

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT, DIVISION ONE

JUAN AYALA et al.,  
Petitioners,

v.

THE SUPERIOR COURT OF SAN  
DIEGO COUNTY,

Respondent.

THE PEOPLE,

Real Party in Interest.

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STORMY ANDERSON et al.,

Petitioners,

v.

THE SUPERIOR COURT OF SAN  
DIEGO COUNTY,

Respondent.

THE PEOPLE,

Real Party in Interest.

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Case No. D077460  
San Diego County  
Super. Ct. No. SCD283843

Case No. D077461

San Diego County  
Super Ct. No. SCD282146

**APPLICATION TO FILE AMICI  
CURIAE BRIEF AND BRIEF OF  
AMICI CURIAE IN SUPPORT OF  
PETITIONERS JUAN AYALA AND  
STORMY ANDERSON et al.**

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## APPLICATION FOR LEAVE TO FILE AMICUS BRIEF

Pursuant to California Rules of Court, rule 8.200(c), *amici curiae* are classes of individuals incarcerated throughout the state of California, described more fully below, who respectfully request permission to file the attached brief in support of the application for emergency writ filed by Petitioners Juan Ayala, Stormy Anderson, Patricia Hastings, and Rashad Warren. The undersigned counsel are appointed class representatives of the majority of incarcerated people in California—including in the California Department of Corrections and Rehabilitation (CDCR)'s 35 prisons and in jails across the State—in class action lawsuits seeking to ensure constitutionally adequate medical and mental health care and to protect people with disabilities. As described more fully in Appendix A, our organizations are counsel for certified classes of incarcerated people in the jails in the following counties: Alameda, Fresno, Monterey, Riverside, Sacramento, San Bernardino, Santa Barbara, Santa Clara, and Yuba. We are daily engaged in efforts to stop the entry and spread of COVID-19 into California's jails.

The ongoing and unprecedented COVID-19 pandemic poses a grave threat not only to the over 4,000 prisoners incarcerated within San Diego County's seven jail facilities but also to the many staff who work within the Jails as well as the surrounding communities and hospitals. *Amici* are intimately familiar with the risks posed by correctional facilities, which are unique environments where individuals are housed and transported in close proximity, surfaces may be touched by hundreds of individuals within a given day, proper social distancing is impossible, and new people are constantly being

booked and introduced into the population. This brief is based on *Amici's* extensive experience with correctional systems and is intended to assist the Court in evaluating the importance of complying with the Emergency Rules Related to COVID-19, effective April 13, 2020, specifically Rule 4 which established the statewide Emergency Bail Schedule.

No party or counsel for a party has authored the accompanying brief in whole or in part, nor made any monetary contribution intended to fund the preparation or submission thereof. No person or entity, other than the *amici curiae* and their undersigned counsel, have made any monetary contribution intended to fund the preparation or submission of the accompanying brief.

*Amici* respectfully submit that consideration of the accompanying brief will assist the Court in deciding this matter, and respectfully request that the Court grant leave to file.

DATED: April 24, 2020      Respectfully submitted,

ROSEN BIEN  
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By: /s/ Gay Crosthwait Grunfeld

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# BRIEF OF AMICI CURIAE

## INTRODUCTION

The present COVID-19 pandemic is unprecedented and poses an extreme risk to the health and safety of all Californians, most acutely older adults and those with underlying medical conditions.<sup>1</sup> It is well-understood that COVID-19 is a virulent, easily transmissible virus. It spreads “very easily and sustainably between people” both through “respiratory droplets” in the air from an infected person and through “contact with contaminated surfaces or objects.”<sup>2</sup> Those with or without symptoms can widely spread COVID-19, and there is no vaccine or cure for the disease.<sup>3</sup> As a result of this easy community spread, COVID-19 has quickly become a global pandemic, shuttering businesses, communities, and nations around the world.

To save lives and mitigate the effects of the pandemic, on March 4, 2020 Governor Newsom declared a state of emergency regarding the corona virus.<sup>4</sup> The Judicial Council is the governing body for California’s state courts. The Judicial Council issued

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<sup>1</sup> See Proclamation of a State of Emergency, Executive Department, State of California, March 4, 2020, <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>

<sup>2</sup> *How COVID-19 Spreads*, CDC, updated April 13, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html> (last accessed April 24, 2020).

<sup>3</sup> *Situation Summary*, CDC, updated April 19, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html>. (last accessed April 24, 2020)

<sup>4</sup> See, *supra*, note 1.

Emergency Rule 4, the Emergency Bail Schedule, in order to “promulgate uniformity in the handling of certain offenses during the state of emergency related to the COVID-19 pandemic.” (*See* Emergency Rule 4(a.)) Despite the clear language of the Emergency Bail Schedule, the San Diego Superior Court has refused to implement and comply with the order as written, but instead has carved out exceptions under which the Petitioners are being held in the county jail indefinitely.

It is imperative that State and local authorities take all actions necessary to prevent, and mitigate, the introduction and spread of the virus into County jails. Once the virus is introduced into a densely populated, shared environment, such as a jail, it spreads quickly throughout the incarcerated population and into the larger community, with the potential to overwhelm local hospitals. Already, the virus is within the walls of many California jails. To save lives, the Court should grant Petitioners’ requests for emergency relief given the unprecedented nature of the danger posed by the ongoing pandemic and the unequivocal mandatory language in the order.

**I. During the COVID-19 Pandemic, California’s County Jails Pose Perhaps the Greatest Potential Risk to the Health and Safety of Our Communities**

The COVID-19 contagion in California’s correctional facilities is already extremely dangerous and becoming more so every day. San Diego County continues to experience an increase in COVID-19 cases. As of April 23, 2020 there were 2,645 COVID-19 cases in the

County, an increase of over 1,700 cases since April 1, 2020.<sup>5</sup> COVID-19 has already made its way into many of California's jails. See Appendix A, attached hereto. Even more than cruise ships or assisted-living facilities, California's jails are tinderboxes for infection, with thousands of people entering and leaving them each day. Incarcerated people are typically put into crowded intake pens, where they have no choice but to interact closely with many other people. They are then moved to cells or dormitories where maintaining six feet of distance from others is impossible. When they are released, they will have interacted with dozens, if not hundreds, of other incarcerated people and staff, when common sense and government directives command us to limit interaction to fight this deadly pandemic.

