



## NACDL Statement of Principles and Further Call to Action Concerning COVID-19 and America's Criminal Justice System

March 19, 2020

The COVID-19 pandemic presents unprecedented threats to the criminal justice system. Pursuant to the declaration of national emergency issued by the President of the United States, and similar actions by state and local officials, urgent action is necessary to protect the lives of individuals who pass through the criminal justice system, including accused persons, witnesses, law enforcement officials, criminal defense attorneys and the public at large. NACDL calls upon federal, state, and local officials to implement the following principles, which expand upon the concerns expressed in NACDL's [March 4, 2020 statement](#).<sup>1</sup>

1. Law enforcement should refrain from arresting individuals for conduct that does not present an immediate risk to public safety. Use of citations, warnings, and other non-arrest interventions should be maximized.
2. Prosecutors should decline or postpone filing charges with respect to offenses that do not present an immediate risk to public safety. Given the inevitable backlog of criminal cases, prosecutors should consider dropping pending charges in drug cases and other offenses without specific, identifiable victims.
3. Arrestees and current pretrial detainees who do not pose an immediate risk to an identifiable person should be released on personal recognizance.
4. Authorities should suspend arrests and lift warrants for technical pretrial, probation and parole violations.
5. Prosecutors should recommend and judges should impose non-incarceration sentences, including home confinement, where authorized and where incarceration is unnecessary to protect public safety.
6. Dates for voluntary surrender for jail or prison sentences should be delayed.

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<sup>1</sup> The March 4, 2020 statement is available at [www.nacdl.org/newsrelease/Coronavirus-Detention-Facilities](http://www.nacdl.org/newsrelease/Coronavirus-Detention-Facilities).

7. System actors must use every available mechanism to immediately reduce the current jail and prison population, including granting furloughs, clemency, compassionate release, habeas corpus and other post-conviction relief. Lawmakers should consider emergency legislation to ensure these authorities are adequate.
8. Several criminal justice reform organizations have released [statements](#) urging aggressive measures to protect our prison and jail population.<sup>2</sup> NACDL has endorsed these recommendations and urges prison officials to take decisive action to ensure the safety and dignity of incarcerated persons.
9. Prison authorities should waive all fees associated with phone calls, email, and video communication while COVID-19 is a national and state emergency.
10. Authorities should ensure prison and jail phone calls, video conferences and electronic communications with attorneys are confidential. COVID-19 has likely increased reliance on attorney-client phone, email and video communications, as opposed to contact visits. Ensuring the confidentiality of these communications is particularly critical as officials implement greater restrictions on visitation and attorneys take steps to avoid transmission.
11. As courts begin to resume normal functioning, jurisdictions must ensure that resources are available to handle the backlog of cases with the required level of due process and effectiveness and without undue delays.

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<sup>2</sup> See, e.g., [justiceroundtable.org/recommendations-for-protecting-incarcerated-youth-and-adults-during-the-covid-19-pandemic/](https://justiceroundtable.org/recommendations-for-protecting-incarcerated-youth-and-adults-during-the-covid-19-pandemic/).