

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LESTER DOBBEY, et al.,	)	
Plaintiffs,	)	Case No. 13-cv-1068
	)	
v.	)	Honorable Judge
	)	Robert M. Dow
WILLIAM WEILDING, et al.,	)	
Defendants.	)	

**PLAINTIFFS' MOTION FOR AN EXPEDITED
HEARING ON PLAINTIFFS' EMERGENCY MOTION
FOR TEMPORARY APPOINTMENT OF A SPECIAL MASTER**

Plaintiff Class Members, by and through their class counsel, LOEVY & LOEVY, move this Court for leave to set an expedited hearing on Plaintiffs' Emergency Motion for Temporary Appointment of a Special Master. In support of their motion, Plaintiffs state as follows:

1. Today, Plaintiffs filed a motion seeking the Court to appoint a temporary Special Master to monitor the COVID-19 crisis outbreak at Stateville Correctional Center. Plaintiffs filed their motion due to the imminent risk Class Members' health and safety, including possible death, due to the rapidly spreading outbreak of COVID-19.

2. As of the filing of their motion, the Illinois Department of Corrections ("IDOC") has officially reported forty-eight (48) Class Members with confirmed COVID-19 infections. Exhibit 1 (IDOC COVID-19 Response, last visited April 1, 2020). At least one Class Member has already died of COVID-19 this week. Exhibit 2 (Illinois Department of Public Health COVID-19 Update, dated March 31, 2020).

3. Some Class Members with the virus have been transferred to St. Joseph's Hospital for medical treatment. The Medical Director at St. Joseph's, Dr. John Walsh, reported

on Tuesday, March 30, that eighteen Class Members were receiving treatment, including eight Class Members who require respiratory support. Exhibit 3 (John Ferak, *National Guard to Help with Stateville Coronavirus Outbreak*, THE PATCH, (updated March 31, 2020), available at <https://patch.com/illinois/joliet/amp/28666889/16-stateville-coronavirus-patients-st-joes-mayor>). According to Dr. Walsh, two other Class Members were transferred to other area hospitals for treatment. *Id.*

4. IDOC has also reported sixteen (16) staff at Stateville have been infected with COVID-19. Exhibit 1.

5. The outbreak of COVID-19 at Stateville is rapidly increasing. The Illinois Department of Public Health reported that another seventy-seven Class Members were reported to have fevers as of March 31. Exhibit 2.

6. Governor Pritzker has also announced that the thirty-three members of the National Guard were being assigned to treat Class Members at Stateville. Exhibit 4 (Tina Sfondeles and Carlos Ballesteros, *Illinois National Guard medics headed to Stateville as inmate coronavirus cases rise*, The Sun Times (Apr. 1, 2020), available at <https://chicago.suntimes.com/coronavirus/2020/4/1/21202995/coronavirus-covid-19-illinois-prison-stateville-national-guard-field-hospital>).

7. Given the emergent health crisis and the possible explosion of COVID-19 cases among Class Members, Plaintiffs' motion seeks emergency and immediate relief to appoint a temporary Special Master to ensure Class Members' health and safety is being protected during the COVID-19 pandemic and given the fast rate of infection at Stateville.

8. Many Class Members have medical conditions that put them at great risk if they contract this virus, as well as the many elderly Class Members, whose age puts them at greater

risk of severe complications with COVID-19. Exhibit 5 (Center for Disease Control (“CDC”) COVID-19 – At Risk Individuals).

9. Presently, the COVID-19 virus is rapidly spreading among Class Members at Stateville at what appears to be a rate that is nearly forty times greater than in Cook County.¹ Class Members have not delayed in bringing their motion and seek to be heard on it as soon as possible to ensure that all reasonable measures are being taken to ensure their health and safety.

10. In light of Chief Judge Pallmeyer’s COVID-19 Amended Orders dated March 15, 2020 and March 30, 2020 Plaintiffs are filing their motion on Court’s emergency docket to seek an expedited hearing.

11. This is an extraordinary time. The outbreak at Stateville requires this Court’s urgent attention.

12. Accordingly, Plaintiffs respectfully seek to be heard as soon as possible on their motion, but not later than Friday, April 3. Plaintiffs are able to appear telephonically given the Court’s instruction in light of Chief Judge Pallmeyer’s COVID-19 Order dated March 30, 2020. *See* Dckt. 227.

