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How to Draft Declarations to Support Requests Related to COVID-19

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How to Use This Guide

Purpose

The purpose of this document is to help you create a declaration to submit (along with other evidence) to CDCR, PLO/RBGG, attorneys that participated in your criminal case, your sentencing court, and/or the Governor in order to advocate for your release due to COVID-19. A declaration is a document where you state facts that you have direct knowledge about. It is also used to introduce other documents that you might want the judge or decisionmaker to consider. A declaration is an important document to include in any request for a change in conditions or release due to COVID-19, because it will allow you to describe in detail what the facts are surrounding your specific situation. This Guide provides basic information about what a Declaration is and how to use it. It has several examples of sample declarations and templates to help you draft your own declarations. It also includes a worksheet with questions about your situation that PAN believes may be relevant to a claim for release due to COVID-19. Once you have filled out the worksheet, take each answer and write a sentence with the information. These are the facts that you will include in your Declaration. Therefore, your answers should be used to help structure a Declaration that shows why release is necessary in your case. Declarations can be used for many things. At this time, due to COVID-19, and the opportunities for potential release due to the virus, we suggest that any request for release that you prepare be accompanied by a declaration.

Your Responsibility in Using this Guide

PAN's COVID-19 Guides, including its Declaration Guide, 602 Appeals Guide, and Self-Help Litigation Guide, are not intended to give legal advice, but rather general legal information. No attorney-client relationship is created by using any information in this guide. You should consult an attorney for legal advice specific to your situation. When putting this Guide together, we did our best to give you useful and accurate information because we know that people who are currently or formerly incarcerated often have difficulty getting legal information. However, the laws change frequently and are subject to differing interpretations. Prisoner Advocacy Network does not have the resources to make changes to this material every time the law changes. If you use this information, it is your responsibility to make sure that the law has not changed and applies to your particular situation.

What to do with a Declaration

You can use this paperwork to advocate for your release, or for a change in your conditions. You by sending evidence to: 1) PLO/RBGG, which have sued the CDCR in *Plata/Coleman* asking judges to order releases; 2) CDCR Secretary Ralph Diaz who already used his power to release under California Code, Government Code § 8658; 3) filing a habeas corpus/writ of mandate; 4) filing a § 1983 civil rights action against CDCR ; 5) requesting commutation from the Governor via his emergency powers; 6); petitioning for resentencing under PC 1170(d)(1). A self help litigation guide is forthcoming at <https://www.prisoneradvocacynetwork.org/covid-19.html>.

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Where to send requests for release due to COVID-19 (via LEGAL MAIL)

- CDCR's COVID-19 response team. COVID19@cdcr.ca.gov.
- J. Clark Kelso, Federal Medical Receiver (916) 739-7000 ckelso@pacific.edu
- Ralph Diaz, Secretary for CDCR (916) 324-7308 — press 4 ralph.diaz@cdcr.ca.gov
- Diana Toche, Undersecretary - Health Care Services diana.toche@cdcr.ca.gov
- Connie Gipson, Director, Division of Adult Institutions connie.gipson@cdcr.ca.gov
- If people have gone before the board and were found suitable, contact BPH and Governor to ask for expedited release Jennifer.Shaffer@cdcr.ca.gov
- Write and call the [medical department at the prison](#).
- Reach out to the [Ombudsman](#) assigned to prison.
- Ask a lawyer who is available to help or already working with you on the case to reach out to the prison's [Litigation Coordinator](#).
- Contact facility's Warden [here](#)
- If release date within 60 days and may qualified for [expedited](#) release James King james@ellabakercenter.org
- If referred by CDCR under Penal Code section 1170(d)(1) for resentencing, contact emily@ellabakercenter.org.
- The [Public Defender's office](#) and/or the private attorney that handled your criminal case to request resentencing under PC 1170(d)(1) from CDCR or the DA.
- [Prison Law Office](#) (PLO) General Delivery, San Quentin, CA 94964 office@prisonlaw.com
- [Rosen, Bien, Galvan, & Grunfeld](#) (RBGG) 101 Mission St. 6th Fl, San Francisco, CA 94105 [Email](#)
- Governor Gavin Newsom State Capitol, 1303 10th St., Suite 1173, Sacramento, CA 95814. [Submit](#) commutation application. Contact kelli.evans@gov.ca.gov, eliza.hersh@gov.ca.gov.
- The [superior](#) court where the prison is through a writ of habeas corpus/mandate.
- The [federal](#) court where the prison is through a habeas/civil rights suit under 42 U.S.C. 1983.
- The [legislators](#) representing your home / district you are incarcerated in.
- Your loved ones. They can submit packages to advocate for your release. You should fill out medical and general release and authorization forms so they can obtain documents from CDCR and allow CDCR to speak to them. These forms include the [CDCR 1019/1021](#) custody records release, [CDCR 7385 \(health record release authorization\)](#) (updated October 2019 version), [CDCR 7421](#) Advance Directive for Health Care (updated June 2018 version).
- Stanford Three Strike Project, Michael Romano, 650 736.8670, mromano@stanford.edu, Susan Champion 650 736.7757 schampion@law.stanford.edu, Milena Blake milenab@stanford.edu Crown Quadrangle, 559 Nathan Abbott Way Stanford, CA 94305-8610
- *Please note, if you send anything to PAN: PAN will not file anything in court, with CDCR, or with the Governor on your behalf. PAN is all volunteer-run, and with the shelter-in-place order we expect mail will be delayed 2-4 weeks. We can never return originals.*

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How to Prepare Declarations & Exhibits

What is a declaration?

A declaration is a form of storytelling. It is a written statement by a person who swears they are telling the truth, under penalty of perjury. The declaration has to include certain language that is copied from a state or federal law (statute). It is written by someone with personal, direct, first-hand knowledge about the “facts” that are described in the declaration. We will give you the legal language you need to include from state or federal statutes below.

