
SANTA RITA JAIL BULLETIN

Issue 2 | April–May 2020

WELCOME TO THE SANTA RITA JAIL BULLETIN

This is a monthly bulletin featuring updates on Santa Rita jail; including labor conditions, health issues, progress on the multiple federal civil rights lawsuits against the jail, and commentary by prisoners and their family members and supporters. Throughout our communications with many people incarcerated in the jail, when we have asked what people outside can do to support them, one near-universal request that has emerged has been to keep the public informed about the reality of conditions inside. Our primary goal is to support the needs and the well-being of prisoners, and the establishment of this bulletin is part of our effort to meet this request. We aim to inform you so that together, we can build a robust network of support for people experiencing neglect, abuse and exploitation by the Alameda County Sheriff’s Department. Last month, the network of advocates, attorneys, and currently and formerly-incarcerated people who contributed to Issue 1 of this bulletin united around a shared concern for incarcerated community members during the coronavirus pandemic; with the shared understanding that, if swift action is not taken, conditions in Santa Rita will undoubtedly and rapidly turn into a massive public health crisis such as the ones seen in other “mega-jails” across the country.

BACKGROUND FOR THIS MONTH’S BULLETIN

Last month’s issue of the Santa Rita Bulletin highlighted the ongoing efforts of prisoners to organize for the improvement of their basic living conditions. On March 16, incarcerated people produced a collectively-written grievance, signed by over 400 people, which described in detail the ongoing abuses they experienced and the blatant disregard of the inmate grievance process which led them to this point. The conditions described in the document - such as forced labor, spoiled food, dirty living quarters, sleep deprivation, and a poorly-managed flu outbreak this winter — represent a public health crisis in and of themselves.

The conditions also suggested clearly that — with or without preventative measures — that the jail was ill-prepared to prevent an outbreak of COVID-19. An attorney with Rosen, Bien, Galvan & Grunfeld warned in a March 27 hearing for *Ashok Babu v. County of Alameda* — litigation which addresses the abuse of prisoners with psychiatric disabilities — that “this certified class action already addressed life and death

concerns well before the COVID-19 crisis.” As of December 2019, the facility has reported 43 deaths in the last 5 years, a statistic that supports Santa Rita’s reputation as one of the deadliest jails in the state.¹

TIMELINE OF INFECTIONS AND OTHER IMPORTANT EVENTS

March 16: Magistrate Judge Nathanael Cousins issues a standing order setting “the procedure for any request to reopen a detention hearing on the basis of the physical and mental condition of the accused.” Cousins began convening weekly telephonic hearings to monitor conditions inside Santa Rita.

March 19-21: Emergency release of 247 individuals with 45 days or fewer left in their sentences from Santa Rita Jail resulting from an agreement reached between the Alameda Public Defenders’ Office, District Attorney, and presiding Judge Tara Desautels. Individuals released via this order were identified by a risk assessment tool, rather than selected on the basis of their age or medical conditions that would make them especially vulnerable to the coronavirus.

1 <https://www.eastbayexpress.com/oakland/the-most-dangerous-place-in-alameda-county/Content?oid=26245173>

March 25: A healthcare worker employed by for-profit contractor Wellpath tested positive for the novel coronavirus, the first recorded case inside Santa Rita Jail.

March 31: The Alameda County Board of Supervisors' scheduled vote on ACSO's \$85 million annual budget increase was postponed until the next Public Protection meeting in April.

April 4: Santa Rita Jail reported the first incarcerated person who tested positive for the virus.

April 5: Medical provider Wellpath releases its Master Outbreak Control Plan for Santa Rita.

April 10: The California Judicial Council moves to set bail at \$.01 for many misdemeanor and lower-level felonies. This series of judicial orders was intended in part to lower jail populations to inhibit the spread of coronavirus. The orders allowed local courts to begin conducting hearings via teleconference. The Council also extended the statute of limitations for court proceedings, meaning that many people who have not yet been convicted of a crime must remain in jail awaiting hearings that were postponed for weeks or months.

April 13: Judge Tara Desautels issues three orders which released 15, 20, and 21 people each. A total of 54 prisoners released over the 3 days proceeding April 13 based on the reduced state-wide bail schedule for misdemeanors and felonies (with 13 exceptions for felonies that do not qualify for reduced bail). Prisoners who qualify for \$0 bail and release on their own recognizance are still brought into the jail to be cited and released, increasing the risk of exposure to coronavirus.

April 16: Representatives of ACSO state in a public hearing that the Sheriff declines to use powers granted under CA Government Code 8658 to further decrease jail population due to "public safety concerns."

April 17: Wellpath representatives report that the jail is receiving 100 coronavirus tests per week. Tests are administered only if a prisoner experiences CDC-designated symptoms such as fever, respiratory problems, or shortness of breath.

April 18: Number of positive cases increases to 31, after 21 more tests were conducted; at this point, only 81 of 1760 prisoners had been tested.

April 22: ACLU releases report "Flattening the Curve: Why Reducing Jail Populations is Key to Beating COVID-19" detailing projections for 100,000 additional deaths nation-wide if the populations of prisons and jails are not immediately and dramatically reduced.

April 28: The Board of Supervisors postponed its vote on ACSO's budget proposal scheduled due to a death in the family. Budget request increased from \$85 million annually for 3 years to \$106 million annually for 3 years.

May 7: Preliminary injunction filed for *Alameda County Male Prisoners vs. Alameda County Sheriff's Office*, a class action lawsuit regarding conditions related to COVID-19 inside the jail.

May 12: After over 2 hours of public comment from community members opposing the Sheriff's \$106 million annual budget increase, county supervisors vote 3-2 to approve the budget.

May 15: New testing protocols go into effect inside SRJ: new policies include testing all people newly booked into the jail, and testing all individuals in housing units that have been exposed to COVID-19 ("yellows").

May 18: Number of positive cases jumps to 54 after an increase in testing. Prior to May 7, the jail never administered more than 15 tests per day.

May 26: Santa Rita Jail reports 512 total tests administered with 58 tests pending; 54 positive cases among prisoners, and 3 positive cases among staff.

May 27: First scheduled tour of Santa Rita Jail to interview prisoners regarding jail conditions. A prisoner in Housing Unit 6D reports that a group of volunteer inmates were offered an extra lunch in exchange for doing a "deep clean" in preparation for this inspection.

