



March 23, 2020

Governor Larry Hogan, Chair
Governor Andrew Cuomo, Vice Chair
Members, Executive Committee
National Governors Association
444 N. Capitol St NW, Ste. 267
Washington, D.C. 20001

Re: Immediate Action Needed to Prevent the Spread of COVID-19 in Jails & Prisons

Dear Chair Hogan, Vice Chair Cuomo, & Members of the Executive Committee:

We are asking you to act immediately so that we can protect the lives of the more than 2.2 million people nationwide who are currently incarcerated, including more than 600,000 individuals in local jails. The spread of COVID-19 is a national emergency that threatens potentially millions of lives; current projections indicate that the U.S. death toll could range between 200,000 to more than 2.2 million people. While everyone is at risk, we have a moral obligation to ensure that our most vulnerable – the elderly, the sick, those without medical care, and those unable to protect themselves from the virus – get the help that they need.

The following guidelines are designed to keep incarcerated individuals, correctional officers, and their communities as safe, healthy, and virus-free as possible during this time of national and global crisis.

BACKGROUND:

As COVID-19 spreads in severity nationwide, decision makers at *all* levels are working to slow “community spread” by encouraging and even requiring social distancing.

Correctional facilities, including jails, represent the perfect breeding ground for COVID-19. Each day, people are [booked into and released from](#) jail facilities, while guards, vendors, and other jail staff cycle in and out. This [massive turnover](#) is exacerbated by the fact that [more than](#)

[half of jailed people](#) only remain incarcerated for a few days, resulting in a [weekly turnover of 54 percent](#) of jail populations. Worse, the enclosed nature of jails and prisons, as well as the difficulties of maintaining proper hygiene inside facilities, mean that COVID-19 will likely spread like [wildfire](#) once introduced. Many prisons are overcrowded – some to the point of crisis. Access to clean water and showers is limited. Many people are forced to share a single bathroom. Hand sanitizer is often [banned](#) and, in many cases, handcuffs prevent people from covering their mouths when they cough. Moreover, the prison population is more likely to have chronic health conditions that render them particularly vulnerable to both infection and serious medical complications. All of these conditions effectively create a virus tinderbox that threatens not only incarcerated individuals and correctional employees, but also their families and communities at large.

Experts recommend that to protect those people who are most vulnerable, we must physically separate individuals through [social distancing](#). Unfortunately, [separating sick people from well people](#) to prevent disease spread is nearly, if not entirely, [impossible in correctional](#) facilities. We therefore urge local policymakers to *first* adopt the following decarceral measures and *second* implement mitigation-focused measures for anyone who remains incarcerated. We additionally urge proactive measures that will reduce the economic hardships associated with the criminal-legal system and debt collection.

WE URGE YOU *FIRST* TO ENACT THE FOLLOWING DECARCERAL POLICIES:

Using all available powers, including the powers of clemency, furlough, parole, and compassionate release, dramatically reduce the prison and/or jail populations.

- Prioritize the immediate release of the [elderly and medically vulnerable](#), including individuals who are pregnant or who have asthma, chronic illness, lung disease, or heart disease.
- Release anyone who is within 18 months of his/her release date.
- Urge a hold to all new state prison sentences for anyone who is currently not detained.
- Release all people held on probation and parole technical violation detainers or sentences. Ensure no new jail or prison sentences based on technical violations.
- Ensure that all people released from prison have a transition plan that includes seamless access to medical care and health-related services.
- Ask parole boards to release all individuals who are currently on parole and develop an emergency process that can expedite parole hearings.
- Stop all new detentions of individuals facing probation or parole technical violations.
- Create a framework that facilitates the expedient release of as many incarcerated individuals as possible.

Working with local officials, advocate the maximum reduction in jail admissions.

Advocate that sheriffs and local policymakers:

- Use [cite-and-release](#) for all individuals who are eligible for cite-and-release including under expanded emergency provisions.
- Categorically end jail bookings for as many people as possible.
- Ensure no arrests or bookings for individuals who are alleged to have committed technical parole / probation violations.

- Stop all new arrests and detentions unless there is evidence of a specific identifiable harm to another person.
- Provide appropriate victims' services for individuals (i.e., victims) who have questions or concerns about these releases. Ensure easy access to these supports and services.
- Under no circumstances detain someone because this person is exhibiting COVID-19 symptoms.
- Where confinement is considered necessary, transition all new incarcerations to be house arrests.

