

  
City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION NO. 88103 C.M.S.

CO-SPONSORED BY COUNCILMEMBERS NIKKI FORTUNATO BAS,  
LYNETTE GIBSON MCELHANEY, LOREN TAYLOR AND CITY  
ATTORNEY BARBARA J. PARKER

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RESOLUTION CALLING UPON THE ALAMEDA COUNTY SHERIFF'S  
OFFICE, ALAMEDA COUNTY PROBATION DEPARTMENT AND  
OTHER ALAMEDA COUNTY OFFICIALS TO RELEASE  
INCARCERATED INDIVIDUALS WITH SIX MONTHS OR LESS TIME  
REMAINING AT SANTA RITA JAIL AND TAKE OTHER NECESSARY  
MEASURES TO PROTECT THE HEALTH AND SAFETY OF  
INDIVIDUALS DETAINED IN AND STAFFING THE SANTA RITA JAIL  
AND ALAMEDA COUNTY JUVENILE DETENTION FACILITIES

**WHEREAS**, COVID-19, a highly infectious virus, (1) was first identified in late 2019, (2) is marked by severe and acute respiratory illness that has overwhelmed hospitals around the world, (3) whose mortality rates disproportionately impact older individuals, individuals with underlying health conditions, and African Americans, who have mortality rates that are more than two times and in some cases three times their percentage of a state's or city's population; and

**WHEREAS**, more than 1.5 million COVID-19 cases have been confirmed worldwide, with 24,424 confirmed cases in California and 962 confirmed cases in Alameda County, including 16 confirmed cases among the inmates and staff at the Santa Rita Jail, as of April 14, 2020; and

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a state of emergency in the State of California due to the spread of COVID-19 in California and its impacts on public health, public safety, and public services; and

**WHEREAS**, on March 9, 2020, the Oakland City Administrator, acting as the Director of the Emergency Services Operations Center, declared a local emergency within the City of Oakland due to the outbreak of COVID-19, which the Oakland City Council confirmed and ratified by Resolution on March 12, 2020; and

**WHEREAS**, on March 17, 2020 the Interim Health Officer of Alameda County issued an Order to shelter in place in light of COVID-19, and further extended that shelter-in-place Order on March 31, 2020 through May 3, 2020; and

**WHEREAS**, on March 20, 2020, Governor Newsom issued a statewide shelter-in-place Order that remains in place; and

**WHEREAS**, the COVID-19 pandemic has not only drastically harmed and endangered public health and public safety, but also has caused enormous economic repercussions across the nation and the world, including one in nine Californians having lost their employment in a matter of weeks; and

**WHEREAS**, as communities grapple with the collateral economic consequences of COVID-19, many public officials are not taking adequate action to reduce or eliminate unnecessary legal financial obligations that stem from justice system involvement, obligations that disproportionately harm African American, Latino and low income communities; and

**WHEREAS**, it is widely recognized that individuals detained in prisons, jails, juvenile detention and post-disposition facilities, and other detention facilities are particularly at risk of and vulnerable to the spread of COVID-19, in light of limited access to hygiene and sanitation, close quarters of confinement, and lack of personal protective equipment ("PPE") for staff at such facilities; and

**WHEREAS**, justice system facilities across the nation are already experiencing deadly outbreaks of COVID-19, with approximately 1,324 incarcerated persons who have tested positive for the disease, and 32 who have died from the virus, including: (1) more than 800 people who have tested positive, with three deaths, at New York's Riker's Island jail alone; and (2) more than 500 people who have tested positive, with three deaths, at the Cook County, Illinois jail alone; and

**WHEREAS**, juvenile detention facilities and immigrant detention facilities across the country have also begun to experience outbreaks of COVID-19; and

**WHEREAS**, some justice system facilities across the nation have responded to the COVID-19 crisis by instituting policies that, regardless of the intentions of the authorities, violate the rights of the individuals who are detained and incarcerated, including confining detained and incarcerated individuals to their rooms or cells virtually every single hour of the day, a practice of nearly-complete solitary confinement that the United Nations Special Rapporteur on Torture has declared may constitute torture; and

**WHEREAS**, at present there is an outbreak of COVID-19 at Santa Rita Jail, with at least 14 incarcerated people and two staff members who have tested positive as of April 15, 2020; and

**WHEREAS**, we recognize and applaud the Alameda County Sheriff's Office, District Attorney's Office, and Probation Department for taking various steps to protect individuals in custody from COVID-19, including releasing 671 inmates, educating those still confined about symptoms of COVID-19 and proper hygiene practices, segregating inmates considered "high risk" for COVID-19, and providing free soap and cleaning supplies to individuals who continue to be in custody; and

