



101 Mission Street, Sixth Floor
San Francisco, California 94105-1738
T: (415) 433-6830 ▪ F: (415) 433-7104
www.rbgg.com

Gay Crosthwait Grunfeld
Email: ggrunfeld@rbgg.com

April 21, 2020

VIA E-MAIL AND U.S. MAIL

The Honorable Tani Cantil-Sakauye
Chief Justice
Supreme Court of California
Chair, Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688
judicialcouncil@jud.ca.gov

Re: Effect of COVID-19 Pandemic on California's Jails

Dear Chief Justice Cantil-Sakauye:

On April 16, 2020, you stated to the Council on Criminal Justice that “the biggest piece of data we need [regarding the COVID-19 pandemic] is our in-custody defendants, what is happening in real time in the jails ... [w]hat is the contagion in the jails...[?]” See Egelko, Chief Justice: State Lacking Data Information On Jails, *San Francisco Chronicle*, April 18, 2020, B1.

The Prison Law Office and our law firm represent the majority of incarcerated people in California—including in 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.¹ We write to inform you that “what is happening in real time in the jails” is terrifying and poses a grave threat to not just the tens of thousands of people who live or work in the jails, but to the entire State. Already, the virus is within the walls of most California jails. And yet, notwithstanding efforts made by the Judicial Council, the State executive branch, and county Sheriffs, thousands of Californians are being needlessly brought into and kept in jail. We therefore urge you

¹ 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.

to exercise your authority and influence to take other steps to further reduce the jail population. Below, we discuss the situation of alleged state parole violators who under the current state of court closures, may be held in jail indefinitely without due process. This situation should be fixed on an emergency basis by extending the current 7-day deadline for arraignments to all persons in custody for alleged parole or Post Release Community Supervision violations.

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. 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. Many 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. This is especially problematic for the many rural communities housing California's 110 jail facilities.

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 more than 2,500. *See* Cooley & Woods, Coronavirus in Ohio: More than 1,800 inmates at Marion Correctional test positive, *Columbus Dispatch*, April 19,

2020.<https://www.dispatch.com/news/20200419/coronavirus-in-ohio-more-than-1800-inmates-at-marion-correctional-test-positive>. The *New York Times Magazine* recently documented the ways in which the virus, once it takes hold at a correctional facility, can disrupt entire communities. Reitman, ‘Something Is Going to Explode’: When Coronavirus Strikes a Prison, *New York Times*, April 18, 2020, <https://www.nytimes.com/2020/04/18/magazine/oakdale-federal-prison-coronavirus.html>.

No outbreak in a California correctional facility has yet turned into an uncontrollable fire. But a number of facilities may be well on their way. One hundred and three incarcerated people and more than fifty staff members have tested positive at the Riverside County Jail. Fifty-one staff members at Los Angeles County Jail have tested positive.² Based on public reports and our knowledge from our county jail litigation, there have been documented cases of Covid-19 in the county jails in at least eleven of the State’s fifty-eight counties. In the State prison system, California State Prison – Los Angeles County and the California Institute for Men both have at least fifty-five incarcerated people who have tested positive. 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 Jail Population 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 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 take the other measures that are necessary to protect the remaining incarcerated people and staff. *See* Schwartz and Venters, *Jail, Prisons and the COVID-19 Virus: A Monograph*, April 2020, at 4, attached as Appendix C.

² As discussed in Appendix A, all but one of the counties in which our class actions are pending have had positive tests among staff and incarcerated people. Here in San Francisco, the Sheriff has reported two cases among incarcerated people and five among staff. See Appendix B. The census at the San Francisco jails is at a historic low but arrestees continue to cycle in and out of the jails, potentially exposing judges, attorneys, court staff and law enforcement officers to COVID-19.

Appendix A to this letter 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 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 Should Take Additional Action to Protect Our Communities

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 promptly 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, issuing Emergency Rules Related to COVID-19, effective April 13, 2020. Rule 4 establishes a 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. Rule 4 will undoubtedly result in the release of some people from jails who might otherwise have been denied bail or granted bail in amounts they would have been unable to afford.

There are some arrestees, however, who are falling into gaps in the current hearing arrangements, and are cycling needlessly through the jails. Alleged state parole violators are still being jailed on no-bail parole holds under Penal Code Section 3056, regardless of the nature of the immediate charges. For example, we have learned that a State Division of Adult Parole Operations ("DAPO") parolee accused of shoplifting Irish Spring soap from a Walgreen's drug store in San Francisco on April 3, 2020 spent 12 days in the San Francisco County Jail awaiting an appearance in Superior Court.

We understand this kind of delay to be typical for all parolees held in jail under DAPO parole holds. Alleged parole violators do not receive arraignments under Penal Code Section 825, neither on the 48-hour schedule provided in the statute, nor the extended 7-day schedule provided in the March 30, 2020 Emergency Order. Superior courts are left without guidance on whether the due process hearings for alleged parole violators can be suspended indefinitely during the emergency.

Attached is a chart provided by the Division of Adult Parole Operations showing that a number of courts are completely closed; others are operating at an extremely

reduced capacity. *See* Appendix D. As a result, parole violators and potentially other arrestees are unlikely to receive timely notice of rights and charges, in violation of their due process rights. To ensure that the purpose of Emergency Rule 4 is achieved and that unnecessary jail stays are eliminated, the courts should receive direction that all criminal due process hearings triggered by jail confinement should occur within 7 days, not just those covered by Penal Code Section 825.