AFTER RELEASES IN MARCH, SHERIFF REJECTS FURTHER DECARCERATION

After the release of 247 prisoners from Santa Rita from March 19-21, many advocates, prisoners, and family members hoped that county officials would permit further releases from Santa Rita, especially of elderly and medically vulnerable people. And when

the California Judicial council moved to set bail at zero for many offenses, advocates hoped that Alameda County would follow the lead of San Francisco, whose community mobilized on April 15 to support an ordinance to shut down 850 Bryant (San Francisco County Jail #4). On May 12, with San Francisco's jail population at its lowest since the 1950s, the San Francisco Board of Supervisors voted to close 850 Bryant.

Optimism in Alameda County was quickly curtailed by an April 15 statement from Sheriff's representatives that "while the Sheriff's Office will continue to work with justice stakeholders to safely reduce the jail's population as to those inmates who are not in custody for serious and violent felonies, out of concern for public safety, the Sheriff respectfully declines to invoke California Government Code Section 8658." This section of the government code states that "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." In a May 12 meeting with the Alameda County Board of Supervisors, a representative of ACSO claimed that at least one thousand people who await trial inside Santa Rita are "violent felons." He then admitted to Supervisor Valle that a presiding judge has not actually reviewed these cases.

Despite the reluctance of the Sheriff's Office to acknowledge that COVID-19 poses an imminent danger to prisoners, Sheriff's representatives have been quick to cite public safety as a justification for limiting further releases. In its April 10 revision to the bail schedule, the Judicial Council provided a number of exceptions to "zero bail," among them, "theft or looting during a state of emergency." Prisoners and advocates worry that this exception works to criminalize acts of survival at a time when over 3 million Californians are unemployed due to the coronavirus. The task of identifying and releasing individuals eligible for reduced bail is left up to the Sheriff to implement. The Sheriff's Office has openly opposed this measure both in interviews and on its social media pages. ACSO has openly posted the names and images of individuals released through the new bail schedule, in a move advocates denounce as "fear-mongering" and

"putting a target" on people who have been released by legal means.²

One prisoner expressed concern that district attorneys may choose to charge more individuals accused of property crimes with first degree robbery; rather than burglary, in an attempt to circumvent the new bail schedule. "Law enforcement is saying that we need to protect society," Eric said, "but we're part of society too." He added that further county investment in re-entry would do more to prevent crime than cash bail. "Why does my life have to depend on a deal? When we go in front of judges and D.A.s, we are scared. And when someone is seeking help and doesn't know how to express it, they are forced to take a plea deal and put a price on their freedom."

On April 15, Santa Rita Jail Solidarity released an open letter to Alameda County public officials signed by fifty community organizations. This collaboration produced a number of declarations about COVID-19 and jail conditions:

Vulnerability and jail conditions, not a person's sentence, should determine eligibility for release during a pandemic.

For the majority of people in Santa Rita who are in pre-trial detention, the issue of violence has not yet been reviewed through a court process. There are also many mitigating factors that often contribute to offenses classified as violent, including issues of structural and societal violence such as poverty, abuse, lack of health care, employment and education. A February 2018 document obtained from ACSO indicated that over half of the jail population was Black, while Black people constitute a mere 10% of the Alameda County population. Regardless of their offense, no one should be sentenced to death by COVID-19. All people should be provided with health care, humane treatment, and basic dignity. The Prison Policy Initiative reported this month that "the current response to violence in the United States is largely reactive, and relies almost entirely on incarceration, which has inflicted enormous harms on individuals, families, and communities without yielding significant increases in public safety." Further releases from Santa Rita represent an opportunity for public officials to invest in non-carceral improvements, such as

2 <https://www.facebook.com/ACSOsheriffs/posts/3039341622811306>

guaranteeing the right to shelter, that would improve people's lives rather than trap them in a dangerous, unsanitary facility that forces prisoners into involuntary servitude and provides next to no "rehabilitative" programming. On April 10, John Pfaff wrote for the Washington Post, "The attitude...that people convicted of violent crimes are in a special category that deserves less compassion and harsher treatment — ignores the math, misunderstands human behavior and, perhaps most important, reflects a poor moral choice. Our draconian approach toward violent crime rests on viewing certain people, and certain groups of people, as not fully human. This has always been a pressing concern in criminal justice reform; during the pandemic, it is a matter of life and death."

Many of the people Sheriff Ahern refers to have not yet been sentenced. We as a community should first and foremost be asking, why is the County willing to condemn people to death under the suspicion that they have committed a crime? Looking at the trajectory of COVID-19 within similar mega-jails across the country, combined with the jail's well-documented medical abuses, incarceration in Santa Rita has the potential to become a death sentence for many. The Alameda County Sheriff's Office should not be permitted to act as judge, jury, and executioner for any of the remaining people inside the jail.

"Inmate safety" and "public safety" are the same thing. Every incarcerated person, their families, and loved ones constitute the "public" of Alameda County. The current pandemic has brought our interconnectedness into sharper focus than ever before. An explosion of cases of COVID-19 within the jail will severely burden already overcrowded and under-resourced hospitals. Santa Rita Jail has approximately 30 beds in its infirmary, no ICU, and no ventilators, meaning that more cases in the jail will ultimately bring more cases to Alameda County hospitals. Deputies, nurses, and jail staff enter and exit the jail every day. Numerous reports from prisoners allege that deputies are not properly utilizing personal protective equipment. All of these people are potential vectors between the prisoner population and the broader community.

"Tele-health" and reduced staffing are not acceptable substitutes, as they decrease quality of care inside the jail rather than actually mitigating the spread of the virus. And an increase in the jail's budget to

hire armed, sworn deputies - as Sheriff Ahern has requested of the Board of Supervisors - similarly does not address the fact that the jail is simply ill-equipped to respond to a pandemic. Public statements by the Sheriff's Office are deliberately designed to obscure the line between militarization and public health. Health care should not be cited by the Sheriff as a reason for additional funding from the county's budget, neither for sworn deputies nor Wellpath's for-profit medical enterprise. An epidemiologist or a non-Wellpath Medical Doctor must review the jail's protocols. Using solitary confinement to "quarantine" prisoners is not acceptable and prisoners should be released rather than suffer a "dual punishment."

