



PRISON LAW OFFICE
General Delivery, San Quentin, CA 94964
Telephone (510) 280-2621 • Fax (510) 280-2704
www.prisonlaw.com

Director:
Donald Specter

Managing Attorney:
Sara Norman

Staff Attorneys:
Rana Anabtawi
Patrick Booth
Steven Fama
Alison Hardy
Sophie Hart
Corene Kendrick
Rita Lomio
Margot Mendelson

INFORMATION ABOUT COVID-19 IN ARIZONA PRISONS

October 13, 2020

Hello,

We are writing you about the coronavirus, or COVID-19. We are sending everyone who writes to us the basic information that we have about the virus. The Prison Law Office, and our co-counsel ACLU National Prison Project (“NPP”), ACLU of Arizona, and Arizona Center for Disability Law are actively working to enforce the rights of people in Arizona state prisons during the COVID-19 pandemic in our case of *Parsons v. Shinn*. *Parsons* was brought on behalf of all people in the state prisons regarding the health care services and conditions in maximum custody units. **Please understand that the situation is changing every day. We do not know if this information is or will be accurate by the time it reaches you.**

COVID-19 Related Activity in *Parsons v. Shinn*

On March 16, 2020, we filed an emergency motion in federal court in the *Parsons* case. We asked that the judge order ADC to work with the court expert to develop and implement a comprehensive plan to prevent and manage COVID-19 in Arizona prisons, including patient education; screening, testing, treatment, and housing of class members; provision of hygiene and cleaning supplies; health care and custody staffing plans; coordination with community hospitals and among the ten prisons; and reduction of the population for class members who are high risk according to the standards set forth by the Centers for Disease Control and Prevention. Your loved ones in the community can find the court filings on our website: <https://prisonlaw.com/news/arizona-covid-19/> Unfortunately, the judge denied the motion on March 23, 2020.

On March 18, ADC announced that they would stop charging people, including indigent people, for soap and hygiene supplies. They said that all prisoners could request soap free of charge from health care or correctional staff. They also said that they would not charge the \$4 copay to anybody with cold or flu-like symptoms (fever, cough, or shortness of breath) in an HNR. Finally, they said that they would start weekly “deep cleans” of living units, and provided people with more access to cleaning products. ADC shut down visiting, and most off-site inmate work assignments to prevent the spread of the virus.

We went back to the court after ADC refused to provide us the names of the incarcerated people who had been tested for COVID-19. On April 2, 2020, Judge Roslyn

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Silver issued an order instructing ADC to provide the attorneys for incarcerated people the names of every person tested for COVID-19, as well as the results. In her order, she wrote that “Defendants’ response gives the impression that they are willfully blind to the Stipulation’s *raison d’etre*—which is to provide for prisoners’ health care through diagnostic testing and treatment.” She also identified that ADC’s refusal to provide this information to the attorneys for incarcerated people could reflect “Defendants’ failure to accept what may be a grave threat facing the prisoner population”

Since that time, we have repeatedly notified ADC of our concerns about the use of punitive solitary confinement and detention units at multiple prisons for medical isolation and quarantine purposes for people with COVID-19 symptoms or confirmed positive. They describe multiple detention units well beyond design capacity, including at times when three people are forced together in a cell designed for two, and how this forecloses any of the physical distancing that the Centers for Disease Control and Prevention (CDC) and other experts indicate are necessary. We called on ADC to describe all actions being taken to mitigate overcrowding, to adopt policies to reduce the transmission of the novel coronavirus such as social distancing and requiring face coverings, and to operate medical quarantines in accord with guidelines set forth by experts in a recent report, *The Ethical Use of Medical Isolation – Not Solitary Confinement – to Reduce COVID-19 Transmission in Correctional Settings*.

