



Advancing Justice  
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# ALSTON & BIRD

560 Mission St.  
Suite 2100  
San Francisco, CA 94105

March 17, 2021

## VIA EMAIL

Mike Wasserman  
Santa Clara County Board of Supervisors  
East Wing, 10th Floor  
San Jose, CA 95110

Sheriff Laurie Smith  
Santa Clara County Office of the Sheriff  
55 West Younger Avenue  
San Jose, CA 95110-1721

**Re: *Santa Clara County Jail Conditions and COVID-19 Response***

Dear Mr. Wasserman and Ms. Smith,

We represent individuals who are detained or incarcerated at Elmwood Correctional Facility and Santa Clara County Main Jail. We are deeply concerned that Santa Clara County is failing to provide even minimally adequate procedures to address and protect against COVID-19. Our position has the support of community-based advocates such as Silicon Valley De-Bug. While we understand that you have reported that stated policies have been improved, partly in response to a nine-day hunger strike protesting jail conditions, these policies are either insufficient, not actually written, or have been disregarded in practice. The Law Foundation of Silicon Valley and Disability Rights Advocates have a long history of challenging inexcusable and unlawful jail conditions. Alston & Bird has challenged the denial of civil liberties of detained and incarcerated people across the country.

Constitutional Rights are not suspended during a crisis. Neither is Santa Clara County's obligation to comply with state and federal disability anti-discrimination laws. Santa Clara County's policies and actions violate detained and incarcerated people's Eighth and Fourteenth Amendment Rights to be free from cruel and unusual punishment and state inflicted harm. The County's failure to take measures to prevent the spread of COVID-19 is particularly alarming because it disparately impacts Black and Latinx people, as well as people with disabilities, who make up most of the population in Santa Clara County Jails. Black and Latinx people and people with disabilities have been hit the hardest during the COVID-19 pandemic. Santa Clara County's pandemic response in Elmwood and the Main Jail only exacerbates this stark disparity.

The County's COVID-19 response also reveals how ill-equipped the justice system is to address mental health needs, particularly during a pandemic. Data consistently show that "a disproportionate number of individuals with behavioral health needs are overrepresented in both California jails and prisons, and this sharpens when stratified by race/ethnicity."<sup>1</sup> In Santa Clara County jails, 86 to 88% of the average daily population has a diagnosed mental health condition requiring psychotropic medication.<sup>2</sup> The pandemic—and Santa Clara County jails' conditions—amplify the mental health needs of people who are incarcerated.

We ask that Santa Clara County and the Sheriff's office immediately rectify the abuses described in this letter in the manner outlined below.

### **Factual Background.**

Santa Clara County ("the County") must provide "basic human needs, one of which is reasonable safety" to people incarcerated in its facilities. *Helling v. McKinney*, 509 U.S. 25, 33 (1993). Interviews with individuals detained and incarcerated at Elmwood and Main Jail during the COVID-19 pandemic reveal that the County has not done so.

COVID-19 has devastated people incarcerated in Santa Clara County. At least 584 individuals in the County jails have contracted COVID-19 since the pandemic began, with 46% of those infections occurring in January 2021. An additional 233 correctional officers, or other jail staff, have contracted COVID-19 to date. Despite high infection rates, numerous complaints, and a nine-day hunger strike protesting the jail's conditions earlier this year, the County has continued to provide unsafe and unsanitary conditions for incarcerated people.

### *Masks*

The CDC recommends that people wear face masks to prevent the transmission of SARS-CoV-2 through respiratory droplets.<sup>3</sup> It states that jails should provide masks at no additional cost to incarcerated or detained people and that masks should be laundered or replaced regularly. The County of Santa Clara Health System also "strongly encourages" people to wear protective face

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<sup>1</sup> Jennifer Bronson & Marcus Berzofsky, Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12, Bureau of Justice Statistics 1 (2017), <https://www.bjs.gov/content/pub/pdf/imhprpj1112.pdf><<https://www.bjs.gov/content/pub/pdf/imhprpj1112.pdf>>.