Meanwhile, custody, administrative, and medical and mental health staff, who are bravely serving their communities during this dangerous time, risk carrying the virus from the jails in which they work into their communities and from their communities into the jails. Jails do not have hospital wards or sufficient space for quarantining COVID-19 patients. Once incarcerated people become ill, they will be transported to local hospitals, which will quickly become overwhelmed. As of April 22, 2020, San Diego's hospitals were

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<sup>5</sup> See California Department of Public Health, California Health and Human Services Against, Open Data, California COVID-19 Hospital Data and Case Statistics, <https://data.chhs.ca.gov/dataset/california-covid-19-hospital-data-and-case-statistics> (last accessed April 24, 2020).

already caring for 318 confirmed or suspected COVID-19 patients, 125 of whom were in Intensive Care Units.<sup>6</sup> The community cannot afford to have ICU beds overwhelmed by COVID-19 cases generated in overcrowded jails. In addition to the County jail system, San Diego also has a large and overcrowded, state correctional facility, housing over 3,800 persons, where a staff member has already tested positive.<sup>7</sup>

The danger posed by COVID-19 to correctional facilities is evidenced by a list maintained by the *New York Times* of the largest clusters of Coronavirus cases in the United States, which can be viewed by scrolling down the page at the following web address: <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>. As of 8:00 p.m. on April 20, 2020, six of the eight largest clusters of contagion in the United States were at correctional facilities. At Marion Correctional Institution in Ohio, site of the worst outbreak in the country, more than 1,800 incarcerated people have tested positive at a facility that has a census of just over 2,500.<sup>8</sup> A

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<sup>6</sup> *Id.*

<sup>7</sup> See California Department of Corrections and Rehabilitation, Division of Correctional Policy Research and Internal Oversight Office of Research, April 22, 2020, Weekly Report of Population, <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2020/04/Tpop1d200422.pdf>; Maya Srikrishnan, Donovan State Prison Staffer Tests Positive for Corona Virus, Voice of San Diego, April 21, 2020, <https://www.voiceofsandiego.org/topics/news/donovan-state-prison-staffer-tests-positive-for-coronavirus/>.

<sup>8</sup> See Cooley & Woods, Coronavirus in Ohio: More than 1,800 inmates at Marion Correctional test positive, *Columbus Dispatch*,

recent piece by the Editorial Board in the New York Times noted that while “no one deserves to die of COVID-19 in prison or jail”, “more than 100 inmates already have and thousands more could if prisons and elected official do not take steps to protect the incarcerated now” including by sending home eligible inmates.<sup>9</sup> A recent report issued by the ACLU in conjunction with researchers from Washington State University, the University of Pennsylvania, and the University of Tennessee found that, if no action is taken to reduce San Diego County Jails’ population, approximately 1,317 additional people in the County will die of COVID-19, including 306 deaths in the jails (including both incarcerated persons and staff) and 1,011 more deaths in the community, due to the impact of cases stemming from the Jails.<sup>10</sup>

A number of California correctional facilities are already fighting outbreaks. One hundred three incarcerated people and fifty-five staff members have tested positive at the Riverside County Jail

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April 19, 2020, available at <https://www.dispatch.com/news/20200419/coronavirus-in-ohio-more-than-1800-inmates-at-marion-correctional-test-positive>.

<sup>9</sup> No One Deserves to Die of COVID-19 in Jail, The Editorial Board, April 23, 2020, available at <https://www.nytimes.com/2020/04/23/opinion/coronavirus-prisons>.

<sup>10</sup> COVID-19 Model Finds Nearly 100,000 More Deaths Than Current Estimates Due to Failures to Reduce Jails, dated April 22, 2020, available at [https://www.aclu.org/sites/default/files/field\\_document/aclu\\_covid19-jail-report\\_2020-8\\_1.pdf](https://www.aclu.org/sites/default/files/field_document/aclu_covid19-jail-report_2020-8_1.pdf)



including two deputies who have died from COVID-19 this month.<sup>11</sup> Sixty-one staff members of the Los Angeles County Sheriff's Department have tested positive.<sup>12</sup> In the state prison system, California State Prison – Los Angeles County and the California Institute for Men in Riverside County are hotspots of COVID-19 contagion, with 77 and 71 confirmed cases as of April 24, 2020.<sup>13</sup> Because of potential for exponential growth in Covid-19 infections in the jails, these and other facilities could soon be overrun with sickness and death.

## **II. The Population of the San Diego County Jails Remains Far Too High to Prevent the Spread of COVID-19.**

There is no vaccine or treatment for COVID-19. As a result, the only solution to avoid widespread infections, massive suffering, and loss of life is social distancing. California's general success at

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<sup>11</sup> Christopher Damien, Judge: Riverside County Sheriff's Department Fails to Prove Proper Health Care in Jails Amid Coronavirus Pandemic, Palm Springs Desert Sun, April 16, 2020, [https://www.desertsun.com/story/news/crime\\_courts/2020/04/16/judge-says-riverside-county-sheriffs-department-fails-amid-coronavirus-pandemic/5141460002/](https://www.desertsun.com/story/news/crime_courts/2020/04/16/judge-says-riverside-county-sheriffs-department-fails-amid-coronavirus-pandemic/5141460002/); Coronavirus: Riverside County sheriff's Deputy David Werksman dies from COVID-19, department's second virus-related death, April 3, 2020, <https://abc7.com/health/second-riverside-county-sheriffs-deputy-dies-from-covid-19/6073758/>.

<sup>12</sup> See Los Angeles County Sheriff's Department, Corona Virus Information Updates, <https://lasd.org/covid19updates/> (last accessed April 24, 2020).

<sup>13</sup> See California Department of Corrections and Rehabilitation, Population COVID-19 Tracking, <https://www.cdcr.ca.gov/covid19/population-status-tracking/> (last accessed April 24, 2020).

limiting the spread of COVID-19 is a testament to the power of social distancing. Alas, social distancing is nearly impossible to accomplish within California's jails absent a significant reduction in jail population. As two noted experts have concluded, jail populations must be reduced by 25 to 50% as soon as possible to enable jail administrators to attempt social distancing and take the other measures that are necessary to protect the remaining incarcerated people. *See* Schwartz and Venters, *Jail, Prisons and the COVID-19 Virus: A Monograph*, April 2020, at 4, attached hereto as Appendix B.

The County's seven jails currently house over 4,000 individuals.<sup>14</sup> This population is constantly changing as individuals continue to be booked into the jails on a daily basis while others are released back into their home communities. According to the San Diego County Sheriff's website, the County jails process approximately 100,000 people every year.<sup>15</sup> This is in addition to the hundreds of attorneys, custody, medical, and mental health staff who go in and out of the jail for work on a daily basis. While there may be no confirmed COVID-19 cases within the jails now, it is not a question of if COVID-19 will get into the jails but when.

