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March 27, 2020

*VIA CM/ECF*
Honorable John E. Jones III
United States District Court
Middle District of Pennsylvania
Ronald Reagan Federal Bldg. & U.S. Courthouse
228 Walnut Street
Harrisburg, PA 17101

**Re: Factual Updates in Thakker et al. v. Doll et al. (1:20-cv-00480-JEJ)**

Dear Judge Jones:

Counsel for Petitioners write to notify your Honor about new factual developments in this case.

First, two of the Petitioners—Mansyur and Agus Prajoga—were released from Pike County Correctional Facility today. Counsel for Petitioners Mansyur and Prajoga were not notified about their release by Respondents, but rather through their immigration attorney.

Second, since the filing of the Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief on March 24, 2020 (ECF No. 1), Petitioners Idowu, Lin, Oyediran, Stubbs, and Thakker provided new information regarding how Clinton, Pike, and York are caring for sick detainees. Petitioner Thakker also notified Counsel for Petitioners that a staff member informed him that a correctional officer tested positive for COVID-19. Counsel for Petitioners provide this information to the Court through supplemental declarations. *See* Ex. 21—25.

Third, while data on COVID-19 changes by the minute, we write to provide the Court with updated data. As of 9:27 PM today, there were 103,942 cases and 1,689 deaths in the United States. *See* https://coronavirus.jhu.edu/map.html. The Pennsylvania Department of Health reported 2,218 cases. Pike County has 23 confirmed cases and York County has 29 confirmed cases. *See* https://www.health.pa.gov/topics/disease/coronavirus/Pages/Cases.aspx (last visited at 9:57pm on March 27, 2020).

Fourth, due to the rapid increase in COVID-19 cases, Petitioners provide the Court with two additional declarations. *See* Ex. 26, 27.

Dr. Robert Greifinger is a physician who has worked in health care for prisoners for more than 30 years. His declaration discusses ICE's numerous failures in adequately protecting detainees from COVID-19. Greifinger Decl. ¶¶ 3-9. He describes ICE's failure to adequately protect high-risk detainees as a "preventable disaster" and that "ICE must release all people with risk factors to prevent serious illness including death." *Id.* ¶ 13.

Dr. Dora Schriro has extensive experience in corrections and is lifelong public servant. She recommends that the "best correctional and correctional health care practice would require, at a minimum, the preemptive release of individuals who are at-risk of serious illness or death if they become infected with COVID-19." Schriro Declaration ¶ 23. Dr. Schriro also highlights how ICE has numerous tools available to them that do not require detention to achieve their goals. *See Id*. ¶ 24 ("Alternatives to detention, including supervised release, informed by individualized risk assessment, are a highly effective method of managing immigration cases without either unnecessary pretrial detention or risk to public safety or risk of failure to appear for court hearings"); *see also Id.* ¶¶ 26-27.

Respectfully Submitted,

*/s/ Will W. Sachse*
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*/s/ Vanessa L. Stine*
Vanessa L. Stine (PA 319569)
Witold J. Walczak (PA 62976)
Muneeba S. Talukder (CA 326394)*
Erika Nyborg-Burch (NY 5485578)*

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**Admitted pro hac vice*

**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
**Judge John E. Jones III**

## DECLARATION OF VANESSA L. STINE

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 Vanessa L. Stine. I am an Immigrants' Rights Attorney with the American Civil Liberties Union of Pennsylvania and am counsel for Petitioners-Plaintiffs. I make this declaration in support of Petitioners'/Plaintiffs' Verified Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief.

2. Attached hereto are true and correct copies of the following supplemental declarations:

**Ex. 21** Supplemental Declaration of Petitioner Bharatkumar G. Thakker

**Ex. 22** Supplemental Declaration of Petitioner Adebodun Adebomi Idowu

**Ex. 23** Supplemental Declaration of Petitioner Meiling Lin

**Ex. 24** Declaration of Maggie Kopel, who is providing pro bono immigration representation to Petitioner Mayowa Abayaomi Oyediran

**Ex. 25** Supplemental Declaration of Petitioner Courtney Stubbs

**Ex. 26** Declaration of Dr. Robert Greifinger

**Ex. 27** Declaration of Dr. Dora Schriro

Dated: March 27, 2020

*/s/ Vanessa L. Stine*
Vanessa L. Stine

# Exhibit 21

**Supplemental Declaration of Bharatkumar G. Thakker**

1. Yesterday, March 26, a correctional officer (CO) told me that another CO tested positive. The CO said they knew this from an announcement from the warden from March 24.

2. The CO also told me three other COs are also out sick, but they do not know what for.

3. I also heard that A block, which is the women's block, is now on quarantine. I do not know why.

I, Vanessa L. Stine, certify that I have reviewed the foregoing with Mr. Thakker on March 27, 2020 and that Mr. Thakker certified everything was true and correct.

*/s/ Vanessa L. Stine*

Vanessa L. Stine (PA 319569)
**American Civil Liberties Union of Pennsylvania**
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# Exhibit 22

**Supplemental Declaration of Adebodun Adebomi Idowu**

1. On Wednesday, March 25, 2020, a person in our block was really sick. His initials are E.S. He was vomiting, had a cough, and seemed to have a fever. We were not sure if he had a fever because while he was hot, he had not been brought down to medical.

2. We were really concerned about him. He was one of the new guys that had been brought in by ICE the week before. The lieutenant told us that they were trying to do what they could but that they were short on staff.

3. Because he was not getting medical attention, Henry Pratt, who is on the same block as me, called the auditor general and attorney general hotlines. He told them about E.S. and his symptoms. He said they seemed similar to the symptoms of coronavirus.

4. Within a few hours of making that call, some people came and got E.S. They were wearing masks and gloves. They took his bedsheets but did not clean his bunk area. We also remained in the housing unit and did not see anyone clean the area.

5. The next day there was a new guy brought in to the same bunk that had been E.S.'s bunk. As far as I know, they did not clean or disinfect the bunk area before they brought the new guy in.

6. I heard from the nurse yesterday that E.S. is still in the hospital.

7. The staff are not wearing any gloves or masks. We have not been told anything else.

I, Vanessa L. Stine, certify that I reviewed this declaration with Mr. Idowu by telephone on March 27, 2020 and that he certified that the declaration was true and correct to the best of his knowledge.

*/s/ Vanessa L. Stine*

Vanessa L. Stine (PA 319569)
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# Exhibit 23

**Supplemental Declaration of Meiling Lin**

1) My name is Meiling Lin. I submitted a declaration in support of a multi-plaintiff petition for a writ of habeas corpus in federal court based on risks that I and others face because of COVID-19.

1) Since submitting my declaration, things have gotten worse. I feel sick to my stomach because of the fear that I have. I have no appetite and am having trouble sleeping because of my worry.

2) A few days ago a nurse came and called me and a few others out. We were taken out of the block area and had our temperatures taken. I don't know why this was done but they did not take everyone's temperatures. They let me go back to my block.

3) Yesterday, March 26, I heard from another detainee here that there are sick people in a block with men. I heard that there are two people being quarantined. I don't know if they have COVID-19 but I know everyone here is very scared from the news.

4) I also noticed yesterday that someone was in the building who was wearing a mask and protective gear--I do not know who this was but it made me scared because I feel like this means there must be someone in this jail with COVID-19.

5) I don't speak or understand English so I don't know more than that but I can tell that everyone feels bad about the situation and they want to get out. I am terrified too.

