



## Exhibit Index

Ex. A	Summary of Declarations
Ex. B	Dr. Rottnek Decl.
Ex. C	Dr. Meyer Decl.
Ex. D	Prince George's County DOC Coronavirus PowerPoint
Ex. E	Second Decl. of John Doe #2
Ex. F	Second Decl. of Declarant #12
Ex. G	Second Decl. of Declarant #19
Ex. H	Second Decl. of Declarant #20
Ex. I	Decl. 30
Ex. J	Decl. 31
Ex. K	Decl. 32
Ex. L	Decl. 33
Ex. M	Decl. 34
Ex. N	Decl. 35
Ex. O	Decl. of Bryan Abarca
Ex. P	Decl. of Alfonso Diantignac
Ex. Q	Decl. of Jose Diaz-Cantillano
Ex. R	Decl. of Eulalio Corbette
Ex. S	Decl. of Derrick Dempsey
Ex. T	Decl. of Devon Hill
Ex. U	Decl. of James Kirkland
Ex. V	Decl. of Denardo Harold McGee
Ex. W	Decl. of Angela McGee
Ex. X	Decl. of Corey Nelson
Ex. Y	Decl. of Quinton Perry
Ex. Z	Decl. of Tyshawn Watts
Ex. AA	Decl. of Kailyn Gaines
Ex. BB	Decl. of Marguerite Lanaux
Ex. CC	Decl. of Yvette Pixley
Ex. DD	Memorandum Opinion. <i>Banks v. Booth</i> , 20-CV-849 (D.D.C. June 18, 2020)

# **EXHIBIT A**

## Symptom Screening and Contact Tracing

	Quote	Citation
<b>Questions About Symptoms</b>	“During temperature checks, the nurses from outside the jail ask if we have any symptoms. But they don’t list the symptoms. This unit, H-9, doesn’t have the symptoms of Covid posted.”	Decl. 19 ¶ 9
	“The nurses check temperatures twice per day, at 9:30am and 4:00pm. Up until a few days ago, the nurses didn’t ask about symptoms at all. Starting a few days ago, however, the nurses asked, ‘do you have any symptoms?’ and then wrote down my answer on a clipboard. But this is not consistent, it doesn’t happen every time. They also don’t ask about specific symptoms.”	Decl. 21 ¶ 23
	“In medical the nurses checked our vitals and gave us our medications three times per day. They would write down our vitals, but they never asked about symptoms. Sometimes people would tell them about medical issues they were having, but the nurses only ever said, ‘You have to wait to see the doctor.’”	Decl. 31 ¶ 15
	“[T]he doctor only comes every couple of days. And if you were to keep telling the nurses about your symptoms, they would get irritated with you, so you have to be careful.”	Decl. 31 ¶ 15
	“I’ve noticed that if it’s your first time telling the nurses about new symptoms, they’ll write them down. But if you keep complaining, they’ll just say, ‘I’m not the doctor,’ and then ignore you and walk away without writing anything down.”	Decl. 31 ¶ 15
	“The nurses check temperatures twice per day, at 9:30am and 4:00pm. Up until a few days ago, the nurses didn’t ask about symptoms at all. Starting a few days ago, however, the nurses asked, ‘do you have any symptoms?’ and then wrote down my answer on a clipboard. But this is not consistent, it doesn’t happen every time. They also don’t ask about specific symptoms. While the nurses do temperature checks, they wear the same gloves the entire time. Sometimes they’re even feeling people’s faces, and they just go from person to person with the same gloves on. Some of the nurses don’t even wear a mask when they take temperatures with the scanner gun.”	Decl. 32 ¶ 23
	“They just started asking if people feel other symptoms when they come around to check temperatures. They just take your temperature, ask ‘do you feel any other symptoms?’ and you can tell them if you do. They did not start that until the past week and a half or so. Before that, the only symptom they checked was temperature. Even now, they do not ask about specific things like loss of taste or smell. They just ask generally if you feel symptoms.”	Decl. 34 ¶ 18
	“I have not tested positive for the coronavirus. On my unit, they come in everyday, twice a day to do temperature checks. At first they weren’t asking if we had symptoms, they just started asking if we are having any symptoms last week. Lately, on unit 11B there has been no one showing	Decl. 35 ¶ 21



symptoms. There is no one on my unit that has the coronavirus at this time that I know of. A few people have had high temperatures but no one I know of has been over 100. Everyone in here has been pretty much okay. But They have been bringing people from medical into this unit which is where most of the people with COVID symptoms and/or tested positive are being held out.”	
“For the whole time I was at the jail, they were not checking symptoms. Nobody asks you anything about any symptoms, if you are ok – nothing.”	Corbette Decl. ¶ 5
“During temperature checks, they just take your temperature and don’t ask any questions.”	Corbette Decl. ¶ 6
The nurse “did not ask me any questions. I was not isolated or tested for COVID. She just sent me back to my cell in H-8.”	Corbette Decl. ¶ 18
“When I left the jail on May 4, 2020, the only symptom they were checking regularly was temperature. They never asked if people had any other symptoms like cough, shortness of breath, loss of taste or smell, none of that.”	Diantignac Decl. ¶ 49
“In H-17, they take our temperature every day, but no one asks anything about any symptoms of COVID-19. The most that happens is that they will say, ‘You good?’”	Diaz-Cantillano Decl. ¶ 23
“I told the COs that I was feeling these symptoms and they kept saying “you’re good.” One officer told me they’re not seeing nobody if you don’t have a high temperature.”	Hill Decl. ¶ 11
“When the nurses come around to check temperatures, they only come once a day now. They just do temperature checks and keep it moving. Some of them ask ‘do you have any symptoms?’ but some of them do not even do that.”	Hill Decl. ¶ 45
“Between June 11 and 15, 2020, I asked the public defenders that I directly supervise along with public defenders that are supervised by others within our office, to ask their clients whether they were being screened for symptoms of COVID-19. I received reports back from nine different attorneys about twelve different clients currently detained at the jail. The clients were detained in five different housing units: H-2, H-7, H-9, H-10, and the medical unit. Five of the twelve clients (housing in H-2, H-9, and the medical unit) reported that they were not asked about symptoms at all at any point in time by anyone. Seven were asked if they had symptoms, but I do not know what, if any, specific questions they were asked. I have heard that when questions are asked, they are usually very general (for example, asking whether the detainee has any ‘flu-like’ symptoms).”	Lanaux Decl. ¶¶ 2-3
“I told a nurse that I was feeling sick. All she told me was that my temperature was alright. I tried to show her in the paper that said that wasn’t the only symptom but she wasn’t really trying to hear	Nelson Decl. ¶¶ 7-8

	it. They left me on the unit and did not take me to medical at all. At that time, [April 2020,] they were not trying to let nobody go to medical because they said the whole medical was full.”	
	“When they come around to do temperature checks, now they just ask people if they are feeling sick. A lot of people who I know are feeling sick will not tell anyone about it because they say they do not want to go to medical.”	Nelson Decl. ¶ 22
	“A nurse came around when trays were passed out to take my temperature and check my vitals. During these checks, they would ask only, “Are you having any symptoms?” The nurse never listed or explained what symptoms of COVID-19 were.”	Watts Decl. ¶ 9
	“The nurses would take our temperatures and ask if we were feeling sick. They would not go through a list of symptoms with us and ask if we were experiencing any of them.”	Watts Decl. ¶ 16
<b>COVID-19 Positive and Symptomatic</b>	“When I first got to the jail, I felt good. But after about two weeks in, I had a headache, a sore throat, and a cough. It came out of the blue. The headache came first, and the sore throat came a about two weeks later and the cough a few days after that.”	Corbette Decl. ¶ 3
	“There was only one time when anyone asked me if I was okay. During the evening shift, a CO [corrections officer] saw me holding my head down and asked what was going on. I told him I had a very bad headache. The CO told me he was going to tell medical but I don’t know if he ever did.”	Corbette Decl. ¶¶ 7
	“When the nurse came for fever check that evening, my head was hurting so much that it was taking me awhile to get over to the slot in the door so she could take my temperature taken. . . I came up to the [cell door] slot holding my head. The nurse yelled at me and said “we’re not playing.” The nurse accused me of playing because I was taking too long to put my head through the slot. I told the nurse I’d had a headache for days and it was messing with my eyes. She didn’t ask me any questions about my headache or anything else. . . After that, no one asked me anything about how I was feeling again.”	Corbett Decl. ¶¶ 8-9, 11
	“After the nurse didn’t do anything to help me with my symptoms, I told my lawyer about my headache. By then, my sore throat and cough were feeling better, but my head still hurt badly. My lawyer pressed the issue and they finally took me to medical. By then, several days had passed since I told the nurse about my symptoms. I had a headache about every day. By the time they took me to medical I was not having symptoms anymore.”	Corbette Decl. ¶¶ 17-18
	“Once I met with the doctor, they put me in an isolation cell in the medical unit. While I was there, I felt like I had fever in my bones. I had a painful cough and I couldn’t breathe. I had mucus coming up that was black, green, and yellow. They told me I had tested positive for COVID-19.”	Diaz-Cantillano Decl. ¶ 6
	“I was surprised to learn that I had tested positive. I have been at the jail since February. When the outbreak first started in April, around six people from my unit were removed because they tested	Watts Decl. ¶ 4

	positive. I put in a sick call to get tested because I had been watching the news and was really worried about catching it. In response, I was told that the jail was not testing people who did not have serious symptoms like a high fever. A couple weeks before testing positive, I had a cough. I did not submit a sick call because I knew they wouldn't test me."	
	"While in medical isolation, I started experiencing body aches. My shoulders and back hurt all day long. I told the medical staff that I was experiencing these aches and asked for a medicine for muscle pain. The medical staff gave me Tylenol, but it didn't really work. These body aches persisted for four or five days. I did not know that body aches are a symptom of COVID-19. No one at the jail ever told me that they were. I don't know how I was supposed to know that body aches were a symptom. Everything that I know about COVID-19 I learned from watching CNN."	Watts Decl. ¶¶ 10-11
<b>Contact Tracing and Quarantining</b>	"There were two guys on H10 who tested positive for COVID-19. Although they were positive, the jail still kept them both on our housing unit."	Decl. 12 ¶ 10
	"After [two COVID-19 positive men] were moved to their separate cells, they also were given rec time by themselves, one at a time. But during these two weeks [of quarantine], they were still using the same showers, the same phones, and the same common areas as the rest of us."	Decl. 12 ¶ 10
	"It makes me worried that I'm being detained on a housing unit [H10] with guys who have COVID-19."	Decl. 12 ¶ 11
	"The new guy has been trying to go see the nurse and filling out sick calls for weeks straight and no response. I saw him a day or two ago and I think he just went to sick call. It took about 3 weeks for him to get the sick call after multiple requests."	Decl. 20 ¶ 3
	"I remember one Hispanic inmate that I showered with in the beginning (he was in cell 201 or 202) he had it for like a week before he was taken off the unit."	Decl. 20 ¶ 14
	"Last week a guy on our unit was taken out of the unit in the middle of the night. I believe it was because he tested positive for the virus. They have not followed up with the people he has had contact with, like his rec group. They have not given tests to the people in his rec group."	Decl. 30 ¶ 5
	"I remember five people leaving my unit to go to quarantine in April. When those people left, nobody came around to check if their roommates or people they had spent time around were feeling okay."	Decl. 34 ¶ 13
	"Four of the five people returned to the unit after a couple of weeks. I remember asking them if they were retested to see if they were negative before they came back to H-9 and they said 'nah, they just sent us back.'"	Decl. 34 ¶ 14
	"In late May everyone on my unit was tested for COVID-19. A few days after we got tested, around May 22 or 23, the COs came and snatched five people from my unit and put notes on the	Decl. 34 ¶¶ 26-27

cell doors that say the cell is to be closed until further notice. For the roommates of the guys who tested positive, the jail said they were quarantining them, but they kept them right here on the unit with the rest of us.”	
“For the roommates of the guys who tested positive, the jail said they were quarantining them, but they kept them right here on the unit with the rest of us. That made me feel really unsafe, like they are not trying to protect the rest of us from getting sick. I saw them remove the roommates from the cell they were in and put them in another cell on the unit, and they started making them go out to rec alone instead of in a group of ten people. When the roommates who are supposed to be quarantined go out to rec, I see them use the same phones, the same showers and go in the same areas as everyone else, and nobody does any special cleaning in between when they come out to rec and when the next group of people comes out. As far as I know, the jail did nothing to check on the health of people who were in close contact with the five people who were moved from my unit because they tested positive in May.”	Decl. 34 ¶¶ 27-30
“A week ago, the guys who were removed from the unit who tested positive came back to the unit. He said he was not retested or cleared when he came back. They all say they were not tested.”	Decl. 34 ¶ 31
“When they got back to the unit [H-17], I saw that some of the guys who had tested positive were still coughing.”	Nelson Decl. ¶ 10
“The guy in the iso cell next to me has COVID. He told me through the door. They’ve had me surrounded by everybody with COVID since I’ve been here.”	Perry Decl. ¶ 25
“They put me back with the same cellie that I had been with before I tested positive . . . He is scared because I am not confirmed negative.”	Watts Decl. ¶ 19

### Delays in and Barriers to Medical Care

Quote	Citation
“My breathing problems come and go at different times. Sometimes they will start when I’m laying down, sometimes they will start when I’m talking. It’s hard to predict, because it comes and goes. But I have noticed my breathing gets worse when it’s hot. When it happens, I get a really tight feeling in my lungs. It feels really tight when I try to inhale. It’s hard to explain, but it makes me feel like I can’t inhale very much, like an extreme shortness of breath. It makes it very difficult to breathe. And this kind of attack will usually last a couple hours and then go away. When I get one of these [breathing] attacks, I have told the COs. But the COs don’t do anything. I have to wait for the nurse to come around. I’ve also told the nurses about my symptoms. But they just write it down and don’t do anything.”	Decl. 12 ¶¶ 5-6

<p>“On Wednesday, June 10, I put in a sick call slip about my breathing issues. I didn’t get seen by the nurse until June 13. I told the nurse about my breathing problems. I told her about how my chest tightens up, especially when it gets hot, but that it’s also hard to predict when I’ll have these breathing problems. She took my blood pressure and heart rate, and she listened to me breathe. And then she gave me the Coronavirus information paper that they now hand out to everyone, a sheet that tells you what the symptoms are. But that was it. I tried to emphasize to her that it feels like this is a serious health issue for me. And she just said, “what do you want me to do about it?” and sent me out.”</p>	Decl. 12 ¶ 7
<p>“Other men on my unit (H10) with COVID-19 symptoms have “asked for medical attention and gotten the same response that I got: ‘there’s nothing we can do for you.’”</p>	Decl. 12 ¶ 8
<p>“The new guy has been trying to go see the nurse and filling out sick calls for weeks straight and no response. I saw him a day or two ago and I think he just went to sick call. It took about 3 weeks for him to get the sick call after multiple requests.”</p>	Decl. 20 ¶ 3
<p>“Maybe two weeks ago, another guy on H8 kept pushing his buzzer and yelling, ‘help, help!’ But the COs just ignored him. Eventually, one of the other inmates . . . walked over to this guy’s door to check on him. And the guy was lying on the ground, unconscious. . . . We found out later that this guy tested positive for COVID-19.”</p>	Decl. 32 ¶ 10-11
<p>“And from the moment I was put in that cell, it was clear my cellmate was really was sick. He was sweating, breaking out in hives, and spitting up blood. He was coughing and wheezing, and I could see the hives on him. I could see the blood in the sink, including on the part of the faucet where the water comes out. I buzzed the buzzer, but the COs wouldn’t let me have any Spray Nine to clean it, so I had to take a napkin with a little bit of soap on it and scrub the blood off so I could use the sink. I asked my cellmate what was wrong with him, and he said he had a bad case of sickle cell and something else.”</p>	Decl. 32 ¶ 12
<p>“After I got to the jail, a few months ago now, I started to have problems with my physical health. First, I started to have blood in my urine and feces. Then later, I started to also have shortness of breath, headaches, and body aches. I’m still having problems with shortness of breath and blood in my urine. I’ve had these symptoms for months now, and the jail has not treated me. I think I’ve probably put in about twenty sick calls by now for my symptoms.”</p>	Decl. 33 ¶¶ 4-5
<p>“[T]he process just doesn’t work. First, it takes three to five days from when you submit the sick call before they take you over to medical. Then, once you’re over there, the nurse will take your vitals. And if you actually need medical attention, the nurse will then put you on the waiting list to see the doctor. So you just waited all of this time, only to get put on another waiting list.”</p>	Decl. 33 ¶ 5
<p>“On top of that, there’s no telling how many people might be ahead of you on the list to see the doctor. Usually you get to see the doctor after about four or five days. But sometimes it’s a week or more, and sometimes they won’t even put you on the list like they said they would.”</p>	Decl. 33 ¶ 5

<p>“[A]bout a month ago I went to medical on one of my sick calls, and the nurse told me I just need to drink more water to break down my food. But she doesn’t know that that’s the issue, she didn’t examine me. So I asked to see the doctor, and the nurse told me I was on the list. But that was a month ago.”</p>	Decl. 33 ¶ 6
<p>“And I’m drinking more water, but it doesn’t take away the symptoms. When I complain to the nurses, they just tell me there’s nothing to do. They say I’m on the doctors list and I just need to wait. I’m still having those symptoms though, and I don’t know how long I am supposed to wait.”</p>	Decl. 33 ¶ 6
<p>“The jail isn’t in a rush to give us medical attention, and it’s a real problem. For example, let’s say you have a toothache. You go to the nurse at medicine time and ask for an aspirin. But even though the nurse has aspirins right there, she won’t give you anything. Instead, she’ll tell you to fill out a sick call slip. But again it takes three to five days to get a response to a sick call slip. And then, that will only get you to the nurse for some aspirin. If you need to see the dentist, you have to get on another waiting list. I’ve been on the waiting list to see the dentist now for three weeks. And we’ve got people on this unit who have been waiting to see the dentist for months.”</p>	Decl. 33 ¶ 8
<p>“Just two days ago, there were two cellmates on our unit who were really sick. They were spitting up blood and it sounded like things were really bad. We could hear them crying. When the COs wouldn’t respond, other inmates started banging on cell doors and yelling, trying to get the COs’ attention. It took several minutes, it must have been a full five minutes, before a CO came to see what was going on. This whole time, all of the inmates were yelling and yelling that the guys needed to go to the hospital. But it was almost half an hour before the first guy was taken out of his cell, and then another ten before they took the second guy out. The first guy that they took out was totally unconscious. The second guy was screaming and screaming as they took him out. And we truly do not know if those two guys are even alive anymore.”</p>	Decl. 33 ¶¶ 10-11
<p>“[A] friend of mine, who was shot, has stents in his leg. For two weeks now, he has been having problems with his leg, like blood clots or something. It was causing both of his legs to swell up and go numb. He had to wait about two weeks before he got medical attention, he just finally went down to medical yesterday.”</p>	Decl. 33 ¶ 12
<p>“When I put in a sick slip, it takes about four to six days before I am seen by medical, even to this day. I have seen other guys on my unit have to wait until the following week to see medical if they put in a sick call slip. The delays are so bad, that by the time I have seen people get taken to medical, they tell me they already feel better.”</p>	Decl. 34 ¶ 16
<p>“The nurses tell me that medical is swamped so they cannot see people for their medical issues right away.</p>	Decl. 34 ¶ 19
<p>“When I first got to the jail, I felt good. But after about two weeks in, I had a headache, a sore throat, and a cough. It came out of the blue. The headache came first, and the sore throat came a about two weeks later and the cough a few days after that. There was only one time when anyone asked me if I was okay. During the evening shift, a CO [corrections officers] saw me holding my head down and asked what was going on. I told him I had a very bad headache. The CO told me he was going to tell medical but I don’t know if he ever did.”</p>	Corbette Decl. ¶¶ 3,7



<p>“I told her that the nurses aren’t doing anything about the coronavirus except temperature checks. The nurse threatened to send me to isolation and told the CO to write down that I refused the temperature check, even though I had not refused the temperature check. I don’t know if he wrote it down or not. Then she took my temperature anyway. I didn’t say anything else because the nurse had already threatened me with isolation and I didn’t want to keep going back and forth with her.”</p>	<p>Corbette Decl. ¶¶ 10</p>
<p>“One time, I heard someone yelling that his cellie passed out. He was yelling and banging and kicking the door. No one came for about an hour. They took their time.”</p>	<p>Corbette Decl. ¶ 14</p>
<p>“After the nurse didn’t do anything to help me with my symptoms, I told my lawyer about my headache. By then, my sore throat and cough were feeling better, but my head still hurt badly. My lawyer pressed the issue and they finally took me to medical. By then, several days had passed since I told the nurse about my symptoms. I had a headache about every day. By the time they took me to medical I was not having symptoms anymore.”</p>	<p>Corbette Decl. ¶¶ 17-18</p>
<p>“Around the end of March or beginning of April, I developed a cough. The cough got more and more intense. Eventually my throat hurt very badly and I had shortness of breath. I started coughing up thick mucus, kind of like pieces of chewing gum. At night, I had felt like I had fevers, but they only checked my temperature in the morning. I told the COs [corrections officers] about my symptoms, but no one from medical saw me for about three days.”</p>	<p>Diaz-Cantillano Decl ¶¶ 4-5</p>
<p>“Around the beginning of May, I got sick again. I started having a lot of blood in my stool and my nose was bleeding. I tried to tell the COs so I could get medical help, but no one would take it seriously. I sent in about three sick call slips in around May 5th, 7th, and 9th. I also showed the CO all of the blood on some tissues and in the toilet as proof that I was bleeding from my rectum. He told me there was nothing he could do. One night, I was bleeding a lot. When I told the CO around 7 pm, he said that there were no doctors available until tomorrow. Around 2 am, blood came from my rectum in a small ball. Around 5 am, I was still bleeding from my rectum. It was about a week before I got any medical help. Then one night, around 3 or 4 am, I was on the floor with a pain in my side, and one of the COs finally sent me to medical.”</p>	<p>Diaz-Cantillano ¶¶ 14-18</p>
<p>Around June 1st, I started bleeding from my rectum again. Sometimes the blood was red, but sometimes it was black and coagulated. I also started to feel a lump below my rib. I don’t know what it is. And there’s a pain on the left side of my head. I kept telling the COs about it and I filled out a sick call slip. I didn’t get any medical help for about three days. Then my criminal lawyer talked to the lawyer from the lawsuit, and he said she would tell the Jail that I needed help. My lawyer told me that the lawyer from the lawsuit emailed the Jail’s lawyers about how I needed medical help and no one was responding. On June 4th or so (I think right after the lawyer from the lawsuit sent the Jail’s lawyers the email about what was happening to me), I went to medical. I think they only saw me then because the lawyer from the lawsuit had contact them. The doctor felt the lump and gave me medicine for the pain. I still have the bleeding and I asked them for medicine to stop it (they had given me some for that before), but they didn’t give me any. They did not tell me what the lump was or why I was bleeding. Then they sent me back to my</p>	<p>Diaz-Cantillano ¶¶ 30-36</p>

cell again. After I went to medical, I kept bleeding. And it is getting worse. Now I am just dumping blood from my nose and my rectum. It is gummy and black. In the early morning Monday, they sent me back to medical because of the bleeding from my rectum. I wasn't there for long. They said they couldn't give me any medicine, and then they sent me right back to my cell in H-17. I have been saving the tissues I use when I bleed so that I can show them to people so they will believe me. After that, I talked to my lawyer and told him what was happening. He told me that the lawyer from the lawsuit would email the Jail's lawyers again. Then I got sent back to medical again, and I'm still there. This time, they drew blood from me for the first time."	
"During the COVID-19 pandemic, all the way up until my release date on May 18, it seemed like they stopped sick call [sic]. Unless you had a high temperature, you could not go to medical."	Kirkland Decl. ¶ 31
"[Two detainees] reported that they are actually have symptoms of COVID-19 now. One is having trouble breathing, sneezing, and body aches. The other has been coughing. Although both reported their symptoms, neither of them had been seen by medical staff or isolated."	Lanaux Decl. ¶ 4
"Aside from this review, one of my clients, Robert Pixley, was recently rushed to emergency surgery. I believe that this was a result of the jail's delays in providing medical care for him despite his repeated requests for help."	Lanaux Decl. ¶ 6
"Mr. Pixley told me that he began experiencing severe pain, but was unable to get medical attention for several days. Finally, he threw up in his cell around 5 in the morning, and a CO sent him to medical. When Mr. Pixley got to medical, he told the nurse there was something wrong with my stomach and I asked her to listen to it with the stethoscope. She listened and said she didn't hear anything wrong. She gave him Tylenol and a juice. After that, Mr. Pixley ended up waiting in the medical unit. He said that the cell in which he was waiting was very dirty, and that the tier he was on was open to where all of the COVID-positive patients were. After about seven hours, Mr. Pixley still felt very sick, but they sent him back to his housing unit. Less than 24-hours later, Mr. Pixley was sent back to medical and waited to see a doctor, but the doctor never came. Then they sent him back to his housing unit again. Mr. Pixley told me that he felt that the nurses in the medical unit didn't seem to take him seriously. They were laughing and acting like he was trying to con them instead of dealing with his pain. This description is consistent with the accounts of the staff in medical unit that I have heard from other clients in the past. This time, when Mr. Pixley was back in his housing unit and was not permitted to contact me because each time he was taken from the unit to medical, the jail would count this as a 'reclassification' requiring 24 hours before he was given phone privileges. He was then sent back to the medical unit where he started throwing up blood. He was sent to the hospital and had to have emergency surgery because he had a peptic ulcer that had burned through his stomach. Mr. Pixley had to have eighteen internal staples and two external staples to his stomach. A few days after that initial surgery, Mr. Pixley had to have surgery again. When I spoke to Mr. Pixley, he appeared to be struggling to continue speaking to me because he was exhausted and in pain."	Lanaux Decl. ¶¶ 8-15



“For the sick calls that were answered I had to put in between 3-5 requests. It takes more than a week to get me down to medical and that’s only for the ones they answered after I put in multiple requests.”	Decl. 35 ¶ 15
“I told the morning nurse, Vanessa, that I couldn’t breathe and she laughed at me. The daytime nurses call us n-----s.”	Perry Decl. ¶¶ 15-16
“At the beginning of June, 2020, Robert told me over the telephone that he was very sick. He told me that he was throwing up and that he could not eat, and he had a lot of abdominal pain. Robert said he had been trying to get into the medical unit and he would put in sick call slips, but the staff would not take him to the medical unit. For about three days, I called the medical unit repeatedly to tell them about his condition. When I called, the jail the [sic] operator would transfer me to the medical unit, but nobody answered my calls. The second time I reached the medical unit I left a message. On the fourth day of trying to reach the medical unit, a Ms. Draper picked up the phone and told me someone would call back with information about my son. Later that day a Dr. H from a hospital called me to say that Robert had been hospitalized and given emergency surgery. Dr. H told me that a peptic ulcer had burst and that they did the surgery to clean his stomach from the bacteria that had eaten through it.”	Pixley Decl. ¶¶ 3-7

