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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 JOHN DOE #1, an individual;
12 JOHN DOE #2, an individual;
13 JOHN DOE #3, an individual; and
JOHN DOE #4, an individual

14 Plaintiffs,

15 vs.

16 ANDREW HALL, in his official capacity
as Chief of the Fresno Police Department;
17 and MARGARET MIMS, in her official
capacity as Fresno County Sheriff,
18

19 Defendants.
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21

Case No.: 1:20-cv-00600-NONE-JDP

**PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION**
[With TRO Checklist Attached]

Hearing date: May 19, 2020
Time: 9:30 a.m.
Courtroom: 4
2500 Tulare Street
Fresno, CA

22 In light of the global COVID-19 pandemic and the stay-at-home orders issued by
23 state and local governments to protect the public, and pursuant to Federal Rule of Civil
24 Procedure 65 and Local Rule 231, Plaintiffs John Doe #1 and John Doe #4 (“Plaintiffs”)
25 hereby respectfully move for a Temporary Restraining Order (“TRO”). Specifically,
26 Plaintiffs seek to enjoin Defendant Margaret Mims, Fresno County Sheriff, as well as
27 any her officers, deputies, employees, or agents responsible for the registration of
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1 persons convicted of sex offenses pursuant to Penal Code section 290, *et. seq.*
2 (“Registrants”) from requiring Registrants to appear in person to register at police and
3 sheriff’s stations for 30-day, 90-day, and annual updates pursuant to California Penal
4 Code section 290.012, until a hearing on a preliminary injunction can be held.

5 Temporary relief from Defendant’s in-person registration requirement is
6 warranted during the COVID-19 pandemic because continued in-person registration
7 undermines public safety measures being implemented in response to the pandemic.
8 Since “[t]here is no specific treatment, vaccine or cure for COVID-19,” the only means
9 to slow its spread are hygienic practices such as hand washing, as well as “social
10 distancing” and the avoidance of gatherings. Castillo v. Barr, No. 20CV00605-TJH,
11 2020 U.S. Dist. LEXIS 54425, at *5-*6 (C.D. Cal. March 27, 2020).

12 On March 19, 2020, the Governor of California issued an order calling upon all 40
13 million residents of the State of California to remain in their homes, with limited
14 exceptions for essential travel (hereinafter, the “Order”).¹ The Order directs “all
15 individuals living in the State of California to stay home or at their place of residence
16 except as needed to maintain continuity of operations of the federal critical infrastructure
17 sectors.” Further, the Order emphasizes that persons within specified vulnerable
18 populations must self-isolate and remain in their homes. The Center for Disease Control
19 and the California Department of Health Care Services have subsequently declared that
20 persons are at “higher risk” for contracting COVID-19 if they are aged 65 and older;
21 suffer from compromised immune systems; or suffer from chronic serious medical
22 conditions, including asthma, diabetes, lung diseases, and hypertension.^{2,3}

24 ¹ <https://covid19.ca.gov/stay-home-except-for-essential-needs/>

25 ² [https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-](https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html)
26 [complications.html](https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html)

27 ³ <https://covid19.ca.gov/what-you-can-do/#symptoms-risks>

1 Plaintiffs are elderly Registrants who reside within the jurisdiction of the Fresno
2 County Sheriff’s Office and are required to register with Defendant and the Fresno
3 County Sheriff’s Office for their periodic updates. As explained in their accompanying
4 declarations, Plaintiffs are vulnerable to infection by COVID-19 due to their age and
5 other risk factors, including diabetes, as defined by state and local health officials.

6 Specifically, Plaintiff John Doe #4, age 71, suffers from diabetes, among other
7 ailments. See Exh. A to TRO Memo, Decl. of Plaintiff John Doe #4, ¶4, filed
8 concurrently herewith. In addition, Plaintiff John Doe #4’s wife, with whom he resides,
9 suffers from a compromised immune system as a result of a kidney transplant and the
10 anti-organ rejection medication she is required to take. Plaintiff John Doe #4 is required
11 to update his registration with Defendant on or before May 29, 2020, and is gravely
12 afraid to register in person, for fear of infecting himself and his wife.

13 Plaintiff John Doe #1, age 71, suffers from diabetes and cirrhosis of the liver. Id.,
14 Exh. B, Decl. of Plaintiff John Doe #1, ¶2. In advance of his birthday on March 31,
15 Plaintiff John Doe #1 telephoned the Fresno County Sheriff’s Office and expressed his
16 concern about registering in person for his annual update. Id. ¶4. Although the
17 registration officer initially stated that Plaintiff John Doe #1 did not need to personally
18 appear for his registration appointment, the Fresno County Sheriff’s Office has not
19 timely processed Plaintiff John Doe #1’s registration paperwork. As a result, law
20 enforcement databases, as well as the public Megan’s Law Website, list Plaintiff John
21 Doe #1 as “in violation” of the registration statute, Penal Code section 290.012,
22 threatening Plaintiff John Doe #1 with immanent arrest and prosecution. Id. ¶¶4-10.

23 The threat of infection from disease from COVID-19 is irreparable and
24 remediable by injunction. See Helling v. McKinney, 509 U.S. 25, 33 (1994) (“It would
25 be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening
26 condition in their prison on the ground that nothing yet had happened to them.”); Harris
27 v. Bd. of Supervisors, 366 F.3d 754, 759, 766 (9th Cir. 2004). In fact, one court recently
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1 issued a TRO prohibiting the federal government from transferring COVID-19 patients
2 to a facility within the City of Costa Mesa on the grounds that the mere possibility of
3 exposure to residents in the community constitutes irreparable injury. City of Costa
4 Mesa v. United States, No. 8:20-cv-00368-JLS, 2020 U.S. Dist. LEXIS 33650 (C.D. Cal.
5 Feb. 21, 2020).

6 In addition, several other courts have enjoined civil detention orders due to the
7 possibility of COVID-19 spreading when the government forces groups to congregate,
8 based in part upon the ease with which COVID-19 spreads. E.g., Castillo v. Barr, No.
9 20CV00605-TJH, 2020 U.S. Dist. LEXIS 54425, at *4 (C.D. Cal. March 27, 2020)
10 (“Coronavirus is spread between people who are in close contact . . . through respiratory
11 droplets produced when an infected person coughs or sneezes. . . . Moreover, studies
12 have established that the coronavirus can survive up to three days on various surfaces.”
13 (citing cases)); see also Thakker v. Doll, No. 1:20-cv-480, 2020 U.S. Dist. LEXIS
14 59459, at *23 (M.D. Pa. Mar. 31, 2020).

15 In this matter, the threat of COVID-19 infection to Plaintiffs and other Registrants
16 is similarly acute in that Registrants are forced by Defendant to occupy crowded
17 conditions in Sheriff’s stations where the recommended social distancing and sanitation
18 measures cannot be observed. Plaintiffs contend that, in the context of the COVID-19
19 pandemic, and in light of the acute risk of harm to Plaintiffs from that infection,
20 Defendant’s continued requirement that Plaintiffs and all Registrants appear in person
21 for periodic updates violates the Due Process Clause of the Fourteenth Amendment, as
22 well as California law, codified in Section 290.012.

23 This Motion (with “Temporary Restraining Order (TRO) Checklist” attached) is
24 based upon the following documents filed concurrently herewith, or as otherwise
25 indicated:

- 26 1. **First Amended Complaint for Declaratory and Injunctive Relief filed**
27 **on May 4 2020 (ECF 5)**

- 1 2. **Plaintiffs’ Memorandum of Points and Authorities in Support of**
- 2 **Motion for Temporary Restraining Order and OSC re: Preliminary**
- 3 **Injunction (with Exhibits A through G attached)**
- 4 3. **Plaintiffs’ Affidavit of Notice to Defendant of Motion for Temporary**
- 5 **Restraining Order (with email attached)**
- 6 4. **Plaintiffs’ Affidavit in Support of Irreparable Injury**
- 7 5. **[Proposed] Temporary Restraining Order**
- 8 6. **[Proposed] Order Setting Hearing on Motion for Preliminary**
- 9 **Injunction**

10

11 Respectfully Submitted,

12 Dated: May 13, 2020

LAW OFFICES OF JANICE M. BELLUCCI

13

14 By: /s/ Janice M. Bellucci

15 Janice M. Bellucci

16 Attorney for Plaintiffs

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**TEMPORARY RESTRAINING ORDER
(TRO)
CHECKLIST**

NOTE: When filing a Motion for a TRO with the court, you must choose Motion for TRO. You must complete this document and attach it to your motion as an attachment in CM/ECF. If you have questions, please call the CM/ECF Help Desk at 1-866-884-5525 (Sacramento) or 1-866-884-5444 (Fresno).

- (A) *Check one.* Filing party is represented by counsel
Filing party is acting in pro se

- (B) Has there been actual notice, or a sufficient showing of efforts to provide notice to the affected party?
See Local Rule 231 and FRCP 65(b).

Yes. Plaintiffs' counsel emailed and telephoned counsel for Defendant Mims on both May 12 and 13, 2020 as shown in the Affidavit of Notice, 4 court days before the noticed hearing date. Plaintiffs also notified counsel for Defendant Hall by email on May 13, 2020, although no order is sought against Defendant Hall.

Did applicant discuss alternatives to a TRO hearing?

Yes. Plaintiffs' counsel asked counsel for Defendant Mims, Scott Hawkins, to stipulate to the TRO, and provided a copy of the proposed TRO, in the email attached as Exhibit A to the Affidavit of Notice. Plaintiffs received no response from Mr. Hawkins.

Did applicant ask opponent to stipulate to a TRO?

Yes. Please see above.

Opposing Party: **Def. Margaret Mims, represented by Deputy County Counsel Scott Hawkins**

Telephone No.: **559-600-3457**

- (C) Has there been undue delay in bringing a TRO?

No. Plaintiffs retained counsel after realizing that Defendants had not or would not complete their registrations pursuant to Cal. Penal Code 290.012 unless Plaintiffs appeared in person to register. Plaintiffs promptly filed the complaint and filed their TRO Application shortly thereafter.

Could this have been brought earlier?

Yes: No:

(D) What is the irreparable injury?

Defendant Mims refuses to process Plaintiffs' periodic sex offender registration updates unless they appear in person to register. Defendant is subjecting Plaintiffs, who are 71 years old and diabetic, to a significant risk of infection from COVID-19, or to possible arrest and prosecution for failure to register.

Why the need for an expedited hearing?

Plaintiff John Doe #1 is already in potential violation of the Sex Offender Registration Act because of Defendant's refusal to process his registration, and is thus subject to imminent arrest and prosecution. Plaintiff John Doe #2 must register no later than May 29, 2020, which is too soon to bring a regularly noticed motion.

(E) Documents to be filed and (unless impossible) served on affected parties/counsel:

- (1) Complaint
- (2) Motion for TRO
- (3) Brief on all legal issues presented by the motion
- (4) Affidavit detailing notice, or efforts to effect notice, or showing why it should not be given
- (5) Affidavit in support of existence of irreparable harm
- (6) Proposed order with provision for bond
- (7) Proposed order with blanks for fixing:
 - Time and date of hearing for motion for preliminary injunction
 - Date for filing responsive papers
 - Amount of bond, if any
 - Date and hour of issuance
- (8) For TROs requested *ex parte*, proposed order shall notify affected parties they can apply to the court for modification/dissolution on 2 days notice or such shorter notice as the court may allow. See *Local Rule 231 and FRCP 65(b)*

PROOF OF SERVICE

I, the undersigned, certify and declare that I am over 18 years of age and not a party to the above-captioned action. Pursuant to the Federal Rule of Civil Procedure 5 and Local Rule 135, on May 13, 2020, I served a true copy of the following documents via email on all parties, as follows:

Document(s):

1. **Plaintiffs’ Motion for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction**
2. **Plaintiffs’ Memorandum of Points and Authorities in Support of Motion for Temporary Restraining Order and OSC re: Preliminary Injunction (with Exhibits A through G attached)**
3. **Plaintiffs’ Affidavit of Notice to Defendant of Motion for Temporary Restraining Order (with email attached)**
4. **Plaintiffs’ Affidavit in Support of Irreparable Injury**
5. **[Proposed] Temporary Restraining Order**
6. **[Proposed] Order Setting Hearing on Motion for Preliminary Injunction**

Service Addresses:

Scott Hawkins (schawkins@fresnocountyca.gov)
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Douglas Sloan (Douglas.Sloan@fresno.gov)
Francine Kanne (Francine.Kanne@fresno.gov)
Fresno City Attorney’s Office
Counsel for Defendant Andrew Hall

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 13th day of May, 2020, in Sacramento, CA.

