

June 1, 2020

DELIVERED VIA EMAIL

Governor Ron DeSantis  
400 South Monroe Street  
Tallahassee, FL 32309  
[GovernorRon.Desantis@eog.myflorida.com](mailto:GovernorRon.Desantis@eog.myflorida.com)

Secretary Mark Inch  
Florida Department of Corrections  
501 South Calhoun Street  
Tallahassee, FL 32399  
[Mark.inch@Fdc.myflorida.com](mailto:Mark.inch@Fdc.myflorida.com)



Re: Fourth Letter re: COVID-19 in Prisons

Dear Governor DeSantis and Secretary Inch:

On behalf of more than 130,000 members and supporters of the American Civil Liberties Union (ACLU) of Florida, we write, once again, to urge that you immediately take action to address the below human and civil rights violations in Florida's prisons.

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Miami, FL  
(786) 363-2700  
[aclufi.org](http://aclufi.org)

Micah W. Kubic, Ph.D.  
*Executive Director*

As Governor, you have the executive authority to implement changes to save lives and you have failed correction officers and their families, as well as the approximately 96,000 people in the state's custody and their families. Prison should not be a death sentence. Medically vulnerable, elderly, and other incarcerated individuals have become severely ill and several have died in prison due to COVID-19 and will continue to do so due to your inaction and reckless disregard for the lives of incarcerated individuals.

As Secretary of the Department of Corrections, you are responsible for the safety and protection of those in your custody, and we have grave concerns about community spread and civil rights violations during this COVID pandemic. The Department of Corrections' (FDOC) stated mission is "to provide a continuum of services to meet the needs of those entrusted to [its] care, creating a safe and professional environment with the outcome of reduced victimization, safer communities and an emphasis on the premium of life." During this public health crisis, the Department has gravely failed in its mission.

Since our initial letter of March 16, 2020, warning you of the grave consequences of potential spread of COVID-19 in prison and the need for immediate proactive steps to save lives, over 265 prison staff have tested positive for COVID-19, over 1500 incarcerated individuals have tested positive, over 400 individuals are awaiting test results, and approximately 5000 incarcerated individuals are quarantined because they have been exposed and/or are exhibiting symptoms, but have not yet been tested. Additionally, at least twelve (12) incarcerated individuals who tested positive and have died.



We have several concerns regarding the transparency of information being provided by the State and the Department of Corrections, the actions/inaction regarding prevention, and the medical treatment being provided.

### COVID-19 Related Prison Deaths

We are concerned that the Department is underreporting COVID-related deaths, and instead only reporting information on the small subset of those *who had received a confirmed positive COVID test* prior to their death. According to the Department's website, as of May 31, 2020, it lists that there are 12 "COVID-19 related deaths." However, three paragraphs below the listed 12 deaths, it states that:

*"FDC is releasing information on deaths of inmates who tested positive for COVID-19, regardless of the cause of death. The Florida Department of Health defines a COVID-19 related death as a person who has died following a positive COVID-19 test."*

Thus, it appears that the reported 12 deaths only account for those who received testing prior to their death and does not account for any COVID-related deaths where individuals had not yet received testing or were tested after they had died. This is particularly concerning, as less than 15% of the prison population has received testing. (According to the FDOC website, fewer than 13,000 incarcerated individuals have received testing out of the approximately 96,000 incarcerated individuals). In order to get a more accurate assessment of COVID-related deaths – meaning deaths that would not have happened but for COVID spread in prisons – **we request information on how many incarcerated individuals from each facility died for each month of January - June 2020, as compared to January – June 2019.**

### COVID-19 Spread

The COVID prison numbers are increasing exponentially and are undoubtedly undercounts. We have several concerns regarding the Department's transparency with regard to COVID spread and its willful avoidance in obtaining accurate information through widespread testing. The Department appears to be trying to hide the extent of COVID exposure by refusing to administer COVID testing. As long as the Department doesn't test people, it is able to maintain the fiction that there are not many confirmed cases. This is nothing more than manipulation of the data through refusal to obtain the information.

