

April 2, 2020

Dave Aronberg, State Attorney for Florida's 15th Judicial Circuit
Ric Bradshaw, Sheriff of Palm Beach County, Florida,

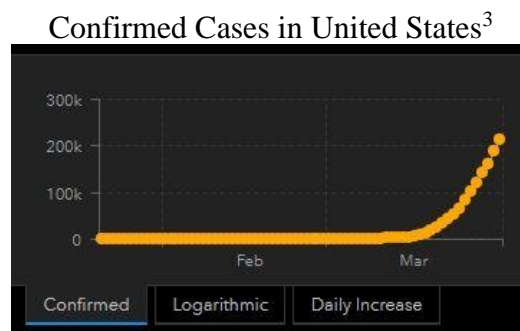
Re: **COVID-19 Threat Necessitates Drastic Reduction in Jail Population and Other Precautions**

Dear State Attorney Aronberg and Sheriff Bradshaw,

During this time of crisis, public officials must take immediate, bold, and science-based steps to combat COVID-19 (novel coronavirus) and mitigate the spread of the virus to protect the community. Below we outline the threat and propose measures you can take to lead the response to protect incarcerated individuals who are unable to follow measures proposed by health experts to protect themselves and the community from the vicious spread of COVID-19.

COVID-19'S THREAT

The United States has more cases of COVID-19 than any other country.¹ As of April 2, 2020, we have 217,263 cases of COVID-19 nationally, 8,010 in Florida, and 630 in Palm Beach County.² Palm Beach County has the third- most cases in the state. The virus is spreading exponentially—the number of cases nationally tripled in the week from March 20-March 27.

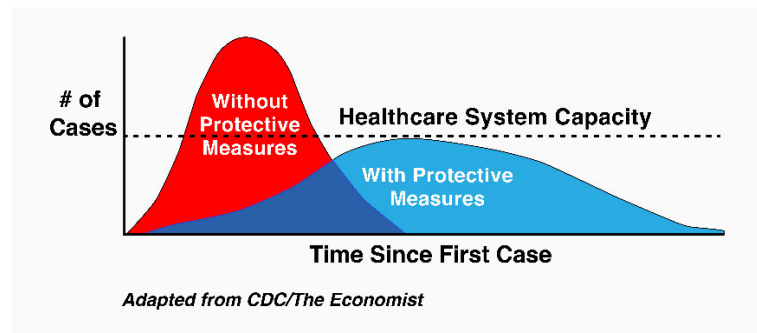


¹ John Hopkins University, COVID-19 Interactive Dashboard (Apr. 2, 2020), <https://gisanddata.maps.arcgis.com/apps/opsdashboard/index.html#/bda7594740fd40299423467b48e9ecf6>.

² *Id.*; see also Florida Department of Health, What You Need to Know About COVID-19 in Florida (Apr. 2, 2020), <https://floridahealthcovid19.gov/>.

³ *Id.*

Public health experts fear that not only will the exponential growth result in vast numbers of infections, but that the healthcare system will be overrun with a sudden influx causing more deaths.⁴



To slow the spread of the virus, public health experts believe social distancing is imperative now to slow the rate of new COVID-19 cases later. Everyone should avoid groups of 10 or more people and to stay six feet away from others.⁵ The CDC (Centers for Disease Control and Prevention) is particularly concerned about the spread in Florida.⁶

Florida officials have taken steps to mandate these recommendations. Gov. Ron DeSantis declared a state of emergency.⁷ Florida has closed all of its schools,⁸ restaurants and bars (limiting these businesses to take-out or delivery

⁴ Siobhan Roberts, *Flattening the Coronavirus Curve*, N.Y. Times (Mar. 11, 2020), <https://www.nytimes.com/2020/03/11/science/coronavirus-curve-mitigation-infection.html>.

