



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Hawai‘i

BY EMAIL AND CERTIFIED MAIL

March 12, 2020

Nolan Espinda
Director
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Shari L. Kimoto
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Re: COVID-19 Response Plan

Dear Director Espinda and Deputy Director Kimoto:

We are writing to urge you to immediately develop evidence-based and proactive plans for the prevention and management of COVID-19 in the correctional and detention facilities under the oversight of the Department of Public Safety. We would like to schedule a call with you within the next two weeks to discuss how you are protecting the health of the over 5,000 people in your custody—including persons housed in Arizona—as well as the people who work for the Department.

People in prisons and jails are particularly vulnerable to outbreaks of contagious illnesses. They are housed in close quarters and are often in poor health. Without the active engagement of correctional staff, they have little ability to inform themselves about preventive measures, or to take such measures if they do manage to get such information.

We ask that you immediately reach out to the Department of Health to develop plans to address the virus in the prison and jail system. This is an urgent and important matter. Having an appropriate, evidence-based plan in place can help prevent an outbreak and minimize its impact if one does occur. Not having one in the middle of a declared pandemic may cost lives.

While the plan should be developed collaboratively by your department and the Department of Health, some of the critical issues that such plan must address include:

- **Education of the people in your custody:** People housed in the prisons and jails need to be informed about the virus and the measures they can take to minimize their risk of contracting or spreading the virus. They must be educated on the importance of proper handwashing, coughing into their elbows, and social distancing to the extent they can. Information about the spread of the virus, the risks associated with it, and prevention and treatment measures must be based on the best available science.
- **Education of the staff:** Correctional, administrative, and medical staff must be educated about the virus to protect themselves and their families, as well as the people in their custody.
- **Staffing plans:** Regardless of how many staff stay home because they are sick, the prisons and jails will need to continue functioning. There must be a plan for how necessary functions and services will continue if large numbers of staff are out with the virus.
- **Staffing plans for services provided by prisoners:** Many tasks in prisons, such as food preparation and basic sanitation, are performed by prisoners and detainees. The plans for an outbreak must also address how necessary tasks performed by prisoners and detainees will continue if large numbers of people are ill.
- **Provision of hygiene supplies:** The most basic aspect of infection control is hygiene. There must be ready access to warm water and adequate hygiene supplies, both for handwashing and for cleaning.
- **Screening and testing of the people in your custody:** The plan must include guidance, based on the best science available, on how and when to screen and test people in your facilities for the virus.
- **Housing of persons exposed to the virus:** The plan must describe how and where people in the prison system will be housed if they are exposed to the virus, are at high risk of serious illness if they become infected, or become sick with it. *This should not result in prolonged, widespread lock-downs.* Any lock-downs or interruptions in regular activities, such as exercise or visits and phone calls with families or attorneys, should be based solely on the best science available and should be as limited as possible in scope and duration.

Re: COVID-19 Response Plan

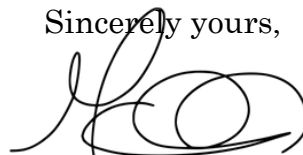
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- **Treatment:** Courses of treatment must be evidence-based, available immediately, and in compliance with scientifically-based public health protocols.
- **Vulnerable Populations:** The plan must provide for additional precautions for those who are at high risk of serious illness if they are infected, such as pregnant women and people with chronic illnesses, compromised immune systems, or disabilities, and people whose housing placements restrict their access to medical care and limit the staff's ability to observe them. The Department may also want to also consider exercising its authority to release or recommend release of people held in jail and prison under Haw. Rev. Stat. §§ 353-10, 353-36 and other relevant policies and statutes.
- **Data collection:** The collection of data regarding COVID-19 will be part of the public health response. As with any contagious disease, data collection is critical to understanding and fighting the virus. Your Department must be part of this process. The same information that is tracked in the community must be tracked in prisons and jails.
- **Intergovernmental coordination:** In the event of an outbreak at any of your facilities, the Department should immediately notify the Governor, the Judiciary, the Legislature, the Office of the Public Defender, and relevant Prosecuting Attorney's Offices and Police Departments so that they may take the risk posed by COVID-19 into consideration in exercising their power and discretion.

Please let us know when you will be available to discuss your plans with us. We would appreciate a prompt response acknowledging receipt of this letter and proposing times to talk by March 16, 2020. In the meantime, I can be reached at (808) 522-5908 or mcaballero@acluhawaii.org.

Sincerely yours,



Mateo Caballero
Legal Director

cc: Bruce S. Anderson, MPH, Ph.D.
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