



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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August 28, 2020

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Jarrett Keohokalole
The Honorable Michelle N. Kidani
The Honorable Donna Mercado Kim
The Honorable Sharon Moriwaki
The Honorable Kurt Fevella
Senate Special Committee on COVID-19

RE: Response to Letter dated August 25, 2020

Dear Senators:

This responds to the August 25, 2020 letter from the Senate Special Committee on COVID-19. The Department of Public Safety (PSD) appreciates the Committee's intention to assist PSD in getting the virus within the walls of OCCC under control. We provide the following responses to your questions:

1. *The first OCCC inmate tested positive on August 7. As of August 24, there are a total of 52 employees and 243 inmates infected with COVID. Many OCCC staff were concerned at the pace of testing and got tested on their own. Why did it take two weeks to test everyone confined and working at OCCC? Why did you decline testing assistance from the private sector?*

Response: Immediately following the cluster of positive test results, the Department of Health's Disease Outbreak Control Division got involved and scheduled daily meetings with OCCC staff and PSD staff. Prior to conducting widespread testing, DOH helped PSD determine how test results would be used to make housing and movement decisions (i.e. where to house with positive results, negative results with known exposure, and negative test results with no known exposure).

On August 9, 2020, due to the fact that PSD's health care testing capacity at OCCC was limited to approximately 5 specimen collections per day, DOH scheduled the National Guard swab team to start the initial 30 specimen collections for staff on August 10, 2020. Any staff who worked in Modules 18, 19 or Annex 1 was prioritized for testing to assist in making decisions about who should/who can continue to work. The greatest

challenge in testing staff was the possibility of cross-contamination between modules as staff who work overtime shifts are usually re-assigned to another post.

From August 11, 2020 to present, the National Guard swab team has been scheduled daily to test all inmates and test staff working in identified hot zones in conjunction with DOH and OCCC. Each day, the National Guard's team is able to swab approximately 125-150 individuals.

Private testing at OCCC was not necessary given the ongoing testing by DOH and the National Guard.

2. *Is it true that after being swabbed, ACOs were told to go back to work rather than wait for their results? Five OCCC guards are in the hospital. Three on ventilators. How many of them were called back to their posts before getting their results?*

Response: Simply taking a COVID-19 test does not mean an ACO is required to stay home. Other factors, such as whether the person is symptomatic/asymptomatic, or has had close contact with someone infected with COVID-19 must be considered as well. Per attached CDC guidance, "*Implementing Safety for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19*", to ensure continuity of operation of essential functions, critical infrastructure workers (ACOs, Law Enforcement Officers, and Hospital workers) may be permitted to continue working following potential exposure to COVID-19, provided they remain asymptomatic and additional precautions are implemented to protect them and the community. (Attachment 1). Any staff member experiencing symptoms was asked to stay home.

In our daily discussions with DOH, staff who were close contacts (less than 6 feet for 15 minutes or more) of a confirmed staff or inmate case were asked to stay home for 14 days from last exposure. Given the uncertainties regarding the extent of the outbreak, staff who were not identified as close contacts of a case but worked within an affected module or annex should have been advised to quarantine except for reporting to work, while the investigation was ongoing. This meant that other than reporting to work, they should quarantine themselves at home by staying in a separate room and avoiding close contact with household members as well as avoiding close contact with people in the community at large.

Initially when testing first began, there was a delay in receiving testing results from the DOH dashboard as coding differentiating an inmate test result and staff result. Those issues were solved by the DOH staff and PSD health care staff were able to assess test results much faster.

DOH provides a release from quarantine letter to every staff member that tested positive, to include self-reported positives, once their quarantine period is complete notifying them that they are cleared to return to work.

3. *After suspects are brought into OCCC they are isolated for five days and then released into the general population. Explain how that fits into CDC guidelines and your pandemic response plan?*

Response: New intakes entering OCCC are placed in a quarantine module for up to 14 days. Please refer to PSD's Pandemic Response Plan (page 21) that states, "To the extent possible, implement routine intake quarantine (i.e. quarantine all new admissions to the facility for 14 days before housing such inmates in the general population). (Attachment 2). Inmates in routine intake quarantine should be housed separately from inmates who are quarantined due to contact with a suspected or confirmed COVID case, if possible." This is also found in the attached CDC guidance "*Interim Considerations for SARS-CoV- 2 Testing in Correctional and Detention Facilities.*" (Attachment 3).

Due to the overcrowding issues at OCCC, Module 19 was designated as a routine quarantine module. New intakes were placed in Module 19 and as the unit filled, inmates that were housed the longest would be released. The average stay of inmates was 10-12 days depending on the number of daily intakes. Since COVID, the average daily new admissions are 20 inmates; pre-COVID, OCCC admitted an average of 50 new intakes inmates per day.

