IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BHARATKUMAR G. THAKKER, et al.,

Petitioners-Plaintiffs,

vs.

CLAIR DOLL, in his official capacity as Warden of York County Prison, et al.,

Respondents-Defendants.

Case No. 1:20-cv-00480-JEJ

Judge John E. Jones III

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION

TABLE OF CONTENTS

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Other Authorities

INTRODUCTION

COVID-19, the disease caused by a novel coronavirus, is an out-of-control wildfire raging across the United States. In just weeks, the number of cases has exploded. There are no vaccines, no cures, and no one is immune. The question now is what we can do to protect the most vulnerable individuals—older adults and others with underlying serious medical conditions—from contracting COVID-19 and fanning the further spread of the disease. And the only answer, according to public health experts, is to deprive COVID-19 of the fuel it needs by allowing people to keep safe distances from one another, to reduce the number of infections and ease the strain on overwhelmed local health systems.

The Plaintiffs in this case are civil detainees of Immigration and Customs Enforcement ("ICE") in York County Prison, Clinton County Correctional Facility, and Pike County Correctional Facility (collectively "ICE Facilities"), who are currently housed in conditions that put them right in the path of the fire. They are a mix of older and younger adults, all with pre-existing medical conditions, such as heart disease, diabetes, chronic kidney disease, immunosuppression, hepatitis B, liver disease, and hypertension, which make them particularly vulnerable to serious complications or death from COVID-19. They are being held in cramped conditions where "social distancing" and adequate hygiene are impossible. Indeed, two

Plaintiffs already exhibit symptoms associated with COVID-19, but they have not been tested or released to get medical treatment.

Clustering vulnerable individuals into a tinderbox and waiting for COVID-19 to explode through detention centers is not just a humanitarian crisis, it is a constitutional one. Courts have long recognized that the Eighth Amendment prohibition on cruel and unusual punishment forbids the government from leaving the incarcerated to suffer and die from infectious disease. As civil detainees, the Plaintiffs are entitled to due process protections even greater than what the Eighth Amendment requires. The Defendants, the wardens of ICE Facilities in Pennsylvania and U.S. government officials with authority over those facilities, are public officials charged to uphold the Constitution and protect the Plaintiffs. And the Constitution demands that these Defendants must act ***before*** the COVID-19 wildfire sweeps through the ICE Facilities, not wait until it is too late.

Because the Defendants have been unwilling to protect the Plaintiffs' health and constitutional rights, the Court must intervene. There is growing recognition among courts and even prison systems that releasing vulnerable detainees is the only way to protect them. Just yesterday, a panel of the Ninth Circuit *sua sponte* ordered the immediate release from civil detention of an immigrant who is in removal proceedings. This order was necessary "[i]n light of the rapidly escalating public health crisis, which public health authorities predict will especially impact

immigration detention centers." *Xochihua-Jaimes v. Barr*, Order, No. 18-71460 (9th Cir. Mar. 23, 2020). Other courts have taken similar actions. In another immigration matter, the court ordered the release of a 74-year old detainee and concluded, "the government's suggestion that [the plaintiff] should wait until there is a confirmed outbreak of COVID-19 in [the facility] before seeking release is impractical. By then it may be too late." *In re Extradition of Alejandro Toledo Manrique*, No. 19-71055, 2020 WL 1307109, at *1 (N.D. Cal. Mar. 19, 2020). Another court ordered the release of a diabetic criminal defendant who was awaiting sentencing on federal charges, even though there had been no COVID-19 cases in the facility and the court credited the government's representations about the precautions taken to prevent the spread of coronavirus. *United States v. Fellela*, No. 3:19-cr-79, 2020 U.S. Dist. LEXIS 49198, at *1 (D. Conn. Mar. 20, 2020); *see also United States v. Stephens*, (reconsidering bail determination and releasing pretrial detainee; "[a]lthough there is not yet a known outbreak among the jail and prison populations, inmates may be at heightened risk of developing COVID-19 should an outbreak develop."); *United States v. Barkman*, Case No. 3:19-cr-0052, 2020 U.S. Dist. LEXIS 45628, at *1, *3 (D. Nev. Mar. 17, 2020) (suspending confinement order and noting, "conditions of pretrial confinement create the ideal environment for the transmission of contagious disease").

The Court should join the growing chorus of judges around the country who recognize that this public health crisis demands immediate intervention. For the reasons discussed below, the Court should immediately issue a temporary restraining order or preliminary injunction requiring ICE to temporarily release Plaintiffs from custody so they have a chance to avoid infection and potential death from COVID-19. The Court has the authority to do so, and both the Constitution and public interest demand it in these extraordinary times.

NOTICE TO DEFENDANTS

Counsel for the Plaintiffs emailed the U.S. Attorney's Office for the Middle District of Pennsylvania to advise it of the emergency reasons requiring them to seek a temporary restraining order and/or preliminary injunction. In addition, the Plaintiffs' Counsel e-mailed a copy of the Petition for a Writ of Habeas Corpus and Complaint and Motion for Temporary Restraining Order and/or Preliminary Injunction, together with exhibits, to Assistant U.S. Attorney Joanne Sanderson.

FACTUAL BACKGROUND

As the Court is undoubtedly aware, COVID-19 is a disease that has reached pandemic status. Nevertheless, to support this motion and provide a broader context for the requested relief, the Plaintiffs have submitted a host of declarations from corrections, medical, and public health experts:

- **Exhibit 1**[1] is the declaration of Dr. Joseph Amon [hereafter, "Amon Decl."], a public health expert and epidemiologist who is the Director of the Office of Global Health at Drexel University's Dornsife School of Public Health. Amon Decl. ¶ 1. Dr. Amon previously worked as an epidemiologist at the Centers for Disease Control and Prevention (CDC) and has served on advisory committees for the World Health Organization (WHO). *Id.* at ¶ 2. One of his "main areas of research focus relates to infectious disease control, clinical care, and obligations of government related to individuals in detention settings." *Id.* at ¶ 4.

- **Exhibit 2** is the declaration of Dr. Jonathan Louis Golob [hereafter, "Golob Decl."], a specialist in infectious diseases and internal medicine, subspecializing in infections in immunocompromised patients, who is an Assistant Professor at the University of Michigan School of Medicine. Golob Decl. ¶ 1. Dr. Golob obtained his medical degree and completed his residency at the University of Washington School of Medicine in Seattle, where he also completed a Fellowship in Internal Medicine Infectious Disease. *Id.* Dr. Golob currently is "actively involved in planning and care for patients with COVID-19." *Id.*

- **Exhibit 17** is the declaration of Andrew Lorenzen-Strait [hereafter, "Lorenzen-Strait Decl."], an expert on ICE enforcement and removal policies and practices, who is an Executive Director for Health and Wellness at Lutheran Social Services of the National Capital Area overseeing migrant support services. Lorenzen-Strait Decl. ¶ 1. Mr. Lorenzen-Strait, who previously worked at ICE in various roles, including most recently as the Deputy Assistant Director for Custody Programs until May 2019, oversaw health and welfare programs and services in immigration detention, including innovative programs to serve vulnerable populations. *Id.* His relevant responsibilities included "overseeing field level enforcement decisions in cases involving parents as primary caretakers, and monitoring compliance with [Enforcement and Removal Operations] processes and standards." *Id*. at ¶ 2.

[1] All references to numbered Exhibits (*e.g.*, Exhibit 1, Exhibit 2, etc.) refer to the Exhibits attached to the Declaration of Witold J. Walczak dated March 24, 2020 (Dkt. No. 2). References to TRO-Exhibits (e.g., TRO-Exhibit 1, TRO-Exhibit) are being separately filed with this motion attached to the Declaration of Witold J. Walczak dated March 25, 2020.

I. COVID-19 Poses Grave Risk of Serious Illness or Death to Older Adults and Those with Certain Underlying Medical Conditions.

According to the World Health Organization, as of March 24, 2020, there are 334,981 confirmed cases of COVID-19 worldwide and 14,652 confirmed deaths.[2] In the United States alone, there are 41,000 confirmed cases and 479 confirmed deaths. Amon Decl. ¶ 5. These numbers are growing exponentially. *See id*.

People over the age of 45 and those with certain medical conditions face a greater risk of serious illness or death from COVID-19. Golob Decl. ¶ 3; Amon Decl. ¶¶ 7-10. The medical conditions that increase the risk of serious complications from COVID-19 include lung disease, heart disease, chronic liver or kidney disease (including hepatitis and dialysis patients), diabetes, compromised immune systems (such as from cancer, HIV, or autoimmune disease), blood disorders (including sickle cell disease), inherited metabolic disorders, stroke, and developmental delay. Golob Decl. ¶ 3; Amon Decl. ¶¶ 7-10. All of the Plaintiffs have one or more of these conditions and are at an increased risk of developing serious complications or dying from COVID-19, regardless of their age. Amon Decl. ¶¶ 11-22.

[2] *See* TRO-Ex. 1, *Coronavirus disease (COVID-19) Pandemic*, World Health Organization, https://www.who.int/emergencies/diseases/novel-coronavirus-2019 (last visited Mar. 24, 2020).

In many people, COVID-19 causes fever, cough, and shortness of breath. But for people over the age of 45[3] or with medical conditions that increase the risk of serious COVID-19 infection, shortness of breath can be severe. Golob Decl. ¶ 5. COVID-19 can severely damage lung tissue, which requires an extensive period of rehabilitation, and in some cases, can cause a permanent loss of respiratory capacity. COVID-19 may also cause inflammation of the heart muscle. *Id.* at ¶¶ 8-9. This is known as myocarditis; it can affect the heart muscle and electrical system, reducing the heart's ability to pump. *Id.* This reduction can lead to rapid or abnormal heart rhythms in the short term, and long-term heart failure that limits exercise tolerance and the ability to work. *Id.* Emerging evidence also suggests that COVID-19 can trigger an over-response of the immune system, further damaging tissues in a cytokine release syndrome that can result in widespread damage to other organs, including permanent injury to the kidneys and neurologic injury. *Id.* These complications can develop at an alarming pace. *Id.* at ¶¶ 6, 8. Patients can show the first symptoms of infection within two days after exposure, and their condition can seriously deteriorate in five days or sooner. *Id.*

[3] Even some younger and healthier people who contract COVID-19 may require supportive care, which includes supplemental oxygen, positive pressure ventilation, and in extreme cases, extracorporeal mechanical oxygenation. Golob Decl. ¶ 5.

The need for care, including intensive care, and the likelihood of death, is much higher from COVID-19 than from influenza. *Id.* at ¶ 4. According to recent estimates, the fatality rate of people with COVID-19 is about ten times higher than a severe seasonal influenza, even in advanced countries with highly effective health care systems. *Id.* For people in the highest risk populations, the fatality rate of COVID-19 is about 15 percent. *Id.*

Patients in high-risk categories who do not die from COVID-19 should expect a prolonged recovery, including the need for extensive rehabilitation for profound reconditioning, loss of digits, neurologic damage, and the loss of respiratory capacity. *Id.*

There is no vaccine against COVID-19 and there is no known medication to prevent or treat COVID-19. *Id.* at ¶ 10. The only known effective measures to reduce the risk for vulnerable people from injury or death from COVID-19 are to prevent them from being infected in the first place. *Id.* Social distancing, or remaining physically separated from known or potentially infected individuals, and vigilant hygiene, including washing hands with soap and water, are the only known effective measures for protecting vulnerable people from COVID-19. *Id.*

Projections by the CDC indicate that over 200 million people in the United States could be infected with COVID-19 over the course of the epidemic without

effective public health intervention, with as many as 1.5 million deaths in the most severe projections. *Id.* at ¶ 11.

II. COVID-19 Is Overwhelming Local Healthcare Systems and Rural Health Systems are Particularly Vulnerable

Most people in higher risk categories who contract COVID-19 need advanced support. Golob Decl. ¶ 8. This level of supportive care requires highly specialized equipment that is in limited supply, and an entire team of care providers, including 1:1 or 1:2 nurse to patient ratios, respiratory therapists, and intensive care physicians. *Id.* The extensive degree of support that COVID-19 patients need can quickly exceed local health care resources. *Id.* When healthcare systems are overwhelmed, doctors and public health authorities are inevitably left to allocate scarce resources about who receives care.

III. People Detained at the ICE Facilities Are at Increased Risk of COVID-19.

York County Prison is located in York, Pennsylvania. Pike County Correctional Facility is located in Lords Valley, PA. Clinton County Correctional Facility is located in McElhattan, PA. As of March 24, 2020, there were 851 confirmed cases of COVID-19 and seven COVID-19-related deaths in Pennsylvania (including eighteen in York County and four in Pike County).[4] The coronavirus

[4] TRO-Ex. 2, *Coronavirus (COVID-19)*, Pennsylvania Department of Health, https://www.health.pa.gov/topics/disease/coronavirus/Pages/Coronavirus.aspx (last visited Mar. 24, 2020).

outbreak has resulted in unprecedented health measures to facilitate and enforce social distancing, including in Pennsylvania. Amon Decl. ¶¶ 24-28. It is highly likely that COVID-19 will reach the ICE Facilities. *See* Amon Decl. ¶¶ 29-48. Sadly, COVID-19 may already be in the ICE Facilities; two Plaintiffs, Rodolfo Agustín Juarez Juarez and Bharatkumar G. Thakker, have exhibited symptoms consistent with COVID-19, but as of yesterday, neither of them had been tested or quarantined. Amon Decl. ¶¶ 12, 15; Ex. 8, Declaration of Rodolfo Agustín Juarez Juarez ¶¶ 6, 11 [hereafter "Juarez Decl."]; Ex. 3, Declaration of Bharatkumar G. Thakker at ¶18 [hereafter "Thakker Decl."]

Vulnerable people who live in institutional settings (such as immigration detention centers) are at grave risk of severe illness and death if infected by COVID-19. *See* Amon Decl. ¶¶ 29-35, 42-50. This is because the disease is transmitted mainly between people who are in close contact with one another (within about 6 feet) via respiratory droplets produced when an infected person coughs or sneezes. *Id*. at ¶¶23-24. Immigration detention facilities are "congregate settings," or places where people live or sleep in close proximity. Infectious diseases that are communicated by air or touch are more likely to spread in these environments. This presents "ideal incubation conditions" for the rapid spread of COVID-19 if and when it is introduced into a facility. *See* Amon Decl. ¶¶ 28, 30. Enclosed group environments, like cruise ships or nursing homes, have become the sites for the most

severe outbreaks of COVID-19. Amon Decl. ¶¶ 28, 30. The highest known person-to-person transmission rate for COVID-19 took place in a skilled nursing home facility in Kirkland, Washington, and on afflicted cruise ships in Japan and off the coast of California. Golob Decl. ¶12.

The conditions of immigration detention facilities pose a heightened public health risk for the spread of COVID-19 that is even greater than in non-carceral institutions, like cruise ships and nursing homes. Amon Decl. ¶ 29. Immigration detention facilities have even greater risk of infectious spread because of crowding, the proportion of vulnerable people detained, security-related restrictions, and often scant medical care resources. *Id*. at ¶ 30. People live in close quarters and cannot achieve the "social distancing" needed to effectively prevent the spread of COVID-19. *Id*. They may be unable to maintain the recommended distance of six feet from others, and may share or touch objects used by others. *Id*. at ¶¶ 23, 30-35, 47. Toilets, sinks, and showers are shared, without disinfection between each use. *Id*. at ¶ 30. Food preparation and service is communal with little opportunity for surface disinfection. *Id*. Staff arrive and leave on a shift basis, and there is limited ability to adequately screen staff for new, asymptomatic infection. *Id*. Many immigration detention facilities lack adequate medical infrastructure to address the spread of infectious disease and treatment of people most vulnerable to illness in detention. *Id*.

Declarations from Plaintiffs and lawyers familiar with the ICE Facilities attest to severely overcrowded living conditions where recommended social distancing is impossible. For example, immigrants at York are generally housed in dormitory style blocks, with a capacity of about 60 people per block, where the space is roughly divided in half between communal living space and sleeping bunks. Ex. 18, Declaration of Andrew Baranoski ¶ 8 [hereafter "Baranoski Decl."]. Detainees eat meals, congregate, make phone calls and watch television in the open communal space. *Id.* The population at York has ranged from about 400 to nearly 800 over the last year. *Id.* at ¶ 6. Detainees at York also face crowded, close conditions, where they are divided into pods and packed "60 people to a pod." Ruiz Decl. 7; *see also* Amon Decl. 32. Similarly at Clinton, inmate bunks are often not more than two feet apart, literally less than an arm's-length, with 72 people in a dormitory. Ex. 10, Declaration of Henry Pratt ¶ 6 [hereafter "Pratt Decl."]. Likewise at Pike, 48 men reside in a housing block, with eight-by-ten or twelve foot cells shared by three people with a bunk bed, a single bed, sink, and shower also occupying the space. Thakker Decl. ¶ 11. Inmates at Pike are usually within two feet of someone else, even in the common area where benches seat about 6 men each without extra space. *See id*. at ¶ 12; Ex. 13, Declaration of Agus Prajoga ¶ 8 [hereafter "Prajoga Decl."].

