

## **Covid19 Follow Up Inspection of the Santa Rita Jail Facility by the Joint Neutral Monitor**

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July 30, 2020

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## Introduction

On July 7, 2020 by agreement of the parties in Babu v Ahern et. al., I conducted an unannounced Covid-19 spot check of the Santa Rita Jail. This spot check is designed to monitor compliance with current CDC/Public Health recommendations, and to monitor the progress of the implementation of the recommendations made as a result of my June 10, 2020 Covid-19 Inspection of the Santa Rita Jail Facility.

During this spot check, I was accompanied by Assistant Sheriff Madigan, Jail Commander Sanchez, Captain Mattison, and a variety of Lieutenants and Sergeants responsible for specific areas of the jail that I inspected.

## Onsite Observations

On July 7, 2020 at 1330hrs, Assistant Sheriff Madigan and I met outside the Santa Rita Jail facility. We were both properly wearing face masks and social distancing. As is their standard protocol we entered through an anteroom where every person entering the jail goes through a Covid19 screening including questions regarding Covid19 symptoms and is required to properly wear a mask prior to entering the secure perimeter. If the person does not have a mask, they will be issued one at the screening station. The informational signs regarding Covid19 in that area were current, and the screening staff were all properly wearing PPE.

Once the Covid19 screening was complete, I met with the ACSO Command staff, Wellpath's Health Services Administrator, and other key custody personnel. Having previously conducted a comprehensive Covid19 inspection, I asked questions about any changes in practice that had taken place since my last inspection. I also asked Command staff about their progress in implementing the recommendations I made in my June 10, 2020 inspection report at pages 17-20. I will address this topic in more detail later in this report.

It is important for me to note here that I am not an epidemiologist, an infectious disease doctor, or a public health doctor. My observations, findings, and recommendations are based on my expertise in corrections operations, and the published CDC "**Interim Guidance on Management of Coronavirus Disease 2019 (Covid-19) in Correctional and Detention Facilities**" that was updated as of July 14, 2020. Any concerns expressed or recommendations made outside the scope of my expertise, I defer to Public Health.

Immediately after meeting with the ACSO Command staff, key custody personnel, and Wellpath leadership, I inspected the ITR where inmates are screened and booked into the SRJ. In this area, I saw a larger screening tent had been set up, and I spoke with the nurse assigned to this area regarding the current process being used by Wellpath to screen inmates for Covid19 symptoms. I also inspected the booking area and observed all staff to be appropriately wearing PPE. I am satisfied that the Covid19 screening and booking process meets the CDC guidelines and best practices for Covid19 screening in a correctional setting.

The next area I inspected was a new booking medical isolation area (Blue). In these areas, the newly incarcerated asymptomatic inmates are medically isolated in cohorts for 14 days. Within 48 hours of their incarceration, these inmates are offered a nasopharyngeal test for Covid19. These tests are sent to the UCSF lab and the results are back within 48 hours. If an inmate's test returns as a positive they are immediately moved to a quarantine housing unit (Red). The Red

housing units are single or double bed cells with fully enclosed cell doors. I asked Wellpath what the test refusal rate is for newly incarcerated inmates, and according to the data collected by Wellpath, about thirty percent of the newly incarcerated inmates refuse the nasopharyngeal. The inmates who refuse the tests are allowed to remain in the same cohort with those inmates whose tests came back negative. I have serious concerns about allowing the refusals to remain in the same cohort as the negatives. What science and experience has taught us is that a high percentage of individuals are asymptomatic positives in the general public and as a result can become super-spreaders of the virus. It only makes sense that the SRJ would experience higher numbers of asymptomatic positives as the number of positives in the general population increases.

In a correctional setting, this is especially dangerous because of the close quarters in which they live, the high touch surfaces in the common areas (phones, tablets, door handles, tables, chairs), and the closed ventilation systems analogous to nursing homes and cruise lines.

We also know that social distancing is a challenge in correctional settings because of limited space, and the SRJ is no different. Evidence of the space limitations became abundantly clear when, during the inspection, I discovered that the SRJ is using dormitory settings for newly incarcerated inmates who must undergo a fourteen-day medical isolation (Blue).

