Public Comment #21

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EDC COB <edc.cob@edcgov.us>

Fwd: Course Correct on the Current Covid-19 Response

1 message

Kim Dawson <kim.dawson@edcgov.us> Tue, Jan 5, 2021 at 10:52 AM
To: EDC COB <edc.cob@edcgov.us>

Please include along with the attachments. Thanks, Kim

---------- Forwarded message ---------
From: **keeley link** <keeley.link@gmail.com>
Date: Tue, Jan 5, 2021 at 10:41 AM
Subject: Course Correct on the Current Covid-19 Response
To: Brian Dahle <senator.dahle@senate.ca.gov>, Brian Veerkamp <bosthree@edcgov.us>, David Livingston <david.livingston@edcgov.us>, Dennis Thomas <dthomas@cityofplacerville.org>, Don Ashton <don.ashton@edcgov.us>, Don Semon <don.semon@edcgov.us>, Frank Bigelow <assemblymember.bigelow@assembly.ca.gov>, Gallagher <assemblymember.gallagher@assembly.ca.gov>, Greg Stanton <greg.stanton@edcgov.us>, John D'Agostini <john.dagostini@edso.org>, John Hidahl <bosone@edcgov.us>, Kara Taylor <ktaylor@cityofplacerville.org>, Kevin Kiley <assemblymember.kiley@assembly.ca.gov>, Kim Dawson <kim.dawson@edcgov.us>, Lori Parlin <bosfour@edcgov.us>, Lynnan Svensson <lynnan.svensson@edcgov.us>, Mark Acuna <macuna@cityofplacerville.org>, Michael Saragosa <msaragosa@cityofplacerville.org>, Michael Ungeheuer <michael.ungeheuer@edcgov.us>, Nancy Williams <nancy.williams@edcgov.us>, Patty Borelli <borellicouncil@sbcglobal.net>, Shiva Frentzen <bostwo@edcgov.us>, Sue Novaser <bosfive@edcgov.us>, Tom McClintock <kimberly.pruet@mail.house.gov>, racecar56g@yahoo.com <racecar56g@yahoo.com>
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To All Parties in charge of and related to County Public Health:

Nationwide, Public Health is holding the reins on the Covid-19 response. To date, the response has caused more suffering and destruction than the virus and there has not been an adequate or appropriate course correct.

Please read and utilize the following attached documents that support course correct on the current Covid-19 response:

1. Freedom Angels Foundation List of Demands

2. Dr. Reiner Fuellmich "Crimes Against Humanity"

3. **OCBOE White Papers- Opening Schools**
4. **CARES Act City of Atwater "Sanctuary City for Businesses"**
5. **Placer County "End Local Health Emergency"**
6. **"Was the Covid-19 Test Meant to Detect a Virus?"**
7. **"The Folly of Cases"**
8. **"Elderly Dying from Isolation"**
9. **"Portuguese Court Rules PCR Tests 'Unreliable' & Quarantines 'Unlawful'"**
10. **CoSB v Newsom Writ and Decs**
11. **Message from Solvang Mayor**
12. **White Pine Nevada Resolution**
13. **Protest Flyer**

We request this packet be added to the agenda at the next county and city meetings.

As a community, we declare the end to the pandemic and will be peacefully not complying with the unwarranted and unjust restrictions We expect your full, honest, timely, transparent public participation in course correcting on the Covid-19 response immediately. We will continue to stay in touch to ensure this occurs.

Regards,
Keeley Link, El Dorado County resident in collaboration with Freedom Angels

Freedom Angels
(209) 400-2667
www.freedom-angels.org
Facebook: Freedom Angels 2.0

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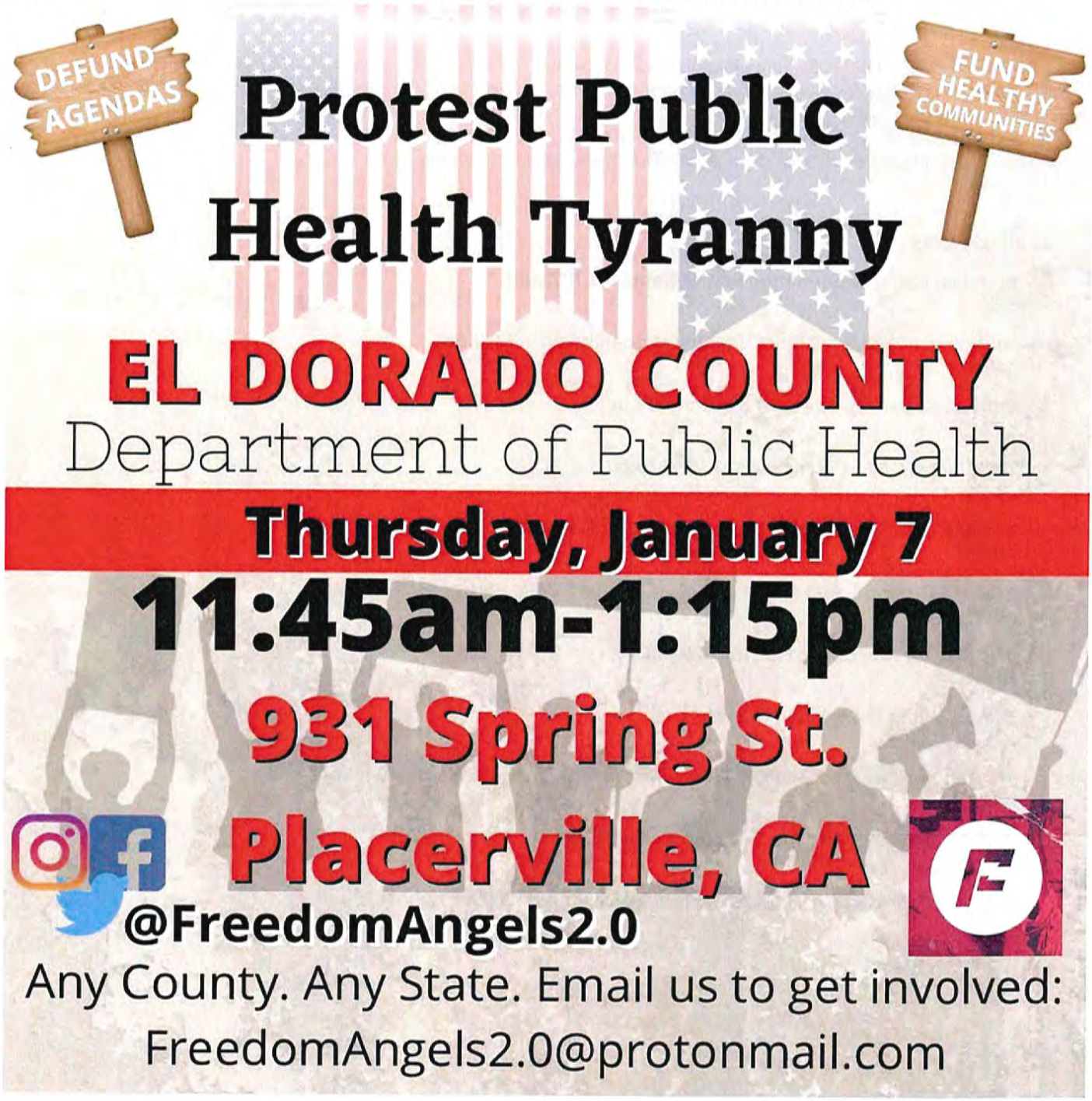
Thank you,
Keeley Link
916-599-5455



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Thank you,
Keeley Link
916-599-5455
Allison James Estates and Homes
Lic# 02003906

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Kim Dawson
Clerk of the Board of Supervisors
County of El Dorado
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12 attachments

- **Freedom Angels Foundation List of Demands PDF.pdf**
  52K
- **Dr. Reiner Fuellmich Crimes Against Humanity oct 3 2020.pdf**
  116K
- **OCBOE White Papers- Opening Schools.pdf**
  1224K
- **CARES Act City of Atwater Sept 15 2020.pdf**
  562K
- **Placer County End Local Health Emergency PDF.pdf**
  1804K
- **Was the Covid-19 Test Meant to Detect a Virus? Celia Farber April 7 2020.pdf**
  129K
- **The Folly of NewCases Oct 12 2020.pdf**
  364K
- **Elderly Dying From Isolation.pdf**
  111K
- **Portuguese Court Rules PCR Tests Unreliable & Quarantines Unlawful.pdf**
  406K
- **CoSB v Newsom Writ and Decs (conformed).pdf**
  3741K
- **Message%20from%20The%20Mayor%20December%209%2C%202020.pdf**
  85K
- **WhitePineResolution.pdf**
  104K

Freedom Angels

To the Agents in charge of County Public Health: Nationwide Public Health is holding the reins on Covid-19 response. To date there has not been an adequate or appropriate course correct and the response has caused more suffering and destruction than the virus. Therefore; as a community, we declare the end to the pandemic and will peacefully engage in non-compliance with the unwarranted and unjust restrictions. We demand Public Health participate in the course correct by doing the following:

1. End Local Health Emergency *IF APPLICABLE*
    a. Work with local officials to bring an immediate end to the local Public Health emergency
2. Open the Doors
    a. Participate in a public town hall series with all community stakeholders to directly address grievances and find solutions through a transparent due process, to include burden of proof and liability.
3. Defund Testing and Tracing
    a. Limit CARES money allocation for testing and tracing to symptomatic cases.
    b. Participate in expert panel investigation on efficacy and function of testing.
4. Fund Healthy Communities
    a. Make access available, at the earliest point of contact, to the entire spectrum of natural and allopathic therapeutics and fund programs on immune health.
5. Free our Elders and Disabled
    a. Immediate process for in person access to comfort and advocate for loved ones in care facilities.
6. Free our Kids
    a. Remove barriers to the immediate opening of in person education with no mask or social distancing requirements.
    b. Education and support programs addressing the health and psychological risks and effects of the lockdown restrictions.
7. Stop Violating Americans with Disabilities Act (ADA)
    a. Rigorously ensure that supportive services for children with IEPs and adults with disabilities are being adequately honored.
    b. No mask mandates. Denounce mask shaming and protest ADA privacy and rights.
8. Stop Destroying Small Businesses
    a. Stop and/or do not allow partnering with state licensing to harass small businesses.
    b. Remove restrictions on occupancy and mask requirements.
9. No Vaccine Mandates
    a. Immediate public community Bio-ethic and safety panel discussions on all developing Covid-19 vaccines including mRNA and DNA.
    b. No Covid-19 vaccine mandate to ensure for the full and equal access of children and adults to participate in society (e.g., school, work, entertainment, travel, church).
    c. Education programs on risk and exemptions to the Covid-19 vaccine.
10. Public Health is Liable
    a. You are in violation of fundamental human and constitutional rights and you will be held accountable for reparations.

Signed,

Freedom Angels
(209) 400-2667
www.freedom-angels.org

Dr. Reiner Fuellmich, German Corona Investigative Committee
October 3, 2020

Hello. I am Reiner Fuellmich, and I have been admitted to the bar in Germany and in California for 26 years. I have been practicing law, primarily as a trial lawyer against fraudulent corporations, such as Deutsche Bank, formerly one of the world's largest and most respected banks, today, one of the most toxic criminal organizations in the world. VW, one of the world's largest and most respected car manufacturers, today, notorious for its giant diesel fraud. And Kuehne+Nagel, the world's largest shipping company, we're suing them in a multimillion dollar bribery case.

I'm also one of four members of the German Corona Investigative Committee. Since July 10th, 2020, this committee has been listening to a large number of international scientists and experts testimony to find answers to questions about the Corona crisis, which more and more people worldwide are asking. All the above mentioned cases of corruption and fraud committed by the German corporations pale in comparison, in view of the extent of the damage that the Corona crisis has caused and continues to cause. This Corona crisis, according to all we know today must be renamed a Corona scandal, and those responsible for it must be criminally prosecuted and sued for silver damages. On a political level, everything must be done to make sure that no one will ever again be in a position of such power as to be able to defraud humanity or to attempt to manipulate us with their corrupt agendas.

And for this reason, I will now explain to you how and where an international network of lawyers will argue this biggest tort case ever, The Corona Fraud Scandal, which has meanwhile unfolded into probably the greatest crime against humanity ever committed. Crimes against humanity were first defined in connection with a number of trials after World War II, that is, when they dealt with the main war criminals of the Third Reich. Crimes against humanity are today regulated in Section Seven of the International Criminal Code.

The three major questions to be answered in the context of a judicial approach to the Corona scandal are, one, is there a Corona pandemic or is there only a PCR test pandemic, specifically, does a positive PCR test result mean that the person tested is infected with COVID-19, or does it mean absolutely nothing in connection with the COVID-19 infection? Two, do the so-called anti-Corona measures such as the lockdown, mandatory face masks, social distancing and quarantine regulations serve to protect the world's population from Corona, or do these measures serve only to make people panic so that they believe without asking any questions that their lives are in danger, so that in the end, the

pharmaceutical and tech industries can generate huge profits from the sale of PCR tests, antigen and antibody tests and vaccines, as well as the harvesting of our genetic fingerprints?

And three, is it true that the German government was massively lobbied more so than any other country by the chief protagonists of this so-called pro-Corona pandemic, Mr. Drosten, virologist at Charite Hospital in Berlin, Mr. Wieler, veterinarian, and head of the German equivalent of the CDC, the RKI, and Mr. Tedros, head of the World Health Organization or WHO, because of Germany is known as a particularly disciplined country and was therefore to become a role model for the rest of the world for its strict and of course, successful adherence to the Corona measures? Answers to these three questions are urgently needed because the allegedly new and highly dangerous Corona virus has not caused any excess mortality anywhere in the world, and certainly not here in Germany. But the anti-Corona measures whose only basis the PCR test results, which are in turn all based on the German Drosten test, have in the meantime caused the loss of enumerable human lives and have destroyed the economic existence of countless companies and individuals worldwide.

In Australia, for example, people are thrown into prison, if they do not wear a mask or do not wear it properly as deemed by the authorities. In the Philippines, people who do not wear a mask or do not wear it properly in this sense are getting shot in the head.

Let me first give you a summary of the facts as they present themselves today. The most important thing in a lawsuit is to establish the facts, that is to find out what actually happened. That is because the application of the law always depends on the facts at issue. If I want to prosecute someone for fraud, I cannot do that by presenting the facts of a car accident.

So, what happened here regarding the alleged Corona pandemic? The facts laid out below are to a large extent the result of the work of the Corona Investigative Committee. This committee was founded on July 10th by four lawyers in order to determine through hearing expert testimony of international scientists and other experts, one, how dangerous is the virus really? Two, what is the significance of a positive PCR test? Three, what collateral damage has been caused by the Corona measures, both with respect to the world's population's health and with respect to the world's economy?

Let me start with a little bit of background information. What happened in May

2019 and then in early 2020, and what happened 12 years earlier with the swine flu, which many of you may have forgotten about. In May of 2019, the stronger of the two parties which governed Germany in a grand coalition, the CDU held a congress on global health, apparently at the instigation of important players from the pharmaceutical industry and the tech industry.

At this Congress, the usual suspects, you might say, gave their speeches. Angela Merkel was there and the German Secretary of Health Jens Spahn. But some other people whom one would not necessarily expect to be present at such a gathering, were also there, Professor Drosten, virologist from the Charite Hospital in Berlin, Professor Wieler, veterinarian, and head of the RKI, the German equivalent of the CDC, as well as Mr. Tedros, philosopher and head of the World Health Organization, WHO. They all gave speeches there. Also present and giving speeches where the chief lobbyists of the world's two largest health funds, namely the Bill and Melinda Gates Foundation and the Wellcome Trust.

Less than a year later, these very people called the shots and the proclamation of the worldwide Corona pandemic, made sure that mass PCR tests were used to prove mass infections with COVID-19 all over the world, and are now pushing for vaccines to be invented and sold worldwide. These infections, or rather the positive test results that the PCR tests delivered, in turn became the justification for worldwide lockdowns, social distancing and mandatory face masks.

It is important to note at this point that the definition of a pandemic was changed 12 years earlier. Until then, a pandemic was considered to be a disease that spread worldwide and which led to many serious illnesses and deaths. Suddenly and for reasons never explained it was supposed to be a worldwide disease only, many serious illnesses, and many deaths were not required anymore to announce a pandemic. Due to this change, the WHO, which is closely intertwined with the global pharmaceutical industry was able to declare the swine flu pandemic in 2009, with the result that vaccines were produced and sold worldwide on the basis of contracts that have been kept secret until today. These vaccines proved to be completely unnecessary, because the swine flu eventually turned out to be a mild flu and never became the horrific plague that the pharmaceutical industry and its affiliated universities kept announcing it would turn into, with millions of deaths certain to happen, if people didn't get vaccinated.

These vaccines also lead to serious health problems. About 700 children in Europe fell incurably ill with narcolepsy and are now forever severely disabled.

The vaccines bought with millions of taxpayers money had to be destroyed, with even more taxpayers' money. Already then during the swine flu, the German virologist, Drosten was one of those who stirred up panic in the population repeating over and over again that the swine flu would claim many hundreds of thousands, even millions of deaths all over the world. In the end, it was mainly thanks to Dr. Wolfgang Wodarg and his efforts as a member of the German Bundestag, and also a member of The Council of Europe that this hoax was brought to an end before it would lead to even more serious consequences.

Fast forward to March of 2020, when the German Bundestag announced an epidemic situation of national importance, which is the German equivalent of a pandemic, in March of 2020. And based on this, the lockdown with the suspension of all essential constitutional rights for an unforeseeable time, there was only one single opinion on which the federal government in Germany based its decision. In an outrageous violation of the universally accepted principle, audiatur et altera pars, which means that one must also hear the other side, the only person they listened to was Mr. Drosten. That is the very person whose horrific panic inducing prognosis had proved to be catastrophically false 12 years earlier.

We know this, because a whistleblower named David Seiber, a member of the Green Party told us about it. He did so first on August 29th, 2020 in Berlin, in the context of an event at which Robert F. Kennedy Jr also took part, and at which both men gave speeches. And he did so afterwards in one of the sessions of our Corona committee. The reason he did this is that he had become increasingly skeptical about the official narrative propagated by politicians and the mainstream media. He had therefore undertaken an effort to find out about other scientists opinions and had found them on the internet. There he realized that there were a number of highly renowned scientists who held a completely different opinion, which contradicted the horrific prognosis of Mr. Drosten.

They assumed and still do you assume that there was no disease that went beyond the gravity of the seasonal flu, that the population had already acquired cross or T-cell immunity against this allegedly new virus, and that there was therefore no reason for any special measures, and certainly not for vaccinations.

These scientists include Professor John Ioannidis, of Stanford university in California, a specialist in statistics and epidemiology, as well as public health. And at the same time, the most quoted scientist in the world, Professor Michael Levitt, Nobel Prize winner for chemistry and also a biophysicist at Stanford University.

The German professors, [Kary 00:12:40] Merlin, Sucharit Bhakdi, Knut Wittkowski as well as [Stefan Humburg 00:12:44] and now many, many more scientists and doctors worldwide, including Dr. Mike Yeadon. Dr. Mike Yeadon is the former vice president and scientific director of Pfizer, one of the largest pharmaceutical companies in the world. I will talk some more about him a little later.

At the end of March, beginning of April of 2020, Mr. Seiber turned to the leadership of his Green Party with the knowledge he had accumulated and suggested that they present these other scientific opinions to the public, and explain that contrary to Mr. Drosten's doomsday prophecies there was no reason for the public to panic. Incidentally, Lord Sumption, who served as a judge at the British Supreme Court from 2012 to 2018, had done the very same thing at the very same time that had come to the very same conclusion, that there was no factual basis for panic and no legal basis for the Corona measures.

Likewise, the former president of the German Federal Constitutional Court expressed albeit more cautiously serious doubts that the Corona measures were constitutional. But instead of taking note of these other opinions and discussing them with David Seiber, the Green Party leadership declared that Mr. Drosten's panic messages were good enough for the Green party. Remember, they're not a member of the ruling core coalition, they're the opposition. Still, that was enough for them, just as it had been good enough for the federal government as a basis for its locked decision, they said. They subsequently, the Green Party leadership called David Seiber, a conspiracy theorist without ever having considered the content of his information and then stripped him of his mandates.

Now, let's take a look at the current actual situation regarding the virus's danger, the complete uselessness of PCR tests for the detection of infections and the lockdowns based on non-existent existent infections. In the meantime, we know that the healthcare systems were never in danger of becoming overwhelmed by COVID-19. On the contrary, many hospitals remain empty to this day and some are now facing bankruptcy. The hospital ship, Comfort, which anchored in New York at the time, and could have accommodated a thousand patients, never accommodated more than some 20 patients. Nowhere was there any excess mortality.

Studies carried out by Professor Ioannidis and others have shown that the mortality of Corona is equivalent to that of the seasonal flu. Even the pictures from Bergamo and New York that were used to demonstrate to the world that

panic was an order proved to be deliberately misleading. Then the so-called Panic Paper was leaked, which was written by the German Department of the Interior. It's classified content shows beyond a shadow of a doubt that in fact, the population was deliberately driven to panic by politicians and mainstream media. The accompanying irresponsible statements of the head of the RKI, remember the CDC, Mr. Wieler, who repeatedly and excitedly announced that the Corona measures must be followed unconditionally by the population without them asking any question, shows that he followed the script verbatim. In his public statements, he kept announcing that the situation was very grave and threatening. Although, the figures compiled by his own institute proved the exact opposite.

Among other things, the Panic Paper calls for children to be made, to feel responsible, and I quote, for the painful torture death of their parents and grandparents, if they do not follow the Corona rules, that is if they do not wash their hands constantly and don't stay away from their grandparents. A word of clarification, in Bergamo the vast majority of deaths, 94% to be exact, turned out to be the result, not of COVID-19, but rather the consequence of the government deciding to transfer sick patients, sick, was probably the cold or seasonal flu, from hospitals to nursing homes in order to make room at the hospitals for all the COVID patients who ultimately never arrived. There at the nursing homes, they then infected old people with a severely weakened immune system, usually as a result of preexisting medical conditions. In addition of flu vaccination, which had previously been administered, had further weakened the immune systems of the people in the nursing homes.

In New York, only some, but by far not all hospitals were overwhelmed. Many people, most of whom were, again, elderly and had serious medical conditions, and most of whom had it not been for the panic mongering would have just stayed at home to recover, raced to the hospitals. There many of them fell victim to healthcare associated infections or nosocomial infections on the one hand, and incidents of malpractice on the other hand, for example, by being put on a respirator rather than receiving oxygen through an oxygen mask.

Again, to clarify COVID-19, this is the current state of affairs, is a dangerous disease, just like the seasonal flu is a dangerous disease. And of course COVID-19 just like the seasonal flu may sometimes take a severe clinical course and will sometimes kill patients. However, as autopsies have shown, which were carried out in Germany in particular by the forensic scientist professor Klaus Puschel in Hamburg, the fatalities he examined had almost all been caused by serious pre-

existing conditions. And almost all of the people who had died, had died at a very old age, just like in Italy, meaning they had lived beyond their average life expectancy.

In this context, the following should also be mentioned, the German RKI, that is again, the equivalent of the CDC had initially strangely enough recommended that no autopsies be performed. And there are numerous credible reports that doctors and hospitals worldwide had been paid money for declaring a deceased person, a victim of COVID-19, rather than writing down the true cause of death on the death certificate, for example, a heart attack or a gunshot wound. Without the autopsies, we would never know that the overwhelming majority of the alleged COVID-19 victims had died of completely different diseases, but not of COVID-19.

The assertion that the lockdown was necessary because there were so many different infections with SARS-CoV-2. And because the healthcare systems would be overwhelmed is wrong for three reasons, as we have learned from the hearings we conducted with the Corona Committee and from other data that has become available in the meantime. A, the lockdown was imposed when the virus was already retreating. By the time the lockdown was imposed, the alleged infection rates were already dropping again. B, there's already protection from the virus because of cross our T-cell immunity.

Apart from the above mentioned, lockdown being imposed when the infection rates were already dropping, there is also cross or T-cell immunity in the general population against the Corona viruses attained in every flu or influenza wave. This is true, even if this time around a slightly different strain of a Corona virus was at work. And that is because the body's own immune system remembers every virus it has ever battled in the past. And from this experience, it also recognizes this is supposedly new, but still similar strain of the virus from the Corona family. Incidentally, that's how the PCR test for the detection of an infection was invented by now infamous Professor Drosten.

At the beginning of January of 2020, based on this very basic knowledge, Mr. Drosten developed his PCR test, which supposedly detects an infection with SARS-CoV-2. Without ever having seen the real Wuhan virus from China, only having learned from social media reports that there was something going on in Wuhan, he started tinkering on his computer with what would become his Corona PCR test. For this, he used an old SARS virus hoping it would be sufficiently similar to the allegedly new strain of the Corona virus found in

Wuhan. Then he sent the result of his computer tinkering to China to determine whether the victims of the alleged new Corona virus tested positive. They did. And that was enough for the World Health Organization to sound the pandemic alarm and to recommend the worldwide use of the Drosten PCR test for the detection of infections with the virus now called SARS-CoV-2.

Drosten's opinion and advice was this must be emphasized once again, the only source for the German government when it announced the lockdown, as well as the rules for social distancing and the mandatory wearing of masks. And this must also be emphasized once again, Germany apparently became the center of especially massive lobbying by the pharmaceutical and tech industry, because the world was referenced to the allegedly disciplined Germans should do as the Germans do in order to survive the pandemic.

C, and this is the most important part of our fact finding. The PCR test is being used on the basis of false statements, not based on scientific facts with respect to infections. In the meantime, we have learned that these PCR tests contrary to the assertions of Messrs. Drosten, Wieler and the WHO, do not give any indication of an infection with any virus, let alone and infection with SARS-CoV-2. Not only are PCR tests expressly not approved for diagnostic purposes as is correctly noted on leaflets coming with these tests. And as the inventor of the PCR test, Kary Mullis has repeatedly emphasized, instead, there are simply incapable of diagnosing any disease. That is contrary to the assertions of Drosten and Wieler, and the WHO, which they have been making since the proclamation of the pandemic, a positive PCR test result does not mean that an infection is present. If someone tests positive, it does not mean that they're infected with anything, let alone with a contagious SARS-CoV-2 virus.

Even the United States CDC, even this institution agrees with this. And I quote directly from page 38 of one of its publications on the Corona virus and the PCR tests dated July 13th, 2020 first bullet point says, "Detection of viral RNA may not indicate the presence of infectious virus or that 2019-nCoV is the causative agent for clinical symptoms." Second bullet point says, "The performance of this test has not been established for monitoring treatment of 2019-nCoV infection. Third bullet point says, "This test cannot rule out diseases caused by other bacterial or viral pathogens."

It is still not clear whether there has ever been a scientific correct isolation of the Wuhan virus, so that nobody knows exactly what we're looking for when we test,

especially since this virus, just like the flu viruses mutates quickly. The PCR swaps take one or two sequences of a molecule that are invisible to the human eye and therefore need to be amplified in many cycles to make it visible. Everything over 35 cycles is as reported by The New York Times and others considered completely unreliable and scientifically unjustifiable.

However, the Drosten test, as well as the WHO recommended tests that followed his example are set to 45 cycles. Can that be because of the desire to produce as many positive results as possible, and thereby provide the basis for the false assumption that a large number of infections have been detected. The test cannot distinguish inactive and reproductive matter. That means that a positive result may happen because the test detects, for example, a piece of debris, a fragment of a molecule, which may signal nothing else, than that the immune system of the person tested won a battle with a common cold in the past.

Even Drosten himself declared in an interview with a German business magazine in 2014, at that time concerning the alleged detection of an infection with the MERS virus, allegedly with the help of the PCR test, that these PCR tests are so highly sensitive that even very healthy and noninfectious people may test positive. At that time, he also became very much aware of the powerful role of the panic and fear mongering media, as you'll see at the end of the following quote. He said then in this interview, "If, for example, such a pathogen scurries over the nasal mucosa of a nurse for a day or so without her getting sick or noticing anything, then she's suddenly a MERS case. This could also explain the explosion of case numbers in Saudi Arabia. In addition, the media there have made this into an incredible sensation."

Has he forgotten this or is he deliberately concealing this in the Corona context, because Corona is a very lucrative business opportunity for the pharmaceutical industry as a whole, and for Mr. Alford Lund, his co-author in many studies and also a PCR test producer. In my view, it is completely implausible that he forgot in 2020 what he knew about the PCR tests and told a business magazine in 2014.

In short, this test cannot detect any infection, contrary to all false claim stating that it can. An infection, a so-called hot infection requires that the virus or rather a fragment of a molecule, which may be a virus, is not just found somewhere, for example, in the throat of a person without causing any damage. That would be a cold infection. Rather, a hot infection requires that the virus penetrates into the cells, replicates there and causes symptoms such as headaches or a sore throat. Only then is a person really infected in the sense of a hot infection. Because only

then is a person contagious, that is able to infect others. Until then it is completely harmless for both the hosts and all other people that the host comes into contact with.

Once again, this means that positive test results, contrary to all other claims by Drosten and Wieler or the WHO mean nothing with respect to infections as even the CDC knows as quoted above. Meanwhile, a number of highly respected scientists worldwide assume that there has never been a Corona pandemic, but only a PCR test pandemic. This is the conclusion reached by many German scientists, such as professors Bhakdi, Rice, Merlin, [Hogwarts 00:29:11], Walach, and many others, including the above mentioned professor John Ioannidis, and the Nobel Laureate Professor Michael Levitt, from Stanford University.

The most recent such opinion is that of the aforementioned Dr. Mike Yeadon, a former vice president and chief science officer at Pfizer, who held this position for 16 years. He and his co-authors, all well known scientists, published a scientific paper in September of 2020. And he wrote a corresponding magazine article on September 20th, 2020. Among other things he and they state and I quote, "We're basing our government policy, our economic policy and the policy of restricting fundamental rights, presumably on completely wrong data and assumptions about the Corona virus. If it weren't for the test results that are constantly reported in the media, the pandemic would be over because nothing really happened. Of course, there are some serious individual cases of illness, but they're also some in every flu epidemic. There was a real wave of disease in March and April. But since then, everything has gone back to normal. Only the positive results rise and sink wildly again and again, depending on how many tests are carried out, but the real cases of illnesses are over. There can be no talk of a second wave."

"The allegedly new strain of a Corona virus is," Dr. Yeadon continues, "Only new in that it is a new type of the long known Corona virus. There are at least four Corona viruses that are endemic and cause some of the common colds we experience, especially in winter. They all have a striking sequence similarity to the Corona virus. And because the human immune system recognizes the similarity to the virus that has now allegedly been newly discovered, a T-cell immunity has long existed in this respect. 30% of the population had this before the allegedly new virus even appeared. Therefore, it is sufficient for the so-called herd immunity that 15% to 25% of the population are infected with the allegedly new Corona virus to stop the further spread of the virus. And this has long been the case."

Regarding the all-important PCR tests, Yeadon writes in a piece called Lies, Damned Lies and Health Statistics- The Deadly Danger of False Positives, dated September 20th 2020. And I quote, "The likelihood of an apparently positive case being a false positive is between 89% to 94% or near certainty." Dr. Yeadon in agreement with the professors of immunology [Kimora 00:32:09] from Germany, Capel, from the Netherlands, and Cahill, from Ireland, as well as the microbiologist Dr. Arvay, from Austria, all of whom testified before the German Corona Committee, explicitly points out that a positive test does not mean that an intact virus has been found.
The authors explain that what the PCR test actually measures is, and I quote, "Simply the presence of partial RNA sequences present in the intact virus, which could be a piece of dead virus, which cannot make the subject sick and cannot be transmitted and cannot make anyone else sick. Because of the complete unsuitability of the test for the detection of infectious diseases, it tested positive in goats, sheep, papayas, and even chicken wings. Oxford Professor Carl Heneghan, director of the Center for Evidence-Based Medicine writes that the COVID virus would never disappear, if this test practice were to be continued, but would always be falsely detected in much of what is tested.

Lockdowns, as Yeadon and his colleagues found out, do not work. Sweden with its let's say a fair approach and Great Britain with its strict lockdown, for example, have completely comparable disease and mortality statistics. The same was found by US scientists concerning the different US states. It makes no difference to the incidence of disease, whether a state implements a lockdown or not. With regard to the now infamous Imperial College of London's Professor Neil Ferguson and his completely false computer model's warning of millions of deaths. He says that, and I quote, "No serious scientist gives any validity to Ferguson's model." He points out with thinly veiled contempt, again, I quote, "It's important that you know most scientists don't accept that it," that is Ferguson's model, "Was even faintly right. But the government is still wedded to the model."

Ferguson predicted 40,000 Corona deaths in Sweden by May and a 100,000 by June, but it remained at 5,800, which according to the Swedish authorities is equivalent to a mild flu. If the PCR tests had not been used as a diagnostic tool for Corona infections, there would not be a pandemic and there would be no lockdowns, but everything would have been perceived as just a medium or light wave of influenza. These scientists conclude.

Dr. Yeadon in his piece Lies, Damned Lies and Health Statistics- The Deadly

Danger of False Positives, writes, "This test is fatally flawed, and must immediately be withdrawn and never used again in this setting unless shown to be fixed." And towards the end of that article, "I have explained how a hopelessly performing diagnostic test has been and continues to be used, not for diagnosis of disease, but it seems solely to create fear."

Now, let's take a look at the current actual situation regarding the severe damage caused by the lockdowns and other measures. Another detailed paper written by a German official in the Department of the Interior, who is responsible for risk assessment and the protection of the population against risks was leaked recently. It is now called the False Alarm Paper. This paper comes to the conclusion that there was, and is no sufficient evidence for serious health risks for the population as claimed by Drosten and Wieler, and the WHO. But the author says there is very much evidence of the Corona measures causing gigantic health and economic damage to the population, which he then describes in detail in this paper. This he concludes will lead to very high claims for damages, which the government will be held responsible for. This has now become reality, but the paper's author was suspended.

More and more scientists, but also lawyers recognize that as a result of the deliberate panic mongering and the Corona measures enabled by this panic, democracy is in great danger of being replaced by fascist totalitarian models. As I already mentioned above, in Australia, people who do not wear the masks, which more and more studies show are hazardous to health, or who allegedly do not wear them correctly are arrested, handcuffed and thrown into jail. In the Philippines, they run the risk of getting shot. But even in Germany and in other previously civilized countries, children are taken away from their parents, if they do not comply with quarantine regulations, distance regulations, and mask wearing regulations.

According to the psychologists and psychotherapists who testified before the Corona Committee, children are traumatized on mass, with the worst psychological consequences yet to be expected in the medium and long term. In Germany alone, 500,000 to 800,000 bankruptcies are expected in the fall to strike small and medium sized businesses, which form the backbone of the economy. This will result in incalculable tax losses and incalculably high and longterm social security money transfers for among other things, unemployment benefits.

Since in the meantime pretty much everybody's beginning to understand the full

devastating impact of the completely unfounded Corona measures, I will refrain from detailing this any further. I mean, I'll give you a summary of the legal consequences. The most difficult part of a lawyer's work is always to establish the true facts, not the application of the legal rules to these facts. Unfortunately, a German lawyer does not learn this at law school, but his Anglo-American counterparts do get the necessary training for this at their law schools. And probably for this reason, but also because of the much more pronounced independence of the American, Anglo-American judiciary, the Anglo-American law of evidence is much more effective in practice than the German one. A court of law can only decide a legal dispute correctly if it has previously determined the facts correctly, which is not possible without looking at all the evidence. And that's why the law of evidence is so important.

On the basis of the facts summarized above, in particular those established with the help of the work of the German Corona Committee, the legal evaluation is actually simple. It is simple for all civilized legal systems, regardless of whether these legal systems are based on civil law, which follows the Roman law more closely, or whether they're based on Anglo-American common law, which is only loosely connected to Roman law.

Let's first take a look at the unconstitutionality of the measures. A number of German law professors, including professors Kingreen, [Moswig 00:39:36], [Youngblood 00:39:36] and Fosgerau, have stated either in Britain expert opinions or in interviews in line with the serious doubts expressed by the former president of the Federal Constitutional Court with respect to the constitutionality of the Corona measures, that these measures, the Corona measures are without a sufficient factual basis, and also without a sufficient legal basis, and are therefore unconstitutional and must be repealed immediately.

Very recently, a judge, [inaudible 00:40:09], is his name, declared publicly that the German judiciary just like the general public has been so panic stricken, that it was no longer able to administer justice properly. He says that the courts of law and I quote, "Have all too quickly waved through coercive measures, which for millions of people all over Germany represent massive suspensions of their constitutional rights." He points out the German citizens, again I quote, "Are currently experiencing the most serious encroachment on their constitutional rights since the founding of the Federal Republic of Germany in 1949. In order to contain the Corona pandemic, federal and state governments have intervened," he says, "Massively and in part threatening the very existence of the country as it is guaranteed by the constitutional rights of the people."

What about fraud, intentional infliction of damage and crimes against humanity? Based on the rules of criminal law, asserting false facts concerning the PCR tests or intentional misrepresentation as it was committed by Messrs. Drosten and Wieler, as well as the WHO, can only be assessed as fraud. Based on the rules of civil tort law, this translates into intentional infliction of damage. The German professor of civil law, Martin Schwab supports this finding in public interviews. In a comprehensive legal opinion of around 180 pages, he has familiarized himself with the subject matter, like no other legal scholar has done thus far. And in particular has provided a detailed account of the complete failure of the mainstream media to report on the true facts of this so-called pandemic.

Messrs. Drosten, Wieler and Tedros of the WHO, all knew based on their own expertise or the expertise of their institutions, that the PCR tests cannot provide any information about infections, but asserted over and over again to the general public that they can, with their counterparts all over the world, repeating this. And they all knew and accepted that on the basis of their recommendations, the governments of the world would decide on lockdowns, the rules for social distancing and mandatory wearing of masks. The latter representing a very serious health hazard as more and more independent studies and expert statements show.

Under the rules of civil tort law, all those who have been harmed by these PCR test induced lockdowns are entitled to receive full compensation for their losses. In particular, there is a duty to compensate, that is a duty to pay damages for the loss of profits suffered by companies and self-employed persons as a result of the lockdown and other measures. In the meantime, however, the anti-Corona measures have caused and continue to cause such devastating damage to the world's population's health and economy that the crimes committed by Messrs. Drosten, Wieler, and The WHO must be legally qualified as actual crimes against humanity as defined in Section Seven of the International Criminal Code.

How can we do something? What can we do? Well, the class action is the best route to compensatory damages and to political consequences. The so-called class action lawsuit is based on English law and exists today in the USA and in Canada. It enables a court of law to allow a complaint for damages to be tried as a class action lawsuit at the request of a plaintiff, if one, as a result of a damage inducing event to a large number of people suffer the same type of damage. Phrased differently, a judge can allow a class action lawsuit to go forward, if

common questions of law and fact make up the vital component of the lawsuit. Here, the common questions of law and fact revolve around the worldwide PCR test based lockdowns and its consequences. Just like the VW diesel passenger cars were functioning products, but they were defective due to a so-called defeat device because they didn't comply with the emission standards, so too the PCR tests, which are perfectly good products in other settings, are defective products when it comes to the diagnosis of infections.

Now, if an American or Canadian company or an American or Canadian individual decides to sue these persons in the United States or Canada for damages, then the court called upon to resolve this dispute may upon request, allow this complaint to be tried as a class action lawsuit. If this happens, all affected parties worldwide will be informed about this through publications in the mainstream media, and will thus have the opportunity to join this class action within a certain period of time to be determined by the court. It should be emphasized that nobody must join the class action, but every injured party can join the class.

The advantage of the class action is that only one trial is needed, namely to try the complaint of a representative plaintiff who is affected in a manner typical of everyone else in the class. This is firstly cheaper, and secondly, faster than hundreds of thousands or more individual lawsuits. And thirdly, it imposes less of a burden on the courts. Fourthly, as a rule, it allows a much more precise examination of the accusations that wouldn't be possible in the context of hundreds of thousands or more likely in this Corona setting, even millions of individual lawsuits.

In particular, the well established and proven Anglo-American law of evidence with its pretrial discovery is applicable. This requires that all evidence relevant for the determination of the lawsuit is put on the table. In contrast to the typical situation in German lawsuits with structural imbalance, that is lawsuits involving, on the one hand a consumer, and on the other hand a powerful corporation, the withholding or even destruction of evidence is not without consequence. Rather, the party withholding or even destroying evidence loses the case under these evidence rules.

Here in Germany, a group of tort lawyers have banded together to help their clients with the recovery of damages. They have provided all relevant information and forms for German plaintiffs to both estimate how much damage they have suffered and join the group or class of plaintiffs who will later join the

class action when it goes forward, either in Canada or the US.

Initially, this group of lawyers had considered to also collect and manage the claims for damages of other non-German plaintiffs, but this proved to be unmanageable. However, through an international lawyers network, which is growing larger by the day, the German group of attorneys provides to all of their colleagues and all other countries free of charge, all relevant information, including expert opinions and testimonies of experts showing that the PCR tests cannot detect infections. And they also provide them with all relevant information as to how they can prepare and bundle the claims for damages with their clients, so that they too can assert their client's claims for damages, either in their home countries' courts of law or within the framework of the class action as explained above.

These scandalous Corona facts gathered mostly by the Corona Committee and summarized above are the very same facts that will soon be proven to be true, either in one court of law or in many courts of law all over the world. These are the facts that will pull the masks off the faces of all those responsible for these crimes. To the politicians who believe those corrupt people, these facts are hereby offered as a lifeline that can help you readjust your course of action and start the long overdue public scientific discussion and not go down with those charlatans and criminals. Thank you.

Orange County Board of Education

Orange County Department of Education
200 Kalmus
Costa Mesa, CA

White Paper

Special Community Forum on "Opening Schools in Orange County"

Recommendations for the Safe and Effective Reopening of Orange County Schools

Adopted and approved by the Orange County Board of Education on July 13, 2020.

Forum Moderator

Will Swaim, President, California Policy Center

Expert Panelists

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***The OCBE acknowledges and appreciates Mr. Will Swaim assistance and input in the preparation of this document.**

PREFACE

California public schools are critical community institutions with civic responsibilities that often move far beyond teaching. For many families, public schools also provide crucial childcare and recreation needs as well as important mental health care and nutritional needs.

Public school employees frequently function as front-line detectors and reporters of child abuse and neglect issues. The shutdown of our schools has not diminished these risks to children; abuse doesn't stop merely because reporting from teachers is halted. Indeed, as one expert told us, children "are the silent casualties of this lockdown." For too many children, our schools are a refuge from a difficult, even violent world, and now that refuge is closed. Dr. Sherry Kropp stated, "We have hurt hundreds of thousands more children than we have helped." Orange County District Attorney Todd Spitzer predicts, *"One of the things we're going to learn after this pandemic is over is that by having people sheltered at home, we have potentially put children and elderly people closer to their abusers."*

There are reasonable arguments on all sides about whether this is the best and highest outcome for our school system, or why we often fall short of the high education standards we set for ourselves. But this is not the place for that debate. Here, we accept what is: that parents of school-age children – and children themselves – have come to rely on our schools. Deprived of these institutions even for a short time, children have lost valuable instruction. Many American communities have been plunged into social and economic chaos.

Therefore, the Orange County Board of Education concludes that it is not acceptable to delay the opening of public schools as it is not in the best interests of our children and families. Further, it is not clear that an effective cure or a vaccination for *SARS-CoV-2 infection* (Covid-19) will be developed in the near future if at all.

Declaring this in the face of widely held misconceptions and mixed messages about Covid-19 – particularly about its lethality and contagiousness to children – requires fact-finding and courage, as we

move through these uncertainties together. The American Academy of Pediatrics reported the following in late June [1]:

> *"Although many questions remain, the preponderance of evidence indicates that children and adolescents are less likely to be symptomatic and less likely to have severe disease resulting from Covid-19 infection. In addition, children may be less likely to become infected and to spread infection. Policies to mitigate the spread of COVID-19 within schools must be balanced with the known harms to children, adolescents, families, and the community by keeping children at home."*

We recognize that this conclusion is dramatically and significantly different from some common misconceptions about the disease. It was a conclusion that our panelists – and many in the medical community – reached long before the AAP released its recommendations. For that reason, we asked these experts to attend a special June 2020 special community forum at the Orange County Department of Education's Costa Mesa office. Each board member had the opportunity to place an expert of choice on the panel, and the board approved the resulting expert panel at its regular board meeting.

The OCBE special board public meeting on June 24, 2020 on reopening schools in Orange County followed the governor's current guidelines on social distancing. Members of the public were allowed to attend in person on a space-available basis, and we simultaneously made it possible for the public to attend the live-streamed meeting with more than 1,000 attendees. Hundreds of on-line listeners submitted questions and comments for discussion. And though we certainly could not answer all of the questions submitted, the experts' discussion, feedback, and conclusions provided a general response to all.

The board received both support and criticism to the stated mission and purpose of the meeting. Observers of the meeting saw evidence that the public and parents are eager to participate in the conversation on reopening schools. The purpose of the board's public dialogue is to provide transparent, open discussions for interested parents and community members, which are often in contrast with decision-making processes of other federal, state and local government agencies on the same subject. For instance, the board's community public forum and meeting reflected great

[1] https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/

transparency in contrast to the county superintendent's task force and meetings. In creating guidelines, this task force utilized community healthcare experts and primarily unelected school administrators in which the public and elected county department trustees were prevented from attending or participating. The subsequently released superintendent task force guidelines on re-opening schools, "Orange County Together" [2], is available for review on-line.

In this white paper, we have done our best to capture the general assessment of the various expert opinions. And, of course, some panelists were careful to say that they were speaking only for themselves and not necessarily for all colleagues or organizations with which they work in their professional capacities (see e.g. Appendix A.).

INTRODUCTION

Our schools were closed in March 2020 in order to meet what state officials said was the short-term goal of "flattening the curve," that is to slow the spread of Covid-19. Many of our panel experts said that decisions made to halt the spread of the virus by federal, state, and local government entities was reasonable at the time, given the general lack of knowledge about this novel infectious disease and evolving epidemic/pandemic. But continuing the shutdown despite new science and data, our experts said, has been a mistake with disastrous implications for children, their families and community. It hardly goes without saying that poorer families with fewer options, and families with special-needs children, have suffered most from the shutdown.

The current knowledge of this virus and its virulence has given science and medicine much information and knowledge to make reasonable public health policy, recommendations, and guidelines. More efficacious data and science will inform our knowledge of Covid-19 over time and guidelines will be continually adapted as we learn more about how to best live in the COVID-19 era.

General recommendations

What we know to date allows us to offer the following guidelines:

[2] https://newsroom.ocde.us/orange-county-together-guide-provides-recommendations-for-safely-reopening-local-schools/

- K-12 children represent the lowest-risk cohort for Covid-19. Because of that fact, social distancing of children and reduced census classrooms is not necessary and therefore not recommended.
- Requiring children to wear masks during school is not only difficult – if not impossible to implement – but not based on science. It may even be harmful and is therefore not recommended.
- Children play a very minor role in the spread of Covid-19. Teachers and staff are in greater danger of infection from other adults, including parents, than from students in their classrooms.
- Participation in any reopening of public education should be voluntary. These guidelines are not "laws" or "regulations" or even "rules." Parents, not government officials, are in the best position to determine the education environment that best suits their children. If a school district is unable or unwilling to provide that education, parents should be allowed to send their children to a district or charter school that will provide that education. Some parents with the means will opt for private schools or home schooling.
- Temperature checks should be performed regularly. As with any illness, ill children, teachers, or staff should be sent home and if identified not allowed to be on campus.
- As always, good hygiene with frequent hand washing and the use of hand sanitizer should be encouraged.
- Classrooms, meeting rooms, transportation vehicles (e.g., busses) and administrative offices should be thoroughly cleaned each night

Our goal is to provide parents, teachers, schools trustees, administrators and other stakeholders with evidence following the CDC's and the Academy of American Pediatrics' simple, common-sense guidelines that will allow us to reopen our schools safely this fall – and that our schools must reopen.

The general use of the U.S. Centers for Disease Control and Prevention (Appendix B-Schools during the Covid-19 pandemic,") and the American Academy of Pediatrics (Appendix C- COVID-19 Planning Considerations: Guidance for School Re-entry) is prudent reference for policy makers.

K-12 children represent the lowest risk cohort for Covid-19. Because of that fact, social distancing and masking of children is unnecessary and therefore not recommended.

There's no question that children generally represent the lowest risk cohort for Covid-19. The American Academy of Pediatrics concludes [3]:

> *SARS-CoV-2 appears to behave differently in children and adolescents than other common respiratory viruses, such as influenza, on which much of the current guidance regarding school closures is based. Although children and adolescents play a major role in amplifying influenza outbreaks, to date, this does not appear to be the case with SARS-CoV-2. Although many questions remain, the preponderance of evidence indicates that children and adolescents are less likely to be symptomatic and less likely to have severe disease resulting from SARS-CoV-2 infection. In addition, children may be less likely to become infected and to spread infection. Policies to mitigate the spread of COVID-19 within schools must be balanced with the known harms to children, adolescents, families, and the community by keeping children at home.*

Similarly, weeks before the Pediatric Academy's publication, the *Journal of the American Medical Association* reported, *"it is important to emphasize that the overall burden of COVID-19 infection in children remains relatively low compared with seasonal influenza."* [4]

As of June 24, 2020 the Orange County Healthcare Agency reported that residents under the age of 24 (38 percent of the population) accounted for just 15 percent of all Covid-19 cases and no Orange County deaths (Appendix D -"Orange County Covid-19 Cases and Deaths by Age). By contrast, individuals over the age of 75 (just 13.5 percent of the population) accounted for 56 percent of all deaths. As one of our experts on the panel put it, *"This is a disease that kills our most elderly and spares our children. It may sound callous, but would we want it the other way around?"*

The importance of vital social interaction among children is well-documented and is indeed foundational to American K-12 education. Social distancing and mandatory masking have been found to be more harmful to children than previously thought. An American Enterprise Institute working group notes [5]:

> *"The isolation brought about by social distancing can exacerbate children's depression and anxiety. As students return, schools must have counseling support to address the numerous*

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[3] https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/

[4] https://jamanetwork.com/journals/jamapediatrics/fullarticle/2766037

[5] https://www.aei.org/wp-content/uploads/2020/05/A-Blueprint-for-Back-to-School.pdf

causes of trauma that result from the deaths of friends and family members, economic hardship from a parent losing his or her job, or abuse, violence, or neglect" (Appendix E, "A Blueprint for Back to School,").

Indeed, our expert panelists expressed the same concerns about the lockdown's impact on our children's health. Dr. Sherry Kropp, recently retired superintendent of Los Alamitos Unified School District, summed up the conclusions of many on this issue: In closing our schools, "*we have hurt hundreds of thousands more children than we have helped.*"

Our professional educators and other support staff do not need to be reminded when and how to look for signs of psychological or mental health distress, including distress caused by social distancing, among our students and colleagues. Because of the established link between social-distancing and child harm, we cannot support extraordinary efforts aimed at social-distancing at school.

There's a complementary form of social-distancing that's often recommended or even required in other guidelines on school-reopening, that is considered just as unwise as social-distancing itself, i.e., the use of masks by children. The argument that children should wear masks to prevent the asymptomatic spread of the coronavirus to other students or a high-risk teacher or administrator is fallacious and lacks science and data to support this notion.

Requiring children to wear face coverings may even be very harmful to the child. Learning is inhibited and critical social interactions among students and between student and teacher are fractured. Mandatory masks may well lead to a spike in childhood behavior problems such as learning disabilities, anxiety disorders, and depression to name a few.

Responding to guidelines published by our colleagues in the Los Angeles Unified School District, Dr. Alice Kuo, President of the Southern California chapter of the American Academy of Pediatrics, opined [6]:

> "*Our concern is that recently issued guidelines for schools re-opening in Los Angeles County are not realistic or even developmentally appropriate for children. For example, wearing masks throughout the day can hinder language and socio-emotional development, particularly for*

[6] http://aapca2.org/wp-content/uploads/2020/06/AAP-CA2-press-release-on-schools-re-opening-6-2-20-Rev.pdf

younger children." (Appendix F)

It's important to note masks that are effective in preventing disease by viral contagions require formal certified instruction and training. Health professionals are generally experienced and fitted properly with personal protective equipment (PPE), and sophisticated masks that are properly fitted to the individual by a thirty minute test and process called "fit testing. " That's not the case with children and adults who currently are using inadequate filtering cloth or medical-surgical grade masks. According to the US. Department of Labor-Occupational Safety and Health Administration [7], "*cloth face coverings are not considered personal protective equipment (PPE)*", and surgical masks "*will not protect the wearer against airborne transmissible infectious agents due to lose fit and lack of adequate seal or inadequate filtration.*"

"*Medical-surgical grade masks can be worn to contain the wearer's respiratory droplets (e.g., healthcare workers, such as surgeons, wear them to avoid contaminating surgical sites, and dentists and dental hygienists wear them to protect patients*)." Additionally, medical-surgical masks should be used by infected individuals to decrease the transmission of respiratory infections that spread by large Covid-19 droplets [8]. Pragmatically, as our panel of pediatric and medical experts iterated, the use of mask by children is unnatural and difficult to enforce. Prolong face mask during the schools day use will inevitably contribute to the increase frequency of children touching their faces and constantly adjusting their masks, thereby potentially increasing the rate of contaminating their hands and face coverings.

Future prevention by vaccines that are tested and approved by the FDA will not available for some future undefined time period. The Covid-19 virus will be a global endemic disease for the next generations until herd immunity or a vaccination is available. As the world advances its knowledge and medical science on the Covid-19 virus, we currently do not have any data or evidence of the effectiveness in preventing Covid infections in children and adults by the mandatory use of masks.

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[7] https://www.osha.gov/SLTC/covid-19/covid-19-faq.html#testing

[8] Ibid

The only evidence and data available on mask effectiveness against viruses are studies from the analysis of the 2009 pandemic Influenza (H1N1) virus. Cowling in his meta-analysis study [9] of 279 citations and 12 articles found by PubMed search, concluded there is " *limited evidence base supporting the efficacy or effectiveness of face masks to reduce influenza virus transmission*". Likewise, bin-Reza PubMed database search concluded in his meta-analysis study [10] that none of the "*studies reviewed established a conclusive relationship between mask / respirator use and protection against influenza infection.*" There is a paucity of studies and data that does not support the use of masks to prevent becoming infected with Covid-19. In the future months and years ahead perhaps meta-analysis studies and data will reveal more information on mask effectiveness in preventing disease.

Future Covid-19 prevention in both adults and children by vaccines that are tested and approved by the FDA will not available for an undefined time period. The Covid-19 virus will be a global endemic disease for the next generations until herd immunity or a vaccination is available. Because children represent such a negligible risk for reasons unknown but with data and science supporting this notion, we cannot recommend masking children or social distancing. Indeed, we would ask those who advocate such requirements to respond to the medical evidence that masks and social distancing actually inhibit learning.

Children play a very minor role in the spread of Covid-19. Teachers and staff are in greater danger from one another – from all other adults, including parents – than from children.

If our neighbors are surprised that children are not vectors for Covid-19, it may come as a greater shock that many nonprofit childcare centers have remained open throughout the pandemic – even in New York City, the nation's hotspot for viral spread. National Public Radio reports [11]:

> *"Throughout the pandemic, many child care centers have stayed open for the children of front-line workers — everyone from doctors to grocery store clerks. YMCA of the USA and New York City's Department of Education have been caring for, collectively, tens of thousands of children since March, and both tell NPR they have no reports of coronavirus clusters or outbreaks. As*

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[9] Cowling, BJ., et. al., *Race Masks to Prevent Transmission of Influenza Virus: A Systematic Review*. Epidemiol. Infect. (2010), 138, 489-456

[10] bin-Reza, F., et.al., *The Use of Masks And Respirators to Prevent Transmission Of Influenza: A Systematic Review Of The Scientific Evidence*.

[11] https://www.npr.org/2020/06/24/882316641/what-parents-can-learn-from-child-care-centers-that-stayed-open-during-lockdowns

school districts sweat over reopening plans, and with just over half of parents telling pollsters they're comfortable with in-person school this fall, public health and policy experts say education leaders should be discussing and drawing on these real-world child care experiences."

A researcher from Brown university [12] similarly found as of June 24, 2020, the day of our hearing, that *"916 childcare centers serving more than 20,000 children, just over 1% of staff and 0.16% of children were confirmed infected with the coronavirus."* Thus, indicating preliminary data and observations from childcare centers reflects low transmission capacity by children.

