



March 26, 2020

RE: NECESSARY STATE RESPONSE FOR INCARCERATED INDIVIDUALS DURING THE COVID-19 CRISIS

Dear Governor McMaster, Director Stirling, Attorney General Wilson, Director Adger, Solicitors, Public Defenders, Jail Administrators, and local stakeholders,

As the COVID-19 pandemic continues to impact our state, we ask that you take immediate steps to address the grave risk to lives posed by current conditions in jails, prisons and courtrooms in South Carolina. As lawyers, advocates, philanthropists, and service providers, we remain ready to assist in these efforts, including the release process, to increase services for those who are released, and to support those who remain in custody.

While we have seen significant improvements in the last several years, South Carolina's prisons and jails remain overcrowded and understaffed. Moreover, we have an aging population incarcerated, who are [more susceptible to severe COVID-19 outcomes](#). In order to address [the public health crisis](#), actions must be taken now to reduce the population. Public health experts are in agreement about this, particularly as it pertains to [the risk to our incarcerated population](#). The time to act is now.

**We join public health experts in concluding that the single most effective way -- perhaps the only way -- to achieve risk-mitigating social distancing inside prisons is through accelerated release and other immediate density reduction steps.**

Existing service providers and philanthropic organizations are committed to working together to accommodate an influx of community placement needs. As the ACLU laid out in their [letter of March 18, 2020](#), which we join in support, we believe the government must take immediately actionable steps to ensure that public safety and public health are as protected as possible. Our goal is to protect public health by reducing the number of people held in custody and by

reducing the contact between people in court settings. These actions are urgently needed to address the current pandemic. Without action, thousands will certainly become ill and many will likely die, with the suffering falling disproportionately on low-income families, particularly Black and Latinx families.

Below, please find more specific recommendations.

## **I. Population Reduction Proposals to Reduce Risk of Transmission and Death Within Facilities**

As a coalition of reentry, criminal justice reform, human rights, social services, and anti-poverty agencies across the state, we have shared goals of 1) protecting those at high risk of COVID-19; 2) mitigating the threat of rapid spread that will overwhelm the healthcare system by reducing the population density within facilities; and 3) ensuring that those released do not present either a health risk. We believe that it is possible to achieve these goals while ensuring the health and safety of all South Carolinians. Accordingly we recommend the following:

### **A. Immediate implementation of Chief Justice Beatty's [March 16, 2020 order to new arrestees and people currently incarcerated in jails across the state of South Carolina](#)**

- Chief Justice Beatty's order requires that "[a]ny person charged with a non-capital crime shall be ordered released pending trial on his own recognizance without surety, unless an unreasonable danger to the community will result or the accused is an extreme flight risk."
- This mandate and standard should be applied to those who were arrested prior to the COVID-19 crisis, with new bond hearings scheduled for all people currently held pre-trial for non-capital crimes. Solicitors, defense attorneys and local courts should work together to ensure these bond hearings are held on an expedited basis.
- Additionally, police should cease arrests for low-level offenses and issue tickets or citations, which do not require an immediate appearance in court.
- In addition to the implementation of the Order's mandate that courts not issue bench warrants, police should stop serving existing bench warrants.

### **B. Emergency release based on an individual's COVID-19 risk**

- Age: Release to parole/community supervision individuals 60 and older who have five years or less on their sentence and all those 60 and over who have been determined to be low risk by SCDC's internal evaluation. This internal evaluation may be a comprehensive risk assessment that has been done by the parole board, or any other assessment tool used by SCDC to assess risk, including current classification score or intake assessment.

Additionally, DJJ should assess all youth. Any non-violent youth who does not present an immediate danger to themselves or the community should be released.

- Health: Release to parole/community supervision individuals who are immuno-compromised or who are medically vulnerable because of diabetes, heart disease, respiratory condition, or otherwise, who have five years or less on their sentence and all those in this cohort who have been determined to be low risk by any SCDC internal evaluation, as defined above.

### **C. Density reduction measures**

- Accelerate release to parole/community supervision of those already found suitable for parole by the parole board.
- Release to parole/community supervision all individuals deemed low risk by SCDC's internal evaluation who have 2 years or less remaining on their sentence.
- Issue an emergency order prohibiting new prison admissions for the duration of the crisis.
- Release any individual being held solely for failure to pay child support.

### **D. Reduce density in housing units with high COVID-19 risk**

- Reduce density in the most crowded housing units and dormitory-style housing units.
- Reduce density in housing units with a history of quarantine based on previous outbreaks.

### **E. Prevent overload of parole/community supervision caseloads**

- Review all people who have passed their presumptive termination date and remove them from parole unless there has been a new crime charged within the last 12 months.
- Release parole holds on all parolees currently held in County Jails, prohibit additional detention for technical parole violations, and do not make new arrests for technical violations.
- Move to telephone/video check-ins for all currently under supervision. Efforts should be made to minimize in-person contact between people on parole and parole officers to protect both parties and reduce use of public transportation for office visits. In lieu of in-person parole meetings, use state-issued cell phones or Zoom/video check-in via a computer in the parolee's home/transitional house. With almost 18,000 people currently on supervision in the state, moving these meetings to phone or video will

significantly reduce unnecessary contact between large numbers of people. Officers should take into account the difficulty that people living in homelessness may have in charging their phones with places like public libraries closed, and those limitations must be taken into account before any violation is charged.

