

October 31, 2024

To: Todd Ishee, Secretary of Adult Correction  
[Todd.Ishee@dac.nc.gov](mailto:Todd.Ishee@dac.nc.gov)

Jodi Harrison, General Counsel, Department of Adult Correction  
[JODI.HARRISON@dac.nc.gov](mailto:JODI.HARRISON@dac.nc.gov)

Brande Harris, Chief Deputy Secretary-Operations, Department of Adult Correction  
[Brande.Harris@dac.nc.gov](mailto:Brande.Harris@dac.nc.gov)

Darren Jackson, Graham Atkinson, Gregory Moss, Jr., Haley Phillips, Post-Release  
Supervision and Parole Commission  
[darren.jackson@dac.nc.gov](mailto:darren.jackson@dac.nc.gov)  
[graham.atkinson@dac.nc.gov](mailto:graham.atkinson@dac.nc.gov)  
[gregory.moss@dac.nc.gov](mailto:gregory.moss@dac.nc.gov)  
[haley.phillips@dac.nc.gov](mailto:haley.phillips@dac.nc.gov)

Re: The necessity of early releases after Hurricane Helene

Hurricane Helene, which hit Western North Carolina on September 27, 2024, was the deadliest hurricane to strike the U.S. mainland since Katrina. The death toll in North Carolina alone is nearly 100 people and may rise as search and rescue operations continue. Hundreds of residents remain missing, and nearly a week after Helene made landfall, approximately 780,000 homes were without power, tens of thousands of people were without running water, and hundreds of roads remained closed. The Governor declared a state of emergency. DAC bears the affirmative obligation to protect incarcerated individuals during natural disasters, this includes the pre-establishment of disaster plans that are routinely updated. Unfortunately, this disaster revealed flaws in DAC's disaster planning that must be rectified as the ongoing climate crisis guarantees future occurrences.

Prisons in Western North Carolina, like the rest of the region, were affected by power outages, lack of running water, flooding, and structural damage. While people sought refuge from the storm, the incarcerated people were confined in cells without lights or running water for nearly a week. They had limited food rations, no clean drinking water for days, flooded cells, and were confined in close quarters with their waste. Incarcerated people were unable to communicate with their loved ones, and eventually over 2,000 of them were evacuated and relocated to other prisons across the state.

In particular, people incarcerated at Avery-Mitchell Correctional Institution in Spruce Pine, Black Mountain Substance Abuse Treatment Center for Women in Black Mountain, Craggy Correctional Center in Asheville, Mountain View Correctional Center in Spruce Pine, and Western Correctional Center for Women in Swannanoa were evacuated to facilities further East. These transfers appear to have overcrowded several Eastern NC prisons, including Anson Correctional Center for Women (118% capacity), Foothills Correctional (103.7% capacity), Greene Correctional (104.2% capacity), Hyde Correctional (109.9% capacity), Johnston Correctional (104.2% capacity), Lincoln Correctional (112.4% capacity), Nash Correctional (134.7% capacity), Pamlico Correctional (136.7% capacity), Pender Correctional (102.2%), Randolph Correctional (104.4% capacity), Rutherford Correctional (101.3% capacity) and Scotland Correctional Institution (103.8% capacity). All of these facilities also suffer from staffing shortages, many with vacancy levels above 30 percent. Thirty two DAC facilities are at 90% capacity or above. Other facilities are still technically within capacity, but due to “record level of vacancies,” there is insufficient correctional and medical personnel to tend to and monitor the increased population.

As of the Department of Adult Corrections’ [last report](#) to the North Carolina General Assembly in February 2024, there were 2,026 corrections positions that had been vacant for over a year, with 1,925 of these custody positions. There were 229 medical and health positions vacant for over a year, and a total of 2,416 positions vacant for over a year.

For the incarcerated, a shortage of correctional officers means long lockdowns, limited access to health care, counseling, or programming, and reduced opportunities for recreation and showering. These conditions only increase tensions between the prison population and the staff and result in more incidents of violence. Since the emergency prison transfers due to Hurricane Helene, these conditions have become all the more dire.