The Judicial Council should also consider issuing guidance to Sheriffs and local law enforcement to cite or book and release as many arrestees as possible. The Judicial Council should emphasize, as the California Department of Justice has already done, that sheriffs have the unilateral authority pursuant to California Government Code section 8658 to release incarcerated people from their jails to prevent further harm to staff, prisoners, and the community. *See* California Department of Justice, Division of Law Enforcement, COVID-19 and Statutory Authority Under Government Code Section 8658, April 14, 2020, attached as Appendix E. Lastly, the Judicial Council should, following the lead of Attorney General Becerra, use its considerable influence to impress upon the counties the importance of immediately reducing the population in their jails to the maximum extent possible that is consistent with public safety. *See* Letter from Xavier Becerra, California Attorney General to Chad F. Wolf, Acting Secretary of Homeland Security, April 13, 2020, attached as Appendix F. The Judicial Council's guidance could emphasize best practices for Jails during COVID-19, including temperature and other screening, refusal to admit those with symptoms, use of masks on admission, discontinuance of group holding pens, extra precautions for and identification of at risk populations, and hand-washing supplies and education. *See* CDC Guidance <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> & <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>.

These steps will help reduce churning of individuals through the county jails and save lives. California needs to act quickly to stop the spread of contagion at its 110 jail facilities. Sheriff's deputies have already died. Correctional officers, judges, attorneys, our clients, and their families are all at risk.

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The Honorable Tani Cantil-Sakauye
April 21, 2020
Page 6

Thank you for considering these requests and helping to save lives.

Respectfully submitted,
PRISON LAW OFFICE

/s/ Donald Specter

By: Donald Specter

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Gay Crosthwait Grunfeld

By: Gay Crosthwait Grunfeld

GCG:fgl

Enclosures

cc: Governor Gavin Newsom
California District Attorneys Association
Counsel in Jail Cases

Attorney General Xavier Becerra
California Public Defenders Association
Martin Hoshino

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

APPENDIX A

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 to 609).

On April 15, 2020, the medical provider at the Jail, Wellpath, informed us that no incarcerated person had tested positive for the virus (seventeen had been tested). 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 (e.g., utilizing unoccupied space in 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.

APPENDIX A

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.

APPENDIX A

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 we 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 our investigation, we 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.

We have 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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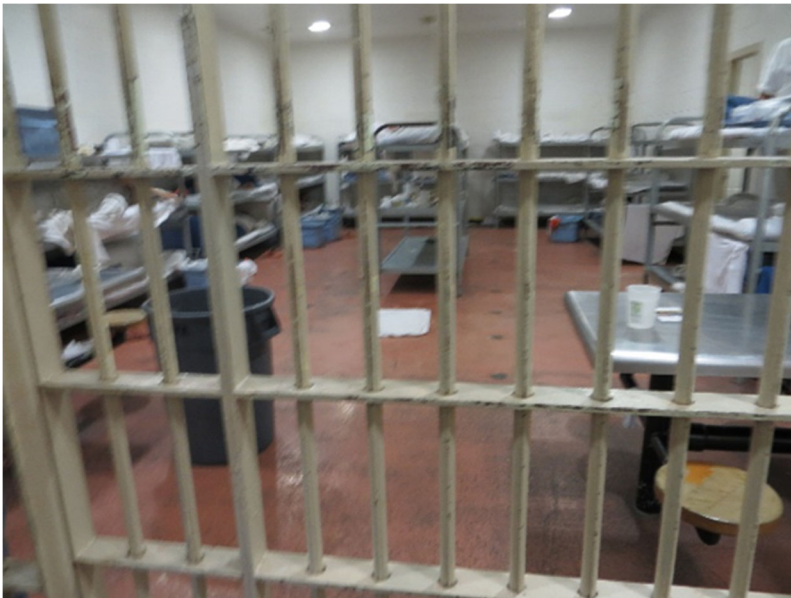
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APPENDIX A

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



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



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APPENDIX A

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.

We have 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.

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.

APPENDIX A

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 in the lawsuit, 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.

APPENDIX A

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



OFFICE OF THE SHERIFF CITY AND COUNTY OF SAN FRANCISCO

1 DR. CARLTON B. GOODLETT PLACE
ROOM 456, CITY HALL
SAN FRANCISCO, CALIFORNIA 94102



**PAUL MIYAMOTO
SHERIFF**

For Immediate Release
Thursday, April 16, 2020
Contact: Nancy Crowley (415) 554-4469 or 415-238-5488
Email: sfso.media@sfgov.org

Press Release

FIRST PERSON IN SF JAIL TESTS POSITIVE FOR COVID-19

San Francisco, CA -- Sheriff Paul Miyamoto today said that a person who had been in custody 24 hours and had been isolated from the general population tested positive for COVID-19. This is the first known case among the in-custody population in San Francisco County Jail.

The [Department of Public Health](#) (DPH) has contacted the individual who had been released from jail prior to their receiving test results, as well as the employees and others who were in contact with him.

"We were prepared for this eventuality and are doing everything we can to protect the people in our custody as well as the health and safety of the greater community that we serve," said Sheriff Miyamoto. "Sheriff's Office staff and Jail Health Services have worked in overdrive to minimize contact among the people in our jails."

"We've had a month to prepare for the probability that someone in our jails would test positive," said Dr. Lisa Pratt, Director of Jail Health Services, a section of DPH. "This allowed us to quarantine all new bookings, enforce social distancing protocols and mask all staff. The fact that the person who tested positive was in jail for such a short period of time and that everyone was masked decreases the possibility of meaningful contact and spread."