Delivery of meals and opportunities for necessary hygiene are also grossly deficient at the ICE Facilities. The Clinton facility is reported to have bugs, rats,

mice, chronically broken laundry facilities, and only four sets of sinks/showers for 72 men. Pratt Decl. ¶¶ 9-11. Similarly, Pike inmates must buy their own soap, are not given hand sanitizer or even adequate instructions about preventing virus spread and are forced to share cleaning supplies with the entire block. Thakker Decl. ¶ 14; Prajoga Decl. ¶ 9. At York, not even the medical staff wear gloves. Ex. 11, Declaration of Jean Herdy Christy Augustin ¶ 14 [hereafter "Augustin Decl."]. Correctional officers at York have been overheard saying that they actually "hope that we get corona, so we can get it over with." Augustin Decl. ¶ 14. At meal times, inmates at York are herded three times a day into the dining area, sitting at small tables of four people each, leaving maybe three feet of space between people. *Id*. at ¶ 17.

While Defendants are likely to argue that they have adequate protocols in place to address the epidemic, in a March 15 guidance ICE acknowledged the risks of coronavirus infection and COVID-19 to those in civil detention.[5] Apparently intended as a response to these acknowledged risks, the guidance is impractical and does not reflect the reality of the overcrowded conditions at the ICE Facilities. Although the ICE guidance suggests that "Detainees who meet CDC criteria for

[5] *See* TRO-Ex. 3, *ICE Guidance on COVID-19* ("ICE Guidance"), U.S. Immigration & Customs Enforcement, *available at* www.ice.gov/covid19 [hereafter, "ICE COVID-19 Guidance"].

epidemiologic risk of exposure to COVID-19 are housed separately from the general population," the reality is that this practice is not being implemented. Amon Decl. ¶¶ 45-48. Close quarters, lack of testing, and inability to enforce social distancing are an urgent problem. *Id*.

Similarly, although the ICE guidance suggests it will "place detainees with fever and/or respiratory symptoms in a single medical housing room, or in a medical airborne infection isolation room specifically designed to contain biological agents, such as COVID-19," Plaintiff's medical expert, Dr. Amon, concluded that cohorting vulnerable detainees together ***increases*** the risk of coronavirus infection and COVID-19. Amon Decl. ¶¶ 44–45. Tellingly, the ICE guidance acknowledges that the options to safeguard vulnerable detainees "depend on available space." *Id*. at ¶ 44. The reality and horror unfolding at the three prisons shows that the ICE Facilities do not have that space, and therefore are incapable of protecting Plaintiffs and other detainees from the risks of COVID-19.

Given the shortage of COVID-19 testing in the United States, it is likely that detention facilities are unable to conduct aggressive, widespread testing to identify all positive cases of COVID-19. *See id*. at ¶¶ 42-48. For this reason, a lack of proven cases of COVID-19 in context where testing is unavailable is functionally meaningless to determine whether there is a risk of COVID-19 transmission in an

institution. Golob Decl. ¶ 7. Even so, the risk is already present: an ICE detainee in Bergen County Jail tested positive for COVID-19.[6]

IV. Continued ICE Detention is Unsafe for Those Vulnerable to COVID-19.

Release from detention is the ***only*** option to protect vulnerable adults from COVID-19 because of the above-described conditions at the ICE Facilities. That fact has been recognized by public health experts and prison administrators alike. Dr. Amon has concluded that "the release of individuals who can be considered at high-risk of severe disease if infected with COVID-19 is a key part of a risk mitigation strategy." Amon Decl. ¶ 48. For that reason, Dr. Amon recommends the "release of high risk people from detention" as a priority and also consider releasing even those not identified as high risk because doing so will reduce the number of individuals in the facility, facilitating social distancing. Amon Decl. ¶¶ 48-49. In the event that vulnerable detainees have been exposed to COVID-19, Dr. Amon recommends testing where possible and the release of detainees to a quarantine setting outside of detention in coordination with local health authorities. *Id.* at ¶ 50.

Other public officials have likewise called for the release of eligible individuals from detention. The former Acting Director of ICE, John Sandweg, has

[6] TRO-Ex. 4, *ICE detainee tests positive for COVID-19 at Bergen County Jail*, U.S. Immigration & Customs Enforcement (Mar. 24, 2020), https://www.ice.gov/news/releases/ice-detainee-tests-positive-covid-19-bergen-county-jail.

stated that "ICE can, and must, reduce the risk [COVID-19] poses to so many people, and the most effective way to do so is to drastically reduce the number of people it is currently holding."[7] TRO-Ex. 6, *See also* J. David McSwane, *ICE Has Repeatedly Failed to Contain Contagious Diseases, Our Analysis Shows. It's a Danger to the Public*, Pro Publica (Mar. 20, 2020), https://bit.ly/3bqm2VT.

For this reason, courts around the country have ordered the release of people from detention and prison because of COVID-19. *See, e.g.*, *Xochihua-Jaimes v. Barr*, No. 18-71460 (9th Cir. Mar. 23, 2020) ("[I]n light of the rapidly escalating public health crisis, which public health authorities predict will especially impact immigration detention centers, the court sua sponte orders that Petitioner be immediately released from detention and that removal of Petitioner be stayed pending final disposition by this court."). *See also Stephens*, 2020 WL 1295155, at *3 (explaining that "the unprecedented and extraordinarily dangerous nature of the COVID-19 pandemic has become apparent" and that "inmates may be at a heightened risk of contracting COVID-19 should an outbreak develop"); *In re Extradition of Alejandro Toledo Manrique*, 2020 WL 1307109, at *1-3 (N.D. Cal. March 19, 2020) (ordering release on bond despite government assertions that

[7] *See* TRO-Ex. 5, John Sandweg, *I Used to Run ICE. We Need to Release the Nonviolent Detainees*, The Atlantic (Mar. 22, 2020), https://www.theatlantic.com/ideas/archive/2020/03/release-ice-detainees/608536/.

facility has preparedness plan in place and no cases have been confirmed); *Barkman*, 2020 U.S. Dist. LEXIS 45628, at *10-11 (modifying intermittent confinement as a condition of probation due to the COVID-19 pandemic); *United States v. Raihan*, No. 20-cr-68, Dkt. No. 20 at 10:12-19 (E.D.N.Y. Mar. 12, 2020) (deciding to continue a criminal defendant on pretrial release rather than remand to the Metropolitan Detention Center in part due to risk of COVID-19).

Some courts have started to take more sweeping action. The New Jersey Supreme Court has ordered the release of most county jail detainees. *See* TRO-Ex. 7, Order, Supreme Court of New Jersey, Docket No. 084230 (March 22, 2020), *available at* https://njcourts.gov/notices/2020/n200323a.pdf?c=4EF. Similarly, the Chief Justice of the Montana Supreme Court, in a March 20, 2020 letter, urged Montana judges to "review your jail rosters and release, without bond, as many prisoners as you are able, especially those being held for non-violent offenses." TRO-Ex. 8, Chief Justice Mike McGrath, Letter to Montana Courts of Limited Jurisdiction (Mar. 20, 2020), *available at* https://courts.mt.gov/Portals/189/virus/Ltr%20to%20COLJ%20Judges%20re%20COVID-19%20032020.pdf?ver=2020-03-20-115517-333.

V. Plaintiffs Must Be Released from Custody Because They are Vulnerable to Serious Illness or Death If Infected by COVID-19.

All Plaintiffs have underlying medical conditions or are of an age that increases their risk of serious illness or death if exposed to COVID-19. Amon Decl.

¶¶ 11-22. They are detained at the ICE Facilities as they await adjudication of their civil immigration cases.

Petitioner-Plaintiff Bharatkumar G. Thakker is a 65-year-old male citizen of India who has been detained by ICE at Pike County Correctional Facility for 27 months.[8] He suffers from several serious health conditions, including respiratory problems, declining kidney function, high blood pressure, high cholesterol, and a history of seizures. During this detention, he has twice required hospitalization. His age and serious health conditions place him at high risk of severe illness or death if he contracts COVID-19. Two days ago, Mr. Thakker's cell mate, who sleeps three feet away, started coughing, had chills and felt achy. As of March 23, Mr. Thakker also began coughing and feeling dizzy. The prison has neither tested nor quarantined either man. *See* Thakker Decl. ¶ 18.

Petitioner-Plaintiff Adebodun Adebomi Idowu is a 57-year-old man from Nigeria who is detained by ICE at Clinton County Correctional Facility.[9] Mr. Idowu suffers from Type II diabetes, high blood pressure, and high cholesterol. He receives medication for these conditions, including insulin and metformin, and has been hospitalized three times because the facility failed to provide him with insulin. As a

[8] This Court recently decided Mr. Thakker's petition for writ of habeas corpus. *See Thakker v. Lowe*, 1:19-cv-00664 (M.D. Pa.).

[9] Mr. Idowu currently has a writ of habeas corpus pending before this Court. *See Idowu v. Clinton Cty. Corr. Facility*, No. 1:20-cv-00146 (M.D. Pa.).

consequence of his age and health conditions, he is at a high risk of severe illness or death if he contracts COVID-19. *See* Ex. 4 Declaration of Adebodun Adebomi Idowu ¶¶ 3-9 [hereafter "Idowu Decl."].

Petitioner-Plaintiff Courtney Stubbs is a 52-year-old male citizen of Jamaica who has been detained by ICE at Pike County Correctional Facility. Mr. Stubbs receives treatment for multiple medical conditions. He is a kidney-transplant patient who receives a regimen of medications, suffers from Type II diabetes, and has heart stents. These serious maladies and his age place Mr. Stubbs at a high risk of severe illness or death if he contracts COVID-19. *See* Ex. 5, Declaration of Courtney Stubbs ¶¶ 3-4, 8-9 [hereafter "Stubbs Decl."]; Ex. 6, Declaration of Danielle Arizzi ¶¶ 3-4 [hereafter "Arizzi Decl."].

Petitioner-Plaintiff Meiling Lin is a 45-year-old female citizen of China who is detained by ICE at York County Prison. Ms. Lin has chronic hepatitis B. She also suffers from severe chronic pain, liver disease, and other medical complications as a result of her forced sterilization surgery in China. As a consequence of her health conditions, she is at a high risk of severe illness or death if she contracts COVID-19. *See* Ex. 9, Declaration of Meiling Lin ¶¶ 4-5, 11 [hereafter "Lin Decl."].

Petitioner-Plaintiff Jean H.C. Augustin is a 34-year-old male citizen of Haiti who is detained by ICE at York County Prison. He suffers from diabetes, high blood pressure, chronic anemia, and nerve issues. He also was the victim of a gunshot

wound that caused permanent partial disability, and suffers myriad health issues stemming from the injury. During his detention he has required multiple hospitalizations. As a consequence of his health conditions, coupled with the fact that he is responsible for processing new detainees every day in admissions, he is at a high risk of severe illness or death if he contracts COVID-19. *See* Augustin Decl. ¶¶ 13, 15, 22.

Petitioner-Plaintiff Rodolfo Agustín Juarez Juarez is a 21-year-old male citizen of El Salvador who is detained by ICE at York County Prison. Mr. Juarez suffers from diabetes. He has had a fever, persistent cough, and trouble breathing for the past week. The facility has told him it cannot test him for COVID-19 because it does not have tests. Mr. Juarez is at a high risk of severe illness or death if he contracts or has contracted COVID-19 because of his serious health conditions. *See* Juarez Decl. ¶¶ 6-7, 10-11.

Petitioner-Plaintiff Catalino Domingo Gomez Lopez is a 51-year-old male citizen of Guatemalan who is detained by ICE at York County Prison. Since being detained in November 2018, Mr. Gomez Lopez has had the flu four times. Most recently, in February of 2020, he was so ill that he was coughing blood. He has not been tested for COVID-19. Mr. Gomez Lopez is at a high risk of severe illness or death if he contracts or has contracted COVID-19 because of his age and serious

health conditions. *See* Ex. 15, Declaration of Catalino Domingo Gomez Lopez ¶¶ 4-5 [hereafter "Lopez Decl."].

Petitioner-Plaintiff Rigoberto Gomez Hernandez is a 52-year-old male Mexican national who is detained by ICE at Pike County Prison. Mr. Gomez Hernandez has multiple chronic health issues. He is diabetic and currently receiving treatment for an ulcer. As a consequence of his age and health conditions, Mr. Gomez Hernandez is at a high risk of severe illness or death if he contracts COVID-19. *See* Ex. 7, Declaration of Rigoberto Gomez Hernandez ¶¶ 3-5 [hereafter "Hernandez Decl."].

Petitioner-Plaintiff Henry Pratt is a 50-year-old male citizen of Liberia. He is detained by ICE at Clinton County Correctional Facility. Mr. Pratt suffers from Type II diabetes and high blood pressure, for which he receives medication. Mr. Pratt is at a high risk of severe illness or death if he contracts or COVID-19 because of his age and serious health conditions.[10] *See* Pratt Decl. ¶ 3.

Petitioner-Plaintiff Mayowa Abayomi Oyediran is a forty-year-old male citizen of Nigeria who is detained by ICE at York County Prison. Mr. Oyediran has severe asthma and has an infection in his lungs. Yet while in detention, he has not

[10] Mr. Pratt currently has a writ of habeas corpus pending before this Court, although the last docket entry is from June 10, 2019. *See Pratt v. Doll*, 3:19-cv-00342-RDM-CA (M.D. Pa.).

been given an inhaler or any other kind of treatment for his asthma. He has not been treated for the lung infection either. As a consequence of his age and health conditions, Mr. Oyediran is at a high risk of severe illness or death if he contracts COVID-19. *See* Oyediran Decl. ¶¶ 4-9.

Petitioner-Plaintiff Mansyur is a 41-year-old male citizen of Indonesia. He is detained by ICE at Pike County Prison. Mr. Mansyur has diabetes, thyroid issues, and high blood pressure. Mr. Mansyur is at high risk of severe illness or death if he contracts COVID-19 because of his serious health conditions. *See* Ex. 14, Declaration of Mansyur ¶¶ 3-5 [hereafter "Mansyur Decl."].

Petitioner-Plaintiff Agus Prajoga is a 48-year-old male citizen of Indonesia who is detained by ICE at Pike County Prison. Mr. Prajoga has diabetes, cholesterol, high blood pressure, and hepatitis B. As a consequence of his age and serious health conditions, Mr. Prajoga is at a high risk of severe illness or death if he contracts COVID-19. *See* Prajoga Decl. ¶¶ 3-5.

Petitioner-Plaintiff Dexter Anthony Hillocks is a 54-year-old male lawful permanent resident from Trinidad & Tobago. He is detained at Pike County Correctional Facility. Mr. Hillocks suffers serious health problems, including diabetes, high blood pressure, high cholesterol, and anemia. He also was recently diagnosed with leukemia. Mr. Hillocks is at high risk of severe illness or death

because of his age and serious health conditions if he contracts COVID-19. *See* Ex. 16, Declaration of Dexter Anthony Hillocks ¶¶ 5-7, 9 [hereafter "Hillocks Decl."].

VI. Defendants are Aware that Releasing Detainees is the only Viable Option to Protect Vulnerable Individuals from COVID-19.

In addition to the chorus of public health experts, the Defendants have been explicitly informed by their own medical advisors of the dangers of continuing to detain inmates in light of COVID-19. As early as February 25, 2020, Dr. Scott Allen and Dr. Josiah Rich, medical experts to the Department of Homeland Security, shared concerns about the specific risk to immigrant detainees as a result of COVID-19 with the agency. These experts warned of the danger of rapid spread of COVID-19 in immigration detention facilities. In a whistleblower letter to Congress, Dr. Allen and Dr. Rich recommended that "[m]inimally, DHS should consider releasing all detainees in high risk medical groups such as older people and those with chronic diseases." They concluded that "acting immediately will save lives not of only those detained, but also detention staff and their families, and the community-at-large."[11]

VII. ICE has Discretion to Release Inmates for Medical Reasons

ICE has a track record of releasing vulnerable detainees like Plaintiffs, especially for medical reasons. Ex. 17, Declaration of Andrew Lorenzen-Strait

[11] *See* TRO-Ex. 9, Scott A. Allen, MD, FACP and Josiah Rich, MD, MPH, Letter to House and Senate Committees on Homeland Security (Mar. 19, 2020), *available at* https://whistleblower.org/wp-content/uploads/2020/03/Drs.-Allen-and-Rich-3.20.2020-Letter-to-Congress.pdf.

[hereafter "Lorenzen-Strait Decl."], ¶¶ 4–5. Under ICE policies, individuals who did not yet have a serious physical illness but were vulnerable to medical harm were considered for release. When deciding whether to release medically-vulnerable detainees from custody, ICE considered whether the detainees had any physical or mental condition that would make them more susceptible to medical harm while in ICE custody. This could include individuals who were very old. *See* Lorenzen-Strait Decl. ¶ 7.[12]

Nor is detention required for ICE to achieve its goals. ICE has a range of highly effective tools at its disposal to ensure that individuals report for court hearings and other appointments, including conditions of supervision. For example, ICE's conditional supervision program, called ISAP (Intensive Supervision Appearance Program), relies on the use of electronic ankle monitors, biometric voice recognition software, unannounced home visits, employer verification, and in-person reporting to supervise participants. A government-contracted evaluation of this program reported a 99% attendance rate at all immigration court hearings and a 95% attendance rate at final hearings. *See* Lorenzen-Strait Decl. ¶ 15.

[12] Plaintiffs do not argue that they can force ICE to exercise discretionary authority to release them. Rather, the point is that historically, ICE practice has been to release at-risk detainees.

