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December 7, 2020

Honorable Jared Polis
Governor State of Colorado
136 State Capitol
Denver, CO 80203

Dear Governor Polis,

The COVID-19 pandemic has produced a catastrophic impact in jails, prisons, and immigration detention centers in the United States corresponding to the dismal predictions made at the outset of the pandemic by the American Civil Liberties Union (ACLU) and many public health experts¹. These predictions were not difficult to forecast given that the United States has the most extensive carceral system worldwide and the highest rates of imprisonment. Furthermore, jails and prisons are crowded beyond rated capacity, are poorly ventilated, and many incarcerated individuals suffer from chronic medical diseases. Medical care in these settings is far from optimal and timely; and these facilities are ill equipped to respond to the existing and rapidly expanding COVID-19 outbreaks. Despite the explicit guarantee of freedom from cruel and unusual punishments provided by the Eighth Amendment to the United States Constitution, the response to Covid-19 illustrates the inherent cruelties of our correctional systems and the inability of incarcerated individuals to shield from COVID-19. A swift and coordinated response to reduce the amplification of networks of transmission inside these facilities could have prevented the many deaths due to Covid-19 in correctional facilities.²

COVID-19 in Jails, Prisons, and ICE Detention Centers in the United States

During the Covid-19 pandemic, American jails and prisons have predictably emerged as the world's leading sites of Covid-19 outbreaks, representing 90 of the top 100 Covid-19 clusters in the US as of December 7, 2020. In order to hold a large number of prisoners, the majority of these facilities have dormitory type units with communal bathrooms in which insufficient social distancing and poor sanitary conditions provide conducive environments for the rapid spread of COVID-19. Infection prevention interventions require far greater diligence in a correctional settings in which prisoners are crowded together, sleep in shared

¹ Franco-Paredes C, Jankousky K, Schultz J, Bernfeld J, Cullen K, Quan NG, Kon S, Hotez P, Henao-Martínez AF, Krsak M. COVID-19 in jails and prisons: A neglected infection in a marginalized population. *PLoS Negl Trop Dis*. 2020 Jun 22;14(6):e0008409.

² Franco-Paredes C, Ghandnoosh N, Latif H, Krsak M, Henao-Martinez AF, Robins M, Vargas Barahona L, Poeschla EM. Decarceration and community re-entry in the COVID-19 era. *Lancet Infect Dis*. 2020 Sep 29:S1473-3099(20)30730-1.

cells or dormitories, share bathrooms and dining spaces, and staff and those incarcerated often have inadequate access to personal protective equipment such as masks. Old and poorly maintained ventilation system of these facilities undoubtedly amplifies the spread of respiratory viral infections such as COVID-19. Despite some efforts to reduce the overall number of incarcerated individuals in the US, this reduction has only achieved approximately 11%, which is largely insufficient to promote the interruption of clusters of transmission in these conglomerate settings. Despite substantial under testing and underreporting, as of December 07, 2020, the COVID-19 Prison Projects reports 232,382 COVID-19 cases and 1565 deaths among incarcerated individuals across the nation. Additionally, the number of cases of COVID-19 among staff and correctional officers, are also staggering with 51,291 reported cases and 86 deaths. In Colorado, more than 5500 cases have been reported among incarcerated individuals with 12 documented deaths. Additionally, more than 1,000 correctional officers have also tested positive³.

In addition to the large number of COVID-19 outbreaks in jails and prisons, the novel coronavirus across has caused large outbreaks among many immigration detention centers in the U.S. Although the total population of ICE detainees has varied during the onset of the COVID-19 pandemic, at least one-third of detainees has become infected with COVID-19 (7,622 cases). Of all detainees, there has been 8 deaths directly implicated as the cause of death. It is relevant to note that 7 of 8 cases had underlying medical conditions. In Colorado, the Aurora GEO immigration detention center continues to record new cases of COVID-19 over the last two weeks as part of an outbreak with more than 135 cases since the beginning of October, 2020.

