April 3, 2020

Commander Rob Yantis
Pennington County Jail
307 Saint Joseph St.
Rapid City, SD 57701

ACLU

South Dakota

P.O. Box 1170
Sioux Falls, SD 57101
(605) 332-2508
aclusd.org

Dear Commander Yantis:

The American Civil Liberties Union of South Dakota (ACLU of SD) is concerned about recent reports published in the March 28, 2020 edition of the Rapid City Journal[1] regarding unsanitary conditions and the lack of preventative measures in the Pennington County Jail during the COVID-19 pandemic.
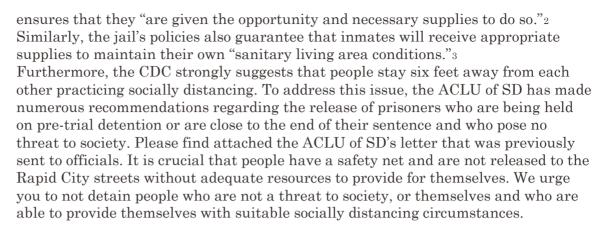
The ACLU has a long history of protecting the civil rights of Americans. The Eighth Amendment of the Bill of Rights promises that, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted." During the pandemic, we believe increased sanitary conditions are critical to avoid the spread of the virus such as the Cook County jail recently saw with over 150 prisoners testing positive for COVID-19.

According to the newspaper account, prisoner complaints include:

- the lack of soap in individual cells;
- soap costs of $6 per bar if a prisoner has the resources to buy their own soap;
- the inability to socially distance from other inmates;
- a fear that jail workers are not being monitored for high temperatures indicating illness when they enter the jail;
- jail workers are not provided masks or gloves to prevent the spread of the virus; and
- a lack of paper towels and disinfectant wipes to clean surfaces.

Given the insidious nature of the virus and that the paramount recommendation by the Center for Disease Control (CDC) is to wash your hands with soap and water, it seems that providing soap free of charge to all prisoners for use in their cells would be a basic preventative measure to stop the spread of COVID-19. During these extraordinary times, while soap is available in showers, it would be a nominal cost and help ensure the inmates' health to provide free of charge soap, paper towels and disinfectant wipes for use in cells to enable readily available and consistent hand washing and surface cleaning. Please consider making these items available as soon as possible.

In addition to the potential constitutional violations, depriving these inmates of adequate hygiene and cleaning supplies also violates Pennington County Jail's own policies. These policies require inmates to "maintain their personal hygiene" and

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[1] https://rapidcityjournal.com/news/local/inmates-want-more-covid--precautions-at-pennington-county-jail/article_82a545ca-c6ed-52b3-bbfe-27f5d3b806eb.html

ensures that they "are given the opportunity and necessary supplies to do so."2
Similarly, the jail's policies also guarantee that inmates will receive appropriate
supplies to maintain their own "sanitary living area conditions."3

Furthermore, the CDC strongly suggests that people stay six feet away from each
other practicing socially distancing. To address this issue, the ACLU of SD has made
numerous recommendations regarding the release of prisoners who are being held
on pre-trial detention or are close to the end of their sentence and who pose no
threat to society. Please find attached the ACLU of SD's letter that was previously
sent to officials. It is crucial that people have a safety net and are not released to the
Rapid City streets without adequate resources to provide for themselves. We urge
you to not detain people who are not a threat to society, or themselves and who are
able to provide themselves with suitable socially distancing circumstances.

Finally, the ACLU of SD requests that the Pennington County Jail alter its existing
policies regarding out of pocket expenses for inmates seeking medical assistance for
COVID-19 related symptoms. Under existing policy, inmates are charged five dollars
per visit with a medical professional.4 Additionally, inmates are billed for some over-
the-counter medications such as ibuprofen and antacids. These fees can discourage
inmates with coronavirus-type symptoms from seeking appropriate treatment from
the facility's medical staff. Therefore, in order to more efficiently identify and isolate
potential COVID-19 infected inmates, the ACLU of SD requests that these charges
be waived for the remainder of the pandemic.

As you are aware there have been numerous lawsuits regarding prison and jail
conditions establishing standard for hygienic conditions. At this unprecedented
time, the ACLU of SD believes resources are best spent solving and addressing
problems collaboratively. However, as you also know, the ACLU has a long history of
defending the civil rights and liberties of those who are unable to defend themselves.

If you would like to discuss any of these issues, please don't hesitate to call me.

Sincerely,

Kimberly Craven

Kimberly Craven
Legal Director,
American Civil Liberties Union of South Dakota
C: 303-494-1974

Enclosures

cc: Pennington County Commissioners
         State's Attorney Mark Vargo

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2 Pennington County Jail Policy (PCJ) 430.06: Inmate Hygiene.
3 PCJ 430.04: Housekeeping.
4 Pennington County Jail Policy 440.04: Sick Call/Non-Emergency Medical Assistance.