

March 17, 2020

To: Governor Jared Polis

State Court Administrator Steven Vasconcellos,

Chief Justice Nathan Coats,

Colorado Department of Corrections Executive Director Dean Williams,

Colorado Parole Board Chairperson Kristin Hilkey,

Colorado Department of Safety Executive Director Stan Hilkey

***Re: Request for immediate action to address COVID-19 in
Colorado's jails and prisons***

We the undersigned organizations, write to call upon you — the state leaders of Colorado's criminal justice system — to act immediately to protect the lives of inmates, correctional staff, court staff, attorneys, probation and parole officers, their families and — ultimately — the Colorado public from community spread of COVID-19 with jails and prisons as ground zero. We know this is a time of anxiety and fear for many Coloradans, and we are certain that each of you is working with your staff and one another to find the most effective ways to address this public health crisis on many different fronts. We write about the specific and dire need for implementation of a uniform, evidence-based, state-wide action plan for the criminal justice system, and we offer ourselves as a resource as you develop that plan.

In our collective view, four urgent steps are needed: (1) immediately and safely decrease the number of people in Colorado's Jails and Prisons; (2) dramatic decrease of new admissions into jails and prisons; (3) change of court practice to dramatically decrease in-person appearances; and (4) evidence-based, humane and rights-affirming measures to protect the health and wellbeing of the inmates and staff who spend the majority of their time in Colorado's jails and prisons.

We know from Governor Polis' words and actions that he understands the public health threat of COVID-19 and is willing and able to take decisive action to protect the public from harm. He has closed ski resorts, bars, restaurants, theaters, casinos, gyms and other large gathering places.¹ He has directed visitors to avoid homes for elderly people, encouraged the closure of public schools and directed the public to avoid gatherings of more than 50 people.² Through all of this, the Governor has rightly focused his public discourse on encouraging what the healthcare community agrees are the best and most effective methods of slowing community spread: (1) social distancing, whereby individuals avoid all unnecessary gatherings and maintain a minimum of six feet from others, and (2) quarantine of sick individuals and those who have had contact with them.³ The Governor has also urged that individuals most vulnerable to severe complications or mortality by the virus — older people and people with underlying health conditions or those whose immune systems are compromised — stay home and away from others.⁴ To date, we have not seen the same level of focus and action related to inmates, correctional staff, and the lawyers and judges with

whom they come into contact. As described below, failure to take immediate steps to lessen jail and prison crowding is likely to worsen and extend this public health crisis. It is not a question of if COVID-19 will infect Colorado's jails and prisons; it is a matter of when.⁵

Jails and Prisons are the ideal breeding ground for the spread of COVID-19.

Without immediate and bold action, Colorado's prisons and jails may well become the epicenter for the broad community spread of COVID-19. To start with, by definition, correctional facilities are crowded, highly populated environments. While Governor Polis has urged a limit to public gatherings of more than 50 people, almost all of Colorado's 57 jails and 23 prisons house far more than 50 inmates and staff on any given day. For example, the Sterling Correctional facility holds close to 2,500 inmates and Denver County Jail holds about 2,000.⁶ In these facilities, staff and inmates have close, daily contact. Inmates literally sleep, eat, and use the toilet within a few feet of one another. Under these circumstances, social distancing is literally impossible.⁷ Many underfunded and overcrowded county jails are already unsanitary, and have minimal and uncertain access to hygiene products and extremely limited access to medical care.⁸ Further, in overcrowded jails, quarantining more than a small number of sick inmates is impossible. These conditions are ideal for spreading COVID-19, perhaps more so than any other environment in Colorado.⁹

Heightened vulnerability of inmates to death from COVID-19. Much like residents of elder-care homes, inmates who contract COVID-19 are much more vulnerable to severe complications and death than individuals living free in the community. Looking at the Colorado prison population as a guide, we know that about 4,000 (or about one-fifth) of the 20,000 Colorado inmates are over 60 years old.¹⁰ We also know that nearly 6,000 (or about 35 percent of) Colorado inmates have moderate to severe medical issues.¹¹ And we know that people incarcerated have higher rates of underlying health conditions including HIV, Hepatitis C, Tuberculosis, asthma and diabetes.¹² There is every reason to believe that the 13,000 people locked in Colorado's jails every day are similarly vulnerable.¹³ Given this data, it is to be expected that COVID-19 will turn incarceration into a death sentence for some Colorado prisoners. Indeed, in Kirkland, Washington, 19 residents of a nursing home died from COVID-19.¹⁴ It should be of serious concern that an outbreak at a prison could cause similar devastation, but on a much wider scale.

