

The logo for the East Baton Rouge Parish Prison Reform Coalition is centered on a light gray background. It features a dark red rectangular border. Inside the border, the text "EAST BATON ROUGE PARISH PRISON REFORM COALITION" is written in a bold, black, sans-serif font. Below this, the words "SUPPORT · ADVOCATE · EMPOWER" are written in a smaller, black, sans-serif font, separated by small red dots.

**EAST BATON ROUGE PARISH
PRISON REFORM COALITION**

SUPPORT · ADVOCATE · EMPOWER

TO:

Sheriff Sid Gautreaux

District Attorney Hillar Moore

District and City Court Judges

Re: COVID 19 Prevention and Protection in East Baton Rouge Parish Prison

We are organizations that serve vulnerable population in East Baton Rouge Parish as well as those that advocate for the rights of individuals who are detained and imprisoned in Louisiana. As the coronavirus pandemic continues to spread across the country, we urge you to immediately develop evidence-based and proactive plans for the prevention and management of COVID-19 in the East Baton Rouge Parish Prison as well as in the courts, work release sites, or anywhere else there are people in your custody. A number of state organizations sent a similar request to Governor John Bel Edwards concerning people in DOC custody, we urge you to adopt their recommendations at EBRPP for the safety of those incarcerated at the prison, their loved ones, prison staff, and the state's public health infrastructure at large. An outbreak of COVID-19 in the prison would be swift and deadly, and now is the time for decisive preventative measures.

Incarcerated people are highly vulnerable to outbreaks of contagious illnesses such as COVID-19. They are housed in close quarters and are often in poor health.¹ Without the active engagement of those who administer the facility, they have little ability to learn about ongoing public health crises or to take the preventative measures necessary to fight infection. The East Baton Rouge Parish Prison is the largest pre-trial facility in the state and is often at or over capacity, exacerbating these already dangerous conditions. The health of the people incarcerated in the facility, as well as the corrections staff, medical personnel, and many others who come in contact with them is a matter of huge importance and depends on immediate action.

¹ Prison Policy Initiative, "[No need to wait for pandemics: The public health case for criminal justice reform](#)" (March 6, 2020).

[Louisiana maintains the title of being the state with the highest incarceration in the country](#), in a country with the [highest incarceration rate in the world](#). With so many people, per capita, behind bars, Louisiana must take immediate and drastic action to protect incarcerated people from COVID-19. When—not if—the COVID-19 virus enters detention facilities, the virus will spread “[like wildfire](#)” due to close quarters, unsanitary conditions, a population that is more vulnerable to COVID-19, and the large number of people that cycle through the criminal justice system.

The safest way to ensure that EBRPP does not become a vector for COVID-19’s spread is to reduce the number of people who are incarcerated. This is particularly imperative for anyone who a judge has already approved for release pending payment of money bail; anyone detained under the 287(g) program; and anyone charged with Failure to Appear or parole/probation violations. Release is also crucial for those who are elderly or have medical conditions that make them particularly vulnerable.

Reducing the jail population is consistent with the county sheriff’s obligation to safely manage county jail populations and the guidance of correctional experts. Dr. Marc Stern, who served as Health Services Director for Washington State’s Department of Corrections, recently urged: “With a smaller population, prisons, jails, and detention centers can help diseases spread less quickly by allowing people to better maintain social distance.”² Dr. Stern also explained that reducing the jail population will ease staffing burdens: “If staff cannot come to work because they are infected, a smaller population poses less of a security risk for remaining staff.” Jurisdictions across the country have already started to take the important public health measure of reducing their jail population.

We ask you to undertake all possible avenues to lower risk of infection in the East Baton Rouge Parish Prison. 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. We recognize and appreciate the steps that you have announced regarding shrinking the population and making available some number of free phone calls, but drastic action is necessary.

While your plan should be developed collaboratively by the Governor’s office, the Department of Public Safety and Corrections (DOC), the Office of Juvenile Justice (OJJ), the courts, probation and parole offices, and the Department of Health collectively, some of the critical issues that must immediately be addressed are listed below.

