

Please Note: The information contained in this overview is not intended as legal advice in any individual's case and is subject to change. If you have questions, please consult with an experienced parole attorney or consult directly with the resource or organization listed

ORGANIZATIONS RESPONDING TO THE IMPACT OF COVID-19 ON INCARCERATED PEOPLE

I. UnCommon Law's Response

Our office is facing new and unprecedented obstacles in serving our clients, responding to mail and phone calls, and providing valuable resources. In light of the risk of introducing COVID-19 to our clients and others inside prison, we have made the very difficult decision to discontinue in-person visits, including for parole hearings. Our model for counseling and legal representation requires direct face-to-face contact, and it requires our physical presence alongside the people we serve during their parole hearings. Unfortunately, this type of contact is not possible at this time.

In March, UnCommon Law joined more than 20 other justice organizations in a direct appeal to Governor Gavin Newsom. We have called on the Governor to *immediately* take the necessary steps to reduce the spread of COVID-19 in California prisons and protect not only prison residents but staff and surrounding communities as well. The letter to Governor Newsom can be read here: https://thejusticecollaborative.com/wp-content/uploads/2020/03/Letter-to-Governor-Newsom_CDCR_COVID_19-1.pdf.

UnCommon Law continues to make demands of the Governor. You can find our updated demands on our social media accounts (Instagram: uncommonlawyer; Twitter: UnCommLaw). On June 25, we renewed our request to Governor Newsom with a list of things his office should get done immediately. These include:

- (1) Early Releases:** Monthly releases for all those who are either within one year of their scheduled release date or have served at least 70% of their sentences.
- (2) Testing and Safety:** Immediately test every person in state prison (staff and residents). Provide safe, sanitary, respectful isolation protocols for those who test positive. Provide appropriate PPE and social distancing for everyone inside.
- (3) Commutations:** Commute sentences for everyone with a compromised immune system or high-risk medical condition, as well as all parole-eligible people currently deemed "low-risk." Review all pending commutation petitions, paying special attention to people over the age of 50 who have served at least 20 year in custody. Commute the sentences of anyone who has served at least 10 years with credible evidence indicating their offenses were directly related to intimate partner battering and its effects.

- (4) **End ICE Cooperation:** Immediately stop cooperating with ICE to facilitate deportation of those released from state prison.
- (5) **Parole:** Immediately release those who have already been found “suitable” for parole by the Board of Parole Hearings, as well as all those with terminal conditions who have six months or less of remaining life. Release everyone eligible for expanded medical parole onto actual parole. Release everyone eligible for youth parole consideration (i.e., those whose crimes occurred when they were 25 years old or younger and who have been incarcerated for at least 15 years) as long as they have been free of any violence for at least five years.
- (6) **Resentencing:** Immediately re-sentence those who have been recommended for resentencing by CDCR staff or by the District Attorney’s Office.
- (7) **Funding:** Allocate \$10 Million of emergency funds for Community-Based organizations (CBOs) to provide pre- and post-release planning for people transitioning back to the community under any of these release measures. Ensure that CBOs have timely access to institutions and identifying data to perform this function.

We are committed to continuing to fight for our clients, their families, and all those impacted by long-term incarceration, *especially* in difficult times like these. We have been inspired and heartened by the resilience and tenacity of our clients, partners and community members over these past days and months, and are proud to stand alongside you all.

II. Other Advocacy Organizations Responding to COVID-19

Ella Baker Center. The Ella Baker Center operates out of Oakland, California, and provides resources and information on COVID-19 here: <https://ellabakercenter.org/COVID19EBC>.

Prisoner Advocacy Network (PAN). The Prisoner Advocacy Network has released guides with general legal advice for those looking to advocate for their own release or the release of a loved one. Their guides include:

- Routes to Release
- Administrative Appeals for COVID-19
- How to Draft Declarations to Support Requests Related to COVID-19
- Self-Help Litigation for State Habeas Corpus Petitions Related to COVID-19

All of these guides and more information can be found at PAN’s COVID-19 resources webpage here: <https://www.prisoneradvocacynetwork.org/covid-19.html>.

Prison Law Office (PLO). The Prison Law Office filed an emergency motion in the three-judge panel of *Coleman v. Newsom* and *Plata v. Newsom*, longstanding CDCR lawsuits

about overcrowding in California prisons. To follow along with that litigation, updates are being posted on PLO's webpage here: <https://prisonlaw.com/news/cdcr-covid-19>.

The Justice Collaborative. The Justice Collaborative has put together a webpage outlining the impact of COVID-19 on criminal legal and immigration detention systems. Their webpage can be found here: <https://thejusticecollaborative.com/covid19>.

