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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

Tre McPherson, Pattikate Williams-Void, John Doe, John Roe, and Thomas Caves, *on behalf of themselves and all others similarly situated*, *Plaintiffs-Petitioners*, v. Ned Lamont and Rollin Cook, *in their official capacities* *Defendants-Respondents*.	Civil Action No. 20-cv-534 **IMMEDIATE RELIEF SOUGHT** May 10, 2020

PLAINTIFFS-PETITIONERS' MOTION FOR PRELIMINARY INJUNCTION

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PRELIMINARY STATEMENT

We are living in truly extraordinary times. There are almost three million confirmed cases of COVID-19 worldwide, and hundreds of thousands have died. As a result, millions, perhaps billions, of people are under orders to practice "social distancing" to avoid spreading the disease. Jails in urban centers such as New York, Chicago, and Philadelphia have been overrun with infection and COVID-19 cases, and Connecticut Department of Correction ("DOC") facilities are no exception. Indeed, DOC has already reported that **484** of the people in its custody (and **361** staff) have been infected with COVID-19 in the past month. **Six** people have died, and it is highly probable that more will follow.

Unlike the general population in Connecticut and other communities around the world, Plaintiffs-Petitioners ("Plaintiffs") and the classes they seek to represent have been subjected by Defendants-Respondents ("Defendants") to conditions of confinement that prevent them from availing themselves of the basic social distancing and other public health guidelines that are mandated or recommended for everyone else in society. These conditions of confinement pose a serious and imminent threat of severe disease and death for Plaintiffs and others in Defendants' custody. Judicial intervention is necessary to protect their health and their lives.

The conditions of confinement at DOC facilities are shockingly insufficient to protect Plaintiffs from infection, serious complications, or death from COVID-19. Pandemic or no, people continue to live in crowded open dormitories and double-celled units. The sanitation practices of Defendants in DOC facilities are inadequate; Defendants deny Plaintiffs and other prisoners even the most basic hygiene products; and they have not sufficiently complied with guidelines from the Centers for Disease Control and Prevention ("CDC") directing correctional institutions to implement mitigation efforts like social distancing and other best practices. Instead, Defendants' primary response to the outbreak at DOC facilities has been to transfer members of the Classes

who have tested positive for COVID-19 to Northern Correctional Institution ("Northern"), a Level 5 prison designed exclusively to punish, not to serve as a medical facility. Not only has this move been roundly condemned by scores of public health experts—who say it will exacerbate, not mitigate, the virus's rampage through DOC facilities—but, tellingly, no other jurisdiction in the United States has resorted to putting people suffering from a novel, highly fatal illness in a supermax prison. And notwithstanding the use of Northern, many of those who show symptoms of COVID-19 simply continue to be denied medical care, or moved from facility to facility, meaning that Defendants recklessly expose those who are not symptomatic to those who are. At bottom, the conditions at DOC facilities have created a rapid, uncontrolled spread of COVID-19 with grave outcomes for both the incarcerated population and the surrounding communities.

The stakes here could not be higher: lives are on the line. Courts have acknowledged the gravity of the situation and relied on their equitable powers to protect people held at prisons and detention facilities during this once-in-a-lifetime pandemic. Indeed, given that large-scale outbreaks at DOC facilities are spilling over into the surrounding communities and spreading infection throughout Connecticut, Plaintiffs' requested preliminary relief is more than justified and would impose a minimal burden on Defendants and the public at large.

For these reasons and those discussed below, Plaintiffs have sought emergency preliminary relief. Pursuant to Plaintiffs' representations during the Court's telephonic scheduling conference on May 7, 2020,[1] Plaintiffs convert their motion for a temporary restraining order, filed on April 27, 2020,[2] to this motion for a preliminary injunction.

[1] *See* Docket No. 15.
[2] *See* Docket No. 40.

FACTUAL BACKGROUND

The nation and the world are in the grips of the most significant pandemic in generations, caused by COVID-19—a fast-moving virus that has infected millions and upended life in every corner of the globe, country, and state.[3] This Court is doubtless aware of the devastating effects COVID-19 is having on the state of Connecticut.[4] As of May 7, 2020, 3,815,561 cases have been confirmed globally, with 1,245,622 of those cases in the United States.[5] Over 74,000 Americans have died.[6] Connecticut alone has reported 31,784 cases of COVID-19, and 2,797 deaths.[7] The virus continues to spread exponentially. Without effective public health interventions, like those Plaintiffs request, the CDC projects approximately 200 million people in the United States could be infected over the course of the epidemic.[8]

I. COVID-19 POSES A GRAVE RISK OF SERIOUS INJURY AND DEATH TO THOSE INFECTED, ESPECIALLY INDIVIDUALS IN THE MEDICALLY VULNERABLE CLASSES.

COVID-19 is a serious and potentially fatal respiratory disease caused by a novel coronavirus.[9] COVID-19 spreads from person to person through respiratory droplets, close

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[3] Compl. ¶ 16.
[4] *Id.*
[5] *Coronavirus COVID-19 Global Cases by the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University (JHU)*, Coronavirus Resource Center, Johns Hopkins University & Medicine, (last updated May 7, 2020, 3:32 p.m.), https://cutt.ly/4ysesvR (last visited May 7, 2020).
[6] *Id*.
[7] Connecticut Open Data, *COVID-19 Data Resources: Connecticut Summary, available at* https://cutt.ly/2yse8YA (last visited May 7, 2020).
[8] Declaration of Dr. Johnathan Louis Golob, Compl. Ex. A ¶ 11 ("Golob Decl."). Dr. Jonathan Golob is an Assistant Professor at the University of Michigan School of Medicine in Ann Arbor, Michigan, and a specialist in infectious diseases and internal medicine with a subspecialty in infections in immunocompromised patients. Golob Decl. ¶ 1.
[9] Declaration of Dr. Jonathan Giftos, Compl. Ex. B ¶ 6 ("Giftos Decl."). Dr. Jonathan Giftos is the Medical Director of Addition Medicine & Drug User Health at Project Renewal and a Clinical Assistant Professor in the Department of Medicine at Albert Einstein College of Medicine. Giftos Decl. ¶ 2. He is the former Attending Physician and the Clinical Director of Substance Use and Treatment for NYC Health & Hospitals, Division of Correctional Health Services at Rikers Island. *Id.* at ¶ 3.

personal contact, and from contact with contaminated surfaces and objects.[10] These droplets can travel up to six feet through the air to infect another person.[11] The virus also spreads when people touch surfaces and objects contaminated by those same respiratory droplets and then touch their own mouth, nose, or eyes.[12] Symptomatic persons spread the disease, but so too can asymptomatic and pre-symptomatic persons.[13] For this reason, the CDC has recommended persons wear masks any time they leave their homes.[14]

Symptoms of infection range from no or mild symptoms to respiratory failure and death.[15] COVID-19 can severely damage lung tissue, which requires an extensive period of rehabilitation, and in some cases, can cause a permanent loss of respiratory capacity.[16] It also may cause inflammation of the heart muscle (known as myocarditis), affecting the heart muscle and electrical system, and reducing the heart's ability to pump blood.[17] This can lead to rapid or abnormal heart rhythms in the short term, and long-term heart failure that limits exercise tolerance and even the ability to work.[18] *Id.* COVID-19 also can trigger an over-response of the immune system, further damaging tissues in a cytokine release syndrome that can result in widespread damage to other organs, including permanent injury to the kidneys (possibly leading to dialysis dependence) and even neurologic injury.[19] These complications can develop at an alarming pace.[20] Patients can show the first symptoms of infection within two days after exposure, and their condition can

[10] Giftos Decl. ¶ 6
[11] Centers for Disease Control & Prevention, *Coronavirus Disease 2019 (COVID-19): Frequently Asked Questions*, https://cutt.ly/yyr45Xf.
[12] Giftos Decl. ¶ 6.
[13] *Id.* ¶¶ 8–10.
[14] Centers for Disease Control & Prevention, Coronavirus Disease 2019 (COVID-19), Recommendation Regarding the Use of Cloth Face Coverings (Apr. 3, 2020), https://cutt.ly/rysekak.
[15] Golob Decl. ¶¶ 4–5.
[16] *Id.* at ¶ 9.
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] *Id.* at ¶ 6.

seriously deteriorate in five days or sooner.[21]

For persons over the age of 50 or with certain preexisting medical conditions, COVID-19 presents an even greater risk of serious symptoms and death.[22] Persons with preexisting lung disease, heart disease, chronic liver or kidney disease (including hepatitis and dialysis patients), diabetes, compromised immune systems (such as from cancer, HIV, or other autoimmune disease), blood disorders (including sickle cell disease), inherited metabolic disorders, stroke, and developmental delay all are at a heightened risk of serious illness and death from COVID-19.[23] Each Plaintiff in the Medically Vulnerable Subclasses has one or more of these conditions, and thus faces an increased risk of serious complications or death from COVID-19.

There is no known cure, vaccine, or treatment for COVID-19.[24] The need for care, including intensive care, and the likelihood of death, is much higher from COVID-19 than from influenza.[25] According to recent estimates, the fatality rate of people with COVID-19 is about ten times higher than a severe seasonal influenza, even in advanced countries with effective health care systems.[26] For people in the highest risk populations, the fatality rate of COVID-19 is about 15 percent.[27] High-risk patients who survive should expect prolonged recovery, including the need for extensive rehabilitation for profound reconditioning, loss of digits, neurological damage, and loss of respiratory capacity.[28]

The most effective strategy for limiting the spread of the disease is social distancing—deliberately keeping at least six feet of space between persons to avoid spreading the illness—

[21] *Id.*
[22] Golob Decl. ¶ 3.
[23] *Id.*
[24] Giftos Decl. ¶ 7; Golob Decl. ¶ 10.
[25] Golob Decl. ¶ 4.
[26] *Id.*
[27] *Id.*
[28] *Id.*

combined with a vigilant hygiene regimen, including washing hands frequently and thoroughly with soap and water, and constant disinfecting of surfaces.[29] Following the recommendation of public health experts, government officials across the country have taken extraordinary measures to implement social distancing to minimize the spread of the disease, including shutting down schools, non-essential businesses, and courts. The goal of these efforts is to "flatten the curve" by spreading the rate of infection across a longer period of time to avoid overwhelming the healthcare system.

II. THE CONDITIONS AT CORRECTIONAL FACILITIES PLACE ALL PERSONS AT AN EVEN GREATER AND IMMEDIATE RISK OF COVID-19 INFECTION THAN MEMBERS OF THE PUBLIC-AT-LARGE.

The state of Connecticut has not been spared from COVID-19, but Connecticut's DOC is unique for the dramatic pace at which the virus has overtaken its facilities, wreaking havoc and infecting hundreds of prisoners and staff alike.

In mid-March, public health experts in Connecticut experienced in correctional health began to express "grave concern that, absent immediate action, COVID-19 will overrun Connecticut's jails and prisons" and that "Connecticut has days, not weeks, to chart a different future."[30] They joined a growing chorus of infectious disease doctors, epidemiologists, and specialists in correctional health, all of whom warned that a virus like COVID-19 "create[s] a perfect storm for correctional settings" because of ease of transmission, lack of prevention opportunities, concentration of people with chronic health issues, and the fact that "despite being physically secure, jails and prison are not isolated from the community."[31]

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[29] Giftos Decl. ¶ 7.
[30] Letter from Dr. Emily Wang et al. to Governor Lamont (attached as Exhibit BB).
[31] Declaration of Dr. Josiah Rich, Compl. Ex. C ¶¶ 6, 8–12 ("Rich Decl."). Dr. Josiah Rich, an infectious disease specialist, is a Professor of Medicine and Epidemiology at the Warren Alpert Medical School of Brown University and the Director and Co-founder of The Center for Prisoner Health and Human Rights at The Miriam Hospital.

Their warnings are now playing out in real-time. The first positive test of an incarcerated person at a DOC facility was announced on March 30.[32] In a little over a month, that number has risen to 484 confirmed positive incarcerated people; 361 positive staff members;[33] and six deaths.

The speed at which COVID-19 has overtaken DOC is staggering. On April 2, three days after the first positive test, **16** DOC staff members and **8** incarcerated people had tested positive for COVID-19. By April 6, both those numbers more than doubled, to **32** DOC staff members and **21** incarcerated people. By April 7, they had grown exponentially: **41** DOC staff members and **44** incarcerated people, with **53** prisoner test results still pending.[34]

On April 8, DOC announced it had begun transferring people who had tested positive to Northern; as of that day, the number of incarcerated people at DOC facilities who tested positive had grown to **46** across 13 different DOC facilities.[35] But DOC's use of Northern has in no way stopped the surge in positive cases. As of April 13, they stood at **104** staff and **166** incarcerated people.[36] That day, the first incarcerated person died of COVID-19; another person followed, and others have died immediately after being released from custody.[37]

As of this writing, May 7, **361** staff and **484** prisoners have tested positive for COVID-19—meaning that DOC has gone from one infected prisoner to nearly 900 people infected across the system a little over a month. Today, 97 people with COVID-19 are housed at Northern. And

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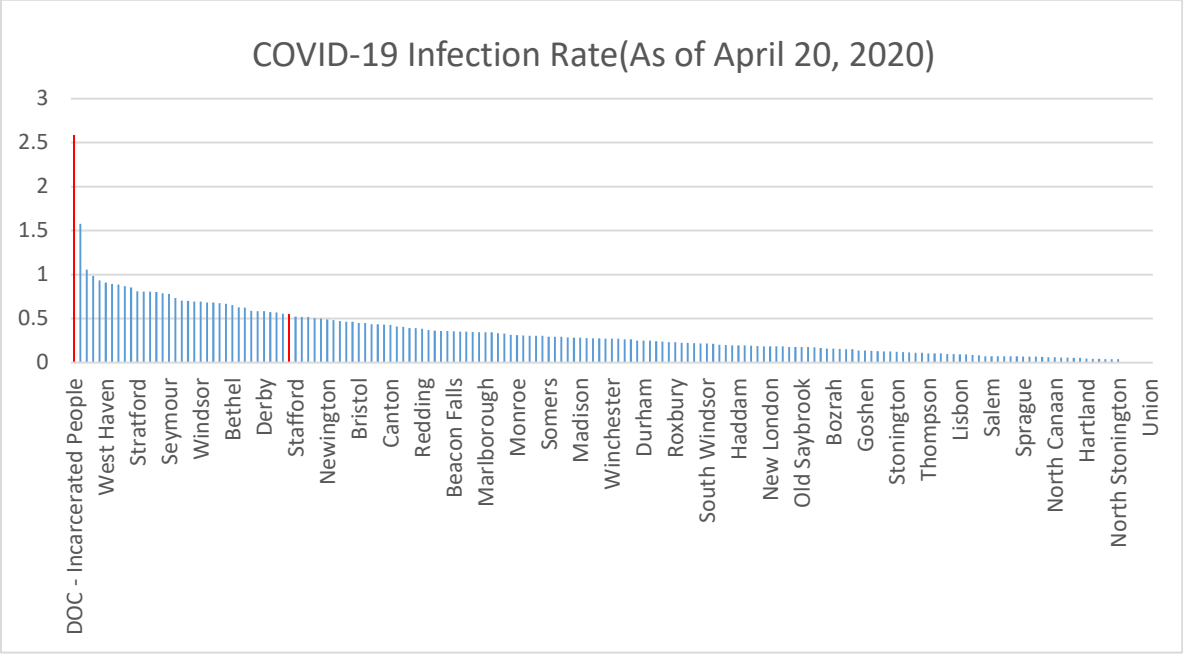
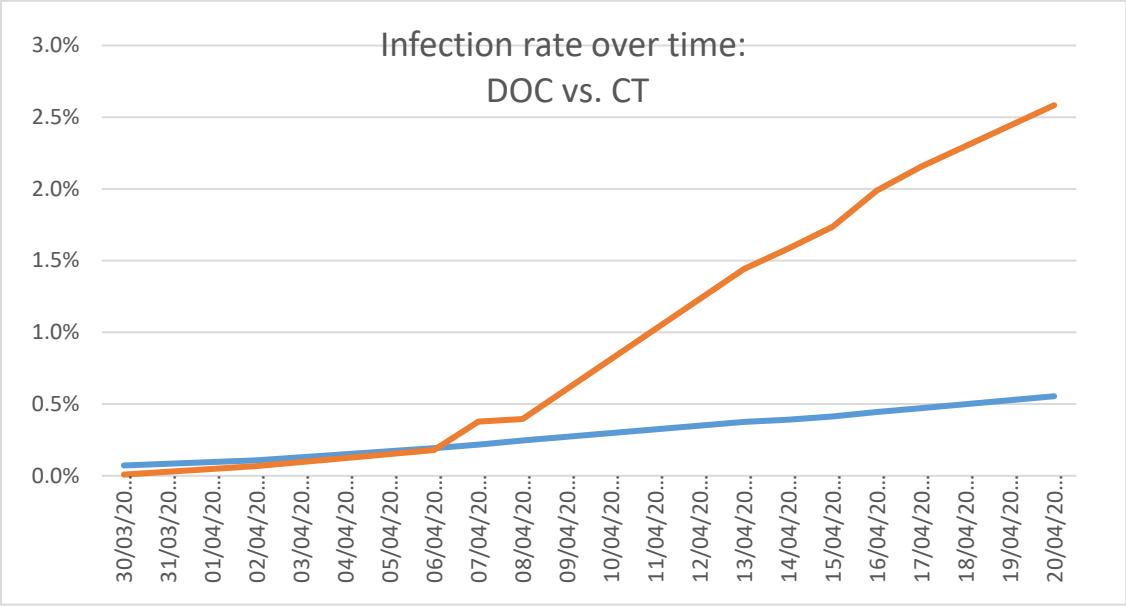
[32] State of Conn. Dep't of Correction, *First Department of Correction Offender Tests Positive for the COVID-19 Virus* (Mar. 30, 2020), https://cutt.ly/iyr5GnD.
[33] *See* Connecticut State Department of Correction, *Health Information and Advisories: Coronavirus Information*, *available at* https://cutt.ly/xyr57np (last accessed May 7, 2020).
[34] *See* Conn. Dep't of Correction, *Covid-19 Tracker*, https://cutt.ly/nystnK0 (last accessed Apr. 14, 2020). All the numbers of positive cases referenced are derived from this tracker, as accessed on the cited dates.
[35] *See* Conn. Dep't of Correction, *The Department of Correction transfers COVID-19 positive offenders to Northern CI* (Apr. 8, 2020), https://cutt.ly/fystRMg; Conn. Dep't of Correction, Health Information and Advisories: Coronavirus Information, *available at* https://cutt.ly/nystnK0 (accessed Apr. 8, 2020).
[36] *First Conn. Inmate Dies of Coronavirus: DOC*, NBC CONN. (Apr. 13, 2020), https://cutt.ly/FystUzq.
[37] *See, e.g.*, Thomas Breen, *26-Year-Old Man Dies 2 Days After Release From Whalley Jail; Obit Points To Covid***,** NEW HAVEN INDEP. (Apr. 22, 2020), https://cutt.ly/5ystI6K (pre-trial detainee held at New Haven Correctional Center died two days after his release).

the DOC system's infection rate continues to vastly outpace that of every single locality in Connecticut: at 2.6, it is nearly five times higher than that of the state overall (.554), and nearly double that of the next-highest locale, Stamford (1.57).



This is all the more alarming given that, while Connecticut's infection rate has grown at a measured pace, the same is not necessarily true of DOC.



Unfortunately, Plaintiffs have experienced these troubling trends firsthand. In just the few days since this lawsuit was filed, one Plaintiff, Mr. Roe, was confirmed positive for COVID-19, and has just been transferred to Northern.[38]

Defendants cannot claim to be caught unaware by these grim numbers. As public health experts have said for weeks, correctional facilities like those run by DOC are the exact type of congregate environment—where people live, eat, bathe, and sleep in close proximity—in which COVID-19 infection thrives.[39] This increased risk is present in every prison, given the nature of prison.[40] People incarcerated in these facilities are forced into close contact with each other and prison staff, including corrections officers.[41] They cannot achieve the requisite social distancing needed to effectively prevent the spread of COVID-19.[42] They likely share or touch objects used often by others and cleaned infrequently.[43] In addition to eating, sleeping, recreating, and living close to each other, they have to share bathroom facilities—showers, toilets, and sinks—without adequate cleaning between uses.[44] Insufficient medical treatment capabilities also make it nearly impossible to treat infected people properly, let alone prevent the further spread of COVID-19 throughout the incarcerated population.[45]

Additionally, about 40 percent of incarcerated people nationally are estimated to have at least one chronic illness, including Plaintiffs Williams-Void, Doe, and Roe.[46] Many of these

[38] Declaration of Jane Roe ¶ 4 (Apr. 23, 2020) ("Roe Decl."), attached hereto as Exhibit B.
[39] Giftos Decl. ¶ 13; Affirmation of Brie Williams, M.D., Compl. Ex. D ¶ 6 ("Williams Aff.") Dr. Brie Williams is a Professor of Medicine at the University of California, San Francisco ("UCSF") in the Geriatrics Division, Director of UCSF's Amend: Changing Correctional Culture Program, and the Director of UCSF's Criminal Justice & Health Program.
[40] Giftos Decl. ¶¶ 12–14.
[41] *Id.* at ¶ 15–18.
[42] *Id.*
[43] *Id.*
[44] *Id*; Golob Decl ¶ 10.
[45] Giftos Decl. ¶¶ 19–20.
[46] *See* Compl. ¶¶ 10–12.

illnesses, such as hypertension, asthma, diabetes, and chronic kidney disease,[47] are associated with more severe cases of COVID-19, and poorer outcomes.[48] Chronically ill people like those in the Medically Vulnerable Subclasses face a far greater risk of severe illness and death from COVID-19 than those with similar preexisting conditions who are free to isolate in their homes or avoid groups of people.[49] And their risk is only compounded by the fact that DOC facilities (like most correctional facilities) lack sufficient medical care even in less exigent times.[50]

Public health experts across the country agree that correctional settings like those run by DOC create a tinderbox through which COVID-19 infections could burn before spilling over into the surrounding communities.[51] They have been clear that the only way to avoid cruelly exposing prisoners—and by extension, staff and surrounding communities—to the pandemic is a combination of rapid de-densification measures, along with dramatically increased sanitation and medical care.[52] To facilitate this, the CDC has issued COVID-19 guidance specifically for correctional facilities, which recommends, among other things, social distancing to increase space between incarcerated people to six feet.[53] But some prisons have proven unwilling to abide by CDC recommendations, and incarcerated people are dying nationwide as a result. The dramatic outbreaks in the Cook County Jail in Chicago and Rikers Island in New York City, where the transmission rate for COVID-19 is estimated to be the highest in the world, make this perfectly

[47] Laura M. Maruschak & Marchus Berzofsky, *Medical Problems of State and Federal Prisoners and Jail Inmates, 2011-2012*, Dep't. of Justice: Bureau of Justice Statistics (Feb. 2015), https://cutt.ly/nysyUlK.
[48] Centers for Disease Control and Prevention, *People Who are at a Higher Risk for Severe Illness*, Coronavirus Disease 2019 (Mar. 2020), *available at* https://cutt.ly/mysyIkT.
[49] Golob Decl. ¶¶ 3–4.
[50] Giftos Decl. ¶¶ 19–20.
[51] *See e.g.*, Williams Aff. ¶¶ 4, 17 (explaining that in a world-wide pandemic, "correctional health is public health," and thus, "The Entire Community is at Risk if Prison Populations Are Not Reduced").
[52] *See* Giftos Decl. ¶¶ 25–28; Williams Aff. ¶¶ 17–18; Rich Decl. ¶¶ 14–17.
[53] See also Centers for Disease Control and Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities* (Mar. 23, 2020), available at https://cutt.ly/iysyJ9e.

clear.[54] As DOC's troubling numbers indicate, it is no exception to this trend; yet Defendants continue to exacerbate it.

