



March 17, 2020

**SENT VIA EMAIL**

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Dear Oregon District Attorneys:

We are reaching out because we share your concerns in addressing the needs of the most vulnerable during the spread of COVID-19. As partners in public safety reform, we are writing to urge you to immediately develop and support proactive plans, as advised by public health professionals, for the prevention and management of COVID-19 in your county, especially when it comes to court appearance, hearings and trials and the role of incarceration in the potential spread of pandemics. Effectively responding to the current health crisis to protect *everyone* within the justice system from this immense threat demands a fundamentally health-based approach.

Our recommendations are tailored to your role in the legal system, but include policies in which you would be a necessary partner. We would like to meet with you this week to discuss how you are protecting the health of the people who work in the criminal justice and juvenile justice community, victims of crime, the health of people in your custody and the health of the people who work in the jail.

Victims of crime, particularly those living in domestic violence or experiencing stalking, domestic or sexual violence situation, may be experiencing unique risks and also be less able to access safety in this time. Most of our recommendations are focused on people confined to prison and jail due to the increased risk for an outbreak. Still, we know the impact of needing to be home could be particularly dangerous for victims of domestic violence.

People in jails and prisons are highly vulnerable to outbreaks of contagious illnesses, particularly given that they are housed in close quarters and are often in poor health. Without the active engagement of the jail and 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.

Given the urgent and rapidly-developing nature of the COVID-19 outbreak, we ask that if you have not done so already, you immediately reach out to the County Health Departments, County Sheriffs and County Courts to develop coordinated plans to address the virus in the jail, prisons, and criminal and juvenile legal environments. Not having an appropriate, evidence-based plan in place may cost lives of court and jail and prison staff, victims of crime, attorneys representing the accused as well as your staff, persons in custody and defendants that may be put in custody.

While the plan should be developed collaboratively by your office and public health professionals together, some of the critical issues that must be addressed immediately are:

- **Reducing jail and prison populations:** In the vulnerable jail setting, many Oregonians could be unnecessarily exposed to COVID-19. We strongly urge the DA's office and Sheriff's office to work together to allow release of those in custody who are not a danger to the community, including the elderly and those with already compromised health.<sup>1</sup> We also strongly urge the DA's office to direct its deputies to not oppose motions for pre-trial release when a judge has not found an accused person to be a danger to the community. Relatedly, we strongly urge that the DA's office work with defendants to secure non-custodial sentences where possible. Where these releases are possible, victims should be notified by District Attorney-based victim advocates who will work collaboratively with community-based victim advocates in a manner that both works to reduce re-traumatization to the victim and that is culturally specific.<sup>2</sup>
- **Collaborate with community-based victim services remotely as needed:** To the extent possible, victims of crime should continue to receive support and shelter as needed. Victim advocates should be given the tools and support needed to work remotely and communicate efficiently with community-based partners.

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<sup>1</sup> People over 60 years of age have heightened vulnerability to mortality. Pre-existing conditions including diabetes, high blood pressure, chronic cardiovascular conditions, pulmonary conditions (e.g. asthma, cystic fibrosis, COPD, etc.), chronic renal conditions, and pregnancy all create heightened vulnerability to mortality as a result of COVID-19.

<sup>2</sup> SB 1008 laid out this approach and there are model guidelines for the approach that should be available at the Department of Justice Crime Victim and Survivor Services Division.

- **Change case intake and prosecution practices to account for COVID-19 risk, including practices meant to reduce spreading of COVID-19, including:**
  - Decline criminal charges whenever possible and divert to public health, community, and civil court solutions with return date 6 months out.
  - For charges not declined, reduce as many as possible to citations or non-warrant, non-arrest charges, and make return date 6 months out.
  - Refuse to ask the court to issue “failure to appear” warrants or, “bench warrants” and agree to jointly waive the appearance of people who are out-of-custody.
  - Work with defense attorneys and courts to ensure that people in custody receive a constitutionally-mandated speedy trial.
  - Default to noncustodial sentences wherever possible, including resolutions that avoid immigration detention.
  - Direct any failures to comply with local quarantine orders to the civil court system, not the criminal court system.
  
- **Education of all parties in the system:** Consult with the sheriff and court personnel, about posting signage advising individuals of the CDC’s identified risk factors (e.g. recent travel to risk countries, close contact with or having a fever, etc.).
  
- **Staffing plans:** We realize that regardless of how many staff stay home because they are sick, the district attorney’s office and justice related offices will have to continue functioning. To ensure the health and safety of everyone involved, we urge you to extend paid sick leave to all employees, including those with temporary/part-time employment status. However, there must be a plan for how necessary functions and services will continue if large numbers of staff are absent because of the virus. **All efforts should be undertaken to ensure people in custody can maintain their rights to counsel and access to courts as necessary via access to telephone appearance or video links.**
  
- **Access to Treatment:** Consistent with CDC and OHA guidelines, plans should be developed to provide urgent health care in case of an outbreak in prisons and jails. A plan should be developed to ensure that anyone, particularly those in custody, who need testing for COVID-19 receive it in a speedy fashion, that results be determined quickly and appropriate treatment, including quarantine be provided immediately.
  
- **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.
  
- **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. Oregon's legal systems must be part of this process where possible.

- **Cultural Specificity:** People being charged with crimes and victims of crime speak many languages. Especially during a time of crisis, it's imperative that all information is provided in a person's first language and that there is an opportunity for questions and answers in that language to ensure comprehension and mitigate misunderstanding and panic.

Consistent with the above requests, we have attached a letter from the Washington Association of Sheriffs and Police Chiefs. The author of that letter, Dr. Marc Stern, is a professor at the University of Washington, School of Public Health and a corrections healthcare expert. We are also attaching a statement from Fair and Just Prosecution.

Finally, the public should be informed of how county law enforcement is acting to protect the health and safety of their loved ones. We ask that the DA's office keep the public regularly informed about its decisions and how those decisions are made, including their foundation in public health science. That information should be provided in the languages represented in each of your counties.

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 18, 2020. In the meantime, you can reach us by contacting the members of our coalition listed below.

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Sincerely,

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**ATTACHMENTS:** “Attachment - WA Sheriffs & Police Chiefs Guidance.pdf”; “Joint Statement from Elected Prosecutors on COVID-19 and Addressing the Rights and Needs of Those in Custody”

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**CC:**

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Paul Frasier, Coos County  
Wade L. Whiting, Crook County  
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