

Member, Board of Supervisors
District 3



City and County of San Francisco

AARON PESKIN
佩斯金 市參事

April 14, 2020

DPH Director Grant Colfax, MD
DEM Director Mary Ellen Carroll
Emergency Operations Center
Moscone South, San Francisco

CC: Members, Board of Supervisors and Legislatives Aides
CC: Representatives, Central City, Chinatown Families & Mission SRO Collaboratives

Dr. Colfax and Director Carroll:

Thank you for responding in writing to these concerns that I and my staff have been escalating since February 2020. Given that stakeholders from San Francisco's SRO tenant community have consistently asked for public guidance (in writing as early as February 20, 2020) on preventing and containing the spread of COVID-19 in Single Resident Occupancy (SRO) hotels and to date have not received a response from your respective agencies, I am also copying representatives from the three key SRO Collaboratives, as well as my colleagues and their staff on the Board of Supervisors.

Please see my responses to your April 10, 2020 correspondence below, with Items #5 and #8 taken out of order given my strong urging once again that you implement these policy recommendations and "flatten your bureaucracy" if you want to "flatten the curve":

5. Proposal: DPH shall inform the District Supervisor and the Department of Building Inspections of the building address and confirmation of the status of the tenants' quarantine within 24 hours.

❖ **DPH/DEM Response: "By law, we do not provide patients protected health information including addresses."**

Reply: Respectfully, I fail to understand the logic of the Departments' unreasoned and dismissive response. The proposal, informed by months of real case examples, did not seek disclosure of the tenant's unit number, merely the address of the building where a positive test is reported. SRO buildings typically contain scores of units on multiple floors, hence disclosing the building address where a COVID-19 test positive occurs is not 'protected health information.' If this was the case, then the Department's announcement of the number of positive tests at



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Laguna Honda or MSC-South shelter was a gross violation of the law with respect to the many patients and residents at those locations.

While my colleagues and I fully respect and support the Public Health Officer's extraordinary powers in the midst of an emergency, those powers cannot be exercised to deny this democratically elected branch of City Hall to conduct oversight of what is still a public agency. That oversight should not be considered an extraneous burden on DPH's ability to 'get the job done.' Rather DPH and DEM can and should view the Board of Supervisors and the Department of Building Inspection as partners and collaborators to more effectively respond to the present crisis.

For example, as the DPH Director is fully aware, DPH's physician in charge made multiple errors in the handling of a recent COVID-19 case involving an elderly patient and his immediate family members who all resided in the same SRO building. The DPH physician incorrectly determined that the patient and his family did not reside in an SRO building. He thus in effect approved the instructions to the family members to self quarantine themselves (an impossibility in an SRO, which various branches within DPH have made conflicting determinations regarding). Then the DPH physician confused the identities of the family members who had prolonged exposure to the test positive patient. It was only because of the intervention of a community based organization and the staff of this Board member that the errors were identified and belatedly corrected.

The DPH Director is also aware of other cases where the various "teams" within DPH did not appropriately triage the case investigation, environmental health notification, contact tracing and quarantine/isolation of residents at a specific SRO and only after my office and a community-based organization pushed on the issue for a week did the agency follow up with the building operator and determine that no action was needed because the third case was deemed "no longer contagious" - today, that site now has 4 confirmed cases of COVID-19 and a likely fifth. It is unclear if the fourth tenant will be provided a quarantine unit, or if the fifth presumed COVID+ tenant will either. This spread was preventable.

Refusing to provide basic and non-personal information to District Supervisors and to a sister Department in the name of 'privacy' advances a destructive culture of siloization at a time when all branches of government should be working together. We would welcome a conversation with DPH and DEM to address specific and fact-based concerns regarding the privacy of individuals (e.g., disclosure of certain information could be provided in executive session of the



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full Board or a Board Committee.) But the blanket refusal to provide essential information that would assist our City to competently address and contain the contagion is not acceptable.

