



April 1, 2020

County Commissioners French, Kerns, and Kuney
Sheriff Knezovich
Prosecuting Attorney Haskell
Mayor Woodward
City Council President Beggs
Superior Court Presiding Judge Clarke
District Court Presiding Judge Smith
Municipal Court Presiding Judge Antush
Dr. Bob Lutz
Regional Law and Justice Administrator Yates
Jail Director Sparber

RE: Racial Equity in Mitigating COVID-19 Pandemic Risks in Spokane County Jail Early Release & Reduced Custody as Public Health Protection

Dear Spokane County and City Officials,

First, we would like to express our appreciation and thanks for everything you have done which has resulted in a jail population of 474 and Geiger population of 178 as of Thursday March 26. The jail population is at a historic low, which shows what is possible.

In particular we would like to express our appreciation for the collaborative approach shown by Detention Services Director Sparber, in voluntarily allowing the Bail Project's intake form to be used pre-release in order to increase supports for people being released.

More broadly, we want to express appreciation to everyone who took actions we don't know about, who did everything it took to create these results on a timeline unprecedented in the often-slow workings of the criminal justice system. Your actions are saving lives. Thank you.

However, we are troubled and alarmed at the lack of specific attention to creating racial equity in the outcomes of the releases.

We are aware of reports that Black, Native, and Latinx individuals have been and continue to remain disproportionately incarcerated at higher percentages. It's come to our attention that the case review criteria and subsequent releases are most likely exacerbating the existing disproportionality, resulting in people of color remaining in incarceration at even higher disproportional percentages.

The [Burns Institute 2017 report](#) to the SRLJC Racial Equity Committee documented disparities in people of color being detained and confined pre-trial in Spokane County:

In Spokane County in 2014 for every 1 White adult detained

- 7.1 Black adults were detained
- 1.7 Latino adults were detained
- 6.2 Native American adults were detained

In Spokane County in 2014 for every 1 White adult detained pre-trial

- 6.7 Black adults were detained pre-trial
- 1.4 Latino adults were detained pre-trial
- 6.1 Native American adults were detained pre-trial

In July 2019 the [Vera Institute of Justice reported to the city-county Justice Task Force](#) that white people had an average length of stay of 15 days, Native Americans of 20 days, Latinx people 25 days, and Black people 27 days.

A separate report from the Burns Institute documented higher bail amounts being given to Native and Black men. The disproportionality of more serious charges against men of color is a national phenomenon.

Given this reality, it stands to reason that achieving racial equity in these releases would require pro-active action. This should have been taken into account and must be taken into account as prosecutors, judges, and defenders proceed with the release decision process. Equal protection under the law is shown to not be happening when the results show disparities along the fault line of race.

Just two months ago the Justice Task Force made these commitments:

- “We are committed to ensuring the safe and humane treatment and conditions of confinement for everyone that comes into contact with the local justice system (including but not limited to defendants, victims, and staff).”
- “We are committed to pursuing a criminal justice system that ensures racial equity and equity across all identities.”

On March 16, the Spokane NAACP sent you a letter expressing that

“in light of national and local historic trends evident in similar events, The Spokane NAACP is very concerned about the tendencies of our government and municipalities to shift incoming resources and dollars to sections of our communities, businesses and organizational institutions that, by structural reflex, leave out, ignore and/or provision at the very tail end, those who are most marginalized and most vulnerable. Unfortunately, this has historically tended to be our communities of color. We would say that, when government finally engages those populations, it is done almost as an afterthought.”

We echo the NAACP call to you to “ensure that these trends are not repeated in this most crucial time and in the times to come.”

This situation is an example of how institutional implicit bias plays out in systems: criteria that are *facially* neutral still result in outcomes that are not *racially* neutral. Then it is up to

the systems to take corrective measures: it is up to the specific people in decision-making positions to take corrective measures.

We echo the NAACP in calling for “the immediate implementation of

- “The application of high-level race equity lenses and outcome measurements in all phases of this pandemic crisis response.
- “Immediate, effective and reasonable easing of overpopulation in our jail systems.
- “Immediate, effective, transparent and sustained treatment of disease within our incarcerated and mental health facility populations and state of the art disease prevention and mitigation efforts in those facilities.
- “Active, intentional, transparent and sustained engagement with credible impacted population community leaders.”

In addition, we call on your leadership and action to:

- Immediately expand case review to include cases with higher bond amounts and more serious charges.
- Use tools such as this [“Implicit Bias Bench Card” from the Minnesota Judicial Branch](#) or this [“Bench Card on Achieving Fairness Free of Unconscious Bias” from Illinois Courts](#) to prime yourselves to make decisions in ways that interrupt the implicit social conditioning to which we are all subject and from which none of us are immune.
- Make sure public defenders have the resources needed to bring case reviews to the courts, in a timeline that reflects the urgency of the pandemic.
- Release data on the numbers and racial demographics of who was released and who remains incarcerated, now and again in two weeks.
- Publicly release your plans and actions to create racial equity in your pandemic response as well as the results of your own racial equity impact assessment of those plans.

The topic and urgency of racial equity is not new. Smart Justice Spokane coalition members and others have persistently voiced the issue of ongoing and unaddressed racial disparities throughout the justice system in Spokane County. It is your responsibility to carry out both necessary emergency orders, and smart justice reforms; however, these actions must be taken only while applying a racial equity lens. The time to act is now. The systemic reflex to act like we need to start over from scratch every time a new situation comes up highlights implicit support for the racial disproportionalities that have existed this entire time. We emphatically request that you go forward demonstrating that you are using a racial equity lens pro-actively so that “justice for all” truly means “all.”

Sincerely,
Smart Justice Spokane Executive Committee

Terri Anderson, Tenants Union of WA
Curtis Hampton, Spokane Community Against Racism
Anne Martin, Greater Spokane Progress
The Rev. Rick Matters, Spokane Community Against Racism
Liz Moore, Peace & Justice Action League of Spokane
Carmen Pacheco-Jones, Living With Conviction

Kurtis Robinson, Spokane NAACP #1137 President
Cam Zorrozuva, Attorney at Law

The Smart Justice Spokane campaign coalition: ACLU/Washington · All Saints Lutheran Church · Center for Justice · Chihak & Associates - Disability Attorneys · Community Building Foundation · Community-Minded Enterprises · Fulcrum Institute Dispute Resolution Clinic · Greater Spokane Progress · KYRS/Thin Air Community Radio · League of Women Voters Spokane Area · NAMI Spokane - National Alliance on Mental Illness · Neighborhood Alliance of Spokane · Northwest Fair Housing Alliance · Peace and Justice Action League of Spokane · SEIU Healthcare 775 NW · Smith-Barbieri Progressive Fund · Spokane Branch Unit 1137 NAACP · Spokane Center for Independent Living · Spokane Community Against Racism · Spokane Tribe of Indians · Unitarian Universalist Church of Spokane · University Legal Assistance, Gonzaga Law School · Washington Community Action Network · Washington Education Association, Eastern Washington · Washington NORML · Washington State Council of City & County Employees - Local 270 AFSCME