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UNDER SUPERVISION OF J. MICHAEL
HANNON

March 25, 2020

VIA ELECTRONIC TRANSMISSION ONLY

Quincy L. Booth
Office of the Director
D.C. Department of Corrections

IMPLEMENTATION OF MAYOR'S ORDERS ON COVID-19

We present this letter on behalf of the bargaining unit for all D.C. Jail corrections officers, the Fraternal Order of Police Department of Corrections Labor Committee.

INTRODUCTION

Today the Mayor announced the number of positive COVID-19 infected persons in the District of Columbia increased by 46 new cases to a total of 183. Notably, of the new cases 13 are in their 20s, 12 are in their 30s, and only 7 are over the age of 60. The Mayor's update also reports the following:

With ongoing community transmission, contact tracing is focused on positive cases associated with childcare facilities, schools and universities, healthcare facilities, senior care facilities, *correctional and detention centers*, and facilities serving individuals who are experiencing homelessness. Guidance will be published for healthcare providers, employers and the public to provide information on what to do if you have been diagnosed with or are a contact of someone who has COVID-19.

On March 19, our office sent an email to DOC regarding the quarantine of 50 inmates who came in contact with an infected U.S. Marshal at the Courthouse. (Attachment A). We received no response.

On the same date March 19, we sent a "Request for Information on Potentially Dangerous Conditions at the DOC Facilities" to DOC's General Counsel and to its HR Director. (Attachment B). The next morning, DOC's General Counsel responded: "DOC is preparing a response to your inquires and will contact you as soon as possible." We have received no response.

On March 23, 2020, the FOP/DOC Labor Committee delivered to the DOC leadership and posted throughout the D.C. Jail an Announcement regarding critical actions to be addressed

by the Labor Committee regarding COVID-19, as well as the failure to prosecute an inmate for the brutal beating of a corrections officer. (Attachment C).

Instead of communicating with the Union as requested on March 19, 2020, you issued a notice on the same date of March 23, announced at every roll call, falsely stating: "It has come to the agency's attention that employees of the DOC intend to engage in either a walkout and/or protest on the grounds of the DOC." Rather than communicating honestly with the Union on these critical conditions of work, you threatened the corrections officers with discipline. This action was clearly in retaliation for the Union presenting legitimate concerns about your failure to implement protections for inmates and corrections officers. This is not only an unfair labor practice and a prohibited personnel practice, but also a violation of the District of Columbia Whistleblower Reinforcement Act of 1998.

In the afternoon of yesterday, March 24, you summoned the FOP/DOC Labor Committee President Cpl. Benjamin Olubasusi to your office at the Reeves Center. Without notice to HANNON LAW GROUP, you put Deputy Mayor Kevin Donahue and Mayor Bowser on your speaker phone. The Mayor then falsely warned Cpl. Olubasusi that it is a "crime" for D.C. corrections officers "to walk out of the Jail." You asked Cpl. Olubasusi what the Union wants, as if our communications over the past 5 days were never read.

Also yesterday afternoon, HANNON LAW GROUP participated in a National Conference Call sponsored by the National Fraternal Order of Police on COVID-19. Speakers on the call included high-ranking experts from the Department of Homeland Security, FEMA, and the White House, as well as FOP State Representatives from all 50 states. The purpose of the call is to implement protocols for law enforcement officers and corrections officers nationwide. Highlights from the call are the following:

Increasing infections will reduce the number of officers on duty.

Loss of officers on duty will increase the work load on the uninfected officers.

The resultant lack of officers will lead to additional crime and risk in the corrections system.

PPE equipment is not being provided to officers nationwide.

Because "social distancing" is impossible in law enforcement, the infection rate among officers will be higher than the general population.

Coordination and Communication between and among political leaders and officers is the most important criteria to meet this challenge.

State health departments, which are in control of the distribution of PPE, must make law enforcement and corrections officers a priority group for receipt of PPE and education.