On May 6, 2020, we filed a motion asking Judge Silver to find ADC officials in contempt of past court orders, due to their longstanding failure to provide timely urgent specialty care for people incarcerated in ASPC-Florence. The motion details years of noncompliance with a critically important portion of the parties’ settlement agreement that requires that prisoners who are referred to outside specialists for urgent care are seen within 30 days of the request. The prisoners’ motion asks the court to fine the State \$400,000 for eight months of noncompliance with this measure at ASPC-Florence, after the court issued an order in May 2019 directing ADC to start to comply with the measure or be fined \$50,000 for each month of noncompliance. The motion is fully briefed and is awaiting a decision from the Court.

On May 8, 2020, we filed a motion to enforce the Stipulation that detailed ADC’s failure to comply with requirements regarding conditions in maximum custody units, including requirements about out of cell time and programming. ADC responded to this motion on July 21, 2020. Our final reply was filed on October 2, 2020. The motion is fully briefed and is awaiting a decision from the Court.

On June 12, 2020, we filed a motion to enforce the Stipulation that detailed ADC’s failure to comply with the requirement that for all people who are not fluent in English, that health care encounters be conducted using an interpreter. Our motion detailed how

monolingual Spanish speakers and Deaf people were unable to communicate with health care staff in medical, mental health, and dental encounters. Now, during a pandemic, it is of the highest importance that patients be able to communicate fully with health care staff, both to report concerning symptoms, but also to receive full patient education. ADC responded to this motion on July 27, 2020, and we filed our reply on August 24, 2020. The motion is fully briefed and we are awaiting a decision.

Reports About Conditions in Arizona Prisons

We have received numerous reports from incarcerated people and their families that the changes in policies about cleaning and hygiene supplies haven't happened, and there is limited amounts of soap and cleaning supplies. We are very concerned about people's safety in Arizona prisons, as it is hard to establish "social distancing" practices in crowded prisons, and the medical care was inadequate prior to the pandemic. You can write and let us know how the prison is responding to COVID-19. Your family can contact us via email at office@prisonlaw.com. That information helps us in our advocacy and enforcement efforts. A postage-prepaid envelope is enclosed. The State of California has ordered residents to shelter in place until further notice, in response to COVID-19. As a result, Prison Law Office staff are working remotely. There may be a delay in processing correspondence, including emails and letters. We apologize for any inconvenience, and we appreciate your patience.

On June 18, 2020, ADC Director David Shinn ordered custody and health care staff working in prisons to wear masks or face coverings to reduce the spread of COVID-19, but incarcerated people were not allowed to wear masks. On June 29, 2020 Arizona Governor Doug Ducey directed ADC to make cloth face coverings available to all incarcerated people, and that the department should no longer discipline incarcerated people for covering their faces to reduce transmission of the virus. While the lifting of this policy was long overdue, we hope that the provision of face coverings will mitigate the spread of the virus within the prisons.

You also should file a grievance about the conditions in your housing unit, or ADC's failure to abide by the policies for cleaning, hygiene, and social distancing. Under Department Order 802, ADC's policy for the grievance process, "[i]nmates are not required to use the formal Inmate Grievance Procedure to submit a verbal or written emergency complaint." D.O. 802 defines an emergency as "a condition which, if processed through the normal grievance time frames, would subject the inmate to substantial risk of medical harm, personal injury or cause other serious and irreparable harm." (D.O. 802, § 1.8.1). Furthermore, "[a]ny emergency complaint received by staff shall be immediately evaluated through the chain of command to determine whether it is an emergency as defined in 1.8.1 of this section and requires immediate response outside of the Inmate Grievance Procedure

time frames.” (D.O. 802, § 1.8.2). If you file an emergency grievance about COVID-19 policies and practices, and receive a response, please send it to our offices for review. D.O. 802 is available on ADC’s website in English and Spanish, or you can write us back and request a copy of the policy.