III. THE CURRENT CONDITIONS IN WHICH DEFENDANTS HAVE CONFINED PLAINTIFFS AND CLASS MEMBERS ONLY EXACERBATE THE ALREADY EXTREME AND IMMINENT DANGER THEY FACE OF CONTRACTING AND POSSIBLY DYING FROM COVID-19.

As detailed in the Complaint, Defendants' response to the pandemic has been fatally piecemeal and reactive.[55] As of mid-March, DOC spokespeople were boldly proclaiming that there was no need to plan specifically for COVID-19; the department could simply recycle a 2007 influenza outline.[56] Even today, Defendants' response is neither uniform nor comprehensive, but a grab-bag of aspirational half-measures that does not provide constitutionally adequate conditions of confinement. Declarations submitted in support of Plaintiffs' motion reveal a dangerous combination of close proximity, conflicting and loose standards, and dire lack of sanitation and medical resources—so much so that the DOC's own staff continues to issue urgent, public pleas for assistance.[57] The disparities between what the CDC recommends, the policies DOC has put in place, and what is actually happening in prisons are stark.

The declarations from Plaintiffs and other incarcerated people that are attached to this motion document the multiple ways Defendants defy CDC recommendations by continuing to force those in their custody to sleep, eat, recreate, bathe, and use the phone in close proximity, with minimal efforts to minimize the spread of COVID-19.[58] These declarations also document

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[54] Golob Decl. ¶ 12.
[55] *See* Compl. ¶ 12.
[56] Kelan Lyons, *Elderly Prisoners in Connecticut Vulnerable to Potential Coronavirus Outbreak,* HARTFORD COURANT (Mar. 11, 2020), https://cutt.ly/4ysyKVY.
[57] Mike Savino, *DOC Workers Rally Outside Headquarters, Demanding Better Conditions*, EYEWITNESS NEWS 3 (WFSB) (Apr. 24, 2020), https://cutt.ly/OysyCvG (describing rally by DOC staff for more protective equipment, minimizing contact with prisoners, and ability to work remotely).
[58] *See generally* Declarations of Pattikate Williams-Void (Apr. 24, 2020) ("Williams-Void Decl."), attached hereto as Exhibit C; Thomas Caves (Apr. 17, 2020) ("Caves Decl."), attached hereto Exhibit D; William

the deleterious effect of Defendants' refusal to act in a coordinated, comprehensive, systematic fashion by revealing just how much pandemic response measures vary by facility, building, and even unit. All told, they show that DOC is falling hopelessly short of expert recommendations and severely exacerbating the risk that Plaintiffs and the class members will contract COVID-19, which creates an imminent and immediate threat to their health and lives, especially for members of the Medically Vulnerable Subclasses.

A. Defendants Have Taken Insufficient Steps to Limit the Spread Of COVID-19 in DOC Facilities.

Defying public health experts' urgent recommendation that they take concerted, wide-scale action to de-densify DOC facilities, and notwithstanding the unprecedentedly dangerous nature of this global pandemic, Defendants have consistently refused to take steps to release anyone from their custody outside of routine, one-by-one mechanisms meant for a non-emergency context.[59]

Bruno (Apr. 14, 2020) ("Bruno Decl."), attached hereto as Exhibit E; Angel Caballero (Apr. 22, 2020) ("Caballero Decl."), attached hereto as Exhibit F; Marcus Champagne (Apr. 23, 2020) ("Champagne Decl."), attached hereto as Exhibit G; Alex Flemming (Apr. 21, 2020) ("Flemming Decl."), attached hereto as Exhibit H; Tyquwane Gilchrest (Apr. 23, 2020) ("Gilchrest Decl."), attached hereto as Exhibit I; Chaz Gulley (Apr. 8, 2020) ("Gulley Decl."), attached hereto as Exhibit J; Zain Hussain (Apr. 17, 2020) ("Hussain Decl."), attached hereto as Exhibit K; Roger Johnson (Apr. 17, 2020) ("Johnson Decl."), attached hereto as Exhibit L; Frank Kelly (Apr. 16, 2020) ("Kelly Decl."), attached hereto as Exhibit M; Austin Kerr (Apr. 20, 2020) ("Kerr Decl."), attached hereto as Exhibit N; Kezlyn Mendez (Apr. 15, 2020) ("Mendez Decl."), attached hereto as Exhibit O; Robert Miller (Apr. 20, 2020) ("Miller Decl."), attached hereto as Exhibit P; Luis Pagan (Apr. 8, 2020) ("Pagan Decl."), attached hereto as Exhibit Q; Jonathan Pape (Apr. 22, 2020) ("Pape Decl."), attached hereto as Exhibit R; Kyle Lamar Paschal-Barros (Apr. 17, 2020) ("Paschal-Barros Decl."), attached hereto as Exhibit S; Chad Petitpas (Apr. 22, 2020) ("Petitpas Decl."), attached hereto as Exhibit T; Ken Pierce (Apr. 15, 2020) ("Pierce Decl."), attached hereto as Exhibit U; Darien Rosario (Apr. 24, 2020) ("Rosario Decl."), attached hereto as Exhibit V; Christopher Russell (Apr. 22, 2020) ("Russell Decl."), attached hereto as Exhibit W; Tyrone Spence (Apr. 16, 2020) ("Spence Decl."), attached hereto as Exhibit X; Anthony Toscano (Apr. 14, 2020) ("Toscano Decl."), attached hereto as Exhibit Y; Joshua Wilcox (Apr. 23, 2020) ("Wilcox Decl."), attached hereto as Exhibit Z; Tre McPherson (Apr. 24, 2020) ("McPherson Decl."), attached hereto as Exhibit AA.

[59] DOC's touted numbers of releases are both incomplete and misleading. For example, that the state's prison population was lower at the outset of this pandemic than in past years has nothing to do with whether DOC has released anyone because of the pandemic's dangers. DOC has similarly glossed over whether recent releases have anything to do with the pandemic, rather than people maxing out on their sentences or fewer people entering the prison system. *See* Kaitlyn Krasselt, *Data Shows Prison Coronavirus Reduction Plan Not What It Appears*, CONN. POST (Apr. 12, 2020), https://cutt.ly/cysiUyt.

As of May 7, there are a total of 10,813 people in DOC custody, 3,009 unsentenced and 7804 sentenced.[60] The most populous single-building facilities, Cheshire Correctional Institution, Robinson Correctional Institution, and Corrigan-Radgowski Correctional Center, where 19 incarcerated people and 7 correctional staff tested positive prior to DOC ceasing to report facility-by facility numbers,[61] each houses around 1,000 people. Hartford Correctional Center, which has seen outbreaks in nearly every building, houses around 900 people. Willard-Cybulski Correctional Institution, which has similarly seen mass outbreaks, houses around the same number.

Although Defendants now transfer people who test positive for COVID-19 to Northern,[62] Defendants have not leveraged the resulting additional capacity to implement recommended and necessary social distancing measures. Notwithstanding seven weeks' worth of executive orders Defendant Lamont has issued to protect public health during the a once-in-a-lifetime pandemic—which repeatedly highlight the particular threat COVID-19 poses to institutional and congregate housing[63]—Defendants still force those in their custody to live and breathe "on top of one another," by the dozens or hundreds.[64]

Many DOC facilities have dormitory-style housing in which up to 120 people live side-by-side in one room. Pandemic notwithstanding, these remain unchanged, with dozens or hundreds of people still sleeping on bunk beds a few feet apart.[65]

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[60] Conn. Dep't of Correction, *Connecticut Correctional Facility Population Counts*, https://cutt.ly/8yxIF6P (last accessed May 5, 2020).
[61] In early April, DOC stopped reporting facility-by-facility numbers of people who had tested positive. It also stopped reporting the number of incarcerated people who have been tested for COVID-19.
[62] *See infra* Section III.C.
[63] *See* Lamont Exec. Order Nos. 7–7FF.
[64] Russell Decl. ¶ 4.
[65] *See, e.g.*, Toscano Decl. ¶ 2 (unit at Willard-Cybulski Correctional Institution holds about 100 people, sleeping two feet apart); Champagne Decl. ¶¶ 2, 5 (120 people housed in unit at Hartford Correctional Center who sleep 4 feet away from each other); McPherson Decl. ¶¶ 5–6 (unit at Bridgeport Correctional Center houses 48 people in bunkbeds who can "reach over and touch" next bed); Bruno Decl. ¶¶ 1, 3 (114 people in dormitory at Brooklyn Correctional Institution, sleeping 2 feet apart); Miller Decl. ¶ 1 (90 people in unit at Carl Robinson Correctional Institution).

Other DOC facilities hold incarcerated people two to a cell in close quarters. Social distancing in a cell is impossible: cellmates sleep in bunk beds and share a desk, a toilet, and a sink in each cell.[66] And like their dormitory counterparts, DOC facilities with double cells hold upwards of 80 people in each unit.[67] Any time people in double-celled units are out of their cells, they share each and every inch of physical space with their entire unit in common areas.

The risks of continuing to house a large number of people in a dormitory or double-celling people during a global pandemic are apparent and defy logic. DOC's dormitories and cells are too small for people to stand inside and remain six feet away from each other, as the CDC has urged—if not ordered—hundreds of millions of Americans to do. There simply is no way for someone to practice social distancing while confined to a dormitory or cell with other people.[68]

Defendants do not allow those in their custody any opportunity to practice social distancing even outside of their cells. Multiple times a day, people receive their meals together and take them to sit "shoulder-to-shoulder and knee-to-knee" at tables in their unit's common areas.[69] Needless to say, this is far more than the five-person limit Connecticut has placed for any congregation of persons.[70] Even those who receive meals to eat on individual bunks or in cells are unable to avoid proximity to others, as they must stand "right next to each other in the line" to get them,[71] or their bunks are so close together that there are still "10 people within four feet of each" other.[72]

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[66] *See, e.g.*, Pape Decl. ¶ 5 (he and his cellmate are "always bumping into each other when we walk[] around the cell at the same time"); Spence Decl. ¶ 4 (his cell is "cramped, and it is impossible to stay more than five feet away from one another").
[67] *See* Spence Decl. ¶ 2 (90 people housed in E dorm at Garner); Caves Decl. ¶ 1 (82 or 83 people housed in B pod at Corrigan); Rosario Decl. ¶ 2 (150 housed in E unit at Osborn).
[68] *See e.g.*, Hussain Decl. ¶ 11; Bruno Decl. ¶ 3; Russell Decl. ¶ 4.
[69] Petitpas Decl. ¶ 5; *see also* Russell Decl. ¶ 4; Hussain Decl. ¶ 11; Toscano Decl. ¶ 5; Spence Decl. ¶ 5; Mendez Decl. ¶ 5.
[70] *See* Lamont Exec. Order 7N at 4 (Mar. 28, 2020).
[71] Rosario Decl. ¶ 6.
[72] Pierce Decl. ¶ 4.

It is the same story with the communal phones. Those in DOC custody share phones with their entire units. Because visitors have been prohibited since mid-March, telephone calls are the only lifeline to friends and family. As a result, the telephone bays frequently are crowded, and people must jam shoulder-to-shoulder next to each other.[73] Phones are shared among tens or hundreds of people every day.[74]

Finally, all those in DOC custody share showers—and in dormitory settings, toilets and sinks—with their entire unit.[75] Like phones, showers are sometimes sanitized and sometimes not.[76] Given these conditions, incarcerated people have described themselves as "lab rat[s] trapped in a small place waiting to get sick."[77]

B. Defendants Maintain Dangerous, Unsanitary Conditions at DOC Facilities and Do Not Provide Appropriate Medical Care.

Defendants also do not use sanitary procedures sufficient to promote proper personal hygiene or ensure that common areas shared by many incarcerated people remain clean. Many in DOC custody have observed no changes to cleaning protocols during the pandemic.[78] For example, Defendants do not sanitize or clean the unit showers between uses, even though tens or hundreds of individuals share them.[79] Most other routine items, such as "[h]andcuffs and shackles[,] are used repeatedly throughout the day, and are not sanitized between uses."[80] Whether

[73] *See* Caves Decl. ¶ 6 (explaining "you're right next to the next person" when using phones).
[74] Toscano Decl. ¶ 7 (6 phones shared with 75 people); Rosario Decl. ¶¶ 2, 8 (4 phones shared with 150 people); McPherson Decl. ¶¶ 5, 8 (phones shared with 48 people); Pagan Decl. ¶¶ 2, 8 (4 phones shared with 40 people); Gulley Decl. ¶¶ 2, 6 (1 phone shared with 48 people).
[75] *See e.g.*, Toscano Decl. ¶ 7 (9 showers shared with 75 people); Rosario Decl. ¶¶ 2, 8 (4 showers with 150 people). The only exception is those in medical units, which have in-room showers. *See* Williams-Void Decl. ¶ 6 (medical unit room contains a shower).
[76] Champagne Decl. ¶ 7 (showers only "cleaned with hot water").
[77] *Id.* ¶ 12; *see also* Pierce ¶ 4 ("I feel like it is just a matter of time until we all get infected with the virus.").
[78] Gilchrest Decl. ¶ 3 (no additional cleaning happening since the start of the pandemic).
[79] Pierce Decl. ¶ 6 (not cleaned after each use); Spence Decl. ¶ 7 (same); Petitpas Decl. ¶ 8 (same).
[80] Pagan Decl. ¶ 8; *see also* Gulley Decl. ¶ 6; Paschal-Barros Decl. ¶ 3.

a phone is disinfected or sanitized between the calls is anybody's guess: some are not,[81] and some are only as of late, and still not between each use.[82]

Defendants regularly deny prisoners cleaning materials necessary to engage in personal hygiene or to clean their cells or common areas. Although regular, frequent handwashing is vital for limiting the spread of COVID-19, and CDC guidance establishes that prisons should "[p]rovide a no-cost supply of soap to incarcerated/detained persons, sufficient to allow frequent hand washing," Defendants still have not provided many people in their custody with soap.[83] In that case, those who cannot afford soap do not clean their hands.[84] Some incarcerated people have been provided soap only when they complained,[85] while others have received small amounts only recently.[86] Notwithstanding the lack of soap, "alcohol based sanitizer," which Defendant Lamont and the CDC have concluded greatly reduces the spread of COVID-19,[87] is prohibited to prisoners in his custody.[88]

CDC guidance provides that doorknobs, light switches, sink handles, countertops, toilets, toilet handles, recreation equipment, kiosks, and telephones be cleaned "several times a day."[89] Yet in most facilities, Defendants have made no effort to increase cleaning of common spaces,

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[81] *See* Spence Decl. ¶ 8

[82] Toscano Decl. ¶¶ 2, 7 (6 phones shared with 75 people, sanitized once per day); Rosario Decl. ¶¶ 2, 8 (4 phones shared with 150 people, wiped down once); Williams-Void Decl. ¶ 9 (wipes down shared phone with a personal rag because she does not think it has been cleaned); McPherson Decl. ¶¶ 5, 8 (phones shared with 48 people and cleaned only between rec shifts); Kelly Decl. ¶ 6 (phones not cleaned between use).

[83] *See* Mendez Decl. ¶ 6; Flemming Decl. ¶ 10; Spence Decl. ¶ 6; Pierce Decl. ¶¶ 7, 9.

[84] Petitpas Decl. ¶ 10.

[85] Pierce Decl. ¶ 7 (one bar of soap since he complained).

[86] Caves Decl. ¶ 3 (one small bar a week ago); Champagne Decl. ¶ 5 (two bars of soap in past month); Toscano Decl. ¶ 6 (less than two weeks ago, staff started giving out soap consistently).

[87] Gov. Lamont Exec. Order No. 7N at 3; Centers for Disease Control & Prevention, *Coronavirus Disease 2019 (COVID-19): How to Protect Yourself & Others*, https://cutt.ly/2yspjUp.

[88] Bruno Decl. ¶ 8; Kelly Decl. ¶ 4; Pierce Decl. ¶ 9; Spence Decl. ¶ 6.

[89] See also Centers for Disease Control & Prevention, Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (Mar. 23, 2020), available at https://cutt.ly/iysyJ9e.

while cells are cleaned *less frequently* since the pandemic began.[90] Shockingly, at a time when incarcerated people are in need of cleaning supplies more than ever before, Defendants have refused to make these supplies available.[91] At Hartford, the only cleaning supplies DOC provides are bars of soap, even though sleeping areas are not cleaned or sanitized by staff.[92] Periodic cell cleanings occur only once a week with diluted cleaner at Garner,[93] where one prisoner is responsible for cleaning the entire housing unit and does not have time to sufficiently do so each day.[94] At Brooklyn, the prisoners who clean the dormitory lack enough disinfectant to clean table tops.[95] The employees at Robinson purchased disinfectant with their own money for prisoners to use, but doing so would require additional supervision and so prisoners are not actually permitted to use it.[96] Defendants' refusal to act has thus left DOC facilities to fester, forcing those in their custody to make do by cleaning their cells with shampoo,[97] or to choose between using soap to clean their bodies or their physical space.[98]

Perhaps Defendants' most concerning failure is the utter lack of medical staffing at DOC facilities.[99] In February 2020, Defendant Cook told members of the Black and Puerto Rican Legislative Caucus that there were 139 healthcare positions vacant out of 843 budgeted.[100] As of March 2019, DOC had only one medical provider—a doctor or physician's assistant—for every

[90] *See, e.g.*, Caves Decl. ¶ 3 (provided one small cup of cleaner to clean out cell over past 16 days).
[91] Miller Decl. ¶ 2 (describing DOC's weeks-long refusal to provide prisoners with bleach or cleaning products); Pagan Decl. ¶ 12 (prisoners were refused cleaning supplies); Russell Decl. ¶ 5 (at Bridgeport, prisoners were refused spray bottles and paper towels to wipe down tables); McPherson Decl. ¶ 7 (they have access to bleach as of one week ago).
[92] Champagne Decl. ¶¶ 2, 5.
[93] Kelly Decl. ¶¶ 2, 4.
[94] *Id.* ¶ 7.
[95] Bruno Decl. ¶¶ 1, 7.
[96] Pierce Decl. ¶¶ 1, 5.
[97] Spence Decl. ¶ 4; Paschal-Barros Decl. ¶ 8.
[98] Miller Decl. ¶ 2.
[99] *See* Compl. ¶¶ 33–37.
[100] Lisa Backus, *Staffing Shortage Creates 'Dangerous' Situation in CT Prisons*, CONN. POST (Feb. 3, 2020), https://cutt.ly/lysdvkK.

579 prisoners, and only 309 nurses for the entire prison population.[101] Staffing levels have plunged in recent weeks as more than 300 DOC staff have tested positive for COVID-19, as well as untold numbers who have been quarantined due to contact with infected colleagues or incarcerated people.[102] At Corrigan, for example, DOC's reckless mismanagement of the outbreak led to more than half of the medical staff developing COVID-19 symptoms.[103] As is common in prisons and jails throughout the country, medical care at DOC facilities suffers from serious inadequacies under normal circumstances.[104] In this time of crisis, medical staff have not minced words: they are utterly, dangerously overwhelmed.[105]

C. Defendants' Use of a Supermax Prison to House Those Who Have Tested Positive for COVID-19 Is "A Punitive Measure, Not a Public Health One."

On April 8, DOC started transferring incarcerated people who have tested positive for COVID-19 to Northern Correctional Institution.[106] No other state or jurisdiction in the country has taken such a step: locking up sick people, sentenced and unsentenced, in a "supermax" prison.

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[101] Jenna Carlesso and Kelan Lyons, *One Year after DOC Took Over Inmate Healthcare, Troubles Persist*, CONN. MIRROR (July 2, 2019), https://cutt.ly/hysdvSK.

[102] As of May 7, 361 DOC staff members have tested positive for COVID-19. Information specific to healthcare staff has not been publicly reported. *See* Connecticut State Dep't of Correction, *Health Information and Advisories: Coronavirus Information*, *available at* https://cutt.ly/qysp3YP (last accessed May 7, 2020).

[103] *See* Kelan Lyons, *Shifting plans and a COVID-19 outbreak at a Connecticut prison*, CONN. MIRROR (Apr. 17, 2020), https://cutt.ly/Mysp8i6 (per union head, "[t]he Department of Correction must turn this around 180 degrees or we'll see the same situation unfold at other facilities").

[104] Defendant Cook admitted that upon taking office, "he had never seen 'an organization that had as many lawsuits coming out of one unit," referring to the Department's medical operation.

[105] *See* Meera Shoaib, *UP CLOSE: Prisons hit by a pandemic*, Yale Daily News (Apr. 22, 2020), https://cutt.ly/cysdbca; *see also* Conn. State Dep't of Correction, *Covid-19 Operational Response Plan: Phase 1* (Mar. 20, 2020), *available at* https://cutt.ly/lysdbPW ("DOC COVID-19 Policies") (detailing minimum coverage and requesting the staff work 12-hour shifts with no days off).

[106] Conn. Dep't of Correction, *The Department of Correction transfers COVID-19 positive offenders to Northern CI* (Mar. 30, 2020), *available at* https://cutt.ly/gytyRKu (reporting that the population in DOC has decreased by 800 since March 1).