Inmates that are symptomatic, are immediately removed from the routine quarantine module and housed in medical isolation as detailed in PSD's Pandemic Plan.

4. *When and how were staff made aware of the Department of Public Safety COVID-19 Pandemic Response Plan?*

Response: The facility pandemic response plan was developed and revised by representatives from administration, medical unit, mental health unit, and security personnel. The information discussed and documented was shared with each facility section head supervisor and that information was conveyed to their respective staff. The watch commanders also briefed their specific shifts/watches on the details of the plan. If an individual employee wanted to view the plan, they were free to do so; each section has a copy of the latest revised facility pandemic plan. When the first positive inmate was identified, the facility plan became more fluid and open communication was facilitated.

5. *When did PSD staff receive COVID training? What kind of COVID training was provided?*

Response: COVID training was addressed through a COVID video, distributed literature, emails, directives, staff meetings, tabletop scenarios involving Health Care, question and answer scenarios, and the posted informational posters.

6. *A guard says on August 13, you released a COVID positive inmate. Why? What have you done to track or inform health officials about his whereabouts? How many other COVID positive inmates have been released?*

Response: Under the Hawaii Supreme Court Order and most individually filed release orders, an inmate is exempt from being released if he/she has tested positive, is pending the result of a test that has been taken or exhibiting COVID-19 symptoms.

However, when an inmate completes his/her jail sentence, PSD does not have any authority to continue detaining that inmate and must release the person, even if the person has tested positive for COVID.

OCCC works closely with the Department of Health on releases. It is a challenge as some inmates are released directly from court with very little lead time for DOH to find appropriate quarantine housing options. OCCC provides an updated list of scheduled releases through the end of the year to DOH on a weekly basis to give DOH the proper lead time to ensure quarantine services and follow-up are offered.

7. *Is it true that guards are forced to work 24-32-hours shifts? Where do you provide them with accommodations to rest?*

Response: No ACO was placed in a position of being forced to work a 24-32-hour shift. When manpower needs were necessary to address minimum mandated and necessary posts, officers volunteered to do what was necessary to address shift manpower shortcomings for facility operations and constitutional mandates. Officers who worked for 24 straight hours were then mandated to take the next 24-hours "off" and were given paid leave for such. Our staff are professionals that understand the crisis that is evident, and they step up in times of need.

8. *Guards are given cloth masks, which are helpful in a non-infected surrounding. In a contagious environment, the CDC recommends using N-95 masks. Why were they not provided to staff on August 7?*

Response: When the first inmate was tested as positive, all correctional officers associated with that respective living unit were issued supplemental PPE in accordance with the pandemic response plan. This included face shields and protective clothing

when they dealt with the positive inmate face to face. This issuance supplemented the cloth masks and gloves that are already issued to each officer. The affected officers were afforded KN95 masks for their use also. The KN95 does not necessarily need fit testing so that was a safer mask to issue out initially.

9. *Guards complain that they are not being given basic sanitation supplies and are purchasing them out of their own pockets. How do you plan to remedy this situation?*

Response: Every housing unit has ample hot water and soap for staff to wash their hands. Liquid hand sanitizer has also been placed into all living units to bolster the hand washing frequency mandates. Every living unit has ample amounts of cleaning supplies and disinfectant solutions to keep the living units and control stations clean and sanitized.

10. *When did the deep-cleaning of the facility begin? Why did you wait so long?*

Response: Deep cleaning of the facility began in May with sanitizing the intake area, medical unit, intake service center and inmate transport vans.

The facility living units and common areas are cleaned daily and sanitized. At each shift, the cleaning is addressed. Ample cleaning supplies to disinfect all topical areas of the living units as well as sanitizing showers, tables, desks, and open areas are cleaned several times each day.

Deep cleaning in the Food Service Unit occurred on Sunday, August 16, 2020. Deep cleaning of the housing units requires inmates to vacate the housing unit for a few hours. OCCC was unable to move inmates out of the housing units due to the lockdown of inmate movements. Inmates in Annex 1 is the first cohort to complete their 14-day quarantine on Monday, August 24, 2020. Inmates were cleared to be released from quarantine by the DOH and PSD's Medical Director and deep cleaning was scheduled for Tuesday, August 25, 2020. Deep cleaning will continue throughout the housing units as inmates complete their 14-day quarantine and are cleared by DOH and PSD's Medical Director.

11. *On August 14, you told Supreme Court Justices that in Annex 1, with more than a hundred inmates, infected prisoners were being separated from non-infected prisons. Guards say that it is not true and that everyone is mixed together. Can you explain this discrepancy?*

Response: In working closely with DOH, inmates in affected modules/annex were considered to cohort symptomatic inmates away from asymptomatic inmates, pending testing. However, that was not able to occur as there were gang issues and separatee concerns if cohorting symptomatic and asymptomatic inmates together.