Appendix A to this brief lists the class action cases involving jail conditions in which our two organizations are counsel with a brief summary of the counties' actions to date. As described there, a handful of county sheriffs have invoked their authority under

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<sup>14</sup> San Diego County Sheriff's Department, Daily Inmate Population Report, <https://apps.sdsheriff.net/inmatepopulation/displaypop.aspx>

<sup>15</sup> San Diego County Sheriff's Department, Detention Services Bureau, [https://www.sdsheriff.net/about\\_dsb.html](https://www.sdsheriff.net/about_dsb.html)

Government Code section 8658 to release people into the community and have taken other steps to reduce population and fight COVID-19 infection. Others have been less proactive. All of the facilities still have large populations of incarcerated people that make social distancing impossible. As a result, all of the jails are at risk of becoming overwhelmed by COVID-19.

### **III. The Judicial Council's Emergency Bail Rule Must Be Implemented to Protect Public Health**

To keep our entire State safe, we must do everything we can to safely reduce the population in the jails, including preventing people from unnecessarily being accepted into custody and releasing those who do not present a risk to the community. The Judicial Council has already taken at least one important step in this direction by issuing the statewide Emergency Bail Schedule, pursuant to which all Superior Courts have been directed to set bail at \$0 for all misdemeanor and felony offenses, with certain exceptions for enumerated violent offenses. This rule, if complied with, has the potential to help avoid introducing COVID-19 into the jails through limiting new bookings and to relieve pressure on jail staff while supporting public health goals by reducing the population in the jails to allow for increased social distancing.

Many Sheriffs and local courts are accepting the Judicial Council's directives, reducing their populations, and saving lives. Unfortunately, San Diego Superior Court is not. Allowing people like Petitioners here, who are accused of drug possession, shoplifting and technical parole violations, to enter San Diego's jails risks infecting hundreds of jail workers and incarcerated people. The clear intent of

Rule 4's mandatory language is to avoid jail admissions for low level offenders until after the Governor's Shelter in Place Order is rescinded. Ignoring the Judicial Council's mandate will only extend the duration of the pandemic and result in unnecessary illness and deaths throughout San Diego County.

### CONCLUSION

For the foregoing reasons, *Amici* urge the Court to grant Petitioners' Emergency Requests and instruct the San Diego Superior Court to comply with the California Judicial Council's Emergency Rule 4.

DATED: April 24, 2020      Respectfully submitted,

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\*Gay Crosthwait Grunfeld

DATED: April 24, 2020      PRISON LAW OFFICE

By: /s/ Donald Specter  
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**CERTIFICATE OF COMPLIANCE PURSUANT TO  
CALIFORNIA RULES OF COURT RULE 8.504(d)(1)**

Pursuant to California Rules of Court Rule 8.504(d)(1), I certify that according to Microsoft Word the attached brief is proportionally spaced, has a typeface of 14 points and contains 1,922 words.

/s/ Gay Crosthwait Grunfeld  
Gay Crosthwait Grunfeld

# APPENDIX A

## APPENDIX A

### Reports on Individual Jail Cases

#### Alameda County

*Babu v. Ahern*, Case No. 5:18-cv-07677-NC, Northern District of California

Alameda County currently operates one jail, Santa Rita Jail, located in Dublin, California. The jail has a total capacity of approximately 4,000 persons. As of April 20, 2020, in response to COVID-19, the County had reduced the population to 1,775 from 2,597 on March 1, 2020. Under the supervision of U.S. Magistrate Judge Nathaniel Cousins, the County has instituted additional sanitation practices; segregated asymptomatic high risk inmates; begun screening all individuals who enter the Jail including temperature checks; suspended in-person visitation; provided increased sanitation supplies, masks, and bar soap at no cost; and made efforts to increase social distancing by re-opening previously closed living units and staggering meal and recreation times. Despite the efforts to limit the spread of COVID-19, the Jail had its first confirmed COVID-19 case on April 1, 2020. Since then, the number of cases has continued to grow. As of April 20, 2020, the Jail has 2 staff/contractors with confirmed cases of COVID-19 and 32 inmates with confirmed cases of COVID-19 with 3 tests pending. The fact COVID-19 cases continue to increase despite the significant efforts the County has made to reduce the population demonstrates how difficult it is to implement proper social distancing and sanitation practices in the context of a correctional institution.

#### Fresno County

*Hall v. County of Fresno*, Case No. 11-cv-02047-LJO-BAM, Eastern District of California

Fresno County Jail houses people in three co-located buildings in downtown Fresno, next to the Courthouse. Since mid-February, in response to COVID-19 the jail census has fallen from 3000 to about 2440, with the reduction attributable to a drop in bookings, release of people with 60 days or less to serve, and \$0 bail. At booking, people have a verbal screening and temperature check in the sally port prior to entering the jail building. Staff are verbally checked and have their temperatures taken on arrival. We are told that all incarcerated people are now provided bars of soap upon arrival and upon request.

The jail has cleared out a full floor in one jail--90 cells that normally housed 180 people. That floor is their quarantine unit. This last week, they booked in their first positive case, and he was asymptomatic. We are told the person knew he had COVID-19, but did not reveal this until several hours after his arrival at the jail—by which time he had exposed 6 deputies and 6 other arrested people. He and the other six are now

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housed on the quarantine floor, in single cells. We are told that the nursing staff checks the quarantined patients' vitals twice daily.

About half of the housing is bunked dormitories, and many of the beds are within six feet of each other. As far as we are aware, there have been no changes to those housing areas. Starting this week, all people in custody will be issued one cloth mask. It is not clear when/how the masks will be replaced.

### Monterey County

*Hernandez v. County of Monterey*, Case No. CV-13-2354-BLF, Northern District of California

On March 18, 2020, the Monterey County Superior Court issued Temporary Jail Own Recognizance (O.R.) Policy Modifications diverting low-level offenders out of the Jail. On March 25, 2020, the County of Monterey informed us that it had presented a request to the presiding judge, which was granted, to release seventeen individuals deemed high risk related to COVID-19. As of April 21, 2020, the Jail's population is down about 30% as compared to the beginning of March, from 885 individuals to 609.

On April 15, 2020, the medical provider at the Jail, Wellpath, informed us that out of seventeen tests performed, no incarcerated person had tested positive for the virus. On April 21, 2020, Wellpath informed us that seven incarcerated people were being quarantined inside the Jail, but none had been tested because they were asymptomatic.

According to Wellpath, the Jail is providing face coverings to staff and some incarcerated people. The County reported that incarcerated people are supplied a personal bar of soap twice a week, as well as cleaning supplies after meals. The County stated that is providing free video/phone calls now that visitation has stopped.