6) I have not committed any crimes, and I just want to be able to live peacefully with my daughter and her family. Please let me out.

I, Muneeba S. Talukder, certify that I reviewed this declaration with Meiling Lin over video on March 27, 2020. I also certify that I used professional interpretation service for Mandarin in order to read the declaration to Meiling Lin in English and that she certified that the declaration was true and correct to the best of her knowledge.

Dated: March 27, 2020

*/s/ Muneeba S. Talukder*
Muneeba S. Talukder (CA 326394)
**AMERICAN CIVIL LIBERTIES UNION OF PENNSYLVANIA**
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# Exhibit 24

**Declaration of Maggie Kopel**

1) My name is Maggie Kopel and I am Legal Fellow with Nationalities Service Center (NSC) in Philadelphia, PA. I submit this declaration in support of a multi-plaintiff petition for a writ of habeas corpus in federal court based on risks that vulnerable detainees face because of COVID-19.

2) Plaintiff Mayowa Abayaomi Oyediran is my client and I am representing him in his immigration case.

3) Mr. Oyediran and I spoke on March 27, 2020. During this call he told me that he was once again moved from his block because people in his block were sick. These people had to be quarantined. This is the second time he has been moved from one block to another because of sick detainees.

4) Mr. Oyediran also told me that he is unaware of detainees or correctional officers being tested for COVID-19 even though many people are sick.

I, Maggie Kopel, certify that this declaration is true and correct to the best of my knowledge.

Dated: March 27, 2020

/s/ Maggie Kopel

Maggie Kopel, Esq.
Nationalities Service Center
1216 Arch Street, 4th Floor
Philadelphia, PA 19107
(215) 609-1546
Mkopel@nscphila.org

# Exhibit 25

**Supplemental Declaration of Courtney Stubbs**

1. Today, March 27, someone on my block went to medical around 5pm. They serve dinner at 6pm. When I came back from medical I noticed that he was served dinner in his cell. This is not normal and I have not seen this before.

2. We do not know what is going on with him but he looks sick. He is allowed outside his cell though. I saw him put something in the microwave. I also saw him put his hand on his forehead, like he was checking to see if he had a fever. He was drinking tea, like when you have a sore throat. He was also blowing his nose.

3. I heard yesterday (March 26, 2020) that A block, which is the women's block, is on quarantine. They will not tell us why.

4. I talked with a nurse earlier this week. She had said she would send a letter to ICE about seeing if I could be released because she knows all about my medical conditions. She said she sent the letter. I asked her what ICE said, and she said, "you know how they are."

5. They started checking our temperatures earlier this week, but they will not tell us why. There have been no other changes. We are still triple celled and eat in communal spaces close to one other. I cannot be six feet away from anyone.

6. I am nervous and scared. If I get sick with COVID-19 I will be in real trouble. My immune system is no good.

I, Vanessa L. Stine, certify that I reviewed this declaration with Mr. Stubbs by telephone on March 27, 2020 and that he certified that the declaration was true and correct to the best of his knowledge.

Dated: March 27, 2020

*/s/ Vanessa L. Stine*

Vanessa L. Stine
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# Exhibit 26

# DECLARATION OF ROBERT GREIFINGER

I, Robert Greifinger, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

## Background

1. I am a physician who has worked in health care for prisoners for more than 30 years. I have managed the medical care for inmates in the custody of New York City (Rikers Island) and the New York State prison system. I have authored more than 80 scholarly publications, many of which are about public health and communicable disease. I am the editor *of Public Health Behind Bars: from Prisons to Communities*, a book published by Springer (a second edition is due to be published in early 2021); and co-author of a scholarly paper on outbreak control in correctional facilities.[1]

2. I have been an independent consultant on prison and jail health care since 1995. My clients have included the U.S. Department of Justice, Division of Civil Rights (for 23 years) and the U.S. Department of Homeland Security, Section for Civil Rights and Civil Liberties (for six years). I am familiar with immigration detention centers, having toured and evaluated the medical care in approximately 20 immigration detention centers, out of the several hundred correctional facilities I have visited during my career. I currently monitor the medical care in three large county jails for Federal Courts. My resume is attached as Exhibit A.

## The Inevitable Spread of COVID-19 in ICE Detention

3. COVID-19 is a serious disease, ranging from no symptoms or mild ones for people at low risk, to respiratory failure and death in older patients and patients with chronic underlying conditions. There is no vaccine to prevent COVID-19. There is no known cure or anti-viral treatment for COVID-19 at this time. The only way to mitigate COVID-19 is to use scrupulous hand hygiene and social distancing.

4. ICE will not be able to stop the spread of COVID-19 within its facilities. It is likely that COVID-19 is already within ICE facilities. We know of at least one ICE staff member in New Jersey who has tested positive for COVID-19.[2] It is difficult to capture the full extent of the problem because of a lack of testing and the fact that many people who are infected with COVID-19 are asymptomatic for days before showing the symptoms associated with the disease.

5. ICE is not set up to be able to contain the disease once it is inside of its facilities. This is due to both the realities of an infectious disease within the tight confines of a detention center and the history of inadequate health care that ICE has provided to detainees. The

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[1] Farah M. Parvez, Mark N. Lobato & Robert B. Greifinger, *Tuberculosis Control: Lessons for Outbreak Preparedness in Correctional Facilities*, J. OF CORRECTIONAL HEALTH CARE 239 (2010), doi:10.1177/1078345810367593.

[2] Hamed Aleaziz, *A Medical Worker at an ICE Detention Facility for Immigrants Has Tested Positive for the Coronavirus*, BUZZFEED NEWS (Mar. 19, 2020 8:17 PM), https://www.buzzfeednews.com/article/hamedaleaziz/ice-medical-worker-coronavirus.

CDC has warned detention centers to plan for staffing shortages due to the impact of COVID-19 on detention center staff.[3] The COVID-19 crisis only exacerbates ICE's longstanding struggle to maintain adequately staffed facilities.

6. One of the few means of preventing a COVID-19 infection is through social distancing—that is maintaining distance of at least six feet between individuals so as not to unintentionally spread the virus to others. This is nearly impossible in a detention center, where crowding of individuals is commonplace. Take the sally-port or control port, for example. This is a series of two locked gates that brings all staff and detained persons past a guard in a window control room. These areas often become severely crowded, especially during shift changes for staff or leading up to count for the detained people. In this context, close contact is unavoidable and creates a breeding ground for COVID-19 infection. These sally-ports are also a focal point for staff to transfer keys, radios, and other equipment through a hand to hand transaction, intensifying the risk of infection to staff members. To run a detention facility is to facilitate close contact and movement between and amongst individuals—whether it be for meals or medical appointments, as examples. Sanitation security measures available in hospital settings are simply impossible to apply in a corrections context.

7. There is no change in procedure that can alleviate these concerns. Approaches like solitary confinement or keeping individuals locked into their cell more hours of the day will make the problem worse. These approaches are psychologically damaging to detained people and may lead to a spike in severe depression, attempted and completed suicides, and medical emergencies. In the context of an outbreak in the facility, when onsite medical staff are operating at or over capacity, the problems can accelerate.

8. In addition to social distancing, another key measure to prevent the spread of COVID-19 is frequent and thorough hand washing. Handwashing stations are often few and far between in detention centers. Many facilities do not have handwashing stations that allow water to be turned on and remain on. Instead, the faucets automatically shut off after a period of time, making it nearly impossible to wash one's hands for the recommended twenty seconds.

