



**LAW ENFORCEMENT  
ACTION PARTNERSHIP**

ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS

121 Mystic Avenue, Suite 9  
Medford, Massachusetts 02155  
T: (781) 393.6985

April 14, 2020

Governor Kristi Noem  
Office of the Governor  
500 East Capitol Avenue  
Pierre, SD 57501

Dear Governor Noem:

On behalf of the Law Enforcement Action Partnership (LEAP), we write to express grave concern over the spread of COVID-19 throughout South Dakota's correctional facilities, justice system, and communities. On behalf of thousands of current and former police, judges, prosecutors, and corrections officials across the US, I ask that you **immediately issue an executive order to safely reduce incarceration to improve public health**. A [sample executive order](#) is attached to illustrate our recommendations.

We urge you to reduce the risk of COVID-19 transmission in correctional facilities by **releasing people who are elderly, medically at-risk, serving time for non-violent crimes, or serving time for technical parole/probation violations**. Transmission between prisoners, officers, and staff will quickly spread outside the facilities to the families of officers and staff, accelerating the pandemic. Governors have acted on this issue in [Kentucky](#) and elsewhere. Tragically, efforts in New York are coming too late, as [Rikers Island](#) is already facing an unmanageable crisis.

There is strong public support for dramatically reducing jail and prison populations to slow the spread of coronavirus. **Sixty-six percent of likely voters, including 59% of those who identify as "very conservative," said that elected officials should be considering measures to reduce populations in prisons and jails as a response to coronavirus.**<sup>1</sup> Criminal justice leaders are already taking action to safely reduce correctional populations.<sup>2</sup>

I write to you as the sole actor with the authority to achieve system-level results with clarity, consistency, and vision. We suggest you take the following steps right now to prevent the spread of COVID-19 in correctional facilities and beyond:

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<sup>1</sup>Fighting the Coronavirus with Decarceration: Policies and Polling, Data for Progress (March 2020) Accessed at <https://www.dataforprogress.org/memos/fighting-coronavirus-with-decarceration>. (March 16, 2020 to March 17, 2020, survey of 2509 likely voters.)

<sup>2</sup>"Jails Release Prisoners, Fearing Coronavirus Outbreak - WSJ." 22 Mar. 2020, <https://www.wsj.com/articles/jails-release-prisoners-fearing-coronavirus-outbreak-11584885600>. Accessed 23 Mar. 2020.



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1. **Release medically high-risk people in state custodial facilities.** We urge you to use your clemency powers to begin a process of immediate review and presumptive release for all people identified by the CDC as particularly at-risk – older people and people with underlying health conditions or who are otherwise immune-compromised – whose sentences would end in the next two years and who do not pose a significant public safety risk.
2. **Reduce overall populations in state custodial facilities.** Using your clemency powers, begin a process of immediate review and presumptive release for:
  - a. anyone incarcerated for technical violations of probation or parole, and/or
  - b. anyone whose sentence would end in the next 180 days.
3. **Reduce medically high-risk and overall populations in local custodial facilities.** Direct local stakeholders, including police, prosecutors, and judges, to take concrete steps to reduce the intake of people into local custodial facilities. These steps would include:
  - a. stopping arrests for low-level offenses and issuing citations in lieu of arrest for other offenses,
  - b. suspending the use of cash bail and limiting pretrial detention to cases with a significant risk of flight or charges indicating high risk of violent reoffending, and
  - c. setting conditions of release that allow incarcerated people to care for family at risk for COVID-19.

It is challenging for local jurisdictions to respond effectively to this crisis, since it requires so many different agencies to coordinate. The justice system needs state-level guidance from your office in order to act swiftly, properly allocate resources, and minimize casualties. The coronavirus pandemic is testing every one of our institutions. Elected officials and other stakeholders who make the right decisions right now - when it matters most - will be remembered for their bravery, wisdom, and foresight.

Below is a draft [executive order that you could adapt to immediately address this crisis](#). Thank you for your time and leadership.

Sincerely,

Major Neill Franklin (Ret.)  
Executive Director, Law Enforcement Action Partnership

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