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A Case Study of the Westchester County New York's Jail Response to COVID-19: Controlling COVID while Balancing Service Needs for the Incarcerated-A National Model for Jails

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ABSTRACT

Controlling COVID rates, which initially soared within New York State, proved to be more challenging for correctional institutions, which were tasked with trying to protect a captive population. This article profiles the Westchester County Department of Correction (WCDOC), a county jail located 20 miles north of Manhattan; it is the second-largest jail in New York State. By employing a multitude of modalities, the WCDOC was able to lower their COVID-19 rates significantly, while simultaneously providing medical, mental health, drug treatment, and court-related services. By leveraging the use of technology and employing innovative policies for prisoners and staff, the WCDOC can serve as a model for other correctional institutions.

KEYWORDS

COVID; county jails; pandemic; correctional; Covid-19; pandemic; alternatives to incarceration; early release mechanisms; prison reform

Introduction

As rates of COVID-19 infection appeared to decline in many areas, rates in correctional institutions across the United States continued to rise; inconsistent policies and a deficit in testing made it difficult to ascertain accurate infection rates for the incarcerated (Williams et al., 2020). At the peak of infection in New York State (NYS) (late March and early April of 2020), approximately 800 people died daily of Coronavirus-related illness (Higgins-Dunn, 2020). On March 7, 2020, NYS Governor Andrew M. Cuomo signed Executive Order No 202 declaring a disaster emergency in NYS (New York State [NYS], 2020), which was followed nine days later by a declaration of emergency in Westchester County by County Executive George Latimer (Westchester Government, 2020). High rates in the general population posed significant problems for correctional institutions, where social distancing was difficult and the closed quarters of the correctional environment served as an incubator for the virus (Prison Policy Initiative, 2020).

The rates in NYS' correctional facilities began to mirror rising rates in the general community. Since the beginning of July 2020, there were 541 reported cases of Coronavirus among NYS prisoners, with 16 related deaths (Park & Meagher, 2020). Even though there was a focus on prisoner health, prisoners' health was only one area of concern. With the health of staff and prisoners inextricably linked (each poses a risk to the other), effective policies to limit rates of COVID-19 infection must address both

populations simultaneously and effectively. In NYS, there were 1,299 reported cases of the Coronavirus among state prison workers, with five related deaths (Park & Meagher, 2020). Since staff can infect prisoners or vice versa, correctional institutions have a difficult task to manage. Correctional administrators must try to minimize Coronavirus transmission, which occurs when a non-infected person is in close contact with an infected person's respiratory secretions (i.e., through coughing, sneezing, talking or singing) (World Health Organization [WHO], 2020), while still providing care, custody, control, and essential services to a population that suffers from high rates of drug addiction and mental illness (Bronson & Berzofsky, 2017).

Much of the discourse, particularly media attention, surrounding Coronavirus and the incarcerated has focused on state facilities, with little attention paid to jails. Jail administrators have one of the most challenging tasks regarding the control of Coronavirus. Their population is relatively transient and incarceration stays are much shorter when compared to those serving state prison time (25 days compared to 2.6 years) (Zeng, 2018). The risk of infection being brought into the jail via a new admission (or into the community via a new release) is significantly higher when compared to the state prison system, which receives its prisoners from jail facilities. The Westchester County Department of Correction (WCDOC), the second-largest jail in NYS (approximately 20 minutes north of Manhattan), was able to bring its infection rate to zero. Through the implementation of technology and the creation of strategic policy (which pertained to both staff and prisoners), WCDOC was able to maintain the safety of its staff and prisoners, while simultaneously maintaining essential services (i.e., mental health treatment, court appearances, etc.). This article will discuss the various strategies utilized by the WCDOC, which can serve as a model for other correctional institutions that want to minimize the risk of transmission but still provide a pre-pandemic level of service.

