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15 **UNITED STATES DISTRICT COURT**

16 **CENTRAL DISTRICT OF CALIFORNIA**

17 RODNEY CULLORS, DENEAL  
18 YOUNG, JESSICA HAVILAND, RANY  
19 UONG, MARK AVILA, CAROLE  
20 DUNHAM, LEANDREW LEWIS,  
21 VICTOR GUTIERREZ, JEREMIAH  
22 FARMER, on behalf of themselves and all  
23 others similar situated, DIGNITY AND  
24 POWER NOW, YOUTH JUSTICE  
25 COALITION,

22 *Plaintiffs,*

23 vs.

24 COUNTY OF LOS ANGELES, LOS  
25 ANGELES COUNTY SHERIFF ALEX  
26 VILLANUEVA, and DOES 1-10,  
27 inclusive,

27 *Defendants.*

Case No.:

**CLASS ACTION**

**CLASS ACTION PETITION FOR  
WRIT OF HABEAS CORPUS AND  
COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF**

1. Unconstitutional Conditions of Confinement in Violation of the Fourteenth Amendment of the U.S. Constitution (42 U.S.C. § 1983/28 U.S.C. 2241)
2. Unconstitutional Punishment in Violation of the Fourteenth Amendment of the U.S. Constitution (42 U.S.C. § 1983/28 U.S.C. 2241)
3. Unconstitutional Conditions of Confinement in Violation of the Eighth Amendment of the U.S. Constitution (42 U.S.C. § 1983/28

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- 4. U.S.C. 2241  
Failure to Accommodate in Violation of the Americans with Disabilities Act (42 U.S.C. § 12132)
- 5. Discrimination in Violation of the Americans with Disabilities Act (42 U.S.C. § 12132)
- 6. Failure to Accommodate in Violation of the Rehabilitation Act (29 U.S.C. § 794)
- 7. Discrimination and Disparate-Impact Discrimination in Violation of the Rehabilitation Act (29 U.S.C. § 794)
- 8. Cal. Gov't Code § 11135
- 9. Unruh Act (Cal. Civ. Code § 51(f))
- 10. Cal. Disabled Persons Act (Cal. Civ. Code § 54(c))
- 11. California Bane Act (Cal. Civ. Code § 52.1)
- 12. Violation of California Constitution Art. I §7
- 13. Violation of California Constitution Art. I § 17
- 14. Declaratory Relief (Cal. Code Civ. Proc. § 1060)

**IMMEDIATE RELIEF SOUGHT**

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19 *\*pro hac vice applications forthcoming*

1                    **CLASS ACTION PETITION FOR WRIT OF HABEAS CORPUS AND**  
2                    **COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

3            1.        Jails and prisons are rapidly becoming the epicenter of this country’s fight  
4 against the novel Coronavirus Disease 2019 (“COVID-19”) and its resulting disease. The  
5 rate at which this disease is ravaging the globe is unprecedented in modern society, and an  
6 outbreak in Los Angeles County’s jails will cause death and devastation to countless lives,  
7 including the people jailed, the people who work in the jail, and their families.  
8 Understanding the need for immediate action to slow the spread of this virus and to  
9 protect public health, medical experts have urged sweeping protective measures in  
10 everyday life.<sup>1</sup> Yet the very steps they deem necessary—such as remaining at least six feet  
11 apart from other persons through “social distancing,” regular handwashing, adequately  
12 cleaning their surroundings, having access to testing and prompt medical attention, and  
13 wearing protective gear<sup>2</sup>—cannot be followed by the people jailed in the Los Angeles  
14 County’s correctional and detention facilities due to the actions and inaction by the Los  
15 Angeles County and those officials responsible for prisoners’ health and safety.

16            2.        As Los Angeles is the State’s most populous county, Los Angeles County has  
17 become the epicenter of the COVID-19 pandemic in California. Both the Governor and  
18 Los Angeles County officials have declared emergencies and issued “Safer at Home”  
19 orders. However, measures to protect the general population from COVID-19 have not  
20 been implemented with equal force to protect Los Angeles County’s prison population.

21            3.        Given reports that 44 Los Angeles County jail prisoners and 59 Los Angeles  
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23            <sup>1</sup> See, e.g., Centers for Disease Control and Prevention, *Interim Guidance for*  
24 *Administrators of US K-12 Schools and Child Care Programs*, <https://cutt.ly/ItRPq5n>;  
25 Centers for Disease Control and Prevention, *Interim Guidance for Administrators and*  
26 *Leaders of Community-and Faith-Based Organizations to Plan, Prepare, and Respond*  
*to Coronavirus Disease 2019 (COVID-19)*, <https://cutt.ly/KtRPk1k> (last accessed Apr.  
19, 2020).

27            <sup>2</sup> See, e.g., World Health Organization, *Coronavirus*, <https://cutt.ly/ztWYf7e> (last  
28 accessed Apr. 19, 2020); Centers for Disease Control and Prevention, *How Coronavirus*  
*Spreads*, <https://cutt.ly/CtYRkkC> (last accessed Apr. 19, 2020).

1 County Sheriff's Department employees have already tested positive for COVID-19,<sup>3</sup> an  
2 outbreak in the County's jails already appears to be underway, with the full scope of  
3 infection unclear due to limited testing. However, the Los Angeles County and the  
4 officials responsible for operating the Los Angeles County jails have failed to respond to  
5 the obvious and urgent threats posed by this growing pandemic. The nearly 12,000 people  
6 in the Los Angeles County's jails are forced to suffer unconstitutional conditions that deny  
7 them the precautions and protections necessary to mitigate against the risks of COVID-19.

8 4. In contradiction to public claims by Los Angeles County officials, the people  
9 confined inside the jail do not have adequate soap, have no safe way to dry their hands or  
10 to maintain a distance of at least six feet of one another, are not being tested for infection  
11 even when showing symptoms. They must wait days or even weeks to receive medical  
12 attention for COVID-19 related symptoms, share with dozens of other people high-touch  
13 surfaces that are infrequently cleaned, and are denied basic hygienic supplies. They also  
14 lack access to medical and public health information that they require to understand how  
15 this disease is contracted and how the spread can be prevented. Disregarding known,  
16 obvious risks of illness and death and needlessly exposing people to a highly fatal  
17 infectious disease violates the Eighth and Fourteenth Amendment rights under the U.S.  
18 Constitution and rights under other federal and state laws of the people jailed at in the Los  
19 Angeles County's facilities. This indifference also puts the broader community at risk  
20 from the creation of a site of widespread contagion.

21 5. People confined in jails and prisons must "be furnished with the basic human  
22 needs, one of which is 'reasonable safety.'" *Helling v. McKinney*, 509 U.S. 25, 33-34  
23 (1993) (citations omitted). Yet Petitioners/Plaintiffs, as well as the class and subclasses  
24 they represent, all face imminent risk of serious injury or death due to COVID-19 at Los  
25 Angeles County jails. In the midst of a public health crisis, the people confined at the  
26 County jails have not been provided adequate safeguards against the severe threat of  
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28 <sup>3</sup> Los Angeles County Sheriff's Department, *Coronavirus Information Updates* (last updated Apr. 23, 2020), <https://lasd.org/covid19updates/> (last accessed Apr. 23, 2020).

1 COVID-19. They ask to be treated humanely while they are in the Los Angeles County's  
2 custody during this perilous time, and decarcerated to the extent possible.

3 6. Petitioners/Plaintiffs are nine individuals held at the Los Angeles County jail  
4 facilities. They include persons who are elderly and/or have serious pre-existing medical  
5 conditions which the Centers for Disease Control and Prevention ("CDC") has determined  
6 place them at significantly higher risk of severe diseases and death if they contract  
7 COVID-19. They claim that the conditions of confinement at the jails create a heightened  
8 and unreasonable risk of contracting COVID-19, and a substantial risk of serious illness  
9 and death for those who by reason of their age or other medical condition are particularly  
10 vulnerable per CDC guidelines. They seek a writ of habeas corpus to secure immediate  
11 release of all individuals 55 and older and those with medical conditions that place them at  
12 heightened health risk from COVID-19, coupled with appropriate support and conditions  
13 upon release, as informed by public health expertise. Release of these vulnerable prisoners  
14 will both remove them from a life-threatening situation and permit social distancing  
15 measures recommended by the CDC and other public health officials to be implemented  
16 for those who remain at the jail. Petitioners/Plaintiffs further seek class-wide relief  
17 requiring Defendants to implement CDC and public health measures to prevent the spread  
18 of the virus. If the Court does not grant immediate release on the basis of this  
19 Petition/Complaint, Petitioners/Plaintiffs request a hearing as soon as possible, given the  
20 imminent risks.<sup>4</sup>

### 21 **JURISDICTION AND VENUE**

22 7. This is a civil rights action arising under 42 U.S.C. § 1983, 22 U.S.C. § 2241,  
23 and 28 U.S.C. § 2201, *et seq.*, 42 U.S.C. § 1232, 29 U.S.C. § 794, as well as the Eighth  
24 and Fourteenth Amendments to the United States Constitution.

25 8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and

26 \_\_\_\_\_  
27 <sup>4</sup> To the extent the Court declines to release all members of the Medically Vulnerable  
28 Subclasses, the Court should release at minimum (1) those for whom bail has been set  
because a court has already made the determination that they can be safely released  
notwithstanding bail; and (2) those whose sentences are nearly completed.



1 1343(a), 28 U.S.C. § 2241, Article I, § 9, cl. 2 of the U.S. Constitution, and 28 U.S.C.  
2 § 1651.

3 9. Venue is proper pursuant to 28 U.S.C. § 1391 because a substantial part of  
4 the events and omissions giving rise to these claims occurred and continue to occur in this  
5 district.

6 **PARTIES**

7 10. Petitioner/Plaintiff Rodney O. Cullors is a fifty-eight-year-old man who  
8 currently resides in Los Angeles County, California. At all times relevant to this  
9 Complaint, Mr. Cullors was in the custody of Los Angeles County at Men’s Central Jail.  
10 He has several physical and mental health conditions including hypertension; heart  
11 problems; spinal damage requiring use of a wheelchair, cane, and leg brace;  
12 schizophrenia; bipolar disorder; and manic depression. He is awaiting trial and is  
13 presumptively innocent.

14 11. Petitioner/Plaintiff DeNeal Young is a forty-nine-year-old man who currently  
15 resides in Los Angeles County, California. At all times relevant to this Complaint, Mr.  
16 Young was in the custody of Los Angeles County at Men’s Central Jail. He has several  
17 health conditions, including blood clots in his legs, which have caused him to lose the  
18 ability to walk and confined him to a wheelchair. These blood clots also put him at risk of  
19 heart attack, pulmonary embolism, and stroke. He is awaiting a resentencing hearing.

20 12. Plaintiff Jessica Haviland is a thirty-nine-year-old woman who currently  
21 resides in Los Angeles County, California. At all times relevant to this Complaint, Ms.  
22 Haviland was in the custody of Los Angeles County at Century Regional Detention  
23 Facility. Ms. Haviland has been exhibiting symptoms commonly associated with COVID-  
24 19 but has not been tested for COVID-19. She is awaiting trial and is presumptively  
25 innocent.

26 13. Plaintiff Rany Uong is a thirty-seven-year-old woman who currently resides  
27 in Los Angeles County, California. At all times relevant to this Complaint, Ms. Uong was  
28 in the custody of Los Angeles County at Century Regional Detention Facility. She is

1 serving a sentence.

2 14. Petitioner/Plaintiff Mark Avila is a thirty-three-year-old man who currently  
3 resides in Los Angeles County, California. At all times relevant to this Complaint, Mr.  
4 Avila was in the custody of Los Angeles County at Men's Central Jail. He has severe  
5 chronic asthma, diabetes, liver disease, and a blood disorder. He is awaiting trial and is  
6 presumptively innocent.

7 15. Petitioner/Plaintiff Carole Dunham is a thirty-year-old woman who currently  
8 resides in Los Angeles County, California. At all times relevant to this Complaint, Ms.  
9 Dunham was in the custody of Los Angeles County at Century Regional Detention  
10 Facility. She has Type I diabetes. She is serving a sentence.

11 16. Plaintiff LeAndrew Lewis is a twenty-eight-year-old man who currently  
12 resides in Los Angeles County, California. At all times relevant to this Complaint, Mr.  
13 Lewis was in the custody of Los Angeles County at North County Correctional Facility.  
14 He has diabetes, high blood pressure, and has suffered recurrent bouts of bronchitis. He is  
15 awaiting trial and is presumptively innocent.

16 17. Petitioner/Plaintiff Victor Gutierrez is a twenty-two-year-old man who  
17 currently resides in Los Angeles County, California. At all times relevant to this  
18 Complaint, Mr. Gutierrez was in the custody of Los Angeles County at Twin Towers  
19 Correctional Facility. He has asthma, sclerosis, inflamed spinal discs, a caloric deficiency,  
20 and is pre-diabetic. He is awaiting trial and is presumptively innocent.

21 18. Plaintiff Jeremiah Farmer is a nineteen-year-old man who currently resides in  
22 Los Angeles County, California. At all times relevant to this Complaint, Mr. Farmer was  
23 in the custody of Los Angeles County at North County Correctional Facility. He is serving  
24 a sentence. He is also awaiting trial on other charges and is presumptively innocent of  
25 those charges.

26 19. Petitioner/Plaintiff Dignity and Power Now is a 501(c)(3) non-profit  
27 organization based in South Central Los Angeles that advocates for the dignity and power  
28 of all incarcerated people, their families, and communities. Dignity and Power Now



1 provides healing and wellness support for all families affected by incarceration through  
2 organizing and advocating for policies that improve the lives of affected communities in  
3 Los Angeles County and beyond. Dignity and Power Now works to address the short and  
4 long term needs and concerns that their community members face inside and outside of  
5 jail. Dignity and Power Now has standing on behalf of its members, whose rights have  
6 been violated by Defendants' conduct. Dignity and Power Now has organizational  
7 standing because it diverted and expended its resources to advocate for the  
8 implementation of protective measures for prisoners in Los Angeles County jails during  
9 the COVID-19 pandemic and to seek the release of medically vulnerable prisoners,  
10 including devoting significant staff time to the issue. The mission of Dignity and Power  
11 Now is also frustrated by the acts of Defendants.

12         20. Petitioner/Plaintiff Youth Justice Coalition is a 501(c)(3) non-profit  
13 organization based in Los Angeles that works to build a youth, family and prisoner-led  
14 movement to challenge race, gender and class inequality in California's detention systems  
15 through organizing, advocacy, political education and transformative justice. The Youth  
16 Justice Coalition is a grass-roots abolition centered organization that is primarily  
17 composed of incarcerated and formerly incarcerated people and that advocates for  
18 decarceration. Youth Justice Coalition also provides family support and community  
19 engagement through political education, court support (participatory defense), helping  
20 youth and adults challenge their placement on the Cal Gang Data Base, know your rights  
21 workshops, and free community legal clinics. Youth Justice Coalition has standing on  
22 behalf of its members, whose rights have been violated by Defendants' conduct. Youth  
23 Justice Coalition has organizational standing because it diverted and expended its  
24 resources to advocate for the implementation of protective measures for prisoners in Los  
25 Angeles County jails during the COVID-19 pandemic and to seek the release of medically  
26 vulnerable prisoners, including devoting significant staff time to the issue. The mission of  
27 Youth Justice Coalition is also frustrated by the acts of Defendants.

28         21. Defendant Los Angeles County ("County") is a public entity organized and

1 existing under the laws of the State of California. The LASD is, and at all times alleged  
 2 herein, was an agency of the County of Los Angeles. Defendant County controls and  
 3 operates the County's jails via is LASD and Sheriff Alex Villanueva. The County is  
 4 responsible for the custody and care of all persons detained or incarcerated in the County's  
 5 jails, and it currently has immediate custody over Petitioners/Plaintiffs (hereinafter  
 6 "Plaintiffs") and other putative class members. Los Angeles County, through the LASD,  
 7 maintains and operates the following detention and correctional facilities: Men's Central  
 8 Jail ("MCJ"); Century Regional Detention Facility ("CRDF"); Twin Towers Correctional  
 9 Facility ("TTCF") which includes the Inmate Reception Center ("IRC") and Correctional  
 10 Treatment Center ("CTC"); and Pitchess Detention Center ("PDC"), which is comprised  
 11 of four different facilities including the PDC-North, PDC-South, PDC-East, and North  
 12 County Correctional Facility ("NCCF").

13 22. Defendant Sheriff Alex Villanueva is the Sheriff of the Los Angeles County  
 14 Sheriff's Department ("LASD") and is being sued in his official and individual capacities.  
 15 As the Sheriff, Defendant Villanueva has immediate custody of Plaintiffs, and all people  
 16 incarcerated in County facilities. Sheriff Villanueva is the highest ranking official and  
 17 policymaker for the County, and is responsible for developing, administering, and  
 18 enforcing County policies, including those that relate to health and safety. He is  
 19 responsible for the promulgation of the policies and procedures of the LASD.

20 **THE GRAVE RISK OF HARM POSED BY THE COVID-19 PANDEMIC**  
 21 **REQUIRES AN EMERGENCY RESPONSE**

22 23. For over a month, Los Angeles County has been in the throes of an  
 23 unprecedented global health emergency.<sup>5</sup> On March 11, 2020, the World Health  
 24 Organization declared the outbreak of COVID-19 a global pandemic.<sup>6</sup> Citing "deep[]  
 25 concern[]" both by the alarming levels of spread and severity, and by the alarming levels of

26 \_\_\_\_\_  
 27 <sup>5</sup> See World Health Organization, *Director-General Opening Remarks* (March 11, 2020),  
 28 <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (last accessed Apr. 13, 2020).

<sup>6</sup> *Id.*

1 inaction,” it called for countries to take “urgent and aggressive action.”<sup>7</sup>

2 24. The number of people infected by COVID-19 is growing exponentially.<sup>8</sup> On  
3 January 1, 2020, the first confirmed COVID-19 case was diagnosed in the United States.<sup>9</sup>  
4 As of April 22, 2020, 828,441 people have been diagnosed with COVID-19 in the United  
5 States, with 46,379 deaths confirmed.<sup>10</sup> Nationally, CDC projections indicate that over  
6 200 million individuals in the United States could be infected with COVID-19 over the  
7 course of the epidemic without effective public health intervention,<sup>11</sup> with the White  
8 House estimating as many as 240,000 deaths in the worst projections.<sup>12</sup>

9 25. As of April 22, 2020, 37,369 people have tested positive for COVID-19 and  
10 1,469 people have died in California.<sup>13</sup> As of April 23, 2020, 17,508 people have been

11 \_\_\_\_\_  
12 <sup>7</sup> *Id.*; see also *Coronavirus: COVID-19 Is Now Officially A Pandemic, WHO Says*, NPR  
(Mar. 11, 2020),

13 <https://www.npr.org/sections/goatsandsoda/2020/03/11/814474930/coronavirus-covid-19-is-now-officially-a-pandemic-who-says> (last accessed Apr. 13, 2020).

14 <sup>8</sup> The death toll in Italy, which began experiencing this epidemic about a week earlier  
15 than the first diagnosed American case, saw a rise of 30% overnight in the 24 hours  
16 between March 5, 2020, and March 6, 2020 and a rise of 25% on March 15 alone—a day  
17 that killed 368 people in Italy. Crispian Balmer & Angelo Amante, *Italy coronavirus*  
*deaths near 200 after biggest daily jump*, REUTERS (Mar. 6, 2020),

18 <https://www.reuters.com/article/us-health-coronavirus-italy/italy-coronavirus-deaths-near-200-after-biggest-daily-jump-idUSKBN20T2ML> (last accessed Apr. 13, 2020).

19 <sup>9</sup> Derrick Bryson Taylor, *A Timeline of the Coronavirus*, N.Y. TIMES (Mar. 2020),  
20 <https://www.nytimes.com/article/coronavirus-timeline.html> (last accessed Mar. 24,  
2020).

21 <sup>10</sup> Centers for Disease Control and Prevention, *Coronavirus 2019*,  
22 <https://www.cdc.gov/coronavirus/2019-ncov/cases-in-us.html> (last accessed Apr. 23,  
2020).

23 <sup>11</sup> James Glanz, et al., *Coronavirus Could Overwhelm U.S. without Urgent Action*,  
24 *Estimates Say*, N.Y. TIMES (Mar. 20, 2020), available at  
25 <https://www.nytimes.com/interactive/2020/03/20/us/coronavirus-model-us-outbreak.html> (last accessed Apr. 13, 2020).

26 <sup>12</sup> Rick Noack, et al., *White House Task Force Projects 100,000 to 240,000 Deaths in*  
27 *U.S., Even with Mitigation Efforts*, WASH. POST. (April 1, 2020, 12:02 a.m.),  
<https://cutt.ly/5tYT7uo> (last accessed Apr. 19, 2020).

28 <sup>13</sup> California Department of Public Health, *COVID-19 Updates* (last updated Apr. 23,  
2020),

1 diagnosed with COVID-19 in Los Angeles County, with 797 deaths confirmed.<sup>14</sup>

2 26. COVID-19 is highly contagious. The virus is thought to spread through  
3 respiratory droplets or by touching a surface or object that has the virus on it.<sup>15</sup> COVID-19  
4 is thought to survive for three hours in the air in droplet form, up to twenty-four hours on  
5 cardboard, up to two days on plastic, and up to three days on steel.<sup>16</sup>

6 27. Infected people—who may be asymptomatic and not even know they are  
7 infected—can spread the disease even through indirect contact with others.<sup>17</sup> Given that  
8 many people are asymptomatic transmitters and very few people have been tested,<sup>18</sup> the  
9 number of people diagnosed with COVID-19 reflects only a small portion of those

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12 \_\_\_\_\_  
13 <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx>  
(last accessed Apr. 23, 2020).

14 <sup>14</sup> Los Angeles County Department of Public Health, *Novel Coronavirus in Los Angeles*  
15 *County* (Apr. 23, 2020), <http://publichealth.lacounty.gov/media/Coronavirus/>  
(last accessed Apr. 23, 2020).

16 <sup>15</sup> Centers for Disease Control and Prevention, *Coronavirus Factsheet* (Mar. 3, 2020),  
17 <https://www.cdc.gov/coronavirus/2019-ncov/downloads/2019-ncov-factsheet.pdf> (last  
accessed Apr. 13, 2020).

18 <sup>16</sup> Neeltje van Doremalen et al., *Aerosol and Surface Stability of SARS-CoV-2 as*  
19 *Compared with SARS-CoV-1*, *NEW ENGLAND J. MEDICINE* (Mar. 17, 2020),  
<https://www.nejm.org/doi/full/10.1056/NEJMc2004973> (last accessed Apr. 13, 2020).

