

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

REYNALDO ALBINO-MARTINEZ, JOSE
NICOLAS CHAVEZ-VARGAS, GENER
ALEJANDRO CHINCHILLA-FLORES, CRAIG
DOBLE, and MIGUEL ANGEL APARICIO
NAVAS,

Petitioner-Plaintiffs,

- against -

REBECCA ADDUCCI, in her official capacity as
Detroit District Director of U.S. Immigration &
Customs Enforcement; MATTHEW T.
ALBENCE, in his official capacity as Deputy
Director and Senior Official Performing the Duties
of the Director of the U.S. Immigration &
Customs Enforcement; CHAD WOLF, in his
official capacity as Acting Secretary, U.S.
Department of Homeland Security; WILLIAM P.
BARR, in his official capacity as Attorney
General, U.S. Department of Justice; and U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondent-Defendants.

Case No. _____

**PETITIONER-PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER**

Plaintiffs Reynaldo Albino-Martinez, Jose Nicolas Chavez-Vargas, Gener
Alejandro Chinchilla-Flores, Craig Doble, and Miguel Aparicio Navas hereby move
this Court, pursuant to Fed. R. Civ. P. 65, for a temporary restraining order. The
grounds for this motion are set forth in the Brief in Support of Plaintiffs' Motion for

Temporary Restraining Order, filed herewith and the accompanying Declarations in support.

In accordance with Local Rule 7.1(a), the Petitioner-Plaintiffs' counsel contacted Jennifer Newby, counsel for Respondent-Defendants, to seek their consent of this motion. Ms. Newby indicated that Respondent-Defendants do not concur in the relief requested.

Dated: April 7, 2020

Respectfully submitted,

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**BRIEF IN SUPPORT OF PETITIONER-PLAINTIFFS' MOTION
FOR TEMPORARY RESTRAINING ORDER**

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INTRODUCTION

Reynaldo Albino-Martinez, Jose Nicolas Chavez-Vargas, Gener Alejandro Chinchilla-Flores, Craig Doble, and Miguel Angel Aparicio Navas (collectively “Plaintiffs”) are non-citizen detainees with medical conditions that make them highly vulnerable to serious illness and death from the COVID-19 disease, who are being held in civil detention at Monroe County Jail (“Monroe”) in Monroe, Michigan, and St. Clair County Jail (“St. Clair”) in Port Huron, Michigan in violation of their Due Process rights. The COVID-19 disease is likely to infect scores of immigrant detainees across the country because of the confined, congregate nature of the detention facilities in which immigration detainees are held. Tragically, COVID-19 has already reached St. Clair, and may be present at Monroe, too. COVID-19 has no vaccine, no treatment, and no cure. The only option for medically vulnerable people to avoid serious illness and death from COVID-19 is to practice social distancing. At Monroe and St. Clair, because of the close quarters in which detainees are held, it is impossible to practice social distancing to avoid infection.

Given the nature of this pandemic, there is no way to ensure that at-risk individuals such as Plaintiffs receive adequate protection from COVID-19 while they remain in detention. Unless they are immediately released from detention, there is no way to protect them from contagion, violating their constitutional rights. Their release, along with adequate public health and safety measures like GPS monitoring

and home confinement, is also in the interest of Respondent-Defendants (“Defendants”) and the public generally because a rapid outbreak with severe consequences for the detainee population would drain the Monroe and Port Huron metropolitan areas of limited resources, including ventilators.

For these reasons, and as explained further below, the Court should grant Plaintiffs’ motion and order their immediate release from detention.

FACTS

As of April 6, 2020, 307,318 people in the United States have contracted COVID-19, and 8,358 people in the United States have died from the disease.¹ Greifinger Decl. ¶ 3. Plaintiffs, like other older individuals and individuals with certain medical conditions, are acutely vulnerable to the disease and face greater chances of serious illness or death.² Golob Decl. ¶ 3. People with these medical conditions who contract COVID-19 typically require advanced support, including highly specialized equipment and a team of medical providers. *Id.* ¶ 8. As explained below, Plaintiffs are at grave risk of serious illness or death if exposed to COVID-19. So long as Plaintiffs are detained at Monroe and St. Clair, they cannot protect themselves, including by practice social distancing, and they do not have access to

¹ Coronavirus disease 2019 (COVID-19) Situation Report – 77, World Health Organization (Apr. 6, 2020), Ngo Decl. Ex. A.

² Plaintiffs’ Petition for the Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (“Pet.”) ¶¶ 47–62.

the necessary hygiene services and facilities to avoid infection, which puts them at imminent risk of substantial bodily harm and death. As explained further below, for these reasons, and for the reasons in the supporting declarations, Plaintiffs should be released from detention.

I. PLAINTIFFS ARE ESPECIALLY SUSCEPTIBLE TO AND ARE AT GRAVE RISK OF HARM FROM COVID-19.

Plaintiffs have underlying medical conditions that increase their risk of serious illness or fatality if exposed to COVID-19.

Plaintiff Reynaldo Albino-Martinez is 55 years old. Kaplovitz Decl. ¶ 2. He suffers from insulin-dependent diabetes and related issues, heart disease, and acid reflux disease. *Id.* ¶ 5(a). Moreover, Mr. Albino-Martinez suffers from several eye conditions, which have led to rapidly declining vision, need for a companion while walking, and need of cataract surgery. *Id.* ¶¶ 5(a), 5(b). On or around February 12, 2020, Mr. Albino-Martinez was transferred to the McLaren Port Huron Hospital to treat pneumonia, where he remained for nearly three weeks. *Id.* ¶ 5(c). After his discharge from the hospital, he remained in the St. Clair County Jail medical unit for continued rehabilitation for over three more weeks. *Id.* He continues to experience a sore throat. *Id.* ¶ 5(d). As a result, he is at a high risk for severe illness or death if he contracts COVID-19.

Plaintiff Miguel Angel Aparicio Navas suffers from an irregular heartbeat, difficulty breathing, dizziness, and stomach pain. Murray Decl. ¶ 5. In 2019, he

was hospitalized to treat some of these symptoms. *Id.* He has also been prescribed medication for his heart. *Id.* As a result, he is at high risk for severe illness or death if he contracts COVID-19.

Plaintiff Jose Nicolas Chavez-Vargas is 50 years old. Contreras Decl. ¶ 4. He also suffers from hypertriglyceridaemia—heightened levels of triglycerides (a type of fat) in his blood—and has heart disease, putting him at heightened risk of heart attack. *Id.* ¶ 4(c). As a result, he is at high risk for severe illness or death if he contracts COVID-19.

Plaintiff Gener Alejandro Chinchilla Flores suffers from asthma, which requires him to use an inhaler. Contreras Decl. ¶ 3(c). As a result, he is at high risk for severe illness or death if he contracts COVID-19.

Plaintiff Craig Doble suffers from hypertension, which have caused shortness of breath and chest pain. Payson Decl. ¶ 7. Monroe does not monitor Mr. Doble’s hypertension, and Mr. Doble has received no medication to help control his blood pressure. *Id.* ¶¶ 8–9. As a result, he is at high risk for severe illness or death if he contracts COVID-19.

II. DETENTION AT MONROE AND ST. CLAIR PUTS PLAINTIFFS AT IMMINENT RISK OF SUBSTANTIAL BODILY HARM.

The danger of COVID-19 to Plaintiffs is acute at Monroe and St. Clair. Infectious diseases like COVID-19, which are communicable by air and touch, are exponentially more likely to spread in “congregate environments,” such as

immigration detention centers.³ Greifinger Decl. ¶¶ 8, 10; Letter from Drs. Scott A. Allen & Josiah Rich to Rep. Bennie Thompson et al. (Mar. 19, 2020), Ngo Decl. Ex. D. Social distancing and vigilant hygiene, including frequent washing of hands with soap and water, are the only known effective measures for protecting vulnerable people from COVID-19. Ngo Decl. Ex. D at 4; Greifinger Decl. ¶¶ 4, 8.

Recent guidance issued by the United States Immigration and Customs Enforcement (“ICE”) acknowledges the risks of COVID-19 to detainees.⁴ However, even if the guidance were being followed at Monroe and St. Clair—and it is not—it is impractical, does not reflect the reality of conditions at Monroe and St. Clair, and

³ As of today, there is one confirmed case of COVID-19 at St. Clair. *See* U.S. Immigration & Customs Enforcement, ICE Guidance on COVID-19: Confirmed Cases (last updated Apr. 7, 2020), Ngo Decl. Ex. B. It is only a matter of time before COVID-19 reaches Monroe, too. As of today, nineteen ICE detainees (across eight facilities in Arizona, California, Louisiana, Michigan, New Jersey, and Pennsylvania) tested positive for COVID-19; seven ICE detention center employees (across five facilities in Colorado, New Jersey, Louisiana and Texas) tested positive for the virus. *Id.* Due to lack of testing, that number is likely an undercount of the actual numbers of positive results. *See* Greifinger Decl. ¶¶ 3, 12(c). An internal ICE COVID-19 report states that, as of March 19, 2020, ICE’s Health Services Corps had isolated nine detainees and it was monitoring 24 more in ten different ICE facilities, and 1,444 officials with ICE and DHS were in precautionary self-quarantine. *See* Ken Klippenstein, *Exclusive: ICE Detainees Are Being Quarantined*, The Nation (Mar. 24, 2020), Ngo Decl. Ex. C.

⁴ *ICE Guidance on COVID-19* (“ICE Guidance”), U.S. Immigration & Customs Enforcement, www.ice.gov/covid19.

is “wholly insufficient to adequately face the crisis at hand” for the reasons enumerated below. Greifinger Decl. ¶ 12.

First, the structure of the Monroe and St. Clair facilities makes social distancing impossible. ICE recommends that “[d]etainees who meet CDC criteria for epidemiologic risk of exposure to COVID-19 [be] housed separately from the general population,” but at Monroe and St. Clair, medically vulnerable individuals like Plaintiffs remain housed in the general population. Greifinger Decl. ¶ 12(f), 12(h); Contreras Decl. ¶ 6 (stating that Monroe does not institute social distancing policies and that detainees sleep and eat in close proximity); Kaplovitz Decl. ¶ 5(e) (stating that St. Clair houses him in one room with 15 to 20 other people who frequently rotate in and out of the room); Diaz Decl. ¶ 21 (stating that criminal detainees at Monroe recently moved to share bed-space with immigration detainees). Plaintiffs and other detained individuals are kept together in groups of approximately fifty to sixty people who eat, live, and sleep in closely confined quarters. Kaplovitz Decl. ¶ 5(e) (reflecting Mr. Albino-Martinez’s description of St. Clair cell housing 15 to 20 detainees as “the size of a double-wide trailer”); Contreras Decl. ¶ 6; Murray Decl. ¶ 8; Mohamed Decl. ¶ 7; Payson Decl. ¶ 11.

Most detainees sleep close together in cells, in which they are always within six feet of each other. Contreras Decl. ¶ 6; Kaplovitz Decl. ¶ 5(e); Payson Decl. ¶ 11; Murray Decl. ¶ 8; Mohamed Decl. ¶ 7. Many sleep in bunk beds that they share

with another person. Mohamed Decl. ¶ 3; Payson Decl ¶ 11. Both food preparation and service are communal; detainees eat all meals in a communal dining hall, where they sit at shared tables with multiple other people. Contreras Decl. ¶ 6; Kaplovitz Decl. ¶ 5(e); Mohamed Decl. ¶ 10.

Second, Plaintiffs and other detainees at Monroe and St. Clair do not have access to the necessary hygiene products, such as hand sanitizer, hand gloves, or mouth masks. Contreras Decl. ¶ 5; Kaplovitz Decl. ¶ 5(e); Mohamed Decl. ¶ 11; Payson Decl. ¶10. Bathroom sinks at Monroe were sometimes broken for extended periods of time, and no hand soap was provided in the bathroom. Mohamed Decl. ¶ 12. One detainee at Monroe explained that cleaning of communal areas—like the bathrooms, showers, telephone, and communal sink—happened only “if detainees volunteered to do it.” Mohamed Decl. ¶ 8.

Finally, the steps Defendants have taken at Monroe and St. Clair to prevent the spread of contagion offer no protection to Plaintiffs and little for the detainee population generally. For example, Detainees have only recently observed detention center employees wearing hand gloves, are not aware of any additional cleaning measures, and generally reported receiving little to no information about the pandemic. Contreras Decl. ¶ 5 (Monroe guards only began wearing face masks and gloves on Tuesday, April 6, 2020); Payson Decl. ¶ 10 (Monroe guards reuse face masks and do not wear hand gloves); Kaplovitz Decl. ¶ 5(e) (only some St. Clair

guards observed wearing masks and safety gloves); *Id.* at ¶ 9 (St. Clair has provided no concrete instructions about social distancing or proper hygiene). Multiple detainees at Monroe have been observed coughing and sneezing, but only some of them were placed in isolation, only to return to the general population just one week later. Payson Decl. ¶ 13.

Defendants cannot adequately ensure Plaintiffs' safety. Monroe and St. Clair are crowded detention facilities. Detainees and staff regularly come and go. It is impossible for Plaintiffs to shelter in place; instead they must interact with strangers who may be carriers for the disease. Tellingly, even though St. Clair has been releasing elderly and vulnerable criminal detainees to create space to quarantine inmates who become sick, St. Clair County Sheriff Tim Donnellon admitted that inmates and correctional officers must still come into close contact on a regular basis.⁵

Moreover, no evidence suggests that Monroe and St. Clair can or do regularly provide testing to staff or new detainees as they come and go. *See* Kaplovitz Decl. ¶ 9. Nor can Monroe and St. Clair provide the sanitization and hygiene required to protect Plaintiffs adequately. The facilities simply do not exist.

⁵ Laura Fitzgerald, *St. Clair County Sheriff, Courts Reducing Jail Population to Lessen the Spread of Coronavirus*, Port Huron Times Herald (last updated Apr. 3, 2020), <https://www.thetimesherald.com/story/news/2020/04/02/st-clair-county-jail-reducing-inmate-population-during-coronavirus-pandemic/5110937002/>, Ngo Decl. Ex. E.

Monroe and St. Clair also cannot ensure adequate treatment of infected detainees. People with certain pre-existing conditions who contract COVID-19 often need intensive medical assistance. Golob Decl. ¶ 8. Such an advanced level of supportive care requires specialized equipment, as well as an entire team of providers, including nurses, respiratory therapists, and intensive care physicians, which Monroe and St. Clair do not possess. *Id.* Finally, because Monroe and St. Clair cannot guarantee widespread testing for COVID-19, the government effectively concedes that detainees and employees at Monroe and St. Clair will be entirely unaware about who is actually contracting the disease and how far it has spread.

For these reasons and others enumerated in the supporting declarations, Plaintiffs are at risk of imminent and substantial bodily harm.

III. RELEASE FROM DETENTION IS THE ONLY WAY TO PROTECT PLAINTIFFS' SAFETY AND THEIR DUE PROCESS RIGHTS.

Plaintiffs cannot find safety at Monroe and St. Clair. Only their release from detention will vindicate their Due Process rights. Public health experts and prison administrators across the country have made it abundantly clear that medically vulnerable populations kept in detention facilities must be released for their own safety and for the safety of others.⁶ In Michigan, Governor Gretchen Whitmer has

⁶ Multiple other jurisdictions, including Los Angeles, CA, Chicago, IL, Harris County, TX, New York City, and the entire states of New Jersey and Iowa,

authorized enhanced early-release for county jails, local lockups, and juvenile detention centers.⁷ Similarly, Chief Justice Bridget M. McCormack and Sheriff Matt Saxton of the Michigan Sheriffs' Association have urged judges and sheriffs to do all they can to reduce and suspend jail sentences.⁸

DHS's own subject matter experts have also stressed that Defendants should release "all detainees in high risk medical groups, such as older people and those

have released thousands of people from custody, acknowledging the grave threat posed by a viral outbreak in jails and detention centers. *See* Letter from Bd. of Correction of the City of New York to Criminal Justice Leaders (Mar. 21, 2020), Ngo Decl. Ex. F at 2 (detailing efforts of jurisdictions around the country to lower jail and prison populations, including Los Angeles (CA), San Francisco (CA), Cook County (IL), Autauga County (AL), Augusta County (VA), Allegheny County (PA), Hamilton County (OH), Harris County (TX), Travis County (TX), and Cuyahoga County (OH)); *see also, e.g.*, News Release, *California Chief Justice Issues Second Advisory on Emergency Relief Measures* (Mar. 20, 2020), Ngo Decl. Ex. G; Linh Ta, *Iowa's Prisons Will Accelerate Release of Approved Inmates to Mitigate COVID-19*, Times Republican (Mar. 23, 2020), Ngo Decl. Ex. H (announcing Iowa Department of Corrections' plans to expedite release of about 700 inmates to mitigate spread of COVID-19); Frank Fernandez, *Coronavirus Preparation Prompts Volusia Jail to Release Some Non-Violent Offenders*, The Daytona Beach News-Journal (Mar. 20, 2020), Ngo Decl. Ex. I (describing Florida correctional facility's release of 88 individuals from jail); BBC News, *US Jails Begin Releasing Prisoners to Stem Covid-19 Infections* (Mar. 19, 2020), Ngo Decl. Ex. J.

⁷ *See* Mich. Exec. Order No. 2020-29 (dated Apr. 26, 2020), https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-523422--,00.html, Ngo Decl. Ex. K.

⁸ *See* Joint Statement (Mar. 26, 2020), *available at* https://courts.michigan.gov/News-Events/press_releases/Documents/CJ%20and%20MSA%20Joint%20Statement%20draft%202%20%28003%29.pdf, Ngo Decl. Ex. L.

with chronic disease.” Ngo Decl. Ex. D at 5-6.⁹ The same analysis applies with equal force to Monroe and St. Clair. *See* Greifinger Decl. ¶ 17 (correctional medical expert recommending release of high-risk individuals as a “key part of a risk mitigation strategy”); Golob Decl. ¶ 14 (infectious disease specialist concluding there are “many reasons” that vulnerable people are at grave risk). Monroe and St. Clair officials also recognize the importance of releasing detainees at high risk: St. Clair has already begun releasing elderly and vulnerable criminal detainees,¹⁰ and Monroe has developed a plan to release detainees at high risk.¹¹

ARGUMENT

Plaintiffs easily meet the legal requirements for the Court to grant them a temporary restraining order. As explained below, (1) they are likely to succeed on the merits of their claims; (2) they are likely to suffer irreparable harm in the absence

⁹ Likewise, former Acting Director of ICE John Sandweg has also publicly called on the agency to release “thousands” of people in order to prevent an outbreak amongst detainees, ICE agents and officers, medical personnel, contract workers, and others who work in ICE’s facilities. *See* 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/>, Ngo Decl. Ex. M.

¹⁰ Ngo Decl. Ex. E.

¹¹ Caitlin Taylor, *Coronavirus Changes Procedures at Monroe County Jail*, Monroe News (Apr. 4, 2020), <https://www.monroenews.com/news/20200404/coronavirus-changes-procedures-at-monroe-county-jail>, Ngo Decl. Ex. N

of relief; (3) the balance of equities tips in their favor; and (4) an injunction is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *McKinney v. Villalva*, No. 10-11581, 2010 WL 2730759, at *1 (E.D. Mich. July 9, 2010) (citing *Ohio Republican Party v. Brunner*, 543 F.3d 357, 361 (6th Cir. 2008) (“The same factors are considered in determining whether to grant a request for either a temporary restraining order or a preliminary injunction.”). The court must balance each of the four factors and “no single factor is dispositive.” *City of Dearborn v. Comcast of Mich.*, 558 F. Supp. 2d 750, 754 (E.D. Mich. 2008). Where plaintiffs demonstrate “irreparable harm which decidedly outweighs any potential harm to the defendant,” the “degree of likelihood of success required” is less, and a plaintiff need only show “serious questions going to the merits.” *In re DeLorean Motor Co.*, 755 F.2d 1223, 1229 (6th Cir. 1985).

IV. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS.

Plaintiffs are likely to establish that Defendants violated—and continue to violate—Plaintiffs’ constitutional rights by condemning them, notwithstanding their particular medical vulnerabilities, to confined quarters with inadequate hygiene supplies and non-functioning facilities, where they are unable to practice social distancing. As explained above, Defendants *cannot* fully remedy any potential harm

suffered by Plaintiffs as a result of COVID-19. Accordingly, Plaintiffs’ continued detention at Monroe and St. Clair violates their Fifth Amendment rights.

A. Plaintiffs’ Continued Detention at Monroe and St. Clair Violates the Fifth Amendment.

Defendants have violated, and continue to violate, Plaintiffs’ constitutional Due Process rights by detaining them in conditions that in no way “reasonably relate[] to a legitimate governmental purpose.” *Bell v. Wolfish*, 441 U.S. 520, 539 (1979). As civil detainees, Plaintiffs’ detention is governed by the Fifth Amendment.¹² *Id.* Under the Fifth Amendment, civil detention may not “amount to

¹² The deliberate indifference standard does not apply to Plaintiffs’ claims. The Supreme Court clarified which standard should apply to pre-trial detainees in *Kingsley v. Hendrickson*, — U.S. —, 135 S. Ct. 2466, 2473 (2015). There, the Court held that a pretrial detainee’s Fourteenth Amendment excessive force claim need only meet the objective component of a deliberate indifference claim by showing that “the force purposely or knowingly used against him was objectively unreasonable.” *Id.* As the Sixth Circuit has recognized, “this shift in Fourteenth Amendment deliberate indifference jurisprudence calls into serious doubt whether [a plaintiff] need even show that the individual defendant-officials were subjectively aware of [the plaintiff’s] serious medical conditions and nonetheless wantonly disregarded them.” *Richmond v. Huq*, 885 F.3d 928, 938 n.3 (6th Cir. 2018). *See also Martin v. Warren Cty., Ky.*, __ F. App’x __, __ n. 4, 2020 WL 360436, at *4 n.4 (6th Cir. Jan. 22, 2020), *reh’g denied* (Feb. 4, 2020); *Griffith v. Franklin Cty., Ky.*, 2019 WL 1387691, at * 5 (E.D. Ky. 2019) (holding that after *Kingsley*, a pretrial detainee need not show subjective deliberate indifference). Plaintiffs here meet the due process standard under either the traditional or a post-*Kingsley* test, *see infra* n.13. However, there is no need for the Court to reach these issues. It can simply apply the *Bell* test, as recently reaffirmed by the Sixth Circuit in *J.H. v. Williamson Cty., Tenn.*, 951 F.3d 709 (6th Cir. 2020).

punishment of the detainee.” *Id.* at 535. Because of their underlying health conditions, which make them especially vulnerable to infection from COVID-19, the condition of Plaintiffs’ confinement is not “reasonably related to a legitimate governmental objective”; instead it is “arbitrary or purposeless[.]” *Id.* at 539; *see also J.H. v. Williamson Cty., Tenn.*, 951 F.3d 709, 717 (6th Cir. 2020) (applying *Bell* test to pre-trial detainee’s conditions of confinement claim); *Turner v. Stumbo*, 701 F.2d 567, 572–73 (6th Cir. 1983) (same).¹³

¹³ Although Plaintiffs’ claims are governed by the Fifth Amendment, their continued detention would also violate the Eighth Amendment’s prohibition of cruel and unusual punishment—a much more demanding standard than the Fifth Amendment’s ban on any punishment. To succeed under the Eighth Amendment, plaintiffs would have to show that the government acted with “deliberate indifference.” *Harrison v. Ash*, 539 F.3d 510, 518 (6th Cir.2008) (citing *Farmer v. Brennan*, 511 U.S. 825, 835 (1994)). The Supreme Court has recognized that the government is deliberately indifferent, and therefore violates the Eighth Amendment, when it “ignores a condition of confinement that is sure or very likely to cause serious illness” by crowding Plaintiffs into living quarters 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, 32–33 (1993). Here, as explained in detail above, the overwhelming evidence shows that COVID-19 poses a serious risk to Plaintiffs, and that continued detention would amount to deliberate indifference and cruel and unusual punishment under the circumstances. *See Bell*, 441 U.S. at 539. *Malam v. Adducci*, __ F. Supp. 3d __, 2020 WL 1672662 (E.D. Mich. Apr. 5, 2020) (holding that continued detention of immigrant plaintiff at Calhoun County Correctional Facility during COVID-19 pandemic constituted “deliberate indifference” and ordering her immediate release); *Thakker v. Doll*, 2020 WL 1671563, at *8 n.15 (M.D. Pa. Mar. 31, 2020) (same) (ordering immediate release of immigration detainees due to COVID-19 under the Fifth Amendment, and, citing *Helling*, finding that plaintiffs had also met the “more exacting Eighth Amendment standard”).