<sup>2</sup> Council on Criminal Justice and Behavioral Health's Annual Report to the State Legislature provides that a prescription for a psychotropic medication is used as "California's [] proxy [for a] statewide measure for AMI." See *Supra* n.1. ; see also California Health Policy Strategies, L.L.C., The Prevalence of Mental Illness in California Jails is Rising: An Analysis of Mental Health Cases & Psychotropic Medication Prescriptions, 2009-2019 7 (2019), [https://www.cdcr.ca.gov/ccjbh/wp-content/uploads/sites/172/2020/02/Jail\\_MentalHealth\\_JPS\\_Report\\_02-03-2020.pdf](https://www.cdcr.ca.gov/ccjbh/wp-content/uploads/sites/172/2020/02/Jail_MentalHealth_JPS_Report_02-03-2020.pdf)<[https://www.cdcr.ca.gov/ccjbh/wp-content/uploads/sites/172/2020/02/Jail\\_MentalHealth\\_JPSReport\\_02-03-2020.pdf](https://www.cdcr.ca.gov/ccjbh/wp-content/uploads/sites/172/2020/02/Jail_MentalHealth_JPSReport_02-03-2020.pdf)>)/

<sup>3</sup> Centers for Disease Control and Prevention (CDC), *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#Overview> (last updated Feb. 19, 2021).

coverings.<sup>4</sup> Our client interviews suggest that the County did not comply, and is not complying, with that recommendation.

Detained and incarcerated people have consistently reported that they are given inadequate masks.<sup>5</sup> Currently, the County provides individuals a single cloth or disposable paper mask that is expected to last for months. Paper masks are prone to tearing and cannot be laundered. Cloth masks that jail staff have provided incarcerated individuals included crocheted masks, which are ineffective because the holes in the mask allow air (and respiratory droplets) to escape. People are not able to effectively clean the single mask they've been given. At least one individual reported having to clean their mask in a toilet because no other option was available. Because individuals only have one mask, even if they were able to launder their masks, they do not have another mask to wear in the interim. Another individual estimated that about two-thirds of the people in their dorm do not have usable masks. Some individuals have resorted to rationing their mask, and do not wear it in their dorm, in fear of needing it in larger congregate settings. At a February 4, 2021 Board of Supervisors meeting, one parent reported that their child could not easily receive a new mask and had been asked to pay for one. We understand that it is the Sheriff's Office's position that detained individuals can get a new mask from Medical upon request. That is contradicted by reports that individuals' requests are frequently denied, that some folks are asked to pay for masks, and that if the request is granted, it takes several days to receive it.<sup>6</sup>

Detained and incarcerated people also reported that officials do not comply with mask guidance. Many surveyed individuals stated that Guards only wear masks part of the time. One individual provided that out of every eight to twelve correctional officers, only about three to four wear their masks. The remaining officers left their masks hanging around their necks and only properly wore their mask if an incident occurred at the jail. This issue persists even after all custody staff were upgraded to medical-grade N95 masks and were instructed to consistently wear them. Incarcerated individuals were not offered the mask upgrade.

#### *Cleaning and Disinfecting Practices*

The CDC recommends that, several times a day, jails clean and disinfect surfaces and objects that are frequently touched with EPA-registered disinfectants effective against SARS-CoV-2. That includes shared equipment like doorknobs, light switches, toilets, telephones, and even

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<sup>4</sup> Custody Health Services COVID-19 Prevention and Control Plan; County of Santa Clara Health System (Updated September 25, 2020).

<sup>5</sup> The Law Foundation of Silicon Valley interviewed over 60 incarcerated individuals over the last 11 months. Beginning in January 2021, the Law Foundation began reaching out to previously interviewed individuals as well as new intakes to confirm the information outlined in this letter. We will not reveal the interviewees' identities and/or interview dates to protect interviewees from retaliation. Additionally, The Law Foundation regularly attends meetings with Silicon Valley De-Bug.

<sup>6</sup> We understand that people received two new paper masks within the last month. There are no written policies in place to demonstrate how often this may occur. We are also concerned that this is the first set of new masks that many individuals have received since the beginning of the pandemic.

handcuffs. Our interviews indicate that the County did not comply, and is not complying, with that recommendation.

We understand from interviews with detained and incarcerated people that jail conditions are extraordinarily unsanitary. People are not provided basic resources to keep themselves, or their spaces, clean. Once every three weeks, PODs are provided cleaning materials. Several individuals reported that these materials do not last the entire time period and that they should receive materials nightly. The cleaning materials consist of a gallon jug of pre-diluted bleach or Pine-Sol. Individuals have access to a shared broom and are provided Kotex menstrual pads to clean with instead of sponges or cloths. Others reported that they had to supplement cleaning supplies with their own personal supplies, including using their towels and socks. Additionally, folks reported that they regularly share cells, showers, telephones, and other fixtures that are rarely cleaned. Common spaces are unsanitary and filled with debris.