Difference between facts and arguments, for legal purposes

A fact is something that happened or something that is true. For example, “I have diabetes” is a fact. “I am not getting treatment for my diabetes” is a fact. “The nurse has not provided insulin to me in over seven days” is a fact. An argument, on the other hand, is a view or judgment about the fact in terms of the law. For example, “Failing to provide adequate medical care of insulin for the serious medical need of diabetes is a violation of Title 15 and the Eighth Amendment to the U.S. Constitution.”

A declaration only contains facts, not arguments. In other words, it doesn’t try to convince anyone of anything. Rather, a declaration just says what happened. In that way, it is very different from a letter asking CDCR or a legislator for something. In this way it is also different from a 602 appeal, a commutation petition, or an argument to the parole board, because these all contain not just a list of facts, but how you want to apply those facts to a certain situation to show that you should get what you want. A declaration, on the other hand, must **only** contain facts.

Why is a declaration important?

The declaration is very important because it helps you to “develop a record” for whatever authority is making a decision in your situation. You can also use your declaration to give another perspective of the facts that is contrary to the factual record that your opponent presents. **Your declaration of the facts and developing the “record” is viewed as actual evidence by the court.** This is why courts often dismiss pro se (self-represented) litigants’ complaints, because they raise “unsupported assertions” or make “generalized references to evidence” but they don’t attach any declarations or exhibits separately as evidence, the way lawyers are trained to do. That means there is no “factual record” to support what the litigant is saying. If you file your declaration, then there will be support in the “record” to support your claims, and you will not hit that roadblock. In other words, you cannot just include the facts in your Complaint, or the argument section of your documents. You have to include it in a declaration too.

What are declarations used for?

If you are advocating for your release as a result of COVID-19, you should use a declaration to present the facts of your situation to whoever is making the decision about your release. Declarations

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are used to introduce evidence for most legal requests or proceedings. Anything the decision-maker needs to know to make a good decision should be included in the declaration of facts or the exhibits, and not just in the argument portion of what you submit. Usually the decision-maker is a judge, but in this case it could be the CDCR or the Governor. By law, the decision-maker is not allowed to make a decision in favor of a written court motion alone without a declaration.

Declarations are also helpful to keep a record of your situation, even if you are not in the middle of an active case, or if you aren't planning to file a case in court. You can keep a declaration as a daily log of events that happen to you, or things you do. Having this sort of diary with dates to document when things happen can be very helpful to you later on. It can help you remember things and keep evidence in one place for if you ever need it. An example is if you are ever a witness in someone else's case. People in the legal field use declarations like a diary to take case notes every day, as things happen, in case they need to give the information to someone later on.

What to include in your declaration

A chronological list (in the order that they happened) of facts and events. Your list should include dates, times, names, places, and factual description of the events. When an exhibit helps to prove a fact in your story, you should also include a reference to the exhibit, and then attach the exhibit. You should write the list of facts and events in a neutral and non-argumentative, non-persuasive manner. Just tell your version of the facts and events. While you are doing this, you can keep in mind what you know about CDCR's version. Feel free to highlight in your version what is inaccurate about CDCR's version.

Declarations also need something called "foundation." This means you have to lay the foundation for the decision-maker that shows **how you know** what you are writing in the declaration is true. Everything in the declaration has to be your own personal knowledge—something you witnessed happening or being said. **So make sure to say things like**, "I saw the guard talk to my celly." **Use "I" statements.** "I am the porter in Yard A." "I am the Men's Advisory Council Chair."

Before drafting the declaration, ask yourself:

- When (exactly) did it happen?
- Who was involved?
- What happened? This should be a step-by-step sequence of events.
- How do you know each piece of information? Did you see it? Did you hear it? Did someone tell you? (Any of these answers is okay, as long as you write how you know about it in the declaration)
- What happened immediately after the incident?

The answers to all of these questions must be based on your own personal observation. Always use first-person sentences, like "I observed" or "I saw" or "They told me." Make it clear if you only heard something to be true, but did not directly observe it. You can start a sentence like that by stating, "On information or belief,..." or, "I was told by XX that...." You can also go ahead and explain why you

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believe your statements to be true. For example, “I believe this to be true because...” or “I know this because...” Provide as many relevant facts as possible. The more details you can give, the more the decision-maker is likely to believe your side of the story. But don’t go overboard and include facts that don’t make a difference to your story, because this may frustrate the decision-maker or open the door to unnecessary cross-examination. Without this “foundation,” a decision-maker may not give much weight to the declaration or may not consider it at all.

What does not belong in a declaration

Do not include legal arguments, legal conclusions, characterizations of facts, case law. Do not attempt to reason or influence the outcome by drawing a conclusion or making an inference based on an event that happened. An example of a legal argument or conclusion is: “This is a violation of my constitutional rights.” An example of a characterization of facts is: “The behavior was unlawful.” An example of case law is, “The prison is 160% crowded, which is a violation of *Brown v. Plata*.” An example of an attempt to reason or influence is: “The guard should not have done that because...” None of these sorts of statements belongs in a declaration. There are other places you can make statements like that, but not in a declaration. You should also not include any general critiques of CDCR policy or the state of prisons. You should only describe specific experiences you have had, and the impact they had on you or others, all of which you must have personal knowledge of.

What is an exhibit?

An exhibit, like a declaration, is another document to add to the “factual record.” It is a supplementary, or extra, supporting document that you can attach to a declaration that helps to prove what you are stating in the declaration. In a lawsuit, you use the declaration to bring any particular document to a judge’s attention and enter that document into evidence.

Examples of possible exhibits include:

- Medical records
- C-file documents (SOMS or ERMS records), chronos, 115s, 128s, 837s, or 7219s.
- 602 appeals, 22s, 7362, 1824
- CDCR policy documents, memos, posters that CDCR hangs

How to include exhibits with your declaration

Your exhibits support your declaration. You have to give each of your exhibits a label (*i.e.* Exhibit A, Exhibit B, etc.). An exhibit cover page is just an 8.5x11 inch piece of paper that has the Exhibit letter or number typed or written on it. Use a cover page for every exhibit. Make sure each exhibit only includes the parts of the documents that are relevant or important to your story. You don’t want to include a bunch of unnecessary pages because the decision-maker will get bogged down by them. If you have more than 26 exhibits (more than the letters in the alphabet), then once you get to Exhibit Z, circle back and start at Exhibit AA, Exhibit BB, and so on.