Northern is the state's only Level 5[107] facility, meaning it exists solely to "manage those inmates who have demonstrated a serious inability to adjust to confinement posing a threat to the safety and security of the community, staff, and other inmates."[108] Northern's exceedingly punitive conditions are well-documented.[109] Most recently, in February, the U.N. Special Rapporteur on Torture, Nils Melzer, condemned conditions at Northern as "purposefully inflicting severe pain or suffering, physical or mental, which may well amount to torture."[110]

Defendants' decision to use a maximum security prison as a de facto COVID-19 treatment facility astounded even DOC employees.[111] DOC medical staff reported that they were left with their "mouths wide open" by DOC's lack of any "concrete plan," and that "staff at Northern were told to construct the COVID-19 unit just hours before sick individuals were set to arrive."[112] Those who already were incarcerated at Northern began observing stacks of mattresses carried into the 2-West unit at Northern one afternoon, after which sick people "looking like they were hurting" began arriving throughout the night.[113] There have been so many COVID-19 patients at Northern that staff had to open a second 100-person unit.[114] They are using both 2-West and 3-West.[115]

Northern is not a medical facility and its COVID-19 unit cannot and does not provide specialized medical care.[116] According to the medical staff who work there, there are "only two

[107] DOC has five security levels: "level 5, maximum security; level 4, high security; level 3, medium security; level 2, minimum security," and level 1, community release. Conn. Dep't of Correction, https://portal.ct.gov/DOC/Org/Operations-Division (last accessed Apr. 27, 2020).
[108] Conn. Dep't of Corrections, Northern Correctional Institution, *available at* https://cutt.ly/Ot3VazX (last accessed on Apr. 27, 2020).
[109] *See, e.g.*, *Reynolds v. Arnone, et al.*, 402 F.Supp.3d 3 (D. Conn. 2019).
[110] U.N. Office of the High Commissioner, *United States: prolonged solitary confinement amounts to psychological torture, says UN expert*, Feb. 28, 2020, https://cutt.ly/rysp4c7 (last accessed Apr. 24, 2020).
[111] *See* Meera Shoaib, *supra* note 105 (interview with Ellen Durko, nurse working in the COVID-19 unit).
[112] *Id.*
[113] Miller Decl. ¶ 11.
[114] *Id.*
[115] Johnson Decl. ¶ 11; Paschal-Barros Decl. ¶ 20.
[116] Johnson Decl. ¶ 13.

nurses on staff every shift to care for the COVID-19 positive inmates at Northern"[117]—somewhere between 100 and 200 people.[118] These nurses are currently working back-to-back shifts of 16 hours and have reported that they are so "utterly exhausted," they "feel like [they're] going to pass out when . . . doing the assessments."[119] With limited and broken equipment, they are responsible for taking the vital signs of 60-70 people each per shift.[120] To provide even this extremely minimal level of coverage at the COVID-19 units at Northern, entire other prisons are going without *any* medical coverage at all.[121]

The "treatment protocol" for people suffering from COVID-19 at Northern is simply to lock them in a solid concrete 7-by-12 cell for up to 14 days.[122] They are unable to leave their cells for any reason, even to change clothes or take a shower.[123] The cells are "disgusting and dirty," with "toilet paper with urine on it on the floor."[124] They also are freezing cold,[125] so much so that people housed there are unable to sleep even while wearing every piece of clothing they own.[126] The two ventilation units in each cell are "never cleaned or sanitized, and they contain dust, grime, and mold."[127] As they sit in their cells, those in the COVID-19 units watch others leave in wheelchairs, stretchers, and ambulances.[128] Even though "many patients with COVID-19 descend

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[117] Meera Shoaib, *supra* note 105.
[118] *See* Conn. Dep't of Correction, *Health Information and Advisories: Coronavirus Information*, *available at* https://portal.ct.gov/DOC/Common-Elements/Common-Elements/Health-Information-and-Advisories (last accessed Apr. 27, 2020) (listing 158 people currently at Northern's COVID-19 units; on April 20, the number stood at 182).
[119] Meera Shoaib, *supra* note 105.
[120] *Id.*
[121] *Id.*
[122] Johnson Decl. ¶¶ 13–14; Pascal-Barros Decl. ¶ 21 (cells in Northern COVID units identical other Northern cells).
[123] Johnson Decl. ¶¶ 13–14.
[124] Russell Decl. ¶ 16.
[125] *Id.* at ¶ 17
[126] Miller Decl. ¶ 13.
[127] Paschal-Barros Decl. ¶ 7.
[128] Johnson Decl. ¶ 12.

suddenly and rapidly into respiratory distress,"[129] intercoms in the cells at Northern—the only means of communication for those inside—routinely go unanswered.[130]

Incarcerated people in Northern's COVID-19 units do not have access to mail, recreation, commissary, or their property.[131] Some have had to beg for days just to be allowed to call family to let them know they were sick.[132] Others have been allowed only 30 minutes to make two phone calls.[133] As one person stated, "I feel like they are punishing us for having COVID-19."[134]

Public health experts have universally condemned Defendants' use of Northern to hold those with COVID-19, stating that "isolation of sick patients in Northern C.I. is a punitive measure, not a public health one."[135] Fifty-eight faculty members from the Yale Schools of Medicine, Public Health, and Nursing have warned that "the decision to utilize Northern Correctional Institution--itself a maximum-security facility--to isolate patients who test positive for SARS-CoV-2 is particularly concerning," given that the "inherently punitive nature of confinement associated with Northern C.I. may ultimately de-incentivize individuals from reporting if they become symptomatic."[136] In fact, this is exactly what is happening. Rather than seek treatment, incarcerated people desperately try to hide symptoms because they are terrified of being sent to Northern.[137] Defendants' use of Northern thus exacerbates the risks to Plaintiffs and the Class Members. As Dr. Williams has attested: "This avoidance of reporting symptoms or illness will

[129] Williams Aff. ¶ 14,
[130] Flemming Decl. ¶ 17.
[131] Russell Decl. ¶ 13.
[132] Johnson Decl. ¶ 14.
[133] Russell Decl. ¶ 12.
[134] *Id.* ¶ 13.
[135] *See* April 20, 2020 Letter to Governor Lamont from Faculty of Yale Medical School, Yale School of Public Health, and Yale School of Nursing, attached hereto as Exhibit BB.
[136] *Id.*
[137] Johnson Decl. ¶¶ 18–19; Petitpas Decl. ¶¶ 13–14; Caves Decl. ¶ 9.

not only accelerate the spread of infection within facilities but also increase the likelihood of prisoner deaths due to lack of treatment."[138]

Finally, the use of Northern for COVID-19 patients is particularly egregious given that the facility continues to be used as a place for punishment, including for those who have attempted to protest DOC's COVID-19 response.[139]

D. Defendants Do Not Properly Screen, Test, or Quarantine Persons with COVID-19 Exposure.

Even considering their use of Northern, Defendants' measures to screen, test, and quarantine are woefully inadequate. Not only do symptomatic people wait days for medical care, but Defendants have made no efforts to identify and isolate individuals at high risk for serious illness, those with potential exposure to the virus, or those with symptoms consistent with COVID-19. To the contrary—and notwithstanding high rates of asymptomatic and pre-symptomatic transmission—they recklessly transfer those who have been exposed to COVID-19 to other populations and facilities.

Most troubling is the abject failure to treat symptomatic individuals. People are kept in their congregate housing units for days or even weeks after reporting COVID-19 symptoms and requesting medical care.[140] Some are refused medical care altogether.[141] The first prisoner to die from COVID-19 in custody had reportedly had a fever of 101 degrees and been begging to be seen

[138] David Cloud, et al., *The Ethical Use of Medical Isolation—Not Solitary Confinement—to Reduce COVID-19 Transmission in Correctional Settings* (Apr. 9, 2020).
[139] See Miller Decl. ¶¶ 5–9 (detailing how he was transferred to Northern after refusing a meal in order to protest lack of cleaning supplies and sanitation and hygiene measures).
[140] Rosario Decl. ¶ 10 (symptomatic people only quarantined after four days); Gilchrest Decl. ¶ 5 (symptomatic for two weeks "before anyone did anything," despite requests to staff).
[141] Champagne Decl. ¶ 10 (person asked repeatedly to go to medical but refused, though two others were taken).

before he finally was transferred to a hospital.[142]

Defendants also have recklessly moved people from place to place, including those exposed to COVID-19.[143] Officials at Osborn, for example, reintegrated quarantined inmates into the broader facility.[144] People who seek to be tested are kept alongside those who are ill, even before they themselves test positive.[145] One person who felt ill was kept in a cell at Bridgeport with three other people who had tested positive, though he himself was never tested.[146] He was unable to make phone calls or shower, and he was not given sheets, so he slept on a bare mattress.[147] The staff with whom he interacted during this time were not wearing masks. After four days of being housed with three people who had tested positive for COVID-19, he was abruptly moved back into general population.[148]

Defendants also have forced those who are not sick to live with those who are. For example, a person who fell ill in Corrigan—and subsequently tested positive for COVID-19—was simply locked in his cell with his asymptomatic cell mate, for 15 days straight.[149] He and his cellmate were not let out of the cell for that entire period of time: not to shower, not to go to medical, not even to call family.[150] Others have also been quarantined in punitive conditions. As a person kept in quarantine in a moldy segregation cell in Willard-Cybulski described of his time

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[142] Amber Diaz, *I'm going to die in here': CT inmate granted early release dies from coronavirus, family says DOC ignored his cries for help*, WTNH (Apr. 21, 2020), https://cutt.ly/EysaTQe.
[143] Mendez Decl. ¶ 13 (people moved into unit from open dormitory where they lived with someone who tested positive); Flemming Decl. ¶ 3 (40-50 people transferred to his unit in early April).
[144] Eliza Fawcett & Steven Goode, *State Department of Correction Moves Inmates with COVID-19 to Northern Correctional Institution, Though Quarantine Questions Persist*, HARTFORD COURANT (Apr. 10, 2020), https://cutt.ly/VysaP2E.
[145] Hussain Decl. ¶ 7 (to get tested, he would be quarantined with those who are sick).
[146] Gilchrest Decl. ¶ 7.
[147] *Id.* ¶ 8.
[148] *Id.* ¶¶ 7, 11.
[149] Kerr Decl. ¶¶ 7–14; *see also* Caves Decl. ¶ 8.
[150] *Id.* at ¶¶ 8, 9, 13 ("The worst part was I couldn't call my family. I could have died in there without anyone knowing.").

there, "I just felt like an animal, the way they did this."[151]

Despite rampant outbreaks at many facilities, Defendants have not instituted widespread temperature checks of incarcerated people or other screening processes to determine exposure or to control the spread of the virus.[152] After people who are sick leave a unit, staff make no effort to clean their areas, nor do they allow prisoners to do so.[153] Those leaving Northern's COVID-19 units do not get another COVID-19 test before being returned to their previous housing.[154] Some people are sent to Northern for only a few days before returning to their facilities.[155]

Finally, DOC is not testing all of its employees and staff for COVID-19 despite the very real possibility that some employees are carriers who will continue bringing the virus inside.[156] This failure is alarming, especially where over 300 staff have already tested positive.[157] As recently as mid-April, correctional staff were wearing masks around their necks,[158] or not at all[159]. And in every facility, there is a dire lack of personal protective equipment for DOC personnel and prisoners alike.[160]

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[151] Johnson Decl. ¶ 15.
[152] McPherson Decl. ¶ 13 (despite multiple people being removed from unit because they were sick, no screening of those remaining).
[153] Toscano Decl. ¶ 10; Champagne Decl. ¶ 10 (staff sprayed area with water).
[154] Johnson Decl. ¶ 15.
[155] Champagne Decl. ¶ 11; Gilchrest Decl. ¶ 12; Hussain Decl. ¶ 9.
[156] *See* Conn. Dep't of Correction, *Five Department of Correction Offender Tests Positive for the COVID-19 Virus* (Apr. 1, 2020), *available at* https://cutt.ly/0ytul2s (noting that anyone entering the building is subjected to a "wellness check").
[157] As of May 7, 2020, 361 DOC staff members have tested positive for COVID-19. *See* Conn. State Dep't of Correction, *Health Information and Advisories: Coronavirus Information*, *available at* https://cutt.ly/SysaD7G (last accessed May 7, 2020).
[158] Russell Decl. ¶ 6
[159] Petitpas Decl. ¶ 12
[160] *See* Kelan Lyons, *Shifting plans and a COVID-19 outbreak at a Connecticut prison*, CONN. MIRROR (Apr. 17, 2020), https://cutt.ly/AysaFTl ("The Department of Correction must turn this around 180 degrees or we'll see the same situation unfold at other facilities").

LEGAL STANDARD

The differences between a temporary restraining order and a preliminary injunction are minor; the difference lies in the duration and notice to the opposing party.[161] In either instance, the movant seeking immediate relief altering the status quo must show (1) irreparable harm in the absence of immediate relief, (2) that relief is in the public interest, and (3) either a substantial likelihood of success on the merits, or, that there are sufficiently serious questions on the merits rendering them fair for litigation and a balance of hardships decidedly pointing toward relief.[162]

Courts have broad power to fashion equitable remedies to address constitutional violations in prisons,[163] including, "[w]hen necessary to ensure compliance with a constitutional mandate," orders "placing limits on a prison's population."[164] Courts "must not shrink from their obligation to enforce the constitutional rights of all persons, including prisoners" and "may not allow constitutional violations to continue simply because a remedy would involve intrusion into the realm of prison administration."[165]

ARGUMENT

I. PLAINTIFFS AND MEMBERS OF THE PROPOSED CLASSES ARE ENTITLED TO EQUITABLE RELIEF TO PROTECT THEM FROM THE RISK OF INFECTION, DEATH, OR OTHER SERIOUS COMPLICATIONS FROM COVID-19.

A. The Heightened Risk of Infection from a Potentially Lethal Virus with No Vaccine or Cure Constitutes Irreparable Harm.

The risk of irreparable harm is "the single most important prerequisite for the issuance of

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[161] *Austin v. Altman*, 332 F.2d 273, 275 (2d Cir. 1964).
[162] *See e.g., Trump v. Vance*, 941 F.3d 631, 639 (2d Cir. 2019); *North American Soccer League v. U.S. Soccer Fed'n*, 883 F.3d 32, 36–37 (2d Cir. 2018).
[163] *Hutto v. Finney*, 437 U.S. 678, 687 n.9 (1978).
[164] *Brown v. Plata*, 563 U.S. 493, 511 (2011).
[165] *Id.* (citations and quotation marks omitted).

a preliminary injunction."[166] Plaintiffs are irreparably harmed because they "face imminent risk to their health, safety, and lives."[167]

With nearly all DOC facilities having incarcerated people symptomatic of, or testing positive for, COVID-19, the imminent risk to Plaintiffs represents irreparable harm of the gravest magnitude. Plaintiffs and the Proposed Classes (including the Medically Vulnerable Subclasses) will face the immediate, serious, and apparent risk of severe illness and possible death unless the Court intervenes.[168] This is not a speculative harm. Cases of COVID-19 are growing exponentially. As of the time of this filing, 985,374 cases have been reported in the United States, with 25,269 cases and 1,924 deaths in Connecticut. More than 600 of these cases and two deaths are attributable to Defendants Lamont and Cook's failures.

Given the serious and often lethal nature of this disease, and the overwhelming strain it has caused to our healthcare system, Plaintiffs and the Proposed Classes have established a serious risk that, without the requested relief, they will be infected by coronavirus and develop COVID-19. Members of the Medically Vulnerable Subclasses may die if not released. Even those Plaintiffs and Proposed Class members who get infected and survive still face the prospect of a prolonged and painful recovery, including the need for extensive rehabilitation for profound reconditioning, loss of digits, neurological damage, and the loss of respiratory capacity.[169] The

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[166] *Faiveley Transp. Malmo AB v. Wabtec Corp.*, 559 F.3d 110, 118 (2d Cir. 2009) (internal quotation omitted).

[167] *Henrietta D. v. Giuliani*, 119 F. Supp. 2d 191, 214 (E.D.N.Y. 2000), *aff'd sub nom. Henrietta D. v. Bloomberg*, 331 F.3d 261, 290 (2d Cir. 2003); *see also Baur v. Veneman*, 352 F.3d 625, 633 n.7 (2d Cir. 2003) (collecting conditions of confinement precedent and explaining that "the Supreme Court has decided cases in which it appears to assume that enhanced risk may cause real injury").

[168] *See, e.g.*, *Basank v. Decker*, No. 20-2518, 2020 WL 1481503, at *3 (S.D.N.Y. Mar. 26, 2020) (recognizing "the threat that COVID-19 poses to individuals held in jails and other facilities" and citing cases recognizing the same); *United States v. Stephens*, No. 15-cr-95, 2020 WL 1295155, at *2 (S.D.N.Y. Mar. 19, 2020) (explaining that incarcerated people face "a heightened risk of contracting COVID-19 should an outbreak develop").

[169] Compl. ¶ 22; *see also supra* Section I.

risks here are all the more extreme, given that DOC does not provide conditions of basic health and safety sufficient to protect Plaintiffs, the Proposed Classes as a whole, or members of the Medically Vulnerable Subclasses, who face the most significant risk of all.[170]

Courts have not hesitated to find that the life-and-death stakes implicated by the possibility of contracting COVID-19 while in detention establishes irreparable injury. Earlier this month, the District of Maryland recognized that "once COVID-19 is introduced into a detention facility, it spreads like wildfire," creating "a high likelihood of irreparable health consequences" for incarcerated people "that could not be alleviated without release."[171] The court explained that placing incarcerated people with COVID-19 symptoms in isolation "does not remove the risk that the virus will spread quickly once inside the facility," which creates an increased "risk of death or serious illness" for "high-risk detainees," like those members of the Medically Vulnerable Subclasses.[172]

This risk is even more apparent when, as here, correctional settings have not adopted the mitigation efforts recommended by the CDC. For instance, the Western District of New York observed that when facilities do not "isolate higher risk individuals," do not test "all incoming detainees or the staff that comes and goes" for COVID-19, do not provide prisoners with masks or other PPE, and allow prisoners to "eat their meals in communal settings and share bathing facilities," the "imminent risk" to prisoners' "health, safety, and lives" constitutes irreparable

[170] Compl. ¶¶ 23–70; *see also supra* at Section I. *See also Padilla v. Immigration & Customs Enf't*, No. 19-35565, 2020 WL 1482393, at *9 (9th Cir. Mar. 27, 2020) (affirming grant of preliminary injunction, agreeing "Plaintiffs would suffer irreparable harm in the form of substandard physical conditions" and "low standards of medical care," among other things); *Thakker v. Doll*, No. 20-cv-480, 2020 WL 1671563, at *3-4 (M.D. Pa. Mar. 31, 2020) (finding Plaintiffs' claim "rooted in imminent, irreparable harm," given they "face the inexorable progression of a global pandemic creeping across the nation—a pandemic to which they are particularly vulnerable due to age and underlying medical conditions").
[171] Mem. Op. at 30, *Coreas v. Bounds*, No. 20-0780, Dkt. No. 56 (D. Md. Apr. 3, 2020) (hereafter "*Coreas* Slip Op.").
[172] *Id.* at 6, 30.

harm.[173] Courts around the country agree.[174] Immediate action from this Court is necessary to protect Plaintiffs, the Proposed Classes, and the members of the Medically Vulnerable Subclasses.

B. Plaintiffs are Substantially Likely to Prevail on Their Claim that the Government is Deliberately Indifferent to their Serious Medical Needs.

The Post-adjudication Class' claim in Count 3 of the Complaint presents the Court with the question of whether a failure to take medically necessary steps to prevent widespread COVID-19 infection in Connecticut prisons constitutes deliberate indifference to serious medical need. The evidence demonstrates that Plaintiffs will prevail.

"[W]hen the state takes a person into custody" pursuant to a sentence of incarceration, thus "severely limiting his ability to care for himself, and then is deliberately indifferent to his medical needs, the Eighth Amendment's proscription against the unnecessary and wanton infliction of pain is violated."[175] The same constitutional right exists for pretrial detainees and civil detainees, although their protection springs from the Fourteenth Amendment and does not depend on a defendant's awareness of the danger's existence.[176]

In the case of either class of incarcerated people, a plaintiff "must show that the conditions, either alone or in combination, pose an unreasonable risk of serious damage to his health."[177] The unreasonable risk is actionable whether it results in damage occurring at the time of pleading, or,

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[173] *Jones v. Wolf*, No. 20-361, 2020 WL 1643857, at *11, 13 (W.D.N.Y. Apr. 2, 2020).
[174] *See, e.g.*, *Coronel v. Decker*, No. 20-2472, 2020 WL 1487274, at *3 (S.D.N.Y. Mar. 27, 2020) (the "imminent risk to [Plaintiffs'] health, safety, and lives" of contracting COVID-19 while in detention constituted irreparable harm warranting a TRO); *Basank*, 2020 WL 1481503 at *4-5 ("The risk that Plaintiffs will face a severe, and quite possibly fatal, infection if they remain in immigration detention constitutes irreparable harm warranting a TRO.").
[175] *Charles v. Orange County*, 925 F.3d 73, 85 (2d Cir. 2019).
[176] *See e.g.*, *Darnell v. Pineiro*, 849 F.3d 17, 29 (2d Cir. 2017) (pretrial detainees); *Charles*, 925 F.3d at 85 (civil detainees).
[177] *Darnell*, 849 F.3d at 30 (internal quotations and citations omitted).

whether it will "cause serious illness and needless suffering the next week or month or year."[178] The existence of an unreasonable risk of harm depends "not on the officials' perception of the risk of harm, but solely on whether the facts . . . show that the risk of serious harm was substantial."[179]

The Post-adjudication Class must proceed further and demonstrate "that the charged official act[ed] or fail[ed] to act while actually aware of a substantial risk that serious inmate harm will result," an inquiry in which "proof of awareness of a substantial risk of the harm suffices."[180] The Pre-adjudication Class need not make such a showing, as the Fourteenth Amendment is violated even when a defendant has no subjective awareness that their failures have caused a substantial risk of harm.[181]

1. COVID-19 is a Lethal Threat to Human Health, as are the Pathogenic Breeding Conditions in the Defendants' Prisons and Jails.