Plaintiffs’ detention is not “reasonably related” to its objective because it creates a serious risk of imminent illness and death. *See Bell*, 441 U.S. at 539. As of today, there is at least one detainee at St. Clair who has contracted COVID-19.¹⁴ In all likelihood, there are also detainees or staff at both Monroe and St. Clair carrying the novel coronavirus asymptotically, making it only a matter of time before they begin to show symptoms of COVID-19. *See supra* Factual Background Sec. II-III. This risk is urgent, imminent, and unrelated to any legitimate governmental goal, as several federal courts have already held. *See, e.g., Malam v. Adducci*, __ F. Supp. 3d __, 2020 WL 1672662 (E.D. Mich. Apr. 5, 2020) (holding that immigrant petitioner’s continued confinement at Calhoun County Correctional Facility in Michigan is both unrelated and contrary to the government purpose of carrying out her removal proceedings); *Xochihua-Jaimes v. Barr*, __ F. App’x __, No. 18-71460, 2020 WL 1429877 (9th Cir. Mar. 24, 2020) (*sua sponte* ordering immediate release of immigrant petitioner “[i]n light of the rapidly escalating public health crisis, which public health authorities predict will especially impact immigration detention centers”); *Thakker v. Doll*, __ F. Supp. 3d __, 2020 WL 1671563, at *8 (M.D. Pa. Mar. 31, 2020) (ordering immediate release of immigrant petitioners because “we can see no rational relationship between a legitimate

¹⁴ *See* Ngo Decl. Ex. B (listing “1 detainee in St. Clair County Jail” among “19 confirmed cases of COVID-19 among those in ICE custody”).

government objective and keeping Petitioners detained in unsanitary, tightly-packed environments”).

B. Plaintiffs’ Release Is the Sole Effective Remedy for the Constitutional Violation at Issue.

Plaintiffs’ immediate release is the sole effective remedy for the constitutional violation here. When the government fails to meet its obligations to provide adequate medical care, courts have a responsibility to remedy the constitutional violation. *See Brown v. Plata*, 563 U.S. 493, 511 (2011) (“When necessary to ensure compliance with a constitutional mandate, courts may enter orders placing limits on a prison’s population.”). The power to remedy constitutional violations arising from government confinement falls within the Court’s broad power to fashion equitable relief. *See Hutto v. Finney*, 437 U.S. 678, 687 n.9 (1978).

To vindicate detainees’ Due Process rights in the face of the COVID-19 pandemic, federal and state courts across the country—including this Court—have ordered the release of detained individuals. *See, e.g., Malam, supra*, 2020 WL 1672662; *Velasquez v. Wolf*, No. EDCV 20-00627 TJH (C.D. Cal. April 2, 2020) (ordering release of detainee in California due to threat of COVID-19); *Coronel v. Decker*, ___ F. Supp. 3d ___, No. 20-cv-2472, 2020 WL 1487274 (S.D.N.Y. Mar. 27, 2020) (ordering release of four medically vulnerable immigrant plaintiffs held in New York and New Jersey detention centers due to thread of COVID-19); *Basank v. Decker*, No. 20-cv-2518, 2020 WL 1481503, at *1 (S.D.N.Y. Mar. 26, 2020)

(same, for ten immigrant plaintiffs who “suffer[] from chronic medical conditions, and face[] an imminent risk of death or serious injury in immigration detention if exposed to COVID-19”); *Calderon Jimenez v. Wolf*, No. 18-10225-MLW, ECF No. 507 (D. Mass. Mar. 26, 2020) (ordering grant of bail for an immigrant detainee held in Plymouth County, Massachusetts because “being in jail enhances risk”).¹⁵ On March 23, 2020, the Ninth Circuit ordered, *sua sponte*, the release of an immigrant petitioner “[i]n light of the rapidly escalating public health crisis, which public health authorities predict will especially impact immigration detention centers.” *Xochihua-Jaimes*, 2020 WL 1429877, at *1.

¹⁵ See also *In re Extradition of Toledo Manrique*, No. 19-71055, 2020 WL 1307109, at *1 (N.D. Cal. Mar. 19, 2020) (granting bail for 74-year-old detainee subject to extradition proceedings due to concerns regarding COVID-19); *Umana Jovel v. Decker et al.*, 20 Civ. 308, 2020 WL 1467397, at *2 (S.D.N.Y. Mar. 26, 2020) (granting emergency request for release of petitioner from immigration detention in light of the COVID-19 crisis); *United States v. Martin*, No. 19-cr-140-13, 2020 WL 1274857, at *2 (D. Md. Mar. 17, 2020) (explaining that exposure to COVID-19 can lead to “serious (potentially fatal, if the detainee is elderly and with underlying medical complications) illness”); *People ex rel. Stoughton on behalf of Little et al. v. Brann*, Index No. 260154/2020 (Bronx Sup. Ct. Mar. 25, 2020) (releasing 106 individuals held at Rikers Island jail on parole violations who are particularly vulnerable to illness or death if infected by COVID-19); Memorandum from Donald W. Beatty, Chief Justice of South Carolina Supreme Court, to Magistrates, Municipal Judges, and Summary Court Staff (Mar. 16, 2020), Ngo Decl. Ex. O (ordering that everyone held on bond in a non-capital case be released, unless there exists an “unreasonable danger” or “extreme flight risk”).

In this case, as in the many similar cases listed above, the Plaintiffs' immediate release from detention is the only effective remedy for the constitutional violation they are suffering. There is no known cure or treatment for COVID-19, no known vaccine, and no known natural immunity. The only way to mitigate the spread of contagion is through social distancing and enhanced hygiene. *See supra* Factual Background II. At Monroe and St. Clair, Plaintiffs cannot maintain the necessary distance from either their fellow detainees or the staff at the facility sufficient to protect their health. Nor do Plaintiffs have access to the requisite supplies and facilities to adhere to the government's hygiene guidelines for preventing infection.

Because Plaintiffs have shown that their continued detention would cause an unacceptably high risk of grave injury, Plaintiffs are likely to succeed on the merits of their claim that their continued detention violates their rights under the Fifth Amendment, and that release from custody is the only permissible way to ensure their safety and the safety of others with whom they are currently in close and daily contact.

C. Plaintiffs May Seek Relief Through Both Habeas and An Implied Action Under the Due Process Clause.

Plaintiffs may seek relief both under 28 U.S.C. § 2241, as a habeas corpus petition, and 28 U.S.C. § 1331, as an independent cause of action for injunctive relief under the Due Process Clause. Both are appropriate vehicles.

1. Plaintiffs' Claims for Release Are Within the Core of Habeas Corpus.

28 U.S.C. § 2241(d) provides habeas jurisdiction over an individual held “in custody in violation of the Constitution or laws or treaties of the United States”—precisely the position that Plaintiffs are in. Claims for “immediate discharge from . . . confinement” fall within the “core of habeas corpus,” *Prieser v. Rodriguez*, 411 U.S. 475, 487 (1973), and Plaintiffs seek immediate release. *See* Pet. ¶ 7. Indeed, the claim brought by Plaintiffs—a due process challenge to the fact of their civil immigration detention—is regularly reviewed in habeas proceedings. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 684–85, 690 (2001) (due process challenge to detention brought in habeas); *Ly v. Hansen*, 351 F.3d 263, 266 (6th Cir. 2003) (abrogation on other grounds recognized by *Hamama v. Adducci*, 946 F.3d 875, 879 (6th Cir. 2020)) (same). Accordingly, numerous federal courts across the circuits

have found habeas jurisdiction proper to order release to remedy the same injury faced by Plaintiffs here.¹⁶

Because Plaintiffs are seeking release, cases holding that challenges to conditions of confinement *per se* fall outside the scope of habeas are inapposite. Crucially, the relief sought in those cases was *not* release from detention but rather modification of the conditions of detention. *See Luedtke v. Berkebile*, 704 F.3d 465, 465–66 (6th Cir. 2013) (challenge to lack of compensation and conditions of work performed in prison); *Sullivan v. United States*, 90 Fed. App’x 862, 862 (6th Cir. 2004) (seeking medical treatment in prison); *Lutz v. Hemingway*, 476 F.Supp. 2d 715, 718 (E.D. Mich. 2007) (seeking restoration of mail privileges in prison); *see also Nelson v. Campbell*, 541 U.S. 637, 643–44 (2004) (challenge to lethal injection protocol); *Muhammad v. Close*, 540 U.S. 749, 753–54 (2004) (seeking to expunge misconduct charge in prison record); *Martin v. Overton*, 391 F.3d 710, 712 (6th Cir.

¹⁶ *See, e.g., Coronel v. Decker*, No. 20-cv-2472 (AJN),—F. Supp. 3d.—, 2020 WL 1487274, at *1 (S.D.N.Y. Mar. 27, 2020) (granting TRO based on similar habeas claim); *Bravo Castillo v. Barr*, No. 20-cv-00605 TJH (AJMx), —F. Supp. 3d.—, 2020 WL 1502864, at *6 (C.D. Cal. Mar. 27, 2020) (same); *Thakker v. Doll*, No. 1:20-cv-480, ECF No. 47, at 22, 25 (M.D. Pa. Mar. 31, 2020) (same); *see also Coreas v. Bounds*, No TDC-20-0780, ECF No. 56, at 14–15 (D. Md. Apr. 3, 2020) (agreeing that “a claim by an immigration detainee seeking release . . . is cognizable under § 2241”).

2004) (seeking transfer).¹⁷ Plaintiffs are not seeking the amelioration of their conditions of confinement. In fact, just the opposite: given Plaintiffs’ vulnerabilities, and the manner in which COVID 19 is spread in congregate settings like Monroe and St. Clair, there are *no* detention conditions that can adequately or constitutionally house them, and release is the necessary relief. *See Malam v. Adducci*, __ F. Supp. 3d __, No. 20-10829, 2020 WL 1672662 (E.D. Mich. Apr. 5, 2020) (finding habeas jurisdiction appropriate where immigrant detainee petitioner argued “that no matter what steps [were] taken [to mitigate the risk of infection], due to her underlying serious health conditions, there [was] no communal holding facility where she could be incarcerated during the Covid-19 pandemic that would be constitutional”).

2. Plaintiffs Also Have An Independent Action In Equity Under the Fifth Amendment.

Federal courts have long recognized an implicit private right of action under the Constitution “as a general matter” to issue prospective injunctive relief against government action. *Free Enter. Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 491 n.2 (2010); *accord Corr. Servs. Corp. v. Malesko*, 534 U.S. 61, 74 (2001) (equitable relief “has long been recognized as the proper means for

¹⁷ Petitioners in these cases were convicted prisoners. Plaintiffs are civil immigration detainees, who have, as noted above here, traditionally used § 2241 for constitutional challenges to their detention.

preventing entities from acting unconstitutionally”); *Bolling v. Sharpe*, 347 U.S. 497 (1954) (holding that the Fifth Amendment and § 1331 created a remedy for unconstitutional racial discrimination in public schools); *Bell v. Hood*, 327 U.S. 678, 684 (1946) (“[I]t is established practice for this Court to sustain the jurisdiction of federal courts to issue injunctions to protect rights safeguarded by the Constitution”).

Thus, there is both jurisdiction under 28 U.S.C. § 1331 and a cause of action under the Fifth Amendment to enjoin the Defendants’ unconstitutional actions. *See Malam*, 2020 WL 1672662, at *4 (“Should Petitioner’s habeas petition fail on jurisdictional grounds, the Fifth Amendment provides Petitioner with an implied cause of action, and accordingly 28 U.S.C. 1331 would vest the Court with jurisdiction.”). *See also Simmat v. U.S. Bureau of Prisons*, 413 F.3d 1225, 1231 (10th Cir. 2005) (implied cause of action under Eighth Amendment to enjoin unconstitutional prison conditions); Pet. ¶ 18.

Sovereign immunity poses no bar to Plaintiffs’ challenge. First, Plaintiffs are suing for injunctive relief against federal officers in their official capacity. “The ability to sue to enjoin unconstitutional actions by state *and* federal officers is the creation of courts of equity, and reflects a long history of judicial review of illegal executive action, tracing back to England.” *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 327 (2015) (emphasis added). Second, Section 702 of the Administrative Procedures Act, 5 U.S.C. § 702, operates as a waiver of sovereign

immunity in “*all* non-monetary claims against federal agencies and their officers sued in their official capacity.” *Muniz-Muniz v. U.S. Border Patrol*, 741 F.3d 668, 672 (6th Cir. 2013) (emphasis added). *See also Malam*, 2020 WL 1672662, at *5 (holding that sovereign immunity did not apply where immigrant detainee “raise[d] a constitutional challenge to her detention as the result of actions taken by [Defendant Rebecca] Adducci, a federal officer”). Thus, Plaintiffs can prevail under both theories.

V. PLAINTIFFS HAVE SATISFIED ALL OTHER FACTORS REQUIRED FOR THIS COURT TO GRANT A TEMPORARY RESTRAINING ORDER.

A. Plaintiffs’ Exposure to COVID-19 Constitutes Irreparable Harm.

Plaintiffs, because of their underlying medical conditions, which make them especially susceptible to severe infection from COVID-19, confront immediate danger in violation of their Due Process rights. “When constitutional rights are threatened or impaired, irreparable injury is presumed.” *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012). Further, Plaintiffs’ continued detention will inevitably delay or prevent them from obtaining medical services, which threatens to worsen Plaintiffs’ health. *See Wilson v. Gordon*, 822 F.3d 934, 958 (6th Cir. 2016) (noting that delay in medical treatment can constitute irreparable injury and acknowledging that “[c]ourts routinely uphold preliminary injunctions where the alleged irreparable harm involves delay in or inability to obtain medical services”).

B. The Public Interest and the Balance of Equities Weigh Heavily in Plaintiffs' Favor.

So long as they continue to be confined at Monroe and St. Clair, Plaintiffs' lives are in danger in violation of their Due Process rights. Releasing them from detention with the proper public health and safety precautions will protect their safety and remedy the continued violation of their constitutional rights, which is in the public interest. *Dodds v. U.S. Dep't of Educ.*, 845 F.3d 217, 222 (6th Cir. 2016) (holding that protection of constitutional rights is "a purpose that is always in the public interest"). Plaintiffs' release from detention, subject to appropriate public health and safety precautions like GPS monitoring and home confinement, will also promote Defendants' interests in ensuring the safety of other detainees, the facility staff, and the community at large. Greifinger Decl. ¶ 17.

A rapid and severe outbreak at Monroe or St. Clair would create a "tinderbox scenario" with dire consequences for detainees and workers as well as the Monroe and Port Huron metropolitan areas, which would be drained of its limited medical resources, including intensive care unit beds and ventilators. In Michigan, the COVID-19 outbreak has already resulted in unprecedented public health measures and has strained the local health care system. Releasing vulnerable individuals will

reduce the burden on the local community and health infrastructure and is clearly in the public interest. *See Calderon Jimenez*, No. 18-10225-MLW at 4.¹⁸

CONCLUSION

For the foregoing reasons, this Court should grant Plaintiffs' motion for a temporary restraining order and direct Plaintiffs' immediate release from Monroe and St. Clair.

Dated: April 7, 2020

Respectfully submitted,

/s/ Miriam J. Aukerman

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¹⁸ As detained, indigent individuals, Plaintiffs request this Court to exercise its discretion to require no security in issuing this relief. *Urbain v. Knapp Bros. Mfg. Co.*, 217 F.2d 810, 815–16 (6th Cir. 1954) (“[T]he matter of requiring security in each case rests in the discretion of the District Judge.”).

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* Application for admission
forthcoming

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

REYNALDO ALBINO-MARTINEZ, JOSE
NICOLAS CHAVEZ-VARGAS, GENER
ALEJANDRO CHINCHILLA-FLORES, CRAIG
DOBLE, and MIGUEL ANGEL APARICIO
NAVAS,

Petitioner-Plaintiffs,

- against -

REBECCA ADDUCCI, in her official capacity as
Detroit District Director of U.S. Immigration &
Customs Enforcement; MATTHEW T.
ALBENCE, in his official capacity as Deputy
Director and Senior Official Performing the Duties
of the Director of the U.S. Immigration &
Customs Enforcement; CHAD WOLF, in his
official capacity as Acting Secretary, U.S.
Department of Homeland Security; WILLIAM P.
BARR, in his official capacity as Attorney
General, U.S. Department of Justice; and U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondent-Defendants.

Case No. _____

INDEX OF EXHIBITS

- Exhibit 1: Declaration of Dr. Jonathan Louis Golob
- Exhibit 2: Declaration of Dr. Robert B. Greifinger, M.D.
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Plaintiffs

- Exhibit 4: Declaration of Ronald Kaplovitz, Attorney for Reynaldo Albino-Martinez
- Exhibit 5: Declaration of Jonathan Contreras, Attorney for Jose Nicolas Chavez-Vargas and Gener Alejandro Chinchilla-Flores
- Exhibit 6: Declaration of Travis J. Payson, Attorney for Craig Doble
- Exhibit 7: Declaration of Miguel Angel Aparicio Navas
- Exhibit 8: Declaration of Adam Mohamed

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

REYNALDO ALBINO-MARTINEZ, JOSE
NICOLAS CHAVEZ-VARGAS, GENER
ALEJANDRO CHINCHILLA-FLORES, CRAIG
DOBLE, and MIGUEL ANGEL APARICIO
NAVAS,

Petitioner-Plaintiffs,

- against -

REBECCA ADDUCCI, in her official capacity as
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Director and Senior Official Performing the Duties
of the Director of the U.S. Immigration &
Customs Enforcement; CHAD WOLF, in his
official capacity as Acting Secretary, U.S.
Department of Homeland Security; WILLIAM P.
BARR, in his official capacity as Attorney
General, U.S. Department of Justice; and U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondent-Defendants.

Case No. _____

DECLARATION OF DR. JONATHAN LOUIS GOLOB
IN FURTHER SUPPORT OF PETITIONER-PLAINTIFFS'
MOTION FOR TEMPORARY RESTRAINING ORDER

DECLARATION OF DR. JONATHAN LOUIS GOLOB

I, Jonathan Louis Golob, declare as follows:

1. I am an Assistant Professor at the University of Michigan School of Medicine in Ann Arbor, Michigan, where I am a specialist in infectious diseases and internal medicine. I am also a member of the Physicians for Human Rights. At the University of Michigan School of Medicine, I am a practicing physician and a laboratory-based scientist. My primary subspecialization is for infections in immunocompromised patients, and my recent scientific publications focus on how microbes affect immunocompromised people. I obtained my medical degree and completed my residency at the University of Washington School of Medicine in Seattle, Washington, and also completed a Fellowship in Internal Medicine Infectious Disease at the University of Washington. I am actively involved in the planning and care for patients with COVID-19. Attached as Exhibit A is a copy of my curriculum vitae.
2. COVID-19 is an infection caused by a novel zoonotic coronavirus SARS-COV-2 that has been identified as the cause of a viral outbreak that originated in Wuhan, China in December 2019. The World Health Organization has declared that COVID-19 is causing a pandemic. As of April 2, 2020, there are over 800,000 confirmed cases of COVID-19 worldwide. COVID-19 has caused over 45,000 deaths, with exponentially growing outbreaks occurring at multiple sites worldwide, including within the United States in regions like New York, New Jersey, Louisiana, Michigan and Illinois.
3. COVID-19 makes certain populations of people severely ill. People over the age of fifty are at higher risk, with those over 70 at serious risk. As the Center for Disease Control and Prevention has advised, certain medical conditions increase the risk of serious COVID-19 for people of any age. These medical conditions include: those with lung disease, heart disease, diabetes, or immunocompromised (such as from cancer, HIV, autoimmune diseases), blood disorders (including sickle cell disease), chronic liver or kidney disease, inherited metabolic disorders, stroke, developmental delay, or pregnancy.
4. For all people, even in advanced countries with very effective health care systems such as the Republic of Korea, the case fatality rate of this infection is about ten fold higher than that observed from a severe seasonal influenza. In the more vulnerable groups, both the need for care, including intensive care, and death is much higher than we observe from influenza infection: In the highest risk populations, the case fatality rate is about 15%. For high risk patients who do not die from COVID-19, a prolonged recovery is expected to be required, including the need for extensive rehabilitation for profound

deconditioning, loss of digits, neurologic damage, and loss of respiratory capacity that can be expected from such a severe illness.

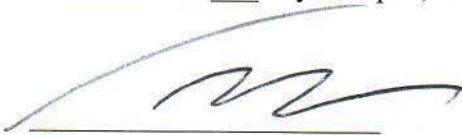
5. In most people, the virus causes fever, cough, and shortness of breath. In high-risk individuals as noted above, this shortness of breath can often be severe. Even in younger and healthier people, infection of this virus requires supportive care, which includes supplemental oxygen, positive pressure ventilation, and in extreme cases, extracorporeal mechanical oxygenation.
6. The incubation period (between infection and the development of symptoms) for COVID-19 is typically 5 days, but can vary from as short as two days to an infected individual never developing symptoms. There is evidence that transmission can occur before the development of infection and from infected individuals who never develop symptoms. Thus, only with aggressive testing for SARS-COV-2 can a lack of positive tests establish a lack of risk for COVID-19.
7. When a community or institution lacks a comprehensive and rigorous testing regime, a lack of proven cases of COVID-19 is functionally meaningless for determining if there is a risk for COVID-19 transmission in a community or institution.
8. Most people in the higher risk categories will require more advanced support: positive pressure ventilation, and in extreme cases, extracorporeal mechanical oxygenation. Such care requires highly specialized equipment in limited supply as well as an entire team of care providers, including but not limited to 1:1 or 1:2 nurse to patient ratios, respiratory therapists and intensive care physicians. This level of support can quickly exceed local health care resources.
9. COVID-19 can severely damage the lung tissue, requiring an extensive period of rehabilitation and in some cases a permanent loss of respiratory capacity. The virus also seems to target the heart muscle itself, causing a medical condition called myocarditis, or inflammation of the heart muscle. Myocarditis can affect the heart muscle and electrical system, which reduces the heart's ability to pump, leading to rapid or abnormal heart rhythms in the short term, and heart failure that limits exercise tolerance and the ability to work lifelong. There is emerging evidence that the virus can trigger an over-response by the immune system in infected people, further damaging tissues. This cytokine release syndrome can result in widespread damage to other organs, including permanent injury to the kidneys (leading to dialysis dependence) and neurologic injury.