LEGAL STANDARD

On a motion for a preliminary injunction or temporary restraining order, the plaintiff "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Cerro Fabricated Prod. LLC v. Solanick*, 300 F. Supp. 3d 632, 647 n.5 (M.D. Pa. 2018) ("The standard for granting a preliminary injunction under Rule 65 is the same as that for issuing a TRO."). A motion for a temporary restraining order requires the Court to "engage in a delicate balancing of all the elements, and attempt to minimize the probable harm to legally protected interests." *Miller v. Skumanick*, 605 F. Supp. 2d 634, 641 (M.D. Pa. 2009), *aff'd sub nom. Miller v. Mitchell*, 598 F.3d 139 (3d Cir. 2010). Courts have broad power to fashion equitable remedies to address constitutional violations in prisons, *Hutto v. Finney*, 437 U.S. 678, 687 n.9 (1978), and "[w]hen necessary to ensure compliance with a constitutional mandate, courts may enter orders placing limits on a prison's population." *Brown v. Plata*, 563 U.S. 493, 511 (2011).

Immigrant detainees, even those with prior criminal convictions, are civil detainees entitled to the same Fifth and Fourteenth Amendment due process protections as any other pretrial detainee. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *E. D. v. Sharkey*, 928 F.3d 299, 306-07 (3d Cir. 2019). Due process rights

for civil detainees mean that they are "entitled to more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish." *Aruanno v. Johnson*, 683 F. App'x 172, 175 (3d Cir. 2017) (quoting *Youngberg v. Romeo*, 457 U.S. 307, 321-22 (1982)); *see also Bell v. Wolfish*, 441 U.S. 520, 535 n.16 (1979) ("Due process requires that a pretrial detainee not be punished."). As a result, conditions that would violate the Eighth Amendment are more than enough to also violate a civil detainee's due process rights. *See Natale v. Camden Cty. Corr. Facility*, 318 F.3d 575, 581 (3d Cir. 2003) (explaining that "the Fourteenth Amendment affords pretrial detainees protections 'at least as great as the Eighth Amendment protections available to a convicted prisoner'") (quoting *City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244 (1983)).

Courts "must not shrink from their obligation to enforce the constitutional rights of all persons, including prisoners [and] . . . may not allow constitutional violations to continue simply because a remedy would involve intrusion into the realm of prison administration." *Brown*, 563 U.S. at 511 (internal citations and quotations omitted).

ARGUMENT

I. Plaintiffs Meet their Burden to Show the Need For A Temporary Restraining Order and Preliminary Injunction.

Because there is no vaccine or cure for COVID-19, the only way to protect the Plaintiffs' constitutional due process rights is to immediately release them from

detention so they can escape the onslaught of COVID-19 ***before*** it strikes. Detention conditions that expose people to infectious disease are constitutionally intolerable even for convicted persons, let alone civil detainees entitled to due process protections.

Immediate injunctive relief is necessary because the danger here—vulnerable people with underlying health conditions condemned to prolonged illness and potentially death—is the quintessential irreparable harm. There is also an overwhelming public interest in limiting the spread of COVID-19, both to minimize further infections and to reduce strain on overwhelmed health systems. And, in light of the global COVID-19 pandemic, the balance of equities weighs heavily in favor of these older, vulnerable detainees, who must be released to self-isolate, and against Defendants' interest in indefinite confinement of Plaintiffs in life-threatening conditions. The Court should order the Plaintiffs released from custody.

A. Plaintiffs Are Likely to Succeed on the Merits of Establishing a Constitutional Violation.

1. Plaintiffs' Continued Detention at the ICE Facilities Violates Their Due Process Rights.

Plaintiffs are likely to establish a violation of their constitutional Due Process rights through conditions of confinement that expose them to the serious risks associated with COVID-19. "To determine whether challenged conditions of confinement amount to punishment, this Court determines whether a condition of

confinement is reasonably related to a legitimate governmental objective; if it is not, we may infer 'that the purpose of the governmental action is punishment that may not be constitutionally inflicted upon detainees *qua* detainees.'" *Sharkey*, 928 F.3d at 307 (quoting *Hubbard v. Taylor*, 538 F.3d 229, 232 (3d Cir. 2008)). Put differently, to assess whether a condition constitutes impermissible punishment, "[w]e must ask, first, whether any legitimate purposes are served by these conditions, and second, whether these conditions are rationally related to these purposes." *Hubbard*, 538 F.3d at 232 (internal citations and quotation marks omitted). Conditions must be assessed in their totality. *Id.* at 233.

Here, Plaintiffs are detained in conditions without adequate CDC-mandated social distancing, dramatically increasing the likelihood they will contract COVID-19 and fall ill. Plaintiffs and declarants describe overcrowded conditions, including a minimum of fifty detainees sleeping in one dormitory or housing unit with bunk beds positioned so close that people sleep just arm's length apart. *See* Pratt Decl. ¶¶ 6-7; Augustin Decl. ¶ 16; Idowu Decl. ¶ 11; Juarez Decl.¶ 13; Thacker Decl. ¶ 11; Stubbs Decl. ¶ 13; Ruiz Decl. ¶ 7. Meals are taken at packed tables placed close together, seated shoulder to shoulder, Idowu Decl. ¶ 12; Augustin Decl. ¶ 17, leading some detainees to eat in their beds, Pratt Decl. ¶ 8. York and Clinton have communal bathrooms with limited sinks and showers, which are not cleaned with frequency. Augustin Decl. ¶ 20; Lin Decl. ¶ 16.

Plaintiffs also are detained in unhygienic conditions. Detainees at York and Pike have no access to hand sanitizer or disinfectants, Augustin Decl. ¶ 21; Prajog Decl. ¶ 9; Mansyur Decl. ¶ 10; Juarez Decl. ¶ 16, while detainees at Pike are forced to share a small daily soap ration among cellmates, Stubbs Decl. ¶ 16. When detainees are forced to carry out cleaning duties, they are not given any protective gear, and thus "are being exposed to bodily fluids." Ruiz Decl. ¶ 9; *see also* Idowu ¶ 13. And, despite the looming threat of COVID-19, many medical staff and correctional officers do not wear gloves or masks in the facilities. Augustin Decl. ¶ 14; Juarez Decl. ¶ 17; Idowu Decl. ¶ 14; Lopez Decl. ¶ 12. This is just the tip of the iceberg of the unsanitary conditions Plaintiffs face on a daily basis.

Unquestionably, in the face of ample medical evidence that social distancing is the only way to avoid COVID-19, Amon Decl. ¶¶ 10, 23, 24, 30, 47, keeping at-risk Plaintiffs detained in such close proximity to one another and without the sanitation necessary to combat the spread of the virus serves ***no*** legitimate purpose. Nor is detention under these circumstances rationally related to the enforcement of immigration laws.[13] *See Brown v. May*, No. 2:16-cv-01973, 2019 WL 5445923, at *3-4 (E.D. Pa. Oct. 23, 2019) (exposing plaintiff to "limited space in the cells, blue

[13] ICE has a number of tools available—beyond physical detention—to meet its enforcement goals, as demonstrated by the enforcement measures already used when individuals with serious medical conditions are released from detention. Lorenzen-Strait Decl. ¶¶ 14-15. The situation presented by COVID-19 is no different.

boats [plastic sleeping shells] on the floor, uncovered toilets, and rodent and insect infestations" was "not rationally related to the interest in managing an overcrowded prison").

Courts in this Circuit have repeatedly found such "unsanitary, unsafe, or otherwise inadequate conditions" sufficient to state a Due Process claim. *Petty v. Nutter*, No. 15-3430, 2016 WL 7018538, at *2 (E.D. Pa. Nov. 30, 2016); *Grohs v. Lanigan*, No. 16-7083, 2019 WL 1500621, at *11 (D.N.J. Apr. 5, 2019) (allegations of exposure to "extreme heat combined with lack of potable water, as well as generally unsanitary conditions" sufficient to state a conditions-of-confinement claim under the Fourteenth Amendment).[14] Under these circumstances, Plaintiffs' conditions of confinement violate Plaintiffs' due process rights.

[14] *See also Hargis v. Atlantic Cty. Justice Facility*, No. 10-1006, 2010 WL 1999303, at *10 (D.N.J. May 18, 2010) (cell conditions where plaintiff was frequently splashed with urine, feces, and toilet water while sleeping in a small cell with two inmates were sufficient to suggest a due process violation); *Wagner v. County of Montgomery*, No. 10-2513, 2014 WL 4384493, at *4 (E.D. Pa. Sept. 4, 2014) (sleeping in a quadruple bunk next to a toilet for just under a year, leading to physical altercations with cellmates, stated a plausible due process claim); *Inmates of Northumberland Cty. Prison v. Reish*, No. 08-cv-0345, 2009 WL 8670860, at *8 (M.D. Pa. Mar. 17, 2006) (triple-celling exacerbated conditions including "poor ventilation, extreme seasonal temperatures, regular vermin infestation, fire hazards, and access to physical and psychological medical care").

2. Defendants' Deliberate Indifference to Plaintiffs' Health and Safety Violates Even the Stricter Eighth Amendment Standards.

As noted above, civil detainees can establish a due process violation by demonstrating that the challenged conditions or conduct violate the Eighth Amendment's prohibition on cruel and unusual punishment. Here, the Plaintiffs are likely to establish that Defendants violated Plaintiffs' constitutional rights by condemning them to living conditions that expose them to infectious disease with life-threatening potential complications, warranting a Court order requiring Plaintiffs' immediate release.

Plaintiffs' current conditions of confinement at the ICE facilities, with COVID-19 tearing through the United States and its places of detention, are unconstitutional. The government has an affirmative duty to provide conditions of reasonable health and safety to the people it holds in its custody. The government violates the Constitution when it "fails to provide for his basic human needs—e.g., food, clothing, shelter, medical care, and reasonable safety" for those in custody. *DeShaney v. Winnebago Cty. Dep't of Soc. Servs.*, 489 U.S. 189, 199-200 (1989); *see also Union Cty. Jail Inmates v. Di Buono*, 713 F.2d 984, 999, 1008 (3d Cir. 1983) (explaining that conditions are cruel and unusual when they "deprive inmates of the minimal civilized measure of life's necessities," such as the "necessity" of "habitable

shelter," as measured under "contemporary standards of decency" (internal quotation marks omitted)).

To prevail on a claim that conditions of confinement violate the Eighth Amendment, a plaintiff must meet two requirements: (1) the deprivation alleged must objectively be "sufficiently serious," and (2) the "prison official must have a sufficiently culpable state of mind," such as deliberate indifference to the prisoner's health or safety. *See Thomas v. Tice*, 948 F.3d 133, 138 (3d Cir. 2020) (quoting *Farmer v. Brennan*, 511 U.S. 825, 834 (1994)).

Leaving those in custody in the path of infectious disease violates the Eighth Amendment. The Supreme Court has recognized that the government violates the Eighth Amendment when it crowds prisoners into cells with others who have "infectious maladies," "even though the possible infection might not affect all of those exposed." *Helling v. McKinney*, 509 U.S. 25, 33 (1993) (citing *Hutto v. Finney*, 437 U.S. 678, 682 (1978)). This Court has likewise recognized that a plaintiff states an Eighth Amendment claim when forced into living conditions where infectious disease is rampant. *See Stewart v. Kelchner*, No. 06-2463, 2007 WL 9718681, at *13 (M.D. Pa. May 11, 2007), *report and recommendation adopted*, 2007 WL 9718672 (M.D. Pa. June 1, 2007) (allowing conditions of confinement claim to proceed after the plaintiff was placed in a cell where he was exposed to and developed Methicillin-resistant Staphylococcus aureus (MRSA)).

Here, there is no question that the risk posed by COVID-19 is "serious" and that Defendants are being deliberately indifferent to that risk. The test for the "seriousness" of a medical need is flexible, and is satisfied either by expert medical testimony or when it is "so obvious that a lay person would easily recognize the necessity for a doctor's attention." *Hinerman v. Karnes*, No. 14-0408, 2015 WL 268761, at *3 (M.D. Pa. Jan. 21, 2015). While a layperson would surely recognize the risks posed by COVID-19 under the circumstances, Plaintiffs have submitted expert evidence demonstrating the seriousness of the risk COVID-19 poses to Plaintiffs if they remain in the ICE Facilities. COVID-19 is highly contagious and can cause severe health problems and death, especially in vulnerable persons. *See supra* Factual Background, Part I. Moreover, there are already reported cases around the country of contagion inside of prisons and detention facilities. *See supra* Factual Background, Part III. The Plaintiffs in this case are at specific and heightened risk because of their age and underlying health conditions. *See supra* Factual Background, Part V.

Defendants are also aware of the serious risks that COVID-19 poses to detained populations. First, the Plaintiffs themselves have raised concerns at the ICE Facilities about the risks they face from COVID-19. Thakker Decl. ¶ 13; *see also* Pratt Decl. ¶¶ 12-15. Advocacy groups have also notified Defendants about the threat posed by COVID-19 in ICE detention centers. *See, e.g.*, Ex. 20, Witold

Walczak, Vanessa Stine, and Muneeba Talukder of the ACLU, March 13, 2020 Letter to Defendant Simona Flores-Lund. ICE has also released guidance showing that it is aware of the spread of COVID-19, even if its procedures plainly fail to address the threat that it poses. *See* Amon Decl. ¶¶ 43-46.

In addition to Defendants' actual knowledge of the risk, the Plaintiffs can establish that Defendants are aware of and deliberately indifferent to the risk of COVID-19 through circumstantial evidence that the risk is obvious. The obviousness of the risk the Plaintiffs face, by itself, is enough to allow a factfinder to conclude that Defendants know of the risk. *Phillips v. Superintendent Chester SCI*, 739 F. App'x 125, 129 n.7 (3d Cir. 2018) (citing *Farmer*, 511 U.S. at 842). Put another way, deliberate indifference may be shown through circumstantial evidence. *Farmer*, 511 U.S. at 842 (explaining that "[w]hether a prison official had the requisite knowledge of a substantial risk is a question of fact subject to demonstration in the usual ways, including inference from circumstantial evidence").

Here, there is overwhelming evidence that Defendants are aware of this obvious risk. Medical experts for the Department of Homeland Security have specifically identified the risk of COVID-19 spreading to ICE detention centers.[15]

[15] *See* TRO-Ex. 9, Scott A. Allen, MD, FACP and Josiah Rich, MD, MPH, Letter to House and Senate Committees on Homeland Security (Mar. 19, 2020), *available at*

An ICE detainee in Bergen County Jail has tested positive for COVID-19.[16] Immigration courts in both New York and New Jersey were closed due to confirmed cases.[17] John Sandweg, a former acting director of ICE, has written publicly about the need to release nonviolent detainees because ICE detention centers "are extremely susceptible to outbreaks of infectious diseases" and "preventing the virus from being introduced into these facilities is impossible."[18] Prisons and jails around the country are ***already*** releasing non-violent detainees because the risk of contagion is overwhelming.[19] Increasingly, the risk to detainees is obvious to Courts as well.

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https://whistleblower.org/wp-content/uploads/2020/03/Drs.-Allen-and-Rich-3.20.2020-Letter-to-Congress.pdf.

[16] TRO-Ex. 4, *ICE detainee tests positive for COVID-19 at Bergen County Jail*, U.S. Immigration & Customs Enforcement (Mar. 24, 2020), https://www.ice.gov/news/releases/ice-detainee-tests-positive-covid-19-bergen-county-jail.

[17] TRO-Ex. 10, Priscilla DeGregory, *Coronavirus shuts down some NYC and NJ immigration courts*, New York Post (Mar. 24, 2020), https://nypost.com/2020/03/24/coronavirus-shuts-down-some-nyc-and-nj-immigration-courts/.

[18] *See* TRO-Ex. 5, John Sandweg, *I Used to Run ICE. We Need to Release the Nonviolent Detainees*, The Atlantic (Mar. 22, 2020), https://www.theatlantic.com/ideas/archive/2020/03/release-ice-detainees/608536/.

[19] *See* TRO-Ex. 7, Order, Supreme Court of New Jersey, Docket No. 084230 (March 22, 2020) (ordering release of most county jail detainees), *available at* https://njcourts.gov/notices/2020/n200323a.pdf?c=4EF; *United States v. Stephens*, No. 15-cr-95, 2020 WL 1295155, at *2 (S.D.N.Y. Mar. 19, 2020) (concluding that the "unprecedented and extraordinarily dangerous nature of the COVID-19 pandemic" constituted compelling circumstances to adjust a defendant's bail conditions and release him, even though there was "not yet a known outbreak among the jail and prison populations" when the order was issued).

See, e.g., *Xochihua-Jaimes v. Barr*, No. 18-71460 (9th Cir. Mar. 23, 2020) (Order); *Stephens*, 2020 WL 1295155; *Barkman*, 2020 U.S. Dist. LEXIS 45628; *Fellela*, 2020 U.S. Dist. LEXIS 49198; *In re Extradition of Alejandro Toledo Manrique*, 2020 WL 1307109; *Raihan*, No. 20-cr-68, Dkt. No. 20.

In short, the evidence shows that COVID-19 poses a serious risk and that Defendants are aware of the risk both from direct notice and from circumstantial evidence that the risk is entirely obvious. Defendants' failure to release detainees from these intolerable conditions is deliberate indifference to that risk, in violation of the Plaintiffs' constitutional rights. *See Hinerman*, 2015 WL 268761, at *4 ("A prison official is deliberately indifferent if he knows that a prisoner faces a substantial risk of harm and fails to take reasonable steps to avoid such harm.").

