



March 16, 2020

The Honorable Jay Inslee
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

Delivered by electronic mail

Dear Governor Inslee:

Thank you for taking necessary steps to protect the public from the coronavirus pandemic. We, a broad coalition of community-based organizations, legal services providers and concerned stakeholders, urge you to take similar steps to protect people in custody in state correctional facilities, juvenile facilities and local jails.

The danger that COVID-19 poses to the people living in custody and the staff people responsible for their care cannot be overstated. Prisons and jails are particularly ill-suited to address the current pandemic. People live in close contact with one another, social distancing is difficult, hygiene services and essential medical equipment is in short supply, and medical treatment is not easily accessible. Once COVID-19 breaks out, it will likely spread quickly through our prisons and jails.¹

Unfortunately, with Friday's announcement that a correctional officer at the Monroe Correctional Complex has tested positive for COVID-19, the danger is here and additional infections will occur, if they haven't already.

The burden upon DOC and its resources will be extreme. Given the rate of infection in the community, and the close quarters of the prisons, it is not alarmist to believe that DOC could be facing many thousands of people infected with the virus with hundreds, if

¹ See <https://www.newyorker.com/news/q-and-a/how-prisons-and-jails-can-respond-to-the-coronavirus>.

not thousands, of people requiring intensive medical interventions. DOC is simply not equipped to provide the level and quality of medical care that will be required in such an outbreak. Unless immediate and serious steps are taken, people will die needlessly.

The most effective step to prevent spread in our prisons is to release the elderly and people within 6 months of release.

As you know, COVID-19 poses the greatest risk of death to the elderly as well as to those who are immunocompromised, or those who suffer from diabetes, chronic obstructive pulmonary disorder and other lung conditions, high blood pressure, and those with cancer.² Many people currently living in DOC facilities fall into one or more of these vulnerable groups.

As of June 2018, roughly ten percent of the DOC population, or more than 1,900 people, were at least 56 years old. While people in this age group are at the greatest risk of death from COVID-19, they also pose the lowest public safety risk to our communities.³ This vulnerable population should be released immediately.

In order to further decrease the overall population and provide more flexibility and resources to meet the coming crisis, DOC should also immediately release those people who are within 6 months of their estimated release date to community supervision. These people are overwhelmingly in the lowest level security classifications and removing this large category of people will alleviate stress on the institutions and allow resources to be focused where most needed. It will also provide increased flexibility as the virus spreads and DOC faces inevitable staff shortages. DOC already has the authority to take this action under its graduated reentry policy and should take immediate steps to release people.⁴

These releases should be coordinated with local and state public health agencies and social service providers to ensure that medically fragile people leaving DOC's custody receive an appropriate continuum of care. Coordinated care will ensure that the most vulnerable members of our communities are protected and reduce the likelihood of unnecessary spread of the virus.

Not only will releasing people reduce the extreme risk of infection they face in prison but reducing the overall population will provide more flexibility to DOC custody and medical staff to address special housing placements and other exigencies that DOC will undoubtedly have to implement in the coming months. Releasing people is also

² See <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html> ; <https://www.nytimes.com/2020/03/12/health/coronavirus-midlife-conditions.html?auth=login-email&login=email>

³ See Beckett, Katherine, About Time: How Life and Long Sentences Fuel Mass Incarceration in Washington, p. 48 (2020).

⁴ See RCW [9.94A.733](#)

important to relieve pressures upon DOC staff. Undoubtedly, as the virus spreads, many DOC staff members will be required to quarantine themselves and take care of family members. Staff shortages will occur. Reducing the number of people under DOC's care will protect everyone and ensure that appropriate safety and security are maintained.

This crisis highlights the need for policymakers to take further action to permanently reduce the numbers of people living in custody. Mass incarceration provides a breeding ground for the spread of infection, even under normal circumstances; in a pandemic such as this it creates a humanitarian and public health crisis. Moreover, the high cost of incarceration has drained money from other community supports, including health care, that keep our communities safe. This crisis will affect everyone, both inside and outside prison. However, people and their communities will be safer when they receive appropriate health care within the existing community-based, health care system, rather than in our prisons or jails.