As a result, it is my expert opinion that allowing the inmate test refusers to remain in the same cohort with the confirmed negatives may create a higher risk of inadvertently introducing the virus into the general population putting the vulnerable inmate housing units (Orange) at an unreasonable risk of serious illness or death.

I also toured a living unit that was in a dormitory setting later in the day, but because it was being used as a medical isolation unit (Blue), I am including it in this section of my report. A dormitory setting should never be used as a medical isolation unit. There are no solid walls. Inmates cluster together in these settings. They are not mask compliant while inside the dormitory. In this setting, there is no hope of mitigating the spread of respiratory droplets to the other inmates especially from asymptomatic tests refusers who may be positive. Moreover, there is a real danger that in an open-air setting like a dormitory, the virus could be spread to an adjacent dormitory easily.

Wellpath, at the time of this report, used a timed-out strategy in intake to prevent/mitigate the introduction of the virus into the SRJ. While they do offer inmates a Covid19 test within forty-eight hours, the timing of test is, in my opinion, to assist Public Health with their contact tracing process in the public and secondarily to prevent/mitigate the introduction of the virus into the SRJ.

Because of the current practice of allowing inmate test refusers (presumptive positives) to remain in the same cohort as inmate test negatives, I have some concerns that the current medical isolation practice may be ineffective and the ACSO should consult with Public Health about that practice. I have been told that the inmates in those Blue Units only come out of their cells alone (1 or 2 inmates at a time), are required to wear masks, and the common areas and high touch surfaces are cleaned after every use. These practices may mitigate my concerns, but the SRJ Command staff must strictly enforce these practices for them to be effective. I will verify these practices during my next spot check

Moreover, unless there is a demonstrated shortage of test supplies, Wellpath should consider moving to a test-based strategy on day two and ten for inmates who are in the Blue housing units to effectively prevent/mitigate the introduction of the Covid19 virus into the SRJ. In my research on this subject, it is my interpretation of the research that rigorous testing is the best strategy to detect and mitigate the spread of this deadly virus. Again, I defer to public health on this issue.

The inmates in the Blue housing units had adequate soap, hand sanitizers, and Covid19 education materials that had a reading level of the 5<sup>th</sup> grade to ensure that intellectually disabled and learning-disabled inmates could understand how to protect themselves from getting the virus. However, it remains critical that badge staff effectively communicate with the LD and DD population on what they need to do to reduce the chances of them getting this deadly virus. Oftentimes profoundly intellectually disabled inmates have short term memory problems and need to be reminded to perform daily life functions. I recommend that badge staff regularly prompt the DD and LD population to wash their hands, shower, clean their cells, and exchange their laundry.

The next areas I inspected were an Orange housing unit for males and females. I observed the Orange housing units and common areas to be clean and the hallway floors to be polished. The adjacent safety cells were clean, free of debris and human waste.

I conducted random spot checks of occupied cells in both the male and female orange housing units, and all of the inmates said they had adequate soap, cleaning supplies, masks and hand sanitizers. All stated they understood the need for good hygiene, that they had been given Covid19 education materials upon their arrival to the living unit, and that there was also Covid19 information on their tablets. They also told me that they were getting about two hours of out of cell time in the morning and two in the afternoon/evening.

I did learn that because of space issues, Classification was housing newly booked medically isolated inmates (Blue) who qualified as vulnerable inmates (Orange) in the Orange Ad Seg housing unit for overflow. This practice presents a high risk of infecting the general population inmates with Covid19 and must end.

Moreover, the common areas and high touch surfaces were not being cleaned in between each use in the women's Orange unit, and this creates a heightened risk of spreading the infection from those surfaces. The pod cleaning takes place in the morning and the evening in the women's Orange Unit. In the men's Orange unit, there was a trustee who cleaned after every use. As challenging as it is, the common areas and high touch surfaces must be cleaned after every use in every unit.

I inspected living units in each security classification, and I found that each unit had adequate soap, hand sanitizers, Covid19 education materials, masks, and cleaning supplies. I noted in all the living units I inspected SRJ Command staff had started distributing separate towels for cell cleaning in addition to towels used for showering and drying their hands. Mop heads were changed more frequently and disinfected regularly between cells.

