to reduce the risk of injury or death from COVID-19 is to prevent people from being infected in the first place. Social distancing, or remaining physically separated from known or potentially infected individuals, and vigilant hygiene, including washing hands thoroughly and frequently with soap and water, are imperative for any population to be safe. But by their very nature, prisons – like schools or large crowds – preclude appropriate prevention measures. Thus, it is not a matter of if, but when, this virus breaks out and sweeps through our prisons.



COVID-19 poses the greatest risk of death to older persons and to those who are immunocompromised, suffer from diabetes, chronic obstructive pulmonary disorder and other lung conditions, high blood pressure, and those with cancer. Releasing older adults and people with underlying health conditions who present a low public safety risk from the state's prisons will reduce overcrowding, reduce the spread of the deadly virus, and free up health care services to properly address the needs of those who remain inside the prisons. As you know, despite your budget request for funding, the palliative and long-term care unit at Central Prison has not been able to open. Releasing vulnerable groups from prison now will reduce the need to provide complex medical care or transfers to hospitals when staff will be stretched thin.



In order to minimize the inevitable spread of the virus both in our prisons and in our communities, we ask that you take immediate action to reduce the number of people incarcerated in North Carolina by taking the following steps:

- (1) commuting sentences for older and vulnerable citizens with compromised immune systems, anyone who is within 12 months of release from their active sentence, and to anyone currently being held on a technical violation of probation or parole;
- (2) expediting mass release of those permanently disabled, geriatric, or terminally ill through the Department of Public Safety's Home Leave program and Transition Services; and
- (3) expediting the review of people eligible for parole, particularly those over 65 years of age.

Your authority to take these actions is clear: Article III, Section 5 of the North Carolina Constitution grants you authority to commute sentences for any crime other than impeachment; N.C. Gen. Stat. 15A-1369 authorizes the release of people permanently and totally disabled or geriatric (over 65 and suffering from chronic infirmity), and incapacitated to the extent that they do not pose a public safety risk; and, under N.C. Gen. Stat. § 148-4, incarcerated persons who are permanently and totally disabled can be considered for alternate places of confinement, including a relative's home. Under this statute, incarcerated individuals can be authorized, under prescribed conditions, to leave the confines of prison unaccompanied by a custodial agent to participate in home leave, pre-release, and after-care programs for a prescribed period of time. In all these cases, you or the Secretary of DPS may prescribe conditions of release for a prescribed period. All those released would present little risk, and you can require community supervision as an added step to ensure public safety.

Governor, we know how seriously you take your duty to protect the lives of people living and working in North Carolina's prisons and the surrounding communities. As you know, the health, well-being, and indeed the lives of these people are quite literally in your hands. For the sake of our communities, to every extent possible our prisons should not needlessly keep people incarcerated who are especially vulnerable to COVID-19. We urge you to take immediate and decisive action now to save lives.

We are eager to assist you with the steps outlined above. Please respond to Daryl Atkinson, Co-Director of Forward Justice, by Friday, March 20, 2020 with your proposed plan to address this issue and any requests for assistance from our organizations. Daryl can be reached via email at [daryl@forwardjustice.org](mailto:daryl@forwardjustice.org). Thank you for your leadership confronting COVID-19 in North Carolina.

**Chantal Stevens**, *Interim Executive Director* ACLU –  
NORTH CAROLINA

**Dennis Gaddy**, *Executive Director*  
COMMUNITY SUCCESS INITIATIVE

**Virginia Knowlton Marcus**, *Chief Executive Officer*  
DISABILITY RIGHTS NORTH CAROLINA

**Dawn Blagrove**, *Executive Director*  
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**Tarrah Callahan**, *Executive Director*  
CONSERVATIVES FOR  
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**Jamie Lau**, *Supervising Attorney*  
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**Daryl V. Atkinson**, *Esq.*, *Co-Director* FORWARD  
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**Mary Pollard**, *Executive Director*  
NORTH CAROLINA  
PRISONER LEGAL SERVICES