We reject the use of ankle monitors and other methods of state control or surveillance as substitutions for, or continuations of incarceration upon release. Decarceration must be accompanied by investment in community services that give people the support that they need and deserve — healthcare, housing, and economic stability — rather than implementing methods of control and surveillance that will continue to criminalize them.

Contracts with the U.S. Marshals Services & other counties should be terminated. Santa Rita Jail contracts with the UC Marshals Services and other local jurisdictions that house detainees at Santa Rita Jail. This population includes individuals charged with federal offenses, those who are detained while awaiting trial, as well as individuals who are sentenced and are awaiting designation and transport to a Bureau of Prisons facility. Alameda County should not be running a for-profit detention center and must prioritize the health and safety of all prisoners and jail staff by terminating these contracts.

MONITORING INFECTIONS AND PREVENTATIVE CARE

The Alameda County Sheriff's Office provides a daily update on COVID-19 infections, exposures, and housing placements at https://www.alamedacounty-sheriff.org/admin_covid19.php. According to medical provider Wellpath's Master Outbreak Control Plan, prisoners are organized into various categories, which are posted in housing units.

- **RED:** Patients with known or suspected (symptomatic) COVID-19.
- **YELLOW:** Patients with exposure to COVID-19. Patients are currently asymptomatic but may be infected.
- **ORANGE:** High-risk vulnerable patients.
- **GREEN:** Healthy patients with no known COVID-19 risk or exposure.

Wellpath’s plan states that “no PPE is required” for interactions with “green” prisoners, and that deputies must wear masks only when they are within six feet of a prisoner or another staff member. Deputies may remove their masks if they are in an isolated area or can practice safe social distancing, reported ACSO representatives in court on April 16.

Prisoners have reported that some deputies and nurses have stated that they don’t have to wear gloves or masks at all, that “6-foot distancing doesn’t apply

in jail,” or that “everybody was contagious in January.” On April 13, a woman in Housing Unit 24 East reported that her unit was yellow-tagged. Housed in a cell with sixteen women sharing the same toilet and shower, she reported that she was constantly “on edge” because she is HIV-positive. Once, she said, a nurse came into the unit without a mask or gloves. When prisoners requested that she use personal protective equipment, the nurse told them to “mind their own fucking business”.

On May 8, attorney Jeffrey Bornstein expressed concern that orange patients are “vastly undercounted.” He warned that only 3 percent of the jail population has been categorized as “orange” despite the fact that, in correctional institutions, high-risk medical patients can represent as much as 50 percent of the population.

Advocates are alarmed by the spread of misinformation within the jail and by reports that nurses and deputies are not following CDC-recommended guidelines.

TABLE 1: Center for Disease Control: Recommended PPE for Correctional Settings

Staff Duties	PPE Recommendation
For staff having direct contact with asymptomatic incarcerated/detained persons under quarantine as close contacts of a COVID-19 case (but not performing temperature checks or providing medical care)	Face mask, eye protection, and gloves as local supply and scope of duties allow.
For staff performing temperature checks on any group of people (staff, visitors, or incarcerated/detained persons), or providing medical care to asymptomatic quarantined persons	Face mask, eye protection, gloves, gown/coveralls.
For staff having direct contact with (including transport) or offering medical care to confirmed or suspected COVID-19 cases	Face mask (N95 respirator strongly recommended), eye protection, gloves, gown/coveralls.
For staff present during a procedure on a confirmed or suspected COVID-19 case that may generate respiratory aerosols	N95 respirator, eye protection, gloves, gown/coveralls.

“COVID-19 is highly infectious and once people get sick, critical illness can develop very quickly,” says Juliana E. Morris, MD, a family physician and member of the Bay Area Do No Harm Coalition. “While we know certain groups are statistically more vulnerable to the virus, everyone is at risk. **It’s essential that we prevent transmission and give people the opportunity to protect themselves by getting them out of Santa Rita now.**”

TESTING AND COVID-19 MEDICAL CARE

A Severe Lack of Testing

Santa Rita Jail is widely known for its unsanitary conditions and poor medical care, which have made it the subject of public scrutiny and a number of new federal civil rights lawsuits. The facility also has the highest rate of infection of any jail in the Bay Area. Despite this reputation, representatives of the Alameda County Sheriff’s Office have insisted in public hearings that the jail is at the forefront nationwide in its response to COVID-19. This often-repeated claim is based not on conditions of confinement so much as the Sheriff’s bare-minimum compliance with CDC and county mandates. ACSO representatives have cited the March 19-21 emergency release as proof that the jail has done all it can, despite the fact that this release was ordered not by ACSO but by the County Superior Court. Tracking and tracing of infected people also fails to meet stated standards. Attorney Yolanda Huang reports that her client Darryl Geyer, who contracted coronavirus while incarcerated, was unable to receive a housing referral from the jail upon release, despite his illness. He states:

“I believe that I contracted COVID-19 while in the OPHU of Santa Rita Jail, as that is the only source where I had contact with individuals who had COVID-19, and that the sheriff failed to take the necessary steps to protect me from contracting COVID-19, failed to do the required testing, and failed to take action, well within the sheriff’s power and control, to even refer me to emergency housing so that I could be safe and prevent others from being infected with COVID-19.”

Only the intervention of Legal Services for Prisoners with Children, who provided a hotel voucher, prevented him from becoming homeless.

In a March 30 hearing, ACSO attorney Gregory Thomas stated that “we disagree that Santa Rita Jail is unsafe,” adding that while the jail has *some* dorm settings, “some people are in cells with personal sinks & toilets... It is difficult to practice social distancing in hospitals as well.” And on April 16, attorneys for the Alameda County Sheriff’s Office argued that “Wellpath follows CDC’s guidelines regarding COVID-19 testing. Per the CDC, testing should occur when a patient is experiencing a fever or symptoms of acute respiratory illness.³ However, on Friday, May 15, Wellpath representatives acknowledged that temperature is not always a clear indicator of infection, and that virus symptoms may also present as a sore throat, GI symptoms, or headache — symptoms which prisoners unable to access testing reported to their attorneys throughout March and April. Prisoner Cedric Henry describes:

“Around the end of March and the first of April, seven inmates in my housing unit started having coronavirus symptoms. They were shivering and had headaches; they were sweating and coughing. I told the housing unit deputy that these men should be tested for the coronavirus, but as far as I know, they were not moved and there was no quarantine. Instead, the deputy and the nurse told them to “fill out a medical slip” and they were not tested.”

