

December 21, 2020

Ngozi O. Ezike, MD
Director, Illinois Department of Public Health
Headquarters Office
525-535 West Jefferson Street
Springfield, IL 62761
Sent via email to Ngozi.Ezike@illinois.gov.

Re: Request that Incarcerated People Be Given Priority Access to the COVID-19 Vaccine

Dear Dr. Ezike:

We are grateful for the leadership that IDPH continues to provide during the COVID-19 pandemic. We write today to ask that you ensure incarcerated people are given priority access to the COVID-19 vaccine. Across the United States and specifically in Illinois, data has shown that incarcerated individuals are among the populations most vulnerable to be infected with and die from COVID-19.¹ The Illinois Department of Public Health (“IDPH”) has already recognized this vulnerability in your planning documents, and we applaud this recognition.² The “COVID-19 Vaccination Plan” released by IDPH on December 4, 2020, however, indicates that the priority status of incarcerated individuals and corrections staff has not yet been determined and may be within Phase 2 or even Phase 3.³ **We urge IDPH to follow the recommendations of nationally renowned public health experts and prioritize all incarcerated individuals and the staff who come in contact with them as part of Phase 1a for the COVID-19 vaccine rollout plan—treating them with the same urgency as people in other long-term congregate settings.**

In the above-mentioned COVID-19 Vaccination Plan, IDPH notes that it has adopted the equitable framework developed by the National Academies of Sciences, Engineering, and Medicine (NASEM) in regards to which populations will receive the COVID-19 vaccine first.⁴ IDPH also noted in your plan that the status of priority populations is subject to change as more is learned about the vaccine and affected populations.⁵ We ask that IDPH acknowledge the high risk of COVID-19 exposure for people living in all forms of state custody and the staff who work

¹ People in jail or prison have been found to be four times as likely to be infected with coronavirus as the general population and twice as likely to die from the infection (National Commission on COVID-19 and Criminal Justice, “COVID-19 in U.S. State and Federal Prisons” [Sept. 2020], accessible at <https://counciloncj.foleon.com/covid19/experience-to-action/welcome/>).

² Illinois Department for Public Health, “COVID-19 Vaccination Plan” (Dec. 2020), p. 11 (identifying “incarcerated individuals” as a “[population] at higher risk”), accessible at <https://www.dph.illinois.gov/sites/default/files/COVID19/IL%20COVID-19%20Vaccination%20Plan%20V%203.0%2012.5.20%20.pdf>

³ *Id.*, p. 14. On page 14, the Vaccination Plan lists 24,888 as the number of incarcerated people and staff in Illinois. We would like to note our concern that that number is too low. There are 56,000 guards and prisoners in the Illinois prison system alone and thousands more in local jails (including immigration detention contracts), juvenile detention, and other locked facilities.

⁴ *Id.*, p. 9.

⁵ *Id.*, p. 11.

with them and prioritize them for vaccinations. This includes people in the Illinois Department of Corrections (IDOC), Illinois Department of Juvenile Justice (IDJJ), county jails and juvenile detention centers (including those detained as part of immigration proceedings), the federal Metropolitan Correctional Center, locked treatment and detention facilities, and developmental and mental health centers operated by the state. **People and staff in these congregate environments should have the choice to receive the vaccine *at the same time* as nursing home residents and others living in places where social distancing is difficult or impossible.**

When the Centers for Disease Control and Prevention (CDC) recommended the prioritization of long-term care residents, they did so based on science and research.⁶ Prioritizing those residents is scientifically supported, implementation is feasible, and the choice aligns with the CDC's ethical values of (1) maximizing benefits and mitigating harms, (2) promoting justice, and (3) reducing health inequities.⁷ Health experts from around the country have noted that this same rationale applies to incarcerated people. Indeed, the ethical and equity concerns are even more pressing for incarcerated individuals than they are for residents of long-term care facilities given that they are disproportionately people of color and disproportionately subject to medical vulnerabilities compared to the general population.⁸

Health experts have been unanimous in their calls for the prioritization of incarcerated people in COVID-19 vaccination programs. The American Medical Association published a statement calling for vaccinations for incarcerated people to be included “in the initial phases of distribution.”⁹ The Johns Hopkins Center for Human Rights and Public Health published an open letter that has hundreds of signatories from medical and public health experts across the nation, urging that “people in carceral systems receive the same priority for receipt of a vaccine as both their peers in other congregate settings, such as long-term care facilities, and staff working in the facilities in which they are housed.”¹⁰ On December 16, public health experts from seven nationally renowned universities (Brown, Columbia, Harvard, UNC-Chapel Hill, UCLA, University of California-San Francisco, and Yale) published a research paper strongly recommending that states “prioritize vaccine distribution to all incarcerated people at the same stage as corrections officers (essential workers/first responders) or higher.”¹¹