**Bill Rowe**, *General Counsel*  
NORTH CAROLINA JUSTICE CENTER

**James E. Williams, Jr.**, *Attorney*



March 19, 2020

Todd Ishee  
Commissioner of Prisons  
North Carolina Department of Public Safety  
512 N. Salisbury Street, Raleigh, NC 27604

Dear Commissioner Ishee:

We are a group of advocates and organizations who work on behalf of persons currently incarcerated in North Carolina and their friends and loved ones. We write regarding the anticipated spread of COVID-19 to people incarcerated in North Carolina prisons, and ask you to take immediate action to protect the lives of incarcerated people in our state.

We know that you are well aware that incarcerated persons and correctional staff are particularly vulnerable to the spread of the virus because of prison conditions. While we appreciate the steps that the Department has taken to date to protect incarcerated persons, we urge you to follow the advice of public health experts and take the following additional actions:

- 1. Reduce the prison population.** We respectfully ask that the DAC compile a list of persons who should be prioritized for release, either because they are parole-eligible or because they fit the criteria for early medical release or extended limits of confinement. Persons in these categories are likely to be at heightened risk for serious illness or death from COVID-19 because of their age or pre-existing medical conditions. Compiling this list and working with the Parole Commission to encourage the release of vulnerable incarcerated persons would free up significant departmental resources that need to be dedicated to ensuring the health and safety of staff and incarcerated people.
- 2. Provide transparency and access to communication for families.** Because family members can no longer visit with their incarcerated loved ones, it is essential that the Department be transparent about the spread of COVID-19 within its facilities and its ongoing efforts to contain it. We suggest that the DPS website be updated daily with accurate information about what units are affected and how DPS is responding so that families can remain informed rather than relying on third-hand reports that may be inaccurate. We also request that indigent persons be given access to additional stamps and that all incarcerated persons be allowed to make free telephone calls for the duration of the pandemic. It is likely that many families will be suffering economic hardships and will be unable to provide their loved ones with funds to make these important calls. We also ask that any restrictions on dates to order care packages from Union Supply Direct be lifted so that family members and friends may send their loved ones food and religious items to help get them through this difficult time.
- 3. Restrict the use of solitary confinement as a COVID-19 containment strategy.** We understand that incarcerated persons who are exposed to

or diagnosed with COVID-19 may need to be isolated, but we ask that such isolation be under non-punitive conditions such that those persons may have continued access to all the privileges that they otherwise would have in general population, including continued access to call loved ones; have access to reading materials and items such as puzzles and crafting materials; have access to radio, and television; and have time to walk in the yard if their conditions allow it.

4. **Provide free access to medical care.** While we appreciate that the Department has suspended some medical co-pays, restricting no-cost sick calls to those cases of symptoms of “fever or respiratory issues” may be interpreted too narrowly to cover all circumstances where an incarcerated person may in fact be infected with COVID-19. Similarly, we understand that it may be necessary to defer non-urgent and elective medical treatments and surgeries, but we are concerned that a policy that restricts medical appointments only to “essential treatment” does not adequately define what “essential treatment” is, and does not offer sufficient guidance to unit staff as to what conditions ought to be prioritized for treatment. We request clarification of those terms; or, if more specific guidance has been provided to unit staff about the implementation of the restrictions, we request that you provide a copy of that guidance to us for review.
5. **Ensure people who remain incarcerated have access to hygiene supplies.** We request that persons in prison be given increased access to soap, tissue and cleaning supplies and that people have access to clean laundry on a regular basis. Restrictions on access to soap and hygiene items for indigent persons are inappropriate and dangerous during this pandemic and those who lack funds to access the canteen need to be provided with soap and hygiene items upon request. We understand that Corrections Enterprises is manufacturing hand cleanser and making it widely available to incarcerated persons and staff; we ask that you confirm that this hand cleanser has the same proven sanitizing ability against the COVID-19 pathogen as alcohol-based hand sanitizer recommended by the Center for Disease Control and Prevention (CDC), or alternatively that you lift the ban on alcohol-based hand sanitizer to comply with current recommendations from the CDC. That guidance, and laboratory data currently available which the CDC relies on in producing its guidance, recommends alcohol-based hand sanitizer containing at least 60% ethanol and 70% isopropanol for preventing the spread of COVID-19 due to its demonstrated ability to inactivate “viruses that are genetically related to, and with similar physical properties as the 2019-nCoV.”
6. **Limit the risk of spread via correctional staff.** In order to minimize the risk that COVID-19 be brought into a unit by staff members from the community, and to protect the prison staff, we request that every correctional officer be issued adequate personal protective gear and required to wear it during their shift. We also request that staff be subjected to medical screening, including a temperature check, before starting their shifts.

