UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DANIEL GUMNS, MICHAEL VIDEAU, TREVON WILEY, IAN CAZENAVE, REGINALD GEORGE, LIONEL TOLBERT, OTTO BARRERA, KENTRELL PARKER, MICHAEL ROBINSON, JULIUS ALLEN, ERNEST ROGERS, ALFOANSO GARNER, BRADLEY WINTERS, KENDRICK WILSON, and JAMES HUGHES, on behalf of themselves and all similarly situated individuals,

Plaintiffs,

v.

JOHN BEL EDWARDS, in his official capacity as Governor of the State of Louisiana; LOUISIANA DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS; JAMES LEBLANC, in his official capacity as Secretary of the Department of Safety and Corrections; JOHN MORRISON, in his official capacity as Medical Director of the Department of Safety and Corrections; LOUISIANA DEPARTMENT OF HEALTH; and STEPHEN R. RUSSO, in his official capacity as Interim Secretary of the Louisiana Department of Health,

Defendants.

CIVIL ACTION NO. 3:20-cv-00231-SDD-RLB

CLASS ACTION

PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

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Pursuant to Federal Rule of Civil Procedure 23, Plaintiffs respectfully request an order certifying Named Plaintiffs Daniel Gumns, Michael Videau, Trevon Wiley, Ian Cazenave, Reginald George, Lionel Tolbert, Otto Barrera, Kentrell Parker, Michael Robinson, Julius Allen, Ernest Rogers, Alfoanso Garner, Bradley Winters, Kendrick Wilson, and James Hughes to represent a class consisting of: (1) a subclass of all incarcerated individuals who are, or will in the future be, subject to

the medical care policies and practices of the Louisiana Department of Public Safety and Corrections ("DOC"), and subjected to DOC's COVID-19 policies and practices; and (2) a subclass of all individuals being held in pre-trial detention who are, or will in the future be, subjected to the medical care policies and practices of the DOC, and subjected to the DOC's COVID-19 policies and practices. Plaintiffs further request that the Court appoint the undersigned counsel as counsel for the class and subclasses.

For the reasons set forth in the memorandum of law filed herewith, the proposed class satisfies the numerosity, commonality, typicality, and adequacy of representation requirements of Rule 23(a) and the requirements of both Rule 23(b)(2) and Rule 23(b)(1)(A). In addition, the undersigned counsel are suitable for appointment as class counsel under Rule 23(g). Plaintiffs proposed class and subclasses should be certified and undersigned counsel should be appointed as counsel for the class and subclasses.

Respectfully submitted this 25th day of April, 2020.

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CERTIFICATE OF SERVICE

I, Nishi Kumar, an attorney, hereby certify that on April 25, 2020, I caused a copy of the foregoing to be filed using the Court's CM/ECF system.

I further certify that I, or another one of Plaintiffs' attorneys, will promptly electronically serve a copy of the same, along with all other pleadings and papers filed in the action to date to the General Counsel for the Louisiana Department of Corrections, the General Counsel for the Louisiana Governor, and the General Counsel for the Louisiana Department of Health, as well as the Louisiana Department of Justice Director of Litigation via email.

/s/ Nishi Kumar

Nishi Kumar, La. Bar No. 37415

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DANIEL GUMNS, MICHAEL VIDEAU, TREVON WILEY, IAN CAZENAVE, REGINALD GEORGE, LIONEL TOLBERT, OTTO BARRERA, KENTRELL PARKER, MICHAEL ROBINSON, JULIUS ALLEN, ERNEST ROGERS, ALFOANSO GARNER, BRADLEY WINTERS, KENDRICK WILSON, and JAMES HUGHES, on behalf of themselves and all similarly situated individuals,

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Defendants.

CIVIL ACTION NO. 3:20-cv-00231-SDD-RLB

CLASS ACTION

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I. INTRODUCTION

Without this Court's intervention, the tens of thousands of individuals currently imprisoned by the Louisiana Department of Public Safety and Corrections ("DOC") or detained pre-trial in Louisiana have little hope of enduring the current worldwide viral pandemic of COVID-19 unharmed. People in carceral settings already face a heightened risk from COVID-19 because they

are not able to engage in social distancing and other life-saving measures that have become everyday practice in most communities.[1] Despite COVID-19's deadly risks and Defendants' affirmative and non-delegable duty to keep detained people safe, Defendants have failed to implement medically necessary and adequate system-wide preventative measures to protect people from the substantial risk of harm stemming from COVID-19. Defendants' inadequate plans and dangerous inactions promise to increase transmission, expose vulnerable populations to this deadly virus, and prevent patients from obtaining necessary medical care. System-wide declaratory and injunctive relief is imperative to protect Plaintiffs and all other detained persons who are or will be subjected to Defendants' dangerously deficient response.

Named Plaintiffs seek this prospective relief on behalf of a Class defined as: "All prisoners and pretrial detainees who are, or will in the future be, subjected to Defendants' COVID-19 policies, practices, and omissions." Named Plaintiffs further seek to subdivide the Class defined above into two Subclasses defined as follows:

> Subclass I: All incarcerated individuals who are, or will in the future be, subjected to Defendants' COVID-19 policies, practices, and omissions.
>
> Subclass II: All individuals being held in pre-trial detention who are, or will in the future be, subjected Defendants' COVID-19 policies, practices, and omissions.

Both Subclasses easily satisfy the certification requirements of Rule 23. As detailed below, Defendants' deficient COVID-19 response impacts the tens of thousands of class members in exactly the same way—all face a constitutionally intolerable risk of harm due to Defendants' system-wide policies, practices, and omissions. Just as in this Court's order certifying the *Lewis* Class, to

[1] To help prevent transmission, the Centers for Disease Control and Prevention ("CDC") urges that people stay apart, wash their hands frequently, cover their mouths and noses, stay at home if they can, and consult a doctor if their symptoms worsen. *See* CDC, *How to Protect Yourself and Others*, https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html (last visited Apr. 25, 2020); *see also,* CDC, *What to Do if You Are Sick,* https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html (last visited Apr. 25, 2020).

remediate these common defects in Defendants' COVID-19 response, this Court need not engage in any determinations regarding the individual circumstances of any particular class member; rather, the Court must only determine whether Defendants' actions (and inactions) are sufficiently inadequate to warrant declaratory and injunctive relief. Further, because these systemic deficiencies generally apply to all members of the putative Class, all Class members will benefit from prospective relief that remediates these defects and thereby abates the substantial risk of harm stemming therefrom. Courts—including this one in *Lewis*—routinely certify such classes that seek to remediate systemic defects in prison system's provision of medical care. Here, certification is not only proper but also crucially necessary to protect the health and safety of all Class members subjected to Defendants' unconstitutional policies, practices and omissions.[2]

II. STATEMENT OF FACTS

A. The COVID-19 Health Crisis is an Unprecedented Global Pandemic That Requires Swift and Dramatic Coordinated Action to Prevent Further Widespread Illness and Death, Particularly in Prisons

The people of Louisiana, and throughout the world, face an unprecedented threat to their lives. In the last four months, the COVID-19 pandemic has killed more than 184,000 people worldwide, at least 1,540 of them in Louisiana.[3] COVID-19 is known to spread from person to person through respiratory droplets, close personal contact, and from contact with contaminated

[2] *See, e.g.*, *Fraihat v. ICE*, No. 5:19-cv-01546-JGB-SHK, Dkt. 133 (C.D. Cal. Apr. 20, 2020) (certifying nationwide class of medically vulnerable people in ICE custody in light of COVID-19 risks).
[3] *Coronavirus Map: Tracking the Global Outbreak*, N.Y TIMES, https://www.nytimes.com/interactive/2020/world/coronavirus-maps.html#map (last visited Apr. 25, 2020); *Coronavirus in the U.S.: Latest Map and Case Count,* N.Y. TIMES, https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html (last visited Apr. 25, 2020).

surfaces or objects.[4] There is no cure for this highly contagious and deadly virus.[5] Instead, social distancing and ready access to adequate medical care are the only reliable ways to mitigate risk from the virus' lethal consequences. The calls for individuals and organizations throughout the world to adopt these measures have been uniform, and have led to entire countries, states, and cities being locked down, in an extraordinary and remarkable battle to stop the spread of this deadly virus.[6] Indeed, the vast majority of the American population is under strict instructions to stay at home.[7]

While most Louisianans can shelter in place and self-determine their own medical care, the men and women in the State's prisons and jails are easy targets in the increasingly perilous circumstances of their confinement, entirely dependent upon Defendants for protection.[8] Congregate settings such as jails and prisons allow for rapid spread of infectious diseases that are transmitted person to person, especially those like COVID-19 passed by droplets through coughing

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[4] CDC, *Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 (COVID-19) in Healthcare Settings*, https://cutt.ly/VtYYiDG (last visited Apr. 24, 2020).

[5] Declaration of Dr. Michael Puisis Concerning the Risk of the Spread of COVID-10 in the Louisiana State Prison (LSP) at Angola ("Puisis Decl."), Dkt. 15-2 ¶ 2.

[6] Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Conference (March 13, 2020), https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-conference-3/; *Public Health Emergency – COVID-19,* State of Louisiana, Exec. Dept. Proclamation No. 25 JBE 2020 (Mar. 11, 2020); *Additional Measures for COVID-19: Stay at Home*, State of Louisiana, Exec. Dept. Proclamation No. 33 JBE 2020; *State of Emergency for COVID-19 – Elementary and Secondary Education,* State of Louisiana, Exec. Dept. Proclamation No. 47 JBE 2020 (closing all public school systems in Louisiana for the remainder of the 2019-20 school year).

[7] *See Which States and Cities Have Told Residents to Stay at Home*, N.Y. TIMES, https://www.nytimes.com/interactive/2020/us/coronavirus-stay-at-home-order.html (last visited Apr. 25, 2020).

[8] The Justice Collaborative, *Explainer: Prisons and Jails are Particularly Vulnerable to COVID-19 Outbreaks*, https://thejusticecollaborative.com/ wp-content/uploads/2020/03/TJCVulnerabilityof PrisonsandJailstoCOVID19 Explainer.pdf. ("[B]ehind bars, some of the most basic disease prevention measures are against the rules or simply impossible. Separating sick people from well people to prevent the disease from spreading can be nearly impossible in prison, since prisoners are already grouped according to security and other logistical considerations. Even so-called social distancing can prove impossible. People in prisons and jails live every minute of the day in close proximity to each other.").

and sneezing.[9] Jails and prisons house inmates in large numbers, in close quarters, often with minimal bath facilities.[10] Individuals in custody frequently suffer from chronic underlying health conditions, like asthma, diabetes, hypertension, or HIV, that place them at elevated risk for contracting serious COVID-19.[11] Though age is another high-risk group for COVID-19 illness and death, the DOC houses the elderly and those with significant medical conditions together—a recipe for serious infection and death.[12] As the morbid reports from cruise ships, nursing homes, and other prison systems have made clear, the health risks Louisiana prisoners face from the COVID-19 crisis are truly horrifying.[13]

Courts across the country are attempting to reduce these significant health risks—to inmates, correctional staff, and the outside community at large—created by prison populations in the face of the COVID-19 epidemic.[14]

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[9] Puisis Decl., Dkt. 15-2 ¶ 7; Declaration of Dr. Susan Vassallo Concerning the Risk of COVID-19 in the Louisiana State Prison at Angola ("Vassallo Decl")., Dkt. 15-3 at ¶ 7.
[10] Declaration of Daniel Gumns ("Gumns Decl."), Dkt. 15-7 ¶¶ 5-8; Declaration of Ian Cazenave ("Cazenave Decl."), Dkt. 15-8 ¶¶ 5-8.
[11] Puisis Decl., Dkt. 15-2 ¶ 12; Vassallo Decl., Dkt. 15-3 ¶ 10; Laura M. Maruschak et al. (2015), *Medical Problems of State and Federal Prisoners and Jail Inmates*, 2011-12. NCJ 248491. Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, *available at* https://www.bjs.gov/content/pub/pdf/mpsfpji1112.pdf.
[12] Puisis Decl., Dkt 15-2 ¶¶ 10, 12.
[13] CDC, *COVID-19 and Cruise Ship Travel*, https://wwwnc.cdc.gov/travel/notices/warning/coronavirus-cruise-ship (last visited Apr. 24, 2020); Los Angeles Times, *Seattle-Area Nursing Home Deaths Jump to 13 with COVID-19 and 11 of Unknown Causes*, (Mar. 7, 2020), https://www.latimes.com/world-nation/story/2020-03-07/nursing-home-coronavirus-deaths; LEGAL AID SOCIETY, *Analysis of COVID-19 Infection Rate in NYC Jails*, (Apr. 4, 2020), *available at* https://cutt.ly/utD6u5F; Zi Yang, *Cracks in the System: COVID-19 in Chinese Prisons*, THE DIPLOMAT, (Mar. 9, 2020), *available at* https://thediplomat.com/2020/03/cracks-in-the-system-covid-19-in-chinese-prisons/.
[14] *See, e.g.*, *Savino v. Souza*, No. 20-10617-WGY, 2020 WL 1703844 at *1 (D. Mass. Apr. 8, 2020) (recognizing, in certifying a class action brought by ICE detainees addressing the conditions of confinement at that facility, the "especially grim moment" presented by the COVID-19 pandemic); *see also Jimenez v. Cromen*, No. 18-10225-MLW (D. Mass. Mar. 26, 2020) (ordering release of immigrant detainee in the midst of the COVID-19 pandemic and noting that "[b]eing in a jail enhances risk" and that in jail "[s]ocial distancing is difficult or impossible"); *United States v. Stephens*, No. 15-cr-95-AJN, 2020 WL 1295155, at *3 (S.D.N.Y. Mar. 19, 2020) (ordering the release of inmate in Federal Bureau of Prisons custody due, in part, to risk posed by COVID-19 in the facility);

On March 23, 2020, the CDC issued Interim Guidance on Management of Coronavirus Disease 2019 (Covid-19) in Correctional and Detention Facilities (the "Interim Guidance"),[15] setting forth various "Operational Preparedness" steps that it describes as "essential actions" that correctional and detention facilities should take to plan and prepare for COVID-19.[16] Defendants have ignored and are violating the Interim Guidance each and every day putting the lives of Class Members at an extremely high risk of serious harm, including death.[17]

In the Matter of Extradition of Alejandro Manrique, No. 19-mj-71055, 2020 WL 1307109, at *1 (N. D. Cal. Mar. 19, 2020) (ordering change to conditions of bail for an individual to postpone incarceration, in part in light of risk of vulnerability to the coronavirus); *United States v. Barkman*, No. 3:19-cr-0052-RCJ-WGC, 2020 U.S. Dist. LEXIS 45628, at *3-9, *11 (D. Nev. Mar. 17, 2020) (suspending a parolee's sentence of intermittent confinement in light of the pandemic). On March 22, 2020, the New Jersey Supreme Court issued a consent order for the presumptive release of approximately 1,000 persons by March 26, 2020.

[15] *See* CDC, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html (last visited Apr. 25, 2020).

[16] Plaintiffs respectfully request that this Court take judicial notice of the CDC's Interim Guidance, a publicly-released government document. *See Planned Parenthood Gulf Coast, Inc. v. Kliebert*, 141 F.Supp.3d 604, n.34 (M.D. La. 2015) (a court may "take judicial notice of publically-available [sic] documents and transcripts produced by a state or federal agency 'which were matters of public record directly relevant to the issue at hand."); *see also Swindol v. Aurora Flight Sci. Corp.*, 805 F.3d 516, 518-19 & n.2 (5th Cir. 2015) (taking judicial notice of public records available on state government website); *Kitty Hawk Aircargo, Inc. v. Chao*, 418 F.3d 453, 457 & n.9 (5th Cir. 2005) (taking judicial notice of an entity's status as the collective bargaining representative based on public information regarding the entity's history posted on a governmental agency website).

[17] The CDC's Interim Guidance includes, but is not limited to:: (a) creating and testing "communication plans to disseminate critical information to incarcerated/detained persons, staff, contractors, vendors, and visitors as the pandemic progresses;" (b) identifying physical locations (dedicated housing areas and bathrooms) to isolate confirmed COVID-19 cases and individuals displaying COVID-19 symptoms and to quarantine known close contacts of cases; (c) for facilities without onsite health care capacity, creating "a plan for how they will ensure that suspected COVID-19 cases will be isolated, evaluated, tested (if indicated) and provided necessary medical care;" (d) creating a "list of possible social distancing strategies that could be implemented as needed at different stages of transmission intensity; (e) exploring "strategies to prevent over-crowding of correctional and detention facilities during a community outbreak;" and (f) posting signage throughout the facility, in all appropriate languages, communicating the symptoms of COVID-19 and appropriate hand hygiene instructions.

B. Defendants' Policies, Practices and Omissions in Response to COVID-19 Expose Class Members to an Unreasonable Risk of Serious Harm

Defendants have wholly failed to implement adequate policies and procedures in response to the deadly COVID-19 pandemic. These failures, viewed in their totality, threaten all Class members[18] with infection, life-altering complications, and even death.

On March 20, 2020, DOC reissued its existing Department Regulation No. HCP 26, "Influenza and Pandemic Viral Diseases: Preparedness, Response and Recovery" Regulation ("Pandemic Flu Plan").[19] Tellingly, this 10-page document does not even once reference COVID-19, and altogether fails to address medically necessary issues that are crucial for responding to COVID-19 in correctional facilities according to the CDC and other authorities.

For example, the CDC outlines numerous responses that should be a part of any COVID-19 response plan in correctional systems, including but not limited to: following clinical guidance for COVID-19 treatment; how correctional facilities should modify housing arrangements; implementing social distancing procedures; coordination with public health authorities; implementation of disease surveillance; and implementation of procedures to protect individuals

[18] Defendants' dangerously inadequate responses applies generally to both the DOC and pre-trial Subclasses. For example, in addition to having custodial authority over convicted persons, the DOC is statutorily authorized to bring into its "temporary, constructive custody inmates evacuated" from a parish affected by an emergency or disaster declared under La. R.S. 29.721, even if "the inmates . . . are awaiting trial as a pretrial detainee." Governor Edwards declared an emergency under La. R.S. 29.721, and by implementing its Camp J transfer plan, the DOC is taking into its constructive custody pretrial detainees and is therefore responsible for the care of those it transfers to state prisons. Likewise, Defendant DOH has "exclusive jurisdiction, control and authority" "[t]o enact provisions regulating the standards of health and decency and building regulations of all prisons, jails, lock-ups, and camps where prisoners are detained or confined." La. R.S. 40:5(4).

[19] Plaintiffs respectfully request that this Court take judicial notice of the DOC's Pandemic Flu Plan, a publicly-released government document, attached at Exhibit 3. *See supra* n.16.

who are particularly medically vulnerable.[20] DOC's Pandemic Flu Plan fails to adequately address all of these issues—and to the extent they are mentioned at all, the guidance is altogether lacking.

As a direct consequence of DOC's failure to promulgate adequate guidance, individual facilities' Flu Plans also fail to address adequately these issues, and omit or inadequately addresses others. For example, Dr. Puisis reviewed a sample facility Flu Plan, and found it be "a generic influenza-like-illness plan which is not consistent with guidance regarding COVID-19 and should not be used."[21] The inadequacy of DOC's Pandemic Flu Plan has clearly infected the facility Flu Plans. For instance, Dr. Puisis explained there are many ways in which the facility Flu Plan he reviewed is contrary to necessary guidance on COVID-19 by the CDC and "could result in increased transmission of infection." One example he used related to LSP's facility Flu Plan's inadequate guidance on staff infections.[22] The language in LSP's facility Flu Plan[23] is identical to the facility flu plan for Dixon Correctional Institute ("DCI").[24] Both are almost identical to the DOC Pandemic Flu Plan.[25]

The deficiencies in the LSP facility plan—such as the plan's failure to address necessary isolation needs for people who are positive for COVID-19 or are under investigation; failure to provide hospitalization guidelines; and failure to ensure that pre-existing deficiencies in the provision of medical care are remediated so as to ensure that patients are adequately treated for COVID-19—exist across the facility plans and in the DOC Pandemic Flu Plan. Indeed, a simple comparison between the plans for LSP and DCI show how these plans likewise fail to adequately address the

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[20] *See* CDC, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html (last visited Apr. 25, 2020).
[21] Puisis Decl., Dkt. 15-02 ¶ 28.
[22] Puisis Decl., Dkt. 15-02 at n.19.
[23] *See* Declaration of Jamila Johnson ("Johnson Decl."), Exhibit 1 ("LSP Flu Plan"), at 25-26.
[24] Johnson Decl., Exhibit 2 ("DCI Flu Plan"), at 13.
[25] Exhibit 3, Pandemic Flu Plan, at 9.

issues prescribed by the CDC.[26] Not surprisingly then, DOC's overall failure to provide adequate guidance to facilities has likewise resulted in dangerously inadequate conditions in facilities across the state.[27]

The CDC guidance also makes clear the need for robust and adequate testing of individuals who may be suspected of COVID-19.[28] Yet, the evidence shows that Defendants have systematically failed to implement sufficient testing for Class members. As of April 23, Defendants had tested only 299 people out of the tens of thousands of people in DOC custody.[29] More than a third of those tests resulted in positive cases.[30] Given the Defendants' failure to ensure adequate testing, these numbers likely represent just the tip of the iceberg in terms of overall positive cases in DOC facilities overall, meaning that countless COVID-19 positive persons are likely further spreading the infection.

Making matters worse, DOC has not only failed to follow the CDC's guidance, but has also failed to even follow the (now rescinded) guidance of the Louisiana Department of Health (LDH).[31] To provide but one example, the LDH guidance requires correctional facilities to ensure that proper social distancing of 6 feet is exercised by all detained people in order to reduce transmission; yet DOC's guidance altogether fails to delineate or mandate social distancing procedures.[32] And, the

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[26] Puisis Decl., Dkt. 15-02 ¶¶ 17-20; *see generally* Johnson Decl., Exhibit 2 ("DCI Flu Plan"); Exhibit 3, Pandemic Flu Plan.
[27] *See, e.g., Marlowe v. LeBlanc*, 3:18-cv-00063-BAJ-EWD, Dkt. 115 at pp. 9-10 (detailing inadequate COVID-19 responses at Rayburn Correctional Center).
[28] *See* CDC, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html (last visited Apr. 25, 2020).
[29] *See* Situational Awareness Report, LA. BUSINESS EMERGENCY OPERATIONS CENTER, https://www.labeoc.org/alerts/Alert_Details.aspx?id=1559 (last visited Apr. 25, 2020).
[30] *Id.*
[31] Louisiana Department of Health, Office of Public Health, COVID-19; recommendations regarding prisons and juvenile detention centers ("LDH Guidance") (Apr. 8, 2020). Plaintiffs respectfully request that this Court take judicial notice of these recommendations, publicly-released government documents, attached at Exhibit 4. *See supra* n.16.
[32] *Compare id.* at 3 *with* Exhibit 3, Pandemic Flu Plan.

evidence shows that detained individuals are not able to exercise this crucially needed preventative measure.[33]

Defendant DOH has likewise failed to provide a constitutionally adequate response to COVID-19. Though it rescinded its guidance by memorandum, dated April 8, 2020, LDH has failed to promulgate anything new to guide DOC's practices relating to the pandemic.[34] LDH has failed to issue any steps to provide oversight for quarantine, medical isolation, transportation, and hygiene practices in the state and local correctional systems. This is particularly problematic when state law entrusts LDH with the "exclusive jurisdiction, control, and authority" over these activities.[35] Defendants have not promulgated policies to ensure adequate staffing; resources; quality assurance; surveillance; auditing; data tracking; education; clinical guidance and training; or coordination with local, state, and federal health officials.[36] They have not made arrangements for each COVID-19 patient in DOC custody to be evaluated by a medical professional and initiate transfers of such patients only at the recommendation of the evaluating medical professional.[37] LDH has not assessed and made recommendations regarding conditions of confinement in all Louisiana jails and prisons consistent with the CDC's social distancing guidelines.[38] Defendants have not conformed all policies and guidance in local parish prisons and parish jails that hold state prisoners to such recommendations.[39] These failures to take even the most basic precautions, including

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[33] *See, e.g.*, Gumns Decl., Dkt. 15-08 ¶ 7 (housed in close quarters in a dorm with approximately 80 people); Cazenave Decl., Dkt. 15-08 ¶ 6 (housed in close quarters in a dorm with approximately 86 other people).

[34] Nicholas Chrastil, *The Louisiana Department of Health issued recommendations on how to stop the spread of coronavirus in prisons – then rescinded them*, THE LENS NOLA (Apr. 13, 2020), *available at* https://thelensnola.org/2020/04/13/the-louisiana-department-of-health-issued-recommendations-on-how-to-stop-the-spread-of-coronavirus-in-prisons-then-rescinded-them/

[35] La. R.S. § 40:5.

[36] *See generally* Exhibit 3, Pandemic Flu Plan; Exhibit 4, LDH Guidance (rescinded Apr. 9, 2020).

[37] *Id.*

[38] *Id.*

[39] *Id.*

recommendations outlined in the CDC Guidance, have exposed the Class to an unreasonable risk of serious harm.