For instance, South Bay Correctional Facility has over 100 incarcerated individuals who have tested positive and over 1150 medically quarantined individuals who have not received testing but, according to your website "*may have had close contact with a person who has tested positive or exhibited symptoms of an infectious illness.*" It is very possible that the majority of the 1150 quarantined individuals have or had COVID and zero reason to believe that they have not. If the Department wanted to know the accurate numbers of infected

individuals it would simply need to provide the test. Why have these 1150 individuals not been tested?

We have the same concerns regarding Blackwater CF which reports 101 positive tests and 942 individuals in medical quarantine; Apalachee CI and Century CI, which have over 220 medically quarantined individuals; Everglades, which has approximately 400 quarantined individuals; Hamilton, which has close to 900 quarantined individuals; Liberty, which has over 380 quarantined individuals; Homestead, which has over 260 quarantined individuals, and all other facilities where individuals are being medically quarantined together and likely spreading to each other. What is being done to improve testing and provision of appropriate medical treatment at these facilities?



It is beyond inhumane to quarantine individuals who may have COVID with individuals who do not have it. But that appears to be exactly what the Department is doing. It is inexcusable to quarantine together individuals who have not yet been tested but who have come in close contact with someone with COVID and/or who is exhibiting symptoms. The reasonably foreseeable end result is that everyone who is quarantined together will end up with COVID. **We demand that you swiftly test all those who are in medical quarantine, and that those who test negative be removed from quarantine before they get it. We similarly demand that prior to anyone being placed in medical quarantine, that they are tested. If they test negative, they should not be quarantined with others.** This should have been done months ago, the spread of COVID in prisons is directly related to your inaction.

#### **Being Charged for Medical Care**

We have recently heard of several instances where incarcerated individuals (or their families) are being charged for personal protective equipment (PPE), face masks, COVID-testing, and other COVID related health care treatment, despite pledge that such costs would be waived during the pendency of the COVID-19 public health emergency and the Governor emergency order.

**We demand that health care treatment and related services, masks and other PPE, sanitizer, soap, and similar protective gear be provided free of charge to incarcerated individuals during the pendency of the COVID-19 public health emergency and that this be prominently displayed on your website.**

We further request that you release information to the public concerning the following:

- the number of incarcerated individuals who have not been tested for COVID-19 but who are being charged for treatment for symptoms that could indicate whether they have COVID-19;
- the number of incarcerated individuals charged for COVID-19 testing or treatment and the overall amount they have been charged;

- the number of incarcerated individuals that medical staff are able to see per day at each facility.

**Medical Quarantine**

We are hearing reports and have received more than 60 complaints stating variously that multiple individuals in medical quarantine are exhibiting symptoms of COVID-19 – including high fevers and constant coughing, lack of smell, etc. -- and are not being tested or receiving necessary medical attention. According to your website regarding Medical Quarantine:

*If an inmate begins experiencing symptoms indicative of COVID-19, FDC will place the inmate in medical isolation and immediately engage the county health department.*



The Department’s description on its website is counter to numerous reports we are hearing from incarcerated individuals and their loved ones regarding medical quarantine, particularly at the following facilities:

- |                    |                  |
|--------------------|------------------|
| • ACI East         | • Marion CI      |
| • ACI West         | • Martin CI      |
| • Avon Park        | • Moore Haven CF |
| • Blackwater River | • Paul Young     |
| • Columbia CI      | • Santa Rosa CI  |
| • Desoto Annex     | • South Bay      |
| • Everglades       | • Sumpter CI     |
| • FSP West         | • Tamoka CI      |
| • Gadsden CF       | • Union CI       |
| • Hamilton CI      | • Wakulla Main   |
| • Homestead CI     | • Zephyrhills CI |
| • Liberty CI       |                  |
| • Lowell CI        |                  |

**Please provide detailed information regarding the protocol in medical quarantine when an individual begins to exhibit symptoms of COVID.**

**Solitary Confinement v. Medical Isolation**

We are concerned about the treatment available to those in medical isolation. We have heard reports that individuals fear being placed in solitary confinement if they exhibit symptoms or test positive and that those who have symptoms are too scared to tell the staff out of fear of being put in solitary confinement and not having telephone/tablet/email/video access to their family members or daily check ins by medical staff to assess their conditions and health care needs.

