



LEGAL ADVOCACY UNIT
1330 Broadway, Ste. 500
Oakland, CA 94612
Tel: (510) 267-1200
TTY: (800) 719-5798
Fax: (510) 267-1201
www.disabilityrightsca.org

March 23, 2020

Sheriff Scott Jones
Sacramento County Sheriff's Department
711 G Street
Sacramento, CA 95814

Re: COVID-19 Pandemic

Mays v. County of Sacramento (E.D. Cal.), No. 2:18-cv-02081-TLN-KJN

Dear Sheriff Jones:

The fast-changing circumstances regarding the COVID-19 pandemic have signaled increasing urgency for aggressive action. On Thursday, Governor Newsom issued Executive Order N-33-20, which contains a statewide shelter-in-place directive in light of COVID-19's rapid spread.

We as *Mays* class counsel anticipate a prompt and detailed response to our March 18 letter regarding the pandemic's extraordinary risks to the health and safety of *Mays* class members.¹ In the interim, we call upon the Sheriff's Department and the County to act immediately to prevent transmission of the virus through the jail facilities – and the enormous costs to health and human life that would follow. In particular, we urge you to make use of existing state law, set forth below, to mitigate the tremendous risks faced by people in the Sacramento County Jails.

Section 8658 of the California Government Code provides specific direction to the Sheriff in the case of emergencies like today's public health crisis:

¹ https://www.disabilityrightsca.org/system/files/file-attachments/2020-03-18_DRC-PLO_Ltr_re_COVID-19_Mays-Sacramento_Cty_Jail.pdf

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In any case in which an emergency endangering the lives of inmates of a state, county, or city penal or correctional institution has occurred or is imminent, the 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. Such person shall not be held liable, civilly or criminally, for acts performed pursuant to this section.

Under this law, the Sheriff *shall*, if possible, ensure that people held in jail custody be provided a safe place as necessary to avoid the danger.

Sacramento County Jail’s crowded living conditions, severely outdated and inadequate facilities, and poor sanitation make provision of a “safe” place inside the jail extremely difficult, if not impossible. Providing appropriate social distancing and hygiene would require an immediate injection of immense resources that are already scarce.

The Sheriff therefore must act, including through exercise of his authority under Section 8658 of the California Government Code. *See Parsons v. Ryan*, 754 F.3d 657, 677 (9th Cir. 2014) (“prison officials are . . . prohibited from being deliberately indifferent to policies and practices that expose inmates to a substantial risk of serious harm”); *Beagle v. Schwarzenegger*, 107 F. Supp. 3d 1056, 1063-69 (E.D. Cal. 2014) (exposure of prisoners to risk of contracting Valley Fever without implementing remedial or preventative measures is sufficient to support Eighth Amendment deliberate indifference claim); *see also Helling v. McKinney*, 509 U.S. 25, 36 (1993) (conditions of confinement may violate Eighth Amendment where the risk is “so grave that it violates contemporary standards of decency to expose anyone unwillingly to such a risk”).²

² Further action may also come from the courts. *See* Cal. Penal Code § 4012 (“When a pestilence or contagious disease breaks out in or near a jail, and the physician thereof certifies that it is liable to endanger the health of the prisoners, the county judge may, by a written appointment, designate a safe and convenient place . . . in the county . . . as the place of their confinement. The appointment must be filed in the office of the clerk of the court, and authorize the sheriff to remove the prisoners to the place . . . designated, and there confine them until they can safely returned to the jail[.]”). Public health officials and the Governor’s recent

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The Sheriff should prioritize release of people with disabilities, medical conditions, or other risk factors that make them vulnerable to this pandemic, consistent with public safety on a case-by-case basis.

For reference, we attach the Los Angeles Sheriff's Department's recent notice of its Inmate Depopulation Plan to Address Coronavirus. We urge you to take prompt action now, while there is a meaningful opportunity to save lives.

Thank you for your attention and efforts.

Sincerely,

/s/ Aaron J. Fischer

/s/ Margot Mendelson

Aaron J. Fischer
Disability Rights California

Margot Mendelson
Prison Law Office

Encl.: Letter re: Inmate Depopulation Plan to Address Coronavirus, LA County Sheriff's Department

Cc: Sandy Damiano, Adult Correctional Health
Alex McCamy, Sacramento County Sheriff's Department
Timothy Zindel, Federal Defenders
Steven Garrett, Sacramento County Public Defender's Office
Anne-Marie Schubert, Sacramento County District Attorney
Rick Heyer, Sacramento County Office of County Counsel
Chief Deputy Santos Ramos, Correctional Services, Sacramento County Sheriff's Department

orders make clear that nowhere people are housed in large numbers (as is the case in the jails) can be considered "safe." The courts can act under Section 4012 to address the extreme risks to life and health by ordering home detention for prisoners, as consistent with public safety.



