



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.

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