/s/ Janice M. Bellucci
Janice M. Bellucci

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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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16 ANDREW HALL, in his official capacity as
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17 MARGARET MIMS, in her official capacity as
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19 Defendants.
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Case No.: 1:20-cv-00600-NONE-JDP

**PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES
IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION**

Hearing date: May 29, 2020

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Plaintiffs John Doe #1 and John Doe #4 respectfully submit this Memorandum of Points and
3 Authorities in support of their *Ex Parte* Application for Temporary Restraining Order (“TRO”) against
4 Defendant Margaret Mims, Fresno County Sheriff (“Defendant”), and the officials with in the Fresno
5 County Sheriff’s Office (“FCSO”) responsible for the registration of sex offenders pursuant to the
6 California Sex Offender Registration Act, Cal. Penal Code section 290, *et seq.*, (the “Act”).

7 **I. INTRODUCTION AND SUMMARY**

8 This action challenges the unauthorized and injurious decision by Defendant to require persons
9 required to register a sex offender (“Registrants”) who are vulnerable to COVID-19 to leave the safety
10 of their homes in order and to appear in person at local registering agencies such as the FCSO for their
11 30-day, 90-day, or annual registration updates pursuant to Section 290.012 of the Act (hereinafter,
12 “periodic updates”). A TRO is necessary because Petitioner John Doe #4 must register no later than
13 May 29, 2020, five working days after his birthday on May 22, 2020, which is well before a noticed
14 motion could be brought in this Court. Exh. A ¶7 (Decl. of John Doe #4). In addition, Plaintiff John
15 Doe #1’s periodic update was due no later than April 7, 2020, but Defendant has refused to process his
16 registration until Plaintiff John Doe #1 appears in person to register. Exh. B ¶¶4-10 (Decl. of John Doe
17 #1). As a result, Plaintiff John Doe #1, along with hundreds of other Registrants in Fresno County, are
18 listed as “in violation” in law enforcement databases, threatening them with immanent arrest and
19 prosecution. *Id.*

20 Consistent with the Act, periodic updates can be completed through means that do not require
21 vulnerable persons to subject themselves, during in-person registration, to a significant risk of harm –
22 infection by the coronavirus – which is universally recognized by national, state, and local governments
23 – in violation of orders issued by those same governments. The fact that the Act does not require in-
24 person registration was confirmed in an Executive Order issued by California Governor Gavin Newsom
25 on May 8, 2020 “encouraging” local registering agencies “to adopt telephonic, remote, or other
26 procedures for registration” in light of the COVID-19 pandemic. Exh. C, at 5 ¶15. The Executive
27 Order also suspends for 60 days the need to obtain a Registrants’ fingerprints or photographs during the
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1 registration process. Exh. C, at 5 ¶15(a). As of the date of this filing, Defendant has acted
2 inconsistently with the Governor’s Executive Order by requiring in-person registration.

3 This issue warrants the Court’s attention at this time because the extraordinary measures now
4 being taken by governments at every level to slow the spread of the coronavirus are undermined by
5 requiring Plaintiffs and all Registrants to appear in person for periodic updates. Specifically, since
6 March 19, 2020, the Governor of California has ordered as follows: “Everyone is required to stay
7 home except to get food, care for a relative or friend, get necessary health care, or go to an essential
8 job.”¹ The Order contains no exception for Registrants, as a whole, or for their in-person periodic
9 registration updates.

10 Nor is such an exception mandated or permitted by law. That is because, although the Act
11 requires in-person registration for certain events, such as reporting a change of residence (see Penal
12 Code § 290.013 (a)), the Act does not require in-person registration for periodic updates. Id. §
13 290.012(a)-(c). Under longstanding principles of statutory interpretation, the Legislature’s omission of
14 an in-person registration requirement for periodic updates confirms that Defendant may not impose that
15 requirement upon Registrants. E.g., Walt Disney Parks & Resorts U.S., Inc. v. Superior Court, 21 Cal.
16 App. 5th 872, 879 (2018) (citing cases).

17 In addition, there is no practical reason why Plaintiffs and all Registrants must appear in person
18 for periodic updates because periodic updates are for the sole purposes of confirming information that
19 registering agencies already possess (e.g., current residence addresses), or providing information that
20 can be transmitted through alternative means which eliminate the risk of infection by COVID-19, such
21 as the telephone or email. As noted above, the Governor’s Executive Order states the same, and
22 registering agencies throughout California, including the Los Angeles Police Department (“LAPD”),
23 the San Francisco Police Department, and the Murrieta Police Department, have already suspended in-
24 person registration and are now processing periodic updates only by telephone or alternate means. See
25 Exhs. D-F (signs and documents currently posted in each jurisdiction).

26
27 ¹ <https://covid19.ca.gov/>, last visited March 23, 2020.

1 Defendant's policies requiring in-person registration during the COVID-19 pandemic constitute
2 a deprivation of life and liberty within the meaning of the Fourteenth Amendment by subjecting
3 Registrants, law enforcement, as well as the general public, to a risk of infection by the highly
4 contagious novel coronavirus that causes the life-threatening disease COVID-19. Specifically,
5 requiring Plaintiffs John Doe #1 and John Doe #4 to appear in-person for periodic updates during a
6 pandemic is an affirmative act which places them and all Registrants in danger of possibly lethal
7 infection, a danger to which Registrants would not otherwise be subject, and which is a known and
8 obvious to Defendant. Wood v. Ostrander, 879 F.2d 583 (9th Cir. 1989); Pauluk v. Savage, 836 F.3d
9 1117 (9th Cir. 2016). In addition, in light of the Governor's Executive Order that encourages local
10 agencies to permit remote registration, Defendant's in-person registration requirement is an arbitrary
11 act in violation of the constitutional guarantee of Due Process. See In re Taylor, 60 Cal. 4th 1019, 1038
12 (Cal. 2015). Finally, Defendant's policy violates California state law by exceeding the FCSO's
13 authority under Section 290.012.

14 It must be emphasized that mandating all Registrants to appear in person to register, including
15 those with high risk factors for COVID-19 such as Plaintiffs, puts Registrants into a Catch-22. That is,
16 they must either subject themselves to possible COVID-19 infection, or violate Section 290 by failing
17 to appear in person, thereby inviting arrest and custody in jail or prison – where the risk of COVID-19
18 infection is significantly increased. Either option constitutes irreparable injury warranting injunctive
19 relief. Valle Del Sol Inc. v. Whiting, 732 F.3d 1006, 1029 (9th Cir. 2013) (a “credible threat of
20 prosecution” coupled with “an alleged constitutional infringement” are sufficient to constitute
21 irreparable harm; Harris v. Bd. of Supervisors, 366 F.3d 754, 759, 766 (9th Cir. 2004). See also City of
22 Costa Mesa v. United States, 2020 U.S. Dist. LEXIS 33650 (C.D. Cal. Feb. 21, 2020) (granting TRO
23 against placement of COVID-19 patients within city because possible exposure “threat[ens] immediate
24 and irreparable injury.”) Neither Section 290 nor the Due Process Clause of the U.S. Constitution
25 requires Registrants to play Russian Roulette with their lives, and with the lives of their families as well
26 as members of the public, in order to provide the information required for their periodic updates.
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1 Therefore, Plaintiffs seek a TRO preventing Defendant and the FCSO from requiring Registrants to
2 appear in person for periodic updates during the COVID-19 pandemic.

3 **II. BACKGROUND**

4 **A. The COVID-19 Pandemic and the Governor’s Stay-at-Home Order**

5 “There is no specific treatment, vaccine or cure for COVID-19.” Castillo v. Barr, No.
6 20CV00605-TJH, 2020 U.S. Dist. LEXIS 54425, at *5-*6 C.D. Cal. March 27, 2020). Therefore, the
7 only means to slow the spread of COVID-19 and the coronavirus that causes that disease are hygienic
8 practices such as hand washing, as well as “social distancing” and the avoidance of gatherings. See id.

9 Extraordinary measures have been implemented by governments at every level to combat the
10 spread of COVID-19. Most notably, on March 19, 2020, the Governor issued an order calling upon all
11 40 million residents of the state to remain in their homes, with limited exceptions for essential travel
12 (hereinafter, the “Order”). Specifically, the Order directs “all individuals living in the State of
13 California to stay home or at their place of residence except as needed to maintain continuity of
14 operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>.”

15
16 Further, the Order emphasizes that persons within specified vulnerable populations must self-
17 isolate and remain in their homes. As reflected in the Order, the Center for Disease Control and the
18 California Department of Health Care Services have declared persons at “higher risk” for contracting
19 COVID-19 if they are aged 65 and older; suffer compromised immune systems; or suffer from chronic
20 serious medical conditions, including asthma, diabetes, lung diseases, and hypertension. Sex offender
21 registration is not listed among the exceptions to the Order’s requirement to remain at home, and
22 violation of that Order can result in penalties and/or punishment.

23 **B. Plaintiffs and Other Registrants Are a Large and Vulnerable Population**

24 As noted above, Plaintiffs are vulnerable to COVID-19 infection by virtue of their age and
25 certain chronic medical conditions, both of which are known to correlate with high mortality rates
26 among COVID-19 patients. Cf. United States v. Rodriguez, No. 03-cr-271, 2020 U.S. Dist. LEXIS
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1 58718, *2 (E.D.Pa. April 1, 2020) (granting compassionate release from incarceration for diabetic
2 inmate on grounds that “nothing could be more extraordinary and compelling than this pandemic”).

3 Plaintiff John Doe #1 is a 71-year-old Registrant who suffers from diabetes and cirrhosis of the
4 liver. Exh. B ¶2. On March 18, 2020, Plaintiff John Doe #1 called his local FCSO registration office
5 and stated that he was afraid to appear in person to register on or before his deadline of April 7, 2020,
6 because of the likelihood that he would be in contact with infected persons and surfaces. Id. ¶4. The
7 FCSO registration official responded that Plaintiff John Doe #1 did not have to appear in person to
8 register. Id. ¶5. Plaintiff John Doe #1 understood this to mean that his registration was complete. Id.
9 However, shortly thereafter, Plaintiff John Doe #1’s profile on the Megan’s Law Website was altered to
10 declare him “in violation” for failure to register. Id. Upon inquiry from counsel for Plaintiff John Doe
11 #1, the FCSO confirmed that they had not, in fact, processed his registration, leaving Plaintiff John Doe
12 #1 at risk for arrest and prosecution for the offense of failure to register. Id. ¶¶9-10. Consequently,
13 Plaintiff John Doe #1 remains effectively imprisoned in his own home, unable to leave for fear of
14 arrest, and unable to complete the internship that began more than two years ago and that is necessary
15 to complete is A.A. degree later this year. Id. ¶¶11-12.

16 Plaintiff John Doe #4 is a 71-year-old Registrant who suffers from diabetes. Exh. A ¶¶2-4. In
17 addition, Plaintiff John Doe #4 resides with his wife of 33 years, who is the recipient of a kidney
18 transplant and who therefore has a highly compromised immune system due to her anti-rejection drug
19 regimen. Id. ¶5. Common illnesses, such as colds and flus, are life-threatening for John Doe #4’s wife,
20 who was once hospitalized for 12 days because of the flu and nearly died. Id. During past registration
21 appointments with the FCSO, Plaintiff John Doe #4 has been required to stay in confined spaces for up
22 to an hour with several other Registrants, some of whom appeared to be homeless, and forced to touch
23 many potentially contaminated surface and objects during the registration process. Id. ¶¶8-10. Plaintiff
24 John Doe #4’s deadline to appear in person for his annual update is May 29, 2020. Id. ¶7.

25 Neither Plaintiff John Doe #1 nor John Doe #4 have changed residences since their last
26 registration appointment, meaning that their 2020 registration appointments will consist merely of
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1 confirming information that the FCSO already possesses – confirmations that could be made over the
2 telephone or by email. Id. ¶9.

3 **C. In-person Registration Exposes Registrants, Law Enforcement Personnel, and the**
4 **General Public to Increased Risk from COVID-19**

5 Defendant’s ongoing decision to require in-person registration for periodic updates forces
6 Plaintiffs and all Registrants to contravene the public safety measures recently imposed by state and
7 local government upon all residents of California, including Registrants. Defendant’s decision to
8 require in-person registration therefore threatens both vulnerable Registrants and the larger population
9 with which those Registrants interact, including the public, law enforcement personnel, and their
10 families.

11 During the registration process, Registrants are exposed to premises that are unsanitary,
12 crowded, and do not allow for “social distancing” or other preventative measures mandated by state and
13 local government. Exh. A ¶¶ 8, 10. In addition, many sheriff’s stations are located in areas with large
14 homeless populations. Further, Registrants are forced to enter, sit in, touch, and otherwise interact with
15 unsanitary, and often narrow and cramped, physical environments while registering. Id. Those
16 environments, as well as, the registration procedures employed by Defendant, require repeated and
17 prolonged physical contact with potentially virus-ridden surfaces and objects such as countertops, clip
18 boards, various papers, pens, pen chains, ink pads, chairs, door handles, water fountains, and
19 fingerprinting machines. Id. These unsanitary surfaces are touched by many other Registrants, as well
20 as other visitors to the station and employees of the registering agencies like the FCSO. Id.