In the OPHU, Command staff has assigned additional personnel to ensure that inmates who were medically cleared to do so, received the same out of cell time that their respective security level received.

In the kitchen area there were no inmates present when I arrived, but I was told that the Aramark supervisors had been reminded that the mask policy and social distancing policy must be strictly enforced. When I return for my next spot check, I will make a point of inspecting this area when inmate workers are present.

During the course of this spot check, I found the mask compliance by badge and non-badge staff to be excellent. I also found that the distribution of soap, masks, hand sanitizers, and educational materials to be excellent. I did not see a single Deputy or civilian staff to be non-compliant.

The SRJ was very clean in all areas that I inspected which is consistent with my prior experiences at this facility.

Earlier in this report, I indicated I asked the SRJ Command staff the status of implementing the recommendations I made in my June 10, 2020 report. Here are their informal responses:

- **Recommendation:** The ACSO should find a way to allow inmates in the OPHU to get out of their cells for some unstructured dayroom time or outdoor exercise.
- **Response:** The ACSO has assigned additional personnel to the OPHU to ensure that those inmates who are medically cleared are afforded out of cell time consistent with their security level.
- **Recommendation:** The ACSO needs to be more vigilant in its enforcement of properly wearing masks and social distancing in the kitchen.

- **Response:** The ACSO has issued a Station Order that outlines specifically the criteria for mask compliance by staff while working inside the secure perimeter. This Station Order makes it clear that non-compliance with the mask order will result in discipline of non-compliant staff.
- **Recommendation:** Create a Covid-19 prevention fact sheet that is given to every new inmate upon arrival in the housing unit. The fact sheet must be at a 6<sup>th</sup> grade reading level. The fact sheet should be available in English and Spanish at a minimum. The fact sheet should be available in large print for those who have vision problems. The fact sheet should be available in audio format for inmates who cannot see large print. Inmates should be told if they are having a hard time reading or understanding the information provided, they can ask for assistance from a Housing Unit Deputy or another classification as long as that classification is readily available to assist the inmate.
- **Response:** The SRJ Command staff have created a Covid-19 prevention and information fact sheet which I have reviewed and commented on. It is at a 5<sup>th</sup> grade reading level, and it is handed out to each inmate upon arrival to their housing unit. It is also available in the inmate tablets. It also informs the inmates that they may ask a Deputy for assistance if they have difficulty understanding what is on the sheet. I did not ask about the large print, audio, or other formats. I will ask about those formats during my next spot check.
- **Recommendation:** In my experience, there needs to be a greater supervisor presence on the decks and in the living units to ensure the policies, procedures, and practices are consistently being followed. I recognize and also observed during this inspection that the Santa Rita Jail Facility is currently understaffed with Sergeants. I recommend that the ACSO immediately begin to stand up the Compliance Unit. The ACSO can have the Compliance Unit Captain and the Compliance Unit staff have a regular presence on the living units to ensure staff are wearing the PPE properly, are cleaning properly, are providing the information discussed above uniformly and in a timely fashion. The Compliance Unit could easily develop an internal self-auditing tool to use for internal compliance audits. I also recommend that the Santa Rita jail Commander and the Santa Rita Jail Captain conduct random cell and living unit spot checks on the different teams. I believe their unannounced spot checks will go a long way toward ensuring strict compliance.
- **Response:** The SRJ Command staff have directed the housing unit Sergeants and Lieutenants to strictly enforce the Covid-19 policies, procedures, and practices in addition to their other duties or be subject to discipline. The SRJ Command staff are in the process of standing up the



Compliance Unit. I met the newly promoted Captain who will be in charge of that unit, and I was impressed by him. The Assistant Sheriff, SRJ Commander, and the SRJ Captain are conducting random cell and living unit spot checks.

