



March 27, 2020

MEMORANDUM: Recommendations to All California Community Supervision Agencies, including California State Parole and County Probation, to Update Policies and Practices to Protect People’s Health and Safety during COVID-19

Letter Sent via Email to:

- Governor Gavin Newsom, governor@governor.ca.gov, gavin.newsom@gov.ca.gov
 - CC: Kelli.Evans@gov.ca.gov, Daniel.Seeman@gov.ca.gov
- CDCR Secretary Ralph Diaz, Ralph.Diaz@cdcr.ca.gov
 - CC: Connie.Gipzon@cdcr.ca.gov, Brantley.Choate@cdcr.ca.gov
- DAPO Director Jeffrey Green, jeff.green@cdcr.ca.gov

- CC: Douglas.Eckenrod@cdcr.ca.gov, Julie.Kaplan@cdcr.ca.gov, Kristy.McCants@cdcr.ca.gov, Marvin.Speed@cdcr.ca.gov
- **Senator Nancy Skinner, Chair of California Senate Public Safety Committee, Nancy.Skinner@sen.ca.gov**
 - CC: Marvin.Deon@sen.ca.gov
- **Assembly Member Reginald Byron Jones-Sawyer Sr., Chair of California State Assembly on Public Safety, Assemblymember.Jones-Sawyer@assembly.ca.gov**
- **Jennifer Shaffer, Executive Officer for the Board of Parole Hearings, jennifer.shaffer@cdcr.ca.gov**
- **Jessica Blonien Chief Counsel for the Board of Parole Hearings, jessica.blonien@cdcr.ca.gov**
- **County Probation Offices, cpoc@cpoc.org**
- **County Boards of Supervisors**

Dear Governor Newsom, CDCR Secretary Diaz, DAPO Director Green, California County Chief Probation Officers, California County Boards of Supervisors, Senator Skinner, Assembly Member Jones-Sawyer, and BPH Executive Officer Shaffer and Chief Counsel Blonien:

As the State of California and public health experts have acknowledged and emphasized, social distancing is effective and essential to protect the health and well-being of our communities during the COVID-19 pandemic. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, which contains a directive by the State Public Health Officer for all Californians to remain in their homes or places of residence, except as *needed* to maintain continuity operations of critical infrastructure sectors. Based on the same concerns around the transmission of COVID-19, Chief Justice Tani G. Cantil-Sakauye issued an order on March 23, 2020 with directives, including a 60-day suspension of jury trials, to ensure that California courts, which remain open as essential services, can meet the stringent health directives ordered by Governor Newsom.

We commend the actions you have taken to create and implement social distancing orders and related public health guidelines, and we want to ensure that steps are taken so that the community of people currently on supervision (including state parole and county probation), community supervision staff, their families, and the public are equally protected during this time. Furthermore, we want to ensure that people under supervision are not unjustly targeted, violated, or punished for seeking or providing critical health care for themselves and their family members during this pandemic.

We urge you to take the additional steps described in this letter to modify parole and probation conditions, policies and practices during this public health crisis in order to protect public health and reduce unnecessary contact between people, which will save lives by slowing the transmission of COVID-19. Without these measures, it is likely that many more people will be infected with COVID-19 -- and people on supervision, who are primarily people of color from low-income communities -- will be disproportionately impacted. Your inaction or inadequate action will put vulnerable community members and their families at a much higher risk of severe symptoms or death due to COVID-19, particularly given that incarceration is linked to lowered immune systems.

We ask that you *immediately* take the following steps to ensure that supervision conditions, policies, and practices are aligned with public health recommendations, including social distancing, and ensure that vulnerable people have the ability to provide and receive critical care during COVID-19.

Our recommendations are as follows:

Parole and Probation Must Reduce and Suspend In-Person Meetings to Limit Risk and Exposure to COVID-19.