⁵ Centers for Disease Control and Prevention, Florida Community Mitigation (last visited March 27, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/florida.html>; Florida Department of Health, How Do I Prevent and Prepare for COVID-19? (last visited March 27, 2020), <https://floridahealthcovid19.gov/prevention/>; The White House, The President's Coronavirus Guidelines for America (last visited March 27, 2020) https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf

⁶ Center for Disease Control and Prevention, *supra* note 5.

⁷ Executive Order No. 20-52, available at https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-52.pdf.

⁸ Florida Department of Education, Florida Department of Education Announces Additional Guidance for the 2019-20 School Year (Mar. 17, 2020), <http://www.fldoe.org/newsroom/latest-news/florida-department-of-education-announces-additional-guidance-for-the-2019-20-school-year.stml>.

only),⁹ fitness centers,¹⁰ and limited visitors to state parks and beaches.¹¹ The Florida Supreme Court suspended all jury trials, suspended speedy trial procedures, and ordered courts to cancel or postpone all non-essential court proceedings unless the proceedings could be done “remotely without the necessity of in-person court appearances,” among other directives.¹² In Palm Beach County, when people continued to gather in large numbers despite warnings to avoid groups of more than 10 people, Gov. DeSantis closed all the beaches, as well as movie theatres, concert houses, auditoriums, playhouses, bowling alleys, arcades, gymnasiums, and fitness studios.¹³ As a result of these actions, Floridians’ lives, businesses, and governmental services have been impacted in unprecedented ways, all with the aim of promoting social distancing to stop the spread of the virus.

The Palm Beach County jail is the ideal environment for the transmission of contagious diseases.¹⁴ People eat, sleep, work, and spend their days close to one another and share sinks, showers, and phones. Social distancing is impossible. Hand washing is not prevalent, and hand sanitizer is often banned. The population churns daily. Furthermore, the jail currently faces significant financial burdens from COVID-19. Jail staff are at a high risk of contracting COVID-19 and calling in sick, necessitating both overtime for the remainder and potentially unsafe inmate-guard ratios. The jail will bear the healthcare and any hospitalization costs to treat ill inmates.

As an incubation center, the Palm Beach County jails accelerate the spread of COVID-19 in the greater community. Jails are not isolated from the community. People continuously enter, and the vast majority will be released back

⁹ Florida Executive Order No. 20-68, https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-68.pdf; Florida Executive Order No. 20-71 https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-71.pdf.

¹⁰ *Id.*

¹¹ Florida Department of Health, The State of Florida Issues COVID-19 Updates (Mar. 27, 2020), <http://www.floridahealth.gov/newsroom/2020/03/032020-2058-covid19.pr.html>.

¹² Supreme Court of Florida Administrative Order 20-17 (Mar. 24, 2020), <https://www.floridasupremecourt.org/content/download/632431/7186205/AOSC20-17.pdf>.

¹³ Florida Executive Order No. 20-70, https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-70.pdf

¹⁴ Joseph A. Bick (2007). Infection Control in Jails and Prisons. *Clinical Infectious Diseases* 45(8):1047-1055, at <https://doi.org/10.1086/521910>.

into our community. Corrections staff, attorneys, and visitors continually come and go. Thus, reducing the incarcerated population can do more than protect the people who live in the jail; it can also reduce the risk of the jail becoming a site of cluster infection, thereby protecting the entire community.¹⁵

REQUESTED ACTION

We hope you will consult with Dr. Alina Alonso, the County's health director, to get her or her staff's advice about minimizing the exposure of incarcerated individuals and employees. It will take significant effort and maximum flexibility on both your parts to assure that our jailed population is kept as safe as possible within the requirements of public safety and the safety of jail personnel. But a significant step forward can be made simply by jailing only when necessary.

One of the best ways to stop the spread of COVID-19 in jails is to decrease the number of people entering the system. This can be done without compromising public safety, while increasing public health. For the few that must remain in jail, officials can take steps to reduce contagion.

