



March 19, 2020

Sheriff John W. Ingram, V
President of Sheriffs' Association
P.O. Box 9
Bolivia, NC 28422

Sheriff James E. Clemmons, Jr.
Chairman of Sheriffs' Association
1 Court Street
Rockingham, NC 28379

Dear Sheriff Ingram, V and Sheriff Clemmons, Jr.:

We write regarding the anticipated spread of Coronavirus Disease 2019 (COVID-19) to people detained in North Carolina jails. As COVID-19 has the world on high alert, we fear that not enough attention is being paid to the thousands of people who are the most at risk, incarcerated people, and that no guidance is being given to our Sheriffs throughout the state. In order to combat this pandemic and minimize its potentially catastrophic effects the jail population as well as our overall community, we urge you to develop and implement holistic policies that align with the guidance from public health experts and that will minimize the harm inflicted on people involved with the criminal legal system. We offer these recommendations for your consideration and request that you act immediately.

The primary signatory to this letter manages the Safe and Humane Jails Project. The Project collects and records information about North Carolina jails, and works to ensure the health and safety of people who are incarcerated throughout the state. Ms. Miles has been unable to ascertain, what if any guidance has been provided to the Sheriffs about managing this crisis either through the Sheriffs' Association or through the NC Department of Health and Human Services (NCDHHS). Despite the lack of guidance, we commend the sheriffs who are already implementing a number of these recommendations, and urge all sheriffs to take action. It is critical that guidance be immediately offered to those who are not yet taking action, in consultation with each County Health Director, NCDHHS, and guidance from the Centers for Disease Control (CDC).

According to the CDC and the World Health Organization, older adults and people of any age with chronic medical conditions- such as heart disease, lung disease, or diabetes- or who are otherwise immuno-compromised are at higher risk for contracting and developing complications from COVID-19. While immediate medical attention should be sought for anyone exhibiting symptoms of COVID-19, namely fever, dry cough, and difficulty breathing, excellent personal hygiene practices and social distancing are the most effective tools to combat the spread of the virus. This means staying at least six feet away from someone who coughs or sneezes, avoiding or limiting all physical contact, washing your hands regularly with soap and water, and using alcohol-based hand sanitizer to clean your hands after coughing, sneezing, or coming into contact with potentially exposed surfaces, objects, or people.

Given the overcrowded conditions of our county jails, along with the high volume of people who enter and exit these facilities, the above described procedures may be difficult to implement. Therefore, we urge you to partner with local public health experts in developing informed, immediately actionable steps and guidance that protect public safety and public health. This must include preventing people from unnecessarily entering the criminal legal system in the first place, and ensuring that those especially vulnerable to COVID-19 are not needlessly detained. The non-exhaustive list below includes recommended actions, and we implore you to remember that this unprecedented crisis warrants a holistic approach. Collaboration and transparency across the system are crucial.

A. Achieving Reduction in County Jails.

First, reducing our jail population should be the primary response to this pandemic. We believe that elected sheriffs should work with public health officials, courts, prosecutors, local police, and other leaders in our communities to implement and advocate for the following reforms:

- Stop arrests for low-level offenses, including possession of controlled substances and Class 3 misdemeanors.
- Expand the issuance of citations or summonses in lieu of custodial arrest, as permitted by N.C.G.S. 15A-302. This will help reduce the overall jail population and prevent the spread of COVID-19 to officers, first responders and medical staff, and jail staff who may come in contact with an arrestee who has been exposed to the virus.
- Release all individuals who are being detained because they cannot afford cash bail, unless they pose a serious risk to public safety. Because many of our jails require persons to share a single-cell or live in very close quarters in barrack-style corridors, releasing individuals who are being detained solely because they cannot afford to pay their money bail will create more space and facilitate the social distancing recommended by health experts.
- Identify and release the following people immediately, unless doing so would pose a serious risk to the physical safety of our community:
 - Individuals who are elderly, i.e. all those over 65;
 - Populations classified by the CDC as vulnerable including individuals with asthma, cancer, heart disease, lung disease, and diabetes;
 - Pregnant people;
 - All people whose sentences have expired;
 - People serving weekend sentences or on 24-hour hold; and
 - People incarcerated due to technical violations of probation or parole.

B. Humane Conditions of Confinement

For individuals who must remain incarcerated in local jail facilities, every effort should be made to ensure they have meaningful access to healthcare, as defined by public health officials, and that their basic human rights are being met. It is critical to balance the precautions necessary to protect against further spread of the virus with the constitutional rights of those in custody. To that end, we urge you to consider implementing the following the policies in consultation with state and county health officials:

- Eliminate all medical co-pays for detained individuals. Jail officials should eliminate the need for medical co-pays while the pandemic is ongoing. In the alternative, jail officials should eliminate all medical co-pays for medical visits from persons reporting with respiratory illness, fever, shortness of breath, or other virus related symptoms. Co-pays discourage people from reporting symptoms and seeking medical care. As such, eliminating co-pays temporarily may encourage people to seek immediate medical care.

- Ensure adequate access to soap, tissue, clean/sanitizing products, and clean laundry. People in jail should be given an increased amount of supplies, including soap, tissue (or toilet paper), and cleaning/sanitizing products. Additional steps should be taken to ensure that people have clean laundry on a regular basis. Cleaning and sanitizing supplies—including at least 60% alcohol-based hand sanitizers as recommended by the CDC—should be provided and available at no cost to incarcerated people and their families and visitors.
- Implement medical quarantine when necessary and take steps to mitigate the effects of medical quarantine. Jail medical staff should consult with experts at their county health department, the CDC, and/or NCDHHS to develop a medical quarantine plan for people who present with COVID-19 symptoms. This plan should consider how to isolate people with the virus; how long to quarantine people who have been exposed; what personal protective equipment is needed; and when to lift the quarantine.
- Any plans to quarantine should not be punitive in nature. Avoid widespread lockdowns or the use of solitary confinement as a means of containment. We urge jail officials to ensure that those who are quarantined have positive ways to spend their time, including access to reading materials, crossword puzzles, other activities, and free phone or video visitation.
- Maintain confidential access to counsel and preserve family visitation rights. People who have active court cases should continue to have regular access to their legal team either through video conference or glass barriers, be transported to court proceedings as scheduled, and be able to perform legal research. Given the risks raised by the pandemic, everyone should be entitled to unlimited video visitation and free telephone calls in order to communicate with their legal team and loved ones. Additionally, we urge jail staff to be transparent and understanding with families as they may have concerns and questions about the health and safety of their loved ones who are under your care.
- Direct all jail staff and personnel to stay home, with pay, when sick.
- Create a plan for transfers of people whose care cannot be safely managed in jail. We urge jail staff and medical providers to create a plan for how to respond to and accommodate the likely need to transfer a large number of people who they are unable to care for at the jail.

As we stated above, this list is non-exhaustive. Even after the urgent threat of COVID-19 subsides, these sensible and smart policies should remain in place. Although we are facing a serious threat as a country this time presents a unique opportunity to come together as one. It is important that we all work together to prevent and manage the spread of COVID-19 into our jails and communities. For these reasons, we ask that any directives given by the Sheriffs' Association be shared with Taittiona Miles, Managing Attorney, Safe and Humane Jails Project at tmiles@ncpls.org. This will help us to continue to work collaboratively with jail staff and answer any questions or concerns we receive from loved ones and incarcerated people who are concerned with how our jails are responding to this pandemic.

Sincerely,

Taittiona Miles, Managing Attorney
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