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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

Terry Leroy Jones, et. al, Plaintiff, v. William D. Gore, in his official capacity, Defendant.	No. 37-2021-00010648-CU-MC-CTL Action Filed: March 10, 2021 **[IMAGED FILE]** **NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION** Date: June 10, 2022 Time: 9:00 a.m. Judge: Joel R. Wohlfeil Department: C-73

TO EACH PARTY AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on June 10, 2022, at 9:00 a.m., or as soon thereafter as the matter can be heard, in Department C-73 of the above-entitled Court, located at 330 West Broadway, San Diego, California, Defendant William D. Gore will and hereby does move the Court for an order granting summary judgment or, in the alternative, summary adjudication in favor of Defendant William D. Gore and against Plaintiffs Terry Jones and Gabriel Campos on Plaintiffs' First Amended Verified Petition for Writs of Mandate and Habeas Corpus and Complaint for Injunctive Relief.

The County brings this motion pursuant to Code of Civil Procedure section 437c, on the grounds that the action has no merit, no triable issue of material fact exists, and Defendant is entitled to judgment as a matter of law. Defendant William Gore (in his official capacity) is entitled to judgment as a matter of law for the reasons that: (1) undisputed material facts and legal authority establish there was no violation of the federal or California constitutions, (2) no triable issue of fact exists regarding deliberate indifference, (3) no triable issue of fact exists as to Plaintiffs' statutory claims under California Government Code sections 8658 and 11135, and (4) no triable issue of fact exists as to Plaintiffs' failure to exhaust administrative remedies prior to bringing this lawsuit.

The motion for summary judgment or, in the alternative, summary adjudication, will be based upon this notice, the memorandum of points and authorities, the separate statement of undisputed facts, the declarations of Captain Kyle Bibel, Colleen Kelly, Ph.D., and Steven P. Inman, II, the exhibits attached to the declarations, the Court's files, and oral argument at the hearing.

In the alternative, William Gore also moves for Summary Adjudication in his favor and against the Plaintiffs. William Gore's motion for summary adjudication depends on the same grounds and evidence submitted in support of the summary judgment motion. William Gore seeks summary adjudication on the following specific causes of action and issues of duty:

1. That the Plaintiffs are not entitled to a writ of habeas corpus.

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2. That the Sheriff is not obligated to release additional inmates pursuant to California Government Code section 8658.
3. That the Sheriff did not violate California Government Code section 1135.
4. That the Sheriff did not violate the rights of inmates under Cal. Const. Art. I, §7 (Due Process).
5. That the Sheriff did not violate the rights of inmates under Cal. Const. Art. I, §17 (Cruel and Unusual Punishment).
6. That the Plaintiffs cannot pursue their claims, as they did not first exhaust their administrative remedies.

Pursuant to California Rules of Court, rule 3.1308, and San Diego Superior Court Rules, rule 2.1.19, a tentative ruling may be made and available by 4:00 p.m., on the court day prior to the scheduled hearing. The tentative ruling may be obtained by calling the independent calendar clerk for the department or on the court's website (www.sdcourt.ca.gov).

DATED: March 24, 2022

OFFICE OF COUNTY COUNSEL

By: 

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

Terry Leroy Jones, et. al, Plaintiff, v. William D. Gore, in his official capacity, Defendant.	No. 37-2021-00010648-CU-MC-CTL Action Filed: March 10, 2021 **[IMAGED FILE]** **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION** Date: June 10, 2022 Time: 9:00 a.m. Judge: Joel R. Wohlfeil Department: C-73

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I. INTRODUCTION

Defendant William Gore (the "Sheriff"), sued in his former official capacity as the Sheriff of San Diego County, seeks summary judgment on all of causes of action that Plaintiffs Terry Jones and Gabriel Campos have brought in this putative class action because the San Diego Sheriff's Department ("SDSO") has taken extensive measures to protect inmates in the San Diego County Jails from the COVID-19 virus. The SDSO's efforts have been beyond reasonable and have been highly effective. Over the course of the entire two-years of the COVID-19 pandemic, which has spread rapidly across the world and caused 5,143 deaths in the San Diego region alone, despite public health measures,[1] the virus has only caused three inmate deaths and 47 inmate hospitalizations. While all deaths and hospitalizations are undesirable, these numbers demonstrate that the SDSO's efforts to protect inmates from the harmful COVID-19 virus have been a remarkable success. The numbers of cases and deaths are even fewer than would be expected among these individuals in the community.

While Plaintiffs may argue the existence of more reasonable measures that may have been taken—or even that the SDSO's measures have been executed imperfectly—in light of the evidence presented with this motion of the extensive efforts the SDSO has undertaken to protect inmates from COVID-19, Plaintiffs cannot meet the extremely high standard of "deliberate indifference" to establish their causes of action for due process and cruel and unusual punishment. They likewise cannot establish that the Sheriff was obligated to release a greater number of inmates pursuant to California Government Code Section 8658 ("Section 8658"), or that the Sheriff violated California Government Code Section 11135 ("Section 11135") by failing to make reasonable modifications, accommodations, or releases during the COVID-19 pandemic for people with disabilities. Accordingly, the Sheriff is entitled to summary judgment on each of Plaintiffs' causes of action, or, alternatively is entitled to a summary adjudication of the issues set forth in the Notice of Motion.

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[1] "COVID-19 in San Diego County" https://www.sandiegocounty.gov/content/sdc/hhsa/programs/phs/community_epidemiology/dc/2019-nCoV/status.html (last accessed 3/23/2022).

II. STATEMENT OF FACTS

From the start of the COVID-19 pandemic in the United States in March 2020, to the present, the SDSO has implemented a wide-range of measures to protect inmates from COVID-19 that have required extensive work and resulted in very significant changes to policies and procedures from intake through release. Separate Statement of Undisputed Material Facts (SUF), Fact No. 1. Upon initial intake to a jail facility, a registered nurse asks all incoming inmates questions to screen them for possible COVID-19 symptoms. *Id*. at 2. Each new inmate is then tested. *Id*. at 3. Only inmates who actively refuse the test are not tested. *Id*. at 4. Currently 85%-90% of inmates agree to being tested upon intake. *Id*. at 5. The SDSO then places those who test positive for COVID-19, into medical isolation housing. *Id*. at 6.

In addition to testing inmates for COVID-19 upon intake, the SDSO places inmates into an intake quarantine where they are co-horted by booking date. *Id*. at 7-8. This means that they are housed with individuals that were booked into the jails and the same date, are transported to court in their booking cohorts, and are otherwise prevented from intermingling with other inmates as much as possible until their quarantine period is complete. *Id*. at 8-9. The duration of the intake quarantine has been seven days throughout most of the pandemic, but due to space and staffing issues caused at least in part by the state prison's failure to accept are large number of post-conviction inmates during the pandemic (currently 308), in consultation with the County's Department of Health and Human Services the intake quarantine has been limited to five days. *Id*. at 11-13. The SDSO made this adjustment pursuant to CDC Guidelines, which permit quarantines shorter than the recommended 10-day period in consultation with public officials during "crisis-level operations," such as when space and staffing are limited. *Id*. at 14.

The intake quarantine has significantly limited cases in the San Diego County Jails. *Id*. Of the 3,581 total cumulative cases in the jails from the start of the pandemic through February 5, 2022, nearly one-third of those cases (1,207) were identified upon intake—meaning that the inmates did not become infected with the virus while in a San Diego County Jail. *Id*. at 15. The intake quarantine period also provides time to test inmates a second time, to offer them

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vaccinations, and to watch them for symptoms before they are housed with the general population. *Id*. at 10.

Upon completing the intake quarantine, inmates are given housing assignments. *Id*. at 16. The SDSO has developed its housing plans during the pandemic in consultation with medical staff. *Id*. at 17. Inmates at higher risk for severe effects from COVID-19, are sent to separate housing areas that have been designated for them. *Id*. at 18. In these areas, additional PPE is used (*e.g.*, inmates wear KN95 masks outside their cells and inmate workers wear N95 masks and gloves) and movement is more restricted to provide these so called "high risk" inmates with greater protection from the transmission of the virus. *Id.*

Inmates designated as "high-risk" and sent to medically isolate in the "high-risk" housing areas include inmates who (i) are 65 years old or older with a chronic medical condition, (ii) are receiving chemotherapy or radiation, (iii) have diabetes with an A1c greater than or equal to 10, (iv) are COPD patients receiving breathing treatments during their current incarceration, or (v) are hypertension patients over 65 with a systolic blood pressure greater than or equal to 160. *Id*. at 19. These categories were created based on CDC Guidelines and in consultation with medical staff. *Id.*

In addition to quarantines, high-risk housing, and medical isolation, early in the pandemic SDSO adopted mask requirements for all inmates. *Id*. at 20. Cloth masks are exchanged with laundry each week, may be washed with soap and water by inmates at any time, and are also exchangeable upon an inmate's request when they become soiled. *Id*. at 21. Mask policies are strictly enforced when inmates are outside of their cells/dorms. *Id*. at 22. Higher-grade masks are also provided to inmates in high-risk housing when they are outside of their cells, are provided to inmate workers, and are provided to inmates being transported, and otherwise as appropriate. *Id*. at 23.

All jail staff and visitors are also required to wear masks, and have been required to do so since early 2020. *Id.* at 24. They must also be fully vaccinated or present proof of a negative test result. *Id.* at 25. In compliance with CDC Guidelines, all jail staff are either fully vaccinated or test weekly. *Id*. at 26.

The SDSO has also taken extensive steps to encourage mask wearing, hand washing, and social distancing verbally, through posters, and through a COVID-19 video that is played for inmates at least daily. *Id.* at 27. To further enable social distancing when case conditions worsen, cells or cohorts are given access to the dayroom, phones, and showers just one cell/cohort at a time. *Id*. at 28. Restrictions are tightened and loosened based on case data, but with the goal of having each cell or cohort have at least 30 minutes of access to these facilities per twenty-four hour period. *Id*. at 29. Dayrooms, phones, and showers have also been clean/disinfected more frequently during the pandemic in conformity with the CDC Guidelines. *Id* at 30. Additionally, at various points during the pandemic, the SDSO has employed other measures including stopping in person visitation, cancelling group activities, and restricting out of cell movement to reduce the risk of transmission. *Id*. at 31. The SDSO implements these measures and then adjusts them commensurate with the current spread of the virus in the community and in the facilities. *Id.*

To further enable social distancing and protect inmates from the spread of the virus, the SDSO has also limited transportation to/from court and jail facilities during the pandemic to be on an as-needed basis only. *Id*. at 32. Rapid COVID-19 tests have also been approved for use prior to all transports; however, this new protocol has not yet been fully implemented, in part because the County has not yet been able to acquire a sufficient and reliable number of rapid tests for all transports. *Id*. at 33.

The SDSO has also worked with the courts to take significant measures to reduce the jail population for purposes of enabling social distancing and reducing virus spread. *Id*. at 34-35. The SDSO is following the Court's Temporary Emergency Modification to the Bail Schedule, pursuant to the General Order of the Presiding Department, Order No. 010121-42, which sets bail for all felonies and misdemeanors at zero except offenses falling within 13 specified categories. *Id*. The County has also given a 10% credit in sentencing recalculations pursuant to California Penal Code Section 1170(h) to provide for early release. *Id*. at 36. Additionally, the SDSO has implemented Emergency Booking Acceptance Criteria which, coupled with the zero

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bail schedule, significantly reduces the number of pre-trial inmates that are eligible to be housed in the jail. *Id*. at 37.

These efforts to reduce the jail population have largely succeeded. *Id*. at 38-39. The SDSO's efforts to reduce jail population have largely succeeded. *Id*. The number of bookings dropped from 82,394 in 2018 and 80,201 in 2019, down to 49,621 in 2020 and 50,841 in 2021. Similarly, the average daily jail population dropped from 5,630 in 2019, down to 4,197 in 2020 and 3,927 in 2021. *Id*.

The SDSO has not been able to stop the spread of the virus in the jails entirely, but it has managed to limit deaths and hospitalizations from the virus to remarkably low numbers (no more than 3 deaths and 47 hospitalizations as of March 15, 2022). *Id*. at 40. Currently, as of March 22, 2022, only nine inmates are infected with COVID-19 out of a jail population of 4,379. *Id.* at 41.

All inmates, both in the general population and high-risk housing, receive daily temperature checks. *Id.* at 42. Any observed symptoms are also reported by jail staff, along with any symptoms that the inmates themselves report. *Id*. Symptomatic inmates are isolated in housing designated for suspected cases and are offered COVID-19 pcr tests. *Id.* at 43. Jail staff provide tests to inmates who were exposed after conducting contact tracing, and inmates can also receive tests upon request. *Id.* at 44-45.

When an inmate tests positive for COVID-19, tests are offered to all cell mates/dorm mates, and all of those individuals are required to quarantine for 14 days. *Id*. at 46. Jail staff also conducts contact tracing to identify additional individuals who must quarantine. *Id*. at 47. New cases identified during the quarantine period start the quarantine period over. *Id*. at 48. Jail staff takes care not break quarantines by adding any new individuals to a cell or dorm; but movement of inmates occasionally becomes necessary and quarantines have been broken approximately 10-12 times over the past two years. *Id*. at 49. When that occurs, to afford the maximum possible protection from the virus to inmates, the 14-day quarantine period starts over (as it also does whenever someone else in the quarantined group tests positive). *Id*.

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When inmates are COVID-19 positive and symptomatic, the SDSO has taken further steps to prevent harm from the virus, including by offering monochromal antibody treatments. *Id*. at 50. Inmates can also request medical attention at any time and the SDSO has on-site physicians and nurses who work in the jail facilities. *Id.* at 51.

Of course, the best way to protect inmates from the risk of serious illness or death from the virus is through vaccination; and the SDSO has made extensive efforts to get inmates vaccinated. *Id*. at 52. Inmates are offered vaccines twice during the intake quarantine. *Id.* Those who refuse the vaccine receive counseling and further encouragement by jail nurses who seek to resolve their concerns. *Id*. at 53. Inmates who refuse vaccination are then required to sign a vaccine refusal form. *Id*. As of February 10, 2022, over 22,748 vaccines have been offered to inmates. *Id*. at 54.

Even after intake quarantine, SDSO continues to promote vaccination. *Id.* at 55. Posters advertise that inmates can request a vaccine by submitting a sick call request form, and SDSO has conducted "vaccine blitzes," during which they have approached inmates regarding vaccines, held educational sessions with inmates and physicians about the vaccines, encouraged inmates to get vaccinated, and offered inmates items from the commissary as an incentive to get vaccinated. *Id*.

The SDSO is fully in compliance with California Department of Health Orders, and has substantially implemented CDC Guidelines regarding vaccination, boosters, infection control, masking, disinfection, screening testing, diagnostic testing, excluding sick staff members, monitoring trends in the community and adjusting strategies in response, information sharing with public health partners, creating a COVID 19 plan, training staff, posting signs throughout the facilities and more. *Id*. at 56-57. Additionally, the CDC Guidelines state that the guidance within them "should be adapted based on an individual facility's physical space, staffing, population,, operations, history of SARS-CoV outbreaks, community factors, and other resources and conditions." *Id*. at 58.

Plaintiff Jones currently resides in state prison and when asked what measures to mitigate the spread of COVID-19 the state prison has taken that the SDSO has not, he could come up

with nothing other than that things appeared cleaner in state prison. *Id*. at 60. Further, neither Plaintiff Jones nor Plaintiff Campos ever attempted to exercise the grievance procedures at the jails or otherwise exhaust their administrative remedies prior to bringing this lawsuit. *Id.* at 61.

III. STANDARD FOR SUMMARY JUDGMENT

A party is entitled to summary judgment when no triable issue of material fact exists, and the moving party is entitled to judgment as a matter of law if a cause of action is proven to have no merit. Cal. Civ. Proc. § 437c. More specifically, a defendant is entitled to summary judgment when the defendant demonstrates that no merit to a cause of action exists because one or more elements of the cause of action cannot be established (e.g., deliberate indifference) or when a complete defense to the cause of action exists. Code Civ. Proc., § 437c(o)(2).

The California Supreme Court summarized the burden of the party moving for summary judgment in *Aguilar v. Atlantic Richfield Co.*, 25 Cal.4th 826, 850-851 (2001) when it stated,

> There is a triable issue of material fact if, and only if, the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof... The party moving for summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he carries his burden of production, he causes a shift, and the opposing party is then subjected to a burden of production of his own to make a prima facie showing of the existence of a triable issue of material fact.

Once the moving defendant has made that showing, the burden shifts to the plaintiff to demonstrate that a triable issue of one or more material facts exists as to that cause of action or as to a defense to the cause of action. *Id.* at 849. The plaintiff cannot rely on the mere allegations or denial of his pleadings, "but, instead, shall set forth the specific facts showing that a triable issue of material fact exists." *Desaigoudar v. Meyercord*, 108 Cal.App.4th 173, 192 (2003). Absent such a showing, summary judgment must be granted in the defendant's favor. Similarly, summary adjudication should be granted if no triable issue of material fact would preclude the disposition of a cause of action or issue of duty. Cal. Civ. Proc. § 437c(o)(2); and Cal. Civ. Proc. § 437c(f)(1).

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IV. ARGUMENT

A. The Sheriff Is Entitled to Summary Judgment Because Plaintiffs Failed to Exhaust Their Administrative Remedies.

As an initial matter, the Sheriff is entitled to summary judgment because neither Plaintiff attempted to exhaust administrative remedies prior to bringing this lawsuit. Jones and Camps testified that they submitted no grievance related to COVID-19 despite having the means to do so. SUF 61. Plaintiffs have filed their complaint as a writ of habeas corpus, and under California law administrative remedies "must be exhausted by an inmate before resorting to a petition for habeas corpus in the courts." *In re Muszalski*, 52 Cal. App. 3d 500, 508 (1975). This rule applies not only to writs of habeas corpus, but to all inmate lawsuits. *Wright v. State of California*, 122 Cal.App.4th 659, 665 (2004) (California courts have "specifically applied the general exhaustion requirement to prisoner suits, requiring prisoners to exhaust administrative remedies before seeking judicial relief."); *In re Dexter*, 25 Cal. 3d 921, 925 (1979) ("As a general rule, a litigant will not be afforded judicial relief unless he has exhausted available administrative remedies. The requirement that administrative remedies be exhausted "applies to grievances lodged by prisoners.") (*internal citations omitted*).

Despite the requirement that Plaintiffs exhaust administrative remedies prior to bringing a lawsuit, neither of them did so. While acknowledging the existence of a complaint box and the possibility that he could have submitted a grievance by leaving a note under his cell door, Plaintiff Jones testified that he did not attempt to exercise any written grievance procedure at the jails with regard to COVID-19. SUF 61. Plaintiff Campos similarly testified how to submit a grievance but testified that he had not made any grievance before regarding COVID-19—despite admitting that he made other grievances in the past. *Id*. California law is clear that the submission of grievances to exhaust administrative remedies is a precondition to seeking judicial relief. *Wright*, 122 Cal.App.4th at 665. Accordingly, Plaintiffs cannot obtain judicial relief in this lawsuit and the Sheriff is entitled to summary judgment.

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B. The Sheriff is Entitled to Summary Judgment on Plaintiffs' Due Process and Cruel and Unusual Punishment Claims Because Plaintiffs Cannot Show Deliberate Indifference.

1. Due Process.

Plaintiffs' cause of action for due process fails because in light of the SDSO's extensive efforts to protect inmates from COVID-19, Plaintiff cannot show deliberate indifference. Plaintiffs' due process claim is based upon their allegation that the Sheriff showed deliberate indifference to the serious risk that COVID-19 poses to members of the Pre-Trial Class and Pre-Trial Medically Vulnerable Subclass. However, in light of the evidence of the SDSO's extensive efforts to protect inmates from COVID-19, whether one would characterize the SDSO's "policy response to COVID-19 as strong, fair, needing improvement, or something else, it simply cannot be described in the way that matters here: as a reckless disregard of the very health risks it forthrightly identified and directly sought to mitigate." *Fraihat v. U.S. Immigr. & Customs Enf't*, 16 F.4th 613, 638 (9th Cir. 2021).

As the Court stated in its order denying Plaintiffs' motion for preliminary injunction, "Deliberate indifference is an extremely high standard to meet."[2] Demonstrating deliberate indifference requires a substantial showing that includes the following elements: (i) the defendant made an intentional decision with respect to the conditions under which the plaintiff was confined; (ii) those conditions put the plaintiff at substantial risk of suffering serious harm; (iii) the defendant did not take reasonable available measures to abate that risk, even though a reasonable official in the circumstances would have appreciated the high degree of risk involved—making the consequences of the defendant's conduct obvious; and (iv) by not taking such measures, the defendant caused the plaintiff's injuries. *Fraihat*, 16 F.4th at 636. The third element requires plaintiffs to show that defendants' conduct was "objectively unreasonable." *Id*. And to establish objective unreasonableness, a plaintiff must "prove more than negligence but less than subjective intent—something akin to reckless disregard." *Id*.

The "reckless disregard" standard itself is also "a formidable one." As the Ninth Circuit has stated, "Neither mere lack of due care, nor an inadvertent failure to provide adequate

[2] Tentative Ruling on Plaintiffs' Motion for Preliminary Injunction, dated March 4, 2002 at p. 2.

medical care, nor even medical malpractice, without more, is sufficient to meet this standard." *Id*. (citing *Estelle v. Gamble*, 429 U.S. 97, 105–06 (1976); *Gordon v. Cty. of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018) and *Castro v. Cty. of Los Angeles*, 833 F.3d 1060, 1071 (9th Cir. 2016)) *(internal quotations and citations omitted*). "Instead, a plaintiff must show that the defendant disregarded an excessive risk to the plaintiff's health and safety by failing to take reasonable and available measures that could have eliminated that risk." *Id*. (quotation marks omitted). Moreover, for deliberate indifference, there must be a purposeful act or failure to act on the part of the defendant and resulting harm. *Shapley v. Nev. Bd. of State Prison Comm'rs*, 766 F.2d 404, 407 (9th Cir. 1985).

Incontrovertible evidence establishes that the Sheriff has not acted with deliberate indifference. The lengthy description of COVID-19 mitigation efforts in the Statement of Facts above and supported by the evidence cited in the Separate Statement of Undisputed Facts belies the assertion that the Sheriff acted with a reckless disregard of the potential harm posed by the pandemic.

Plaintiffs will undoubtedly respond to this motion with declarations regarding instances in which an quarantine had to be broken and restarted, an individual was mistakenly removed from quarantine, a test request fell through the cracks or some other mistake was made. Over the course of two years, with thousands of inmates passing through and with conditions and guidance constantly changing, a likelihood exists that some mistakes have been made. Nevertheless, while each such mistake is regrettable, "[t]he test for deliberate indifference requires reasonable action," and not perfection. *Toure v. Hott*, 458 F. Supp. 3d 387, 407 (E.D. Va. 2020); *Gordon*, 888 F.3d at 1125 (9th Cir. 2018) (holding that negligence and the mere lack of due care are insufficient to establish deliberate indifference"). To establish deliberate indifference, Plaintiffs must prove not merely the existence of deficiencies or that some steps that could be taken were not taken, they must prove "objective unreasonableness." *Fraihat*, 16 F.4th at 636. The evidence supporting this motion, however, demonstrates that the SDSO's response to the COVID-19 has been reasonable and even that its efforts have been extraordinary.

The reasonableness of the SDSO's COVID-19 mitigation measures is also validated by the results the SDSO has obtained. Colleen Kelly, Ph.D, a tenured associate professor of statistics at San Diego State University with extensive experience in biostatistics, and who focuses on developing statistical methodologies to address biological problems, compared case rates in the San Diego County Jails with case rates in the community (the County of San Diego). Declaration of Colleen Kelly, Ph.D ("Kelly Decl.,") at ¶¶ 1-4. Using jail demographic data such as age-group, race, and region of last residence, along with regional demographic data and San Diego County Health and Human Services region COVID-19 rates, she determined that the number of cases and deaths in the San Diego County jails were significantly lower than she would have expected to see based on the numbers in the outside community. Kelly Decl., at ¶¶ 4-9. Specifically, "the observed number of COVID-19 cases in the COSD Jail system is a fraction (18.0%) of the expected number in the community, and the observed number of deaths due to COVID-19 is an even lower fraction (8.3%) of the expected number in the community." Kelly Decl., at ¶ 9. The sources of data Dr. Kelly used and her methodology are described thoroughly in the declaration that she prepared in support of this motion (described more extensively than in the declaration she prepared in support of the opposition to Plaintiffs' motion for preliminary injunction).

Nevertheless, even if Plaintiffs were to dispute Dr. Kelly's well-reasoned analysis, the Court need only look to the data the SDSO has provided from the jails to see the effectiveness of the SDSO's COVID-19 mitigation efforts. Over the course of the entire pandemic, only **three** San Diego County inmates have died due to COVID-19.[3] In contrast, Plaintiffs alleged back in April 2021 that the Donovan State Prison had already experienced 15 deaths.[4] The number of hospitalizations of San Diego County Jail inmates due to COVID-19 has also been low: the virus has only resulted in **47** hospitalizations of inmates over the past two years.[5] While every death and hospitalization is tragic, these statistics demonstrate that the SDSO's extensive efforts

[3] SUF 40. The third death has not yet been confirmed by the County Medical Examiner as resulting from COVID-19.
[4] First Amended Verified Petition for Writs of Mandate and Habeas Corpus and Complaint for Injunctive Relief, at ¶ 55.
[5] SUF at 40.

to prevent the spread of COVID-19 have been highly effective. Recent numbers show that there are currently only nine inmates that are COVID-19 positive, out of an inmate population of 4,379. SUF 41.

As the Court stated regarding the evidence the County submitted in connection with its opposition to Plaintiffs motion for preliminary injunction, the evidence presented with this motion for summary judgment "tends to demonstrate that Defendant is doing what it can given the difficult circumstances presented. It is not in a position to accept less inmates, release more inmates, or to stop transporting inmates to court appearances. The Sheriff's Department is working with limited space, limited staffing and limited inmate transportation options."[6] Taken as a whole, the measures taken by the SDSO to prevent or curb the spread of COVID-19 have been reasonable, extensive, and highly effective. They do not satisfy the requisite state of mind indicative of deliberate indifference, which equates to a reckless disregard. *Fraihat*, 16 F.4th at 636. Accordingly, the Sheriff is entitled to summary adjudication and summary judgment on Plaintiffs' due process claim.

2. <u>Cruel and Unusual Punishment.</u>

The Sheriff is entitled to summary adjudication and summary judgment on Plaintiffs' cause of action for cruel and unusual punishment for the same reasons. In order to establish cruel and unusual punishment in violation of the Eighth Amendment, a Plaintiff must establish two elements. *Farmer v. Brennan*, 511 U.S. 825, 834 (1994). "First, the deprivation must be, objectively, sufficiently serious." *Id.* (internal quotation marks and citation omitted). Second, "prison officials must have a sufficiently culpable state of mind," which for conditions-of-confinement claims, "is one of deliberate indifference." *Id.* (internal quotation marks and citation omitted). *Castro v. Cty. of Los Angeles*, 833 F.3d 1060, 1068 (9th Cir. 2016) ("In order to state a plausible Eighth Amendment claim for relief, a Plaintiff must allege facts sufficient to show that Defendants acted with 'deliberate indifference.'").

Deliberate indifference in violation of the Eighth Amendment exists when a prison official knows an inmate faces a substantial risk of serious harm to his health and fails to take

[6] Tentative Ruling on Motion for Preliminary Injunction, dated March 4, 2022 at p. 2.

reasonable measures to abate the risk. *Fuller v. Houston*, 2021 WL 6496742, at *6 (C.D. Cal. Nov. 19, 2021), report and recommendation adopted, 2022 WL 225671 (C.D. Cal. Jan. 25, 2022). Further, because "only the unnecessary and wanton infliction of pain implicates the Eighth Amendment," prisoners alleging cruel and unusual punishment must plead some factual content to plausibly suggest each defendant acted with a "sufficiently culpable state of mind." *Flourney v. Does 1-15*, 2022 WL 254568, at *4 (S.D. Cal. Jan. 27, 2022) (quoting *Wilson v. Seiter*, 501 U.S. 294, 297, 302-03, (1991). Consequently, "prison officials who act reasonably cannot be found liable under the Cruel and Unusual Punishments Clause." *Farmer*, 511 U.S. at 845.

The lengthy description of COVID-19 mitigation efforts in the above Statement of Facts above and supported by the evidence cited in the Separate Statement of Undisputed Facts demonstrates that jail officials have acted reasonably and not with a sufficiently culpable state of mind that would show deliberate indifference to health or safety. *George v. Diaz*, 2020 WL 5073996, at *4 (N.D. Cal. Aug. 24, 2020) ("To violate the Cruel and Unusual Punishments Clause, a prison official must have a 'sufficiently culpable state of mind, which is one of "deliberate indifference" to inmate health or safety."). Therefore, the Sheriff is also entitled to summary adjudication and summary judgment on Plaintiffs' cause of action for cruel and unusual punishment.