21 **III. STANDARD FOR RELIEF FOR TRO APPLICATIONS AND PRELIMINARY**
22 **INJUNCTIONS**

23 The standard for issuing a TRO is identical to the standard for issuing a preliminary injunction.
24 Lockheed Missile & Space Co., Inc. v. Hughes Aircraft Co., 887 F. Supp. 1320, 1323 (N.D. Cal. 1995).
25 A party seeking a preliminary injunction must demonstrate: (1) that he is likely to succeed on the
26 merits; (2) that he is likely to suffer irreparable harm in the absence of preliminary relief; (3) that the
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1 balance of equities tips in his favor; and (4) that an injunction is in the public interest. Winter v. Nat.
2 Res. Def. Council, Inc., 555 U.S. 7, 20 (2008).

3 The Ninth Circuit employs a “sliding scale” approach to preliminary injunctions in which the
4 four Winter factors are balanced, such that a preliminary injunction may issue when “serious questions
5 going to the merits [are] raised and the balance of hardships tips sharply in the plaintiff’s favor,” if the
6 other two Winter factors are also shown. Alliance for the Wild Rockies v. Cottrell, 632 F.3d 1127,
7 1135 (9th Cir. 2011) (quoting Lands Council v. McNair, 537 F.3d 981, 987 (9th Cir. 2008)). A
8 “serious question” is one in which the plaintiff “has a fair chance of success on the merits. Sierra On-
9 Line, Inc. v. Phoenix Software, Inc., 739 F.3d 1127, 1131-32 (9th Cir. 1984). See also Singer Mgmt.
10 Consultants, Inc. v. Milgram, 650 F.3d 223, 229 (3d Cir. 2011) (“[L]ikelihood of success” means “a
11 reasonable chance, or probability, of winning [I]t does not mean more likely than not.”); Leiva-
12 Perez v. Holder, 640 F.3d 962, 966 (9th Cir. 2011) (same).

13 **IV. ANALYSIS**

14 **A. Factor 1: Plaintiffs are Likely to Succeed on the Merits of their Fourteenth** 15 **Amendment and State Law Claims**

16 **1. *Plaintiffs Seek Temporary Relief Concerning a Limited Aspect of the*** 17 ***Registration Process***

18 At the outset, it is critical to note that Plaintiffs seek relief from a policy that implicates a
19 limited and comparatively unimportant component of the Act, such that the relief, if granted, would not
20 undermine the purpose or function of the Act. That is, Plaintiffs seek an order directing Defendant to
21 cease requiring, during the COVID-19 pandemic only, Registrants to appear in person for their periodic
22 updates only, as required by Section 290.012. The Act distinguishes periodic updates from initial
23 registration, changes of residence, and other aspects of the registration process that require immediate,
24 in-person reporting to law enforcement. See Cal. Penal Code § 209.011(a)-(b); § 290.013(a). By
25 comparison, the information sought during periodic updates is not immediately required because it is
26 not urgent and, in most cases, merely confirms information that law enforcement already possesses.
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a. The Act Distinguishes Between Changes in Residence and Periodic Updates

In general, the Act requires persons convicted of an offense described in Section 290, subdivision (c), to complete their initial registration with local law enforcement within specified time frames when they: (1) are released from custody or supervision, (2) establish residency in the state, (3) change their residence address, or (4) cease residing in California. Cal. Penal Code §§ 209.011(a)-(b), (f); 290.013(a). The Act further requires Registrants to periodically update their registration with local law enforcement at specified intervals. For example, all Registrants must annually update their registration within five working days before or after their birthday. Id. § 290.012(a). In addition, Registrants designated as “sexually violent predators” must update their registration every 90 days. Id. Finally, Registrants designated as “transient,” who lack a fixed residence address, must update their registration every 30 days. Id.

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b. Periodic Updates are of Diminished Importance Under the Act

The Act imposes stricter disclosure requirements when Registrants establish or change a residence, than it does for periodic updates. In addition, the Act does not treat all information as equally important, and instead distinguishes urgent updates from periodic updates by the deadlines that are imposed upon Registrants to provide those updates to law enforcement. Specifically, under the Act, the most important information to be provided during the registration process is the establishment of a residence, change of a residence, moving out of state, or a legal name change. That is why the Act mandates that such information be provided to registering agencies within five working days. See Cal. Penal Code § 290.011(a) (release from custody, or moving into the state) id., subd. (b) (acquisition of residence by a transient); id., subd. (f) (transient who moves out of the state); § 290.013 (a) (change of residence within the state); id. (moving to a residence out of the state); id. § 290.014 (a) (legal name change). Immediate notice of this kind of information is necessary to fulfill the purpose of the Act, which is to permit surveillance of Registrants “at all times.” People v. Hofsheier, 37 Cal. 4th 1185, 1196 (2006), rev’d on other grounds by Johnson v. Department of Justice, 60 Cal. 4th 871, 874 (2015).

1 In contrast, periodic updates require Registrants to merely confirm or update information that
 2 they have previously provided to law enforcement during the above-referenced initial registration or
 3 change-of-address appointments. Pursuant to the Act, Registrants appearing for their annual update
 4 “shall provide current information as required on the Department of Justice annual update form,
 5 including the information described in paragraphs (1) to (4), inclusive, of subdivision (a) of Section
 6 290.015.” Cal. Penal Code § 290.012(a).

7 Notably, when the information required during a periodic update changes, the Act does not
 8 require Registrants to immediately advise law enforcement of that change. Rather, the Act allows
 9 Registrants to wait until their next periodic update to provide the new information. For example, if a
 10 Registrant acquires a new car or changes employment, the Act deems that information is not important
 11 enough to warrant an immediate update. In fact, Registrants can wait as long as 11 months to provide
 12 that information, (Penal Code § 290.012 (a)), or can wait up to 90 days in the case of SVPs, or 30 days
 13 in the case of transients. Id., subs. (b)-(c).

14 *c. The Act Does Not Demand that Periodic Updates Occur in Person*

15 Critically, the Act does not require that annual updates, 90-day updates, or 30-day updates occur
 16 in person. Instead, the Act merely requires that Registrants “register” and “update” their registration
 17 during the annual update, without specifying how that should be accomplished. Cal. Penal Code §
 18 290.012 (a) (“Beginning on his or her first birthday following registration or change of address, the
 19 person shall be required to register annually, within five working days of his or her birthday, to update
 20 his or her registration with the entities described in subdivision (b) of Section 290.”). Transient
 21 Registrants or Registrants designated as SVPs are likewise not required by the Act to register in person.
 22 Id., subd. (b) (An SVP “shall . . . verify his or her address no less than once every 90 days and place of
 23 employment . . . in the manner prescribed by the Department of Justice. Id. subd. (c) (A transient
 24 Registrant “shall update his or her registration at least every 30 days, in accordance with Section
 25 290.011,” which contains no in-person requirement).

1 When the Legislature intended for Registrants to appear in person, the Legislature expressed
2 that requirement in the Act. It is therefore notable that the Act specifies only three occasions on which
3 “in person” registration is required:

- 4 1. **Transient Registrants “who move[] of out state.”** Penal Code § 290.011 (f) (“A
5 transient who moves out of state shall inform, in person, . . . within five working days, of
6 his or her move out of state.”).
- 7 2. **Registrants who change their residence address**, whether within the jurisdiction in
8 which they are currently registered or to a new jurisdiction outside California. Penal
9 Code § 290.013 (a) (“A person who was last registered at a residence address pursuant
10 to the Act who changes his or her residence address, whether within the jurisdiction in
11 which he or she is currently registered or to a new jurisdiction inside or outside the state,
12 shall, in person, within five working days of the move . . .”).
- 13 3. **Registrants who legally change their names.** Penal Code § 290.014 (a) (“If any
14 person who is required to register pursuant to the Act changes his or her name, the
15 person shall inform, in person, the law enforcement agency or agencies with which he or
16 she is currently registered within five working days.”.)

17 In sum, the Act distinguishes between occasions on which in-person registration is required, and
18 when it is not. In-person registration is not required for periodic updates, which are the subject of
19 Plaintiffs’ claim in this action

20 **2. *The Governor of California Has Expressly Authorized “Remote” Registration***

21 Significantly, on May 8, 2020, California Governor Gavin Newsom issued Executive Order N-
22 63-20, declaring that “strict compliance” with the Sex Offender Registration Act “would prevent,
23 hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.”
24 Exh. C, at 1. The Governor therefore ordered that “Law enforcement agencies are encouraged to adopt
25 telephonic, remote, or other procedures for registration and reporting under the Sex Offender
26 Registration Act . . .” Id. For registering agencies that authorized remote registration, “all provisions
27 of the Act and implementing procedures that require such persons to provide a signature, fingerprints,
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1 and photograph, are suspended for 60 days.” *Id.* ¶15(a). In other words, the Act does not require
2 Defendant to mandate in-person registration during the COVID-19 pandemic.

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4 **3. *Defendant’s In-person Registration Policy Violates the Fourteenth
5 Amendment Under the State-Created Danger Doctrine***

6 “[T]he Due Process Clause imposes a duty on state actors to protect or care for citizens . . .
7 when the state affirmatively places a particular individual in a position of danger the individual would
8 not otherwise have faced.” *Wells v. Walker*, 852 F.2d 368, 370 (8th Cir. 1988). This “state-created
9 danger” doctrine gives rise to liability when the state actor displays “deliberate indifference” to a
10 “known or obvious danger.” *Pauluk v. Savage*, 836 F.3d 1117, 1122 (9th Cir. 2016) (quotation
11 omitted).

12 For example, in *Wood v. Ostrander*, the defendant police officer pulled over a driver, found him
13 to be intoxicated, placed him under arrest, and impounded the car. 879 F.2d 583, 586 (9th Cir. 1989)
14 cert. denied, 111 S. Ct. 341 (1990). The intoxicated driver had a female passenger, who alleged that the
15 officer left her stranded without transportation, after 2:00 a.m., in an area known to have a high rate of
16 crime. *Id.* After the officer departed, the passenger was picked up by another driver and physically
17 assaulted. *Id.* The Ninth Circuit held that the passenger had raised a triable issue of fact whether the
18 officer’s actions constituted “callous disregard for [the passenger’s] physical security, a liberty interest
19 protected by the Constitution.” *Id.* at 589.

20 More recently, in *Pauluk v. Savage*, the plaintiffs, who were heirs of the decedent, sued state
21 officials who had been the decedent’s employers under the Fourteenth Amendment. 836 F.3d at 1119.
22 The decedent had objected to his assignment in a particular facility because he feared exposure to toxic
23 mold. *Id.* The defendant employers transferred the decedent to the facility anyway, where he later
24 died. *Id.* The Ninth Circuit held that the plaintiffs had stated a claim under the Fourteenth Amendment
25 arising from the employer’s “deliberate act” of transferring the employee to the allegedly mold-infested
26 facility, and thereby “exposing [him] to an obvious and known danger.” *Id.* at 1124-25. See also
27 *Munger v. City of Glasgow Police Dep’t*, 227 F.3d 1082, 1087 (9th Cir. 2000) (plaintiffs stated a
28 damages claim against law enforcement after they removed a drunk patron from a bar at night and sent

1 him outside, despite low temperatures and the patron wearing only a t-shirt, where patron later froze to
2 death).

3 Similarly, in this case, Defendant and other FCSO registration officials have in the past, and
4 have vowed to continue, affirmatively requiring Plaintiffs and all Registrants to appear in person for
5 periodic registration updates regardless of their age and/or medical condition. In so doing, Defendant
6 has placed, and will continue to place, Plaintiffs and all Registrants in greater danger of contracting
7 COVID-19 than they would be absent Defendant's affirmative conduct. Defendant's affirmative
8 conduct in this case is the factor responsible for this increased risk of infection because in-person
9 registration is not required by Section 290.012, as evidenced by the numerous jurisdictions that have
10 suspended in-person registration during the pandemic, as well as the Governor's Executive Order that
11 authorizes registering agencies such as the FCSO to suspend in-person registration.

12 Moreover, Defendant's decision to require in-person registration exhibits deliberate indifference
13 to a risk that is known to all persons within the FCSO. Defendant herself has exhorted the public to
14 "pay[] attention to the recommendations of medical professionals," and to "only go out for essential
15 needs and only for as long as needed."² In addition, the FCSO has closed several of its in-person
16 services because of the risk of infection, including the "Civil Unit Window." Exh. G. Defendant is
17 also aware that Plaintiffs are elderly Registrants who suffer from medical conditions, such as diabetes,
18 that render them particularly vulnerable to the fatal effects of COVID-19. The risk of harm to Plaintiffs
19 is exacerbated by the corresponding risk to the persons who live with Plaintiffs, including Plaintiff John
20 Doe #4's wife, who is immunocompromised. Yet, Defendant and the FCSO continue to expose
21 Registrants to an undeniable risk of infection, in defiance of the Governor's recommendation as well as
22 the common sense directives of state and local health officials. Because Defendant's in-person
23 registration requirement is the sole reason why Plaintiffs are forced to bear this risk of infection,
24 Plaintiffs are likely to succeed on their Fourteenth Amendment claim.