9. In addition to these challenges, ICE has failed to adequately respond to the COVID-19 pandemic. Both the March 6, 2020 interim guidance sheet[4] produced by ICE Health Services Corps, the body that oversees ICE detention facilities' medical care, and ICE's

[3] Center for Disease Control and Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, CDC.GOV (last updated Mar. 23, 2020), https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#social_distancing.

[4] ICE Health Service Corps, *Interim Reference Sheet on 2019-Novel Coronavirus (COVID-19)* (Mar. 6, 2020), https://www.aila.org/infonet/ice-interim-reference-sheet-coronavirus.

guidance on its website[5] are wholly insufficient to adequately face the crisis at hand. They fail in these ways:

a. The protocol focuses on travel contacts, instead of community spread. Questions focus on detainee's recent travel history. This misses the mark. At this point in the course of the virus, nearly everyone who is not practicing social distancing is in contact with someone who has the virus. The correct focus is monitoring active symptoms, including fever and interaction with sick individuals upon entry into the ICE facility, including sick detained people and staff. Staff is an especially important vector in this outbreak. Since they go back and forth between the outside world, detention centers will be hit by COVID-19 when the rest of the community is, staff and their families included.

b. The ICE protocol does not follow the measures in the CDC guidelines for long term care facilities. Specifically, it does not ensure access to hand sanitizer nor does it provide masks for individuals with a cough.

c. The ICE protocol does not provide guidance on how to deal with surge capacity, which will almost certainly be necessary as the number of cases in the detention facility increase and the number of healthy staff to treat detained people decreases.

d. There is no guidance on when to test detained people. There needs to be daily updates from ICE leadership to medical staff disseminating criteria for testing in this rapidly changing environment. Epidemiologists working in conjunction with local and Federal COVID-19 responders must be part of the decision-making process guiding this daily protocol.

e. The protocol does require people with suspected COVID-19 close contacts to be monitored for 14 days for symptoms. However, nearly every person who newly arrives at the detention facility will have had close contact to someone with COVID-19. The detention facility's medical unit simply cannot handle the volume of patients that would need this level of monitoring. There needs to be significantly more facilities and staffing to meet these needs, but, to my knowledge, ICE has not made the appropriate changes to accommodate such a level.

f. There is no guidance in the protocol to identify high-risk patients or steps to protect them from contracting COVID-19. The plan needs to include an improved intake process, cohorted housing areas for high risk patients, increased infection control measures, and increased medical surveillance, including daily checks for signs and symptoms. Social distancing of six feet, as recommended by the CDC, will be impossible in all ICE facilities, especially in light of the common practice of facility lockdowns.

[5] U.S. Immigration and Customs Enforcement, *ICE Guidance on COVID-19*, ICE.GOV (last updated Mar. 27, 2020), https://www.ice.gov/covid19.

g. There are no clear criteria for hospital transfer. As clinical staff have no experience with this disease, ICE should develop rational clinical criteria for transfer to an acute care hospital. established guidelines for when transfer to a hospital is appropriate.

10. The ICE response envisions using isolation rooms to monitor individuals with COVID-19 symptoms. However, many facilities only have 1-4 of these rooms available in the facility. There will be many more than 1-4 people with COVID-19 in the detention center. Instead, ICE must create entire housing units reserved for people with COVID-19 symptoms, so that symptomatic patients can live separately from those who are asymptomatic or at risk. Because of how full ICE facilities are, this will be nearly impossible.

11. Isolation is not a proper solution for people without symptoms or confirmed disease. Detainees who are isolated are monitored less frequently. If they develop COVID-19 symptoms, or their symptoms escalate, they may not be able to get the medical attention they desperately need in a timely fashion. It also makes it more likely that these detained people will attempt suicide or self-harm, giving rise to more medical problems in the midst of a pandemic. Isolation also increases the amount of physical contact between staff and detained people—in the form of increased handcuffing, escorting individuals to and from the showers, and increased use of force due to the increased psychological stress of isolation. My expert opinion is that the use of isolation or lockdown is not a medically appropriate method for abating the substantial risks of COVID-19.

12. Transferring individuals between facilities, a common ICE practice, is medically inappropriate during the outbreak. ICE does not have the staffing needed to monitor the transferred patients for the appropriate 14-day period to check for symptoms.

13. ICE must release all people with risk factors to prevent serious illness including death. ICE's response has made abundantly clear that they do not plan to establish special protections for high-risk patients, instead waiting for them to become symptomatic. This will lead to unnecessary illness and death for the people most vulnerable to this disease. ICE is walking willingly into a preventable disaster by keeping high-risk and vulnerable patients in detention facilities during the rapid spread of COVID-19.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this *27th* day in March 2020 in New York City, New York.

Robert B. Greifinger, M.D.

# ROBERT B. GREIFINGER, M.D.

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New York, New York 10025

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Physician consultant with extensive experience in development and management of complex community and institutional health care programs. Demonstrated strength in leadership, program development, negotiation, communication, operations and the bridging of clinical and public policy interests. Teacher of health and criminal justice.

## SUMMARY OF EXPERIENCE

### MEDICAL MANAGEMENT AND QUALITY IMPROVEMENT SERVICES 1995-Present

Consultant on the design, management, operations, quality improvement, and utilization management for correctional health care systems.

- Recent clients include (among others) the U.S. Department of Justice Civil Rights Division, monitoring multiple correctional systems and the U.S. Department of Homeland Security Office of Civil Rights and Civil Liberties. Federal court monitor for the Metropolitan Detention Center, Albuquerque, New Mexico, Orleans Parish Sheriff's Office, New Orleans, Louisiana, and Miami-Dade Corrections and Rehabilitation Department.
- National Commission on Correctional Health Care. Principal Investigator for an NIJ funded project to make recommendations to Congress on identifying public health opportunities in soon-to-be-released inmates.
- Associate Editor, Puisis M (ed), Clinical Practice in Correctional Medicine, Second Edition, St. Louis. Mosby 2006.
- Editor, Greifinger, RB (ed), Public Health Behind Bars: From Prisons to Communities, New York. Springer 2007.
- John Jay College of Criminal Justice. Professor (adjunct) of Health and Criminal Justice and Distinguished Research Fellow 2005 – 2016.
- Co-Editor, International Journal of Prison Health 2010 – 2016.

### NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES 1989 - 1995

Operating budget of $1.4 Billion. Responsible for inmate safety, program, and security. Sixty-nine facilities housing over 68,000 inmates with 30,000 employees.

Deputy Commissioner/Chief Medical Officer, 1989 - 1995

- Operating budget of $140 million; health services staff of 1,100. Accountable for inmate health services and public health. Directed major initiatives in policy and program development, quality and utilization management.
- Developed and implemented comprehensive program for HIV prevention, surveillance, education, and treatment in nation's largest AIDS medical practice.
- Managed the rapid implementation of an infection control program responding to a major outbreak of multidrug-resistant tuberculosis. Helped bring the nation's tuberculosis epidemic to public attention.
- Developed $360 million five-year capital plan for inmate health services. Opened the first of five regional medical units for multispecialty ambulatory and long-term care.
- Implemented a centralized and regional pharmacy system, improving quality, service and cost management.

MONTEFIORE MEDICAL CENTER, Bronx, NY 1985 - 1989

A major academic medical center with 8,000 employees and annual revenue of $500 million.

Vice President, Health Care Systems, 1986 - 1989

Director, Alternative Delivery Systems, 1985 - 1986

Operating budget of $60 million with 1,100 employees. Managed a multi-specialty group, a home health agency, and prison health programs.