The evidence is overwhelming that the ***only*** way to abate the substantial risk of serious harm to Plaintiffs is immediate release from detention. Public health authorities agree that the only way to protect vulnerable individuals from COVID-19 is to practice "social distancing"—i.e., generally self-isolating and keeping a minimum distance from others— and improved hygiene practices that are utterly impossible in the ICE Facilities. *See* Amon. Decl. ¶¶ 23-24, 30, 32-34, 45. Against the mountain of evidence that social distancing is the only way to stem the tide of COVID-19, Defendants have failed to take the steps necessary to remove barriers

that prevent Plaintiffs from proactively engaging in social distancing, self-isolation, and appropriate hygiene.

The deliberate indifference of Defendants is therefore "manifest," for the refusal to protect Plaintiffs exposes them to "undue suffering or the threat of tangible residual injury." *Monmouth Cty. Corr. Inst. Inmates v. Lanzaro*, 834 F.2d 326, 346-47 (3d Cir. 1987) (internal quotation marks omitted); *Brigaerts v. Cardoza*, 952 F.2d 1399 (9th Cir. 1992) ("Repeated exposure to contagious diseases may violate the Eighth amendment if prison officials show deliberate indifference to serious medical needs.").

B. Infection With a Lethal Virus That Lacks Any Vaccine or Cure Constitutes Irreparable Harm.

Plaintiffs have moved for a temporary restraining order and preliminary injunction because the difference of even just a few days may be the difference between life and death. Cases of COVID-19 have increased exponentially in a matter of weeks. *See supra* Factual Background, Part I. COVID-19 has already spread in detention facilities around the country.

Given the deadliness of the disease and the country's over-taxed medical system, there is a real possibility that absent immediate relief from the Court, Plaintiffs will be infected with COVID-19, and possibly die or suffer long-term health consequences as a result. *See supra* Factual Background, Parts I, III. Plaintiffs are older adults or people with pre-existing medical conditions that

increase the likelihood of severe illness or death if they contract COVID-19. *See supra* Factual Background, Part V. Even for those infected who survive, there may be a prolonged recovery, including the need for extensive rehabilitation for profound reconditioning, loss of digits, neurologic damage, and the loss of respiratory capacity. *See supra* Factual Background, Part I.

These life-and-death stakes are sufficient to establish a likelihood of irreparable harm in support of injunctive relief. Even the failure to ***test*** for a disease has been sufficient to support a finding of irreparable harm. *See Boone v. Brown*, No. 05-0750, 2005 WL 2006997, at *14 (D.N.J. Aug. 22, 2005) (allegation of refusal to provide adequate testing for highly contagious infectious disease sufficient to demonstrate irreparable harm); *Austin v. Pa. Dep't of Corr.*, No. 90-7497, 1992 WL 277511, at *7 (E.D. Pa. Sept. 29, 1992) (granting preliminary injunction for prison to develop testing and protocol for tuberculosis); *see also Jolly v. Coughlin*, 76 F.3d 468, 477 (2d Cir. 1996) (correctional officers have an affirmative obligation to protect prisoners from infectious disease).

The risks here are even more extreme, and the ICE Facilities' ongoing failure to provide conditions of basic health and safety risks irreparable harm to the Plaintiffs. *See Padilla v. U.S. Immigration & Customs Enforcement,* 387 F. Supp. 3d 1219, 1231 (W.D. Wash. 2019) (recognizing that "substandard physical conditions, [and] low standards of medical care" in immigration detention constitute

irreparable harm justifying injunctive relief). The Constitution does not require that Plaintiffs may obtain a remedy only after they have been exposed to coronavirus, developed COVID-19, and suffered its grave consequences. As the Supreme Court has explained, "a prison inmate also could successfully complain about demonstrably unsafe drinking water without waiting for an attack of dysentery." *Helling v. McKinney*, 509 U.S. 25, 33 (1993).

C. There is a Strong Public Interest in Minimizing the Spread of COVID-19 through Social Distancing and Hygiene Practices that are Impossible at the ICE Facilities.

"It is always in the public interest to prevent the violation of a party's constitutional rights." *Buck v. Stankovic*, 485 F. Supp. 2d 576, 586-587 (M.D. Pa. 2007) (internal quotation marks and citation omitted). In this case, however, the public interest in minimizing the spread of COVID-19 is overwhelming and nearly impossible to overstate.

First, the disease is highly contagious and has no vaccine or cure, meaning that each new infection may result in still more individuals becoming infected. *See supra* Factual Background, Part I. Healthcare professionals have accordingly—and nearly unanimously—agreed that the most critical actions that can be taken are preventive measures such as self-isolating, maintaining a distance of six feet from other persons, and frequent disinfection. *See id.* These measures are simply not possible in the conditions at the ICE Facilities, as detailed above. Even with the

best-laid plans to address the spread of COVID-19 in detention facilities, the release of high-risk individuals is a key part of a risk mitigation strategy. Amon. Decl. ¶ 48. And because prisons and other detention facilities are among the largest employers in rural Pennsylvania counties, contagion within these facilities will almost certainly spread, via staff, to the surrounding communities.

Second, there is a strong public interest in minimizing the spread of COVID-19 to help address the overwhelmed state of the U.S. medical system. Recent estimates suggest that due to lack of available Intensive Care Unit beds, hospitals in York, Pike, and Clinton counties will be some of the most strained in all of Pennsylvania, with demand 26 times greater than the existing capacity in ICUs. *See supra* Factual Background, Part II.[20] It is accordingly in the public interest to minimize the number of infections, or at the very least slow the spread of the virus to help allow the medical system time to treat current patients and expand its capacity. *See supra* Factual Background, Parts I-II.

Third, it is also in the public interest to release detainees with particular medical vulnerabilities. The release of people most vulnerable to COVID-19 reduces the overall health risk for detainees and facility staff alike at the ICE

[20] TRO-Ex. 11, Nathaniel Lash and Brett Sholtis, *Demand for ICU beds will greatly outstrip availability if coronavirus hits Pa. hard*, Bucks County Courier Times (Mar. 20, 2020), https://www.buckscountycouriertimes.com/news/20200320/demand-for-icu-beds-will-greatly-outstrip-availability-if-coronavirus-hits-pa-hard.

Facilities. *See* Amon Decl. ¶ 49. ICE has an interest in preventing any potential spread of COVID-19 in its detention facilities, particularly because detainees face great difficulty engaging in proper hygiene and social distancing in a detention environment. *See supra* Factual Background, Part III. Immigration detention facilities face greater risk of infectious spread because of crowding, the high percentage of detained people vulnerable to serious illness in the event of COVID-19 transmission, and limited availability of medical care. Amon Decl. ¶¶ 29-35. Public health officials have testified that the release of vulnerable individuals is key to the risk mitigation strategy of any detention facility because it reduces the total number of detainees, allows for greater social distancing, and prevents overloading the work of detention staff. *See supra* Factual Background, Part IV. Plaintiffs' release not only imposes minimal harm to the government, but also ***furthers*** ICE's interests in maintaining a healthy and orderly environment at ICE Facilities.

D. The Balance of Equities Favors Releasing the Plaintiffs over Continued Detention In the Midst of this Public Health Crisis.

The balance of equities weighs heavily in favor of releasing the Plaintiffs—a limited number of older civil detainees whose medical conditions place them at heightened risk from COVID-19—from ICE custody. Plaintiffs are not incarcerated because they were convicted of or pleaded guilty to a crime. They are civil detainees

awaiting their day in immigration court. Most are not even subject to mandatory detention, but are merely being detained at ICE's discretion.

Defendants' countervailing interest in indefinitely detaining the Plaintiffs in dangerous conditions is weak at best. To the contrary, ICE has in the past exercised its discretion to release vulnerable detainees like Plaintiffs, especially for medical reasons. *See supra* Factual Background, Part VII. That approach makes sense because ICE has many other methods to keep track of individuals other than keeping them in indefinite detention. Lorenzen-Strait Decl. ¶ 15. These methods are more than adequate to accomplish ICE's goals.[21]

II. The Court Should Not Require Plaintiffs to Provide Security Prior to Issuing a Temporary Restraining Order.

Federal Rule of Civil Procedure 65(c) provides that "[t]he court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." However, Rule 65(c) invests the district court with discretion as to the amount of

[21] If anything, under the unusual circumstances of this pandemic, there are fewer concerns than normal about flight risk from releasing detainees. *See In re Extradition of Alejandro Toledo Manrique*, 2020 WL 1307109, at *1 ("The Court's concern was that Toledo would flee the country, but international travel is hard now. Travel bans are in place, and even if Toledo got into another country, he would most likely be quarantined in God-knows-what conditions, which can't be all that tempting.").

security required and whether to waive the requirement altogether. *Temple Univ. v. White*, 941 F.2d 201, 219 (3d Cir. 1991).

In deciding whether to waive the security requirement in noncommercial cases, the Third Circuit considers the possible loss to the enjoined party, the hardship that a bond requirement would impose on the applicant, and the special nature of suits to enforce important federal rights or public interests. *Id.* District courts routinely exercise this discretion to require no security in cases brought by indigent and/or incarcerated people. *See, e.g., S. Camden Citizens in Action v. N.J. Dep't of Envtl. Prot.*, 145 F. Supp. 446, 504 (D.N.J. 2001) (indigent and non-profit plaintiffs enforcing civil rights); *Simcox v. Delaware County*, No. 91-6874, 1992 WL 97896, at *6 (E.D. Pa. May 5, 1992). This Court should do the same here.

CONCLUSION

The country faces a public health crisis of epic proportions. COVID-19 presents risks to all of us, and has forced us to come together as a country, put partisanship aside, and do what is right for the community and the public health. We must allow and encourage everyone to engage in practices that flatten the curve—social distancing and vigorous hygiene. This protects the most vulnerable among us and hopefully gives our overtaxed healthcare system the chance to treat those most gravely affected by COVID-19. Plaintiffs are among the most vulnerable, sitting ducks who have no choice but to wait for this deadly virus to rip through the ICE

Facilities and leave havoc in its wake. The only humanitarian and constitutional solution is to order the immediate release of these Plaintiffs so they can protect themselves to the greatest extent possible. We plead with this Court to join the growing chorus of courts who have decided to act in an effort to save lives. The time to act is now. Plaintiffs' motion for a temporary restraining order and preliminary injunction should be granted.

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Respectfully Submitted,

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**Petition for permission to file pro hac vice forthcoming*

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

BHARATKUMAR G. THAKKER, et al.,

Petitioners-Plaintiffs,

vs.

CLAIR DOLL, in his official capacity as Warden of York County Prison, et al.,

Respondents-Defendants.

Case No. 1:20-cv-00480-JEJ

Judge John E. Jones III

DECLARATION OF WITOLD J. WALCZAK

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the following is true and correct to the best of my knowledge and belief:

1. My name is Witold J. Walczak. I am the Legal Director for the American Civil Liberties Union of Pennsylvania and am counsel for Petitioners-Plaintiffs. I make this declaration in support of Plaintiffs' Motion for Temporary Restraining Order and/or Preliminary Injunction.

2. Attached hereto are true and correct copies of the following materials, identified by the following exhibit designations in Plaintiffs' Memorandum of Law in support of their Motion For Temporary Restraining Order and/or Preliminary Injunction:

TRO-Ex. 1	World Health Organization website page entitled *Coronavirus disease (COVID-19) Pandemic*
TRO-Ex. 2	Pennsylvania Department of Health website page entitled *Coronavirus (COVID-19)*
TRO-Ex. 3	U.S. Immigration & Customs Enforcement website page entitled *ICE Guidance on COVID-19*
TRO-Ex. 4	News Release from the U.S. Immigrations & Customs Enforcement website entitled *ICE detainee tests positive for COVID-19 at Bergen County Jail*
TRO-Ex. 5	Article by John Sandweg published on The Atlantic on March 22, 2020, entitled *I Used to Run ICE. We Need to Release the Nonviolent Detainees*
TRO-Ex. 6	Article by J. David McSwane published on Pro Publica on March 20, 2020, entitled *ICE Has Repeatedly Failed to Contain Contagious Diseases, Our Analysis Shows. It's a Danger to the Public*
TRO-Ex. 7	Consent Order, Dkt. No. 084230, issued by the Supreme Court of New Jersey on March 22, 2020
TRO-Ex. 8	Letter written by Chief Justice Mike McGrath of the Montana Supreme Court on March 20, 2020
TRO-Ex. 9	Letter written by Scott A. Allen, MD, FACP and Josiah Rich, MD, MPH, to the House and Senate Committees on Homeland Security on March 19, 2020
TRO-Ex. 10	Article by Priscilla DeGregory on the New York Post on March 24, 2020, entitled *Coronavirus shuts down some NYC and NJ immigration courts*
TRO-Ex. 11	Article by Nathaniel Lash and Brett Sholtis on the Bucks County Courier Times on March 20, 2020, entitled *Demand for ICU beds will greatly outstrip availability if coronavirus hits Pa. hard*

Dated: March 25, 2020

/s/ Witold J. Walczak
Witold J. Walczak

TRO-Exhibit 1

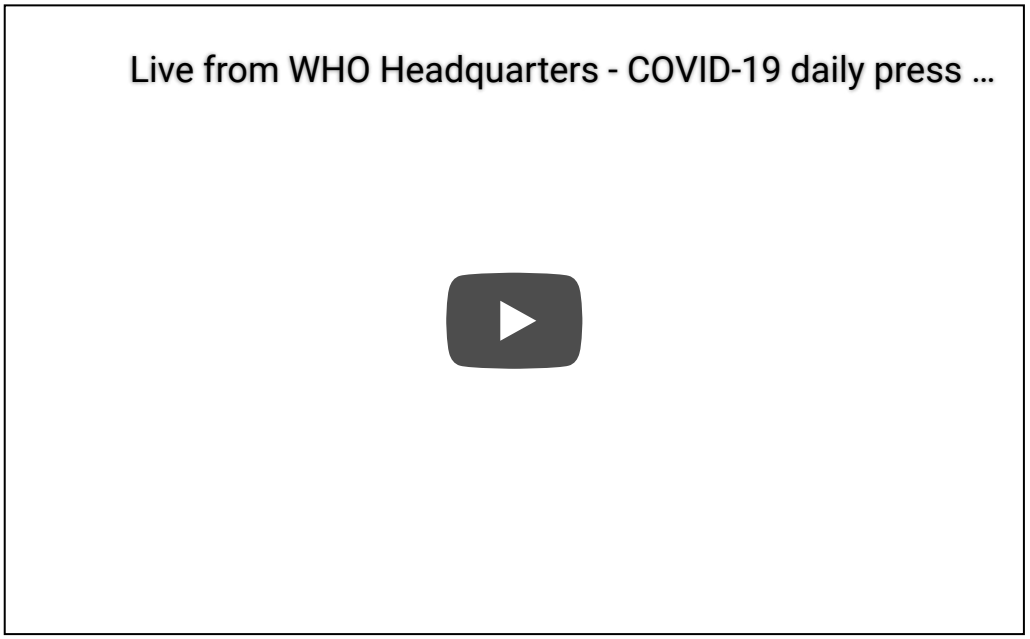
World Health Organization

Coronavirus disease (COVID-19) Pandemic

Protect yourself

Country & technical guidance

Latest updates - Live press conference (Geneva)



WHO Director-General's opening remarks at the media briefing on COVID-19 - 23 March 2020

23 March 2020 I Speech

Pass the message: Five steps to kicking out coronavirus

23 March 2020 I News Release

Rolling updates on coronavirus disease (COVID-19)