### Medical Isolation and Monitoring of Suspected and Confirmed Cases of COVID-19

	Quote	Citation
<b>Unhygienic Conditions in Medical Isolation</b>	“For example, the COs brought one inmate to isolation cell 7 around June 6. When he came in, I heard him yelling and screaming, ‘This cell is nasty!’ I could hear him shouting, saying that there was feces on the walls. He also said he couldn’t sleep on his bed because there was urine under the mat.”	Decl. 31 ¶ 18
	“I would see him curl up and sleep on the sink because his bed was so nasty – he would sit on the sink and lean his back against the wall, stretching his legs out on the toilet and sleeping in an L-shape.”	Decl. 31 ¶ 18
	The isolation cell was horrific. There was mucus, urine, feces, and blood on the floors and on the walls. There’s a camera in there, and there was even blood, feces, and urine on that. I couldn’t clean, and the smell made me feel worse. It wasn’t fit for dogs to live in there.	Diaz-Cantillano Decl. ¶ 7
	“I was then moved to another cell with four other detainees in it. It was just as bad. There was blood, mucus, and feces on the walls and floors there too. I had started to feel better, but while I was in there, I started coughing again. The vents in the cell were blowing particles that made it harder to breathe. They gave me some red pills that they told me were for allergies.”	Diaz-Cantillano Decl ¶ 11
	“They sent me back to isolation and I was there for three days. It was still filthy. There was yellow mucus on the walls and hair everywhere. I had no toothbrush, no toothpaste, and no soap.”	Diaz-Cantillano ¶19

	<p>“The medical isolation cell was filthy, and did not look like it had been cleaned before they put me in there. The sink had hair and spit in it. The blanket was used and was not cleaned before they gave it to me. There were hair balls and wool blanket pieces on the floor. The mattress was stained. There was dust on the floor and the bed. I asked for cleaning supplies multiple times but nobody would give me any.”</p>	Hill Decl. ¶ 29
	<p>“Around the beginning of June, they put me in a medical isolation cell. I don’t know why. The cell was dirty. There is pee in the corner. There’s feces on the walls and it stinks. I get a change of clothes on Tuesdays and Fridays.”</p>	Perry Decl. ¶ 4
	<p>“The isolation cell I’m in now has feces everywhere. There’s feces on the little camera that’s in here. I complained about it and they said, ‘Well, do you want to clean it?’”</p>	Perry Decl. ¶ 6
	<p>“The isolation cell reeked of urine. . . . There were also feces in the top back corner of the cell and down the corner of the wall. It looked like someone had tried to throw their feces at the security camera.”</p>	Watts Decl. ¶ 6
<b>COVID-19 Transmission in Medical Isolation</b>	<p>“The COs wouldn’t clean the isolation cell. They just said, ‘I’m not a janitor, I’m a CO,’ and kept walking past his cell. Then the guy started asking for paper towels and spray. Most COs didn’t care and just kept walking past him. But finally there was one CO who gave him the cleaning supplies . . . He cleaned it the best he could. But I heard him say it still really smelled in there.”</p>	Decl. 31 ¶ 18
	<p>“The inmates in the isolation cells also have to clean their own cells, including cleaning up after the last person who was in that cell.”</p>	Decl. 31 ¶ 18
	<p>“Then they told me I was going to move to another cell. They gave me paper towels and Clorox and told me to clean the isolation cell before I left. I didn’t have any gloves.”</p>	Diaz-Cantillano ¶10
	<p>“[T]hey told me they would give me extra food from commissary if I would clean all of the medical isolation cells where the people with COVID had been. I did it because the food you get in isolation is cold and it’s not a lot.”</p>	Perry Decl. ¶ 8
	<p>“Most of the cells had feces in them everywhere, but I couldn’t clean it out because it was stuck on the walls. I tried to clean the room I was going to stay in, but I couldn’t get rid of the feces or the pee. Nobody else cleaned those cells but me.”</p>	Perry Decl. ¶ 9
	<p>“When my test came back positive [for COVID-19], . . . I was put in the medical isolation cell. There was a guy occupying the cell when I arrived in medical. He looked rough; he looked sick and unclean, like he hadn’t been able to shower for multiple days. Jail staff opened cell door and let him out, and immediately ushered me into the cell. They did not clean or sanitize the cell in any way. They did not even enter the cell to make sure that it was in OK condition.”</p>	Watts Decl. ¶ 5

	“The jail staff did not give me any materials with which to clean my cell. . . . I ripped my towel into strips and wet the strips with water from the sink and used those to try to clean the feces off of the walls and the toilet as best as I could.”	Watts Decl. ¶ 7
<b>Access to Resources</b>	“Because this inmate was in an isolation cell, the jail wouldn’t . . . let him do anything – no phone, no shower. They wouldn’t let him leave his cell because he was “contaminated.” No one labeled contaminated in isolation is ever let out of their cells to shower or use the phones or anything. So this guy had no way to contact his family and let them know what was going on, that he was really sick and the jail wasn’t doing anything to help him.”	Decl. 31 ¶ 12
	“Then today, they moved me into another isolation cell. It doesn’t have any running water. I’ve been in here without water for about ten hours now. The only water I got was a little to take my medicine with. I feel really bad and I can’t breathe. My chest hurts.”	Perry Decl. ¶ 5
	“I spent four days in the medical isolation cell. During this time, I was unable to shower or call my attorney or my family.”	Watts Decl. ¶ 8
	“For the first 24 hours in medical isolation, I had no soap or toothpaste.”	Hill Decl. ¶ 31
<b>Reluctance to Report</b>	“One day my arm started feeling like it was burning. This had never happened before. I did not tell the corrections officer because I knew what would happen to me. I did not want to go to the medical isolation cell.”	Abarca Decl. ¶ 13
	“Other guys on my unit would tell me that even if they felt sick they would not tell the COs or nurses, because quarantine is like torture and they did not want to go down to medical.”	Diantignac Decl. ¶ 51
	“In mid to late May, there was an older guy on my unit who had symptoms and thought he had the virus, but he told me he did not want to tell the COs or nurses because he did not want to go back to medical isolation.”	Hill Decl. ¶ 21
	“In May, I remember that at least 2 people on the unit who I observed having symptoms. They told me they refused to tell the staff because they did not want to go to medical because of how bad they heard conditions are down there.”	Hill Decl. ¶ 35
	“When they come around to do temperature checks, now they just ask people if they are feeling sick. A lot of people who I know are feeling sick will not tell anyone about it because they say they do not want to go to medical.”	Nelson Decl. ¶ 22
	“The guys who went to medical because they had COVID-19 told us that medical is like punishment because you don’t get commissary and you can’t call your family for the first four days when you are down there.”	Nelson Decl. ¶ 23
	“When the COs and nurses would go to check on [a very sick detainee in isolation], I could hear them say, ‘he’s still breathing.’ But he didn’t ever move . . . I never saw any doctor check on him.”	Decl. 31 ¶ 13

<b>Monitoring of People in Isolation</b>	“The nurses in the medical unit are rude and pretend they don’t hear us. One time one said we don’t want to catch the virus because we have families. I said we have families too.”	Abarca Decl. ¶ 17
	“I did not receive any medical treatment while I was in isolation, just gastritis tablets and sleeping pills. I was just in there alone. The only time I ever saw any person was when they came to give me medication a couple of times a day or when they came to give me food. When they brought me food, they would open the door a crack and warn me not to move before they would slide the food in the cell.”	Diaz-Cantillano ¶¶ 8-9
	“Nobody checked on me. I only saw people when they came to give me Tylenol for the pain and I think antibiotics a couple of times a day. They didn’t ask me any questions when they did that. Other than that, they never checked on me. While I was in isolation, I couldn’t get any help when I needed it. Sometimes I would start bleeding from my rectum and I would have to bang on the door trying to get someone. Most of the time, they just ignored it. Unless you’re dying, they look at you like you’re exaggerating.”	Diaz-Cantillano ¶¶ 19-21
	“I saw a guy down in medical who appeared to be in a lot of pain . . . I heard him asking for medical attention but they kept ignoring him.”	Hill Decl. ¶ 17
	“The officers would ignore me for hours.”	Hill Decl. ¶ 30
	“When I feel like I can’t breathe, I have to bang on the glass to try to get someone. If they come, it takes at least 15 minutes. But sometimes they just ignore you and they don’t even come at all.”	Perry Decl. ¶ 11
	“[W]e would often have to push the call button for the intercom 9 or 10 times [to get an officer’s attention].”	Watts Decl. ¶ 17

### Social Distancing

	<b>Quote</b>	<b>Citation</b>
<b>Lockdown</b>	“I am allowed one hour out of my cell each day. Sometimes it was in the middle of the night.”	Abarca Decl. ¶ 18
	“On H10, we are locked down for about twenty-three hours per day. We get one hour of rec per day, sometimes two hours if the rec cycle comes back around.”	Decl. 12 ¶ 9
	“Your rec time is your only opportunity to clean your cell, but it’s also your only time to shower or make phone calls.”	Decl. 12 ¶ 9
	“We are on lockdown 23 hours a day with one hour out of the cell. On H-5 it would be even worse; one hour every 32 hours, plus sometimes there would be an 8-hour skip shift where nobody would get to come out, and that would make rec time even less frequent.”	Decl. 19 ¶ 10

	“We are still out for only an hour.”	Decl. 20 ¶ 4
	“It’s really like if the CO likes you they let you out even if you’re not in the 10 man group. If the Sargent comes to the unit then that’s when the CO will tell people to step back in but if it is a cool CO then you can get out.”	Decl. 20 ¶ 6
	“We are still on lockdown 23 hours a day. But a lot of the time, we are stuck in the cell longer than that. When the shifts change, the guards who come in might start by letting out one group, even though it was another group’s turn. When we tell them about the mistake, some guards will correct it, but others won’t. That can lead to two or three days without getting to come out of the cell.”	Decl. 30 ¶ 11
	“On June 8, I was moved back to H2. I was moved into a cell with a cellmate, where we’re locked down for twenty-two or twenty-three hours per day, depending on how the COs let us out for rec time. Sometimes the COs will take away the rec time to punish inmates – if one guy in my rec group gets in trouble, for example, that could mean our whole rec group loses our hour.”	Decl. 31 ¶ 19
	“[W]e’re locked down for twenty-three hours or more per day in our hot cells.”	Decl. 32 ¶ 25
	“On lockdown, I get only one hour per day for “rec” time. That is the only time I have to shower, use the phone, and clean my cell. It’s supposed to be 23-and-1 lockdown, but it varies how much rec time you actually get. Because the COs are not very organized, they sometimes forget which cells they let out with the shift changes. Then things get messed up and some people get skipped in the cycle.”	Decl. 32 ¶ 27
	“I was locked down in my cell on H9 for about forty hours until my rec time yesterday, because they skipped my cell in the rotation. I’ve got a corner cell, so I seem to get forgotten more often because it’s harder to see my cell. When I asked about it, the CO told me it was marked down that I had already had rec. But that wasn’t true, someone must have made a mistake. I told the CO that it was a mistake, but she wouldn’t let me out. So I had to wait for the next rotation.”	Decl. 32 ¶ 27
	“We’ve been on lockdown for months and we’re still on lockdown now. It’s 23-and-1 lockdown, where they only let ten guys out of their cells [in H10] at a time, and each inmate only gets one hour of rec per day. During that one hour, you can use the phones, use the showers, and clean your cell. If you get rec during the day, you can also walk out into the little square “yard.” It’s not really a yard – it’s just a concrete box with a cage over the top and a basketball hoop. If you get rec at night, though, you can’t go out into the yard.”	Decl. 33 ¶ 13
	“Sometimes you won’t get your rec until the middle of the night. They take people out for their rec up until three o’clock in the morning. But obviously people can’t call their families at two or three o’clock in the morning. It also negatively impacts our sleep. For me, I don’t even come out when	Decl. 33 ¶ 14

	my rec hour falls that late at night. I just wait and hope that the next cycle is at a more reasonable time.”	
	“The lockdown has negatively impacted my mental health. I have major depression, and I’m on lockdown just thinking about my family. My father passed away on December 23, my uncle on April 29, and my aunt on May 6. My mom is elderly and out in the world by herself. I want to be there for my mom. But I’m in jail, on lockdown. I don’t get to go home to my family at the end of the day.”	Decl. 33 ¶ 26
	“My unit is still on lockdown 23 hours a day. It does not matter how many people are on my unit. Even when there were around 60 people on the unit, we still only got one hour out of our cells each day.”	Decl. 34 ¶ 40
	“The Jail is still locked-down. Some COs give us a little more time than an hour but for the most part we are still locked down 23/1. In some ways, we can do whatever we want during that hour. When people are out on the unit, some people are wearing their masks some aren’t. The people without their masks don’t get scolded by the COs. Some COs do the groups of 10 each hour, some are letting more than 10 out at a time. During this time people are still close together and the COs are not getting on people for being close together. Social distancing has been relaxed and no one is ensuring social distancing as far as I can tell.”	Decl. 35 ¶ 3
	“In the housing unit, I was locked down for 23 hours a day the whole time I was there.”	Corbette Decl. ¶ 19
	“Now, I am getting out three times per day. It could be at any time—1 pm or 1 am. We go out for rec in groups of eight, nine or ten, but it’s not always the same group of people every day.”	Diaz-Cantillano ¶ 26
	The Jail is still locked-down. Some COs give us a little more time than an hour but for the most part we are still locked down 23/1.”	Decl. 35 ¶ 3
<b>Phones</b>	“Social distancing does not exist in here. None of the phones are closed off. When we use the phones, there are people within inches of us.”	Decl. 19 ¶ 14
	“There are some places and times where people are packed closely together, mostly when playing cards and using the phone. Just yesterday (6/14/20) there were about 15-20 people out at the same time and all the phones were being used.”	Decl. 20 ¶ 7
	“Pretty much every time I use the phone all the phones are being used. I can recall maybe 1 or 2 phones being open but more often than not all the phones are used at once.”	Decl. 20 ¶ 8
	“There’s no social distancing on the phones. Not all of the phones work. There are only about six phones out of twelve that work on H8. So when people are using the phones, we can’t socially	Decl. 32 ¶ 28

	distance. People sit wherever the phones are working. Because we get such little rec time, the phones are in high demand, so there is never really any social distancing. We're all right next to each other."	
	"All the phones are side by side. None of the phones are blocked off, you can use any phone you want to. There are some of them out of odor, but otherwise everyone has to sit right next to each other to use the phones."	Decl. 33 ¶ 19
	"There are 12 phones on the unit and they are about three inches apart. They let 10 people out at a time for rec, and just about everybody wants to get on the phone to call their families."	Decl. 34 ¶ 23
	"When we use the phones everyone is still close together, we are not spaced out. Every time that I am on the phone there is pretty much always someone else on the phone right next to me and all of the other phones."	Decl. 35 ¶ 5
	"During the one hour everybody wants to call their families. Everyone is close to each other when they are on the phone. Not even a foot away from each other. There is no separation. The telephones are not cleaned between uses."	Abarca Decl. ¶ 19
	"There is no social distancing at the phones. You are not six feet apart. Nowhere near that. Every time you use the phone, you're almost shoulder to shoulder with other people. No one ever said anything about it."	Corbette Decl. ¶ 21
	"I knew I was supposed to keep my distance, but I could only use the phones during my one hour of rec time, so I used them anyways because I needed to call my lawyer or my family."	Corbette Decl. ¶ 22
	"There is still no social distancing around the phones. When you are using the phone, it's like when you're on a bus. That's how close you are. I've never heard or seen a CO or anyone else tell us to stay six feet apart. There are no disinfectant wipes by the phones."	Diaz-Cantillano Decl. ¶ 24
	"Social distancing is not happening when people use the phones. There are six detail people out right now plus the ten other people out of their cells. The COs are not enforcing social distancing. People are all right next to each other on the phones while I am talking to you."	Nelson Decl. ¶ 20
	"In my unit[, H11B], we can still sit at the tables together and play cards or sit on the couch by each other and watch TV or use the phone and be close. When these things are being done people do not have their masks on."	Decl. 35 ¶ 4
	"Every time that I am on the phone there is pretty much always someone else on the phone right next to me and all of the other phones."	Decl. 35 ¶ 5
<b>Other Proximate Settings</b>	"Some COs do the groups of 10 each hour, some are letting more than 10 out at a time. During this time people are still close together and the COs are not getting on people for being close together."	Decl. 35 ¶ 3
	"Social distancing has been relaxed and no one is ensuring social distancing as far as I can tell."	Decl. 35 ¶ 3



“There are signs (about 4-5) posted throughout the unit to encourage social distancing, but THAT’S IT.”	Decl. 20 ¶ 5
“The CO’s don’t say anything if people are sitting together. COs don’t do anything to enforce social distancing. They don’t scold/discipline inmates if they are sitting together at the tables or talking in groups.”	Decl. 20 ¶ 5
“There had been issues where the rec schedule was getting messed up. Some people were getting skipped and, at the same time, they were letting out like 18 or 20 people at a time.”	Decl. 31 ¶ 35
“When I first came to the jail, I sat in processing for a long time. There were about fourteen people in processing, but they didn’t tell us to spread out and socially distance. People were sitting in the chairs in processing right next to one another, talking and sharing food.”	Decl. 32 ¶ 4
“The COs also weren’t practicing social distancing. They were all sitting right next to each other behind the desk without masks on, eating potato chips and candy, laughing and talking to each other.”	Decl. 32 ¶ 4
“It’s impossible to socially distance in here, period.”	Decl. 33 ¶ 19
“They let us out ten at a time. But all the showers are side by side . . . The TVs have such low volume that everyone needs to be really close just to hear it. Because that’s all we can do for our one hour of rec, there’s no social distancing. Everyone’s just trying to do what they need to do when they can.”	Decl. 33 ¶ 19
“[N]ow the COs have started keeping one paper for themselves, and then the whole unit has to read the second paper. We take turns reading different sections, but it’s difficult for everyone to get a turn. It’s also very unsanitary, because everyone is touching and sharing and passing along the same paper.”	Decl. 33 ¶ 22
“I still cannot keep six feet of distance from people at the jail. It is impossible to.”	Decl. 34 ¶ 23
“When the roommates who are supposed to be quarantined go out to rec, I see them use the same phones, the same showers and go in the same areas as everyone else, and nobody does any special cleaning in between when they come out to rec and when the next group of people comes out.”	Decl. 34 ¶ 29
“When in medical unit people were still seated close to each other and the COs did not say anything. The COs are not really watching people who are in that sitting room. Last time I was there I saw four people in there.”	Decl. 35 ¶ 6
“Before I got released, I had to go to the jail courtroom. It is a very small room and there were about 10 of us in there. We couldn’t stay six feet apart. We were sitting on benches next to each other. We tried to keep our distance, but we were maybe two or three feet apart at most. If I had	Corbette Decl. ¶ 28



	reached out, I could have touched the person next to me. I was in the jail courtroom for an hour or two.”	
	“When I was released, they made us wait in a little hallway and then in another little room. There were five or so of us in there. There’s not a lot of space. We were maybe three feet apart. Not everyone was wearing a mask. I was in the hallway with the people getting released for about an hour. They weren’t being careful or thinking about anyone’s safety.”	Corbette Decl. ¶ 29
<b>Masks and Gloves</b>	“When people are out on the unit, some people are wearing their masks some aren’t. The people without their masks don’t get scolded by the COs.”	Decl. 35 ¶ 3
	“In my unit, [H11B,] we can still sit at the tables together and play cards or sit on the couch by each other and watch TV or use the phone and be close. When these things are being done people do not have their masks on.”	Decl. 35 ¶ 4
	“I’ve seen some of them [the COs] sit around with their masks off. Some have come in here coughing and sneezing with their masks off.”	Decl. 35 ¶ 12
	“As far as gloves, they [the COs] have them on when they are doing something but they don’t have them on all the time.”	Decl. 35 ¶ 12
	“Now we are given fresh masks about every 1-2 weeks. These are the one-day use masks that they give us. The masks started changing colors and bacteria had built up on them.”	Decl. 35 ¶ 14
	“We are getting our masks replaced about every week and a half or every two weeks.”	Decl. 19 ¶ 13
	“COs sometimes take them off and yell in people faces and inmates yell back to tell them to put their masks on. When we do that they go put their masks on.”	Decl. 20 ¶ 15
	“The COS have their own personal/customized masks so that makes it easy to identify or see that they wear their same masks. They don’t change out of their personal masks during their shift.”	Decl. 20 ¶ 16
	“[T]his weekend it was a male CO who was counting out our new masks that had come in with no gloves on . . . The other CO (I believe her name is CO Brown) she had looked at the male CO and basically gestured to him that she had gloves on and that he needed to do the same; that is when he decided to put gloves on. I witnessed all of this from my cell.”	Decl. 20 ¶ 16
	In processing, “[b]oth the inmates and the COs were taking their masks off and not wearing them consistently.”	Decl. 32 ¶ 4
	“The COs don’t treat COVID-19 like anything serious. The COs walk around without any face mask, sometimes without gloves.”	Decl. 32 ¶ 20
	“Another time, the CO came around H8 doing count. But instead of just looking at everyone’s armbands, the CO was touching everybody and everything with the same gloves. She was touching	Decl. 32 ¶ 21

	the keys on her belt, the dirty railings, the doors, and other inmates' bodies. And she touched my cellmate, and then she touched me. This was when my cellmate was really sick."	
	"While the nurses do temperature checks, they wear the same gloves the entire time. Sometimes they're even feeling people's faces, and they just go from person to person with the same gloves on. Some of the nurses don't even wear a mask when they take temperatures with the scanner gun."	Decl. 32 ¶ 23
	"We would get new masks here and there. Maybe every two to the three weeks."	Corbette Decl. ¶ 26
	"Guards do not consistently wear masks in the unit. I see them with their masks off pretty often. In the last week, I have seen it happen four or five different times."	Decl. 30 ¶ 10
	"They [sic] jail gives out thin, disposable masks about once a week now."	Decl. 34 ¶ 22
	"In my unit, we can still sit at the tables together and play cards or sit on the couch by each other and watch TV or use the phone and be close. When these things are being done people do not have their masks on."	Decl. 35 ¶ 4
	"I see COs come in here talking without their masks on and coughing."	Nelson Decl. ¶ 17
	"We usually get a new mask once each week on Mondays. It might be other days too, but most of the time, it is just once a week on Monday."	Nelson Decl. ¶ 19
	"You have COs coming in here talking in people's faces with no masks."	Nelson Decl. ¶ 21
	"I saw that officers on my unit were coughing and not wearing masks around that time."	Hill Decl. ¶ 12
	"Today, four of us went down to sick call. I told the officer who was working that I didn't have a mask. The officer told me he didn't have one. They let me walk all the way to medical without a mask."	Hill Decl. ¶ 46
<b>Ventilation</b>	"Lately, it has been extremely hot and stuffy in here [H9]. Whatever circulation they have is not enough. At night, it is so hot it is hard to sleep."	Decl. 30 ¶ 4
	"When they moved me to the second floor of H8, I explained to the COs that the upstairs cells don't have any air circulation. The air upstairs doesn't blow, there's no ventilation, and it's really hot . . . So I explained that it wasn't good for me to be up there, because it's hard for me to breathe as it is with my asthma, and this will only make it worse."	Decl. 31 ¶ 16
	"Even in the shared spaces, the sanitation is poor. This is true for both H8 and H9. The air vents are dirty and have grime on them. There's trash, papers, stuff under the steps. They say that to protect from the Coronavirus, you've got to keep stuff sanitized. But that's not what they're doing in here."	Decl. 32 ¶ 17

	“It’s no better on H9 than it was on H8. The level of cleaning and sanitation is the same, or maybe a little worse. And it’s really, really hot. I’m in a cell on the second floor. It seems like the air vents don’t work at all up here either. There’s no circulation. I would estimate it’s been about 85 degrees in our cells on the hottest days. As soon as you go into the cell and close the door, you start sweating. You have to just strip off all of your clothes. And it’s so hot sometimes that even the floor sweats. There’s no ventilation, we don’t have any air coming in. And some of the vents are dirty too – some of them have toilet paper stuffed in them, some have mold and rust.”	Decl. 32 ¶ 31
	“The heat, humidity, and lack of circulation is affecting my breathing. And I’ve told the COs on H9 that it’s hard for me to breathe up here.”	Decl. 32 ¶ 32
	“I talked to the head doctor and I told her that I can’t breathe in that isolation cell. She said she doesn’t think I should be in there because there is no ventilation.”	Perry Decl. ¶ 21
	“I had started to feel better, but while I was in there, I started coughing again. The vents in the cell were blowing particles that made it harder to breathe.”	Diaz-Cantillano Decl. ¶ 11
	“[T]he cells don’t have good ventilation. It gets really hot inside the jail. When it’s hot outside, it gets really hot in our cells. Last week, it was so hot that the walls and floors were sweating. I don’t know how many degrees it was, I don’t have a thermometer. But when it gets so hot like that, all you can do is take off your clothes, lie down on your bunk, and be still. Any movement, and you’re going to be sweating a lot.”	Decl. 33 ¶ 15
	“The heat and humidity also makes it much more difficult to breathe. I’ve noticed people on the unit [H10] are using their inhalers more frequently when medicine comes around.”	Decl. 33 ¶ 16
	“This jail is a closed-in confined area where we breathe the same air. Everybody breathes the same air.”	Decl. 34 ¶ 42

### Sanitation

	Quote	Citation
<b>Disinfecting Common Surfaces and Spaces</b>	“When we ask for cleaning supplies, the guards usually tell us we have to wait until our hour of recreation time to get any. There are no disinfectant wipes by the phones—we don’t have disinfectant wipes at all.”	Decl. 19 ¶ 11
	“Right before the Doctor came into the jail that is when the entire tier was cleaned. At that time they mopped, swept and wiped down everything! That was the only time I’ve seen the whole unit cleaned.”	Decl. 20 ¶ 9