***Example:** In Bexar County, Texas, Sheriff Javier Salazar released a COVID-19 mitigation plan that encourages cite-and-release.*

***Example:** In Cuyahoga County, Ohio, judges began expedited hearings to reduce the jail population. On a single day, they released 38 people from the Cuyahoga County Jail.*

***Example:** In Los Angeles County, California, the police department has reportedly reduced arrests from 300 per day to 60 per day, including by utilizing citations rather than booking people.*

***Example:** In Osage County, Oklahoma, there is a moratorium on all outstanding warrants, excluding warrants for violent offenses, domestic violence, and sex offenses.*

***Example:** In Baltimore, Maryland, the District Attorney has announced a moratorium on prosecuting prostitution, drug offenses, and various other crimes.*

Working with local officials, advocate that local officials release the vast majority of individuals who are currently incarcerated in jails.

Advocate that sheriffs and local policymakers:

- Identify and prioritize the immediate release of the [elderly and medically vulnerable](#), including individuals who are pregnant or who have asthma, chronic illness, diabetes, lung disease, heart disease, or any condition that suppresses the immune system.
- Release all individuals who are being held pretrial, except where such release would pose a risk of serious, imminent harm to a reasonably identifiable person.
- Release as many people as possible.
- Release all individuals who are within six months of their release date.
- Release all people held on probation and probation technical violation detainers or sentences.
- Release all individuals being held for other agencies, including Immigration and Customs Enforcement.
- Continue the process of releasing individuals, with the goal of releasing as many individuals as possible. As necessary, petition judges and prosecutors to issue personal recognizance bonds for people so as to secure their release.
- Ensure that all people released from jail sentences have a transition plan that includes seamless access to medical care and health-related services, provided that provision of such a plan does not delay release. If an individual must be under quarantine, ensure that the individual has the necessary information and resources available.

Example: In Los Angeles County, California, the sheriff has reportedly released more than 600 people as a way of mitigating virus transmission risk.

For those individuals who are released on probation and parole, modify supervision practices so as to support family bonds and health-related exigencies.

- Eliminate the need for in-person meetings, check-ins, and any probation conditions that would require travel or in-person interactions.
- Suspend enforcement of / arrests for technical violations during the coronavirus crisis.
- Eliminate probation intake / active supervision to only those who absolutely require supervision.
- Cease collecting legal financial obligations (fines, fees, and restitution) from those on community supervision, as well as any fees associated with probation conditions.
- Discharge from supervision as many individuals as possible, beginning with those individuals who:
 - Are [elderly and medically vulnerable](#), including individuals who are pregnant or who have asthma, chronic illness, diabetes, lung disease, heart disease, or any condition that suppresses the immune system;
 - Are within 18 months of their release; or
 - Are serving a misdemeanor and/or any other eligible sentence.

Immediately halt new admissions to juvenile detention and correctional facilities and initiate the removal of youth from juvenile detention and correctional facilities.

Work with appropriate local agencies to:

- Examine all pre- and post-adjudication release processes and mechanisms and begin employing these as quickly as possible.
- Remove youth who have COVID-19 symptoms; chronic illnesses, such as asthma or diabetes; other serious illnesses; or are in need of medical care.
- Eliminate any form of detention or incarceration for youth unless a determination is made that a youth is a substantial and safety risk to others.

WE URGE YOU *SECOND* TO IMPLEMENT THE FOLLOWING MITIGATION-FOCUSED MEASURES:

For those individuals who remain incarcerated, ensure proper hygiene and access to medical care.

- Make a transparent, written policy, vetted by public health officials and widely distributed, for handling COVID-19 within each detention facility.
- Develop and implement testing protocols for all people who live, work, and visit inside prisons.
- Extend paid sick leave to all prison and other criminal-legal system employees.
- Ensure the free provision of alcohol-based hand sanitizer, cleaning products, soap, medical tests, and other items related to CDC-recommended protocols.
- Eliminate medical co-pays.
- Working with local hospitals, doctor's offices, and health agencies, work to reduce medical appointment wait-times for incarcerated individuals.