- Unless there is an emergency reason for in-person contact or if contact is needed to facilitate diversion or release from incarceration, there should be NO in-person meetings or check-ins with parole or probation, including at people’s homes, at community supervision offices, or at kiosks. There should be NO visits by probation or parole personnel to an individual’s home, including unannounced visits.
 - Exceptions to this policy during COVID-19 should be narrowly permitted, only allowing in-person contact for emergency situations where it is deemed necessary. Where an in-person visit or search is determined to be necessary, supervising agents and all other law enforcement should implement additional protocols to ensure public safety (e.g., limited or no contact, use of protective masks and gloves, etc.).
 - Where State Parole and County Probation personnel need to contact an individual under supervision, agents should utilize telephone and/or video technology.
 - There should be NO warrantless searches of people on supervision. If a search warrant is properly issued, it should be carried out only in extraordinary circumstances in order to limit risk and exposure to COVID-19. If warrantless searches of people on supervision continued to be allowed, the State of California should require a *heightened standard* for law enforcement to conduct such searches during COVID-19, limiting the grounds to exigent circumstances.
- Suspend requirements for people on supervision to attend any classes or groups, and do not violate or penalize people for taking social distancing or other recommended public health measures.
 - Every person’s primary focus right now should be on following social distancing and other public health recommendations during COVID-19, as well as being available to give or receive care for themselves and family members. Many people under supervision are dealing with personal crises related to COVID-19, and every effort should be made to support them. This time is not conducive to mandating people to attend groups/classes, and all in-person groups/classes should be suspended.
 - When practicable, offer normally scheduled classes and groups on a *voluntary* and *virtual* basis, so that people can join by phone or video, and so that people are permitted to prioritize other immediate needs and health care during the COVID-19 pandemic. If phone and virtual

classes are unavailable, NO ONE should be violated or otherwise penalized for taking health-protecting and social distancing measures.

- There should be NO in-person requirements at this time--thus, other requirements such as drug testing, in-person registration, etc. should be suspended in order to limit risk and exposure and to protect public health. Relatedly, drug testing sites should be closed and stop sending automated and randomized notifications to people to come in person to be drug tested during COVID-19.

Allow People on Supervision to Live with Family - Both to Give and Receive Care as well as to Open up Spaces in Transitional Homes. Open up Housing to People who Need it Most.

- Allow people currently living in transitional housing to leave transitional housing to stay with family and loved ones who are willing and able to take them in. This will serve multiple purposes: (1) allowing people to care for infected, elderly and/or immunocompromised family members; (2) reduce crowding in transitional homes to allow people to practice proper social distancing from others living in the home; and (3) free up bed space for people returning from incarceration who have no other housing options - those who need it the most.
- Expedite supervision jurisdiction transfers and/or grant long-term travel passes to people under supervision so they can give and receive care. This is particularly important in order to allow people under supervision to move in with family members to receive and give care, and to free up space in transition housing.
 - For people on state parole, allow travel beyond the standard 50-mile radius limitation so that they can give and receive critical care.
- Lift any special conditions that prevent people from contacting or living with family members, where it is safe and practicable, and expedite this process for people who need to give or receive care.
- Open up state- and county-contracted housing to more people on community supervision and people being released from incarceration. Remove eligibility requirements (such as restrictions for people required to register pursuant to PC 290) to ensure that no one under community supervision is homeless when there is a bed receiving government funding available.

Provide Proactive Support to People on Parole and Probation.

The State of California and governmental agencies whose joint and collective responsibility is to ensure public safety should invest in an emergency infrastructure, including housing, financial assistance, and scalable community resources, for people in reentry and people on community supervision, with a particular focus on those who are being newly released.

- *Support people on supervision to get Identification Documents (ID).* As a response to social distancing guidelines, the DMV is not currently accepting walk-ins and is only seeing people by appointment. Parole and Probation officers should assist their people with obtaining DMV appointments, and provide proactive support to people to gather the documents needed to obtain an

ID before their appointments. For example, the DMV accepts a certification from CDCR, on letterhead, to verify the identity and legal presence of an applicant for a California ID. Additionally, CDCR and county jails should work with the DMV to ensure *all people* being released from incarceration are able to leave with a State ID.