C. <u>Plaintiffs' Claim Under Section 8658 Fails Because the Sheriff's Authority Under That Statute is Discretionary.</u>

Plaintiffs cannot prevail on their claim under Section 8658 either, because no evidence exists that the Sheriff has abused the broad discretion that he is given under that statute. Plaintiffs' argument that the exercise of authority under this statute is mandatory is false and flies in the face of principles of statutory interpretation. In their pleadings, Plaintiffs quote the statute in a misleading manner, deliberately omitting the word "may." They allege the following:

> California Government Code Section 8658 provides that where an emergency is endangering the lives of inmates of a county correctional institution, the person in charge of the institution 'shall, if possible, remove' the inmates '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.'

First Amended Verified Petition For Writs of Mandate and Habeas Corpus and Complaint for Injunctive and Declaratory Relief, at ¶ 188. As actually written, however, the statute states,

> 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.

Cal. Gov't Code § 8658 (emphasis added). The plain language interpretation of this statute, giving meaning to all of the statute's text (including the word "may"), is the following: The Sheriff may—but is not required to—remove the inmates; and if he does remove them, he must move them to a safe and convenient place and either keep them there as long as necessary to avoid the danger or, if that is not possible, he ***may*** release them. *Id.*; *Elder v. Carlisle Ins. Co.*, 193 Cal. App. 3d 1313, 1319, 238 Cal. Rptr. 897, 901 (Ct. App. 1987) ("In construing a statute, a court should give meaning to the entire statute and avoid an interpretation that would effectively nullify a portion of the statute.").

Instead of imposing a mandatory duty on the Sheriff, the statute uses the word "may" to grant the Sheriff discretionary authority, implicitly recognizing the balancing of competing interests and professional discretion involved in making decisions about what to do with inmates during an emergency. It couches the granting of authority in phrases such as "if possible" and the most deferential and permissive legislative word of all - "may."

No statutory mandate exists compelling the Sheriff to act in one way or another concerning his management of the County jails, and the court should try substitute its discretion for the Sheriff's, especially absent any showing of deliberate indifference. COVID-19 is not an excuse to ignore constitutional rights or the long-established separation of powers between the judiciary and the executive branch. Plaintiffs' Section 8658 claim, therefore, must fail, and the

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Sheriff is entitled to summary judgment or, alternatively, summary adjudication on this cause of action.

D. PLAINTIFFS CANNOT ESTABLISH A VIOLATION OF SECTION 11135

Plaintiffs also lack evidence to establish their claim for violation of Section 11135. No evidence of a violation exists. Section 11135, with its implementing regulations, requires parties to avoid unnecessary policies, practices, criteria or methods of administration that have the effect of excluding or discriminating against persons with disabilities and to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability. Cal. Gov't Code § 11135. The elements of a violation of Section 11135 are the following: (1) the plaintiff is an individual with a disability; (2) the plaintiff is otherwise qualified to participate in or receive the benefit of some public entity's services, programs, or activities; (3) the plaintiff was either excluded from participation in or denied the benefits of the public entity's services, programs, or activities, or was otherwise discriminated against by the public entity; and (4) such exclusion, denial of benefits, or discrimination was by reason of the plaintiff's disability. *Ray Robertson v. Contra Costa Cty.*, 2016 WL 4259135, at *5 (N.D. Cal. Aug. 12, 2016) (*citing Thompson v. Davis*, 295 F.3d 890, 895 (9th Cir. 2002)). No evidence exists in this lawsuit of *any* exclusion, denial of benefits, or discrimination was by reason of any plaintiff's disability. The elements are not met.

While Plaintiffs have alleged that the Sheriff failed to make the reasonable modifications necessary to ensure equal access to adjudication, jail services, and release for people with disabilities who face high risk of complications or death in the event of COVID-19 infection, Plaintiff Jones is not disabled and no evidence exists that Plaintiff Campos was ever denied equal access to adjudication, jail services, or release by reason of a disability—and no evidence exists that any disabled person in the jails had less access to adjudication, jail services, or release by reason of a disability or discrimination.

The SDSO has also made modifications/accommodations for inmates whose disabilities render them at higher risk of complications or death from COVID-19. Specifically, it designated separate housing with increased COVID-19 mitigation efforts for individuals at

higher risk for severe effects of COVID-19. SUF 18. Additional PPE is used in these areas and greater restrictions on movement exist. *Id.* Plaintiffs also have provided no evidence that the SDSO has improperly denied any plaintiff's reasonable accommodation request related to COVID-19. Thus, the Sheriff is also entitled to summary judgment or summary adjudication on Plaintiffs' Section 11135 claim.

V. CONCLUSION

In light of the foregoing, the Sheriff requests that the Court enter summary judgment in the Sheriff's favor or, alternative, summary adjudication with respect to each of Plaintiffs' causes of action and the issues identified herein and in the Notice of Motion.

DATED: March 15, 2022

OFFICE OF COUNTY COUNSEL

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

Terry Leroy Jones, et. al, Plaintiff, v. William D. Gore, in his official capacity, Defendant.	No. 37-2021-00010648-CU-MC-CTL Action Filed: March 10, 2021 **[IMAGED FILE]** **SEPARATE STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION** Date: June 10, 2022 Time: 9:00 a.m. Judge: Joel R. Wohlfeil Department: C-73

TO: ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

Defendant William D. Gore offers the following statement of undisputed facts in support of his motion for summary judgment or, in the alternative, summary adjudication:

I. UNDISPUTED MATERIAL FACTS ON WHICH SUMMARY JUDGMENT MOTION IS BASED

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
1. From the start of the COVID-19 pandemic in the United States in March 2020 to the present, the SDSO has implemented a wide-range of measures to protect inmates from COVID-19 that have required extensive work and resulted in very significant changes to policies and procedures from intake through release. Bibel Decl. ¶¶ 1-27.	
2. Upon initial intake to a jail facility, a registered nurse asks all incoming inmates questions to screen them for possible COVID-19 symptoms. Bibel Decl. ¶ 4. Inman Decl., Ex. B, Dr. Montgomery Depo., 117:118:8	
3. Each new inmate is then tested for COVID-19. Bibel Decl. ¶ 4.	
4. Only inmates who actively refuse the COVID-19 test are not tested. Bibel Decl. ¶ 4.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
5. Currently 85%-90% of inmates agree to being tested upon intake. Bibel Decl. ¶ 4.	
6. The SDSO places inmates who test positive for COVID-19 into medical isolation housing. Bibel Decl. ¶ 4.	
7. In addition to testing inmates for COVID-19 upon intake, the SDSO all inmates into an initial intake quarantine. Bibel Decl. ¶ 5. Inman Decl., Ex. A, Lt. Arkwright Depo. 123:11-24.	
8. Inmates are grouped in the quarantine by cohorts, based on their booking date. Bibel Decl. ¶ 6. Inman Decl., Ex. A, Lt. Arkwright Depo. 123:11-24.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
9. This means that they are housed with individuals that were booked into the jails on the same date, are transported to court in their booking cohorts, and are otherwise prevented from intermingling with other inmates as much as possible until their quarantine period is complete. Bibel Decl. ¶ 6. Inman Decl., Ex. A, Lt. Arkwright Depo. 123:11-24.	
10. The intake quarantine period also provides time to test inmates a second time, to offer them vaccinations, and to watch them for symptoms before they individuals join the general jail population. Bibel Decl. ¶ 5. Inman Decl., Ex. B, Dr. Montgomery Depo., 132:13-18	
11. The duration of the intake quarantine has been seven days throughout most of the pandemic. Bibel Decl. ¶ 16; Ex B pp. 4, 11-12, 29. Inman Decl., Ex. A, Lt. Arkwright Depo. 123:11-24.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
12. Currently, due to space and staffing issues caused at least in part by the state prison's failure to accept a large number of post-conviction inmates during the pandemic (currently 308) and in consultation with the County's Department of Health and Human Services the intake quarantine has been limited to five days. Bibel Decl. ¶ 16.	
13. The SDSO made this initial intake quarantine adjustment pursuant to CDC Guidelines, which permit quarantines shorter than the recommended 10-day period in consultation with public officials during "crisis-level operations," such as when space and staffing are limited. Bibel Decl. ¶ 16.	
14. The intake quarantine has significantly limited cases in the San Diego County Jails. Bibel Decl. ¶ 5.	
15. Of the 3,581 total cumulative cases in the jails from the start of the pandemic through February 5, 2022, nearly one-third of those cases (1,207) were identified upon intake—meaning that the inmates did not become infected with the virus while in a San Diego County Jail. Bibel Decl. ¶ 5.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
16. Upon completing the intake quarantine inmates are given housing assignments. Bibel Decl. ¶ 7.	
17. The SDSO developed its housing plans in consultation with medical staff. Bibel Decl. ¶ 7.	
18. Inmates at higher risk for severe effects from COVID-19 are sent to separate housing areas that have been designated for them. In these areas, additional PPE is used (e.g., inmates wear KN95 masks outside their cells and inmate workers wear N95 masks and gloves) and movement is more restricted to provide these so called "high risk" inmates with greater protection from the transmission of the virus. Bibel Decl. ¶ 7. Inman Decl., Ex. C., Plaintiff Jones Depo.,59:2-20	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
19. Inmates designated as "high-risk" and sent to medically isolate in the "high-risk" housing areas include inmates who (i) are 65 years old or older with a chronic medical condition, (ii) are receiving chemotherapy or radiation, (iii) have diabetes with an A1c greater than or equal to 10, (iv) are COPD patients receiving breathing treatments during their current incarceration, or (v) are hypertension patients over 65 with a systolic blood pressure greater than or equal to 160. These categories were created based on CDC Guidelines and in consultation with medical staff. Bibel Decl. ¶ 8.	
20. In addition to quarantines, high-risk housing, and medical isolation, early in the pandemic SDSO adopted mask requirements for all inmates. Bibel Decl. ¶ 17.	
21. Cloth masks are exchanged with laundry each week, may be washed with soap and water by inmates at any time, and are also exchangeable upon an inmate's request when they become soiled. Bibel Decl. ¶ 17.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
22. Mask policies are strictly enforced when inmates are outside of their cells/dorms. Bibel Decl. ¶ 17. Inman Decl., Ex. D., Plaintiff Campos Depo., 48:24-49:5, 49:11-16	
23. Higher grade masks are also provided to inmates in high-risk housing when they are outside of their cells, are provided to inmate workers, and are provided to inmates being transported, and as appropriate. Bibel Decl. ¶ 17. Inman Decl., Ex. C., Plaintiff Jones Depo.,59:2-20	
24. Jail staff and all visitors are currently required to wear masks, and have been required to wear masks since early 2020. Bibel Decl. ¶ 18.	
25. Visitors must also be fully vaccinated or present proof of a negative test result. Bibel Decl. ¶ 18.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
26. In compliance with CDC Guidelines, all jail staff are either fully vaccinated or test weekly. Bibel Decl. ¶ 18.	
27. The SDSO has also taken extensive steps to encourage mask wearing, hand washing, and social distancing. This is done verbally, through posters, and through a COVID-19 video that is played for inmates at least daily. Bibel Decl. ¶ 19. Inman Decl., Ex. D., Plaintiff Campos Depo., 50:4-52:3	
28. To further enable social distancing when COVID case number increase, cells or cohorts or given access to the dayroom, phones, and showers just one cell/cohort at a time. Bibel Decl. ¶ 19.	
29. Restrictions are tightened and loosened based on case data, but with the goal of having each cell or cohort have at least 30 minutes of access to these facilities per twenty-four hour period. Bibel Decl. ¶ 19.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
30. Dayrooms, phones, and showers have also been clean/disinfected more frequently during the pandemic in conformity with the CDC Guidelines. Bibel Decl. ¶ 20. Inman Decl., Ex. C., Plaintiff Jones Depo., 53:7-19	
31. Additionally, at various points during the pandemic, the SDSO has employed other measures including stopping in person visitation, cancelling group activities, and restricting out of cell movement to reduce the risk of transmission. These measures are employed and then reduced commensurate with current spread of the virus in the community and in the facilities. Bibel Decl. ¶ 25.	
32. To further enable social distancing and protect inmates from the spread of the virus, the SDSO has also limited transportation to/from court and jail facilities during the pandemic to be on an as-needed basis only. Bibel Decl. ¶ 23. Inman Decl., Ex. A, Lt. Arkwright Depo. 144:2-145:8. Inman Decl., Ex. C., Plaintiff Jones Depo.,61:24-62:16	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
33. Rapid COVID-19 tests have also been approved for use prior to all transports; however, this new protocol has not yet been fully implemented, in part because the County has not yet been able to acquire a sufficient and reliable number of rapid tests for all transports. Bibel Decl. ¶ 23.	
34. The SDSO has also to take significant measures to reduce the jail population to enable socially distancing and reduce virus spread. Bibel Decl. ¶ 13. Inman Decl., Ex. A, Lt. Arkwright Depo. 65:21-66:7	
35. The SDSO is following the Court's Temporary Emergency Modification to the Bail Schedule, pursuant to the General Order of the Presiding Department, Order No. 010121-42, which sets bail for all felonies and misdemeanors at zero except offenses falling within 13 specified categories. Bibel Decl. ¶ 13.	
36. The County has also given a 10% credit in sentencing recalculations pursuant to California Penal Code section 1170(h) to provide for early release. Bibel Decl. ¶ 13.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
37. Additionally, the SDSO has implemented Emergency Booking Acceptance Criteria which, coupled with the zero bail schedule, significantly reduces the number of pre-trial inmates that are eligible to be housed in the jail. Bibel Decl. ¶ 13.	
38. The SDSO's efforts to reduce jail population have largely succeeded. The number of bookings dropped from 82,394 in 2018 and 80,201 *in* 2019, down to 49,621 in 2020 and 50,841 in 2021. Bibel Decl. ¶ 14.	
39. Similarly, the average daily jail population dropped from 5,630 in 2019, down to 4,197 in 2020 and 3,927 in 2021. Bibel Decl. ¶ 14.	
40. The SDSO has managed to limit deaths and hospitalizations from the virus to no more than 3 deaths and 47 hospitalizations as of March 15, 2022. Bibel Decl. ¶ 3.	
41. As of March 22, 2022 at 10:41:06 there were nine COVID cases in inmates, out of a population of 4,379. Inman Decl. Ex. E.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
42. All inmates, both in the general population and high-risk housing, receive daily temperature checks. Any observed symptoms are also reported by jail staff, along with any symptoms that the inmates themselves report. Bibel Decl. ¶ 9. Inman Decl., Ex. B, Dr. Montgomery Depo., 117:118:8	
43. Symptomatic inmates are isolated in housing designated for suspected cases. Symptomatic inmates are offered COVID-19 PCR tests. Bibel Decl. ¶ 10. Inman Decl., Ex. B, Dr. Montgomery Depo., 117:118:8	
44. Jail staff also provide tests to inmates who were exposed to a COVID positive individual. Bibel Decl. ¶ 10.	
45. Inmates can also receive tests upon request. Bibel Decl. ¶10.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
46. When an inmate tests positive for COVID-19, tests are offered to all cell mates/dorm mates, and all of those individuals are required to quarantine for 14 days. Bibel Decl. ¶ 12. Inman Decl., Ex. A, Lt. Arkwright Depo. 122:24-123:6, 124:19-125:3. Inman Decl., Ex. D., Plaintiff Campos Depo., 35:1-17	
47. Jail staff also conducts contact tracing to identify additional individuals who must quarantine. Bibel Decl. ¶ 12.	
48. New cases identified during the quarantine period start the quarantine period over. Bibel Decl. ¶ 12.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
49. Jail staff takes care not break quarantines by adding any new individuals to a cell or dorm; but movement of inmates occasionally becomes necessary and quarantines have been broken approximately 10-12 times over the past two years. When that occurs, to afford the maximum possible protection from the virus to inmates, the 14 day quarantine period starts over (as it also does whenever someone else in the quarantined group tests positive). Bibel Decl. ¶ 12. Inman Decl., Ex. A, Lt. Arkwright Depo. 124:19-125:3. Inman Decl., Ex. D., Plaintiff Campos Depo., 35:1-17	
50. When inmates are COVID-19 positive and symptomatic, the SDSO has taken further steps to prevent harm from the virus by offering monochromal antibody treatments Bibel Decl. ¶ 24.	
51. Inmates can also request medical attention at any time and the SDSO has on-site physicians and nurses who work in the jail facilities and provide medical care to inmates. Bibel Decl. ¶ 11.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
52. The SDSO has made extensive efforts to get inmates vaccinated. Inmates are offered vaccines twice during the intake quarantine. Bibel Decl. ¶ 21.	
53. Those who refuse the vaccine receive counseling and further encouragement by jail nurses who seek to resolve their concerns. Inmates who refuse vaccination are then required to sign a vaccine refusal form. Bibel Decl. ¶ 21. Inman Decl., Ex. A, Lt. Arkwright Depo. 52:12-22. Inman Decl., Ex. B, Dr. Montgomery Depo., 163:11-164:11 Inman Decl., Ex. C., Plaintiff Jones Depo.,63:18-25	
54. As of February 10, 2022, over 22,748 vaccines have been offered to inmates. Bibel Decl. ¶ 21.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
55. Even after intake quarantine, SDSO continues to promote vaccination. Posters advertise that inmates can request a vaccine by submitting a sick call request form, and SDSO has conducted "vaccine blitzes," during which they have approached inmates regarding vaccines, held educational sessions with inmates and physicians about the vaccines, encouraged inmates to get vaccinated, and offered inmates items from the commissary as an incentive to get vaccinated. Bibel Decl. ¶ 22. Inman Decl., Ex. A, Lt. Arkwright Depo. 46:23-47:8. Inman Decl., Ex. B, Dr. Montgomery Depo., 151:10-152:17, 163:11-164:11 Inman Decl., Ex. C., Plaintiff Jones Depo.,65:2-66:12 Inman Decl., Ex. D., Plaintiff Campos Depo., 30:10-17, 31:3-24	
56. SDSO is fully in compliance with California Department of Health Orders concerning management of COVID-19 in correctional facilities. Bibel Decl. ¶ 26.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
57. SDSO has substantially implemented CDC Guidelines regarding vaccination, boosters, infection control, masking, disinfection, screening testing, diagnostic testing, excluding sick staff members, monitoring trends in the community and adjusting strategies in response, information sharing with public health partners, creating a COVID 19 plan, training staff, posting signs throughout the facilities and more. Bibel Decl. ¶¶ 1-27; Exs. A & B.	
58. The CDC Guidelines state that the guidance within them "should be adapted based on an individual facility's physical space, staffing, population,, operations, history of SARS-CoV outbreaks, community factors, and other resources and conditions." Bibel Decl., Ex. A at p. 2.	
59. Colleen Kelly, Ph.D has opined that the observed number of COVID-19 cases in the COSD Jail system since the beginning of the COVID-19 pandemic is a fraction (18.0%) of the expected number in the community, and the observed number of deaths due to COVID-19 is an even lower fraction (8.3%) of the expected number in the community. Kelly Decl. ¶ 9.	

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
60. Plaintiff Jones currently resides in state prison and when asked what measures to mitigate the spread of COVID-19 the state prison has taken that the SDSO has not, he was only able to respond that things appeared cleaner in state prison. Inman Decl., Ex. C., Plaintiff Jones Depo.,70:13-71:13	
61. Neither Plaintiff Jones nor Plaintiff Campos ever attempted to exercise the grievance procedures at the jails or otherwise exhaust administrative remedies prior to bringing this lawsuit. The SDSO has an available administrative remedy in the form of a grievance process. Inman Decl., Ex. C., Plaintiff Jones Depo., 23:16-26:8 Inman Decl., Ex. D., Plaintiff Campos Depo., 53:10-54:3	

II. UNDISPUTED MATERIAL FACTS ON WHICH MOTION FOR SUMMARY ADJUDICATION IS BASED

Adjudication Issue No. 1: That the Plaintiffs are not entitled to a writ of habeus corpus.

Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
Undisputed Material Facts Nos, **1-60,** cited above under "UNDISPUTED MATERIAL FACTS ON WHICH SUMMARY JUDGMENT MOTION IS BASED"	

Adjudication Issue No. 2: That the Sheriff is not obligated to release additional inmates pursuant to California Government Code section 8658.

Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
Undisputed Material Facts Nos, 1-59**,** cited above under "UNDISPUTED MATERIAL FACTS ON WHICH SUMMARY JUDGMENT MOTION IS BASED"	

Adjudication Issue No. 3: That the Sheriff did not violate California Government Code section 1135.

Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
Undisputed Material Facts Nos, 1-59**,** cited above under "UNDISPUTED MATERIAL FACTS ON WHICH SUMMARY JUDGMENT MOTION IS BASED"	

Adjudication Issue No. 4: That the Sheriff did not violate the rights of inmates under Cal. Const. Art. I, §7.

Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
Undisputed Material Facts Nos, 1-**59,** cited above under "UNDISPUTED MATERIAL FACTS ON WHICH SUMMARY JUDGMENT MOTION IS BASED"	

Adjudication Issue No. 5: That the Sheriff did not violate the rights of inmates under Cal. Const. Art. I, §17.

Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
Undisputed Material Facts Nos, 1-**59,** cited above under "UNDISPUTED MATERIAL FACTS ON WHICH SUMMARY JUDGMENT MOTION IS BASED"	

Adjudication Issue No. 6: That the Plaintiffs' cannot pursue their claims as they did not first exhaust their administrative remedies.

Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
Undisputed Material Facts No, 60**,** cited above under "UNDISPUTED MATERIAL FACTS ON WHICH SUMMARY JUDGMENT MOTION IS BASED"	

DATED: March 15, 2022

OFFICE OF COUNTY COUNSEL

By: 

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

Terry Leroy Jones, et. al, Plaintiff, v. William D. Gore, in his official capacity, Defendant.	No. 37-2021-00010648-CU-MC-CTL Action Filed: March 10, 2021 **[IMAGED FILE]** **DECLARATION OF CAPTAIN KYLE BIBEL IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION** Date: June 10, 2022 Time: 9:00 a.m. Judge: Joel R. Wohlfeil Department: C-73

I, Kyle Bibel, declare as follows:

1. I am a Captain in the Medical Services Division of the San Diego County Sheriff's Department ("SDSO"). In this role, I collaborate with Dr. Jon Montgomery, the Chief Medical Officer in the San Diego County Jails, in overseeing the day-to-day implementation of the SDSO's COVID-19 mitigation efforts. I have personal knowledge of the facts stated in this declaration and, if called to testify, I could and would testify competently to them.

2. As part of my responsibilities, I am familiar with the Center for Disease Control's "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities" (the "CDC Guidelines") and I keep myself apprised of updates to the CDC Guidelines. A true and correct copy of the most recent CDC Guidelines, updated on February 10, 2022, and which is accessible on the CDC's website at https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html is attached hereto as **Exhibit "A".**

3. I have seen the SDSO take extensive measures to protect inmates from COVID-19 and have personally participated in implementing those measures. The SDSO's COVID-19 mitigation efforts have been highly effective, as demonstrated by statistics known to me in connection with my responsibilities. As our jail population comes predominantly from the San Diego County community, the jails have experienced outbreaks during case surges in the community. However, as of March 15, 2022, **over the course of the entire pandemic only 3 deaths and 47 hospitalizations of San Diego County Jail inmates have resulted from COVID-19**. The Medical Examiner has not yet definitively found that one of the 3 deaths was due to COVID-19, and that inmate had been in custody for less than 24 hours. Further, as of March 15, 2022, only 11 active COVID-19 cases existed in the San Diego County Jails out of an inmate population of 4,378.

4. Upon initial intake to a jail facility, a registered nurse asks all incoming inmates questions to screen them for possible COVID-19 symptoms. Each new inmate is then tested. Only inmates who actively refuse the test are not tested. Currently 85%-90% of inmates agree

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to being tested upon intake. Those who test positive for COVID-19 are placed in medical isolation housing.

5. The intake quarantine has significantly limited cases in the San Diego County Jails. Of the 3,581 total cumulative cases in the jails from the start of the pandemic through February 5, 2022, nearly one-third of those cases (1,207) were identified upon intake—meaning that the inmates did not become infected with the virus while in a San Diego County Jail. The intake quarantine period, while shorter than the 10-day period the CDC now recommends, also provides time to test inmates a second time, to offer them vaccinations, and to watch them for symptoms before they are put-in with the general population.

6. During the intake quarantine, inmates are cohorted by booking date. They are housed with individuals that were booked into the jails and the same date, are transported to court in their booking cohorts, and are otherwise prevented from intermingling with other inmates as much as possible until their quarantine period is complete.

7. Upon completing the intake quarantine inmates are given housing assignments. The SDSO has developed its housing plans in consultation with medical staff. Inmates at higher risk for severe effects from COVID-19 are sent to separate housing areas that have been designated for them. In these areas, additional PPE is used (*e.g.*, inmates wear KN95 masks outside their cells and inmate workers wear N95 masks and gloves) and movement is more restricted to provide these so called "high risk" inmates with greater protection from the transmission of the virus.

8. Inmates designated as "high-risk" and sent to medically isolate in the "high-risk" housing areas include inmates who (i) are 65 years old or older with a chronic medical condition, (ii) are receiving chemotherapy or radiation, (iii) have diabetes with an A1c greater than or equal to 10, (iv) are COPD patients receiving breathing treatments during their current incarceration, or (v) are hypertension patients over 65 with a systolic blood pressure greater than or equal to 160. These categories were created based on CDC Guidelines and in consultation with medical staff.

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9. All inmates, both in the general population and high-risk housing, receive daily temperature checks. Any observed symptoms are also reported by jail staff, along with any symptoms that the inmates themselves report.

10. Symptomatic inmates are isolated in housing designated for suspected cases and are offered COVID-19 pcr tests. Jail staff also provide tests to inmates who were exposed, and inmates can also receive tests upon request.

11. Inmates can request medical attention at any time through a sick call request. The jails have on-site physicians during business hours, after hour physicians on call, and numerous nurses who work in the facilities around the clock.

12. When an inmate tests positive for COVID-19, tests are offered to all cell mates/dorm mates, and all of those individuals are required to quarantine for 14 days. Jail staff also conducts contact tracing to identify additional individuals who must quarantine. New cases identified during the quarantine period start the quarantine period over. Jail staff takes care not break quarantines by adding any new individuals to a cell or dorm; but movement of inmates occasionally becomes necessary and I am aware of approximately 10-12 times over the past two years in which that has occurred and restarted the quarantine period.

13. The SDSO has implemented multiple measures to reduce the jail population. The SDSO is following the Court's Temporary Emergency Modification to the Bail Schedule, pursuant to the General Order of the Presiding Department, Order No. 010121-42, which sets bail for all felonies and misdemeanors at zero except offenses falling within 13 specified categories. The County has also given a 10% credit in sentencing recalculations pursuant to California Penal Code section 1170(h) to provide for early release. Additionally, the SDSO has implemented Emergency Booking Acceptance Criteria which, coupled with the zero bail schedule, significantly reduces the number of pre-trial inmates that are eligible to be housed in the jail.

14. The SDSO's efforts to reduce jail population have largely succeeded. The number of bookings dropped from 82,394 in 2018 and 80,201 in 2019, down to 49,621 in 2020 and

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50,841 in 2021. Similarly, the average daily jail population dropped from 5,630 in 2019, down to 4,197 in 2020 and 3,927 in 2021.

15. Notwithstanding the foregoing, jail population is not fully within the SDSO's control. For example, many inmates have warrants, and multiple times during the pandemic the state prisons have stopped accepting post-conviction inmates. As of March 15, 2022, the number of post-conviction inmates that the state prison has not yet accepted is 308. The state's refusal to accept these inmates has resulted in an increase in jail population. To enable better social distancing and reduce virus transmission under these conditions, the SDSO, in February 2021 the SDSO moved 200 male inmates to the Las Colinas Detention and Reentry Facility in Santee, which had previously been a female-only facility.

16. The jail population has increased over the past few months, due in large part to the state prison's refusal to accept a significant number of inmates during the recent omicron surge. Consequently, the SDSO has reduced the intake quarantine period to five days during this period of emergent operations. This was done pursuant to CDC Guidelines which permit a shortened quarantine in consultation with public officials during "crisis-level operations" (SDSO has done this in consultation with the County of San Diego Health & Human Services Agency).

17. In addition to quarantines, high-risk housing, and medical isolation, early in the pandemic SDSO adopted mask requirements for all inmates. Cloth masks are exchanged with laundry each week, may be washed with soap and water by inmates at any time, and are also exchangeable upon an inmate's request when they become soiled. Mask policies are strictly enforced when inmates are outside of their cells/dorms. Higher grade masks are also provided to inmates in high-risk housing when they are outside of their cells, are provided to inmate workers, and are provided to inmates being transported, and as appropriate.