On Sunday, April 12, 2020, Jail Health Services expanded COVID-19 testing to include any new bookings who are subsequently housed in jail. Jail Health Services has tested 66 people since March. "We are now testing people who are booked and then housed in jail due to the high prevalence of unsheltered people coming into the jail," said Dr. Pratt. "This is especially important in light of concerns about the health and safety of our city's most vulnerable people."

With one of the nation's lowest incarceration rates, the county jail's capacity is at an historic low with 733 people in custody today, down 35 percent from the average daily jail count in January

2020. "The Sheriff's Office has strived to minimize exposure by collaborating with our justice partners to keep the jail count low through early releases," said Sheriff Miyamoto.

The Sheriff's Office is operating under a COVID-19 emergency [response and action plan](#), which is adjusted and amended to address public health and public safety needs. Steps already taken in the jail system include:

- Suspending county jail visits on March 13, 2020 to protect people in our custody
- Implementing aggressive, enhanced screenings at booking through our Jail Health Services to rapidly identify and isolate any persons with COVID-19 symptoms or exposure
- Medically isolating sick and COVID-19 positive people in separate cells and dedicated housing pods at County Jail #2, which can house up to 21 percent of our population.
- Housing people over 60 years old in single cells in a designated area.
- Isolating newly arrested people in County Jail #2 to minimize contact with incarcerated people at County Jails #4 and #5.
- Expediting early releases through the courts and working with our community partners to identify housing for people who are homeless.
- Maintaining social distancing among the people in custody by reducing the jail count.
- Cleaning and sanitization of jail cells and common areas multiple times per day.
- Screening all employees with temperature checks and questionnaires prior to allowing them to enter work facilities.

During March 2020, the Sheriff's Office reported five positive cases of COVID-19 among staff, including two deputies at County Jail #4. No other staff have tested positive thus far.

The San Francisco Sheriff's Department serves the people of San Francisco by administering the county jails, providing security for the Superior Court and other high-profile public buildings, and performing civil court orders. Led by elected Sheriff Paul Miyamoto, the Sheriff's Department employs more than 850 sworn staff and almost 200 non-sworn employees.

Jail Health Services is a section of the San Francisco Health Network of the Department of Public Health that is dedicated to the health care of incarcerated adults in San Francisco. Jail Health Services employs 162 nurses, nurse practitioners, doctors, behavioral health clinicians, dentists and support staff.



OFFICE OF THE SHERIFF CITY AND COUNTY OF SAN FRANCISCO

1 DR. CARLTON B. GOODLETT PLACE
ROOM 456, CITY HALL
SAN FRANCISCO, CALIFORNIA 94102



**PAUL MIYAMOTO
SHERIFF**

For Immediate Release

Sunday, April 19, 2020

Contact: Nancy Crowley (415) 238-5488

Second Person in SF Jail Tests Positive for COVID-19

San Francisco Sheriff Paul Miyamoto confirmed today that a second asymptomatic person who has been in custody since Saturday, April 18, 2020, and isolated from the general population, tested positive for COVID-19.

"We are testing all people at booking who are housed in our jail," said Sheriff Miyamoto. "This enables Jail Health Services (JHS) to identify asymptomatic people who are carrying the virus and keep them isolated from the general population until they test negative or are released from jail."

"COVID-19 testing protects the people in our custody, our staff and the community," said Sheriff Miyamoto. "Many of the people who are tested are released before their quarantine period has expired. They now know they are COVID positive and can take the necessary precautions to self-isolate, stay healthy and protect against spreading the virus."

To guard against asymptomatic spread, the Sheriff's Office began isolating newly arrested people in County Jail #2 on March 18, 2020, a day after San Francisco issued the shelter-in-place health order.

The Department of Public Health (DPH) is contacting all employees and others who were in contact with the individual who tested positive. The Sheriff's Office is providing updates to all staff and justice-involved persons in the jails.

With one of the nation's lowest incarceration rates, the county jail's capacity is at an historic low with 725 people in custody today, down 36 percent from the average daily jail count in January 2020.

The Sheriff's Office is operating under a COVID-19 emergency [response and action plan](#), which is adjusted and amended to address public health and public safety needs. Steps already taken in the jail system include:

- Suspending county jail visits on March 13, 2020 to protect people in our custody
- Implementing aggressive, enhanced screenings at booking through our Jail Health Services to rapidly identify and isolate any persons with COVID-19 symptoms or exposure
- Medically isolating sick and COVID-19 positive people in separate cells and dedicated housing pods at County Jail #2, which can house up to 21 percent of our population.
- Housing people over 60 years old in single cells in a designated area.
- Isolating newly arrested people in County Jail #2 to minimize contact with incarcerated people at County Jails #4 and #5.
- Expediting early releases through the courts and working with our community partners to identify housing for people who are homeless.
- Maintaining social distancing among the people in custody by reducing the jail count.
- Cleaning and sanitization of jail cells and common areas multiple times per day.
- Screening all employees with temperature checks and questionnaires prior to allowing them to enter work facilities.

During March 2020, the Sheriff's Office reported five positive cases of COVID-19 among staff. No other staff have tested positive thus far.

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APPENDIX C

Jails, Prisons and the Covid-19 Virus

A Monograph

Jeffrey A. Schwartz, Ph.D. and Homer Venters, M.D.¹

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.

