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in his official capacity as Sheriff of the Alameda
12 County Sheriff s Office; KARYN TRIBBLE in her
official capacity as Director of the Alameda County
13 Behavioral Health Care Services Agency;

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA/SAN JOSE DIVISION

16
17 ASHOK BABU, ROBERT BELL,
IBRAHIM KEEGAN-HORNSBY,
18 DEMAREA JOHNSON, BRANDON
JONES, STEPHANIE NAVARRO,
19 ROBERTO SERRANO, and ALEXANDER
WASHINGTON on behalf of themselves
20 and all others similarly situated,

21 Plaintiffs,

22 v.

23 COUNTY OF ALAMEDA; GREGORY J.
AHERN in his official capacity as Sheriff of
the Alameda County Sheriff s Office;
24 KARYN TRIBBLE in her official capacity
as Interim Director of the Alameda County
25 Behavioral Health Care Services Agency;
and DOES 1 to 20, inclusive,
26

27 Defendants.
28

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Case No. 5:18-cv-07677 NC

**JOINT RESPONSE RE SANTA RITA
JAIL’S COVID-19 RESPONSE**

1 Plaintiffs Ashok Babu, Robert Bell, Ibrahim Keegan-Hornesby, Demarea Johnson,
2 Brandon Jones, Stephanie Navarro, Roberto Serrano, and Alexander Washington (“Plaintiffs”)
3 and Defendants County of Alameda, Gregory J. Ahern, and Karyn Tribble (“Defendants”)
4 (collectively, the “Parties”) jointly submit the following Joint Response regarding Santa Rita
5 Jail’s COVID-19 Response.

6 **DEFENDANTS’ RESPONSE**

7 Defendants continue to work around the clock to address the COVID-19 pandemic.
8 Defendants provide the following updates and responses to the Court’s “Order After April 2
9 Status Hearing Re: Santa Rita Jail Covid-19 Response.” (“Order”) (ECF 91.)

10 1. In response to paragraph 4 of the Court’s Order, Defendants began posting daily
11 COVID-19 updates on the Alameda County Sheriff’s Office website on Sunday, April 5, 2020.
12 The daily updates are viewable at: https://www.alamedacountysheriff.org/admin_covid19.php

13 2. In response to paragraph 5 of the Court’s Order, the parties have met and conferred
14 and Defendants agree to provide all inmates two free 15-minute phone calls and one free 15-
15 minute video call per week until in-person visitation resumes. This is an increase from the
16 previous offer of two free 5-minute calls and one free 15-minute video call per week.

17 3. In response to paragraph 6 of the Court’s Order, non-party Wellpath made
18 members of its medical leadership team, Jess Waldura, MD, Santa Rita Jail’s medical director,
19 and Ms. Jen Diaz, CCHP (Certified Correction Health Specialist), Santa Rita Jail’s Health
20 Administrator, available to Plaintiffs’ counsel for a one-hour interview to discuss the Outbreak
21 Control Plan.

22 4. In response to a request made during a telephonic meet and confer on April 8
23 between Defense counsel and Plaintiffs’ counsel regarding Alameda County Public Health
24 Department’s involvement, Wellpath provided the following response:

25 Wellpath, as the provider of healthcare services at Santa Rita Jail,
26 has always been dedicated to providing the highest quality
27 evidence-based care to inmates at the jail. We are also committed to
28 creating a safe working environment for our employees.

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In response to the COVID pandemic, the Wellpath clinical leadership team began drafting a comprehensive outbreak control plan well in advance of our first COVID-positive case. The outbreak control plan covers everything from screening inmates at booking, to management of suspected cases and quarantine of potentially exposed inmates along with recommendations for protecting the health of our workers. The Wellpath clinical team used all available CDC and Alameda County Public Department guidance in drafting this plan.

Upon completion of the outbreak control plan, the Wellpath team reviewed the document line by line with the Alameda County Public Health Department to ensure that they approved of it in its entirety.

