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# CALIFORNIA'S SHERIFFS MUST DO MORE TO SAVE THEIR COMMUNITIES FROM THE RAVAGES OF CORONAVIRUS

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# EXECUTIVE SUMMARY

California has quickly become one of the epicenters for the coronavirus pandemic. To date, the state has one of the highest infection rates and over [500 deaths](#) from the coronavirus. The [Center for Disease Control](#) currently predicts that the United States will see around 200,000 deaths even if citizens practice “social distancing,” which requires that people maintain six feet of distance from others.

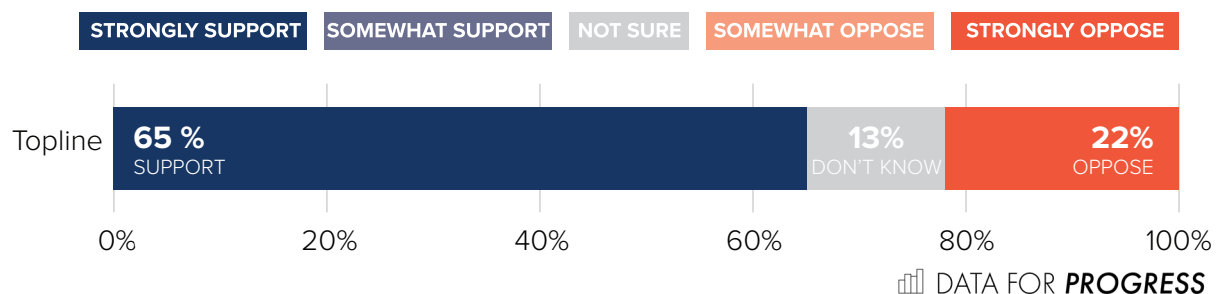
Yet, while Governor Newsom and local mayors have acted quickly to protect the general population by closing all non-essential businesses and ordering the nation’s first “[stay at home](#)” order, coronavirus is still spreading throughout California’s jails, despite the efforts by many to reduce jail populations. In [Orange County](#), at least [10 inmates](#) and [2 correctional staff](#) have tested positive for coronavirus; the jail is now on [full lockdown](#) and has at least one pending lawsuit. Because the coronavirus spreads quickly and easily, medical experts believe that it’s a matter of time before many inmates are diagnosed with coronavirus. According to the [Los Angeles County Sheriff’s Department](#), as of April 9, at least three

inmates and 25 employees have tested positive. Hundreds more are under quarantine.

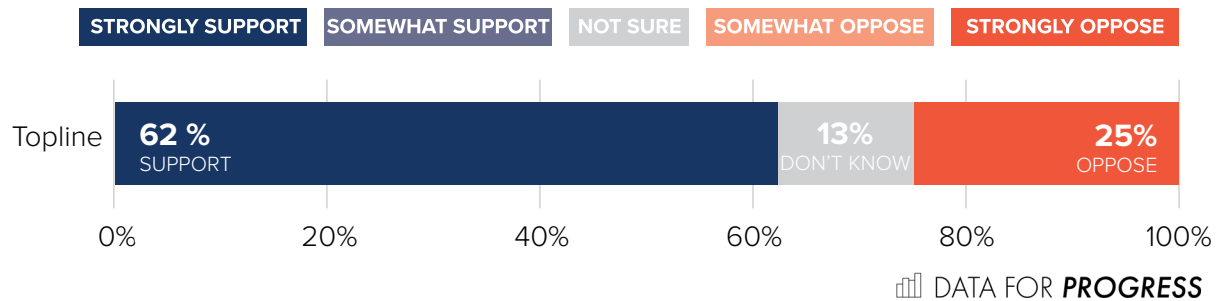
The spread of coronavirus in California jails have rendered the conditions of confinement for inmates so unsafe that they constitute the kind of unnecessary and wanton infliction of pain that is contrary to contemporary standards of decency and violates constitutional rights. The Supreme Court of the United States has held that it violates Eighth Amendment prohibitions of cruel and unusual punishment to hold inmates in unsafe conditions that expose them to serious health risks from infectious diseases.

Fortunately, there are measures to prevent an impending catastrophe, and polling from The Justice Collaborative and Data for Progress shows that the vast majority of people are in favor of measures that California sheriffs can take to reduce jail populations and prevent the spread of the disease. There is agreement across political parties that sheriffs should limit the number of arrests for misdemeanors, low-level offenses, and technical violations in order to reduce jail populations in light of the ongoing pandemic.

