

The Star-Ledger

N.J. tried to ban inmates from talking to media if they are released amid coronavirus crisis

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NJ Advance Media for NJ.com and The Star-Ledger

Published April 23, 2020

As New Jersey prepares to temporarily release some state prison inmates to stem a spike in coronavirus deaths behind bars, corrections officials threatened to throw anyone who talked to the media back in their cells, NJ Advance Media has learned.

The gag order was among more than two dozen conditions prisoners had to agree to in order to get temporary medical leave under an executive order signed by Gov. Phil Murphy this month, which sought to reduce prison populations by moving sick, elderly and other prisoners to home confinement.

Violating any term can land you back in prison, where at least 16 inmates have already died, as well as trigger "further disciplinary action," according to the original contract.

The ban on speaking to reporters was removed only after civil liberties advocates complained to the state attorney general, according to Alexander Shalom, a lawyer with the American Civil Liberties Union of New Jersey.

A draft obtained by NJ Advance Media directed prisoners not to "engage in any public activities, meetings, discussions or demonstrations, or give interviews/opinions to the press, radio, or television media."

The condition raised concerns among free speech advocates, especially at a time when the state's prison system faces intense scrutiny over limited testing, a rise in deaths in custody and complaints from inmates and officers that New Jersey isn't doing enough to quell the spread of COVID-19.

"It appears to be a form of prior restraint, which is clearly something precluded by the First Amendment," said Tom Cafferty, a media lawyer at Gibbons P.C. in New Jersey.

Cafferty serves as general counsel for the New Jersey Press Association, and he said corrections officials do have the authority to control media access to inmates in their care. For example, they could turn down an interview request out of concern for the safety of the inmate, staff or members of the press.

"But this doesn't appear to be a valid condition to any furlough or medical leave," he said. "This is somebody who's not even in the prison and there's a restriction on their speech rights."

Matthew Schuman, a corrections spokesman, responded that officials were creating a process to release prisoners "from the ground up." That involved pulling information

from “various resources,” including some from “previous administrations,” he wrote in an email.

He did not respond to questions about the prohibition’s intended purpose, who suggested blocking reporters from speaking with inmates, why the department wanted to prevent news gathering or if there was any statute or law they believed would allow that restriction.

A state attorney general spokeswoman did not immediately respond to a request for comment.

More than 1,100 inmates have been flagged for possible release, many of whom are older than 60 and have health conditions that put them at extra risk, but none had been set free as of Wednesday. Almost two weeks have passed since the governor told officials to ease pressure inside the state’s near-capacity prisons.

An updated contract prisoners will have to sign was revised Wednesday and provided by the ACLU-NJ. That document is the latest version and “has been vetted,” Schuman wrote.

The 3-page contract bars those under “emergency medical home confinement” from driving, drinking alcohol or getting married without prior approval.

Released prisoners must call twice a day. Not calling, or not returning to prison the moment they’re expected back, is considered an escape.

People may only leave their homes for medical emergencies, and they must call the department to report any “unusual circumstances or problems.” Inmates are also barred from contact with victims or their relatives, exchanging anything with other inmates or their families, or possessing weapons.

They must carry their prison ID with them at all times, and inmates may not open bank accounts.