- Release all incarcerated people who test positive for COVID-19 to an external healthcare facility where they can receive care. Anyone exposed and who needs quarantine should be moved to hospitals and medical facilities, or a medically appropriate setting, rather than quarantined within unsanitary and unsafe jails, prisons, or detention centers.
- Implement non-punitive procedures for housing people who are exposed to COVID-19, who are at high risk, or who screen or test positive. Ensure that these procedures do not yield lockdowns.

For those individuals who remain incarcerated, facilitate communications home.

- Eliminate charges for all communication mechanisms, including phone calls, video calls, emails, and written mail.
- Provide regular daily public updates on the number of cases, any fatalities, and the names of those who are ill, so that family and friends will have accurate, updated information.

For everyone who has incurred debt and/or debt-related penalties, end the financial hardship associated with these debts and penalties.

Working with state, local, and judicial policymakers as necessary, advocate policies that accomplish the following goals. See the [Fines and Fees Justice Center website](#) for more detail.

- Discharge / immediately cancel all outstanding fines, fees, and court debts. Until this step is complete, pursue the following types of immediate relief.
- End the collection of state fines, fees, and other court debts. Do not send any additional cases to private collection companies.
- End the collection of late fees, penalties, and interest.
- End the enforcement of warrants that are for unpaid fines, fees, or failures to appear.
- End the denial of any government benefits, including Section 8 vouchers, based on outstanding court debts.
- End the enforcement of driver's license suspensions that relate to unpaid court debts or failing to appear.
- Urge law enforcement to only issue warnings, or at most citing and releasing, any people caught driving on a suspended license, while working to reinstate all licenses that were suspended due to nonpayment.
- Urge an end to booting, towing, and impounding vehicles for unpaid fines, fees, and other court debts.
- Urge an end to issuing parking tickets and municipal code violations that do not impact public safety.
- Urge a statewide moratorium on housing evictions.
- Urge a statewide moratorium on utility shutoffs while the coronavirus crisis lasts.
- Proactively communicate all policy changes to constituents.

***Example:** Maine has [vacated all outstanding warrants](#) for unpaid fines and fees.*

***Example:** Minnesota is [halting driver's license suspensions](#) for unpaid fines and fees, and it is suspending late fees and new referrals for collections.*

Example: Shelby County, Tennessee now makes phone calls and video calls free.

Example: Multnomah County, Portland is suspending evictions during coronavirus outbreak.

We know that your members are deeply committed to protecting those individuals who are serving criminal sentences, working in jail facilities, or living in surrounding communities. We believe that these measures are necessary to protect this population. Moreover, we are ready to support you however you need support; please contact the below-signed organizations for more information, technical assistance, or any other form of support needed.

In addition, please stay tuned for further communications regarding other actions that local officials can and should be taking, including actions related to fees/fines, decriminalization, and housing. We know that this crisis requires actions on many fronts, and we are committed to supporting you however we can. If you have questions or concerns, please contact Sakira Cook, Director, Justice Reform Program, The Leadership Conference on Civil and Human Rights, at cook@civilrights.org.

Sincerely,

1. A Little Piece of Light
2. Advancement Project, National Offices
3. Advocates for Youth
4. Alabama Justice Initiative
5. Aleph Institute
6. Alliance of Families for Justice
7. Alternate Roots
8. American Friends Service Committee
9. American-Arab Anti-Discrimination Committee (ADC)
10. Arab American Institute (AAI)
11. Aurora (CO) Public Defender's Office
12. Beauty After the Bars
13. Believers Bail Out
14. Bend the Arc: Jewish Action
15. Benton Institute for Broadband & Society
16. Black and Pink
17. Californians United for a Responsible Budget (CURB)
18. Candide Group
19. Center for Constitutional Rights
20. Center for Disability Rights
21. Center for Law and Social Policy (CLASP)
22. Center on Race, Inequality, and the Law at NYU School of Law
23. Center on Wrongful Convictions
24. Chicago Community Bond Fund
25. Chicago Urban League
26. Christian Reformed Church Office of Social Justice
27. Church of Scientology National Affairs Office
28. Civil Rights Corps