The health of prison and jail staff is directly tied to the health of inmates. The Department of Corrections employs over 3,000 corrections officers.¹⁵ Thousands more correctional staff work in the almost 60 county and city jails in Colorado. There is no line, thin or otherwise, between the health of inmates and the health of correctional staff who work with those inmates. Given the inevitably close and sustained contact between jail staff and prisoners, an epidemic in the jail will be an epidemic for prisoners, correctional staff, their families and the community at large.¹⁶

Community spread from prisons and jails to free Coloradans. While Colorado prisons are designed to greatly diminish prisoner contact with the public, the reality is that prisoners have persistent, daily, close contact with the public. Guards and other correctional staff are, of course, members of the public. Every day they interact closely with prisoners and then go home to interact closely with family and community members. Many other professionals enter prisons and jails routinely, including medical personnel, outside contractors (food, delivery, maintenance, etc.), competency evaluators, and probation officers. Likewise, incarcerated individuals often have regular, sustained contact with the attorneys who represent them. And incarcerated individuals are often required to appear before the court in person, where they often have sustained contact with many members of the public. Indeed, virtually any criminal docket in the metro area will bring 50 or more people into a single courtroom. Finally, and perhaps most pertinently, Colorado inmates are released from confinement to the public in large numbers every day. An average of 586 people were released from county jails on a daily basis during the three month period ending December 31, 2019.¹⁷ Indeed, for people held pretrial, which accounts for over 50% of the jail population, a short jail stay of 2-9 days is the norm before release.¹⁸ Jails are a revolving door to and from community, creating the possibility of a super highway of transmission from the jail to free Coloradans.¹⁹

Other downstream consequences of a jail or prison epidemic. If significant numbers of incarcerated people in jails and prisons sicken, it will burden health care systems and intensify the spread of the disease. Jails are already short staffed and overcrowded. If correctional officers are sick and jails remain full, this will put the remaining correctional officers and inmates at risk. In Italy, riots occurred in at least two dozen prisons and six inmates died.²⁰ It will only become more difficult to take action as government workers become sick, are forced to work from home and respond to other challenges during the pandemic. In order to protect all Coloradans, now is the time to act.

Prisons and Jails are an enormous vulnerability in the State's COVID-19 action plan.

Under Governor Polis' leadership, Colorado has taken action to decrease community spread among people who are elderly, people at the Capitol, people in ski resorts, people in restaurants, bars, gyms and in public gatherings; yet, there has been little top-down action to address likely jail and prison contagion. The Department of Corrections has instituted screening procedures for inmates who enter and leave the facilities for medical or court appointments and now prohibits in-person visitation with the exception of legal visits.²¹ Responses by jails and court systems have been ad hoc and, frankly, minimal. While individual judicial districts have released public information on their response to COVID-19, most of these primarily ask that people who have the virus or were exposed to call to reschedule their court appearance, with the possibility of appearing via telephone.²² On March 16, Chief Justice Coats issued a directive that suspended certain court appearances, but the order does not meaningfully address the serious concerns raised in this letter.²³ Indeed, the order implicitly cedes responsibility for making critical policy decisions to combat

the virus to the chief judges of each individual judicial district.²⁴ These measures cannot seriously be considered a comprehensive response plan to the inevitable spread of the virus through correctional facilities. While we understand the importance of home rule in Colorado, and the independence of judicial districts, counties and municipalities, we respectfully posit that these notions of independence must subside to the immediate threat of the COVID-19 public health crisis. As you know, this virus knows no barriers between cities, counties or judicial districts, or even between the incarcerated and free populations. This virus warrants a state-wide, consistent response, through the leadership of each of your offices.