- *Provide financial support and emergency assistance to people on supervision and people in reentry.* People coming home from incarceration will struggle to obtain ID or a job in the immediate, foreseeable future. Thus, the State should ensure that funds and vouchers are available to provide a safety net to people on supervision and people newly released from incarceration.
 - The State of California and the California Department of Corrections (CDCR) should increase the amount of “Gate Money” and exit assistance given to people leaving prisons at this time - as well as ensure that Gate Money is provided in its entirety, immediately upon release. For people exiting county jails, County Boards of Supervisors should provide financial and other exit assistance to people immediately upon their release, as well.
 - Supervising agencies should utilize their ability to offer emergency funds and financial support at much higher rates as our economy continues to shrink. This should include offering people leaving incarceration and people under community supervision with increased emergency cash assistance and vouchers that can be used for food, shelter, health, and other basic needs, as well as free cell phones. Supervising agencies should NOT require people who receive cash or other financial assistance from community supervision agencies to pay it back; all assistance to people on parole and probation should be treated as a grant, not a loan.
- *Support people on supervision to find safe and healthy housing.* Transitional housing programs and shelters are at or nearing capacity at this time, and California’s elected officials have announced steps they are taking to ensure people who are experiencing homelessness or marginally housed are able to be safely housed and practice social distancing during this time. CDCR and community supervision agencies should follow suit and proactively help people to find housing, even before they are released.
 - Given the additional hurdles people required to register under PC Section 290 face in securing housing, and the high rates of homelessness among this population, it is particularly imperative for the State and Supervising Agencies to support people on the registry to find safe and healthy housing, including amending any special conditions that prevent them from living with family or giving or receiving care.
- *Ensure people under community supervision have access to healthcare and prescriptions.* Access to immediate healthcare, particularly for the elderly and others who are vulnerable due to underlying health conditions, is of the utmost importance right now. Community supervision offices should ensure that people are regularly informed about how and where they can access health care and needed prescriptions.

- Ensure that people who are not able to obtain a California state ID or Driver's License during this time are able to access healthcare and other essential governmental services with an identity verification from parole or probation.
- Remind parole agents and probation officers that while collaboration with the healthcare system is encouraged, and they should continue to provide supportive connections and referrals, parole and probation officers should not be accompanying people to visits or asking for private health information about people.
- CDCR and County Jails should provide enhanced medical discharge planning pre-release, including a 90-day supply of prescription medications, including medication-assisted treatment, pre-release, enrollment into Medi-Cal, and information about how to connect with local health systems. Additionally, CDCR and County Jails should ensure that people have pre- and post-release connections with community health systems to assist with continuity of care (especially community health systems with programs focusing on people in reentry).
- CDCR and County Jails should support people pre-release in setting up confidential, virtual appointments, e.g., video and phone-based appointments, with medical care providers.
- *Internet Access.* The ability to obtain up-to-date information on government orders and resources is imperative right now, and most of this information is being made available on the Internet. For people who have special conditions that restrict computer or Internet use, community supervision agencies should modify these conditions across the board to allow people to access information, health care, and public health and public safety resources they need right now, so they can be in compliance with the laws and get their basic needs met.
- *Support for Community Service Providers.* Community service providers have seen a huge uptick in the need for services as people are facing a multitude of compounding issues, including loss of employment and health issues, stemming from the COVID-19 pandemic. Government and governmental agencies should allocate emergency response funding to allow community service providers to scale up and remain responsive to urgent and escalating needs.

Offer Early Discharge from Parole and Early Termination of Probation.

- Provide immediate discharge from parole and early termination of probation for individuals who meet specific criteria (e.g., they have completed the majority of their parole or probation term; no non-technical violations or new convictions within a year, etc.). Discharging people who have proven that they pose no public safety risk will free up parole and probation resources to serve those who are in greatest need of reentry support and reduce any required contact during this pandemic.

Expedite Grants of Parole.