10. There is no cure and vaccine for this infection. Unlike influenza, there is no known effective antiviral medication to prevent or treat infection from COVID-19. Experimental therapies are being attempted. The only known effective measures to reduce the risk for a vulnerable person from injury or death from COVID-19 are to prevent individuals from being infected with the COVID-19 virus. Social distancing, or remaining physically separated from known or potentially infected individuals, and hygiene, including washing with soap and water, are the only known effective measures for protecting vulnerable communities from COVID-19.
11. Nationally, without effective public health interventions, CDC projections indicate about 200 million people in the United States could be infected over the course of the epidemic, with as many as 1.5 million deaths in the most severe projections. Effective public health measures, including social distancing and hygiene for vulnerable populations, could reduce these numbers.
12. In early March, the highest known person-to-person transmission rates for COVID-19 were in a skilled nursing facility in Kirkland, Washington and on afflicted cruise ships in Japan and off the coast of California. More recently, the highest transmission rates have been recorded in the Rikers Island jail complex in New York City, which is over seven times the rate of transmission compared to the spread in New York City. To illustrate, the number of confirmed cases among inmates soared from one to nearly 200 in the matter of 12 days.
13. This is consistent with the spread of previous viruses in congregate settings. During the H1N1 influenza ("Swine Flu") epidemic in 2009, jails and prisons were sites of severe outbreaks of viral infection. Given the avid spread of COVID-19 in skilled nursing facilities and cruise ships, it is reasonable to expect COVID-19 will also readily spread in detention centers such as prisons and jails, particularly when residents cannot engage in social distancing measures, cannot practice proper hygiene, and cannot isolate themselves from infected residents or staff. With new individuals and staff coming into the detention centers who may be asymptomatic or not yet presenting symptoms, the risk of infection rises even with symptom screening measures.
14. This information provides many reasons to conclude that vulnerable people, people over the age of 50 and people of any age with lung disease, heart disease, diabetes, or immunocompromised (such as from cancer, HIV, autoimmune diseases), blood disorders (including sickle cell disease), chronic liver or kidney disease, inherited metabolic disorders, stroke, developmental delay, or pregnancy living in an institutional setting, such as a prison, or jail, or an immigration detention center, with limited access to

adequate hygiene facilities, limited ability to physically distance themselves from others, and exposure to potentially infected individuals from the community are at grave risk of severe illness and death from COVID-19.

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

Executed this 3 day in April, 2020 in Ann Arbor, Michigan.

A handwritten signature in black ink, appearing to read 'J. Golob', is written over a horizontal line.

Dr. Jonathan Louis Golob

Exhibit A

CV of Dr. Golob

Jonathan Louis Golob, M.D. Ph.D.

Assistant Professor

206 992-0428 (c) 734-647-3870 (o)

golobj@med.umich.edu jonathan@golob.org

Education and Training

6/1997 – 6/2001

Bachelor of Science, Johns Hopkins University, Baltimore, MD
Dual degree in Biomedical Engineering and Computer Science
conferred June 2001.

7/2001 – 6/2011

MSTP MD/PhD Combined Degree, University of Washington,
Seattle, WA.
Ph.D. on the basic science of embryonic stem cells, specifically
epigenetic regulation of differentiation
Ph.D. conferred in June 2009.
MD conferred in June 2011.

6/2011 – 6/2013

Internal Medicine Residency, University of Washington,
Seattle, WA

6/2013 – 6/2017

Infectious Diseases Fellowship, University of Washington,
Seattle, WA

Certifications and Licensure

Board Certifications

2014 Diplomat in Internal Medicine, American Board of Internal Medicine.

2016 Diplomat in Infectious Disease, American Board of Internal Medicine.

Current Medical Licenses to Practice

2013 Washington State Medical License, Physician, MD60394350

2018 Michigan State Medical License, Physician, 4301114297

Academic, Administrative, and Clinical Appointments

Academic

6/2014 – 6/2018

Senior Fellow, Vaccine and Infectious Disease Division, Fred
Hutchinson Cancer Research Center, Seattle, WA

8/2016 – 6/2018

Joel Meyers Endowment Fellow, Vaccine and Infectious
Disease Division, Fred Hutchinson Cancer Research Center,
Seattle, WA

8/2017 – 6/2018

Research Associate, Vaccine and Infectious Disease Division,
Fred Hutchinson Cancer Research Center, Seattle, WA

8/2017 – 6/2018

Acting Instructor, Division of Allergy and Infectious Diseases,
Department of Medicine, University of Washington, Seattle, WA

8/2018 – Present

Assistant Professor, Division of Infectious Diseases,
Department of Medicine, University of Michigan, Ann Arbor,
MI

Clinical

12/2015 – 12/2016	Infectious Disease Locums Physician , Virginia Mason Medical Center, Seattle, WA
7/2017 – 6/2018	Hospitalist Internal Medicine Physician , Virginia Mason Medical Center, Seattle, WA
8/2017 – 6/2018	Attending Physician , Seattle Cancer Care Alliance, Seattle, WA
8/2017 – 6/2018	Attending Physician , Division of Allergy and Infectious Diseases, Department of Medicine, University of Washington, Seattle, WA
8/2018 – Present	Attending Physician , Division of Infectious Diseases, Department of Medicine, University of Michigan, Ann Arbor, MI

Research Interests

1. I am primarily interested in understanding how the human gut microbiome *mechanistically* affects how patients respond to treatments. I have a particular focus on patients undergoing hematopoietic cell transplant, who are at risk for recurrence of their underlying disease, treatment-related colitis (from both conditioning and graft versus host disease), and infection. In human observational trials the human gut microbiome correlates with each of these aspects. My research program uses advanced stem-cell based *in-vitro* models of the human colonic mucosa to verify if the correlations in observational trials can cause similar effects *in vitro*, and then determine by which pathways (e.g. receptors) and broad mechanisms (e.g. epigenetics) the microbes affect the host.
2. Host-microbiome interactions are contextual. A beneficial interaction in health can turn pathologic. For example, my ongoing work focused on the microbial metabolite butyrate. Butyrate enhances the health of healthy and intact colonic epithelium, acting as a substrate for cellular respiration and through receptor-mediate processes reduces cellular inflammation. However, butyrate also blocks the ability of colonic stem cells to differentiate into mature epithelium. Thus, in colitis that results in a loss of colonic crypts, an intact and butyrogenic gut microbiome results in colonic stem cells being exposed to butyrate and inhibits recovery. My ongoing work uses a primary stem-cell based model of the human colonic mucosa to establish how butyrate blocks the differentiation of colonic stem cell with a hope of generating new treatments for patients with steroid-refractory colitis.
3. I am interested in validating and improving computational tools for biological research. I have a computer science and biomedical engineering background that combined with my clinical and molecular biology training positions me optimally to understand both major aspects of computational biology: what are the needs to make biological inferences from big data, and how can tools specifically be improved to achieve such inferences.

Grants

Present and Active

ASBMT New Investigator Award J. Golob (PI) 7/2018 – 7/2020
Hematopoietic Cell Transplant Outcomes and Microbial Metabolism
Role: PI
\$30,000/yr for up to two years

NIH / NIAID R01 D. Fredricks (PI) 11/2017 – 11/2021
The Gut Microbiota and Graft versus Host Disease (GVHD), AI-134808
Role: Senior / key personnel
\$823,701

NIH P01 T. Schmidt (PI) Pending / Reviewed
ENGINEERING MICROBIOMES AND THEIR MOLECULAR DETERMINANTS FOR
PRODUCTION OF BUTYRATE AND SECONDARY BILE ACIDS FROM RESISTANT
STARCH
Role: Key Personnel

NIH / NCI R21 J. Golob (PI) Pending / Submitted
Establishing a physiologic human colonic stem/progenitor cells model of regimen-related
colitis
Role: PI

NIH R21 J. Golob (PI) Pending / Submitted
Manipulating Butyrate Production by the Gut Microbiome during Chronic HIV Infection
Role: PI

Completed

Joel Meyers Endowment Fellowship 6/2016 – 6/2018
Role: Research Fellow
\$63,180

DCDR Grant R. Harrington (PI) 6/2014 – 6/2018
Support for data queries into the Deidentified Clinical Data Repository
Role: PI
\$1000

NIH T32 Institutional Training Grant M. Boeckh (PI) 8/2016 – 8/2017
1T32AI118690-01A1
Role: Post-Doc Trainee
\$315,972

NIH T32 Institutional Training Grant W. van Voorhis (PI) 7/1/14 – 6/30/16
5T32AI007044
Role: Post-Doc Trainee
\$1,527,801

Honors and Awards

2001 Tau Beta Pi Engineering Honor Society
2001 Alpha Eta Mu Beta Biomedical Engineering Honor Society

2005 ARCS Fellowship
 2015 Consultant of the Month Award. University of Washington Housestaff.
 2016 Joel Meyer Endowment Fellow

Membership in Professional Societies

2013 Member, Infectious Diseases Society of America
 2011 Member, American Board of Internal Medicine

Bibliography

Peer-Reviewed Journals and Publications

1. Gao Z, **Golob J**, Tanavde VM, Civin CI, Hawley RG, Cheng L. High levels of transgene expression following transduction of long-term NOD/SCID-repopulating human cells with a modified lentiviral vector. *Stem Cells* 19(3): 247-59, 2001.
2. Cui Y, **Golob J**, Kelleher E, Ye Z, Pardoll D, Cheng L. Targeting transgene expression to antigen-presenting cells derived from lentivirus-transduced engrafting human hematopoietic stem/progenitor cells. *Blood* 99(2): 399-408, 2002.
3. Boursalian TE, **Golob J**, Soper DM, Cooper CJ, Fink PJ. Continued maturation of thymic emigrants in the periphery. *Nature Immunology* 5(4): 418-25, 2004.
4. Osugi T, Kohn AD, **Golob JL**, Pabon L, Reinecke H, Moon RT, Murry CE. Biphasic role for Wnt/beta-catenin signaling in cardiac specification in zebrafish and embryonic stem cells. *PNAS* 104(23): 9685-9690, 2007.
5. **Golob JL**, Paige SL, Muskheli V, Pabon L, Murry CE: Chromatin Remodeling During Mouse and Human Embryonic Stem Cell Differentiation. *Developmental Dynamics* 237(5): 1389-1398, 2008.
6. **Golob JL**, Kumar RM, Guenther MG, Laurent LC, Pabon LM, Loring JF, Young RA, Murry CE: Evidence That Gene Activation and Silencing during Stem Cell Differentiation Requires a Transcriptionally Paused Intermediate State. *PLoS ONE* 6(8): e22416, 2011.
7. **Golob JL**, Margolis E, Hoffman NG, Fredricks DN. Evaluating the accuracy of amplicon-based microbiome computational pipelines on simulated human gut microbial communities. *BMC Bioinformatics* 18(1):283, 2017.
8. MacAllister TJ, Stednick Z, **Golob JL**, Huang, ML, Pergam SA. Under-utilization of norovirus testing in hematopoietic cell transplant recipients at a large cancer center. *Am J Infect Control* pii: S0196-6553(17)30783-6. doi: 10.1016/j.ajic.2017.06.010. [Epub ahead of print], 2017.
9. **Golob JL**, Pergam SA, Srinivasan S, Fiedler TL, Liu C, Garcia K, Mielcarek M, Ko D, Aker S, Marquis S, Loeffelholz T, Plantinga A, Wu MC, Celustka K, Morrison A, Woodfield M, Fredricks DN. The Stool Microbiota at Neutrophil Recovery is Predictive for Severe Acute Graft versus Host Disease after Hematopoietic Cell Transplantation. *Clin Infect Dis* doi: 10.1093/cid/cix699. [Epub ahead of print], 2017.
10. Bhattacharyya A, Hanafi LA, Sheih A, **Golob JL**, Srinivasan S, Boeckh MJ, Pergam SA, Mahmood S, Baker KK, Gooley TA, Milano F, Fredricks DN, Riddell SR, Turtle CJ. Graft-Derived Reconstitution of Mucosal-Associated Invariant T Cells after Allogeneic Hematopoietic Cell Transplantation. *Biol Blood Marrow Transplant* pii: S1083-8791(17)30758-9. doi: 10.1016/j.bbmt.2017.10.003. Epub 2017 Oct 9.
11. Ogimi C, Krantz EM, **Golob JL**, Waghmare A, Liu C, Leisenring WM, Woodard CR, Marquis S, Kuypers JM, Jerome KR, Pergam SA, Fredricks DN, Sorror ML, Englund JA, Boeckh M. Antibiotic Exposure Prior to Respiratory Viral Infection Is Associated with Progression to Lower Respiratory Tract Disease in Allogeneic Hematopoietic Cell

- Transplant Recipients. *Biol Blood Marrow Transplant*. 2018 May 16. pii: S1083-8791(18)30268-4. doi: 10.1016/j.bbmt.2018.05.016. [Epub ahead of print]
12. **Golob JL**, Stern J, Holte S, Kitahata MM, Crane HM, Coombs RW, Goecker E, Woolfrey AE, Harrington RD. HIV DNA levels and decay in a cohort of 111 long-term virally suppressed patients. *AIDS*. 2018 Sep 24;32(15):2113-2118. doi: 10.1097/QAD.0000000000001948.
 13. **Golob JL**, DeMeules MM, Loeffelholz T, Quinn ZZ, Dame MK, Silvestri SS, Wu MC, Schmidt TM, Fiedler TL, Hoostal MJ, Mielcarek M, Spence J, Pergam SA, Fredricks DN. Butyrogenic bacteria after acute graft-versus-host disease (GVHD) are associated with the development of steroid-refractory GVHD. *Blood Adv*. 2019 Oct 8;3(19):2866–2869.

Preprint publications

1. **Golob JL** and Minot SS. Functional Analysis of Metagenomes by Likelihood Inference (FAMLI) Successfully Compensates for Multi-Mapping Short Reads from Metagenomic Samples. Preprint. doi: <https://doi.org/10.1101/295352>

Other Publications

1. Science Columnist and Writer for *The Stranger*, Seattle, WA, 2004 – Present
2. Freelance contributor, *Ars Technica*, 2016 – Present.

Abstracts (presenter underlined)

1. **Golob JL**, Srinivasan S, Pergam SA, Liu C, Ko D, Aker S, Fredricks DN. Gut Microbiome Changes in Response to Protocolized Antibiotic Administration During Hematopoietic Cell Transplantation. ID Week, Infectious Diseases Society of America, October 2015 (Oral)
2. **Golob JL**, Stern J, Holte S, Kitahata M, Crane H, Coombs R, Goecker E, Woolfrey AE, Harrington RD. HIV reservoir size and decay in 114 individuals with suppressed plasma virus for at least seven years: correlation with age and not ARV regimen. IDWeek 2016, October 26-30, 2016, New Orleans. Abstract 953 (Oral).
3. **Golob JL**, Stohs E, Sweet A, Pergam SA, Boeckh M, Fredricks DN, and Liu C. Vancomycin is Frequently Administered to Hematopoietic Cell Transplant Recipients Without a Provider Documented Indication and Correlates with Microbiome Disruption and Adverse Events. ID Week, Infectious Diseases Society of America, October 2018 (# 72504).
4. Impact of Intestinal Microbiota on Reconstitution of Mucosal-Associated Invariant T Cells after Allogeneic Hematopoietic Stem Cell Transplantation. ASH 2018 (#3393).

Invited Lectures

1. Keynote Speaker, ARCS Foundation Annual Dinner. Seattle, WA Nov 3, 2008
2. Primary Care Conference: Direct to Consumer Genetic Testing, Seattle, WA, Mar 14, 2013
3. “IRIS and TB”, Harborview Medical Center Housestaff Lunchtime Conference, Seattle, WA, Jun 9, 2014
4. “Complicated Enterococcal Endocarditis”, University of Washington Medical Center (UWMC) Chief of Medicine Conference, Seattle, WA, Jul 14, 2014
5. “Coccidiomycosis”, UWMC Chief of Medicine Conference, Seattle, WA, Oct 7, 2014
6. “HIV and CMV encephalitis”, UWMC Chief of Medicine Conference, Seattle, WA, Apr 14, 2015
7. Research Presentation for GVHD Group Meeting, Seattle, WA, Nov 2015

8. "CMV Ventriculitis", Clinical Case Presentation to the Virology Working Group, Fred Hutchinson Cancer Research Center (Fred Hutch), Seattle, WA, Nov 2015
9. "Microbiome and HCT Outcomes". 1st Infectious Disease in the Immunocompromised Host Symposium – Tribute to Joel Meyers. Fred Hutch, Seattle, WA, Jun 13 2016.
10. "Microbiome and GVHD". Infectious Disease Sciences / Virology Symposium, Fred Hutch / UW, Seattle, WA, Jan 17 2017
11. "Microbiome and GVHD". 2nd Symposium on Infectious Disease in the Immunocompromised Host. June 19 2017
12. "The Gut Microbiome Predicts GVHD. Can It Be Engineered to Protect?". St Jude. February 18th 2019

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

REYNALDO ALBINO-MARTINEZ, JOSE
NICOLAS CHAVEZ-VARGAS, GENER
ALEJANDRO CHINCHILLA-FLORES, CRAIG
DOBLE, and MIGUEL ANGEL APARICIO
NAVAS,

Petitioner-Plaintiffs,

- against -

REBECCA ADDUCCI, in her official capacity as
Detroit District Director of U.S. Immigration &
Customs Enforcement; MATTHEW T.
ALBENCE, in his official capacity as Deputy
Director and Senior Official Performing the Duties
of the Director of the U.S. Immigration &
Customs Enforcement; CHAD WOLF, in his
official capacity as Acting Secretary, U.S.
Department of Homeland Security; WILLIAM P.
BARR, in his official capacity as Attorney
General, U.S. Department of Justice; and U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondent-Defendants.

Case No. _____

DECLARATION OF ROBERT B. GREIFINGER, M.D.
IN FURTHER SUPPORT OF PETITIONER-PLAINTIFFS'
MOTION FOR TEMPORARY RESTRAINING ORDER

Declaration of Robert B. Greifinger, MD

I, Robert B. Greifinger, declare as follows:

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.

COVID-19

3. COVID-19 is a coronavirus disease that has reached pandemic status. As of April 5, 2020, according to the World Health Organization, more than one million people – 1,133,758 to be precise – have been diagnosed with COVID-19 around the world and 62,784 people have died. In the United States, about 273,808 people have been diagnosed and 7,020 people have died thus far.² These numbers are likely an underestimate, due to the lack of availability of testing, in countries like the United States.
4. 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.

¹ Parvez FM, Lobato MN, Greifinger RB. Tuberculosis Control: Lessons for Outbreak Preparedness in Correctional Facilities. *Journal of Correctional Health Care* OnlineFirst, published on May 12, 2010 as doi:10.1177/1078345810367593.

² World Health Organization, Coronavirus Disease 2019 (COVID-19) Situation Report-76, Apr. 5, 2020, https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200405-sitrep-76-covid-19.pdf?sfvrsn=6ecf0977_4.

5. People in the high-risk category for COVID-19, i.e., elderly adults or those with underlying disease, are likely to suffer serious illness and death. According to preliminary data from China, 20% of people in high risk categories who contract COVID-19 have died.
6. Those who do not die have prolonged serious illness, for the most part requiring expensive hospital care, including ventilators that will likely be in very short supply.
7. The Centers for Disease Control and Prevention (CDC) has identified underlying medical conditions that may increase the risk of serious COVID-19 for individuals of any age: blood disorders, chronic kidney or liver disease, compromised immune system, endocrine disorders, including diabetes, metabolic disorders, heart and lung disease, neurological and neurologic and neurodevelopmental conditions, and current or recent pregnancy.
8. Social distancing and hand hygiene are the only known ways to prevent the rapid spread of COVID-19. For that reason, public health officials have recommended extraordinary measures to combat the spread of COVID-19. Schools, courts, collegiate and professional sports, theater and other congregate settings have been closed as part of risk mitigation strategy.

The Risks of COVID-19 in Immigration Detention

9. The conditions of immigration detention facilities pose a heightened public health risk to the spread of COVID-19, even greater than other non-carceral institutions.
10. Immigration detention facilities are enclosed environments, much like the cruise ships and nursing homes that were the site of the largest concentrated outbreaks of COVID-19. Immigration detention facilities have even greater risk of infectious spread because of conditions of crowding, the proportion of vulnerable people detained, and often scant medical care resources. People live in close quarters and cannot achieve the “social distancing” needed to effectively prevent the spread of COVID-19. Toilets, sinks, and showers are shared, without disinfection between use. Food preparation and food service is communal, with little opportunity for surface disinfection. Staff arrive and leave on a shift basis; there is little to no ability to adequately screen staff for new, asymptomatic infection.
11. Many immigration detention facilities lack adequate medical care infrastructure to address the spread of infectious disease and treatment of high-risk people in detention. As examples, immigration detention facilities often use practical nurses who practice beyond the scope of their licenses; have part-time physicians who have limited availability to be on-site; and facilities with no formal linkages with local health departments or hospitals.

ICE Has Failed to Adequately Respond to COVID-19 at Immigration Detention Facilities in Michigan

12. In addition to these challenges, ICE has failed to adequately respond to the COVID-19 pandemic. I have reviewed the March 6, 2020 interim guidance sheet³ produced by ICE Health Services Corps, the body that oversees ICE detention facilities' medical care, ICE's guidance on its website,⁴ as well as the declaration of James Jacobs filed on April 3, 2020 regarding the Calhoun Detention Facility in Battle Creek, Michigan. These protocols are wholly insufficient to adequately face the crisis at hand. They fail in these ways:

- a) ICE's protocol focuses on travel history and contact with confirmed cases of COVID-19. 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.
- b) While the protocol provides for testing for symptomatic detainees, there is no guidance on cohorting and monitoring contacts of test-positive detainees for a 14-day period.
- c) Moreover, there is no protocol for testing of asymptomatic detainees or staff and other individuals, like vendors and attorneys, who enter the detention facility.
- d) 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.
- e) 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.
- f) 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.
- g) The Jacobs declaration does not mention any protections provided for contacts of test-positive patients, though the protocol does require people with suspected COVID-19 close contacts to be monitored for 14 days for symptoms. But this is impossible based upon the staffing and space constraints inherent in ICE detention. 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.

³ 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>.

⁴ U.S. Immigration and Customs Enforcement, *ICE Guidance on COVID-19*, ICE.GOV (last updated Mar. 27, 2020), <https://www.ice.gov/covid19>.

- h) 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.
 - i) Although detainees are instructed on the importance of social distancing, there is no guarantee that social distancing of six feet, as recommended by the CDC, will be carried out in all ICE facilities. In fact, social distancing is likely impossible in such facilities, especially in light of the common practice of facility lockdowns.
 - j) 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.
- 13. 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.
- 14. 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.
- 15. 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.
- 16. 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.
- 17. The only viable public health strategy available is risk mitigation. 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. In my opinion, the public health recommendation is to release high-risk people from detention, given the heightened risks

to their health and safety, especially given the lack of a viable vaccine for prevention or effective treatment at this stage. Release of the most vulnerable people also reduces the burden on these facilities' limited health care infrastructure, as it lessens the likelihood that an overwhelming number of people will become seriously ill from COVID-19 at the same time. Release also reduces the burden on regional hospitals and health centers, which will otherwise bear the brunt of having to treat these individuals when infected, thus reducing the number of hospital beds and equipment available for the general population.

18. To the extent that vulnerable detainees have had exposure to known cases with laboratory-confirmed infection with the virus that causes COVID-19, they should be tested immediately in concert with the local health department. Those who test negative should be released.
19. This release cohort can be separated into two groups. Group 1 could be released to home quarantine for 14 days, assuming they can be picked up from detention by their families or sponsors. Group 2 comprises those who cannot be easily transported to their homes by their families or sponsors. Group 2 could be released to a housing venue for 14 days, determined in concert with local or state public health authorities.

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

Executed this 6th day in April 2020 in New York City, New York.

A handwritten signature in blue ink, appearing to read "Robert B. Greifinger", is written over a light blue horizontal line.

Robert B. Greifinger, M.D.

Exhibit A

CV of Dr. Greifinger

ROBERT B. GREIFINGER, M.D.

380 Riverside Drive, Apt 4F
New York, New York 10025

(646) 559-5279
bob@rgreifinger.com

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 NIH 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.

ROBERT B. GREIFINGER, M.D.

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 agency. 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

ROBERT B. GREIFINGER, M.D.

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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ROBERT B. GREIFINGER, M.D.

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Valway SE, Richards S, Kovacovich J, Greifinger R, Crawford J, Dooley SW. Transmission of Multidrug-resistant Tuberculosis in a New York State Prison, 1991. Abstract No 15-15, In: World Congress on TB Program and Abstracts, Washington, D.C., November, 1992.

ROBERT B. GREIFINGER, M.D.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

REYNALDO ALBINO-MARTINEZ, JOSE
NICOLAS CHAVEZ-VARGAS, GENER
ALEJANDRO CHINCHILLA-FLORES, CRAIG
DOBLE, and MIGUEL ANGEL APARICIO
NAVAS,

Petitioner-Plaintiffs,

- against -

REBECCA ADDUCCI, in her official capacity as
Detroit District Director of U.S. Immigration &
Customs Enforcement; MATTHEW T.
ALBENCE, in his official capacity as Deputy
Director and Senior Official Performing the Duties
of the Director of the U.S. Immigration &
Customs Enforcement; CHAD WOLF, in his
official capacity as Acting Secretary, U.S.
Department of Homeland Security; WILLIAM P.
BARR, in his official capacity as Attorney
General, U.S. Department of Justice; and U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondent-Defendants.

