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Strengthening the Response to COVID-19 in Correctional Facilities

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The widespread testing for COVID-19 conducted by the Ohio Department of Rehabilitation and Correction in several facilities revealed an alarming level of disease burden that demands attention by state and federal correctional facilities across the country. Among the 3,037 individuals incarcerated tested by the Ohio Department of Corrections, 80 percent (2,400) tested positive for COVID-19 and more than 1,800 of inmates with COVID-19 were at one facility (as of 4/20/20). Six incarcerated individuals are confirmed to have died due to COVID-19 and an additional individual likely died due to COVID-19 (as of 4/20/20).ⁱ The news is sobering but not surprising given the close quarters and other conditions that hinder physical distancing and the limited availability of appropriate hygiene supplies. The report from Ohio follows news of an outbreak at the Chicago Cook County jail in which 47% (486) of the individuals incarcerated tested (1024) and 371 employees tested positive for COVID-19 and six inmates and one employee have died (as of 4/29/20).ⁱⁱ

The Federal Bureau of Prisons reports that nationwide 1,692 of the 141,933 individuals incarcerated in the federal system and 343 Bureau of Prisons staff have tested positive for COVID-19 (as of 4/30/20) and 31 individuals incarcerated in the federal system have died due to COVID-19. Data is not publicly available regarding how many individuals have been tested.ⁱⁱⁱ

This brief summarizes issues related to COVID-19 in correctional facilities and policy recommendations for preventing and responding to outbreaks in correctional facilities. The conditions that put correctional facilities at high risk for rapid spread of SARS CoV-2 and other communicable diseases also are present in ICE Detention Centers and other forms of detention. Similar attention and interventions also are urgently needed in these facilities and with these populations.

CORRECTIONAL SYSTEM HEALTH IS COMMUNITY HEALTH

2.2 million people are incarcerated in jails or prisons in the United States and a large majority (91%) are in state facilities, according to the Bureau of Justice Statistics.^{iv} Correctional staff live and engage in their communities and nearly all (95%) criminal-justice involved individuals will return to their communities at some point.^v The rates of other infectious diseases and chronic health conditions among the prison population are higher than within the general population^{vi} and the percentage of the prison population over the age of 55 years has been growing dramatically.^{vii} Due to the prevalence of underlying health conditions among the prison population, many of them are at greater risk for severe COVID-19. Individuals in jails are younger than the general population but have high rates of mental illness, substance use disorders, and of being unstably housed before and after release. Neglecting people involved in the criminal justice system compromises their health and the health of the community. There is an imperative to protect individuals who are incarcerated and correctional facility staff from COVID-19 for their health and to reduce transmission of COVID-19 in the community. The courts have ruled in favor of criminal justice-involved individuals' right to adequate health care.^{viii}

A CALL TO ACTION

Key interventions are urgently needed to reduce the spread of COVID-19 in the criminal justice system.^{ix} We call for a strong federal and state response to support the availability of prevention and care services and appropriate medical supplies for criminal justice system-involved individuals and staff, and the inclusion of correctional facilities in COVID-19 response planning efforts. We also urge states and the federal government to move quickly to implement policies that will reduce the number of people who are incarcerated to allow for physical distancing to reduce transmission and prevent a depletion of healthcare resources, and to leverage the Medicaid program to support care for individuals in the criminal justice system.

Support Access to Prevention, Care, Treatment & Medical Supplies

Federal and state resources to support comprehensive strategies to prevent and provide medical care for COVID-19 in prisons and jails are urgently needed to avert public health crises from occurring in these institutions across the country. The density and living conditions in criminal justice settings are optimal for rapid spread of SARS-CoV-2. State and local COVID-19 response plans should include correctional facilities and ensure the availability of COVID-19 prevention education, testing supplies, personal protective equipment, personal hygiene products, surface cleaners, care and vaccines when available.

Diagnostic (RT-PCR) testing is recommended at a minimum for individuals in the criminal justice system and staff who are symptomatic or individuals who are asymptomatic who have been in close contact with an individual confirmed to have COVID-19. Within facilities, this would mean testing an entire wing or floor if an individual in the wing or on the floor is confirmed to have COVID-19. Individuals confirmed to have COVID-19 should have access to appropriate care and safe and non-punitive space to isolate.

To support prevention, testing, and care, and the physical and mental health needs of incarcerated individuals, we urge federal and state policymakers to:

- Support adherence to CDC guidance for managing COVID-19 in correctional facilities, including for routine symptom screening of criminal-justice involved individuals and staff, regular cleaning and disinfecting practices throughout the facility, and the ability to appropriately isolate confirmed or suspected COVID-19 cases in a safe, medically appropriate, and nonpunitive manner.^x
- Stabilize the supply chain for swabs, transport media, and testing reagents to allow for adequate testing in facilities, and for personal protective equipment for correctional facility healthcare worker staff.
- Resource correction health and other public health services to implement testing and CDC guidance.
- Cover COVID-19 testing and care for individuals who are incarcerated or detained at no cost to them.
- Ensure individuals who are incarcerated with severe illness are given equitable access to care, including opportunities to receive experimental care such as plasma therapy, to the extent available in hospitals where individuals are transferred.

