

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FILED

LOS ANGELES SUPERIOR COURT

05/12/2020

SHERRI R. CARTER

EXECUTIVE OFFICER/CLERK OF COURT

BY: A. Millot, DEPUTY

IN THE MATTER OF:

CASE NO. JW2020-01

ALL YOUTH DETAINED IN JUVENILE
HALLS AND CAMPS IN LOS ANGELES
COUNTY

Petitioners,

vs.

SUPERIOR COURT OF LOS ANGELES
COUNTY

Respondent,

THE PEOPLE OF THE STATE OF
CALIFORNIA; THE COUNTY OF LOS
ANGELES

Real Parties in Interest.

ORDER DENYING PETITION
FOR WRIT OF MANDATE

COVID-19

The World Health Organization has declared the novel coronavirus (COVID-19) outbreak a global pandemic. The President and the California governor have declared a state of emergency.

COVID-19 spreads easily from person to person and from contact with contaminated surfaces. People who have serious underlying medical conditions are at higher risk for severe illness from COVID-19. There is currently no vaccine. To control the virus, the Centers for

Disease Control and Prevention (CDC) recommends that people practice “social distancing,” stay at home, wash their hands often, disinfect surfaces, and cover their mouths and nose with a face cover when around others.

PROCEDURAL BACKGROUND

On April 15, 2020, petitioners Center for Juvenile Law and Policy (CJLP), a public interest law school clinic at Loyola Law School, and Independent Juvenile Defender Program (IJDP), a panel of attorneys who provide free legal services to indigent youth, filed on behalf of all detained juveniles in the County of Los Angeles a petition for writ of mandate with the California Supreme Court.

The petition stated that confined youth are in grave danger of contracting COVID-19, and that a reduction in their population in detention facilities was imperative. The petition asserted the existing method of reviewing cases on an individualized basis was inadequate, and that the Los Angeles Superior Court should be directed to implement different criteria in order to release as many youths as possible, as quickly as possible. The prayer sought the immediate release of certain categories of youth in confinement, the suspension of all new admissions into detention facilities, and the expedited review of all other youths by the juvenile courts, as well as requiring the facilities to comply with CDC regulations, the provision of additional services, and the appointment of a special master.

On April 22, 2020, the Supreme Court transferred the petition to the Court of Appeal, Second Appellate District, with directions to issue an order to show cause returnable before the Los Angeles Superior Court, addressing “whether juveniles detained in Los Angeles County juvenile facilities are being denied due process under the Fourteenth Amendment by being held in conditions that could subject them to contracting the COVID-19 virus and, if so, what remedies can be lawfully ordered.”

Following transfer, the petition was deemed filed in this Court. On May 5, 2020, the People and the County filed their returns.

The County denied that conditions in the juvenile halls and camps were unsafe. The County detailed Probation’s COVID-19 Operations Plan that was implemented in order to reduce the risk to detained youth and submitted declarations from the Probation’s Bureau Chief and

other experts who attested to Probation’s implementation of safety protocols in compliance with CDC and Department of Public Health (DPH) guidelines and the continued provision of care to detained youth.

The People denied that efforts to release juveniles from detention were inadequate, stating that the District Attorney’s Office was proactively and systematically reviewing cases and working with justice partners to identify youths for release, and that collaborative efforts had resulted in a significant reduction in the detained population.

Petitioners filed a reply on May 7, 2020, denying that the Probation Department has adequately implemented CDC and DPH guidelines. They maintained that while improvements had been made, the implementation and compliance with public health guidelines and protocols remain challenged and inconsistent.

DISCUSSION

Petition for Writ of Mandate

Writ relief is available to compel public agencies to perform acts required by law. (Code Civ. Proc., § 1085.) “To obtain relief, a petitioner must demonstrate (1) no ‘plain, speedy, and adequate’ alternative remedy exists [citation]; (2) ‘a clear, present, . . . ministerial duty on the part of the respondent’; and (3) a correlative ‘clear, present, and beneficial right in the petitioner to the performance of that duty.’ [Citations.] A ministerial duty is an obligation to perform a specific act in a manner prescribed by law whenever a given state of facts exists, without regard to any personal judgment as to the propriety of the act. [Citation.]” (*People v. Picklesimer* (2010) 48 Cal.4th 330, 340.)