20 <sup>17</sup> See, e.g., Allison Aubrey, *The New Coronavirus Can Live On Surfaces For 2-3 Days*  
21 *— Here's How To Clean Them*, NPR, (Mar. 14, 2020),  
[https://www.npr.org/sections/health-shots/2020/03/14/811609026/the-new-coronavirus-](https://www.npr.org/sections/health-shots/2020/03/14/811609026/the-new-coronavirus-can-live-on-surfaces-for-2-3-days-heres-how-to-clean-them)  
22 [can-live-on-surfaces-for-2-3-days-heres-how-to-clean-them](https://www.npr.org/sections/health-shots/2020/03/14/811609026/the-new-coronavirus-can-live-on-surfaces-for-2-3-days-heres-how-to-clean-them) (last accessed Apr. 13,  
23 2020); Cai J, Sun W, Huang J, Gamber M, Wu J, He G. *Indirect virus transmission in*  
*cluster of COVID-19 cases, Wenzhou, China, 2020*. 26 *EMERG INFECT DIS*. 6, (2020),  
24 <https://doi.org/10.3201/eid2606.200412> (last accessed Mar. 20, 2020).

25 <sup>18</sup> Roni Caryn Rabin, *They Were Infected with the Coronavirus. They Never Showed*  
*Signs*, *N.Y. Times* (Feb. 26, 2020, updated Mar. 6, 2020),  
26 <https://www.nytimes.com/2020/02/26/health/coronavirus-asymptomatic.html> (last  
accessed Apr. 13, 2020); Aria Bendix, *A Person Can Carry And Transmit COVID-19*  
27 *Without Showing Symptoms, Scientists Confirm*, *SCIENCE ALERT* (Feb. 24, 2020),  
28 [https://www.sciencealert.com/researchers-confirmed-patients-can-transmit-the-](https://www.sciencealert.com/researchers-confirmed-patients-can-transmit-the-coronavirus-without-showing-symptoms)  
[coronavirus-without-showing-symptoms](https://www.sciencealert.com/researchers-confirmed-patients-can-transmit-the-coronavirus-without-showing-symptoms) (last accessed Apr. 13, 2020).

1 infected.<sup>19</sup>

2 28. Everyone is at risk of contracting COVID-19, but certain populations are at  
3 higher risk for severe illness from COVID-19. People of any age with lung disease or  
4 other conditions like asthma, chronic liver or kidney disease, serious heart conditions,  
5 diabetes, compromised immune systems, severe obesity, epilepsy, hypertension, blood  
6 disorders, inherited metabolic disorders, history of stroke, developmental disabilities, and  
7 pregnancy face increased risk of serious COVID-19 disease.<sup>20</sup> Older individuals also face  
8 greater chances of serious illness or death from COVID-19.<sup>21</sup>

9 29. The experiences of those infected with COVID-19 are “a lot more  
10 frightening” than the flu.<sup>22</sup> The sensation of acute respiratory distress syndrome has been  
11 compared to “essentially drowning in [one’s] own blood.”<sup>23</sup> Even relatively young people  
12 with minimal health history can be “wiped out” by the virus, “like they’ve been hit by a  
13 truck,” and people who are infected by the virus can “all of a sudden” go into complete  
14 respiratory failure.<sup>24</sup>

15 \_\_\_\_\_  
16 <sup>19</sup> Melissa Healy, *True Number of US Coronavirus Cases is Far Above Official Tally,*  
17 *Scientists Say*, L.A. TIMES (Mar. 10, 2020), [https://www.msn.com/en-](https://www.msn.com/en-us/health/medical/true-number-of-us-coronavirus-cases-is-far-above-official-tally-scientists-say/ar-BB110qoA)  
18 [us/health/medical/true-number-of-us-coronavirus-cases-is-far-above-official-tally-](https://www.msn.com/en-us/health/medical/true-number-of-us-coronavirus-cases-is-far-above-official-tally-scientists-say/ar-BB110qoA)  
19 [scientists-say/ar-BB110qoA](https://www.msn.com/en-us/health/medical/true-number-of-us-coronavirus-cases-is-far-above-official-tally-scientists-say/ar-BB110qoA) (last accessed Apr. 13, 2020).

20 <sup>20</sup> Centers for Disease Control and Prevention, *People Who Need To Take Extra*  
21 *Precautions*, [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html)  
22 [precautions/index.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html) (last accessed Apr. 14, 2020); Xianxian Zhao, et al., *Incidence,*  
23 *clinical characteristics and prognostic factor of patients with COVID-19: a systematic*  
24 *review and meta-analysis* (Mar. 20, 2020),  
25 <https://www.medrxiv.org/content/10.1101/2020.03.17.20037572v1> (last accessed Apr. 23,  
26 2020).

27 <sup>21</sup> Centers for Disease Control and Prevention, *People Who Need To Take Extra*  
28 *Precautions*, [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html)  
29 [precautions/index.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html) (last accessed Apr. 14, 2020).

30 <sup>22</sup> Lizzie Presser, *A Medical Worker Describes Terrifying Lung Failure From COVID-19*  
31 *— Even in His Young Patients*, Propublica (Mar. 21, 2020),  
32 [https://www.propublica.org/article/a-medical-worker-describes--terrifying-lung-failure-](https://www.propublica.org/article/a-medical-worker-describes--terrifying-lung-failure-from-covid19-even-in-his-young-patients)  
33 [from-covid19-even-in-his-young-patients](https://www.propublica.org/article/a-medical-worker-describes--terrifying-lung-failure-from-covid19-even-in-his-young-patients) (last accessed Apr. 13, 2020).

34 <sup>23</sup> *Id.*

35 <sup>24</sup> *Id.*



1           30. Patients who do not die from serious cases of COVID-19 may require  
2 hospitalization for supportive treatment with intravenous fluids and supplemental oxygen,  
3 or more serious care such as ventilation and intravenous antibiotics.

4           31. The current estimated incubation period is between 2 and 14 days.<sup>25</sup>  
5 Approximately 20% of people infected require hospitalization, and of those infected,  
6 between 1% and 3.4% die.<sup>26</sup> According to recent estimates, the fatality of people infected  
7 with COVID-19 is about ten times higher than a severe seasonal influenza, even in  
8 advanced countries with highly effective health care systems.<sup>27</sup>

9           32. There is neither a vaccine nor any known medication to prevent or cure  
10 infection from the virus.<sup>28</sup> A vaccine is likely at least 12 months away.<sup>29</sup>

11           33. In the absence of a vaccine or treatment, officials and experts urge “social  
12 distancing”—isolating oneself from other people as much as possible, and keeping at least  
13 a six foot distance between oneself and other people at all times.<sup>30</sup> For this reason,  
14

15 <sup>25</sup> *Coronavirus Disease COVID-19 Symptoms*, Centers for Disease Control and  
16 Prevention (updated: Mar. 20 2020), <https://www.cdc.gov/coronavirus/2019-ncov/about/symptoms.html> (last accessed Apr. 13, 2020).

17 <sup>26</sup> *Why COVID-19 is worse than the flu, in one chart*, Vox (Mar. 18, 2020),  
18 <https://www.vox.com/science-and-health/2020/3/18/21184992/coronavirus-covid-19-flu-comparison-chart> (last accessed Apr. 13, 2020); World Health Organization, *Q&A on  
19 Coronaviruses (COVID-19), “Should I Worry About COVID-19?”*  
20 <https://cutt.ly/YtEyrxl> (last accessed Apr. 19, 2020).

21 <sup>27</sup> Betsy McKay, *Coronavirus vs. Flu Which Virus is Deadlier*, WALL ST. J. (Mar. 10,  
22 2020),  
23 <https://www.wsj.com/articles/coronavirus-vs-flu-which-virus-is-deadlier-11583856879>  
(last accessed Apr. 13, 2020).

24 <sup>28</sup> World Health Organization, *Coronavirus*, <https://cutt.ly/ztWyf7e> (last accessed Apr.  
25 19, 2020) (“At this time, there are no specific vaccines or treatments for COVID-19.”).

26 <sup>29</sup> Saralyn Cruickshank, *Experts Discuss COVID-19 and Ways to Prevent Spread of  
27 Disease*, John Hopkins Mag. (Mar. 17, 2020),  
28 <https://hub.jhu.edu/2020/03/17/coronavirus-virology-vaccine-social-distancing-update>  
(last accessed Apr. 13, 2020).

<sup>30</sup> *The President’s Coronavirus Guidelines for America*, Whitehouse.gov (Mar. 16,  
2020), [https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20\\_coronavirus-  
guidance\\_8.5x11\\_315PM.pdf](https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf) (last accessed Apr. 13, 2020); *see also* Saralyn



1 governors and mayors across the country are ordering entire cities and states to “shelter in  
 2 place” and “stay at home.”<sup>31</sup> Other federally recommended precautions include frequent  
 3 hand-washing, use of alcohol-based hand sanitizers, frequent cleaning and disinfecting of  
 4 any surfaces touched by any person, and use of PPE such as masks.<sup>32</sup>

5 34. California Governor Gavin Newsom declared a state of emergency on March  
 6 4, 2020 due to the presence of COVID-19 in California.<sup>33</sup> On March 19, 2020, Governor  
 7 Newsom issued a statewide “Safer at Home Order,” requiring all Californians to stay at  
 8 home unless performing essential activities.<sup>34</sup>

9 35. On March 4, 2020, the Los Angeles County Board of Supervisors and the  
 10

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11 Cruickshank, *Experts Discuss COVID-19 and Ways to Prevent Spread of Disease*, JOHN  
 12 HOPKINS MAG. (Mar. 17, 2020), [https://hub.jhu.edu/2020/03/17/coronavirus-virology-  
 vaccine-social-distancing-update](https://hub.jhu.edu/2020/03/17/coronavirus-virology-vaccine-social-distancing-update) (last accessed Apr. 13, 2020).

13 <sup>31</sup> The governors of California, Colorado, Connecticut, Delaware, Hawaii, Idaho,  
 14 Illinois, Indiana, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Montana, New  
 15 Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Vermont,  
 16 Washington, West Virginia, and Wisconsin, as well as local officials of numerous  
 17 counties in Florida, Georgia, Kansas, Missouri, North Carolina, Pennsylvania,  
 18 Tennessee, and Texas, have all ordered residents to “shelter in place” or stay at home.  
 19 *See Which States and Cities Have Told Residents to Stay at Home*, N.Y. TIMES (Mar. 27,  
 20 2020), [https://www.nytimes.com/interactive/2020/us/coronavirus-stay-at-home-  
 order.html](https://www.nytimes.com/interactive/2020/us/coronavirus-stay-at-home-order.html) (last accessed Apr. 13, 2020).

21 <sup>32</sup> Centers for Disease Control and Prevention, *Steps to Prevent Illness*,  
 22 [https://www.cdc.gov/coronavirus/2019-  
 ncov/about/prevention.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fabout%2Fprevention-treatment.html](https://www.cdc.gov/coronavirus/2019-ncov/about/prevention.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fabout%2Fprevention-treatment.html) (last accessed Apr. 13,  
 23 2020); *see also* Saralyn Cruickshank, *Experts Discuss COVID-19 and Ways to Prevent  
 Spread of Disease*, JOHN HOPKINS MAG. (Mar. 17, 2020),  
 24 <https://hub.jhu.edu/2020/03/17/coronavirus-virology-vaccine-social-distancing-update>  
 (last accessed Apr. 13, 2020).

25 <sup>33</sup> Office of Governor Gavin Newsom, *Governor Newsom Declares State of Emergency  
 to Help State Prepare for Broader Spread of COVID-19* (Mar. 4, 2020),  
 26 [https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-  
 help-state-prepare-for-broader-spread-of-covid-19/](https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/) (last accessed Apr. 10, 2020).

27 <sup>34</sup> Office of Governor Gavin Newsom, *Governor Gavin Newsom Issues Stay at Home  
 Order* (Mar. 19, 2020), [https://www.gov.ca.gov/2020/03/19/governor-gavin-newsom-  
 issues-stay-at-home-order/](https://www.gov.ca.gov/2020/03/19/governor-gavin-newsom-issues-stay-at-home-order/) (last accessed Apr. 9, 2020).  
 28

1 Department of Public Health declared a local and public health emergency to respond to  
 2 the threat posed by COVID-19, which remains in effect.<sup>35</sup> The Los Angeles County  
 3 Health Officer also issued an order mirroring the Governor’s March 19 “Safer at Home  
 4 Order.”<sup>36</sup> On April 10, 2020, the Los Angeles County Health Officer issued an enhanced  
 5 order requiring people outdoors to wear face coverings when out in public.<sup>37</sup>

6 **INCARCERATED PEOPLE AND CORRECTIONAL STAFF ARE AT**  
 7 **HEIGHTENED RISK DURING THE COVID-19 PANDEMIC**

8 36. Substantial epidemiological research “shows that mass incarceration raises  
 9 contagion rates for infectious disease—both for people in jails, and for the community at  
 10 large.”<sup>38</sup> During pandemics, jail facilities become “ticking time bombs” as “[m]any people  
 11 crowded together, often suffering from diseases that weaken their immune systems, form a  
 12 potential breeding ground and reservoir for diseases.”<sup>39</sup>

13 37. Although the California Department of Public Health issued a Guidance  
 14

15 <sup>35</sup> Los Angeles County Department of Public Health, *County of Los Angeles Declares*  
 16 *Local Health Emergency in Response to New Novel Coronavirus Activity* (Mar. 4, 2020),  
 17 <http://www.publichealth.lacounty.gov/phcommon/public/media/mediapubhpdetail.cfm?prid=2248> (last accessed Apr. 10, 2020).

18 <sup>36</sup> Los Angeles County Department of Public Health, *Safer at Home Order for the*  
 19 *Control of Covid-19* (Mar. 21, 2020),  
 20 [http://publichealth.lacounty.gov/media/coronavirus/COVID-19\\_March%2021-HOOrder-7\\_00\\_FINAL2.pdf](http://publichealth.lacounty.gov/media/coronavirus/COVID-19_March%2021-HOOrder-7_00_FINAL2.pdf) (last accessed Apr. 10, 2020).

21 <sup>37</sup> Los Angeles County Department of Public Health, *Los Angeles County Announces 18*  
 22 *New Deaths Related to 2019 Novel Coronavirus (COVID-19) - 475 New Cases of*  
 23 *Confirmed COVID-19 in Los Angeles County* (Apr. 10, 2020),  
 24 <http://publichealth.lacounty.gov/phcommon/public/media/mediapubdetail.cfm?unit=media&ou=ph&prog=media&cur=cur&prid=2309&row=25&start=1> (last accessed Apr. 22, 2020).

25 <sup>38</sup> Sandhya Kajeepeta & Seth J. Prins, *Why Coronavirus in Jails Should Concern All of*  
 26 *Us*, THE APPEAL (Mar. 24, 2020), <https://theappeal.org/coronavirus-jails-public-health/>  
 (last accessed Apr. 13, 2020).

27 <sup>39</sup> See St. Louis Univ., “Ticking Time Bomb,” *Prisons Unprepared For Flu Pandemic*,  
 28 SCIENCEDAILY (2006),  
<https://www.sciencedaily.com/releases/2006/09/060915012301.htm> (last accessed Apr. 13, 2020).

1 About Novel Coronavirus (COVID-19) for California Prisons recommending the  
 2 provision of sanitization supplies for prisoners to clean their cells and masks to  
 3 symptomatic prisoners, increased cleaning of common spaces, and social distancing of six  
 4 feet; these measures have not prevented the virus from spreading in California prisons.<sup>40</sup>  
 5 As of April 23, 2020, 149 prisoners<sup>41</sup> and at least 105 staff<sup>42</sup> in the California Department  
 6 of Corrections and Rehabilitation (“CDCR”) facilities tested positive. News media  
 7 reported that in April in the California prison system, over the course of just over a week,  
 8 the number of prisoners testing positive for COVID-19 grew by 700% and the number of  
 9 staff testing positive nearly tripled.<sup>43</sup>

10 38. The risk of exposure to and transmission of infectious diseases, as well as the  
 11 potential harm to those become infected, is significantly higher in jails than in the  
 12 community, putting prisoners and correctional staff at high risk of contracting COVID-19.  
 13 This is due to a number of factors, including: close living quarters; often overcrowded  
 14 conditions in jails; that large numbers of people are closely confined and forced to share  
 15 sleeping areas, bathrooms, cafeterias, and other enclosed spaces; prisoners’ inability to  
 16 practice social distancing; food preparation is centralized and communal; ventilation  
 17 systems that encourage the spread of airborne diseases; movement of prisoners within  
 18 facilities and outside of facilities to court; that jail medical facilities are rarely equipped to

19 \_\_\_\_\_  
 20 <sup>40</sup> California Department of Public Health, *Guidance about Novel Coronavirus (COVID-*  
 21 *19) for California Prisons* (Mar. 24, 2020), [https://www.cdcr.ca.gov/covid19/wp-](https://www.cdcr.ca.gov/covid19/wp-content/uploads/sites/197/2020/03/R_CDPH-COVID-19-Guidance-for-Prisons-3.30.20.pdf)  
 22 [content/uploads/sites/197/2020/03/R\\_CDPH-COVID-19-Guidance-for-Prisons-](https://www.cdcr.ca.gov/covid19/wp-content/uploads/sites/197/2020/03/R_CDPH-COVID-19-Guidance-for-Prisons-3.30.20.pdf)  
 23 [3.30.20.pdf](https://www.cdcr.ca.gov/covid19/wp-content/uploads/sites/197/2020/03/R_CDPH-COVID-19-Guidance-for-Prisons-3.30.20.pdf) (last accessed Apr. 10, 2020).

24 <sup>41</sup> California Department of Corrections and Rehabilitations, *Population COVID-19*  
 25 *Tracking*, <https://www.cdcr.ca.gov/covid19/population-status-tracking/> (last accessed  
 26 Apr. 23, 2020).

27 <sup>42</sup> California Department of Corrections and Rehabilitation, *CDCR/CCHCS COVID-19*  
 28 *Employee Status*, <https://www.cdcr.ca.gov/covid19/cdcr-cchcs-covid-19-status/> (last  
 accessed Apr. 23, 2020).

<sup>43</sup> Holly Yan, *Prisons and Jails Across the US are Turning into ‘Petri Dishes’ for*  
*Coronavirus. Deputies are falling ill, too*, CNN (Apr. 10, 2020),  
<https://www.cnn.com/2020/04/09/us/coronavirus-jails-prisons/index.html> (last accessed  
 Apr. 12, 2020).

1 handle an outbreak of an infectious disease and must rely on outside medical facilities to  
2 provide intensive medical care; if jail staff become sick they do not come to work,  
3 resulting in understaffing and compromised medical treatment; the enhanced susceptibility  
4 of the jail population to chronic health conditions; and difficulties in quarantining  
5 individuals who become ill.

6 39. Correctional settings further increase the risks from COVID-19 for those who  
7 are vulnerable to the disease due to the concentration of persons with chronic, often  
8 untreated, illnesses in a setting with minimal levels of sanitation, limited access to  
9 personal hygiene, limited access to medical care, the presence of many high contact  
10 surfaces, and no possibility to stay at a safe distance from others.

11 40. Additional reasons for the increased risk of transmission and infection  
12 include the constant cycling of people in and out of the jail (including correctional staff)<sup>44</sup>  
13 and inadequate medical care within the jail itself.

14 41. Jail screening procedures alone cannot stop the virus from entering and  
15 spreading among the jails. COVID-19 poses a particular threat to public health because a  
16 person can be asymptomatic yet spread the disease to others. Most people do not show  
17 symptoms for two to 14 days even while being contagious. Others never exhibit any  
18 symptoms at all. Thus, while screening for fevers and other symptoms associated with  
19 COVID-19 may stop some infected people from entering general population housing units  
20 or otherwise having close contact with prisoners and jail staff, it cannot catch many of  
21 those actively spreading the virus. The drastic social distancing measures that have been  
22 imposed across the country are designed to combat exactly this problem. By staying at  
23 home, we are able to limit our contact with other persons, even the asymptomatic. But  
24 every day hundreds of jail employees, working on multiple different shifts, travel into and  
25 out of the jails. Any one of those employees can be asymptotically carrying and  
26

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27 <sup>44</sup> See Peter Wagner & Emily Widra, *No need to wait for pandemics: The public health*  
28 *case for criminal justice reform*, Prison Policy Initiative (Mar. 6, 2020),  
<https://www.prisonpolicy.org/blog/2020/03/06/pandemic> (last accessed Apr. 13, 2020).

1 transmitting COVID-19. The only way to stop the expansive spread of the disease is  
2 through a comprehensive approach.

3 42. The guidance from the CDC for correctional and detention facilities,  
4 including local jails, was published on March 23, 2020.<sup>45</sup> The guidance acknowledges that  
5 incarcerated people are forced to exist “within congregate environments” that “heighten[]  
6 the potential for COVID-19 to spread once introduced,” especially given that “[t]here are  
7 many opportunities for COVID-19 to be introduced into a correctional or detention  
8 facility,” including “daily staff ingress and egress” as well as “high turnover” of  
9 “admit[ted] new entrants.”<sup>46</sup> In light of these concerns, the guidance recommends, among  
10 other steps, that each correctional facility:

- 11 a. Post signage throughout the facility communicating COVID-19  
12 symptoms and hand hygiene instructions, ensure such signage is  
13 understandable for non-English speaking people as well as those with  
14 low literacy, and provide clear information about the presence of  
15 COVID-19 cases within a facility and the need to increase social  
16 distancing and maintain hygiene precautions;
- 17 b. Ensure sufficient stocks of hygiene and cleaning supplies, including  
18 tissues, liquid soap where possible, hand drying supplies, alcohol-  
19 based hand sanitizer, cleaning supplies effective against the  
20 coronavirus, and recommended personal protective equipment (“PPE”)  
21 like face masks, disposable medical gloves, and N95 respirators;
- 22 c. Provide a no-cost supply of soap sufficient to allow frequent hand  
23 washing, providing liquid soap where possible;
- 24 d. Provide incarcerated people running water, hand drying machines or  
25

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26 <sup>45</sup> Centers for Disease Control and Prevention, *Interim Guidance on Management of*  
27 *Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, (Mar.  
28 23, 2020), [https://www.cdc.gov/coronavirus/2019-ncov/community/correction-  
detention/guidance-correctional-detention.html](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html) (last accessed Apr. 12, 2020).

<sup>46</sup> *Id.*

1 disposable paper towels for hand washing, tissues, and no-touch trash  
2 receptacles for disposal;

3 e. Consider relaxing restrictions on allowing alcohol-based hand sanitizer  
4 where security concerns allow;

5 f. Suspend co-pays for incarcerated people seeking medical evaluation  
6 for respiratory symptoms;

7 g. Even if COVID-19 cases have not been identified locally or inside,  
8 implement “intensified cleaning and disinfecting procedures” that  
9 clean and disinfect high-touch surfaces and objects “[s]everal times per  
10 day,” and ensure adequate supplies to support intensified cleaning and  
11 disinfection practices”;

12 h. Perform pre-intake screening and temperature checks for all new  
13 entrants;

14 i. If an individual has symptoms of COVID-19 (fever, cough, shortness  
15 of breath), require the individual to wear a face mask and place them  
16 under medical isolation;

17 j. Implement social distancing strategies to increase the physical space  
18 between incarcerated people, ideally a distance of six feet “regardless  
19 of the presence of symptoms”; and

20 k. Implement daily temperature checks in housing units where COVID-  
21 19 cases have been identified.

