

# COVID-19

## FACT SHEET: PRACTICES TO AVOID IN JAILS AND PRISONS

ISOLATING PEOPLE IN JAILS, WHETHER BY IMPOSING VIDEO COURT DATES, SOLITARY CONFINEMENT, OR BANNING VISITS IS NOT AN EFFECTIVE PUBLIC HEALTH RESPONSE TO COVID-19.

Due to the unique circumstances of a jail, it is not a secure facility that can be quarantined. Measures undertaken to minimize contact with court staff may keep court staff safer, but will not prevent the spread of COVID-19 within a jail or the surrounding community.

- Isolation will not prevent the spread of the virus because people are **constantly being booked** into jail and jails have a **massive daily turnover**. On any given day, there are over 600,000 people in jail in this country, but people go to jail **10.6 million** times each year, meaning people circulate quickly through the jail system and out into public.
- Isolation does not take into account the short jail stays of most people. More than half of the people in jail are only in there for **two to three days**. So, if there is an outbreak in a jail, there would be people coming in from the outside community, being exposed, and returning to the community— **potentially exposing** many more people.
- Alternatively, people coming into the jail with undetected Coronavirus could easily expose the jail community and return to the outside community before anyone realizes that exposure happened.
- Efforts to isolate people who are in the local jail will not prevent the spread of the virus both in and out of the jail.

The use of solitary confinement or a jail lockdown as a means to prevent the spread of COVID-19 should be banned.

- Solitary confinement **is torture** and should be prohibited. Prolonged solitary confinement causes significant **mental harm** and places people at grave risk of even more devastating future harm. These harms may be **permanent** and persist even after one is released from solitary.
- Solitary confinement does not solve the problem of daily influx of jail staff, vendors, medical professionals, lawyers and law enforcement. Jails are not designed for solitary confinement - most cells have no fresh air. Those in solitary are not able to easily alert jail staff if they develop symptoms.
- Under no circumstances should solitary confinement be used against children, people with serious mental illness, serious physical disabilities, and pregnant women.
- If a medical quarantine is ordered, most jails do not have the capacity to isolate every person in an isolated cell. Most facilities house two people in a cell. A medical quarantine would likely require most jail populations to be reduced by at least half.

## Legal Visits Should Not Be Suspended.

- Legal visits should not be suspended. Any threat of suspension of legal visits - which should be unrestricted - raises due process concerns. It is especially important to ensure that lawyers can visit their clients during a time of chaos and rapid infection so that if clients are ill their attorneys can advocate for their release.
- Because **jails are particularly vulnerable to a pandemic such as COVID-19** all efforts must be made to facilitate release, which requires lawyers to have regular access to clients at all times. Video visitation with defense counsel is not a practical solution because lawyers need to review discovery - police reports, photos, witness statements - with clients.
- Jails should instead make efforts to ensure that people who are in custody have access to sanitation supplies before and after the visit, and should provide instruction on how to avoid the spread of COVID-19 during a visit.

## Court should not be conducted by video.

- Video court proceedings are not advisable. Video court proceedings are an infringement on the legal rights of those detained. If the defense attorney and the client are together then defense counsel cannot approach the bench as needed. If defense counsel is in the courtroom then they are not able to confer confidentially with their clients. Further, defense counsel often receives discovery from the State in court and clients need to be able to review discovery materials with defense counsel.
- Suggesting that counties do video conferencing in order to prevent the spread of the virus is an action not based in public health or science, and should not be considered a reasonable alternative.