



## **The U.S. Commission on Civil Rights Calls for Adequate Healthcare in Prisons and Detention Centers During the COVID-19 Outbreak**

**March 20, 2020**

The U.S. Commission on Civil Rights, by unanimous vote, encourages directors of Departments of Correction, Sheriffs, Chiefs of Police, Immigration and Customs Enforcement and Customs and Border Protection officials to provide COVID-19 healthcare protections and medical care to those in their custody during the COVID-19 pandemic. The Commission's recent report on women in prison pointed out many of the healthcare failings in the corrections systems as it relates to women.<sup>1</sup> Based on the reports we received, the Commission recognizes the potential for serious health consequences for those incarcerated in prisons and detention facilities as COVID-19 continues to spread. This is a critical concern regarding the administration of justice and one that, based on the demographics of incarcerated persons, bears directly and disproportionately on minority populations and on people of particular national origins. We urge all officials responsible for overseeing these facilities to see that those who provide healthcare in these facilities address COVID-19 with the latest known medical care.

The Commission found in recent reports that healthcare in prisons and immigration detention is not consistently provided to meet the healthcare needs of incarcerated and detained people. For example, the Commission heard that people in immigration detention facilities were given only painkillers in response to serious illnesses,<sup>2</sup> despite the requirements for medications to be "ordered, dispensed, and administered in a timely manner and as prescribed by a licensed healthcare professional."<sup>3</sup> Similarly, the Commission heard reports from people incarcerated in prisons that their healthcare

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<sup>1</sup> U.S. Commission on Civil Rights, *Women in Prison: Seeking Justice Behind Bars*, February 2020, <https://www.usccr.gov/pubs/2020/02-26-Women-in-Prison.pdf>

<sup>2</sup> U.S. Commission on Civil Rights, *Trauma at the Border: The Human Cost of Inhumane Immigration Policies* at 83, October 2019, <https://www.usccr.gov/pubs/2019/10-24-Trauma-at-the-Border.pdf>

<sup>3</sup> Immigration and Customs Enforcement, *Performance-Based National Detention Standards 2011*, 4.3 Medical Care, pp. 257-59.

concerns were ignored and adequate treatment was not provided,<sup>4</sup> despite the government's Constitutional obligation to provide healthcare to all incarcerated persons.<sup>5</sup> Given this background, the Commission reiterates the imperative all detention, prison, and jail administrators have to ensure the health and well-being of incarcerated and detained people.

Recent reports have emerged questioning the preparation of prison, jail, immigration detention and juvenile detention systems to manage a serious outbreak.<sup>6</sup> Many incarcerated and detained people are at high risk because of underlying health conditions or age.<sup>7</sup> The nature of carceral environments means some proactive measures, such as social distancing, are not available, heightening the need for administrators to ensure incarcerated and detained people receive appropriate care. Overcrowded facilities provide ideal conditions for rapid transmission of COVID-19 and limit the ability of authorities to isolate those who have been diagnosed. Additionally, incarcerated people in many settings do not have ready access to soap and running water. And, prison guards and corrections officials are also at high risk of exposure in these settings where large numbers of people are housed in facilities in very close quarters.

For prisons and detention centers located in rural areas, providing adequate healthcare is already challenging, including access to specialist care and maintaining sufficient medical supplies such as ventilators.<sup>8</sup> If virus and diseases spread in detention facilities, prisons or jails, not only will it pose a danger to incarcerated and detained people and correctional staff, such a spread will only exacerbate the broader public health threat by burdening already strained medical resources.<sup>9</sup> With average lengths of stay of just a few days, outbreaks in jails will quickly spread or accelerate within the community when people return home. At least one death of a correctional staff member from COVID-19

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<sup>4</sup> Women in Prison: Seeking Justice Behind Bars at 103-104, <https://www.usccr.gov/pubs/2020/02-26-Women-in-Prison.pdf>

<sup>5</sup> Estelle v. Gamble, 429 U.S. 97, 103 (1976).

<sup>6</sup> See, e.g., [https://www.washingtonpost.com/immigration/coronavirus-immigration-jails/2020/03/12/44b5e56a-646a-11ea-845d-e35b0234b136\\_story.html](https://www.washingtonpost.com/immigration/coronavirus-immigration-jails/2020/03/12/44b5e56a-646a-11ea-845d-e35b0234b136_story.html); <https://www.npr.org/2020/03/13/815002735/prisons-and-jails-worry-about-becoming-coronavirus-incubators>; <https://khn.org/news/coronavirus-puts-prisons-in-tight-spot-amid-staff-shortages-threats-of-lockdown/>; <https://www.latimes.com/california/story/2020-03-17/fearing-harmful-effects-of-virus-juvenile-justice-attorneys-push-for-clients-release>

<sup>7</sup> <https://khn.org/news/coronavirus-puts-prisons-in-tight-spot-amid-staff-shortages-threats-of-lockdown/>

<sup>8</sup> See Statement of Leann Bertsch, Director of the North Dakota Department of Corrections and Rehabilitation, [https://securisync.intermedia.net/us2/s/folder?public\\_share=CC4bHXUuhtwckSpkrXFdh50011ef58&id=L1BhbmVsIDMvTGvHbm4gSy4gQmVydHNjaA%3D%3D](https://securisync.intermedia.net/us2/s/folder?public_share=CC4bHXUuhtwckSpkrXFdh50011ef58&id=L1BhbmVsIDMvTGvHbm4gSy4gQmVydHNjaA%3D%3D)

<sup>9</sup> <https://khn.org/news/coronavirus-puts-prisons-in-tight-spot-amid-staff-shortages-threats-of-lockdown/>

has already been reported, underscoring the need for swift action in all detention and incarceration facilities.<sup>10</sup> Officials should take all necessary steps to provide adequate treatment to those who are incarcerated, and also to adopt best practices for the health and safety of affected correctional staff. In these incredibly difficult circumstances, the health of incarcerated and detained people and staff must remain a priority and their safety in the midst of a viral outbreak must not be ignored.

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*The U.S. Commission on Civil Rights, established by the Civil Rights Act of 1957, is the only independent, bipartisan agency charged with advising the President and Congress on civil rights and reporting annually on federal civil rights enforcement. Our 51 state Advisory Committees offer a broad perspective on civil rights concerns at state and local levels. The Commission: in our 7th decade, a continuing legacy of influence in civil rights. For information, visit [www.usccr.gov](http://www.usccr.gov) and follow us on [Twitter](#) and [Facebook](#).*

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<sup>10</sup> <https://www.nbcnewyork.com/news/local/nyc-officials-call-for-release-of-most-at-risk-on-rikers-prison-as-more-test-positive-for-virus/2333348/>