



March 30, 2020

Chief Justice Debra L. Stephens
Washington State Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

via email to supreme@courts.wa.gov

Dear Chief Justice Stephens:

ACLU of Washington and Disability Rights Washington were signatories to the March 17, 2020 letter urging the Washington State Supreme Court to take action related to the operation of criminal courtrooms and pretrial release of criminal defendants in response to the COVID-19 public health crisis. We appreciate the Court's quick response to that letter in issuing Emergency Order No.25700-B-607.

We now write to inform the Court that on March 27, 2020, ACLU of Washington and Disability Rights Washington sent a proposed Executive Order to Governor Jay Inslee. In that order, which is attached to this email, we urged Governor Inslee to take action to protect Washingtonians who are living in our state's prisons and jails and who are therefore at heightened risk of COVID-19 infection. We asked Governor Inslee to issue guidance to the state's judicial officers, specifically:

1. The Washington State Supreme Court should order the presiding judge of each court to create a written plan to decrease the jail population. These plans should ensure the release of all nonviolent offenders and those who do not pose an immediate and direct threat to public safety. In order to minimize the threat of an uncontrollable COVID-19 outbreak, the goal of each plan should be the dramatic reduction of the incarcerated population that ensures, at minimum, that each incarcerated person has a single cell. Presiding judges should consider the following emergency actions:
 - a. Suspending all probation or pretrial conditions—including drug testing, employment requirements and education requirements—whose adherence would require the individual to violate the World Health Organization's physical isolation instructions;



- b. Ordering the release, with or without conditions, of the following categories of individuals currently held pretrial or serving sentences in jails:
 - i. All vulnerable individuals unless those held for one of the most serious offenses as defined in RCW 9.94A.030, and whose release poses an immediate and direct threat to public safety;
 - ii. All individuals held for a technical violation of a condition of release; and
 - iii. All individuals EXCEPT those held for the most serious offenses and when there is a risk of physical harm to another person or persons.

We now urge the Washington State Supreme Court to take the actions outlined above. This pandemic is here and has already made its way into our state's prisons and jails. In light of your prior swift action in relation to COVID-19, we are hopeful you will work with Governor Inslee to take action to protect our incarcerated population and implement the steps outlined in the attached proposed Executive Order.

Sincerely,

s/ Michele Storms
Executive Director
ACLU of Washington

s/ Heather McKimmie
Director of AVID Program
Disability Rights Washington

s/ Jaime Hawk
Legal Strategy Director, Smart Justice
ACLU of Washington

s/ Rachael Seevers
AVID Program Attorney
Disability Rights Washington

Enc. [Executive Order](#): Controlling COVID-19 Transmission and Mortality by Reducing Certain Populations in State and Local Correctional Facilities