	“Since then just people come in to spray the perimeter (only at the bottom tier). They just spray the corners at the bottom tier of the unit. We were told that it would be done twice a month but now it is done randomly. They have maybe come three times since the initial full unit clean before the Doctor came. And when they do come they only do the main/lower level, they don’t come up to the other tier.”	Decl. 20 ¶ 10
	“Wipes aren’t given. There are absolutely no wipes near the phones; really no wipes at all.”	Decl. 20 ¶ 11
	“[T]here have been no wipes since the beginning of the outbreak. When you go to the desk to ask for the wipes the COs say that they ran out.”	Decl. 20 ¶ 12
	“You can request cleaning supplies. Some CO’s will give it to you some won’t. No specific instruction has been given on how to properly use the cleaning supplies so we can disinfect.”	Decl. 20 ¶ 13
	“There is absolutely NO disinfecting of tables, the cards, door knobs between uses. The phones randomly get wiped but not on a consistent basis at all.”	Decl. 20 ¶ 17
	“Cleaning has been inconsistent. Earlier this week there was a different guard in our unit than usual. During the two days she was here, she told the cleaning detail that we were not allowed to clean the showers. For those two days, the showers were not cleaned.”	Decl. 30 ¶ 9
	“The janitorial staff came through the medical unit every day. But they only cleaned the hallways and the CO security bubble. They did not clean the ten-person cell, not once during the week I was there. They didn’t clean the isolation cells either.”	Decl. 31 ¶ 17
	“We had to clean our own cells. There were no disinfectant wipes in the ten-person cell in medical. We had to ask for cleaning supplies. If I wanted to clean, I would have to get the attention of the COs in the security bubble and ask them for the spray bottle. There was no other way to disinfect or clean.”	Decl. 31 ¶ 17
	“There is a detail unit that cleans the shared spaces on H2, but we have to clean our own cells. We have to ask to get cleaning supplies and we have to use our rec time to do it, which can feel like a waste of the one or two hours you get. I don’t know what the cleaning chemicals are in the spray they give us or if it is a disinfectant. They haven’t told us what it is or that we need to wait before wiping up the spray. We just spray and wipe.”	Decl. 31 ¶ 20
	“The COs made the inmates who work detail clean [the cell where the COVID-19 positive inmate had been housed]. But the only supply they had was watered- down Spray Nine (half water and half Spray Nine). They had to bag up all of his stuff and then they sealed off his room.”	Decl. 32 ¶ 11
	“Even in the shared spaces, the sanitation is poor. This is true for both H8 and H9. The air vents are dirty and have grime on them. There’s trash, papers, stuff under the steps. They say that to protect from the Coronavirus, you’ve got to keep stuff sanitized. But that’s not what they’re doing in here.”	Decl. 32 ¶ 17

“The railings aren’t clean. I see guys coughing on their hands and touching the railings. And then the detail workers are touching those railings and passing out our food trays. The COs also touch our food trays without gloves after they’ve been handling stuff.”	Decl. 32 ¶ 19
“There also seems to be a COVID outbreak on this unit too, just like there was on H8. I’ve only been on H9 for a few days, but already there are two guys I know of who have been taken away due to Coronavirus. One guy in cell number 206 was taken away right before I was brought to H9. They didn’t clean up the cell. They just closed it off. They have a sign on his door that says, “cell closed,” and there’s a little party light they put in the cell that flashes off and on. The light is ridiculous, it looks like there’s a ghost or something in there. I don’t know what that party light is supposed to do. Over the weekend, another guy in cell number 226 was also taken away with Coronavirus. They did the same thing with his cell, put a sign on it that says “closed” and just left it all a mess. Still today, no one has come back to clean it. The guy who was sick was a part of the detail crew as an “add on,” so he would occasionally pass out food trays and help out around the unit.”	Decl. 32 ¶¶ 33-34
“They passed out bars or [sic] soap and they cleaned the rails twice a day. Sometimes they cleaned other things, but not always. They did not clean the showers. They were full of dirt, trash, and hair.”	Corbette Decl. ¶ 24
“The COs don’t clean common surfaces. They just clean their own spot.”	Diaz-Cantillano Decl. ¶ 29
“There are no disinfecting wipes by the phone. I have never seen disinfecting wipes by the phones. I am on cleaning detail, so I know they do not always clean the phones in between uses.”	Hill Decl. ¶ 19
“When I left medical, I saw that they were putting another person in my cell, and they did not clean the cell before putting a new person in there.”	Hill Decl. ¶ 33
“They are not cleaning phones between uses and still do not have disinfecting wipes.”	Hill Decl. ¶ 40
“A cleaning company came the other day but they do not do a very good job, and the unit was still dirty after they left.”	Hill Decl. ¶ 41
“I work on the cleaning detail, and a CO asked me to clean up the area around the stairs shortly after the cleaning company left last time. They were still really dirty, and it took me 30 minutes to thoroughly clean them.”	Hill Decl. ¶ 42
“I have never seen any disinfecting wipes at this jail.”	Nelson Decl. ¶ 14
“In between the 10-man groups shifts out of cell, nothing is wiped down at all.”	Decl. 35 ¶ 7

	“They do not have wipes on my unit[ , H11B]. Last time I asked for wipes they said they didn’t have any. That was about a month ago [in May 2020] and they said they ran out and that they wouldn’t have any for a while; basically out of stock.”	Decl. 35 ¶ 8
	“There is a wipe down of the door handles every night and the phones every night but not the tables or cards that we use. In the morning, once everyone starts using the phone or sitting at the tables, they aren’t wiped down again until night time.”	Decl. 35 ¶ 9
	“Near the phones there are no wipes.”	Decl. 35 ¶ 11
	“The jail staff did not give me any materials with which to clean my cell. The only items I had with me were: my commissary toiletry items and a personal towel. I ripped my towel into strips and wet the strips with water from the sink and used those to try to clean the feces off of the walls and the toilet as best as I could. I spent between two to three hours cleaning my cell before I felt comfortable enough to lie down.”	Watts Decl. ¶ 7
	“They gave us spray to use to clean the shower ourselves but no rags or sponges. My cell did not look like it had been cleaned before I arrived. There was mold and dust in the cell and the bed was rusted.”	Watts Decl. ¶ 13
<b>Spray Nine</b>	“On H10, the detail workers . . . use Spray Nine to clean, but it’s very watered down. They don’t clean individual cells, that cleaning is left to the inmates to do during their rec time.”	Decl. 12 ¶ 12
	On H10, “[t]here are also paper towels and Spray Nine that you can use to wipe down the phones before each use. But there are no disinfectant wipes. I haven’t seen any bleach or disinfectants on the housing unit at all. All we have access to is the watered down Spray Nine.”	Decl. 12 ¶ 12
	“A guy I know on the detail unit told me that they dilute the Spray Nine half and half. So in a one-gallon jug, there’s a half gallon of Spray Nine and a half gallon of water. When we use it to clean, we just spray and wipe. No one has told us to wait thirty seconds before cleaning.”	Decl. 12 ¶ 13
	“The Spray Nine that we get as a disinfectant is watered down. I have seen both the guards and the cleaning detail adding water to it. No one has ever told me that we have to leave it on a surface for thirty seconds in order for it to be effective.”	Decl. 19 ¶ 12
	“The Spray 9 is usually out for us to use. Speaking now with you on the phone I don’t see any out, it’s just window cleaner and napkins. More often than not the Spray 9 is there.”	Decl. 20 ¶ 13
	“I am on the cleaning detail. Every week we run out of cleaning supplies, including Spray Nine. In the past, we have usually been able to get more by asking the guard to ask their superior officer for more. But this week, we ran out on Tuesday and we were told there was no more anywhere else in the jail. For all of Tuesday and all of Wednesday, we were instructed that there was no Spray Nine and that we had to use Windex to wipe down surfaces and phones.”	Decl. 30 ¶ 7

	“When we do have Spray Nine, we are instructed to cut it with water.”	Decl. 30 ¶ 8
	“They only have Spray Nine to clean. They ask the detail workers to clean the phones every shift, every eight or nine hours. If you want to wipe down the phones between uses, you have to ask the COs for Spray Nine and napkins. The COs will rip the napkin in half and spray it for you, and that’s all you get. They’re trying to reserve the Spray Nine. Instead of just buying more, they’re cutting it with water and trying to save it back.”	Decl. 32 ¶ 18
	“I have never had access to disinfecting wipes. All I have seen is Spray Nine. They use that to mop the floor and the walls, everything.”	Decl. 34 ¶ 32
	“I am on cleaning detail, so I know about the cleaning products we use to clean the unit. The COs will take the Spray Nine from the one jug and pour it into 5 jugs and I add water so that it is heavily diluted. The five jugs of diluted Spray Nine have to last a whole week, from Thursday to Thursday.”	Decl. 34 ¶ 33
	“The jail staff has never given me any instructions about using the Spray Nine. Nobody has ever told me that you need to leave it on a surface for at least 30 seconds in order for it to properly disinfect the surface. When we clean, we spray the Spray Nine on a paper towel or a napkin and then wipe the phones, railings, or tables.”	Decl. 34 ¶ 34
	“There is Spray 9 for our cells but it is half water and half spray. Sometimes they run out of spray and don’t give us any.”	Abarca Decl. ¶ 19
	“The COs only let you use cleaning supplies for your cell during your one hour of rec time. They will let you use Spray-9 and paper towels. But when you’re in your cell, they won’t give it to you.”	Corbette Decl. ¶ 23
	“All we have to clean with is Spray Nine, and the COs make me water it down to make it last longer. I have seen them fill up the spray bottles with half Spray Nine and half water. They did not give us any special instructions about how long you need to leave Spray Nine on a surface in order for it to disinfect the surface. We just spray it on and wipe it right off with some paper towels.”	Hill Decl. ¶ 41
	On H17: “They give us Spray Nine to clean with and bleach, but we rarely get the bleach. The COs ask me to put water in the Spray Nine. I do not know why they add water to it.”	Nelson Decl. ¶¶ 12-13
	“They have Spray 9 here on the unit [H11B] but they have not given any specific instruction on how to use it or when to use (i.e. to use it to wipe off the phones).”	Decl. 35 ¶ 11

### Plan for Medically Vulnerable Detainees



	Quote	Citation
<b>Denial of Care</b>	“I have to wait until the nurse comes to give out medicine. If things are urgent and I can’t wait, I push a button in my cell to try to get the COs’ attention. Sometimes the COs will listen to me. But a lot of the time, the COs stay seated behind their desk just talking to one another, ignoring me. Sometimes they’ll turn the volume of the buzzer down low, so they don’t even have to hear me.”	Decl. 32 ¶ 8
	“Lately, I have had trouble breathing on multiple occasions. I have gone to the medical unit multiple times because of my difficulty breathing. On Friday, June 5, I was having trouble breathing. The nurse said that I would get to see a doctor that day or the next day. As of June 12, I have not gotten to see a doctor yet.”	Decl. 19 ¶ 5
	“I told the nurse that I needed my daily HIV medications when I was processed into the jail . . . without the medications, my viral loads could increase . . . She looked it up and told me that the jail didn’t have my medication in its inventory. After I got moved to H2, I kept telling the nurses that I needed my medication. One nurse told me that my family could pick up my prescription at my pharmacy and bring it to the jail. But my family doesn’t drive and doesn’t have a way to get to Upper Marlboro.”	Decl. 31 ¶ 5
	“So the nurse said she would research it and try to make my correct dosage out of other medications. I didn’t start getting HIV medications until about four days after I was processed into the jail. I am now receiving HIV medicine, but I do not know whether the jail is giving me the correct dosage because I’ve been having strange symptoms. My body is having problems that it normally doesn’t have, which makes me think the jail isn’t giving me the right dosage.”	Decl. 31 ¶ 5
	“In the isolation cell, I remember feeling chest pains and shortness of breath. I told the nurse about my chest pains, and she said ‘everybody has chest pains.’ She ignored me and did not want to give me any medicine or medical attention.”	Diantignac Decl. ¶ 22
	“I put in at least three slips to go see medical between April and now. I have had to wait a week or a week and a half each time I put in a slip, sometimes longer. Even when you go down there, they do not give you the help you need.”	Hill Decl. ¶ 23
	“In late May, I started feeling awful again. I had aches, a sore throat, and I felt very tired.”	Hill Decl. ¶ 24
	“In May, my whole unit got tested for COVID-19.”	Hill Decl. ¶ 26
	“On May 19, the jail finally responded to my requests to go to medical and took me to the medical unit. I was there in an isolation cell from the evening of May 19 until the evening of May 21.”	Hill Decl. ¶ 27
	“I told the medical staff that I have asthma that causes trouble breathing at night. In response, the staff told me to lay on my side when I sleep instead of laying on my back. They are still refusing to give me an inhaler for my Asthma.”	Hill Decl. ¶ 36



	“The whole time I have been at this jail it has taken a long time to get medical care, and often sick call slips go ignored.”	Hill Decl. ¶ 37
	“I keep telling them I can’t breathe and they say they don’t have anything for me. I tell them my heart and my chest hurts. They told me they don’t have anything for that.”	Perry Decl. ¶ 13
<b>Housing for Medically Vulnerable</b>	“I have a cellmate on H9 and pretty much everyone else does too.”	Decl. 32 ¶ 23
	“The cellmate they just gave me has asthma.”	Decl. 34 ¶ 35
	“Then today, they moved me into another isolation cell. It doesn’t have any running water. I’ve been in here without water for about ten hours now. The only water I got was a little to take my medicine with. I feel really bad and I can’t breathe. My chest hurts.”	Perry Decl. ¶ 5
	“My nose is really stopped up from being in this cell, and it’s so bad I can’t use my CPAP breathing machine. I really can’t breathe in this iso cell. I’m just getting sicker and sicker. They’re going to kill me in here. I talked to the head doctor and I told her that I can’t breathe in that isolation cell. She said she doesn’t think I should be in there because there is no ventilation.”	Perry Decl. ¶¶ 19-21
	“Now that I am in the medical isolation cell, I can’t breathe, especially when I wake up in the morning. It’s a little cell and there’s no windows or anything. I’ve been having to get breathing treatments since I’ve been in there, and I didn’t need them before that.”	Perry Decl. ¶ 10
<b>Mental Health</b>	“There is no mental health treatment or counseling to help us cope. And if you want dominos or playing cards, you have to buy them from the commissary.”	Decl. 12 ¶ 9
	“During our time in our cells, we are not allowed reading material, game pieces, dominos, or anything. There is absolutely nothing to do.”	Decl. 19 ¶ 10
	“There are no mental health professionals or counseling, there’s nothing like that that I’ve seen. And we haven’t gotten any reading materials or anything to keep our minds occupied and sane while we’re on lockdown. Even the chapel, which has religious books, is closed. So I can’t have a bible or Quran or prayer books, let alone any other books. And sometimes the COs will even refuse to give us the newspaper.”	Decl. 32 ¶ 29
	“I’m not getting any mental health resources besides my medication at the jail. And I’m not getting my regular prescription either. I’m getting some generic that doesn’t work as well for me.”	Decl. 33 ¶ 24.
	“Since the jail started doing social distancing, I have only seen the psychiatrist come to our housing unit once, and that was back when the social distancing first started. When I saw her, I wrote a note saying that I really needed to see her. I gave the note to another inmate, who was out on rec, and he gave it to her. I watched her read it and then just ignore it.”	Decl. 33 ¶ 24
	“I have not seen any mental health professionals on our unit since then. And really, I’ve given up on trying to get any sort of mental health treatment or counseling. The stuff you have to go through	Decl. 33 ¶ 25.

	to get to these people, it's upsetting. It's just not worth making myself upset and frustrated trying to get help. So I deal with it on my own."	
	"I really miss my psychiatrist and my case manager on the outside. They know me and they know how to help me. They actually take the time to help me and support me. But the people here just don't care. They just give you medicine and that's it. They don't really want to help you, they just medicate you. They'll medicate you with anything you want as long as you stop bothering them."	Decl. 33 ¶ 25
	"The lockdown has negatively impacted my mental health. I have major depression, and I'm on lockdown just thinking about my family. My father passed away on December 23, my uncle on April 29, and my aunt on May 6. My mom is elderly and out in the world by herself. I want to be there for my mom. But I'm in jail, on lockdown. I don't get to go home to my family at the end of the day."	Decl. 33 ¶ 26
	"I have no one to talk to, no psychiatrist or case manager or therapist. And it really bothers me. On top of it, you have COs who come in here with a bad attitude, trying to ruin your day. It takes a lot of strength to make it through. It also is really hard to be experiencing symptoms without knowing what's going on with your body. It weighs on me. Especially with Coronavirus, and people just dropping dead."	Decl. 33 ¶ 27
	"There was a mental health doctor who used to come around to the unit on a regular basis. The mental health doctor came on the unit for the first time since pandemic started on the day the inspectors came, and she ain't been back since."	Decl. 34 ¶ 21
	"There is nothing to do in the cell. There is nothing to read. You could maybe get a newspaper sometimes, but not usually."	Corbette Decl. ¶ 19
	"Ms. Taylor only comes on the unit to see people for mental health once in a blue moon. I do not see her come that often. When she does come, I do not even see her talking to anybody. She definitely does not come every day. She used to come every day before the pandemic."	Hill Decl. ¶ 44

# **EXHIBIT B**

**Declaration of Fred Rottnek, M.D.**

**I. Background and Qualifications**

1. My name is Fred Rottnek, MD, MAHCM, a Professor of Medicine in the Saint Louis University School of Medicine, Professor in the Physician Assistant Program at the Doisy College of Health Sciences, and Professor in the Center for Health Law Studies in the School of Law. I am the Director of Community Medicine in the Department of Family and Community Medicine and the Program Director of the Addiction Medicine Fellowship. I am board-certified in Family Medicine and Addiction Medicine, and I am a certified Correctional Health Care Physician through the National Commission on Correctional Health Care.
2. I am a board-certified family physician and certified correctional health care physician with over 15 years of experience practicing correctional health care in Saint Louis County, Missouri.
3. I was the lead physician and medical director of the Saint Louis County Jail from June 2001 through September 2016. In this role, contracted through the Saint Louis County Department of Health, I saw patients three days/week, took call on average 16 days/month, and participated in the leadership teams that were responsible for the health and well-being of inmates, correctional medicine staff, correctional staff, and visitors to the jail, which is located in the Buzz Westfall Justice Center as well as Juvenile Detention in the Family Courts of Saint Louis County.
4. As a large urban jail, during my years in this role, I was responsible for directing the medical care and supporting the correctional medicine staff in the care of a daily census of patients that varied from 900 to 1400, as well as annual intake screenings of 30,000 to 34,000 arrestees. The Saint Louis County Jail was (and is) the only jail in the State of Missouri that meets standards for accreditation by the American Correctional Association. Juvenile Detention is accredited by the National Commission on Correctional Health Care. In addition to policies regarding patient care and custody of medically-fragile inmates, I participated in the development of policies regarding institutional safety. Examples of the latter include standard operating procedures on complex patients in the medical and psychiatry infirmary, hygiene and cleaning protocols during the initial outbreak of MRSA (methicillin-resistant staphylococcus aureus) in the early 2000's, and safety and emergency protocols related to the institutional lockdown following Michael Brown's shooting death in Ferguson, MO, in August 2015. MRSA was an antibiotic-resistant strain of bacteria that was spread by contact and through unhygienic intravenous drug injection. It was particularly difficult to treat, as a result of its resistance to anti-biotics, and, much like COVID-19, it can live on surfaces for days and remain undetected in hosts, which greatly increases the likelihood that it will spread. The congregate setting of the Jail substantially increased the likelihood that MRSA would spread within the facility, and, thus, in order to contain and prevent infection, proper personal hygiene and disinfectant of high-touch

surfaces and common areas was critically important to preventing an outbreak within the facility. In order to successfully prevent the spread of MRSA within the facility, including Jail staff, we developed an educational video shown daily to all the housing pods explaining transmission, prevention, and proper hand-washing to mitigate spread of the bacteria. This video was shared with and disseminated throughout the country by the National Institute of Corrections. In addition to this tool, we created protocols for institutional cleaning, including cleaning schedules and instructions for detainees to effectively sanitize their own cells with disinfecting wipes and workers to mop floors and properly sanitize high-touch surfaces and shared spaces. We also developed medical protocols to standardized antibiotic prescribing based on Bureau of Prisons recommendations. Within two months, we had MRSA infections down to 1/8 of the rate of infection at its peak..

5. I was previously qualified and testified as a corrections health expert in *Jacob Benoit & Zachary Benoit, Plaintiffs vs. Lindell Riffle, et al, Defendants*. Case No. 12L6-CC0006
6. My bio, attached, includes a brief description of my education and relevant experience.
7. My C.V., attached, has a full list of my honors, experience, and publications.
8. During the COVID-19 health crisis, I have conducted court-ordered inspections at the Wayne County Jail and the East Baton Rouge Parish Prison. I have contributed my experience in this field, and emerging science related to COVID-19 in a letter I wrote to the Supreme Court of Missouri, and to declarations that I submitted in *Swain v. Junior*, No. 2020-cv-21457 (So. Dist. Fla., Apr. 5, 2020) and *Feltz v. Regalado*, No. 18-cv-00298 (D. Okla. June 6, 2018), stating the threat COVID-19 posed to inmates in prisons and jails, detailing the impossibility of jails and prisons meeting the Center for Disease Control's guidelines, and supporting the release of medically vulnerable people. I have also worked with the 22<sup>nd</sup> Circuit Court (City of St. Louis, Missouri) to safely reopen through combined virtual and in-person processes. I have delivered invited presentations for the Substance Abuse and Mental Health Services Administration and the Provided Clinical Support Network on how to mitigate risk during the COVID-19 pandemic in direct patient care and utilize virtual appointments for patients with substance use disorders and co-occurring mental illness.
9. I reviewed the following materials in preparation for this declaration:
  - a. Inspection Report by Dr. Franco-Paredes'
  - b. This Court's Order on May 21, 2020, Doc. 85.
  - c. Defendant's Response to this Court's May 21 Order, Doc. 88, and accompanying exhibits, as well the PowerPoint presentation, *Coronavirus, Prince George's County Department of Corrections, Development Education and Training Section*, and other jail planning documents produced by Defendant.<sup>1</sup>
  - d. Defendant's 14-day report, Doc. 95.

---

<sup>1</sup> This PowerPoint is attached to Plaintiffs' Letter Brief as Exhibit 4.

- e. Eighteen plus declarations by putative-plaintiffs, their loved ones and their counsel

## II. The Current State of COVID-19 in Prince George's County

10. The COVID-19 pandemic is far from over. While there is much talk in the popular press about herd immunity, there is little known about any lasting protective immunity from COVID-19. Herd immunity occurs when a large majority of the population, generally at least 70%, becomes immune to a disease by one of two routes: vaccination or sustained antibody production following an infection with an agent, in this case the coronavirus.<sup>2</sup> Herd immunity requires strong lasting antibody protection post-infection; there is no evidence that COVID-19 provides this yet. Moreover, the second requirement is that the virus remains stable and doesn't mutate, so that the protection remains. Likewise, there is no scientific evidence of that yet. In fact, at the current state of knowledge, there is no reason to believe that an individual cannot be infected more than once.
11. The other cost of herd immunity would be the death toll required for 70% or so of the population to be infected with coronavirus. At current rate of spread of coronavirus infectivity, it will be well into 2021 before the virus spreads to 70% of the population. If death rates remain at current levels, *over 500,000 Americans will die* of COVID-19 by that time.<sup>3</sup>
12. As of June 16, 2020, the number of people with coronavirus infection continues to increase in Prince George's County. Not only are the number of infections increasing in the community, but also many of the workers in correctional environments are members of society—Black and brown communities, lower income, members of multigenerational households and denser communities—who, are at greater risk for life-threatening sequelae should they contract the virus.
13. Public health experts expect COVID-19 to continue a public health threat until an effective vaccine is created, tested, and implemented to a majority of the U.S. population. Until then, jails and prisons require both ongoing diagnostic and surveillance testing to monitor for introduction of coronavirus into the facility from inmates, correctional staff, medical staff, and other visitors.
14. For these reasons, although the Prince George's County Jail has taken some basic, initial steps to mitigate the first wave of COVID-19, these steps are just the first set of precautions necessary to mitigate the risk of COVID-19 in the months to come.

---

<sup>2</sup> See Mayo Clinic, *Herd immunity and COVID-19 (coronavirus): What you need to know* (June 6, 2020), available at <https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/herd-immunity-and-coronavirus/art-20486808>.

<sup>3</sup> See David Dowdy & Gypsyamber D'Souza, *Early Herd Immunity against COVID-19: A Dangerous Misconception*, Johns Hopkins Coronavirus Resource Center (last accessed June 19, 2020), available at <https://coronavirus.jhu.edu/from-our-experts/early-herd-immunity-against-covid-19-a-dangerous-misconception>.

### **III. The Jail Inspector's Report**

15. Review of the Jail inspector's report is helpful to see what the environment can look like in its best possible condition—such as during an inspection. It is worth noting that, in my experience as an inspector, these conditions do not necessarily continue when an inspector or assessor is not present. They are merely a snapshot of conditions and behaviors.
16. Nonetheless, Dr. Franco identified a number of troubling issues present at the Jail during his inspection, namely:
  - a. Insufficient testing
  - b. Under-trained nurses and correctional officers
  - c. Insufficient supervision and accountability of medical staff responding to detainees' sick calls
  - d. Consistently delayed responses to requests for care by detainees held in medical isolation
  - e. No existing functioning protocol for inmates to report grievances
  - f. Lack of contact tracing and social distancing
  - g. High risk of new introductions of the virus through staff and new intakes
  - h. Not all sick calls were answered in the midst of the outbreak, and medical staff regularly responded to sick calls during the outbreak with disinterest, often saying: "if you can walk, then you are ok"
  - i. Lockdown creates tension between detainees and Correctional Officers (CO) requiring frequent activation of emergency team responses
17. Dr. Franco also credited the Jail for some basic remedial steps it had taken at the time of the inspection such as the provision of Spray 9 and disinfecting wipes on at the phones.

### **IV. Assessment of the Jail's Plan and Implementation**

18. Overall, although the administration and staff have made some rudimentary steps forward to create a safer environment for detainees and staff, the Jail's plan is not adequate. There remain several areas of non-compliance with the CDC guidelines that are critical to protect to the health and safety of people detained in the jail—particularly the medically vulnerable detainees.

#### **A. Plan and Implementation for High Risk Detainees**

19. **Identification plan:** The Jail's plan, which states that these inmates will be identified "to the greatest extent possible" is not adequate. High-risk detainees need to be clearly defined and identified.

20. The Jail must know who is medically vulnerable in order for any of its proposed interventions, such as housing and treatment, to work. It is not difficult to discern the medically vulnerable given the records available to the Jail. I am familiar with the records maintained by Corizon through my work in other cases. The Jail can and should review intake assessments; medical records; appointments in chronic care clinics; sick calls; and pharmacy records for medications consistent with the identified high-risk conditions. It is wholly insufficient to rely only on sick calls, intake, and the Chronic Care Clinic to identify the medically vulnerable “to the greatest extent possible.”
21. **Monitoring plan:** With regard to monitoring, high risk detainees are at a great risk of rapid decompensation should they contract the virus. For this reason, they require some form of regular and frequent monitoring. Accordingly, the Jail’s plan, which proposes 30, 60, and 90 day check-ins and twice daily symptom and temperature checks, is, albeit a start, not sufficient to protect these extremely vulnerable inmates from being infected or suffering serious health consequences if infected.
22. **Treatment plan:** The same is true with regard to the Jail’s plan for treatment of high-risk detainees. Placing medically vulnerable detainees who are suspected to have contracted the virus in isolation with “multiple rounds” by nurses to check vitals and assess changes in condition, on its own, will not prevent or catch the rapid decompensation COVID-19 can bring. In addition to these steps, the Jail must create a detailed plan for rapid response and make it known by all staff; provide a meaningful way for detainees in isolation to reach staff in an emergency; and provide for regular and frequent monitoring, i.e. many rounds per day.
23. **As implemented:** Reports by detainees indicate that, to the extent the Jail has compiled a list of detainees at high-risk for fatality should they contract the virus, the Jail has not communicated one’s high-risk status *to the detainee* or made any changes to his housing, monitoring, or treatment on that basis. It goes without saying that informing a person of their own risk provides understanding and may alter behavior with regard to practicing social distancing, wearing a mask, and washing hands and frequently touched surfaces. Failure to communicate a high-risk detainees’ status to them undermines the entire project of identifying them in the first place.
24. Similarly, no detainees report receiving additional treatment or monitoring,<sup>4</sup> and most detail that symptom checks are cursory if done at all.<sup>5</sup>

---

<sup>4</sup> See Decl. 32 ¶ 8; Decl. 19 ¶ 5; Decl. 31 ¶ 5; Diantignac Decl. ¶ 22; Hill Decl. ¶ 23-27, 36-37; Perry Decl. ¶ 5, 13, 19-21; Decl. 32 ¶ 23; Decl. 34 ¶ 35.