If an individual tests positive for COVID-19, or has been exposed to someone who has, they are transferred to a quarantine cell. We've repeatedly heard that these cells are filthy and contain dried feces and urine, blood smeared on the walls, moldy food, and rat infestations. Many individuals have shared that they have refused additional COVID-19 tests in fear of testing positive a second time and returning to a filthy cell. Others state that they suffer from lasting stress, anxiety, or PTSD from quarantine conditions.

### *Hygiene*

The CDC recommends that the County make available hygiene supplies, including cleaning and medical supplies, soap, and hand sanitizer. It recommends that jails “[p]rovide a no-cost supply of soap to incarcerated/detained persons, sufficient to allow frequent hand washing.” The County continues to deny folks basic hygiene. We understand that the County has improved its access to soap, but it has not provided hand sanitizer. Detainees and incarcerated people reported that quarantined individuals, or those housed in the infirmary in County jails, have been denied shower access. One individual reported that they were not allowed to shower for a month while in the infirmary. During a recent outbreak, ten individuals that quarantined together in the Main Jail were not allowed to shower for a week; instead, they were provided a mop bucket for a “bird bath” to clean themselves. Occasionally, quarantined individuals are placed in units without soap or toilet paper. Those outside of the infirmary or an administered quarantine are forced to choose between showering and phone access because individuals may only leave their cells for ten minutes a day for program time.

### *Social Distancing*

Social distancing is key to stopping the spread of COVID-19. The CDC recommends that jails and prisons “implement social distancing strategies to increase the physical space between

incarcerated/detained persons.” Again, our interviews suggest that the County is not enforcing, or providing for, this recommendation.

Detained and incarcerated people have consistently reported that Santa Clara County Jails make it difficult to socially distance, particularly in congregate settings. Most individuals still sleep on bunk beds. One person reported that Elmwood dorms contain approximately 65 beds spaced two and a half feet apart. All beds are usually full. Outside of the dorm setting, people reported that they were unable to socially distance in bathrooms and during showers. Several individuals stated that crowding occurs because they receive “less than an hour” to do everything they need to do in congregate settings; as a result, folks crowd together to accomplish everything. Others have described pill call as particularly crowded, with hundreds of individuals “nearly touching each other” while waiting to receive their medication. Staff does not sanitize the cup used to distribute medication between uses. Several individuals have reported that they stopped taking their psychiatric medication to minimize their risk of contracting COVID-19.

Social distancing has also been made impossible while traveling to and from court. Passenger vans are filled to capacity, leaving only inches between people. Shackles used in transport are filthy and not disinfected between uses. One individual described that while waiting for court, holding areas frequently exceed maximum capacity; they recalled fifteen individuals held in a room despite signage that stated the room’s maximum capacity was eight people.

#### *Medical and Mental Health Care*

The CDC recommends that incarcerated people be tested for COVID-19 every three to seven days until no new cases are identified for fourteen days after the most recent positive test. It also recommends against adding COVID-19 positive individuals to the general population or a new cohort. In addressing treatment, the CDC further explains that medical isolation “should not be considered punitive.”

Detained and incarcerated people have reported that they receive COVID-19 tests around once every two weeks. Those tests are voluntary. If an individual tests positive, they are placed in isolation without significant medical attention. One person stated that they were left in a single cell for fourteen days, where a nurse came once a day to take their temperature. Another person stated that earlier this year, they had to care for another person uncontrollably vomiting because no medical professional was around to help. As described above, designated quarantine areas are filthy and contain feces, urine, and other debris. Folks also report that quarantined individuals are not tested for COVID-19 before they return to the general population after completing their quarantine period. Many individuals informed us that they have refused COVID-19 tests because they fear quarantine conditions.

During the pandemic, incarcerated people’s mental health needs have fallen to the wayside. One individual with schizophrenia reported that the jail ignored their mental health needs until they were in crisis. They recounted frequently being moved within the Main Jail due to mental health needs, including to the acute psychiatric inpatient unit, 8A. Another incarcerated individual with

schizoaffective disorder filed 20 grievances before they were able to receive therapy for their disability. Others reported that they were placed on suicide watch and did not receive follow-up mental health care.

### *Staff and the Vaccine*

The CDC states that “correctional and detention facility staff have high risk work-related exposures to SARS-CoV-2 because their work-related duties must be performed on site and involve being in close proximity (<6 feet) to other people” and recommends “the COVID-19 vaccine for staff at correctional and detention facilities because these staff are at higher risk of exposure to COVID-19 in the workplace.”

