



**New York State Correctional Officers
& Police Benevolent Association, Inc.**

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March 14, 2020

Mr. Anthony Annucci
Acting Commissioner, NYS DOCCS
1220 Washington Ave; Building 9
Albany, NY 12226

With the advent of the novel coronavirus, COVID-19, in the United State and the State of New York, it is with great urgency that the New York State Correctional Officers and Police Benevolent Association, Inc., (“NYSCOPBA”) demands that the State of New York and the Department of Corrections and Community Supervision (“DOCCS” or the “Department”) take immediate action to protect their employees and inmates in the New York State prison system. On March 11, 2020, the World Health Organization (“WHO”) declared that the outbreak of COVID-19 is a pandemic. Compared to the more timely provisions implemented by various county correctional facilities within the State of New York and the federal prison system regarding this pandemic, DOCCS has repeatedly shown a callous indifference towards the decisive and immediate action necessary to prevent the spread of COVID-19 to employees and inmates within its own prisons. As such, NYSCOPBA demands that DOCCS immediately and definitively cease its dilatory practices in addressing the large-scale spread of COVID-19 and do everything within its power to provide staff with all precautionary and protective measures possible to ensure that they do not become infected and do not contribute to the pandemic. NYSCOPBA members do not enjoy the luxury of working from home while this pandemic continues. Since DOCCS is a twenty-four-hour-per-day security operation, and DOCCS has strictly limited the extent to which employees can bring in protective items on their own, it is a moral imperative that DOCCS do everything within its power to immediately rectify its shortcomings when addressing COVID-19 and to spare no expense for the protection of its own staff who, day in and day out, fulfill the missions of DOCCS.

DOCCS has been late in addressing COVID-19 every step of the way. On February 6, 2020, the New York State Department of Health (“DOH”) submitted emergency/proposed rulemaking “to require physicians, hospitals, nursing homes, . . . and clinical laboratories to report instances of severe or novel coronavirus.” On March 7, 2020, Governor Andrew Cuomo declared a state of emergency in New York State, in which he authorized “all necessary State agencies to take appropriate action to assist local governments and individuals in containing, preparing for, responding to and recovering from this state disaster emergency, to protect state and local property, and to provide such other assistance as is necessary to protect public health, welfare, and safety.” The Department did nothing in immediate response. On March 9, 2020, the National Commission on Correctional Health Care recommended that corrections departments consider restriction of inmate movement (including visitation) and provided as cautionary tales the January 2020 Princess Diamond Cruise Ship infection and the mass infections of incarcerated individuals in China. On March 9, 2020, the Department implemented what

can only be considered a toothless screening process for visitors to its facilities that lacked any semblance of efficacy or reliability. The upper limits of those screening procedures were as follows: “Upon arrival to the facility, visitors will be asked a series of questions regarding any illness or symptoms they may be currently experiencing; travel outside of the United States within the past four weeks, including that of family members; and any direct exposure to an individual diagnosed with the novel coronavirus in the past four weeks.” Without the ability to verify negative responses to these questions, or to take action against those providing false information to the screening procedures, such screening was purely lip service that failed to protect staff and inmates from possible infection. On March 11, 2020, the State of California suspended inmate visits to its correctional facilities. The Department did nothing. On March 12, 2020, Governor Cuomo banned public gatherings of more than 500 people. The Department did nothing. On March 12, 2020, the Albany County Correctional Facility barred visitors due to fears of COVID-19’s spread. Other county correctional facilities did the same. Still, the Department did nothing. On March 13, 2020, President Donald Trump declared a national state of emergency, visitation was suspended at all federal prisons for thirty (30) days, and Immigration and Customs Enforcement suspended visits to its detention centers. The Department did nothing. On March 13, 2020, the Chancellor of the State University of New York, Kristina M. Johnson, Ph.D., declared that they would transition all possible courses to online courses by March 19, 2020, in order to reduce the “density of exposure” on SUNY campuses. The Department did nothing.

On March 14, 2020, only after all of the above, and after weekend inmate visitor programs had already let in countless visitors to DOCCS facilities, did DOCCS declare its suspension of visits to its facilities until April 11, 2020. Of course, DOCCS inexplicably allowed the visitation of inmates to continue for the remainder of the day, until its usual end time of 5 pm, increasing each facility’s risk of COVID-19 infection. At least thirty-six (36) states suspended inmate visits prior to DOCCS.

