

March 16, 2020

Governor Ron DeSantis  
400 South Monroe Street  
Tallahassee, FL 32309

Re: COVID-19 Prevention and Protection in Florida Facilities

Dear Governor DeSantis:

We the undersigned are Florida-based organizations that advocate for the rights of individuals who are detained and imprisoned in Florida. We are writing to urge you to consider the following in your plans for the prevention and management of COVID-19 in the Florida Department of Corrections and the Florida Department of Juvenile Justice. We know that some facilities are already taking many of these measures, for which we are grateful. We write to provide information for facilities that have not and to outline some additional recommendations for your consideration.

Imprisoned and detained people are highly vulnerable to outbreaks of contagious illnesses such as COVID-19. They are housed in close quarters and are often in poor health. Given the poor conditions, decarceration, including retroactive sentencing reform, would be an especially effective mechanism to stop spread of the disease in our correctional and detention facilities. Without the active engagement of those who administer the facility, imprisoned and detained people have little ability to learn about ongoing public health crises or to take necessary preventative measures if they do manage to learn of them.

For facilities that have not already done so, we ask that you immediately reach out to the Florida Department of Health to develop plans to address the virus in your system or facility. This is an urgent matter. Having an appropriate, evidence-based plan in place can help prevent an outbreak and minimize its impact if one does occur. Not having one may cost lives.

While the plan should be developed collaboratively by your department or facility and the Department of Health together, some of the critical issues that must be addressed are:

1. **Compliance with Centers for Disease Control (CDC), Florida Department of Health, and National Commission on Correctional Health care (NCCHC) Guidelines.** We urge you to be in regular contact with experts at the CDC, the Florida Department of Health, and National Commission on Correctional Health Care (NCCHC). The NCCHC has issued guidelines accessible here: <https://www.ncchc.org/blog/covid-19coronavirus-what-you-need-to-know-in-corrections>. We understand that prison-specific, COVID-19 guidelines are likely forthcoming from the CDC.
2. **Education of the People in Your Custody.** People housed in prisons and jails need to be informed about the virus, its symptoms, and the measures they can take to minimize their risk of contracting or spreading the virus. They must be educated on the importance of proper handwashing, coughing into their elbows, and social distancing to the extent they

can. Information about the spread of the virus, the risks associated with it, and prevention and treatment measures must be based on the best available science and consistently communicated to incarcerated people.

3. **Education of the Staff.** Correctional, detention, administrative, and medical staff all must be educated about the virus to protect themselves and their families, as well as the people in their custody.
4. **Keeping Those with Infections—Staff and Others—Out of Facilities.** COVID-19 will most likely be introduced to jails and prisons by staff, contractors, and others from outside the facility. Measures must be in place to verify that all individuals entering facilities do not have symptoms of COVID-19, have not had contact with anyone known to have the illness, and have not recently traveled to the location of an outbreak and that preventive measures are in place to reduce infection, such as handwashing and taking the temperatures of all staff or others who enter the facility.
5. **Precautions Regarding, Including Release of, Medically Fragile and Older Adults and Children.** Jails and prisons house large numbers of people at extreme risk of serious symptoms, complications, and death from COVID-19. This includes older adults; people with chronic illnesses, complex medical needs, compromised immune systems, or disabilities; and pregnant women. Systems and facilities should take additional precautions to prevent illness among these high-risk populations. To the maximum extent possible, this should include releasing them from custody. Releasing these high-risk populations will reduce the need to provide complex, expensive medical care or transfers to hospitals when staff will be stretched thin. Further, facilities should release all young people in the care and custody of the Florida Department of Juvenile Justice to their families during this national emergency unless there is clear evidence that release would present an unreasonable risk to the physical safety of the community. Failure to release people who are medically fragile, elderly, and juveniles, will impose a heightened duty on facilities to ensure they are provided appropriate medical care, given the severe risks of harm.
6. **Staffing Plans.** Regardless of how many staff stay home because they are sick, prisons will continue to function. There must be a plan for how necessary functions and services will continue if large numbers of staff are out with the virus in order to ensure adequate health care, access to programs and services, and the safety and care of individuals detained. There must also be a plan for ensuring that staff are required to stay home if they are ill or exposed to COVID-19 to avoid spreading the virus among incarcerated populations.
7. **Staffing Plans for Services Provided by Incarcerated People.** Many tasks in facilities, such as food preparation and basic sanitation, are performed by incarcerated people. The plans for an outbreak must address how these necessary tasks performed by incarcerated people will continue if large numbers of incarcerated people are ill or exposed to

COVID-19. There must be plans in place to regularly screen incarcerated people for illness or exposure to COVID-19 and, if necessary, to remove them from any job that places them in contact with other individuals or with food or other items that will be distributed.