**WHEREAS**, despite the foregoing steps, at least 1,800 individuals remain in Santa Rita Jail alone, and all individuals held in confinement at Alameda County adult and juvenile facilities remain at risk for COVID-19, and more can and must be done to protect the health, safety and lives of these individuals, facility staff, and their families; and

**WHEREAS**, on March 24, 2020, Oakland City Attorney Barbara J. Parker sent a letter calling upon Alameda County's Sheriff and Chief Probation Officer to take additional significant steps to prevent the spread of the virus, and provided detailed suggestions for such meaningful steps as are set forth in the letter that is attached to this Resolution as Exhibit A; and

**WHEREAS**, Brendon D. Woods, the Alameda County Public Defender, has called for the release of individuals who are within six months of the end of their terms, a group that constitutes at least 115 individuals in Santa Rita Jail alone; and

**WHEREAS**, prosecutors and sheriffs around the country support the release of inmates within six months of the end of their jail terms to protect these individuals from COVID-19; and

**WHEREAS**, failure to significantly reduce the County's detained and incarcerated population will likely lead to avoidable tragedies by continuing to place confined individuals, the staff who serve them and their families in harm's way; now, therefore, be it

**RESOLVED:** That the City of Oakland endorses the Alameda County Public Defender Brendon D. Woods' urgent proposal that the Alameda County Sheriff's Office, the Alameda County Probation Department and other Alameda County officials immediately release all inmates with six months or less remaining to serve at Santa Rita Jail to protect the health, safety and lives of these inmates, the facility staff and their families in light of the COVID-19 pandemic; and be it

**FURTHER RESOLVED:** That the City Council of the City of Oakland calls upon the Alameda County Sheriff's Office, the Alameda County Probation Department and other Alameda County officials to immediately release all inmates with six months or less remaining to serve at Santa Rita Jail to protect the health, safety and lives of these inmates, the facility staff and their families in light of the COVID-19 pandemic; and be it

**FURTHER RESOLVED:** That the City of Oakland calls upon the Alameda County Sheriff's Office, the Alameda County Probation Department and other Alameda County officials to take all necessary steps to ensure the health and safety of those individuals held in confinement at Alameda County adult and juvenile detention facilities, including following the steps it has not yet taken that are set forth in City Attorney Barbara J. Parker's March 24, 2020 letter that is Exhibit A to this resolution; and be it

**FURTHER RESOLVED:** That the City Clerk shall send this Resolution and Exhibit A hereto to Alameda County's Sheriff, Chief Probation Officer, Board of Supervisors, Public Defender and District Attorney, Governor Gavin Newsom, Assemblymembers Rob Bonta and Buffy Wicks, State Senator Nancy Skinner, Congresswomen Barbara Lee and Nancy Pelosi, and U.S. Senators Kamala Harris and Dianne Feinstein.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE: **APR 21 2020**

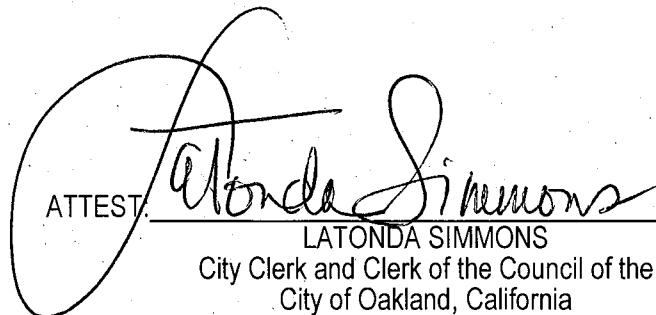
AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST.

  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of the  
City of Oakland, California

**EXHIBIT A  
TO  
RESOLUTION CALLING UPON THE ALAMEDA COUNTY SHERIFF'S OFFICE, ALAMEDA  
COUNTY PROBATION DEPARTMENT AND OTHER ALAMEDA COUNTY OFFICIALS TO  
RELEASE INCARCERATED INDIVIDUALS WITH SIX MONTHS OR LESS TIME REMAINING  
AT SANTA RITA JAIL AND TAKE OTHER NECESSARY MEASURES TO PROTECT THE  
HEALTH AND SAFETY OF INDIVIDUALS DETAINED IN AND STAFFING THE SANTA RITA  
JAIL AND ALAMEDA COUNTY JUVENILE DETENTION FACILITIES**

**CITY OF OAKLAND**



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Office of the City Attorney  
Barbara J. Parker  
City Attorney

