



BY EMAIL AND U.S. MAIL

March 12, 2020

The Honorable David Y. Ige
Governor, State of Hawai'i
Hawai'i State Capitol, 5th Floor
415 South Beretania Street
Honolulu, HI 96813

The Honorable Josh Green
Lieutenant Governor, State of Hawai'i
Hawai'i State Capitol, 5th Floor
415 South Beretania Street
Honolulu, HI 96813

RE: COVID-19 Response Planning

Dear Governor Ige and Lieutenant Governor Green:

As you respond to COVID-19, please consider the ACLU of Hawai'i as a resource in your work to develop a response plan that protects the health, safety, and civil liberties of all Hawai'i residents.

During a disease outbreak, we recognize that individual rights may need to be balanced against that of the larger community. We would be glad to talk with you or your staff to discuss how to keep the public safe while preserving the liberties that are the foundation of our democratic system of government.

As you consider measures to keep the public safe, we encourage you to consider the following:

- **Ensure measures that limit people's movements are supported by science and proportional to the threat.** We encourage you to consider voluntary isolation measures as an alternative to quarantines or other mandatory restrictions, to the extent possible and as supported by scientific evidence. Please keep in mind that individuals have a due process right to challenge a quarantine order. Mechanisms of appeal should be clear and transparent in any quarantine or movement-restricting policy.

- **Keep the public informed with accurate, timely information.** Public officials should be trusted messengers of vital public health information, grounded in scientific evidence. We encourage you to maintain multiple channels of communication that are accessible to all audiences, on- and off-line, and in the multiple languages spoken here in Hawai'i.
- **Protect vulnerable populations.** Public health experts stress the need to protect vulnerable populations during an outbreak. Vulnerable populations have been defined as those without adequate health insurance or access to regular medical care. Responses to the virus, including testing, must be available to all Hawai'i residents, regardless of whether they have health insurance.

We are especially concerned about people in prison or jail, who are vulnerable to outbreaks of contagious illnesses and have limited ability to inform themselves about risks and take preventative measures. We encourage state and local officials to reduce the number of people currently incarcerated, including by releasing those who are in pre-trial detention because of unaffordable bail. Special effort is required to ensure that people who remain incarcerated in jail or prison, in addition to guards and staff, stay healthy during the COVID-19 outbreak.¹

- **Everyone should feel confident to get tested.** If they are experiencing symptoms, immigrants may be hesitant to visit a hospital or testing facility, frustrating efforts to mitigate spread of the virus. Health care facilities should be declared and publicized as safe zones, where no immigration enforcement will take place. It is in the best interests of all Hawai'i residents for everyone to feel confident that they can come forward to be tested.
- **Enlist employers to ensure that people who are sick can afford to stay home.** We all face increased risk if people with symptoms of COVID-19 don't stay home from work for fear of missing a paycheck. Government can play a vital role in encouraging employers to offer sick leave and other supportive measures for workers to keep the community safe. This can be done by, among other things, requiring that employers receiving assistance from the State or County provide 14 days of paid sick leave in addition to

¹ A separate letter specifically addressing plans for dealing with COVID-19 in correctional facilities has been sent to Director Nolan Espinda and Deputy Director Shari Kimoto at the Department of Public Safety. A copy of that letter is included here for your convenience.

what they already offer (to account for self-quarantine or caring for loved ones who are).

We also refer you to the March 2, 2020 public letter from a group of over 800 public health experts and organizations that includes recommendations to federal, state, and local leaders on achieving a fair and effective response to the coronavirus outbreak.²

As you work to keep our communities safe and strong, we are happy to meet in person or by phone to discuss how best to protect civil liberties in your COVID-19 response planning. Please contact me if we can be of service. I can be reached at jwisch@acluhawaii.org or (808) 522-5903.

Sincerely,



Joshua Wisch
Executive Director

cc: Speaker of the House, Scott Saiki
Senate President, Ronald Kouchi
Mayor of Honolulu, Kirk Caldwell
Mayor of Maui, Michael P. Victorino
Mayor of Hawai'i, Harry Kim
Mayor of Kaua'i, Derek S.K. Kawakami

Attachment: Letter to Public Safety Director Nolan Espinda and Deputy Director Shari Kimoto

² Gregg S. Gonsalves, et al., *Achieving A Fair and Effective COVID-19 Response: An Open Letter to Vice-President Mike Pence, and Other Federal, State and Local Leaders from Public Health and Legal Experts in the United States*, Mar. 2, 2020, available at

https://law.yale.edu/sites/default/files/area/center/ghjp/documents/final_covid-19_letter_from_public_health_and_legal_experts.pdf.