Despite these positive steps, the Jail has not exercised all available mechanisms to reduce the Jail population and has not deployed widely-accepted public health strategies to protect those who remain incarcerated. For example, the Sheriff has not exercised his authority under Government Code section 8658 to provide for early releases. Additionally, the COVID-19 response plans provided to us by the County and Wellpath do not account for social distancing, such as utilizing unoccupied space in a recently constructed new Jail facility, increasing spaces of bunks, or directing people to stay at least six feet apart when socializing, going to the bathroom, or lining up for sick call. Finally, the County and Wellpath have not identified all medically vulnerable people in the Jail; as of April 21, 2020, there were nearly two dozen people age 60 or over still incarcerated, and at least one pregnant person. We have no evidence that these and other individuals with COVID-19 risk factors are being specially monitored or removed from congregate living areas.



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Regarding staffing, Wellpath reported that as of April 14, 2020, only one medical staff member had not reported to work. Despite our requests for information, current custody staffing levels are unknown.

### **Riverside County**

*Gray v. Riverside*, Case No. 13-cv-0444-VAP-OPx, Central District of California

The five jails in Riverside County house nearly 4,000 people. As of April 20, 2020, 103 incarcerated people and more than 50 staff members have tested positive for COVID-19. Two of the jails consist almost entirely of dorm housing, with up to 64 people crowded in very close quarters. The Sheriff has refused to consider the population reduction measures employed by other counties around the state and by prison systems around the country, insisting that Riverside is unlike every other county in that it ordinarily releases people convicted of low-level offenses. The jail population appears to have reduced by a small number due to fewer bookings, however.

The Sheriff has also announced publicly, “If you don’t want to contract this virus while in custody, don’t break the law.” See <https://www.facebook.com/RiversideCountySheriff/videos/200294147931381/> (quote at 18:20). Measures taken under his leadership to prevent spread of the pandemic in the jails were so inadequate that the Prison Law Office filed an emergency motion to ensure the County took basic steps to protect the constitutional rights of people in its custody. The court agreed, finding that the County “has failed to demonstrate that it is currently taking adequate precautions to protect the health of the prisoners in the county jails.” Minute Order, *Gray v. Riverside*, No. 13-cv-0444-VAP-OPx (C.D. Cal. April 14, 2020), at 5. The court ordered the County to “develop and implement a plan to minimize the spread of COVID-19 in the Riverside County jails, consistent with the guidance of the Centers for Disease Control and Prevention (CDC) and the Court experts.” See Order Granting Plaintiffs’ Emergency Motion to Enforce Consent Decree, (Central District of California April 15, 2020), at 1.

### **Santa Barbara County**

*Murray v. County of Santa Barbara*, Case No. 2:17-cv-08805-GW-JPR, Central District of California

Prior to the coronavirus pandemic, the Santa Barbara County Jail was consistently operating well above its rated capacity, with a prisoner census that sometime reached 135% of identified capacity. The jail has had to resort to housing people in basement areas, law libraries, and other spaces that were not designed to serve as housing units. As recently as this year, due to overcrowding in the jail, people in custody have slept in plastic structures, commonly called “boats,” that sit directly on the floor, often between or at the foot of filled bunked beds.

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According to data provided to us, as well as public jail population reports produced by the county, since the coronavirus pandemic hit, Santa Barbara County has reduced the jail population below rated capacity for the first time in many years. At the same time, the makeshift housing areas, including the “men’s basement dorms,” remain in operation. Several dorms with bunk beds lined up in close proximity have remained at or near capacity through mid-April 2020.

The “medical unit” and “mental health unit” of the Santa Barbara County Jail are tightly packed dorms utilizing bunk beds lined up with limited space between them, and they remain significantly populated. Photos that class counsel took of these housing units, which house many of the most medically vulnerable people in the facility, show the impossibility of adequate physical distancing absent very substantial population reduction.

Santa Barbara County Jail’s health care facilities and resources are ill-equipped, even in normal times, to meet the needs of the incarcerated population. As a 2017 Grand Jury found, the jail is “old, antiquated, and overcrowded.” There is no setting in the jail to medically isolate prisoners who have symptoms of COVID-19 or report recent virus exposure other than solitary confinement cells, including a small number that have negative air pressure. The county has informed class counsel that a significant number of people, including all new jail admissions, are now being quarantined in these restrictive housing units because there is no feasible alternative setting in the jails. Solitary confinement conditions in the Santa Barbara County Jail have put people at significant risk of psychological harm. In the course of their investigation, class counsel found that attempts to commit suicide were strikingly common in the solitary confinement units, at times occurring more than once every two weeks, including for one man who died as a result.

The Santa Barbara County Sheriff’s Office’s leadership and staff are working extremely hard to meet the challenge of this moment to protect against transmission of the coronavirus in the jail and to address the health needs of people in custody at the jail. Even with those efforts, on April 17, 2020, the Sheriff announced that a person in custody Jail had tested positive for COVID-19 approximately 16 days after he was booked at the jail.

Class counsel has learned of nearly 100 people (approximately 15% of the total jail population), including both pretrial and sentenced, who have been identified by health care staff as having one or more factors making them high-risk for severe illness from COVID-19. While some of those people have recently discharged from the jail, the large majority of them remain in custody.

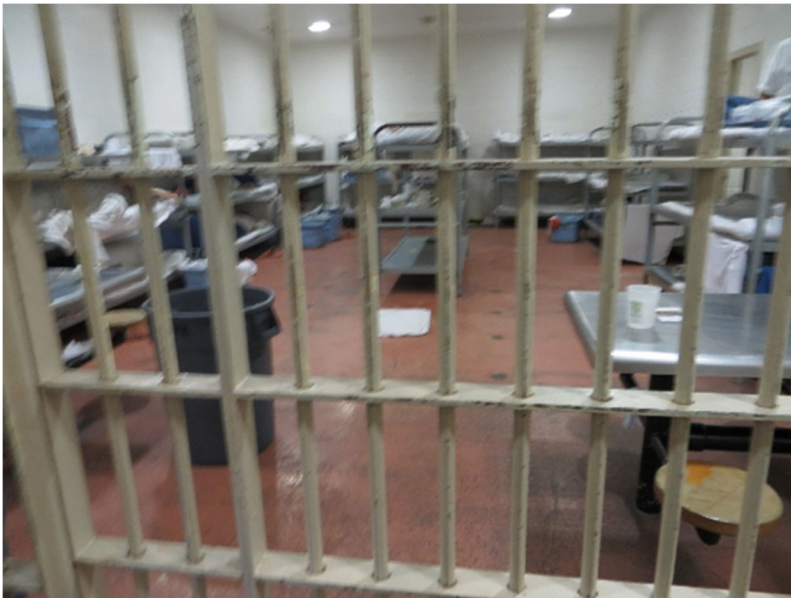
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Photo: Medical Dorm, Santa Barbara County Jail (June 2016)



Photo: Mental Health Dorm, Santa Barbara County Jail (June 2016)



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### San Bernardino County

*Turner v. County of San Bernardino*, Case No. 5:16-CV-00355-VAP (DTBx), Central District of California

San Bernardino operates four jails—West Valley Detention Center, Central Detention Center, High Desert Detention Center, and Glenn Helen Rehabilitation Center—which usually house around 6,200 people. As of April 19, in response to the COVID-19 pandemic, the County had reduced the population to 4,958. This reduction is attributable to a drop in bookings, \$0 bail, and the release of some people held pre-trial or on probation holds. The County has not provided for early releases for any sentenced individuals. Despite the overall population reduction, many of the dorms remain above 2/3 capacity, with approximately 500 people living in dorms at or above 90% capacity.

