

**VIA ELECTRONIC MAIL TO: MICHAEL@LSA.ORG**

April 11, 2020

RE: Temporary Release/Furlough, Federal Funding, and Technical Assistance for Jails.

Dear Mr. Ranatza:

During this very challenging time, thank you for the steps you and your members have already taken to slow the spread of COVID-19 throughout Louisiana. We write today to request your assistance and collaboration in further reducing the spread and protecting the health and safety of officers, staff, and individuals in your custody. We write not to accuse or berate, but to offer real solutions and partner with you to save as many Louisiana lives as we can - together. As noted by several corrections officials in a [recent webinar](#), there is no public safety without public health.<sup>1</sup>

As you are probably aware, the [CDC guidance](#)<sup>2</sup> on the management of COVID-19 in correctional and detention facilities includes: implementing intensified cleaning and disinfecting procedures; increasing the number of staff and/or incarcerated/detained persons trained and responsible for cleaning common areas; providing alcohol-based hand sanitizer with at least 60% alcohol where permissible based on security restrictions; and implementing social distancing strategies to increase the physical space between incarcerated/detained persons (ideally 6 feet between all individuals, regardless of the presence of symptoms). We understand that these objectives are difficult to achieve in Louisiana jails, particularly social distancing. We request that you **refrain from the use of lockdown or solitary confinement as methods to achieve medical isolation** because, as [noted by doctors and health officials](#), these methods may exacerbate the spread.<sup>3</sup> Detainees may be dissuaded from reporting symptoms of the virus if they believe the response will be punitive; this may also be the case when they know they could potentially be sent to Camp J at Angola if they admit they are feeling ill.<sup>4</sup>

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<sup>1</sup> *COVID-19 and Prisons: Centering Human Dignity Across Decarceration, Reentry, and Operations*, VERA Institute of Justice, <https://www.vera.org/research/covid-19-and-prisons>, (last visited April 10, 2020).

<sup>2</sup> *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html> (last visited April 10, 2020).

<sup>3</sup> David Cloud, et.al., *The Ethical Use of Medical Isolation – Not Solitary Confinement – to Reduce COVID-19 Transmission in Correctional Settings*, AMEND, April 9, 2020 [https://amend.us/wp-content/uploads/2020/04/Medical-Isolation-vs-Solitary\\_Amend.pdf](https://amend.us/wp-content/uploads/2020/04/Medical-Isolation-vs-Solitary_Amend.pdf).

<sup>4</sup> As noted in the document in footnote 3, lockdown and solitary also decrease the interaction of staff with detainees, allowing symptoms to accelerate to dangerous levels before the jail may be able to take proper precautions.

We also ask that you **do not transfer any detainees to Angola**, which [admittedly does not have any ventilators](#) and will ultimately result in the worst cases being sent to the hospital, the closest of which is 60 miles away.<sup>5</sup> In particular, we request that no juvenile under the age of 18 be moved to Angola or any adult prison during this crisis,<sup>6</sup> and that no immigrant detainees be transferred across facilities in collaboration with ICE. Any transfer of individuals by your staff from between correctional facilities will, in most cases, require significant time, expense, and a violation of social distancing requirements to restrain and transport ill individuals, putting both your officers and their families at increased risk of contracting the virus. As the frontline law enforcement responders in your communities, you are in the best position to save lives early in the criminal justice system process. Sending your community members to a state facility, where they will be housed in a location (Camp J) where conditions are questionable at best, increases their risk not only of contracting the disease, but their risk of death.

In Louisiana, [Doctors and Professors from Tulane and Louisiana State University](#),<sup>7</sup> [clinicians and medical students](#),<sup>8</sup> and [public health experts](#)<sup>9</sup> have reiterated the national guidance. They advise that a drastic reduction of jail populations is required to achieve the CDC's recommendations. The [Louisiana Supreme Court](#) referred to the potential outbreak of COVID-19 in correctional facilities as "catastrophic" and recommended an immediate comprehensive, risk-based assessment of anyone currently detained to quickly and efficiently process eligible individuals for immediate release.<sup>10</sup> [Americans for Prosperity](#) has also called for strategic reductions in jail populations and release wherever possible with or without conditions as an imperative step in the criminal justice system's response to this pandemic.<sup>11</sup> Even the public understands the breadth of

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<sup>5</sup> Alice Speri & Akela Lacy, *Louisiana's Coronavirus Plan for Prisons Could Create Death Camps*, The Intercept, April 7, 2020, <https://theintercept.com/2020/04/07/louisiana-coronavirus-prisons/>. Our Lady of the Lake is the closest hospital with ventilators, and it is located 60 miles from Angola.