<sup>5</sup> See ¶ 33, *infra*.



25. Detainees also report that the medical isolation cells are filthy and not cleaned between occupants.<sup>6</sup> Sanitation of a cell known to have housed a person infected with the virus is one of the most important, and definitely the most obvious, ways to prevent the spread of the virus. A sick person will expel droplets containing the virus that will remain infectious for days without intervention. Thus, the Jail's plan, to place medically vulnerable detainees in isolation, is severely undermined by the fact these cells are not consistently and frequently cleaned and disinfected.
26. Multiple declarants report chronic conditions that would characterize them as medically-vulnerable, but they report difficulty assessing care and obtaining medications necessary to prevent their health from decompensating. For example, asthmatic detainees report difficulty obtaining proper maintenance medication.<sup>7</sup> And numerous detainees describe multiple days and often multiple weeks between submitting a sick call request and receiving treatment. Where, as here, the Jail has not identified or provided any special mechanism to ensure medically vulnerable detainees receive a rapid response to reported symptoms, it is even more important to have a responsive sick call process and ensure all detainees have access to necessary medications.
27. Moreover, current practices at the jail, e.g., the now months-long 23-hour lockdown, further limit the ability of individuals to exercise or even move beyond the confines of their cells. This limits their ability to self-manage their chronic conditions. Declarants state there are no mental health counselors available, and there are few ways of alleviating stress-related symptoms, including little-to-no reading materials. These conditions amplify stress and further undermine these individuals' respective immune systems.<sup>8</sup>
28. Finally, detainees continue to express exorbitant delays in treatment, even in an emergency.<sup>9</sup> For example, Declarant Yvette Pixley describes that her son complained of abdominal pain through the sick call process and did not receive care for days. By the time he was seen, the ulcer in his abdomen had perforated into a blood vessel, and he was vomiting blood. He has since undergone at least two surgeries since being transferred to the hospital. This needless suffering could have been prevented by a more efficient response: if the ulcer had been addressed at the time the detainee originally sent his sick call, these surgeries would likely not have been necessary.

## **B. Training, Education, and Supervision of Staff**

---

<sup>6</sup> See Decl. 31 ¶ 18; Abarca Decl. ¶¶ 5-6, 9; Diantignac Decl. ¶ 23, 38, 42; Diaz-Cantillano Decl. ¶ 19; Gaines Decl. ¶¶ 10-11, 13; Hill Decl. ¶ 29; Kirkland Decl. ¶ 12, 28; McGee Decl. ¶ 19; Perry Decl. ¶ 4, 6; Watts Decl. ¶ 6

<sup>7</sup> Hill Decl. ¶ 36; Decl. 33 ¶ 16; Decl. 32 ¶ 5.

<sup>8</sup> See Decl. 19 ¶ 10; Decl. 32 ¶ 29; Decl. 33 ¶ 24; Decl. 33 ¶ 24; Decl. 33 ¶ 25; Decl. 33 ¶ 25; Decl. 33 ¶ 26; Decl. 33 ¶ 27; Decl. 34 ¶ 21; Corbette Decl. ¶ 19; Hill Decl. ¶ 44; Kirkland Decl. ¶ 32.

<sup>9</sup> See Decl. 12 ¶¶ 5-8; Decl. 20 ¶ 3; Decl. 32 ¶ 10-11; Decl. 32 ¶ 12; Decl. 33 ¶¶ 4-12; Decl. 34 ¶¶ 16, 19; Corbette Decl. ¶¶ 7-11, 14, 17-18; Diaz-Cantillano ¶¶ 14-36; Kirkland Decl. ¶ 31; Decl. 35 ¶ 15; Perry Decl. ¶¶ 15-16; Pixley Decl. ¶¶ 3-7

29. **The plan:** Training and professional development of correctional and health staff must be on-going, documented, and monitored for expected modified and enhanced behaviors. This pandemic will likely continue for years. In fact, Prince George County's numbers the highest in the state and are increasing. Yet the PowerPoint training provided by the Jail is vague and inconsistent in facts presented and behaviors recommended:
- a. Slide 1259 is the most accurate slide about transmission, but it is on the only slide that has even a loose definition of social distancing as being more than 6 feet away from another person. This is the most important behavior to mitigate risk of spreading COVID-19, so it should be presented much more clearly and frequently.
  - b. The COVID-19 Screening Tools, Docs. 88-2, 88-4, used by medical staff is not consistent with current or best practices. It uses a "one from category A and one from category B" approach I have not seen used elsewhere, nor is it recommended by the CDC.
  - c. There is lack of clarity on urgency and mechanism of reporting signs and symptoms of COVID-19 for correctional staff. *See* Slide 1265.
  - d. The training material provided on the arrestee process is inadequate, *see* Slide 1267. All arrestees should be immediately be supplied a mask with directions on how to use.
  - e. Moreover, there are no instructions for cleaning of the intake area, including cleaning after someone is presumably COVID-19-positive.
  - f. There are no instructions on how to sanitize personal equipment/gear, *see* Slide 1270.
  - g. Slide 1271 reports the need to clean surfaces "multiple times" per shift. This is not sufficiently actionable. A schedule for both staff and inmates is standard and would be more effective.
  - h. The "Step by Step instructions" for cleaning have only two points: how to dilute bleach and use alcohol solution (presumably hand sanitizer) that is at least 60% alcohol. Ensuring proper cleaning requires detailed instruction tailored to the items cleaned and products used.
30. The signage posted by the Jail, which constitutes a form of ongoing education, is outdated. Educational materials must be updated frequently to be congruent with current CDC recommendations. Materials that are not up to date can provide false confidence and encourage the spread of misinformation.
31. The Jail's plan for training, education, and supervision as a whole is vague, out-of-date, and not described with sufficient detail. For example, the Jail states in its plan that

“Supervisors will take any corrective action as necessary to provide additional instruction to members of staff who fail to correctly screen for the virus.”<sup>10</sup> A plan that would meaningfully protect those in the Jail requires much greater specificity describing what corrective action, additional instruction, and correct screening entails. This level of generality appears throughout the Jail’s plan. Without specifics that provide meaning to the information given, it is more than possible that the training, education and supervision provided will not prevent another widespread outbreak.

32. **As implemented:** Although the plan states that staff will be trained to ensure accuracy and regular calibration of temperature scanners, numerous declarants indicate there is reason to believe this is not happening.
33. More disturbing is that it appears that symptom checks are not happening, and when they do occur, they are not adequate. Many declarants report not being asked about symptoms at all during temperature checks, while many others report that the extent of the check is being asked, “Do you have any symptoms?” The best symptom checks appear to involve no more than asking, “Do you have any flu-like symptoms?”<sup>11</sup> But flu-like symptoms are not the same as COVID symptoms. And the detainee population cannot be expected to know all the symptoms of COVID-19 and be able to identify them on their own. Medical staff must be trained and know *all* the signs and symptoms, and they must use this training to meaningfully engage with detainees about their health in order to proactively identify COVID-positives.
34. Many detainees continue report being told “if you can walk, you’re okay” or otherwise having their symptoms dismissed by medical staff.<sup>12</sup> Any report of symptoms should be accepted as true and investigated.
35. Finally, the Jail’s plan provided that supervisors will ensure “ample supply of Sick Call, Inmate Request, and Grievance Forms in each housing unit.” But many declarants report that grievance forms are wholly unavailable.<sup>13</sup> If the Jail seeks to ensure accountability of its staff, detainees must have a way to report abuses.

### C. Testing and Isolation

36. **Testing plan:** The Jail’s plan for testing will not protect the people within it from another widespread outbreak. Because a high percentage of people with COVID-19 are asymptomatic, *both* routine diagnostic and surveillance testing is required. At present, the

---

<sup>10</sup> Doc. 88 at 14.

<sup>11</sup> See Decl. 34 ¶ 18; Decl. 19 ¶ 9; Decl. 21 ¶ 23; Decl. 32 ¶ 23; Corbette Decl. ¶ 6; Lanaux Decl. ¶¶ 2-3.

<sup>12</sup> See Decl. 12 ¶¶ 5-8; Decl. 20 ¶ 3; Decl. 32 ¶ 10-11; Decl. 32 ¶ 12; Decl. 33 ¶¶ 4-12; Decl. 34 ¶¶ 16, 19; Corbette Decl. ¶¶ 7-11, 14, 17-18; Diaz-Cantillano ¶¶ 14-36; Kirkland Decl. ¶ 31; Decl. 35 ¶ 15; Perry Decl. ¶¶ 15-16; Pixley Decl. ¶¶ 3-7.

<sup>13</sup> See Decl. 35; Decl. 32 ¶ 30.

Jail plans to test all detainees before June 1, 2020 and “all incoming detainees. . . in Processing, prior to placement in a permanent housing unit.”<sup>14</sup> The plan should also include plans for scheduled future testing of inmates and especially staff in order to surveil the population and make informed housing choices.

37. If the COVID status of inmates and staff is not known, protective measures such as separate housing and use of PPE cannot be effectively implemented. Moreover, if status is unknown staff and visitors could be bringing back coronavirus to and from their families and communities and perpetuate the risk of the facility being an ongoing incubator of the virus.
38. Thus the Jail’s plan for provision of tests—which involves securing enough tests to test each new jail intake—is insufficient. The Jail needs enough tests to test incoming inmates, inmates who report symptoms, and staff at regular intervals.
39. **As implemented:** This shortage of tests is already manifest at the Jail. Detainees with symptoms report being denied a test when requested.<sup>15</sup> And COVID-positive detainees are not being tested before being removed from isolation, when best practices suggest two negative test results before release from quarantine.<sup>16</sup>
40. **Isolation Plan:** The Jail’s plan regarding isolation of COVID-positive detainees does not address procedures for their release from quarantine as required by this Court’s Order. As noted above, a COVID-positive individual should not be released back into general population until two tests come back negative. This does not appear in the Jail’s plan and does not appear to be happening. Also, this plan should also include a protocol for cleaning and sanitizing the isolation cell upon its vacancy, and providing released detainees with fresh clothing, linens and hygiene supplies.
41. **As implemented:** In practice, there appears to be little transparency or widespread knowledge about when a detainee should be isolated. Declarants continue to report that symptoms go unaddressed for days or weeks. Further, the Jail does not have a practice of testing detainees known to have been in contact with a detainee who later tested positive, or conducting any contact tracing.<sup>17</sup> This greatly undermines the efficacy of quarantine because the person quarantined likely infected someone still present on the unit before being removed.

#### **D. Testing Results**

---

<sup>14</sup> Doc. 88 at 16-17.

<sup>15</sup> Decl. 33 ¶ 18; Decl. 19 ¶ 6.

<sup>16</sup> Watts Decl. ¶ 18; Corbette Decl. ¶ 18.

<sup>17</sup> Decl. 12 ¶¶ 10-11; Decl. 20 ¶¶ 3, 14; Decl. 30 ¶ 5; Decl. 34 ¶¶ 13-14, 26-31; Nelson Decl. ¶ 10; Perry Decl. ¶ 25; Watts Decl. ¶ 19.

42. The Jail reported that it conducted near-universal testing and six detainees tested positive, all of whom were asymptomatic. *See* Doc. 95. This very low rate is possible but unlike the infection rate I have observed at any correctional facility after universal testing. One possibility is that most people in the Jail already caught the virus, as one declarant proposed. It is also possible that staff are not aware of all the signs and symptoms of COVID-19, which would inflate the number of people who appear not to be portraying signs and/or symptoms. Another is that the test was not administered properly, which is likely to happen where staff are not receiving adequate training. According to several declarants, this report does not comport with their lived experience and observations of COVID-positive detainees. Decl. 32 ¶ 13; Decl. 31 ¶ 33; Watts Decl. ¶ 22; Perry Decl. ¶ 25; Decl. 33 ¶ 17; Decl. 12 ¶ 8.

### **E. Supply Provision**

43. **The plan:** The Jail's plan for supply provision is likely acceptable with the exception of only providing cleaning supplies to detainees during their one hour out-of-cell. Especially with numerous declarants reporting frequently going more than 24 hours in their cell, detainees should have access to cleaning supplies at all times and certainly whenever requested.
44. **As implemented:** Current stocking and provision of personal hygiene, PPE, and cleaning supplies is not adequate. Correctional staff, medical staff, and inmates must be educated verbally, and by signage, how and why to use these interventions effectively. This can be done verbally and by posting CDC infographics. At present, multiple declarants report that the inventory is not being distributed properly.
45. Cleaning supplies must be used as directed on their original labels and detainees should have access to them. Staff also need to post and enforce scheduled and as-needed cleaning in shared spaces and individual cells. Waiting for inmates to request materials is not adequate. Still, multiple declarants state that they can only get cleaning supplies during their rec time, and multiple declarants state that there are no instructions on how to use the cleaning supplies.<sup>18</sup>
46. In addition, multiple declarants state that there are no wipes available for use on phones, tables and high-touch surfaces. Multiple declarants also state surfaces are wiped down once/day, at night—not during the day. These surfaces should be cleaned many times throughout the day and especially during shift change of the 10 men allowed out of their cells. Because many COVID-positive detainees and staff will not display symptoms, prevention through cleaning and sanitation is essential.

---

<sup>18</sup> Decl. 34 ¶ 34; Hill Decl. ¶ 41; Decl. 35 ¶ 11.

## V. Consequences for Failure to Remedy These Deficiencies: What if the Status Quo Continues?

47. The CDC has defined medically vulnerable patients and populations. As the pandemic continues, the CDC has clarified that Black and brown communities are particularly at risk for sickness and death. Many reasons for overrepresentation of these groups as casualties of COVID-19 include living conditions—living in more densely populated areas, residential segregation, food deserts, multi-generational households; work circumstances—working outside the home in essential, at-work roles, less paid sick leave; less access to healthcare and health insurance; more stigma and systemic inequalities; and, particularly relevant to this declaration, sustained overrepresentation in jails and prisons due to lack of resources, lack of effective representation, and institutional racism.<sup>19</sup> Nationally, black deaths from COVID-19 are nearly twice greater than expected based on their share of the population. COVID-19 has magnified the disparities in health between white communities and Black and brown communities in the U.S.<sup>20</sup> As a result, jails will perpetuate and accelerate the civil unrest currently gripping the country if action is not taken now.

48. If medically vulnerable detainees are not released as soon as possible, in a matter of days, rather than weeks, they are at risk of infection, sequelae such as long-lasting and permanent organ damage, and even death. Survival from COVID-19 does not guarantee a life free from damage from the virus. Long-term effects of COVID-19 infection include the following:<sup>21</sup>

- a. Lung scarring and decreased lung capacity
- b. Stroke, embolism, and blood clotting disorders, which may result in permanent disabilities and amputations
- c. Heart damage, including cardiomyopathy and enlarged, ineffectively pumping hearts
- d. Neurological deficits, psychological deficits, and mental illness

49. Many of the inmates in Prince George’s County Jail already have these deficits; infection with coronavirus could cause additional permanent damage and impairment.

## VI. Recommendations

<sup>19</sup> See Centers for Disease Control, *COVID-19 in Racial and Ethnic Minority Groups* (last updated June 4, 2020) available at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html> (“Among COVID-19 deaths for which race and ethnicity data were available, New York Citypdf iconexternal icon identified death rates among black/African American persons (92.3 deaths per 100,000 population) and Hispanic/Latino persons (74.3) that were substantially higher than that of white (45.2) or Asian (34.5) persons”).

<sup>20</sup> Maria Godoy and Daniel Wood, *What Do Coronavirus Racial Disparities Look Like State By State?*, NPR (May 30, 2020) available at <https://www.npr.org/sections/health-shots/2020/05/30/865413079/what-do-coronavirus-racial-disparities-look-like-state-by-state>.

<sup>21</sup> See generally, Lois Parshley *The emerging long-term complications of Covid-19, explained*, VOX (June 12, 2020) available at <https://www.vox.com/2020/5/8/21251899/coronavirus-long-term-effects-symptoms>.

50. The following measures the most important for the Jail to remedy the deficiencies in their plan and implementation.
51. Continue reducing the jail population as quickly as possible to reduce sickness and death among inmates, correctional staff, and medical staff. Reducing the size of the population in jails is crucially important to reducing the level of risk both for who both are housed and work within those facilities and for the community at large.
  - a. From a public health perspective, it is my strong opinion that there is no way short of release to protect the medically vulnerable from grave risk of imminent infection and death. Only if medically vulnerable people are released to the community will they have a fighting chance to socially distance.
  - b. Although mitigation and containment strategies are vital, they are merely one piece of the puzzle. The lower the jail or prison population, the more effective these strategies will be. Fewer people in a facility means best practices—such as social distancing through single-celling—will be more possible, fewer community resources will be needed, and other inmates and correctional staff will be safer.
52. Develop and implement a schedule for diagnostic and surveillance testing of all inmates and staff. As long as inmates and staff enter and leave the facilities with their status unknown, the facilities become incubators for the virus. The virus can not only be brought into the facilities; it can be brought back out to stakeholders' homes and communities.
53. Follow CDC guidelines, Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities:<sup>22</sup>
  - a. Provide the necessary tools for inmates and staff to mitigate the risk of COVID-19, including, but not limited to
    - i. Free soap, *on demand*, in adequate quantities for hygiene
    - ii. Use of CDC-recommended cleaning agents on a regular and as-needed basis
    - iii. Posted cleaning schedules for the trustees and the individual inmates to promote cleaner cells and common area
  - b. Update, post, and distribute up-to-date educational materials in all areas of the jail: Use CDC materials<sup>23</sup> and provide education and guidance to staff, inmates, and other visitors. Review information with all stakeholders on a published, scheduled basis.
54. Routinely remind inmates to socially distance, wear face masks, clean on a scheduled and as-needed basis, and engage in other pro-active health behaviors.

---

<sup>22</sup> Available at <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>.

<sup>23</sup> Available at <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>



55. Adjust medical services to meet the demand of this population during the pandemic. Mitigating COVID-19 is not synonymous with health care. Patients with both chronic and acute conditions still require medical care. Consider expanding telehealth to provide healthcare with the facility.
56. Provide adequate PPE. Educate staff, inmates, and visitors regarding proper use of PPE. Staff should role model social distance and mask use. Provide fresh surgical mask no less frequently than weekly. Replace soiled and torn masks as needed.
57. Discontinue double-bunking in cells whenever possible. Spread out inmates in dormitory settings to be approximate social distancing.
58. Minimize 23-hour lockdown anywhere. These men are essentially being punished for the existence of a pandemic outside of the jail and out of their control. They may or may not be ill. The current isolative practice increases anxiety, depression, and suicidality.

/s/Fred Rottnek

Fred Rottnek, MD, MAHCM

Professor and Director of Community Medicine

Professor and Medical Director, Physician Assistant Program, Doisy College of Health Science

Professor, Center for Health Law Studies, School of Law

**June 19, 2020**

# **EXHIBIT C**

**Report of Dr. Jaimie Meyer**

**I. Background and Qualifications**

1. I am Dr. Jaimie Meyer, an Assistant Professor of Medicine at Yale School of Medicine and Assistant Clinical Professor of Nursing at Yale School of Nursing in New Haven, Connecticut. I am board certified in Internal Medicine, Infectious Diseases and Addiction Medicine. I completed my residency in Internal Medicine at NY Presbyterian Hospital at Columbia, New York, in 2008. I completed a fellowship in clinical Infectious Diseases at Yale School of Medicine in 2011 and a fellowship in Interdisciplinary HIV Prevention at the Center for Interdisciplinary Research on AIDS in 2012. I hold a Master of Science in Biostatistics and Epidemiology from Yale School of Public Health.
2. I have worked for over a decade on infectious diseases in the context of jails and prisons. From 2008-2016, I served as the Infectious Disease physician for York Correctional Institution in Niantic, Connecticut, which is the only state jail and prison for women in Connecticut. In that capacity, I was responsible for the management of HIV, Hepatitis C, tuberculosis, and other infectious diseases in the facility. Since then, I have maintained a dedicated HIV clinic in the community for patients returning home from prison and jail. For over a decade, I have been continuously funded by the NIH, industry, and foundations for clinical research on HIV prevention and treatment for people involved in the criminal justice system, including those incarcerated in closed settings (jails and prisons) and in the community under supervision (probation and parole). I have served as an expert consultant on infectious diseases and women's health in jails and prisons for the UN Office on Drugs and Crimes. I was an expert health witness for the US Commission on Civil Rights Special Briefing on Women in Prison.
3. I have written and published extensively on the topics of infectious diseases among people involved in the criminal justice system including book chapters and articles in leading peer-reviewed journals (including Lancet HIV, JAMA Internal Medicine, American Journal of Public Health, International Journal of Drug Policy) on issues of prevention, diagnosis, and management of HIV, Hepatitis C, and other infectious diseases among people involved in the criminal justice system.
4. My C.V. includes a full list of my honors, experience, and publications, and it is attached as Exhibit 31 to the Complaint in this case.
5. I am being paid \$200 per hour for my work on this case.
6. In the past four years, I have testified in a single case, *State v. Frank Sanville* Docket No. 263-3-18 Wrcr (Vermont) on April 21, 2020, and have been deposed in a single case, *Martinez-Brooks et al v. Easter* Case 3:20-cv-00569 on June 8, 2020.
7. In addition to my knowledge, training, education, and experience in the field of prison healthcare and infectious diseases, and the resources relied upon by experts in infectious diseases and prison health, in making my assessment of COVID-19 testing, prevention

and management in the Prince George's County Jail I reviewed the following documents: the Inspection Report submitted in this case by Dr. Carlos Franco-Paredes, dated May 11, 2020; Director McDonough's 5-day response to the court order, dated May 26, 2020 (along with the accompanying exhibits); Director McDonough's 14-day response to the court order, dated June 5, 2020 (along with the accompanying exhibits); and the Prince George's County Jail's interrogatory response, dated June 15, 2020.

8. I previously submitted a declaration in this case, dated April 16, 2020.

## **II. Evidence-based Strategies for COVID-19 Testing and Implementation of Testing in the Prince George's County Jail**

9. Here I will first describe evidence-based strategies for COVID-19 testing in general and in prisons and jails. Then I will discuss the implementation of testing in the Prince George's County Jail to date and interpretation of the results to date.
10. In addition to other mitigation and containment strategies (such as wearing masks, hand hygiene, social distancing, quarantining and isolation), testing is critical for COVID-19 prevention and control.
11. Testing for SARS-CoV-2, the virus that causes COVID-19, is critical for disease containment because it allows people who are diagnosed with COVID-19 infection to be medically isolated. Medical isolation is not only beneficial for the individual who is infected in terms of receiving medical attention and care, but also for the population writ large in terms of reducing transmission.
12. The current gold standard for testing involves a nasal swab that looks for the genetic material of SARS-CoV-2, which is identified using polymerase chain reaction (PCR). The test is FDA-approved, now widely available, and has strong test performance characteristics. False negatives are nonetheless possible, especially where disease prevalence is relatively low and early in the course of the disease prior to the onset of symptoms.<sup>1</sup> The test does need to be run in a CLIA-certified laboratory, which may be either commercial (such as Quest) or hospital-based. Therefore, one potential pitfall of PCR-based testing is that it can take 3-5 days before results are available and actionable.
13. In its March 23, 2020 Interim Guidance for Management of COVID-19 in Correctional and Detention Facilities,<sup>2</sup> the CDC recommended that individuals with symptoms consistent with COVID-19 undergo testing and medical isolation in accordance with local Department of Public Health Guidance and depending on availability of tests.

---

<sup>1</sup> Kucirka et al. Variation in False-Negative Rate of Reverse Transcriptase Polymerase Chain Reaction–Based SARS-CoV-2 Tests by Time Since Exposure. *Annals of Internal Medicine* (May 13, 2020).

<https://www.acpjournals.org/doi/10.7326/M20-1495>

<sup>2</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#Medicalisolation>

14. In its updated guidance on testing as of June 13, 2020, the CDC recommended testing individuals with symptoms, those without symptoms as part of contact tracing, and those without symptoms in special settings that include correctional and detention facilities. Recommended approaches include: 1) Initial testing of everyone residing and/or working in the setting; 2) regular (e.g., weekly) testing of everyone residing and/or working in the setting; and 3) testing of new entrants into the setting and/or those re-entering after a prolonged absence (e.g., one or more days).<sup>3</sup>
15. According to the documents I reviewed, the Prince George's County Jail tested 521 out of 525 jail detainees between May 19 and 25, 2020. The jail used PCR tests collected via nasal swabs. As of June 5, 2020, the jail reported that six detainees had tested positive for COVID-19, four had refused the test, and five were still pending test results. The jail also began testing all incoming detainees on May 26, 2020. None of the incoming detainees tested between May 26 and May 31, 2020 had tested positive.
16. I commend the Prince George's County Jail for conducting universal testing throughout the facility at the end of May using PCR-based testing. Despite the limited number of new positive cases identified from this round of testing, for several reasons, we cannot be falsely reassured by these results. The crisis is not over. The Jail suggests the low number of new positive cases identified in this round of testing is a consequence of their COVID-19 prevention and containment practices, but this assumption would be a mistake. I offer here several alternative interpretations of these testing results that have important public health implications.
17. First, the six positive cases of COVID-19 that appeared in the test results were from individuals in three different housing units (H-5, H-8, and H-9). One of those units, H-9, reported only a single case. This indicates that this infection was acquired inside the jail. Possible sources of transmission include other detainees, who either tested falsely negative or who have already been infected and recovered, and staff, who were not tested at all as part of this testing round. In the case of detainees who were falsely negative or staff or who were not tested, individuals may be infected and remain on the housing unit unidentified, continuing to unwittingly transmit the disease to others.
18. Second, these test results represent only a single point in time. If everyone in a unit is tested at the same time and kept together in the unit, one positive case means one cannot be confident that those who received negative results will remain negative. PCR testing at any one point in time may also be falsely negative, as noted above.
19. Third, although a low absolute number of positive tests at a particular point in time can reflect effective containment practices, it can also reflect the opposite: if a large number

---

<sup>3</sup> [https://www.cdc.gov/coronavirus/2019-ncov/hcp/testing-overview.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhcp%2Fclinical-criteria.html#asymptomatic\\_exposure](https://www.cdc.gov/coronavirus/2019-ncov/hcp/testing-overview.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhcp%2Fclinical-criteria.html#asymptomatic_exposure)

of detainees at the Jail have already been infected and since recovered, the number of positive cases would be low after the peak in cases had subsided.