13. Plaintiffs’ counsel has attempted to notify Defendants’ counsel in advance regarding their request for an emergency hearing but have not yet received a response.

¹ As of yesterday, IDOC reported that 48 Class Members had positive test results out of a population of approximately 1,170, which equates to approximately 4.1% of its population. Exhibit 6 (IDOC COVID019 Update, last visited Apr. 1, 2020); Exhibit 7 (IDOC Stateville inmate population reported to be 1,173 as of June 2019). In comparison, yesterday the Chicago Tribune reported the rate of infection in Cook County, was 0.11% of the population, which makes Class Members nearly thirty-seven times greater risk of infection than residents of Cook County. *See* Joe Mahr and Hal Dardrick, *County maps reveal suburban spread of coronavirus infections. Some of the highest numbers are in the northern suburbs*. CHICAGO TRIBUNE (April 1, 2020), <https://www.chicagotribune.com/coronavirus/ct-coronavirus-cases-counties-cook-dupage-lake-20200401-d2dytx6zgjhldo245un7donpvu-story.html>.

WHEREFORE, Plaintiffs seek an expedited telephonic hearing on their Emergency Motion to Appoint a Temporary Special Master or before Friday, April 3.

Respectfully submitted,

CLASS MEMBERS

/s/ Sarah Grady

Sarah Grady

On of Class Members' Counsel

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CERTIFICATE OF SERVICE

I, Sarah Grady, an attorney, certify that I filed Plaintiffs' Motion for Expedited Hearing on Emergency Motion for Temporary Appointment of a Special Master on April 2, 2020, and thereby caused all counsel of record to be served via the Court's ECF/CM electronically filing system.

/s/ Sarah Grady

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EXHIBIT 1

COVID-19 Response

 www2.illinois.gov/idoc/facilities/Pages/Covid19Response.aspx

Confirmed Cases

Locations	Staff Confirmed	Incarcerated Individuals Confirmed
Crossroads ATC	1	0
Joliet Treatment Center	1	0
Menard	1	0
North Lawndale ATC	1	4
Sheridan	1	0
Stateville	16	48
Stateville NRC	4	0

COVID-19 Testing Among Incarcerated Population

Number of Tests Completed	Number of Negative Results	Number of Positive Results	Number of Pending Lab Results
0	0	0	187

Administrative Quarantine

All correctional facilities, Impact Incarceration Programs, and work camps are currently under Administrative Quarantine with no visits. Regular phone and video visit privileges will continue as normal. Administrative Quarantine is an intentional form of restricted movement within a facility to accommodate for unusual needs or circumstances, such as a pandemic outbreak. This measure must be taken to ensure the health and safety of those who live and work in our facilities.

We will continue to ensure men and women in custody receive all necessary treatment and services:

- Showers
- Medical and mental health treatment
- Alternative educational, clinical and substance abuse programming
- Access to the phone and GTL kiosks
- Cleaning supplies
- Law Library
- Commissary
- Leisure Time Services

Lockdown

Facilities with confirmed cases of COVID-19 are placed on lockdown, which means there is no movement around the facility except for medical care. Staff who work with individuals in isolation and quarantine, as well as in healthcare units, are wearing full personal protective equipment (PPE) and all staff are wearing some PPE.

News

Public Health Officials Report Death of Incarcerated Man

New Admissions Suspended

Governor JB Pritzker issued an executive order suspending all admissions to the Illinois Department of Corrections from all Illinois county jails. The Director of IDOC will work closely with county Sheriffs and other partners in the criminal justice system to discuss any potential exceptions that may be necessary.

Questions about IDOC's Response to COVID-19?

A list of frequently asked questions can be found here.

The Department has established a support line for questions regarding COVID-19. The call center can be reached Monday through Friday 8:30 AM - 4:30 PM at 217-558-2200 ext. 7700. Questions can also be emailed to doc.covid@illinois.gov. For any medical-related questions, please contact the Illinois Department of Public Health at 1-800-889-3931 or dph.sick@illinois.gov.

Employee Resources

The health and safety of staff is a top priority for the Department. These employee resources will be updated as new information becomes available.