Class counsel has been told that the County has taken steps to prevent the spread of the virus in the jails, including cancelling visiting, providing free soap and masks to the incarcerated population, conducting more frequent cleanings, and screening all individuals who enter the jails, including with a temperature check. However, as of April 20, one incarcerated person and eight officers have tested positive for the virus.

### Sacramento County

*Mays v. County of Sacramento*, Case No. 2:18-cv-02081-TLN-KJN, Eastern District of California

Sacramento County’s jail system consists of two facilities, the Main Jail and Rio Cosumnes Correctional Center (RCCC). Both of these facilities are poorly designed to provide adequate health care services, even without a pandemic. The former chief of correctional services stated that the health care facilities are “severely outdated and inadequate for providing services to our inmate population.” Alexandra Yoon-Hendricks, “\$89M expansion set for Sacramento County Jail: Here’s why the need is called ‘critical,’” Sacramento Bee, April 26, 2019.

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Photo: Medical Unit, Sacramento County Jail (RCCC) (July 2016)



Custody and health care staffing shortages have long compromised the provision of adequate treatment for people in Sacramento County Jails. In reaching a court-approved settlement, Sacramento County “agree[d] that the custodial and health care staff must be increased to meet minimal constitutional and statutory standards.” The County acknowledged that “[p]resently, there are insufficient deputies to supervise out-of-cell activities for people in the general population and administrative segregation, and to provide security for health-related tasks.” Mays Consent Decree, at 3.

There are also persistent concerns about sanitation and hygiene in the Sacramento County Jails. As part of the Mays settlement, Sacramento County agreed to consult with an Environment of Care expert to “make written recommendations to address issues of cleanliness and sanitation that may adversely impact health” in the jail facilities. Mays Consent Decree, at 39.

Unfortunately, implementation of the court-approved settlement was in its earliest stages when the coronavirus pandemic hit California. Improvements to the jails’ health care facilities have yet to begin, the staffing plan to ensure timely access to adequate care remains in its initial stages, and the Environment of Care evaluation and related remediation efforts have not yet occurred.

Even with a reduction in Sacramento County’s incarcerated population since March 2020, the challenge to provide for the health and safety of people in custody remains significant during this public health emergency. There remain crowded congregate housing units that make physical distancing very difficult, if not impossible.



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Further, we understand that significant numbers of people, including all new jail admissions, are being quarantined in “Total Separation” cells in solitary confinement units because there is no feasible alternative setting in the jails. Placing people requiring quarantine in solitary confinement settings may be the only feasible option due to the jails’ severe physical plant limitations. But it also means that the jail must act to protect against one serious health risk – COVID-19 transmission – in a way that exposes people to the also serious risks of harm caused by solitary confinement.

### **Santa Clara County**

*Chavez, et al. v. County of Santa Clara*, Case No. 15-cv-05277-RMI, Northern District of California

*Cole v. County of Santa Clara*, Case No. 16-cv-06594-LHK, Northern District of California

Santa Clara County operates two jails, the Main Jail located in San Jose and the Elmwood Correctional Facility located in Milpitas. These jails are subject to two federal class action lawsuits, one focused on mental health and the other on access for persons with mobility disabilities. As of April 20, 2020, the Jail has had three confirmed inmates COVID-19 cases and 13 confirmed staff COVID-19 cases. Since the beginning of the pandemic the County has reduced its population by 1030 as of April 21, 2019.

The County has implemented a number of interventions to reduce the spread of COVID-19 including creating a COVID-19 Investigation Unit (CIU) to perform contact tracing and screening new bookings for fever and a strict 14-day quarantine for all new arrivals. The County has also attempted to increase social distancing through alternating bunk assignments to allow for additional space and marking lines to space individuals 6 feet apart in pill call lines.

Additionally, the Santa Clara County Sheriff asked the Santa Clara County Public Health Department to observe the measures the Sheriff’s Office had adopted to reduce the risk of COVID-19 and provide any additional guidance. The Public Health Department visited the Jails on April 10, 2020 and recommended that the County adopt the following additional measures: (1) mandatory masking and hand hygiene for all staff; (2) masking of all inmates to the maximum extent possible; (3) mandatory hand hygiene for inmates at booking, prior to inmate movement, and before meals; (4) investigating the feasibility of further decreasing the number of inmates in the Minimum Camp barracks; and (5) considering pharmacy policies that help reduce the number of inmates congregating at pill call.

The success at limiting the spread of COVID-19 among the incarcerated population appears to be largely due to the strict quarantine for all new bookings, the

## APPENDIX A

efforts of the CIU to perform contact tracing, the involvement of the Public Health Department, and the efforts to reduce the population.

### Yuba County

*Hedrick, et al. v. Grant, et al.*, Case No. 2:76-cv-00162, EFB, Eastern District of California

Though Yuba County has taken some steps to reduce the risk of COVID-19 in the Yuba County Jail (“YCJ”) and though there have been no confirmed cases of COVID-19 in the YCJ, YCJ remains dangerous because of crowded conditions that make social distancing impossible. YCJ currently has a population of approximately 280 incarcerated people, about half of whom are immigration detainees who are in the custody of the United States Immigration and Customs Enforcement. Since the start of the outbreak, the County has reduced the population in YCJ by approximately 100 people through a combination of decreases in the number of intakes and some limited early releases and alternative forms of detention (GPS). The County also is isolating new prisoners for fourteen days in two housing units set aside for that purpose; housing some medically-vulnerable incarcerated people in a separate facility; providing additional cleaning supplies and soap to incarcerated people and staff; providing masks to all staff; and having staff sanitize common surfaces (showers, sinks, toilets, booking cells, counters, etc.) at least daily.

The County has, however, admitted that effective social distancing remains impossible for the vast majority of the jail population, most of whom are housed in crowded dorm housing units in which people sleep within a few feet of others and share showers, sinks, toilets, tables, seats, and other features that can serve to transmit the disease. And all individuals who are being isolated for fourteen days at the start of their confinement and who may develop COVID-19 symptoms are or will be held in what amounts to solitary confinement, exposing such people to additional, well-established risks of harm.

