

LAW OFFICE OF THE PUBLIC DEFENDER

COUNTY OF KERN

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Worksite
Location: 1315 Truxtun Avenue
Bakersfield, CA 93301
(and branch locations)

Office of the Public Defender Worksite Specific Plan

Dear Mr. Brown:

I am writing to provide our department's plan to institute safety/health measures as we integrate our workforce of approximately 100 employees back into the office. Our principal objective has been the health of our employees, and how to balance that with our constitutional obligations to our clients, many of whom remain in custody at the Lerdo Pre-Trial facility. Given the critical nature of the crisis, we implemented many of the recommendations almost immediately on March 17th. We are appreciative of the additional directions provided by Human Resources, and will work diligently to implement them in the days/weeks to come.

Almost all our work is done in the courts, in the jail, in the community doing investigations, in prison, and in our offices where we meet our out of custody clients, families, witnesses. Since the inception of our office fifty years ago, we have never offered the work from home option for any employee, because there is a limited amount that can be done from home. Our work and identity as public defenders is based on our constant interaction with our clients and the public. Working from home – as many private attorneys do – is anathema to how we see our job and our role in fiercely advocating for our clients. Fierce advocacy means that we be present - in court, in the jails/prisons, in the office, in the community. That ethic applies to all our attorneys and our staff, who are dedicated public servants.

However, given the extraordinary circumstances of the day, for the first time we will implement a policy that permits employees to do some form of work from home. Managers have been instructed to find things that employees can do from home, as a way of reducing the traffic in the office, assisting our employees in a difficult time, and helping us with social distancing issues in the office, courts and the jail.

We have also for the first time, instituted a flex system that permits employees to work any combination of 8 hours from 5 a.m., to 7 p.m.. Also, in order to shorten the day, we will approve working lunches, and close our lobbies at 3:30 p.m., as opposed to 5:00 p.m. To prevent crowding in the lobbies of our jails, we will encourage our employees to use their one day away from the office, on the weekends. This will hopefully also reduce crowding at the jails and with investigations.

We intend to keep meticulous records with respect to the above to ensure the safety/health of employees, and as a way to assess how effective we are in reducing crowding, and how to structure the coming days/week.

The above measures are temporary. When the crises passes, we reassure the CAO's office and the public that we will restore service in personal form in all branches of our department.

A. Individual Control Measures and Screening

1. Temperature/Symptom Screenings

Our department has 100 employees, 6 branch offices, and receives 30,000-40,000 cases per year. The vast majority of our time is spent in courthouses, at the jail and in field investigations. We spend a very small proportion of our time in the office. For the past two months, we have instituted a very strict system of rotation, with approximately 5-8 attorneys in the Bakersfield office per day, and 1 attorney each in the outlying branches; 6-8 staff members in the Bakersfield officer per day; and 1 staff member in the outlying branches. This was possible due to the partial court closure that severely restricted the number of court cases per day.

On Monday, May 18th, the courts will open, with hundreds of our clients on calendar each day. There are 15-20 minutes from the start of our workday to our required presence in court. The logistics of doing temperature checks on 40 attorneys downtown is not feasible, and poses a major disruption to our operations. The same is true for our staff, for whom the busiest time of the day is the half hour at the beginning of each day.

We are however aware that temperature checks are an indicator of sickness. We have ordered thermometers for Bakersfield, and every branch court. We will communicate to our employees that those thermometers are readily available for use if they feel sick. We will communicate also in unequivocal terms that employees are to stay home if they are sick. We immediately sent home those employees who had contact with members of court/staff who tested positive. We will continue to do so.

In addition, we will ask that all employees must check their temperature before coming to work each day. If they have a temperature higher than 100.4, they must stay home and let their supervisor know that they will not be able to come into work. The department is happy to purchase thermometers for those who tell us that they do not have one at home.