Early/Temporary Releases

We have been contacted by numerous incarcerated people and their families about the possibility of getting released early or temporarily from ADC custody. This is outside of the scope of the *Parsons* case, and the judge in our case cannot order you released. In addition, unlike many other governors in other states who have taken actions to release vulnerable populations or people who are close to their release date, Governor Ducey has said repeatedly that he will not consider releasing incarcerated people. Under Arizona law, the only way that an incarcerated person can be released early for medical reasons is if they go before the Arizona Board of Executive Clemency in an “imminent danger of death” hearing if the medical provider completes a written prognosis statement that there is a reasonable certainty that the person’s medical condition will result in death within four (4) months from the point of application. If you want more information about the clemency application process, we can send you a handout that was prepared by Post-Conviction Clinic at Arizona State University that includes the application forms. If you want a free copy of the handout, please write us back and request it.

We are also aware that a few county public defender offices are investigating whether they could possibly file petitions for resentencing on behalf of former clients who are serving prison terms but are very ill. You can try contacting the public defender office for the county from which you were convicted. Again, we cannot assist you in this, nor can we look up who was your attorney in your criminal case.

Sharing Your Story With Reporters and the Public

A number of reporters are interested in learning more about what ADC is doing to prevent and manage COVID-19, and want to hear about the experiences of people in the Arizona prisons. You or your families can contact them via U.S. Mail or email.

Jimmy Jenkins, Senior Producer
KJZZ / NPR
2323 West 14th St.
Tempe, AZ 85281
jjenkins@kjzz.org

Lauren Castle, Criminal Justice Reporter
Arizona Republic
200 East Van Buren
Phoenix, AZ 85004
Lauren.Castle@gannett.com

Dave Biscobing, Investigator
ABC15
515 North 44th St.
Phoenix, AZ 85008
dbiscobing@abc15.com

Jacques Billeaud, Reporter
The Associated Press
1850 North Central Ave., Ste. 640
Phoenix, AZ 85004
jbilleaud@ap.org

Please note that under Section 5.2.2 of ADC Department Order 914 (rev. April 7, 2017), “Unsealed outgoing mail, for the below listed recipients, shall be brought to the mail room for inspection and processing. Mail room staff shall inspect the unsealed envelope for contraband, but shall not read the content of the enclosed correspondence. . . . Publisher or editor of a newspaper, news magazine or periodical of general distribution, national or international news service or to the station manager of any radio or television stations.”

The Impact of COVID-19 On Receiving Specialty Care

It is also possible that any outside specialty medical care you need may be delayed. In addition to limits on transfers between and out of the prisons, many medical services are delayed both inside and outside prison – for both incarcerated people and people in the community – because doctors are responding to the COVID-19 emergency. On March 19, 2020, Governor Ducey issued an executive order stopping all non-essential surgeries in Arizona, so that hospitals and providers can continue offering vital services. According to the executive order, a non-essential surgery is “a surgery that can be delayed without undue risk to the current or future health of the patient.” The order also states that “a licensed medical professional shall use their best medical judgment in determining whether a surgery is non-essential or elective.” On April 22, 2020, Governor Ducey issued an executive order removing these restrictions for hospitals and health facilities that implement measures to keep staff and patients safe, so if you needed outside specialty care, it should be occurring again. However, please note that ADC’s current practice is to quarantine people for 14 days upon return from offsite medical encounters.

Important Advice Regarding COVID-19 / Coronavirus

Public Health experts say it is crucial to avoid close contact with (stay six feet from) people as much as possible in order to avoid spreading the virus, and to reduce the chances of catching it. Many people who have the virus have no symptoms or only minor ones, so you might not know if you are infected and at risk of spreading it to others. It is safest to assume that anyone can have the virus, and to reduce contact in order to protect the most vulnerable people (the elderly and people with preexisting medical conditions). **If you have flu-like symptoms – a fever (high temperature), body aches, cough, or shortness of breath – you should let staff know right away**, including by putting in a HNR. Tell any

staff member at any time if you have an emergency or urgent health care problem. Enclosed is information from the Centers for Disease Control about COVID-19.