RECOMMENDATIONS. We know that your offices have already received separate recommendations from the Office of the State Public Defender. We fully endorse those recommendations, which you can find here: <https://aclu-co.org/wp-content/uploads/2020/03/OSPD-3-13-20.pdf>. Following are our urgent recommendations, which we believe are within your combined power to effectuate. Even where power to order these outcomes may be lacking, if you were each to put the weight of your office and your moral authority behind strong recommendations, we believe you could effectuate the necessary reforms below.

1. **Immediately and safely decrease the number of people in Colorado's Jails and Prisons. The public, correctional staff and prisoners will be safer with fewer people and less crowding in Colorado's jails and prisons.**

Pretrial release: More than 50% of the approximately 13,000 people in Colorado's jails are pretrial, meaning they have not been convicted of a crime and are held only because they cannot afford to pay the bail money for their release.²⁵ In Colorado's much-criticized pretrial system, people with money are free pretrial while people without money stay locked behind bars. The increased cruelty of this system is immeasurable should we allow poverty-based pretrial incarceration to turn into severe illness or, worse, death.

To protect incarcerated people, correctional staff, and the community as a whole, as many pretrial detainees as possible should be released. State Court Administrator Vasconcellos and Justice Coats should ensure issuance of a directive to all judges that they are to (1) immediately reconsider bond in all cases in which defendants remain incarcerated pretrial; (2) either release on personal recognizance or set affordable money bond in all cases going forward at least during this epidemic; (3) always consider vulnerability to COVID-19 when setting bond; and (4) grant a personal recognizance bond immediately upon stipulation by the prosecution. If there are to be exceptions to pretrial release, they should be limited only to those individuals accused of violent felonies who a judge determines, based on clear and convincing evidence, pose a substantial and present risk of violence to another specific person.²⁶

Prosecutors should use their immense discretion to reduce the number of people who are held pretrial or who are sentenced to a confined facility.²⁷ This includes

recommending release without payment of money or at least upon payment of an affordable money bond. It also includes making full use of available diversion programs or alternatives that do not involve confinement and offering non-confinement sentences in plea bargaining.

Post-conviction release: Parole boards should expand release opportunities and expedite release decisions for incarcerated people, especially vulnerable populations such as people who are elderly or immunocompromised. As is occurring nationally, the older demographic is growing steadily amongst the incarcerated population in Colorado.²⁸ People over the age of 60 account for 20 percent of the prison population.²⁹ While people over the age of 60 are at the greatest risk for COVID-19, they pose the least public safety risk to our communities.³⁰ People in this age group can and should be released to mitigate the spread of COVID-19.

Governor Polis should utilize his clemency and furlough powers to decrease, to the greatest extent possible, the number of vulnerable people in prison, with particular focus on prisoners over 50; individuals who have uncontrolled diabetes, respiratory conditions and/or are immunocompromised; and all people who are eligible for parole and community supervision/release or who are currently incarcerated for technical parole or probation violations. Corrections administrators should communicate now with courts or parole systems about which inmates could be safely released early. Additionally, probation and parole boards should immediately lift probation and parole holds for people with non-violent charges. For all people who have been found suitable for parole, the Parole Board should expedite the review process and release these parole candidates.

In conjunction with the releases, the DOC should take extra measures and coordinate with local authorities to ensure that those individuals are enrolled in Medicaid and have access to medical care, housing or shelter and other necessary re-entry services. Particular attention should be given to the needs of women, who in general have less access to re-entry services and resources than men.

For jail populations, the Courts and prosecutors must use their power to grant furloughs for people serving sentences in the county jail or reconsider sentences pursuant Rule of Criminal Procedure 35 to eliminate the remaining sentence or convert to in-home detention. The Court already determined that community-release is appropriate for this population when it sentenced them to what are most commonly short county jail sentences. There is no good public health reason not to expedite that inevitable release.