2. Face Coverings

The department is well stocked in two kinds of face coverings: disposable masks and KN95 masks. We have provided our employees with disposable, KN95 and cloth masks. Starting May 18th, we intend to make packets for employees with a KN95 mask, disposable masks (for witnesses and clients), hand sanitizers, gloves, that will be distributed every few weeks. We will do that for all 100 employees. We consider this a critical aspect of our obligation because next to the Sheriff's office, our employees have the greatest contact with the public, every hour of everyday.

We are very appreciative of the county's sources for supplying us face coverings and other items in a timely fashion. We have already spent a considerable amount on PPE's, and will make sure this expense becomes part of our monthly budget. I have sent emails to all our employees that any other PPE's they consider important to conduct their duties (e.g., facial respirators), the department will incur the cost. We recognize that our employees' work cannot be done from home, and their contact with the public makes it imperative that we fund PPE's without reservation.

Beginning Monday, May 18th, our policy mandates that all employees wear a mask in common areas (kitchen, hallways, etc.), in court, and at the jail/prisons. The Sheriff's Office has been responsive to our request that all inmates wear a mask when brought to court, and all our clients wear masks when interviewed by attorneys at the jail. While it takes time for other institutions to enforce their policies, we are confident that we all share the same concerns. We have communicated similar concerns to the court regarding face coverings for all state employees in court. In the past two days, it was indicated to us that the courts will issue an Emergency Order mandating facial coverings for all attorneys, clients, public; and shortly thereafter will mandate face coverings for all court staff.

Our policy regarding face coverings extends to all branch offices/courts.

B Protecting High-Risk Employees

1. Identifying High-Risk Employees

We have five employees who are over 65. Initially, on March 17, 2020, all five employees were asked to go home. When the law changed, they were asked to return to work, and they were asked to come into the office approximately 4 hours a week. 1 of the 5 had a doctor's note and has not returned to work. That employee will be back in the office on Monday, May 18th and has a doctor's return to work note. One of those 5 employees was given the option to stay home 100 % of the time (the employees is in felony trials). He declined.

Four employees presented a note that they had a compromised immune system (they are under 65), at different times during the past two months. All have now presented notes that they can fully return to work, and in fact one of the four was off for only a few days. Two of those four were offered the choice of working from home 100% of the time. That was done last week. Both employees declined. The reasons have been documented.

The reason some employees were offered the work from home option is because they are in felony trials. The idea was to collect motions work of all other employees and give it to the employee who would like the stay at home option. Of the 22 employees who were offered such an option, only 1 employee has asked to work from home.

The rest of the employees were not offered the option because their work does not lend itself to working from home full-time.

2. Protecting High-Risk Employees

4 of the 5 employees who are over 65 are in the outlying courts. We have made the following accommodations: a) they can work from home one day out of the week; b) they can work 8 instead of 9 hours by taking a working lunch; c) they can flex their hours; d) we will seek approval to close the outlying lobbies at 3:30 pm instead of 5:00 pm e) reduce the number of employees at any one time in the outlying offices so that social distancing can be maintained at all times; f) permit employees to do field work or go to Lerdo over the weekend that will further reduce issues of social distancing at the jail.

C Physical Distancing

1. Telework Options

Our work does not lend itself to telecommuting from home. There is very little that is fundamental to our responsibilities to our clients that we can do at home. We are able to do motions and review discovery from home. However, the foundational aspect of our work involves seeing clients, interviewing witnesses and representing clients in court. As such, much of our workday is spent in court, in jail, in prison, in investigations, and interviewing family/witnesses.

Of the 22 attorneys who were offered the work at home option, 1 attorney accepted, and the rest all declined. The other attorneys were not offered this option because their assignment does not lend itself to working from home. The staff and investigators have been offered the work from home option one day a week, which can be done even on the weekends. There simply isn't enough work that can be done at home.