¹ 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

APPENDIX D

COURTHOUSE OPERATIONS DUE TO COVID-19

CLOSED	PENDING UPDATE
MODIFIED	RECENT UPDATE
OPEN	

Court	Duration	Restriction	Warrants	Booking
ALAMEDA	Extended thru May 1, 2020	Only one arraignment court open on Tuesday and Friday. Petitions are filed electronically and scheduled only for those days. Even though the courts have been "closed" for the last couple weeks, public defenders continue to add parolees onto calendar, and the Judge is making offers.	With the new emergency bail schedule, when the Judge signs warrants, they will NOT be no bail warrants. The bail amount on the CR-301 will be listed as \$5000.	Normal operation
ALPINE	TBD	Petitions accepted via email to court clerk	Warrants/Recalls accepted via email	Cases screened before booking.
AMADOR	Tentative May 1, 2020	Courtroom closed (utilizing zoom for essential matters). Clerk's office closed - utilizing inbox and outbox, drop boxes.	Warrants, Recalls and Petitions will be accepted / processed utilizing the inbox / outbox drop boxes.	COVID-19 questions for those being booked. Accepting bookings on a case by case basis. Most charges being a cite and released (only accepting serious / violent crimes and crimes against persons). Will accept a PC3056 if it coincides with one of the above type charges.
BUTTE	TBD	No changes to petition process, petitions walked in. Butte County has implemented a "Virtual Remote Courtroom Testimony" process where agents will testify via the Zoom application which is available on their state phone.	Warrants and recalls accepted walk-in Court Clerk Office	Cases screened before booking.
CALAVERAS	TBD	Petitions accepted. Use of drop box only. Court's only open for essential business.	Warrants and Recalls accepted	Arresting officer questions arrestee before going to jail; if yes, has to medically cleared at hospital
COLUSA	TBD	Petitions accepted Emailing petitions clerk	Warrants are emailed to clerk	Cases screened before booking.

CONTRA COSTA	TBD	One felony arraignment court open. Petitions now being accepted for filing, to be dropped off in box outside clerks office. there will be court on Tuesday and Thursday at 8:30 going forward for now for the Parole/PRCS calendar. Everyone has to wear a mask and are practicing social distancing.	301/302's to be emailed to duty Judge. They will be emailed back to court agent for processing. If after hours, continue to utilize emergency warrant procedures.	Only 3056 PC arrests for violent offenses/violent parole violations, HRSO's who cut their GPS
DEL NORTE	Limited Operations from 04/03/20 to 04/17/20	In Custody Emergency Petitions still being filed normal procedures currently still has a drop box method in place for petitions and warrants. If the matter is urgent like a warrant, then the Court Agent/ Notice Agent can contact the clerks office and notify them of the petition.	*No change- Electronic Transimission for warrants and recalls	All offenders being booked (Including P3056) must be preapproved by jail staff prior to reporting to the jail. Using Judicial Council Emergency Bail Schedule
EL DORADO	TBD	Clerk window closed, Bailiff walks petitions through to Court Clerk.	Agents have to call judge during business hours to be sworn in. Warrant is then emailed to judge for signature.	Cases screened before booking.
FRESNO	TBD	Petitions accepted via e-file. Matters being continued through in chamber minute orders. Out of custody cases being calendared between 30-45 days in the future.	Warrants and recalls filed normally	No changes, normal operation
GLENN	TBD	Petitions accepted via email Court Clerk's Office	Warrants and Recalls emailed to Clerk	Cases screened before booking.

HUMBOLDT	Extended to 05/15/20	Closed to In Custody Offenders only. Emergency Petitions filed via "drop box". Agent to notify Clerk's Office if In Custody Parolee needs to be petitioned and be arraigned. Petition sent to DA and PD via clerk's office.	Court is screening warrants and determine what is serious enough. Court will sign what is appropriate and will keep what is not. Not returning unsigned warrant.	Currently accepting 3056PC associated with a violent or serious local charge. *Using Judicial Council Emergency Bail Schedule. P3056 set based on prison commitment offense upon booking. Warrants will be based on Judge's decision which will also be set on prison commitment offense.
IMPERIAL	TDB	Petitions walked in to Clerks office and accepted and filed	Warrants/Recalls accepted	Normal operation
INYO	TBD	Open and E-filing petitions emailing petitions at this time	No change for warrants and recalls	bookings screened and approved by District Attorney (have not been denied booking)
KERN	TBD	Scan Petitions to Clerk only matters that are a concern to public/community safety they will be set 7 court days out. No petitions have been filed during this state of emergency all petitions will be submitted. If they deny the petition, we will have record of our attempt note the denial in "case notes" in PVDTS.	No change for warrants and recalls	Only PC290 allowed to be booked. All other PC3056 being cited out
KINGS		Petitions are accepted with no changes. Petitions walked in to clerks office	No change for warrants and recalls	Only booking PC290, all other on a case by case basis
LAKE	Limited 04/02/20-05/01/20	In Custody Petitions filed via email Operations Manager and CEO. Electronic delivery for petitions to DA/PD Monday/Wednesday/Friday from 11:00am-3:00pm. May have delay- Limited staff Petitions are submitted timely	*Electronic Transimission for warrants and recalls (only due to COVID) must email CEO and Operations Manager Monday/Wednesday/Friday from 11:00am-3:00pm. May have delay- Limited staff	Using Judicial Council Emergency Bail Schedule. P3056 set based on prison commitment offense upon booking.
LASSEN	TBD	Petitions accepted via email Court	Warrants/Recalls emailed to Clerk	Cases screened before booking.
LOS ANGELES		Petitions being submitted, dropped in a drop-box at Clerks office	Warrants/Recalls being submitted After hours warrants accepted	Action plan in place, early release