We encourage the public to maintain a critical eye toward statements by ACSO and Wellpath representatives. Policies that are applicable to lower-density environments are insufficient in environments where people live, eat and sleep in close proximity. Attorneys with Rosen, Bien, Galvan, and Grunfeld warn that even with the best-intentioned and executed plans, “people confined in jails will find it virtually impossible to engage in the necessary social distancing required to mitigate the risk of contagion.” For example, on April 8, an attorney for the Sheriff’s Office admitted to Magistrate Judge Cousins that social distancing could be difficult in dormitory-style housing. He assured the court that “Santa Rita Jail staff will encourage and advise inmates to sleep head-to-foot.”

³ <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>

Advocates have repeatedly highlighted the low rate of testing inside the jail. Prior to the implementation of a new testing protocol on May 15, which requires testing of all people newly booked into the jail and all people in housing units with positive COVID-19 cases, the jail had administered a mere 195 tests during the first two months of the pandemic, despite admitting in public hearings that they had hundreds of tests on hand. Before May 15, prisoners were only tested if they were designated “red,” or symptomatic, patients. Some prisoners were denied a test upon requesting one:

“Around 5 minutes to midnight on April 21, 2020, a couple days after my initial exposure to Leonard Wakefield, I was finally taken to a medical visit, as I has begun to develop various symptoms such as chills, a sore throat, an itchy throat, itchy eyes, and tightness in my chest. The medical staff gave me some pain pills that night and gave me some cough drops the next day. I didn’t have a fever, but considering my symptoms and exposure to Wakefield, I asked the medical staff if I could please be tested for COVID-19. From what Wakefield told me about his experience with the virus, my symptoms seemed similar. Wakefield also sometimes did not wear his mask when he was in close proximity to me, causing me to fear even more that I caught the virus. However, medical staff did not test me and sent me back to my cell after my visit. By April 27, 2020, I remained sick with similar symptoms. My chills persisted even when I was fully clothed and wearing thermals. I developed migraine headaches and had been vomiting the past couple days. The nurse continued to monitor my temperature but because I still hadn’t developed a fever, medical staff refused to test me for COVID-19. I have been given some throat lozenges, Mucinex, and Tylenol, but I continued to submit sick call requests daily to be tested for COVID-19.”

Representatives of the Sheriff’s Office have also cited the fact that a number of prisoners have refused to be tested as a reason why the number of total tests is low. Prisoners who become seriously ill are isolated in the Outpatient Housing Unit (OPHU). One prisoner, confined to OPHU in April, said, “the jail just threw me into a filthy cell and closed the door....truly, I thought I was going to die.” The use of what is effectively solitary confinement for prisoners, a perception that

a positive test could potentially result in a postponed release date, and lack of trust in the medical staff, are potential reasons why prisoners are resistant to testing.

Throughout April, access to testing remained a point of contention between attorneys for ACSO and attorneys with Rosen, Bien, Galvan, & Grunfeld, who represent a class of prisoners in *Babu v. Ahern*, a class action lawsuit whose biweekly status hearings also serve as an opportunity to update Magistrate Judge Nathanael Cousins on the jail’s COVID-19 response. The Sheriff’s counsel argued on April 16 that Wellpath follows CDC testing procedures and that requests to increase testing “is not warranted and runs contrary to current CDC guidelines;” and, as late as April 24, Wellpath representatives cited a need to conserve tests because “there could be a surge [in COVID-19 cases] at any point.” On April 24, there were 33 positive cases and Wellpath had not administered more than 15 tests on any given day, despite reporting to the Alameda County Board of Supervisors that they had 270 tests on hand and could receive 100 more per week.

In contrast; Rosen, Bien, Galvan, & Grunfeld attorney Jeffrey Bornstein argued that correctional settings are second only to nursing homes in their danger for the spread of infectious disease; and, as a result, the jail must strike a balance between CDC guidelines and the reality of correctional settings by administering more tests. “If it were anyone other than prisoners in a jail, they would do it,” he said to the court on April 17.

Another issue is the manner in which prisoners are determined to be “cured.” The Center for Disease Control offers both a “testing” and “non-testing” protocol for determining whether a patient has recovered; jail medical provider Wellpath uses the “non-testing” protocol. A prisoner is declared “cured” after 5 days (increased from the initial span of 72 hours) without symptoms, and at least 7 days without symptoms since their initial onset. Attorneys and advocates have received reports from prisoners who were moved from isolation back into their housing units — indicating that the jail has declared them “cured” — when the prisoners themselves reported that they were still experiencing symptoms:

“On April 15, 2020, I was still having trouble breathing, it was hard to breathe, and it hurt to

breathe. The doctor came, and announced that I had no temperature, and said, "You're better. You'll breathe better in another building." I understood that I was cleared to return to general population... When the deputy came back, and it was clear that the jail had no plan for me, I explained that I still have symptoms, that I had tested positive, that I was still coughing and having trouble breathing, and that placing me with other inmates was potentially jeopardizing other people. I said I did not think that was fair to endanger others. The deputy decided I had to be punished for this, and put me in the "hole." I am now locked up for 48 hours in a row."

Jail is Unequipped to Handle Serious Illness and Incentivized to Treat Prisoners On-Site, Leading to Neglectful and Dangerous Lack of Medical Care

While there is not yet a cure for the novel coronavirus, Santa Rita Jail is supremely ill-equipped to safely and humanely manage prisoners' symptoms as the disease progresses. The jail has a rudimentary infirmary of about 30 beds, with no ventilators onsite for emergencies. Prisoners experiencing respiratory symptoms must press a "sick call" button, then wait to be let out of their cells to use albuterol inhalers. One prisoner describes her difficulty with this system:

"If you have trouble breathing other times, there's no sick call and there's no inhaler, and you have to push the button. But the technician who answers the button talks to you in such a way, as to make you feel really bad, so these last few weeks, although I had chest pains, I didn't push the button."

