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April 1, 2020

Justice Mary C. Noble
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Kathleen Kenney
Interim Commissioner, Kentucky Department of Corrections
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Dr. Steven Stack
Commissioner, Kentucky Department for Public Health
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Sent via email

Dear Secretary Noble, Commissioner Kenney, and Commissioner Stack:

We write to you today following up on our organization's March 30, 2020 letter regarding concerns about protecting people incarcerated in Kentucky's prisons from the COVID-19 pandemic. On March 30, 2020, the *Lexington Herald Leader* reported that several prisoners at Northpoint Training Center in Burgin had been placed in quarantine after a state prisoner was tested for the virus on Friday night.¹

We are aware of information, however, that the situation may be dramatically worse within the Department of Corrections ("DOC") than this reporting indicates. We have reason to believe:

- ❖ As many as twenty-two incarcerated people were transferred from Northpoint Training Center to Little Sandy Correctional Complex ("LSCC") on March 27, 2020, where they were told they had been exposed to COVID-19 and were being placed in medical isolation.

¹ See John Cheves, *KY inmate tested for COVID-19, others quarantined as critics urge prisoner releases*, LEX. HERALD LEADER (Mar. 30, 2020, 6:11 PM), <https://www.kentucky.com/news/coronavirus/article241621321.html>.



- ❖ At least one of these individuals was told that their source of exposure was a DOC nurse who had traveled to New York, returned to work, then later tested positive for COVID-19. This individual has not been tested for COVID-19.
- ❖ At least seven of the incarcerated people in medical isolation at LSCC have been living in a conference room since Friday night with no beds, toilets, sinks, showers, or sanitation supplies.
- ❖ These seven individuals isolated in the conference room are unable to practice the hygiene and social distancing practices recommended by both the CDC and the Commonwealth of Kentucky.²

Isolation will be less effective at containing COVID-19 if the conditions of the quarantine tend to encourage transmission of the virus among the isolated people. Medical isolation should not create a petri dish of unsanitary conditions and close quarters where a single ill person could easily spread the sickness among everyone else in isolation with them. We believe that a failure to remedy such poor conditions faced by those in medical isolation would likely violate the Kentucky Constitution's requirement that "[t]he Commonwealth shall . . . provide for all supplies, and for the sanitary condition of the convicts,"³ as well as the Federal Constitution's prohibition on cruel and unusual punishment.⁴

In light of these concerning reports, we strongly encourage the Department of Corrections to act swiftly to correct this situation. DOC should immediately publish and regularly update the number of people in its custody tested for COVID-19, the results of those tests, and the number of people placed in medical isolation or quarantine in each facility. In addition to implementing the recommendations we have previously sent to the Governor and Justice Cabinet,⁵ DOC should also immediately act to guarantee

² See *How to Protect Yourself*, CENTERS FOR DISEASE CONTROL AND PREVENTION (Mar. 18, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; *Novel Coronavirus (COVID-19) Guidance for Residents of Kentucky*, KY. DEP'T FOR PUBLIC HEALTH (Mar. 13, 2020), <https://chfs.ky.gov/agencies/dph/covid19/guidanceforkentuckyresidentscovid19.pdf>.

³ KY. CONST. § 254.

⁴ U.S. CONST. amend. VIII.

⁵ See Letter from Amanda Hall, Smart Justice Field Organizer, ACLU of Ky., to Gov. Beshear *et al.* (Mar. 30, 2020), https://www.aclu-ky.org/sites/default/files/wysiwyg/aclu-ky_coalition_letter_on_decarceration_and_covid19.pdf.



that people placed in medical isolation have access to soap and sanitation supplies, and the ability to practice social distancing by maintaining at least six feet of separation from others. DOC should also act immediately to ensure that areas used for medical isolation are cleaned daily with all shared surfaces regularly sterilized. Additionally, DOC must coordinate with public health authorities to ensure that any incarcerated person exposed to COVID-19 is promptly tested for the virus.

Considering the close quarters inevitable in prisons and the vulnerable nature of incarcerated populations to infectious disease, any outbreak of COVID-19 in a Kentucky prison could have disastrous and deadly consequences. Such an outbreak would not only threaten incarcerated people, but also prison staff and medical responders—and by extension, their families and communities. Preventing such an outcome should be a high priority for state correctional and public health authorities. By bringing these issues to your attention, we hope we can work together to help protect the health and safety of vulnerable communities in Kentucky's prisons.

We look forward to your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Shapiro". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Corey Shapiro
Legal Director