The WCDOC

The WCDOC is a county jail located in Valhalla, NY, within the County of Westchester, a large suburb of New York City. Their mission is to serve “the public by providing an efficient, secure and humane means of detaining individuals with criminal matters pending in Westchester County” (Westchester County department of Correction [WCDOC], 2020). The WCDOC consists of a Jail Division, which houses individuals 18 years and older (including males accused of a crime or awaiting sentencing and females accused of a crime, awaiting sentencing or sentenced to terms of a year or less) and a Penitentiary Division, which houses males sentenced to terms of one year or less. This jail facility holds detainees, sentenced offenders and federal detainees, with varying levels of security (i.e., unclassified, low, medium, high and maximum). With the ability to hold a capacity of 1,821 inmates, WCDOC has a current population of approximately 500 prisoners (490 at the time this article was written); almost 30 were women. In total, WCDOC has approximately 877 staff, which includes 836 law enforcement staff (officers, sergeants, etc.), who have contact with prisoners. The Department is accredited by the American Correctional Association (ACA) and operates within local, state and federal guidelines. It was the first jail in NYS to receive PREA (Prison Rape Elimination Act) accreditation and its medical operations were accredited by the National Commission on Correctional Health Care

(NCCHC). WCDOC follows the policies and guidelines mandated by New York's State Commission of Correction (SCOC) (Collica-Cox, 2018).

Pre-COVID

Even though no one was adequately prepared to address the COVID-19 outbreak when the World Health Organization designated it as a public health emergency of international concern on January 30, 2020 (WHO, 2020), there were two factors which assisted the WCDOC in their initial efforts. First, the WCDOC had a longstanding pandemic plan policy, communicable disease policy and a universal precaution policy, which meet and exceed standards set by the SCOC, ACA and NCCHC. The Department's strong foundation of detection, prevention and response to flu and other influenza type viruses was helpful in preparing for this process.

Second, NYS passed a bail reform law, considered one of the most "progressive" bail reforms in the nation, which went into effect January 1, 2020, and eliminated bail for most misdemeanors and nonviolent felonies, drastically reducing jail populations throughout the state (Lartey, 2020). Although the law was modified in April 2020 to expand judicial discretion for determining bail for certain crimes (15 new eligible bail categories were added), the core of the original law remained (Coltin, 2020; Merkl, 2020). As a result, new admissions were low, which made it possible for the WCDOC to discontinue dormitory-style housing. The majority of prisoners moved to single cells, which housed a private toilet and sink. Single showers were cleaned after each use. The only exception was for those prisoners who assisted in food preparation and worked in the kitchen. These residents were housed in quad-style housing units but were separated by distances of greater than twenty feet. They were medically monitored multiple times throughout the day.

Early release & providing unrestrained access to the courts

To enhance efforts to moderate the spread of COVID-19 and further reduce the jail population, the Westchester County District Attorney's Office partnered with the Legal Aid Society of Westchester to review the case files of prisoners who might be eligible for early release (Westchester County New York Office of the District Attorney, 2020). In total, 65 prisoners were released early. Thirty-three prisoners were released early with conditions placed upon their release, while 32 of the releasees, who were initially remanded on a probation violation, were released back to the supervision of probation (Lungariello & Eberhart, 2020). All releasees, who were primarily low-level offenders, had release dates of June 26, 2020 or earlier and were serving one year or less (Lungariello & Eberhart, 2020). The long-term detainees, who were scheduled to take a plea but were unable to do so because of court closures, would have remained in jail longer than their sentence warranted if this action was not taken by the County District Attorney and the Legal Aid Society. To date, none of the releasees have been remanded back to the WCDOC; however, it is unknown if any were arrested (but not remanded) at any point since their release.

Although the WCDOC does not play a deciding role in whether a prisoner is released, they were able to help facilitate court processes by maintaining scheduled court visits via their video platform technology and by assigning six correctional officers fulltime to sustain the court volume. Many prisoners across the country and throughout the state were denied

their right to a “speedy resolution” and unable to access justice because of correctional facilities’ inability to provide access to the courts during in-person court closures (Weichselbaum, 2020); the WCDOC’s willingness to utilize video platform technology (i.e. Skype, WebEx, etc.) allowed them to maintain all of the prisoners’ court dates. In cases where prisoners were applying for early release based on an underlying medical condition, WCDOC expedited the forms that were needed by attorneys, such as HIPPA (Health Insurance Portability and Accountability Act) forms and electronic medical records (EMRs), even with reduced staff. During the jail’s lockdown to visitors, defense attorneys could continue to confer with their clients using their video technology system. Technology, which many correctional institutions lack due to security concerns (Jewkes & Johnston, 2009), was a tremendous benefit during this pandemic.