We are in a critical moment for mitigating the devastating effects of this public health emergency. We are eager to assist you with the steps outlined above. Please respond to **Daniel Bowes** at the NC Justice Center by Friday, March 20, 2020 with your proposed plan to address this issue and any requests for assistance from our organizations. Daniel can be reached via email at [danielb@ncjustice.org](mailto:danielb@ncjustice.org). Thank you for your leadership confronting COVID-19 in North Carolina.

**Chantal Stevens**, *Interim Executive Director*  
ACLU – NORTH CAROLINA

**Virginia Knowlton Marcus**, *Chief Executive Officer*  
DISABILITY RIGHTS NORTH CAROLINA

**Tarrah Callahan**, *Executive Director*  
CONSERVATIVES FOR CRIMINAL JUSTICE REFORM

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**Bill Rowe**, *General Counsel* NORTH CAROLINA JUSTICE CENTER



March 19, 2020

Peg Dorer  
Director  
North Carolina Conference of District Attorneys  
PO Box 3159  
Cary, NC 27519

Dear Ms. Dorer,

We write to call upon North Carolina's District Attorneys to take action to lessen the harm that will be caused by the inevitable spread of COVID-19 among North Carolina residents, particularly among the elderly and otherwise vulnerable individuals, many of whom remain incarcerated in jails, prisons, or other detention facilities.

Following the announcement of COVID-19 as a global pandemic, Governor Roy Cooper issued an Executive Order preventing gatherings of more than 100 people<sup>1</sup> to limit the spread of the virus, which primarily spreads through respiratory droplets produced when a person coughs or sneezes within six feet of another person<sup>2</sup>. Chief Justice Beasley followed suit by drastically reducing court operations, including traffic court and all non-emergency/safety operations.<sup>3</sup> Currently, there are at least 40 North Carolinians who have been diagnosed with COVID-19. It is a certainty that the number of people infected across our state will rapidly increase daily. It is clear that the work of the court system and district attorneys cannot proceed as usual.

We propose several critical actions that protect North Carolina residents, particularly elderly and vulnerable people in the state. These measures align with a joint national statement released by a number of elected prosecutors.<sup>4</sup> Specifically, we hope you will immediately convey our calls for action to your member district attorneys to:

- Dismiss as many pending charges as possible, particularly for non-violent offenses, in order to keep people from having to come to court or otherwise interact with the criminal justice system.
- Move for the immediate release on personal recognizance of all people held on secured monetary bonds, except for the very few cases where the person charged poses a serious risk of injury to another person; and ask that people with pending felonies be placed on pre-trial release.
- File **"consent" motions for appropriate relief** under NCGS 15A-1420(e) to vacate convictions for elderly and otherwise at-risk people in prisons and jails who do not pose a high risk of recidivism.
- Suspend prosecution of failures to appear, including issuance of orders of arrest.
- Vacate all fines and fees so that people are not at risk of incarceration due to non-payment and are not required to engage in unnecessary travel to come into court to pay those financial obligations.