Case No. _____

DECLARATION OF MY KHANH NGO, ESQ.
IN SUPPORT OF PETITIONER-PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER

I, My Khanh Ngo, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. §1746.

1. My name is My Khanh Ngo. I am over the age of 18 and am competent to make this declaration.
2. I am a Staff Attorney with the American Civil Liberties Union Foundation, Immigrants' Rights Project, and am one of the counsel of record for Petitioner-Plaintiffs.
3. I certify that the attached exhibits are true and correct copies of the following:

Exhibit	Document
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- | | |
|---|---|
| A | Coronavirus disease 2019 (COVID-19) Situation Report – 77, World Health Organization (Apr. 6, 2020), https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200406-sitrep-77-covid-19.pdf?sfvrsn=21d1e632_2 . |
| B | U.S. Immigration & Customs Enforcement, ICE Guidance on COVID-19: Confirmed Cases (last updated Apr. 7, 2020), https://www.ice.gov/coronavirus . |
| C | Ken Klippenstein, <i>Exclusive: ICE Detainees Are Being Quarantined</i> , The Nation (Mar. 24, 2020), https://www.thenation.com/article/society/corona-covid-immigration-detention/ . |
| D | Letter from Drs. Scott A. Allen & Josiah Rich to Rep. Bennie Thompson et al. (Mar. 19, 2020), https://whistleblower.org/wp-content/uploads/2020/03/Drs.-Allen-and-Rich-3.20.2020-Letter-to-Congress.pdf . |
| E | Laura Fitzgerald, <i>St. Clair County Sheriff, Courts Reducing Jail Population to Lessen the Spread of Coronavirus</i> , Port Huron Times Herald (last updated Apr. 3, 2020), https://www.thetimesherald.com/story/news/2020/04/02/st-clair-county-jail-reducing-inmate-population-during-coronavirus-pandemic/5110937002/ . |

- F Letter from Bd. of Correction of the City of New York to Criminal Justice Leaders (Mar. 21, 2020), <https://www1.nyc.gov/assets/boc/downloads/pdf/News/covid-19/Letter-from-BOC-re-NYC-Jails-and-COVID-19-2020-03-21.pdf>.
- G News Release, California Chief Justice Issues Second Advisory on Emergency Relief Measures (Mar. 20, 2020), <https://newsroom.courts.ca.gov/news/california-chief-justice-issues-second-advisory-on-emergency-relief-measures>.
- H 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/>.
- I Frank Fernandez, *Coronavirus Preparation Prompts Volusia Jail to Release Some Non-Violent Offenders*, The Daytona Beach News-Journal (Mar. 20, 2020), <https://www.news-journalonline.com/news/20200320/coronavirus-preparation-prompts-volusia-jail-to-release-some-non-violent-offenders>.
- J BBC News, *US Jails Begin Releasing Prisoners to Stem Covid-19 Infections* (Mar. 19, 2020), <https://www.bbc.com/news/world-us-canada-51947802>.
- K The Office of Governor Gretchen Whitmer, Mich. Exec. Order No. 2020-29 (Mar. 29, 2020), https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-523422--,00.html.
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- N Caitlin Taylor, *Coronavirus Changes Procedures at Monroe County Jail*, Monroe News (Apr. 4, 2020), <https://www.monroenews.com/news/20200404/coronavirus-changes-procedures-at-monroe-county-jail>.
- O Memorandum from Donald W. Beatty, Chief Justice of South Carolina Supreme Court, to Magistrates, Municipal Judges, and Summary Court Staff (Mar. 16, 2020), <https://www.sccourts.org/whatsnew/displayWhatsNew.cfm?indexId=2461>.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this 7th day of April, 2020, in Oakland, California.

/s/ My Khanh Ngo
My Khanh Ngo*
American Civil Liberties Union Foundation Immigrants'
Rights Project
39 Drumm Street
San Francisco, CA 94111
Telephone: (415) 343-0770
mngo@aclu.org

Exhibit A

April 7, 2020 Coronavirus disease 2019
(COVID-19) Situation Report – 77,
World Health Organization

Coronavirus disease 2019 (COVID-19)

Situation Report – 77

Data as reported by national authorities by 10:00 CET 6 April 2020

HIGHLIGHTS

- One new country/territory/area reported cases of COVID-19 in the past 24 hours: South Sudan.
- At a joint press conference and in a co-authored opinion piece, the WHO Director-General and IMF Managing Director reiterated the importance of saving lives and saving livelihoods and made it clear that the trade-off between saving lives or jobs is a false dilemma. The press conference remarks are [here](#), and the op-ed [here](#).
- Almost 90 per cent of the world's students are now affected by nationwide school closures – that's more than 1.5 billion children and young people. Together with UNICEF and the International Publishers Association, the World Health Organization has launched the 'Read the World' children's reading initiative. More information on this initiative can be found [here](#). WHO has also published advice for parenting during the COVID-19 pandemic, available [here](#).

SITUATION IN NUMBERS

total (new) cases in last 24 hours

Globally

1 210 956 confirmed (77 200)
67 594 deaths (4810)

Western Pacific Region

112 522 confirmed (1126)
3861 deaths (23)

European Region

655 339 confirmed (33 932)
49 479 deaths (3063)

South-East Asia Region

8828 confirmed (1012)
344 deaths (42)

Eastern Mediterranean Region

74 347 confirmed (4054)
3976 deaths (182)

Region of the Americas

352 592 confirmed (36 878)
9680 deaths (1493)

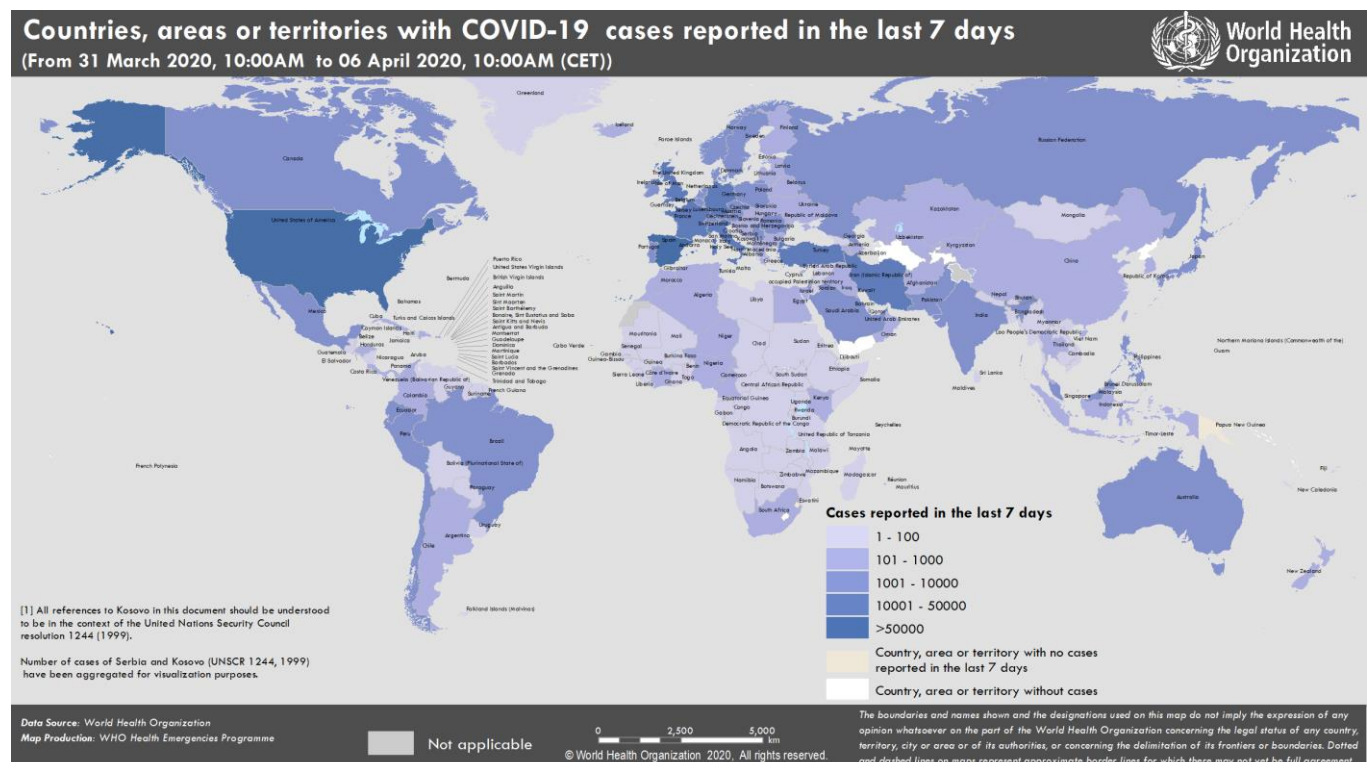
African Region

6616 confirmed (198)
243 deaths (7)

WHO RISK ASSESSMENT

Global Level Very High

Figure 1. Countries, territories or areas with reported confirmed cases of COVID-19, 6 April 2020



SURVEILLANCE**Table 1. Countries, territories or areas with reported laboratory-confirmed COVID-19 cases and deaths. Data as of 6 April 2020***

Reporting Country/ Territory/Area [†]	Total confirmed ‡ cases	Total confirmed new cases	Total deaths	Total new deaths	Transmission classification [§]	Days since last reported case
Western Pacific Region						
China	83005	75	3340	2	Local transmission	0
Republic of Korea	10284	47	186	3	Local transmission	0
Australia	5744	109	36	2	Local transmission	0
Malaysia	3662	179	61	4	Local transmission	0
Japan	3654	383	73	3	Local transmission	0
Philippines	3246	152	152	8	Local transmission	0
Singapore	1309	120	6	1	Local transmission	0
New Zealand	911	39	1	0	Local transmission	0
Viet Nam	241	1	0	0	Local transmission	0
Brunei Darussalam	135	0	1	0	Local transmission	1
Cambodia	114	0	0	0	Local transmission	2
Mongolia	14	0	0	0	Imported cases only	4
Fiji	12	0	0	0	Local transmission	1
Lao People's Democratic Republic	11	1	0	0	Local transmission	0
Papua New Guinea	1	0	0	0	Imported cases only	16
Territories**						
Guam	112	19	4	0	Local transmission	0
French Polynesia	41	1	0	0	Local transmission	0
New Caledonia	18	0	0	0	Local transmission	3
Northern Mariana Islands (Commonwealth of the)	8	0	1	0	Local transmission	3
European Region						
Spain	130759	6023	12418	674	Local transmission	0
Italy	128948	4316	15889	527	Local transmission	0
Germany	95391	3677	1434	92	Local transmission	0
France	69607	1850	8064	518	Local transmission	0
The United Kingdom	47810	5903	4934	621	Local transmission	0
Turkey	27069	3135	574	73	Local transmission	0
Switzerland	21065	576	715	49	Local transmission	0
Belgium	19691	1260	1447	164	Local transmission	0
Netherlands	17851	1224	1766	115	Local transmission	0
Austria	11983	217	204	18	Local transmission	0
Portugal	11278	754	295	29	Local transmission	0
Israel	8018	429	46	4	Local transmission	0
Sweden	6830	387	401	28	Local transmission	0
Norway	5640	130	58	8	Local transmission	0
Russian Federation	5389	658	45	2	Local transmission	0
Ireland	5111	507	158	21	Local transmission	0

Czechia	4587	115	67	8	Local transmission	0
Denmark	4369	292	179	18	Local transmission	0
Poland	4102	475	94	15	Local transmission	0
Romania	3864	251	148	7	Local transmission	0
Luxembourg	2804	75	36	5	Local transmission	0
Finland	1927	45	28	3	Local transmission	0
Serbia	1908	284	51	12	Local transmission	0
Greece	1735	62	73	5	Local transmission	0
Iceland	1486	69	4	0	Local transmission	0
Ukraine	1319	68	38	6	Local transmission	0
Croatia	1182	56	15	3	Local transmission	0
Estonia	1097	79	15	2	Local transmission	0
Slovenia	997	20	28	6	Local transmission	0
Republic of Moldova	864	112	15	3	Local transmission	0
Lithuania	811	40	13	4	Local transmission	0
Armenia	746	0	7	0	Local transmission	1
Hungary	744	11	38	4	Local transmission	0
Bosnia and Herzegovina	662	30	21	0	Local transmission	0
Kazakhstan	604	73	5	0	Local transmission	0
Azerbaijan	584	72	5	0	Local transmission	0
Belarus	562	122	8	4	Local transmission	0
North Macedonia	555	72	18	1	Local transmission	0
Latvia	533	24	1	0	Local transmission	0
Bulgaria	531	28	20	3	Local transmission	0
Andorra	523	57	17	0	Local transmission	0
Slovakia	485	14	0	0	Local transmission	0
Cyprus	446	20	14	3	Local transmission	0
Uzbekistan	390	92	2	0	Local transmission	0
Albania	377	44	21	3	Local transmission	0
San Marino	266	7	32	0	Local transmission	0
Malta	234	21	0	0	Local transmission	0
Kyrgyzstan	216	69	4	3	Local transmission	0
Montenegro	203	6	2	0	Local transmission	0
Georgia	188	18	2	1	Local transmission	0
Liechtenstein	78	1	1	0	Under investigation	0
Monaco	37	0	0	0	Local transmission	5
Holy See	7	0	0	0	Under investigation	3
Territories**						
Faroe Islands	181	0	0	0	Local transmission	1
Jersey	155	32	3	0	Local transmission	0
Guernsey	154	18	3	1	Local transmission	0
Kosovo ^[1]	145	5	1	0	Local transmission	0
Isle of Man	127	1	1	0	Local transmission	0
Gibraltar	103	5	1	0	Local transmission	0
Greenland	11	1	0	0	Under investigation	0
South-East Asia Region						
India	4067	693	109	32	Local transmission	0
Indonesia	2273	181	198	7	Local transmission	0

Thailand	2169	102	23	3	Local transmission	0
Sri Lanka	176	17	5	0	Local transmission	0
Bangladesh	88	18	8	0	Local transmission	0
Myanmar	21	1	1	0	Local transmission	0
Maldives	19	0	0	0	Local transmission	3
Nepal	9	0	0	0	Local transmission	1
Bhutan	5	0	0	0	Imported cases only	3
Timor-Leste	1	0	0	0	Imported cases only	16
Eastern Mediterranean Region						
Iran (Islamic Republic of)	58226	2483	3603	151	Local transmission	0
Pakistan	3277	397	50	5	Local transmission	0
Saudi Arabia	2463	93	34	5	Local transmission	0
United Arab Emirates	1799	294	10	0	Local transmission	0
Qatar	1604	279	4	1	Local transmission	0
Egypt	1173	103	78	7	Local transmission	0
Morocco	1113	153	71	5	Local transmission	0
Iraq	961	83	61	5	Local transmission	0
Bahrain	700	12	4	0	Local transmission	0
Tunisia	574	21	22	3	Local transmission	0
Kuwait	556	0	1	0	Local transmission	1
Lebanon	527	0	18	0	Local transmission	1
Jordan	345	22	5	0	Local transmission	0
Afghanistan	337	38	7	0	Local transmission	0
Oman	331	33	2	0	Local transmission	0
Djibouti	59	8	0	0	Local transmission	0
Syrian Arab Republic	19	3	2	0	Local transmission	0
Libya	18	1	1	0	Local transmission	0
Sudan	12	2	2	0	Local transmission	0
Somalia	7	0	0	0	Local transmission	2
Territories**						
occupied Palestinian territory	246	29	1	0	Local transmission	0
Region of the Americas						
United States of America	307318	33510	8358	1338	Local transmission	0
Canada	13904	966	231	17	Local transmission	0
Brazil	10278	1222	432	73	Local transmission	0
Chile	4471	310	34	7	Local transmission	0
Ecuador	3465	0	172	0	Local transmission	1
Mexico	1890	202	79	19	Local transmission	0
Panama	1801	128	46	5	Local transmission	0
Peru	1746	151	73	12	Local transmission	0
Dominican Republic	1488	0	68	0	Local transmission	2
Argentina	1451	98	44	2	Local transmission	0
Colombia	1406	139	32	7	Local transmission	0
Costa Rica	435	19	2	0	Local transmission	0
Uruguay	400	14	5	1	Local transmission	0
Cuba	320	32	8	2	Local transmission	0
Honduras	268	4	22	7	Local transmission	0

Bolivia (Plurinational State of)	157	18	10	0	Local transmission	0
Venezuela (Bolivarian Republic of)	144	0	3	0	Local transmission	3
Paraguay	104	8	3	0	Local transmission	0
Trinidad and Tobago	103	3	6	0	Local transmission	0
El Salvador	62	6	3	0	Local transmission	0
Guatemala	61	11	2	1	Local transmission	0
Jamaica	55	2	3	0	Local transmission	0
Barbados	51	0	0	0	Local transmission	1
Bahamas	28	4	4	1	Local transmission	0
Guyana	24	1	4	0	Local transmission	0
Haiti	21	3	0	0	Imported cases only	0
Saint Lucia	14	1	0	0	Local transmission	0
Grenada	12	0	0	0	Local transmission	1
Dominica	11	0	0	0	Local transmission	10
Suriname	10	0	0	0	Local transmission	2
Saint Kitts and Nevis	9	0	0	0	Imported cases only	1
Antigua and Barbuda	7	0	0	0	Local transmission	9
Belize	5	1	0	0	Local transmission	0
Nicaragua	5	0	1	0	Imported cases only	4
Saint Vincent and the Grenadines	3	0	0	0	Imported cases only	2
Territories**						
Puerto Rico	452	0	18	0	Local transmission	1
Martinique	145	0	3	0	Local transmission	1
Guadeloupe	134	4	7	0	Local transmission	0
French Guiana	66	4	0	0	Local transmission	0
Aruba	64	0	0	0	Local transmission	1
United States Virgin Islands	42	2	0	0	Local transmission	0
Bermuda	37	2	0	0	Local transmission	0
Cayman Islands	35	7	1	0	Local transmission	0
Saint Martin	29	5	2	0	Under investigation	0
Sint Maarten	23	0	2	0	Imported cases only	2
Curaçao	11	0	1	0	Imported cases only	6
Montserrat	6	0	0	0	Imported cases only	1
Saint Barthélemy	6	0	0	0	Under investigation	6
Turks and Caicos Islands	5	0	1	1	Local transmission	6
Anguilla	3	0	0	0	Local transmission	2
British Virgin Islands	3	0	0	0	Imported cases only	5
Bonaire, Sint Eustatius and Saba	2	0	0	0	Imported cases only	2
Falkland Islands (Malvinas)	2	1	0	0	Under investigation	0
African Region						
South Africa	1655	70	11	2	Local transmission	0
Algeria	1251	0	130	0	Local transmission	1
Cameroon	555	0	9	0	Local transmission	1

Burkina Faso	302	0	15	0	Local transmission	1
Côte d'Ivoire	245	0	2	0	Local transmission	1
Mauritius	227	31	7	0	Local transmission	0
Senegal	222	3	2	0	Local transmission	0
Nigeria	208	0	4	0	Local transmission	1
Ghana	205	0	5	0	Local transmission	1
Democratic Republic of the Congo	161	13	18	2	Local transmission	0
Niger	144	0	8	0	Local transmission	1
Kenya	142	20	4	0	Local transmission	0
Guinea	111	0	0	0	Local transmission	1
Rwanda	102	0	0	0	Local transmission	1
Madagascar	77	7	0	0	Local transmission	0
Uganda	48	0	0	0	Local transmission	1
Congo	45	0	5	0	Local transmission	1
Togo	44	4	3	0	Local transmission	0
Ethiopia	43	5	1	1	Local transmission	0
Mali	39	0	4	0	Local transmission	1
Zambia	39	0	1	0	Local transmission	3
Eritrea	29	9	0	0	Local transmission	0
Benin	22	9	0	0	Local transmission	0
United Republic of Tanzania	22	2	1	0	Local transmission	0
Gabon	21	0	1	0	Imported cases only	2
Guinea-Bissau	18	0	0	0	Imported cases only	1
Equatorial Guinea	16	0	0	0	Local transmission	1
Namibia	16	2	0	0	Local transmission	0
Angola	14	4	2	0	Imported cases only	0
Liberia	13	3	3	2	Local transmission	0
Mozambique	10	0	0	0	Local transmission	4
Seychelles	10	0	0	0	Imported cases only	4
Central African Republic	9	0	0	0	Local transmission	1
Chad	9	2	0	0	Imported cases only	0
Eswatini	9	0	0	0	Imported cases only	9
Zimbabwe	9	0	1	0	Local transmission	2
Mauritania	6	0	1	0	Imported cases only	2
Sierra Leone	6	2	0	0	Imported cases only	0
Cabo Verde	5	0	1	0	Imported cases only	9
Botswana	4	0	1	0	Imported cases only	3
Gambia	4	0	1	0	Imported cases only	3
Malawi	4	1	0	0	Local transmission	0
Burundi	3	0	0	0	Local transmission	2
South Sudan	1	1	0	0	Under investigation	0
Territories**						
Réunion	344	10	0	0	Local transmission	0
Mayotte	147	0	2	0	Local transmission	1
Subtotal for all regions	1 210244	77 200	67 583	4810		
International	712	0	11	0	Local transmission	21

conveyance (Diamond Princess)						
Grand total	1 210956	77 200	67 594	4810		

*Numbers include both domestic and repatriated cases

†The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of WHO concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Dotted and dashed lines on maps represent approximate border lines for which there may not yet be full agreement.

‡Case classifications are based on [WHO case definitions](#) for COVID-19.

§Transmission classification is based on WHO analysis of available official data and may be subject to reclassification as additional data become available. Countries/territories/areas experiencing multiple types of transmission are classified in the highest category for which there is evidence; they may be removed from a given category if interruption of transmission can be demonstrated. It should be noted that even within categories, different countries/territories/areas may have differing degrees of transmission as indicated by the differing numbers of cases and other factors. Not all locations within a given country/territory/area are equally affected.