- **Recommendations:** Neither an Ombudsman or an Inmate Advisory Council is required, but both would go a long way toward resolving inmate related issues informally and reducing the workload of an already overburdened badge staff. The IAC would allow the inmates an informal process in which to air their complaints, make recommendations for improvements and problem solving. You may be surprised how much you could learn from the inmate population, how much the tension level would be reduced, and how much staff time would be saved by implementing these two initiatives. They work well at CDCR and in the Santa Clara County Jail.
- **Response:** The SRJ Command is in the process of considering creating an Inmate Advisory Council. They have asked for and I have provided a set of CDCR regulations and Departmental Operation Manual sections regarding how an IAC operates, and I am in the process of obtaining the Santa Clara County IAC policies and procedures to share with the SRJ Command staff. It is my opinion that the Compliance Captain can also serve as the Ombudsman. This will allow the SRJ Command staff to field questions, comments, and concerns from the public, advocates, attorneys, and families in a centralized location. Having the ADA unit, the Grievance and Appeal Unit, Gang Unit, Multi-Service Deputy Unit, and the ACA under the Compliance Captain will allow that unit to have its finger on the pulse of all aspects of the operation. It is my opinion that the SRJ Command staff see the wisdom of creating an IAC and will get there sooner than later.

I did not inquire about the remaining recommendations, but during my next spot check, I will ask about them.

Because of the mandatory overtime program, the SRJ has implemented, there is not a consistent Housing Unit Deputy assigned to many housing units. The SRJ Command staff recognize this as a challenge and on their own initiative, they have created a housing unit booklet that lays out the responsibilities of the Housing Unit Deputy at each security level including the Housing Unit Deputy's responsibilities regarding laundry, cleaning, masks, soap, and hand sanitizer distribution. These booklets will be placed in every housing unit officer's station. This will go a long way toward ensuring there are consistent Covid-19 prevention practices taking place in every housing unit.

## Findings and Recommendations

- **Finding:** The SRJ Command staff have done an excellent job up enforcing the mandatory mask policy and have taken extra steps to ensure the mask policy is strictly enforced by the Sergeants and Lieutenants who are supervising their respective areas in the jail.
- **Finding:** The SRJ Command staff have been open minded and responsive to this expert's recommendations on improving their Covid-19 response. One of the most important aspects of a good leader is being open to the suggestions of others on how to improve the operation under their command. The SRJ Command staff have demonstrated their open mindedness and their willingness to adopt sensible and cost-effective changes to their Covid-19 response plan. This will benefit inmates, staff, and the public.
- **Finding:** Wellpath and Public Health have a timed-out strategy in the Blue Units to prevent and mitigate the spread of the Covid-19 virus in the SRJ. The only nasopharyngeal test that is offered is within 48 hours of the inmate's arrival at the SRJ. In my expert opinion, this testing protocol is for community-based contact tracing primarily and only secondarily for the prevention and mitigation of the spread of the virus in the jail.
- **Recommendation:** Based on my reading of the research and the CDC guidelines, it is my opinion that testing is the most effective method to detect the presence of the Covid-19 virus in people, and it is recommended using a test based strategy if testing resources are available in the community. Because there are a large number of asymptomatic inmates who are booked in the SRJ, I recommend that Wellpath consider moving to a test-based strategy and offer nasopharyngeal tests to inmates at day two and day ten. This will go a long way in enhancing detection of the virus and preventing the inadvertent introduction of the virus into the SRJ. I have subsequently learned from Defendant's Counsel that Wellpath now tests at day 2 and day 10 on the recommendation of Public Health and that satisfies my concerns. I will verify this new practice during my next spot check.
- **Finding:** The SRJ currently medically isolates newly incarcerated inmates in cohorts for fourteen days (Blue Units). Wellpath offers a nasopharyngeal test forty-eight hours after an inmate arrives at the SRJ. There has been, approximately, a thirty percent test refusal rate over the last 750 tests. The inmates who refuse tests are allowed to remain in the same cohort as the inmates who take the test with negative results. We know from experience that there are a significant number of asymptomatic

positives in the community. Logically there will be a high percentage of asymptomatic arrestees/inmates in each cohort, and the greater the spike in the community, the greater the number in arrestee/inmate cohorts. Thus there is a high probability that there are a number of asymptomatic test refusers in these cohorts, and I am concerned that there is a possibility of those asymptomatic inmates infecting the other inmates in the cohort at some point during the fourteen day medical isolation rendering the fourteen day medical isolation ineffective.