MADERA	TBD	Petitions accepted. Walked in to DA/PD and Clerk. Court rooms restricted with smaller calendars. They are using video and inmates are not being transported. There are no audiences in the courtroom.	Warrants and recall walked in and electronically	Bookings accepted
MARIN	Limited - 05/29/20	Petitions accepted. In Custody Petitions filed electronically email to Clerk's Office. Email petitions to DA/ PD	*Electronic Transimission for warrants and recalls (only due to COVID)	Currently accepting 3056PC Holds case by case basis. Using Judicial Council Emergency Bail Schedule.
MARIPOSA	Modified thru April 19th	Warrants, Recalls and Petitions can be submitted via state email or hand delivered to the Clerk's Office	Warrants and recalls can be submitted electronically / fax.	Arrested has to wash hands before entering booking. Medical screening / COVID-19 questions before being booked.
MENDOCINO	3/17/2020-04/06/20	Petitions can still be filed. (Contact Staff Prior for access) petitions dropped off toclerk and dropped in DA/PD box. Video Conference for court hearings	*Granted generic E Warrant process. Email to clerk and clerk supervisor for warrants and recalls (There may be a delay in processing the warrant from the clerk's office	Currently accepting 3056PC Holds *Using Judicial Council Emergency Bail Schedule. P3056 set based on prison commitment offense at booking. On Duty Judge must be contacted upon booking in order for Judge to modify \$0 bail amount. Bail will be at their discretion, and never set to \$0 IF judge is contacted
MERCED	TBD	Petitions can be hand delivered to the courthouse and placed in a drop box or sent using state email.	Warrants and recalls submitted via drop box or electronically.	Medical screening completed outside in sally port before entering pre-booking.
MODOC	TBD	Emailing petitions clerk	Warrants emailed to Clerk	Cases screened before booking.
MONO	TBD	Open and E-filing petitions emailing petitions at this time	No change for warrants and recalls	Booking approved by WC
MONTEREY	TBD	Petitions being e-filed within timeframes but court scheduling hearings 60-90 days out. No changes for county clerk.	Warrants and recalls accepted	Normal operation


NAPA	3/17/2020-04/10/2020	Petitions can still be filed via drop box.	Warrants now filed via drop box during times for 12pm-3 pm, but contact supervising clerk first. Current issue is receiving a copy of the endorsed warrant	Currently accepting 3056PC Holds case by case basis *Using Judicial Council Emergency Bail Schedule. P3056 set based on prison commitment offense upon booking.
NEVADA	04/10/20-05/01/20	Petitions accepted walk in Court Clerk's Office	Warrants and recalls accepted walk in Court Clerk Office emails signed docs back to Notice Agent	Cases screened before booking.
ORANGE	TDB	Petitions are e-filed to Clerk. Arraignment Court re-opened (4/13/20) and hearing parole cases via Video only. Dispo on parole cases: credit for time served and released from custody.	Warrants/Recalls accepted	Normal operation
PLACER	TBD	Petitions accepted walk-in	Warrants and recalls accepted walk-in	Cases screened before booking.
PLUMAS	TBD	Petitions accepted via email Court Clerk's Office	Warrants/Recalls emailed to Clerk	Cases screened before booking.
RIVERSIDE	TBD	Closed. Riverside has had an electronic filing system in place f court agent uploads it into the county system that goes directly to the court Clerk/DA/PD. DCCU receives and automated response of receipt	Accepting CR302s only. Warrants are after hours only	No decision made regarding Bail schedule
SACRAMENTO	TBD	Petitions filed electronically. All in-custody arraignments and preliminary hearings shall be accomplished through the use of interactive video technology. If a defendant does not consent , the matter shall be continued to a date within applicable statutory time limits and any emergency relief extensions to allow for the judge and staff to be physically present. The attorney for the defendant shall also be personally present at this hearing.	Warrants/Recalls accepted	County jail has been booking on a case by case basis but seems to be taking parolees

SAN BENITO		Petitions hand delivered to Clerk	Warrants/Recalls submitted	Normal operation
SAN BERNARDINO	04/20/20	No petitions accepted. The petitions in this county have remained with DCCU and have not been given to Court/DA/PD in any way. Cases email effective 04/13/20 and scheduled for hearings tues/thurs effective 04/21/20	Accepting CR302s only.	Emergency Bail Schedule
SAN DIEGO	Tenatively open May 1,2020	Not accepting petitions.and email it to the Court Clerk/DA/PD and according to DCCU they receive some form of confirmation of receipt. the DA and PD are reaching agreements on the disposition of cases and notify DAPO of the results	*Not accepting 301s * Any emergency warrants for San Diego County cases will require the after-hours protocols at this time.	They have implemented the Emergency Bail schedule
SAN FRANCISCO	Extended thru June 1, 2020	Contact clerk prior to E-Filing Petitions (only due to COVID). Email copies to DA/PD	No change for warrants and recalls prcoess. Some judges accepting electronic transmission, but most are still requesting "in person" presence	Normal operation. Using Judicial Council Emergency Bail Schedule. Jail pending clarification from courts on how to proceed.
SAN JOAQUIN	TBD	Petitions still being accepted, walked in and dropped off with Clerk	Warrants and recalls submitted at lobby table. Recalls are being signed / returned. Warrants are being held and reviewed only those the court deems to be public safety	Normal operation, COVID-19 protocal questions. PC3000.08 holds being scrutinized by Court Cap Juge. PC3000.08 holds have been released / O.R.'ed.
SAN LUIS OBISPO	TBD	Petitions being accepted via e-file **PC3056 denied booking. Only serious/violent accepted	Warrants and recalls accepted	Felonies only, a 3056 PC is not a guarantee, violation needs to be a felony
SAN MATEO	TBD	All petitions are filed electronically. We notify group of people of petition with dates and time it was set	No changes to submitting warrants	Normal operation
SANTA BARBARA	TBD	Petitions being accepted via e-file	Warrants/Recalls are accepted	Normal operation