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26 ² *Sheriff Margaret Mims Addresses Public Concerns with COVID-19*, at
27 [https://www.fresnosheriff.org/media-relations/sheriff-margaret-mims-addresses-public-concerns-with-](https://www.fresnosheriff.org/media-relations/sheriff-margaret-mims-addresses-public-concerns-with-covid-19.html)
28 [covid-19.html](https://www.fresnosheriff.org/media-relations/sheriff-margaret-mims-addresses-public-concerns-with-covid-19.html) (last visited May 11,2020).

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**4. Defendant’s In-person Registration Policy Violates the Fourteenth
Amendment’s Prohibition on Irrational and Arbitrary Action**

Defendant’s continued in-person registration requirement also violates the “basic constitutional right to be free of official action that is unreasonable, arbitrary, and oppressive.” In re Taylor, 60 Cal. 4th 1019, 1038 (Cal. 2015). California currently has over 68,000 COVID-19 infections,³ among the highest of any state in the country.⁴ And the situation continues to worsen. In fact, a draft report by federal agencies issued on May 1, 2020 predicts that the number of deaths from COVID-19 in the nation will double to 135,000 in the coming weeks.⁵ Even persons who do not die from infection can be expected to suffer catastrophic long-term effects, including impaired lung function; damage to the heart, kidneys, and brain; and other ailments that are continually being discovered and reported.⁶

When compared to the gravity of the threat to Plaintiffs and all Registrants, the supposed benefits of in-person registration are negligible, rendering Defendant’s in-person registration policy arbitrary. Where a vulnerable minority’s liberty interests are at issue, the rational basis standard of review does not mean uncritical acceptance of the government’s rationale for the action or superficial assertions that the legislation serves a government interest. Rather, the court must examine whether the stated purpose of the law would actually be served, see Plyler v. Doe, 457 U.S. 202, 228 (1982), as well as the measured the lack of proportion between the harm inflicted by the law and its purported benefits. Romer v. Evans, 517 U.S. 620, 635 (1996). Indeed, courts have found laws disadvantaging Registrants to be arbitrary, where the evidence of the law’s effectiveness is miniscule but its burden is overwhelmingly disruptive and injurious to their health and safety. See In re Taylor, 60 Cal. 4th 1019, 1036, 1038, 1042 (2015) (Invalidating sex offender residency restrictions on federal due process grounds because they applied in a blanket fashion to all Registrants without regard to the details of their

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³ <https://covid19.ca.gov/>

⁴ <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>

⁵ New York Times, Models Project Sharp Rise in Deaths as States Reopen (May 4, 2020), available at <https://www.nytimes.com/2020/05/04/us/coronavirus-live-updates.html> (last visited May 6, 2020).

⁶ <https://www.healthline.com/health-news/what-we-know-about-the-long-term-effects-of-covid-19>

1 individual offenses, resulting in numerous injuries such as homelessness, lack of access to health care
2 services, and effective banishment from whole communities).

3 As noted above, nearly all of the information called for during periodic updates can be
4 communicated remotely, without an in-person visit to a sheriff's station, and the Governor's Executive
5 Order has excused the FCSO from collecting the information that is typically collected in person (i.e.,
6 signatures, fingerprints, and photographs). Plaintiffs have not changed residence since they last
7 updated their registrations in 2019, meaning that their annual updates this year are superfluous.
8 Therefore, requiring Plaintiffs to appear in person, at great risk to themselves, to provide information
9 that the Governor has "encouraged" Defendant to obtain remotely, is arbitrary, does not promote public
10 safety, and in fact serves only to harm Registrants, their loved ones, and the general public.

11 **5. *In-person Registration for Periodic Updates is Not Implied by the Act***

12 Finally, Defendant's in-person registration requirement violates California state law by
13 improperly reading implied terms into the governing statute, Section 290.012. That is, the fact that the
14 Act expressly imposes in-person registration requirements on certain occasions, but not for periodic
15 updates under Section 290.012, confirms that Defendant lack authority to require Registrants to appear
16 in person for periodic updates.

17 When confronted with two statutes, one of which contains a term, and one of which does
18 not, [courts] do not import the term used in the first to limit the second. Instead, it is [the
19 court's] obligation to interpret different terms used by the Legislature in the same
statutory scheme to have different meanings.

20 Walt Disney Parks & Resorts U.S., Inc. v. Superior Court, 21 Cal. App. 5th 872, 879 (2018).

21 Accordingly, "[w]here, as here, the Legislature has chosen to include a phrase in one provision of the
22 statutory scheme, but to omit it in another provision, we presume that the Legislature did not intend the
23 language included in the first to be read into the second." Id. (where two related statutes provided
24 separate grounds for transferring actions, and deadline appeared in only one of the two statutes, trial
25 court abused discretion by implying deadline in second statute (citing cases)).

26 For example, Wilson v. City of Laguna Beach, considered a statute (Government Code section
27 65852.2) that sought to encourage local governments to permit second housing units (i.e., "granny
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1 flats”) on residential parcels. 6 Cal. App. 4th 543, 545 (1992). The statute gave cities “three options:”
 2 (1) outlaw second units, if certain findings could be made; (2) adopt their own ordinances with
 3 specified criteria to govern second units; or (3) do neither, and follow the default statutory criteria
 4 governing second units. *Id.* at 553. Critically, option (2) allowed city ordinances to include parking as
 5 one of the criteria for approving second units, but option (3) (the default statutory scheme) did not list
 6 parking as one of the criteria that cities could use. *Id.* Instead, option (3) listed only criteria of “height,
 7 setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning
 8 requirements generally applicable to residential construction in the zone in which the property is
 9 located.” *Id.* The City of Laguna Beach elected to follow the default statutory scheme (option (3)), and
 10 argued that the provision in option (3) for “other zoning requirements” “implied” the city’s authority to
 11 add a parking requirement before approving second units. *Id.* at 554. The court in *Wilson* disagreed,
 12 ruling that because the Legislature “expressly mentioned parking in option (2), “the omission of any
 13 express reference to parking in [option (3)], when there is such a reference in [option (2)], is therefore
 14 dispositive,” and prohibited the insertion of “implied” conditions in option (2). *Id.*

15 Likewise, in this matter, the California Sex Offender Registration Act “expressly” requires in-
 16 person registration for changes of address or legal names in Sections 290.011, 290.013, and 290.014,
 17 but omits the in-person requirement from the neighboring provisions of Section 290.012, which govern
 18 periodic updates. Because the Legislature “has carefully employed a term [i.e., “in person”] in one
 19 place and has excluded it in another, it should not be implied where excluded.” *Ford Motor Co. v.*
 20 *County of Tulare*, 145 Cal. App. 3d 688, 691 (1983) (emphasis added). See also *Holmes v. Jones*, 83
 21 Cal. App. 4th 882, 890 (2000) (“Where a statute with reference to one subject contains a given
 22 provision, omission of that provision from a similar statute concerning a related subject shows that a
 23 different intention existed.”). Accordingly, Defendant lacks authority to require in-person registration
 24 for periodic updates.

25 **B. Factor 2: Irreparable Harm and Inadequacy of Legal Remedy**

26 Plaintiffs are threatened with irreparable injury because, by refusing to process their
 27 registrations without appearing in person, Defendant forces Plaintiffs to choose between prosecution
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1 and imprisonment, or risk of infection and death. Each alternative presents quintessential irreparable
2 injury warranting injunctive relief. E.g., Valle Del Sol Inc. v. Whiting, 732 F.3d 1006, 1029 (9th Cir.
3 2013) (a “credible threat of prosecution” coupled with “an alleged constitutional infringement” are
4 sufficient to constitute irreparable harm); Helling v. McKinney, 509 U.S. 25, 33 (1994) (“It would be
5 odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening condition in their
6 prison on the ground that nothing yet had happened to them.”); Harris v. Bd. of Supervisors, 366 F.3d
7 754, 759, 766 (9th Cir. 2004).

8 In fact, one court recently issued a TRO prohibiting the federal government from transferring
9 COVID-19 patients to a facility within the City of Costa Mesa on the grounds that the mere possibility
10 of exposure to residents in the community constitutes irreparable injury. City of Costa Mesa v. United
11 States, 2020 U.S. Dist. LEXIS 33650 (C.D. Cal. Feb. 21, 2020). In addition, several other courts have
12 enjoined civil detention orders due to the possibility of COVID-19 spreading when the government
13 forces groups to congregate, based in part upon the apparent ease with which coronavirus spreads. E.g.,
14 Castillo v. Barr, No. 20CV00605-TJH, 2020 U.S. Dist. LEXIS 54425, at *4 (C.D. Cal. Mar. 27, 2020)
15 (“Coronavirus is spread between people who are in close contact . . . through respiratory droplets
16 produced when an infected person coughs or sneezes. . . . Moreover, studies have established that the
17 coronavirus can survive up to three days on various surfaces.”); Thakker v. Doll, 2020 U.S. Dist.
18 LEXIS 59459, at *21 (M.D. Pa. Mar. 31, 2020) (“Indeed, courts have even specifically held that
19 COVID-19 constitutes an irreparable harm that supports the grant of a TRO.” (emphasis added)).

20 Likewise, in this matter, the threat of COVID-19 to Plaintiffs and other Registrants is similarly
21 acute in that they are forced by Defendant into crowded and/or unsanitary conditions where the
22 recommended social distancing and sanitation measures cannot be observed. The result is an
23 exacerbation of the risks of infection that the entire country, including all levels of government, have
24 mobilized to protect against. As the District Court recognized in Thakker v. Doll,

25 In times such as these, we must acknowledge that the status quo of a mere few weeks ago
26 no longer applies. Our world has been altered with lightning speed, and the results are
27 both unprecedented and ghastly. We now face a global pandemic in which the actions of
28 each individual can have a drastic impact on an entire community. The choices we now
make must reflect this new reality.

1 Respondents' Facilities are plainly not equipped to protect Petitioners from a potentially
2 fatal exposure to COVID-19. While this deficiency is neither intentional nor malicious,
3 should we fail to afford relief to Petitioners we will be a party to an unconscionable and
4 possibly barbaric result. . . . If we are to remain the civilized society we hold ourselves
out to be, it would be heartless and inhumane not to recognize Petitioners' plight. And so
we will act.

5 Thakker, 2020 U.S. Dist. LEXIS 59459, at *27-*28.

6 Although many early cases discussing the risk from COVID-19 have arisen in the context of
7 civil detention schemes, the distinction between detention and in-person registration in sheriff's stations
8 is a difference of degree rather than kind. That is because the transmission of COVID-19 does not
9 require prolonged exposure to an infected person or with an object touched by that person, but instead
10 can easily occur within the 30-minutes-to-two-hour period that a Registrant must spend in a sheriff's
11 station while registering. Cf. Kaur v. U.S. Dep't of Homeland Security, No. 2:20-cv-03172, 2020 U.S.
12 Dist. LEXIS 71228, at *9 (C.D. Cal. Apr. 22, 2020) ("The mere fact that no cases have been reported in
13 the [facility at issue] is irrelevant – it is not a matter of if COVID-19 will enter the facility, but when it
14 will be detected there."). The persons threatened with infection and possible death include not only
15 Registrants, but also law enforcement personnel, as well as innocent third parties such as Plaintiff John
16 Doe #4's wife, who has a compromised immune system, and who would surely become infected if her
17 husband does. Accordingly, a TRO is necessary to prevent irreparable injury to the health and lives of
18 Plaintiffs and all Registrants, as well as their families and the general public.

19 **C. Factors 3 and 4: The Balance of Equities and the Public Interest**

20 When a preliminary injunction is sought against the government on constitutional grounds, the
21 "balance of equities" and "public interest" prongs can be considered together. See Farris v. Seabrook,
22 677 F.3d 858, 864 (9th Cir. 2012); Klein v. City of San Clemente, 584 F.3d 1196, 1208 (9th Cir. 2009).
23 In this matter, the Governor of California has confirmed in his Executive Order issued May 8, 2020,
24 that an injunction is in the public interest because the Governor suspended the in-person registration
25 requirement for 60 days, and encouraged local registering agencies such as the FCSO to do the same in
26 order to avoid undermining the state's ongoing COVID-19 mitigation efforts. See Exh. C. ¶15.

27 In addition, as noted above, Plaintiffs seek only temporarily relief concerning the more
28

1 peripheral requirement of periodic updates during the COVID-19 pandemic – periodic updates. This
2 requested relief is, in fact, narrower than the relief called for in the Governor’s order, which
3 encompasses not only periodic updates, but also initial registration, as well as other procedures for
4 which in-person registration is required by statute.