First, Defendants cannot traverse the objective inquiry common to both Classes: that COVID infection poses an unreasonable risk of serious harm to health. Plaintiffs' medical evidence, and common sense, demonstrate that the risk that Plaintiffs seek to avoid "is not one that today's society chooses to tolerate."[182]

Medical experts are in unanimous agreement that COVID-19 is an unprecedented, and unprecedentedly dangerous, mix of contagious and fatal, and doubly so for those locked inside cells.[183] Further, there is no question, as Dr. Golob attests, that medically vulnerable people or those over age 50 "are at grave risk of severe illness and death from COVID-19."[184] Not

[178] *Helling v. McKinney*, 509 U.S. 25, 33 (1993) (declining to hold "that prison officials may be deliberately indifferent to the exposure of inmates to a serious, communicable disease on the ground that the complaining inmate shows no serious current symptoms").
[179] *Lewis v. Siwicki*, 944 F.3d 427, 431–32 (2d Cir. 2019).
[180] *Salahuddin v. Goord*, 467 F.3d 263, 280 (2d Cir. 2006) (internal quotation omitted).
[181] *Darnell*, 849 F.3d at 35.
[182] *Helling*, 509 U.S. at 36.
[183] Rich Decl. ¶¶ 6, 8–16.
[184] Golob Decl. ¶ 14.

surprisingly, then, the seriousness of the risk presented by COVID-19 to incarcerated or detained people has been instantly recognized by both federal and state courts.[185]

Given the uniform agreement of courts, medical science, and public health experts as to the danger coronavirus poses to humans, the attendant risks incurred by Defendants' failure to account for the pathogen's rapid spread constitutes a serious risk to health. For the Pre-adjudication Class, the ineluctable conclusion that the virus-breeding conditions within the Defendants' prisons and jails constitutes an objective risk of serious harm is all they need to show in order to prevail, and so relief should enter in their favor.

2. Having Been on Actual Notice of the Pandemic since Early March, the Defendants Have Shown Deliberate Indifference to the Medical Needs of Post-adjudication Class Members.

For the Post-adjudication Class, a further inquiry is necessary: whether Defendants Cook and Lamont "know[] of" and are "disregard[ing] an excessive risk to inmate health."[186] Where a danger has been "expressly noted by prison officials in the past," this Court may conclude that the officials "had actual knowledge of the risk" and thus knew of and disregarded it.[187] The Court also may "conclude that a prison official knew of a substantial risk from the very fact that the risk

[185] *See, e.g.*, *Wilson v. Williams*, No. 4:20-CV-00794, 2020 WL 1940882, at *8 (N.D. Ohio Apr. 22, 2020) ("The objective component of the test requires the existence of a 'sufficiently serious medical need. Petitioners obviously satisfy this component.") (internal citation omitted); *Savino v. Souza*, No. CV 20-10617-WGY, 2020 WL 1703844, at *4 (D. Mass. Apr. 8, 2020) ("In this moment of worldwide peril from a highly contagious pathogen, the government cannot credibly argue that the Detainees face no "substantial risk" of harm (if not "certainly impending") from being confined in close quarters in defiance of the sound medical advice that all other segments of society now scrupulously observe."); *People of the State of New York ex rel. Stoughton v. Brann*, No. 45107/82020, 2020 WL 1679209, at *2 (N.Y. Sup. Ct. Apr. 6, 2020) ("There can be no doubt that the presence of a communicable disease in a prison can constitute a serious, medically threatening condition. The point need not be belabored in this case.").

[186] *Morgan v. Dzurenda*, No. 18-2888, 2020 WL 1870144, at *3 (2d Cir. Apr. 15, 2020) (internal quotation omitted).

[187] *Id.*

was obvious."[188]

There can be no serious argument here that the novel coronavirus is an obvious, dangerous threat to human health; Defendant Lamont reached that conclusion long ago and used it as the basis to trigger a provision of Connecticut law arrogating most of the state's legislative powers to his office.[189] And Defendant Lamont similarly has conceded that the pathogen "spreads easily from person to person and may result in serious illness or death,"[190] that the "risk of severe illness and death . . . appears to be higher for individuals who are 60 years of age or older and for those who have chronic health conditions,"[191] that "there is an increased risk of rapid spread of COVID-19 among persons who are living in congregate settings,"[192] that Connecticut would "take measures to reduce density within homeless shelters and other congregate housing situations."[193] He has further described close-quarters living arrangements in nursing homes a "petri dish" for the spread of COVID-19.[194]

Given that Defendants have rearranged most daily activities of their respective offices to account for the spread of the deadly virus, there is no conclusion other than that they have, and have had since early March, actual knowledge of its dangers. Their failure to take the medically necessary steps identified by Plaintiffs' declarants therefore is deliberate indifference that violates the Eighth Amendment.

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[188] *Ball v. LeBlanc*, 792 F.3d 584, 594 (5th Cir. 2015); *accord Hinojosa v. Livingston*, 807 F.3d 657, 667 (5th Cir. 2015) ("open and obvious nature" of dangerous prison conditions supported an inference of deliberate indifference).
[189] *See* Gov. Lamont, Letter to the Secretary of the State (Mar. 10, 2020) (declaring a dual public health and civil preparedness emergency via Conn. Gen. Stat. § 28-9), *available at* https://cutt.ly/jyssyFE.
[190] Gov. Lamont Exec. Order No. 7 at 1.
[191] *Id.*
[192] *Id.*
[193] Lamont Exec. Order No. 7P at 2.
[194] Patrick Skahill, Connecticut Tracks COVID-19 Cases But Doesn't Keep Nursing Home Tally, WNPR (Mar. 27, 2020), https://cutt.ly/myssiio.

C. By Refusing to Protect Class Members from COVID-19, the Defendants are Punishing the Pre-adjudication Class in Violation of Substantive Due Process.

Lastly, the Pre-adjudication Class raises in Counts 1 and 2 of the Complaint, and has amply demonstrated, that Defendants' inaction in the face of the pandemic constitutes punishment to which they—as pretrial detainees—may not be subjected.

The Substantive Due Process Clause guarantees that "a detainee may not be punished prior to an adjudication of guilt in accordance with due process of law."[195] When deciding whether challenged conditions of confinement amount to punishment, courts ask "whether the [restriction] is imposed for the purpose of punishment or whether it is but an incident of some other legitimate governmental purpose."[196] If a restriction or condition is not reasonably related to a legitimate goal, the court "may infer that the purpose of the government action is punishment that may not constitutionally be inflicted upon detainees *qua* detainees."[197]

Here, the conditions of confinement imposed on Plaintiffs and other pretrial detainees at DOC facilities amount to punishment because the conditions place those detainees at a significantly increased risk of COVID-19 and are not reasonably related to any legitimate government objective. As discussed above, DOC facilities place detainees at an even greater and immediate risk of contracting COVID-19 than members of the public-at-large. Yet, the current conditions of confinement fail to protect Plaintiffs and pretrial detainees from this risk. Defendants have not implemented sufficient social distancing practices at of the DOC facilities. Defendants maintain dangerous, unsanitary conditions at DOC facilities. And most disturbingly, Defendants do not quarantine or provide the medical care necessary to protect detainees from the threat of

[195] *Bell v. Wolfish*, 441 U.S. 520, 535 (1979); *see id.* at n.16 (pretrial detainees retain greater protections than convicted counterparts).
[196] *Almighty Supreme Born Allah v. Milling*, 876 F.3d 48, 55 (2d Cir. 2017).
[197] *Id.*

COVID-19 spreading further in DOC facilities across the state. *Id*.

As was the case in *Thakker*, a recent decision from the Middle District of Pennsylvania that ordered the immediate release of civil detainees, the conditions of confinement at DOC facilities have "no rational relationship between a legitimate government objective" and keeping Plaintiffs and pretrial detainees in the Proposed Pre-adjudication Class "detained in unsanitary, tightly-packed environments."[198] Rather, doing so clearly constitutes unconstitutional punishment that violates the Fourteenth Amendment rights of all pretrial detainees in the Proposed Class.[199] *Thakker* comports with recent decisions from courts around the country holding that detainees suffer unconstitutional punishment when held in conditions that increase their exposure to COVID-19 and that protection is necessary in order to avoid constitutional violations.[200]

Simply put, there is "no rational relationship between a legitimate government objective and keeping [Plaintiffs and other pretrial incarcerated people] detained in unsanitary, tightly-packed environments—doing so would constitute a punishment to Plaintiffs."[201]

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[198] 2020 WL 1671563, at *8.

[199] *See id.* at *7–8.

[200] *See Basank*, 2020 WL 1481503, at *1, 5 (S.D.N.Y. Mar. 26, 2020) (concluding that plaintiffs who suffer from chronic conditions "face[] an imminent risk of death or serious injury in immigration detention if exposed" to the pathogen); Order, *Hernandez v. Wolf*, No. 20-00617, Slip. Op. at 17 (C.D. Cal. Apr. 1, 2020) (holding that the plaintiff had not been protected where he could not keep beyond six feet of others and was "forced to touch surfaces touched by other detainees"); Order, *United States v. Hector*, No. 2004183 (4th Cir. Mar. 27, 2020) (reversing denial of release pending appeal and ordering the district court to "consider the severity of the risk that the COVID-19 virus poses to appellant given her existing medical conditions"), *on remand*, Order, No. 18-002, Dkt. 748 (W.D. Va. Mar. 27, 2020) (granting release pending sentencing; Order, *Xochihua-Jaimes v. Barr*, No. 18-71460 (9th Cir. Mar. 23, 2020) (ordering *sua sponte* release "[i]n light of the rapidly escalating public health crisis); Order, *United States v. Bolston*, No. 1800382, Dkt. No. 20 (N.D. Ga. Mar. 30, 2020) (releasing defendant in part because "the danger inherent in his continued incarceration. . . during the COVID-19 outbreak".); Order, *United States v. Kennedy*, No. 1820315, Dkt. No. 77 (E.D. Mich. Mar. 27, 2020) (same); Order, *United States v. Michaels*, No. 16-00076, Dkt. No. 1061 (C.D. Cal. Mar. 26, 2020) (granting temporary release because the pathogen constitutes a compelling reason not to detain people); Order, *United States v. Harris*, No. 19-00356, Dkt. No. 36, 2020 WL 1503444 (D.D.C. Mar. 26, 2020) ("The Court is convinced that incarcerating Defendant while the current COVID-19 crisis continues to expand poses a far greater risk to community safety than the risk posed by Defendant's release to home confinement on . . . strict conditions.").

[201] *Thakker*, 2020 WL 1671563, at *8.

D. Without a Viable Way to Safely Detain Plaintiffs, Injunctive Relief Releasing Medically Vulnerable Class Members Is the Only Option.

As outlined in both the Giftos and Rich declarations, the medical standard of care to reduce the risk of death from COVID-19 to vulnerable people is the transfer of the Medically Vulnerable Subclasses and additional Class Members to alternative custody such as home confinement. Such remediation also creates physical distancing for those remaining in prisons.[202] In addition to the immediate release of all Medically Vulnerable Subclass Members, the DOC must provide the additional conditions outlined by the CDC (e.g., physical distancing, quarantine, hygiene, medical care, personal protective equipment, public health information, etc.); including granting further release for additional class members to ensure sufficient physical distancing, if public health expertise so requires.

With more than 11,000 incarcerated people in DOC facilities across the state, over 300 DOC employees already infected, the general unavailability of personal protective equipment and hygienic supplies for both staff and incarcerated people, and the difficulty implementing social and physical distancing for incarcerated people and employees, DOC cannot do the things necessary to protect incarcerated people, employees, and the larger Connecticut community against the racing spread of COVID-19. Thus, (1) immediate release of the most medically vulnerable persons, followed by (2) frequent reporting, improved health protocols, and—if public health still mandates—(3) further release of additional Class Members, are the necessary and least intrusive means of vindicating Class Members' constitutional rights and preventing grave irreparable harm for the proposed Classes and the greater Connecticut community.

[202] Giftos Decl. ¶¶ 26–28 ("There are too many structural limitations [in correctional facilities to keep people safe], and correctional health care can only do so much. Decreasing the incarcerated population . . . is the only way to prevent the complications from surging."); Rich Decl. ¶¶ 16–17 ("It is my strong opinion that urgent decarceration is imperative to flatten the curve of Covid-19 cases among incarcerated populations.").

Despite the unquestionable risk posed by COVID-19 to Plaintiffs, Class Members, and by extension, the public at large and its healthcare providers who will be required to care for more and more incarcerated people who become seriously ill from COVID-19, Defendants have not taken such steps. These facts easily support "an inference of deliberate indifference."

E. The Balance of Equities Favors Granting Relief to the Proposed Classes.

When weighing the balance of equities, this Court "must consider the effect on each party of the granting or withholding of the requested relief."[203] In this dispute, the balance of equities weighs heavily in favor of granting Plaintiffs relief, as an injunction in their favor will not "substantially injure other interested parties."[204]

Rather, given the nature of the circumstances here and the COVID-19 pandemic in general, ***not*** issuing preliminary relief would cause significant injury to the parties and the general public. Beyond the fact that "[t]he balance of the equities tips sharply" in favor of Plaintiffs and the Proposed Classes, especially given that they face "irreparable harm to their constitutional rights and health,"[205] the public interest clearly favors granting preliminary relief because Connecticut as a whole escapes further COVID-19 spread by stamping out each infection hotspot wherever it may occur.

By contrast, Defendants' countervailing interest in indefinitely detaining Plaintiffs and the Proposed Classes in obviously dangerous conditions is weak, at best. State officials already have shown a willingness to release other prisoners in an effort to stem the spread of coronavirus. There is no compelling or even rational reason to deny the same treatment to these incarcerated people,

[203] *Amoco Production Co. v. Vill. of Gambell*, 480 U.S. 531, 542 (1987).
[204] *Doe v. Gonzales*, 386 F. Supp. 2d 66, 82 (D. Conn. 2005). *See Doe v. Univ. of Connecticut*, No. 20-cv-92, 2020 WL 406356, at *5 (D. Conn. Jan. 23, 2020) (finding balance of equities in plaintiff's favor where injunction's beneficial effect on the plaintiff "outweighs any harm to [the defendant] or anyone else").
[205] *Castillo*, 2020 WL 1502864, at *6.

particularly members of the Medically Vulnerable Subclasses, who are at the highest risk of COVID-19. Indeed, Defendants could undertake a particularized inquiry to identify and release those who are at increased risk of serious complications from COVID-19, and to the extent countervailing penal interests favor continued incarceration for certain at-risk individuals, Defendants could release other individuals to reduce population at DOC facilities and allow those who remain to comply with CDC guidelines.[206] Further, other than the administrative burden of enacting requested policies to mitigate the spread of COVID-19 throughout DOC—which, frankly, Defendants should already be doing—there is no other "harm" to Defendants should this Court issue preliminary relief.

Any burden on Defendants is far outweighed by what is at stake for Plaintiffs, the Proposed Classes, and the public-at-large should preliminary relief be denied. People are dying. This Court should do its part to help prevent Plaintiffs and the Proposed Classes from becoming another statistic in this horrific chapter of our nation's history.

F. The Public Interest Is Best Served by Minimizing the Spread of COVID-19 through Social Distancing and Hygiene Practices, but Those Steps Are Difficult to Implement at DOC Facilities.

Finally, the public's interest weighs in favor of granting Plaintiffs' injunction. As in this case, where Plaintiffs have demonstrated that Defendants have violated their and the Proposed Classes' constitutional rights, injunctive relief always is in the public interest.[207] That interest—faithful enforcement of the Constitution—alone justifies the requested injunctive relief. Moreover,

[206] To this end, Plaintiffs seek release of all members of the Medically Vulnerable Subclasses. If Defendants seek to retain individual class members in custody for a purported penal interest, the Court should require Defendants to offer proof of judicially-recorded findings—by clear and convincing evidence—that the individual poses such a serious risk of flight or danger to others that no conditions of release can mitigate.
[207] *See Sajous v. Decker*, 2018 WL 2357266, at *13 (S.D.N.Y. May 23, 2018) ("The public interest is best served by ensuring the constitutional rights of persons within the United States are upheld.") (citing *Mitchell v. Cuomo*, 748 F.2d 804, 808 (2d Cir. 1984)).

plainly here, the public and Plaintiffs' interests overlap: both benefit from ensuring community and individual health and safety.[208]

And on the facts here, that independently sufficient interest is buttressed by the undeniable public interest in minimizing the already unprecedented spread of COVID-19 throughout the nation, generally, and at DOC facilities, specifically.[209]

First, COVID-19 is highly contagious. With no vaccine or cure, each new infection breeds exponentially more infected persons. Healthcare professionals accordingly agree that the most critical actions that can be taken are preventive measures such as self-isolating, maintaining a distance of six feet from other persons, and frequent disinfection. These measures are lacking at DOC facilities, as detailed above, thus warranting immediate action from this Court. But even with the best intentions, high-risk persons like members of the Medically Vulnerable Subclasses cannot avoid the risk of infection. The only viable mitigation tactic for those incarcerated people is release.

The virus is spreading throughout the incarcerated population and cannot be contained within DOC's walls. COVID-19 has already spread across DOC staff members who have contact with communities outside of the DOC.[210] Cases of infected staff members will only increase while the contagion sweeps throughout the prisoner population. DOC staff has and will continue to, perhaps unknowingly, spread infection among the surrounding communities. The only certain way to significantly hinder further spread of the virus within DOC facilities—and then from DOC

[208] *See Grand River Enters. Six Nations, Ltd. v. Pryor*, 425 F.3d 158, 169 (2d Cir. 2005) (referring to "public health" and a "significant public interest"); *Barkman*, 2020 U.S. Dist. LEXIS 45628, at *4 (identifying risk of individuals carrying the virus into jails and noting that "[t]he men and women incarcerated at Washoe County Detention Facility are a part of our community and all reasonable measure must be taken to protect their health and safety").
[209] *See Grand River Enters. Six Nations, Ltd. v. Pryor*, 425 F.3d 158, 169 (2d Cir. 2005) (recognizing that "public health" is a "significant public interest"); *Barkman*, 2020 U.S. Dist. LEXIS 45628, at *4.
[210] *See* Compl. ¶ 43.

facilities to the greater Connecticut community, and further on—is for this Court to immediately order that Defendants impose necessary mitigation efforts throughout DOC facilities, and order the immediate release of its most at-risk prisoners.

Second, there is a strong public interest in minimizing the spread and thus the impact of COVID-19 on the local, state, and national health care system. Recent data show that in the most likely infection scenarios, Connecticut hospitals will face a critical bed shortage in a matter of weeks.[211] A large-scale infection at DOC will cause spillover into supporting hospitals, not to mention increase the number of sick individuals in the community needing prompt and critical medical care.[212] The public interest is best served by taking all necessary steps to reduce infection, slow the spread of the virus, and provide all necessary and available support to prevent the collapse of the Connecticut hospital network.

Finally, it cannot be overstated that the public interest is served by protecting those at elevated risk and with particular medical vulnerabilities from the ruthless nature of the virus. On the whole, populations like those detained at DOC face heightened risk of exposure and infection because of overcrowding and other problems existing at every detention facility across the country; such risks are even higher for the Medically Vulnerable Subclasses. And the risk is not limited only to incarcerated people, given the close proximity with which DOC staff members interact with DOC population. The release of individuals most vulnerable to COVID-19 thus reduces the overall health risk for DOC prisoners and staff alike. By decreasing the number of prisoners, DOC can institute greater and safer social distancing practices and prevent the need for increased

[211] Alex Putterman & Emily Brindley, *Connecticut's COVID-19 Peak Could be Two Weeks Away; The State Won't Have Enough Hospital Beds or ICU Options When That Happens, Model Predicts*, HARTFORD COURANT (Apr. 3, 2020), available at https://bit.ly/3a2e6Ji.

[212] *See* Williams Aff. ¶ 4, 17 (explaining that in a world-wide pandemic, "correctional health is public health," and thus, "The Entire Community is at Risk if Prison Populations Are Not Reduced").

numbers of staff on a given shift. Immediate release of the Medically Vulnerable Subclasses thus not only imposes minimal harm to the government, it also furthers the public interest in maintaining a healthy and orderly environment throughout this crisis.

Unsurprisingly, courts acknowledge the weighty public interest when granting injunctive relief where incarcerated people face similarly grave threats to their health. At bottom, "[t]he public has a critical interest in preventing the further spread of the coronavirus."[213] Further outbreak at DOC facilities, like the detention center in *Castillo*, would "endanger all of us—[the facility] detainees, [the facility] employees, residents [of the surrounding community], residents of the State . . . , and our nation as a whole,"[214] and would "quickly overwhelm the already strained health infrastructure within the facility," given the drastic health staff vacancies, "which would then place strain on the surrounding community hospitals."[215] Decreasing the DOC's population—particularly by ordering immediate release of the Medically Vulnerable Subclasses—would mean that "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."[216] This Court should follow suit and take immediate action to minimize the spread of COVID-19 throughout the DOC and the Connecticut community.

CONCLUSION

For the foregoing reasons, this Court should grant the proposed Classes' Petition for writs of habeas corpus and grant the proposed Classes' request for an injunction against Defendants:

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[213] *Castillo v. Barr*, No. 20-00605, 2020 WL 1502864, at *6 (C.D. Cal. Mar. 27, 2020); *see also Thakker*, 2020 WL 1671563, at *9 (concluding "[e]fforts to stop the spread of COVID-19 and promote public health are clearly in the public's best interest").
[214] *Id*. at *6.
[215] *Coronel*, 2020 WL 1487274, at *7.
[216] *Id.*; *see also Basank*, 2020 WL 1481503 at *6 (explaining that in light of COVID-19 pandemic, "public health and safety are served best by rapidly decreasing the number of individuals detained in confined, unsafe spaces").

1. Requiring Defendants to identify all Medically Vulnerable Subclass Members in both the Pre-adjudication and Post-adjudication Classes within six (6) hours of the Court's order and release—within twenty-four hours of submission of the list—all such persons absent proof of judicially-recorded findings by clear and convincing evidence that the individual poses such a serious risk of flight or danger to others that no other conditions can mitigate; and ordering that Defendants provide these individuals with educational resources on COVID-19, including instructions that they should self-isolate for the CDC-recommended period of time (currently 14 days) following release.
2. Requiring a plan to be submitted to the Court in three days and overseen by a qualified public health expert agreed upon by the parties or ordered by the Court pursuant to Fed. R. Evid. 706, outlining:
    a. Specific mitigation efforts, consistent with CDC guidelines, to significantly reduce the risk of COVID-19 for all class members who remain in DOC custody; and
    b. An evaluation of whether release of the members of the Medically Vulnerable Subclasses permits social distancing by those who remain in DOC custody, or whether DOC must release additional members of the Classes to be in compliance with CDC guidelines; and
3. Reporting weekly on the population of persons in DOC facilities who are Medically Vulnerable.

