

COVID-19 AND INDIANA PRISONS

**An Emergency Plan To:
Save Thousands Of Lives,
Make Prisons Manageable during the Pandemic,
Generate Jobs,
Minimize Societal Disruption, &
Protect Prison Employees and Their Families**

By an informal coalition of formerly incarcerated Hoosiers and
Hoosiers who volunteer or work in prisons and re-entry programs

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Summary of Recommended Actions

To prevent potentially catastrophic levels of COVID-19 infection within Indiana prisons and among DOC employees and their families and to diminish transmission of the virus to the outside community, we recommend the following:

1) **To immediately decrease the state's prison population by 21%**, Indiana courts should release the 5,662 people currently incarcerated who have less than a year to serve *and* have completed at least 50% of their time in prison.

- As recommended by the CDC and DOJ, all of these individuals would be required to complete a 14 - 21 day quarantine before re-entering society
- To the extent possible, they would undergo quarantine in designated facilities *outside* the state's 18 adult prisons in order to immediately decrease population pressures inside those prisons
- During their quarantine, a coalition of government, non-profit, and religious organizations would provide intensive re-entry services for them
- Those who are infected and who have not reached their outdate would be held in quarantine until they are no longer considered infectious or need to be hospitalized

2) **To minimize the death toll within our prisons**, the DOC should immediately provide every criminal court in the state with names of people in prison who are at highest risk of dying from the virus due to their advanced age and/or serious pre-existing medical conditions, but have more than a year left to serve.

- Judges would determine who on their court's list could be released temporarily or long-term
- Because they are at high risk of dying from the virus, those offered release would need to have a safe place to go where they could isolate themselves until a vaccine is developed or community infection levels are deemed low enough to stop isolating
- Those offered permanent or temporary release would first undergo 14 – 21 day quarantine either in a prison or in an outside facility (at the DOC's discretion)
- Those not offered release would be placed in a separate facility where they could be more easily be isolated from the virus (e.g., the old Women's Prison, which is currently empty)

3) **To further protect DOC employees and their families and to fairly compensate them** for the arduous duties and high risks they are already experiencing, the DOC should:

- Provide hazard pay to all employees who work inside prisons
- Offer employees who work inside the option of being housed in staff housing for the duration of the pandemic, so that they can protect their families
- Provide personal protective equipment such as masks to all those who work and live in prisons and regularly test for infection

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Why We Must Act Immediately

Let there be no mistake: Without immediate, drastic action, we face a catastrophe of the highest order over the next few months in Indiana's prisons, with thousands of people who live and work inside sickening and dying with no way to contain the epidemic or manage the prisons.

While the Indiana Department of Correction has worked diligently over the past month to try to prepare for the epidemic, it has vastly underestimated the threat that COVID-19 poses. It has focused on containment, not understanding that once the virus enters a prison containment is impossible in an enclosed setting where people cannot socially distance themselves. If the virus cannot be controlled on cruise ships where everyone has their own cabins and plenty of soap and water, it cannot be controlled in a prison or jail.

As the virus is inevitably introduced in each prison, almost everyone within that prison will likely be infected within a very short period, as will many of the employees who keep the prison running. In other words, **in every prison we will maximize the height of the infection curve.**

If hospitals will admit people from the prison, their numbers will overwhelm all medical care outside. But as we have already seen elsewhere, the epidemic will likely lead to triaging patients, which in turn will likely lead to refusing admission to severely ill patients from prisons, especially the disproportionate number of incarcerated people who are over 70 and/or have pre-existing conditions that make it less likely they will survive. That means that our prisons could be quickly overwhelmed not just with the sick and the dying, but also the dead—with a severely depleted officer corps and only a handful of nurses to keep order, feed people, assist those who are sick, and bury the dead in hastily dug graves.

We already knew that SARS-CoV-2 (the virus that causes COVID-19) has up to a 2-week incubation period. In the last few days, studies have been released showing that around 50% of all people with the virus may be asymptomatic or presymptomatic and that over 80% of all infections might come from contact with individuals without symptoms. That means that even if Indiana's prisons had space to isolate everyone who was symptomatic, that would not stop the spread of the virus. Essentially, we must assume that literally every single person who lives or works in our prisons or jails will be exposed to the virus over the next month and will become contagious.

In the following pages we propose an emergency plan to (1) immediately and drastically reduce each prison's population, (2) quarantine every person who is released for 14-21 days in outside facilities in order to protect them and the free community to which they are returning, (3) provide for successful re-entry, and (4) protect and honor those who work inside and their families.

For this plan to work, it will require immediate and coordinated action by Indiana's judges, governor, businesses and Department of Correction.

Who Could Be Released During the Pandemic?