**65 percent of respondents, including 73 percent of Democrats and 59 percent of Republicans, strongly or somewhat support use of cite-and-release to prevent new bookings and admissions to jails.**



**62 percent of voters support suspending the arrests and booking people accused of violating terms of suspension, including 70 percent of Democrats (+54 percent vs. oppose) and 53 percent of Republicans (+13 percent).**



## BACKGROUND

Los Angeles has experienced one of the steepest increases in coronavirus cases since March. The Los Angeles County Sheriff Alex Villaneuva oversees the largest sheriff's department in the country, encompassing almost 20,000 employees, over 200 facilities, 40 contract cities which hire the LASD to patrol their streets, and around 17,000 jail inmates. The main jail named [Men's Central Jail](#) is the largest jail and mental health facility in the world.

Perpetually overcrowded and plagued for decades with accusations of violence and mismanagement, inmates in the Men's Central Jail don't have adequate access to soap and water or hand sanitizer. "Sometimes we get it; sometimes we don't," one inmate told the [Los Angeles Times](#). Because the Los Angeles County jail system is larger than some cities in America and everyone in there is completely enclosed within walls, social distancing is impossible.

While not all of California's jails are as large as the Twin Towers, they all have a high risk for a coronavirus outbreak largely because they experience high levels of churn. Unlike prisons, where people serve longer sentences, in jails,

arrestees consistently move in and out of the facility, either because they are being released or transferred.

Jails are especially unsafe during a pandemic, particularly the current one. There is now evidence that asymptomatic individuals can infect other people, so, while screening is important, it cannot capture everyone who may be infected. In addition, jails do not have adequate resources to quarantine those known or suspected to have coronavirus nor to treat those who do have the virus.

Health and correctional experts agree that decarceration is the single most important way jails can reduce health risks to inmates and employees. While access to soap and water along with consistent and thorough disinfection of surfaces can help stem the spread of a disease, even if the access were provided it would not be enough to prevent person-to-person spread in close quarters.

It's plain at this point that it will not be sufficient to release just a handful of people here and there. There must be widespread decarceration in order to protect the people who live and work inside of jails, as well as their families and the surrounding community. Aaron Littman, a clinical teaching

fellow at the University of California at Los Angeles School of Law, summed up the problem:

“Releasing a few people at a time, after litigating pretrial release conditions, is frankly too slow. It’s important work but not nearly enough. Once the coronavirus enters a detention center, it’s too late; it will spread like wildfire.”

During the coronavirus pandemic, and at all other times, sheriffs bear the duty to refrain from inflicting unnecessary suffering on prison populations by failing to provide reasonably safe conditions of confinement and exposing them to infectious diseases in contravention of the California and United States Constitutions.

As public health experts indicate, the only feasible way to mitigate the disease within jails and avoid inflicting unnecessary and wanton pain on inmates is to take swift action to significantly decrease the population in custody so that social distancing may be practiced and at-risk groups are out of harm’s way.

## CALIFORNIA JAILS

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Criminal justice reforms from the last few years have given counties more authority in how to manage their jail populations. In 2011, then-California Governor Jerry Brown signed [A.B. 109](#), commonly known as [realignment](#), which transferred people convicted of certain crimes -- so called “triple-nons”: non-serious, non-violent, non-sexual -- back to the counties to serve their time and be supervised upon release. In 2014, California voters passed [Prop 47](#), which reclassified some felonies as misdemeanors, and in 2016, [Prop 57](#), which changes parole eligibility.

While some counties have opted to use realignment as an opportunity to create split-sentencing or enhanced parole systems, others have simply continued to warehouse people in their jails, allowing them to become more and more crowded. [Jails](#) also began to hold more people for longer amounts of time, which required improvements that many sheriffs did not complete. As a result, California jails have become overcrowded in many counties while the facilities themselves have seen little improvement.

A recent investigation by [ProPublica and The Sacramento Bee](#) not only found that California sheriffs were housing inmates in unsanitary and dangerous conditions, the reporters also discovered that there was no real mechanism to hold these sheriffs accountable for how they spent the funding provided to them through realignment. The Fresno County jail experienced 11 inmate deaths in 2018, the highest ever. The [reporters](#) found that the high rate of inmate deaths in some inland California counties stemmed from failure to implement jail reforms despite federal court orders. Even seven years after realignment, California jails were on the whole ill-prepared to ensure the safety and health of their inmates.

Judges, prosecutors and defense attorneys have become concerned about the failure of jails to reduce the populations. California Chief Justice Tani Cantil-Sakauye [worried](#) in a March 28 emergency meeting that jails were not doing enough to stop the spread of coronavirus. “Together we must play our part in “flattening the curve” for our state and nation as this pandemic evolves,” she [said](#).

California sheriffs have a great deal of power. They run the jail, they have police powers within the county, they are able to arrest, investigate, and

execute search warrants. In many counties, sheriffs' offices are hired and paid to police smaller cities which don't have their own police department.