Petitioners contend there is no adequate remedy at law to address the exposure to COVID-19 in juvenile facilities, and that mandamus is necessary to correct the constitutional violation presented in this case. (*Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166 [public interest standing “where the question is one of public right and the object of the mandamus is to procure the enforcement of a public duty”]; *Edward W. v. Lamkins* (2002) 99 Cal.App.4th 516, 529 [if “respondent’s practices violate the constitutional guarantees of due process and/or equal protection of the laws, relief by means of writ of mandate would be appropriate”].)

Fourteenth Amendment Due Process

The Supreme Court's direction to the Court of Appeal to issue an order to show cause signifies its preliminary determination that petitioners have made a prima facie statement of specific facts which, if established, entitle them to relief. (See *In re Serrano* (1995) 10 Cal.4th 447, 454-455.) The claims to be decided are limited to those alleged in the petition that form the basis of the Court's order to show cause. (*In re Lugo* (2008) 164 Cal.App.4th 1522, 1542.) The Supreme Court and Court of Appeal directed the parties to address a narrow issue: whether Fourth Amendment due process has been denied to detained juveniles because the conditions of their confinement subject them to contracting the COVID-19 virus.

Juvenile detainees are afforded more protection than criminal defendants. While the Eighth Amendment protects criminal defendants from cruel and unusual punishment, by contrast, the more protective Fourteenth Amendment standard applies to conditions of confinement for detainees, such as juveniles, who are not technically convicted of crimes. (*Gary H. v. Hegstrom* (9th Cir.1987) 831 F.2d 1430, 1432, citing *Youngberg v. Romeo* (1982) 457 U.S. 307, 315 [civilly committed individuals] and *Bell v. Wolfish* (1979) 441 U.S. 520, 535, fn. 16 [pretrial detainees].)

When the government takes a person into custody and detains him, the Constitution imposes a duty to assume responsibility for the detainee's reasonable safety. (See *Helling v. McKinney* (1993) 509 U.S. 25, 32; *Estelle v. Gamble* (1976) 429 U.S. 97, 103.) "The affirmative duty to protect arises . . . from the limitation which it has imposed on his freedom to act on his own behalf. [Citation.]" (*DeShaney v. Winnebago County Dept. of Social Services* (1989) 489 U.S. 189, 200.)

For individuals who have been convicted of a crime, this duty arises under the Eighth Amendment and is violated upon a showing of "deliberate indifference." (*Estelle v. Gamble*, *supra*, 429 U.S. at pp. 103-04.) By contrast, juvenile detention is a form of civil confinement, and the government's duty to oversee the welfare of civil detainees arises under the due process clause of the Fourteenth Amendment. (*Youngberg v. Romeo* (1982) 457 U.S. 307, 315-316.) "In the substantive due process analysis, it is the State's affirmative act of restraining the individual's freedom to act on his own behalf—through incarceration, institutionalization, or other similar restraint of personal liberty—which is the 'deprivation of liberty' triggering the

protections of the Due Process Clause” (*DeShaney v. Winnebago County Dept. of Social Services*, *supra*, 489 U.S. at p. 200, fn. omitted.) “The State also has the unquestioned duty to provide reasonable safety for all residents and personnel within the institution.” (*Youngberg v. Romeo*, *supra*, 457 U.S. at p. 324.) “[A] remedy for unsafe conditions need not await a tragic event.” (*Helling v. McKinney*, *supra*, 509 U.S. at p. 33.)

Accordingly, juvenile detainees have constitutionally protected interests in conditions of reasonable care and safety. Juvenile detainees cannot be subjected to conditions that amount to punishment and are afforded more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish. To show a violation of Fourteenth Amendment due process rights in this context, a detainee must show the state’s conduct was “such a substantial departure from accepted professional judgment, practice, or standards in the care and treatment [of detainees] as to demonstrate that the person responsible actually did not base the decision on such a judgment.” (*Youngberg v. Romeo*, *supra*, 457 U.S. at p. 323.) “In determining whether the State has met its duty in this respect, decisions made by the appropriate professional are entitled to a presumption of correctness. Such a presumption is necessary to enable institutions of this type—often, unfortunately, overcrowded and understaffed—to continue to function. A single professional may have to make decisions with respect to a number of residents with widely varying needs and problems in the course of a normal day.” (*Id.* at p. 324.)