20. Based on Dr. Franco-Paredes's description of the course of the jail's outbreak, the low number of positive test results from the recent round of testing more likely reflects a widespread outbreak that has already peaked and is not validation that the Jail adequately contained the outbreak.
21. Dr. Franco-Paredes found that there was a "large outbreak" in the jail at the end of March through mid-April involving housing units 9, 10, 17, and 1. With a single exception, the new cases do not come from those units. Between March 23 and April 21, the jail tested only 21 detainees, of whom 18 tested positive for COVID-19, for a test positivity rate of 86%. This high test positivity rate with a low denominator (i.e., number of tests conducted) confirms under-testing during that period. Although the jail represents that it does not test its staff, there were also 32 positive cases among staff by the time of Dr. Franco-Paredes's report. Those infected during this cluster would be very unlikely to test positive when the jail conducted its round of near-universal testing at the end of May, more than a month later.
22. Fourth, the low number of positive test results from the recent round of mass testing is consistent with the broader epidemiologic curve in the community. In Prince George's County, there was a peak in positive cases during the week of April 26, 2020.<sup>4</sup> By the end of May, the curve had significantly declined. Simultaneously, the number of tests administered in Prince George's County has dramatically increased, from 5,629 in the week of April 26th to 10,281 by the last week in May.<sup>5</sup> Thus, over this time period, the overall number of positive cases significantly declined even as the number of tests administered nearly doubled.
23. Therefore, the low number of positive cases at the end of May likely also reflects the low number of cases in the broader community. Moreover, based on Dr. Franco-Paredes's assessment that the jail's significant outbreak took place between the end of March and mid-April, the jail's peak in cases occurred several weeks earlier than the peak in the broader community, indicating more rapid spread within the jail than in the community at large.
24. In addition, the Prince George's County Jail's court filing about its recent round of testing purports to compare the infection rate at the jail to that in the community. This interpretation of the data is misleading. The jail estimates its infection rate correctly based on the mass-testing results at 1.14%. However, it claims that the infection rates for Prince George's County for the two weeks in which mass-testing took place were 19.4% and 14.2%. These numbers do not reflect the county's infection rates for those weeks.

<sup>4</sup> <https://princegeorges.maps.arcgis.com/apps/MapSeries/index.html?appid=82fa5c47b1f542849ca6162ab1564453>.

<sup>5</sup> <https://princegeorges.maps.arcgis.com/apps/MapSeries/index.html?appid=82fa5c47b1f542849ca6162ab1564453>.

They reflect the test-positivity rates. Comparing the jail's infection rate and the county's test positivity rate is not meaningful because they measure entirely different things. It is like comparing apples to oranges.

25. Infection rates are the proportion of the entire population that is infected with COVID-19, including those with and without symptoms. The only way to truly know the infection rate in a population is to test everyone, as the Jail did at the end of May. In contrast, the test positivity rate is the proportion of tests conducted that result positive. In the absence of mass testing (in either the jail or the community), the denominator of the test positivity rate (number of tests conducted) reflects the practice of testing people with symptoms and those who present to medical care. One would thus expect the test positivity rate to be higher than the infection rate when testing is selective.
26. Fifth, it is important to note that testing error could be a factor in the low rate of positive cases from the most recent round of testing. For example, inadequacy in sample collection (if the nasal swab is not collected properly or deeply enough to collect the virus's genetic material), as well as improper transportation and storage of samples, can result in false negative test results.<sup>6</sup> It is therefore important to ensure that the individuals who collect and handle test samples are appropriately trained in how to do so and that this round of testing was conducted properly.
27. In sum, the evidence does not support the Jail's conclusion that the low absolute numbers of cases identified from mass testing the end of May demonstrate that it has been employing effective practices to stop the spread of COVID-19.

### **III. Need for Active Surveillance**

28. Although the Prince George's County Jail conducted mass-testing at the end of May and has committed to continue testing new detainees, it has not presented any plan to re-test detainees. Nor has it provided any criteria for when a test will be administered to a detainee after intake. This creates serious vulnerabilities to a new outbreak at the jail.
29. In addition to baseline broad-based testing, re-testing is needed on a regular basis. Re-testing at regular intervals serves two purposes: (1) accommodate and protect against false negatives that are possible in asymptomatic individuals or people early in the course of disease as described above; and (2) accommodate turnovers in the inmate population. Given that the duration of active infection and contagiousness is 10-14 days, ideally, the facility should retest everyone who resides and works in the facility at least every 14 days.
30. When individuals are undergoing testing, they should be considered "persons under investigation" (PUI) and treated as presumptive positives until results are available. This

---

<sup>6</sup> <https://coronavirus.jhu.edu/testing/testing-faq/overview#what-are-limitations-to-covid-19-diagnostic-tests>.



means they should be removed from the general population and medically isolated. Upon removal from the general population, even if temporary, their cell or dorm should be cleaned and disinfected as per CDC protocol and using an EPA-approved disinfectant that is active against COVID-19. If test results are then found to be negative, they may return to the general population.

31. When entire housing units are tested at the same time, they should be quarantined until results are available. During this period of quarantine, they should be actively monitored for signs and symptoms of COVID-19, including symptoms screening using CDC criteria and temperature checks twice daily. Anyone found to have signs or symptoms of COVID-19 should be removed from the housing unit and medically isolated until results are available and confirmed negative. When there is a multi-day delay between unit-wide testing and availability of results, people can continue to transmit disease within the unit so there is a need for active symptoms monitoring. Simply checking temperatures and recording them is necessary but not sufficient.
32. If, as here, there are gaps in testing, *i.e.* inmates or staff who are not tested, then there must be rigorous contact tracing to determine the people contacted by those who tested positive in addition to another round of testing in approximately one to two weeks. Close contacts (including staff) of individuals testing positive for COVID-19 should be quarantined. Whereas in the community, close contacts may be limited to the household, close contacts in prisons extend beyond the cellmate or dormmate to include the entire housing unit.
33. When testing is driven by symptom screening, there are serious blind-spots. Symptom-based testing strategies that rely on detainees to self-report symptoms through a Sick Call system are highly selective. Detainees will be reluctant to self-report symptoms if they perceive they will be isolated in punitive conditions. This perception of punishment deters symptom reporting and prevents rapid detection of the disease and medical isolation of people who are infected.
34. Thorough symptom screening is also critical to identify people who may not self-report symptoms. Inmates who are not aware of the symptoms of COVID-19—for example, people with low literacy levels who are in facilities where information is shared only via signage, or inmates who do not speak the language in which information is being given—may not be aware that they are experiencing symptoms of COVID-19. These individuals may not know to self-report even if they were inclined to do so. For the same reasons, screenings that do not ask about specific symptoms (there are 11 on the CDC common symptoms list)<sup>7</sup> will not be effective to identify people with symptoms of COVID-19, even if temperatures are checked and recorded regularly.

---

<sup>7</sup> <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>

35. Symptom-based testing strategies also entirely miss people who are infected but have no symptoms at all, who may represent up to one-third of people with COVID-19. Identifying people who are infected but asymptomatic is especially important in congregate settings, including prisons and jails, because of high likelihood of onward transmission.
36. Facility-wide testing and retesting, including staff, is necessary to control the spread of the virus. However, at bare minimum, there must be a reasonable plan for retesting of some kind over the many months remaining in the course of the pandemic. The CDC recommends mass retesting at regular intervals. If mass retesting at regular intervals is not feasible, the Prince George's County Jail will need to develop a clear protocol for testing detainees that is mindful of major blind spots of symptom-based testing strategies. Evidence-based strategies include contact tracing that (re)tests entire housing units when cases are identified within and retesting the entire facility en masse if multiple cases are identified or as test positivity rates trend upwards in the surrounding community.
37. Notably, the Prince George's County Jail does not test its staff. This is another major blind-spot. As people enter and leave facilities on a daily basis (staff, contractors, vendors, medical personnel, new intakes, new releases), those inside can be continuously re-exposed. Staff, including contractors and any other repeat visitors, should be tested repeatedly in light of this outside exposure. When staff are required to self-report symptoms, exclude themselves from work, contact their primary care provider to obtain an order for testing, and then self-report positive test results to their employer, the barriers are often insurmountable.

#### **IV. Planning for Additional Cases**

38. In many places nationally and in Prince George's County, new COVID-19 cases in the community have been declining and we are trending on the decline of our epidemiologic curve. But this pandemic is far from over and we cannot be lulled into complacency. It would be a grave mistake to suggest that the crisis is over, either in the community or in prisons. SARS-CoV-2 will continue to plague U.S. communities and prisons until an effective vaccine is available, which is unlikely before February 2021. Given known delays in prisons accessing medical innovations, COVID-19 vaccines may not be available in prisons for even longer.
39. In the interim, a renewed wave of COVID-19 infections is nearly certain this fall and predicted to hit at the same time as seasonal influenza, which will be devastating in terms of loss of life and strain on healthcare systems. Rather than scrambling to respond to outbreaks as they arise, we must take steps now to reduce the impact of renewed outbreaks of COVID-19 on people in the Prince George's County Jail. We need to act now preemptively to prevent catastrophe.
40. In addition to the prevention and control measures I have previously described based

on the CDC guidance for correctional facilities, a well-planned sustained response involves transferring medically vulnerable inmates out of the facility when appropriate in terms of public safety issues; and frequent testing and re-testing of everyone who resides and works in the facility as part of ongoing surveillance.

41. Even the best-laid protocols and plans for COVID-19 prevention and control are meaningless unless implemented. Successful implementation must be monitored, not only in terms of numbers of new cases, but also by regular reporting of what steps are being taken to prevent new cases and manage those that are identified. Transparency and accurate reporting will enable gaps to be identified and addressed in a timely way.

A handwritten signature in black ink, appearing to read 'Jaimie Meyer', with a stylized, looped initial 'J' and a horizontal line extending to the right.

Jaimie Meyer  
June 19, 2020

# **EXHIBIT D**



*PRINCE GEORGE'S COUNTY*  
*DEPARTMENT OF CORRECTIONS*  
*DEVELOPMENT EDUCATION & TRAINING SECTION*

# Objectives

---

Explain what COVID-19 is, and how it is transmitted.

Describe, and discuss how COVID-19 can effect the workplace.

Describe how to protect yourself, and others?

Identify the signs, and symptoms of COVID-19.

Identify what to do if you suspect someone has been exposed to COVID-19.

Identify the protocols to follow if you contract COVID-19, and have recovered.

# What is COVID -19?

---

<b>CO</b>	<b>VI</b>	<b>D</b>	<b>19</b>
Corona	Virus	Disease	Year of outbreak

The Novel Coronavirus that cause COVID -19 : Novel coronavirus is a new coronavirus that has not been previously identified. The virus causing coronavirus disease 2019 (COVID-19), is not the same as the coronaviruses that commonly circulate among humans (MERS, SARS), and causes mild illness, like the common cold.



# Middle East Respiratory Syndrome

---

(MERS) – Middle East Respiratory Syndrome (MERS) is a viral respiratory illness that was first reported in Saudi Arabia in 2012, and has since spread to several other countries, including the United States. Most people infected with MERS-CoV may develop a severe respiratory illness, including fever, cough, and shortness of breath. Many of them have died.

# Severe Acute Respiratory Syndrome

---

(SARS) – Human coronaviruses (HCoV)s 229E, OC43, NL63 and HKU1 are associated, most frequently, with an upper respiratory tract infection characterized by rhinorrhea (excess mucus), nasal congestion, sore throat, sneezing, and cough that may be associated with mild fever.

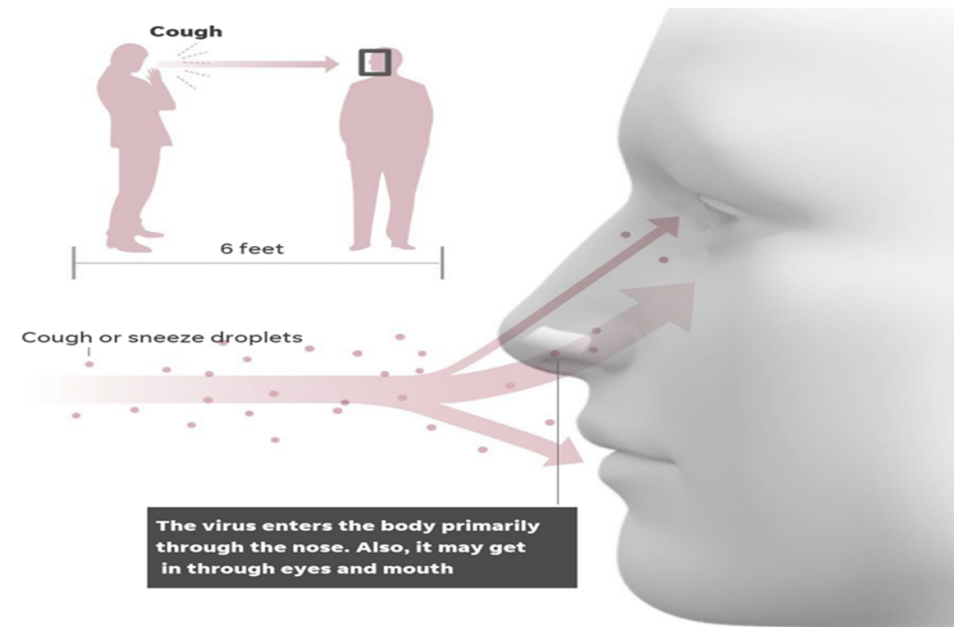
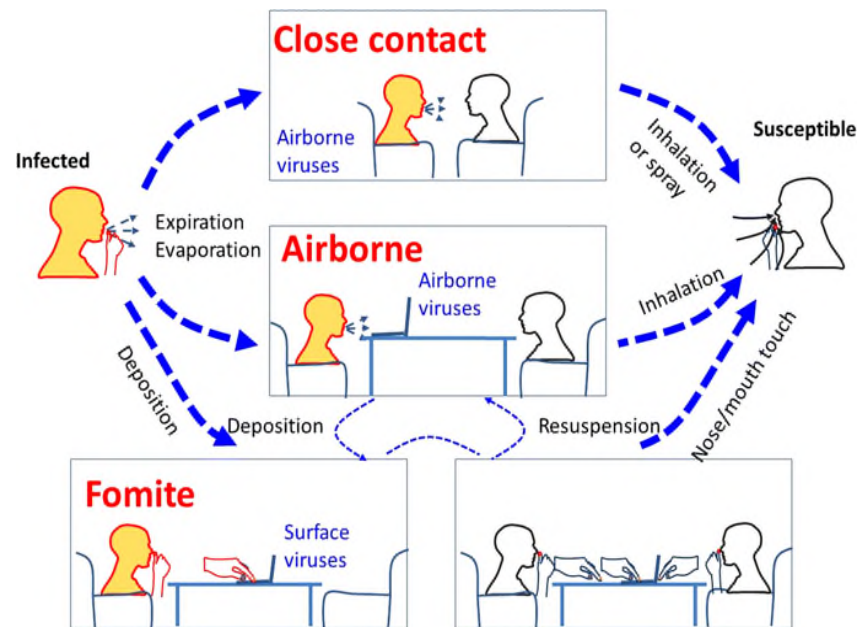
# Severe Acute Respiratory Syndrome (cont)

---

Symptoms are self-limited, and typically peak on the third or fourth day of the illness. These HCoV infections also may be associated with acute otitis media (inflammation of the ear), or asthma exacerbations. Less frequently, they are associated with lower respiratory tract infections, including bronchiolitis, croup (inflammation of the throat), and pneumonia, found primarily in infants, and in immune-compromised children and adults.

# How is the Coronavirus transmitted

The virus enters the body primarily through the nose. It may also enter through the eyes and mouth.



# SYMPTOMS AND EXPOSURE

---

According to the Centers for Disease Control and Prevention (CDC), people with COVID-19 have had a wide range of symptoms reported – ranging from mild symptoms to severe illness. Symptoms may appear **2-14 days after exposure to the virus.**

# Watch for one or more COVID -19 symptoms

---

Cough

Shortness of breath or difficulty breathing

Fever

Chills

Muscle pain

Sore throat

New loss of taste or smell

Other less common symptoms are nausea, vomiting, or diarrhea.

**IF AN INMATE REPORTS OR SHOWS ONE OR TWO SYMPTOMS,  
CALL MEDICAL UNIT**

# Emergency COVID-19 Warning Signs

---

Trouble breathing

Persistent pain or pressure in the chest

New confusion

Inability to wake or stay awake

Bluish lips or face

Severe Fatigue, and Weakness

EMERGENCY CALL





# Symptomatic Inmates

---

If the inmate has a fever of **100.4°F**, or above:

The inmate should be taken to medical for COVID-19 screening.

Place Inmate/Arrestee in Isolation.

Clean and disinfect re-usable equipment before the equipment is re-used on another Inmate/Arrestee.

# Six terms to Know about COVID-19

---

**Exposure** – contact with an infectious substance by swallowing, breathing, or touching the skin or eyes.

**Self-Quarantine** – Separating and restricting the movement of well people who may have been exposed to an illness to see if they become ill.

**Contamination** – Contracting an infection after being exposed.

**Isolation** - separating people with a contagious illness from well people.

**Physical/ Social Distancing** – increase physical space between people to avoid spreading illness.

**Lockdown** – restriction of all non-essential activities outside of the home.

# Protocol to follow if you suspect you have been exposed to COVID-19

---

## During Shift

Notify supervisor of symptoms, or exposure.

Submit incident report into OMS.

Brief your relief prior to leaving post.

Seek medical attention from health care provider.

Inform Human Resources of your status.

## Off Duty

Contact your Primary Care Physician.

Get tested.

Isolate, and follow physician's instructions.

Stay in touch with Human Resources.

Inform Human Resources of return date.

**Note: You must be symptom's free for three, or more days prior to your return to work.**

# The effects of COVID-19 in the workplace.

---

Below, are a few examples of how COVID-19 will affect our environment if staff does not follow preventative measures put in place to decrease the risk of exposures.

- ✓ Call outs
- ✓ Mandatory Shifts ( back to back)
- ✓ Staff exposing family members
- ✓ Inmate agitation, leading to an increase in Signal 13's, 80's, 85's, and 89's)
- ✓ Heightened Anxiety (Staff/Inmates)

# Regional Intake/Processing procedures for positive COVID-19 Inmates/Arrestees.

---

- ✓ Supply the Arrestee with a mask
- ✓ Instruct the Arrestee on how to properly Don the mask.
- ✓ Place the Arrestee into a cell for Isolation.
- ✓ Submit all paperwork to the commissioner, and request expedited hearing
- ✓ Submit a detailed Incident Report.

# Regional Intake/Processing procedures for positive COVID-19 Inmates/Arrestees (cont)

---

- ✓ Conduct a phone hearing by way of speaker phone with the commissioner, and Panel Attorney
- ✓ Be Advised – The initial officer, should stay with the Arrestee through entire process.
- ✓ If the Arrestee is given Personal Recognizance. The release process should be expedited.
- ✓ If the Arrestee is committed to the jail. The Processing Officer should expeditiously process the Inmate into the system, and insure the Inmate is escorted out of processing, and into medical unit ASAP.

# Self Care, and Coping Strategies

---

Take care of your Thoughts/body

Connect with others

Eat healthy

Take breaks

Stay informed

AVOID excessively watching the news

Seek help when needed

# Examples of how to protect yourself, and others.

---

Follow all instructions on donning and doffing Personal Protection Equipment (PPE) prior to exposure:

Respect social distancing.

- Properly wear N95 mask at all times while on duty.
- Properly wear disposable gloves.
- Properly wear goggles/face shield.
- Properly wear gown, or disposable coveralls (plan to Disinfect belt, and gear after use).
- Frequently wash your hand, and surfaces.
- Use Hand Sanitizer with 60% alcohol.

**All equipment should be properly sanitized, including weapons, portable radios, handcuffs, duty belt, and gear.**



# Examples of how to protect yourself, and others. (cont)

---

Wear disposable gloves while cleaning, and disinfecting all surfaces.

Clean surfaces using soap, and water, bleach mix, and Sani wipes multiple times per shift.

Practice routine cleaning of frequently touched surfaces (High touch surfaces include: Tables, doorknobs, intercom buttons, countertops, handles, desks, phones, keyboards, toilet, faucets, sinks, radios, keys etc.)

## **Step by Step instructions for cleaning exposed areas**

Five (5) tablespoons (1/3<sup>rd</sup> cup) bleach per gallon of water, or Four (4) teaspoons bleach per quart of water.

Alcohol solution with at least 60% of alcohol.

# How Long Does the Coronavirus Live on Surfaces?

---

**Metal** – 5 days

**Wood** – 4 days

**Plastic** – 2 to 3 days

**Stainless steel** - 2 to 3 days

**Cardboard** - 24 hours

**Copper** – 4 hours

**Aluminum** – 2 to 8 hrs.

**Ceramic** – 5 days

**Paper** – 5 days

**Food** – Not known to spread thru food.  
Take caution, and wash produce in soap  
and water.

**Water** – Coronavirus has not been found  
in water.

# Maryland Resources

Risk Manager: Debra Jenifer – [REDACTED]

County Health Dept.'s COVID-19 hotline at [REDACTED].

Department's COVID-19 response, please email your questions to [REDACTED]

Employee Assistance Program – [REDACTED]

Maryland Department of Health: <https://coronavirus.maryland.gov/>

## Maryland Resources (cont)

---

Harvard Biomedical Data Management Systems

<https://datamanagement.hms.harvard.edu/news/covid-19-data-resources>

COVID-19 Symptom's: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/index.html#cdc-chat-bot-open>

Staff Counselors: Ainisha Persaud - [REDACTED]

Tariiq Walton - [REDACTED]

# References

Centers for Disease Control and Prevention (U.S.). 2020. Coronavirus (COVID-19).  
<https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

Hansa D. Bhargava, MD on March 23, 2020 *How Long Does the Coronavirus Live on Surfaces?*  
Retrieved from: <https://www.webmd.com/lung/how-long-covid-19-lives-on-surfaces#2-2>

P & P 13.2 Pg. 1-5 (Feb 28, 2006) *Inmate Grievance Procedure* Retrieved from Prince George's  
County Department of Corrections County Correctional Center Policy & Procedure Manual

Killerby ME, Biggs HM, Haynes A, Dahl RM, et al. [Human coronavirus circulation in the United States 2014 – 2017external icon](#). Journal of Clinical Virology. Vol 101; 2018 Apr; 101:52-6



# **EXHIBIT E**

**Declaration of [REDACTED]**

I, [REDACTED], solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true:

1) I provided the information below in response to a standard set of questions read to me over the telephone by Stanford Fraser on June 18, 2020. At the conclusion of the conversation, this declaration was read to me and I confirmed its accuracy based on my own knowledge and observations.

2) My name is [REDACTED]. I am a resident of Prince George's County.

3) I have acute asthma and allergies. I've experienced shortness of breath and headaches while at the jail.

4) I am currently incarcerated at the Upper Marlboro Detention Center in Prince George's County. I am currently detained in Housing Unit H-17. I have been detained at the facility since March 6, 2020. During this time, I have observed the following conditions and can make the following representations:

5) During the middle of May, I spent three days in the isolation med unit because of my medical symptoms. During that time, I couldn't take a shower or call my family.

6) On June 1, 2020, my former cell mate tested positive for the coronavirus.

7) Previously, I was held in Housing unit 5. Housing Unit 5 didn't have any air conditioning. Approximately two week ago I was moved from H-5 to H-17, which has air conditioning.

8) It took the jail six days to respond to my last request for medical attention. This request happened approximately 7 weeks ago.



9) I'm currently required to be in my cell for 22 hours a day. I receive one hour outside my cell in the morning and one hour outside my cell in the evening.

10) The "22 hour and 2" system makes it hard for me to contact all my family members. Instead I have to decide which family members I will contact and which family members I will ignore during my limited time outside my cell.

11) Correctional officers do not always wear masks either. Some officers wear them, and some officers do not. Most officers wear their mask under their chin.

12) Detained individuals are provided one new mask per week.

13) The detention center has provided detainees with soap and tissues once a week. There is no hand sanitizer available for detainees.

This declaration was orally sworn by telephone to Stanford Fraser, by [REDACTED] on June 18, 2020 because in-person meetings are not currently possible due to the COVID-19 epidemic. Under penalties of perjury, I declare that I have read the foregoing in its entirety to [REDACTED] on June 18, 2020 and that he has sworn to the truth of its contents.

sf  
Stanford Fraser  
Assistant Public Defender  
June 18, 2020

# **EXHIBIT F**

**Declaration of [REDACTED]**

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

1. My name is [REDACTED]. I am a resident of Prince George's County, Maryland.
2. I am currently incarcerated in the Prince George's County Jail in Upper Marlboro. I have been detained here since January 8, 2020. I am currently detained in housing unit 10 (H10).
3. I am forty-one years old. I was positive for COVID-19 and previously gave a declaration describing my experiences at the jail. I am providing this additional declaration to update the Court about the conditions at the jail.
4. I do not have medical vulnerabilities beyond the fact that I still have not fully recovered from the Coronavirus. I've been having breathing problems ever since I got Coronavirus. My breathing problems haven't gone away. I'm not sure if that's because of COVID-19 itself or because I was exposed to all of the mold in housing unit 6 (H6) while I was detained there in isolation.
5. My breathing problems come and go at different times. Sometimes they will start when I'm laying down, sometimes they will start when I'm talking. It's hard to predict, because it comes and goes. But I have noticed my breathing gets worse when it's hot. When it happens, I get a really tight feeling in my lungs. It feels really tight when I try to inhale. It's hard to explain, but it makes me feel like I can't inhale very much, like an extreme shortness of breath. It makes it very difficult to breathe. And this kind of attack will usually last a couple hours and then go away.