Terms:

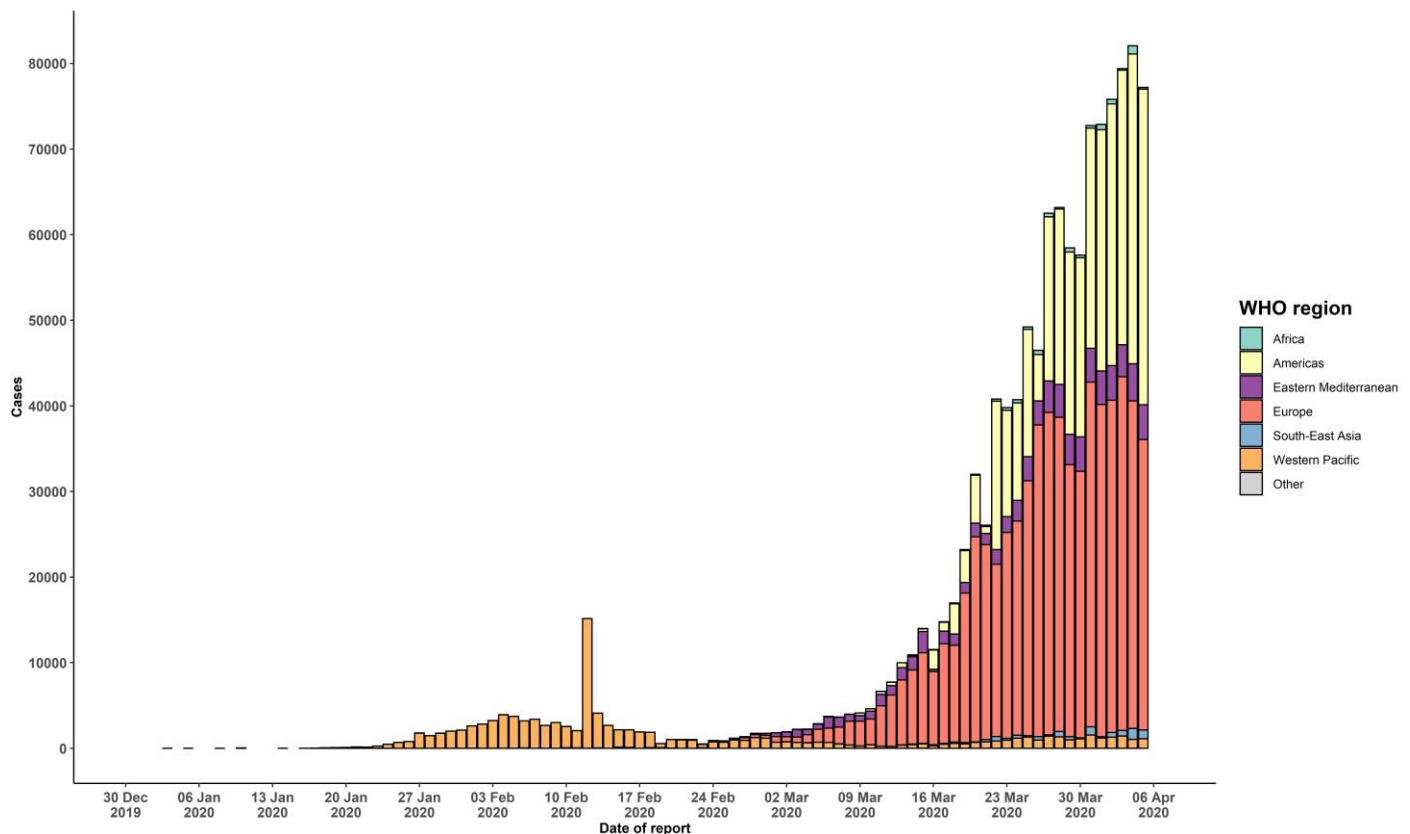
- **Community transmission** is evidenced by the inability to relate confirmed cases through chains of transmission for a large number of cases, or by increasing positive tests through sentinel samples (routine systematic testing of respiratory samples from established laboratories).
- **Local transmission** indicates locations where the source of infection is within the reporting location.
- **Imported cases only** indicates locations where all cases have been acquired outside the location of reporting.
- **Under investigation** indicates locations where type of transmission has not been determined for any cases.
- **Interrupted transmission** indicates locations where interruption of transmission has been demonstrated (details to be determined)

** "Territories" include territories, areas, overseas dependencies and other jurisdictions of similar status

[1] All references to Kosovo should be understood to be in the context of the United Nations Security Council resolution 1244 (1999).

Due to differences in reporting methods, retrospective data consolidation, and reporting delays, the number of new cases may not always reflect the exact difference between yesterday's and today's totals. WHO COVID-19 Situation Reports present official counts of confirmed COVID-19 cases, thus differences between WHO reports and other sources of COVID-19 data using different inclusion criteria and different data cutoff times are to be expected.

New countries/territories/areas are shown in red.

Figure 1. Epidemic curve of confirmed COVID-19, by date of report and WHO region through 6 April 2020

STRATEGIC OBJECTIVES

WHO's strategic objectives for this response are to:

- Interrupt human-to-human transmission including reducing secondary infections among close contacts and health care workers, preventing transmission amplification events, and preventing further international spread*;
- Identify, isolate and care for patients early, including providing optimized care for infected patients;
- Identify and reduce transmission from the animal source;
- Address crucial unknowns regarding clinical severity, extent of transmission and infection, treatment options, and accelerate the development of diagnostics, therapeutics and vaccines;
- Communicate critical risk and event information to all communities and counter misinformation;
- Minimize social and economic impact through multisectoral partnerships.

*This can be achieved through a combination of public health measures, such as rapid identification, diagnosis and management of the cases, identification and follow up of the contacts, infection prevention and control in health care settings, implementation of health measures for travelers, awareness-raising in the population and risk communication.

PREPAREDNESS AND RESPONSE

- To view all technical guidance documents regarding COVID-19, please go to [this webpage](#).
- WHO has developed interim guidance for laboratory diagnosis, advice on the use of masks during home care and in health care settings in the context of the novel coronavirus (2019-nCoV) outbreak, clinical management, infection prevention and control in health care settings, home care for patients with suspected novel coronavirus, risk communication and community engagement and Global Surveillance for human infection with novel coronavirus (2019-nCoV).
- WHO is working closely with International Air Transport Association (IATA) and have jointly developed a guidance document to provide advice to cabin crew and airport workers, based on country queries. The guidance can be found on the [IATA webpage](#).
- WHO has been in regular and direct contact with Member States where cases have been reported. WHO is also informing other countries about the situation and providing support as requested.
- WHO is working with its networks of researchers and other experts to coordinate global work on surveillance, epidemiology, mathematical modelling, diagnostics and virology, clinical care and treatment, infection prevention and control, and risk communication. WHO has issued interim guidance for countries, which are updated regularly.
- WHO has prepared a [disease commodity package](#) that includes an essential list of biomedical equipment, medicines and supplies necessary to care for patients with 2019-nCoV.
- WHO has provided recommendations to reduce risk of [transmission from animals to humans](#).
- WHO has published an [updated advice for international traffic in relation to the outbreak of the novel coronavirus 2019-nCoV](#).
- WHO has activated the R&D blueprint to accelerate diagnostics, vaccines, and therapeutics.
- OpenWHO is an interactive, web-based, knowledge-transfer platform offering online courses to improve the response to health emergencies. [COVID-19 courses can be found here](#) and courses in [additional national languages here](#). Specifically, WHO has developed online courses on the following topics:
 - A general introduction to emerging respiratory viruses, including novel coronaviruses (available in Arabic, Chinese, English, French, Russian, Spanish, Hindi, Indian Sign Language, Persian, Portuguese, Serbian and Turkish);
 - Clinical care for Severe Acute Respiratory Infections (available in English, French, Russian, Indonesian and Vietnamese);
 - Health and safety briefing for respiratory diseases - ePROTECT (available in Chinese, English, French, Russian, Spanish, Indonesian and Portuguese);
 - Infection Prevention and Control for Novel Coronavirus (COVID-19) (available in Chinese, English, French, Russian, Spanish, Indonesian, Italian, Japanese, Portuguese and Serbian); and
 - COVID-19 Operational Planning Guidelines and COVID-19 Partners Platform to support country preparedness and response (available in English and coming soon in additional languages).
- WHO is providing guidance on early investigations, which are critical in an outbreak of a new virus. The data collected from the protocols can be used to refine recommendations for surveillance and case definitions, to characterize the key epidemiological transmission features of COVID-19, help understand spread, severity, spectrum of disease, impact on the community and to inform operational models for implementation of countermeasures such as case isolation, contact tracing and isolation. Several protocols are available [here](#). One such protocol is for the investigation of early COVID-19 cases and contacts (the "[First Few X \(FFX\) Cases and contact investigation protocol for 2019-novel coronavirus \(2019-nCoV\) infection](#)"). The protocol is designed to gain an early understanding of the key clinical, epidemiological and virological characteristics of the first cases of COVID-19 infection detected in any individual country, to inform the development and updating of public health guidance to manage cases and reduce the potential spread and impact of infection.

RECOMMENDATIONS AND ADVICE FOR THE PUBLIC

If you are not in an area where COVID-19 is spreading or have not travelled from an area where COVID-19 is spreading or have not been in contact with an infected patient, your risk of infection is low. It is understandable that you may feel anxious about the outbreak. Get the facts from reliable sources to help you accurately determine your risks so that you can take reasonable precautions (see [Frequently Asked Questions](#)). Seek guidance from WHO, your healthcare provider, your national public health authority or your employer for accurate information on COVID-19 and whether COVID-19 is circulating where you live. It is important to be informed of the situation and take appropriate measures to protect yourself and your family (see [Protection measures for everyone](#)).

If you are in an area where there are cases of COVID-19 you need to take the risk of infection seriously. Follow the advice of WHO and guidance issued by national and local health authorities. For most people, COVID-19 infection will cause mild illness however, it can make some people very ill and, in some people, it can be fatal. Older people, and those with pre-existing medical conditions (such as cardiovascular disease, chronic respiratory disease or diabetes) are at risk for severe disease (See [Protection measures for persons who are in or have recently visited \(past 14 days\) areas where COVID-19 is spreading](#)).

CASE DEFINITIONS

WHO periodically updates the [Global Surveillance for human infection with coronavirus disease \(COVID-19\)](#) document which includes case definitions.

For easy reference, case definitions are included below.

Suspect case

- A. A patient with acute respiratory illness (fever and at least one sign/symptom of respiratory disease, e.g., cough, shortness of breath), AND a history of travel to or residence in a location reporting community transmission of COVID-19 disease during the 14 days prior to symptom onset.

OR

- B. A patient with any acute respiratory illness AND having been in contact with a confirmed or probable COVID-19 case (see definition of contact) in the last 14 days prior to symptom onset;

OR

- C. A patient with severe acute respiratory illness (fever and at least one sign/symptom of respiratory disease, e.g., cough, shortness of breath; AND requiring hospitalization) AND in the absence of an alternative diagnosis that fully explains the clinical presentation.

Probable case

- A. A suspect case for whom testing for the COVID-19 virus is inconclusive.
a. Inconclusive being the result of the test reported by the laboratory.

OR

- B. A suspect case for whom testing could not be performed for any reason.

Confirmed case

A person with laboratory confirmation of COVID-19 infection, irrespective of clinical signs and symptoms.

- Technical guidance for laboratory testing can be found [here](#).

Definition of contact

A contact is a person who experienced any one of the following exposures during the 2 days before and the 14 days

after the onset of symptoms of a probable or confirmed case:

1. Face-to-face contact with a probable or confirmed case within 1 meter and for more than 15 minutes;
2. Direct physical contact with a probable or confirmed case;
3. Direct care for a patient with probable or confirmed COVID-19 disease without using proper personal protective equipment¹; OR
4. Other situations as indicated by local risk assessments.

Note: for confirmed asymptomatic cases, the period of contact is measured as the 2 days before through the 14 days *after the date on which the sample was taken* which led to confirmation.

¹ World Health Organization. Infection prevention and control during health care when COVID-19 is suspected
[https://www.who.int/publications-detail/infection-prevention-and-control-during-health-care-when-novel-coronavirus-\(ncov\)-infection-is-suspected-20200125](https://www.who.int/publications-detail/infection-prevention-and-control-during-health-care-when-novel-coronavirus-(ncov)-infection-is-suspected-20200125)

Exhibit B

April 4, 2020 U.S. Immigration &
Customs Enforcement, ICE Guidance on
COVID-19: Confirmed Cases

**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

Overview &
FAQsConfirmed
CasesPrevious
Statements

DETAINEES

19

There have been 19 confirmed cases of COVID-19 among those in ICE custody*.

- 2 detainees in Bergen County Jail (Hackensack, NJ)
- 2 detainees in Essex County Correctional Facility (Newark, NJ)
- 2 detainees in Hudson County Jail (Kearny, NJ)
- 2 detainees in La Palma Correctional Facility (Eloy, AZ)
- 1 detainee in LaSalle Correctional Center (Olla, LA)
- 5 detainees in Pike County Correctional Facility (Hawley, PA)
- 1 detainee in Pine Prairie ICE Processing Center (Pine Prairie, LA)
- 1 detainee in St. Clair County Jail (Huron, MI)
- 1 detainee in York County Prison (York, PA)
- 1 detainee in Otay Mesa Detention Center (San Diego, CA)

*Some detainees may no longer be in ICE custody.

Updated 04/07/2020 4:05pm

DETENTION FACILITY EMPLOYEES & PERSONNEL

7

There have been 7 confirmed cases of COVID-19 among ICE employees and personnel working in ICE detention facilities.

- 2 ICE personnel in Aurora Contract Detention Facility (Aurora, CO)
- 1 ICE personnel in Elizabeth Contract Detention Facility (Elizabeth, NJ)
- 1 ICE personnel in Houston Contract Detention Facility (Houston, TX)
- 1 ICE personnel in Hudson County Jail (Kearny, NJ)
- 2 ICE personnel in Alexandria Staging Facility (Alexandria, LA)

Updated 04/04/2020 8:00pm

ICE

There have been 48 confirmed cases of COVID-19 among ICE employees

EMPLOYEES

not assigned to detention facilities.

48

Updated 04/04/2020 8:00pm

Last Reviewed/Updated: 04/07/2020

Exhibit C

March 24, 2020 Ken Klippenstein,
Exclusive: ICE Detainees Are Being
Quarantined, The Nation

Exclusive: ICE Detainees Are Being Quarantined

N thenation.com/article/society/corona-covid-immigration-detention/

By Ken Klippenstein Twitter March 24,
2020

March 24,
2020



Men stand in a US Immigration and Border Enforcement detention center in McAllen, Texas.
(Josh Dawsey / The Washington Post via AP, Pool)

EDITOR'S NOTE: The Nation believes that helping readers stay informed about the impact of the coronavirus crisis is a form of public service. For that reason, this article, and all of our coronavirus coverage, is now free. Please [subscribe](#) to support our writers and staff, and stay healthy.

Multiple Immigration and Customs Enforcement (ICE) detainees have been put in isolation for medical reasons, according to an internal Department of Homeland Security (DHS) coronavirus report obtained exclusively by *The Nation*.

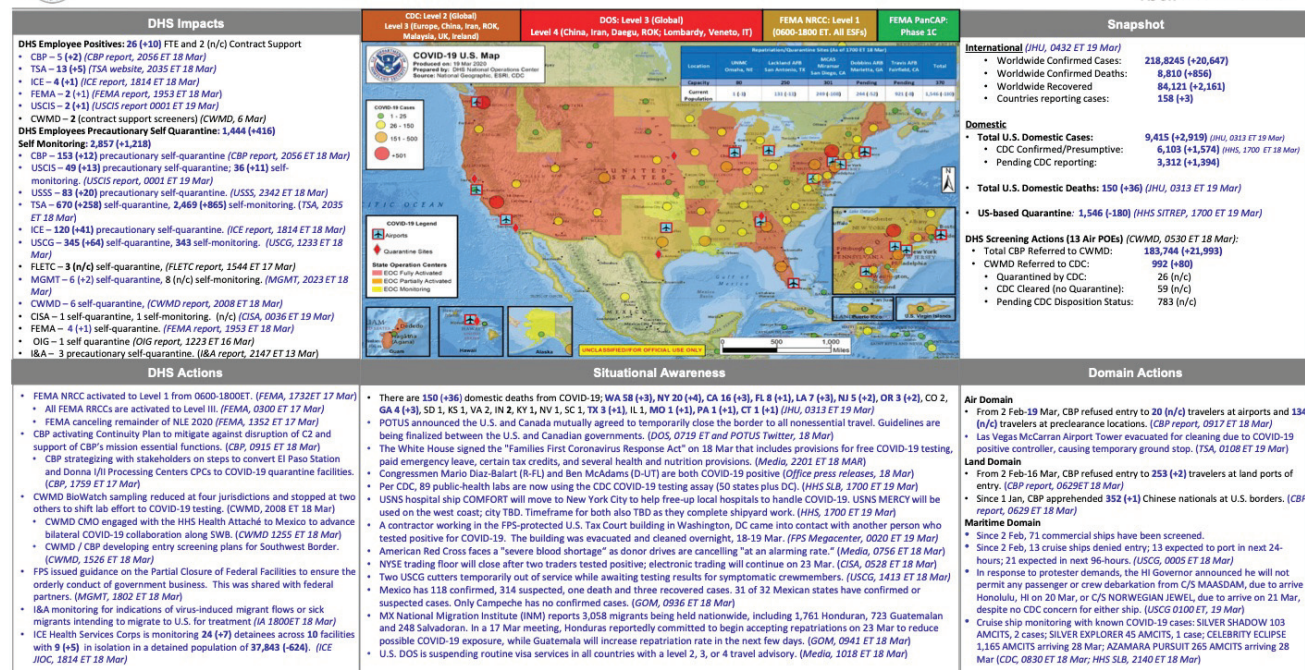
Ad Policy

The report, marked "For Official Use Only" and dated March 19, states that ICE's Health Services Corps had isolated nine detainees and that it was monitoring 24 more in 10 different ICE facilities.



DHS National Operations Center COVID-19 Placemat

As of: 0700 ET 19 March



An internal DHS coronavirus report, obtained by The Nation, states that ICE's Health Services Corps had isolated 9 detainees.

The document does not specify what illness these individuals are being monitored for, and an ICE spokesperson said that "detainees can be quarantined as a result of any variety of communicable diseases."

However, the document is titled "DHS National Operations Center COVID-19 Placemat," which suggests that the agency's actions are in direct response to the Covid-19 pandemic.

Related Article

Cuba's Welcome to a Covid-19-Stricken Cruise Ship Reflects a Long Pattern of Global Humanitarian Commitment

Peter Kornbluh

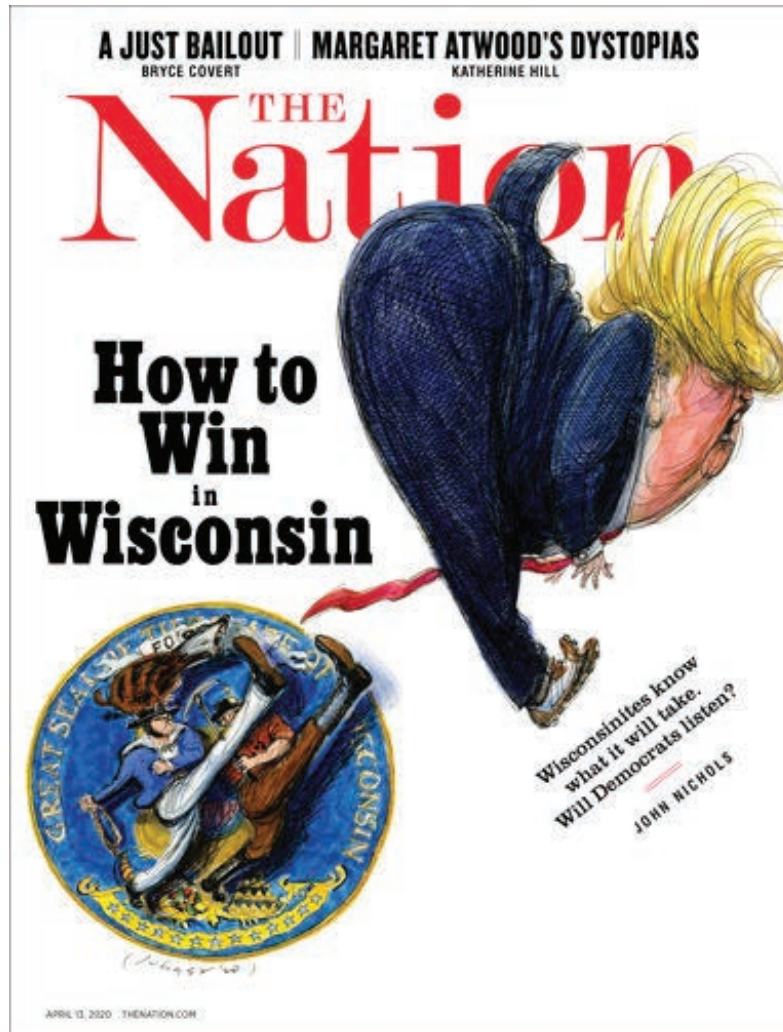
In addition, the document says Customs and Border Protection (CBP) is working to convert several of its major border facilities into quarantine facilities. One thousand, four hundred and forty-four officials with ICE and CBP's parent agency, the DHS, were in "precautionary self-quarantine" at the time of the document's writing, including 153 CBP officials, the report says.

The document was provided by a federal intelligence official on condition of anonymity to avoid professional reprisal.



The report goes on to state that the current number of detainees in ICE custody is 37,843. Among each of the DHS's sub-agencies, the one with the most employees in self-quarantine is the Transportation Security Administration, at 670. The US Coast Guard ranks second, with 345 employees in self-quarantine, followed by CBP and then ICE.

Current Issue



[View our current issue](#)

Unsanitary conditions in both ICE and CBP detention facilities are well-documented, and have led to concerns about facilitating the spread of coronavirus. In July, a DHS Inspector General report found “dangerous overcrowding” and squalid conditions among its southern border facilities. Last week, two doctors who work for the DHS wrote a letter to Congress warning of an “imminent risk to the health and safety of immigrant detainees” as well as the general public in the event that the coronavirus spreads among ICE detention facilities.

The letter went on to warn of a “tinderbox scenario of a large cohort of people getting sick all at once.” One day before the letter was sent, ICE informed Congress that at least one of its employees had tested positive for the coronavirus.

In June, I obtained an internal ICE memo describing multiple deaths in ICE custody as having been preventable. The memo, sent from an ICE Health Services Corps (IHSC) official to ICE's then-director, Matthew Albence, in December 2018, stated: "IHSC [ICE's Health Services Corps] is severely dysfunctional and unfortunately preventable harm and death to detainees has occurred."

Despite these conditions, ICE insists no detainees have been found to have the coronavirus.

"At this time, no detainees have tested positive for the virus," Danielle Bennett, a spokeswoman for ICE, told *The Nation* on March 23. "Detainees can be quarantined as a result of any variety of communicable diseases, not just Covid-19."

Asked to clarify if each of the ICE detainees presently in isolation have been tested for Covid-19, Bennet replied: "Yes, testing is being done in accordance with CDC guidelines."

However, the report obtained by *The Nation* is titled "DHS National Operations Center COVID-19 Placemat," and the rest of the document appears to pertain entirely and explicitly to the coronavirus. It is unclear why it would include detainee isolation data pertaining to another illness. (Aside from ICE, the report does not mention detainee isolation numbers in any other DHS agency.)

Under pressure to respond to the epidemic, ICE says it has dramatically scaled back its enforcement activities. But many say that's not enough.

In addition to the two DHS doctors who warned Congress about the dangers posed by the detention facilities, 3,000 medical professionals signed an open letter urging ICE to release its detainees in order to prevent the spread of the coronavirus. 51 ICE detainees sent a letter to rights groups warning that they were being exposed to flu-like symptoms. And it's not just advocates—ICE itself appears concerned, having requested 45,000 respirators last week.

The document provides further insights into DHS's pandemic response. One segment of the report says that DHS's Intelligence & Analysis is "monitoring for indications of virus-induced migrant flows or sick migrants intending to migrate to U.S. for treatment."

Intelligence & Analysis is unique among DHS agencies for being the only one that is part of the US Intelligence Community. As the only spy agency within DHS, Intelligence & Analysis enjoys access to classified information as well as sophisticated intelligence capabilities.

The report also notes that CBP has activated its continuity plan. *The Nation* recently published CBP's pandemic response plan, which contains a continuity plan in anticipation of a substantial loss of personnel capacity as well as morale due to illness.

One passage in the pandemic response plan states: "Many Americans will die from the virus, spreading fear and panic among the population, including CBP employees.... Pandemic influenza is expected to cause massive disruptions in travel and commerce, and may challenge the essential stability of governments and society. In spite of this, CBP must continue to carry out its priority mission to prevent the entry of terrorists and their weapons, regardless of the circumstances."

Exhibit D

March 19, 2020 Letter from Drs. Scott
A. Allen & Josiah Rich to Rep. Bennie
Thompson et al.

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 reports² 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

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

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 transferred 170 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, "Coronavirus (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.

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

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.

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

Exhibit E

April 3, 2020 Laura Fitzgerald, St. Clair
County Sheriff, Courts Reducing Jail
Population to Lessen the Spread of
Coronavirus, Port Huron Times Herald

St. Clair County Sheriff, courts reducing jail population to lessen the spread of coronavirus

TH. [thetimesherald.com/story/news/2020/04/02/st-clair-county-jail-reducing-inmate-population-during-coronavirus-pandemic/5110937002/](https://www.thetimesherald.com/story/news/2020/04/02/st-clair-county-jail-reducing-inmate-population-during-coronavirus-pandemic/5110937002/)



St. Clair County Sheriff, courts reducing jail population to lessen the spread of coronavirus

St. Clair County Sheriff Tim Donnellon said Wednesday the jail has about 330 inmates. The jail normally is near its capacity of 500 inmates.

