



April 6, 2020

Don Barnes, Orange County Sheriff's Department Sheriff-Coroner  
Bob Peterson, Orange County Sheriff's Department Undersheriff  
David Sawyer, Orange County Sheriff's Department Assistant Sheriff  
Joe Balicki, Orange County Sheriff's Department Commander

*Sent via Email*

RE: COVID-19 in Orange County Jails

Dear Sheriff-Coroner Barnes, Undersheriff Peterson, Assistant Sheriff Sawyer and Commander Balicki:

We write to urge you to take the necessary steps to prevent the further spread of COVID-19 in Orange County's jails, where thousands of people remain trapped. Experts agree that [jails and detention centers are death traps](#) during a pandemic, and COVID-19 will [spread like wildfire](#) in US jails and prisons if we do not act now. [Ten people have already tested positive in Orange County's jails](#) and two have died since the pandemic was declared. The Central Jails in Santa Ana are on full quarantine, with incarcerated individuals essentially confined to their cells.

California Chief Justice Tani Cantil-Sakauye [issued an emergency guidance to California state courts](#) during the COVID-19 pandemic to lower bail amounts, including lowering bail amounts for lower level offenses to \$0, release people within 60 days of completing their sentence, and consider the accused person's health conditions in setting conditions of custody, among other recommendations. In Los Angeles, justice partners collaborated to [release 1,700 pretrial detainees](#).

On March 27, 2020, at the Orange County Sheriff's Department's request, Judge Nakamura of the Orange County Superior Court issued a "ruling" affirming Sheriff-Coroner Don Barnes' authority under Government Code Section 8658 to release detained individuals in response to the

developing COVID-19 pandemic. As stated in the Court's March 27 ruling, Government Code section 8658 specifically provides "authority for 'the person in charge of the [correctional] institution' to *remove or release inmates* where an emergency endangers the lives of the inmates, as well as immunity from civil or criminal liability to that person for acts performed pursuant to that authority." That ruling, in accordance with OCSD's own Proposed Order, reaffirmed OCSD's authority to release any person in response to this emergency, and further recommended releasing sentenced people with less than 60 days left on their sentence, with the exception of those convicted of certain felonies and crimes carrying statutorily mandated sentences. To date, the OCSD has released only a fraction of those people it requested the Court's permission to release, even though the Court stated that "[t]he statute does not require the Court's authorization for the Sheriff to move or release inmates."

OCSD has failed to carry out what it requested from the Superior Court. As of April 6, at least five people have tested positive for COVID-19 in Orange County jails, ten individuals are in isolation with flu-like symptoms, and 190 people are in quarantine.

On March 30, a group of private attorneys filed an Ex Parte Motion in federal court, requesting an injunction that would force OCSD to release all people serving sentences for misdemeanors or awaiting trial for misdemeanors, all people held for probation or parole violations, all people held for immigration reasons, all people with remaining actual custody time of under 6 months, all people held on nonviolent charges, and all other pretrial detainees who can post \$10,000 bond.

Although District Attorney Todd Spitzer previously opposed releasing individuals before the end of their sentences, he [is now publicly voicing his support for releasing people to prevent the crisis from exploding](#).

Custody staff have begun to fear for their lives and the lives of people in custody. On March 25, the Association of Orange County Deputy Sheriffs [called on OCSD to release more people](#) from OC jails. Amid fears and OCSD's inadequate action, [Tom Dominguez, president of the union stepped down on March 31, 2020](#). AOCDS represents sworn members of OCSD, the Probation Department, District Attorney investigators and park rangers.

[Numerous nurses working in the OC jails spoke anonymously with the Voice of OC](#), telling reporters about shortages in crucial medical supplies including testing kits, medical masks, and protective equipment.

People incarcerated in OC jails feel this fear most acutely. Members of Transforming Justice Orange County have learned from incarcerated people that those responsible for serving food are given gloves, but no masks. Incarcerated people are tasked with cleaning many parts of the facility, including the showers and dayrooms, but are not provided gloves and are given cleaning solutions that are so watered-down they are no longer effective disinfectants. Those responsible for cleaning often try to repurpose available items such as sandwich bags in an effort to protect themselves. There are no cleaning products near the telephones to sanitize mouth and ear pieces. Clothing and blanket exchanges are unreliable, and laundry often does not get properly cleaned.

In some modules, people must wash or rewash their own clothes in sinks or cleaned out toilets to ensure that they are fully washed. Each person is only afforded a single, travel sized bar of soap per week for all of their hygiene needs. Even when incarcerated people request more cleaning supplies, deputies have not provided any.

**We ask that OCSD immediately release:**

- All those serving sentences for misdemeanors
- All those awaiting trial for misdemeanors
- All those held for probation or parole violations
- All those held for immigration
- All those with remaining actual custody time to release of less than 6 months
- All those held on non-violent charges
- All other pretrial detainees who can post \$10,000 bond

We specifically demand that people with an ICE hold not be excluded from the opportunity for early release. Any detention that puts the detained person at risk of contracting COVID-19 or dying is unconstitutional, and civil detention has even more stringent constitutional limitations. Several people have already been released from Adelanto immigration detention after [federal courts found that poor preparedness for COVID-19 makes Adelanto detention unconstitutionally cruel](#).

At a minimum, Sheriff-Coroner Barnes should immediately release all medically vulnerable people and reduce the jail population sufficiently to allow people the opportunity to follow the [CDC's social distancing guidelines](#). OCSD must ensure people in custody are able to maintain 6 feet or greater distance between themselves and others at all times. People in custody should have complete control over their living space with the opportunity and resources to clean and sanitize every surface, as well as access to food cleaned and cooked using proper equipment and prevention policies, without resorting to unconstitutionally cruel and unusual measures such as imposing isolation.

The public at large, including Orange County constituents, support releasing individuals whenever possible, especially people with little time remaining on their sentence, those who have not been convicted or sentenced and those who are medically vulnerable. Incarcerated people are at high risk of severe illness and death from COVID-19. We urge you to exercise your legal authority and immediately depopulate in order to save lives both inside and outside of Orange County jails.

Sincerely,

Transforming Justice Orange County (TJOC)  
Angels for Justice  
UC Irvine School of Law, Immigrant Rights Clinic  
UC Irvine Criminal Justice Clinic

Orange County Congregation Community Organization (OCCCCO)

VietRISE

Yalla Indivisible

ACLU of Southern California

Clergy & Laity United for Economic Justice (CLUE)

Orange County Justice Fund

Indivisible California 39

Freedom for Immigrants

Chispa

Coalition for Humane Immigrant Rights (CHIRLA)

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