

March 20, 2020

Sent via email

Superior Court of the Augusta Judicial Circuit

Chief Judge Brown

Judge Blanchard

Judge Annis

Judge Jolly

Judge Craig

Judge Padgett

Judge Flythe

Judge Wright

State Court of the Augusta Judicial Circuit

Chief Judge Watkins

Judge Booker

Judge McIntyre

Judge Walker

RE: COVID-19 in Richmond, Columbia, and Burke County Jails

Dear Judges of the Augusta Judicial Circuit:

As the coronavirus pandemic continues to spread across the country, we urge you to undertake all possible measures to prevent the spread of infection within the Richmond, Columbia, and Burke County jails. It is only a matter of time before the coronavirus reaches the jails. With 14 confirmed cases in Augusta (latest as of 3/20/2020) and the number of cases skyrocketing across the state, the widespread community transmission of the disease has become increasingly clear.¹ An outbreak of COVID-19 in the jails would be swift and deadly. While law enforcement and the judiciary have already taken some measures in response and we appreciate these efforts, now is the time for decisive, bold action.

¹ Tom Corwin "[14 COVID-19 cases in Augusta, Georgia numbers skyrocket.](#)" (March 20, 2020).

COVID-19 poses severe infection risks whenever people are in close physical proximity with others, regardless of whether a person is currently showing symptoms. People in jail are unable to distance themselves from others and take the preventative measures that are necessary to fight infection.

Not only do jails force people into close physical proximity, the underlying health conditions that can cause infection or exacerbate harm are very prevalent among incarcerated people.² This will make the spread of COVID-19 inside jails fast and lethal, threatening everyone incarcerated in a jail, their loved ones, jail staff, and the state's public health infrastructure at large.

While people often think of jails as closed environments, they are not. In a county jail, people are incarcerated for a relatively short period of time before returning to the outside community, and every day new people are booked into the facility as law enforcement continue making arrests. Jail staff and medical staff necessarily come and go everyday. This constant population turnover will compromise any effort to contain COVID-19, especially since people may be infected and contagious but not show symptoms for up to 14 days.

The most meaningful way that judges can reduce the spread and deadly impact of COVID-19 inside the jail is to both reduce the number of people who are sent there to be incarcerated and reduce the population overall by releasing people. Release should be immediate for anyone who has already been approved for release pending payment of low-level bond amounts and anyone charged or sentenced with low-level offenses, including municipal offenses, missing a court date, or parole/probation violations. Release is also crucial for those who are elderly or have medical conditions that make them particularly vulnerable.

Reducing the jail population is consistent with the guidance of correctional experts. Dr. Marc Stern, who served as Health Services Director for Washington State's Department of Corrections, recently urged: "With a smaller population, prisons, jails, and detention centers can help diseases spread less quickly by allowing people to better maintain social distance."³ Dr. Stern also explained that reducing the jail population will ease staffing burdens: "If staff cannot come to work because they are infected, a smaller population poses less of a security risk for remaining staff." Jurisdictions across the country are taking steps for the immediate, mass release of people from their county jails.⁴

Since November 2019, The Bail Project has provided free bail assistance to people detained pretrial in the Augusta-area. As a national non-profit organization, we have posted cash bail free-of-charge for over 10,000 people who have then returned to court without any need for detention, even though their bail amount would otherwise have kept them incarcerated. We

² Prison Policy Initiative, "[No need to wait for pandemics: The public health case for criminal justice reform](#)" (March 6, 2020).

³ Human Rights Watch, "[COVID-19 Threatens People Behind Bars](#)" (March 12, 2020).

⁴ Jurisdictions include [New York City](#), [Los Angeles](#), [Oakland](#), and [Cleveland](#). Prosecutors from across the country [issued a joint statement](#) urging reduction of detention and incarcerated populations.

know from this experience that reducing the jail population to protect public health can be safe, lawful, and just.

Every time a judicial officer sends another person to the jail environment, it increases the risk of spreading COVID-19 among the incarcerated population, jail staff, and the broader community. We urge you to undertake all possible avenues for limiting that peril, including:

- 1. Issue a circuit-wide order to expand the Sheriff's authority to release.** Consistent with Governor Kemp's official declaration of a state of emergency and following the example of the Northern Judicial Circuit, judges of the Augusta Judicial Circuit should issue an order authorizing the sheriff to release OR any person who exhibits the symptoms of the virus or is otherwise vulnerable to infection.
- 2. Prioritize immediate release for people who are most vulnerable.** Judges must release people who are at the highest risk of harm if they contract COVID-19. This includes, but is not limited to, older adults, pregnant women, people with respiratory conditions, people who are immunocompromised (including people who are HIV+), people with severe mental health conditions, and people with other chronic health conditions that make them particularly vulnerable to infection.⁵ Releasing these vulnerable groups from the jail immediately will avoid the need to provide complex medical care within the jail or transfer people to hospitals where capacity may be stretched thin and bedspace will likely be insufficient.
- 3. Release people incarcerated pretrial who cannot afford their bond.** Judges should conduct bond review hearings for everyone who remains incarcerated due to an inability to pay. Unless a judge determines that a person poses a substantial risk of serious harm if released, judges should release people on their own recognizance so they do not risk infection inside the jail.
- 4. Release people with 6 months or less of their sentence to serve and those whose offense does not involve a serious safety risk to the community.** Reassess every person with six months or less remaining on a sentence to determine if service of that remaining time could be accomplished by non-custodial alternatives rather than in detention. Conduct similar review of those whose offense does not pose a serious safety risk to the community.
- 5. Release people on personal recognizance and issue non-custodial sentences going forward.** Judicial officers are required to consider what conditions would ensure the safety of the community when making pretrial release decisions. Exposing people to potential infection because they cannot afford a cash bond threatens the safety of the

⁵ U.S. Centers for Disease Control and Prevention, "[People at Risk for Serious Illness from COVID-19](#)" (March 10, 2020).

community by exacerbating a growing pandemic. Judges should consider that factor to release on personal recognizance all people charged with eligible misdemeanors and low-level felonies. Additionally, judges should default to non-custodial sentences whenever possible, including resolutions that avoid immigration detention where outbreak potential is highest.

6. **If requested by defense counsel, agree to waive clients' appearance for status court dates (for people both in and out of custody).** Reduce the number of in-person court appearances for non-essential or procedural matters and low-level cases.
7. **Decline to issue "failure to appear" warrants or "bench warrants."**
8. **Cancel all probation, parole, and pretrial meetings; court-ordered classes; in-person drug testing; collection of court debt; and modify all reporting conditions to phone-reporting.** The courts must consider whether a condition of pretrial release, probation, or parole will interfere with people's ability to quarantine, seek necessary medical treatment, and care for any loved ones who may be impacted or vulnerable. No one should be forced to choose between violating a release condition or protecting their health and the health of others. Judges should also ensure that people released are not required to appear in person for check-ins and non-essential court proceedings where infection could spread.
9. **Cancel probation or parole revocation hearings based on technical violations upon request of defense counsel.** Issue non-custodial sentences for all technical violations.
10. **Require that prosecutors provide public health/COVID-19-informed justification for any actions/requests that would bring people into courthouses, jails, and prisons. Ensure those justifications are on the record for public scrutiny.**

These steps will protect the public from outbreaks, while continued mass detention will not. We know this pandemic presents a range of challenges, and we share your commitment to ensuring the community's safety and health. We urge you to take necessary action to save lives.

Sincerely,

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