29. College and Community Fellowship
30. Color of Change
31. Colorado Criminal Defense Bar
32. Colorado Office of the Alternate Defense Counsel
33. Colorado-CURE, Inc.
34. Community Justice Exchange
35. Criminal Justice Policy Foundation
36. Decarcerate Tompkins County
37. Defender Impact Initiative
38. Defending Rights & Dissent
39. Detention Watch Network
40. Detroit Justice Center
41. Dignity & Power Now
42. Drug Policy Alliance
43. Equal Justice USA
44. Essie Justice Group
45. Fair and Just Prosecution
46. Fair Chance Project & Families United to End LWOP – FUEL
47. FAMM
48. Forward Justice
49. Free Hearts
50. Friends Committee on National Legislation
51. Gender Justice LA
52. Gideon's Promise
53. HEARD - Helping Educate to Advance the Rights of Deaf Communities
54. Human Rights Defense Center
55. Human Rights for Kids
56. Illinois Prison Project
57. Immigrant Legal Resource Center
58. Impact Justice
59. Innocence Project
60. Interfaith Action for Human Rights
61. International CURE
62. Japanese American Citizens League
63. John Howard Association
64. Just Futures Law
65. Justice For Housing
66. Justice Policy Institute
67. JusticeLA Coalition
68. Juvenile Law Center
69. La Defensa
70. Lambda Legal
71. LatinoJustice PRLDEF
72. Law Enforcement Action Partnership
73. Law for Black Lives
74. Lawndale Christian Legal Center
75. Lawyers' Committee for Civil Rights Under Law
76. The Leadership Conference Education Fund
77. The Leadership Conference on Civil and Human Rights
78. Legal Council for Health Justice
79. Legal Services for Prisoners with Children/All of Us or None

80. Line Break Media
81. Live Free of Faith in Action
82. Marijuana Policy Project
83. Massachusetts Against Solitary Confinement
84. Matthew Shepard Foundation
85. Media Justice
86. Media Mobilizing Project
87. Michigan State Appellate Defender Office
88. Mijenye
89. Mitchell Hamline School of Law
90. MomsRising
91. Montgomery County (MD) Civil Rights Coalition
92. Movement for Family Power
93. Muslim Advocates
94. NAACP
95. NAACP Legal Defense and Educational Fund, Inc.
96. National Association of Criminal Defense Lawyers
97. National Association of Social Workers
98. National Center for Lesbian Rights
99. National Center for Transgender Equality
100. National Center for Youth Law
101. National Coalition on Black Civic Participation
102. National Council of Churches
103. National Employment Law Project
104. National LGBTQ Task Force
105. National LGBTQ Task Force Action Fund
106. National Organization for Women
107. NETWORK Lobby for Catholic Social Justice
108. New Beginnings Reentry Services, Inc.
109. New Sanctuary Coalition
110. New Virginia Majority
111. OCA - Asian Pacific American Advocates
112. Office of the Public Defender State of Hawai'i
113. Open Society Policy Center
114. Oregon CURE
115. Orleans Public Defenders
116. Out for Justice
117. People For the American Way
118. Poder in Action
119. Prison Policy Initiative
120. Prison Voice Washington
121. Project for Transgender Incarcerated Survivors
122. Public Defender Association
123. Racial Justice Action Center
124. Real Justice PAC
125. Reform LA Jails
126. Release Aging People in Prison/RAPP
127. Reproductive Justice Inside
128. Safe & Just Michigan
129. Santa Clara County Alternate Defenders Office
130. Sero Project

131. Sex Workers Outreach Project - USA
132. SIECUS: Sex Ed for Social Change
133. Still She Rises, Tulsa
134. StoptheDrugWar.org
135. Texas Fair Defense Project
136. The Bail Project
137. The Campaign for the Fair Sentencing of Youth
138. The Dobbs Wire
139. The Justice Collaborative
140. The Justice Roundtable
141. The Ladies of Hope Ministries, INC
142. The Legal Aid Society of Suffolk County
143. The Mass Liberation Project
144. The National Council for Incarcerated and Formerly Incarcerated Women and Girls
145. The People's Lobby
146. The Promise of Justice Initiative
147. The Sentencing Project
148. Transformative Justice Coalition
149. T'ruah: The Rabbinic Call for Human Rights
150. Tzedek Association
151. Unheard Voices Outreach
152. Union for Reform Judaism
153. VOCAL-NY
154. Voices for Racial Justice
155. WE GOT US NOW
156. WISDOM of Wisconsin
157. Women's Justice Institute
158. Working Families Party
159. Worth Rises