Another example of DOC's poor response to COVID-19 is the Transfer Plan, under which patients housed in DOC facilities or local parish prisons and jails who test positive for COVID-19 may be transported to LSP's Camp J and potentially one or two other State prisons for medical isolation.[40] Yet the Transfer Plan flies in the face of current medical guidance and defies common sense. It exposes all Class members to an unreasonable risk of significant harm and must be immediately enjoined.[41] It is indisputable that LSP is not equipped to treat COVID-19 patients, is medically understaffed, and lacks the necessary medical expertise.[42] LSP is remote; the nearest hospital that can treat critical COVID patients is more than an hour's drive away.[43] Given the unpredictable and often rapid deterioration of COVID-19 patients who had only recently shown mild or no symptoms, these conditions expose Class Members to an unacceptable and unreasonable risk of serious harm.[44] The Transfer Plan will also undoubtedly exacerbate the rise of COVID-19 among the already elderly and medically vulnerable population at LSP.[45]

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[40] Vasallo Decl., Dkt. 15-3 ¶ 11; Declaration of Julius Allen, Dkt. 15-05 ¶ 11; Declaration of Kendrick Wilson, Dkt. 15-4 ¶ 11. As of April 21, 2020, it was reported that 89 COVID-19-positive inmates had been transferred from local jails to Camp J, including 18 inmates from Baton Rouge, 10 inmates from Franklin Parish, 10 inmates from Caldwell Parish, and 9 inmates from Tammany Parish. *See After expanded testing New Orleans jail sees spike in confirmed coronavirus cases,* THE LENS NOLA (Apr. 22, 2020), *available at* https://thelensnola.org/2020/04/22/after-expanded-testing-new-orleans-jail-sees-spike-in-confirmed-coronavirus-cases/.

[41] Pls. Mem. Supp. TRO, Dkt. 15-01, at 17.

[42] Vasallo Decl., Dkt. 15-3 ¶¶ 11, 13, 14.

[43] *Id.* at ¶¶ 7, 12, 14, 16; *see also Lewis v. Cain*, 15-cv-318, Dkt. 585 at 7 ("If an offender housed at Camp J begins to exhibit severe symptoms, he will be transport [sic] to an outside hospital. Offenders transferred to Camp J will not be sent to the ATU or the treatment center at LSP.").

[44] Vasallo Decl., Dkt. 15-3, ¶¶ 7, 12.

[45] Puisis Decl., Dkt. 15-2 ¶10.

In short, Defendants' deficient COVID-19 policies, practices, and omissions will result in numerous preventable deaths, produce unnecessary pain and suffering, and exacerbate the amount of medical complications throughout the state.

C. Defendants are Aware of the Risks That Their COVID-19 Policies and Practices Create

Defendants are well aware of the grave risks to the Class Members posed by COVID-19, as well as necessity for a sufficient COVID-19 management plan. On April 14, 2020, Defendants Edwards and LeBlanc publicly announced a plan to consider certain inmates for release under a set of restrictive conditions, recognizing the pressing need to reduce the overall prison population.[46] As part of that plan, the DOC created an administrative review panel to consider a select group of state prison inmates for temporary medical release.[47] As of Friday, April 17, only 11 people were cleared for release under this plan.

The DOH, through its offices and officers, is responsible for the development and providing of health and medical services for the prevention of disease for the citizens of Louisiana.[48] DOH's Secretary is responsible for the "administration, control, and operation of the functions, programs, and affairs."[49] The state health officer and the LDH has exclusive jurisdiction, control, and authority to enact provisions regulating the standards of health and decency and building regulations of all prisons, jails, lock-ups, and camps where prisoners are detained or confined. R.S. §

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[46] *Edwards: Furloughs to be granted to some inmates,* KATC3 (Apr. 14, 2020) *available at* https://www.katc.com/news/covering-louisiana/governor-to-hold-tuesday-press-briefing-on-covid-19.

[47] Lea Skene, *Panel will meet behind closed doors to decide Louisiana inmate releases amid coronavirus threat*, THE ADVOCATE (Apr. 17, 2020), *available at* https://www.theadvocate.com/baton_rouge/news/coronavirus/article_fd295732-80e2-11ea-9437-cfac6cd49a20.html

[48] La. Rev. Stat. Ann. § 36:251.

[49] *Id.* §§ 36:253, 36.254.

40:5. The now-rescinded April 8, LDH guidance to DOC also reflects a clear understanding by LDH officials and others of the threat COVID-19 poses to the state's prisoners.[50]

Defendants are also well aware of the appalling conditions at Camp J and the lack of proper medical staffing, expertise, supplies, and sanitation at LSP needed to combat this threat..[51] Prior reviews of LSP facilities have noted these inadequacies.[52] Camp J, specifically, was so notoriously unfit to house prisoners (even healthy ones), that it was shut down in May 2018.[53]

III. LEGAL STANDARD

To proceed as an injunctive Class, Plaintiffs must satisfy the requirements of Federal Rule of Civil Procedure 23(a) and (b).[54] Rule 23 does not require Plaintiffs to show that questions common to the Class "will be answered, on the merits, in favor of the class."[55] "Rule 23 grants courts no license to engage in free-ranging merits inquiries at the certification stage. Merits questions may be considered to the extent—but only to the extent—that they are relevant to determining whether the Rule 23 prerequisites for class certification are satisfied."[56] "The decision to certify is within the broad discretion of" this Court.[57]

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[50] Nicholas Chrastil, *The Louisiana Department of Health issued recommendations on how to stop the spread of coronavirus in prisons – then rescinded them*, THE LENS (Apr. 13, 2020), *available at* https://thelensnola.org/2020/04/13/the-louisiana-department-of-health-issued-recommendations-on-how-to-stop-the-spread-of-coronavirus-in-prisons-then-rescinded-them/

[51] Grace Toohey, *Angola Closes Its Notorious Camp J, "a Microcosm of a lot of Things that are Wrong,"* THE ADVOCATE, (May 13, 2018), *available at* https://www.theadvocate.com/baton_rouge/news/crime_police/article_b39f1e82-4d84-11e8-bbc2-1ff70a3227e7.html (reporting that Defendant LeBlanc has said of Camp J, that "Defendant Secretary James LeBlanc has said of Camp J that "it's just not a good place to be").

[52] Puisis Decl., Dkt. 15-2 ¶ 11.

[53] Grace Toohey, *Angola Closes Its Notorious Camp J, "a Microcosm of a lot of Things that Are Wrong"*, THE ADVOCATE, (May 13, 2018, 8:01 PM), https://www.theadvocate.com/baton_rouge/news/crime_police/article_b39f1e82-4d84-11e8-bbc2-1ff70a3227e7.html

[54] *M.D. ex rel. Stukenberg v. Perry*, 675 F.3d 832, 837 (5th Cir. 2012).

[55] *Cole v. Livingston*, No. 4:14-CV-1698, 2016 WL 3258345, at *3 (S.D. Tex. June 14, 2016) (*quoting Amgen Inc. v. Conn. Ret. Plans & Trust Funds*, 568 U.S. 455, 459 (2013)).

[56] *Amgen Inc. v. Connecticut Ret. Plans & Trust Funds*, 568 U.S. 455, 466 (2013).

[57] *Castano v. Am. Tobacco Co.*, 84 F.3d 734, 740 (5th Cir. 1996).

IV. ARGUMENT

The proposed Class readily meets the requirements of Rules 23(a) and (b). The Class is sufficiently numerous: approximately 46,600 individuals are currently in the DOC's immediate custody or are currently detained pre-trial in Louisiana. All Class Members are bound together by common questions of law and fact: the class claims all arise out of Defendants' inadequate and dangerous statewide COVID-19 response (or lack thereof). Named Plaintiffs are typical of the proposed Class: they are members of the Class, have suffered the same injuries as the proposed Class Members, and seek relief that will benefit the Class as a whole. Named Plaintiffs and their counsel will adequately and vigorously represent the Class. Finally, certification is appropriate under Rule 23(b)(2) because Defendants are creating and maintaining conditions that put the Class at imminent risk of contracting and dying from COVID-19, they have "acted or refused to act on grounds that apply generally to the class." Alternatively, certification is appropriate under Rule 23(b)(1)(A) because individual adjudication of Class Members' claims would risk creating inconsistent decisions that would establish varying standards to which Defendants would have to adhere in responding to COVID-19.

A. The proposed Class Satisfies the Numerosity, Commonality, Typicality, and Adequacy Requirements of Rule 23(a)

1. Numerosity

There can be no serious dispute that the proposed Class meets Rule 23(a)(1)'s numerosity requirement. Joinder is impracticable for a number of reasons. First, the proposed Class consists of over 46,600 members, including approximately 31,600 individuals serving sentences in the DOC's correctional facilities and parish jails, and another approximately 15,000 individuals held pretrial in parish jails that the DOC reimburses on a per-diem basis.[58] Thus, the Class and Subclasses are too

[58] Briefing Book, Louisiana Department of Public Safety and Corrections (January 2020), *available at* https://s32082.pcdn.co/wp-content/uploads/2020/03/0Z-Full-Jan-2020-BB-3.13.2020.pdf;

numerous for joinder to be practicable, because classes of more than 40 members are generally large enough to warrant certification.[59] Second, the proposed Class is fluid due to the ever-changing populations of prisons and jails, which "counsels in favor of including certification of all present and future members,"[60] and the indeterminate number of future Class Members makes joinder impracticable.[61] Third, the Class Members are "geographically dispersed" across the state in state prisons and parish jails, "further indicating that joinder is impracticable."[62] Finally, Class Members are incarcerated, rendering their ability to institute individual lawsuits limited, particularly in light of the DOC's reduced or eliminated visitation and court closures in Louisiana instituted to address COVID-19 concerns. Accordingly, the numerosity requirement is easily satisfied.

2. Commonality

The proposed Class and its named representatives share factual and legal issues more than adequate to satisfy commonality because Plaintiffs' claims "depend upon a common contention" that "is capable of classwide resolution" such that "determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke."[63] The central question driving this case is whether Defendants' statewide response, or lack thereof, to COVID-19 violates Plaintiffs' rights. That is, "all members of the proposed class share [the] common claim" that

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American Civil Liberties Union, *Justice Can't Wait: An Indictment of Louisiana's Pretrial System* (Mar. 2020) (estimating that on a given day there are 15,189 people jailed pretrial every day in Louisiana). Plaintiffs respectfully request that this Court take judicial notice of the DOC Briefing Book, a publicly-released government document. *See supra*, n. 16.

[59] *See Lewis v. Cain*, 324 F.R.D. 159, 168 (M.D. La. 2018); *see also Braggs v. Dunn,* 317 F.R.D. 634, 654 (M.D. Ala. 2016) (class of approximately 3400 prisoners across multiple facilities "exceeds the customary numerosity threshold by a factor of 85").

[60] *Lewis*, 324 F.R.D. at 168.

[61] *See Nelson v. Constant*, No. 17-14581, 2018 U.S. Dist. LEXIS 164853, at *9 (E.D. La. Sep. 25, 2018).

[62] *Morrow v. Washington*, 277 F.R.D. 172, 191 (E.D. Tex. 2011).

[63] *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011).

Defendant's COVID-19 response plan is inadequate and exposes all Class Members to a substantial risk of serious harm—thus, commonality is satisfied.[64]

Named Plaintiffs satisfy the commonality requirement because Class Members have numerous questions of fact and law in common, and "even a single common question" can satisfy the commonality requirement.[65] The Supreme Court, the Fifth Circuit, and countless other courts have recognized that common questions exist in cases, such as this, alleging systemic deficiencies in the provision of medical care at prisons that expose class members to a risk of harm—even if that harm does not ultimately manifest as to each class or where class members face differing levels of risk.[66] Here, the common questions of fact shared by all Class Members include, but are not limited to:

- Whether Defendants are aware of the substantial risk of serious harm Class Members face under the DOC's COVID-19 response plan;
- Whether Defendants have taken reasonable measures to abate the substantial risk of serious harm caused by the COVID-19 pandemic for the individuals who are within their custody;
- Whether Defendants have promulgated adequate policies to protect against the harms of COVID-19;
- Whether Defendants have ensured that prisons and jails have sufficient oversight, staffing, and resources to protect people from COVID-19; and
- Whether the DOC's COVID-19 response plan is consistent with the appropriate standard of care, as evidence by the CDC guidelines.

The common questions of law shared by all Class Members include, but are not limited to:

- Whether Class Members face a constitutionally intolerable risk of serious harm under the DOC's COVID-19 response plan; and

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[64] *See Lewis*, 324 F.R.D. at 169 ("Commonality requires showing that, in fact, all members of the proposed class share a common claim.") (citations omitted).
[65] *See Wal-Mart,* 564 U.S. at 359.
[66] *See, e.g.*, *Plata,* 563 U.S. at 506-08; *M.D.,* 675 F.3d at 838-39; *Gates v. Cook,* 376 F.3d 323, 328 (5th Cir. 2004); *Parsons v. Ryan*, 754 F.3d 657, 681 (9th Cir. 2014); *Dockery v. Fischer*, 253 F. Supp. 3d 832, 848 (S.D. Miss. 2015); *Decoteau v. Raemisch*, 304 F.R.D. 683, 688-89 (D. Colo. 2014); *Redmond v. Bigelow*, No. 13-CV-393, 2014 WL 2765469, at *4 (D. Utah June 18, 2014); *Jones*, 296 F.R.D. at 465; *Butler v. Suffolk Cnty.*, 289 F.R.D. 80, 98 (E.D.N.Y. 2013); *Henderson v. Thomas*, 289 F.R.D. 506, 511(M.D. Ala. 2012); *Olson v. Brown*, 284 F.R.D. 398, 410-12 (N.D. 2012); *Ind. Prot. & Advocacy Servs. Comm'n v. Comm'r, Ind. Dep't of Corr.*, No. 08-CV-1317, 2012 WL 6738517, at *18 (S.D. Ind. Dec. 31, 2012).

- Whether the DOC's COVID-19 response plan amounts to deliberate indifference in violation of Class Members' rights under the Constitution.

The answers to these common questions (and others) are central to all Class Members' claims and—crucially—all these common questions "are amenable to a common answer."[67]

Defendants' deficient response to COVID-19 generally applies to all Class Members, and this Court need not engage in any individualized determinations to assess whether Defendants' conduct is unconstitutional.[68] And because all Class Members seek the same declaratory and injunctive relief, this Court's determination of the legality of Defendant's actions and inactions on one or more of the grounds the Class alleges will resolve all Class Members' claims in "one stroke."[69] Thus, commonality is satisfied.

Just as in *Lewis*, Defendants cannot "negate the injury at the center of the Class's claims: the exposure to an unreasonable risk of serious harm."[70] As this Court recognized, though "[i]t seems unlikely that any two inmates would have the exact same exposure to a substantial risk of serious harm, [] this should not destroy commonality."[71] Here, Plaintiffs' allegations and evidence call into serious question the adequacy and appropriateness of Defendants' response to COVID-19. As in *Lewis*, "Plaintiffs offer common complaints that Defendants' policies pose a substantial risk of

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[67] *Jones v. Gusman*, 296 F.R.D. 416, 466 (E.D.L.A. 2013); *see also Braggs*, 317 F.R.D. at 655-61 (M.D. Ala. 2016) (commonality requirement and certification proper in statewide class action challenging state prison system's medical care).

[68] *See Brown v. Plata*, 563 U.S. 493, 505 n.3 (2011) ("Because plaintiffs do not base their case on deficiencies in care provided on any one occasion, this Court has no occasion to consider whether these instances of delay—or any other particular deficiency in medical care complained of by the plaintiffs—would violate the Constitution . . . if considered in isolation. Plaintiffs rely on systemwide deficiencies in the provision of medical and mental health care that, taken as a whole, subject sick and mentally ill prisoners . . . to "substantial risk of serious harm" and cause the delivery of care in the prisons to fall below the evolving standards of decency that mark the progress of a maturing society.").

[69] *See Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011).

[70] *Lewis*, 324 F.R.D. 159, 170-71 (M.D. La. 2018).

[71] *Id.* at 171.

serious harm to the health of all inmates and argue Defendants have been deliberately indifferent to this risk."[72] Accordingly, the proposed Class satisfies the commonality requirement of Rule 23(a)(2).

3. Typicality

Named Plaintiffs satisfy the typicality requirement because they are members of the proposed Class, and they share the same claims.[73] Named Plaintiffs' claims "arise from a similar course of conduct and share the same legal theor[ies]" as Class Members' and are therefore typical of Class Members' claims.[74] Although Named Plaintiffs' situations differ based on whether they are currently COVID-positive, where they are currently in custody,[75] or whether they fall into a high-risk group,[76] the basis of liability is not dependent upon their individual circumstances, but instead "the denial of a system that would have the effect of ensuring that they and their fellow prisoners [or detainees] are appropriately" protected from the risk posed by the COVID-19 pandemic—a system which Defendants are legally obligated to provide.[77] Because Named Plaintiffs' claims arise from the

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[72] *Id.*

[73] *See id.* at 169 ("Typicality requires showing that, in fact, the proposed representatives have that claim [that is shared by all members of the proposed class].") (citations omitted).

[74] *Id.* at 169 (quoting *James v. City of Dall.*, 254 F.3d 551, 571 (5th Cir. 2001)).

[75] *Cf. Braggs*, 317 F.R.D. at 661 (M.D. Ala. 2016) (rejecting argument that placement at different facilities destroyed commonality, explaining "[t]he claim in this case revolves around a prospective risk of harm; even if some aspect of the mental-health care at a particular facility is idiosyncratically better or worse, it is clear that numerous class members not currently housed at that facility are likely to be exposed to it in the future. . . . [Because] a prisoner is in ADOC custody [and] is subject to involuntary transfer at any time to another facility in the system, [he is] therefore subject to the risks of harm that attend placement at those other facilities").

[76] *Cf. Savino v. Souza*, No. CV 20-10617-WGY, 2020 WL 1703844, at *7-8 (D. Mass. Apr. 8, 2020) (Rejecting argument that difference in risk to COVID-19 destroyed commonality, noting that "even perfectly healthy detainees are seriously threatened by COVID-19. To be sure, the harm of a COVID-19 infection will generally be more serious for some petitioners than for others. [But] . . . [t]he case law supports a finding of commonality for class claims against dangerous detention conditions, even when some detainees are more at risk than others."); *Yates v. Collier*, 868 F.3d 354, 363 (5th Cir. 2017)).

[77] *See Lewis*, 324 F.R.D. at 170.

same course of conduct and share the same legal theories as Class Members', Named Plaintiffs' "factual differences [do] not defeat typicality."[78]

Named Plaintiffs are members of the Class; their injuries arise from the same course of conduct—Defendants' inadequate and misguided response to the COVID-19 pandemic which puts them at unreasonable risk of serious harm—and all seek the same relief as the Class. The common course of conduct Plaintiffs allege include the DOC's inadequate oversight of its facilities' medical care and failure to implement adequate precautionary measures and protocols. The failures to act are thus the same across the Class as a whole. The same is true of the legal injury: Named Plaintiffs' claims and the claims of all other Class members concern whether Defendants' deliberate indifference to the unreasonable risk of serious harm is unconstitutional.[79]

4. Adequacy

Named Plaintiffs are adequate representatives of the Class because their interests in the vindication of the legal claims raised here are entirely aligned with the interests of the other Class Members, who each have the same basic constitutional claims. They are members of the Class, and their interests coincide with, and are not antagonistic to, those of the other Class Members.

Named Plaintiffs' interests are not antagonistic to those of the Class. Named Plaintiffs and Class Members are suffering the same harms. They assert the same legal claims, seek the same litigation outcomes, and would benefit from the same declaratory and injunctive relief requiring Defendants to provide an adequate response to the dangers posed by the COVID-19 pandemic and

[78] *James v. City of Dallas*, 254 F.3d 551, 571 (5th Cir. 2001), *abrogated on other grounds by M.D.*, 675 F.3d 832 (quoting 5-23 Moore's Federal Practice—Civil § 23.24).

[79] *Dockery*, 253 F. Supp. 3d at 855 ("As the claims of each putative class and subclass member (1) arise from the same policy or practice, i.e. the prison officials' alleged failure to take corrective action, and the same defect, i.e. the existence of inhumane conditions of confinement, and (2) are based on the same legal theory, i.e. the alleged violation of the Eighth Amendment right to be free from cruel and unusual punishment, the Court finds that Plaintiffs have satisfied the Rule 23(a)(3) typicality commonality requirement with respect to the general EMCF Class and each of the subclass[es].").

halting the misguided and dangerous elements of the DOC's current response plan. Moreover, Named Plaintiffs are not seeking monetary relief, so no financial conflict can arise between the claims of Named Plaintiffs and those of other Class Members. Named Plaintiffs are committed to a class-wide resolution, and they will fairly and adequately protect the interests of the Class.[80]

B. The Requirements of Rule 23(b)(2) Are Met

"The claims at issue present a paradigmatic case for Rule 23(b)(2) relief."[81] Certification under Rule 23(b)(2) is appropriate because "[Defendants] [have] acted [and] refused to act on grounds that apply generally to the class, so that final injunctive relief [and] corresponding declaratory relief [are] appropriate respecting the class as a whole."[82] Moreover, all Class Members are "harmed in essentially the same way" and seek only "specific" injunctive relief.[83]

The same reasoning that establishes commonality, discussed above, satisfies the first requirement of Rule 23(b)(2)—that all Class Members are harmed in essentially the same way—because "[i]n establishing commonality [Named Plaintiffs] [] have identified a common practice or policy that is the source of the class members' harm. So, if [Named Plaintiffs] prevail[] on the merits, a single injunction barring or modifying that course of that behavior will, in the ordinary course of things, provide relief to the members of the class."[84] Defendants' challenged practices are not tailored to individual inmates or detainees, but apply to the population of prisoners and pre-trial detainees who are, or will in the future be, subject to the medical care policies and practices of the DOC as a whole. These practices apply to all Class Members simply by virtue of Class Members' status as persons held in the State's prisons and parish jails because they are now, or could become,

[80] The qualifications of the proposed class counsel are discussed *infra* in Section IV.D.
[81] *Jones*, 296 F.R.D. at 465.
[82] Fed. R. Civ. P. 23(b)(2).
[83] *M.D.*, 675 F.3d at 845; *see also, e.g., Dockery*, 253 F. Supp. 3d at 855.
[84] *Dockery*, 253 F. Supp. 3d at 839.

subject to the DOC's medical care policies and practices, without regard to the various circumstances of their criminal cases or any other differences among them. Because Defendants' overall failures in responding adequately to the pandemic put all Class Members at a substantial risk of serious harm from COVID-19, a carefully crafted injunction would provide relief to all Members of the Class.

As incarcerated persons seeking injunctive relief from the conditions of their confinement, Named Plaintiffs need not prove that Defendants' COVID-19 response plan has already resulted in actual injury to each Class Member; rather, the inquiry focuses on the unreasonable risk of harm.[85] In *Brown v. Plata*, the Supreme Court implicitly reaffirmed that claims regarding the constitutionality of correctional health care systems are amenable to class treatment, affirming a grant of injunctive relief to a class of tens of thousands of prisoners in multiple prisons across California who alleged "systemwide deficiencies in the provision of medical and mental health care that, taken as a whole, subject sick and mentally ill prisoners in California to a substantial risk of serious harm and cause the delivery of care in the prisons to fall below the evolving standards of decency that mark the progress of a maturing society."[86]

To the extent that differences between the constitutional standards applicable to pre-trial and post-conviction detainees could be relevant—although Plaintiffs contend that they are not—the proposed Subclasses would address that issue. As discussed in Plaintiffs' memorandum in support of their application for a temporary restraining order and a preliminary injunction, pre-trial detainees are protected by the Fifth Amendment, while post-conviction detainees are protected by the Eighth Amendment, but the Fifth Circuit has held that the same subjective deliberate indifference standard

[85] *See Farmer v. Brennan*, 511 U.S. 825, 847 (1994); *see also Jones*, 296 F.R.D. at 465-66 (holding that to satisfy commonality in action challenging systemic defects, it is not necessary that the challenged defects "injure each class member"); *Braggs*, 317 F.R.D. at 656 (same).
[86] 563 U.S. at 505 n.3 (internal quotation marks omitted).

applies to both.[87] Because Defendants' conduct here falls below the standard set by each Amendment, certification of a single Class would be appropriate. But even if the different legal standards lead to different determinations, the proposed Subclasses of post-conviction prisoners (Subclass I) and pre-trial detainees (Subclass II) provide an avenue for this Court to grant relief on a subclass-wide basis for each.[88] Each Subclass satisfies all of Rule 23's requirements, for the same reasons, explained above, that the main Class does.