As we are now encountering our first COVID positive cases our outbreak plan is in full effect, and we are meeting with the Public Health Department 3-4 times per week to discuss COVID cases and management of exposed inmates at the jail. Furthermore, we are visiting the CDC’s COVID site every few days to scan for updates and incorporate those into our most current outbreak control plan.

5. In an effort to maximize social distancing at the Santa Rita Jail, and in accordance with Centers for Disease Control and Prevention (“CDC”) “Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities,” (“Guidelines”)¹ the jail opened a new dormitory-style housing unit on April 8, 2020. Bunks in this dormitory-style housing unit are fixed to the floor and are spaced three feet apart. While bunks are not assigned in these units, Santa Rita Jail staff advise and encourage inmates to occupy every other bunk. While the goal is to have enough space to permit inmates to occupy bunks in this configuration, it may not always be possible to do so in all instances. In such cases, Santa Rita Jail staff will encourage and advise inmates to sleep head-to-foot to maximize social distancing.

6. Additional efforts to maximize social distancing were implemented on April 9 and involve changes to inmate meal and recreation times and practices.

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¹ <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>

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- a. Meal Time: Inmates in special handling units continue to be fed in their cells. Meal times are now staggered for all other inmates so as to maximize social distancing.
- b. Recreation Time: Inmates in special handling cells recreate alone. Inmates in all other housing areas will have recreation time in tiers to maximize social distancing.
- c. Prior to recreation and meal times in each housing unit, deputies will make the following announcement:

Santa Rita Jail is practicing social distancing to prevent the spread of COVID-19. For your safety please maintain 6 feet of distance between you and other inmates while having recreation time and during meal time, wash your hands frequently, wear a facemask and let a deputy know if you are feeling ill.

7. With regard to continuing increased cleaning and hygiene efforts at Santa Rita, each housing unit’s common areas, including the pod and dayroom, are cleaned by inmate workers before meal/recreation time and at the conclusion of meal/recreation time. All staff adhere to a station order directing that cleaning be conducted twice daily at 0800 hours and 1800 hours. Inmates will be allowed access to cleaning supplies and have the ability to clean their cells. Sergeants validate that cleaning takes place in compliance with the station order and notify the watch commander.

- a. In light of testing confirming that COVID-19 positive inmates having been in HU7, HU31 and HU32, and in addition to the steps outlined above, Santa Rita Jail hired professional forensic cleaners to perform a high-pressure cleaning of each cell, all common areas, day areas, showers, and bathrooms in these units. This professional forensic cleaning was completed on April 8.

1 b. Alameda County Sheriff's Office submitted an emergency purchase order
2 through the Office of Emergency Services, which is currently activated
3 during the pandemic, for a UV-C Disinfecting Robot System. This system
4 is intended to sanitize large areas, to include Housing Unit dormitories,
5 dayrooms, dining areas, inside cells and equipment. It is unclear when this
6 system will arrive.

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8 8. Tablets continue to be rolled out to the housing units for inmate use with
9 significant free content. HU3, 4, 6, 9, 21 and 24 currently have tablets; HU 7, 8 are scheduled to
10 receive tablets this week. HU 1, 2, 22 and 23 are scheduled to have tablets rolled out by the end
11 of the month, with the remaining housing units set to receive them during the first week of May.

12 9. On April 8, Wellpath advised that it is planning to increase "telehealth" services
13 wherever possible and is asking its providers (physicians) to move to a telehealth model during
14 the peak of the pandemic. Among other things, Wellpath also advised that it is moving towards
15 more patient care through increased use of keep-on-person "KOP" medications. Santa Rita Jail
16 was just advised of this policy change and is evaluating its potential impacts on jail operations.