CONDITIONS AT THE D.C. JAIL

The FOP/DOC Labor Committee, its Shop Stewards, and its members walk the line in the D.C. Jail 24/7. You, Director Booth, are miles away at the Reeves Center, and your administrative staff remain behind glass walls and doors in the administrative section of the D.C. Jail, all in splendid isolation from the inmate population, with regular disinfection teams in gowns, gloves and masks. Here is the report of our members on conditions at the Jail:

1. There is no Communication and Coordination between DOC leaders and the FOP/DOC Labor Committee. Labor/Management meetings are repeatedly cancelled, including one meeting scheduled during this critical time period.
2. Inmates coming into the Jail are not screened for symptoms of COVID-19.
3. Corrections Officers receiving and discharging inmates have no PPE; however, they must have direct contact with these inmates.
4. Inmates continue to move within the Jail. Those inmates in the four restricted housing units must be escorted by hand by corrections officers without any PPE. Inmates in non-restricted housing units travel alone through the Jail as required for appointments. At latest count, there were 1,149 inmates in the Central Detention Facility and 509 in the Correctional Treatment Facility.
5. The corrections officers assigned to housing units have no masks, insufficient gloves, no gowns, no disinfectants, and no comprehensive cleaning occurs on a regular basis in these units. In each unit, one corrections officer is required to be out among the inmates at all times, without any protection.
6. Inmates are not required to engage in any of the behaviors which the Mayor recommends for the general population, such as “social distancing”, repeated hand-washing, and health monitoring.
7. Case workers must meet with inmates in small offices with no PPE or other distancing measures.
8. Inmates continue to engage in recreation in a common yard, also without social distancing or other protections from the spread of COVID-19.
9. Corrections officers enter the Jail three shifts a day. There is no distancing at entrances, no distancing at roll calls, no attempt to obtain or record health concerns of each officer.
10. When the D.C. Jail was forced to quarantine 65 inmates who were at risk to exposure to COVID-19 when they were at court, an ERT was designated to remove them from the general population to a “quarantine” housing unit. The

ERT members refused the assignment without provision of gowns and other appropriate PPE protection. They were ordered to remove the inmates with only masks and gloves. During the extraction, one of the members was spit upon by an inmate. Sgt. Alexander and Sgt. Graham were then removed from the ERT team and assigned to another post outside the Jail.

11. These inmates were not “quarantined” in any meaningful manner. They were housed two to a cell, and the corrections officers on the unit were not provided with any PPE or other means for protection against infections.

WHAT DO WE WANT?

Both you and the Mayor asked Cpl. Olubasusi “What do you want?” While this crisis should not be a time of legal technicalities, we choose to view this as a willingness by management to bargain over the terms and conditions of employment of our officers. The following is an enumeration of our requests. This list, as we all know, is subject to change as the pandemic changes.

1. A Daily Meeting among the Labor Committee, its Shop Stewards, its counsel and the DOC Director, Deputy Director, and its counsel to discuss conditions and responses to COVID-19;
2. A COVID-19 Protocol for officers and inmates including the following:
 - Restricted movement of inmates
 - Distancing among inmates/inmates, officers/officers, and officers/inmates
 - Incident Reporting of officers and inmates’ symptoms of illness
3. Regular Disinfection of the CDF and CTF
4. Priority for PPE for officers
5. Discontinuation of inmate transport for court appearances
6. 14-day Quarantine for new inmates
7. Establish a quarantine unit
8. Establish an on-site testing unit for those meeting CDC test criteria, including persons living in the household of a corrections officer
9. Treat COVID-19 among officers as duty-connected

In addition, we require production of all videotape and investigative reports of the assault on Officer Sulaimon T. Abiola so that we may investigate the assault and present it to the U.S. Attorney's Office for prosecution. Corporal Ayodeji Falade, Officer Olumide Popoola, Officer John Lewis, Officer Rahsard Roberts, Officer Abdou Alaguitouni and Corporal Damian Barnes and any other suspended officers must be returned to work pending your investigation into the assault.

CONCLUSION

We agree with Mayor Bowser's sentiment that these are difficult times, and we should all be pulling on the same rope. However, cooperation is a two-way street. We note with a great deal of concern that at today's news conference, the Mayor stated that corrections officers do not require PPE because they do not provide medical care.

The District of Columbia cannot treat its corrections officers as chattel. Already, the life expectancy among corrections officers nationwide is among the lowest in law enforcement.

Thank you for your courtesies.

Sincerely,

/s/ J. Michael Hannon

J. Michael Hannon

ATTACHMENT A



J. Michael Hannon <jhannon@hannonlawgroup.com>

Critical Incident at the DC Jail - March 19, 2020

1 message

Ann-Kathryn So <akso@hannonlawgroup.com>

Thu, Mar 19, 2020 at 5:52 PM

To: Quincy.Booth@dc.gov, lennard.johnson@dc.gov, Eric.Glover@dc.gov, paulette.johnson@dc.gov

Cc: kevin.donahue@dc.gov, lindsey.maxwell@dc.gov, "J. Michael Hannon" <jhannon@hannonlawgroup.com>, "Olubasusi, Benjamin R. (DOC)" <benjamin.olubasusi@dc.gov>