22 43. Correctional officials around the country agree that particular care must be  
23 taken to stop the spread of COVID-19 within the nation’s jails. For example, Leann  
24 Bertsch, the Director of the North Dakota Department of Corrections and Rehabilitation,  
25 concluded that “ignoring the health of those living and working inside the walls of our  
26 nation’s correctional facilities poses a grave threat to us all” and that “putting public  
27 health first is the best, and only, way to effectively achieve [a department of correction’s]

28 ///



1 public safety mission during the COVID-19 pandemic.”<sup>47</sup>

2 44. The global path of the virus confirms that jails and prisons are epicenters for  
3 transmission. Approximately one month into the pandemic in the province of Hubei,  
4 China, over half of reported COVID-19 cases were from jails.<sup>48</sup> In South Korea, which  
5 has had tremendous success in slowing and stopping the spread of the virus, “the single  
6 largest COVID-19 outbreak and mortality cluster was from the Daenam Prison Hospital,  
7 where 101 prisoners were infected and seven died.”<sup>49</sup>

8 45. COVID-19 has already started to spread inside other prisons, jails, and  
9 detention centers in the United States. Experts predict that a mass contagion is only a  
10 matter of time and that “[a]ll prisons and jails should anticipate that the coronavirus will  
11 enter their facility.”<sup>50</sup>

12 46. Once the virus enters a jail or prison, infection rates are much higher than in  
13 the broader community. In New York City, for example, the COVID-19 infection rate in  
14 the city’s jails is about eight times higher than the rest of the city, which already sits at one  
15 ///

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17 <sup>47</sup> Brie Williams and Leanne Bertsch, *A public health doctor and head of corrections*  
18 *agree: we must immediately release people from jails and prisons*, THE APPEAL (Mar. 9,  
19 2020), [https://theappeal.org/a-public-health-doctor-and-head-of-corrections-agree-](https://theappeal.org/a-public-health-doctor-and-head-of-corrections-agree-we-must-immediately-release-people-from-jails-and-prisons/)  
20 [we-must-immediately-release-people-from-jails-and-prisons/](https://theappeal.org/a-public-health-doctor-and-head-of-corrections-agree-we-must-immediately-release-people-from-jails-and-prisons/) (last accessed Apr. 13,  
2020).

21 <sup>48</sup> Zi Yang, *Cracks in the System: COVID-19 in Chinese Prisons*, DIPLOMAT (Mar. 9,  
22 2020), [https://thediplomat.com/2020/03/cracks-in-the-system-covid-19-in-chinese-](https://thediplomat.com/2020/03/cracks-in-the-system-covid-19-in-chinese-prisons/)  
22 [prisons/](https://thediplomat.com/2020/03/cracks-in-the-system-covid-19-in-chinese-prisons/) (last accessed Apr. 13, 2020).

23 <sup>49</sup> Nancy Gertner and John Reinstein, *Compassionate Release Now for Prisoners*  
24 *Vulnerable to the Coronavirus*, BOSTON GLOBE (Mar. 23, 2020),  
24 [https://www.bostonglobe.com/2020/03/23/opinion/compassionate-release-now-](https://www.bostonglobe.com/2020/03/23/opinion/compassionate-release-now-prisoners-vulnerable-coronavirus/)  
24 [prisoners-vulnerable-coronavirus/](https://www.bostonglobe.com/2020/03/23/opinion/compassionate-release-now-prisoners-vulnerable-coronavirus/) (last accessed Apr. 13, 2020).

25 <sup>50</sup> Evelyn Cheng and Huileng Tan, *China Says More than 500 Cases of the New*  
26 *Coronavirus Stemmed from Prisons*, CNBC, (Feb. 20, 2020), available at  
27 [https://www.cnbc.com/2020/02/21/coronavirus-china-says-two-prisons-reported-nearly-](https://www.cnbc.com/2020/02/21/coronavirus-china-says-two-prisons-reported-nearly-250-cases.html)  
27 [250-cases.html](https://www.cnbc.com/2020/02/21/coronavirus-china-says-two-prisons-reported-nearly-250-cases.html) (quoting Tyler Winkelman, co-director of the Health, Homelessness, and  
28 Criminal Justice Lab at the Hennepin Healthcare Research Institute in Minneapolis) (last  
accessed Apr. 13, 2020).

1 of the highest rates in the world.<sup>51</sup> The first case of COVID-19 on Rikers Island, New  
 2 York City's largest jail complex, was confirmed on March 18, 2020.<sup>52</sup> By Thursday, April  
 3 2, 2020, 231 people incarcerated at Rikers as well as 223 jail staff had tested positive;<sup>53</sup>  
 4 two jail officers have died; and more than 800 incarcerated people were held in isolation  
 5 or quarantined.<sup>54</sup> Rikers saw its first prisoner death on April 5, 2020.<sup>55</sup>

6 47. Recent reports indicate that the Cook County jail in Chicago is currently one  
 7 of the largest known source of U.S. infections, even though Chicago has otherwise been  
 8 effective at flattening the curve.<sup>56</sup> As of April 8, 2020, the Cook County Jail was reported  
 9 to be the single largest-known source of COVID-19 infections in the country, with over  
 10 238 prisoners and 115 staff members having tested positive.<sup>57</sup> The next day, a federal

11 \_\_\_\_\_  
 12 <sup>51</sup> These numbers likely underestimate the infection rate on Rikers Island, as they do not  
 13 include the number of people contracted COVID-19 on Rikers Island but who have  
 14 already been released. The rates of infection rely on publicly released data collected by  
 15 the Legal Aid Society. The Legal Aid Society NYC, *COVID-19 Infection Tracking in  
 NYC Jails*, <https://www.legalaidnyc.org/covid-19-infection-tracking-in-nyc-jails/> (last  
 16 accessed Apr. 13, 2020).

17 <sup>52</sup> *21 Inmates, 17 Employees Test Positive for COVID-19 on Rikers Island: Officials*,  
 18 NBC New York (last updated: Mar. 22, 2020),  
 19 [https://www.nbcnewyork.com/news/coronavirus/21-inmates-17-employees-test-positive-  
 20 for-covid-19-on-rikers-island-officials/2338242/](https://www.nbcnewyork.com/news/coronavirus/21-inmates-17-employees-test-positive-for-covid-19-on-rikers-island-officials/2338242/) (last accessed Apr. 13, 2020).

21 <sup>53</sup> Julia Craven, *Coronavirus Cases Are Spreading Rapidly on Rikers Island*, SLATE  
 22 (Apr. 2, 2020)  
 23 <https://slate.com/news-and-politics/2020/04/rikers-coronavirus-cases-increase.html> (last  
 24 accessed Apr. 13, 2020).

25 <sup>54</sup> Jay Ransom and Alan Feuer, *'We're Left for Dead': Fears of Virus Catastrophe at  
 26 Rikers Jail*, N.Y. TIMES (last updated: Mar. 31, 2020),  
 27 <https://www.nytimes.com/2020/03/30/nyregion/coronavirus-rikers-nyc-jail.html>.

28 <sup>55</sup> Josiah Bates, *New York's Rikers Island Jail Sees First Inmate Death from COVID-19*,  
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 (last accessed Apr. 12, 2020).

<sup>56</sup> Cate Cauguiran, *Coronavirus Chicago: COVID-19 data shows city is 'flattening the  
 curve,' Mayor Lori Lightfoot says*, ABC7 (Apr. 15, 2020),  
[https://abc7chicago.com/health/covid-19-data-shows-city-is-flattening-the-curve-  
 officials-say/6105532/](https://abc7chicago.com/health/covid-19-data-shows-city-is-flattening-the-curve-officials-say/6105532/) (last accessed Apr. 22, 2020).

<sup>57</sup> Timothy Williams and Danielle Ivory, *Chicago's Jail Is Top U.S. Hot Spot as Virus  
 Spreads Behind Bars*, N.Y. TIMES (last updated: Apr. 8, 2020),

1 judge observed that the jail had a confirmed infection rate of 50 per 1,000 people,  
 2 dwarfing Cook County's overall rate of 1.56 confirmed infections per 1,000 people. Three  
 3 people who tested positive while incarcerated in the jail have died.<sup>58</sup> That number may be  
 4 growing, and it likely does not include people who were infected in the jail and died after  
 5 their bail was paid. As of April 13, over 500 detainees and staff have tested positive.<sup>59</sup>

6 48. For these reasons, medical and public health experts have urged emergency  
 7 action to fight the spread of COVID-19 in jails and other carceral facilities, including  
 8 decarceration, improved access to medical care, and compliance with CDC guidelines.<sup>60</sup>

9 49. Correctional facilities largely lack the medical care infrastructure that would  
 10 be necessary to deal with a COVID-19 outbreak. Jails often rely on outside medical  
 11 facilities to provide intensive medical care. However, during an epidemic these outside  
 12 facilities may themselves be over capacity. Model estimates predict that, if current  
 13 infection and incarceration trends hold, two-fifths of California's hospital beds may be  
 14 required by prisoners in mid-May.<sup>61</sup> Reducing the size of the jail's population is critically

15 \_\_\_\_\_  
 16 <https://www.nytimes.com/2020/04/08/us/coronavirus-cook-county-jail-chicago.html>  
 (last accessed Apr. 19, 2020).

17 <sup>58</sup> Cook County Sheriff's Office, *COVID-19 Cases at CCDOC*,  
 18 <https://www.cookcountysheriff.org/covid-19-cases-at-ccdod/> (last accessed Apr. 19,  
 2020).

19 <sup>59</sup> Cheryl Corley, *The COVID-19 Struggle In Chicago's Cook County Jail Facebook*  
 20 *Twitter Flipboard Email*, NPR NEWS (last updated: Apr. 13, 2020),  
 21 [https://www.npr.org/2020/04/13/833440047/the-covid-19-struggle-in-chicagos-cook-](https://www.npr.org/2020/04/13/833440047/the-covid-19-struggle-in-chicagos-cook-county-jail)  
 county-jail (last accessed Apr. 19, 2020).

22 <sup>60</sup> See, e.g., Brad Lander, *Doctors in NYC Hospitals, Jails, and Shelters Call on the City*  
 23 *to Take More Aggressive Action to Combat the Spread of Coronavirus*, MEDIUM (Mar.  
 24 12, 2020), [https://medium.com/@bradlander/doctors-in-nyc-hospitals-jails-and-shelters-](https://medium.com/@bradlander/doctors-in-nyc-hospitals-jails-and-shelters-call-on-the-city-to-take-more-aggressive-action-to-fb75f0b131c2)  
 call-on-the-city-to-take-more-aggressive-action-to-fb75f0b131c2 (last accessed Apr. 13,  
 25 2020); *Letter from Johns Hopkins faculty to Governor Hogan* (Mar. 25, 2020),  
 26 [https://bioethics.jhu.edu/wp-content/uploads/2019/10/Johns-Hopkins-faculty-letter-on-](https://bioethics.jhu.edu/wp-content/uploads/2019/10/Johns-Hopkins-faculty-letter-on-COVID-19-jails-and-prisons.pdf)  
 COVID-19-jails-and-prisons.pdf (last accessed Apr. 13, 2020).

27 <sup>61</sup> Oliver Hinds, *Emptying Prisons to Prevent the Spread of Coronavirus Will Save Lives*  
 28 *on the Outside, Too*, THE APPEAL (last updated: Apr. 15, 2020),  
<https://theappeal.org/coronavirus-jails-prisons-model-hospital-beds/> (last accessed Apr.  
 19, 2020).

1 important to reduce the risk of transmission of the disease.

2 50. Numerous public health experts, including Dr. Gregg Gonsalves,<sup>62</sup> Ross  
3 MacDonald,<sup>63</sup> Dr. Marc Stern,<sup>64</sup> Dr. Oluwadamilola T. Oladeru and Adam Beckman,<sup>65</sup> Dr.  
4 Anne Spaulding,<sup>66</sup> Homer Venters,<sup>67</sup> and Josiah Rich<sup>68</sup> have all strongly cautioned that  
5 people booked into and held in jails are likely to face serious, even grave, harm due to the  
6 outbreak of COVID-19.

7 51. The only viable strategy to combat the spread of COVID-19 and prevent  
8 serious harm or death to class members is risk mitigation. Even with the most  
9 comprehensive plan to address the spread of COVID-19 in correctional facilities, the  
10 release of individuals who can be considered at high risk from the virus is a key part of a  
11 risk mitigation strategy. Immediate release of medically vulnerable persons not only  
12 protects them from transmission of COVID-19, but also allows for greater risk mitigation  
13

14 \_\_\_\_\_  
15 <sup>62</sup> Kelan Lyons, *Elderly Prison Population Vulnerable to Potential Coronavirus*  
16 *Outbreak*, CONNECTICUT MIRROR (Mar. 11, 2020), <https://cutt.ly/BtRSxCF> (last  
17 accessed Apr. 13, 2020).

18 <sup>63</sup> Craig McCarthy and Natalie Musumeci, *Top Rikers Doctor: Coronavirus ‘Storm is*  
19 *Coming,* NEW YORK POST (Mar. 19, 2020), [https://nypost.com/2020/03/19/top-rikers-](https://nypost.com/2020/03/19/top-rikers-doctor-coronavirus-storm-is-coming/)  
20 [doctor-coronavirus-storm-is-coming/](https://nypost.com/2020/03/19/top-rikers-doctor-coronavirus-storm-is-coming/) (last accessed Apr. 13, 2020).

21 <sup>64</sup> Marc F. Stern, MD, MPH, *Washington State Jails Coronavirus Management*  
22 *Suggestions in 3 “Buckets,”* Washington Assoc. of Sheriffs & Police Chiefs (March 5,  
23 2020), [https://www.themarshallproject.org/documents/6796536-Suggestions-for-Jails-3-](https://www.themarshallproject.org/documents/6796536-Suggestions-for-Jails-3-5-20)  
24 [5-20](https://www.themarshallproject.org/documents/6796536-Suggestions-for-Jails-3-5-20) (last accessed Apr. 13, 2020).

25 <sup>65</sup> Oluwadamilola T. Oladeru, et al., *What COVID-19 Means for America’s Incarcerated*  
26 *Population – and How to Ensure It’s Not Left Behind,* (Mar. 10, 2020),  
27 <https://cutt.ly/QtRSYNA> (last accessed Apr. 13, 2020).

28 <sup>66</sup> Anne C. Spaulding, MD MPH, *Coronavirus COVID-19 and the Correctional Jail,*  
Emory Center for the Health of Incarcerated Persons (Mar. 9, 2020),  
[http://www.chip.sph.emory.edu/documents/For%20Correctional%20Facility%20Leadership\\_2020.pdf](http://www.chip.sph.emory.edu/documents/For%20Correctional%20Facility%20Leadership_2020.pdf) (last accessed Apr. 14, 2020).

<sup>67</sup> Madison Pauly, *To Arrest the Spread of Coronavirus, Arrest Fewer People,* MOTHER JONES (Mar. 12, 2020), <https://cutt.ly/jtRSPnk> (last accessed Apr. 13, 2020).

<sup>68</sup> Amanda Holpuch, *Calls Mount to Free Low-risk US Inmates to Curb Coronavirus Impact on Prisons,* THE GUARDIAN (Mar. 13, 2020), <https://cutt.ly/itRSDNH> (last accessed Apr. 13, 2020).

1 for people held or working in the jail and the broader community. Furthermore, it is the  
2 only viable mechanism by which to protect medically vulnerable prisoners from COVID-  
3 19.

4 52. Release of the most vulnerable persons from custody also reduces the burden  
5 on the regional health care system by reducing the likelihood that there will be an influx of  
6 prisoners who become seriously ill from COVID-19 at the same time.

7 53. Jail and prison administrators and public officials around the country have  
8 likewise concluded that widespread jail release is a necessary and appropriate public  
9 health intervention: New York;<sup>69</sup> New Jersey;<sup>70</sup> Washington;<sup>71</sup> Cuyahoga County, Ohio,<sup>72</sup>  
10 among others. Several Sheriffs from across the country have also come together to issue a  
11 joint statement committing to reduce jail populations, including by releasing those within  
12 six months of completion of their sentence, and following CDC guidelines to ensure safe  
13 and dignified conditions that will prevent the spread of COVID-19 among prisoners,  
14 among other measures.<sup>73</sup>

15  
16 \_\_\_\_\_  
17 <sup>69</sup> Brendan Lyons, *NY to release 1,100 parole violators as coronavirus spreads*, TIMES  
18 UNION (Mar. 27, 2020), <https://www.timesunion.com/news/article/Deaths-surge-again-in-New-York-from-coronavirus-15160973.php> (last accessed Apr. 13, 2020).

19 <sup>70</sup> *1,000 Inmates Will Be Released From N.J. Jails to Curb Coronavirus Risk*, N.Y.  
20 TIMES (Mar. 23, 2020), <https://www.nytimes.com/2020/03/23/nyregion/coronavirus-nj-inmates-release.html> (last accessed Apr. 13, 2020).

21 <sup>71</sup> Jim Brunner and Mary Hudetz, *Washington Department of Corrections names 1,100+  
22 inmates to be released in coming days due to coronavirus concerns*, SEATTLE TIMES  
23 (Apr. 16, 2020), <https://www.seattletimes.com/seattle-news/crime/washington-department-of-corrections-lists-names-of-hundreds-of-inmates-to-be-released-in-coming-days-due-to-coronavirus-concerns/> (last accessed Apr. 19, 2020).

24 <sup>72</sup> Scott Noll, *Cuyahoga County Jail releases hundreds of low-level offenders to prepare  
25 for coronavirus pandemic*, NEWS 5 CLEVELAND (Mar. 20, 2020),  
26 <https://www.news5cleveland.com/news/local-news/oh-cuyahoga/cuyahoga-county-jail-releases-hundreds-of-low-level-offenders-to-prepare-for-coronavirus-pandemic> (last  
27 accessed Apr. 13, 2020).

28 <sup>73</sup> *Joint Statement from Elected County Sheriffs on COVID-19*,  
<https://lawenforcementactionpartnership.org/national-sheriffs-covid-19/> (last accessed  
Apr. 12, 2020).



1 54. Internationally, governments have also responded to the threat posed by  
2 COVID-19 by releasing people from incarceration. To take one of many examples, in  
3 Iran, more than 80,000 people were temporarily released from prison in the early stages of  
4 the pandemic to protect them and to protect the community from propagation of an  
5 outbreak.<sup>74</sup> In Ethiopia, more than 4,000 people were pardoned and released from  
6 incarceration to help prevent the spread of COVID-19.<sup>75</sup>

7 55. States and other local jurisdictions have also made changes to existing  
8 carceral policies in response to the COVID-19 pandemic, including eliminating medical  
9 co-pays for incarcerated people and waiving fees for phone calls and video  
10 communication.<sup>76</sup> Others have required facilities to distribute and make available  
11 sanitation supplies and hand sanitizer to everyone who is incarcerated, arranged for the  
12 immediate evaluation and treatment of anyone with symptoms, and enacted screening  
13 procedures for everyone who enters the jail or prison.<sup>77</sup>

14 56. Over the past few weeks, multiple courts have also acknowledged the severe  
15 and urgent threats posed by COVID-19 and have accordingly ordered the release of  
16 detained and incarcerated persons.<sup>78</sup> Immediate release of medically vulnerable Plaintiffs,

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17  
18 <sup>74</sup> Parisa Hafezi, *Iran Temporarily Frees 85,000 From Jail Including Political Prisoners*,  
19 REUTERS (Mar. 17, 2020), <https://www.reuters.com/article/us-health-coronavirus-iran-prisoners/iran-temporarily-frees-85000-from-jail-including-political-prisoners-amid-coronavirus-idUSKBN21410M> (last accessed Apr. 13, 2020).

20  
21 <sup>75</sup> Bukola Adebayo, *Ethiopia pardons more than 4,000 prisoners to help prevent*  
22 *coronavirus spread*, CNN (Mar. 26, 2020),  
23 <https://www.cnn.com/2020/03/26/africa/ethiopia-pardons-4000-prisoners-over-coronavirus/index.html> (last accessed Apr. 13, 2020).

24 <sup>76</sup> *Responses to the COVID-19 Pandemic*, PRISON POLICY INITIATIVE (Mar. 27, 2020),  
25 <https://www.prisonpolicy.org/virus/virusresponse.html> (last accessed Apr. 13, 2020).

26 <sup>77</sup> *See, e.g., Preparedness and Response Plan 5-8*, Indiana Dep't of Correction (2020),  
27 <https://www.in.gov/idoc/files/IDOC%20Pandemic%20Response%20Plan%203-3-2020.pdf#response%20plan> (last accessed Apr. 13, 2020).

28 <sup>78</sup> *See, e.g., Castillo et al. v. Barr*, 5:20-cv-00605, ECF Doc. 32 (C.D. Cal. Mar. 27, 2020) (ordering petitioners be released from immigration detention in light of COVID-19 and noting “the risk of infection in immigration detention facilities – and jails – is particularly high”); *USA v. Garlock.*, No. 18 Cr 00418, 2020 WL 1439980, at \*1 (N.D.



1 as well as the subclasses of medically vulnerable people they represent, is an urgently-  
2 needed public health intervention.

3 57. Correctional medical and public health experts have urged the release of  
4 medically vulnerable people from incarceration given the heightened risk of transmission  
5 and infection. Dr. Jonathan Giftos, the former Medical Director for Correctional Health  
6 Services at Riker’s Island, has urged “releasing as many people as possible with a focus  
7 on those at highest risk of complication.”<sup>79</sup> A group of doctors who work in New York  
8 City’s jails, hospitals and shelters,<sup>80</sup> as well as a group of more than 200 Johns Hopkins  
9 faculty in public health, bioethics, medicine, and nursing have also urged the release of  
10 medically vulnerable people from incarceration.<sup>81</sup>

11 \_\_\_\_\_  
12 Cal. Mar. 25, 2020) (ordering, sua sponte, extension of convicted defendant’s surrender  
13 date and noting “[b]y now it almost goes without saying that we should not be adding to  
14 the prison population during the COVID-19 pandemic if it can be avoided”); *Xochihua-*  
15 *Jaimés v. Barr*, No. 18-71460 (9th Cir. Mar. 24, 2020) (ordering, sua sponte, that  
16 petitioner be immediately released from immigration detention “[i]n light of the rapidly  
17 escalating public health crisis” related to COVID-19 that “public health authorities  
18 predict will especially impact immigration detention centers”); *U.S. v. Stephens*, 15 Cr.  
19 95 (AJN), 2020 WL 1295155 (S.D.N.Y. Mar. 19, 2020) (granting motion for  
20 reconsideration of defendant’s bail conditions and releasing him from jail to home  
21 confinement, explaining that “the unprecedented and extraordinarily dangerous nature of  
22 the COVID-19 pandemic has become apparent” and that “inmates may be at a  
23 heightened risk of contracting COVID-19 should an outbreak develop”); *In re.*  
24 *Extradition of Alejandro Toledo Manrique*, 2020 WL 1307109, (N.D. Cal. Mar. 19,  
25 2020) (ordering release on bond despite government assertions that facility has  
26 preparedness plan in place and no cases have been confirmed).

