

Jennifer Barrett
State's Attorney
Orleans County

April 7, 2020

Re: Eliminating Unnecessary Incarceration During Public Health Crisis



Dear Ms. Barrett,

We, like you, are concerned about the spread of COVID-19, a national pandemic that is threatening the lives of thousands of people in this country and in our communities. While all of us are at risk, we know that the heightened threat of infection for people who live and work in our prisons puts them, their families, and our communities at even greater risk. We write to ask you to exercise your powers and discretion to protect public health and to prevent and reduce the spread of COVID-19 among our community members and loved ones, including but not limited to those who come into direct contact with the criminal legal system or are already incarcerated.

As you know, Vermont Attorney General T.J. Donovan [issued guidance](#) to law enforcement, prosecutors, and DOC personnel, with specific recommendations to reduce unnecessary incarceration. Given the urgency of this public health crisis, Vermonters deserve to know how each of Vermont's elected prosecutors is responding. For that reason, we ask that you reply by Monday, April 13 and state in writing whether your county has implemented or will be implementing the recommendations specified in the Attorney General's guidance.

In addition, we ask you to state your position on these eight (8) additional recommendations, and to respond by April 13 to let us know which of the following measures you have already implemented or are committed to implementing promptly, in order to reduce unnecessary contact with the criminal legal system and incarceration:

1. Decline to bring new low-level charges and dismiss all pending cases for low-level offenses immediately.
2. Work with defense attorneys to review and reopen bail hearings for all those detained pending trial who do not pose a risk to public safety if released, particularly those who are medically vulnerable to COVID-19.
3. Do not seek detention of defendants solely due to prior FTAs (Failures to Appear) during this time.
4. Advocate for people not to be detained and either be released on their own recognizance or without conditions that could risk spread of COVID-19, including drug testing, AA meetings, and in-person check-ins at pretrial services.

PO Box 277
Montpelier, VT 05601
(802) 223-6304
acluvt.org

Julie Kalish
President

James Lyall
Executive Director

5. Agree to and advocate for the release of all people serving a misdemeanor or felony sentences who are within six months of their release date.
6. Stipulate to motions to vacate old convictions for people who are currently, or formerly, incarcerated, allowing people, as needed, to re-plead to alternatives that do not carry negative attendant consequences (such as dispositions that avoid immigration, employment, or housing consequences).
7. Exercise your re-sentencing powers and move to re-sentence people to time served who are in state prisons and are particularly vulnerable to COVID-19.
8. Promptly release statistics and non-identifying demographic data on anyone released or impacted by these policies.

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Please contact us if you have questions or wish to discuss, otherwise we look forward to hearing from you by April 13.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

James Lyall
Executive Director
ACLU of Vermont

Sarah George
State's Attorney
Chittenden County

April 7, 2020



Re: Eliminating Unnecessary Incarceration During Public Health Crisis

Dear Ms. George,

We, like you, are concerned about the spread of COVID-19, a national pandemic that is threatening the lives of thousands of people in this country and in our communities. While all of us are at risk, we know that the heightened threat of infection for people who live and work in our prisons puts them, their families, and our communities at even greater risk. We write to ask you to exercise your powers and discretion to protect public health and to prevent and reduce the spread of COVID-19 among our community members and loved ones, including but not limited to those who come into direct contact with the criminal legal system or are already incarcerated.

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James Lyall
Executive Director
ACLU of Vermont

Ward Goodenough
State's Attorney
Windsor County

April 7, 2020

Re: Eliminating Unnecessary Incarceration During Public Health Crisis



Dear Mr. Goodenough,

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James Lyall
Executive Director
ACLU of Vermont

Vincent Illuzzi
State's Attorney
Essex County

April 7, 2020



Re: Eliminating Unnecessary Incarceration During Public Health Crisis

Dear Mr. Illuzzi,

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James Lyall
Executive Director
ACLU of Vermont

Rosemary Kennedy
State's Attorney
Rutland County

April 7, 2020



Re: Eliminating Unnecessary Incarceration During Public Health Crisis

Dear Ms. Kennedy,

We, like you, are concerned about the spread of COVID-19, a national pandemic that is threatening the lives of thousands of people in this country and in our communities. While all of us are at risk, we know that the heightened threat of infection for people who live and work in our prisons puts them, their families, and our communities at even greater risk. We write to ask you to exercise your powers and discretion to protect public health and to prevent and reduce the spread of COVID-19 among our community members and loved ones, including but not limited to those who come into direct contact with the criminal legal system or are already incarcerated.

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James Lyall
Executive Director
ACLU of Vermont

Erica Marthage
State's Attorney
Bennington County

April 7, 2020



Re: Eliminating Unnecessary Incarceration During Public Health Crisis

Dear Ms. Marthage,

We, like you, are concerned about the spread of COVID-19, a national pandemic that is threatening the lives of thousands of people in this country and in our communities. While all of us are at risk, we know that the heightened threat of infection for people who live and work in our prisons puts them, their families, and our communities at even greater risk. We write to ask you to exercise your powers and discretion to protect public health and to prevent and reduce the spread of COVID-19 among our community members and loved ones, including but not limited to those who come into direct contact with the criminal legal system or are already incarcerated.