In order to reduce jail populations, California sheriffs, in connection with other law enforcement, prosecutors and judges, need to release people already in the jail – especially those who are at high risk of dying from coronavirus as well as those near the end of the sentence – and must stop booking new people into the jail.

## RELEASE THOSE HELD PRETRIAL & OTHERS NEAR THE END OF THEIR SENTENCE

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In California, sheriffs have broad discretionary power to release jail inmates for medical reasons. County boards can also implement “split sentencing,” which essentially allows people to serve part of their time in the community under supervision rather than behind bars.

Many sheriffs have used the power to release people from jail custody, often because the inmate was a celebrity. For example, ex-Los Angeles Sheriff Lee Baca infamously allowed Paris Hilton to leave the jail because of an alleged medical concern.

There are two groups of people in California jails that are eligible for release. First, there are people being held pretrial, meaning that they either cannot afford the assigned cash bail or are held without bail. In the Los Angeles County Jail, about

half of the inmates are [pretrial](#). [Data](#) from 2014 suggests that 62% of all California jail detainees had not yet been found guilty or sentenced. During the coronavirus pandemic, and at all other times, sheriffs bear the duty to refrain from punishing pre-trial detainees of the State through unsafe conditions of confinement, since by virtue of their presumed innocence any such deprivation contravenes the Fourteenth Amendment to the United States Constitution.

Many people are held pretrial in California and other states because of cash bail. Cash bail simply means that people must pay an amount of money to a bail bondsman for their freedom. The [median cash bail amount](#) in California (\$50,000) is 5 times the median amount (\$10,000) nationwide.

On April 6, the California Supreme Court issued an [emergency order](#) reducing bail to \$0 for most misdemeanor and low-level offenses with the specific goal of reducing jail populations. It is too early to know the impact, and it is also not immediately clear why some misdemeanor and low-level offenses were considered worthy of detention during the pandemic prior to the order.

There are also sheriffs who are doing more, either because of a court order or because of pressure from outside groups. In March, the Sacramento sheriff released 541 inmates. The Orange County jail [released](#) over 150. The Los Angeles County jail system is the largest in the country, typically holding around 17,000 inmates. As of April 7, however, the [jail population](#) had dropped below 14,000, largely due to the efforts of grassroots activists who pushed Sheriff Alex Villaneuva and the County Board of Supervisors to release people in county custody. Sheriff Villaneuva [tweeted](#) that he had released people who had 30-day sentences for non-violent offenses.

## STOP BOOKING FOR NEW VIOLATIONS

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Reducing jail populations, however, is not enough without preventing new bookings. In California, law enforcement have the power to refuse to make custodial arrests, a process known as “cite-and-release.” Under cite-and-release, people are given a notice to appear in court in lieu of being arrested and booked into jail.

## CITE AND RELEASE

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To reduce jail populations, sheriffs can use a “cite and release” policy under which state law allows the issuing of tickets or summons instead of arresting, booking, and jailing people and potentially introducing the coronavirus into the jail system. In California, sheriffs and other law enforcement officials can use [cite-and-release](#) for most non-violent misdemeanors. Sheriff Villaneuva in Los Angeles has said that [arrests](#) have gone down from 300 a day to about 60.

According to a survey done by The Justice Collaborative and Data for Progress, the vast majority of people across the political spectrum either strongly support or somewhat support the use of “cite and release” to prevent new jail bookings.

## NO ARRESTS FOR TECHNICAL VIOLATIONS

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Another broad category of arrests are people who have violated the terms of their parole and probation. In California, about  $\frac{1}{3}$  of all [jail admissions](#) are of people who have violated the terms of their release.

California historically has had higher [pretrial detention rates](#) than the rest of the nation, in part because there are more people on parole or probation. While Prop 47 made many low-level felonies misdemeanors -- which means law enforcement can use cite-and-release -- when those people are [rearrested](#), they often end up in jail.