The exception is the Juvenile Division which has now moved to a work to home option almost entirely. All 5 attorneys in the division are able to work from home. We intend to keep our Juvenile Division lobby open every day, with 2 staff members, and 1 attorney to respond to the public's questions. As noted previously, our Juvenile Division, like all other branches of our office, will resume in person representation of clients and in person interaction with the public when the current crises is over, 5 days a week.

For the rest of our attorneys and staff, we have minimized risks by modifying long-standing procedures: a) we intend to keep our lobby closed, and to allow entry one at a time; b) all members of the public will be supplied masks and gloves by our office; c) all felony arraignments (after arrest) are now through video; d) we interview all our clients at the pre-trial jail facility through video conferencing from the office; e) we removed all headsets in our video conferencing room, and placed sound bars instead, so there would be no sharing of headsets; f) our juvenile division has temporarily moved almost entirely to a remote video conferencing system, a process that cannot be replicated in the criminal defense realm that involves court hearings and trials; g) we have modified work schedules to reduce crowding at the jail facilities; h) we suspended jail visits for 7 weeks.

We will be in regular contact with the 6 supervisors to ensure they are educated on safety procedures, to suggest further measures to reduce risks, and to communicate policies to their staff.

We estimate that 6 attorneys (5 in Juvenile, and 1 in felony trials) who will be working at least 4 days from home, unless it impacts the operations of our department. They will resume in person representation of clients and serving the public in person at the end of the crises or unless it impacts the operations of our office.

2. Scheduling Adjustments

It is our priority to reduce the number of staff in the office at any given time. We intend to do so by the following: a) permitting all 100 employees to work from home/lerdo one day a week which they can do even over the weekend; b) permitting flex schedules between the hours of 5 a.m. and 7 p.m. c) permitting a working lunch; d) permitting employees to work on the weekend by going to the jail and doing investigations.

We intend to offer the above to 100 percent of our employees.

We will keep meticulous records of the above – including time in, time out, the day the employee works from home, and the nature of work performed at home/jail.

3. Workstation Adjustments

All our attorneys have their own offices. All offices have doors. We have asked attorneys not to ask other employees to get items (files, mail) from their offices, to ensure there is no contamination.

Our investigators and staff either have individual offices or are in cubicles. We have reviewed every cubicle space to ensure that employees are seated at least 6 feet apart. We have moved several investigators to ensure that the distance is maintained. We are also exploring the purchase of sneeze guards to install around staff cubicles.

4. Other Physical Distancing Strategies

a) Starting May 18th, the kitchen areas will be accessible to only one person at a time. We will not permit the eating of lunch in the lunch rooms/conference rooms. Rather, everyone will have lunch at their desk, or go outside. This will apply to other common areas such as the file rooms, copier rooms, mail rooms, etc. Each area will be accessible to only one person at a time.

b) We do not intend to have any departmental meetings for the foreseeable future.

c) We have suspended all departmental trainings, seminars, conferences. We are not holding any such meetings over zoom/video. Since much of our time is spent in the office, we are trying to minimize the time by suspending all non-court, and non-client related activities.

d) To reduce foot traffic, we have done the following: staggered schedules, placed signs on elevators encouraging single person use of the elevators, discontinued all travel, limit the public's entry into the lobbies to one person at a time, disallow the use of lunch rooms/kitchen to more than one person at a time.

e) Our office, as in most other offices has a lot of interaction between employees. We intend to address this by letting all employees know the following: 1) to eliminate discussions that previously occurred in each other's offices; 2) if a conversation must occur in someone else's office, the door must be open to allow circulation; 3) to have conversations with each other over the phone rather than in person; 4) not to gather in conference rooms for lunch/seminars/get-togethers; 5) have a mask on at all times if there are two people engaged in conversation, even if there is a distance of 6 feet; 6) use common areas such as copier room and lunch room one at a time.

D. Additional Measures to Limit Exposure to the Public

Each of our offices (Mojave, Ridgecrest, Juvenile, Delano, Shafter, Lamont, Bakersfield) has lobbies, and is obligated as a public institution, to serve our clients/public. We are generally inundated with a public presence in our lobbies. When our lobbies open on June 1st, we will have a sign-in board on our door outside, request that there be a line outside our door with a 6 feet distance between each person, and that only one person enter our lobby.