8. Proposal: To the full extent possible under the law, provide specific information to the owner and operators of the SRO building regarding the residence of the infected person recognizing that failure to provide specific information may put third persons including service providers, custodial and in-home healthcare staff operating in the building at risk of infection and further community transmission.

- ❖ **DPH/DEM response: In general, public health does not disclose protected health information of individuals unless there is a public health rationale or benefit that outweighs individual patient's privacy. Knowing that an individual is COVID positive does not protect residents or the public because SARS-CoV-2 is circulating in the community. All persons must assume that all buildings, rooms, and persons with whom they contact might potentially have COVID or be contaminated with SARS-CoV-2. This universal approach is the only reasonable way to stay safe and uninfected. Most persons with COVID have mild or no symptoms, and will not have a diagnosis. DPH is inspecting SROs and has provided guidance for how to prevent spread of COVID-19 in congregate living settings.**

Reply: In order to make sense of this response it would be helpful if either DPH or DEM could provide the empirical or experiential basis for their conclusion that "the only reasonable way" to clean and sanitize SRO buildings is to treat all areas of those buildings the same irrespective of where there is a sick and contagious person living in or near those areas.

It would be helpful in part because DPH's own order directs those who actually have to do the work of cleaning and sanitizing SRO buildings (i.e., janitors and maintenance people) to treat "areas used by ill persons" *differently* (see, SF DPH, "Minimum Environmental Cleaning Standards For Businesses, Schools, and SRO Settings"). Without information about where such persons are located it is practically impossible for janitorial staff to provide deep cleaning for a four or five story SRO with 20 to 25 bathrooms every day of the week as if they all were contaminated by an ill person or persons.

DPH's assertion that it alone knows "the only reasonable way" to clean SRO buildings is consistent with a pattern of rigid and non-collaborative decision-making which is generating a series of edicts that may in general be correct but in detail are hard if not impossible to follow in practice. Such insular and top down leadership (particularly from officials who - respectfully -



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stakeholders have collectively spent a considerable amount of time educating about the SRO building typology and community they are woefully unfamiliar with) may also be putting residents and workers at risk, particularly if DPH refuses to provide essential information to workers who are doing the hard work of caring for vulnerable populations, cleaning bathrooms, and maintaining housing.

We therefore urge the Department Directors to consider if it is *possible* that janitors, social workers, and other site staff with limited access to scarce Personal Protective Equipment (PPE) might find it helpful for their own safety to know when they may be walking into a confined space with a person who has tested positive for COVID19 or whether they must expend their limited PPE to treat all spaces in the same way?

If this on-the-ground reality is possible we also ask if DPH may be failing to fulfill its obligation to protect members of the public from infection (including site staff) by failing to exercise its authority under 24 CFR 512(b)(1)(iv) to inform those persons who may otherwise be exposed to infection of the known presence of COVID-19 test positive residents in the confined spaces that are SRO's?

As of today, there still has not been a formal confirmation that DBI inspectors be given the same access to information that DPH inspectors have been given to protect their safety, despite the DBI Housing division's repeated requests for over a month. This failure to collaborate with other mission critical city departments is unacceptable.

Finally, we urge you again to formalize and publish clear SRO protocols and guidance to SRO stakeholders, so that SRO operators and tenants are not receiving different guidance from various Department staff. For example: whereas CDC/DPH guidance had previously been given to members of the public (including SRO residents) to abstain from wearing masks, that guidance has since been reversed, and all members of the public are encouraged to wear masks. Thank you for releasing masks from the EOC to be distributed to SRO residents. The SRO Collaboratives have asked my office to request that clear protocols on who should receive limited masks and how they should be worn also be distributed along with the masks.