18. Jail staff and all visitors are currently required to wear masks, and have been required to wear masks since early 2020. They must also be fully vaccinated or present proof of a negative test result. In compliance with CDC Guidelines, all jail staff are either fully vaccinated or test weekly.

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19. The SDSO has also taken extensive steps to encourage mask wearing, hand washing, and social distancing verbally, through posters, and through a COVID-19 video that is played for inmates at least daily. To further enable social distancing when case conditions worsen, cells or cohorts or given access to the dayroom, phones, and showers just one cell/cohort at a time. Restrictions are tightened and loosened based on case data, but with the goal of having each cell or cohort have at least 30 minutes of access to these facilities per twenty-four hour period.

20. Dayrooms, phones, and showers have also been clean/disinfected more frequently during the pandemic in conformity with the CDC Guidelines. To the extent security concerns permit, inmates are also provided with disinfectants effective against COVID-19.

21. The SDSO has made extensive efforts to get inmates vaccinated. Inmates are offered vaccines twice during the intake quarantine. Those who refuse the vaccine receive counseling and further encouragement by jail nurses who seek to resolve their concerns. Inmates who refuse vaccination are then required to sign a vaccine refusal form. As of February 10, 2022, over 22,748 vaccines have been offered to inmates.

22. Even after intake quarantine, SDSO continues to promote vaccination. Posters advertise that inmates can request a vaccine by submitting a sick call request form, and SDSO has conducted "vaccine blitzes," during which they have approached inmates regarding vaccines, held educational sessions with inmates and physicians about the vaccines, encouraged inmates to get vaccinated, and offered inmates items from the commissary as an incentive to get vaccinated.

23. SDSO continues to transport inmates to/from court and other facilities on an as-needed basis only. The County has approved rapid COVID-19 tests for all transports. However, in seeking to implement this procedure I have learned that the County has not yet been able to acquire a sufficient and reliable number of rapid tests for all transports.

24. More recently, the SDSO has also began providing symptomatic inmates with monochromal antibody treatments (which would likely be more difficult for the inmates to obtain outside of the jails).

25. At various points during the pandemic, in order to reduce risk of spread, the SDSO has employed other measures including stopping in person visitation, cancelling group activities, and restricting out of cell movement to reduce the risk of transmission. These measures are employed and then reduced commensurate with current spread of the virus in the community and in the facilities.

26. The SDSO has also implemented the State of California—Health and Human Services Agency California Department of Public Health Orders Concerning Correctional Facilities and is in compliance with those orders.

27. **Exhibit "B"** to this Declaration are copies of statements made by the SDSO throughout the pandemic which describe COVID-19 prevention measures the SDSO has implemented in the San Diego County Jails. The information in these releases was true and accurate as of the time these releases were issued.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 23rd day of March 2022, in San Diego, CA.

CPT. KYLE BIBEL

EXHIBIT “A”

Centers for Disease Control and Prevention

COVID-19

Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities

Updated Feb. 10, 2022

Summary of Recent Changes

Updates as of February 10, 2022

- Consolidated the following three guidance documents that were previously posted on the CDC COVID-19 Corrections webpage: Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities; Interim Guidance for SARS-CoV-2 Testing in Correctional and Detention Facilities; and Recommendations for Quarantine Duration in Correctional and Detention Facilities.
- Reduced quarantine duration during routine operations from 14 days to 10 days.
- Added recommendations on isolation and quarantine duration for staff and residents in correctional and detention facilities during crisis-level operations.
- Added description of the use of medication for prevention of severe COVID-19 disease.
- Updated language on vaccination status to include booster doses and additional doses for people who are eligible for them. (Removed references to “fully vaccinated” to refer instead to being “up to date on COVID-19 vaccines.”)
- Updated recommendations on use of personal protective equipment (PPE), masks, and respirators for correctional residents and staff (Table 1).

View Previous Updates

This document provides guidance specific for correctional and detention facilities regarding coronavirus disease 2019 (COVID-19) and consolidates previous CDC corrections-specific guidance documents. This guidance is based on what is currently known about the transmission and severity of COVID-19 as of February 10, 2022.

The U.S. Centers for Disease Control and Prevention (CDC) will update this guidance as needed and as additional information becomes available. Please check the CDC website periodically for updated guidance.

Intended Audience

This document is intended to provide guiding principles for healthcare and non-healthcare administrators of correctional and detention facilities for adults and juveniles to assist in preparing for potential introduction, spread, and mitigation of SARS-CoV-2 (the virus that causes COVID-19) in their facilities. (Visit the CDC website for healthcare workers for more information pertinent to healthcare staff specifically.) These facilities include but are not limited to federal and state prisons; local jails; detention centers; law enforcement agencies that have custodial authority for persons who are detained (i.e., U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, and U.S. Marshals Service); and their respective

EXHIBIT A

community-based departments of health. Some of these facilities and agencies might adapt CDC guidance for correctional and detention facilities based on their specific populations or operational needs. This guidance will not necessarily address every possible custodial setting and may not use legal terminology specific to individual agencies' authorities or processes. This guidance does not replace any applicable federal, state, tribal, local, or territorial health and safety laws, rules, and regulations.

For the purpose of this document, "incarcerated/detained persons" or "residents" refers to persons held in a prison, jail, detention center, or other custodial setting. The term includes those who have been sentenced as well as those held for pre-trial or civil purposes.

"Staff" refers to the group of all public or private sector employees (e.g., contracted healthcare or food service workers) working within a correctional or detention facility. "Staff" does not distinguish between healthcare, custody, and other types of staff members, nor between government and private employers.

"Congregate settings" refers to a setting in which a group of usually unrelated persons reside for an extended period of time in close physical proximity. Congregate settings, including correctional and detention facilities, are characterized by a diverse and varying set of factors that can increase risk and affect exposure to and transmission of COVID-19.

Refer to CDC guidance on the definition of staying "up to date" on COVID-19 vaccines. This definition is subject to change over time based on updates to CDC vaccination guidance.

This guidance should be adapted based on an individual facility's physical space, staffing, population, operations, history of SARS-CoV-2 outbreaks, community factors, and other resources and conditions. Facilities should contact CDC (eocevent366@cdc.gov) or their state, tribal, local, and/or territorial public health department if they need assistance in applying these principles or addressing topics that are not specifically covered in this guidance.

Guidance Overview

The guidance below includes detailed recommendations on the following topics related to COVID-19 in correctional and detention settings:

1. Strategies for applying and sustaining COVID-19 prevention measures in correctional and detention facilities based on local data

To develop a long-term COVID-19 prevention plan, facilities should weigh the logistical and mental health challenges related to prolonged, intensive mitigation measures against the risks associated with transmission of SARS-CoV-2. To help provide considerations for this decision-making, this section includes:

- Prevention measures to keep in place at all times
- Metrics to guide modification of COVID-19 prevention measures at the facility level, using data on local trends and facility characteristics

Prevention measures to keep in place at all times

Facilities should maintain, at all times, the following aspects of standard infection control, monitoring, and capacity to respond to cases of COVID-19:

- **Provide COVID-19 vaccination, including boosters:** Continue to provide and encourage up to date COVID-19 vaccination for staff members and residents (including additional doses for people who are immunocompromised and others who are eligible for them, and boosters). (See Vaccination section below).
- **Maintain standard infection control:** Maintain optimized ventilation, handwashing, proper mask wearing, and cleaning and disinfection for standard prevention of infectious diseases, including COVID-19. For details, see the section below on Infection Prevention and Control and CDC's site on Safe and Proper Use of Disinfectants to Reduce Viral Surface Contamination in Correctional Facilities.
- **Maintain SARS-CoV-2 testing strategies:** Maintaining a robust testing program (including both diagnostic and screening testing) can help prevent or reduce transmission in congregate settings and provide critical data for ongoing assessment. Maintain the testing strategies below to the maximum extent possible based on facility resources and supplies.
  - **Diagnostic testing** should be performed for anyone who shows signs or symptoms of COVID-19 and for anyone who has been potentially exposed or identified as a close contact of someone with COVID-19, regardless of COVID-19 vaccination and booster status. See testing section below for details.
  - **Routine screening testing** should be performed for all residents at intake and before transfer and release, regardless of COVID-19 vaccination and booster status. See section below on Testing Considerations for SARS-CoV-2 for more information about testing strategies, including options for designing a screening testing program based on the unique features of a particular facility and its population.
- **Prevent COVID-19 introduction from the community:** Regardless of their vaccination and booster status, exclude staff members from work if they have symptoms of COVID-19, test positive for SARS-CoV-2, or have been potentially exposed or identified as a close contact of someone with COVID-19. See sections below on quarantine and isolation duration for staff during routine vs. crisis operations.
- **Prepare for outbreaks:** Monitor community data to be prepared for an outbreak and maintain the ability to effectively communicate to staff members and residents about what to expect if an outbreak occurs. Maintain the ability to respond quickly to an outbreak, including the ability to scale up medical isolation and quarantine.

The response to COVID-19 in correctional and detention facilities should consider the broader mental health impacts for residents and staff, both for those with and without pre-existing mental illness. Some COVID-19 prevention measures, such as prolonged quarantine periods, repeated isolation, and restrictions on visitation and programming, are known to lead to negative impacts on mental health and well-being.

Applying or modifying COVID-19 prevention measures at the facility level using data on local trends and facility characteristics

As epidemiologic trends shift due to new variants and other factors, administrators may consider strengthening or relaxing COVID-19 prevention measures for individual facilities based on the five primary metrics listed below. No single metric should be used alone in decision-making. Consult with local public health partners in decision-making about modifying prevention measures, especially for facilities without internal public health or infectious disease experts. Any relaxing of prevention measures should be conducted in a stepwise fashion, one prevention measure at a time, with continued diagnostic testing and screening in place to carefully monitor for cases of COVID-19 in the facility before making changes to additional prevention measures. Communicate clearly with staff and residents about any changes made to procedures.

- **Vaccination coverage:** Determine the proportion of staff and residents who are up to date on their COVID-19 vaccines. COVID-19 vaccines are highly effective in preventing severe illness, hospitalization, and death from COVID-19. Although not enough information is available to determine a specific level of vaccination coverage needed to modify facility-level prevention measures, maximizing up to date COVID-19 vaccination coverage is critical to protect staff members and residents.

- **Transmission in the facility:** Evaluate the current and historical level of COVID-19 transmission within the facility.

  Facility-level prevention measures should not be lifted when transmission is occurring within the facility. Because of the risk of unrecognized infection, a single new case of SARS-CoV-2 infection in a staff member or resident in a correctional

or detention facility should be evaluated as a potential outbreak. (However, if a resident tests positive at intake but has not had close contact with other members of the facility's population and is immediately placed in medical isolation, this person's positive test result could be considered an isolated case rather than transmission in the facility.)If historical transmission levels in the facility have been high or if outbreak response has been difficult, maintain COVID-19 prevention measures for a longer duration.

- **Transmission in the community:** Monitor the level of COVID-19 transmission in the surrounding community.

  Consider the community where the facility is located as well as the communities from which residents originate and where staff members live. County-level transmission indicators can be found on CDC's COVID Data Tracker website. Maintain prevention measures when community transmission levels are higher, since introduction of the virus into the facility is more likely during those times.

- **Demographic and health-related characteristics:** Determine the proportions of the facility's residents and staff who are at increased risk for severe COVID-19 illness. Consider the potential impact of prolonged mitigation measures on mental health.

  Maintain facility-level prevention measures for longer durations in facilities with high proportions of people at increased risk for severe illness.

- **Facility structural and operational characteristics**: Assess how facility characteristics and operational protocols can contribute to SARS-CoV-2 spread within the facility.

  Maintain COVID-19 prevention measures for longer durations in facilities where the layout (e.g., dorm/open barracks vs. individual cells), ventilation, or movement patterns inhibit physical distancing or the frequency of air exchange, and where staff members work across multiple units that otherwise have no shared close contacts.

2. Communication

Administrators maintain preparation for COVID-19 by ensuring that all persons in the facility know the symptoms of COVID-19 and the importance of reporting those symptoms if they develop. They should ensure that materials are easy to understand by non-English speakers, those with low literacy, and people with disabilities. Other essential actions are detailed below.

Develop information-sharing systems with external partners.

- Public health partners
  - Identify points of contact in relevant state, local, tribal, and territorial public health departments. Actively engage with the health department to understand in advance which entity has jurisdiction to implement public health control measures for COVID-19 in a particular correctional or detention facility.
  - Notify and coordinate with the public health department when a person has suspected or confirmed COVID-19. Request any necessary assistance.
  - Stay informed about updates to CDC guidance via the CDC COVID-19 website as more information becomes known.
- Correctional partners
  - Communicate with other correctional facilities to share information including the number of cases and deaths (e.g., disease surveillance) and absenteeism patterns among the staff.
  - Where possible, put plans in place to restrict transfers of residents between facilities during their quarantine or isolation period, unless released from custody or a transfer is necessary for medical care, infection control, lack of quarantine/isolation space, or extenuating correctional, judicial, or security concerns.

Encourage all persons in the facility to take actions to protect themselves and others from COVID-19, including staying up to date on their COVID-19 vaccines, wearing well-fitting masks or respirators indoors, practicing physical distancing as much as possible, and maintaining good hand hygiene.

- Provide residents and staff with up-to-date information about COVID-19 and changes to facility policies on a regular basis.

- Train staff on the facility's COVID-19 plan.
- Address concerns related to reporting symptoms (e.g., being sent to medical isolation), and explain that quarantine and medical isolation are not the same as disciplinary solitary confinement. In addition, ensure that medical isolation and quarantine are truly operationally distinct from disciplinary solitary confinement (see section on Medical Isolation and Quarantine).
- Post signs throughout the facility about ways staff and residents can protect themselves and others from COVID-19. Example signage and other communications materials are available on the CDC website.
- Ensure that the pandemic plan addresses staff safety and potential staffing shortages.
  - Identify duties that can be performed remotely. Where possible, allowing staff to work from home can be an effective physical distancing strategy to reduce the risk of SARS-CoV-2 infection during an outbreak.
  - Consider offering revised duties to staff members who are at increased risk for severe COVID-19 illness. Review the sick leave policies of each employer that operates within the facility. Employers are encouraged to implement flexible, non-punitive paid sick leave and supportive policies and practices as part of a comprehensive approach to prevent and reduce transmission among employees and to prevent introduction into the resident population.
  - Plan for absences. Staff members should stay home when they are sick, or they may need to stay home to care for a sick household member or care for children in the event of school and childcare dismissals. Identify critical job functions and plan for alternative coverage. Consider increasing keep on person (KOP) medication orders in case of healthcare staff shortages.

3. Vaccination

Increasing COVID-19 vaccination rates and ensuring that staff and residents stay up to date on their COVID-19 vaccines is the most important tool available to prevent correctional staff and residents from getting sick with COVID-19. Currently authorized or approved vaccines in the United States are highly effective in protecting against severe illness, hospitalization, and death. For more information on vaccine effectiveness, visit Ensuring COVID-19 Vaccines Work.

COVID-19 and other vaccines, including influenza vaccines, may be co-administered at the same time. See the Interim Guidance for Routine and Influenza Immunization Services During the COVID-19 Pandemic for additional considerations for influenza vaccination of persons in congregate-settings during the COVID-19 pandemic.

Correctional and detention facilities should:

- Ensure that vaccines and boosters are available for all staff and residents in order to stay up to date.
- Promote COVID-19 vaccination by educating the staff and residents on the effectiveness, safety, and importance of vaccines; consider recruiting residents who received the vaccine to be peer supporters to encourage other residents to get the vaccine and recruiting staff peers to encourage staff vaccination.
- Work with local health departments, healthcare providers, and community organizations on effective ways to increase vaccination uptake, informed by input from residents about why they may not wish to receive the vaccine.

Additional vaccine resources:

- Stay Up to Date with Your Vaccines
- COVID-19 vaccine communications resources available to print specifically for correctional facilities: Print Resources
- Building Confidence in COVID-19 Vaccines
- COVID-19 Vaccine Information for Specific Groups
- Ensuring the Safety of COVID-19 Vaccines in the United States
- COVID-19 Vaccine Booster Shot
- COVID-19 Vaccine Communication Toolkit
- Frequently asked Questions about the COVID-19 Vaccine
- COVID-19 Rapid Community Assessment Guide

4. Infection prevention and control

For more Infection Prevention Control information for healthcare workers, see CDC's Infection Control Guidance for Healthcare Professions about Coronavirus (COVID-19).

Hand hygiene

- All staff members and residents should use everyday preventive actions including regularly washing their hands, avoiding touching their eyes, nose, and mouth, and covering their cough.
- Facilities should ensure that staff members and residents have adequate access to hand hygiene materials at no cost. These materials should include soap, water, and clean towels or alcohol-based hand sanitizer with at least 60% alcohol.

Cleaning and disinfection

- Facilities should adhere to CDC recommendations for cleaning and disinfection during the COVID-19 response.
- Facilities should have a plan in place to restock supplies as needed during a COVID-19 outbreak.

Physical distancing

- Physical distancing is the practice of increasing the space between individuals and decreasing frequency of contact to reduce the risk of spreading a disease (ideally maintaining at least 6 feet between all people, even those who do not have symptoms). Physical distancing strategies can be applied on an individual level (e.g., avoiding physical contact), a group level (e.g., canceling group activities where people would be in close contact), and an operational level (e.g., rearranging chairs in the dining hall to increase distance between them or using protective barriers if space is limited).
- Make a list of possible physical distancing strategies that could be implemented as needed at different stages of transmission intensity. When distancing is not possible, protective barriers may be used in areas such as offices and classrooms. Strategies will need to be tailored to the individual space in the facility and the needs of the residents and staff.
- Consider options to prevent overcrowding (e.g., diverting new intakes to other facilities with available capacity, and encouraging alternatives to incarceration and other decompression strategies where allowable).
- When feasible and consistent with security priorities, encourage staff members to maintain a distance of 6 feet or more from a person with COVID-19 symptoms while interviewing, escorting, or interacting in other ways. Staff members should always wear recommended PPE when in close contact with a person with COVID-19 symptoms.
- If there are people with COVID-19 inside the facility, prevent unnecessary movement between different parts of the facility and mixing of people from different housing units. For example, maintain consistent duty assignments for staff across shifts to prevent transmission across different facility areas, and modify resident work detail assignments so that each detail includes only residents from a single housing unit.
- If possible, designate a room near each housing unit to evaluate residents with COVID-19 symptoms, rather than having them walk through the facility to the medical unit. If this is not feasible, consider staggering sick call.

Symptom screening and temperature checks

- Screening for COVID-19 symptoms (including temperature checks) and asking about recent exposure can help identify staff members or visitors who should be excluded from a facility before entry and residents (at intake or in the existing population) who should be evaluated for potential medical isolation or quarantine. Symptom screening alone will not prevent all transmission, since it is largely based on voluntary self-report and will not identify people with asymptomatic infection.
- Symptom screening and temperature checks should be used in combination with a screening testing program (described below) to minimize the risk of SARS-CoV-2 transmission. Symptom screening and temperature checks should be conducted daily during the quarantine period among residents who have been exposed to someone with COVID-19.

Routine Mask or Respirator Use

- All staff members and residents should wear a well-fitting cloth or disposable procedure mask or a respirator as much as

possible while indoors (unless contraindicated), even in areas not used for quarantine or medical isolation. If masks or respirators are not worn outdoors, ensure that physical distancing is maintained. Correct and consistent mask or respirator use is key to preventing the spread of droplets and very small particles that contain the virus (i.e., source control). Provide masks or respirators at no cost to residents and staff and clean or replace them routinely.

- Considerations for choosing a mask or respirator:
  - Masks and respirators can provide different levels of protection depending on the type of product and how they are used. Choose the most protective mask or respirator that fits well and can be worn consistently.
  - Loosely woven cloth products provide the least protection; layered finely woven products offer more protection; well-fitting disposable procedure masks and KN95s offer even more protection, and well-fitting National Institute for Occupational and Safety & Health (NIOSH)-approved respirators (including N95s) offer the highest level of protection.
  - When possible based on facility resources and supply, offer different types of masks and respirators to staff and residents so that they can choose the option that fits them best and that they can wear consistently. The options that are offered in correctional and detention facilities may be limited by safety and security considerations, such as concerns about metal nose wires.
  - Residents should be offered masks or respirators providing the same level of protection as those provided to staff when residents are in a similar environment. See Table 1 for recommended masks and respirators for different scenarios.
- Clearly explain the purpose of masks and respirators and when their use may be contraindicated.
- See Table 1 for more information about when different types of masks and respirators are recommended for residents or staff based on their scope of duties and risk of exposure to SARS-CoV-2.

Recommended PPE and PPE Training for Staff Members and Residents

- Recommended PPE for staff members and residents in a correctional facility will vary based on the type of contact they have with someone with COVID-19 or their close contacts. See Table 1 for recommended PPE for residents and staff members with varying levels of contact with people with COVID-19 or their close contacts. In case of shortages, use strategies for safely optimizing PPE supplies.
- Ensure that staff members and residents who are required to wear PPE have been trained to correctly don, doff, and dispose of PPE that they will need to use within the scope of their responsibilities:
  - PPE donning and doffing training videos and job aids
  - Protecting Healthcare Personnel (as found on the CDC website)
  - Infection control guidance for healthcare professionals about COVID-19
  - CDC COVID-19 Correction Unit's Infection Prevention and Control training slides
- Have designated PPE donning and doffing areas outside all spaces where PPE will be used. These spaces should include the following (See the full list of recommended materials in the CDC Correction Unit's Infection Prevention and Control training slides):
  - A dedicated trash can for disposal of used PPE (one for laundry and one for trash or biohazard)
  - A hand washing station or access to alcohol-based hand sanitizer with at least 60% alcohol
  - Posters illustrating correct donning and doffing procedures
- If not already in place, employers operating within the facility should establish a respiratory protection program, as appropriate, to ensure that staff members and residents are fit-tested, medically cleared, and trained for any respiratory protection they will need within the scope of their responsibilities. For more details, see the OSHA Emergency Temporary Standard for Healthcare Workers , which contains guidance for the elements needed in a mini respiratory protection program, which is relevant for healthcare workers outside of traditional hospitals and clinics, if certain criteria are present.
- If staff members must serve multiple facility areas, ensure that they change PPE when leaving the medical isolation or quarantine space. If a shortage of PPE supplies necessitates reuse, ensure that staff members move only from low to high exposure risk areas while wearing the same PPE to prevent cross-contamination. For example, start in a housing unit where no one is known to be infected or exposed, then move to a space used as quarantine for close contacts, and end in an isolation unit.

Table 1. Recommended Personal Protective Equipment (PPE) and Source Control for

Table 1. Recommended Personal Protective Equipment (PPE) and Source Control for Residents and Staff in a Correctional or Detention Facility

Note: To maximize protection from highly transmissible SARS-CoV-2 variants of concern and prevent possible spread to others, residents and staff members of correctional facilities should wear a cloth or disposable procedure mask or respirator regardless of vaccination and booster status while indoors, and should maintain physical distancing outdoors if not masked. The PPE described below may only be required for certain activities, see footnotes for details.

	NIOSH-approved Respirator*	International Respirator* or Disposable Procedure Mask	Cloth Mask	Eye Protection	Gloves	Gown/Coveralls
Residents						
With confirmed or suspected COVID-19, or showing symptoms of COVID-19		X†§				
Quarantined (individually or in a cohort) as a close contact of someone with COVID-19		X†§				
Handling laundry or used food service items from someone with COVID-19 or their close contacts		X†§		X¶	X	X
Working in an area designated for quarantine or medical isolation (*without* having close contact with persons under quarantine or isolation precautions)	X			If using cleaning products, additional PPE may be needed based on the cleaning product label. See CDC guidelines for details.		
Working in an area designated for quarantine or medical isolation (*with* close contact with persons under quarantine or isolation precautions)	X			X	X	X
Living or working in areas of the facility not designated for quarantine or medical isolation		X†§				
Staff						
Working in medical isolation or quarantine areas (*without* close contact with persons under quarantine or isolation precautions)	X			If using cleaning products, additional PPE may be needed based on the cleaning product label. See CDC guidelines for details.		
Having close contact with (including transport) or providing medical care to persons under quarantine or isolation precautions	X			X	X	X
Performing temperature checks for any persons who are *not* under quarantine or isolation precautions**		X†		X	X	

	NIOSH-approved Respirator*	International Respirator* or Disposable Procedure Mask	Cloth Mask	Eye Protection	Gloves	Gown/Coveralls
Handling laundry or used food service items from someone with COVID-19 or their close contacts	X†			X¶	X	X
Working in areas of the facility not designated for quarantine or medical isolation	X†			If using cleaning products, additional PPE may be needed based on the cleaning product label. See CDC guidelines for details.		

* NIOSH-approved respirators include N95s. International respirators include KN95s and KF94s. Visit the CDC website Types of Masks and Respirators for a full list of NIOSH-approved and international respirators.

† Masks and respirators can provide different levels of protection depending on the type and how they are used. Choose the most protective mask or respirator that fits well and can be worn consistently. Loosely woven cloth products provide the least protection; layered finely woven products offer more protection; well-fitting disposable procedure masks and KN95s offer even more protection, and well-fitting NIOSH-approved respirators (including N95s) offer the highest level of protection. When possible, offer different types of masks and respirators to staff and residents so that they can choose the option that fits them best and that they can wear consistently. The options that are offered in correctional and detention facilities may be limited by safety and security considerations, such as concerns about metal nose wires.

§ Residents should be offered masks or respirators providing the same level of protection as those provided to staff in a similar environment.

¶ Eye protection should be added if splashes or sprays during cleaning and disinfection activities are anticipated or if otherwise required based on the selected cleaning products.

** Sanitize or change gloves between each temperature check. A gown could be considered if extensive contact with the person being screened is anticipated.

Considerations for Visitors

- If transmission in the facility and/or substantial community transmission is occurring, restrict non-essential vendors, volunteers, and tours from entering the facility or sections where transmission has been occurring.
  - Consider restricting visitation when there is moderate to high community transmission to prevent the introduction of the virus into the facility.
  - Suspending in-person visitation should only be done in the interest of the residents' physical health and the health of the community. Visitation is important to maintain residents' mental health. If visitation is suspended, facilities should identify alternative ways for residents to communicate with their families, friends, and other visitors.
- Require visitors to wear cloth masks, disposable procedure masks, or respirators (unless contraindicated) and perform symptom and exposure screening and temperature checks for all visitors and volunteers on entry.
- Display signage and other communications materials outside visiting areas explaining the COVID-19 symptom screening and temperature check process. Ensure that materials are understandable for non-English speakers, those with low literacy, and people with disabilities.
- Exclude visitors and volunteers who do not clear the screening process or who decline screening or are not wearing masks or respirators (unless contraindicated).
- Provide alcohol-based hand sanitizer with at least 60% alcohol in visitor entrances, exits, and waiting areas.
- Use protective barriers such as sneeze guards in visitation rooms, when possible, as a part of a layered strategy to prevent SARS-CoV-2 transmission.
- Use physical distancing and visual cues such as stickers or decals to maintain physical distancing.
- Instruct visitors to postpone their visit if they have symptoms of COVID-19.

5. Testing considerations

People undergoing testing in any setting, including correctional and detention facilities, should receive clear information on what the results mean, recommended actions associated with negative or positive results, the difference between testing for screening versus for medical diagnosis, who will be able to access the results, and how the results may be used. Individuals tested are required to receive patient fact sheets as part of the test's emergency use authorization (EUA).

Because of the risk of unrecognized infection, a single new case of SARS-CoV-2 infection in a staff member or resident in a correctional or detention facility should be evaluated as a potential outbreak. If a resident tests positive at intake but has not had close contact with other members of the facility's population and is immediately placed in medical isolation, this person's positive test result could be considered an isolated case rather than a part of a larger outbreak. However, it may be necessary to test other people who were exposed during intake or transport.

A. Test types

There are currently two types of tests to identify SARS-CoV-2 infection or exposure: Viral and antibody tests.

Viral tests authorized by the Food and Drug Administration (FDA), including nucleic acid amplification tests (NAATs), and antigen tests, are used to **diagnose current infection** with SARS-CoV-2, the virus that causes COVID-19.

Tests can differ based on sensitivity (i.e., number of false-negative results/missed detections of SARS-CoV-2) and/or specificity (i.e., number of false-positive results/tests incorrectly identifying SARS-CoV-2 when the virus is not present).