A Message from Director Jeffreys and AFSCME

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EXHIBIT 2

Public Health Officials Announce 461 New Cases of Coronavirus Disease

 dph.illinois.gov/news/public-health-officials-announce-461-new-cases-coronavirus-disease

SPRINGFIELD – The Illinois Department of Public Health (IDPH) today reported 461 new cases of coronavirus disease (COVID-19) in Illinois. Eight new deaths are also being reported, including the death of an incarcerated man from Stateville Correctional Center.

- Cook County: male 50s, male 60s, female 60s, female 70s
- DuPage County: male 60s
- Kendall County: female 60s
- Will County: male 50s, male 60s

Additionally, 12 men who were incarcerated at Stateville are now hospitalized, including several requiring ventilators. There are 77 more incarcerated individuals with symptoms who are isolated at the facility. Eleven staff are also being isolated.

The Illinois Department of Corrections is taking a number of steps to control the spread of COVID-19 in its correctional centers. Staff who work with individuals in isolation and quarantine, as well as in the health center, are wearing full personal protective equipment (PPE) and all staff are wearing some PPE. Staff are also having their temperature checked daily as they enter the facility.

Correctional centers with a confirmed case are placed on lockdown, which means there is no movement around the facility except for medical care. Incarcerated individuals who show symptoms are being tested.

Clark, Crawford, Marion, Randolph, and Saline counties are now reporting cases. Currently, IDPH is reporting a total of 5,057 cases, including 73 deaths, in 52 counties in Illinois. The age of cases ranges from younger than one to 99 years.

For all personal protective equipment (PPE) donations, email PPE.donations@illinois.gov. For health questions about COVID-19, call the hotline at 1-800-889-3931 or email dph.sick@illinois.gov. Medically trained professionals able to volunteer are asked to sign up at www.illinoishelps.net.

*All data are provisional and will change.

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EXHIBIT 3

National Guard To Help With Stateville Coronavirus Outbreak

[P patch.com/illinois/joliet/amp/28666889/16-stateville-coronavirus-patients-st-joes-mayor](https://patch.com/illinois/joliet/amp/28666889/16-stateville-coronavirus-patients-st-joes-mayor)

March 31,
2020



(Photo by John Ferak, Joliet Patch Editor)

Joliet Mayor Bob O'Dekirk told Joliet Patch the number of hospitalized Stateville inmates "exploded" within a couple days.

By [John Ferak](#), Patch Staff

Mar 30, 2020 10:18 pm CT | Updated Mar 31, 2020 3:52 pm CT

[Reply \(85\)](#)

JOLIET, IL — To address the recent outbreak of the coronavirus within the maximum security prison north of Joliet, the National Guard will be deployed to set up a temporary medical care facility on the grounds of Stateville, which encompass more than 2,000 acres

along Route 53 between Joliet and Romeoville, reports Joliet's news radio station WJOL.

That news involving the National Guard is welcomed by Joliet Mayor Bob O'Dekirk. He told Joliet Patch that as of noon Tuesday, four of the Stateville Correctional Center prisoners who were being hospitalized with the coronavirus at Joliet's AMITA Health Saint Joseph Medical Center had been moved elsewhere.

Subscribe

As a result, the number of Stateville inmates at St. Joe's dropped to 14 as of Tuesday afternoon after being as high as 18, the mayor said.

The mayor said two patients have been returned to Stateville, one prisoner has been moved to the Morris Community Hospital and the fourth inmate was moved to a Springfield hospital.

The mayor said that things had become a mess at St. Joe's hospital because several of the prison guards had to be inside the hospital to provide extra security for all these inmates who were undergoing medical treatment.

On Monday, state public health officials announced two additional deaths in Will County, including a man in his 60s who was incarcerated at the Illinois Department of Corrections' large maximum security prison just north of Joliet.

On Monday night, O'Dekirk told Patch he was alarmed to learn so many state prisoners were being hospitalized this week with the coronavirus at Joliet's only hospital. He said the number of prisoners had doubled from the day before. Eight inmates were admitted to the hospital Sunday, he said.

Joliet's mayor said he didn't believe the hospital had admitted any prisoners from Stateville at this time one week ago.

"It kind of exploded on them," the mayor said.

Don't miss updates about precautions in the Chicago area as they are announced. Sign up for Patch news alerts and newsletters.