SANTA CLARA	Modified thru May 3, 2020 Bail schedule 04/13/20-90 days after emergency order lifted	Walk in 3 copies of petitions. Copies for jail to move body, court copy for Judge and last one for parole. The DA and Public Defenders office receive a electronic copy. They get notified when we submit to Hall of Justice with date and time of hearing. Current and new petitions submitted will be scheduled every Thursday.	*Warrants/Recalls processed normal	Bail for all misdemeanor and lower felony offences will be at \$0 with the exception of offences 1-13, outlined in the Judicial Order. Cite and release with future court appearances for non-violent offenses, parole not exempt
SANTA CRUZ	TBD	Petitions hand delivered. Assigned dates, times, and case numbers. Parole hearings are Tuesdays and Fridays only.	*Warrants/Recalls processed normal	Normal operation
SHASTA	TBD	Petitions accepted/filed via Court Drop Box	Warrants and recalls accepted via court drop box	Cases screened before booking.
SIERRA	TBD	Court began hearing petitions April 3, 2020. Petitions emailed to clerk	Warrants emailed to Clerk	Cases screened before booking.
SISKIYOU	TBD	Accepting petitions Emailing petitions clerk	Warrants/Recalls emailed to Clerk	Cases screened before booking.

SOLANO	3/19/2020-4/5/2020	Email notification to clerk for date and case number. Use Drop box near Juvenile Court Building to file petitions Following Judicial Council Emergency Bail Schedule	*Electronic Transimission for warrants and recalls (only due to COVID)	Currently accepting 3056PC Holds case by case basis. *Using Judicial Council Emergency Bail Schedule. P3056 set based on prison commitment offense upon booking.
SONOMA	3/17/2020-4/14/2020	Contact clerk's office prior to arrival to file petition(s). Petitions walked in. Normal process	*No change- Electronic Transimission for warrants and recalls	Parolees being arrested with a PC3056 hold and/or local charges are automatically able to bail out from jail for \$5000.00. Parolees with active warrant(s) and a PC3056 hold have a "No Bail hold" and cannot bail out
STANISLAUS	TBD	Petitions accepted and hand delivered before 12:00pm	Warrants and recalls submitted via drop box.	In sally port, prior to booking: COVID-19 question protocol and temperature reading.
SUTTER	TBD	Petitions accepted via email Court Clerk's Office	Warrants/Recalls emailed to Clerk	Cases screened before booking.
TEHAMA	TBD	No Changes Petitions accepted. Petitions dropped off in Drop Box	Warrants/Recalls submitted via drop box	Cases screened before booking. Will Only take parole holds on PC290's or parolees booked on serious felony charges.
TRINITY	TBD	Petitions accepted via email Court Clerk's Office	Warrants/Recalls emailed to Clerk	Cases screened before booking.
TULARE	TBD	Petitions are being filed on a walk in basis	Warrants/Recalls accepted	Accepting all bookings
TUOLUMNE	TBD	Hand deliver Warrants, Recalls and Petitions to the drop box at the lobby	Warrants/Recalls accepted	Temperature reading before entering jail.
VENTURA		Petitions hand delivered to clerk. Assigned dates, times, and case numbers. (3) court rooms are open. (1) only for parole-probation hearings via ZOOM. Court agent collaborates with DA/PD office for access.	Warrants/Recall are being accepted	Normal operation
YOLO	TBD	Petitions accepted via email Court Clerk's Office	Warrants/Recalls emailed to Clerk	Normal Operation
YUBA	TDB	Petitions accepted via email Court Clerk's Office	Warrants/Recalls submitted Drop Box.	Cases screened before booking.

APPENDIX E

<p>California Department of Justice DIVISION OF LAW ENFORCEMENT Edward Medrano, Chief</p> 	<p>INFORMATION BULLETIN</p>	
<p><i>Subject:</i></p> <p>COVID-19 and Statutory Authority Under Government Code Section 8658</p>	<p><i>No.</i></p> <p>2020-DLE-05</p> <p><i>Date:</i></p> <p>4/14/2020</p>	<p><i>Contact for information:</i></p> <p>Edward Medrano, Chief Division of Law Enforcement (916) 210-6300</p>

TO: ALL COUNTY SHERIFFS AND PROBATION OFFICERS

The COVID-19 pandemic continues to threaten the lives and livelihoods of all those in California and the United States. As you make plans with your local court and public health officials for the protection for your staff and for those in custody and confinement, this bulletin acts as a reminder of your authority under Government Code section 8658. Section 8658 provides that in responding to any existing or imminent emergency endangering the lives of inmates in any county jail, juvenile detention center, or other correctional institution:

[T]he person in charge of the institution may remove the inmates from the institution. He shall, if possible, remove them to a safe and convenient place and there confine them as long as may be necessary to avoid the danger, or, if that is not possible, may release them.

There is no requirement in the statute that such removal or transfer of inmates be made pursuant to a court order. Section 8658 further provides civil or criminal immunity for acts performed under the statute.