Community Corrections/Halfway houses also pose a serious risk for the spread of COVID-19, particularly given that residents are expected to be engaged in full-time work in the community. There are several measures that could both decrease the risk of spread and alleviate the most immediate of the COVID-19 hardships residents will

face. We urge the following actions: (1) review the current population to shift as many individuals as possible from residential to non-residential status; (2) for those individuals on non-residential status, modify supervision requirements to limit to the greatest extent possible how often they must report in-person to the halfway house, including by allowing telephonic instead of in-person meetings; (3) waive the \$17 daily fee residents must pay if they are unemployed or underemployed -- residents cannot reasonably be expected to secure full-time employment during the epidemic; and (4) provide indigent residents with funding to purchase basic necessities, including hygiene items and over the counter medicine.

COVID-19 decarceration in other jurisdictions. Some other jurisdictions, including at least one in Colorado, are moving quickly to decarcerate in order to protect public health. For instance, **Cuyahoga County Court** in Cleveland is planning to release 200 to 300 individuals from the Cuyahoga County Jail.³¹ They will hold mass plea and bond reduction hearings to get as many people as possible out of the county's jail to lessen the impact of a potential outbreak. To reduce the jail population in **Boulder County**, law enforcement has agreed to issue more summons in lieu of arrests; the District Attorney's Office has committed to review a list of all individuals incarcerated on bond to determine whom to release; and the Court has approved a list of offenses for personal recognizance bonds including all misdemeanor and petty offenses, most drug offenses and non-Victims Right Act offenses.³² In **Los Angeles**, the number of inmates in county jails has decreased due to the early release of 617 inmates with less than 30 days left in their sentence.³³

Internationally, countries are also taking steps to decarcerate to lessen the spread of COVID-19. In **Iran**, where the virus has been spreading for several weeks longer than in the U.S., the government granted temporary release to almost a quarter of their total prison population, about 70,000 people.³⁴ In **Ireland**, over 200 prisoners serving sentences of less than twelve months for non-violent offenses will be considered for temporary release.³⁵

2. **Eliminate or dramatically reduce new incarceration.** Governor Polis should issue an executive order to direct the District Attorneys' Offices and law enforcement entities, including town and city police departments, to dramatically reduce the rate at which people are arrested by law enforcement. Public officials with authority to set bail, including judges, bail staff, and police officers, should maximize release on personal recognizance.

Change sentencing and bench warrant practice. State Court Administrator Vasconcellos and Chief Justice Coats should issue (1) a directive that courts are to default to noncustodial sentences wherever possible, including resolutions that avoid immigration detention; and (2) a moratorium on issuance of bench warrants absent a judicial finding, based on clear and convincing evidence, that failure to issue the bench

warrant poses a substantial and present risk of serious bodily harm to another identifiable person.

Eliminate parole and probation warrants and revocations for technical violations. Every year, thousands of people are incarcerated not because of a new criminal offense but because of a technical violation of probation or parole.³⁶ Put simply, missing or failing a urinalysis test or meeting with a parole or probation officer does not justify incarceration, particularly during this public health crisis. “Reducing these unnecessary incarcerations would reduce the risk of transmitting a virus between the facilities and the community, and vice versa.”³⁷

Policing and arrest practices must change. During this public health crisis, police should drastically reduce the number of people who are arrested and detained. Police agencies should avoid arrest for all but violent felonies, and then arrest only when the officer perceives an immediate risk to the safety of another person. Law enforcement should be explicitly prohibited from making custodial arrests for low-level offenses.

In **Denver**, Mayor Hancock announced that the sheriff’s department will stop booking many individuals charged with low-level, non-violent offenses into the city jail.³⁸ The **Los Angeles** County Sheriff’s Department has cut the number of daily arrests from around 300 to 60 as deputies increasingly cite and release for minor offenses.³⁹

3. **Substantially reduce in-person court appearances for defendants and lawyers.** During the epidemic, mandatory in-person court appearances and mandatory in-person meetings related to pre-trial supervision, probation or parole should be suspended. Required contact with courts, probation, parole and pretrial should be diminished wherever possible. Telephonic appearance for defendants and lawyers should be allowed and encouraged, especially for individuals who are vulnerable to complications or death due to COVID-19. No one should be penalized for not appearing in-person at court hearings for the duration of the epidemic.

Liberally grant defendant requests to reset court cases. All courts should reset all out-of-custody cases at least 60 days to limit exposure and health risks. Requests by in-custody defendants who waive speedy trial should be liberally granted. The court should accept continuance requests telephonically or online.