⁶ See Centers for Disease Control and Prevention, “Phased Allocation of COVID-19 Vaccines” (December 1, 2020), accessible at <https://www.cdc.gov/vaccines/acip/meetings/downloads/slides-2020-12/COVID-02-Dooling.pdf>

⁷ *Id.*

⁸ Binswanger, I. A., Redmond, N., Steiner, J. F., & Hicks, L. S. (2012) “Health Disparities and the Criminal Justice System: An Agenda for Further Research and Action.” *Journal of Urban Health: Bulletin of the New York Academy of Medicine* 89(1), 98–107. <https://doi.org/10.1007/s11524-011-9614-1>

⁹ American Medical Association, “AMA policy calls for more COVID-19 prevention for congregate settings” (November 17, 2020), accessible at <https://www.ama-assn.org/press-center/press-releases/ama-policy-calls-more-covid-19-prevention-congregate-settings>

¹⁰ Rubinstein, L. & Faden, R. “COVID-19 Vaccine Recommendations Letter” (December 17, 2020), accessible at <https://docs.google.com/document/d/1RlZ51CDHLCJ4Pnhl0mdNI3VeRSuBu8QWblRtjXu6zN0/edit>

¹¹ See Wang, E & Brinkley-Rubinstein, L. “Recommendations for Prioritization and Distribution of COVID-19 Vaccine in Prisons and Jails” (December 16, 2020), accessible at https://justicelab.columbia.edu/sites/default/files/content/COVID_Vaccine_White_Paper.pdf

According to the National Commission on COVID-19 and Criminal Justice, people in jail or prison are four times as likely to be infected with coronavirus as the general population and twice as likely to die from the infection.¹² Jails and prisons are known to spread contagious diseases quickly since individuals are confined to close quarters, are unable to social distance, have little to no access to personal protective equipment, and lack easy access to hygiene products. In Illinois prisons, 13.5% of incarcerated people are 55 and over,¹³ and thousands of people who are vulnerable to COVID-19 because of age or health conditions are also detained in jails across the state.

Experts also urge states to recognize the unique challenges of vaccine distribution in custodial settings and to draw on the expertise of medical and public health officials familiar with these systems, and on incarcerated people themselves, to determine how to most effectively distribute the vaccine.¹⁴ These experts emphasize that in many states, prisons and jails have consistently been left out of COVID-19 response plans, leading to shortages in PPE, tests, and basic sanitation supplies, while other institutions in the state were better resourced. We cannot let this disparate treatment happen again.

The lives of incarcerated people are just as important as other people's lives. But unlike many other people, they are fully dependent on the state to provide them with health care—in this case, life-saving healthcare—and to protect them from exposure and harm that they cannot control. **Incarcerated people in Illinois have already fallen victim to some of the worst suffering caused by the pandemic. The state must not neglect its duty to provide adequate health resources to those in its care during the vaccine rollout process.**

In addition to the dangers to people inside, jails and prisons are also significant contributors to community spread of COVID. Illinois is infamous for the damage caused by inaction during the first wave of COVID-19 outbreaks in prisons and jails—particularly the one at Cook County Jail last spring. Cook County Jail (CCJ) is one of the largest single-site jails in the country, detaining over 5,500 people as of December 17, 2020. In April, the jail was named the “top U.S. hot spot” for COVID-19 cases by *The New York Times*.¹⁵ Not only did the CCJ outbreak lead to seven deaths and dozens of hospitalizations, it also exacerbated community transmission—especially in communities of color. A study in the *Journal of Health Affairs* by Harvard and University of Chicago researchers found that one in six cases in Chicago could be tied back to the outbreak at Cook County Jail.¹⁶ A report released this week estimates that incarceration added over 500,000

¹² National Commission on COVID-19 and Criminal Justice, “COVID-19 in U.S. State and Federal Prisons” (Sept. 2020), accessible at <https://counciloncj.foleon.com/covid19/experience-to-action/welcome/>

¹³ Illinois Department of Corrections, March 31, 2020 Population Dataset, accessible at <https://www2.illinois.gov/idoc/reportsandstatistics/Pages/Prison-Population-Data-Sets.aspx>

¹⁴ See Wang, p. 3.

