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Weld County Sheriff's Office submits 'medically vulnerable' list to court Sheriff Steve Reams issues statement about ACLU lawsuit

As you know, a 13-person team of American Civil Liberties Union attorneys set their sights on the Weld County Sheriff's Office in the beginning of the COVID-19 pandemic with the alleged intent of protecting inmates in my jail from the potential impacts of the Coronavirus. The ACLU lobbied that inmates in the jail were at greater risk of infection from COVID-19 and demanded that I advocate for the release of inmates, provide heightened personal protective equipment to the inmates and allow for social distancing of inmates, along with a host of other requests. The ACLU further defined medically vulnerable inmates as persons:

- Age 55 or older.
- Having a chronic health condition, such as cancer, autoimmune disease, chronic lung disease, history of cardiovascular disease, chronic arthritis, chronic liver or kidney disease, diabetes, hypertension, heart failure, and HIV, and taking chronic steroids or immunosuppressant medications for chronic conditions.
- Having history of smoking or other substance abuse disorders.
- Who are pregnant.

The standards defined by the ACLU are much more encompassing than those set by Centers for Disease Control and Prevention for medically vulnerable persons. Nevertheless, when my staff and I began preparing on Feb. 27 for a possible COVID-19 outbreak in the Weld County Jail, we adopted a heightened definition of medically vulnerable that ended up being more in line with the ACLU's standards. Since then, Weld County Jail leadership has taken more than 80 separate complex, costly and time-consuming actions to prepare for and respond to a constantly changing environment created by a pandemic where there continues to be more questions than answers.

Some of those steps include:

- Increased sanitation of the jail.

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- Masks for all inmates and staff when available.
- Providing educational information about the spread of COVID-19 to all inmates and staff.
- Limiting the movement of all inmates inside the jail.
- The eventual lock down of the entire facility for a 14-day quarantine of every inmate.
- The designation of a medical isolation unit.
- Adopting revised inmate intake processing and screening protocols.

We welcomed on two occasions the ACLU, its attorneys and its designated infectious disease expert to inspect the Weld County Jail and its operations in relation to COVID-19, and to document its findings. Unfortunately, in early April, the ACLU filed litigation against me in my professional capacity as the Sheriff of Weld County, alleging I was deliberately indifferent to the health and safety of the inmates inside my jail facility in violation of the U.S. Constitution.

Throughout the COVID-19 pandemic, we have made operational decisions at the jail based off the most contemporary information provided by the CDC and the Weld County Department of Public Health and Environment, including acquiring PPE for both inmates and staff. I have maintained since the outset *EVERYONE* is at risk of contracting COVID-19, which is why we employed the most aggressive tactics available to prevent Coronavirus from entering the facility in the first place in an effort to protect *ALL* inmates, including those who are deemed medically vulnerable.

Although our initial focus was on prevention, we weren't so naïve to believe we could keep Coronavirus out of the jail forever. Sadly, we experienced an outbreak in late March in which 10 inmates were infected with COVID-19. Since then, a total of 12 inmates have tested positive for COVID-19 (*two recent arrestees were already positive for Coronavirus when they were booked into the jail*). Eighteen Detentions deputies also have tested positive for the virus, with 17 already cleared to return to work. The inmates who tested positive were provided with professional medical care and the Detentions staff were sent home to self-isolate.

After the outbreak, our focus shifted from prevention to containment and eradication of COVID-19 in the jail. On April 1, we took the very aggressive step of enacting a 14-day quarantine of the entire jail to prevent the Coronavirus from spreading throughout the facility. Since that time, the jail has remained in a heightened state of isolation with inmates divided into small "family groups," as defined by the CDC, so their health could be more closely monitored by medical staff and to prevent another outbreak should COVID-19 reappear in the jail.

On April 30, I testified at a hearing in the U.S. District Court of Colorado in which the ACLU

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sought a preliminary injunction to force me to change operations in accordance with what it believes are more appropriate for my jail. On May 11, the court provided narrowly focused injunctive relief to the ACLU and the inmates it represented. The judge's order stated I had shown deliberate indifference to certain inmates in the jail by not specifically identifying them as medically vulnerable under the CDC's definition. In addition, the judge provided a list of recommended actions to protect medically vulnerable inmates from COVID-19, assuming those actions do not impair the overall operation of the facility.

One of those court-ordered actions was to compile a list of medically vulnerable inmates in accordance with the CDC's definition. We decided to go a step further by compiling lists of medically vulnerable inmates taking both the CDC and the ACLU's parameters into account. Yesterday, we submitted those lists to the court, which state we have 89 medically vulnerable inmates as defined by the CDC and 390 when using the ACLU's standards.

The next step is to outline for the court a plan to either single-cell all medically vulnerable inmates or house them together in small family units to protect them from COVID-19. I can honestly say that we don't have the availability to give 89 medically vulnerable inmates their own cell without completely placing the rest of the inmate population at a heightened risk. These factors are why we decided to take aggressive action from the beginning to protect *ALL* inmates from the Coronavirus. I also have serious reservations about housing all medically vulnerable inmates together in small units, as I believe it could have dire consequences should we have another COVID-19 outbreak in the jail.

Never in my six years as your elected sheriff have I been more personally disappointed by a court's ruling. I am deeply offended the term "deliberate indifference" was applied to me and my decisions as they pertain to the operations of the Weld County Jail. I believe the entire jail staff should be commended for their diligence and dedication during one of the most trying times in recent memory.

At no point since March 1 – three days after we began planning for a possible Coronavirus outbreak in the jail – has there been more than 10 COVID-19 positive inmates incarcerated at the Weld County Jail (*There has been a running total of 12 inmates including the two arrestees noted above who were already positive when booked into the jail*). That's taking into consideration an average daily population of 589 inmates since that time (*There were 789 inmates on March 1, 450 inmates on May 18 and a low of 430 on May 16*).

Also since March 1, a total of 2,232 people have been in the custody of the Weld County Jail. With 12 total positive cases, that means we've limited the number of COVID-19 infections to .54 percent of those who have been booked into the facility.

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I think the data supports my belief that we took appropriate actions to protect *EVERY* inmate at the Weld County Jail from the threat of COVID-19, particularly when taking into consideration far more serious outbreaks that have come to light at other agencies and facilities around the state and throughout the country. We truly believe the ruling that resulted from this frivolous ACLU lawsuit forces my staff and I to take a step backward in our efforts to prevent the spread of COVID-19 in the Weld County Jail. Nevertheless, the judge issued an order and we will adhere to it to the greatest extent possible, while also maintaining the highest level of care for *ALL* inmates and staff.

I believe my jail operation has been, and continues to be, one of the finest correctional facilities in the country. I am exceedingly proud of the efforts of my deputies and staff at the Weld County Jail. I know we have done all we can to protect the public and the entire inmate population during this COVID-19 pandemic.

I don't know if the ACLU will continue its efforts to disrupt operations at the jail, but the Weld County Sheriff's Office is poised to respond to this ever-changing challenge as I consider the most appropriate legal response through the court process.

I continue to be humbled by the support shown for me and my deputies during this difficult time. I assure you the Weld County Sheriff's Office remains more committed than ever to the mission of public safety, both in the community and at the Weld County Jail.

A handwritten signature in black ink that reads 'Steve Reams'.

Steve Reams – Sheriff