Goals:

- 1) Reduce the size of the prison population during the pandemic to allow for easier management by a depleted officer corps and greater opportunity to isolate infected people
- 2) Reduce the number of people inside who are at the highest risk of dying

As may seem obvious, the smaller a prison's population is, the easier it is to manage during a crisis, especially a prolonged one. To quickly and equitably reduce the DOC population while minimizing risk to the free community, we ask the Chief Justice to recommend that people who have already completed a designated portion of their sentence and have only a few months left to serve be released. While the formula we recommend is that **everyone who has served more than half their sentence and has less than a year to serve be released (which would reduce the prison population by 21%)**, there are many possible combinations of "percent of time served" by "months left to be served" that the Court could use.

For example, there are currently 26,891 people in Indiana prisons of whom 6,665 have less than 12 months to serve.

- If **all of those with less than a year** were released, the DOC population would be **reduced by 25%**.
- If all those who had less than a year **and** had completed **at least 25% of their time** were released, then the prison population would be reduced by **24%**
- If all those who had less than a year **and** had already **completed at least half of their time** were released, then the prison population would decrease by **21%**
- If all those who had less than a year **and** had already **completed at least 75% of their time** were released, then the prison population would decrease by **15%**

Below is a table that shows percent time served on the vertical axis and months left to serve on the horizontal axis. The number in each table cell is the percent overall reduction in the prison population that would be achieved given the criteria (i.e., the number in each cell is the percent of the prison population with more than Y% of their sentenced served who have less than X months remaining to serve).

% time served	3 months	6 months	9 months	12 months
0%	9%	15%	21%	25%
25%	9%	15%	21%	24%
50%	9%	14%	19%	21%
75%	8%	11%	14%	15%
Number of months remaining				

Regardless of which formula was adopted, we believe that, given the current crisis, release of people with just a few months left should be made across the board so that

cases would not have to be considered one-by-one, a very slow process under the best of circumstances.

As discussed in the next section, all of those being released from prison would be required first to undergo quarantine for at least 14 days, preferably at a site outside the state's 18 adult prisons.

Goal #2: Reduce the number of people inside who are at the highest risk of dying

According to the CDC, people at the greatest risk of severe complications/death are:

- Anyone 65 years of age or older
- People of any age with chronic lung disease or moderate to severe asthma
- People of any age with a serious heart condition
- People of any age who are immunocompromised including cancer treatment
- People of any age with diabetes, renal failure, or liver disease or other underlying medical conditions that put them at risk
- People of any age with severe obesity (body mass index [BMI] >40)
- Pregnant women (data not clear but CDC includes out of caution)

The DOC has provided a list of all of those in their custody who **are 65 or older**. We have prepared lists of these people for each county/court, including age, offense, and percent time already served. However, we are not allowed to receive information on medical condition of incarcerated individuals due to HIPPA restrictions. We hope that the DOC can give this information directly to each court. If not, **we urge the DOC to immediately provide those who are most at risk (e.g., currently undergoing chemotherapy, currently on dialysis, etc.) with a release form that they could sign that would allow the court to see this information.**

Release of individuals who are considered at high risk of dying of the coronavirus due to age or medical condition would need to be made on a case-by-case basis. In all cases, it should begin with a 14 - 21 day quarantine either at the prison or outside (see discussion of quarantine in the next section).

Our society, of course, remains responsible for the well-being of those not considered acceptable candidates for short- or long-term release during the pandemic. Thus, **we urge that all of those at highest risk of complications/death who need to remain in prison be kept in a separate facility where they can be completely isolated, including having staff and officers who are well-paid to live exclusively on grounds until the crisis is over (staff could rotate out, but each time they returned they would need to either go through quarantine or test negative).**

Where and How to Quarantine

When US Attorney General William Barr announced last week that the Federal Bureau of Prisons would be releasing some prisoners due to the epidemic, he stressed that everyone leaving would first have to undergo quarantine. That is sensible policy that we recommend following, especially as the virus is already known to have entered some Indiana prisons.

In order to quickly free up space in the prisons and ensure that the quarantine is effective, we recommend that **people being released because they have less than a year to serve be quarantined at sites other than DOC prisons currently in operation**. Quarantine would be mandatory except perhaps for those who have release dates for this week or next and already have re-entry plans in place.

