HOW COVID-19 UPENDED TEXAS PRISONS

While prison officials insist they're doing their best in the face of unprecedented challenges, Governor Greg Abbott has mostly ignored the pandemic inside the Texas prison system.

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Fig. 1B. A Ramsey Unit in Brazoria County.

By Michael Bonafede
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Two months ago, on the threat of COVID-19 began to rapidly after life on the outside, Sam says changes were happening more slowly inside the Wynne Unit, a state prison in Huntsville, where he's currently incarcerated. Even as cities banned mass gatherings and told people to stay home, life in the prison went on the same. That is, until Sam Marsh, where the first Texas prisoners and guards tested positive for the coronavirus. Since the coronavirus, Sam remembers that officials banned activities like basketball at recreation at about the same time they started blocking visitors. Then came cleaning attempts at social distancing in a place designed to pack people together. At one point, corrections officers forced inmates to spread out in the chow hall tables even after commencing them all together in the line for food. "It's kind of funny, that there's really no social distancing can be accomplished in this environment unless they removed half the inmates," Sam wrote in a recent letter.

Sam, whose real name I'm not using to protect him from retaliation, was one of several incarcerated people who wrote to me in recent weeks describing how bad COVID-19 had become in the Texas Department of Criminal Justice (TDCJ) prisons. Sam says that because staff didn't take their symptoms seriously early on, while others, like Sam, claim they had symptoms to avoid medical isolation—a type of isolation confinement where prisoners claim they're often denied basic amenities like caps or blankets, Sam was the majority of the 10 men in his dorm showed signs of infection but concealed it from prison staff, opting instead to wait out the potentially deadly virus on their cots rather than risk a trip to solitary.

The Wynne Unit is one of more than a dozen prisons in Texas where inmates have been on lockdown for more than a month because someone inside, either a prisoner or an employee, recently tested positive for COVID-19. As of this week, 43 Texas prisons have reported COVID-19 cases. Because of the nature of the institution continuum, prisoners complain they're going hungry after being forced to submit to unpalatable sack meals for weeks while confined to their cells or dorms. Many of them are denied regular access to phones, making mail itself their only real connection to the outside. Even that lifeline has slowed to a crawl—some people with loved ones inside haven't received letters for several weeks.

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As of Wednesday, 1,170 prisoners and 97 TDCJ employees had tested positive for COVID-19, including 14 inmates at the Wynne Unit who recently tests the virus. At least 30 prisoners and seven prison staffers with coronavirus have died over the past month, including several who worked or were incarcerated at the Wynne Unit. Civil rights lawyers and prisoners worry those numbers will continue to rise and have accused prison officials of failing to take basic precautions to stop the virus from spreading in the Texas prison system.

While prison officials insist they're doing their best in the face of an unprecedented crisis, Governor Greg Abbott has largely ignored the pandemic inside the Texas prison system. Instead, he has enforced and advocated for restrictions people have urged Abbott to take steps to lower the prison population, which experts say is the best way to reduce the risk for prisoners, prison staff, and the communities to which they'll return. About 17,000 people incarcerated by TDCJ are eligible for parole. Another 15,000 people have been approved for release and are waiting for counseling, substance abuse classes, or other programs they're required to finish before leaving prison. Abbott's refusal to free more people has been a point of contention with the Texas Criminal Justice Coalition. "Even as the situation's getting worse, Texas doesn't seem to care about releasing people."

Abbott has refused to consider prisoner releases despite the pressure his state has received in recent years for reducing its prison population. Texas has been a leader in the nation's bipartisan criminal justice reform movement, however, largely because Abbott has supported the reforms in order to avoid spending billions constructing new lockups. As a result, eight prisons in Texas have closed in recent years, and two others were scheduled for mothballing this year, before the pandemic hit.

Despite that reputation for reform, Texas' response to the spread of COVID-19 behind bars cares the state is a different light. "We're seeing way more releases in so many other states, both red and blue states, where there's a greater commitment to reducing the prison population as well as mass testing," says Michele Deitch, an expert on prison conditions who teaches at the University of Texas at Austin. "When it comes to prisons, I don't think Texas has been a leader during this pandemic at all."