Data increasingly supports the conclusion that children are a very low risk of Covid-19 infection and are also not likely to transmit the disease along to adults. We therefore recommend that adults – including teachers, staff, parents – consider guidelines from the American Academy of Pediatrics (AppendixC)

Participation in any reopening of public education is voluntary. Parents, not government officials or a group of health experts, are in the best position to determine the education that best suits their children. If a school district is unable or unwilling to provide that education, parents will be allowed to send their children to a district or charter school that will provide that education.

Perhaps our most important recommendation is based on the principle of individual choice – both for the families of our students and, to the extent possible, for select employees. Though it is important that we reopen our schools, some parents and some employees may reasonably question their own fitness for a fall return. We understand that multigenerational families, for instance, or families in which children or adults live with maladies that make them more vulnerable might feel safe at home. It's important that school districts accommodate these choices to the best of their ability.

Similarly, parents must be granted the freedom to move – must be assisted in moving – to any other school that serves their interests. Our goal is to see to the continued education of our children, not to produce a top-down, centralized approach that assumes all families make this important decision in the same way.

[12] https://watson.brown.edu/taubman/news/2020/what-parents-can-learn-child-care-centers-stayed-open-during-lockdown-emily-oster-cited

COMMUNITY FEAR AND FUTURE GOVERANCE DECISIONS

Among the many compelling expert arguments for reopening our schools, a number of us were also struck by something different, something we might call advice for adults. Several panelists – policy experts and medical doctors – admonished us to remember that the data is clear, but data should not penetrate fear. Among our greatest responsibilities as adults is our responsibility to model courage and persistence in the face of uncertainty and fear, which is what many families are feeling with the mixed messages and confusion surrounding reopening of schools in the COVID-19 era.

Among these panel experts at the June 24, 2020 special board meeting, Dr. Mark McDonald, a psychiatrist who specializes in children and at-risk youth, may have summed it up best:

> *"Children are not dying from Covid-19. Children are not passing the disease on to adults. So the only question is, "Why are we even having this meeting tonight?" We're meeting because we adults are afraid.*
>
> *As parents, we will face many moments of anxiety: seeing our children off on their first day of kindergarten, their first day of camp, their first year of college. We may want to keep them home to protect them from the world, which can indeed be a frightening place. But let's be clear, when we do that, we are not really protecting our children. We are only attempting to manage our own anxiety, and we do that at their expense. We are acting as negligent parents. We are harming our children. We are failing them.*
>
> *We must agree to make decisions in the best interest of the children. If we do not – if, paralyzed by fear, we continue to act purely out of self-interest – we will ensure an entire generation of traumatized young adults, consigned to perpetual adolescence and residency in their parents' garages, unable to move through life with independence, courage, and confidence. They deserve better — we owe it to them as parents."*

ON DISTANCE LEARNING

While a thorough discussion of distance learning is beyond the scope of this discussion, it's important to note that it appears so far to have been an utter failure. Abandoning the classroom in favor of computer-based learning proved frustrating to all – not just parents and students but teachers, too.

The move has revealed huge class-based disparities in access to technology. It produced irregular attendance by children, and teachers simply (generally through no lack of effort) unable to manage distracted children in multiple locations. Its reliance on parental oversight is also a fatal weakness. With good reason, virtually every major newspaper report has declared the experiment a failure. Here are just a few of the many reports:

- *Los Angeles Times*, "With the coronavirus keeping campuses closed, parents report academic, financial struggles and stress" [13]
- *Sacramento Bee*, "Moving California schools online was difficult. Imagine doing it without fast internet or laptops" [14]
- *San Diego Union-Tribune*, "Some schools are pulling the plug on distance learning" [15]
- *Wall Street Journal*, "The Results Are In for Remote Learning: It Didn't Work" [16]
- *Zocalo Public Square*, "I deserve a 'A' for flunking my kids' distance learning" [17]

Summary

The Orange County Board of Education held a community public forum on reopening schools in Orange County with varied responses from constituents. The board's experts presented evidence that strongly supports opening schools in the fall as it is critical to the well-being of our children, families, and communities. The intent of the board was to demonstrate and provide expert opinions and science-based data that can be considered by local school trustees and superintendents when making policies for reopening schools in their district. K-12 children represent the lowest-risk cohort for Covid-19, and children play a very minor role in the spread of Covid-19 to adults. Evidence shows that teachers and staff are in greater danger of contracting a Covid-19 infection from other adults in the teachers' lounge than from students in their classrooms.

The findings of this forum are reflected in these guidelines:

- Social distancing of children and reduction of classroom size and census may be considered, but not vital to implement for school aged children.
- Requiring children to wear masks during school is not only difficult, but may even be harmful over time.

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[13] https://www.latimes.com/california/story/2020-05-18/la-schools-distance-learning-students-survey
[14] https://www.sacbee.com/news/local/education/article241799591.html
[15] https://www.sandiegouniontribune.com/news/nation-world/story/2020-05-14/some-us-schools-are-pulling-the-plug-on-distance-learning
[16] https://www.wsj.com/articles/schools-coronavirus-remote-learning-lockdown-tech-11591375078
[17] https://www.zocalopublicsquare.org/2020/05/12/distancing-learning-covid-19-education-students-parents-broken-system/ideas/connecting-california/

- Participation in any reopening of public education should be voluntary. These guidelines are not "laws" or "regulations" or even "rules." Parents are in the best position to determine the education environment that best suits their children rather than government officials.
- If a school district is unable or unwilling to reopen schools in a manner that resumes a typical classroom environment and school atmosphere, parents should be allowed to send their children to another school district or charter school that will provide that preferred education. In fact, many parents stated they will opt for private schools or home schooling if their child does not have a typical interactive academic classroom environment.
- Temperature checks should be performed regularly. As with any active disease or illness, children, teachers, or staff suspected of having an acute respiratory illness should be sent home and if identified not allowed to be on campus if testing and medical evaluation is performed.
- As always, good hygiene with frequent hand washing and the use of hand sanitizer is encouraged.
- Classrooms, meeting rooms, transportation vehicles (e.g., busses) and administrative offices should be thoroughly cleaned each night.
- Ongoing surveillance and coordination with county public health is encouraged.
- At risk children with underlying medical conditions and individual IEPs are in a different cohort or at-risk status. Thus the guidelines provided should not apply and all mitigating efforts should be used.

Appendix A-Community Forum Expert Panelists

Dr. Steven Abelowitz is past Pediatric Department Chair, Hoag Memorial Hospital Presbyterian. He is board certified in Pediatric Medicine and Medical Director of Coastal Kids Pediatric Medical Group in Newport Beach, Irvine, Laguna Niguel, and Ladera Ranch. Among other credentials and honors, Dr Abelowitz is a fellow of the American Academy of Pediatrics and board certified in Pediatric Medicine.

Dr. Clayton Chau is the director of the OC Health Care Agency, having worked for the agency's Behavioral Health Services team from 1999-2012. He was most recently Chief Clinical and Strategy Officer for Mind OC, the not-for-profit created to support the advancement of Be Well OC. Dr. Chau received his PhD in Clinical Psychology from Chelsea University in 2004, and his medical degree from the University of Minnesota in 1994. He completed his psychiatry residency at the University of California, Los Angeles/San Fernando Valley followed by a fellowship with the National Institute of Mental Health in psychoneuroimmunology focusing on substance use disorder and HIV. Dr. Chau has conducted international trainings in the areas of health care integration, health care system reform, cultural competency and mental health policy.

Dr. Michael Eilbert is a hospitalist and pulmonologist practicing medicine in Newport's Hoag Memorial Hospital Presbyterian. He has been in private practice for more than 20 years in Orange County. In this pandemic, Dr. Eilbert is actively involved in the treatment and care of acute Covid-19 positive patients. He is a member of the Board of Directors of the Orange County Medical Association (OCMA) and president elect to OCMA.

Dr. Mike Fitzgibbons is a hospitalist and an Infectious Disease specialist practicing medicine in central Orange County for over three decades. He is on staff at St. Joseph Hospital in Orange. A graduate of Georgetown Medical School, Dr. Fitzgibbons completed his residency and fellowship at UC Irvine Medical Center. In the current pandemic, Dr. Fitzgibbons is actively involved in the treatment and care of acute Covid-19 -positive patients. He is an expert on infectious pathogens and their associated morbidity and mortality. Dr. Fitzgibbons is a delegate to the California Medical Association and active in public policy on health and medical issues with the Orange County Medical Association.

Dr. Simone Gold is a board-certified emergency physician in Los Angeles, California. She graduated from Chicago Medical School before attending Stanford University Law School to earn her Juris Doctorate degree. She completed her residency in Emergency Medicine at Stony Brook University Hospital in New York. Dr. Gold has had a life-long interest in health policy, and worked in Washington D.C. for the former Surgeon General, as well as for the Chairman of the Labor & Human Resources Committee. She has also worked as a physician advisor determining inpatient or outpatient status, and as a physician-attorney advocate for hospital-clients with

Medicare and Medicaid appeals. She is a published author and editor of several magazine and newspaper articles.

Joel Kotkin is the Presidential Fellow in Urban Futures at Chapman University in Orange, California and Executive Director of the Houston-based Urban Reform Institute. He is Senior Advisor to the Kem C. Gardner Policy Institute. Kotkin has recently completed several studies including on urbanism, the future of localism, the changing role of transit in America and most recently California's lurch towards feudalism. He is co-author, with Michael Lind, on a report published in 2018 on the revival of the American Heartland for the Center for Opportunity Urbanism. As director of the Center for Demographics and Policy at Chapman University, he was the lead author of a major study on housing, and recently, with Marshall Toplansky, published a strategic analysis for Orange County.

Sherry Kropp PhD served in Orange County's Los Alamitos Unified School District since 1985 and was superintendent from 2011 until her retirement in 2019. A graduate of Orange County schools, she began her teaching career in 1978 as an English, math, and biology teacher and coach in Washington state before returning to Southern California. Before she was named Superintendent of Los Alamitos Unified School District, Dr. Kropp was a teacher, assistant principal, and interim principal at Los Alamitos High School, a principal at a continuation high school, and a director and assistant superintendent in the district. She has a bachelors degree in English, masters in Educational Administration, and a doctorate in Educational Leadership.

Dr. Mark McDonald is a double board-certified child and adolescent psychiatrist in private practice in Los Angeles. He studied classical cello and world literature at UC Berkeley before beginning medical training at the Medical College of Wisconsin. He completed his adult psychiatry residency at the University of Cincinnati and child psychiatry fellowship at Harbor-UCLA in Los Angeles. He specializes in working with children with autism and trauma, as well as obsessive-compulsive and bipolar disorders. He is a candidate in psychoanalysis at the Psychoanalytic Center of California (PCC).

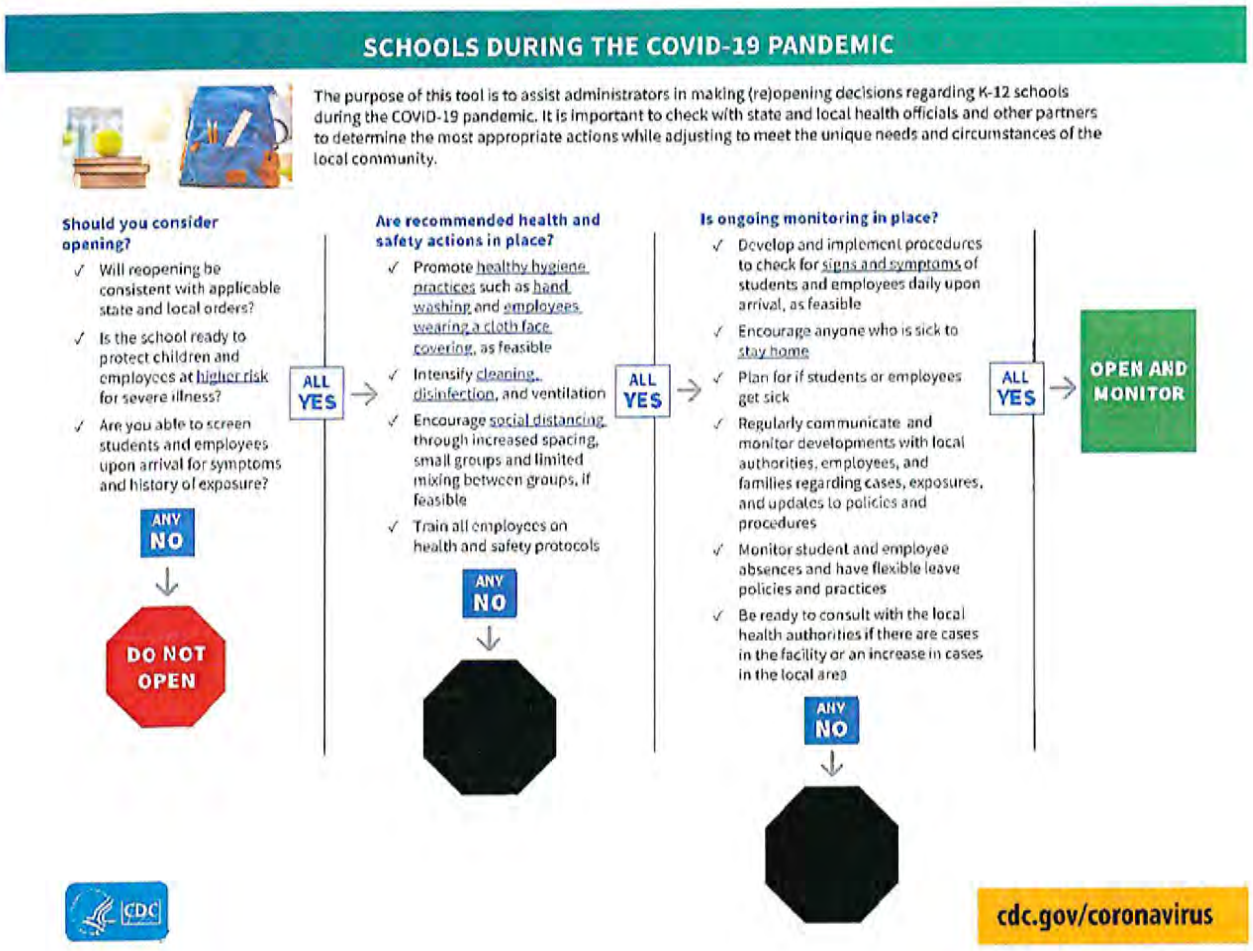
Larry Sand is an education policy expert with an insider's view: he began teaching in New York in 1971, and, in 1985, taught elementary school as well as English, math, history and ESL in the Los Angeles Unified School District, where he also served as a Title 1 Coordinator. Retired but not retiring, he is the president of the nonprofit California Teachers Empowerment Network (CTEN), a nonpartisan group dedicated to providing teachers with reliable and balanced information about professional affiliations and positions on education issues. In 2011, realizing that parents, taxpayers and others frequently receive faulty information from the mainstream media, CTEN expanded its mission to help the general public understand the array of educational issues facing our country today.

Michael A. Shires, Ph.D is associate dean for strategy and special projects and an Associate Professor at Pepperdine University School of Public Policy. Shires has a long record of success finding new strategies and solutions to problems across a wide range of organizations, from small and mid-sized businesses to nonprofit organizations and think tanks to local communities and governments. Over 25 years, he has worked extensively with new organizations with line

responsibility for developing management and educational systems. Dr. Shires has published extensively on state and local government finance in California, K-12 education policy and higher education policy. His research includes not only the nuts and bolts of state and local governance and finance, but also the ethics and politics of decision-making at these levels

Orange County Supervisor Don Wagner was re-elected to the Third Supervisorial district seat in March 2020, and has served as an elected leader in Orange County for over 24 years. He represents nearly 600,000 residents in Orange County's Third District (Anaheim Hills, Irvine, Orange, Tustin, North Tustin, Villa Park, Yorba Linda, and the unincorporated canyons). A practicing attorney, he has also served as a community college district trustee, state legislator, and mayor of Irvine from 2016 – 2019.

APPENDIX B -*U.S. Centers for Disease Control and Prevention-"Schools during the Covid-19 pandemic,"*



APPENDIX C-American Academy of Pediatrics Guidelines

COVID-19 Planning Considerations: Guidance for School Re-entry

Critical Updates on COVID-19 / Clinical Guidance / COVID-19 Planning Considerations: Guidance for School Re-entry

The purpose of this guidance is to support education, public health, local leadership, and pediatricians collaborating with schools in creating policies for school re-entry that foster the overall health of children, adolescents, staff, and communities and are based on available evidence. Schools are fundamental to child and adolescent development and well-being and provide our children and adolescents with academic instruction, social and emotional skills, safety, reliable nutrition, physical/speech and mental health therapy, and opportunities for physical activity, among other benefits. Beyond supporting the educational development of children and adolescents, schools play a critical role in addressing racial and social inequity. As such, it is critical to reflect on the differential impact SARS-CoV-2 and the associated school closures have had on different races, ethnic and vulnerable populations. These recommendations are provided acknowledging that our understanding of the SARS-CoV-2 pandemic is changing rapidly.

Any school re-entry policies should consider the following key principles:

- School policies must be flexible and nimble in responding to new information, and administrators must be willing to refine approaches when specific policies are not working.
- It is critically important to develop strategies that can be revised and adapted depending on the level of viral transmission in the school and throughout the community and done with close communication with state and/or local public health authorities and recognizing the differences between school districts, including urban, suburban, and rural districts.
- Policies should be practical, feasible, and appropriate for child and adolescent's developmental stage.
- Special considerations and accommodations to account for the diversity of youth should be made, especially for our vulnerable populations, including those who are medically fragile, live in poverty, have developmental challenges, or have special health care needs or disabilities, with the goal of safe return to school.
- No child or adolescent should be excluded from school unless required in order to adhere to local public health mandates or because of unique medical needs. Pediatricians, families, and schools should partner together to collaboratively identify and develop accommodations, when needed.

- School policies should be guided by supporting the overall health and well-being of all children, adolescents, their families, and their communities. These policies should be consistently communicated in languages other than English, if needed, based on the languages spoken in the community, to avoid marginalization of parents/guardians who are of limited English proficiency or do not speak English at all.

With the above principles in mind, **the AAP strongly advocates that all policy considerations for the coming school year should start with a goal of having students physically present in school**. The importance of in-person learning is well-documented, and there is already evidence of the negative impacts on children because of school closures in the spring of 2020. Lengthy time away from school and associated interruption of supportive services often results in social isolation, making it difficult for schools to identify and address important learning deficits as well as child and adolescent physical or sexual abuse, substance use, depression, and suicidal ideation. This, in turn, places children and adolescents at considerable risk of morbidity and, in some cases, mortality. Beyond the educational impact and social impact of school closures, there has been substantial impact on food security and physical activity for children and families.

Policy makers must also consider the mounting evidence regarding COVID-19 in children and adolescents, including the role they may play in transmission of the infection. SARS-CoV-2 appears to behave differently in children and adolescents than other common respiratory viruses, such as influenza, on which much of the current guidance regarding school closures is based. Although children and adolescents play a major role in amplifying influenza outbreaks, to date, this does not appear to be the case with SARS-CoV-2. Although many questions remain, the preponderance of evidence indicates that children and adolescents are less likely to be symptomatic and less likely to have severe disease resulting from SARS-CoV-2 infection. In addition, children may be less likely to become infected and to spread infection. Policies to mitigate the spread of COVID-19 within schools must be balanced with the known harms to children, adolescents, families, and the community by keeping children at home.

Finally, policy makers should acknowledge that COVID-19 policies are intended to mitigate, not eliminate, risk. No single action or set of actions will completely eliminate the risk of SARS-CoV-2 transmission, but implementation of several coordinated interventions can greatly reduce that risk. For example, where physical distance cannot be maintained, students (over the age of 2 years) and staff can wear face coverings (when feasible). In the following sections, we review some general principles that policy makers should consider as they plan for the coming school year. For all of these, education for the entire school community regarding these measures should begin early, ideally at least several weeks before the start of the school year.

Physical Distancing Measures

Physical distancing, sometimes referred to as social distancing, is simply the act of keeping people separated with the goal of limiting spread of contagion between individuals. It is fundamental to lowering the risk of spread of SARS-CoV-2, as the primary mode of transmission is through respiratory droplets by persons in close proximity. There is a conflict between optimal academic and social/emotional learning in schools and strict adherence to current physical distancing guidelines. For example, the Centers for Disease Control and Prevention (CDC) recommends that schools "space seating/desks at least 6 feet apart when feasible."

In many school settings, 6 feet between students is not feasible without limiting the number of students. Evidence suggests that spacing as close as 3 feet may approach the benefits of 6 feet of space, particularly if students are wearing face coverings and are asymptomatic. Schools should weigh the benefits of strict adherence to a 6-feet spacing rule between students with the potential downside if remote learning is the only alternative. Strict adherence to a specific size of student groups (e.g., 10 per classroom, 15 per classroom, etc.) should be discouraged in favor of other risk mitigation strategies.

Given what is known about transmission dynamics, adults and adult staff within schools should attempt to maintain a distance of 6 feet from other persons as much as possible, particularly around other adult staff. For all of the below settings, physical distancing by and among adults is strongly recommended, and meetings and curriculum planning should take place virtually if possible. In addition, other strategies to increase adult-adult physical distance in time and space should be implemented, such as staggered drop-offs and pickups, and drop-offs and pickups outside when weather allows. Parents should, in general, be discouraged from entering the school building. Physical barriers, such as plexiglass, should be considered in reception areas and employee workspaces where the environment does not accommodate physical distancing, and congregating in shared spaces, such as staff lounge areas, should be discouraged.

The recommendations in each of the age groups below are not instructional strategies but are strategies to optimize the return of students to schools in the context of physical distancing guidelines and the developmentally appropriate implementation of the strategies. Educational experts may have preference for one or another of the guidelines based on the instructional needs of the classes or schools in which they work.

Pre-Kindergarten (Pre-K)

In Pre-K, the relative impact of physical distancing among children is likely small based on current evidence and certainly difficult to implement. Therefore, Pre-K should focus on more effective risk mitigation strategies for this population. These include hand hygiene, infection prevention education for staff and families, adult physical distancing from one another, adults wearing face coverings, cohorting, and spending time outdoors.

Higher-priority strategies:

- Cohort classes to minimize crossover among children and adults within the school; the exact size of the cohort may vary, often dependent on local or state health department guidance.
- Utilize outdoor spaces when possible.
- Limit unnecessary visitors into the building.

Lower-priority strategies:

- Face coverings(cloth) for children in the Pre-K setting may be difficult to implement.
- Reducing classmate interactions/play in Pre-K aged children may not provide substantial COVID-19 risk reduction.

Elementary Schools

Higher-priority strategies:

- Children should wear face coverings when harms (e.g., increasing hand-mouth/nose contact) do not outweigh benefits (potential COVID-19 risk reduction).
- Desks should be placed 3 to 6 feet apart when feasible (if this reduces the amount of time children are present in school, harm may outweigh potential benefits).
- Cohort classes to minimize crossover among children and adults within the school.
- Utilize outdoor spaces when possible.

Lower-priority strategies:

- The risk reduction of reducing class sizes in elementary school-aged children may be outweighed by the challenge of doing so.
- Similarly, reducing classmate interactions/play in elementary school-aged children may not provide enough COVID-19 risk reduction to justify potential harms.

Secondary Schools

There is likely a greater impact of physical distancing on risk reduction of COVID in secondary schools than early childhood or elementary education. There are also different barriers to successful implementation of many of these measures in older age groups, as the structure of school is usually based on students changing classrooms. Suggestions for physical distancing risk mitigation strategies when feasible:

- Universal face coverings in middle and high schools when not able to maintain a 6-foot distance (students and adults).

- Particular avoidance of close physical proximity in cases of increased exhalation (singing, exercise); these activities are likely safest outdoors and spread out.
- Desks should be placed 3 to 6 feet apart when feasible.
- Cohort classes if possible, limit cross-over of students and teachers to the extent possible.
    - Ideas that may assist with cohorting:
        - Block schedule (much like colleges, intensive 1-month blocks).
        - Eliminate use of lockers or assign them by cohort to reduce need for hallway use across multiple areas of the building. (This strategy would need to be done in conjunction with planning to ensure students are not carrying home an unreasonable number of books on a daily basis and may vary depending on other cohorting and instructional decisions schools are making.)
        - Have teachers rotate instead of students when feasible.
        - Utilize outdoor spaces when possible.
        - Teachers should maintain 6 feet from students when possible and if not disruptive to educational process.
        - Restructure elective offerings to allow small groups within one classroom. This may not be possible in a small classroom.

Special Education

Every child and adolescent with a disability is entitled to a free and appropriate education and is entitled to special education services based on their individualized education program (IEP). Students receiving special education services may be more negatively affected by distance-learning and may be disproportionately impacted by interruptions in regular education. It may not be feasible, depending on the needs of the individual child and adolescent, to adhere both to distancing guidelines and the criteria outlined in a specific IEP. Attempts to meet physical distancing guidelines should meet the needs of the individual child and may require creative solutions, often on a case-by-case basis.

Physical Distancing in Specific Enclosed Spaces

Bussing

- Encourage alternative modes of transportation for students who have other options.
- Ideally, for students riding the bus, symptom screening would be performed prior to being dropped off at the bus. Having bus drivers or monitors perform these screenings is problematic, as they may face a situation in which a student screens positive yet the parent has left, and the driver would be faced with leaving the student alone or allowing the student on the bus.

- Assigned seating; if possible, assign seats by cohort (same students sit together each day).
- Tape marks showing students where to sit.
- When a 6-foot distance cannot be maintained between students, face coverings should be worn.
- Driver should be a minimum of 6 feet from students; driver must wear face covering; consider physical barrier for driver (e.g., plexiglass).
- Minimize number of people on the bus at one time within reason.
- Adults who do not need to be on the bus should not be on the bus.
- Have windows open if weather allows.

Hallways

- Consider creating one-way hallways to reduce close contact.
- Place physical guides, such as tape, on floors or sidewalks to create one-way routes.
- Where feasible, keep students in the classroom and rotate teachers instead.
- Stagger class periods by cohorts for movement between classrooms if students must move between classrooms to limit the number of students in the hallway when changing classrooms.
- Assign lockers by cohort or eliminate lockers altogether.

Playgrounds

Enforcing physical distancing in an outside playground is difficult and may not be the most effective method of risk mitigation. Emphasis should be placed on cohorting students and limiting the size of groups participating in playground time. Outdoor transmission of virus is known to be much lower than indoor transmission.

Meals/Cafeteria

School meals play an important part in addressing food security for children and adolescents. Decisions about how to serve meals must take into account the fact that in many communities there may be more students eligible for free and reduced meals than prior to the pandemic.

- Consider having students cohorted, potentially in their classrooms, especially if students remain in their classroom throughout the day.
- Create separate lunch periods to minimize the number of students in the cafeteria at one time.
- Utilize additional spaces for lunch/break times.
- Utilize outdoor spaces when possible.
- Create an environment that is as safe as possible from exposure to food allergens.
- Wash hands or use hand sanitizer before and after eating.

Cleaning and Disinfection

The main mode of COVID-19 spread is from person to person, primarily via droplet transmission. For this reason, strategies for infection prevention should center around this form of spread, including physical distancing, face coverings, and hand hygiene. Given the challenges that may exist in children and adolescents in effectively adhering to recommendations, it is critical staff are setting a good example for students by modeling behaviors around physical distancing, face coverings and hand hygiene. Infection via aerosols and fomites is less likely. However, because the virus may survive in certain surfaces for some time, it is possible to get infected after touching a virus contaminated surface and then touching the mouth, eyes, or nose. Frequent handwashing as a modality of containment is vital.

Cleaning should be performed per established protocols followed by disinfection when appropriate. Normal cleaning with soap and water decreases the viral load and optimizes the efficacy of disinfectants. When using disinfectants, the manufacturers' instructions must be followed, including duration of dwell time, use of personal protective equipment (PPE), if indicated, and proper ventilation. The use of EPA approved disinfectants against COVID-19 is recommended (EPA List N). When possible, only products labeled as safe for humans and the environment (e.g., Safer or Designed for the Environment), containing active ingredients such as hydrogen peroxide, ethanol, citric acid, should be selected from this list, because they are less toxic, are not strong respiratory irritants or asthma triggers, and have no known carcinogenic, reproductive, or developmental effects.

When EPA-approved disinfectants are not available, alternative disinfectants such as diluted bleach or 70% alcohol solutions can be used. Children should not be present when disinfectants are in use and should not participate in disinfecting activities. Most of these products are not safe for use by children, whose "hand-to-mouth" behaviors and frequent touching of their face and eyes put them at higher risk for toxic exposures. If disinfection is needed while children are in the classroom, adequate ventilation should be in place and nonirritating products should be used. Disinfectants such as bleach and those containing quaternary ammonium compounds or "Quats" should not be used when children and adolescents are present, because these are known respiratory irritants.

In general, elimination of high-touch surfaces is preferable to frequent cleaning. For example, classroom doors can be left open rather than having students open the door when entering and leaving the classroom or the door can be closed once all students have entered followed by hand sanitizing. As part of increasing social distance between students and surfaces requiring regular cleaning, schools could also consider eliminating the use of lockers, particularly if they are located in shared spaces or hallways, making physical distancing more challenging. If schools decide to use this strategy, it should be done within the context of ensuring that students are not forced to transport unreasonable numbers of books back and forth from school on a regular basis.

When elimination is not possible, surfaces that are used frequently, such a drinking fountains, door handles, sinks and faucet handles, etc., should be cleaned and disinfected at least daily and as often as possible. Bathrooms, in particular, should receive frequent cleaning and disinfection. Shared equipment including computer equipment, keyboards, art supplies, and play or gym equipment should also be disinfected frequently. Hand washing should be promoted before and after touching shared equipment. Computer keyboard covers can be used to facilitate cleaning between users. practices should be used for indoor areas that have not been used for 7 or more days or outdoor equipment. Surfaces that are not high touch, such as bookcases, cabinets, wall boards, or drapes should be cleaned following standard protocol. The same applies to floors or carpeted areas.

Outdoor playgrounds/natural play areas only need routine maintenance, and hand hygiene should be emphasized before and after use of these spaces. Outdoor play equipment with high-touch surfaces, such as railings, handles, etc., should be cleaned and disinfected regularly if used continuously.

UV light kills viruses and bacteria and is used in some controlled settings as a germicide. UV light-emitting devices should not be used in the school setting, because they are not safe for children and adults and can cause skin and eye damage.

Testing and Screening

Virologic testing is an important part of the overall public health strategy to limit the spread of COVID-19. Virologic testing detects the viral RNA from a respiratory (usually nasal) swab specimen. Testing all students for acute SARS-CoV-2 infection prior to the start of school is not feasible in most settings at this time. Even in places where this is possible, it is not clear that such testing would reduce the likelihood of spread within schools. It is important to recognize that virologic testing only shows whether a person is infected at that specific moment in time. It is also possible that the nasal swab virologic test result can be negative during the early incubation period of the infection. So, although a negative virologic test result is reassuring, it does not mean that the student or school staff member is not going to subsequently develop COVID-19. Stated another way, a student who is negative for COVID 19 on the first day of school may not remain negative throughout the school year.

If a student or school staff member has a known exposure to COVID-19 (e.g., a household member with laboratory-confirmed SARS-CoV-2 infection or illness consistent with COVID-19) or has COVID-19 symptoms, having a negative virologic test result, according to CDC guidelines, may be warranted for local health authorities to make recommendations regarding contact tracing and/ or school exclusion or school closure.

The other type of testing is serologic blood testing for antibodies to SARS-CoV-2. At the current time, serologic testing should not be used for individual decision-making and has no place in considerations for entrance to or exclusion from school. CDC

guidance regarding antibody testing for COVID-19 is that serologic test results should not be used to make decisions about grouping people residing in or being admitted to congregate settings, such as schools, dormitories, or correctional facilities. Additionally, serologic test results should not be used to make decisions about returning people to the workplace. The CDC states that serologic testing should not be used to determine immune status in individuals until the presence, durability, and duration of immunity is established. The AAP recommends this guidance be applied to school settings as well.

Schools should have a policy regarding symptom screening and what to do if a student or school staff member becomes sick with COVID-19 symptoms. Temperature checks and symptom screening are a frequent part of many reopening processes to identify symptomatic persons to exclude them from entering buildings and business establishments. The list of symptoms of COVID-19 infection has grown since the start of the pandemic and the manifestations of COVID-19 infection in children, although similar, is often not the same as that for adults.

School policies regarding temperature screening and temperature checks must balance the practicality of performing these screening procedures for large numbers of students and staff with the information known about how children manifest COVID-19 infection, the risk of transmission in schools, and the possible lost instructional time to conduct the screenings. Schools should develop plans for rapid response to a student or staff member with fever who is in the school regardless of the implementation of temperature checks or symptom screening prior to entering the school building. In many cases, it will not be practical for temperature checks to be performed prior to students arriving at school. **Parents should be instructed to keep their child at home if they are ill.** Any student or staff member with a fever of 100.4 degrees or greater or symptoms of possible COVID-19 virus infection should not be present in school.

In lieu of temperature checks and symptom screening being performed after arrival to school, **methods to allow parent report of temperature checks done at home may be considered.** Resources and time may necessitate this strategy at most schools. The epidemiology of disease in children along with evidence of the utility of temperature screenings in health systems may further justify this approach. Procedures using texting apps, phone systems, or online reporting rely on parent report and may be most practical but possibly unreliable, depending on individual family's ability to use these communication processes, especially if not made available in their primary language. Although imperfect, these processes may be most practical and likely to identify the most ill children who should not be in school. School nurses or nurse aides should be equipped to measure temperatures for any student or staff member who may become ill during the school day and should have an identified area to separate or isolate students who may have COVID-19 symptoms.

COVID-19 infection manifests similarly to other respiratory illness in children. Although children manifest many of the same symptoms of COVID-19 infection as adults, some

differences are noteworthy. According to the CDC, children may be less likely to have fever, may be less likely to present with fever as an initial symptom, and may have only gastrointestinal tract symptoms. A student or staff member excluded because of symptoms of COVID-19 should be encouraged to contact their health care provider to discuss testing and medical care. In the absence of testing, students or staff should follow local health department guidance for exclusion.

Face Coverings and PPE

Cloth face coverings protect others if the wearer is infected with SARS CoV-2 and is not aware. Cloth masks may offer some level of protection for the wearer. Evidence continues to mount on the importance of universal face coverings in interrupting the spread of SARS-CoV-2. Although ideal, universal face covering use is not always possible in the school setting for many reasons. Some students, or staff, may be unable to safely wear a cloth face covering because of certain medical conditions (e.g., developmental, respiratory, tactile aversion, or other conditions) or may be uncomfortable, making the consistent use of cloth face coverings throughout the day challenging. For individuals who have difficulty with wearing a cloth face covering and it is not medically contraindicated to wear a face covering, behavior techniques and social skills stories (see resource section) can be used to assist in adapting to wearing a face covering. When developing policy regarding the use of cloth face coverings by students or school staff, school districts and health advisors should consider whether the use of cloth face coverings is developmentally appropriate and feasible and whether the policy can be instituted safely. If not developmentally feasible, which may be the case for younger students, and cannot be done safely (e.g., the face covering makes wearers touch their face more than they otherwise would), schools may choose to not require their use when physical distancing measures can be effectively implemented. School staff and older students (middle or high school) may be able to wear cloth face coverings safely and consistently and should be encouraged to do so. Children under 2 years and anyone who has trouble breathing or is unconscious, incapacitated, or otherwise unable to remove a face covering without assistance should not wear cloth face coverings.

For certain populations, the use of cloth face coverings by teachers may impede the education process. These include students who are deaf or hard of hearing, students receiving speech/language services, young students in early education programs, and English-language learners. Although there are products (e.g., face coverings with clear panels in the front) to facilitate their use among these populations, these may not be available in all settings.
Students and families should be taught how to properly wear (cover nose and mouth) a cloth face covering, to maintain hand hygiene when removing for meals and physical activity, and for replacing and maintaining (washing regularly) a cloth face covering.

School health staff should be provided with appropriate medical PPE to use in health suites. This PPE should include N95 masks, surgical masks, gloves, disposable gowns, and face shields or other eye protection. School health staff should be aware of the CDC guidance on infection control measures. Asthma treatments using inhalers with spacers

are preferred over nebulizer treatments whenever possible. The CDC recommends that nebulizer treatments at school should be reserved for children who cannot use or do not have access to an inhaler (with spacer or spacer with mask). Schools should work with families and health care providers to assist with obtaining an inhaler for students with limited access. In addition, schools should work to develop and implement asthma action plans, which may include directly observed controller medication administration in schools to promote optimal asthma control.

If required while waiting for a student to be picked up to go home or for emergency personnel to arrive, when using nebulizer or a peak flow meter, school health staff should wear gloves, an N95 facemask, and eye protection. Staff should be trained on proper donning and doffing procedures and follow the CDC guidance regarding precautions when performing aerosol-generating procedures. Nebulizer treatments should be performed in a space that limits exposure to others and with minimal staff present. Rooms should be well ventilated or treatments should be performed outside. After the use of the nebulizer, the room should undergo routine cleaning and disinfection.

School staff working with students who are unable to wear a cloth face covering and who must be in close proximity to them should ideally wear N95 masks. When access to N95 masks is limited, a surgical mask in combination with a face shield should be used. Face shields or other forms of eye protection should also be used when working with students unable to manage secretions.

On-site School Based Health Services

On-site school health services should be supported if available, to complement the pediatric medical home and to provide pediatric acute and chronic care. Collaboration with school nurses will be essential, and school districts should involve School Health Services staff early in the planning phase for reopening and consider collaborative strategies that address and prioritize immunizations and other needed health services for students, including behavioral health and reproductive health services.

Education

The impacts of lost instructional time and social emotional development on children and adolescents should be anticipated, and schools will need to be prepared to adjust curricula and instructional practices accordingly without the expectation that all lost academic progress can be caught up. Plans to make up for lost academic progress because of school closures and distress associated with the pandemic should be balanced by a recognition of the likely continued distress of educators and students that will persist when schools reopen. If the academic expectations are unrealistic, school will likely become a source of further distress for students (and educators) at a time when they need additional support. It is also critical to maintain a balanced curriculum with continued physical education and other learning experiences rather than an exclusive emphasis on core subject areas.

Students With Disabilities

The impact of loss of instructional time and related services, including mental health services as well as occupational, physical, and speech/language therapy during the period of school closures is significant for students with disabilities. Students with disabilities may also have more difficulty with the social and emotional aspects of transitioning out of and back into the school setting. As schools prepare for reopening, school personnel should develop a plan to ensure a review of each child and adolescent with an IEP to determine the needs for compensatory education to adjust for lost instructional time as well as other related services.

Schools can expect a backlog in evaluations; therefore, plans to prioritize those for new referrals as opposed to re-evaluations will be important. Many school districts require adequate instructional effort before determining eligibility for special education services. However, virtual instruction or lack of instruction should not be reasons to avoid starting services such as response-to-intervention (RTI) services, even if a final eligibility determination is postponed.

Behavioral Health/Emotional Support for Children and Adolescents

Schools should anticipate and be prepared to address a wide range of mental health needs of children and staff when schools reopen. Preparation for infection control is vital and admittedly complex during an evolving pandemic. But the emotional impact of the pandemic, financial/employment concerns, social isolation, and growing concerns about systemic racial inequity — coupled with prolonged limited access to critical school-based mental health services and the support and assistance of school professionals — demands careful attention and planning as well. Schools should be prepared to adopt an approach for mental health support.

Schools should consider providing training to classroom teachers and other educators on how to talk to and support children during and after the COVID-19 pandemic. Students requiring mental health support should be referred to school mental health professionals.

Suicide is the second leading cause of death among adolescents or youth 10 to 24 years of age in the United States. In the event distance learning is needed, schools should develop mechanisms to evaluate youth remotely if concerns are voiced by educators or family members and should be establishing policies, including referral mechanisms for students believed to be in need of in-person evaluation, even before schools reopen.

School mental health professionals should be involved in shaping messages to students and families about the response to the pandemic. Fear-based messages widely used to encourage strict physical distancing may cause problems when schools reopen, because the risk of exposure to COVID-19 may be mitigated but not eliminated.

When schools do reopen, plans should already be in place for outreach to students who do not return, given the high likelihood of separation anxiety and agoraphobia in students. Students may have difficulty with the social and emotional aspects of

transitioning back into the school setting, especially given the unfamiliarity with the changed school environment and experience. Special considerations are warranted for students with pre-existing anxiety, depression, and other mental health conditions; children with a prior history of trauma or loss; and students in early education who may be particularly sensitive to disruptions in routine and caregivers.

Students facing other challenges, such as poverty, food insecurity, and homelessness, and those subjected to ongoing racial inequities may benefit from additional support and assistance.
Schools need to incorporate academic accommodations and supports for all students who may still be having difficulty concentrating or learning new information because of stress associated with the pandemic. It is important that schools do not anticipate or attempt to catch up for lost academic time through accelerating curriculum delivery at a time when students and educators may find it difficult to even return to baseline rates. These expectations should be communicated to educators, students, and family members so that school does not become a source of further distress.

Mental Health of Staff

The personal impact on educators and other school staff should be recognized. In the same way that students are going to need support to effectively return to school and to be prepared to be ready to process the information they are being taught, teachers cannot be expected to be successful at teaching children without having their mental health needs supported. The strain on teachers this year as they have been asked to teach differently while they support their own needs and those of their families has been significant, and they will be bringing that stress back to school as schools reopen.

Resources such as Employee Assistance Programs and other means to provide support and mental health services should be established prior to reopening. The individual needs and concerns of school professionals should be addressed with accommodations made as needed (e.g., for a classroom educator who is pregnant, has a medical condition that confers a higher risk of serious illness with COVID-19, resides with a family member who is at higher risk, or has a mental health condition that compromises the ability to cope with the additional stress). Although schools should be prepared to be agile to meet evolving needs and respond to increasing knowledge related to the pandemic and may need to institute partial or complete closures when the public health need requires, they should recognize that staff, students, and families will benefit from sufficient time to understand and adjust to changes in routine and practices. During a crisis, people benefit from clear and regular communication from a trusted source of information and the opportunity to dialogue about concerns and needs and feel they are able to contribute in some way to the decision-making process. Change is more difficult in the context of crisis and when predictability is already severely compromised.

Food Insecurity

In 2018, 11.8 million children and adolescents (1 in 7) in the United States lived in a food-insecure household. The coronavirus pandemic has led to increased

unemployment and poverty for America's families, which in turn will likely increase even further the number of families who experience food insecurity. School re-entry planning must consider the many children and adolescentswho experience food insecurity already (especially at-risk and low-income populations) and who will have limited access to routine meals through the school district if schools remain closed. The short- and long-term effects of food insecurity in children and adolescents are profound. **Plans should be made prior to the start of the school year for how students participating in free- and reduced- meal programs will receive food in the event of a school closure or if they are excluded from school because of illness or SARS-CoV-2 infection.**

Immunizations

Existing school immunization requirements should be maintained and not deferred because of the current pandemic. In addition, although influenza vaccination is generally not required for school attendance, in the coming academic year, it should be highly encouraged for all students. School districts should consider requiring influenza vaccination for all staff members. Pediatricians should work with schools and local public health authorities to promote childhood vaccination messaging well before the start of the school year. It is vital that all children receive recommended vaccinations on time and get caught up if they are behind as a result of the pandemic. The capacity of the health care system to support increased demand for vaccinations should be addressed through a multifaceted collaborative and coordinated approach among all child-serving agencies including schools.

Organized Activities

It is likely that sporting events, practices, and conditioning sessions will be limited in many locations. Preparticipation evaluations should be conducted in alignment with the AAP Preparticipation Physical Evaluation Monograph, 5th ed, and state and local guidance.

Additional Information

If you need a print version of this guidance, use the Print icon at the top of the page or download a pdf here.

- Information for Parents on HealthyChildren.org: Returning to School During COVID-19
- Guidance Related to Childcare During COVID-19
- Guidance on Providing Pediatric Well-Care During COVID-19
- List of latest AAP News articles on COVID-19
- *Pediatrics* COVID-19 Collection
- COVID-19 Advocacy Resources(Login required)
- Centers for Disease Control and Prevention: Considerations for Schools
- Centers for Disease Control and Prevention: School Decision Tree

- Centers for Disease Control and Prevention: Activities and Initiatives Supporting the COVID Response

Resources

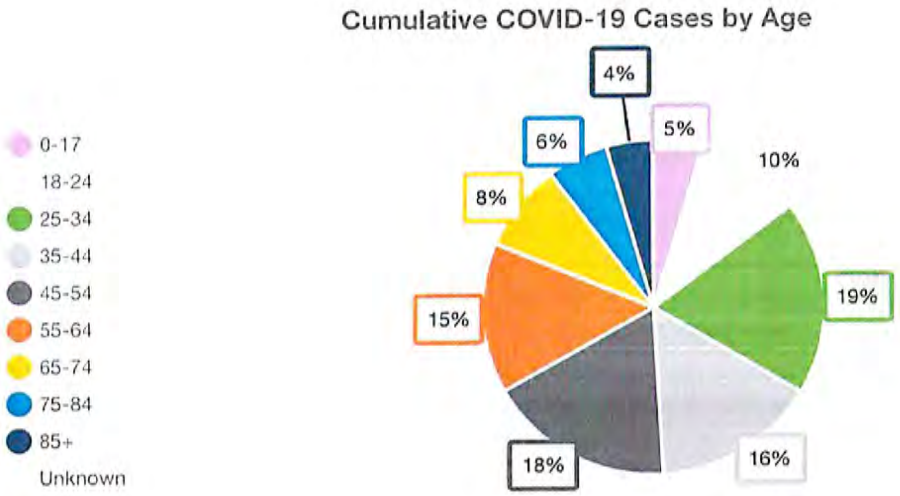
- Coalition to Support Grieving Students
- Using Social Stories to Support People with I/DD During the COVID-19 Emergency
- Social Stories for Young and Old on COVID-19

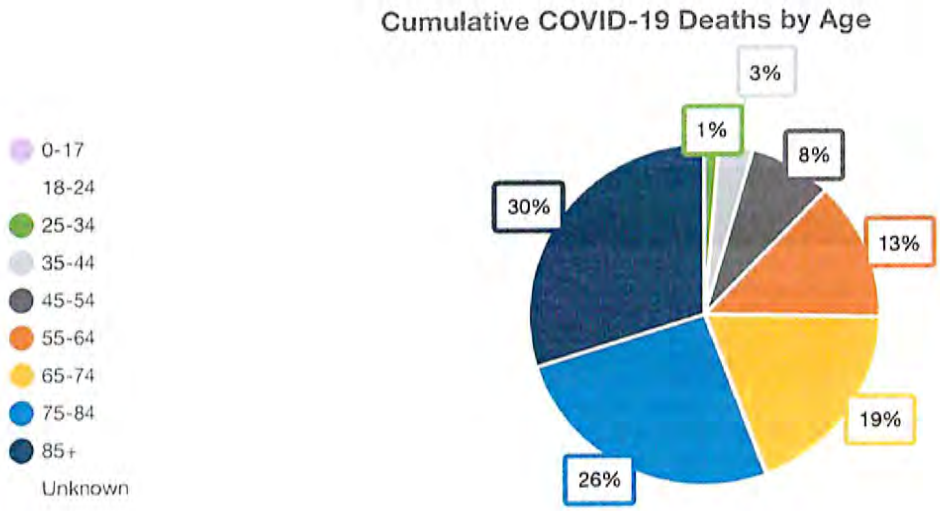
Interim Guidance Disclaimer: The COVID-19 clinical interim guidance provided here has been updated based on current evidence and information available at the time of publishing. Guidance will be regularly reviewed with regards to the evolving nature of the pandemic and emerging evidence. All interim guidance will be presumed to expire in December 2020 unless otherwise specified.

Last Updated

06/25/2020

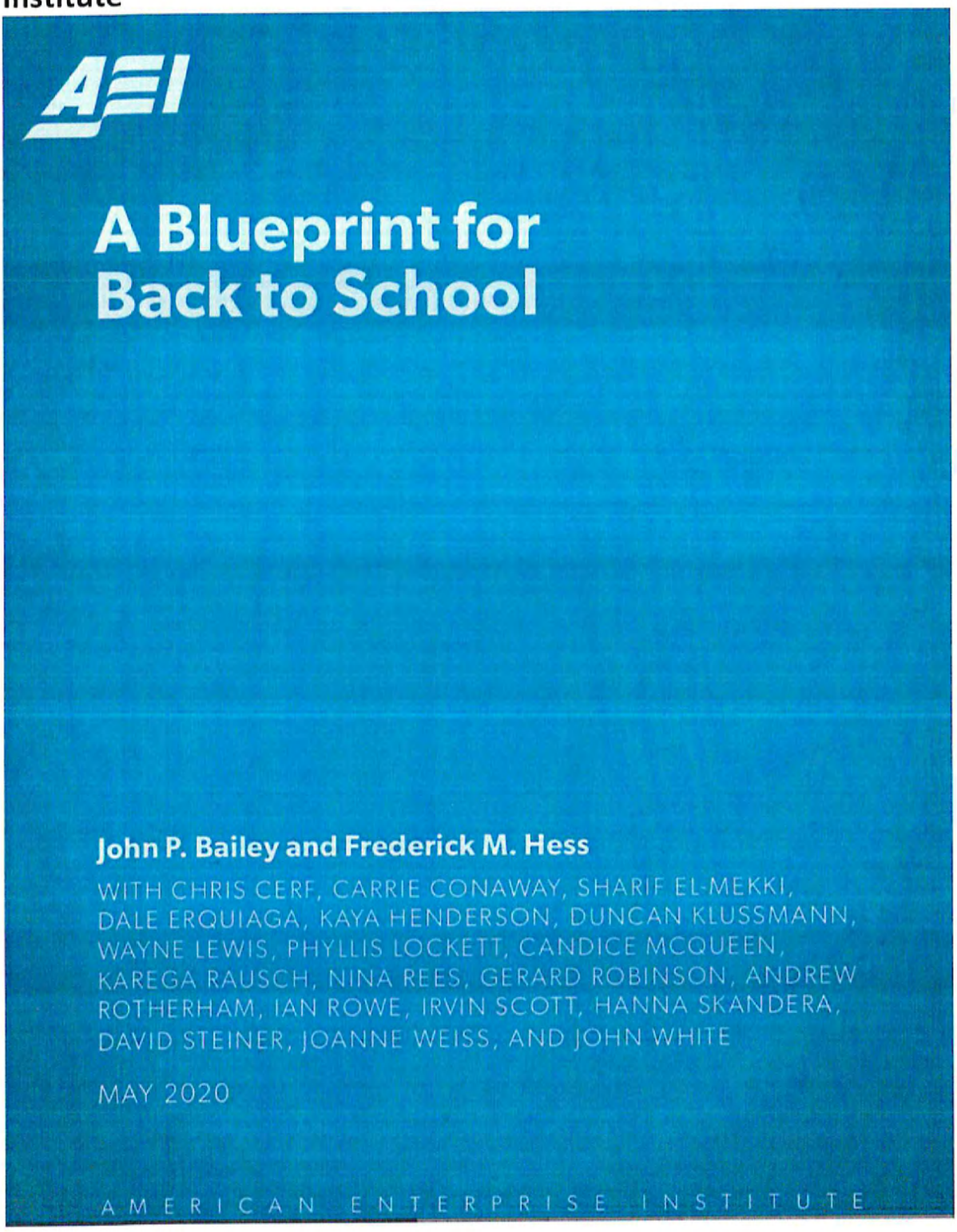
APPENDIX D- Orange County Covid-19 Cases and Deaths by Age





Source: Orange County Healthcare Agency, June 16

Appendix E- A Blueprint for Back to School. The American Enterprise Institute



APPENDIX F- Statement: Southern California Chapter-American Academy of Pediatric

American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN™

Southern California Chapter – Los Angeles, Central Coast and Inland Empire

Press release

Local Pediatricians Urge Collaborative Decision-Making About Reopening Schools

PASADENA, CA (June 2, 2020)

As pediatricians, our top priority is the health and safety of our children. We urge those in public health and education to work together to strike the right balance between preventing the spread of COVID-19 and providing children with the education, nutrition, physical activity, and mental health benefits provided through the reopening of schools.

The risk of COVID-19 transmission among groups of children has not been well-studied, but current research suggests that the risk is much lower than the adult population. The negative effects of missing in-person educational time as children experience prolonged periods of isolation and lack of instruction, however, is clear. Children rely on schools for multiple needs, including but not limited to education, nutrition, physical activity, socialization, and mental health. Special populations of students receive services for disabilities and other conditions that are virtually impossible to deliver online. Prolonging a meaningful return to in-person education would result in hundreds of thousands of children in Los Angeles County being at risk for worsening academic, developmental and health outcomes.

Because of the nature of COVID-19 and of Los Angeles County, we cannot implement a one-size- fits-all set of rules for reopening schools. Los Angeles County covers more than 4,700 square miles and has a population of more than 10 million. Schools must have the flexibility to implement intermittent closures, phased reopenings, and isolation protocols that are appropriate for their specific areas and their specific populations.

"Our concern is that recently issued guidelines for schools re-opening in Los Angeles County are not realistic or even developmentally appropriate for children," says Dr. Alice Kuo, President of the Southern California chapter of the American Academy of Pediatrics. "For example, wearing masks throughout the day can hinder language and socio-emotional development, particularly for younger children."

"The guidelines need to be flexible for different age groups within a school district," says Kuo. "They also need to take into account what is feasible for the most number of students to return to in-person education, including practical spacing measures."

The AAP encourages collaborative decision-making among school districts and local and state public health departments to balance the academic needs of students with minimizing the risk of transmission of COVID-19. Pediatricians want to be involved in these discussions as experts on children's health and development. The national AAP recommendations for return to in-person education in schools can be found on our website at:

https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/

The Southern California chapter of the American Academy of Pediatrics is an organization of 1,500 primary care pediatricians, pediatric medical subspecialists and pediatric surgical specialists dedicated to the health, safety and well-being of infants, children, adolescents and young adults.

AAP Southern California Chapter 2 (AAP-CA2) Chapter2@aap-ca.org (818) 422-9877
www.aapca2.org

City of Atwater

OFFICE OF THE MAYOR
750 BELLEVUE ROAD
ATWATER, CA 95301
(209) 357-6300

September 15, 2020

Congressman Doug LaMalfa
Congressman Kevin McCarthy
Congressman Tom McClintock
Congressman Ken Calvert
Congressman Devin Nunes
Congressman Paul Cook
Congressman Mike Garcia

Dear Members of Congress:

We thank you for your efforts to put Governor Newsom on notice that he has no right to withhold federal funds for local governments that do not capitulate to his ever-shifting demands (see attached July 13, 2020 Letter). We also thank you for your recent call for the U.S. Treasury Department's Inspector General to audit California's misuse of CARES Act funds.

We join you in your fight to hold the Governor accountable and urge that you do everything in your power to help the City of Atwater receive the CARES Act money it deserves.

As you know, on July 23, 2020, the Governor's Office of Emergency Services withheld federal funds due to our COVID-19 Sanctuary City status for businesses (see attached OES Letter and City's Resolution). We have been told that, unless we "formally rescind" our resolution, California will not pass-through the federal government's money.

The federal funds that have been held hostage by the Governor due to our Sanctuary City status is an illegal, punitive, and spectacularly hypocritical act of reprisal.

This is political hypocrisy *par excellence*. As is well known, California, as a "sanctuary" jurisdiction, has enacted laws that limit its law enforcement authority to assist in the enforcement of immigration. In a lawsuit filed against the Trump Administration, the Governor argued that it was illegal for the federal government to withhold federal funds due to California's sanctuary policies:

> "These conditions are part of Defendants' escalating effort to unilaterally and fundamentally remake formula grant structures created by Congress into discretionary funding streams to be exploited for the Administration's immigration enforcement priorities. The conditions placed on these grants are unauthorized by Congress and are unrelated to the purposes of these otherwise salutary programs. The imposition of all of these immigration enforcement requirements in contravention of congressional intent is unlawful and unconstitutional, and should be halted."[1]

[1] Complaint for Declaratory, Injunctive, and Mandamus Relief at 1, California v. Barr, No. 3:19-cv-06189 (N.D. Cal. Sep. 30, 2019).