- NAATs are high-sensitivity, high-specificity tests for diagnosing SARS-CoV-2 infection. Most NAATs need to be processed in a laboratory, and the time to obtain results varies (~1–3 days), but some NAATs are point-of-care tests with results available in about 15–45 minutes.
- Antigen tests are immunoassays that detect the presence of a specific protein on the surface of the virus. Different antigen tests generally have similar specificity, but are less sensitive than most NAATs. Most are less expensive than NAATs and can be conducted at the point of care testing site, usually with faster turnaround times. It may be necessary to confirm some antigen test results with a laboratory-based NAAT (i.e., a negative antigen test result in persons with symptoms or a positive antigen test result in persons without symptoms or known exposure). Based on the authorization from FDA, some point-of-care NAATs that provide presumptive results cannot be used for confirmatory testing. Use of the CDC Antigen Testing Algorithm is recommended to determine when confirmatory testing is needed.

Antibody (or serology) tests are used to detect previous infection with SARS-CoV-2 and can aid in the diagnosis of Multiple Inflammatory Syndrome in Children (MIS-C) and in adults (MIS-A). CDC does not recommend using antibody testing to diagnose current infection or to assess immunity. For more information on test types and how to choose a test, refer to Overview of Testing for SARS-CoV-2.

B. Diagnostic testing

Diagnostic testing is intended to identify current infection and is performed when a person has signs or symptoms consistent with COVID-19, or when a person is asymptomatic (without symptoms) but has recent known or suspected exposure to someone with COVID-19. See Overview of Testing for SARS-CoV-2 for details.

Facilities should consider suspending co-pays for residents seeking medical evaluation for possible COVID-19 symptoms, to remove possible barriers to symptom reporting.

Testing and managing persons with signs or symptoms consistent with COVID-19, regardless of vaccination or booster status

- **Residents with symptoms**, regardless of COVID-19 vaccination or booster status, should be moved to medical isolation in a separate environment from other people (ideally individually), medically evaluated, and tested. If the test result is positive, medical isolation should continue for 10 days. Multiple residents with confirmed COVID-19 can be housed as a cohort (in a dorm or cell environments) regardless of the date of their positive test result. Facility staff should carefully evaluate and support the mental health needs of residents during medical isolation.

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- **Staff members with symptoms**, regardless of COVID-19 vaccination and booster status, should be excluded from work and advised to seek testing. If the test result is positive, staff members should be excluded from work for 10 days. (However, staff may use the guidance for the general public for duration of isolation when they are not at work.) See section below on isolation duration for staff during routine vs. crisis operations.
- **Visitors with symptoms**, regardless of COVID-19 vaccination and booster status, should be denied entry and encouraged to seek testing through their healthcare providers or local health department.

Testing asymptomatic persons with recent known or suspected exposure to SARS-CoV-2

Because of the potential for asymptomatic and pre-symptomatic transmission, close contacts (people who were less than 6 feet away from an infected person for a total of 15 minutes or more over a 24-hour period) should be tested *regardless of their COVID-19 vaccination or booster status*.

In correctional and detention facilities, contact tracing to identify each individual's close contacts, including visitors, can be difficult. Therefore, people considered to be close contacts may include all persons defined by a particular setting/location (such as all residents and staff members assigned to a dormitory or unit where a case has been identified). Refer to the quarantine considerations section for information about quarantine for people with known or suspected exposure to SARS-CoV-2 in correctional and detention facilities.

- **Initial tests**: All persons with known or suspected exposure to someone with COVID-19, *regardless of their COVID-19 vaccination and booster status*, should receive an initial diagnostic test as soon as possible after they have been identified as a close contact (but not within the first 24 hours after exposure/close contact, since a test is unlikely to be positive that quickly). If the initial test is negative, they should receive a second diagnostic test at least 5 days after the exposure/close contact. (If the initial test was performed at least 5 days after the exposure/close contact, a second test is not needed.) Depending on local laboratory capacity, rapid point-of-care tests may offer the shortest turnaround time to facilitate timely action based on results.
- **Broad-based testing when contact tracing is challenging**: In settings where contact tracing is difficult, such as in a large dormitory, facilities should conduct broad-based testing in areas where an exposure has occurred. Broad-based testing involves testing everyone in the affected area(s) of the facility, *regardless of their COVID-19 vaccination and booster status*. For details on performing testing for large numbers of people, review CDC guidance on Performing Broad-Based Testing for SARS-CoV-2 in Congregate Settings.
  - The scope of broad-based testing should be based on the extent of movement (of staff members and residents) between parts of the facility with and without cases. Examples of broad-based testing strategies include the following:
    - Testing all persons in a single housing unit where someone has tested positive, if there has not been movement to or contact with other areas of the facility through the staff or residents (i.e., residents have not left the housing unit and the staff members work exclusively in that housing unit).
    - Testing all persons in an entire building or complex when cases have been identified in multiple parts of the building or complex, or if there has been movement between parts of the building or complex with and without cases.
  - If a resident tests positive at intake but has not had close contact with other members of the facility's population and is immediately placed in medical isolation, this person's positive test result would not trigger broad-based testing and could be considered an isolated case rather than a part of a larger outbreak. However, it may be necessary to test other people who were exposed during intake or transport.
  - Facility administrators should consider including staff in broad-based testing efforts *regardless of vaccination and booster status*, in order to help ensure that any COVID-19 cases are identified quickly, and to slow transmission. If it is not feasible to test staff members at the facility, facilities should work with community partners or state/local health departments to implement staff testing.
  - Facilities should make plans for how they will modify their operations based on test results. Given the potential for rapid transmission and high numbers of infections, ensure that plans include medical isolation options to house large numbers of infected persons and quarantine options to house large numbers of close contacts. For example, consider how the facility's housing operations could be modified for multiple test result scenarios (e.g., if testing reveals that 10%, 30%, 50%, or more of a facility's population is infected with SARS-CoV-2).
- **Serial re-testing of a quarantined cohort:** If quarantine cohorts are used (i.e., people who are exposed are quarantined together rather than individually due to space constraints or mental health concerns), facilities should conduct serial re-testing of the entire quarantined cohort, *regardless of their vaccination and booster status*

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testing of the entire quarantined cohort, *regardless of their vaccination and booster status.*

  - Facilities should re-test people quarantined as a cohort every 3–7 days until testing identifies no new cases in the cohort for 10 days since the most recent positive result. The testing interval should be based on the stage of an ongoing outbreak (i.e., testing every 3 days can allow for faster outbreak control in the context of an escalating outbreak; testing every 5–7 days is sufficient when transmission has slowed).
  - Anyone testing positive should be removed from the cohort, placed in medical isolation, and the 10-day quarantine period should re-start for the remainder of the cohort.
  - If any person in the quarantine cohort develops symptoms, refer to the section titled Testing persons with signs or symptoms consistent with COVID-19, regardless of their vaccination and booster status.
- **Testing people with prior diagnosis of SARS-CoV-2 infection**: People who have recovered from SARS-CoV-2 infection within the past 90 days and have been re-exposed to SARS-CoV-2 may not need to be tested but should still receive regular temperature and symptom screening checks. If a person develops new symptoms during the 90-day period after their initial infection, and an evaluation fails to identify a diagnosis other than SARS-CoV-2 infection (e.g., influenza), then the person warrants evaluation for SARS-CoV-2 reinfection in consultation with an infectious disease or infection control expert.

Medical isolation might be warranted before and during this evaluation, particularly if symptoms developed after close contact with an infected person or in association with an outbreak setting. If more than 90 days have passed since a prior SARS-CoV-2 infection, testing and management, including quarantine and medical isolation if indicated, should proceed as it would for someone who had not previously been diagnosed with SARS-CoV-2 infection. Facilities should also consider the potential for coinfection of influenza and COVID-19.

C. Screening testing

Screening testing is intended to identify people infected with SARS-CoV-2 who are asymptomatic or pre-symptomatic and do not have known, suspected, or reported exposure to SARS-CoV-2. NAATs, antigen tests, or both can be used for screening testing. Screening testing can be a valuable tool in correctional and detention facilities because it can detect SARS-CoV-2 early to help stop transmission quickly. Screening testing may be particularly useful in areas with moderate to high community transmission, to catch asymptomatic infections early.

Movement-based screening testing

Movement-based screening testing is the routine screening testing of residents at intake, before transfer to another facility, and before community visits or release. All residents, regardless of vaccination and booster status, should undergo testing at these time points to help prevent introduction of virus into the facility, across facilities, and from the facility into the community.

Screening testing based on movement should include testing for residents in the following scenarios:

- **At intake**. Test all incoming residents at intake, and house them separately from the rest of the facility's population (individually if feasible) while waiting for test results. Testing can be combined with a 10-day observation period (sometimes referred to as "routine intake quarantine") before persons are assigned housing with the rest of the facility's population (especially if community transmission is high). People under routine intake quarantine should be quarantined separately from those quarantined due to exposure to COVID-19. If incoming residents undergo intake quarantine, consider re-testing them at the end of the intake quarantine period before they are assigned housing with the rest of the facility's population. If residents undergo intake quarantine as a cohort, consider testing every 3–7 days if community transmission is high to prevent transmission within the cohort.
- **Before transfer to another facility**. Test all residents before transfer to another correctional/detention facility. Wait for a negative test result before transfer. Testing before transfer can be combined with a 10-day observation period (sometimes referred to as "routine transfer quarantine") before an individual's projected transfer date. People under routine transfer quarantine should be quarantined separately from those quarantined due to exposure to COVID-19. Routine transfer quarantine is recommended particularly when there is transmission known to be occurring within the originating facility.
- **Before release**. Test residents leaving the facility as close as possible (and no more than 3 days prior) to the day of the release (whether into the community or to a halfway house or other transitional location). Testing before release is particularly important if residents will be housed in other congregate settings (e.g., homeless shelters, group homes, or halfway houses) or in households with persons who are at higher risk of severe illness from COVID-19, including older

adults and people with certain medical conditions. Testing before release can be combined with a 10-day observation period (sometimes referred to as "routine release quarantine") before a person's release date. People under routine release quarantine should be quarantined separately from those quarantined due to exposure to COVID-19. Notify public health authorities for assistance arranging medical isolation upon release for people who have a positive test result.

- **Before community visits.** If performing testing before community visits, test residents leaving the facility as close as possible (and no more than 3 days prior) to the day of the visit (e.g., medical trips, court appearances, community programs). If community transmission is high, facilities can consider testing 5 days after return.

Routine screening testing

Routine screening testing is the regular testing of all or a subset of residents and staff in a facility, with the goal of identifying COVID-19 cases early to prevent widespread transmission. Routine screening testing can include point-of-care testing and laboratory testing, and it can include all residents and staff members in a facility, or a targeted or random subgroup according to criteria the facility designates (examples below).

For any routine screening testing strategy that is put in place, testing at least weekly is recommended. Routine screening testing programs ideally include both residents and staff. If staff are tested during routine screening testing, consider testing them on the first day of their work week (defined as four or more consecutive work days), rather than randomly or regularly on another day of the work week, if feasible. If community prevalence increases rapidly, consider more frequent testing. If performing large scale testing on-site, consider staggering testing throughout the day or on different days to avoid overcrowding, long wait times, and burden on testing staff. If it is not feasible to test staff as part of a screening testing program, facilities should investigate options to work with community partners or state/local health departments to test staff.

Data on facility and community transmission level and testing capacity can guide decisions about when to implement routine screening testing strategies. Consider routine screening testing when community transmission is substantial or high (Table 2). The community transmission indicators below can be found for your county on CDC's COVID Data Tracker website.

Table 2. Indicators of Community Transmission*

Indicator	Low	Moderate	Substantial	High
Cumulative number of new cases per 100,000 persons within the last 7 days†	<10	10–49	50–99	≥100
Percentage of NAATs§ that were positive during the last 7 days¶	<5%	5%–7.9%	8%–9.9%	≥10%

* If the two indicators suggest different transmission levels, the higher level should be selected.

† Number of new cases in the county (or other administrative level) in the last 7 days divided by the population in the county (or other administrative level) multiplied by 100,000.

§ Nucleic acid amplification tests

¶ Number of positive test results in the county (or other administrative level) during the last 7 days divided by the total number of tests resulted in the county (or other administrative level) during the last 7 days. See "Calculating Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) Laboratory Test Percent Positivity: CDC Methods and Considerations for Comparisons and Interpretation."

If routine screening testing is conducted only among a subset of individuals or facilities within a correctional system, the following factors can guide the prioritization and selection of the subset:

Facility-level factors

- Facilities that have had cases or outbreaks within the past month
- Housing units where preventive measures such as physical distancing or adequate ventilation are difficult to implement (e.g., dormitory-based housing)
- Facilities allowing in-person visitation

- Facilities with high levels of community movement (e.g., frequent off-site medical visits, work release, or court appearances)
- Facilities with frequent admissions of new residents or residents transferring in from other facilities
- Units within facilities, as well as facilities within a correctional system, housing resident populations at higher risk of severe illness from COVID-19

Individual-level factors

- Residents and staff members who are at higher risk of severe illness from COVID-19†
- Residents assigned to critical on-site work details within the facility that require them to leave their housing unit or mix with persons in other housing units (e.g., food service, laundry)
- Residents participating in:
  - Work release programs
  - Off-site medical visits
  - Court appearances
- Staff working in:
  - A facility designated for medical care (e.g., medical facility, long-term care or skilled nursing facility)
  - Multiple areas of the facility
  - Multiple congregate facilities (e.g., more than one correctional/detention facility, homeless shelters, group homes, or schools)
- Staff members who live or spend time with other staff members who work in other areas of the facility (e.g., family or household members, carpools)

6. Medical isolation and quarantine

Medical isolation refers to the physical separation of an individual with confirmed or suspected COVID-19 infection to prevent their contact with others and reduce the risk of transmission. In this context, isolation does NOT refer to punitive isolation for behavioral infractions within the custodial setting. Staff are encouraged to use the term “medical isolation” to avoid confusion, and should ensure that the conditions in medical isolation spaces are distinct from those in punitive isolation. Residents in medical isolation should receive regular visits from medical staff and should have access to mental health services.

Quarantine refers to the physical separation of an individual who has had close contact with someone with confirmed or suspected COVID-19 to determine whether they develop symptoms or test positive for the disease. Quarantine reduces the risk of transmission to others if the individual is later found to have COVID-19.

Facilities should have a plan in place to ensure that *separate physical locations* (dedicated housing areas and bathrooms) have been identified to:

- Medically isolate residents with *suspected* COVID-19 (ideally individually while awaiting test results)
- Medically isolate residents with *confirmed* COVID-19 (individually or as a cohort)
- Quarantine residents identified as close contacts of those with confirmed or suspected COVID-19 (ideally individually, but as a cohort if necessary)

Facilities’ medical isolation and quarantine plans should include expansion contingencies to prepare for surges in cases and/or close contacts. Regardless of the location, facilities should ensure that placement in medical isolation or quarantine does not create barriers to access to medical or mental health care.

Note that facilities may determine that single-cell housing is not advisable in some situations due to mental health concerns. If close contacts are quarantined as a cohort, keep the number housed together as small as possible to minimize the risk of further transmission.

Residents with confirmed COVID-19 may be housed in medical isolation as a cohort (rather than in single cells). Cohorting residents during medical isolation can mitigate some mental health concerns associated with individual isolation and can increase capacity for medical isolation during case surges. Considerations for cohorted medical isolation include:

- Only residents with *laboratory-confirmed* COVID-19 should be housed together as a cohort. Do not cohort those with confirmed COVID-19 together with those with suspected COVID-19, with close contacts of people with confirmed or suspected COVID-19, or with those with other illnesses.
- When choosing a space to cohort groups of residents with confirmed COVID-19, use a single, large, well-ventilated room with solid walls and a solid door that closes fully. Using a single room will conserve PPE and reduce the chance of cross-contamination across different parts of the facility.

Movement of residents who are housed in medical isolation or quarantine units should be restricted as follows:

- Keep residents' movement outside the medical isolation/quarantine space to an absolute minimum.
- Serve meals inside the medical isolation/quarantine space.
- Provide medical care inside the medical isolation/quarantine space, unless it is not physically possible to do so, or unless a resident needs to be transferred to a healthcare facility.
- Exclude medically isolated/quarantined residents from all group activities outside the medical isolation/quarantine space.
- Where possible, restrict medically isolated/quarantined residents from leaving the facility (including transfers to other facilities) during the medical isolation/quarantine period, unless released from custody or a transfer is necessary for medical care, infection control, lack of medical isolation/quarantine space, or extenuating correctional, judicial, or security concerns.
- Staff assignments to quarantine spaces should remain as consistent as possible, and these staff members should limit their movements to other parts of the facility. These staff members should wear recommended PPE appropriate for their level of contact with people under medical isolation/quarantine. See PPE section below.
- Clean and disinfect areas used by people with COVID-19 on an ongoing basis during medical isolation.

A. Clearly communicate to residents and staff that quarantine and medical isolation are not intended to be punitive

Because of limited individual housing spaces within many correctional and detention facilities, infected or exposed people are often placed in the same housing spaces that are used for administrative or disciplinary segregation. To avoid being placed in these conditions, residents may be hesitant to report COVID-19 symptoms or close contact with people with COVID-19, leading to continued transmission within shared housing spaces and, potentially, lack of timely health care and greater risk of adverse health outcomes for people infected with SARS-CoV-2 who delay reporting symptoms. Ensure that medical isolation and quarantine are *operationally* distinct from administrative or disciplinary segregation, even if the same housing spaces are used for both. For example

- Make efforts to provide similar access to radio, TV, reading materials, personal property, commissary, showers, and other resources as would be available in individuals' regular housing units.
- To support mental health, consider allowing increased telephone time or other opportunities to communicate with others inside and outside the facility during the isolation or quarantine period.
- Communicate regularly with residents who are in medical isolation or quarantine about the duration and purpose.
- Ensure that staff understand that the same restrictions placed on residents in segregated housing when used for disciplinary reasons should not be applied to residents housed in the same spaces for COVID-19 related reasons.

B. Medical isolation for people with suspected COVID-19

As soon as a resident shows symptoms of COVID-19, they should be given a cloth or disposable procedure mask or respirator (if not already wearing one and if it can be worn safely), immediately placed under medical isolation in a separate environment from other people (ideally individually), and medically evaluated and tested for SARS-CoV-2. Facilities without

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onsite healthcare capacity to medically evaluate and/or treat residents with suspected COVID-19 should have a plan in place to ensure that timely evaluation and treatment take place through an offsite medical facility, additional healthcare providers, or other means.

- If the resident's SARS-CoV-2 test result is positive, they can be moved to a cohorted medical isolation unit with other people with confirmed COVID-19.
- If the SARS-CoV-2 test result is negative, the person can return to their prior housing assignment unless they require further medical assessment or care or if they need to be quarantined as a close contact of someone with COVID-19.

Residents who are medically isolated due to suspected COVID-19 should wear cloth or disposable procedure masks or respirators under the following circumstances:

- Whenever another individual enters the medical isolation space
- If the resident leaves the medical isolation space for any reason

The clinical staff evaluating and providing care for people with confirmed or suspected COVID-19 should follow the CDC Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease (COVID-19), including wearing recommended PPE, and monitoring the guidance website regularly for updates to these recommendations.

C. Medical isolation for people with confirmed COVID-19

As soon as a person tests positive for SARS-CoV-2 they should be given a cloth or disposable procedure mask or respirator (if not already wearing one and if it can be worn safely), immediately placed under medical isolation in a separate environment from other people (individually or in a cohort with other people with confirmed COVID-19), and medically evaluated. Medical isolation can be discontinued 10 days after symptom onset and after resolution of fever for at least 24 hours, without the use of fever-reducing medications, and with improvement of other symptoms. See section below on recommended duration of medical isolation during short-term periods of crisis-level operations (e.g., severe staffing or space shortages).

Facilities without onsite healthcare capacity to medically evaluate and/or treat residents with suspected COVID-19 should have a plan in place to ensure that timely evaluation and treatment take place through an offsite medical facility, additional healthcare providers, or other means.

Residents who are medically isolated should wear cloth or disposable procedure masks or respirators under the following circumstances:

- Whenever another individual enters the medical isolation space (excluding others with confirmed COVID-19)
- If the resident leaves the medical isolation space for any reason

The clinical staff evaluating and providing care for people with confirmed or suspected COVID-19 should follow the CDC Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease (COVID-19), including wearing recommended PPE, and monitoring the guidance website regularly for updates to these recommendations.

D. Quarantine of close contacts of those with confirmed or suspected COVID-19

Regardless of vaccination and booster status, residents who have been in close contact with someone with confirmed or suspected COVID-19 (whether the infected person is another resident, staff member, or visitor) should receive an initial diagnostic test as soon as possible after they have been identified as a close contact (but not within the first 24 hours after exposure/close contact, since a test is unlikely to be positive that quickly) and should quarantine for 10 days. If the initial test is negative, they should receive a second diagnostic test at least 5 days after the exposure/close contact. (If the initial test was performed at least 5 days after the exposure/close contact, a second test is not needed.) If an individual is quarantined due to close contact with someone with suspected COVID-19 who is subsequently tested and receives a negative result, they can be released from quarantine.

Residents who are quarantined should be monitored for COVID-19 symptoms at least once per day, including temperature checks. If a resident develops symptoms, they should be considered a person with suspected COVID-19. Follow procedures detailed above for medical isolation of people with suspected COVID-19.

Quarantined residents can be released from quarantine restrictions if they remain asymptomatic and have not tested positive for SARS-CoV-2 during the 10 days since their last potential exposure or known close contact with someone with confirmed COVID-19 (if that person was tested) or suspected COVID-19 (if that person was not tested). Ending quarantine before 10 days have passed is not recommended, even with a negative test. See section below on recommended duration of quarantine during short-term periods of crisis-level operations (e.g., severe staffing or space shortages).

Quarantined residents should wear cloth or disposable procedure masks or respirators under the following circumstances:

- Whenever another individual enters a quarantine space that is occupied by a single resident
- When quarantined residents are housed as a cohort
- If a resident under quarantine leaves the quarantine space for any reason

E. Cohorted Quarantine

Facilities should make every possible effort to individually quarantine close contacts of residents with confirmed or suspected COVID-19 unless mental health concerns preclude individual housing. Cohorting multiple quarantined close contacts could result in transmission of SARS-CoV-2 from those who are infected to those who are uninfected. If cohorted quarantine is necessary, reduce transmission risk by selecting the housing spaces that:

- Are well ventilated
- Minimize the number of residents sharing the housing space
- Maximize the physical distance between residents sharing the housing space
- Are physically separated (i.e., solid walls and solid doors) from non-quarantine spaces

If cohorting close contacts is necessary, be especially mindful of those who are at increased risk for severe COVID-19 illness. Ideally, they should not be cohorted with other quarantined residents. If cohorting is unavoidable, make all possible accommodations to reduce exposure for residents with increased risk of severe illness. (For example, intensify physical distancing strategies for residents with increased risk.)

F. Quarantine for staff members

All staff members who have been exposed to someone with COVID-19 should be advised to seek testing and should be excluded from work for 10 days after their last exposure, regardless of their vaccination and booster status. (However, staff may use the guidance for the general public for duration of quarantine when they are not at work.) See section below on recommended quarantine duration for staff during short-term periods of crisis operations (e.g., severe staffing shortages).

- If quarantine duration is reduced for staff members during crisis-level operations, then facility management should require exposed staff members to:
  - Continue to self-monitor for symptoms of COVID-19 through day 10 after known or suspected exposure to or close contact with a person with COVID-19
  - Immediately isolate if symptoms of COVID-19 occur
  - Adhere to all recommended prevention strategies, including wearing a well-fitting mask or respirator, physical distancing, and maintaining good hand hygiene

G. Shortening quarantine or isolation during crisis-level operations

In December 2021, CDC updated and shortened the recommended quarantine (after potential exposure or close contact with someone with COVID-19) and isolation (after testing positive) periods for the general public. Because of the potential for rapid, widespread transmission of SARS-CoV-2 in congregate environments and evidence that people who are fully

vaccinated can transmit the virus to others, CDC recommends maintaining 10-day isolation and quarantine periods for both residents and staff in high-risk congregate settings, including correctional and detention facilities. (However, staff may use the guidance for the general public for duration of quarantine and isolation when they are not at work.)

These recommended 10-day quarantine and isolation periods are preferred to reduce the risk of transmission. During crisis-level operations (examples below), facilities may need to consider short-term alternatives to the recommended 10-day quarantine and/or isolation periods for staff and/or residents. Because each facility's resource constraints, population, and transmission risks are unique, there is not a standard set of alternate strategies that CDC recommends for all correctional and detention facilities to follow under crisis-level operations. Facilities should consult their state, tribal, local, or territorial health department to discuss approaches that would meet their needs while maximizing infection control during these short-term periods.

Examples of crisis-level operation scenarios:

- Staffing shortages threaten to compromise the safety and security of the facility or the continuity of essential operations.
- There is insufficient space to isolate/quarantine all residents who have been infected/exposed for the full 10-day periods, and other options to increase space have been exhausted.

Once the period of crisis-level operations has passed, facilities should return to the recommendations for periods of routine operations (10 days for quarantine and isolation). Facilities should ensure that both residents and staff understand that reduced quarantine and/or isolation protocols are short-term crisis-management tools and that the facility will return to the full 10-day quarantine and isolation recommendations.

The following are guiding principles for reducing quarantine and/or isolation periods during crisis-level operations:

- Reductions in duration should be as minimal as possible to mitigate the crisis scenario.
- Decisions to shorten duration should be made independently for staff and for residents, based on the specific resources that are constrained at the time. (For example, shortening isolation and/or quarantine for staff due to staffing shortages would not automatically trigger shortened duration for residents as well.)
- Before reducing quarantine and/or isolation duration, consider alternatives (e.g., shifting from individual to cohorted isolation units for residents or reducing the resident population).
- Take into consideration the risk of transmission within the facility (e.g., layout) and the risk profile of the facility's population.
- Consider reducing quarantine duration for groups at lower risk of infection first (e.g., those who are up to date on their COVID-19 vaccines).
- If crisis-level protocols allow infected staff to return to work before 10 days of isolation, the risk of transmission can be reduced by assigning them to work exclusively in isolation units or in assignments where they have minimal contact with others until day 10.
- If a facility shortens quarantine and/or isolation, it is possible to incorporate negative test results into these protocols (i.e., "test-out" strategies). The following factors are necessary for facilities to incorporate test-out strategies without compromising essential functions:
  - Sufficient testing supplies and staff capacity to maintain recommended diagnostic testing and screening testing at intake (see section above on testing)
  - Fast turn-around time to inform timely decision-making
  - Sufficient staff capacity to continue to prioritize care and treatment for residents at high risk for severe COVID-19
  - Note that test-out strategies to reduce isolation periods should be based on negative results from two consecutive respiratory specimens collected ≥24 hours apart.

In facilities with severe resource constraints during crisis-level operations, it may be necessary to modify other COVID-19 prevention measures detailed elsewhere in this document, in order to prioritize the prevention of severe outcomes from COVID-19. Facilities should consult their state, tribal, local, or territorial health department if they are considering such short-term modifications.

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7. Medication for prevention of severe disease

The FDA has expanded EUAs for use of certain investigational monoclonal antibody medications to prevent SARS-CoV-2 infection, including in correctional populations, under the following conditions:

- There is an occurrence of COVID-19 in other individuals in the same institutional setting, **and;**
- The patient being treated is not fully vaccinated or is not expected to mount an adequate immune response to complete COVID-19 vaccination, **and;**
- The patient being treated is at higher risk for progression to severe COVID-19, including hospitalization or death (e.g., they have certain comorbidities).

In addition, antiviral medications are now available that are effective in preventing severe outcomes from COVID-19. These medications can be ordered at no cost either through the office of the Assistant Secretary for Preparedness and Response (ASPR) within the Department of Health and Human Services, the manufacturer, or possibly through their usual mechanism for obtaining medications. The National Institute of Health COVID-19 Treatment Guidelines provide information about these drugs and describe what is known about their effectiveness.

Medications are *not* a substitute for vaccination. Corrections management should consult facility healthcare providers about their use for post-exposure prophylaxis.

8. Considerations for reentry programming

- If a person preparing for release is not up to date on their COVID-19 vaccines, offer vaccination again. If they decline, provide them with information about where they can get vaccinated after release.
- Provide screening testing before release for all residents, regardless of COVID-19 vaccination and booster status.
- Ensure that facility reentry programs include information on accessing:
  - Housing, social services, mental health services, and medical care, including medication-assisted treatment for opioid use disorder to substance use, harm reduction, and/or recovery support . Ensure that linkages to community services account for modified operations of providers due to COVID-19.
  - Medicaid enrollment and healthcare resources, including continuity of care for chronic conditions that may place a person at increased risk for severe illness from COVID-19 (e.g., HIV, hepatitis, tuberculosis, etc.).
- Provide residents about to be released with COVID-19 prevention information, hand hygiene supplies, and masks or respirators.
- When possible, encourage residents who are being released to seek housing options among their family or friends in the community, to prevent crowding in other congregate settings such as homeless shelters. When linking residents to shared housing, link preferentially to accommodations with the greatest capacity for physical distancing.