<sup>6</sup> DOC has admitted that they have not considered the treatment of youth who will be infected, and a transfer to an adult facility for treatment or quarantine puts the juvenile at greater risk and in a more unsafe position by this move. Daryl Khan, *Shuttered Angola Facility Could House Teens, Adults In System with COVID-19*, Juvenile Justice Information Exchange, April 7, 2020 <https://jjiie.org/2020/04/07/shuttered-angola-facility-could-house-teens-adults-in-system-with-covid-19/>.

<sup>7</sup> *Public Health Letter to Governor Edwards*, (March 27, 2020), <https://www.scribd.com/document/453999944/Public-Health-Letter-to-Gov-Edwards>.

<sup>8</sup> Marcia Glass, *Health Care Professionals Demand the Reduction of Orleans Jail Population*, Medium (March 31, 2020), <https://medium.com/@marciaglass/health-care-professionals-demand-the-reduction-of-orleans-jail-population-40eac4348778>.

<sup>9</sup> *An open letter regarding COVID-19 and jails in Orleans Parish, Louisiana*, (March 25, 2020), <https://sph.tulane.edu/open-letter-covid19-jail>.

<sup>10</sup> Letter of Chief Justice Bernette J. Johnson, <https://www.lasc.org/COVID19/2020-04-02-LASC-ChiefLetterReCOVID-19andjailpopulation.pdf> (last visited April 10, 2020).

<sup>11</sup> Letter of Recommendations of Mark Holden, Americans for Prosperity, <https://mk0xituxemauaaa56cm7.kinstacdn.com/wp-content/uploads/2020/04/AFP-CJR-COVID-Recommendations-Letter.pdf> (last visited April 10, 2020).

this crisis, with [recent polls](#) demonstrating bipartisan support with 63% of voters supporting the release of people from jails and prisons to stop the spread of COVID-19, and 72% supporting clemency for elderly, incarcerated people.<sup>12</sup> With social distancing nearly impossible in many jail facilities, **releasing inmates is a healthier and safer alternative to unsuccessful attempts to enact medical isolation.**

In the absence of the ability to implement the guidance outlined by public health officials, we believe that Louisiana's prisons and jails will face extremely dire consequences in the coming days or weeks. The spread of COVID-19 within a correctional facility as a clear and present danger is playing out at [Rikers Island Penitentiary Complex](#) in New York. In three weeks, over 700 people have tested positive including over 440 staff at the facility with at least 6 officer deaths.<sup>13</sup> The infection rate is 6.6% which is 7 times higher than the New York City infection rate, and 9 times higher than the state of New York as a whole. Louisiana - with the highest incarceration rate in the world and the second largest population of immigrant detainees in the country<sup>14</sup> - may be on this same path to rapid, ongoing community spread if local leaders do not engage in immediate action to protect their parishes and cities by reducing the cycling of the virus in and out of correctional facilities.

There is still an opportunity to slow the spread of the virus, "flatten the curve," and prevent unnecessary deaths. The quickest and least expensive way our state can avoid a catastrophe is for **each parish jail to access immediately available federal funding to facilitate the individual assessment, release, supervision, electronic monitoring, and/or home confinement options for detainees in your care.** Last week, the [Bureau of Justice Assistance announced formula grants](#)<sup>15</sup> that can be drawn down during this emergency to support a broad array of justice system responses to COVID-19. While the State is allocated [\\$9.7 million](#) for this purpose, cities, townships, and parishes can apply for an *additional* [\\$5 million](#) in funding (allocations ranging in size from \$33,000 to \$1 million depending on population). Applications are due by May 29th. Due to Louisiana's partnership with The Pew Charitable Trusts on justice reinvestment, staff from that organization are available to assist local law enforcement in applying for the funds.<sup>16</sup>

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<sup>12</sup> ACLU Poll Shows Wide-Ranging Support for Releasing Vulnerable People from Jails and Prisons, March 30, 2020, <https://www.aclu.org/press-releases/aclu-poll-shows-wide-ranging-support-releasing-vulnerable-people-jails-and-prisons>.

