

Center for the Victims of Torture

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<https://www.justsecurity.org/69468/guantanamos-covid-19-precautions-must-safeguard-detainees-rights/>

Public Facing Advocacy Writing

by [Scott Roehm](#)

March 31, 2020

[Coronavirus](#), [detainee treatment](#), [Guantanamo](#), [torture](#)

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My colleague Daphne Eviatar wrote an excellent [piece](#) last week about the human rights implications of a war against COVID-19, in which she rightly observed that [t]he half a billion dollars spent per year to run an offshore prison for 40 men denied fair charges or trials would surely be better put to use providing truly essential services in a time of national crisis. Of course, Daphne was referring to the detention facility at Guantanamo Bay.

But what happens when COVID-19 arrives at Guantanamo? Sadly, that's already happened: The first case of COVID-19 was [reported](#) on March 24. A member of the U.S. Navy stationed at the base tested positive. And while the sailor is apparently not involved in detention operations, the virus local presence, coupled with certain measures that the Defense Department is undertaking to prevent a larger outbreak, endanger both the detainees and the already limited rights they have been afforded.

The 40 prisoners who remain at Guantanamo are [aging and their health is increasingly deteriorating](#), making them particularly vulnerable to the virus. For example, Saifullah Paracha is 72 years old, has had two heart attacks, and [currently suffers](#) from diabetes, coronary artery disease, diverticulosis, gout, psoriasis and arthritis. Nashwan al-Tamir has had four spinal surgeries in the last 18 months, has still not fully recovered, and continues to suffer. [Sharqawi Al Hajj](#) whom independent medical experts have previously described as at risk of total bodily collapse due to a combination of the effects of his hunger strikes and CIA torture [attempted suicide](#) late last year and his health has again significantly deteriorated (to the point that my organization and Physicians for Human Rights [wrote today](#) to Defense Secretary Esper seeking emergency intervention). The list goes on.

There is also the physical and psychological debilitation associated with nearly two decades of indefinite detention that cuts across the detainee population, as well as the reality that many of the remaining detainees are torture survivors suffering resulting physical and/or psychological damage.

Were COVID-19 to strike this population the consequences could be catastrophic, especially given Guantánamos [well documented](#) lack of medical capabilities including insufficient equipment and expertise to address atypical health needs.

But even if the virus does not reach the detainees, some of the precautions that Guantanamo is taking absent efforts to mitigate aspects of their impact could at once undermine detainees rights and jeopardize their health.

A prime example is access to counsel, which is now severely restricted due to the virus. In-person visits are essentially impossible; even if counsel were able to find a way to fly to Guantanamo, they would be required to self-quarantine for two weeks upon arrival, then for another two weeks upon return to the mainland. Attorneys cannot represent their clients if the effective price of a single client visit is four weeks of lost or reduced ability to provide them with legal services, not to mention the risks to their own health. Moreover, the legal mail courier service to and from Guantanamo was recently suspended, and while temporary measures have been put in place, there will be an impact on both the privilege and frequency of legal mail to detainees. Finally, remote access is extremely limited (especially for the high value detainees) not because it's technically infeasible, but because the Defense Department has prohibited more widespread use.

Counsel access restrictions can also have negative consequences for detainees health, exacerbating pre-existing conditions that Guantanamo has proven over time either unable or unwilling to adequately address, and all but eliminating access to independent medical experts.

Mr. Al Hajj, mentioned above, is a case in point. In August of last year, [he cut his wrists](#) with a piece of broken glass during a telephone call with counsel. He threatened additional self-harm shortly thereafter. At the time, two independent psychologists with whom Mr. Al Hajj's counsel consulted characterized him as actively suicidal. According to Mr. Al Hajj and his counsel, while his care would eventually improve, Guantanamo staffs initial response was dangerously inadequate; Mr. Al Hajj alleges that he was moved to isolating conditions in a freezing cold cell, and refused a warm blanket and warm clothes, both against the recommendations of his doctors at Guantanamo.

Mr. Al Hajj is apparently again in crisis now, but this time with minimal ability to communicate with the outside world. As a [torture survivor](#), and especially given his mental health history, Mr. Al Hajj needs trusted human connections. He cannot form those connections with Guantanamo staff a [phenomenon that is common among detainees](#) both because the United States is responsible for his torture, and because U.S. medical personnel were complicit in torture, including at Guantanamo. This increased level of isolation may well accelerate his decline.

Current restrictions will also put an end to periodic visits by independent medical experts, for the minority of detainees who continue to be seen periodically. As I explained [here](#) previously, detainees have not been able to retain independent medical experts except through litigation, and so those experts access is dependent upon counsels access.

None of this is to say that the Defense Department shouldnt take reasonable and appropriate steps, consistent with public health experts recommendations, to protect everyone at Guantanamo from exposure to COVID-19. But they dont need to further infringe upon detainees rights in the name of health and safety. For starters, the Defense Department should, immediately:

Some of these may seem like drastic measure to those who are well-versed in Guantanamos history, but they arent. Theyre reasonable and sensible steps toward safeguarding detainees rights, their health, and the health of everyone at Guantanamo in the face of the COVID-19 pandemic.

**Per section 1046 of the FY2020 NDAA, all detainees must receive evaluation and treatment that is accepted by medical experts and reflected in peer-reviewed medical literature as the appropriate medical approach for a condition, symptoms, illness, or disease and that is widely used by healthcare professionals.*

[Coronavirus](#), [detainee treatment](#), [Guantanamo](#), [torture](#)

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