Previous Updates

Updates from Previous Content

As of June 9, 2021

- Considerations for modifying COVID-19 prevention measures in correctional and detention facilities in response to declining community transmission

As of May 6, 2021

- Updated cleaning and disinfection information

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As of February 19, 2021

- Clarification that correctional and detention facilities should continue to use a 14-day quarantine period. Recommendations for quarantine duration in correctional and detention facilities
- Updated language on quarantine recommendations
- Updated language on quarantine recommendations
- Updated language for the close contact definition.
- Updated criteria for releasing individuals with confirmed COVID-19 from medical isolation (symptom-based approach).
- Added link to CDC Guidance for Performing Broad-Based Testing for SARS-CoV-2 in Congregate Settings
- Reorganized information on Quarantine into 4 sections: Contact Tracing, Testing Close Contacts, Quarantine Practices, and Cohorted Quarantine for Multiple Close Contacts
- Added testing and contact tracing considerations for incarcerated/detained persons (including testing newly incarcerated or detained persons at intake; testing close contacts of cases; repeated testing of persons in cohorts of quarantined close contacts; testing before release). Linked to more detailed Interim Considerations for SARS-CoV-2 Testing in Correctional and Detention Facilities.
- Added recommendation to consider testing and a 14-day quarantine for individuals preparing for release or transfer to another facility.
- Added recommendation that confirmed COVID-19 cases may be medically isolated as a cohort. (Suspected cases should be isolated individually.)
- Reduced recommended frequency of symptom screening for quarantined individuals to once per day (from twice per day).
- Added recommendation to ensure that PPE donning/doffing stations are set up directly outside spaces requiring PPE. Train staff to move from areas of lower to higher risk of exposure if they must re-use PPE due to shortages.
- Added recommendation to organize staff assignments so that the same staff are assigned to the same areas of the facility over time, to reduce the risk of transmission through staff movements.
- Added recommendation to suspend work release programs, especially those within other congregate settings, when there is a COVID-19 case in the correctional or detention facility.
- Added recommendation to modify work details so that they only include incarcerated/detained persons from a single housing unit.
- Added considerations for safely transporting individuals with COVID-19 or their close contacts.
- Added considerations for release and re-entry planning in the context of COVID-19.

Last Updated Feb. 10, 2022

EXHIBIT A

EXHIBIT “B”

March 27, 2020

Detention Services Bureau Statement on Coronavirus

The Sheriff's Detention Services Bureau has implemented several mitigating measures to address COVID-19 concerns. Considering those in custody may initially present as being healthy or they could potentially be exposed, we have enacted processes to quickly and safely isolate those potentially ill persons and reduce the likelihood of further spread. These protocols are nothing new, as they are always in place considering the potential spread of infectious diseases in our jails. So far, there have been no reported cases of COVID-19 in any of our jails.

The Sheriff's Medical Services Division (MSD) follows the communicable disease protocol of the "3 I's" – Identify, Isolate, Inform. The Department adheres to the Centers for Disease Control and Prevention's (CDC) guidelines of practicing standard contact and airborne precautions with the use of appropriate personal protections equipment (gown, goggles/eye protection, N-95 or better HEPA masks). For symptomatic persons, we are following respiratory hazard precautions, which are the same as precautions for the seasonal flu.

MSD has implemented a prompt identification of possible cases at intake. That is, the arrestees are asked questions related to travel history and assessed for symptoms prior to being accepted by the jails. There is the ability for isolation of a potential case in a negative pressure respiratory isolation cell/Airborne Infection Isolation Room (AIIR). Some environmental infection control measures that are implemented include: dedicated and/or disposable non-critical medical equipment and health reminders for inmates on how to reduce the risk of acquiring infection. Any incidents will be reported to Health & Human Services Agency (HHSA).

Informational flyers from HHSA have been posted at various locations in the jails, including the housing areas. The flyers provide information about the virus and how to take precautions to prevent spread. Flyers have also been posted in all public information lobbies asking visitors not to come into our facilities if they are ill. In addition to informational flyers, the Reentry Services Division has created an informational video which is shown daily in all Sheriff's detention facilities. The video covers an array of information that includes the symptoms of COVID-19, how it is spread, things one can do to prevent the spread of the virus, and changes that will impact operations. Our intent is to keep the inmates informed of our efforts in keeping them safe.

We have already taken steps to reduce the number of employees at our work locations. Telecommuting is an option available to those eligible. Department-wide, non-essential meetings, training, and events have been cancelled to allow employees to stay home, provide fewer opportunities to spread germs, and permit employees to focus on only the essential tasks.

In addition, the following has been implemented within the bureau.

- As much as possible, social distancing has been implemented. Essential meetings are conducted through electronic or telephonic means.
- No facility tours will be provided.
- All trainings have been cancelled for the next 60 days.
- Contact social visitations have been cancelled for the next 30 days.
- Inmates are eating meals in their units versus utilizing an inmate dining hall.
- All religious programs facilitated by volunteers have been cancelled bureau wide for the next 30 days.
- All inmate programming (vocational, education, psycho-social, life skills, wellness, etc.) facilitated by contracted or volunteer staff will be cancelled for the next 30 days.
- All social visiting has been suspended until further notice.

Cleaning schedules are strictly being followed as outlined in our current policy at all facilities which include both staff areas and inmate modules. Inmate workers are provided with PPE when conducting cleaning duties. There is a sufficient amount of cleaning supplies and the Department is aggressively seeking vendors to ensure additional PPE is purchased.

Based on the complex and rapidly changing nature of the COVID-19 situation, we modified our booking acceptance criteria. These criteria exclude the booking of some misdemeanor field arrests, misdemeanor warrants, violations under the Adult Use of Marijuana Act and Social Host prohibitions. Instead of being booked into custody, they will be issued citations and released. As a result, we anticipate some much-needed bed space availability as a result of the changes. We are collaborating with our justice partners for a review of sentencing options for those in custody.

Pursuant to California Penal Code 4024.1, the Sheriff's Department requested and received authorization from the presiding judge to reduce inmate sentences up to thirty 30 days.

- 4024.1 PC: Accelerated release to relieve overcrowding. Each month the Sheriff may apply to the presiding judge of the Superior Court for authorization for the next 30 days to release inmates pursuant to 4024.1 PC. The number of days is accelerated by 10 percent not to exceed a maximum of thirty (30) days.

This added capacity will allow us to accomplish two things which are directly related to COVID-19. First, it will allow us to reduce the population in some of the areas which are heavily populated and allow for more social distancing in these modules. Second, it will allow us the ability to properly quarantine modules and individuals as necessary.

Those in our custody who are elderly and most vulnerable according to CDC guidelines, are being moved to housing area where they can be separated from the general population.

According to CDC guidelines, there is no need to test every person for COVID-19. Those presenting symptoms are isolated from others and can be transported to local hospitals for additional treatment if clinically indicated.

Statement from Sheriff's Chief Medical Officer, Dr. Jon Montgomery:

We are extremely concerned about the health and welfare of our employees, as well as those patients who are entrusted to our care. Out of an abundance of concern for their safety and well-being, we have taken the unprecedented step of identifying those patients with such medical conditions or – that would place them at an undue health risk. We have taken the additional precaution and separated them from the general population.

Testing for SARS-CoV-2 is extremely important, from both an epidemiologic and medical perspective; however, as testing capabilities have been limited, the CDC has provided guidance in determining testing parameters. Not every patient or every potential exposure would need to be tested. If a patient is symptomatic, they would need to be isolated for the safety of others. Those patients would then be individually evaluated and medically assessed; testing for COVID could be ordered by the treating physician, or the patient could be transported to the local hospital if clinically indicated. If a test was conducted, the results are communicated back to the Sheriff's department from either Public Health or the contracted community laboratory.

In this time of uncertainty, we are committed to providing the best medical care for our patients. We are working with our community partners and following the evolving CDC guidelines to help shape our response to the ongoing pandemic:

https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html

https://www.cdc.gov/coronavirus/2019-ncov/php/risk-assessment.html

There are plans in place for the continuity of operations across our Department. With the closure of the courthouses, those personnel are being reassigned to jail and patrol functions. The Sheriff's Department is committed to ensuring the safety of those in our custody and those in the communities of San Diego County.

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April 24, 2020

COVID-19 and County Jails Update

We do not underestimate the challenges we face to keep COVID-19 from entering San Diego County Sheriff's Department jails, however, we have taken immediate action to safeguard the lives of people in our custody and those who work in our facilities.

We have created as much physical distancing as possible by actively reducing our inmate population. We have implemented accelerated release credits for eligible inmates with 60 days or less on their sentence, stipulated orders to release those deemed as medically high-risk and recently began releasing inmates on zero bail per an order by the State Judicial Council. At the same time, we implemented an "emergency booking criteria" to reduce the number of people being booked into our jails.

With the reduction of the inmate population and more space becoming available, we are now able to quarantine those being booked into our jails for a seven-day period. Those entering our jails are grouped by the day when they were booked, further distancing these new inmate groups from one another. This seven-day quarantine period allows for any flu-like symptoms to be identified quickly and give our Sheriff's medical staff enough time to take appropriate action.

Additional measures include:

- Temperature checks for all entering the facilities
- Daily temperature checks of all inmates in custody
- Increased cleaning, disinfecting
- Education and awareness for the inmates
- Identification and isolation of those being symptomatic
    - Empty housing units designated for isolation to separate the sick from the healthy.
- Masks for inmates and staff, as well as limiting movement at all our jails
- Emphasis on hand washing, good hygiene

It's important to note people currently being booked into our jails, as well as those still in our custody, are behind bars mostly for felonies and the most serious offenses. Making sure San Diego remains the safest urban county in the nation remains our top priority.

Since the COVID-19 pandemic began, we have had both inmates and Sheriff's employees test positive for the virus.

In each case, thorough contact investigations are conducted to identify inmates and staff who may have been exposed. Those individuals who test positive are then isolated for a minimum of 14 days. If that

person is in our custody, they are monitored by Sheriff's medical staff. Testing is available for inmates and is conducted at the direction of a medical provider.

We have had two inmates who have tested positive for COVID-19 following their release from custody. Both had been in our jails for less than a day and had shown minimal symptoms.

In the first case, the individual had a mild cough, so they were given a mask to minimize exposure during the booking process. They presented no other symptoms. After about six hours, the person bailed out of custody. That's why they were never assigned or moved into a housing unit. Days after being released, we were notified by County Public Health the person had received further treatment for their symptoms by a medical provider and tested positive for COVID-19. The Sheriff's Department conducted its own contact investigation and found no other inmates had been exposed to this individual. Any Sheriff's employees that had direct contact were identified. These employees were wearing personal protective equipment (PPE) the entire time they were in contact with the individual.

In the second case, an individual brought to one of our jails had a cough and was medically rejected for booking by Sheriff's medical staff. This person was taken to a hospital by the arresting agency. After being cleared as being fit for booking by the hospital staff, the individual was brought back to the jail. The person was placed directly into isolation at the jail after being processed and subsequently released on bail within the day. After the release, we were notified by County Public Health that person had tested positive for COVID-19. We conducted a contact investigation which found a very limited amount of exposure to Sheriff's employees, which were wearing PPE the entire time.

The Sheriff's Medical Services Division has implemented protocols and a discharge process for individuals housed in isolation modules and/or have tested positive for COVID-19. The medical staff is providing verbal instructions to these patients when they are placed into isolation and prior to release. Patients are also given guidance from the Centers for Disease Control and Prevention (CDC) on how to manage their symptoms after release.

In both cases, the protocols that were put in place mitigated the exposure of these two persons to other inmates and staff. As of today, out of a jail population of 4,112 spread out over seven jails, there is one person in custody who has tested positive for COVID-19.

We understand there may be more, but our Medical Services Division, and our entire Detention Services Bureau is working diligently every single day to prevent and mitigate as much as possible. Those in custody are also doing their part to keep themselves and others safe.

To date, nine Sheriff's employees who work in various bureaus throughout our department have tested positive and all of them are doing well. Our Sheriff's Medical Liaison Unit monitors our employees and provides support and resources if needed.

To learn more about these efforts, watch the following videos:

- Protecting Our Jails From COVID-19
  Video: https://vimeo.com/411197104

- A Message From the Sheriff's Chief Medical Officer:
  Video: https://vimeo.com/411633126 B-Roll: https://spaces.hightail.com/space/ToisdWf82d

Inmates enrolled in programs provided by Sheriff's Reentry Services have played an important and proactive role in helping prevent the spread of COVID-19 in our jails. Watch the following videos to learn more:

- Keeping Our Jails Clean
  Video: https://vimeo.com/411632442 B-Roll: https://spaces.hightail.com/space/Tla8hVGcSy
- Sewing Program Students Make Face Masks
  Video: https://vimeo.com/410389723 B-Roll: https://spaces.hightail.com/space/XHMDCkZVCa

For updates on the Sheriff's Department's response to the COVID-19 pandemic, visit www.sdsheriff.net and explore our COVID-19 section. For the latest on COVID-19 in San Diego County, visit: www.coronavirus-sd.com.

###

May 21, 2020

Statement on COVID-19 Testing in County Jails

The COVID-19 pandemic has presented several challenges to the San Diego County jail system. We are committed to ensuring the safety and well-being of our inmate population and staff. We have taken many steps to protect their health, which were outlined in an April 24th news release. We continue to provide a safe environment with several mitigation strategies in place and have added asymptomatic testing to our intake process.

It is important to note we have always followed infectious disease protocols to protect against outbreaks in our facilities. These protocols include many of the mitigation strategies we utilize for possible COVID-19 patients. All inmates presenting symptoms of COVID-19 or other respiratory illnesses are tested. If there are positive results, quarantine and respiratory isolation housing continue to be our best strategy to contain the spread of any disease. We have been successful in managing our population by implementing this strategy early in the COVID-19 outbreak. To date, there have only been seven confirmed positive cases of COVID-19 in our inmate population. Currently, only two inmates are actively positive. Each of these cases resulted in inmates being moved to isolation housing, quarantine of areas when applicable and daily monitoring for symptoms of inmates who may have been in close proximity to the infected inmate. This strategy has been effective in containing the disease.

An additional measure implemented recently was the advent of voluntary asymptomatic COVID-19 testing during the intake process. Coupled with our strategy to quarantine those being booked into our jails for a seven-day period and daily temperature checks, we effectively minimize the potential for any widespread outbreak of COVID-19. It is important to note inmates have the right to refuse testing. To date, 72% have refused.

The Sheriff's Department has asked the County's Health and Human Services Agency (HHSA) for their assistance in expanding voluntary testing of inmates and employees in our jails. HHSA staff will be allowed into our facilities to test all.

We continue to evaluate additional strategies to maintain safe jails. These include researching antibody testing, discussions with County Public Health about increasing testing availability in

our jails and how to safely reinitiate normal jail operations moving forward.

We are in receipt of and have reviewed the guidance for congregate living facilities from Public Health Officer Dr. Wilma Wooten. We have been following each of the five mitigation strategies laid out in the document and will continue to do so. Our staff has worked hard to ensure the continued safety and well-being of our inmate population and will continue to be diligent in our efforts. We recognize the impact the COVID-19 pandemic has had on the world and are committed to keeping the community and inmate population safe from exposure and infection to the best of our ability.

Dr. Wilma Wooten's guidance for congregate living facilities is included on pages 3 and 4 of this news release.

###

County of San Diego

NICK MACCHIONE, FACHE
AGENCY DIRECTOR

HEALTH AND HUMAN SERVICES AGENCY
PUBLIC HEALTH SERVICES
3851 ROSECRANS STREET, MAIL STOP P-578
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WILMA J. WOOTEN, M.D., M.P.H.
PUBLIC HEALTH OFFICER

May 19, 2020

TO: Long-Term Care Facilities
Correctional Facilities
Homeless Shelters

FROM: Wilma J. Wooten, M.D., M.P.H.,
Public Health Officer & Director,
Public Health Services

RE: CONGREGATE FACILITIES GUIDANCE FOR COVID-19

On behalf of the County of San Diego Health and Human Services Agency (HHSA) Public Health Services Department, I am sending you this letter to follow-up on the California Department of Public Health (CDPH) coronavirus disease 2019 (COVID-19) requirements for protecting the vulnerable populations.

Given the congregate nature and population served, the populations of long-term care facilities (e.g., skilled nursing facilities, intermediate care facilities, residential care facilities for the elderly, adult residential facilities), correctional, and homeless shelters (Facilities) may be at higher risk of being affected by COVID-19 and at increased risk for serious illness and complications. The County of San Diego recognizes that Facilities are doing everything in their power to protect their clients from COVID-19 and its complications.

The County of San Diego expects that Facilities are taking the necessary precautions to follow the mandatory requirements of their funding and licensing agencies, in addition to the Centers for Disease Control and Prevention (CDC) guidelines, to mitigate the risk of individuals at the Facilities contracting COVID-19. This also entails the following:

- The ability to track and notify any receiving Facilities upon the transfer of COVID-19 positive individuals, as appropriate.
- The ability to safely isolate COVID-19 positive individuals.
- The ability to safely quarantine individuals who have been exposed.
- The access to staffing agencies if and when staff shortages related to COVID-19 occur.
- The development of policies and procedures to appropriately train your workforce in infection prevention and control procedures.

Tailored resources and guidance for the Facilities is provided below.

- CDPH All Facilities Letter 20-52 to Skilled Nursing Facilities (SNFs) that includes the Mitigation Plan Implementation and Submission Requirements for SNFs and Infection Control Guidance for Health Care Personnel.
- CDC Interim Guidance on Management of COVID-19 in Correctional and Detention Facilities.
- CDC Interim Guidance for Homeless Service Providers to Plan and Respond to COVID-19.
- County of San Diego Public Health Officer Isolation and Quarantine Orders.

I encourage you to continue to visit the CDC COVID-19 website for more resources. Also, on this website, you can sign up for email updates and to participate on the weekly telebriefings for various community sectors. If you have any questions or concerns, please contact me at MOC.PHO.HHSA@sdcounty.ca.gov.

Thank you for your continued support to keep the residents of San Diego County healthy, safe, and thriving.

Sincerely,

Wilma J. Wooten, M.D.

WILMA J. WOOTEN, M.D., M.P.H.
Public Health Officer & Director
Public Health Services

cc: Helen Robbins-Meyer, County of San Diego, Chief Administrative Officer
Nick Macchione, County of San Diego, Health and Human Services Agency, Agency Director

San Diego County Sheriff's Department- Media Relations Office

NEWS RELEASE

Bill Gore, Sheriff

COVID-19 Testing at County Jails

The San Diego County Sheriff's Department is committed to the safety, security, health and well-being of people in our custody.

Our Detention Services Bureau took immediate actions and placed a lot of safeguards at intake to prevent the spread of COVID-19. The goal is to identify any potential case at the door. If you're booked into jail, you are automatically placed in quarantine for seven days and monitored for symptoms.

It is now part of our booking process to test every person who arrives in our jails. In June, we partnered with County Health and Human Services Agency (HHSA) to offer free COVID-19 testing in housing units. Even if they were not showing symptoms, inmates were offered every opportunity to be tested without regard to their charges or sentence. To download video of COVID-19 testing for broadcast, visit https://spaces.hightail.com/space/7gyi748xh9.

As of July 2nd, 898 out of 3,403 inmates in housing units at seven county jails participated in the voluntary testing. That's 26% of the jail population. Another 562 have been tested at either intake or as ordered by a medical provider for a total of 1,460 inmates. Only 24 tested positive for COVID-19 since February. 20 of the positive cases were identified during the intake process, further limiting exposure because of quarantine protocols. There are seven inmates in custody who are currently positive for COVID-19. This represents only 0.2% of the total inmate population and shows safeguards put in place have reduced the exposure of the virus to other inmates and staff. The remaining inmates who tested positive have either fully recovered or been released. Inmates released who were still positive were connected with HHSA. To date, no inmates have required hospitalization due to COVID-19.

It should be noted our facilities have always had isolation measures to stem the spread of contagious diseases. Our medical wards have isolation rooms that use negative air pressure. We take temperature checks at employee and visitor entrances. We isolate any person in custody who is symptomatic, use appropriate protective equipment and follow infection control measures to reduce the risk of transmission. Effectively separating patients by cell, floor, ward and building to reduce the potential of spread. To increase social distancing, we previously cancelled all social visits, group classes and reentry programs. We also modified our booking criteria and released qualifying inmates who have 60 days or less left in their sentences. When we started this process, our average daily inmate population was 5,600. Four months later, we house fewer than 3,400 inmates.

To watch videos of our safety precautions in our jails visit:

COVID-19 Safety Protocols - https://vimeo.com/411633126
Keeping our Jails Clean - https://vimeo.com/411632442

Issued on July 2, 2020

San Diego County Sheriff's Department - Media Relations Office

NEWS RELEASE

Bill Gore, Sheriff

The Importance of 7-Day Quarantine When Booked Into County Jails

In response to the COVID-19 pandemic, the Sheriff's Medical Services incorporated protocols to screen all inmates at intake. Inmates may refuse testing for COVID-19, however it is highly encouraged. Education and counseling are provided upon screening. During the intake screening process, all inmates are evaluated for the inmate safety program and any other mental health needs. They are triaged and referred accordingly, regardless of the need for quarantine housing.

All newly arrested inmates will be quarantined for the first seven days in 7-Day Quarantine Housing where they are monitored daily by medical staff for signs and symptoms of COVID-19. Once the inmate is cleared from the 7-Day quarantine, the Jail Population Management Unit and the Medical Services Division will coordinate the movement of inmates to regular housing based on their classification.

To limit exposure during the quarantine period, small groups (approximately five to seven inmates) that were booked on the same day are established. Each group is allowed a minimum of 30 minutes of dayroom (common area) time on a rotational basis, during which they can shower, utilize the telephone and watch television. Depending on the number of groups currently in the quarantine housing module, the groups may have additional opportunities or extended times for dayroom.

Common areas (including seating/tables, phones, showers) are cleaned/disinfected frequently. Imates also have the ability to purchase snacks, toiletries and other items. Inmates in quarantine can request medical and/or mental health services by contacting a deputy, completing a request form or speaking with the nurse at their housing unit. If the inmate expresses concern they may be experiencing COVID-19 related symptoms, medical staff is notified immediately. Medical and mental health services are available regardless of quarantine status.

Issued on July 2, 2020

NEWS RELEASE

November 16, 2020

COVID-19 at George Bailey Detention Facility

As the COVID-19 Pandemic continues to impact the national and local environment, custody environments continue to be affected as well. Last week, nine inmates presented with mild respiratory symptoms, were tested, and immediately isolated. All were housed within module 1C at our George Bailey Detention Facility. Module 1C is a quad based housing unit, with four separate living areas.

The tests returned positive, which triggered a quarantine and testing for the remainder of the sixty-one inmates in the module. On Saturday, November 14th, we received additional positive test results for forty-six inmates from the affected module. Those who tested positive were transferred to isolation units within our system. Two asymptomatic inmates were released from custody prior to their test results being available and one who remains in custody is currently under care at a local hospital. Fifteen tested negative, but are nevertheless being isolated and monitored due to their exposure. At this time the outbreak is limited to one module, but is the most significant COVID related event to date in our jail system.

The affected module has been emptied and sanitized to hospital standards. It remains empty today. All inmates at the George Bailey Detention Facility will continue to be monitored daily. Sanitation remains a priority for our jail system. Inmates who are concerned about any aspect of their custody stay have resources available to them upon request.

Those moved into isolation are currently in cell style housing units, which allows for less exposure to each other. All have been reviewed by medical staff to determine their individual treatment plan. As a precaution, inmates in the two adjoining housing units, 1A and 1B are under quarantine and are being tested for COVID. In each positive case, a thorough contact investigation is conducted to identify inmates and staff who may have been exposed. Those who test positive are isolated for a minimum of 14 days. If that person is in our custody; they are monitored by Sheriff's medical staff. Legally required release dates are not extended based on positive or pending COVID results. Those released prior to results being available are followed up with by the Department of Public Health.

As our nation continues to respond to COVID, we will evaluate any key information learned as a result of the contact investigations and will adjust accordingly. Our protocols to date

have been effective for limiting COVID within our jail system. Existing practices at our intake facilities allow for the accommodation of symptomatic inmates at the time of booking. Early in our COVID response we reduced our overall population through a combination of releases and modified booking criteria. Our population has been stable near 4,000, however, consideration will be given to conducting additional releases if necessary as we continue to monitor our population and the COVID-19 pandemic.

We do not underestimate the challenges we face to keep COVID-19 from entering San Diego County Sheriff's Department jails and have taken immediate action to safeguard the lives of people in our custody and those who work in our facilities.

As previously mentioned, continuing measures in response to COVID include:

- Temperature checks for all entering the facilities
- Daily temperature checks of all inmates in custody
- Increased cleaning and disinfecting
- Education and awareness for the inmates
- Identification and isolation of those with symptoms
- Empty housing units are designated for isolation to separate the sick from the healthy
- Masks for inmates and staff, as well as limiting movement at all our jails
- Emphasis on hand washing and good hygiene
- Testing is available for inmates and is conducted at the direction of a medical provider

Our Medical Services Division is working closely with the Department of Public Health concerning our ongoing COVID response and clinical trends in support of the contact investigations.

The San Diego County Sheriff's Department is committed to the safety, security, health and well-being of people in our custody. Visit www.sdsheriff.net and scroll down to our COVID-19 Response section to learn about all the safeguards we have in place to limit the spread of virus. To watch videos of safety precautions in our jails visit:

COVID-19 Safety Protocols - https://vimeo.com/411633126

Keeping our Jails Clean - https://vimeo.com/411632442

COVID-19 Testing https://vimeo.com/434823362

NEWS RELEASE

November 20, 2020

UPDATE: COVID-19

This is an update to a news release issued on November 16th concerning a COVID-19 event at George Bailey Detention Facility (GBDF). Two housing units, 1A and 1B were tested for COVID-19. All inmates in Module 1A tested negative and are no longer in quarantine. However, four inmates in 1B tested positive and were transferred to isolation units to receive close monitoring. All others tested negative and are completing a 14-day quarantine. Three positive inmates from this incident are currently at local hospitals receiving care.

It was determined an inmate from Module 1C was transferred to the Vista Detention Facility (VDF) prior to the event at GBDF. That inmate and eight others later tested positive and were subsequently transferred to isolation housing units. All other inmates tested negative but remain in quarantine and they will be monitored accordingly.

In an unrelated event, an inmate assigned at the East Mesa Reentry Facility (EMRF) reported to sick call earlier this week with mild respiratory symptoms. EMRF is a low-level facility with dormitory-style housing units. The inmate tested positive for COVID-19 and was transferred to an isolation housing unit. As a precautionary measure, all inmates in nearby housing units were tested and the results confirmed three additional positive results for two dormitories. The inmates with positive results were transferred to isolation housing units and two dormitories are quarantined at this time.

Based on these current COVID-19 impacts, the Detention Services Bureau has returned to a more restrictive environment as described in a March 27th news release. This is being done to protect the health of inmates and staff. In-person social visitation will not be allowed at San Diego County Jails starting Saturday November 21st. Video visitation will continue and updates regarding in-person visitation will be posted on our website www.sdsheriff.net.

Our Medical Services Division is working closely with the Department of Public Health concerning our ongoing COVID-19 response and clinical trends in support of the contact investigations.

The San Diego County Sheriff's Department is committed to the safety, security, health and well-being of people in our custody. Visit www.sdsheriff.net and scroll down to our COVID- 19 Response section to learn about all the safeguards we have in place to limit the spread of the virus.

To watch videos of safety precautions in our jails visit:

COVID-19 Safety Protocols https://vimeo.com/411633126
Keeping our Jails Clean - https://vimeo.com/411632442
COVID-19 Testing https://vimeo.com/434823362

NEWS RELEASE

December 11,2020

Stepped Up COVID-19 Measures

The San Diego County Sheriff's Department is amplifying its COVID-19 protocols to protect inmates and staff. Additional measures are now being implemented to mitigate the spread of the virus.

Earlier this week, inmates at the South Bay Detention Facility began showing flu-like symptoms. Their housing units were quarantined to restrict their movement and monitor their condition. The inmates tested positive for COVID-19 triggering additional testing of other housing units. In total, 54 inmates tested positive for COVID-19. A majority of these inmates were asymptomatic. They were all transferred to isolation units within our system. Isolation separates the inmates with COVID-19 from inmates who are not sick. The inmates are receiving medical care.

In each positive case, a thorough contact investigation is conducted to identify inmates and staff who may have been exposed.