We would submit that the Governor's very same words, with only slight modification, apply with equal force against him here:

> "These conditions are part of [Governor's] escalating effort to unilaterally and fundamentally remake the [CARES Act eligibility] structures created by Congress into discretionary funding streams to be exploited for the [Governor's COVID-19] enforcement priorities. The conditions placed on these [CARES Act funds] are unauthorized by Congress and are unrelated to the purposes of this otherwise salutary program. The imposition of all of these [COVID-19] enforcement requirements in contravention of congressional intent is unlawful and unconstitutional, and should be halted."

But this is more than just high-handed hypocrisy — this is illegal. The Governor has illegally added California-specific conditions to a federal funding stream *that itself has no such conditions.*[2] Even though the City incurred qualified COVID-19 expenses —due to our solidarity and support for local businesses (which does not contradict any state orders) — we stand to lose what is rightfully ours.

The City of Atwater would have received the money from the federal government if it had 500,000 or more people in it — it could have certified directly with the federal government and received the money already. Nothing about the federal certification process would have precluded us from receiving these funds. However, due to the City's small size, we had to certify with California instead, and as a result, failed the political test uniquely imposed by Newsom. We have been ruled "ineligible" under these *ad hoc, post hoc* illegally-imposed California conditions. Congress' intent for safe passage of these funds has been blatantly defied, and there are now two very different sets of rules being imposed in California.

So, we ask that you please hold the Governor accountable to ensure the federal money flows rightfully to local governments, like ours.

Very truly yours,

Paul Creighton, Mayor
City of Atwater

[2] Under the CARES Act, funding eligibility is simple for cities as long as the expenses are: (1) necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19); (2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. The City's Resolution, attached, is supportive of local businesses and does not directly violate any state orders. The City has successfully balanced the economic and public health tension and incurred many qualified expenses to help slow the spread of COVID-19. We are happy to demonstrate our track record in this regard.

Congress of the United States
Washington, DC 20515

July 13, 2020

The Honorable Gavin Newsom
Governor of California
1303 10th Street, Suite 1173
Sacramento, CA 95814

Governor Newsom:

We are writing today in response to reports from our local health officials that your office has given notice to several counties that Federal funding from the Coronavirus Aid, Relief and Economic Security (CARES) Act would be withheld if they do not fully comply with mandates created by the State. All of us, as Members of the California Congressional Delegation, share your concern with the rising number of active COVID-19 cases in California. Choosing this moment to threaten local government funding is unhelpful and counterproductive.

Congress intended for the Coronavirus Relief Fund (CRF) authorized and appropriated in the CARES Act to serve as an immediate $150 billion line of aid to every State and local government in the nation. California received, by far, the largest allocation in the country: $15.3 billion, of which $9.5 billion was disbursed directly to the State. California's 2020 Budget tepidly directs $1.8 billion in Federal funding to cities and counties, including those that already received direct payments from the U.S. Treasury. This funding is needed to help counties and cities train contact tracers, expand local healthcare capacity, and provision any other assistance needed. Yet as of July 1st, California has delivered almost none of this Federal aid to local governments and counties.

By withholding CRF payment disbursements from these localities, the State is creating winners and losers. In addition, guidance issued by the U.S. Department of the Treasury regarding implementation of the CRF clearly says that States cannot impose restrictions on transfers of funds to local governments that go beyond requirements outlined in Section 601(d) of the Social Security Act. Accordingly, we believe that the State may be inappropriately withholding CRF funds to localities by imposing conditions on such disbursements that are inconsistent with the Treasury Department's guidance and Section 601(d) of the Social Security Act.

As COVID-19 positive cases in California increase once again, our local governments are left with fewer options and less funding than they had earlier this year. Rather than continue to withhold Federal funding in exchange for compliance with State mandates, and to ensure that the State is in full compliance with the Treasury Department's guidance and the law, we ask that you expeditiously release this funding to our local officials.

Sincerely,

DOUG LaMALFA
Member of Congress

KEVIN McCARTHY
Member of Congress

TOM McCLINTOCK
Member of Congress

KEN CALVERT
Member of Congress

DEVIN NUNES
Member of Congress

PAUL COOK
Member of Congress

MIKE GARCIA
Member of Congress

GAVIN NEWSOM
GOVERNOR

MARK S. GHILARDUCCI
DIRECTOR

Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

July 23, 2020

Ms. Lori Waterman
City Manager
City of Atwater
750 Bellevue Road
Atwater, CA 95301
LWaterman@atwater.org

Dear Ms. Waterman:

On March 4, 2020, Governor Newsom proclaimed a State of Emergency to exist statewide due to the threat of COVID-19. Since that time, COVID-19 has spread throughout California, requiring further action to protect the public health and safety. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, which incorporated the State Public Health Officer's Stay-at-Home Order. This Order continues to apply statewide and remains necessary for the preservation of public health and safety. On May 4, 2020, the Governor issued Executive Order N-60-20. The Order allows local jurisdictions to take measured and meaningful steps to modify public health directives where public health data supports such a decision.

All of these actions were, and remain, necessary to preserve public health and safety. Merced County is no exception, as it has been on the county monitoring list for 24 days with elevated disease transmission and a test positivity rate of 16.7%. Additionally, hospitalizations in the county continue to increase. COVID-19 does not stop at administrative boundaries and one community's failure to follow public health orders will negatively impact other communities.

The State of California is providing and distributing financial support to assist local governments in responding to the impacts of the unprecedented COVID-19 pandemic. This funding is conditioned on the jurisdiction's adherence to federal guidance and the state's stay-at-home requirements and other health requirements as directed in gubernatorial Executive Order N-33-20, subsequent executive orders or statutes, and all State Department of Public Health orders, directives, and guidance issued in response to the COVID-19 public health

emergency.[1] Local governments must certify compliance to the Department of Finance when they apply for this funding. In the certification, the jurisdiction must affirm it has not enacted any ordinances or resolutions that are inconsistent with the state's stay-at-home order. This is necessary to ensure that all jurisdictions are adhering to public health directives and ensure for the protection of public health and safety.

As you are aware, on May 15, 2020, the City of Atwater passed Resolution number 3148-20, declaring the City of Atwater "a sanctuary city for all businesses." This Resolution, which is inconsistent with the state's public health directives, threatens the public health and safety of the City of Atwater's residents and renders the City ineligible for up to $387,428 in state assistance in accordance with the FY 20-21 State Budget Act.

It is our goal to ensure that every eligible jurisdiction in California, including the City of Atwater, receives this funding. In order to be eligible for funding, assuming it meets the other prescribed criteria, the City would need to rescind this resolution. I ask that you please advise once the City has formally rescinded this Resolution and has moved forward to expeditiously implement and enforce state public health guidelines. Thank you for your anticipated cooperation.

Sincerely,

MARK S. GHILARDUCCI
Director

Enclosure: City of Atwater Resolution 3148-20

cc: Assemblymember Adam Gray
Senator Anna Caballero
Representative Jim Costa

[1] http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB89

CITY COUNCIL OF THE CITY OF ATWATER

RESOLUTION NO. 3148-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATWATER AFFIRMING THE CITY'S COMMITMENT TO FUNDAMENTAL RIGHTS OF LIFE, LIBERTY, AND PROPERTY, AND DECLARING THE CITY OF ATWATER A SANCTUARY CITY FOR ALL BUSINESSES

WHEREAS, the City of Atwater recognizes that the Constitution of the United States enshrines certain rights of all Americans, including those fundamental liberty interests set forth in the Fourteenth Amendment that prohibit any state from depriving any person of life, liberty, or property, without due process of law; and

WHEREAS, the City of Atwater recognizes that the Declaration of Independence advanced the "inalienable rights" of life, liberty, and the pursuit of happiness in the face of tyrannical governmental overreach; and

WHEREAS, each of the City of Atwater duly elected or appointed public servants have sworn to defend and uphold the United States Constitution and the Constitution of the State of California; and

WHEREAS, recent state and county orders have been issued which have deemed certain businesses as "essential" and ordered all other businesses to stay shuddered, closed, forcing them perilously on life support as they fight for their very economic survival and livelihood; and

WHEREAS, the City of Atwater welcomes, honors, and respects the contributions of all businesses, regardless of their size, and regardless of whether or not they have been deemed "essential" by state or county bodies; and

WHEREAS, the City of Atwater's diverse businesses positively contribute to the economic, cultural, and social fabric of the City; and

WHEREAS, all businesses in the City have not only been a catalyst for the City's recent economic recovery, but have been the backbone of the City throughout its 98-year history; and

WHEREAS, the City of Atwater's businesses are socially responsible, and are able and willing to maintain effective social distancing and health protocols to ensure the City remains one of the strongest COVID-19 success stories in California; and

WHEREAS, fostering a relationship of trust, respect, and open communication between City officials and businesses is essential to the City's mission of delivering effective public services in partnership with the community, thereby advancing a high quality of life for residents; and

WHEREAS, the City of Atwater seeks to foster trust, not fear, between City officials and businesses, while properly allocating limited local resources and encouraging cooperation and open communication, to ensure public safety and due process for all, irrespective of business status; and

WHEREAS, the City of Atwater desires to demonstrate its commitment to its businesses by providing a safe community and by assuring them that, in accordance with federal and state laws and all state licensing authorities, the City will not of its own accord abridge such freedoms and rights; and

WHEREAS, the City of Atwater recognizes the inalienable rights of individuals, as individuals, to earn a living, to employ others or be employed, to provide income for their families, to give back to the community, to treat neighbors with respect and care, and contribute to the overall health and well-being of the community, without the need for undue governmental overreach and coercion.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Atwater does hereby resolve as follows:

SECTION 1: City of Atwater shall not, in accordance with state and federal law, and in order to properly allocate limited local resources and optimize cooperation and communication to ensure public safety and due process for all, irrespective of business status, actively join forces with other agencies solely for the purpose of enforcing state or county COVID-19 orders; and

SECTION 2: City of Atwater shall not, in accordance with state and federal law, take any direct action against any businesses or individuals based solely on their actual or perceived business status; and

SECTION 3: The City of Atwater recognizes that state and county authorities directly license, permit, and regulate some businesses within the City and nothing in this Resolution is intended to abridge such authorities from overseeing applicable license regulations and restraints on such City businesses; and

SECTION 4: Subject to the foregoing, the City of Atwater hereby declares that it is a Sanctuary City for All Businesses.

The foregoing resolution is hereby adopted this 15th day of May 2020.

AYES: **Vierra, Raymond, Cale, Creighton**
NOES: **None**
ABSENT: **Ambriz**

APPROVED:

PAUL CREIGHTON, MAYOR

ATTEST:

LUCY ARMSTRONG, CITY CLERK

COUNTY OF Placer

MEMORANDUM
COUNTY EXECUTIVE OFFICE
ADMINISTRATION
County of Placer

TO: Honorable Board of Supervisors DATE: September 8, 2020

FROM: Todd Leopold, County Executive Officer

SUBJECT: Resolution Proclaiming Termination of the Placer County Declaration of Local Health Emergency Regarding COVID-19 and Rescinding Resolution No. 2020-034, as Modified by Resolution 2020-137, in its Entirety.

ACTION REQUESTED
Consider a resolution proclaiming the termination of the Placer County declaration of local health emergency regarding COVID-19 and rescinding Resolution No. 2020-034, as modified by Resolution 2020-137, in its entirety.

BACKGROUND
The attached resolution memorializes the County and State actions to date to limit the spread of Covid 19. Since the Board's declaration of a local health emergency on March 9, 2020, the County has worked diligently and in good faith to manage local disease spread to the extent possible, sharing community health information, reporting Covid case dynamics at each Board meeting, updating its publicly website-accessible Covid dashboard for community reference (https://www.placer.ca.gov/DocumentCenter/View/46267/dashboard?bidId=#case-rate-and-testing-data), addressing the needs of vulnerable populations throughout the County and clarifying State guidance so local businesses could responsibly reopen consistent with state public health orders and safety protocols.

Taken together, the County's considerable efforts have yielded a remarkably low incidence of Covid disease, both in terms of case rates and testing positivity rates, the latest metrics used by the State in its *Blueprint for a Safer Economy,* announced by Governor Newsom on August 28, effective August 31. While this new framework uses lagging data which places Placer County in its most restrictive tier for business reopenings, local data suggest there is sufficient cause to terminate the local health emergency, acknowledging the CA State of Emergency and CA Department of Public Health (CDPH) orders, directives and guidance remain in effect.

Because of this discrepancy with local data and the State's use of lagging metrics, the proposed resolution also expresses the Board's concerns with the state framework for measuring Covid dynamics, as it mischaracterizes the current state of disease in Placer County, to the detriment of the community's economic, health, mental and social well-being. These concerns have been addressed to Governor Newsom in four letters to date (attached), to which the State has not yet responded at this writing.

FISCAL IMPACT
There is no known fiscal impact to the County from the proposed action.

ATTACHMENTS:
Attachment 1: Resolution
Attachment 2: Letters dated July 30, August 5, August 21 and August 26, 2020

Before the Board of Supervisors
County of Placer, State of California

In the matter of:
Resolution of the Board of Supervisors Proclaiming the Termination of the Placer County Declaration of Local Health Emergency Regarding COVID-19 and Rescinding Resolution No. 2020-034, as modified by Resolution 2020-137, in its entirety.

Resolution No.: _____

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held_____, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

_____
Chair, Board of Supervisors

Attest:

_____
Clerk of said Board

WHEREAS, on March 2, 2020 Placer County Public Health reported the first confirmed case of COVID-19 in Placer County; and

WHEREAS, on March 3, 2020 the Placer County Public Health Officer issued a Declaration of Local Health Emergency, pursuant to California Health and Safety Code Section 101080, and the County Executive Officer issued a proclamation of the existence of a county-wide local emergency, pursuant to Government Code Sections 8630 and 8558; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom declared a State of Emergency ("State of Emergency") to formalize emergency actions and help prepare for the broader spread of the COVID-19 disease; and

WHEREAS, on March 9, 2020, the Placer County Board of Supervisors passed a resolution ratifying the Declaration of Local Health Emergency ("Resolution No.2020-034); and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20 ordering all individuals in California to stay in their place of residence except as needed to maintain continuity of operations of federal critical infrastructure sectors, thereby reducing and stopping non-essential businesses from continuing operations ("Stay at Home Order"); and

WHEREAS, on March 19, 2020, the Placer County Health Officer issued a directive instructing individuals to shelter at their place of residence and restricting non-essential activities in response to the COVID-19 outbreak; and

WHEREAS, on April 10, 2020, the Placer County Health Officer issued an order, which was amended on April 16, 2020, to replace the March 19th Directive. The April 16, 2020 Order clarified, strengthened, and extended the terms of the previous directive to reduce person-to-person contact and increase physical distancing in order to further slow transmission of COVID-19. The Order was issued based on the increasing occurrence of cases of COVID-19, and it expired on May 1, 2020; and

WHEREAS, on May 7, 2020, the California State Public Health Officer and Director of the California Department of Public Health ordered that all local health jurisdictions in the state could begin a gradual movement into Stage 2 of California's Pandemic Roadmap to Resilience, which allowed for the gradual reopening of businesses under the state order; and

WHEREAS, on May 11, 2020, the Board approved the Placer County Health Officer's attestation for a variance from the California Department of Public Health to move more quickly through Stage 2 of California's Pandemic Roadmap than the rest of the state; and

WHEREAS, on May 12, 2020, the California Department of Public Health granted Placer County's variance application; and

WHEREAS, on June 12, 2020, several Stage 3 economic sectors in Placer County were allowed to resume operations after the California Department of Public Health provided guidance for how these sectors could reopen under the state's guidelines; and

WHEREAS, numerous businesses and uses in Placer County resumed operations in Placer County in reliance on the State's guidelines; and

WHEREAS, on June 18, 2020, Governor Newsom and the CDPH mandated the wearing of masks or cloth face coverings in most indoor public spaces, with very limited exceptions; and

WHEREAS, on June 23, 2020, the Board adopted Resolution No. 2020-137 which amended Resolution No. 2020-034 to return the authority to terminate the local health emergency to the Board of Supervisors; and

WHEREAS, on June 30, 2020, Placer County, as a state condition to receive CARES Act funding (i.e. federal funding allocated to local governments under the Coronavirus Aid, Relief, and Economic Security Act [HR 748; CARES Act]) certified that it would "adhere to federal guidance and the state's stay-at-home requirements and other health requirements as directed in gubernatorial Executive Order N-33-20, and subsequent Executive Orders or statutes, and all California Department of Public Health orders, directives, and guidance in response to COVID-19 emergency"; and

WHEREAS, on July 1, 2020, Governor Newsom and the CDPH ordered that all counties on the state watch list for more than three days in a row would have to shut down bars and a range of indoor businesses, including dine-in restaurants, cardrooms and movie theaters; and

WHEREAS, on July 11, 2020, the State Public Health Officer issued an Amended State Public Health Officer Order for Placer County after Placer County was on the State's county monitoring list for three days. The state order (which is still in effect) required the closure of bars and indoor operations for certain sectors (restaurants, wineries, family entertainment centers, zoos, museums, and cardrooms); and

WHEREAS, on July 13, 2020, Governor Newsom mandated a statewide shutdown of bars, indoor and outdoor service, and the shutdown of indoor dine-in restaurants, wineries, movie theaters, zoos, museums, cardrooms, and other entertainment centers. For counties, determined by the state CDPH to be on a "watch-list", the order suspended indoor business for places of worship, fitness centers, shopping malls, personal care services, non-essential office spaces, hair salons and barbershops; and

WHEREAS, as a result of the state's action, the businesses who had expended time and money to adhere to the State guidelines and reopened on or around June 12th were forced again to close down most operations; and

WHEREAS, on July 17, 2020, the CDPH released a school reopening framework that precluded schools from reopening for in-person instruction until 14 days after a county is removed for the state watch list. The CDPH also announced a waiver process by which elementary schools could reopen for in-person instruction if they were granted a waiver by the local Public Health Officer; and

WHEREAS, on August 7, 2020, the Governor and CDPH disclosed a state data glitch that resulted in an undercounting of the rate of COVID-19 infection from July 25, 2020 to August 4, 2020, caused up to 300,000 records to be backlogged, and led to CDPH freezing the state watch list, as of July 31, 2020, resulting in no county, including Placer, being able to move off the watch list until the State fixed its computer program problems; and

WHEREAS, finally on August 19, 2020, the County was removed from the Monitoring List and the 14-day countdown began to reopen schools in Placer; and

WHEREAS, on August 28, 2020, the State Public Health Office issued a new framework entitled "Blueprint for a Safer Economy" ("Blueprint"), which the State

claimed would allow for the "safe progression of opening up more businesses in each county so impacts of any given change can be fully evaluated"; and

WHEREAS the Blueprint is a color coded four tier system with the tiers representing the "risk of community disease transmission" with an associated list of uses and businesses that can reopen and the percentage of reopening permitted. Tier 4 (Yellow) is characterized as "minimal transmission" and at the other end of the spectrum, Tier 1 (Purple) is characterized as "substantial transmission"; and

WHEREAS, as of August 28, 2020, the vast majority of counties, including Placer, were ranked in the "widespread" or most restrictive category (Tier 1- Purple), despite the fact that Placer and San Diego had been (as of that date) off the monitoring list for more than 14 days. While Placer remains in Tier 1, San Diego and San Francisco Counties have been ranked in Tier 2, the red zone, which allows a broader range of businesses and churches to open for limited indoor uses; and

WHEREAS, the County's Public Health Officer pointed out to the Acting State Public Health Officer that the State used the County data for weeks ending 8/11 and 8/18 which "overlaps with when Placer County was still on the Monitoring List. As a result, Placer County has been placed in the most restrictive tier, Purple, despite having been removed from the Monitoring List on August 19." (Letter dated August 28, 2020 from Placer County Health Officer Dr. Aimee Sisson to Acting State Public Health Officer Dr. Erica Pan); and

WHEREAS, Dr. Sisson states in the same August 28th letter that the County's "14-day case rate has steadily declined and its testing rate is at 4.0%. below the State threshold for this indicator", and

WHEREAS, on August 28, 2020, Dr. Pan responded to Dr. Sisson via email and acknowledged that both Placer and San Diego Counties "will have been off the County Data Monitoring list for 14 days as of 9/1st. Per our 7/17th framework, schools may reopen once a county is off of the CDM for 14 days/2 weeks, thus your schools are allowed to reopen unless you have stricter local health officer requirements as of 9/1st" (Pan Email August 28, 2020); and

WHEREAS, under this new Blueprint system, even at the Tier 4 level, many businesses and uses such as churches, movie theaters, gyms, restaurants, bars and family entertainment centers are only allowed to operate indoors at a 50% capacity; and

WHEREAS, the Governor admits that there is no Tier in the Blueprint system that will allow businesses and uses in any county to open up to 100% capacity or use even if a county achieved Tier 4 and remained in that Tier for weeks. The Governor stated in his August 28, 2020 press conference that the state didn't "put up green because we don't believe that there is a green light which says go back to the way things were or back to the pre-pandemic mindset"; despite the fact that the Governor can use other health directives such as face coverings, distancing, hand sanitizing, to continue to reduce the spread; and

WHEREAS, to qualify for the Tier 4 under the State's Blueprint monitoring system, a county must have less than 1 new case per 100,000 residents and even then, businesses are limited to 50% capacity. This criterion does not constitute either a local

or state emergency that merits the State's continued actions to restrict businesses and uses, such as religious activities in churches, in either Placer County or the state; and

WHEREAS, the Governor in his September 2, 2020, news conference made the astounding recharacterization of the "COVID-19 pandemic" as the "Twindemic" and stated that the effort by the state will now be focused on fighting both COVD and the flu through "the flu season"; and

WHEREAS, the State's position is untenable for residents of Placer County and many other counties in the state. It will likely force a significant number of businesses to permanently close, livelihoods to be destroyed, and will result in substantial additional unemployment and evictions; and

WHEREAS, the State cannot support the continued restriction on businesses and uses from reopening when it has yet to articulate or establish the root cause of the spread of COVID-19 in the state; and

WHEREAS, the original intent of the State of Emergency and subsequent Stay at Home Order ("State Actions") was to prevent the catastrophic failure of the hospital system due to an anticipated surge of Covid-19 cases; and

WHEREAS, the Board concludes this has been prevented in Placer County; and

WHEREAS, the key implementation step of the State Actions was designed to "flatten the curve", in order to avoid the overcrowding of our hospitals; and

WHEREAS, the Board concludes that the curve has been flattened in Placer County; and

WHEREAS, the Board of Supervisors is informed and believes, based on expert opinion, that the State's response to the COVID-19 emergency has not prevented the spread of COVID-19, but only delayed the spread of COVID-19 cases and that the State's monitoring plans have not established that any of these restrictions on businesses and uses actually targets the root cause or prevents of the spread of COVID-19 in California; and

WHEREAS, the Board of Supervisors is informed and believes, based on expert opinion, that the actual infection fatality rate of COVID-19 is substantially lower than reported by the CDC, that the current herd immunity threshold (H.I.T.) could very well be as low as 10% to 20% of any given population because the contact rate of each person varies and some individuals have prior immunity based on previous exposure to other coronaviruses, and that long-term mitigation efforts unnecessarily prolong the profound negative physical, mental, emotional and economic impacts created by COVID-19; and

WHEREAS, the Board of Supervisors is informed and believes, based on expert scientific opinion, that COVID-19 is a serious virus that can lead to death and that particular segments of society, such as individuals over 65 and persons with pre-existing physical health conditions, are more susceptible to the negative effects of COVID-19 and that state or local restrictions, if any, should target those particular segments of the population; and

WHEREAS, recent information from the National Center for Health Statistics that underscored that most deaths are not *by* COVID but *with* COVID. By combining the two statistics, the state is setting the rate of deaths *by* COVID artificially high. Under the subheading labeled "comorbidities", meaning the additional conditions people experienced in addition to a primary diagnosis such as COVID, the National Center for Health Statistics "shared that 'for 6% of the deaths, COVID-19 was the only cause mentioned' on the death certificate, meaning that only 6 percent of individuals had no underlying health complications other than COVID-19 reported when they died." (The Scientist quoting the National Center for Health Statistics, September 2, 2020 article entitled "No the CDC Has Not 'Quietly Updated' COVID-19 Death Estimates"); and

WHEREAS, the Board is informed and believes, based on expert scientific opinion, that the state should carefully move towards a public health immunity instead of penalizing millions of Californians, and thousands of Placer County residents with more unproven and seemingly arbitrary restrictions as evidenced in the State's August 28th Blueprint system; and

WHEREAS, the Board of Supervisors is informed and believes, based on expert scientific opinion, that initial state actions have "flattened the curve" to allow for adequate preparation by the hospital system in Placer County and that the hospital system is not at risk of catastrophic failure due to COVID-19; and

WHEREAS, as of Wednesday, September 2, 2020, the Placer County COVID-19 dashboard reports that Placer County, with an estimated population of 398,329 by the U.S. Census Bureau, had 3,062 laboratory confirmed positive COVID-19 cases, 2,689 likely recovered COVID-19 cases, 34 deaths of persons with laboratory confirmed positive COVID-19 cases; and

WHEREAS, the known positive COVID-19 cases (3,062) represent 8 one-hundredth of 1% of the population of Placer County and the number of deaths (34) associated with COVID-19 represent 8 ten-thousandth of 1% of the population of Placer County; and

WHEREAS, based on the fact that the County's COVID case numbers have steadily reduced in number through August, it is the Board's conclusion that the circumstances that led to the Board's resolution ratifying the March 4th Proclamation of Local Health Emergency no longer exist; and

WHEREAS, pursuant to California Health and Safety Code section 101080, the Board, having reviewed the need for continuing the Local Health Emergency and recognizing that it is obligated under statute to terminate the same at "the earliest possible date that the conditions warrant termination", now conclude that current conditions related to COVID-19 in Placer County warrant termination of the Local Health Emergency and rescission of Resolution No. 2020-034.

NOW THEREFORE BE IT RESOLVED, by the Board of Supervisors, County of Placer, State of California does hereby terminate, pursuant to California Health and Safety Code section 101080, the Proclamation of Local Health Emergency and thereby rescind Resolution No. 2020-034, as modified by Resolution No. 2020-137 in its entirety.

BE IT FURTHER RESOLVED, by the Board of Supervisors, County of Placer, State of California that all residents of Placer County should recognize they are individually responsible for their own personal choices in response to COVID-19, that an individual's behavior could increase or decrease their chances of being infected by COVID-19 (a virus that can cause fatalities and other serious medical conditions) or having a family member infected, and that local government, in a free society, cannot eliminate all risk to COVID-19.

BE IT FURTHER RESOLVED, by the Board of Supervisors, County of Placer, State of California that California's new Blueprint monitoring system establishes an arbitrary regulation of local economies to the significant financial detriment of citizens. The State's Blueprint system by the Governor's own admission has no "green tier" and therefore no end of state regulation regardless of what many medical experts would find to be a reasonable ratio of new cases per 100,000 population.

BE IT FURTHER RESOLVED, by the Board of Supervisors, County of Placer, State of California, that the Governor's September 2, 2020 news conference recharacterization of the "COVID-19 pandemic" as the "Twindemic" and the Governor's stated goal that the effort by the state will be focused on fighting both COVID-19 and the flu through "the flu season" is an unwarranted extension of the present state of emergency. The Board finds this forecast an overreach of the Governor's authority under the State Emergency Act and an overregulation by the State of local county and city jurisdictions.

BE IT FURTHER RESOLVED, by the Board of Supervisors, County of Placer, State of California that the California State of Emergency and the state's stay-at-home requirements and other health requirements as directed in gubernatorial Executive Order N-33-20, and subsequent Executive Orders or statutes, and all California Department of Public Health orders, directives, and guidance ("State Requirements") remain in effect.

BE IT FURTHER RESOLVED, by the Board of Supervisors, County of Placer, State of California, this resolution shall be effective immediately upon adoption.

County of Placer

Board of Supervisors

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ROBERT M. WEYGANDT
District 2
JIM HOLMES
District 3
KIRK UHLER
District 4
CINDY GUSTAFSON
District 5

August 26, 2020

The Honorable Gavin Newsom
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

Re: *COVID-19 Statewide Response*

Dear Governor Newsom:

This letter is to first communicate my thanks to you and to the staff at the California Department of Public Health for your collective professionalism and dedication while working through the numerous calamities now being faced by Californians. The Placer County Board of Supervisors knows that the COVID-19 pandemic, state wildfires, heat wave, energy blackouts, homeless conditions, and current cultural unrest that grips society have caused severe physical and mental suffering among Californians and we know that you and CDPH are working tirelessly at addressing the same.

As the current Chair on the Board of Supervisors, I see the same physical and mental anguish in Placer County residents. On a day to day basis, the Board receives calls and hears pleas from Placer County residents who are truly suffering from the COVID-19 emergency. Unfortunately, the suffering is not from COVID-19 alone, but from the State's response to the emergency.

The State's closing of some "non-essential" businesses but allowing other businesses to remain open when the exact same risk of infection exists is hard to explain to residents because it makes no sense and has not helped in the fight against COVID-19. The State's response causes tremendous economic hardship without any tangible benefit. While I appreciate your good intentions, please consider the following:

1. The original intent of the State of Emergency and subsequent Stay at Home Order ("State Actions") was to prevent the catastrophic failure of the hospital system due to an anticipated surge of Covid-19 cases and to "flatten the curve" so as to avoid the overcrowding of our hospitals. California has been successful in this effort.

2. The actual infection fatality rate of COVID-19 is substantially lower than the earliest predictions in March 2020. As of Tuesday, August 25, 2020, the Placer County COVID-19 dashboard reported that Placer County, with an estimated population of 398,329 by the U.S. Census Bureau, had 2833 laboratory confirmed positive COVID-19 cases, 2,478 likely recovered COVID-19 cases, and 32 deaths of persons with laboratory confirmed positive COVID-19 case. The known positive COVID-19 cases (2,833) represents less

than 1% of the population of Placer County and the number of deaths (32) associated with COVID-19 represents 8 thousandths of 1% or 1 of every 12,448 residents in Placer County.

By comparison, the CDC reports that 1 of every 5,705 Californians died of influenza/pneumonia in 2018.[1] The same year 1 of every 2,894 Californians died of chronic lower respiratory disease.[2] Even though the death rate is more than double for influenza/pneumonia, the state was able to manage without stay at home orders or business closures.

3. Based on expert opinion, the State's response to the COVID-19 emergency has not prevented the spread of COVID-19, but only delayed the spread of COVID-19 cases. During a shut down, the virus does not simply go away. The spread slows but it will reemerge until public health immunity is reached by natural infection or through a vaccine.

4. Based on expert opinion: (a) the actual infection fatality rate of COVID-19 is between 5 thousandth and 8 thousandth of 1% of the population; (b) the herd immunity threshold (H.I.T.) could be as low as 10% and 20% of any given population because the contact rate of each person varies and some individuals have prior immunity based on previous exposure to other coronaviruses and (c) the long-term mitigation efforts (such as a shelter in place order) unnecessarily prolonged the negative physical, mental, emotional and economic impacts created by COVID-19.

5. It is our hope that a vaccine will be developed in the near future. However, the timing for an approved vaccine (that will be accepted by the public) is unknown. In addition, it is always a possibility that COVID-19 will return each year similar to an influenza virus. Therefore, public policy cannot be based on waiting for a vaccine.

Public Health Immunity Response

At this point, the best defense in response to the existing COVID-19 emergency is a "Public Health Immunity" response that encourages good health behavior to limit the spread of COVID-19 but recognizes that COVID-19 positive cases will naturally increase, with or without government intervention, until Californians have public health immunity.

A public health immunity response means that Californians practice good health habits and social distancing protocols but continue with their normal lives until public health immunity is achieved through either the natural spread of COVID-19 or through the development and use of an approved vaccine. A public health immunity response should be proportional to the epidemic and balanced against the negative effects created by the response (i.e. government's cure should not be worse than the disease). This responsive strategy accepts that COVID-19 is a virus that exists and that each year persons could die from COVID-19 just like persons could die from influenza or pneumonia. Further, a public health immunity avoids the wasteful use of government time and money on failed programs, such as contact tracing, but instead focuses government

[1] 39.46 million Californians divided by 6,917 influenza/pneumonia deaths = 5705 deaths.
[2] 39.46 million Californians divided by 13,634 chronic respiratory deaths = 2,894 deaths.

resources on protecting at risk population sectors, such as elderly persons in skilled nursing facilities. Furthermore, a public health immunity response recognizes that Californians are individually responsible for their own personal choices and that an individual's behavior could increase or decrease their chances of being infected by COVID-19 or having a family member infected. Finally, a public health immunity response acknowledges that government in a free society cannot (and should not try to) eliminate all risk to COVID-19 by creating social restrictions that have questionable effectiveness and cause serious collateral damage to California and its residents.

Next Steps

The State should give counties local control the discretion, based on infection rates in their jurisdictions, to determine the best course of action to address the coronavirus in their communities. We cannot allow our schools and businesses to be shut down until some unknown level of infection rate is met. Businesses and schools can open safely with safety protocols already in place. Continued shutdowns will only further result in mental, emotional and economic hardships. We must acknowledge that we should move toward public health immunity. Allow our communities to reopen, as appropriate, with safety protocols, based on their infection and death rates.

I understand that you are very busy and that neither you nor the CDPH have been able to respond to my correspondence to you dated July 30, 2020, August 5, 2020 and August 21, 2020. Our residents need assurances that the state is responding to their elected officials. Counties, by definition, are responsible for the public health of our residents and for providing direction and assistance during crises. Please accept these suggestions in the spirit they are being offered. Like you, the Placer County Board of Supervisors wants to continue to work together to combat COVID-19. Once again, I thank you in advance for taking the time to consider and respond to this correspondence.

Sincerely,

Bonnie Gore, Chair (District 1)
Placer County Board of Supervisors

Attachments: Letters dated July 30, 2020, August 5, 2020 and August 21, 2020

cc: Placer County Board of Supervisors
Todd Leopold, Placer County Executive Officer
Shaw/Yoder/Antwih

County of Placer

Board of Supervisors

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District 5

August 21, 2020

Erica Pan, MD, MPH
Acting State Public Health Officer
California Department of Public Health
Post Office Box 997377
MS 0500
Sacramento, CA 95899-7377

Re: *Businesses Opening Indoor Operations During Air Quality Emergency*

Dear Dr. Pan:

Thank you again for your continued efforts to keep our state residents safe from COVID-19.

We are writing to respectfully request that our local businesses be permitted to open indoor operations as soon as possible to protect our residents from the increasingly poor air quality due to these unprecedented wildfires.

The Placer County Board of Supervisors submitted a letter to you on August 19 requesting that our County be permitted to open businesses following 14 days from our removal from the watch list. Since then our state has been devastated with several horrific wildfires. Our county has been fortunate to not have a wildfire break out within our boundaries, however there are fires in communities around us which have significantly impacted the air quality of our entire county.

Placer County Health Officer, Dr. Aimee Sisson, stated that she does not recommend any person remain outdoors for an extended period when the Air Quality Index (AQI) is above 150. Today our main populated areas have an average AQI of 171. A representative of CalFire shared that we will likely see air quality at this level for at least the next two weeks.

In the continued spirit of collaboration, we have echoed your warnings about the spread of COVID-19. Our community has done an excellent job slowing the spread of COVID-19 as shown by our removal from the state watch list. With that said, our businesses that have already been struggling to stay open and have followed the state order to close or operate outdoors cannot continue to do so under these new circumstances.

We respectfully request that the businesses outlined in the July 13th statewide health order be allowed to reopen indoor operations in Placer County to protect public health. These include, gyms and fitness centers, places of worship, hair salons and barbershops, personal care services (nail salons, massage parlors, and tattoo parlors), and malls.

Further, although still listed as to be shut down throughout the state, we ask that restaurants, wineries and breweries be allowed to resume indoor operations for the same reasons listed above.

We believe these businesses will continue to implement precautions to keep employees and customers safe.

We appreciate your time and thank you for your consideration.

Sincerely,

Bonnie M. Gore
Chair, Board of Supervisors
Placer County, District 1

Cindy Gustafson
Member, Board of Supervisors
Placer County, District 5

Daniel Berlant
Mayor
City of Auburn

Dan Karleskint
Mayor
City of Lincoln

Jan Clark-Crets
Mayor
Town of Loomis

Greg Janda
Mayor
City of Rocklin

John B. Allard II
Mayor
City of Roseville

Cc: The Honorable Governor Gavin Newsom
Placer County Board of Supervisors
Todd Leopold, Placer County Executive Officer

County of Placer

Board of Supervisors

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District 5

August 5, 2020

The Honorable Gavin Newsom
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

Re: ***COVID-19 Statewide Response***

Dear Governor Newsom:

I write this letter to first express my sincere gratitude for your efforts on behalf of the State of California to fight SARS-CoV-2 (Covid-19). Few, if any of us, could have predicted in January and February of this year the coming devastation that would be thrust upon our local communities, state, country, and world.

I further thank you for the recent distribution of the CARES Act dollars to the County of Placer. At the local government level, we have also worked hard to fight Covid-19. As a county supervisor, I witnessed firsthand Covid-19's catastrophic effect on children, adults, businesses, and churches (to name only a few). I know the federal CARES Act dollars will help our county address a small portion of the loss suffered by the residents of Placer County (for which I am grateful).

My constituents have asked me questions about the State's response to the Covid-19 public health emergency. At the local level, there is a sincere confusion as to your strategy to address Covid-19. Some businesses are forced to close while other businesses are open even though the risk of spreading Covid-19 is logically indistinguishable between the two businesses. You have frequently stated that the State response will be dictated by science, but the science to date has shown that there is an extremely low statistical chance (i.e. thousandths of one-percent of the state population) that any given person in the state will be hospitalized and die from Covid-19.

It has been expressed to me that at this point in the state of emergency, you cannot stop the Covid-19 spread rate without literally destroying our society. For example, a plan to suppress social interaction until the spread rate drops to a specific number could take years given that a successful vaccine is not guaranteed and people may not take a vaccine because, among other reasons, it was rushed to production without proper vetting. If the goal is to reduce the spread rate, then what is the acceptable spread rate and how are you balancing the negative physical, mental, and economic effects created by the shut-down itself?

By emphasizing standard, accepted precautions (e.g. social distancing, hand washing, face coverings, etc., etc.) but allowing normal business to occur for persons that are not the truly at risk population, like the elderly or physically compromised, wouldn't the state naturally move toward herd immunity, without a significant increase in the infection fatality rate? Why couldn't the State pivot toward a herd immunity policy while making sure the social supports, medical capacity and PPE are available to treat the at-risk populations?

That is, until immunity is achieved either through the natural spread process or through a vaccine, the state could focus the emergency response on the at-risk population, not the entire population.

Some constituents wonder if politics have taken over the State's response to Covid-19 and that after the November election there will be a dramatic shift in the State's response. I agree with you that during this time we must set politics aside. We all must continue to work together to find the best solutions to combat Covid-19 at all levels of government. I thank you in advance for taking the time to consider and respond to my correspondence.

Sincerely,

Bonnie Gore, Chair (District 1)
Placer County Board of Supervisors

Cc: Placer County Board of Supervisors
Todd Leopold, Placer County Executive Officer
Shaw/Yoder/Antwih

County of Placer

Board of Supervisors

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July 30, 2020

The Honorable Gavin Newsom
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

Dear Governor Newsom,

On behalf of the Placer County Board of Supervisors, I am writing to request your consideration in releasing federal CARES Act monies immediately to Placer County as our employees are the ones at the forefront of the COVID-19 crisis and are focused on supporting the dire needs of our communities.

As elected officials, our leadership through this tragedy is tested daily. As a local government we are responsible for the boots on the ground response, every hour of every day. This effort is led by our local Public Health Officer, public health employees, local businesses, residents, social workers, first responders, and a host of others, including our city partners. All of us in Placer County are committed to defeating this pandemic and helping restore our communities.

In the spirit of collaboration, we implore you to immediately release all local CARES Act funding as appropriated by the federal government as we work in our community to meet critical needs and achieve outcomes you, your team and all of us desire. Local leadership is on the front line of "doing what's necessary" for Californians. We are dedicated to doing what is right for our communities and request release of all CARES Act funding immediately.

In Placer County, we have already committed 80 percent of our CARES Act funding to support our residents through County operations, including our most vulnerable residents with housing and food services. We have also committed 20 percent to our local community in the form of small grants to businesses and non-profits which have been hit especially hard during this pandemic. We understand this funding will not solve all the problems; however, it is our hope it can bridge the gap until we can reopen our community safely.

Lastly, thank you for your support for local governments in recognizing the need for CARES funding. It is imperative we do not fail our most vulnerable residents and our success in meeting this challenge will be greatly increased when we are given our much-needed resources.

Thank you for your consideration to this request.

COUNTY of PLACER

Bonnie M Gore

Bonnie Gore, Chair (District 1)
Placer County Board of Supervisors

cc: Placer County Board of Supervisors; Todd Leopold, Placer County Executive Officer; Shaw/Yoder/Antwih

Was the Covid-19 Test Meant to Detect a Virus?

By Celia Farber - April 7, 2020

The Corona Simulation Machine: Why the Inventor of The "Corona Test" Would Have Warned Us Not To Use It To Detect A Virus

"Scientists are doing an awful lot of damage to the world in the name of helping it. I don't mind attacking my own fraternity because I am ashamed of it." -Kary Mullis, Inventor of Polymerase Chain Reaction

What do we mean when we say somebody has 'tested positive' for the Corona Virus? The answer would astound you. But getting this "answer" is like getting to a very rare mushroom that only grows above 200 feet on a Sequoia tree in the forbidden forest.

I say that for dramatic effect, but also because I wound up, against all odds, finding it.

Every day I wake up and work at shedding one more layer of ignorance —by listening carefully. I got lucky with scientists many years ago; Epic, incredible scientists, happening to cross my path when nobody else wanted to talk to them. Now their names are emerging, their warnings and corrections crystallizing. True "science" (the nature of the natural world) is never bad news. Globalist science is nothing but bad news.

The reason Bill Gates wants you to believe a Corona Virus will exterminate over 450 million people is that he hates nature, God, and you. (A subjective interpretation.)

Why is that? You'd have to ask his psychiatrist.

But let's talk about the latest terror bomb detonated by Global Atheist PC Creeps upon your perfectly good, free life as a US citizen in 2020, governed by a President who does not think backwards.

How many of us are "infected" with this novel Corona virus, and how scared should we be?

First, a spiritual law: Anything that tries to frighten you comes from "opposition," in spiritual battle. It's not the Holy Spirit, period. Ignore its threats and keep your wits about you. You don't have to shout, "Stay safe!' to your neighbors. We *are* safe. We have an immune system that is a miracle like The Sistine Chapel. It withstands toxic, microbial inundation on a grand scale at all times, while operating a super-highway of adaptive life-sustaining genetic information, on cellular bridges, emitting telegrams of vital evolutionary code, slandered as "viruses" or "retroviruses."

People die—yes. But people don't die the way Bill Gates would have you believe, at the mercy of malicious, predatory pathogens, "lurking" on every surface, and especially other humans. That's not "science." That's social engineering. Terrorism.

Let's proceed.

What do we mean when we say a person "tests positive" for Covid-19?

We don't actually mean they have been found to "have" it.

We've been hijacked by our technologies, but left illiterate about what they actually mean. In this case, I am in the rare position of having known, spent time with, and interviewed the inventor of the method used in the presently available Covid-19 tests, which is called PCR, (Polymerase Chain Reaction.)

His name was Kary B. Mullis, and he was one of the warmest, funniest, most eclectic-minded people I ever met, in addition to being a staunch critic of HIV "science," and an unlikely Nobel Laureate, i.e. a "genius."

One time, in 1994, when I called to talk to him about how PCR was being weaponized to "prove," almost a decade after it was asserted, that HIV caused AIDS, he actually came to tears.

The people who have taken *all* your freedoms away in recent weeks, they're social engineers, politicians, globalist thought leaders, bankers, WHO fanatics, and the like. Their army is composed of "mainstream media," which is now literally a round-the-clock perfect propaganda machine for the Gates-led Pandemic Reich.

Kary Mullis was a *scientist.* He never spoke like a globalist, and said once, memorably, when accused of making statements about HIV that could endanger lives: "I'm a scientist. I'm not a lifeguard." That's a very important line in the sand. Somebody who goes around claiming they are "saving lives," is a very dangerous animal, and you should run in the opposite direction when you encounter them. Their weapon is fear, and their favorite word is "could." They entrap you with a form of bio-debt, creating simulations of every imaginable thing that "could" happen, yet hasn't. Bill Gates has been waiting a long time for a virus with this much, as he put it, "pandemic potential." But Gates has a problem, and it's called PCR.

Of Mullis' invention, Polymerase Chain Reaction, the *London Observer* wrote:

"Not since James Watt walked across Glasgow Green in 1765 and realized that the secondary steam condenser would transform steam power, an inspiration that set loose the industrial revolution, has a single, momentous idea been so well recorded in time and place."

What does HIV have to do with Covid-19?

PCR played a central role in the HIV war (a war you don't know about, that lasted 22 years, between Globalist post-modern HIV scientists and classical scientists.) The latter lost the war. Unless you count being correct as winning. The relentless violence finally silenced the opposition, and it seemed nobody would ever learn who these scientists were, or why they fought this thing so adamantly and passionately.

And PCR, though its inventor died last year, and isn't here to address it, plays a central role in Corona terrorism.

Here is an outtake from an article I published in SPIN, in 1994, about Kary Mullis, PCR, HIV and...Tony Fauci:

"PCR has also had a great impact on the field of AIDS, or rather, HIV research. PCR can, among other things, detect HIV in people who test negative to the HIV antibody test.

The word "eccentric" seems to come up often in connection with Mullis' name: His first published scientific paper, in the premier scientific journal Nature in 1986, described how he viewed the universe while on LSD – pocked with black holes containing antimatter, for which

time runs backward. He has been known to show photographs of nude girlfriends during his lectures, their bodies traced with Mandelbrot fractal patterns. And as a side project, he is developing a company which sells lockets containing the DNA of rock stars. But it is his views on AIDS that have really set the scientific establishment fuming.

Mullis, like his friend and colleague Dr. Peter Duesberg, does not believe that AIDS is caused by the retrovirus HIV. He is a long-standing member of the Group for the Reappraisal of the HIV-AIDS Hypothesis, the 500-member protest organization pushing for a re-examination of the cause of AIDS.

One of Duesberg's strongest arguments in the debate has been that the HIV virus is barely detectable in people who suffer from AIDS. Ironically, when PCR was applied to HIV research, around 1989, researchers claimed to have put this complaint to rest. Using the new technology, they were suddenly able to see viral particles in the quantities they couldn't see before. Scientific articles poured forth stating that HIV was now 100 times more prevalent than was previously thought. But Mullis himself was unimpressed. "PCR made it easier to see that certain people are infected with HIV," he told Spin in 1992, "and some of those people came down with symptoms of AIDS. But that doesn't begin even to answer the question, 'Does HIV cause it?'"

Mullis then went on to echo one of Duesberg's most controversial claims. "Human beings are full of retroviruses," he said, "We don't know if it is hundreds or thousands or hundreds of thousands. We've only recently started to look for them. But they've never killed anybody before. People have always survived retroviruses."

Mullis challenged the popular wisdom that the disease-causing mechanisms of HIV are simply too "mysterious" to comprehend. "The mystery of that damn virus," he said at the time, "has been generated by the $2 billion a year they spend on it. You take any other virus, and you spend $2 billion, and you can make up some great mysteries about it too."

Like so many great scientific discoveries, the idea for PCR came suddenly, as if by direct transmission from another realm. It was during a late-night drive in 1984, the same year, ironically, that HIV was announced to be the "probable" cause of AIDS.

"I was just driving and thinking about ideas and suddenly I saw it," Mullis recalls. "I saw the polymerase chain reaction as clear as if it were up on a blackboard in my head, so I pulled

over and started scribbling." A chemist friend of his was asleep in the car, and, as Mullis described in a recent special edition of Scientific American: "Jennifer objected groggily to the delay and the light, but I exclaimed I had discovered something fantastic. Unimpressed, she went back to sleep."

Mullis kept scribbling calculations, right there in the car, until the formula for DNA amplification was complete. The calculation was based on the concept of "reiterative exponential growth processes," which Mullis had picked up from working with computer programs. After much table-pounding, he convinced the small California biotech company he was working for, Cetus, that he was on to something. Good thing they finally listened: They sold the patent for PCR to Hoffman-LaRoche for the staggering sum of $300 million – the most money ever paid for a patent. Mullis meanwhile received a $10,000 bonus.

Mullis's mother reports that as a child, her lively son got into all kinds of trouble – shutting down the house's electricity, building rockets, and blasting small frogs hundreds of feet into the air. These days, he likes to surf, rollerblade, take pictures, party with his friends – most of whom are not scientists – and above all, he loves to write.

Mullis is notoriously difficult to track down and interview. I had left several messages on his answering machine at home but had gotten no response. Finally, I called him in the late evening, and he picked up, in the middle of bidding farewell to some dinner guests. He insisted he would not give me an interview, but after a while, a conversation was underway, and I asked if I couldn't just please turn my tape recorder on. "Oh, what the hell," he gruffed. "Turn the fucker on."

Our talk focused on AIDS. Though Mullis has not been particularly vocal about his HIV skepticism, his convictions have not, to his credit, been muddled or softened by his recent success and mainstream acceptability. He seems to revel in his newly acquired power. "They can't pooh-pooh me now, because of who I am," he says with a chuckle – and by all accounts, he's using that power effectively.

When ABC's "Nightline" approached Mullis about participating in a documentary on himself, he instead urged them to focus their attention on the HIV debate. "That's a much more important story," he told the producers, who up to that point had never acknowledged the controversy. In the end, "Nightline" ran a two-part series, the first on Kary Mullis, the

second on the HIV debate. Mullis was hired by ABC for a two-week period, to act as their scientific consultant and direct them to sources.

The show was superb, and represented a historic turning point, possibly even the end of the seven-year media blackout on the HIV debate. But it still didn't fulfill Mullis' ultimate fantasy. "What ABC needs to do," says Mullis, "is talk to [Chairman of the National Institutes of Allergy and Infectious Diseases (NIAID) Dr. Anthony] Fauci and [Dr. Robert] Gallo [one of the discoverers of HIV] and show that they're assholes, which I could do in ten minutes."

But I point out, Gallo will refuse to discuss the HIV debate, just as he's always done.

"I know he will," Mullis shoots back, anger rising in his voice. "But you know what? I would be willing to chase the little bastard from his car to his office and say, 'This is Kary Mullis trying to ask you a goddamn simple question,' and let the cameras follow. If people think I'm a crazy person, that's okay. But here's a Nobel Prize-winner trying to ask a simple question from those who spent $22 billion and killed 100,000 people. It has to be on TV. It's a visual thing. I'm not unwilling to do something like that."

He pauses, then continues. "And I don't care about making an ass of myself because most people realize I am one."

While many people, even within the ranks of the HIV dissidents, have of late tried to distance themselves from the controversial Duesberg, Mullis defends him passionately and seems genuinely concerned about his fate. "I was trying to stress this point to the ABC people" he says, "that Peter has been abused seriously by the scientific establishment, to the point where he can't even do any research. Not only that, but his whole life is pretty much in disarray because of this, and it is only because he has refused to compromise his scientific moral standards. There ought to be some goddamn private foundation in the country, that would say, 'Well, we'll move in where the NIH [National Institutes of Health] dropped off. We'll take care of it. You just keep right on saying what you're saying, Peter. We think you're an asshole, and we think you are wrong, but you're the only dissenter, and we need one, because it's science, it's not religion.' And that was one of the reasons why I cooperated with ABC."

"I am waiting to be convinced that we're wrong," Mullis continues. "I know it ain't going to happen. But if it does, I will tell you this much – I will be the first person to admit it. A lot of

people studying this disease are looking for the clever little pathways they can piece together, that will show how this works. Like, 'What if this molecule was produced by this one and then this one by this one, and then what if this one and that one induces this one' – that stuff becomes, after two molecules, conjecture of the rankest kind. People who sit there and talk about it don't realize that molecules themselves are somewhat hypothetical, and that their interactions are more so, and that the biological reactions are even more so. You don't need to look that far. You don't discover the cause of something like AIDS by dealing with incredibly obscure things. You just look at what the hell is going on. Well, here's a bunch of people that are practicing a new set of behavioral norms. Apparently, it didn't work because a lot of them got sick. That's the conclusion. You don't necessarily know why it happened. But you start there."

http://aidswiki.net/index.php?title=Document:Farber_interviews_Mullis

That was a historical detour, shared in hopes of rooting this conversation historically.

When you see the word "cases" on your TV screen, in this world that has now been hijacked by one single event, one dread, one Idol, you will be forgiven for thinking those are *cases* of Covid-19.

The number of "cases" is often a very big number, back-lit in red. Today for example, the number of "total cases," in the US, according to Worldometer, is 309,728. The total death figure is 8,441. "Active cases," is 286,546, of which 8,206 are "Serious, Critical." The number of "new deaths" is 1,037, and the number of "total recovered" is 14,741.

I'm not clear what an "active" case is. Does that mean fully symptomatic? Partially symptomatic? If the latter, it surely encompasses influenza/pneumonia, which has magically, as many have observed, dropped off a cliff for 2020.

In China, generally, they diagnose 'Corona' with CT scans and one or two positive PCR tests. In the US, it's difficult to find out what makes a "case," ie what the case definition is. Absent CT scans, we are in a bio-tech free-fall. One website offers this distressingly unclear definition: "The novel coronavirus, or COVID-19, has been spreading worldwide, resulting in growing numbers of infected individuals since late 2019 and increased mortality numbers since early 2020. So far, experts have seen that while there are severe cases, the infection

is usually mild with non-specific symptoms. And there are no trademark clinical features of COVID-19 infection."

There are no trademark clinical features? What then, collapsed the world? I sure hope this isn't all riding on a "test," as bio-tech Oracle.

A few graphs down, my fears are confirmed: "Diagnosis of COVID-19 involves laboratory tests. Once someone has been diagnosed with the coronavirus, additional diagnostic tests may be done to determine the severity of the infection."

I accept that "something is going on" that overlaps with flu, but reportedly worse than a normal flu. That's what we're hearing. It involves an acute lack of oxygen, for reasons unclear. People can't breathe. Intubation is a serious, potentially dangerous procedure that begs many questions—but that's for a future article.

What is the relationship between the spread of testing and the "spread" of a new virus? How do we know what we are experiencing, in comparison to what we are assuming we are experiencing? One study in Austria found that increased testing correlated with, no surprise, increased "cases."

In an email discussion between a group of international scientists, academics and MD's, the question was posed whether the daily number of new cases would track with the daily number of tests.

"Yes, they do," wrote Austrian MD Christian Fiala. "Here are the data from Austria. In other words if they want to further increase the number of 'infected' people, they have to also increase the number of tests. However, that is physically impossible.

Another aspect: during the first weeks most tests were done on sick people. Therefore, the percentage of positive tests was relatively high. But there are not so many sick people and with the general roll out of tests, the vast majority of those tested will be healthy. Consequently, the percentage of positive tests will be low, and most will be false positive.

In other words, it is impossible to continue the increase of positive test results."

In the US, we have all but abandoned classical diagnostic medicine in favor of biotech, or lab result medicine. This has been going on for a long time and is a dangerous turning. The "Corona test" is named with characteristic tech-tedium: "CDC 2019-nCoV Real-Time RT-PCR Diagnostic Panel." That means it is a needle in a DNA haystack test. A PCR test.

It finds fragments, nucleic acids. From an email from Kary Mullis, to the widow of boxer Tommy Morrison, whose career and life were destroyed by an "HIV test," and who litigated ferociously for years, against test manufacturers, Dr. Mullis wrote, on May 7, 2013:

"PCR detects a very small segment of the nucleic acid which is part of a virus itself. The specific fragment detected is determined by the somewhat arbitrary choice of DNA primers used which become the ends of the amplified fragment. "

If things were done right, "infection" would be a far cry from a positive PCR test.

"You have to have a whopping amount of any organism to cause symptoms. Huge amounts of it," Dr. David Rasnick, bio-chemist, protease developer, and former founder of an EM lab called Viral Forensics told me. "You don't start with testing; you start with listening to the lungs. I'm skeptical that a PRC test is ever true. It's a great scientific research tool. It's a horrible tool for clinical medicine. 30% of your infected cells have been killed before you show symptoms. By the time you show symptoms...the dead cells are *generating* the symptoms."

