



The Honorable Larry Hogan
Governor of Maryland
100 State Circle Annapolis
Annapolis, MD 21401 – 1925

March 23, 2020

Dear Governor Hogan,

We write to commend you for your continued leadership during the COVID-19 outbreak, and to call on you to take steps to mitigate the outbreak of the virus behind prison walls. As actors and advocates within in the criminal justice and public health system, we believe there are specific actions that must be taken immediately to save the lives of people inside prison, as well as those in the wider community beyond prison walls.

In a March 19 press conference, in response to a question about people who are incarcerated, you said “they’re safer where they are.”¹ As criminal justice and public health experts, we respectfully disagree. You also said, “we’ll consider any proposal”² [on people in prison], and so please find below a specific set of proposals for dealing with people who are incarcerated.

Despite declines, Maryland’s state prison population is still high, currently an estimated 18,000 people.³ Of those, an estimated 1,100 people are over the age of 60.⁴ We must address these populations if we are to avoid the spread of COVID-19 behind prison walls. Aside from demonstrating compassion to people in prison, this measure is consistent with measures needed to protect the state as a whole. Prison staff come and go from their place of work each day, and their contact with the outside world could bring the virus beyond prison walls very easily. Already, a member of the medical staff at Elizabeth Detention Center in New Jersey has tested positive for coronavirus.⁵ At the time of writing, 38 people have contracted the virus in Rikers.⁶ At least 65 people in jail in Washington, D.C., are in quarantine after contact with a deputy marshal.⁷

¹ <https://governor.maryland.gov/2020/03/19/transcript-march-19-2020-covid-19-press-conference/>

² <https://governor.maryland.gov/2020/03/19/transcript-march-19-2020-covid-19-press-conference/>

³ <https://www.prisonpolicy.org/profiles/MD.html>

⁴ <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-0318-coronavirus-prisons-jails-20200317-vlpxcncr6wvngmzbcy5ovvs7y4iy-story.html>

⁵ <https://www.themarshallproject.org/2020/03/19/first-ice-employee-tests-positive-for-coronavirus>

⁶ <https://www.theguardian.com/us-news/2020/mar/22/coronavirus-outbreak-new-york-city-jails-rikers-island>

⁷ <https://www.wusa9.com/article/news/health/coronavirus/dc-inmates-self-quarantine/65-bc1a331e-4f33-46eb-9a7b-2184e0a06ef2>



Other states have begun to take action. New York City is releasing vulnerable" people in prison, and Los Angeles and Cleveland have already freed hundreds of people in jail.⁸ Counties and states across the country are seeing in real time that incarcerated people are not in fact "safer where they are" and are making changes to their policies and protocols.

The public supports such an approach.⁹ New polling shows sixty-six percent of likely voters said that elected officials should be considering measures to reduce overcrowding in prisons and jails as a response to coronavirus. Fifty-six percent of voters support releasing people who are within six months of completing their sentence in order to reduce the risk of transmitting the coronavirus within jails and prisons. Fifty-eight percent of voters support releasing incarcerated people who are elderly; while 53% support releasing those whom the Center for Disease Control and Prevention (CDC) has classified as vulnerable, including those with asthma, cancer, heart disease, lung disease, and diabetes. Voters also overwhelmingly support reducing unnecessary jail admissions: 63% support encouraging law enforcement to make use of summons or tickets as alternatives to jail where necessary.

Your office has released many instructions on the need for social distancing and small gatherings, as we seek to "flatten the curve." This logic and these policies are correct, and they should apply to people in prison, both workers and those who are incarcerated. However, at current incarceration rates such social distancing is not possible in institutions of incarceration, putting the health of incarcerated individuals, workers, and indeed the health of the state of Maryland at risk. Having fewer people inside prisons and jails will make it more feasible to spread people out. Furthermore, as the pandemic spreads across the state, jail and prison health care workers will get sick, straining the system's ability to provide health care inside the facilities.

We are guided by a need to protect those at high risk of COVID-19 and to see the state of Maryland as an interconnected community where the health and COVID-19 risks inside prison and jail wall impacts the broader public health, and to address these in a way that meets the twin goals of public health and public safety. This translates to a need to reduce the prison population to enable social distancing and self-isolation, and to facilitate adequate health care resources inside these institutions. Therefore, we propose the following:

A. Provide for emergency release based on an individual's COVID-19 risk

- Age: Release to parole 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

⁸ <https://www.bbc.com/news/world-us-canada-51947802>

⁹ <https://www.dataforprogress.org/memos/fighting-coronavirus-with-decarceration>



risk by DPSCS's internal evaluation, including current classification score or intake assessment.

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

B. Density reduction measures

- Accelerate release to parole of those already found suitable for parole by the Maryland Parole Commission, including those approved by the Commission but subsequently rejected by the Governor.
- Release to parole all individuals deemed low risk by DPSCS internal evaluations 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 to parole all women serving determinate sentences, which would allow the women's facility to be repurposed thereby reducing density in other facilities.
- We ask that your office also direct increased resources to addressing the commutation applications that are currently before you and grant the many worthy applications immediately.

C. Reduce density in housing units with high COVID-19 risk

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

D. Prevent overload of parole case loads

- Review all people who have passed their discharge date and remove them from parole unless there has been new criminal behavior within the last 12 months.



- Release parole holds on all parolees currently held in County Jails and prohibit additional detention for parole violations.
- End supervision for anyone who has been on parole for two years.
- Conduct a review of all persons on life term parole and consider discharge if a person has been on parole for three years and has had no parole violations within the last twelve months.

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. This should include investing in increased financial and personnel resources to facilitate safe re-entry for people who are released under this policy.

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 use, 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 cellphone during release. 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.
- Increase the Gate Money allocation by 1) not subtracting cost of clothing or transportation and 2) increasing base amount to \$1000.
- Minimize in-person contact between released people and parole/probation 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.

III. Ways to Ensure Prisoner 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. 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 comprised of representatives from each unit or cell block, and to permit the inmate 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. Advocates from trusted community organizations are



available to produce these resources, in order to increase credibility and compliance with outlined recommendations and reporting.

B. Distribution of supplies and materials

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

- Cleaning supplies (hand sanitizer, gloves, tissues, disinfecting cleaning fluid and rags)
- Personal hygiene products (access to adequate soap and water, additional handwashing stations, tissues, toothpaste, shampoo)
- Non-perishable nutritious food (e.g., trail mix, preserved meat, healthy soup packets)
- Writing materials (wireless notebook)
- Reading materials (books or magazines)

C. Communication with family and loved ones

It is imperative that inmates 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. Advocates are ready to assist with this as necessary.

D. Policies and procedures inside

We all want to contain the spread of the virus and care for all inside. To this end we suggest:

- 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 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 inmate advisory councils to update on developments and discuss logistical challenges.



- 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.
- Suspend co-pay for medical visits regarding sore throat, cough, fever, or shortness of breath
- Mandate that facilities make their COVID-19 Prevention Plans public in order to facilitate transparency and sharing of best practices

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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