The COVID-19 global pandemic presents a unique challenge for governmental agencies, in that – as the County has pointed out – scientific data is yet uncertain and continually evolving regarding the optimal conditions relating to the coronavirus’s infection and spread. Over the last few weeks, CDC guidelines have continued to evolve based on new scientific understanding of the novel coronavirus, as well as changing conditions regarding the availability of protective equipment and the feasibility of safety protocols. Business and institutions appear to be struggling to meet the demand for protective equipment and implementation of safety and distancing protocols. According to the parties’ submissions, this appears to include the County’s juvenile halls and camps.

As a general matter, the scientific consensus appears to be that any condition that promotes sustained physical contact, including close confinement in juvenile facilities, could

subject individuals to contracting the COVID-19 virus. (CDC, Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities <<https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>> [as of May 12, 2020].)

At the hearing, petitioners argued that *no* safety measures undertaken by the County would be sufficient to survive a constitutional due process challenge because of the inherently unsafe conditions of detention and confinement. At the same time, petitioners acknowledged that every juvenile detainee could not, as a practical matter, be released from such facilities, and they do not pray for such relief. The incoherence of petitioners' position highlights the difficulties facing all parties involved in maintaining the juvenile justice system and safeguarding juveniles detained in the County's halls and camps against COVID-19 infection.

In addition, the Court notes that it is unclear – and factually unexplored by the parties – whether release of juveniles would result in a reduced health risk due to COVID-19, particularly considering the high and rapidly increasing infection rates throughout the population of Los Angeles County, the unknown, diverse and, in many cases, unstable circumstances to which juveniles would likely be released and the effects of those circumstances on the health and safety of juveniles, and the improving safety protocols and availability of health care services within juvenile facilities. While petitioners argue that the Court need not take into consideration these factors, the Court sees no practical alternative to doing so. The Fourteenth Amendment cannot require the County to release juveniles within their care into circumstances of potentially greater danger, simply because conditions everywhere are such that absolute safety may be out of reach for all.

The primary question before this Court is the extent to which the parties have demonstrated whether the present conditions of the County's juvenile facilities have exacerbated or heightened the likelihood that detained juveniles will contract the COVID-19 virus, whether the County has undertaken reasonable measures to safeguard juvenile detainees against infection, and whether failures to do so rise to the level of a Fourteenth Amendment due process violation.

Conditions of Facilities

The rapidly changing conditions, the lack of clear scientific understanding of the COVID-19 pandemic, and the broad scope of this petition – relating generally to all County juvenile facilities and detained juveniles – has presented the parties with difficulties in presenting specific facts, as well as competent evidence to demonstrate such facts. The facts and evidence presented offer neither a complete picture of current conditions in juvenile detention facilities nor a clear benchmark or criteria for safe conditions in the context of the COVID-19 pandemic.

As the County has pointed out, clear, concrete requirements for safe conditions in the County’s juvenile detention facilities may not presently exist given the novel nature of COVID-19. Instead, the CDC has provided only guiding principles for administrators of correctional and detention facilities to assist in preparing for potential introduction, spread, and mitigation of COVID-19 in their facilities. For example, the CDC website states that ideally six feet between all individuals is the recommended practice. But the website also acknowledges that detained individuals live, work, eat, study, and recreate in congregate environments that make social distancing challenging and therefore “[s]trategies will need to be tailored to the individual space in the facility and the needs of the population and staff. Not all strategies will be feasible in all facilities.” (CDC, Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities <<https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#prevention>> [as of May 12, 2020].) This deference called for in the CDC guidelines mirrors the presumption of correctness of professional judgment discussed by the Supreme Court in *Youngberg*, where the Supreme Court acknowledged that administrators require significant discretion to make daily decisions regarding diverse populations of detainees based on specific and variable circumstances. (*Youngberg v. Romeo*, *supra*, 457 U.S. at p. 323.)

In its return, the County generally described the measures it has taken to prevent the spread of COVID-19 in detention facilities by adopting new protocols and practices. Notably missing were substantive representations regarding the degree of implementation and enforcement for each facility.

The County submitted the declaration of Jennifer Kaufman, the Bureau Chief of the Residential Treatment Services Bureau. The Bureau is charged with providing juvenile

probationers with intervention services in a residential treatment setting, and, as the Bureau Chief, Kaufman oversees the implementation of new services and programs.

Kaufman noted that as of the date of her declaration there were no detained youth in any facility operated by Probation who had tested positive for COVID-19.¹ She noted 19 staff members tested positive for COVID-19 and that they were currently on medical leave. Two youths who were exposed were placed under quarantine, getting regular care and presenting no symptoms. Kaufman also reported that since March 1 there had been a 35 percent reduction in the population of juvenile halls and camps.