17 **PLAINTIFFS' RESPONSE**

18 As predicted, COVID-19 has begun to spread in Santa Rita Jail. The number of people
19 incarcerated in the jail who have tested positive has increased exponentially over the past few
20 days, from 1 case only five days ago to 12 as reported this morning with 6 additional tests
21 pending . Additionally, there have been 2 positive cases affecting staff or contractors at the Jail.
22 As custody staff, mental health staff, and medical care staff become unavailable due to sickness,
23 quarantine, and the need to care for children, the jail will experience significant staff shortages.
24 Defendants must further reduce their jail population such that they can ensure the provision of
25 care and services. As Plaintiffs' detailed in the Parties Joint Response to the Court's March 16
26 Notice (Docket 81), "[r]emoval from the jail environment protects those with the greatest
27 vulnerability to the virus, and reduces the risks for all people living or working in the jail." *Id.* at
28 6-7.

1 **Further Population Reductions.** Plaintiffs request that the County’s Declaration of a
 2 Health Emergency should be used by the Sheriff to reduce the population in the jail on his own
 3 authority under his authority to do so in the context of an “emergency endangering the lives of
 4 inmates” pursuant to California Government Code Section 8658. While reductions have been
 5 made, more needs to be done to ward off the pending health crisis that will otherwise ensue. The
 6 number of positive COVID cases for both prisoners and now staff is growing
 7 exponentially. Wellpath has stated that expect to experience severe staff shortages and custody
 8 staff will also be impacted by both COVID-19 cases as well as the additional staff needed to
 9 transport patients to local hospitals for care. This is an unprecedented healthcare emergency that
 10 demands action to release as many prisoners as possible to protect other prisoners, staff and
 11 family members from contracting this disease. Federal law enforcement continues to approach
 12 the pandemic on a case by case basis and has resisted all efforts to address this in the systemic
 13 manner needed to avoid unnecessary deaths.

14 **Provision of Mental Health Care.** On April 8, 2020, Plaintiffs learned of an attempted
 15 suicide at the Santa Rita Jail. Stopping all mental health counseling and treatment during the
 16 pandemic creates additional risk to life and safety, and is inevitable as mental health workers will
 17 start calling in sick. Plaintiffs request this Court order Defendants to provide plan regarding the
 18 provision of mental healthcare given expected staff absences due to COVID-19.

19 **Hospitalizations.** It is inevitable that patients from Santa Rita Jail will be hospitalized in
 20 County hospitals. According to the Centers for Disease Control, a study of patients in China
 21 found that 19 percent of patients with COVID-19 presented with symptoms requiring
 22 hospitalization.² Santa Rita Jail is not able to provide ventilators or other care provided in
 23 hospitals for COVID-19 and thus cannot care for patients who require hospitalization. To our
 24 knowledge, the Wellpath contract does not cover hospital care. Plaintiffs request that this Court
 25 order Defendants to provide its plan to hospitalize patients in hospitals run by the County,
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27 ² See Centers for Disease Control, “Interim Clinical Guidance for Management of Patients with
 28 Confirmed Coronavirus Disease (COVID-19),” <https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html> (updated Apr. 3, 2020).

1 including how the decision is made to transfer a patient from care in the Jail to care in a hospital
 2 and the effect potential custody staff shortages may have on the ability of the Santa Rita Jail to
 3 transport patients to those hospitals including plans to mitigate any further staffing shortages
 4 caused by COVID-19.

5 **Inhalers.** We received a report that people in the Santa Rita Jail must share the metered
 6 dispenser for albuterol. Although patients are given their own mouthpiece, sharing a metered
 7 dispenser could spread contagion because patients must touch the mouthpiece and metered
 8 dispenser to detach the pieces after use, then hand the possibly contaminated metered dispenser to
 9 another patient to put up to their face. Plaintiffs' request this Court order Defendants to
 10 discontinue this practice by providing metered dispensers and mouthpieces to all who need them.

11 **Kitchen Workers.** Plaintiffs' counsel received a report of insufficient gloves provided to
 12 kitchen workers and insufficient sanitation practices handling food for those in the Santa Rita Jail.
 13 Plaintiffs' counsel request this Court order Defendants ensure that kitchen workers are provided
 14 adequate gloves, hand sanitizer, wipes, and soap in order to change gloves or sanitize their hands
 15 between tasks.

