

June 11, 2020

Via Email and U.S. Mail

Director Christopher Michaud
Dartmouth Board of Health
400 Slocum Road
North Dartmouth, MA 02747

Commissioner Monica Bharel, MD, MPH
Massachusetts Department of Public Health
250 Washington Street
Boston, MA 02108

Dear Director Michaud and Commissioner Bharel,

This complaint is submitted by Connecticut Bail Fund, Boston Immigration Accompaniment Network, Alianza para Movilizar Nuestra Resistencia, New Haven Legal Assistance Association, Inc., Connecticut Immigrant Rights Alliance, Hartford Deportation Defense, Doctors for Camp Closure, and Massachusetts Bail Fund, each of which is a community or legal services organization supporting individuals in immigration detention at the Bristol County House of Correction (BCHOC) and their families, through their counsel Jerome N. Frank Legal Services Organization and Lawyers for Civil Rights.

As set forth below, BCHOC has failed to protect the health, safety and wellbeing of the individuals in their care, in violation of Massachusetts public health laws. Since at least March 2020, BCHOC has subjected individuals in its care to egregious risk of exposure to COVID-19; violated sanitation, cleanliness and air quality requirements for bathrooms, beds, and common areas; failed to provide adequate nutrition to individuals in custody; withheld critical medical care to individuals suffering from debilitating illnesses; and impermissibly punished individuals who raised concerns about their health and safety through the use of physical violence, mace, threats, intimidation and the pervasive imposition of long-term segregation or solitary confinement.

As a result of BCHOC's violations of Massachusetts public health laws, individuals in custody have become infected with COVID-19; experienced their physical and mental health conditions worsen; been subjected to months of sleeping, eating, and using the bathroom in dangerous, filthy, and unsanitary conditions; been racked by hunger; and lived in constant fear of violent retaliation. Complainants request an immediate inspection of BCHOC by the Dartmouth Board of Health and Massachusetts Department of Public Health, in accordance with each agency's legal authority, and prompt orders to abate or cure any public health violations confirmed by the investigation.

We have received several reports detailing the dangerous conditions within BCHOC at this time. A number of individuals in custody at BCHOC are being held without access to soap, towels, toothbrushes, toothpaste, and other necessary hygienic materials. Many have not had regular access

to showers. Several have reported the presence of blood and feces in their cells and pervasive odors from urine and feces in the air and across cells. In addition, many individuals have reported other inhumane conditions, including insufficient meals consisting of spoiled food, prohibitions on purchasing food to supplement the inadequate nutrition that is provided, lack of clean clothing, freezing temperatures, broken bathrooms, contaminated drinking water and denial of access to medical care and prescribed medications.

Following violent confrontations by BCHOC officials on May 1, 2020 where dozens of individuals were doused with pepper spray and tear gas diffused through the facility's ventilation system, many individuals were forced into segregation (also known as "the hole," solitary confinement, and restrictive housing) and confined to freezing cold cells for over 20 hours a day. Now, more than 40 days later, some individuals remain in solitary confinement, thus compounding their subjugation to unsanitary conditions and denial of access to essential nutrition and medical care. These abhorrent conditions have taken a physical toll on individuals, including worsening of injuries and significant weight loss. They have also had a severe impact on individuals' mental health, with many reporting heightened feelings of anxiety and depression, and for some, suicidal ideations.

Some individuals in immigration detention have attempted to raise concerns about the health and sanitation issues across the facility. One individual reported that construction and welding in his unit was triggering others' asthma. Others stopped their voluntary work assignments in BCHOC after raising sanitation concerns and receiving no response. However, like those involved in the May 1 incident, these individuals were put in solitary confinement without BCHOC taking the necessary steps to mitigate their concerns. They were stripped, searched, and forced to stay alone in small, unsanitary cells, without any clear explanation as to why they were in solitary or how long they would remain there. Those held in segregation were also barred access to the outside world and have struggled to communicate with legal counsel or their families. The Sheriff's office has, on several occasions, used segregation as a retaliatory measure against detained individuals who have organized to express concerns about the unsanitary conditions in the facility. Consequently, many individuals are hesitant about sharing information due to fear of retaliation. Furthermore, individuals report that the conditions inside of the medical unit mirror those in solitary confinement – small, unsanitary cells which are kept uncomfortably cold and where the lights are rarely turned off – such that seeking medical care becomes punishment.

