

OFFICE OF THE SECRETARY

PO Box 942883
Sacramento, CA 94283-0001



May 1, 2020

The Honorable Sydney Kamlager
Member of the Assembly
State Capitol
PO Box 942849
Sacramento, CA 94249-0054

Dear Assemblymember Kamlager:

Thank you for your letter sharing your concerns regarding the California Department of Corrections and Rehabilitation's (CDCR) action to reduce the spread of COVID-19 inside our facilities. We understand that concerns for our incarcerated population and staff have become heightened during this crisis. Protecting the health and safety of all individuals within our institutions has always been, and remains, a top priority. I wholeheartedly agree with you that we must act boldly and swiftly to meet the needs of not only CDCR staff and employees, but all of those in our custody. With that in mind, we have taken many precautions to minimize the impact of COVID-19.

To mention some of the proactive actions that have been taken to reduce the impact of COVID-19, we have successfully implemented an expedited release of 3,500 inmates to increase space within our institutions statewide, suspended intake from county jails, reduced the density in dorms by transferring more than 1,900 inmates to vacant spaces within the institutions, suspended in-person visiting and volunteering, modified our programming, are conducting verbal and temperature screening all those entering state prisons, and are providing masks and hand sanitizer to all staff and the incarcerated population.

Based on these actions and others, a federal court recently denied an emergency motion regarding the prevention and management of COVID-19. (See *Plata v. Newsom*, N.D. Cal. No. 4:01-cv-01351-JST (April 17, 2020).) The court discussed in detail the many steps the department had taken in response to COVID-19 and concluded, "without difficulty that [CDCR's] response has been reasonable." (See *Plata* order, ECF No. 3291 at 14.) The court noted, "No one questions the magnitude of the challenge that COVID-19 presents in a prison setting, and if the Court were in the Governor's or the Secretary's position, it might adopt additional or different measures. But the question before the Court is not what it thinks is the best possible solution. Rather, the question is whether Defendants' actions to date are reasonable. On the record before the Court, the answer to that question is yes." (*Id.* at pp. 13-14.)

As it relates to your specific questions for the Department, my responses are below.

1. How is CDCR balancing quarantine practices of isolation and ensuring civil liberties are not violated?

The Department has longstanding outbreak management plans in place to address communicable disease outbreaks such as influenza, measles, mumps, norovirus, and varicella. So this is not our first time implementing quarantines and isolation. We also have modified programming that is routinely used at institutions where inmate movement must be limited to protect safety and security. So, balancing limited inmate movement with constitutionally guaranteed services is something with which we are familiar. Further, as a point of clarification, there is a difference between quarantine and isolation. Isolation

separates people who have a contagious disease from people who do not. Quarantine separates and restricts the movement of people who were exposed to a contagious disease to see if they become sick. If at any point it is determined there is a potential exposure to the incarcerated population, the Department will restrict movement at the institution while a contact investigation is underway and quarantine those deemed at-risk for an observation period. The criteria for imposing quarantine in a correctional facility will remain a dynamic process based on recommendations from the local health department, California Department of Public Health, California Correctional Health Care Services (CCHCS) Public Health Branch, and the institution's Chief Medical Executive.

To reduce risks to both inmates and staff, inmate movement has been minimized, even for those that are not in isolation and in quarantine. We understand that this decision impacts the civil liberties of our incarcerated population, such as the freedom to practice religion, and access to medical care, education, and the courts and counsel. The Department is making every effort to come up with alternatives when such liberties are being impacted.

Recognizing the importance of religion in the daily life and spiritual growth of incarcerated people, religious services are being provided as in-cell services as an alternative. Chaplains are conducting individual religious counseling as appropriate while maintaining physical distancing. We are also working to provide televised religious services to the population through the Division of Rehabilitative Programs inmate-programming channel.

While our health care services have been impacted, we continue to provide urgent health care services. Health care staff continue to see and treat patients through the 7362 process. To reduce risks to both patients and staff, inmate movement will be minimized. In addition, some specialty and routine care may be delayed as a result of both internal redirections and external closures. All cancelled appointments will be rescheduled as soon as safely possible. In order to reduce risks to patients and staff, all non-urgent offsite specialty appointments are being re-scheduled to a later time. Telemedicine appointments will continue at this time. Similarly, while there have been changes to the delivery of mental health services, we are working to ensure that all patients continue to receive the most appropriate and effective interventions necessary to meet their needs.