**Please provide detailed information regarding the conditions in medical isolation at each facility, including answers to the following:**



1. How often are individuals able to communicate with family members and loved ones through telephone calls or tablets?
2. Are individuals receiving adequate and appropriate meals?
3. How often do they see a medical provider?
4. What health care treatment is provided daily to alleviate symptoms?
5. Are individuals grouped together in medical isolation?
6. How does it differ from solitary confinement?
7. If someone requests a health care provider, how quickly can they be seen?
8. If someone requests to contact their family members, how quickly will they be able to?
9. At what point is someone transferred to a hospital?
10. Who makes that determination and how frequently are medically isolated individuals evaluated for potential transfer to a hospital?

### **Additional Concerns**

We continue to hear reports from family members of incarcerated individuals that their loved ones are forced to be in close proximity with others who are exhibiting symptoms and that they are prevented from practicing social distancing as they are confined in close quarters with one another. For example, we have heard that there are widespread COVID-19 infectious symptoms in entire dorms/units but that individuals exhibiting symptoms are not being tested and instead entire units are being quarantined together, practically ensuring that it will spread to everyone. Additionally, we continue to hear reports of:

- correction officers not wearing masks
- lack of sterilization/cleaning of dorms and bathrooms
- lack of masks for incarcerated individuals (required to wear same paper mask for over a week)
- lack of soap for washing hands
- individuals not being quarantined upon arrival or being quarantined together in large groups, thus ensuring cohort spread
- phones and kiosks not regularly working, emails delayed, tablets not being charged – all of this preventing regular communication with family members

There is no excuse for the Department's failure to provide ample masks and adequate cleaning supplies. Additionally, while visitation has been suspended due to COVID it is more important than ever that individuals are allowed ample and free means of communication with their loved ones.

### **Conclusion**

For ease of reference, the above reasonable requests are reiterated below. We look forward to your prompt response to 1, 3-7, by no later than June 15, and your prompt action regarding 2, to begin this week and continue until complete, by no later than July 1.



1. Information on how many incarcerated individuals from each facility have died for each month of Jan- June 2020, as compared to Jan – June 2019.
2. COVID-19 testing of all those who are in medical quarantine, and that those who test negative be immediately removed from quarantine so that they do not become infected.
3. Assurances that prior to being placed in medical quarantine, individuals will be tested for COVID-19. If they test negative, they should not be quarantined with others.
4. Assurances that those in medical quarantine who exhibit symptoms are provided with prompt medical attention.
5. Assurances that health care treatment and related services, masks and other PPE, sanitizer, soap, and similar protective gear are provided free of charge to incarcerated individuals and that notice of this be prominently displayed on your website.
6. Written information and clarification regarding the conditions in medical isolation at each facility, including answers to questions contained above in the body of the letter.
7. Assurances that the Department is providing ample masks and adequate cleaning supplies, and that incarcerated individuals are able to freely and frequently communicate with their loved ones through the normal channels.

Governor DeSantis and Secretary Inch, if you do not act quickly, COVID-19 will continue to spread throughout the prison system, and many more incarcerated people will become seriously ill, and several more will die. COVID-19 makes incarceration a death sentence. You are responsible for the health and safety of those in your custody and care. You have the power to prevent widespread illness and death, and you can do so consistent with public safety. It is never too late to do better.

We welcome the opportunity to meet with you and discuss the above. Thank you for your prompt attention.

Sincerely,

A handwritten signature in black ink that reads "Micah W. Kubic". The signature is fluid and cursive, with a prominent flourish at the end.

Micah W. Kubic, Ph.D.

Executive Director

CC:

Ashley Moody, Florida Attorney General

Nikki Fried, Florida Commissioner of Agriculture

Jimmy Patronis, Florida Chief Financial Officer

Melinda N. Coonrod, Chairman, Florida Commission on Offender Review

Dr. Scott Rivkees, Florida Surgeon General