- Negotiated contracts, including bundled service, risk capitation, fee-for-service arrangements, and major service contracts. Developed a high technology home care joint venture.
- Taught epidemiology and health care organization at Albert Einstein College of Medicine. Lectured nationally on health care delivery and managed care.
- Conceived and collaborated in development of a consortium of six academic medical centers, leading to a metropolitan area-wide, joint venture HMO. Organized a network of physicians to contract with HMO's preparing for cost-containment.

WESTCHESTER COMMUNITY HEALTH PLAN, White Plains, NY 1980 - 1985

Independent, not-for-profit, staff-model HMO, acquired by Kaiser-Permanente in 1985. Operating revenue $17 million with 200 employees and 27,000 members.

Vice President and Medical Director

Chief medical officer and COO. Managed the delivery of comprehensive medical services. Accountable to the Board of Directors for quality assurance and utilization management. Practiced pediatrics.

- Accomplished turnaround with automated utilization management, improved service, sound personnel management principles, and quality management programs.
- Implemented performance based compensation program.

COMMUNITY HEALTH PLAN OF SUFFOLK, INC. 1977 - 1980

Community based, not-for-profit, staff model HMO, with enrollment of 18,000.

Medical Director

- Developed and operated clinical services. Accountable for quality of care. Practiced clinical pediatrics, and taught community health and medical ethics at SUNY Stony Brook School of Medicine.

MONTEFIORE MEDICAL CENTER, Bronx, NY 1976 - 1977

Residency Program in Social Medicine, Deputy Director, 1976-1977

Unique clinical training program focused on community health and change agentry. Developed curriculum and supervised 40 residents in internal medicine, pediatrics and family medicine.

UNITED STATES PUBLIC HEALTH SERVICE 1972 - 1974

Commissioned officer in the National Health Service Corps. Functioned as medical director and family physician in a federally funded neighborhood health center in Rock Island, Illinois. Honorable Discharge.

# ROBERT B. GREIFINGER, M.D.

## FACULTY APPOINTMENTS

1976 - 2002
Assistant Professor of Epidemiology and Social Medicine, Albert Einstein College of Medicine

2005 - 2016
Professor (adjunct) of Health and Criminal Justice and Distinguished Research Fellow, John Jay College of Criminal Justice

## NATIONAL COMMITTEE FOR QUALITY ASSURANCE

Worked with NCQA since its inception in 1980. Began training surveyors in 1989, and continued as faculty for NCQA sponsored educational sessions. Served for six years as a charter member of the Review Oversight (accreditation) Committee. Served on the Reconsideration (appeals) Committee for six years. Surveyed dozens of managed care organizations, and reviewed several hundred quality management programs.

## OTHER PROFESSIONAL ACTIVITIES

| | |
|---|---|
| 2012 – present | Member, Board of Directors, Prison Legal Services, New York |
| 2012 – present | Member, Board of Directors, National Health Law Program |
| 2011 – 2015 | Member, Board of Directors, Academic Consortium of Criminal Justice Health |
| 2010 - 2016 | Co-editor, International Journal of Prisoner Health |
| 2009 | Recipient, B. Jaye Anno Award for Lifetime Achievement in Communication |
| 2007-2015 | Member, National Advisory Group on Academic Correctional Health Care |
| 2007 | Recipient, Armond Start Award, Society of Correctional Physicians |
| 2005 - 2011 | Member, Advisory Board to the Prisoner Reentry Institute, John Jay College |
| 2002 - present | Member, Editorial Board, Journal of Correctional Health Care |
| 2002 - present | Peer reviewer for multiple journals, including Journal of Correctional Health Care, International Journal of Prison Health, Journal of Urban Health, Journal of Public Health Policy, Annals of Internal Medicine, American Journal of Public Health, Health Affairs, and American Journal of Drug and Alcohol Abuse. |
| 2001 - 2003 | Member, Advisory Board to CDC on Prevention of Viral Hepatitis in Correctional Facilities |
| 1999 - 2003 | Member, Advisory Board to CDC on Prevention and Control of Tuberculosis in Jails |
| 1997 - 2003 | Member, Reconsideration Committee, NCQA |
| 1997 - 2001 | Moderator, Optimal Management of HIV in Correctional Systems, World Health Communications |
| 1997 - 2000 | Member, Reproductive Health Guidelines Task Force, CDC |
| 1993 - 1995 | Co-chair, AIDS Clinical Trial Community Advisory Board, Albany Medical Center |
| 1992 - Present | Society of Correctional Physicians |
| 1991 - 1997 | Member, Review Oversight (accreditation) Committee, NCQA |

1983 - 1985 Executive Committee, Medical Directors' Division, Group Health Association of America (Secretary, 1984-1985)

## EDUCATION

University of Pennsylvania, College of Arts and Sciences, Philadelphia; B.A., 1967 (Amer. Civilization)

University of Maryland, School of Medicine, Baltimore; M.D., 1971

Residency Program in Social Medicine (Pediatrics), Montefiore Medical Center, Bronx, NY; 1971-1972, 1974-1976, Chief Resident 1975-1976

## CERTIFICATION

Diplomate, National Board of Medical Examiners, 1971

Diplomate, American Board of Pediatrics, 1976

Fellow, American Academy of Pediatrics, 1977

Fellow, American College of Physician Executives, 1983

Fellow, American College of Correctional Physicians (formerly Society of Correctional Physicians), 2000

License: New York, Pennsylvania (inactive)

# ROBERT B. GREIFINGER, M.D.

Updated February 2018

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# Exhibit 27

# DECLARATION OF DR. DORA SCHRIRO

I, Dora Schriro, declare as follows:

## Background and Qualifications

1. I am a career public servant who has served as an executive-level administrator, policy maker, and homeland security advisor. I was appointed to lead a number of city and state agencies and a federal office.

2. I was the Commissioner of the Connecticut Department of Emergency Services and Public Protection encompassing six state agencies including the Connecticut State Police and Homeland Security and Emergency Management, from 2014 through 2018. I served concurrently as Connecticut's Homeland Security Advisor from 2016 through 2018. My Department of Homeland Security (DHS) security clearance was Top Secret. During my tenure as Director, we grappled with Ebola and through our Division of Emergency Management and Homeland Security, I developed a protocol specifically for first responders – including the Connecticut State Police, all the state's local Police Departments, career and volunteer fire fighters and other first responders, all of whom we served through the Department's six divisions including the Connecticut State Police, Police Officer Standards and Training (POST), the Connecticut Fire Academy, Emergency Management and Homeland Security, Scientific Services (the state's crime lab), and Statewide Telecommunications. Additionally, as the state's Homeland Security Advisor, I interfaced with many of the Department of Homeland Security offices and agencies on an ongoing basis including the Federal Emergency Management Agency with which we had an active and ongoing partnership.

3. I was Senior Advisor to Department of Homeland Security (DHS) Secretary Janet Napolitano on U.S. Immigration and Customs Enforcement (ICE) Detention and Removal, and the founding Director of the ICE Office of Detention Policy and Planning in 2009. During my tenure, I authored the Report on ICE Detention Policies and Practices: A Recommended Course of Action for Systems Reform. My report included a number of recommendations specific to risk assessments, the continuum of control, and alternatives to detention. At the invitation of DHS Secretary Jeh Johnson, I also served in 2015 and 2016 as a member of the DHS Advisory Committee on Family Residential Facilities and co-authored its report.