We, the signatories, and our pro bono attorney networks are ready to act quickly and help district attorneys' offices think through and execute these and other proposals. As importantly, we will prioritize engaging other city programs and community partners to ensure you are not alone in this effort and the people who are released have the supports they need in the community to stay safe, healthy, and law-abiding.

Thank you for your consideration and leadership. The emerging data is revealing that unless drastic action is taken immediately to get vulnerable people out of prisons and jails, hundreds—possibly thousands—of these individuals will suffer severe illnesses and death in North Carolina prisons and jails over the coming months.

Please contact **Daniel Bowes** at the NC Justice Center to arrange a date and time to discuss these urgent issues by teleconference: [danielb@ncjustice.org](mailto:danielb@ncjustice.org); (336) 263-7477.

**Chantal Stevens**, *Interim Executive Director*  
ACLU – NORTH CAROLINA

**Virginia Knowlton Marcus**, *Chief Executive Officer*  
DISABILITY RIGHTS NORTH CAROLINA

**Tarrah Callahan**, *Executive Director*  
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**Bill Rowe**, *General Counsel*  
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1 <https://files.nc.gov/governor/documents/files/EO117-COVID-19-Prohibiting-Mass-Gathering-and-K12-School-Closure.pdf>

2 <https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html>

3 [https://www.nccourts.gov/assets/news-uploads/COVID-19-13-March-2020-7A-39%28b%29%282%29-Order\\_0.pdf?sCe0MeYaLJBPjY14doVvi4r\\_4Sm1Zbn=](https://www.nccourts.gov/assets/news-uploads/COVID-19-13-March-2020-7A-39%28b%29%282%29-Order_0.pdf?sCe0MeYaLJBPjY14doVvi4r_4Sm1Zbn=)

4 [https://fairandjustprosecution.org/wp-content/uploads/2020/03/Coronavirus-Sign-On-Letter.pdf?utm\\_source=The+Marshall+Project+Newsletter&utm\\_campaign=f1bf35014e-EMAIL\\_CAMPAIGN\\_2020\\_03\\_17\\_12\\_07&utm\\_medium=email&utm\\_term=0\\_5e02cdad9d-f1bf35014e-174428701](https://fairandjustprosecution.org/wp-content/uploads/2020/03/Coronavirus-Sign-On-Letter.pdf?utm_source=The+Marshall+Project+Newsletter&utm_campaign=f1bf35014e-EMAIL_CAMPAIGN_2020_03_17_12_07&utm_medium=email&utm_term=0_5e02cdad9d-f1bf35014e-174428701)



March 19, 2020

Dear North Carolina Association of Chiefs of Police Regional President and Regional Directors,



**Chief Dan House (President)**<sup>SEP</sup>  
Wrightsville Beach Police Department  
3 Box Sawyer Drive  
Wrightsville Beach, NC 28480  
[dhouse@towb.org](mailto:dhouse@towb.org)

**Region I: Chief Bill Hollingsed, Waynesville PD**  
9 South Main Street, Waynesville, NC 28786  
[bhollingsed@waynesvillenc.gov](mailto:bhollingsed@waynesvillenc.gov)

**Region II: Chief Dana Crawford, Boone PD**  
1500 Blowing Rock Road, Boone, NC 28607  
[dana.crawford@townofboone.net](mailto:dana.crawford@townofboone.net)

**Region III: Chief James Wilson, Norwood PD**  
PO Box 697, Norwood, NC 28128  
[james.wilson@norwoodgov.com](mailto:james.wilson@norwoodgov.com)

**Region IV: Chief Catrina Thompson, Winston Salem PD**  
725 N Cherry Street, Winston Salem, NC 27101  
[cthompson@wspd.org](mailto:cthompson@wspd.org)

**Region V: Chief Kenneth Shultz, High Point PD**  
1009 Leonard Avenue, High Point, NC 27250  
[ken.shultz@highpointnc.gov](mailto:ken.shultz@highpointnc.gov)