In the midst of third wave of COVID-19 of sustained-community level transmission accumulating now more than 260,000 deaths, the landscape in jails and prisons during this winter season is somber. Indeed, many incarcerated individuals suffering from chronic medical conditions remain largely unshielded from becoming infected and potentially dying from this infection. The COVID-19 pandemic has been responsible for as many deaths among incarcerated individuals in the US over a nine-month period as the total number of individuals executed by the death penalty over a 44-year period (1449 deaths by COVID-19 and 1526 executions since 1976). However, deaths caused by COVID-19 in prisoners are preventable in the first place, if sufficient preventive strategies were instituted and resources allocated by prison officials and public health agencies.

Experience with COVID-19 in Correctional Facilities

I am an Associate Professor of Medicine at the University of Colorado. I work in the Department of Medicine, Division of Infectious Diseases. I also serve as the Director of the Infectious Diseases Fellowship Program for the University of Colorado, Anschutz Medical Center. As an infectious disease clinician, I have twenty years of relevant experience. I have

³ COVID Prison Project. <https://covidprisonproject.com/data/data-v2/> (accessed: December 7, 2020)

participated in the medical care of individuals detained at the Aurora, Colorado, immigration detention facility. I have performed second-opinion medical evaluations for patients in the custody of the Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have first-hand experience treating patients with COVID-19. At the University of Colorado, Anschutz Medical Center, I have provided direct patient care to more than 200 patients with COVID-19, both in the medical ward and the intensive care unit. Many of these patients required intensive care management and mechanical ventilator support, and many have died.

I have written and published extensively on the topics of infectious disease pandemics and epidemics. I have 223 scientific publications in peer-reviewed journals, 12 of which are recent publications on the impact of COVID-19 among minorities residing in correctional facilities and in immigration detention centers in the United States.

I have served as an expert in COVID-19 related outbreaks in jails, prisons, and detention centers across the country. I have written facility inspection reports that were submitted to various courts. In connection with COVID-19 cases, I have conducted the following detention facility inspections:

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| a. Weld County Jail, Colorado | April 10, 2020 |
| b. Oakland County Jail, Michigan | April 23, 2020 |
| c. Weld County Jail, Colorado | April 24, 2020 |
| d. Miami-Dade County Metro West, Florida ⁴ | April 27, 2020 |
| e. Prince George's County Jail, Maryland ⁵ | May 6, 2020 |
| f. Prince George's County Jail, Maryland | May 7, 2020 |
| g. Juvenile Detention Centers, Louisiana ⁶ | May 27, 2020 |
| h. Los Angeles County Jail, Men's Central | June 22, 2020 |
| i. Los Angeles County Jail, Twin Towers Correctional | June 22, 2020 |
| j. Los Angeles County Jail, Inmate Reception Center | June 22, 2020 |
| k. Los Angeles County Jail, Century Regional | June 24, 2020 |
| l. Los Angeles County Sheriff's Department | June 24, 2020 |
| m. Los Angeles County Jail, North County Correctional | June 25, 2020 |
| n. Los Angeles County Jail, Pitchess North | June 25, 2020 |
| o. Los Angeles County Jail, Pitchess South | June 25, 2020 |
| p. Cook County Jail, Illinois ⁷ | July 22, 2020 |
| q. Minnesota, Department of Corrections | November, 2020 |

⁴ See *Swain et al. v. Junior et al.*, 1:20-cv-21457-KMW/EGT (S.D. Fla. Apr. 4, 2020).

⁵ I was appointed by the Honorable Paula Xinis, District Judge for the United States District Court for the District of Maryland.

⁶ See *J.H. et al. v. Edwards et al.*, 3:20-cv-00293-JWG/EWD (M.D. La. May 14, 2020).

⁷ See *Mays et al. v. Dart*, 1:20-cv-2134-RWG/MDW (N.D. Ill. Apr. 3, 2020).

More importantly, during the above activities, I have witness firsthand the devastation as well as tremendous burden that the present pandemic has imposed on staff and correctional officers.