1. Compliance with Centers for Disease Control (CDC), Louisiana Department of Health, and National Commission on Correctional Health care (NCCHC) Guidelines.

We urge you to be in regular contact with experts at the CDC, the Louisiana Department of Health, and National Commission on Correctional Health Care (NCCHC). We understand that COVID-19 guidelines specifically for prisons and jails are likely forthcoming from the CDC.

² Human Rights Watch, [COVID-19 Threatens People Behind Bars](#) (March 12, 2020).

- 2. Lower jail admissions to reduce “jail churn.”** 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. Jail staff necessarily come and go every day. This constant population turnover will compromise any effort to contain COVID-19, especially since people may be infected and contagious but not show symptoms for up to 14 days after exposure. There are many ways for local leaders to reduce jail churn. Pursuant to LA C. Crim. Proc. Art. 211 and 211.1, sheriff deputies should issue citations instead of arrests for all misdemeanor and eligible felony offenses; and diverting as many people as possible to community-based mental health and substance abuse treatment. The EBRSO should coordinate with other law enforcement agencies in the Parish to ensure that the people are not being brought into the facility unnecessarily. This includes incarcerating those with minor probation and parole violations and those with warrants for minor charges.
- 3. Prioritize immediate release for people who are most vulnerable.** Jails 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. Releasing these vulnerable groups from the jail immediately will avoid the need to provide complex medical care within the jail or transfer people to hospitals where capacity may be thin. For those remain incarcerated, facilities have a particular responsibility to take additional precautions to prevent illness among and provide immediate treatment to these high-risk populations.
- 4. Education of the People in Your Custody.** People housed in prisons and jails need to be informed about the virus, its symptoms, and the measures they can take to minimize their risk of contracting or spreading the virus. They must be educated 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 must be based on changing public health protocols and coordination with public health experts. Such education efforts must accommodate those who are hearing impaired, visually impaired, or those who speak other languages. Such accommodations might include translations, visual aids, and having instructions read aloud.
- 5. Education of the Staff.** Correctional, administrative, and medical staff all must be educated about the virus to protect themselves and their families, as well as the people in their custody.
- 6. Keeping Infected Staff and Visitors Out of Facilities.** COVID-19 will most likely be introduced to jails and prisons by staff or other visitors. Measures must 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, and that preventive measures are in place to reduce infection, such as handwashing and taking the temperatures of all staff or others who enter the facility.

- 7. Immediate Release of Individuals in Pre-trial Detention Absent Substantial Showing of Imminent Dangerousness to Community.** State leaders should never forget that local jails are even less equipped to handle pandemics than state prisons, so it is even more important to reduce the burden of a potential pandemic on jails. Individuals in jails face a substantial risk of infection and death due to their inability to access adequate health care, the frequency of transport to court, and the significant traffic from the public into jails by staff, lawyers, and others. Without a substantial showing of imminent dangerousness, people held in pretrial detention should be released if they are elderly, have underlying health conditions that compromise their immune systems, or are charged with non-violent offenses.
- 8. Staffing Plans.** Regardless of how many staff stay home because they are sick, prisons will continue to function. There must 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 must 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.
- 9. 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 must 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 must 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. Individuals who perform job duties who become ill or can otherwise not work due to showing symptoms should also be compensated for lost work time.
- 10. Free Access to Hygiene Supplies.** The most basic aspect of infection control is hygiene. There must 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 needed. There must be adequate access to free tissue for nose-blowing, trash cans that are emptied regularly, and clean laundry. Access must be freely available both to incarcerated people and to all others, including staff and visitors, throughout facilities.
- 11. Screening and Testing of the People in Your Custody.** The plan must include guidance, based on the best science available, on how and when to screen and test people in your facilities for the virus.
- 12. Housing and Treatment of Persons Exposed to or Ill With COVID-19.** The plan must describe how and where people in the detention system 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 and the nearest hospital if they suspect COVID-19 in a patient. Courses of treatment for anyone exposed to or ill with COVID-19 must be evidence-based, available immediately, and in compliance with scientifically-based public health protocols.