- The Governor should instruct the Board of Parole Hearings to immediately send cases to the Governor's office where currently incarcerated people have been found suitable for release on parole, so the Governor can review and approve (instead of the BPH holding cases for 120 days under its

current practice). Furthermore, the Governor should expedite the signing of parole release orders in the above-described cases.

Stop Enforcement of Technical Violations and Unreasonable Conditions to Reduce Entrance into the County Jail and State Prison Systems.

As has been acknowledged by state and local officials, as well as heads of law enforcement agencies, the risk for COVID-19 is heightened for the incarcerated community. Community supervision agencies at both the state and county levels should immediately modify their policies and practices to reduce entrance into correctional facilities by:

- Immediately stopping enforcement of all technical violations, including ending re-incarceration and flash incarcerations for technical violations at this time.
- Ensuring that there are no technical violations against people under supervision for alleged violations of 'shelter in place' and 'social distancing' orders, particularly when people are experiencing homelessness and/or marginally housed.
- Releasing people from jail or prison who are currently incarcerated due to technical violations or for their inability to pay bail.
- Suspending technical violations for people based on missed visits or check-ins with parole agents or probation officers, including phone or virtual visits, at this time.
- Additionally, given that the economy and job market is shrinking, and many people are losing employment or at risk of losing employment, any conditions of supervision mandating people to work or to be searching for work should NOT be enforced during COVID-19.

CDCR, County Jails, Parole and Probation shall *not* contact ICE, notify ICE of people's release dates, or facilitate any immigration enforcement action against any person.

Develop Clear and Remotely Accessible Protocols and Procedures for People to Submit Grievances to Parole and Probation Agencies.

During a time of crisis, when people under community supervision are most vulnerable, the State of California and governmental agencies including state parole and county probation offices, must take *additional steps* to ensure that people's due process and legal rights are protected, including making existing forms of relief and grievance procedures more easily and remotely accessible.

- Develop and provide a clear, remotely accessible process for emergency grievances and appeals (e.g., administrative appeals pursuant to PC Section 602 for parole conditions) given that in-person visits to pick up paper appeal forms are not possible and courts are operating reduced, modified calendars.

- Instead of requiring people on county probation to go to the court to modify conditions, Probation should create administrative appeal and complaint forms or procedures for people on county probation supervision to use, if they do not already exist. Make these forms available both online and through paper mail upon request.
- For people under supervision of state parole, the Department of Adult Parole Operations (DAPO) should make CDCR-602 Administrative Appeal forms and CDCR-22 Forms available online and through paper mail upon request.
- Allow appeals and complaints to be submitted electronically or through paper mail.
- Develop and post online a clear protocol for how Community Supervision Agencies are timely handling emergency grievances and appeals, and proactively provide this information to people on supervision.
- Any clear and remotely accessible process should include information on how people can appeal conditions and request accommodations, and include an explanation of reasonable response times for both emergency and non-emergency issues. The process should also explain how it is being modified to protect people's health and safety.
- Community supervision agencies at both the state and county levels should explicitly announce that we are currently living in a state of emergency - and these agencies should use their state-granted authority to allow for late appeals and/or to accept appeals beyond any statutory deadlines or deadlines currently outlined in agency policies.

Modify Electronic Monitoring / GPS Conditions and Special Registration Requirements.

- Based on the threat of the COVID-19 virus and shelter-in-place orders, there should be no in-person registration requirements (e.g., people required to register under PC Section 290 or as part of the gang registry). In its place there should be alternate means to register such as the telephone, or registration should be suspended.
- There should be NO violations for failure to register at this time.
- There should be NO violations against people without permanent shelter or electricity for not having their GPS/ankle monitors charged. Many people experiencing homelessness who are on GPS monitors often rely on libraries and other publicly open indoor spaces to charge them. Since those centers and community-based organizations are currently closed, homeless and marginally housed people in particular will have issues charging their GPS monitors.
- If people need to seek hospital services, they should be allowed to remove their GPS/ankle monitors so they can obtain adequate healthcare. Furthermore, these GPS/ankle monitors often cause physical injury to the people wearing them that would put them at further health risk during COVID-19.
- Waive and suspend any and all fines and fees related to GPS/electronic monitoring.

