



December 23, 2020

Heather Riel  
Employee Relations Manager  
Orange County Superior Court  
700 W. Civic Center Drive  
Santa Ana, CA 92701

Re: *Response to Orange County Employees Association's Request for Information*

Dear Ms. Riel:

In response to the recent surge in reported positive COVID-19 cases at worksites throughout Orange County, on or about December 14, 2020, OCEA sent the Orange County Superior Court (OCSC) a Request for Information (RFI). The RFI targeted data related to our members' workplace safety and was based, in part, on Cal/OSHA's Emergency Temporary Standards (ETS), which went into effect on November 30, 2020.

The request for information included the following items pertaining to each report of a confirmed, positive COVID-19:

- a. Agency
- b. Division/Program
- c. Classification
- d. Bargaining Unit
- e. Assigned Worksite Address
- f. Date of Positive Notification
- g. Date Last Worked at Worksite
- h. High-risk Exposure Period
- i. Exposed Workplace (determined by the locations to which the COVID-19 case had physical access during the high-risk exposure period)
- j. # of COVID-19 Exposed Employees (employees within 6 feet of a COVID-19 case for a cumulative total of 15 minutes within any 24-hour period during the COVID-19 case's "high risk exposure period")
- k. Result to EHS (Employee Health Services), if applicable

In your response, dated December 16, 2020, you notified OCEA that, for each positive COVID-19 case, you will provide the assigned court location, agency, classification, bargaining unit, date of positive test, last date on-site, and the number of close contacts on a daily basis, as needed.

However, you failed to indicate your intention to provide the exposed workplace and the high-risk exposure period for each COVID-19 case, which are data points Cal/OSHA's ETS mandate you to collect.



### **Major Outbreak Concern**

In reviewing the data OCSC provided in response to our continuing RFI, OCEA is concerned OCSC is experiencing a major COVID-19 outbreak, as defined by the ETS. As you are aware, the ETS define a major COVID-19 outbreak as “20 or more COVID-19 cases in an “exposed workplace” within a 30-day period.” The “exposed workplace” is defined as locations to which the COVID-19 case had physical access during the high-risk exposure period. The ETS define the “high-risk exposure period” differently for symptomatic and asymptomatic COVID-19 cases. For COVID-19 cases who develop COVID-19 symptoms, the high-risk exposure period is defined as “two days before they first develop symptoms until 10 days after symptoms first appeared, and 24 hours have passed with no fever, without the use of fever-reducing medications, and symptoms have improved.” For persons who test positive, but never develop COVID-19 symptoms, the high-risk exposure period is from “two days before until ten days after the specimen for their first positive test for COVID-19 was collected.”

Based on the data provided, in the last 30 days, OCSC reported 51 positive COVID-19 cases at Central Justice Center and 46 positive COVID-19 cases at West Justice Center. In the absence of data related to the exposed workplace and the high-risk exposure period, OCSC appears to be experiencing an “major COVID-19 outbreak,” which triggers OCSC’s obligation to:

- Provide testing to all employees in the exposed workplace at least twice weekly;
- Exclude positive cases and exposures until there are no new cases detected for a 14-day period;
- Clean areas where a COVID-19 case has been during the “high risk period.”
- Implement ventilation changes to mechanical ventilation systems including increasing filtration efficiency to at least MERV-13, or the highest efficiency compatible with the ventilation system.
- Evaluate whether HEPA air filtration units are needed in poorly ventilated areas;
- Determine the need for a respiratory protection program or changes to an existing respiratory protection program under Government Code Section 5144 to address COVID-19 hazards; and,
- Consider halting all or part of operations to control the virus.

### **Outbreak Concern**

Additionally, OCEA is concerned that two of OCSC’s worksites, Lamoreaux Justice Center (LJC) and Harbor Justice Center (HJC), are experiencing outbreaks. The ETS defines a COVID-19 outbreak as three or more cases in a 14-day period present in the same “exposed workplace” during the “high-risk exposure period.”

Based on the data provided by OCSC, in the last fourteen days, LJC reported eight (8) positive COVID-19 cases and HJC reported fifteen (15) positive COVID-19 cases. In the absence of data



related to the exposed workplace and the high-risk exposure period, which would refine the data provided, the positivity rate at these worksites meets the definition of an “outbreak” and triggers OCSC’s obligation to:

- Provide immediate testing to all employees in the exposed workplace;
- Exclude positive cases and exposures from work;
- Repeat the testing one week later;
- Continue testing employees at least weekly until the workplace no longer qualifies as an outbreak; and,
- Clean areas where a COVID-19 case has been during the “high risk period.”

### **Amended Continuing Request for Information**

In addition to the information requested in the RFI dated December 14, 2020, OCEA is now requesting the following information that evidences OCSC’s implementation of the ETS mandate and OCSC’s compliance therewith:

- Documentation that confirms immediate testing was provided to all employees in the exposed worksite;
- Documentation that confirms positive cases and exposures were excluded from the worksite;
- Documentation that confirms employees testing is continuing, or has continued, at least weekly or biweekly, depending on the worksite, until the workplace no longer qualifies as an outbreak;
- Documentation that evidences the implementation of ventilation changes to mechanical ventilation systems, if OCSC determines such changes are needed;
- Documentation that evidences the installation of HEPA air filtration units in poorly ventilated areas, if OCSC determines such installations are needed;
- Documentation that evidences OCSC’s respiratory protection program or changes to an existing respiratory protection program under Government Code Section 5144 to address COVID-19 hazards, if OCSC determines such programs are needed; and,
- Documentation that confirms the OCSC has cleaned areas where a COVID-19 case had been during the “high risk period.”

Please provide the information requested above to Heather Sutherland ([hsutherland@oceca.org](mailto:hsutherland@oceca.org)) each business day, until OCSC’s worksites’ daily confirmed COVID-19 case numbers abate to non-outbreak levels. If you can confirm OCSC is not experiencing an outbreak as defined by the ETS, you may disregard the portion of the demand related to implementation and compliance in response thereto.

Thank you in advance for your support of OCSC workers.



Sincerely,

ORANGE COUNTY EMPLOYEES ASSOCIATION

/s/

Charles G. Barfield  
General Manager

