



Ministry
of Justice



Home Office



Department
of Health &
Social Care

Independent Advisory Panel on Deaths in Custody

***Chair: Juliet Lyon CBE
Head of Secretariat: Nick Poyntz***

***102 Petty France
7th floor,
London
SW1H 9AJ***

www.iapondeathsincustody.org.uk

Chris Philp
Minister for Immigration Compliance and the Courts

23 March 2020

Dear Minister,

I am writing on behalf of the Independent Advisory Panel on Deaths in Custody to introduce the Panel to you, to assure you that we will do all we can to help you and all your Ministerial colleagues to protect the lives of those in detention, and, particularly, to urge you to take urgent action to protect those detained in Immigration Removal Centres (IRCs). We have been working closely with your officials over the last two years to discuss what can be done to prevent deaths in detention. In the face of the unprecedented threat of COVID-19, we believe that more needs to be done now to protect both the staff and the residents in IRCs.

We know that your officials are working hard and have the same objective in mind and we understand how difficult it is for all of us to deal with the consequences of this new threat and even more difficult for those in closed institutions who cannot easily take steps to protect themselves.

The Threat to the Lives of those in Detention

We were pleased to see the officials set out the steps that were being currently taken in IRCs when they gave evidence to the Home Affairs Select Committee last week. However, it was very clear that there was much more that could be done to protect staff and detainees. I am sure more has been achieved since that evidence session last week. As you know some of the concerns raised during that evidence session included¹: no procedures had fundamentally changed as a result of the threat; the apparent lack of PPE for staff; the continuing requirements for frequent close contacts between staff and detainees; the absence of any opportunity for testing; the fact that

¹ We make no assertions about the validity or otherwise of the evidence given.

two IRCs were in “quarantine” for influenza but no testing had been initiated; and the difficulty of arranging proper quarantine for any person suspected of having Covid-19;

We are also aware of the recent litigation in relation to detention in IRCs and we have read the claimants’ expert report that was been made public and with which the IAP concurs. We are sure that you are equally concerned by his analysis:

“If a detention centre has multiple visitors, short-term detainees, and numerous staff, all of whom have varying risks of infection reflecting their wider, outside exposure, then the risk of introduction increases substantially. Closed communities with no exposure are, in essence, quarantine centres. Detention centres are clearly not. An unfolding COVID-19 epidemic in a detention centre would, in a grim sense, represent a natural experiment.”²

“The experience of COVID-19 on cruise ships suggests that a scenario where 60% of detainees become infected is plausible and credible. In my expert judgement, this would occur rapidly, within the order of four weeks, if the conditions referred to in the Shaw report set out in my letter of instruction remain the case. Many of the elements that facilitate spread on cruise ships which have had transmission of COVID-19, such as poor ventilation, challenging sanitation conditions, limited space and passengers being confined to their cabins for lengthy periods are the same as exist in immigration detention centres.”³

The need for release

Whilst we understand the Government’s overall aims in detaining people in IRCs, those people must be held safely and their right to life is of paramount importance. The IAP now must advise you that it is time to deploy emergency measures to save the lives of those in detention. This action is in line with the unprecedented measures that the Government has implemented across the whole of the UK. We do not see a sensible alternative to that of releasing the majority of those detained immediately.

Currently there are high numbers of people held who do not represent any risk to the public and who could be returned, in a planned way, to the community and, where necessary, subject to restrictions. The IAP notes that steps to release, some on a temporary basis, or pardon people in prisons are being taken across the world in, amongst others, Canada, Ireland, Holland and Los Angeles.

Whilst our concern is for safety we are also anxious that changes across the world make it increasingly difficult, and in some cases impossible, to send those detained back to other countries. Many countries have now closed their borders; air travel and close contact is no longer advised; those with any symptoms are unlikely to be able to travel; and escort staff will have concern for their own safety and will not want to have to self-isolate or be in quarantine on their return. As you will know, the inability to remove people raises many questions about the legality of continued detention but, irrespective of the legality, we believe that extended detention will add to the risks of loss of life.

² Professor Richard Coker MB BS. MSc, MD, FRCP, FFPH, first report, page 13.

³ Page 14.

The particular duty to protect vulnerable people

Given the levels of mental health needs of those detained, we know that you will be paying particular attention to vulnerable groups in the detained population - older people and those with pre-existing health issues in line with the two recent reports from Stephen Shaw. However, we believe that this will not be sufficient to protect detainees.

We are also concerned about the additional risks of isolation, increased anxiety and uncertainty resulting in further mental health issues and risk of suicide and self harm.

Together with the basics of decent food, proper hygiene and cleanliness, 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 detention and healthcare staff may need direction, support and encouragement to keep people informed and to ensure that vulnerable detainees have understood their situation and what is being done to keep them safe – here word of mouth, if not close contact, and interpreters are important.

Maintaining and strengthening family contact

Family support is important at the best of times and essential at a time of added stress and uncertainty. Phone and internet contact can and should be maintained and increased with additional financial and other support where needed. 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 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; members of the Ministerial Board on Deaths in Custody; and current relevant and well-evidenced research available from the Lancet resource centre and others.

Maintaining scrutiny and safeguards

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.

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

With kind regards,

A handwritten signature in black ink, appearing to read 'Juliet Lyon', with a stylized flourish at the end.

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

Post Point 7.35 | 7th Floor | 102 Petty France | London | SW1H 9AJ

e: juliet.lyon@justice.gov.uk **OFFICIAL/SENSITIVE/ SECRET/TOP SECRET**

cc:

Priti Patel MP, Home Secretary

Peter Clarke, HMIP

Sue McAllister, PPO

Anne Owers, IMB National Chair

Kate Davies, NHS England