<sup>13</sup> Asher Stockler, *More Than 700 People Have Tested Positive for Coronavirus on Rikers Island, Including Over 440 Staff*, NEWSWEEK, April 8, 2020, <https://www.newsweek.com/rikers-island-covid-19-new-york-city-1496872>.

<sup>14</sup> Bryn Stole, *As number of immigrants behind bars soars under Trump, Louisiana becomes detention hub*, October 19, 2019, [https://www.nola.com/news/article\\_197ff094-f1f5-11e9-ad15-f7503d2a8b7a.html](https://www.nola.com/news/article_197ff094-f1f5-11e9-ad15-f7503d2a8b7a.html).

<sup>15</sup> Coronavirus Emergency Supplemental Funding Program Solicitation FY 2020 Formula Grant Solicitation, <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/bja-2020-18553.pdf>.

<sup>16</sup> Please contact Terry Schuster, Manager at the Public Safety Performance Project, Office phone: 202.540-6437, Mobile: 512.468.4486, Email: [tschuster@pewtrusts.org](mailto:tschuster@pewtrusts.org).

Another option for local sheriffs concerned about community spread of COVID-19 is a temporary release or furlough under [La. R.S. 15:811](#); the temporary release for any eligible individual serving under a court judgment who is seriously ill or has a seriously ill family member or the furlough of *any inmate* who could be rehabilitated through maintaining family relationships.<sup>17</sup> This furloughed time is considered part of the sentence and does not extend the period of incarceration. A **sheriff's broad furlough authority can be utilized to immediately and temporarily reduce jail populations** and thus the spread of the virus. We recommend temporary release or furlough for as many individuals as possible for the duration of the stay at home order plus an additional 14 days to prevent any individuals from introducing or reintroducing Coronavirus into a correctional facility. Additionally, the ongoing civil detention of immigrant detainees is discretionary and not mandated by law, and should result in their immediate release.

In the event that a given jail cannot meet CDC guidelines without the use of solitary or lockdown, is unable to supervise detainees at home through local federal funding opportunities, and cannot utilize temporary release or furlough, we ask that you relocate detainees to a building where social distancing and compliance with public health guidelines is possible. Under a state of emergency, the Governor can **transition the management of local state-owned facilities to the temporary authority of the state, engage the Louisiana National Guard to maintain site control and provide medical services, and utilize the state-based federal funding to employ medical professionals to care for individuals with COVID.**<sup>18</sup> These actions are not unprecedented.<sup>19</sup> Not too long ago, FEMA used the publicly-financed Zephyr Stadium as a rescue location for Hurricane Katrina survivors.<sup>20</sup> A review of the 5 parishes identified as “Tier I” by justice reinvestment reveals available locations with sufficient amenities to ensure hygienic and safe living conditions for individuals needing treatment or quarantine.<sup>21</sup> The majority of

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<sup>17</sup> See Section E for exclusions.

<sup>18</sup> The Governor has this authority under the declaration of a “public health emergency” by Proclamation 25 JBE 2020 (March 11, 2020) and by statutory authority of La. R.S. 29:724(D)(3), (4), (7). The Governor’s authority to call forth the National Guard is found under La. R.S. 29:7(A)(1)(a), (e) which allows him, with or without a state of emergency, to request National Guard assistance to provide for emergency preparedness or assist civil authorities and to specifically assist civil authorities in guarding prisoners.

<sup>19</sup> Matt Hickman, *From parking garages to parks, these are the pop-up medical facilities of the COVID-19 pandemic*, March 31, 2020, <https://archpaper.com/2020/03/covid-19-hospital-conversions/>; Louisiana National Guard Public Affairs Office, *Louisiana National Guard increases its response force and mission support*, April 10, 2020, <https://bossierpress.com/louisiana-national-guard-increases-its-response-force-and-mission-support/>.