With regards to education, the Office of Correctional Education (OCE) is working with institution principals, library staff, and teachers to provide in-cell assignments where possible in order for students to continue their studies and educational credit-earning opportunities. Under the direction of the warden, school administrators, and teachers coordinate with institutional warehouses to provide educational equipment, supplies and materials to students. While hardcover books are normally only permitted in classrooms, a temporary exception has been made for students to access educational materials for college, Career Technical Education, Adult Basic Education, and English Language Development courses in their housing units. This exception is at the discretion of the warden, and may vary based on security concerns.

OCE partners with the California Community College Chancellors Office to provide face-to-face college at adult prisons. Institutions are continuing to support college classes as much as feasible so students have the opportunity to finish the semester. College coordinators and teachers are assisting with distributing materials and proctoring final exams. The goal of OCE and CDCR is to continue to support college classes as our response to COVID-19 evolves.

For those in our incarcerated population who need supplementary academic support, CDCR has encouraged Disability Placement Program, Developmental Disability Program, and Every Student Succeeds Act staff to coordinate with the institution instructor to provide additional assistance to enrolled students where possible.

As usual, milestones will be awarded at the completion of a course and after successfully passing a final assessment.

To ensure that inmates have continued access to the courts, we continue to allow attorney visits when an attorney thinks it's necessary. Additionally we are providing confidential attorney-client calls as an alternative. During modified programming, legal library services will be available via the "paging" system, in which forms, copies, etc. are requested by inmates with Priority Legal User status and delivered to housing units via institutional mail.

2. What are the racial, ethnic and gender demographics of the 3,500 people slated for early release and people who have been exposed while incarcerated?

The demographic data for the people released early is as follows:

Statewide
Current Nonviolent, Non-Sex Registrants, Excludes Domestic Violence on Current Term
Releasing within 60 Days from March 18, 2020

		Parole Type			Total
		Parole	PRCS	Unknown	
Gender	Male	1,031	2,137	29	3,197
	Female	113	185	1	299
Ethnicity	Black	277	490	11	778
	Hispanic	545	1,070	13	1,628
	White	258	631	5	894
	Other	64	131	1	196
Age Group	18 - 24	187	222	7	416
	25 - 29	248	471	2	721
	30 - 34	213	448	4	665
	35 - 39	160	377	4	541
	40 - 44	120	288	3	411
	45 - 49	91	208	5	304
	50 - 54	48	137	2	187
	55 - 59	43	97	3	143
	60 - 64	26	51	0	77
65+	8	23	0	31	
Commitment Offense Category	Crimes Against Person	467	514	8	989
	Property Crimes	359	622	7	988
	Drug Crimes	41	396	2	439
	Other Crimes	277	790	13	1,080

As far as the demographic data of the inmate population that has been “exposed,” the following is demographic data of incarcerated persons who have tested positive:

**CONFIRMED COVID POSITIVE PATIENTS BY ETHNICITY,
GENDER, AGE**

Number of COVID Positive Patients by Ethnicity as of 4/28/20	
Ethnicity	Count
Black	60
Hispanic	67
White	36
Other	18
All	181

Number of COVID Positive Patients by Gender as of 4/28/20	
Gender	Count
Male	180
Female	1
All	181

Number of COVID Positive Patents by Age as of 4/28/20	
Age	Count
18-24	4
25-34	30
35-44	49
45-54	41
55-64	44
65+	13
All Ages	181

3. Is there any actionable plan for CDCR to identify a process to accelerate referrals for early release – such as the inclusion of considerations of age, race, ethnicity and preexisting conditions – as the burden should not rest with judges who have no daily contact with people seeking early release?

CCHCS has identified approximately 50,000 inmates with at least one high-risk factor. Given nearly half of the inmate population can be defined as high-risk, CDCR and CCHCS have taken wide-ranging steps to protect all inmates within CDCR. See below.

