



December 2, 2020

VIA EMAIL

The Honorable John C. Carney
Governor of The State of Delaware

Claire DeMatteis, Commissioner
Delaware Department of Corrections

Dear Governor Carney and Commissioner Claire Dematteis,

As you know, challenges have mounted in our state's correctional facilities as the COVID-19 public health emergency evolves. Incarcerated people have remained highly vulnerable to outbreaks of this contagious disease. As of December 1, 2020, 1,033 incarcerated people have tested positive for COVID-19 and 11 have died. [Incarcerated people in Delaware are dying from COVID-19 at a rate that is 3rd in the nation.](#) Correctional and contract staff continue to be at risk and 326 staff members have tested positive. Correctional facilities are structured to contain people, not diseases. However, the Department of Correction (DOC) can take necessary steps to mitigate the effect of this disease and save lives. In light of the most recent outbreak of COVID-19, there is an urgent need for DOC to take action to improve conditions and reduce the spread of COVID-19 in correctional facilities.

Basic Needs

It has been reported that when incarcerated people are moved to isolation or quarantine, they are not allowed to take their personal belongings and have no access to commissary, often leaving them without access to personal hygiene items. Concerningly, there have also been reports of requests from correctional facilities in urgent need of donations of personal hygiene items for quarantined people. Personal hygiene and basic need items should be readily available to those in quarantine at no cost.

Communication

Once in isolation and quarantine, it has been reported that people are not permitted to send and receive letters. Daily life within and outside of correctional facilities have been considerably disrupted and both incarcerated people and their families need to have the ability to check in on each other's well being. This basic right is vital for the mental and emotional well-being of incarcerated people and their families. Sending and receiving of mail, as well as phone calls, should continue unimpeded and free of charge.

Widespread Testing

DOC has stopped all outside visitors, but correction and support staff interact — sometimes in very limited spaces — with incarcerated people. Any of these people can bring the virus into the prisons and/or take it out at the end of a shift. Both those incarcerated and those who watch over

them are at risk for contracting the virus, which is why it is important to have policies in place that will minimize this risk for everyone's safety. We urge you to implement widespread testing of incarcerated people and correctional staff and strict enforcement of mask mandates for correctional staff. In addition, any copay to see medical staff during this public health crisis must be waived. It is in everyone's interest that sick people are identified and cared for without hesitation.

Delaware must also downsize the footprint of the prison population and minimize new admissions, as it is crucial to reducing the level of risk for people within the facilities and for the community. Our correctional facilities continue to face staff coming to work despite being ill and disruption to the medical or food supply. This greatly impacts the personnel's capacity to run facilities during a national pandemic.

The Governor and Commissioner should, where it is in your power to, and is in line with public safety and the success of the inmate, expedite the release of:

- Anyone identified by the CDC as particularly vulnerable (over the age of 60 and individuals with immune deficiencies, chronically ill, infirm) whose sentence would end in the next two years;
- Anyone whose sentence would end in the next 6 months;
- Anyone being held pre-trial for inability to post bail; and
- Anyone incarcerated on a probation revocation based on a technical violation.

These measures also include ensuring the efficient operation of the Board of Parole, which just had their first meeting in October 2020 after not functioning for at least 8 months. As COVID-19 continues to surge nationally and in our state, state leaders in our neighboring states recognize how critical reducing the footprint is: [Maryland's](#) Governor made 1,200 incarcerated people eligible to return home early to slow the spread of COVID-19. [New Jersey](#) leaders allowed 2,258 incarcerated people to return home in a single day, with plans to reduce the prison population by 1,000 more in the coming weeks and months.

We urge you to ensure that when processing releases, the DOC coordinates with local service providers such as re-entry stakeholders, inpatient chronic-care facilities, Medicaid, and public health experts from the Division of Health and Social Services (DHSS) to ensure that people who are released from prison have a safe, accessible place to live, a livable income, and access to healthcare. Additionally, we request that all criminal legal system agencies and actors who are part of the state's coronavirus response maintain transparency and release timely information in regards to the plans to ensure the safety of this vulnerable population.

We are available to discuss other measures to mitigate the spread of COVID-19 within prisons. First and foremost, we hope that facility conditions improve for those who are incarcerated. We also hope you will act to protect those people in our correctional facilities who do not present a safety risk if they were released and who are able to safely quarantine at their homes.



Thank you for your time and consideration.

Sincerely,

/s/ Javonne Rich
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Policy Advocate
ACLU of Delaware

/s/ Shauna McIntosh
Dr. Shauna McIntosh
President
First State Chapter of the National Medical Association

Cc. Bethany Hall-Long
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Kathy Jennings
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Secretary Molly Magarik
Department of Health and Social Services

Brendan O'Neill
Chief Defender, Delaware's Office of Defense Services

Chief Justice Collins J. Seitz, Jr.
Delaware Supreme Court

Representative Melissa Minor-Brown
Chair, House Corrections Committee

Senator Bruce Ennis
Chair, Senate Corrections and Public Safety Committee