



March 18, 2020

Commissioner Jeff Dunn
Alabama Department of Corrections
301 Ripley Street
Montgomery, AL 36104

Re: COVID-19 Prevention and Protection in Alabama Facilities

Commissioner Dunn,

We write on behalf of Alabamians for Fair Justice – a coalition of Alabama-based organizations that advocate for the rights of individuals who are incarcerated in Alabama. We are writing to urge you to immediately develop evidence-based and proactive plans for the prevention and management of COVID-19 in your 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. People incarcerated in jails and prisons are housed in close quarters and are often in poor health. According to the April 2019 DOJ findings letter, Alabama’s prisons are already unconstitutionally overcrowded. Recent reporting has also shown that the Alabama county jail population has quadrupled between 2014 and 2018. The overcrowding in these facilities puts the people incarcerated there at serious risk during a viral outbreak. 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.

We acknowledge that some corrections officials have begun collaborating with the Alabama Department of Public Health and encourage all Alabama jurisdictions to follow suit. If you have not already, we ask that you immediately reach out to the Alabama Department of Public Health (“ADPH”) 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.

Your plan should be developed collaboratively by your department or facility and the ADPH, 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”), ADPH, and National Commission on Correctional Health Care (“NCCHC”) Guidelines. We urge you to be in regular contact with experts at the CDC, the ADPH, and the NCCHC. The NCCHC has issued guidelines accessible here: <https://www.ncchc.org/blog/covid-19-coronavirus-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 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 the facility. This is especially critical for people in segregation or isolated confinement or who otherwise have limited access to information, healthcare, and commissary.

3. Education of Your 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. In this light, the Bureau of Pardons and Parole’s decision to cancel upcoming parole hearings is counterproductive. We call on BPP to work with ADOC to expand upon existing medical parole provisions in order to expedite the release of people from the populations at greatest risk.



To the maximum extent possible, jails and prisons should release these high-risk populations from custody. To begin this process, we recommend ADOC order an immediate review of all people in Alabama prisons who are 60 or older, or are medically infirm with an eye toward providing medical furloughs to as many of them as possible. We believe that particular consideration should be given to the older men and women currently incarcerated who have already served decades in prison. We have already identified nearly 1000 individuals incarcerated in ADOC facilities over the age of 65, with many more over the age of 60, who would be eligible for such release.

ADOC should work with people prior to their release to develop reentry plans, including identifying transitional housing if necessary. Where possible, people released from custody should be referred to outside medical and mental health providers and have a continuum of care plan.

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. Release of People Currently in Pretrial Detention or within Six Months of Release.

Jails should facilitate the release of people in pretrial detention by submitting bail modification request forms to the court for arrestees charged with nonviolent offenses and arrestees who are immunocompromised. These requests should urge courts to convert secured bonds to unsecured or signature bonds and to otherwise reduce bond amounts.

Current avenues for release must also remain accessible. People should be able to continue to post bond if it is not converted to an unsecured or signature bond.

Law enforcement officers can also limit future pretrial detention by citing rather than booking into jail any person arrested without a warrant for a nonviolent offense; directing police to issue citations in lieu of arrest for all misdemeanors and nonviolent felonies; and directing police to halt execution of warrants for failure to appear, failure to pay, and technical probation and parole violations.



Jails and prisons should immediately take steps to identify persons within six months of their release or “end of sentence” (EOS) dates, and proceed with early release of those persons to ease overcrowding and its attendant public health risks.

7. 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.

8. 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 who have been properly screened for exposure 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.

9. 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.

10. Screening and Testing of the People in Your Custody. The plan should include guidance, based on the best science available, on how and when to screen and test people in your facilities for the virus.



11. 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 ADPH 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. ADOC has announced that it will waive all medical co-pays - including those unrelated to COVID-19 - for the next 60 days. We encourage all jurisdictions to do the same.

Public health officials acknowledge that people with compromised immune systems or pre-existing conditions are at elevated risk of contracting COVID-19. As such, incarcerated people should continue to have access to regular health care services, including off-site appointments and treatment, during this time.

12. 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 current medical record privacy laws.

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. In light of the cancellation of in-person visits, ADOC and local jails should work with their phone providers to allow free, unlimited access to phone calls and videoconference calls with call time limits extended to the greatest extent logistically practicable.

15. Access to Legal Counsel. Systems and facilities should ensure incarcerated people have free, confidential, timely access to legal counsel and law libraries. Given that ADOC has suspended legal visitation, we call on ADOC to provide ample, confidential videoconference and



telephone communications options. 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. All legal communication should be kept strictly confidential.

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. In fact, lockdowns in overcrowded facilities create optimal conditions for viral spread as people are densely packed together in open dorms, often without access to hygienic products. 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.

18. Medicaid Expansion. The best way to increase provision of adequate healthcare for people currently incarcerated is for Alabama to expand Medicaid eligibility to cover persons incarcerated upon release or when hospitalization occurs. Medicaid expansion would allow expenses to be covered for incarcerated individuals who are released solely for the purpose of treatment in hospitals, and expansion would allow coverage for persons who are released at far higher rates than those individuals are currently covered. Medicaid expansion would reduce the financial burden on both the state and on hospitals treating people for emergent situations.



Taking this step would significantly mitigate the major financial impact the state faces as the pandemic spreads.

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 take action now to reduce the burden of a potential pandemic on local facilities.

Additional Recommendations Regarding Parole, Probation, and Community Corrections:

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. In-person check-ins force people to put themselves and others at risk of exposure. Discharge people who no longer need supervision from the supervision rolls and allow as many people as possible to check in by telephone or electronically. Color-code drug testing through community corrections programs should be cancelled or significantly reduced.

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.



3. Eliminate Community Corrections Fines and Fees. ADOC should inform all Community Corrections providers to suspend all fees and payments normally required from people sentenced to Community Corrections programs. No one serving a Community Corrections sentence should be penalized for inability to make payments at this time.

Please do not hesitate to reach out to our coalition should you have any questions or concerns about this or any other matter.

Sincerely,
Alabamians for Fair Justice