4. What preventative steps are being taken to ensure the health and safety of incarcerated populations, particularly those deemed “high-risk-medical” and the elderly?

As noted above, more than 50,000 inmates in the approximately 110,300 inmates we house in our state prisons have at least one high-risk factor. As such, our efforts are aimed at protecting all those who live and work in our state prisons.

The Department is providing hand sanitizer and facial barriers for use by all staff and inmates, and increased laundry services institutions.

We have successfully transferred approximately 1,900 inmates from congregate dorm environments and have made use of vacant space within our institutions in order to house inmates in places where we can increase physical distancing in their living environments. We are focusing on creating 6- and 8-person pods of inmates within these vacant spaces where they can be housed six-feet apart between groups, as recommended by the Federal Receiver.

Institutions also modified programming and limited inmate movement into cohorts with staggered dining schedules and out-of-cell time with disinfecting and cleaning occurring no less than every three hours.

We are also following isolation and quarantine protocols laid out in the CCHCS interim guidance. Recently we mass tested more than 100 inmates at California State Prison, Los Angeles County in an effort to help us identify who is negative and provide for better medical care and housing needs for those who are positive. We are working diligently to implement the guidance issued by California Department of Public Health by expanding our testing to include mass testing at institutions, point-of-care rapid response testing, and other testing strategies to help us protect all those who live and work in our state prisons.

5. Do staff have access to regular COVID-19 testing, given their regular contact with populations within and outside of facilities?

CDCR is not conducting staff testing and does not currently have plans to begin staff testing. Staff is tested by their health care providers or through the local county health department. Offering to test staff, even if voluntary, would require a collective bargaining process with all impacted labor unions to determine where and when tests would happen; how equal access to testing would be ensured across all shifts in our 24-7 facilities; and resolving how test results would be used by the Department.

However, verbal and temperature screening protocols are in place for every individual entering a facility or office. If symptoms of a cough, cold or fever are detected, additional precautionary measures are taken, including sending staff home.

6. Are all phones in facilities functioning properly? What steps are being taken to ensure incarcerated people have regular access to stay in contact with loved ones and are phones being sanitized after each use?

With the exception of phones in a housing unit in Facility A at Avenal State Prison, the phones are working. A repair crew is coming this week, from April 27 to May 1, to make priority underground repairs to the telephones. In the meantime, individuals housed in that unit housing have been allowed to use additional phones located within the gymnasium during their assigned recreational yard schedule until repairs are completed later this week.

At every institution, extra precautions are being taken to clean phones and allow physical distancing to limit possible exposure and transmittal of illness.

Also, CDCR's inmate telephone network provider Global Tel Link (GTL) has offered the adult incarcerated population three days of free phone calls each week through the end of April. For the general population,

there is no limit on the number of calls; however, each institution may limit time to accommodate need. In addition, there is increased access to telephone use for inmates in restricted settings. Inmates on C Status (lost privileges due to disciplinary reasons) will remain on phone restrictions until C Status has been completed or removed. However, the following restricted groups will be allowed to make calls above their privilege group until further notice:

- Inmates in Administrative Segregation for non-disciplinary reasons, designated Privilege Group B, will be allowed one phone call per week (previously one per month; Privilege Group A are normally allowed one call per week)
- All other inmates in restricted housing will be allowed to make one phone call once every two weeks (currently no phone calls permitted)
- Reception Center inmates will be provided one phone call per week (currently one call within first seven days and one per month after)
- Inmates in Psychiatric Inpatient Program settings will be allowed one call per week unless they are prohibited by the Interdisciplinary Treatment Team (with documented clinical justification).

Finally, confidential attorney calls are being allowed.

7. Is JPay offering any sort of relief during this time of financial uncertainty?

JPay has partnered with CDCR during this time. JPay is providing reduced-priced emails to those incarcerated at the five pilot institutions where the inmates have access to tablets and to a kiosk in the dayroom where they are able to send and receive email. The pilot sites include California Institution for Women and Central California Women's Facility. Normally, a stamp costs \$0.35 if purchased individually and \$0.30 if purchased in bulk. Indigent inmates get 5 free stamps per week. During the COVID-19 emergency, JPay reduced the cost of stamps to \$0.26 if purchased individually or \$0.23 if purchased in bulk. In addition, every inmate (indigent and non-indigent) at the pilot sites that has an account with JPay gets 2 additional stamps for free.