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Several years ago, faced with an outbreak of a severe strain of influenza inside one of his prisons, Governor Rick Perry ordered the state's prisons to ban visitors to make exceptions to some of the normal rules. Said a former Washington prison official, said he doubled the amount of patients inside the prison to isolate contagious cases, surface like dormitories and daycare tables, but he also gave prisoners access to alcohol-based hand sanitizer—which he acknowledged is usually considered contraband and carried a "moderate risk" behind bars.

"You might have a knockout somewhere that decides to drink it, but that pales in comparison to trying to get a handle on this flu epidemic," Ed testified in a recent court hearing. He said he couldn't remember a single prisoner who took advantage of the hand sanitizer by say, drinking or starting a fire. "The prisoners were pretty serious about trying to keep this bugs out of their dorms," he said. "They didn't want to get sick either."

Texas has taken a more cautious approach to the face of COVID-19. In late March, TDCJ's response to the crisis growing threat triggered a dispute between its cash-rights prisoners and the state's prison system. Some inmates protest over Texas'decision to allow the state's plan to prevent coronavirus from spreading behind bars has been "grossly inadequate." Despite guidance from the Centers for Disease Control and Prevention recommending that prisons and jails relax prohibitions on hand sanitizer, Texas' prisons officials have refused to provide access to it. Assistant Attorney General Ryan Kercho argued in a March court hearing last month, saying TDCJ is "constrained by the security concerns." She couldn't provide a single instance of a prisoner ingesting or setting it on fire.

Lately Valentine, who testified by phone that he lives in a dorm with 32 people at the Pack Unit, which he says makes social distancing impossible. He said he's been locked in his cell for last month. Valentine and some prisoners have little about the virus or how to protect themselves from it because the only education from prison staff is some posters on the walls. Valentine spoke of one man in his dorm whom he helps write letters to his sister because he can't read or write. "I'm not writing so many that I know his name and number. He does manage to sign them, but it takes a while," he said. "He just showed me his paycheck where he has 47 bp. He's just illiterate."

Despite guidance from the Centers for Disease Control and Prevention recommending that prisons and jails relax prohibitions on hand sanitizer wherever possible, Texas prison officials have refused to provide access to it.

Richard King, a 73-year old janitor at the Pack Unit, testified that the prison didn't have enough janitors or supplies to keep the prison clean. He said the paltry amount of disinfectant and powdered bleach he gets every morning barely lasts the first half of his 12-hour shift, and that he and the other janitors often have to clean a single pair of gloves during a shift. "Whoever closes the bathrooms, that's who uses the gloves," he said.

In mid-April, federal district court Judge Keith Ellison issued a lengthy list of orders for staff to follow at the Pack Unit to better protect prisoners from the virus, including providing access to hand sanitizer and face masks for prisoners, along with extra toilet paper, cleaning supplies, and gloves and masks for janitors. Ellison also ordered TDCJ to stop using the "lack of willingness to take extra measures (including measures as basic as providing hand sanitizer and extra toilet paper, to protect those [prisoners] from a deliberate indifference" toward their vulnerability.

Days before Ellison's order, Leonard Tarkington, an inmate at the Pack Unit who tested positive for COVID-19, died after being sent to a local hospital for difficult breathing. Ellison wrote that Cheddy's death showed that TDCJ at the time wasn't even following its own policies to prevent the spread of the coronavirus, despite an ongoing federal lawsuit over the matter. "Defendants made no representations to the Court that they identified Mr. Cheddy as symptomatic, evaluated him for symptoms of COVID-19, or tested him for symptoms of COVID-19 or any particular kin transport to the hospital on the day of his death," Ellison wrote. "What is clear is that Pack Unit did not test Mr. Cheddy for COVID-19 or any other disease." Cheddy's death, when his COVID-19 test came back positive. In the meantime, countless inmates were knowingly exposed to a serious substantial risk of harm."

"They [TDCJ] simply have carte blanche to do whatever they want."

