



March 16, 2020

The Honorable Ron DeSantis
Governor of the State of Florida
PL The Capitol
Tallahassee, FL 32399-001

Dear Governor DeSantis,

We are writing to you on the behalf of the approximate 153,000 people who are currently incarcerated in a Florida prison, detention facility or jail, and for those who are under some sort of community supervision. We are writing to urge you to immediately develop evidence-based and proactive plans for the prevention and management of COVID-19 to protect people inside Florida's prisons and detention facilities, as well as those on probation and parole. While you may receive similar letters on this topic, some of which have informed us in writing this, the uniqueness of our letter is that it comes from the diverse voices of people who have had real life experiences in Florida prisons and/or jails and are now committed to making Florida a better place for all.

Imprisoned and detained people are highly vulnerable to outbreaks of contagious illnesses, such as COVID-19. They are housed in close quarters and often have preexisting conditions. Without the active engagement of those who administer the facility, they have little ability to learn about ongoing public health crises and are unable to take necessary preventative measures to protect themselves and those around them.

Florida has the [third largest prison system](#) in the country.[1] With so many people behind bars, Florida must take immediate and drastic action to protect incarcerated people from COVID-19. When COVID-19 enters these facilities, the virus will "[spread like wildfire](#)"[2] due to the system's inability to practice social distancing, its constant churning of people in and out of facilities, its unsanitary conditions, its [inadequate health care](#)[3], and its substantial [elderly](#) and preexisting-condition population that is most vulnerable to COVID-19.[4]

As Governor, we are asking you to immediately reach out to the Florida Department of Health and the State Emergency Operation Center to develop plans to address the virus for people in prisons, detention facilities, and on probation or parole. This is an urgent matter. Having an

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appropriate, evidence-based plan in place can help avoid an outbreak or minimize its impact. Not having a plan, however, will lead to many preventable virus contractions and, even, deaths.

While the plan should be collectively developed by the Governor's office, the Florida Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), the State Emergency Operation Center (EOC), the Department of Health, and the localities that oversee jails, detention facilities, and probation and parole offices, some of the critical issues that must be immediately addressed are:

1. Compliance with Centers for Disease Control (CDC), Florida's 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.

3. Education of the Staff. Correctional, 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 Infected Staff and Visitors Out of Facilities. COVID-19 will most likely be introduced to jails and prisons by staff or other visitors. 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

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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, to the extent authorized by law, facilities should release all young people in their care and custody 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.

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. Individuals who perform job duties who become ill or can otherwise not work due to showing symptoms should also be compensated for lost work time.

8. Free Access to 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 hand soap, hand sanitizer, and other supplies as needed. There must be adequate access to free tissue 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.

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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 detention 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. 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.

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. Co-pays should cease 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. Fees ordinarily charged for phone and videoconference calls should be waived if in-person visitation is limited.

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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—for example, 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, unnecessary 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. Coordination to ensure healthy transition. It is also crucial that your office coordinate with community housing and healthcare providers to prepare for the release of incarcerated people back into the community. Such efforts will not only protect people who are released but also further reduce community spread overall.

18. 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.

19. Provide access to health systems - People worried about outstanding warrants will likely refuse to access health systems, and negatively impact public health. Therefore, any plan

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should make clear that local law enforcement will not enforce warrants on people who are engaged in medically necessary visits to emergency rooms, hospitals and medical facilities.

Additional Recommendations for People in FDOC custody or serving time in local jails:

- 1. Extend good-time credit.** In order to reduce exposure, DOC should issue an emergency 90-days good time credit to allow the release of anyone within 90 days of going home.
- 2. Sign clemency applications on your desk.** Numerous clemency applications are currently pending your review and approval. Many of these individuals are likely medically vulnerable to COVID-19. We ask that you immediately sign those clemency petitions.

Additional Recommendations for Pretrial Detention:

- 1. Immediate release of individuals in pre-trial detention absent substantial showing of imminent dangerousness to community.** 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. Individuals in jails face a substantial risk of infection and death due to their inability to access adequate health care, the frequency of transport to court, and the significant traffic from the public into jails by staff, lawyers, and others. Without a substantial showing of imminent dangerousness, people held in pretrial detention should be released if they are elderly, have underlying health conditions that compromise their immune systems, or are charged with non-violent offenses.
- 2. Lower jail admissions to reduce “jail churn.”** 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.

Additional Recommendations Regarding the Detention of Children:

- 1. Instruct DJJ to file motions for release of juveniles who pose no imminent and substantial danger to the community.** Children in detention face a substantial risk of harm during pandemics. DJJ has the authority to request that juvenile court judges release individuals

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from secure care. We request that you instruct DJJ to file such motions to ensure that children are kept out of harm's way.

2. Extending furlough. DJJ should also offer furlough to children and also extend furlough to children who are already on furlough.

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. Order the Department of Corrections to lift and cease placing probation and parole holds for violations where no immediate and significant risk is posed to the community. There are hundreds of people currently in Florida prisons for probation and parole violations, many for technical violations like socializing with disreputable people, not paying fees, failure to obtain a job, or missing group. Imprisonment for violations like these [has not been shown to reduce recidivism](#), thereby making the community safer, and in fact, will make the community less safe by exposing more people to this potentially deadly virus. Probation and parole officers arrest people and issue holds on violations as ordered by the Department of Corrections (DOC) policy. But they do not have to. The Secretary of the Department of Corrections serves at your pleasure. To protect us all, please order the DOC to lift all probation and parole holds for technical violations, and to cease placing such holds on people until further notice. Additionally, the DOC should not place probation or parole holds, whether for technical or non-technical violations, on people unless there is clear evidence that them remaining in the community would present an unreasonable risk to the physical safety of the community. We also request that, until the pandemic is over, you issue guidance making clear that a new non-violent arrest should not trigger parole detention. The governor could also use his emergency powers to release people who are nearing the end of their sentence or are eligible for parole.



The way we treat the most vulnerable at this critical point in time will not only reveal much about us as a State but will directly impact the safety of all of us as Floridians and Americans. There is not much time to do the right thing. We urge you to take action immediately.

Sincerely,

Desmond Meade

Executive Director

Florida Rights Restoration Coalition

CC:

Mark S. Inch, Secretary of the Florida Department of Corrections;

Kenneth Steely, General Counsel of the Florida Department of Corrections;

Secretary Simone Marsteller, Secretary of the Florida Department of Juvenile Justice;

Melinda N. Coonrod, Chairman of the Florida Commission on Offender Review;

Dr. Scott A. Rivkees, Florida Surgeon General (Florida Department of Health)

Joe Jacquot, General Counsel to the Florida Governor

Shane Strum, Chief of Staff to Governor DeSantis

[1] "About the Florida Department of Corrections" (accessed on 3/16/2020)

<http://www.dc.state.fl.us/about.html>

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[2] “California jails, prisons on alert for coronavirus. Fear it will ‘spread like wildfire’” (3/6/2020)
<https://www.sacbee.com/news/california/article240962761.html>

[3] “Florida’s prison health care in disarray, report says” (12/13/2019)
<https://www.tampabay.com/florida-politics/buzz/2019/12/13/floridas-prison-health-care-in-disarray-report-says/>

[4] “The High Cost of Housing Florida’s Aging Prison Population” (3/23/2018)
<https://www.wftv.com/news/9-investigates/9-investigates-cost-of-floridas-aging-prison-population/716050020/>

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