At all of our sites that are NOT part of the tablet/kiosk pilot, we are using JPay to set up a process where friends/family on the outside can send email to an offender at any site (adult and juvenile). The email will be printed in the mailroom, then delivered to the offender using the normal mail delivery process. Each message still costs a "stamp" that is purchased by the friend/family member. These stamps are also available at the currently reduced. There are no free stamps, though, as the family is not considered indigent by JPay.

JPay has also extended inbound email print services to all institutions at a reduced rate. This service enables incarcerated people's family and friends to use the JPay app to send e-correspondence, which mailroom staff then print and deliver with regular mail. Family and friends purchase stamps for this service. While this will not eliminate physical mail, this process reduces COVID-19 transmission risk. This service is also a cost-effective way for incarcerated people to maintain contact with family and friends, which is especially important while visiting is closed.

8. Do incarcerated people continue to have access to counsel?

While CDCR has requested that attorney visits be limited to those for urgent situations, visits by attorneys are still being allowed. And as noted above, confidential phone calls are being offered as an alternate means of communication. Finally, all legal mail is still being processed and delivered.

9. Is there an effort by the Division of Adult Parole Operations, as well a concerted effort between CDCR and County Probation Departments, to ensure that requirements for people on probation and parole are manageable in this time of state-wide scarcity (such as remote check-ins)?

The Division of Adult Parole Operations (DAPO) is committed to the safety of the community, staff, and those in its care. Given the increased risk associated with the use of mass/public transportation and those under parole supervision deemed a high-risk population (older adults and those with known serious chronic medical conditions), DAPO has made operational changes to support both staff and the individuals under their care and supervision.

In an effort to enhance physical distancing within the parole offices, prior to release from custody, inmates will be provided with the following temporary reporting instructions. These instructions are documented on the CDCR Form 611 Release Program Study:

- Within the first business day, the parolee shall contact the assigned parole office as documented on the CDCR Form 611.
- The assigned Parole Agent or the Officer of the Day will provide the parolee with additional instructions or assistance.
- Parolees who are homeless, who are required to register Penal Code 290, or do not have access to a telephone shall report to the parole office within the first business day following release.

In addition, the following steps are being taken to promote physical distancing:

- All scheduled in-person parole office visits are suspended, except when statutorily required, for critical needs, or in emergencies.
- Routinely scheduled, non-essential office visits shall be avoided at this time.
- Parolees should contact their parole agent by phone for guidance on whether to come in.
- All contacts to be done telephonically in lieu of face-to-face contacts unless statutorily required or an emergency.
- Suspend all drug testing.

At this time all parolees' conditions of parole remain in place, with the exception of the items listed above. Division of Adult Parole Operations (DAPO) administrators and supervisors will assess all measures being implemented and adjust, modify, or waive required specifications as appropriate. That being said, before placing a parole hold for violations of conditions of parole, DAPO field staff are ensuring that placing a parole hold is absolutely necessary for public safety or is statutorily required and no other options are available for disposition. Serious violations where there is a clear, imminent and articulable risk to public safety as well as mandatory violations (including removal of a Global Positioning System [GPS] monitoring device by person who is required to register as a sex offender under Penal Code section 3010.10) will be the only cases petitioned for revocation. DAPO has taken additional steps to review the placement and retention of holds to ensure that holds are in line with the current state of emergency measures impacting jails and courts.

The Honorable Sydney Kamlager

Page 8

As you can see, CDCR has quickly implemented extensive, thoughtful, and unprecedented measures in response to a rapidly-fluctuating and novel pandemic. CDCR remains both proactive and agile in its response. One thing that remains constant, however, is that CDCR and CCHCS are dedicated to the safety of everyone who lives in, works in, and visits our state prisons.

If you have further questions, please reach out to me through Sandy Uribe, Assistant Secretary, Legislative Affairs.

Sincerely,

A handwritten signature in black ink, appearing to read "R. M. Diaz", written in a cursive style.

RALPH M. DIAZ
Secretary