Where quarantining would take place:

In Appendix A, we list numerous sites in Indiana that we have identified that could be used for this purpose, including college dorms vacated due to the pandemic, the old Indiana Women's Prison and the old Duvall Work Release site, and vacant religious retreat centers. **For the following reasons, however, we recommend using hotels and motels that are also vacant due to the pandemic:**

- 1) All across the state, we have hotels and motels that have closed or have occupancy rates below 10%. Yet unlike most other options on our list, they are ready for immediate occupancy with beds and linens and, in some hotels, kitchens able to feed hundreds.
- 2) Every room has its own bathroom, which is critical in keeping people completely isolated from one another
- 3) Each room has a telephone that would allow probation and re-entry staff to easily be in touch with the occupant and also allow room occupants to help make their own arrangements with family--as they would do if they were still in prison (though in slow motion and with shared phones, which are themselves very likely to spread the virus).
- 4) Many hotels have long hallways with rooms on both sides, thus aiding in surveillance. Even better, many already have cameras so that hallways could be monitored remotely to be sure people aren't breaking quarantine
- 5) Some have large kitchens and employees who are Safe Serve certified, thus allowing food to be prepared in-house, thereby reducing chances of spreading the virus
- 6) Multi-story hotels would also have the advantage of allowing quarantined people to be on one or more floors while those who are found to be infected could be moved to separate floors where they could be isolated and assisted until they either needed to go to the hospital or were no longer infectious.

In normal times, housing newly released inmates in hotels and motels would be politically unacceptable. Here are reasons why we think it would be acceptable during this unprecedented crisis:

- Indiana's share of the \$2 trillion that Congress appropriated last week to help stem the pandemic and stimulate the economy could be used to cover costs (billions are included for law enforcement).
- Indiana's hotel industry, vital to the state's economy, is among the hardest hit. Under this plan, stimulus funds would be used to support hotels and rehire some of the thousands of employees they have laid off.
- Other states/local governments are using or have proposed using hotels/motels during the pandemic to set up makeshift hospitals, to house the homeless and those released from jails, and to house exhausted medical staff who fear infecting their families if they go home. Indiana should use hotels for all of those reasons, and more, *including housing police and prison employees for free who fear contaminating loved ones at home.*
- While putting criminals in hotels/motels may seem like coddling, keep in mind that they would be confined to their room for 14 – 21 days, and not be allowed to step out their door for any reason other than emergency medical care, and if they violated that rule they would be sent back to prison—all of which is not something most people would consider a good deal.

Under what conditions

- CDC guidelines would be followed as closely as possible.
- Women would be housed separately from men.
- Everyone would have their own room with the possible exception of elderly or infirm people who need assistance. In those cases, we could place them in rooms with two beds along with another releasee who is young, healthy, willing to volunteer for the task, and known by prison staff to be reliable. (People in prison are used to being double celled.)
- People would arrive via prison transport; once escorted to their rooms they would be prohibited from leaving their room unless they are sick and need to be escorted to the floor where people with active infections are housed
- Meals would be delivered outside each room 3 x day; those in quarantine would have their own spoon and fork to clean and reuse
- If possible, each person would have a temperature check 2 x day, before breakfast and dinner
- Anyone who does not want to or is unable to abide by quarantine rules will be immediately returned to prison

Who would run the quarantine sites?

The point of having people go through quarantine outside prisons is to free correctional staff to concentrate on the population that remains in the prisons. So we would look elsewhere for people to run and monitor the quarantine sites. Stimulus money combined with high unemployment should make finding suitable people fairly easy. People with law enforcement, corrections, or military experience could be hired to maintain perimeter security. But with most people staying in their rooms 24 hours a day, and almost no movement inside the hotel other than people delivering meals and meds, plus considerable incentive to abide by the rules, we think hotel employees and/or experienced prison volunteers would be fine for most jobs. In every case, those involved in supervising and assisting with the quarantine would need to be at low risk from the virus themselves (i.e., healthy and preferably younger than 50, or already have had the virus and are now non-infectious). Staff would, of course, be trained in CDC isolation and quarantine procedures and have access to personal protection equipment when moving people.

How to Handle Re-entry for Thousands of People on Short Notice

The most challenging part of releasing hundreds or even thousands of people from prison on short notice is re-entry, which can be daunting even at the best of times. To do so successfully, we would need to quickly mobilize and coordinate services from many quarters. **In some ways, the pandemic makes this harder; but in some interesting ways, it also may make it easier and more effective.**

(1) Everyone will be required to be in quarantine for their first 14 – 21 days after they leave the prison, which means they will be alone in one room, with a telephone, and no other responsibilities or places they can go. In prisons, re-entry planning can bring enormous frustrations: For people who are re-entering those frustrations include very limited, mostly dysfunctional, means of communicating with people outside (family, potential employers, halfway houses, etc.). For prison counselors, it means endless frustration trying to track counselees down and trying to make contacts outside while managing a large caseload.