I asked Dr. Rasnick what advice he has for people who want to be tested for COVID-19. "Don't do it, I say, when people ask me," he replies. "No healthy person should be tested. It means nothing but it can destroy your life, make you absolutely miserable."
One of the countless head-spinning mysteries of this whole Corona Situation has been the advent of famous people, from Tom Hanks and his wife, to Sophie Trudeau, to Prince Charles announcing they had "tested positive" for COVID-19 and were self-quarantining. In all these famous-powerful people cases, the symptoms were either non-existent or mild. Why, one wondered, did they make such hay about it? The British Royals, especially, seemed to contradict their ethos of secrecy in this case. So what did it mean? It signaled, if anything, that COVID-19 is not all that deadly. That the virus can be present without causing the disease. That host factors matter. And that being "positive" for COVID-19 is neither a PR death sentence nor an actual death sentence. Maybe in their elite and esoteric language, it means some kind of prestige, or sacrament to a Pagan Virus Deity. Who knows?

In the case of the Trudeau, Sophie tested positive, and had symptoms, while her husband Justin, the Prime Minister, never got sick, and was never tested. (He didn't want to appear privileged; Not everybody can get tested in Canada, you must have symptoms.)

We do live now in a world dominated by a Corona virus, as my friend Kevin Corbett, a retired nurse in the UK puts it, "with knobs on it." Shrek-Green is the color that was chosen. We're lost in a simulation, seeking to grab hold of "truth" and reality. One way that I do that is to grab hold of words, slow them down, and analyze them. Globalists love to weaponize words and make spells out of them. Hypnotics. To this end, they invent new words, and force you to use them and live them. Words like "Corona Virus," and "Social Distancing." "COVID-19." "Tested Positive."

Whether we realize it or not, this phrase is an echo of HIV-think, which I swam through for most of my so-called career in journalism, choking and spitting all the way out. The globalists write *code.* They encode "viruses" and give them a weaponized, video-game identity. In this video game, you lose all your freedoms, and must display gratitude and servitude. Viral code trumps all other forms of politics. Nothing can counter it. Especially not "science." The virus is also a sweeping metaphor for the spread of "misinformation," which means anything outside their religious doctrines, not recognizable by classical virology.

The code, the potential scenarios, the mysticism and superstition about how the virus spreads, must not be questioned, If you wish to remain a person, as opposed to an un-person. It's a form of post-globalist environmental socialism gone malignant: Demand that all people submit to an equal chance to be killed by a virus. Act out the theatrics of worshiping the virus with fear as the measure of inverted faith. This is why celebrities love this kind of thing. It gives them a chance to debase themselves, to self-flagellate as fellow sufferers. As I write this, from my window in New York City, at 7 pm every evening, people are heard hollering, clapping, and blowing horns from their windows, to show solidarity to the health care workers on the front lines. Was any such thing ever devised for the mass deaths from opioids? No, they weren't significant deaths for the global elites. It's not "death," this play is about. It's socialist contagion theology. You can't go to the grocery store without encountering new displays of Corona Heroica. Only *viruses* interest these people, these haters of liberty. Yet they refuse to learn the first thing about the natural life of viruses and humans. If they did peer into this world, they would find beauty, truth, and wonder. They would find that viruses are rarely deadly, always misunderstood, and actually trying to protect us. The reason the globalists are obsessed with "spread" and "viruses" is

because they want to shut down all forms of communication and information exchange that threatens their New World Order.

"Every time somebody takes a swab, a tissue sample of their DNA, it goes into a government database. It's to track us," says David Rasnick. "They're not just looking for the virus. Please put that in your article."

Technocracy

In HIV, the death spell (code) came to people in the form of two antibody tests called ELISA and Western Blot, initially. Not PCR tests—they came later, to measure "viral load," and were specifically *not* to be used for diagnosing HIV. Rather, to stress people out about their "surrogate markers," said to represent where they stood in their battle against HIV. (Did people really need to be in a "battle" against HIV? This was the trillion-dollar question.)

In any case, those tests were not built on a "gold standard" which means purification of an actual virus. Purification means the pathogen has been separated from all else. HIV co-discoverer and Nobel Laureate Luc Montagnier famously told journalist Djamel Tahi in an interview: "I repeat, we did not purify."

HIV was never "separated from everything else." It was and is a laboratory artifact, a set of lab-tortured antigens around which a "test" was built—a test which shattered countless millions of lives, because people watched TV and believed what they were told. They didn't get a chance to hear what Kary Mullis or dozens of other real scientists had to say about the supposedly deadly retrovirus, HIV.

Nothing was proven before it was asserted. This became the norm, paving the way for the situation we are in now. Global viral communism. We all dreaded this would happen, but we never dreamed they would choose a cold virus. A Corona virus.

In the early 1990's, PCR, (Polymerase Chain Reaction) came into popular use, and Kary Mullis was awarded the Nobel Prize for it in 1993. PCR, simply put, is a thermal cycling method used to make up to billions of copies of a specific DNA sample, making it large enough to study. As it correctly says on PCR's Wikipedia page, PCR is an "...indispensable technique" with a "broad variety" of applications, "...including biomedical *research* and

criminal forensics." [Italics mine.] The page goes on to say, to my dismay, that one of the applications of PCR is "...for the diagnosis of infectious diseases."

PCR is a needle in a haystack technology that can be extremely misleading in "the diagnosis of infectious diseases." The first conflict between this revolutionary technology and human life happened on the battlefield of AIDS, and Mullis himself came to the front line arguing *against* PCR as diagnostic tool. In 1987, esteemed Berkeley cancer virologist Peter Duesberg had doomed his funding and "career" by issuing a broadside in a paper published in *Cancer Research* to the growing and promiscuous assertions made for cancer viruses, including at least one he stood to gain a Nobel Prize for had he not diffused its significance himself.

His main argument was that the Gallo/Montagnier fusion "virus" that came to be called 'HIV' was (like all viruses in its class) barely capable of infecting cells. It infected so few cells that Duesberg likened the pathogenic model to thinking you can conquer China by killing 3 soldiers a day. There was simply not enough "there-there" in the form of cell death. "It's a pussycat," he said. He even said he wouldn't mind being injected with it. (though not if it came from Gallo's lab.)

With PCR's rise, the HIV Industrial Complex weaponized it to assert that *now* they could see HIV more abundantly, hence their maligned foe Peter Duesberg was toast. And it was Kary Mullis, himself an HIV dissenter, who rose to Duesberg's defense and said, "No he isn't."

I conducted a two-hour interview with David Crowe– Canadian researcher, with a degree in biology and mathematics, host of *The Infectious Myth* podcast, and President of the think-tank *Rethinking AIDS.* He broke down the problems with the PCR based Corona test in great detail, revealing a world of unimaginable complexity, as well as trickery.

"The first thing to know is that the test is not binary," he said. "In fact, I don't think there are any tests for infectious disease that are positive or negative."

The next part of his explanation is lengthy and detailed, but let's push through:

"What they do is they take some kind of a continuum and they arbitrarily say this point is the difference between positive and negative."

"Wow," I said. "That's so important. I think people envision it as one of two things: Positive or negative, like a pregnancy test. You "have it" or you don't."

"PCR is really a manufacturing technique," Crowe explained. "You start with one molecule. You start with a small amount of DNA and on each cycle the amount doubles, which doesn't sound like that much, but if you, if you double 30 times, you get approximately a billion times more material than you started with. So as a manufacturing technique, it's great. What they do is they attach a fluorescent molecule to the RNA as they produce it. You shine a light at one wavelength, and you get a response, you get light sent back at a different wavelength. So, they measure the amount of light that comes back and that's their surrogate for how much DNA there is. I'm using the word DNA. There's a step in RT- PCR test which is where you convert the RNA to DNA. So, the PCR test is actually not using the viral RNA. It's using DNA, but it's like the complimentary RNA. So logically it's the same thing, but it can be confusing. Like why am I suddenly talking about DNA? Basically, there's a certain number of cycles."

This is where it gets wild.

"In one paper," Crowe says, "I found 37 cycles. If you didn't get enough fluorescence by 37 cycles, you are considered negative. In another, paper, the cutoff was 36. Thirty-seven to 40 were considered "indeterminate." And if you got in that range, then you did more testing. I've only seen two papers that described what the limit was. So, it's quite possible that different hospitals, different States, Canada versus the US, Italy versus France are all using different cutoff sensitivity standards of the Covid test. So, if you cut off at 20, everybody would be negative. If you cut off a 50, you might have everybody positive."

I asked him to pause so I could exclaim my astonishment. And yet, it was Déjà vu all over again. Just like in the HIV battle—people were never told that the "HIV test" had different standards in different countries, and within countries, from lab to lab. The highest bar (the greatest number of HIV proteins) was in Australia: five. The Lowest was Africa: 2. In the US it is generally 3-4.

We used to joke that you could rid yourself of an "HIV diagnosis" by flying from either the US or Australia, to Africa. But for many years, "AIDS" in Africa was diagnosed without any tests whatsoever. Just a short list of symptoms that tracked precisely with symptoms of most tropical diseases, such as fever, cough, and shortness of breath.

David, in his quiet Canadian way, dropped a bombshell in his next statement:

"I think if a country said, "You know, we need to end this epidemic," They could quietly send around a memo saying: "We shouldn't be having the cutoff at 37. If we put it at 32, the number of positive tests drops dramatically. If it's still not enough, well, you know, 30 or 28 or something like that. So, you can control the sensitivity."

Yes, you read that right. Labs can manipulate how many "cases' of Covid-19 their country has. Is this how the Chinese made their case load vanish all of a sudden?

"Another reason we know this is bogus," Crowe continued, "is from a remarkable series of graphs published by some people from Singapore in JAMA. These graphs were published in the supplementary information, which is an indication that nobody's supposed to read them. And I think the authors probably just threw them in because they were interesting graphs, but they didn't realize what was in them. So, they were 18 graphs of 18 different people. And at this hospital in Singapore, they did daily coronavirus tests and they grasped the number of PCR cycles necessary to detect fluorescence. Or if they couldn't detect florescence by...37 cycles, they put a dot on the bottom of the graph, signifying a negative."

"So, in this group of 18 people, the majority of people went from positive, which is normally read as "infected," to negative, which is normally read as "uninfected" back to positive—infected again. So how do you interpret this? How do you have a test if a test act is actually, you know, 100% positive for detecting infection, then the negative results must've been wrong? And so, one way to solve that is to move the point from 37 to say 36 or 38. You can move this, this cycle of numbers. It's an arbitrary division up or down. But there's no guarantee that if you did that, you wouldn't still have the same thing. It would just, instead of going from, from 36 to undetectable and back to 36 or back to 45, it might go from 33 to undetectable to 30 or something like that. Right? So, you can't solve the problem by changing this arbitrary binary division. And so basically this says that the test is not detecting infection. Because if it was, like if you're infected, and then you're uninfected, and you're in a hospital with the best anti-infective precautions in the world, how did you get re-infected? And if you cured the infection, why didn't you have antibodies to stop you getting re-infected? So, there's no explanation within the mainstream that can explain these results. That's why I think they're so important."

I couldn't believe my ears. And yet I could. Have you ever tried to read the package insert for a "Corona" PCR test? You begin to feel after a while that the technobabble is some kind of spell, or bad dream. An alien language from another dimension, that could not possibly—whatever else it may do—help a single human being have a better life. It's not "English." I don't know what it is.

"I've been quoting, Alice in Wonderland a lot recently," David says, "because it's the only way I can wrap my head around it. Alice said: "Sometimes I can believe six impossible things before breakfast!"

One of the ways to distinguish truth from deception in contemporary "science" is to track what gets removed. For example, David tells me, there was apparently an English abstract online at PubMed out of China that rendered the entire COVID testing industrial complex baseless and absurd.

"There was a famous Chinese paper that estimated that if you're testing asymptomatic people, up to 80% of positives could be false positive. That was kind of shocking, so shocking that PubMed had to withdraw the abstract even though the Chinese paper appears to still be published and available. I actually have a translation with a friend. I translated it into English and it's a really, standard calculation of what they call positive predictive value. The abstract basically said that in asymptomatic populations, the chance of a positive coronavirus test being a true positive is only about 20%. 80% will be false positive."

"Doesn't that mean the test means nothing?" I asked.

"The Chinese analysis was a mathematical analysis, a standard, the standard analysis that's been done a million times before. There's no reason to withdraw the paper for any reason. There's nothing dramatic about the paper. It's a really boring analysis. It's just that they did the standard analysis and said, in some populations, like they estimated 1% of people are actually infected in the population. You could have 80% false positive. Uh, they couldn't do a real analysis of false positives in terms of determining whether a test is correct or not because that requires a gold standard and the only gold standard is purification of the virus. So, we get back to the fact that the virus is not being purified. If you could purify the virus, then you could take a hundred people who tested positive and you could search for the virus in them. And if you found the virus in 50 out of a hundred and not in the other 50, you could

say that the test is only accurate 50% of the time. But we have no way to do that because we haven't yet purified the virus. And I don't think we ever will."

Dave Rasnick has had exchanges with David Crowe about this, and concurs, "To my knowledge, they have not yet purified this virus."

In a previous interview I did with him a few weeks ago, he said this, about PCR tests and the fallacies of thinking less is more, or smaller is better, or more "sensitive" means more accurate:

"It's like fingerprints. With PCR you're only looking at a small number of nucleotide. You're looking at a tiny segment of gene, like a fingerprint. When you have regular human fingerprints, they have to have points of confirmation. There are parts that are common to almost all fingerprints, and it's those generic parts in a Corona virus that the PCR test picks up. They can have partial loops but if you only took a few little samples of fingerprints you are going to come up with a lot of segments of RNA that we are not sure have anything to do with corona virus. They will still show up in PCR. You can get down to the levels where its biologically irrelevant and then amplify it a trillion-fold."

"The primers are what you know. We already know the strings of RNA for the Corona family, the regions that are stable. That's at one end. Then you look at the other end of the region, for all Corona viruses. The Chinese decided that there was a region in those stable areas that was unique to their Corona virus. You do PCR to see if that is true. If it is truly unique it would work. But they're using the SARS test because they don't really have one for the new virus."

"SARS isn't the virus that stopped the world," I offer.

"That's right."

"PCR for diagnosis is a big problem," he continues. "When you have to amplify it these huge numbers of time, it's going to generate massive amounts of false positives. Again, I'm skeptical that a PCR test is ever true."

Crowe described a case in the literature of a woman who had been in contact with a suspect case of Corona (in Wuhan) they believed was the index case. "She was important to the

supposed chain of infection because of this. They tested her 18 times, different parts of the body, like nose, throat—different PCR tests. 18 different tests. And she tested negative every time. And then they—because of her epidemiological connection with the other cases, they said: "We consider her infected. So, they had 18 negative tests and they said she was infected."

"Now why was she important? Well there was only one other person who could have theoretically transmitted the virus if the original patient, outside the family was who they thought it was. But secondly, she had the same exact symptoms as everybody else. Right? So, four people in his family came down with fever and cough and headaches, fatigue and all these kinds of big symptoms. So, if she could get those symptoms without the virus, then you, you've got to say, well, why couldn't everybody else's symptoms be explained by whatever she had? I mean, maybe they, they ate some bad seafood or something and so they all got sick, but it had nothing to do with the coronavirus. But because three out of the four, tested positive, then they were, they were all considered infected and out of the same paper.

Another interesting thing is that they did a lot of tests. The first person in the list of people tested, he was positive on three out of 11 tests. So again, they took nose and throat samples and you know, different methods and all this kind of stuff. And they got 11 separate tests and only three were positive. And of course, all you need to be considered infected is one positive test. They could test you 20 times and if you test positive once, then you're infected. So, a positive test is meaningful. A negative test. It's like, eh. Not so much."

I asked Crowe what he thought Kary Mullis would say about this explosion of PCR insanity.

"I'm sad that he isn't here to defend his manufacturing technique," he said. "Kary did not invent a test. He invented a very powerful manufacturing technique that is being abused. What are the best applications for PCR? Not medical diagnostics. He knew that and he always said that."

Our conversation went in many different directions and I plan to publish the entire audio interview. I asked David what he thought was happening here, at the most core level.

"I don't think they understand what they're doing," he said. "I think it's out of control. They don't know how to end this. This is what I think what happened: They have built a pandemic

machine over many years and, and as you know, there was a pandemic exercise not long before this whole thing started."

"I just want to identify who sponsored that simulation conference, 6 weeks before the first news broke out of Wuhan," I interjected. "It was the Bill and Melinda Gates foundation, Johns Hopkins Center For Health Security, and the World Economic Forum. Incidentally, all the stats, projections and modeling you see in the media are coming out of Johns Hopkins."

"Right. So, this beautiful pandemic machine is a lot like...let's use an example of an aircraft simulator. Okay. So, so pilots are tested on an aircraft simulator. So if you're flying along in an airplane and there's a loud bang and you see smoke coming from an engine on the right hand side, this is probably the first time a pilot has ever been in an airplane that had an engine failure. But he's tested this scenario 25 times on an aircraft simulator. So, he knows exactly what to do without being told. He goes through the procedure. He doesn't have to think, he just does the steps that he's been taught through the, the aircraft simulator and he successfully lands the airplane with one engine. So, a pandemic simulator is just like that. You sit down at the computer, you see the virus going around the world, um, and you say, okay, so what we need to do is we need to dress everybody in protective clothing." "We need to quarantine everybody who's positive. Next step. We need to do social isolation. It's a *mathematical* model. And at the end you always win, right? So, in the end, the good guys win, and the pandemic is defeated. But there's, there's never been like an actual real pandemic since they built this machine. So, there's this huge machine, it's got a red button on it and it's like if you ever detect a pandemic starting, you press the red button. We don't know exactly what happened, but I think the Chinese government was embarrassed cause they were being accused of covering up a pandemic. They said, okay, you know, we want Western approval for our medical system so we're going to press the goddamn red button. Or they did. And then everything followed from that. The problem is that the simulation was never based on reality."

In another part of our conversation, he said something unforgettable:

"So, we've essentially been taken over by the medical Taliban, if you like."

I pressed him one last time:

"David, in conclusion, finish this sentence: "The PCR test for Corona is as good as..."

His reply made me laugh. I didn't know I still could laugh.

"It's as good as that Scientology test that detects your personality and then tells you need to give all your money to Scientology. "

Celia Farber is half Swedish, raised there, so she knows "socialism" from the inside. She has focused her writings on freedom and tyranny, with an early focus on the pharmaceutical industry and media abuses on human liberties. She has been under ferocious attack for her writings on HIV/AIDS, where she has worked to document the topic as a psychological operation, and rooted in fake science. She is a contributor to UncoverDC and The Epoch Times, and has in the past written for Harper's, Esquire, Rolling Stone and more. Having been gravely injured in legacy media, she never wants to go back. She is the recipient of the Semmelweis International Society Clean Hands Award For Investigative Journalism, and was under such attack for her work, she briefly sought protection from the FBI and NYPD. She is the author of "Serious Adverse Events: An Uncensored History of AIDS," and the editor of The Truth Barrier, an investigative and literary website. She co-hosts "The Whistleblower Newsroom" with Kristina Borjesson on PRN, Fridays at 10am.

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By Greg Nigh, ND, Lac
October 12, 2020

In June of 1944 Operation Titanic had 10 soldiers of the Allied Air Service parachute over the French countryside along with 500 "ruperts." Ruperts were dummies, fabric stuffed with straw and sand tossed from the airplanes along with the soldiers. They were equipped with incendiary devices so that, upon impact, they ignited, leaving no trace that they were decoys.

It gave the illusion of an invasion far from where the actual invasion was taking place, which was Normandy. The Germans were duly deceived, diverted their resources, and this deception was decisive in making the Normandy invasion ultimately successful.

Intentional deceptions such as this have been part and parcel to warfare for centuries. These deceptions have often been the deciding factor in determining the outcome of battle.

The war against **Covid-19** is no exception. Language around Covid-19 is infused with war metaphors. Time Magazine explains to us "**Why the U.S. Is Losing the War on COVID-19**," while the NYTimes followed up to tell us "**How America Lost the War on Covid-19**." In this war, as with Vietnam, we have two related "body counts" to help us understand just how badly we are losing to this viral enemy.

The first count is the cumulative deaths caused by Covid-19. The US recently crossed the "grim mile mark" of 200,000 deaths due to the disease. It is a tragic number of deaths, to be sure. But we can also be sure that, as an infectious disease, the cumulative number of deaths will certainly continue to rise into the indefinite future. No one knows what the efficacy will be of any future **vaccine**, but Dr. Fauci is **hoping for at least 75%**. In any case, there will always be unfortunate deaths to add to the cumulative death number. All infectious diseases, and in fact *all* potentially fatal diseases, are the same in this regard.

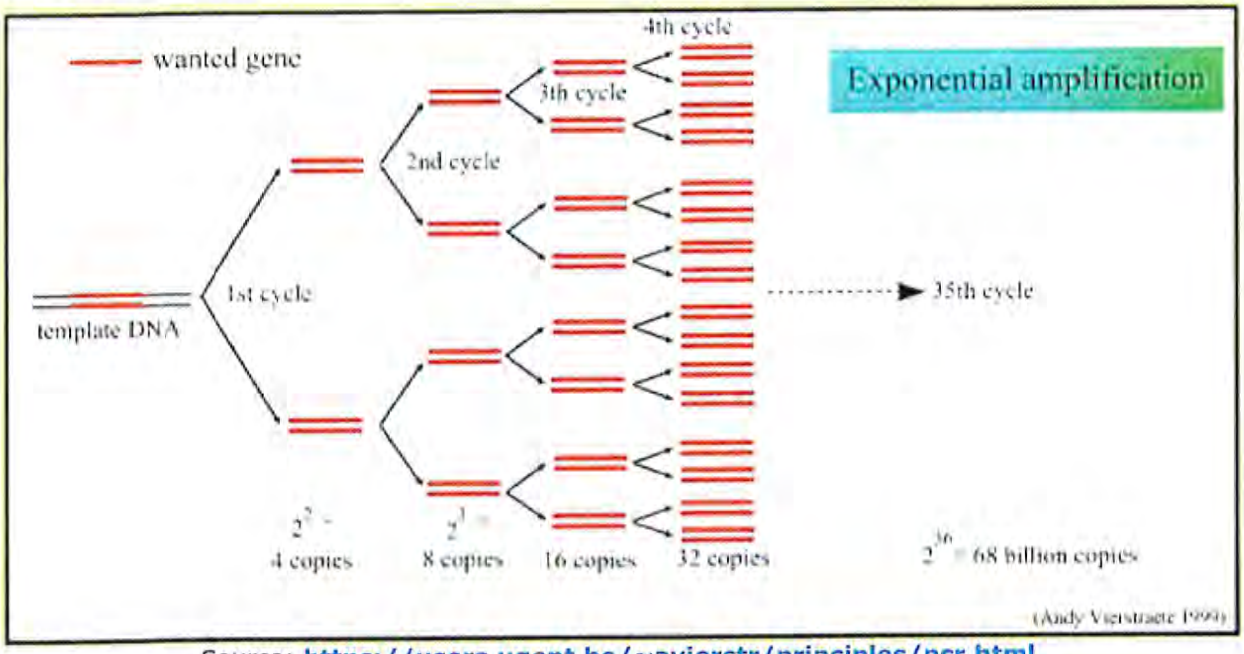
No one is anticipating complete eradication of Covid-19. This disease is expected to reach a background level, still infectious and occasionally deadly, but not epidemic. Cumulative deaths will continue to rise. The media will surely continue to toll that ominous bell because it carries the gravity of the situation like no other statistic.

The second count used by the media daily is "new cases." These new cases are telling us just how rapidly this virus is disseminating through the population and is used as what we can expect as a surrogate marker for future deaths. Slowing the rise of new cases and squashing any "hotspots" and "outbreaks" of new case clusters is a prime motive behind essentially all social measures, e.g. mask mandates, social distancing, and business closures. For this reason, it is essential that we understand what a new case

actually indicates. And to understand that, we first have to examine polymerase chain reaction (PCR), the laboratory technique used to diagnose a case.

PCR: The Basics

PCR is a technique for exponentially multiplying ("amplifying") small pieces of DNA. DNA, recall, is made of a sequence of nucleotides that line up like beads on a string. PCR uses small, synthetic nucleotide strips called "primers" that bind to the target DNA, the piece to be amplified. These primers come in pairs and bind at pre-chosen regions on the target DNA at two locations that are relatively close to each other. The process of PCR is to replicate the strip of DNA between the two bound primers so that one initial copy becomes two. Run it through another cycle and the two copies become four. And so on.



Source: https://users.ugent.be/~avierstr/principles/pcr.html

SARS-CoV-2 is an RNA virus, not a DNA virus. To perform PCR on this virus it first has to be converted from a strand of RNA to a strand of DNA, a process called "reverse transcription." The technique is thus abbreviated rtPCR.

Let's say we don't know if there is any target SARS-CoV-2 DNA in our sample of blood or, with Covid-19 testing, the sample is from a nasal swab. We place the swabbed sample in a solution, then we add the primers to that solution. If there is no target DNA in the sample, then it doesn't bind to

anything. Run through 40 cycles and there will still be no "signal" indicating that target DNA got amplified. That test is designated "negative."

On the next sample suppose there is target DNA on the swab and so in the solution. Primers are added and bind to the target. Cycle, cycle, cycle 40 times. The signal appears, indicating that the target DNA was present in the sample all along. That sample has tested positive for Covid-19. Is the person infected with the virus? That is, after all, the important question we need to have answered.

PCR cannot possibly answer that question.

The full *infectious* genome of SARS-CoV-2 is **approximately 30,000 nucleotides in length**. If it is cut in half, for example, neither half will be able to carry out an infection. Only the full intact genome can carry out an infection. But when PCR is run, the target it seeks to amplify is not the full length of viral DNA. In fact it is not half or a quarter of the full DNA.

"Expected amplicon sizes of CDC assays are 72 bp, 67 bp,and 72 bp in length by the N1, N2,and N3, respectively." [1].

N1, N2, and N3 indicate three different regions of the N gene, which the CDC picked as targets for PCR. It is noteworthy that the N1 and N2 targets are considered unique to SARS-CoV-2. The N3 target was intentionally picked because it is not unique to SARS-CoV-2, but "was designed to universally detect all currently recognized clade 2 and 3 viruses within the subgenus *Sarbecovirus*, including SARS-CoV-2, SARS-CoV, and bat- and civet-SARS–like CoVs." [2]

Amplicon sizes of 72, 67, and 72 tells us that, when PCR is run according to CDC specifications, the three target DNA sequences are 72 nucleotides ("base pairs;" bp), 67 nucleotides, and 72 nucleotides. In other words, each target represents approximately 0.2% of the full viral genome, and adding up all three targets still represents just 0.7% of the full genome. If these three targets are found, how confident can we be that the other 99.3% of the genome needed to be an infectious viral particle is also present?

Apparently, not very.

The Center for Evidence-Based Medicine at Oxford University **recently reviewed** the evidence that a positive PCR test correlates to presence of infectious virus in the individual testing positive. Their conclusion was not encouraging:

"These studies provided limited data of variable quality that PCR results per se are unlikely to predict viral culture [i.e. infectious particles] from human samples. Insufficient attention may have been paid how PCR results relate to disease. The relation with infectiousness is unclear and more data are needed on this."

A more recent study confirmed the lack of correlation between infectious viral particles and PCR positivity. The study was to determine the extent to which ultraviolet irradiation of infectious viral particles impaired their ability to infect cells. Infectious viral particles of a known quantity were irradiated for different lengths of time. After each exposure two tests where run on those viral particles: one was a direct measure of how many infectious particles remained. The second was PCR to quantify how many "targets" were found in the sample.

Table 1 from that article has the telling data:

Table 1
Efficacy of 222-nm UVC light (0.1 mW/cm²) on reducing viable SARS-CoV-2

	UVC irradiation time				
	Control	10 seconds	20 seconds	60 seconds	300 seconds
Mean viable SARS-CoV-2 ($TCID_{50}$/ml) (SD)	$2.05 \pm 1.21 \times 10^4$	$2.34 \pm 0.86 \times 10^3$	$6.32 \pm 0.0 \times 10^1$	$6.32 \pm 0.0 \times 10^1$	$6.32 \pm 0.0 \times 10^1$
Log reduction		0.94	2.51	2.51	2.51
Mean SARS-CoV-2 RNA* (copies/test) (SD)	$2.12 \pm 0.27 \times 10^7$	$5.75 \pm 0.82 \times 10^7$	$3.41 \pm 1.08 \times 10^7$	$2.95 \pm 0.41 \times 10^7$	$3.03 \pm 1.73 \times 10^7$

SARS-CoV-2, severe acute respiratory syndrome coronavirus 2; $TCID_{50}$, 50% tissue culture infectious dose; SD, standard deviation.
*SARS-CoV-2 RNA was measured by quantitative reverse transcription PCR

The top row shows the number of *infectious particles* before ("Control") and after each exposure interval. The number dropped from about 20,000 before exposure to its bottom level of about 60 infectious particles after 30 seconds and beyond. UV light clearly drops viral infectiousness dramatically.

It is the bottom row that tells the tale. Not only did the "viral load" fail to decline as infectious particles fell to very low levels, but the viral copies identified by PCR actually increased somewhat. While the control sample was found by PCR to have about 21 million copies of the target DNA, after 300 seconds of UV exposure that same sample was found to have about 30 million copies. Curiously, after the initial 10 seconds of exposure PCR returned a count of over 57 million copies. It is not that there is poor correlation between infectious viral particles and PCR positivity. It is that there is no correlation at all.

Back to "New Cases"

In spite of the fact that PCR doesn't reflect either the quantity or even the mere presence of infectious viral particles, it is currently the "gold standard" for diagnosis of a case of Covid-19. All other tests that are developed -- antibody, rapid antigen, etc. -- are validated against PCR. This is like grading exams using a key with an unknown number of mistakes on it. This problem has been **recognized for several months**.

The result of using PCR as the primary diagnostic test is to inflate the number of cases. We are diagnosing an infection with a test that can't determine an infection and, based upon the evidence available, correlates somewhere between poorly and not at all with infectious virus.

The health authorities who have instituted PCR diagnostic testing via the **Emergency Use Authorization** (EUA) certainly would have been aware of the potential problems with using PCR as a diagnostic test.

On February 3, 2020, CDC submitted an EUA package to expedite FDA-permitted use of the CDC diagnostic panel in the United States. FDA issued the EUA the next day, and CDC sent the test kits to state and local public health laboratories.

With data at hand, they certainly *now* know that the problems reviewed here have become manifest. Using PCR diagnostically will overestimate by some unknown percent the truly infected people. What about that significant percentage of people, estimated to be **around 35%**, who test positive but manifest no symptoms? Perhaps they have no symptoms because they have no infectious particles in their body. Perhaps they have that 0.7% of viral DNA, but little or none of the rest, or the rest is chopped up into benign pieces. This would include healthy people who have encountered the virus, their immune system did what it is supposed to do and broke it up into non-infectious fragments to be eliminated. But PCR registers those fragments as a positive test and they become a "new case" statistic.

A very recent hypothesis article suggests that the reason for the increasing discrepancy between diagnosed cases (i.e. PCR-positivity) and the morbidity/mortality rate of the disease may have to do with the very issue being raised here. The authors coin a term for these viral fragments, snippets of viral DNA that include, but are not limited to, the fragments

detected and amplified by PCR. They call them SARS-CoV-2 associated molecular particle patterns, or SAMPPs.

Exposure to SAMPPs through contact with them on surfaces, in air particles, and elsewhere leads to immune activation. This can take the form of both antibody formation and T-cell activation. Perhaps it is our exposure to ambient SAMPPs that is furthering development of herd immunity.

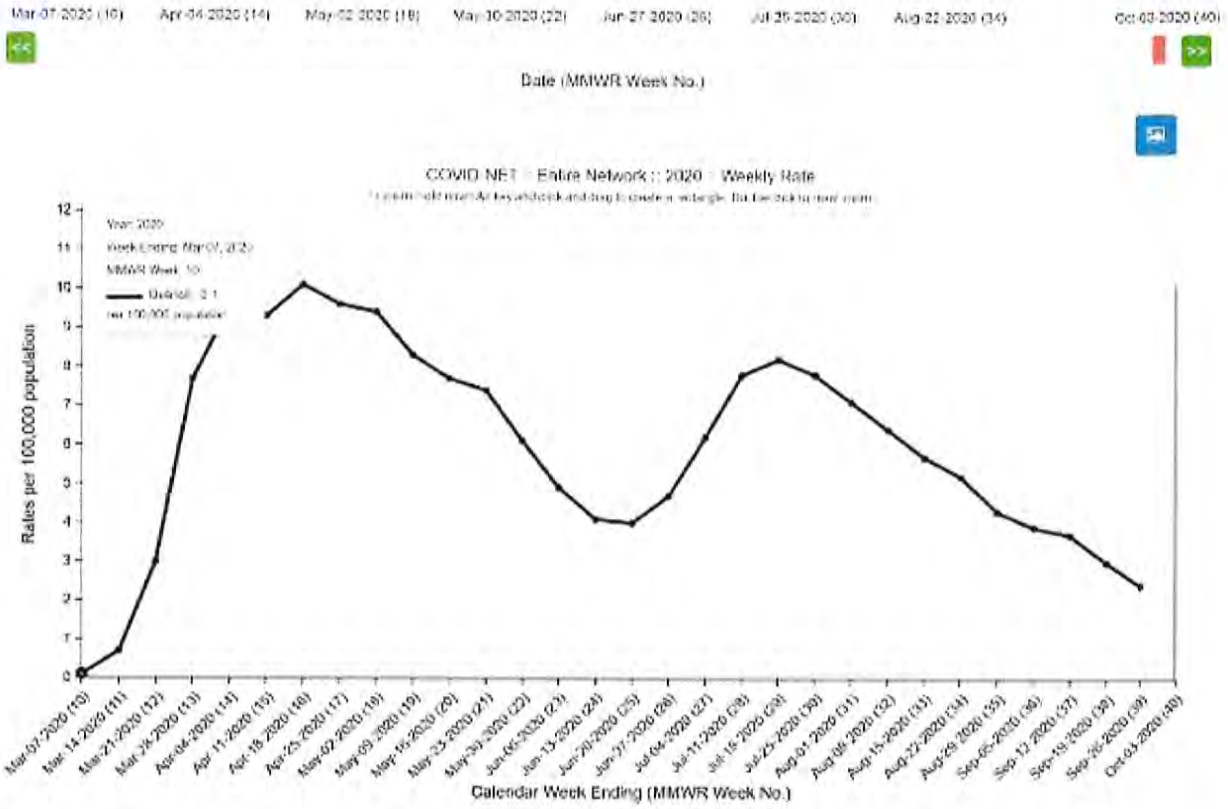
"If the existence of SAMPPs mediated immunity in a host is proved with appropriate experimentations, then it will sabotage the need for the expensive RNA/DNA based vaccines."

Why continue with a diagnostic test that can't diagnose an infection but will overestimate case numbers? It's all about perception. The Allies needed to control the behavior of the Germans to execute a successful invasion. With Covid-19 "cases," it is the general public that needs to be controlled. Using PCR to diagnose new cases keeps a constant supply of "ruperts" in the mix, people who are PCR positive (a "new case") but without infectious virus. Control happens through fear, and fear is maintained by the dual 'body counts' of cumulative deaths and new cases.

Even while new case clusters and hotspots and epicenters and outbreaks continue to flash across headlines daily, the rate of hospitalizations in the US due to Covid-19 -- a much better gauge of the actual human morbidity toll of the disease -- continues to drop. **The CDC's data is clear about this**, the graph here being overall hospitalization rate.

Laboratory-Confirmed COVID-19-Associated Hospitalizations

Preliminary weekly rates as of Sep 26, 2020

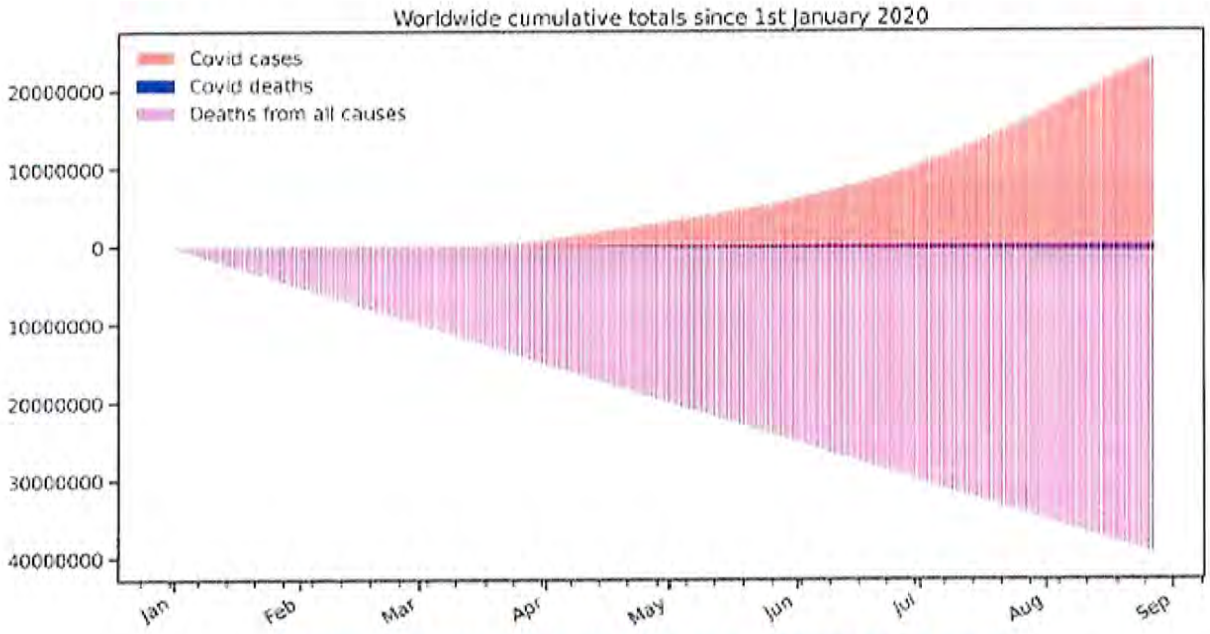


All ages

Announcing that the total disease burden of Covid-19 is dropping in the US is not a provocative way to maintain policies around social distancing, masking, school closures, or other elements of "disease-controlling" social mandates. It is a way, though, to maintain high anticipation for a vaccine, acceptance of contact tracing, an openness to biometric surveillance, and a general fixation on the recommendations of health authorities. Fauci himself is now straddling that line between telling us the economy is ready to open, and reminding us that we must **follow this new set of social mandates**.

"Don't interpret it as an obstacle to opening the economy," he continued. "Because if you do things the way we have prescribed, namely, a gateway of phase one, phase two, phase three, without jumping over these benchmarks that you have to look for, you can safely get people back to work, get the economy going.

In other words, keep your mask on, keep your distance, and wait with anticipation for the vaccine.



Source: https://swprs.org/covid-the-big-picture-in-7-charts/

The worldwide gulf between cases and deaths is dramatic and widening every day. Once it is understood that a "case" is not necessarily -- and perhaps not even probably -- a case of active infection, there is actually some solace to be found in these high case numbers. They very well might indicate exposures successfully fended off, with **T-cells activated** and/or **antibodies formed**.

In other words, many of those new cases might indicate people adding to the pool of herd immunity.

The hidden Covid-19 health crisis: Elderly people are dying from isolation

The lockdowns and visitor restrictions meant to protect nursing home residents from the coronavirus can also threaten their lives

By Suzy Khimm
October 27, 2020

The moment that Tammy Roberg stepped off the elevator, she could hear her father's booming voice.

Chester Peske, 98, loved to sit in the lunchroom at Copperfield Hill and talk to the other memory care residents about everything from the weather to the history of the highway that connected his hometown to downtown Minneapolis, 6 miles away. While he had Alzheimer's disease, Peske still recognized his children when they came to the Robbinsdale, Minnesota, facility for weekly visits.

"He would talk and talk and talk," Roberg said with a laugh.

Then, in March, there was almost no one that Peske could talk to.

When the pandemic hit, long-term care facilities across the country, including Copperfield Hill, shut their doors to visitors and largely kept residents to their rooms, suspending most group activities and communal meals to protect residents from Covid-19. Peske was hard of hearing, so phone calls were a struggle. Roberg's only lifeline to her father was the staff of the facility, who reassured her that he was doing well.

The first sign of a problem came in mid-May when her father tested positive for Covid-19. Roberg prayed for his health, but was relieved when his case appeared to be asymptomatic.

Then in late May, Roberg got another alarming call from the facility. It wasn't the virus, they said — something else was wrong. "His head was down into his chest, and he was sitting slumped in his wheelchair," her father's aide said, according to Roberg. "He was not his perky, chatty self."

Roberg later learned that her father, who'd always had a healthy appetite, had been losing weight. Even more isolated in quarantine after his Covid-19 diagnosis, he was becoming quiet and disengaged, even with the staff members who tended to him, a nurse later told her.

He still had no coronavirus symptoms — he was just withdrawn, according to Roberg and an administrator at Copperfield Hill. Roberg was hopeful that he would bounce back with more hands-on attention from the facility. But four days later, on June 2, she got another call: She should come right away. Her father was dying.

That morning, Roberg flew in from Wisconsin and met her brother in the parking lot of Copperfield Hill. Together they walked into the entryway of the facility, where they were

temperature-checked, and then put on gowns, gloves and face shields. A nurse finally brought them up to her father's floor and opened the door.

"Oh wait a minute—" she said, stopping short. "I think he's gone."

Roberg gasped when she saw her father's gaunt body lying on the bed. After three months of separation, she missed her only chance to see her father by minutes.

His death certificate listed the cause of death as the progression of Alzheimer's disease and "social isolation / failure to thrive related to COVID-19 restrictions."

Social isolation was listed as a contributing cause of death for at least nine other Minnesotans — almost all long-term care residents — from June to September, according to state death records; no deaths in the previous two years cited social isolation as a cause.

One of the nurses who treated Peske later described his deterioration as a burning candle with no oxygen left to draw from the air. It was as if a light had gone out, Roberg said: "He couldn't survive from being isolated."

The unseen costs of lockdowns

The effort to shield elderly, frail and disabled residents from the coronavirus has created another wrenching health crisis: The confinement meant to protect the most vulnerable is also threatening their lives.

"The isolation is robbing them of whatever good days they have left — it accelerates the aging process," Joshua Uy, associate professor at the University of Pennsylvania Perelman School of Medicine, said.

"You see increased falls, decrease in strength and ability to ambulate. You see an acceleration of dementia, because there is no rhythm to your day. There isn't a single part of a person's life that isn't affected."

While there is no comprehensive tally of elderly people dying from causes linked to social isolation and confinement, evidence is mounting that restrictions related to Covid-19 are taking a toll on their health, according to a review of recent research and interviews with medical experts and dozens of families across the country. The phenomenon is far harder to track than the number of Covid-19 deaths linked to long-term care facilities — 84,000 as of early October, according to the Kaiser Family Foundation — as it is unusual to list isolation as an official cause of death. But the harms are still real, experts say.

One recent study of a Chicago-area nursing home found that from December 2019 to the end of April 2020, two-thirds of the residents had lost weight, in some cases dramatically — a change that researchers attributed to reduced social interaction, the cessation of family visits and schedule changes due to the pandemic.

Confinement, social isolation and the lack of external stimulation are also fueling cognitive decline and depression, which in turn increase the risk of high blood pressure, heart disease and stroke, according to Dr. Louise Aronson, a geriatrician and professor of medicine at the University of California, San Francisco.

"Sometimes the doors to their rooms are open, and you just see someone sitting in a chair with tears running down their face," Aronson, who is assisting San Francisco's response to the pandemic in long-term care facilities, said. "People ask me, 'Is this the rest of my life? If so, I don't want to go on.'"

While most states have begun allowing some form of routine in-person visits for long-term care facilities, the guidelines vary widely, and many restrictions remain — not only to protect residents, but also vulnerable front-line staff members, many of whom are low-wage Black and Hispanic workers. Some states and facilities are only allowing limited indoor visits, and colder weather is already curtailing outdoor visits. Many nursing homes have resumed communal dining and group activities, but still require residents to remain distanced from one another. And a single case of the virus can put a facility back on lockdown for weeks.

The threat from the pandemic has not receded: On Friday, the U.S. hit a new record number of Covid-19 cases, and nursing homes from Massachusetts to Wisconsin are reporting new outbreaks. At the same time, policymakers need to weigh the competing risks, said David Grabowski, a health policy professor at Harvard Medical School, who recently served on an independent federal commission that recommended expanding in-person visitation at long-term care facilities.

"We've locked these older adults in their rooms in the name of safety without thinking about the unintended consequences here," Grabowski said. "In many respects, the side effects are worse than the potential harm of a slightly higher risk of infection."

Strict, prolonged lockdowns can dramatically alter residents' health. Uy said that he saw some patients rapidly lose the ability to perform basic tasks — such as standing, feeding themselves and swallowing safely — while confined to their rooms. Physical therapy and other rehabilitation services have also been cut back because of the pandemic.

"Until the pandemic, 'sudden frailty' would have been an oxymoron," Aronson said. "Normally, it would take months to years, and we are now seeing it in weeks."

But while deadly coronavirus outbreaks at nursing homes tend to grab headlines, the slower-moving health crisis inside these facilities caused by social isolation and confinement remains largely invisible.

Unlike cases of Covid-19, it is not always clear when a resident's health is deteriorating because of pandemic-related restrictions, given the complex medical issues that brought them to the facilities in the first place. "Failure to thrive," for instance, is often characterized by weight loss, reduced appetite and lower activity levels — symptoms that could also be linked to other

underlying health conditions. But the biggest marker is psychological, and closely linked to isolation.

"It means, they give up," said Dr. Joseph Ouslander, a professor at Florida Atlantic University's Charles Schmidt College of Medicine. "You do everything to get them to participate, to get them to eat, and despite that they continue to go downhill."

'I would do anything to get away'

Beverly Noody used to drop by her mother's assisted living facility in upstate New York at least twice a week. The first thing she would do: Walk over to her mother's chair to see that her feet were propped up.

Barbara White, 94, had congestive heart failure, so her limbs tended to swell from fluid buildup. She was supposed to keep her legs elevated when she was sitting down, and to get up and about a few times a day. But her daughter knew that wouldn't always happen unless she made sure it did. "She never had her feet up when I came to visit," Noody said. "If her ankles and knees were swollen, I would have noticed it."

Two months into the pandemic, Noody got a call that her mother was en route to the hospital because of dangerous swelling in her legs. She recovered, but the same thing happened again in June, Noody said. She could no longer use her walker to get around safely, as she kept falling. Her condition ultimately deteriorated so much that she was moved out of assisted living and into the adjoining nursing home, Premier Genesee, where she could be supervised around the clock.

Noody had always thought of her mother as the no-nonsense type, true to her German roots. But in July, when she was helping to move her mother's possessions into the nursing home, she found a letter that White had written during the pandemic, but hadn't given her.

"Beverly, I want to come home for good. I don't know how to get out of here," her mother wrote. "I would do anything to get away. I was told today this was forever. Do you know how I can get away?"

Premier Genesee was preparing to begin outdoor visits under the state's new guidelines when a staff member tested positive in late July, pushing back the reopening, as required by the state. Noody and other angry family members held a local rally in early September protesting the state's visitation restrictions; other grassroots groups have held similar protests elsewhere in New Yorkand other states.

"If she got Covid and she passed away, I would be heartbroken," Noody said of her mother. "But do I want her to live walled up in a room? Absolutely not. It's not fair. Nobody wants to live like that, but they're not even given a choice."

Under mounting pressure, New York officials relented in mid-September and lowered the threshold for in-person visits to 14 days without a coronavirus case. They also added a requirement for visitors to have a verified negative Covid-19 test. There are still strict caps on the number of visitors allowed in the facility, as well as social distancing and mask requirements.

New York officials say the restrictions are critical to protecting residents and front-line workers at these facilities. "This pandemic is not over," Jill Montag, a spokeswoman for the state health department, said in a statement. "Our decisions will continue to be driven by data and science, and now is not the time for anybody to let their guard down."

Diminishing quality of life

The Covid-19 restrictions are especially painful when residents themselves can't understand why their family members have stopped coming to visit. More than half of nursing home residents have moderate or severe cognitive impairment from Alzheimer's, dementia and other conditions, according to the Centers for Medicare and Medicaid Services.

Before the pandemic, Adele Billig constantly circulated throughout her nursing home in Delray Beach, Florida, always showing up for bingo, poker night and karaoke, where she loved belting Frank Sinatra. "I'm never in my room, so don't call my room, because you're not going to get me," the 95-year-old often told her daughter, Melinda.

Under lockdown, Adele's social life disappeared. Mostly confined to her room, she had little to keep her engaged: She had trouble following television programs, and phone calls could be difficult, as her hearing aids regularly went missing. "She'd say, 'I can't hear you, I can't hear you.' Then she'd just give up," Melinda said. Sometimes when Melinda called, her mother assumed that her daughter was in the building, waiting to come up for a visit, and was crestfallen when she learned she wasn't there.

Adele began sleeping more and more, even falling asleep during their phone calls, which had never happened before, Melinda said. By June, she was developing wounds that were not healing — a serious sign that her body was breaking down. But the most upsetting part for Melinda was the feeling that her mother didn't fully grasp why she had stopped visiting, as her memory was spotty.

"I wish I could be there with you," Melinda told her mother in July.

"If you say so," her mother responded flatly.

It was the last conversation they had. The next week, the nursing home called to tell Melinda that her mother had died. The official cause of death was heart failure, but Melinda doesn't think that conveys the full story.

"Part of why she died," she said, "is that her quality of life had diminished to such a point that there wasn't any."

'Why can't I hold her hand?'

Even when family visits resume, there are usually significant restrictions in place. When Gelsey Randazzo Markese went to see her grandmother Rose Violet Randazzo for the first time in seven months, the rules made her almost regret showing up at all.

It was the last week of September when she arrived at the Edna Tina Wilson Living Center in Rochester, New York, with her grandfather Vincent Randazzo, who had been married to her grandmother for 69 years. Markese had been raised by her grandparents, who adopted her as a baby, so it was especially hard to be separated from Rose Violet for so long.

When a staff member brought her out in a wheelchair, Rose Violet, 91, instinctively stretched out both arms to touch Markese, then broke down sobbing when the aide told her that they had to remain at least 6 feet apart.

"My baby, my baby..." she wept, her arms still reaching for her granddaughter, who was also in tears. "She's my baby."

It was a wrenching experience for Markese, who was seven months pregnant and had been waiting to tell her grandmother in person. "To me it was almost more tortuous being there, so close but not being able to touch," she said. "It was like being punched in the stomach."

Markese and other family members are now pushing New York officials to create a program that would enable them to be recognized as "essential caregivers" — a designation that would allow them to provide hands-on assistance and companionship for loved ones in long-term care facilities.

In June, Indiana became the first state to permit essential caregiver visits for family members who had tended to residents at least two times a week prior to the pandemic, subjecting them to the same Covid-19 testing requirements as staff members. Minnesota, New Jersey, Florida, Texas and other states have made similar accommodations for family members, stressing their role in monitoring their loved ones and advocating on their behalf. Florida recently announced that facilities can allow outdoor visits even if they have recently reported coronavirus cases.

Markese knows how deadly Covid-19 can be; 11 residents and one staff member have died of the virus at her grandmother's nursing home, according to federal data. But she believes that visits without social distancing can be done safely.

"If we follow the same protocols in place as the staff members do — the staff members who bathe my grandmother and help toilet her and help comfort her by holding her hand — then why

can't I hold her hand? Why can't I give her a hug?" Markese said. "Why can't my grandfather embrace her when she's crying out to touch him?"

To address the impact of prolonged isolation, the Centers for Medicare and Medicaid Services issued new guidance in September to help expand "compassion care" visits in nursing homes. In addition to allowing end-of-life visits, facilities could also permit families to visit residents who are losing weight or dehydrated and need encouragement to eat or drink, as well as residents who are "experiencing emotional distress, seldom speaking, or crying more frequently," the new guidance said.

State and local governments, however, can still impose stricter rules for nursing home visits and usually give facilities considerable leeway in deciding when to reopen. The push for more visitation is also coming amid signs that the pandemic could reach a dangerous new crisis point in the fall and winter, increasing the risk of community spread.

Nearly eight months into the pandemic, some long-term care facilities are still struggling to protect themselves from Covid-19. Nursing homes across the country continue to report a lack of reliable testing and personal protective equipment, as well as staffing shortages. Without adequate protections in place, in-person visits could put both residents and staff members at greater risk.

Industry lobbyists are now pushing Congress for more money for facilities to prepare for the next wave of the virus, while admitting there is a tough trade-off when it comes to protecting residents.

"We too are concerned about prolonged social isolation for our residents," the American Health Care Association, which represents for-profit long-term care facilities, said in a statement. "With cases rising in many parts of the country, we must be vigilant about protecting our nation's most vulnerable, but balance that with the need to stay connected with loved ones."

'It didn't have to happen'

Tammy Roberg is still haunted by the circumstances of her father's death. Shocked by the weight he had lost at the end, she asked the staff to show the logs of what he ate at every meal, only to be told there weren't any. A nurse later told Roberg that isolation often prompts deep depression among Alzheimer's patients, which helped explain why her father had deteriorated so quickly.

Ashley Fjelstad, a spokeswoman for Copperfield Hill, said that Peske's health had not declined dramatically until his final days. She said the facility typically only notes if residents refuse to eat at all, not the portions they eat at each meal. And she noted that changes in routine are especially disruptive for those with Alzheimer's disease: The common areas of the facility, where residents can socialize and do activities together, "are the heart and soul of memory care," she said.

On the morning of her father's death, Roberg sat down beside his body and took his hand in her own. She prayed and told her father that she loved him. But she couldn't shake how he looked lying there. "Why was he so skinny?" she wondered. "When did he last eat?"

Several weeks after his death, Minnesota enacted a policy allowing essential family caregiver visits in long-term care facilities, including Copperfield Hill.

Roberg never got that time. Months later, she keeps holding onto the same thought: "It didn't have to happen."

Portuguese Court Rules PCR Tests "Unreliable" & Quarantines "Unlawful"

Important legal decision faces total media blackout in Western world

***OffGuardian* | November 20, 2020**

An appeals court in Portugal has ruled that the PCR process is not a reliable test for Sars-Cov-2, and therefore any *enforced quarantine based on those test results is unlawful.*

Further, the ruling suggested that any forced quarantine applied to healthy people could be a violation of their fundamental right to liberty.

Most importantly, the judges ruled that *a single positive PCR test cannot be used as an effective diagnosis of infection.*

The specifics of the case concern four tourists entering the country from Germany – all of whom are anonymous in the transcript of the case – who were quarantined by the regional health authority. Of the four, only one had tested positive for the virus, whilst the other three were deemed simply of "high infection risk" based on proximity to the positive individual. All four had, in the previous 72 hours, tested negative for the virus before departing from Germany.

In their ruling, judges Margarida Ramos de Almeida and Ana Paramés referred to several scientific studies. Most notably **this study by Jaafar et al.**, which found that – when running PCR tests with 35 cycles or more – the accuracy dropped to 3%, meaning up to 97% of positive results could be false positives.

The ruling goes on to conclude that, based on the science they read, any PCR test using over 25 cycles is totally unreliable. Governments and private labs have been very tight-lipped about the exact number of cycles they run when PCR testing, but it is known to sometimes be **as high as 45**. Even fearmonger-in-chief Anthony Fauci has publicly stated anything over 35 is **totally unusable**.