**Region VI: Chief Ronnie Patterson, Red Springs PD**  
218 S Main Street, Red Springs, NC 28377  
[chiefronpatterson@yahoo.com](mailto:chiefronpatterson@yahoo.com)

**Region VII: Chief Blair Myhand, Clayton PD**  
PO Box 879, Clayton, NC 27528  
[bmyhand@townofclaytonnc.org](mailto:bmyhand@townofclaytonnc.org)

**Region VIII: Chief Paul D. Burdette, Jr., Beaufort PD**  
215 Pollock Street, Beaufort, NC 28516  
[p.burdette@beaufortnc.org](mailto:p.burdette@beaufortnc.org)

**Region IX: Chief Henry King, Edenton PD**  
301 N Oakum Street, Edenton, NC 27932  
[henry.king@edentonnc.nc.gov](mailto:henry.king@edentonnc.nc.gov)

**Region X: Chief John Cueto, Duck PD**  
PO Box 8369, Duck, NC 27949  
[jcueto@townofduck.com](mailto:jcueto@townofduck.com)

## RE: Law Enforcement Officer Response to COVID-19

We write regarding the massive risk of spread of the Coronavirus 2019 (COVID-19) to residents across the state. On March 11, 2020 the World Health Organization declared COVID-19 a global pandemic<sup>1</sup> because of the rapid rate at which the virus has spread around the world over the past few months. On March 14, 2020, Governor Cooper issued an Executive Order restricting gatherings of more than 100 people<sup>2</sup> to prevent the spread of the virus, which primarily spreads through respiratory droplets produced when a person coughs or sneezes within six feet of another person<sup>3</sup>. On March 15th, Chief Justice Beasley issued a mandate drastically reducing court operations, including traffic court, and all non-emergency/safety operations.<sup>4</sup> While there are not currently any known cases of COVID-19 within the jail population in North Carolina, that is likely to change as the number of people infected across our state rapidly increases daily.

Current reporting on jail occupancy rates<sup>5</sup> in North Carolina show how the dire situation posed by COVID-19, could lead to widespread infection across our state:

- 50% of counties exceeded in-county capacity for at least one month; and
- 64% of counties exceeded 90% of in county jail capacity for at least one month in 2018.
- In 2018 there were, on average, 19,344 people incarcerated in North Carolina jails on any given day, with most facilities well exceeding the total of individuals gathered limited by gubernatorial order.
- Seven counties have no in-county jail and are required to transport detainees across county lines.

- Several counties averaged over-capacity for the entire year of 2018

Immediate action is necessary to prevent the rapid spread of COVID-19 within the criminal justice system. Acknowledging this risk, states around the country are already taking dramatic steps to reduce the number of detained individuals currently in jails and reduce the number of new individuals entering the system:

**Cleveland Ohio:** [Ohio Jail Releases Hundreds of Inmates Due to Concern of Coronavirus Spread](#)

**Los Angeles, California:** [Los Angeles is Releasing Inmates Early and Arresting Fewer People Over Fears of The Coronavirus in Jails](#)

**Austin, Texas:** [Travis County Judges Releasing Inmates to Limit Coronavirus Spread](#)

Similar action must be taken in North Carolina. We urge you to develop informed, immediately actionable steps to protect public safety and public health. This must include preventing people from unnecessarily entering the criminal legal system on the front end. Given the rapid spread of COVID-19 and the close proximity within which these large populations are housed, we request the following steps be taken to attempt to mitigate the harm to detained individuals, officers staffing local jails and transporting detained individuals, and the state at large who will be at risk for transmitting the virus when individuals return to the community. Recognizing some of these measures fall outside the purview of law enforcement, we urge you and your officers to coordinate with the courts, sheriffs and jail administrators as needed.