<sup>20</sup> See <http://www.davehoekstra.com/wp-content/uploads/2014/03/NEW-ORLEANS-BASEBALL.pdf>.

<sup>21</sup> **Caddo**: Shreveport Convention Center; **St. Tammany**: The Harbor Center, Furhmann Auditorium, Bogue Falaya Hall, Fontainebleau State Park, Slidell Municipal Auditorium, Mandeville Community Center, Bush Community Center, Fendlason Community Center, Lacombe Activity Center, Pearl River Activity Center; **East Baton Rouge**: Chaneyville Community Center, Charles R. Kelly Community Center,

these facilities are local convention centers or recreation or community centers. Additionally, [three state parks](#) have been designated “regional medical staging areas” with quarantine capabilities for individuals awaiting test results.<sup>22</sup>

Another vision of how Louisiana weathers this crisis is possible. We are not permanently on the path of New York or Chicago.<sup>23</sup> We have time to change course, but it is very little time. The undersigned organizations are committed to navigating this crisis with you and providing you with technical assistance to reduce jail populations. We can work with you to identify the barriers to release in a given parish jail, whether it be municipal detainers, out-of-parish warrants, probation/parole holds and technical violations, bail reductions, or drafting applications for the aforementioned temporary release or furlough. Whether it be through direct representation of individuals, data analysis of your detainees, policy advocacy with other criminal legal system actors in your community or at the state level, researching additional publicly financed projects and state-owned properties in your parish, or applying for federal funding, we stand ready to assist you and ensure that every parish in Louisiana navigates the spread of this virus with minimal community impact.

Sincerely,

American Civil Liberties Union of Louisiana  
Committee to Support Healthcare (Baton Rouge)  
East Baton Rouge Parish Prison Reform Coalition  
Immigration Services & Legal Advocacy  
Innocence Project New Orleans  
Justice & Accountability Center of Louisiana

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Dr. Leo S. Butler Community Center, Dr. Martin Luther King, Jr. Community Center, Jewel J. Newman Community Center, Capitol Park Event Center, Wanham Community Center, Old Woman’s Hospital, Celtic Studios (publicly-financed project); Jefferson: Alario Event Center, Pontchartrain Convention & Civic Center, Jedco Conference Center, Gretna Community Center, Fischer Senior Community Center, Bridge City Community Center, Marrero Senior and Community Center, Harvey Community Center, Dorothy B. Watson Community Center, Hazel Rhea Hurst Community Center, J.C. Simmons Community Center, Woodmere Community Center; Orleans: Gallier Hall, Morris F.X. Jeff, Sr. Municipal Auditorium, Murray Henderson Community Clinic, St. Bernard Recreation Center, Treme Recreation Community Center, Stallings Recreation Center, Lyons Recreation Center.

<sup>22</sup> Victoria Dodge, *Louisiana Turns Three State Parks into Quarantine Sites; Grand Isle Closed*, Lafayette Daily Advertiser, March 26, 2020, <https://www.theadvertiser.com/story/news/2020/03/26/coronavirus-louisiana-turns-three-state-parks-into-quarantine-sites-grand-isle-closed/2908086001/>.

<sup>23</sup> Megan Crepeau and Jason Meisner, *Second inmate at Cook County Jail dies of COVID-19, and the family of the first files lawsuit*, April 10, 2020, <https://www.chicagotribune.com/coronavirus/ct-coronavirus-cook-county-jail-inmate-dies-20200410-po2oc6czfnd3lhdqphpawspwy-story.html>.