27 <sup>79</sup> *Recipe for disaster: The spread of corona virus among detained populations*, MSNBC  
28 (Mar. 18, 2020), <https://www.msnbc.com/all-in/watch/-recipe-for-disaster-the-spread-of-coronavirus-among-detained-populations-80947781758>.

<sup>80</sup> Brad Lander, *Doctors in NYC Hospitals, Jails, and Shelters Call on the City to Take More Aggressive Action to Combat the Spread of Coronavirus*, MEDIUM (Mar. 12, 2020), <https://medium.com/@bradlander/doctors-in-nyc-hospitals-jails-and-shelters-call-on-the-city-to-take-more-aggressive-action-to-fb75f0b131c2> (last accessed Apr. 13, 2020).

<sup>81</sup> *Letter from Johns Hopkins faculty to Governor Hogan* (Mar. 25, 2020), <https://bioethics.jhu.edu/wp-content/uploads/2019/10/Johns-Hopkins-faculty-letter-on-COVID-19-jails-and-prisons.pdf> (last accessed Apr. 13, 2020).

1                   **PUBLIC HEALTH OFFICIALS FOR LOS ANGELES COUNTY HAVE**  
2                   **RECOMMENDED COMPLIANCE WITH CDC GUIDANCE AND CALLED FOR**  
3                   **OTHER MEASURES TO ADDRESS COVID-19 AT THE COUNTY’S JAILS**

4                   58.     On March 31, 2020, the County of Los Angeles Department of Public Health  
5 issued a letter to Los Angeles County Sheriff Alex Villanueva, recommending that the  
6 LASD follow the CDC’s Interim Guidance on Management of Coronavirus in  
7 Correctional and Detention Facilities, and implement the following additional measures:

- 8                   a.     Develop predictions for the impact of COVID-19 spread in each jail  
9                   facility;
- 10                  b.     Continue to reduce the incarcerated population of the County jails so  
11                  the County jails can adhere to the standards set forth in the CDC and  
12                  State’s guidelines, giving priority to those with underlying health  
13                  conditions, older prisoners, and pregnant women; and
- 14                  c.     Release individuals from the County jails with adequate shelter and  
15                  supportive services if necessary and release them in a manner that  
16                  minimizes any risk to the community.<sup>82</sup>

17                  59.     On April 9, 2020, the Los Angeles County Department of Public Health  
18 issued its own Guidance for Correctional and Detention Facilities to prevent and reduce  
19 the spread of COVID-19 at entry into facilities and within facilities.<sup>83</sup> The  
20 recommendations include, but are not limited to, requiring staff to wear masks and gloves  
21 at all times, providing soap available at no cost, liquid soap available when possible, paper  
22 towels, tissues at no cost, no-touch trash receptacles, masks to symptomatic prisoners;

23 \_\_\_\_\_  
24 <sup>82</sup> *Letter from Los Angeles County Health Officer to Los Angeles County Sheriff* (Mar.  
25 31, 2020),

26 [http://www.ph.lacounty.gov/media/Coronavirus/DPH\\_NecessaryAppropriateMeasuresin  
27 Jails\\_033120.pdf](http://www.ph.lacounty.gov/media/Coronavirus/DPH_NecessaryAppropriateMeasuresinJails_033120.pdf) (last accessed Apr. 10, 2020).

28 <sup>83</sup> Los Angeles County Department of Public Health, *Guidance for Correctional and  
29 Detention Facilities* (Apr. 9, 2020),

[http://publichealth.lacounty.gov/media/Coronavirus/GuidanceCorrectionalDetentionFaci  
30 lities.pdf](http://publichealth.lacounty.gov/media/Coronavirus/GuidanceCorrectionalDetentionFacilities.pdf) (last accessed Apr. 12, 2020).

1 ensuring access to running water; enabling social distancing; positioning beds at least six  
 2 feet apart; increasing cleaning of common spaces; eliminating appointment co-pays;  
 3 reducing the prison population in order to abide by social distancing guidelines; and  
 4 prioritizing early release of medically vulnerable prisoners.<sup>84</sup>

5 60. Civil rights advocates have publicly called on Defendants to take more  
 6 extensive measures to minimize the spread of COVID-19. Several community-based  
 7 organizations in Los Angeles called on the LASD, the Los Angeles County Department of  
 8 Health Services-Correctional Health Services, the Los Angeles County District Attorney,  
 9 the Los Angeles Superior Court, and the Los Angeles County Board of Supervisors to take  
 10 several measures to reduce the jail population and ensure jail conditions minimize the  
 11 spread of COVID-19 among the County jails and staff.<sup>85</sup> The ACLU of Southern  
 12 California separately called on the LASD to reduce the jail population, ensure that those  
 13 quarantined are not held beyond their release date, cite and release, provide adequate and  
 14 free hygiene supplies including warm water and soap, providing medical treatment,  
 15 ensuring adequate staffing even if jail staff become sick, screening staff for COVID-19,  
 16 providing extra care for vulnerable populations, and collecting data.<sup>86</sup>

17 **DEFENDANTS' RESPONSES TO THE COVID-19 PANDEMIC ARE**  
 18 **CONSTITUTIONALLY DEFICIENT AND PLACE THE PEOPLE IN ITS**  
 19 **CUSTODY AT HEIGHTENED RISK**

20 61. Despite the multiple guidelines and statements issued on preventing the  
 21 spread of COVID-19 in correctional facilities and Los Angeles County jails in particular,  
 22 many of these measures have not been implemented across County jails.

23 \_\_\_\_\_  
 24 <sup>84</sup> *Id.*

25 <sup>85</sup> *Advocacy Groups Urge Los Angeles County Officials to Take Immediate Action to*  
 26 *Stop Spread of COVID-19 Through Jails and Communities* (Mar. 13, 2020),  
 27 [https://www.hrw.org/news/2020/03/16/advocacy-groups-urge-los-angeles-county-](https://www.hrw.org/news/2020/03/16/advocacy-groups-urge-los-angeles-county-officials-take-immediate-action-stop-spread#)  
 28 [officials-take-immediate-action-stop-spread#](https://www.hrw.org/news/2020/03/16/advocacy-groups-urge-los-angeles-county-officials-take-immediate-action-stop-spread#) (last accessed Apr. 12, 2020).

<sup>86</sup> *Letter from ACLU of Southern California to Los Angeles County Sheriff's Department*  
 (Mar. 12, 2020), <https://www.aclusocal.org/en/letter-covid19-la-jail-conditions> (last  
 accessed Apr. 12, 2020).

1           62. As of April 23, 2020, 44 prisoners in the Los Angeles County jail system  
 2 have tested positive for COVID-19, 29 of whom are currently positive;<sup>87</sup> 73 prisoners are  
 3 isolated; and 1,643 prisoners are quarantined.<sup>88</sup> There have been 144 negative tests.<sup>89</sup> The  
 4 limited testing that is administered to incarcerated people in the County jail system makes  
 5 it difficult to determine the true prevalence of the disease in the County jails. Of those in  
 6 isolation, 8 are in the CTC, 61 are in TTCF, and 4 are in the Los Angeles County Medical  
 7 Center (“LCMC”).<sup>90</sup> Of those in quarantine, 36 are in the IRC, 289 are in MCJ, 118 are in  
 8 TTCF, 195 are in PDC-South, and 1,005 are in NCCF.<sup>91</sup> Also as of April 23, 2020, 59  
 9 LASD employees have tested positive for COVID-19 and 313 are currently quarantined,  
 10 with another 539 who were exposed or positive now back at work.<sup>92</sup>

11           63. All people incarcerated in the Los Angeles County jails face a significant risk  
 12 of exposure to COVID-19. Defendants are aware of the heightened threat of COVID-19 in  
 13 the jails—the CDC, the Mayor of Los Angeles, the County Board of Supervisors, medical  
 14 experts, and various advocates have already directly alerted them of this risk as well as the  
 15 preventive measures needed to protect against the further spread of COVID-19. Los  
 16 Angeles County Sheriff Alex Villanueva has personally spoken at press conferences  
 17 regarding LASD’s response to COVID-19 in the County jails.<sup>93</sup>

18           64. Despite these widespread warnings, Defendants remain woefully unprepared  
 19

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20 <sup>87</sup> Fifteen have recovered. Los Angeles County Sheriff’s Department, *Coronavirus*  
 21 *Information Updates* (last updated Apr. 23, 2020), <https://lasd.org/covid19updates/> (last  
 22 accessed Apr. 23, 2020).

23 <sup>88</sup> *Id.*

24 <sup>89</sup> *Id.*

25 <sup>90</sup> *Id.*

26 <sup>91</sup> *Id.*

27 <sup>92</sup> *Id.*

28 <sup>93</sup> Los Angeles County Sheriff’s Department, *Sheriff Alex Villanueva Provides LASD*  
*Status Update in the Face of COVID-19* (Apr. 14, 2020) [https://lasd.org/sheriff-lasd-](https://lasd.org/sheriff-lasd-status-covid-19/)  
*status-covid-19/* (last accessed Apr. 23, 2020); Los Angeles County Sheriff’s  
 Department, *Sheriff Alex Villanueva to discuss Safety Precautions regarding COVID-19*  
 (Mar. 16, 2020), <https://www.youtube.com/watch?v=FPZQY2KU9zg> (last accessed  
 Apr. 10, 2020).

1 and have failed to take necessary precautions to protect the people in their custody against  
2 this unprecedented, life-threatening public health crisis.

3 65. Even though the County has reduced its prisoner population from 17,076 on  
4 March 16, 2020<sup>94</sup> to 11,990 as of April 23, 2020,<sup>95</sup> the County's prison population is still  
5 too high to give Class Members the ability to practice safe social distancing. The total  
6 population is still close to the jail's maximum capacity (based on normal circumstances,  
7 not taking into account social distancing needs).<sup>96</sup> Conditions force prisoners to sit, stand,  
8 walk, eat, and sleep within six feet of another person.<sup>97</sup> Vulnerable populations remain  
9 jailed. Essential medical services including testing for COVID-19 are not provided  
10 because there are too many people jailed. There is an inadequate supply of PPE to meet  
11 the needs of the existing population.

12 66. Although the LASD Department Operation Center has issued some  
13 guidelines on how to deal with COVID-19 across the Department, these primarily appear  
14 to address testing and PPE for LASD personnel, not protections for prisoners.<sup>98</sup>  
15 Defendants do not follow their own COVID-19 protocols, the recommendations and  
16 guidelines issued by Los Angeles and California public health officials, or the CDC  
17 COVID guidance for correctional facilities.

18 <sup>94</sup> Los Angeles County Sheriff's Department, *Sheriff Alex Villanueva to discuss Safety*  
19 *Precautions regarding COVID-19* (Mar. 16, 2020),

20 <https://www.youtube.com/watch?v=FPZQY2KU9zg> (last accessed Apr. 10, 2020).

21 <sup>95</sup> Los Angeles County Sheriff's Department, *Coronavirus Information Updates* (last  
22 updated Apr. 23, 2020), <https://lasd.org/covid19updates/> (last accessed Apr. 23, 2020).

23 <sup>96</sup> Los Angeles County Sheriff's Department, *Custody Division Population Quarterly*  
24 *Report* (Oct. – Dec. 2019),

25 [https://lasd.org/transparency%20data/custody%20reports/Custody%20Division%20Popu](https://lasd.org/transparency%20data/custody%20reports/Custody%20Division%20Population%202019%20Fourth%20Quarter%20Report.pdf)  
26 [lation%202019%20Fourth%20Quarter%20Report.pdf](https://lasd.org/transparency%20data/custody%20reports/Custody%20Division%20Population%202019%20Fourth%20Quarter%20Report.pdf) (last accessed Apr. 22, 2020).

27 <sup>97</sup> Alene Tchekmedyan, *L.A. Jail Inmates Say Lack of Soap and Toilet Paper Heightens*  
28 *Coronavirus Fear: 'Like Slow Torture,'* L.A. TIMES (Mar. 30, 2020),

29 [https://www.latimes.com/california/story/2020-03-30/coronavirus-inmates-hygiene-](https://www.latimes.com/california/story/2020-03-30/coronavirus-inmates-hygiene-supply-shortage-la-jails)  
30 [supply-shortage-la-jails](https://www.latimes.com/california/story/2020-03-30/coronavirus-inmates-hygiene-supply-shortage-la-jails) (last accessed Apr. 12, 2020).

31 <sup>98</sup> Los Angeles County Sheriff's Department, *Coronavirus Information Updates:*  
32 *Department Operations Center Guidelines,*

33 [https://lasd.org/covid19updates/#doc\\_guidelines](https://lasd.org/covid19updates/#doc_guidelines) (last accessed Apr. 12, 2020).



1           67. Defendants have failed to implement policies and practices to address the  
2 substantial risk of transmission of COVID-19 among prisoners within the County's jails,  
3 and as a result exposed putative members of the plaintiff class to a substantial risk of  
4 serious harm and death. The unconstitutional conditions and practices that place the  
5 putative class at unreasonable risk span across the facilities that make up the County's  
6 jails. As prisoners move between facilities, deficiencies in COVID-19 practices in one  
7 facility extend to other facilities.

8 ***Densely Populated Facilities Prevent Social Distancing***

9           68. In MCJ, up to ninety-six people are forced to live in the same open bay  
10 dormitory unit where dozens of triple bunk beds are placed between one to three feet  
11 apart. Even if they sleep head to foot, prisoners housed in these dormitories remain less  
12 than six feet apart.

13           69. Some incarcerated individuals with medical conditions are placed in small,  
14 cramped medical cells at MCJ with three beds, a toilet, and a sink. It is not possible for  
15 each person to be six feet apart from their cell mates even in a medical cell. Individuals of  
16 advanced age and with a history of respiratory disease jailed at MCJ in a medical cell are  
17 being moved to general population cells even though they have preexisting conditions  
18 which place them at high risk of mortality if they contract COVID-19. When these  
19 individuals plead to stay in smaller cells to minimize their exposure, Defendants have  
20 issued disciplinary reports against them citing "noncompliance".

21           70. Even individuals housed in one-man cells in MCJ are in cells that are lined  
22 up one next to the other, and these prisoners cannot maintain six feet of distance from the  
23 individuals in adjacent cells. Some of these units are equipped with barred doors that  
24 allow other prisoners to make physical contact. It is not possible to avoid air circulation  
25 between the one-man cells.

26           71. In CRDF, the County's women's correctional facility, there are two different  
27 types of housing; some women are housed in cells on the sides of the module and some  
28 women are housed in the dayroom of the module. In the day room of the modules, 12-30



1 women share space without any partitions or dividers, and their beds are roughly 1.5 feet  
2 apart. People who are kept in cells share their cells with one other person without any  
3 possibility to keep six feet away from that other person. Even where people are housed in  
4 the cells of some modules, they are sharing a dayroom with the people who are in the  
5 dayroom, and they are in bunk beds with two beds, sharing the cells with another person.  
6 The only thing that divides the cells from the dayroom is a single glass door, through  
7 which food is passed. The people staying in the cells must go through the dayroom, where  
8 the other people sleep, to shower.

9 72. In NCCF, up to sixty-six people are forced to live in the same dormitory-style  
10 unit where triple bunk beds are stacked next to each other with no more than 3 feet  
11 separating each bunk and less than two feet from one bunk to the bunk beneath it. The  
12 bunks are spaced so close to one another that at least one Plaintiff can bump into another  
13 bunk simply by reaching his arms out while lying down.

14 73. With the population size and the close quarters, it is impossible for the  
15 incarcerated people in these units to remain six feet apart. When it is meal time,  
16 Defendants require the incarcerated individuals to line up (without spacing apart) to  
17 retrieve their meals. It would be impossible for the line up to occur where each person is  
18 six feet apart from another person, given the size and configuration of the unit. In multiple  
19 facilities when it is meal time, the Defendants require prisoners to line up.

20 74. In the TTCF, trustees and disabled prisoners that need Americans with  
21 Disabilities Act (“ADA”) accommodations share a 16-person “pod”. In the pod, there are  
22 8 trustees and 8 ADA prisoners. The trustees sleep on bunk beds, where the person on the  
23 top bunk sleeps only 5 feet above the person on the bottom bunk. The bunk beds are only  
24 2 ½ or 3 feet apart from each other.

25 75. In all of the facilities, Defendants house individuals awaiting trial in the same  
26 jail cells as those who have been convicted and serving their sentences.

27 ***Movement of Prisoners and Risks from Staff***

28 76. Defendants are responsible for transporting incarcerated individuals to their

1 court dates in courthouses across Los Angeles County.

2 77. In the transport process, Defendants require incarcerated individuals to stand  
3 in close proximity to corrections staff and to other incarcerated individuals. At various  
4 stages of the transport process, staff handcuffs incarcerated individuals who are housed in  
5 different jail facilities to one another, facilitating the exchange of respiratory vapors and  
6 droplets.

7 78. Defendants transport incarcerated individuals in vans or other motor vehicles  
8 where incarcerated individuals are seated right next to each other and in some cases,  
9 squeezed in to fit the high number of people who require transport.

10 79. Defendants force incarcerated individuals into small “court tanks” in the  
11 courthouses while they wait for their court appearance and for the Defendants to “process”  
12 the incarcerated individuals. Defendants will force individuals from different facilities to  
13 be assigned to the same “holding tank”. Those with medical conditions rendering them  
14 vulnerable to COVID-19 are not separated. These practices and customs facilitate the  
15 transmission of COVID-19 from one facility to another or from housing unit to housing  
16 unit.

17 80. In these small holding tanks, people are packed in so tightly that it is often  
18 standing room only and people are breathing close to one another. Defendants will leave  
19 incarcerated individuals in these holding tanks for hours at a time. Due to the small size of  
20 the tank and the large numbers of people in them, if someone in the holding tank is  
21 coughing and/or has a contagious illness, it is virtually certain that the illness would  
22 spread like wildfire to the others who are crammed inside. It is impossible to give each  
23 person six feet of room in these holding tanks.

24 81. There is currently no COVID-19 testing performed on all County Jail  
25 employees who work at the facilities. Upon information and belief, the Jail does not take  
26 daily the temperatures or screen for symptoms of staff when they arrive for work at the jail  
27 facilities. Even if such screening were implemented, there would remain a risk of staff-to-  
28 prisoners transmission. Even if the jail did, not all individuals infected with COVID-19

1 present with fever in the early stages of the infection, and some remain asymptomatic  
2 carriers. The risk of asymptomatic transmission means that monitoring staff for fever or  
3 other active symptoms is inadequate to identify all who may be infected and can thereby  
4 infect others. As of April 19, 2020, the LASD website appears to only encourage staff to  
5 self-report symptoms of COVID-19. That measure is inadequate, given that many persons  
6 infected with COVID-19 have mild or no symptoms.

7 82. When people are transported within the facility, they are often in spaces  
8 (cells, elevators, vehicles) crowded with people, some who are newly arrested and have  
9 not been tested, and there is no way to keep six feet apart from the other people nearby. In  
10 addition, prisoners are not kept far enough apart while being taken to attorney visits. One  
11 plaintiff reported being ordered to stand less than six feet apart while being held in a  
12 confined space on the way to his attorney visit. At least one person in the space was  
13 coughing.

14 83. Class member Jeffrey Livotto was taken to court for a probation hearing on  
15 or around March 26, 2020. He was transported on Defendants' bus along with dozens of  
16 other prisoners. Not a single one had masks, and the person he was cuffed and chained to  
17 was coughing uncontrollably.

18 84. On April 8, 2020, Plaintiff Mark Avila was transported to court and observed  
19 holding tanks with as many as 30 people standing in a small cell. The tank is filthy and the  
20 prisoners are not provided disinfectant supplies to wipe down any surfaces they touch. He  
21 and others can sometimes in there for hours, thus putting them at risk of disease  
22 transmission if someone in the holding cell is positive for COVID-19.

23 85. In early April 2020, Plaintiff Rodney Cullors was transported by Defendants  
24 to a medical facility for a MRI. There were three people chained to the wheelchair van, all  
25 of whom were over the age of 50. None of the other men had masks and some were  
26 coughing.

27 86. On March 16, 2020, Class Member Catrina Balderrama was transported to  
28 court for a hearing at the Clara Shortridge Foltz Criminal Justice Center in Downtown Los

1 Angeles. When she was transported back to CRDF, she was placed in a holding tank with  
2 an older woman dressed in a brown uniform, which she knows to signify a hospital  
3 housing designation. The woman was coughing a lot and having trouble breathing. There  
4 was not enough room to appropriately socially distance from this woman.

### 5 ***LASD Staff Shortages and Vacancies***

6 87. Defendants are experiencing significant staff shortages due to quarantining of  
7 employees and medical staff. The precipitous decline in the staff who are available to  
8 work drastically reduces the operational capacity of the jail and creates challenges in  
9 handling the nearly 12,000 prisoner population.

10 88. On March 17, 2020, the LASD reported that there were 43 employees who  
11 were self-quarantined; 21 of them were believed to have been exposed on-duty.

12 89. As of April 23, 2020, at 9:00 AM, that number had sky-rocketed to 313  
13 LASD employees who were quarantined and 59 employees who have tested positive.

14 90. Staff vacancies occasioned by COVID-19 create an unreasonable risk of  
15 facilities becoming dangerously understaffed, which comprises medical care. Healthcare  
16 staff who provide treatment are unavailable. Correctional staff also play a vital role in  
17 delivering medical services, by escorting prisoners, responding to and alerting medical of  
18 medical emergencies, and providing security to health care staff while they provide  
19 services. Their absence also compromises treatment.

### 20 ***Lack of Protective Personal Equipment***

21 91. Until April 10, 2020, Defendants did not provide any PPE for the people  
22 jailed at Los Angeles County jails, even if they exhibited symptoms of COVID-19, were  
23 within close proximity of someone exhibiting symptoms of COVID-19, or requested such  
24 equipment. As such, people were fashioning their own makeshift masks to protect  
25 themselves against the growing dangers of contracting the virus in the jail setting. At  
26 MCJ, such activity is considered destruction of jail property and subject to a write up, loss  
27 of privileges, or other disciplinary action. In CRDF, at one point, Defendants made those  
28 individuals take off their makeshift face masks, stating that they would be sent to 23-hour

1 disciplinary lockdown if they kept on those face coverings. Defendants did not respond  
2 immediately to grievances submitted by prisoners at the end of March seeking face masks.

3 92. On April 10, 2020, Defendants first started providing one cloth face mask per  
4 prisoner to incarcerated people in MCJ and CRDF. Later, on or around April 15, 2020,  
5 Defendants distributed face masks to individuals in NCCF. No instructions were provided  
6 as to when to wear the face masks at NCCF.

7 93. For the majority of the individual plaintiffs, Defendants provided no  
8 instructions for regular cleaning of the masks. There is a uniform policy in the jails that  
9 prisoners only have access to laundry once a week, and only for uniforms they are willing  
10 to exchange. Prisoners are not reissued the same uniforms or towels. Thus, there is no  
11 appropriate laundry system for masks, which should be laundered daily per CDC  
12 recommendations.

13 94. Defendants have not replenished the supply of face masks and, as such,  
14 prisoners have had to reuse their face masks despite the fact that some of the face masks  
15 distributed at MCJ are single-use only. Plaintiff Rodney Cullors' single-use mask's elastic  
16 broke, rendering it unusable.