Despite that risk, we understand that only around half of eligible staff have received the vaccine.<sup>7</sup> We also understand that number is due to choice—not availability—because all custody staff are eligible for the vaccine and have been eligible for months. That decision puts incarcerated people at high risk of infection, particularly coupled with the fact that custody staff frequently do not wear masks or do not wear masks properly. While incarcerated people recently became eligible for the vaccine, the County has not yet published its plan to vaccinate, or has begun vaccinating, incarcerated populations.<sup>8</sup> Additional safety measures are crucial, even with vaccination, because jails’ populations are constantly in flux.

### **Santa Clara County Jails’ COVID-19 Response Violates the Eighth Amendment.**

The Eighth Amendment protects incarcerated people from cruel and unusual punishment. U.S. Const. amend. VIII. When the State imprisons someone against their will, it must assume responsibility for that person’s safety and general wellbeing. *McKinney*, 509 U.S. at 35 (quoting *DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189, 199–200 (1989)). If the State fails to provide for “basic human needs—*e.g.* food, clothing, shelter, medical care, and reasonably safety—it transgresses the substantive limits on state action set by the Eighth Amendment.” *Id.* A State violates its obligation to provide incarcerated people with health care if it is “deliberately indifferent to serious medical needs of [incarcerated people]” because it unnecessarily inflicts harm and contravenes contemporary standards of decency. *Estell v. Gamble*, 429 U.S. 97, 104 (1976). That same standard extends to future harm. *McKinney*, 509 U.S. at 33 (“Nor can we hold that prison officials may be deliberately indifferent to the exposure of

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<sup>7</sup> At the Board of Supervisors Meeting held on February 9, 2021, Sheriff Rodriguez reported the statistics of staff who have received the vaccine and who have not. The Sheriff reported that out of 817 sworn custody staff, 368 (45%) of staff were vaccinated, and 499 are not vaccinated. Out of these 817 staff, 144 previously tested positive for COVID-19. Sheriff Rodriguez then reports that out of 208 civilian custody staff, 107 (51%) of staff were vaccinated, and 101 (49%) were not vaccinated. Out of these 208-civilian staff, 25 previously tested positive for COVID-19.

<sup>8</sup> We understand that there are, or soon will be, vaccines available for *some* detained individuals. We are not aware of any County plan to make vaccines widely available to detained or incarcerated people. Because there is no written protocol for vaccine rollout, many incarcerated individuals and community-based organizations remain confused. This is a major area of concern for any next steps.

[incarcerated people] to a serious, communicable disease on the ground that the complaining [person] shows no serious current symptoms.”). The government is deliberately indifferent to the medical needs of incarcerated people, if (1) it creates conditions of confinement that pose “a risk of objectively, sufficiently serious harm,” and (2) prison officials have “a sufficiently culpable state of mind in denying the proper medical care.” *Clement v. Gomez*, 298 F.3d 898, 904 (9th Cir. 2002).

Santa Clara County’s actions demonstrate deliberate indifference toward incarcerated people’s medical needs and violate the Eighth Amendment.

***Santa Clara County Created an Objective Risk of Serious Harm.*** COVID-19 poses an objective risk of serious harm to all individuals incarcerated in Santa Clara County. The law is settled that the prevalence of communicable disease satisfies this standard. *See McKinney*, 509 U.S. at 33 (holding that “infectious maladies such as hepatitis and venereal disease” posed a risk of sufficiently serious harm); *Gates v. Collier*, 501 F.2d 1291,1300 (5th Cir. 1974)(holding that sufficiently serious harm had occurred when “unsanitary conditions were rampant” and medical staff failed to provide prompt treatment where, as a result, incarcerated people with “serious contagious diseases [were] able to mingle with the general population.”).

Indeed, *every* court that has considered COVID-19 in this context has held that it poses sufficiently serious harm. *See, e.g., Mays v. Dart*, 456 F. Supp. 3d 966, 1001 (N.D. Ill. 2020) (“Here there is no question that the plaintiffs’ claims involve conditions that are sufficiently serious.”) (reversed in part on other grounds); *Anshana v. Adducci*, 453 F. Supp. 3d 1045, 1053 (E.D. Mich. 2020) (“Objectively, the health risks posed by COVID-19 are abundantly clear.”); *Thakker v. Doll*, 451 F. Supp. 3d 358, 371 n.15 (M.D. Pa. 2020) (finding that confinement conditions expose individuals to “to serious risks associated with COVID-19”); *Maney v. Brown*, No. 6:20-cv-00570, 2021 U.S. Dist. LEXIS 19665 (D. Or. Feb. 2, 2021) (“the Court agrees that the COVID-19 vaccine is a ‘serious medical need’”); *Ablman v. Barnes*, No. 20-55568, 2020 U.S. App. LEXIS 20801, at \*9 (9th Cir. June 17, 2020) (refusing to stay a preliminary injunction pending appeal); *Roman v. Wolf*, 977 F.3d 935, 943 (9th Cir. 2020) (affirming a preliminary injunction in relevant part and remanding in part).