Quarantining, testing & partnership

Over 100 prisoners were tested by the WCDOC during the peak of the Coronavirus outbreak, which was more than 20% of their population. This seemed in line with testing overall in NYS, where approximately 25% of residents have been tested (4,673,195 tests for 19 million people) (Jin, 2020). This number may be lower as such data only accounts for the number of tests administered, rather than the number of people tested; it cannot account for repeat testers (i.e., essential workers with repeated exposure). Testing is important because it not only identifies those who may be infected, but it can initiate the process of contact tracing to stop the further spread of infection (Centers For Disease Control and Prevention [CDC], 2020a). Testing determines housing placements, staffing, and delivery of care/ services to the prisoners.

Correctional institutions may have the capacity to conduct higher levels of testing if they partner with an outside medical organization. WCDOC partnered with the Westchester County Department of Health (WCDOH) and their Department’s medical provider, Wellpath, to develop a testing process for both staff and residents. WCDOH provided COVID-19 testing kits to WCDOC, which were not commercially available at the time and Wellpath agreed to administer the tests and have them sent for processing. The testing of prisoners allowed WCDOC to safely house those who were symptomatic. Based on several exhibited symptoms at the beginning of the pandemic, all prisoners were placed on a 14-day quarantine. Other prisoners, who may have been in the vicinity of a symptomatic prisoner, were placed under a precautionary quarantine, which enabled WCDOC to monitor them until their test results returned. WCDOC was also able to designate housing for those who completed their 14-day quarantine and remained asymptomatic for three days (i.e., no fever and improved respiratory symptoms such as cough or shortness of breath) or 10 days since symptoms first appeared (as per CDC guidelines). To reduce risk at the state level, all scheduled transfers from the jail to state prisons at the beginning of the pandemic were suspended. Presently, all WCDOC prisoners scheduled to be sentenced by the court to serve incarceration terms exceeding more than one year with the New York State Department of Corrections and Community Supervision (NYSDOCCS) will quarantine for 14 days prior. This assists in minimizing any outbreaks during transfer from one facility to another but still allows for the movement of prisoners. In July 2020, the WCDOC received one new admission who tested positive for COVID-19; due to WCDOC’s testing and isolation protocols, infection was detected immediately, while this individual was still being held in

initial quarantine (required of all new admissions). This individual remained isolated from the general population for the contagion period, fully recovered, and posed no threat to others. No other staff or prisoner contracted COVID-19 and the WCDOC’s COVID-19 rate returned to zero.

To minimize infections being brought from the community to the jail, all non-essential staff (including volunteers and contractors), worked remotely. Uniform staff were essential and since they resided in different communities throughout NYS, they had varying levels of exposure. This necessitated a specific testing protocol for staff. Westchester County implemented various policies to ensure that staff members who were experiencing symptoms did not feel compelled to come to work. Once staff members experienced symptoms, they were tested and remained quarantined at their residence until their test results returned. If they tested negative, they could return to work but until the process was concluded, they were often home for a period of at least five days. If the test results were positive, staff quarantined 14 to 20 days. To encourage staff to report symptoms, a “COVID-sick” policy was implemented; staff were not required to use their sick time for quarantining and if they were previously approved for leave under the Family Medical Leave Act (FMLA), they were not required to use their FMLA hours. Staff were also allowed to take COVID sick leave, without impacting their accrued sick or FLMA hours, if they had a family member with an underlying medical condition or if they were responsible for minor children and were unable to secure childcare during NYS’ stay-at-home order. During WCDOC’s peak, approximately 150 officers were out of work on a COVID-related issue; these absences (approximately 18% of their security workforce) created countless operational challenges. In total, over 300 employees were tested, accounting for 34% of their staff. Testing prisoners and staff who were symptomatic resulted in the Department experiencing its peak number of cases quite sooner than the rest of NYS. Prisoners and staff both peaked in the number of persons experiencing symptoms and testing positive during the week of March 29, 2020 (See [Charts 1 and 2](#)), while the rest of NYS reached its COVID-19 peak on or about April 16, 2020 (Tampone, 2020).