Good afternoon,

Today, March 19, 2020, at 0545, the Squad Leader (Sgt. Joseph Alexander) and the Team Leader (Sgt. Donald Graham) of the DOC's Emergency Response Team (ERT) were called in, and informed that a US Marshal at D.C. Superior Court tested positive for COVID-19. The two Sergeants were handed a list of 50 inmates who possibly came in contact with the US Marshal. They were ordered to extract the 50 inmates, and quarantine them in an empty cell block. They were ordered to do so using only face masks and gloves. Both Sergeants requested full body coverage (face shield, clothing coverage, etc.) as personal protective equipment (PPE), and were refused. Sgt. Alexander has personal knowledge that the items requested are in the Agency's inventory. Both Sergeants indicated they were uncomfortable performing the inmate extraction without proper PPE. The DOC Management representative, Deputy Warden for Operations, Kathleen Jo Landerkin, again refused to provide the equipment, and asked who on the ERT was also uncomfortable conducting the extraction with only face masks and gloves. Every member of the ERT responded positively. The ERT was ordered to conduct the extraction anyway. All did as they were told. At the time of the extraction, all 50 inmates were housed in general population, with other inmates. Sgt. Alexander asked if inmates with whom the 50 were housed should be quarantined, management told him only the 50 inmates were to be moved into the empty cell block. Those cellmates are still in general population. During the extraction, approximately half of the 50 inmates resisted being moved. All but one moved eventually without incident; however, one inmate spit in the face of one of the ERT officers, who was only protected by the face mask. The 50 at-risk inmates are being housed two to a cell in "quarantine" in an isolated cell block. The officer who was spit on, Hakeem Smith, has gone home. Immediately after the extraction, the two Sergeants were reassigned to a different unit (central cell block) and different shift (night) and their department phones have been taken away. In addition, they were removed from the ERT. They were told by Major Carlos Bivens that this was not a disciplinary action.

The DOC management has created an unconscionable public health crisis, and almost certainly guaranteed and accelerated the rampant spread of COVID-19 within the DOC facilities and the communities in which the staff live. Ms. Landerkin directly put the lives of the officers on the ERT in imminent danger. She did so without regard for their personal safety or that of the inmate population. In addition to being callous and reprehensible, her actions are in obvious violation of several provisions of the Collective Bargaining Agreement and are arguably illegal. The Agency is following absolutely no appropriate guidelines with regard to the safe handling and treatment of the front line staff or inmate population. The 50 at-risk inmates are housed two to a cell in "quarantine" status. They were extracted from cell blocks where they were housed more than one to a cell, and required to participate in recreation and other group activities. All of this is in violation of the Mayor's Order 2020-048: Prohibition on Mass Gatherings During Public Health Emergency - Coronavirus (COVID-19). In addition, when asked by the ERT officers if the inmates with whom the 50 at-risk inmates were housed originally also should be quarantined, DOC management refused. Management's response was that if they were not on the list, they were to be left in their unit.

As if this public health crisis created by Ms. Landerkin was not enough, DOC management clearly retaliated against Sgts. Alexander and Graham for their request for PPE. At the time of the order reassigning them, they were told it was not a disciplinary action. Management can call it whatever they choose; however, it is clearly retaliatory. The DOC ordered staff into a life-threatening situation without the proper equipment, and retaliated against them for asking for the proper PPE. The PPE requested was not unreasonable; it was exactly what is being recommended throughout the industry and the nation for handling of infectious individuals. There is absolutely no justification for not providing this equipment, especially upon request and in light of the fact that it was on hand. This treatment will not be tolerated.

I indicated in my email Request for Information sent earlier today to Eric Glover and Paulette Johnson that the Union's priority was to protect the health and safety of the staff. We will take immediate and decisive action to do so in the face of the deliberate and dangerous actions taken by DOC management today. One such action is to file a group grievance for multiple violations of the Collective Bargaining Agreement. A detailed email will follow with the exact provisions that have been violated. Please consider this official notice.

V/R,

Ann-Kathryn So

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ATTACHMENT B



J. Michael Hannon <jhannon@hannonlawgroup.com>

Fwd: Request for Information on Potentially Dangerous Conditions at the DOC Facilities

1 message

Ann-Kathryn So <akso@hannonlawgroup.com> Mon, Mar 23, 2020 at 3:53 PM
To: "J. Michael Hannon" <jhannon@hannonlawgroup.com>

Here is his response to my first email. I have heard nothing about the second.