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What is a Table of Exhibits?

A table of exhibits is a chart that lists each document you are including with your declaration, including the name of the document, the Exhibit "letter" you have assigned to it (A, B, C...) and a description of the document you would like to attach. Only list the exhibits that you have introduced in your declaration. List the documents in the order you discuss them in the declaration. At the end of this guide, there is an example Table of Exhibits for you to review.

How to format your declaration

- Use lined paper, if possible. Write page numbers consecutively at the bottom (1, 2, 3)
- Use a typewriter or write as legibly as possible, using blue or black ink.
- Use complete sentences, and explain any abbreviations or acronyms.
- Case Caption: If you are filing in an existing case, put your address and the court name and case name and number on top of the declaration in the same format as the courts and your opponents use.
- Document Title: At the top of your declaration, state your name, and the purpose of the declaration. For example, "Declaration of John Smith in Support of Motion for Release Pursuant to COVID-19 Emergency."
- Number each paragraph in the declaration, except the first paragraph, which gives your name, and the last paragraph, which contains the required statutory language.
- If you are attaching exhibits, write a separate paragraph for each exhibit in your declaration. Start each paragraph like this: "Attached as Exhibit A is a true and correct copy of..." Then go on to describe what the document is, along with its title, date, and how you obtained it.
- End with the following language: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

Important facts to include in your declaration about COVID

Suggestions of the type of facts that should be included in your declaration:

- Describe how your housing situation (dorms? overcrowded?) puts you at risk for COVID;
- Have people at your facility (staff or incarcerated people) tested positive for COVID?
- Describe medical condition(s)? How serious is it? [medical records are helpful exhibits for this]
- What is your mental health condition? Are you in mental health housing?
- What is your plan for release, if it were granted? Where would you stay (CDCR is requiring a specific address)? Do you have financial support from your loved ones or community?
- What evidence do you have that you would be low risk if you were released back into the community?
- Describe your commitment offense and how you are not dangerous

Each of these different factors are important for a decisionmaker to understand why it is so important that **you** deserve release right now because of the outbreak of COVID-19 at your facility. **Use the worksheet below to help you identify the important facts for any request for release due to COVID.**

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Important Information After April 17, 2020 Plata Ruling

On March 25, 2020, attorneys from the [Prison Law Office](#) (PLO) and the law firm of [Rosen, Bien, Galvan, & Grunfeld](#) (RBGG) filed an emergency motion in the [Coleman v. Newsom](#) and [Plata v. Newsom, overcrowding lawsuits](#). On April 17, Judge Tigar held that the COVID-19 policies that the state presented to the court were constitutionally adequate. The court noted that it believes that the government has the ability to take additional steps to decrease the risk of spreading the disease, and noted it would continue to oversee the state’s response. Because of the April 17th court order saying that the state’s COVID policies were thus far constitutional, it is more important than ever to make a record showing that the policies it claims are in place are not truly in place, or were so delayed to be meaningless or physically harmful to you. You are the one who will need to provide the proof that CDCR’s practices are different than what it claims are the policies. If you create the paper trail that proves this, the judge may change his mind.

The judge relied on several claims that CDCR made about protective measures it has taken due to Covid-19. The list of CDCR’s claims are below, **if these steps have not been taken at your facility make sure to document how CDCR has failed. Note when CDCR took the action, and if it was too late to be meaningful, and if so, why. If the delay caused harm, that is important for you to note.** Showing the difference between the state policy and practice at your facility, and noting the timeline, will be important both for securing your own release and developing a record that may help others get out.

CDCR’s State Policy	Your Experience of CDCR’s Actual Practice
<p>CDCR is disseminating critical information to incarcerated persons, staff, and visitors. CDCR has posted signage in all facilities indicating the symptoms of Covid-19, hand hygiene instructions, instructions on reducing spread of the virus, and procedures to report symptoms to staff. They have made this signage available to non-English speaking persons and those with disabilities.</p>	<p><i>Days and times you did or didn’t receive communication and harm that caused.</i></p>
<p>CDCR has suspended internal movement except for transfer necessary to save life or address a security/safety concern. When people are transferred, they are screened for symptoms and a temperature check is performed.</p>	<p><i>Dates and times and reasons transfers are happening.</i></p>
<p>CDCR has developed physical locations to isolate people who have either tested positive for Covid-19 or have just shown symptoms of Covid-19 can be moved. Whenever someone is in close contact with a known or suspected Covid-19 case, they are quarantined for 14 days.</p>	<p><i>Dates and times and locations related to exposure to symptomatic people and how they are isolated. Dates and times of movement of people.</i></p>

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All staff are wearing facemasks, including personal protective equipment, when interacting with anyone displaying symptoms of Covid-19.	When and where are staff wearing masks?
When someone displays any symptoms of Covid-19, CDCR is making them wear facemasks.	<i>Did people request masks? When? What was the initial response? Were people disciplined for making and wearing masks? When did people receive masks? Who did and did not get masks?</i>
CDCR has implemented social distancing strategies intended to keep people at least six feet apart. This includes meals, recreational access, housing, group activities, medical lines, and other common areas.	<i>Dates and times and locations where you were or are not six feet away from people.</i>
CDCR staff are staying home when they display any symptoms of Covid-19.	<i>Dates and times and locations where you interacted with staff who had symptoms.</i>
CDCR is maintaining the minimal level of staff necessary in each prison.	<i>Dates and times and locations where decreased staffing harmed you, and how it harmed you.</i>
CDCR has offered the seasonal flu vaccine to all incarcerated people.	<i>Did you get a flu vaccine?</i>
CDCR has made hygiene supplies, cleaning supplies, PPE, and medical supplies available in each facility. These supplies include tissue, liquid soap, hand drying supplies, alcohol-based hand sanitizer, cleaning supplies, and facemasks.	<i>Dates and times and locations where lack of supplies harmed you.</i>
CDCR is intensively cleaning every facility, including use of EPA registered disinfectants. Areas cleaned daily include doorknobs, light switches, sink handles, countertops, toilets, toilet handles, recreational equipment, kiosks, and telephones.	Days and times cleaning started, and when it didn't occur.
CDCR is aware of those at higher risk of serious illness due to Covid-19 and taking additional protective steps for those people.	If you are at higher risk, what steps CDCR did or didn't take.
Anyone displaying symptoms is promptly evaluated by medical staff and tested for Covid-19.	Did people get evaluated immediately?
All medical evaluations are conducted cell front or in a	Dates and times and locations of

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designated area near the cell, requiring minimal movement and contact with other people.	medical appointments.
Anyone with severe illness is transferred to a local hospital.	How many people transferred? When?
All staff are thoroughly washing their hands in between interactions with incarcerated people.	When and where is this happening or not?