***Santa Clara County Subjectively Disregarded COVID-19 Related Harm.*** People incarcerated in Santa Clara County shared shocking accounts of the jails’ conditions and inadequate medical care that can only be described as “deliberate indifference.” Deliberate indifference occurs when “the official knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of the facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.” *Farmer v. Brennan*, 511 U.S. 825, 837 (1994).

The County and its officials cannot dispute that they are aware of the COVID-19 pandemic and the unique impact it imposes on incarcerated people. It has promulgated several advisory protocols centered around jails, tracks active COVID-19 cases in its facilities, and has held several meetings with the Board of Supervisors dedicated to this topic. Corrections officers are

screened before entering the jails, provided N95 masks and COVID-19 vaccinations, and read prominent posters recommending social distancing and masking.

Even with knowledge of COVID-19—and the steps it should take to combat it—the County and its officers elect not to protect incarcerated people from COVID-19 related health risks.

#### *Treatment*

Santa Clara County acts with deliberate indifference when it treats its officers differently from people incarcerated in its facilities regarding COVID-19 policies. In *Maney v. Brown*, several incarcerated people sued the State for its indifferent treatment of incarcerated people in administering the COVID-19 vaccine in violation of their Eighth Amendment Rights. Just last month, the *Maney* Court granted Plaintiffs' motion for provisional class certification and a preliminary injunction, holding in part that the State treated incarcerated people with deliberate indifference in excluding them from the current vaccine phase "in light of [the] recognition of the risks to those living in a congregate care environment, and the risk of those working in a correction setting." 2021 U.S. Dist. LEXIS 19665 at \*36. "Simply put, Defendants are well aware of the risks of serious harm to both correctional staff and [incarcerated people] and have chosen to protect only the staff." *Id.* at \*37. The court additionally took issue with the fact that only an estimated 55% of the Department of Corrections staff would elect vaccination, an inadequate number to stop the spread of COVID-19. *Id.*

So too here. People incarcerated in Santa Clara County are eligible to receive the vaccine (as of March 11, 2021) but we are not aware of a vaccination plan currently in place. Correctional officers, on the other hand, were vaccine eligible several weeks ago and can report to designated vaccination locations. But most correctional officers have elected *not* to receive the vaccine; that the vaccine is available to correctional officers does not provide any increased protection for incarcerated people. The same unequal treatment is true for mask quality and availability. Whereas correctional officers receive a new medical-grade N95 mask each shift, incarcerated people are only given a single paper or cloth mask expected to last for months.

#### *Disregarded Guidance*

Santa Clara County further acts with deliberate indifference when its officers disregard CDC guidelines and its stated policies:

- Individuals do not have sufficient access to masks, do not have functioning masks, are asked to pay for masks, and/or cannot frequently launder them. Masks are effective and inexpensive; county jails should regularly distribute them. We also understand that publicly donated masks were destroyed or otherwise not distributed.
- Individuals do not have access to adequate cleaning supplies or regularly cleaned communal areas. Diluting cleaning supplies reduces the product's effectiveness against

SARS-CoV-2. Designated quarantine areas are so filthy that incarcerated people refuse COVID tests in fear of the conditions.

- Individuals are housed in cramped living spaces and are unable to social distance. Correctional officers do not enforce social distancing and often exacerbate crowding with ineffective program timing. At other times, officers blatantly disregard stated room capacities to the detriment of incarcerated people.
- Individuals are only (voluntarily) tested for COVID-19 every two weeks, despite the County Health Department's recommendation that tests occur every three to seven days until no active cases remain. Individuals are also not tested again for COVID-19 before leaving quarantine or the infirmary and may still be contagious. Medical professionals do not frequently check on or care for COVID-19 positive people despite significant risk.
- Correctional staff do not properly or constantly wear their masks to reduce transmission and protect incarcerated people. And, despite eligibility, most correctional staff have refused to take the COVID-19 vaccine, which would prevent the spread of COVID-19 from correctional officers to incarcerated people.