If a prisoner becomes ill to the point of needing to be hospitalized, attorneys must file motions pursuant to California Penal Code Section 4011.5 in order to secure their client's release to a hospital for medical care:

California Penal Code Section 4011.5

If a sheriff or jailer determines that a prisoner in a county jail or a city jail under his or her charge is in need of immediate medical or hospital care, and that the health and welfare of the prisoner will be injuriously affected unless the prisoner is forthwith removed to a hospital, the sheriff or jailer may authorize the immediate removal of the prisoner

under guard to a hospital, without first obtaining a court order as provided in Section 4011. If the condition of the prisoner prevents his or her return to the jail within 48 hours from the time of his or her removal, the sheriff or jailer shall apply to a judge of the superior court for an order authorizing the continued absence of the prisoner from the jail in the manner provided in Section 4011. The provisions of Section 4011 governing the cost of medical and hospital care of prisoners and the liability for those costs shall apply to the cost of, and the liability for, medical or hospital care of prisoners removed from jail pursuant to this section.

Transferring a prisoner to a local hospital costs Wellpath money. This creates an incentive to keep prisoners onsite, even those with serious and even life-threatening COVID-19 cases. ACSO and Wellpath only provide infected patients with only the minimum medical care necessary to manage their symptoms. Treatment for symptoms includes Tylenol, cough drops, and an extra blanket. Yet, many COVID-19 positive prisoners report being denied even these most basic commodities:

"The next day, they gave me the COVID test, and on April 30, 2020, I tested positive. In solitary confinement, I got nothing. No cough drops, no extra blanket, no Tylenol, no hot drink, nothing. Just be in that room and suffer. Truly, I thought I was going to die."

Attorney Yolanda Huang reports that some of her sick clients were denied an extra bedroll. "Many prisoners are confused as to who to ask, and in HU 8 [quarantine], their only contact is to kneel on the floor and talk to the food tray slot on the door," she says. "A more humane approach would be to let inmates who have tested positive know they can request an extra blanket if they need one, or to offer one, from the beginning." One prisoner who contracted coronavirus became too weak to eat, and said that COVID-19 felt like "holding your breath for an hour" and that it feels "like your body is being wrung out like a towel." He did not receive treatment for these symptoms while locked in his quarantine cell.

Yolanda Huang also notes that even if the jail nominally complies with CDC and public health guidelines, its implementation of these guidelines remains

cruel and neglectful. Advocates are concerned that when implementation of testing and preventative guidelines is left to the subjective interpretation of a for-profit medical provider, the result is chronic underreporting of COVID-19 cases and medical neglect of infected people.

MAJOR CONTRADICTIONS BETWEEN JAIL POLICY AND PRISONER TESTIMONY

Santa Rita Jail was notorious for its secrecy well prior to the coronavirus pandemic. Our March 2020 bulletin highlighted several major discrepancies between prisoners' testimony and official statements by media spokespeople in response to the November 2019 strike and the March 2020 mass grievance. This culture of secrecy is exemplified by the jail's well-known practice of underreporting prisoner deaths. Deaths that occur after release or in a hospital are not classified as "in-custody," even if a prisoner was injured or became ill while incarcerated. *Ruelas v. County of Alameda*, a federal civil rights lawsuit filed in November 2019, also documented the widespread use of threats and intimidation to suppress information and to discourage prisoner organizing.

The Alameda County Sheriff's Office engages with the media to discredit negative reports from prisoners and their attorneys. ACSO media spokesperson Sgt. Ray Kelly has vehemently denied that conditions inside the jail are unsafe or unconstitutional. In a May 8 interview with the Daily Californian, Sgt. Kelly declared that prisoners' allegations are "absolutely false." "If we were not keeping it clean," he said, "we would have massive outbreaks in our jail...that's scientific fact." Sgt. Kelly did not specify what qualifies as a "massive outbreak." At the time of the interview, Wellpath had administered fewer than 52 tests to the nearly 2,000 prisoners who remained incarcerated. "He's just a voice," said one prisoner about Sgt. Kelly. "He receives information from high-ranking deputies, but he doesn't walk through the jail... if [county officials] would actually walk up in here and see with their own eyes what they see, they would shut these buildings down."

One prisoner contracted coronavirus while confined to the Outpatient Housing Unit for a cut on his knee which became infected with fecal bacteria. He

believes that this infection was caused by sanitation issues which existed long before the outbreak of coronavirus. In a declaration for *Alameda County Male Prisoners v. Alameda County Sheriff's Office*, filed May 7, he stated:

"The poor sanitation and hygiene practices of Santa Rita Jail are also the same practices in the OPHU, although it is supposed to be a medical housing unit. For example, there is no cleaning of any OPHU cell, except occasionally when an inmate is released from the OPHU. For the entire four and a half months I was there, my cell was never cleaned. I was never provided with cleaning supplies so I could not clean my own cell.

The OPHU cells are solitary confinement cells. There is no day room, and we are never allowed out for any exercise activities. There is a small sink and a toilet but no shower in this room. Because we are never taken out, getting access to a shower is very difficult. Often, it would be two weeks or more before the jail would let me out of my cell to take a shower. I was also taken out of my cell once every couple of weeks to have access to the telephone because my cell had no phone access.

OPHU does not provide basic inmate services, such as a regular laundry exchange. In the entire four and a half months I was here, this last time, I never received a laundry exchange, no clean towel, no clean clothes, no clean socks, no clean underwear and no clean bedding. I wore the same clothes for four and a half months — I had to rinse my clothes out in the little sink on my own and let them air dry. There was no laundry exchange at all."

Information about these conditions is restricted by both informal and formal, legal means. Prisoners filed a "group grievance" in March specifically in response to the jail's blatant disregard of the inmate grievance process, and prisoners continue to report that grievances related to COVID-19 go unacknowledged and unanswered. Deputies retaliate against prisoners who speak out against the atrocious conditions that they experience. For example, an attorney shared the following account from her client on April 28:

"At 8:52AM on Tuesday morning, during pod time, an individual was speaking to other prisoners

about the Sheriff's proposed budget increase and his opposition to it. ACSO Deputy Perry approached them and said, "Man, cut it out! Why y'all hating on my money?" The deputy then grabbed his nightstick and began swinging it around, instructing the whole pod to "lock the hell down" and telling everyone to get in their cells and stay there. Deputy Perry claimed that the prisoner's free speech constituted an attempt to incite a riot."