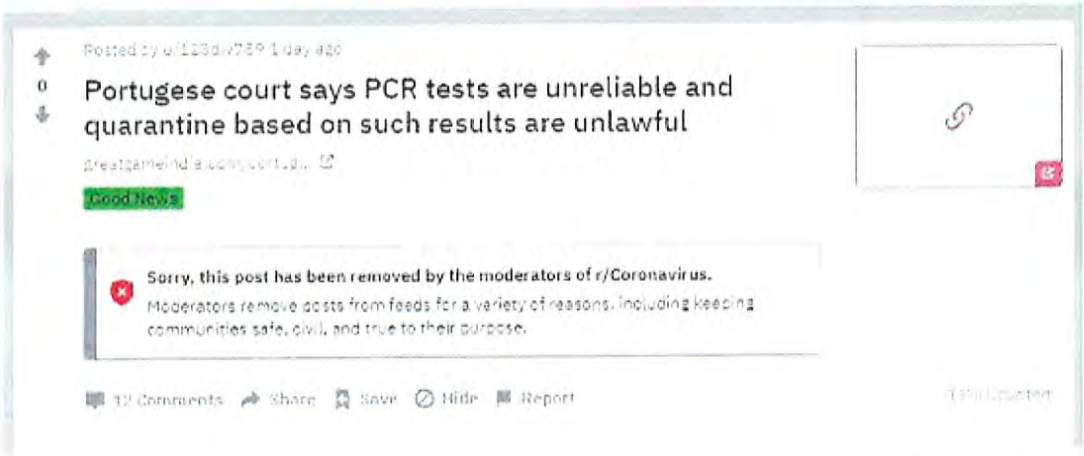
You can read the complete ruling in the original Portuguese **here**, and translated into English **here** (see "Judgment of the Lisbon Court of Appeal" below.) There's also a good write up on it on **Great Game India**, plus a Portuguese professor sent a long email about the case to **Lockdown Sceptics**.

*

The media reaction to this case has been entirely predictable – they have not mentioned it. At all. Anywhere. Ever.

The ruling was published on November 11th, and has been referenced by many alt-news sites since... but the mainstream outlets are maintaining a complete blackout on it.

The reddit Covid19 board actually **removed the post**, because it was "not a reliable source", despite relying on the official court documents:



Lookout for a forced and disingenuous "fact-check" on this issue from HealthFeedback or some other "non-partisan" outlet in the near future. But until they find some poor shlub to lend their name to it, the media blackout will continue.

Whatever they say, this is a victory for common sense over authoritarianism and hysteria.

Judgment of the Lisbon Court of Appeal

Process: 1783 / 20.7T8PDL.L1-3
Reporter: MARGARIDA RAMOS DE ALMEIDA
Descriptors: HABEAS CORPUS
INTEREST IN ACTING
SARS-COV-2
RT-PCR TESTS
PRIVACY OF LIBERTY
ILLEGAL DETENTION
Document No.: RL
Date of the Agreement: 11/11/2020
Voting: UNANIMITY
Full Text: S
Partial Text: N
Procedural Medium: CRIMINAL RESOURCES
Decision: Denied Provision

Full Text Decision: They agree to a conference at the 3rd Criminal section of the Lisbon Court of Appeal

I - Report

1. By decision of 08/26-2020, the request for *habeas corpus* was granted, **as it**

was illegal to detain them, determining **the immediate restitution to the freedom of Claimants SH__SWH___, AH___ and NK___. 2.** Then came the **REGIONAL HEALTH AUTHORITY,** represented by the Regional Health Directorate of the Autonomous Region of the Azores, to appeal this decision, asking the final to validate *the mandatory confinement of the applicants, as they are carriers of the SARS-CoV-2 virus (AH___) and for being under active surveillance, due to high risk exposure, decreed by the health authorities (SH__, SWH__ and NK___).* **4.** The appeal was admitted. **5.** Mº Pº, in his reply, defends that the present appeal must be considered unfounded. **6.** In this court, the Former PGA after a visa. **II - previous point.** Since the appeal filed by the appellant must be rejected, the court will limit itself, under the terms of paragraphs 1, a), and 2 of article 420 of the Code of Criminal Procedure, to briefly specify the grounds of the decision. **III - justification. 1.** The decision handed down by the "a quo" court reads as follows: Proven facts:

1. On 08/01/2020 the claimants arrived on the island of São Miguel, coming by plane from the Federal Republic of Germany, where, in the 72 (seventy-two) hours prior to arrival, they had performed a test to COVID19, with a negative result and whose copies they presented and delivered to the Regional Health Authority, upon arrival at the airport in Ponta Delgada.

2. On 08/07/2020 and during their stay on the island of São Miguel, the applicants AH___ and NK___ carried out a second test to COVID19.

3. On 08/10/2020 and also during their stay on the island of São Miguel, the applicants SH___ and SWH___ carried out a second test to COVID19.

4. On 08/08/2020 the applicant AH___ was, by telephone, informed that her test carried out the previous day had accused "detected."

5. From that day 08/08/2020 the applicant AH___ stopped cohabiting with the remaining three applicants, having always maintained a distance never less than 2 (two) meters from them.

6. On 08/10/2020 the applicants SH___, SWH___ and NK___ were informed, by telephone, that their tests had been "negative."

7. On 08/10/2020, the document was sent to all applicants via email. 25, 25verse, 26 and 26 verse, signed by the Health Delegate of the municipality of Lagoa, in office, Dr. Magno José Viveiros Silva, called Notification of Prophylactic Isolation - Coronavirus SARS-CoV-2 / COVID Disease - 19, and two annexes (only one of them in English) and in which it reads (equal content except for the identification of each of the Applicants): "Isolation (...) Notification of Prophylactic Isolation Coronavirus SARS- CoV-2 / COVID disease - 19 Mário Viveiros Silva Autoridade de Saúde de Lagoa Pursuant to Normative Circulars No. DRSCINF / 2020/22 of 2020/03/25 and DRS CNORM2020 / 39B of 2020/08/04 of the REGIONAL HEALTH AUTHORITY

(attached) and the Standard no. 015/2020, of 7/24/2020 of the General Health Directorate (attached) I determine the PROPHYLACTIC INSULATION OF (...) Citizen Card Holder / PASSPORT No. (...), with validity ... until ... with the social security identification number from 08/08/2020 to 08/22/2020 due to the risk of contagion and as a measure COVID 19 (SARS-Cov-2) containment date 2020/08/10 (...)

8. The Claimants requested to send the said results, and the test report made to Claimants AH___ and NK___ was sent via e-mail on 08/13/2020 and to the Claimants SH___ and SWH___ on yesterday, 08/24/2020, via e-mail, reports written in Portuguese.

9. Between the 1st and the 14th of August the applicants were accommodated in the accommodation Marina Mar II, in Vila Franca do Campo.

10. From August 14th onwards, applicants are accommodated at "THE LINCE AZORES GREAT HOTEL, CONFERENCE & SPA", in Ponta Delgada (where they are currently located), by order of the Health Delegate as described in 7 as follows: - In room 502 are the applicants SH___ and SWH___. - In room 501 is the applicant AH___. - In room 506 is the applicant NK___.

11. The applicants tried at least 3 times to contact the telephone helpline they know (296 249 220) to be clarified in their language or at least in the English language, but they never had any success, since they only answer and respond in Portuguese, which applicants do not understand.

12. At the hotel, meals are delivered to the room, by hotel services, at predetermined times and according to a choice made by a third party, except during the first 3 days at Hotel Lynce where breakfast was served and the remaining meals through room service.

13. On August 15th, while fulfilling the prophylactic isolation determined by the Health Delegate, the applicant AH___ started to suffer from an inflammation in the mouth, apparently resulting from the dental appliance she uses.

14. Having, by telephone, to 296 249 220, I shared this situation with the Regional Health Authority, who requested the necessary medical support.

15. This request was ignored by the referred helpline, which did not provide the required AH___ with the necessary support.

16. Not seeing any support, two days later, on August 17, properly protected by a mask and gloves, the applicant SWH___ left her room, went to the pharmacy closest to the hotel, where she acquired an ointment to temporarily quell referred situation, having immediately returned to the hotel and to his room.

17. On 08/19/2020 it was sent by the Health Delegate, Dr. JMS___, to the Claimants e-mail, where it reads:

"(...) AH___ is only cured after having a negative test and a 2nd negative cure test, when that happens the health delegation will contact you (...) (sic).

18. On 08/21/2020 the following message was transmitted to the four applicants, by Health Delegate Dr. JMS___, by email: "Namely, when the quarantine is over, you have to do a test and if it is negative you can leave home "(sic).
19. On that same August 21st, the applicant SH___ questioned the referred doctor and Health Delegate, Dr. JMS___, by e-mail that sent, the following (translated into Portuguese in free regime):
"Dear Dr. JMS___ ,
We have already done two COVID / person tests, all of which were negative (SH___, SWH___, NK___). ..and after that we spent 2 weeks in isolation, and none of us have any symptoms!!
We have Dr. MMS ___ documents, confirm.
Nobody told us anything about the new tests after the isolation tim ?!
We have already rescheduled our flights and plan to leave the island.
Explain the reason for your statement.
Why was the AH___ COVID test not done yesterday?
Greetings,
SH___ "20.The
claimants did not receive any response to this e-mail, with the exception of Claimant AH___ who was notified of a new screening test, specifically, for the next day 29/08/2020.
21. On 08/20/2020 the applicant AH___ carried out a third test to COVID19, and on the following day (08/21/2020), only by phone, it was informed that the result had accused "detected".
22.The applicant AH___ asked to be sent written evidence of this positive result, which was sent to her via e-mail yesterday, 08/24/2020.
23.The Claimants questioned the reception staff at the hotel where they are staying, and were told that none of the four claimants, without exception, will be able to leave the rooms.
24. Applicants do not have, nor have they ever presented, any symptom of the disease (fever, cough, muscle pain, sneezing, lack of smell or palate).
25.The applicants have not explained the content of the two documents sent to them with the writings listed in paragraph 7.
26.The applicants have their habitual residence in the Federal Republic of Germany, identified in these documents.
Rationale:
The question that arises here is that the Claimants are deprived of their liberty (from the 10th of August until the present date, as shown by the proven facts) and, consequently, being able to use the present institute of the habeas corpus - as we will now explain -, it raises the question of whether or not there is a legal basis for this deprivation of liberty.

Indeed, without even questioning the organic constitutionality of the Resolution of the Council of the Regional Government No. 207/2020, of July 31, 2020, currently in force within the scope of the procedures approved by the Government of the Azores in containing the spread of the SARS-COV- virus 2 in this Autonomous Region, in the present situation the detention / confinement of the Claimants since last 10 August is materialized by a communication carried out via e-mail, in Portuguese, in the terms given as proven under point 7.

Now, as is clear from point 7 of the proven facts, the regional health authority, through the respective Health Delegate of the territorial area where the Claimants were staying, determined their prophylactic isolation under the Normative Circulars No. DRSCINF / 2020 / 22 of 2020/03/2025 and DRS CNORM2020 / 39B of 2020/08/04 of the REGIONAL HEALTH AUTHORITY and Norm no. 015/2020, of 07/24/2020 of the General Directorate of Health. And, it was through you are from a communication with the aforementioned support, it is emphasized, in normative circulars and a norm of the General Directorate of Health, that the Regional Health Authority deprived the Claimants of their freedom, because from the proven facts it derives from the satiety that these, in rigor of the concepts, were detained from the 10th to the 14th of August 2020 in a hotel development in Vila Franca do Campo and from the 14th of August 2020 until the present date confined, and therefore detained, in a hotel room in this city of Ponta Delgada . We cannot forget, not least because it stands out from the list of proven facts, that the Claimant's power of movement and right to mobility - or any other individual who is in the same situation - are so limited that the first exit from the rooms where they found was to go to this court and make statements (with the exception of the trip to the applicant's pharmacy SWH___ in clear despair to help her daughter's pain in the proven terms).

In short, after analyzing the factuality found, it is inexorable to conclude that we are facing a real deprivation of the personal and physical freedom of the applicants, not allowed by them, which prevents them not only from moving, but also from being in family, living for about 16 days. separated (claimants SH___ and SWH___ and their daughter, Claimant here, AH___) and, in the case of Claimant NK___ totally alone, without any physical contact with anyone. To say that there is no deprivation of liberty because at any time they may be absent from their respective rooms, in which they find themselves is a fallacy, just look at the communications made to them after the 10th of August, none of them in the German language, and the conditions in which they have lived (not forgetting that they are foreign citizens with the inherent linguistic barrier) or requesting their return to their place of origin is a fallacy, and for this conclusion, it is enough to pay attention to the latest communications made

in Portuguese, underlining of which the one given as proven under point 8 stands out, in particular "Namely, when the quarantine is over, you have to do a test and if this is negative you can leave the house as the hotel where you are confined in 3 rooms. .
Therefore, if the Claimants are deprived of their liberty, in the face of proven circumstances, it is necessary to trace the path in which we move, beginning the journey through the guiding light of the Portuguese legislative system: the Constitution of the Portuguese Republic.
Thus, in terms of the hierarchy of norms, it is necessary to remember that, as provided for in article 1 of the CRP, "Portugal is a sovereign Republic, based on the dignity of the human person and on the popular will and committed to the construction of a free, just society and supportive. ". Hence, it is clear that the unity of meaning in which our system of fundamental rights is based is based on human dignity - the principle of the dignity of the human person is the axial reference of the entire system of fundamental rights.
One of them, the most relevant in view of its structuring nature of the democratic state itself, is the principle of equality, provided for in article 13 of the CRP, which states, in its paragraph 1, that "All citizens have the same social dignity and are equal before the law. ", adding paragraph 2, that" No one can be privileged, benefited, harmed, deprived of any right or exempt from any duty due to ancestry, sex, race, language, territory of origin, religion, political or ideological beliefs, education, economic situation, social status or sexual orientation. "
And, in what matters here, under the heading "right to freedom and security", article 27, no. 1 of the CRP provides, "Everyone has the right to freedom and security", referring José Lobo Moutinho, in annotation to this article, that "Freedom is an absolutely decisive and essential moment - not to say, the very constitutive way of being - of the human person (Ac. n ° 607/03:" ontic demand "), which lends him that dignity in The Portuguese legal order (and, above all, legal-constitutional) finds its granitic foundation (Article 1 of the Constitution). In this sense, one can say the cornerstone of the social building "(Ac. N ° 1166/96)" (aut.cit., In op. Cit., P. 637).
Since human freedom is not one-dimensional and can take on multiple dimensions, as exemplified in Articles 37 and 41 of the CRP, the freedom in question in Article 27 is physical freedom, understood as freedom of bodily movement, of coming and going, ambulatory or locomotion freedom, stipulating in paragraph 2 of this last article that ***"No one can be totally or partially deprived of liberty, unless as a result of a condemnatory judicial sentence for the practice of an act punishable by law with imprisonment or imprisonment. Judicial application of a security measure."***
The exceptions to this principle are typified in paragraph 3, which provides

that:

*"**Except for this principle is deprivation of liberty, for the time and under the conditions determined by law, in the following cases:***

a) Arrest in flagrante delicto;

b) Detention or preventive detention for strong indications of a criminal offense corresponding to a prison sentence with a maximum limit of more than three years;

c) Arrest, detention or other coercive measure subject to judicial control, of a person who has entered or remains illegally in national territory or against whom extradition or expulsion proceedings are underway;

d) Disciplinary imprisonment imposed on military personnel, with guarantee of appeal to the competent court;

e) Subjecting a minor to protection, assistance or education measures in an appropriate establishment, decreed by the competent judicial court;

f) Detention by judicial decision due to disobedience to the decision taken by a court or to ensure appearance before the competent judicial authority;

g) Detention of suspects, for the purposes of identification, in cases and for the time strictly necessary;

h) Internment of a patient with a psychic anomaly in an appropriate therapeutic establishment, decreed or confirmed by a competent judicial authority. "

Finally, it should be remembered that, in case of deprivation of liberty against the provisions of the Constitution and the Law, the State is constituted with the duty to indemnify the injured party under the terms established by the law, as follows from paragraph 5 of article 27, noting that, in line with article 3 of the CRP:

(...) 2. The State is subordinate to the Constitution and is based on democratic legality.

3. The validity of laws and other acts of the State, autonomous regions, local authorities and any other public entities depends on their compliance with the Constitution.

When we arrived here, having drawn up the legal territory, let us take a closer look at the situation in which the Regional Health Authority moved in the situation under analysis.

Claimants SH__SWH__ and NK_ underwent a screening test for the SARS-CoV-2 virus, the result of which was negative for all, with the same positive test for Claimant AH___, which led to the aforementioned order of prophylactic isolation and consequent permanence of these in the terms set out and proven.

Therefore, in view of the content of the notification made to the Claimants, this court cannot fail to express, ab initio, its perplexity at the determination of

prophylactic isolation to the four Claimants.
As follows from the definition given by the General Directorate of Health, "Quarantine and isolation are measures of social isolation essential in public health. They are especially used in response to an epidemic and are intended to protect the population from transmission between people. The difference between quarantine and isolation stems from the state of illness of the person who wants to be away. In other words:
"quarantine is used in people who are assumed to be healthy, but who may have been in contact with an infected patient;
isolation is the measure used in sick people, so that through social distance they do not infect other citizens. " (at https://www.sns24.gov.pt/tema/doencas-infecciosas/covid-19/isolamento/?fbclid=IwAR34hD77oLCpxUVYJ9Ol4ttgwo4tsTOvPfIa3Uyoh0EJEbCs3jEihkaEPAY#sec-0).
Turning to the present case, the Regional Health Authority decided to make a blank slate of essential concepts, because they delimit differentiated treatment (because different, pass the pleonasm), the situations of infected people and those who were in contact with it, before the order of prophylactic isolation to all claimants, although only one of them has positive results to the aforementioned screening test. And, more decided, to make a dead letter of the Resolution of the Government Council no. 207/2020 of 31 of July, forbidding to the mandatory submission the judicial validation of the competent court decreed that it is mandatory quarantine, when it derives to the satiety of the facts proven that Claimants SH__SWH__ and NK___, at most, are subject to mandatory quarantine.
It did not do so within the 24 hours provided for in point 6 of the aforementioned Resolution, not even within a broader period - as in the 48 hours provided for in article 254, paragraph 1, point a), of the Criminal Procedure Code, or in article 26, no. 2, of the LSM - continuing to make any communication and, therefore, the evident restriction of the freedom of Claimants SH__SWH__ and NK_ will always be illegal.
In this step, the aforementioned Government Council Resolution No. 207/2020, of July 31, 2020, provides in point 4 that in cases where the SARS-CoV-2 virus test result is positive, the local health, within the scope of its competences, will determine the procedures to be followed. The Applicant AH___ positive in the screening test for the virus in question, was notified, reiterate in the same terms as the other Applicants, of the order of prophylactic isolation between 08/10/2020 to 08/22/2020.
At this point, it is necessary to make it clear that the notification made as proven under point 7, is brought from what appears in the DGS015 / 2020 Standard, a rule to which it alludes in addition to the normative circulars

(available for consultation at https: //www.dgs.pt/directrizes-da-dgs/normas-e-circulares-normativas/norma-n-0152020-de-24072020-pdf.aspx), and tell us, in what matters here: (...) High Risk Exposure Contacts

15. A contact classified as having high risk exposure, in accordance with Annex 1, is subject to:

a. Active surveillance for 14 days from the date of the last exposure;

b. Determination of prophylactic isolation, at home or another place defined at local level, by the Health Authority, until the end of the period of active surveillance, according to the model of Dispatch no. 2836-A / 2020 and / or n 3103-A / 20202 (model accessible at http://www.seg-social.pt/documents/10152/16819997/GIT_70.docx/e6940795-8bd0-4fad-b850-ce9e05d80283)

Following this norm of the General Directorate of Health, among others, in the normative circular No. DRSCNORM / 2020 / 39B, from 2020-08-04 (available for consultation at http://www.azores.gov.pt/NR/rdonlyres/25F80DC1 -51E6-4447-8A38-19529975760 / 1125135 / CN39B_signed1.pdf),

(...)

a. Close contacts of high-risk. Close contacts of high risk are treated as suspect cases until the laboratory result of the suspected case. These close contacts should be screened for SARS-CoV-2. High-risk contacts are considered: i. Cohabitation with confirmed case of COVID-19; (...)

ii. Surveillance and Control of Close Contacts

3. Close contacts of high risk, given that, currently, it is estimated that the incubation period of the disease (time elapsed from exposure to the virus to the appearance of symptoms) is between 1 and 14 days, they must comply with 14 days of prophylactic isolation, even if they present negative screening tests during that period, and a test must be carried out on the 14th day. If the 14th day test result is negative, they are discharged. In the event that close contacts of high risk cohabit with the positive case, they should only be discharged when determining the cure of the positive case, and the respective prophylactic isolation should therefore be extended.

(...)

13. Compliance with prophylactic isolation

All persons identified as suspected cases, until the negative results are known, comply with prophylactic isolation;

All people who tested positive for Covid-19 and who are discharged after a cure test (internment or home) do not need to undergo a new isolation period of 14 days or repeat a new test on the 14th day.

All passengers disembarking at airports in the Region from airports located in areas considered to be zones of active community transmission or with active transmission chains of the SARS-CoV-2 virus must comply with the procedures

in force in the Region at the time.

Once we have arrived, let us analyze the legal value of norms / guidelines from the General Health Directorate and normative circular 39B, from 04/08/2020, from the Regional Health Directorate, *leaving no doubt that we have entered the sphere of administrative guidelines.*
In this regard, with the specificity of reporting to the Tax Authority - which has the same administrative legal position as the National Health Authority in the ius imperium of the State-, CASALTA NABAIS (Tax Law, 6th ed., Almedina, p. 197), "the so-called administrative guidelines, traditionally presented in the most diverse forms such as instructions, circulars, circular-letters, circular-letters, normative orders, regulations, opinions, etc.", which are very frequent in tax law, constitute "internal regulations that, as they have only the tax administration as their recipient, only the latter owes them obedience, being, therefore, mandatory only for the agencies located hierarchically below the agency that authored them.
That is why they are not binding on individuals or courts. And this is whether they are organizational regulations, which define rules applicable to the internal functioning of the tax administration, creating working methods or modes of action, or whether they are interpretative regulations, which proceed to the interpretation of legal (or regulatory) precepts.
It is true that they densify, make explicit or develop the legal precepts, previously defining the content of the acts to be performed by the administration when they are applied. But that does not make them the standard of validity for the acts they support. In fact, the assessment of the legality of the acts of the tax administration must be carried out through direct confrontation with the corresponding legal norm and not with the internal regulation, which interposed between the norm and the act ".
Now, the problem of the normative relevance of the Circulars for Administration (Tax) was already raised and considered in the Constitutional Court Judgments No. 583/2009 and 42/14, of 11/18/2009 and 9/09/12, respectively, and that Court decided, with which we agree, that the prescriptions contained in the Circulars for Tax Administration, regardless of their persuasive irradiation in the practice of citizens, do not constitute norms for the purposes of the constitutionality control system committed to the Constitutional Court.
As underlined in that note (Judgment 583/2009) "(...) These acts, in which the" circulars "are prominent, emanate from the power of self-organization and the hierarchical power of the Administration. They contain generic service orders and it is for this reason and only within the respective subjective scope (of the hierarchical relationship) that they are guaranteed compliance. They incorporate guidelines for future action, transmitted in writing to all

subordinates of the administrative authority that issued them. These are standardized decision modes, assumed to rationalize and simplify the operation of services. This is worth saying that, although they can indirectly protect legal certainty and ensure equal treatment through uniform application of the law, they do not regulate the matter they deal with in relation to private individuals, nor do they constitute a decision rule for the courts. "

Consequently, lacking a heteronomous binding force for individuals and not imposing themselves on the judge except for the doctrinal value that they may possess, the prescriptions contained in the "circulars" do not constitute rules for the purposes of the constitutionality control system within the jurisdiction of the Constitutional Court.

What is said, allows us to conclude that the administrative guidelines conveyed in the form of normative circulars, as in the present case, do not constitute provisions of legislative value that can be the subject of a declaration of formal unconstitutionality - see Judgment of the Supreme Administrative Court, of 21/06/2017, available for consultation in www.dgsi.pt .

And, this to make it clear that the norms invoked by the Regional Health Authority that supported the deprivation of liberty imposed on Claimants through notification of prophylactic isolation are non-binding administrative guidelines for Claimants. *By the way, just look at who they are addressed to respectively:*

Normative Circular No. DRSCNORM / 2020 / 39B: "For: Health Units of the Regional Health Service, Municipal Health Delegates (C / c Azores Regional Civil Protection and Fire Service, Line de Saúde Açores) Subject: Screening for SARS-CoV-2 and addressing suspected or confirmed cases of SARS-CoV-2 infection Source: Regional Health Directorate (...)

Standard 015/2020, of 7/24/2020: "SUBJECT: COVID-19: Tracking Contacts KEYWORDS: Coronavirus, SARS-CoV-2, COVID-19, Tracking Contacts (Contact Tracing), Epidemiological Investigation

FOR: Health System (...).

In this sequence, and, in summary form, this court cannot fail to underline that the present case, we allow ourselves to say aberrant, of deprivation of liberty of persons, absolutely lacks any legal basis, and do not come up with again. Argument that the defense of public health is at stake because the court always acts in the same way, that is, in accordance with the law, moreover, hence the need for judicial confirmation enshrined in the Mental Health Law in the case of compulsory internment, since the factuality found and the above results:

- The Claimants have been confined to the space of a room for about 16 days, based on a notification of "prophylactic isolation" until 08/22/2020, a period that has already been exceeded and the operated notification, which in any case is illegal as a means of detaining people for the reasons already explained

(just by paying attention to the constitutional rules mentioned above), has lapsed;
- Claimants have never been given any information, communication, notification, as appropriate, in their mother tongue, nor have they been provided with an interpreter, from the outset in flagrant violation of the European Convention on Human Rights (art. 5, no. 2 and 6, paragraph 3, al. A) and the criminal procedural rules (see article 92 of the Criminal Procedure Code), that is, in our legal system a foreign person is detained and without mastery of the Portuguese language is immediately appointed as an interpreter, and, in the case of the Claimants who limited themselves to travel to this island and enjoy its beauty, they were never granted such a possibility;
- Claimants after 8/22/2020 are confined to the space of a room based on the following communications:
- On 8/19/2020 it was sent by the Health Delegate, Dr. JMS___, to the Claimants e-mail , where it reads:
"(...) AH___ is only considered cured after having a negative test and a 2nd negative cure test, when this happens, the health delegation will contact you (...) (sic).
- On 08/21/2020 the following message was transmitted to the four applicants, by Health Delegate Dr. JMS___, via email: "Namely, when the quarantine is over, you have to do a test and if this is negative, you can leave home "(sic);
- The Claimants' deprivation of liberty was not subject to any judicial scrutiny. As we said initially, we could still consider the organic constitutionality of the Resolution of the Government Council No. 1207/2020, of June 31, however, we believe it is an unimportant issue for the object of the decision to be made, which is quick, because even In the light of such a resolution, the decision cannot be different, based on the decision of the Constitutional Court, of 07/31/2020, in the scope of the process nº 424/2020, and, because the position of the Regional Health Authority in the present circumstances leads back the application of normative circulars, with the value explained above.
Finally, and because this court has been ruling successively and recently within the scope of this "habeas corpus" institute in the face of orders issued by the Regional Health Authority, we allow ourselves to subscribe and underline the following excerpt from the first decision of this Criminal Investigation Court:
"The issue of compulsory confinement in the case of contagious diseases, and the terms under which it should occur, is a pressing issue, and which is not supported by article 27, paragraph 3, of the CRP, namely in its subparagraph h), where only the hospitalization of patients with psychic anomalies is foreseen in an appropriate therapeutic establishment, decreed or confirmed by the competent judicial authority. There is an urgent need to legislate on this

matter, establishing, in a clear way, the fundamental principles to be obeyed, leaving the detailed aspects to the derived law - and only these.
For, as Professor Gian Luigi Gatta says, which we quote here in a free translation, ***"right now, the country's energies are focused on emergency. But the need to protect fundamental rights, also and above all in an emergency, the Courts are required to do their part. Because, in addition to medicine and science, law - and human rights law in the first place - must be at the forefront: not to prohibit and sanction - as is being stressed too much these days - but to guarantee and protect everyone we. Today the emergency is called a coronavirus. We don't know tomorrow. And what we do or don't do today, to maintain compliance with the system's fundamental principles, can condition our future. "*** *(in "I diritti fondamentali alla evidence of the coronavirus. Perché a legge sulla quarantena is necessary",) ".*
It will not be difficult to admit and accept that the legislative turmoil generated around the containment of the spread of COVID-19 had - and will continue to have - in its raison d'être the protection of public health, but this turbulence can never harm the right to death. Freedom and security and, ultimately, the absolute right to human dignity.

It remains to decide accordingly.
(...)
Therefore, in light of the above, because the detention of the Claimants SH__SWH___, AH___ and NK___ is illegal, I decide to uphold the present request for habeas corpus and, consequently, determine their immediate restitution to freedom.
2. The appellant now formulated the following conclusions, which it drew from its motivation:
1. The purpose of this appeal is the decision handed down by the learned Court, which it considered to be "illegal to detain the Claimants SH__SWH___, AH___ and NK___" and decided " to uphold the present request for habeas corpus and, consequently, determine their immediate restitution to liberty. ";
2.Just for the sake of procedural economics, that is, as it is of little relevance for the assessment of the merits of the case, the factuality that has been proven is not appealed, however, it should be noted that it was based solely on the statements of the applicants themselves.
3. The contested decision on the grounds that the applicant did not comply with point 6 of Resolution of the Council of the Regional Government of the Azores No. 207/2020, of July 31, 2020, violated the scope of application of the same Resolution, defined in point 1 of the same Resolution;
4. The judicial validation of mandatory quarantine, provided for in point 6 of

the said resolution, only applies to the mandatory quarantine decreed for passengers who do not accept, alternatively, any of the procedures, provided for in point 1 of the aforementioned Resolution;
5. Applicants complied with the procedure provided for in paragraph 1 a) of Resolution No. 207/2020, of July 31, 2020, so they could never be subject to mandatory quarantine under that Resolution and, consequently, there is no place to judicial validation, provided for in point 6 of Resolution No. 207/2020, of July 31, 2020.
6. Contrary to what is defended in the contested decision, the Portuguese legal system allows for the adoption of exceptional measures, including separation of people, consequent decree of mandatory confinement of infected people and with a high probability of being infected, through the mechanism provided for in article 17 of Law no. 81/2009, of 21 August;
7. The Council of Ministers legitimately made use of the exceptional regulatory power, provided for in Article 17 of Law No. 81/2009, through the Resolutions of the Council of Ministers No. 55-A / 2020, of July 31, 2020 and No. 63-A / 2020, of August 14;
8. Paragraph 2 of the Resolution of the Council of Ministers no. 55-A / 2020, of July 31, 2020, ordered measures of an exceptional nature, necessary to combat COVID -19, to be applied throughout the national territory, namely those provided for in the regime attached to that resolution;
9. Article 2 of the Annex decreed that:
"Article 2
Mandatory confinement
1 - They are in mandatory confinement, in a health establishment, at their home or in another place defined by health authorities:
a) Patients with COVID - 19 and those infected with SARS -CoV-2;
b) Citizens for whom the health authority or other health professionals have determined active surveillance.
2 - (...) "
10. The applicant AH___ when infected with the SARS-CoV-2 virus, in compliance with article 2, paragraph 1, point a) of Annex I of the Resolution of the Council of Minister 55-A / 2020, had to be in mandatory confinement;
11. The Tribunal a quo, by decreeing the habeas corpus of AH___ and allowing its free movement, violated article 17 of Law no. 81/2009, of 21 August, by reference to article 2, no. 1, point a) of Annex I of the Resolution of the Council of Minister No. 55-A / 2020;
12. Applicants SH__SWH__ and NK_ according to the rules stipulated by the National Health Authority, contained in Norm 015/2020, of 07/24/2020, are contacts with High Risk Exposure, and must be subject to: a
. Active surveillance for 14 days, from the date of the last exhibition;

b. Determination of prophylactic isolation, at home or another place defined at local level, by the Health Authority, until the end of the period of active surveillance, according to the model of Dispatch no. 2836-A / 2020 and / or n 3103-A / 20202 "

13. The applicants SH__SWH__ and NK_, subject to active surveillance, in compliance with article 2, paragraph 1, point b) of Annex I of the Resolution of the Council of Minister no. 55-A / 2020, had to be in mandatory confinement;

14. The Tribunal a quo, by decreeing the habeas corpus of SH__SWH__ and NK_ and allowing their free movement, violated article 17 of Law no. 81/2009, of 21 August, by reference to article 2, no. 1, paragraph b) of Annex I of the Resolution of the Council of Minister no. 55-A / 2020.

15. It is imperative that the contested decision be revoked and replaced by one that validates the mandatory confinement of the applicants, as they are carriers of the SARS -CoV-2 virus (AH___) and because they are under active surveillance due to high risk exposure decreed by health authorities (SH__SWH__ and NK___).

3. In his reply, the MºPº drew the following conclusions:

1 - ***The Constitutional Court ruling of 7/31-2020 (Proc. 403/2020; 1. 'Section; Cons. José António Teles Pereira), after concluding that mandatory confinement, either through quarantine or through prophylactic isolation, constitutes a true deprivation of liberty not provided for in art. 27, no. 2, of the CRP, and that all deprivations of liberty require prior authorization from the Assembly of the Republic,*** *which was not the case with the Resolutions of the Regional Government of the Azores that imposed a mandatory quarantine, considered verified the organic unconstitutionality of the referred standards.*

2 - These rules, declared unconstitutional by the Constitutional Court, are in all materially identical to those contained in the Resolutions of the Council of Ministers no. 55-A / 2020, of 31-07, 63-A / 2020, of 14-08 , and 70-A / 2020, from 11-09, and no. 88-A / 2020, from 14-10, insofar as they provide for deprivations of liberty not provided for in an appropriate legal document emanating from the competent entity, as well as are not in the exceptions provided for in art. 27, no. 3, of the CRP, therefore they must also be disapplied for violation of art. 27 (1) of the CRP.

3 - Providing for art. 5, paragraph 1, al. e), the European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms - Rome, 04-11-1950), concerning the Right to Freedom and Security, that "Everyone has the right to freedom and security "and that" No one can be deprived of their liberty, except in the following cases and according to the legal procedure: (...) "If it is the legal detention of a person liable to spread a contagious disease, of mental alien, alcoholic, drug addict or vagabond ", we can conclude that the deprivation of liberty of a

person liable to spread a contagious disease is a form of detention and that, according to the Convention, it is possible for States to provide for the detention of these persons in their domestic legislation.
4 - Taking into account the constitutional principle of the typicality of deprivation of liberty measures, and not providing for art. 27, of the CRP, in none of the paragraphs of number 3, the deprivation of liberty of a person "liable to spread a contagious disease",
5 - And having the subparagraph h) - which provides for the admission of a psychiatric anomaly in an appropriate therapeutic establishment - added by art. 11.0, no. 6, of Constitutional Law no. 1/97, of 20 September (4. 'Constitutional revision), at a time when the European Convention on Human Rights already expressly provided for the arrest of a person liable to spread contagious disease,
6 - And that the constitutional legislator, neither in the referred constitutional revision nor in a subsequent one, added another point to paragraph 3 of art. 27. To foresee this possibility, as he did with the internment of a patient with a psychic anomaly, we can conclude that we are faced with a conscious decision by the constitutional legislator not to allow the deprivation of liberty of a person liable to spread contagious disease, just for that fact.
7 - Analysis of the constitutional regime of the right to freedom and security provided for in art. 27, no. 1, of the CRP, we can conclude, therefore, that it is not possible for the legislator, even though through the Assembly of the Republic or the Government authorized by it, to create deprivations of liberty that are not provided for in no. 3 of the aforementioned constitutional norm, namely with regard to persons with infectious and contagious diseases, whether these deprivations of freedom are confinements, quarantines or prophylactic isolations, without incurring any rules created for that purpose in a material unconstitutionality for violation of said constitutional norm.
8 - Now returning to the legal regime for the admission of people with contagious diseases, Law No. 2036 of 08/08/1949 provided for the possibility of promoting the isolation or internment of people with infectious diseases, but only, in this case. Last case, in situations where there was a serious danger of contagion, with recourse to an authority of the isolation or internment decision.
9 - In turn, art. 17 of Law no. 81/2009, of 21-08, which revoked Law no. 2036 of 9/8/1949, allows the member of the Government responsible for the health area a special regulatory power, according to the stipulated by base XX of Law no. 48/90, of 24-08 (Basic Law of Health), namely, "to take necessary measures of exception in case of emergency in public health, including the restriction, suspension or the closure of activities or the separation of people who are not sick, means of transport or goods, who have been exposed, in

order to avoid the possible spread of infection or contamination ».
*10 - **From here, it follows that, as provided for in Law No. 2036 of 08-08-1949, the possibility of promoting the isolation or internment of people with infectious and contagious diseases is not provided for in this law. .** On the other hand, since the measures taken by the health authorities respect the Constitution and the law and the Constitutional Law does not provide for the deprivation of liberty for people with infectious diseases, the interpretation to be given to the expression "separation of people who are not patients, means of transport or goods, that have been exposed ", to be in accordance with the Constitution of the Portuguese Republic cannot reach the core of the right to freedom, that is, they must not constitute a total deprivation of freedom.*
11 - On the other hand, the current Basic Law on Health - Law No. 95/2019, of 04-09 - provides in Base 34, regarding the defense of public health, that the public health authority can «b) Unleash, according to the Constitution and the law, internment or compulsory health care for people who would otherwise constitute a danger to public health.
12 - Law no. 82/2009, of 02-04, which regulates the legal regime for the designation, competence and functioning of the entities that exercise the power of health authorities, provides in its art. 5 ° the powers of the health authority, namely, "c) To trigger, in accordance with the Constitution and the law, the internment or compulsory provision of health care to individuals in a situation of harm to public health".
13 - It follows that, since the measures taken by the health authorities respect the Constitution and the law, and the Constitutional Law does not provide for the deprivation of freedom of persons with infectious and contagious diseases, if the interpretation to be given to the expression «internment or the compulsory provision of health care to individuals who are in danger of harming public health 'either in the sense that health authorities can order internment, or other restrictive measure of freedom of movement, or the compulsory provision of health care by people with infectious and contagious diseases, such an interpretation of the law is materially unconstitutional for violation of art. 27 (1) of the CRP.
14 - Defining Law No. 27/2006, of 03-07 (Basic Law for Civil Protection) "Serious accident" as an unusual event with relatively limited effects in time and space, capable of affecting people and other beings living, goods or the environment, but establishing in art. 5, paragraph 1, al. a), the principle of priority of the public interest relative to civil protection over the interests of national defense, internal security and public health, we can conclude that serious public health situations, such as the current pandemic, are not included in the public interest regarding civil protection, therefore, are not included in the concepts of "major accident" and "catastrophe" referred to in art. 3 of the

Civil Protection Law.
15 - From here it can also be concluded that the Resolutions of the Council of Ministers - and the Resolutions of the Council of the Regional Government - which were based on the Basic Law of Civil Protection to declare "the contingency and alert situation, within the scope of the disease pandemic COVID-19 ", namely the Resolutions of the Council of Ministers no. 55-A / 2020, of 31-07, 63-A / 2020, of 14-08, 68-A / 2020, of 28-08, and 70-A / 2020, of 11-09 - revoked by Resolution of the Council of Ministers no. 88-A / 2020, of 14-10, currently in force -, which provide in point 2 the "mandatory confinement, in establishment of health, in their home or in another place defined by the health authorities: (...) «a) Patients with COVID-19 and those infected with SARS-CoV-2; (...) "b) Citizens for whom the health authority or other health professionals have determined active surveillance", have no legal basis, as ***the Civil Protection Law does not apply to situations of danger to health public.*** *16 - We can thus conclude that the Resolutions of the Council of Ministers no. 55-A / 2020, of 31-07, 63-A / 2020, of 14-08, 68-A / 2020, of 28-08 , 81/2020, 29-09 - the latter was revoked by Resolution of the Council of Ministers no. 88-A / 2020, of 14-10, currently in force -, and its Annex, which were issued by the Government, in the use administrative powers, created a regime that restricts the freedom of citizens with infectious diseases (quarantines, prophylactic isolation, etc.) and, to reinforce the application of a deprivation of liberty not permitted by the Constitution or provided for in law enabling situations of people with a contagious disease or danger to public health, established the combination of the practice of a crime of disobedience for such violations and the aggravation of the penalty provided for such a crime, directly violate art. 27 (1) of the CRP, so that, due to being unconstitutional, they should be disapplied in the specific case, contrary to the applicant's request, 17 - Maintaining the sub judice decision.* **4.** The applicant is the regional health authority, represented by the Regional Health Directorate of the Autonomous Region of the Azores. Decree-Law no. 11/93, of 1993-01-15, in its current version (Statute of the National Health Service) determines that (emphasis added): Article 1 **The National Health Service** , hereinafter referred to as SNS, **is an ordered and hierarchical set of institutions and official services that provide health care, operating under the supervision or supervision of the Minister of Health** . Article 3 **1 - The NHS is organized in health regions. 2 - Health regions are divided into health sub-regions, integrated by health areas.** Article 61 - **In each health region there is a regional health administration, hereinafter referred to as ARS**. 2 - The ARS have legal personality, administrative and financial autonomy and their own assets. **3 - The ARS have the functions of planning, resource distribution, guidance and coordination of activities, human resource**

management, technical and administrative support, as well as assessing the functioning of health care institutions and services. 4 - (...). In turn, Decree-Law no. 22/2012 stipulates Article 1 1 - Regional Health Administrations, IP, for short referred to as **ARS IP ., Are public institutes integrated in the indirect administration of the State** , endowed with autonomy administrative, financial and own assets. 2 - **The ARS, IP, continue their duties, under the supervision and supervision of the Government member responsible for the health area. 3 - The ARS, IP, are governed by the rules contained in this decree-law, by the provisions of the framework law of public institutes and in the Statute of the National Health Service and by the other rules that apply to it** . Article 3 **1 - The ARS, IP, have the mission of guaranteeing the population of the respective geographical area of intervention access to the provision of health care, adapting the available resources to the needs and complying with and enforcing health policies and programs in their intervention area.** 2 - The attributions of each ARS, IP, within the scope of the respective territorial circumscriptions: **a) Execute the national health policy, in accordance with global and sectoral policies, aiming at its rational organization and the optimization of resources** ; b) Participate in the definition of intersectoral planning coordination measures, with the objective of improving healthcare provision; c) Collaborate in the preparation of the National Health Plan and monitor its implementation at regional level; d) Develop and encourage activities in the field of public health, in order to guarantee the protection and promotion of the health of the populations; e) Ensure the execution of local intervention programs aimed at reducing the consumption of psychoactive substances, preventing addictive behaviors and reducing dependencies; f) Develop, consolidate and participate in the management of the National Integrated Continuing Care Network according to the defined guidelines; g) Ensure the regional planning of human, financial and material resources, including the execution of the necessary investment projects, of the institutions and services providing health care, supervising their allocation; h) To prepare, in accordance with the guidelines defined at national level, the list of facilities and equipment; i) To allocate, in accordance with the guidelines defined by the Central Administration of the Health System, IP, financial resources to institutions and services providing healthcare integrated or financed by the National Health Service and to private entities with or without profit making , who provide health care or act within the areas referred to in points e) and f); j) To celebrate, monitor and review contracts in the scope of public-private partnerships, in accordance with the guidelines defined by the Central Administration of the Health System, IP, and allocate the respective financial resources; l) Negotiate, conclude and monitor, in accordance with the guidelines defined at national level, contracts, protocols

and conventions of a regional scope, as well as carry out the respective evaluation and review, in the scope of healthcare provision as well as in the areas referred to in points e) and f); m) Guide, provide technical support and evaluate the performance of health care institutions and services, in accordance with the defined policies and guidelines and regulations issued by the competent central services and bodies in the different areas of intervention; n) To ensure the proper articulation between the health care services in order to guarantee compliance with the referral network; o) To allocate financial resources, through the signing, monitoring and review of contracts within the scope of integrated continuous care; p) Elaborate functional programs of health establishments; q) Licensing private units providing health care and units in the area of addictions and addictive behaviors in the social and private sector; r) Issue opinions on master plans for health units, as well as on the creation, modification and merger of services; s) Issue opinions on the acquisition and expropriation of land and buildings for the installation of health services, as well as on projects of the facilities of health care providers. 3 - In order to carry out their duties, the ARS, IP, may collaborate with each other and with other entities in the public or private sector, with or without profit, under the terms of the legislation in force. 5. **The provision of required *habeas corpus is* part of the provisions of article 220 of CPPenal, which reads as follows:** Habeas corpus due to illegal detention 1 - Those detained under the order of any authority may apply to the investigating judge of the area where if they find that they order their immediate judicial presentation, on any of the following grounds: a) The deadline for delivery to the judicial power has been exceeded; b) Keeping detention outside legally permitted places; **c) The detention was carried out or ordered by an incompetent entity; d) The detention is motivated by a fact for which the law does not allow it.** 2 - The request can be signed by the detainee or by any citizen in the enjoyment of their political rights. 3 - Any authority that raises an illegitimate obstacle to the submission of the application referred to in the preceding paragraphs or to its referral to the competent judge is punishable with the penalty provided for in article 382 of the Penal Code. **6. Enjoying.** Article 401 of the Penal Code stipulates the following: 1 - They have the legitimacy to appeal: a) The Public Ministry, of any decisions, even in the exclusive interest of the accused; b) The accused and the assistant, of decisions against them rendered; c) The civil parties, on the part of the decisions against each one rendered; d) Those who have been ordered to pay any sums, under the terms of this Code, or have to defend a right affected by the decision. 2 - Anyone who has no interest in taking action cannot appeal. **7.**The first question that arises here is that of the applicant's legitimacy, in the context of an appeal in criminal proceedings. **i.** We are within the scope of a criminal jurisdiction, whose purpose is to ensure

the effective exercise of the State 's *jus puniendi*, that is, which is dedicated to investigating and deciding on behavior that constitutes a crime or administrative offense. It is in this context and in view of this purpose, that the Law determines who has the legitimacy to be able to discuss the goodness of a decision handed down by a criminal court. **ii.** In this case, we note that the applicant is not a defendant, is not an assistant and has not made any civil claim that, given the principle of accession, would determine her position as a plaintiff or defendant. **iii.** Thus, before the Law and taking into account the list of interveners that the legislator understood may have legitimacy to intervene in a process in this type of jurisdiction, on appeal, we will have to conclude that the applicant lacks legitimacy to be able to come and discuss the content of a judicial decision in this context. **iv.** In fact, the practice of any crime, or any offense of an administrative nature, is not discussed here. It is certain that the question of possible consequences at criminal level, the recognition of the existence of an illegal detention, is a matter that will have to be discussed. In its own seat - that is, in an investigation that may be opened for this purpose, being completely foreign to the decision of the present case. **v.** We conclude, therefore, that the applicant lacks legitimacy to appeal against the decision rendered by the court "a quo". **8.** Regardless of the question of legitimacy, it appears that, likewise, the applicant lacks interest in taking action. **i.** As is clear from peaceful jurisprudence and doctrine in this regard, the interest in taking action means the need for someone to have to use the appeal mechanism as a way of reacting **against a decision that disadvantages the interests that he defends or that has frustrated his legitimate expectation or benefit. ii.** Now, in the present case, the question is - did the decision give rise to any disadvantage for the interests that the ARS defends? Or a legitimate expectation or benefit? The answer is manifestly negative. Otherwise, let's see. **iii.** ARS **continues its duties, under the supervision and supervision of the Government member responsible for the health area**. Thus, and immediately, either in view of the functions that are committed to it, or in view of their manifest hierarchy, in the face of guardianship, it will have to be concluded that no ARS pursues its own and autonomous interest, which it must defend. Whoever will continue, eventually, will be the respective Minister or the Government in which he / she is inserted, since the ARS "interests" will not be yours, but will be included in the health policy of the ministry that oversees such an entity. It should be noted, moreover, that in the definition of its attributions [1] it is not assigned any specific defense function, independently and in its own name, in court, of any interests that fall within its functions which, in what concerns with respect to criminal or administrative offenses, there are none ... **iv.** For its part, the interest that the applicant itself intends to defend and that appears in the application, at the end of this appeal - the

validation of the mandatory confinement of the applicants, for having the SARS -CoV-2 virus (AH___) and for being active surveillance, for high-risk exposure, decreed by health authorities (SH__SWH__ and NK___) - is in itself contradictory and goes beyond the purpose and scope of a criminal court. **Contradictory because the applicant does not admit that confinement corresponds to deprivation of liberty. If so, there is no glimpse of where the applicant's jurisdiction is based in the jurisdiction of a criminal court to validate "confinements** ". And outside the scope of action of a criminal court, because it is not for the court to make declarative decisions to validate infections or diseases... **v.** Finally, it is not seen that a legitimate expectation or benefit has an entity under the tutelage of a Government body, seen frustrated by the decision now being criticized. It follows that the applicant does not have an interest in taking action, which is why, under the provisions of paragraph 2 of article 401 of CP Penal, he cannot appeal the decision. **9.** The decision rendered by the "a quo" court to receive the present appeal does not bind this court (article 414 of CPPenal), so there is nothing to prevent its rejection.**10.** Nevertheless, and for peace and quiet of consciences, the following will also be added: Even if this were not understood, **the appeal presented would be manifestly unfounded, for the following succinct reasons** : **i.** First of all, due to the exhaustive and correct reasoning set out in the decision, by the "a quo" court, whose content is fully subscribed. In fact, **under the Constitution and the Law, health authorities do not have the power or legitimacy to deprive anyone of their freedom - even under the label of "confinement", which effectively corresponds to detention - since such a decision is only it can be determined or validated by a judicial authority, that is, the exclusive competence, in view of the Law that still governs us, to order or validate such deprivation of liberty, is entrusted exclusively to an autonomous power, to the Judiciary. Hence it follows that any person or entity that issues an order, the content of which leads to the deprivation of physical freedom, ambulatory, of others** (whatever the nomenclature this order assumes: confinement, isolation, quarantine, prophylactic protection, etc.), **that does not fit into the legal provisions, namely in the provisions of article 27 of the CRP and without having been given such decision-making power, by virtue of Law - from the RA, within the strict scope of the declaration of state of emergency or site, respected that the principle of proportionality is shown - that the mandate and specifying the terms and conditions of such deprivation , will be making an illegal detention, because ordered by an incompetent entity and because motivated by a fact for which the law does not allow it (** say , moreover, that this issue has already been debated, over time, regarding other public health phenomena, namely with regard to HIV and tuberculosis infection, for

example. And, let it be known, no one has ever been deprived of their freedom, due to suspicion or certainty of suffering from such diseases, precisely because the Law does not allow it). **It is in this context that, without any doubt, the situation under consideration in this process, being certain that the adequate means of defense, against illegal detentions, is subsumed to the appeal at the request of *habeas corpus* , provided for in article 220, als. c) and d), of CPPenal. And rightly, the "a quo" court ordered the immediate release of four people who were illegally deprived of their liberty. ii.** Secondly, because **the request made in the appeal, proves to be impossible** . Otherwise, let's see: **11.** In fact, it is requested to validate "the mandatory confinement of applicants, **as they are carriers of the SARS-CoV-2 virus** (AH___) and because they are under active surveillance, **due to high risk exposure**, decreed by the authorities (SH__SWH__ and NK_). " **12.**

It is with great astonishment that this court is faced with such a request, especially if we take into account that the appellant is active in the health sector.

Since when is it up to a court to make clinical diagnoses, on its own initiative and based on possible test results? Or the ARS? Since when is the diagnosis of a disease made by decree or by law?

13. As the applicant has more than an obligation to know, **a diagnosis is a medical act, the sole responsibility of a doctor**.

This is what results unequivocally and peremptorily from Regulation No. 698/2019, of 5.9 (regulation that defines the doctors' own acts), published in DR.

There it is determined, in an imperative way (which requires its compliance by all, including the applicant) that (emphasis added):

Article 1

Object

This regulation defines the professional acts specific to doctors, their responsibility, autonomy and limits , within the scope of their performance.

Article 3

Qualification

1 - **The doctor is the professional legally qualified to practice medicine, qualified for the diagnosis** , treatment, prevention or recovery **of diseases and other health problems** , and able to provide care and intervene on individuals, groups of people individuals or population groups, sick or healthy, with a view to protecting, improving or maintaining their state and health level.

2 - **Doctors with current registration with the Portuguese Medical Association are the only professionals who can practice the**

doctors' own acts, under the terms of the Portuguese Medical Association's Statute, approved by Decree-Law No. 282/77, of 5 July, with the changes introduced by Law No. 117/2015, of 31 August and these regulations.
Article 6
Medical act in general
1 - **The medical act consists of diagnostic, prognostic, surveillance,** investigation, medico-legal expertise, clinical coding, clinical audit, **prescription and execution** of pharmacological and non-therapeutic measures. Pharmacological, **medical**, surgical and rehabilitation **techniques**, health promotion and disease prevention in all its dimensions, namely physical, mental and social of people, population groups or communities, while respecting the deontological values of the medical profession. Article 7 Diagnostic act **The identification of a disorder, disease or the state of a disease by studying its symptoms and signs and analyzing the tests performed is a basic health procedure that must be performed by a doctor and, in each specific area , by a specialist doctor** and aims to establish the best preventive, surgical, pharmacological, non-pharmacological or rehabilitation therapy. **14.** Even under the Mental Health Law, Law no. 36/98, of 24 July, the diagnosis of the pathology that can lead to compulsory internment is mandatorily performed by specialist doctors and their technical and scientific judgment - inherent clinical-psychiatric evaluation - it is subtracted from the judge's free assessment (see articles 13, 3, 16 and 17 of the said Law). **15. Thus, any diagnosis or any act of health surveillance (as is the case of determining the existence of viral infection and high risk of exposure, which are shown to be covered by these concepts) made without prior medical observation to applicants, without the intervention of a doctor enrolled in the OM (that proceeded to the evaluation of its signs and symptoms, as well as the examinations that it deemed appropriate to its condition), violates such Regulation, as well as the provisions of article 97 of the Order of the Doctors, and it is possible to configure the crime P. and p. by art. 358 al.b) (Usurpation of functions) of C.Penal, if dictated by someone who does not have such quality, that is, who is not a doctor enrolled in the Ordem dos Médicos.** It also violates Article 6 (1) of the Universal Declaration on Bioethics and Human Rights, which Portugal subscribed to and is internally and externally obliged to respect, since no document proving that the informed consent had been given to the file is shown. Declaration imposes. **It is thus clear that the prescription of auxiliary diagnostic methods (as is the case with tests for the detection of viral infection), as well as the diagnosis of the existence of a disease, in relation to any and all people, is a matter that cannot be carried out by Law, Resolution, Decree, Regulation or any other normative way, as these**

are acts that our legal system reserves to the exclusive competence of a doctor, being sure that, in advising his patient, he should always try to obtain the your informed consent. 16. In the case we are dealing with, there is no indication or evidence that such a diagnosis was actually carried out by a professional qualified under the Law and who had acted in accordance with good medical practices. **Indeed, what follows from the facts taken for granted, is that none of the applicants was even seen by a doctor, which is frankly inexplicable, given the alleged seriousness of the infection. 17.** In fact, the only element that appears in the proven facts in this regard is the performance of RT-PCR tests, one of which presented a positive result in relation to one of the applicants. **i.** However, in view of the current scientific evidence, this test is, in itself, incapable of determining, beyond reasonable doubt, that such positivity corresponds, in fact, to the infection of a person by the SARS-CoV-2 virus, by several reasons, of which we highlight two (to which the issue of *gold standard is added,* which, due to its specificity, we will not even address): For this reliability depend on the number of cycles that make up the test; For this reliability depend on the amount of viral load present. **ii.** Indeed, the RT-PCR (polymerase chain reaction) tests, molecular biology tests that detect the RNA of the virus, commonly used in Portugal to test and enumerate the number of infected (after nasopharyngeal collection), are performed by amplifying samples , through repetitive cycles. The number of cycles of such amplification results in the greater or lesser reliability of such tests. **iii. And the problem is that this reliability is shown, in terms of scientific evidence (and in this field, the judge will have to rely on the knowledge of experts in the field) more than debatable.** This is the result, among others, of the very recent and comprehensive *Correlation* study *between 3790 q PCR positives samples and positive cell cultures including 1941 SARS-CoV-2 isolates* , by Rita Jaafar, Sarah Aherfi, Nathalie Wurtz, Clio Grimaldier, Van Thuan Hoang, Philippe Colson, Didier Raoult, Bernard La Scola, Clinical Infectious Diseases, ciaa1491,https://doi.org/10.1093/cid/ciaa1491,em https://academic.oup.com/cid/advance-article/doi/10.1093 / cid / ciaa1491 / 5912603 , published at the end of September this year, by *Oxford Academic* , carried out by a group that brings together some of the greatest European and world experts in the field. This study concludes [2] , in free translation: "At a cycle threshold (ct) of 25, about 70% of the samples remain positive in cell culture (ie they were infected): in a ct of 30, 20 % of samples remained positive; in a ct of 35, 3% of the samples remained positive; and in a ct above 35, no sample remained positive (infectious) in cell culture (see diagram). This means that if a person has a positive PCR test at a cycle threshold of 35 or higher (as in most laboratories in the USA and Europe), the chances of a person being infected are less than 3%.