Here are the additional steps we are taking to increase social distancing which will assist in our quarantine and isolation efforts for suspected or positive COVID-19 cases. These measures are similar to the protocols being implemented by other jail and prison systems across the country.

- Restricted movement in seven county jails to reduce the risk of exposure and transmission, other than for critical purposes such as medical procedures
- Implemented modified booking criteria which went into effect on December 4th to reduce the jail population
- No use of common areas
- Non-contact professional visits
- Expanded use of N-95 masks while on duty for staff
- Expansive testing for staff on site

These measures build on many actions we have taken so far to reduce the risk of COVID-19 to employees and people in our custody.

- Contact tracing
- COVID-19 Testing
- Ongoing disinfecting and cleaning at all facilities

- Quarantine and Isolation Protocols
- No social visits
- No group activities
- Temperature checks
- Virtual Court Hearings
- Masks for inmates and staff
- Personal Protective Equipment (PPE) for staff
- Handouts, posters and updated video messaging for inmates and staff about COVID-19
- Emphasis on handwashing and good hygiene

The San Diego County Sheriff's Department is committed to the safety, security, health and well-being of people in our custody. Visit www.sdsheriff.net and scroll down to our COVID-19 Response section to learn about all the safeguards we have in place to limit the spread of the virus.

To watch videos of safety precautions in our jails visit:

COVID-19 Safety Protocols https://vimeo.com/411633126

Keeping our Jails Clean - https://vimeo.com/411632442

COVID-19 Testing https://vimeo.com/434823362

News List

Sheriff Gore Response to ACLU on COVID-19

Post Date: 01/14/2021 2:00 PM

January 14, 2021

Bardis Vakili
Senior Staff Attorney
bvakili@aclusandiego.org
ACLU Foundation of San Diego and Imperial Counties
PO Box 87131
San Diego, CA 9213 8-7131

Dear Mr. Vakili,

The Sheriffs Department is in receipt of your letter dated December 21, 2020. In addition to requesting records under the California Public Records Act (CPRA), the letter contained a lengthy discussion of the ACLU's perception of the Sheriffs Department's jail practices, the Sheriffs handling of the COVID-19 outbreak in the jails, and the Campbell v. Barnes litigation in Orange County. As we indicated to you earlier, the Sheriffs Department will be responding separately to the two components of your letter. This letter is intended to address the issues raised in your letter separate from the Sheriffs Department's CPRA response.

In your letter you expressed concern regarding the population of inmates in San Diego County Sheriffs custody stating, in part, "a significant cause of the outbreak appears to be the Department's refusal to release sufficient people to permit social distancing or consistently enforce reasonable prevention policies. "

Addressing first the issue of inmate releases, the Sheriffs Department is actively working, and has been actively working since the start of this pandemic, to reduce the inmate population to levels that allow for greater "distancing" of inmates. But as you are undoubtedly aware, the number of people in the jails is to a large extent, outside of the control of the Sheriff. The Sheriff has a legal obligation to receive all individuals committed to him by lawful authority (California Penal Code section 4015(a)). Such lawful authority includes those arrested by peace officers, as well as those ordered into our custody by the Superior Court, either through pre-trial commitments or as a post-trial sentence. Additionally, the management of the jail population during the pandemic has been particularly challenging due to the fact that 1) There have been
(understandably) far fewer trials that have taken place during the pandemic, which has caused many cases not to be resolved; and 2) The California Department of Corrections and Rehabilitations has, with some sporadic periods of exception, stopped accepting new inmates who have been sentenced to their custody, resulting in many inmates remaining in Sheriffs custody long after they should have been transferred to state prison.

Despite these challenges, we have, with the help of the Superior Court, the District Attorney's Office, the San Diego City Attorney's Office, and the Office of the Public Defender (collectively, "Justice partners"*) managed to significantly reduce our inmate population, allowing for greater distancing. We have sought and received i .e

Superior Court orders allowing for accelerated release credits for eligible inmates. We have worked, and continue to work, with the District Attorney and Public Defender to identify those inmates deemed as medically high-risk, and who therefore may be an appropriate subject for a stipulated release order. We have also worked with the Justice partners on modifications to the bail schedule, which includes the reduction of many offenses to zero bail. In addition, we have implemented and continue to refine our "emergency booking criteria" to reduce not only the number of people being booked into our custody, but the number of people who need to be brought to a jail facility for a "book and release." Many of these offenses are now handled as a "cite and release", in which a Notice to Appear may be issued out in the field by an arresting agency.

This approach has been successful. As of January 12, 2021, the combined number of inmates in our seven jail facilities is just over 3,600. Compare this to our population on March 1, 2020, which exceeded 5,400.

Addressing the issue of social distancing, the Sheriff's Detention Services Bureau, in response to recent regional COVID-19 increased positive cases, on December 14, 2020 implemented more restrictive social distancing measures as described in Phase Three of the COVID-19 Continuity of Operations Phase Plan (included in the CPRA request).

Similar to that of the nation, throughout the past ten months the Sheriff's Department response to the COVID-19 pandemic has evolved and shifted as additional response resource information became available. The Sheriff's Detention Services Bureau, following the advice of our Chief Medical Officer, Dr. John Montgomery, have enacted several protective protocols recommended by the Center for Disease Control (CDC), as well as national and local health organizations, to ensure both our staff and those in our custody stay safe and healthy. We have enacted administrative and engineering safeguards for our staff and in custody population. We have established policies on quarantine and personal protective equipment (PPE) use for both staff and inmates, adjusted ventilation airflow and placed protective barriers to better safeguard our staff and in custody population. Additional safeguards are in place to identify inmates during the intake process with underlying chronic medical conditions or complications that would place them at a higher medically adverse risk due to COVID-19.

We have been following each of the below five mitigation strategies as laid out by County of San Diego Health and Human Services Agency (HHSA) Public Health Officer and Director, Dr. Wilma Wooten.

- Track and notify any receiving Facilities upon the transfer of COVID-19 positive individuals, as appropriate.
- Safely isolate COVID-19 positive individuals.
- Safely quarantine individuals who have been exposed.
- Ability to access staffing agencies if and when staff shortages related to COVID-19 occur.
- The development of policies and procedures to appropriately train your workforce in infection prevention and control procedures

Additionally, significant sanitation measures of housing, inmate common areas, and staff workspaces have been in place since the onset of the COVID-19 pandemic, including ongoing advancements in sanitation equipment available to both staff and inmates.

Your letter expressed concern regarding our individual facility populations. Our seven jail facilities work collectively as one system, with three facilities designated as "intake" facilities. All inmates brought into custody will begin their incarceration at one of the three intake facilities but may be moved fluidly within the system as their individual housing needs dictate. Our Jail Population Management Unit (JPMU) is constantly reassessing the inmate population and designating COVID-19 housing accordingly. The housing of inmates within our system is determined by several variables. With relation to COVID-19, our system has housing specific for High-Risk Housing (described in your letter as "medically vulnerable',, 7-day Intake Quarantine, COVID-19 Positive, Suspected COVID-19 (SPUI), and Quarantine. As population numbers for each group fluctuate, housing areas may be re-designated to accommodate, therefore your comparison of population and positive COVID-19 cases by facility does not accurately represent our jail system.

Your letter expressed concern regarding the CO VID-19 testing. As of December 31, 2020, 10,963 voluntary COVID tests had been administered throughout our jail system. The Sheriff's Department continues to collaborate with HHSA and other San Diego County health facilities to expand voluntary testing of inmates and employees. In addition to offering expansive testing to both inmates and staff, we have begun administering COVID-19 vaccinations as per the designated tier protocols.

Our staff has worked diligently to ensure the continued safety and well-being of our inmate population, and we will continue to look for ways to minimize the spread of the virus in our jail facilities. We recognize the impact the COVID-19 pandemic has had on the world and are committed to keeping the community and inmate population safe from exposure and infection to the best of our ability.

We continue to evaluate additional strategies to maintain safe jails. Our Medical Services Division is working closely with the Department of Public Health concerning our ongoing COVID-19 response and clinical trends. The Sheriff's Department is committed to the safety, security, health and well-being of people in our custody. Visit www.sdsheriff.net and scroll down to our COVID- 19 Response section to learn about all the safeguards we have in place to limit the spread of the virus.

Sincerely,

William D. Gore, Sheriff

* In your letter, you reference Government Code section 8658, which grants the Sheriff the unilateral authority " [i)n any case in which an emergency endangering the lives of inmates ... has occurred or is imminent" to " remove them to a safe and convenient place ... to avoid the danger" or "if that is not possible, may release them." You also reference the Campbell v. Barnes litigation in Orange County, and state that the Orange County Sheriff "did not take into account whether someone had a disability that rendered them medically vulnerable to COVID-19 in making housing and custody determinations." The San Diego County Sheriffs Department has been identifying and separately housing those most vulnerable to COVID-19 since the earliest days of the pandemic, as well as attempting to work with Justice partners to secure their release, where appropriate. I am well-aware of the authority under Government Code 8658 to release inmates in cases where it is necessary to do so to avoid

imminent danger. However, I believe the best approach to managing the jail population during the COVID-19 pandemic, while also preserving public safety, is to work with the Justice partners on collaborative solutions (as described in this letter). We note that the Campbell v. Barnes case, in which the Superior Court issued an order that appeared to control the Sheriffs discretion under Government Code 8658, is presently before Division Three of the Fourth Appellate District Court of Appeal. (sub nom Barnes v. Superior Court of Orange County, Case No. G059764)

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UPDATE: COVID-19 Protocols in County Jails

Post Date: 03/11/2021 2:35 PM

Earlier this week, the San Diego Sheriff's Department announced there was a COVID-19 outbreak at the George Bailey Detention Facility (GBDF). We would like to provide a timeline of how it happened, future vaccinations of people in our custody and clarification on recently published news article.

On February 15, a man was booked into the San Diego Central Jail for charges related to driving under the influence. All individuals being booked into county jails are asked to take a COVID-19 test. This test is voluntary. There is no legal authority requiring the test. Per the Sheriff's Department's COVID-19 jail protocol, he was classified and placed in quarantine for seven days where inmates receive temperature checks twice a day.

To maintain quarantine space at the San Diego Central Jail, it is necessary to move inmates to other facilities once their quarantine period expires if no symptoms are present. As a result, the inmate was subsequently transferred to the George Bailey Detention Facility (GBDF) in Otay Mesa on February 22 where he was housed in dormitory housing appropriate for his classification level.

Over the next few days, the inmate was transferred between different modules, all within the same housing area, due to behavioral issues.

On February 25, the inmate was evaluated by medical staff for an issue unrelated to COVID-19. At that time, he did not display nor complain of any COVID-19 symptoms.

On February 27, the inmate began showing flu-like symptoms. Facility medical staff evaluated and tested him for COVID-19. The inmate was sent to the hospital via ambulance for further evaluation and treatment. The module he was housed in was immediately placed in quarantine and the inmates were checked for symptoms. None of the inmates in the housing area were symptomatic.

Modules are placed in quarantine when one or more inmates complain of symptoms associated with COVID-19. Inmates in quarantine modules receive symptom checks daily by nursing staff and have their temperatures checked twice a day.

All quarantine modules are disinfected and cleaned frequently. No new inmates enter the quarantine modules. All staff and inmates in quarantine modules have stricter personal protective equipment (PPE) requirements. Inmates must wear cloth face coverings in their living areas and are required to wear KN95 masks anytime they exit the module.

Jail staff working in quarantine modules are required to wear N95 masks. In accordance with recommendations from the U.S. Centers for Disease Control and Prevention (CDC), testing for inmates in the quarantined area was not immediately conducted to account for the incubation period which will allow for more accurate test results, thus minimizing false negative tests.

On February 28, the inmate was discharged from the hospital and returned to GBDF where he was isolated in the medical area of the facility where hourly nursing rounds are conducted.

Once the need for quarantine was determined, contact tracing was initiated. In each COVID-19 positive case, a thorough contact investigation is conducted to identify inmates and staff who may have been exposed. Those who test positive are isolated for a minimum of 14 days. If that person is in our custody, they are monitored by Sheriff's medical staff. Legally required release dates are not extended based on positive or pending COVID-19 test results. Those released prior to results being available are followed up with by the County Department of Public Health.

Contact tracing was completed on March 3 which concluded the inmate had high risk exposure with inmates in House 1A and 1C. No other areas were identified as high-risk exposure. House 1A remained in quarantine and 1C was immediately quarantined and scheduled for testing to account for the incubation period which allows for more accurate test results as medically indicated.

On March 6, 106 inmates were tested due to potential contact with this inmate. On March 8, the test results found 46 positive cases and 60 negative cases. The positive cases were checked for symptoms and moved into isolation areas in cell-style housing units, which allows for less exposure between inmates.

Inmates assigned to 1A were offered tests because of their exposure. Of the 108 inmates, only 12 agreed to be tested. As explained earlier, testing for COVID 19 is invasive and remains voluntary for the inmate population in respect of their legal rights. Of the 12 inmates tested, one additional positive case was discovered, and he was isolated per our protocol.

We do not underestimate the challenges we face to keep COVID-19 from entering our county jails and have taken immediate action to safeguard the lives of people in our custody and those who work in our facilities.

As previously mentioned, continuing measures in response to COVID-19 include:

- Temperature checks for everyone entering jail facilities
- Daily temperature checks of all inmates in custody
- Increased cleaning and disinfecting
- Education and awareness for the inmates
- Identification and isolation of those with symptoms
- Empty housing units are designated for isolation to separate the sick from the healthy
- Masks for inmates and staff, as well as limiting movement at all jails
- Emphasis on hand washing and good hygiene
- Testing is available for inmates and is conducted at the direction of a medical provider

Our Sheriff's Medical Services Division is working closely with the County Department of Public Health concerning our ongoing COVID-19 response and clinical trends in support of the contact investigations. We have begun the process of vaccinating our inmate population who are eligible based on federal, state and county ' 'th guidelines. When the tier opened for those 65 and older, inmates eligible and wanting the vaccine got it. A

March 10, 26 inmates received the vaccine while 25 others refused. We anticipate a delivery of vaccines from County Public Health on March 15 which we will use to vaccinate individuals in our custody with the following conditions:

- Cancer, current with debilitated or immunocompromised state
- Chronic kidney disease, stage 4 or above
- Chronic pulmonary disease, oxygen dependent
- Down syndrome
- Immunocompromised state (weakened immune system) from solid organ transplant
- Pregnancy
- Sickle cell disease
- Heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies (excludes hypertension)
- Severe obesity (Body Mass index >40 kg/m2)
- Type 2 diabetes mellitus with hemoglobin A1c level greater than 7.5%

The Sheriff's Department does not have direct access to the vaccine. We will continue to work closely with public health officials, from whom we receive our supply, to vaccinate the remaining inmate population when the appropriate phases and tiers open. We are confident our efforts to vaccinate the jail population will be a major benefit to the inmates in our care.

A recent article in the San Diego Union-Tribune about the outbreak at GBDF contained a few factual errors. The reporter said there were seven inmates hospitalized at Tri-City Medical Center in Oceanside. While it is true seven inmates are currently at Tri-City, none are hospitalized due to COVID-19. One inmate is being treated for another medical reason and is also COVID-19 positive. The reporter also wrote GBDF was within 11 beds of capacity. That claim is inaccurate. On the date the article was published, GBDF was 68 beds under the Board of State and Community Corrections (BSCC) rated capacity.

Since the beginning of the COVID-19 pandemic, the Sheriff's Department has implemented strategies to reduce jail populations in the interest of the safety of inmates and jail employees. Since March of last year, 5,354 inmates have been released as a result of population mitigation strategies. These include the emergency booking criteria, 60-day release court order, Sheriff's accelerated release credits and collaboration with our justice partners on stipulated releases.

While our efforts have proven fruitful in reducing the jail population, we continue to have inmates sentenced to state prison who are not being accepted for transfer. The Sheriff's Department is currently housing 429 inmates who have been committed to the California Department of Corrections and Rehabilitation (CDCR). Our housing of CDCR inmates continues to put a strain on our ability to contain the spread of the virus.

As our nation continues to respond to the COVID-19 pandemic, the Sheriff's Department will evaluate any key information learned through contact investigations and adjust accordingly. Our protocols to date have been effective in limiting COVID-19 cases within our jail system. Existing practices at our intake facilities allow for accommodation of symptomatic inmates at the time of booking.

The Sheriff's Department is committed to the safety, security, health, and well-being of people in our custody. Visit www.sdsheriff.net and click on the "COVID-19 Response" slide on our homepage to learn about all the safeguards we have in place to limit the spread of the virus.

Contact: Lieutenant Ricardo Lopez
Media Relations Office
mediarelations@sdsheriff.org

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SAN DIEGO SHERIFF'S DEPARTMENT INMATE VACCINATION PLAN

The San Diego County Sheriff's Department is committed to the safety, security, health and well-being of people in our custody. We continue to provide a safe environment with several mitigation strategies in place. Vaccinations for the remainder of our inmate population will occur in accordance with the tiers or phases of the federal, state and county distribution plan.

Distribution and administration of the vaccine is complex. Vaccinators must receive training from the San Diego County Department of Public Health in preparation for vaccinating our incarcerated individuals. Working in conjunction with our Public Health colleagues at the San Diego County Health and Human Services Agency (HHSA), the Sheriff's Department has completed the registration process for starting a Coronavirus vaccination program. As of January 2021, Health staff assigned to the San Diego County Sheriff's Department's Medical Services Division (MSD) received COVID-19 vaccination training and are authorized to administer the Moderna and Johnson & Johnson COVID-19 Vaccine.

INMATE VACCINATION PLAN

In January of 2021, the Sheriff's MSD applied to the California Vaccine Management System (CalVax) to be a receiving/repository site for the COVID-19 Vaccines at our various detention facilities**.** CalVax requirements for vaccine receiving/repository sites include the following:

- **All receiving/repository sites must provide proof of appropriate cold storage devices including photos, equipment model numbers, and specifications.**

- **Sites must submit data logger reports, calibration certificates, and temperature logs to the County.**

- **Sites must submit proof of completion of EZIZ (https://eziz.org/eziz-training/) trainings on vaccine storage and handling.**

- **Sites must track all enrollment details in a database.**

In February 2021, The San Diego County Sheriff's Department MSD Cal Vax application was approved.

The distribution of the Coronavirus vaccines will be conducted in phases. The general categorization of the phases was determined by the Centers for Disease Control and prevention (CDC) Advisory Committee on Immunization Practices (ACIP). As the phases are broad and the number of vaccines is limited, individual states formulated more detailed 'tiers'. The San Diego

Sheriff's Department is required to follow the CDC and California Department of Public Health (CDPH) phase and tier system, as implemented by the Health Officer of the County of San Diego.

Each facility will designate an area for administering the vaccine and establish an observation area that will be staffed by qualified health staff to observe and responded to any individuals that may have an adverse reaction to the vaccine.

Phase 1B (Tier One):

Following the CDC recommended vaccination phases, the San Diego Sheriff's Department has begun offering the vaccine on a voluntary basis at our facilities that house our 65+ inmate population. The San Diego Sheriff's Department plans to continue offering vaccine to our 65+ inmate population as needed by holding a vaccination clinic on a bi-weekly basis. Inmates remaining in custody who received the Moderna vaccine will receive their scheduled second dose of vaccine on a pre-designated date, approximately 28 days after the first dose or in accordance with current CDC or CDPH guidance.

Inmates who are scheduled to be released from custody prior to receiving their second vaccine dose will receive a copy of their vaccination card and a flyer with information on how to receive their second dose.

Phase 1B (Tier Two):

All individuals incarcerated with the San Diego Sheriff's Department will qualify to receive the vaccine when Phase 1B (Tier Two) is approved. It is the Sheriff's Department's intent to offer COVID-19 vaccinations to all incarcerated individuals, on a voluntary basis.

Once Phase 1B (Tier Two) is approved, the San Diego Sheriff's Department will begin vaccinating incarcerated individuals, utilizing the following priority order and based on the availability of the vaccine:

- **MEDICALLY HIGH RISK INDIVIDUALS**
- **INMATE WORKERS**
- **INMATES ASSIGNED TO DORMITORY HOUSING**
- **GENERAL POPULATION INMATES**

Inmates remaining in custody who received the Moderna vaccine will receive their scheduled second dose of vaccine on a pre-designated date, approximately 28 days after the first dose or in accordance with current CDC or CDPH guidance.

Inmates who are scheduled to be released from custody prior to receiving their second vaccine dose will receive a copy of their vaccination card and a flyer with information on how to receive their second dose.

References:

CDC:

https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/vaccine-faqs.html

San Diego County:

https://www.sandiegocounty.gov/content/sdc/hhsa/programs/phs/community_epidemiology/dc/2019-nCoV/vaccines.html

News List

Increased Inmate Vaccinations

Post Date: 03/19/2021 4:56 PM

All inmates at San Diego County Jails are now able to get the COVID-19 vaccine. Every inmate became eligible to receive the shots under new California Department of Public Health guidelines that started on March 15. To date, 427 inmates have been vaccinated.

The Sheriff's Department had already been vaccinating inmates as part of the age 65 and greater group that was authorized under that tier. This was done when vaccinations were made available. 27 inmates were vaccinated in this group.

Receiving the COVID-19 vaccine is voluntary. To date, 221 inmates have refused the vaccine. We will continue our vaccine education program by answering questions or concerns about the shots. We will still offer the vaccine to those who initially declined a dose.

The County of San Diego Health and Human Services Agency (HHSA) supplies the Sheriff's Department with the vaccine. As of March 19, our allocated supply from HHSA has been exhausted. HHSA assured us more vaccines will be coming our way.

The Sheriff's Department has administered the Moderna vaccine requiring two doses. Inmates who are released prior to getting their second injection are provided information on how to receive their second dose. Inmates vaccinated under the new tier received the Johnson & Johnson one-dose vaccine.

Our medical personnel have done a tremendous job getting the vaccine into the arms of inmates as soon as we receive the doses from HHSA. We are working in consultation with public health officials on our vaccine rollout. You can learn more about our vaccination plan by visiting our website. We are also working on a vaccination tracking system and weekly vaccination information will soon be available on www.sdsheriff.gov.

Despite the availability of the vaccine, COVID-19 protocols will continue in our jails. All inmates are asked to submit to a COVID-19 test at the time they are booked into jail. This test cannot be forced. Inmates are educated on the benefits of testing but approximately half of them have refused a test at the time of booking. As part of a long-standing mitigation protocol, any new inmate is placed in quarantine for seven days and monitored for symptoms before placed with the general population.

The safety, health and well-being of the people in our custody is of paramount importance. You can learn more about all the safeguards we have in place to limit the spread of the virus at www.sdsheriff.gov. Click on the COVID-19 Response slide on the homepage.

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Attorneys for Defendant William D. Gore

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

Terry Leroy Jones, et. al, Plaintiff, v. William D. Gore, in his official capacity, Defendant.	No. 37-2021-00010648-CU-MC-CTL Action Filed: March 10, 2021 **[IMAGED FILE]** **DECLARATION OF STEVEN P. INMAN, II, IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION** Date: June 10, 2022 Time: 9:00 a.m. Judge: Joel R. Wohlfeil Department: C-73

I, Steven P. Inman, II, declare as follows:

1. I am a Senior Deputy County Counsel for Defendant, the County of San Diego and am counsel of record for William Gore in his official capacity as the former Sheriff of the County of San Diego. I have personal knowledge of the facts stated in this declaration and would testify to them if called to do so.

2. On October 8, 2021, I appeared for, and attended, the deposition of Lieutenant Adam Arkwright. True and correct copies of excerpts of Lt. Arkwright's deposition are attached hereto as Exhibit A.

3. On October 22, 2021, I appeared for, and attended, the deposition of Jon Montgomery, M.D. True and correct copies of excerpts of Dr. Montgomery's deposition are attached hereto as Exhibit B.

4. On December 3, 2021, I took the deposition of Plaintiff Terry Jones via remote technology. True and correct copies of excerpts of Plaintiff Jones' deposition are attached hereto as Exhibit C.

5. On February 11, 2022, I took the deposition of Plaintiff Gabriel Campos via remote technology. True and correct copies of excerpts of Plaintiff Campos' deposition are attached hereto as Exhibit D.

6. On March 23, 2022, I downloaded the latest version of the San Diego Sheriff's Department's COVID-19 Jail Status Report (updated March 22, 2022). A true and correct copy of this document, which I downloaded from the San Diego Sheriff's Department website at https://www.sdsheriff.gov/home/showpublisheddocument/4888 is attached hereto as Exhibit E.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed this 23rd day of March, 2022, in San Diego, CA.

STEVEN P. INMAN, II

EXHIBIT “A”

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

TERRY LEROY JONES and GABRIEL CAMPOS on behalf of themselves and all others similarly situated, Petitioners/Plaintiffs, vs. WILLIAM D. GORE, in his official capacity as Sheriff of San Diego County, California, Respondent/Defendant.	Case No. 37-2021-00010648-CU-MC-CTL

ZOOM DEPOSITION OF LIEUTENANT ADAM ARKWRIGHT, taken by the attorney for Petitioners/Plaintiffs, commencing at the hour of 9:00 A.M. on Friday, October 8, 2021, taking place using remote deposition technology, before Leslie L. Takeda, Certified Shorthand Reporter No. 10010, RMR, CRR, in and for the State of California.

(Recess.)

MR. MARKOVITZ: Okay. So we'll go back on record.

Q. And -- I actually want to go back to some of your other positions -- or just a couple of them, starting with -- you -- you mentioned that you had been a lieutenant in Medical Services; right?

A. Yes.

Q. Can you tell me about your duties -- I'm sorry.

First, can you tell me the time span?

A. It was -- I believe the time frame was, like, January to -- January to May of this year.

Q. Of this year. Okay.

So can -- can you tell me, first just generally, about your responsibilities there?

A. So when I got over there I was the Second Lieutenant. So I -- I didn't quite -- and I wasn't there long enough to develop -- I was there as a backup. Because of the work that Medical Services Division was doing, I didn't have specific duties; so I was kind of given assignments when needed. So I didn't have a specific job that I was doing while I was there.

Q. Okay. So if I were to ask you what a typical day was like, it sounds like there wasn't really a typical day.

A. Yes. So during certain times -- the last, like, two months I was there, I was basically out with teams when we were doing our vaccinations.

Q. Okay. So -- so when you say "doing" your vaccinations, what do you mean by that?

A. We were -- we were holding vaccination clinics at all our facilities; so I was going around with a team of nurses to vaccinate the inmate population.

Q. Okay. Great.

And -- and did you -- and -- and I'm sorry.

You said this started for you in -- in about January of this year?

A. Yes.

Q. And do you recall when vaccinations became available?

A. So -- just real quick, I'm trying to snooze, but this computer wants to restart with some updates, and it's not allowing me to hit the snooze button. So I might go dark here in a second.

Q. I understand. If that happens, we'll deal with it. Thank you for the warning.

A. So can you repeat your question?

Q. Yeah.

Do you recall when vaccinations became available to inmates?

A. Four to -- three to five, maybe three to six, depending on the staffing that we had.

Q. Okay. Did -- did that also depend on the size of the housing unit?

A. How many teams we were -- you know, if we had more staffing at the time, we would break up in two teams so we could cover more, you know, modules in a given day.

Q. And was there always sworn staff and -- and a nurse?

A. Yes, because we provide the security for the medical staff when we're inside a module like that.

Q. And was there a particular way that you offered the vaccines?

A. We would ask every individual inmate if they would like the particular vaccine, if they were interested. If they refused or they said yes -- if it was yes, it was easy. They just came out, they were given literature on the particular vaccine, and then they would receive that vaccine. If they refused, a nurse would talk to that individual about the COVID vaccine that was being given and see if they would change their mind on taking the vaccine.

Q. And if you had to estimate, is there a particular amount of time that those conversations might last?

So -- and the pandemic started around March of 2020.

So -- so for that -- a good eight or nine months or so?

A. Yes.

Q. Okay. Thank you.

So during that time that -- so -- so you were actually -- so you were there at the beginning, you just said.

Were you aware -- were you involved in any discussions about the possibility of reducing the jail population as a way of dealing with the COVID-19 pandemic?

MR. INMAN: Objection. Vague as to conversations with whom.

Q. (BY MR. MARKOVITZ): Conversations with Command staff or -- or any other staff.

A. I was not involved in any -- in any meetings that -- where decisions were made on releasing inmates due to COVID.

Q. Okay. What about conversations or meetings where the topic came up?

A. The -- generally the -- for Jail Population Management Unit, it was more of a report to me, telling me that these were the strategies they were going to put

in place to help reduce the population for the bureau.

Q. And do you remember why it was important to reduce the population? Or why --

A. To decrease -- well, it was an overall, you know, increasing social distancing and limiting the amount of inmates that were in our custody that could contract COVID within our facilities. So --

Q. So does that mean that there was a sense or an understanding that having fewer people in your facilities would make people safer from COVID-19?

