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Governor John Bel Edwards
Office of the Governor
900 North Third Street #4
Baton Rouge, Louisiana 70820

March 26, 2020

Governor Edwards,

We write to you on behalf of the thousands of incarcerated individuals in the parish and state prisons across Louisiana who are at-risk of contracting and spreading COVID-19. As you know, federal, state, and local officials have been urging individuals to practice social distancing in order to slow the spread of the virus. Due to the nature of state and parish prisons, this is not possible for incarcerated persons and threatens both the inmate population and prison staff.

We urge you to issue an executive order pursuant to your statutory authority under Louisiana R.S. 29:724(D)(1), which permits the governor to "[s]uspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency."

Using these powers during the current state of emergency to address the situation in Louisiana's parish and state prisons has the power to save hundreds, if not thousands, of lives. We propose issuing an executive order that grants the Department of Public Safety & Corrections the authority to, on a case-by-case basis:

- Reject any inmate transfers to state prison from parish prisons;
- Release from custody any parole-eligible inmate or within 180 days of their parole-eligibility date, as there are an estimated 4,000+ inmates who are parole eligible in state prisons;
- Release from custody inmates who fit the at-risk demographics, including older inmates (more than 23% of state prisoners are 50+ years old), and infirm inmates, particularly those with respiratory health issues;
- Release from custody inmates incarcerated for low-level, non-violent offenses, including all misdemeanors and municipal offenses;

Additionally, we believe the governor should order the National Guard to erect an Open Air Treatment Facility, which would provide enhanced ventilation, fresh air, and additional room to isolate infected persons in line with best practices. As these inmates are cleared (infection free, immune, recovered) they can be moved into home monitoring or released.

Louisiana would not be the first state to take action to protect its inmate population and prison staff. States across the country has moved swiftly to act, spurred by gubernatorial, mayoral, and judicial action:

- Colorado: In Colorado, Governor Jared Polis signed an intentionally broad executive order temporarily suspending state statutes related to inmates in Colorado jails and prisons, with a particular focus on streamlining the state's compassionate release mechanisms¹;

¹ Kieran Nicholson, *Gov. Polis Signs 2 New Executive Orders Aimed at Coronavirus Relief*, Denver Post (Mar. 26, 2020).



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- New York: In response to an outbreak at Rikers Island, New York City Mayor Bill de Blasio has announced plans to release 300 non-violent offenders with light sentences of less than a year, and who were found guilty of misdemeanors²;
- New Jersey: In New Jersey, the state supreme court authorized the release of up to 1,000 inmates serving certain types of sentences in county jails including those jailed for probation violations, those convicted in municipal courts, or sentenced for low-level crimes in state Superior Court.³

On the federal level, one man held in Louisiana's Oakdale federal penitentiary is reported as being in "critical condition."⁴ The public has no way of knowing his name, his level of treatment, if his family has been contacted, nor how many other people have tested positive. A bipartisan group of Senators has sent a letter to Attorney General William Barr and Bureau of Prisons Director Michael Carvajal to express their concerns about the safety of inmates and staff inside federal prisons during the COVID-19 outbreak.⁵

All inmates released under this proposed executive order would be required to return to custody when public health permits. This would be similar to processes put in place to address inmate populations in the months following Hurricane Katrina. The exigency of the situation demands an appropriate response and incarcerated persons and prison staff in Louisiana should not be placed in a life-threatening situation any more than other Louisiana citizens.

We look forward to a productive conversation and solution on this matter.

Sincerely,

Norris Henderson,
Executive Director

² Noah Higgins-Dunn, *Coronavirus: New York City to Release 300 Nonviolent Inmates from Rikers Island*, CNBC (Mar. 24, 2020).

³ Tracy Tulley, *1,000 Inmates Will Be Released from N.J. Jails to Curb Coronavirus Risk*, N.Y. Times (Mar. 23, 2020).

⁴ Josh Gerstein, *Feds may send some prisoners home due to virus*, Politico (Mar. 23, 2020).

⁵ Ryan Lucas, *As COVID-19 Spreads, Calls Grow to Protect Inmates in Federal Prisons*, NPR (Mar. 24, 2020).