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EXHIBIT A

Yale University

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Hon. Governor Ned Lamont

Office of Governor Ned Lamont
State Capitol
210 Capitol Ave.
Hartford, CT 06106

cc:
Judge Patrick Carroll, Chief Court Administrator;
Richard Colangelo, Chief State's Attorney;
Rollin Cook, Commissioner of the Connecticut Department of Correction;
Jonathan Dach, Policy Director;
Michael J. Freda, First Selectman of the Connecticut Conference of Municipalities;
Matthew Knickerbocker, First Selectman of the Connecticut Council of Small Towns;
Melissa McCaw, Secretary to the Governor;
Keith Mello, President of the Connecticut Police Chiefs Association;
Paul Mounds, Chief of Staff;
Marc Pelka, Undersecretary;
Christine Rapillo, Chief Public Defender of Connecticut

Dear Connecticut Leaders:

We write out of our grave concern that, absent immediate action, COVID-19 will overrun Connecticut's jails and prisons. That tragedy will have far-reaching effects not only for the thousands of Connecticut residents who live and work in correctional facilities, their families and communities, but also for the population of the state as a whole. Connecticut's healthcare system simply does not have the capacity to treat a massive outbreak in the incarcerated population at the same time as it treats patients throughout the rest of the state. As jails and prisons become flashpoints for infection, the outbreak will overwhelm already limited state healthcare resources.

Connecticut has days, not weeks, to chart a different future. Under current conditions, in which there is no cure and no widespread testing, the thousands of Connecticut residents who live and work in correctional facilities are simply unable to practice the most effective method of prevention: social distancing. To create the requisite spacing of 6 feet between individuals, the State must (a) rapidly decrease the density of its prisons, jails, and halfway houses and (b)

implement humane and evidence-based approaches to protect the health of incarcerated individuals and staff alike. Success is possible but will require coordinated, urgent action among all relevant agencies, including the Department of Correction, the judiciary, the Chief State's Attorney, law enforcement, the Department of Public Health, and the Connecticut Department of Housing. We call upon you to use the full powers of your office to lead the way through this public health emergency.

I. The Public Health Perspective

COVID-19 is a highly infectious disease. Due to its novelty, there exist few tools for containment and even fewer for treatment. The scientific community currently lacks a vaccine or cure. Neither the United States nor the state of Connecticut possesses sufficient resources to screen or test individuals, and projections show that, absent extreme intervention, infections will rapidly outpace available healthcare resources. We commend that your office has already taken decisive action to limit exposure among most state residents by ordering one of the few proven prevention methods: social distancing. As already seen in the reduced rates of new infections, social distancing works.

Unfortunately, effective social distancing is impossible under typical conditions in Connecticut's correctional facilities. In Connecticut's jails and lower security level prisons, incarcerated people sleep within feet of each other and use communal bathrooms, mess halls, dayrooms, and showers. Even in maximum security facilities, many people are double-celled and share spaces to eat, bathe, and recreate. Further, while the Department of Correction has already taken important actions, such as suspending visitors and volunteers, there is still a steady flow of people into and among facilities. Staff, officers, contractors, and vendors are still moving throughout and between facilities and they all link the facilities with surrounding communities. These individuals can introduce the virus into the facility or contract it themselves and transmit it to others in the community.

The Department of Correction has stated that it is employing standard measures used to contain other communicable diseases, such as the flu, but these are inadequate in the face of the novel coronavirus. COVID-19 is estimated to be nearly 3 times more contagious than the flu and is deadlier. Furthermore, we are learning more about this novel coronavirus every day and it is becoming increasingly clear that a significant percent of infections are transmitted by people even before they develop symptoms, meaning that there is no screening practice (checking temperatures or asking about symptoms) that is adequate. Additionally, whereas the flu is transmitted only by large droplets (i.e., 6 feet of distancing protects people), COVID-19 is now known to be passed in the air as well. Under these circumstances, even heightened hygiene practices—frequent washing of hands with soap, regular bleaching and disinfection of public surfaces, and the like—are insufficient. Further, proper containment and treatment of the novel coronavirus will require facilities to quarantine people and will surely put a strain on the already understaffed healthcare

system in the Department of Correction. At Yale-New Haven Hospital, we have already seen that as more people have become sick, staff have become sick as well, and we are struggling to develop adequate staffing plans. Sick individuals will need to be sent to community-based hospitals, which themselves are already struggling to provide adequate care to others.

While more must be done in the coming weeks and months, as a starting point, we suggest the following immediate actions:

1. To the maximum extent possible, reduce the number of people entering and re-entering the system. We applaud the state for already making efforts to mitigate dangers in this area, as announced in the Department of Correction's March 24 release. Police and State's Attorneys should decline to arrest or prosecute individuals except where an individual poses a serious threat to public safety. Parole officers should halt the reincarceration of people on technical parole violations.

2. Immediately release, to the maximum extent possible, people detained pretrial. As of today, we estimate that there are 2,905 unsentenced (mostly pretrial) people in custody, 95 of whom are 60 or older. For the duration of the pandemic, people should be presumptively released on personal recognizance, absent a showing of a compelling threat to public safety.

3. Immediately release all people convicted of nonviolent offenses who are scheduled to be released in 90 days, all people who are eligible for parole and community supervision/release, and anyone incarcerated for a technical parole, probation violation, or conditional discharge. As of today, we estimate that there are 4,112 people in custody with fewer than 90 days left on their sentences, 201 of whom are 60 or older. Additionally, we estimate that 1,503 people are currently in custody for violation of probation or conditional discharge, 51 of whom are 60 or older. The state should continue to exercise the use of transitional supervision more aggressively to facilitate the release of people with shorter sentences. Additionally, the Connecticut Board of Pardons and Parole should expedite the release of people already found suitable for release on parole, expedite all review processes for people eligible for parole, exercise its power to commute sentences, and use its discretion to grant compassionate parole release. The Board should refrain, however, from requiring transitional housing as part of that process, in order to prevent the spread of COVID-19 within these congregate settings.

The advantage of releasing the populations outlined above lies in the fact that most have spent less time incarcerated and are more likely to have maintained social bonds with their communities outside of prison. Their families and communities are better equipped to aid them in self-quarantine than are prisons, jails, and halfway houses. Individuals who fit the above criteria for release should be screened to determine if they have somewhere to live in the community where they can self-isolate if necessary. Individuals with such available housing should be prioritized for immediate release.

We note that the goal here is to thin the incarcerated population—by the most expeditious means possible, including releasing the healthy—to allow for social distancing. In some cases, sick individuals may have a more difficult time finding a safe place to live upon release, not least because of the lack of medical capacity in the state.

We are very appreciative of the significant efforts you have already made to ensure people who are released have safe accommodations in the community, and to ensure that no one is released to homelessness.

4. Transition older adults and medically vulnerable individuals to medical and community settings. Finally, we note that U.S. Attorney General William Barr, in response to requests from Congress for a plan to mitigate the risk of widespread COVID-19 infection in federal prisons, has recommended that the federal Bureau of Prisons release certain at-risk individuals—including individuals with certain medical conditions and individuals over 60 years old. We agree that this would be a worthy step to pursue in Connecticut, but we also emphasize that time is of the essence here. We do not yet have a COVID-19 outbreak in our correctional facilities, but we must act *now* to thin these populations out, social distance, and attempt to prevent one. That means releasing whoever can be released most quickly and safely now. The next step would be to address these at-risk populations. Many of the people who are most vulnerable will also be more challenging to discharge: those without housing and those who, due to medical complexity, require more comprehensive medical discharge planning. The state must nonetheless work toward releasing older adults and other medically vulnerable inmates, who pose the least public safety risk and are most at-risk of COVID-19 complications. To that end, we, the Yale Transitions Clinic, have created a hotline that DOC reentry coordinators and medical discharge planners can use to refer people to us, and we will figure out the medical discharge follow-up.

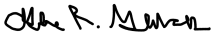
We are eager to work with your office to facilitate any of these critical efforts for the public health of our state. We would also be glad to work with you in convening public health experts and physicians to further assess these issues, and the appropriate medical and public health protocols for this population, as the pandemic evolves.

Thank you for your leadership on these issues thus far.

Sincerely,

Emily Wang, MD, MAS

Lisa Puglisi, MD



Abbe R. Gluck
Professor of Law and Faculty Director, Solomon Center for Health Law and Policy
Yale Law School
Professor of Medicine (General Medicine), Yale Medical School

Jackson Skeen
J.D. ’22
Yale Law School
Transitions Medical Legal Partnership

EXHIBIT B

Declaration of [redacted]

1. I, [redacted], declare as follows:
2. I am the wife of [redacted], who is currently incarcerated at [redacted].
3. On April 21st I spoke with [redacted] over the telephone and he told me he was sick with a fever and chills. He was moved to a different building and tested for COVID-19.
4. I spoke with him again on April 23rd, and he told me he had tested positive for COVID-19 and that he is being transferred to Northern Correctional Institution on April 24, 2020.
5. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.
6. I have authorized Grace Sinnott to affix my signature to this affidavit for me because I reside in [redacted] and it would take a minimum of seven days for me to receive a document, sign it, and return it by mail.

Executed this 23th day of April, 2020.

/s/ [redacted]

By:

EXHIBIT C

Declaration of Pattikate Williams-Void

1. My name is Pattikate Williams-Void, and I am sixty-two years old.
2. I have hypertension, and I also have post-traumatic stress disorder that raises my blood pressure. I am borderline diabetic.
3. I am being held at the York Correctional Institution in Niantic, Connecticut on a bond.
4. I have been here since March 6, 2020.
5. I was supposed to have a court date in my case on April 9th, but it was canceled and the court has not set a new date.
6. I am housed in 4 South, which is a medical unit, where I sleep in a room with one other person; my room contains a sink, a toilet, and a shower.
7. When we are in our beds, each person is less than six feet from the other.
8. My room is cleaned every two weeks. I am not able to get any disinfectant to clean any more frequently.
9. The common areas are cleaned once a day. I do not drink out of the water fountains because I do not think that they are clean. I wipe the telephone down with a rag before I use it because I do not think it has been cleaned.
10. The correctional officers do not regularly wear masks. Some nurses wear masks and some don't.
11. My unit has been locked down because of the COVID virus, and we only get around fifteen minutes outside of our rooms each day depending on which correctional officer is working that day.
12. I have to eat all of my meals in my room.

13. Although we are supposed to each have fifteen minutes to use the telephones, we have been forced to split one fifteen minute shift between everyone who gets out to make a call that day.

14. There are people who have been taken into my unit for fourteen-day quarantine because they are suspected of having the virus.

15. After my lawyer filed this lawsuit, medical staff began to take my temperature every day. Before that, they were not doing so.

16. I make these statements under the penalties of perjury, and I would testify to them in court if I were called to do so.

17. I have authorized Dan Barrett to apply my signature to this declaration because it would take at least seven days for me to receive a paper copy in the mail, sign it, and return it by mail.

/s/ Pattikate Williams-Void

April 24, 2020

by:

EXHIBIT D

Declaration of Thomas Caves

I, Thomas Caves, declare as follows:

1. I have been incarcerated at Corrigan-Radgowski Correctional Institution since March 22, 2019. I am 26 years old. I am housed in B pod of the Corrigan building. To my knowledge, there are 82 or 83 people housed in my unit, on two tiers.

2. Our facility has been on lockdown for 16 days. We get 30 minutes out of our cells per day. During that time, I have to choose between showering or making phone calls.

3. One other person lives in my cell. Our sleeping area is not cleaned or sanitized by staff. I was given one small medicine cup of cleaner and a few paper towels, once, to clean out my cell over the past 16 days. Correctional officers also passed out a small bar of soap per person about a week ago.

4. They are now cleaning the railings. But every time I come out of my cell, I supposed to put my hands up against the wall, and they don't clean the walls. And there's no sink out here to wash your hands.

5. I eat my meals in in my cell. Since we've been on lockdown, trash has been piling up outside our cell doors. Some staff will let people out to clean, but others use cleaning as a bargaining tool.

6. I do not have a shower in my cell. I share showers with the other 82 or 83 people housed in my unit. I also share 9 phones with everyone in the unit. They just started having a laundry worker or tierman (unit worker) rub down the phones between people. But when you use the phones, you're right next to the next person.

7. Within the last week, more staff have started to wear blue masks. It seems

like it is at their discretion—some people were wearing masks and some weren't. I don't know if staff temperatures are being checked. Our temperatures have not been checked.

8. One person in my block got sick and he was quarantined in his cell for 14 days. His cellmate was also quarantined in there with him. They weren't allowed out, even to take a shower. At the end of the 14 days, they took the temperature of the first person and he went to medical. They didn't test his cellmate or do anything like that. They then moved them both to another cell, together, four cells down.

9. Nobody in my block has been sent to Northern yet. Northern is a punitive, threatening place. I've never been there. I know that people with symptoms will be afraid to say anything because god forbid you get transferred to Northern.

10. I have asthma and stomach issues. Medical care here is really poor. In normal days, you'll submit a request and it will take between two weeks and a month to get it back. Then you will be seen within two or three weeks. I dropped in a request for my friend recently that said it was urgent and he has yet to be seen.

11. Since June of last year, I've been writing requests to medical to be seen for severe stomach pain and certain foods that set me off. I was just put on an antibiotic yesterday.

12. I want to give credit where credit is due. We are getting our two extra phone calls from Securus, and commissary gave out extra envelopes. But what's happening inside does not line up with what they are saying. I hear them talking about cleaning all shifts—that's definitely not happening. I am now on a hunger strike with five other people in my unit. They are striking for better conditions and better medical care. I feel like if people on the outside are advocating for us, we should do our part. DOC staff

have now threatened to take our commissary and our food for not taking our trays.

13. It feels like we're being punished because DOC had no adequate measures in place. We've been on lockdown for 16 days. It's not good for anyone's psychological well-being. People are started to lose it.

14. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

15. I have authorized Elana Bildner to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 17 day of April, 2020.

Thomas Caves

by

EXHIBIT E

Declaration of William Bruno

I, William Bruno, declare as follows:

1. I have been incarcerated at Brooklyn Correctional Institution for almost four years. I am fifty years old. I am housed in D Dorm of Brooklyn CI. To my knowledge, there are 114 people housed in my dorm.
2. D Dorm has been in lockdown for about a month. The lockdown means that we don't leave D Dorm anymore to eat lunch with other dorms or to go to rec. We still go outside once or twice per day. Other than that, we spend pretty much all of our time inside D Dorm.
3. D Dorm is one big, open area. It has a single dayroom, which we can use from 8:00am to 11:00pm every day. That means that all 114 of us are in the dayroom at once. We play cards there and watch TV. Usually, we are about 1-2 feet away from each other. I have never been told by CDOC to "social distance" from other people, or to keep 6-8 feet between me and every other person. Even if I was told to do that, it wouldn't be possible because there is not enough space. I believe the total size of D Dorm is 120 feet by 65 feet. This includes sleeping areas and the day room, but not the showers. I believe these are the dimensions because the tiles on the floor are each twelve-inch squares, and I counted the tiles.
4. In D Dorm, we do not have cells. Instead, we sleep in "cubes." "Cubes" are separated from the day room by walls that are about eight feet high, and that leave a gap of around six or seven feet between the top of the walls and the ceiling. Each cube sleeps six people on three bunk beds. When we sleep, we are probably 2-3 feet apart from the people in the other bunks. There's probably about an arm's

length between the people who share a bunk bed. These measurements are my best guesses.

5. CDOC gave each of the prisoners in D Dorm two masks. The masks are made of a tan cloth that looks to me kind of like the "inmate prison tans," and are lined with cotton. CDOC told us that we can use the masks at our own discretion. I only wear mine when I go out of D Dorm for medical visits, or when I am talking on the phone. I don't wear my mask when I am inside D Dorm. Most other prisoners don't either. I would guess that maybe 5% of people wear their masks when they are inside D Dorm.
6. The prison gives me soap. Usually, prisoners have to buy soap, but for about the last three weeks, the prison has been giving us bars of soap for free. They have told us to wash our hands often. I probably wash my hands a dozen times a day. I see other people in D Dorm washing their hands often as well.
7. D Dorm is cleaned three times per day by prison workers. They are supposed to clean the table tops too, but they can't because they don't have supplies. I clean on the third shift. I am still expected to do my job right now. If I refused to work, I would probably be written up for that.
8. Most of the guards wear masks all of the time, but some do not. Their masks are blue, but I think they are made from the same material as ours. A lot of staff wear gloves. I also see them using hand sanitizer from machine dispensers. Prisoners are not allowed to use the dispensers. Staff have also told us that they have their temperatures taken every day before they come into the prison. But I cannot verify that.

9. I have been on medicine for Hepatitis C, so, luckily, I am allowed to go up to medical every day. But for everyone else, it is taking longer than usual right now to get seen by medical. For example, we've been waiting for our flu shots for about three months, and we still haven't gotten them. The medical staff has told us that they haven't had time to give us all flu shots because they have been busy with other things. I do not know what the things are that they are busy with.
10. To my knowledge, I have not come into contact with anyone who has tested positive for coronavirus. I have not noticed anyone in my dorm with cough, fever, diarrhea, nausea, and / or vomiting. But I have heard that so far there have been seven people in B Dorm who have symptoms.
11. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.
12. I have authorized Sophia Angelis to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 14 day of April, 2020.

William Bruno`

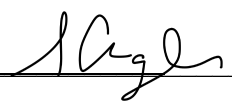
by 

EXHIBIT F

Declaration of Angel Caballero

I, Angel Caballero, declare as follows:

1. I have been incarcerated at Corrigan for a little over a year. I am 44 years old. I am housed in Bravo Pod ("B Pod") of Corrigan Correctional Institution. To my knowledge, there are 96 people housed in my unit.

2. Our facility has been on lockdown since approximately April 1. That's when I started keeping track. For a few days when the lockdown first began, we got 15 minutes out of our cell for rec. Beginning Friday, April 3rd we got no time out of cell for a few days after COs got into an altercation with an inmate.

3. Now we get at most 30 minutes of rec. Outside of our cells.

4. During rec, inmates can either take a shower or use the phone. There's usually no time for both. People have to choose between getting in touch with their loved ones and taking a shower. If you're not using the phone or the shower, then you can't come out of the cell.

5. On my pod, people are housed two-to-a-cell. They're allowing six people to take rec at once, releasing six people from three cells at a time. My cellmate and have been taking rec with the same group of four inmates every weekday since at least April 5.

6. Since April 5, I've been coming into contact with about 13 people daily. This includes my cellmate, the four other inmates we encounter during rec, and then approximately eight different COs. There are four COs per shift, and they take three shifts every 24 hours.

7. I share my cell with one other person. It's six feet by nine feet. We sleep approximately three feet apart. We sleep in a regular bunk; I've got the top bunk and he's

got the bottom. There are two chairs inside the cells so everything is really tight. The furthest amount of distance that we can have between us while in the cell is nine feet. That would require one person to sleep on the floor by the door.

8. COs pass our meals through the door. We eat all of our meals in our cell.

9. Inmate workers mop the dayroom, but it doesn't seem to get very clean. They'll mop it once during the first shift and once during the second shift. They don't usually mop during the third shift. The dayroom floors are only mopped sometimes. There's often still garbage left all over the tier.

10. We've been asking the COs for cleaning detergent and we haven't gotten any. We've been asking for two weeks now, and they've only given us a bar of soap to wash our hands with. We have to use this bar of soap to clean our living quarters as well.

11. It's a small bar of soap. I try to keep my cell clean by ripping pieces of fabric from my towel and using soap or shampoo to clean the floors.

12. The staff passed out soap on April 1st and on April 6th. They pass out a bar of soap about once a week. The last time I got soap was last week, the week of April 13.

13. The staff passed out one mask April 1st and another mask about a week later, on April 6th. The masks are made out of cloth. Today the COs exchanged our old masks for new ones. I wash my mask every day using the bar of soap using the sink in my cell.

14. Only some of the staff wear masks, and they only wear masks sometimes. Those that wear masks, wear masks made out of cloth. I don't see staff members washing their hands regularly, and they don't seem to carry hand sanitizer. They wear latex

gloves.

15. The inmates on our unit share six showers. They don't clean the showers after each use, and I don't know how often the showers are cleaned.

16. There are three phones per pole, and inmates can only stand about two feet away from each other when using the phones. The phones are not regularly cleaned. Sometimes inmates will wipe the phone down with a paper towel between uses, and I know that sometimes COs will direct an inmate worker to wipe the phone down using a watered down solution.

17. The staff has not provided medical services. I have several medical conditions: asthma, fatty liver disease, mild liver fibrosis, and high cholesterol. Since being at Corrigan, I have not received one of my preventative asthma medications. I have been trying to see a doctor for two months, and have filed a grievance. I still have not been able to see a doctor, and I have not gotten my preventative asthma medication.

18. At the beginning of the coronavirus pandemic, we received a staff memo that basically instructs us not to contact medical services unless we're showing symptoms of COVID-19.

19. I understand that I'm at higher risk because of my asthma and other chronic health conditions. I have repeatedly asked multiple staff members--the warden, unit manager, my counselor, and lieutenants--what kind of precautions they're taking for people like me, who have asthma and health conditions. No one has given me a response.

20. There are two people on my tier who I believe have had COVID-19. They share a cell and they began to get sick around April 2 or April 3. Since they began to get sick, they were forbidden to leave their cell. They were forbidden to shower, to make

phone calls, or to even clear the trash out of their cell. The only treatment that I could see is that a staff member would come in once per shift to take their temperature. They were in this isolation for two weeks, and have recently been released back onto the tier.

21. I regularly spoke to these guys when they were isolated in their cell. The cell in which they were isolated was very close to the phones. You could easily speak to them through an opening at the bottom of the door. I know that one of the guys actually tested positive for coronavirus, and so I assume that his cellmate also had it.

22. I spoke to the COs about their bad treatment of these sick guys. I argued that those guys should get showers, and that what the COs were doing was wrong. No one made any changes.

23. I have not been tested for coronavirus, and as far as I know, no one else on the tier has been.

24. I am very stressed because I don't want to get sick. I have asthma so I'm at risk, and I don't want to bring anything home to my moms and get her sick. When I ask staff members what they're doing to protect us, they tell me not to worry about it because I'm getting out in about 30 days. I don't want to go home in a body bag.

25. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

26. I have authorized Faith Barksdale to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 22 day of April, 2020.

s/Angel Caballero

by Faith Barksdale

EXHIBIT G

Declaration of Marcus Champagne

1. I, Marcus Champagne, declare as follows:
2. I have been incarcerated at Hartford Correctional Center (HCC) since February 20th, 2020. I am 24 years old. I am housed in Dorm 4 of HCC. To my knowledge, there are 120 people housed in my unit, 60 on each side.
3. I have severe asthma, and multiple immune disorders (psoriasis, eczema, and alopecia).
4. Our facility has been on lockdown every day for about a month. During this period of lockdown, I can only leave the dorm to shower and use the phone.
5. I sleep approximately 4 feet above and approximately 4 feet away from the people in the next beds over. Our sleeping area is not cleaned or sanitized by staff. Two inmates have left to go to medical with fevers and the staff did not wipe down their areas. We do not get provided cleaning supplies other than two bars of soap in the past month. Most recently, we received a bar of soap on April 13th, 2020.
6. I eat my meals in my dorm, and the CO who passes them out doesn't wear gloves or a mask.
7. I share 4 showers with approximately 60 other people. The showers are not sanitized, they are only cleaned with hot water.
8. Since the onset of the coronavirus pandemic, I have observed staff re-using gloves and gloves and failing to wear masks. CO's have told me that they are scared, because they are not provided with masks and have to bring their own. They haven't been able to find enough at stores.
9. Staff have provided me with one mask made out of cloth. The vast majority of

inmates have been wearing the same cloth mask for the past 2 weeks without washing it.

