

March 13, 2020

BY EMAIL

Mr. Timothy C. Ward
Commissioner, Georgia Department of Corrections
7 Martin Luther King, Jr. Drive SW
Suite 543
Atlanta, GA 30334
Wardt00@dcor.state.ga.us

Mr. Terry E. Barnard
Chairman, Georgia Board of Pardons and Paroles
2 Martin Luther King, Jr. Drive SE
Suite 458, Balcony Level, East Tower
Atlanta, GA 30334
Terry.Barnard@pap.ga.gov

Dear Commissioner Ward and Chairman Barnard:

We write regarding the anticipated spread of Coronavirus Disease 2019 (COVID-19) to people incarcerated in Georgia prisons. We appreciate that the GDC has taken steps to prepare for the spread of the virus, including the issuance of a March 3 memorandum outlining risk-reduction precautions. Since that date, the World Health Organization has designated COVID-19 a global pandemic.¹ While there are no known cases of COVID-19 within GDC facilities to date, that is likely to change. Given the mortality rate associated with the virus, we are concerned about the virus's spread to at-risk people, particularly the elderly, within the closed confines of a prison setting. We ask the Georgia Department of Corrections (GDC) and the Georgia Board of Pardons and Paroles (Parole Board) to implement the following measures to reduce virus transmission and potential loss of life.

A. Recommendations to Georgia Department of Corrections

- 1. Comply with CDC, Georgia Department of Public Health, and NCCHC Guidelines:** We urge the GDC to be in regular contact with experts at the CDC, Department of Public Health, and National Commission on Correctional Health Care (NCCHC). In particular, we ask the GDC to follow guidelines issued by NCCHC and

¹ World Health Organization, *Rolling updates on coronavirus disease (COVID-19)* (March 11, 2020), <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>.

its partners at Emory University, 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. **Eliminate Co-Pays:** The GDC should eliminate all medical co-pays while the pandemic is ongoing. Alternatively, the GDC should eliminate all co-pays for medical visits from persons with reported respiratory illness, fever, shortness of breath, or other virus-related symptoms. Co-pays may discourage people from reporting symptoms and seeking care. Elimination of co-pays on a temporary basis will encourage people who may be infected to seek care and could avoid further spread of the virus.
3. **Ensure Access to Soap, Tissue, Cleaning/Sanitizing Products, and Clean Laundry:** People in prison should be given increased supplies of soap, tissue (or toilet paper), and cleaning/sanitizing products. Additional steps should be taken to ensure that people have clean laundry on a regular basis. Cleaning and sanitizing products should be provided and available at no cost to incarcerated people or their families.
4. **Ensure Transparency in Communications with Family Members and the Public:** Policies adopted in response to COVID-19 should be transparent and clearly communicated to the public and to people in prison. This includes providing regular updates, via press releases and on the GDC website, about the spread of the virus and the measures being taken to address it. Prison officials should have a plan to address an anticipated increase in the number of calls from family members seeking information.
5. **Implement Medical Quarantine Where Appropriate:** In consultation with experts at the CDC and/or the Department of Public Health, prison medical providers should develop a medical quarantine plan for people who have been exposed to COVID-19. This plan should consider how to isolate people with the virus; how long to quarantine those who are exposed; what personal protective equipment is needed, and for whom; and when isolation can safely be lifted.² Any plans for quarantine should be non-punitive, and limited in scope and duration based on the best science available.
6. **Take Steps to Mitigate Effects of Medical Quarantine:** Periods of medical quarantine may be stressful for both incarcerated people and staff. We urge the GDC to ensure that those who are quarantined have positive ways to spend time, including reading materials, tablet access, electronic programming, crossword puzzles, and the like.

² Anne C. Spaulding, *Coronavirus COVID-19 and the Correctional Facility*, Emory Center for the Health of Incarcerated Persons (March 9, 2020), https://www.ncchc.org/filebin/news/COVID_for_CF_HCW_3.9.20.pdf.

Access to time on the prison yard is particularly important. These measures will help to keep tensions and anxiety levels down.