----- Forwarded message -----

From: **Glover, Eric (DOC)** <eric.glover@dc.gov>

Date: Fri, Mar 20, 2020 at 11:16 AM

Subject: RE: Request for Information on Potentially Dangerous Conditions at the DOC Facilities

To: Ann-Kathryn So <akso@hannonlawgroup.com>, Johnson, Paulette (DOC) <paulette.johnson@dc.gov>

Cc: Olubasusi, Benjamin R. (DOC) <benjamin.olubasusi@dc.gov>

Ms. So:

Thank you for contacting the District of Columbia Department of Corrections. DOC is preparing a response to your inquires and will contact you as soon as possible.

Regards,

Eric S. Glover

General Counsel

District of Columbia

Department of Corrections

2000 14th Street, N.W.

Seventh Floor

Washington, D.C. 20009

Phone: (202) 671-0088

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From: Ann-Kathryn So [mailto:akso@hannonlawgroup.com]

Sent: Thursday, March 19, 2020 11:00 AM

To: Glover, Eric (DOC) <eric.glover@dc.gov>; Johnson, Paulette (DOC) <paulette.johnson@dc.gov>

Cc: Olubasusi, Benjamin R. (DOC) <benjamin.olubasusi@dc.gov>

Subject: Request for Information on Potentially Dangerous Conditions at the DOC Facilities

CAUTION: This email originated from outside of the DC Government. Do not click on links or open attachments unless you recognize the sender and know that the content is safe. If you believe that this email is suspicious, please forward to phishing@dc.gov for additional analysis by OCTO Security Operations Center (SOC).

Good morning,

In light of the ever-changing landscape with respect to the pandemic, we would like to ensure that the Agency is doing everything it can to keep the staff, residents, and visitors as safe as possible from COVID-19. Swift effective action is critical as the numbers of suspected and confirmed cases rise exponentially. This is especially true for DOC staff members, who have regular contact with the inmate population. They must be protected!

The DOC has publicized a number of measures it has or will be taking. Please confirm the following DOC efforts:

- Have all in-person visits, programming and volunteer activities at all Agency facilities in fact been suspended?
- Have DOC officials established Incident Command Team? Who is on that team? Are any members of the Union on that team?
- Is the Medical Staff meeting with each housing unit and officer roll call? Please provide details as to time, place and frequency of the meetings that the Medical Staff is holding.
- What is the Agency's strategic communications plan with regard to COVID-19, and how has it been communicated to the staff? Is it updated and communicated regularly as this situation evolves? The last update on the DOC web page is dated March 14, 2020.
- What does "enhanced cleaning efforts" mean? Have those "enhanced cleaning efforts" been implemented, especially within common areas? How often is this level of cleaning being done?
- The Agency promised to order additional cleaning and sanitation supplies, including protective gloves, masks and clothing for staff. No information was provided about dispensing these items. Have these items been received and distributed? Are there any supplies you need that you do not have? Have sanitizing wipes been provided by the Agency? Is the staff permitted to bring personal sanitation material, other than wipes? Are inmates being provided safety materials that the staff is not?
- Was there a two-hour cleaning of the entire facility? How many times has this happened? Is this occurring daily/regularly?
- Please describe the Agency's efforts in partnering and/or sharing information with criminal justice partners?

- Are daily updates continuing to be sent via emails to the staff regarding COVID-19? Can you please make those available?

Most notable in the Agency's public response to COVID-19 is that there is nothing that addresses the procedures for the screening, quarantine and/or treatment of staff, inmates and/or anyone who comes into contact with either or both. Can you provide detailed information as to what those procedures are? Specifically:

- Have the DOC employees (officers and medical staff) been provided appropriate protective devices/material/training? Are staff members knowledgeable on and adequately equipped to prevent transmission, minimize spread and protect themselves and the inmate population from contracting COVID-19?
- Is the DOC working in close connection with the DC Department of Health? What medical support does the Agency have specifically for the virus?
- Are all incoming inmates, staff and other individuals with access to the DOC facilities questioned as to their level of risk?
- What is the procedure for processing all new inmates to the facilities?
- What is the procedure for assessing the risk to existing inmates?
- What testing is being offered to confirm a diagnosis of COVID-19?
- What procedures are in place if an inmate is symptomatic?
- What procedures are in place if an inmate tests positive?
- What procedures are in place for quarantines?
- Are there any of the following:
 - Asymptomatic inmates currently housed at any of the facilities who are at high-risk for contracting COVID-19?
 - Symptomatic inmates currently housed at any of the facilities? If so, what actions are being taken with regard to those individuals?
 - Inmates currently housed at any of the facilities who have tested positive for COVID-19?
- What is being done to track any inmates, visitors, staff, or other individuals with access to any of the facilities who have been at any DOC facility within the

past two weeks, including any individuals who were held and released or transferred?