ACSO representatives opposed releasing Wellpath's Outbreak Control Plan to the public, arguing that Wellpath is a third-party vendor that should not be implicated in weekly hearings because the *Babu* class action is "not about medical issues," although the hearings were convened to monitor the jail's COVID-19 response. Attorney Kara Janssen, representing plaintiffs in *Babu v. Ahern*, noted that during the COVID-19 outbreak Santa Rita is experiencing not only rapidly-spreading infection but suicide attempts among detainees. "This is not just a public health crisis, it is a mental health crisis," she said. She suggested posting the Wellpath plan on ACSO's website. ACSO counsel Gregory Thomas argued that doing this would be "onerous" because the plan is updated "daily" and that frequent changes might confuse the public. On March 30, Magistrate Judge Nathanael Cousins ordered Wellpath to produce the plan. ACSO uploaded a copy of the plan to its website on April 4. They did not update the plan again until May 21.

ACSO and Wellpath representatives have also pushed to reduce the number of public hearings on Santa Rita's COVID-19 response, claiming that the process of submitting court filings and reporting to Magistrate Judge Nathanael Cousins represents too much of a burden. ACSO counsel has also pushed for more information to be conveyed via court filings rather than in hearings accessible to the public. This hampers the public's access to this information, as advocates rely upon these public hearings to obtain critical information about arrests, releases, infections and changes to Wellpath testing procedures.

ADVOCATES RESPOND

Since the onset of the COVID-19 pandemic, advocates have focused on a number of issues: calling for further releases, monitoring public hearings, gathering pris-

oner and family testimony regarding jail conditions, petitioning the Board of Supervisors to oppose a \$106 million annual increase to the jail's budget, and scrambling to secure resources for individuals released into a chaotic and disorganized social services system.

A Challenge to Secure Re-Entry Resources

In April, Governor Gavin Newsom secured FEMA funding for Project Roomkey, a program intended to provide housing and wraparound services during the pandemic. The referral process for each county is different, says one advocate with Root and Rebound. "No one knows what's going on." Local organizations such as All Of Us Or None, Young Women's Freedom Center, and California Coalition for Women Prisoners have stepped in to provide hotel vouchers, housing, and to send funds directly to incarcerated people.

Organizing Against ACSO's Budget Increase

Meanwhile, on March 24, the Alameda County Sheriff's Office quietly introduced a last-minute budget item to the Supervisors' March 24 agenda the day before the meeting. They requested that the Board provide Santa Rita with an additional \$85 million annually to its \$452 million budget. This request was later increased to \$106 million annually, to fund for 370 new jail staff positions, including 216 more armed deputies and more mental health workers inside the jail. ACSO produced a March 20 memo from Sheriff Ahern and Health Care Services Agency Director Colleen Chawla stating that the jail will be "required" to add 216 deputies and 107 civilian positions to the jail's roster over the next three years "to ensure that inmates are provided with the highest level of supervision, care coordination, and behavioral health care and support." This memo was the product of consultation with "staffing experts" who recommended improvements in the jail's security, programming, and custody operations. Ella Baker Center Organizing Manager José Bernal points out that the results of this consultation were never shared with anyone outside of the department. There has never been a full, objective staffing analysis of Santa Rita Jail, he says. Rather than take the Sheriff at his word, says attorney Yolanda Huang, supervisors should order an independent performance assessment of the jail.

The March 20 memo also acknowledges – in a small footnote – that the County is engaged in pending class action litigation and “these staffing changes are also important to resolving the litigation.” Among the many issues raised by the *Mohrbacher, Babu, and Upshaw* cases are allegations of cruel and unusual punishment which advocates argue cannot be resolved by an increase in sworn staff.

“Deputies use isolation as a form of punishment, including for behaviors that are related to an individual’s psychiatric disabilities,” and prisoners may be punitively isolated for “rule violations” as minor as “excessive whistling, reporting to a program late, or failing to return a tray after meal time.” (Babu v. County of Alameda)

The Board of Supervisors previously declined to order a full fiscal and performance audit of Santa Rita Jail, arguing that it represents an unnecessary and expensive “parallel process” to the multiple federal civil rights lawsuits against the jail. Courts have a greater ability to influence Santa Rita’s policy, conditions, and budget, they argued. But if an audit represents a financial burden to the county, advocates ask, then why did the County Administrator’s Office recommend that the Board approve over a quarter million dollars in new funding for Santa Rita? And why approve funds for armed deputies when thousands of people in custody desperately need sanitation supplies and medical care?

Although county residents technically were able to make public comments via video on March 24, the item was introduced without the knowledge of the public or community organizations who have repeatedly called for the Board to audit the ACSO and investigate conditions in “the most dangerous place in Alameda County.” Organizers saw this as a strategic move by the Sheriff to quickly obtain funding with minimal pushback from the community.

This budget increase alone is nearly equal to the entire budget of the Public Health Department, \$111.18 million. Behavioral Health Services now consumes more than 55.7% of the county’s health care services budget. “Increasing the Sheriff’s budget or personnel will not create a safer environment inside of Santa Rita Jail nor will it remove the risk of death,” wrote Causa Justa: Just Cause on March 24.

The Alameda County Board of Supervisors Public Protection Committee postponed its vote on March 24, after community organizations mobilized to condemn both the funding and what they saw as an effort to circumvent public debate. Hundreds of callers contacted the Board of Supervisors to demand that these funds instead be directed toward housing, re-entry services, or public health — in the midst of an unprecedented crisis in which communities are in dire need of resources and Bay Area hospitals are facing a critical shortage of personal protective equipment.

The item was rescheduled for April 28, when the death of Supervisor Richard Valle’s father again postponed the vote. The budget increase was taken up once more at the May 12 meeting. In what advocates perceived as a strategic move on the part of the jail to give the impression that they are in compliance with CDC and Public Health guidelines, prisoners reported that they received masks and alcohol wipes the night before the meeting — items they had not seen in weeks. One report from a prisoner on April 20 states:

“Neither the day room nor the showers appeared to have been cleaned at all. In fact, he notes that the showers have not been cleaned in about a week. Troy has not seen hand wipes, masks or soap passed out in two weeks (other than what they received for the outdoor showers).”

The Board received over two hours of public comment by advocates and community members urging the Board to vote no — not a single public comment supported passing the additional funds. Representatives for Adult Forensic Behavioral Health argued that even though the jail population has been declining, there is actually more need and more people in crisis. When Supervisor Wilma Chan posed release to community mental health programs as an alternative, an ACSO representative claimed that “reports indicate” that the jail population will increase sharply after the pandemic and that AFBH has a mandate to provide and improve mental health care in anticipation of this projected increase. In response to these claims, mental health professionals mobilized widely to oppose the budget item, stating that treatment outcomes are worse in carceral settings and that the lack of funding for an “upstream” approach is starving mental health care investments while enriching a “dysfunctional

jail.” “Don’t make jail the only mental health option for the poor,” said a representative from Faith in Action.