## **II. Suggestions for Reentry and Transitional Houses To Accommodate Released People**

Our shared goals are to provide safe standards for releasing people from prison that both protects the person being released and the community into which they are being released from possible infection.

### **A. Ways to increase available housing to accommodate releases and reduce overcrowding**

- Allow and encourage those with families and loved ones who can house them to return directly to their families, without requiring a stay in transitional housing.
- Use the Governor's emergency powers to house people in available and vacant buildings that have kitchen facilities and other necessary infrastructure such as hotels, motels and college dorms.
- Provide funding opportunities for existing housing providers to expand rapidly, including offering the use of hotels and motels and other buildings and grant emergency funding for hiring staff.
- Provide resources for re-entry service providers who provide mental health, substance abuse, and housing services so that they can safely remain open in order to provide essential services. For those services that are not open for physical visits, provide support and encouragement for utilizing teleservices.
- Enlist philanthropic organizations to assist with funding.
- Restrict unreasonable housing bans for people with convictions who are being released from custody, including any restrictions on living with family members in public housing.

### **B. Ways to establish safe standards for releasing people from prison**

- Provide all people being released from prison and associated staff with protective gear including hand sanitizer, gloves, and sanitizing wipes.
- Issue an activated Lifeline cell phone during release (aka 'Obama Phone'). This will facilitate connecting with parole and probation in ways that minimize contact. Advocates can assist with this.

- Work to reduce exposure and the possible spread by having people released from facilities where there has been a confirmed case by releasing people into a safe 14-day quarantine. Such facilities may include hotels and motels, as was provided for by passengers disembarking from a ship.
- Ensure each person released is given a cash stipend of \$250 to spend on basic medical care, food, housing, and early needs.

### **III. Ways to Ensure Incarcerated Individual's Physical and Mental Health During the COVID-19 Pandemic**

We have shared goals of ensuring that all people are kept safe and healthy, both mentally and physically during this time. To that end, we start by saying that community groups are available to prepare informational resources for distribution, identify specific products, locate vendors to prepare packages, and to assist with delivery and other logistics.

#### **A. Immediate medical treatment and testing of any individual showing symptoms**

This should be done without requiring any co-pay.

#### **B. Distribution of information**

To promote the safety and mental health of people living inside prisons, increase the flow of information regarding COVID-19 and the state of the pandemic inside the prison, across the country, and around the world:

- Provide key health information addressing the following topics via prison television stations, flyers, wall posters, and local radio stations:
  - Information on COVID-19: what it is, how it is transmitted, symptoms, and risk groups.
  - Practical guidance for minimizing risk, specifically for people who are incarcerated.
  - Instructions on what to do if feeling ill, and what actions will be taken by the institution (including testing; where will people be housed; what access to the outside world will be provided).
- Instruct the medical staff and warden of each facility to share facility-specific updates daily to a designated inmate council composed of representatives from each unit or cell

block, and to permit the incarcerated representatives to debrief their respective unit or cell block following each daily update.

- This information should also be made available to people with limited or no English (i.e., deliver in multiple languages), or to those who are non-readers, or with disabilities.

### **C. Distribution of supplies and materials**

Given the labor-intensity and potential health risks of operating canteen and distributing supplies, SCDC should permit the distribution of weekly packages containing the following:

- Cleaning supplies (alcohol-based hand sanitizer, gloves, tissues, cleaning fluid and rags)
- Hygiene products (soap, toothpaste, shampoo, feminine hygiene products as appropriate)
- Non-perishable nutritious food (e.g., trail mix, preserved meat, healthy soup packets)
- Writing materials (wireless notebook)
- Reading materials (books or magazines)

### **D. Communication with family and loved ones**

It is imperative that incarcerated individuals have the ability to safely and regularly communicate with family members and loved ones throughout this crisis. To eliminate the significant health risks associated with the use of shared landline phones and contraband cell phones, distribute basic cell phones to all people who are quarantined and, potentially, to the entire population. There is currently technology available to prescribe the telephone numbers that a given phone can call.

### **E. Policies and procedures inside**

We all want to contain the spread of the virus and care for all inside. To this end we recommend the following measures be taken immediately:

- Provide sanitizing wipes at landline phone stations to reduce person-to-person transmission.
- When feasible, provide 30-day supplies of medications to reduce contact and staff workload.
- Provide low density daily access to the yard for anyone who is not ill, and instruct everyone to remain six feet apart at all times.
- Provide access to showers at least every 48 hours.

- Conduct regular deep cleaning of showers, i.e. minimum three times daily.
- House those who are deemed medically high risk in single cells only.
- Conduct weekly meetings between prison leadership (including medical staff) and incarcerated advisory councils to update on developments and discuss logistical challenges. Consider how incarcerated individuals might assist with the logistics outlined above and help compensate for potential staffing shortages.
- Provide protective equipment, e.g. gloves and cleaning materials, and training to prisoners and staff who participate in prep or distribution of food or other goods, like laundry and supplies.

We understand the strain and extreme pressure you are operating under in the face of this unprecedented challenge. We stand ready to assist in whatever way we can and appreciate your consideration of these proposals intended to save lives.

Sincerely,

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Root & Rebound

Charleston Legal Access

FAVOR Greenville

Greenville Homeless Alliance

Greenville NAACP

Hearts for Inmates

Hearts for Inmates Rebirth

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