



***Independent Advisory Panel on Deaths in Custody***

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Rt Hon Robert Buckland QC MP  
Lord Chancellor and  
Secretary of State for Justice

20 March 2020

Dear Robert,

I am writing on behalf of the Independent Advisory Panel on Deaths in Custody to assure you that we will do all we can to help you and your Ministerial colleagues to protect life. In the face of the unprecedented threat of COVID-19, we have been working with your officials to provide access to relevant research and news of response to the epidemic in prisons worldwide. Outlined below, we have offered advice on a range of measures to ensure that people in prison, their families and prison staff get the clear accurate information and support they need. And the IAP is examining how adherence to human rights obligations, as well as compliance with Mandela and Bangkok rules, can be maintained as emergency measures are introduced.

**Protecting vulnerable people**

We know that the welfare of vulnerable people is dear to your heart. Given high levels of mental health need, learning disability and difficulty, autism, traumatic brain injury and neurodiversity, we understand that you will be paying particular attention to vulnerable groups in the prison population in addition to the high numbers of older prisoners who have increased vulnerability to the virus.

Together with the basics of decent food, proper hygiene and cleanliness, hand washing facilities and disinfectants, prescribed medication, there is the basic need to be informed about, and where possible engaged in, what is going on. This is true for all of us of course but particularly so for those in closed institutions. Hard-pressed prison and healthcare staff may need direction, support and encouragement to keep people informed and to ensure that vulnerable prisoners have understood their situation and what is being done to keep them safe – here word of mouth, if not close contact, and easier read are both important. If this has not already been done, a simple note summarising PHE advice could be delivered to every person in prison followed by regular information updates.

Our partner charity the Samaritans and Samaritan Listeners have a key role to play, alongside peer mentors, in keeping people safe. The IAP would advise that it is particularly important at a time of restricted regimes to maintain safer custody focus and networks, and to provide additional support to safer custody staff as well as to the Samaritans and Samaritan Listeners across the estate.

### **Maintaining and strengthening family contact**

Family support is important at the best of times and essential at a time of added stress and uncertainty. Family helplines must be fully established and maintained in each establishment. The IAP is aware that prisoners' family charities are receiving a high volume of calls from anxious relatives and friends.

These charities are also an important source of advice and support to prison service staff and volunteers and could help to maintain communications/allay anxieties. They are allies in work to keep people safe. All advice and information services for prisoners and their families could carry a clear message, updated as necessary, from HMPPS to say in outline 'This is what we are doing to keep people safe'.

Phone contact can and should be maintained by increasing credit on phones/ exercising discretion to offer free calls and by allowing incoming calls to pin phone numbers on in-cell telephony. There is scope to use skype calls and video links.

Routine updating of next of kin details needs to be well managed to avoid increasing anxiety.

### **Improving communication and providing clear, accurate information**

Good communications are key to keeping people safe and reducing anxiety. This stands to reason. There is good evidence for example that people can cope with time-limited quarantine if they are aware of the reasons that this has been imposed and kept informed as it progresses.

TVs and radios help to keep people informed. The IAP would be concerned about the removal of these as part of IEP measures at a time like this. We understand that your officials are already in touch with our partner charities Prison Radio and Inside Time who are trusted sources of information for prisoners and other detained people and, through their websites, family members. It is too early to understand what caused the tragic deaths of 12 prisoners in Italy, two in Jordan and three in Romania but lack of information, a hasty ban on family visits and panic all seem, from reports, to have played their part.

The IAP is keen to contribute to improving communication and the provision of clear accurate information. We are using our new website rapidly to develop a useful information hub drawing on, and directing people to, information supplied by, amongst others, the NHS and Public Health England; the World Health Organisation (WHO), International Red Cross (IRC) and Wephren; ICPR at Birkbeck and PRI; members of the Ministerial Board on Deaths in Custody; and current relevant and empirical research available from the Lancet resource centre and others.

