

2 February 2021

Dear members of our legislature:

My name is Robert Gower and I am one of the plaintiff's attorneys working on the COVID-19 habeas corpus project led by Tara Herivel and Ed Neusteter. I have been working on this project for less than two months, far less time than most of my peers, but I have seen enough at this point to be able to make some inferences and to reach some conclusions.

Others have surely provided you with details of the conditions in Oregon's prisons, especially those prisons overrun by COVID-19. The prison officials, at least at certain prisons, are routinely and knowingly mixing individuals who are positive for COVID-19 with those who are negative for COVID-19. Think about that for a second. We have known for almost a full year now that the manner which this virus is spread is through the air, usually indoors, especially if there are people not wearing masks properly and who aren't social distancing. The prison officials who are making the conscious decision to place individuals who are negative for COVID-19 in tight quarters with individuals who are positive for COVID-19 (and again, who these prison officials KNOW are positive for COVID-19) are completely disregarding not just science and authority but the lives of these AICs.

At least one prison in Oregon does not have anyone who is positive for COVID-19, while others are overwhelmed. Why is that? I have some clients in a prison where, thus far, nobody in the main dorms is testing positive (Shutter Creek) and I have some clients in a prison where the pandemic is completely out of control (Coffee Creek). There is a difference between how these two prisons are being managed based on my weekly phone conversations with my clients. At Shutter Creek, those managing the facility are taking the pandemic seriously. They seem to understand the science (or are at least deferring to the scientists) and they are following the CDC guidelines. At Coffee Creek, the prison officials are routinely mixing AICs who are positive for COVID-19, and who the prison officials KNOW are positive for COVID-19, with individuals who are negative for COVID-19. One of my clients at Coffee Creek, a woman in her late fifties with some health issues, was recently placed in a small two person cell with someone who was positive for COVID-19 and who the prison knew was positive for COVID-19. My client appears to be someone who complains a lot. Were the prison officials trying to kill my client by deliberately exposing her to someone who was positive for COVID-19? What is going on here? There seems to be four possibilities: a) these officials understand the science and are trying to kill AICs; b) they think the pandemic is a "hoax" because they have been brainwashed by right wing propaganda, so they ignore the CDC guidelines; c) they don't know or think anything, and they don't care to learn (willful ignorance); or d) they are trying to follow the CDC guidelines but are completely incompetent.

This legislative body needs to get the full story of what is happening in our prisons during this pandemic, and this legislative body needs to brace itself for what it might find. You may discover that criminal charges (probably not murder but instead of the negligent homicide or reckless homicide variety) are warranted. But that will take some time. For now, you need to act by doing the following: a) vaccinating all AICs immediately (the refusal to do so is an indefensible political decision); and either b) demanding a complete list of vulnerable AICs at each prison and releasing them by the end of February, or c) re-opening currently closed prisons and moving AICs into these prisons so as to achieve social distancing. Immediate vaccination is a must, and if we are not going to thin these prisons out (achieve social distancing) by releasing vulnerable AICs then we need to re-open closed prisons. We have to thin these prisons out and we have to do it now.

Sincerely,

A handwritten signature in blue ink that reads "Robert Gower". The signature is written in a cursive, slightly stylized font.

Robert Gower

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