

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



Action Alert – April 18, 2020

WHY MARYLAND COURTS' RESPONSE TO COVID-19 IN PRISONS AND JAIL ISN'T ENOUGH

Recently the news media reported Maryland's Chief Judge has taken **action to "protect" our state's adult prison population**. The headline, unfortunately is greatly overstated.

The threat to Marylanders in state prisons and jails continues to be an extreme one because these facilities inherently require keeping large populations close together: shared bathrooms, cafeterias, side-by-side multi-person cells. Unless prison populations are reduced, "social distance" isn't possible. And, medical facilities behind the wall are tragically inadequate, even though corrections administrators and staff are doing their best. The results are ominous: Since April 1, reported COVID-19 infections in Maryland prisons have risen from 3 cases to 136 cases-- including inmates, correctional officers and other staff.

To understand the problems, we consider the numbers and the processes involved. Here are the numbers:

- 6,072 (22%) - population awaiting trial in Maryland's local detention centers, eff. 1/31/20
- 2,303 (8%)- sentenced population in Maryland's local detention centers, eff. 1/31/20
- 19,151(70%)- sentenced population in Maryland state prisons - latest statistics (FY 2018)
- 27,526 (100%)- combined population held in custody

Chief Judge Barbera's order focuses primarily on the 30% awaiting trial or sentencing, but devotes only one brief reference to the more than 21,000 inmates or 70% now serving sentences. That reference states:

"Judges are to continue to act expeditiously to issue a ruling or schedule a remote hearing upon motion of any party to modify a sentence in light of the considerations related to the COVID-19 emergency."

In other words, there is **no change** to Maryland Rules or court process for the 70% at risk in state prisons and local detention centers. Maryland Courts are, systemically, not well-suited to dealing with populations who, as a group, are

subject to collective public health risks because courts' rules and processes require that individuals are examined one case at a time, with advance notice, and opportunity for opposing parties to respond. Each individual case, at best, normally requires either many days or weeks to process.

By contrast, the Governor, his Secretary in charge of prisons, and their local government counterparts are extremely well-suited to respond to collective health problems in state prisons and local jails: They keep records of inmates sorted by their offense category--for example, nonviolent and violent. (The Courts do not keep such pre-sorted records.) They keep records of inmates sorted by age and health status. (The Courts do not keep such pre-sorted records.) They have a built-in Parole Commission and house-arrest system. (The Courts must depend on the state and local corrections officers for their management.). Finally, the Governor and County Executives have unique executive powers to set and revise rules that can affect with Maryland residents in groups -- not on a case-by-case basis.

Under these circumstances, those concerned about their fellow Marylanders behind bars and at risk for infection and, possibly, death from COVID-19 should continue to ask the Governor to take prompt action to furlough, commute sentences, or otherwise release inmates held only for nonviolent offenses, as well as the elderly and medically-at-risk who would be able to shelter more safely outside of our state's prisons.

A letter to Maryland legislators asking them to join with Johns Hopkins medical faculty, most of Maryland's delegation to Congress, the Archbishop and many others in this request to the Governor can be [viewed here](#).

MAJR members are encouraged to contact their legislators with this request!

Maryland Criminal Defense Attorneys Association and MAJR speak out.

The Maryland Criminal Defense Attorneys Association and the Maryland Alliance for Justice Reform have addressed its concerns about COVID-19 to the members of the Maryland Legislature:

To avoid a catastrophic outbreak of COVID-19 in our prisons, Maryland must act now to reduce our prison population. The health and well-being of all Marylanders depends on swift and organized measures. We ask that you contact Governor Hogan and urge him to take the following actions:

1. Direct the Parole Commission to expedite review of nonviolent, parole-eligible offenders.
2. Direct the Department of Public Safety and Correctional Services to improve safety conditions by providing every inmate with

sufficient hygiene supplies and masks, provide correctional officers, contract workers, and other staff with appropriate PPE, and modify housing arrangements to provide for social distancing.

3. Appoint an independent working group to establish best practices and coordinate efforts between the Governor's Office, the Parole Commission, and the Department of Public Safety and Correctional Services.

4. Direct the working group to issue weekly reports of Department of Corrections COVID-19 statistics and steps accomplished.

To see the full letter [click here](#).

MAJR is a nonpartisan association of over fifty community organizations and churches with members in every part of the state, formed to support justice reinvestment. Individual supporters include judges, attorneys, corrections professionals, as well as returning citizens, victims, and service providers.

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