COVID-19 Response Fund

Donate

Your questions answered

Travel advice

Situation reports

Media resources

Research and Development

Mythbusters

EPI-WIN

Infodemic Management

Read More

Coronavirus disease (COVID-19) outbreak situation

View dashboard →

375,498
Confirmed cases

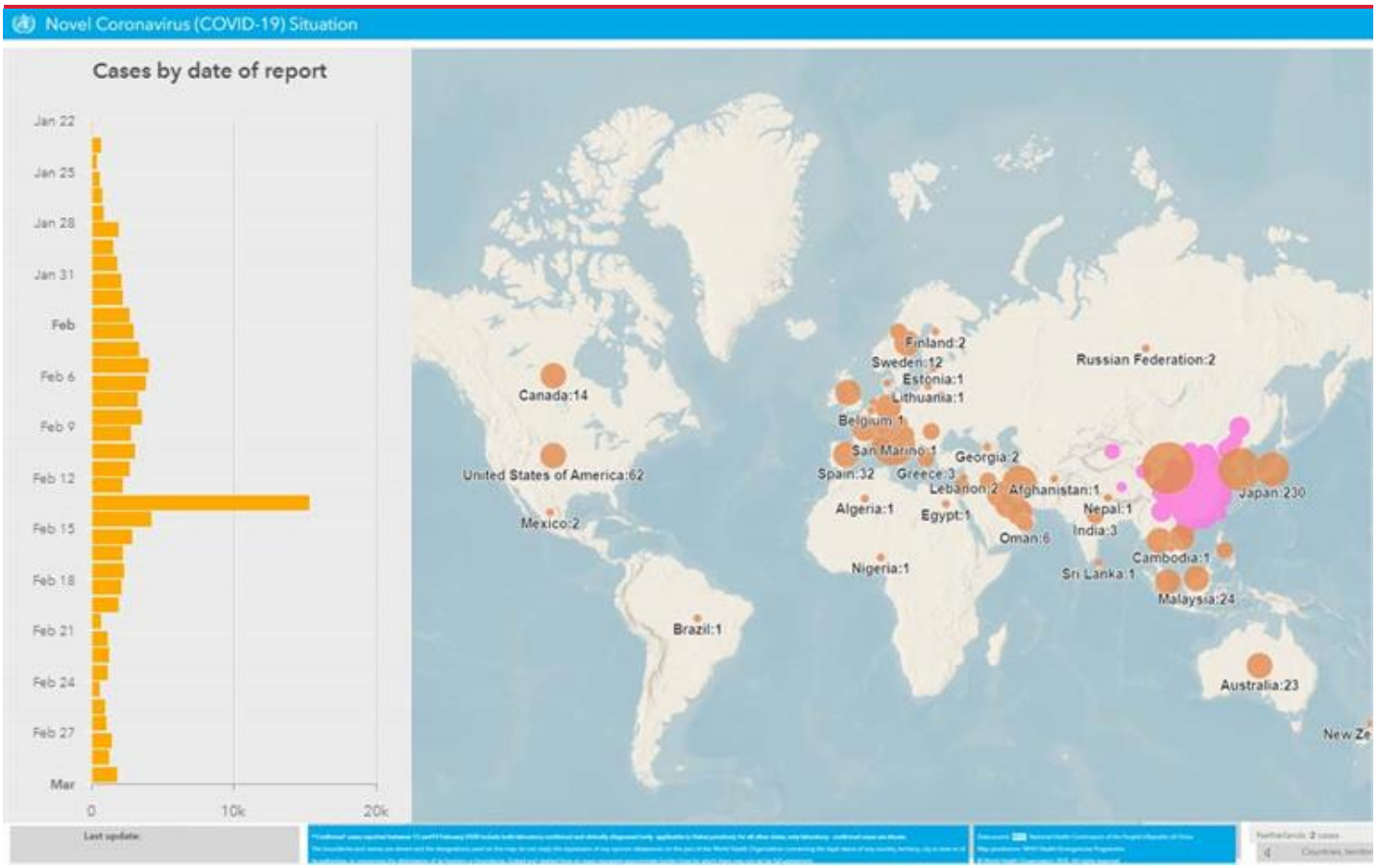
Updated : 24 March 2020, 17:53 GMT-4

16,362
Confirmed deaths

Updated : 24 March 2020, 17:53 GMT-4

196
Countries, areas or territories with cases

Updated : 24 March 2020, 17:53 GMT-4



All videos →

How to protect yourself against COVID-19

Online training →

Novel coronavirus (2019-nCoV)

At a glance: What WHO has done

Strategic Preparedness and Response Plan aims to:

1. Coordinate across regions to assess, respond and mitigate risks
2. Improve country preparedness and response
3. Accelerate research and development

As of 11 March 2020 WHO has:

Bought and shipped PPE to 57 countries

- 584 000 surgical masks
- 47 000 N95 masks
- 620 000 gloves
- 72 000 gowns
- 11 000 goggles

Strengthened the laboratory capacity

Supplied case management kits to 120 countries to increase countries' clinical management capacity.

39 countries in Africa, 20 countries in the Eastern Mediterranean Region and 29 in the Americas are due to have the ability to detect COVID-19.

Provided information to public

- 40 technical guidance documents
- Public advice, including:
  - Steps to protect yourself
  - Myth busters
  - Guidance for schools
  - Guidance for the workplace
  - Guidance for healthworkers and more

Built capacity to respond

Developed 6 multilingual online courses and one simulation exercise reaching 176000 responders.

More information:
www.who.int/emergencies/diseases/novel-coronavirus-2019/training/online-training

You can now contribute by donating directly:
www.who.int/Covid19ResponseFund
www.covid19responsefund.org

World Health Organization

What you need to know

What is a coronavirus? →

How to protect yourself →

Myth-busters →

Travel advice →

Questions & answers →

See all COVID-19 videos →

Training and e-learning →

COVID-19 and noncommunicable diseases →

Situation updates

Situation reports →
Here you will find the latest situation updates and data regarding the COVID-19 outbreak.

Disease Outbreak News →
Since 21 January 2020, Disease Outbreak News have been replaced with daily situation reports.

COVID-19 situation dashboard →

Global situation dashboard →

Report of the WHO-China Joint Mission →

COVID-19 situation update for the WHO European Region →

Donors & Partners

See progress of contributions

Strategic Preparedness and Response Plan

Donor Alert

February 2020

Partners and Networks →

Contingency fund for emergencies →

United Nations website on coronavirus →

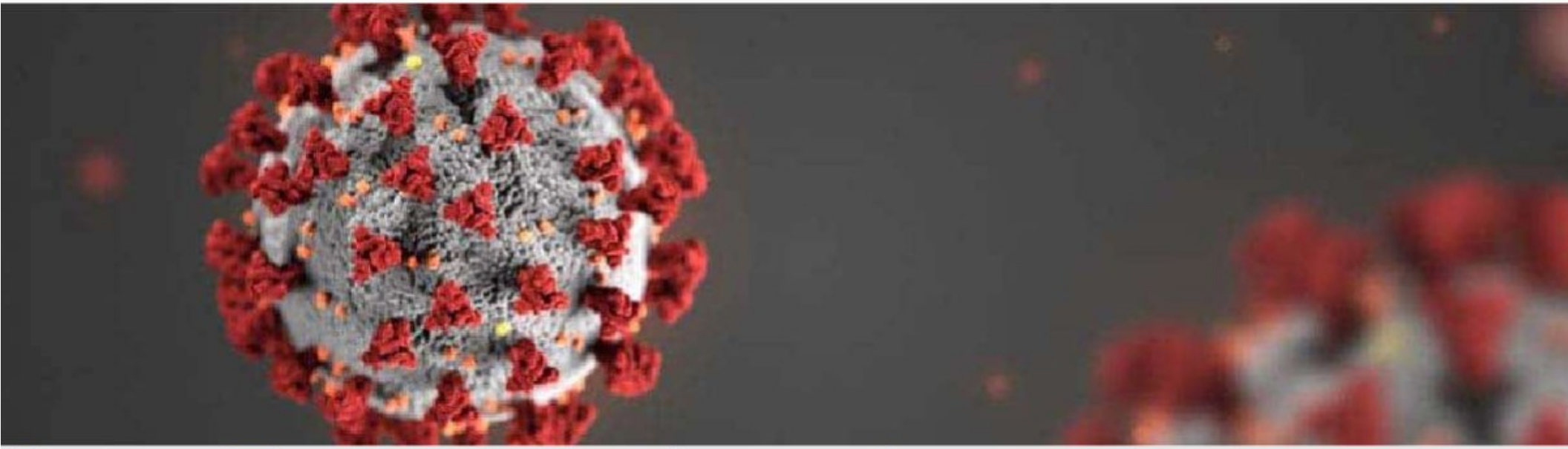
Research & Development

Update on research activities for novel coronavirus →
WHO's R&D Blueprint has been activated to accelerate diagnostics, vaccines and therapeutics for this outbreak.

International Clinical Trials Registry Platform →

COVID-19 outbreak – Emergency Use Listing Procedure (EUL) announcement →

TRO-Exhibit 2



Coronavirus (COVID-19)

- Confirmed Cases: 851 -

View the county map

Page last updated March 24, 2020 - 12 p.m.

COVID-19 Testing in Pennsylvania*

Negative	Positive	Deaths
8,643	851	7

** Map, table and case count last updated at 12:00 p.m. on 3/24/2020*

Counties impacted to date include:

County	Cases	Deaths
Adams	6	
Allegheny	58	2
Armstrong	1	
Beaver	3	
Berks	16	
Bradford	1	
Bucks	65	
Butler	6	
Cambria	1	
Carbon	1	
Centre	7	
Chester	40	
Clearfield	1	
Columbia	1	
Cumberland	13	
Dauphin	4	
Delaware	84	
Erie	4	
Fayette	2	

Franklin	3	
Juniata	1	
Lackawanna	15	1
Lancaster	10	
Lebanon	3	
Lehigh	27	
Luzerne	21	
Mercer	2	
Monroe	45	1
Montgomery	144	1
Montour	3	
Northampton	33	2
Philadelphia	177	
Pike	4	
Potter	1	
Schuylkill	5	
Somerset	1	
Washington	9	
Wayne	4	
Westmoreland	11	
York	18	

View as a clickable county map

(https://www.google.com/maps/d/embed?mid=1lpLPPrltIuVkwFtXhoWdWEA4B1DvNmne)

TRO-Exhibit 3

Official Website of the Department of Homeland Security

ICE

Report Crimes: Email or Call 1-866-DHS-2-ICE

NOTICE

Click here for the latest ICE guidance on COVID-19

ICE Guidance on COVID-19

Introduction

U.S. Immigration and Customs Enforcement (ICE) is working closely with the Department of Homeland Security (DHS) and other federal, state, and local agencies to facilitate a speedy, whole-of-government response in confronting Coronavirus Disease 2019 (COVID-19), keeping everyone safe, and helping detect and slow the spread of the virus. We know that during this time there are a lot of questions about how interactions with ICE officers are being impacted during this public health crisis. The public, media, family members with those in custody, and all other stakeholders are encouraged to revisit this site as often as possible for any updates to this extremely fluid situation.

Expand All Collapse All

GENERAL

What is ICE doing to safeguard its employees/personnel during this crisis?

The ICE Occupational Safety and Health (OSH) Unit continues to work diligently to ensure employees are operating under the safest and most practical conditions to reduce the risk of exposure and prevent further spreading of COVID-19 during the course of ongoing daily operations. The OSH Unit regularly provides guidance regarding integrating administrative controls such as social distancing in law enforcement settings, and the appropriate choice and use of personal protective equipment when administrative controls cannot be implemented. Besides providing information through an employee website, OSH officials have held conference calls, responded to emails, and spoken personally with employees who have safety questions. At all levels, ICE employees have access to the most current CDC and DHS guidance and assistance in this rapidly changing environment.

ICE is reviewing CDC guidance daily and will continue to update protocols to remain consistent with CDC guidance.

Updated 03/18/2020 4:28pm

What is ICE doing in response to the COVID-19 virus?

Law enforcement agencies across the country, to include ICE, are paying close attention to this pandemic. While our law enforcement officers and agents continue daily enforcement operations to make criminal and civil arrests, prioritizing individuals who threaten our national security and public safety, we remain committed to the health and safety of our employees and the general public. It is important for the public to know that ICE does not conduct operations at medical facilities, except under extraordinary circumstances. ICE policy directs our officers to avoid making arrests at sensitive locations – to include schools, places of worship, and health care facilities, such as hospitals, doctors' offices, accredited health clinics, and emergent or urgent care facilities – without prior approval for an exemption, or in exigent circumstances. See our FAQ for more.

Consistent with federal partners, ICE is taking important steps to further safeguard those in our care. As a precautionary measure, ICE has temporarily suspended social visitation in all detention facilities.

The health, welfare and safety of U.S. Immigration and Customs Enforcement (ICE) detainees is one of the agency's highest priorities. Since the onset of reports of Coronavirus Disease 2019 (COVID-19), ICE epidemiologists have been tracking the outbreak, regularly updating infection prevention and control protocols, and issuing guidance to ICE Health Service Corps (IHSC) staff for the screening and management of potential exposure among detainees.

ICE continues to incorporate CDC's COVID-19 guidance, which is built upon the already established infectious disease monitoring and management protocols currently in use by the agency. In addition, ICE is actively working with state and local health partners to determine if any detainee requires additional testing or monitoring to combat the spread of the virus.

Updated 03/15/2020 2:38pm

CONFIRMED CASES

IMMIGRATION ENFORCEMENT and CHECK-INS

BONDS

DETENTION

VISITATION AT DETENTION FACILITIES

REMOVALS

STAKEHOLDER ENGAGEMENT

NONIMMIGRANT STUDENTS AND SEVP-CERTIFIED SCHOOLS

Last Reviewed/Updated: 03/24/2020

TRO-Exhibit 4

Official Website of the Department of Homeland Security

ICE

Report Crimes: Email or Call 1-866-DHS-2-ICE

NOTICE

Click here for the latest ICE guidance on COVID-19

ICE Newsroom

News Releases

News Releases

Enforcement and Removal
03/24/2020

Share

ICE detainee tests positive for COVID-19 at Bergen County Jail

NEW YORK – A 31-year-old Mexican national in U.S. Immigration and Customs Enforcement custody at the Bergen County Jail in Hackensack, New Jersey, has tested positive for COVID-19. The individual has been quarantined and is receiving care. Consistent with CDC guidelines, those who have come in contact with the individual have been cohorted and are being monitored for symptoms. ICE is suspending intake at the facility until further information is available.

Additional information about ICE's response to COVID-19 can be found at ICE.gov/COVID19.

Share

Last Reviewed/Updated: 03/24/2020

TRO-Exhibit 5

IDEAS

I Used to Run ICE. We Need to Release the Nonviolent Detainees.

It's the only way to protect detention facilities and the people in them from COVID-19.

MARCH 22, 2020

John Sandweg
Former acting director of Immigration and Customs Enforcement

CHRIS CARLSON / AP IMAGES

With more than 37,000 detainees closely confined in facilities across the country, Immigration and Customs Enforcement (ICE) detention centers are extremely susceptible to outbreaks of infectious diseases. The design of these facilities requires inmates to remain in close contact with one another—the opposite of the social distancing now recommended for stopping the spread of the lethal coronavirus.

[Read: What you need to know about the coronavirus]

As the former Acting Director of ICE under President Obama, I know that preventing the virus from being introduced into these facilities is impossible. This week, the Trump administration announced that, in light of its concern that the virus could be introduced into detention centers, it would shift its enforcement operations to focus only on criminals and dangerous individuals. This means that the agency will arrest and place in detention only those undocumented immigrants who have serious criminal convictions. Those without a criminal record will be allowed to stay at home as they go through the deportation process. This is a necessary and crucial first step, but the administration must do more: It must release the thousands of nonviolent, low-flight-risk detainees currently in ICE custody.

ICE is fortunate that the threat posed by these detention centers can be mitigated rather easily. By releasing from custody the thousands of detainees who pose no threat to public safety and do not constitute an unmanageable flight risk, ICE can reduce the overcrowding of its detention centers, and thus make them safer, while also putting fewer people at risk.

This doesn't mean that dangerous criminals will be walking the streets. Those who threaten Americans' safety can and must continue to be detained. However, the immigration detention system is not designed to detain only those who have committed serious crimes or pose a significant flight risk. In fact, only a small percentage of those in ICE detention have been convicted of a violent crime. Many have never even been charged with a criminal offense. ICE can quickly reduce the detained population without endangering our communities.

[Read: How Trump radicalized ICE]

The large-scale release of detainees doesn't mean that undocumented immigrants should get a free pass either. Those who are released can and should continue to go through the deportation process. ICE can employ electronic monitoring and other tools to ensure their appearance at mandated hearings and remove them from the country when appropriate.

When an outbreak of COVID-19 occurs in an ICE facility, the detainees won't be the only ones at risk. An outbreak will expose the hundreds of ICE agents and officers, medical personnel, contract workers, and others who work in these facilities to the virus. Once exposed, many of them will unknowingly take the virus

home to their family and community. Moreover, once the virus tears through a detention center, crucial and limited medical resources will need to be diverted to treat those infected. ICE can, and must, reduce the risk it poses to so many people, and the most effective way to do so is to drastically reduce the number of people it is currently holding.

We want to hear what you think about this article. Submit a letter to the editor or write to letters@theatlantic.com.

TRO-Exhibit 6

CORONAVIRUS

ICE Has Repeatedly Failed to Contain Contagious Diseases, Our Analysis Shows. It's a Danger to the Public.

ProPublica reviewed more than 70 reports detailing deaths in ICE detention over the last decade and found staff often break strict rules for testing contagious diseases. At least 10 detainees face quarantine for potential exposure to coronavirus.

by J. David McSwane, March 20, 5 a.m. EDT

Yazmin Juárez testifies on July 10, 2019, during a House Committee on Oversight and Reform hearing that her 19-month-old daughter, Mariee, died of a viral respiratory infection at an ICE detention facility. (Tom Williams/CQ Roll Call/Getty)

ProPublica is a nonprofit newsroom that investigates abuses of power. Sign up to receive our biggest stories as soon as they're published.

The coronavirus is threatening crowded Immigration and Customs Enforcement facilities with long histories of mishandling infectious diseases that can rapidly spread outside their walls, a ProPublica review of thousands of pages of death reports found.

The ICE population presents a particular danger as communities grapple with the novel disease. The analysis found that ICE has repeatedly failed to follow rules meant to contain communicable diseases inside its detention

centers, which can become breeding grounds for illness. As guards and nurses leave facilities and go home, those outbreaks can spread.

At a suburban Denver ICE facility, the Aurora Detention Center, 10 detainees have now been quarantined for potential exposure to the coronavirus. An ICE staffer at a New Jersey detention center has tested positive.

Last year, more than 5,200 detainees were quarantined as ICE tried to contain mumps and chickenpox. An analysis by the Centers for Disease Control and Prevention last year found mumps cases spiked at the same time the Trump administration packed more and more people into close quarters. Most of those detainees got sick while in federal custody, not before, the CDC found.

Problems with handling communicable illnesses inside packed ICE facilities have festered for years. ProPublica reviewed more than 70 reports detailing the circumstances around detainee deaths over the last decade and found medical staff often don't follow strict rules for testing contagious diseases.

The response to tuberculosis, a respiratory illness that can spread easily in confined and crowded spaces, is a strong indication of how they'll respond to other contagious diseases, medical experts say.

In a dozen cases ProPublica reviewed, medical experts who were called in to investigate a death in ICE custody raised alarms that staff had failed to follow nationally accepted standards.