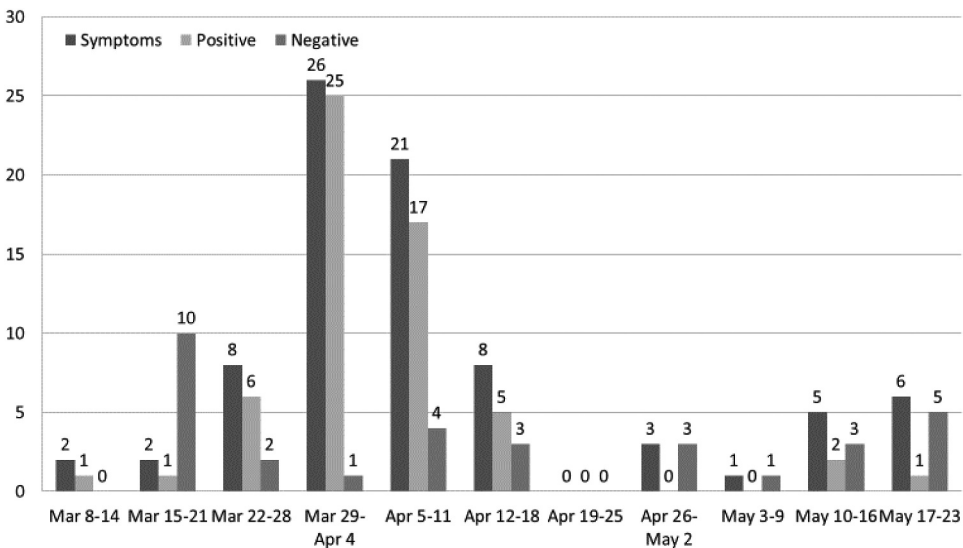


Chart 1. Prisoner symptoms and COVID-19 testing results.

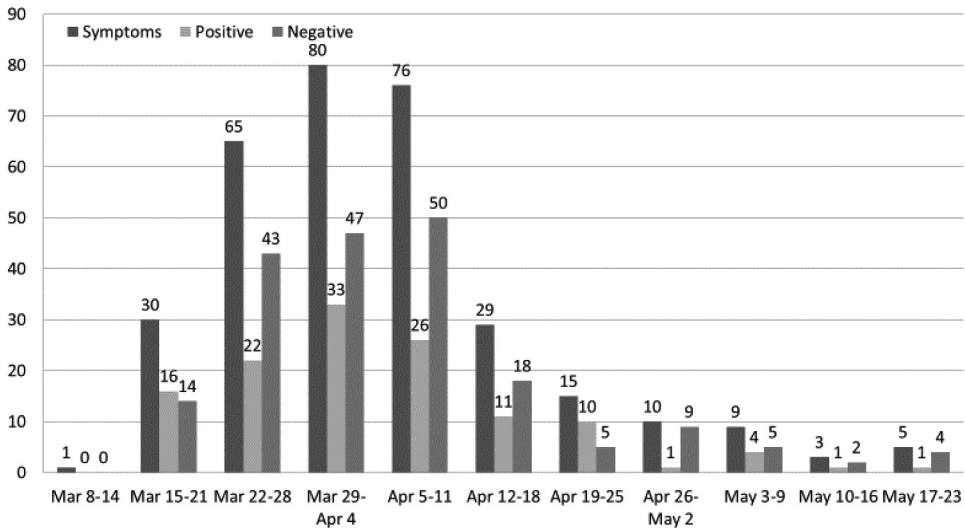


Chart 2. Staff symptoms and COVID-19 testing results.

Cleaning & personal protective equipment (PPE)

While testing was critical to operational planning, more needed to be done to ensure the safety of prisoners and staff. WCDOC engaged in a vigorous cleaning routine. Housing blocks and other areas were sanitized multiple times daily. Correctional Officers performed cleaning and other custodial duties to continuously maintain a sanitized environment throughout the day. Staff and prisoners were encouraged to maintain consistent handwashing and to use hand sanitizing stations placed throughout the facility. Hand sanitizer is still considered contraband in 20 states and in all federal facilities (i.e. security concerns that prisoners might ingest it or utilize it as an accelerant), even though the CDC asked facilities to consider easing restrictions for the benefit of public health initiatives (CDC, 2020b; Tolan, 2020). The WCDOC maintained a strategic inventory of PPE supplies, which included masks that were provided to all staff and prisoners and changed weekly (or more frequently if needed) to lessen community spread. Staff and prisoners were required to wear masks at all times; all prisoners had to wear masks whenever leaving their cells.