4. I was the Commissioner of two city jail systems: the St. Louis City Division of Corrections and included the St. Louis City Police Department Prisoner Intake Facility from 2001 to 2003, and the New York City (NYC) Department of Correction from 2009 to 2014. I was also the Warden of the Medium Security Institution, a jail in St. Louis City, Missouri, from 1989 to 1993. During my tenure as Warden, I routinely released pretrial inmates, conditioned upon daily check-in and random drug testing, to comply with a court-ordered facility population cap. During my tenure as Commissioner of the NYC Department of

Correction, I opened NYC's first centralized reception and diagnostic facility in which comprehensive risk assessment, custody classification, and gang identification were completed, and discharge planning was initiated. I also created pre-trial and post-plea diversion opportunities for the mentally ill and seriously mentally ill jail population and special housing for the young adult population. During an earlier appointment to the NYC Department of Correction as Assistant Commissioner for Programs Services from 1985 to 1989, I also oversaw the city's work release program for pre-trial and city-sentenced inmates.

5. I was the Director of two state correctional systems, the Missouri Department of Corrections encompassing state prisons, probation, and parole, from 1993 to 2001, and the Arizona Department of Corrections encompassing state prisons and parole, from 2003 to 2009. During my tenure as Director of the Arizona Department of Corrections, the department was the first correctional system to be selected Winner of the Innovations in American Government awards program, for a prison-based reform we named Parallel Universe—pre-release preparation in which all inmates participated from the first to the last day of their incarceration guided by norms and values closely mirroring those of the community. As Director of the Missouri Department of Corrections, I also served on the state's Sentencing Commission.

6. I was a member of the adjunct faculties of University of Missouri-St. Louis Department of Criminology from 1990 to 1998, St. Louis University School of Law from 2000 to 2002, and Arizona State University Sandra Day O'Connor School of Law from 2005 to 2008, during which time I taught graduate-level Criminology and Correctional Law courses and led Sentencing Seminars.

7. I have served continuously on the Women's Refugee Commission since 2012, and the American Bar Association (ABA) Commission on Immigration since 2014.

8. I am knowledgeable about both the American Correction Association and ICE Performance-Based National Detention Standards, including Classification Systems and Special Management Units standards, both of which are premised on objective, evidence-based risk assessments and the least restrictive housing and community-based assignments consistent with those assessments. I have also participated in the development of American Bar Association (ABA) professional standards for both correctional systems and ICE detention facilities. I am familiar with the California Board of State and Community Corrections Title 15 Minimum Standards for Local Detention Facilities. I am also familiar with bond procedures in state, federal, and immigration courts.

9. I am knowledgeable about the operation of civil detention and criminal pre-trial and sentenced correctional facilities, and the individuals in the custody of both systems.

10. I have served as a Corrections expert to the California Department of Justice, Disability Rights California, and the Hampton County, Massachusetts Sheriff's Department. I am currently

engaged by the California Department of Justice, the American Civil Liberties Union, the Southern Poverty Justice Center, and the St. Louis University School of Law Legal Clinics.

11. I also served as the Executive Director of Planned Parenthood of Bergen County, New Jersey and was a supervising social worker for the Franklin Public Schools in Franklin, Massachusetts.

12. A complete and correct Resume, which includes a list of my publications from the last ten years, is attached as Appendix A.

**FINDINGS AND CONCLUSIONS**

13. According to the World Health Organization, COVID-19 has reached pandemic status.[1] There is no vaccine to prevent transmission, and there is no cure for COVID-19.[2] The World Health Organization, the Centers for Disease Control and Prevention, and other public health experts recommend the use of social distancing and other preventive strategies to control the virus.[3] The Vera Institute of Justice and Community-Oriented Correctional Health Services further recommend that authorities in correctional and immigration detention settings "[u]se their authority to release as many people from their custody as possible."[4]

14. Conditions in immigration detention facilities place people in close contact with one another and allow disease to spread freely. Immigration detention facilities often operate at or above capacity. Detained people live in very close quarters where they eat in congregate settings, sleep in beds very near one another, and recreate in large groups in small areas. In the course of a day, they can be staged in multi-person holding tanks and waiting rooms in Intake, the Medical Unit, and other areas, escorted as whole housing units, transported en masse in buses, and routinely eaten their meals together, none of them circumstances under which individuals are able to maintain social distancing of at least six feet, as recommended by public health experts.

15. Sanitation practices at immigration detention facilities generally do little to curb the spread of illness. Issuance of cleaned clothing, sheets, towels, and blankets are regulated, and the quantity

[1] European Regional Office, *WHO announces COVID-19 outbreak a pandemic*, WHO (Mar. 12, 2020), http://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/news/news/2020/3/who-announces-covid-19-outbreak-a-pandemic.
[2] *Coronavirus Disease 2019 (COVID-19): Situation Summary*, CDC, https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html (last updated Mar. 21, 2020).
[3] *Coronavirus disease advice for the public*, WHO, https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public (last updated Mar. 18, 2020); *How to Protect Yourself*, CDC (2020), https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html (last updated Mar. 18, 2020); Saralyn Cruickshank, *Now is not the time to ease social distancing measures, experts say*, THE HUB AT JOHNS HOPKINS UNIVERSITY (Mar. 24, 2020), https://hub.jhu.edu/2020/03/24/no-time-to-ease-social-distancing/.
[4] COMMUNITY-ORIENTED CORRECTIONAL HEALTH SERVICES & VERA INSTITUTE OF JUSTICE, GUIDANCE FOR PREVENTIVE AND RESPONSIVE MEASURES TO CORONAVIRUS FOR JAILS, PRISONS, IMMIGRATION DETENTION AND YOUTH FACILITIES 2 (Mar. 18, 2020), https://cochs.org/files/covid-19/covid-19-jails-prison-immigration.pdf.

of each item in a detainee's possession at any time limited in number. As a rule, the beds, mattresses, and personal property containers are not sanitized between detainees' assignments. Detainees are responsible for cleaning their own living areas. They are also employed by the facility as porters to clean common areas including their dayrooms and restrooms, facility corridors, the medical unit, recreation areas, kitchen, mess hall, chapel, and law library. In both capacities, usually they perform these duties without any training, and are provided only limited supervision, cleaning materials and supplies, and no protective gloves, glasses, and gowns or coveralls.[5]

16. Objects with which many detainees come in contact frequently—notably, the phones, tables and chairs, paperback books, decks of cards and board games, and other high-touch surfaces in the housing units—are not sanitized or replaced routinely. Similarly, the equipment issued in recreation areas, the kiosks and other furnishing and equipment in the law library, and the various staging and holding areas in Intake and Medical Unit, as well as the courtrooms and attorney and regular visit areas, receive limited attention.

17. Under ordinary circumstances, little to no instruction regarding sanitation is provided to the population at large or to detainees with work assignments. Instruction when given on any subject is most often in English and sometimes Spanish, and far less frequently in any other of detainees' native languages.

18. In general, tissues are not provided, handkerchiefs are unauthorized articles of clothing, and access to toilet paper and paper towel is limited, leaving detainees with nowhere to sneeze, cough, or wipe their noses other than into their own clothes, sheets, blankets, or towels, none of which is replaced daily. Additionally, detainees' access to hand soap, toothpaste and toothbrushes, and shampoo is limited, particularly for the indigent who are dependent upon the facility for their replenishment.