Laura Fitzgerald, Port Huron Times Herald Published 10:36 a.m. ET April 2, 2020 | Updated 11:10 a.m. ET April 3, 2020



Buy Photo

The St. Clair County Jail(Photo: JEFFREY M. SMITH, TIMES HERALD)

The St. Clair County jail is releasing nonviolent inmates as jails across the state reduce their populations during the coronavirus pandemic.

St. Clair County Sheriff Tim Donnellon said Wednesday the jail has about 330 inmates. Most of the time, the jail is near its capacity of 500 inmates.

Donnellon said the number of inmates in the jail is certainly at the lowest it's been since he took office 12 years ago, and possibly the lowest it's ever been.

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Several state officials and organizations, including Michigan Supreme Court Chief Justice Bridget M. McCormack, Executive Director of the Michigan Sheriffs' Association Matt Saxton and the Michigan Joint Task Force on Jail and Pretrial Incarceration, have urged county jails to reduce their populations in an effort to lessen the spread of the coronavirus in the high-traffic, relatively confined spaces of jails.

Suggestions from officials and organizations include:

- Judges and sheriffs should use the statutory authority they have to reduce and suspend jail sentences for people who do not pose a public safety risk.
- Law enforcement should only arrest people and take them to jail if they pose an immediate threat to people in the community.

- Judges should release far more people on their own recognizance while they await their day in court. For some, judges may want to release them under supervision or under a condition that they stay away from a particular place or person.
- Judges should use probation and treatment programs as jail alternatives.
- Law enforcement and judges should handle most traffic offenses as civil rather than criminal matters.

While he couldn't get into specifics about arrest policies, Donnellon said he is working daily with the St. Clair County Courts and prosecutors to release non-violent inmates who are elderly, sick and vulnerable.

"Daily we look over our count and see what we can do to lessen potential dangers to our inmates," Donnellon said.

A lower jail population gives guards greater flexibility to move inmates around and quarantine them if one would get sick, he said.

However, violent inmates and those that are a danger to the public are not being released, Donnellon said.

"Unfortunately, people still come to jail," he said. "This business never stops."

The Sheriff Department is starting to see an uptick in domestic violence and domestic disputes as people are more confined in their homes with their family and significant others, Donnellon said.

Donnellon said corrections deputies are following protocols and guidelines to reduce their risk of exposure to the virus, such as moving the morning briefing to the jail's front lobby, which is larger than the conference room where it is normally done.

All inmates coming into the jail are being screened for the symptoms of coronavirus, he said.

The jail also has adequate medical equipment and guidelines in place should an inmate contract the coronavirus.

But, the staff are still doing their job, which puts them in close contact with inmates.

"You can't not come into contact with an inmate if you work in corrections," Donnellon said.

Sanilac County Sheriff Gary Biniacki said the Sanilac County Jail and sheriff department has worked with the court system to release as many inmates as possible who do not pose a danger to the public. As a result, the population is lower than it normally would be.

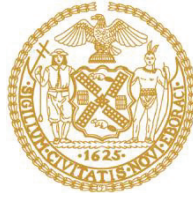
Contact public safety/breaking news reporter Laura Fitzgerald at 810-989-6279. Follow her on Twitter @LM_Fitz.

Read or Share this story: <https://www.thetimesherald.com/story/news/2020/04/02/st-clair-county-jail-reducing-inmate-population-during-coronavirus-pandemic/5110937002/>

Exhibit F

March 21, 2020 Letter from Bd. of
Correction of the City of New York to
Criminal Justice Leaders

Jacqueline Sherman, Interim Chair
Stanley Richards, Vice-Chair
Robert L. Cohen, M.D.
Felipe Franco
Jennifer Jones Austin
James Perrino
Michael J. Regan
Steven M. Safyer, M.D.



BOARD OF CORRECTION
CITY OF NEW YORK
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Margaret Egan
Executive Director

March 21, 2020

Darcel Clark
Bronx District Attorney

Eric Gonzalez
Brooklyn District Attorney

Melinda Katz
Queens District Attorney

Michael McMahon
Staten Island District
Attorney

Cyrus Vance
Manhattan District Attorney

Janet DiFiore
Chief Judge of the Court of
Appeals and of the State of
New York

Anthony Annucci
Acting Commissioner, NYS
Department of Corrections
and Community Supervision

Cynthia Brann
Commissioner, NYC
Department of Correction

VIA EMAIL

Dear New York City's Criminal Justice Leaders:

The New York City jails are facing a crisis as COVID-19 continues its march through the City. We write to urge you to act to (1) immediately remove from jail all people at high risk of dying of COVID-19 infection and (2) rapidly decrease the jail population.

Staff of the Department of Correction (DOC) and Correctional Health Services (CHS) are doing heroic work to keep people in custody and staff safe and healthy. The Board of Correction, the independent oversight agency for the City's jails, has closely monitored Rikers Island and the borough jails for over sixty years. From this experience, we know that DOC's and CHS's best efforts will not be enough to prevent viral transmission in the jails. Their work must be supplemented by bold and urgent action from the City's District Attorneys, New York State judges, New York State Department of Corrections and Community Supervision (DOCCS), and DOC's utilization of its executive release authority. Fewer people in the jails will save lives and minimize transmission among people in custody as well as staff. Failure to drastically reduce the jail population threatens to overwhelm the City jails' healthcare system as well its basic operations.

Over the past six days, we have learned that at least twelve DOC employees, five CHS employees, and twenty-one people in custody have tested positive for the virus. There are more than 58 individuals currently being monitored in the contagious disease and quarantine units (up from 26 people on March 17). It is likely these people have been in hundreds of housing areas and common areas over recent weeks and have been in close contact with many other people in custody and staff. Given the nature of jails (e.g. dense housing areas and structural barriers to social distancing, hygiene, and sanitation), the number of patients diagnosed with COVID-19 is certain to rise exponentially. The best path forward to protecting the community of people housed and working in the jails is to rapidly decrease the number of people housed and working in them.

Mayor de Blasio announced on March 19 that the NYPD and Mayor's Office of Criminal Justice (MOCJ) had identified 40 people for release from custody, pending approval of the District Attorneys' Offices and the courts. This number is far from sufficient to protect against the rapid spread of coronavirus in the jails.

We urge you to follow your colleagues in Los Angeles County (CA), San Francisco (CA), Cook County (IL), Autauga County (AL), Augusta County (VA), Allegheny County (PA), Hamilton County (OH), Harris County (TX), Travis County (TX), and Cuyahoga County (OH), and take action now to release people from City jails. As further detailed below, this immediate reduction should prioritize the release of people who are at higher risk from infection such as those over 50 or with underlying health conditions. Additionally, you must safely release other people in jail to decrease the overall population; this process should begin with people detained for administrative reasons (including failure to appear and parole violations) and people serving "City Sentences" (sentences of one year or less). The process should continue to identify all other people who can be released. DOC and CHS should provide discharge planning to all people you release, including COVID screening, connection to health and mental health services, and support with housing, as necessary.

People over 50 years old

The morbidity rates for COVID-19 accelerate with age, with older people being the least likely to recover from complications of the virus. There are currently 906 people in DOC custody who are over age 50. [Older adults](#) in custody have an average of between three and four medical diagnoses each, and each of them takes between six and seven medications. Of the 906 older adults in custody today, 189 are being detained on technical parole violations. Another 74 older adults are City-Sentenced, serving one year or less for low-level offenses.

People with underlying health conditions

People with underlying health conditions, including lung disease, heart disease, diabetes, cancer, or a weakened immune system, are especially at risk of dying from COVID-19. As of today, there are 62 people in the infirmary at North Infirmary Command on Rikers Island. They are housed there because they require a higher level of medical care. Twelve of them are technical parole violators and six are City-Sentenced. In addition, there are eight women currently in the infirmary at the Rose M. Singer Center, three of whom are in custody on technical parole violations.

People detained for administrative reasons

There are currently 666 people in custody being held solely for a technical violation of parole, including failure to make curfew, missing a meeting with a parole officer, or testing positive for drugs. There are an additional 811 people detained on an open case and a technical parole violation who also should be reviewed for immediate release.

People serving city sentences

There are currently 551 people in DOC custody who are serving a City Sentence of under one year for [low-level offenses](#). The Mayor must use his executive powers to release these people.

New York must replicate the bold and urgent action it has taken in other areas to stem the tide of COVID-19 in the jails. The Board strongly urges you to take urgent action today to drastically reduce the NYC jail population using the guidelines above.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jacqueline Sherman'.

Jacqueline Sherman
Interim Chair

Exhibit G

March 20, 2020 News Release,
California Chief Justice Issues Second
Advisory on Emergency Relief Measures

California Chief Justice Issues Second Advisory on Emergency Relief Measures

March 20, 2020

Contact: Peter Allen | 415-865-7740

California Chief Justice Tani Cantil-Sakauye issued new guidance to the state's superior courts on Friday to mitigate some of the health risks to judicial officers, court staff, and court users during the COVID-19 pandemic.

In California, unlike other states, presiding judges of county superior courts may petition the Chief Justice—as chair of the Judicial Council—for an emergency order. (So far, the Chief Justice has signed emergency orders for nearly all of California's 58 counties, available to the public [here](#)).

Under Gov. Gavin Newsom's executive order to shelter in place, courts are considered "essential services" that must still provide services to the public.

"I am deeply concerned about the disruption and hardships caused by the COVID-19 crisis and I have applied and will continue to apply all the constitutional and statutory powers of my office to minimize these unprecedented problems," Cantil-Sakauye said.

In Friday's advisory, Cantil-Sakauye urged court officials to consider the following measures. "These actions can be taken immediately to protect constitutional and due process rights of court users. They will require close collaboration with your local justice system partners," Cantil-Sakauye said.

In criminal cases:

Lower bail amounts significantly for the duration of the coronavirus emergency, including lowering the bail amount to \$0 for many lower level offenses.

juvenile defendants.

Identify detainees with less than 60 days in custody to permit early release, with or without supervision or community-based treatment.

Determine the nature of supervision violations that will warrant detention in county jail, or “flash incarceration,” to drastically reduce or eliminate its use during the current health crisis.

Prioritize arraignments and preliminary hearings for in-custody defendants, and the issuance of restraining orders.

Prioritize juvenile dependency detention hearings to ensure they are held within the time required by state and federal law.

Allow liberal use of telephone or video appearance by counsel and defendant for routine or non-critical criminal matters.

In civil cases:

Suspend all civil trials and hearings for at least 60 days, with the exception of time-sensitive matters, such as restraining orders and urgent dependency, probate, and family matters.

When possible, provide that any urgent matters may be done telephonically.

See Chief Justice Tani Cantil-Sakauye’s advisory below, sent to all county superior court presiding judges and court executive officers on Friday:

To: Presiding Judges and Court Executive Officers of the California Courts

Dear Judicial Branch Colleagues:

I write to share information on actions we are taking at the state level regarding the current crisis in our California court system resulting from COVID-19, and to provide guidance on ways that might mitigate some of the health risks to judicial officers, court staff, and court users.

judicial officers and court administrators. We sought and received clarification from the Governor's office that the Governor's order is not meant to close our courts. The courts are—and continue to be—considered as an essential service. I recognize, however, that this new adjustment to health guidelines and direction likely may require further temporary adjustment or suspension of certain court operations, keeping in mind, as we all are, that we are balancing constitutional rights of due process with the safety and health of all court users and employees.

We are working at both the state and local levels to identify more options to provide relief. Aiding in these efforts are the perspectives and input from the TCPJAC and CEAC chairs and vice chairs who are dealing with local emergencies while making time to focus on the welfare of our larger judicial branch family.

In addition, we are in daily, close contact with the Governor's office, executive branch departments, and legislative leadership to make them aware of the impact on courts as well as to see where immediate and longer-term assistance may be needed to respond to a crisis of this magnitude.

I am deeply concerned about the disruption and hardships caused by the COVID-19 crisis and I have applied and will continue to apply all the constitutional and statutory powers of my office to minimize these unprecedented problems.

I, like many of you, am being contacted by justice system partners and advocates seeking immediate and direct action to address the particular needs of their constituencies. In responding to these requests, we have made clear what the limits of authority are for the Chief Justice and the Judicial Council, as well as the role of independent trial courts to manage their operations, while stressing our shared commitment to be responsive within the framework of respective constitutional and statutory responsibilities.

The relief I am authorized to grant with an emergency order is limited to the items enumerated in Government Code section 68115. In California, unlike other states, each of the 58 superior courts retains local authority to establish and maintain its own court operations. This decentralized nature of judicial authority is a statutory structure that reflects the diversity of each county.

requests submitted by the presiding judges in many superior courts, with the understanding that the immense diversity of our state may require variations on what is considered an essential or priority service in a particular court or community.

I will continue to grant emergency order requests while balancing fairness and access to justice. As of writing, 63 emergency orders have been processed with several more pending. In light of the continuing emergency posed by the COVID-19 pandemic, I am prepared to approve requests for further extensions as warranted, consistent with my authority under Government Code section 68115(b).

In addition to the steps you have taken under the orders you have been granted, I strongly encourage to you consider the following suggestions to mitigate the effect of reduced staffing and court closures and to protect the health of judges, court staff, and court users.

These actions can be taken immediately to protect constitutional and due process rights of court users. They will require close collaboration with your local justice system partners.

Criminal Procedures

1. Revise, on an emergency basis, the countywide bail schedule to lower bail amounts significantly for the duration of the coronavirus emergency, including lowering the bail amount to \$0 for many lower level offenses – for all misdemeanors except for those listed in Penal Code section 1270.1 and for lower-level felonies. This will result in fewer individuals in county jails thus alleviating some of the pressures for arraignments within 48 hours and preliminary hearings within 10 days.
2. In setting an adult or juvenile defendant's conditions of custody, including the length, eligibility for alternative sentencing, and surrender date, the court should consider defendant's existing health conditions, and any conditions existing at defendant's anticipated place of confinement that could affect the defendant's health, the health of other detainees, or the health of personnel staffing the anticipated place of confinement.

sentence for the purpose of modifying their sentences to permit early release of such persons with or without supervision or to community-based organizations for treatment.

4. With the assistance of justice partners, calendar hearings for youth returning to court supervision from Department of Juvenile Justice following parole consideration for a Welf. & Inst. Code, §1766 hearing.
5. With the assistance of justice partners, determine the nature of supervision violations that will warrant “flash incarceration,” for the purpose of drastically reducing or eliminating the use of such an intermediate sanction during the current health crisis.
6. Prioritize arraignments and preliminary hearings for in-custody defendants, and the issuance of restraining orders.
7. Prioritize juvenile dependency detention hearings to ensure they are held within the time required by state and federal law.
8. For routine or non-critical criminal matters, allow liberal use of telephonic or video appearance by counsel and the defendant, and appearance by counsel by use of waivers authorized by Penal Code, § 977. Written waivers without being obtained in open court have been approved if the waiver is in substantial compliance with language specified in section 977, subdivision (b)(1). (*People v. Edwards* (1991) 54 Cal.3d 787, 811; *People v. Robertson* (1989) 48 Cal.3d 18, 62.)

Civil Procedures

1. Suspend all civil trials, hearings, and proceedings for at least 60 days, with the exception of time-sensitive matters, such as restraining orders and urgent dependency, probate, and family matters. Consider whether an emergency order may be needed to address cases reaching 5-year deadlines under Code of Civil Procedure section 583.310.
2. When possible, provide that any urgent matters may be done telephonically, under the general policy encouraging use of telephonic appearances in Code of Civil Procedure section 367.5(a) and California Rule of Court, rule 3.670.

CALIFORNIA COURTS
THE JUDICIAL BRANCH OF CALIFORNIA

address questions, share information, provide resources, and maintain open lines of communication to facilitate our branch's response.

I am immensely grateful to you and your dedicated employees for your tireless efforts to navigate this storm as you are also trying to help and protect your own families through this challenging time for us all.

Tani G. Cantil-Sakauye
Chief Justice of California

Related



California Chief Justice Issues Guidance to Expedite Court Emergency Orders

March 16, 2020



Court Emergency Orders

April 02, 2020

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Exhibit H

March 23, 2020 Linh Ta, Iowa's Prisons
Will Accelerate Release of Approved
Inmates to Mitigate COVID-19, Times
Republican

Times-Republican

Iowa's prisons will accelerate release of approved inmates to mitigate COVID-19



Contributed photo Anamosa State Penitentiary is a maximum-security prison in Jones County.

From school districts to workplaces to restaurants, Iowans across the state are shutting their doors and keeping to themselves to mitigate the spread of COVID-19. But for inmates in Iowa's jail and prisons, social distancing is not an option.

The close quarters and transient influx of new people behind bars creates a precarious situation where a highly contagious virus like COVID-19 could spread and expose not only inmates but also the general public.

To mitigate a possible outbreak and create more room in Iowa's overcrowded prisons, the Iowa Department of Corrections plans to expedite the release of about 700 inmates who were already determined eligible for release by the Iowa Board of Parole.

"We're trying to be more efficient in our area and free up some space," said Beth Skinner, director of the Iowa Department of Corrections.

By accelerating the release wait list, more beds will open up, which can allow the correctional facility to move inmates more easily if an outbreak does occur in a prison. Iowa's eight prisons are already about 23% overcrowded, according to the Iowa Department of Corrections daily statistics.



Skinner

But releasing people without offering them a place to go doesn't help either, Skinner said. She said they're working to ensure all parolees have a place to stay once they return to their communities.

"It has to be a suitable, safe place," Skinner said.

Prisoners medically screened before intake or release

Beyond accelerating the release of people, the Iowa Department of Corrections is also medically screening all new inmates and people who are released from their facilities, Skinner said.

On average, 500 new inmates are transferred to the prisons on a monthly basis, Skinner said.

Correctional workers will take their temperatures and give them medical questionnaires to fill out. Because symptoms of COVID-19 may not immediately show, new inmates are automatically quarantined for 14 days.

Visitations are also temporarily suspended to mitigate the spread of COVID-19, but the department is examining reducing the costs of mail and phone calls, Skinner said.

Inmates and correctional officers have access to soap and water and employees are also provided hand sanitizer.

A “*huge piece*” in preventing outbreaks will be COVID-19 tests, however, Skinner said. Each correctional facility will receive five to six tests, which can help them evaluate people who may have symptoms and quarantine them.

“We get the people who have the flu. What’s different with this one is the unknown,” Skinner said.

ACLU: Iowa should do more to reduce prison population

But an Iowa civil rights group believes the state should go even further to reduce the density of the prison population and mitigate the spread of COVID-19.

ACLU of Iowa is calling for comprehensive changes to law enforcement and correctional facilities practices.

Veronica Fowler, spokesperson for ACLU of Iowa, said limiting arrests and releasing more people not only protects the jail and prison populations, but also the general public who may be exposed to COVID-19 by a correctional officer.

“We have in any one day about 16,000 people, essentially behind bars,” Fowler said of Iowa’s prisons and jails. *“That is the equivalent of Clive or Boone or Oskaloosa. We’re not talking about tiny little populations.”*

The organization is calling for limiting the number of arrests, people in county jails and number of people being held on pretrial detention. Additionally, the group is asking the state to commute people with medical conditions who would have been released in the next two years and commuting people who were scheduled to be released in a year.

Another concern is an order from the Iowa Supreme Court, Fowler said.

On March 14, the Iowa Supreme Court ordered all criminal jury trials be postponed until April 20. Fowler said that could result in some inmates staying behind bars longer than necessary.

Fowler said ACLU plans to send a letter to the governor and state officials detailing their requests.

“If all these people get sick, that’s a health crisis that overwhelms the system,” Fowler said.

In Johnson County, 37 inmates were being held in the county jail. The county has the highest rate of COVID-19 with 22 confirmed cases so far. The facility was originally built to house 46 inmates, but by double-bunking inmates, it can hold 92, according to The Gazette.

No plans for early release from expanded Polk County jail

At the Polk County Jail, there are no plans to expedite the release of prisoners, said Lt. Heath Osberg of the Polk County Sheriff’s Office.

In 2008, Polk County finished construction on a new jail facility that holds 1,500 inmate beds and is tripled in size from the previous jail.

Because of the larger size, Osberg, said there is not overcrowding in the jail. Around 749 inmates were being held in the jail as of Friday afternoon.

The difference between jails and prisons, however, is the more transient flow of people coming in and out.

Between Wednesday and Thursday, 24 inmates were booked into Polk County Jail, according to its website. Eleven of those detained have already been released.

Osberg said inmates who are brought into the facility are getting their temperatures checked and filling out medical questionnaires.

He said any changes in the release of inmates would have to come from county attorneys and Iowa courts.

Fowler said she hopes state officials stay aware of Iowa's jailed population, particularly people who can't afford to pay bond and those with health conditions that make them more vulnerable to COVID-19.

"The bottom line is that we already have an over-incarceration problem in our country and our state," Fowler said.

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Exhibit I

March 20, 2020 Frank Fernandez,
Coronavirus Preparation Prompts
Volusia Jail to Release Some Non-
Violent Offenders, The Daytona Beach
News-Journal

Coronavirus preparation prompts Volusia jail to release some non-violent offenders

NJ [news-journalonline.com/news/20200320/coronavirus-preparation-prompts-volusia-jail-to-release-some-non-violent-offenders](https://www.njnews-journalonline.com/news/20200320/coronavirus-preparation-prompts-volusia-jail-to-release-some-non-violent-offenders)



The Volusia County Branch Jail is releasing 88 inmates to help prepare for an outbreak of the coronavirus.

The Volusia County Branch Jail and Correctional Facility plans to release 88 inmates who are being held on non-violent charges to help prevent a coronavirus outbreak at the jail, which so far has had no cases of the virus.

[CORONAVIRUS: Read the latest news and information]

By Friday afternoon, 85 of 88 inmates approved to be released had been freed from the jail, according to county spokesman Gary Davidsion.

The 88 inmates were being held on a variety of misdemeanor and felony charges, including

possession of cocaine, reckless driving, trespassing, possession of paraphernalia, defrauding an innkeeper, petit theft, fraudulent use of personal identification, burglary of an unoccupied dwelling, possession of heroin, according to court documents.

The Volusia County Branch Jail's plan is similar to what is being done in Hillsborough County, which is releasing some inmates to allow corrections staff to work on higher priorities.

The Volusia County Branch Jail is currently holding 930 inmates while the county's correctional facility is currently housing another 409 for a total of 1,339 inmates. The branch jail holds only men while the correctional facility holds women with pending cases and both men and women servicing sentences.

"We did receive approval from the court today and yes, we are working on a similar plan," wrote Mark Flowers, the director of corrections for Volusia County, in an email on Thursday afternoon.

Circuit Judge Raul Zambrano, chief judge for the 7th Circuit, signed an order on Thursday granting a state motion for early release of the inmates in support of the state of emergency.

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The 88 inmates are being released on their own recognizance, according to the order.

But they will still have to answer to the charges against them once courthouses get back to normal.

Davidson wrote that the jail will support any order or desire from the court as far as releasing any additional inmates.

Releasing the 88 inmates will allow staff at the jail to focus on other priorities but Davidson declined to discuss in more detail how it would help.

Volusia County Spokesman Kevin Captain wrote in an email on Thursday that there have not been any coronavirus cases at the Volusia County Branch Jail.

The Volusia County jail is working with its medical contractor, Centurion, and other health officials and are prepared if "there is contact with someone affected by the virus," Captain wrote.

The Flagler County Sheriff's Office has no plans to release any inmates from its jail unless it receives a court order, wrote Shannon Martin, a spokesperson for the Flagler County Sheriff's Office.

"All inmates are screened before admittance to the jail regardless of COVID-19," Martin wrote. "Currently no inmates are exhibiting any symptoms. Should any become symptomatic they will be quarantined and examined by our medical team who will advise on next steps. We have no plans to release any non-violent inmates unless if we are ordered by a judge."

