



**Public Defender Sample Talking Points
Coronavirus Rapid Response
[Version 1.0. Published March 25, 2020]**

Note: This document was prepared based on review on dozens of media articles, quotes, demand letters from various entities, including defender offices, and press releases from around the country and represents what we believe is the most effective messaging for public defenders when talking to traditional media, when posting on social media, when writing press releases, or when developing other content. The messaging is meant to be able to respond to the urgent crisis at hand, while contextualizing the crisis and needed response within the cruelty and irrationality of the system we already knew, as well as the need for bold transformation of the legal system after the coronavirus hopefully passes to move away from a punishment system and greater investment in public health. Please adapt and add details as needed (and suggested below) consistent with what you are seeing in your local jurisdictions.

Any questions: Please email Scott Hechinger (shechinger@bds.org) or Crystal Maloney (cmaloney@bds.org).

CENTERING THE CURRENT CRISIS IN WHAT PUBLIC DEFENDERS HAVE LONG KNOWN IS A PUBLIC HEALTH CRISIS:

- As public defenders, we have long known that our everyday fight for basic fairness and justice is really a fight for public health.
- The spread of the coronavirus has exposed the inhumanity, waste, and danger of a criminal legal system that public defenders have long known has completely traded away public health for pain and punishment.
- The inhumanity, waste, and danger of our punishment approach is clearer today than ever, as the coronavirus tears through our communities and has now begun to ravage jails and prisons across the United States.

PUBLIC DEFENDERS ARE FIRST RESPONDERS AND KNOW WHAT NEEDS TO BE DONE:

- We are just weeks into an unprecedented pandemic and things appear likely to get significantly worse. We must act decisively and responsibly to protect not only those we represent, but those, who work in courts, jails, and prisons, as well as our entire community.



- Public defenders are now serving as critical first responders to this crisis: Working around the clock diligently and proactively to defend everyone in our [city/community/county/state].
- We see and understand what is happening on the ground in this pandemic and know what needs to be done for humanity, public health, and public safety.
- To stem the spread of this deadly virus, we must drastically reduce the number of people in jail and limit new admissions to exceptional circumstances. And we must do so now.
- This is a matter of life and death.

ENHANCING EMPATHY AND CONCERN FOR THOSE INCARCERATED:

- The same measures needed for public health and safety in the community—social distancing, prevention, and containment of the virus when it does appear—are also needed for [TARGET PLACE OF INCARCERATION]. Yet [TARGET PLACE OF INCARCERATION] cannot do so given the number of people currently detained and working there.
- Right now, imagine how rightfully scared we all are and your loved ones about contracting this virus. The precautions we all take. Then think about how, right now, [thousands of] people are trapped in close quarters, with no ability to distance themselves, no ability to take basic precautions to protect themselves. People are terrified and upset. And we should be too.
- **[Describe who is locked up. If you have a particular client in mind and don't have their permission to speak out, use "aggregate examples" of people you have represented. Tether this description of who is inside to your local facility and particular release ask, but we must be careful about drawing distinctions between people charged with non-violent offenses and violent ones, especially the elderly. No one deserves this inhumanity.]**
- These are mothers and fathers. Grandparents. People who have experienced trauma in their lives or are suffering from serious health issues. People who are living in poverty and jailed solely because they are unable to afford to pay a few hundred or thousand dollars to buy their freedom. People serving short sentences on low level offenses and others jailed solely because of a technical parole violation (like missing curfew), not criminal conduct.



- Yes, there are people charged with offenses that are deemed to be violent, but those in jail pretrial are presumed innocent, many crimes are categorized as “violent,” but involve no physical contact, let alone injury, and most fundamentally, no one deserves to be infected by a deadly virus when there is something that can be done, especially those who are elderly and far more susceptible and at risk to the virus while also being far less like to be rearrested following release.

IMPACT OF JAIL OUTBREAK ON COMMUNITY HEALTH:

- The need for decarceration is not just about those inside or those who work there.
- The coronavirus in jails should concern all of us: new research shows jails contribute to infectious disease deaths in the greater community. Jails are short-term facilities and operate as revolving doors, not just for those incarcerated, but those who work there, they are not contained environments. [Source: <https://theappeal.org/coronavirus-jails-public-health/#.XnpLyfLt5Zs.twitter>]
- While we are taking steps to prevent COVID-19 infection in our community to stay inside, social distance, and be vigilant with sanitization, these efforts will be worthless if we don’t act rapidly to prevent infection in **[TARGET PLACE OF INCARCERATION]**, which as a critical starting point requires significant reduction in the numbers of those incarcerated.
- On any given day, **[thousands/hundreds/dozens]** of people are booked into **[TARGET PLACE OF INCARCERATION]** and are released back to the community. Hundreds of staff come in and out of the facility every day. **[Note: Include relevant details, like total numbers, of the place of incarceration]**

WHY ARE SIGNIFICANT REDUCTIONS IN JAILS AND PRISONS NECESSARY RIGHT NOW?

- Significantly fewer people in jail will:
 - limit the spread of COVID-19 infection among people in custody and those who work in jails,
 - minimize the number of people in custody who will need medical care,



- decrease the density of housing areas for people who remain in jail, and
- allow communities to maintain connections with and support from their loved ones.
- **[If the coronavirus has not yet shown up in your target place of incarceration, consider comparing the opportunity to make the right decision to the mistakes of NYC]:**
 - Rikers Island, the jail complex in New York City, underscores the danger of waiting too long. The first confirmed report of a New York City jail staff member testing positive for COVID-19 occurred on March 18. Today, **[include details on severity of crisis]**.
- **[Consider highlighting other jurisdictions that have taken action to decarcerate to show that the proposal is not an outlier].** A growing list:
 - In Santa Clara County, California, the offices of the public defender, district attorney, and sheriff are working together to [release at least 600 people](#) (or 20% of the jail's current population). Silicon Valley De-Bug is simultaneously working to expand community supports, like housing, food, and social work services.
 - In Los Angeles, California the police and sheriff departments are both [issuing more citations](#). The number of daily arrests fell by 80 percent last weekend. The county jail population has dropped from over 17,000 to 15,300, and our partners expect that this number will drop by an additional 2,000 as efforts continue.
 - The Police Department in Miami-Dade County, Florida (one of the nation's largest) is [issuing citations](#) for all misdemeanor offenses.
 - New Jersey, by order of the state chief justice, is releasing [one thousand](#) people from jails across the state who are detained on probation violations and municipal offenses.



LOOKING BEYOND CORONAVIRUS -- WE CAN NEVER GO BACK TO BUSINESS-AS-USUAL:

- If we all have the courage to do what is necessary and what is right, at some point, hopefully soon, this pandemic will be behind us and we will have prevented thousands and thousands of needless deaths. But we cannot then just go back to business as usual.
- We, as public defenders, know how community investment, treatment, living wages, affordable housing, are all better for public health and safety than jail or a criminal record. We know that from rigorous studies, but we also know through experience.
- Unfortunately, historically, we have responded to societal problems like poverty, homelessness, substance abuse, and mental health issues with gut reaction, irrational responses: more arrests, more pretrial jail, and more incarceration.
- The result: The criminal legal system--courts, jails, and prisons--are bloated, while our public health systems are scarce.
- We must significantly reduce our reliance on the criminal legal system to solve societal ills. We have decades of hindsight and now a pandemic to show us the short-sightedness and failure of this so-called "justice" system.