

LEON J. PAGE, COUNTY COUNSEL
LAURA D. KNAPP, SUPERVISING DEPUTY (SBN 162800)
D. KEVIN DUNN, SENIOR DEPUTY (SBN 194604)
REBECCA S. LEEDS, SENIOR DEPUTY (SBN 221930)
SUZANNE E. SHOAI, DEPUTY (SBN 232866)
KAYLA N. WATSON, DEPUTY (SBN 286423)
333 W. Santa Ana Blvd., Ste. 407
Santa Ana, CA 92701
Telephone: (714) 834-5241/2755/3906/5206
Facsimile: (714) 834-2359
Email: laura.knapp@coco.ocgov.com
kevin.dunn@coco.ocgov.com
rebecca.leeds@coco.ocgov.com
kayla.watson@coco.ocgov.com

Attorneys for Respondent, DON BARNES,
in his official capacity as Sheriff of Orange County, California
Exempt From Filing Fees Pursuant to Gov. Code § 6103

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

CYNTHIA CAMPBELL, MONIQUE
CASTILLO, SANDY GONZALEZ, CECIBEL
CARIDAD ORTIZ, MARK TRACE, and DON
WAGNER, on behalf of themselves and all
others similarly situated,

Petitioners,

vs.

DON BARNES, in his official capacity as
Sheriff of Orange County, California
Respondent.

CASE NO. 30-2020-01141117-CU-WM-CXC
ASSIGNED FOR ALL PURPOSES TO
HON. PETER J. WILSON; CX-102

**ORDER RE: RESPONDENT'S *EX PARTE*
APPLICATION FOR ORDER
CLARIFYING THE COURT'S
DECEMBER 11, 2020 ORDER**

RELATD TO ROA 288
DATE: December 15, 2020
TIME: 1:30 P.M. (*via CourtCall*)
DEPT. CX-102

DATE PETITION FILED: 06/02/2020
TRIAL DATE: N/A

ORDER

Respondent's *Ex Parte* Application for Order Clarifying the Court's December 11, 2020 Order
came on for hearing on December 15, 2020, at 1:30 p.m. before this Court. Having reviewed the
arguments by counsel in this matter, the Court hereby finds and orders as follows:

Respondent's *Ex Parte* Application is GRANTED.

1 Respondent Sheriff Don Barnes' *Ex Parte* application asks for clarification of the Court's
2 December 11, 2020 Order in two respects. First, regarding the reduction in inmate population. Second,
3 regarding the reduction as applied to multi-person cells.

4 With regard to the first issue, the Court based its reduction target on the Orange County Health
5 Care Agency's March 27, 2020 50% reduction recommendation to the Sheriff. (Correctional Health
6 Services, Orange County Health Care Agency, March 27, 2020 email to Commander Joseph Balicki.
7 (Denial Appendix 363-4.))

8 Although the rated capacity of the Orange County Jail is 3,980 (9/26/2018 BSCC report, Denial
9 Appendix at 723), the Orange County Health Care Agency's recommendation was based on the actual
10 population at the time of its March 27, 2020 recommendation. This is evident from the
11 recommendation itself and from the deposition testimony of Dr. C. Hsien Chiang, the Administrative
12 Manager of the Orange County Health Care Agency, and one of the authors of the recommendation.
13 The deposition testimony reads as follow:

14 "Q. Okay. And could you elaborate, why was it important to make space?

15 A. Well, if you want to create social distancing, effective social distancing, that, you know, is defined
16 as 6 feet apart, then you need that space to be able to do so.

17 Q. I see. And in order to achieve that space then, in your opinion, was it necessary to reduce the
18 population of living areas by 50 percent?

19 A. Yes, that was my opinion."

20 (7/13/2020 Depo., 101:12-19.)

21 On March 27, 2020, when the County's Health Care Agency made its recommendation that the
22 jail population be reduced by 50%, there were 5,303 inmates in the Orange County Jail. (Commander
23 Balicki's 11/16/2020 Decl., fn. 1)

24 Accordingly, the Court hereby clarifies that its Order concerning a reduction in inmate
25 population requires a reduction of inmates in all congregate living areas to 50% of 5,303.

26 As noted, this percentage was the product of the Orange County Health Care Agency's
27 investigation and recommendation. The Court notes, however, that, the purpose and intent of the
28 Court's Order, again consistent with the County's Health Care Agency's recommendation, is not to

1 achieve a particular number or percentage, but rather, as stated in the Order, "to achieve proper social
2 distancing . . ." as recommended by the County's own expert.

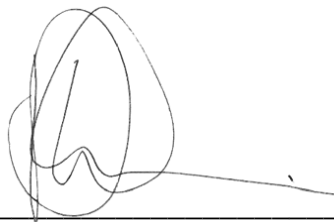
3 If Respondent is able to demonstrate through his Release Plan that proper social distancing can
4 be maintained with a less than 50% reduction of inmate population, the Court would, of course,
5 consider an amendment to its Order. All available evidence, however, suggests this is unlikely.

6 The Order does not require any actual reduction before the scheduled January 8, 2021 status
7 conference, when the Court will discuss with the parties Respondent's proposed Release Plan required
8 to be filed and served by December 31, 2020. The Court notes, however, that Respondent stated in his
9 December 10, 2020 Response to Petitioners' Proposed Order that Respondent "effective immediately
10 [was taking steps] to reduce the inmate population and mitigate the spread of COVID-19." (Response,
11 3:1-2) Respondent is obviously encouraged to continue with that effort and not await the January 8,
12 2021 conference.

13 As to the second issue upon which clarification is sought, regarding multi-person cells, the
14 Order includes any cell that is currently housing more than one inmate. If a cell is able to house two (or
15 more) inmates and those inmates are able to maintain proper social distancing while in the cell, the
16 reduction need not be applied to that cell. Any current two-person cell which does not permit proper
17 social distancing would need to be converted to house only one person.

18
19 **IT IS SO ORDERED.**

20
21 Date: December 15, 2020



22 The Honorable Peter J. Wilson
23 Judge of Superior Court of the State of California
24 County of Orange, Civil Complex Center
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