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Governor John Bel Edwards  
Office of the Governor  
900 North Third Street #4  
Baton Rouge, LA 70802

March 30, 2020

## **RE: Oversight of Healthcare in Jails and Prisons During the COVID-19 Pandemic**

Governor Edwards—

We are writing on behalf of 70,000 people incarcerated in the custody of Louisiana's Department of Public Safety & Corrections, Office of Juvenile Justice, federal Bureau of Prisons, federal Immigration and Customs Enforcement, and local parish jails during the current COVID-19 pandemic, that also acutely impacts tens of thousands of workers spanning well over 100 detention facilities in Louisiana. Over the past several weeks, we have heard about prison staff and incarcerated people being symptomatic, isolated, quarantined, treated, and dying.

For the health of these people, as well as people throughout the state, we follow up our letter dated March 26<sup>th</sup>, and ask you to specifically address this pandemic in jails, prisons, and detention facilities within the state of Louisiana. To address the immediate and ongoing healthcare needs of incarcerated persons, VOTE seeks:

- (1) An emergency order by the Governor establishing independent medical oversight of all prison, jail, and detention facilities in Louisiana to address concerns related to the COVID-19 outbreak, and;
- (2) Establish an oversight body with the authority to access, inspect, and investigate these facilities for Covid-19 related policies, practices, and procedures, and provide technical assistance, including specific recommendations, as needed.

### **I. An Emergency Order to Address COVID-19 in Jails and Prisons**

Only broad medical and epidemiological oversight can account for a virus spanning over 100 facilities that impacts nearly 100,000 people incarcerated or working within them. such a system. Under **Louisiana R.S. 40:4(A)(13)**, the state health officer has the statutory authority to issue emergency rules and orders "for the purposes of controlling nuisances dangerous to the public health and communicable, contagious, and infectious diseases, and any other danger to the public life, health, and safety."<sup>1</sup> COVID-19 is a communicable, contagious, and infectious disease that possesses a danger to the public life, health, and safety of Louisiana citizens.

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<sup>1</sup> La. R.S. 40:4(A)(13).



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The current proposed “contingency” plan by the DOC does not reflect the public health expertise needed to address this crisis. Dr. Michael Puisis, an internist with 35 years of correctional medicine experience, most recently evaluated the Louisiana State Prison at Angola on behalf of The Promise of Justice Initiative, and previously monitored the facility for the United States Department of Justice. Based on his experience, Dr. Puisis believes a possible lack of hospital beds—both at the prison facility itself, but also in the rural part of the state where it is located places “inmates in a dire predicament.” In his view, the facility cannot handle the hospital-level care that would be required to treat a patient who tests positive, or exhibits symptoms of, COVID-19. Namely, the facility’s inability to provide ventilation and the infirmary’s dormitory and housing set-up would place other non-infected inmates at risk of community spread.<sup>2</sup>

Moreover, the contingency plan says nothing of the plans in place for people and staff at over 100 detention facilities in Louisiana, nor about their local medical facilities, channels of communication with families, transportation of people, releases that would ease systemic resource strain, releases that would save lives, social distancing, protective gear, hygienic supplies, staffing shortages, and palliative care procedures.

While Angola is just one example, inmates in Louisiana face similar risks in other facilities across the state. An emergency order under the state’s statutory authority could not just mitigate worst-case outcomes for individuals currently incarcerated in Louisiana state jails and prisons, but also keep prison staff safe, and help flatten the epidemiologic curve more broadly.

## **II. An Independent Body and Emergency Task Force with Authority to Access, Inspect, and Investigate Jail and Prison Facilities**

VOTE advocates for an emergency task force to serve the public interest in ensuring the response to COVID-19 is guided by public health expertise, constitutional protections, and basic human decency. This task force, should be empowered to:

- Enter any location where people do not have the freedom to seek shelter elsewhere, and do not have the freedom to seek medical care elsewhere;
- Speak with any person who has complained of symptoms that may reasonably be attributed to COVID-19, or who may be in elevated danger based on preexisting conditions, or who is under watch, isolation, quarantine, or treatment for COVID-19 whether inside a secure facility or in an outside medical facility;

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<sup>2</sup> Decl. of Dr. Michael Puisis, *Lewis v. Cain*, No. 3:15-cv-00318, ECF No. 580, (M.D. La. Mar. 29, 2020).



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- Make specific recommendations to the Governor and/or custodial authority for courses of action, including release of people as individuals or in a cohort, to which the Governor's office shall respond in a timely manner consistent with a pandemic outbreak.

The Governor should name a chair of the task force such as the Assistant Secretary of the Louisiana Office of Public Health, who is a medical doctor, empowered to create an independent oversight body guided by relevant expertise in medicine, epidemiology, palliative care, and prison conditions.

This independent oversight body should include, but not be limited to:

- Louisiana Office of Public Health;
- Representative of Centers for Disease Control and Prevention (CDC), and/or their respective experts in the field;
- LSU Schools of Medicine, Nursing, and Public Health, and/or their respective experts in the field;
- Tulane schools of Medicine, Public Health and Tropical Medicine, and/or their respective experts in the field;
- Formerly Incarcerated Transition Clinic;
- Organizations representative of currently and formerly incarcerated people, and their family members;
- Members of the legal community, including those who practice in the areas of constitutional law, disability law, and prison conditions;
- Louisiana Sheriffs Association;
- Department of Corrections.

We strongly believe a public health crisis demands a public health response, and even more so in the most highly transmittable location, where the most deadly impacts may be felt, and where people have no other recourse than to sit, wait, and pray for help.

Sincerely,

Norris Henderson  
Executive Director  
Voice of the Experienced