However, the mayor said, it was his understanding that at least four other regional hospitals may start to accept patients from Stateville who require medical attention as a result of coronavirus symptoms.

"St. Joe's expressed a lot of gratitude that the governor's office is intervening and is going to help," O'Dekirk told Joliet Patch Monday night. "We don't want to have a Joliet hospital where Joliet citizens can't get help."

AMITA Health Saint Joseph Medical Center has 424 staffed beds.

State public health officials announced Monday that some of the Stateville inmates who were already under hospital care are requiring ventilators.

Additionally, 77 more Stateville prisoners with symptoms of the coronavirus are being kept in isolation at the maximum-security state prison along Route 53. A total of 11 staff members from the prison are also being kept in isolation, state health officials announced.

Read More:

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EXHIBIT 4

Illinois National Guard medics headed to Stateville as inmate coronavirus cases rise

★ [chicago.suntimes.com/coronavirus/2020/4/1/21202995/coronavirus-covid-19-illinois-prison-stateville-national-](https://chicago.suntimes.com/coronavirus/2020/4/1/21202995/coronavirus-covid-19-illinois-prison-stateville-national-guard)

Tina Sfondeles

April 1,
2020

Brig. Gen. Richard R. Neely, Adjutant General of the Illinois National Guard (center) speaks with Army Lt. Col. Jason Steinkamp and Air Force Lt. Col. Brian Gahan in Peoria last week during day-two of testing procedures for first responders and healthcare workers at Harwood Heights Community Testing Site.

Provided

The Illinois National Guard is sending 30 service members to help with medical care at Stateville Correctional Center, where one inmate has died from the coronavirus and at least 48 more have tested positive.

The service members are medics from the Illinois Army National Guard's 33rd Infantry Brigade Combat Team based in Urbana and will be setting up medical tents, triaging and providing medical care for inmates at the Crest Hill-based correctional center, according to Gov. J.B. Pritzker's office.

Lt. Col. Brad Leighton, a spokesman for the Illinois National Guard, said the medics should arrive by the end of the week.

"It takes a couple days to screen [and] equip them," Leighton said.

The medical help is intended to assist inmates who need care but not hospitalization. The medical tents will be "fully operational there before the end of the week," Pritzker spokeswoman Jordan Abudayyeh said.

While the service members are treating inmates on site, the governor Tuesday said any inmate "who falls seriously ill with COVID-19 will receive available medical assistance to get through it, including an ICU bed, and a ventilator if necessary."

"My administration will not be in the business of claiming one life is worth more than another," Pritzker said.

Pritzker's office on Wednesday said there are a total of 48 inmates at Stateville who tested positive for coronavirus. That's 10 more cases than were reported Tuesday and up from zero confirmed cases last week.

There are nearly 37,000 people in the state's prisons, according to Pritzker. State figures show around 20% of prisoners are over the age of 50. Thousands more have underlying medical conditions.

Illinois suspended all visits to the state's prisons two weeks ago in an effort to prevent the spread of the coronavirus, but cases continue to climb. The Illinois Department of Corrections so far has reported confirmed cases of COVID-19 at seven of its facilities, with 25 staff members testing positive as of Wednesday.

Criminal justice advocates have urged Pritzker for weeks to release thousands of people from Illinois prisons to alleviate overcrowding and blunt the spread of COVID-19.

Last week, more than a dozen public health experts from Chicago urged Pritzker to commute sentences for all prisoners over the age of 50, those who are medically vulnerable and inmates who have less than a year remaining of their sentences.

Pritzker said nearly 300 inmates were released as of Tuesday afternoon, including pregnant females and low-level offenders who are near completing their sentences. The governor also said the Department of Corrections is reviewing the case files of low-risk offenders who may be able to be released early.

"All have been thoroughly vetted to make sure that there are no histories of violence, and particularly domestic violence," Pritzker said.

He did, however, acknowledge that "[ensuring] that each person released in this manner has a place to return to" has been "one of our greatest challenges."

The Democratic governor assigned duties to about 60 Illinois National Guard service members on March 16 to assist the state with its COVID-19 response. Since then, a total of 430 Illinois Army National Guard members have been activated, the governor's office said.