7. **Ensure that Incarcerated People Can Meaningfully Contribute to their Legal Case:** People who are in prison should continue to have access to regular communication with their legal team, and access to court proceedings.
8. **Implement Emergency Staffing Plan:** The GDC and its medical providers should develop a plan to reinforce staffing and provide for effective care in the event of a mass outbreak at Augusta State Medical Prison, and/or other facilities where vulnerable populations are housed. If not already in place, the GDC should implement paid sick leave to encourage staff members not to come to work if they are ill.
9. **Facilitate Communication with Family for People Who Can't Pay:** We understand that in-person family visitation is suspended. Incarcerated people who can pay can communicate with family through their electronic devices. Incarcerated people without funds will now have no means of speaking with their family members. We ask the GDC to consider implementing an alternative means through which indigent people can communicate with family members.
10. **Create a Plan for Transfers of People Whose Care Cannot Be Safely Managed in Prison:** We urge the GDC and its medical providers to plan for how they will accommodate a possible need to transfer a large number of people to hospitals, ASMP, or elsewhere, for advanced levels of care.
11. **Create a List of People to Prioritize for Possible Release:** It may become necessary to manage the COVID-19 crisis, in part, by reducing the prison population. We respectfully ask the GDC's medical providers to create a list of persons to prioritize for release (please see below) if required by the demands of the pandemic. In distributing such a list to others, healthcare workers should not disclose personal health information, but rather should list the persons identified as being at higher risk for becoming ill based upon their underlying medical conditions.

B. Recommendations to Georgia Board of Pardons and Paroles

Georgia's prisons house large numbers of elderly people and people with complex medical conditions. If infected with COVID-19, these individuals are more vulnerable to becoming seriously ill and requiring intensive medical care.³ If COVID-19 gains a foothold in Georgia's prisons, there is a risk of widespread infection and death, particularly for elderly persons.⁴

Given the serious risks posed by COVID-19, we ask the Parole Board to take immediate steps to plan for ways to reduce the prison population by some significant percentage – e.g. by 5% or 10% – if required by the circumstances of the pandemic. Specifically, we ask the Parole Board to review, on an expedited basis, the cases of elderly and infirm prisoners, in order to identify who among them could be released, consistent with public safety. **In making this request, we note that the Georgia Constitution gives the Parole Board the authority to “parole any person who is age 62 or older.”**⁵ While we understand that the Board has rarely, if ever, relied on this provision in the past, we respectfully suggest that it makes sense to plan for a population reduction now, rather than to make such decisions at a possible, future point of crisis. We would be glad to assist in identifying possible candidates for consideration for release.

We further call on the Parole Board to suspend the use of incarceration for technical parole violations (e.g. nonpayment of fines, reporting violations), except where necessary in individualized instances to protect public safety. A reduction in the number of people going into the prison system is advisable under the present circumstances. We understand that this is a difficult and stressful time for correctional staff and suggest that staff should be asked to spend their time supervising only those people who need to be in custody during the pandemic.

³ Centers for Disease Control and Prevention, *Coronavirus Disease 19 (COVID-19): People at Higher Risk* (March 10, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>.

⁴ Jack Healy, Matt Richtel, Mike Baker, *Nursing Homes Becoming Islands of Isolation Amid ‘Shocking’ Mortality Rate* (March 10, 2020) (noting high death rates in environments with large groups of elderly people), <https://www.nytimes.com/2020/03/10/us/coronavirus-nursing-homes-washington-seattle.html>.

⁵ Ga. Const. art. IV, § 2, ¶ 2.

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Because of the growing number of inquiries that we are receiving from incarcerated persons and their loved ones, we are sharing this letter publicly. We appreciate the steps that your agencies are taking to respond to COVID-19. We urge you to adopt the additional measures listed in this letter, for the protection of people in prison, correctional staff, and the public at large.

Thank you for your consideration.

Sincerely,



Sara Totonchi
Executive Director



Sarah Geraghty
Managing Attorney

cc: Ms. La'Quandra Smith
Ms. Jennifer Ammons
Ms. Rita Rocker