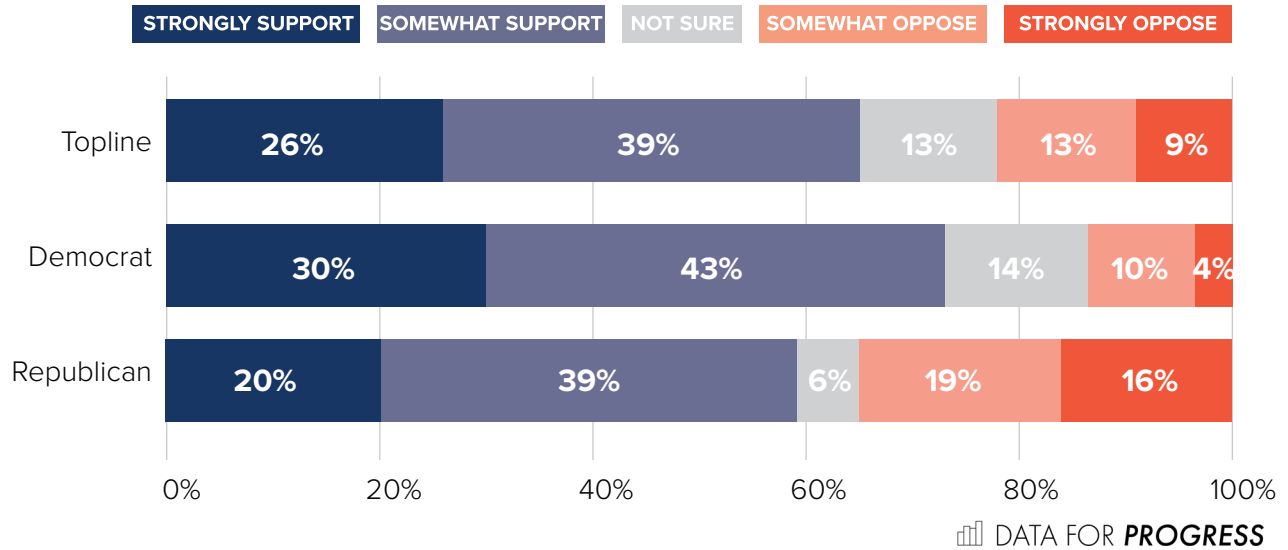
According to a survey done by The Justice Collaborative and Data for Progress, the vast majority of people across the political spectrum either strongly support or somewhat support a temporary cessation on the use of arrests for technical violations.

## METHODOLOGY

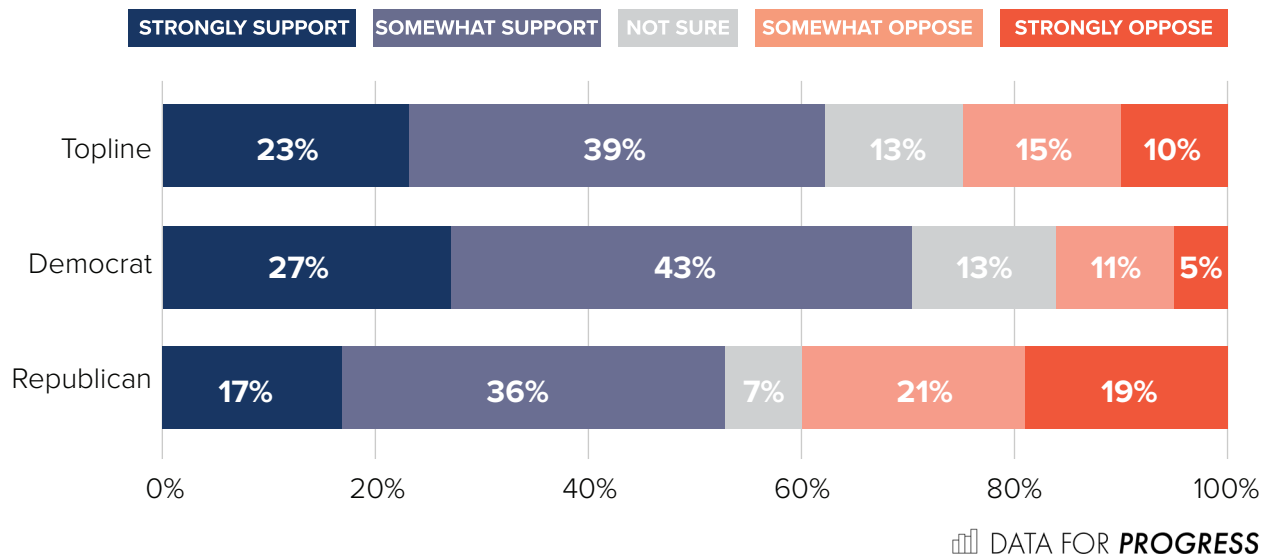
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From April 1 2020 to April 2 2020, Data for Progress conducted a survey of 1511 likely voters in California, using web panel respondents. The sample was weighted to be representative of likely voters by age, gender, education, race, and voting history. The survey was conducted in English. The margin of error is  $\pm 4.1$  percent.

**65% of respondents either strongly support or somewhat support the use of cite-and-release to prevent new bookings and admissions to jails. Over 70% of Democrats support the use of cite-and-release. Nearly 60% of Republicans support the use of cite-and-release. Cite-and-release is popular amongst all races and ethnic groups.**



**62% of all respondents either strongly support or somewhat support suspending the arrests and booking of people accused of violating the terms of supervision. These numbers are consistent across all races and ethnicity, as well as gender and age. 70% of Democrats and 53% of Republican support these measures as a way to reduce jail intake.**



COVER PHOTO  
NeONBRAND/Unsplash