Technology & maintaining essential services

The WCDOC has a wide variety of programming which was initially affected by the shutdown. Although medical and mental health staff, deemed essential, were still onsite, many other programs, particularly those under the leadership of contractors and volunteers, were suspended. Many of these programs, albeit not all of them, were able to continue their work through WCDOC's video visitation system. The WCDOC leveraged their existing video visitation technology to ensure that prisoners stayed connected to ongoing academic studies. Students enrolled in college programming with Pace University met with their professor via video visits and those completing their high school/GED course of study through BOCES (Board of Cooperative Educational Services), were able to maintain the

same contact with their teachers. With the assistance of a program sergeant, assignments could be distributed and collected. Unfortunately, this was not the case for most correctional institutions – programs were suspended indefinitely, leaving prisoners little to do while quarantined (increasing stress and despondency) and interrupting programming that was geared toward achieving rehabilitative and reintegrative outcomes (Lewis, 2020).

This same technology platform also allowed those receiving treatment for substance abuse to continue receiving support from WCDOC's community-based partner, Saint John's Riverside Hospital. Participants engaged in cognitive behavioral intervention (CBI), via interactive journaling, with another community-based partner, Hudson Valley Community Services, a program funded by a grant from the NYS Division of Criminal Justice Services; prisoners stayed connected with their CBI Facilitator through video visitation. Lastly, Family Services of Westchester connected with male residents who participated in their Navigating Fatherhood program and with the female residents who participated in the EMERGE program (i.e. Educating Mothers to Embrace Reentry and Gain Employment) via video visitation. In-person programming was able to resume at the WCDOC in July 2020. Programs opened slowly and in stages to minimize and monitor potential health risks. In-person programming will continue to be monitored closely.

Technology & maintaining family connections

Family visitation was negatively impacted by the Coronavirus pandemic. To prevent the spread of illness, most facilities, nationwide, suspended all visitation (Kindy et al., 2020). The same held true for the WCDOC – all visits were suspended in March 2020. Normally, family connections are difficult to preserve while one is incarcerated (i.e., difficulty with travel, cost of collect calls, etc.) (New York State Division of Criminal Justice Services, 2013) but the COVID-19 crisis made this process even more challenging. Family connections are important in impacting recidivism; family/marital stability is one of the “central eight” risk factors that correctional-based programs are urged to target (Andrews et al., 2006, 2012). Family relationships affect criminal behavior, with strong family relationships precluding future crime (Collica-Cox & Furst, 2020). Without visitation, families would need to rely upon telephone calls or video visitation, which is not affordable for every family, especially with 1.6 million New Yorkers filing claims for initial unemployment insurance during the onset of the Coronavirus (Marroquin, 2020). Hence, the WCDOC purchased telephone cards, which were issued to residents at no cost, so they could maintain communication and receive updates from their outside support systems. Free calling cards and reduced pricing for video visitation increased family contact with the number of monthly calls rising from 1,700 pre-pandemic to 4,000 during the pandemic. In fact, this process allowed more prisoners the opportunity to stay in contact with family than ever before. Non-contact visitation was able to resume at the WCDOC in September 2020. If COVID-19 rates in the community remain low, contact visiting may return, but this is a process that will occur gradually to minimize and evaluate the potential risk.

Conclusion

The Prison Policy Initiative developed recommendations for how the criminal justice system could slow the spread of COVID-19 (Wagner & Widra, 2020). These recommendations

included: reducing the number of prisoners in county jails and state/federal prisons, lessening unnecessary personal 1:1 contact, providing for health care that is humane for both staff and prisoners, and affording methods for family to remain in contact with incarcerated loved ones at no charge. The WCDOC met and exceeded these guidelines. Policies that were enacted during this pandemic can result in long-term changes, which far exceed the longevity of this virus. Consider the expanded use of video technology, which if implemented in more facilities, could expand programming options for correctional institutions. Such technology could also defer costs and increase public safety when prisoners attend court appearances remotely. In addition, family who may have not been able to visit an incarcerated loved one or afford the costs of phone calls, are able to maintain consistent contact through calling cards. If strong family relationships can help to mitigate rates of recidivism (Collica-Cox & Furst, 2020), the costs of these cards are economically beneficial.