ProPublica identified six cases where failures to address communicable disease risks — such as practical nurses with little formal training waiting far too long to notify doctors of ill patients — were later found to have been contributing factors in the deaths of immigrants.

Dr. Marc Stern, a medical expert who used to inspect ICE facilities as a contractor for the Department of Homeland Security, said the crowded conditions in prisons make them prime targets for outbreaks.

"The more people you have, the less social distancing you can do," Stern said. "These events are going to be harder to manage as staff can't get to work because they get sick or they have to stay home with their kids."

This time last year, after the third outbreak in four months at the Aurora Detention Center, including mumps and chickenpox, Aurora City Council member Allison Hiltz was fed up with the facility's private management company for not alerting the city.

"They were not reporting their communicable diseases, and that included chickenpox that they had a couple of months prior to that," Hiltz said.

She pushed through a city ordinance requiring GEO Group, a large ICE contractor, to report public health concerns to the local fire department. At the same time, a rookie Democratic congressman, Jason Crow, demanded access to the facility and called for ICE to conduct monthly inspections. As recently as February, one of those inspections found sickness still raging in the facility, with 68 people quarantined with the flu and an additional 70 with mumps. GEO Executive Vice President Pablo E. Paez said the company follows best practices in managing diseases.

Amid the global coronavirus pandemic, GEO said none of the quarantined detainees in Aurora have been confirmed as sick with the disease.

But Hiltz said GEO must step up its monitoring of the virus."If you look at what's happening now, there's no vaccine for this," she said. "It only takes one person in a facility like that to spread pretty quickly, and there's no immunity for the employees who are coming and going and taking their kids to school and grocery shopping."

In Aurora and across the country, ICE has repeatedly struggled to contain communicable diseases that can spread in ways similar to the coronavirus, the review of death reports found. The reports focused on the medical histories of detainees but do not make clear whether they infected others.

During a medical check up in January 2018, detainee Yulio Castro-Garrido, who worked in the kitchen at the Stewart Detention Center in Georgia, had a fever, rapid pulse, cough and runny nose — flu-like symptoms. But medical staff did not order him to stay in his cell and let him return to the kitchen where, medical investigators later wrote, he could have been "transmitting contagious illness."

He died the next month, at age 33, of pneumonia and the flu.

Later in 2018, medical screeners at the Otay Mesa Detention Center in California took an X-ray of a 62-year-old woman from Mexico and found evidence of TB. Instead of immediately isolating her, the facility allowed Augstina Ramirez-Arreola to have close contact with other detainees for nearly three hours.

She died two months later.

Democrats in Washington have criticized ICE's spotty record of handling infectious diseases, citing concerns that overcrowding amid Trump's zero-

tolerance policy heightens the risk of a deadly viral spread.

ICE did not respond to questions sent by ProPublica on Tuesday.

On its website, the agency says it has monitored the spread of COVID-19 and has epidemiologists tracking the outbreak and working with staff in its ICE Health Service Corps.

"ICE continues to incorporate CDC's COVID-19 guidance, which is built upon the already established infectious disease monitoring and management protocols currently in use by the agency. In addition, ICE is actively working with state and local health partners to determine if any detainee requires additional testing or monitoring to combat the spread of the virus," the website says.

Paez, the GEO spokesperson, said the company is watching out for the new coronavirus and placed the 10 Aurora detainees "under observation." He did not say whether GEO has tested others under the company's care.

"Last week, in an abundance of caution, a cohort of 10 individuals was placed under observation as a precaution based on statements made by a visitor to the facility," Paez said. "None of those individuals have exhibited any COVID-19 symptoms. At this time, all ICE processing centers have discontinued non-legal visitation."

Meanwhile, civil rights attorneys have petitioned the Trump administration and filed a lawsuit Monday arguing for the release of vulnerable detainees who could potentially get sick inside the country's crowded immigrant detention system.

Elizabeth Jordan, a Denver-based lawyer who represents Aurora detainees, hasn't been able to meet with clients as the coronavirus has spread. A lawsuit filed last year by Jordan and a team of immigration lawyers accused ICE of widespread neglect and shoddy medical care.

"With the previous outbreaks, ICE handled it very poorly," Jordan said. "This has the potential to be orders of magnitude worse."

At this point, she said, her clients are more likely to get sick from someone bringing the virus into the packed facilities.

"They are sitting ducks," she said.

Error loading form: "Unknown"

Powered by Screendoor.

Dara Lind contributed reporting.

Do you have access to information about ICE that should be public? Email david.mcswane@propublica.org. Here's how to send tips and documents to ProPublica securely.

Filed under: Immigration, Health Care

J. David McSwane

J. David McSwane is a reporter in ProPublica's D.C. office covering healthcare, energy, federal contracts, and land issues.

david.mcswane@propublica.org J. David McSwane @davidmcswane

Signal: 202-556-3836

TRO-Exhibit 7

SUPREME COURT OF NEW JERSEY
DOCKET NO. 084230

CRIMINAL ACTION

In the Matter of the Request to Commute or Suspend County Jail Sentences

CONSENT ORDER

This matter having come before the Court on the request for relief by the Office of the Public Defender (see attached letter dated March 19, 2020), seeking the Court's consideration of a proposed Order to Show Cause (see attached) designed to commute or suspend county jail sentences currently being served by county jail inmates either as a condition of probation for an indictable offense or because of a municipal court conviction; and

The Court, on its own motion, having relaxed the Rules of Court to permit the filing of the request for relief directly with the Supreme Court, based on the dangers posed by Coronavirus disease 19 ("COVID-19"), and the statewide impact of the nature of the request in light of the Public Health Emergency and State of Emergency declared by the Governor. *See* Executive Order No. 103 (2020) (Mar. 9, 2020); and

The Office of the Attorney General, the County Prosecutors Association, the Office of the Public Defender, the American Civil Liberties Union of New Jersey having engaged in mediation before the Honorable Philip S. Carchman, P.J.A.D. (ret.); and

The parties having reviewed certifications from healthcare professionals regarding the profound risk posed to people in correctional facilities arising from the spread of COVID-19; and

The parties agreeing that the reduction of county jail populations, under appropriate conditions, is in the public interest to mitigate risks imposed by COVID-19; and

It being agreed to by all parties as evidenced by the attached duly executed consent form;

IT IS HEREBY ORDERED, that

A. No later than 6:00 a.m. on Tuesday, March 24, 2020, except as provided in paragraph C, any inmate currently serving a county jail sentence (1) as a condition of probation, or (2) as a result of a municipal court conviction, shall be ordered released. The Court's order of release shall include, at a minimum, the name of each inmate to be released, the inmate's State Bureau of Identification (SBI) number, and the county jail where the inmate is being detained, as well as any standard or

specific conditions of release. Jails shall process the release of inmates as efficiently as possible, understanding that neither immediate nor simultaneous release is feasible.

1. For inmates serving a county jail sentence as a condition of probation, the custodial portion of the sentence shall either be served at the conclusion of the probationary portion of the sentence or converted into a "time served" condition, at the discretion of the sentencing judge, after input from counsel.
2. For inmates serving a county jail sentence as a result of a municipal court conviction, the custodial portion of the sentence shall be suspended until further order of this Court upon the rescission of the Public Health Emergency declared Executive Order No. 103, or deemed satisfied, at the discretion of the sentencing judge, after input from counsel.

B. No later than noon on Thursday, March 26, 2020, except as provided in paragraph C, any inmate serving a county jail sentence for any reason other than those described in paragraph A shall be ordered released. These sentences include, but are not limited to (1) a resentencing following a finding of a violation of probation in any Superior Court or municipal court, and (2) a county jail sentence not tethered to a

probationary sentence for a fourth-degree crime, disorderly persons offense, or petty disorderly persons offense in Superior Court. The custodial portion of the sentence shall be suspended until further order of this Court upon the rescission of the Public Health Emergency declared Executive Order No. 103, or deemed satisfied, at the discretion of the sentencing judge, after input from counsel. Jails shall process the release of inmates as efficiently as possible, understanding that neither immediate nor simultaneous release is feasible.

C. Where the County Prosecutor or Attorney General objects to the release of an inmate described in Paragraph A, they shall file a written objection no later than 5:00 p.m. on Monday, March 23, 2020. Where the County Prosecutor or Attorney General objects to the release of an inmate described in Paragraph B, they shall file a written objection no later than 8:00 a.m. on Thursday, March 26, 2020.

1. The objection shall delay the order of release of the inmate and shall explain why the release of the inmate would pose a significant risk to the safety of the inmate or the public.
2. Written objections shall be filed by email to the Supreme Court Emergent Matter inbox with a copy to the Office of the Public Defender.

3. The Office of the Public Defender shall provide provisional representation to all inmates against whom an objection has been lodged under this Paragraph.
4. The Office of the Public Defender shall, no later than 5:00 p.m. on Tuesday, March 24, 2020, provide responses to any objections to release associated with inmates described in Paragraph A, as it deems appropriate. The Office of the Public Defender shall, no later than 5:00 p.m. on Thursday, March 26, 2020, provide responses to any objections to release associated with inmates described in Paragraph B, as it deems appropriate.
5. The Court shall appoint judge(s) or Special Master(s) to address the cases in which an objection to release has been raised.
    a. On or before Wednesday, March 25, 2020, the judge(s) or Special Master(s) will begin considering disputed cases arising from Paragraph A; on or before Friday, March 27, 2020, the judge(s) or Special Master(s) will consider disputed cases arising from Paragraph B.
        i. The judge(s) or Special Master(s) shall conduct summary proceedings, which shall be determined on the papers. In the event the judge(s) or Special

Master(s) conduct a hearing of any sort, inmates' presence shall be waived.

ii. Release shall be presumed, unless the presumption is overcome by a finding by a preponderance of the evidence that the release of the inmate would pose a significant risk to the safety of the inmate or the public.

iii. At any point, the Prosecutor may withdraw its objection by providing notice to the judge(s) or Special Master(s) with a copy to the Office of the Public Defender. In that case, inmates shall be released subjected to the provisions of Paragraphs D-I.

iv. If the judge(s) or Special Master(s) determine by a preponderance of the evidence that the risk to the safety of the inmate or the public can be effectively managed, the judge(s) or Special Master(s) shall order the inmate's immediate release, subject to the provisions of paragraphs D-I.

1. The Order of the judge(s) or Special Master(s) may be appealed on an emergent basis, in a summary manner to the Appellate Division.
2. Should a release Order be appealed, the release Order shall be stayed pending expedited review by the Appellate Division.
3. The record on appeal shall consist of the objection and response filed pursuant to this Paragraph.

v. If the judge(s) or Special Master(s) determine by a preponderance of the evidence that risks to the safety of the inmate or the public cannot be effectively managed, the judge(s) or Special Master(s) shall order the inmate to serve the balance of the original sentence.

1. The Order of the judge(s) or Special Master(s) may be appealed on an emergent basis, in a summary manner to the Appellate Division.

2. Should an Order requiring an inmate to serve the balance of his sentence be appealed, the Appellate Division shall conduct expedited review.
3. The record on appeal shall consist of the objection and response filed pursuant to this Paragraph.

b. The judge(s) or Special Master(s) should endeavor to address all objections no later than Friday, March 27, 2020.

D. Any warrants associated with an inmate subject to release under this order, other than those associated with first-degree or second-degree crimes, shall be suspended. Warrants suspended under this Order shall remain suspended until ten days after the rescission of the Public Health Emergency associated with COVID-19. *See* Executive Order No. 103 (2020) (Mar. 9, 2020).

E. In the following circumstances, the county jail shall not release an inmate subject to release pursuant to Paragraphs A, B, or C(5)(a)(iii) or (iv), absent additional instructions from the judge(s) or Special Master(s):

1. For any inmate who has tested positive for COVID-19 or has been identified by the county jail as presumptively positive for COVID-19, the county jail shall immediately notify the parties and the County Health Department of the inmate's medical condition, and shall not release the inmate without further instructions from the judge(s) or Special Master(s). In such cases, the parties shall immediately confer with the judge(s) or Special Master(s) to determine a plan for isolating the inmate and ensuring the inmate's medical treatment and/or mandatory self-quarantine.
2. For any inmate who notifies the county jail that he or she does not wish, based on safety, health, or housing concerns, to be released from detention pursuant to this Consent Order, the county jail shall immediately notify the parties of the inmate's wishes, and shall not release the inmate without further instructions from the judge(s) or Special Master(s). In such cases, the parties shall immediately confer with the judge(s) or Special Master(s) to determine whether to release the inmate over the inmate's objection.

F. Where an inmate is released pursuant to Paragraphs A, B, or C(5)(a)(iii) or (iv), conditions, other than in-person reporting, originally imposed by the trial court shall remain in full force and effect. County jails shall inform all inmates, prior to their release, of their continuing obligation to abide by conditions of probation designed to promote public safety. Specifically:

1. No-contact orders shall remain in force.
2. Driver's license suspensions remain in force.
3. Obligations to report to probation officers in-person shall be converted to telephone or video reporting until further order of this Court.
4. All inmates being released from county jails shall comply with any Federal, State, and local laws, directives, orders, rules, and regulations regarding conduct during the declared emergency. Among other obligations, inmates being released from county jails shall comply with Executive Order No. 107 (2020) (Mar. 21, 2020), which limits travel from people's homes and mandates "social distancing," as well as any additional Executive Orders issued by the Governor during the Public Health Emergency associated with COVID-19.

5. All inmates being released from county jails are encouraged to self-quarantine for a period of fourteen (14) days.

6. Unless otherwise ordered by the judge(s) or Special Master(s), any inmate being released from a county jail who appears to be symptomatic for COVID-19 is ordered to self-quarantine for a period of fourteen (14) days and follow all applicable New Jersey Department of Health protocols for testing, treatment, and quarantine or isolation.

G. County Prosecutors and other law enforcement agencies shall, to the extent practicable, provide notice to victims of the accelerated release of inmates.

1. In cases involving domestic violence, notification shall be made. N.J.S.A. 2C:25-26.1. Law enforcement shall contact the victim using the information provided on the "Victim Notification Form." Attorney General Law Enforcement Directive No. 2005-5.

a. Where the information provided on the "Victim Notification Form" does not allow for victim contact, the Prosecutor shall notify the Attorney General.

b. If the Attorney General, or his designee, is convinced that law enforcement has exhausted all reasonable efforts to contact the victim, he may relax the obligations under N.J.S.A. 2C:25-26.1.

2. In other cases with a known victim, law enforcement shall make all reasonable efforts to notify victims of the inmate's accelerated release.

3. To the extent permitted by law, the Attorney General agrees to relax limitations on benefits under the Violent Crimes Compensation Act (N.J.S.A. 52:4B-1, *et seq*.) to better provide victims who encounter the need for safety, health, financial, mental health or legal assistance from the State Victims of Crime Compensation Office.

H. The Office of the Public Defender agrees to provide the jails information to be distributed to each inmate prior to release that includes:

1. Information about the social distancing practices and stay-at-home guidelines set forth by Executive Order No. 107, as well as other sanitary and hygiene practices that limit the spread of COVID-19;

2. Information about the terms and conditions of release pursuant to this consent Order;
3. Guidance about how to contact the Office of the Public Defender with any questions about how to obtain services from social service organizations, including mental health and drug treatment services or any other questions pertinent to release under this consent Order.

I. Any inmate released pursuant to this Order shall receive a copy of this Order, as well as a copy of any other Order that orders their release from county jail, prior to their release.

J. Relief pursuant to this Order is limited to the temporary suspension of custodial jail sentences; any further relief requires an application to the sentencing court.

3/22/2020 9:50 p.m. /s/Stuart Rabner
Date Chief Justice Stuart Rabner, for the Court

The undersigned hereby consents to the form and entry of the foregoing Order.

3/22/2020 /s/Gurbir S. Grewal
Date Office of the Attorney General

3/22/2020 /s/Angelo J. Onofri
Date County Prosecutors Association of New Jersey

3/22/2020 /s/Joseph E. Krakora
Date Office of the Public Defender

3/22/2020 /s/Alexander Shalom
Date American Civil Liberties Union of New Jersey

TRO-Exhibit 8

THE SUPREME COURT OF MONTANA

MIKE McGRATH
CHIEF JUSTICE

JUSTICE BUILDING
215 NORTH SANDERS
PO BOX 203001
HELENA, MONTANA 59620-3001
TELEPHONE (406) 444-5490
FAX (406) 444-3274

March 20, 2020

Montana Courts of Limited Jurisdiction Judges

Dear Judges:

On behalf of the Supreme Court, I want you to know we appreciate that you serve as the front line of the judicial system. And, of course, the decisions you make have a substantial impact on the jail population throughout our state.

Because of the high risk of transmittal of COVID-19, not only to prisoners within correctional facilities but staff and defense attorneys as well, we ask that you review your jail rosters and release, without bond, as many prisoners as you are able, especially those being held for non-violent offenses.

At this time, there does not appear to be an outbreak of COVID-19 in any of Montana's correctional facilities. However, it is only a matter of time. Due to the confines of these facilities, it will be virtually impossible to contain the spread of the virus.

We ask that you follow the provisions of the Memorandum sent out March 17. Conducting as many hearings as you can using video and other remote technology will curtail the risk of exposure and transmission of the virus.

Thank you again for your service to the State and your communities. This is a challenging time, and we are all having to make some difficult decisions to keep our communities healthy.

Good luck and take care of yourselves.