**APPENDIX A**

Photo: Dorm Room, with Multiple Bunk Beds, Yuba County Jail December 2014





# APPENDIX B

# Jails, Prisons and the Covid-19 Virus

## A Monograph

Jeffrey A. Schwartz, Ph.D. and Homer Venters, M.D.<sup>1</sup>

April 2020

### What is this?

This is a self-published monograph. The situation with the Coronavirus and US jails and prisons is an emergency. Both authors have previously published professional articles and books but this cannot wait the months that normal publication would require. It is the authors' hope that this will be immediately useful to policy makers, correctional professionals, inmate advocates and others. This work may be reproduced and/or distributed without cost if the reader so desires.

### Why is this crucial?

- Almost everyone recognizes the unique danger that the Coronavirus presents to nursing homes.
- Many people do not understand that this pandemic poses a greater and much more complex threat to US jails and prisons.
- The highest density housing in the US is not in hospitals or nursing homes, it is by far found in our jails and prisons.
- The US nursing home population is approximately 1.5 million but the US jail and prison population is approximately 2.3 million.
- Jails and prisons also have an extremely disproportionate percentage of people at high risk from the virus because of pre-existing medical problems.

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<sup>1</sup> Jeffrey A. Schwartz is a criminal justice consultant in Campbell, California. He has worked with law enforcement and correctional agencies for over 35 years and is a recognized expert on use of force, security and jail and prison operations. Under the auspices of the National Institute of Corrections, US Department of Justice, Dr. Schwartz has published two book-length monographs on emergency preparedness for correctional facilities. Homer Venters, MD, is the former Chief Medical Officer for the NYC Jails. He is currently the President of Community Oriented Correctional Health Services and a Clinical Associate Professor at NYU's University College of Global Public Health. His recent book, "Life and Death in Rikers Island" reflects his experience in correctional health.

- Jails and prisons are not closed systems. There is always substantial interaction with surrounding communities. Positive cases inside a correctional facility are a threat to those communities.
- Failure to implement common sense infection control and other measures to slow the spread and impact of COVID-19 will result in serious threats to security behind bars.
- Just in the last several weeks, because of the coronavirus, a prison riot in Italy left 11 dead, in Columbia 23 were killed, this week an entire prison in Manchuria was sent afire. A major disturbance erupted at the Monroe prison in Washington State three days before this was published, followed yesterday by a riot at a maximum-security state prison in Kansas.
- To go from general to specific, what will be done with the female inmates who are pregnant? Leaving them locked up and targets for the virus does not seem realistic.
- When medical staff at hospitals cannot get PPE supplies, there is no way correctional staff or inmates can expect appropriate equipment for protection or, in most cases, for testing. It is not just the inmates, correctional staff are also afraid of this virus. That fear is realistic.
- Unfortunately, all of this comes after years of decreasing budgets for correctional facilities and at a time when many correctional facilities have extraordinary numbers of unfilled staff positions.
- Without significant changes in jail and prison operations, numerous preventable deaths will occur among staff and inmates alike, and thousands of correctional staff will leave their profession due to physical and psychological disability.

### What is this – and What is it Not?

- This is an attempt to identify key issues and helpful strategies that are specific to jails and prisons.
- This is not a discussion of medical treatment issues for identified Covid-19 patients.
- This is also not a detailed, “How to do it” manual. Issues, alternatives, strategies, problems and the like are identified and discussed at a general level but most of the details are, and must be,

left to local managers and decision-makers. As with so much in this world, one size does not fit all.

- The goals here are simple: reduce the spread of Covid-19 in jails and prisons among inmates and staff; and to reduce the likelihood of major disturbances in jails and prisons caused by the virus.

### What won't Work

- The traditional response to emergencies in jails and prisons is lockdown. That is also the usual response to short term, extraordinary staff shortages.
- Historically, lockdowns have been effective if they were relatively short, well understood by staff and inmates and particularly if they were intended for inmates' safety.
- With this pandemic, a partial or complete lockdown may seem to be the obvious answer since it stops most movement and most large-scale congregate situations (recreation, feeding, etc.).
- Unfortunately, lockdowns also increase the pressure on the inmate population. If that is added to their fear of the virus, the inevitable rumors and staff shortages, it can be a recipe for riot or other disaster. A lockdown may work initially but there must be a transition to some mode of operation that works for inmates.

This monograph has eight sections. Some are interdependent.

- I. Depopulate
- II. Medical Isolation
- III. Infection Control
- IV. Communication with Staff
- V. Communication with Inmates
- VI. Emergency Response Issues

## VII. Inmate Mental Health Issues

## VIII. Other Operational and Security Issues

### I. Depopulate

- This should be the first step and it is a necessity. The next two sections are heavily dependent upon this.
- Failing to adequately depopulate will likely mean that the prison or jail is compromised or simply fails in appropriately segregating offenders and/or in infection control.
- There are many reasons to reduce the facility population in this pandemic.
  - The first reason is that an individual has far less chance of becoming infected in the community than in a jail or prison population.
  - The second reason is the facility desperately needs more space to control infection risk.
- This does not mean reducing a 2000 bed prison by 160 inmates, or reducing a 900-bed jail by 50.
- For other major strategies to work, the facility reduction in population should be in the 25% to 50% range.
- This will be easier for jails than state prisons.
- Jail strategies should include:
  - Release individuals who are close to the end of their sentences.
  - Release individuals who have less than \$25,000 bail (or \$20,000 Or \$50,000).
  - Release nonviolent offenders, including people held for technical violations of probation or parole.
  - For all but very serious felonies, police and sheriffs' deputies should cite and release in the field (obviously with exceptions for identity issues, medical and mental health treatment issues, etc.)
  - For prisoners who are brought to the jail, release on O R wherever possible.