Louisiana Association of Criminal Defense Lawyers  
Louisiana Center for Children's Rights  
Louisiana Network for Criminal Justice Transformation  
Louisiana Survivors for Reform  
Orleans Public Defenders  
PREACH  
Promise of Justice Initiative  
ReEntry Mediation Institute of Louisiana  
Sister Hearts Re-Entry Program  
Sisters for Christian Community  
The First 72+  
Voice of the Experienced

Cc:

Acadia Parish Sheriff K.P. Gibson  
bart.habetz@apso.org  
kelly.gibson@apso.org

Allen Parish Sheriff Douglas L. Hebert  
info@allenparishso.com  
jail@allenparishso.com

Ascension Parish Sheriff Robert Webre  
Phall@ascensionsheriff.com

Assumption Parish Sheriff Leland Falcon  
cjacobs@assumptionsheriff.com  
lfalcon@assumptionsheriff.com

Avoyelles Parish Sheriff Douglas Anderson  
mail@avoyellesso.org  
danderson@avoyellesso.org  
sheriff@avoyellesso.org

Beauregard Parish Sheriff Ricky L. Moses  
rmoses@bpsheriff.org  
jirvine@bpsheriff.org  
jmorton@bpsheriff.org

[jherrington@cityofderidder.org](mailto:jherrington@cityofderidder.org)

Bienville Parish Sheriff John E. Ballance  
[jballance@bienvillesheriff.org](mailto:jballance@bienvillesheriff.org)  
[mbarrett@bpsheriff.org](mailto:mbarrett@bpsheriff.org)

Bossier Parish Sheriff Julian C. Whittington  
[traci.landry@bossiercity.org](mailto:traci.landry@bossiercity.org)  
[njohnston@bossiersheriff.com](mailto:njohnston@bossiersheriff.com)  
[jwhittington@bossiersheriff.com](mailto:jwhittington@bossiersheriff.com)

Caddo Parish Sheriff Stephen W. Prator  
[steve.prator@caddosheriff.org](mailto:steve.prator@caddosheriff.org)  
[dfrazier@caddo.org](mailto:dfrazier@caddo.org)  
[cwalker@caddo.org](mailto:cwalker@caddo.org)  
[welcome@caddosheriff.org](mailto:welcome@caddosheriff.org)  
[arneda.anderson@shreveportla.gov](mailto:arneda.anderson@shreveportla.gov)

Calcasieu Parish Sheriff Tony Mancuso  
[info@cpsso.com](mailto:info@cpsso.com)  
[tmancuso@cpsso.com](mailto:tmancuso@cpsso.com)

Caldwell Parish Sheriff Clay Bennett  
[lawman1@kriicket.net](mailto:lawman1@kriicket.net)  
[Patsy.bailey@caldwellsheriff.org](mailto:Patsy.bailey@caldwellsheriff.org)

Cameron Parish Sheriff Ronald Johnson  
[ron@cameronso.org](mailto:ron@cameronso.org)  
[info@cameronso.org](mailto:info@cameronso.org)

Catahoula Parish Sheriff Toney Edwards  
[catahoulahsep@yahoo.com](mailto:catahoulahsep@yahoo.com)  
[catahoulaclerk13@gmail.com](mailto:catahoulaclerk13@gmail.com)  
[jrousla@aol.com](mailto:jrousla@aol.com)

Claiborne Parish Sheriff Ken Bailey  
[krbailey@claibornesheriff.org](mailto:krbailey@claibornesheriff.org)

Concordia Parish Sheriff Kenneth Hedrick

khedrick@concordiasheriff.org

DeSoto Parish Sheriff Jayson Richardson  
corrections@dpsso.org

East Baton Rouge Parish Sheriff Sid J. Gautreaux  
sgautreaux@ebrso.org

East Carroll Parish Sheriff Wydette Williams  
sheriff@ecsheriff.com  
wwilliams@ecsheriff.com  
wydettw@gmail.com

East Feliciana Parish Sheriff Jeff Travis  
jtravis@efpso.org

Evangeline Parish Sheriff Eddie Soileau  
vangyso@cebridge.net

Franklin Parish Sheriff Sheriff Kevin Cobb  
info@franklinsheriff.net  
kevincobb@franklinsheriff.net