At Anson Correctional for Women, for instance, the facility operates at 116% capacity. For many days, 126 women were forced to sleep on the gym floor without basic human necessities: inadequate toileting and bathing facilities; no access to a library or books; and limited to no opportunity to connect with loved ones or legal counsel. The journey to facilities from out West was harrowing, with reports of people stuck on a bus shackled for up to two days due to the severe road damage.

Reports from incarcerated women have revealed reduced food rations—reporting meals shrunk from 8 oz to 5 oz and limitations placed on canteen items. They report that access to laundry has been cut from twice a week to just once, leaving the prison’s residents in unsanitary underclothing. Those who transferred from Western were only permitted to bring one small bag, one change of clothes, and none of their personal property. Now, women in the general

population report being housed in the segregation dorm, Hoke, which had been previously reported as condemned. They report going without access to jobs, programs, and tablets, further setting back their prospective release date. Recent events have increased stress, escalating tensions among the incarcerated women, recently culminating in a nine-person fight, classified as a “riot.”

Structural issues in violation of the Eighth Amendment of the US Constitution, mandating humane conditions of confinement, already plagued both Anson and NCCIW prior to the closure of Western. Reports of sewage problems were rampant, with frequent backups in showers, laundry rooms, and bathrooms, as well as in the kitchen facilities. Instead of implementing hygienic protocols for addressing this toxic waste, it is reported that prison officials are handing out towels to sop up the waste. The dining hall at Anson remains unusable because of the leaks in the ceiling. Mold is reportedly a major issue at both Anson and NCCIW, creeping from the walls and vents without proper abatement. Each time it rains, the structural leaks exacerbate the problem, turning living spaces into breeding grounds for black mold.

Overcrowding and understaffing has had an especially negative impact on individuals with disabilities who require assistance with activities of daily living and medical care. Access to timely and appropriate medical care has become an even more critical issue with overcrowding and understaffing. One woman, who was scheduled for heart and foot surgery in August, has yet to see her procedures approved or scheduled. She suffers from seizures, a blood clot disorder, and stents in her legs, leaving her non-ambulatory at times. Additionally, with a double heart arrhythmia and extreme discoloration in her feet, she expressed concern that her prescribed mental health medication is slowing her heart rate, raising alarms given her existing condition and urgent need for surgery. Communication between her doctors and psychiatrists has been nonexistent. Timely access to crucial medication is similarly problematic given the overcrowding and understaffing; one woman reported being unable to refill her Prozac for two weeks, while another has been waiting for an approved bladder mesh surgery for months. The aforementioned stories detail just a few instances in which DAC continues to run afoul of several State and Federal civil rights statutes. The Americans with Disabilities Act and Section 504 of the Rehabilitation Act require prison facilities to provide appropriate accommodations to disabled individuals.

The Secretary of Corrections has control and custody of all the people serving sentences in the State prison system. This authority includes authorization to extend the limits of the place of confinement of a person as to whom there is reasonable cause to believe he or she will honor his or her trust. *See* N.C.G.S. § 148-4. For instance, the Secretary may authorize a person to leave the confines of a prison unaccompanied for the purpose of contacting prospective employers, for securing a suitable residence for use upon discharge, or for obtaining medical care not otherwise available. *See* N.C.G.S. § 148-4(1)-(3). If a person fails to abide by the terms of

his or her limits, he or she may be punished as though he or she had escaped from prison. N.C.G.S. § 148-45.

Additionally, the Department may award discretionary time credits. These are undetermined amounts of time given as a credit against a person's maximum sentence. They may be used to effect earlier release dates in emergencies (such as the current post-Helene situation), to assist other agencies with a more conducive pick-up date, or to more effectively manage the prison population number. N.C. DAC Policy C.3000.

The Department may also recommend people in its custody for compassionate release. Under new rules established last year, anyone over the age of 55 who suffers from chronic infirmity, illness, or disease that has progressed such that the person is medically incapacitated and poses low risk to public safety may be released. There are approximately 1,900 people in North Carolina prisons over age 55 and not convicted of one of the disqualifying crimes. Any of those people with serious medical conditions should be closely evaluated for release under the statute, given the grave conditions inside the prisons during this emergency state.