The indisputable fact is that prisons are fertile grounds for infectious diseases like COVID-19 and there are likely undiagnosed cases of COVID-19 within DOCCS prisons. As of March 14, 2020, the NYS DOH has documented a total of 524 positive cases of the coronavirus in New York State. Westchester County alone, which contains Bedford Hills, Sing Sing, and Taconic correctional facilities, has experienced 172 confirmed cases of the coronavirus. There is no vaccine for the virus, and the Centers for Disease Control and Prevention's primary recommendations include avoiding close contact with people who are sick, avoiding touching your eyes and nose, and staying home when feeling ill. These recommendations provide little protection within the confines of prison walls, blocks, housing units, and common areas. The inmate population and DOCCS employees all have people considered to be “at risk” for complications created by COVID-19. Those at-risk populations include older adults and people with serious, chronic medical conditions. Employees considered to be “at risk” still come to work at DOCCS each and every day, risking their health and lives because it is their job and because the Department asks them to. DOCCS employees should not have to worry about their own employer’s complacent approach to containing the spread of an infectious disease that they could ultimately contract at work, could cause them grievous harm or death, and could be unknowingly brought home to their families and loved ones.

Therefore, in the absence of a stronger response by DOCCS, NYSCOPBA has given careful consideration to the protections of its members, and makes the following demands of DOCCS:

- Cease all unnecessary transportation of facility inmates except for the case of medical emergencies.
- That DOCCS put in place protocols for movement in and out of work release facilities.
- That DOCCS continue its suspension of visitors to its correctional facilities until such time as the Centers for Disease Control and Prevention (“CDC”) and the WHO declare that COVID-19 has been fully contained.
- That DOCCS provide for immediate and continued testing of all employees and inmates for possible COVID-19 infection.
- That, in the event that DOCCS is incapable of providing such testing for employees, it provide employees with release time, without charge to sick leave accruals, for purposes of obtaining medical testing from their primary care or emergency care physicians.
- That the State of New York enter into a Memorandum of Agreement with NYSCOPBA agreeing that NYSCOPBA-represented employees engaged in the response efforts who are unable to use vacation leave due to the ongoing response efforts receive extended time to use such vacation accruals prior to their contractual forfeiture.
- That DOCCS immediately provide to all of its employees personal protective equipment (“PPE”), respiratory equipment, sanitizing agents, and other protective apparatuses as outlined in Directive 2121 (entitled “Personal Protective Equipment”), Directive 4068 (entitled “Respiratory Protection Program”), etc., for protection against COVID-19.
- That, if DOCCS fails to provide such PPE, etc., to its employees, as discussed above, DOCCS amend its Staff Allowable List to allow employees to bring into facilities their own PPE.
- That DOCCS provide immediate training to all employees and inmates on COVID-19 and how to protect themselves and their work/living environments from its spread.
- That DOCCS immediately order sanitation of all work areas within all facilities and develop a frequent sanitation schedule for the purposes of reducing the spread of COVID-19 any further into the DOCCS prison system.
- That DOCCS immediately provide a hazard assessment, pursuant to Directive 2121 and all other applicable state laws, rules, and regulations, to each and every work area within all of its prisons for purposes of assessing their susceptibility to COVID-19.
- That DOCCS immediately isolate/quarantine any inmate who has a documented history of or propensity for assaulting employees or inmates through the deliberate throwing of bodily fluids and to provide staff with the maximum degree of protection necessary to safely provide these inmate with basic services.
- That DOCCS quarantine any inmate at the first signs of symptoms that could indicate possible infection with COVID-19.
- That DOCCS provide heightened screening for COVID-19 infection to all official visitors, independent contractors, or other similarly situated persons attempting to enter a correctional facility.

NYSCOPBA does not consider this to be an exhaustive list of all its demands, as the situation evolves, and all the steps that DOCCS should be taking. Furthermore, NYSCOPBA is assessing all legal and other avenues necessary to protect its membership. We are hopeful that the Department takes immediate action to reduce the potential spread of COVID-19 infection within its facilities.

NYSCOPBA stands at the ready to assist the Department with all that it may need to help achieve these goals.

Sincerely,

A handwritten signature in cursive script that reads "Michael B. Powers". The signature is written in black ink and is positioned above the printed name and title.

Michael B. Powers
President

cc: Mr. Daniel Martuscello, Executive Deputy Commissioner
Mr. James O’Gorman, Deputy Commissioner of Facility Operations