As to the second requirement for Class Members seeking injunctive relief under Rule 23(b)(2), that the injunctive relief sought be "specific," "[t]he precise terms of the injunction need not be decided at class certification, only that the class members' claim is such that a sufficiently specific injunction can be conceived . . . ."[89] Named Plaintiffs satisfy this requirement because their claims are "susceptible to common, specific relief."[90]

As this Court noted in *Lewis*, "[t]he Fifth Circuit has held that 'class claims could conceivably be based on an allegation that the State engages in a pattern or practice of agency action or inaction—including a failure to correct a structural deficiency within the agency, such as insufficient staffing—'with respect to the class,' so long as declaratory or injunctive relief 'settling the legality of the State's behavior with respect to the class as a whole is appropriate.'"[91] So too, here. The entire Class seeks a declaratory judgment that Defendants violate Class Members' constitutional rights by failing to adequately safeguard their health and safety in the midst of a pandemic of a deadly infectious disease and an injunction requiring Defendants to take the steps necessary to protect Class

[87] Dkt. 15-01 at 16 n.113.
[88] *See, e.g., Krell v. Prudential Ins. Co. of Am.*, 148 F.3d 283, 315 (3d Cir.1998).
[89] *Dockery*, 253 F. Supp. 3d at 851; accord, e.g., *Morrow v. Washington*, 277 F.R.D. 172, 198 (E.D. Tex. 2011).
[90] *Perry*, 294 F.R.D. at, 47).
[91] *Lewis*, 15-cv-318, Dkt. No. 394 at 21 (quoting *Perry*, 675 F.3d at 847-48).

Members from suffering serious harm from the disease. Among other relief, Plaintiffs ask that this Court order Defendants to:

- promulgate and implement adequate policies and procedures related to COVID-19 that ensure adequate staffing; resources; quality assurance; surveillance; auditing; data tracking; coordination with local, state, and federal health officials; education; clinical guidance; and training;
- ensure that each COVID-19 patient in DOC custody is evaluated by a medical professional and that transfers of such patients are initiated only at the recommendation of the evaluating medical professional;
- evaluate each DOC facility's capacity to provide social distancing and evaluate the maximum number of inmates each facility can house safely under the CDC's social distancing guidelines;
- assess and make recommendations regarding conditions of confinement in all Louisiana jails and prisons consistent with the CDC's social distancing guidelines; and
- conform all policies and guidance in local parish prisons and parish jails that hold state prisoners to such recommendations.

This relief would apply equally to the entire Class and both Subclasses.[92] Therefore, certification under Rule 23(b)(2) is appropriate.

C. The Requirements of Rule 23(b)(1)(A) Are Also Met

Named Plaintiffs' claims easily satisfy the Rule 23(b)(1)(A) standard for certification because they create a risk of inconsistent or varying adjudications if raised individually. Certification under Rule 23(b)(1)(A) "is appropriate [because] the class seeks injunctive [and] declaratory relief to change [Defendants'] alleged ongoing course of conduct that is . . . illegal as to all members of the class."[93] If each of the approximately 46,600 individual Class Members were to bring separate suits making the allegations made in this case, the adjudication of these actions would risk creating inconsistent

[92] *See Dockery*, 253 F. Supp. 3d at 856 ("As the types of injunctive relief requested by Plaintiffs would not require that the Court adjudicate the individual class members' needs or circumstances, . . . the injunctive relief requested by Plaintiffs satisfies Rule 23(b)(2).").

[93] *Adair v. England*, 209 F.R.D. 5, 12 (D.D.C. 2002) (citing 5 Moore's Fed. Practice § 23.41[4] (3d ed. 2000)); *see also Evans v. Sterling* Chems. Inc., No. CV H-07-625, 2008 WL 11389418, at *6 (S.D. Tex. Nov. 19, 2008) (certification under 23(b)(1)(A) appropriate where injunction is the predominant relief sought and "there is a need to conclude or adjudicate all potential claims in one suit").

decisions that would establish varying standards to which Defendants would have to adhere.[94] Plaintiffs seek declaratory and injunctive relief that is applicable to all Class Members.[95] Further, the urgent necessity of requiring Defendants to adequately respond to the COVID-19 crisis creates a need to conclude these adjudications quickly in one suit.[96]

D. Undersigned Counsel Should be Appointed Class Counsel Under Rule 23(g)

Finally, the Court must appoint Class counsel, considering "(i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel's knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class."[97] These factors strongly support appointing the Promise of Justice Initiative ("PJI"), the Southern Poverty Law Center ("SPLC"), and Orrick, Herrington, & Sutcliffe LLP ("Orrick").

Plaintiffs' counsel satisfy all four criteria. As reflected in the complaint and temporary restraining order papers filed in this matter, Plaintiffs' counsel have already devoted substantial time investigating the factual and legal issues in this case and will continue do so throughout the pendency of the litigation. All Class counsel are experienced in handling class actions and other complex litigation. PJI and SPLC are dedicated to ensuring constitutional conditions for institutionalized individuals and are highly knowledgeable in the applicable law.[98] Collectively, counsel has significant experience in the areas of criminal law, constitutional law, and class action litigation.[99] Finally, the Court has seen firsthand the resources and acumen Plaintiffs' counsel bring

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[94] *See, e.g., Ashker v. Governor of the State of Cal.*, No. C 09-5796 CW, 2014 WL 2465191, at *7 (N.D. Cal. June 2, 2014) (certifying class of inmates claiming prison policy violated the Eighth Amendment pursuant to Fed. R. Civ. P. 23(b)(1)(A) in light of the "significant risk" of inconsistent judgments if the hundreds of proposed class members filed separate actions).
[95] *See Evans*, 2008 WL 11389418, at *6.
[96] *Id.*
[97] Fed. R. Civ. P. 23(g).
[98] Montagnes Decl. ¶¶ 3-4; Davidson Decl. ¶¶ 3-4.
[99] Montagnes Decl. ¶¶ 3-4; Davidson Decl. ¶¶ 3-4; Haag Decl ¶¶ 4-7.

to this case. PJI previously litigated *Ball v. LeBlanc*, succeeding at trial and then continuing to fight for their clients through the appeal and remedy phases, and are currently successfully litigating *Lewis* – the facts of which are highly relevant here. They and their co-counsel have already committed many hours to representing the Class in this case, and will continue to fight to make sure Class Members are adequately protected from the COVID-19 pandemic.

V. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court certify the proposed Class and Subclasses and appoint the undersigned counsel as counsel for the Class and Subclasses.

Respectfully submitted this 25th day of April, 2020.

/s/ Mercedes Montagnes

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CERTIFICATE OF SERVICE

I, Nishi Kumar, an attorney, hereby certify that on April 25, 2020, I caused a copy of the foregoing to be filed using the Court's CM/ECF system.

I further certify that I, or another one of Plaintiffs' attorneys, will promptly electronically serve a copy of the same, along with all other pleadings and papers filed in the action to date to the General Counsel for the Louisiana Department of Corrections, the General Counsel for the Louisiana Governor, and the General Counsel for the Louisiana Department of Health, as well as the Louisiana Department of Justice Director of Litigation via email.

/s/ Nishi Kumar

Nishi Kumar, La. Bar No. 37415

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DANIEL GUMNS, MICHAEL VIDEAU, TREVON WILEY, IAN CAZENAVE, REGINALD GEORGE, LIONEL TOLBERT, OTTO BARRERA, KENTRELL PARKER, MICHAEL ROBINSON, JULIUS ALLEN, ERNEST ROGERS, ALFOANSO GARNER, BRADLEY WINTERS, KENDRICK WILSON, and JAMES HUGHES, on behalf of themselves and all similarly situated individuals,

Plaintiffs,

v.

JOHN BEL EDWARDS, in his official capacity as Governor of the State of Louisiana; LOUISIANA DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS; JAMES LEBLANC, in his official capacity as Secretary of the Department of Safety and Corrections; JOHN MORRISON, in his official capacity as Medical Director of the Department of Safety and Corrections; LOUISIANA DEPARTMENT OF HEALTH; and STEPHEN R. RUSSO, in his official capacity as Interim Secretary of the Louisiana Department of Health,

Defendants.

CIVIL ACTION NO. 3:20-cv-00231-SDD-RLB

CLASS ACTION

DECLARATION OF JAMILA A. JOHNSON IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, Jamila A. Johnson, declare as follows:

1. I am an attorney duly licensed to practice law in the State of Louisiana and am one of the counsel of record for Plaintiffs in the above-captioned case. This declaration is based upon my personal knowledge and is true to the best of my knowledge and belief.

2. Attached at Exhibit 1 is a true and accurate copy of the Louisiana State Penitentiary Pandemic Flu Plan, provided by counsel for the Department of Public Safety and Corrections in March 2020.

3. Attached at Exhibit 2 is a true and accurate copy of the Dixon Correctional Institute COOP Plan: Influenza and Pandemic Viral Diseases: Preparedness, Response, and Recovery provided by the Department of Public Safety and Corrections on March 21, 2020.

Respectfully submitted this 25th day of April, 2020.

/s/ Jamila A. Johnson

Jamila A. Johnson, La. Bar No. 37952
The Promise of Justice Initiative
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Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I, Nishi Kumar, an attorney, hereby certify that on April 25, 2020, I caused a copy of the foregoing to be filed using the Court's CM/ECF system.

I further certify that I, or another one of Plaintiffs' attorneys, will promptly electronically serve a copy of the same, along with all other pleadings and papers filed in the action to date to the General Counsel for the Louisiana Department of Corrections, the General Counsel for the Louisiana Governor, and the General Counsel for the Louisiana Department of Health, as well as the Louisiana Department of Justice Director of Litigation via email.

/s/ Nishi Kumar

Nishi Kumar, La. Bar No. 37415

CONTINUITY OF OPERATIONS PLAN

LOUISIANA STATE PENITENTIARY

COOP

DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

Darrel Vannoy—Warden

March 2020

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I. CONCEPT OF OPERATIONS

Louisiana State Penitentiary (LSP) directs and controls emergency/disaster operations in accordance with Departmental Regulation No. OP-B-1 "Incident Management Center," through the Incident Management Center (IMC) located at Corrections Services Headquarters, 504 Mayflower, Baton Rouge, LA. Should the IMC become inoperative, isolated and/or unusable, the Secretary or his designee, shall issue relocation instructions to B. B. Rayburn Correctional Center (RCC) located at 27268 Highway 21 in Angie, Louisiana.

A. Phase I: Activation and Relocation

1. Decision Process

The necessity for activation of the COOP plan for LSP may come with or without warning. In instances where circumstances and time allows, the COOP activation decisions will be made by the Warden or his designee. In cases where circumstances or time does not allow for the activation to be made in this manner, the decision will be made by the senior chain of command authority available at that time. The decision will, as time and circumstances allow, be made in a logical risk assessment manner taking into account Situational Reports (SITREPs) from the IMC, Governor's Office of Homeland Security and Emergency Preparedness, Emergency Operations Center (GHOSEP, EOC) or credible information from any other competent agency or authority such as parish or municipal emergency management, fire or law enforcement, industry incident alerts or similar credible information sources.

2. Alert, Notification, and Implementation Process

In the event of an alert to pending or possible COOP activations, Louisiana State Penitentiary (LSP) Control Center will notify all Corrections Services Senior Staff (Regional Warden, Chief of Operations, Secretary) and LSP Staff according to Attachment 1 – LSP Organizational Chart of this plan via electronic, telephonic (First Alert System) or radio communication. Senior Staff will, utilizing all available contact / notification resources such as "calling trees," e-mail groupings, or direct contact, make immediate notification to their respective staffs / personnel of the alert and relative information. All staff must be mindful that situational circumstances are very likely to preclude any opportunity to provide timely alert to COOP activation but rather result in COOP activation notification only.

Notification of COOP activation will likewise be issued in similar fashion, time and circumstances allowing. Event circumstances may require the use

of the most expedient or direct method of notification possible to maximize implementation/response while minimizing time. Notification of COOP activation requires immediate implementation. The scope of implementation will be dictated by the circumstances with the greatest potential risk or impact being assumed.

COOP plan implementation will begin immediately upon notification. Implementation will be supervised and coordinated through the chain of command with full communications not only vertically (up and down) through the chain of command but laterally as well to minimize miscommunication, dispel rumors/misinformation and facilitate efficient plan implementation (see Attachment 2 – Orders of Succession Organizational Chart and Attachment 7 – LSP Full Scale Evacuation).

3. Leadership

Orders of Succession

The following organizational chart outlines the chain of command or supersession within the Institution. Authority of each position may be delegated if required for the efficient management of the emergency event. Succession orders may be verbally conveyed by senior chain of command authority with instructions to assume the authority of that position should event circumstances necessitate such orders. Direct instructions for response or operations should accompany the instructions to assume authority. The LSP Orders of Succession organization chart is contained in this plan as Attachment 3.

LSP

1. Corrections Warden 5
2. Deputy Warden Security
    - Asst. Warden Security
        - Asst. Warden Outcamps
            - Outcamp Asst. Wardens
                - Outcamp Colonels
        - Asst. Warden Main Prison
            - Main Prison Asst. Wardens
                - Main Prison Colonels
        - Asst. Warden Support Services
            - Asst. Warden Field Operations
3. Deputy Warden Operations
    - Asst. Warden Health Services
4. Deputy Warden Programming
    - Asst. Warden Programming
    - Asst. Warden Adminsitrative Services

Delegations of Authority

The authorities for policy determinations and operational decisions will follow the LSP organizational chart (Attachment 1) or during times of COOP activation and implementation, the order as defined in the Essential Functions (Attachment 3) and Orders of Succession.

Operational authorities for certain functions, at the Warden's discretion, may be pre-determined. Functions subject to pre-determination include:

- Major medical/health incident management to be under the direction of the Deputy Warden/Operations, LSP's Medical Director and/or the Department's Medical Director

- Major multiple tactical unit deployment management to be under the direction of LSP's Tactical Unit Coordinator and/or the Department's Tactical Unit Coordinator.

Emergency management operations to be under the command of the designated Incident Commander in compliance with National Incident Management System (NIMS) / Incident Command System (ICS) and Incident Management Center (IMC) operations to be under the direction of the IMC Director.

Additional delegations of authority may be designated by the appropriate command authority as necessary. Pre-determined delegations of authority may be cancelled by the appropriate command authority when circumstances or situational requirements dictate the appropriateness of such cancellations or the return to normal delegations of authority is warranted.

Devolution

LSP under a worst-case scenario where the Warden and command staff are unavailable or incapacitated will transfer command authority to the Chief of Operations or his designee.

The decision to implement the measures required under devolution scenario will be made by the highest-ranking available command authority. Essential functions, which have been identified and enumerated on a priority basis, are contained and located within this plan as Attachment 3.

B. Phase II: Alternate Facility Operations

1. Mission Critical Systems

SYSTEM NAME	CURRENT LOCATIONS	OTHER LOCATIONS
Offender Records	LSP Admin Bldg	EHCC
Offender Banking	LSP Admin Bldg	HDQ
Computer Servers	LSP Admin Bldg/Infirmary/IT Building	HDQ
Offender Medical Records	LSP Infirmary	EHCC
Human Resource Employee Files	LSP Admin Bldg	HDQ
Purchasing/Budgeting	LSP Admin Bldg	HDQ

2. Vital Files, Records, and Databases

Records management policy is in accordance with Department Regulation No. A-01-009 (AM-D-1), "Records Management" which incorporates the requirements mandated by the Division of Administration. Critical Mission Data Systems as noted in the above matrix are replicated and maintained at OIS HQ. The LSP server contains electronic copies of Department emergency operations plans, COOP Plans, telephone rosters, devolution contact list and legal authority contact. LSP provides the Corrections Incident Management Center (IMC) with hardcopies of the above items. The COOP plan will be updated annually, and is likewise distributed and available to all LSP senior staff offices and personnel.

Vital File, Record, or Database	Form of Record (e.g., hardcopy, electronic)	Pre-positioned at Alternate Site	Hand carried to Alternate Facility	Backed up at Third Location
COOP Plan	Electronic/HARDCOPY	X	X	
Phone Roster	Electronic/HARDCOPY	X	X	
Devolution Contact List	Electronic/HARDCOPY	X	X	

C. Phase III: Reconstitution

1. Overview

Initially, key senior and executive staff as well as critical support staff may be required to be "on-duty: either in person or by electronic means, 24/7. As the emergency event stabilizes and recovery steps are initiated, staff will be scaled back at the alternate work location as appropriate. Select key staff may be detailed to the event location so on-site decisions can be made to facilitate speed of recovery.

2. Procedures

Upon the emergency event being resolved or operationally under control, staff assigned to the alternate site location will be transitioned back to the primary work site as a group. The group move will preclude key staff being

at different locations, which inherently compound communication, and decision-making difficulties. At such time as the staff can be safely and securely returned to their primary work site, a date and time will be transmitted to all department staff.

3. After–Action Review and Remedial Action Plans

Within time frame guidelines established by the Secretary's office, the emergency event and related responses will under go an After-Action Review and as necessary appropriate remedial action plans developed.

II. COOP Planning Responsibilities

RESPONSIBILITY	POSITION
Update COOP Annually	Warden, Deputy Warden Operations, DW Security, DW Programming, AW Admin. Services, and Security Warden, COOP Committee
Update Telephone Rosters Annually	DW Programming
Review status of vital files, records, and databases	OTS staff stationed at LSP
Conduct alert and notification tests	Security Warden
Develop and lead COOP training	Security Warden
Plan COOP exercises	Security Warden

III. Logistics

A. Alternate Location

The primary alternate location, Corrections Services HDQ, is a fully resource facility with the necessary infrastructure and assets to support alternate location operations for LSP's Command Staff for an extended period of time. DCI was selected as the secondary location upon risk assessment of all suitable sites.

B. Interoperable Communications

LSP's communication interoperability is based on primary and redundant systems. Radio communication is maintained through the state's truncated 700 MHz radio system with all Corrections Services facilities, divisions and command staff being suitably equipped. Telephone communications are augmented beyond the everyday land based systems with satellite telephone assets at each facility and command staff personnel. Cell phones, blackberry assets with text messaging capability are likewise appropriately deployed. Communications interoperability is maintained via electronic data systems and resources as well. Satellite platform based Internet Protocol (IP) assets have been successfully deployed to support operations when major infrastructure failures occur. Similar assets are available on a contingency basis.

IV. Testing Training and Exercise

Quarterly testing of all emergency management systems is conducted in conjunction with the Office of Information Services tests of data systems. Training of staff in emergency operations is coordinated through the Training Section as well as with the Incident Management Director. Table Top Exercises (TTX) are scheduled annually, generally in conjunction with those conducted by the IMC.

V. Multi-Year Strategy and Program Management Plan

MYSPMP is being developed under a separate document.

VI. COOP Plan Maintenance

LSP's Emergency Operations and COOP plans under go a complete review on an annual basis with appropriate information or changes being updated. Input from key personnel is considered during this review process.

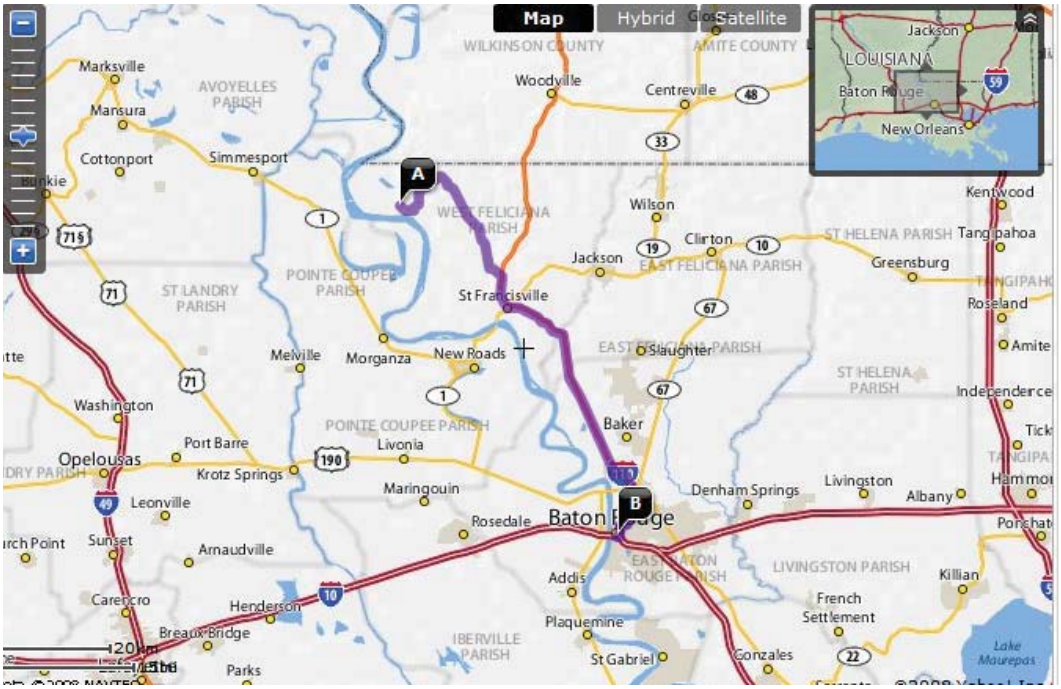
ANNEX A – ALTERNATE LOCATION

PRIMARY
MAP – Department of Public Safety and Corrections – Headquarters

PRIMARY: Department of Public Safety and Corrections, Headquarters
504 Mayflower St, Baton Rouge, LA

Headquarters 24 hour Contact Information:
Telephone: 1-800-317-3117
Satellite Telephone: 254-204-7218
Radio Channel: A-DOC
Fax Number: 225-219-0359

Driving Directions to Headquarters: From LSP: LA 66 south to US-61 south, merge onto I-110 south, take Exit 1A (Government St./LA-73) and turn right on Government St, turn left onto S 10th St, Turn Right onto Mayflower, Headquarters is on the left with appropriate signs.



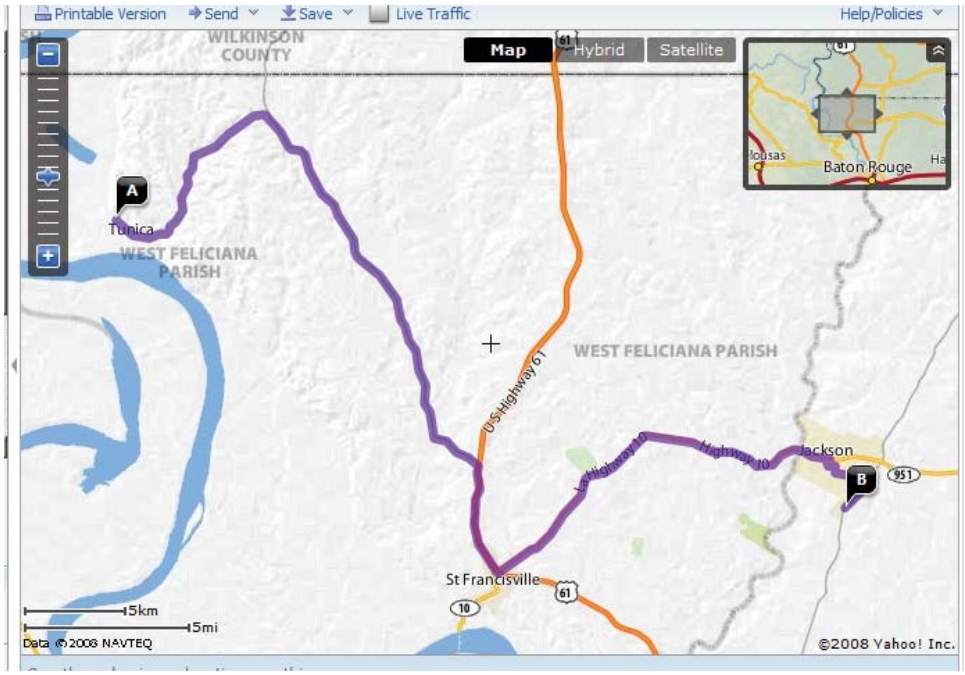
ANNEX B – ALTERNATE LOCATION

SECONDARY
MAP – Dixon Correctional Institution (DCI)

SECONDARY: Dixon Correctional Institution (DCI)
5568 Highway 68
Jackson, LA 70748

DCI 24 hour Control Center Contact Information:
Telephone: 225-634-1200
Satellite Telephone: 254-204-7266
Radio Channel: A-DOC
Fax Number: 225-634-4149

Driving Directions to DCI: From LSP: LA 66 south, turn onto US-61 south, take left onto LA Hwy 10, follow LA Hwy 10 through the town of Jackson, LA. Turn right on LA Hwy 68, approximately .08 miles to DCI.