10. I have come into contact with someone in my facility who has tested positive for the coronavirus. The prison staff did not go through proper precautions to clean afterward. They sprayed his bunk one time with water, but no bleach. In addition, people have been sick and asking to go to medical and have been denied. I've seen 3 or 4 people sick with coronavirus symptoms, and only 2 have gone to medical. One of those people had been asking repeatedly for the entire day. Both of the people who have been to medical didn't come back to the dorm.
11. Right now, I am sleeping two bunks away from someone who tested positive for COVID-19 and was sent to Northern, then moved back to Hartford CC after two days. He was quarantined at Hartford for 16 days, he told me. I feel nervous about sleeping so close to someone who tested positive.
12. I feel like I'm a lab rat trapped in a small place waiting to get sick.
13. The Commissioner has been saying that the CO's are getting the proper amount of gloves and disinfectants, but from what I see, they're not getting anything at all.
14. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.
15. I have authorized Madeline Batt to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 23rd day of April, 2020.

Marcus Champagne

by

EXHIBIT H

Declaration of Alex Flemming

1. I, Alex Flemming, declare as follows:
2. I have been incarcerated at Northern Correctional Institution since February 14, 2020. I am 24 years old. I am housed in the 1-West unit of Northern. To my knowledge, there are 6 people housed on my tier.
3. Approximately 40-50 people were transferred into my unit as a whole around early April. I was given a new cell-mate who was transferred in, but he was transferred to a different cell after one day. I was told he would be placed back in my cell again if he was found to be on special parole. Since then he has been transferred back to my cell.
4. I have a heart condition called Supraventricular tachycardia as well as a right branch bundle blockage, and I have to take heart medication twice daily.
5. I get recreation one hour per day Monday through Friday. Sometimes they cheat you and only give you 40 minutes. I get rec in an individual cage. There are three individual cages separated by fences with holes in them, and when they first started taking coronavirus seriously, they left the middle cage empty. Since they have started getting more transfers, they have been filling up all the cages again. I would be close enough to touch the person in the next cage over if there wasn't a fence. I do not go to rec with the same people every day, sometimes it's people from other tiers.
6. The conditions here at Northern are brutal. I saw an inmate being assaulted by two correctional officers. The inmate was escorted by one officer and when he reached the blind spot, where the camera couldn't see them, the other officer joined in and they beat him. He couldn't defend himself because he had his hands cuffed behind him. I had to walk to end to the shower because I didn't want to view the image anymore.

7. I do not have a cellmate. My cell is not cleaned nor sanitized by staff. We are each provided a dustpan, broom, lemonall, and some paper towels. They give you one small styrofoam cup of lemonall two times a week, which is double from before the coronavirus, but it's still not enough to clean every time a correctional officer enters my cell.
8. I eat my meals in my cell.
9. The water is not drinkable here. I don't drink it because it bothers my stomach a lot. Other inmates have told me it's been like this for a long time. I only drink the milk and orange juice provided to me.
10. The staff do not provide us with soap. I asked for soap and was denied, I was told that I have to be indigent to be provided with soap. When I've needed soap in the past two weeks, I've gotten it from the commissary for a fee. I do not have access to hand sanitizer.
11. I do not have a shower in my cell. I share a shower with approximately 20 other people, including people on my tier, people from neighboring tiers, and the inmates who are allowed to clean the building. I also share 4 phones with half of the facility.
12. Since the onset of the coronavirus pandemic, I have observed staff wearing masks. They have said they check temperatures of staff members before they come in but I have no way to confirm this.
13. Staff have not provided me with guidance about how to protect myself and others from coronavirus transmission. They just gave notice that we would have to use the phones faster and have two people at a time in the rec cages instead of three – though that lasted only a week before they started filling the middle cage again. They have provided me

with one mask made out cloth of in approximately the beginning of April.

14. We have been requesting that they clean the ventilation systems because we all share the same air. Prisoners from Corrigan came to clean Northern around March 22nd, 2020, but they did not clean the ventilation. We have not gotten any response about cleaning the ventilation.
15. When I seek treatment for a medical condition, it usually takes me a week to two weeks to see a doctor. Sometimes if it's really urgent you can request to be pulled out of your cell right away, but they get to decide how urgent it is. I requested treatment for two confirmed cavities, and was supposed to get treatment in February, but it still hasn't happened.
16. There have been a few times that they haven't had my heart medications, but they marked it as me refusing my medication in their records. This has happened before and after the pandemic. I had a doctor I really liked who prescribed the heart medication for me to have in my cell with me, because it's important for my health. But he has been gone since mid-March, and I no longer have my medication in my cell with me.
17. They are no longer running mental health groups at Northern. There is really no mental health counseling happening anymore unless someone writes to a mental health counselor asking to be pulled out of their cell because they are imminently suicidal. There is also a buzzer to press but no one really answers those.
18. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.
19. I have authorized Madeline Batt to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a

document in the mail, sign it in front of a notary, and return it by mail.

Executed this 21st day of April, 2020.

Alex Flemming

by

EXHIBIT I

Declaration of Tyquwane Gilchrist

1. I, Tyquwane Gilchrist, declare as follows:
2. I am currently incarcerated at Bridgeport Correctional Center, where I have been incarcerated since Dec 23rd, 2019. I am 25 years old.
3. I live in North Wing in Bed C13. I live in a dorm with about 58 bunks, 2 people per bunk. They were full until around mid-late March, but now it feels kind of empty because so many people have been sick. I sleep three feet away from the person in the bed closest to me. I have not seen any additional cleaning happening since the start of the pandemic.
4. I first started feeling symptoms of coronavirus around March 20th. I told medical staff, by sending a request and by speaking to a staff member who came by, that I was feeling symptoms, but they wouldn't take me out of my dorm.
5. I had symptoms for about two weeks before anyone did anything.
6. After two weeks, medical took my blood pressure. They said it was super high, to the point where I could have had a stroke. At that point, they moved me to the medical unit.
7. I was isolated from approximately April 2nd to April 6th, in the medical unit of Bridgeport CC. I was in a cell by myself at first, then later with three other people who had tested positive for the virus. I was never tested for COVID-19.
8. For the duration of the time that I was there, I could not make any phone calls, including legal calls and calls to my family. I could not shower. I did not have access to recreation. They did not give me sheets, so I was sleeping on a bare mattress.
9. The medical staff and correctional staff I interacted with were not wearing masks.

10. I was given blood pressure pills while in the medical unit. They checked my blood pressure once per day.
11. Now I am back in general population. I still have pinkeye in both eyes, which they gave me some eye drops for during isolation. But I never received the antibiotics they promised me after I told them the eye drops weren't doing anything.
12. Six people in my dorm have tested positive for the coronavirus. They were sent to Northern, but now they are back here. They said they were at Northern for two days, then Hartford for two days, then straight back here to general population.
13. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.
14. I have authorized Madeline Batt to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 23rd day of April, 2020.

Tyquwane Gilchrist_____

by _____

EXHIBIT J

Declaration of Chaz Gulley

1. I, Chaz Gulley, declare as follows:
2. I have been incarcerated at Corrigan-Radgowski Correctional Center since May 2019. I am 35 years old. I am housed in the restrictive housing unit, which houses inmates from both the Corrigan and Radgowski buildings of my facility. To my knowledge, there are 48 people housed in my unit.
3. My facility has been on lockdown every day since approximately March 31st, after people within the facility started testing positive for COVID-19. During this period of lockdown, I usually get 15-minute showers on Mondays, Wednesdays, and Fridays. I've been told I can choose between half an hour of rec and half an hour phone call each day, and I've always chosen the phone call, but sometimes they don't allow phone calls at all. That is the only time I am allowed out of my cell. I eat meals in my cell.
4. I don't have a cell-mate. My sleeping area is not cleaned nor sanitized by staff. I am not provided cleaning supplies to clean my own cell. I can request someone to come clean my cell, but that won't happen during lockdowns.
5. The staff provide us with soap when we request it. I do not have access to hand sanitizer.
6. Our unit shares approximately 2 showers for 48 people. I also share 1 phone with the entire unit. Handcuffs are not sanitized between uses, and anyone who comes out of cell in my unit has to wear handcuffs.
7. Since the onset of the coronavirus pandemic, I have observed staff wearing masks and gloves, but not consistently. It depends on the day how many staff are actually wearing protective equipment.

8. Staff have provided me with a memo of guidance about how to protect myself and others from coronavirus transmission, and one mask made out of cloth.
9. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.
10. I have authorized Madeline Batt to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 8th day of April, 2020.

Chaz Gulley

By _____

EXHIBIT K

Declaration of Zain Hussain

I, Zain Hussain, declare as follows:

1. I have been incarcerated at Cybulski since June 1, 2018. I am 43 years old. I am housed in E block, which houses the Second Chance Program. I have completed all the programming they have asked me to and more. To my knowledge, there are close to 100 housed in this block.

2. I am a kitchen worker at Northern. I have done this job for 19 months. I usually wake up at 3:30 a.m. and go in to Northern from 4 a.m. until 11 a.m., seven days a week. Last June, I switched to second shift, which is 11 a.m. to 5 p.m., also seven days per week.

3. After Sunday, March 29, we stopped going to work at Northern. When we were leaving to go to Northern that day on second shifft, a kitchen worker was coming back from first shift and sweating bullets. They took his temperature, which was 103.7. They still sent us to work at Northern that day, but that was our last day of work.

4. The first people to get sick in E block were taken out on March 30. There was one guy taken out with a fever of 104. He was really sick. They started moving them from E block to another block, H block, which is usually the intake block at Cybulski. Even though they were sick, they made them clean out the block. They then put them in seg, two to a cell. They were in there for days, unable to take a shower. Then they moved them to Northern.

5. People continue to be taken out of my block because they are sick. There were a couple people taken out of E block in the last week. The two people that they took out last Friday, April 10, were pretty bad. They had fevers and looked like death. I know

some people have been hospitalized at UCONN.

6. They were doing temperature checks for a week, checking temperatures once per day, but then they stopped. The last time they did it was April 11.

7. I asked a medical worker if I could be tested for COVID-19. She said I could, but that if I wanted to get tested, I would have to pack up my stuff and go wait in H block with everyone else who had been tested to wait for the test results. So I would be put in with a bunch of other people who are definitely sick with fever, while I waited for my result. I decided not to.

8. A guy yesterday had chest pains and got a rapid test. He works for the laundry department here. He said he wasn't scared of Northern. In 10 minutes they told him he had the antibodies but you're not positive any more. He's back in the block now.

9. There have been 10 or 11 guys so far who have come back from Northern. They haven't been retested for COVID-19, to my knowledge. They just bring them back when their symptoms are gone and don't have fevers. Some people still haven't come back.

10. I have asthma and diabetes. I have two asthma inhalers. I had pneumonia twice in 2017. I have never been higher than a Level 2 inmate here.

11. There's no social distancing here. If I use the microwave or toilet, someone goes and uses it right after me. They are serving food to us right in the block. We eat on our bunks or on tables. The block is one big room with cubes for sleeping around the outside. There are 15 cubes, with eight guys to a cube. Each cube has four bunk beds, about four feet apart. We share one bathroom with three urinals and four stalls. We share six or seven showers. The tiermen clean twice a day. If I use the phone, I

clean it with stuff that looks like windex.

12. COs started wearing masks after a couple of them caught the virus. I wear my mask most of the time, but I wonder what the point is because you can't social distance in here. The mask is a tan material, the same as our pants.

13. I understand we all broke the law. The in people here are trying. They gave us some bleach for a time, then lemonall products and glass cleaner for the phones. But what is the point of keeping us in here like this when we're all on top of each other. Put us on an ankle monitor and let us out. I have a house to go to. I have a home where my fiancee has never been in trouble, in Connecticut, and a job waiting for me.

14. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

15. I have authorized Elana Bildner to affix my signature to this declaration for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail, assuming I could do so.

Executed this 17th day of April, 2020.

Zain Hussain

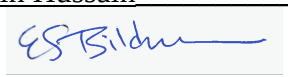
by 

EXHIBIT L

Declaration of Roger Johnson

I, Roger Johnson, declare as follows:

1. I am incarcerated in the E dorm of Cybulski. I will be 55 on April 29 of this year.

2. In prison, I work as a detail worker at Northern, meaning I am transported from Cybulski to Northern in order to clean that prison.

3. When I was cleaning in March, I was not protected at all. I had a pair of rubber gloves, but no mask or hazmat suit or anything.

4. March 28 was my last day of work at Northern. One of the kitchen workers in Northern had tested positive for COVID-19, so they stopped taking us to work.

5. They checked my vital signs back at Cybulski on March 30. I had a high fever. The nurse looked at me strangely and left. I stayed in the unit for a few hours. A couple hours later I was called out with two other individuals. We took COVID tests and then sat there for hours waiting.

6. After a few hours, we were moved to H dorm at Cybulski. We had to move our stuff out ourselves. Then they sent us down to H dorm with bleach and forced us to clean it out ourselves, even though we were all sick. This made no sense. They knew this virus was coming and they knew this would happen way ahead of time. They could have done this weeks ago. Instead, they waited until it actually occurred and then sent sick people down to clean up the dorm.

7. The three of us from E dorm were in H dorm for a week. Once we tested positive, they put us in seg. It's a small cell behind the captains' and lieutenants'

building. The ventilation system there is really bad. I was put in seg with another guy from E dorm. The cell had mold all over the ceiling. I started to complain—I have respiratory issues and it was terrible. There was a toilet in the cell, but I was in there with another guy and there was no privacy. We weren't allowed to leave to use the phone to call, not even to call and our emergency contact that we were sick. The COs were trying to avoid the area. The nurses were calling us "little Covies" even before we got our test results. There were guys who had gotten sick before us in E dorm, and they were stuck in a seg cell for 10 days.

8. I started to get upset. I made two requests to mental health before they finally came. A person from mental health came with the nurse and two lieutenants. As I was expressing my concern, she said "People are dying. People are dying." I said, "well, you're trying to kill me." The lieutenant told me you requested to speak to mental health because of this? I said of course, look at the conditions. It was like a joke to her. I just felt like an animal, the way they did this. And even though it was a quarantine area, staff kept coming through to see who was in the cell and breaking the quarantine.

9. The nurse told me I would be leaving soon. I was transferred to Northern the night of April 7, around 10:30 p.m. I was transported in a regular van, with a bunch of other people.

10. When I got to Northern, they took our vital signs—temperature and blood pressure. Then they put us each in a cell for five days, in 2West. I was put in cell 202. We weren't allowed to leave our cells at all, except for one phone call.

11. There were guys close to me from Cybulski. There were guys downstairs from Corrigan and Radgowski. There were some from HCC and Cheshire, all around the

state. There were people in all the cells. I think 2W and 3W were both full.

12. I heard coughing. Some guys were taken out on stretchers and wheelchairs. It was a really sad situation. Staff were wearing hazmat suits.

13. There were two nurses on each shift who took vitals. There was a CO who went around every 30 minutes. That was it. There was no specialized medical care or anything that I saw. I had my property with me. They didn't give us any cleaning supplies—just whatever you already had. I didn't take a shower for two weeks. When I asked why I couldn't take a shower, they said if we took a shower we would get the virus in the air.

14. People starting kicking their doors trying to get a phone call. After three days, they finally let us have one call. I called my mom. That was the only time I got out of my cell when I was at Northern.

15. I was in Northern for a total of five days. After five days, we were told that we would be going back to H dorm at Cybulski. We were also told that before we got back, they would test everyone in E dorm for COVID-19 with new tests. We were supposed to leave Monday, but they took us out early, on Sunday, after taking our temperature.

16. Instead, when we got back to Cybulski, they put us back in E dorm. They told the other people in E dorm we were "cleared," but we didn't have another COVID-19 test, or test negative, or anything like that. Everyone was worried about us being back here. Right now, there are 112 guys in the block and they are not practicing social distancing. You can't.

17. When we got out of quarantine at Northern, there were people already

coming in to take our spots.

18. When I got back to E dorm, guys were taking Tylenol and aspirin to try to hide fevers so they wouldn't get moved out to Northern. Nobody wants to go there. Meanwhile, a lot of guys I know are telling me they probably have the virus because their bodies are aching, they lost their smell and taste, but they don't want to get tested. Still today, in here, you got guys doing a lot of coughing. There's one guy who is overweight, he doesn't look good at all.

19. Recently, staff actually stopped bringing in aspirin so people can't take it any more. But they also stopped taking our temperatures. So everyone is still in here, no vital signs, nothing. There's still no special cleaning. They stopped giving us bleach—just some stuff that looks like bleach. Whoever feels like cleaning, cleans.

20. The officers have a desk here that's right near the counselor's office. They put up tape so that we stay six feet away from it, even though they're sitting up high on an elevated platform. But that just takes six feet of space away from us, so we're all closer together.

21. I'm trying to stay on my bunk and stay away from other people, but it's hard. I wear my mask all the time. It's giving me a sore on my nose. While I was sick, I had a cough for two days and the fever. I am feeling better, trying to get my lungs back, a little weak. I heard someone died. This is scary situation for me. I'm at the end of my bid. To experience this now, it's scary. I don't know what's going to happen next.

22. As we speak, a guy is moving out of my dorm. He requested to be tested and they just moved him to H block. He just packed up his stuff and walked down the hall. There was another guy last night who requested to be tested and they said it came up

positive for antibodies, but they put him back in the unit. This guy is still walking around the cube, with no mask.

23. It's clear to me that DOC did not have a plan for this. They didn't know how to deal with this. It is just crazy.

24. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

25. I have authorized Elana Bildner to affix my signature to this declaration for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 17 day of April, 2020.

Roger Johnson

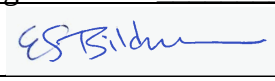
by 

EXHIBIT M

Declaration of Frank Kelly

1. I am an adult.

2. I have been incarcerated at Garner Correctional Institution since January 2, 2020. I am 25 years old. I am housed in Fox Unit. To my knowledge, there are currently approximately 25 people housed in my unit, but the number of people fluctuates daily.

3. I get at most one hour out of cell per day. When people in my unit leave their cells, they are escorted by an officer. The officers hold people's arms while escorting them. The officers wear gloves, but many do not change their gloves between each person they escort. The officers also use handcuffs while escorting some people. They do not sanitize the handcuffs each time they place them on someone new. Wearing a mask is optional, and most officers do not wear them. Sometimes officers place multiple people in recreation "cages" at the same time so that they are within six of feet of one another.

4. I do not share my cell with anyone else. My sleeping area is not cleaned nor sanitized by staff. I am only provided supplies to clean my own cell once per week. I am provided with diluted cleaning supplies to clean. I do not have access to hand sanitizer.

5. I am only allowed to shower three times per week. I do not have a shower in my cell. I share approximately five showers with everyone in the unit.

6. I also share two phones with my entire unit. I am allowed to make three 15-minute phone calls per week. The phones are not always cleaned in between calls.

7. There is one person who is responsible for cleaning the entire unit, including the common area, outside recreation area, counselors' units, phone booths,

showers, and individual cells after people are transferred. He cannot clean the unit sufficiently each day.

8. Staff have provided guidance about how to protect myself and others from coronavirus transmission by placing posters in the unit. They have also provided me with two masks made out of the same material used for our uniforms.

9. Some staff members have tested positive for COVID-19. I have no way of knowing if I have come into contact with them.

10. I have been diagnosed with asthma. I have been hospitalized two times due to asthma while in the custody of the Department of Corrections. Both times, I was taken in an ambulance to an outside hospital.

11. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

12. I have authorized Wynne Muscatine Graham to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 16th day of April, 2020.

Frank Kelly

by

EXHIBIT N

Declaration of Austin Kerr

1. I, Austin Kerr, declare as follows:
2. I have been incarcerated at Corrigan Correctional Center since approximately September 2019. I am 22 years old. I am housed in B pod at Corrigan. To my knowledge, there are approximately 100 people housed in my unit.
3. Around two or three weeks ago, I started experiencing symptoms of COVID-19. I felt a headache and a sore throat.
4. I told correctional staff about my symptoms the same night I felt them, because I didn't want to get anyone sick on my recreation.
5. Correctional staff seemed appalled. They quickly distanced themselves from me, and they said my cell-mate and I couldn't go for recreation. I called the CO using my buzzer, and told them they couldn't take away our rec, so they sent me to medical.
6. At medical, they took my temperature and as far as I know I didn't have a fever. They sent me back to my cell. I remained in my cell that night and my cell-mate and I were permitted to shower but not to go to rec.
7. The next morning, my cell-mate (who was not symptomatic) and I were quarantined together in a cell in our unit. Approximately 9 days after I was quarantined, I was told I tested positive for COVID-19 by Correctional Officers. Medical staff did not communicate with me about my test. When I asked them, they said they would let me know the results after a few days, but they never did.
8. In total, I was in isolation for 15 days. I was not allowed out of my cell at all during that time.
9. I was not permitted to shower or go to recreation. I did not have access to the phone, even

for legal calls. No one was coming to collect garbage until I complained repeatedly about the trash piling up. After that they collected the garbage once, and I believe that was the only time it was collected while I was isolated.

10. I repeatedly expressed discontent with my conditions to staff, including lieutenants, but no one did anything. I covered my cell window and flooded my cell to try and get conditions to change, but nothing changed even after staff came to deal with those situations.
11. I was not provided with any healthcare to alleviate my symptoms while I was isolated. Medical staff came to take my vitals twice a day, and one time they came because I said I was having trouble breathing. They checked my breathing and said I was good.
12. The staff who I interacted with were wearing gloves, masks, and gowns.
13. This form of isolation negatively affected my mental health. I had trouble sleeping and felt depressed. I felt like I was losing it, because I was in seg without having done anything wrong. The worst part was that I couldn't call my family. I could have died in there without anyone knowing.
14. I was let out of isolation after 15 days. I don't know why I was let out on that day. I did not receive any additional COVID-19 test before being let out of isolation.
15. Before I went into isolation, people in my unit at Corrigan were still getting normal rec in groups of about 20 people. Now people go out to rec for 30 minutes in groups of 2 or 3.
16. Before and after isolation, I have shared 6 showers with approximately 100 other people in the unit. I also share 9 phones with my entire unit.
17. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

18. I have authorized Madeline Batt to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 20th day of April, 2020.

Austin Kerr_____

by _____

EXHIBIT O

Declaration of Kezlyn Mendez

1. I am an adult.

2. I have been incarcerated at MacDougall Walker Correctional Institution on and off since 2014. I am 33 years old. I am housed in N pod. To my knowledge, there are around 66 people housed in N pod.