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James Lyall
Executive Director
ACLU of Vermont

William Porter
State's Attorney
Orange County

April 7, 2020

Re: Eliminating Unnecessary Incarceration During Public Health Crisis



Dear Mr. Porter,

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James Lyall
Executive Director
ACLU of Vermont

Todd Shove
State's Attorney
Lamoille County

April 7, 2020

Re: Eliminating Unnecessary Incarceration During Public Health Crisis



Dear Mr. Shove,

We, like you, are concerned about the spread of COVID-19, a national pandemic that is threatening the lives of thousands of people in this country and in our communities. While all of us are at risk, we know that the heightened threat of infection for people who live and work in our prisons puts them, their families, and our communities at even greater risk. We write to ask you to exercise your powers and discretion to protect public health and to prevent and reduce the spread of COVID-19 among our community members and loved ones, including but not limited to those who come into direct contact with the criminal legal system or are already incarcerated.

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James Lyall
Executive Director
ACLU of Vermont

Tracy Kelly Shriver
State's Attorney
Windham County

April 7, 2020



Re: Eliminating Unnecessary Incarceration During Public Health Crisis

Dear Ms. Shriver,

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James Lyall
Executive Director
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Rory Thibault
State's Attorney
Washington County

April 7, 2020

Re: Eliminating Unnecessary Incarceration During Public Health Crisis



Dear Mr. Thibault,

We, like you, are concerned about the spread of COVID-19, a national pandemic that is threatening the lives of thousands of people in this country and in our communities. While all of us are at risk, we know that the heightened threat of infection for people who live and work in our prisons puts them, their families, and our communities at even greater risk. We write to ask you to exercise your powers and discretion to protect public health and to prevent and reduce the spread of COVID-19 among our community members and loved ones, including but not limited to those who come into direct contact with the criminal legal system or are already incarcerated.

As you know, Vermont Attorney General T.J. Donovan [issued guidance](#) to law enforcement, prosecutors, and DOC personnel, with specific recommendations to reduce unnecessary incarceration. Given the urgency of this public health crisis, Vermonters deserve to know how each of Vermont's elected prosecutors is responding. For that reason, we ask that you reply by Monday, April 13 and state in writing whether your county has implemented or will be implementing the recommendations specified in the Attorney General's guidance.

In addition, we ask you to state your position on these eight (8) additional recommendations, and to respond by April 13 to let us know which of the following measures you have already implemented or are committed to implementing promptly, in order to reduce unnecessary contact with the criminal legal system and incarceration:

1. Decline to bring new low-level charges and dismiss all pending cases for low-level offenses immediately.
2. Work with defense attorneys to review and reopen bail hearings for all those detained pending trial who do not pose a risk to public safety if released, particularly those who are medically vulnerable to COVID-19.
3. Do not seek detention of defendants solely due to prior FTAs (Failures to Appear) during this time.
4. Advocate for people not to be detained and either be released on their own recognizance or without conditions that could risk spread of COVID-19, including drug testing, AA meetings, and in-person check-ins at pretrial services.

PO Box 277
Montpelier, VT 05601
(802) 223-6304
acluvt.org

Julie Kalish
President

James Lyall
Executive Director

5. Agree to and advocate for the release of all people serving a misdemeanor or felony sentences who are within six months of their release date.
6. Stipulate to motions to vacate old convictions for people who are currently, or formerly, incarcerated, allowing people, as needed, to re-plead to alternatives that do not carry negative attendant consequences (such as dispositions that avoid immigration, employment, or housing consequences).
7. Exercise your re-sentencing powers and move to re-sentence people to time served who are in state prisons and are particularly vulnerable to COVID-19.
8. Promptly release statistics and non-identifying demographic data on anyone released or impacted by these policies.

To date, Vermont has confirmed four cases of COVID-19 in at least two separate facilities. This is an urgent matter, and your constituents and Vermonters statewide deserve to know your position. Jails and prisons are already breeding grounds for the spread of infectious diseases like COVID-19, and the social distancing measures ordered by the Centers for Disease Control are impossible to implement in carceral settings. The consequences of a potential outbreak of COVID-19 in DOC could be disastrous and deadly for many of those who are incarcerated, the staff that work at those facilities, and the broader community.

Please contact us if you have questions or wish to discuss, otherwise we look forward to hearing from you by April 13.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

James Lyall
Executive Director
ACLU of Vermont

Dennis Wygman
State's Attorney
Addison County

April 7, 2020

Re: Eliminating Unnecessary Incarceration During Public Health Crisis

Dear Mr. Wygman,



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Montpelier, VT 05601
(802) 223-6304
acluvt.org

Julie Kalish
President

James Lyall
Executive Director

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James Lyall
Executive Director
ACLU of Vermont

Douglas Disabito
State's Attorney
Grand Isle County

April 7, 2020



Re: Eliminating Unnecessary Incarceration During Public Health Crisis

Dear Mr. Disabito,

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Julie Kalish
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James Lyall
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James Lyall
Executive Director
ACLU of Vermont

James Hughes
State's Attorney
Franklin County

April 7, 2020

Re: Eliminating Unnecessary Incarceration During Public Health Crisis



Dear Mr. Hughes,

We, like you, are concerned about the spread of COVID-19, a national pandemic that is threatening the lives of thousands of people in this country and in our communities. While all of us are at risk, we know that the heightened threat of infection for people who live and work in our prisons puts them, their families, and our communities at even greater risk. We write to ask you to exercise your powers and discretion to protect public health and to prevent and reduce the spread of COVID-19 among our community members and loved ones, including but not limited to those who come into direct contact with the criminal legal system or are already incarcerated.

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James Lyall
Executive Director
ACLU of Vermont

Jessica Zaleski
State's Attorney
Caledonia County

April 7, 2020

Re: Eliminating Unnecessary Incarceration During Public Health Crisis



Dear Ms. Zaleski,

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