The situation would be reversed in the quarantine centers especially if people were in individual hotel rooms with phones. In that case **we would have constant, ready access with each individual and easy access when forms needed to be signed. Equally important, they would be able to be proactive in their own efforts to create a workable plan.**

(2) If we are dealing with a sudden influx of thousands of people, it will likely be because the courts agreed to release **those with less than a year to serve. Many of them will already have completed re-entry plans (though these will surely need modification given the crisis), and most of the rest will have some plans/ideas for where they will go.**

(3) Though we want to process people quickly and get them out, **we don't have to send people home right at the end of quarantine.** If a person's re-entry plans are still up in the air, or worse, they have no plans and would be homeless, we could keep them at the hotel/motel until something suitable could be found. If we have substantial numbers in that situation, we could look to open centers where they could live while the epidemic rages. (For example, with warm weather coming, the state could take over some of the camps mentioned in Appendix A.) **Because of the nature of the crisis, we suddenly have *more* options for places people could stay, not fewer.**

(4) We have Indiana "rainy day funds" (\$2 billion) that the governor can authorize until federal stimulus money arrives. **So funding is not an immediate barrier.** The focus can be on saving lives and then finding appropriate shelter.

(5) Perhaps most important, **the current crisis will make putting together teams to assist the surge of releases easier, not harder**, for two reasons: First, as is usual in a crisis, many Hoosiers and organizations are ready and willing to do what it takes to save others. That includes thousands of long-time prison volunteers and thousands of retirees from helping professions who are now in self-quarantine themselves, sitting alone at home with a phone, who would love nothing better than to be useful. It also includes foundations like CICF that are pivoting all their funding this cycle to the pandemic crisis. Second, thousands of people in the helping professions are suddenly unemployed. Let's hire them for this crisis!

(6) We will need a surge in probation officers, which might seem daunting. But again, we can be creative. Because of the statewide lockdown, **most probation and parole contact will now be by phone (video or calls). And that is work that retired probation/parole officers and social workers could do sitting from home**, happy to be doing something constructive and getting paid for it.

(7) The **problem that might prove most daunting is how to handle the large surge of people with drug problems coming back into the community**. We've never had enough residential drug programs and there is no chance that the current ones could meet more than a fraction of the demand. **We need to meet that long-standing problem head-on** by using rainy day/stimulus funds to establish more programs, perhaps initially at the sites where quarantining is taking place. After the pandemic has passed, we hope the best of these new programs would continue to exist, perhaps funded by the massive opioid lawsuits that are pending.

Most important to making this work would be for the governor to appoint a knowledgeable and dynamic director of the project who is well connected with Indiana agencies and organizations, and for key groups-- especially the DOC; probation/parole; re-entry non-profits like PACE, RecycleForce, and Constructing Our Future; and religious and charitable groups--to agree to cooperate seamlessly.

How to Protect Prison Employees and Their Families

The thousands of essential people who work inside prisons—correctional officers, food service providers, counselors, recreation directors, nurses, maintenance workers, etc.—are among the Hoosiers at highest risk of contracting COVID-19. Moreover, their jobs also place their families at very high risk of catching the virus.

Worse yet, many prison employees are over 60 or have pre-existing health conditions that make them more likely to die or experience serious complications from the virus. We fear that unless the state takes immediate, drastic action to decrease populations and protect vulnerable people inside, including employees, between 25-75% of all prison staff members will be sick enough that they must take 1-3 weeks off of work to recover during the epidemic. Even so, at least 1% of prison officers and their household members are likely to die. Along with the obvious and horrible human costs of such a tragedy, staff will need to take additional time off to care for their sick household members and grieve for those who die, thus further reducing staff capacity.

Therefore, we call on the Department of Correction to take the following emergency measures:

- Provide hazard pay to all employees who work inside prisons
- Offer employees who work inside the option of being housed in staff housing, preferably hotels with single-occupancy rooms, for the duration of the pandemic, so that they can protect their families
- Provide appropriate personal protective equipment such as masks to everyone who works and lives in prisons
- Make all necessary hygiene products freely and amply available to everyone inside
- End all co-pays for medical visits by employees and prisoners to encourage people who are sick to seek help and isolate themselves early in the virus' trajectory
- Once tests become widely available, everyone who sets foot inside should be tested weekly, and those who test positive should be quarantined even if they are asymptomatic (which will be impossible at the height of infection unless thousands have already been released). At minimum, custody and kitchen workers should be tested every few days, and removed from their duties for 3 weeks as soon as they test positive.

Conclusion

Our prisons are about to be utterly transformed by tragedy on a grand scale. It is very likely that inside every Indiana prison, there is already a contagious carrier of the SARS-COV-2 virus, who is either asymptomatic or presymptomatic. As the disease spreads, the DOC will face an unprecedented human rights and administrative crisis. The recommendations in this report will not prevent every death among inmates, employees, and employees' families -- but if followed to their fullest, they can still prevent hundreds or even thousands of those deaths.

The nature of exponential viral transmission is such that, every day that we delay action, exponentially more people will be infected inside. We urge Governor Holcomb, Chief Justice Rush, the Indiana Department of Correction, and the entire judicial system to move with unprecedented speed to release as many people as possible, and to do so in the orderly manner we suggest.