3. We are not on lockdown, but our movement is restricted. We get three hours and 30 minutes total out of cell per day. We use our time out of cell to shower and use the phone. We can also play cards, chess, and dominoes. We are allowed to go outside and play basketball. There is no social distancing when we are out of our cells.

4. I am in a cell by myself. My sleeping area is not cleaned or sanitized by staff. I am provided with diluted cleaning supplies to clean my own space.

5. We eat meals in the dayroom of the unit. During mealtimes, we are spaced about a foot apart.

6. The staff do not provide us with soap. When I have needed soap in the past two weeks, I have gotten it from commissary for a fee. I sometimes cannot buy other items I need from commissary so that I can afford soap. I do not have access to hand sanitizer.

7. I do not have a shower in my cell. I share eight showers with approximately 12 other people. On the tier below me, roughly 40 people share eight showers. The showers are typically cleaned three times per day. The showers are cleaned with diluted cleaner. The showers are not sufficiently clean.

8. I also share eight phones with my entire unit. The phones sometimes get used about 50 times in between cleanings. I put a sock over the phone before I use it to protect against germs.

9. I work as a barber, and I am still expected to work. I try to wipe down all of my equipment in between each haircut.

10. Since the onset of the coronavirus pandemic, I have observed some staff wearing masks. I have not observed staff wearing gloves.

11. Several staff members in my facility have tested positive for COVID-19. I saw one of these staff members standing within a foot of someone who was incarcerated.

12. Staff have not provided me with guidance about how to protect myself and others from coronavirus transmission. They provided me with a used cloth mask about two weeks ago.

13. I have not come into contact with anyone who has tested positive for the coronavirus. However, there are people in my unit who were recently transferred from another prison where they lived in an open dormitory with someone who tested positive. I have come into contact with people who have been coughing.

14. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

15. I have authorized Wynne Muscatine Graham to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 15th day of April, 2020.

Kezlyn Mendez

by

EXHIBIT P

Declaration of Robert Miller

I, Robert Miller, declare as follows:

1. I was incarcerated at Carl Robinson Correctional Institution from December 2018 until April 3, 2020. I am 34 years old. At Carl Robinson, I was housed in 3B (building 3, on the B side). To my knowledge, there are 180 people in each building: 90 on A side and 90 on B side. It's a dormitory setting: We share showers, toilets, phones, tables, everything.

2. Before I left Carl Robinson, we were struggling to get the proper cleaning products. In March, the warden had come to talk to us and said we would get extra soap and bleach to use for cleaning because of the virus. But three weeks later, we still hadn't gotten anything. We were cleaning the dorm with our own toilet paper—we each get only one roll per week—and our own soap. We had to decide between using soap to clean our bodies or to clean our areas. So on March 24, we wrote a letter to our counselor supervisor saying that we were not able to clean our environment properly. We were asking to clean and being told they didn't have paper towels, or being denied spray bottles. The detail workers were able to clean the phones, bathrooms, and the vents on their designated shifts, but they weren't cleaning the floors, bunks, lockers and walls. Why did DOC not give us ways to clean anything? It was clearly hazardous.

3. There were other issues too. Medical would hand us pills without gloves on. When we complained, they told us they didn't have to wear gloves or masks. I wrote a request about it. They also started giving us "off" portions of food, and old food, about a month ago—we would get a lunch portion of food for dinner: two slices of bread, two slices of baloney, one slice of cheese, a little coleslaw, a small bag of chips, and milk.

When they did clean the phones and the bathrooms, they would kick out the whole building and put us all in the gym together, or put half of us in there at a time. Despite the virus, COs continued to shake down peoples' areas, usually three bunks a day, but sometimes up to a whole section. Even if they were coughing or sick, they would go through all our stuff thoroughly, touching everything. One of the COs in our block already had tested positive for COVID at that point. And they weren't wearing masks until recently. The warden is did address certain issues but the COs did not do what she said.

4. On Wednesday, April 1, we got word that A side was not going to eat lunch in protest of the conditions. Everybody on B side decided that if A side wasn't eating, we wouldn't either. I later heard that it went from building to building. We all shared whatever food we had; I gave a guy the last soup I had in my locker. Then when time came to get our trays—we had to go outside to get them, no matter what the weather was—and the correctional officer asked whether we were going down to get them, everyone says no. We didn't scream, yell, or throw things. We just said no, we weren't going to eat that one meal.

5. At the time, all the staff was on A side. Then the warden, deputy warden, lieutenants and other officers started to leave the building. Then when they heard we weren't eating, they came to see us. We all sat on our bunks and had a conversation: We told them everything that was going on, and how we hadn't gotten bleach or any cleaning products that we were supposed to get. We also explained the issues with the food, which was rancid, old, and often moldy. One of the captains said he didn't believe us. The conversation ended and the officers left. The next day, nothing happened. We just called

our families and told them about it.

6. That Friday, a correctional officer came and told me I needed to go down to the processing area (A&D) and get a new ID. Instead, when I got there, a bunch of correctional officers rushed me and threw me against the wall. They put me in shackles and twisted my arms up. Then they put me in a van and took me to Northern. They told me I was under investigation. They didn't say what for.

7. When I got to Northern, they strip searched me and threw me back in shackles and put me in a cell. I didn't have my morning medication. I had to beg them to give me my albuterol inhaler, because I have asthma. My body was also starting to go numb. I was lying on the floor, wheezing, and calling for help. I pressed the intercom in the cell for help but was told multiple times to stop pressing the button. The COs just kept ignoring me when they walked by. My lungs were getting tight and painful. I yelled to the person two cells down to get help. When I was able to speak to a CO, I asked them to call a "code white," which is a medical emergency. They refused.

8. I also take a medication named neurotin in the mornings. If I don't take it, my left side will go numb and I'm unable to walk or to use my hand. I didn't get the pill that morning. After hours went by, a CO on second shift finally brought me to medical, and he had to help me get up and walk. They helped with my asthma, but I didn't get the neurotin until later that night.

9. I was put in Northern just to silence me. I can't afford to take a ticket for something I did not do. If we don't feel like going to chow, we don't have to. A hunger strike is technically missing six meals; we just turned down food once.

10. Here at Northern, I am in 1West in a cell the size of a closet by myself.

Other people are here, including some from Robinson. I still haven't had a hearing for my ticket. I'm past my amount of seg days. I'm only allowed to go shower three times a week for 15 minutes each. I'm not allowed to order commissary or have my TV or hotpot.

11. Outside my window, by the entry to 2West, I've seen tons of people getting transported in here in shackles, with workers wearing Hazmat suits. Some of the people getting transported were doing badly and looked like they were hurting. The first night I was here, people were coming in all night long. Earlier that day I saw them bring in maybe 50 mattresses to the same building. They now have a tent set up there. I've heard ambulances coming by. One of the tiermen said that they had to open another block because they had too many people with COVID-19 here, and that it was already over 100.

12. They have continued to bring people in. They are doing it at night with the lights off. Some of the COs have been wearing hazmat suits and some are not. Some are wearing normal clothes and others are not. When I look outside my window, I can see debris all over – gloves, hair nets, shoe covers, a broken pallet, and hangers.

13. The ventilation in here is crazy. The air is either hot and muggy or freezing. When it's cold here, it's really cold. In order to sleep, I need to sleep with sweatpants, a sweatshirt, thermals, and a T-shirt, under the blanket, and it's still too cold to sleep. And if it's not freezing, it's too hot and muggy.

14. The COs here are giving us a Styrofoam cup of Lemonall and paper towels to clean. There are showers on the tier but you have to go half-naked. You can't clean the showers before you get in, and you're transported there and back in handcuffs

that aren't cleaned.

15. You can only make three phone calls per week. I was taken here on April 3 and now I'm still here. Nobody is telling me anything. They aren't testing anyone in this part of Northern for COVID-19. I put in a sick call on April 9, and I was just seen on the 19. I told them I needed a refill of my inhaler because my asthma feels like it's getting worse and I feel like I've had a cold for weeks. All he did was check my vitals.

16. I understand this is prison, but even still there's a way it should be run and a way it should not be. At Robinson, they were letting us stay up late at night and keeping the TVs on and phone and extra channels, all to keep us calm. But they weren't letting us do what we needed to do to protect ourselves from this virus. They turned a blind eye to us.

17. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

18. I have authorized Elana Bildner to affix my signature to this declaration for me, because I'm incarcerated, and it would take a minimum of 10 business days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 20 day of April, 2020.

Robert Miller

by EB

EXHIBIT Q

Declaration of Luis Pagan

1. I, Luis Pagan, declare as follows:
2. I have been incarcerated at Northern Correctional Institution since June 2017. I am 34 years old. I have asthma and an autoimmune disorder. I am currently housed in 1 East unit at Northern. To my knowledge, there are about 40 people housed in my unit.
3. I get 1 hour out of cell per day for recreation and 15 minutes to shower. Rec is in outdoor cages with 8 people at a time. Prior to the pandemic it was 6 people at a time. Since the pandemic started, they've added 2 people who were transferred in from Walker to my rec, and now it is 8 people at a time. Rec takes place in 3 cages, one of which is approximately 5 feet by 9 feet, and 2 of which are smaller. 4 people are in the larger cage and 2 in each smaller cage at the same time.
4. I don't have a cell-mate, but 2-3 officers enter my cell per day to take me to rec, the phone, or the showers. It is not the same 2-3 officers each day.
5. My sleeping area is not cleaned nor sanitized by staff. We are provided cleaning supplies to clean our own spaces on Saturdays, though it is not enough supplies to last throughout the week because the officers keep coming in and out of my cell.
6. I eat my meals in my cell. The guards who bring my food are wearing gloves, but they do not change their gloves between holding our food and touching unsanitized handcuffs.
7. The staff have provided us with one bar of soap since the pandemic started. Other than that, when I've needed soap in the past two weeks, I've gotten it from the commissary for a fee. I do not have access to hand sanitizer.
8. I do not have a shower in my cell. I share a shower with approximately 40 other people in

the tier. There's a single slot in the shower that everyone's towels sit on, and towels are not laundered between showers. I also share 4 phones with my entire unit. Handcuffs and shackles are used repeatedly throughout the day, and are not sanitized between uses.

9. Since the onset of the coronavirus pandemic, I have observed staff wearing masks and gloves, but not gowns. My temperature has been taken a few times in response to an unrelated infection, but staff are not consistently taking inmates' temperatures despite the fact that I was informed by a correctional officer that a kitchen worker at Northern has tested positive for COVID-19.
10. Staff have provided me with guidance about how to protect myself and others from coronavirus transmission. They have provided me with two pieces of paper encouraging us to wash our hands and clean our cells. However, it is difficult to follow the advice about sanitizing because we don't always have Lemonall, the provided cleaning material, and correctional officers are constantly coming in and out of our cells. They have provided me with one mask made out of cloth on approximately April 1st.
11. I have come into contact with approximately 6 correctional officers in the past week who have been coughing and sneezing. They have continued to work as normal and told me "it's just allergies."
12. People at my facility have tried raising concerns with prison staff about their handling of the coronavirus. They ask for more cleaning supplies, they ask staff to wear the DOC-issued masks instead of the smaller, thinner ones many are wearing, and they ask staff to change their gloves. Prison staff have responded by refusing to give more cleaning supplies, saying that it's too hot to wear the larger masks, and refusing to change

their gloves. As a result, many inmates are refusing to leave their cells, including to shower, because they are concerned about the staff's gloves.

13. When I seek treatment for a medical condition, it is usually a significant wait to see a doctor. When I sought treatment for a root canal, it took from September to January to see a doctor. I'm currently waiting to see a doctor for knee pain and a lump in my knee. It's been a month and half since I first started requesting treatment and I haven't received treatment yet.
14. People are no longer being pulled out of cell for mental health counseling, which previously happened once per week for people receiving mental health treatment.
15. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.
16. I have authorized Madeline Batt to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 8th day of April, 2020.

Luis Pagan

by

EXHIBIT R

Declaration of Johnathan Pape

I, Johnathan Pape, declare as follows:

1. I have been incarcerated at Corrigan since May 2019. I am 27 years old. I am housed in B Unit of Corrigan, and I have been here for about a year. To my knowledge, there are approximately 100 people housed in my unit.

2. On March 30th, my cellmate said that he had a headache and asked the correctional officer to go to the nurse. The COs said that he had a sore throat. When he came back from the nurse, staff said that he had to be quarantined and that I had to be moved to quarantine with him.

3. When they said I had to move and I asked the nurse, "why am I being moved? Why do I have to quarantine if I don't have any symptoms?" The nurse said I could take it up with the Lieutenant, but refused to call the Lieutenant down.

4. The next morning, a correctional officer (CO) came to move us to the cell where we'd be isolated. The CO said that if we refused to move, we'd be taken to segregation.

5. We moved from our normal cell, 222 which is in a corner, down a couple of cells 225, which is in the middle of the tier, on its own tier. The new cell looked like a standard regular cell, identical to our normal cell. It had a bunk bed, toilet, desk, and window. The most space my cellmate and I could have from each other was four feet. We were always bumping into each other when we walked around the cell at the same time.

6. Other inmates regularly walked past our cell when going to showers or to use the phone. There was no trap so the COs would have to open the door when they brought us our meals. There was a gap between the cell door and the floor; it was enough to squeeze a book

through. We were easily able to talk to other inmates through this gap, so it didn't seem like there was any point in moving us.

7. The situation was bad, especially how we were treated when we were in quarantine. We were not allowed to leave the cell for any reason for 15 days. When we moved, no one told us that we'd be subjected to having no shower and no phone calls for 15 days. I'd never heard of being stuck inside a cell that long.

8. The whole time we were in quarantine, we didn't get new jumpsuits or new bedrolls. They didn't give us any tools or detergent to clean the cell for the whole 15 days. They never picked up our meal trays or any leftover food after we were done eating, and they only emptied the garbage one time while we were in there. It was disgusting.

9. We weren't allowed to use the phones to tell our families what happened. The COs rarely picked up and delivered our mail because they were scared to touch it. The main way we were able to communicate was by talking to other inmates through the gap at the bottom of the door. It was the only way that I could really be heard.

10. We didn't get much medical care while we were in the cell. Once per day, staff would come by and take our temperature and stick a device on our fingers.

11. I'd already been dealing with high blood pressure for a while before we went into the quarantine cell. Before going into the quarantine cell, the nurse would routinely take my blood pressure. No one took my blood pressure the entire 15 days we were in quarantine.

12. Prior to going into the cell, I had a skin rash. Medical had given me lotion for the rash, and the lotion ran out when I was in isolation. When I told the staff that the lotion had run out and that I needed more, a nurse came, looked at me through the door, and said I was fine. She

didn't come inside or touch me to examine the rash.

13. My cellmate never showed any symptoms of COVID-19 besides the headache. I never showed symptoms. The entire time we were in isolation, I never had a fever and I don't think my cellmate had a fever.

14. After 10 days of being in the cell, my roommate was tested for COVID-19 but they never told him his results. Someone came down to test him while I was sleeping, so I never got a test.

15. Even though he didn't show symptoms, I didn't like the position that I was being put in, being isolated with someone who supposedly already has this virus. I felt like it was cruel, that they were forcing it on me.

16. Now, I think that if people did get sick, they wouldn't say anything now that they've seen what happened to us. If they do get sick, they're going to hide it.

17. They treated us worse than animals.

18. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

19. I have authorized Faith Barksdale to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 22 day of April, 2020.

s/Johnathan Pape_____

by Faith Barksdale_____

EXHIBIT S

Declaration of Kyle Lamar Paschal-Barros

I, Kyle Lamar Paschal-Barros, declare as follows

1. I have been incarcerated at Northern Correctional Institution ("NCI") since approximately September 28, 2019. I am 25 years old. I am housed in unit 1W of NCI. To my knowledge, there are approximately 50 people on my unit.

2. This unit houses people who are in administrative segregation, so the conditions are more restrictive than conditions in other units. People on my unit get between 15 and 90 minutes out of cell per day.

3. Anytime I leave my cell I'm shackled. I wear leg irons, tether chains with o-rings on either ends, and handcuffs. I've never seen prison staff clean any of these shackles, and sometimes I find substances on them.

4. On Monday, Wednesday, and Friday inmates on my side of the tier get 15 minutes to shower. We shower individually, and there is one shower for eight people. Inmate workers, called "tiermen," spray the shower with a weak cleaning product called Lemonal once per day after everyone has used the shower. The showers are not cleaned between each use.

5. Twice a week we get 15 minutes to use the phones. Prison staff do not clean or sanitize the phones between uses, nor do they provide us with materials to clean or sanitize the phone. We take it upon ourselves to wipe them down before using them. We use napkins and sometimes a solution made of Lemonal, soap, and shampoo that we get from tiermen.

6. Tiermen mop the tiers one time per week. They use watered down bleach, and have only one bucket of water to mop the entire 50-cell unit.

7. I am housed in solitary confinement; I do not share my cell with anyone. My cell has a bunk, a small window, and a sink that's connected to the toilet. There is a metal door with a thin window and a slot through which prison staff pass me my meal trays. My cell is ventilated with two vents, one that lets air in and one that lets air out. I have never seen these vents cleaned or sanitized, and they contain dust, grime, and mold.

8. My sleeping area is not cleaned or sanitized by staff. Three times per week we are provided with 6-8 ounces of Lemonal in a styrofoam cup and some napkins to clean our cells. I use it to clean my entire cell including: cell surfaces, the floor, the sink, the toilet, my bunk, and the cell door. This is not enough product for me to clean all of my surfaces, so I mix Lemonal and shampoo to finish cleaning my floor. Once per week staff provide us with a small hand brush and dustpan to sweep the floors of our cells, and a toilet brush to use on our toilets. I do not know if these brushes are cleaned between each use.

9. The staff does not provide inmates with soap for free unless we are indigent. Inmates who are not indigent are required to buy soap themselves from the commissary.

10. I am indigent, and so I am able to request one bar of soap once a week when an officer comes through my tier to distribute commissary from the "indigent cart." I get up to two bars of soap per week. This is all of the soap I'm provided to meet my needs. I use it to wash my hands, wash my body, and clean clothes within my cell. I do not have access to hand sanitizer.

11. I first became aware of the COVID-19 pandemic sometime in February. Toward the middle of March, staff began posting notices that visitation and programming

--like group therapy and chaplain services--were being cancelled in order to institute social distancing. They also passed out a flyer that explained social distancing and other methods to prevent spreading the virus. Aside from cancelling programming and visitation, I haven't seen any steps DOC has taken to institute social distancing.

12. Since mid-March, I have observed staff members often wearing gloves and masks. Their masks are fabric, and appear to be made out of the same material that our uniforms are made of. I have not observed them washing their hands more often, and only a few officers carry hand sanitizer.

13. I believe that the commissary officer for my unit was diagnosed with COVID-19. The commissary officer is a staff member that rolls the commissary cart through the tier once per week and gives the inmates the products they purchase with their commissary money; he interacts with approximately 30 inmates per week. I last saw the usual commissary officer during his rounds three weeks ago. Two weeks ago another officer began making commissary rounds on my unit. When I asked what happened to the usual officer, the new officer told me that he'd been diagnosed with COVID-19 and transferred out of the unit.

14. No one else has been quarantined or transferred off the unit.

15. At the beginning of April, prison staff issued each inmate one face mask. The mask appears to be made out of the same khaki material as our uniforms. I once tried washing the mask in my sink, using the provided soap, but it didn't dry well and began to smell like mildew. I now have to send my mask to the laundry to be cleaned.

16. We are all required to wear this mask anytime we are outside of our cells. When I once asked a counselor what the masks were going to do to help me, he

responded, “They do not work. We’re just handing them out.”

17. I have had asthma my whole life and my symptoms include coughing, wheezing, and occasional difficulty breathing. I take two medications for my asthma: Ventolin, a fast-acting “rescue” inhaler that I take as needed, and Asthmanex, a combined steroid inhaler that prevents asthma symptoms long-term. I have been diagnosed with asthma the entire time I’ve been in DOC custody, and I have received treatment this entire time.

18. Since I became aware of the global COVID-19 crisis in February, I have asked DOC staff more than five times about what kinds of policies they have to protect me and people like me who have respiratory disease. So far, no DOC employee has described concrete procedures that they’ve undertaken to protect prisoners with respiratory disease, and I haven’t noticed any policy changes related to my asthma.

19. I’m especially concerned for my well being because of the DOC's use of NCI units as a COVID-19 quarantine ward.

20. I became aware within the past week that DOC is using NCI units 2W and 3W for the COVID-19 quarantine unit. I am concerned that we will be breathing the same air as people housed in the quarantine unit, and that we’ll be at higher risk of contracting the virus.

21. I used to attend programming in the dayrooms of those units, and have been in those units as recently as early March. I saw that the cells in those units are identical to the cells in my unit. There are two vents in each cell, one that takes air in, and one that takes air out. I believe that NCI has a centralized AC system, and it seems unlikely that the air from the quarantine unit could be filtered to prevent the virus from

spreading to other parts of the prison.

22. From what I've seen, it looks like DOC is turning NCI into a red zone of the COVID-19 crisis. They don't seem to be taking it seriously for myself and others.

23. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

24. I have authorized Faith Barksdale to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 17th day of April, 2020.

s/Kyle Lamar Paschal-Barros_____

by Faith Barksdale_____

EXHIBIT T

Declaration of Chad Petitpas

1. I, Chad Petitpas, declare as follows:

2. I have been incarcerated at Brooklyn CI for approximately six years. I am 40 years old. I am housed in D Dorm of Brooklyn CI. There are four dorms at Brooklyn CI. To my knowledge, there are 114 people housed in each dorm.

3. Our facility has been on a kind of "soft lockdown" for the past seven or so weeks. This started when someone in B Dorm tested positive for coronavirus. When that happened, they quarantined B Dorm. But they still let the other dorms—including mine— go to outdoor rec, and move around freely inside the dorm.

4. As I said, there are around 114 people in each dorm, and everyone is split into 19 cubes. A cube is essentially a room with no roof and no front wall. There are a total of three bunks in each cube. When you're on your bunk, you're probably about three feet away from the people in the bunk above or below you, and the bunks adjacent to you.