While we currently cannot physically visit prisons to monitor compliance with the Parsons Stipulation, we are in constant communication with incarcerated people and their loved ones via U.S. mail. We conducted a remote “virtual” prison tour of ASPC-Florence in mid-July and ASPC-Tucson in mid-August 2020, and plan to continue to do so at other institutions until we can safely visit our incarcerated clients in person again. We will continue to advocate for increased testing of incarcerated people, social distancing via population reduction, and improved quarantine and medical isolation practices.

We are very concerned about the well-being of every person in the prison system. This is a very stressful time for everyone in our country and world, but especially for people who are locked up and their loved ones. Please take care, stay well, and look out for one another.

PRISON LAW OFFICE

What you need to know about coronavirus disease 2019 (COVID-19)

What is coronavirus disease 2019 (COVID-19)?

Coronavirus disease 2019 (COVID-19) is a respiratory illness that can spread from person to person. The virus that causes COVID-19 is a novel coronavirus that was first identified during an investigation into an outbreak in Wuhan, China.

Can people in the U.S. get COVID-19?

Yes. COVID-19 is spreading from person to person in parts of the United States. Risk of infection with COVID-19 is higher for people who are close contacts of someone known to have COVID-19, for example healthcare workers, or household members. Other people at higher risk for infection are those who live in or have recently been in an area with ongoing spread of COVID-19. Learn more about places with ongoing spread at <https://www.cdc.gov/coronavirus/2019-ncov/about/transmission.html#geographic>.

Have there been cases of COVID-19 in the U.S.?

Yes. The first case of COVID-19 in the United States was reported on January 21, 2020. The current count of cases of COVID-19 in the United States is available on CDC's webpage at <https://www.cdc.gov/coronavirus/2019-ncov/cases-in-us.html>.

How does COVID-19 spread?

The virus that causes COVID-19 probably emerged from an animal source, but is now spreading from person to person. The virus is thought to spread mainly between people who are in close contact with one another (within about 6 feet) through respiratory droplets produced when an infected person coughs or sneezes. It also may be possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes, but this is not thought to be the main way the virus spreads. Learn what is known about the spread of newly emerged coronaviruses at <https://www.cdc.gov/coronavirus/2019-ncov/about/transmission.html>.

What are the symptoms of COVID-19?

Patients with COVID-19 have had mild to severe respiratory illness with symptoms of

- fever
- cough
- shortness of breath

What are severe complications from this virus?

Some patients have pneumonia in both lungs, multi-organ failure and in some cases death.

How can I help protect myself?

People can help protect themselves from respiratory illness with everyday preventive actions.

- Avoid close contact with people who are sick.
- Avoid touching your eyes, nose, and mouth with unwashed hands.
- Wash your hands often with soap and water for at least 20 seconds. Use an alcohol-based hand sanitizer that contains at least 60% alcohol if soap and water are not available.

If you are sick, to keep from spreading respiratory illness to others, you should

- Stay home when you are sick.
- Cover your cough or sneeze with a tissue, then throw the tissue in the trash.
- Clean and disinfect frequently touched objects and surfaces.

What should I do if I recently traveled from an area with ongoing spread of COVID-19?

If you have traveled from an affected area, there may be restrictions on your movements for up to 2 weeks. If you develop symptoms during that period (fever, cough, trouble breathing), seek medical advice. Call the office of your health care provider before you go, and tell them about your travel and your symptoms. They will give you instructions on how to get care without exposing other people to your illness. While sick, avoid contact with people, don't go out and delay any travel to reduce the possibility of spreading illness to others.

Is there a vaccine?

There is currently no vaccine to protect against COVID-19. The best way to prevent infection is to take everyday preventive actions, like avoiding close contact with people who are sick and washing your hands often.

Is there a treatment?

There is no specific antiviral treatment for COVID-19. People with COVID-19 can seek medical care to help relieve symptoms.



cdc.gov/COVID19