5 As stated above, the information called for during periodic updates is information that law
6 enforcement already possesses because it was previously provided during an earlier registration. For
7 example, Registrants such as Plaintiffs John Doe #1 and John Doe #4 who have remained in the same
8 residence, with the same employment status, and with the same car, have no changes to report during
9 their annual updates. Furthermore, in cases where such information has changed, the Act does not
10 require immediate, in-person reporting, but instead permits the update to be delayed until the next
11 periodic update. Thus, any delay that results from the suspension of in-person registration for periodic
12 updates during the COVID-19 pandemic would not harm the registration system, because temporary
13 delays in reporting such information are already built into and tolerated by the system itself.

14 In addition, the information reported during periodic updates are facts that can be provided by
15 telephone or through alternate means that do not require in-person visits, as confirmed by the
16 Governor’s Executive Order. The two pieces of information that cannot be transmitted by phone –
17 fingerprints and a current photograph – are addressed by the Executive Order, and are among the least
18 likely to change between periodic updates, with fingerprints being practically impossible to change.
19 Although there is a small possibility that a Registrant’s personal appearance may change between
20 periodic updates, the Act ascribes a low priority to that information, by virtue of the fact that the Act
21 does not require changes in appearance to be immediately reported to law enforcement. In fact, the Act
22 does not require registering agencies to take a new photograph during each annual update. Instead, the
23 Act merely requires that a Registrant’s photograph be “current,” which indicates that an existing
24 photograph can continue to be used during the pandemic, consistent with the Act. Cal. Penal Code §
25 290.015 (a)(2).

26 Further, even if their collection had not been suspended by the Governor’s Executive Order,
27 fingerprints and photographs can be obtained through means other than in-person registration, such as
28

1 the mail, video conferencing apps, or visits by law enforcement to a Registrant’s home. Registering
2 agencies frequently use one or more of these alternate means for Registrants who are homebound,
3 hospitalized, or otherwise incapacitated during normal times, which is again consistent with the Act.
4 Finally, requiring Registrants to appear in person offers little if any additional benefit to public safety,
5 particularly because the Act tolerates many months of delay in the reporting of such information.

6 In sum, the relative lack of harm to Defendant and the public from a temporary suspension of
7 the in-person registration requirement supports a TRO, because Plaintiffs have made a strong showing
8 on the merits that in-person registration is not required by Section 290.012, and that in-person
9 registration during the COVID-19 pandemic unconstitutionally infringes life and liberty in violation of
10 the Fourteenth Amendment. Further, any theoretical benefit gained by in-person periodic updates is
11 significantly eclipsed by the real and potentially deadly risk of COVID-19 infection imposed upon
12 Registrants, law enforcement, and the public by forcing Registrants from the safety of their homes into
13 an unsafe environment. Indeed, requiring in-person registration for periodic updates undermines the
14 public safety measures employed by state and local governments to protect public health, with no
15 corresponding public safety benefit. Local registering agencies are capable of processing periodic
16 updates during the COVID-19 pandemic without requiring Registrants to appear in-person, and some
17 registering agencies, including the state’s largest registering agency (the LAPD), are doing just that,
18 with no reported or known deleterious impact upon public safety. See Exhs. D-F.

19 **V. PLAINTIFFS RESPECTFULLY REQUEST THAT THE COURT WAIVE THE BOND**
20 **REQUIREMENT FOR THIS MOTION**

21 Courts in the Ninth Circuit have dispensed with the bond requirement of Fed. R. Civ. P. 65(c)
22 “where there is little or no harm to the party enjoined and where plaintiffs are unable to afford to post
23 such a bond.” Lavan v. City of Los Angeles, No. 11-cv-2874, 2011 U.S. Dist. LEXIS 46030, at *15-
24 *16 (C.D. Cal. April 22, 2011) (citing Jorgensen v. Cassidy, 320 F.3d 906, 919 (9th Cir. 2003) (“We
25 have recognized that Rule 65(c) invests the district court with discretion as to the amount of security
26 required, if any.”) (quotation marks omitted) (emphasis in original); Barahona-Gomez v. Reno, 167
27 F.3d 1228, 1237 (9th Cir.1999) (waiving bond where vast majority of plaintiffs were “very poor”);
28

1 Justin v. City of Los Angeles, 2000 U.S. Dist. LEXIS 17881, 2000 WL 1808426, at *2 (C.D. Cal. Dec.
2 5, 2000) (no bond requirement for homeless plaintiffs where “there was no proof of likelihood of harm
3 to the party enjoined”). In this matter, Plaintiffs are elderly Registrants who lack financial means to
4 pay for a bond. In addition, there will be no harm to Defendants if the injunction is issued. Plaintiffs
5 therefore respectfully request that the Court waive the bond requirement.

6 **VI. CONCLUSION**

7 For the reasons stated above, Plaintiffs respectfully request that the Court issue the Order to
8 Show Cause and TRO submitted concurrently herewith prohibiting Defendant and the Fresno County
9 Sheriff’s Office from requiring in-person registration for periodic updates pursuant to Penal Code
10 section 290.012 during the COVID-19 pandemic until a hearing on a preliminary injunction can be
11 held.

12
13 Dated: May 13, 2020

LAW OFFICE OF JANICE M. BELLUCCI

14
15 By: /s/ Janice M. Bellucci
16 Janice M. Bellucci
17 Attorney for Plaintiffs
18
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28

EXHIBIT A

Janice M. Bellucci, SBN 108911
(JMBellucci@aol.com)
LAW OFFICE OF JANICE M. BELLUCCI
1215 K Street, 17th Floor
Sacramento, CA 95814
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Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JOHN DOE #1, an individual;
JOHN DOE #2, an individual;
JOHN DOE #3, an individual; and
JOHN DOE #4, an individual

Plaintiffs,

vs.

ANDREW HALL, in his official capacity
as Chief of the Fresno Police Department;
and MARGARET MIMS, in her official
capacity as Fresno County Sheriff,

Defendants.

Case No.: 1:20-cv-00600-NONE-JDP

**DECLARATION OF
PLAINTIFF JOHN DOE #4
IN SUPPORT OF PLAINTIFFS'
EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION**

I, REDACTED, declare as follows:

1. I am Plaintiff John Doe #4 in this action, and make this declaration in support of Plaintiffs' *Ex Parte* Application for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction ("TRO"), filed concurrently herewith.

2. I reside within the jurisdiction of the Fresno County Sheriff's Office with my wife. I am currently 71 years old and my wife is 61 years old. We have been married for 33 years.

3. Both my wife and I suffer from significant medical conditions that render us at a high risk of infection and possible death from COVID-19. My wife and I are gravely afraid of contracting COVID-19 and desire to remain in our home to the greatest extent possible, consistent with direction from the Governor as well as federal, state and local health officials.

4. I am a disabled veteran who was drafted into the U.S. Army in 1967. As a soldier, I was sent to Viet Nam for a year where I was exposed to Agent Orange. I was honorably discharged from the U.S. Army in 1969. Subsequent to my service in the U.S. Army, I was diagnosed with Type 2 diabetes, PTSD and depression.

5. My wife has a highly compromised immune system due to the fact she has only one kidney, which is the result of a transplant operation in 1999. Prior to that operation, my wife was on dialysis for several years. My wife takes many prescription medications in order to stay alive, including a medication that further reduces her immune system so that her body does not reject her transplanted kidney. If my wife gets a cold, she is sick for two months or more. During the past 10 years, my wife got the flu and was hospitalized for 12 days in order to save her life.

6. I am a retired electrician and electrical contractor. I retired from that career in 2010 and have not held a full-time job since that time.

7. I am currently required to register as a sex offender due to a sex offense conviction about 25 years ago. Among other obligations, I must provide my annual update to the Fresno County Sheriff's Office within five working days of my birthday on

May 22.

8. In 2019, I was required to register as a sex offender in an old substation of the Fresno County Sheriff's office. The registration took place in a small room with several rows of chairs. In that room, I was required to sit shoulder-to-shoulder with individuals including those who did not appear to be clean, perhaps because they are homeless. The registration process took about an hour and included physical contact with local law enforcement officials who took my fingerprints as well as handed me documents that I was required to initial and/or sign in several places.

9. In 2020, the Fresno County Sheriff's Office is demanding that I appear in person for my annual registration update at the same cramped location where social distancing is not possible, even though I have not changed my residence, and have no new information to report since my last annual update in 2019. In fact, the Fresno County Sheriff's Office is already in possession of my home address where I have lived for 16 years. In addition, the Fresno County Sheriff's Office is already in possession of a current photograph of me as well as my fingerprints which were taken in that office in May 2019.

10. I am particularly afraid of contracting COVID-19, and of infecting my wife, if I am forced to register in person at the Fresno County Sheriff's Office due to the unsanitary facilities to which I will be subjected in order to complete the registration process. Specifically, in order to register, I must congregate in a room inside that is inside of a building used by the public visiting the police station for up to an hour where social distancing is not possible. In addition, during the registration process I will be required to touch and manipulate numerous objects and surfaces used by others, such as counters, chairs, clipboards, pens, and other equipment.

I swear under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Dated this 8th day of May, 2020, in Fresno County,

California.

REDACTED

By: _____

REDACTED
Plaintiff John Doe #4

EXHIBIT B

1 Janice M. Bellucci, SBN 108911
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2 LAW OFFICE OF JANICE M. BELLUCCI
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4 Fax: (916) 823-5248

5 Attorney for Plaintiffs
6
7

8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 JOHN DOE #1, an individual;
12 JOHN DOE #2, an individual;
13 JOHN DOE #3, an individual; and
14 JOHN DOE #4, an individual

15 Plaintiffs,

16 vs.

17 ANDREW HALL, in his official capacity
18 as Chief of the Fresno Police Department;
19 and MARGARET MIMS, in her official
20 capacity as Fresno County Sheriff,

21 Defendants.

Case No.: 1:20-cv-00600-NONE-JDP

**DECLARATION OF
PLAINTIFF JOHN DOE #1
IN SUPPORT OF PLAINTIFFS'
EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION**

22 I, REDACTED, declare as follows:

23 1. I am Plaintiff John Doe #1 in this action, and make this declaration in
24 support of Plaintiffs' *Ex Parte* Application for Temporary Restraining Order and Order
25 to Show Cause re: Preliminary Injunction ("TRO"), filed concurrently herewith.

26 2. I reside within the jurisdiction of the Fresno County Sheriff's Office with
27 my wife. My date of birth is March 31, 1949, and I am currently 71 years old. I
28 currently suffer from two major medical conditions, diabetes and cirrhosis of the liver.

1 3. Both my age and my medical condition place me at high risk for becoming
2 infected with COVID-19, according to the Centers for Disease Control.

3 4. On March 18, 2020, I called the Fresno County Sheriff's Department and
4 told the Registration Officer that I am at high risk for becoming infected with COVID-
5 19 due to both my age and my medical condition. I stated that I was afraid to enter the
6 registration office because I could be exposed to COVID-19 in that location as well as
7 during the registration process which has in the past required physical contact with a law
8 enforcement official who takes my fingerprints. I also stated that I was afraid to enter
9 the registration office because its small size would not allow for social distancing of at
10 least six feet.

11 5. During that phone call, the Registration Officer told me that I did not have
12 to personally appear at the Fresno County Registration Office for my annual registration
13 during the COVID-19 pandemic. It was my understanding that my phone call
14 constituted a telephonic check-in that was sufficient for Sex Offender Registration
15 compliance purposes. It was also my understanding that I would be contacted by your
16 office on a later date and required to appear in person after the pandemic ended.

17 6. On April 6, 2020, I called attorney Janice Bellucci to discuss my phone call
18 with the Registration Officer. She agreed to call the Registration Officer in order to
19 clarify the status of my annual registration.

20 7. On April 14, 2020, I sent an email message to the Registration Officer
21 asking him to verify that I called him on March 18, 2020. I also asked him to verify the
22 contents of that call. (Exhibit A)

23 8. On April 14, 2020, the Registration Officer verified in an email sent to me
24 that I had called him as well as the contents of that call.

25 9. On April 15, 2020, attorney Bellucci informed me that my profile on the
26 Megan's Law website indicated that I was "in violation" for failure to register.

1 10. It is my understanding that my current status of being “in violation” for
2 failure to update my annual registration places me at great risk for arrest, booking and
3 incarceration in the Fresno County Jail where there is a great risk of infection to
4 COVID-19. Due to that risk, I am afraid to leave my home. This risk will continue until
5 and unless I am no longer listed as “in violation” for failure to register.

6 11. Because I am afraid to leave my home, I minimize trips outside my home
7 and limit them to essential tasks including trips to the grocery store and pharmacy. In
8 addition, I am currently unable to complete my Fresno City College internship at the
9 Fresno Rescue Mission. I have worked as an alcohol and drug counselor at the Mission
10 since September 2018 during which I have completed 1,488 hours of a total 2,000 hours
11 required to becoming a State of California Certified Drug and Alcohol Counselor.
12 Further, as required for State certification, I have completed a course curriculum at
13 Fresno City College, for which I have been awarded a Certificate of Achievement.