- What is the impact of the Agency's response to the Mayor's Order 2020-048: Prohibition on Mass Gatherings During Public Health Emergency - Coronavirus (COVID-19)?

Of a most critical nature, it has come to our attention that there may be one or more inmates currently housed within DOC facilities who are either symptomatic and/or tested positive for COVID-19. Please confirm if the Agency is aware of anyone housed at or with access to any of their facilities who either is symptomatic or has tested positive for COVID-19, and, if so, what actions have been taken and will be taken in response. Is the Agency following the CDC's Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings or similar guidelines? Please provide the Union's Executive Management with your detailed emergency action plan.

Without question, this pandemic is a health and safety crisis. The District of Columbia has been in the forefront of a proactive response, and that must extend to the DOC. The entire DOC population is at higher risk than the general public, and every precaution and safety measure must be taken. It is the Union's priority to protect the staff, and it will take actions necessary to do so.

I look forward to hearing from you.

Thank you.

V/R,

Ann

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For the latest information on the District Government's response to COVID-19 (Coronavirus), please visit coronavirus.dc.gov.

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3/23/2020

Hannon Law Group Mail - Fwd: Request for Information on Potentially Dangerous Conditions at the DOC Facilities

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ATTACHMENT C



Fraternal Order of Police

Department of Corrections Labor Committee

711 4TH Street, Northwest
Washington, DC 20001

ANNOUNCEMENT TO DOC/FOP MEMBERS MARCH 23, 2020

These are grave times at the District of Columbia Department of Corrections (DOC). There is no question that dire threats face our workforce. The Executive Board of the Fraternal Order of Police/Department of Corrections Labor Committee's (FOP/DOC LC) is committed to supporting and protecting the Union's membership, and is doing all that it can to do so. We all know we face serious threats both inside and outside of the DOC facilities. There is no question that each one of us puts our lives and our livelihoods on the line every time we report to work and man our post or take our seat at our desk.

We know your health and safety is at risk every day, and we want you to know it is our TOP priority to tackle the critical issues we all face with speed and effectiveness!!

In keeping with our priorities, this serves as official notice of three crucial actions the FOP DOC LC's Executive Board is taking to protect the membership.

COVID-19—DOC has not provided its employees a valid action plan in response to COVID-19. We hear more every day about the virus, yet the DOC has done very little to support the frontline officers and staff against COVID-19. The DOC's public website about COVID-19 has not been updated since at least March 14, 2020. Our attorneys sent a Request for Information on March 19, 2020, asking if the DOC had done what it promised to protect our members, and what future steps would be taken. No answer has been received as of March 23, 2020. DOC management has canceled our labor/management meetings at this critical time. Our attorneys also made the DOC aware of several violations they committed in the "quarantine" order DOC Management issued and had executed on March 19, 2020. This action led to a "No Confidence" vote by the Board. The DOC is up against its deadline to respond to that letter. We continue to work on getting that information to hold DOC Management accountable.

Officer Assault—One of our officers was viciously assaulted on March 13, 2020 by an inmate. DOC Management's response to this was to issue disciplinary action against two fellow officers, who responded as they should have to save the life of the assaulted officer. Due to DOC Management's incompetent presentation of the case to the U.S. Attorney's Office, no charges were made against the inmate for the unprovoked attack on our officer!!

We have instructed the HANNON LAW GROUP to investigate the incident, and we are confident they will do so fully. We anticipate that as a result of their efforts, HANNON LAW GROUP will re-present the case to the U.S. Attorney's Office for proper prosecution of the inmate. Mr. J. Michael Hannon is a former Assistant United States Attorney.

We are also contesting the removal of the officers who came to the aid of our colleague.

National FOP—We are working with the DC Lodge #1 Leadership and National Fraternal Order of Police (FOP) organization to advocate on YOUR behalf! We have made them aware of the failure of the DOC Management team to:

- ensure that proper protocols are followed with both staff, inmates and visitors at all DOC facilities;
- work with the Union on solutions as the COVID-19 situation evolves, and
- provide a safe working environment; and
- offer the proper equipment to ensure that the staff, inmates and visitors are protected.

We expect to present to the DOC our own set of protocols based on national standards being followed by other correctional institutions. If those protocols are not adopted, our members cannot work safely at the D.C. Jail.

We are prepared to take every action necessary to protect you and your family. We are prepared to escalate these issues as far as they need to go to obtain the attention of our citizens, the Mayor, and the courts if necessary.