Limit transportation of inmates on writs. The transportation of inmates on writs amongst county jails and between DOC and county jails should be dramatically reduced or suspended entirely. Transport will inevitably increase the likelihood of the spread of the virus between correctional facilities by exposing inmates and corrections staff, court staff, and sheriffs in multiple counties each time an inmate from one jail or prison is transported by sheriffs to another facility. Where speedy trial is not running in a case, all writs should be vacated. Where speedy trial rights are

implicated, a bond reduction/modification to a PR bond should be granted so that a writ is unnecessary. Only in cases where an inmate's speedy trial rights are implicated, a bond reduction/modification will not lead to release of the inmate, and the trial is set after April 3rd, 2020 should a writ be executed. In those cases, the inmate should be transported, placed into holding areas, and housed alone. No more than one inmate should be placed in a vehicle, holding cell, or pod outside his/her jail or DOC facility of origin with any other inmates while on a writ to another jurisdiction(s).

4. **Provide free access to adequate medical care in prisons and jails.** All medical co-pays should be waived during the epidemic. By charging high medical copays, correctional facilities discourage inmates from accessing immediate medical care that can prevent the spread of the virus. Medical care must include preventive care, medical testing, and prompt treatment — including any necessary transfers to higher care for any illness. To encourage inmates to seek treatment, medical care should be provided without co-pays or additional costs.
5. **Provide as many opportunities for prisoner contact with community as possible.** Decisions to suspend all visitation to prisons and jails should be made in consultation with local public health officials and only when absolutely necessary.⁴⁰ Any decision to suspend visitation should be accompanied by clear plans and procedures to substitute other forms of communication such as increased access to phone calls and video calls.

Fees for phone and video calls should be waived. Without visitation, jails and prisons should ensure free access to other available means of communication with the outside world.⁴¹

Legal visits must continue unimpeded and free of charge. People who are incarcerated must have ready access to their attorneys throughout the epidemic. If necessary, facilities can implement non-contact legal visits, or can increase the availability of confidential phone or video calls to reduce the number of in-person visits. Any attorney-client calls must be free of charge.

6. **Education of correctional staff and inmates.** Incarcerated people need to be informed about the virus and the measures they can take to minimize their risk of contracting or spreading it. They must be educated on the importance of proper handwashing, coughing into their elbows, and social distancing to the extent they can. Likewise, correctional staff must be educated about the virus to protect themselves and their families, as well as the people in their custody.

7. **Staff plans for correctional staff and inmates.** Regardless of how many staff stay home because they are sick, the prisons will have to continue functioning. There must be a plan for how necessary functions and services will continue if large numbers of staff are out with the virus. Many tasks in prisons, such as food preparation and basic sanitation, are performed by prisoners. The plans for an outbreak must also address how necessary tasks performed by prisoners will continue if large numbers of prisoners are ill.
8. **Sanitation.** All facilities must develop and announce a plan to disinfect and regularly sanitize the facilities (jails, prison, and courthouses), particularly any common areas. The most basic aspect of infection control is hygiene. There must be free and ready access to warm water, soap, hand sanitizer and cleaning supplies for inmates.
9. **Make public all plans for managing COVID-19 in jails and prisons.** Transparency — which engenders public trust and collaboration — has proven critical to combatting COVID-19 around the world. Given the high stakes, each of your offices must make transparent its plans to address COVID-19 in jails and prisons.
10. **Data collection.** As with any contagious disease, data collection is critical to understanding and fighting the virus. Jails, prisons and halfway houses must be part of this process. The same information that is tracked in the community must be tracked in jails, prisons and halfway houses.

We recognize that each of you is under enormous pressure to address the myriad and often competing challenges of this growing public health crisis. We offer these urgent recommendations to assist in your development of an action plan to address the inevitable spread of COVID-19 to jails and prisons. We are ready, willing and able to assist you in coming up with the best plan for Colorado's criminal justice system, one that prioritizes the health and safety of all Coloradans.