- Provide individuals in the criminal justice system with sufficient supplies of appropriate and safe cleaners and personal protective equipment (including face coverings) at no charge to them and eliminate barriers to handwashing or hand-sanitizing.
- Provide personal protective equipment for all correctional facility, staff, and volunteers.
- Provide for the enhanced mental health needs of individuals who are incarcerated and allow increased phone calls at no cost and enable video visitation with family.
- Prepare for the availability of verified antibody tests for monitoring surveillance and provide resources to support their distribution to correctional facilities.
- Prepare for the availability of a protective vaccine and effective treatment, and plan for their distribution to correctional facilities.
- Support suitable shelter for newly released individuals.
- Support reentry services including medical and behavioral health care, substance use disorder treatment, housing, food support and workforce development.

Reduce the Correctional Facility Population to Allow for Physical Distancing

Reducing the number of individuals detained in correctional facilities is important to make it feasible for individuals who are incarcerated and staff to adhere to physical distancing requirements and to avoid depleting the limited healthcare capacity available within most correctional facilities and nearby public hospitals that provide acute care to individuals who are incarcerated.^{xii} In the absence of a protective vaccine or effective treatment, physical distancing measures are the most effective tool available to slow the spread of COVID-19 and facilities should be able to implement measures recommended by the CDC to promote physical distancing in a non-punitive way. These recommendations include increasing spacing in holding cells and intake areas, allowing six feet in between bunks and staggered meal and recreation times. To support basic mental health needs under physical distancing, alternative programming, potentially through expanded audio and visual program access, should be developed and disseminated to individuals who are incarcerated.

The strategy for the safe release of individuals should be developed by criminal justice experts in consultation with local public health officials and infectious diseases specialists. Individuals who are older; medically vulnerable due to underlying conditions such as cardiovascular disease, diabetes, cancer, chronic respiratory illnesses; individuals with disabilities; and pregnant women should be prioritized for release. To support transition to the community, we urge federal and state policymakers to support the following:

- Appropriate housing for individuals to quarantine upon release;
- Staff resources to support medical coordination and monitoring of released individuals in quarantine;
- Outreach and education to families and communities where released people are returning;
- Substance use disorder treatment centers and harm reduction providers should be engaged to ensure safe transitions in care for people on medication for opioid use disorder; and
- Support for case management services to assist with securing permanent housing, food, and health care, including behavioral health care, within the community.

Leverage the Medicaid Program

The Medicaid program could play a critical role, particularly in the 37 states with Medicaid expansion, in helping states respond to COVID-19 in correctional facilities at a time when healthcare systems and providers face an unprecedented strain on resources due to the pandemic.^{xiii} Specifically, we urge:

- States to suspend rather than terminate Medicaid coverage for individuals who are incarcerated and consider applying for Medicaid waivers for additional flexibility to cover care for justice system-involved individuals.
- Congress to authorize temporary flexibility for state Medicaid programs to provide coverage to individuals who are incarcerated prior to release and to temporarily waive the requirement that coverage for incarcerated people be limited to inpatient care outside of the correctional facility.

ⁱ Ohio Department of Rehabilitation & Correction. [COVID-19 Inmate Testing](#). Updated 4/19/20.

ⁱⁱ Cook County Department of Corrections. [COVID-19 Cases at CCDOC](#). Updated 4/27/20.

ⁱⁱⁱ Federal Bureau of Prisons. [COVID-19 Cases](#). Updated 4/30/20.

^{iv} Bureau of Justice Statistics. [Correctional Populations in the United States, 2016](#). April 2018, NCJ 251211.

^v BJS. [Reentry Trends in The U.S.](#)

^{vi} Massoglia, M, B Remster. [Linkages Between Incarceration and Health](#). Public Health Reports 2019, Vol. 134(Supplement 1) 8S-14S.

^{vii} Bureau of Justice Statistics. [Aging of The State Prison Population, 1993-2013](#). May 19, 2016.

^{viii} *Estelle, Corrections Director, et al. v. J. W. Gamble*.

^{ix} Wurcel, AG., et al. [Spotlight on Jails: COVID-19 Mitigation Policies Needed Now](#). *Clinical Infectious Diseases*, ciaa346. <https://doi.org/10.1093/cid/ciaa346>. March 28, 2020.

^x Centers for Disease Control and Prevention. [Interim Guidance on Management of Coronavirus Disease 2019 \(COVID-19\) in Correctional and Detention Facilities](#).

^{xi} Akiyama, MJ, AC Spaulding, JD Rich. [Flattening the Curve for Incarcerated Populations — Covid-19 in Jails and Prisons](#). New England Journal of Medicine. April 2, 2020. DOI: 10.1056/NEJMmp2005687.

^{xii} [Public Health Expert Letter to President Donald J. Trump](#). March 27, 2020.

^{xiii} Kaiser Family Foundation. [Addressing the Justice-Involved Population in Coronavirus Response Efforts](#). April 20, 2020.