- **Recommendation:** It is my recommendation that the ACSO consult with Public Health regarding whether or not the inmate test refusers in each cohort should be removed and housed separately from the remaining cohort as presumptive positives. This may go a long way toward minimizing the inadvertent spread of the virus in the jail through asymptomatic test refusers. Monterey County Jail has made taking the nasopharyngeal test mandatory, and they have less than an one percent refusal rate.
- **Finding:** The SRJ Classification unit is using Orange Ad Seg Units as overflow housing for newly incarcerated inmates who would be housed in Orange Units once they complete their medical isolation. These newly incarcerated inmates could be asymptomatic test refusers, and this presents an unreasonable risk of serious illness or death for the other inmates in those Orange Units.
- **Recommendation:** It is my recommendation that the SRJ Classification Unit end this practice immediately. It makes no sense to expose the other inmates to a potentially positive inmate who is in medical isolation.
- **Finding:** In some housing units, SRJ is not cleaning the common areas and high touch surfaces in between each use. This was observed in the female Orange Ad Seg Unit where cleaning was occurring first thing in the morning and again in the evening. This was particularly troubling because when I inspected this unit, there was a female inmate who was being medically isolated in that unit who could have been an asymptomatic positive test refuser.
- **Recommendation:** The SRJ must be hyper-vigilant about cleaning the common areas and high touch surfaces in between each use. While this is challenging and labor intensive, it is important in the effort to prevent/mitigate the spread of this deadly virus within the inmate population.

- **Finding:** During the course of my inspection I observed that dormitory housing unit 35 was being used to medically isolate newly incarcerated inmates.
- **Recommendation:** In my expert opinion, no dormitory should ever be used as a medical isolation unit or quarantine unit. Lack of solid walls and doors, inability to enforce social distancing, closed ventilation, and common toilets, sinks, and showers, make this setting an ineffective medical isolation setting. This practice significantly increases the likelihood of spreading the virus through asymptomatic inmate test refusers to other inmates. I have subsequently learned from Defendant's Counsel that Dormitory 35 is being closed and that no dormitory will be used for medical isolation/quarantined going forward. This satisfies my concerns.
- **Finding:** I have consistently identified the lack of adequate badge staff as a critical issue for the safe and effective management of the Santa Rita Jail. This shortage is exacerbated by the ACSO's current practice of taking badge staff from the jail to fill other vacancies in other areas of the Sheriff's Department operations. Recently, the Alameda County Board of Supervisors approved a significant number of positions to remedy this staffing shortage. It is important that the ACSO take an aggressive posture in their recruitment efforts to fill these positions. Without additional staffing, the jail will continue to be a substantial risk to staff and inmate safety at the SRJ.

## Conclusion

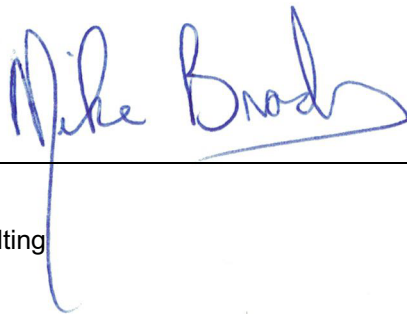
The ACSO and Wellpath continue to modify their Covid-19 response plan as new information and recommendations come to their attention. The ACSO and Wellpath have been cooperative, transparent, and responsive to this expert. It is challenging to manage a jail and its healthcare delivery system in and of itself, and when you add the unprecedented and ever-changing challenge of preventing/mitigating the spread of the Coronavirus 19 in a custodial setting, it becomes exponentially more challenging.

While I am not a medical doctor or a public health professional, I am hopeful that the ACSO will consider my recommendations which are based on current CDC guidelines for correctional and detention facilities and sound correctional practices.

No jail will ever operate perfectly, but it is critical that the ACSO continue to bob and weave and adjust its strategy in response to this deadly virus.

## Signature

Submitted on behalf of Sabot Technologies, Inc. dba Sabot Consulting to the County of Alameda



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Mike Brady  
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July 30, 2020

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Date