Sincerely,



CRIMINAL JUSTICE ACT
PANEL STANDING COMMITTEE



DENVER MUNICIPAL
PUBLIC DEFENDER



OFFICE OF RESPONDENT
PARENTS' COUNSEL

- ¹ Meg Wingerter, *Colorado Governor Closes Bars, Restaurants, Theaters and Gyms in Fight against Coronavirus*, THE DENVER POST (Mar. 16, 2020), <https://www.denverpost.com/2020/03/16/coronavirus-colorado-bars-restaurants-dmv-closed/>
- ² Marianne Goodland, *Polis announces shutdown of all in-house dining as cases rise to 160 in state*, COLORADO POLITICS (Mar. 16, 2020), https://www.coloradopolitics.com/coronavirus/polis-announces-shutdown-of-all-in-house-dining-as-cases/article_f67d9054-67da-11ea-bee3-e767db9e195d.html
- ³ Blair Miller, *'We Are All in This Together': Colorado Governor Expects Thousands of COVID-19 Cases, Urges Social Distancing*, DENVER 7 (Mar. 14, 2020), <https://www.thedenverchannel.com/news/national/coronavirus/we-are-all-in-this-together-colorado-governor-expects-thousands-of-covid-19-cases-urges-social-distancing>
- ⁴ Blair Miller, *Colorado Governor Declares State of Emergency to Increase COVID-19 Testing, Implement Paid Sick Leave*, DENVER 7 (Mar. 10, 2020), <https://www.thedenverchannel.com/news/national/coronavirus/colorado-governor-declares-state-of-emergency-to-increase-covid-19-testing-implement-paid-sick-leave>
- ⁵ Paige St. John, *Parts of San Quentin Prison under Quarantine as a Precaution*, LOS ANGELES TIMES (Mar. 15, 2020), <https://www.latimes.com/california/story/2020-03-15/san-quentin-prison-quarantine-coronavirus>; Chelsia Rose Marcus, *NYC Department of Correction Employee Tests Positive for Coronavirus*, NEW YORK DAILY NEWS (Mar. 15, 2020), <https://www.nydailynews.com/coronavirus/ny-coronavirus-nyc-doc-employee-tests-positive-20200315-muh3hh2o2zfyvktor6u53bolxe-story.html>
- ⁶ *Monthly Population and Capacity Report*, COLORADO DEPARTMENT OF CORRECTIONS (Feb. 29, 2020), <https://drive.google.com/file/d/1mi-b4Q0J9iopqG12aLPElQgT1BhYAakE/view>; *HB 19-1297: Jail Data*, COLORADO DIVISION OF CRIMINAL JUSTICE, https://cdpsdocs.state.co.us/ors/Data/Data_Instruments/HB1297/Dashboard/HB19-1297.html
- ⁷ Martin Kaste, *Prisons And Jails Worry About Becoming Coronavirus 'Incubators'*, NPR (Mar. 13, 2020), <https://www.npr.org/2020/03/13/815002735/prisons-and-jails-worry-about-becoming-coronavirus-incubators>
- ⁸ See, e.g., Allison Sherry, *'We Make Do': Jails Aren't Always Purpose-Built In Rural Counties Like Saguache*, COLORADO PUBLIC RADIO (Jul. 1, 2019), <https://www.cpr.org/2018/03/30/we-make-do-jails-arent-always-purpose-built-in-rural-counties-like-saguache/>
- ⁹ Nicole Wetsman, *Prisons and Jails Are Vulnerable to COVID-19 Outbreaks*, THE VERGE (Mar. 7, 2020), <https://www.theverge.com/2020/3/7/21167807/coronavirus-prison-jail-health-outbreak-covid-19-flu-soap>
- ¹⁰ *Departmental Reports and Statistics*, COLORADO DEPARTMENT OF CORRECTIONS, <https://www.colorado.gov/pacific/cdoc/departmental-reports-and-statistics>
- ¹¹ *Statistical Report FY 2018*, COLORADO DEPARTMENT OF CORRECTIONS, https://drive.google.com/file/d/1Sbiu6bl7NVZ7BL-ij3u_TyrmbUOAoWKS/view
- ¹² Peter Wagner, *No Need to Wait for Pandemics: The Public Health Case for Criminal Justice Reform*, PRISON POLICY INITIATIVE (Mar. 6, 2020), <https://www.prisonpolicy.org/blog/2020/03/06/pandemic/>
- ¹³ *HB 19-1297: Jail Data*, COLORADO DIVISION OF CRIMINAL JUSTICE, https://cdpsdocs.state.co.us/ors/Data/Data_Instruments/HB1297/Dashboard/HB19-1297.html
- ¹⁴ Martha Bellisle, *Washington Virus Deaths Hit 22, 3 More From Nursing Home*, AP NEWS (Mar. 9, 2020), <https://apnews.com/0f6adf1db3f093cad85aea11706ed048>
- ¹⁵ *Statistical Report FY 2018*, COLORADO DEPARTMENT OF CORRECTIONS, https://drive.google.com/file/d/1Sbiu6bl7NVZ7BL-ij3u_TyrmbUOAoWKS/view
- ¹⁶ Anne Spaulding, *Coronavirus COVID-19 and the Correctional Facility*, EMORY CENTER FOR THE HEALTH OF INCARCERATED PERSONS (Mar. 9, 2020), https://www.ncchc.org/filebin/news/COVID_for_CF_HCW_3.9.20.pdf
- ¹⁷ *HB 19-1297: Jail Data*, COLORADO DIVISION OF CRIMINAL JUSTICE, https://cdpsdocs.state.co.us/ors/Data/Data_Instruments/HB1297/Dashboard/HB19-1297.html