The probability that the person will receive a false positive is 97% or higher ". **iv.** What follows from these studies is simple - **the possible reliability of the PCR tests carried out depends, from the outset, on the threshold of amplification cycles that they support,** in such a way that, up to the limit of 25 cycles, the reliability of the test will be about 70%; if 30 cycles are carried out, the degree of reliability drops to 20%; if 35 cycles are reached, the degree of reliability will be 3%. **v.** However, in the present case, **the number of amplification cycles with which PCR tests are carried out in Portugal, including the Azores and Madeira, is unknown,** since we were unable to find any recommendation or limit in this regard. **saw.** In turn, in a very recent study by Elena Surkova, Vladyslav Nikolayevskyy and Francis Drobniewski, accessible athttps://www.thelancet.com/journals/lanres/article/PIIS2213-2600(20)30453-7/fulltext, published in the equally prestigious *The Lancet, Respiratory Medicine* , it refers (in addition to the multiple questions that the precision of the test itself raises, regarding the specific detection of the sars-cov virus 2, due to strong doubts about the fulfillment of the so-called *gold standard*) that (free translation): "Any diagnostic test **must be interpreted in the context of the actual possibility of the disease, existing before its realization** . For Covid-19, this decision to perform the test depends on the previous assessment of the existence of symptoms, previous medical history of Covid 19 or the presence of antibodies, any potential exposure to this disease and no likelihood of another possible diagnosis. " [3] " One of the potential reasons for presenting positive results may be the prolonged shedding of viral RNA, which is known to extend for weeks after recovery, in those who were previously exposed to SARS-CoV-2. **However, and more relevantly, there are no scientific data to suggest that low levels of viral RNA by RT-PCR equate to infection, unless the presence of infectious viral particles has been confirmed by laboratory culture methods**. In summary, Covid-19 tests that show false positives are increasingly likely, in the current epidemiological climate panorama in the United Kingdom, with substantial personal, health and social system consequences. " [4] **18. Thus, with so many scientific doubts expressed by experts in the field, which are the ones that matter here, as to the reliability of such tests, ignoring the parameters of their performance and having no diagnosis made by a doctor, in the sense of the existence of infection and risk, it would never be possible for this court to determine that AH___ had the SARS-CoV-2 virus, nor that SH__SWH__ and NK_ had had high risk exposure. 19.** In a final summary, it will be said that, since the appeal filed is inadmissible, due to lack of legitimacy and lack of interest in acting by the applicant, as well as manifestly unfounded, it will have to be rejected, under of the provisions of articles 401 nº1 al. a), 417 nº6 al. b) and artº420 nº1 als. a) and b), all of the Penal CP. **iv - decision.** In view of the

above, and under the provisions of articles 417, paragraph 6, al. b) and 420 nº1 als. a) and b), both of the Penal Procedure Code, the appeal filed by the **REGIONAL HEALTH AUTHORITY,** represented by the Regional Directorate of Health of the Autonomous Region of the Azores , is rejected .Under the terms of paragraph 3 of article 420 of the CPPenal, the applicant is condemned in the procedural sanction of 4 UCs, as well as in the TJ of 4 UCs and costs. Immediately inform the court "a quo" of the content of this judgment. Lisbon, **November 11, 2020** Margarida Ramos de Almeida Ana Paramés [1]

[1] 2 - It is the responsibility of each ARS, IP, within the scope of their respective territorial circumscriptions: a) To implement the national health policy, in accordance with the global and sectoral policies, aiming at their rational organization and the optimization of resources; b) Participate in the definition of intersectoral planning coordination measures, with the objective of improving healthcare provision; c) Collaborate in the preparation of the National Health Plan and monitor its implementation at regional level; d) Develop and encourage activities in the field of public health, in order to guarantee the protection and promotion of the health of the populations; e) Ensure the execution of local intervention programs aimed at reducing the consumption of psychoactive substances, preventing addictive behaviors and reducing dependencies; f) Develop, consolidate and participate in the management of the National Integrated Continuing Care Network according to the defined guidelines; g) Ensure the regional planning of human, financial and material resources, including the execution of the necessary investment projects, of the institutions and services providing health care, supervising their allocation; h) To prepare, in accordance with the guidelines defined at national level, the list of facilities and equipment; i) To allocate, in accordance with the guidelines defined by the Central Administration of the Health System, IP, financial resources to institutions and services providing healthcare integrated or financed by the National Health Service and to private entities with or without profit making , who provide health care or act within the areas referred to in points e) and f); j) To celebrate, monitor and review contracts in the scope of public-private partnerships, in accordance with the guidelines defined by the Central Administration of the Health System, IP, and allocate the respective financial resources; l) Negotiate, conclude and monitor, in accordance with the guidelines defined at national level, contracts, protocols and conventions of a regional scope, as well as carry out the respective evaluation and review, in the scope of healthcare provision as well as in the areas referred to in points e) and f); m) Guide, provide technical support and evaluate the performance of health care institutions and services, in accordance with the defined policies and guidelines and regulations issued by the competent central services and bodies in the different areas of intervention; n) To ensure the proper articulation between the health care services in order to guarantee compliance with the referral network; o) To allocate financial resources, through the signing, monitoring and review of contracts within the scope of integrated continuous care; p) Elaborate functional programs of health establishments; q) Licensing private units providing health care and units in the area of addictions and addictive behaviors in the social and private sector; r) Issue opinions on master plans for health units, as well as on the creation, modification and merger of services; s) Issue opinions on the acquisition and expropriation of land and buildings for the installation of health services, as well as on projects of the facilities of health care providers. [2] *"that at a cycle threshold (ct) of 25, about 70% of samples remained positive in cell culture (ie were infectious); at a ct of 30, 20% of samples remained positive; at a ct of 35, 3% of samples remained positive; and at a ct above 35, no sample remained positive (infectious) in cell culture (see diagram)* ***This means that if a person gets a "positive" PCR test result at a cycle threshold of 35 or higher*** *(as applied in most US labs and many European labs),* ***the chance that the person is infectious is less than 3%. The chance that the person received a "false positive" result is 97% or higher.*** [3] Any diagnostic test result should be interpreted in the context of the pretest probability of disease. For COVID-19, the pretest probability assessment includes symptoms, previous medical history of COVID-19 or presence of antibodies, any potential exposure to COVID-19, and likelihood of an alternative diagnosis.1 When low pretest probability exists, positive results should be interpreted with caution and a second specimen tested for confirmation. [4] Prolonged viral RNA shedding, which is known to last for weeks after recovery, can be a potential reason for positive swab tests in those previously exposed to SARS-CoV-2. However, importantly, no data suggests that detection of low levels of viral RNA by RT-

PCR equates with infectivity unless infectious virus particles have been confirmed with laboratory culture based methods .7 To summarize, false-positive COVID-19 swab test results might be increasingly likely in the current epidemiological climate in the UK, with substantial consequences at the personal, health system, and societal levels (panel)

S266106

S_____

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO; and JOSIE GONZALES, an individual

Petitioners,

vs.

GAVIN NEWSOM, in his official capacity as Governor of California, ERICA PAN, M.D., in her official capacity as Acting Public Health Officer of the State of California, SANDRA SHEWRY, in her official capacity as the State Public Health Officer and Department of Public Health Director

Respondents.

VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE; MEMORANDUM OF POINTS AND AUTHORITIES

IMMEDIATE RELIEF REQUESTED
NO LATER THAN DECEMBER 28, 2020
(*Palma* Notice Requested)

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IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

California Rules of Court, rules 8.208, 8.490(i), 8.494(c), 8.496(c), or 8.498(d)

Supreme Court Case Caption:

COUNTY OF SAN BERNARDINO; and JOSIE GONZALES, an individual

Petitioners,

vs.

GAVIN NEWSOM, in his official capacity as Governor of California, ERICA PAN, M.D., in her official capacity as Acting Public Health Officer of the State of California, SANDRA SHEWRY, in her official capacity as the State Public Health Officer and Department of Public Health Director

Respondents.

Please check here if applicable:

☒ There are no interested entities or persons to list in this Certificate as defined in the California Rules of Court.

Dated: December 14, 2020

Jennifer L. Bursch
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VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE; MEMORANDUM OF POINTS AND AUTHORITIES

To the Honorable Tani Cantil-Sakauye, Chief Justice of the Supreme Court of California and to the Honorable Associate Justices of the Supreme Court of California:

INTRODUCTION

NECESSITY OF WRIT RELIEF

To "make, amend, and rescind orders and regulations necessary..."[1] The powers provided to Governor Newsom under the California Emergency Services Act (the "CESA") are limited and enumerated. But, for the past several months the Governor acted contrary to long-standing legal doctrine by substituting himself as the chief and sole legislator for laws relating to the COVID-19 Pandemic. The Governor continues to substitute himself into the place of both the State Legislature and the County of San Bernardino ("County"), usurping the County's statutory duties and substituting his judgment for that of the County and Legislature. The County seeks this instant writ to reclaim its police power over its residents and vast land mass, with incorporated and unincorporated areas, to enable it to tailor regulations and orders which are specific to its residents based on facts which are unique to their locations rather than subject its residents to overbroad multi-county, Governor-implemented, regionalized lockdowns. Accordingly, the County requests an immediate stay of the Respondents' orders as well as an issuance of a peremptory writ of mandate in the first instance.[2]

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[1] Gov. Code § 8567.

[2] Code Civ. Proc., § 1088; *see also Lewis v. Sup. Ct.* (1999) 19 Cal.4th 1232 (Baxter, J. concurring) (Issuing a peremptory writ in the first instance reflects

IMMEDIATE JUDICIAL ACTION IS NECESSARY TO ADDRESS GOVERNOR NEWSOM'S EXECUTIVE ORDERS

In December 2019, the World Health Organization ("WHO") reported that a novel coronavirus was detected in Wuhan, China and dubbed it "COVID-19."[3] On January 26, 2020, the State of California, through its public health officials, announced the first positive test of COVID-19 in the State. (Exhibit 1.) From January 26, 2020 through March 4, 2020, the California state health officials believed the risk posed by COVID-19 to California residents was "low". (Exhibit 2.) On March 4, 2020 Governor Newsom declared a State of Emergency throughout the State of California due to the coronavirus pandemic and the California Department of Public Health ("CDPH") issued its first COVID-19 guidelines. (Exhibit 3.) On March 11, 2020, Governor Newsom announced that state public health officials had recommended cancelling mass gatherings until the end of March. (Exhibit 4.) Just a day later on March 12, the Governor issued an executive order reflecting the March 11 recommendation. (Exhibit 5.) Among other things, the March 12 order noted the "need to secure numerous facilities to accommodate quarantine, isolation, or medical treatment of individuals testing positive for or exposed to COVID-19 ...." (*Ibid.*) The order cited the Governor's authority under the California Emergency Services Act ("CESA") (specifically, section 8572 of the Government Code) "to ensure adequate facilities exist to address the impacts of COVID-19 ...." (*Ibid.*) Thereafter, on March 19,

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recognition that, on occasion, immediate judicial action is necessary to prevent or correct unauthorized or erroneous action by the respondent where there is great urgency.)

[3] World Health Organization, Novel Coronavirus (2019-nCoV) Situation Report – 1, available as of the time of filing at: https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200121-sitrep-1-2019-ncov.pdf

2020, California Governor Newsom issued Executive Order N-33-20 ordering Californians to Stay-At-Home and directed them "to immediately heed the current State public health directives." (Exhibit 6.) On or about March 19, 2020, the Respondents tasked the County with procuring compliance with the state laws and delegated the duties of compliance and enforcement to the San Bernardino County Department of Public Health ("SBPH"). (Decl. of Snoke ¶ 3; Decl. of Hagman ¶ 3; Decl. of Porter ¶¶ 4, 7.) Over the following months, Respondents regularly and consistently modified the restrictions on California businesses and individuals, thereby making it difficult for SBPH and the County to allocate resources between combating COVID-19 and its regular duties. (Decl. of Snoke ¶¶ 3, 5, 8; Decl. of Hagman ¶ 3; Decl. of McMahon ¶ 6.) At times, the restrictions were loosened as the virus began to subside, permitting the SBPH to reallocate its employees to its typical duties. (Decl. of Porter ¶¶ 5-6.) But at other times the restrictions were tightened, forcing the SBPH to relocate its resources to procuring the compliance of County residents. (Decl. of Porter ¶ 6.)

By May 2020, California flattened the curve, protected its health care system, and discovered less restrictive ways to slow the spread of COVID-19. But instead of lifting the order, on May 4, the Governor issued Executive Order N-60-20, that continued the Stay-At-Home directive indefinitely and instructed "[a]ll residents…to continue to obey State public health directives." This order permitted non-essential operations to "gradually resume" activities according to Respondents' designated Stages. (Exhibit 7.) In addition, Governor Newsom gave the State Public Health Officer discretion to add exceptions to the order by reopening certain activities based on individual counties' success in testing for and controlling the virus. (*Ibid.*)

Subsequently, on August 28, 2020, the Respondents announced that the Stay-At-Home law would continue indefinitely and that state health officials were changing the reopening plan to be *more* restrictive than the May plan. (Exhibit 8.) The August 28, 2020 change in guidelines stretched the County's resources, making it difficult to obtain and manage compliance of thousands of non-complying residents. (Decl. of Snoke ¶¶ 5, 8; Decl. of Hagman ¶ 3; Decl. of McMahon ¶¶ 3, 6.)

On November 13, 2020, the CDPH issued a directive on guidance for the prevention of COVID-19 transmission for gatherings. (Exhibit 9.) This guidance instructed "[a]ll persons planning to host or participate in private gatherings" to comply with the rules enumerated therein including but not limited to the prohibition of gathering with more than three households; the imposition of a duty for citizens holding a gathering to obtain contact information for each of their guests; and ordered millions of citizens in "purple tier" to close their doors to family and friends in the holiday season. (*Ibid.*)

On November 19, a Limited Stay-At-Home law was issued by Respondents for Tier One (Purple) Counties requiring "all gatherings with members of other households and all activities conducted outside the residence...[to] cease between 10:00pm PST and 5:00am PST, except for those activities associated with...critical infrastructure..." (Exhibit 10.) The Respondents reasoned that this Limited Stay-At-Home law was necessary due to "unprecedented rate of rise in increase in COVID-19 cases across California..." (*Ibid.*) This order was effective for a "one month" period subject to the Respondents' discretion to modify or extend the order.[4]

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[4] California Department of Public Health, California's Limited Stay at Home Order: Questions & Answers; available as of the time of filing at:

To the dismay of residents statewide as well as the County, Governor Newsom, in cooperation with the CDPH and State Public Health Officer ("CPHO"), once again ordered a Regional Stay-At-Home law on December 3, 2020 with an effective date of December 5, 2020. The Respondents again relied on an "unprecedented rise in the rate of increase in COVID-19 cases..." and reasoned that the ICU beds in the State of California would reach capacity by the middle of December resulting in a crisis which "threatens to overwhelm the state's hospital system." (Exhibit 11.) Under an order, issued by the CPHO, Erica Pan, Respondents again changed the framework for measuring the COVID-19 impact and its response to increased tests and diminished ICU capacity. The Respondents arbitrarily divided the State into five regions, and the County is included in a sprawling "Southern California" region (also including the counties of San Diego, Imperial, Riverside, Orange, Los Angeles, Ventura, Santa Barbara, San Luis Obispo, Inyo, and Mono). Once the Respondents determine that the ICU capacity in any of the given counties falls below 15%, the entire region is placed in a minimum three-week lockdown, which places severe restrictions on California individuals and businesses. As of 11:59 p.m. on Sunday, December 6, 2020, the Southern California region was ordered to lockdown as its ICU capacity was determined to be below the 15% threshold. The order forces law abiding residents throughout the County to comply indefinitely under threat of criminal culpability while permitting other entities which are ordained as "critical" by the Respondents to operate with limited restrictions. (*Ibid.*) For example, workers who support television or media infrastructure – including movie production sets- can remain open, can remain operational, while dine-in

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https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/limited-stay-at-home-order-qa.aspx.

restaurants, mom and pop boutiques, and other small businesses who do not have the advantage of lobbyists must close indefinitely.[5] This order expressly relied on provisions of the Health and Safety Code, the powers delegated by the Governor to the CDPH and CPHO through Executive Orders N-60-20 and N-25-20, and "other authority provided for under the Emergency Services Act." (*Ibid.*)

The changing guidelines from the State stretch the County's resources thin, creating increasing difficulty in obtaining and managing compliance with Respondents' Stay-At-Home laws and eroding the County's ability to manage its resources. (Decl. of McMahon ¶¶ 5, 6; Decl. of Hagman ¶ 3; Decl. of Porter ¶ 5.) Unlike March, residents statewide are plainly violating the Stay-At-Home laws. (Decl. of Porter ¶ 5; Decl. of McMahon ¶¶ 5-6.) Similar to the SBPH, the San Bernardino Sheriff ("Sheriff") is also tasked with enforcement of the Respondents' orders. (Decl. of McMahon ¶ 4.) Enforcement of the Stay-At-Home laws requires the Sheriff to allocate deputies to enforcement. (Decl. of McMahon ¶¶ 3, 5.) However, to ensure full compliance of its millions of residents, the Sheriff would need to devote a substantial amount of its resources solely to enforcement, potentially neglecting their critical duties to the community and jeopardizing the essential functions of the Sheriff's Department. (Decl. of McMahon ¶¶ 3-6.) To date, the Sheriff's Department allocated approximately 117, 281.5 regular hours, and 24,356.5 overtime hours to COVID-related activities. (Decl. of McMahon ¶ 3.) Fully fledged enforcement of the State orders and laws will add to existing challenges. These enforcement difficulties and the absence of resources are echoed through neighboring counties with Riverside County's own Sheriff, Chad

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[5] State of California, Essential Workforce (accessed December 11, 2020.); available at the time of filing at https://covid19.ca.gov/essential-workforce/

Bianco, recently and publicly stating that they would not enforce the Stay-At-Home laws.[6] SBPH is charged with numerous other duties to its residents including but not limited to family services, animal care and control, nutrition, public health education, HIV/Aids, environmental health, emergency preparedness, and clinical operations. (Decl. of Porter ¶ 3.) The Respondents subjectively decided that these services were secondary to the enforcement of their Stay-At-Home laws, requiring the SBPH to enforce Respondents' legislative acts instead of allowing SBPH to provide important services to County residents. Moreover, it is of the utmost importance that the County reclaims its discretion in the distribution of its own resources to effectuate an expedient distribution of vaccines to its residents in 2021. (Decl. of Snoke ¶¶ 8-9; Decl. of Erickson ¶¶ 4, 7-8; Decl. of Porter ¶ 6.)

As reasoned by the Governor in March of 2020, the Stay-At-Home laws were issued in order to protect California's health care system from being overwhelmed by the hundreds of thousands of COVID-19 patients. (Exhibit 3, 5.) While the original emergence of COVID-19 required immediate intervention, Respondents' continued legislative role in the fight against COVID-19 is no longer warranted. Rather, it prevents the County from exercising its police powers and consumes necessary resources which should be provided back to County residents. (Decl. of Hagman ¶ 3; Decl. of McMahon ¶ 6; Decl. of Porter ¶¶ 4-9.) For the reasons set forth herein, the Governor must terminate the declared State of Emergency as the "Emergency" or urgent nature of the declaration has passed. Moreover, Governor Newsom exceeded his authority and abused his discretion by instead continuing the Stay-At-Home law indefinitely, usurping the

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[6] Sheriff Chad Bianco, *Message from Sheriff Bianco 12-04-20*, available as of the time of filing at: https://www.youtube.com/watch?v=PvvRme0h2oY&feature=youtu.be

County's statutory duties to its residents, issuing new orders in cooperation with the other named Respondents, and unlawfully delegating State Health Officials' discretion to create a new penal code as they see fit.

While the County understands the threat that the COVID-19 Pandemic poses to its residents, Governor Newsom does not have the power under the CESA to order all Californians to stay inside their homes unless they leave to partake in an activity which the Respondents ordained as "essential." A plain reading of the CESA does not permit these actions and orders. Even if the CESA can be construed to give the Governor that power, it should be declared unconstitutional as a violation of the non-delegation doctrine.

During his March 19, 2020 presentation, the Governor emphasized that "...this is not a permanent state, this is a moment in time."[7] As residents across the State quickly discovered, it was not a moment in time. The order persists nine months later without an end in sight. Returning this power to local authority rather than leaving it in the hands of the Respondents that are 400 miles away is critical to combatting this pandemic. In order to continue with its public duties, the Petitioner is left with no option but to petition this honorable Court for an order staying Respondents' orders and directives pursuant to the CESA, an annulment of the Respondents' Stay-At-Home laws, an order instructing the Governor to terminate the Stay-At-Home laws, or in the alternative a declaration of the unconstitutionality of the CESA. Accordingly, Petitioner respectfully requests immediate relief, not later than December 28, 2020.

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[7] Governor Newsom, March 19, 2020 Announcement, available as of the time of filing at: https://www.youtube.com/watch?v=8OeyeK8-S5o

ISSUE PRESENTED

Does the California Emergency Services Act provide Respondents with the power to order all Californians to "Stay-At-Home", refrain from gathering with other residents, and to refrain from activities which the Respondents deem non-essential or high risk in their own discretion?

PARTIES, IRREPARABLE INJURY, AND NECESSITY FOR RELIEF

By this verified petition for a peremptory writ of mandate and immediate stay, Petitioners allege as follows:

1. Petitioner, the County of San Bernardino, is a legal subdivision of the State of California pursuant to article 11, section 1 of the California Constitution and Government Code section 23002.

2. As a legal subdivision of the State of California, Petitioners have a strong, direct, and beneficial interest in having state laws faithfully executed in a manner which is consistent with the long-standing legal principles of the California Constitution, as the enjoinment of the unconstitutional actions by Respondents directly impacts their finances, business, contractual relations, and undermine the County's mandatory public duties to its residents;

3. Petitioner, Josie Gonzales, is an individual residing in the City of Fontana, County of San Bernardino. Josie Gonzales is a former supervisor in the County but brings this suit in her individual capacity as she has a strong, direct, and beneficial interest in the enjoinment of the Respondents' actions which mandate her to Stay-At-Home through threat of culpability;

4. Respondent, Governor Newsom, is sued in his official capacity and Petitioner seeks this writ and stay against the Respondent in his official capacity;

5. Respondent Erica Pan, M.D., is sued in her official capacity and Petitioner seeks this writ and stay against the Respondent in her official capacity;

6. Respondent Sandra Shewry, is sued in her official capacity as the State Public Health Officer and Department of Public Health Director;

7. As a public official, Governor Newsom must follow the state constitution and state law;

8. As a public official, the Respondents individually and collectively have a fiduciary duty to uphold and faithfully execute the laws and the duties of their office;

9. The Governor has breached his fiduciary duty to the County and to the citizens of California by exceeding and disregarding the enumerated powers provided under the CESA as well as long-standing non-delegation doctrine;

10. Respondents continue to cause disorder to the civil system of government throughout the State of California by enacting a slew of orders in contradiction to State law;

11. There is no plain, speedy, or adequate remedy at law because the County's imminent obligations to effectuate the distribution of vaccines to its residents requires that the County reallocate its resources from enforcement of the Respondents' laws and regain the ability to manage its own resources. Respondents' actions continue to perpetuate the damage against the County, are capable of repetition, and must be addressed immediately;

12. This case presents an issue of significant statewide interest that must be handled immediately, because of the importance in maintaining and securing the integrity of the system of government;

13. It is urgent that this Court issue an order requiring the Respondents to comply with State law. Respondents' actions prevent the

County from sufficiently managing its resources to meet its enforcement obligations as the State interferes with the County's use of resources. (Decl. of Hagman ¶¶ 3, 6; Decl. of McMahon ¶ 6; Decl. of Porter ¶ 9.) Absent intervention by this Court, the County's residents may not be availed to the same services from the County. (Decl. of Hagman ¶ 3; Decl. of Porter, ¶¶ 4, 6.) Additionally, immediate intervention is necessary as the County must reclaim its discretion and shift resources from the impossible act of enforcement to effectuating vaccinations in the new year. Failing to stay Respondents' actions and issue a peremptory writ in the first instance will undermine the rule of law for California's entire system of government and will perpetuate chaos by turning otherwise law-abiding citizens and businesses into criminals for participating in long-standing holiday traditions which, in some cases, are consistent with their sincerely held religious beliefs, while business will be forced to layoff employees;

14. Relief is necessary because of the possibility of repetition and ongoing violations. To ensure immediate compliance and to give a decisive and final answer, this Court is the appropriate tribunal to hear such an important question of law;

15. Petitioners request that the Court exercise its original jurisdiction and grant an immediate stay issued from this Court as soon as possible, with the peremptory writ in the first instance to follow after the requirements for notice are met;[8]

16. Petitioners base the prayer for relief on this verified petition and the attached memorandum of points and authorities, hereby incorporated by reference as if set forth in full.

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[8] Cal. Const., art. VI, § 10.

JURISDICTION

This Court has original jurisdiction over this matter pursuant to article VI, section 10 of the California Constitution as well as Code of Civil procedure sections 1085 and 1086, and Rule 8.486 of the California Rules of Court to decide a matter which presents issues of great public importance that must be promptly resolved. It is appropriate for this Court to correct the abuse of discretion by Governor Newsom.[9]

This Court has recognized the right of a County to sue the State when the State's action(s) prevent the County from carrying out their lawful duties.[10] The County is a beneficially interested party as it has the responsibility under section 8568 of the CESA to take necessary actions to carry out the Governor's orders and must be properly and fully informed with respect to the legality of said orders to administer its public duties. Moreover, the County is a beneficially interested party due to the direct financial impact that the Governor's orders have on the County's annual budgets. (Decl. of Erickson ¶¶ 4, 7-9.)

TIMELINESS OF PETITION

This Petition is timely filed in response to Governor Newsom's December 5, 2020 actions as it is filed within 9 days of the Respondents' actions. Petitioners now bring this Petition respectfully requesting interim relief pending a review of this instant writ, whether oral argument is requested or not.

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[9] *Bodinson Mfg. Co. v. California Employment Com.* (1941) 17 Cal.2d 321, 330 (Mandamus may be used "not only to compel the performance of a ministerial act."); *see Wood v. Strother* (1888) 76 Cal. 545, 548-49 (Writ may issue to correct an abuse of discretion.); *see also Fair v. Fountain Valley School Dist.* (1979) 90 Cal.App.3d 180, 186-187 (A writ will lie to correct an abuse of discretion by a public officer.)

[10] *Bd. of Soc. Welfare v. Cnty. of L.A.* (1945) 27 Cal.2d 98, 100-101.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray as follows:

That this Court:

A. Grant this Petition;

B. Issue an immediate order commanding Respondents, their deputies, officers, agents, servants, employees, public entities, or persons acting at his behest or direction, to cease and desist from enforcing Stay-At-Home laws;

C. Issue an immediate order annulling the Stay-At-Home laws which exceed Respondents' powers under the Act, or, in the alternative, issue an immediate order declaring the Act unconstitutional;

D. Issue a peremptory writ of mandate in the first instance commanding Respondents, their deputies, officers, agents, servants, employees, public entities, or persons acting at his behest or direction, to terminate the Stay-At-Home laws;

E. Award Petitioners the costs of this proceeding; and

F. Award Petitioners any other and further relief the Court considers proper.

Dated: December 14, 2020

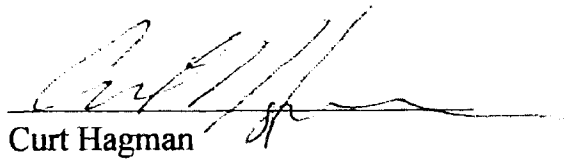
Respectfully submitted,

Jennifer L. Bursch
Nathan R. Klein
Cody J. Bellmeyer
Tyler & Bursch, LLP
Attorney for Petitioners

VERIFICATION

I, Curt Hagman, am the Chairman of the Board of Supervisors for the County of San Bernardino. I am a citizen of the United States, a resident of the State of California, and am authorized to act on behalf of the County of San Bernardino. I have read the foregoing Verified Petition For Peremptory Writ Of Mandate In The First Instance; Memorandum Of Points And Authorities, I have personal knowledge of the facts alleged herein, and I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 14th day of December 2020 in San Bernardino, California.



Curt Hagman
Chairman of Board of Supervisors
On behalf of the County of
San Bernardino

VERIFICATION

I, Josie Gonzales, am a citizen of the United States, a resident of the State of California, and bring this suit in my personal capacity as a resident of the County of San Bernardino. I have read the foregoing Verified Petition For Peremptory Writ Of Mandate In The First Instance; Memorandum Of Points And Authorities, I have personal knowledge of the facts alleged herein, and I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 14th day of December 2020, in San Bernardino, California.

Josie Gonzales

MEMORANDUM OF POINTS AND AUTHORITIES

In support of Petitioners' Request for a Peremptory Writ of Mandate and Immediate Stay, Petitioner presents this Memorandum of Points and Authorities for Writ of Mandate.

DISCUSSION

This Petition should be granted as the Respondents – for the reasons enumerated herein – do not and cannot have the authority to order a "Stay-At-Home" mandate as it constitutes impermissible legislation under CESA and because an interpretation to the contrary would render CESA unconstitutional.

I. THIS PETITION MERITS ORIGINAL JURISDICTION.

As set forth above, Governor Newsom declared a State of Emergency relating to COVID-19 on March 4, 2020. Shortly thereafter, he issued Executive Order N-33-20 which ordered: "all residents are directed to immediately heed the current State public health directives." (Exhibit 6.) On May 4, 2020, Governor Newsom issued Executive Order N-60-20 which reiterated the earlier order stating, "All residents are directed to continue to obey State public health directives." (Exhibit 7.) Respondents subsequently cooperated in issuing numerous orders on August 28, 2020, November 13, 2020, and November 19, 2020. (Exhibits 8-11.) On December 5, 2020, Respondents issued yet another Stay-At-Home Order which forced the County to bring this instant writ to seek relief.

This Court has original jurisdiction to issue a writ of mandate.[11] The Court may exercise its original jurisdiction in "cases in which the issues presented are of great public importance and must be resolved promptly."[12]

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[11] Cal. Const., art. VI, § 10.

[12] *San Francisco Unified School Dist. v. Johnson* (1971) 3 Cal.3d 937, 944 (quotation omitted) (original jurisdiction accepted for petition raising the validity of California Education Code section dealing with student

Absent intervention, the County will be unable to carry out its legal obligations to its residents as the Respondents' actions frustrate the County's ability to meet its obligations through their interference with the County's use of its resources. (Decl. of Snoke ¶¶ 8-9; Decl. of Hagman ¶ 3; Decl. of Porter ¶¶ 4-6.) The County and its hospitals have learned a significant amount about COVID-19 in the past nine months and are now better equipped to battle the virus. (Decl. of Porter ¶ 9.) SBPH has reallocated significant resources to combat COVID-19. (Decl. of Porter ¶ 4.) It is time for the Respondents to release the reigns and permit the Legislature and counties to do their jobs. To that end, the County must be properly and fully informed with respect to the legality of said Respondents' orders to administer its public duties under California law and the CESA.

For the following reasons, the County urges this Court to address the Respondents' Stay-At-Home laws.

II. THE CESA DOES NOT PROVIDE THE RESPONDENTS WITH THE POWER TO LEGISLATE OR TO ENACT A STATEWIDE STAY-AT-HOME LAWS

The California Constitution is clear: "Persons charged with the exercise of one power may not exercise either of the others."[13] The December 5, 2020 Stay-At-Home law and all previous Stay-At-Home laws should be annulled because the Respondents do not have the authority under the CESA to legislate and create their own penal code which forces

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transportation); *see, e.g., Bramberg v. Jones* (1999) 20 Cal.4th 1045, 1054 (jurisdiction accepted of challenge to initiative relating to congressional term limits); *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, 812 (jurisdiction accepted of challenge to initiative making fundamental changes to automobile insurance regulation)

[13] Cal. Const., art. III, § 3.

residents to indefinitely remain indoors unless leaving to participate in essential activities.

The CESA gives the Governor power to act quickly during a condition of "extreme peril to the safety of persons and property within the state ...."[14] But, these powers are limited. Specifically, these powers include the expenditure of money, a power typically provided to the Legislature.[15] Moreover, these powers include the authority to seize private property or personnel to respond to an emergency so long as reasonable value is provided for the items seized[16], as well as the power to "make, amend, and rescind *orders and regulations* necessary to carry out the provisions of [the CESA]."[17] As addressed in greater detail below, a plain reading of these provisions affirms the County's assertion that the Respondents' lack the power under the CESA to craft a new penal code.

The distinction between creating law and making orders and regulations was explained by the U.S. Supreme Court in *Loving v. United States*, stating:

> "The true distinction... is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made."[18]

Governor Newsom can "make, amend, and rescind orders and regulations"[19] but, contrary to his apparent belief, cannot, "unless permitted

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[14] Gov. Code § 8558, subd. (b).
[15] Gov. Code § 8566.
[16] Gov. Code § 8572.
[17] Gov. Code § 8567 (Emphasis supplied; brackets added).
[18] *Loving v. United States* (1996) 517 U.S. 748, 758-759 (citations omitted).
[19] Gov. Code § 8567 (Emphasis supplied; brackets added).

by the constitution...exercise legislative powers."[20] The California Constitution does not provide the Governor with legislative power.[21]

The Superior Court for the County of Sutter recently addressed the Governor's powers under CESA in *Gallagher v. Newsom.*[22] Although the decision was stayed by the Court of Appeal, it remains analogous in this instance. Similar to the instant matter, the Superior Court in *Gallagher* questioned whether the CESA provided the Governor the authority to legislate. In *Gallagher*, the Court analyzed the Governor's ability to amend an existing statutory law under the language of the CESA.[23] In that case, the Governor argued that the CESA provided him with the ability to "exercise all police power vested in the state" in order to "issue, and enforce such orders and regulations as he deems necessary."[24] The Court determined that, contrary to the Governor's assertions, the plain language of the CESA does not convey the power to legislate.[25] As noted by the court in *Gallagher*, the term "statute" as used throughout other sections of the Government Code[26] is indicative of the Legislature's understanding of the distinction between orders and statutes.[27] And, wherever possible, plain language of the statute should be used as "statutes are to be so construed, if their language permits, as to render them valid and constitutional rather than invalid and constitutional."[28] As alleged in greater detail below, the CESA should be interpreted in a manner which does not permit Governor

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[20] *Harbor v. Deukmejian* (1987) 43 Cal.3d 1078, 1084.
[21] Cal. Const., art. III, § 3.
[22] *Gallagher v. Newsom,* Case No. CVCS20-0912
[23] *Ibid.*
[24] *Ibid.*
[25] *Ibid.*
[26] Gov. Code § 8627.
[27] *Ibid.*
[28] *People of Amor* (1974) 12 Cal.3d, 20, 30; *City of Los Angeles v. Belridge Oil Co.* (1954) 42 Cal.2d 823, 832.

Newsom to create new law. An interpretation granting Governor Newsom with legislative powers would render the CESA unconstitutional as an unlawful delegation of powers from the Legislature to the Governor in contradiction to the California Constitution.

The CESA's interpretation is of the utmost importance in this matter as enumerated powers were limited by the California Legislature but crafted in recognition of the "fundamental role of government to provide broad state services in the event of emergencies resulting from conditions of disaster or of extreme peril to life, property, and the resources of the state."[29] Case precedent throughout the state stands as further indication of the unprecedented abuse of power exercised by the Governor under the CESA. For example, the Court in *Martin v. Mun. Court* addressed the Governor's ability to seize property during a declared State of Emergency where the Governor issued an emergency proclamation ordering the removal of fruit fly hosts from private properties.[30] The Court in *Martin* acknowledged that the use of the Governor's power during states of emergency to command or utilize private property so long as reasonable value is paid for the property.[31]

By way of further example, in 2001, in response to the Enron-driven power crisis, Governor Gray Davis utilized these emergency powers under the CESA to allocate approximately $400 million to the purchase of electricity for twelve days. When the action was later challenged, a court upheld the action noting that the CESA provided Governor Davis with the power to spend government funds to address State emergencies. At the time it was undisputed that "there was a 'sudden and severe energy

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[29] *Martin v. Municipal Court (People of the State of Cal.)* (1983) 148 Cal.App.3d 693, 696.
[30] *Martin, supra,* 148 Cal.App.3d at p. 694-695.
[31] *Ibid.*

shortage' that caused an immediate danger of widespread and prolonged disruptions of electrical services to residents and businesses."[32] The courts ultimately opined that Governor Davis acted within his rights to respond to the emergency by buying electricity to prevent massive blackouts.[33]

In 2008, the Court of Appeal analyzed a similar exercise of emergency powers by Governor Schwarzenegger relating to the emergency decision to send inmates in overcrowded prisons to out-of-state private prisons in *California Peace Officers' Association v. Schwarzenneger* ("*CCPOA*").[34] The Court in *CCPOA* held that the Governor "did not exceed his power" under CESA when he entered into contracts during his declared state of emergency and suspended statutory authority proscribing the procedure for state business.[35] Though article VII of the California Constitution prohibits the State from contracting out services that are usually performed by state civil servants, section 19130 of the Government Code allowed such contracts to be entered into when "[t]he services contracted out are not available within civil service," and when "[t]he services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under civil service would frustrate their very purpose."[36] Notably, the Court in *CCPOA* emphasized that the private prison contracts "are for a *limited duration* and permit early cancellation when prison beds become available."[37] As otherwise stated,

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[32] *Hendricks v. Hanigan* (Cal. Ct. App. Mar. 14, 2002) 2002 WL 397648, at *8; *see also Soft Paths, Hard Choices: Environmental Lessons In The Aftermath Of California's Electric Deregulation Debacle*, 23 Va. Envtl. L.J. 251.

[33] *Ibid.*

[34] *Cal. Corr. Peace Officers' Ass'n v. Schwarzenegger* (2008) 163 Cal.App.4th 802, 812 ("*CCPOA*").

[35] *Id.* at pp. 808-809.

[36] *CCPOA*, *supra*, 163 Cal.App.4th at pp. 821-822 (quotations omitted.)

[37] *Id.* at p. 825 (emphasis added.)

the contracts had provisions which permitted the cancellation upon a cessation of the declared state of emergency.

The Governor's orders and delegations of power to the CDPH and CPHO bear no resemblance to limited actions upheld by courts in regard to the actions of Governors Davis and Schwarzenneger. In fact, Respondents actions are unprecedented and bear no resemblance to any Governor's emergency actions taken under the CESA. Unlike with Governor Davis, the Governor is not merely spending money, but is crafting a new criminal law at his sole discretion to penalize otherwise law-abiding citizens for leaving their homes for improper purposes. And, unlike *CCPOA*, the Governor's actions are not merely a suspension of an existing statute in order to effectuate necessary services to fight against COVID-19. Moreover, this instant Petition does not involve the seizure powers of the Governor pursuant to his emergency powers.[38] In contrast, the Governor, in cooperation with the CPHO and CDPH, created arbitrary Stay-At-Home laws, sectioning millions of Californians into five overbroad categories which group together citizens and cities that are hundreds of miles apart; and errantly exercised his discretion to craft law that dictates what industries are permitted to remain open, and what industries must close.

The County is charged with numerous other public health obligations to its residents including but not limited to family services, animal care and control, nutrition, public health education, HIV/Aids, environmental health, emergency preparedness, and clinical operations. (Decl. of Porter ¶ 3.) However, more importantly, the County will be charged with the distribution of the vaccines necessary to bring an end to this pandemic. (Decl. of Erickson ¶ 4.) Instead of permitting the County to carry out its statutory obligations, the Respondents substitute themselves in

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[38] *Martin, supra*, 148 Cal.App.3d at pp. 695-698; Gov. Code § 8572.

the position of the Legislature, forcing the County to decide between allocating resources to the implementation of Stay-At-Home laws against millions of non-complying residents or appropriately managing its resources to continue offering various community health programs. (Exhibit 5-11; Decl. of Snoke ¶ 9; Decl. of Porter ¶¶ 4-9.) Further, the County will need the resources necessary to coordinate an effective distribution of vaccines to its residents in the coming months. The Respondents' Stay-At-Home laws do not constitute making, amending or rescinding orders and regulations under the plain language of the CESA, but rather the Respondents are exercising their judgment, discretion, and unprecedented power to govern what citizens should and should not be allowed to do statewide – exercising the power of the Legislature.[39]

Justice Gorsuch cautioned against similar situations in his dissent in *Gundy v. United States*. Although a Legislature can rely on the other branches for assistance in creating laws, it "...may never hand off...the power to write his own criminal code governing the lives of a half-million citizens. That 'is delegation running riot.'"[40] The cautionary words of the Supreme Court Justices ring true here. As asserted in *Gallagher*, the Governor believes he can legislate and that he alone holds the ability to "exercise all police power vested in the state" in order to fight COVID-19 so long as he relies on the declared state of emergency. But as established herein, the CESA does not permit that. CESA specifically enumerates things the Governor *can* do during an emergency, and this Court should conclude based upon precedent that the Legislature intentionally drafted the plain language of the CESA to ensure the Governor was *not* provided

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[39] *See Loving v. United States* (1996) 517 U.S. 748, 758-759.
[40] *Gundy v. United States* (2019) 139 S.Ct. 2116, 2148 (Justice Gorsuch dissenting, joined by Justice Robert and Justice Thomas.)

unlimited powers in times of emergency.[41] Thus, the County asks this Court to analyze the plain language of Government Code section 8567 to find that the CESA does not provide the Governor power to legislate; to find that Governor Newsom is legislating by creating new laws, such as the Stay-At-Home laws which mandate that Californians remain indoors and businesses cease operations; and to render all orders and directives which are beyond the powers enumerated by the CESA void by granting this instant petition.

III. RESPONDENTS' ENACTMENTS VIOLATE THE ADMINISTRATIVE PROCEDURES ACT

The Administrative Procedure Act ("APA")[42] states, "[n]o State Agency shall issue, utilize, enforce, or attempt to enforce any ... regulation ... unless ... [it] has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter."[43] The APA is of particular importance in the instant matter as the term "State Agency" includes the departments within the executive branch of government unless expressly excepted.[44] Through its definition, judicial or legislative departments of the state government are exempted.[45] As explained further below, the APA was established with the intention of creating a review process to ensure regulations from the executive branch, including the Governor, are written in a manner consistent with the applicable law and authorized by statute.

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[41] *See Gikas v. Zolin* (1993) 6 Cal.4th 841, 852 ("*Expressio unius est exclusio alterius*. The expression of some things in a statute necessarily means the exclusion of other things not expressed.")

[42] Gov. Code § 11340 et seq.

[43] Gov. Code § 11340.5, subd. (a).

[44] Gov. Code § 11342.520 (definition); *see, e.g.,* Gov. Code §§ 11343, 11351.

[45] Gov. Code § 11340.9; *see also Lauderbach v. Zolin* (1995) 35 Cal.App.4th 578, 585 (APA rulemaking requirements do not apply to statutory enactments).

"'Regulation' means every rule, regulation, order, or standard of general application ... adopted by any state agency to implement, interpret, or make the law enforced or administered by it, or to govern its procedure."[46] When a noncompliant "regulation" is enforced by a state agency, such as the CDPH, without complying with the APA, it is unlawful as an "underground regulation."[47] Although agencies may implement emergency regulations with abbreviated requirements, they may not wholly disregard the APA and must satisfy the APA within 180 days from the effective date of the emergency regulation, unless extended.[48]

The Legislature previously identified exemptions to the APA.[49] However, the CESA does not provide any similar exemptions. Rather, the CESA contains two sections, Government Code sections 8589.19 and 8682.9, which instruct compliance with the APA. The instructions stand as an indication of the drafters' acknowledgment of the APA and their perceived intention to not carve out an exemption for the Respondents. The absence of exemption is likely tied to the finding that the APA was necessary to establish a process to "review regulations to ensure that they are written in a comprehensible manner, are authorized by statute, and are consistent with other law" to prevent "language [which] is often confusing to the persons who must comply with the regulations."[50]

Over the past nine months, the Respondents enacted numerous laws and orders which required the County to "implement, interpret, or make

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[46] Gov. Code § 11342.600.
[47] Cal. Code Regs., tit 1, § 250 (a).
[48] Gov. Code § 11346.1; *see also* Gov. Code §§ 11349.5, 11349.6
[49] *See in re Garcia* (1998) 67 Cal.App.4th 841(Finding an exemption in Penal Code § 5058(c)(1).); *see also Paleski v. State Dept. of Health Services* (2006) 144 Cal.App.4th 714 (Finding an exemption in Welfare & Institutions Code § 14105.395.)
[50] Gov. Code § 11340 subd. (b), (e).

specific" the Respondents' orders in violation of and without compliance with the APA.[51] The Governor's unlawful orders fall squarely within the requirements of the APA as they allocate legislative power and unbridled discretion to the CDPH and CPHO to decide fundamental issues surrounding COVID-19, and tasked the County with the enforcement. Indeed, the APA was designed by the Legislature to address situations like the matter at hand – reviewing the actions of the executive branch to ensure they were comprehensible, authorized, lawful, and understandable by the general public. Instead, Respondents disregard the APA, exempting themselves like the Legislature, and positioning themselves in the role of the Legislature, instructing the masses through routine and frequent and complicated website updates without any procedure to review the enactments as to their legality.

But Respondents are not the Legislature and cannot be exempt from the APA. The Legislature is not one person. Its members are comprised of elected representatives from 40 Senate Districts and 80 Assembly Districts representing the State of California.[52] These elected officials engage in structured collective discourse to enact their discretion as to what laws should govern the State of California.[53] The role of the Legislature and discourse from the representatives in its 120 elected seats is a far cry from the one-man legislator and his appointees who do not have the benefit of

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[51] Gov. Code § 8567 subd. (d).

[52] California State Legislature, Legislators and Districts, available at the time of filing at: http://www.legislature.ca.gov/legislators_and_districts.html

[53] *See* Standing Rules of the Senate, available as of the time of filing at: http://www.leginfo.ca.gov/rules/senate_rules.pdf; *see also*, Standing Rules of the Assembly, available as of the time of filing at: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160HR1&search_keywords=; *see also* Standing Joint Rules, available as of the time of filing at: http://www.leginfo.ca.gov/rules/joint_rules.pdf

constructive discourse among equals. This is exactly the situation which the Legislature aimed to prevent in enacting the APA: unprecedented and unchecked orders from the executive branch which expend public funds and impose complex laws on every-day citizens who "do not have the resources to hire experts..."[54]

Accordingly, Respondents' Stay-At-Home laws and related orders were improperly enacted without complying with the APA must be declared unlawful and unenforceable.

IV. THE LEGISLATURE CANNOT DELEGATE ITS AUTHORITY TO THE GOVERNOR THROUGH THE EMERGENCY SERVICES ACT

The plain language of the CESA is clear: The Governor does not have the authority to legislate and create law during a declared State of Emergency.[55] However, should this Court find that the Governor's powers under CESA permit him to legislate and enact Stay-At-Home laws, Petitioners assert that such an interpretation of the CESA is an unconstitutional delegation of power by the California Legislature to the Governor, which is contrary to the express language of article III of the California Constitution.[56]

In California, the "powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this

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[54] Gov. Code §11340.

[55] *See People of Amor, supra,* 12 Cal.3d at p. 30 (Statutes are to be so construed, if their language permits, as to render them valid and constitutional, rather than invalid and unconstitutional, and the courts must adopt an interpretation of a statutory provision which, consistent with the statutory language and purpose, eliminates doubt as to its constitutionality.); *See also Belridge Oil Co., supra*, 42 Cal.2d at p. 832.

[56] Cal. Const., art. III, § 3.

Constitution."[57] The California Constitution expressly vests the legislative power of the state in the Legislature.[58] Although the judiciary has interpreted this vesting so as not to prohibit all delegations, it nevertheless has imposed important limitations.[59] Of course, "[o]nce it has established the law, the Legislature may delegate the authority to administer or apply the law."[60] But, "[a]n unconstitutional delegation of authority occurs only when a legislative body (1) leaves the resolution of fundamental policy issues to others or (2) fails to provide adequate direction for the implementation of that policy."[61] The second limitation imposes the duty "to establish an effective mechanism to assure the proper implementation of its policy decisions."[62] Such "proper implementation" may be achieved through establishing adequate "safeguards," such as vigorous judicial review, similar to the relief sought here.[63] "Underlying these rules is the belief that the Legislature as the most representative organ of government

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[57] *Ibid.*; *Parker v. Riley* (1941) 18 Cal.2d 83, 89 (The primary purpose of Cal. Const., art. III, § 3 is "to prevent the combination in the hands of a single person or group of the basic or fundamental powers of government"); *see also Steen v. Appellate Division of Superior Court* (2014) 59 Cal.4th 1045, 1059 (citing Madison, The Federalist Papers, No. 47 (Cooke ed. 1961) p. 324 ["[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands, ... may justly be pronounced the very definition of tyranny"].)

[58] Cal. Const. art. IV, § 1.

[59] *See generally Kugler v. Yocum,* 69 Cal.2d 371, 375 (1968) ("[T]he doctrine prohibiting delegation of legislative power is well established in California."); *see also Doughtery v. Austin* (1892) 94 Cal. 601, 606-607 (Holding the power to suspend, amend, rescind, create, and enforce law is legislative in character, is vested exclusively in the legislature, and cannot be delegated by it.)

[60] *Wilkinson v. Madera Community Hospital* (1983) 144 Cal.App.3d 436, 442.

[61] *Carson Mobilehome Park Owners' Assn. v. City of Carson* (1983) 35 Cal.3d 184, 190.

[62] *Kugler, supra,* 69 Cal.2d at pp. 376-377.

[63] *See Id.* at 381-82.

should settle insofar as possible controverted issues of policy and that it must determine crucial issues whenever it has the time, information and competence to deal with them."[64]

As this Court previously recognized, "truly fundamental issues should be resolved by the Legislature" and not by the executive or judicial branches.[65] While the interplay between the three branches may occasionally effect the others, the interference is appropriate so long as the action is "properly within [the] sphere" of a particular branch with only an "incidental effect of duplicating a function or procedure delegated to another branch."[66] This Court recognized the importance of distinct branches in *Carmel Valley Fire Prot. Dist. v. California*[67], stating:

> "[C]ourts have not hesitated to strike down provisions of law that either accrete to a single branch powers more appropriately diffused among separate branches or that undermine the authority and independence of one or another coordinate branch. The doctrine, however, recognizes that the three branches of government are interdependent, and it permits actions of one branch that may significantly affect those of another branch. The purpose of the doctrine is to prevent one branch of government from exercising the complete power constitutionally vested in another; it is not intended to prohibit one branch from taking action properly within its sphere that has the incidental effect of duplicating a function or procedure delegated to another branch."

If the CESA is interpreted to permit the Governor to make these orders, then the statute should be held unconstitutional as it permits the Governor to exercise the power allocated to the Legislature under the California

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[64] *Clean Air Constituency v. State Air Resources Bd.* (1974) 11 Cal.3d 801, 816-817.
[65] *Wilke & Holzheise, Inc. v. Dep't of Alcoholic Beverage Control* (1966) 65 Cal.2d 349, 369.
[66] *Carmel Valley Fire Prot. Dist. v. State* (2001) 25 Cal.4th 287, 298 (quotations omitted.)
[67] *Ibid.*

Constitution. Indeed, courts hold that "[d]eciding what competing values will or will not be sacrificed to the achievement of a particular objective is the very essence of legislative choice."[68] Presently the Respondents act to substitute their judgement for that of the Legislature in balancing the competing values of citizens across the state to determine what will and will not be sacrificed to fight against COVID-19. If the CESA provides the power for Respondents to dictate the day-to-day lives of citizens throughout the state through the creation of a new penal code, then the CESA is "[a]n unconstitutional delegation of legislative power" that "confers upon an administrative agency unrestricted authority to make fundamental policy decisions."[69]

The Supreme Court of Michigan reached a similar conclusion regarding a similar emergency powers statute. In the Michigan case[70] the Michigan Supreme Court ruled that Governor Whitmer lacked the authority to extend or declare states of emergency in relation to the COVID-19 pandemic, ultimately ruling that Michigan's Emergency Powers of the Governor Act of 1945 was unconstitutional on the grounds that the delegation of power was an unlawful delegation of legislative power to Governor Whitmer in violation of the Michigan Constitution.[71] The Michigan Supreme Court reasoned that:

> [T]he ultimate judgment regarding the constitutionality of a delegation must be made not on the basis of the scope of the power alone, but on the basis of its scope plus the specificity of the standards governing its exercise. When the scope

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[68] *County of Sonoma v. Cohen* (2015) 235 Cal.App.4th 42, 48.
[69] *People ex rel. Lockyer v. Sun Pacific Farming Co.* (2000) 77 Cal.App.4th 619, 632–634.
[70] *In re Certified Questions* (2020) 505 Mich. ____, 2020 WL 5877599.
[71] "No person exercising power of one branch shall exercise powers properly belonging to another branch." (Mich. Const., art. III, § 2.); *see also Home Bldg & Loan Ass'n v. Blaisdell* (1934) 290 US 298, 425 ("Emergency does not create power.)

> increases to immense proportions the standards must be correspondingly more precise.

The decision was grounded in the Michigan Supreme Court's acknowledgement that "[t]he principal of separation of powers was to protect individual liberty." The Michigan Supreme Court emphasized that the "durational scope of delegated power also has some relevant bearing"[72] noting that "conferral of indefinite authority accords a greater accumulation of power than does the grant of temporary authority."[73] The County asks this Court to implement similar reasoning here.

The Respondents' indefinite Stay-At-Home laws, inappropriate delegation of legislative powers to the CDPH and CPHO, and the Respondents' laws stemming from the exercise of legislative powers infringe on core legislative functions. Respondents' interpretation of the CESA permits the Governor and unelected state health officials to decide, for as long as they choose, what activities are most important and least dangerous for millions of people.[74] Unsurprisingly, the Respondents' discretion coincidentally aligns with the interests of large industry interests who have the financial stability to lobby, such as the movie and television industries. Such decisions must be made by the Legislature, using the appropriate legislative procedures to ensure robust public debate and transparency by *elected* representatives of the people. These powers cannot be delegated by the Legislature to the Governor or, as with the December 5, 2020 orders, to unelected state health officials.

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[72] *Ibid.*

[73] *Ibid.*

[74] *County of Sonoma, supra,* 235 Cal.App.4th at p. 48. ("Deciding what competing values will or will not be sacrificed to the achievement of a particular objective is the very essence of legislative choice.")

Furthermore, there is nothing in the Emergency Services Act that explains what policies the Legislature wants the executive branch to follow in choosing which activities are essential and safe during a pandemic, nor are there any standards to guide the Respondents in making those decisions. "Delegated power must be accompanied by suitable safeguards to guide its use and to protect against its misuse."[75] "The absence of such standards, or safeguards ... renders effective review of the exercise of the delegated power impossible."[76] As reasoned by the Michigan Supreme Court, the indefinite nature of delegations, or a standard that the Governor may do whatever is necessary to combat COVID-19, is not a meaningful standard.[77]

The problems created by an absence of safeguards or guidance by the Legislature is evident in this instant matter. Respondents will likely assert that their conduct and enactments were reasonable and undertaken in good faith to protect public health of citizens throughout the state as permitted by the CESA. But, without well-defined objective standards to guide enactments made under CESA, "reasonableness" turns into an amorphous standard which, during an emergency, will turn almost entirely to the Respondents' subjective determination about what must be done to protect public health. Absent these standards, there is nothing to check the Respondents' abuse of power under their interpretation of the CESA, permitting total control over the State, indefinitely, during a pandemic, as

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[75] *Blumenthal v. Bd. of Med. Examiners* (1962) 57 Cal.2d 228, 236.
[76] *Ibid.*
[77] *In re Certified Questions, supra,* 505 Mich. at p. *18; see also Gov. Code § 8627 ("During a state of emergency the Governor shall, to the extend he deems necessary, have complete authority over all agencies of the state government and the right to exercise within the area designated all police power vested in the state by the Constitution and laws of the State of California in order to effectuate the purposes of this chapter.")