The Florida Department of Juvenile Justice issued an emergency order suspending visitation at all state-operated juvenile detention centers and juvenile residential commitment programs until April 15.

The Department of Juvenile justice said it has no known or suspected cases at this time of COVID-19, the disease caused by the coronavirus.

Attorneys will still be allowed to meet with youth and instructional and clinical personnel will be permitted to continue to provide services to the youth, the statement said.

It has also begun additional screening of outside vendors who work within the juvenile facilities. Family members with visitation questions should contact the facility where their child is held.

None of the inmates at the St. Johns County Jail, which as of Thursday held 392, have been released yet but a judge is reviewing criteria in anticipation of releasing "select inmates," according to Chuck Mulligan, spokesman for the St. Johns County Sheriff's Office.

Hillsborough County is releasing 164 inmates from its two facilities which house about 2,700 inmates to help lower the possibility of the coronavirus spreading at the jail, according to a news account. Releasing the inmates will allow staff at the jail to focus on higher priorities,

according to the news account.

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Exhibit J

March 19, 2020 BBC News, US Jails
Begin Releasing Prisoners to Stem
Covid-19 Infections

US jails begin releasing prisoners to stem Covid-19 infections

 [bbc.com/news/world-us-canada-51947802](https://www.bbc.com/news/world-us-canada-51947802)



Image copyright Getty Images

Image caption New York is to release prisoners who are most vulnerable to coronavirus infection

US jails are to let out inmates as cases of coronavirus infections are being reported in prisons.

New York City is releasing "vulnerable" prisoners, the mayor said on Wednesday, days after Los Angeles and Cleveland freed hundreds of inmates.

Prison reform advocates say those in jail are at higher risk of catching and passing on Covid-19.

There have been more than 9,400 cases of Covid-19 and 152 deaths in the US so far, according to estimates.

Globally there are some 220,000 confirmed cases and over 8,800 deaths.

What happened in New York City?

New York City Mayor Bill de Blasio said on Wednesday that city officials will this week identify individuals for release, including people who were arrested for minor crimes and

those most vulnerable to infection due to underlying health problems.

His announcement came hours after a guard and a prisoner tested positive for coronavirus at Rikers Island prison, where disgraced former Hollywood producer Harvey Weinstein, 68, is a high-profile inmate.

Weinstein will be moved to a different state prison, an official said on Wednesday.

Other New York prisons, such as Sing Sing, have had inmates test positive for coronavirus and one employee for the state's corrections department has died from it.

What have other US jurisdictions done?

The Los Angeles County Sheriff's Department reduced its inmate population by 600 in the last two weeks, officials said on Tuesday.

"Our population within our jails is a vulnerable population just by who they are, where they are located, so we're protecting that population from potential exposure," Los Angeles Sheriff Alex Villanueva told reporters earlier this week.

The LA County jail system is the largest prison system in the world with an average population of around 22,000 prisoners.

Mr Villaneuva disclosed that arrests in the county are also down, from an average of 300 per weekend to only 60 in mid-March.

More about coronavirus



- A SIMPLE GUIDE: [What are the symptoms?](#)
- YOUR THIRD HAND: [How do you clean your smartphone?](#)
- BORED KIDS: [Should you let your children play with others?](#)
- GETTING READY: [How prepared is the US?](#)
- DOING GOOD: [Kind Canadians start 'caremongering' trend](#)

Cuyahoga County, Ohio, where the city of Cleveland is located, has also released hundreds of prisoners due to coronavirus concerns.

Judges held emergency hearings through the weekend to work out plea deals and other agreements to allow prisoners to be released early or without serving time.

Several states from New York to California are now banning in-person visitors. A ban on visits led to a deadly prison riot in Italy last week.

Federal agencies will postpone most arrests and deportations during the coronavirus crisis.



Media playback is unsupported on your device
Media captionCoronavirus: Trump blames media for virus spread

What is the danger to prisoners?

Reform campaigners say prisoners face unique risks, due to a lack of hygiene in overcrowded cells and hallways.

Handcuffed people cannot cover their mouths when they cough or sneeze, sinks often lack soap and hand sanitiser is considered contraband due to its alcohol content.

Iran has already released 85,000 people, including political prisoners, in an effort to combat the pandemic.

The US locks up more of its citizens per capita than any other country, with an estimated 2.3 million people behind bars in federal, state and local prisons.

Some high profile convicts have argued for early release over coronavirus fears.

They include President Trump's former lawyer Michael Cohen, 53, financial fraudster Bernie Madoff, 81, and Gilberto Rodriguez-Orejuela, a notorious Colombian drug lord.

Exhibit K

March 29, 2020 The Office of Governor Gretchen
Whitmer, Mich. Exec. Order No. 2020-29

Executive Order 2020-29 (COVID-19)

EXECUTIVE ORDER

No. 2020-29

Temporary COVID-19 protocols for entry into Michigan Department of Corrections facilities and transfers to and from Department custody;

temporary recommended COVID-19 protocols and enhanced early-release authorization for county jails, local lockups, and juvenile detention centers

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401-.421, and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31-.33.

The Emergency Management Act vests the governor with broad powers and duties to “cop[e] with dangers to this state or the people of this state presented by a disaster or emergency,” which the governor may implement through “executive orders, proclamations, and directives having the force and effect of law.” MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945 provides that, after declaring a state of emergency, “the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control.” MCL 10.31(1).

To mitigate the spread of COVID-19, protect the public health, and provide essential protections to vulnerable Michiganders who work at or are incarcerated in prisons, county jails, local lockups, and juvenile detention centers across the state, it is reasonable and necessary to implement limited and temporary COVID-19-related protocols and procedures regarding entry into facilities operated by the Michigan Department of Corrections and transfers to and from the Department’s custody; to recommend limited and temporary COVID-19-related protocols and measures for county jails, local lockups, and juvenile detention centers; and to temporarily suspend certain rules and procedures to facilitate the implementation of those recommendations.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. The Michigan Department of Corrections (the “Department”) must continue to implement risk reduction protocols to address COVID-19 (“risk reduction protocols”), which the Department has already developed and implemented at the facilities it operates and which include the following:
 - a. Screening all persons arriving at or departing from a facility, including staff, incarcerated persons, vendors, and any other person entering the facility, in a manner consistent with guidelines issued by the Centers for Disease Control and Prevention (“CDC”). Such screening includes a temperature reading and obtaining information about travel and any contact with persons under investigation for COVID-19 infection.
 - b. Restricting all visits, except for attorney-related visits, and conducting those visits without physical contact to the extent feasible.
 - c. Limiting off-site appointments for incarcerated persons to only appointments for urgent or emergency medical treatment.
 - d. Developing and implementing protocols for incarcerated persons who display symptoms of COVID-19, including methods for evaluation and processes for testing, notification of the Department of Health and Human Services (“DHHS”), and isolation during testing, while awaiting test results, and in the event of positive test results. These protocols should be developed in consultation with local public health departments.
 - e. Notifying DHHS of any suspected case that meets the criteria for COVID-19 through communication with the applicable local public health department.
 - f. Providing, to the fullest extent possible, appropriate personal protective equipment to all staff as recommended by the CDC.
 - g. Conducting stringent cleaning of all areas and surfaces, including frequently touched surfaces (such as doorknobs, handles, light switches, keyboards, etc.), on a regular and ongoing basis.

- h. Ensuring access to personal hygiene products for incarcerated persons and correctional staff, including soap and water sufficient for regular handwashing.
- i. Ensuring that protective laundering protocols are in place.
- j. Posting signage and continually educating on the importance of social distancing, handwashing, and personal hygiene.
- k. Practicing social distancing in all programs and classrooms—meaning a distance of at least six feet between people in any meeting, classroom, or other group.
- Minimizing crowding, including interactions of groups of 10 or more people, which may include scheduling more times for meal and recreation to reduce person-to-person contact.
- 2. To mitigate the risk of COVID-19 spreading in county jails, strict compliance with the capacity and procedural requirements regarding county jail overcrowding states of emergency in the County Jail Overcrowding Act (“CJOA”), 1982 PA 325, MCL 801.51 et seq., is temporarily suspended. While this order is in effect, all actions that would be authorized under the CJOA in the event of a declaration of a county jail overcrowding state of emergency are authorized and shall remain authorized without regard to any reduction in jail population or any other such limitations on the duration of authorization imposed by the CJOA.
- 3. Anyone authorized to act under section 2 of this order is strongly encouraged to consider early release for all of the following, so long as they do not pose a public safety risk:
 - a. Older people, people who have chronic conditions or are otherwise medically frail, people who are pregnant, and people nearing their release date.
 - b. Anyone who is incarcerated for a traffic violation.
 - c. Anyone who is incarcerated for failure to appear or failure to pay.
 - d. Anyone with behavioral health problems who can safely be diverted for treatment.

4. Effective immediately, all transfers into the Department's custody are temporarily suspended. Beginning seven (7) days from the effective date of this order, and no more than once every seven (7) days, a county jail or local lockup may request that the director of the Department determine that the jail or lockup has satisfactorily implemented risk reduction protocols as described in section 1 of this order. Upon inspection, if the director of the Department determines that a county jail or local lockup has satisfactorily implemented risk reduction protocols, transfers from that jail or lockup will resume in accordance with the Department's risk reduction protocols. The director of the Department may reject transfers that do not pass the screening protocol for entry into a facility operated by the Department.
5. Parole violators in the Department's custody must not be transported to or lodged in a county jail or local lockup unless the director of the Department has determined that such county jail or local lockup has satisfactorily implemented risk reduction protocols as described in section 1 of this order.
6. The State Budget Office must immediately seek a legislative transfer so that counties may be reimbursed for lodging incarcerated persons that would have been transferred into the Department's custody if not for the suspension of transfers described in section 4 of this order.
7. Juvenile detention centers are strongly encouraged to reduce the risk that those at their facilities will be exposed to COVID-19 by implementing as feasible the following measures:
 - a. Removing from the general population any juveniles who have COVID-19 symptoms.
 - b. Eliminating any form of juvenile detention or residential facility placement for juveniles unless a determination is made that a juvenile is a substantial and immediate safety risk to others.
 - c. Providing written and verbal communications to all juveniles at such facilities regarding COVID-19, access to medical care, and community-based support.
 - d. To the extent feasible, facilitating access to family, education, and legal counsel through electronic means (such as telephone calls or video conferencing) at no cost, rather than through in-person meetings.
8. Unless otherwise directed by court order, for juveniles on court-ordered probation, the use of out-of-home confinement for technical violations of probation and any requirements for in-person meetings with probation officers are temporarily suspended.

9. This order is effective immediately and continues through April 26, 2020 at 11:59 pm.

Given under my hand and the Great Seal of the State of Michigan.

Exhibit L

March 26, 2020 Michigan Courts News
Release, Joint Statement of Chief Justice
Bridget M. McCormack and Sheriff Matt
Saxton



MICHIGAN COURTS NEWS RELEASE

John Nevin, Communications Director

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March 26, 2020

**Chief Justice Bridget M. McCormack, Michigan Supreme Court
Sheriff Matt Saxton (ret.), Executive Director, Michigan Sheriffs' Association
Joint Statement**

Thank you to judges, sheriffs, and law enforcement statewide who have stepped up to reduce jail populations in response to the ongoing public health emergency. With a single-minded focus on keeping our communities safe, jail populations across Michigan have declined to between 25% and 75% below their maximum capacities.

We are grateful for the efforts taken so far, but we must make sure we do all we can to protect the health of Michiganders. We have half a million criminal court cases each year in Michigan and several hundred thousand people entering jails. Governor Whitmer has requested that we all do our part to limit risk, and judges and sheriffs must work together to protect court employees, jail staff, inmates, and the public at large.

We can be proactive to reduce this risk:

- Judges and Sheriffs should use the statutory authority they have to reduce and suspend jail sentences for people who do not pose a public safety risk.
- Law enforcement should only arrest people and take them to jail if they pose an immediate threat to people in the community.
- Judges should release far more people on their own recognizance while they await their day in court. For some, judges may want to release them under supervision or under a condition that they stay away from a particular place or person.
- And judges should use probation and treatment programs as jail alternatives.

In addition, see the detailed advice that the Michigan Supreme Court State Court Administrative Office previously provided to judges and court administrators statewide. Following this advice WILL SAVE LIVES. (attached below)

Guidance to Trial Courts (Provided to Trial Courts March 20, 2020)

Detention, Bail, and Pretrial Release

In an effort to slow the spread of COVID-19, especially in the confined environments of county jails, courts should collaborate with county stakeholders and consider the following recommendations:

Coordinate with law enforcement in your county about expanding the use of appearance citations (when appropriate and legally permissible) rather than custodial arrests.

Pursuant to MCL 764.9c, police officers may issue appearance tickets, subject to certain exceptions, for misdemeanor or ordinance violations for which the maximum permissible penalty does not exceed 93 days in jail. Appearance tickets save police officers' time for more pressing matters and eliminate jail confinement. Even if an offense does not qualify for an appearance ticket (e.g. felonies or misdemeanors with punishments exceeding 93 days in jail), law enforcement still has the option for many offenses to release defendants, without charges, and submit their report to the prosecutor's office for review.

Coordinate with your prosecutors and law enforcement agencies in your county regarding the possible use of summons (when appropriate) rather than arrest warrants.

Pursuant to MCR 6.103, a court may issue a summons instead of an arrest warrant upon the request of the prosecutor. This presents another opportunity to avoid incarceration and allows the court more flexibility with scheduling arraignments than with in-custody defendants.

If defendants are arrested for warrantless misdemeanor offenses, courts should coordinate with law enforcement to use their discretionary authority to set lower interim bonds for an expedited release of low-risk defendants before arraignment.

Pursuant to MCL 780.581, a police officer may, subject to certain exceptions, set interim bail if defendants are arrested without a warrant for misdemeanor offenses and a magistrate is not available. The amount of interim bail must be "a sum of money" determined by the police officer, not the court, but must not exceed the maximum possible fine for the offense nor be less than 20 percent of the minimum possible fine. Law enforcement agencies sometimes accomplish this by using a "bond schedule." Several courts utilize an Interim Bond Order for this purpose.

Courts must closely adhere to MCR 6.106(C) regarding personal or unsecured bonds to effectuate as many pretrial releases from custody as safely possible.

MCR 6.106(C) requires courts to release defendants on personal or unsecured bonds unless they will not reasonably ensure the appearance of the defendant as required or will present a danger to the public. Money bail of even modest amounts can delay, or outright deny, the release of certain presumptively innocent defendants.

When setting bail, courts should carefully weigh the public necessity of certain pretrial conditions (including drug/alcohol testing, counseling, office visits, etc.) with the risk of spreading COVID-19.

Courts should be mindful that conditions of release, while not confining defendants in jail, can still place defendants in close proximity with other individuals. MCR 6.106(D) allows courts to impose conditions of pretrial release if a personal recognizance bond will not reasonably ensure the appearance of the defendant or the safety of the public. Moreover, research suggests many conditions of pretrial release, with the exception of court date reminders, are ineffective at reducing failure to appear and rearrests rates. When balancing which bond conditions to order with minimizing the spread of the COVID-19, the court should still be mindful that behavior that is dangerous to the defendant or others should not be tolerated.

Consider using non-warrant alternatives (when appropriate) when defendants fail to appear in court or otherwise commit conditional release violations.

Pursuant to MCR 3.606(A)(1) and MCR 6.106(H)(2), a court may order a defendant to appear for a show cause hearing for an alleged bond violation or issue a summons for a modification of bond. Show Cause Orders ([MC 230](#)) and Summons Regarding Bond Violations ([MC 308](#)) are two options that will avoid custodial arrests and allow courts more control over their dockets. The court should continue to issue bench warrants in those circumstances where the defendant's conduct resulting in the alleged bond or probation violations present a danger to the defendant or others.

###

Exhibit M

March 22, 2020 John Sandweg, I Used to Run ICE.
We Need to Release the Nonviolent Detainees, The
Atlantic

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.

Exhibit N

April 4, 2020 Caitlin Taylor, Coronavirus Changes
Procedures at Monroe County Jail, Monroe News

Coronavirus changes procedures at Monroe County Jail

 monroenews.com/news/20200404/coronavirus-changes-procedures-at-monroe-county-jail



The Monroe County jail so far isn't releasing any inmates to reduce crowding, but other measures are in place to mitigate the spread of Covid-19.

The Monroe County jail so far isn't releasing any inmates to reduce crowding, but several other measures are in place to mitigate the spread of the coronavirus (COVID-19).

Maj. Troy Goodnough, jail administrator, said the Monroe County Sheriff's Office Corrections Division launched the first phase of its mitigation efforts March 12, although preparations for a potential outbreak already had been in the works for several weeks.

Measures include suspending all visitations, implementing a health screening process and daily deep cleaning and sanitization of all jail facilities, among other preventative measures. As of Friday, there were no cases of COVID-19 among inmates.

"When China first announced the spread of COVID-19, the Sheriff's Office Corrections Division developed an antidotal strategic action plan to mitigate the virus if it became an issue in Michigan," Goodnough told The Monroe News Thursday. "We are confident that our plan significantly mitigates our exposure to COVID-19 on a number of fronts."

As high-traffic institutions with relatively confined spaces, the threat of COVID19 is particularly acute in county jails, as both inmates and employees are elevated risk of being exposed to the virus and spreading it to others through inadequate social distancing.

In response, a mitigation strategy was implemented following lengthy discussion with Kim Comerzan, health officer for the Monroe County Health Department, including a protocol for quarantine should an inmate become infected.

Perhaps the biggest adjustment, though, has been initiating health screenings for all employees when they arrive for work, Goodnough explained. The process consists of checking for illness through a series of questions and taking temperatures.

Before entering the secured area of the jail, new arrestees also are held in the Sally Port, a controlled entryway, for health screenings based on recommendations from the Centers for Disease Control and Prevention (CDC), he added.

Also a significant change has been switching many in-person services to virtual programs. The Monroe County Chief Judges Judiciary is limiting the number of inmates who appear in person for court hearings, without infringing on their rights.

So far a virtual meeting system is being used to conduct video court hearings, reducing inmates' movement outside of the facility, Goodnough said. All ancillary services such as cognitive behavior therapy, substance abuse courses and church services also are taking place using online programs.

Attorneys are temporarily banned from visiting with clients, Goodnough added, so they use a virtual meeting system to communication with inmates. The jail's telephone provider has given each inmate one free 15-minute phone call per week, since in-person visitations also are suspended.

"As much as our plan may be an inconvenience for everyone who may have business with the Sheriff's Office Corrections Division, our plan was implemented with the safety of our staff and inmates as our priority," Goodnough said. "Our plan meets all of the executive orders of the governor while doing our part as a core public entity to help slow or prevent the spread of the COVID-19 virus."

On Monday, the jail launched phase two of its mitigation program, which includes preparing for possible early-release of non-violent offenders to reduce jail crowding, Goodnough said.

The jail administration team has prepared a roster of the entire inmate population, Goodnough explained, including each inmate's bond status, most recent court proceedings and, if applicable, their current medical condition to be submitted to all Monroe County judges.

As of Friday, the jail did not have plans to release any inmates, but wants to remain prepared should the need arise, especially in cases of a potential outbreak.

"We have to protect the public," Goodnough said.

The idea behind this strategy, he said, is to prepare for an emergency release, as described under Michigan Gov. Gretchen Whitmer's recent executive initiative.

Part of the order states that it's "strongly encouraged" to grant an early release – so long as the offender does not pose a public safety risk – to older inmates, anyone who is incarcerated for a traffic violation, anyone incarcerated for failure to appear or failure to pay or anyone with behavioral health problems who may be safely diverted for treatment.

The Michigan Joint Task Force on Jail and Pretrial incarceration also is urging decision-makers to continue taking all necessary action to keep communities safe through arrest alternatives, de-incarceration when possible and social-distancing.

"We were only able to implement our response due to the great partnership and cooperation from everyone in the law enforcement community and beyond," Goodnough said.

This is among the news and announcements The Monroe News is making available for free as a public service to our readers during the coronavirus outbreak. You can catch up on other postings at our coronavirus special section.

Please support local journalism with a subscription to The Monroe News.

Exhibit O

March 16, 2020 Memorandum from Donald W.
Beatty, Chief Justice of South Carolina Supreme
Court, to Magistrates, Municipal Judges, and
Summary Court Staff

SC Judicial Branch

 sccourts.org/whatsnew/displayWhatsNew.cfm

South Carolina JUDICIAL BRANCH

Court News ...

The Supreme Court of South Carolina

DONALD W. BEATTY
CHIEF JUSTICE

POST OFFICE BOX 3543
SPARTANBURG, SOUTH CAROLINA 29304-3543

MEMORANDUM

TO: Magistrates, Municipal Judges, and Summary Court Staff

FROM: Chief Justice Beatty

RE: Coronavirus

DATE: March 16, 2020

As the number of coronavirus cases has increased in South Carolina, and a state of emergency has been declared, the South Carolina Judicial Branch continues to consider all aspects of court operations.

As the situation continues to develop, we will provide further information and direction if and when circumstances so warrant. In the meantime, please review the following directives for your courts.

- All jury trials are postponed. Non-jury trials and other hearings may continue to be held, but only attorneys, their clients, and necessary witnesses will be allowed to appear.
- All roll calls and any other large gatherings such as traffic court are cancelled until further notice.
- If you deem it necessary to curtail operations beyond the scope of this memorandum, courthouses should remain available for the following critical functions:
 - Acceptance of filings and payments (including bonds)
 - Emergency hearings (including, but not limited to: restraining orders, orders of protection, bond revocation/modification, and vacating of bench warrants)
 - Transmission of necessary information to SLED and/or NCIC
 - Compliance with the Financial Accounting Order
- Any person charged with a non-capital crime shall be ordered released pending trial on his own recognizance without surety, unless an unreasonable danger to the community will result or the accused is an extreme flight risk.
- Bench warrants for failure to appear shall not be issued at this time.
- At a minimum, bond hearings should be held at least once per day.
 - The court shall continue to conduct probable cause determinations if a defendant is arrested and incarcerated on a Uniform Traffic Ticket.
 - The bond court shall continue to unseal bench warrants, or inform defendants of right to counsel and new court dates, and vacate bench warrants.
 - Victim's rights must be upheld. A victim advocate/notifier must be available for bond hearings.
 - If a defendant has been in jail as a pre-trial detainee for the maximum possible sentence, the court shall convert the bond to a personal recognizance bond and release the defendant.
- Court dates may be rescheduled as is necessary and prudent.
- To the extent possible and circumstances warrant, hearings that can be held by video may be held remotely. Telephonic hearings may be held remotely as a last resort.
- Counties/municipalities with orders in place whereby the Chief Magistrate may appoint magistrates to serve as municipal judges should do so as necessary if the current municipal judge(s) becomes unable to hold court.
- If a magistrates court temporarily closes, there should be adequate signs posted directing persons to the nearest other magistrates court(s) within the county where filings and payments may be tendered. The court should include this information on its voicemail and website/social media if possible.
- The courts must maintain a 24-hour judge on-call schedule and provide it to jails and law enforcement. Amend the schedule as necessary.

The SCJB's Crisis Management Team will continue to monitor this situation and provide further information as received. We remain committed to the safety of the state court system and to the public. Thank you for your assistance in implementing these measures.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

REYNALDO ALBINO-MARTINEZ, JOSE
NICOLAS CHAVEZ-VARGAS, GENER
ALEJANDRO CHINCHILLA-FLORES, CRAIG
DOBLE, and MIGUEL ANGEL APARICIO
NAVAS,

Petitioner-Plaintiffs,

- against -

REBECCA ADDUCCI, in her official capacity as
Detroit District Director of U.S. Immigration &
Customs Enforcement; MATTHEW T.
ALBENCE, in his official capacity as Deputy
Director and Senior Official Performing the Duties
of the Director of the U.S. Immigration &
Customs Enforcement; CHAD WOLF, in his
official capacity as Acting Secretary, U.S.
Department of Homeland Security; WILLIAM P.
BARR, in his official capacity as Attorney
General, U.S. Department of Justice; and U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondent-Defendants.