Suspend All Criminal Justice-Related Debts, Fines and Fees.

- All court-ordered and criminal justice-related fines, fees, tickets, electronic monitoring, and arrears should be forgiven and/or suspended, without interest. Additionally, all private collection agencies contracted by the judicial court system and state entities, such as the Franchise Tax Board, should not move forward with calls for collection and the garnishment of wages, as a result of owed criminal fines and fees. As unemployment rates rise and the economy continues to shrink, people will be increasingly unable to pay criminal justice-related fines and fees let alone food, healthcare and other basic necessities.

The recommendations and steps outlined above to modify community supervision agencies’ policies and practices during this public health crisis are imperative to protect public health and save lives by slowing the transmission of COVID-19. We ask the State of California, the Governor, the California State Legislature, CDCR, DAPO, County Boards of Supervisors and County Probation Chiefs to act immediately upon these recommendations to protect vulnerable justice-impacted communities and public health and safety.

We welcome the opportunity to speak further about these recommendations, and to advise your offices on how to successfully support people under community supervision at this time. Please feel free to reach out to Root & Rebound via the contact information below.

Respectfully,

Root & Rebound, joined by the Signatories listed below.

/s/ Katherine Katcher, Founder & Executive Director, Root & Rebound

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Signatories:

Organizations:

1. Advancing Justice - Asian Law Caucus
2. AFSCME Local 148, Los Angeles County Public Defenders
3. All of Us or None
4. All of Us or None - Bakersfield Chapter
5. All of Us or None - Riverside Chapter
6. Alliance for Boys and Men of Color
7. Alliance for Constitutional Sex Offense Laws
8. Anchor of Hope International Ministries, Inc.
9. Anti-Recidivism Coalition
10. B.O.S.S. (Building Opportunities for Self-Sufficiency)
11. California Coalition of Women Prisoners
12. California Innocence Project
13. Center for Employment Opportunities
14. Center for Living and Learning
15. Centro Legal de la Raza
16. Coalition of California Welfare Rights Organizations
17. Community Legal Services in East Palo Alto
18. Community Works
19. Council on American-Islamic Relations, California (CAIR-CA)
20. Disability Rights Education & Defense Fund
21. Drug Policy Alliance
22. East Bay Family Defenders
23. Equal Justice Society
24. Ella Baker Center for Human Rights
25. Family Safety Foundation
26. Five Keys Schools and Programs
27. Green Life Project of Earth Island Institute
28. Immigrant Legal Resource Center
29. Just Cities
30. Justice Reinvestment Coalition of Alameda County
31. La Clínica de la Raza Transitions Clinic
32. Legal Aid at Work
33. Legal Link
34. Legal Services for Prisoners with Children
35. Los Angeles Dependency Lawyers, Inc.
36. Loyola Project for the Innocent
37. MARKS Artisans
38. Mental Health Advocacy Services
39. National Center for Youth Law
40. Northern California Innocence Project
41. Operation Restoration
42. PolicyLink

43. Project Rebound - CSU San Marcos
44. Public Counsel
45. Root & Rebound
46. Rubicon Programs
47. Starting Over, Inc.
48. The Access Project
49. Time for Change Foundation
50. Transitions Clinic Network
51. UCLA, School of Law - Veterans Legal Clinic
52. Young Women's Freedom Center

Individuals:

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3. Ann Finkelstein, MD
4. Anna Steiner, MSW, MPH
5. Edward Opton, JD, Ph.D.
6. Katherine Katcher
7. Kim Carter, Founder & Ambassador, Time for Change Foundation
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15. Sharon Dolovich - Professor of Law, UCLA School of Law; Director, UCLA Prison Law and Policy Program
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18. Vincent Schiraldi, former Commissioner, New York City Probation; former Chair, San Francisco Juvenile Probation Commission