5. When we are not in our cubes, we are in the open social area. This social area has eight tables. Normally, four people sit at each table, but sometimes, people pull extra chairs around, so that each table can fit six. When people do that, everyone is shoulder-to-shoulder and knee-to-knee.

6. No one at the prison has told us to "socially distance" or keep six to eight

feet away from each other. I have seen those recommendations on TV, but I know that those safety guidelines are not for us. That is because “socially distancing” is impossible here.

7. We have access to the social areas and the bathrooms all day long. That is only interrupted during counts, which happen twice per day. During the counts, prisoners have to be in their cubes, and other prisoners, who are employed by the prison, clean the social area. They also clean the social area once at night, but this is more of a quick sweep. The tabletops are wiped down once per day with cleaning liquid. I don’t believe the chairs are ever cleaned.

8. The showers are cleaned once per day. Because we can shower whenever we like, I would guess that 95 or 100 people shower every day. Nearly all of us use showers that have not been disinfected.

9. The phones are also cleaned one time per day. There are a total of six phones, and every inmate is allowed up to six calls a day. I would guess that around 80-90 people make calls every day, so that is about 13-14 people using the same phone in a row, before it is disinfected.

10. The prison has provided us with a free bar of soap two times. The first time was about five weeks ago. The second time was about two weeks ago. Because we usually do not get free soap from the prison, we have to buy it on our own from the commissary. It costs $0.90. That might not sound like a lot, but to put it in context,

weekly wages for people who are employed by DOC is around $5.50. That means that a bar of soap is equal to almost twenty percent of our weekly salary. Even so, I have noticed that prisoners who have the means to are cleaning their hands more often than normal. Of course, some cannot afford soap, so they can't clean their hands.

11. The staff have masks, but very few wear them. I would guess that out of 100 officers, there are maybe 5 who will wear a mask. The rest of them are adamantly opposed to it. The staff have told me that the masks are not what they were promised, and that they won't be effective in protecting against the virus. They compare what they have to putting a t-shirt over their face.

12. Because staff refuse to wear the masks, prisoners don't see the point in wearing them, either. DOC gave every prisoner in my dorm two masks, about two weeks ago. The masks are made of an odd khaki material, similar to our uniform shirts. The majority of the inmates don't wear them, because most people have little confidence that the masks will make a difference. It's been explained to us on the news and through staff, that if the virus is contracted it will be because it is brought in by a staff member. So if the staff aren't protecting us by wearing masks, we don't understand what difference it makes if we, the prisoners, wear them.

13. I am also concerned for myself and for other people about what will happen if we test positive for coronavirus. Brooklyn CI mostly houses people who have a current conviction or a history with a sexual component. A lot of the people here

would rather not be transferred to Corrigan or Northern. In fact, in the past, those facilities have been used as a threat. Now, the prison is saying that if a person tests positive, they will be sent to Northern or Corrigan.

14. At one point, around five days ago, a number of people made clear that even if they weren't feeling well, they wouldn't report their symptoms, because they are afraid of being transferred. The warden heard about this, and so he came down and had everyone's temperature taken. According to the digital thermometer, my temperature was 97.1 degrees. But the thermometer read the temperature of another guy as being 95.7 degrees. I'm pretty sure that if that was his actual temperature, he would be dead. So I don't have much confidence that the prison's procedures are working to screen out symptomatic staff from coming into the building.

15. I am also concerned about what will happen to the many people in my dorm who are close to the end of their sentences. Like I said, I have been at Brooklyn CI for six years, and over that time I have kind of taken on the role of helping people get set up with homeless shelters, food pantries, and other kinds of services for their release. This isn't an "on the books" job, it's just something I do to help people. So a lot of people who are close to the end of their sentences come and talk to me. I would guess that right now, in my dorm, there are about 20 people who are within 60 days of their end-of-sentence date.

16. DOC has not announced any procedures in place for an inmate who is at

the end of his sentence and has a higher than normal temperature. But a number of staff have told me that what will happen is that DOC is going to take 20-30 days of their good

time away, send them to Corrigan or Northern until the temperature goes down to normal. This makes me sad, and angry. People have earned their good time. And DOC should not be able to take it away because they have, and continue to, mismanage their response to the coronavirus.

17. DOC has the discretion to release the people on furlough when they are at the end of their sentence. Our dorm is at nearly full capacity, and there are many people who are near the end of their sentences, but not one has been released on furlough. I think this is because DOC has an unstated policy of not approving people for community release who have a sex offense on their records. I am in discovery with DOC on a federal case that is related to this. I believe from what I have learned through this discovery that seven people with sex offences have been approved for community release in the last five years. I think that this is unjustifiable even in normal times, and I am very discouraged that DOC won't even consider behaving differently during a global pandemic.

18. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

19. I have authorized Sophia Angelis to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 22 day of April, 2020.

Chad Petitpas_____

by_Sophia Angelis_____

EXHIBIT U

Declaration of Ken Pierce

I, Ken Pierce, declare as follows:

1. I have been incarcerated at Carl Robinson Correctional Institution since around December 2018. I am 39 years old. I was in dorm 3A until about a week ago. Now I am in dorm 5D. To my knowledge, there are around 90 people housed in this dorm, and that is the same for all dorms.
2. Two days ago, a guy in the dorm was removed because he had symptoms of coronavirus. Yesterday, the Lieutenant came in and announced to the whole dorm that the guy had tested negative, but then he said that the prison authorities were putting our dorm on quarantine anyways. So our quarantine just started yesterday, April 14, 2020.
3. I feel skeptical that the Lieutenant was telling the truth when he said that the guy they removed because he had symptoms tested negative. That's because yesterday, two more people were removed from the dorm because they had symptoms, too. I was talking to one of them before he was removed. He looked really sick. I see him every day, so I know how he normally looks, and he really different. He was sweaty and pale. I could tell something was not right. I told him that he should tell the guards that he was sick and that they should remove him. He said he had gone to the guard station several times already and told them this, and that eventually, they agreed to remove him from the dorm. He was sitting there with his things packed, ready to go. He said he wanted to leave as quickly as possible so that he wouldn't get other people sick. But he had to wait for the staff,

and so he sat in the dorm for a few hours while he was symptomatic. I do not know if he tested positive for coronavirus.

4. I feel like it is just a matter of time until we all get infected with the virus. Like I said, there are 90 people in one big, open dorm, and we all sleep in bunks. Being in quarantine means that we usually don't leave the dorm anymore. For example, now we eat on our laps, sitting on our bunks, instead of going to the cafeteria, where we normally eat with people from other dorms, because of the quarantine. But even so, we are close together all the time. You can count the tiles on the floor to see how close we are to each other, because the tiles are each 12-inch squares. Me and some of the other guys with bunks near mine recently counted the tiles around our bunk beds. By our count, there are 10 people within four feet of each of us every time we go to sleep. When we're not in our bunks, we can either walk around the dorm, or go to the little dayroom that is attached. But there is not much more space where we can go.
5. I have not observed any efforts to make the dorm more sanitized since the beginning of the outbreak. We haven't been given extra cleaning supplies; we get the same amount of cleaning stuff every week as we have before the pandemic, and the inmate workers still clean the dorm three times per day. The inmates are doing their best on their own to keep the dorm as clean as possible, but it's hard to do with 90 guys packed in one room. The one exception is that some guards have bought Lysol themselves, I believe with their own money, and brought it in for us to use. I don't think this has been very effective, though, because a staff member has to supervise inmates while they use it, so that rarely happens.

6. I have not observed any changes to the protocols for cleaning showers. We have seven shower stalls. They are cleaned three times per day. But the showers are not cleaned after each use, so people use showers that have not been disinfected.
7. We also usually do not free soap. The staff has told us that we have to pay for soap from the commissary so long as we have any money in our accounts. I got one free bar of soap because I complained about it. If I hadn't complained, I don't think I would have gotten the bar of soap for free.
8. Every person in my dorm was given one mask. The masks are made of cloth. The outer part is the same material that they use to make our "prison tans," and the inner part is made of a t-shirt material. We haven't been ordered to use them; we are told to use them at our own discretion. I would guess that about five or six people in the dorm use the masks, out of 90 guys.
9. The guards also have masks. I would guess that about 85% of the guards wear masks and gloves. I also see them using hand sanitizer really often, either inside the guard station or in bottles attached to their belts. I am not allowed to use hand sanitizer, because I am an inmate. I have also been told that the guards have their temperatures checked before they come into the prison every day, though I do not see this.
10. The only guidance I have received from staff about how to protect myself from coronavirus is rom informational flyers. Those flyers say, if I remember correctly, that we should wash our hands and cover our mouths and noses when we sneeze or cough. I have not been told to keep a distance of 6-8 feet between me and other

people, or to "socially distance." I assume this is because it would be impossible, because the dorm is so crowded.

11. I am worried about what will happen if I get sick with coronavirus and need to seek medical treatment. In my experience, it can take months to see a doctor, even when there is not a global pandemic going on. For example, I have a bad ear canal, so sometimes it gets infected and bleeds. Last year, my ear got infected and started bleeding. I tried to see someone from medical, but no one would see me for two days. So I had to spend two days in the dorm with a bleeding ear. After that, a nurse gave me antibiotics, but I have still never seen an ENT doctor, even though I requested it. I have watched other guys wait for months to see a doctor. Sometimes, you never see a doctor.
12. I worry about my family. For example, my mother is a doctor in the ER in Middlesex Hospital. I am worried that she will get infected while I am still in prison.
13. I am in prison because I committed a non-violent crime. I have been approved for release to a halfway house since October 16, 2019, but now I have been told that the halfway houses are not accepting people from prison, so I can't be released to one. I know I committed a crime, and that's why I'm here. But I also feel like I earned my release date. I think there are about ten people in my dorm who were approved for release and are in prison for non-violent offenses, but now, they're stuck in here, just like me. If they let us go, like they are approved to do, it would make more space for everyone else, and the other prisoners and the staff would be

safer. Right now, I feel like I am just sitting here waiting to get sick, and there is nothing I can do to protect myself.

14. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

15. I have authorized Sophia Angelis to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 15 day of April, 2020.

Ken Pierce

by

EXHIBIT V

Declaration of Darien Rosario

1. I, Darien Rosario, declare as follows:
2. I have been incarcerated at Osborn Correctional Institution since approximately January 2020. I am 24 years old. I am housed in E unit of Osborn. To my knowledge, there are approximately 150 people housed in my unit.
3. I live in a cell. I get 45 minutes out of cell two times per day to use the phone and to take a shower.
4. We are no longer doing recreation at Osborn. We stopped doing recreation 1-2 weeks ago.
5. I have one cell-mate, and we sleep approximately 3 feet apart. Our sleeping area is not cleaned or sanitized by staff. We have cleaning supplies to clean our own spaces, but because only my cell-mate is a tier-man and has access to cleaning supplies. I don't think we would get cleaning supplies otherwise.
6. I eat my meals in my cell. We have to go line up to get the meals outside of our cells, and we're right next to each other in the line. We wear our masks but are not kept socially distant from each other.
7. The staff have provided me with one bar of soap, around March 13th, since the pandemic started. When I've needed additional soap, I've gotten it from the commissary for a fee.
8. I do not have a shower in my cell. I share 4 showers with the entire unit. The showers are cleaned once per day. I also share 4 phones with my entire unit. Previously, my unit could use both phones on both sides of the facility, so had access to 8 phones, but now we're restricted to the 4 phones on our side of the facility. The phones are wiped down before rec, but not between uses.

9. Before last week, it was not common to see staff wearing masks or gloves. Starting last week, they are wearing masks consistently. Inmates also are all wearing masks now, because they put a rule in a place last week requiring it. Before some were wearing masks and some weren't.
10. I have come into contact with multiple people in my facility who have tested positive for the coronavirus. They took them out of the unit and quarantined them, but only after about four days of them showing symptoms.
11. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.
12. I have authorized Madeline Batt to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 24th day of April, 2020.

Darien Rosario_____

By _____

EXHIBIT W

Declaration of Christopher Russell

1. I, Christopher Russell, declare as follows:
2. I have been incarcerated at Northern Correctional Institution since Monday, April 20th. Prior to that I had been incarcerated at Bridgeport Correctional Center since approximately the 21st of January. I am 29 years old. I am housed in a block at Northern they are using for medical isolation, in a cell by myself. 6 people were transferred with me from Bridgeport to Northern.
3. At Bridgeport, prior to coming to Northern, I was in a cell block that housed 20 people. We slept less than 6 feet apart from one another, probably 3 or 4 feet.
4. We ate meals all together in the dayroom, less than 3 feet apart. All 20 of us were on top of one another.
5. Since the coronavirus started, we had our cells cleaned once. Our cells were supposed to be cleaned every Monday, but they weren't. We would ask for spray bottles and paper towels to wipe down tables and they wouldn't give us those.
6. Correctional officers had masks, but were wearing them around their necks. We were told they were optional and the correctional officers didn't have to wear them.
7. After my mother had told me the news was reporting that there were COVID-19 cases in the Department of Correction, I asked Correctional Officers at Bridgeport about it. They told me it wasn't true, and the news was lying.
8. I started feeling symptoms last Thursday, April 16th, and I told my block officer. He repeatedly told me he would call me down to medical but he never did. I was not sent to medical until Sunday, April 19th.
9. When I was sent to medical, they took my temperature. I had a fever but they didn't test

me for COVID-19. However, they sent me to a cell at Bridgeport with two people who had already tested positive. They left me in the cell for twenty-four hours with the two COVID-positive people.

10. After 24 hours in the cell, I was sent to Northern. I still had not been tested.
11. A day after arriving at Northern, April 21st, I was tested for COVID-19. They have not yet told me the results. When I asked the medical staff, they did not respond. They pretty much just looked at me and walked away.
12. At Northern, I am in a cell by myself. I get 30 minutes out of cell per day to make two phone calls.
13. I can't shower at all while I'm here. I have no access to recreation. I have no access to my property. I cannot order commissary. I feel like they are punishing us for having COVID-19.
14. I was given a care package of a toothbrush and toothpaste, soap, and shampoo when I arrived at Northern. But it's not very useful because we can't shower. If we want to wash, we have to do so in the sink, which is not clean.
15. At Northern, the CO's are wearing masks.
16. The cells are disgusting and dirty. The toilets and sinks are all grimy. There's toilet paper with urine on it on the floor of my cell. It looks like the cells have not been cleaned in a while.
17. The cells are made of solid concrete and freezing cold. This has made it hard for me to sleep and breathe. I have asthma and the cold air makes it hard to breathe.
18. When I arrived at Northern, I did not have my inhaler. I only got it back last night after I woke up in the middle of night and told them I couldn't breathe. There is a buzzer I can

press in the cell, but I couldn't get up to press it because I couldn't move or breathe. I couldn't do anything until a CO came around on tour. I asked him to call medical, but he didn't do so immediately. Medical didn't come until after his next tour, fifteen minutes later.

19. The only medical care I receive here is Tylenol and Mucinex. Neither of them help. They take my temperature and blood pressure twice per day. They have not told me what would happen if my fever was too high.
20. Medical staff have told me I can leave Northern 14 days after arriving.
21. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.
22. I have authorized Madeline Batt to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 22nd day of April, 2020.

Christopher Russell

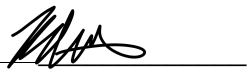
by 

EXHIBIT X

Declaration of Tyrone Spence

1. I am an adult.

2. I have been incarcerated at Garner Correctional Institution since September 2019. I am 28 years old. I am housed in Echo Unit. To my knowledge, there are approximately 90 people currently housed in my unit.

3. My unit is not on lockdown, but we are confined to the unit. We get about 3 hours and 30 minutes of out-of-cell time per day. During this time, we can lift weights or play ping pong, chess, or cards. Sometimes, ten or fifteen people use equipment during one recreation period, and equipment is not cleaned in between each person's use. Some people use gloves, but they are not used consistently.

4. One other person lives in my cell. We sleep in bunkbeds. The cell is cramped, and it is impossible to stay more than five feet away from one another. Our sleeping area is not cleaned or sanitized by staff. We have cell clean-up once per week, at which time we are provided a broom, mop, and cleaner. The cleaner is diluted. If I want to clean my cell any other day of the week, I usually use shampoo.

5. I eat my lunch and dinner in the common area of the unit. Each table has four seats. Everyone sitting at a table is within arm's length of one another.

6. The staff do not provide us with soap. I do not have access to hand sanitizer. I recently requested that my family send me hand sanitizer, but the prison staff would not allow it.

7. I do not have a shower in my cell. I share six showers with the entire unit. The showers are typically cleaned twice per day. They are also cleaned with diluted cleaner.

8. I share six phones with the entire unit. The phones are not cleaned between each person's phone calls. I usually place a sock over the phone or put the phone inside my t-shirt to protect against germs.

9. I have not observed many staff members wearing masks or gloves or washing their hands more often. I have not observed staff checking temperatures of incoming persons or staff on a daily basis.

10. Staff have placed posters on the wall providing information about what the facility is doing to prevent against transmission of the virus. They have also provided us with two masks made out of the same cloth that our uniforms are made out of.

11. One person in my unit had a fever. He was taken off of his work assignment in the kitchen, but remained in the unit. Another person in my unit said he was having trouble breathing. He went to medical briefly before being sent back to the unit.

12. I have been diagnosed with asthma.

13. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

14. I have authorized Wynne Muscatine Graham to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 16th day of April, 2020.

Tyrone Spence

by

EXHIBIT Y

Declaration of Anthony Toscano

1. I, Anthony Toscano, declare as follows:
2. I have been incarcerated at Willard-Cybulski Correctional Institution since November 2019. I am 30 years old. I am housed in A dorm of Willard-Cybulski. To my knowledge, there are 75 people housed in my unit. Usually, my unit holds a little over 100 people, but many people have been transferred out recently, a lot of whom have been sick.
3. Right now, I get 20 minutes out of the dorm per day of outdoor recreation with 9 other people. I also use shared phones and showers that are located in the dorm.
4. In my dorm, we sleep approximately 2 feet apart. Our sleeping area is not cleaned nor sanitized by staff. We can request cleaning supplies to clean our own spaces.
5. I eat my meals in my dorm. During mealtimes, we are spaced less than six feet apart.
6. The staff initially did not provide us with enough soap, but less than two weeks ago started giving us soap more consistently and now I have enough.
7. I share 9 showers with approximately 75 other people in the unit. I also share 6 phones with my entire unit. The phones and showers are typically sanitized once per day.
8. Since the onset of the coronavirus pandemic, I have observed staff wearing masks and gloves, though not all of the staff wear them.
9. Staff have provided me with a one-page pamphlet guidance about how to protect myself and others from coronavirus transmission. They have provided me with two masks made out of cloth in approximately the first week of April.
10. I have come into contact with at least 3 people in my facility who have shown symptoms of coronavirus. They were removed from the facility, but none of their spaces were

cleaned. We were not told what happened to these people.

11. In my unit, people are asking staff for more information, but we keep getting different responses from different correctional officers.

12. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

13. I have authorized Madeline Batt to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 14 day of April, 2020.

Anthony Toscano

By

EXHIBIT Z

Declaration of Joshua Wilcox

I, Joshua Wilcox, declare as follows:

1. I have been incarcerated at Cheshire Correctional Institution since January 2020. I am 27 years old. My sentence ends on May 27, 2020.

2. I was housed in South Block-5, a general population unit, until Monday. To my knowledge, there are about 100 people housed in my unit.

3. South Block-5 is double-celled, with two tiers. We are in our cells 22 hours a day. We get out once first shift and once second shift. When we get out, we are allowed to use phones or take a shower. We share 12 to 13 phones spread out around the dayroom. They usually aren't sanitized between uses, but they started giving us Lemonall and letting us clean them between uses.

4. The cleaning regimen in my unit is pretty much the same as it was before, except they don't let us do cell cleanup anymore. They usually would come in every week to let us clean out our cells, but since the pandemic, they don't let us do that anymore. Usually, on Wednesdays and Fridays, we were on lockdown for training purposes, and we would be able to clean out our cells during that time, but since the pandemic they stopped doing that.

5. We share six showers among the whole unit. Nothing is really sanitized after everyone uses it. There were a couple COs that had COVID-19 in Cheshire, but nobody in my block was sick that I'm aware of.

6. At the beginning of April, they passed out a bar of soap per person. As of Monday, they had not done it again. You can buy soap from the commissary but it's not antibacterial. It's the same price as it was before.

7. On April 2, they passed out masks. The warden had come in earlier and said we could all get gloves, but the COs said no, so we don't have gloves. We got a second mask about a week and a half ago. Some people are wearing them and some people are not.

8. About the half the COs are wearing blue cloth masks. The rest are not.

9. We still don't have any social visits. We are getting two extra phone calls.

10. I declare under penalty of perjury that the foregoing is true and correct. I would testify to the same statements above if called to do so in court.

11. I have authorized Elana Bildner to affix my signature to this affidavit for me, because I am incarcerated, and it would take a minimum of seven days for me to receive a document in the mail, sign it in front of a notary, and return it by mail.

Executed this 23 day of April, 2020.

Joshua Wilcox

by

EXHIBIT AA

Declaration of Tre McPherson

1. My name is Tre McPherson, and I am 26 years old.
2. A couple of weeks ago, I lost my sense of smell and taste, and they have not returned. Many people in my dorm have had the same thing happen.
3. I am being held at the Bridgeport Correctional Center in Bridgeport, Connecticut on a bond.
4. I have been here since February 26, 2020.
5. I am housed in A Dorm, which has forty-eight other people in it sleeping in bunkbeds.
6. When I am in my bed, I can reach over and touch the adjoining set of bunkbeds.
7. About a week ago, we started being given bleach to wipe down anything we touch.
8. The telephones are only cleaned between rec shifts.
9. In this dorm, we get three rec shifts a day when we can go to a dayroom.
10. The corrections officers and nurses are wearing masks now.
11. All of our meals are brought to our dorm and we eat all meals sitting on our bunks.
12. In the past two weeks, two men have been taken out of my dorm because they were sick. They were coughing and had fevers.
13. No one is taking the temperature of anyone in my dorm unless a person submits a sick call and asks for it.
14. I make these statements under the penalties of perjury, and I would testify to them in court if I were called to do so.

15. I have authorized Dan Barrett to apply my signature to this declaration because it would take at least seven days for me to receive a paper copy in the mail, sign it, and return it by mail.

/s/Tre McPherson

April 24, 2020

by:

General Information

Court	United States District Court for the District of Connecticut; United States District Court for the District of Connecticut
Federal Nature of Suit	Prisoner Petitions - Civil Rights[550]
Docket Number	3:20-cv-00534

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