A prisoner in Housing Unit 6D also recorded a statement to be played during public comment:

“I am a detainee at Santa Rita Jail Facility. Alameda County Sheriff’s Office is submitting a false claim to the Board that they don’t have sufficient funds to hire 200 more deputies. That is a lie, that is a scam, that is B.S...They want to hire 200 more deputies? North County jail that was downtown [Glen Dyer] just closed. Why do they have to hire more deputies when those deputies were supposed to be transferred to Santa Rita Jail? This lets you know how the Sheriff thinks about human lives. The Sheriff’s department really doesn’t care about inmates inside, they just care about themselves. I wish the Board members would actually interview inmates about changes that need to be made. We’re all coming to the same conclusion in here, and if nothing changes, some inmates 5-10 years down the road are going to be thinking the same things. I’ve been here [in Oakland] my whole life, and this has been going on for decades. We’re being treated like we’re animals. But in the late 90’s to early 2000s, Alameda County used to release a lot of people. Now, they use the cash bail system to scam people out of their money. If somebody is given high bail, knowing they’re coming from poverty, that is ‘cruel and unusual.’

Deputies, nurses, mental health staff, and medical staff continue to violate the health code mandate by not wearing masks while on duty. When they do wear gloves, they do not change the gloves, meaning that if they wear this equipment around sick individuals they are putting other lives at risk by coming around healthy inmates. The pod and the dayroom area are not being cleaned daily. These are required to be cleaned twice a day due to the fact that they are running split-tier programming at Santa Rita. The coronavirus is a deadly disease that spreads fast. Look at what happened at Lompoc Prison: 72% of the facility has tested positive with this coronavirus, and four inmates have died. It’s just a matter of time before the same happens here. This whole facility is not following the 6-foot distancing rule as well. Deputies have stated that 6-foot distancing doesn’t apply here and that

they don’t have to wear masks while working. Us inmates’ lives are at risk. Our health is at risk. We need help. We need your help. We need judges to grant more releases to inmates. We need the Health Department to come witness what we see daily.”

Supervisor Wilma Chan declared that she would vote no on the proposal, stating that the funding the Sheriff requests simply “does not exist.” Keith Carson also voted no. Ultimately, the budget — totalling \$318 over the next 3 years — was passed 3-2, with Supervisors Richard Valle, Scott Haggerty, and Nate Miley voting yes. Supervisors added an addendum that the jail’s behavioral health population must be decreased by the end of that three years, but they did not specify by how much, or how this reduction would be implemented.

Efforts to Push for Mass Decarceration

On Wednesday, April 8, 50 organizations signed an [open letter](#) to Alameda County officials demanding a 50% or higher reduction in the jail population within the next month. This letter built upon the recommendations of Human Impact Partners, who in a [March 17 letter](#) called for multiple waves of releases culminating in the release of all persons incarcerated in Santa Rita Jail by March 31, warning that “the consequence of county inaction will be death.”

The April 8 letter was addressed to Dr. Erica Pan, Alameda County Health Officer; Dr. Colleen Chawla, Director, Alameda County Health Care Services Agency; Tara Desautels, Presiding Judge; Magistrate Judge Nathaniel Cousins; Alameda County District Attorney Nancy O’Malley; the Alameda County Board of Supervisors, and county probation. This letter described the power each individual possesses to reduce the jail population, as well as other measures, such as reducing the cost of commissary, hygiene items, and phone calls at Santa Rita. The letter also urged Alameda County to halt all cooperation with ICE, including access to any information and databases from all county agencies.

On Thursday, April 9, the Ella Baker Center and SRJ Solidarity convened a press conference to announce the release of the letter, and to bring together advocates, attorneys, and the press. James Burch of Anti Police Terror Project and St. James Infirmary described a societal lack of empathy toward incarcerated people

during the pandemic. Attorney Yolanda Huang further described Santa Rita's "culture of cruelty," sharing a report from her client, Leonard Wakefield:

"I didn't want to move to HU8C because the cells are dirty. The deputy told me I had no choice. He was dressed like an astronaut, in a white space suit. He immediately slapped hand cuffs on me, and twisted my arm, and dragged me to Housing Unit 8C, even though I was feeling so poorly. When I arrived at Housing Unit 8C, the first cell they put me in was so filthy, with garbage and dirt all over the cell that I told them if they forced me to be in that cell, they would have to put me on suicide watch. Then they put me in a cell that at least had the garbage removed.

During the entire time I was feeling sick and in the 8 Building, the nurses and doctors did nothing to help me except to come and take my vitals. When I told them that my body hurt, and that I was having a hard time breathing, all they gave me was Tylenol. I could not even get a cup of anything hot to drink — no tea, no coffee. The only hot water I had access to was from the tap in my cell, which was just lukewarm. In Unit 8C, the shower did not work, there was hardly any water and no water pressure. Someone in a white astronaut suit opened my cell door and put my food tray on the floor, like I was a dog. My cell was never cleaned, and I received no soap, and no hand wipes. On April 17, 2020, the jail informed me that I had tested positive for coronavirus."

Legal Action In Response to the COVID-19 Crisis Inside Santa Rita Jail

With no further mass releases forthcoming, attorneys have continued to advocate for their clients both on an individual basis and through existing class actions. On April 9, Public Defender Brendon Woods declared that "we've been sounding the alarm for more than three weeks, and now we're on the verge of the virus sweeping through the jail..." "I don't think prosecutors have gotten the message about how serious this is. They're moving far too slowly and now people in custody are getting sick." District Attorney Nancy O'Malley, who declined to attend the April 9 press conference, accused PD Woods of "grandstanding."