Sample Declarations for Incarcerated Persons

How to use the sample declarations below to write your own

In the next section, we have included 2 sample declarations: one that people who are incarcerated can use as examples when writing your own declaration and one for family and friends of incarcerated persons to write declarations. It is meant to reflect the level of detail you should get into with each issue that you present. The issues that you present should be directly relevant to your claim. You should explain in detail why COVID-19 poses a threat to you, and why the conditions of your confinement make that threat worse. We leave it to you to identify the list of issues relevant to your claim, but here are a few sample paragraphs. **In the samples, when there are brackets [], that is where you should make it your own, by adding specific information with as many personal details as possible.**

Sample Declaration Format

Instructions: *DO NOT USE THIS AS A FORM. This is only an example. Type or handprint your own declaration using the following format. Number each paragraph as shown below.*

DECLARATION OF [Your name]

I, [Your name], declare:

1. I am [BRIEF DESCRIPTION OF DECLARANT], and submit this Declaration in support of [IDENTIFY COURT FILING OR PROCEEDING THAT DECLARATION IS BEING USED TO SUPPORT]. I am the _____ in this case [if for a court case].
2. I have personal knowledge of the facts I state below, and if I were to be called as a witness, I could competently testify about what I have written in this declaration. [This is what turns a letter into a declaration]
3. ISSUE #1: [Title of issue.] [Now, state the facts of your case.]
 - a. Background Information: Day. Time. Place. People. Incident. Harm.
 - b. Current situation.
 - c. Current problem. What is wrong with the situation?

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d. Exhibits that describe situation: Attached hereto as Exhibit [1] is a true and correct copy of [TITLE OF DOCUMENT]. This document shows...

4. ISSUE #2: [Title of issue.] [Now, state the facts of your case.]

- a. Do the same as above for the next thing that happened in chronological order.
- b. Exhibits: [Attached hereto as Exhibit [2] is a true and correct copy of [DESCRIBE DOCUMENT]].

5. [End with the following language] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Template Declaration - Example Only

Below is an example declaration with more information specifically about COVID-19. This is just an example; please insert the facts that are specific to your individual situation.

Instructions: DO NOT USE THIS AS A FORM. Type or handprint your own declaration using the following format. Number each paragraph as shown below.

DECLARATION OF [Your Name]

I, [your name], declare under penalty of perjury:

1. The following statements are made of my own personal knowledge except as to those matters stated to be based on information or belief. If I were to be called as a witness, I could competently testify about what I have written in this declaration.
2. I am currently housed in [Prison Name].
3. **ISSUE #1: My Medical Conditions Place Me at Great Risk of Death from COVID-19.**
4. I have the following medical conditions: [fill in with examples]. (See Exhibit [list exhibit name, i.e., Exhibit A]: CDCR Medical Record Dated [date])
5. I have the following risk factors for COVID-19 [fill in with examples]. (See Exhibit [exhibit name]: CDCR Medical Record Dated [date])
6. CDCR is providing me the following treatment [fill in with examples].
7. I have requested but am not receiving the following treatment [fill in with examples].
8. I am diagnosed with [list medical conditions].
9. I suffer from the following symptoms [list symptoms].
10. The news and public health officials indicate this condition puts me at risk of death from COVID-19 if I remain incarcerated. The close unsanitary quarters, lack of access to protective measures, and limited medical capacity all mean that I would be at greater risk of infection if I remain in custody, and also pose a greater risk of needing extreme measures, such as ventilator access, to save my life should I become infected.
11. I have been diagnosed with [list medical conditions which would make infection with COVID-19 worse]. Because of this I am more at risk because [explain how your condition would make the COVID-19 symptoms worse].

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12. In the course of one week, [CO, Warden, etc] brought me into contact with [List number of custody and health workers] different custody and health care workers.
13. Those same custody and health care workers are, of course, treating other patients; patients who, because they have the highest degree of medical needs, are likely coming in and out of the facility for medical treatments and risking exposure of COVID-19 at the local hospitals and medical facilities.
14. Because of my medical needs I am brought into contact with incarcerated workers [x] times a week.
15. I am enclosing the following documentation of my medical condition: [list of custody documents that show medical conditions].
16. **ISSUE #2: [Prison Name]’s Response to COVID-19 is Inadequate to Protect my Health and Safety.**
17. I have observed this facility taking the following steps to prevent the spread of COVID-19 [fill in with examples].
18. I have **not** observed this facility taking the following steps to prevent the spread of COVID-19: [list examples].
19. **ISSUE #3: The Housing Provided by [Prison Name] does not Allow me to Maintain a Safe Distance from Others, and its Conditions would Exacerbate Symptoms of the Virus.**
20. Currently, I am housed in a/n [x] foot by [y] foot cell, with [x] other people. Because of this, it is impossible for me to maintain a safe distance of at least 6 feet from my cellmates.
21. Furthermore, I have no access to recreation time, no access to in pod recreation, and no access to out of pod yard.
22. Typically, I am in the cell for [number] hours per day.
23. During the week I have[x] hours for recreation,[y] hours for medical, and [z] hours for visits.
24. The size of the yards are as follows [x feet by y feet], [z feet by w feet], [etc].
25. The conditions of the yard can be described as [list conditions in yard but focus on how close you are to others].
26. If I were to contract COVID-19, the conditions in my cell would exacerbate my symptoms, and place me at greater risk of death because: there is no direct light in the cells, [list other cell conditions, like air quality, sanitation, etc., that you believe would make your symptoms worse, or which make your already existing medical conditions worse].
27. **ISSUE #4: [Prison Name] is Not Providing Me Sufficient Access to Hygiene Items to Protect My Health.**
28. I understand some hygiene items can minimize the spread of COVID-19.
29. CDCR is preventing me from taking recommended precautions to minimize the spread of the virus.
30. I have limited access to CDCR recommended personal hygiene items [fill in with examples such as tissues, soap, disinfectant, or hot water, laundry, clothing].
31. [Explain your attempts to obtain and the response from CDCR]
32. [Fill in information about any relevant hygiene items that may be available only to people with financial resources].
33. [Prison name] fails to offer reasonable opportunities for maintaining personal cleanliness [explain how].