8. **Provision of Hygiene Supplies.** The most basic aspect of infection control is hygiene. There must be free and unsupervised access to warm water and adequate hygiene supplies, both for handwashing and for cleaning, throughout facilities, and including liquid hand soap, hand sanitizer, and other supplies as appropriate. There must be adequate access to tissue (or toilet paper) for nose-blowing, trash cans that are emptied regularly, and clean laundry. Access must be freely available both to incarcerated people and to all others, including staff and visitors, throughout facilities.
9. **Screening and Testing of the People in Your Custody.** The plan must include guidance, based on the best science available, on how and when to screen and test people in your facilities for the virus.
10. **Housing and Treatment of Persons Exposed to or Ill with COVID-19.** The plan must describe how and where people in the prison system will be housed if they are exposed to the virus, become sick with it, or are at high risk if exposed to it. Healthcare providers should consult with local or state health departments to determine whether patients meet criteria for a Persons Under Investigation (PUI) status. Providers should immediately notify infection control personnel at their facility and the nearest hospital if they suspect COVID-19 in a patient. In consultation with experts at the CDC and the Department of Health, facilities should develop a medical quarantine plan for people exposed to or ill with COVID-19. Any plans for quarantine should be non-punitive, and limited in scope and duration. Courses of treatment for anyone exposed to or ill with COVID-19 must be evidence-based, available immediately, and in compliance with scientifically-based public health protocols. To ensure that individuals receive timely treatment, facilities should ensure that sick calls are seen daily.
11. **Family Notification.** Systems and facilities should adopt procedures that provide for regular, accurate, and timely updates about the health status of individuals who are ill with COVID-19, with the consent of the affected individuals and consistent with HIPAA requirements.
12. **Co-Pays.** The practice of charging incarcerated people co-pays, even nominal ones, for medical treatment discourages sick people from seeking care and allows disease to spread inside facilities. If your system or facility charges medical co-pays, you should stop, in order to avoid extensive, costly, complicated outbreaks and unnecessary illnesses. At a minimum, co-pays should be waived until the COVID-19 pandemic has ended, and that policy should be clearly communicated to incarcerated people. It is critical that financial barriers do not prevent anyone with a suspected COVID-19 infection from receiving immediate, appropriate medical care.

13. **Data Collection:** The collection of data regarding COVID-19 will be part of the public health response. As with any contagious disease, data collection is critical to understanding and fighting the virus. The correctional system must be part of this process. The same information that is tracked in the community must be tracked in facilities. The plan should include mechanisms for providing timely data to state, local, and federal health authorities.
14. **Access to Communication.** Systems and facilities must make every effort to protect and preserve incarcerated people's ability to communicate with their friends and family on the outside, by providing free access to phone calls and videoconference calls, to the extent that in-person visitation is no longer feasible. Institutions should regularly check the operation of their kiosks and/or phones to ensure they are in working order, timely repair them, and have alternative plans available if they are out of order. Fees ordinarily charged for phone and videoconference calls should be waived if in-person visitation is limited.
15. **Access to Legal Counsel.** Systems and facilities must ensure incarcerated people have free, confidential, timely access to legal counsel and law libraries. This includes in-person visitation, to the extent possible, and ample videoconference and telephone communications. Further, facilities must ensure that detained and incarcerated people can meaningfully contribute to their legal cases by being able to transmit and sign confidential documents, even if in-person visitation is limited.
16. **Avoid Lockdowns.** Although corrections staff may be tempted to cut off visitation and increase the use of solitary confinement to control the spread of COVID-19, any system or facility-wide lock-down or interruptions in regular activities, such as exercise or visits and phone calls with families or attorneys, should be based solely on the best science available and should be as limited as possible in scope and duration. Prolonged lockdowns can inflict substantial, serious mental harm on incarcerated populations, exacerbating feelings of stress and anxiety amongst those in custody who are deprived of regular contact with their friends and family. International experts consider prolonged solitary confinement to be torture; it can cause serious, persistent, sometimes permanent damage to mental health. Moreover, lockdowns and solitary confinement do nothing to mitigate the risk of COVID-19 exposure from the daily influx of facility staff, vendors, medical professionals, and others. Finally, when locked down or held in solitary confinement, people may not be able to alert staff promptly if they experience symptoms of COVID-19, increasing the risk of contagion.
17. **Publication of Information and Policies Adopted in Response to COVID-19.** All plans adopted to address the risks and impacts of COVID-19 should be transparent and clearly communicated to the public and to incarcerated people. This includes providing regular updates, via press releases and on the system or facility website, about the spread