The statute was enacted as part of the Emergency Services Act in 1970. In passing the Act, the Legislature recognized the authority of the state and its political subdivisions to “mitigate the effects of natural, manmade, or war-caused emergencies that result in conditions of disaster or in extreme peril to life, property, and the resources of the state, and generally to protect the health and safety and preserve the lives and property of the people of the state.”

Section 8658 is just one potential measure available to respond to the concerns raised by the COVID-19 pandemic within confinement facilities, and there are health and safety measures that can and should be employed within such facilities regardless of whether it becomes necessary to employ Section 8658 at a particular facility. It is also advisable to determine the potential impact of the application of Section 8658 on the health and safety of both confined individuals, and the general public, before exercising the authority provided for in that section.

APPENDIX F



State of California
Office of the Attorney General

XAVIER BECERRA
ATTORNEY GENERAL

April 13, 2020

The Honorable Chad F. Wolf
Acting Secretary of Homeland Security
Washington, D.C. 20528

Dear Acting Secretary Wolf:

I write to urge you to take critical steps to minimize the transmission of COVID-19 in immigration detention facilities. To a significant extent, immigration detention is discretionary, and the Department of Homeland Security (DHS) currently has discretion to release thousands of individuals with little or no risk to public safety, particularly compared to the public health benefits that will flow from reducing the population of detained immigrants.

Based on the California Department of Justice's comprehensive reviews of six facilities and tours of all other detention facilities in California where immigrants are held pending their immigration proceedings, we know that many immigration detainees have no criminal histories and many are new arrivals seeking asylum. During these reviews, my Department has encountered many individuals whose medical conditions place them at a higher risk for developing serious illness from COVID-19. I am aware that the physical plants, custody and staffing patterns, and health care systems in immigration detention do not allow for social distancing practices and that additional practices such as improved sanitation, screening, and halting the admission of new detainees are needed to prevent transmission of the virus. Further, the facilities in question in California do not appear to have the healthcare resources required to treat infected detainees who become seriously ill. Failure to use your discretion to decrease the detainee population as much as possible and improve sanitation and COVID-19 screening practices for those detainees that remain will not only harm civil immigration detainees, but will overwhelm community hospitals to which those detainees will necessarily be transferred for treatment. COVID-19 infections have already been reported in one of the immigration detention facilities in California. Urgent action is required to prevent our country's immigration detention system from causing countless unnecessary deaths.

Alternatives to Detention Are Appropriate for Individuals Who Pose No Risk to Public Safety

Individuals in immigration detention are civilly detained pending their immigration proceedings. Their detention is unrelated to a criminal conviction, or—if criminal history is a factor in their proceedings—they have already served their sentences. The Immigration and Nationality Act provides you with discretion to release immigration detainees on bond or on their

own recognizance, unless “mandatory detention” conditions apply. (8 U.S.C. § 1226.)¹ The thousands of immigration detainees that are in custody pending the resolution of their asylum claims or based on unauthorized status alone should be released so that they can shelter in place in their communities.

Based on my Department’s review of detention facilities in California, I am aware that large numbers of detainees are considered low security due to their lack of criminal history. For example, 619 detainees—91 percent of the population—at the Imperial Regional Detention Facility were classified as low security at the time of my Department’s review last year. At the Adelanto ICE Processing Center, 682 detainees were classified as low security and 49.79 percent of the detainee population was classified as low or medium-low security in early August 2019. Otay Mesa Detention Center, which reported COVID-19 infections among staff and at least ten detainees as of last week, had 693 low security detainees in December 2019—80 percent of the population. Releasing the thousands of individuals currently held in immigration detention despite being low security risks would allow detention facilities much greater flexibility for quarantining detainees that remain in custody, to the benefit of both detainee and community health. This is particularly critical for detainees who already receive treatment for chronic illnesses, as medical care within the detention facilities will soon become even less available due to potential significant diversion of healthcare staff and resources to treat COVID-19 patients throughout detention facilities, and such individuals are at greater risk of death from COVID-19.

I am aware that Immigration and Customs Enforcement has long used alternatives to detention, such as the Intensive Supervision Appearance Program and the Family Case Management Program, that effectively ensure participation in immigration proceedings without the need for costly detention. As the current health emergency turns the economic costs of immigration detention into a serious threat to our healthcare systems and our very lives, there could be no better time to make maximum use of supervised release options.

Immigration Detention Occurs in a Congregate Setting Where Transmission Is Possible

Immigration detainees live in crowded dorms with up to 99 other people (such as in the Mesa Verde ICE Processing Center), with no physical partitions. Reports from advocates

¹ Courts have recognized that even mandatory detention must be applied in accordance with constitutional due process limitations. In an unprecedented health crisis, where human life is at stake, release of individuals who pose little or no risk of danger to the community is warranted to protect both the detainees’ and the surrounding community’s interest in “life, liberty and the pursuit of happiness.” (U.S. Constitution, Amend. 5; *see Jennings v. Rodriguez* (2018) __ U.S. __, 138 S.Ct. 830, 853 [acknowledging availability of due process grounds for seeking bond hearing despite application of mandatory detention statute]; *Kabba v. Barr* (W.D.N.Y. 2019) 403 F.Supp.3d 180 [due process prohibited unreasonably prolonged detention under mandatory detention statute], *appeal filed* (2d. Cir 2020) No. 19-3418.)

indicate that detainees have not been issued protective gear such as face masks for those who are coughing, that hand sanitizer is not available, and that even soap is in short supply. Detainees at most detention centers in California eat in dining halls built for 50 or more people, at communal tables, where transmission of the COVID-19 virus—if present—is likely. Even without a staggered schedule to lessen the number of people in dining halls at one time, my office has observed that detention facilities struggle to seat all detainees for all their meals in a manner that allows the full 20-minute meal time required by federal standards. With a decreased population, facilities could employ staggered dining schedules to reduce the number of detainees dining together. Detention facilities should also undertake increased cleaning and provision of cleaning supplies such as sanitizer and soap in detainee housing units for those who remain in custody.