- 1. Drastically limit the number of people who are arrested.** Police should cease arrests for all non-violent and non-domestic violence misdemeanors.
- 2. Expand use of citations in lieu of arrests to prevent the number of individuals coming into jails.** We urge law enforcement to opt for use of citations rather than arrests for as many offenses as possible to prevent the number of potentially affected individuals entering jail facilities. Limit custodial arrests to high-level felonies and violent or DV-related misdemeanors. Even when necessary to place a person under arrest, have all arrestees screened by a medical provider for possible COVID-19 exposure before the person is taken to the local jail/booking facility in order to limit/prevent the potential spread of COVID-19.
- 3. Extend pretrial release:** Individuals currently detained because of inability to meet monetary bail requirements who pose no threat to the public should be released to reduce jail populations.
- 4. Reduce number of charges of Class 3 misdemeanors.**
- 5. Suspend mandatory in-person meetings for individuals under court supervision:** This includes pretrial supervision, parole, and probation check-ins. No one should be penalized for not appearing in person for court hearings or probation/parole meetings during the duration of the pandemic.
- 6. Suspend all intermittent sentences for people on probation.** This includes, but is not limited to, suspending split sentences and jail weekends.
- 7. Immediately release people who have compromised immune systems, are elderly or otherwise fall within populations most vulnerable to COVID-19, as well as those serving a split sentence or have less than 60 days remaining of their sentences.**
- 8. Suspend executing writs of eviction, especially for evictions that are not public safety related.**
- 9. Protect Law Enforcement Officers and Detained Individuals by Ensuring access to Soap, Tissue, and Cleaning/Sanitizing Products:** People in police custody should be given access to soap, tissue (or toilet paper), and cleaning/sanitizing products.

10. **Provide Clear, Accurate Information about the COVID-19 Crisis and the Importance of Individual Sanitation to all Law Enforcement Officers**
11. **Ensure all patrol officers and other officers who interact with the public have access to sufficient testing and education about the virus for themselves, and other prompt medical care if needed; Ensure all employees in their command are aware that they should not report to work if they themselves are feeling any symptoms and that any leave will be fully compensated.**

It is essential that actors within the criminal legal system coordinate with local public health experts to limit the risks presented by COVID-19 to people who come into contact with the system. Inadequate responses will lead to massive spread within and outside jail facilities, and tremendous cost to an already overburdened medical system. Limiting the number of detained individuals potentially transmitting the virus and reducing the risk of transmission within jail facilities is essential in the greater effort towards limiting greater spread within North Carolina.

Thank you for your service to North Carolina. We are eager to assist you in taking the steps laid out above. Please respond to Tarrah Callahan at [tarrah@ccjrnc.com](mailto:tarrah@ccjrnc.com) by Friday, March 20, 2020.

**Chantal Stevens**, *Interim Executive Director*  
ACLU – NORTH CAROLINA

**Dennis Gaddy**, *Executive Director*  
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3 [https://www.nccourts.gov/assets/news-uploads/COVID-19-13-March-2020-7A-39%28b%29%282%29-Order\\_0.pdf?sCe0Me\\_YaLJBPjY14doVvi4r\\_4Sm1Zbn=](https://www.nccourts.gov/assets/news-uploads/COVID-19-13-March-2020-7A-39%28b%29%282%29-Order_0.pdf?sCe0Me_YaLJBPjY14doVvi4r_4Sm1Zbn=)

4 [https://fairandjustprosecution.org/wp-content/uploads/2020/03/Coronavirus-Sign-On-Letter.pdf?utm\\_source=The+Marshall+Project+Newsletter&utm\\_campaign=f1bf35014e-EMAIL\\_CAMPAIGN\\_2020\\_03\\_17\\_12\\_07&utm\\_medium=email&utm\\_term=0\\_5e02cdad9d-f1bf35014e-174428701](https://fairandjustprosecution.org/wp-content/uploads/2020/03/Coronavirus-Sign-On-Letter.pdf?utm_source=The+Marshall+Project+Newsletter&utm_campaign=f1bf35014e-EMAIL_CAMPAIGN_2020_03_17_12_07&utm_medium=email&utm_term=0_5e02cdad9d-f1bf35014e-174428701)



