

Public Officials and Courts Acknowledge COVID-19 Risks for Incarcerated Individuals; Prisoners Seek Bail, Compassionate Release, Medical Furloughs, and Early Parole

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The density of prison environments, lack of access to adequate healthcare, and other considerations are placing prisoners at particularly high risk for contracting and spreading the COVID-19 virus.

On March 22, 2020, New Jersey became the first state to temporarily suspend and commute county jail sentences in response to the pandemic under an order issued by the New Jersey Supreme Court with the support of the New Jersey Attorney General, the County Prosecutors Association of New Jersey and the American Civil Liberties Union (ACLU).

In a follow-up measure, New Jersey Governor Phil Murphy signed Executive Order 124 on April 10, 2020, creating a process for the New Jersey Department of Corrections to grant temporary reprieve to certain at-risk inmates during the COVID-19 crisis. With that action, New Jersey joined the federal government and other states in releasing certain state prison inmates in order to curtail the spread of the virus.

In an opinion issued on Easter Sunday, Judge Madeline Cox Arleo, District Judge for the District of New Jersey, called Hudson County “the epicenter of the virus in New Jersey” and took issue with the conditions at the Hudson County Correctional Center (HCCC). Relying on the Declaration of the Director of HCCC, Judge Arleo found that the numbers of those infected at the Hudson County facility are grim and ordered the release of four ICE detainees.

Similarly, Judge Alison Nathan, District Judge for the Southern District of New York, recently granted an emergent bail motion finding, in part, that “inmates may be at a heightened risk of contracting COVID-19 should an outbreak develop.”

In another matter, Judge John Michael Vasquez, District Judge for the District of New Jersey, found that the conditions of confinement at Essex County Correctional Facility – including the volume of ICE detainees confined to inherently limited living and sleeping quarters, limited access to hygiene products, shared bathroom facilities, and the transmission of COVID-19 to detainees in custody – amounted to punishment of the petitioners, who had underlying medical conditions that made them vulnerable to serious complications or death if they contract the virus.

Published Articles (Cont.)

Despite these measures, there continues to be an unprecedented number of illnesses and deaths unfolding in federal, state and county jails across the country as a consequence of the pandemic. This has led many non-violent and low-level offenders who are currently incarcerated – and are at an increased risk of contracting COVID-19 – to file requests for bail, compassionate release, medical furloughs, or early parole at both the state and federal level.

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