

March 17, 2020

Mayor Vi Lyles  
Sheriff Garry McFadden  
District Attorney Spencer Merriweather  
Hon. W. Robert Bell (Resident Chief Superior Court Judge)  
Hon. Regan A. Miller (Resident Chief District Court Judge)  
Hon. Elizabeth T. Trosch  
Charlotte Mecklenburg Police Chief Kerr Putney  
Cornelius Police Chief Kevin black  
Davidson Police Chief Penny Dunn  
Huntersville Police chief Bence Hoyle  
Matthews Police Chief Clark A. Pennington  
Mint Hill Police Chief Tim Ledford  
Pineville Police Chief Rob Merchant  
Hon. Frank D. Whitney (Chief US District court)  
United States Marshall Gregory Allyn  
Chief US Probation Officer Lisa Morris

RE: COVID-19 Containment in Mecklenburg County

Dear local leaders:

As the coronavirus pandemic continues to spread, we – a coalition of concerned organizations, attorneys, and community members – urge you to undertake all possible measures to prevent the spread of infection in Mecklenburg County’s jails. An outbreak of COVID-19 in the jails would be swift and deadly, and it would overwhelm the county’s hospitals and health system. The next week is crucial to limiting COVID-19’s spread. Now is the time for decisive emergency measures to save lives.

COVID-19 poses severe risks whenever people are in close physical proximity with others, regardless of whether an individual has shown symptoms of infection. People in jail are unable to distance themselves from others and take the preventative measures that are necessary to prevent infection and protect the population. Worse, jails are particularly vulnerable to outbreaks because the underlying health conditions that can cause infection or exacerbate harm are very prevalent among incarcerated people.<sup>1</sup> This will make the spread of COVID-19 inside jails fast

---

<sup>1</sup> Prison Policy Initiative, [“No need to wait for pandemics: The public health case for criminal justice reform”](#) (March 6, 2020).

and lethal, threatening everyone incarcerated in a jail, along with their loved ones, jail staff, and the state's public health infrastructure at large.

The safest way to ensure that the jail does not become a vector for COVID-19's spread is to cut the jail population and halt new admissions. This is particularly imperative for anyone who a judge has already approved for release pending payment of money bail; anyone detained under an ICE hold; and anyone detained for a Failure to Appear or parole/probation violations. Release is also crucial for those who are elderly or have medical conditions that make them particularly vulnerable.

In contrast to reducing jail populations, restrictive measures such as segregation and lockdowns will not contain infection. 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 if law enforcement continue making arrests. Jail staff necessarily come and go everyday as well, returning to their families and communities. This constant turnover will compromise any effort to contain COVID-19, especially since people may be infected and contagious but not show symptoms. Restrictive measures inside could also discourage incarcerated people from reporting symptoms or seeking care, which will multiply infection.

Reducing the jail population is consistent with the county sheriff's obligation to safely manage county jail populations and 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."<sup>2</sup> 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 have already started taking the important public health measure of reducing their jail population.

The Bail Project has worked to provide free bail assistance to people detained pretrial in the Mecklenburg County Jail. Since its tenure in Charlotte began in August 2019, the organization has posted bail for over 200 people, of which more than 90% then returned to court without any need for detention, even though their bail amount would otherwise have kept them incarcerated. We know from this experience that reducing the jail population to protect public health will be safe, lawful, and just.

Every time the county introduces another person to the jail environment, there is a risk of worsening the spread of COVID-19 among the incarcerated population, jail staff, and the broader community. We urge you to undertake all possible avenues for limiting that peril and preventing deaths across the community, including:

---

<sup>2</sup> Human Rights Watch, [COVID-19 Threatens People Behind Bars](#) (March 12, 2020).