Governor Newsom has done here. Citizens statewide witnessed Respondents' abuse of power and flagrant disregard for their own orders firsthand - watching the Governor attend a dinner party with lobbyists in violation of his own orders.[78] The Governor's flagrant disregard of his own laws implicitly concedes the overbroad, insincere, and arbitrary nature of Respondents' enactments.

To avoid interpreting the CESA in such a way as to mandate a declaration that it is unconstitutional, this Court should grant the writ and find that the Governor does not have the authority to legislate and create law during a declared State of Emergency and void the Stay-At-Home laws.[79] The threshold question of statutory interpretation of the CESA is of the utmost importance here where the Respondents impose criminal penalties, turning otherwise law-abiding citizens into criminals overnight simply for going to a place of work that the Governor has solely deemed

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[78] *See* Fox 11, Gov. Newsom at French restaurant allegedly not following COVID-19 protocols, available at the time of filing at: https://www.foxla.com/news/fox-11-obtains-exclusive-photos-of-gov-newsom-at-french-restaurant-allegedly-not-following-covid-19-protocols.; *see also* LA Times, Photos raise doubts about Newsom's claim that dinner with lobbyist was outdoors amid COVID-19 surge, available at the time of filing at: https://www.latimes.com/california/story/2020-11-18/newsom-french-laundry-dinner-explanation-photos-jason-kinney-california-medical-association-covid-19.

[79] *See People of Amor, supra,* 12 Cal.3d at p. 30 (Statutes are to be so construed, if their language permits, as to render them valid and constitutional, rather than invalid and unconstitutional, and the courts must adopt an interpretation of a statutory provision which, consistent with the statutory language and purpose, eliminates doubt as to its constitutionality.); *See also People v. Gutierrez* (2014) 58 Cal.4th 1354, 1373 (discussing doctrine of constitutional avoidance, the "precept that a court, when faced with an ambiguous statute that raises serious constitutional questions, should endeavor to construe the statute in a manner which avoids any doubt concerning its validity," quotations omitted.)

nonessential.[80] Moreover, this Court's statutory interpretation will serve a significant public interest by providing guidance to other cases pending across the state which are working through lower state and federal courts.

Accordingly, the County respectfully requests that the Court grant this Petition, finding that the CESA does not provide the Governor power to legislate and determining that the Stay-At-Home laws and laws stemming from the Respondents' improper interpretation of the CESA are unlawful; or in the alternative, to hold that the CESA is an unconstitutional delegation of power in violation of well-settled Non-Delegation precedent.

V. THE EMERGENCY CONDITIONS NO LONGER DEMAND RESPONDENTS' INTERVENTION

Even if Respondents have extraordinary authority under the CESA – and the delegation of said power is found constitutional – this Court should grant this Petition and order Respondents to terminate the Stay-At-Home laws because the "emergency" conditions which were relied upon in enacting the declared state of emergency ceased to exist. While the COVID-19 pandemic remains a threat to individuals around the globe, the sudden, unanticipated, and urgent nature of the threat required to address the pandemic in the State of California has ceased nine months later.

Government Code section 8558 defines a "State of Emergency" as:

> "[T]he duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency," which, by reason of their

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[80] *Gutierrez, supra,* 58 Cal.4th at p. 1373 (citing cases and noting that "we have repeatedly construed penal laws, including laws enacted by initiative, in a manner that avoids serious constitutional questions".)

> magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission."

The language of the Government Code communicates a general overtone: an emergency is something which is sudden, severe, or unexpected. In fact, courts have held that "the term 'emergency' depends upon the circumstances of each case; its central idea is that a *sudden or unexpected necessity requires speedy action.*"[81] As in the CESA, the court in *Malibu* noted that when "the statute speaks of an emergency affecting the public health or safety, the vital element is not official prescience or its lack but rather the acuteness of the threat to the public interest."[82] Similar reasoning is evidenced by the CESA as manifested by its requirement that the Governor identify the situation of "extreme peril" and terminate the state of emergency "at the earliest possible date that conditions warrant."[83]

Respondents exceed their authority under the CESA and abuse their discretion by extending and continuing to implement Stay-At-Home Laws for the duration of the pandemic. Make no mistake, the County understands the dire threat that COVID-19 poses to its residents. (Decl. of Snoke ¶ 3; Decl. of Hagman ¶ 3.) But COVID-19 is no longer an unexpected and sudden condition of "extreme peril" as it was in March of 2020. On March 18, 2020, Governor Newsom penned a letter to the President of the United States stating, "[w]e project that roughly 56% of

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[81] *Malibu W. Swimming Club v. Flournoy* (1976) 60 Cal.App.3d 161, 166 (emphasis added.)
[82] *Ibid.*
[83] Gov. Code §§ 8558, 8629.

our population - 25.5 million people - will be infected with the virus over an eight week period."[84] The Governor provided the projection in conjunction with a plea that the USNS Mercy Hospital Ship be sent to Los Angeles to "help decompress the health care delivery system" in response to the sudden and unexpected surge in "critical care needs."[85] The projection, at the time, was consistent with proclamations made when declaring the March 4, 2020 state of emergency indicating that "the number of persons needing medical care may exceed locally available resources" and that mitigation efforts will be necessary "to respond to an increasing number of individuals requiring medical care and hospitalization." At the time, the unprecedented pandemic created a need to flatten the curve and slow the transmission of COVID throughout the state. These considerations were at the very core of Governor Newsom's declared state of emergency.

Nine months later, COVID-19 remains but is no longer an "emergency" as both the Legislature and counties, having adjusted to life in the pandemic, are more than able to address a virus which has intertwined itself with the day-to-day lives of people worldwide. In fact, the Legislature can – and has – appropriately enacted laws which are aimed at addressing the COVID-19 pandemic. By way of example, the Legislature passed numerous laws including, but not limited to:

- AB 1867, as codified under Labor Code sections 248 and 248.1, providing supplemental paid sick leave relating to COVID-19;

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[84] Governor Gavin Newsom, *Letter to the President of the United States* (March 18, 2020) available as of the date of filing at: https://www.gov.ca.gov/wp-content/uploads/2020/03/3.18.20-Letter-USNS-Mercy-Hospital-Ship.pdf

[85] *Ibid.*

- AB 685 as codified under Labor Code sections 6325, 6409.6, and 64320, creating new notice and recordkeeping requirements for COVID-19 cases in the workplace;
- SB 1159, as codified under Labor Code sections 3212.85, 3212.88, establishing a revised framework for workers' compensation claims relating to COVID-19; and
- SB 1383, as codified in section 12945.2 of the Government Code, expanding the California Family Rights Act for employees with family members who have serious health conditions.

These are a few examples of the numerous laws which were passed by the California Legislature in response to COVID-19. [86] The declared state of emergency operated as intended, to address the immediate unexpected need to permit the Legislature to step in and enact legislation to appropriately govern the residents of the State of California. The Legislature has and continues to address COVID-19 through appropriate enactments. It can continue to do so without the assistance of Respondents errant legislation.

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[86] *See* AB 1867 (as codified, Cal. Labor Code §§ 248, 248.1 [Providing supplemental paid sick leave]); *See also* SB 1159 (as codified, Cal. Labor Code §§ 3212.85, 3212.88 [Establishing a revised framework for workers' compensation claims]); *see also* SB 1383 (as codified, Gov. Code § 12945.2) [Expanding the California Family Rights Act for employees with family members who have serious health conditions]; *see also* AB 685 (as codified, Cal. Labor Code §§ 6325, 6409.6, 64320, [Creating new notice and recordkeeping requirements for COVID-19 cases in the workplace.]); *see also* AB 2043 (as codified, Cal. Lab. Code § 6725 [An emergency measure which became effective *immediately* requiring California Division of Occupational Safety and Health to disseminate to employers information on best practices for preventing COVID-19 infections]; *see also* AB 3088 (as codified, Civ. Code § 789.4; amending Civ. Code §§ 798.56, 1942.5, 1946.2, 1947.12, 1947.13, 2924.15; Title 19 of Part 4 of Division 3 of the Civ. Code; and Chapter 5 (Commencing with Section 1179.01) of Title 3 of part 3 of the Code of Civ. Proc.)

Moreover, while the Governor believed it was necessary to enact Stay-At-Home laws in March, the emergency has certainly ceased here since the Legislature and counties obtained significant additional information about the virus in the past nine months, permitting them to properly address the pandemic. (Decl. of Porter ¶ 9.) Any exigency required during the sudden outburst of COVID-19 infection rates in the state have subsided as COVID-19 is no longer sudden or unexpected, and no longer requires immediate action by the Respondents. [87]

San Bernardino County is a massive geographic area with approximately 2,180,85 residents.[88] (Decl. of McMahon ¶ 2.) For example, the eastern parts of the County are approximately 300 miles from downtown Los Angeles and San Diego, 380 miles from Santa Barbara, and 450 miles from san Louis Obispo. (Decl. of Snoke ¶6-8; Decl. of Hagman ¶ 4; Decl. of McMahon ¶ 2.) The large geographic area contains large deserts between cities, mountain ranges, and geographically separates cities throughout the county. (Decl. of Snoke ¶ 6; Decl. of Hagman ¶ 4.) In fact, there are communities within the County that pose little risk of experiencing a COVID-19 outbreak. (Decl. of Snoke ¶ 7; Decl. of Hagman ¶¶4-5.) Businesses in the low risk areas of the County should not be closed due to ICU capacities hundreds of miles away. The County should not be forced to allocate significant public health resources to enforce Respondents' Stay-At-Home laws in lower risk areas. It is unreasonable, irrational, and is not grounded in any reasonable public health justification. (Decl. of Snoke ¶ 7-8; Decl. of Hagman ¶¶ 4-5.) The Respondents' regional classification is entirety arbitrary. Respondents are restricting the

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[87] *Malibu, supra,* 60 Cal.App.3d at p. 166.

[88] U.S. Census Bureau, Quick Facts, available as of the time of filing at: https://www.census.gov/quickfacts/fact/table/sanbernardinocountycalifornia/AFN120212

County residents and unnecessarily taxing its public health resources based on the ICU capacities of unrelated cities which are hundreds of miles away. The County and SBPH are in the best possible situation to understand the ICU capacities throughout their large geographic area and tailor restrictions through appropriate lawful orders to safeguard its residents while appropriately balancing its resources to meet its legal obligations to residents. The unlawful enactment of the Stay-At-Home laws effectively usurps the County's own police power and prevents its duties to its residents. Absent intervention from this Court, the County cannot carry out its legal obligations to its residents as the Respondents' actions frustrate effective distribution of vaccines in the coming months as their unlawful Stay-At-Home laws interfere with the County's use of its own resources. (Decl. of Snoke ¶¶ 4, 9; Decl. of Hagman. ¶¶ 6-7; Decl. of Porter ¶ 9.) The only result which can come from a delay in vaccinations is further loss of life under the illusory justification that residents are actually complying and remaining indoors. By way of example, the County's Sheriff is charged with administering a range of law enforcement activities for the benefit of County residents such as, keeping the peace, enforcing the law, patrol activities, responding to emergency calls, and investigating crimes throughout the County. (Decl. of McMahon ¶ 2.) These public duties are jeopardized by the amount of resources demanded by the enforcement of Respondents' Stay-At-Home laws. (Decl. of McMahon ¶ 6.) It has come time for the Governor to lift the state of emergency and permit the County to continue assisting its community through the local public health office.

The Stay-At-Home laws, which were once designed to provide the hospitals with sufficient time to prepare to address the needs of their local community, now contain dozens of exceptions created by Respondents manifesting and implicitly conceding the fact that the action is necessary. As one of this Court's former members noted, "creating a Byzantine system

of procedural hurdles, each riddled with exceptions and fact-intensive qualifications, only undermines their intended purpose."[89] The County does not seek to have this Court substitute its opinion for that of medical professionals. Rather, the County simply seeks a determination that the Respondents' legislative acts are no longer warranted in the fight against COVID-19. The intended purpose is well past, and the enumerated list of essential exceptions undermines any purpose it once had. Nine months later, the sense of exigency and unprecedented outbreak can be controlled by the Legislature as well as counties across the state.

Thus, the Governor has a duty to terminate the Stay-At-Home laws and should have done so at the end of the initial eight-week period. Respondents abuse their discretion in continuing to enact indefinite Stay-At-Home laws and the County requests that this Court correct their abuse of discretion and order the Respondents to terminate the Stay-At-Home laws once and for all.[90]

VI. IRREPARABLE HARM EXISTS WHICH, IF LEFT UNADDRESSED, IS DETRIMENTAL TO THE COUNTY AND THUS, THE NEED FOR JUDICIAL ACTION AND IMMEDIATE RELIEF IS NECESSARY

A. No Adequate Remedy at Law

The nature of the Executive Orders is such that no adequate remedy at law exists. "[M]andamus may be invoked in those cases where remedy by any other form of action or proceeding would not be equally as

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[89] *In re Gallego* (1998) 18 Cal.4th 825, 842 (Brown, J, concurring in part and dissenting in part.)

[90] *E.g., Nat'l Tax-Limitation Comm. v. Schwarzenegger* (2003) 113 Cal.App.4th 1266, 8 Cal. Rptr. 3d 4, 12-21 (citing cases and concluding that court could, under appropriate circumstances, order Governor to terminate state of emergency.)

convenient, beneficial, and effective."[91] Because the County requests the ability to immediately resume the full scope of its public duties and seeks appropriate orders voiding Respondents' Stay-At-Home laws, the writ of mandate is the most "convenient, beneficial, and effective" relief available. Absent this Court's intervention, the Stay-At-Home laws will remain in full force and effect until the end of the pandemic. This case is precisely the sort that the writ of mandate is designed to remedy: reigning in public officials who are ignoring long-standing non-delegation doctrine and usurping the constitutional powers of the Legislature through a state of emergency which they have sole control over ending. Accordingly, the County petitions this Court to seek relief under the extraordinary writ and immediate stay procedures.

"Although courts generally deny writ relief ... a writ of mandate should not be denied when 'the issues presented are of great public importance and must be resolved promptly.'"[92] Similarly, "the Supreme Court has repeatedly recognized the intervention of an appellate court may be required to consider instances of a grave nature or of significant legal impact, or to review questions of first impression and general importance to the bench and bar where general guidelines can be laid down for future

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[91] *Ross v. Bd. of Educ.* (1912) 18 Cal.App. 222, 225.

[92] *Corbett v. Superior Court (Bank of America, N.A.)* (2002) 101 Cal.App.4th 649, 657 (quoting *County of Sacramento v. Hickman* (1967) 66 Cal.2d 841, 845.)

cases."[93] And writ review may be granted when the "resolution of the issue would result in a final disposition as to the petitioner."[94]

Indeed, there are very few instances in this state's history which parallel the need for this extraordinary relief. COVID-19 is unprecedented. And that unprecedented nature demands extraordinary intervention. Respondents' Stay-At-Home laws warrant intervention by this Court. The County has the responsibility under section 8568 of the CESA to take necessary actions to carry out the Governor's orders and must be properly and fully informed with respect to the legality of said orders to administer its public duties. To that end, the County requests this Court to fulfill its duty as the ultimate arbiter of state law and declare, in the first instance, that Respondents' actions exceed their powers.

B. The Writ Should Be Issued In the First Instance to Correct the Respondents' Unbridled Abuses of Power.

Under Code of Civil Procedure section 1088 and other applicable law, this Court should issue a peremptory writ in the first instance. A court may issue a peremptory writ in the first instance where petitioner's entitlement to relief is so obvious that no purpose could reasonably be served by plenary consideration of the issue.[95]

Respondents have argued and will likely argue in this matter that they make a good faith attempt to safeguard the citizens of this golden state.

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[93] *Anderson v. Superior Court* (1989) 213 Cal.App.3d 1321, 1328, quotations omitted; see also *Noe v. Superior Court (Levy Premium Foodservice Limited Partnership)* (2015) 237 Cal.App.4th 316, 325 (granting writ review because "the petition presents a significant issue of first impression," quotations omitted.)

[94] *Apple Inc. v. Superior Court (The Police Retirement Sys. of St. Louis)* (2017) 18 Cal.App.5th 222, 239.

[95] *See Alexander v. Superior Court* (1993) 5 Cal.4th 1218; *Ng v. Sup. Ct.* (1992) 4 Cal.4th 29, 35 (clear error under established law and unusual urgency are factors for *Palma* procedure.)

But this reasoning only furthers the necessity of a determination by this Court. "Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."[96] This Court acknowledged the grave warning of Justice Brandeis in *Conservatorship of Roulet*[97] and *Conservatorship of Early*.[98] The County asks that this Court again heed Justice Brandeis' warning as to COVID-19. The CESA does not provide the Governor with the power to legislate and this Court should decide the critical issue of statutory interpretation once and for all. Absent direct intervention by this Court, the Respondents' actions will continue to frustrate the County's effective allocation of resources as it struggles to implement the unlawful Stay-At-Home laws against millions of its residents. (Decl. of Hagman ¶ 3, 6-7; Decl. of Porter ¶¶ 3-6.) The County, and its residents, are in urgent need of a declaration as to the Respondents' powers under CESA.

Even if the operation of the state's powers fall to the Governor, "interpreting the law is [still] a judicial function."[99] The County requests that this Court exercise its judicial function to clarify the powers and authorities allocated to the Respondents under the CESA and, if necessary, declare the CESA unconstitutional. The pandemic presents grave dangers

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[96] *Olmstead v. United States* (1928) 277 U.S. 438, 480 (Brandeis, J., dissenting.)
[97] *Conservatorship of Roulet* (1979) 23 Cal.3d 219, 225.
[98] *Conservatorship of Early* (1983) 35 Cal.3d 224, 253.
[99] *McClung v. Employment Dev. Dep't* (2004) 34 Cal. 4th 467, 470 (citing *Marbury v. Madison* (1803) 5 U.S. (1 Cranch) 137, 177.)

to humanity across the globe, but it can be no longer categorized as sudden, unpredicted, or demanding of speedy action from the Governor.[100]

This Petition requires this Court's immediate attention and the issuance of the writ in the first instance. The entitled relief is obvious: Require Governor Newsom and the CDPH to comply with the Constitutional framework of the State Constitution. Because the County effected personal service of this petition and a notice of an application for a writ of mandate in the first instance on Respondents on this date and seek an immediate stay and peremptory writ of mandate in the first instance, Petitioners respectfully request this Court to give *Palma* notice to Respondents.[101]

Moreover, a peremptory writ may issue in the first instance when at least ten days' notice is given and each party has sufficient opportunity to be heard.[102] In this case, 10 days' notice is being given to allow the party sufficient time to be heard. Because the harm to the County will continue until Respondents' flagrant disregard of the enumerated powers under the CESA is addressed, a stay is appropriate in this instant matter.

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[100] *Malibu, supra,* 60 Cal.App.3d at p. 166.

[101] *Palma v. U.S. Industrial Fasterners, Inc.* (1984) 36 Cal.3d 171, 178; *see also Ng, supra,* 4 Cal.4th at p. 35 (*Palma* procedure proper when "there has been clear error under well-settled principles of law and undisputed facts . . . or when there is an unusual urgency").

[102] Code Civ. Proc., § 1088. *Palma, supra,* 36 Cal.3d at p. 180.

CONCLUSION

For all of the foregoing reasons, the County respectfully requests that this Court grant the relief sought in the Verified Petition for a Peremptory Writ of Mandate in the First Instance and Request for Immediate Stay.

Dated: December 14, 2020

Jennifer L. Bursch
Nathan R. Klein
Cody J. Bellmeyer
Tyler & Bursch, LLP
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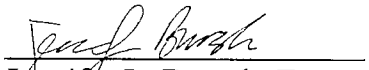
Attorney for Petitioners

CERTIFICATE OF WORD COUNT

I, the undersigned counsel for Petitioners, relying on the word count function of Microsoft Word, the computer program used to prepare this brief, certify that the above document contains 13,656 words.



Jennifer L. Bursch, Esq.
Attorney for Petitioners

CERTIFICATE OF SERVICE

I am an employee in the County of Riverside. I am over the age of 18 years and not a party to the within entitled action; my business address is 25026 Las Brisas Road, Murrieta, California 92562.

On December 14, 2020, I served a copy of the following document(s) described as:

- **VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE; MEMORANDUM OF POINTS AND AUTHORITIES**

on the interested party(ies) in this action by-email or electronic service [C.C.P. Section 1010.6; CRC 2.250-2.261]. The documents listed above were transmitted via e-mail to the e-mail addresses on the attached service list.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am an employee in the office of a member of the bar of this Court who directed this service.

Shelly Padilla

Shelly M. Padilla

SERVICE LIST

Governor Gavin Newsom 1303 10th Street, Ste. 1173 Sacramento, CA 95814 (916) 445-2841 Email: ServiceofProcess@gov.ca.gov	Respondent
Sandra Shewry Email: ServiceofProcess@gov.ca.gov	Respondent
Erica Pan, M.D. Email: ServiceofProcess@gov.ca.gov	Respondent
California Office of the Attorney General Xavier Becerra, Attorney General Email: xavier.becerra@doj.ca.gov	Attorney for Respondents

EXHIBIT "1"

OFFICE OF PUBLIC AFFAIRS

Two Confirmed Cases of Novel Coronavirus in California

Date: January 26, 2020
Number: 20-001
Contact: Corey Egel | 916.440.7259 | CDPHpress@cdph.ca.gov

SACRAMENTO – The California Department of Public Health (CDPH) has been informed that one individual in Los Angeles County and one individual in Orange County have tested positive for novel coronavirus 2019 (nCoV-2019). This information is confirmed by the Los Angeles County Department of Public Health (LADPH), the Orange County Health Care Agency (OCHCA), and the U. S. Centers for Disease Control and Prevention (CDC).

"The California Department of Public Health has been preparing for this situation by working closely with local health departments and health care providers," said Dr. Sonia Angell, CDPH Director and State Health Officer. "We are supporting ongoing efforts by the Los Angeles County Department of Public Health and the Orange County Health Care Agency to respond to these cases, and will continue working with our partners to monitor for any additional cases that may occur in California, to ensure that persons can be safely and effectively evaluated for this novel virus, and to protect the health of the people of California."

At this time, no other persons infected with nCoV-2019 have been identified in California. Currently, the immediate health risk from nCoV 2019 to the general public is low.

It is very important for persons who have recently traveled and who become ill to notify their health care provider of their travel history. Persons who have recently traveled to Wuhan, China, or who have had contact with a person with possible novel coronavirus infection should contact their local health department or health care provider.

CDPH has been prepared and is continuing with the following actions:

- Providing information about the outbreak and how to report suspect cases to local health departments and health care providers in California.
- Coordinating with CDC personnel who are doing screening of travelers from Wuhan, China at SFO and LAX airports.
- Assuring that health care providers know how to safely manage persons with possible nCoV-2019 infection.
- Supporting hospitals and local public health laboratories for collection and shipment of specimens for testing at CDC for nCoV-2019.
- Activating CDPH's Emergency Operations Center to coordinate response efforts across the state.

The nCoV-2019 outbreak in China continues to evolve and California is prepared for more cases that may arise. CDPH considers this a very important public health event: we are closely monitoring the situation and providing updates to partners across the state to support their preparedness efforts.

As with any virus, especially during the flu season, CDPH reminds you there are a number of steps you can take to protect your health and those around you:

- Washing hands with soap and water.
- Avoiding touching eyes, nose or mouth with unwashed hands.
- Avoiding close contact with people who are sick are all ways to reduce the risk of infection with a number of different viruses.
- If someone does become sick with respiratory symptoms like fever and cough, they should stay away from work, school or other people to avoid spreading illness.

CDPH will not be providing additional information about the patients beyond what is being shared by the LADPH and OCHCA

For more information about nCov-2019, please visit the CDPH website.

Page Last Updated : March 4, 2020

EXHIBIT “2”

OFFICE OF PUBLIC AFFAIRS

The California Department of Public Health and a Network of Labs Prepare to Begin Novel Coronavirus Testing in California

Date: February 6, 2020
Number: NR20-004
Contact: Corey Egel | 916.440.7259 | CDPHpress@cdph.ca.gov

Photos and Video of Public Health Department's Richmond Lab Available

SACRAMENTO – The California Department of Public Health announced today that 16 laboratories, including the state's Viral and Rickettsial Disease Laboratory in Richmond, California, will soon be able to perform testing for the novel coronavirus. This service will provide more rapid results than currently available and help to inform public health action and medical care for people who may have been exposed to novel coronavirus. Results from the Centers for Disease Control and Prevention currently take between two to seven days. The Public Health Department lab anticipates it will be able to conduct testing beginning Wednesday, February 12, and report results within two days of specimen receipt. Meanwhile, our local partners are also expected to be able to conduct tests within a couple of weeks.

"The California Department of Public Health laboratory is proud to be a part of this statewide network to provide novel coronavirus testing. This will support state and local public health departments and health care providers that are working to protect the health of the people of California," said Dr. Sonia Angell, California Department of Public Health Director and State Health Officer. "Providing this test in California will deliver more rapid test results to improve care of persons who may be sick with this new virus."

To date, based on testing carried out by the CDC, the California Department of Public Health confirms six individuals have tested positive for novel coronavirus 2019 in California: two people in Santa Clara County, two people in San Benito County, one person in Los Angeles County and one person in Orange County.

Currently, the immediate health risk from novel coronavirus 2019 to the general public is low. California is carefully assessing the situation as it evolves.

The California Department of Public Health considers this a very important public health event and we are providing updates to partners across the state to support their preparedness efforts.

It is very important that people who have recently traveled and who become ill to notify their health care provider of their travel history. Those who have recently traveled to China or who have had contact with a person with possible novel coronavirus infection should contact their local health department or health care provider.

The California Department of Public Health has been prepared and is continuing with the following actions:

- Providing information about the outbreak and how to report suspect cases to local health departments and health care providers in California.
- Coordinating with CDC personnel who are doing screening of travelers from China at SFO and LAX.
- Assuring that health care providers know how to safely manage persons with possible novel coronavirus 2019 infection.
- Activating the Department of Public Health's Emergency Operations Center to coordinate response efforts across the state.

As with any virus, especially during the flu season, we remind you there are a number of steps you can take to protect your health and those around you:

- Washing hands with soap and water.
- Avoiding touching eyes, nose or mouth with unwashed hands.
- Avoiding close contact with people who are sick.
- Staying away from work, school or other people if you become sick with respiratory symptoms like fever and cough.

For more information about novel coronavirus 2019, please visit the CDPH website.

To obtain photos or video of the Public Health Department's lab in Richmond, please contact the California Department of Public Health – Office of Public Affairs at CDPHPressOPA@cdph.ca.gov after 3:30 p.m. on Thursday, February 6.

Page Last Updated : March 4, 2020

EXHIBIT “3”

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.

2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.

3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.

4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.

5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.

8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.

9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.

10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.

12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.

14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of March 2020.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT “4”

California Public Health Experts: Mass Gatherings Should be Postponed or Canceled Statewide to Slow the Spread of COVID-19

Published: Mar 11, 2020

State public health experts announce that gatherings with 250 people or more should be rescheduled or canceled

Smaller gatherings can proceed if organizers implement 6 feet of social distancing

SACRAMENTO – Governor Gavin Newsom announced that California public health officials this evening issued an updated policy on gatherings to protect public health and slow the spread of COVID-19. The state's public health experts have determined that gatherings should be postponed or canceled across the state until at least the end of March. Non-essential gatherings must be limited to no more than 250 people, while smaller events can proceed only if the organizers can implement social distancing of 6 feet per person. Gatherings of individuals who are at higher risk for severe illness from COVID-19 should be limited to no more than 10 people, while also following social distancing guidelines.

"Changing our actions for a short period of time will save the life of one or more people you know," said Governor Newsom. "That's the choice before us. Each of us has extraordinary power to slow the spread of this disease. Not holding that concert or community event can have cascading effects — saving dozens of lives and preserving critical health care resources that your family may need a month from now. The people in our lives who are most at risk – seniors and those with underlying health conditions — are depending on all of us to make the right choice."

The state's updated policy defines a "gathering" as any event or convening that brings together people in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, cafeteria, or any other indoor or outdoor space.

This guidance applies to all non-essential professional, social and community gatherings regardless of their sponsor.

Essential gatherings should only be conducted if the essential activity could not be postponed or achieved without gathering, meaning that some other means of communication could not be used to conduct the essential function.

The full policy can be found here.

"These changes will cause real stress — especially for families and businesses least equipped financially to deal with them. The state of California is working closely with businesses who will feel the economic shock of these changes, and we are mobilizing every level of government to help families as they persevere through this global health crisis," added Governor Newsom.

State Efforts to Assist California Workers

California will continue acting swiftly to help workers hurt by COVID-19. Affected workers can visit the Labor & Workforce Development Agency's website to review what benefits are available to them. For instance,

- If you're unable to work because you are caring for an ill or quarantined family member with COVID-19 you may qualify for Paid Family Leave (PFL).
- If you're unable to work due to medical quarantine or illness, you may qualify for Disability Insurance. Those who have lost a job or have had their hours reduced for reasons related to COVID-19 may be able to partially recover their wages by filing an unemployment insurance claim.
- If a worker or a family member is sick or for preventative care when civil authorities recommend quarantine, workers may use accrued paid sick leave in accordance with the law.
- If workers are unable to do their usual job because they were exposed to and contracted COVID-19 during the regular course of their work, they may be eligible for workers' compensation benefits. All information and resources can be found at Labor.Ca.Gov/Coronavirus2019

All Community Guidance Released from CDPH:
The California Department of Public Health has consolidated state guidance on how to prepare and protect Californians from COVID-19 in a single location. This includes guidance for:

- Health care facilities, including long-term care facilities
- Community care facilities, including assisted living facilities and child care
- Schools and institutions of higher education
- First responders, including paramedics and EMTs
- Employers, health care workers and workers in general industry
- Health care plans
- Home cleaning with COVID-19 positive individuals
- Guidance for Using Disinfectants at Schools and Child Cares
- Laboratories
- Health care facilities from Cal/OSHA
- Homelessness Providers

What to Do if You Think You're Sick:
Call ahead: If you are experiencing symptoms of COVID-19 and may have had contact with a person with COVID-19, or recently traveled to countries with apparent community spread, call your health care provider or local public health department first before seeking medical care so that appropriate precautions can be taken.

California's Response to COVID-19:
We have been actively and extensively planning with our local public health and health care delivery systems. Here are some of the things we are already doing:

- As in any public health event, the California Department of Public Health's Medical and Health Coordination Center has been activated and is coordinating public health response efforts across the state.
- California continues to prepare and respond in coordination with federal and local partners, hospitals and physicians.
- Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19.
- Governor Gavin Newsom requested the Legislature make up to $20 million available for state government to respond to the spread of COVID-19.
- California activated the State Operations Center to its highest level to coordinate response efforts across the state.
- 24 million more Californians are now eligible for free medically necessary COVID-19 testing.
- California made available some of its emergency planning reserves of 21 million N95 filtering face piece masks for use in certain health care settings to ease shortages of personal protective equipment.
- The Public Health Department is providing information, guidance documents, and technical support to local health departments, health care facilities, providers, schools, universities, colleges, and childcare facilities across California
- The California Employment Development Department (EDD) is encouraging individuals who are unable to work due to exposure to COVID-19 to file a Disability Insurance claim.
- EDD is also encouraging employers who are experiencing a slowdown in their businesses or services as a result of the Coronavirus impact on the economy to apply for an Unemployment Insurance work sharing program.
- California continues to work in partnership with the federal government to aid in the safe return of 962 Californians from the Grand Princess cruise ship. This mission is centered around protecting the health of the passengers, and ensuring that when the passengers disembark, the public health of the United States, the State of California, and partner communities is protected.
- The Public Health Department is coordinating with federal authorities and local health departments that have implemented screening, monitoring and, in some cases quarantine of returning travelers.
- In coordination with the CDC, state and local health departments, we are actively responding to cases of COVID-19.
- The Public Health Department is supporting hospitals and local public health laboratories in the collection of specimens and testing for COVID-19.

The California Department of Public Health's state laboratory in Richmond and 18 other public health department laboratories now have tests for the virus that causes COVID-19. Eighteen of them are currently conducting tests, with the others coming online soon.

For more the most up to date information on COVID-19 and California's response, visit the CDPH website.

###

EXHIBIT “5”

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-25-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection are needed; and

WHEREAS state and local public health officials may, as they deem necessary in the interest of public health, issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences, or other mass events, which could cause the cancellation of such gatherings through no fault or responsibility of the parties involved, thereby constituting a force majeure; and

WHEREAS the Department of Public Health is maintaining up-to-date guidance relating to COVID-19, available to the public at http://cdph.ca.gov/covid19; and

WHEREAS the State of California and local governments, in collaboration with the Federal government, continue sustained efforts to minimize the spread and mitigate the effects of COVID-19; and

WHEREAS there is a need to secure numerous facilities to accommodate quarantine, isolation, or medical treatment of individuals testing positive for or exposed to COVID-19; and

WHEREAS, many individuals who have developmental disabilities and receive services through regional centers funded by the Department of Developmental Services also have chronic medical conditions that make them more susceptible to serious symptoms of COVID-19, and it is critical that they continue to receive their services while also protecting their own health and the general public health; and

WHEREAS individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources such as shelters and food banks; and

WHEREAS in the interest of public health and safety, it is necessary to exercise my authority under the Emergency Services Act, specifically Government Code section 8572, to ensure adequate facilities exist to address the impacts of COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571 and 8572, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. All residents are to heed any orders and guidance of state and local public health officials, including but not limited to the imposition of social distancing measures, to control the spread of COVID-19.

2. For the period that began January 24, 2020 through the duration of this emergency, the Employment Development Department shall have the discretion to waive the one-week waiting period in Unemployment Insurance Code section 2627(b)(1) for disability insurance applicants who are unemployed and disabled as a result of the COVID-19, and who are otherwise eligible for disability insurance benefits.

3. For the period that began January 24, 2020 through the duration of this emergency, the Employment Development Department shall have the discretion to waive the one-week waiting period in Unemployment Insurance Code section 1253(d) for unemployment insurance applicants who are unemployed as a result of the COVID-19, and who are otherwise eligible for unemployment insurance benefits.

4. Notwithstanding Health and Safety Code section 1797.172(b), during the course of this emergency, the Director of the Emergency Medical Services Authority shall have the authority to implement additions to local optional scopes of practice without first consulting with a committee of local EMS medical directors named by the EMS Medical Directors Association of California.

5. In order to quickly provide relief from interest and penalties, the provisions of the Revenue and Taxation Code that apply to the taxes and fees administered by the Department of Tax and Fee Administration, requiring the filing of a statement under penalty of perjury setting forth the facts for a claim for relief, are suspended for a period of 60 days after the date of this Order for any individuals or businesses who are unable to file a timely tax return or make a timely payment as a result of complying with a state or local public health official's imposition or recommendation of social distancing measures related to COVID-19.

6. The Franchise Tax Board, the Board of Equalization, the Department of Tax and Fee Administration, and the Office of Tax Appeals shall use their administrative powers where appropriate to provide those individuals and businesses impacted by complying with a state or local public health official's imposition or recommendation of social

distancing measures related to COVID-19 with the extensions for filing, payment, audits, billing, notices, assessments, claims for refund, and relief from subsequent penalties and interest.

7. The Governor's Office of Emergency Services shall ensure adequate state staffing during this emergency. Consistent with applicable federal law, work hour limitations for retired annuitants, permanent and intermittent personnel, and state management and senior supervisors, are suspended. Furthermore, reinstatement and work hour limitations in Government Code sections 21220, 21224(a), and 7522.56(b), (d), (f), and (g), and the time limitations in Government Code section 19888.1 and California Code of Regulations, title 2, sections 300-303 are suspended. The Director of the California Department of Human Resources must be notified of any individual employed pursuant to these waivers.

8. The California Health and Human Services Agency and the Office of Emergency Services shall identify, and shall otherwise be prepared to make available—including through the execution of any necessary contracts or other agreements and, if necessary, through the exercise of the State's power to commandeer property – hotels and other places of temporary residence, medical facilities, and other facilities that are suitable for use as places of temporary residence or medical facilities as necessary for quarantining, isolating, or treating individuals who test positive for COVID-19 or who have had a high-risk exposure and are thought to be in the incubation period.

9. The certification and licensure requirements of California Code of Regulations, Title 17, section 1079 and Business and Professions Code section 1206.5 are suspended as to all persons who meet the requirements under the Clinical Laboratory Improvement Amendments of section 353 of the Public Health Service Act for high complexity testing and who are performing analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in any certified public health laboratory or licensed clinical laboratory.

10. To ensure that individuals with developmental disabilities continue to receive the services and supports mandated by their individual program plans threatened by disruptions caused by COVID-19, the Director of the Department of Developmental Services may issue directives waiving any provision or requirement of the Lanterman Developmental Disabilities Services Act, the California Early Intervention Services Act, and the accompanying regulations of Title 17, Division 2 of the California Code of Regulations. A directive may delegate to the regional centers any authority granted to the Department by law where the Director believes such delegation is necessary to ensure services to individuals with developmental disabilities. The Director shall describe the need justifying the waiver granted in each directive and articulate how the waiver is necessary to protect the public health or safety from the threat of COVID-19 or necessary to ensure that services to individuals with developmental disabilities are not disrupted. Any waiver granted by a directive shall expire 30 days from the date of its issuance. The Director may grant one or more 30-day extensions if the waiver continues to be necessary

to protect health or safety or to ensure delivery of services. The Director shall rescind a waiver once it is no longer necessary to protect public health or safety or ensure delivery of services. Any waivers and extensions granted pursuant to this paragraph shall be posted on the Department's website.

11. Notwithstanding any other provision of state or local law, including the Bagley-Keene Act or the Brown Act, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the local legislative body or state body, during the period in which state or local public officials impose or recommend measures to promote social distancing, including but not limited to limitations on public events. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

(i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
(ii) each teleconference location be accessible to the public;
(iii) members of the public may address the body at each teleconference conference location;
(iv) state and local bodies post agendas at all teleconference locations;
(v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
(vi) during teleconference meetings, a least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended, on the conditions that:

(i) each state or local body must give advance notice of each public meeting, according to the timeframe otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
(ii) consistent with the notice requirement in paragraph (i), each state or local body must notice at least one publicly accessible location from which members of the public shall have the right to observe and offer public comment at the public meeting, consistent with the public's rights of access and public comment otherwise provided for by the Bagley-Keene Act and the Brown Act, as applicable (including, but not limited to, the requirement that such rights of access and public comment be made available in a manner consistent with the Americans with Disabilities Act).

In addition to the mandatory conditions set forth above, all state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 12th day of March 2020.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT “6”

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-33-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS in a short period of time, COVID-19 has rapidly spread throughout California, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

WHEREAS for the preservation of public health and safety throughout the entire State of California, I find it necessary for all Californians to heed the State public health directives from the Department of Public Health.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8627, and 8665 do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1) To preserve the public health and safety, and to ensure the healthcare delivery system is capable of serving all, and prioritizing those at the highest risk and vulnerability, all residents are directed to immediately heed the current State public health directives, which I ordered the Department of Public Health to develop for the current statewide status of COVID-19. Those directives are consistent with the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: https://covid19.ca.gov/. Those directives follow:

ORDER OF THE STATE PUBLIC HEALTH OFFICER
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19. In addition, and in consultation with the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or

destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

2) The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them.

3) The Office of Emergency Services is directed to take necessary steps to ensure compliance with this Order.

4) This Order shall be enforceable pursuant to California law, including, but not limited to, Government Code section 8665.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 19th day of March 2020.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT “7”

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-60-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS on March 19, 2020, I issued Executive Order N-33-20, which directed all California residents to immediately heed current State public health directives; and

WHEREAS State public health directives, available at https://covid19.ca.gov/stay-home-except-for-essential-needs/, have ordered all California residents stay home except for essential needs, as defined in State public health directives; and

WHEREAS COVID-19 continues to menace public health throughout California; and

WHEREAS the extent to which COVID-19 menaces public health throughout California is expected to continue to evolve, and may vary from place to place within the State; and

WHEREAS California law promotes the preservation of public health by providing for local health officers—appointed by county boards of supervisors and other local authorities—in addition to providing for statewide authority by a State Public Health Officer; and

WHEREAS these local health officers, working in consultation with county boards of supervisors and other local authorities, are well positioned to understand the local needs of their communities; and

WHEREAS local governments are encouraged to coordinate with federally recognized California tribes located within or immediately adjacent to the external geographical boundaries of such local government jurisdiction; and

WHEREAS the global COVID-19 pandemic threatens the entire State, and coordination between state and local public health officials is therefore, and will continue to be, necessary to curb the spread of COVID-19 throughout the State; and

WHEREAS State public health officials have worked, and will continue to work, in consultation with their federal, state, and tribal government partners; and

WHEREAS the State Public Health Officer has articulated a four-stage framework—which includes provisions for the reopening of lower-risk businesses and spaces ("Stage Two"), to be followed by the reopening of higher-risk businesses and spaces ("Stage Three")—to allow Californians to gradually resume various activities while continuing to preserve public health in the face of COVID-19; and

WHEREAS the threat posed by COVID-19 is dynamic and ever-changing, and the State's response to COVID-19 (including implementation of the four-stage framework) should likewise retain the ability to be dynamic and flexible; and

WHEREAS to preserve this flexibility, and under the provisions of Government Code section 8571, I find that strict compliance with the Administrative Procedure Act, Government Code section 11340 et seq., would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, 8627, and 8665; and also in accordance with the authority vested in the State Public Health Officer by the laws of the State of California, including but not limited to Health and Safety Code sections 120125, 120130, 120135, 120140, 120145, 120150, 120175, and 131080; do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1) All residents are directed to continue to obey State public health directives, as made available at https://covid19.ca.gov/stay-home-except-for-essential-needs/ and elsewhere as the State Public Health Officer may provide.

2) As the State moves to allow reopening of lower-risk businesses and spaces ("Stage Two"), and then to allow reopening of higher-risk businesses and spaces ("Stage Three"), the State Public Health Officer is directed to establish criteria and procedures—as set forth in this Paragraph 2—to determine whether and how particular local jurisdictions may implement public health measures that depart from the statewide directives of the State Public Health Officer.

   In particular, the State Public Health Officer is directed to establish criteria to determine whether and how, in light of the extent to which the public health is menaced by COVID-19 from place to place within the State, local health officers may (during the relevant stages of reopening) issue directives to establish and implement public health measures less restrictive than any public health measures implemented on a statewide basis pursuant to the statewide directives of the State Public Health Officer.

   The State Public Health Officer is further directed to establish procedures through which local health officers may (during the relevant stages of reopening) certify that, if their respective jurisdictions are subject to proposed public health measures (which they shall specify to the extent such specification may be required by the State Public Health Officer) that are less restrictive than public health measures implemented on a statewide basis pursuant to the statewide directives of the State Public Health Officer, the public health will not be menaced. The State Public Health Officer shall additionally establish procedures to permit, in a manner consistent with public health and

safety, local health officers who submit such certifications to establish and implement such less restrictive public health measures within their respective jurisdictions.

The State Public Health Officer may, from time to time and as she deems necessary to respond to the dynamic threat posed by COVID-19, revise the criteria and procedures set forth in this Paragraph 2. Nothing related to the establishment or implementation of such criteria or procedures, or any other aspect of this Order, shall be subject to the Administrative Procedure Act, Government Code section 11340 et seq. Nothing in this Paragraph 2 shall limit the authority of the State Public Health Officer to take any action she deems necessary to protect public health in the face of the threat posed by COVID-19, including (but not limited to) any necessary revision to the four-stage framework previously articulated by the State Public Health Officer.

3) Nothing in this Order shall be construed to limit the existing authority of local health officers to establish and implement public health measures within their respective jurisdictions that are more restrictive than, or that otherwise exist in addition to, the public health measures imposed on a statewide basis pursuant to the statewide directives of the State Public Health Officer.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of May 2020.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT “8”

State of California—Health and Human Services Agency
California Department of Public Health

SANDRA SHEWRY, MPH, MSW
Acting Director

GAVIN NEWSOM
Governor

Statewide Public Health Officer Order,
August 28, 2020

On March 19, 2020, the State Public Health Officer issued an order directing all individuals living in the State of California to stay at home except as needed to facilitate authorized activities or to maintain the continuity of operations of critical infrastructure sectors. (See March 19, 2020 Order.) The scope of activities authorized under this order was subsequently modified in additional state public health directives. Then, consistent with Executive Order N-60-20, the State Public Health Officer set out California's path forward from this "Stay-at-Home" Order in California's Pandemic Resilience Roadmap. That Roadmap identified four stages of the pandemic: safety and preparation (Stage 1), reopening of lower-risk workplaces and other spaces (Stage 2), reopening of higher-risk workplaces and other spaces (Stage 3), and finally an easing of final restrictions leading to the end of the stay-at-home order (Stage 4). On July 13, 2020, in response to a significant increase in the spread of COVID-19, the State Public Health Officer ordered the statewide closure of operations in certain high-risk sectors. (See July 13, 2020 Order.) Counties on the County Monitoring List for three consecutive days were also required to close additional indoor operations for certain sectors in order to further slow community transmission.

Community spread of infection remains a significant concern across the state. In addition to the impact on the general population, community spread increases the likelihood of expanded transmission of COVID-19 in congregate settings such as nursing homes, homeless shelters, jails and prisons. Infection of vulnerable populations in these settings can be catastrophic. Higher levels of community spread also increase the likelihood of infection among individuals at higher risk of serious outcomes from COVID-19, including the elderly and those with underlying health conditions who might live or otherwise interact with an infected individual. COVID-19 infection is also disproportionately impacting our essential workforce. The anticipated influenza season is likely to impose additional burdens on the healthcare delivery system, increasing demand for space, supplies, and personnel.

The COVID-19 pandemic continues to evolve, and CDPH is continually monitoring new scientific evidence and improving its understanding of the disease. Based on the current state of the pandemic in California and current scientific understanding of transmission, it is my judgment that it is appropriate to further refine the approach in order to gradually reopen businesses and activities while reducing the risk of increased community spread. A targeted system for sector reopenings which considers both current epidemiological conditions and the latest understanding of transmission risk in certain

sectors will allow CDPH to monitor both counties and sectors for evidence of increased epidemiological risk and will reduce risk as California continues to reopen its economy and protect public health. California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe sets forth in detail the basis for the new Framework.

NOW, THEREFORE, I, as Acting State Public Health Officer of the State of California, order all of the following:

1. The updated framework for reopening, which shall be known as California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe, will rely on a set of Tiers corresponding to specific epidemiological profiles based on indicators of disease burden including case rates per capita and percent of positive covid-19 tests and proportion of testing and other covid-19 response efforts addressing the most impacted populations within a county. For each progressive Tier, this framework will permit a broader range of reopening guided by risk-based criteria pertinent to each sector. I may modify the epidemiological criteria for each Tier as well as the sectors, businesses, establishments, or activities within the Tiers as necessary based on the latest available public health information and research to protect public health and safety. The up-to-date Tier profiles and those sectors, businesses, establishments, or activities that are permitted to open in each Tier will be posted (along with necessary modifications), at https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/COVID19CountyMonitoringOverview.aspx.

2. Pursuant to this framework, all local health jurisdictions in the state may reopen specified sectors according to their respective county's Tier. However, a local health jurisdiction that moves to a Tier permitting further reopening must pause for 21 days, or a different period that I identify, before reopening additional sectors.

3. Conversely, a local health jurisdiction must also close sectors according to their respective county's Tier consistent with the timeline and procedures set forth in California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe.

4. A local health jurisdiction may continue to implement or maintain more restrictive public health measures if the jurisdiction's Local Health Officer determines that health conditions in that jurisdiction warrant such measures.

Terms of Orders

5. This order shall go into effect August 31, 2020 and shall supersede the July 13, 2020 State Public Health Officer Order.

6. This order shall remain in effect until I determine it is appropriate to modify the order based on public health conditions.

7. I will continue to monitor the epidemiological data and will modify California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe as required by the evolving public health conditions. If I determine that it is necessary to change what will reopen or close, or otherwise modify the Plan, these modifications will be posted at California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe.

8. Except to the extent this order or other state public health directives expressly provide otherwise, all CDPH guidance continues to apply statewide.

9. All references in CDPH or other State guidance to the County Monitoring List or the County Data Monitoring List shall refer to those counties falling within Tier 1 of California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe.

10. This order is issued pursuant to Health and Safety Code sections 120125, 120130(c), 120135, 120140, 120145, 120150, 120175,120195 and 131080; EO N-60-20, N-25-20, and other authority provided for under the Emergency Services Act; and other applicable law.

Erica S. Pan, MD, MPH
Acting State Public Health Officer
California Department of Public Health

EXHIBIT “9”

State of California—Health and Human Services Agency
California Department of Public Health

Sandra Shewry
Acting Director

GAVIN NEWSOM
Governor

November 13, 2020

TO: All Californians

SUBJECT: CDPH Guidance for the Prevention of COVID-19 Transmission for Gatherings

Summary

This guidance provides an updated plan for Californians to gather outside their household and replaces the March 16, 2020, October 9, 2020 and other prior gatherings guidance. It applies to private gatherings, and all other gatherings not covered by existing sector guidance are prohibited. It also applies to activities protected by the First Amendment to the extent that they are not already permitted by other guidance, notwithstanding any guidance, orders, or directives to the contrary. Gatherings are defined as social situations that bring together people from different households at the same time in a single space or place. When people from different households mix, this increases the risk of transmission of COVID-19.

Context

COVID-19 continues to pose a severe risk to communities and requires all people in California to follow necessary precautions and to adapt the way they live and function in light of this ongoing risk. The safest way to gather is to spend time with people in the same household, gather virtually, or gather outdoors.

The season of cold weather has now arrived in many parts of the state, and rainy season is imminent, making it more difficult to gather outdoors. Because of this, many people in California may feel the need to gather indoors instead. Indoor gatherings remain risky activities, and it would always be safer to gather outdoors or virtually whenever possible. But this guidance explains some important and necessary steps to make indoor gatherings less risky if they do occur.

In general, the more people from different households a person interacts with at a gathering, the closer the physical interaction is, and the longer the interaction lasts, the higher the risk that a person with a COVID-19 infection, symptomatic or asymptomatic, may spread it to others. Public health studies have also shown that the risk of transmission is increased in indoor spaces, particularly when there isn't appropriate ventilation. [1] Unlike indoor spaces, wind and air in outdoor spaces can help reduce spread of the virus from one person to another.

Planning scenarios published by the CDC estimate that, on average, a person with COVID-19 goes on to infect between 2-4 people, with a best estimate of 2.5 when there are no preventive measures.[2] For example, if each infected person spreads the virus to two people, who in turn spread it to two others each; those four will spread the virus to eight others; those eight will spread the virus to 16; and so on. As a result, after 10 transmission cycles, one person could be responsible for 1,024 other people contracting the virus.[3] Additionally, there is broad agreement that people who are not experiencing symptoms can still spread COVID-19[4].The fact that COVID-19

can be spread by people who don't have symptoms or aren't showing symptoms yet is one of the aspects of the COVID-19 that makes it difficult to control.

All gatherings pose a higher risk of transmission and spread of COVID-19 when people mix from different households and communities. The likelihood of transmission and spread increases with laughing, singing, loud talking and difficulty maintaining physical distance. Limiting attendance at gatherings is a way to reduce the risk of spread as it lowers the number of different people who are interacting. Additionally, by limiting attendance there is an improved ability to perform effective contact tracing if there is a positive case discovered, which can help to slow the spread of COVID-19[5]. People who do choose to attend gatherings should discuss and agree upon the specific group rules before convening together.

Like other types of activities, activities protected by the First Amendment pose risks of COVID-19 transmission. People who wish to engage in political, artistic, or other forms of expression or in religious expression and practice are strongly encouraged to find means of expression that do not involve in-person gatherings or to wait to gather in person until those activities are permitted by the Blueprint for a Safer Economy. However, because this guidance offers safer ways to operate in the colder climate, with higher likelihood of rain, associated with the time of year we now enter, the safeguards in this guidance apply as well to activities protected by the First Amendment and those activities are not prohibited if conducted in accordance with this guidance.

Recommendations & Mandatory Requirements for All Gatherings

All persons planning to host or participate in a private gathering, as defined above, must comply with the requirements identified below and are strongly encouraged to follow the recommendations as well. Activities protected by the First Amendment may proceed under this guidance notwithstanding any guidance, orders, or directives to the contrary. Local health jurisdictions may be more restrictive than this guidance. Refer to your local guidance for what is allowed in your area.

1. Attendance

a. Gatherings that include more than 3 households are prohibited. This includes everyone present, including hosts and guests. Remember, the smaller the number of people, the safer.

b. Keep the households that you interact with stable over time. By spending time with the same people, risk of transmission is reduced. Participating in multiple gatherings with different households or groups is strongly discouraged.

c. The host should collect names of all attendees and contact information in case contact tracing is needed later.

2. Location: Gatherings Must be Outdoors for Counties in the Purple Tier

a. Gatherings that occur outdoors are significantly safer than indoor gatherings. All gatherings must be held outside in the Purple Tier, and indoor gatherings are strongly discouraged in Red, Orange and Yellow Tiers.

i. If gathering indoors, increase fresh air circulation by opening windows or doors, as much as possible, especially in the rooms where people are gathering.

b. A gathering of no more than three households is permitted in a public park or other outdoor space, even if unrelated gatherings of other groups up to three households are also occurring in the same park or other outdoor

space. If multiple such gatherings are occurring, mixing between groups gatherings is not allowed. Additionally, multiple gatherings of three households cannot be jointly organized or coordinated to occur in the same public park or other outdoor space at the same time – this would constitute a gathering exceeding the permitted household limits.

3. Don't Attend Gatherings If You Feel Sick

a. Anyone with any COVID-19-like symptoms (fever, cough, shortness of breath, chills, night sweats, sore throat, nausea, vomiting, diarrhea, tiredness, muscle or body aches, headaches, confusion, or loss of sense of taste/smell), must stay home and not come into contact with anyone outside their household.

b. Anyone who develops COVID-19 within 48 hours after attending a gathering should notify the organizer of the gathering and/or other attendees as soon as possible regarding the potential exposure.

4. Individuals in a High-Risk Group are Discouraged from Attending any Gatherings

a. People at higher risk of severe illness or death from COVID-19 (such as older adults and people with chronic medical conditions) are strongly urged not to attend any gatherings, especially indoor gatherings.

b. If higher-risk individuals do attend any gatherings, they should do the following to decrease the risk for exposure:

i. Spend as much time outside, or near outside air flow such as open windows or doors, as possible.

ii. Wear a respirator or surgical mask instead of a cloth mask, and minimize any time at the event with the mask off.

iii. Remain at least six feet, or ideally even farther away, from others outside their household as much as possible, especially when people are eating or drinking without face coverings.

iv. Spend a shorter time at the gathering than others to reduce potential exposure.

5. Practice Physical Distancing and Hand Hygiene at Gatherings

a. For any gatherings permitted under this guidance, the space must be large enough so that everyone at a gathering can maintain at least a 6-foot physical distance from others (not including their own household) at all times.

b. Seating must provide at least 6 feet of distance (in all directions—front-to-back and side-to-side) between different households.

c. Everyone at a gathering should frequently wash their hands with soap and water, or use hand sanitizer if soap and water are not available.

d. Shared items should be minimized during a gathering. Food and beverages should be served by a person who washes or sanitizes their hands frequently, and who must wear a face covering. Self-serve items from communal containers should be minimized.

e. Remind all persons to sanitize hands before eating or drinking, and after touching shared items if shared items are unavoidable.

6. Wear a Face Covering to Keep COVID-19 from Spreading

a. When gathering, face coverings must be worn in accordance with the CDPH Guidance on the Use of Face Coverings, unless an exemption is applicable.

b. People at gatherings are advised to limit removal of their face coverings to when they are actively eating or drinking. While face coverings are removed for this purpose, they should stay at least 6 feet away from everyone outside their own household, and put their face covering back on as soon as they are done with the activity.

c. Face coverings can also be removed to meet urgent medical needs (for example, to use an asthma inhaler, take medication, or if feeling light-headed).

7. Keep it short

a. Gatherings should be two hours or less. The longer the duration, the risk of transmission increases.