19. Also of concern, ICE facilities often rely on detainees to perform most of the cooking and cleaning in the facility, but neither ICE nor the ICE Health Service Corps (IHSC) has no universal health screening protocol to ensure that all the persons preparing and serving meals and cleaning the area are not sick or symptomatic.

20. The IHSC Interim Guidance on COVID-19 does not demonstrate that ICE facilities have actually undertaken measures to ensure adequate sanitation practices.[6] It is unlikely that these provisions have been undertaken, and even if they have been, most of the risk factors for spreading the virus discussed above would not be mitigated.

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[5] CENTERS FOR DISEASE CONTROL & PREVENTION, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, (Mar. 23, 2020) , https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#Table1.

[6] ICE HEALTH SERVICE CORPS, INTERIM REFERENCE SHEET ON 2019-NOVEL CORONAVIRUS (COVID-19) (Mar. 6, 2020).

21. Under the "Isolation" section of the Guidance, IHSC recommends that ICE facilities "Implement strict hand hygiene and standard, airborne and contact precautions, including use of eye protection."[7] However, there is no provision for providing a budget for more sanitation items, including soap and other cleaners for facilities, or the protective devices detainees in certain assignments should to wear. Nor does this provision apparently apply to other units in the facilities, where detainees or staff may be sick and capable of passing the virus along but asymptomatic. Similarly, that section requires that certain symptomatic detainees be provided a "tight-fitting surgical mask" but it is unclear whether, given shortages of such masks and other personal protective equipment, they are even widely available for detainees, or whether they have already been purchased.[8]

22. Altogether, these conditions allow respiratory viruses such as COVID-19 to spread quickly once they are introduced into a facility. Detainees are physically near each other and regularly handle objects, foods, and surfaces that others have likewise touched. Once the virus enters the facility, detainees have no way to distance themselves from people who are or may be sick. It would be a violation of facility rules to refuse to bunk in an assigned bed, to be handcuffed to another detainee on a transport, to board a bus, or to consent to a pat down search by a detention officer who had flu-like symptoms. Detained people also come into frequent contact with detention and health care staff in the ordinary course of daily life within the facility. There is no way to prevent regular contact among detainees, or between detainees and detention and medical staff.

23. Because there is no way to ensure that infected individuals do not come into contact with other people living and working in detention facilities, best correctional and correctional health care practice would require, at a minimum, the preemptive release of individuals who are at-risk of serious illness or death if they become infected with COVID-19. As Dr. Scott Allen and Dr. Josiah Rich, medical experts to the Department of Homeland Security, recommended in their recent letter to Congress on the pandemic, "[m]inimally, DHS should consider releasing all detainees in high risk medical groups such as older people and those with chronic diseases." Dr. Allen and Dr. Rich concluded that "acting immediately will save lives not of only those detained, but also detention staff and their families, and the community-at-large."[9]

24. Alternatives to detention, including supervised release, informed by individualized risk assessment, are a highly effective method of managing immigration cases without either unnecessary pretrial detention or risk to public safety or risk of failure to appear for court hearings. Compliance rates with supervised release are extremely high; for example, a recent Government Accountability Office report found that 99 percent of immigrant participants in ICE's alternative

[7] *Id.* at 5.
[8] *See* Andrew Jacobs et al., *"At War With No Ammo": Doctors Say Shortage of Protective Gear Is Dire*, NY Times (Mar. 19, 2020), https://www.nytimes.com/2020/03/19/health/coronavirus-masks-shortage.html.
[9] *See* Scott A. Allen, MD, FACP & Josiah Rich, MD, MPH, *Letter to House and Senate Committees on Homeland Security* (Mar. 19, 2020), https://whistleblower.org/wp-content/uploads/2020/03/Drs.-Allen-and-Rich-3.20.2020-Letter-to-Congress.pdf [hereinafter "Allen & Rich"].

to detention program appeared at scheduled court hearings.[10] ICE also operated a very successful Family Case Management Program until recently.[11] According to the Inspector General report, overall compliance was 99 percent for ICE check-ins and appointments, and 100 percent for attendance in court hearings. Two percent of participants absconded during the process.[12]

25. Doctors serving as subject matter experts for the Department of Homeland Security agree that ICE should release at least medically vulnerable people in light of the current COVID-19 pandemic.[13]

26. However, small and incremental changes in admissions or releases do not fully protect currently detained people from contracting or spreading the virus—and especially those who are at-risk of serious illness or death. Instead, ICE can ensure their safety by making full use of its alternatives to detention program. Alternatives to detention include release on personal recognizance, and release on conditions such as phone call check-ins or, when absolutely necessary, electronic surveillance. These alternatives also include the Intensive Supervision Appearance Program (ISAP), in which staff maintains contact with participants with reminder calls and letters and coaching towards meeting all the upcoming reporting requirements and follows up within 48 hours after each court appearance. Under ISAP, when a participant, or the government, files an appeal in the person's removal case and while that appeal is pending, monitoring is modified as necessary to include the addition or removal of GPS or Voice-ID technology, and to increase or decrease in-office and home visit frequency. And if reinstated, it could include ICE's Family Case Management Program, offering orientation and education for participants about their legal rights and responsibilities; individualized family service plans; assistance with transportation logistics; tracking and monitoring of immigration obligations (to include ICE check-ins, attendance at immigration court hearings); and safe repatriation and reintegration planning for participants who are returning to their home countries.[14]

27. Alternatives to detention are effective because they are tailored to an individual depending on their levels of need and risk in the community. Such tailored alternatives maximize medically vulnerable people's ability to remain healthy in the community while protecting public safety and the integrity of court proceedings. When there is a threat to our health and well-being, especially one as serious as COVID-19, we count on the government to protect us from undue harm. The government assumes the same responsibility for those in its custody who lack the autonomy to

[10] Report to Congressional Committees, *Alternative to Detention, Improved Data and Collection and Analysis Needed to Better Assess Program Effectiveness*, GOVERNMENT ACCOUNTABILITY OFFICE (2014), https://www.gao.gov/assets/670/666911.pdf.
[11] Frank Bajak, Associated, ICE shutters helpful family management program amid budget cuts, June 9, 2017, https://www.csmonitor.com/USA/Foreign-Policy/2017/0609/ICE-shutters-helpful-family-management-program-amid-budget-cuts.
[12] DHS Office of Inspector General, U.S. Immigration and Customs Enforcement's Award of the Family Case Management Program, Contract (Redacted), November 30, 2017, https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-22-Nov17.pdf.
[13] Allen & Rich, *supra* note 10.
[14] Immigration and Customs Enforcement, Fact Sheet: Stakeholder Referrals to the ICE/ERO Family Case Management Program, 2016, https://www.aila.org/infonet/ice-fact-sheet-family-case-management-program.

care for themselves. Today, "flattening the curve" so that the infection rate for COVID-19 stays below the healthcare system capacity is key both to controlling the pandemic in the United States and to preventing undue harm to those of us in custody. As individuals, our responsibility to ourselves and others is to limit our social interactions and maintain rigorous personal hygiene practices. For government and institutions, "flattening the curve" requires focusing on densely populated places in which its inhabitants cannot isolate themselves. That is why increasingly more governors have closed all but the essential governmental agencies and businesses and are focusing now on jails and prisons, widely recognized by the healthcare community to be "amplifiers of infectious diseases" such as COVID-19. [15] They do so because they recognize the conditions that can keep diseases from spreading—such as social distancing and rigorous sanitation—are nearly impossible to achieve in correctional and immigration detention facilities.

