

March 16, 2020

The Honorable Tate Reeves
Governor of Mississippi
P.O. Box 139
Jackson, MS 39205

Re: COVID-19 Prevention and Protection in Mississippi Facilities

Dear Governor Reeves:

We write on behalf of the undersigned organizations. We are Mississippi-based organizations that advocate for the rights of individuals who are detained and imprisoned in Mississippi. We are writing to urge you to immediately develop evidence-based and proactive plans for the prevention and management of COVID-19 in Mississippi prison, jail, and detention facilities and to provide 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. Without the active engagement of those who administer the facility, they have little ability to learn about ongoing public health crises or to take necessary preventative measures if they do manage to learn of them.

If you have not already, we ask that you immediately reach out to the Mississippi State Department of Health (“MSDH”) to develop plans to address the virus in all Mississippi facilities that house prisoners or detainees, including Mississippi Department of Corrections facilities, county jails, and juvenile detention centers. 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.

Your plan should be developed collaboratively by your department or facility and the MSDH together, and we defer to medical and public health experts on the details and implementation of that plan. However, some critical issues to be addressed include:

1. **Compliance with Centers for Disease Control (“CDC”), MSDH, and National Commission on Correctional Health Care (“NCCHC”) Guidelines.** We urge you to be in regular contact with experts at the CDC, the MSDH, and the 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 Custody.** People housed in prisons and jails should be informed about COVID-19, its symptoms, and the measures they can take to minimize their risk of contracting or spreading the virus. This includes education 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 should be based on the best available science, and should be posted throughout each facility.

3. **Education of Staff.** Correctional, administrative, and medical staff also should be educated about COVID-19 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 (such as vendors). Measures should 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. Additionally, preventive measures to reduce infection, such as handwashing and taking the temperatures of all staff or others who enter the facility, should be enforced and documented when practicable.
5. **Release of Medically Fragile and Older Adults and Children and Related Precautions.** 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. To the maximum extent possible, facilities should release these populations 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 their care and custody to their families during this national emergency, absent clear evidence that release would present an unreasonable risk to the physical safety of the community. Additionally, reentry plans should be developed and sustained to support those released. Healthy and successful reintegration is critically necessary to keep home communities safe and reduce recidivism. If release is not possible, systems and facilities should take additional precautions to prevent illness among these high-risk populations that remain incarcerated.
6. **Staffing Plans.** Regardless of how many staff stay home because they are sick, prisons will continue to function. There should 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 should 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 should 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 should also 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. Alternatively, support for these critical tasks can also be supplied by outside vendors should the risk to incarcerated people become too great. The costs of an outbreak would far outweigh the costs for professional sanitation services in high risk situations.

8. **Provision of Hygiene Supplies.** The most basic aspect of infection control is hygiene. There should 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 appropriate. There should be adequate access to tissue for nose-blowing, trash cans that are emptied regularly, and clean laundry. Access to these supplies should 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 Custody.** The plan should include guidance, based on the best science available, on how and when to screen and test people in Mississippi facilities for the virus.
10. **Housing and Treatment of Persons Exposed to or Ill With COVID-19.** The plan should describe how and where people 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 if they suspect COVID-19 in a patient and follow guidance from MSDH and other health authorities about appropriate notifications. Courses of treatment for anyone exposed to or ill with COVID-19 should be evidence-based, available immediately, and in compliance with scientifically-based public health protocols and developed in coordination with medical and public health experts.
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. Mississippi prisons, jails, and detention centers should stop charging co-pays 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 should be part of this process. The same information that is tracked in the community should 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 should 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.
15. **Access to Legal Counsel.** Systems and facilities should 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. **Avoiding 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 lockdown or interruption 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 not 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 and Juvenile Facilities:

1. **Lower Jail/Juvenile 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 and juvenile offenses that do not threaten public safety into non-detainable offenses; b) using citations instead of arrests for all low-level crimes and for juveniles; and c) diverting as many youth and adults as possible to community-based mental health and substance abuse treatment. State leaders should never forget that local jails and juvenile detention centers 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 local facilities.

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 nationwide 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.

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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,

ACLU of Mississippi

FWD.us

MacArthur Justice Center – University of Mississippi School of Law

Mississippi Center for Justice

Mississippi NAACP

Mississippi Prison Reform Coalition

People's Advocacy Institute

Southern Poverty Law Center