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



March 17, 2020

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT INMATE DEPOPULATION PLAN TO ADDRESS CORONAVIRUS

On March 4, 2020, Los Angeles (County) declared a public health emergency. This emergency proclamation came after health officials confirmed several cases of the Novel Coronavirus (COVID-19) within the County.

Separately, the Los Angeles County Sheriff's Department (Department) has received inquiries from the Board, as well as a number of outside entities, including the Civilian Oversight Commission and the American Civil Liberties Union, with concerns about the Department's response to the additional challenges this community outbreak may pose in the current custodial environment.

The Department recognizes it has a duty along with our partners from Correctional Health Services (Department of Health Services) and the Department of Public Health to provide for the safety and wellbeing of individuals incarcerated in our jail system. Given the unique challenges the COVID-19 virus may place on our housing locations, Custody Services Division started developing and implementing plans to begin reducing the overall daily jail population at the end of February 2020, when it was determined we would need to prepare for anticipated future quarantine zones, as well as additional isolation space for any COVID-19 positive patients.

The Department's initial steps to help reduce the inmate population have consisted of accelerated releases for those within 30 days of the completion of their sentences, with approval of the Presiding Judge of the Superior Court, under the statutory authority of

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4024.1 PC. Additionally, we will now begin reducing the percentage of time served for our AB109/N3 sentenced inmates (Non-Violent, Non-Serious, Non-Sexual), as we have been required to do for Traditional County Sentenced Inmates over many years, in order to meet population control mandates under the Rutherford Decision.

The Sheriff will also be raising the minimum bail amount for the acceptance of misdemeanor bookings into the County jail system, rather than being released on a citation to appear, from \$25,000 to \$50,000 (excluding crimes of domestic violence).

We do not take any of these steps lightly, as we seek to reduce the population in a necessary, but also responsible, way which takes into account public safety.

Furthermore, prior to the COVID-19 pandemic, the Board had already passed a number of resolutions directing County stakeholders to focus on the "Care First, Jail Last" approach to justice. We believe these ongoing efforts to incorporate alternatives to incarceration, which the Department fully supports, will continue to have an impact on reducing the population moving forward, even once we are out of this current crisis.

The health and well-being of the Department's workforce and inmate population are of the utmost importance. As we demonstrated during the mumps outbreak in our jail system during the latter months of 2019, we will continue to work with our County health care partners to ensure the highest level of health and safety for all those entrusted to our care.

Should you have any questions or require additional information, please do not hesitate to contact either myself, or Chief Brendan J. Corbett, Custody Services Division General Population, at (213) 893-5017.

Sincerely,

ALEX VILLANUEVA, SHERIFF

A handwritten signature in blue ink, appearing to read "B. Chase", with a long horizontal stroke extending to the right.

BRUCE D. CHASE
ASSISTANT SHERIFF

AV:MEA:mea

(Custody Services Division/Population Management Bureau)

- c: Board of Supervisors, Justice Deputies
- Celia Zavala, Executive Officer, Board of Supervisors
- Sachi A. Hamai, Chief Executive Officer
- Sheila Williams, Senior Manager, Chief Executive Office (CEO)
- Rene Phillips, Manager, CEO
- Jocelyn Ventilacion, Principal Analyst, CEO
- Anna Petrosyan, Analyst, CEO
- Mary C. Wickham, County Counsel
- Michele Jackson, Principal Deputy County Counsel
- Elizabeth D. Miller, Chief Legal Advisor, Legal Advisory Unit
- Timothy K. Murakami, Undersheriff
- Brendan Corbett, Chief, Custody Division General Population
- John P. Burcher, A/Chief of Staff
- Conrad Meredith, Division Director, Administrative Services Division (ASD)
- Glen C. Joe, Assistant Division Director, ASD
- Max Huntsman, Office of Inspector General
- Brian K. Williams, Los Angeles County Civilian Oversight Commission
- Vanessa C. Chow, Sergeant, ASD
- Adam R. Wright, Deputy, ASD