28. At the local level, leaders have been swift to act:

- District attorneys in San Francisco, California[16] and Boulder, Colorado[17] have taken steps to release people held pretrial, with limited time left on their sentence, and charged with non-violent offenses.
- Ohio courts in Cuyahoga County[18] and Hamilton County[19] have begun to issue court orders and conduct special hearings to increase the number of people released from local jails. On a single day, judges released 38 people from the Cuyahoga County Jail, and they hope to release at least 200 more people charged with low-level, non-violent crimes.
- The Los Angeles County Sheriff's Department[20] has reduced their jail population by 10% in the past month to mitigate the risk of virus transmission in crowded jails. To reduce the jail population by 1,700 people, the Sheriff reports releasing people with less than 30 days left on their sentences and is considering releasing pregnant people and older adults at high risk.

[15] Prison Policy Initiative, *Responses to the COVID-19* (Mar. 26, 2020), https://www.prisonpolicy.org/virus/virusresponse.html.
[16] Darwin Bond Graham, *San Francisco Officials Push to Reduce Jail Population to Prevent Coronavirus Outbreak*, THE APPEAL (Mar. 11, 2020) https://theappeal.org/coronavirus-san-francisco-reduce-jail-population/.
[17] Elise Schmelzer, *Denver, Boulder Law Enforcement Arresting Fewer People to Avoid Introducing Coronavirus to Jails*, THE DENVER POST (Mar. 16, 2020), https://www.denverpost.com/2020/03/16/colorado-coronavirus-jails-arrests/.
[18] Kevin Freeman, *Cuyahoga County Jail Releasing Some Inmates Early to Help Minimize Potential Coronavirus Outbreak*, FOX 8 (Mar. 14, 2020), https://fox8.com/news/coronavirus/cuyahoga-county-jail-releasing-some-inmates-early-to-help-minimize-potential-coronavirus-outbreak/.
[19] Kevin Grasha, *Order to Authorize Hamilton County Sheriff to Release Low-Risk, Nonviolent Jail Inmates*, CINCINNATI ENQUIRER (Mar. 16, 2020), https://www.cincinnati.com/story/news/crime/crime-and-courts/2020/03/16/coronavirus-hamilton-county-sheriff-release-low-risk-inmates/5062700002/.
[20] Justin Carissimo, *1,700 Inmates Released from Los Angeles County in Response to Coronavirus Outbreak*, CBS NEWS (Mar. 24, 2020), https://www.cbsnews.com/news/inmates-released-los-angeles-county-coronavirus-response-2020-03-24/.

- In Travis County, Texas,[21] judges have begun to release more people from local jails on personal bonds (about 50% more often than usual), focusing on preventing people with health issues who are charged with non-violent offenses from going into the jail system.
- Court orders in Spokane, Washington[22] and in three counties in Alabama[23] have authorized the release of people being held pretrial and some people serving sentences for "low-level" misdemeanor offenses.
- In Hillsborough County, Florida,[24] over 160 people were released following authorization via administrative order for people accused of ordinance violations, misdemeanors, traffic offenses, and third-degree felonies.
- In Arizona, the Coconino County[25] court system and jail have released around 50 people who were held in the county jail on non-violent charges.
- In Salt Lake County, Utah,[26] the District Attorney reported that the county jail plans to release at least 90 people this week and to conduct another set of releases of up to 100 more people in the next week.
- In New Jersey, Chief Justice Stuart Rabner signed an order calling for the temporary release of 1,000 people from jails (almost a tenth of the entire state's county jail population) across the state of New Jersey[27] who are serving county jail sentences for probation violations, municipal court convictions, "low-level indictable crimes," and "disorderly persons offenses.
- In New York City,[28] Mayor DeBlasio plans to release 300 people who are over 70 or medically at-risk with misdemeanor and non-violent felonies from its jails.

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[21] Ryan Autullo, *Travis County Judges Releasing Inmates to Limit Coronavirus Spread*, THE STATESMAN (Mar. 16, 2020), https://www.statesman.com/news/20200316/travis-county-judges-releasing-inmates-to-limit-coronavirus-spread?fbclid=IwAR3VKawwn3bwSLSO9jXBxXNRuaWd1DRLsCBFc-ZkPN1INWW8xnzLPvZYNO4.

[22] Chad Sokol, *Dozens Released from Spokane County Custody Following Municipal Court Emergency Order*, THE SPOKESMAN (Mar. 17, 2020), http://www.courts.wa.gov/content/publicupload/eclips/2020%2003%2018%20Dozens%20released%20from%20Spokane%20County%20custody%20following%20Municipal%20Court%20emergency%20order.pdf.

[23] Marty Roney, *Coronavirus: County Jail Inmates Ordered Released in Autauga, Elmore, Chilton Counties,* MONTGOMERY ADVERTISER (Mar. 18, 2020), https://www.montgomeryadvertiser.com/story/news/crime/2020/03/18/county-jail-inmates-ordered-released-autauga-elmore-chilton-counties/2871087001/.

[24] WFTS Digital Staff, *164 "Low Level, Nonviolent" Offenders Being Released From Hillsborough County Jails,* ABC NEWS (Mar. 19, 2020), https://www.abcactionnews.com/news/region-hillsborough/164-low-level-nonviolent-offenders-being-released-from-hillsborough-county-jails.

[25] Scott Buffon, *Coconino County Jail Releases Nonviolent Inmates in Light of Coronavirus Concerns*, ARIZONA DAILY SUN (Mar. 20, 2020), https://azdailysun.com/news/local/coconino-county-jail-releases-nonviolent-inmates-in-light-of-coronavirus/article_a6046904-18ff-532a-9dba-54a58862c50b.html.

[26] Jessica Miller, *Hundreds of Utah Inmates Will Soon Be Released In Response To Coronavirus*, SALT LAKE CITY TRIBUNE (Mar. 20, 2020), https://www.sltrib.com/news/2020/03/21/hundreds-utah-inmates/?fbclid=IwAR3r8BcHeEkoAOcyP3pmBu9XWkEj4MMsDC_LUH4YZn2QGd18hALk4vM9X1c.

[27] Kathleen Hopkins, *Coronavirus in NJ: Up to 1,000 Inmates to Be Released From Jails*, ASBURY PARK PRESS (Mar. 23, 2020), https://www.app.com/story/news/2020/03/23/nj-coronavirus-up-1-000-inmates-released-jails/2897439001/.

[28] Bill DeBlasio (@NYCMayor), TWITTER (Mar. 24, 2020, 9:01 PM), https://twitter.com/NYCMayor/status/1242617574950678531?s=20.

29. At the state level, state correctional systems are also taking steps to reduce the prison population in the face of the pandemic:

- The North Dakota parole board[29] granted early release dates to 56 people held in state prison with expected release dates later in March and early April.
- The director of the Iowa Department of Corrections[30] reported the planned, expedited release of about 700 incarcerated people who have been determined eligible for release by the Iowa Board of Parole.
- In Illinois,[31] the governor signed an executive order that eases the restrictions on early prison releases for "good behavior" by waiving the required 14-day notification to the State Attorney's office. The executive order explicitly states that this is an effort to reduce the prison population, which is particularly vulnerable to the COVID-19 outbreak.

30. In addition to releasing people from jail and prison, jurisdictions are reducing jail admissions, contributing to the reduction in average daily populations, alleviating overcrowding and reducing density.