18 Bernadette Rabuy & Daniel Kopt, *Detaining the Poor: How Money Bail Perpetuates an Endless Cycle of Poverty and Jail Time*, PRISON POLICY INITIATIVE (May 10, 2016), <https://www.prisonpolicy.org/reports/incomejails.html>

19 Additionally, every month, about 800 people are released from prison. And this number does not include those individuals released to community corrections where they have regular contact with the public. *Dashboard Measures*, COLORADO DEPARTMENT OF CORRECTIONS, <https://www.colorado.gov/pacific/cdoc/departamental-reports-and-statistics>

20 Amanda Holpuch, *Calls Mount to Free Low-Risk US Inmates to Curb Coronavirus Impact on Prisons*, THE GUARDIAN (Mar. 13, 2020), <https://www.theguardian.com/us-news/2020/mar/13/coronavirus-us-prisons-jails>

21 Visiting an Offender, COLORADO DEPARTMENT OF CORRECTIONS, <https://www.colorado.gov/pacific/cdoc/visiting-offender>

22 See judicial district responses to COVID-19: <https://www.courts.state.co.us/Courts/District/Choose.cfm>

23 Coats, Nathan, *Order Regarding COVID-19 and Operation of Colorado State Courts*, SUPREME COURT OF COLORADO OFFICE OF THE CHIEF JUSTICE (March 16, 2020), [https://www.courts.state.co.us/userfiles/file/Media/Opinion_Docs/COVID-19%20Order%2016Mar2020\(1\).pdf](https://www.courts.state.co.us/userfiles/file/Media/Opinion_Docs/COVID-19%20Order%2016Mar2020(1).pdf)

24 Justice Coat's order indicates that it is the chief judge of each judicial district who makes administrative decisions for each judicial district, considering the unique populations, demographics and infrastructure of each district. Respectfully, most of those differences have little meaning when it comes to this virus.

25 *HB 19-1297: Jail Data*, COLORADO DIVISION OF CRIMINAL JUSTICE, https://cdpsdocs.state.co.us/ors/Data/Data_Instruments/HB1297/Dashboard/HB19-1297.html

26 Concerns about missed court dates in the future should be irrelevant to the analysis of who is forced to stay locked behind bars pretrial and subjected to serious risk of harm from Covid-19.

27 By way of a positive example, Boulder District Attorney Michael Dougherty issued guidance creating a presumption his office will stipulate to a personal recognizance bond in all misdemeanor and petty offenses, most drug offenses and non-victims right act offenses.