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34. If I cannot maintain my personal hygiene, then I would be at greater risk of catching and transmitting the virus. This is true of every incarcerated person in the facility.

35. This deprivation of basic hygiene makes me feel afraid for my safety.

36. RELEASE FACTOR #1: I Am A Low Risk If Released

37. My sentence: [sentence length].

38. My release date: [release date].

39. My convictions: [list convictions].

40. My classification score [score].

41. My risk assessment score is [x]

42. [Evidence of my rehabilitation].

43. RELEASE FACTOR #2: I have a clear plan for re-entry to the community when I am released

44. I will live at [specific address] and with the following people [list people].

45. My reentry plans include [list].

46. [list work plans]

47. [list relevant training]

48. I have financial support from [names]

49. [What familial/emotional support do you have?]

50. RELEASE FACTOR #3: If I am released from custody, I will be better protected from COVID-19 infection or complications.

51. [Explain why]

52. **[End with the following language]** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on [insert date], at [insert location], California.

Signature

Date

Printed Name

Address

CDCR Number

County of Conviction and Case Number For
Commitment Offense Case

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**Sample Declarations for Non-Incarcerated Persons
to Support a Request for Release**

Instructions: DO NOT USE THIS AS A FORM. Ask your loved one to type or handprint their own declaration using the following format. Number each paragraph as shown below.

DECLARATION OF [Your Name]

I, [your name], declare under penalty of perjury:

1. The following statements are made of my own personal knowledge except as to those matters stated to be based on information or belief. If I were to be called as a witness, I could competently testify about what I have written in this declaration.
2. I am writing this declaration on behalf of [Name of incarcerated person].
3. My relationship to [Name of Incarcerated Person] is [sibling, spouse, service provider, employer, housing, financial supporter, etc.]
4. **ISSUE #1: Conditions of Confinement at [Prison Name] Before COVID-19.** I have observed these conditions at [Prison Name] that will make the spread of COVID-19 worse [fill in with examples].
5. [Prison Name] Response to COVID-19 puts [Name] at Serious Risk of Infection.
6. I have observed this facility taking the following steps to prevent the spread of COVID-19 [fill in with examples]. I have not observed this facility taking the following steps to prevent the spread of COVID-19. I am enclosing ___ which is proof that ___ (See Exhibit _).
7. **ISSUE #2:** [Prison Name] Is Prohibiting Me From Contact
8. Because of ___ I am not allowed to [phone, mail, visit, lead programs, etc.]
9. I Put [Prison Name] On Notice by Contacting Them. On [date] I contacted CDCR staff member [name of staff] about [name of Incarcerated Person] . I asked for [describe issue discussed]. The response was [describe response].
10. **RELEASE SUPPORT #1:** I Will Support Successful Reentry of [Name of incarcerated person].
11. I will provide housing at the following address with the following people [address]. I will provide the following support including [dollar amount, work opportunity, training opportunity, emotional support, access to medical care, disability accommodation, etc]. My home is a sober living environment [describe].
12. **RELEASE SUPPORT #2:** I will support [Name] in staying safe from COVID-19. [describe conditions of quarantine at your home or location where person will be staying].

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____[insert date]_____, at _____[insert location]_____, California.

Signature

Printed Name

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Worksheet To Help Gather & Share Facts for Your COVID-19 Declaration

These questions are designed to support you in identifying the relevant facts to include in your declaration. Once you have completed the worksheet, turn each answer into a full and complete sentence to include in your declaration. If you have more detail to include regarding any specific answer, add that in too. The more specific you can be with descriptions, dates, times, locations, numbers, and people in your declaration, the better. If you have any documents that relate to or support an answer, note those in your worksheet, and then “introduce” that exhibit in your declaration with a sentence describing it, and also add that exhibit to your attached table of exhibits.

SECTION A: Background on You & Your Housing

1. Name (Your legal name as used by CDCR for mailing purposes, as well as your chosen name if different)
2. Prison Mailing Address Including Yard/Cell/Bunk Number
3. What facility are you in?

4. Housing type or “type of bed” Check all that apply

- | | |
|--|---|
| <input type="checkbox"/> 180 Cell | <input type="checkbox"/> Condemned |
| <input type="checkbox"/> 270 Cell | <input type="checkbox"/> Long Term Restricted Housing Unit (LTRH) |
| <input type="checkbox"/> Single Cell with no cellmate | <input type="checkbox"/> Non-Disciplinary Segregation (NDS) |
| <input type="checkbox"/> Single Cell with cellmate | <input type="checkbox"/> Psychiatric Services Unit (PSU) |
| <input type="checkbox"/> Double cell with no cellmate | <input type="checkbox"/> Security Housing Unit (SHU) |
| <input type="checkbox"/> Double cell with cellmate | <input type="checkbox"/> Short Term Restricted Housing Unit (STRH) |
| <input type="checkbox"/> Fire camp | <input type="checkbox"/> Protective Housing Unit (PHU) |
| <input type="checkbox"/> 270 Dorm | <input type="checkbox"/> Restricted Custody General Population (RGCP) |
| <input type="checkbox"/> Dorm | <input type="checkbox"/> General Acute Care Hospital (GACH) |
| <input type="checkbox"/> Medical Bed | <input type="checkbox"/> Correctional Treatment Centers (CTC) |
| <input type="checkbox"/> Mental health bed | <input type="checkbox"/> Outpatient Housing Units (OHU) |
| <input type="checkbox"/> Solitary / Segregation | <input type="checkbox"/> Treatment and Triage Area (TTA) |
| <input type="checkbox"/> Reception Center (RC) | <input type="checkbox"/> Palliative care |
| <input type="checkbox"/> General Population (GP) | <input type="checkbox"/> Hospice care |
| <input type="checkbox"/> Enhanced Outpatient Program (EOP) | <input type="checkbox"/> Other (please explain) |
| <input type="checkbox"/> Mental Health Crisis Bed (MHCB) | |
| <input type="checkbox"/> Psychiatric Inpatient Program (PIP) | |
| <input type="checkbox"/> Specialized Medical Beds Housing | |
| <input type="checkbox"/> Administrative Segregation Unit (ASU) | |