14 (Exhibit B)

15 12. I expect to continue my studies at Fresno City College and internship at
16 Fresno Rescue Mission during the fall of 2020 and to graduate with an Associates of
17 Arts (AA) degree at Fresno City College by the end of this year.

18
19 I swear under the penalty of perjury under the laws of the State of California that
20 the foregoing is true and correct. Dated this 12th day of May, 2020, in Fresno County,
21 California.

22 **REDACTED**

23 By: _____
24 REDACTED
25 Plaintiff John Doe #1
26
27
28

EXHIBIT A



REDACTED

Verification of Check-In - REDACTED

Home, Aaron <Aaron.Horne@fresnosheriff.org>
To: REDACTED

Tue, Apr 14, 2020 at 2:19 PM

Mr. REDACTED

You are correct. You will be notified once it is determined there is no longer a health risk to you physically coming into the registration office. Thank you for being responsible with your registration requirements and keeping in contact with me.

Take care of yourself,

Detective Aaron Horne
Fresno County Sheriff's Office
PC290 Unit / Crisis Negotiations Team / Dive Team
2200 Fresno St.
Fresno, CA 93721
Office - 559-600-8066
Cell - 559-470-9891



From: REDACTED
Sent: Tuesday, April 14, 2020 1:59 PM
To: Horne, Aaron <Aaron.Horne@fresnosheriff.org>
Subject: Verification of Check-In - REDACTED

**** EXTERNAL EMAIL ** Use caution opening attachments or clicking on links from unknown senders. ****

[Quoted text hidden]

#14/2020

Gmail - Verification of Check-In - REDACTED



REDACTED

Verification of Check-In · REDACTED

REDACTED

Tue, Apr 14, 2020 at 1:58 PM

To: aaron.horne@fresnosheriff.org

Det. Horne,

As we had discussed earlier today, this email is intended as a verification of a previous telephone communication that I, REDACTED had with you on Wednesday, March 18, 2020. On that date, you agreed that I would be permitted to NOT PERSONALLY APPEAR on or about my birthdate (March 31, 2020) as required for Sex Offender Registration compliance. As I had informed you on the March 18, 2020 telephone call, I am over the age of 65 (sixty-five) and suffer from pre-existing health conditions that make me particularly vulnerable to any complications resulting from the onset of infection from the Covid-19 virus. You informed me that I was NOT REQUIRED TO PERSONALLY APPEAR until such a time that the pandemic 'emergency' has passed. You further agreed that this telephonic "check-in" was sufficient for Sex Offender Registration compliance purposes on a TEMPORARY BASIS, and once that the Covid-19 emergency conditions have "cleared", then I would be contacted by your offices and informed as to when I must then make a personal appearance so that all yearly Sex Offender Registration procedure requirements may be performed and completed.

By way of your response to this email, you are VERIFYING that the above statements are true and correct and, further, that your response acts as a reiteration of our March 18, 2020 communications.

I appreciate your kind cooperation and professionalism in this matter.

Best regards,

— REDACTED

EXHIBIT B

Fresno City College

State Center Community College District

Fresno, California

Upon recommendation of the faculty and under
authorization granted by the Board of Governors,
California Community Colleges,

the

Certificate of Achievement

is hereby awarded to

REDACTED

in token of the satisfactory completion of a specified curriculum in

Human Services - Alcoholism and Drug Abuse Counseling

Given this 24th day of May, Two Thousand Nineteen



Margaret E. Meike
Division Dean

Carole Johnson
College President



EXHIBIT C

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-63-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS the COVID-19 pandemic, as well as physical distancing and other public health measures undertaken in response to it, have affected governmental agencies, workers, private businesses, and California residents, with associated impacts on adherence to certain statutory and regulatory deadlines, as well as to workers' efforts to vindicate their labor and employment rights; and

WHEREAS the COVID-19 pandemic, as well as physical distancing and other public health measures undertaken in response to it, have also had widespread impacts on state and local governments' ability to perform certain functions via in-person interactions, and such functions should be performed via other means to the extent consistent with public safety and other critical public interests; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) The time in which to complete the evaluation required under Education Code section 17311(b)(3) (concerning Public School Project Inspectors) is extended to September 1, 2020, as to any inspector who has previously passed an initial evaluation under that subdivision and whose reevaluation would otherwise be due on or before May 6, 2020.
- 2) Notwithstanding the three-year period set forth in Government Code section 4459.8(a), any certification under Government Code section 4459.5 (concerning Certified Access Specialists) that would otherwise have expired between March 19, 2020 and May 31, 2020 is extended for 60 days from the date of this Order. Such certifications may be subject to further renewal as otherwise provided by law.

- 3) The timeframes set forth in Health and Safety Code sections 13144.2, and 13144.3, are suspended for 60 days. As a result, the deadline for submitting applications under Health and Safety Code section 13144.2 is extended to June 30, 2020, and current listings under Health and Safety Code section 13144.3 are extended to August 29, 2020. No penalty shall be imposed for failure to pay a renewal fee under Health and Safety Code section 13144.2, if that fee is received by June 30, 2020.
- 4) The timeframes set forth in Health and Safety Code sections 13127 and 13128 are suspended for 60 days. As a result, the deadline for renewing registrations under Health and Safety Code section 13127 is extended to June 30, 2020, and current registrations under Health and Safety Code section 13128 are extended to August 29, 2020. No penalty shall be imposed for failure to pay a registration fee under Health and Safety Code section 13127, subdivision (c)(1), if that fee is received by June 30, 2020.
- 5) The timeframes set forth in California Code of Regulations, Title 19, sections 938, 939, and 944 are suspended for 60 days. As a result, both current certifications and the deadlines for renewing those certifications under California Code of Regulations, Title 19, sections 938 and 939 are extended to August 29, 2020. In addition, the deadline for filing a notice of renewal under California Code of Regulations, Title 19, sections 944 is extended to June 30, 2020, and no late fee shall be charged if a notice of renewal is received by that date.
- 6) The term of office specified in Government Code section 8204 is extended for a period of 60 days for any notary public whose commission has expired since March 1, 2020 or whose commission is set to expire over the next 60 days, on the conditions that:
 - a) The notary public shall annotate on each notarial act completed during the extension the following: "The notary commission extended pursuant to Executive Order N-63-20."; and
 - b) The notary public shall maintain a valid surety bond pursuant to Government Code section 8212 during the extension.
- 7) The requirement in Civil Code section 1185(b)(3)(A) that an identification card or driver's license issued by the California Department of Motor Vehicles is current or has been issued within the last 5 years in order to serve as satisfactory evidence of identity for an officer or notary public to acknowledge an instrument is, for a period of 60 days, suspended with respect to any identification card or driver's license issued by the California Department of Motor Vehicles showing an expiration date of March 1, 2020 or later.

- 8) The deadlines specified in the following statutes and regulations shall be extended for a period of 60 days:
- a) Labor Code sections 142.2 and 147, related to reports by the Division of Occupational Safety and Health (Cal/OSHA) and the Occupational Safety & Health Standards Board (OSHSB) on proposed standards or variances;
 - b) Labor Code section 99, related to the Labor Commissioner's filing of claims and liens of employees, and Civil Code section 8414 to the extent it governs the deadlines for filing and recording such claims and liens;
 - c) Labor Code sections 4616(b)(1) and California Code of Regulations, Title 8, sections 9767.2(a) and (b) and 9767.8(d), related to the period in which the administrative director must act upon Medical Provider Network applications or requests for modifications or reapprovals;
 - d) California Code of Regulations, Title 8, section 17304, related to the period in which the Return-To-Work Supplement Program must receive an application for a Return-to-Work Supplement;
 - e) California Code of Regulations, title 8, section 17309, related to filing a Return-to Work Supplement appeal and any reply or responsive papers;
 - f) Labor Code section 123.5 and California Code of Regulations, Title 8, sections 9713, 9714, and 9714.5, related to the period in which Workers' Compensation Administrative Law Judges must file decisions;
 - g) Labor Code 5313, related to the period in which the Workers' Compensation Appeals Board must act on any decision submitted by a Workers' Compensation Administrative Law Judge;
 - h) Government Code section 3505.4(a) and California Code of Regulations, Title 8, section 32802(a)(1), related to the period in which a party must request that the parties' differences be submitted to a factfinding panel under Meyers-Milias-Brown Act post-impasse resolution procedures;
 - i) Government Code section 3548.1, related to the period in which a party must request that the parties' differences be submitted to a factfinding panel under Educational Employment Relations Act post-impasse resolution procedures; and
 - j) Government Code section 3591, related to the period in which a party must request that the parties' differences be submitted to a factfinding panel under Educational Employment Relations Act post-impasse resolution procedures.

- 9) The deadlines specified in or that apply to the following statutes and regulations shall be extended for a period of 60 days to the limited extent that the time to issue a citation or file a complaint, claim, or appeal would otherwise elapse in the 60-day period following this Order:
- a) All Labor Code sections and related regulations setting the time for the Labor Commissioner to issue any citation under the Labor Code, including a civil wage and penalty assessment pursuant to Labor Code section 1741;
 - b) All Labor Code sections and related regulations setting deadlines for any employer or other person to appeal or petition for review of any citation issued by the Labor Commissioner;
 - c) Labor Code sections 98, 98.7, 1700.44, and 2673.1, related to workers' rights to file complaints and initiate proceedings with the Labor Commissioner;
 - d) Labor Code section 6317, related to the issuance of Cal/OSHA citations; and
 - e) Labor Code sections 6319, 6600, 6600.5, 6601, and 6601.5, related to the appeal of citations, notices, or orders of Cal/OSHA.
- 10) Any statute or regulation that requires a public employer to post notice on "employee bulletin boards" is suspended, provided that the public employer provides such notice to its employees through electronic means, such as through electronic mail to its employees, posting on an employer-operated website frequented by its employees, or any other electronic means customarily used by the public employer to communicate with its employees.
- 11) Any statute or regulation that permits a party or witness to participate in a hearing in person, a member of the public to be physically present at the place where a presiding officer conducts a hearing, or a party to object to a presiding officer conducting all or part of a hearing by telephone, television, or other electronic means, is suspended, provided that all of the following requirements are satisfied:
- a) Each participant in the hearing has an opportunity to participate in and to hear the entire proceeding while it is taking place and to observe exhibits;
 - b) A member of the public who is otherwise entitled to observe the hearing may observe the hearing using electronic means; and
 - c) The presiding officer satisfies all requirements of the Americans with Disabilities Act and Unruh Civil Rights Act.
- 12) The timeframe in California Code of Regulations, Title 11, section 1950(c)(1)(C), is extended from 180 days to one year for the purpose of authorizing the Executive Director of the Commission on Peace Officer

Standards and Training (POST) to issue discretionary exemptions to individual law enforcement agencies seeking to temporarily reemploy peace officers who retired or separated in good standing from the requesting agency. The term of any such temporary peace officer reemployment shall expire no later than one year from the date of this Order, unless further extended by Executive Order.

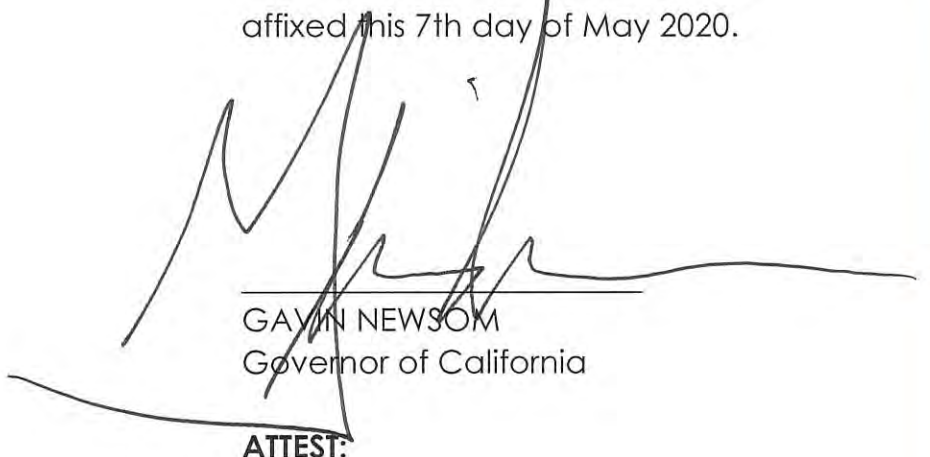
- 13) On a case-by-case basis, POST's Executive Director is authorized to grant individual technical and scheduling waivers or exceptions to address disruptions caused by the COVID-19 pandemic. The Executive Director shall notify the POST Commission of any such waiver or exception and shall rescind the waiver or exception once it is no longer necessary.
- 14) To protect the health, safety, and welfare of students and instructors in Basic Academy training courses, POST temporarily may allow lecture-based Basic Academy instruction to be delivered online in a format POST deems appropriate. For any instruction conducted online, POST shall require that students be closely monitored by instructors to ensure students gain a thorough understanding of the materials. POST shall continue to require in-person instruction for testing and practical skills training. Any prohibitions set forth in POST policies, procedures, or the California Code of Regulations (including but not limited to California Code of Regulations, Title 11, section 1052) that limit the ability to conduct online Basic Academy training for lecture-based courses are temporarily waived.
- 15) Law enforcement agencies are encouraged to adopt telephonic, remote, or other procedures for registration and reporting under the Sex Offender Registration Act that are consistent with State and local public health guidance regarding physical distancing, and to post or publicize such procedures through means calculated to reach any person subject to the Act.
 - a) To the extent that a law enforcement agency institutes telephonic, remote, or other procedures to enable physical distancing, all provisions of the Sex Offender Registration Act (Penal Code sections 290 to 290.024, inclusive) and implementing procedures that require persons subject to the Act to appear in person, and all provisions of the Act and implementing procedures that require such persons to provide a signature, fingerprints, and photograph, are suspended for 60 days.
 - b) To ensure that lack of technology does not prevent any individual from complying with registration and reporting requirements, law enforcement agencies are encouraged to provide alternative means of registration and reporting, including permitting the physical presence of registrants consistent with State and local public health guidance regarding physical distancing.