17 95. Many of the Named Plaintiffs have not received more than one mask.

18 96. Defendants have also not provided access to gloves except for those prisoners  
19 assigned to cleaning. In addition, on several occasions at MCJ and NCCF Defendants  
20 have denied prisoner requests to use gloves.

21 97. Deputies often do not wear protective personal equipment like gloves or  
22 masks when interacting with people jailed at MCJ, and there have been shortages in  
23 protective personal equipment for all people incarcerated and working in the jails.

24 ***Lack of Hygiene and Sanitation Supplies***

25 98. Contrary to Sheriff Villanueva's statements that cleaning crews are doing  
26 more to keep facilities clean and that prisoners have access to soap and running water,  
27 prisoners do not in fact have adequate access to sanitization supplies such as soap or other

28 ///



1 cleaning supplies for jail facilities such as showers.<sup>99</sup>

2 99. Defendants do not provide free unrestricted hygiene or personal sanitation  
3 supplies to many individuals jailed at MCJ beyond some people receiving a one-time  
4 provision of one small bar of soap that is insufficient for the routine handwashing and  
5 cleaning necessary to mitigate against the spread of COVID-19. After that bar of soap is  
6 used up or for people who have not received this one-time provision, the only access to  
7 hygiene or sanitary products is by purchase through the jail's commissary system. Those  
8 without access to the jail's commissary due to lack of funds or status are unable to access  
9 more substantial anti-bacterial soap during the growing escalation of COVID-19. Even  
10 those with access to commissary are confronted with inflated prices for soap or other  
11 personal hygiene supplies, e.g., \$1.45 for a bar of Irish Spring, \$2.11 for a bar of Dove, or  
12 \$5.05 for a bar of Neutrogena.

13 100. In some facilities, Defendants provide incarcerated individuals with a small  
14 bar of soap once a week, which is insufficient to last the week if one washes their hands  
15 with it every day. The soap is labeled "Freshscent Deodorant Soap". Nowhere on the label  
16 does it say that the soap is anti-bacterial. Defendants do not provide hand sanitizer or  
17 gloves. Soap is not automatically replenished upon request; in some dorms, the deputies  
18 have complete discretion to give soap upon request or to deny such requests.

19 101. Defendants have also not provided access to hand sanitizer, or have denied  
20 requests to use hand sanitizer. In response to prisoner requests and grievances, for  
21 instance, incarcerated people at MCJ have been told by deputies that they may not have  
22 hand sanitizer.

23 102. Defendants do not provide adequate cleaning supplies, free of charge and in  
24 the proper concentrations of strength to prevent transmission of the virus.

25 103. Defendants have not provided tissues, paper towels, napkins, or toilet paper

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27 <sup>99</sup> Alene Tchekmedyan, *L.A. Jail Inmates Say Lack of Soap and Toilet Paper Heightens*  
28 *Coronavirus Fear: 'Like Slow Torture,'* L.A. TIMES (Mar. 30, 2020),  
<https://www.latimes.com/california/story/2020-03-30/coronavirus-inmates-hygiene-supply-shortage-la-jails> (last accessed Apr. 12, 2020).

1 above their normal allotment to wipe one's hands after handwashing. Prisoners have to  
2 wipe their hands on their uniforms after handwashing.

3 104. None of the individual plaintiffs have been provided with paper towels,  
4 Kleenex, tissues, or other materials to dry their hands since the County public health order  
5 issued on March 16, 2020. Nor has any Named Plaintiff been provided with hand  
6 sanitizer.

7 105. Plaintiff Jeremiah Farmer does not have hand sanitizer or regular access to  
8 soap in his dorm that he shares with over 50, maybe over 60, people. He has to routinely  
9 ask to borrow another prisoner's soap. He often sees jail officials wearing masks and then  
10 taking them off when they come into his dorm.

### 11 ***Insufficient Cleaning of Communal Areas and High Touch Surfaces***

12 106. Defendants do not provide adequate cleaning supplies so that prisoners can  
13 clean their own personal living spaces or high-touch surfaces or objects, creating an  
14 unreasonable risk ensuring that the dozens of people who share the same cell will quickly  
15 transmit the illness to each other.

16 107. In each sixty-six person unit in NCCF, incarcerated people are forced to share  
17 four toilets, two urinals, and two showers. They also share the same phones, exercise area  
18 and the same communal tables. Every surface in the cell is high-touch, even the railings  
19 on the stairs. Defendants do not provide people with disinfectant supplies in this high-  
20 touch area, nor do they provide for the cleaning of exercise equipment or tables between  
21 each use. Each person must therefore risk COVID-19 infection when using the phones,  
22 eating at the same table, or exercising with the same equipment.

23 108. If the sinks, toilets, and showers are broken, there are only a handful of each  
24 available for everyone in the cell or dorm. The toilets and showers are not cleaned or  
25 disinfected between each use, and Defendants do not provide supplies for disinfection or  
26 cleaning between each use. In NCCF, a prisoner is assigned to clean the shower once a  
27 day, but on any given day, twenty or thirty people can use a shower before it is  
28 cleaned. Showers at CRDF do not have hot water.

1 109. In each open dormitory, the people incarcerated in MCJ are forced to share a  
2 limited number of phones, approximately five to six, when calling family members, loved  
3 ones, or lawyers. They also share the same exercise area and the same communal tables.  
4 Defendants do not provide people with adequate disinfectant supplies in this high-touch  
5 areas, nor do they provide for the cleaning of phones, exercise equipment, or tables  
6 between each use. “Trustees” will clean the dormitories about once a week, but any daily  
7 cleaning is up to the prisoners living in the dormitory, who are not provided the supplies  
8 they need to clean between uses. Each person must therefore risk COVID-19 infection  
9 when touching and speaking through the phone, eating at the same table, or exercising  
10 with the same equipment.

11 110. “Trustees” who are assigned to clean the cells and common areas in CRDF  
12 about once a week spray Citracide on a rag and then use the same rag to wipe down the  
13 table tops and the phones. They do not wipe down the kiosks, sinks, vending machines,  
14 shower handles, or stairway railings, which are surfaces that everyone touches on a daily  
15 basis. The phones are not cleaned between individual use. There is no regular schedule for  
16 cleaning the showers, and it is done by volunteers housed in the unit.

17 111. Plaintiff DeNeal Young is medically vulnerable, confined to a wheelchair  
18 because of blood clots in his legs, and is not even provided his own soap, let alone paper  
19 towels, clean towels every day, or hand sanitizer. Even though he is in a wheelchair, he  
20 has been told that he has to wipe down the shared shower himself before and after use by  
21 using his foot to drag aside the trash, e.g., wet clothes, hair, dirty diapers. He is not given  
22 cleaning supplies to clean his cell or the shared shower.

23 112. Plaintiff Victor Gutierrez is medically vulnerable and is a “trustee” assigned  
24 to clean the public visiting area and floors of the jail where other prisoners have tested  
25 positive for COVID-19. He is provided a dust mask and a jump suit made out of paper that  
26 tears easily. On April 9, 2020, he was assigned to clean the cell of a person who tested  
27 positive for COVID-19, but was not provided adequate safety equipment to do so. As a  
28 result, his paper suit tore while he was cleaning and the dirty liquid from the cleaning

1 product, feces, and urine that he had mopped seeped through his suit and his socks.

2 113. Plaintiff Carole Dunham is medically vulnerable and was required to clean a  
3 cell from which a prisoner had been removed to quarantine, even though she complained  
4 to a deputy that she did not feel safe doing so. The jail staff are aware of her medical  
5 vulnerability. She was not given a mask or jumpsuit to clean the room. Not long after  
6 cleaning the room, she developed a cough.

7 ***Infrequent Provision of Clean Laundry***

8 114. Individuals do not have daily access to clean laundry and prisoners in at least  
9 one facility are forced to do their own laundry with cleaning supplies purchased with their  
10 own funds from the commissary.

11 115. In most facilities, Defendants provide clean uniforms only once per week  
12 even though incarcerated individuals are being told to cough on their sleeves. Although  
13 clean sheets, t-shirts, and thermals are to be provided once a week, many incarcerated  
14 individuals including Plaintiffs LeAndrew Lewis and Jeremiah Farmer, and Class Member  
15 Jeffrey Livotto have to wait weeks to get them. Defendants also provide a clean towel  
16 only once a week through this same laundry service. This towel is the only thing prisoners  
17 have besides their clothes to dry their hands on; as a result, both the towel and the clothes  
18 accumulate aerosols and droplets all week. With the releases due to the virus that have  
19 already occurred, less laundry is being done per week; yet the jail has not increased the  
20 frequency of laundry services to protect the remaining prisoners.

21 116. At NCCF, individuals are not given even weekly clean laundry. Clean towels  
22 are provided only once a month, which means for one whole month, incarcerated  
23 individuals use the same uniforms, sheets, and the single towel they are given. All of those  
24 items come in close contact with other people. The sheets and clothes are exposed to other  
25 people in the jail, ensuring that any respiratory aerosols or droplets remain on the clothing  
26 long after they are transmitted.

27 117. Plaintiff LeAndrew Lewis receives a change of bedding or clothing every 30  
28 days. He has not received fresh laundry since approximately the end of March 2020.

1 ***Medically Vulnerable Prisoners and Lack of Medical Care***

2 118. Defendants' failure to implement adequate practices and customs to detect  
3 and contain COVID-19 places incarcerated people who have pre-existing medical  
4 conditions at an imminent and unreasonable risk of severe illness and death from COVID-  
5 19. These conditions include advance age, moderate to severe asthma, chronic lung  
6 disease, hypertension, diabetes, epilepsy, compromised immune systems due to cancer  
7 treatment, asthma, diabetes, and seizures. The imminent risk of serious illness and death to  
8 medically vulnerable prisoners cannot be fully remediated other than by the release of  
9 these prisoners to the fullest extent possible.

10 119. Individuals like Class Member Albert Kirk Jones who require daily breathing  
11 treatments for obstructive breathing or sleep apnea have had their CPAP (continuous  
12 positive airway pressure) machines confiscated. These individuals have been provided no  
13 other alternatives to the vital medical treatment that those machines provide them.

14 120. Defendants charge a co-pay for medical services as well as for medication  
15 such as Sudafed. In addition, Defendants do not always have medications available that  
16 prisoners need, and it is hard for prisoners to get doses adjusted.

17 121. Plaintiffs have faced wait times of up to 3 weeks to see a doctor after  
18 submitting a medical request.

19 122. Individuals have had time-sensitive surgeries delayed indefinitely due to  
20 COVID-19. Plaintiff DeNeal Young has severe obesity, an undiagnosed heart condition,  
21 and blood clots in his legs that put him at risk of a heart attack or stroke. Defendants have  
22 told him that they will not transfer him to the hospital for an urgent surgery due to  
23 COVID-19.

24 123. Class Member Albert Kirk Jones, a 64-year-old African American man who  
25 has a history of bronchitis, pneumonia and a heart condition, was told that he would be  
26 moved from his 3-man cell to a dorm in general population where there is a greater  
27 likelihood of transmission of COVID-19. When he pleaded to stay for fear of contracting  
28 the illness, he was disciplined for "noncompliance" and told that he would lose his



1 privileges to commissary, visitation, and vending.

2 124. Plaintiff Mark Avila has chronic asthma and has been hospitalized due to his  
3 chronic asthma about 30 times in his lifetime. Defendants fail to provide him with the  
4 extensive medical care regiment he had when he was free, including 2 inhalers at all  
5 times, access to necessary medications at all times, and access to breathing treatments  
6 daily. While incarcerated, his asthma is exacerbated by the dust and grime inside his jail  
7 cell.

8 125. Class Member Benito Venegas has asthma and epilepsy. He is housed in a  
9 dorm with 80+ people, who all leave for court appearances, medical visits, attorney visits,  
10 and other mandatory transports from time to time and come back to the dorm. Due to the  
11 arrangement of the beds being less than three feet apart from one another, he is forced to  
12 sleep in close proximity to other people who are coughing loudly.

13 126. Plaintiff LeAndrew Lewis is diabetic, suffers from high blood pressure, and  
14 is prone to bronchitis. He is in a dorm with 30 or so people where it is impossible to keep  
15 six feet apart from one another. The people that are in the beds that surround him are  
16 regularly coughing within a few feet of him.

17 127. Plaintiff Victor Gutierrez is housed in a dorm in TTCF. He has asthma,  
18 hypertension, and a metabolic disorder. He has been forced to clean the cells of  
19 individuals who tested positive for COVID-19.

20 128. Plaintiff Carole Dunham has Type I diabetes and receives insulin shots four  
21 times a day. Ms. Dunham has been directed to clean the phones, common areas, and cells  
22 in the module, including the cell of at least one quarantined prisoner.

23 129. Class Member Holly Davidson was diagnosed with lymphoma in February of  
24 2016 and underwent partial chemotherapy. She also has asthma. There are 12 to 13  
25 women in the dayroom outside her cell, which is an area she must cross in order to shower  
26 or use the phone. She has not been instructed on cleaning her cell or provided any  
27 cleaning solution.

28 130. Class Member Jeffrey Livotto is an asthmatic and has suffered serious asthma

1 attacks. He has been transferred between a four-person cell in MCJ and two 60+ person  
2 dorms in NCCF all in the span of two weeks between the end of March and the beginning  
3 of April 2020.

#### 4 *Inadequate Intake Process*

5 131. At the IRC where new arrestees are booked and processed, arrestees are  
6 placed in a single enclosed cell with about 25 other people while being processed through  
7 the jail system. In this cell, it is not possible to be six feet apart from another prisoner. At  
8 various points, prisoners are told to stand shoulder to shoulder or right behind one another.  
9 Prisoners also stand in line to walk through metal detectors. They sit on benches right  
10 next to each other while waiting to be interviewed by Defendants. They are also instructed  
11 to shower right next to one another in a single shower room with no walls or dividers  
12 between each person.

13 132. With regard to new jail admittees, Defendants screen incoming prisoners for  
14 symptoms of COVID-19, but only quarantine those who have active symptoms, or who  
15 report close contact with an infected person before arrest.

16 133. These screening processes are inadequate, and create an unreasonable risk  
17 that infected new admittees are cleared for placement in general population housing, and  
18 thus expose other prisoners and staff to infection.

19 134. Some 25% of infected people are asymptomatic, and asking them screening  
20 questions will fail to identify them so they can be isolated, tested, and treated if positive.  
21 Also, symptoms screening alone is ineffective since it may take several days after  
22 becoming infected for symptoms to appear. Therefore, all new admittees must be  
23 quarantined for 14 days and monitored on at least a daily basis for fever and symptoms of  
24 COVID-19 so that those are infected will no longer carry the virus (and those who become  
25 infected remain separated) before being placed in a housing unit with other prisoners.  
26 Without quarantining all newly-admitted prisoners, it is inevitable that some percentage of  
27 new admittees will carry the virus and infect others housed in the jail.

28 ///

1 *Failure to Timely Isolate Individuals Who Exhibit Symptoms of COVID-19 or Were*  
2 *Exposed to Another Person with Symptoms of COVID-19; Underutilization of Testing*

3 135. When people exhibit symptoms of COVID-19, it can take weeks for jail  
4 personnel to respond to their requests for a medical appointment. Many incarcerated  
5 people experiencing symptoms of COVID-19, including coughs, fevers, and difficulty  
6 breathing will not get adequate or timely assessment for COVID-19 infection or treatment  
7 for their symptoms, nor have they been isolated from asymptomatic people. Testing is not  
8 regularly provided to those who have symptoms. Even with severe symptoms, it takes  
9 days before prisoners are taken to medical for testing. Once at medical, those who are  
10 coughing are not necessarily tested for COVID-19.

11 136. Numerous incarcerated individuals at MCJ have been exposed to individuals  
12 who exhibit visible symptoms of COVID-19, e.g., fever and cough. However, Defendants  
13 do not timely isolate people who exhibit symptoms and do not provide information to  
14 those of us who have been exposed to that person on how to protect themselves against the  
15 spread of COVID-19. Persons exposed to prisoners suspected of COVID-19 are not timely  
16 assessed if they are infected.

17 137. If there is a prisoner suspected of COVID-19, that prisoner is removed from  
18 their unit or cell. Defendants will place the rest of the unit or cell under “quarantine.”  
19 However, deputies will continue to do their walk-throughs in quarantined pods and floors.  
20 The same deputies will go straight from a quarantined area of the jail into a non-  
21 quarantined area of the jail. Because of the perforated metal walls and gaps in doors that  
22 separate quarantined areas from non-quarantined areas, prisoners are at risk for being  
23 exposed to the virus whenever prisoners walk past a quarantined area. Moreover, this  
24 method of quarantine is insufficient to prevent the spread of COVID-19 because if a  
25 presumptively positive person has been in close quarters with his dorm mates, isolating  
26 large numbers of people without being able to space them six feet apart does not lessen the  
27 likelihood of COVID-19 spread.

28 138. With the exception of one Plaintiff who was isolated weeks after symptoms

1 appeared, Plaintiffs have not had access to testing despite showing symptoms of COVID-  
2 19 infection.

3 139. Incarcerated individuals who exhibit symptoms for COVID-19 are not treated  
4 in a timely fashion or provided a minimally acceptable level of medical care.

5 140. Requests to see medical staff due to COVID-19 symptoms are not responded  
6 to immediately, even when grievances complaining about the inadequacy of medical  
7 response are filed.

8 141. In late March, a woman was diagnosed with COVID-19 in one of the  
9 modules of the jail. That woman was complaining of symptoms for days but did not have  
10 access to timely testing. The woman was housed in a two-man cell and her roommate also  
11 began coughing and told the deputies that she had a fever. Neither woman was issued a  
12 mask or gloves until the moment they were taken out of the module to be quarantined,  
13 days after symptoms first began. Both women moved between the dayroom and their cell  
14 during that time, and there were a number of prisoners, including Plaintiff Carole  
15 Dunham, housed in the dayroom.

16 142. After the woman was removed from the module, Plaintiff Carole Dunham, a  
17 prisoner worker, was assigned to clean the cell. She was not given a mask and was only  
18 given gloves and Citracide with which to clean the cell. Plaintiff Dunham has diabetes and  
19 voiced concerns for her safety to the jail staff but was told that the cell needed cleaning.  
20 After that time, Plaintiff Dunham developed a cough. Plaintiff Dunham has requested  
21 testing, but when she was taken to the medical unit, she was not provided with a test. She  
22 has still not been tested. There are other diabetics in the module and none of them were  
23 provided with masks before April 10.

24 143. Likewise, Plaintiff Haviland has been reporting symptoms to the jail staff for  
25 days. She has been provided with cold medicine but has not been given a test.

26 144. Plaintiff Young developed a fever and cough on or around March 15, 2020  
27 after being exposed to another prisoner who was coughing aggressively. He was not  
28 provided access to a test, although the nursing staff were the ones who noted his fever.

1 145. Class Member Albert Kirk Jones developed a cough, fever, and body aches at  
2 MCJ on or around the end of January 2020. He was transferred to the TTCF where he was  
3 not tested for COVID-19 despite his symptoms.

4 146. A prisoner in Plaintiff Victor Gutierrez's pod was showing symptoms of  
5 COVID-19. The whole pod was locked down on quarantine, but since Plaintiff Victor  
6 Gutierrez was at work at the time, Defendants allowed him to move to a different pod  
7 despite the fact that he was previously exposed to the presumptively positive prisoner that  
8 same morning.

9 147. On or around March 2020, Plaintiff Rodney Cullors was taken to medical for  
10 an unrelated illness and, for 30 to 45 minutes, was exposed to a patient he was informed  
11 had COVID-19, without any mask, gloves, or even a dividing curtain separating him from  
12 the patient.

13 ***Lack of Adequate Care for Prisoners Who Test Positive for COVID-19***

14 148. Defendants place individuals who are presumptively positive for COVID-19  
15 in single person cells that do not have toilet paper, soap, or any other sanitizing supplies.  
16 Defendants do not provide basic hygienic materials to these presumptively positive  
17 individuals while they are in the single person cells.

18 149. The jail is utilizing segregation units to house persons with known or  
19 suspected COVID-19 illness. This acts to deter prisoners from reporting COVID-related  
20 symptoms, due to their fear that doing so will result in their being placed in punitive  
21 isolation conditions. Use of punitive isolation cells thus creates an unreasonable risk of  
22 hastening the spread of the disease as symptomatic prisoners will not report themselves  
23 and remain in general population units.

24 150. After a person has tested positive for COVID-19, Defendants place them in  
25 single-person cells in the same facilities as other non-COVID-19 individuals. Defendants  
26 require them to be inside their cells 24 hours a day with no access to a shower. Defendants  
27 do not allow them to make phone calls. Defendants do not provide them with masks.  
28 Defendants do not provide them with soap. Defendants do not clean their cells.



1 Defendants do not provide them with access to disinfectant supplies to clean their cells.

2 151. Public health guidelines require the Jail to conduct contract investigations to  
3 identify and quarantine all persons who have come into close contact with persons with  
4 known or suspected COVID-19. Monitoring of close contacts should include regular  
5 symptom screening and temperature checks. Quarantine should separate high-risk and  
6 low-risk inmates. The Jail has not instituted contact investigations and quarantine and  
7 monitoring practices for those in close contact with symptomatic inmates consistent with  
8 public health guidelines Defendants' customs and practices in this regard have created an  
9 unreasonable risk of further spread of COVID-19 in the Los Angeles County jail system  
10 and to the public at large.

11 152. Class Member Catrina Baldarrama tested positive for COVID-19 in late  
12 March while housed at CRDF. She was transferred to TTCF for testing because there was  
13 no testing capability at CRDF itself. She was then transported back to CRDF and placed in  
14 a disciplinary segregation cell where she was isolated without phone calls, sanitary  
15 napkins, or soap. Her personal belongings – food and personal hygiene products – were  
16 confiscated and apparently thrown away.

17 153. Class Member Catrina Baldarrama was housed in module 3700, the module  
18 where Plaintiff Carole Dunham is housed. No contact tracing was done for her, nor was  
19 that module quarantined. Although she was transferred out of the module in late March,  
20 prisoners in that module did not receive masks until April 10. Prisoners with coughs in the  
21 module have not been able to get tested.

22 154. Once the facility suspected she had COVID-19, Ms. Baldarrama was moved  
23 to an isolation cell on a disciplinary unit, deprived of toilet paper, toothbrush and any  
24 supplies to maintain basic personal hygiene. After she returned from CTC, she was placed  
25 back in a disciplinary isolation cell, where she was isolated with no access to a shower for  
26 12 days, no phone calls, no soap and no sanitary napkins. Deputies told her she was going  
27 to die in the isolation cell. Her personal belongings – food and personal hygiene products  
28 – were confiscated and apparently thrown away. Her doctors instructed CRDF to ensure

1 she had access to fluids and stayed well-hydrated, but many days they did not provide  
2 water. They provided milk, which she could not drink because she has a dairy allergy, and  
3 which they refused to replace with a non-dairy milk alternative. It is her understanding  
4 that she is supposed to receive a diet complete with fruits and vegetables, which she has  
5 not received.

