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December 28, 2020

Mr. Anthony Annucci  
Acting Commissioner  
NYS Department of Corrections and Community Supervision  
1220 Washington Avenue, Building 9  
Albany NY 12226

Dear Acting Commissioner Annucci:

I write with urgency regarding a number of outstanding life-or-death matters involving the safety of our members at DOCCS. I realize you have the extremely difficult task of balancing a variety of competing interests while ensuring the continued safe operations at your agency. However, I must continue to impress upon you the importance of hearing and meaningfully addressing the concerns of PEF members. Ensuring their safety will, in turn, ensure the safety of the inmate population, the parolee population, and by extension the greater community of the State of New York.

As a preliminary matter, because our members at DOCCS have been reporting to their worksites for the duration of the pandemic, we are asking that you commit to doing everything in your power to ensure that our members are first in line to volunteer to obtain the COVID-10 vaccine.

Unfortunately, the biggest concern of our members may be the hardest to solve – the lack of trust by PEF members in DOCCS COVID systems such as contact tracing, reporting of positive cases of inmates, parolees and staff, and lax enforcement of masking and social distancing.

We understand that DOCCS' contact tracing relies entirely on the COVID-19 positive staff member reporting who they were in contact with at the worksite. While key interviews with the exposed employee are fundamental to contact tracing, DOCCS should not rely solely on an ill individual's recollection, which may be clouded by illness or unintentional forgetfulness. We strongly encourage DOCCS to do an independent investigation of potential contacts by reviewing any available documentation such as schedules, call out logs, and cameras in the worksite to identify who may have been in contact with the positive staff person, inmate, or parolee.

Additionally, this is one of the reasons why timely, proper notification to staff and the union of a positive case in a worksite is absolutely critical to a strong COVID control system to identify, trace and isolate exposed individuals to stop the spread of the virus within a workplace. Such notice does not and need not violate HIPAA to be effective.

As you know, a single positive case can spread the virus exponentially, especially within crowded workplaces and congregate settings. By providing timely notification of a positive case within a workplace, contact tracing is more effective as employees can then self-report if they believe they have been exposed, thus preventing further exposure. With notice, employees also have an important opportunity to take additional measures to protect themselves, especially when in some situations, the Department may deem an exposed and asymptomatic employee crucial to operations, and return them to the workplace before the expiration of the traditional quarantine period. Those employees should not be mixed in with other employees who did not have exposure, nor should they have contact with parolees, inmates or staff who may be high-risk for COVID complications.

Additionally, with notice, high risk employees would be able to seek alternative working arrangements or charge leave if practicable. Further, notice provides the Department an opportunity to reinforce mandates on masking, handwashing, social distancing and other crucial COVID control measures, and reduce the complacency which may cause those systems to fail.

Notice to the Union is also a key component to a strong COVID control plan. By working together, we can help identify and track exposure trends, work cooperatively to provide exposed employees with important information on Department policies and union benefits, reinforce the importance of good COVID control measures such as masking, hand hygiene and social distancing, and most of all address the concerns and fears of a stressed workforce.

Over the course of this pandemic, we have received hundreds of phone calls, emails and contacts from fearful and panicked PEF members who are concerned about the lax enforcement of masking and social distancing at their worksites. Here are just a few examples of the types of concerns we have received in the last two weeks:

- At Clinton, a PEF member reported, “It feels like COVID-19 does not exist on nights and weekends in here” due to lax enforcement of masking and social distancing. Another member reported that at Clinton’s CBO site, an inmate showed up to a mental health appointment visibly sick and with no sense of taste or smell. The CBO staff had to make arrangements to immediately transport the inmate to the medical unit. How many other staff and inmates were potentially infected along the way? Given that DOCCS’ contact tracing is self-reported, will the documented contacts be sufficient?
- It was reported by a member at Five Points that an ORC, who had sat next to an Officer for more than 45 minutes, was not notified that the Officer turned out to be positive for COVID-19 the next day. This is clearly a significant exposure that should have led to a contact trace on the individual. However the Officer did not identify the ORC as a close contact and so the ORC was never contacted. The area was under video surveillance, and had the tape been reviewed, the ORC would have been appropriately identified as a significant exposure and quarantined. Instead, the ORC found out that the Officer was positive through conversations with other staff. However, because the Officer did not report the ORC as a close contact, the ORC was told that they would not be quarantined.
- At Auburn, it was reported that well over 160 COs have tested positive for COVID-19. Despite that very high number, staff are still allowed to congregate in the main lobby, vestibule, file rooms and other shared spaces. And as at other facilities, mask enforcement continues to be lax.

A recent survey of our members at a variety of DOCCS worksites show the same startling concerns: lack of social distancing and available space to enforce same, lax enforcement of mask wearing by staff, inmates, and parolees, and lack of cleaning of high touch areas. There are additional concerns about the safety and efficacy of ventilation. Sadly these concerns are not new, though they have been exacerbated by the resurgence of the virus in the past two months. It is disturbing that, almost a year into a pandemic, we are still having to raise the same concerns to DOCCS that we raised during the spring.

COVID-19 has compounded an already stressful work environment for our members. As you know, DOCCS has been beleaguered by short staffing in a variety of its departments for years. Now, not only are there not enough hands to do the work on a regular day, our members and other DOCCS staff must pick up the slack while there is a revolving door of quarantines in their departments. We have had members simply resign from their positions rather than risk contracting COVID at work. Add to that the lack of pay for more than one quarantine leave and you have the perfect storm for dangerous conditions, lack of trust and faith in DOCCS, and continued outbreaks in your worksites.

As I write this, I have received a number of e-mails from members and union leaders at Ulster CF advising that there are at least seven confirmed cases of COVID-19 amongst PEF members, in both the counseling and pharmacy units. This is not the first outbreak at Ulster, and not the first outbreak in those departments. Again, it was reported that contact tracing was significantly inadequate. I am told there are 25-30 staff in the Program Services area and it was not until last week that some were moved to other buildings to begin to allow for appropriate distancing. Ulster is a reception facility – common sense dictates that it should have the most restrictive COVID-19 mitigation protocols in place to stop the spread into other facilities. Unfortunately, it is again under siege by this deadly virus.

I am disappointed that I have to once again reach out to you to demand DOCCS step up to protect the health and safety of our members and the community it serves. PEF members who work for DOCCS know that they signed up for a difficult and sometimes dangerous career. But no DOCCS employee should suffer unsafe and deadly working conditions. Please know that PEF will continue to strenuously advocate for the safety and security of our members and will take every possible action to ensure that they and their families stay healthy and safe.

Your prompt action is desperately needed and greatly appreciated. Do not hesitate to reach out should you wish to discuss further how we can work together to protect the employees, and PEF members, in DOCCS.

Sincerely,



Wayne Spence  
President  
NYS Public Employees Federation, AFL-CIO

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