Kaufman stated that on March 12, Probation activated the COVID-19 Operations Plan that set guidelines directed at reducing the risk of spreading COVID-19. Under the Plan, facilities were provided enhanced inventory of sanitation and protective supplies, a new admission screening process was implemented, and movement between facilities and camps was suspended.

Kaufman further testified to CDC and DPH recommended practices adopted by Probation, such as limiting group sizes to no more than six youth, staggering meals and indoor activities, limiting group exercise to six, practicing sanitation and hygiene after recreation, and educating about proper social distancing and hand washing. She stated Probation modified sleeping arrangements so that youths in camps sleep head to toe and at least four feet apart. She stated that all facilities installed hand sanitizer stations and distributed masks to youth, and high-contact areas were being sanitized at least twice daily, and common areas were being cleaned more frequently. The staff were now required to wear masks, and youths were also being given cloth masks that could be washed regularly.

¹Since the filing of the briefs, the Court notes that the L.A. Times reported two newly booked detained youth have tested positive for novel coronavirus and have been isolated from the general population. (Queally, L.A. Times, *First Youths Test Positive for Coronavirus in L.A. County Juvenile Halls* (May 7, 2020) <<https://www.latimes.com/california/story/2020-05-07/first-youths-test-positive-for-coronavirus-in-l-a-county-juvenile-halls>> [May 7, 2020].) The Court disclosed its awareness of this report at the hearing, to which the parties made no objection. The information illustrates both the seriousness of this rapidly changing environment and the effectiveness of new testing measures undertaken by the County to reduce the spread of the virus.

The County also submitted a declaration by Dr. Lello Tesema, the DPH's COVID-19 liaison for Corrections. He maintained that "CDC and DPH guidelines are recommendations, which juvenile facilities should adopt their operations to meet," and concluded that the County had adequately implemented social distancing protocols and access to supplies used for the prevention of infection.

In his supporting declaration, Dr. David Oh, the Medical Director for Juvenile Court Health Services, stated there had been no meaningful reduction in the provision of medical care to detained youth at county facilities during the pandemic. He further stated that as of May 4, 2020, the youth admitted to a juvenile hall would be screened for COVID-19 and quarantined until results were returned. Those testing positive would be placed in isolation and provided medical treatment. Dr. Christopher Thompson, the Director of Forensic Psychiatry at the Department of Mental Health, testified to in-person, telephonic, and videoconference services being provided to youths in need of psychiatric care.

In their traverse, petitioners maintained the County's response had been deficient and that a serious risk of unreasonable harm to youth in juvenile halls and camps persisted. Petitioners cited to the declarations of Cyn Yamashiro, Directing Attorney of IJDP, and Sean Kennedy, Executive Director for CJLP, in support of their claim. Neither Yamashiro nor Kennedy offer first-hand observations or knowledge regarding the conditions and protocols employed at the facilities.

Regarding CDC compliance and sanitation protocols at the facilities, Yamashiro's declaration consisted of incompetent hearsay. In his April 14 declaration submitted in support of the petition, Yamashiro stated his agency had received reports from clients that they were being allowed to "congregate in numbers and distances inconsistent with CDC guidance," that an unnamed Probation Chief "reported that he observed youth playing sports" after a state of emergency had been declared, and there were reports of youth continuing to shower and eat in groups larger than 10, as well as a lack of protective supplies. He did not identify the youths who had made these alleged reports, did not describe the facilities where the failures occurred, did not provide the dates on which such observations occurred, and failed to provide details regarding circumstances surrounding the reported events. The same generalized statements were offered in Yamashiro's May 5 declaration submitted in support of the traverse.

Kennedy's declarations were similarly deficient. In his April 14 declaration, Kennedy stated he represented eight clients who were being detained at Central Juvenile Hall, Barry J. Nidorf Juvenile Hall, and Campus Kirkpatrick. Between April 2 and April 9, Kennedy was told by a client at Barry J. Nidorf that he did not know about social distancing. A client at Campus Kilpatrick told Kennedy that the staff "told youth to social distance, but [did] not implement social distancing." It was also reported that meals, showers, and recreation were occurring communally, and that a client was sleeping in a dormitory with 10 other youth.