Sincerely,

Mike McGrath
Chief Justice

TRO-Exhibit 9

Scott A. Allen, MD, FACP
Professor Emeritus, Clinical Medicine
University of California Riverside School of Medicine
Medical Education Building
900 University Avenue
Riverside, CA 92521

Josiah "Jody" Rich, MD, MPH
Professor of Medicine and Epidemiology, Brown University
Director of the Center for Prisoner Health and Human Rights
Attending Physician, The Miriam Hospital,
164 Summit Ave.
Providence, RI 02906

March 19, 2020

The Honorable Bennie Thompson
Chairman
House Committee on Homeland Security
310 Cannon House Office Building
Washington, D.C. 20515

The Honorable Ron Johnson
Chairman
Senate Committee on Homeland Security
and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Mike Rogers
Ranking Member
House Committee on Homeland Security
310 Cannon House Office Building
Washington, D.C. 20515

The Honorable Gary Peters
Ranking Member
Senate Committee on Homeland Security
and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Carolyn Maloney
Chairwoman
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jim Jordan
Ranking Member
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Committee Chairpersons and Ranking Members:

We are physicians—an internist and an infectious disease specialist—with unique expertise in medical care in detention settings.[1] We currently serve as medical subject matter experts for the

[1] I, Dr. Scott Allen, MD, FACP, am a Professor Emeritus of Medicine, a former Associate Dean of Academic Affairs and former Chair of the Department of Internal Medicine at the University of California Riverside School of Medicine. From 1997 to 2004, I was a full-time correctional physician for the Rhode Island Department of Corrections; for the final three years, I served as the State Medical Program. I have published over 25 peer-reviewed papers in academic journals related to prison health care and am a former Associate Editor of the International Journal of Prisoner Health Care. I am the court appointed monitor for the consent decree in litigation involving

Department of Homeland Security's Office of Civil Rights and Civil Liberties (CRCL). One of us (Dr. Allen) has conducted numerous investigations of immigration detention facilities on CRCL's behalf over the past five years. We both are clinicians and continue to see patients, with one of us (Dr. Rich) currently providing care to coronavirus infected patients in an ICU setting.

As experts in the field of detention health, infectious disease, and public health, we are gravely concerned about the need to implement immediate and effective mitigation strategies to slow the spread of the coronavirus and resulting infections of COVID-19. In recent weeks, attention has rightly turned to the public health response in congregate settings such as nursing homes, college campuses, jails, prisons and immigration detention facilities (clusters have already been identified in Chinese and Iranian prisons according to news reports[2] and an inmate and an officer have reportedly just tested positive at New York's Rikers Island).[3] Reporting in recent days reveals that immigrant detainees at ICE's Aurora facility are in isolation for possible exposure to coronavirus.[4] And a member of ICE's medical staff at a private detention center in New Jersey has now been reported to have tested positive for coronavirus.[5]

We have shared our concerns about the serious medical risks from specific public health and safety threats associated with immigration detention with CRCL's Officer Cameron Quinn in an initial letter dated February 25, 2020, and a subsequent letter of March 13, 2020. We offered to

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medical care at Riverside County Jails. I have consulted on detention health issues both domestically and internationally for the Open Society Institute and the International Committee of the Red Cross, among others. I have worked with the Institute of Medicine on several workshops related to detainee healthcare and serve as a medical advisor to Physicians for Human Rights. I am the co-founder and co-director of the Center for Prisoner Health and Human Rights at Brown University (www.prisonerhealth.org), and a former Co-Investigator of the University of California Criminal Justice and Health Consortium. I am also the founder and medical director of the Access Clinic, a primary care medical home to adults with developmental disabilities.

I, Dr. Josiah (Jody) Rich, MD, MPH, am a Professor of Medicine and Epidemiology at The Warren Alpert Medical School of Brown University, and a practicing Infectious Disease Specialist since 1994 at The Miriam Hospital Immunology Center providing clinical care for over 22 years, and at the Rhode Island Department of Corrections caring for prisoners with HIV infection and working in the correctional setting doing research. I have published close to 190 peer-reviewed publications, predominantly in the overlap between infectious diseases, addictions and incarceration. I am the Director and Co-founder of The Center for Prisoner Health and Human Rights at The Miriam Hospital (www.prisonerhealth.org), and a Co-Founder of the nationwide Centers for AIDS Research (CFAR) collaboration in HIV in corrections (CFAR/CHIC) initiative. I am Principal Investigator of three R01 grants and a K24 grant all focused on incarcerated populations. My primary field and area of specialization and expertise is in the overlap between infectious diseases and illicit substance use, the treatment and prevention of HIV infection, and the care and prevention of disease in addicted and incarcerated individuals. I have served as an expert for the National Academy of Sciences, the Institute of Medicine and others.

[2] Erin Mendel, "Coronavirus Outbreaks at China Prisons Spark Worries About Unknown Clusters," *Wall Street Journal*, February 21, 2020, available at: https://www.wsj.com/articles/coronavirus-outbreaks-at-china-prisons-spark-worries-about-unknown-clusters-11582286150; Center for Human Rights in Iran, "Grave Concerns for Prisoners in Iran Amid Coronavirus Outbreak," February 28, 2020, available at https://iranhumanrights.org/2020/02/grave-concerns-for-prisoners-in-iran-amid-coronavirus-outbreak/.

[3] Joseph Konig and Ben Feuerherd, "First Rikers Inmate Tests Positive for Coronavirus" New York Post. March 18, 2020, available at: https://nypost.com/2020/03/18/first-rikers-island-inmate-tests-positive-for-coronavirus/

[4] Sam Tabachnik, "Ten detainees at Aurora's ICE detention facility isolated for possible exposure to coronavirus," *The Denver Post*, March 17, 2020, available at https://www.denverpost.com/2020/03/17/coronavirus-ice-detention-geo-group-aurora-colorado/.

[5] Emily Kassie, "First ICE Employees Test Positive for Coronavirus," *The Marshall Project*, March 19, 2020, available at https://www.themarshallproject.org/2020/03/19/first-ice-employees-test-positive-for-coronavirus

work with DHS in light of our shared obligation to protect the health, safety, and civil rights of detainees under DHS's care. Additionally, on March 17, 2020 we published an opinion piece in the *Washington Post* warning of the need to act immediately to stem the spread of the coronavirus in jails and prisons in order to protect not only the health of prisoners and corrections workers, but the public at large.[6]

In the piece we noted the parallel risks in immigration detention. We are writing now to formally share our concerns about the imminent risk to the health and safety of immigrant detainees, as well as to the public at large, that is a direct consequence of detaining populations in congregate settings. We also offer to Congress, as we have to CRCL, our support and assistance in addressing the public health challenges that must be confronted as proactively as possible to mitigate the spread of the coronavirus both in, and through, immigration detention and congregate settings.

Nature of the Risk in Immigration Detention and Congregate Settings

One of the risks of detention of immigrants in congregant settings is the rapid spread of infectious diseases. Although much is still unknown, the case-fatality rate (number of infected patients who will die from the disease) and rate of spread for COVID-19 appears to be as high or higher than that for influenza or varicella (chicken pox).

In addition to spread within detention facilities, the **extensive transfer of individuals** (who are often without symptoms) throughout the detention system, which occurs with great frequency in the immigration context, could rapidly disseminate the virus throughout the entire system with devastating consequences to public health.[7]

Anyone can get a coronavirus infection. While healthy children appear to suffer mildly if they contract COVID-19, they still pose risk as carriers of infection, particularly so because they may not display symptoms of illness.[8] Family detention continues to struggle with managing outbreaks of influenza and varicella.[9] Notably, seven children who have died in and around

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[6] Josiah Rich, Scott Allen, and Mavis Nimoh, "We must release prisoners to lessen the spread of coronavirus," *Washington Post*, March 17, 2020, available at https://www.washingtonpost.com/opinions/2020/03/17/we-must-release-prisoners-lessen-spread-coronavirus/.

[7] See Hamed Aleaziz, "A Local Sheriff Said No To More Immigrant Detainees Because of Coronavirus Fears. So ICE Transferred Them All To New Facilities," *BuzzFeed News*, March 18, 2020 (ICE recently transferred170 immigrant detainees from Wisconsin to facilities in Texas and Illinois. "'In order to accommodate various operational demands, ICE routinely transfers detainees within its detention network based on available resources and the needs of the agency…' an ICE official said in a statement."), available at https://www.buzzfeednews.com/article/hamedaleaziz/wisconsin-sheriff-ice-detainees-coronavirus

[8] Interview with Jay C. Butler, MD, Deputy Director for Infectious Diseases, Centers for Disease Control and Prevention, "Coronovirus (COVID-19) Testing," *JAMA Network*, March 16, 2020, available at https://youtu.be/oGiOi7eV05g (min 19:00).

[9] Indeed, I (Dr. Allen) raised concerns to CRCL, the DHS Office of Inspector General, and to Congress in July 2018, along with my colleague Dr. Pamela McPherson, about the risks if harm to immigrant children in family detention centers because of specific systemic weaknesses at those facilities in their ability to provide for the medical and mental health needs of children in detention. *See*, e.g., July 17, 2018 Letter to Senate Whistleblower Caucus Chairs from Drs. Scott Allen and Pamela McPherson, available at https://www.wyden.senate.gov/imo/media/doc/Doctors%20Congressional%20Disclosure%20SWC.pdf. Those concerns, including but not limited to inadequate medical staffing, a lack of translation services, and the risk of

immigration detention, according to press reports, six died of infectious disease, including three deaths from influenza.[10] Containing the spread of an infection in a congregate facility housing families creates the conditions where many of those infected children who do not manifest symptoms will unavoidably spread the virus to older family members who may be a higher risk of serious illness.

Finally, as you well know, social distancing is essential to slow the spread of the coronavirus to minimize the risk of infection and to try to reduce the number of those needing medical treatment from the already-overwhelmed and inadequately prepared health care providers and facilities. However, social distancing is an oxymoron in congregate settings, which because of the concentration of people in a close area with limited options for creating distance between detainees, are at very high risk for an outbreak of infectious disease. This then creates an enormous public health risk, not only because disease can spread so quickly, but because those who contract COVID-19 with symptoms that require medical intervention will need to be treated at local hospitals, thus increasing the risk of infection to the public at large and overwhelming treatment facilities.

As local hospital systems become overwhelmed by the patient flow from detention center outbreaks, precious health resources will be less available for people in the community.To be more explicit, a detention center with a rapid outbreak could result in multiple detainees—five, ten or more—being sent to the local community hospital where there may only be six or eight ventilators over a very short period. As they fill up and overwhelm the ventilator resources, those ventilators are unavailable when the infection inevitably is carried by staff to the community and are also unavailable for all the usual critical illnesses (heart attacks, trauma, etc). In the alternate scenario where detainees are released from high risk congregate settings, the tinderbox scenario of a large cohort of people getting sick all at once is less likely to occur, and the peak volume of patients hitting the community hospital would level out. In the first scenario, many people from the detention center *and the community* die unnecessarily for want of a ventilator. In the latter, survival is maximized as the local mass outbreak scenario is averted.

It is additionally concerning that dozens of immigration detention centers are in remote areas with limited access to health care facilities. Many facilities, because of the rural locations, have only one on-site medical provider. If that provider gets sick and requires being quarantined for at least fourteen days, the entire facility could be without any medical providers at all during a foreseeable outbreak of a rapidly infectious disease. We simply can't afford a drain on resources/medical personnel from any preventable cases.

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communication breakdowns and confusion that results from different lines of authority needing to coordinate between various agencies and partners from different government programs and departments responsible for detention programs with rapid turnover, all continue to contribute to heightened risks to meeting the medical challenges posed by the spread of the coronavirus.

[10] Nicole Acevedo, "Why are children dying in U.S. custody?," *NBC News*, May 29, 2019, available at https://www.nbcnews.com/news/latino/why-are-migrant-children-dying-u-s-custody-n1010316

Proactive Approaches Required

Before coronavirus spreads through immigration detention, proactivity is required in three primary areas: 1) Processes for screening, testing, isolation and quarantine; 2) Limiting transport and transfer of immigrant detainees; and 3) Implementing alternatives to detention to facilitate as much social distancing as possible.

Protocols for early screening, testing, isolation and quarantine exist in detention settings to address infectious diseases such as influenza, chicken pox and measles. However, the track record of ICE facilities implementing these protocols historically has been inconsistent. In the current scenario, with widespread reporting about the lack of available tests for COVID-19 and challenges for screening given the late-onset display of symptoms for what is now a community-spread illness, detention facilities, like the rest of country, are already behind the curve for this stage of mitigation.

Detention facilities will need to rapidly identify cases and develop plans to isolate exposed cohorts to limit the spread, as well as transfer ill patients to appropriate facilities. Screening should occur as early as possible after apprehension (including at border holding facilities) to prevent introduction of the virus into detention centers. We strongly recommend ongoing consultation with CDC and public health officials to forge optimal infection prevention and control strategies to mitigate the health risks to detained patient populations and correctional workers. Any outbreak in a facility could rapidly overwhelm the capacity of healthcare programs. Partnerships with local public health agencies, hospitals and clinics, including joint planning exercises and preparedness drills, will be necessary.

Transferring detainees between facilities should be kept to an absolute minimum. The transfer process puts the immigrants being transferred, populations in the new facilities, and personnel all at increased risk of exposure. The nationwide network of detention centers, where frequent and routine inter-facility transfers occur, represents a frighteningly efficient mechanism for rapid spread of the virus to otherwise remote areas of the country where many detention centers are housed.

Finally, regarding the need to implement immediate social distancing to reduce the likelihood of exposure to detainees, facility personnel, and the general public, ***it is essential to consider releasing all detainees who do not pose an immediate risk to public safety.***

Congregant settings have a high risk of rapid spread of infectious diseases, and wherever possible, public health mitigation efforts involve moving people out of congregate settings (as we are seeing with colleges and universities and K-12 schools).[11] Minimally, DHS should consider releasing all detainees in high risk medical groups such as older people and those with

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[11] Madeline Holcombe, "Some schools closed for coronavirus in US are not going back for the rest of the academic year," *CNN*, March 18, 2020, available at https://www.cnn.com/2020/03/18/us/coronavirus-schools-not-going-back-year/index.html; Eric Levenson, Chris Boyette and Janine Mack, "Colleges and universities across the US are canceling in-person classes due to coronavirus," *CNN*, March 12, 2020, available at https://www.cnn.com/2020/03/09/us/coronavirus-university-college-classes/index.html.

chronic diseases. COVID-19 infection among these groups will require many to be transferred to local hospitals for intensive medical and ventilator care—highly expensive interventions that may soon be in short supply.

Given the already established risks of adverse health consequences associated with the detention of children and their families,[12] the policy of detention of children and their families in should be reconsidered in light of these new infectious disease threats so that children would only be placed in congregate detention settings when lower risk community settings are not available and then for as brief a time as possible.

In addition, given the low risk of releasing detainees who do not pose a threat to public safety—i.e., those only charged with immigration violations—releasing *all* immigration detainees who do not pose a security risk should be seriously considered in the national effort to stop the spread of the coronavirus.

Similarly, the practice of forcing asylum seekers to remain in Mexico has created a *de facto* congregate setting for immigrants, since large groups of people are concentrated on the US southern border as a result of the MPP program in the worst of hygienic conditions without any basic public health infrastructure or access to medical facilities or the ability to engage in social distancing as they await asylum hearings, which are currently on hold as a consequence of the government's response to stop the spread of the coronavirus.[13] This is a tinderbox that cannot be ignored in the national strategy to slow the spread of infection.

ICE recently announced that in response to the coronavirus pandemic, it will delay arresting immigrants who do not pose public safety threats, and will also stop detaining immigrants who fall outside of mandatory detention guidelines.[14] But with reporting that immigrant detainees at ICE facilities are already being isolated for possible exposure to coronavirus, it is not enough to simply stop adding to the existing population of immigrant detainees. Social distancing through release is necessary to slow transmission of infection.[15]

Reassessing the security and public health risks, and acting immediately, will save lives of not only those detained, but also detention staff and their families, and the community-at-large.

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[12] Report of the DHS Advisory Committee on Family Residential Centers, September 30, 2016, available at https://www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc16093.pdf

[13] *See* Rick Jervis, "Migrants waiting at US-Mexico border at risk of coronavirus, health experts warn," *USA Today*, March 17, 2020, available at https://www.usatoday.com/story/news/nation/2020/03/17/us-border-could-hit-hard-coronavirus-migrants-wait-mexico/5062446002/.

[14] ICE website, Guidance on COVID-19, Immigration and Enforcement Check-Ins, Updated March 18, 2020, 7:45 pm, available at https://www.ice.gov/covid19.

[15] Release of immigrants from detention to control the coronavirus outbreak has been recommended by John Sandweg, former acting head of ICE during the Obama administration, who further noted, "'The overwhelming majority of people in ICE detention don't pose a threat to public safety and are not an unmanageable flight risk.'…'Unlike the Federal Bureau of Prisons, ICE has complete control over the release of individuals. ICE is not carrying out the sentence imposed by a federal judge….It has 100% discretion.'" *See* Camilo Montoya-Galvez, "'Powder kegs': Calls grow for ICE to release immigrants to avoid coronavirus outbreak, *CBS News*, March 19, 2020, available at https://www.cbsnews.com/news/coronavirus-ice-release-immigrants-detention-outbreak/.