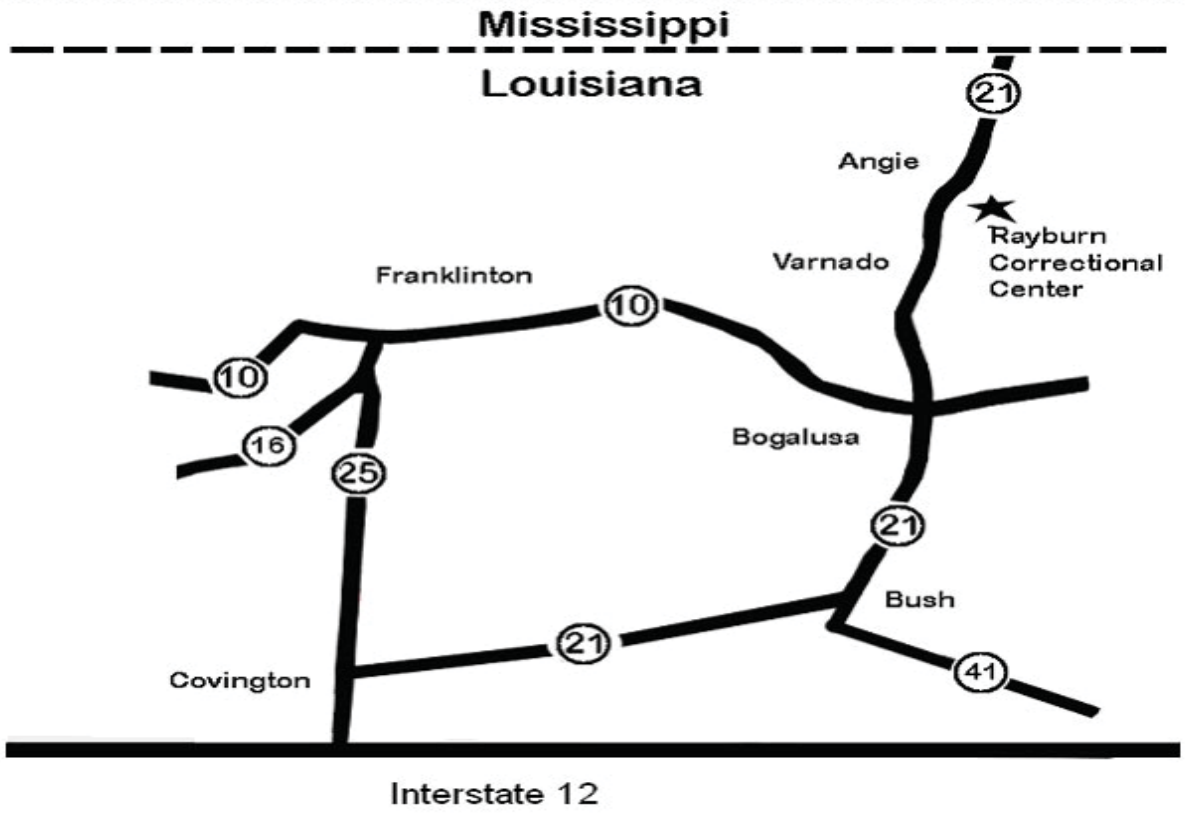
ANNEX C – ALTERNATE LOCATION

TERTIARY
MAP – B.B. Rayburn Correctional Center (RCC)

TERTIARY: B. B. Rayburn Correctional Center (RCC)
27268 Highway 21
Angie, Louisiana

RCC 24 hour Control Center Contact Information:
Telephone: 985-661-6300
Fax Number: 985-661-6395

Driving Directions to RCC: From LSP: LA 66 south, turn onto US-61 south, merge onto I-110 south, go east to Interstate 12 to the second Convington exit. This will lead to HWY. 190. Go north on 190 approximately three miles. Merge to the right onto HWY 21. Go approximately 20 miles through Bush, LA. HWY 21 will dead-end. Turn left (north) through Sun, Bogalusa and Varnado. The facility's entrance (large sign) will be approximately 1.5 miles on the right past Varnado.



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Attachment 8 – Pandemic Flu Plan

OPERATIONAL PLAN

A. INCIDENT COMMAND TEAM

The institutional Incident Command Team (ICT) shall determine actions to be taken to prevent the spread of pandemic flu among staff, offenders, volunteers, visitors and other civilians. The team will consist of all wardens, medical director, director of nursing, infection control nurse, pharmacy director, information services, and administrative program director. The Deputy Warden/Operations will serve as the Pandemic Flu Coordinator and shall have the responsibility for pandemic influenza planning and preparedness.

B. ACTIVATION

The necessity for activation of the Pandemic Flu COOP will not come without prior warning. Causes of pandemic flu from around the world are constantly being monitored and information updated as need by organizations such as the World Health Organization (WHO). Current information is also available from the United States Government Avian and Pandemic Flu website (www.pandemicflu.gov), the United States Department of Health and Human Services' Center for Disease Control and Prevention Health Alert Network (www.cdc.gov/HAN/index.asp), and Louisiana Department of Health and Hospital website (www.flula.com**).** These sites will be monitored by LSP's Medical Director. Updates concerning pandemic flu outbreaks will be provided through the Departments Medical/Mental Health Director, the IMC, the LSP Medical Director, and/or the ICT to staff and offenders as appropriate through such means as staff meetings, roll call, e-mails, KLSP TV and radio broadcasts, or as deemed appropriate under existent circumstances.

LSP shall use the following phases for pandemic flu alert as a guideline for activation of the COOP and the implementation of necessary actions. The three phases of pandemic alert increase the seriousness of the threat and the need to launch progressively more intense preparedness activities.

Phase	World Health Organization (WHO) & United States Government (USG) Pandemic Response Stages	Case Location
Ready/Green (Watch)	WHO Inter-Pandemic Period Phases 1-2; USG Stage 0	Anywhere Outside of the Continental United States and Bordering Countries (i.e. Canada and Mexico)
Yellow/Orange (Alert)	WHO Pandemic Alert Period Phases 3-5; USG Stages 0-2	First Human Case in the Mainland United States (excluding Louisiana and Neighboring States)
Red (Pandemic)	WHO's Pandemic Alert Period Phases 3-5; USG Stages 0-2	First Human Case in Louisiana or Neighboring States

READY/GREEN PHASE

At this phase, pandemic flu is anywhere outside of the continental United States and bordering countries (i.e. Canada and Mexico). Staff listed in "Assignment of Responsibility" shall complete the following:

1. Maintain adequate Personal Protective Equipment (PPE) supplies at all times and as directed by the Incident Command Team to include the following:
   a. Tissues;
   b. Gloves;
   c. Biohazard Bags;
   d. Hazard Receptacles;
   e. N-95 Respirator Masks;
   f. Surgical Masks;
   g. Waterless Hand Sanitizers;
   h. Colored Wristbands (Red, Blue and Green);
   i. "Ask for a Mask" Signs

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Health Services, Assistant Warden/Administrative Services, Medical Director and Central Supply.

2. Establish points of contact for influenza pandemic preparedness in the local and state health departments, local, regional or state agency preparedness groups and local hospitals. Maintain agreement with the Office of Public Health to be a point of dispensing and have required procedures in place.

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Health Services and Medical Director.

3. Provide education and training regarding pandemic influenza to staff and offenders.

ASSIGNMENT OF RESPONSIBILITY: Deputy Warden/Programming and Training Director.

4. Ensure that all staff is familiar with the local Incident Command System (ICS) and understand the roles and persons assigned within that structure.

ASSIGNMENT OF RESPONSIBILITY: Deputy Warden/Programming, Training Director and Staff Supervisors.

5. Incorporate pandemic flu plan into unit emergency management planning and exercise.

ASSIGNMENT OF RESPONSIBILITY: Deputy Warden/Security and Medical Director.

6. Determine the potential impact of a pandemic on the unit by using multiple possible scenarios of varying severity relative to illness, absenteeism, supplies, availability of resources, access to legal system representatives, etc.

ASSIGNMENT OF RESPONSIBILITY: All Wardens and Medical Director.

7. Identify areas within LSP that could be used to create additional acute care beds for expanded health care capacity.

ASSIGNMENT OF RESPONSIBILITY: Deputy Wardens, Assistant Wardens, Medical Director, and Director of Nursing.

8. Institutional staff shall develop written policies and procedures for cohorting offenders with known or suspected pandemic influenza using one or more of the following strategies:

   a. Confining ill and exposed offenders to their cells;
   b. Placing offenders with symptoms of pandemic influenza together in one area of the facility, or closing off units that have symptomatic offenders;
   c. Create policies and protocols for restricting staff and offenders who are assigned to work on affected units from working on other units to prevent cross contamination.

ASSIGNMENT OF RESPONSIBILITY: Deputy Wardens, Assistant Warden/Health Services, Medical Director and Director of Nursing.

9. Institutional staff shall also identify an area in the facility that can be used as a temporary morgue.

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Health Services and Medical Director.

10. At the Incident Command Team's discretion, healthcare clinicians will screen individuals who report pneumonia or respiratory infection according to the screening checklist to identify possible clusters or groups of ill individuals who may be linked.

ASSIGNMENT OF RESPONSIBILITY: ICT, Medical Director and Director of Nursing.

11. Maintain a list of high risk offenders for seasonal influenza (based on current CDC guidelines) which should be updated quarterly for mass vaccination.

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Health Services, Medical Director and Director of Nursing.

12. Ensure that health care personnel are updated with the latest CDC recommendations regarding ILI, such as symptoms/signs, diagnostic criteria, treatment protocols, indications of anti-viral medication use, etc.

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Health Services, Medical Director and Director of Nursing.

13. Classify all employee positions into one of the following three exposure risk categories.

    a. High Exposure Risk: Staff with high potential for exposure to known or suspected sources of pandemic influenza virus, such as healthcare delivery and support staff, staff transporting known or suspected pandemic influenza infected patients, etc.
    b. Medium Exposure Risk: Staff with high-frequency contact within six feet of the offender population, such as security staff, social workers, chaplains, etc. that work in dorms or cellblocks.
    c. Lower Exposure Risk (caution): Staff that do not require routine contact with the offender population, such as administrative staff (i.e. institution Business Office, Human Resources, etc). Activities outside of the workplace shall be considered when classifying employees into low exposure risk, such as other employment that may involve routine contact with an offender population (part-time security.) Such risky activities outside of the workplace shall be discouraged for low risk staff in the event of a pandemic flu.

ASSIGNMENT OF RESPONSIBILITY: Deputy Warden/Operations, Assistant Warden/Human Resources, Medical Director and Director of Nursing.

14 Possible clusters shall be reported to the Headquarters Incident Management Center (IMC) at 1-800-317-3117. The IMC shall contact the State's Infectious Disease Epidemiology Section at 1-800-256-2748.

ASSIGNMENT OF RESPONSIBILITY: Warden, Assistant Warden/Health Services, Medical Director and EMO.

14. Clusters may be defined as five or more clinically compatible individuals with the onset of symptoms less than 10 days apart (this may be altered as more information about the pandemic influenza strain becomes available). The Louisiana Office of Public Health will follow the Center for Disease Control's recommendations as they are released.

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Health Services and Medical Director.

16. All staff, offenders, volunteers, visitors and civilians shall use droplet precautions with appropriate Personal Protective Equipment (PPE) within six feet of an ill individual for all contact with any individual who has a new cough and fever.

ASSIGNMENT OF RESPONSIBILITY: Medical Director.

17. Use Form B-06-004-A Entitled Level Ready Green as a guide for preparedness and response checklist purposes.

ASSIGNMENT OF RESPONSIBILITY: Warden and Medical Director.

Form B-06-004-A: Correctional Facility Pandemic Influenza Preparedness & Response Checklist
Level Ready-Green (ERI alert matrix)/Interpandemic Period (WHO)

_____ Form an Institutional Incident Command Team, if one does not already exist.

_____ Headquarters staff as directed by the Chief of Operations shall perform authority/legal preparedness activities.

_____ Pre-incident activity list completed. (For example: Pandemic Flu COOP Plan.)

A. Access Control

_____ Develop a plan and a timeline for implementing a policy that enables controlling access to the institution.

_____ Develop a plan to close down or curtail facility transportation, including facility buses and shuttles if necessary, when ordered by the Institutional Incident Command Team.

B. Surveillance, Screening and Triage

_____ Have the institution's medical personnel screen all individuals upon intake and at the time of registration following LOPH recommended precautions.

_____ Report possible clusters to the State's Infectious Disease Epidemiology Section via Headquarters Incident Management Center.

_____ Post informative infection control signs at building entrances and common areas.

_____ Rotate the infection control signs periodically.

_____ Monitor national, regional and local data related to pandemic influenza.

C. Infection control/Precautions

_____ Maintain adequate supplies of Personal Protective Equipment (PPE), waterless hand sanitizers, surface disinfectants and tissues throughout public areas and meeting rooms.

_____ Display hand-washing posters, biohazard bags and waste receptacles in high-traffic areas.

D. Communication/Education

_____ Implement a plan for communication and promotion of messages relating to ERI to offenders and staff.

_____ Implement a plan to orient and educate staff regarding basic readiness activities at the institution.

_____ Deploy translation services needs within facility population.

_____ Identify behavioral health providers to incorporate into communication plans.

E. Additional Preparedness Activities

_____ Implement vaccination campaign (offer vaccine on-site or provide references to area clinics, as applicable.)

_____ Develop educational and promotional materials to promote availability and desirability of influenza vaccine for all.

_____ If administering flu vaccine on-site, document administration of vaccine, preferably in a computerized database.

_____ Provide regular updates to staff and offenders.

_____ Health Authority will monitor the Health Alert Network and other communications from public health officials and communicate changes to clinicians on a quarterly basis.

YELLOW/ORANGE PHASE

At this phase, pandemic flu has been confirmed in the mainland United States. In addition to the previous steps in the Green Phase, the following additional steps will be incorporated into pandemic flu preparedness activities:

1. Monitor:
   a. The Incident Command Team shall meet weekly or as directed by the Medical/Mental Health Director.

   b. The Medical Director and Pandemic Flu Coordinator will monitor sick call reports and clinic visits in an effort to identify ILI in the offender population. Findings will be reported to the Warden.

ASSIGNMENT OF RESPONSIBILITY: ICT, Deputy Warden/Operations and Medical Director.

2. Supplies:
   a. The Medical Director shall discuss with the Medical/Mental Health Director regarding stockpiling requirements of antibiotics and necessary medical supplies;
   b. A current list of stock of all Personal Protective Equipment (PPE) supplies (See Ready/Green Phase for specific PPE supplies) shall be sent to the Medical/Mental Health Director.

ASSIGNMENT OF RESPONSIBILITY: Medical Director, Director of Nursing, Infection Control Nurse and Central Supply.

3. Access/Control:
   a. The Secretary, Chief of Operations, Medical/Mental Health Director and Regional Wardens shall be notified, and any outside travel except medical/mental health emergencies and court trips will cease;
   b. Restrict vendors, visitors and conferences/group activities;
   c. At the Incident Command Team's discretion, staff, offenders, visitors, volunteers and civilians may be required to wear identification wristbands designated by color at all times.

ASSIGNMENT OF RESPONSIBILITY: Warden, Deputy Warden/Security, Assistant Warden/Security and Medical Director.

   d. Transfers within the Department may be suspended on a unit-by-unit basis or department-wide.

ASSIGNMENT OF RESPONSIBILITY: Medical/Mental Health Director and Warden.

4. Surveillance, Screening and Triage:

a. Employees will complete a self screening at roll call. Employees who state they are sick shall be triaged by medical staff or health trained staff, and if found to have a fever shall be sent home. Staff with ILI shall remain at home at least 24 hours after they are free of fever (100° F), or signs of fever, without the use of fever reducing medications.

ASSIGNMENT OF RESPONSIBILITY: Medical/Mental Health Director and Warden will decide to take action. Medical Director, Director of Nursing, Unit Wardens, Department Heads and employees.

b. Screening of visitors/vendors may be initiated and visitors with symptoms of pandemic flu may be denied entry to LSP. Symptomatic vendors may be granted access based upon need and shall be required to wear a mask while on institutional grounds.

ASSIGNMENT OF RESPONSIBILITY: Medical/Mental Health Director and Warden will decide to take action. Medical Director, Director of Nursing and Unit Wardens.

c. "Ask for a Mask" signs shall be posted at all entrances and in all common areas. Posters shall include specific risk factors for the targeted infection to encourage all persons in the unit to self-screen for infection;

ASSIGNMENT OF RESPONSIBILITY: Medical Director and Director of Nursing.

d. Persons who self-identify as at-risk via the screening checklist available throughout the institution will be seen by Medical 3 for further screening and instructions;

ASSIGNMENT OF RESPONSIBILITY: Medical Director and Director of Nursing.

e. Encourage offenders to notify health care/security staff at the onset of symptoms of ILI. Offenders should be informed that early detection is vital to reduce the transmission of an influenza outbreak.

Healthcare personnel who suspect, after initial clinical evaluation, that an individual may have an Epidemic Respiratory Infection (ERI) shall immediately notify the Louisiana Office of Public Health (LOPH) and the Headquarters IMC At 1-800-317-3117;

ASSIGNMENT OF RESPONSIBILITY: Warden, Unit Wardens, Assistant Warden/Health Services, Medical Director and EMO.

f. Staff traveling to designated high risk areas (as determined by the LOPH) or offenders who recently traveled in the last 10 days to a high risk area (as determined by the LOPH) may be required to register with the institution's medical department and complete the screening checklist for five consecutive days. Healthcare staff shall review the checklist and maintain a list of those individuals under surveillance;

ASSIGNMENT OF RESPONSIBILITY: Medical Director and Director of Nursing.

g. Staff members who have contact with suspected patients must report to the infection control department for direction recommended by the Incident Command Team.

ASSIGNMENT OF RESPONSIBILITY: Incident Command Team, Medical Director, Director of Nursing and employees.

h. On-site clinics may be allowed to operate on a case-by-case basis. Specialty clinics that can be accomplished via telemedicine will be strongly encouraged.

ASSIGNMENT OF RESPONSIBILITY: Medical/Mental Health Director and Warden will decide to take action. Medical Director and Director of Nursing.

5. Infection Control/Precautions: Institute Infection Control Precautions with Personal Protective Equipment (PPE) for any person screened as a possible Epidemic Respiratory Infection (ERI) case.

ASSIGNMENT OF RESPONSIBILITY: Medical Director and Director of Nursing.

6. Communication/Education/Preparedness:

a. The unit shall use the mode of communication used most by staff and/or offenders to keep the unit's community informed and to provide education regarding prevention and symptom surveillance;

ASSIGNMENT OF RESPONSIBILITY: Warden, Medical Director and Director of Nursing. KLSP TV and radio broadcasts, staff meetings.

b. The Incident Command Team shall meet daily to review the situation and alter strategies (such as housing re-assignments for isolation purposes or quarantine);

ASSIGNMENT OF RESPONSIBILITY: ICT

c. A situation report shall be forwarded to the Headquarters IMC daily.

Reporting requirements to the Secretary, Chief of Operations, Medical/Mental Health Director shall be in accordance with Department Regulation No. C-05-001. In addition, local, state, and federal agencies will be notified as appropriate.

ASSIGNMENT OF RESPONSIBILITY: EMO

7. Use Form B-06-004-B entitled Level Yellow-Orange as a guide for preparedness and response checklist purposes.

ASSIGNMENT OF RESPONSIBILITY: Warden and Medical Director.

Form B-06-004-B: Correctional Facility Pandemic Influenza Preparedness & Response Checklist
Level Yellow-Orange (ERI plan)/Pandemic Alert Period (WHO)

_____ Continue applicable activities from Level Green/Interpandemic Period.

_____ Implement incident checklist.

A. Access Control

_____ Restrict vendors, visitors and group activities and facility group transportation and work activities.

B. Surveillance, Screening and Triage

_____ Provide patients who have a new cough with a facemask and/or tissues, and replace frequently if soiled or moist.

_____ Restrict individuals (staff and offenders) who have fever and a new cough from work class or any group activity.

_____ Send any staff member home that is suspected of having a communicable disease that puts others in the institution at risk.

_____ Consult with Headquarters Incident Management Center when it is suspected, after initial clinical evaluation, that a patient may have an Epidemic Respiratory Infection (ERI).

_____ Register staff traveling to, or offenders who recently traveled to, designated high risk areas and report any symptoms of fever or cough that occur (check with Headquarters Incident Management Center for high risk areas, symptoms and time period for surveillance).

_____ Register staff and offenders who have had contact with suspected patients and screen daily for fever or respiratory symptoms for five consecutive days or a period determined by the health authority.

C. Infection Control/Precautions

_____ Expand precautions for staff with Personal Protective Equipment (PPE) based on their exposure risk.

_____ Institute infection control precautions with Personal Protective Equipment (PPE) and possible housing assignments for symptomatic offenders.

D. Communication/Education

_____ Place staff at high-traffic areas to answer questions and direct persons to the medical department as needed.

_____ Keep staff and offenders informed and provide education about prevention and symptom surveillance.

E. Additional Preparedness Activities

_____ The Institutional Incident Command Team shall meet daily to review situation and strategies.

RED PHASE

At this phase, there is evidence of transmission of the Influenza Like Illness (ILI) in the unit or there is widespread human-to-human transmission in the region of the unit. Red indicates the highest level of alert, with restrictions on access to the unit, more active screening and a shift away from normal unit operations. In addition to the previous steps in the Green Phase and the Yellow/Orange Phase, the following additional steps will be incorporated into pandemic flu preparedness activities:

1. Access/Control:
   a. All entrances to the unit shall be locked except for the main entrance. Those that cannot be locked will be guarded by security personnel;

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Security.

   b. Entry into the unit may be restricted to only staff with valid identification. Any others allowed into the unit must be screened via the screening checklist;

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Security and Medical Director.

   c. Offender group activities may be suspended;

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Security.

   d. Normal eating activities may be suspended. A plan shall exist for delivering meals to offenders if cafeteria or group-style dining is closed;

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Health Servies and Director of Nursing.

   e. Pill call may be modified as necessary to reduce the risk of influenza transmission.

ASSIGNMENT OF RESPONSIBILITY: Director of Nursing.

   f. The request to close the institution to further admissions may also be made as a means to prevent the further spread of an epidemic by the Incident Command Team. This request shall be approved by the Secretary or designee.

ASSIGNMENT OF RESPONSIBILITY: ICT and Medical Director.

1. Surveillance, Screening and Triage:

a. Vaccination/Antiviral medication priorities shall be determined and distributed.

ASSIGNMENT OF RESPONSIBILITY: Medical/Mental Health Director

b. Routine sick call shall be suspended. Offenders will have access to healthcare via emergency sick call. All non-emergent healthcare services shall be suspended; waive the health care co-payment fee for sick calls related to ILI.

ASSIGNMENT OF RESPONSIBILITY: Medical Director and Director of Nursing.

c. Offenders who are identified to have fever and/or cough will be instructed to don Personal Protective Equipment (PPE), use good hand washing techniques and will be sent to the medical department. Contact information will be updated in medical records;

ASSIGNMENT OF RESPONSIBILITY: Medical Director and Director of Nursing.

d. The number of persons seen with the suspected ILI by healthcare staff will be recorded and reported weekly to the Chief of Operations and Medical/Mental Health Director;

ASSIGNMENT OF RESPONSIBILITY: Warden, Assistant Warden/Health Services and EMO.

e. If the person warrants evaluation in a hospital setting, medical staff shall alert the referral hospital that a suspected or confirmed case needs evaluation so that the referral center can make arrangements for infection control precautions.

ASSIGNMENT OF RESPONSIBILITY: Medical Director.

3. Infection Control/Precautions:

a. Personal Protective Equipment (PPE) and contact precautions are required for all staff having contact with any person who has fever and/or new cough (this includes staff conducting screenings at facility entrances);

ASSIGNMENT OF RESPONSIBILITY: Medical Director and Director of Nursing.

b. Adequate supplies of Personal Protective Equipment (PPE) shall be maintained at the facility;

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Administrative Services, Assistant Warden/Health Services, Medical Director and Central Supply.

c. Everyone providing patient care will have access to appropriately fitting Personal Protective Equipment (PPE); surgical masks and gloves shall be worn by staff having director (within 6 feet) of offenders who have suspected or probable or confirmed influenza in the designated isolation areas; good hand washing must take place between patients contacts and glove changes. Surgical masks shall only be worn in the designated isolation areas. Offenders who become symptomatic and require movement shall don a mask prior to movement. Movement to and from isolation and quarantine areas shall be kept to a minimum and necessary services to the extent possible shall be delivered to these offenders in the isolation and quarantine areas.

ASSIGNMENT OF RESPONSIBILITY: Unit Wardens, Medical Director and Director of Nursing.

d. Recommendations shall be made for quarantine of non-ill contacts. Offenders who may have been exposed but are asymptomatic shall be quarantined. Arrangements shall be made to provide those quarantined with necessary daily items including meals, water and hygiene.

ASSIGNMENT OF RESPONSIBILITY: Unit Warden, Medical Director, and Director of Nursing.

e. Offenders with ILI symptoms shall be isolated. This can be done in a group setting as well, if multiple offenders rquire isolation. Arrangements shall be made to provide those isolated with necessary daily items including meals, water, and hygiene. All efforts shall be made to limit any movement of isolated offenders (bring meals, medications , etc. to them) but if offender requires to leave the isolation area then a proper mask shall be worn before leaving isolation area and the offender shall not be allowed to remove the mask until returned to the isolation area.

ASSIGNMENT OF RESPONSIBILITY: Unit Wardens, Medical Director and Director of Nursing.

f. Offenders diagnosed with ILI shall be monitored for early signs of complicating illnesses, i.e. pneumonia. Offenders who are at high risk for these complications or those who are sicker at presentation shall be admitted to the infirmary for closer observation.

If the suspected or confirmed case does not require hospitalization, housing needs (specific quarantine area) shall be assessed. Arrangements shall be made to provide the offenders with necessary daily items including meals, water and hygiene.

May consider instituting a standing order/treatment protocol for ILI.