County officials could easily correct the behaviors described above. They deliberately chose, and continue to choose, not to.

### **Santa Clara County Jails' COVID-19 Response Violates the Fourteenth Amendment.**

The Fourteenth Amendment protects individual's due process right to be free from harm who are in State custody but have not been convicted. *Castro v. Cty. of L.A.*, 833 F.3d 1060, 1067–68 (9th Cir. 2016). Those rights are “at least as great as the Eighth Amendment protections available to convicted prisoners.” *Id.* at 1067. The test to determine whether and individuals due process rights to adequate medical care were violated is “objective deliberate indifference,” rather than subjective. That is, the County (or its officials) act with objective deliberate indifference if it does “not take reasonable available measures to abate risk, even though a reasonable official in the circumstances would have appreciated the high degree of risk involved—making the consequences of the defendant's conduct obvious.” *Gordon v. Cty. of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018).

Santa Clara County violates pre-trial detainees' Fourteenth Amendment Rights for the same reasons it violates incarcerated people's Eighth Amendment Rights. Indeed, it must because the Eight Amendment poses a stricter standard.

### **Santa Clara County Jails' COVID-19 Response Violates the Americans with Disabilities Act.**

The Americans with Disabilities Act (“ADA”) protects people from disability-based discrimination. Title II of the ADA requires the County to affirmatively identify and implement

appropriate precautions for detained persons with chronic health conditions. *See Hernandez v. County of Monterey*, 110 F. Supp. 3d 929 (N.D. Cal. 2015) (court found that plaintiffs were likely to succeed on the merits and that a preliminary injunction was appropriate in part to control the spread of a tuberculosis, a communicable disease, within a jail facility); *see also Communities Actively Living Independent and Free v. City of Los Angeles*, 2011 WL 4595993, at \*12 (C.D. Cal. Feb. 10, 2011) (holding that individuals with disabilities experienced discrimination “by reason of disability” since they were disproportionately vulnerable to harm in the event of a disaster and the city had failed to address their unique needs by making reasonable accommodation).

The CDC has identified several conditions that increase risk of severe illness from COVID-19, including chronic kidney disease; COPD (chronic obstructive pulmonary disease); Down Syndrome; Heart conditions, and Type 2 diabetes mellitus. Chronic stress also weakens the immune system, making people with mental health and psychiatric disabilities more susceptible to contracting COVID-19. The County’s failure to take measures to prevent the spread of COVID-19 at the jails has a disproportionate burden on people with disabilities, who are already over-represented in the County’s jails.

### **Remedies.**

We request that the County take the following remedial steps to avoid further violation of Santa Clara County residents’ Constitutional Rights:

- (1) Provide new, medical-grade masks to incarcerated people daily;
- (2) Immediately vaccinate incarcerated people forced to live in congregate spaces;
- (3) Require custody staff to be vaccinated and/or penalize staff who do not properly wear masks;
- (4) Enforce social distancing and capacity limits when transporting detained and incarcerated people to and from court; if this is not possible, take steps to reduce the jail’s population;
- (5) Extend programming time so that detained and incarcerated people can complete all required tasks while maintaining social distance;
- (6) Provide weekly adequate (and non-diluted) cleaning materials to detained and incarcerated people, while also making additional materials available upon request;
- (7) Provide anti-bacterial soap and hand sanitizer to detained and incarcerated people at no cost;
- (8) Space beds such that they are at least six feet apart; if this is not possible, take steps to reduce the jail’s population;

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- (9) Enforce protocols that require several negative COVID-19 tests before returning from quarantine to the general population;
- (10) Improve quarantine conditions through thorough, regular cleaning and increased check-ins from medical professionals;
- (11) Increase testing frequency from two weeks to every three to seven days until no active COVID-19 cases remain;
- (12) Improve grievance procedures in Santa Clara County jails; require comprehensive and prompt responses to all concerns; and
- (13) Strictly comply with all CDC guidelines.

Given the urgency of this matter, we request an immediate response to remedying these Constitutional violations by March 31, 2021.

Sincerely,



Valarie Williams

Jean Richmann

ALSTON & BIRD



Abre' Conner  
Clare Cortright  
Annette Kirkham

Kawai Daugherty  
Becky Moskowitz  
Jeremy Chen

Roza Patterson  
Rachel Mino  
Asha Albuquerque

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