¹⁵ New York Times, “Chicago’s Jail is Top U.S. Hot Spot as Virus Spreads Behind Bars” (April 23, 2020), accessible at <https://www.nytimes.com/2020/04/08/us/coronavirus-cook-county-jail-chicago.html>

¹⁶ See Reinhardt, E. & Chen, D. (June 8, 2020) “Incarceration And Its Disseminations: COVID-19 Pandemic Lessons.” *Journal of Health Affairs* (39)8, accessible at <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2020.00652>

additional infections nationally during summer 2020 alone.¹⁷ By providing incarcerated people and staff priority access to the COVID-19 vaccine, we can go a long way toward protecting the public health of everyone in Illinois.

Guards and other staff are the primary pathways for the virus to enter facilities, and once the virus hits the general population in jails and prisons, it is impossible to contain. In Cook County Jail, only 38% of people are housed in single cells.¹⁸ The rest are either double-celled or in dormitory settings with shared bathrooms and other facilities. Social distancing and other methods of decreasing transmission are simply not possible or effective in a congregate setting like a jail or prison. Currently, there are more people confirmed positive for COVID-19 (350 people) in Cook County Jail than at the height of the pandemic in the spring (307 people).¹⁹ Since March, eight people in the custody of Cook County Jail have died from COVID-19.²⁰

Isolation is the default infection prevention protocol inside custodial facilities. While people who are incarcerated await vaccination, they do so largely in solitary confinement like conditions (via quarantines and lockdowns) that put them at heightened mental health risk. People with mental health conditions are overrepresented in jails and prisons, and the impact of isolation is particularly severe on them. Confinement until the vaccine is available is also especially injurious for adolescents in custody.²¹

In Illinois prisons, the number of infections are already staggering. There are over 1,200 imprisoned people who are currently positive for COVID-19, along with over 400 staff members.²² Since the IDOC began publicly releasing data, the positivity rate for prisoners is 17.6%, higher than the general population in any of Illinois' 11 regions.²³ Overall, almost 6,000 imprisoned people and over 3,000 staff have contracted COVID since March.²⁴ Dozens of incarcerated people have died from contracting the virus in prisons, far from their homes, families, and communities. Even more concerning as a matter of public health is the fact that our prisons are mostly located in small downstate towns that lack the healthcare capacity to handle a major outbreak. When there was a major outbreak in Stateville, the National Guard had to be

¹⁷ Hooks, G. & Sawyer, W., "Mass Incarceration, COVID-19, and Community Spread" (December 2020), *Prison Policy Initiative*, accessible at <https://www.prisonpolicy.org/reports/covidspread.html>

¹⁸ Hendrickson, M., "Cook County Jail was One of the Nation's Largest COVID-19 Hot Spots Last Spring. It's Worse Now" (December 15, 2020), *Chicago Sun-Times*, accessible at <https://chicago.suntimes.com/coronavirus/2020/12/15/22165917/cook-county-jail-covid-19-coronavirus-bond-release-reform-judge-kim-foxx-tom-dart>

¹⁹ Injustice Watch, "Cook County Jail population and COVID-19 Tracker" (December 18, 2020), accessible at https://datastudio.google.com/reporting/1AI4THiXJ_6Nt-9NXwE0MfO_DUaaIKoxi/page/hcyJB?s=oQGghs5nYPk

²⁰ *Id.*

²¹ American Academy of Pediatrics, Interim Guidance, "Responding to the Needs of Youth Involved With the Justice System During the COVID-19 Pandemic" (Updated August 25, 2020), accessible at <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/responding-to-the-needs-of-youth-involved-with-the-justice-system--during-the-covid-19-pandemic/>

²² See Illinois Department of Corrections "COVID-19 Response" (as of December 17, 2020), accessible at <https://www2.illinois.gov/idoc/facilities/Pages/Covid19Response.aspx>

²³ *Id.*

²⁴ *Id.*

called in to handle the surge in cases.²⁵ **As we vaccinate the country, offering the vaccine to incarcerated individuals and staff members first can help avoid major shortages of hospital beds in small communities with prisons and jails nearby.**

For Illinois to continue to be a national leader in containing the pandemic, we must distribute the COVID-19 vaccine equitably and strategically. That requires including incarcerated people in the first round. Six states (Connecticut, Delaware, Massachusetts, Nebraska, Maryland, and New Mexico) have already explicitly included incarcerated people and the staff that work with them in Phase 1 of their vaccine rollout plans.²⁶ **Given Illinois' particularly dangerous experience with COVID-19 outbreaks in jails and prisons in the spring and now, it is vital to update Phase 1a of IDPH's vaccination rollout plan to include incarcerated individuals.**

Vaccinations of staff will not be enough to stop the spread of COVID-19 in correctional facilities. COVID-19 outbreaks are currently raging through our prisons and jails; it is imperative as a matter of fundamental human rights that we protect the lives of vulnerable individuals, whom the state has sentenced to serve time in these facilities, by offering them the option of COVID-19 vaccination as soon as possible.