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Security and Medical Director.

g. Phone Triage for Staff: Staff who have ILI symptoms or are ill may be triaged by phone. Triage shall be performed by medical staff or health trained staff. All absences related to ILI shall be tracked.

ASSIGNMENT OF RESPONSIBILITY: Medical Director, Director of Nursing and Assistant Warden/Human Resources.

h. With guidance from Headquarters, the institution will identify close contacts within the facility to a probable, suspected or confirmed case of the influenza. Contacts are typically defined as those who spent greater than 15 minutes within three feet of the case during the infectious period (two days before illness onset to five days after illness onset) or those who live in the same cellblock tier or housing area (dorm);

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Health Services and Medical Director.

i. Staff and offenders who have had contact with suspected patients may be required to register with the medical department and be screened daily utilizing the screening checklist for five consecutive days after last documented or suspected contact or for a period determined by the health authority;

ASSIGNMENT OF RESPONSIBILITY: Deputy Wardens, Assistant Warden/Health Services and Medical Director.

j. With guidance from Headquarters, recommendations may be required for quarantine of non-ill contacts. Guidance shall be provided regarding details of quarantine, including cohorting of contacts, sites to use for quarantine and legal authority. As with a case in isolation, arrangements shall be made to provide those quarantined with necessary daily items including meals, water and hygiene.

ASSIGNMENT OF RESPONSIBILITY: Assistant Warden/Security and Medical Director.

4. Communication/Education:

a. The facility will provide daily or more frequent updates to staff and offenders as more information is obtained.
b. Provide education to employees and offenders on basic hygiene, respiratory etiquette, and high risk medical conditions.

ASSIGNMENT OF RESPONSIBILITY: Warden and Medical Director.

5. A situation report shall be forwarded to the Department's Medical/Mental Health Director to include: the number of newly diagnosed cases (suspected or probable or confirmed); the number of offenders in isolation; the number of offenders quarantined; the number of staff absences security/medical; and deaths. The Department's Medical/ Mental Health Director shall decide the frequency of this report for each unit.

ASSIGNMENT OF RESPONSIBILITY: Medical Director, Director of Nursing, and EMO.

6. Use Form B-06-004-C entitled Level Red as a guide for preparedness and response checklist.

ASSIGNMENT OF RESPONSIBILITY: Warden and Medical Director.

B-06-004-C: Correctional Facility Pandemic Influenza Preparedness & Response Checklist
Level Red (ERI plan)/Pandemic Period (WHO)

_____ Continue applicable activities from Level Green/Interpandemic Period and Level Yellow-Orange/Pandemic Alert Period.

A. Access Control

_____ Restrict access to the institution to identified staff.

_____ Suspend eateries, shops and other group activities, including sporting events and classes, as determined by the Incident Command Team.

_____ Implement plan for delivering meals to offenders.

_____ Suspension of facility group transportation.

B. Surveillance, Screening and Triage

_____ Screen those allowed into the facility for fever or cough and have their temperature taken.

_____ Record the number of all persons seen with suspected ERI and report to Headquarters Incident Management Center within one week.

C. Infection Control/Precautions

_____ Continue practice of airborne precautions, including staff who conducts screenings at institution entrances.

_____ Implement isolation and quarantine guidelines as they are made available by LOPH.

_____ If suspected cases do not require hospitalization, housing assignments will be assessed by the Institutional Incident Command Team.

_____ Assist LOPH with contact investigations.

D. Communication/Education

_____ Provide daily or more frequent updates to staff and offenders.

C. ISOLATION SITE

1. Camp J shall serve as the isolation area for ill staff and offenders on an as needed basis.

2. Minimum and medium custody offenders will be treated in Bass dormitory. Maximum custody offenders will be treated in cellblocks. Staff will be treated in the Chapel.

3. A decontamination area must be set up in each dorm/cellblock/chapel and needs:

   a. privacy area
   b. shower
   c. soap dispensers
   d. paper towels
   e. plastic bags to double bag contaminated clothing to be sent to laundry
   f. towels

4. Medical supplies needed at Camp J:

   a. O_2
   b. O_2 Mask (15 at each site)
   c. Suction machines and canisters (2 machines and 25 canisters)
   d. Yanker suctions with tubing (25)
   e. Thermometers and covers (3 at each area)
   f. B/P monitors (2at each area)
   g. Stethoscopes (2)
   h. IV fluids (10)
   i. IV tubing (10)
   j. IV start kits (10)
   k. Tape (5 rolls)
   l. Gauze (1 case at each site)
   m. Wash basins (25)
   n. Disposable wash cloths (1 case at each site)
   o. Foley catheters (10)
   p. IV catheters (5 of each size 20G, 22G, 18G, 24G)
   q. Disposable gowns (1 case at each site)
   r. N 95 masks (2 boxes at each site)
   s. Bedpans (20 at each site)
   t. Crash cart fully supplied (1 at each site)
   u. Vacutainers (1 box at each site)
   v. Blood tubes (1 package of each type at each site)
   w. Butterfly needles (1 box at each site)
   x. Gloves (case of each size)
   y. Alcohol preps (5 boxes at each site)
   z. Hand sanitizers (6 bottles at each site)
   aa. Bleach with dispenser bottles (4 bottles at each site)

bb. Tissue (1 case)
cc. Diapers (1 case)
dd. Blue pads (1 case)
ee. Potty chairs (10)
ff. Red bags (1 case)
gg. Glucometer at each site
hh. Syringes with needles (1 case at each site)
ii. Medicine cups (1 case at each site)
jj. Ice bags (1 case at each site)
kk. IV poles (4 at each site)
ll. Sharps containers (2 large at each site)

5. Medication needed at Camp J:

a. Tylenol
b. Motrin
c. NS for IV flush
d. Immodium
e. Insulin

Replenish supplies and when stock at each area goes down.

6. Staff and offender clothing will be laundered at Camp J.

D. FACILITY STAFFING AND OPERATIONS

The essential functions listed in attachment 4 will be determined on an ongoing basis by the Incident Command Team.

1. The following essential facility operations will be maintained or enhanced:

a. Health Services
b. Security Services
    1) Unit manpower as indicated on Section E
    2) Control Center
    3) Armory
    4) Angola Roving Security
    5) BOQ
    6) Camp A Laundry and Unit Laundries
    7) Timekeeping
    8) Investigative Services
    9) Perimeter Gates
c. Food Services
d. Emergency Operations Center
e. Information Services
f. Safety
g. Business Services
    1) Accounting/Budget
    2) Purchasing

3) Offender Banking
4) Cashiers Office

h. Human Resources – Payroll
i. 909 and 915 Warehouses
j. Mail/Package Room
k. Mental Health
l. Public Relations
m. Chaplains

2. The following facility operations will be considered non-essential and suspended:

a. Field operations
b. Visiting
c. Education
d. Call outs (other than essential medical)
e. Staff training
f. Disciplinary boards
g. Recreation
h. Classification
i. Offender Records
j. Legal – ARP/Property Claims/Appeals
k. Library (including law libraries)
l. Maintenance (except for critical emergencies)
m. Canteens
n. Museum
o. Accreditation
p. Shakedown Teams
q. K-9 Training
r. Offender organization functions
s. Hobbyshops
t. Sick call (except for emergencies)
u. Clinics
v. Trips (funeral, hospital, court order must be pre-approved)

Staff from these operations will be reassigned to essential facility operations as needed.

3. Off duty staff will be housed in BOQ and Training Academy.

4. Tact team staff will be assigned to pick up and deliver items necessary for operations from outside resources/vendors.

E. MANPOWER AT OFFENDER HOUSING UNITS

CAMP C		# of Officers Per Shift
	Bear 1, 2, 3, 4	4
	Bear Hall	1
	Wolf 1, 2, 3, 4	4
	Wolf Hall	1
	Tiger 1, 2, 3, 4	4
	Jaguar 1, 2, 3, 4	4
	Kitchen	1
	Sallyport	1
	Medication	1
	Supervisors (Major, Captain)	2
TOTAL OFFICERS PER SHIFT		**23**

CAMP D		# of Officers Per Shift
	Eagle 1, 2, 3, 4	4
	Eagle Hall	1
	Falcon 1, 2, 3, 4	4
	Falcon Hall	1
	Hawk 1, 2, 3, 4	4
	Raven 1, 2, 3, 4	4
	Kitchen	1
	Sallyport	1
	Supervisors (Major, Captain)	2
TOTAL OFFICERS PER SHIFT		**22**

CAMP F		# of Officers Per Shift
	Dorm 1 & 2	1
	Dorm 3 U & L	1
	Dorm 4 L & R	1
	Kitchen	1
	Supervisor (Lieutenant)	1
TOTAL OFFICERS PER SHIFT		**5**

CAMP J (currently closed)		# of Officers Per Shift
	Gar 1, 2, 3, 4	4
	Shark 1, 2, 3, 4	4
	Cuda 1, 2, 3, 4	4
	Gator 1, 2, 3, 4	4
	Bass Dorm	1
	Kitchen	1
	Entrance Building	1
	Supervisors (Major, Captain)	2
TOTAL OFFICERS PER SHIFT		**21**

RC Currently housing female offenders staffed by LCIW		# of Officers Per Shift
	Lower A & B	2
	Lower C	1
	Lower A, B, C Hall	1
	Upper A & B	2
	Upper C & d	1
	Upper Control	1
	Supervisor (Lieutenant)	1
TOTAL OFFICERS PER SHIFT		**9**

DEATH ROW		**# of Officers Per Shift**
	H & A Tier	1
	B & C Tier	1
	D & E Tier	1
	F & G Tier	1
	Control Room	1
	Towers	2
	Supervisor (Lieutenant)	1
TOTAL OFFICERS PER SHIFT		**8**

MAIN PRISON EAST YARD		**# of Officers Per Shift**
	Ash 1, 2, 3, 4	4
	Ash Hall	1
	Magnolia 1, 2, 3, 4	4
	Magnolia Hall	1
	Cypress 1, 2, 3, 4	4
	Cypress Hall	1
	Spruce 1, 2, 3, 4	4
	Spruce Hall	1
	A Building	1
	Kitchen	1
	MPO	1
	Medication	1
	Supervisor (Major, Captain)	2
TOTAL OFFICERS PER SHIFT		**26**

REBTC		**# of Officers Per Shift**
	Unit 1	1
	Unit 2	1
	Control	1
	Sallyport	1
	Supervisor (Lieutenant)	1
TOTAL OFFICERS PER SHIFT		**5**

MAIN PRISON WEST YARD		# of Officers Per Shift	
	Oak 1, 2, 3, 4	4	
	Oak Hall	1	
	Pine 1, 2, 3, 4	4	
	Pine Hall	1	
	Walnut 1, 2, 3, 4	4	
	Walnut Hall	1	
	Hickory 1, 2, 3, 4	4	
	Hickory Hall	1	
	CBA U & L	2	
	CBB U & L	2	
	CBC U & L	2	
	CBC U & L	2	
	Medication	1	
	Supervisors (Major, Captain, Lt)	3	
TOTAL OFFICERS PER SHIFT		**32**	

TU		# of Officers Per Shift	
	Upper and Lower A & B	2	
	Upper and Lower C & D	2	
	Upper and Lower E & F	2	
	Medication	1	
	Supervisor (Lieutenant)	1	
TOTAL OFFICERS PER SHIFT		**8**	

UNIT	# of Officers Per Shift	
Camp C	23	
Camp D	22	
Camp F	5	
Camp J (currently closed)	21	
RC (currently closed)	9	
Death Row	8	
OUTCAMP TOTAL		**87**
MPE	26	
REBTC	5	
MPW	32	
TU	8	
MAIN PRISON TOTAL		**71**
GRAND TOTAL # OF OFFICERS PER SHIFT		**158**

PERIMETER GATES		# of Officers Per Shift	
	Front Gate	2	
	Ferry Gate	1	
TOTAL OFFICERS PER SHIFT		**3**	

INFECTION CONTROL PRECAUTIONS

PURPOSE:

To ensure the safety and welfare of employees, offenders and public, the Louisiana State Penitentiary (LSP) establishes a procedure for pandemic preparation and response to pandemic events as they are identified.

RULE:

A. YELLOW/ORANGE PHASE

1. For the prevention of transmission of any infectious agent and to promote general facility and personal hygiene the medical department shall ensure the following practices are used in any secure facility by all offenders and employees and ensure the availability of adequate supplies. ALL EMPLOYEES AND OFFENDERS shall participate in the following activities:

   a. Hand washing:
      1) With soap and water;
      2) Minimal duration of 20 seconds;
      3) Frequency:
         a) Upon entry into a facility
         b) Upon entry into a housing, education, or medical unit;
         c) Before meals
         d) Handling food;
         e) After participation in activities to include work, and sports; and
         f) After toileting
         g) Other times as deemed appropriate.
      4) Hand sanitizing with non-alcohol commercially available antibacterial solution is acceptable in the above circumstances when hand washing is not feasible.
         a) Dispensers and antibacterial solutions shall be made available at the appropriate locations if hand washing is not feasible.
      5) Maximize access to alcohol based hand sanitizer in areas with high traffic flow auch as the kitchen and pill call.
      6) Make soap dispensers or hand soap available in all employee and offender restrooms.

   b. Utilization of general sick behavior etiquette:

      1) Respiratory hygiene/cough etiquette:
         a) Cough or sneeze into the elbow, into the interior of clothing, or into a facial tissue;

b) Wear a surgical mask when sick with upper respiratory infection (URI) if symptoms include coughing or sneezing;

2) When sick, avoid close contact (within 6 feet) of others;
3) Avoid close contact (within 6 feet) with sick persons;
4) Employees should not report to work when ill

c. General facility cleanliness and sanitation:

1) Daily cleaning and disinfection of surfaces that are touched regularly, for example, door knobs and frames, counter tops, tables, chairs, keys, telephones, etc.
2) Use a cleaning solution that has both cleaning and antimicrobial properties.
a) In emergency situations when no other acceptable options are available, an alternative is washing with a detergent based solution followed by disinfection with 10% bleach and 90% water solution.

d. Formal and informal education regarding the above shall be provided to employees and offenders that include but is not limited to:

1) Posters supplied by Homeland Security and approved by the medical director and his designee;
2) Presentations during orientation for employees and offenders.
3) Individual/ group instruction by the infection control department through use of LSP radio and TV.

e. Promotion of immunization against infectious diseases.

1) Encourage employees and offenders in getting the annual flu vaccine;
2) Vaccinations of offenders and staff shall occur in accordance with policy set up by Department of Corrections, Secretary of State.

2. The MEDICAL DIRECTOR OR DESIGNEE shall ensure Standard, Universal and droplet Precautions as outlined by the US Department of Health and Human services, Centers for disease Control and Prevention (www.cdc.gov) are used by all employees and offenders throughout LSP secure facilities in accordance with the Universal , Standard and Droplet Precautions.

3. MEDICAL DIRECTOR OR DESIGNEE shall ensure that:

a. Each unit has sufficient medical supplies to assist in the prevention and symptomatic treatment of any pandemic event.

b. Emergency medical supplies are:

1) Properly stored within the units in a secure designated area; (central supply)
2) Inventoried on a monthly basis;
3) Rotated as necessary to preserve freshness and function.

c. A reporting system is in place for informing LSP medical providers and the Regional Medical Director of patient symptoms that could indicate and infectious outbreak.
1) MEDICAL PROVIDERS may initiate confirmatory laboratory evaluations to ascertain if a infectious agent is responsible for the symptoms;
2) The infection control department shall notify the appropriate public health authorities and the regional medical director of positive confirmatory test results;
3) The infection control department at the direction of the medical director or his designee shall initiate the appropriate infection control measures when an outbreak is suspected or confirmed.

d. The Facilities Medical Director or his designee in conjunction with the homeland security coordinator shall ensure:
1) Adequate emergency supplies are maintained for both employees and offenders in a pandemic event to include but not limited to:
a) Non- perishable food;
b) Drinking water;
c) Iv fluids
d) Facial tissue
e) Surgical mask for the patients
f) Adequate supply of N-95 mask for all in direct contact with the infected patient.
g) Paper towels
h) Toilet paper
i) Biohazard bags
j) Trash bags
k) Anti-bacterial soap;
l) Anti-bacterial hand sanitizing agents and dispensers
m) Cleaning solutions with both cleaning and antimicrobial properties
n) Other supplies as deemed necessary.

2) Emergency supplies are stored in a secure ventilated area (central supply)

3) Emergency supplies are inventoried monthly and;

4) Emergency supplies are rotated as necessary to preserve freshness/function.

B. **RED PHASE:**

1. Medical Director and designees shall maintain the above inter-pandemic and Pandemic Alert Period standards at a minimum;

2. The Medical Director or Designee may:

   a. Initiate screening for signs and symptoms of all personnel, offenders and visitors entering LSP.
      1) Screening Criteria shall be developed utilizing current pandemic signs and symptoms.

   b. Refuse entry to persons experiencing signs of infection.

   c. Require symptomatic individuals who are granted access to wear surgical masks and adhere to other infection control requirements.

3. The Medical Director or Designee shall:

   a. Initiate a tracking system to follow patients with new diagnosis of infection with the pandemic agent and follow patients in isolation and quarantine;

   b. Perform patient triage as indicated;

   c. Initiate separate patient waiting and treatment areas when feasible (use MPG as isolation/ treatment area)

   d. Designate non-medical personnel to administer medications and treatment, if necessary due to absence of multiple medical personnel ill with the pandemic symptoms.

   e. Direct the assessment and distribution of medications and medical supplies as deemed appropriate;

   f. Designate isolation, quarantine, and morgue areas.

   g. Work in conjunction with the Department of Homeland Security through the regional medical director and other appropriate agencies for emergency management in response to the successive stages of the pandemic event;

   h. Provide the necessary level of response efforts as practicable.

   i. Advise the Medical Director or Designee of the following:
      1) Isolation/quarantine of the affected population to include:
         a) Containment boundaries

b) Need for appropriate environmental adjustments to include but not limited to :

i. All windows, doors, fans, and heating/air conditioning systems and any other opening to the outside can be closed and secured if directed to prevent air exchange.

ii. Ordering, distributing, and rationing food supplies and dietary supplements;

iii. Health and safety issues

iv. emergency release of personnel

v. Other issues as appropriate.

4. The Medical Director, with advisement of the regional Medical Director, and the Regional Warden or his designee, shall be responsible for the internal operations and the activation of the appropriate level of response for a pandemic event for each affected secure facility.

5. The Medical Director, Regional Medical Director and the Regional Warden or his designee shall be responsible for the expanded internal level of response and the organization of employees in the Incident Management System to include:

a. Managing incident response functions;

b. Declaring a lockdown where normal programming ceases.

c. Requiring employees to function outside their normal area of expertise as needed

d. Ensuring the escalated level of response structure develops at a pace which stays ahead of the tactical deployment of personnel and resources;

e. Ensuring adequate personnel resources are available.

f. Not permitting any person to;

1) Respond to a crisis situation unless instructed to do so; or

2) Enter any secure unit if exhibiting any type of flu symptoms as stated above.

6. The Director and/or his designee shall ensure:

a. Appropriate levels of communication are established with the family members of the affected employees and offenders (RN Program Coordinator of Communications)

C. POST PANDEMIC PERIOD:

1. Medical practice will resume as in the Inter-pandemic Period Standards.

2. The Regional Warden or his designee in consultation with the Medical Director and the Regional Medical Director shall:

   a. Arrange for debriefing to gather pertinent information that may be applied to future emergency response efforts.

   b. Complete an after action report to include:
      a) Review incident;
      b) event analysis;
      c) Identify areas in need of improvement;
      d) Create a corrective action plan for future events to be used in the revision of this pandemic event protocol.

LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS
LOUISIANA STATE PENITENTIARY

H1N1 FLU

SCREENING CHECKLIST – EMPLOYEE/OFFENDER

Name:	DOC # (if applicable):	Employee Work Assignment or Offender Housing Assignment:

		YES	NO
1.	Spent any time in the H1N1 flu affected areas within the past 7 days?	☐	☐
2.	Spent any time with anyone from these areas within the past 7 days?	☐	☐
3.	Did the offender arrive at this facility within the last 8 days?	☐	☐
4.	Does the employee/offender present any of the following signs?		
	• Temperature > than 100°	☐	☐
	• Sore Throat	☐	☐
	• Cough	☐	☐
	• Shortness of breath, Dyspnea, ↓ 0_2 sats	☐	☐
	• Nasal congestion or drainage	☐	☐
	• Vomiting	☐	☐
	• Lethargy	☐	☐
5.	Does the employee/offender report any of these symptoms within the past 24 hours?		
	• Body aches	☐	☐
	• Unexplained fatigue or weakness	☐	☐
	• Nausea/vomiting	☐	☐
	• Diarrhea	☐	☐

COMMENTS:

_____

_____

_____

_____ _____
Signature of Medical Interviewer Date of Interview

_____ _____
Signature of Reviewing Provider Date of Review

LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS
LOUISIANA STATE PENITENTIARY

H1N1 FLU

QUESTIONNAIRE – FRONT GATE

Name:	Company:

		YES	NO
1.	Spent any time in the H1N1 flu affected areas within the past 7 days?	☐	☐
2.	Spent any time with anyone from these areas within the past 7 days?	☐	☐
3.	Over the past 24 hours, has the person had any of the following?		
	• Temperature > than 100°	☐	☐
	• Sore Throat	☐	☐
	• Cough	☐	☐
	• Shortness of breath	☐	☐
	• Achy feeling/fatigue	☐	☐
	• Runny or stuffy nose	☐	☐
	• Nausea/vomiting	☐	☐
	• Diarrhea	☐	☐

If the person answers yes to 2 or more, please notify medical.

Signature of Interviewer

Date of Interview

Issued 3.18. 2020/V.3

Louisiana Department of
Public Safety and Corrections

CORONAVIRUS (COVID-19) SCREENING CHECKLIST

(Version 3)
Supersedes checklist issued 3.16. 2020

VERBALLY ASK INDIVIDUAL SEEKING TO ENTER FACILITY THE BELOW QUESTIONS AND RECORD ANSWERS VIA BELOW CHECK BOX.

1.	¯ Yes ⌜ No	In the last 14 days, have you been around anyone that is known to have tested positive for Coronavirus (COVID-19)
2.	⌟ Yes _ No	Do you currently have a fever?
3.	I Yes No	Do you currently have a new onset of shortness of breath?
4.	⌝ Yes ¯ No	Do you currently have a cough?
5.	⌟ Yes _ No	In the last 14 days, have you travelled into *or* from **Orleans** and/or **Jefferson** parish.

NEXT STEPS:

- If the individual answered **no to all of the above**, he/she is ***cleared for purposes of this screening.***
- If the individual answered **"yes" to either question(s) 1 or 2 (or to both); *he/she shall be denied entrance to the facility.***
- If the individual answered **"yes" to one or more of questions 3, 4, or 5 *the individual's temperature shall be taken;***
  - If the individual has a **temperature of 100.00 Degrees Fahrenheit or higher, *he/she shall be denied entrance to the facility.***
  - If the individual **does not have a temperature of 100 degrees or higher, but exhibits or self-reports symptoms of shortness of breath or coughing, *he/she is cleared for purposes of this screening, but may also be required to wear a mask throughout the duration of the stay on the premises* as determined by an appropriate health care practitioner.**

Denials:

1. **Any person denied entrance** to the facility pursuant to this checklist shall be ***verbally directed to seek medical advice regarding risk of exposure to the virus from an outside qualified emergency health care provider.***
2. If the person the **denied** pursuant to this screening is an **employee of the LADOC,** immediately notify facility Warden (if prison) or HR Director (if HQ) or District Manager (if P&P).

LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS
DIXON CORRECTIONAL INSTITUTE

POLICY AND PROCEDURE

POLICY NUMBER: 3B-014

SUBJECT: COOP Plan: **Influenza and Pandemic Viral Diseases: Preparedness, Response and Recovery**

REFERENCES: Department Regulation IS-D-2-HCP26

TO WHOM POLICY APPLIES: This policy applies to all staff and offenders at DCI.

PURPOSE: To establish a formal policy defining the planning, preparation, and management of a pandemic flu.

POLICY It is the policy of DCI that during a pandemic flu, continuity of operations will be maintained by sustaining and supporting critical infrastructure. To further this objective, guidelines specific for preventive education, identification, surveillance, immunizations, and treatment have been developed to control and contain the spread of the pandemic flu virus.

PROCEDURE:

A. Definitions

1. Preparedness: Actions that involve a combination of planning, resources, training, exercise and organizing to build, sustain and improve operational capabilities. This process includes identifying personnel, training and equipment for delivering necessary resources when needed for an incident.

2. Response: Immediate actions to save lives, to protect property, the environment and to meet basic human needs. Response also includes the execution of emergency plans and actions to support short-term recovery.

3. Recovery: The development, coordination and execution of service and site-restoration plans; the reconstitution of unit operations and services; long-term care and treatment of affected persons; additional measures for social, environmental and economic restoration; evaluation of the incident to identify lessons learned; post incident reporting; and developmental initiatives to mitigate the effects of future incidents.

4. Seasonal (or common) Flu: Respiratory illness that can be transmitted from person to person. Most people have some immunity and a vaccine is available. This regulation does not apply to seasonal or common flu outbreaks.