Policies implemented by the WCDOC prior to the pandemic, such as communicable disease procedures and bail reform, helped place WCDOC in a good position to manage the complexities of COVID-19. NYS was the epicenter of COVID-19 in the United States (beginning in the City of New Rochelle in Westchester County) at the start of the pandemic (McKinley, 2020), posing numerous challenges for correctional institutions, particularly jails. By helping to facilitate court visits and necessary paperwork for early release consideration, prisoners were given unbridled access to the courts. The use of quarantining, testing, cleaning and mandated use of PPE helped to limit exposure. WCDOC assigned officers to manage the court volume and they assigned personnel to the County Emergency Operations Center to ensure the leadership team had the most up-to-date information regarding the pandemic; this also helped them learn about possible resources which could enhance Departmental operations. WCDOC utilized technology to maintain programming, drug treatment, CBI services and family reunification. The sick policy for staff was modified allowing staff to minimize exposure to others while allowing staff to care for themselves and their families.

The American Civil Liberties Union (ACLU) issued a failing grade for most states' responses to mitigating coronavirus among the incarcerated (Widra & Hayre, 2020), including New York State (NYS). NYS' failing grade was based partly on data from the NYSDOCCS' website (which due to staff shortages may not have been updated regularly), as well as outside agencies that were attempting to collect data during this difficult period. The NYSDOCCS is a state system that reports on state facilities; county jails (there are 58 jails covering 62 counties in NYS) are not reported on their website. Grades were based upon several factors, such as distribution of ample PPE for staff and the incarcerated; reduction of the incarcerated population; a Governor-issued mandate hastening the release of vulnerable prisoners and/or those toward the end of their sentence; and publicly available COVID-19 data. The WCDOC, although not graded independently, did not fail to meet these criteria. As mentioned above, PPE was issued to staff and residents weekly (or more if needed). The NYS State Governor did not issue a mandate regarding Coronavirus and the incarcerated, yet, Westchester County devised a local response to the pandemic when the Westchester County District Attorney's Office partnered with the Legal Aid Society of Westchester to review the case files of prisoners who might be eligible for early release; the WCDOC helped to facilitate these cases quickly and efficiently through their video platform technology. Since January, bail reform coupled with releases during the Coronavirus pandemic allowed WCDOC to reduce its jail population by

almost 50% (approximately 1,000 incarcerated to 500 incarcerated). Last, data were released to local news sources and subsequently published, yet, readily available data on the WCDOC website might provide more accessibility for the public. Overall, based on the criteria established by the ACLU, the WCDOC can serve as a model for other correctional institutions, including those in NYS.

To help mitigate the spread of COVID-19, advocates were calling for the early release of the incarcerated. However, these individuals were being released during a pandemic, when there were staff shortages, office closings, limited services (i.e., mental health, substance abuse, housing, etc.), and few resources (Carissimo, 2020; King, 2020). Staff employed with nonprofit agencies, who commonly service the formerly incarcerated, were working remotely. If the formerly incarcerated had difficulty gaining access to technology, they had difficulty obtaining services. Services can be difficult to assess under normal circumstances, but the Coronavirus pandemic made it even more challenging (Westervelt, 2020). Case managers or discharge planners, who normally worked with the incarcerated prior to their release, were also working remotely, which can make it difficult to connect those awaiting release with outside services (Carissimo, 2020). The release process, which is often overwhelmed (i.e., not enough services for the newly released), was inundated with cases during a time that few services could be offered (Carissimo, 2020). Clearly, community-based treatment is an area in need of remediation and increased funding is required to provide these necessary services more efficaciously, especially during a pandemic; otherwise, those who are released early are likely to return (McCarthy et al., 2020). Moreover, those who specifically suffer from opioid addiction have a high probability of overdose following their release; internationally, drug overdoses are the primary cause of death for the newly released (Joudrey et al., 2019). These overdoses occurred pre-pandemic but such rates will continue to increase if community-based treatment/services for the addicted is less accessible as a result of the pandemic (American Medical Association [AMA], 2020; Longley, 2020).

The WCDOC, like many other correctional institutions, found themselves in one of the most challenging times that impacted staff and prisoners and the extended families of both. WCDOC maintained unit cohesion and synergy with their strategic partners, establishing a multitude of best practices and other operational strategies that could be replicated in other jails and prisons throughout the country. WCDOC can serve as a model for other correctional institutions, especially if a second wave of COVID-19 is predicted (Ferre-Sadurni & Schweber, 2020). Future researchers should determine if these methods are as effective as in-person modalities and whether such procedures, when implemented in other correctional institutions, have the same outcomes (i.e., a zero COVID-19 rate).

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