13. 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 HIPAA requirements.

14. Co-Pays. The practice of charging incarcerated people co-pays, even nominal ones, for medical treatment discourages sick people from seeking care and allows disease to spread inside facilities. Co-pays must cease in order to avoid extensive, costly, complicated outbreaks and unnecessary illnesses. At a minimum, co-pays should be waived until the COVID-19 pandemic has ended, and that policy should be clearly communicated to incarcerated people. It is critical that financial barriers do not prevent anyone with a suspected COVID-19 infection from receiving immediate, appropriate medical care.

15. 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 must be part of this process. The same information that is tracked in the community must be tracked in facilities. The plan should include mechanisms for providing timely data to state, local, and federal health authorities.

16. Access to Communication. Systems and facilities must make every effort to protect and preserve incarcerated people's ability to communicate with their friends and family on the outside. Fees ordinarily charged for phone calls should be waived if in-person visitation is limited.

17. Access to Legal Counsel. Systems and facilities must ensure incarcerated people have free, confidential, timely access to legal counsel and law libraries. This includes in-person visitation, to the extent possible, and ample videoconference and telephone communications. Further, facilities must ensure that detained and incarcerated people can meaningfully contribute to their legal cases—for example, by being able to transmit and sign confidential documents, even if in-person visitation is limited.

18. Avoid Lockdowns. Although corrections staff may be tempted to reflexively cut off visitation and increase the use of solitary confinement to control the spread of COVID-19, any system or facility-wide lock-down or interruptions 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 to ensure the health and safety of individuals in custody. 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, unnecessary lockdowns and solitary confinement do nothing to mitigate the risk of COVID-19 exposure from the daily influx of facility staff, vendors, medical professionals, and others. 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.

19. Coordination to ensure healthy transition. It is also crucial that your office coordinate with community housing and healthcare providers to prepare for the release of incarcerated people back into the community. Such efforts will not only protect people who are released but also further reduce community spread overall.

20. 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.

21. Stop detaining people for ICE after they would otherwise be released. Everyday people are held in EBRPP after they would otherwise be released due to ICE detainers, which give ICE time to investigate whether a person should be arrested for immigration proceedings. This prolonged detention after an individual was cleared to return to our community presents not only potential constitutional violations, but also an increasing public health risk. Enforcement of ICE detainers has always been voluntary and should be suspended immediately, as many jurisdictions across the country have done.

22. Commit to Cooperating fully with Governor's directives. For State-level action to be most effective, there will need to be considerable cooperation between State government and sheriffs. We ask you to put aside political differences and work together on this issue of pressing importance.

The way we treat the most vulnerable at this critical point in time will not only reveal much about our community but will directly impact the safety of all of us as Louisianans and Americans. There is not much time to do the right thing. We urge you to act immediately.

Sincerely,

Andrea Armstrong, Professor of Law, Loyola School of Law*

Professor Angela A. Allen-Bell, Director of Louis A. Berry Institute for Civil Rights and Justice
and B. K. Agnihotri Endowed Professor at Southern University Law Center*

ACLU of Louisiana

The Bail Project

The Committee for Equitable Healthcare for All

The East Baton Rouge Parish Prison Reform Coalition

The Justice Alliance

Louisiana Trans Advocates

P.R.E.A.C.H.

The Promise of Justice Initiative

Robert F. Kennedy Foundation for Human Rights

Tiger Prison Project

Voice of the Experienced (VOTE)

*Affiliations are for identification purposes only

CC:

Sharon Weston-Broome, Mayor-President, East Baton Rouge Parish

Murphy Paul, Chief, Baton Rouge Police Department

Dennis Grimes, Warden, East Baton Rouge Parish Prison