16 **Plaintiffs' Response to ¶ 3 of Order after April 2 Status Hearing re: Santa Rita Jail**
 17 **COVID-19 Response (Docket 91).** In their responses, Defendants did not address public sharing
 18 of the current "procedures and instructions for Wellpath's initial risk assessment for arrestees
 19 entering SRJ." All of these documents should be made publicly available. The parties met and
 20 conferred and agreed that Defendants will make public COUNTY 052415 through COUNTY
 21 052420 of Santa Rita Jail COVID-19 Outbreak Control Plan and will publicly share any updates
 22 made to these documents.

23 **Plaintiff Responses to ¶ 2 of Defendants' Responses.** Defendants agree to provide all
 24 inmates two free 15-minute phone calls and one free 15-minute video call per week until in-
 25 person visitation resumes; however, this increase in telephone and video call time does not
 26 sufficiently [word choice: address/replace] the cancellation of in-person visits. According to the
 27 ACSO policies and procedures, under normal circumstances, people in the Santa Rita Jail can
 28 have one 30-minute visit per day three days of the week—a total of 90 minutes per week. Two

1 15-minute calls per week (30 minutes total) is not adequate. This creates a severe risk to mental
2 health as it occurs while people in the Jail are asked to socially distance from each other and/or
3 may be otherwise isolated in response to COVID-19 and they may also have family members
4 impacted by COVID-19 that they need to communicate with, particularly given that due to the
5 severity of the disease these calls may be the last communications they are able to have with ill
6 loved ones. Plaintiffs request this Court require Defendants to provide, at minimum, 90 minutes
7 per week total of free phone calls and 15 minutes per week of free video calls.

8 **Plaintiff Responses to ¶ 5 of Defendants' Responses.:** There are additional empty units
9 at Santa Rita Jail that may be able to be reopened to allow for further social distancing. Plaintiffs'
10 request that Defendants provide a list of the currently empty units including whether they could
11 quickly be reopened and, if not, why not.

12 **Plaintiff Responses to ¶ 6 of Defendants' Responses.** In order to provide additional
13 clarity on Defendants' social distancing measures, Plaintiffs' request that Defendants specify
14 which units they consider "special handling units" for purposes of this paragraph as well as what
15 cells are considered "special handling cells." Plaintiffs further request Defendants provide the
16 current minimum out of cell time for the special handling cells given that inmates in these cells
17 will recreate alone.

18 **Plaintiff Responses to ¶ 7 of Defendants' Responses.** There is a disconnect between
19 people reporting unsanitary conditions to Plaintiffs' counsel and Defendants' reports that those
20 spaces are clean. To address this, Plaintiffs request that this Court require Defendants to confirm
21 quantity of cleaning supplies provided and explain how Defendants oversee cleaning

22 **Plaintiff Responses to ¶ 8 of Defendants' Responses.:** Plaintiffs request this Court
23 order Defendants to ensure people with disabilities will receive help with tablets as necessary.

24 **Plaintiff Responses to ¶ 9 of Defendants' Responses.** Wellpath, the company
25 contracted to provide health care services at the Santa Rita Jail, informed Plaintiffs' counsel on a
26 phone call about its COVID-19 response in jails across the State of California that it predicted a
27 sharp decrease in staffing based on the company's experience in jails on the East Coast. As
28 Wellpath drafts its contingency plan to operate with an 80 percent reduction in staffing levels,

1 Plaintiffs request this Court order Defendants to produce the County’s plan to supplement
2 medical care staffing should Wellpath’s staff levels decrease such that it cannot provide adequate
3 medical care. Plaintiffs request this Court order Defendants provide to Plaintiffs and the Court
4 with their expected timeline for developing and implementing the new telehealth directive, and
5 copies of any plans that are developed including how switching to telehealth will affect custody
6 staff and how individuals with COVID-19 will be sufficiently monitored in compliance with CDC
7 guidelines.

8 Dated: April 9, 2020 ROSEN BIEN GALVAN & GRUNFELD LLP

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10
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