Healthcare Systems in Detention Facilities Are Ill-Equipped to Handle an Epidemic

The California Department of Justice reported on overburdened healthcare systems at immigration detention facilities in our February 2019 report, *Immigration Detention in California*.² My Department has encountered detainees with serious medical conditions who regularly struggle to obtain adequate care at these detention facilities without the strain an infectious disease outbreak would place on the healthcare staff. None of the facilities we visited are equipped with sufficient options for meaningful testing and quarantine.³ One facility we reviewed had no written protocol for addressing infectious diseases, despite having had mumps and chicken pox outbreaks in the months before our visit. With only six separate medical isolation rooms for a population of 700, the facility dealt with disease outbreaks by cohorting an entire 64-person housing unit. A similar approach was undertaken by other facilities that my Department visited and that had similarly faced infectious disease outbreaks.

Outbreaks in Detention Facilities Will Increase the Burden on Local Community Hospitals and Cause Unnecessary Deaths

Immigration detention facilities regularly transfer detainees off-site for specialty care and when they require hospitalization. Because none of the facilities are equipped to provide intensive care, detainees that require medical intervention for COVID-19 will need to be treated at local hospitals, increasing the risk of infection to the public at large and overwhelming local health care providers.⁴ This in turn will result in community health resources being less

² This report is available at

<https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2019.pdf>.

³ For example, the Adelanto ICE Processing Center has six negative-pressure isolation rooms for a population of up to 1,940 detainees; Imperial Regional Detention Facility has six for a population of about 700; Mesa Verde Detention Facility has two for a population of about 400; and Otay Mesa has six for a population of about 1,500.

⁴ Although early reports suggested that COVID-19 presented danger only for particularly vulnerable individuals, such as the elderly and people with health conditions, CDC data shows that 76% of individuals who have tested positive for COVID-19 are aged 18-64, and CDC

available for community members. On March 19, 2020, the Governor of California issued a state-wide Stay-at-Home Order precisely to prevent the rapid transmission of COVID-19 from overwhelming local hospitals. Continuing to house immigration detainees who do not have a significant criminal history and are not pending criminal charges in their current settings seriously undermines this effort, one that Californians have undertaken at great economic and personal cost. In addition to reducing the detainee populations in its facilities, DHS should adopt strategies to limit transmission within the facilities such as screening of visitors and staff; increased sanitization and provision of cleaning supplies; and staggered dining hours to allow greater distancing between detainees during meals. Unless DHS takes immediate steps to reduce the population of detainees lacking a significant criminal history or pending criminal charges and implement policies to reduce the risk of transmission among the remaining detainees and staff, detainees, detention facility staff, and members of neighboring communities will face increased risk of death due to a shortage of medical equipment.

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Significant steps are needed to avoid COVID-19-related catastrophe in our immigration detention facilities and their surrounding communities. I urge you immediately to:

- Limit the transfer or transport of detainees and halt the introduction of new detainees to immigration detention facilities, requiring a 14-day quarantine for any detainee for whom transfer or admission is unavoidable;
- Obtain COVID-19 test kits and conduct comprehensive testing of staff and the detained population in order to avoid transmission, using temperature and other vital statistics screens while waiting for such tests to become available;
- Obtain protective equipment such as masks, gloves, soap, and cleaning products for detainees and staff, and educate detainees and staff about how to minimize transmission, taking care to ensure that language minorities also receive this vital information;
- Identify and release detainees that pose no risk to public safety, such as those without significant criminal histories or pending criminal charges, prioritizing those that are in fragile health, so as to reduce the risk in detention facilities in a manner that balances any public safety concerns associated with such releases; and

estimates that between 10-33% of those individuals have been hospitalized. Based on detainee rosters immigration detention facilities provided to my Department in 2019 and 2020, 99.45% of immigration detainees in California are aged 18-64. Thus, immigrant detainees are also highly likely to need hospitalization if exposed to the virus. (See Center for Disease Control, Coronavirus Disease 2019 in Children — United States, February 12–April 2, 2020 (April 6, 2020) https://www.cdc.gov/mmwr/volumes/69/wr/mm6914e4.htm?s_cid=mm6914e4_w [as of April 7, 2020]).

The Honorable Chad F. Wolf

April 13, 2020

Page 5

- Increase sanitation, availability of cleaning supplies and sanitizer, alter schedules, meal delivery, and physical space in detention facilities for remaining detainees while taking care not to further curtail detainees' liberty within the facilities.

Our communities are facing an unprecedented threat, and all of us must take affirmative steps to minimize it. I urge you to use your authority to address the countless unnecessary deaths that will follow if immigration detention proceeds without change during this public health crisis.

Sincerely,



XAVIER BECERRA
California Attorney General

cc: The Honorable Ron Johnson, Chairman, Committee on Homeland Security and Government Affairs

The Honorable Gary Peters, Ranking Member, Committee on Homeland Security and Government Affairs

The Honorable Bennie G. Thompson, Chairman, Committee on Homeland Security

The Honorable Mike D. Rogers, Ranking Member, Committee on Homeland Security