(510) 238-3601  
FAX: (510) 238-8500  
TTY/TDD: (510) 238-3254

March 24, 2020

**VIA EMAIL ONLY TO [addressees]**

Sheriff Gregory J. Ahern  
Alameda County Sheriff's Office  
1401 Lakeside Drive, 12<sup>th</sup> Floor  
Oakland, CA 94612

Chief Wendy Still  
Alameda County Probation Department  
1111 Jackson Street  
Oakland, CA 94607

**Re: Conditions at Alameda County Detention Facilities During COVID-19  
Pandemic**

Dear Sheriff Ahern and Chief Still:

I write to express my grave concerns regarding the health and well-being of individuals who are being held at Alameda County detention facilities, including Santa Rita Jail, the Juvenile Justice Center ("Juvenile Hall") and Camp Sweeney, as well as the staff and first responders who are working at these facilities, during the novel coronavirus ("COVID-19") pandemic. Many of the individuals who are being held in custody at these facilities, or who work there, call Oakland home.

COVID-19 has been shown to spread rapidly when there are high concentrations of people in close proximity. Detention facilities, that often house dense populations who live in close quarters with limited hygiene and sanitation facilities, are a fertile ground for the spread of COVID-19. We already are witnessing multiple cases of COVID-19 at jails across the United States.<sup>1</sup>

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<sup>1</sup>For example, 38 inmates and staff at Rikers Island Jail in New York have so far tested positive for COVID-19. *See* 21 Inmates, 17 Employees Test Positive for COVID-19 on Rikers Island: Officials, NBC New York, <https://tinyurl.com/v22odac> (last updated Mar. 22, 2020). Other prisons are similarly seeing outbreaks of COVID-19. *See, e.g.,* Christian Boone, *DOC employee contracts COVID-19 amid calls for prison depopulation*, AJC (Mar. 18, 2020), <https://tinyurl.com/vvvsdjkq>; Alexa Liautaud, *Employee at Sing Sing prison tests positive for coronavirus, triggering broader fears*, NBC News (Mar. 17, 2020), <https://tinyurl.com/wacmv5e>.

An outbreak of COVID-19 at Alameda County's detention facilities could have devastating consequences. Older prisoners and prisoners who have underlying health conditions are most vulnerable to COVID-19, and more likely to require acute medical care that a detention facility is ill-equipped to provide. Staff who work at these facilities return home to their families each evening, and risk exposing their loved ones and neighbors to the virus if significant suppression steps are not taken. Individuals, who are held for a short period of time at these detention facilities before they are released, may be exposed to the virus while they are in custody and then expose members of the community to the virus when they are released. In these circumstances, the public benefit of confinement may be greatly outweighed by the high risk of exposure and spread of COVID-19.<sup>2</sup>

I applaud the efforts that already are being undertaken to reduce the population of Santa Rita Jail, including the recent release of 67 pretrial detainees who face charges for non-violent offenses and the planned sentence modifications for and early release of 247 inmates.<sup>3</sup> However, Alameda County can and should do more to reduce its detention population, protect the health of those who continue to be detained for the duration of the crisis, and reduce the financial burden on detained individuals and their families during this public health emergency. Not only will taking these measures protect the lives and health of detainees and workers in Alameda County facilities, it will meaningfully ameliorate conditions thereby protecting members of our community and their loved ones and our county's first responders and medical professionals.

I endorse the measures proposed by Alameda County Public Defender Brendon Woods in his March 12, 2020 letter to the Alameda County Superior Court, District Attorney, Probation Department, and Sheriff's Office;<sup>4</sup> many of Public Defender Woods' proposed measures are supported by prosecutors from jurisdictions across this country.<sup>5</sup> I urge the Sheriff's Office and Probation Department to implement the following additional measures to prevent the introduction of COVID-19 into Alameda County adult and juvenile detention facilities and protect the populations and workforces of these facilities:

1. Evaluate all people held in Alameda County detention facilities who are over 65 and/or have underlying serious health conditions (the groups most vulnerable to COVID-19), to determine whether they can be released early. For those who cannot be released, the Sheriff's Office and Probation Department

<sup>2</sup> So-called "super spreaders," those who are infected and expose a large number of people, often prior to their own diagnosis, can and have led to significant increases in infection and community risk. See, e.g., Pien Huang, *What's a 'Super Spreading Event'? And Has it Happened With COVID-19*, NPR (Feb. 19, 2020), <https://tinyurl.com/slrobc3>.

<sup>3</sup> Angela Ruggiero, *Coronavirus: Santa Rita Jail starts releasing non-violent inmates waiting for trial*, East Bay Times (Mar. 18, 2020), <https://tinyurl.com/vqy62za>.