- 1. Proposal: DPH to instruct the health care provider to hold the person for transportation to a hotel unit and under no circumstances shall the person be released to self-isolate in their SRO.**



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- ❖ **DPH/DEM Response: Today [April 10, 2020] we are completing a Health Advisory that will be issued shortly to all providers and testers to assess patient's ability to self-isolate or quarantine. These include risk factors for transmission or adverse outcomes to enable PUIs and COVID-positive patients to be isolated in an appropriate location. We are also finalizing, with the City Attorney, Standing Orders for Isolation and Quarantine that will apply to all persons in San Francisco that are COVID positive or are close contacts to a COVID case. These orders will notify persons of their legal obligation to self-isolate or self-quarantine. A patient is considered unable to self-isolate if they do not have their own room, and/or they share a bathroom or kitchen facility with other living units (e.g., SRO), and cannot adequately disinfect spaces. This may apply to people living on the street, in a SRO, or another congregate living situation. Our DOC Containment branch is placing persons who cannot self-isolate into hotel isolation rooms. We are working with the EOC, the SRO Task Force and the Community HUB to improve notification, placement, support, and wrap-around services.**

Reply: As of today, I have still not seen the health advisory in question, and neither have the SRO Collaboratives and healthcare providers that my office has reached out to. Board and community stakeholders are particularly concerned with how thoroughly this information is going to be shared since we continue to have multiple examples of SRO residents who have contacted multiple providers and have all been told to self-isolate in SROs. Currently it is our office's experience and the SRO collaboratives' experience that no SRO tenants has ever been assessed and offered an isolation room at the moment of contact with their medical provider and only after multiple interventions by community advocates and my office have people been placed.

Additionally, my office gave feedback on the original health order that all agencies should be operating off of the same definition of SRO hotel. To date, we are still waiting for DPH to accept the SRO definition outlined in Chapter 40 of the Administrative Code and enforced by DBI. SRO's continue not to be tracked or accurately counted, as a result.

- 2. Proposal: DPH Isolation & Quarantine team Containment Branch shall immediately begin assigning resident patients (including exposed family unable to self-isolate) to isolation hotel units and arrange for transportation.**



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- ❖ **DPH/DEM response: Hotel rooms have been identified and brought online in collaboration with the Human Services Agency. DPH Containment Branch does this now. All people are assessed and transported safely in collaboration with EOC that taps paratransit and EMS non-emergency transportation through a central dispatch.**

Reply: Thank you for your work to prioritize SRO residents in hotel quarantine units, with the understanding that in several cases (via the SRO Collaboratives) where either quarantine guidance has not been consistently applied across cases, or a SRO resident may have refused to quarantine because of contradicting advice from DPH staff, that DPH/DEM's failure to act has led to the spread of COVID-19 in the building, despite the urging of SRO tenant organizers to take action.

3./4. Proposal: DPH Notification to SRO Building Owners

- ❖ **DPH/DEM response: DPH's Department Operations Center Community Branch makes several attempts to notify an SRO building when they receive notification of a COVID-19 positive patient who lives in an SRO. In most cases, this occurs within 4 hours of notification. Please see response to question 4 for when contact cannot be made.**
- ❖ **DPH/DEM response: When contact cannot be made with the SRO building, DPH's Department Operations Center Community Branch staff reach out to the SRO Task Force to help provide contact information. Moving forward, DPH will also ensure contact is made with the SRO Collaborative, when needed, in order to request help in reaching an owner or operator in a timely manner.**

Reply: There still seems to be a lag time between DPH team information sharing and coordinating with property owners. We know of at least four recent cases where property owners had no idea that there were COVID+ cases on site. It is urgent for the Department(s) to nail down this process immediately, as well as start enforcing cleaning of SRO's where COVID+ cases have been documented. We are aware of at least one owner who resisted accepting *free* cleaning services for over two weeks after the first COVID+ case was confirmed and while the virus spread. This is unacceptable.



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6. Proposal: Establish a DPH hotline for SRO residents that would respond to questions about accessing COVID-19 health screenings and testing, including for those without access to a healthcare provider, and concerns regarding unsanitary conditions for DPH/DBI inspection follow-up.