MR. INMAN: Objection. Lacks foundation. Calls for speculation.

Q. (BY MR. MARKOVITZ): Okay. You can answer.

A. I wasn't a part of those meetings on what drove that -- those reasonings; so I cannot tell you if that was one of their driving factors. But it would make sense to me, since it was part of discussions that were generally talked about, you know, the less inmates and social distancing, the way that you can do that is by reducing your inmate population.

Q. Okay. Great.

And -- and do you happen to recall what the population was for -- for the facilities as a whole, what percentage -- what -- the overall number or the percentage was?

quarantine until -- and isolate the person that showed the symptoms. They are normally tested for COVID; and if -- if it comes back positive, the quarantine is removed. If they turn out to be positive, the quarantine will be in effect in that particular module.

Q. Okay. And do you know if this is true just for Las Colinas or if this is the way the quarantine works at every facility?

A. To my knowledge, that's the same procedures at every facility.

Q. Okay. And is there a distinction between being quarantined and being in isolation?

A. We do have medical isolations, but that's normally -- that could be because of COVID-type -- COVID-type -- what's the term I'm looking for here -- symptoms, or it can be other medical needs, that Medical has designated that they have to be isolated for whatever medical reason.

Q. Okay. And is there something specifically called an "intake quarantine"?

A. No. We don't have intake -- it's -- anybody that comes newly into the jail that goes through the intake process is put into 7-day quarantine.

Q. Okay. Is there any circumstance where somebody is quarantined for 14 days?

A. Yes.
Q. And when does that happen?
A. That happens when a -- an inmate is tested positive for quarantine or the module that that inmate came from, that module could be put into a 14-day quarantine.
Q. And -- and why would that happen, as far as you're aware?
A. That are decisions that Medical Services Division has determined.
Q. Okay. And -- and during that -- that first 7-day quarantine that -- that everybody -- all new intakes go through, do you determine or do you know how it is determined who's placed in a cell together?
A. So I have to refer to the time that I was in JPMU.
Q. Uh-huh.
A. The process was it was -- they were cohorted on a time frame that they would come in. So we broke it down during a 24-hour period, starting at 001, midnight -- or one minute past midnight until 11:59 that night. If they came into custody during that time frame, those particular inmates would be housed together in 7-day quarantine in those designated areas --
Q. Okay.

EXHIBIT A

A. -- as a group.
Q. Are there times where somebody will be introduced on a subsequent -- on a later day to an ongoing quarantine?
A. Which quarantine?
Q. Let's talk first about the -- the intake ones -- or the -- the 7-day initial quarantine.
So if that starts on Day 1 and then there's a new inmate that comes on Day 3, would they ever be introduced into housing with the people who were -- who were housed in that initial 7-day quarantine?
A. They should not.
Q. They should not. Okay. They should not.
Does that mean that it doesn't happen?
A. I'm not saying -- mistakes can be made. Human error. So --
Q. But the policy would be that it doesn't?
A. Policy is that it should not happen.
Q. Okay. And then what about for other quarantines?
A. So once they get put on quarantine, no inmates should leave or go into that particular module. But we do at times, because of issues between inmates, that we might have to pull somebody out of a quarantine module; but we would place them into another designated housing

EXHIBIT A

unit for possible COVID positive, or what we would call a "quarantine module," that they're there for that 14-day time frame.

Q. Okay. And is that throughout the jails? Or just at Las Colinas?

A. Yes, everybody follows that.

Q. Everybody at all the jails?

A. Yes.

Q. Okay. And would there ever be a time where a 14-day quarantine has started and somebody new is introduced to it?

So, for example, the quarantine starts on Monday, and somebody is added to it on Wednesday.

A. That should not happen, based on our policy.

Q. Okay.

A. Not -- our procedures that we have going forward with COVID.

Q. Okay. And again, that's throughout the jails?

A. Yes.

Q. And are there any times where you're aware that it did happen despite policy?

A. I can't give you specific; but I know that there's been people that have been moved out of quarantine that shouldn't have.

Q. Do you know if there have been people who have

couple days.

Q. Okay. But as a general practice, people are still being transferred between facilities?

A. Yes.

Q. Okay. And what are some of the reasons that somebody might be transferred from one facility to another?

A. Well, for us -- like I said, this still refers to my time at JPMU.

Q. Uh-huh.

A. Generally what occurs is we just need bed space at our intake facilities; so we have to move them out to create space for new arrestees coming into custody.

Q. Okay. And -- and what about if -- are -- are there other transfers that happen, not just -- not just in that direction, but -- but, say, from -- from South Bay to Central Jail, or someplace where there's not intake to one where there is?

A. So there's numerous reasons why we can transfer inmates. It could be the inmate has a problem with housing at a particular jail and we've moved them to all the acceptable housing that his classification can be housed at that facility, and we just don't have another place to house them. It could be a request because they're becoming an inmate worker at the camp. It could

be because they're going to state prison. So -- or they're getting picked up by a program, and we have to send them to a particular jail where that program is going to pick them up. So there's other reasons.

Disciplinary. Certain jails, if they cause certain types of disciplinary issues, we might have to send them to a jail that can handle that type of inmate compared to the other jails that they're at.

Q. Okay. And are -- are people offered COVID-19 tests before they're transferred from one jail to another?

A. Not to my knowledge.

Q. Okay. And then within a particular jail, people who are housed in different -- I'm sorry.

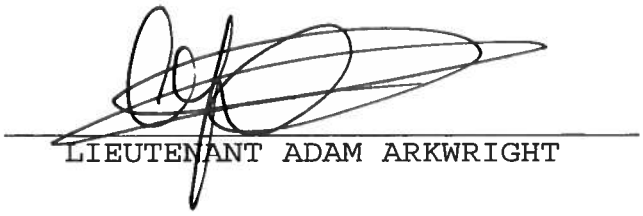
If people are housed in separate -- in different housing units, do they interact with people in other housing units?

Let me ask -- I'm -- I'm sorry. Let me say at Las Colinas specifically.

A. So they cannot -- during regular -- the only time they would interact is if they were at court together, or they could be over at Medical at the same time because they have appointments due. That's the only time that they're going to interact. So other than -- inmate workers probably have more interaction with each

I, LIEUTENANT ADAM ARKWRIGHT, do hereby certify under penalty of perjury that the foregoing is true and correct; that I have read my deposition and made the necessary corrections, additions, or changes to my answers I deem necessary.

Executed on this 9 day of November, 2021.



LIEUTENANT ADAM ARKWRIGHT

EXHIBIT A

REPORTER'S CERTIFICATION

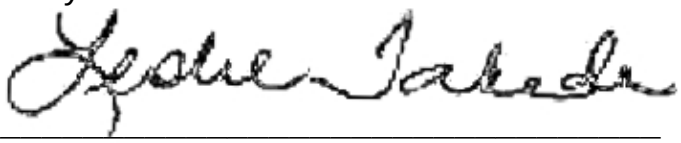
STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO)

I, Leslie L. Takeda, Certified Shorthand Reporter No. 10010, RMR, CRR, for the State of California, do hereby certify:

That as such reporter, I reported in machine shorthand the foregoing proceedings;

That my notes were transcribed into typewriting under my direction, and the foregoing transcript is a true and correct record of the testimony that was given.

Dated this 11th day of October 2021.



Leslie L. Takeda
CSR No. 10010

EXHIBIT “B”

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

TERRY LEROY JONES and GABRIEL CAMPOS, on behalf of themselves and all others similarly situated, Petitioners/Plaintiffs, v. WILLIAM D. GORE, in his official capacity as Sheriff of San Diego County, California, Respondent/Defendant.	)	Case No. 37-2021-00010648-CU-MC-CTL

DEPOSITION OF

JON MONTGOMERY, M.D.

TAKEN REMOTELY VIA ZOOM

SAN DIEGO, CALIFORNIA

OCTOBER 22, 2021

REPORTED BY:
Marchelle Hartwig
CSR No. 9347

A. Sorry, could you please restate the question? And also you're making the implication that the hospitalization is required.

Q. (BY MR. MARKOVITZ) Okay. So for the second part, I really am thinking specifically of this incident where hospitalization was required. Let me phrase it leaving hospitalization aside.

Are there systems or policies or protocols that are in place that help staff to identify people who are exhibiting COVID-19 symptoms or symptoms consistent with COVID-19 at an early stage of the disease?

MR. INMAN: Objection. Vague and ambiguous. Compound.

A. Sorry, I was trying to follow your flow. I hate to ask, but could you summarize that a little bit more?

Q. (BY MR. MARKOVITZ) Yeah, sure. And the idea here is really just is there any way that jail policies help staff to identify COVID symptoms early on before it progresses and gets serious?

MR. INMAN: Objection. Vague and ambiguous. Compound. Incomplete hypothetical.

A. Yes, thank you.

When a patient is showing some signs or symptoms of possible illness, to use the term here

"flu-like" symptoms, they would then be identified as being under an SPUI. That's suspect patient under investigation. This is an older term that was initially categorized by the CDC.

That person would then be placed under isolation for testing and evaluation and be under elevated scrutiny by medical staff for the evaluation to preclude the development of any worsening symptoms.

Q. (BY MR. MARKOVITZ) And how would they be identified?

MR. INMAN: Objection. Vague. Incomplete hypothetical.

A. I'm sorry, could you restate that?

Q. (BY MR. MARKOVITZ) Yeah. What process is there to find these people to -- before that category is imposed? How would they be identified?

MR. INMAN: Objection. Vague. Incomplete hypothetical. Calls for speculation.

A. They would be identified by the presence of symptoms.

Q. (BY MR. MARKOVITZ) And would these symptoms be self-reported?

MR. INMAN: Objection. Incomplete hypothetical. Calls for speculation.

Q. (BY MR. MARKOVITZ) Actually, let me ask

defined as "medical screening"?

Q. If people's medical histories are taken, if they are subjected to -- well, let me go there -- or stop there.

Are people asked about their medical histories?

A. To my understanding, yes, that is part of the booking process and questionnaires.

Q. Okay. And does that booking process or questionnaires include questions about whether or not they have received COVID-19 vaccinations?

A. Could you be more clear about the time frame?

Q. Let's say now. When people are booked, are they asked about whether they have received a COVID-19 vaccination?

A. To my understanding, yes, that is now part of our intake process now that vaccines are commonly available.

Q. And do you know when it became part of your process?

A. I'm sorry, say again.

Q. Do you know when it became part of your process?

A. I can't state for sure what day or time. Just when vaccines started becoming more frequently

public health. They would have access to it as well, but under, you know, the public information act, information, whatever, is that the information could be obtained.

Q. (BY MR. MARKOVITZ) Okay. Thank you.

And to go back to the topic of vaccine hesitancy, can you say what efforts, if any, the jails have made to combat vaccine hesitancy or to increase vaccine acceptance rates?

A. Sorry, could you restate the question?

Q. Actually, let me ask just about that first part. Can you say what efforts the jails have made, if they have made any, to combat vaccine hesitancy, to overcome vaccine hesitancy?

A. Yes. To highlight an earlier conversation item, we have addressed a media campaign, if you will, to include fliers and posters. We have also addressed vaccine hesitancy from a more individualized format by educating our vaccine administrator, our nursing staff to engage with the patient individually and try to address their concerns, and we have also conducted some additional media efforts.

I can speak for myself that I did a video presentation at an outreach visit to a facility on the Mesa, Otay Mesa, for the purpose of having a town hall format with the patients, the inmates, to try and address

some of their concerns and specifically comment on some of the most recent -- sorry -- the most common reasons for hesitancy.

Q. Okay. Give me one second. So that town hall, was that -- was it one town hall? How many town halls like that did you provide?

A. I can state that I was involved in the one town hall.

Q. Okay. And do you recall when that was?

A. I don't remember the dates.

Q. Okay. And are you aware of similar town halls conducted by anybody else?

A. I am uncertain if any other formats to be equivalent to a town hall has happened, but it is my understanding that continued efforts in a group setting by our nursing staff to specifically address the vaccine hesitancy is ongoing.

Q. Okay. And I think you said that you learned about common reasons for vaccine hesitancy; is that correct?

A. I'm sorry, can you say that again?

Q. Actually, I think maybe I got that wrong. I think that you said that you -- part of what you did during the town hall was to discuss common reasons for vaccine hesitancy; is that correct?

A. I was unfamiliar with that official title, but it's just a title. I have certainly been involved in education efforts.

Q. (BY MR. MARKOVITZ) Okay. And are those efforts beyond anything that we have already discussed?

MR. INMAN: Objection. Vague.

Q. (BY MR. MARKOVITZ) That's fine.

A. It's a very broad term. Could you be more specific?

Q. Yeah. Are there components of educating people about the vaccine, ways that jails have tried to educate people about the vaccine that go beyond anything that we have already discussed, other than or in addition to anything that we've already discussed?

MR. INMAN: Objection. Overbroad and calls for speculation.

Q. (BY MR. MARKOVITZ) That's okay. To your knowledge.

A. Our conversation to this point has been primarily concentrating on the education efforts for vaccine hesitancy. Are you referring to those questions?

Q. Sure. For now let's say yes, just in terms of vaccine hesitancy.

MR. INMAN: Same objections.

A. Thank you.

With regards to that, again, we had mentioned the poster and the handouts and that we had conducted individualized patient counseling through our nursing vaccination teams and that we had -- that I had conducted the town hall format, which is -- again, that occurred during this visitation from that site of which this video is there. I was unfamiliar with the term of the Jail Education Campaign, but it would be my understanding that all of that could potentially be lumped under that campaign title.

Q. (BY MR. MARKOVITZ) Okay. Thank you.

And just to go back to the reference to the individualized counseling by the nursing staff, to your knowledge, was the nursing staff ever provided with training about specifically how to address or overcome vaccine hesitancy?

MR. INMAN: Objection. Vague.

Q. (BY MR. MARKOVITZ) You can answer.

A. Sorry, could you restate the question?

Q. Yeah. Again, to your knowledge, has the nursing staff ever been trained in how to overcome vaccine hesitancy?

MR. INMAN: Same objection.

A. Could you be a bit more specific with your

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, Marchelle Hartwig, a Certified Shorthand Reporter, do hereby certify:

That prior to being examined, the witness in the foregoing proceedings was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said proceedings were taken remotely before me at the time and places therein set forth and were taken by me in shorthand and thereafter transcribed into typewritten form under my direction and supervision;

I further certify that I am neither counsel for, nor related to, any party to said proceedings, not in anywise interested herein, nor otherwise interested in the outcome thereof.

In witness whereof, I have affixed my signature this 2nd day of November, 2021.

Marchelle Hartwig
CSR No. 9347

EXHIBIT “C”

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

TERRY LEROY JONES, on behalf of himself and all others similarly situated, Petitioner/Plaintiff, vs. WILLIAM D. GORE, in his official capacity as Sheriff of San Diego County, California, Respondent/Defendant.	CASE NO. 37-2021-00010648-CU-MC-CTL

VIDEOTAPED VIRTUAL DEPOSITION OF
TERRY JONES

December 3, 2021
10:01 a.m.

Kelly M. Bates, CSR NO. 12935
MAGNA LEGAL SERVICES
(866)624-6221
www.MagnaLS.com

Q. So if your mask became overly soiled before the new masks were distributed you could ask for a new mask?
A. Yes.
Q. And do you recall who you complained to about masks?
MR. MARKOVITZ: Objection. Asked and answered.
THE WITNESS: I do not.
BY MR. INMAN:
Q. I'm sorry. Is that a no?
A. Yeah. No.
Q. Other than deputies, did you complain to anyone else about the soap, the masks or the cleaning?
MR. MARKOVITZ: Objection. Vague as to time.
THE WITNESS: No.
BY MR. INMAN:
Q. Did you ever submit a written complaint about cleaning, soap or masks?
A. No.
Q. Was there a box in the day room or in your dorm in which you could put written complaints?
A. Yes. Yes.
Q. Okay. But you never submitted a complaint in that box?
A. No.
Q. Did you have the ability of leaving notes under

the door for deputies or other jail staff?

MR. MARKOVITZ: Objection. Vague.

THE WITNESS: No.

BY MR. INMAN:

Q. You don't believe you had the ability to leave a note under the door for jail staff?

MR. MARKOVITZ: Same objection.

THE WITNESS: I'm sure it's possible.

BY MR. INMAN:

Q. Okay. Did you ever complain over the phone to a relative or anyone else? Other than attorneys. We'll leave out attorney-client communication. Did you ever complain to anyone over the phone about the cleaning or masks or soap?

A. I believe I did.

Q. Who did you complain to over the phone?

MR. MARKOVITZ: Objection. Instruct my client not to answer to the extent that that involves communications with attorneys. You can answer otherwise.

BY MR. INMAN:

Q. Go ahead. Was there anyone other than an attorney that you complained to over the phone about Covid-19 mitigation efforts at the jails?

A. I believe I spoke with a friend.

Q. I'm sorry. You said a friend?
A. Yes.
Q. What friend did you speak to?
A. My friend Blas.
Q. Can you spell that for me, please.
A. B-l-a-s. B-l-a-s.
Q. Blas. Okay. Does Blas have a last name?
A. Lopez, L-o-p-e-z.
Q. Okay. And do you know where Blas resides?
A. In Trail Beach, California.
Q. Do you know his address by chance?
A. Not off-hand. It's in my address book.
Q. What's the phone number for Blas?
MR. MARKOVITZ: Objection. Might call for speculation.
THE WITNESS: (619) 552-1034.
BY MR. INMAN:
Q. Okay. Other than Blas Lopez, the deputies and attorneys, did you ever express concerns to anyone about Covid-19 mitigation efforts at the jails?
A. No.
Q. And you never submitted anything in writing expressing concern about Covid-19 mitigation efforts at the jail?
MR. MARKOVITZ: Objection. Misstates

testimony.

THE WITNESS: No.

BY MR. INMAN:

Q. Did you attempt to exercise any written grievance procedure at the jails related to Covid-19 mitigation efforts?

MR. MARKOVITZ: Objection. Vague.

THE WITNESS: No.

BY MR. INMAN:

Q. Mr. Jones, you contracted Covid-19; is that correct?

A. Yes, sir.

Q. Do you recall approximately when you were diagnosed?

A. December of 2020.

Q. And how were you diagnosed?

A. Covid test.

Q. Was that a test that you requested?

A. No.

Q. Was it a test that was offered to you?

A. I wouldn't say offered.

Q. Do you believe the test was forced upon you?

A. Everybody in my module had to test.

Q. Did you believe the testing was involuntary for everyone in the module?

Q. How long did that -- how long did those periods last?

A. I'm not sure. When I was sent to the fifth floor in January it was in place. So I'm not sure how long before that, but until towards the end of February they started giving us an hour and a half.

Q. Okay. Do you know whether the services in the day room were cleaned? Do you know whether or not they were cleaned after each cohort?

MR. MARKOVITZ: Objection. Vague as to time.

THE WITNESS: On the fifth floor itself, after each day room period they would come in and spray the showers and the tables and floors.

BY MR. INMAN:

Q. How about the phones? Were the phones sanitized after each cohort?

A. Yes.

Q. And the showers as well?

A. Yes.

Q. With respect to the housing, do you know whether there existed a separate housing for those with certain medical conditions that were considered to render them more vulnerable to Covid-19 symptoms?

MR. MARKOVITZ: Objection. Calls for speculation. Calls for expert opinion.

A. Yes, inmate workers were still working.
Q. And when you observed those inmate workers performing work, were they outfitted with KN95 masks?
MR. MARKOVITZ: Objection. Vague.
THE WITNESS: Yes, I believe so. Yes.
BY MR. INMAN:
Q. Did you at any time believe their personal protective equipment to be inadequate for the work that they were performing?
MR. MARKOVITZ: Objection. Calls for expert opinion.
BY MR. INMAN:
Q. Just in your personal opinion.
A. No.
Q. Did you have any reason to believe that the inmate workers you were observing were not trained in the use of personal protective equipment?
MR. MARKOVITZ: Objection. Calls for opinion and calls for speculation.
THE WITNESS: No.
BY MR. INMAN:
Q. Were you hospitalized at any time during your incarceration in the San Diego County Jails?
A. No.
Q. Were you transported in a prison vehicle -- I'm

suspended was in March of 2020.
Q. March of 2020?
A. I believe so.
Q. So that was before the start of the -- well, that was about --
A. During, yes.
Q. About when the pandemic began; correct?
MR. MARKOVITZ: Objection. Calls for speculation, expert opinion.
THE WITNESS: At least four months into it, yes.
BY MR. INMAN:
Q. And after March of 2020 you no longer went to court in person. You did your court appearances by video?
A. Yes.
Q. Okay. Do you have knowledge of any inmates being transported in jail vehicles other than for a necessary purpose?
MR. MARKOVITZ: Objection. Vague. Calls for speculation.
THE WITNESS: I'm sorry. Repeat the question.
BY MR. INMAN:
Q. Sure. Do you have knowledge of any inmates being transported in jail vehicles other than for a

necessary purpose?

MR. MARKOVITZ: Same objections. Also object ambiguous.

THE WITNESS: During the pandemic there was very few transferred to and from other jails. What I understand was eight to ten people to a bus periodically.

BY MR. INMAN:

Q. And do you recall how big the buses were?

A. I don't know. I would assume it's the regular size bus.

Q. So you believe it was eight to ten people on a normal size bus?

MR. MARKOVITZ: Objection. Asked and answered. Calls for speculation.

THE WITNESS: Yes.

BY MR. INMAN:

Q. And do you have knowledge of any inmate being transported for a purpose other than medical isolation or quarantine, clinical care, extenuating security concerns, release or to prevent overcrowding?

MR. MARKOVITZ: Objection. Calls for speculation.

THE WITNESS: All I have knowledge of is that they were making periodic minimal transfers to and from

different jails.
BY MR. INMAN:
Q. Okay. Mr. Jones, are you vaccinated for Covid-19?
A. Yes, I am now.
Q. When did you obtain your vaccination?
A. First dose was March this year.
Q. And when was your second dose?
A. Approximately April.
Q. And are you planning to receive a vaccine booster?
A. I requested one, yes.
Q. Did the San Diego County Jails start distributing vaccinations while you were there in the jail?
A. They did.
Q. And what -- well, strike that.
Let me start with this. What efforts did you see the San Diego County Jails making to get inmates to obtain vaccinations?
MR. MARKOVITZ: Objection. Insufficient foundation.
THE WITNESS: The initial vaccination was present a nurse to ask people if they wanted a shot, the vaccine, and to sign a list.

BY MR. INMAN:

Q. This is a poster promoting Covid-19 vaccination. Do you recall ever seeing this poster?

MR. MARKOVITZ: Steve, you've got like a yellow text box that's blocking a lot of the text. I think you have to do something with your cursor.

MR. INMAN: Oh. Is that better?

MR. MARKOVITZ: That's better.

MR. INMAN: Okay. Great.

MR. MARKOVITZ: I'm sorry. Can you scroll through it from the top again?

MR. INMAN: Oh, sure. Yeah. Let me start at the top and I'll scroll through it slowly.

THE WITNESS: That was posted after they started offering vaccinations.

BY MR. INMAN:

Q. And is this a true and correct copy of the poster that you observed in the jail?

MR. MARKOVITZ: Objection. Calls for speculation.

THE WITNESS: I don't think I seen that exact one, no.

BY MR. INMAN:

Q. The one that you saw, what did it say on it?

Do you recall?

A. It was more like a blue paper with a Sheriff emblem on it, a badge. From what I remember, it just said that they were going to be offering Covid-19 vaccination shots. One in English. One in Spanish. But not like that one on the screen.

Q. Okay. Did the poster say that you could submit a sick call request to obtain the vaccine?

A. No. It just said that -- it just -- all it said was that they're offering the shots and they didn't specify when. They did come around eventually with a sign-up list for people interested in getting vaccinated.

Q. Do you recall approximately when that was?

A. It was either the end of last year or beginning of this year. The very beginning of this year they started posting around the modules. Posting signs.

Q. Was it your understanding that you could submit a sick call request to get a vaccine?

A. It was never mentioned on the note -- on the posted -- sign posted in the windows. No, it wasn't. I don't think it was posted on there. It just said they were offering Covid-19 shots.

Q. Okay. But the nurse came around and offered it?

A. Like I said, they came around with a sign-up

the street. On the street I was more active than I am here. So I would say my new inhaler would be every month and a half or so.

Q. When's the last time that you used your inhaler?

A. I'm not sure. It's been quite a while now.

Q. Would you say it's been three months? Four months? More than that?

A. At least a few months. At least a few months.

Q. Okay. And you said you're less active at the state prison than you were in the outside world?

A. Less activity, yes.

Q. And speaking of your time at the state prison, are there any precautions that the prison is taking to stop the spread of Covid-19 that -- any precautions they're taking there at the prison that they were not taking to your knowledge at the County Jail?

MR. MARKOVITZ: Objection to the extent it calls for speculation.

THE WITNESS: As far as right now goes, the present time is concerned, we are required to carry our masks with us at all times. Not necessarily have to wear it, but to keep it with us at all times.

BY MR. INMAN:

Q. Okay. Are there any precautions that the

prison is taking to stop the spread of Covid-19 that the jails did not take during the time period that you were there?

MR. MARKOVITZ: Objection. Calls for speculation.

THE WITNESS: I don't know. I mean, they're offering booster shots right now, but as far as everything I don't really -- I don't know.

BY MR. INMAN:

Q. You can't think of any?

A. Things are a lot more cleaner here, more sanitary here because they have workers that clean on a daily basis if that's what you mean.

Q. What at the county jails did you find less clean than at the state prison?

A. Central, downtown. At first they were okay with it -- doing it and then they started slacking. And we had to keep asking the deputies when the workers were going to come in and sanitize things. At first they were diligent as much as you can be, and then they started slacking off for a while.

Q. And did you complain about that?

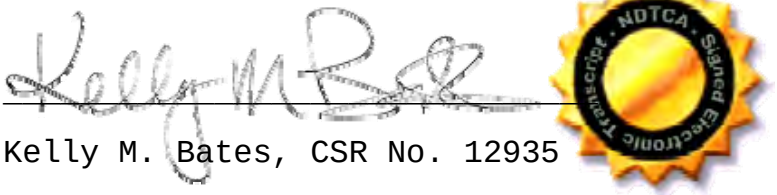
A. I did. Also asking for a cleaning cart. Most of the time we were given it -- to it. A couple times the deputies said not allowed to give it to you. And

REPORTER'S CERTIFICATION

I, KELLY M. BATES, a Certified Shorthand Reporter in and for the State of California, do hereby certify:

That the foregoing witness was by me duly sworn; that the deposition was then taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed into typewriting under my direction; that the foregoing is a true record of the testimony and proceedings taken at that time.

IN WITNESS WHEREOF, I have subscribed my name this 3rd day of December, 2021.



Kelly M. Bates, CSR No. 12935

MAGNA LEGAL SERVICES

FEB 02 2022

ACKNOWLEDGMENT OF DEPONENT

I, TERRY L. JONES, do hereby certify that I have read the foregoing pages, 1 - PGS, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

Lionel Jaegues 1-27-22
WITNESS NAME DATE

NON NOTED.

EXHIBIT “D”

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO, CENTRAL DIVISION

TERRY LEROY JONES, on behalf of himself and all others similarly situated,

Plaintiffs,

vs. No. 37-2021-00010648-CU-MC-CTL

WILLIAM D. GORE, in his official capacity as Sheriff of San Diego County, California,

Defendants.
/

REMOTE DEPOSITION OF GABRIEL CAMPOS

Stenographically Reported by

ANGELA SINCLAIR, RMR, RPR, CRR, CCRR, CSR No. 13902

February 11, 2022

Job No. 10095485

concerns or questions?

A. No.

Q. What about the second individual that you talked to? Did he say why he refused the vaccine?

A. Yes. Because of the same reason.

Q. And did you see anyone talking to him, any nurse or deputy talking to him after he refused the vaccine?

A. No.

Q. Since that time that they came to your module in March of 2021, have you seen other similar efforts by jail staff to get inmates to take the vaccine?

MR. MARKOVITZ: Objection. Misstates testimony as to "similar efforts."

THE WITNESS: Yes. I would see the deputies place posters on the wall as far as, like, recommending vaccines.

BY MR. INMAN:

Q. And how many different versions of those posters have you seen?

A. Just one.

Q. Do you recall what it says?

A. No, I don't.

Q. And if an inmate wants to receive a vaccine, what's your understanding as to how they can

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request one?

A. Submit a form to medical.

Q. Are you aware of any incentives that jail staff have offered to get inmates to be vaccinated?

A. Just in July of 2021. July or August. July or -- I think it was August of 2021.

Q. What incentives were offered to get vaccinated in July or August of 2021?

A. It was like food items.

Q. And was this incentive to get vaccinated communicated to the inmates prior to the event -- I guess strike that. Let me start this way.