It was also reported to Kennedy that youths were not given disinfectant or other cleaning supplies, but that Probation was "now helping them to clean" their units. Kennedy stated that "[n]o youth interviewed reported" having access to hand sanitizer, face masks, or gloves," and that his clients in the juvenile halls reported a lack of wipes and disinfectant.

By the time of the traverse, Kennedy only had six clients in detention. In his May 6 declaration, he reiterated the lack of "reported" social distancing and the communal living at these facilities. He noted some improvements.

There were only six other youth with his client in the dormitory at Campus Kilpatrick. Regarding supplies, he maintained "[n]o youth at either juvenile hall reported having access to hand sanitizer, while youth at Dorothy Kirby Center now report having access to hand sanitizer." He stated "[t]wo youth reported having access to face masks since or around late April, 2020," one reported using the same mask "over and over," another youth reported being giving masks daily, and the youth interviewed at the juvenile halls continued to report having no access to cleaning wipes or disinfectant."

It is not clear how many of Kennedy's eight clients actually reported deficiencies. No declarations based on personal knowledge were submitted. The statements regarding problems with the County's response to COVID-19 offered no contextual information such as specific dates, the number and composition of the population at each offending facility, or a description of any of the facilities.

Private attorney Jerod Gunsberg submitted a declaration in support of the petition offering similar anecdotal testimony. On April 9, 2020, he had four clients detained in juvenile hall and three in probation camps. Through his communications with them he learned of similar

violations in the facilities. By the time of the filing of the traverse, Gunsberg had only five detained clients, and his May 5 declaration did not further discuss problems with social distancing or access to hygiene products.²

The issuance of an order to show cause afforded petitioners the opportunity to present additional evidence in support of the truth of the allegations in the petition. (*In re Serrano, supra*, 10 Cal.4th at p. 456.) Rather than present specific facts and competent evidence in support of their allegations that conditions and enforcement were deficient, petitioners largely continued to rely on the general, hearsay statements offered in the Yamashiro and Kennedy declarations. As noted, their statements provided insufficient details surrounding clients who felt at risk or the circumstances of any particular facility's failures.

While the Court is troubled by the accounts raised by petitioners regarding the failure of County facilities to provide protective equipment and implement physical distancing protocols during the pendency of this petition, petitioners have not presented facts or evidence establishing a failure to act that rises to the level of a constitutional violation as to any individual juvenile, or as to the entire population of juveniles, detained in County facilities. This Court cannot assign significant weight to Yamashiro, Kennedy, or Gunsberg's declarations which not only fail to provide competent evidence, but also fail to present basic facts regarding the Probation Department's deficiency in safeguarding detainees against the COVID-19 pandemic.

Specifically, petitioners have not made a sufficient showing to demonstrate that the County's conduct has been "such a substantial departure from accepted professional judgment, practice, or standards in the care and treatment of [detainees] as to demonstrate that the [the County] did not base their conduct on a professional judgment." (*Youngberg v. Romeo, supra*, 457 U.S. at p. 323.) Indeed, petitioners have not identified objective criteria for determining

²The Alternate Public Defender (APD) also filed a brief in support of the petition. The APD stated that since March 31, 2020, a team comprised of three deputy alternate public defenders and three psychiatric social workers has maintained weekly contact with detained clients regarding the impact of the pandemic on the conditions of confinement and conducted over 250 interviews with a total of 124 clients. Based on these interviews, the APD offered reports of the conditions. He stated that "many . . . hall units and camp dorms house more than the recommended maximum of six youth," social distancing is not enforced, contact sports are allowed, and meals are not staggered. Beyond these broad assertions, no specific facilities, dates of violations, or any other details were offered.

what safeguards the County could put in place in detention facilities that would satisfy the requirements of Fourteenth Amendment due process. Even if the Court were to assume that immediate compliance with the CDC's current interim guidelines would be required, the guidelines provide for considerable discretion on the part of government agencies to implement protocols under the specific circumstances of facilities and individuals in detainment.³

The Court is sensitive to the vulnerability of detained youth in the County's juvenile detention centers in the context of the global COVID-19 pandemic and concerned with the speed and comprehensiveness in which Probation is implementing appropriate safety protocols. But to demonstrate a constitutional due process violation, Petitioner must do more than to assert that the COVID-19 pandemic makes juvenile detention facilities *per se* unsafe and to point to anecdotal, anonymous accounts of non-compliance with CDC guidelines.