6. When I get one of these attacks, I have told the COs. But the COs don't do anything. I have to wait for the nurse to come around. I've also told the nurses about my symptoms. But they just write it down and don't do anything.
7. On Wednesday, June 10, I put in a sick call slip about my breathing issues. I didn't get seen by the nurse until June 13. I told the nurse about my breathing problems. I told her about how my chest tightens up, especially when it gets hot, but that it's also hard to predict when I'll have these breathing problems. She took my blood pressure and heart rate, and she listened to me breathe. And then she gave me the Coronavirus information paper that they now hand out to everyone, a sheet that tells you what the symptoms are. But that was it. I tried to emphasize to her that it feels like this is a serious health issue for me. And she just said, "what do you want me to do about it?" and sent me out.
8. I'm not the only person having breathing problems on H10. Some other guys on my unit have been complaining about similar symptoms that I've got, including guys who used to be symptomatic, before they started testing people, and I know must have had COVID too. They've asked for medical attention and gotten the same response that I got: "there's nothing we can do for you."
9. On H10, we are locked down for about twenty-three hours per day. We get one hour of rec per day, sometimes two hours if the rec cycle comes back around. Your rec time is your only opportunity to clean your cell, but it's also your only time to shower or make phone calls. There is no mental health treatment or counseling to help us cope. And if you want dominos or playing cards, you have to buy them from the commissary.
10. There were two guys on H10 who tested positive for COVID-19. Although they were positive, the jail still kept them both on our housing unit. About two weeks ago, these

two individuals were moved from their shared cell into separate cells on our unit. They had been cellmates, but the jail separated them in order to quarantine them. These inmates explained to us that they had been moved because they had tested positive for COVID-19. After they were moved to their separate cells, they also were given rec time by themselves, one at a time. But during these two weeks, they were still using the same showers, the same phones, and the same common areas as the rest of us. When I had COVID, I was quarantined in the medical unit and then in H6. But the mold on H6 was so bad, I wondered if they stopped sending people to H6 and so now they have nowhere else to put the COVID-positive people. Yesterday, the two COVID-positive guys were moved to housing unit 5 (H5). I think they must have been moved due to disciplinary issues, because they had already been quarantined for two weeks.

11. It makes me feel worried that I'm being detained on a housing unit with guys who have COVID-19. I've heard from the news, on the television and in the papers, that the experts say "just because you've had Coronavirus once, doesn't mean you can't get it again." So even though I've already had it, I'm worried that I could get it again from one of the people on H10. Since I've already had COVID-19, I know how bad it is. They say it's like the flu, but it's not like the flu; it's way worse.
12. On H10, the detail workers clean the common areas daily. They use Spray Nine to clean, but it's very watered down. They don't clean individual cells, that cleaning is left to the inmates to do during their rec time. There are also paper towels and Spray Nine that you can use to wipe down the phones before each use. But there are no disinfectant wipes. I haven't seen any bleach or disinfectants on the housing unit at all. All we have access to is the watered down Spray Nine.

13. A guy I know on the detail unit told me that they dilute the Spray Nine half and half. So in a one-gallon jug, there's a half gallon of Spray Nine and a half gallon of water. When we use it to clean, we just spray and wipe. No one has told us to wait thirty seconds before cleaning.

14. I provided the foregoing information over the telephone to Claire Glenn. On June 15, 2020, this declaration was read to me and I confirm its accuracy based on my own knowledge and observations.

*Because the Prince George's County Detention Center in Upper Marlboro, Maryland, currently is not permitting in-person visits, this declaration was orally sworn to by [REDACTED] on June 15, 2020. Under penalties of perjury, I declare that I read the foregoing in its entirety to [REDACTED] on June 15, 2020, and he confirmed its accuracy to me.*

\_\_\_\_\_  
cg  
Claire Glenn, Esq.  
June 15, 2020

# **EXHIBIT G**

**Declaration of [REDACTED]**  
**(To be used anonymously)**

I, [REDACTED], solemnly affirm under the penalties of perjury and upon personal knowledge that the following is true:

- 1) I provided the information below in response to a standard set of questions read to me over the telephone by Jeff Campbell on June 11, 2020. The following day, this declaration was read to me and I confirmed its accuracy based on my own knowledge and observations.
- 2) My name is [REDACTED]. I am a resident of Prince George's County.
- 3) I am currently incarcerated at the Upper Marlboro Detention Center in Prince George's County. I am currently detained in Housing Unit H-9. I was transferred to H-9 from H-5 on Monday, June 8. I have been detained at the facility since January 30, 2020.
- 4) I have asthma, bronchitis, and sleep apnea. I told the jail about those conditions when I first got here.
- 5) Lately, I have had trouble breathing on multiple occasions. I have gone to the medical unit multiple times because of my difficulty breathing. On Friday, June 5, I was having trouble breathing. The nurse said that I would get to see a doctor that day or the next day. As of June 12, I have not gotten to see a doctor yet.
- 6) I have asked four different times for a Covid test. I ask the people who do temperature checks, who are nurses from outside the jail. They say they will let the medical staff know and that the medical staff will be in contact with me about it, but then I never hear anything. I have never been tested. I heard that people in H-5 got tests, but I think that happened a couple days before I got to that unit.
- 7) In my last unit, H-5, there were no sick call forms available.
- 8) There are no grievance forms available in this unit, H-9, or in my last unit, H-5.
- 9) During temperature checks, the nurses from outside the jail ask if we have any symptoms. But they don't list the symptoms. This unit, H-9, doesn't have the symptoms of Covid posted.
- 10) We are on lockdown 23 hours a day with one hour out of the cell. On H-5 it would be even worse; one hour every 32 hours, plus sometimes there would be an 8-hour skip shift where nobody would get to come out, and that would make rec time even less frequent. During our time in our cells, we are not allowed reading material, game pieces, dominos, or anything. There is absolutely nothing to do.
- 11) When we ask for cleaning supplies, the guards usually tell us we have to wait until our hour of recreation time to get any. There are no disinfectant wipes by the phones—we don't have disinfectant wipes at all.



12) The Spray Nine that we get as a disinfectant is watered down. I have seen both the guards and the cleaning detail adding water to it. No one has ever told me that we have to leave it on a surface for thirty seconds in order for it to be effective.

13) We are getting our masks replaced about every week and a half or every two weeks.

14) Social distancing does not exist in here. None of the phones are closed off. When we use the phones, there are people within inches of us. The guards don't say anything or do anything about it. When it's time to get medication, which happens twice a day, everyone forms a line very close to one another. It can be twenty people at a time, and if it happens during a recreation hour, there can be thirty people out at a time. There is no social distancing during this time; it's like the norm. Nobody says or does anything about it.

This declaration was orally sworn by telephone to Jeff Campbell, Esq. by [REDACTED] on June 12, 2020 because in-person meetings are currently not possible due to the COVID-19 epidemic. Under penalties of perjury, I declare that I have read the foregoing in its entirety to [REDACTED] on June 12, 2020 and that he has sworn to the truth of its contents.

/s/ Jeff Campbell  
Jeff Campbell, Esq.  
Assistant Public Defender  
June 12, 2020

# **EXHIBIT H**

**Declaration of [REDACTED]**

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

1. My name is [REDACTED]. I am currently incarcerated in the Prince George's County Jail in Upper Marlboro. I am currently detained in housing unit 9 (H9). I have been detained here since January 1, 2020.
2. I recently got a new cellmate. H9 is of the units that house new intakes.
3. A few people in my unit have symptoms. One guy (cell 204, Caucasian), has been having breathing problems and throat swelling. Two weeks ago someone left that same cell—cell 204—with Corona. The new guy has been trying to go see the nurse and filling out sick calls for weeks straight and no response. I saw him a day or two ago and I think he just went to sick call. It took about 3 weeks for him to get the sick call after multiple requests.
4. We are still out for only an hour. Within that hour you can do whatever you want; you can get books, take shower, clean cell, etc. When people are out for their hour they are wearing masks. However, they aren't six feet apart from one another. Permitted to sit at table together (i.e. to play cards) and CO's don't say anything.
5. There are signs (about 4-5) posted throughout the unit to encourage social distancing, but THAT'S IT. The CO's don't say anything if people are sitting together. COs don't do anything to enforce social distancing. They don't scold/discipline inmates if they are sitting together at the tables or talking in groups.
6. When I am out with my 10-man group for the hour at times there is also 5-6 inmates from the detail unit who are out with us as well. It's really like if the CO likes you they let you

out even if you're not in the 10 man group. If the Sargent comes to the unit then that's when the CO will tell people to step back in but if it is a cool CO then you can get out.

7. There are some places and times where people are packed closely together, mostly when playing cards and using the phone. Just yesterday (6/14/20) there were about 15-20 people out at the same time and all the phones were being used. I have only been out of my unit to go to a sick call which is right across the hall from our unit, so I haven't observed the jail courtroom, hallway or medical unit.
8. Pretty much every time I use the phone all the phones are being used. I can recall maybe 1 or 2 phones being open but more often than not all the phones are used at once.
9. Right before the Doctor came into the jail that is when the entire tier was cleaned. At that time they mopped, swept and wiped down everything! That was the only time I've seen the whole unit cleaned.
10. Since then just people come in to spray the perimeter (only at the bottom tier). They just spray the corners at the bottom tier of the unit. We were told that it would be done twice a month but now it is done randomly. They have maybe come three times since the initial full unit clean before the Doctor came. And when they do come they only do the main/lower level, they don't come up to the other tier.
11. Wipes aren't given. There are absolutely no wipes near the phones; really no wipes at all.
12. When the outbreak first happened a "white shirt", maybe jail representative, came in and told us that the COs would give us wipes to wipe things off and that we just needed to go to the desk to ask. But there have been no wipes since the beginning of the outbreak.

When you go to the desk to ask for the wipes the COs say that they ran out.

13. You can request cleaning supplies. Some CO's will give it to you some won't. No specific instruction has been given on how to properly use the cleaning supplies so we can disinfect. The Spray 9 is usually out for us to use. Speaking now with you on the phone I don't see any out, it's just window cleaner and napkins. More often than not the Spray 9 is there. There is enough soap to wash my hands frequently.
14. In the beginning of the outbreak I did share showers with COVID+ inmates but of course they were eventually taken off the unit. I remember one Hispanic inmate that I showered with in the beginning (he was in cell 201 or 202) he had it for like a week before he was taken off the unit. I think the showers are cleaned often.
15. All medical staff wear masks and gloves. COs sometimes take them off and yell in people faces and inmates yell back to tell them to put their masks on. When we do that they go put their masks on.
16. The COS have their own personal/customized masks so that makes it easy to identify or see that they wear their same masks. They don't change out of their personal masks during their shift. Changing of gloves is different for every CO. For the most part they change them regularly. However, I did see that this weekend it was a male CO who was counting out our new masks that had come in with no gloves on. My cell is right in front of the CO desk so I can see what is going on. The other CO (I believe her name is CO Brown) she had looked at the male CO and basically gestured to him that she had gloves on and that he needed to do the same; that is when he decided to put gloves on. I witnessed all of this from my cell.
17. There is absolutely NO disinfecting of tables, the cards, door knobs between uses. The phones randomly get wiped but not on a consistent basis at all. For example, when a 10-

man group comes out for an hour once they are locked back in the next 10-man group is let out without anything being wiped down/disinfected. The next group just comes out! Again, my cell is right in front of the COs desk so I would be able to see if they leave the desk and go out to wipe things off.

18. My name is [REDACTED] and I am ok if [REDACTED] included with this statement/declaration. Assistant Public Defender, Terea Williams, took these true and accurate statements from me on June 15, 2020 at 9:31 a.m.

*This declaration was orally sworn to by [REDACTED] on June 15, 2020. Under penalties of perjury, I declare that I read the foregoing in its entirety to [REDACTED] on June 15, 2020, and he confirmed its accuracy to me.*

s/Terea Williams\_\_\_\_\_

Terea Williams

June 15, 2020

# **EXHIBIT I**

**Declaration of [REDACTED]**  
**(To be used anonymously)**

I, [REDACTED], solemnly affirm under the penalties of perjury and upon personal knowledge that the following is true:

- 1) I provided the information below in response to a standard set of questions read to me over the telephone by Jeff Campbell on June 18, 2020. This declaration was read to me and I confirmed its accuracy based on my own knowledge and observations.
- 2) My name is [REDACTED]. I am a resident of Prince George's County.
- 3) I am currently incarcerated at the Upper Marlboro Detention Center in Prince George's County. I am currently detained in Housing Unit H-9.
- 4) Lately, it has been extremely hot and stuffy in here. Whatever circulation they have is not enough. At night, it is so hot it is hard to sleep.
- 5) Last week a guy on our unit was taken out of the unit in the middle of the night. I believe it was because he tested positive for the virus. They have not followed up with the people he has had contact with, like his rec group. They have not given tests to the people in his rec group.
- 6) The jail has started moving people around again and introducing new people into units. There are about twelve more people on this unit last week than there were the week before. They add the new people into pre-existing rec groups; they don't keep them isolated. Several of the new people have told us and the guards that they have not been tested for the virus; they say they have asked for tests but they have not gotten them. It makes me very worried to be in a unit with new people who haven't been tested.
- 7) I am on the cleaning detail. Every week we run out of cleaning supplies, including Spray Nine. In the past, we have usually been able to get more by asking the guard to ask their superior officer for more. But this week, we ran out on Tuesday and we were told there was no more anywhere else in the jail. For all of Tuesday and all of Wednesday, we were instructed that there was no Spray Nine and that we had to use Windex to wipe down surfaces and phones.
- 8) When we do have Spray Nine, we are instructed to cut it with water.
- 9) Cleaning has been inconsistent. Earlier this week there was a different guard in our unit than usual. During the two days she was here, she told the cleaning detail that we were not allowed to clean the showers. For those two days, the showers were not cleaned.
- 10) Guards do not consistently wear masks in the unit. I see them with their masks off pretty often. In the last week, I have seen it happen four or five different times.
- 11) We are still on lockdown 23 hours a day. But a lot of the time, we are stuck in the cell longer than that. When the shifts change, the guards who come in might start by letting out one group, even though it was another group's turn. When we tell them about the mistake, some guards will



correct it, but others won't. That can lead to two or three days without getting to come out of the cell.

12) I mostly pass the time by trying to sleep. I know it's not good for me, it makes me feel depressed. But it's the only thing I can think to do to try to get through it. A lot of other people in the unit are yelling and cursing all the time.

13) We usually get the Washington Post delivered on weekdays. More and more often, the Metro section will be missing, and the guards will explain they removed it. When guys call their families and ask what was in the Metro section the day, it's always a story about the virus in this jail, or about the lawsuit that's happening against the jail.

14) I have hypertension and high cholesterol. I am 56 years old. I have never been told that there is any kind of special plan or special procedures in place to protect me.

This declaration was orally sworn by telephone to Jeff Campbell, Esq. by [REDACTED] on June 18, 2020 because in-person meetings are currently not possible due to the COVID-19 epidemic. Under penalties of perjury, I declare that I have read the foregoing in its entirety to [REDACTED] on June 18, 2020 and that he has sworn to the truth of its contents.

/s/ Jeff Campbell  
Jeff Campbell, Esq.  
Assistant Public Defender  
June 12, 2020

# **EXHIBIT J**

**Declaration of** [REDACTED]

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

1. My name is [REDACTED]. I am a resident of Prince George's County, Maryland.
2. I am currently incarcerated in the Prince George's County Jail in Upper Marlboro. I have been detained here since May 28, 2020. After processing, I was initially detained in housing unit 2 (H2). Because of my health problems, I was detained in the ten-person cell in the medical unit for a week, from June 1 to June 8. On June 8, I was transported back to H2.
3. I am thirty-two years old. I am HIV-positive and take daily medications to manage my HIV. I also have asthma. I take an albuterol inhaler as needed for my asthma.
4. When I was processed into the jail, I told both the nurse and COs that I was HIV-positive. I was very concerned about my HIV-positive status in the jail because it's a very serious health issue for me. I didn't think to tell them about my asthma, because I haven't had major problems with my asthma recently and was much more concerned about my HIV status. In processing, they never asked me whether I had asthma or any other respiratory problems. If they had asked me, I would have told them that I had asthma.
5. I told the nurse that I needed my daily HIV medications when I was processed into the jail. I told her that it was very important for my health because, without the medications, my viral loads could increase. The nurse asked me for the name of the medication. She looked it up and told me that the jail didn't have my medication in its inventory. After I got moved to H2, I kept telling the nurses that I needed my medication. One nurse told me that my family could pick up my prescription at my pharmacy and bring it to the jail.

But my family doesn't drive and doesn't have a way to get to Upper Marlboro. So the nurse said she would research it and try to make my correct dosage out of other medications. I didn't start getting HIV medications until about four days after I was processed into the jail. I am now receiving HIV medicine, but I do not know whether the jail is giving me the correct dosage because I've been having strange symptoms. My body is having problems that it normally doesn't have, which makes me think the jail isn't giving me the right dosage.

6. I have told jail staff on numerous occasions that, because of my HIV-positive status, I am high-risk for COVID-19. I've told the nurses, and I've told the COs. They don't do anything. All they say is that they can't do anything for me, I have to go see the doctor. But the doctor doesn't come to the jail every day. So when I request to see a doctor, it takes a couple of days before I actually get to see them. For example, when I asked to see the doctor on Friday, June 5, I didn't get to see the doctor until Monday, June 8.
7. I've only gotten to see the doctor twice since I've been at the jail. On these two occasions, the doctor has talked to me about my HIV status. But it doesn't feel like anyone at the jail has really taken it seriously. They haven't acknowledged that because I'm HIV-positive, my immune system is weaker and I'm high-risk for COVID-19. The jail hasn't taken steps to specially protect me. They act like now that I have HIV medication, they can just keep giving me the meds and I'll be fine. But my immune system isn't strong and I'm vulnerable.
8. Because I went several days without getting my HIV medications, I started to have symptoms early on May 31. I told the CO on H2 that something was not right, and that I needed medical attention. The CO told me I had to wait for the doctor. So I went back to

my cell. Then later, the nurse came, but she told me she couldn't do anything for me either. Finally, in the afternoon on June 1, the COs brought me down to the medical unit and I was moved into the ten-person cell. At that point, I had been sitting in the same underwear for four days and hadn't showered in four days either. My one hour of rec time was coming really late on H2, so I'd slept through my rec time and had not been able to shower. With my symptoms being really bad, I kept telling the COs, "I need a shower, I need a shower." But they wouldn't let me out to shower.

9. Once I finally saw the doctor, I was prescribed one round of antibiotics. When the doctor saw how bad my symptoms were, that's when he told the COs to let me take a shower. With the antibiotics, I started to see some progress and my symptoms cleared up. But they haven't fully cleared. They've given me two rounds of antibiotics now, and I feel better, but I even after two rounds, I'm still having symptoms. And it's because I need my proper dosage of my HIV medications.
10. When I tell jail staff that something is wrong with my body, they don't respond quickly. They don't acknowledge the urgency of my health issues. Actually, I haven't seen them respond to anyone's health needs in a timely fashion.
11. For example, one guy came into isolation cell 7 on Wednesday, June 3. He was throwing up, and he would not stop throwing up. For three days straight, he did not stop throwing up. When he first came in, he had a muscular build. But when the jail finally called for an EMS evacuation, he was skin and bones. He had lost so much weight. I couldn't believe it. It seemed like they should have called EMS and brought him to a hospital much sooner. If someone is really sick and the jail doesn't know what's going on or

doesn't have the medication or capacity to help them, they need to send that person to a hospital. But it seems the jail tries really hard not to send people to the hospital.

12. Because this inmate was in an isolation cell, the jail wouldn't let him use the phones.

The jail wouldn't let him do anything – no phone, no shower. They wouldn't let him leave his cell because he was “contaminated.” No one labeled contaminated in isolation is ever let out of their cells to shower or use the phones or anything. So this guy had no way to contact his family and let them know what was going on, that he was really sick and the jail wasn't doing anything to help him. So he told another inmate, a guy in the ten-person cell, to call his mother for him. This inmate called the guy's mother for him and told her what was going on with her son. His mom got really upset when she heard about everything. She called the nurses desk to complain, and after she called and complained several times, that was when the jail finally called EMS. The jail staff were angry that the guy's mother was called by this other inmate. So they moved him from the ten-person cell to an isolation cell in the medical unit to punish him. When they moved him, they said to him: “You had no business calling that guy's mom, so now you're going into the iso cell.”

13. As another example, there was a guy in isolation cell 6 while I was in the ten-person cell in medical. He was in that cell for two days. And in that time, he barely even moved. I could see his cell from where I was in the ten-person cell, through the windows. I could see the COs and nurse go in to check on him. All they would do is tap him, and that's it. When he first came in, he was throwing up also. He was throwing up for a good amount of time, maybe twenty to thirty minutes. And then he laid down. And I never saw him move since that point, for two days. When the COs and nurses would go to check on

him, I could hear them say, “he’s still breathing.” But he didn’t ever move. They put a quarantine sign up on his door, a white piece of paper with “quarantine” written in black marker. The whole time I was in the medical unit, I never saw any doctor check on him. They would try to make him get up to sit in the chair for his vitals and medications, but he never got up, he never moved. Then I guess they thought he was faking his symptoms. Because after two days, they moved him out of the medical unit.

14. When I was in the medical unit, I saw how the jail is moving lots of people around, moving them in and out of medical. As soon as they moved the nonresponsive guy out of isolation cell 6, they moved another guy with COVID-19 into that cell. I know he had COVID-19 because the jail put a green quarantine slip on his door. I could see this guy coughing a lot. I also heard the COs talk about another person with COVID-19 who was farther down the hallway, in one of the isolation cells. Because he was farther down the hallway, I couldn’t see his cell.

15. In medical the nurses checked our vitals and gave us our medications three times per day. They would write down our vitals, but they never asked about symptoms. Sometimes people would tell them about medical issues they were having, but the nurses only ever said, “You have to wait to see the doctor.” Like I said, though, the doctor only comes every couple of days. And if you were to keep telling the nurses about your symptoms, they would get irritated with you, so you have to be careful. I’ve noticed that if it’s your first time telling the nurses about new symptoms, they’ll write them down. But if you keep complaining, they’ll just say, “I’m not the doctor,” and then ignore you and walk away without writing anything down.

16. I haven't had any nurses be outright disrespectful to me. But I did witness an incident.

There was a Hispanic man in our ten-person cell. At one point, the nurse was telling him to sleep, but he was saying that he couldn't sleep. She told him to try reading a book, but he told her he couldn't read any of the books because they were all in English. He asked for a book in Spanish, but she responded, "We speak English here," and then closed the door.

17. The janitorial staff came through the medical unit every day. But they only cleaned the hallways and the CO security bubble. They did not clean the ten-person cell, not once during the week I was there. They didn't clean the isolation cells either. We had to clean our own cells. There were no disinfectant wipes in the ten-person cell in medical. We had to ask for cleaning supplies. If I wanted to clean, I would have to get the attention of the COs in the security bubble and ask them for the spray bottle. There was no other way to disinfect or clean.

18. The inmates in the isolation cells also have to clean their own cells, including cleaning up after the last person who was in that cell. For example, the COs brought one inmate to isolation cell 7 around June 6. When he came in, I heard him yelling and screaming, "This cell is nasty!" I could hear him shouting, saying that there was feces on the walls. He also said he couldn't sleep on his bed because there was urine under the mat. He must have been on suicide watch because he only wore a suicide vest. He told the COs all of this, over and over again, but they wouldn't clean it. They just said, "I'm not a janitor, I'm a CO," and kept walking past his cell. Then the guy started asking for paper towels and spray. Most COs didn't care and just kept walking past him. But finally there was one CO who gave him the cleaning supplies. He could only do so much with his vest on.



He cleaned it the best he could. But I heard him say it still really smelled in there. I would see him curl up and sleep on the sink because his bed was so nasty – he would sit on the sink and lean his back against the wall, stretching his legs out on the toilet and sleeping in an L-shape.

19. On June 8, I was moved back to H2. I was moved into a cell with a cellmate, where we're locked down for twenty-two or twenty-three hours per day, depending on how the COs let us out for rec time. Sometimes the COs will take away the rec time to punish inmates – if one guy in my rec group gets in trouble, for example, that could mean our whole rec group loses our hour.

20. There is a detail unit that cleans the shared spaces on H2, but we have to clean our own cells. We have to ask to get cleaning supplies and we have to use our rec time to do it, which can feel like a waste of the one or two hours you get. I don't know what the cleaning chemicals are in the spray they give us or if it is a disinfectant. They haven't told us what it is or that we need to wait before wiping up the spray. We just spray and wipe.

21. I provided the foregoing information over the telephone to Claire Glenn. On June 13, 2020, this declaration was read to me and I confirm its accuracy based on my own knowledge and observations.

*Because the Prince George's County Detention Center in Upper Marlboro, Maryland, currently is not permitting in-person visits, this declaration was orally sworn to by [REDACTED] on June 13, 2020. Under penalties of perjury, I declare that I read the foregoing in its entirety to [REDACTED] on June 13, 2020, and he confirmed its accuracy to me.*

cg  
\_\_\_\_\_  
Claire Glenn, Esq.  
June 13, 2020

# **EXHIBIT K**

**Declaration of [REDACTED]**

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

1. My name is [REDACTED]. I am a resident of Prince George's County, Maryland.
2. I am currently incarcerated in the Prince George's County Jail in Upper Marlboro. I have been detained here since May 11, 2020. Up until June 10, I was detained in housing unit 8 (H8). On June 10, I was moved to housing unit 9 (H9).
3. I am 39 years old. I have severe asthma. I take an albuterol inhaler twice per day and, in addition, I use a breathing machine that plugs into the wall, for about thirty minutes, once or twice per week as needed. The jail knows about my condition, they have it in their records.
4. When I first came to the jail, I sat in processing for a long time. There were about fourteen people in processing, but they didn't tell us to spread out and socially distance. People were sitting in the chairs in processing right next to one another, talking and sharing food. Both the inmates and the COs were taking their masks off and not wearing them consistently. The COs also weren't practicing social distancing. They were all sitting right next to each other behind the desk without masks on, eating potato chips and candy, laughing and talking to each other.
5. When they moved me to H8, they gave me and everyone else TB shots. The nurse didn't change her gloves in between giving people their TB shots. At that time, I told the nurse that I had asthma and that I needed medication. And then when I got to the housing unit, I also told the COs that I had asthma and that I needed medication. But when the nurse came to give medication out, she told me my name wasn't on the list for medications. I

complained about my asthma and that I needed medication, maybe about five times over the next couple of days. Then, after about four days on the housing unit, I told the COs that I was wheezing and couldn't breathe, that my asthma was getting really bad. The COs told me to fill out a sick call. I hadn't filled out a sick call earlier, because I thought it was already in the system from when I talked to the nurse at processing. But they said it wasn't in the system and they couldn't do anything unless I filled out a sick call slip. They said that's how it works. So I filled out a sick call slip and went back to my cell, but I was still wheezing really bad and felt like I couldn't breathe. So I called down to the COs again and told them I couldn't breathe. They still refused to do anything to help me. I also tried to tell the nurses what was going on when they came for temperature checks. But the nurses just told me that's not what they do, they only check temperatures and I had to wait for my sick call slip to go through.