1. **Release those being held pre-trial because they cannot afford bail on personal recognizance.** When making pretrial release decisions, judicial officers are required to consider what conditions would assure the safety of the community. In Mecklenburg County, the “Bail Policy for Twenthy-Sixth Judicial District” issued in 2019 requires a “presumption of release on the least restrictive terms and conditions reasonably necessary to assurance the appearance of the person as required and the safety of the community.” The policy later directs judges to “take into consideration” the need to “protect public health” and prevent “known communicable disease.” Exposing people to potential infection because they cannot afford a cash bond threatens “the safety of the community” by exacerbating a growing pandemic. Moreover, COVID-19 is a “known communicable disease” spreading across the county. After all currently held on money bail are released, going forward judges should consider those factors to release on personal recognizance all people charged with misdemeanors and low-level felonies. Pursuant to N.C. Gen. Stat. Ann. § 15A-534(e), judges should also reconsider custody status for anyone whose incarceration will make them vulnerable to infection.
2. **Cite and release people charged with misdemeanors.** N.C. Criminal Procedure Act § 15A-302 authorizes law enforcement officials to “issue a citation to any person who he has probable cause to believe has committed a misdemeanor.” To preserve resources and prevent infection, local law enforcement should issue citations and a notice to appear instead of booking people on misdemeanor arrests.
3. **Reduce the jail population by releasing all people serving low-level convictions who are within six months of their release date.** People serving sentences for low-level convictions and who have served the majority of their sentence, or whose convictions pertain to offenses minor enough to require shorter incarceration requirements, do not threaten public safety in relation to the threat that COVID-19 poses to our communities. Mecklenburg would not be the first to do this, as Cuyahoga County (Cleveland, OH) has already released hundreds of incarcerated people under these circumstances as a means to prevent the spread of this disease.
4. **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.<sup>3</sup> This includes, but is not limited to, older adults, pregnant women, LGBTQ+ people, 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. 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.

---

<sup>3</sup> U.S. Centers for Disease Control and Prevention, [“People at Risk for Serious Illness from COVID-19”](#) (March 10, 2020).

5. **Reduce release conditions and restrictions.** Judicial officers should ensure that pretrial release conditions reduce the risk of danger to the community. In line with that requirement, courts must consider whether a condition will interfere with people's ability to seek necessary medical screening and treatment as well as the ability to protect 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.
  
6. **Ensure care and hygiene for people who remain incarcerated.** The jail must follow changing public health protocols and coordinate with public health experts to communicate with staff and people in custody about preventative measures; provide adequate access to hygiene; and provide immediate testing and treatment to those who exhibit signs of infection. The jail's policy on handling COVID-19 must be transparent. Access to care and hygiene must be made free, without commissary spending, co-pays, fees, or any other costs, which could discourage prevention and treatment.

These sensible 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 and immediate action to save lives.

There will be a press conference tonight 3/17 at 5:30pm in front of Central Jail at 801 E. 4th St. where local attorneys and community leaders will discuss these demands and the importance of vastly reducing the jail population as prevention to the spread of COVID-19.

Sincerely,

The ACLU of NC

The Bail Project

Beauty After the Bars

Black Treatment Advocates Network (BTAN Charlotte)

Project BOLT

Charlotte Uprising

Comunidad Colectiva

Mecklenburg County Public Defender's Office

Southeast Asian Coalition Court Support Services

Team TRU BLUE

Stephanie W. Adelman

Jaraun Gemini Boyd

Seth Bullard

Casey Burke

Habekah Cannon

Will Cathcart

Jennifer Chandler

Robert Corbett

David Curcio

Lindsey Curcio

James Cyrus

Elizabeth C. Dantism

Salena J. Davis-Woods

David Demers

Kristen Dewar

Tim Emry

Ron Everhart

Denzil H. Forrester

Gael Giles

Andrew Gordon

Tim Gore

Samantha L. Grill

Scott Gsell

Tracy Hatcher

Catherine C. Hoffmann

Mekka Jeffers-Nelson

Matthew Joseph

Michael Kabakoff

Janki Kaneria

Joshua Kellough

Richard F. Kronk

Nathan Jarvis

Mekka Jeffers-Nelson

Marc T. Joyner

Alexander D. Loyal

Tina Marshall

Jamie Marsicano

Christopher May

Catherine McCormick

Anthony Monaghan

Leora Moreno

Chuck Morgan

Molly Morgan

Tin Tanh Nguyen

Katherine M O'Connor

Christine E. Nelson

Chiege Okwara

Lucky Osho

Adam W. Owensby

Glencie Rhedrick

Sunny Panyanouvong-Rubeck

Donte Prayer

Kristie Puckett-Williams

Jason Reece

K. Brandon Remington

Polly C. Richmond

Marcos Roberts

Brandon Roseman

Tony Scheer

F. T. Seagrave

M. Katherine Simmons

Carson Smith

Timothy D. Smith

Ryan M. Stowe

Jillian Swords

Eddie Thomas

Haakon Thorsen

Eli Timberg

Noell Tin

Richard H. Tomberlin

Gregory Olin Tosi

Jennifer Tosi

Bob Trobich

Kevin Tully

Ada Vicuna

Alexandra Viele

Jennifer Vollmer

Brent Walker

Ash Williams

S. Frederick Winiker, III

Brian Wood

Susan Zach