Public Health Justification to Prioritize COVID-19 Vaccination in Jails, Prisons, and Detention Centers

The benefits of vaccinating incarcerated individuals as a public health priority in Colorado include the following:

a) Risk of community spread from jails, prisons, and detention centers

The risk for widespread contagion of COVID-19 in jails, prisons and detention centers is exacerbated by the fact that staff, contractors, and vendors all pass between communities and correctional facilities on a regular basis, and each group can bring infectious diseases into and out of those facilities. Additionally, correctional facility populations are constantly turning over, with about 200,000 people nationwide flowing into and out of jails every week. Each entrant potentially carries COVID-19, including those who are asymptomatic and elude usual screening strategies. One study using data from the Cook County Jail has found that jail cycling is a significant predictor of coronavirus infection, accounting for 55% of the variance in case rates across zip codes in Chicago and 37% in Illinois, with case rates much higher in zip codes with higher rates of arrest and released jail inmates. These factors, all of which make it effectively impossible for correctional facilities to protect themselves from outbreaks outside their walls, are made worse by the fact that it is difficult to identify and isolate individuals who are infected, who may suffer from only mild symptoms or even be entirely asymptomatic while still carrying and spreading the disease.

b) Overwhelming of the health care system

Since correctional facilities and detention centers are closed facilities, the number of exposed, infected, and ill individuals may rapidly overwhelm staff and resources. Responding to the further COVID-19 outbreaks in correctional facilities and the upcoming As a result, many patients would need transfer to hospitals near these facilities, likely overwhelming the surrounding healthcare systems, which are already functioning at full capacity caring for the general non-incarcerated community. To illustrate the magnitude of the threat of COVID-19 outbreaks in jails, prisons, and the Aurora ICE detention center, for the 2,200-inmate Denver Jail, the only hospital that is currently accepting these patients is Denver Health. Denver Health only has a capacity of 525 beds in the entire facility. Intensive care unit capacity at Denver

Health is 24 beds in the medical ICU, 23 beds in the surgical/trauma ICU, and 12 beds in a step-down unit (that may be able to support ventilated patients). Therefore, a large outbreak in a jail or prison facility would put a tremendous strain on the medical system in Colorado to the detriment of patients across the region.

c) Reducing medical expenses

The costs of medical care in medical wards, step down units and in the intensive care unit is on the order of \$5,000 to \$10,000 dollars per day, and often more for those requiring mechanical ventilation. The cost-benefit of vaccinating incarcerated individuals will save lives, human suffering, and will save millions of dollars in medical expenses.

d) Contribute to reduce health inequities and promote your efforts as a Governor to promote social justice

The uncontrolled number of cases and deaths caused by COVID-19 in correctional facilities enforce the pervasive racial divide that has defined the history of the US. Many incarcerated individuals who are at an increased risk of dying from COVID-19 due to chronic medical vulnerabilities remain largely unprotected inside the walls of correctional facilities across the nation living on the COVID-19 epidemiologic death row. As a result, it is reasonable to anticipate that there will be the loss of additional lives that could have otherwise been saved. Indeed, thousands of incarcerated individuals are striving to survive during the upcoming months since they are literally living on the COVID-19 epidemiologic death row. Therefore, vaccination of incarcerated individuals is a major public health priority that will save hundreds of lives and incalculable amounts of suffering.

Conclusion

The COVID-19 virus continues expanding exponentially in jails, prisons, and detention centers in the United States including the State of Colorado. In the months ahead, we will continue to see high numbers of ill incarcerated individuals and staff. The broader health system in Colorado does not have the capacity to handle a wave of critically ill patients coming from jails and prisons. Furthermore, since correctional facilities are incubators of COVID-19, further outbreaks will continue amplifying clusters of transmission of COVID-19 to the larger community.

Given that jails, prisons and detention centers continue to be major epicenters of the COVID-19 pandemic, prompt vaccination of incarcerated and detained individuals and correctional officers is an urgent and crucial public health intervention. This intervention that will undoubtedly contribute to interrupting this pandemic and will save lives inside

and outside the walls of jails, prisons across the State of Colorado and at the Aurora immigration detention center. I urge you to reconsider your phased approach distribution of COVID-19 vaccines to prioritize vaccination incarcerated individuals in Colorado during phase 1.

Please do not hesitate to contact me if you would like to discuss further or if there is anything that I can assist you.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Franco-Paredes', enclosed within a light gray rectangular border.

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