On Thursday, April 9, ACSO attorneys and attorneys with Rosen, Bien, Galvan and Grunfeld issued a joint filing in anticipation of a weekly COVID-19 status hearing with Magistrate Judge Cousins. In this document, RBGG attorneys urged the Sheriff to use his emergency powers to release additional prisoners:

"Plaintiffs request that the County's Declaration of a Health Emergency should be used by the Sheriff to reduce the population in the jail on his own authority under his authority to do so in the context of an "emergency endangering the lives of inmates" pursuant to California Government Code Section 8658. While reductions have been made, more needs to be done to ward off the pending health crisis that will otherwise ensue. The number of positive COVID cases for both prisoners and now staff is growing exponentially. Wellpath has stated that they expect to experience severe staff shortages and custody staff will also be impacted by both COVID-19 cases as well as the additional staff needed to transport patients to local hospitals for care. This is an unprecedented healthcare emergency that demands action to release as many prisoners as possible to protect other prisoners, staff and family members from contracting this disease. Federal law enforcement continues to approach the pandemic on a case by case basis and has resisted all efforts to address this in the systemic manner needed to avoid unnecessary deaths."

On May 7, attorneys Yolanda Huang and Dennis Cunningham filed a temporary restraining order, *Alameda County Male Prisoners and former Prisoners, Daniel Gonzalez et al vs. Alameda County Sheriff's Office*. This proposed order calls for universal coronavirus testing, improved prevention measures, and expanded medical services including "palliative measures such as warm blankets, running water, cool washcloths, hot beverages, sports drinks [and] cough drops -- measures which Huang notes are currently lacking. The case would:

"...require the defendant Sheriff, his underlings, and relevant personnel from SRJ's contracted, for-profit medical care provider, defendant Wellpath (formerly known as CFMG, California Forensic Medical Group) to protect the prisoners at SRJ from defendants' continuing failure to provide reason-

able COVID-19 prevention, care, and treatment. The prisoners remaining at SRJ are left with little defense against COVID-19. Under the total control of the...Sheriff, there is little testing, tragically poor implementation of distancing, ineffective isolation of quarantined inmates, improper sanitation, a severe lack of soap, sanitizer, and personal protective equipment.”

Also included in the filing were 17 detailed declarations from prisoners, most of whom contracted COVID-19 while inside the jail. These declarations are now public record and may be viewed at www.srjsolidarity.org.

Testimony Website Launch

On April 29, Santa Rita Jail Solidarity launched a new website (www.srjsolidarity.org) in an effort to center the experiences of prisoners during the pandemic. While many advocacy groups have focused their attention on lobbying public officials or on material support for prisoners, the current landscape lacks an outlet for prisoners and their loved ones to communicate their own experiences in their own words. This site will offer testimonies on a wide range of themes to reflect the many, interconnected issues which made Santa Rita Jail dangerous long before COVID-19. These testimonies have been gathered by lawyers, community advocates, and organizers, and are as unaltered as possible. Names and PFNs are only included with explicit permission; otherwise, names have been changed and identifying information has been removed. By sharing firsthand accounts, this website attempts to push back against the jail's lack of transparency and to reduce the ability of the Alameda County Sheriff's Office to control public narratives to increase its funding, power, and control.

Know Your Rights Hotline for Santa Rita Jail

Beginning in June, the National Lawyers' Guild - SF Bay Area will provide a Know Your Rights and referral hotline for incarcerated people and their loved ones. Hotline workers can communicate with family members, share information, and follow up with public officials and agencies as needed or requested. Please contact srjhotline@nlgsf.org for more information.

HOW TO SUPPORT

Please share this bulletin widely!

Learn more about how the jail's treatment of prisoners contradicts its official statements:

Please visit www.srjsolidarity.org to access testimony by incarcerated people and their loved ones - as well as from medical professionals — regarding the safety, sanitation, and institutional response to COVID-19 inside Santa Rita Jail. This site will also serve as an archive of press releases, past issues of the Santa Rita Bulletin, and contact information to access services or report further abuses by the jail.

Request more information or report unsafe, unsanitary, or abusive conditions:

Please contact Santa Rita Jail Solidarity if you would like to make a testimony about your experiences.

Donate to ongoing jail support efforts:

Oakland Solidarity & Abolition: <https://iwocoakland.wordpress.com/support/>

Anti-Police Terror Project: <http://www.antipoliceterrorproject.org/donate>

Contact the Board of Supervisors and District Attorney Nancy O'Malley:

Script:

“Hello, I live in ____ [city] and I recently read a testimony from a prisoner inside Santa Rita Jail from ____ [date] that describes that ____ [describe information from testimony]. I am calling in support of the prisoners there, and to say that this treatment of human beings is completely unacceptable. What are the concrete actions are you and your office taking in order to support further releases, improve conditions inside the jail, and protect the health and safety of those inside during this public health crisis? Additionally, inmates should not face punishment or retaliation for sharing their stories, which have only highlighted the unacceptable conditions inside Santa Rita and the difficulty of prisoners' voices being heard around these issues. Thank you for your time.”

Numbers:

Scott Haggerty, District 1: (510) 272-6691
Richard Valle, District 2: (510) 272-6692
Wilma Chan, District 3: (510) 272-6693
Nate Miley, District 4: (510) 272-6694
Keith Carson, District 5: (510) 272-6695
Alameda County District Attorney Nancy O'Malley:
(510) 272-6222

Resources for Directly-Impacted People:

Time For Change Foundation

Pleasanton, CA
Kim Carter, kcarter@timeforchangefoundation.org
(951) 217-0971

Cura Inc.

Housing Intake and Assessment (Male 18 +)
(510) 713-3200 / intake@curainc.com

All Of Us Or None is a grassroots organization of currently and formerly incarcerated and systems-impacted people who are providing resources to help formerly incarcerated people upon their release. Please contact:

Briget Cervelli, bridget@prisonerswithchildren.org
(805) 270-9853

Young Women's Freedom Center (YWFC) and **Five Keys** are partnering on a COVID-19 Emergency Housing project as part of their larger Home Free program collaboration to provide transitional housing for formerly incarcerated, systems-involved women and transgender, gender non-conforming people who are survivors of various forms of violence, particularly those recently released. Write the email address below and include the following information: Name, age and situation; if the person has children, number and ages (if they plan to move in with their children; where they are currently living/residing; contact information (email and/or cell phone). Please contact:
Luna Salemme

Email: luna@youngwomenfree.org

JAIL SUPPORT

Oakland Abolition & Solidarity and the Anti Police-Terror Project are currently running jail support at Santa Rita every evening, and are also coordinating volunteers to give rides to people getting released from the jail after BART closes at 9pm. To learn more and get involved in these efforts, please contact iwoc.oakland@gmail.com.

CONTACT US

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