5. **Any recent housing changes? Have you had a recent committee hearing? If so, what was the result? (e.g., are you awaiting a move to a lower security yard)?**

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6. CDCR Classification

- a. **Security Level of Yard: I, II, III, IV**

- b. **Placement/Classification score:_____**

- c. **Custody designation (Max, Close, Med A, Med B, Min A, Min B)**

- d. **COMPAS Risk Assessment Score**

- e. **California Static Risk Assessment “CSRA” Score**

- f. **BPH Comprehensive Risk Assessment Score**

7. Commitment offense(s)

- a. classification (non/violent) [CDCR said commitment offenses categorized as violent under § 667.5(c) won't be considered for early release)
- b. 260 registerable offense? [CDCR said registrants won't be considered for early release)
- c. Domestic violence offense? [CDCR said won't be considered for early release)

8. Anything else related to what CDCR or a court would consider in assessing your “risk” if released.

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SECTION B: COVID-19 Medical Risk Factors

9. Age:

10. **CDCR Medical Classification Risk ((CCHCS, Health Care DOM 1.2.14, Appx. 1, § (c)(3)(c)).)**

- Don't Know
- (A) Low Risk: Routine medical conditions, focused on preventative care. Chronic care of common conditions in good control throughout the last year.
- (B) Medium Risk: Chronic care of well or moderately-controlled common conditions. Requires time-sensitive laboratory studies.
- (C) High risk (Chronic care of complicated, unstable, or poorly-controlled common conditions (e.g., asthma with history of intubation for exacerbations, uncompensated endstage liver disease, hypertension with end-organ damage, diabetes with amputation) of complex, unusual, or high risk conditions (e.g., cancer under treatment or metastatic, coronary artery disease with prior infarction). Implanted defibrillator or pacemaker. High risk medications (e.g., chemotherapy, immune suppressants, Factor 8 or 7, anticoagulants other than aspirin). Transportation over several day period would pose health risk, such as hypercoagulable state.

11. **Does CDCR classify you with any of these codes? (Check all that apply and explain)**

- | | |
|---|---|
| <input type="checkbox"/> DLT Mobility Impaired, Level Terrain | <input type="checkbox"/> DKD Dialysis |
| <input type="checkbox"/> DNH Hearing, Requires Auditory Aids | <input type="checkbox"/> ICF Intermediate Care |
| <input type="checkbox"/> DNL Learning, Requires help to understand | <input type="checkbox"/> ACUTE Acute Care |
| <input type="checkbox"/> DNM Mobility, walks with assistance | <input type="checkbox"/> LD, Learning Disability |
| <input type="checkbox"/> DNS, Speech Requires Speech Aids | <input type="checkbox"/> Enhanced Outpatient Program (EOP) |
| <input type="checkbox"/> DNV Vision Requires Visual Aids | <input type="checkbox"/> Correctional Clinical Case Management System (CCCMS) |
| <input type="checkbox"/> DPH Hearing Deaf or Hearing Impaired | <input type="checkbox"/> Mental Health Crisis Bed (MHCB) |
| <input type="checkbox"/> DPM Mobility, unable to walk | <input type="checkbox"/> Department of Mental Health or Department of State Hospitals (DMH/DSH) |
| <input type="checkbox"/> DPO Mobility Intermittent wheelchair user | <input type="checkbox"/> Psychiatric Inpatient Program (PIP) |
| <input type="checkbox"/> DPS Speech Mute or Speech Impaired | <input type="checkbox"/> Other |
| <input type="checkbox"/> DPV Vision Blind or Low Vision | |
| <input type="checkbox"/> DPW Mgbility Permanently requires wheelchair | |
| <input type="checkbox"/> DEC DDP (Developmental Disability Program) (any cognitive and adaptive functioning limitation) | |

Please provide more details explaining any of the boxes checked above:

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12. Are you a member of any known COVID-19 high risk categories? Check all that apply.

- Age 50 and over
- Asthma
- Heart conditions
- Valley fever
- lung disease
- Previous tuberculosis
- moderate to severe asthma
- severe heart conditions
- diabetes
- obesity (body mass index [BMI] greater than 40)
- Liver disease
- renal failure
- Current or recent Pregnancy
- asthma), or prolonged use of immune weakening medications);
- Valley fever
- blood disorders (e.g. sickle cell disease or on blood thinners)
- chronic kidney disease
- endocrine disorders
- chronic obstructive pulmonary disease
- neurological, neurologic, and neurodevelopment conditions, including disorders of the brain, spinal cord, peripheral nerve and muscle such as cerebral palsy, epilepsy, stroke, intellectual disability, moderate to severe developmental delay, muscular dystrophy, or spinal cord injury
- Immunocompromised
- bone marrow transplant
- organ transplantation,
- immune deficiencies
- HIV or AIDS
- use of corticosteroids (such as hydrocortisone and prednisone to treat arthritis, allergies, rashes, lupus)
- Mental health conditions
- Smoking
- Methamphetamine usage
- Opioid usage
- Previous or current cancer
- Other:

13. Describe these and other medical conditions or risk factors:

SECTION C: COVID-19 Symptoms

People with COVID-19 generally develop signs and symptoms, including some, or all of the following: respiratory symptoms, gastrointestinal distress, fatigue, dry cough, chest pain, loss of sense of smell and/or taste, and/or fever, average 5 days, range 2-14 days after infection.