6. It took two days before they finally brought me down to sick call. I told the nurse that I have really bad asthma, that I wasn't feeling well and my breathing had been really messed up. The nurse asked me what kind of medication I was on. I told her I was supposed to be on an inhaler and the breathing machine that plugs into the wall and smoke comes out of it. She said, "ok, well if that's what you're supposed be on, then what's the machine and medicine called?" I told her, "I don't know what it's called, but I know I need it." So then she caught an attitude and started to be really rude to me. She told me that because I didn't know the name of the machine or the medicine, she didn't believe me that I needed it. I was begging her, I could barely breathe, and I was wheezing so bad. I was feeling faint. I told her I just couldn't remember the exact name of the machine or the medicine. We went back and forth for about ten minutes. I asked

her to check in the computer, to check the name of it, but she refused to do it. She sat right there with a computer in front of her, and all she could do was talk down to me like I was stupid because I couldn't remember the exact details of my medication. She's a nurse, she's supposed to be there to help me in my time of need because, in the jail, I have no way of assisting myself. But she was so nasty to me. I kept telling her that I was having trouble breathing and I was dizzy, seeing little gnats in the sky like I might pass out. But she didn't want to hear any of it. She told the CO to come get me and put me in the holding cell and bring her someone else. I was hoping that she was going to get my medicine ready for me and call me back when she finished with that person. But after she was done, she told the COs to bring us both back to the housing unit.

7. So when I got back to H8, I filled out another sick call. And I had to wait two more days before I got any response. By the grace of god, I got a different nurse that time. I told her everything that had happened to me, and she said, "Oh my god, why would she treat you like that? We have the machine right here!" And she opened the drawer and pulled out the machine for me. I realized that when the first nurse was treating me so nasty, the whole time the machine I needed was right there in the drawer behind her. The second nurse then checked the system and gave me my inhaler. She said the medicine that I need is "albuterol."
8. I don't have my inhaler with me at all times. I only can use it when the nurses come around. And I have to request to use the breathing machine too. So sometimes I can't use the inhaler or the breathing machine when I need to. I have to wait until the nurse comes to give out medicine. If things are urgent and I can't wait, I push a button in my cell to try to get the COs' attention. Sometimes the COs will listen to me. But a lot of

the time, the COs stay seated behind their desk just talking to one another, ignoring me.

Sometimes they'll turn the volume of the buzzer down low, so they don't even have to hear me. So usually I have to wait for the nurse to come do medications. When the nurse does come, I can tell her that I need to be put on the breathing machine. The nurse will then finish medications and, once she gets back to the medical unit, call back to the housing unit and ask that I be transported to medical so I can get hooked up to the machine. I have to go through all of these steps to get my treatment.

9. I've also been telling the COs and nurses that the right side of my neck to my shoulder feels swollen. It feels like it's full of fluid or something. I don't know what's causing it. I've written about the lump in my previous sick call requests, but the nurses haven't done anything about it. And before, because I was so focused on getting my asthma medication, I didn't press it. I put another sick call request in on June 14, but I haven't heard anything yet. I'm fed up. I'm fed up asking the jail to help me and not getting any help.
10. I'm not the only one who has had trouble getting urgent medical attention. Maybe two weeks ago, another guy on H8 kept pushing his buzzer and yelling, "help, help!" But the COs just ignored him. Eventually, one of the other inmates who was out on his rec walked over to this guy's door to check on him. And the guy was lying on the ground, unconscious. So the inmate starts yelling for help and cussing out the COs for ignoring this poor guy for so long, putting his life at risk. So then the COs came, saw what had happened, and called the emergency response team (ERT). The ERT came with the nurse, and because the guy was unconscious, they had to get a stretcher to take him out of the housing unit. He was gone for about an hour, and then they brought him back to the

unit. About an hour after that, they came back and took him away for good. This guy was in cell 115 in H8, right next to my cell at the time, 114.

11. We found out later that this guy tested positive for COVID-19. The COs told us that he wasn't coming back to our housing unit, because he had tested positive. The COs made the inmates who work detail clean cell 115. But the only supply they had was watered-down Spray Nine (half water and half Spray Nine). They had to bag up all of his stuff and then they sealed off his room. Since I was right next door in the next cell, I was really worried about catching Coronavirus. Especially with my asthma, I know it would be really hard for me if I got Coronavirus. But the jail staff didn't seem to care. They didn't ask me any questions about my health or symptoms. They didn't offer to let me have extra time to clean my cell. I had to wait for my one-hour of rec time before I could clean my cell as best I could, with paper towels and Spray Nine.

12. Before I was in cell 114, I was in a different cell on H8 with a cellmate. And from the moment I was put in that cell, it was clear my cellmate was really was sick. He was sweating, breaking out in hives, and spitting up blood. He was coughing and wheezing, and I could see the hives on him. I could see the blood in the sink, including on the part of the faucet where the water comes out. I buzzed the buzzer, but the COs wouldn't let me have any Spray Nine to clean it, so I had to take a napkin with a little bit of soap on it and scrub the blood off so I could use the sink. I asked my cellmate what was wrong with him, and he said he had a bad case of sickle cell and something else. So I prayed for him. He kept explaining to the COs and nurses that he was sick and needed medical attention. But they ignored him. He also filled out a sick call slip. I know because we filled out our sick call slips at the same time and even went down to sick call together

once. But the nurses told him they didn't have anything for him. At one point he was so sick, coughing and spitting up blood really bad. We were on lockdown at that time, and we pressed our intercom button to try to get him medical attention. But the COs just ignored us. I don't know why they don't answer the intercom button for our calls, but they just ignore us. So he had to wait until the nurses came around for temperature checks, and when he told them what was going on, they told him to put in a sick call request.

13. One of the detail workers on H8 also caught Coronavirus. Because he worked detail, he cleaned the unit and passed out our food trays. Then all of a sudden, they said his temperature was escalating, and they hauled him away. Later they told us that he was positive for Coronavirus. And we haven't seen him come back since. I know of five total people who we were taken away due to Coronavirus while I was on H8, based on what the COs told us.

14. I've heard that the jail is keeping COVID-positive people in H5. But H5 is the hole. I don't understand why they're punishing people who get Coronavirus by putting them in the hole. H5 is supposed to be for bad behavior, it's supposed to be for discipline. And that's where they're putting people who need medical attention.

15. The jail has been moving people around recently. The night before I was moved to H9, the COs moved me out of cell 114 on H8 and into a cell on the second floor of H8. The COs took everyone from the second floor in H8 and moved them to some other unit. Then, they moved all of us from the first floor to the second floor. The COs told us that they were moving us so that when new people are arrested, they can be put in the cells on the first floor of H8.



16. When they moved me to the second floor of H8, I explained to the COs that the upstairs cells don't have any air circulation. The air upstairs doesn't blow, there's no ventilation, and it's really hot. The COs will open the door downstairs to get in some fresh air, but it's still really hot upstairs. So I explained that it wasn't good for me to be up there, because it's hard for me to breathe as it is with my asthma, and this will only make it worse. The CO told me he'd open two other cells on the second floor and let me see if they had better circulation. But those two other cells had no circulation either and they were filthy. They had trash in them too. The inmates on detail only clean the shared spaces, they don't clean inside of cells. They leave the mess from the previous inmate for you to clean up and who knows who had the cell before you, if they were sick or something. It's a very unsanitary policy. So I told the CO I'd stick with the first cell, because at least it wasn't so dirty.
17. Even in the shared spaces, the sanitation is poor. This is true for both H8 and H9. The air vents are dirty and have grime on them. There's trash, papers, stuff under the steps. They say that to protect from the Coronavirus, you've got to keep stuff sanitized. But that's not what they're doing in here.
18. They only have Spray Nine to clean. They ask the detail workers to clean the phones every shift, every eight or nine hours. If you want to wipe down the phones between uses, you have to ask the COs for Spray Nine and napkins. The COs will rip the napkin in half and spray it for you, and that's all you get. They're trying to reserve the Spray Nine. Instead of just buying more, they're cutting it with water and trying to save it back.

19. The railings aren't clean. I see guys coughing on their hands and touching the railings.

And then the detail workers are touching those railings and passing out our food trays.

The COs also touch our food trays without gloves after they've been handling stuff.

20. The COs don't treat COVID-19 like anything serious. The COs walk around without any face mask, sometimes without gloves. The night before I was transferred from H8 to H9, they brought a dog to H8 and had him walking all around the housing unit. He had no leash, no mask, just walking all around sniffing things and spreading germs. The jail doesn't take this pandemic seriously, they don't seem to care about us. And if they do care about us, why isn't anyone watching the video footage of what actually happens in here? There are cameras all around in the jail, all of this stuff is on tape. But no one seems to really care.

21. Another time, the CO came around H8 doing count. But instead of just looking at everyone's armbands, the CO was touching everybody and everything with the same gloves. She was touching the keys on her belt, the dirty railings, the doors, and other inmates' bodies. And she touched my cellmate, and then she touched me. This was when my cellmate was really sick. And to be honest, I went off and told her "Don't touch me! I've seen you touching everything and everybody with the same dirty gloves, it's not sanitary. I just saw you touch my cellmate, so don't touch me with that glove." She said, "If you don't want nobody to touch you, you shouldn't have come to jail." And then she wrote me a ticket claiming that I had refused to show her my arm band for identification. But that was a lie. I didn't refuse to show her my armband. I just didn't want her touching me with those dirty gloves.

22. The nurses don't always take sanitation seriously either. For example, when the nurse was taking a blood sample from me, she kept sticking and sticking me and complaining that she couldn't find my vein. She got frustrated and flicked the needle back while it was stuck in my hand, and my blood spurted out across her desk. All she did was take a little napkin and wipe up the blood and that was it. She didn't disinfect it or anything.
23. The nurses check temperatures twice per day, at 9:30am and 4:00pm. Up until a few days ago, the nurses didn't ask about symptoms at all. Starting a few days ago, however, the nurses asked, "do you have any symptoms?" and then wrote down my answer on a clipboard. But this is not consistent, it doesn't happen every time. They also don't ask about specific symptoms. While the nurses do temperature checks, they wear the same gloves the entire time. Sometimes they're even feeling people's faces, and they just go from person to person with the same gloves on. Some of the nurses don't even wear a mask when they take temperatures with the scanner gun.
24. When the nurses do temperature checks, they make us bend down and put our head in the slot of our cell doors. Then they use the scanner gun and point it at our foreheads to get a reading. About a week ago, I asked the nurse whether the scanner gun wasn't supposed to scan from one temple to the other, rather than just staying on the middle of our foreheads. At my job where I was working before I got arrested, that was how they told us to do it, and some of the other nurses here also scan from side to side. Well, this nurse got mad that I was asking questions. She told the other nurse to write down on the clipboard that I "refused" the temperature check and then they walked away. But I didn't refuse, I was just asking questions.

25. Some of the nurses here are hasty and rude to the inmates. They can be disrespectful and get mad whenever there's any delay. But I don't think that is fair, considering we're locked down for twenty-three hours or more per day in our hot cells. When we're in our cells, we won't always be dressed properly and they don't give us any warning when they come to our doors. They just show up at our doors and look in at us, naked, rushing to get dressed. Sometimes I'll be asleep when they come to my door, and it's hot so I'm sleeping without clothes on. This nurse gets mad because of the delay, but I'm not trying to be disrespectful by coming to the door without my pants on. I'm not trying to be accused of being a pervert. I just need a minute to get out from under the covers and put my clothes on before coming to the door.
26. One nurse also criticized me for being a Muslim. I was praying one day, on my knees with my head down. I guess she felt some type of way about that, and she said to me, "how can you know you're a Muslim? You only know that you're an African." I told her that one is my religious preference, and the other is my race. I told her she needs to go back to school because religion and race are different. Then she got mad. She started acting petty, trying to mess with me and saying that my head wasn't low enough to take my temperature. I'm telling her that my head is as low as it can get through the slot, but she kept saying to put it down again, put it down again, just to mess with me.
27. On lockdown, I get only one hour per day for "rec" time. That is the only time I have to shower, use the phone, and clean my cell. It's supposed to be 23-and-1 lockdown, but it varies how much rec time you actually get. Because the COs are not very organized, they sometimes forget which cells they let out with the shift changes. Then things get messed up and some people get skipped in the cycle. For example, I was locked down in my cell

on H9 for about forty hours until my rec time yesterday, because they skipped my cell in the rotation. I've got a corner cell, so I seem to get forgotten more often because it's harder to see my cell. When I asked about it, the CO told me it was marked down that I had already had rec. But that wasn't true, someone must have made a mistake. I told the CO that it was a mistake, but she wouldn't let me out. So I had to wait for the next rotation.

28. There's no social distancing on the phones. Not all of the phones work. There are only about six phones out of twelve that work on H8. So when people are using the phones, we can't socially distance. People sit wherever the phones are working. Because we get such little rec time, the phones are in high demand, so there is never really any social distancing. We're all right next to each other.
29. There are no mental health professionals or counseling, there's nothing like that that I've seen. And we haven't gotten any reading materials or anything to keep our minds occupied and sane while we're on lockdown. Even the chapel, which has religious books, is closed. So I can't have a bible or Quran or prayer books, let alone any other books. And sometimes the COs will even refuse to give us the newspaper.
30. In this environment, request slips are really important. You can use request slips to ask the jail to check for warrants. You can request that the jail reclassify you to a different housing unit, including getting onto a work unit. You can request to see Pretrial Services or check when your next court date is or request a public defender. You can also request to get books and legal materials or religious texts. You can also submit a complaint about a CO. If you want a request slip, you have to ask the COs for the slip. If you don't know to ask, they won't tell you about them. And the COs don't always even have the

slips to give you. Sometimes they don't have them in the right language either.

Sometimes it will be multiple days before the COs have request slips to give out.

31. It's no better on H9 than it was on H8. The level of cleaning and sanitation is the same, or maybe a little worse. And it's really, really hot. I'm in a cell on the second floor. It seems like the air vents don't work at all up here either. There's no circulation. I would estimate it's been about 85 degrees in our cells on the hottest days. As soon as you go into the cell and close the door, you start sweating. You have to just strip off all of your clothes. And it's so hot sometimes that even the floor sweats. There's no ventilation, we don't have any air coming in. And some of the vents are dirty too – some of them have toilet paper stuffed in them, some have mold and rust.

32. The heat, humidity, and lack of circulation is affecting my breathing. And I've told the COs on H9 that it's hard for me to breathe up here. But this unit is packed to capacity. I have a cellmate on H9 and pretty much everyone else does too, unless they're on separation status for punishment. There's only about two people on this unit with their own cells on separation status, the rest are all doubled up.

33. There also seems to be a COVID outbreak on this unit too, just like there was on H8.

I've only been on H9 for a few days, but already there are two guys I know of who have been taken away due to Coronavirus. One guy in cell number 206 was taken away right before I was brought to H9. They didn't clean up the cell. They just closed it off. They have a sign on his door that says, "cell closed," and there's a little party light they put in the cell that flashes off and on. The light is ridiculous, it looks like there's a ghost or something in there. I don't know what that party light is supposed to do.

34. Over the weekend, another guy in cell number 226 was also taken away with Coronavirus. They did the same thing with his cell, put a sign on it that says “closed” and just left it all a mess. Still today, no one has come back to clean it. The guy who was sick was a part of the detail crew as an “add on,” so he would occasionally pass out food trays and help out around the unit.
35. Yesterday, we were telling the COs that we didn’t think they were doing enough to keep the unit clean. We were complaining about the unsanitary conditions. One of the COs said he didn’t care. He said that he already had Coronavirus, so he’s not worried about catching it again. He said we shouldn’t worry either, it’s best to just get it and get it over with.
36. The COs on H9 are also much harsher with the inmates. For example, yesterday and the day before, we were asking the COs about the rec schedule. There had been issues where the rec schedule was getting messed up. Some people were getting skipped and, at the same time, they were letting out like 18 or 20 people at a time. So we were asking the COs about it and this woman CO got really mad. She tried to blame the mistakes on the night shift, but then just started swearing at us, saying things like: “Y’all shut the fuck up, shut the fuck up! If y’all keep running your mother fucking mouths, no one is coming out today.” So then guys started asking for a white shirt, because she was being so disrespectful. And she said, “Y’all ain’t getting no white shirts, this is MY shift.” So then we all just had to stop talking because we had no other option.
37. I provided the foregoing information over the telephone to Claire Glenn. On June 15 and June 16, 2020, this declaration was read to me and I confirm its accuracy based on my own knowledge and observations.

*This declaration was orally sworn to by [REDACTED] on June 15 and June 16, 2020. Because phone use at the jail is severely limited, this declaration could only be read and orally sworn to over the course of two days. Under penalties of perjury, I declare that I read the foregoing in its entirety to [REDACTED] on June 15 and June 16, 2020, and he confirmed its accuracy to me.*

cg

---

Claire Glenn, Esq.  
June 16, 2020



# **EXHIBIT L**

**Declaration of [REDACTED]**

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

1. My name is [REDACTED]. I am a resident of the District of Columbia.
2. I am currently incarcerated in the Prince George's County Jail in Upper Marlboro. I have been detained here since February 20, 2020. I am currently detained in housing unit 10 (H10).
3. I am forty-three years old. I have diagnoses of depression, bipolar, and post-traumatic stress disorder. The jail is aware of my mental health diagnoses because I receive generic versions of my prescribed medications.
4. After I got to the jail, a few months ago now, I started to have problems with my physical health. First, I started to have blood in my urine and feces. Then later, I started to also have shortness of breath, headaches, and body aches. I'm still having problems with shortness of breath and blood in my urine.
5. I've had these symptoms for months now, and the jail has not treated me. I think I've probably put in about twenty sick calls by now for my symptoms. But the process just doesn't work. First, it takes three to five days from when you submit the sick call before they take you over to medical. Then, once you're over there, the nurse will take your vitals. And if you actually need medical attention, the nurse will then put you on the waiting list to see the doctor. So you just waited all of this time, only to get put on another waiting list. On top of that, there's no telling how many people might be ahead of you on the list to see the doctor. Usually you get to see the doctor after about four or

five days. But sometimes it's a week or more, and sometimes they won't even put you on the list like they said they would.

6. For example, about a month ago I went to medical on one of my sick calls, and the nurse told me I just need to drink more water to break down my food. But she doesn't know that that's the issue, she didn't examine me. So I asked to see the doctor, and the nurse told me I was on the list. But that was a month ago. And I'm drinking more water, but it doesn't take away the symptoms. When I complain to the nurses, they just tell me there's nothing to do. They say I'm on the doctors list and I just need to wait. I'm still having those symptoms though, and I don't know how long I am supposed to wait.
7. I need to get out of jail so I can get to a doctor, because the nurses here aren't trying to help me. They're not doing anything to address my symptoms. It doesn't seem like they're equipped to do anything besides check for fevers. I've explained to them that I have blood in my feces and urine. And all they've ever told me is to drink more water. I know something is wrong with my body. But I can't get any help for it. So I'm just sitting here hoping I can get out in time to get the medical attention I need.
8. The jail isn't in a rush to give us medical attention, and it's a real problem. For example, let's say you have a toothache. You go to the nurse at medicine time and ask for an aspirin. But even though the nurse has aspirins right there, she won't give you anything. Instead, she'll tell you to fill out a sick call slip. But again it takes three to five days to get a response to a sick call slip. And then, that will only get you to the nurse for some aspirin. If you need to see the dentist, you have to get on another waiting list. I've been on the waiting list to see the dentist now for three weeks. And we've got people on this unit who have been waiting to see the dentist for months.

9. We also don't have any way to get help fast in an emergency. We have intercoms in our cells, but the COs often ignore them. Sometimes you'll push the intercom button and you can see the COs sitting right there at the desk. You know it's buzzing at their desk, but they don't respond. Sometimes you can even see them turn down the volume on the intercom buzzer. It's not every time – every now and then they'll respond to you – but it's most of the time. When the COs don't respond to you buzzing the intercom, the only other way to get their attention is to make a big fuss or say something derogatory. But if you do that, you're risking getting a 72-hour ticket for discipline. That leaves you in a lose-lose situation.
10. Just two days ago, there were two cellmates on our unit who were really sick. They were spitting up blood and it sounded like things were really bad. We could hear them crying. When the COs wouldn't respond, other inmates started banging on cell doors and yelling, trying to get the COs' attention. It took several minutes, it must have been a full five minutes, before a CO came to see what was going on. Once he looked in the cell, he yelled for his partner. Then the second CO came up and looked, and then they called in a code for medical. It took another three or four minutes before the Emergency Response Team (ERT) showed up, with one nurse and one stretcher. Then one of them had to leave to go get a second stretcher and two or three more nurses, which took another five to ten minutes. None of them seemed to know what to do, none of them seemed to have any urgency. They were just standing around, looking nervous. They did not look professional. It really showed that the jail is not equipped to do anything more than the basics – temperature checks, blood pressure checks, things like that. After about ten more minutes, the EMTs showed up, and the ERT and nurses just got out of the way.

11. This whole time, all of the inmates were yelling and yelling that the guys needed to go to the hospital. But it was almost half an hour before the first guy was taken out of his cell, and then another ten before they took the second guy out. The first guy that they took out was totally unconscious. The second guy was screaming and screaming as they took him out. And we truly do not know if those two guys are even alive anymore. If you walk by their cell, there is still blood all over everything – the handle, the door, all over the cell. They just put up some caution tape on the door. The COs first told some guys on detail to clean up all of the blood. But the guys on detail complained, that it was a health hazard, so they just left it.
12. This isn't the only incident like this. There have been multiple instances just on my housing unit where someone needed urgent medical attention and didn't get it. For example, a friend of mine, who was shot, has stents in his leg. For two weeks now, he has been having problems with his leg, like blood clots or something. It was causing both of his legs to swell up and go numb. He had to wait about two weeks before he got medical attention, he just finally went down to medical yesterday.
13. We've been on lockdown for months and we're still on lockdown now. It's 23-and-1 lockdown, where they only let ten guys out of their cells at a time, and each inmate only gets one hour of rec per day. During that one hour, you can use the phones, use the showers, and clean your cell. If you get rec during the day, you can also walk out into the little square "yard." It's not really a yard – it's just a concrete box with a cage over the top and a basketball hoop. If you get rec at night, though, you can't go out into the yard.
14. Sometimes you won't get your rec until the middle of the night. They take people out for their rec up until three o'clock in the morning. But obviously people can't call their

families at two or three o'clock in the morning. It also negatively impacts our sleep. For me, I don't even come out when my rec hour falls that late at night. I just wait and hope that the next cycle is at a more reasonable time.

15. Getting fresh air during your one hour of rec is important, because the cells don't have good ventilation. It gets really hot inside the jail. When it's hot outside, it gets really hot in our cells. Last week, it was so hot that the walls and floors were sweating. I don't know how many degrees it was, I don't have a thermometer. But when it gets so hot like that, all you can do is take off your clothes, lie down on your bunk, and be still. Any movement, and you're going to be sweating a lot.
16. The heat and humidity also makes it much more difficult to breathe. I've noticed people on the unit are using their inhalers more frequently when medicine comes around.
17. There are a lot of guys on my housing unit who were really sick about two or three months ago, who must have had Coronavirus. Only three of them had fevers. These three were taken off to medical and tested positive. But there were a lot more people on our unit who had symptoms and didn't have a fever. So they left them in the housing unit. The jail wouldn't test anyone unless they had a fever.
18. I had been asking for a Coronavirus test since April. The jail just finally tested us, maybe two or three weeks ago. But that was way too late. What we need now is the antibody test. There's a whole lot of guys on here, including me, who had symptoms and are still having symptoms, like issues breathing. We don't know why for sure, but it seems like it's because we all had Coronavirus. I would bet eighty-five percent of the people on our unit had COVID and they just didn't test us until it was way too late.

19. It's impossible to socially distance in here, period. They let us out ten at a time. But all the showers are side by side. All the phones are side by side. None of the phones are blocked off, you can use any phone you want to. There are some of them out of odor, but otherwise everyone has to sit right next to each other to use the phones. The TVs have such low volume that everyone needs to be really close just to hear it. Because that's all we can do for our one hour of rec, there's no social distancing. Everyone's just trying to do what they need to do when they can. And then when you go back to the cell, there's no way to socially distance either, because you're in a tiny cell with your cellmate. If you're on the bottom bunk, there's a guy right above you. If you're on the top bunk, there's a guy right below you.

20. About a week ago, the unit wasn't full. Most people were able to have cells by themselves. But then about a week ago, they moved a bunch of new people in from intake. And now the housing unit is very full. Almost everyone has a cellmate now.

21. There seems to be some retaliation that's happening on our unit. Ever since the doctor came around and we spoke to him, I've noticed the COs have been more hostile to us. We've had three officer and inmate fights, and the officers started the fights all three times. Every time it was the officer who swung first. One guy is back on our housing unit after more than a month in the hole. He's got stitches in his head from where the CO kneed his head into the wall. The CO said he didn't like how fast he was walking, so he swung on him, then after this inmate was on the ground and handcuffed, one of the ERT guys kneed his head into the wall. There was blood everywhere. The COs are also taking their time when people need medical attention and need to go to the hospital. They take away our rec time for even petty stuff. Stuff that they normally would just

give a warning. For example, my cellmate went to the door of another cell to get the newspaper today so he could read it. And the CO said, because of that, he doesn't get any rec tonight. I don't really even understand why, if the issue was that he walked up to the door or what.

22. In addition, whenever the newspaper has some news about the jail or the lawsuit against the jail, the COs will either take that section out or refuse to give us the paper at all. We used to get two papers for inmates on this unit, one for the top and one for the bottom. But now the COs have started keeping one paper for themselves, and then the whole unit has to read the second paper. We take turns reading different sections, but it's difficult for everyone to get a turn. It's also very unsanitary, because everyone is touching and sharing and passing along the same paper.

23. On top of everything, we can't get grievance forms. When you ask for a form, the COs ask you what it's for. When you tell them, they tell you it's not a grievable issue. But we're asking the COs to give us the forms so we can grieve them, so of course they tell us it's not grievable. You might be able to talk to the Sergeant, but the Sergeant is on the COs' sides too. The Sergeant tries to smooth things over without a grievance form. Almost everyone on my unit has been trying to get grievance forms, for one thing or another, but no one can get one. I've been refused a grievance twice. If I could, I would write a grievance about the ways the COs use our rec time against us and the fact that they give us rec at all hours of the night.

24. I'm not getting any mental health resources besides my medication at the jail. And I'm not getting my regular prescription either. I'm getting some generic that doesn't work as well for me. Since the jail started doing social distancing, I have only seen the



psychiatrist come to our housing unit once, and that was back when the social distancing first started. When I saw her, I wrote a note saying that I really needed to see her. I gave the note to another inmate, who was out on rec, and he gave it to her. I watched her read it and then just ignore it.

25. I have not seen any mental health professionals on our unit since then. And really, I've given up on trying to get any sort of mental health treatment or counseling. The stuff you have to go through to get to these people, it's upsetting. It's just not worth making myself upset and frustrated trying to get help. So I deal with it on my own. I really miss my psychiatrist and my case manager on the outside. They know me and they know how to help me. They actually take the time to help me and support me. But the people here just don't care. They just give you medicine and that's it. They don't really want to help you, they just medicate you. They'll medicate you with anything you want as long as you stop bothering them.