The requirement to register and all other registration and reporting requirements of the Sex Offender Registration Act remain in place.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 7th day of May 2020.



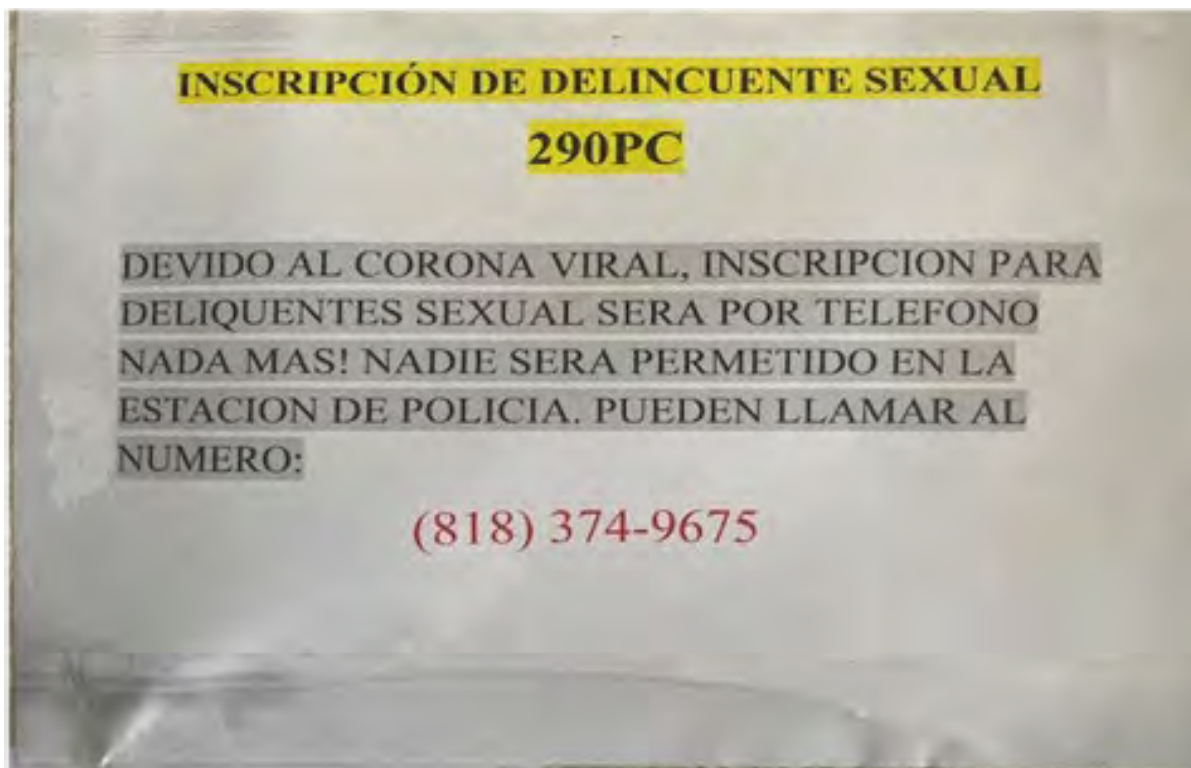
A large, stylized handwritten signature in black ink, appearing to read 'Gavin Newsom', is written over a horizontal line. The signature is highly cursive and extends significantly to the right of the line.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT D



LOS ANGELES POLICE DEPARTMENT

EXHIBIT E



SAN FRANCISCO POLICE DEPARTMENT
IDENTIFICATION BUREAU

850 BRYANT STREET
SAN FRANCISCO, CALIFORNIA 94103-4603



Due to the current public health orders, the registration of sex, arson and drug offenders has ceased until further notice. This document provides proof that the registrant bearing the name on this form attempted to register with SFPD, but was unable to due to circumstances beyond their control. This is a temporary **60-day** waiver and you will need to return **within five business days** of the **RETURN Date** below to fulfill your obligation to register. Keep this copy and present it to an officer if questioned regarding your registration status.

Contact Sex Offender Unit at (415) 553-9203 for any questions.

Name: _____

Date of Birth: _____ Phone: _____

If you were to register today, where are you registering, as a location? If you are here to register out of jurisdiction, contact the other county as soon as possible regarding registering requirements.

A

Tech Initials

APR 30 2020

Issued Date

[Signature] # 6542

COMMANDING OFFICER

SF#

JUN 30 2020

Return Date
(within 5 business days)

CII#

EXHIBIT F



Partners with Our Community

Collaborate

Court Ordered Registrants

Live Scan & Ink Card Fingerprinting

Pay Tickets or Fines

Release a Vehicle from Impound

About Us

Divisions

Programs

Resources

How Do I...

[Home](#) > [Government](#) > [Departments](#) > [Police](#) > [Divisions](#) > [Support Division](#) > [Records Bureau](#) > [Court Ordered Registrants](#)

Court Ordered Registrants

State law mandates that all persons convicted of sex, drug, arson and gang offenses must register with their local law enforcement agency.

Registering After a Move

Each time a registrant moves into a new jurisdiction they are required to register with the new agency. If a registrant moves within the same jurisdiction they are required to report their change of address to that agency. Only residents of the City of Murrieta may register with the Murrieta Police Department.

In order to avoid unnecessary delays, registrants should verify they reside within the city limits. It is not the responsibility of the agency to make sure you are in compliance.

Be On Time

Registration is done by appointment only and registrants who show up late will be turned away. **No exceptions.**

Scheduling

It is the registrant's responsibility to schedule, confirm and show up to their appointments. Registration must be completed in person with very few exceptions. If a registrant is dealing with extraordinary circumstances that may prevent them from registering in person, they need to contact the program coordinator to request alternative arrangements as soon as possible. Extraordinary circumstances does include the current COVID-19 crisis. Should the registrant have any limitations due to underlying health conditions or other impacts from COVID-19 that prevents the registrant from coming to the appointment, please speak with the program coordinator to discuss alternative arrangements.

Contact Us

Mark Reid

Lieutenant

[Email Mark Reid](#)

Phone: (951) 461-6329



Chat with us!

EXHIBIT G



All Inmate Visits Currently Suspended at Fresno County Jails. For more information, [click here](#).

- JAIL
- CORONER
- REPORT A CRIME
- PROTECT YOURSELF
- COMMUNITY
- CIVIL
- ADMIN
- UNITS
- MEDIA**

You are here: [Home](#) > [Media](#) > Civil Unit Window Temporarily Closed to the Public

Follow @FresnoSheriff

Search the Website

MEDIA RELATIONS

Civil Unit Window Temporarily Closed to the Public



Due to continuing COVID-19 safety precautions, the Civil Unit window located inside the lobby of Fresno County Sheriff's Office headquarters will be temporarily closed to the public through the end of May 2020. We do have alternative options available to you so you can still complete your business.

If you have documents for service, you can mail them to:

Fresno County Sheriff's Office - Civil Unit

P.O. Box 45025
Fresno, CA 93718

Instructions for requesting the service of a restraining order

If you have documents for service, your service packet must include:

- Completed Instructions (if you need a form, download it at <https://fresnosheriff.org/civil.html>)
- Applicable Fees/Fee waiver (see fee schedule at https://fresnosheriff.org/images/pdfs/fee_schedule_5-16-19.pdf or the glass case on the wall)
- Documents for service

Option 1: Mail

Fresno County Sheriff's Office - Civil Unit
P.O. Box 45025
Fresno, CA 93718

Denied Civil Harassment Orders MUST BE MAILED with the service fee or Waiver

Option 2: Email

civil.sheriff@fresnosheriff.org

Option 3: Drop Off

Records Unit Window, which is located at 2200 Fresno Street, Fresno, CA 93721

If you have questions regarding service:

Phone: 559 600-8230

Fax: 559 600-8322

Specific questions regarding instructions call: 559 600-8231

CONTACT INFORMATION

Tony Botti

Public Information Officer
(559) 600-8137
Tony.Botti@fresnosheriff.org

HELPFUL LINKS

[Big Valley News](#)

[GVWire](#)

[Hmong TV](#)

[Hmong USA TV](#)

[KFSN ABC 30](#)

[KGPE CBS 47](#)

[KMJ 580 AM](#)

[KMPH Fox 26](#)

[KSEE NBC 24](#)

[PowerTalk 96.7](#)

[Telemundo 51](#)

[The Fresno Bee](#)

[Univision 21](#)

Email: civil.sheriff@fresnosheriff.org

Phone Hours: Monday, Wednesday, Friday 9:00 am-3:00 pm



ATTENTION

**THE CIVIL UNIT WINDOW
IS
TEMPORARILY CLOSED**

If you have documents for service, you can mail them to:

Fresno County Sheriff Office-Civil Unit
P.O. Box 45025
Fresno, CA 93718

Your service packet must include:

- Instructions (if you need a form see <https://fresnosheriff.org/civil.html>)
- Applicable Fees/Fee waiver (see Fee schedule <https://fresnosheriff.org/civil.html> or the glass case on the wall)
- Documents for service

*****If you are requesting the service of a Restraining Order, please see the Records Unit for further instruction.**

If you have questions regarding service
Phone: 559 600-8230 Fax: 559 600-8322
Email: civil.sheriff@fresnosheriff.org
Phone Hours: Monday, Wednesday, Friday 9:00 am-3:00 pm

Details

Written by Botti, Tony

Category: [Media Relations](#)

Published: 07 May 2020

Hits: 93

Next >



Fresno County Sheriff's Office

Like Page 46K likes



Fresno County Sheriff's Office
38 minutes ago

Great job improvising CHP – Fresno Officer Donley.

115,511 Views

CHP – Fresno

Law Enforcement Agency · 16,093 Likes · May 9 at 9:12 PM ·

While hiking at Angel Falls near Bass Lake in Madera County, with his family, off-duty CHP Officer Brent Donley (wearing the ball cap) was

2020 Dispatcher Appreciation Week



1 Janice M. Bellucci, SBN 108911
(JMBellucci@aol.com)
2 LAW OFFICE OF JANICE M. BELLUCCI
1215 K Street, 17th Floor
3 Sacramento, CA 95814
Tel: (805) 896-7854
4 Fax: (916) 823-5248

5 Attorney for Plaintiffs
6
7

8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 JOHN DOE #1, an individual;
12 JOHN DOE #2, an individual;
13 JOHN DOE #3, an individual; and
JOHN DOE #4, an individual

14 Plaintiffs,

15 vs.

16 ANDREW HALL, in his official capacity
as Chief of the Fresno Police Department;
17 and MARGARET MIMS, in her official
capacity as Fresno County Sheriff,
18

19 Defendants.
20

Case No.: 1:20-cv-00600-NONE-JDP

**AFFIDAVIT OF NOTICE TO
DEFENDANTS OF PLAINTIFFS’
EX PARTE MOTION FOR
TEMPORARY RESTRAINING ORDER**

Hearing date: May 19, 2020

21 Pursuant to Federal Rule of Civil Procedure 65 and Local Rule 231(c)(5), the
22 undersigned counsel for Plaintiffs provided notice to Defendants Margaret Mims and
23 Andrew Hall of Plaintiffs’ Motion for Temporary Restraining Order (“TRO”), as
24 follows:

25 Defendant Margaret Mims, Fresno County Sheriff, is the only Defendant against
26 whom the TRO is sought. On May 12, 2020, the day prior to filing the TRO
27 Application, I emailed Deputy County Counsel Scott Hawkins
28

1 (schawkins@fresnocountyca.gov), who had previously identified himself as the attorney
2 likely to represent Defendant Mims in this matter. See Exh. A. I provided Mr. Hawkins
3 with a copy of the Proposed TRO, and inquired whether Defendant Mims would
4 stipulate to it. Id. I also left a voicemail for Mr. Hawkins regarding my email. The next
5 day, on May 13, 2020, at 9:10 a.m., I left Mr. Hawkins another voicemail. I received no
6 response from Mr. Hawkins. Therefore, on May 13, 2020, before 11:00 a.m., my office
7 sent Mr. Hawkins another email advising him of Plaintiffs' intention to file the TRO
8 Application and to notice a hearing for May 29, 2020. See Exh. B. I also provided Mr.
9 Hawkins with a copy of the TRO Application and all other relevant filings, as indicated
10 in the Proof of Service attached to the Motion for Temporary Restraining Order. Id.

