

United States Senate
WASHINGTON, DC 20510

February 9, 2021

The Honorable Charles Schumer
Senate Majority Leader
United States Senate
S-221 U.S. Capitol
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-232 U.S. Capitol
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
S-230 U.S. Capitol
Washington, D.C. 20510

The Honorable Kevin McCarthy
House Minority Leader
U.S. House of Representatives
H-204 U.S. Capitol
Washington, D.C. 20515

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Pelosi, and Minority Leader McCarthy

As Congress continues to negotiate the upcoming coronavirus disease 2019 (COVID-19) relief package, we urge you to include provisions that would fund routine diagnostic testing, contact tracing, vaccine distribution, and data collection in federal, state, and local correctional facilities. Specifically, we ask that you include portions of our *Federal Correctional Facilities COVID-19 Response Act*¹ and our *COVID-19 in Corrections Data Transparency Act*² in the package.

As COVID-19 continues to spread across the United States, individuals living and working in correctional facilities remain at particularly high risk of contracting and dying from the virus. Social distancing, quarantining, and other public health measures are challenging in many

¹ S. 4811/H.R. 8470 (116th Congress).

² S. 4536/H.R. 7983 (116th Congress).

correctional facilities³, and research suggests that incarcerated people contract COVID-19 at 5.5 times the rate, and die at three times the rate, of the U.S. population as a whole.⁴ To date, nearly 600,000 incarcerated people and correctional workers have contracted COVID-19 and 2,600 have died.⁵

Given the high rates of COVID-19 in correctional facilities, we were pleased to see that President Biden’s American Rescue Plan identified prisons and jails as facilities in need of federal support. The plan calls for “expanded testing” to ensure that “vulnerable settings like prisons...can regularly test their populations.”⁶ It “supports COVID-19 safety in federal, state, and local prisons, jails, and detention centers by providing funding for COVID-19 mitigation strategies, including supplies and physical distancing; safe re-entry for the formerly incarcerated; and the vaccination of both incarcerated people and staff.”⁷ And it seeks to “address health disparities and COVID-19”—a goal that necessitates the collection of high-quality demographic data on the COVID-19 response.⁸

Fortunately, we have already introduced legislation with strong support among relevant stakeholders that would accomplish President Biden’s goals. The *Federal Correctional Facilities COVID-19 Response Act*, introduced by Senators Warren and Booker and Representatives Barragán, Holmes Norton, Hayes, Davis, Carson, Cardenas, and Grijalva, would require federal correctional facilities to conduct free, weekly COVID-19 diagnostic testing for incarcerated people and staff; fund the distribution of COVID-19 vaccinations at federal correctional facilities; require the Bureau of Prisons to update its guidance on COVID-19 mitigation in correctional facilities, including through contact tracing and decarceration; and promote data collection.

Meanwhile, the *COVID-19 in Corrections Data Transparency Act*, introduced by Senators Warren, Murray, and Booker and Representatives Pressley, Garcia, Clarke, Kelly and cosponsored by Senators Blumenthal, Markey, Sanders, Durbin, Baldwin, Casey, Wyden, Van Hollen, and Merkley and, Representatives Trone, Speier, Espaillat, Holmes Norton, DeSaulnier, Hayes, Kennedy and Demings, would require the Bureau of Prisons, the U.S. Marshals Service, and state governments to collect and publicly report detailed data about COVID-19 in federal, state, local, correctional facilities, including demographically disaggregated data on testing, COVID-19 cases, case outcomes, and vaccinations among incarcerated people and correctional staff.

³ Prison Policy Initiative, “As COVID-19 continues to spread rapidly, state prisons and local jails have failed to mitigate the risk of infections behind bars,” Emily Widra, December 2, 2020, <https://www.prisonpolicy.org/blog/2020/12/02/jail-and-prison-covid-populations/>.

⁴ Journal of the American Medical Association, “COVID-19 Cases and Deaths in Federal and State Prisons,” Brendan Saloner, PhD, Kalind Parish, MA, Julie A. Ward, MN, RN, et al, July 8, 2020, <https://jamanetwork.com/journals/jama/fullarticle/2768249>.

⁵ New York Times, “Coronavirus in the U.S.: Latest Map and Case Count,” updated February 3, 2020, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>.

⁶ The White House, “President Biden Announces American Rescue Plan,” January 20, 2021, <https://www.whitehouse.gov/briefing-room/legislation/2021/01/20/president-biden-announces-american-rescue-plan/>.

⁷ Id.

⁸ Id.

Our bills have received support from public health organizations, like the American Public Health Association and Partners in Health, and criminal justice organizations, like the Vera Institute of Justice. We believe our legislation should be used as the starting point for House and Senate negotiations on relief package provisions preventing the spread of COVID-19 in correctional facilities. We strongly urge you to consider our legislation as negotiations continue.

Sincerely,

/s/ Elizabeth Warren
Elizabeth Warren
United States Senator

/s/ Nanette Diaz Barragán
Nanette Diaz Barragán
Member of Congress

/s/ Cory A. Booker
Cory A. Booker
United States Senator

/s/ Ayanna Pressley
Ayanna Pressley
Member of Congress

/s/ Tammy Baldwin
Tammy Baldwin
United States Senator

/s/ Ron Wyden
Ron Wyden
United States Senator

/s/ Tony Cárdenas
Tony Cárdenas
Member of Congress

/s/ Richard Blumenthal
Richard Blumenthal
United States Senator