8. Singing, Chanting, Shouting, Cheering and Similar Activities Are Strongly Discouraged at Outdoor Gatherings and Prohibited at Indoor Gatherings

a. Singing, chanting, shouting, cheering, physical exertion, and similar activities significantly increase the risk of COVID-19 transmission because these activities increase the release of respiratory droplets and fine aerosols into the air. Because of this, singing, chanting, shouting, cheering, and similar activities are strongly discouraged in outdoor settings, but if they occur, the following rules and recommendations apply:

i. All people who are singing, chanting, shouting, cheering, or engaging in similar activities should wear a face covering at all times while engaging in those activities, including anyone who is leading a song, chant, or cheer. Because these activities pose a very high risk of COVID-19 transmission, face coverings are essential to reduce the spread of respiratory droplets and fine aerosols;

ii. People who are singing, shouting, chanting, cheering, or exercising are strongly encouraged to maintain physical distancing beyond 6 feet to further reduce risk.

iii. People who are singing or chanting are strongly encouraged to do so quietly (at or below the volume of a normal speaking voice).

b. Instrumental music is allowed outdoors as long as the musicians maintain at least 6-foot physical distancing. Musicians must be from one of the three households. Playing of wind instruments (any instrument played by the mouth, such as a trumpet or clarinet) is strongly discouraged, and if played should use protective or tightly woven cloth barriers on the instrument bells or at the end of the instrument to protect from spread of condensation droplets. If music is played, it is recommended that the volume be quiet enough that attendees can speak in a normal voice without shouting.

c. Singing, chanting, shouting, cheering, playing of wind instruments and similar activities are not permitted in indoor gatherings.

[1] See, e.g., Hiroshi Nishiura, et al., Closed environments facilitate secondary transmission of coronavirus disease 2019 (COVID-19); Hu Qian, et al., "Indoor transmission of SARS-CoV-2" [pre-print] published in medRxiv on April 4, 2020.

[2] See Planning Scenarios.

[3] See, e.g., Report 3: Natsuko Imai et al, WHO Collaborating Centre for Infectious Disease Modelling, MRC Centre for Global Infectious Disease Analysis, J-IDEA, "Imperial college London, UK. Transmissibility of 2019 -n-CoV)." See also Inglesby T B JAMA Public Health Measures and the Reproduction Number of SARS-CoV-2. JAMA Network.2020.7878 (May 1, 2020).

[4] Transmission of SARS-CoV-2: implications for infection prevention precautions.

[5] See Preventing the Spread of the Coronavirus

California Department of Public Health
PO Box, 997377, MS 0500, Sacramento, CA 95899-7377
Department Website (cdph.ca.gov)

Page Last Updated : November 13, 2020

EXHIBIT “10”

Sandra Shewry
Acting Director
Erica S. Pan, MD, MPH
Acting State Health Officer

State of California—Health and Human Services Agency
California Department of Public Health

GAVIN NEWSOM
Governor

November 19, 2020

TO: All Californians

SUBJECT: Limited Stay At Home Order

Upon assessment of the recent, unprecedented rate of rise in increase in COVID-19 cases across California, the California Department of Public Health (CDPH) is taking immediate actions to prevent the spread of the virus. These immediate actions will help reduce community spread, protect individuals at higher risk of severe illness or death from COVID-19, and prevent the state's health care delivery system from becoming overwhelmed. Reducing movement and mixing of individual Californians is critical to decreasing transmission, hospitalizations, and deaths.

Therefore, as the State Public Health Officer, I am issuing a Limited Stay at Home order, effective in counties under Tier One (Purple) of California's Blueprint for a Safer Economy, requiring that all gatherings with members of other households and all activities conducted outside the residence, lodging, or temporary accommodation with members of other households cease between 10:00pm PST and 5:00am PST, except for those activities associated with the operation, maintenance, or usage of critical infrastructure[1] or required by law. This order does not apply to persons experiencing homelessness. Nothing in this order prevents any number of persons from the same household from leaving their residence, lodging, or temporary accommodation, as long as they do not engage in any interaction with (or otherwise gather with) any number of persons from any other household, except as specifically permitted herein.

This Limited Stay at Home Order will reduce opportunities for disease transmission with the goal of decreasing the number of hours individuals are in the community and mixing with individuals outside of their household. Every intervention to decrease mixing of households is critical during this unparalleled increase in case rate rise of about 50 percent during the first week in November. In particular, activities conducted during 10:00pm to 5:00am are often non-essential and more likely related to social activities and gatherings that have a higher likelihood of leading to reduced inhibition and reduced likelihood to adhere to COVID-19 preventive measures (e.g., wearing face coverings and maintaining physical distance).

This order shall take effect on November 21, 2020, at 10:00pm PST.

For counties that move into Tier One (Purple) after the effective date of this Order, the terms of this Order shall apply at 10:00pm PST on day two after the county is assigned to Tier One (Purple). For the purpose of counting days, day one shall be the first full day following the date of the tier assignment.

This order remains in effect until 5:00am PST on December 21, 2020, and may be extended or revised as needed.

This order is issued pursuant to Health and Safety Code sections 120125, 120130(c), 120135, 120140, 120145, 120175,120195 and 131080; EO N-60-20, N-25-20, and other authority provided for under the Emergency Services Act; and other applicable law.

Erica S. Pan, MD, MPH
Acting State Public Health Officer
California Department of Public Health

[1] See the COVID19.ca.gov Essential Workforce web page for full list of California's Critical Infrastructure workforce.

Page Last Updated : November 19, 2020

EXHIBIT “11”

State of California—Health and Human Services Agency
California Department of Public Health

Sandra Shewry
Acting Director
Erica S. Pan, MD, MPH
Acting State Health Officer

GAVIN NEWSOM
Governor

December 3, 2020

TO: All Californians

SUBJECT: Regional Stay at Home Order

Upon assessment of the recent, unprecedented rise in the rate of increase in COVID-19 cases, hospitalizations, and test positivity rates across California, the California Department of Public Health (CDPH) is taking immediate actions to prevent the spread of the virus.

The State, like the nation, continues to record an unprecedented surge in the level of community spread of COVID-19. California implemented an accelerated application of the Blueprint Framework metrics on November 16 and a limited Stay at Home Order issued on November 19. However, in the interim, the number of new cases per day has increased by over 112%, (from 8,743 to 18,588) and the rate of rise of new cases per day continues to increase dramatically. The number of new hospital admissions has increased from 777 on November 15, to 1,651 on December 2, and because of the lag between case identification and hospitalizations, we can only expect these numbers to increase.

Current projections show that without additional intervention to slow the spread of COVID- 19, the number of available adult Intensive Care Unit (ICU) beds in the State of California will be at capacity in mid-December. This is a sign that the rate of rise in cases, if it continues, is at risk of overwhelming the ability of California hospitals to deliver healthcare to its residents suffering from COVID-19 and from other illnesses requiring hospital care. ICU beds are a critical resource for individuals who need the most advanced support and care and the ability to add additional ICU capacity is limited by the lack of available ICU nurses and physicians as a result of the nationwide surge in hospitalizations and ICU admissions.

Because the rate of increases in new cases continues to escalate and threatens to overwhelm the state's hospital system, further aggressive action is necessary to respond to the quickly evolving situation. While vaccines are promising future interventions, they are not available to address the immediate risks to healthcare delivery in the current surge. The immediate aggressive institution of additional non-pharmaceutical public health interventions is critical to avoid further overwhelming hospitals and to prevent the need to ration care.

NOW, THEREFORE, I, as Acting State Public Health Officer of the State of California, order:

1. CDPH will evaluate public health based on Regions, responsive to hospital capacity for persons resident in those Regions.

2. CDPH will evaluate the adult ICU bed capacity for each Region and identify on covid19.ca.gov any Regions for which that capacity is less than 15%. When that capacity is less than 15%, the following terms (the Terms of this Order) will apply.

a. All gatherings with members of other households are prohibited in the Region except as expressly permitted herein.

b. All individuals living in the Region shall stay home or at their place of residence except as necessary to conduct activities associated with the operation, maintenance, or usage of critical infrastructure,1 as required by law, or as specifically permitted in this order.

c. Worship and political expression are permitted outdoors, consistent with existing guidance for those activities.

d. Critical infrastructure sectors may operate and must continue to modify operations pursuant to the applicable sector guidance.

e. Guidance related to schools remain in effect and unchanged. Accordingly, when this Order takes effect in a Region, schools that have previously reopened for in-person instruction may remain open, and schools may continue to bring students back for in-person instruction under the Elementary School Waiver Process or Cohorting Guidance.

f. In order to reduce congestion and the resulting increase in risk of transmission of COVID-19 in critical infrastructure retailers, all retailers may operate indoors at no more than 20% capacity and must follow the guidance for retailers. All access to retail must be strictly metered to ensure compliance with the limit on capacity. The sale of food, beverages, and alcohol for in- store consumption is prohibited.

g. To promote and protect the physical and mental well-being of people in California, outdoor recreation facilities may continue to operate. Those facilities may not sell food or drink for on-site consumption. Overnight stays at campgrounds are not permitted.

h. Nothing in this Order prevents any number of persons from the same household from leaving their residence, lodging, or temporary accommodation, as long as they do not engage in any interaction with (or otherwise gather with) any number of persons from any other household, except as specifically permitted herein.

i. Terms (a) and (b) of this section do not apply to persons experiencing homelessness.

3. Except as otherwise required by law, no hotel or lodging entity in California shall accept or honor out of state reservations for non-essential travel, unless the reservation is for at least the minimum time period required for quarantine and the persons identified in the reservation will quarantine in the hotel or lodging entity until after that time period has expired.

4. This order shall take effect on December 5, 2020 at 1259pm PST.

5. For Regions where the adult ICU bed capacity falls below 15% after the effective date of this order, the Terms of this Order shall take effect 24 hours after that assessment.

6. The Terms of this Order shall remain in place for at least three weeks from the date the order takes effect in a Region and shall continue until CDPH's four-week projections of the Region's total available adult ICU bed capacity is greater than or equal to 15%. Four-week adult ICU bed capacity projections will be made approximately twice a week, unless CDPH determines that public health conditions merit an alternate projection schedule. If after three weeks from the effective date of the Terms of this Order in a Region, CDPH's four-week projections of the Region's total available adult ICU bed capacity is greater than or equal to 15%, the Terms of this Order shall no longer apply to the Region

7. After the termination of the Terms of this Order in a Region, each county within the Region will be assigned to a tier based on the Blueprint for a Safer Economy as set out in my August 28, 2020 Order, and the County is subject to the restrictions of the Blueprint appropriate to that tier.

8. I will continue to monitor the epidemiological data and will modify this Regional Stay-at-Home Order as required by the evolving public health conditions. If I determine that it is necessary to change the Terms of this Order, or otherwise modify the Regional Stay-at-Home Order, these modifications will be posted at covid19.ca.gov.

9. When operative in a Region, the Terms of this Order supersede any conflicting terms in other CDPH orders, directives, or guidance. Specifically, for those Regions with ICU bed capacity triggering this order, the Terms of this Order shall supersede the State's Blueprint for a Safer Economy and all guidance (other than guidance for critical infrastructure sectors) during the operative period. In all Regions that are not subject to the restrictions in this order, the Blueprint for a Safer Economy and all guidance shall remain in effect.

10. This order is issued pursuant to Health and Safety Code sections 120125, 120130(c), 120135, 120140, 120145, 120175,120195 and 131080; EO N-60-20, N-25-20, and other authority provided for under the Emergency Services Act; and other applicable law.

Erica S. Pan, MD, MPH

Acting State Public Health Officer

California Department of Public Health

California Department of Public Health
PO Box, 997377, MS 0500, Sacramento, CA 95899-7377
Department Website (cdph.ca.gov)

Page Last Updated : December 4, 2020

S266106

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IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO; and JOSIE GONZALES, an individual

Petitioners,

vs.

GAVIN NEWSOM, in his official capacity as Governor of California, ERICA PAN, M.D., in her official capacity as Acting Public Health Officer of the State of California, SANDRA SHEWRY, in her official capacity as the State Public Health Officer and Department of Public Health Director

Respondents.

DECLARATION OF MATTHEW ERICKSON IN SUPPORT OF VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE
IMMEDIATE RELIEF REQUESTED
NO LATER THAN DECEMBER ___, 2020
(*Palma* Notice Requested)

TYLER & BURSCH, LLP
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Attorneys for *Petitioners*

I, MATTHEWRICKSON, the undersigned declare as follows:

1. I am the Chief Financial Officer for the County of San Bernardino ("County"). I have held this position since I was appointed in 2018. I make the following declaration based on my own personal knowledge and if called to testify as a witness I could and would testify competently thereto.

2. I make this declaration in support of the County's Verified Petition For Peremptory Writ of Mandate in the First Instance.

3. My office is responsible for developing and overseeing the County budget, providing financial forecasts, tracking legislation and State and Federal mandates and actions to determine the overall impact to County finances. My office has handled the administration of the Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Funds that were allocated to the County since adoption of the Act. Since the beginning of the pandemic, the County has received $430,587,509 in Coronavirus Relief Funds, with $380,408,021 directly allocated by the Federal Government and $50,179,488 passed through from the State of California Department of Finance. Of that amount $118,161,713 was set aside for potential use by cities and other local agencies, including school districts, private hospitals, non-profits and fire agencies; $30,000,000 was allocated by the Board of Supervisors to be utilized by small businesses, all to help combat COVID-19 and its impacts. The funds are to be used for eligible activities and expenditures pursuant to the Act to help protect the public from the spread of the Coronavirus.

4. The County's direct pandemic response costs on top of assistance to cities and local agencies have been extensive and are currently projected to total approximately $300 million from March 1, 2020 through December 30, 2020 (the eligibility period for which expenditures can be funded with CARES Act Coronavirus Relief Funds). In addition to

significant costs incurred by the County's Detention centers to ensure safety and social distancing, over $110.0 million in COVID-related expenditures have been reported by our Arrowhead Regional Medical Center (through September 2020), the County Fire Agency (through November 2020) and Inland Counties Emergency Medical Agency (through November 2020). Excluding the most recent peaks in demand for COVID-19 testing, the County has already spent an estimated $18.4 million through September 2020 by acquiring testing kits, setting up and running testing sites and personnel costs. Testing costs are projected to drastically escalate as the County has entered the holiday season and the County is now projecting between $6.3 million to $13.2 million per month for testing, which will continue into the foreseeable future. In addition to testing costs, the County will be required to continue numerous pandemic response efforts well beyond the expiration date of available CARES Act funds. Costs associated with personnel for vaccinations, extending surge capacity for hospitals, Personal Protective Equipment purchases, and numerous other emergency response needs, has the County preparing to pay for an estimated $21.5 million in monthly pandemic-related response costs without the availability of federal stimulus dollars past December 30, 2020.

5. As of November 25, 2020, small business revenue within the County has decreased by 17.9% compared to January 2020. Additionally, during that same timeframe the number of small businesses open has decreased by 27% in the County (data compiled by the Opportunity Insights Economic Tracker website). The small business closures, and the corresponding loss of jobs, could negatively impact the County's economic future for many years.

6. There is an extreme amount of uncertainty related to the County's sales tax receipts. Sales tax generating industries have been greatly impacted by the ongoing pandemic and the Governor's stay at home orders

issued on March 19 and December 3, 2020. Although losses have not been as pronounced as many have anticipated, a State Legislative Analyst Office report published November 2020 projects that sales tax will not recover to 2018-19 levels until 2023-24. The issuance of the second of the Governor's stay at home orders with the restrictions on businesses already suffering revenue losses, particularly during the holiday season, may have more of a significant adverse effect on the County's revenue sources.

7. Once the CARES Act funding ends, to the extent expenditures are still needed to combat COVID-19 and its impacts, the County may be required to use County General Fund monies to pay for costs that were previously reimbursed from the Federal and State funds. The testing costs described in Paragraph 4 are one example of the significant costs the County would be forced to assume with potentially no other source of reimbursement. Any decrease in County revenues could have a detrimental impact on the ability to use General Fund monies to pay for such expenditures.

8. I am aware that the State has threatened to withhold State funding from local governments that do not follow State orders relating to COVID. According to the Associated Press, the Governor did withhold funds from the City of Atwater and the City of Coalinga as a result of Atwater declaring itself a "Sanctuary City" for businesses and Coalinga adopting a resolution declaring all businesses essential. In addition, the Governor recently stated that enforcement of his December 3 order would be handled by local authorities but that uncooperative counties would be penalized financially (https://policetribune.com/gov-newsom-is-pulling-funding-from-counties-which-dont-enforce-his-orders/ (December 4, 2020)) If this were to occur with respect to the County, we could be forced to use other County monies to cover COVID and other costs.

9. The State's Legislative Analyst Office is currently projecting State Operating deficits of approximately $17 billion by 2024-25 largely due to tepid revenue growth and increased safety net program costs resulting from the pandemic. If the State chooses to address budget deficits through reductions in county funding for mandated services, the County could be faced with additional operating deficits for years to come.

I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 14, 2020 at San Bernardino, California.

MATTHEW ERICKSON

CERTIFICATE OF SERVICE

I am an employee in the County of Riverside. I am over the age of 18 years and not a party to the within entitled action; my business address is 25026 Las Brisas Road, Murrieta, California 92562.

On December 14, 2020, I served a copy of the following document(s) described as:

- **DECLARATION OF MATTHEW ERICKSON IN SUPPORT OF VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE**

on the interested party(ies) in this action by-email or electronic service [C.C.P. Section 1010.6; CRC 2.250-2.261]. The documents listed above were transmitted via e-mail to the e-mail addresses on the attached service list.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am an employee in the office of a member of the bar of this Court who directed this service.

Shelly Padilla

Shelly M. Padilla

SERVICE LIST

Governor Gavin Newsom 1303 10th Street, Ste. 1173 Sacramento, CA 95814 (916) 445-2841 Email: ServiceofProcess@gov.ca.gov	Respondent
Sandra Shewry Email: ServiceofProcess@gov.ca.gov	Respondent
Erica Pan, M.D. Email: ServiceofProcess@gov.ca.gov	Respondent
California Office of the Attorney General Xavier Becerra, Attorney General Email: xavier.becerra@doj.ca.gov	Attorney for Respondents

S266106

S_____

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO; and JOSIE GONZALES, an individual

Petitioners,

vs.

GAVIN NEWSOM, in his official capacity as Governor of California, ERICA PAN, M.D., in her official capacity as Acting Public Health Officer of the State of California, SANDRA SHEWRY, in her official capacity as the State Public Health Officer and Department of Public Health Director

Respondents.

DECLARATION OF CURT HAGMAN IN SUPPORT OF VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE
IMMEDIATE RELIEF REQUESTED
NO LATER THAN DECEMBER ___, 2020
(*Palma* Notice Requested)

TYLER & BURSCH, LLP
Jennifer L. Bursch (State Bar No. 245512)
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25026 Las Brisas Road
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Tel: (951) 600-2733
Fax: (951) 600-4996
Attorneys for *Petitioners*

I, CURT HAGMAN, the undersigned, declare as follows:

1. I am the Supervisor for the 4th Supervisorial District for the County of San Bernardino (the "County") and currently serve as the Chairman of the Board of Supervisors. I have held the position of Supervisor since I was elected in 2014 and have served as the Chairman since being selected to serve in this capacity in January 2019. I make the following declaration based on my own personal knowledge and if called to testify as a witness I could and would testify competently thereto.

2. I make this declaration in support of the County's Verified Petition For Peremptory Writ of Mandate In the First Instance.

3. The County recognizes the dire threat that COVID-19 poses to its residents. The County has been proactive in coming up with creative solutions to slow the spread of COVID-19. The changing guidelines from the State have stretched the County's resources thin. It is becoming increasingly difficult for the County to manage compliance with the State's shelter-in-place orders, including the recent December 5, 2020 regional lockdown, and continue to perform its normal legal obligations to its residents.

4. The County is the largest county within the contiguous United States of America by land mass. It is approximately 20,000 square miles and it larger than about six states. Geographically the County consists of different areas such as the mountains, high desert, central valley and eastern desert and ranges from urban environment to sparsely populated areas. The County desires the authority to manage the pandemic at a micro level in order to serve the various needs of the different areas. Those residents within the sparsely populated, remote minimal risk communities are impacted by the ICU numbers from cities and counties that are hundreds of miles away.

5. Similarly, there appears to be no rational basis to treat the entire Southern California region as a single entity. The eastern parts of this County

are up to 300 miles from downtown Los Angeles or San Diego, 380 miles from Santa Barbara, and 450 miles from San Luis Obispo, all of which are areas that impact whether the December 5, 2020 orders require this County to shelter-in-place for three weeks.

6. The County had previously sought support from the State to create regions within its own borders instead of treating the entire County as a single entity. The State denied the County's request. The County does not wish to treat those living within remote communities where the COVID-19 is relatively low the same as those residents living in one of the metropolitan cities that are experiencing outbreaks at heightened levels. It does not make fiscal sense to use County resources to ensure compliance within communities such as Lake Havasu or Desert Heights. Yet, under the State's orders, the County is charged with ensuring that residents within low-risk areas are complying with the shelter-in-place orders. As a consequence, the State's orders are putting unnecessary strain on the County. The County is in a better position to manage its resources and develop appropriate orders and regulations for its diverse populations within its own borders than the State.

7. Accordingly, the County desires to restore local authority to allow a more tailored and measured response to the current outbreak.

I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 14, 2020 at San Bernardino, California.

CURT HAGMAN

CERTIFICATE OF SERVICE

I am an employee in the County of Riverside. I am over the age of 18 years and not a party to the within entitled action; my business address is 25026 Las Brisas Road, Murrieta, California 92562.

On December 14, 2020, I served a copy of the following document(s) described as:

- **DECLARATION OF CURT HAGMAN IN SUPPORT OF VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE**

on the interested party(ies) in this action by-email or electronic service [C.C.P. Section 1010.6; CRC 2.250-2.261]. The documents listed above were transmitted via e-mail to the e-mail addresses on the attached service list.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am an employee in the office of a member of the bar of this Court who directed this service.

Shelly Padilla

Shelly M. Padilla

SERVICE LIST

Governor Gavin Newsom 1303 10th Street, Ste. 1173 Sacramento, CA 95814 (916) 445-2841 Email: ServiceofProcess@gov.ca.gov	Respondent
Sandra Shewry Email: ServiceofProcess@gov.ca.gov	Respondent
Erica Pan, M.D. Email: ServiceofProcess@gov.ca.gov	Respondent
California Office of the Attorney General Xavier Becerra, Attorney General Email: xavier.becerra@doj.ca.gov	Attorney for Respondents

S266106

S_____

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO; and JOSIE GONZALES, an individual

Petitioners,

vs.

GAVIN NEWSOM, in his official capacity as Governor of California, ERICA PAN, M.D., in her official capacity as Acting Public Health Officer of the State of California, SANDRA SHEWRY, in her official capacity as the State Public Health Officer and Department of Public Health Director

Respondents.

DECLARATION OF JOHN McMAHON IN SUPPORT OF VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE
IMMEDIATE RELIEF REQUESTED
NO LATER THAN DECEMBER 28, 2020
(*Palma* Notice Requested)

TYLER & BURSCH, LLP
Jennifer L. Bursch (State Bar No. 245512)
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25026 Las Brisas Road
Murrieta, California 92562
Tel: (951) 600-2733
Fax: (951) 600-4996
Attorneys for *Petitioners*

I, JOHN McMAHON, the undersigned, declare as follows:

1. I am the Sheriff/Coroner/Public Administrator for the County of San Bernardino (the "County"). I have held this position since being appointed 2013 to fulfill an unexpired term and I have since been elected and reelected. I make the following declaration based on my own personal knowledge and if called to testify as a witness I could and would testify competently thereto.

2. The Sheriff's Department ("Department") provides law enforcement services in the largest county in the contiguous United States by area. The Department provides a full range of law enforcement services throughout the County's unincorporated areas and for 14 cities/towns within the County and for the San Manuel Band of Mission Indians, thereby serving a substantial portion of the County's approximate population of 2.2 million. The Department is charged with upholding peace, enforcing the law, and serving the interests of the County's residents through all facets of law enforcement including: patrol activities, investigations, crime laboratory services, operation of jails, and aviation services for general patrol and search and rescue activities. The Department accomplishes these goals by responding to emergency calls, non-emergency calls, investigating incidents, and providing an active presence with the County by performing regular patrolling. In addition to the services provided pursuant to my obligations as Sheriff, as the Coroner, it is my obligation to investigate the cause and manner of death of individuals, while the office of Public Administrator manages the estate of deceased persons for whom no executor is appointed. As Sheriff it is my job to establish and oversee the implementation of Department policies, goals, performance measures.

3. Since March, the Department has tracked 117,281.5 regular work hours devoted to COVID-19 related activities, and 24,356.5 overtime hours.

4. Pursuant to Penal Code section 26602, I am charged with authority to enforce the State's public health orders and the Governor's "shelter-in-place" orders issued on March 19, and December 3, 2020. The shelter-in-place orders, including the December 3, order which was triggered in the Southern California Region on December 5, requires that citizens remain in their homes and businesses shut down or reduce services, subject to certain limited exceptions.

5. Enforcement of shelter-in-place orders across the County requires the Department to monitor compliance with those orders. After the first stay-at-home order in March 2020, the County established a "business compliance" program in an effort to educate businesses on the requirements of the order and help them maintain compliance or come into compliance. Sheriff Deputies have participated in this program by spending time visiting business establishments (especially those observed to be non-compliant) and engaging owners and managers in an attempt to encourage compliance.

6. To ensure full compliance with the current orders, the Department would need to devote a substantial amount of additional resources to enforcement of the orders, thereby potentially neglecting other critical duties the Department is legally charged with performing, thereby potentially jeopardizing other essential functions of the San Bernardino County Sheriff's Department.

I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 14, 2020 at San Bernardino, California.

JOHN McMAHON

CERTIFICATE OF SERVICE

I am an employee in the County of Riverside. I am over the age of 18 years and not a party to the within entitled action; my business address is 25026 Las Brisas Road, Murrieta, California 92562.

On December 14, 2020, I served a copy of the following document(s) described as:

- **DECLARATION OF JOHN McMAHON IN SUPPORT OF VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE**

on the interested party(ies) in this action by-email or electronic service [C.C.P. Section 1010.6; CRC 2.250-2.261]. The documents listed above were transmitted via e-mail to the e-mail addresses on the attached service list.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am an employee in the office of a member of the bar of this Court who directed this service.

Shelly Padilla

Shelly M. Padilla

SERVICE LIST

Governor Gavin Newsom 1303 10th Street, Ste. 1173 Sacramento, CA 95814 (916) 445-2841 Email: ServiceofProcess@gov.ca.gov	Respondent
Sandra Shewry Email: ServiceofProcess@gov.ca.gov	Respondent
Erica Pan, M.D. Email: ServiceofProcess@gov.ca.gov	Respondent
California Office of the Attorney General Xavier Becerra, Attorney General Email: xavier.becerra@doj.ca.gov	Attorney for Respondents

S266106

S_____

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO; and JOSIE GONZALES, an individual

Petitioners,

vs.

GAVIN NEWSOM, in his official capacity as Governor of California, ERICA PAN, M.D., in her official capacity as Acting Public Health Officer of the State of California, SANDRA SHEWRY, in her official capacity as the State Public Health Officer and Department of Public Health Director

Respondents.

DECLARATION OF CORWIN PORTER IN SUPPORT OF VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE
IMMEDIATE RELIEF REQUESTED
NO LATER THAN DECEMBER ___, 2020
(*Palma* Notice Requested)

TYLER & BURSCH, LLP
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Attorneys for *Petitioners*

I, CORWIN PORTER, the undersigned, declare as follows:

1. I am the Director for the Public Health Department (the "PHD") for the County of San Bernardino (the "County"). I have held this position since I was appointed in June 2020, and I had been the Assistant Director since 2015. I make the following declaration based on my own personal knowledge and if called to testify as a witness I could and would testify competently thereto.

2. I make this declaration in support of the County's Verified Petition For Peremptory Writ of Mandate In the First Instance.

3. The PHD is charged with promoting and improving the health, wellness, safety, and quality of life within the County. PHD provides dozens of services, both those required by State law and voluntary community-oriented programs, to assist County businesses and residences, including, but not limited to, family services, animal care and control, nutrition, health education, HIV/Aids, environmental health, emergency preparedness and response, and clinic operations. As Director, it is my responsibility to evaluate and establish the policies and goals of the PHD, to oversee the execution and implementation of those policies and goals and to administer the public health objectives of the PHD.

4. The PHD is also charged with monitoring and responding to viral outbreaks, such as SARS CoV (COVID-19) pandemic that has impacted the County since approximately March 2020. PHD has undertaken various emergency responses in the attempt to combat and slow the spread of COVID-19 within the County since approximately March 2020. In addition, since the Governor declared a state of emergency due to the COVID-19 pandemic and issued "shelter-in-place" orders on March 19, 2020, PHD bears significant responsibility that the shelter-in-place orders are followed within the County. The shelter-in-place orders, including the December 5, 2020, order requires that citizens remain in their homes and businesses shut

down or reduce services, subject to certain exceptions. The PHD has had to reallocate significant resources to combat COVID-19 pursuant to the State's various orders intended to combat COVID-19.

5. Combatting COVID-19 and following the State's various orders has had an impact on PHD's resources. As an example, we have brought on 191 contact tracers and 171 staff to provide testing to the community. PHD has also reassigned 5 to 6 employees to solely handle the data reporting/monitoring requirements. The most recent round of shelter-in-place orders are more difficult to enforce as more and more residents and businesses ignore the orders.

6. As a result of reassigning personnel for data collection, the Joint Information Center, the school task force, and supporting PHD operations center, PHD resources are stretched thin and I have had to make the tactical decision to reduce several of our usual community health programs. Examples of the tangible impact of the Governor's shelter-in-place orders includes halting, or limiting programs such as Community Outreach and Education/Healthy Communities; Research, Assessment and Planning; Strategic Planning, and; Workforce Development.

7. PHD is also responsible for reporting COVID-19 statistics. To do so, PHD has diverted employees to maintain and continuously update the County's website, located at: (https://sbcph.maps.arcgis.com/apps/opsdashboard/index.html#/44bb35c804c44c8281da6d82ee602dff). The website is updated daily to report, case details, testing details, location details, contact tracing, and a variety of other statistics regarding the COVID-19 within the County. The website uses some information provided by the State of California, however, the PHD website accurately depicts the County's reporting information concerning COVID-19.

9. We in the public health profession have learned a significant amount of information about COVID-19 and how to combat its spread during the past 9+ months. The County and its hospitals are far better equipped to handle the pandemic than we were in early March 2020. The County has created and implemented dozens of policies and procedures to help slow and combat the spread of COVID-19. While there is no dispute that COVID-19 continues to spread throughout the County, we are much better at responding to the outbreaks given what we have learned this year.

I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 14, 2020 at San Bernardino, California.

CORWIN PORTER

CERTIFICATE OF SERVICE

I am an employee in the County of Riverside. I am over the age of 18 years and not a party to the within entitled action; my business address is 25026 Las Brisas Road, Murrieta, California 92562.

On December 14, 2020, I served a copy of the following document(s) described as:

- **DECLARATION OF CORWIN PORTER IN SUPPORT OF VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE**

on the interested party(ies) in this action by-email or electronic service [C.C.P. Section 1010.6; CRC 2.250-2.261]. The documents listed above were transmitted via e-mail to the e-mail addresses on the attached service list.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am an employee in the office of a member of the bar of this Court who directed this service.

Shelly Padilla

Shelly M. Padilla

SERVICE LIST

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S266106

S_____

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO; and JOSIE GONZALES, an individual

Petitioners,

vs.

GAVIN NEWSOM, in his official capacity as Governor of California, ERICA PAN, M.D., in her official capacity as Acting Public Health Officer of the State of California, SANDRA SHEWRY, in her official capacity as the State Public Health Officer and Department of Public Health Director

Respondents.

DECLARATION OF LUTHER SNOKE IN SUPPORT OF VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE IN THE FIRST INSTANCE
IMMEDIATE RELIEF REQUESTED
NO LATER THAN DECEMBER ___, 2020
(*Palma* Notice Requested)

TYLER & BURSCH, LLP
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Attorneys for *Petitioners*

I, LUTHER SNOKE, the undersigned, declare as follows:

1. I am the Chief Operating Officer for the County of San Bernardino (the "County"). I have held this position since I was appointed on October 7, 2020. Prior to that time, I served as a Deputy Executive Officer since 2019 and I have been actively involved in various County operations since that time, including the County's response to the COVID-19 pandemic. I make the following declaration based on my own personal knowledge and if called to testify as a witness I could and would testify competently thereto.

2. I make this declaration in support of the County's Verified Petition For Peremptory Writ of Mandate In the First Instance.

3. The County recognizes the dire threat that COVID-19 poses to its residents. The County has been proactive in coming up with creative solutions to slow the spread of COVID-19. The County's Joint Information Center ("JIC") has been one of the County's primary means of informing and educating the public regarding compliance with the various shelter-in-place orders. In addition, I am involved with coordinating various County departments and some agencies to ensure the public is educated regarding COVID-19 and the orders issued by all levels of the government. These same departments and agencies are also tasked with monitoring compliance with the orders. Code Enforcement, the Sheriff's Department, the County Fire Protection District, the Public Health Department and Arrowhead Regional Medical Center are the primary County departments and agencies that have assisted with the management of the County's response to COVID-19. The County has had to shift resources and reassign personnel to ensure compliance with the State's ever-changing orders.

4. Since about April 2020, the JIC has been established using primarily reassigned County employees to take hundreds of phone calls daily concerning compliance with the State's orders. Some of these calls involved complaints about businesses that appeared to be operating outside the

restrictions of those State orders. Such complaints were sent to a team of County employees who would investigate the complaints. Once a complaint was received, these complaints would be grouped by geographic area and sent to cities, where appropriate, for follow-up to determine the validity of the complaint and whether the business needed to make adjustments in order to be compliant. In each case a letter was generated setting forth possible enforcement action under State law that was either sent to the business by the County departments or provided to the cities for sharing with the businesses during a site visit. Often local law enforcement would be provided with the lists of those businesses to make a site visit on those who would not comply. Site visits included dialogue and a distribution of materials to assist the business to come into compliance with the State orders, such as sanitation practices, face coverings, spacing, etc. Some site visits were made proactively as our Public Health Department proactively visited nearly 2,000 higher risk businesses.

5. The changing guidelines from the State have stretched the County's resources thin. It is becoming increasingly difficult for the County to manage compliance with the State's shelter-in-place orders, including the recent December 5, 2020 regional lockdown, and continue to perform its normal legal obligations to its residents.

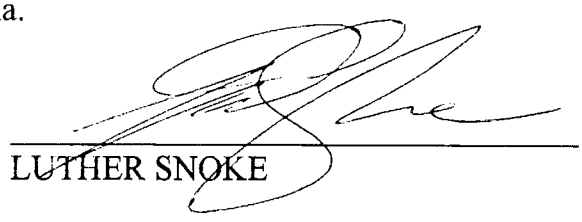
6. The County is the largest county within the contiguous United States of America by land mass. It is approximately 20,000 square miles and is larger than about six states. Geographically the County consists of different areas such as the mountains, high desert, central valley and eastern desert and ranges from urban environment to sparsely populated areas. The County desires the authority to manage the pandemic at a micro level in order to serve the various needs of the different areas. Those residents within the sparsely populated, remote minimal risk communities are impacted by the ICU numbers from cities and counties that are hundreds of miles away.

7. Similarly, there appears to be no rational basis to treat the entire Southern California region as a single entity. The eastern parts of this County are approximately 300 miles from downtown Los Angeles or San Diego, 380 miles from Santa Barbara, and 450 miles from San Luis Obispo, all of which are areas that impact whether the December 5, 2020 orders require this County to shelter-in-place for three weeks.

8. The County had previously sought support from the State to create regions within its own borders instead of treating the entire County as a single entity. The State denied the County's request. The County does not wish to treat those living within remote communities where COVID-19 is relatively low the same as those residents living in one of the metropolitan cities that are experiencing outbreaks at heightened levels. It does not make fiscal sense to use County resources to ensure compliance within communities such as Lake Havasu or Desert Heights. Yet, under the State's orders, the County is charged with ensuring that residents within low-risk areas are complying with the shelter-in-place orders. As a consequence, the State's orders are putting unnecessary strain on the County. The County is in a better position to manage its resources and develop appropriate orders and regulations for its diverse populations within its own borders than the State.

9. Accordingly, the County desires to restore local authority to allow a more tailored and measured response to the current outbreak.

I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 14, 2020 at San Bernardino, California.



LUTHER SNOKE

CERTIFICATE OF SERVICE

I am an employee in the County of Riverside. I am over the age of 18 years and not a party to the within entitled action; my business address is 25026 Las Brisas Road, Murrieta, California 92562.

On December 14, 2020, I served a copy of the following document(s) described as:

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on the interested party(ies) in this action by-email or electronic service [C.C.P. Section 1010.6; CRC 2.250-2.261]. The documents listed above were transmitted via e-mail to the e-mail addresses on the attached service list.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am an employee in the office of a member of the bar of this Court who directed this service.

Shelly Padilla

Shelly M. Padilla

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California Office of the Attorney General Xavier Becerra, Attorney General Email: xavier.becerra@doj.ca.gov	Attorney for Respondents

MESSAGE FROM THE MAYOR
December 9, 2020

Media Contact: Anna Ferguson-Sparks, 1-877-327-2656, Media@cityofsolvang.com
Public Contact: Media@cityofsolvang.com, www.CityofSolvang.com

To the Citizens and Businesses of Solvang:

In Solvang, Julefest is traditionally a more than month-long celebration typically running throughout December and into early January. Solvang, already long-revered as one of America's greatest Christmas towns, held a Julefest for the ages in 2019, with great expectations that Julefest 2020 would be even more festive. Unfortunately, COVID-19 struck, and the State of California has issued a series of health guidelines and varying lockdowns leaving us all with our heads spinning and our businesses and the City at the verge of economic collapse.

Recently, there was some apparent ray of light and hope. Businesses – in particular, hotels, restaurants and other tourist-related businesses – were able to partially reopen. While subject to masking requirements, social distancing and reduced seating levels, it was looking like Solvang would be at least partially open for Christmas, with the Julefest Nisse set to make a return appearance, and a cable movie reminding America that Solvang is the perfect Christmas destination.

However, in yet another unprecedented twist, the State decided last week to lump Santa Barbara County in with the 20 million residents of "Southern California" as a region for COVID regulation. Based on challenges with hospital capacity and practices in Los Angeles and other Southern California Counties, the State then decided over the weekend to lockdown that entire Southern California region until at least after Christmas, and potentially for much longer.

Obviously, for Solvang and its business community, this action is nothing short of disastrous. In addition to failing to consider the impacts on the business community at large, the State has also failed to consider the fact that no matter what the Governor may proclaim, people have already made plans and reservations and will most likely be showing up in Solvang during the Christmas season. If we were to ignore that fact, and not plan and prepare for the safety of these visitors and for our own residents, that would be inexcusably negligent.

In order to proactively address this issue, the Solvang City Council (www.CityofSolvang.com) held an Emergency Council Meeting on Monday, December 7, 2020, during which a motion made by Solvang Mayor Ryan Toussaint passed unanimously, with a 5-0 Council vote. The motion, which relates to these recent State of California shutdown orders built on the proposed actions by Santa Barbara County government as pertain to the State orders, includes the following actions:

- Authorized the Mayor to send a letter to the County Board of Supervisors strongly urging the creation of a new Central Coast Region consisting of Santa Barbara, Ventura and San Luis Obispo Counties, separate from the State's grouping of these Counties with the 20 million people in Southern California **(see letter, attached)**.
- Directed City Staff and resources to immediately pursue maintaining the status quo of safe, open outdoor dining and other current business practices which have allowed our community to have some level of normalcy, while also maintaining very low COVID-19 numbers. As part of this, City

Staff is evaluating "stay open" measures to save local businesses and the economy, in a responsive and safe manner.

- Create an ad hoc committee to work with Solvang City Manager Xenia Bradford, other State and local officials, and organizations – specifically, to include the Solvang Chamber of Commerce – to maintain our current economy. Outgoing Mayor Toussaint suggested that Mayor and City Councilmember Jim Thomas be appointed to that ad hoc committee.
- Authorization for City Manager Xenia Bradford to immediately adjust the City budget by $10,000 to cover extra expenses as relate to these actions and to maintaining public safety, and to return with additional budget adjustment recommendations as needed.
- Directed that the City of Solvang will *not* actively enforce these latest State shutdown orders, and that the City request the County and State regulators to prioritize education and that they also *not* enforce the orders within the City limits.

In a letter from Solvang Mayor Ryan Toussaint and the Solvang City Council to the Santa Barbara County Board of Supervisors, dated December 7, 2020, regarding the impetus for sending said letter, the Mayor explains the City's stance with a paragraph reading:

"Significant concerns about the latest round of business shutdowns were expressed by residents, business representatives and our Council. The community of Solvang has done a great job at being mindful, safe and responsible while keeping our local economy going during these challenging times. The current order by the State is ill-conceived, unnecessary and quite frankly negligent when it comes to protecting our community in a safe, balanced and sane manner."

The letter states the motion's bullet points, as listed above, and goes on to relate that "Solvang is a Charter City, with a very active community base and a nimble and responsive City government led by a dedicated City Council and Staff. The City is also unique in that nearly all businesses are small and locally-owned, and with a great dependence on tourism. Even before the March 19 Executive Orders, the City was active in efforts to first contain the potential spread of COVID, then to mitigate the effects on the community, while constantly planning for economic recovery."

The letter concludes with a statement that the City of Solvang is asking the County to move as quickly as possible to remove Santa Barbara County from "yet another California 'one size fits all' mistake, which will destroy our community."

As an immediate update to our business community, we want to let you know that the County Board of Supervisors voted unanimously on Tuesday to send the letter to Governor Newsom asking that he reconsider and create a separate Central Coast region. Several of the County Supervisors expressed their dismay with the latest State action, noting that it seemed like Santa Barbara County residents were being punished for doing such a good job limiting the spread of COVID, and that this new round of economic devastation is unacceptable.

As an important advisory to our community, we need to inform you that while the City is doing all it can to advocate for and represents all members of our community, we cannot overrule the Governor or the County. The City has reached out to, and will continue to try to work with, the County Sheriff's Office, Health Department and Alcoholic Beverage Commission. So far, they have not made any commitments to work with the City's request for deferred enforcement, but the City is continuing those conversations and hopes that along with the County's request to the State, some loosening may be possible. However, businesses regulated by the County Health Department or ABC do run the risk of action by such regulators. You must accordingly make your own decisions for your businesses and families. The City will help to the extent we can, but we are all still subject to State regulation and interpretation.

Given that need for personal determination, the City realizes that it must move forward in providing for additional, appropriate public space for food consumption, as restaurants have been ordered to revert to "take-out" only service. Recognizing that many City businesses invested in making their outdoor patio spaces safe, health authority-compliant areas for dining, the City would like to repurpose those spaces for public use during this lockdown. The thought is that businesses can provide take-out food, and diners can

then utilize these appropriate, safe and convenient spaces rather than overwhelming the City park benches, curbs, walls, or other less appropriate spaces. The City will augment trash pickup to account for the inevitable increase with individual meal packaging, again so that the unintended consequences of this Christmas-time shutdown do not cause greater health and safety impacts in the City.

While we do not yet have feedback from County or State regulators on this plan, and can make no guarantees to businesses as to how those other agencies will respond, we think it would be irresponsible to leave this pending problem without City response and public protections. It would similarly, be a terrible waste of all of your substantial efforts and investment to meet the recommendation of public health experts in setting up those outdoor spaces.

Attached is a sample draft short-term lease agreement the City is offering to businesses with such appropriate outdoor spaces. The lease is terminable by either party at any time if circumstances change. The City is also looking at a similar arrangement for businesses that have provided appropriate street furniture under City encroachment permits, for example in the closure area of Copenhagen Drive. Please consider this option, and let City Manager Xenia Bradford know if your business would be willing to assist the community through this program. Please contact CityHall@CityofSolvang.com if you are interested in moving forward with a lease agreement.

Finally, the City of Solvang continues to urge residents and businesses to regularly monitor the County of Santa Barbara Department of Public Health's COVID-19 Public Information Portal, which is updated on a daily basis: publichealthsbc.org.

Please contact Media@cityofsolvang.com with any questions about the information contained within this message. All health-related questions should be directed to your healthcare provider, or the Santa Barbara County Public Health Department (publichealthsbc.org).

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White Pine County
Board of County Commissioners

801 Clark Street, Suite 4
Ely, Nevada 89301
(775) 293-6509
Fax (775) 289-2544

WPClerk@whitepinecountynv.gov

RESOLUTION NO. 2020-76

A RESOLUTION OF THE WHITE PINE COUNTY BOARD OF COUNTY COMMISSIONERS DECLARING A STATE OF ECONOMIC EMERGENCY DUE TO COVID-19 STATE-MANDATED REGULATIONS AND ORDERS, AND ISSUING CERTAIN LOCAL ORDERS PERTAINING THERETO ON A TEMPORARY BASIS

WHEREAS, Chapter 244 of the Nevada Revised Statues establishes the County's authority to regulate matters of local concern, including the public health, safety and welfare of those in the County;

WHEREAS, the Board of County Commissioners finds that the economic prosperity of the County is a matter of local concern which directly affects the public health, safety and welfare of those in the County;

WHEREAS, Chapter 414 of the Nevada Revised Statutes authorizes the Board of County Commissioners to declare a state of emergency within White Pine County;

WHEREAS, Chapter 239 of the Nevada Revised Statutes provides that the Board of County Commissioners, serving as the the County Board of Health, is charged with the duty to adopt such regulations as may be necessary for the prevention, suppression and control of any contagious or infectious disease dangerous to the public health;

WHEREAS, COVID-19-related restrictions on businesses, including forced reduced capacity, have put restaurants, bars, casinos and other dining and entertainment industry businesses in danger of permanent closure;

WHEREAS, the Board of County Commissioners recognizes that these COVID-19-related restrictions have caused damaging long-term effects on the White Pine County economy;

WHEREAS, the State of Nevada has refused to work directly with rural Nevada to create policies tailored to rural Nevada and its low COVID-19 case count, instead mandating "one-size-fits-all" policies created for more densely-populated counties;

WHEREAS, both the United States Constitution and the Nevada Constitution prohibit infringement on religious liberty and unlawful searches and seizures;

WHEREAS, the Governor of the State of Nevada first declared a state of emergency related to COVID-19 on March 12, 2020, and began issuing "emergency directives" within days thereafter;

WHEREAS, the Nevada Legislature has convened and adjourned two special sessions subsequent to the Governor's declaration of emergency related to COVID-19;

WHEREAS, despite the Nevada Legislature's ability to pass laws and regulations addressing the COVID-19 pandemic on behalf of its constituents, the Governor instead continues to legislate the State's COVID-19 response himself through his "emergency directives";

WHEREAS, the Governor of the State of Nevada has exceeded his constitutional authority beyond the scope of his standard powers and any additional powers conferred upon him during a declared "state of emergency" without meaningful input from rural Nevada and without regard to the economic impact on rural Nevadans, resulting in contravention of rural Nevadans' right to life, liberty and the pursuit of happiness;

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF WHITE PINE COUNTY, STATE OF NEVADA, hereby resolves:

THAT IT DECLARES AN ECONOMIC STATE OF EMERGENCY.

THAT IN RESPONSE TO THIS DECLARATION, THE FOLLOWING WILL TAKE EFFECT IMMEDIATELY:

I. That individuals and businesses will maintain positive and productive relationships with the White Pine County Public Health Officer and will kindly take his perspectives and recommendations into account when setting policy.

II. That the Sheriff and the District Attorney are required to enforce all local orders and regulations promulgated by the White Pine County Board of Public Health, including without limitation, quarantine orders pursuant to NRS 439.360.

III. That due to the additional risk of exposure to COVID-19 caused by routinely visiting noncompliant businesses in more densely-populated parts of the State, government officials and agents from agencies outside White Pine County shall, with the exception of routine health and safety inspections authorized by Title 40 of the Nevada Revised Statutes, be required to quarantine for 14 days prior to conducting official business within businesses in White Pine County. Failure to follow local regulations may result in local prosecution.

IV. That the Sheriff shall be directed to use his discretion not to enforce or respond to complaints related to violations of the Governor's "emergency directives."

V. That the District Attorney shall be directed not to prosecute violations of the Governor's "emergency directives."

VI. That in an effort to avoid irreparable economic damage, the Board of County Commissioners hereby recommends that businesses continue to operate within the Governor's "emergency directives" in good faith. However, the Board condemns all infringements on individual liberty and accordingly respects the right of each business and organization to determine how to implement those directives.

VII. That in an effort to combat economic damage resulting from enforcement of the Governor's "emergency directives," the Board of County Commissioners hereby establishes an "Economic Relief Fund" for business who have incurred Governor-emergency-directive-related expenses in the form of fines, penalties, or legal fees. The Fund shall be created from the County's General Fund in the amount of $50,000 and shall be administered on a first come, first served basis by the Board of County Commissioners. Those seeking reimbursement from the Fund shall submit proof of their expenses to the White Pine County Clerk, who in turn, will place an action item for possible reimbursement of the expense on the agenda of the next regular meeting of the Board of County Commissioners. The Board of County Commissioners hereby retains unto itself the sole discretion to award funds based on the facts presented to it by each applicant.

THIS RESOLUTION WILL EXPIRE NINETY (90) DAYS AFTER ITS PASSAGE.

INTRODUCED AND PASSED this 9th day of December, 2020

Approved:

Richard Howe, Chairman
BOARD OF COUNTY COMMISSIONERS
White Pine County, Nevada

ATTEST:

Clerk of the Board

EDC COB <edc.cob@edcgov.us>

1/5/21 BOS Agenda Item #21 - COVID update public comment

2 messages

Melody Lane <melody.lane@reagan.com> Tue, Jan 5, 2021 at 2:13 PM
To: edc.cob@edcgov.us, tabetha.smith@edcgov.us, Kim Dawson <Kim.Dawson@edcgov.us>, nancy.williams@edcgov.us
Cc: Donald Ashton <don.ashton@edcgov.us>, george.turnboo@edcgov.us, wendy.thomas@edcgov.us, lori.parlin@edcgov.us, john.hidahl@edcgov.us, sue.novasel@edcgov.us, bosfive@edcgov.us, bosfour <bosfour@edcgov.us>, bosone@edcgov.us, bosthree@edcgov.us, bostwo@edcgov.us

Please ensure the entirety of this correspondence is entered into the public record under the 1/5/21 BOS Agenda Item #21.

###

During yesterday's Taxpayers Association concerns about Dr. Nancy Williams lack of transparency were brought up, but when I attempted to comment, Andy Nevis censored me while I was sharing an experience relative to the plannedemic.

On New Year's Eve a close personal friend, Frank, passed away only one hour after being admitted to the hospital. He suffered from advanced scoliosis which compressed his internal organs against his lungs resulting in pneumonia. The doctor who signed Frank's death certificate FALSLY confirmed he died of COVID requiring Frank's wife, his adult children, and his home care worker to get tested for COVID. It was not surprising that all their tests turned out to be NEGATIVE FOR COVID.

Regardless of the facts surrounding Frank's death, the grieving family members were all required to quarantine for two weeks making funeral arrangement nearly impossible. However the MD who signed three COVID death certificates that day was consequently fired for falsifying records.

The point is, the scamdemic data being promulgated by government officials and the mainstream media is unreliable. The truth about this COVID scam needs to be seen and heard by the people of America. Furthermore, the push for contact tracing and for unsafe vaccinations is even more disturbing as made evident by a video taken by an associate who caught MLK Hospital in LA lying about the pandemic which the New York Times and Newsweek both falsely said is inundated with COVID patients.

Masks have proven ineffective against COVID. As my associates have said, these revelations are ugly, repugnant and shocking, but despite this, the people need and deserve to know the breadth, depth and scope of the corruption, fraud and treason that has been perpetrated upon them by the very people who have sworn to uphold the public trust and work for the good of America and her people.

I urge the BOS, and especially Dr. Williams, to view for yourself the video of the empty hospital facilities that I'll be submitting to the COB to be entered into the public record.

FYI, the COB has indicated that there is an IT problem in receiving my emails, and this morning's submission during Open Forum was not the first time this has happened.

Melody Lane

Founder – Compass2Truth

"Resistance to tyranny becomes the Christian and social duty of each individual…Continue steadfast and, with a proper sense of your dependence on God, nobly defend those rights which heaven gave, and no man ought to take from us." ~ John Hancock ~

Sent: Monday, January 4, 2021 1:32 PM
Subject: Fw: MLK Hospital in LA caught on video lying about pandemic

One of our students in California who has been actively participating in our constitutional affidavit process and also holding workshops to teach the process to others just filmed a hospital in L.A. which the New York Times and Newsweek both falsely said is inundated with Covid patients. Links to the article and to the video are below. Hope you will watch the video and then share it with all of your lists, asking them to do the same, carried forward. The truth about this Covid scam needs to be seen and heard by the people of America. This week could be monumental in our nation's history, since it appears that many more truths about "deep state" operations, government, politics, and public officials may be revealed to the people of America. These revelations could be ugly, repugnant and shocking, but despite this, the people need and deserve to know the breadth, depth and scope of the corruption, fraud and treason that has been perpetrated upon them by the very people who have sworn to uphold the public trust and work for the good of America and her people.

Jack and Margy

Subject: Fwd: MLK Hospital in LA caught on video lying about pandemic

Hi Margy and Jack,

check this out.

The major fake media outlets including NY Times, LA Times, Newsweek , KTLA etc. reported Martin Luther King Jr. hospital in south Los Angeles as the world's epicenter where Cov19 patients are lined up from the lobby to the street. Please see the original article. I went there and recorded their entire hoax on video. The video is going viral now.. We will be reaching out to the hospital and planning to do a protest to catch these traitors in their lies!

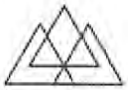
https://www.nytimes.com/2020/12/25/us/southern-california-hospitals-covid.html?fbclid=IwAR0XkZv8YVvuBIUVyTwX9IStBZ94SIShY6QHIkXIE_iXj4c5nK04zF7TR3w

My video:

MLK Hospital Caught Lying about Pandemic

With love & light,

Lenka



LENKA KOLOMA METHOD

Helping People Achieve the Life of Their Dreams

Lenka Koloma

Best Selling Author, Founder & CEO

Kim Dawson <kim.dawson@edcgov.us> Tue, Jan 5, 2021 at 2:18 PM
To: EDC COB <edc.cob@edcgov.us>

Please include with item 21. Thanks, Kim
[Quoted text hidden]

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Kim Dawson
Clerk of the Board of Supervisors
County of El Dorado
330 Fair Lane, Building A
Placerville, CA 95667
(530) 621-5393
kim.dawson@edcgov.us

EDC COB <edc.cob@edcgov.us>

1/5/21 BOS Agenda Item #21 Public comment

1 message

Melody Lane <melody.lane@reagan.com> Tue, Jan 5, 2021 at 2:49 PM
To: nancy.williams@edcgov.us, tabetha.smith@edcgov.us, Kim Dawson <Kim.Dawson@edcgov.us>
Cc: edc.cob@edcgov.us, bosfive@edcgov.us, bosfour <bosfour@edcgov.us>, bosone@edcgov.us, bosthree@edcgov.us, bostwo@edcgov.us

Dr. Williams,

Shame on you for categorically claiming that the actual video taken by an associate is fake news! You haven't even had the chance to view it to see for yourself that the MLK hospital facilities are totally EMPTY. Such irresponsible remarks like that cause you to lose all credibility.

Subject: Fwd: MLK Hospital in LA caught on video lying about pandemic

The major fake media outlets including NY Times, LA Times, Newsweek , KTLA etc. reported Martin Luther King Jr. hospital in south Los Angeles as the world's epicenter where Cov19 patients are lined up from the lobby to the street. Please see the original article. I went there and recorded their entire hoax on video. The video is going viral now.. We will be reaching out to the hospital and planning to do a protest to catch these traitors in their lies!

https://www.nytimes.com/2020/12/25/us/southern-california-hospitals-covid.html?fbclid=IwAR0XkZv8YVvuBIUVyTwX9IStBZ94SIShY6QHIkXIE_iXj4c5nK04zF7TR3w

My video:

MLK Hospital Caught Lying about Pandemic

With love & light,

Lenka

LENKA KOLOMA METHOD
Helping People Achieve the Life of Their Dreams

Lenka Koloma

Best Selling Author, Founder & CEO

Melody Lane

Founder – Compass2Truth

"*We are fast approaching the stage of the ultimate inversion: the stage where the government is free to do anything it pleases, while the citizens may act only by permission; which is the stage of the darkest periods of human history, the stage of rule by brute force.*"—Ayn Rand