11 Defendant Andrew Hall is not a party against whom the TRO is sought. On May
12 13, 2020, prior to filing the TRO Application, I emailed both Francine Kanne and
13 Douglas Sloan of the Fresno City Attorney's Office and advised them of Plaintiffs'
14 intention to file a TRO Application and to notice a hearing for May 29, 2020. (Exh. B.)
15 I also provided Ms. Kanne and Mr. Sloan with a copy of the TRO Application and all
16 other relevant filings, as indicated in the Proof of Service.¹

17 ///

18 ///

19 _____
20 ¹ Plaintiffs have been unable to formally serve Defendant Hall with the summons and
21 pleadings in this action because the Fresno Police Department, Court Liaison Office, as
22 well as the Fresno City Clerk's office, are closed. On April 30 and May 4, counsel for
23 Plaintiffs exchanged emails with Francine Kanne, an attorney with the City of Fresno.
24 Ms. Kanne directed Plaintiffs to serve Defendant Hall through the above-referenced
25 offices at 2323 Mariposa Mall. However, Plaintiffs' process server twice visited that
26 location, which was locked, and the process server found no security personnel or other
27 person who could make contact with the offices. Ms. Kanne has refused to accept
28 service on behalf of Defendant Hall. Plaintiffs will continue to pursue service of
Defendant Hall. Ms. Kanne and/or her colleague attorney Douglas Sloan have been
provided with courtesy copies of both the pleadings in this case, as well as the TRO
Application, as noted above.

1 ///

2 Respectfully Submitted,

3
4 Dated: May 13, 2020

LAW OFFICES OF JANICE M. BELLUCCI

5 By: /s/ Janice M. Bellucci
6 Janice M. Bellucci
7 Attorney for Plaintiffs
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EXHIBIT A

From: Janice Bellucci <jmbellucci@aol.com>
To: schawkins@fresnocountyca.gov <schawkins@fresnocountyca.gov>
Sent: Tue, May 12, 2020 2:19 pm
Subject: TRO - Proposed Order

Scott - Attached is a Proposed Order for the court's consideration. Please review the Order and let me know if you and your client agree to its contents. If you do not agree, we will file a TRO application with the court tomorrow requesting a hearing date of May 19. That date is important because John Doe #4's birthday is May 21 and he must register no later than May 28. We would appreciate your reply by tomorrow morning at 10 a.m. Thank you. Janice

Law Office of Attorney Janice M. Bellucci
1215 K Street, 17th Floor
Sacramento, CA 95814
(805) 896-7854

This e-mail (including all attachments) is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that reading, disseminating, distributing or copying this e-mail, or any attachments hereto, is strictly prohibited. If you have received this e-mail in error, please notify Janice M. Bellucci by telephone at (805) 896-7854 and permanently delete this e-mail from your computer and delete all print or electronic copies of this e-mail.

EXHIBIT B

From: service@all4consolaws.org
Sent: Wednesday, May 13, 2020 10:51 AM
To: schawkins@fresnocountyca.gov; Douglas.Sloan@fresno.gov;
Francine.Kanne@fresno.gov
Cc: Janice Bellucci
Subject: Notice of Motion for TRO - CAED Case No. 1:20-cv-600, Doe v. Hall
Attachments: Motion for TRO.pdf; TRO Memo with Exhibits.pdf; TRO Aff. re notice of TRO.pdf; TRO
Aff. re irreparable injury.pdf; Proposed TRO.pdf; Proposed Order setting hearing on PI
motion.pdf

Dear Counsel:

This email is to notify you that Plaintiffs John Doe #1 and John Doe #4 will today file the attached Motion for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction, with a requested hearing date of May 19, 2020 at 9:30 a.m. in Courtroom 4 of the United States District Court, 2500 Tulare Street, Fresno, CA. Copies of the supporting papers are also attached to his email. Thank you.

Law Office of Janice M. Bellucci
(805) 896-7854

1 Janice M. Bellucci, SBN 108911
(JMBellucci@aol.com)
2 LAW OFFICE OF JANICE M. BELLUCCI
1215 K Street, 17th Floor
3 Sacramento, CA 95814
Tel: (805) 896-7854
4 Fax: (916) 823-5248

5 Attorney for Plaintiffs
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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 JOHN DOE #1, an individual;
12 JOHN DOE #2, an individual;
13 JOHN DOE #3, an individual; and
JOHN DOE #4, an individual

14 Plaintiffs,

15 vs.

16 ANDREW HALL, in his official capacity
as Chief of the Fresno Police Department;
17 and MARGARET MIMS, in her official
capacity as Fresno County Sheriff,
18

19 Defendants.
20

Case No.: 1:20-cv-00600-NONE-JDP

**PLAINTIFFS' AFFIDAVIT IN
SUPPORT OF EXISTENCE OF
IRREPARABLE INJURY IN SUPPORT
OF APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND OSC RE
PRELIMINARY INJUNCTION**

Hearing date: May 19, 2020

21 Pursuant to Federal Rule of Civil Procedure 65 and Local Rule 231(c)(4),
22 Plaintiffs John Doe #1 and John Doe #4 ("Plaintiffs") hereby submit this Affidavit in
23 support of the existence of irreparable injury threatened by the actions sought to be
24 enjoined.

25 Plaintiffs' Motion for Temporary Restraining Order ("TRO") seeks to enjoin
26 Defendant Margaret Mims, in her official capacity as Fresno County Sheriff, from
27 requiring Plaintiffs to appear in person for periodic updates to their sex offender
28

1 registration pursuant to California Penal Code section 290.012 while the COVID-19
2 pandemic persists. Plaintiffs' advanced age as well as chronic medical conditions,
3 including but not limited to diabetes, place them at an elevated risk of infection and
4 death from COVID-19. This risk is exacerbated by Defendant's mandate that Plaintiffs
5 appear in person to complete their periodic updates.

6 The threat of infection from disease from COVID-19 is irreparable and
7 remediable by injunction. See Helling v. McKinney, 509 U.S. 25, 33 (1994) ("It would
8 be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening
9 condition in their prison on the ground that nothing yet had happened to them."); Harris
10 v. Bd. of Supervisors, 366 F.3d 754, 759, 766 (9th Cir. 2004). In fact, one court recently
11 issued a TRO prohibiting the federal government from transferring COVID-19 patients
12 to a facility within the City of Costa Mesa on the grounds that the mere possibility of
13 exposure to residents in the community constitutes irreparable injury. City of Costa
14 Mesa v. United States, No. 8:20-cv-00368-JLS, 2020 U.S. Dist. LEXIS 33650 (C.D. Cal.
15 Feb. 21, 2020).

16 Several other courts have also enjoined civil detention orders due to the possibility
17 of COVID-19 spreading when the government forces groups to congregate, based in part
18 upon the ease with which COVID-19 spreads. E.g., Castillo v. Barr, No. 20CV00605-
19 TJH, 2020 U.S. Dist. LEXIS 54425, at *4 (C.D. Cal. March 27, 2020) ("Coronavirus is
20 spread between people who are in close contact . . . through respiratory droplets
21 produced when an infected person coughs or sneezes. . . . Moreover, studies have
22 established that the coronavirus can survive up to three days on various surfaces." (citing
23 cases)); Thakker v. Doll, No. 1:20-cv-480, 2020 U.S. Dist. LEXIS 59459, at *21-*23
24 (M.D. Pa. Mar. 31, 2020) ("Indeed, courts have even specifically held that COVID-19
25 constitutes an irreparable harm that supports the grant of a TRO." (emphasis added)).

26 In addition, threats of prosecution and imprisonment are quintessential irreparable
27 injuries, and both punishments have been threatened against Plaintiffs. E.g., Valle Del
28

1 Sol Inc. v. Whiting, 732 F.3d 1006, 1029 (9th Cir. 2013) (a “credible threat of
2 prosecution” coupled with “an alleged constitutional infringement” are sufficient to
3 constitute irreparable harm).

4 In this matter, immediate injunctive relief is necessary because Plaintiff John Doe
5 #4 must complete his periodic update no later than May 29, 2020, or risk arrest and
6 prosecution for failure to register pursuant to Penal Code section 290.012. See Exhibit
7 A to TRO Memo, Decl. of Pltf. John Doe #1, ¶¶7, 9. In addition, Plaintiff John Doe #1
8 is already at risk of immediate arrest and prosecution because Defendant has refused to
9 complete his periodic update, which was due no later than April 7, 2020, unless Plaintiff
10 John Doe #1 appears in person at the Sheriff’s station. Id. Exh. B, Decl. of Pltf. John
11 Doe #1, ¶¶4-10.

12
13
14 Respectfully Submitted,

15
16 Dated: May 13, 2020

LAW OFFICES OF JANICE M. BELLUCCI

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18 By: /s/ Janice M. Bellucci
19 Janice M. Bellucci
20 Attorney for Plaintiffs
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JOHN DOE #1, an individual;
JOHN DOE #2, an individual;
JOHN DOE #3, an individual; and
JOHN DOE #4, an individual

Plaintiffs,

vs.

ANDREW HALL, in his official capacity
as Chief of the Fresno Police Department;
and MARGARET MIMS, in her official
capacity as Fresno County Sheriff,

Defendants.

Case No.: 1:20-cv-00600-NONE-JDP

TEMPORARY RESTRAINING ORDER

TO DEFENDANT MARGARET MIMS:

Based upon Plaintiffs’ Motion for Temporary Restraining Order filed on May 13, 2020, and the other documents filed in connection therewith, the Court hereby orders as follows:

1. This action challenges the constitutionality of Defendants’ requirement that registered sex offenders (“Registrants”) appear in person for their periodic

1 updates pursuant to California Penal Code section 290.012 during the
2 COVID-19 pandemic.

- 3 2. Plaintiffs have established a likelihood of success on the merits of one or
4 more of the claims asserted in the First Amended Complaint;
- 5 3. Plaintiffs have demonstrated there is a threat of infection and possible death
6 from COVID-19, and/or the threat of arrest and prosecution should they fail
7 to appear in person to register, either of which constitutes irreparable harm.
- 8 4. The balance of hardships and the public interest weigh in favor of injunctive
9 relief while the merits of Plaintiffs' claims are adjudicated.
- 10 5. The Court hereby exercises its discretion to waive the bond requirement of
11 Fed. R. Civ. P. 65(c) because "there is little or no harm to the party enjoined
12 and [] plaintiffs are unable to afford to post such a bond." Lavan v. City of
13 Los Angeles, No. 11-cv-2874, 2011 U.S. Dist. LEXIS 46030, at *15-*16
14 (C.D. Cal. April 22, 2011) (citing cases).
- 15 6. Accordingly, it is hereby ORDERED that Defendant Margaret Mims, as
16 well as any other deputy, agent, employee, or official of the Fresno County
17 Sheriff's Office who is responsible for the registration of sex offenders
18 pursuant to California Penal Code section 290, *et seq.*, shall not require
19 Registrants to appear in person in order to complete, process, and transmit
20 to the California Department of Justice periodic updates or re-registration
21 pursuant to California Penal Code section 290.012.

22
23 **ISSUED** as an Order of this Court on the _____ day of May, 2020, at _____.

24
25 _____
26 United States District Judge
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JOHN DOE #1, an individual;
JOHN DOE #2, an individual;
JOHN DOE #3, an individual; and
JOHN DOE #4, an individual

Plaintiffs,

vs.

ANDREW HALL, in his official capacity
as Chief of the Fresno Police Department;
and MARGARET MIMS, in her official
capacity as Fresno County Sheriff,

Defendants.

Case No.: 1:20-cv-00600-NONE-JDP

**[PROPOSED] ORDER SETTING
HEARING ON PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

1 Following the issuance of the Temporary Restraining Order in this action, the
2 Court hereby ORDERS that the hearing on Plaintiffs' Motion for Preliminary Injunction
3 will be on _____, _____, at _____.

4
5 Plaintiffs shall file the Motion on or before _____.

6
7 Defendant shall file an Opposition on or before _____.

8
9 Plaintiffs shall file a reply on or before _____.

10
11 **ISSUED** as an Order of this Court on the _____ day of May, 2020, at _____.

12
13
14 _____
United States District Judge