<sup>4</sup> Mar. 12, 2020 Letter from Alameda County Public Defender Brendon Woods, available at <https://tinyurl.com/rsv514a>.

<sup>5</sup> Fair and Just Prosecution, *Joint Statement from Elected Prosecutors on COVID-19 and Addressing the Rights and Needs of Those in Custody* (last updated Mar. 18, 2020) <https://tinyurl.com/sqo3bu4>.

Sheriff Gregory J. Ahern and Chief Wendy Still

March 24, 2020

Re: **Conditions at Alameda County Detention Facilities During COVID-19 Pandemic**

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should develop measures necessary to protect these high-risk populations, both in an effort to prevent an outbreak of COVID-19 and in the event that there is an outbreak at a detention facility.

2. Ensure that individuals at Alameda County adult and juvenile detention facilities are informed about and practice the precautionary hygiene measures necessary to slow the spread of COVID-19, including social distancing and frequent hand washing. This may include additional cleanings of any shared facilities, such as showers and dining areas, and scheduling recreation and dining in a staggered fashion to reduce the number of people in any congregate area at one time.
3. Ensure that individuals at Alameda County adult and juvenile detention facilities have adequate access to personal hygiene products, such as soap and hand sanitizer, that can help to slow the spread of the virus and provide those products free of charge.
4. Ensure that Alameda County adult and juvenile detention facilities are prepared to provide appropriate medical care to an inmate or detainee who contracts COVID-19, while preventing the spread of the virus.
5. Suspend or reduce the fees for video visitation and phone calls during the public health emergency and negotiate the suspension or reduction of such fees with vendors that provide these services—especially given the cancellation of in-person visits at Alameda County detention facilities.
6. Suspend or reduce the fees for electronic monitoring and other alternatives to incarceration for individuals who are being released to reduce the population of Alameda County detention facilities and negotiate to suspend or reduce such fees with vendors that provide these services.
7. Evaluate any court costs, fees, fines, and/or other charges (i.e., legal financial obligations) that currently are levied against inmates or detainees, whether they are adults or minors, and determine whether any or all of those legal financial obligations may be suspended or waived for the duration of the emergency in light of the severe economic crisis that we face in Alameda County, California, our nation and the entire world. Such suspensions or waivers may protect detained and incarcerated individuals, and their families, from further economic peril, such as losing their homes or going hungry.
8. Ensure that youth who are held at Juvenile Hall and Camp Sweeney can continue their education safely during COVID-19 closures, including providing video classes and other methods of non-classroom learning; and ensure that federally-mandated legal rights of students with disabilities and English learners are protected when they participate in distance learning.

Sheriff Gregory J. Ahern and Chief Wendy Still

March 24, 2020

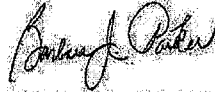
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9. Suspend enforcement of any and all "status" offense laws that lead to further youth detention and incarceration, particularly as many "status" offenses, such as truancy, are inapposite given widespread school closures.

In closing, I again want to thank you for the steps your offices have already taken to reduce Alameda County's detention population and ensure the health and safety of remaining detainees and the staff who are working at these facilities. I ask that you to continue to explore all available measures to further protect these individuals during the COVID-19 pandemic. As we all are well aware, these are unprecedented and unsettling times; we all must act as if our lives and our family members' lives and our community members' lives are at stake, because all of us are imperiled.

Very truly yours,



BARBARA J. PARKER  
City Attorney

cc: Nancy O'Malley, District Attorney  
Teresa Drenick, Deputy District Attorney  
Alameda County District Attorney  
1225 Fallon Street  
Oakland, CA 94612

Brendon Woods, Public Defender  
Desiree Sellafi, Executive Assistant  
Alameda County Public Defender  
1401 Lakeside Drive, #400  
Oakland, CA 94612

Mayor Libby Schaaf  
One Frank H. Ogawa Plaza, 3<sup>rd</sup> Floor  
Oakland, CA 94612

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Interim Oakland City Administrator  
One Frank H. Ogawa Plaza, 3<sup>rd</sup> Floor  
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Rebecca Kaplan, Council President  
Dan Kalb, District 1 Councilmember  
Nikki Fortunato Bas, District 2 Councilmember  
Lynette Gibson McElhaney, District 3 Councilmember  
Sheng Thao, District 4 Councilmember  
Noel Gallo, District 5 Councilmember  
Loren Taylor, District 6 Councilmember  
Larry Reid, District 7 Councilmember  
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