- Expand or begin Home Arrest. Many jurisdictions already use it.
- Depopulating is different and more difficult for state prisons than for jails:
  - Generally, prisons house more serious offenders than do jails.
  - Prisons can release offenders near the end of their sentences, nonviolent offenders, and aged or infirm individuals who represent little or no threat to the community.
  - Unlike jails, depopulation must be very different for different prisons. A “supermax” prison may have almost no one eligible for immediate release. A minimum-security prison or a work release center may be able to release almost everyone.
  - Thus, for state prisons, depopulation may be a systemwide issue rather than facility by facility. That is, in order to depopulate a maximum-security prison, some inmates must be moved to a “close custody” facility that was itself depopulated only after releases at medium and minimum facilities.
  - This does not exhaust the possibilities. There is always room for creativity. Room may be created in existing prisons by reopening “shuttered” facilities or by repurposing available non-prison facilities, however mass movements of symptomatic patients from one facility to another should be avoided, given the likelihood that this will only spread infection throughout a State and subject more inmates and staff to COVID-19.
- If all of this sounds difficult and overwhelming, it is. What may sound clear and straightforward has risks and challenges everywhere.
- Statutory authority and procedures for depopulation will vary with jurisdiction and are beyond the scope of this paper.
- At least two factors must be considered in large scale early releases:

- Re-entry is often ignored in the release discussions of COVID-19. However release has impacts on COVID-19 risks for the individual, the facility and the community at large. In general, having fewer people incarcerated will help lower the outbreak curve in a region or state. It will also help facilities manage the outbreak inside their walls
- Facilities should work with social service providers to promote access to housing and health care after release. For people in quarantine or who are symptomatic, coordination must occur with the local department of health. Many jurisdictions are expanding access to supportive housing, and this expansion should be matched to release efforts so as to prevent a new influx into homeless shelters that may create additional COVID-19 risks for residents, staff, EMS and law enforcement.

## II. Medical isolation

- Jails and prisons already segregate various groups of offenders within their overall populations. Separating sick from well residents is a basic tenant of infection control in congregate settings, but this medical isolation is a public health model that is not the same as using solitary confinement or isolation as a punitive tool. Medical isolation does not require locking everyone into a cell for 23 hours a day. And it requires much more than the cell type.
  - The largest percentage of individuals in almost any jail or prison are in “General Population”. Those offenders, with a few restrictions, can be housed with each other and “mixed and matched” as needed.
  - In addition, there are several or more specialized populations that are housed separately. Those usually include “Protective Custody”, “Disciplinary Segregation” (short term punishment for rule violations), “Special Needs” (for elderly, disabled and/or infirm), “Mental Health” and more.

- Covid-19 requires that each facility create new types of housing areas within the facility including;
  - Medical isolation, where symptomatic and COVID-19 positive patients will be housed. Most facilities have 1-4 medical isolation cells, but these are quickly overwhelmed and entire housing areas may be required with additional health staffing.
  - Quarantine, where close contacts of symptomatic patients are housed for the duration of a 14-day period.
  - High-risk housing, where people at increased risk of serious illness and death from COVID-19 infection are housed for increased surveillance.
- These new housing areas will be staff intensive, generally requiring nursing staff to conduct symptom and temperature checks twice daily. These housing areas also require significant PPE supplies for all staff and for inmates in these settings.
- As the names imply (“Medical isolation”, “Quarantine”), these new required housing areas must be physically distant from or separated from existing housing. For some facilities these will have to be large units. That will likely be impossible without a substantial depopulation strategy.
- A note about small jails. Over 2000 jails in the US are under 100 beds. It may not be possible for the 20 bed or 50 bed jail to accommodate the isolation areas and specialized medical services required in this pandemic. Some combination of depopulation and consolidation with a larger facility maybe a necessity.

### III. Infection Control

- Because of the wall to wall media coverage of the virus, this may be the area where people have the best understanding of the issues.
- Some issues are obvious:
  - Restrict in person visiting (the one step that has been widely used around the country).
  - Are there masks for all staff (custody and non-custody)?
  - Disposable gloves are generally available. All staff should wear them.



- Do inmates have access to facial coverings?
- Can dining hall densities be avoided by feeding in cell or reduced by extending meal times and/or increasing the number of seatings?
- Where else, in addition to actual housing, is inmate density an issue, and what are the alternatives? Recreation yards? Day rooms? Showers? Prison industries? Educational/ vocational training? Religious services? Pill call/ sick call? etc.
- Even the loading dock is a challenge. Jails and prisons require frequent deliveries and use large quantities of food, supplies and other materials. How can deliveries be sterilized so they do not bring the virus into the facility?
- Experienced correctional managers can identify each of these situations easily and usually identify alternatives that increase social distancing.
- However, those changes may be difficult and may create security risks. For example, a large correctional facility that feeds in large dining halls can switch to in-cell feeding but that may require substantially more staff on two of three shifts and creates problems ranging from sanitation to food temperature to contraband control and more.
- Create a plan for broadscale testing of staff and the inmate population for when that becomes feasible and when advised by the local health department.
- Some issues are not obvious:
  - Medical staff in jails and prisons know how to use PPE. The rest of the staff, custody and non-custody, do not. Have they been trained?
  - Inmates clean their own cells and dormitories and inmate workers typically clean common and public areas. But the cleaning liquids used may range from 80% bleach to 0% bleach and the latter maybe useless as a disinfectant against the virus.
  - If staff are wearing gloves during most or all of their shift, how will they learn not to touch their face during the entire workday? How often are they trained to change gloves and masks and are they trained about high risk settings?

- For most facilities, the priority for inmate testing and inmate PPE will be inmates involved in food preparation or food-service, inmates involved in laundry operations and inmates involved in sanitation. At a minimum, those inmates should have a temperature check every day prior to their work assignment.
  - Thorough cleaning cells, walls, floors, tables and equipment should be daily. That can be an advantage in creating more inmate jobs when there is little other activity in the facility. However, the trade-off is the need for more staff supervision and more challenge maintaining social distance among inmate workers.
  - Another example is clothing. Inmate dirty laundry should be treated as infected material and laundered to hospital standards. Street clothes from inmates booked after the onset of the pandemic must be sterilized rather than just stored.
- Because many staff are working after exposure to COVID-19 cases, their supervisors need to ensure that the recommended measures are in place to ensure their safety and that of people around them, including verified self-monitoring multiple times per day, cleaning of computers and other equipment and additional PPE training.

#### IV. Communication with Staff

\*\* In the week prior to publishing this monograph one of the two authors had spoken with more than 20 correctional officers by phone in several different agencies. Most had recently been issued masks. None had been told how to use them, when to use them or given any information about the situation in their own prison or jail.

\*\* Hopefully, it will not offend many to note that in the best of times correctional agencies are less than renowned for communicating effectively with frontline staff. With the virus, it can be a life-and-death matter.