March 19, 2020

Sheriff John W. Ingram, V  
President of Sheriffs' Association  
P.O. Box 9  
Bolivia, NC 28422

Sheriff James E. Clemmons, Jr.  
Chairman of Sheriffs' Association  
1 Court Street  
Rockingham, NC 28379

Dear Sheriff Ingram, V and Sheriff Clemmons, Jr.:

We write regarding the anticipated spread of Coronavirus Disease 2019 (COVID-19) to people detained in North Carolina jails. As COVID-19 has the world on high alert, we fear that not enough attention is being paid to the thousands of people who are the most at risk, incarcerated people, and that no guidance is being given to our Sheriffs throughout the state. In order to combat this pandemic and minimize its potentially catastrophic effects the jail population as well as our overall community, we urge you to develop and implement holistic policies that align with the guidance from public health experts and that will minimize the harm inflicted on people involved with the criminal legal system. We offer these recommendations for your consideration and request that you act immediately.

The primary signatory to this letter manages the Safe and Humane Jails Project. The Project collects and records information about North Carolina jails, and works to ensure the health and safety of people who are incarcerated throughout the state. Ms. Miles has been unable to ascertain, what if any guidance has been provided to the Sheriffs about managing this crisis either through the Sheriffs' Association or through the NC Department of Health and Human Services (NCDHHS). Despite the lack of guidance, we commend the sheriffs who are already implementing a number of these recommendations, and urge all sheriffs to take action. It is critical that guidance be immediately offered to those who are not yet taking action, in consultation with each County Health Director, NCDHHS, and guidance from the Centers for Disease Control (CDC).

According to the CDC and the World Health Organization, older adults and people of any age with chronic medical conditions- such as heart disease, lung disease, or diabetes- or who are otherwise immuno-compromised are at higher risk for contracting and developing complications from COVID-19. While immediate medical attention should be sought for anyone exhibiting symptoms of COVID-19, namely fever, dry cough, and difficulty breathing, excellent personal hygiene practices and social distancing are the most effective tools to combat the spread of the virus. This means staying at least six feet away from someone who coughs or sneezes, avoiding or limiting all physical contact, washing your hands regularly with soap and water, and using alcohol-based hand sanitizer to clean your hands after coughing, sneezing, or coming into contact with potentially exposed surfaces, objects, or people.

Given the overcrowded conditions of our county jails, along with the high volume of people who enter and exit these facilities, the above described procedures may be difficult to implement. Therefore, we urge you to partner with local public health experts in developing informed, immediately actionable steps and guidance that protect public safety and public health. This must include preventing people from unnecessarily entering the criminal legal system in the first place, and ensuring that those especially vulnerable to COVID-19 are not needlessly detained. The non-exhaustive list below includes recommended actions, and we implore you to remember that this unprecedented crisis warrants a holistic approach. Collaboration and transparency across the system are crucial.

#### **A. Achieving Reduction in County Jails.**

First, reducing our jail population should be the primary response to this pandemic. We believe that elected sheriffs should work with public health officials, courts, prosecutors, local police, and other leaders in our communities to implement and advocate for the following reforms:

- Stop arrests for low-level offenses, including possession of controlled substances and Class 3 misdemeanors.
- Expand the issuance of citations or summonses in lieu of custodial arrest, as permitted by N.C.G.S. 15A-302. This will help reduce the overall jail population and prevent the spread of COVID-19 to officers, first responders and medical staff, and jail staff who may come in contact with an arrestee who has been exposed to the virus.
- Release all individuals who are being detained because they cannot afford cash bail, unless they pose a serious risk to public safety. Because many of our jails require persons to share a single-cell or live in very close quarters in barrack-style corridors, releasing individuals who are being detained solely because they cannot afford to pay their money bail will create more space and facilitate the social distancing recommended by health experts.
- Identify and release the following people immediately, unless doing so would pose a serious risk to the physical safety of our community:
  - Individuals who are elderly, i.e. all those over 65;
  - Populations classified by the CDC as vulnerable including individuals with asthma, cancer, heart disease, lung disease, and diabetes;
  - Pregnant people;
  - All people whose sentences have expired;
  - People serving weekend sentences or on 24-hour hold; and
  - People incarcerated due to technical violations of probation or parole.