5. Pandemic Flu: Human flu that causes a global outbreak, or pandemic, of serious illness. There is little natural immunity. Therefore, healthy people may be at an increased risk for severe symptoms.

Serious complications are more frequent. The disease can spread easily from person to person. A pandemic flu occurs rarely but causes devastation across the continents.

6. Influenza-like Illness (ILI): is defined as fever (temperature of 100°F or greater) and a cough and/or a sore throat in the absence of a KNOWN cause other than influenza which occurs in the context of circulating influenza in the community.

7. Screening Checklist: A list to be used to identify offenders, employees, and visitors with ILI. This list will be developed by the Department's Medical/Mental Health Director based on the latest CDC recommendations.

8. Confirmed Case: A confirmed case of novel influenza A (H1N1) virus infection is defined as a person with an ILI with laboratory confirmed novel influenza A (H1N1) virus infection by either real time RT-PCR (Polymerase Chain Reaction) or viral culture.

9. Probable Case: A probable case of novel influenza A (H1N1) virus infection is defined as a person with ILI who is positive for influenza A, but negative for human H1 and H3 by influenza RT-PCR.

10. Suspected Case: A suspected case of novel influenza A (H1N1) virus infection is defined as a person who does not meet the confirmed or probable case definition, and is not novel H1N1 test negative, and is/has been a previously healthy person < 65 years hospitalized for ILI or has been diagnosed with ILI and has an epidemiologic link in the past seven days to a confirmed case or probable case.

11. Close Contact: A person who has had direct exposure to respiratory secretions or body fluids of a person with confirmed influenza or has touched or talked to a person with probable, suspected or confirmed influenza within a distance of six feet. Time of contact also needs to be considered. For instance, a person who has cared for or lived with an influenza patient is considered a close contact, providing the contact was of a continuous period of time such as 30-60 minutes. Working in the same building, walking by or sitting across a room from a person with influenza is NOT considered a direct exposure and therefore is considered contact only.

12. Isolation: Separation and restriction of movement of employees, offenders, and visitors with an ILI to contain the spread of that illness to susceptible people. (Isolation may occur in group settings.)

13. Quarantine: Separation and restriction of asymptomatic individuals who may have been exposed to an infectious agent but are not yet ill. The purpose of quarantine is to separate offenders who may have been exposed from the remaining population of offenders.

14. Barrier Protection: items used to avoid direct contact with patient blood, body fluid, secretions, and non intact skin, e.g., mask or gloves.

15. Standard Precautions: A set of infection control practices used to prevent the transmission of diseases that can be acquired by contact with blood, body fluids, non intact skin and mucus membranes. These measures shall be applied routinely in all health care settings.

B. The Institutional Incident Command Team (ICT) shall determine actions to be taken to prevent the spread of pandemic influenza among staff, offenders, volunteers, visitors and other civilians. The team will consist of, at a minimum, the Warden, Deputy Wardens, Assistant Wardens, Institutional Medical Director, Nursing Director, Infection Control Nurse, Human Resources Manager, Business Manager, Classification Director, ARDC Manager, and Information Services. Each member has a designated area of responsibility and will have an assigned back up person should that team member become ill during the pandemic. Members of the ICT will have seven day a week availability to respond to a potential outbreak of an Influenza-like Illness (ILI).

1. The Warden shall be responsible for coordinating pandemic influenza preparedness planning and for verifying command and control areas of responsibility and authority during a pandemic. The Deputy Warden will take over this responsibility if the Warden becomes ill during a pandemic.

C. Strategic goals for the management of a pandemic flu include:

1. Ensuring continuity of unit operations while sustaining and supporting critical infrastructure. Note that infrastructure includes not only associated physical plants, but also processes, systems and information that supports that infrastructure.

2. Taking necessary steps to slow down an outbreak so that the health care system is not overwhelmed, e.g., education, heightened screening for early detection, steps to limit cross contamination, social distancing etc.

3. Limiting illness and mortality by identifying high risk offenders/staff, monitoring sick offenders closely for early signs of complicating illnesses and providing timely intervention

D. Reporting requirements to the Secretary, Chief of Operations, Medical/Mental Health Director and Regional Wardens shall be in accordance with Department Regulation No. AM-I-4 (C-05-001) "Activity Reports/ Unusual Occurrence Reports Operational Units." The Executive Management Officer will make these notifications. In his/her absence the Director of Classification will report.

E. Operational Staffing:

SECURITY

1. To ensure that the security and safety of the institution is effectively maintained in the event of a pandemic flu outbreak, every effort will be made to ensure adequate staffing. With 40% of staff absenteeism estimated during a pandemic flu outbreak, DCI expects to have approximately 234 employees available to cover the critical posts. Security requires a minimum of 184 officers. These posts are cellblocks, dormitories, towers, Control Center, Front Gate and Infirmary.

2. DCI's plan to cover the functions of critical/essential job functions in case of prolonged absenteeism during a pandemic include the following:

a. Correctional officers who are assigned to the following crews will be utilized in all critical posts as needed on all twelve hour shifts of the institution in the following priority:

- Field Crew
- Outside Work Crew
- Administrative Support
- Contract Work Crews
- Baton Rouge Janitorial Work Crew

b. Outside trips will be decreased to only medical emergencies. There will be two (2) Trip Officers available on every twelve hour shift.

c. There will be a Warehouse officer available at all times, to accept and deliver needed supplies.

d. The Incident Management System will be manned around the clock utilizing four (4) trained Administrative Support Officers.

e. The maximum amount of overtime will be worked by all officers as needed.

f. All leave previously granted will be cancelled with the exception of sickness and medical emergencies.

g. All rosters will be reviewed on a daily basis during this operation to see if or where additional officers are needed.

MEDICAL

1. Critical/Essential Job Functions

   a. Pharmacy - (provided by La. State Penitentiary pharmacy staff)
   b. Dialysis
   c. Nursing Services
   d. Radiology
   e. Mental Health Services
   f. Declared Self Emergencies
   g. Emergency Trips
   h. Nursing Unit
   i. Nursing Assessments required to control disease process
   j. Completion of Screening Checklist offender and staff
   k. Required reporting to Office Public Health and Incident Command Team
   l. Medication Administration
   m. Physician services
   n. Emergency Laboratory Services
   o. Emergency Dental Services
   p. Emergency Psychiatry
   q. Administrative Assistant Duties

2. Non Critical/Essential Functions

   a. Optometry
   b. Routine sick call
   c. Chronic Clinics including Discharge Clinic
   d. Routine Doctors Call
   e. Routine Psychiatry
   f. Routine Mental Health Services
   g. Routine Dental Services
   h. Routine off site clinic visits
   i. Routine segregation rounds
   j. Routine segregation assessments
   k. Telemedicine clinic visits
   l. Annual physicals
   m. Administrative Remedy Procedure & Offender correspondence
   n. Employee Hepatitis B Vaccinations
   o. Offender & Employee Annual Tuberculin Skin Testing
   p. Routine Laboratory Testing
   q. On site specialty clinics to include vascular, orthopedics, podiatry & ultrasound

   Note: Medical services will be evaluated on a daily basis to determine if a change in level is required.

3. In order to compensate for a 40% staff reduction, the medical department will utilize services of four WAE nurses.

4. Succession Plans for Critical/Essential Functions and staffing plan

   a. Director of Nursing – member of the Incident Command Team, monitors new developments, gives direction to the health care staff and Department Heads. Ensures implementation of new recommendations.

      - Assistant Director of Nursing is cross trained and will be the replacement for the Director of Nursing if necessary.

b. Assistant Director of Nursing – provides scheduling for 24 hour nursing coverage. Serves as a resource for staff. Assists the Director and Infection Control Manager.

- The Infection Control Manager will be the replacement for the Assistant Director of Nursing if necessary.

c. Infection Control Manager – provides coverage for screening check lists, reporting requirements and maintaining continuity of infection control practices.

- The Quality Assurance Manager will be the replacement for the Infection Control Manager if necessary. Both Infection Control Manager and Quality Assurance Manager are cross trained.

d. Pharmacist – Procuring medications, filling prescriptions and dispensing medication.

- Replacement services will be determined by LSP personnel.

e. Nursing Unit – A minimum of one nurse per 12 hour day and night shifts is essential to provide nursing care to offenders confined to the infirmary nursing unit.

f. Out patient Nursing – A minimum of two nurses per day and night shifts are essential to screen potential or identified contacts of ILI, and provide assessment and nursing care to offenders who declare themselves an emergency. These nurses will also conduct medication administration on the dorms and or segregated areas (insulin, INH, and Controlled drugs).

g. Cohorted offenders - A minimum of one nurse per 12 hour shift is essential to provide required services to these offenders.

- Any available staff will be utilized as backup for the nursing unit, outpatient nursing and cohorted offenders. In addition, 4 WAE nurses will be utilized as replacements if necessary.

h. Medication Administration – Administration of Insulin, INH and Controlled drugs in the infirmary and in the segregated areas as well as scheduled 5 A.M., and 5 P.M. pill calls conducted in the centralized pill call room.

- Nursing staff will continue to administer identified medications in the infirmary and in the segregated areas. These duties will be assigned to the outpatient nursing staff.

- Scheduled pill calls in the centralized pill call rooms will be conducted by pill call officers with officers trained in medication administration utilized as replacements if necessary.

i. The Administrative staff's essential functions will be purchasing, payroll, compiling data and any other support for Nursing and Mental Health staff. Two staff members daily are essential.

- The Dental Assistant will be the replacement for administrative staff if necessary.

j. Mental Health professionals – Two Mental Health professionals are essential daily and on call 24 hours a day to provide continuity of care for the offenders who require mental health services. Emergency Psychiatric services will be provided by the contract psychiatrist.

- One of the currently employed 4 Mental Health professionals will be the replacement for the Mental Health Staff if necessary.

k. Physician services – provides professional medical care to the DCI offender population, direction to the Nursing Staff and Department Heads in regards to implementing CDC recommendations.

- Nurse Practitioner will provide backup if necessary.

l. Dialysis – services are contracted by Fresenius and back up will be provided by Fresenius staff.

m. Radiology – one part-time radiologist technician – Two hours per day will be utilized as on call should an offender require an x-ray either related to illness or injury.

n. Medical Waste will be managed by contracted service provided by Stericycle.

o. Acadian Ambulance Services or DCI van will be utilized to transport emergency trips.

Note: The maximum amount of overtime will be worked by all medical staff as needed. Cancel all leave previously granted and allow leave only for sickness and medical emergencies.

MAINTENANCE

1. The Maintenance Department will make every effort to maintain all critical functions of the facility during the event of a pandemic flu situation. We currently staff 10 Employees and based on the estimated reduction of staff affected by the flu of 40%; that would leave an estimated 6 Employees to carry out the critical functions. We have identified these functions, based on a Priority Level 1, for the estimated full scale, 4 month recovery period. Cross Training of employees will take place for all critical tasks required for each compound by employees who normally would not be familiar in areas such as boilers, generators, filter change locations, laundry repairs, perimeter lighting, etc.

2. The following are the essential functions for Maintenance:

a. Work Order System – Reviewed daily based on Priority Level 1 related to Health and Safety.

b. Preventative Maintenance - Maintain equipment, primarily ventilation systems, with better Merv Rated Filtration filters in critcal areas of the facility.

- Unit Maintenance and Welding - Concentrating primarily on ventilation system, Laundry Service, and Boiler System.
- HVAC - Concentrating primarily on ventilation system.
- Plumbing - Ensure continued quality of water supply from water well & operation of waste water system.
- Electrician - Maintain Emergency Power System.
- Automotive - Maintain integrity of Fleet.
- Supervisor - Verify that needed maintenance is being performed to ensure proper operation of facility.

c. Adjust work schedule based on the level of the outbreak and affected staff.

d. Cancel all leave previously granted and allow leave only for sickness and medical emergencies.

e. Facility Maintenance Managers will be available on 24 Hour Emergency Call

KITCHEN

1. The Kitchen operation is a top priority and food preparation cannot suffer. Normal staffing includes 1 Lt. and 3 Sgts. per shift, in addition to the Major and Captain. In the event of a 40% reduction in staff, the Kitchen will operate with 3 officers per shift. The following steps will be taken to ensure the Kitchen continues to operate at full capacity during the time period of the flu outbreak:

   a. Menus are prepared by cycle, and meal planning will not be impacted in the event of a 40% shortage in staff. There are 6 menu cycles developed for a 12 month period, with each cycle covering a 6 week time period. Recipes are automated, so that once the total number of meals to be prepared is determined, quantities of ingredients and seasonings are automatically calculated, eliminating any guesswork. Additionally, soup for sick offenders will be on the daily menu.

   b. It is imperative that the number of offenders assigned to Kitchen duty remains constant. The work roster has 60 offenders assigned to Kitchen duty. If 40% become ill and cannot continue with their work assignment, then an additional 24 offenders will need to be transferred to this job assignment.

   c. The Major and Captain in charge of Kitchen operations are currently cross-trained and will provide leadership. Additionally, the Lt. assigned to the Kitchen will have the knowledge to pull recipes and prepare pre-assigned menus.

   d. Offenders that are isolated due to illness will be served their meals in disposable containers, including hinged trays, soup bowls, cups, utensils, etc. All trash will be disposed of in the dumpster assigned to this area, and any "leftovers" will not be returned to the Kitchen.

WAREHOUSE

1. The Warehouse will play a vital role in keeping DCI supplied with essential supplies, including food, medical, and cleaning supplies. There are 3 officers assigned to the Warehouse. In the event of a 40% reduction in staff, the Warehouse can function with 2 employees.

   a. All employees are cross-trained to operate the fork lift, make deliveries, and monitor inventory levels.

   b. Changes in Property Control have a 90 day limit for entry into the system. Should the Property Control Coordinator become ill, she can make the appropriate entries upon returning to work.

   c. Purchasing staff can provide backup to Warehouse personnel in the event of illness.

   d. Inventory levels of PPE supplies will be submitted daily during a pandemic threat or ongoing pandemic, and as needed at other times.

2. The following are the essential functions of the Warehouse at all risk levels:

   a. Property Control
   b. LaGov - Ordering/Receiving (Purchasing Office)
   c. LaGov - Inventory Reporting
   d. Issues/Deliveries
   e. Receiving

f. Inventory (Monitoring)
g. Forklift (Operation)
h. Purchasing (submitting RFPs to maintain operations/stock)

PURCHASING

1. The Purchasing Office is the lifeline to keeping DCI supplied. Three non-security employees work in this office, and it can operate with 2 employees in the event of a 40% reduction in staff.

   a. All employees in this office are cross-trained, and are needed to carry on the specialized job responsibilities of the office.

   b. Desk procedures are available to assist any Business Office employee who may be called upon to fill in during an emergency.

   c. A file of alternate, non-contract vendors is being compiled in the event of an emergency. (see La eCat)

   d. If the Administrative Program Manager is out, supervision and approvals will be provided by the Administrative Program Director or the Accountant.

2. The following are the essential functions of Purchasing at all risk levels:

   a. Oversee purchasing aspects
   b. Oversee Canteen aspects
   c. Oversee Warehouse aspects
   d. Ensure Contract Orders/Bid Requests are completed at agency level
   e. Issue approved 156-B RFP numbers
   f. Input RFP numbers in Pulse2
   g. Input Receipts for orders in Pulse 2
   h. Enter orders over $5,000 in LaGov
   i. Enter Bids in LaGov
   j. Enter Visa purchases into WORKS
   k. Verify, document & post payments to Pulse 2
   l. Audit Visa statements and post to Pulse 2
   m. Gather, compile, edit & input bid specs with agency personnel
   n. Research/route invoices to all departments
   o. Research, document and finalize all "error" issues

BUSINESS OFFICE

1. Other non-security employees in the Business Office have responsibility for budget control, accounting, offender banking, and Canteen inventory functions. Three employees work in this area, and a 40% reduction would leave 2 people to perform the duties required. If needed, these employees can provide support to other areas, especially in the areas of purchasing and/or inventory control.

   a. Offender banking employees are cross-trained, and can perform some of the functions of the Accountant, such as writing checks, making deposits, etc. The Accountant and Administrative Program Director are cross-trained in most areas. Headquarters staff will be consulted to provide specialized assistance and direction, if necessary.

   b. Desk procedures are available to assist any Business Office employee who may be called upon to fill in during an emergency.

c. Canteen operations will cease at the discretion of the Warden, thereby allowing additional time to assist in other areas.

d. The Business Office and Records Office employees are working together to ensure that discharge packets and checks are taken to the Control Center on time.

e. In the event that the Administrative Program Director and Accountant are both out, the Assistant Warden of Administration will provide supervision and approvals as needed.

2. The following are the essential functions of the Business Service / Purchasing Office:

a.	Incentive Pay	b.	Discharges
c.	Offender Purchases	d.	Medical Co-Pays
e.	Offender Postage & Copies	f.	Canteen Holds
g.	Restitution	h.	Monthly Statements
i.	T & A	j.	Offender Movement
k.	Input Canteen Purchases	l.	Canteen Inventory
m.	Canteen Transfers	n.	Daily Bank Deposits
o.	Offender Account Transfers	p.	W/E Tickets and Visiting
q.	Car Wash/Hobby Craft	r.	Head Quarter Mail
s.	Answer Offender Mail	t.	Cut Checks
u.	Monthly Billings	v.	Fuel Trac (Reconcile fuel payments)
w.	Pay Electric Bills	x.	Pay Dialysis Bill
y.	Pay Contractor Bills	z.	Post PULSE
aa.	Run Credit Card Statements	bb.	Pay Credit Card Bills
cc.	Reconcile Bank Accounts	dd.	Reports SGR/IAT/Rev/Disb
ee.	Budget Monitoring/Projections	ff.	Approvals-RFPs, LaGov, etc.
gg.	Food Service Coordination		

CLASSIFICATION

1. During a pandemic flu epidemic all non-essential classification functions will cease in order to contain/isolate those affected and maintain the integrity of the institution while ensuring public, staff, and offender safety. Classification staff would be categorized as medium exposure risk due to the nature of their job functions. Due to this level of exposure, it is expected that an absenteeism rate of 30 – 40% will occur (3-4 employees). Classification requires a minimum of 2 employees to maintain essential functions. In the event this happens, classification will redistribute duties as follows:

a. Classification Director – will assist the Wardens office with implementation of the contingency plan (if unavailable, Asst. Director will assume duties)

b. Asst. Classification Director – will manage all classification functions as dictated by current situation (if unavailable, Classification Director will assume)

c. Recreation coordinator – if available, will be reassigned to assist security

d. Unit One Classification – will assist unit management and continue normal functions as necessary (if unavailable, Cellblock Classification Officer will provide support as necessary)

e. Unit Two Classification – will assist unit management and continue normal functions as necessary (if unavailable, Unit Three classification officer will assume duties)

f. Unit Three Classification – will continue normal functions and assist Unit Two as necessary (if unavailable, Unit Two classification will assume duties)

g. Cellblock Classification – will continue normal functions and assist Unit One as necessary (if unavailable, Assistant Director will assume duties)

h. Admin. Support. – if available, will be reassigned to assist security.

RECORDS OFFICE

1. The Offender Records Office has 4 employees. During a flu epidemic the number of employees could be reduced to 2 or 3. The Records Office can operate with a minimum of 2 employees. The ARDC Manager will direct the office backed up by the ARDC Supervisor.

2. The following are the essential functions of the Records Office:

a. Discharges will be completed 30 days in advance. We will see the offenders in the non-contact visiting room. Records for discharge will be cleared 60 days in advance.

b. Transfer order and transferring records every Friday (if not cancelled).

c. Admissions will be checked upon arrival to DCI & (within 2 months of being received) and checked for Compound 3 (if not cancelled).

d. Educational CTRP credit forms and forfeitures will be calculated according to offender's release date.

e. General office duties.

f. Any court documents received showing offender might be eligible for release will be reviewed immediately.

F. In the event that additional acute care beds for expanded healthcare capacity are needed the following moves will be made.

1. Offenders with confirmed cases of influenza shall be housed in the Infirmary or the Visiting Room.

2. Dialysis offenders shall be housed in Dorm K.

3. YOP offenders shall be moved from Dorm K to Dorm 7.

G. DCI has classified the following employee positions into the indicated exposure risk categories.

1. High Exposure Risk: (Occupations with high potential for exposure to known or suspected sources of pandemic influenza virus) Healthcare Delivery and Support Staff, Trip Officers transporting known or suspected pandemic influenza infected patients, Social Workers, Infirmary Security Staff, Security Staff assigned to affected areas.

2. Medium Exposure Risk: (Occupations with high-frequency contact within six feet of the offender population) Security staff in unaffected areas, Chaplains, Classification.

3. Lower Exposure Risk: (Occupations that do not require routine contact with the offender population) Business Office, Human Resources, Records Office etc.). Risky activities outside of the workplace shall be considered when classifying employees into low exposure risk, such as other employment that may involve routine contact with an offender population (part-time security) or frequent visits to nursing homes, etc. Such risky activities outside of the workplace shall be discouraged for low risk staff in the event of a pandemic flu.

H. DCI maintains a Baseline Readiness (always ready state) as a guideline for necessary actions for pandemic flu alert as indicated:

1. Maintain adequate Personal Protective Equipment (PPE) supplies at all times and as directed by the Institutional Incident Command Team to include the following:

   a. Tissues;
   b. Gloves;
   c. Biohazard Bags;
   d. Hazard Receptacles;
   e. Surgical Masks;
   f. Waterless Hand Sanitizers;

2. DCI's points of contact for influenza pandemic preparedness are the Baton Rouge Office of Public Health Region 2 and the East Feliciana Parish Health Unit.
3. Provide education and training regarding pandemic influenza to staff and offenders during orientation, inservice, when administering flu vaccines, and on closed circuit television.

4. Ensure that all staff is familiar with the local Incident Command System (ICS) and understand the roles and persons assigned within that structure.

5. Incorporate pandemic influenza into unit emergency management planning and exercise.

6. Determine the potential impact of a pandemic on the unit by using multiple possible scenarios of varying severity relative to illness, absenteeism, supplies, availability of resources, access to legal system representatives, etc.

7. The following strategies will be used for offenders with known or suspected pandemic influenza:

   a. Confining ill and exposed offenders to their cells;
   b. Isolating offenders with symptoms of ILI in the Infirmary or the Visiting Room.
   c. Staff assigned to work in affected areas will not be assigned to work in unaffected areas.

8. In the event that a temporary morgue becomes necessary, the cooler on Compound 2 will be used.

I. In response to a pandemic threat or during an ongoing pandemic, DCI will take the following actions:

1. The Institutional Incident Command Team shall meet weekly or as directed by the Department’s Medical/Mental Health Director.

2. The DCI Health Authority shall discuss with the Medical/Mental Health Director regarding stockpiling requirements of antibiotics and necessary medical supplies.

3. Provide a current list of all supplies which shall be sent to the Department's Medical/Mental Health Director.

4. The Nursing Director will monitor sick call reports and clinic visits in an effort to identify ILI in the offender population. Findings will be reported to the Unit Head and Health Authority.

5. Encourage offenders to notify health care/security staff at the onset of symptoms of ILI. Offenders should be informed that early detection is vital to reduce the transmission of an influenza outbreak.

6. Waive the health care co-payment fee for sick calls related to ILI.

7. Provide education to employees and offenders on basic hygiene, respiratory etiquette and high risk medical conditions.

8. Ensure that health care personnel are updated with the latest CDC recommendations regarding ILI, such as symptoms/signs, diagnostic criteria, treatment protocols, indications of anti-viral medication use, etc.

9. Infection Control/Precautions: Institute Infection Control Precautions as follows:

   a. Maximize access to alcohol based hand sanitizer in areas with high traffic flow such as the kitchen and pill call;

   b. Make soap dispensers or hand soap available in all employee and offender restrooms;

   c. Emphasize frequent cleaning and disinfection of high touch areas, i.e. door knobs, keys and telephones;

   d. Vaccination/Antiviral medication priorities shall be determined and distributed by the Department's Medical/Mental Health Director;

   e. Surgical masks and gloves shall be worn by staff having direct contact (within six feet) of offenders who have suspected or probable or confirmed influenza in the designated isolation areas. Good hand washing must take place between patient contacts and glove changes. Surgical masks shall only be worn in the designated isolation areas. Offenders who become symptomatic and require movement shall don a mask prior to movement. Movement to and from isolation and quarantine areas shall be kept to a minimum and necessary services to the extent possible shall be delivered to these offenders in the isolation and quarantine areas.

   f. Recommendations shall be made for quarantine of non-ill contacts. Offenders who may have been exposed but are asymptomatic shall be quarantined. Arrangements shall be made to provide those quarantined with necessary daily items including meals, water and hygiene.

   g. Offenders with ILI symptoms shall be isolated. This can be done in a group setting as well, if multiple offenders require isolation. Arrangements shall be made to provide those isolated with necessary daily items including meals, water and hygiene. All efforts shall be made to limit any movement of isolated offenders (bring meals, medications, etc. to them) but if offender requires to leave the isolation area then a proper mask shall be worn before leaving isolation area and the offender shall not be allowed remove the mask until returned to the isolation area.

   h. Offenders diagnosed with ILI shall be monitored for early signs of complicating illnesses, i.e. pneumonia. Offenders who are at high risk for these complications or those who are sicker at presentation shall be admitted to the infirmary for closer observation.

   i. May consider instituting a standing order/treatment protocol for ILI.

   j. Phone Triage for Staff: Staff who have ILI symptoms or are ill may be triaged by phone. Triage shall be performed by medical staff or health trained staff. All absences related to ILI shall be tracked.

   k. A situation report shall be forwarded to the Department's Medical/Mental Health Director to include: the number of newly diagnosed cases (suspected or probable or confirmed); the number of offenders in isolation; the number of offenders quarantined; the number of staff absences security/medical; and deaths. The Department's Medical/ Mental Health Director shall decide the frequency of this report for each unit.