- Communication with union(S) or staff Association(S)
  - This is not a substitute for direct communication with the frontline staff.
  - Meetings and briefings should be much more frequent than during normal times
  - Management should not wait until asked. Be proactive.
  - Whether a meeting or a briefing, allow time for questions.
  - Two-way communication includes the need to listen carefully.
  - Avoid confrontations and ultimatums, from either side.  
Remember that working conditions are far from normal. Many staff are tired, scared or angry or some combination of those.
  - Clear, honest expressions of appreciation for the work being done under the most challenging circumstances, are always appropriate.
  - It makes sense to ask the union or association to partner with management in assuring that staff are well-informed both about the situation and about how to stay personally as safe as possible.
  - These steps make sense whether facility is a small jail or a large prison and whether it is a large, powerful union or a small informal professional association.
- Ignore this issue at your own peril. Are you really prepared for a staff walk out in the midst of this pandemic?
- Direct Communication with staff
  - This is not a substitute for ongoing communication with staff union(s) or associations.
  - While most communication with frontline staff is through mid-managers or supervisors, this situation demands more. Top administrators must arrange “all staff” meetings. If that requires 3 to 5 meetings, including weekends and nights, in order to meet all shifts, so be it.
  - Here again, the premium is on two-way communication with particular emphasis on hearing the needs and concerns of first-line staff.
  - This is not solely about custody staff. Medical staff, mental health staff, educational staff, food service, maintenance, --

everyone in the facility is at increased risk and everyone deserves full and accurate information and an opportunity to be heard.

- If it is not a necessity it is at least a best practice for top managers to alternate weekends, evenings and nights in order to provide top management presence on as close to a 24/7 basis as possible. When top managers are in the jail or prison nights or weekends they should not be at their desks. They should be on the floors and in the living units talking with frontline staff and supervisors, but also talking with inmates much of the time.
- Frequency: it is almost impossible to spend too much time communicating with staff or doing it too frequently.
- Need for accuracy and candor: this emergency is no time for spin, delay or obfuscation. You must recognize that the staff you are talking with will often have more current or more accurate information than you do. Insincere or intentionally inaccurate information from management will spread through the staff grapevine, and perhaps the inmate grapevine, like wild fire.
- If there is a death in the facility, or some other tragic event, staff should hear about it from management before they hear about it from other staff or from inmates. And the information should be candid and accurate.
- Top management must impress upon mid-managers and supervisors that their responsibilities with lines staff are crucial. It only takes a few individuals in key positions engaging in rumor mongering, fear or negativity to create a facility-wide crisis.
- Managers and supervisors must be particularly aware that some staff may react to the pressure of the situation by taking it out on inmates. Good managers and supervisors already know which employees tend toward “anti-inmate” attitudes. In this situation, those employees must be monitored carefully and reassigned or otherwise dealt with if necessary. Otherwise, they may constitute a recipe for disaster.
- Rumor control: rumors should be expected, not a surprise. The inmate population will not be better about circulating outrageous rumors than the population outside the facility. All rumors should be

taken seriously. They should be answered as quickly as possible and the answers typically should be repeated.

- Some rumors may be disturbingly accurate. They may force management to provide information that was not yet scheduled for release.
- Rumor control should be a day-to-day or hour-by-hour exercise for the duration of the emergency and should involve top management.

## V. Communication with Inmate Population

- Most of what holds true for communicating with staff also applies to communicating with the inmate population. In most facilities, what is discussed with the staff is soon understood by the inmates.
- Frequency is key. The more frequent the better, for both formal and informal communication.
- The need for candor should be obvious. Even unintentional inaccuracies can create serious problems.
- As with staff, communication with inmates must be a two-way street and there must be opportunities for question and answer. If a question cannot be answered because of confidentiality or even because the answer might cause serious security problems, then say you cannot answer rather than deflecting or pretending you do not know the answer.
- To the extent possible, announce changes in advance. It is better to get a bad reaction in a meeting than in the midst of a change.
- Increase or initiate Townhall meetings (with each living unit a Town hall). They are a particularly good way for top management to interact with groups of inmates. However, issues raised and commitments made require serious follow-up.
- Extend phone usage. With family visits cancelled and most programming sharply curtailed or canceled, inmates will feel isolated. Provide as much phone usage as possible. Continue with approved inmate call lists but decrease or eliminate charges for outgoing calls.
- Initiate or expand video visits, for the same reasons phone usage is extended.
- Expand video court appearances.

- Waive all medical and mental health co-pays.
- Provide education about COVID-19 for inmate populations. Lots of it. The better the inmates understand the pandemic, the less the chance that crazy rumors take hold.
- If these measures seem extreme, understand that the combination of staff shortages, fear and a lengthy lockdown create a pressure cooker. It is important for management to provide the relief valves rather than leaving that to the inmate population.

## VI. Mental Health

- Increased isolation is likely to negatively affect many inmates with serious mental health conditions. Fear and uncertainty are not considered therapeutic either.
- Increased isolation can also create a mental health crisis for general population inmates.
- Under pressure, even groups like long-time inmate workers, minimum security inmates and honor dorm residents can have acute mental health issues. Do not assume any group is okay without checking.
- Suicide risks are likely to increase.
- Expand mental health services; add staff from outside agencies where possible. The goal should be more contacts with more inmates more often.
- Stress the need for frontline custody staff to be the “eyes and ears” of the institution, identifying non-mental health individuals who are deteriorating/decompensating. Even a careful middle-of-the-night cell check can save a life.

## VII. Emergency Preparation and Response

- Be prepared to stand up an Emergency Operations Center (EOC)
- If there is no current or realistic emergency plan for pandemic, do a quick if incomplete or superficial plan and then improve steadily. Do not get caught with nothing.
- What is your evaluation of your current riot and disturbance plan? You should do everything possible to prevent that from occurring but

the truth is, you may need that plan. And it needs to be realistic and practical.

- Various elements of the EOC can be on alert, on stand-by or activated.
- Rumor control is essential and ongoing and is best seen as part of the EOC. Rumors may originate in the offender population, the work force or the community. Even outrageous rumors must be dealt with quickly and decisively.
- Written, current and signed mutual aid agreements are mandatory. Informal does not work here. If there is a walkout or too many staff test positive or call in sick, which agency will come in to run the facility? Who will be in charge? How will they relate to/ work with your management and supervisory staff? (There are many other important questions here, ranging from use of force to inmate transportation).
- Which community hospitals are inmates sent to? It will likely be impossible to assign two staff to transport and then stay with each inmate who needs hospitalization for the virus. Can a local hospital establish a jail ward? If local hospitals are at capacity, what is plan B for your facility?
- The EOC should include an Emergency Staff Services function. What are you prepared to do for the family of a staff member hospitalized with the virus? What are you prepared to do in the event of a staff death? (and what will you do in response to an inmate death from the virus?)
- With regard to emergency staff services, the current CDC guidelines for essential staff suggest that individuals testing positive but not sick may continue to work if they wear a mask and carefully follow several other crucial protocols. Many of those staff will not want to go home after work, fearing that they will infect family members. Since hotels and motels are almost empty, can you make arrangements to “bivouac” those staff at no cost to them, at a nearby hotel or motel?

## VIII. Additional Operational and Security Issues

- This section must be completed locally

End