Our legal counsel, Dana Gold of the Government Accountability Project, is supporting and coordinating our efforts to share our concerns with Congress and other oversight entities about the substantial and specific threats to public health and safety the coronavirus poses by congregate settings for immigrants. As we similarly offered to DHS, we stand ready to aid you in any way to mitigate this crisis and prevent its escalation in light of our unique expertise in detention health and experience with ICE detention specifically. Please contact our attorney, Dana Gold, at danag@whistleblower.org, or her colleague, Irvin McCullough, at irvinm@whistleblower.org, with any questions.

Sincerely,

/s/

Scott A. Allen, MD, FACP
Professor Emeritus, University of California, School of Medicine
Medical Subject Matter Expert, CRCL, DHS

/s/

Josiah D. Rich, MD, MPH
Professor of Medicine and Epidemiology
The Warren Alpert Medical School of Brown University
Medical Subject Matter Expert, CRCL, DHS

Cc: Dana Gold, Esq. and Irvin McCullough, Government Accountability Project
Senate Committee on the Judiciary
House Committee on the Judiciary
White House Coronavirus Task Force

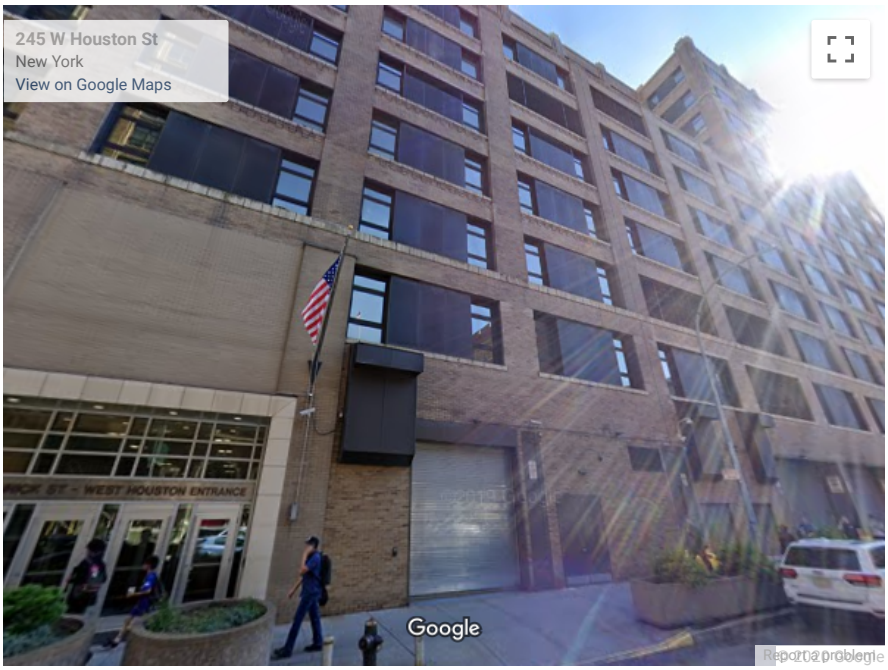
TRO-Exhibit 10

METRO

Coronavirus shuts down some NYC and NJ immigration courts

By Priscilla DeGregory

March 24, 2020 | 6:05pm



Immigration courts in New York City and New Jersey have closed for the day after people on-site tested positive for coronavirus, the Department of Justice announced.

The Varick Street immigration court — one of three Manhattan courts that remained open as of last week — closed for at least Tuesday, according to the Facebook page for the DOJ's Executive Office for Immigration Review.

"Following notice of a person with a confirmed case of coronavirus in EOIR space, the New York – Varick Immigration Court is closed tomorrow," the post from late Monday said.

Another post from early Tuesday notified people who normally go to the Varick location that they could file papers in the Elizabeth, NJ, location — but that one too was closed just hours later because a person who tested positive for COVID-19 was on premises.

"Due to a report of the presence of an individual with a test-confirmed coronavirus diagnosis, the Elizabeth Immigration Court will be closed for the rest of the day," the EOIR said on its Facebook page Tuesday afternoon.

The posts did not specify how long the closures would last.

Last Wednesday, nine immigration courts around the country closed amid concerns over the growing pandemic. Two of locations were in Manhattan.

The DOJ did not immediately return a request for comment.

SEE ALSO

Letitia James urges Barr to stop in-person immigration

FILED UNDER **CORONAVIRUS**, **CORONAVIRUS IN NY**, **COURTS**, **IMMIGRATION**

TRO-Exhibit 11

BUCKS COUNTY Courier Times

Demand for ICU beds will greatly outstrip availability if coronavirus hits Pa. hard

By Nathaniel Lash of the Philadelphia Inquirer and Brett Sholtis of Spotlight PA / WITF
Posted Mar 20, 2020 at 4:41 PM

Pennsylvania's ICU units will need 2.5 to 7 times the number of beds they can likely make available, a new estimate shows. Just how great the need is will depend on how much of the population the virus ends up infecting — and how quickly.

YORK — Mayor Michael Helfrich spent much of Wednesday fielding calls from an office setup in his kitchen. York County had just confirmed its first cases of the coronavirus, and people had a lot of questions.

"It's hard to compare it to anything else," Helfrich said. "Even though we're in the early stages, I think some of us, luckily, can see the potential dangers."

Already in York and the surrounding region, there are few beds in intensive-care units and they're often occupied. If COVID-19 spreads quickly, as it did in Italy, researchers estimate the need for beds here will be 26 times greater than the existing capacity in ICUs — more than anywhere else in the nation.

Those predictions come from a team at the Harvard Global Health Institute, which projects that if the outbreak peaks quickly over six months, Pennsylvania's ICU units will need 2.5 to 7 times the number of beds they can likely make available. Just how great the need will be depends on how much of the population the virus ends up infecting.

The predictions are even more dire outside of the state's major cities, where greater shares of elderly residents and fewer hospital beds spell trouble for the looming outbreak.

Existing ICUs will likely be overwhelmed, but “flattening the curve” can help.

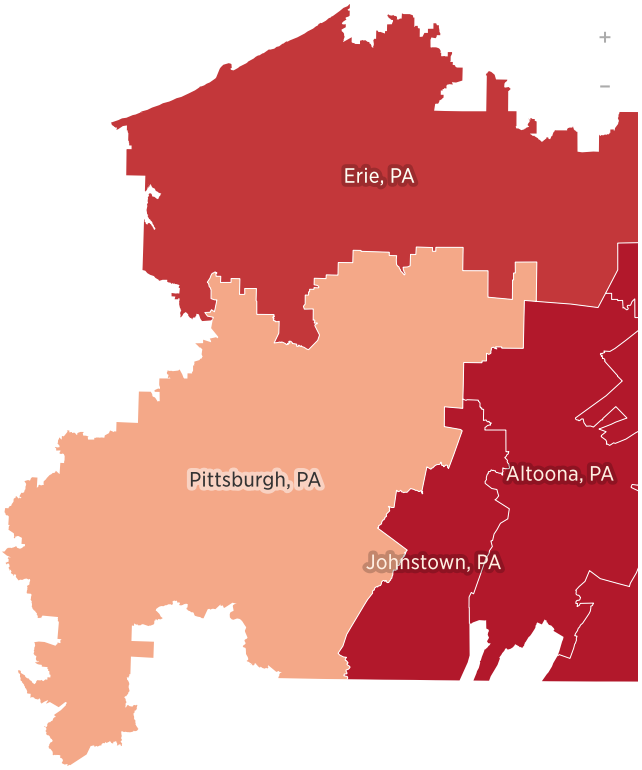
The following maps show the "hospital referral regions" (groups of ZIP codes that roughly comprise a healthcare market) that lie in Pennsylvania (some of those markets intersect with states along the Pa. border). In each map, you can see how the potential number of free beds in intensive and critical care units in each region compare to the number of patients who will likely need care due to the coronavirus.

Peak demand for ICU beds versus capacity

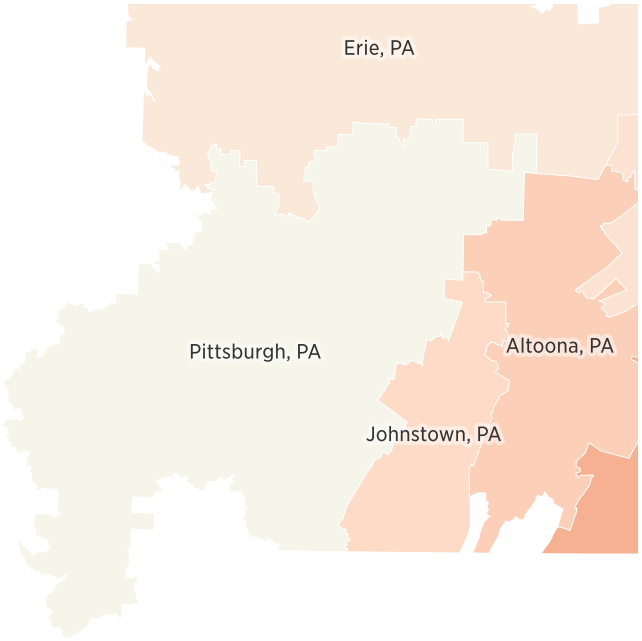
.50 times potential beds | 0.8x | 1x | 1.5x | 2.0x | 4.0x+

If the coronavirus infects 20% of the population over...

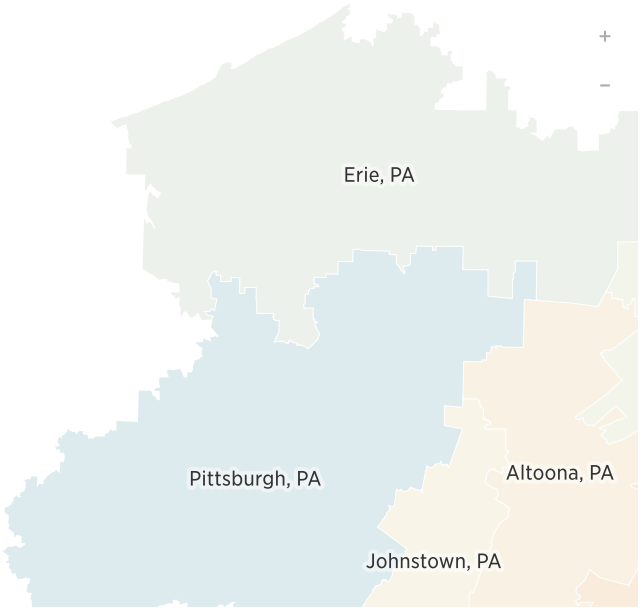
... 6 months



... 12 months



... 18 months



The projected shortfall in the York region is not entirely a surprise to Helfrich, who, with county officials, has set up an emergency response plan. He declined to provide details, but said it involves locating hospital resources like beds and ventilators and being ready to move them to where they are most needed.

“We’re acting the best as we can on our own, not knowing what the next decision from the state or federal government is going to be,” Helfrich said.

In an optimistic scenario, where the virus spreads slowly over the course of a year and only 20% of the population is infected, only Pittsburgh and Wilkes-Barre are projected to have the capacity for the number of patients who will need treatment in an ICU.

Predictions for the total share of the population that could be infected in an unmitigated scenario have reached as high as 80%. If the virus ends up infecting over 40% of the population, there's no scenario where Pennsylvania's existing systems will be able to treat all patients at the outbreak's peak.

It's unknown how many Pennsylvanians who get the virus will need an ICU bed, but current national and international estimates put the number at 3% to 10%. Health Secretary Rachel Levine said Thursday a 10% estimate is "about right" for Pennsylvania so far.

Levine told reporters the Health Department has cut regulations, making it easier for hospitals to add beds. She added the state is working with health systems to prepare for the surge in patients.

However, key questions remain unanswered.

Department spokesperson Nate Wardle said there are "nearly 3,400 intensive and critical care beds and 71 pediatric intensive care beds" in Pennsylvania. But he didn't say how many beds health systems have committed to adding to prepare for the surge, or how they would do it. (Levine said hospitals have been directed to implement updated emergency plans that account for COVID-19 by Friday.)

Wardle said the Health Department has ventilators — a key piece of ICU equipment — on hand, but wouldn't say how many or when the state would deploy them.

Across the state, health systems have muzzled their employees. Doctors who normally would be permitted to speak about their departments are being denied permission to talk. Reports about conditions at ICUs come by anonymous text or posted online, often along with desperate calls for more supplies.

WellSpan and UPMC Pinnacle would not answer questions but provided e-mailed statements saying they're working with state and local officials.

Mark Ross, vice president of emergency management at the Hospital and Healthsystem Association of Pennsylvania — which represents those hospitals and works closely with the state Health Department — said facilities have what they need and are prepared to meet the increased demand for ICU services.

“We are using our surge plan and we are responding to the numbers we’re seeing,” Ross said. “We’re responding to those predictions.”

Thomas Tsai, a surgeon and researcher with the Harvard group, said the projections emphasize the need for the public to “flatten the curve” and delay the peak to buy the health-care system time to increase its capacity.

On Thursday, Gov. Tom Wolf ordered all businesses that aren’t “life-sustaining” to close. “To protect the health and safety of all Pennsylvanians, we need to take more aggressive mitigation actions,” Wolf said in a statement.

“We need social action to buy time,” Tsai said. “If we can flatten the curve from six to 18 months, we buy time for the second part of this: for hospitals to react to create more inpatient bed capacity and intensive care capacity.”

If mitigation efforts are successful in Pennsylvania, researchers posited that the virus would spread more slowly over the course of 18 months. In that best-case scenario, where the York region’s hospitals are also able to free up about half of their occupied ICU beds for COVID-19 patients, the area would still need 1.5 times its ICU capacity.

In Philadelphia, where projections show the system can bear the burden of patients in an 18-month scenario, hospitals are canceling elective surgeries to free up more space for coronavirus patients, according to city Health Commissioner Thomas Farley.

“The hospitals are anticipating a surge and trying to drive down other patients so they can make more beds available,” Farley said.

But in Philadelphia, too, officials were tight-lipped on the city’s actual maximum capacity.

“That question is difficult to answer because every day it changes. Every day the hospital population is different,” Mayor Jim Kenney said Tuesday.

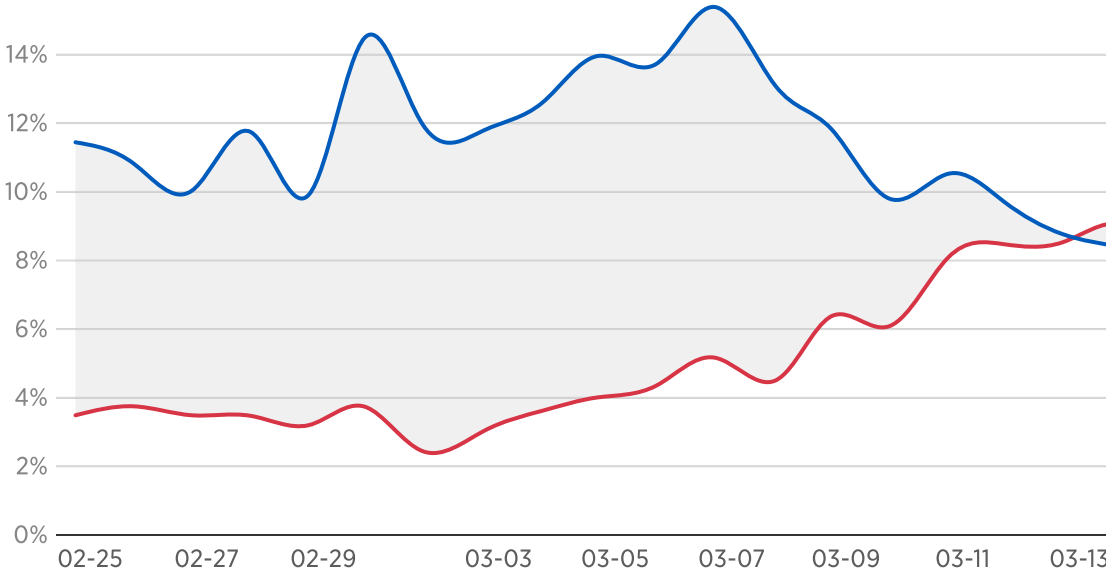
The need for expanded ICU beds has been put on stark display in countries like Italy, where the virus has been spreading for 11 days longer than in the U.S.

In the Lombardy region, the epicenter of the pandemic in Italy, the share of patients with the virus admitted into hospitals has fluctuated, but is not trending downward. However, fewer patients were admitted to ICUs. As fewer patients were admitted to intensive-care units, the share of patients dying from COVID-19 began to rise.

Data published by the Italian government show how in the first two weeks of the pandemic, deceased patients made up less than 5% of positive cases in the region. But as more cases streamed in, deaths rose, making up over 10% of the patients who had tested positive for the virus in Lombardy by Tuesday.

As the ICUs in Lombardy have filled with patients, doctors have had to prioritize access to beds and ventilators to younger patients who are more likely to survive.

In Italy's Lombardy region, deaths on the rise, patients less likely to receive intensive care



In Italy overall, the share of patients testing positive for the coronavirus who are in an ICU has averaged about 9%. The models used by the Harvard researchers estimate that 5% of confirmed cases will need treatment in an ICU.

"In practice, the health care system cannot sustain an uncontrolled outbreak, and stronger containment measures are now the only realistic option to avoid the total collapse of the ICU system," wrote a group of Milan-based doctors on Friday.

Inquirer staff writer Laura McCrystal contributed to this article.

This story was produced as part of a joint effort among Spotlight PA, LNP Media Group, PennLive, PA Post, and WITF to cover how Pennsylvania state government is responding to the coronavirus. Sign up for Spotlight PA's newsletter.

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