### 6 *Transparency and Education about COVID-19*

7 155. Defendants do not post or provide sufficient information about COVID-19,  
8 including protective or preventive measures to avoid transmission, to the people jailed in  
9 CRDF.

10 156. Defendants have not provided any written materials that provide general  
11 updates about the COVID-19 pandemic, information on how prisoners can protect  
12 themselves from contracting COVID-19, or instructions about how to properly wash  
13 hands.

14 157. Prisoners are not provided information even when their dorms or cells are on  
15 quarantine.

### 16 **CLASS ACTION ALLEGATIONS**

17 158. The named Plaintiffs bring this action on behalf of themselves and all others  
18 similarly situated as a class action under Federal Rules of Civil Procedure 23(a) and  
19 23(b)(2).

20 159. Plaintiffs Rodney Cullors, Mark Avila, LeAndrew Lewis, Jeremiah Farmer,  
21 and Jessica Haviland seek to represent a class of all current and future detainees in pretrial  
22 custody, including alleged violations of probation or parole, at all County jails (“Pretrial  
23 Equitable Relief Class”), including one sub-class of all persons who, by reason of age or  
24 medical condition as defined below, the CDC has identified as particularly vulnerable to  
25 injury or death if they were to contract COVID-19 (“Pretrial Medically Vulnerable  
26 Subclass”). Plaintiffs Rodney Cullors and Mark Avila are also representatives and  
27 members of the Pretrial Medically Vulnerable Subclass.

28 160. Plaintiffs DeNeal Young, Victor Gutierrez, Rany Uong, and Carole Dunham

1 seek to represent a class of all current and future detainees in post-conviction custody,  
2 including those serving a term of incarceration pursuant to an adjudicated violation of  
3 probation or parole, at all County jails (“Post-Conviction Equitable Relief Class”),  
4 including one sub-class of all persons who, by reason of age or medical condition, the  
5 CDC has identified as particularly vulnerable to injury or death if they were to contract  
6 COVID-19 (“Post-Conviction Medically Vulnerable Subclass”). Plaintiffs DeNeal Young,  
7 Victor Gutierrez, and Carole Dunham are also representatives and members of the Post-  
8 Conviction Medically Vulnerable Subclass.

9       161. The “Medically Vulnerable Subclasses” are defined as “all current and future  
10 [pretrial detainees/post-conviction prisoners] held in all County jails over the age of fifty-  
11 five, as well as all current and future [pretrial detainees/post-conviction prisoners] held in  
12 all County jails of any age who experience (a) lung disease, including asthma, chronic  
13 obstructive pulmonary disease (e.g. bronchitis or emphysema), or other chronic conditions  
14 associated with impaired lung function; (b) heart disease, such as congenital heart disease,  
15 congestive heart failure or coronary artery disease; (c) chronic liver or kidney disease  
16 (including hepatitis and dialysis patients); (d) diabetes or other endocrine disorders;  
17 (e) epilepsy; (f) hypertension; (g) compromised immune systems (such as from cancer,  
18 HIV, receipt of an organ or bone marrow transplant, as a side effect of medication, or  
19 other autoimmune disease); (h) blood disorders (including sickle cell disease); (i) inherited  
20 metabolic disorders; (j) history of stroke; (k) a developmental disability; (l) a current or  
21 recent (within the last two weeks) pregnancy; (m) severe obesity; and/or (n) any other  
22 condition identified either now or in the future as being a particular risk for severe illness  
23 and/or death caused by COVID-19.” The medically vulnerable subclasses seek both  
24 injunctive relief and, if and to the extent necessary, release pursuant to a writ of habeas  
25 corpus.

26       162. This action is brought and may properly be maintained as a class action  
27 pursuant to Rule 23 of the Federal Rules of Civil Procedure. This action satisfies the  
28 requirements of numerosity, commonality, typicality, and adequacy. Fed. R. Civ. P. 23(a).

1 163. As of April 23, 2020, the County jails confined 11,990 people, all of whom  
2 are eligible members of the classes and subclasses. The class meets the numerosity  
3 requirement of Federal Rule of Civil Procedure 23(a).

4 164. Joinder of all members is impracticable. Demographic data regarding the  
5 health of correctional populations indicates that the subclasses are likely to contain  
6 hundreds of people.<sup>100</sup>

7

Health condition	Prevalence of health condition by population			
	Jails	State prisons	Federal prisons	United States
Ever tested positive for Tuberculosis	2.5%		6.0%	0.5%
Asthma	20.1%		14.9%	10.2%
Cigarette smoking	n/a	64.7%	45.2%	21.2%
HIV positive	1.3%		1.3%	0.4%
High blood pressure/hypertension	30.2%		26.3%	18.1%
Diabetes/high blood sugar	7.2%		9.0%	6.5%
Heart-related problems	10.4%		9.8%	2.9%
Pregnancy	5.0%	4.0%	3.0%	3.9%

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*Health conditions that make respiratory diseases like COVID-19 more dangerous are far more common in the incarcerated population than in the general U.S. population. Pregnancy data come from our report, [Prisons neglect pregnant women in their healthcare policies](#), the CDC's [2010 Pregnancy Rates Among U.S. Women](#), and data from the [2010 Census](#). Cigarette smoking data are from a 2016 study, [Cigarette smoking among inmates by race/ethnicity](#), and all other data are from the 2015 BJS report, [Medical problems of state and federal prisoners and jail inmates, 2011-12](#), which does not offer separate data for the federal and state prison populations. Cigarette smoking may be part of the explanation of the higher fatality rate in China among men, who are far more likely to smoke than women.*

165. Joinder is impracticable because the class members are numerous; the class includes future, unknown members; and the class is fluid due to the inherently transitory nature of pretrial incarceration. Certifying the classes and subclasses supports judicial economy.

166. Common questions of law and fact exist as to all members of the classes and subclasses respectively. The named Plaintiffs seek common declarative and injunctive relief concerning whether Defendants' policies, practices, and procedures violate the constitutional rights of the class members. These common questions of fact and law include, but are not limited to:

- 1) What specific measures the County has implemented to protect incarcerated persons from the spread of COVID-19 in the jails

27 <sup>100</sup> Peter Wagner & Emily Widra, *No need to wait for pandemics: The public health case*  
28 *for criminal justice reform*, PRISON POLICY INITIATIVE (Mar. 6, 2020),  
[www.prisonpolicy.org/blog/2020/03/06/pandemic/](http://www.prisonpolicy.org/blog/2020/03/06/pandemic/) (last accessed Apr. 13, 2020).

1 including whether Defendants have taken appropriate measures to  
2 ensure adequate social distancing, to supply inmates with the necessary  
3 supplies for hand washing, to screen and quarantine new bookings to  
4 prevent contagious people from entering the jail population, and to  
5 ensure that surfaces are routinely disinfected;

6 2) Whether Defendants' practices during the COVID-19 pandemic  
7 encompass readily available and achievable health practices;

8 3) Whether Defendants' practices comport with the Centers for Disease  
9 Control and Prevention's and Los Angeles County Health  
10 Department's guidelines for preventing the spread of COVID-19 in  
11 correctional facilities;

12 4) Whether Defendants' practices during the COVID-19 pandemic expose  
13 inmates at LACJ facilities to a substantial risk of serious harm;

14 167. Additionally, members of the subclasses share the common question of their  
15 particular vulnerability to the COVID-19 pandemic.

16 168. Plaintiffs' claims are typical of the class members' claims. That typicality  
17 stems from their claim that Defendants have placed them at significant risk of harm by  
18 failing to take appropriate steps to address the risk of COVID-19 throughout the County's  
19 jails. Every person at the Jail faces a heightened risk of contracting COVID-19 if they are  
20 not adequately protected by Defendants. Plaintiffs and all class members are exposed to  
21 the same policies and practices, wrongful acts, omissions of Defendants as described in  
22 this Complaint. Plaintiffs' claims all arise from the same core of conduct by Defendants,  
23 and are based on the same legal theories. All class members seek the same declaratory and  
24 injunctive relief.

25 169. The claims of Plaintiffs are also typical of the Medically Vulnerable subclass  
26 members. The claims of Plaintiffs are typical as each member is subject to increased risk  
27 as a result of their existing age or medical conditions. Plaintiffs' claims as to the  
28 subclasses all arise from the same core of conduct by Defendants, and are based on the

1 same legal theories. All members of the Medically Vulnerable subclasses seek the same  
2 relief in the form of immediate release through *habeas corpus*.

3 170. The Plaintiffs are adequate representatives of the classes and subclasses  
4 because their interests in the vindication of the legal claims they raise are entirely aligned  
5 with the interests of the other class members, each of whom has the same constitutional  
6 claims. There are no known conflicts of interest among members of the proposed classes  
7 or subclasses, and the interests of the named Plaintiffs do not conflict with those of the  
8 other class or subclass members.

9 171. Plaintiffs are represented by counsel with experience and success in litigating  
10 complex civil rights matters in federal court. The interests of the members of the class will  
11 be fairly and adequately protected by the named Plaintiffs and their attorneys.

12 172. Because the putative class challenges Defendants' system as unconstitutional  
13 through declaratory and injunctive relief that would apply the same relief to every member  
14 of the class, and Defendants have acted on grounds generally applicable to all proposed  
15 class members, certification under Rule 23(b)(2) is appropriate and necessary.

16 173. A class action is a superior means, and the only practicable means, by which  
17 the named Plaintiffs and class members can challenge the Defendants' unconstitutional  
18 actions and obtain the necessary immediate declaratory and injunctive relief sought for  
19 themselves and all other members of the class.

#### 20 **FIRST CAUSE OF ACTION**

#### 21 **Unconstitutional Conditions of Confinement in Violation of the Fourteenth** 22 **Amendment of the U.S. Constitution (42 U.S.C. § 1983 / 28 U.S.C. § 2241)** 23 **(Pretrial Equitable Relief Class, Youth Justice Coalition, Dignity and Power Now vs.** 24 **All Defendants)**

25 174. Plaintiffs incorporate by reference each and every allegation contained in  
26 paragraphs 1 through 173 as if fully set forth herein.

27 175. Under the Fourteenth Amendment, corrections officials are required to  
28 provide for the reasonable health and safety of persons in pretrial custody. *Youngberg v.*



1 *Romeo*, 457 U.S. 307, 315–16, 324 (1982) (the state has an “unquestioned duty to provide  
2 adequate . . . medical care” for detained persons).

3 176. A prison official’s objective deliberate indifference to a substantial risk of  
4 harm to a prisoner awaiting trial violates the Fourteenth Amendment. *Gordon v. Cty. of*  
5 *Orange*, 888 F.3d 1118, 1124-25 (9th Cir. 2018).

6 177. Corrections officials have a constitutional obligation to provide for detainees’  
7 reasonable safety and to address their serious medical needs. *Youngberg v. Romeo*, 457  
8 U.S. 307, 315–16, 324 (1982) (the state has an “unquestioned duty to provide adequate . . .  
9 medical care” for detained persons).

10 178. As part of this right, the government must provide incarcerated persons with  
11 reasonable safety and address serious medical needs that arise in jail. Objective deliberate  
12 indifference to the serious risk COVID-19 poses to members of the Pretrial Equitable  
13 Relief Class, and particularly members of the Pretrial Medically Vulnerable Subclass,  
14 violates this right.

15 179. Defendants have placed Plaintiffs, and the class they represent, at a  
16 substantial risk of serious harm to their health and safety due to their acts and omissions as  
17 to presence of, and spread of, COVID-19. Defendants have failed to take reasonable  
18 available measures to abate that risk, even though reasonable officials and entities in the  
19 circumstances would have appreciated the high degree of risk involved, making the  
20 consequences of Defendants’ conduct obvious. By not taking all reasonable measures,  
21 Defendants have caused Plaintiffs injuries.

22 180. Exposure to an infectious disease like COVID-19 without adequate  
23 preventive measures constitutes deliberate indifference to a serious risk to health and  
24 safety. *Helling*, 509 U.S. at 33-34 (“Nor can we hold that prison officials may be  
25 deliberately indifferent to the exposure of inmates to a serious, communicable disease”);  
26 *Jolly v. Coughlin*, 76 F.3d 468, 477 (2d Cir. 1996) (“[C]orrectional officials have an  
27 affirmative obligation to protect [forcibly confined] inmates from infectious disease.”);  
28 *Powell v. Lennon*, 914 F.2d 1459, 1463 (11th Cir.1990) (plaintiff’s allegations that “the

1 defendants forced him to remain in a dormitory [whose] atmosphere was filled with  
2 friable asbestos” stated a claim for “deliberate indifference to the plaintiff’s serious  
3 medical needs.”); *see also Farmer v. Brennan*, 511 U.S. 825, 833 (1994) (“[H]aving  
4 stripped [prisoners] of virtually every means of self-protection and foreclosed their access  
5 to outside aid, the government and its officials are not free to let the state of nature take its  
6 course.”).

7 181. The County failed to comply with public health guidelines to prevent an  
8 outbreak of COVID-19 and failed to provide for the safety of the Classes and Subclasses.  
9 Defendants’ actions and inactions result in the confinement of members of the Classes and  
10 Subclasses in a jail where Plaintiffs are not being protected from, tested for, or treated for  
11 COVID-19, which violates Plaintiffs’ rights to treatment and adequate medical care.

12 182. By failing to implement such guidelines, Defendants have subjected Plaintiffs  
13 to conditions of confinement that increased their risk of contracting COVID-19, for which  
14 there is no known vaccine, treatment, or care. Due to the conditions in County jails,  
15 Plaintiffs are unable to take steps to protect themselves—such as social distancing,  
16 accessing medical attention or testing, or washing their hands regularly—and Defendants  
17 have failed to provide adequate protections or mitigation measures. Defendants acted with  
18 deliberate indifference towards Plaintiffs by failing to adequately safeguard their health  
19 and safety in the midst of a potential outbreak of a contagious, infectious disease. *See* Cal.  
20 Gov’t Code § 8658 (“In any case in which an emergency endangering the lives of inmates  
21 of a state, county, or city penal or correctional institution has occurred or is imminent, the  
22 person in charge of the institution may remove the inmates from the institution. He shall,  
23 if possible, remove them to a safe and convenient place and there confine them as long as  
24 may be necessary to avoid the danger, or, if that is not possible, may release them. Such  
25 person shall not be held liable, civilly or criminally, for acts performed pursuant to this  
26 section.”); *see also* Cal. Penal Code § 4012 (providing for the removal of prisoners to a  
27 “safe and convenient place . . . [of] confinement” when “a pestilence or contagious disease  
28 breaks out in or near a jail . . . liable to endanger the health of the prisoners”).

1 183. As a direct and proximate result of Defendants' unconstitutional actions,  
2 Plaintiffs and the class members they represent will suffer irreparable injury and are  
3 entitled to immediate injunctive relief.

4 184. Accordingly, Defendants, as supervisors, direct participants, and policy  
5 makers for Los Angeles County, have violated the rights of the Pretrial Equitable Relief  
6 Class and Pretrial Medically Vulnerable Subclass under the Fourteenth Amendment.

7 185. In addition, Defendant Villanueva has actual knowledge of the different  
8 policies, practices, and customs promulgated by the County across Los Angeles County  
9 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
10 on repeated occasions. Despite having such personal knowledge and being personally  
11 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
12 condoned, tolerated, and through actions and inactions ratified such policies while acting  
13 under color of law.

14 186. Section 2241(c)(3) allows this court to order the release of prisoners like  
15 Plaintiffs who are held "in violation of the Constitution." 28 U.S.C. 2241(c)(3); *Preiser v.*  
16 *Rodriguez*, 411 U.S. 475, 484 (1973) ("It is clear, not only from the language of ss  
17 2241(c)(3) and 2254(a), but also from the common-law history of the writ, that the  
18 essence of habeas corpus is an attack by a person in custody upon the legality of that  
19 custody, and that the traditional function of the writ is to secure release from illegal  
20 custody."); *Peyton v. Rowe*, 391 U.S. 54, 67 (1968) (Section 2241(c)(3) can afford  
21 immediate release for claims other than those challenging the sentence itself). Pursuant to  
22 this section, the Medically Vulnerable Subclass should be released to the maximum extent  
23 possible.

24 187. The members of Youth Justice Coalition and Dignity and Power Now have  
25 had their constitutional rights violated by Defendants' conduct. The mission of both Youth  
26 Justice Coalition and Dignity and Power Now are also frustrated by the acts of  
27 Defendants, and both organizations continue to divert resources as a result of Defendants'  
28 acts to ensure that their members and the communities they serve are not subjected to

1 Defendants' unconstitutional practices.

2 **SECOND CAUSE OF ACTION**

3 **Unconstitutional Punishment in Violation of the Fourteenth Amendment of the U.S.**  
4 **Constitution (42 U.S.C. § 1983 / 28 U.S.C. 2241)**  
5 **(Pretrial Equitable Relief Class, Youth Justice Coalition, Dignity and Power Now vs.**  
6 **All Defendants)**

7 188. Plaintiffs incorporate by reference each and every allegation contained in  
8 paragraphs 1 through 173 as if fully set forth herein.

9 189. Under the Fourteenth Amendment persons in pretrial custody have greater  
10 due process protections than those convicted and therefore cannot be punished as part of  
11 their detention. *Youngberg v. Romeo*, 457 U.S. 307, 321-22 (1982); *Bell v. Wolfish*, 441  
12 U.S. 520, 535 n.16 (1979). Defendants punish Plaintiffs when their conduct is either not  
13 related to a legitimate non-punitive governmental purpose or is excessive in relation to  
14 that purpose.

15 190. Even assuming that Defendants' provision of medical services and physical  
16 plans as to spacing between prisoners normally serves a legitimate non-punitive purpose  
17 of health and safety of detained persons, the County's jails, as currently operated, violate  
18 Plaintiffs' constitutional rights and do not comply with public health and CDC guidelines  
19 to prevent the introduction and spread of COVID-19. Therefore, continuing to detain class  
20 members under these conditions at the County's jails is not rationally related to, and is  
21 excessive in relation to, that purpose.

22 191. Defendants acted with deliberate indifference toward Plaintiffs by failing to  
23 adequately safeguard their health in the midst of a potential outbreak of a contagious,  
24 infectious disease. *See* Cal. Gov't Code § 8658 ("In any case in which an emergency  
25 endangering the lives of inmates of a state, county, or city penal or correctional institution  
26 has occurred or is imminent, the person in charge of the institution may remove the  
27 inmates from the institution. He shall, if possible, remove them to a safe and convenient  
28 place and there confine them as long as may be necessary to avoid the danger, or, if that is

1 not possible, may release them. Such person shall not be held liable, civilly or criminally,  
2 for acts performed pursuant to this section.”); *see also* Cal. Penal Code § 4012 (providing  
3 for the removal of prisoners to a “safe and convenient place . . . [of] confinement” when  
4 “a pestilence or contagious disease breaks out in or near a jail . . . liable to endanger the  
5 health of the prisoners”).

6 192. As a direct and proximate result of Defendants’ unconstitutional actions,  
7 Plaintiffs and the class members they represent will suffer irreparable injury and are  
8 entitled to immediate injunctive relief.

9 193. Accordingly, Defendants have subjected the Pretrial Equitable Relief Class  
10 and Pretrial Medically Vulnerable Subclass to punishment in violation of the Fourteenth  
11 Amendment.

12 194. In addition, Defendant Villanueva has actual knowledge of the different  
13 policies, practices, and customs promulgated by the County across Los Angeles County  
14 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
15 on repeated occasions. Despite having such personal knowledge and being personally  
16 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
17 condoned, tolerated, and through actions and inactions ratified such policies while acting  
18 under color of law.

19 195. Section 2241(c)(3) allows this court to order the release of prisoners like  
20 Plaintiffs who are held “in violation of the Constitution.” 28 U.S.C. 2241(c)(3); *Preiser v.*  
21 *Rodriguez*, 411 U.S. 475, 484 (1973) (“It is clear, not only from the language of ss  
22 2241(c)(3) and 2254(a), but also from the common-law history of the writ, that the  
23 essence of habeas corpus is an attack by a person in custody upon the legality of that  
24 custody, and that the traditional function of the writ is to secure release from illegal  
25 custody.”); *Peyton v. Rowe*, 391 U.S. 54, 67 (1968) (Section 2241(c)(3) can afford  
26 immediate release for claims other than those challenging the sentence itself). Pursuant to  
27 this section, the Medically Vulnerable Subclass should be released to the maximum extent  
28 possible.

1 196. The members of Youth Justice Coalition and Dignity and Power Now have  
 2 had their constitutional rights violated by Defendants' conduct. The mission of both Youth  
 3 Justice Coalition and Dignity and Power Now are also frustrated by the acts of  
 4 Defendants, and both organizations continue to divert resources as a result of Defendants'  
 5 acts to ensure that their members and the communities they serve are not subjected to  
 6 Defendants' unconstitutional practices.

### 7 **THIRD CAUSE OF ACTION**

#### 8 **Unconstitutional Conditions of Confinement in Violation of the Eighth Amendment** 9 **of the U.S. Constitution (42 U.S.C. § 1983 / 28 U.S.C. 2241)** 10 **(Post-Conviction Equitable Relief Class, Youth Justice Coalition, Dignity and Power** 11 **Now vs. All Defendants)**

12 197. Plaintiffs incorporate by reference each and every allegation contained in  
 13 paragraphs 1 through 173 as if fully set forth herein.

14 198. Under the Eighth Amendment, post-convicted persons in carceral custody  
 15 have a right to be free from cruel and unusual punishment. As part of the right, the  
 16 government must provide incarcerated persons with reasonable safety and address serious  
 17 medical needs that arise in jail. *See, e.g., DeShaney v. Winnebago County Dept. of Soc.*  
 18 *Services*, 489 U.S. 189, 200 (1989) (“[W]hen the State by the affirmative exercise of its  
 19 power so restrains an individual’s liberty that it renders him unable to care for himself,  
 20 and at the same time fails to provide for his basic human needs—e.g., food, clothing,  
 21 shelter, medical care, and reasonable safety—it transgresses the substantive limits on state  
 22 action set by the Eighth Amendment and the Due Process Clause.”); *Estelle v. Gamble*,  
 23 429 U.S. 97, 104 (1976) (the government has an “obligation to provide medical care for  
 24 those whom it is punishing by incarceration.”).

25 199. As part of this right under the Eighth Amendment, the government must  
 26 provide incarcerated persons with reasonable safety and address serious medical needs  
 27 that arise in jail. Deliberate indifference to the serious risk COVID-19 poses to members  
 28 of the classes, and particularly members of the Medically Vulnerable subclasses, violates



1 this right.

2 200. This Court need not “await a tragic event” to find that Defendants are  
3 maintaining unconstitutional conditions of confinement in the midst of a global pandemic.  
4 *See Helling*, 509 U.S. at 33. So long as the risk of serious harm is “likely,” as it is here, the  
5 Eighth Amendment is violated even if “the complaining inmate shows no serious current  
6 symptoms,” it is “not alleged that the likely harm would occur immediately,” and “the  
7 possible infection might not affect all of those exposed.” *Id.*

8 201. A prison official’s subjective deliberate indifference to a substantial risk of  
9 harm to a prisoner awaiting trial violates the Eighth Amendment. *Farmer v. Brennan*, 511  
10 U.S. 825, 828 (1994); *Estelle v. Gamble*, 429 U.S. 97, 104 (1976) (“deliberate  
11 indifference” to serious medical needs violates the Eighth Amendment).

