



Northern  
California

March 13, 2020

*Sent via electronic mail to [slyon@so.cccounty.us and ctadmin@contracosta.courts.ca.gov]*

Sheriff David G. Livingston

Undersheriff Michael Casten

Hon. Barry Baskins, Presiding Judge of Contra Costa County Superior Court

**RE: COVID-19 Policy in Contra Costa County Jails**

Dear Sheriff Livingston, Undersheriff Casten, and Hon. Baskins,

We are writing to urge the Contra Costa County Sheriff's Office to immediately develop evidence-based and proactive plans for the prevention and management of COVID-19 in Contra Costa County jails. We also urge the Contra Costa Superior Court to consider prevention and management of COVID-19 when making bail decisions. We would like to meet with you within the next two weeks to discuss how you are protecting the health of the people in your custody and the people who work in the jails.

People in jail are highly vulnerable to outbreaks of contagious illnesses. They are housed in close quarters and are often in poor health. People detained in these conditions unnecessarily will be at substantially higher risk of exposure and serious health consequences, including death, than if they were in the community. Furthermore, COVID-19 outbreaks in jails threaten the larger public, as large numbers of individuals churn through jails on a daily basis and correctional, medical, and other staff interact with the incarcerated population and circulate back into communities. Reducing the jail population and taking proactive health measures in the jail are critical for protecting those who are detained as well as the broader community.

We ask that you immediately and publicly announce your plans to address the virus in the jail system. This is an urgent matter. Having an appropriate, evidence-based plan in place can help prevent an outbreak and minimize its impact if one does occur; and not having one may cost lives.

While the plan should be developed collaboratively by you and the Contra Costa Health Services Dept. together, some of the critical issues that must be addressed are:

#### Local Jails

- **Early release:** We encourage you to assess sentenced individuals who are particularly vulnerable to COVID-19 for immediate release, unless there is clear evidence that release would present an unreasonable risk to the physical safety of the community. The CDC has classified as vulnerable those who are elderly and those with asthma, cancer, heart disease, lung disease, and diabetes. To further reduce the population, we also urge you to accelerate the release of all individuals who have 30 days or fewer of their sentence remaining pursuant to Penal Code Section 4024.1.

American Civil Liberties Union of Northern California

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- **Education of the people in your custody:** People housed in the jails need to be informed about the virus and the measures they can take to minimize their risk of contracting or spreading the virus. They must be educated on the importance of proper handwashing, coughing into their elbows, and social distancing to the extent they can. Information about the spread of the virus, the risks associated with it, and prevention and treatment measures must be based on the best available science. Education should be reiterated upon release to best inform individuals on how to prepare for a healthy return to the public.
- **Education of the staff:** Correctional, administrative, and medical staff all must be educated about the virus to adequately protect themselves and their families, as well as the people in their custody.
- **Staffing plans:** Regardless of how many staff stay home because they are sick, the jails will have to continue maintain a staffing level to ensure adequate and humane functioning. There must be a plan for how necessary functions and services will continue if large numbers of staff are out related to the virus.
- **Staffing plans for services provided by jailers:** Many tasks in jails, such as food preparation and basic sanitation, are performed by jailers. The plans for an outbreak must also address how necessary tasks performed by jailers will continue if large numbers of jailers are ill.
- **Provision of hygiene supplies:** The most basic aspect of infection control is hygiene. There must be ready access to warm water and adequate hygiene supplies provided to inmates and to staff, both for handwashing and for cleaning.
- **Screening and testing of the people in your custody:** The plan must include guidance, based on the best science available and advice from the Contra Costa County Health Department, on how and when to screen and test people in your facilities for the virus.
- **Housing of persons exposed to the virus:** The plan must describe how and where people in the jail system will be housed if they are exposed to the virus, are at high risk of serious illness if they become infected, or become sick with it. *This should not result in prolonged, widespread lockdowns.* Any lockdowns or interruptions in regular activities, such as exercise or visits and phone calls with families or attorneys, should be based solely on the best science available and should be as limited as possible in scope and duration.
- **Treatment:** Courses of treatment must be evidence-based, available immediately, and in compliance with scientifically based public health protocols.
- **Vulnerable Populations:** The plan must provide for additional precautions for those who are at high risk of serious illness if they are infected, such as pregnant women and people with chronic illnesses, compromised immune systems, or disabilities, and people whose housing placements restrict their access to medical care and limit the staff's ability to observe them.

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- **Data collection:** The collection of data regarding COVID-19 will be part of the public health response. As with any contagious disease, data collection is critical to understanding and fighting the virus. The jail system must be part of this process. The same information that is tracked in the community must be tracked in the jails.

Courts:

- **Release of pre-trial detainees:** The California Constitution allows courts to release individuals on their own recognizance “in the court’s discretion.” Article 1, Section 12. Section 1275 of the California Penal Code states the considerations in setting bail, and makes clear that “[i]n setting, reducing, or denying bail, a judge or magistrate shall take into consideration the protection of the public” and that “public safety shall be the *primary consideration.*” (Emphasis added). In this case, public safety requires that as few individuals as possible circulate through the jail system. We therefore encourage presumptive release on recognizance for as many people as possible, particularly for vulnerable populations, including people over the age of 60 and people with special health vulnerabilities.
- **Minimizing the use of detention:** To reduce crowding, courts should default to noncustodial sentences wherever possible, including resolutions that avoid immigration detention where outbreak potential is highest.
- **Reducing court appearances and other in-person meetings:** Courts should reduce the risk to their staff and to the general public by declining to issue “failure to appear” warrants or “bench warrants.” If requested by defense counsel, courts should agree to waive clients’ appearance for status court dates (for people both in and out of custody). Courts should also cancel all probation, parole, and pretrial meetings; court-ordered classes; in-person drug testing; collection of court debt; and modify all reporting conditions to phone-reporting.

Please let us know when you will be available to discuss your plans with us.

Sincerely,



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Lizzie Buchen  
Criminal Justice Program Director

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cc:

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