State lawyers immediately appealed to the federal Fifth Circuit, which in late April blocked Ellison's order calling it "administrative nightmare" for TDCJ. The appeals court has set the case for oral arguments on Friday, in accordance. Judge Ellison's order remains on hold. On Tuesday, the agency announced a plan for more widespread testing of its prisoners, which so far has shown a staggeringly high rate of infection compared with the state overall.

"Increasing the information available to our medical professionals will help us further enhance the agency's ability of stopping the spread of COVID-19," Bryan Collins, TDCJ executive director, said in the statement.

Over the past month, Judge Ellison has repeatedly circled back to the question of whether the state can listen to prisoner population as a response to the pandemic—in particular, regulating the release of elderly and infirm people who are eligible to get out. So far, state lawyers have effectively shrugged and pointed to Governor Abbott and the parole board that he appoints, which has up to this point made no changes regarding releases during the pandemic.

In court, Ellison sounded befuddled by the state's resistance. "I would expect the state would be pleased to be relieved from the responsibility for some inmates, would be happy to tender them back to their family units and let the cross of care and treatment be on the family rather than with the institution."

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COVID-19 has exacerbated crises that existed inside the Texas prison system well before the pandemic hit. Prisoners have long complained about unsafe conditions, overcrowding, and a strain on corrections officers who have to travel to fill in at another facility. During a pandemic, it's meant that guards have had to bounce between prisons with and without coronavirus cases.

At the same time, the threat posed by COVID-19 to the Texas prison system has underscored how long criminal justice advocates for incarcerated people have been demanding for years. For several sessions, they have pushed bills in the Texas Legislature to create independent monitoring of the prison system. They say independent oversight, which is what lawmakers mandated for the state's scandal-plagued juvenile system more than a decade ago, would shine a light on conditions behind bars and provide a neutral third party to mediate and also give families an alternative to contact a report to a prison officials dismiss complaints about loved ones getting sexual assaulted or cooking in death inside uncovered prisons during the hot summer months.

Given TDCJ's actions during the pandemic, such legislation would have been a tough sell in the Legislature even before back in the Legislature in January. Leaders in Port Bend and Brazoria counties have clashed with prison officials over the past month, claiming prisoners with COVID-19 were transferred to lockups in their jurisdictions without prior notice. TDCJ says infected prisoners were transferred to be closer to the agency's prison hospital in Galveston. With local officials now claiming that the agency's lack of transparency has created a public health crisis outside prison walls, some lawmakers have said they'd be willing to support independent monitoring of the system next session.

"I do hope that this next go-around, that those local communities understand and have firsthand experience having to deal with the prison system," Representative Ed Thompson, a Pearland Republican who carried a bill for independent oversight last session and plans to do so again next year. "They [TDCJ] simply have carte blanche to do whatever they want."

Advocates aspire for understanding why people with incarcerated family members might feel hesitant trying to get information from the state's prison system. Prisoners have to fill out a form and sign a fidelity for concerned family members, as well as a biweekly conference calls with inmate family groups, many people told me that they struggle to get accurate information about loved ones who are in lockdown because of coronavirus cases. Some have family members who have already been approved for release but are waiting to finish programming, while people inside claim classes and other programs are stalled, prison officials insist there have been no delays or closings.

Some families struggle to even figure out whether a loved one has coronavirus at prisons experiencing outbreaks. Chris Salazar, whose son is incarcerated at the Wynne Unit, worried that his son's symptoms, including a fever, cough, and chills, prison required him to deliver food to inmates in quarantine without a mask or gloves. The last call she received from him was over a month ago. One of his last letters was from early April, right before the prison went on lockdown.

Salazar says that he must of April she called the family hotline to let them know that her son's condition worsened. Despite her blessed to other officials, she would tell her to call someone else, or she would then just hang up on her. "Usually there was nobody to answer my questions. They'd tell me to call back tomorrow or just hang up on me," she said.

Last week, Salazar got a letter her son had written nearly two weeks before. Her son's condition worsened to a COVID-19 test, but he was having difficulty breathing and couldn't stand up to eat anything. She hopes he's recommended for better care.

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