III. California Department of Corrections and Rehabilitation (CDCR) Response

CDCR has a webpage that outlines its COVID-19 response efforts, which can be found at: <https://www.cdcr.ca.gov/covid19/covid-19-response-efforts>. CDCR also posts daily updates regarding its handling of COVID-19 here: <https://www.cdcr.ca.gov/covid19/updates>. CDCR has instituted a number of new policies in response to COVID-19, including:

Board of Parole Hearings/Parole Suitability Hearings are being conducted via video and telephone conference. This is in accordance with Governor Newsom's Executive Order N-36-20. The initial Order was in effect for 60 days; however, the Secretary of CDCR has the authority to grant 30-day extensions as needed to protect the health, safety, and welfare of incarcerated persons, staff, and other hearing participants. Video and telephone conference hearings are likely to continue for the foreseeable future. More information on the Board of Parole Hearing's response to COVID-19 can be found here: <https://www.cdcr.ca.gov/bph/the-boards-covid-19-response>.

CDCR announced that it will be implementing **Positive Programming Credits (PPC)** on July 9, 2020. Under this program, CDCR will implement a one-time Positive Programming Credit award for eligible incarcerated people. PPC will provide 12 weeks of credit to incarcerated people that were eligible as of July 9, 2020. People who were found guilty of a serious Rules Violation Report (RVR) between March 1, 2020 and July 5, 2020 are not eligible to receive PPC. Incarcerated people with a pending serious RVR will not have PPC applied until the RVR is adjudicated and the person is found not guilty, in which case the PPC will be applied within seven days of the Chief Disciplinary Officer's review. People serving LWOP and condemned people are not eligible for PPC. Based on our current understanding, we do not believe that people convicted of violent crime would be excluded from this credit-earning. Headquarters Case Records Services staff will enter the credit into SOMS. Credits will be applied by August 1, 2020. Institutions are to follow normal release processes if these credits advance release dates making a person eligible for release in accordance with the California Code of Regulations, Title 15, Section 3042(c).

CDCR announced a **Community Supervision Program** on June 16, 2020, and began implementation on July 1, 2020. This program allows eligible incarcerated persons to be released under close supervision for the remainder of their sentence. Eligible persons are those who have 180 days or less to serve on their sentences; who are not currently serving time for domestic violence, or a violent or serious crime; and who are not required to register as a sex offender under Penal Code 290. The incarcerated person must also have housing plans identified before

they are eligible to participate in the program. Once the person reaches their regularly scheduled release date in the community, they will either remain on state parole supervision, transfer to county post-release community supervision, or discharge from their sentence, depending on their post-release requirements. CDCR retains the ability to remand those released on community supervision back to state prison for *any reason* to serve the remainder of their sentence. For more information on the community supervision program see the press release here:

<https://www.cdcr.ca.gov/news/2020/06/16/cdcr-announces-community-supervision-program-to-further-protect-inmates-and-staff-from-the-spread-of-covid-19>.

The **Division of Adult Parole Operations (DAPO)** adjusted supervision protocols for people on parole, reflecting the Governor's four-stage "Resilience Roadmap" to safely modify California's stay-at-home order. DAPO follows restrictions put in place by local public health departments and justice system partners, including jails, courts, and local law enforcement. Parole Agents continue to follow physical distancing guidelines, including but not limited to minimizing in-person parole office reporting. Any question a person on parole may have related to COVID-19 prevention efforts should be directed to their Parole Agent. More information on DAPO's handling of COVID-19 can be found here: <https://www.cdcr.ca.gov/covid19/division-of-adult-parole-operations>.

The **Division of Juvenile Justice (DJJ)** began virtual visitation at all four of its youth facilities effective April 11, 2020. Approved visitors for DJJ youth can request video visiting appointments by contacting the email addresses found here: <https://www.cdcr.ca.gov/juvenile-justice/visiting-your-loved-one-with-skype-for-business>. On April 14, 2020, Governor Newsom signed an Executive Order addressing the release and reentry process at DJJ so that youth may be discharged safely and quickly. That Executive Order can be found here:

<https://www.gov.ca.gov/2020/04/14/governor-newsom-signs-executive-order-on-division-of-juvenile-justice-discharge-and-reentry-process>.

Modified Community Correctional Facilities and Community Reentry Programs, CDCR's in-state contract facilities, are conducting verbal screenings of staff and participants who enter the facilities. Those attempting to enter one of these facilities are required to verbally respond if they currently have symptoms of a respiratory illness. Visiting has been halted at these facilities until further notice. Rehabilitative programs at reentry facilities will continue with modifications made to class sizes to encourage social distancing, with some potential program closures. Participants are generally restricted from leaving the facilities outside of mandated legal reasons, urgent medical needs, if they are employed in the community, or for critical reentry services related to those within 30-45 days of release. Participants aged 65 or older are only eligible for passes to go out in the community for emergency situations.

There are certainly more organizational responses than we have listed here. Our office encourages you to reach out to these organizations or any others you may come across in your own search for assistance.