Immediate steps you should take that are within your authority as Governor.

You have the authority to act quickly and decisively in the face of this imminent public health crisis inside Washington's prisons and jails.

Under RCW 9.94A.885, you may, upon recommendation from the clemency and pardons board, grant extraordinary releases for reasons of "serious health problems."

Moreover, under RCW 9.94A.870, you may call an emergency meeting of that board to recommend whether you should exercise your clemency power to meet an emergency related to prison capacity. The COVID-19 pandemic has created such an emergency. Addressing the coronavirus pandemic requires social distancing, isolation, and quarantine practices that are likely not possible in a correctional setting due to structural and staffing limitations; these immediate steps will help decrease the likelihood of widespread infection within our prisons.

Furthermore, pursuant to RCW 43.06.220 you have broad authority to take any other necessary actions during a state of emergency. You exercised this authority in ordering all schools across the state to close. You should exercise the same authority to protect people currently held in custody in Washington's prisons and jails.

Based upon this authority, we urge you to take the following steps:

- Direct Department of Corrections Secretary Sinclair to identify all people in confinement in DOC facilities who fall under the CDC definition of "higher risk" populations: older persons and persons with serious chronic medical conditions, like heart disease, lung disease, or diabetes;
- Direct Secretary Sinclair to provide that list to the Clemency and Pardons Board;

- Call the Clemency and Pardons Board into an emergency session to advise you as to whether to commute the sentences of people in confinement who are in those “higher risk” populations or have a short time remaining on their sentences;
- Direct the Clemency and Pardons Board to waive the 30-day hearing notice requirement under RCW 9.94A.885(3);
- Direct Secretary Sinclair to take all other actions laid out in our letter to him dated today, and work with him to ensure that those actions are taken swiftly.

For any releases you decide to undertake related to the coronavirus pandemic, we would urge a release plan that takes into account the medical needs of those persons who are released, including linkages to community-based health care as needed.

We would also urge you to take similar emergency steps for other people confined under state authority. For example, younger people in juvenile facilities with serious, chronic medical conditions or those who are nearing their release dates, should be released to the community immediately as well.

Finally, local and county jails are even less prepared than DOC to address the dangers facing their incarcerated populations. Therefore, we ask that you issue guidance to local and county officials directing them to significantly reduce their jail populations, both by limiting the number of people coming into these settings, as well as releasing as many people as possible back into the community. Again, decreasing the overall jail population will provide the flexibility that will be needed in these facilities to address the coming health crisis within their walls.

We are available to discuss this request at your convenience. Please have your staff contact Nick Straley, Columbia Legal Services, at nick.straley@columbialegal.org to arrange a telephone call.

Sincerely,

s/ Merf Ehman
Executive Director
Columbia Legal Services

s/ David Carlson
Director of Advocacy
Disability Rights Washington

s/ Jorge L. Baron
Executive Director
Northwest Immigrant Rights Project

s/ Hillary Behrman
Director of Legal Services
Washington Defender Association

s/ Robert S. Chang
Executive Director
Fred T. Korematsu Center for Law and
Equality

s/ Suzanne Cook
Co-Chair
Statewide Family Council

s/ Prachi Dave
Staff Attorney
Public Defender Association

s/ Anne Lee
Executive Director
TeamChild

s/ Liz Moore

Director
Peace and Justice Action League of
Spokane

s/ Carmen Pacheco-Jones

Chair
Racial Equity Committee of the Spokane
Regional Law and Justice Council

s/ Megan Pirie

Vice President
ALL OF US OR NONE Eastern
Washington Chapter

s/ Kurtis Robinson

President
Spokane NAACP #1137

s/ Tarra Simmons

Civil Survival Project

s/ Michele Storms

Executive Director
ACLU of Washington