14. In the blank write the date range you had any of the Typical Signs and Symptoms

- Common: _____ Fever, _____ dry cough, _____ fatigue, _____ shortness of breath.
- Less common: _____ sputum production (phlegm, thick mucus that is produced by the lungs), _____ sore throat, _____ headache, _____ myalgia (muscle pain), _____ arthralgia (joint pain), _____ chills.

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- <5% occurrence: _____ nausea, _____ vomiting,
_____ diarrhea, _____ nasal congestion
- Other:

15. Have you been “screened for symptoms of influenza-like illness (ILI) including COVID-19” - verbally asked if you have a cough, fever and/or difficulty breathing, etc., and/or someone taking your temperature. If so, where, when, by who, what happened as a result?

16. Have you filed a 7362 (sick call slip) or 602HC? Or other new forms if there are any?

17. If you tested positive for COVID-19, how did staff categorise the disease (check boxes)

- Mild to Moderate Disease: Approximately 80% of laboratory confirmed patients have had mild to moderate disease, which includes non-pneumonia and pneumonia cases. Most people infected with COVID- 19 related virus have mild disease and recover
- Severe disease: Approximately 14% of laboratory confirmed patients have severe disease (dyspnea, respiratory rate ≥ 30 /minute, blood oxygen saturation $\leq 93\%$, and/or lung infiltrates $>50\%$ of the lung field within 24-48 hours
- Critical disease: Approximately 6% of laboratory confirmed patients are critical (respiratory failure, septic shock, and/or multiple organ dysfunction/failure).

18. If you had symptoms of COVID-19, how did staff treat you?

SECTION D: Facility’s Response to COVID-19

19. How and when did people put CDCR on notice of COVID-19 protocols? Describe videos, or loudspeaker announcement, or chronos, or meetings, or informational literature that the facility presented, and if possible, please mail us copies. What are the protocols?

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20. **Are there confirmed cases in your facility?**
21. **Are there suspected cases in your facility?**
22. **How and where is CDCR isolating people with symptoms, and for how long (14 days?)? Do those facilities have single cells with solid walls and a solid door that closes? Has CDCR put tape on any section of the floor or done anything else to designate quarantine or isolation areas? Anyone transferred to a hospital? Which one?**
23. **Has CDCR posted signs for any isolation or quarantine areas?**
24. **How and where is CDCR isolating people without symptoms?**
25. **Have you had close contact within 6 feet with someone who reported symptoms? If so, describe contact. (Examples - have been within approximately 6 feet of a COVID-19 case for a prolonged period of time, have had direct contact with infectious secretions from a COVID-19 case; have been coughed on; sharing eating or drinking utensils; riding in close proximity in the same transport vehicle; sleeping less than 6 feet away; or in an enclosed office.)**
26. **If you had close contact, were you then isolated for 14 days (the recommended period)? Have you been deemed “quarantine” or are you just “isolated”?**
27. **Who has CDCR offered tests to? Who do staff say they will test and when? What is the test (a swab through nose to back of throat, or other method)?**

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28. Has facility provided you with:

- Soap (liquid preferred)
- Hand sanitizer (alcohol-based hand sanitizer that contains at least 60% alcohol preferred)
- Gloves
- Masks
- Clean laundry, if so how often
- Cleaning products, if so, how often
- Hand drying supplies (hand drying machines, disposable paper towels)
- Hot water
- Tissues
- Toilet paper
- Other cough or sneeze covering products
- More access to hand washing areas and supplies for hand washing
- disinfectant
- Respirators
- No touch trash receptacles
- Water at 60–90 °C to wash laundry
- Detergent to wash laundry
- Extra clean clothes, bedding, towels
- Increased laundry schedule
- Fresh chlorine bleach solution at a 1:10 dilution. mix: 5 tablespoons (1/3rd cup) bleach per gallon of water or 4 teaspoons bleach per quart of water (Follow instructions for application and proper ventilation, and check to ensure the product is not past its expiration date. It is dangerous to mix household bleach with ammonia or any other cleanser.)
- Other

29. Describe factors related to your in/ability to stay 6 feet away from other people:

- How many people share housing?
- How many people pass by cell in a given day and for what activities?
- What activities do and don't allow you to maintain that space with other incarcerated people, medial staff, custody staff?
- Do staff stay in one place or do they move between units to provide meals, medical care, mental health treatment, and security checks?
- How wide is the space between beds?
- How wide are walkways?
- Any changes in the way that staff interact with incarcerated people that are aimed to reduce transmission from staff coming from the outside world and transmitting it inside?
- Are yards changed to only people from the same housing area and less people at a time?
- Have cells or bunks been reassigned or moved?

30. Describe factors related to your in/ability to maintain personal hygiene:

- CDCR says, "The incarcerated population is being provided extra soap when requested" -Have you requested it? What happened when you did? What kind of soap (liquid, bar) and how much volume? Was it free? Was it shared with other people?
- Is hand sanitizer being placed inside institution dining halls, work change areas, housing units, and where sinks/soap are not immediately available?

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- Has the facility allowed you to practice good hand hygiene, such regularly washing your hands with soap and water for at least 20 seconds, especially after coughing, sneezing, or blowing your nose; after using the bathroom; before eating or preparing food; before taking medication; and after touching garbage?void touching your eyes, nose, or mouth without cleaning your hands?
- Has the facility allowed you to practice good cough etiquette: cover your mouth and nose with your elbow (or ideally with a tissue) rather than with your hand when you cough or sneeze, and throw all tissues in the trash immediately after use?
- Allowing daily showers?
- Avoiding use of shared handcuffs, waist chains, leg irons?
- Avoiding use of shared mobility devices?
- Have they changed laundry protocols?