28 *Statistical Report FY 2018*, COLORADO DEPARTMENT OF CORRECTIONS, https://drive.google.com/file/d/1Sbiu6bl7NVZ7BL-ij3u_TyrmbUOAoWKS/view

29 *Departmental Reports and Statistics*, COLORADO DEPARTMENT OF CORRECTIONS, <https://www.colorado.gov/pacific/cdoc/departamental-reports-and-statistics>

30 *Releasing Low-Risk Elderly Prisoners Would Save Billions of Dollars While Protecting Public Safety, ACLU Report Finds*, AMERICAN CIVIL LIBERTIES UNION (June 13, 2012), <https://www.aclu.org/press-releases/releasing-low-risk-elderly-prisoners-would-save-billions-dollars-while-protecting>

31 Joe Pagonakis, *Cuyahoga County Jail works to release 300 defendants to reduce coronavirus risk*, NEWS 5 CLEVELAND (Mar. 16, 2020), <https://www.news5cleveland.com/news/local-news/oh-cuyahoga/cuyahoga-county-jail-works-to-release-300-defendants-to-reduce-coronavirus-risk>

32 Email from Boulder District Attorney Michael Dougherty titled, "PR Bond and Limiting Inmate Time at the Jail" (March 16, 2020)

33 Mike Roe & Emily Dugdale, *LA County Sheriff Releases Some Jail Inmates, Advises Against Buying A Gun Right Now*, LAIST (Mar. 16, 2020), <https://laist.com/latest/post/20200316/sheriff-coronavirus-covid-19-safety-precautions>; Kristina Bravo, *LASD Cuts Jail Population in Effort against Virus Spread; No Confirmed COVID-19 Cases among Inmates, Deputies*, KTLA (Mar. 16, 2020), <https://ktla.com/news/coronavirus/l-a-county-sheriff-villanueva-to-discuss-measures-in-place-as-outbreak-leads-to-closure-of-businesses-classrooms/>

34 Amanda Holpuch, *Calls Mount to Free Low-Risk US Inmates to Curb Coronavirus Impact on Prisons*, THE GUARDIAN (Mar. 13, 2020), <https://www.theguardian.com/us-news/2020/mar/13/coronavirus-us-prisons-jails>

35 Paul Reynolds, *Covid-19: Prison Service Considers Temporary Release*, RTE (Mar. 13, 2020), <https://www.rte.ie/news/coronavirus/2020/0313/1122169-prisons-covid-19/>

³⁶ For example, in a December 31, 2019 snapshot of the Colorado prison population, 1,461 inmates were incarcerated because of a technical parole violation. *Departmental Reports and Statistics*, COLORADO DEPARTMENT OF CORRECTIONS, <https://www.colorado.gov/pacific/cdoc/departamental-reports-and-statistics>

³⁷ Peter Wagner, *No Need to Wait for Pandemics: The Public Health Case for Criminal Justice Reform*, PRISON POLICY INITIATIVE (Mar. 6, 2020), <https://www.prisonpolicy.org/blog/2020/03/06/pandemic/>

³⁸ Conrad Swanson, *Denver Restaurants Are Ordered Closed except for Carryout and Delivery*, THE DENVER POST (Mar. 16, 2020), <https://www.denverpost.com/2020/03/16/hancock-coronavirus-denver-restaurants-dmv/>

³⁹ Kristina Bravo, *LASD Cuts Jail Population in Effort against Virus Spread; No Confirmed COVID-19 Cases among Inmates, Deputies*, KTLA (Mar. 16, 2020), <https://ktla.com/news/coronavirus/l-a-county-sheriff-villanueva-to-discuss-measures-in-place-as-outhebreak-leads-to-closure-of-businesses-classrooms/>

⁴⁰ The DOC has suspended social visits indefinitely as have some Colorado jails. Other measures beyond stopping visitation are necessary to prepare for and manage a COVID-19 outbreak. *Visiting an Offender*, COLORADO DEPARTMENT OF CORRECTIONS, <https://www.colorado.gov/pacific/cdoc/visiting-offender>

⁴¹ For example, the South Correctional Entity in Seattle, which houses nearly 600 inmates, has petitioned the provider to offer free video-conferencing to families during the pandemic Martin Kaste, *Prisons And Jails Worry About Becoming Coronavirus 'Incubators'*, NPR (Mar. 13, 2020), <https://www.npr.org/2020/03/13/815002735/prisons-and-jails-worry-about-becoming-coronavirus-incubators>