- ❖ **DPH/DEM response: The City has an SRO Community HUB that will provide education to buildings and the SRO Collaborative. We are exploring the possibility of adding a staffed hotline for this purpose. A PUI (person under investigation) is a person with symptoms that has been tested for COVID-19. Typically, a PUI has a risk factor such as travel from an affected area or close contact with confirmed COVID case. A SRO resident “exposed” to a COVID positive person does not automatically make them a PUI. Close contact with an infected person does not necessarily mean they will become COVID positive or a person under investigation. The term close contact is defined by the CDC. Exposure requires that an individual who has had contact with a known COVID positive person. ‘Contact’ is defined as a 10-minute contact without a facial barrier, and within 6 feet of space.**

Reply: SRO tenants continue to tell our offices that they are receiving different guidance with respect to “close contact” and who is at risk in an SRO. We look forward to seeing this “SRO Community HUB” being implemented (you mention this as a model that the City currently has in place - as an elected representative who has represented a district with the highest density of SRO’s in the City on and off for the past twenty years, this is frankly news to me).

My office and stakeholders have long been concerned with the lack of direct outreach and education to SROs residents, especially given that a lot of the outreach that has been done has not been culturally competent and geared towards low-income communities. We urge you to implement a staffed Hotline (just as you have for Business Employers and other categories of COVID-19 impacted demographics) as we believe that would be an incredibly effective method to reach these tenants. After months of asking, it is still not clear to us what the most immediate barrier is to getting a Hotline up and running. If there are additional resources that the Board of Supervisors can provide to your respective agencies to ensure that action is finally taken, we are ready and willing to help.

9. Proposal: Create a centralized database that is shared across all DPH teams, the SRO Working Group and DBI of SRO addresses and action items without including patient names. (Internal Database)



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- ❖ **DPH/DEM response:** DPH is planning to develop an internal database of aggregated information for congregate settings including SROs. The database will be used to develop and monitor performance metrics (environmental health inspections, violations, etc.). Because most people with COVID have mild or no symptoms and therefore are not diagnosed, it provides a false sense of security focusing only on known diagnosed cases (which recover with likely immunity). DBI inspectors should operate as if (a) every room in every building has an infected person, (b) every highly touched surface at work and in the field is contaminate with SARS-CoV-2, and (c) they and their co-workers are infected and contagious.

Reply: Again, the different standards being applied to DPH and DBI inspectors in terms of access to notifications around potential exposure is disturbing. The Department of Building Inspection Housing Division has been asking for months to have access to the same building notification information that DPH gives its own staff. They have asked that it not only include SRO's but all housing, as they are inspecting all housing during the Shelter in Place. In fact, it was DBI that was inspecting SRO's during the periods of time that DPH stopped inspections due to a lack of PPE. To date, there are still over 50 SRO's that have had no contact with either Department or inspection - this number has remained fairly consistent for weeks now.

10. Proposal: Create a public DPH Dashboard which should include raw numbers about how many COVID+ cases are SRO residents, shelter residents or street homeless.

- ❖ **DPH/DEM response:** The City is evaluating its ability to collect and share this information in a standardized way.

Reply: Thank you for working with our office and DataSF to get the public Data Tracker Dashboard up and running last week. It is a good start, and I will be introducing a resolution at the Board today to further build on the need for transparency of additional data sets.

11. Proposal: Issue a public/written directive to all testing sites, hospitals and health clinics as to appropriate interview questions for patients being tested which specifically include questions about whether the individual lives in an SRO hotel/congregate site with shared bathrooms, kitchens or other facilities. Testing sites shall immediately notify DPH of a PUI/COVID+ patient who confirms they live in an SRO or at-risk congregate site.

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- ❖ **DPH/DEM response: DPH will be issuing a health order and health advisories that will provide specific information and guidance on the information referenced above.**

Reply: (See reply to Proposal #1.) Again, I have yet to see either a health advisory or the above referenced health order, but I look forward to reviewing with relevant stakeholders.

Thank you again for your expedient response to these concerns,

A handwritten signature in black ink, appearing to read "Aaron P." followed by a stylized flourish.

Aaron