## **Maintaining scrutiny and safeguards**

The IAP recognises the need to introduce emergency legislation. We were pleased to be involved in consultation with Sir Simon Wesseley and others convened by DHSC and are now in discussion with your officials. We are keen to understand how you plan to maintain human rights compliance in regard to people detained by the state and their families. And to learn more about how you are applying the watchwords of 'proportionate, necessary and temporary'.

The UK is notable in its strong, independent scrutiny of, and human rights safeguards for, people in state custody. The IAP values the rigorous work of HM Inspectorate of Prisons, the Prisons and Probation Ombudsman and Independent Monitoring Boards as well as an active and engaged voluntary sector. We know that temporary reductions in such scrutiny have been introduced in the face of COVID-19. We look to you and colleagues for assurance that temporary internal mechanisms have been developed with regulators to ensure human rights compliance and transparency.

In the event of death, it will be important to ensure Article 2 post death investigative duties are enacted and processes maintained as far as possible. Families need to be given access to information and support about where to go for specialist advice. As is the case with self-inflicted, natural and drug-related deaths in custody, records of those who have died due to COVID-19 must be kept and published.

## **Making proportionate and necessary use of imprisonment**

To protect the public, prisons must hold safely and securely those whose offending is so serious that there can be no alternative to custody. To ensure that prisons meet this primary objective, that prisoners are treated with humanity and respect and that staff are properly supported to play their vital part in public protection, the IAP advises that it is time to consider deploying emergency measures to reduce the prison population to an unavoidable minimum.

Currently there are comparatively high numbers of people held who do not represent a risk to the public and who could be returned, in a planned way, to the community, where necessary under supervision. These include, amongst others, people serving short sentences for non-violent crimes, as you and your colleague Lucy Frazer are crucially aware, this applies to very many women in prison; people with release plans who are close to the end of their sentence; as well as people on probation already directed for release from approved premises.

Solutions it seems sensible to consider now in order to ease mounting pressure, protect lives and enable staff to hold serious and violent offenders safely and securely, include the use of executive release under civil powers. As you will be aware, Douglas Hurd used this measure to good effect when Home Secretary and, importantly, crime rates did not rise. Use of compassionate, and all forms of temporary, release should be expedited. Transfers pending from prison to secure psychiatric care should be made without further delay. Only strictly necessary use should be made of custodial remand and recall. The sentencing framework could be adjusted to place temporary restrictions on use of short sentences. We expect that you are in discussion with the Lord Chief Justice and the courts about these matters.

The IAP notes that steps to release, some on a temporary basis, or pardon people in prison are being taken across the world from large scale releases in Iran, South Korea

and pardons in Bahrain to targeted initiatives in, amongst others, Canada, Ireland, Los Angeles and other parts of the US and proposed sentence deferrals in Holland and Belgium.

### **Working together in exceptionally challenging times**

You have long emphasised the importance of collaboration and cross-departmental working. The IAP is aware of the way in which you are working closely with colleagues in DHSC and the NHS as well as with the Home Office. Research suggests that an emphasis on collective response and the need for all to work together in the face of a major threat is vital.

Panel colleague, Professor Seena Fazel drew our attention to the fall in suicide rates around the crash sites following the terrorist attacks in America. Although, as he pointed out, the research link is clearly indirect, the idea that facing and dealing with something terrible together can prove a protective factor is an encouraging one. Once again, we are so grateful for your tremendous contribution to the Keeping Safe conference and your compassionate response to bereaved family members. While February 25<sup>th</sup> seems like a long time ago, nonetheless we are confident that practical points and proposed changes put forward by speakers and delegates can be progressed over the coming year and beyond so there will be a tangible outcome. Less tangible, but important, was the inspiring nature of the day and the way in which a large, diverse group of people gave a commitment to do all they could in their respective ways to protect lives and keep people safe.

Now the IAP stands with you and colleagues to do all we can to help to keep people safe in exceptionally challenging times.

As ever,  
Juliet



**Juliet Lyon CBE, Chair of the Independent Advisory Panel on Deaths in Custody**

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