12 202. Exposure to an infectious disease like COVID-19 without adequate  
13 preventive measures constitutes deliberate indifference to a serious risk to health and  
14 safety. *Helling*, 509 U.S. at 33-34 (“Nor can we hold that prison officials may be  
15 deliberately indifferent to the exposure of inmates to a serious, communicable disease”);  
16 *Jolly v. Coughlin*, 76 F.3d 468, 477 (2d Cir. 1996) (“[C]orrectional officials have an  
17 affirmative obligation to protect [forcibly confined] inmates from infectious disease.”);  
18 *Powell v. Lennon*, 914 F.2d 1459, 1463 (11th Cir.1990) (plaintiff’s allegations that “the  
19 defendants forced him to remain in a dormitory [whose] atmosphere was filled with  
20 friable asbestos” and that “defendants knew of the health danger and yet refused to move  
21 the plaintiff to an asbestos-free environment” stated a claim for “deliberate indifference to  
22 the plaintiff’s serious medical needs.”); *see also Farmer v. Brennan*, 511 U.S. 825, 833  
23 (1994) (“[H]aving stripped [prisoners] of virtually every means of self-protection and  
24 foreclosed their access to outside aid, the government and its officials are not free to let  
25 the state of nature take its course.”).

26 203. With respect to an impending infectious disease like COVID-19, deliberate  
27 indifference is satisfied when corrections officials “ignore a condition of confinement that  
28 is sure or very likely to cause serious illness and needless suffering the next week or

1 month or year,” even when “the complaining inmate shows no serious current symptoms.”  
2 *Helling*, 509 U.S. at 33 (holding that a prisoner “*states a cause of action* . . . by alleging  
3 that [corrections officials] have, with deliberate indifference, exposed him to conditions  
4 that pose an unreasonable risk of serious damage to future health”) (emphasis added); *see*  
5 *also Hope v. Pelzer*, 536 U.S. 730, 738 (2002) (citing *Farmer*, 511 U.S. at 842) (court  
6 “may infer the existence of [deliberate indifference] from the fact that the risk of harm is  
7 obvious”).

8 204. Plaintiffs, and the class members they represent, suffer a substantial risk of  
9 serious harm to their health and safety due to the presence of, and spread of, COVID-19.

10 205. The County failed to comply with public health guidelines to prevent an  
11 outbreak of COVID-19 and failed to provide for the safety of the Classes and Subclasses.  
12 Defendants’ actions and inactions result in the confinement of members of the Classes and  
13 Subclasses in a jail where they are not protected from, tested for, or treated for COVID-  
14 19, which violates Plaintiffs’ rights to be free from cruel and unusual punishment.

15 206. Defendants knew of and disregarded the serious risks that COVID-19 poses  
16 to Plaintiffs, including severe illness, permanent physical damage, and death. These risks  
17 were well-established, known by, and obvious to Defendants.

18 207. In addition, Defendant Villanueva has actual knowledge of the different  
19 policies, practices, and customs promulgated by the County across Los Angeles County  
20 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
21 on repeated occasions. Despite having such personal knowledge and being personally  
22 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
23 condoned, tolerated, and through actions and inactions ratified such policies while acting  
24 under color of law.

25 208. Defendants have subjected Plaintiffs to conditions of confinement that  
26 increased their risk of contracting COVID-19, for which there is no known vaccine,  
27 treatment, or cure. This subjects Plaintiffs to cruel and unusual punishment. Due to the  
28 conditions in County jails, Plaintiffs are unable to take steps to protect themselves—such

1 as social distancing, accessing medical attention or testing, or washing their hands  
2 regularly—and Defendants have failed to provide adequate protections or mitigation  
3 measures. Defendants acted with deliberate indifference towards Plaintiffs by failing to  
4 adequately safeguard their health and safety in the midst of a potential outbreak of a  
5 contagious, infectious disease. *See* Cal. Gov't Code § 8658 (“In any case in which an  
6 emergency endangering the lives of inmates of a state, county, or city penal or correctional  
7 institution has occurred or is imminent, the person in charge of the institution may remove  
8 the inmates from the institution. He shall, if possible, remove them to a safe and  
9 convenient place and there confine them as long as may be necessary to avoid the danger,  
10 or, if that is not possible, may release them. Such person shall not be held liable, civilly or  
11 criminally, for acts performed pursuant to this section.”); *see also* Cal. Penal Code § 4012  
12 (providing for the removal of prisoners to a “safe and convenient place . . . [of]  
13 confinement” when “a pestilence or contagious disease breaks out in or near a jail . . .  
14 liable to endanger the health of the prisoners”).

15 209. As a direct and proximate result of Defendants’ unconstitutional actions,  
16 Plaintiffs and the class members they represent will suffer irreparable injury and are  
17 entitled to immediate injunctive relief.

18 210. Accordingly, Defendants, as supervisors, direct participants, and policy  
19 makers for the County, have violated the rights of the Post-Conviction Equitable Relief  
20 Class and Post-Conviction Medically Vulnerable Subclass under the Eighth Amendment.

21 211. Section 2241(c)(3) allows this court to order the release of prisoners like  
22 Plaintiffs who are held “in violation of the Constitution.” 28 U.S.C. 2241(c)(3); *Preiser v.*  
23 *Rodriguez*, 411 U.S. 475, 484 (1973) (“It is clear, not only from the language of ss  
24 2241(c)(3) and 2254(a), but also from the common-law history of the writ, that the  
25 essence of habeas corpus is an attack by a person in custody upon the legality of that  
26 custody, and that the traditional function of the writ is to secure release from illegal  
27 custody.”); *Peyton v. Rowe*, 391 U.S. 54, 67 (1968) (Section 2241(c)(3) can afford  
28 immediate release for claims other than those challenging the sentence itself). Pursuant to

1 this section, the Medically Vulnerable Subclass should be released to the maximum extent  
2 possible.

3 212. The members of Youth Justice Coalition and Dignity and Power Now have  
4 had their constitutional rights violated by Defendants' conduct. The mission of both Youth  
5 Justice Coalition and Dignity and Power Now are also frustrated by the acts of  
6 Defendants, and both organizations continue to divert resources as a result of Defendants'  
7 acts to ensure that their members and the communities they serve are not subjected to  
8 Defendants' unconstitutional practices.

9 **FOURTH CAUSE OF ACTION**

10 **Failure to Accommodate in Violation of the Americans with Disabilities Act (42**

11 **U.S.C. § 12132)**

12 **(Medically Vulnerable Subclasses, Youth Justice Coalition, Dignity and Power Now**

13 **vs. All Defendants)**

14 213. Plaintiffs incorporate by reference each and every allegation contained in  
15 paragraphs 1 through 173 as if fully set forth herein.

16 214. Defendant County of Los Angeles is a public entity within the meaning of 42  
17 U.S.C. § 12131. Public entities are required "to make reasonable modifications in policies,  
18 practices, or procedures when the modifications are necessary to avoid discrimination on  
19 the basis of disability." 28 C.F.R. § 35.130(b)(7).

20 215. Defendants violate the ADA, 42 U.S.C. § 12132.

21 216. Plaintiffs and both Medically Vulnerable Subclasses suffer from disabilities  
22 within the meaning and scope of the ADA. In particular, Plaintiffs' disabilities put them at  
23 heightened risk of contracting COVID-19. Plaintiffs also meet the eligibility requirements  
24 for the receipt of the services, programs, or activities of the Defendants. 42 U.S.C.  
25 § 12131. Accordingly, Plaintiffs are members of the class of persons protected by 42  
26 U.S.C. § 12132, which make it unlawful for public entities to deny the benefits of the  
27 services, programs, or activities of a public entity to persons with disabilities.

28 217. As alleged herein, Defendants violated the ADA by, among other things,

1 their failure to provide reasonable accommodations and other services for Plaintiffs'  
2 disabilities. Defendants failed to provide adequate protections for prisoners suffering from  
3 pre-existing medical conditions that put them at higher risk of contracting COVID-19, in  
4 order to protect them from exposure. Defendants failed to release such prisoners, which is  
5 the only possible accommodation to fully protect them from COVID-19.

6 218. Defendants violated the ADA, including but not limited to, by failing to  
7 “ensure that inmates or detainees with disabilities are housed in the most integrated  
8 settings appropriate to the needs of the individuals” (28 C.F.R. Section 35.152(b)(2));  
9 “failing to implement reasonable policies, including physical modifications to additional  
10 cells in accordance with the 2010 [accessibility] Standards, so as to ensure that each  
11 inmate with a disability is housed in a cell with the accessible elements necessary to afford  
12 the inmate access to safe, appropriate housing (28 C.F.R. Section 35.152(b)(3)); failing or  
13 refusing to provide the Medically Vulnerable Subclasses with reasonable accommodations  
14 and other services related to their disabilities (28 C.F.R. section 35.130(a)); failing or  
15 refusing to provide equally effective communication (28 C.F.R. section 35.160(a));  
16 denying the Medically Vulnerable Subclasses “the opportunity to participate in or benefit  
17 from aid, benefit, or service” provided by Defendants” (28 C.F.R. section 35.130(b)(1)(i));  
18 failing to make “reasonable modifications in policies, practices or procedures when the  
19 modifications are necessary to avoid discrimination on the basis of disability” (28 C.F.R.  
20 35.130(b)(7)); failing to make available information to the Medically Vulnerable  
21 Subclasses about their rights while detained in the jail (28 C.F.R. section 35.106); and  
22 failing to “maintain in operable working conditions those features of facilities and  
23 equipment that are required to be readily accessible to and usable by persons with  
24 disabilities” (28 C.F.R. section 35.133(a)).

25 219. As a result of Defendants’ policy and practice of failing to provide reasonable  
26 accommodations and modifications, Plaintiffs and both Medically Vulnerable Subclasses  
27 do not have equal access to protection and jail activities, programs, and services for which  
28 they are otherwise qualified.

1           220. Defendants knew of and disregarded the serious risks that COVID-19 poses  
2 to Plaintiffs, including severe illness, permanent physical damage, and death. *See* Cal.  
3 Gov't Code § 8658 (“In any case in which an emergency endangering the lives of inmates  
4 of a state, county, or city penal or correctional institution has occurred or is imminent, the  
5 person in charge of the institution may remove the inmates from the institution. He shall,  
6 if possible, remove them to a safe and convenient place and there confine them as long as  
7 may be necessary to avoid the danger, or, if that is not possible, may release them. Such  
8 person shall not be held liable, civilly or criminally, for acts performed pursuant to this  
9 section.”); *see also* Cal. Penal Code § 4012 (providing for the removal of prisoners to a  
10 “safe and convenient place . . . [of] confinement” when “a pestilence or contagious disease  
11 breaks out in or near a jail . . . liable to endanger the health of the prisoners”).

12           221. In addition, Defendant Villanueva has actual knowledge of the different  
13 policies, practices, and customs promulgated by the County across Los Angeles County  
14 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
15 on repeated occasions. Despite having such personal knowledge and being personally  
16 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
17 condoned, tolerated, and through actions and inactions ratified such policies while acting  
18 under color of law.

19           222. As a direct and proximate result of Defendants’ conduct as alleged herein,  
20 Plaintiffs and the class members they represent will suffer irreparable harm and are  
21 entitled to immediate injunctive relief.

22           223. The members of Youth Justice Coalition and Dignity and Power Now have  
23 had their constitutional rights violated by Defendants’ conduct. The mission of both Youth  
24 Justice Coalition and Dignity and Power Now are also frustrated by the acts of  
25 Defendants, and both organizations continue to divert resources as a result of Defendants’  
26 acts to ensure that their members and the communities they serve are not subjected to  
27 Defendants’ unconstitutional practices.

28 ///



**FIFTH CAUSE OF ACTION**

**Discrimination in Violation of the Americans with Disabilities Act (42 U.S.C. § 12132)**

**(Medically Vulnerable Subclasses, Youth Justice Coalition, Dignity and Power Now vs. All Defendants)**

224. Plaintiffs incorporate by reference each and every allegation in paragraphs 1 through 173 as if fully set forth herein.

225. Defendant County of Los Angeles is a public entity within the meaning of 42 U.S.C. § 12131. Public entities are required “to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability.” 28 C.F.R. § 35.130(b)(7).

226. Defendants violate the ADA, 42 U.S.C. § 12132.

227. Plaintiffs and both Medically Vulnerable Subclasses suffer from disabilities within the meaning and scope of the ADA. In particular, Plaintiffs’ disabilities put them at heightened risk of contracting COVID-19. Plaintiffs also meet the eligibility requirements for the receipt of the services, programs, or activities of the Defendants. 42 U.S.C. § 12131. Accordingly, Plaintiffs are members of the class of persons protected by 42 U.S.C. § 12132, which make it unlawful for public entities to discriminate against individuals with disabilities.

228. As alleged herein, Defendants violated the ADA by, among other things, discriminating against members of the Medically Vulnerable Subclasses because of their disabilities and/or medical conditions. Defendants failed to provide adequate protections for prisoners suffering from pre-existing medical conditions that put them at higher risk of contracting COVID-19, in order to protect them from exposure. Defendants failed to release such prisoners, which is the only possible accommodation to fully protect them from COVID-19.

229. As a result of Defendants’ policy and practice of discriminating against Plaintiffs and the Medically Vulnerable Subclasses, Plaintiffs and the Medically

1 Vulnerable Subclasses do not have equal access to protection and jail activities, programs,  
2 and services for which they are otherwise qualified.

3 230. Defendants knew of and disregarded the serious risks that COVID-19 poses  
4 to Plaintiffs, including severe illness, permanent physical damage, and death. *See* Cal.  
5 Gov't Code § 8658 (“In any case in which an emergency endangering the lives of inmates  
6 of a state, county, or city penal or correctional institution has occurred or is imminent, the  
7 person in charge of the institution may remove the inmates from the institution. He shall,  
8 if possible, remove them to a safe and convenient place and there confine them as long as  
9 may be necessary to avoid the danger, or, if that is not possible, may release them. Such  
10 person shall not be held liable, civilly or criminally, for acts performed pursuant to this  
11 section.”); *see also* Cal. Penal Code § 4012 (providing for the removal of prisoners to a  
12 “safe and convenient place . . . [of] confinement” when “a pestilence or contagious disease  
13 breaks out in or near a jail . . . liable to endanger the health of the prisoners”).

14 231. In addition, Defendant Villanueva has actual knowledge of the different  
15 policies, practices, and customs promulgated by the County across Los Angeles County  
16 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
17 on repeated occasions. Despite having such personal knowledge and being personally  
18 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
19 condoned, tolerated, and through actions and inactions ratified such policies while acting  
20 under color of law.

21 232. As a direct and proximate result of Defendants’ conduct as alleged herein,  
22 Plaintiffs and the class members they represent will suffer irreparable harm and are  
23 entitled to immediate injunctive relief.

24 233. The members of Youth Justice Coalition and Dignity and Power Now have  
25 had their constitutional rights violated by Defendants’ conduct. The mission of both Youth  
26 Justice Coalition and Dignity and Power Now are also frustrated by the acts of  
27 Defendants, and both organizations continue to divert resources as a result of Defendants’  
28 acts to ensure that their members and the communities they serve are not subjected to

1 Defendants' unconstitutional practices.

2 **SIXTH CAUSE OF ACTION**

3 **Failure to Accommodate in Violation of the Rehabilitation Act (29 U.S.C. § 794)**  
4 **(Medically Vulnerable Subclasses, Youth Justice Coalition, Dignity and Power Now**  
5 **vs. All Defendants)**

6 234. Plaintiffs incorporate by reference each and every allegation in paragraphs 1  
7 through 173 as if fully set forth herein.

8 235. Section 504 of the Rehabilitation Act of 1973 provides in pertinent part:  
9 “[N]o otherwise qualified individual with a disability ... shall, solely by reason of her or  
10 his disability, be excluded from the participation in, be denied the benefits of, or be  
11 subjected to discrimination under any program or activity receiving federal financial  
12 assistance....” 29 U.S.C. § 794.

13 236. At all relevant times to this action, Defendants were recipients of federal  
14 funding within the meaning of the Rehabilitation Act. As recipients of federal funds, they  
15 are required to reasonably accommodate prisoners with disabilities in their facilities,  
16 program activities, and services. This Act further requires the Defendants to modify their  
17 facilities, services, and programs as necessary to accomplish this purpose.

18 237. Plaintiffs and both Medically Vulnerable Subclasses they represent are  
19 qualified individuals with disabilities as defined in the Rehabilitation Act. 29 U.S.C.  
20 § 705(20)(B). They are otherwise qualified to participate in the services, programs, or  
21 activities that are provided to inmates at the Los Angeles County jail facilities. 29 U.S.C.  
22 § 794(b).

23 238. By their policy and practice of failing to reasonably accommodate prisoners  
24 in the Medically Vulnerable Subclasses, Defendants violate Section 504 of the  
25 Rehabilitation Act, 29 U.S.C. § 794.

26 239. As a result of Defendants' conduct involving the failure to provide reasonable  
27 accommodations, Plaintiffs and members of both Medically Vulnerable Subclasses do not  
28 have equal access to jail activities, programs, and services for which they are otherwise

1 qualified.

2 240. Defendants knew of and disregarded the serious risks that COVID-19 poses  
3 to Plaintiffs, including severe illness, permanent physical damage, and death. *See* Cal.  
4 Gov't Code § 8658 (“In any case in which an emergency endangering the lives of inmates  
5 of a state, county, or city penal or correctional institution has occurred or is imminent, the  
6 person in charge of the institution may remove the inmates from the institution. He shall,  
7 if possible, remove them to a safe and convenient place and there confine them as long as  
8 may be necessary to avoid the danger, or, if that is not possible, may release them. Such  
9 person shall not be held liable, civilly or criminally, for acts performed pursuant to this  
10 section.”); *see also* Cal. Penal Code § 4012 (providing for the removal of prisoners to a  
11 “safe and convenient place . . . [of] confinement” when “a pestilence or contagious disease  
12 breaks out in or near a jail . . . liable to endanger the health of the prisoners”).

13 241. In addition, Defendant Villanueva has actual knowledge of the different  
14 policies, practices, and customs promulgated by the County across Los Angeles County  
15 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
16 on repeated occasions. Despite having such personal knowledge and being personally  
17 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
18 condoned, tolerated, and through actions and inactions ratified such policies while acting  
19 under color of law.

20 242. As a direct and proximate result of Defendants’ conduct as alleged herein,  
21 Plaintiffs and the class members they represent will suffer irreparable harm and are  
22 entitled to immediate injunctive relief.

23 243. The members of Youth Justice Coalition and Dignity and Power Now have  
24 had their constitutional rights violated by Defendants’ conduct. The mission of both Youth  
25 Justice Coalition and Dignity and Power Now are also frustrated by the acts of  
26 Defendants, and both organizations continue to divert resources as a result of Defendants’  
27 acts to ensure that their members and the communities they serve are not subjected to  
28 Defendants’ unconstitutional practices.

**SEVENTH CAUSE OF ACTION**

**Discrimination and Disparate-Impact Discrimination in Violation of the**

**Rehabilitation Act (29 U.S.C. § 794)**

**(Medically Vulnerable Subclasses, Youth Justice Coalition, Dignity and Power Now  
vs. All Defendants)**

244. Plaintiffs incorporate by reference each and every allegation contained paragraphs 1 through 173 as if fully set forth herein.

245. Section 504 of the Rehabilitation Act of 1973 provides in pertinent part: “[N]o otherwise qualified individual with a disability ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance....” 29 U.S.C. § 794.

246. At all relevant times to this action, Defendants were recipients of federal funding within the meaning of the Rehabilitation Act. As recipients of federal funds, they are required to provide equal protection to prisoners with disabilities in their facilities, program activities, and services. This Act further requires the Defendants to modify their facilities, services, and programs as necessary to accomplish this purpose. Defendant County.

247. Plaintiffs and both Medically Vulnerable Subclasses they represent are qualified individuals with disabilities as defined in the Rehabilitation Act. 29 U.S.C. § 705(20)(B). They are otherwise qualified to participate in the services, programs, or activities that are provided to inmates at the Los Angeles County jail facilities. 29 U.S.C. § 794(b).

248. By their policy and practice of discriminating against prisoners in the Medically Vulnerable Subclasses, Defendants violate Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. Defendants violate the Rehabilitation Act because their conduct has a discriminatory motive and disparate impact on members of the Medically Vulnerable Subclasses. *See Marshall v. McMahon*, 17 Cal.App.4th 1841, 1850 (1993) (“Claims of

1 discriminatory motive and disparate-impact discrimination may be brought under the  
2 Rehabilitation Act.”).

3 249. As a result of Defendants’ conduct involving discrimination and disparate  
4 impact discrimination, Plaintiffs and members of both Medically Vulnerable Subclasses  
5 do not have equal access to jail activities, programs, and services for which they are  
6 otherwise qualified.

7 250. Defendants knew of and disregarded the serious risks that COVID-19 poses  
8 to Plaintiffs, including severe illness, permanent physical damage, and death. *See* Cal.  
9 Gov’t Code § 8658 (“In any case in which an emergency endangering the lives of inmates  
10 of a state, county, or city penal or correctional institution has occurred or is imminent, the  
11 person in charge of the institution may remove the inmates from the institution. He shall,  
12 if possible, remove them to a safe and convenient place and there confine them as long as  
13 may be necessary to avoid the danger, or, if that is not possible, may release them. Such  
14 person shall not be held liable, civilly or criminally, for acts performed pursuant to this  
15 section.”); *see also* Cal. Penal Code § 4012 (providing for the removal of prisoners to a  
16 “safe and convenient place . . . [of] confinement” when “a pestilence or contagious disease  
17 breaks out in or near a jail . . . liable to endanger the health of the prisoners”).

18 251. In addition, Defendant Villanueva has actual knowledge of the different  
19 policies, practices, and customs promulgated by the County across Los Angeles County  
20 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
21 on repeated occasions. Despite having such personal knowledge and being personally  
22 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
23 condoned, tolerated, and through actions and inactions ratified such policies while acting  
24 under color of law.

25 252. As a direct and proximate result of Defendants’ conduct as alleged herein,  
26 Plaintiffs and the class members they represent will suffer irreparable harm and are  
27 entitled to immediate injunctive relief.

28 253. The members of Youth Justice Coalition and Dignity and Power Now have



1 had their constitutional rights violated by Defendants’ conduct. The mission of both Youth  
2 Justice Coalition and Dignity and Power Now are also frustrated by the acts of  
3 Defendants, and both organizations continue to divert resources as a result of Defendants’  
4 acts to ensure that their members and the communities they serve are not subjected to  
5 Defendants’ unconstitutional practices.