J. In response to a pandemic threat or during an ongoing pandemic, the Department's Medical/Mental Health Director, in collaboration with the Unit Head, shall decide to take any or all of following actions:

1. Screening: Employees will complete a self screening at roll call. Employees who state they are sick shall be triaged by medical staff or health trained staff, and if found to have a fever shall be sent home. Staff with ILI shall remain at home at least 24 hours after they are free of fever (100 degrees F), or signs of fever, without the use of fever reducing medications.

2. To impose restrictions regarding outside travel with the exceptions of medical/mental health emergencies and mandatory court trips.

3. Transfers In/Out: Transfers within the Department may be suspended on a unit-by-unit basis or department-wide.

4. Visitors/Vendors: Screening of visitors/vendors may be initiated and visitors with symptoms of pandemic flu may be denied entry to the unit. Symptomatic vendors may be granted access based upon need and shall be required to wear a mask while on institutional grounds.

5. Clinics: On-site clinics may be allowed to operate on a case-by-case basis. Specialty clinics that can be accomplished via telemedicine will be strongly encouraged.

6. Access/Control:

   a. Offender group activities may be suspended;

   b. Normal eating activities may be suspended. A plan shall exist for delivering meals to offenders if cafeteria or group-style dining is closed;

   c. Pill call may be modified as necessary to reduce the risk of influenza transmission. The Department's Medical/Mental Health Director may expand KOP list.

7. Surveillance, Screening and Triage: Routine sick call may be suspended. Offenders will have access to healthcare via emergency sick call.

JASON KENT, WARDEN **EFFECTIVE DATE:** _____

STATE OF LOUISIANA
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS
CORRECTIONS SERVICES

Department Regulation
No. HCP26

10 March 2020

INSTITUTIONAL SERVICES / HEALTH CARE POLICIES
Health Care Policy – Infection control
Influenza and Pandemic Viral Diseases: Preparedness, Response and Recovery

1. **AUTHORITY:** Secretary of the Department of Public Safety and Corrections as contained in Chapter 9 of Title 36.

2. **REFERENCES:** La. R.S. 15:831; 5-ACI-3D-08 “Protection from Harms,” 5-ACI-6A-12 “Communicable Disease and Infection Control Program,” 5-ACI-6B-07 “Emergency Plans;” Department Regulations AM-I-4 “Activity Reports/Unusual Occurrence Reports Operational Units,” HCP21 "Communicable and Contagious Diseases and Infection Control Program," World Health Organization; Center for Disease Control and Prevention.

A. During a pandemic or an influenza outbreak, the following resources are available to provide up to date information.

1) World Health Organization (WHO) - guidelines can be found at www.who.int/en/;

2) The Centers for Disease Control and Prevention (CDC) – guidelines can be found at www.cdc.gov;

3) The United States Department of Health and Human Services’ Center for Disease Control and Prevention Health Alert Network - information can be found at https://emergency.cdc.gov/han/;

4) Louisiana Department of Health.

3. **PURPOSE:** This regulation provides a formal policy and procedure for the Department of Public Safety and Corrections (DPS&C) concerning the planning, preparation and management of a pandemic viral disease or an influenza as part of the Department’s infection control program. The DPS&C recognizes a pandemic or an influenza outbreak may or may not follow an expected course and may present new challenges. The Secretary or designee shall have the authority to waive the requirements of this regulation in exceptional situations. Strategic goals include:

A. Ensuring continuity of unit operations while sustaining and supporting critical infrastructure. Note: That infrastructure includes not only associated physical plants, but also processes, systems, and information supporting that infrastructure.

B. Taking necessary steps to slow down an outbreak so the health care system is not overwhelmed, for example: education, heightened screening for early detection, steps to limit cross contamination, social distancing, etc.

C. Limiting illness and mortality by identifying high risk offenders/staff, closely monitoring sick offenders for early signs of complicating illnesses and providing timely intervention

4. APPLICABILITY: Deputy Secretary, Undersecretary, Chief of Operations, Department Medical Health Director, Department Mental Health Director, Department Nursing Director, Regional Wardens, Wardens, Facility Health Authorities, Director of Probation and Parole, and Director of Prison Enterprises.

5. POLICY: The Secretary's policy is each Unit Head is responsible for ensuring appropriately written policies and procedures are in place to address pandemic and influenza preparedness, response, and recovery.

6. DEFINITIONS:

A. **Barrier Protection:** Items used to avoid direct contact with patient blood, body fluid, secretions, and non-intact skin, for example, masks or gloves.

B. **Close Contact:** A person who has had direct exposure to respiratory secretions or body fluids of a person with confirmed influenza or has touched or talked to a person with probable, suspected or confirmed influenza within a distance of six feet. Time of contact also needs to be considered. For instance, a person who has cared for or lived with an influenza patient is considered a close contact, providing the contact was of a continuous period of time such as 30-60 minutes. Working in the same building, walking by or sitting across a room from a person with influenza is NOT considered a direct exposure and therefore is considered contact only.

C. **Communicable Disease:** A disease which can be transmitted from person to person or from animal to person.

D. **Confirmed Case:** A person who tests positive for novel influenza A virus infection on an approved laboratory test. This may apply to other viral illnesses which may cause epidemic outbreaks as well.

E. **Infection Control Program:** A program designed to investigate, prevent, and control the spread of infections and communicable diseases.

F. **Influenza**: Influenza (flue) a contagious respiratory illness caused by influenza viruses that infect the nose, throat, and sometimes the lungs. It can cause mild to severe illness, and at times can lead to death.

G. **Influenza-like Illness (ILI):** A fever (temperature of 100°F or greater) and a cough and/or a sore throat. This includes iillnesses having presentation similar to flu, such as coronavirus or other viral pathogens.

H. **Isolation:** Separation and restriction of movement of employees, offenders, and visitors with an ILI to contain the spread of that illness to susceptible people. Isolation may occur in group settings.

I. **Pandemic:** An epidemic of disease which has spread across a large region; for example: spread across multiple continents or worldwide.

J. **Pandemic Influenza:** An occurrence in which novel influenza virus spreads from person to person around the world and affects a very large number of people. In that case, there is little natural immunity. Therefore, healthy people may be at an increased risk for severe symptoms; and serious complications are more frequent. The disease can spread easily from person to person. A pandemic influenza occurs rarely, but it causes devastation across the continents when it occurs.

K. **Preparations:** Actions which involve a combination of planning, resources, training, exercise, and organizing to build, sustain, and improve operational capabilities. This process includes identifying personnel, training, and equipment for delivering necessary resources when needed for an incident.

L. **Probable Case:** A person who meets illness criteria for influenza (flu), but does not yet have laboratory confirmation or influenza virus infection. This applies to other viral illnesses which may result in infection by direct transmission and have potential for epidemic spread.

M. **Quarantine:** Separation and restriction of asymptomatic individuals who may have been exposed to an infectious agent but are not yet ill. The purpose of quarantine is to separate offenders who may have been exposed from the remaining population of offenders.

N. **Recovery:** Includes: the development, coordination and execution of service and site-restoration plans; the reconstitution of unit operations and services; long-term care and treatment of affected people; additional measures for social, environmental and economic restoration; evaluation of the incident to identify lessons learned; post-incident reporting; and developmental initiatives to mitigate the effects of future incidents.

O. **Response:** Immediate action(s) taken to save lives, to protect property, the environment, and to meet basic human needs. Response includes the execution of emergency plans and actions to support short-term recovery.

P. **Screening Checklist:** A list to be used to identify offenders, employees, contract employees, vendors, and visitors with ILI. This list shall be

developed by the Department's Medical/Mental Health Director based on the latest CDC recommendations.

Q. **Seasonal (or common) Flu:** Influenza A and B viruses which spread and cause illness in people during "flu season". Most people have some immunity, and a vaccine is available. This regulation does not apply to seasonal or common flu outbreaks.

R. **Standard Precautions:** A set of infection control practices used to prevent the transmission of diseases which can be acquired by contact with blood, body fluids, non-intact skin, and mucus membranes. These measures shall be applied routinely in all health care settings.

S. **Suspected Case/Case Under Investigation:** A person who meets illness criteria for influenza (flu), but laboratory tests for influenza virus infection have not been performed. A case under investigation will have exposure history which shall prompt a health investigation.

7. PROCEDURES: Each unit's pandemic and flu plan shall include, at a minimum, the following:

A. Procedures for prevention, disinfection, education, identification, surveillance, immunization (when applicable), treatment, follow-up and medical isolation of infectious cases (when applicable). Reporting requirements to the Secretary, Chief of Operations, Medical/Mental Health Director and Regional Wardens shall be in accordance with Department Regulation No. AM-I-4 "Activity Reports/ Unusual Occurrence Reports Operational Units." In addition, local, state, and federal agencies shall be notified as appropriate.

B. Guidelines to restructure housing in order to decrease the possibility of an outbreak.

C. A Continuity of Operations Plan (COOP) which includes, but is not limited to, the following:

1) Contingency plans for 30-40% employee absences possibly due to:

a. Personal illness;

b. Family member illness;

c. Community mitigation measures such as quarantines, business, childcare and school closures;

d. Public transportation disruptions;

e. First responder, National Guard, or military reserve obligations.

2) Human Resources policies to allow alternate work scenarios.

3) Identification of critical/essential job functions and plans to cover those functions in case of prolonged absenteeism during a pandemic.

4) Succession plans for each critical/essential unit position to ensure the continued effective performance of the unit by identifying and training replacements for key personnel as necessary. These replacements shall be integrated into employee development activities and should include critical contracted services as well.

5) As necessary, plans for cross-training employees, use of auxiliary personnel and recent retirees, recruiting temporary personnel during a crisis, or establishing flexible worksite options (for example, telecommuting) and flexible work hours (for example, staggered shifts) if appropriate.

6) Staffing plan which specifies the minimum number and categories of personnel necessary to maintain the operation of the unit. This plan may be based on an offender census and the need to provide medical and nursing care in a safe manner.

7) Identification of areas within an institution which may be used to create additional acute care beds for expanded health care capacity.

8) The classification of all employee positions into one of the following three exposure risk categories. This classification shall be done to minimize the potential for cross contamination, thus slowing down the spread of illness in the unexposed population.

a. High Exposure Risk: Staff with high potential for exposure to known or suspected sources of pandemic influenza virus, such as healthcare delivery and support staff, staff transporting known or suspected pandemic influenza infected patients, etc.

b. Medium Exposure Risk: Staff with high-frequency contact within six feet of the offender population, such as security staff, social workers, chaplains, etc., who work in dorms or cellblocks.

c. Lower Exposure Risk (caution): Staff who do not require routine contact with the offender population, such as

administrative staff (i.e. institution Business Office, Human Resources, etc.). Activities outside of the workplace shall be considered when classifying employees into low exposure risk, such as other employment which may involve routine contact with an offender population (part-time security.) Such risky activities outside of the workplace shall be discouraged for low risk staff in the event of a pandemic.

D. Baseline Readiness. Each institution shall**:**

1) Establish an Institutional Incident Command Team to determine actions which shall be taken to prevent the spread of pandemic viral diseases among staff, offenders, volunteers, visitors and other civilians. The team shall consist, at a minimum, of the Unit Head or designee, Facility Medical Director, Nursing Director, Infection Control Nurse (if applicable), Pharmacy Director (if applicable), representatives from Security, Human Resources, Business Office and Information Services, with seven-day-a-week availability to respond to a potential outbreak of a pandemic viral disease or ILI.

2) Designate a Pandemic Coordinator with the responsibility for pandemic planning and preparedness.

3) Maintain adequate medical supplies at all times to include the following:

a. Tissues;

b. Gloves;

c. Biohazard Bags;

d. Hazard Receptacles;

e. Masks (See attachment for appropriate use and need "Advantages and Disadvantages of Respirators and Facemasks");

f. Waterless Hand Sanitizers (alcohol based.)

4) Establish points of contact for pandemic preparedness in the local and state health departments, local, regional or state agency preparedness groups and local hospitals. Maintain the unit's agreement with the Office of Public Health to be a point of dispensing and have required procedures in place.

5) Ensure all staff members are familiar with the unit Incident Command System (ICS) and understand the roles and people assigned within that structure.

6) Incorporate pandemic preparedness into unit emergency management planning and exercise.

7) Develop a written plan identifying areas of quarantine and isolation for the offender population (dorm and cell blocks.) The unit shall consider ways to prevent cross contamination of staff and offenders assigned to work in affected areas, for example, employees/offenders assigned to work in isolation or quarantine areas should not be allowed to work in other areas. Offenders assigned to work in these areas should not be allowed to return to general population.

8) Create and maintain list of high risk offenders for seasonal influenza (based on current CDC guidelines), which should be updated quarterly, and a plan for mass vaccination prior to exposure.

9) Ensure facility staff shall identify an area in the facility which can be used as a temporary morgue.

E. In response to a pandemic threat or during an ongoing pandemic, each unit and facility shall take following actions:

1) The Institutional Incident Command Team shall meet weekly or as directed by the Department's Medical/Mental Health Director.

2) Facility Health Authorities shall coordinate with the Medical/Mental Health Director regarding stockpiling requirements of antibiotics and necessary medical supplies.

3) Facility Health Authorities shall provide a current list of all supplies, which shall be sent to the Department's Medical/Mental Health Director.

4) The Pandemic Coordinator shall monitor sick call reports and clinic visits in an effort to identify ILI in the offender population. Findings shall be reported to the Unit Head and Health Authority.

5) Encourage offenders to notify health care/security staff at the onset of symptoms of ILI. Offenders should be informed early detection is vital to reduce the transmission of a pandemic viral disease outbreak.

6) Waive the health care co-payment fee for sick calls related to ILI.

7) Provide education to employees and offenders on basic hygiene, respiratory etiquette and high risk medical conditions.

8) Ensure health care personnel are updated with the latest CDC recommendations regarding ILI, such as symptoms/signs, diagnostic criteria, treatment protocols, indications of anti-viral medication use, etc.

9) Infection Control/Precautions: Institute Infection Control Precautions as follows:

a. Maximize access to alcohol based hand sanitizer in areas with high traffic flow such as the kitchen and pill call;

b. Make soap dispensers or hand soap available in all employee and offender restrooms;

c. Emphasize frequent cleaning and disinfection of high touch areas, such as door knobs, keys and telephones;

d. Vaccination/Antiviral medication priorities shall be determined and distributed to high risk individuals prior to outbreak by the Department's Medical and Mental Health Directors;

e. N95 respirators and medical gloves shall be worn by staff having direct contact with (within six feet of) offenders who have suspected, probable, or confirmed influenza in the designated isolation areas. Good hand washing shall take place between patient contacts and glove changes. Surgical masks shall only be worn in the designated isolation areas. Offenders who become symptomatic and require movement shall wear a mask prior to movement. Movement to and from isolation and quarantine areas shall be kept to a minimum; and necessary services, to the extent possible, shall be delivered to these offenders in the isolation and quarantine areas.

f. Recommendations shall be made for quarantine of non-ill contacts. Offenders who may have been exposed, but are asymptomatic, shall be quarantined. Arrangements shall be made to provide those quarantined with necessary daily items including meals, water, and hygiene.

g. Offenders with ILI symptoms shall be isolated. This can be done in a group setting as well, if multiple offenders require isolation. Arrangements shall be made to provide those isolated with necessary daily items including meals, water and

hygiene. All efforts shall be made to limit any movement of isolated offenders (bring meals, medications, etc., to them); but if an offender is required to leave the isolation area, then a proper mask shall be worn before leaving isolation area; and the offender shall not be allowed remove the mask until returned to the isolation area.

h. Offenders diagnosed with ILI shall be monitored for early signs of complicating illnesses, for example: pneumonia. Offenders who are at high risk for these complications, or those who require a higher level of care, shall be admitted to the infirmary for closer observation.

i. May consider instituting a standing order/treatment protocol for ILI.

j. Phone Triage for Staff: Staff who have ILI symptoms or are ill may be triaged by phone. Triage shall be performed by medical staff or health trained staff. All absences related to ILI shall be tracked.

k. A situation report shall be forwarded to the Department's Medical Director to include: the number of newly diagnosed cases (suspected or probable or confirmed); the number of offenders in isolation; the number of offenders quarantined; and the number of staff absences security/medical; and deaths. The Department's Medical/ Mental Health Director shall decide the frequency of this report for each unit.

F. In response to a pandemic threat or during an ongoing pandemic, the Department's Medical/Mental Health Director, in collaboration with the Unit Head, shall take any or all of following actions:

1) Screening: Employees (contract and vendor) shall complete a self-screening at roll call. Employees who state they are sick shall be triaged by medical staff or health trained staff and shall be sent home if found to have a fever. Staff with ILI shall remain at home at least 24 hours after they are free of fever (100.4 degrees F), or signs of fever, without the use of fever reducing medications.

2) Restrictions: Impose restrictions regarding outside travel with the exceptions of medical/mental health emergencies and mandatory court trips (in consultation with court).

3) Transfers In/Out: Transfers within the Department may be suspended on a unit-by-unit basis or department-wide.

4) Visitors/Vendors: Screening of visitors/vendors may be initiated and visitors with symptoms of ILI may be denied entry to the unit. Symptomatic vendors may be granted access based upon need and shall be required to wear a face mask while on facility grounds.

5) Clinics: On-site clinics may be allowed to operate on a case-by-case basis. Specialty clinics that can be accomplished via telemedicine shall be strongly encouraged.

6) Access/Control:

   a. Offender group activities may be suspended;

   b. Normal eating activities may be suspended. A plan shall be established for delivering meals to offenders if cafeteria or group-style dining is closed;

   c. Pill call may be modified as necessary to reduce the risk of transmission of the pandemic viral disease. The Department's Medical/Mental Health Director may expand KOP list.

7) Surveillance, Screening and Triage: Routine sick call may be suspended. Offenders shall have access to healthcare via emergency sick call.

James M. LeBlanc
Secretary

Attachment: Advantages and Disadvantages of Respirators and Facemasks

Form: HCP26-A Coronavirus (COVID-19) Screening Checklist

This Regulation supersedes Department Regulation No. B-06-004 dated 11 September 2009.

John Bel Edwards
GOVERNOR

Stephen R. Russo, JD
INTERIM SECRETARY

State of Louisiana

Louisiana Department of Health
Office of Public Health

TO: **DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS and OFFICE OF JUVENILE JUSTICE**

FROM: **LDH OFFICE OF PUBLIC HEALTH**
Jimmy Guidry, M.D. *Jimmy Guidry, M.D.*
State Health Officer

RE: **COVID-19; recommendations regarding prisons and juvenile detention centers**

DATE: **April 8, 2020**

On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the COVID-19 outbreak a "public health emergency of international concern" (PHEIC). On January 31, 2020, Health and Human Services Secretary Alex M. Azar II declared a public health emergency (PHE) for the United States, effective January 27, 2020. Pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760, *et seq.*, a state of public health emergency resulting from the outbreak of "coronavirus disease 2019" (COVID-19) was declared to exist in the entire State of Louisiana by Proclamation Number 25 JBE 2020.

In the days since the referenced declaration of the state of the public health emergency in the state, the COVID-19 outbreak in Louisiana has expanded significantly. The number of reported cases and deaths is expected to rise significantly in the state in the coming weeks. Additional measures are necessary to protect the health and safety of the public. The measures recommended herein are in line with the best guidance and direction from the U.S. Centers for Disease Control and Prevention, and are necessary because of the ability of the COVID-19 virus to spread via personal interactions and because of physical contamination of property due to its propensity to attach to surfaces for prolonged periods of time.

The Louisiana Department of Health - Office of Public Health (LDH-OPH) expressly finds that the measures recommended herein are necessary to help control and prevent further spread of COVID-19, a communicable, contagious, and infectious disease that represents a serious and imminent threat to the public health. If the following measures

are not taken, said infectious disease could spread within correctional and detention centers which would overwhelm the state's medical facilities and which would cause further spread to the citizens of the State of Louisiana.

Pursuant to the powers vested in the State of Louisiana – Office of Public Health by L.R.S. 40:1 *et seq.*, **I do hereby make the following recommendations**:

Correctional and detention centers should take safe and adequate measures to ensure that the COVID-19 coronavirus disease shall not spread within its facilities. Specifically, correctional and detention centers should:

- Practice proper hand hygiene. Wash hands with soap and water for at least 20 seconds.

- If soap and water are not readily available and illicit drugs are not suspected to be present, use an alcohol-based hand sanitizer with at least 60% alcohol; this protocol applies to all staff, visitors, and inmates.

- Refrain from touching faces with unwashed hands; this protocol applies to all staff, visitors, and inmates.

- Have a trained Emergency Medical Service/Emergency Medical Technician (EMS/EMT) assess and transport anyone you think might have COVID-19 to a healthcare facility.

- Ensure only trained personnel wearing appropriate personal protective equipment (PPE) have contact with individuals who have or may have COVID-19.

- Separate sick individuals from other individuals in the facility, this is known as isolation. Isolate a sick individual in a specific "sick room" if possible, and away from other individuals in the facility. Use a separate bathroom, if available.

- Wear a facemask when around sick individuals at the facility.

- Cover coughs and sneezes. Cover the mouth and nose with a tissue when coughing or sneezing. Throw used tissues in a lined trash can, then immediately wash hands with soap and water for at least 20 seconds.

- Wash hands often with soap and water for at least 20 seconds. This is especially important after blowing nose, coughing, or sneezing; going to the bathroom; and before eating or preparing food.

- Avoid sharing personal items. Do not share dishes, drinking glasses, cups, eating utensils (after using these items, wash them thoroughly with soap and water or put in the dishwasher), towels, or bedding with other individuals in the facility.

- Clean high-touch surfaces in the isolation area ("sick room" and bathroom) every day while wearing a mask. Clean and disinfect high-touch surfaces in other areas of the facility every day. High-touch surfaces include, remote controls, counters, tabletops, doorknobs, bathroom fixtures, toilets phones, keyboards, and tablets.

- Immediately clean and disinfect areas that may have blood, stool, or body fluids on them with household cleaners and disinfectants: Clean the area or item with soap and water or another detergent if it is dirty. Then, use a household disinfectant. Be sure to follow the instructions on the label to ensure safe and effective use of the product. Many products recommend keeping the surface wet for several minutes to ensure germs are killed. Many also recommend precautions such as wearing gloves and making sure you have good ventilation during use of the product.

- Ensure that all inmates at correctional and detention centers, staff, and visitors maintain a distance of at least 6 feet from each other. If said distance cannot be maintained within the current prison population and if following all of the above referenced protocols does not protect correctional and detention staff, visitors, and inmates, then OPH recommends that correctional and detention centers work with the District Courts, the Public Defender's Office, and District Attorney's Office to reduce the size of the jail population of the least non-violent inmates in order to comply with this recommendation.

Thank you for that all that you are doing in this crisis to mitigate the spread of COVID-19 throughout the State of Louisiana.

Sources: www.ldh.la.gov; www.cdc.gov

Sincerely,

Jimmy Guidry, M.D.

Jimmy Guidry, MD
State Health Officer
Louisiana Department of Health

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DANIEL GUMNS, MICHAEL VIDEAU, TREVON WILEY, IAN CAZENAVE, REGINALD GEORGE, LIONEL TOLBERT, OTTO BARRERA, KENTRELL PARKER, MICHAEL ROBINSON, JULIUS ALLEN, ERNEST ROGERS, ALFOANSO GARNER, BRADLEY WINTERS, KENDRICK WILSON, and JAMES HUGHES, on behalf of themselves and all similarly situated individuals,

Plaintiffs,

v.

JOHN BEL EDWARDS, in his official capacity as Governor of the State of Louisiana; LOUISIANA DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS; JAMES LEBLANC, in his official capacity as Secretary of the Department of Safety and Corrections; JOHN MORRISON, in his official capacity as Medical Director of the Department of Safety and Corrections; LOUISIANA DEPARTMENT OF HEALTH; and STEPHEN R. RUSSO, in his official capacity as Interim Secretary of the Louisiana Department of Health,

Defendants.

CIVIL ACTION NO. 3:20-cv-00231-SDD-RLB

CLASS ACTION

DECLARATION OF MERCEDES MONTAGNES IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, Mercedes Montagnes, declare as follows:

1. I am an attorney duly licensed to practice law in the State of Louisiana and am one of the counsel of record for Plaintiffs in the above-captioned case. This declaration is based upon my personal knowledge and is true to the best of my knowledge and belief.

