

FILED

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

WAKE COUNTY

2020 OCT 27 AM 11: 58

SUPERIOR COURT DIVISION

NO.: 20 CVS 500110

WAKE CO., C.S.C.

NORTH CAROLINA STATE CONFERENCE)
OF THE NAACP, DISABILITY RIGHTS)
NORTH CAROLINA, AMERICAN CIVIL)
LIBERTIES UNION OF NORTH CAROLINA)
LEGAL FOUNDATION, KIM T. CALDWELL,)
JOHN E. STURDIVANT, SANDARA KAY)
DOWELL, and CHRISTINA RHODES,)

Plaintiffs,)

v.)

ROY COOPER, Governor of the State of North)
Carolina, ERIK HOOKS in his official capacity as)
Secretary of the North Carolina Department of)
Public Safety, and BILL FOWLER, ERIC)
MONTGOMERY, ANGELA BRYANT, and)
GRAHAM ATKINSON, in their official)
capacities as Post-Release Supervision and)
Parole Commissioners,)

Defendants.)

**ORDER FOR ADDITIONAL
INFORMATION**

This matter comes before the Undersigned on this Court's requested status conference. Notice of the conference was proper and the conference was held remotely via WebEx in conjunction with directives from the Chief Justice of the Supreme Court of North Carolina, and with consent of the parties, on October 15, 2020.

Through its Order granting preliminary injunction on June 26 and Order reconsidering preliminary injunction on July 10, this Court has placed several filing and informative requirements upon Defendants. These requirements are vital and necessary, given the COVID-19 pandemic's effect on North Carolina's inmate populations. In the time between Plaintiffs

filing their original complaint and the most recent information before this Court, at least twelve additional incarcerated individuals have died of COVID-19.

In response to concerning trends in Defendants' most recent filings, this Court ordered the Parties to appear for a status conference. This status conference was designed to develop a further understanding of the Defendants' efforts to protect the incarcerated individuals under their care from the COVID-19 pandemic.

In advance of the status conference, Defendants submitted additional data and information. Plaintiffs submitted written information as well.

This Court has considered the written and oral arguments of counsel and the months of data submitted by Defendants through the lens of the COVID-19 Pandemic. Having so considered, this Court still has outstanding questions. These questions concern this Court, due both to the outstanding and pernicious risk to incarcerated North Carolinians and to the prospective risk associated with compliance with this Court's orders, which carry the full force and binding directive of law. Thus, it is incumbent upon this court to address whether the court's order is being followed.

Accordingly, this Court now calls upon Defendants to provide the following additional information. Said information should be filed and sent by e-mail to Trial Court Administrator Kellie Myers and Judicial Fellow Derek Dittmar, as well as opposing counsel, by no later than 5:00 PM on Monday November 6, 2020. This Court will consider written responsive arguments from Plaintiffs if filed and e-mailed to Trial Court Administrator Kellie Myers and Judicial Fellow Derek Dittmar, as well as opposing counsel, no later than 5:00 PM on Monday November

13, 2020. At this point, this Court reserves the right to order additional argument, whether written or oral, or to hold such hearings and proceedings as necessary.

This requested information in no way abridges or diminishes the Parties' outstanding obligations as detailed in this Court's previous Orders. Parties information may be bolstered by affidavit, data and statistics, or other information.

Specifically, this Court calls upon the Defendants to fully and completely answer the following questions. This Court welcomes any additional information.

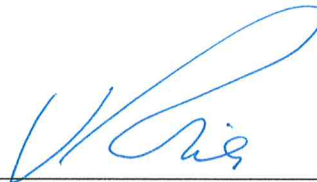
1. The Extended Limits of Confinement program does not apply to people convicted of "crimes against a person."
 - A. What is the complete list of the offenses covered by the term "crimes against persons."
 - B. What materials do DPS staff rely on to define that term in determining whether an individual is disqualified from ELC based on their crime of conviction?
 - C. Where is the legal definition of "crimes against a person" defined and published?
 - D. Who makes the determination that a crime is covered by the additional definition?
 - E. What is the review process to ensure consistent interpretation of ELC definitions and determinations throughout North Carolina's incarcerated population?
2. The capacity to expand and extend COVID-19 testing.

- A. What financial or other limitations currently prevent DPS from expanding its testing procedures?
 - B. Are there limitations that prevent Defendants from testing every individual in advance of cohort quarantine? If so, what resources would be needed to overcome these limitations?
 - C. How long would it take for Defendants to test all staff who directly or indirectly interact with the incarcerated population?
 - D. Are there any cohorts who are in any way being excluded from the same level of testing offered to the rest of the incarcerated population?
 - E. How long is the waiting period between testing and the availability of the results for the testing of
 - i. Staff and
 - ii. inmates?
3. How is the quarantine strategy being implemented?
- A. How, specifically, are inmates being separated for isolation and quarantine?
 - B. Once inmates are quarantined or isolated, how are they separated from other inmates who are being quarantined but on a different timeline? A general description is sufficient, as long as this description encompasses the practices at every facility. If facilities follow different practices than the average protocol, what are those differing procedures and why are they being undertaken? Is cohorting within a quarantine dorm a strategy that is utilized?
 - C. Once inmates are quarantined or isolated, how are they separated from other inmates who are not being quarantined?

- D. Where and how are quarantine and isolation procedures developed, distributed, and overseen?
 - E. How and when are isolated or quarantined individuals returned to their normative incarceration status?
 - F. What limitations are there concerning the testing of each inmate prior to being placed in quarantine?
4. Will bundling tuberculosis and COVID-19 testing provide an accurate representative sample of COVID-19 spread across the facility units in addition to general population numbers?
- A. Will combining TB and COVID-19 testing allow for an analysis of the impact on specific facilities and cohorts?
5. How many COVID-related hospitalizations have there been overall?

The above information is due to the Court in the manners and methods directed by this order. Failure to comply with the specific requirements set forth in this order could trigger additional action or proceedings.

SO ORDERED this 23rd day of October, 2020.

A handwritten signature in blue ink, appearing to read 'W. Rozier', is written above a horizontal line.

THE HONORABLE WINSTON ROZIER, JR.
SUPERIOR COURT JUDGE PRESIDING

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on the persons indicated

below via e-mail transmission addressed as follows:

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This the 27th day of October 2020.

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