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EXHIBIT 5

Coronavirus Disease 2019 (COVID-19)

People Who Are At Higher Risk



COVID-19 is a new disease and there is limited information regarding risk factors for severe disease. Based on currently available information and clinical expertise, **older adults and people of any age who have serious underlying medical conditions** might be at higher risk for severe illness from COVID-19.

Based on what we know now, those at high-risk for severe illness from COVID-19 are:

- [People aged 65 years and older](#)
- People who live in a nursing home or long-term care facility

People of all ages with underlying medical conditions, particularly if not well controlled, including:

- People with chronic lung disease or moderate to severe asthma
- People who have serious heart conditions
- People who are immunocompromised
 - Many conditions can cause a person to be immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications
- People with severe obesity (body mass index [BMI] of 40 or higher)
- People with diabetes
- People with chronic kidney disease undergoing dialysis
- People with liver disease

I



☐ Coronavirus Disease 2019 (COVID-19)

Symptoms & Testing

☐

Prevent Getting Sick

☐

Daily Life & Coping

☐

If You Are Sick

☐

People Who Need Extra Precautions

☐

People Who Are At Higher Risk

☐

What You Can Do

Older Adults

People with Asthma

People with HIV

Others At Risk

☐

Steps to Prevent Getting Sick

Frequently Asked Questions

Travel

☐

Cases & Latest Updates

☐

Schools, Workplaces & Community Locations

☐

Healthcare Professionals

☐

Healthcare Facilities

☐

Health Departments ☐

Laboratories ☐

Communication Resources ☐

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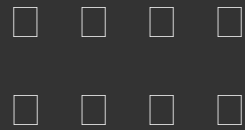
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EXHIBIT 7

County maps reveal suburban spread of coronavirus infections. Some of the highest numbers are in the northern suburbs.

 chicagotribune.com/coronavirus/ct-coronavirus-cases-counties-cook-dupage-lake-20200401-

Joe Mahr, Hal Dardick

When a Skokie couple died from the coronavirus just hours apart Saturday, the deaths illustrated not only the tragic nature of the pandemic but also its uneven spread through the suburbs.

A Tribune review of available data from counties and municipalities shows that Skokie leads suburban Cook County, with 98 reported positive results as of Wednesday, including the deaths of the couple and three others in their 80s.

Authorities acknowledge that the level of testing remains woefully inadequate to get the true picture of the virus's spread. And the state doesn't publish data that tallies up positive tests by city or village.

But the Tribune's review of information at the local level offers clues to how the pandemic is affecting different parts of the region. (There are details here on how to research it yourself on local government websites.)

This is some of what we found:

Chicago — not surprisingly — leads the state, by far, with 3,087 cases, or about 44% of the state's total, as of Wednesday.

It's clearly a hot spot for the outbreak, with an overall rate of 114.1 positive results per 100,000 residents, a rate that's nearly double that of the rest of the metro area and 12 times that of the rest of the state outside metro Chicago.

Another way to look at it: Roughly 1 of every 900 residents has tested positive.

While the city's data offers some key insights not seen elsewhere, including breakdowns of ages and who was hospitalized, it does not specify the number of residents testing positive for each of the city's 77 community areas, whose populations rival those of many suburbs.

That's unlike New York City and Los Angeles County, the latter of which covers the city of Los Angeles and offers a breakdown for 139 neighborhoods in the city.

Suburban Cook County has 2,065 residents who have tested positive through Monday, which equates to a rate of 84 per 100,000 residents, or roughly 1 in every 1,200 residents.

Some of the higher numbers can be found in the northern suburbs.

In Skokie, a village of about 64,000 people, there have been 98 confirmed cases of COVID-19, giving it the highest number of known infections in the suburbs. There have been five resulting deaths, including the immigrant couple who died hours apart.

But Dr. Catherine Counard, the village's health director, downplayed the numbers on Tuesday. The reported cases do "not reflect the rate of infection. ... Most people who are sick are not getting tested."

She attributed the higher numbers to the fact that more testing was available in her town because it's being done at Skokie Hospital, part of the NorthShore University Health System. "That's what it is," she said. "I think we're seeing a testing bias."

Evanston isn't far behind Skokie, with 89 cases, according to its figures. Glenview has 84 cases, according to figures reported through the Cook County health department. Compare that with Oak Park, which has reported 36 cases.