Was there a specific event that inmates came to to receive food items in exchange for getting vaccinated? Is that an accurate description?

A. No. It was just an on-the-spot thing. They would just come -- medical staff would come in with the vaccines and the paperwork to sign or refuse, and along with all that material they had brought incentive, edible incentives for taking the vaccine.

Q. And did you see inmates taking them up on getting vaccinated in exchange for getting some food items?

A. Yes.

Q. Prior to the time they came with incentives and

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Q. And how long does that quarantine typically last, to your knowledge?

A. Well, if the results come back negative that day, we would get off quarantine. But if they came back positive, they would be on quarantine for -- well, it depends -- the date and 14 days after the first day of quarantine.

Q. I'd like to show you paragraph 6 of your declaration now. And there it says, "I'm concerned that the length of our quarantine period keeps getting extended because new people are transferred into the module."

Is that your understanding as to why your quarantine got extended, was because new people got transferred in?

A. Yes. During that time, that would be the reason. That would be the reason why we get extended.

Q. And why do you believe that that was the reason why the quarantine got extended?

A. Well, the police would tell us.

Q. So you were informed by deputies that the reason why your quarantine period was getting extended was because new people were being transferred in?

A. Yes.

Q. Not because someone new had tested positive?

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checks where you're at?

A. Yes. Yes and no.

Q. Well, tell me the "no" part. What did you mean when you said yes and no?

A. Sometimes they would offer it and sometimes they wouldn't.

Q. So there's some days that they miss?

A. Yes.

Q. When are those temperature checks typically conducted?

A. They're in the morning count and during the day.

Q. Would you say it's done 90 percent of days or 85 percent of days, more than 90 percent of days?

A. Like 50 percent of days.

Q. And where you are currently, are inmates wearing masks?

MR. MARKOVITZ: Objection. Vague, ambiguous.

THE WITNESS: Yes, sometimes.

BY MR. INMAN:

Q. What do you mean sometimes?

A. Sometimes they wear them and sometimes they don't.

Q. Okay. When they're outside of their cell do they wear them, would you say, 90 percent of the time,

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80 percent of the time outside their cell?

A. Okay. I'm going to be honest. The police, the deputies sometimes enforce it on inmates when they're out in the dayroom using the phones and stuff, but sometimes they don't.

Q. What about in cells?

A. Cells, no.

Q. How often would you say inmates wear their masks in their cells?

A. Not often.

Q. What about the inmates workers? Would you say they're wearing their masks 80 percent of the time, 90 percent of the time when you seen them?

A. I haven't actually seen one in a while, but every time I see one here and there they're wearing a mask 100 percent of the time.

Q. Have you seen any encouragement of handwashing since the start of the pandemic?

MR. MARKOVITZ: Objection. Vague.

THE WITNESS: Yes, I have.

BY MR. INMAN:

Q. And what have you seen to encourage inmates to engage in more handwashing?

A. They would hand out free hand soaps.

Q. How many times have you seen that since the

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start of the pandemic?

A. A lot at times, but recently they just haven't really been following up with that.

Q. Have you seen any posters encouraging handwashing that weren't around before the pandemic?

A. Not posters.

Q. Any --

A. No, I don't know.

Q. -- signs?

A. Yes. I mean, any signs, they would play the San Diego Sheriff's -- some little like orientation display every morning, and that would remind us or if we pay attention that, oh, wash your hands kind of thing, you know.

Q. So that's a video that they played that's about COVID-19?

A. Yeah. Yes.

Q. And can you describe for me, the best you can remember, the contents of that video?

A. They would tell you -- it would tell us about how -- like, what kind of symptoms you would be looking for for COVID, you want to make sure that you stay away from people so many feet apart from each other, you want to make sure you always wash your hands after pretty much somebody -- so often. You know, just the basics.

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Q. When you say "the basics," does that include wearing masks?
A. Wearing masks, yes.
Q. And you said staying away from people. Does that mean social distancing, like trying to maintain 6 feet when you can?
A. Yes.
Q. Does the video say you should try and maintain 6 feet?
A. Yes, it does.
Q. Anything else you can recall from the video?
A. No, not to the best of my knowledge.
Q. Does the video tell you what to do if you're experiencing symptoms?
A. Yes. Seek medical attention.
Q. Does the video tell you that you have access to vaccines?
A. Yes.
Q. And does it tell you how you can request a vaccine?
A. Yes.
Q. And how often did you say that the video is played?
A. Like, almost every day.
Q. And where is the video located?

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A. On TV screens.

Q. And where are the TV screens at?

A. Both ends of the module.

Q. Now, I know you haven't been through the intake process during the pandemic, but do you have an understanding based on your own observations as to whether inmates are quarantined upon intake into the jail?

A. I have no idea.

Q. And do you know -- do you have an understanding based on your own observations whether inmates are tested upon -- for COVID-19 upon intake into the jail?

A. I have no idea.

Q. Have you seen a reduction in the movement of inmates over the course of the pandemic, like fewer transfers, anything of that nature?

A. Not unless your module's on quarantine.

Q. Have you seen any reduction in inmates on transport vehicles to and from court or other facilities during the pandemic?

A. No.

Q. Have you, based on your own observations, seen any decrease in the number of people housed in the jails for what you can describe as lower-level offenses?

MR. MARKOVITZ: Objection. Vague, ambiguous.

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THE WITNESS: Say that one more time.

BY MR. INMAN:

Q. Yeah, it was a vague term. I'll strike that.

Let me ask you about grievances instead. Have you made any grievances related to COVID-19?

A. Yes.

Q. What's your understanding of what a grievance is?

A. A complaint.

Q. And what's the process by which inmates can submit grievances in the San Diego County jails?

A. The process?

Q. Right. In what ways can you submit grievances?

A. You can ask -- well, first you need to get a grievance form from the deputies. Once you obtain that, you're able to have it get signed by the deputy that walks by or you can just put it in the grievance box or wait for the sergeant to walk by. He's the one that collects the grievances, and you can talk to him about it. That way, he can collect it and just take it upon it himself.

Q. Where's the grievance box located?

A. Somewhere in the module.

Q. Have you ever made any grievance before?

A. Yes.

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Q. Have you ever made any grievance before related to COVID-19?

A. Not to my understanding.

Q. Have you ever had any type of argument or conflict with the medical staff at the jail?

A. Yes.

Q. And could you describe for me what that -- what transpired?

MR. MARKOVITZ: Objection. To the extent that this might involve anything involving any kind of disciplinary issue, instruct the client not to answer. Fifth Amendment privilege. You can answer otherwise.

THE WITNESS: You said what will be the reason why?

BY MR. INMAN:

Q. Yeah.

A. Repeat the question again. I'm sorry.

Q. Have you ever -- let's put it this way. Well, I'm going to try and not implicate the Fifth Amendment. I guess counsel can tell me if I'm unsuccessful in doing so.

Have you ever been angry with medical staff at the jail?

A. Yes, I have.

MR. MARKOVITZ: Same objection. To the extent

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REPORTER'S CERTIFICATE

I, ANGELA SINCLAIR, a Stenographic Certified Shorthand Reporter, holding a valid and current license issued by the State of California, duly authorized to administer oaths, do hereby certify:

That GABRIEL CAMPOS, in the foregoing deposition named, was present and by me sworn as a witness remotely, pursuant to CCP 2025.310, in the above-entitled action at the time therein specified.

That said deposition was taken before me at said time, and was taken down in shorthand by me and was thereafter transcribed into typewriting, and that the foregoing transcript constitutes a full, true and correct report of the proceedings that took place to the best of my ability via remote videoconferencing.

The dismantling, unsealing, or unbinding of the original transcript will render the Reporter's Certificate null and void.

Should the signature of the witness not be affixed to the deposition, the witness shall not have availed himself/herself of the opportunity to sign or the signature has been waived.

I further certify that I am neither counsel for nor related to any party in the foregoing deposition and caption named nor in any way interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunder subscribed my hand this 14th day of February 2022.

ANGELA SINCLAIR, RMR, RPR, CRR, CCRR,
CSR No. 13902
State of California

EXHIBIT D

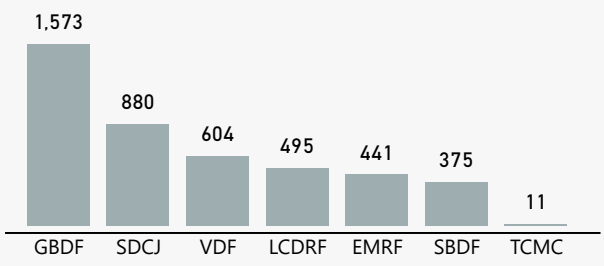
EXHIBIT “E”

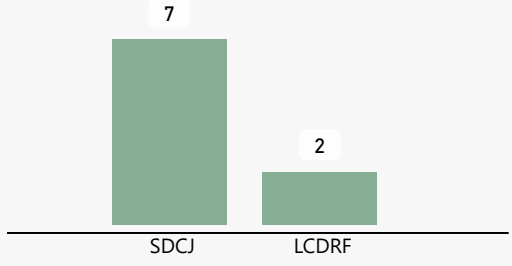
SAN DIEGO COUNTY SHERIFF'S DEPARTMENT

COVID-19 JAIL STATUS REPORT

Last Update
03/22/2022 10:41:06

CURRENT JAIL POPULATION	ACTIVE COVID-19 CASES IN CUSTODY	% ACTIVE CASES IN CUSTODY	INDIVIDUALS IN ISOLATION FOR PRECAUTIONS	% INDIVIDUALS IN ISOLATION
4,379	9	0.2%	53	1.2%





- San Diego County Sheriff's Department; Detenon Ser vices Bureau. Data is as of report date/me.
- Totals are subject to change throughout the day due to populaon fluctua ons and upda tes made to medical direcv es, paen t condions, and housing loc aons.
- Acv e Cases In Custody is the number of individuals currently in custody who are confirmed COVID-19 posiv e.
- Individuals in Isolaon f or Precauons ar e individuals who are being monitored by medical personnel either due to presenng C OVID-like symptoms or due to possible exposure.
- Posiv e cases are ed t o the facility where the individual is currently housed/located and may not represent the housing locaon wher e the individual was inially t ested.
- Data from all San Diego County detenon f acilies ar e included in this report. San Diego Central Jail (SDCJ); George Bailey Detenon F acility (GBDF); East Mesa Re-Entry Facility (EMRF); Vista Detenon Facility (VDF); Las Colinas Detenon and R e-Entry Facility (LCDRF); South Bay Detenon F acility (SBDF); & Facility 8 Detenon F acility (FAC8).
- Tri-City Medical Center (TCMC): these counts include individuals admi ed to the hospital for reasons unrelated to COVID-19, as well as individuals admi ed to the hospital as a direct result of complicaons arising fr om COVID-19. Please note that medical privacy laws prevent the sharing of private medical informaon.

EXHIBIT E

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Attorneys for Defendant William D. Gore

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

Terry Leroy Jones, et. al, Plaintiff, v. William D. Gore, in his official capacity, Defendant.	No. 37-2021-00010648-CU-MC-CTL Action Filed: March 10, 2021 **[IMAGED FILE]** **DECLARATION OF DR. COLLEEN KELLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION** Date: June 10, 2022 Time: 9:00 a.m. Judge: Joel R. Wohlfeil Department: C-73

I, Colleen Kelly, Ph.D, declare as follows:

1. I am the President of Kelly Statistical Consulting, a position I have held since 2009. Prior to this position, I was a tenured associate professor of statistics at San Diego State University. I have been retained by the Office of County Counsel to render opinions regarding the COVID-19 infection rates in the San Diego County Jails relative to the San Diego community.

2. I hold a Ph.D in mathematics (1991), an M.S. in Applied Mathematics (1988), and

a B.A. in Applied Mathematics (1986), all from the University of California, San Diego. I also have over 30 years of statistical consulting experience in both industry and academic settings in a wide variety of subject areas. I am a Professional Statistician (PStat) accredited by the American Statistical Association.

3. I have extensive experience in statistical consulting and data analysis for observational studies, clinical trials and other experiments and sample surveys. I have also designed studies, analyzed data, written statistical analysis plans and reports in the oncology, pharmaceutical, vaccine and medical device and diagnostics arenas. My research is primarily focused in biostatistics for developing statistical methodologies to address biological and medical problems. My background and qualifications are more fully set out in my curriculum vitae (CV), attached as Exhibit A.

4. To conduct my analysis and render my opinion regarding COVID-19 in the San Diego County Jails relative to the San Diego County community, I calculated the expected number of COVID-19 cases for the San Diego County Jails by applying the reported San Diego County cumulative COVID-19 rates through August 29, 2021 to the San Diego County Jails' population (from January 1, 2020 to August 29, 2021). I applied the relevant age-group, racial group, and HHSA region rates to the numbers of incarcerated people in each of these groups.

5. The cumulative numbers of San Diego County Jail bookings between January 1, 2020 and August 29, 2021, stratified by age-group, race and region of last known address were tabulated from data provided by the San Diego County Sheriff's Department. Persons with no known address or with an out-of-state or out-of-county address were compared to the overall San Diego County COVID-19 rates. Then age, race and region-specific COVID-19 infection and mortality rates, as reported by the San Diego County Communicable Disease Registry [1], were applied to these booking numbers to yield the expected number of COVID-19 cases, given the community rates.

6. The San Diego Jail system population differs from the San Diego community at large in important ways that affect the observed overall COVID-19 infection rates. COVID-19 infection rates vary dramatically across age groups, racial groups and residential areas. My analysis adjusts for these factors when comparing COVID-19 rates. A comparison that does not adjust for these differences will be biased. Specifically, the San Diego jail population consists of people in the highest risk categories for COVID-19 infection (see Table 1 and Figure 1 in Exhibit B): rates are highest for 20-39 year-olds and 64% of the jail population is in this category; in the San Diego community, less than half of this percentage (31%) is 20-39 years old, according to the County of San Diego, Health and Human Services Agency [2]. Table 1 shows that COVID-19 rates are lowest for 0-19 and 70+ year-olds, and the jail population has just 3% of its population in these categories; conversely, the percentage of the San Diego community in these categories is almost 12 times as large (34%). Figure 1 (Exhibit B) compares the age distributions of the jail population to the San Diego County population and shows the community COVID-19 infection rates for each category. This figure demonstrates that the San Diego Jail system population is comprised primarily of the higher risk groups, and thus a comparison that does not account for the differing populations in the Jail system and the community will be biased.

Table 1: COVID-19 Infection Rates, San Diego Jail and Community Percentages by Age Groups.

Age Group	COSD Infection Rate (per 100K)	Percentage of Jail Population	Percentage of SD Community
0-9	4,630	0%	12%
10-19	8,725	2%	12%
20-29	14,194	32%	16%
30-39	12,297	32%	15%
40-49	11,740	18%	13%
50-59	10,590	11%	12%
60-69	8,084	4%	10%
70-79	6,452	1%	6%
80+	7,683	0%	4%

7. The majority (57%) of the Jail population with known local addresses are from the South, Central or East regions, which have the highest COVID-19 rates, and just 8% comes from the North Central region which has the lowest COVID-19 rate (see Table 2). The San Diego community at large, by comparison, has 46% in the areas with the highest COVID-19 rates and 20% in the region with the lowest rate.

Table 2: COVID-19 Infection Rates, San Diego Jail and Community Percentages by HHSA Region.

Last Known Address	COSD Infection Rate (per 100K)	Percentage of Jail Population	Percentage of SD Community
Central	10,689	21%	15%
East	11,045	20%	15%
North Central	6,095	8%	20%
North Coastal	7,746	17%	16%
North Inland	8,425	18%	18%
South	14,074	16%	15%
Unknown or Out-of-County	9,867	-	-

8. Finally, the San Diego Jail population has higher percentages of the two racial groups (Hispanic and Pacific Islander) that have the highest COVID-19 infection rates than the San Diego community, and a lower percentage of the racial groups with the lowest COVID-19 rates (Asian, American Indian and White) than the San Diego community (see Table 3).

Table 3: COVID-19 Infection Rates, San Diego Jail and Community Percentages by Race.

Race	COSD Infection Rate (per 100K)	Percentage of Jail Population	Percentage of SD Community
American Indian	5,007	0.4%	0.4%
Asian	4,326	2.7%	11.6%
Black	6,947	17.2%	4.7%
Hispanic	13,497	38.4%	33.7%
Pacific Islander	20,156	0.5%	0.4%
White	5,434	38.7%	45.6%
Other	9,867	2.0%	3.6%

9. As Table 4 below demonstrates, based on my analysis **I found that the observed number of COVID-19 cases in the COSD Jail system is a fraction (18.0%) of the expected**

number in the community, and the observed number of deaths due to COVID-19 is an even lower fraction (8.3%) of the expected number in the community. It is clear that the data does not support the claims in the Jones v. County of San Diego Complaint, since the infection rates and death rates due to COVID-19 are much lower in the jail system than in the San Diego community. As an aside, I note that because the calculations in Table 4 consider the age and racial distributions in the COSD Jail system, the expected number COVID-19 cases presented in Table 4 is not simply equal to the sum of the number of bookings multiplied by the respective community COVID-19 rates.

Table 4: Numbers of San Diego County Jail Bookings and Expected Numbers of COVID-19 Cases and Deaths by Last Known Address, Assuming Community Rates.

Last Known Address	Number of Bookings	COSD Infection Rate (per 100K)	Expected Jail COVID-19 Cases	COSD Mortality Rate (per 100K)	Expected Jail COVID-19 Deaths
Central	10,751	10,689	1,224	124.6	3.0
East	10,221	11,045	1,119	150.8	3.3
North Central	4,289	6,095	303	54.7	0.6
North Coastal	8,965	7,746	834	84.9	1.7
North Inland	9,445	8,425	990	103.4	2.3
South	8,608	14,074	1,286	200.2	4.0
Unknown or Out-of-County	30,574	9,867†	3,283	115.9	8.9
Total Expected			***9,039***		***24***
Total Observed			***1,628****		***2***

†The overall San Diego County COVID-19 rates are used for this category.

*Estimated with linear regression using the cumulative positive cases on 8/28/21 and 9/4/21.

10. Dr. Amon has critiqued my analysis and offered an alternate comparison of COVID-19 infection rates, but his analysis does not account for the differing demographics of the Jail population and the San Diego Community and is thus biased.

11. Dr. Amon compares just two months of the COVID-19 outbreak rather than the entire pandemic period, offering an incomplete analysis.

12. Dr. Amon compares monthly Jail COVID-19 infection rates to daily San Diego

community rates; monthly rates will be approximately 30 times higher than daily rates, so this comparison is biased.

13. Dr. Amon asserts that the COVID-19 testing rates in the jail system are lower than in the community, but he compares different time periods in the jail system and in the community. I used his data to compare the number of COVID-19 tests given per person per month in the Jail system and in the community and found that the testing rate in the Jail system was approximately twice as high as in the community.

14. To summarize, the foregoing data demonstrates that the infection rates and death rates due to COVID-19 are significantly lower in the San Diego County Jails than in the San Diego community.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed this 22th day of March, 2022, in San Diego, CA.

COLLEEN KELLY, PH.D

References:

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2. County of San Diego, Health and Human Services Agency. Public Health Services. Community Health Statistics Unit. (2021). Demographic Profiles San Diego County. https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/CHS/demographics/2019%20SRA%20Demographic%20Profiles.pdf

EXHIBIT “A”

Kelly
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Principal Consultant
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Experience

Dr. Colleen Kelly has over 30 years of statistical consulting experience in both industry and academic settings in a wide variety of subject areas. She has extensive experience in statistical consulting and data analysis for observational studies, clinical trials and other experiments and sample surveys. She has designed studies, analyzed data, written statistical analysis plans and reports in the oncology, pharmaceutical, vaccine and medical device and diagnostics arenas. She has helped medical device, diagnostic and pharmaceutical companies file and defend FDA submissions. Additionally, she has served as an expert witness in civil cases involving medical devices, intellectual property, antitrust, construction defects, and employee compensation. She has served as the lead statistician on several NIH and NSF grants.

As a tenured associate professor of statistics at San Diego State University, Dr. Kelly co-founded and co-directed the university's statistical consulting center. At Victoria University in Wellington, New Zealand, she directed the university's statistical consulting center, providing advice and data analysis for university researchers and the Ministry of Health. At Exponent Inc., she provided statistical consulting services to industry and legal clients. At Moores UCSD Cancer Center, she consulted with oncology researchers to efficiently and effectively design pre-clinical, and Phase I, II and III clinical trials and analyzed data from these experiments.

Dr. Kelly's research is primarily focused in biostatistics, developing statistical methodology to address biological and medical problems. She has developed and evaluated methodology for identifying drug interactions, and analyzing data from clinical trials and epidemiological, ecological, and behavioral studies. She has also worked in the area of modeling molecular evolution.

Employment

President, Kelly Statistical Consulting (2009 – present)
Visiting Lecturer, Department of Mathematics, Computer Science and Statistics, Victoria University of Wellington, New Zealand (2015, 2016)
Principal Statistician, Moores UCSD Cancer Center, La Jolla (2009 – 2010)
Managing Scientist, Exponent Inc., Irvine (2007-2009)
Consulting Statistician, Department of Mathematics, Computer Science and Statistics, Victoria University of Wellington, New Zealand (2005–2007)
Associate Professor, Department of Mathematics and Statistics, San Diego State University (1997–2005)
Adjunct Associate Professor, Graduate School of Public Health, San Diego State University (1998–2005)
Assistant Professor, Department of Computer Sciences and Statistics, University of Rhode Island (1991–1997)
Research Assistant, Lab for Math and Statistics, UCSD (1986-1991)

Academic Credentials and Professional Honors

Ph.D., Mathematics, University of California, San Diego 1991
M.S., Applied Mathematics, University of California, San Diego, 1988
B.A., Applied Mathematics, University of California, San Diego, 1986
PStat® Accredited Professional Statistician, American Statistical Association 2011
PStat® Accreditation Committee Review Member, 2015-2018
PStat® Accreditation Committee Chair, 2019-Present
President of the San Diego Chapter of the American Statistical Association 2011-2013
Vice-President of the San Diego Chapter of the American Statistical Association 1999-2001, 2007-2009
Treasurer of the American Statistical Association Section on Medical Devices and Diagnostics, 2014-2016
TRW's Excellence in Teaching Award 2000
San Diego Chapter of the American Statistical Association Distinguished Service Award 2001, 2010
American Statistical Association Chapter Service Recognition Award 2002

Publications

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Additional Selected Abstracts and Presentations

Vollstedt A, Luke N, Wojno K, Kelly C, Smith D, Baunoch D, Opel M, Korman H, et al. MP77-17 Resistance Patterns as detected by urobiome antibiotic susceptibility testing (U-AST) in polymicrobial urinary tract infections. The Journal of Urology 2020; 203: e1170.

Chancey, M, Yep S, De Guzman K, Kelly C, Scholz M. Phase I Sipuleucel-T combined with escalating doses of Ipilimumab (SIPIPI) in progressive mCRPC. ASCO Cancer Survivorship Symposium, January 2017.

Kelly C. Statistical issues in trademark dilution and infringement. Joint Statistical Meetings, Section on Statistical Consulting, Denver, CO, August 2008.

Kelly C. Analysis of Quantitative Data Workshop. Office of Research and Postgraduate Studies, Victoria University, New Zealand, March 2007.

Kelly C. Quantitative Research Design Workshop, Office of Research and Postgraduate Studies, Victoria University, New Zealand, February 2006.

Kelly C. A Crash Course in Designing Comparative Studies. Office of Research and Postgraduate Studies, Victoria University, New Zealand, November 2005.

Kelly C, Steffey D. Statistical consulting at SDSU: Meeting the needs of students and clients. 5th Annual Workshop on Statistical Consulting and Collaboration, Claremont, CA, November 15, 2003.

Peer Reviewer

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Statistics in Biopharmaceutical Research
Journal of Clinical Oncology
Biometrics
Mathematical Biosciences
Clinical Research and Regulatory Affairs
Freeman
Prentice Hall
Contemporary Clinical Trials
PLOS One
Journal of Computational Biology
Journal of Theoretical Biology
Theoretical Population Biology
Duxbury Press
Wm. C. Brown Publishers

Service for the professional community:

- Organizer, Pacific Coast Statisticians and Pharmacometricians Innovation Conference, San Luis Obispo (2012, 2014).
- Treasurer, American Statistical Association Section on Medical Devices and Diagnostics (2014-2016).
- President, San Diego Chapter, American Statistical Association (2011-2013).
- American Statistical Association, Professional Statistician Accreditation Review Board (2015-2017).
- Vice President of Professional Affairs, San Diego Chapter, American Statistical Association (2007-2009).
- Vice President of Academic Affairs, San Diego Chapter, American Statistical Association (1999-2001).
- Organizer of SDSU's Statistical Career Day (2000, 2001, 2008), Biostatistics/Statistics Career Lunch (1999), Orientation for Graduate Statistics Students (1998, 2000, 2001, 2002), the Graduate Student Social (1999) and the ASA dinner seminar Current Statistical Issues in San Diego (1999).
- Science Judge at the Greater San Diego Science Fair (1999, 2008).
- Event Chair of Practical Data Gathering Science Olympiads (2002-2004).

EXHIBIT “B”

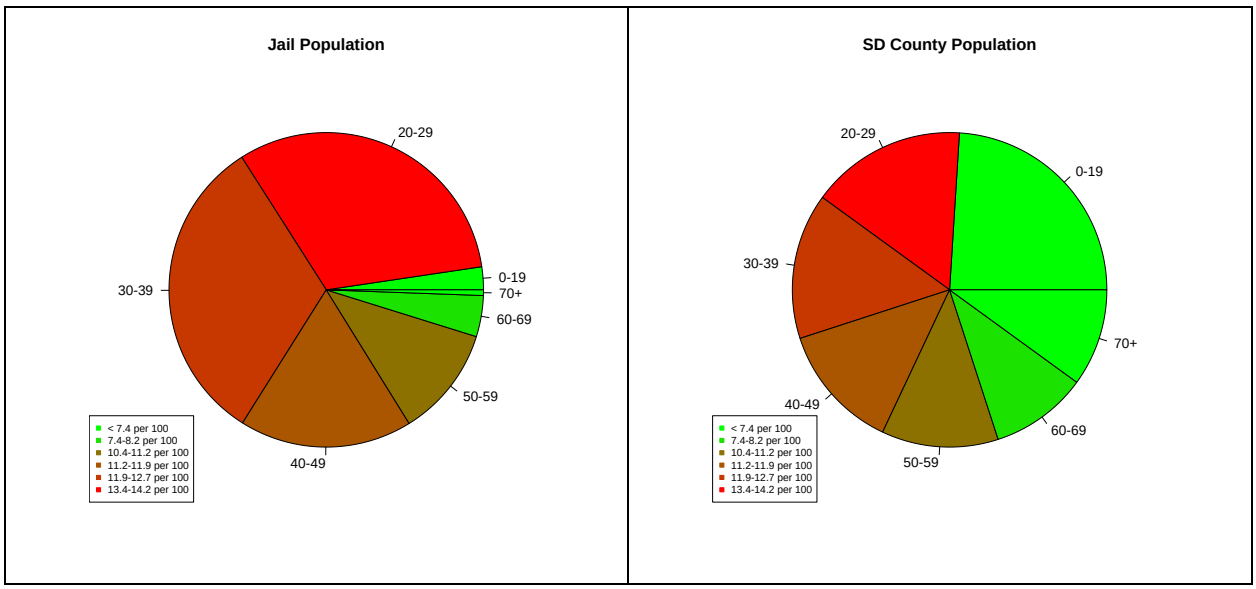

Figure 1: Comparison of the San Diego Jail population to the San Diego community population. Age-groups are color-coded to represent their corresponding COVID-19 infection rates.

Terry Leroy Jones v. William D. Gore;
Case No. 37-2021-00010648-CU-MC-CTL

DECLARATION OF SERVICE

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to the case; I am employed in the County of San Diego, California. My business address is 1600 Pacific Highway, Room 355, San Diego, California, 92101.

On March 24, 2022, I served the following documents:

NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION

SEPARATE STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION

DECLARATION OF CAPTAIN KYLE BIBEL IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION

DECLARATION OF STEVEN P. INMAN, II, IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION

DECLARATION OF DR. COLLEEN KELLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION

in the following manner:

☒ (**BY E-MAIL**) I caused a true copy of the foregoing document this date to be transmitted via email to the email address(es) listed, respectively. I did not receive within a reasonable period of time after the transmission any electronic message or other indication that the transmission was unsuccessful.

SEE SERVICE LIST BELOW

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I declare under penalty of perjury that the foregoing is true and correct. Executed on March 24, 2022, at San Diego, California.

By: _____
A. Trujillo