After consideration of the parties' arguments and the state of evidence presented, the Court finds that petitioners failed to carry their burden of proving facts entitling them to relief by a preponderance of the evidence. (*In re Sassounian* (1995) 9 Cal.4th 535, 546; *In re Alvarez* (2013) 222 Cal.App.4th 1064, 1076; *In re Rhoades* (2017) 10 Cal.App.5th 896, 907-908.)

CONCLUSION

All parties agree this pandemic is unprecedented, the virus poses a deadly global threat, that juveniles in detained settings are particularly vulnerable, and action is needed to address this public health emergency. Petitioners assert that the best approach to dealing with the COVID-19

³The County argues that this petition should be denied, because although the County and the People have been added as real parties in interest, the petition seeks a writ of mandamus against the Superior Court for various forms of relief. A writ of mandamus is available if the party who applies for it is entitled to the performance of a clear legal duty by the party against whom the writ is sought. If a clear legal duty exists, a court must grant the writ if there is no speedy and adequate remedy available in the ordinary course of law. The clear legal duty must involve a ministerial, not a discretionary, act. A clear legal duty exists only when the law defines the duty with such precision and certainty as to leave nothing to the exercise of discretion and judgment. (*People v. Picklesimer, supra*, 48 Cal.4th at p. 340.) Were the Court to construe this petition as requesting a writ of mandate against the County to perform its duty to safeguard juvenile detainees against infection with the COVID-19 virus by complying with CDC guidelines, it is unclear what ministerial duty it has failed to perform, where the CDC guidelines acknowledge the necessity for significant discretion.

pandemic is to release as many juvenile detainees as possible, and remarkably, real parties in interest agree.

It is undisputed that the continued cooperation of all parties and justice partners has resulted in a dramatic reduction in the detained youth population in the County of Los Angeles. According to Head Deputy District Attorney of the Juvenile Division, Shawn N. Randolph, justice partners continue to identify those youths who can be safely released.

Since March 18, 2020, the District Attorney's Office reviewed all pending cases and agreed to the release of 99 minors. On March 16, there were 536 youths in the juvenile halls, and by April 16, that number had been reduced to 371. On March 16, 2020, there were 286 youths detained in community camp programs, and by May 1, 2020, 119 of the 286 had been released.

The Probation Department reviewed post-adjudication cases where minors were detained in camps or Dorothy Kirby and initially filed 56 petitions and later 37 petitions under Welfare and Institutions Code section 778. According to the District Attorney, the court has ordered the release of 25 minors pursuant to such a motion, and 37 without such a motion.

The Court notes that detained youths have avenues to present requests for release through statutory mechanisms based on their individual situation, and the court understands that all the relevant parties are working together to expedite release where appropriate. Nothing prevents attorneys from filing appropriate motions with the juvenile court (Welf. & Inst. Code, §§ 635, 636, 778) or, if the court denies relief, from seeking appellate relief.

The Court understands that justice partners participate in informal weekly meetings with the delinquency court. The People state that justice partners have communicated to the Supervising Judge the need to create an expedited process for hearing detention matters, including section 778 motions, and the Supervising Judge has been receptive to the issues brought to his attention. All parties will continue to work with the court so that judicial and court resources are dedicated to processing releases as expeditiously as possible. At the hearing, petitioners asserted a greater need for transparency on the part of Probation regarding its efforts to protect juveniles from COVID-19 viral infection. The Court notes that, on this petition, the County's factual submissions regarding evidence of CDC compliance fall short. If the parties

are to continue to cooperate effectively, it appears there will be a greater need for information exchange.

During this time of global pandemic, the delinquency court will undoubtedly recalibrate the need for detention and adjust the manner in which it assesses public/community safety. Requests to release juveniles from detention must be based on an individualized and fact-based showing of whether release would be appropriate based on the totality of the circumstances, including the risk of exposure to COVID-19 while in custody; whether the minor has a preexisting medical condition that makes him or her particularly vulnerable to COVID-19; whether the minor would pose a safety risk if released; the seriousness of the offense and history of criminal activity; and the minor's release plan or family circumstances.

Considering the facts and evidence presented to the Court on this petition, Petitioners have not demonstrated that the County has failed to act reasonably to protect detained youth, or that youth are being held in conditions that could subject them to contracting the COVID-19 virus in a manner that rises to the level of a constitutional due process violation.

The petition is therefore denied without prejudice.

Date: 5/12/2020




D. BRETT BIANCO
Judge of the Superior Court of California
County of Los Angeles