2. I am the Executive Director at the Promise of Justice Initiative ("PJI"). I am Plaintiffs' lead attorney on this matter. After graduating from Harvard Law School, I clerked for Judge Carl Barbier in the Eastern District of Louisiana and Chief Judge Roger Gregory on the Fourth Circuit Court of Appeals.

3. I have litigated multiple prison conditions cases throughout Louisiana, including:

- I represented the plaintiffs in *Ball v. LeBlanc*, 13-cv-368 (M.D. La), challenging the unconstitutional heat conditions for three plaintiffs on Louisiana State Penitentiary's ("LSP") death row, succeeding at trial and then continuing to fight for clients through appeal and remedy phases;
- I am currently co-lead counsel for the plaintiffs in *Lewis v. Cain*, 15-cv-318 (M.D. La), a class action challenging inadequate medical care and failure to accommodate disabilities at LSP;
- I currently represent the Plaintiff in *Humphrey v. LeBlanc*, 20-cv-233 (M.D. La), alleging constitutional and state law claims arising from Plaintiffs' overdetention

4. The Promise of Justice Initiative (PJI) is a New Orleans based nonprofit that works to create positive change for people in the criminal justice at the intersection of direct services, impact litigation, and community engagement.

5. PJI is committed to advocate vigorously on behalf of the Plaintiff class and subclasses. PJI has the resources required to litigate this matter in a zealous and thorough manner. PJI is also committed to working zealously, effectively, and collaboratively with the other proposed class counsel.

6. To my knowledge, PJI has no conflicts of interests that would prevent the organization from providing zealous representation of the named Plaintiffs and the class.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed in New Orleans, Louisiana on April 25, 2020.

Respectfully submitted this 25th day of April, 2020.

/s/ Mercedes Montagnes

Mercedes Montagnes, La. Bar No. 33287
The Promise of Justice Initiative
1024 Elysian Fields Avenue
New Orleans, LA 70117
Telephone: (504) 529-5955
Facsimile: (504) 595-8006
Email: mmontagnes@defendla.org

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I, Nishi Kumar, an attorney, hereby certify that on April 25, 2020, I caused a copy of the foregoing to be filed using the Court's CM/ECF system.

I further certify that I, or another one of Plaintiffs' attorneys, will promptly electronically serve a copy of the same, along with all other pleadings and papers filed in the action to date to the General Counsel for the Louisiana Department of Corrections, the General Counsel for the Louisiana Governor, and the General Counsel for the Louisiana Department of Health, as well as the Louisiana Department of Justice Director of Litigation via email.

/s/ Nishi Kumar

Nishi Kumar, La. Bar No. 37415

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DANIEL GUMNS, MICHAEL VIDEAU, TREVON WILEY, IAN CAZENAVE, REGINALD GEORGE, LIONEL TOLBERT, OTTO BARRERA, KENTRELL PARKER, MICHAEL ROBINSON, JULIUS ALLEN, ERNEST ROGERS, ALFOANSO GARNER, BRADLEY WINTERS, KENDRICK WILSON, and JAMES HUGHES, on behalf of themselves and all similarly situated individuals,

Plaintiffs,

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JOHN BEL EDWARDS, in his official capacity as Governor of the State of Louisiana; LOUISIANA DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS; JAMES LEBLANC, in his official capacity as Secretary of the Department of Safety and Corrections; JOHN MORRISON, in his official capacity as Medical Director of the Department of Safety and Corrections; LOUISIANA DEPARTMENT OF HEALTH; and STEPHEN R. RUSSO, in his official capacity as Interim Secretary of the Louisiana Department of Health,

Defendants.

CIVIL ACTION NO. 3:20-cv-00231-SDD-RLB

CLASS ACTION

DECLARATION OF JARED DAVIDSON IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, Jared Davidson, declare as follows:

1. I am an attorney duly licensed to practice law in the State of Louisiana and am one of the counsel of record for Plaintiffs in the above-captioned case. This declaration is based upon my personal knowledge and is true to the best of my knowledge and belief.

2. I am a Senior Staff Attorney at the Southern Poverty Law Center ("SPLC") and am based in New Orleans. I oversee SPLC's litigation team on this matter. Prior to my job at SPLC, I clerked for two years on the U.S. Court of Appeals for the Fifth Circuit for the Honorable James L. Dennis. Prior to that, I worked as a litigation associate at Jenner & Block LLP in New York City. I received my law degree with honors from NYU School of Law, and I received my undergraduate degree with honors from Northwestern University in Evanston, IL.

3. I have extensive experience in complex federal litigation and class actions, including litigation concerning the rights of prisoners and other detained persons. I am currently counsel in the following cases:

- *Fraihat v. ICE*, 5:19-cv-01546 (C.D. Cal.): nationwide putative class action challenging inadequate health care, use of solitary confinement, and failure to accommodate disabilities in ICE detention centers;
- *SPLC v. DHS*, No. 1:18-cv-00760 (D.D.C.): constitutional and statutory challenge to barriers to accessing counsel in immigration detention centers in the Southeast;
- *Lewis v. Cain*, 3:15-cv-00318 (M.D. La.): class action challenging inadequate medical care and failure to accommodate disabilities at the Louisiana State Penitentiary; and
- *Allen v. Edwards*, No. 655079 (La. 19th JDC): statewide class action seeking injunctive relief to remediate systemic defects in Louisiana's public defense system.

4. SPLC itself has served as class counsel in more than 30 cases, many of which include challenges to conditions of confinement. Some of the cases in which SPLC has served as class counsel include: *Alexander v. Sandoval*, 532 U.S. 275 (2001); *Paradise v. Allen*, 480 U.S. 149 (1987); *Dothard v. Rawlinson*, 433 U.S. 321 (1977); *Pugh v. Locke*, 559 F.2d 283 (11th Cir. 1977); *Smith v. YMCA*, 462 F.2d 634 (5th Cir. 1972); *Braggs v. Dunn*, 2:14cv601-MHT (M.D. Ala.); *Dockery v. Fischer*, No. 3:13-cv-326, 2015 WL 5737608 (S.D. Miss. Sept. 29, 2015); *Moodie v. Kfowah Island Inn Co.*, 309

F.R.D. 370 (D.S.C. 2015); P B. v. Pastorek, No. 2: 10-cv-04049 (E.D. La.); *Wilson v. Gordon*, No. 3-14- 1492, 2014 WL 4347585 (M.D. Tenn. Sept. 2, 2014); *Hughes v. Judd*, No. 8:12-CV-568, 2013 WL 1810808 (M.D. Fla. Apr. 30, 2013); *J.W. v. Binningham Bd. of Educ.*, No. 2:10-CV-033140-AKK, 2012 WL 3849032 (Aug. 31, 2012); *J.H. v. Hinds Cty., Miss.*, No. 3:11-cv-00327 (S.D. Miss.); *DePriest v. Epps*, No. 3:10-cv-00663 (S.D. Miss.); *Nunag- Tanedo v. E. Baton Rouge Parish Sch. Bd.*, No. LA CV 10-01172-JAK (MLGx), 2011 WL 7095434 (C.D. Cal. Dec. 12, 2011); *Perez-Benites v. Candy Brand*, LLC, 267 F.R.D. 242, 248 (W.D. Ark. 2010); *Troupe v. Barbour*, No. 3: 10-cv-153 HTW-LRA (S.D. Miss.); *D. W. v. Harrison County*, No. 1:09-cv-267 LG-RHN (S.D. Miss.); *Rosiles-Perez v. Superior Forestry Service, Inc.*, 250 F.R.D. 332, 344 (M.D. Tenn. 2008); *Recinos Recinos v. Express Forestry*, 233 F.R.D. 472 (E.D. La. 2006); *De Leon Granados v. Eller and Sons Trees, Inc.*, No. 1:05-CV-1473-CC , 2006 U.S. Dist. LEXIS 73781, at *43 (N.D. Ga. Sept. 28, 2006); *Gaddis v. Campbell*, No. 03-T-390-N (M.D. Ala. 2003); *Baker v. Campbell*, No. CV-03-1114-M (N.D. Ala. 2003); *Brown v. James*, No. 98-T-663-N (M.D. Ala. 1998); *Austin v. James*, 15 F. Supp. 2d 1220 (M.D. Ala. 1998); *Harris v. Janies*, No. 94- 1422-N (M.D. Ala. 1994); *Southern Christian Leadership Conference v. Evans*, 785 F. Supp. 1469 (M.D. Ala. 1992); Bradley v. Haley, No. 92-A-70-N (M.D. Ala. 1992); *R.C. v. Fuller*, No. 88-D-1170-N (M.D. Ala. 1988); *Nowak v. Foster*, No. 84-0057-P (W.D. Ky. 1984); Wyatt v. Sawyer, No. CV-70-3195 (M.D. Ala. 1970), and *Nixon v. Brewer*, No. CV-3017-N (M.D. Ala. 1970).

5. SPLC is committed to advocate vigorously on behalf of the Plaintiff class and subclasses. SPLC has the resources required to litigate this matter in a zealous and thorough manner. SPLC is also committed to working zealously, effectively, and collaboratively with the other proposed class counsel.

6. To my knowledge, SPLC has no conflicts of interests that would prevent the organization from providing zealous representation of the named Plaintiffs and the class.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at New Orleans, Louisiana on April 25, 2020.

Respectfully submitted this 25th day of April, 2020.

/s/ Jared Davidson

Jared Davidson, La. Bar No. 37093
Southern Poverty Law Center
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New Orleans, LA 70170
Telephone: (504) 486-8982
Facsimile: (504) 486-8947
Email: jared.davidson@splcenter.org

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I, Nishi Kumar, an attorney, hereby certify that on April 25, 2020, I caused a copy of the foregoing to be filed using the Court's CM/ECF system.

I further certify that I, or another one of Plaintiffs' attorneys, will promptly electronically serve a copy of the same, along with all other pleadings and papers filed in the action to date to the General Counsel for the Louisiana Department of Corrections, the General Counsel for the Louisiana Governor, and the General Counsel for the Louisiana Department of Health, as well as the Louisiana Department of Justice Director of Litigation via email.

/s/ Nishi Kumar

Nishi Kumar, La. Bar No. 37415

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DANIEL GUMNS, MICHAEL VIDEAU, TREVON WILEY, IAN CAZENAVE, REGINALD GEORGE, LIONEL TOLBERT, OTTO BARRERA, KENTRELL PARKER, MICHAEL ROBINSON, JULIUS ALLEN, ERNEST ROGERS, ALFOANSO GARNER, BRADLEY WINTERS, KENDRICK WILSON, and JAMES HUGHES, on behalf of themselves and all similarly situated individuals,

Plaintiffs,

v.

JOHN BEL EDWARDS, in his official capacity as Governor of the State of Louisiana; LOUISIANA DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS; JAMES LEBLANC, in his official capacity as Secretary of the Department of Safety and Corrections; JOHN MORRISON, in his official capacity as Medical Director of the Department of Safety and Corrections; LOUISIANA DEPARTMENT OF HEALTH; and STEPHEN R. RUSSO, in his official capacity as Interim Secretary of the Louisiana Department of Health,

Defendants.

CIVIL ACTION NO. 3:20-cv-00231-SDD-RLB

CLASS ACTION

DECLARATION OF MELINDA HAAG IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, Melinda Haag, declare as follows:

1. I am a Partner in the San Francisco office of Orrick, Herrington and Sutcliffe LLP ("Orrick") and make this declaration in support of Orrick's application to be named as co-counsel for the Plaintiff Class in the above action. I have personal knowledge of the facts stated in this

declaration unless otherwise indicated below, and I could and would testify competently to these facts if called as a witness.

2. I graduated from the University of California, Berkeley School of Law in 1987. I began my career as a litigation associate in private practice and then served as an Assistant United States Attorney for the Central District of California in Los Angeles. I thereafter returned to private practice and became a partner with a law firm in San Francisco. I then served as a supervisor in the U.S. Attorney's Office for the Northern District of California in San Francisco. After stepping down from that office, I joined Orrick as a litigation partner in San Francisco. After being nominated by President Barack Obama and unanimously confirmed by the United States Senate, I served as U.S. Attorney for the Northern District of California from August 2010 through September 2015. I then returned to Orrick as a partner in the firm's White Collar, Investigations, Securities Litigation & Compliance practice group where I currently serve.

3. I am admitted to practice in California and Washington D.C., before every federal district court in California, and the United States Court of Appeals for the Ninth Circuit. I have been admitted to appear *pro hac vice* in specific cases by a number of state and local courts around the country.

4. I have extensive experience in complex criminal and civil litigation, and I have experience litigating class actions and civil rights cases. I am a Fellow with the American College of Trial Lawyers and have served as lead or co-lead counsel in more than 20 jury and bench trials, including a number of complex criminal and civil rights cases. A true and correct copy of my biography as it appears on Orrick's website is attached hereto as Exhibit A.

5. While serving as a supervisory Assisted United States Attorney for the Northern District of California, I personally handled a criminal civil rights prosecution involving correctional

staff at Pelican Bay State Prison in California arising out of allegations that the staff targeted certain inmates for stabbings and assaults. The correctional officers were convicted following a lengthy jury trial. I also supervised all of the Office's civil rights cases during that time and personally worked on a number of them

6. I am informed and believe that my colleagues at Orrick have extensive experience representing plaintiffs in class actions. These include recent matters successfully obtaining injunctive relief regarding conditions of confinement on a class-wide basis, such as:

a. Obtaining an order from Judge Gee of the United States District Court for the Central District of California enforcing the *Flores* consent decree relating to the confinement of children in immigration detention - currently on appeal;

b. Obtaining orders from Judge Bernal in *Fraihat v. U.S. Immigration and Customs Enforcement* on April 20, 2020, provisionally certifying classes of people in immigration detention at risk from COVID-19 and granting a preliminary injunction requiring that ICE take specific steps to protect people in its custody, also in the Central District of California; and

c. A successful due process challenge to Immigration and Customs Enforcement's failure to provide detained immigrants with telephone access to attorneys in the Northern District of California.

7. In addition, the firm has regularly handled, and continues to handle, a substantial volume of civil rights matters.

8. Orrick and I are both committed to vigorously representing the Plaintiff Class and subclasses and to working collaboratively and efficiently with other class counsel. Orrick has no

conflicts of interest that would prevent us from providing zealous representation to the named plaintiffs and the Plaintiff Class.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Berkeley, California on April 25, 2020.

Respectfully submitted this 25th day of April, 2020.

/s/ Melinda Haag

Orrick, Herrington & Sutcliffe, LLP
405 Howard Street
San Francisco, CA 94105-2669
Tel: 415 773 5495
Fax: 415 773 5759
mhaag@orrick.com

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I, Nishi Kumar, an attorney, hereby certify that on April 25, 2020, I caused a copy of the foregoing to be filed using the Court's CM/ECF system.

I further certify that I, or another one of Plaintiffs' attorneys, will promptly electronically serve a copy of the same, along with all other pleadings and papers filed in the action to date to the General Counsel for the Louisiana Department of Corrections, the General Counsel for the Louisiana Governor, and the General Counsel for the Louisiana Department of Health, as well as the Louisiana Department of Justice Director of Litigation via email.

/s/ Nishi Kumar

Nishi Kumar, La. Bar No. 37415

Exhibit A

Melinda Haag

Partner
San Francisco
T +1 415 773 5700
E mhaag@orrick.com

Melinda brings her leadership skill and experience to a new arena as a Partner in Orrick's San Francisco office. She works with a team that litigates for a third of the Fortune 100 in some of the highest stakes cases in the country.

Practice Areas

- White Collar, Investigations, Securities Litigation & Compliance
- White Collar
- Trials

Honors

- Ranked by *Chambers USA* in 2019 and in six previous years as a leading lawyer in "California: White-Collar Crime & Corporate Investigations"
- Recognized three times by the *San Francisco Business Times* as one of the Most Influential Bay Area Women.
- Fellow of the American College of Trial Lawyers. As described on the College website: "Fellowship is extended only by invitation, after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility

After being nominated by President Barack Obama and unanimously confirmed by the United States Senate, Melinda served as U.S. Attorney for the Northern District of California from August 2010 through September 2015, overseeing the U.S. Department of Justice's work in a district that is an epicenter for complex, cutting-edge investigations and prosecutions. She led a team of more than 130 criminal and civil Assistant U.S. Attorneys in handling a high volume of matters that involved export enforcement, computer intrusions and intellectual property theft, international corruption, digital currency issues, securities fraud, and economic crimes, health care fraud, national security, public integrity and civil rights violations, and organized crime, among other things. Melinda served as Co-Chair of the White-Collar Crime Subcommittee of the Attorney General's Advisory Committee and was a member of the Cybersecurity and Health Care Fraud Subcommittees, where she collaborated with U.S. Attorneys nationwide on the development and implementation of national policies and practices regarding the government's approach to economic crimes and cybersecurity.

Melinda is an experienced trial lawyer and is a Fellow with the American College of Trial Lawyers. She has personally handled securities fraud, mail and wire fraud, bank fraud, antitrust, Foreign Corrupt Practices Act, environmental, civil rights, defense contractor fraud, health care fraud, money laundering, narcotics trafficking, and child exploitation cases. Melinda has served as lead or co-lead counsel in more than 19 jury and bench trials, including a number of complex white-collar and civil rights cases. Among her most notable trial accomplishments, Melinda served as co-lead trial counsel representing the CFO of a publicly-traded pharmaceutical company who was charged with violating the federal criminal securities laws. The client was acquitted and completely vindicated following a lengthy trial. She also successfully defended at trial the former GC of a publicly-traded software company, who had been charged with federal criminal securities law violations. Following a three-week jury trial, all charges against her client were dismissed. While serving as an AUSA, Melinda led the federal government's successful investigation and trial against a group of prison guards at Pelican Bay State Prison charged with violating the civil rights of inmates in their custody.

After earning her law degree from the University of California,

and collegiality." It is limited to two percent of the bar members in any state.

- Named seven times as among the top women litigators in California, *Daily Journal.*
- Selected twice as one of the top 100 lawyers in California, *Daily Journal.*
- Presented with the Lawyers' Committee for Civil Rights Public Service Award, given in connection with her work as the Civil Rights Coordinator for the U.S. Attorney's Office, and most notably the prosecution of former Pelican Bay State Prison guards.
- Included in Orrick's recognition among "A Distinguished Dozen" in *The American Lawyer*, described as a list of firms that made their mark in courtrooms across the country in the preceding 18 months (also specifically citing the defense of the above mentioned CFO).
- Referenced in Orrick's recognition on the "Defense Hot List" of *The National Law Journal*, a list of defense-oriented firms of singular achievement (announcement of award specifically cited the successful trial defense of a former CFO represented by Melinda and others at Orrick).

Berkeley School of Law in 1987, Melinda began her career as a litigation associate and then served as an Assistant United States Attorney for the Central District of California in Los Angeles. She thereafter worked as a partner in a San Francisco boutique law firm before being tapped by then U.S. Attorney Robert Mueller (who later served as FBI Director and is currently the Special Counsel investigating Russian interference in U.S. elections) to serve as a supervisor in the San Francisco U.S. Attorney's Office. Melinda stepped down as the Chief of the White-Collar Section in 2003, joining Orrick, Herrington & Sutcliffe as a litigation partner in San Francisco.

Melinda has conducted and supervised countless complex investigations in connection with her work representing companies, boards of directors and the government. She typically first meets with the client to discuss and understand the facts and allegations, as well as context and culture, and then to agree on a focused, efficient investigative plan. Melinda understands that some investigations require a broad, exhaustive approach, and that some can be more narrowly tailored and conducted in a way that minimizes disruption. These investigations have involved allegations or concerns regarding the Foreign Corrupt Practices Act, trade secret theft, antitrust enforcement, health care fraud, public corruption, securities fraud, and mail and wire fraud, among others.

Melinda also has significant experience representing high-level executives in connection with government investigations and cases, as well as in internal investigations. She is currently representing the General Counsel of a publicly-traded company; the founder and former CEO of a San Francisco-based tech company; the founders and principals of a health care company; a high-level executive with an international firm; members of the Board of Directors of a publicly-traded health care company; a senior executive with a tech company; and more. Melinda understands the special challenges her individual clients face and quickly gains their trust.

Melinda is called upon regularly to speak at conferences and law schools, as a keynote speaker, panelist, or moderator, on a wide range of legal and career-related subjects. She is also often asked by media outlets to provide information and commentary regarding issues ranging from the work of the Special Counsel to criminal justice reform.

Board Affiliations

During her recent service as United States Attorney, Melinda was limited by government and ethics rules in her ability to serve on boards and with community organizations. Before her time as U.S. Attorney, Melinda served in the following board and related capacities:

- Fellow, American College of Trial Lawyers (inducted March 2008).
- Ninth Circuit Lawyer Representatives. This is a group of lawyers selected by the Northern District judges to assist in planning conferences and advising the Court regarding other matters. Ninth Circuit Lawyer Representatives are selected by the Court to serve three-year terms. Melinda was co-chair of the group in her second year.

- Named in 2018 and in a number of previous years as one of the *Lawdragon* 500 Leading Lawyers in America.
- Appointed by Senator Barbara Boxer to the Senator's Judicial Advisory Committee. Responsible for assisting the Senator in selecting federal judges, U.S. Attorneys, and U.S. Marshals for the Northern District of California (1997-1999)
- Named one of 35 California lawyers under the age of 35 who are “changing the way law is practiced.” 35 Young Lawyers to Keep an Eye On, *Daily Journal*, California Law Business (1995)

Education

- J.D., University of California, Berkeley School of Law, 1987
- B.A., Political Science , University of California, San Diego, 1983

Memberships

- State Bar of California
- District of Columbia State Bar
- Professional Responsibility Committee for the Northern District of California. This is a group of lawyers selected by the federal Northern District judges to assist in investigating and resolving ethics complaints lodged against counsel.
- Bar Association of San Francisco Judicial Appointments Committee. This is a group that evaluates state judicial candidates.
- Board Member, Bar Association of San Francisco.
- Bar Association of San Francisco, Chair, Work-Life Balance Committee.
- Member of the Lawyers’ Committee for Civil Rights.
- ACLU Lawyer’s Council.

Melinda currently serves on the Board of Governors of the Boys & Girls Club of San Francisco, and on the Board of the Giffords Law Center to Prevent Gun Violence. She has also become active again as a Fellow of the American College of Trial Lawyers.

Representative Engagements

- Some of Melinda's notable representations include:

- Represented at trial the Chief Financial Officer of a *Fortune 100* health care company in a federal criminal securities fraud case. The client was acquitted on all counts following an eight-week trial in the U.S. District Court for the Northern District of California.
- Defended at trial the General Counsel of an international, publicly-traded software company against charges of securities fraud, bank fraud and wire fraud. Following a three-week trial in the U.S. District Court for the Southern District of California, all charges were dismissed after the jury declined to convict (the verdict was in favor of acquittal) and the court declared a mistrial.
- Conducted an independent investigation on behalf of a public university system concerning allegations that a University chancellor had engaged in misconduct. The Chancellor resigned following the investigation.
- Successfully represented the founders and principals of a health care company under investigation by the U.S. Attorney's Office. The investigation was closed without charges filed.
- Counsel for an executive currently under indictment on charges of wire fraud and conspiracy. Trial is scheduled in federal court in 2018.
- Counsel for numerous individuals, companies and audit committees in stock option backdating cases. No criminal charges were filed in any of these cases.
- Counsel for numerous individuals in connection with a criminal tax shelter investigation in the Southern District of New York. No criminal charges were filed against our clients.
- Counsel for a networking technologies executive facing criminal antitrust charges in the Northern District of California.
- Represented the General Counsel of a publicly-traded electronics manufacturer in connection with a civil enforcement action brought by the Securities and Exchange Commission alleging securities fraud.
- Defended the General Counsel of a publicly-traded software company in connection with a civil enforcement action brought by the Securities and Exchange Commission concerning stock

option grants (and related class and derivative actions).
- Represented the former marketing director of a *Fortune 100* biotechnology company in a Grand Jury investigation concerning off-label promotion. No criminal charges were filed against our client.
- Represented a hedge fund in an investigation by the United States Attorney's Office and the Securities and Exchange Commission regarding market timing and late trading. No criminal charges were filed and the SEC declined to bring an enforcement action.
- Represented an Internet search engine in connection with Grand Jury investigations related to online gambling and insider trading. No criminal charges were filed.
- Represented the former chairman and Chief Executive Officer of a publicly-traded medical equipment manufacturer in connection with investigations by the Department of Justice and the Securities and Exchange Commission concerning revenue recognition. No charges were filed.
- Conducted an internal investigation for a company that suspected its Chief Executive Officer was, without authorization and for the benefit of himself and his girlfriend, diverting company funds to accounts in Asia. The evidence gathered proved the company's suspicions were true, and the CEO was terminated for cause.

Publications

- Co-author, “DOJ Telegraphs Top FCPA Priorities Under Trump Administration,” *Law.com* (July 17, 2017)

Admissions

- California
- District of Columbia

Court Admissions

- **United States Courts of Appeals |** Ninth Circuit
- **United States District Courts |** Northern District of California
- **United States District Courts |** Central District of California
- **United States District Courts |** Southern District of California
- **United States District Courts |** Eastern District of California
- **United States District Courts |** District of Columbia