of the virus and the measures being taken to address it. Officials should have a plan to address an anticipated increase in the number of calls from family members seeking information. Facilities should provide regular daily public updates on the number of cases and any fatalities.

#### **Additional Recommendations for Jails:**

1. **Lower jail admissions to reduce “jail churn.”** About one-third of the people behind bars are in local jails, but because of the shorter length of stay in jails, more people churn through jails in a day than are admitted or released from state and federal prisons in two weeks. There are many ways for state leaders to reduce jail churn, for example, by: a) reclassifying misdemeanor offenses that do not threaten public safety into non-jailable offenses; b) using citations instead of arrests for all low-level crimes; and c) diverting as many people as possible to community-based mental health and substance abuse treatment. State leaders should never forget that local jails are even less equipped to handle pandemics than state prisons, so it is even more important to reduce the burden of a potential pandemic on jails.
2. **Release all people in jail who are incarcerated pretrial on bondable offenses and those with fewer than 60 days remaining in their sentences.** The vast majority of people in jails are awaiting trial and have not been sentenced. Most should be released before trial on bond or on nonfinancial terms. We must expedite that process and release every person incarcerated pretrial on a bondable offense immediately. In addition, those with misdemeanor sentences nearing completion of their sentence should be released to avoid risk of infection.

#### **Additional Recommendations Regarding Parole and Probation:**

1. **Reduce unnecessary parole and probation meetings.** People deemed “low risk” should not be required to spend hours traveling to, traveling from, and waiting in crowded lobbies of administrative buildings for brief meetings with their parole or probation officers. Discharge people who no longer need supervision from the supervision rolls and allow as many people as possible to check in by telephone.
2. **Eliminate parole and probation revocations for technical violations.** In 2016, approximately 60,000 people were returned to state prison (and a larger number were arrested), not because they were convicted of a new criminal offense, but because of a technical violation of probation and parole rules, such as breaking curfew or failing a drug test. States should cease locking people up for behaviors that, for people not on parole or probation, would not warrant incarceration. Reducing these unnecessary incarcerations would reduce the risk of transmitting a virus between the facilities and the community, and vice-versa.

Please do not hesitate to reach out to any of the signatories below should you have any questions or concerns about this or any other matter.

Sincerely,

1199 SEIU United Healthcare Workers East

ACLU of Florida

Community Justice Project

Dream Defenders

The Fines and Fees Justice Center

Florida Cares

Florida Center for Fiscal and Economic Policy

Florida Council of Churches

Florida Immigrant Coalition

Florida Justice Institute

Florida Legal Services

Florida Policy Institute

Florida PTA

Gainesville Incarcerated Workers Organizing Committee

Jobs with Justice – Central Florida

LatinoJustice PRLDEF

New Florida Majority

Organize Florida

SEIU Florida Public Services Union

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CC:

Ashley Moody, Florida Attorney General

Nikki Fried, Florida Commissioner of Agriculture

Jimmy Patronis, Florida Chief Financial Officer

Mark Inch, Secretary, Florida Department of Corrections

Melinda N. Coonrod, Chairman, Florida Commission on Offender Review

Simone Marsteller, Secretary, Florida Department of Juvenile Justice

Dr. Scott Rivkees, Florida Surgeon General