Those figures may not offer the full context because they are places with larger populations. The Cook County health department also measures communities by the rate of positive test results. By that measurement, Glenview has a higher rate than Skokie. But it's not the highest.

North suburban Kenilworth has the second-highest rate of any suburban Cook County community. The relatively wealthy suburb has 10 residents who have tested positive out of 2,513 residents. That puts its ratio of known infections at 1 in 251 residents, or about 0.4% of the population.

The highest rate as of Wednesday, however, can be found in Phoenix, a south suburb with a median household income about a fifth of the corresponding number in Kenilworth. Phoenix recorded eight residents testing positive, out of 1,964 residents, or about 1 in 245.

Lake County, as of Monday, had 477 reported positive tests, for a rate of 68 per 100,000 residents, or roughly 1 in every 1,500 residents.

Its health department shows the biggest concentration of cases, by both raw number and rate, is in the southeast corner of the county.

The county doesn't provide specific numbers for each community, but it provides a range. As of Wednesday afternoon, Deerfield had 30 to 34 reported cases, with Lake Forest somewhere between 45 to 49 cases. Highland Park has the highest number; somewhere between 60 and 64 residents have tested positive.

The distinction troubles Nancy Rotering, mayor of the lakefront city of about 30,000 people just north of the Cook County border.

□

Highland Park Mayor Nancy Rotering worries about the high number of coronavirus cases in the suburban city of about 30,000 people. (Chris Sweda/Chicago Tribune)

"We've been watching the numbers go up daily," Rotering said Tuesday. "We continue to lead Lake County in COVID-19 cases. This is not a proud moment."

Rotering said Lake County health officials told her Highland Park's affluent residents — the city's median household income is \$148,000 — may have more access to COVID-19 testing and may have traveled more to locations where the disease was spreading.

She noted that the city's parks, recreational facilities, schools and City Hall were closed weeks ago, and most people are complying with Gov. J.B. Pritzker's stay-at-home order. But some are not, and the city expects to have police in the next day or two move from warnings to citations in the most troubling cases they encounter.

Rotering also has issued stern warnings on her [Facebook page](#) and via an [email blast](#).

"Our children may be bored. We may be bored," she wrote in the email. "Too bad. Enough with the playdates or sending the kids to the park or into town or having friends over or sneaking down to the beach."

DuPage County — with 392 residents testing positive — has a rate of 42 per 100,000 residents, or about 1 for every 2,400.

But, much like their counterparts across the region, county health officials caution that they're probably missing many cases. "Due to the nature of COVID-19 community spread and testing, the number of positive cases is likely much higher than that listed as a result of unreported or untested cases in our community," according to its website.

DuPage's [figures](#) help illustrate the impact of a cluster of cases. Willowbrook has the highest number of residents testing positive, at 40. It's where the Chateau Nursing and Rehabilitation Center is located; at that nursing home, at least 33 residents and 16 staff members have [tested](#) positive, leading to six deaths.

Next highest is Naperville, with 31 residents testing positive, followed by Lombard (24), the DuPage County portion of Aurora (21), Addison (21), Elmhurst (19) and Downers Grove (18).

Will County — with its 322 positive tests as of Wednesday — has a rate of 47 residents per 100,000. That's about 1 in every 2,200 residents who have tested positive.

The county also offers a unique map of where those positive-testing residents live in the county.

Instead of tabulating the figures by municipality, as other counties do, Will County has plotted the rough address of each person testing positive. (The map is tiny. So it helps to enlarge it on a web browser.)

It shows most infections clustered around the more populated areas in the county's north and northwest sections.

Kane County has recorded 142 residents testing positive. That equates to a rate of 27 per 100,000 residents, or about 1 in every 3,800 residents.

□

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The county's website lists the Kane County portion of Aurora with 37 cases, followed by Elgin (26), St. Charles (22) and Geneva (9).

McHenry County, with 69 residents testing positive, has a rate of 22 per 100,000 residents with positive results. That's about 1 in every 4,500 residents.

Its website also does not list the number of known infected people per community.

Kendall County has recorded 27 residents testing positive, for a rate of 21 per 100,000 residents, or about 1 in every 4,800. Its website does not list figures for individual communities.

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