Meanwhile, the North Carolina Post-Release Supervision and Parole Commission has complete and discretionary authority over post-release supervision revocation hearings. N.C.G.S. § 15A-1368.6. A Commissioner serves as the hearing officer under N.C.G.S. § 15A-1368.6(c), and may, at their discretion, permanently or partially revoke supervision, impose a three-month Commitment in Response to Violation (CRV), or reinstate the person back onto supervision, with or without modification of the terms of supervision. According to the latest DAC Annual Statistical Report, people incarcerated due to probation revocation, post-release revocation, or CRV made up more than half of DAC's yearly admissions—nearly 11,000 people in FY 2022-23. This included over 2,000 people admitted for 90 days or less for a CRV. In the first four weeks of October 2024 alone, DAC returned over 300 people from parole into an already stressed prison system. But there are no situations where the Commission is required to revoke. Given the emergency, we urge the Commission to forgo revocations to keep the population at a more manageable level.

During the heights of the COVID-19 pandemic, North Carolina sent thousands of people home “early” from prison. Many of these individuals had their release dates moved up by days or months; others had their existing sentences cut by decades. Across the board, a massive number of prison years were avoided and millions of taxpayer dollars saved—with no negative impact on public safety. Further, these early releases allowed people to get a head start on reconnecting with their families, friends, and communities.

The Extended Limits of Confinement (ELC) program permitted individuals who (1) were not serving a sentence for a crime against a person, (2) were scheduled for release in 2020 or

2021 (or 2022 if aged 65 and older), and (3) pregnant, aged 65 or older, or had a underlying health condition creating a high risk of severe illness from COVID-19, to serve the remainder of their sentences outside of prison while under the supervision of community corrections. In addition to these prison policies and programs, the North Carolina Post-Release Supervision & Parole Commission began declining to pursue certain supervised release and parole violations, especially technical violations (e.g., positive drug test, non-reporting, failing to attend treatment). Instead of detaining individuals and pressing these violations, which were likely technical in nature, the Commission released them back to supervision, further reducing the prison population.

Through these joint efforts, the state of North Carolina saved hundreds of thousands of prison days. Because the cost to imprison a single individual in North Carolina, on average, is \$29,554 per year, the release of people from prisons during the pandemic saved North Carolina taxpayers millions of dollars. Most importantly, the early release of so many incarcerated individuals had no negative public safety impact. To the contrary, in terms of successful reentry, they appear to have had the same or better success rates than releases North Carolina prisons make in the normal course of operating their facilities. *See* Southern Coalition for Social Justice, “Safe Return: North Carolina’s Experience With Bringing People Home Early From Prison,” Aug. 2024 (available [here](#)).

Given the emergency circumstances in which the state currently finds itself—facing a long and arduous recovery in the Western region—it is responsible and prudent administration to minimize the state prison population by once again applying these common sense principles to permit low-risk individuals to return home. Principally, we would suggest a reduction in population of 400 women and 1,500 men through the provision of discretionary credits to move up projected release dates and through the expansion of ELC to individuals (1) not serving a sentence for a crime against a person, (2) scheduled for release in 2024 or 2025, and (3) with a viable in-state residence plan. In addition to these principles, women who are pregnant and women transferred from the Black Mountain Substance Abuse Treatment Center should be released onto ELC immediately.

Finally, the State should work with the NC Post-Release Supervision and Parole Commission to eliminate post-release supervision revocations and CRVs. The Commission has complete and discretionary authority over post-release supervision revocation hearings, and there are no situations where the Commission is required to revoke. People who have committed new offenses that would qualify as a crime against a person are certain to be held in county jails for those new offenses. Therefore, the Commission should focus on modifying the conditions of supervision for people who are struggling to comply rather than sending them into already overcrowded prisons.

We would welcome the opportunity for several of us to meet with prison and parole officials to discuss the current emergency. Thank you for your consideration.

Sincerely,

Kristi Graunke  
ACLU of North Carolina

Aviance Brown & Kate Thorstad  
Disability Law United

Virginia Knowlton Marcus  
Disability Rights North Carolina

Elizabeth Simpson & Dawn Blagrove  
Emancipate NC

Whitley Carpenter  
Forward Justice

Laura Webb & Quisha Mallette  
North Carolina Justice Center

Elizabeth Hopkins Thomas  
North Carolina Prisoner Legal Services

Jake Sussman  
Southern Coalition for Social Justice

Ben Finholt  
Wilson Center for Science and Justice