The signatories of this letter urge the Illinois Department of Public Health to assign incarcerated individuals and corrections staff to Phase 1a of its vaccine rollout plan, so that we can avoid the unnecessary loss of life that will continue if outbreaks in jails and prisons are not immediately addressed. Please do not hesitate to contact Sarah Staudt, Senior Policy Analyst & Staff Attorney for Chicago Appleseed, with any questions at sarahstaudt@chicagoappleseed.org or (312) 988-6465. Thank you for your consideration.

Sincerely,

A Just Harvest
AFSC Chicago
Believers Bail Out
Black Lives Matter Chicago
BYP100 Chicago Chapter
Cabrini Green Legal Aid
Champaign County Bailout Coalition
Chicago 400 Alliance
Chicago Appleseed Fund for Justice
Chicago Community Bond Fund
Chicago Council of Lawyers
Chicago Freedom School

Chicago Torture Justice Center
Chicago Tech Workers Coalition
Children and Family Justice Center
Clergy for a New Drug Policy
The Coalition to End Money Bond
Concerned Citizens of Precinct #12
Equip for Equality
The Exoneration Project
Faith Coalition for the Common Good
For the People Artists Collective
Free Write Arts & Literacy
The Final 5 Campaign

²⁵ See Sfondeles, T. & Ballesteros, C., "Illinois National Guard Medics Headed to Stateville as Inmate Coronavirus Cases Rise" (April 1, 2020), *Chicago Sun-Times*, accessible at <https://chicago.suntimes.com/coronavirus/2020/4/1/21202995/coronavirus-covid-19-illinois-prison-stateville-national-guard-field-hospital>

²⁶ See Rose Quandt, K., "Incarcerated People and Corrections Staff Should be Prioritized in COVID-19 Vaccination Plan" (December 8, 2020), *Prison Policy Institute*, accessible at <https://www.prisonpolicy.org/blog/2020/12/08/covid-vaccination-plans/>

First Defense Legal Aid
 FirstFollowers
 Hinda Institute
 Illinois NOW
 Illinois Prison Project
 Illinois Religious Action Center
 of Reform Judaism (RAC-IL)
 John Howard Association
 Jolt Harm Reduction
 Legal Council for Health Justice
 Liberation Library
 Little Village Environmental Justice
 Organization
 Loevy & Loevy, Attorneys at Law
 Logan Square Neighborhood Association
 Love & Protect
 Lucy Parsons Labs
 Mandel Legal Aid Clinic, University of
 Chicago
 MediaJustice
 Moms United Against Violence &
 Incarceration
 National Lawyers Guild of Chicago
 Organized Communities Against
 Deportation
 Parole Illinois

The People's Lobby
 Pilsen Alliance
 Project 1-11
 Restore Justice Illinois
 Roderick and Solange MacArthur Justice
 Center at Northwestern University
 Pritzker School of Law
 Showing Up for Racial Justice (SURJ)
 Chicago
 Shriver Center on Poverty Law
 Silver Law Office PC
 Smart Decarceration Project - University of
 Chicago
 Students for Sensible Drug Policy Global
 Trinity United Church of Christ, Chicago
 Unitarian Universalist Advocacy Network
 of Illinois
 Unitarian Universalist Prison Ministry of
 Illinois
 United Congregations of the Metro East
 United Working Families
 Uptown People's Law Center
 Warehouse Workers for Justice
 Westside Justice Center
 Women's Justice Institute
 Workers Center for Racial Justice

Cc: JB Pritzker, Illinois Governor *via email to Governor@illinois.gov and Gov.COVID19stakeholder@Illinois.gov*;
 Debbie Brooks, Chief Nursing Officer, Cook County Department of Public Health *via email to dbrooks5@cookcountyil.gov*;
 Kiran Joshi, Attending Physician, Cook County Department of Public Health *via email to kjoshi@cookcountyil.gov*; and
 Allison Arwady, M.D., Commissioner, Chicago Department of Public Health *via email to Allison.Arwady@cityofchicago.org*.