

Scott Crow, Director
Oklahoma Department of Corrections
P.O. Box 11400
Oklahoma City, OK 73136-0400

March 16, 2020

Dear Director Crow:

While we are aware that the Department of Corrections is taking the COVID-19 outbreak seriously, including your recent announcement that inmate visitation is being halted, we urge you to immediately develop comprehensive evidence-based and proactive plans for the prevention and management of COVID-19 within the custodial facilities of the Oklahoma Department of Corrections.

People in prisons are especially vulnerable to outbreaks of contagious illnesses because they are housed in close quarters and are often in poor health. Without the active engagement of the prison administration, they have little ability to inform themselves about preventive measures, or to take such measures if they do manage to learn of them.

At this point, there is more unknown than known about this virus. You have the responsibility to be appropriately prepared to prevent and manage any illness that may arise from this virus. If you have not done so already, we ask that you look to the Center for Disease Control to develop plans to address the virus in the prison system. This is an urgent matter. Having an appropriate, evidence-based plan in place can help prevent an outbreak and minimize its impact if one does occur.

We know appropriate responses must be made in a matter of hours, not days at this point. We hope to never know if we have done too much, but are aware that it will be painfully obvious if we have failed to do enough. This is a rapidly evolving situation. To the extent you've already implemented any of the processes below, we are grateful for that.

With regard to the just announced visitation policy, visitation provides people who are incarcerated with a critical connection to families, friends, and the community. Visitation assists with rehabilitation, facilitates successful re-entry, and reduces recidivism.

- Decisions to suspend all visitation should be made in consultation with local public health officials and only when absolutely necessary.
- Visitation should be suspended only after all other less restrictive solutions are considered and rejected, in consultation



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with local public health officials. Less restrictive solutions could include staggering visitation schedules to reduce the number of people coming to the facility at one time.

- The facility should be transparent about the decision-making process that resulted in the suspension of visitation and the timelines for re-evaluation of the new policies and procedures.
- Any decision to suspend visitation must be accompanied by clear plans and procedures to substitute other forms of communication. Such plans should include increased access to phone calls and video calls. Fees for phone and video calls should be waived.
- Visitation should not be suspended indefinitely. Plans to suspend visitation should include clear timelines and processes for re-evaluating the situation and determining whether to continue cancellations or restart visitation, based on the most current information available and in consultation with local public health officials.
- Legal visits must continue unimpeded. People who are incarcerated must still have ready access to their attorneys. If necessary, facilities could consider implementing non-contact legal visits or increasing the availability of confidential phone calls to reduce the number of in-person visits.

While any plan should be developed collaboratively by your department following guidance from the CDC, some additional critical issues that must be addressed are:

- **Plans for Release:** You should work with the Governor and the Pardon and Parole board to expedite the release of as many people incarcerated as possible, including but not limited to: all people over 55; individuals who have uncontrolled diabetes, respiratory conditions and/or are immunocompromised; people who are pregnant or have just given birth; and all people who are eligible for parole and community supervision/release or who are currently incarcerated for technical parole or probation violations.
- COVID-19 poses the greatest risk to older people as well as anyone with chronic conditions or weakened immune systems, who are more vulnerable to developing serious complications from COVID-19 and requiring medical care. The older demographic is growing steadily amongst the incarcerated population in Oklahoma. People over the age of 55 are at the greatest risk for COVID-19, but also pose the least public safety

risk to our communities. People in this age group can and should be released to mitigate the spread of COVID-19.

- You should work to secure the expedited release all people who are eligible for parole and community supervision/release, as well as anyone incarcerated for a technical parole or probation violation. The Pardon and Parole should expedite all review processes for people already found suitable for release, lift holds, and expedite the commutation process. For all people who have been found suitable for parole, the review process and release should be expedited.
- In conjunction with the releases, ODOC should take extra measures and coordinate with municipal authorities to ensure that those individuals have access to medical care, health insurance/Medicaid, housing or shelter and other necessary re-entry services. Particular attention should be given to the needs of women, who in general have less access to re-entry services and resources than men.
- **Educating the people in your custody:** People housed in the prisons 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 how the virus is transmitted and the importance of proper hygiene, including handwashing with soap and coughing into their elbows.
- **Screening and educating the staff:** Correctional, administrative, and medical staff all must be educated about the virus to protect themselves and their families, as well as the people in their custody. Consider screening staff reporting to work. For the moment those guidelines are: check for fever over 100 degrees, cough, shortness of breath, recent travel to a high risk country, exposure to someone who is symptomatic and under surveillance for COVID-19. If 2 out of 3 are present, send the employee home. Additionally, we encourage the Department of Corrections to incorporate a “no fault” sick leave policy whereby employees are not charged sick leave while under quarantine or recovering from the virus.
- **Staffing plans:** Regardless of how many staff stay home because they are sick, the prisons will have 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 people who are**



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incarcerated: Many tasks in prisons, such as food preparation and basic sanitation, are performed by people who are incarcerated. The plans for an outbreak must also address how necessary tasks performed by people who are incarcerated will continue if large numbers of people who are incarcerated are ill.

- **Providing adequate 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. People who are incarcerated should not be required to purchase hand soap or appropriate sanitizers. These products should be made available free of charge. Extra care should be made to provide clean bedding and clothing for people throughout this period.
- **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, who are at high risk of serious illness if they become infected, or who 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. Because of shared HVAC units, it is likely that solitary confinement will not stop the spread of the virus. Given the psychological impacts of solitary confinement, this is not an appropriate way to address housing and containment during an outbreak.
- **Treating persons who develop an illness:** Courses of treatment must be evidence-based, available immediately, and in compliance with scientifically-based public health protocols. When a person requests to see a medical professional for a respiratory complaint, before bringing them to the medical unit, the correctional officer should have the person put on a mask. If it becomes necessary to isolate a person who has been exposed to the virus, you should do what you can to not make the placement in isolation feel punitive – placing a person in an overly restrictive environment may delay their notification.
- **Protecting 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 people and

people with chronic illnesses, compromised immune systems, or disabilities, as well as people whose housing placements restrict their access to medical care and limit the staff's ability to observe them. Additionally, plans should be made so these people receive their regular medical care, even in the case of an outbreak.

- **Collecting data:** 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. The prison system must be part of this process. The same information that is tracked in the community must be tracked in the prisons.



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Given the nature of rapid response around the virus, it will be especially critical that these plans are published and accessible so that all of the people working to center the health and well-being of your staff and those in your custody, including family members and community members, have a clear idea of what is happening, how decisions are being made, and how things are changing in response to additional information.

We welcome the opportunity to meet with you by video or call as soon as possible to discuss how you are protecting the health of the people in your custody, as well as the people who work in those custodial facilities. Please let us know when you will be available to discuss the Department's plans with us:

By phone: 405-796-8683

By email: Ryan Kiesel: rkiesel@acluok.org
Michael Redman: mredman@acluok.org
Nicole McAfee: nmcafee@acluok.org

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan Kiesel".

Ryan Kiesel
Executive Director
ACLU of Oklahoma