- In Bexar County, Texas,[32] the Sheriff released a COVID-19 mitigation plan that includes encouraging the use of cite and release and "filing non-violent offenses at large," rather than locking more people up during this pandemic.
- The Baltimore, Maryland State's Attorney[33] will dismiss pending criminal charges against anyone arrested for drug offenses, trespassing, and minor traffic offenses, among other nonviolent offenses.
- District attorneys in Brooklyn, New York[34] and Philadelphia, Pennsylvania,[35] have taken steps to reduce jail admissions by releasing people charged with non-violent offenses and not actively prosecuting low-level, non-violent offenses.

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[29] Arielle Zionts, *DOC, Gov. Noem Not Planning Special Coronavirus Releases From Prisons*, RAPID CITY JOURNAL (Mar. 21, 2020), https://rapidcityjournal.com/news/local/crime-and-courts/doc-noem-not-planning-special-coronavirus-releases-from-prisons/article_d999f510-7c7c-5d19-ab3a-77176002ef99.html.

[30] Linh Ta, *Iowa's Prisons Will Accelerate Release of Approved Inmates to Mitigate COVID-19*, TIMES-REPUBLICAN (Mar. 23, 2020), https://www.timesrepublican.com/news/todays-news/2020/03/iowas-prisons-will-accelerate-release-of-approved-inmates-to-mitigate-covid-19/.

[31] Rylee Tan, *Illinois Reaches 1,285 COVID-19 Cases, Gov. Pritzker Eases Restrictions on Prison Release*, LOYOLA-PHOENIX (Mar. 23, 2020), http://loyolaphoenix.com/2020/03/illinois-reaches-1285-covid-19-cases-gov-pritzker-eases-restrictions-on-prison-release/.

[32] Courtney Friedman, *Bexar County Sheriff Announces COVID-19 Prevention Plan For Jail Inmates, Deputies*, KSAT.COM (Mar. 14, 2020), https://www.ksat.com/news/local/2020/03/15/bexar-county-sheriff-announces-covid-19-prevention-plan-for-jail-inmates-deputies/.

[33] Tim Prudente and Phillip Jackson, *Baltimore State's Attorney Mosby to Stop Prosecuting Drug Possession, Prostitution, Other Crimes Amid Coronavirus*, BALTIMORE SUN (Mar. 18, 2020), https://www.baltimoresun.com/coronavirus/bs-md-ci-cr-mosby-prisoner-release-20200318-u7knneb6o5gqvnqmtpejftavia-story.html.

[34] Andrew Denney and Larry Celona, *Coronavirus In NY: Brooklyn DA to Stop Prosecuting "Low-Level" Offenses*, NEW YORK POST (Mar. 17, 2020), https://nypost.com/2020/03/17/coronavirus-in-ny-brooklyn-da-to-stop-prosecuting-low-level-offenses/.

[35] Samantha Melamed and Mike Newall, *With Courts Closed by Pandemic, Philly Police Stop Low-Level Arrests to Manage Jail Crowding*, PHILADELPHIA INQUIRER (Mar. 18, 2020),

- Police departments in Los Angeles County, California,[36] Denver, Colorado,[37] and Philadelphia, Pennsylvania[38] are reducing arrests by using cite and release practices, delaying arrests, and issuing summons. In Los Angeles County, the number of arrests has decreased from an average of 300 per day to about 60 per day.
- The state of Maine[39] vacated all outstanding bench warrants (for over 12,000 people) for unpaid court fines and fees and for failure to appear for hearings in an effort to reduce jail admissions.
- State and federal courts in Connecticut have begun releasing sentenced prison and jail inmates vulnerable to complications from COVID-19 as well.[40]
- In response to the Oklahoma Department of Corrections' decision not to admit any new people to state prisons, Tulsa and Oklahoma counties are trying to keep their jail population down by not arresting people for misdemeanor offenses and warrants, and by releasing 130 people this past week through accelerated bond reviews and plea agreements.
- In King County, Washington, Seattle jails are no longer accepting people booked for misdemeanor charges that do not present a public safety concern or people who are arrested for violating terms of community supervision. The Department of Adult and Juvenile Detention is also delaying all misdemeanor "commitment sentences" (court orders requiring someone to report to a jail at a later date to serve their sentence).

31. On March 18, 2020, ICE[41,42] notified Congress that it will halt arrests except for those deemed "mission critical" to "maintain public safety and national security." In the statement, ICE also stated that it would avoid arrests near necessary healthcare services including hospitals, doctors' offices, and clinics, "except in the most extraordinary of circumstances." In essence, ICE has acknowledged its prosecutorial discretion and committed to exercise it.

32. This is all that Plaintiffs ask. Individuals with medical vulnerability to COVID-19 face irreparable harm if they continue to be detained and are unlikely to pose significant flight or public safety threats if they were released under conditions consistent with objective assessments of risk.

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https://www.inquirer.com/health/coronavirus/philadelphia-police-coronavirus-covid-pandemic-arrests-jail-overcrowding-larry-krasner-20200317.html.

[36] Salvador Hernandez, *Los Angeles Is Releasing Inmates Early And Arresting Fewer People Over Fears Of The Coronavirus In Jails*, BUZZFEED NEWS (Mar. 16, 2020), https://www.buzzfeednews.com/article/salvadorhernandez/los-angeles-coronavirus-inmates-early-release.

[37] Schmelzer, *supra* note 17713.

[38] Melamed and Newall, *supra* note 35.

[39] Judy Harrison, *Maine Courts Vacate Warrants for Unpaid Fines and Fees*, BANGOR DAILY NEWS (Mar. 16, 2020), https://bangordailynews.com/2020/03/16/news/state/maine-courts-vacate-warrants-for-unpaid-fines-and-fees.

[40] Edmund H. Mahony, *Courts Ponder the Release of Low-Risk Inmates in an Effort to Block the Spread tf COVID-19 to the Prison System*, HARTFORD COURANT (Mar. 24, 2020), https://www.courant.com/coronavirus/hc-news-covid-inmate-releases-20200323-20200324-oreyf4kbdfbe3adv6u6ajsj57u-story.html.

[41] Maria Sacchetti and Arelis R. Hernández, *ICE to Stop Most Immigration Enforcement Inside U.S., Will Focus on Criminals During Coronavirus Outbreak*, WASHINGTON POST (Mar. 18, 2020), https://www.washingtonpost.com/national/ice-halting-most-immigration-enforcement/2020/03/18/d0516228-696c-11ea-abef-020f086a3fab_story.html

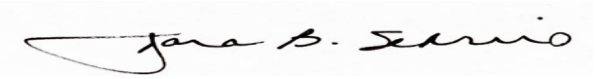
[42] Ian Kullgren, *ICE to Scale Back Arrests During Coronavirus Pandemic*, POLITICO (Mar. 18, 2020), https://www.politico.com/news/2020/03/18/ice-to-scale-back-arrests-during-coronavirus-pandemic-136800.

The government should release as many of these vulnerable individuals as possible, as quickly as possible, with only those conditions that are necessary to ensure participation in court proceedings.

33. Given the severity of COVID-19 and the rapidly escalating rate of infection and death in the United States, as well as the increased risks in ICE detention facilities, I recommend that all medically vulnerable individuals at high risk of serious illness or death as a result of COVID-19 be released immediately, on appropriate conditions of supervision where necessary, to protect themselves, other detainees, correctional and medical staff, and the general public, without impeding immigration court proceedings.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day in March 2020, in New York City, NY.



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Dora Schriro