Sheriff

The Sheriff should take the following efforts to prevent the virus from entering our jails and containing it once it is in the jails. First and foremost, every effort should be made to reduce the number of people in custody to maximize social distance among those incarcerated:

1. Sheriff's deputies should issue notices to appear in lieu of arresting a person for a misdemeanors or ordinance violation. Fla.R.Crim.P. 3.125(b) provides this authority.
2. When Sheriff deputies do effect a necessary arrest, newly arrested persons should be screened pursuant to criteria set forth by the Department of Health. If the medical personnel determine the person is at risk or may be infected, based on the DOH Screening Matrix, the arrested deputy should transport the person to an outside hospital for evaluation. The transporting deputy and the accused should wear an N-95 mask during transport.

¹⁵ See Amanda Klonsky, An Epicenter of the Pandemic Will Be Jails and Prisons, if Inaction Continues, N.Y. TIMES (Mar. 16, 2020), <https://www.nytimes.com/2020/03/16/opinion/coronavirus-in-jails.html>.

Furthermore, the Sheriff should take precautions for persons inside the jail in conjunction with the Palm Beach County Department of Health:

3. Educate incarcerated persons and staff about COVID-19's symptoms and ways to reduce its spread.
4. When tests are available, publish the numbers of tests conducted and results for both inmates and employees.
5. All jail personnel should be routinely screened for temperature prior to entering a facility and tested for the virus as soon as this is possible.
6. Provide hygiene supplies and access to warm water to frequently wash hands.
7. Create a staffing plan for when jail officers are not able to come to work as a result of COVID-19.
8. Jail personnel should make all reasonable efforts to maintain social distance from prisoners and from one another.
9. Continue to keep lines of communication to family, friends, and legal counsel open by making it free and accessible.

State Attorney

The State Attorney should also take measures to drastically reduce the jail population:

1. The bail schedule should be revised to permit the immediate release without monetary conditions of those charged with misdemeanors and non-violent felonies or a technical violation of probation.
2. The State Attorney should publicly announce and enact a policy of consenting to the release of any person whose current monetary bail is \$10,000 or less on nonmonetary conditions or with satisfaction of a monetary bail found to be affordable.
3. Where an accused person is not released pursuant to the revised bond schedule or the State Attorney's policy, the State attorney shall ensure either (a) the conditions of release are nonmonetary or affordable or (b) the State has established a need to detain the accused beyond a reasonable doubt and notwithstanding the COVID-19 pandemic. Prosecutors should avoid cash bail requests and request release on nonmonetary conditions in all but the very few cases.
4. With a special focus on populations who the CDC has identified as particularly vulnerable, prosecutors should also institute a review-and-release protocol in cases in which bail was already sought and the person is currently detained.

5. The State Attorney should seek to identify and quickly resolve criminal cases amenable to a time-served sentence considering the unprecedented COVID-19 pandemic.

CLOSING

The spread of COVID-19 (novel coronavirus) is unprecedented, and it will take many of us working together and utilizing our collective expertise to respond appropriately, effectively, and fairly.

We encourage you to contact us if we can be of assistance.

Sincerely,

American Civil Liberties Union of Florida
Community Justice Project
Dream Defenders
Faith in Florida
Florida Association of Criminal Defense Lawyers
Florida Cares
Florida Council of Churches
Florida Immigrant Coalition
Florida Justice Institute
Florida Legal Services, Inc.
Gainesville Incarcerated Workers Organizing Committee
Inner City Innovators
LatinoJustice PRLDEF
LGBTQ Freedom Fund
New Florida Majority
Office of the Public Defender for the Fifteenth Judicial Circuit
Organize Florida
Palm Beach Association of Criminal Defense Lawyers
Palm Beach Community Coalition for Immigrant Rights
SEIU FPSU
Southern Legal Counsel
SPLC Action Fund
State Voices
The Rural Women's Health Project