Case No. _____

DECLARATION OF RONALD KAPLOVITZ, ESQ.
IN FURTHER SUPPORT OF PETITIONER-PLAINTIFFS'
MOTION FOR TEMPORARY RESTRAINING ORDER

I, Ronald Kaplovitz, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. §1746.

1. My name is Ronald Kaplovitz. I make these statements based upon my personal knowledge.
2. I am an attorney with Kaplovitz and Associates PC. I have been practicing immigration law for 30 (thirty) years. I represent Reynaldo Albino-Martinez, a 55-year-old Mexican national who has been civilly detained at St. Clair County Jail in Port Huron, Michigan since February 5, 2020. I have represented Mr. Albino-Martinez since early March 2020.
3. Mr. Albino-Martinez entered Immigration and Customs Enforcement (“ICE”) custody on February 5, 2020. Mr. Albino-Martinez was arrested by ICE at his home in Michigan.
4. Mr. Albino-Martinez was born in Mexico, and came to the United States in 1989 when he was approximately 24 years old. Mr. Martinez-Albino has not departed from the United States since 1989.
5. Mr. Albino-Martinez has suffered and continues to suffer from a number of serious medical conditions:
 - a. Mr. Albino-Martinez has suffered from insulin-dependent diabetes, coronary artery disease, rotator cuff tears, posterior subcapsular polar cataracts, depression, diabetic retinopathy, pterygium, astigmatism, myopia, presbyopia, diabetic peripheral neuropathy, hyperlipidemia, ulnar neuropathy in his right eye, and acid reflux disease.
 - b. Mr. Albino-Martinez currently experiences rapidly declining vision and bleeding behind his right eye. He cannot see to read or write, and needs a companion when walking. Mr. Albino-Martinez is in need of cataract surgery.
 - c. Most recently, Mr. Albino-Martinez was diagnosed with pneumonia. On or around February 12, 2020, Mr. Albino-Martinez was transferred from St. Clair County Jail to the McLaren Port Huron Hospital. Mr. Albino-Martinez was hospitalized and treated for three weeks for pneumonia. After being discharged from the hospital on or around March 4, 2020,

Mr. Albino-Martinez remained in the St. Clair County Jail medical unit for continued rehabilitation treatment of antibiotics until approximately March 27, 2020.

- d. Mr. Albino-Martinez is no longer taking antibiotics, but he continues to experience a sore throat. Mr. Albino-Martinez has not been given any protective equipment, such as a mask or gloves, and has not been scheduled for any follow-up medical appointments at this time. Mr. Albino is receiving his regular course of medications, including insulin, while in detention.
 - e. Mr. Albino-Martinez is housed in a large, rectangular room with 15 to 20 other detainees. The room is approximately the size of a double-wide trailer. These detainees are rotated in and out often, so Mr. Albino-Martinez is exposed to numerous different detainees on a regular basis. Meals are taken in their shared room. Although bathrooms and sinks appear to be clean to the naked eye, detainees are not given access to gloves, masks, or hand sanitizers. Mr. Albino-Martinez has seen some corrections officers wearing masks and gloves.
6. Given the above, Mr. Albino-Martinez is at a dangerously high risk of infection for COVID-19 while in detention. Moreover, Mr. Albino-Martinez's lengthy medical history and complex present conditions—including a recent diagnosis of pneumonia—make him especially vulnerable to severe health complications from COVID-19.
 7. On March 31, 2020, Immigration Judge Mark J. Jebson of the Detroit Immigration Court ordered Mr. Albino-Martinez removed, and I reserved appeal of this decision at that time. Judge Jebson also denied Mr. Albino-Martinez bond. Although Mr. Albino-Martinez requested relief in the form of voluntary departure, he does not have a passport or birth certificate, rendering him ineligible for this relief. As such, Mr. Albino-Martinez withdrew his request.
 8. Mr. Albino-Martinez has been convicted of operating a vehicle while intoxicated on three occasions, the last of which was in approximately 2010. Mr. Albino was convicted of domestic violence on two occasions in 1997 and 1998. Mr. Albino was convicted of driving without a license in 2018. Mr. Albino-Martinez has had no contact with United States law enforcement since 2018.

9. As for education or warnings about COVID-19, Mr. Albino-Martinez has heard corrections officers warn detainees to “keep clean,” but no written materials have been distributed. Mr. Albino-Martinez has not heard any instructions about social distancing or maintaining 6 feet of space between detainees. Mr. Albino-Martinez is aware that some detainees are screened for tuberculosis, but he is unaware of any COVID-19 testing being conducted on either staff or detainees.

10. If Mr. Albino-Martinez is released, he expects to reside with his U.S. citizen girlfriend, Patricia Lara, at her home in Saginaw, Michigan. Ms. Lara resides with her two daughters, whom Mr. Albino-Martinez has known for twelve years. At home, he will be able to get medical treatment for his conditions while maintaining a safe distance from others and/or quarantining as necessary.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on the 7th day of April 2020, in Oakland County, Michigan.

/s/ Ronald Kaplovitz
Ronald Kaplovitz
Kaplovitz & Associates, PC
2057 Orchard Lake Road
Sylvan Lake, Michigan 48320

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

REYNALDO ALBINO-MARTINEZ, JOSE
NICOLAS CHAVEZ-VARGAS, GENER
ALEJANDRO CHINCHILLA-FLORES, CRAIG
DOBLE, and MIGUEL ANGEL APARICIO
NAVAS,

Petitioner-Plaintiffs,

- against -

REBECCA ADDUCCI, in her official capacity as
Detroit District Director of U.S. Immigration &
Customs Enforcement; MATTHEW T.
ALBENCE, in his official capacity as Deputy
Director and Senior Official Performing the Duties
of the Director of the U.S. Immigration &
Customs Enforcement; CHAD WOLF, in his
official capacity as Acting Secretary, U.S.
Department of Homeland Security; WILLIAM P.
BARR, in his official capacity as Attorney
General, U.S. Department of Justice; and U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondent-Defendants.

Case No. _____

**DECLARATION OF JONATHAN CONTRERAS, ESQ. IN
FURTHER SUPPORT OF PETITIONER-PLAINTIFFS'
MOTION FOR TEMPORARY RESTRAINING ORDER**

I, Jonathan Contreras, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. §1746.

1. My name is Jonathan Contreras. I make these statements based upon my personal knowledge.
2. I am an attorney with Merced Law, PLLC, a firm specializing in immigration matters. I have practiced immigration law for approximately 3 years.
3. I represent Gener Alejandro Chinchilla-Flores, a 36 year old Costa Rican national currently detained in Monroe County Correctional Facility in Monroe, Michigan, where he has remained since February 25, 2020.
 - a. Mr. Chinchilla-Flores came to the United States from Costa Rica approximately 19 years ago on a B-1 visa.
 - b. Although originally scheduled to depart the United States on March 27th, 2020, the United States Immigration and Customs Enforcement (“ICE”) delayed Mr. Chinchilla-Flores’s departure indefinitely.
 - c. Mr. Chinchilla-Flores suffers from chronic asthma, which requires him to carry an inhaler. He has had multiple asthma attacks in the past year. He has yet to be provided with an inhaler while in detention. Because of his medical condition, he believes that he is at a high risk of serious complications stemming from COVID-19.
4. I also represent Jose Nicolas Chavez-Vargas, a 50 year-old Mexican national presently detained at Monroe County Correctional Facility in Monroe, Michigan, where he has been held since February 20, 2020.
 - a. Mr. Chavez-Vargas came to the United States without inspection approximately 24 years ago.
 - b. On March 20, 2020, Immigrant Judge Mark J. Jebson of the Detroit Immigration Court denied Mr. Chavez-Vargas’s request for bond. Mr. Chavez-Vargas subsequently requested voluntary departure. Judge Jebson granted voluntary departure on April

1, 2020. Mr. Chavez-Vargas is scheduled to voluntarily depart on or before April 15, 2020.

- c. Mr. Chavez-Vargas is extremely concerned about exposure to COVID-19 due to a number of serious, pre-existing medical issues. Mr. Chavez-Vargas suffers from heart disease and hypertriglyceridaemia, which means he has heightened levels of triglycerides (a type of fat) in his blood that puts him at a high risk of heart attack and stroke. He has suffered from these conditions for at least twelve years. Mr. Chavez-Vargas is supposed to take medication and follow a strict diet, where he limits starches and fats. He has not received any medication and his dietary restrictions have not been accommodated. Mr. Chavez-Vargas fears that his pre-existing medical conditions would significantly raise his chances of serious injury or death if he is infected with COVID-19.
5. I last spoke with Mr. Chinchilla-Flores and Mr. Chavez-Vargas on April 6, 2020. Monroe County Correctional Facility has prohibited attorney-client visits. I can only communicate with my client through telephone or video conference. Conditions in the Monroe County Correctional Facility appear dire. My clients report that detainees are constantly coughing. The guards only began wearing face masks and gloves yesterday, on April 6, 2020. The inmates have not been given face masks or other personal protective equipment. Nor has anyone distributed anti-bacterial sanitation (*e.g.*, hand sanitizer) or other protective supplies besides soap. The correctional facility is currently infested with maggots.
6. Nor does anyone in Monroe County Correctional Facility practice social distancing. Inmates sleep in dormitories that house approximately 100 inmates, containing approximately 50-60 bunkbeds per dormitory. The beds are only 3–4 feet apart from each other. Inmates continue to eat their meals communally, multiple times per day.
7. Mr. Chinchilla-Flores and Mr. Chavez-Vargas have informed me that they will comply with orders to surrender when ICE can show that their travel arrangements are confirmed.

8. If released, Mr. Chinchilla-Flores and Mr. Chavez-Vargas are able to return to their homes and will be able to get medical treatment for their conditions while maintaining a safe distance from others and/or quarantining as necessary.
 - a. If Mr. Chinchilla-Flores is released, he can be reunited with his partner and return to the mobile home that he owns. He has broad support in his community, including from an inter-faith community organization and other community members who wrote letters of support for his bond motion.
 - b. If Mr. Chavez-Vargas is released, his wife, a Legal Permanent Resident, and his daughter, an American citizen, would be able to pick him up from Monroe County Correctional Facility and bring him to his home in Southgate, Michigan.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on the 7th day of April 2020, in Detroit, Michigan.

/s/ Jonathan Contreras

Jonathan Contreras
Merced Law, PLLC
1981 Scotten Avenue
Detroit, Michigan 48209

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

REYNALDO ALBINO-MARTINEZ, JOSE
NICOLAS CHAVEZ-VARGAS, GENER
ALEJANDRO CHINCHILLA-FLORES, CRAIG
DOBLE, and MIGUEL ANGEL APARICIO
NAVAS,

Petitioner-Plaintiffs,

- against -

REBECCA ADDUCCI, in her official capacity as
Detroit District Director of U.S. Immigration &
Customs Enforcement; MATTHEW T.
ALBENCE, in his official capacity as Deputy
Director and Senior Official Performing the Duties
of the Director of the U.S. Immigration &
Customs Enforcement; CHAD WOLF, in his
official capacity as Acting Secretary, U.S.
Department of Homeland Security; WILLIAM P.
BARR, in his official capacity as Attorney
General, U.S. Department of Justice; and U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondent-Defendants.

Case No. _____

DECLARATION OF TRAVIS J. PAYSON, ESQ.
IN FURTHER SUPPORT OF PETITIONER-PLAINTIFFS'
MOTION FOR TEMPORARY RESTRAINING ORDER

I, Travis J. Payson, certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. §1746.

1. My name is Travis J. Payson. I make these statements based upon my personal knowledge.
2. I am an attorney that primarily represents noncitizens in immigration proceedings in Michigan and Colorado.
3. I represent Craig Doble, a 36 year-old United Kingdom national, who has been detained at Monroe County Jail in Monroe, Michigan since September 23, 2019. From September 21, 2019 to September 23, 2019, he was detained at Oakland County Jail in Oakland County, Michigan. Mr. Doble has been in immigration detention for over six months.
4. Mr. Doble was born in the United Kingdom, and initially came to the United States in 2015 under an H2B visa. He has not departed the United States since his last H2B entrance in 2017.
5. Mr. Doble submitted to the Department of Homeland Security a petition for United States residency due to his marriage to a U.S. citizen on October 1, 2019. His individual hearing on his readjustment of status was initially scheduled for March 27, 2020, but was then postponed to April 2, 2020, and then postponed again until May 7, 2020.
6. On September 21, 2019, Mr. Doble was charged with driving under the influence in Oakland County, Michigan. Mr. Doble pleaded guilty and received twelve months of probation as a first-time offender. He has no other criminal history.
7. Mr. Doble suffers from hypertension that developed approximately four months ago during his detention in Monroe County Jail. His family also has a history of high blood pressure. Mr. Doble has further experienced shortness of breath and chest pain stemming from his hypertension.
8. At Monroe County Jail, detainees must initiate a request for each medical care appointment, and there is no monitoring of long-term health conditions such as hypertension. The facility maintains no medical records of any care provided. Mr. Doble has had to keep his own records of his vitals and medical visits.

9. Additionally, Mr. Doble has not received any medication to control his blood pressure. Rather than receiving the appropriate medical care he requires, Mr. Doble was only given a magnesium supplement for anxiety and depression. Because of his pre-existing medical conditions, he believes that he is at a high risk of grave injury stemming from a COVID-19 infection.
10. Correctional officers at Monroe County Jail, while required to wear face masks starting today, do not wear gloves. Moreover, these face masks will be reused and washed by the individual correction officers. Detainees have not been provided with either personal protective equipment or sanitizer. Other than receiving instructions to wash their hands after coughing or sneezing, detainees have not even been provided with any *information* or guidance on maintaining hygiene within the facility or preventing spread of disease.
11. Mr. Doble currently sleeps in a dormitory with approximately forty-eight other ICE detainees. In the dormitory, beds are stacked bunk-bed style and placed a mere seven inches apart, making social distancing impossible.
12. Monroe County Jail is split into two units: one unit for ICE detainees and the other for non-detainee inmates. Some of the non-detainee inmates work outside of the jail during the day and then return to the jail at night. The entire detention center shares the same laundry facility and kitchen.
13. Mr. Doble has repeatedly observed individuals coughing and sneezing, two of whom were moved into isolation, but then brought back just one week later.
14. Based on his inability to access adequate medical care and the detention center's sheer lack of preventative measures to guard against COVID-19, Mr. Doble does not believe the detention center is doing enough to treat his conditions or protect him from contracting COVID-19.
15. If Mr. Doble is released, he can be reunited with his wife, Cristin Carlson. At home, he will be able to get medical treatment for his conditions while maintaining a safe distance from others and/or quarantining as necessary.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on the 6th day of April 2020, in Berkley, Michigan.

/s/ Travis J. Payson

Travis J. Payson
Justice for All Center
2525 W. Alameda, Suite 140
Denver, CO 80219

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

REYNALDO ALBINO-MARTINEZ, JOSE
NICOLAS CHAVEZ-VARGAS, GENER
ALEJANDRO CHINCHILLA-FLORES, CRAIG
DOBLE, and MIGUEL ANGEL APARICIO
NAVAS,

Petitioner-Plaintiffs,

- against -

REBECCA ADDUCCI, in her official capacity as
Detroit District Director of U.S. Immigration &
Customs Enforcement; MATTHEW T.
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of the Director of the U.S. Immigration &
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official capacity as Acting Secretary, U.S.
Department of Homeland Security; WILLIAM P.
BARR, in his official capacity as Attorney
General, U.S. Department of Justice; and U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondent-Defendants.

Case No. _____

**DECLARATION OF MIGUEL ANGEL APARICIO NAVAS IN FURTHER
SUPPORT OF PETITIONER-PLAINTIFFS' MOTION FOR TEMPORARY
RESTRAINING ORDER**

I, Miguel Angel Aparicio Navas, hereby declare:

I make this declaration based upon my own personal knowledge and if called to testify I could and would do so competently,

1. I am thirty three years old and a Guatemalan national who has been detained at Monroe County Jail in Monroe, Michigan since around February 20, 2020.
2. On or around February 20, 2020, I was pulled over by the police while driving to work. Although I was carrying several other forms of identification, when asked for my driver's license, I was unable to provide one. The attending police officer issued to me a ticket for driving without a license, and, shortly thereafter, immigration authorities arrived on scene and took me into custody.
3. I do not have any prior criminal history.
4. On or around March 11, 2020, the immigration court denied my request to be released on bond.
5. I have many pre-existing medical issues. For the last two years I have occasionally suffered from an irregular heartbeat, pain in the left side of my chest, difficulty breathing, dizziness, and stomach pain. In 2019, I made multiple visits to St. Joe Mercy Hospital in Ann Arbor, Michigan to treat some of these issues. They prescribed me medication for my heart.
6. I believe that I am at a high risk of being infected with COVID-19. The correctional officers at Monroe County Jail do not wear gloves, have only recently started wearing masks, and provide no access to antibacterial/antiviral sanitizing products in the facility. Moreover, the detainees are required to clean the facility themselves and only receive gloves when cleaning the bathrooms, but not commonly touched surfaces, such as tables.
7. My unit at Monroe County Jail has approximately 40 people, and we are rarely, if ever, six feet apart from one another. The common area is simply not conducive to social distancing or preventing the spread of disease. For example, the detainees sleep together and spend most of our days in the same room, or in beds that are two to three feet apart from each other. For soap, the detainees share a single gallon container of liquid soap, which we constantly have to remind jail staff to replenish.

8. Two weeks into my detention, I fell ill. My symptoms included a fever and cough. I met with a nurse, whose only recommendation was to get some rest.
9. I have not been told whether anyone in the facility has COVID-19. However, many detainees are becoming sick. Two fellow detainees recently became very ill—one of whom had a very bad cough—and both were removed from the facility. The only guidance that the detainees receive concerning social distancing, hygiene, preventive measures, and COVID-19 generally comes from the news, not jail staff, and the jail has even reduced the amount of time that detainees can watch the news.
10. If I am released, I can be reunited with my wife and children and brought to my home in Ann Arbor, Michigan. At home, I will be able to get medical treatment for my conditions while maintaining a safe distance from others and/or quarantining as necessary.

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

Dated April 7, 2020.

/s/ Miguel Angel Aparicio Navas

Miguel Angel Aparicio Navas*

*consent for signing given
telephonically

ATTORNEY DECLARATION

Due to the COVID-19 crisis, it was not possible to obtain a written signature on the above declaration. I am an attorney admitted to practice in the State of New York. On April 7, 2020 I personally spoke with Miguel Angel Aparicio Navas and read this declaration to him over the phone. Miguel Angel Aparicio Navas told me that the information in the above declaration is true, and gave me verbal consent to sign on his behalf.

I declare under penalty of perjury, pursuant to 28 USC § 1746, that the foregoing is true and correct.

/s/ J.T. Parker Murray

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

REYNALDO ALBINO-MARTINEZ, JOSE
NICOLAS CHAVEZ-VARGAS, GENER
ALEJANDRO CHINCHILLA-FLORES, CRAIG
DOBLE, and MIGUEL ANGEL APARICIO
NAVAS,

Petitioner-Plaintiffs,

- against -

REBECCA ADDUCCI, in her official capacity as
Detroit District Director of U.S. Immigration &
Customs Enforcement; MATTHEW T.
ALBENCE, in his official capacity as Deputy
Director and Senior Official Performing the Duties
of the Director of the U.S. Immigration &
Customs Enforcement; CHAD WOLF, in his
official capacity as Acting Secretary, U.S.
Department of Homeland Security; WILLIAM P.
BARR, in his official capacity as Attorney
General, U.S. Department of Justice; and U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondent-Defendants.

Case No. _____

DECLARATION OF ADAM MOHAMED
IN FURTHER SUPPORT OF PETITIONER-PLAINTIFFS'
MOTION FOR TEMPORARY RESTRAINING ORDER

Declaration of Adam Mohamed

I, Adam Mohamed, hereby declare:

I make this declaration based upon my own personal knowledge and if called to testify I could and would do so competently,

- 1) I was held in immigration detention by the United States Immigration and Customs Enforcement (ICE) at the Monroe County Inmate Dormitory Facility within the Monroe County Jail (Monroe) in Monroe, Michigan from approximately July 2, 2019 to approximately February 18, 2020.
- 2) During my time in Monroe, I stayed in Dorm B. Dorm B mainly held immigration detainees, but there were a few non-immigration detainees who stayed with us. They worked outside of Monroe in the “animal control” unit, and you could tell them apart because they wore different colored uniforms from the immigration detainees. Their uniforms were red. I don’t remember seeing them wear protective gear when they went outside of Monroe to do their animal control work—they just wore jackets.
- 3) The dorm facility is a single floor. The sleeping area has about four rows of bunkbeds spaced 3-4 feet apart. I shared a bunkbed with someone the entire time I was detained. I was allowed to change bunkbeds three different times and I shared a bunkbed with a different person every time I changed bunkbeds. Most bunkbeds had two people assigned to them.
- 4) There were usually two guards assigned to our dorm during each shift. The guards in the dorms did not wear face masks. The guards wore gloves only when searching for contraband in bunks. I did not see the guards regularly wash their hands, but I did see guards wash their hands on rare occasions. The dorm has a bathroom that is just for staff and only guards have keys to that bathroom. I don’t know if guards washed their hands when they were inside the staff bathrooms.
- 5) We were counted by Monroe guards at three times each day: in the morning; during shift change; and at night. We lined up next to our bunkbeds to be counted. It was always very crowded during the count process.

- 6) Most people spent their time during the day in the dorm's "dayroom," where you could watch television or play board games.
- 7) I would estimate that there was usually 90-100 people detained with me in Dorm B. The dorm was too crowded for people to be able to maintain 6 feet of distance from each other at all times. At night you were sharing a bunkbed and surrounded by other people in bunkbeds. The dayroom was too small for people to spread out with 6 feet of space as well. You might be able to get some time by yourself during the day by staying in your bunk, but sometimes other people walked around the bunks for exercise and some people stayed in their bunks as well. Even the bathroom stalls were very close together.
- 8) Cleaning was done by detainee volunteers. The bathrooms, showers, telephones, and dayroom sink were cleaned twice a day if detainees volunteered to do it.
- 9) In the dorm, there are approximately 9 telephones available for detainees to use. The telephone receivers were attached to the wall and you could pick the receivers up and hold them to your face to make a telephone call. There was nothing provided to clean the telephones between uses. If I needed to use a telephone, I wiped it down first with toilet paper. Most people did not wipe down the telephones before using them.
- 10) During meal times, we would typically all line up to get drinks from one of the two coolers that were brought in and to get our trays of food. We sat at round tables in the dayroom to eat our meals. The tables had room for about four people each and there were approximately 15 tables. The tables were about two feet apart from each other.
- 11) We were not given hand sanitizer to use while I was at Monroe.
- 12) There were approximately ten bathroom stalls in the dorm. The bathroom stalls were spaced closely together and separated by partial walls. You could look over and see the person using the bathroom next to you. Each bathroom stall included a sink, but most of those sinks were broken. About one or two of the bathroom sinks actually worked. There was no soap available at the bathroom sinks and the

sinks that did work only had cold water. For those reasons, after using the bathroom, most people would go into the dayroom to wash their hands in the dayroom sink. The dayroom sink had hot water and soap available.

- 13) The dayroom sink was the sink most people relied on. People used it to wash their hands, brush their teeth, and to prepare commissary food that required hot water. It was always busy by the dayroom sink. There were usually 2 or 3 people waiting to use the dayroom sink during the day. In the evening the line to use the dayroom sink was even longer.
- 14) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 6, 2020

/s/ *Adam Mohamed

Adam Mohamed

*consent for signing given telephonically

Due to the Covid-19 crisis, it was not possible to obtain a written signature on the above declaration. I am an attorney admitted to the Eastern District of Michigan. On April 6, 2020 I personally spoke with Adam Mohamed and read this declaration to him over the phone. Adam Mohamed told me that the information in the above declaration is true, and gave me verbal consent to sign on his behalf.

I declare under penalty of perjury, pursuant to 28 USC 1746, that the foregoing is true and correct.

Dated: April 6, 2020

/s/ Monica Andrade

Monica Andrade