

1 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF BUTTE**

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3 **MEMORANDUM TO THE PRESIDING JUDGE FROM BUTTE COUNTY SHERIFF-**
4 **CORONER KORY L. HONEA REGARDING THE EFFECT OF PRISONER PRODUCTION**
5 **ORDERS ON BUTTE COUNTY JAIL OPERATIONS AND REQUEST TO CONSIDER**
6 **TEMPORARILY LIMITING THE ISSUANCE OF PRISONER PRODUCTION ORDERS**
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10 **I. BACKGROUND**

11 As of July 8th, 2020, California Department of Corrections and Rehabilitation (CDCR)
12 facilities are reporting 2260 active COVID-19 cases amongst the inmate population and 664 active
13 COVID-19 cases in CDCR employees.

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15 Due to the status of COVID-19 within CDCR facilities, CDCR has suspended the intake of
16 all inmates from county jail facilities through, at a minimum, July 29th, 2020. However, even under
17 the most favorable circumstances, it is not expected that CDCR will immediately accept all pending
18 intakes once the moratorium is lifted.

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21 CDCR's moratorium on inmate intakes also includes a prohibition on the re-intake of inmates
22 who have been temporarily transferred to county jails upon production orders. Therefore, any inmate
23 transferred to the Butte County Jail on a production order, but who has yet to complete their state
24 prison sentence, will remain in the Butte County Jail, until at a minimum, July 29th, 2020. However,
25 given the rising COVID-19 infection numbers across the state and nation, it is likely that intake and
26 re-intake of a substantive number of inmates from county jails will be further delayed.

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1 California Penal Code §2620 through §2626 address the production of prisoners at various
2 types of proceedings. Although the standards for issuance vary depending on the type of appearance
3 and right involved, generally, when the inmate is sought only as a witness, the decision regarding
4 issuance of a production order is typically within the discretion of the court – provided no substantial
5 right of the inmate is adversely affected.
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8 However, the rights of an inmate to appear at certain types of family law hearings, including
9 those addressing the termination of parental rights, adjudication of an inmate’s child as a dependent
10 of the court, or a proceeding under Welfare and Institutions Code §300, are broad. In those cases,
11 further outlined in Penal Code §2625 et seq, the court “shall” issue the production order. An inmate
12 choosing not to exercise their right to appear at such a hearing must expressly waive their right to
13 appear.
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16 **II. EFFECT OF CDCR PRISONER INTAKE AND RE-INTAKE MORATORIUM ON THE**
17 **BUTTE COUNTY JAIL**

18 As of July 8th, 2020, the Butte County Jail holds 62 inmates pending initial transfer to CDCR
19 and 9 inmates who are present on production orders – for a total of 71 inmates – representing
20 approximately 15% of the total jail population. 33 of the 62 sentenced inmates pending initial transfer
21 to CDCR custody are currently housed in protective custody, and cannot be integrated with general
22 population inmates, imposing additional burden on the Butte County Jail facility.
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25 Furthermore, CDCR does not test inmates subject to production orders for COVID-19, or
26 quarantine them prior to being transferred to county jails. This places the responsibility of screening
27 and testing incoming inmates on Butte County Jail staff. However, unlike with fresh Butte County
28 Jail bookings, Butte County Jail staff has no option of releasing CDCR produced inmates on a notice

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1 to appear or GPS monitor - even if the produced CDCR inmate presents signs and symptoms of
2 COVID-19 and/or are in a vulnerable population which is at a higher risk for COVID-19
3 complications.
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6 The Butte County Jail is currently equipped with only three negative airflow cells which can
7 safely accommodate COVID-19 positive inmates. CDCR facilities, including CDCR medical
8 facilities, possess an increased amount of resources and staffing which is more capable of
9 accommodating suspected or confirmed COVID-19-positive CDCR inmates for longer periods of
10 time than the Butte County Jail.
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13 On July 7th, 2020, an inmate within a housing pod at the Butte County Jail tested positive for
14 COVID-19, despite the fact that the inmate had been housed in the Butte County Jail since May 5th,
15 2020. This infection case demonstrates that despite rigorous screening measures, COVID-19 has the
16 capacity to infiltrate and spread amongst the inmate population – this risk is exacerbated by receiving
17 inmates from CDCR on production orders. While the Butte County Jail has, and continues to house
18 COVID-19 positive inmates, it has a limited capacity to do so and no alternative custody
19 arrangements are available for inmates awaiting transfer to CDCR.
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21 **III. REQUEST TO CONSIDER TEMPORARILY LIMITING THE ISSUANCE OF**
22 **PRISONER PRODUCTION ORDERS**
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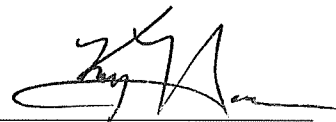
24 In summary, continuing to issue and execute discretionary production orders presents a health
25 and safety hazard to the inmates and staff of the Butte County Jail. Furthermore, continuing to accept
26 and house transferred CDCR inmates upon discretionary production orders – inmates that CDCR will
27 not currently accept back – shifts an unreasonable burden onto the Butte County Jail.
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1 In order to preserve the civil rights of inmates and to avoid undue prejudice against any party
2 to a case where a necessary inmate witness is sought, it is respectfully requested the court take notice
3 of and consider the content within this memorandum when determining whether to issue a
4 discretionary production order, and when considering the issuance of continuances in cases involving
5 the production of a CDCR inmate, until which time CDCR resumes the regular re-intake of inmates
6 from county jails.
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9 It is understood this request for notice and consideration will not affect the production and /or
10 transfer of certain inmates from CDCR to the custody of the Butte County Jail, including, but not
11 limited to those inmates who have completed their state prison sentences and are awaiting transfer to
12 Butte County on pending local charges, or inmates who have been sentenced to a consecutive Butte
13 County Jail sentence upon the completion of their state prison term.
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20 DATE: 7-10-20



21 Kory L. Honea
22 Butte County Sheriff-Coroner
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