CDC guidance refers to cohorting only being practiced if there are no other options available. If an entire housing unit is quarantined due to a contact with a case from the same housing unit, the entire housing unit may be treated as a cohort and quarantine in place. As in many of the affected modules including Annex 1, inmates were already living together prior to testing making it extremely difficult to determine which inmate was infected as a majority of the inmates testing positive were asymptomatic. Therefore, each housing unit was quarantined as its own cohort.

A decision between DOH and OCCC was made to make Annex 1 its own cohort housing positive asymptomatic inmates with negative inmates together and placed on a 14-day quarantine with limited movement. As conveyed to the Hawaii Supreme Court, inmates who had tested positive were kept apart from other inmates within Annex 1 to the fullest extent possible in that space. Health care staff took temperatures twice daily and monitored for symptoms. If any inmate exhibited symptoms, he would immediately remove and housed in medical isolation away from the asymptomatic inmates.

12. *Is it true that some staff have been denied Workman's Compensation of Administrative Leave after testing positive for COVID-19 due to administrators saying they contracted the virus elsewhere (e.g. at home or at a party?)*

Response: PSD is not responsible for processing and approving worker's compensation claims filed by its employees. The processing and approval process are solely the responsibility of the Workers' Compensation Division of the Department of Human Resources Development (DHRD). At this time, PSD received only one claim and submitted it to DHRD. We are not aware of any other claims filed with PSD or DHRD and we do not currently know the status of the DHRD review on the claim that was filed.

13. *You are planning to place tents on a field and have ordered isolation cells to be delivered in October. Why didn't you order these items earlier? Why didn't you ask for CARES funding in May for these items?*

Response: At this time, PSD re-submitted its RFA for a tent/portable potty to be erected in the recreation yard for approximately 100 inmates. The covered space will be temporarily used (up to 3 hours) for displaced inmates who have completed their quarantine time, while their housing unit goes through a deep cleaning if and when necessary (should other more secure recreation yards be unavailable). Inmates will be returned to their respective housing unit once the area is disinfected and sanitized.

PSD previously submitted an RFA for tents/cots from the National Guard however, we were notified that it wasn't available and the RFA was closed.

PSD applied for the Byrne Grant via the Attorney General's Office and was fortunate to receive funding to cover the purchase of 5 quarantine isolation cells (2 for OCCC, 1 for MCCC, 1 for HCCC and 1 for KCCC). PSD was notified of its approval on July 15, 2020 and immediately started working with a vendor on our order. After finalizing the design of a corrections-grade isolation unit, PSD placed the initial order of 2 of the 5 units on Thursday, August 18, 2020. We are now working on completing the order of the remaining 3 quarantine isolation cells. Each container costs \$102,933.00.

PSD submitted 2 previous requests for CARES funding on May 5 and 21, 2020. On July 20, 2020, PSD was notified that under SB126, no funds were appropriated to PSD.

14. *On August 21, you dropped off pizzas and manapuas at the front gate. Why didn't you personally delivered it to staff? When was the last time you stepped foot into Annex 1?*

Response: I provided snacks as a gesture of appreciation to the hard-working staff at OCCC. For anyone who was offended by my gesture, no offense was intended. The last time I entered OCCC/Annex 1 was while leading a tour approximately 1 year ago.

15. *Have you reached out to the Federal Detention Facility to relieve some of the pressure at OCCC? What was their response?*

Response: Yes, we have reached out to FDC Warden Derr to request to place an additional 100 inmates at FDC and to expand the criteria to pretrial detainees. However, our request was denied as FDC's staffing only allows to house 100 state inmates and under federal statute, FDC is limited in housing convicted inmates from an outside agency.

Warden Derr has agreed to immediately accept State inmates as soon as OCCC is cleared to transport inmates to other correctional facilities. We currently have 32 inmates at FDC; OCCC can send another 68 inmates to fulfil our quota of 100 inmates. When the facility receives the okay to send inmates out of the facility, then PSD can safely address filling the FDC beds.

16. *How real of a threat is a federal takeover of OCCC?*

Response: There is no threat of any federal takeover of the facility. The facility is in full control of all issues at hand and if there was any federal interaction, it would be in the context of assisting the facility to address areas such as medical screening of the public and possible COVID testing of new intake inmates arriving at the facility.

17. *What is PSD's trigger to initiate contact with the National Guard to enter and take over operations?*

Response: If OCCC was unable to provide coverage to essential red posts, PSD would request assistance for the National Guard. However, as mentioned previously, the facility is in full control of its staffing requirements and as of today, 11 post-positive staff members have returned to work after completing the quarantine period as required by DOH.

Sincerely,

/s/ Nolan P. Espinda

Nolan P. Espinda
Director