These unlawful conditions are compounded by the COVID-19 public health crisis. Already, at least 34 staff members and 32 individuals in state and immigration custody across BCHOC have tested positive for COVID-19. These numbers, in tandem with the alarming reports of poor sanitation and lack of regard for inmates' health, constitute a public health issue that requires immediate investigation.

The Massachusetts Department of Public Health (MA DPH) and Dartmouth Board of Health (Dartmouth BOH) have concurrent jurisdiction and authority to investigate and rectify the unlawful conditions of confinement at BCHOC. MA DPH is required to make rules and monitor compliance with regulations governing the sanitary conditions at any public facility and the living conditions of detainees pursuant to M.G.L. ch. 111 §§ 5, 21. Indeed, MA DPH has promulgated extensive

regulations laying out detailed, mandatory standards regarding beds, toilets, supplies, medical access, and the conditions of shared spaces within correctional facilities. *See* 105 CMR 451.001 *et seq.* The accounts of numerous persons, summarized above, demonstrate that BCHOC has violated and is violating many of these state standards, including 105 CMR 451.109 (requiring adequate toilet and handwash facilities); *id.* 451.110(B) (requiring adequate waste receptacles near all handwash sinks); *id.* 451.111 (requiring provision of toilet paper and soap necessary to maintain personal hygiene); *id.* 451.123 (requiring daily cleaning of each toilet, handwash sink, bathing facility and shower and floor and that each be kept in repair); *id.* 451.125 (requiring access at all times to safe and sanitary supply of water sufficient for normal drinking needs); *id.* 451.130 (requiring that plumbing be maintained in good repair and free from leaks); *id.* 451.210 (requiring provision of proper clothing to preserve health and comfort at all times of the year).

Furthermore, the accounts of numerous persons about toxic chemicals in BCHOC's ventilation systems and the overwhelming presence of fumes from feces and urine throughout the facility demonstrate that BCHOC violated and is violating air pollution control regulations, enforceable by both MA DPH and Dartmouth BOH. *See* M.G.L. ch. 111 §§ 142E, 31C ("A board of health. . . shall have jurisdiction to regulate and control atmospheric pollution, including, but not limited to, the emission of . . . particulate matter[,] toxic substances, fumes, vapors, gases. . . which constitutes a nuisance, a danger to the public health, or impair the public comfort and convenience"); 310 CMR 7.00 *et seq.*, Dartmouth BOH Air Quality Regulations 7.09.

Moreover, under 105 CMR 300.000 *et seq.*, "[MA DPH] and local boards of health are authorized to conduct surveillance activities necessary for the investigation, monitoring, control and prevention of diseases dangerous to the public health," including COVID-19. *Id.* 300.190.

In short, given the grave public health risks that individuals detained and incarcerated at BCHOC have suffered and continue to bear, we call on MA DPH and Dartmouth BOH to:

- (1) Begin immediate inspections and other investigations of BCHOC and take swift action to ensure the health and safety of those individuals;
- (2) Respond in writing with steps that you are taking to address this complaint; and
- (3) Let us know when you are available to discuss these concerns on a phone call, at your earliest convenience.

Thank you for your prompt attention to this urgent matter.

Sincerely,

The Jerome N. Frank Legal Services Organization¹ & Lawyers for Civil Rights²

Counsel for Connecticut Bail Fund, Boston Immigration Accompaniment Network, Alianza para Movilizar Nuestra Resistencia, New Haven Legal Assistance Association, Inc., Connecticut Immigrant Rights Alliance, Hartford Deportation Defense, Doctors for Camp Closure, and Massachusetts Bail Fund



cc: Maura Healey, Attorney General for the Commonwealth of Massachusetts
Ron O'Connor, Director, MA Department of Public Health Office of Local and Regional Health
John F. Keenan, Chair, MA Senate Committee on Post Audit and Oversight

¹ Grace Choi, Kayla Crowell, Alec Jessar, Fernando Quiroz, and Bianca Rey, Law Student Interns; Aseem Mehta, Alden Pinkham, Daniel Phillips, and Megan Yan, Law Graduates; Muneer Ahmad, Reena Parikh, and Michael Wishnie, Supervising Attorneys.

² Oren Nimni, Oren Sellstrom, and Ivan Espinoza-Madrigal.