31. Describe factors related to your in/ability to maintain a hygienic environment:

- CDCR says, “The incarcerated population is being provided “ hospital-grade disinfectant that meets Centers for Disease Control and Prevention guidance for COVID-19.” Have you requested it? What happened when you did? What kind and how much volume? Was it free?
- Have you seen staff disinfecting frequently touched surfaces in common areas (e.g., mop handles, faucet handles, countertops, bathroom surfaces, sink areas, shower areas, food areas, doorknobs, light switches, sink handles, toilets, toilet handles, recreation equipment, kiosks, and telephones)?
- Have you been given permission and means to disinfect frequently touched surfaces in common areas multiple times a day (e.g., faucet handles, countertops, bathroom surfaces, sink areas, shower areas, food areas, doorknobs, light switches, sink handles, countertops, toilets, toilet handles, recreation equipment, kiosks, and telephones)?
- Does your living area have solid doors? On the cells? Elsewhere?
- How are sink/toilet/shower being cleaned?
- Where is toilet/sink relative to bed? How far are sinks away from toilets?
- Where is shower relative to bed and how many people share?
- How are belongings stored? In open space around the beds? In lockers? How far apart? In the open? In mesh bags? In plastic bins? In paper boxes? In lockers? Etc.
- Shared spaces? Kiosk? Phone? Holding cell? Canteen? Medical? Work? Yard?
- Have they change trash handling protocols? If so, please describe the old, and now the new procedures:
- Do they Sanitize thermometers after each use and require the person who administers the thermometer to change gloves between each use

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32. Describe factors related to receiving food in a sterile environment

- a. Meals: are they now being delivered to bed or cell? Are people going to chow hall? Are people only eating from the canteen if they can afford it?

- b. How far are food preparation areas from sinks and toilets?

- c. How far are microwaves (if any) from sinks or toilets?

- d. Has the facility allowed you to avoid sharing eating utensils, dishes, and cups?

- e. Has the facility rearranged seating in the dining hall so that there is more space between individuals (e.g., remove every other chair and use only one side of the table)? Provided meals inside housing units or cells?

33. Describe changes in work:

- a. Are incarcerated people being paid to clean?

- b. Are you working? Does the work put you at risk of close contact? How?

34. Describe changes in programming:

- What kind of substitute in-cell programming are you being provided? ____ therapeutic treatment packets, ____ workbooks, ____ other in cell activities _____ other
- Programs have been cancelled due to COVID

SECTION E: Harm and Injuries Caused by Facility

35. If this is causing harm and injuries, such as mental, physical, to your liberty, please describe your experience:

- Have you experienced: depression, anxiety, panic attacks, psychomotor agitation, psychotic symptoms, delirium, suicidality, desire to self harm, depression, stress, anguish, headaches, hives, rashes, PTSD, weight loss, weight gain, interference with hygiene, interference with sleep, problems eating, problems seeing, problems working, paranoia, agitation, problems concentrating, thinking, communicating, fatigue, hyper-vigilance, disorientation, hallucination, other?

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[continued from above]

- What do you identify as the sources of your stress - social isolation, decreased sensory stimulation, lack of access to clinical programming, diminished coping strategies, and limited outdoors or out-of-cell exercise and activities, lack of information, other?
- Describe any impacts on finances.
- Describe any impacts on loved ones or visitors.
- Describe impacts on your time credits, release date, BPH proceedings, court cases.
- Marriage cancellation, effect on you.
- Loss of visits, effect on you.
- Loss of legal visits, effect on you.
- Loss of programs, effect on you.
- Loss of phone access, effect on you.
- Changes to law library access, and effect.
- Education change, and effect.
- Effect on your credit earning (education, work, program, etc.).
- Change in religion access, and effect on you.
- Describe impacts on access to food, and package, and mail.

SECTION F: Request for Relief

36. Exhaustion of Remedies: Describe efforts to notify CDCR, and exhaust appeals (attach copies)

- a. What reports were made to CDCR? (form 22 or 602, 7362, 1824, call or email or letter from family.)

- b. What is the result of reports to CDCR?

- c. What is the status of any 602 or staff complaint about this?

- d. Have you experienced retaliation? If so, what retaliation happened and why (for example, what action was taken as a result of a 602 being filed, or raising the issue at committee, etc.)

37. What kind of relief do you want?

- a. What do you want to happen? Transfer? Release? Medical care?

- b. Who is responsible for providing that relief?

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SECTION H: Release Plan

38. **If you are seeking release, what is your release plan?**
39. **Why you are a low risk of re-offending: rehabilitation, low risk score, etc.?**
40. **What kind of support do you have?**
 - a. What is your housing plan upon relief? Specific address required
 - b. What is your re-entry programming plan? Work? School? Training?
41. **Do you have access to at least \$3,000 for up to three months of financial support upon release?**
42. **Do you have a plan for access to medical care?**
 - a. Do you have a plan to apply for Medi-Cal state insurance?

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Sample Table of Exhibits

Instructions: DO NOT USE THIS AS A FORM. This is only an example. Only list the exhibits that you will attach. Type or handprint your own declaration using the following format. Number each paragraph as shown below. List the documents in the order you discuss them in the declaration.

Exhibit #	Description
A	CDCR classification hearing memo
B	128 Chrono noting change to ___ due to COVID 19
C	7362 Sick call slip requesting __ due to COVID 19
D	602HC requesting __ and release due to COVID 19
E	602 requesting __ and release due to COVID 19
F	1824 requesting disability accommodation of ___ due to COVID 19
G	Form 22 requesting _ due to COVID 19
H	CDCR's response to ___ denying ___
I	Medical record ___ noting diagnosis of _____ and need for accommodations of __ and treatment of _____ and COVID 19 high risk category
J	Documentation of release plan of _____
K	Letter from ___ offering job
L	Letter from ___ offering place to live
M	CCHCS, The COVID-19 Interim Guidance for Health Care and Public Health Providers, dated March 2020 https://www.cdcr.ca.gov/covid19/wp-content/uploads/sites/197/2020/03/R_CCHCS-COVID-19-Interim-Guidance-3.19.2020.pdf
N	CCHCS Memorandum regarding COVID-19 Guidance Regarding Field Operations, dated March 20,
O	CCHCS/CDCR memorandum to the field and attached chart dated March 25, 2020, entitled "COVID-19 – Mental Health Delivery of Care Guidance,"

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