In a departure from practice, we intend to interview our out of custody clients over the telephone, unless a client insists on coming into the office. In court, we have urged clients to sign 977 forms that gives us authority to appear on their behalf, helping to reduce the number of people present in court at any one time. This is significant to reducing the public's exposure in a setting that is often filled with people, many of whom are high risk. We have also supported the court's position that no one be permitted to enter the courthouse that is not a direct participant in the proceedings. This has greatly reduced the number of people in the court hallways and courtrooms. It is a critical protection for our clients in custody, who are exposed to each other (often without masks), to us, and to the deputies.

Regarding limitations: we are a public institution that has close to 35,000 cases each year. The volume is enormous, and each case requires contact with a client, a witness, a family member, the prosecutor, deputies, and court staff. It is very difficult to remove all such contacts from our work life. It is inherent to our job that such contacts occur, and that they occur within a timeframe set by constitutional/statutory timelines. We recognize however that these are extraordinarily difficult times for our employees both personally and professionally, and we intend to assist them in every way we can. Modifying work schedules has been very positively received, along with our policies of masks, supplying cleaning materials, and doing so without reservation.

E. Ensuring a clean and Hygienic Work Environment

a) We intend to send an email advising all employees that we are collectively responsible for the cleanliness of our individual and collective spaces. We have many conference rooms, lunch rooms, and sink areas. We will communicate that every employee will be responsible for cleaning these common areas, and that the rotational schedule should ensure that each space is cleaned everyday, at least once, if not multiple times for high use areas. We will also communicate that all employees are responsible for this critical task – from the Department Head, Assistant Department Head, to the supervisors, and all attorneys/staff. We are disaster relief workers, vested in the well-being of each other.

b) We have located supply sources where we are able to purchase disinfectant sprays, gloves, disposable masks, paper towels, KN95 masks, hand sanitizers. We will also purchase dishwashing soap, kitchen utensils, etc., to ensure that there is adequate supply at all times. We do not anticipate any issues in this regard.

c) Most employees have already been provided the above items. We will ensure that from May 18th, each employee is given additional items with regularity, every two weeks. We have repeatedly sent emails that employees are free to contact our administrative staff for additional supplies.

d) By closing our lobby at 3:30, we hope to provide extra time for cleaning and resupplying our staff with items. We will let our staff know that they are free to do the above at any time of the workday.

e) Every person entering our office through the front lobby is mandated to wear a mask and gloves. Hand sanitizer will be available as well. We will disallow any use of our restrooms for the public.

f) Employees are free to use their own face masks. They have been provided disposable masks, cloth masks, and KN95 masks. We will continue to supply these items over the weeks to come.

g) The public will not be allowed entry into the office without a mask and gloves. Both will be provided by the office.

F. Training and Communication of Managers/Supervisors/Employees

a) All our staff will receive an email detailing the guidelines specified in this memo. They have already been provided details verbally and over the past two months. We will reiterate those messages, in addition to the *Guidelines* provided by the County's Department of Human Resources.

b) Our managers and supervisors are committed to the safety of their staff. We have communicated the guidelines verbally/email. We will continue to do so over the next weeks and months.

c) All our employees are well aware of our strong position that any employee who has come into contact with someone who has tested positive must immediately leave the workplace. We will reiterate that message through email and our supervisors.

d) We will provide the Guidelines to our staff. We are sending out an email today detailing how our office intends to institute health/safety measures to protect our employees.

e) Employees have been free to email management regarding our policies. We have responded to them as quickly as we can.

G. Conclusion

Our employees are deeply committed to our clients. They are true advocates and have remained so during very difficult times. Our priority is to ensure their safety and well-being, we and welcome any further suggestions/modifications.

Sincerely,

Pam Singh