



March 23, 2020

Attorney General Xavier Becerra
 California Department of Justice
 1300 I Street
 Sacramento, CA 95814

Dear Attorney General Becerra,

In the midst of the current public health crisis, we ask that you take immediate steps to address the grave risk to lives posed by current conditions in jails, prisons and courtrooms in California.

The California Constitution states, “It shall be the duty of the Attorney General to see that the laws of the State are uniformly and adequately enforced. The Attorney General shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law... .” (Cal. Const., art V, § 13.) The duties set forth in the state constitution and codified in statutory provisions “give the Attorney General oversight not only with respect to a district attorney’s actions in a particular case, but in the training and development of policy intended for use in every criminal case.” (*Pitts v. County of Kern* (1998) 17 Cal.4th 340, 363.) The Attorney General “possesses not only extensive statutory powers but also broad powers derived from the common law relative to the protection of the public interest.” (*D’Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 14 (*D’Amico*) [citations omitted].)

Our goal is to protect public health by reducing the number of people held in custody and by reducing the contact between people in court settings. These actions are urgently needed to address the current pandemic. Without action, thousands will likely die with the suffering falling disproportionately on low-income families, particularly Black and Latinx families.

We implore you to act now to save lives by directing all California sheriffs to:

- Immediately release all individuals with six months or less actual time (assuming credit earning) remaining on their sentence.
- Reduce arrests and bookings. Recommend that deputies use greater discretion to not arrest, for example, using verbal warnings in place of arrest. When deputies do arrest someone, they should use cite-and-release whenever possible.
- When arrestees are brought to jail by their agency or another, book and release all individuals unless detention is absolutely necessary to protect public safety and outweighs the threat to public health posed by detention.

We further ask that you direct all the district attorneys of California to immediately take the following actions:

Pre-Trial

- Use their leadership position to encourage law enforcement agencies to reduce arrests and bookings. Recommend that officers use greater discretion to not arrest, for example, using verbal warnings in place of arrest. When officers do arrest someone, they should use cite-and-release in place of detention whenever possible.
- Rapidly review arrests that result in detention and make charging decisions that prioritize public health as well as public safety.
- Work with the courts to ensure that people who are taken into custody are arraigned within 48 hours or less.
- Work with the courts to release pretrial detainees on their own recognizance (without requiring bail) unless there is evidence that a potential release would result in violence or a significant threat of violence against another person.
- Request out-of-custody sentences such as probation and community service, limiting in-custody sentences to cases involving violence or threat of violence to a person.

Post-Conviction

- Seek resentencing and release of anyone in custody who has already been sentenced and has six months or less of actual time (assuming credit earning) remaining on their sentence.

- Delay sentencing for people out of custody and those that will be sentenced to state prison.
- Do not charge probation or parole violations unless they are a result of conduct that endangers the safety of a specific person or persons. Seek release of anyone currently in-custody for a technical violation of probation or parole.
- Agree that any conditions of probation or parole that require in-person contact with others, such as check-ins, drug-testing, AA meetings, or the like, be suspended unless a phone option can be provided.
- Stop requiring people to report for weekend custody or sheriff work programs.
- Suspend assessment and collection of fines and fees for the duration of the health and economic crisis.

Courtroom and Workplace Safety

- Work with the courts and defense counsel to continue time waived out of custody criminal and juvenile cases for at least 90 days whenever possible.
- Agree to continue trials and motions of in-custody defendants when requested by the defense.
- When it is not possible to continue a matter, work with the courts to allow defendants and juveniles to appear through counsel, unless strictly necessary for a hearing or trial.
- Work with the courts to stay the issuance of bench warrants for at least 90 days.
- Protect victims by seeking continuances and using procedures that do not require them to personally appear.
- Urge superior courts to take steps to ensure that all attorneys and court staff - including interpreters, court reporters, and others - are able to perform their duties with at least six feet of distance from other people. This includes ensuring that defense counsel may have a private conversation with their client with appropriate social distancing.
- Urge superior courts to provide appropriate protective gear to deputies who are required to be in close contact with other people.
- Reduce staff hours and allow more staff to remain at home, sheltered in place. Allow all staff over 60, those with pre-existing health conditions that put them at greater risk, or live with persons over 60 or with pre-existing health conditions, to work from home or take paid leave.

As the chief law enforcement officer of the state, we ask you to act now to ensure that the laws are “uniformly and adequately enforced” and to protect the lives of all Californians.

Respectfully,

American Civil Liberties Union of California
Anti-Recidivism Coalition
API RISE
Alliance for Boys and Men of Color
California Coalition for Women Prisoners
California Immigrant Policy Center
California Public Defenders Association
Californians United for a Responsible Budget
Criminal Justice Clinic of UC Irvine School of Law
Disability Rights California
Dreamcorps/ #cut50
Drug Policy Alliance
Ella Baker Center for Human Rights
Equal Justice Society
Equality California
Friends Committee on Legislation
Human Rights Watch
Immigrant Legal Resource Center
Initiate Justice
Lutheran Office of Public Policy
One Fair Wage
PolicyLink
Project Rebound
Re:store Justice
Root & Rebound
Smart Justice California
The Justice Collaborative
Voices for Progress