Grant Parish Sheriff Steven McCain  
mccain@grantso.org

Iberia Parish Sheriff Louis Ackal  
lackal@iberiaso.org

Iberville Parish Sheriff Brett M. Stassi  
brettstassi@gmail.com

Jackson Parish Sheriff Andy Brown  
abrown@jacksonparishsheriff.com

Jefferson Davis Parish Sheriff Ivy Woods  
sheriff@jdpso.org

Jefferson Parish Sheriff Joseph P. Lopinto



lopinto\_jp@jpso.us  
Songy\_ts@jpso.com  
Coulon\_lc@JPSO.com

LaSalle Parish Sheriff Scott Franklin  
info@lasalleso.com  
sfranklin@lasalleso.com

Lafayette Parish Sheriff Mark Garber  
john.mowell@lafayettesheriff.com  
garberlawyer@gmail.com

Lafourche Parish Sheriff Craig Webre  
craig-webre@lpsso.net

Lincoln Parish Sheriff Mike Stone  
sheriff@lincolnparish.org  
mstone@lincolnparish.org

Livingston Parish Sheriff Jason G. Ard  
jard@lpsso.org

Madison Parish Sheriff Larry G. Cox  
larrycox@madisonso.com

Morehouse Parish Sheriff Mike Tubbs  
sheriff@mpso.net

Natchitoches Parish Sheriff Victor E. Jones, Jr.  
vjones@npsheriff.net

Orleans Parish Sheriff Marlin N. Gusman  
mngusman@opso.us

Ouachita Parish Sheriff Jay Russell  
Glenn.Springfield@OPSO.net

Plaquemines Parish Sheriff Gerald A. Turlich  
SheriffTurlich@ppso.net

jburas@ppso.net  
wantoine@ppso.net  
bwilliamsjr@ppso.net

Pointe Coupee Parish Sheriff Beauregard Torres, III  
bud@budtorres.com

Rapides Parish Sheriff William Earl Hilton  
whilton@rpso.la.gov

Red River Parish Sheriff Glen Edwards  
sheriffedwards@redrivercable.com

Richland Parish Sheriff Gary Gilley  
ggilley@richlandso.org

Sabine Parish Sheriff Ronny Richardson  
richardsonspso@att.net

St. Bernard Parish Sheriff James Pohlmann  
jroderfeld@sbsso.org

St. Charles Parish Sheriff Gregory C. Champagne  
sheriffgc@stcharlessheriff.org

St. Helena Parish Sheriff Nathaniel Williams  
nathanielw@sthelenaso.org

St. James Parish Sheriff Willy J. Martin  
sheriff@stjamessheriff.com  
willy.martin@stjamesla.com

St. John the Baptist Parish Sheriff Michael Tregre  
sheriff@stjohnsheriff.org

St. Landry Parish Sheriff Bobby J. Guidroz  
bguidroz@slpsheriff.com

St. Martin Parish Sheriff Ronny Theriot

jleblanc@stmartinsheriff.org

St. Mary Parish Sheriff Blaise Smith  
sheriff@stmaryso.com

St. Tammany Parish Sheriff Randy Smith  
support@sheriffrandysmith.com  
SOR@stpso.com  
randysmith@stpso.org

Tangipahoa Parish Sheriff Sheriff Daniel H. Edwards  
edwardsd@tpso.org

Tensas Parish Sheriff Rickey A. Jones  
rjones@tensasso.org

Terrebonne Parish Sheriff Jerry L. Larpenter  
dblanchard@tpso.net  
jlarpenter@tpso.net

Union Parish Sheriff Dusty Gates  
*Via Fax to (318) 368-7817*

Vermilion Parish Sheriff Michael Couvillon  
mike@vpso.net

Vernon Parish Sheriff John S. Craft  
c\_ashworthvpso@yahoo.com

Washington Parish Sheriff Randy Seal  
rseal@wpso.la.gov  
country@i-55.com

Webster Parish Sheriff Gary S. Sexton  
gsexton@webstersheriff.org

West Baton Rouge Parish Sheriff Michael B. Cazes  
danita.ricard@wbrsheriff.org  
cazesmike@yahoo.com

West Carroll Parish Sheriff Kenneth Green  
Kenneth@westcarrollsheriff.net

West Feliciana Parish Sheriff J. Austin Daniel  
sheriffjad@wfpso.org

Winn Parish Sheriff Cranford Jordan  
*Via Fax to: (318) 628-7969*