#### **B. Humane Conditions of Confinement**

For individuals who must remain incarcerated in local jail facilities, every effort should be made to ensure they have meaningful access to healthcare, as defined by public health officials, and that their basic human rights are being met. It is critical to balance the precautions necessary to protect against further spread of the virus with the constitutional rights of those in custody. To that end, we urge you to consider implementing the following the policies in consultation with state and county health officials:

- Eliminate all medical co-pays for detained individuals. Jail officials should eliminate the need for medical co-pays while the pandemic is ongoing. In the alternative, jail officials should eliminate all medical co-pays for medical visits from persons reporting with respiratory illness, fever, shortness of breath, or other virus related symptoms. Co-pays discourage people from reporting symptoms and seeking medical care. As such, eliminating co-pays temporarily may encourage people to seek immediate medical care.

- Ensure adequate access to soap, tissue, clean/sanitizing products, and clean laundry. People in jail should be given an increased amount of supplies, including soap, tissue (or toilet paper), and cleaning/sanitizing products. Additional steps should be taken to ensure that people have clean laundry on a regular basis. Cleaning and sanitizing supplies—including at least 60% alcohol-based hand sanitizers as recommended by the CDC—should be provided and available at no cost to incarcerated people and their families and visitors.
- Implement medical quarantine when necessary and take steps to mitigate the effects of medical quarantine. Jail medical staff should consult with experts at their county health department, the CDC, and/or NCDHHS to develop a medical quarantine plan for people who present with COVID-19 symptoms. This plan should consider how to isolate people with the virus; how long to quarantine people who have been exposed; what personal protective equipment is needed; and when to lift the quarantine.
- Any plans to quarantine should not be punitive in nature. Avoid widespread lockdowns or the use of solitary confinement as a means of containment. We urge jail officials to ensure that those who are quarantined have positive ways to spend their time, including access to reading materials, crossword puzzles, other activities, and free phone or video visitation.
- Maintain confidential access to counsel and preserve family visitation rights. People who have active court cases should continue to have regular access to their legal team either through video conference or glass barriers, be transported to court proceedings as scheduled, and be able to perform legal research. Given the risks raised by the pandemic, everyone should be entitled to unlimited video visitation and free telephone calls in order to communicate with their legal team and loved ones. Additionally, we urge jail staff to be transparent and understanding with families as they may have concerns and questions about the health and safety of their loved ones who are under your care.
- Direct all jail staff and personnel to stay home, with pay, when sick.
- Create a plan for transfers of people whose care cannot be safely managed in jail. We urge jail staff and medical providers to create a plan for how to respond to and accommodate the likely need to transfer a large number of people who they are unable to care for at the jail.

As we stated above, this list is non-exhaustive. Even after the urgent threat of COVID-19 subsides, these sensible and smart policies should remain in place. Although we are facing a serious threat as a country this time presents a unique opportunity to come together as one. It is important that we all work together to prevent and manage the spread of COVID-19 into our jails and communities. For these reasons, we ask that any directives given by the Sheriffs' Association be shared with Taittiona Miles, Managing Attorney, Safe and Humane Jails Project at [tmiles@ncpls.org](mailto:tmiles@ncpls.org). This will help us to continue to work collaboratively with jail staff and answer any questions or concerns we receive from loved ones and incarcerated people who are concerned with how our jails are responding to this pandemic.

Sincerely,

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