6 **EIGHTH CAUSE OF ACTION**

7 **Cal. Gov’t Code § 11135**

8 **(Medically Vulnerable Subclasses, Youth Justice Coalition, Dignity and Power Now**  
9 **vs. All Defendants)**

10 254. Plaintiffs incorporate by reference each and every allegation contained in  
11 paragraphs 1 through 173 as if fully set forth herein.

12 255. California Government Code section 11135(a) provides in pertinent part:  
13 “No person in the State of California shall, on the basis of ... disability, be unlawfully  
14 denied the benefits of, or be unlawfully subjected to discrimination under, any program  
15 or activity that is funded directly the state or receives any financial assistance from the  
16 state.”

17 256. Defendants receive financial assistance from the State of California. Plaintiffs  
18 and both Medically Vulnerable Subclasses are all persons with disabilities within the  
19 meaning of California Government Code § 11135. They are otherwise qualified to  
20 participate in the services, programs, or activities that are provided to inmates at the Los  
21 Angeles County jail facilities.

22 257. Defendant County and its jails are entities are bound to comply with section  
23 11135.

24 258. As described herein, Defendants deny Plaintiffs full access to the benefits of  
25 the jail’s programs and activities which receive financial assistance from the State of  
26 California and unlawfully subject Plaintiffs and both Medically Vulnerable Subclasses to  
27 discrimination within the meaning of California Government Code § 11135(a) on the basis  
28 of their disabilities.

1           259. Plaintiffs and the Medically Vulnerable Subclasses have demanded that  
2 Defendants stop their unlawful discriminatory conduct described herein but Defendants  
3 refused and still refuse to refrain from that conduct.

4           260. As a result of Defendants' conduct involving discrimination and the failure to  
5 provide reasonable accommodations, Plaintiffs and members of the Medically Vulnerable  
6 Subclasses do not have equal access to jail activities, programs, benefits, and services for  
7 which they are otherwise qualified.

8           261. Defendants knew of and disregarded the serious risks that COVID-19 poses  
9 to Plaintiffs, including severe illness, permanent physical damage, and death. *See* Cal.  
10 Gov't Code § 8658 ("In any case in which an emergency endangering the lives of inmates  
11 of a state, county, or city penal or correctional institution has occurred or is imminent, the  
12 person in charge of the institution may remove the inmates from the institution. He shall,  
13 if possible, remove them to a safe and convenient place and there confine them as long as  
14 may be necessary to avoid the danger, or, if that is not possible, may release them. Such  
15 person shall not be held liable, civilly or criminally, for acts performed pursuant to this  
16 section."); *see also* Cal. Penal Code § 4012 (providing for the removal of prisoners to a  
17 "safe and convenient place . . . [of] confinement" when "a pestilence or contagious disease  
18 breaks out in or near a jail . . . liable to endanger the health of the prisoners").

19           262. In addition, Defendant Villanueva has actual knowledge of the different  
20 policies, practices, and customs promulgated by the County across Los Angeles County  
21 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
22 on repeated occasions. Despite having such personal knowledge and being personally  
23 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
24 condoned, tolerated, and through actions and inactions ratified such policies while acting  
25 under color of law.

26           263. As a direct and proximate result of Defendants' conduct as alleged herein,  
27 Plaintiffs and the class members they represent will suffer irreparable harm and are  
28 entitled to immediate injunctive relief.



1           269. Defendants' conduct violates the Unruh Act because their policies and  
2 practices deny Plaintiffs and both Medically Vulnerable Subclasses of the full and equal  
3 accommodations, advantages, facilities, privileges, and services they are entitled to on the  
4 basis of their disabilities.

5           270. Defendants knew of and disregarded the serious risks that COVID-19 poses  
6 to Plaintiffs, including severe illness, permanent physical damage, and death. *See* Cal.  
7 Gov't Code § 8658 ("In any case in which an emergency endangering the lives of inmates  
8 of a state, county, or city penal or correctional institution has occurred or is imminent, the  
9 person in charge of the institution may remove the inmates from the institution. He shall,  
10 if possible, remove them to a safe and convenient place and there confine them as long as  
11 may be necessary to avoid the danger, or, if that is not possible, may release them. Such  
12 person shall not be held liable, civilly or criminally, for acts performed pursuant to this  
13 section."); *see also* Cal. Penal Code § 4012 (providing for the removal of prisoners to a  
14 "safe and convenient place . . . [of] confinement" when "a pestilence or contagious disease  
15 breaks out in or near a jail . . . liable to endanger the health of the prisoners").

16           271. In addition, Defendant Villanueva has actual knowledge of the different  
17 policies, practices, and customs promulgated by the County across Los Angeles County  
18 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
19 on repeated occasions. Despite having such personal knowledge and being personally  
20 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
21 condoned, tolerated, and through actions and inactions ratified such policies while acting  
22 under color of law.

23           272. As a direct and proximate result of Defendants' conduct as alleged herein,  
24 Plaintiffs and the class members they represent will suffer irreparable harm and are  
25 entitled to immediate injunctive relief.

26           273. The members of Youth Justice Coalition and Dignity and Power Now have  
27 had their constitutional rights violated by Defendants' conduct. The mission of both Youth  
28 Justice Coalition and Dignity and Power Now are also frustrated by the acts of

1 Defendants, and both organizations continue to divert resources as a result of Defendants'  
2 acts to ensure that their members and the communities they serve are not subjected to  
3 Defendants' unconstitutional practices.

4 **TENTH CAUSE OF ACTION**

5 **California Disabled Persons Act (Cal. Civ. Code § 54(c))**

6 **(Medically Vulnerable Subclasses, Youth Justice Coalition, Dignity and Power Now**  
7 **vs. All Defendants)**

8 274. Plaintiffs incorporate by reference each and every allegation contained  
9 paragraphs 1 through 173 as if fully set forth herein.

10 275. The California Disabled Persons Act, California Civil Code section 54(a)  
11 provides that "individuals with disabilities or medical conditions have the same right as  
12 the general public to the full and free use of the streets, highways, sidewalks, walkways,  
13 public buildings, medical facilities, including hospitals, clinics, and physicians' offices,  
14 public facilities, and other public spaces." Defendant County and its jails provide public  
15 services within the meaning of this Act and thus are bound to comply with the California  
16 Disabled Persons Act.

17 276. Plaintiffs and members of both Medically Vulnerable Subclasses are persons  
18 with disabilities and/or medical conditions as defined within the meaning of California  
19 Civil Code section 54(b) and Government Code § 12926. They are otherwise qualified to  
20 participate in the services, programs, or activities that are provided to inmates at the Los  
21 Angeles County jail facilities.

22 277. A violation of a right of any individual under the ADA also constitutes a  
23 violation of California Civil Code section 54 under Cal. Civ. Code § 54(c). Defendants  
24 have violated the California Civil Code section 54 with respect to the Medically  
25 Vulnerable Subclasses through their violation of the ADA as alleged herein.

26 278. Defendants' conduct violates California Code section 54 because their  
27 policies and practices deny Plaintiffs and both Medically Vulnerable Subclasses of the full  
28 and equal accommodations, advantages, facilities, privileges, and services they are entitled

1 to on the basis of their disabilities and/or medical conditions.

2 279. Plaintiffs and the Medically Vulnerable Subclasses have demanded that  
3 Defendants stop their unlawful discriminatory conduct described herein but Defendants  
4 refused and still refuse to refrain from that conduct.

5 280. Defendants knew of and disregarded the serious risks that COVID-19 poses  
6 to Plaintiffs, including severe illness, permanent physical damage, and death. *See* Cal.  
7 Gov't Code § 8658 (“In any case in which an emergency endangering the lives of inmates  
8 of a state, county, or city penal or correctional institution has occurred or is imminent, the  
9 person in charge of the institution may remove the inmates from the institution. He shall,  
10 if possible, remove them to a safe and convenient place and there confine them as long as  
11 may be necessary to avoid the danger, or, if that is not possible, may release them. Such  
12 person shall not be held liable, civilly or criminally, for acts performed pursuant to this  
13 section.”); *see also* Cal. Penal Code § 4012 (providing for the removal of prisoners to a  
14 “safe and convenient place . . . [of] confinement” when “a pestilence or contagious disease  
15 breaks out in or near a jail . . . liable to endanger the health of the prisoners”).

16 281. In addition, Defendant Villanueva has actual knowledge of the different  
17 policies, practices, and customs promulgated by the County across Los Angeles County  
18 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
19 on repeated occasions. Despite having such personal knowledge and being personally  
20 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
21 condoned, tolerated, and through actions and inactions ratified such policies while acting  
22 under color of law.

23 282. As a direct and proximate result of Defendants’ conduct as alleged herein,  
24 Plaintiffs and the class members they represent will suffer irreparable harm and are  
25 entitled to immediate injunctive relief.

26 283. The members of Youth Justice Coalition and Dignity and Power Now have  
27 had their constitutional rights violated by Defendants’ conduct. The mission of both Youth  
28 Justice Coalition and Dignity and Power Now are also frustrated by the acts of



1 Defendants, and both organizations continue to divert resources as a result of Defendants'  
2 acts to ensure that their members and the communities they serve are not subjected to  
3 Defendants' unconstitutional practices.

4 **ELEVENTH CAUSE OF ACTION**

5 **California Bane Act (Cal. Civ. Code § 52.1)**

6 **(All Plaintiffs vs. All Defendants)**

7 284. Plaintiffs incorporate by reference each and every allegation contained in  
8 paragraphs 1 through 173 as if fully set forth herein.

9 285. Defendant County and its jails are entities bound to comply with the Bane  
10 Act.

11 286. The acts by Defendants violate the federal and state constitutional rights of  
12 Plaintiffs, as guaranteed by the Fourteenth and Eighth Amendments to the U.S.  
13 Constitution and by the California Constitution Article I, sections 7 and 17. Defendants  
14 used force, intimidation, coercion, and/or the threat of force, intimidation, and coercion  
15 directed toward Plaintiffs. They did so by confining Plaintiffs in County jails, where they  
16 have no freedom to take measures of their own volition to protect themselves from  
17 COVID-19. Defendants subjected Plaintiffs to conditions of confinement that deprive  
18 them of any ability to protect themselves from COVID-19 and unnecessarily exposed  
19 them to risk of contracting the virus, putting them at risk of serious illness and even death.

20 287. Defendants unlawful actions were done willfully, maliciously, and with the  
21 specific intent to deprive Plaintiffs of their constitutional and statutory rights.

22 288. In addition, Defendant Villanueva has actual knowledge of the different  
23 policies, practices, and customs promulgated by the County across Los Angeles County  
24 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
25 on repeated occasions. Despite having such personal knowledge and being personally  
26 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
27 condoned, tolerated, and through actions and inactions ratified such policies while acting  
28 under color of law.

1 289. As a direct and proximate consequence of Defendants' actions, Plaintiffs and  
2 the class members they represent suffered a loss of their constitutional rights and injury,  
3 will suffer irreparable harm, and they are entitled to immediate injunctive relief.

4 290. The members of Youth Justice Coalition and Dignity and Power Now have  
5 had their constitutional rights violated by Defendants' conduct. The mission of both Youth  
6 Justice Coalition and Dignity and Power Now are also frustrated by the acts of  
7 Defendants, and both organizations continue to divert resources as a result of Defendants'  
8 acts to ensure that their members and the communities they serve are not subjected to  
9 Defendants' unconstitutional practices.

10 **TWELFTH CAUSE OF ACTION**

11 **Violation of California Constitution Art. I § 7**

12 **(All Plaintiffs vs. All Defendants)**

13 291. Plaintiffs incorporate by reference each and every allegation contained in  
14 paragraphs 1 through 171 as if fully set forth herein.

15 292. Defendants owe Plaintiffs a duty under Article I, section 7 of the California  
16 Constitution to provide Plaintiffs with due process and equal protection under the law.

17 293. By the conduct described herein, Defendants violated these rights guaranteed  
18 to Plaintiffs. As a direct and proximate consequence of Defendants' conduct, Plaintiffs  
19 and the class members they represent suffered a loss of their constitutional rights, will  
20 suffer irreparable harm, and are entitled to immediate injunctive relief.

21 294. Defendants have been and are aware of all the deprivations complained of  
22 herein and have condoned or been deliberately indifferent to such conduct.

23 295. In addition, Defendant Villanueva has actual knowledge of the different  
24 policies, practices, and customs promulgated by the County across Los Angeles County  
25 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
26 on repeated occasions. Despite having such personal knowledge and being personally  
27 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
28 condoned, tolerated, and through actions and inactions ratified such policies while acting

1 under color of law.

2 296. The members of Youth Justice Coalition and Dignity and Power Now have  
3 had their constitutional rights violated by Defendants' conduct. The mission of both Youth  
4 Justice Coalition and Dignity and Power Now are also frustrated by the acts of  
5 Defendants, and both organizations continue to divert resources as a result of Defendants'  
6 acts to ensure that their members and the communities they serve are not subjected to  
7 Defendants' unconstitutional practices.

8 **THIRTEENTH CAUSE OF ACTION**

9 **Violation of California Constitution Art. I § 17**

10 **(All Plaintiffs vs. All Defendants)**

11 297. Plaintiffs incorporate by reference each and every allegation contained in  
12 paragraphs 1 through 173 as if fully set forth herein.

13 298. Defendants owe Plaintiffs a duty under Article I, section 17 of the California  
14 Constitution not to impose cruel or unusual punishment.

15 299. By the conduct described herein, Defendants violated these rights guaranteed  
16 to Plaintiffs. As a direct and proximate consequence of Defendants' conduct, Plaintiffs  
17 and the class members they represent suffered a loss of their constitutional rights, will  
18 suffer irreparable harm, and are entitled to immediate injunctive relief.

19 300. Defendants have been and are aware of all the deprivations complained of  
20 herein and have condoned or been deliberately indifferent to such conduct.

21 301. In addition, Defendant Villanueva has actual knowledge of the different  
22 policies, practices, and customs promulgated by the County across Los Angeles County  
23 jails as alleged herein, and personally spoke on the issue of COVID-19 in County jails  
24 on repeated occasions. Despite having such personal knowledge and being personally  
25 involved in the inadequate response to COVID-19 in County jails, Defendant Villanueva  
26 condoned, tolerated, and through actions and inactions ratified such policies while acting  
27 under color of law.

28 302. The members of Youth Justice Coalition and Dignity and Power Now have

1 had their constitutional rights violated by Defendants' conduct. The mission of both Youth  
2 Justice Coalition and Dignity and Power Now are also frustrated by the acts of  
3 Defendants, and both organizations continue to divert resources as a result of Defendants'  
4 acts to ensure that their members and the communities they serve are not subjected to  
5 Defendants' unconstitutional practices.

6 **FOURTEENTH CAUSE OF ACTION**

7 **Declaratory Relief (Cal. Code Civ. Proc. § 1060)**

8 **(All Plaintiffs vs. All Defendants)**

9 303. Plaintiffs incorporate by reference each and every allegation contained in  
10 paragraphs 1 through 173 as if fully set forth herein.

11 304. There is an actual controversy between Plaintiffs and Defendants concerning  
12 their respective rights and duties in that Petitioner contends that the acts of Defendants, as  
13 described herein, are in violation of federal and state law, and Defendants contend in all  
14 aspects to the contrary.

15 305. Plaintiffs and the class members they represent are entitled to a legal  
16 declaration of their rights and Defendants' obligations under applicable federal and state  
17 law as alleged in this petition/complaint.

18 306. The members of Youth Justice Coalition and Dignity and Power Now have  
19 had their constitutional rights violated by Defendants' conduct. The mission of both Youth  
20 Justice Coalition and Dignity and Power Now are also frustrated by the acts of  
21 Defendants, and both organizations continue to divert resources as a result of Defendants'  
22 acts to ensure that their members and the communities they serve are not subjected to  
23 Defendants' unconstitutional practices.

24 307. Plaintiffs request relief, as set forth below.

25 **PRAAYER FOR RELIEF**

26 308. WHEREFORE, Plaintiffs and the Class Members respectfully request that  
27 the Court:

28 A. Certify this case as a class action and certify the proposed classes and

1 subclasses;

2 B. Enter a declaratory judgment that Defendants violated Named Plaintiffs' and  
3 Class Members' constitutional rights by failing to adequately safeguard their  
4 health and safety in the midst of a potential outbreak of a contagious,  
5 infectious disease;

6 C. Grant a writ of habeas corpus for members of the Medically Vulnerable  
7 Subclasses to the maximum extent possible, absent proof of recorded judicial  
8 findings that the individual poses a risk of flight or danger to others that no  
9 other conditions of release can mitigate, and ordering that Defendants provide  
10 these individuals with educational resources on COVID-19, including  
11 instructions that they should self-isolate for the CDC-recommended period of  
12 time (currently 14 days) following release;

13 D. Enter a temporary restraining order, preliminary injunction, and permanent  
14 injunction requiring Defendants, in County jails during the COVID-19  
15 pandemic, to:

16 a. Effectively communicate to all incarcerated people, including low-  
17 literacy and non-English-speaking people, sufficient information about  
18 COVID-19, measures taken to reduce the risk of transmission, and any  
19 changes in policies or practices to reasonably ensure that individuals  
20 are able to take precautions to prevent infection;

21 b. Perform pre-intake screening for all people who are arrested and  
22 booked into LASD custody for symptoms of COVID-19 upon entry (or  
23 re-entry). This includes temperature screening, as well as a verbal  
24 symptom check;

25 c. Quarantine all people who are arrested for 14 days before they enter  
26 the general population by cohorting daily intakes if necessary;

27 d. Perform screening for all custody, medical and ancillary jail staff for  
28 symptoms of COVID-19 every time they enter the facility. This

- 1 includes temperature screening as well as a verbal symptom check;
- 2 e. Provide adequate spacing of six feet or more between incarcerated
- 3 people so that social distancing can be accomplished;
- 4 f. Ensure that each incarcerated person receives, free of charge: (1) an
- 5 individual supply of liquid hand soap and paper towels sufficient to
- 6 allow frequent hand washing and drying each day; and (2) an adequate
- 7 supply of disinfectant hand wipes or disinfectant products effective
- 8 against the virus that causes COVID-19 for daily cleanings; and
- 9 (3) multiple face masks that are regularly cleaned.
- 10 g. Ensure that all incarcerated people have access to hand sanitizer
- 11 containing at least 60% alcohol;
- 12 h. Provide access to daily showers and daily access to clean laundry,
- 13 including clean personal towels and washrags after each shower.
- 14 Ensure showers are cleaned and disinfected at least daily and that
- 15 incarcerated persons have supplies to clean showers between uses, and
- 16 provide gloves to staff or incarcerated persons who clean the showers;
- 17 i. Require that all jail staff and incarcerated persons wear PPE consistent
- 18 with CDC and LA DPH guidelines. Require that all LASD staff
- 19 working in County jails wear PPE, including CDC-recommended
- 20 surgical masks. If cloth masks are distributed, they must be laundered
- 21 regularly. Provide more than one cloth mask per prisoner such that if
- 22 masks break or cannot be laundered daily that prisoners have
- 23 replacements.
- 24 j. Require that all LASD staff working in County jails wash their hands,
- 25 apply hand sanitizer containing at least 60% alcohol, or change their
- 26 gloves both before and after interacting with any person or touching
- 27 surfaces in cells or common areas;
- 28 k. Take each incarcerated person's temperature (with a functioning and



- 1 properly operated thermometer) and conduct symptom screenings at all  
2 health care appointments to identify potential COVID-19 infections;
- 3 l. Conduct immediate testing for anyone displaying symptoms of  
4 COVID-19;
- 5 m. Ensure that individuals identified as having COVID-19 or having been  
6 exposed to COVID-19 receive adequate testing, treatment, and medical  
7 care and are properly quarantined in a non-punitive setting, with  
8 continued access to showers, recreation, mental health services,  
9 reading materials, phone and video calling with loved ones,  
10 communications with counsel, and personal property. Use cohort  
11 housing only for those persons with laboratory-confirmed COVID-19  
12 cases, not suspected cases. Ensure that individuals identified as close  
13 contacts of COVID-19 are quarantined pursuant to CDC and LA DPH  
14 guidelines;
- 15 n. Respond to all emergency (as defined by the medical community)  
16 requests for medical attention within an hour;
- 17 o. Ensure that staff or incarcerated workers, several times a day, clean  
18 and disinfect high touch surfaces and objects in common areas, with  
19 EPA-registered disinfectants. Provide sufficient disinfecting supplies—  
20 including access to EPA-registered disinfectants or disinfectant  
21 wipes—free of charge, so incarcerated people can clean high-touch  
22 areas or items (including, but not limited to, phones, sinks, toilet  
23 handles, recreation equipment, and headphones) between each use.  
24 Facility staff must ensure there is adequate supervision of all  
25 individuals responsible for cleaning and disinfecting these areas;
- 26 p. Waive all medical co-pays for those experiencing COVID-19-related  
27 symptoms;
- 28 q. Provide opportunities for incarcerated persons to communicate free of

1 charge with their families and loved ones;

2 r. Submit a plan to the Court within five days, to be overseen by a  
3 qualified expert pursuant to Fed. R. Evid. 706, which outlines: (1) the  
4 specific steps taken to implement the relief entered herein, (2) all other  
5 mitigation efforts to significantly reduce the risk of contraction of  
6 COVID-19 by all class members not immediately released, (3) a  
7 housing plan for any released Class or Subclass member whose testing  
8 confirms that have been exposed or infected with COVID-19 and who  
9 do not have in place housing, and (4) an evaluation of whether the  
10 release of Subclass members permits adequate social distancing; and

11 s. Waive all charges for medical grievances during this health crisis.

12 E. Order an inspection of each of Los Angeles County’s jail facilities by a  
13 medical expert in infectious disease who can report to the court at the  
14 preliminary injunction hearing on his/her findings and answer questions  
15 provided in advance of the hearing<sup>101</sup>;

16 F. If immediate release is not granted to the medically vulnerable on the basis of  
17 this habeas Petition alone, then expedited review of the Petition, including  
18 oral argument, via telephonic or videoconference if necessary;

19 G. Enter an order and judgment granting reasonable attorneys’ fees and costs  
20 pursuant to 42 U.S.C. § 1988, 42 U.S.C. § 12133, 29 U.S.C. § 794(a), or as  
21 otherwise authorized by law;

22 ///

23 ///

24 ///

25 \_\_\_\_\_  
26 <sup>101</sup> See, e.g., *Banks v. Booth*, No. 1:20-cv-849 (CKK), Dkt. No. 34 (Apr. 9, 2020)  
27 (appointing *amici curiae* jail inspectors, ordering the Department of Corrections to allow  
28 inspection of all facilities including interviews with prisoners, make documents  
available, and make staff and managers available for interviews, and directing *amici curiae* to answer list of questions from the Court).

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H. Order such other and further relief as this Court deems just, proper, and equitable.

Dated: April 24, 2020

Respectfully Submitted,  
HADSELL STORMER RENICK & DAI LLP  
KAYE, MCLANE, BEDNARSKI & LITT, LLP  
CIVIL RIGHTS CORPS  
UCLA LAW CLINICS  
ACLU OF SOUTHERN CALIFORNIA  
AMERICAN CIVIL LIBERTIES UNION

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Dan Stormer  
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