26. The lockdown has negatively impacted my mental health. I have major depression, and I'm on lockdown just thinking about my family. My father passed away on December 23, my uncle on April 29, and my aunt on May 6. My mom is elderly and out in the world by herself. I want to be there for my mom. But I'm in jail, on lockdown. I don't get to go home to my family at the end of the day.

27. I have no one to talk to, no psychiatrist or case manager or therapist. And it really bothers me. On top of it, you have COs who come in here with a bad attitude, trying to ruin your day. It takes a lot of strength to make it through. It also is really hard to be experiencing symptoms without knowing what's going on with your body. It weighs on me. Especially with Coronavirus, and people just dropping dead. I don't feel safe in

here. There are a lot of people in here afraid they might not make it back home, and I'm one of them. I didn't come here to die.

28. I provided the foregoing information over the telephone to Claire Glenn. On June 17, 2020, this declaration was read to me and I confirm its accuracy based on my own knowledge and observations.

*Because the Prince George's County Detention Center in Upper Marlboro, Maryland, currently is not permitting in-person visits, this declaration was orally sworn to by [REDACTED] on June 17, 2020. Under penalties of perjury, I declare that I read the foregoing in its entirety to [REDACTED] on June 17, 2020, and he confirmed its accuracy to me.*

cg  
\_\_\_\_\_  
Claire Glenn, Esq.  
June 17, 2020

# **EXHIBIT M**

Declaration of [REDACTED]

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

1. My name is [REDACTED]. I am 49 years old, and I am a resident of Montgomery County, Maryland.
2. I have been detained at the Prince George's County Jail in Upper Marlboro, Maryland since October 2019.
3. I am currently housed on Unit H-9.
4. For most of my time on H-9, I have had a roommate who I share my cell with. When I first got to the jail, I was on the intake block, H-8, before I was transferred to H-9.
5. I learned that they are now sending people straight to housing units because I just got a roommate that came straight from the street. He did not go to the intake block at all.
6. I suffer from anemia and I have an irregular heartbeat that causes me to have problems breathing. Because of my anemia, my immune system is weakened and I get sick every year, usually with a cold or flu. When I first got to this jail, I told the medical staff about my irregular heartbeat, breathing problems, and anemia.
7. Because of my irregular heartbeat, every so often I get shortness of breath. I have to sit still and get my breath together. My doctors have told me that this is the result of my irregular heartbeat. That is a big concern for me because I have heard the coronavirus messes with your breathing and your heart.
8. I cannot remember the exact dates, but sometime around the end of April, beginning of May, I could not taste or smell for two to three days. I did not know that loss of taste and

loss of smell were symptoms of COVID-19 because the jail had not given me any information about the symptoms at that time.

9. I told the nurses that I could not taste or smell and they did not do anything about it and did not test me for COVID-19.
10. I was on H-9 at that time. A lot of people on my unit started to get sick. Some people were hunkered down in their rooms complaining of flu-like symptoms. Getting over to medical was hard, so most people never got seen for it. I heard nurses tell people they probably just had the flu. I remember hearing a lot of coughing and seeing people vomiting. People on my unit were complaining of diarrhea.
11. At that particular time, I was scared because I already know what I go through with the conditions I have. I was calling home telling my fiancé what was going on. We were all scared because when we saw the news we kept seeing people getting sick and dying.
12. Mentally, it just plays on your head because any time your body feels funny, you feel like this is the coronavirus, this is it. But you don't know because they did not tell us what the symptoms were.
13. I remember five people leaving my unit to go to quarantine in April. When those people left, nobody came around to check if their roommates or people they had spent time around were feeling okay.
14. Four of the five people returned to the unit after a couple of weeks. I remember asking them if they were retested to see if they were negative before they came back to H-9 and they said "nah, they just sent us back."
15. It is really hard to get medical attention at this jail. I have asked COs if I can see medical, and they tell me wait until the nurses come around to do temperature checks, but during

temperature checks, the nurses will only let you see medical if you have really severe symptoms like a high fever.

16. When I put in a sick slip, it takes about four to six days before I am seen by medical, even to this day. I have seen other guys on my unit have to wait until the following week to see medical if they put in a sick call slip. The delays are so bad, that by the time I have seen people get taken to medical, they tell me they already feel better.

17. Now, temperature checks happen twice a day. When they first started checking temperatures in April, they were doing it twice a day. Then, for a while in May, they were only checking one time per day. For the last week and a half, they have gone back to two times a day.

18. They just started asking if people feel other symptoms when they come around to check temperatures. They just take your temperature, ask “do you feel any other symptoms?” and you can tell them if you do. They did not start that until the past week and a half or so. Before that, the only symptom they checked was temperature. Even now, they do not ask about specific things like loss of taste or smell. They just ask generally if you feel symptoms.

19. The nurses tell me that medical is swamped so they cannot see people for their medical issues right away.

20. Back in May, some doctors came around to do an inspection of the jail. Right before the doctors came, the jail posted signs for the first time and gave out free soap and toothpaste for the first time.

21. There was a mental health doctor who used to come around to the unit on a regular basis.

The mental health doctor came on the unit for the first time since pandemic started on the day the inspectors came, and she ain't been back since.

22. They jail gives out thin, disposable masks about once a week now.

23. I still cannot keep six feet of distance from people at the jail. It is impossible to. There are 12 phones on the unit and they are about three inches apart. They let 10 people out at a time for rec, and just about everybody wants to get on the phone to call their families.

24. A grievance is impossible to get. I have tried. If you ask for a grievance, they say they have to get it from the zone commander, and then most times the zone commander won't come give one. Most of the time, they will give you a request slip and nothing ever comes of it.

25. I think sick call still costs money, because somebody on my unit told me that they were charged \$4 to see medical recently, within the past week.

26. In late May everyone on my unit was tested for COVID-19. A few days after we got tested, around May 22 or 23, the COs came and snatched five people from my unit and put notes on the cell doors that say the cell is to be closed until further notice.

27. For the roommates of the guys who tested positive, the jail said they were quarantining them, but they kept them right here on the unit with the rest of us.

28. That made me feel really unsafe, like they are not trying to protect the rest of us from getting sick. I saw them remove the roommates from the cell they were in and put them in another cell on the unit, and they started making them go out to rec alone instead of in a group of ten people.

29. When the roommates who are supposed to be quarantined go out to rec, I see them use the same phones, the same showers and go in the same areas as everyone else, and nobody does any special cleaning in between when they come out to rec and when the next group of people comes out.
30. As far as I know, the jail did nothing to check on the health of people who were in close contact with the five people who were moved from my unit because they tested positive in May.
31. A week ago, the guys who were removed from the unit who tested positive came back to the unit. He said he was not retested or cleared when he came back. They all say they were not tested.
32. I have never had access to disinfecting wipes. All I have seen is Spray Nine. They use that to mop the floor and the walls, everything.
33. I am on cleaning detail, so I know about the cleaning products we use to clean the unit. The COs will take the Spray Nine from the one jug and pour it into 5 jugs and I add water so that it is heavily diluted. The five jugs of diluted Spray Nine have to last a whole week, from Thursday to Thursday.
34. The jail staff has never given me any instructions about using the Spray Nine. Nobody has ever told me that you need to leave it on a surface for at least 30 seconds in order for it to properly disinfect the surface. When we clean, we spray the Spray Nine on a paper towel or a napkin and then wipe the phones, railings, or tables.
35. There are people on my unit who have told me they have preexisting medical conditions, and I have seen them receive medication for their conditions. The cellmate that they just



gave me has asthma. He has to take a pump from an asthma pump every time the medication comes around.

36. I have not heard of anybody with medical conditions being put in a single cell to protect them or allow them to practice social distancing.

37. Recently, I went to the medical unit because I had an abscess on my gum. I filled out a sick slip and got seen about four days later. When I told the doctor about my breathing problems because of my irregular heartbeat, she said it sounds like I was just hyperventilating.

38. Just a couple days ago, an older guy on my unit was taken off the unit and sent to medical because he had COVID-19.

39. People are still getting sick, and the jail just keeps putting more and more people on my unit.

40. My unit is still on lockdown 23 hours a day. It does not matter how many people are on my unit. Even when there were around 60 people on the unit, we still only got one hour out of our cells each day.

41. There are a lot of people still sitting over here with nonviolent charges, and there are a lot of people here who I know have underlying medical conditions like asthma, sickle cell, high blood pressure, but they do not go to the chronic care clinic.

42. This jail is a closed-in confined area where we breathe the same air. Everybody breathes the same air. It is a scary situation that plays on your mental because you are walking around every day and if you feel sick you think it is the corona and when you try to get medical to look at you they are not taking you serious. You have to almost fall out in order for them to take you serious.

43. I provided the foregoing information over the telephone to Alison Horn. On June 17, 2020, this declaration was read to me and I confirm its accuracy based on my own knowledge and observations.

*I, Alison Horn, am the Investigative Supervisor at Civil Rights Corps. I work under the direction of the attorneys for the Plaintiffs in this matter. I hereby declare that I read the foregoing in its entirety to [REDACTED] on June 17, 2020, and he confirmed its accuracy to me. Under penalties of perjury, I declare that, on June 17, 2020, [REDACTED] confirmed each statement in this declaration and orally swore to the truth of its contents.*

*ah*

---

Alison Horn

# **EXHIBIT N**

**Declaration of [REDACTED]**

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

1. My name is [REDACTED]. I am currently incarcerated in the Prince George's County Jail in Upper Marlboro. I have been detained here since January 18, 2020. I am currently detained in housing unit 11B (H11B).
2. I suffer from mental health conditions such as Post-Traumatic Stress Disorder (PTSD), Depression, Bipolar Disorder, insomnia, and anxiety, as well as food allergies, and intermittent back pain from previous injuries.
3. The Jail is still locked-down. Some COs give us a little more time than an hour but for the most part we are still locked down 23/1. In some ways, we can do whatever we want during that hour. When people are out on the unit, some people are wearing their masks some aren't. The people without their masks don't get scolded by the COs. Some COs do the groups of 10 each hour, some are letting more than 10 out at a time. During this time people are still close together and the COs are not getting on people for being close together. Social distancing has been relaxed and no one is ensuring social distancing as far as I can tell.
4. In my unit, we can still sit at the tables together and play cards or sit on the couch by each other and watch TV or use the phone and be close. When these things are being done people do not have their masks on.
5. When we use the phones everyone is still close together, we are not spaced out. Every time that I am on the phone there is pretty much always someone else on the phone right next to me and all of the other phones.

6. When in medical unit people were still seated close to each other and the COs did not say anything. The COs are not really watching people who are in that sitting room. Last time I was there I saw four people in there.
7. In between the 10-man groups shifts out of cell, nothing is wiped down at all. As soon as we go back in they immediately let the next group out.
8. They do not have wipes on my unit. Last time I asked for wipes they said they didn't have any. That was about a month ago and they said they ran out and that they wouldn't have any for a while; basically out of stock.
9. After the CDC came cleaning on my unit has been done every couple weeks by a cleaning crew. They clean the entire unit; my unit is just one level so they go around the entire unit to clean. They mop and wipe down the doors, door handles and windows. There is a wipe down of the door handles every night and the phones every night but not the tables or cards that we use. In the morning, once everyone starts using the phone or sitting at the tables, they aren't wiped down again until night time.
10. I run out of soap pretty fast because I shower every day (during my hour out of cell) so it's not enough soap to wash my hands frequently. We get soap every week or two; at first they were given us really tiny bars of soap (like the hotel bars) but now they're giving us regular size bars of soap.
11. Near the phones there are no wipes. They have Spray 9 here on the unit but they have not given any specific instruction on how to use it or when to use (i.e. to use it to wipe off the phones).
12. Some of the COs wear their masks. I've seen some of them sit around with their masks off. Some have come in here coughing and sneezing with their masks off. As far as gloves, they

have them on when they are doing something but they don't have them on all the time. I believe some of the COs change their gloves often.

13. At first we weren't getting fresh masks for like months. We were wearing the same masks.

14. Now we are given fresh masks about every 1-2 weeks. These are the one-day use masks that they give us. The masks started changing colors and bacteria had built up on them.

15. I have had to put in for a sick call multiple times! Some of my request were never answered (I saved these). For the sick calls that were answered I had to put in between 3-5 requests. It takes more than a week to get me down to medical and that's only for the ones they answered after I put in multiple requests.

16. The most recent sick call that I put in was for back pain and pain in my arms. They have not answered this one yet. I put it in last week.

17. I've also had issues with the Jail giving me food that I'm allergic to. I've tried to tell them I need different food but all the sick calls about my food allergy are still pending. I sent those in about 2-3 weeks ago. I send them in consistently over the weeks and they still haven't answered or changed anything to address my food allergy. When I went down to medical and tried to address my food allergy the nurse was very rude about it. She said if it isn't a medical issue than it isn't her problem. She made me leave and I told her it is a medical issue but she told me to write them again and that if it's not in writing there's nothing they can do about it.

18. The whole experience is bad because of how they've been treating me personally. I have been harassed by COs, and the nurses brush off my medical concerns.

19. I sent sick calls in March as well that were not responded to, even after I sent more in April due to the non-response to my March requests. These previous sick calls were for chest

pain, trouble breathing and back pain. I do have bad anxiety which could be why I had the chest pain and trouble breathing. The back pain is from preexisting issues. When I finally went for the sick call it was just me and the CO in the hallway so I didn't observe other people. During transport to medical for the sick call I do recall the CO having his mask on. When I got to medical they didn't really do anything for me, they just gave me Tylenol or Naproxen. They pretty much brushed my issue off. I've been writing them for weeks now but they haven't taken me back to medical since. I even wrote them again because I am still have back pain and pain in my arms, and I haven't gone back to medical for that either.

20. When I went to medical in April, there were other people who were saying it took just as long for them to get seen. Some people were there who actually had the coronavirus. People told me that so many people have caught it that they have switched one of the main units to an ISO-unit.

21. I have not tested positive for the coronavirus. On my unit, they come in everyday, twice a day to do temperature checks. At first they weren't asking if we had symptoms, they just started asking if we are having any symptoms last week. Lately, on unit 11B there has been no one showing symptoms. There is no one on my unit that has the coronavirus at this time that I know of. A few people have had high temperatures but no one I know of has been over 100. Everyone in here has been pretty much okay. But They have been bringing people from medical into this unit which is where most of the people with COVID symptoms and/or tested positive are being held out.

22. I have been having an issue with one CO (Corporal Jackson) that has been constant. The CO has said that I am in this unit because I am "special" trying to call me retarded. They've thrown my clothes (trousers) at me. When I was sleeping one night they came in and tried

to argue with me. They've taken stuff that I brought from commissary and throw it away. The COs try to argue with me; they call me dumb. One time the CO came into the room and called me dumb and stupid. Corporal Jackson is here Monday-Friday, every night. I feel like he has been singling me out.

23. I have tried to write them up and write complaints but for some reasons they don't get sent through. Two have been giving back to me in the morning following the evening that I wrote them up. I have also tried to write a grievance on everything that has been going on, but I never got a copy of it, and I was told that it was never filed.

24. The last time I tried to file a complaint/grievance was last month, but after I got that one back I just gave up. Now they've just been giving grievances back, and they don't send the them.

25. My name is [REDACTED]. These statements/declaration was provided to Assistant Public Defender, Terea Williams, and are true and accurate. These statements/declaration was given on June 15<sup>th</sup> at 11:22 a.m.

*This declaration was orally sworn to by [REDACTED] on June 15, 2020. Under penalties of perjury, I declare that I read the foregoing in its entirety to [REDACTED] on June 15, 2020, and he confirmed its accuracy to me.*

s/Terea Williams

Terea Williams, Esq.

June 15, 2020



# EXHIBIT O

**Declaration of Bryan Abarca**

I, Bryan Abarca, do solemnly affirm under the penalties of perjury and upon personal knowledge the context of the foregoing paper are true:

1. My name is Bryan Abarca. I am a resident of Prince George's County, and I am 18 years old.
2. I am currently incarcerated at the Prince George's County Jail in Upper Marlboro, Maryland in housing unit H-9. I have been detained here since November 18, 2019.
3. I contracted the coronavirus while detained at the jail and tested positive for COVID-19 in April. I heard that the first unit that was affected by coronavirus was H-17 where the kitchen workers stay. I was around someone who was feeling sick around March 29. I think I contracted the virus then. First my cellmate got sick and then three days later I was feeling sick.
4. I told the corrections officer I was feeling sick. She asked me if I had allergies. I told her I didn't have allergies. The corrections officer said it was probably allergies.
5. I went to the medical unit a few days later and I spent three days in an isolation cell. The isolation cell had pee and feces in it and it smelled bad. It was disgusting. They did not clean the cell before I went in and they did not clean the cell while I was in it. I called out for help to the corrections officers but I did not get a response. I begged for toilet paper for two days but I did not get any. They would make inmates clean the cell if they were positive but I think that way they would just pass the virus on.
6. On the third day I was in the isolation cell I was moved to a larger cell. There were no hygiene products, no showers, and people had to bathe in the sink with a towel. In the cell there were twelve beds and there were nine of us. After ten days they brought in two

more people. The beds were a foot and a half from each other. We could not separate ourselves.

7. In the cell people are given oranges every three days but no showers. They said we couldn't have showers because they didn't want us to spread the virus. In the unit officers threw trays and backed away because they didn't want to get close to the inmates. One sergeant said to an inmate you shouldn't even be asking for hygiene because of your charge.
8. I was feeling very sick in the bigger cell. The corrections officers threw our food and ignored what we said. It was days before we received new clothes. They barely even gave us new uniforms.
9. Then I went to the H-6 housing unit. The unit was filthy and you could see the mold. When the sun shone in the cell you could see the mold in the air. I think the mold hurt people's lungs before the coronavirus. I was not able to get commissary there so I was very hungry.
10. On April 20 I was moved to the H-16 housing unit. The corrections officers told me not to tell anyone that I had coronavirus. When I got a cellmate the corrections officers did not tell him I had tested positive for coronavirus. I had to tell him myself. I had to tell three different cellmates that I had the coronavirus.
11. On April 22 some people were not eating trays in protest of the health conditions.
12. All the officers would give me was tissues. I didn't have hot water and I was not getting food trays. There was no air conditioning in the unit, people were sweating in the hall, and it felt like it was 90 degrees.

13. One day my arm started feeling like it was burning. This had never happened before. I did not tell the corrections officer because I knew what would happen to me. I did not want to go to the medical isolation cell.
14. I was moved to H-9 and I was told that the coronavirus had left my body. In the unit some people were not positive while others had symptoms of coronavirus. It seems like every cell is full. We are always coming into contact with other people.
15. There is no air conditioning in the unit. It is so hot that I take off the mattress and sleep on my sheets so I can feel the cool metal of the bed. It is so hot it feels like my heart is being stuck with needles. I have been feeling heart pain for a week. But I don't want to go to isolation so I didn't tell anyone.
16. The officers check our temperature with temperature guns. But they do not give us medicine. Sometimes the guns don't work right. I know because one time they tried to take my temperature four times but it said my temperature was 97 degrees or lower. They had to use a thermometer that went under my tongue.
17. The nurses in the medical unit are rude and pretend they don't hear us. One time one said we don't want to catch the virus because we have families. I said we have families too.
18. The corrections officers do not bring us fresh clothes. We get tissues, toothpaste, one bar of soap, and a mask once a week. I did not receive disinfectant. I am allowed one hour out of my cell each day. Sometimes it was in the middle of the night.
19. During the one hour everybody wants to call their families. Everyone is close to each other when they are on the phone. Not even a foot away from each other. There is no separation. The telephones are not cleaned between uses. There is Spray 9 for our cells but it is half water and half spray. Sometimes they run out of spray and don't give us any.

I know other units have been cleaned down twice. H-9 has not been cleaned once. Instead of shaking hands inmates bump fists now.

20. When coronavirus happened it was like they started treating us worse. I know we are inmates but we're still human.

*Investigator Declaration*

*I, Nathan Poland, am an Intern Investigator at Civil Rights Corps. I work under the direction of the attorneys for the Plaintiffs in this matter. I hereby declare that I witnessed Bryan Abarca's statements about the jail's conditions on telephone calls from the jail on June 14 and June 18, 2020. Under penalties of perjury, I declare that, on June 18, 2020, Mr. Abarca confirmed each statement in this declaration and orally swore to the truth of its contents.*

np  
Nathan Poland  
Intern Investigator  
Civil Rights Corps  
June 18, 2020

# **EXHIBIT P**

**Declaration of Alfonso Diantignac**

I, Alfonso Diantignac, certify under penalty of perjury that the follow statement is true and correct pursuant to 28 U.S.C. §1746.

1. My Name is Alfonso Diantignac. I was released from the Prince George's County Jail on May 4, 2020.
2. When I first got to the jail, they sent me to unit H-8, the intake block.
3. Then, since I was a working man working sanitation detail, I went to the working tier, Unit H-17. We were the guys who clean the jail and give people their trays, meaning food.
4. I was on H-17 right before I got sick.
5. I suffer from pancreatitis, asthma, and I use a CPAP machine for my narcolepsy. I got a nebulizer treatment when I first got to the jail, and when I had bad shortness of breath I got the nebulizer another time.
6. As a sanitation worker I had bleach, spray nine, and some type of blue stuff to clean with. They acted like it was privilege when you got bleach. The COs would put the cleaning chemicals in the bottles for us to use. The officers usually had the spray nine ready when we came out of the units.
7. As part of my job, I would clean the medical area and the captain's office, the main lobby, the hallways, the officers' restrooms, and the outside part of the visitation booths where the visitors come. As of March and early April, we had no masks to protect ourselves and others while we were working our jobs.
8. It seemed like the whole unit H-17 had COVID. Everyone was coughing and sneezing.

9. There was a CO on H-17, CO Williams, who was quarantined and hospitalized because he tested positive. I think CO Williams had COVID-19 before I got sick. He was hospitalized for over 30 days and when he came back he told me he had COVID and he probably gave it to us. He was saying it like it's not his fault, but they make them come to work.
10. The first detainee I heard had tested positive was a female named Newsome. I think her first name was Kristina. She was on the medical unit in a single cell next to me. I think she was in cell 10.
11. There was no social distancing on my unit, H-17. People would be shoulder to shoulder on the phones, and people were sleeping in the bunks in the open areas when I first got sick.
12. At the time, I was sleeping in the bunks in the open area. There were two bunks on top of each other and we could not stay six feet apart from other people in the bunks if we tried.
13. When I first got sick, I started to feel a bad headache, like I had a lot of pressure in my head. It wasn't like a normal headache. It felt like Shaquille O'Neal had his elbow up against my head and wouldn't let go. It feels like a headache that is squeezing, not just aching. We were hearing about people dying from it, I was like are we about to die? My mouth felt completely dry and I could drink 6 cups of water and it still felt dry.
14. I remember a guy in the bunks started to describe his symptoms. He said he had cold sweats, and I saw him having convulsions. He went to medical, got some pills for allergies, and was returned to the unit. He had another episode with convulsions, and they took him off the unit. I never saw him again. The COs made me pack his stuff up because



his bunk was right above mine. In his stuff, there were cold pills and allergy tablets given to him in an envelope from medical with his name on it that said take for seven days.

15. Right after that, I started to feel worse symptoms. I had a runny nose and could not taste or smell anything.

16. There were never grievances available. I remember asking for one at the desk and the CO looked for them and told me he did not see any. He told me instead of a grievance I could write a sick call on a piece of paper and just put it in the sick call box, which I did.

17. My whole time at the jail, I struggled to get sick call slips. I saw a lot of guys on my unit put in sick call slips and never get seen by medical.

18. I remember times that I asked for a sick call slip and was told by COs that they did not have them.

19. Even though I had already told them about my other symptoms, the jail would not let me go to medical to get seen until I laid on the bed and said I could not breathe and I had chest pains.

20. When I did finally get to go to medical, they gave me a nebulizer because I couldn't breathe, and then they sent me back to the unit because I did not have a high fever.

21. They sent me back and forth twice to medical and back to my unit, H-17. After the second time, I told them even though I did not have a high temperature, I needed to stay in medical.

22. In the isolation cell, I remember feeling chest pains and shortness of breath. I told the nurse about my chest pains, and she said "everybody has chest pains." She ignored me and did not want to give me any medicine or medical attention.

23. The isolation cell had not been cleaned before they put me in there. I remember there was pee on the floor.
24. They gave me some Spray nine to clean the isolation cell with.
25. The nurse told me that if I wanted to get tested, I would have to stay in the isolation cell for three to four more days.
26. In the isolation cell, there was no call button, and you had to drink water out of a sink attached to the toilet. The water tasted terrible.
27. I was in isolation cell 11.
28. There was another guy next to me in cell 12.
29. There was one big quarantine tank that they had people in who had tested positive.
30. James Kirkland was on the medical unit. He came from H-17 with me, and he had seizures. I saw them put James Kirkland in cell 12 right after they took a guy who had tested positive out. They did not clean the cell, they just put Kirkland in right after the guy who had tested positive. Kirkland said he was not going in that cell. They sent the Emergency Response Team and they threatened to beat him up and spray him with mace if he did not go in there, so he had no choice but to go in there.
31. I remember getting tested for COVID-19, and a few days later I got my results and learned that I was positive.
32. I was calling home as much as I could, because I wanted to let them know I was still alive. Every day, I was feeling worse. I kept hearing about people dying in jail and in the world from COVID-19. I was starting to panic like I was next.
33. The nurse told me “either your body is going to fight it or you are going to die.” The nurse told me “you look healthy so drink plenty of water, and you should be ok.”

34. They gave me no medication, and I really thought I would die. They would not give us Tylenol because they said it would reduce our fever, because if you were majorly sick and running a fever, the Tylenol would only camouflage that.
35. The nurse told me that I had heart flutter kicks after I tested positive. I never had heart problems before I caught COVID-19 at the Prince George's County Jail.
36. We got masks for the first time while I was on the medical unit.
37. After I tested positive they moved me to the quarantine tank that holds about ten to twelve people. There were about ten people in there. I cannot remember exactly how many.
38. The quarantine tank was very dirty. The staff did not clean it before they put us in there. We had two bathrooms to share between all of us, and the COs would just push food in. They would toss trays to us. We had a water cooler but they did not fill it. We had to try to fill it up with water from the sink by taking a trash bag and running water down the trash bag into the cooler.
39. There got to be so many of us who had tested positive that they opened up another unit, H-6, for people who had tested positive. I was sent to H-6 for five days and then went back to H-17.
40. The whole time that I was on the medical unit, I was not allowed to take a shower. I tried to wash up in the sink, but I felt disgusting. They did not give us hygiene kits on the medical unit at first. I went six days on medical with no toothpaste, no soap, and no deodorant. When we had soap, there were nine of us sharing one bar of soap in the quarantine tank.

41. I had no fresh laundry until I returned to H-17. From the day I first went to medical until the day I returned to H-17, I had the same drawers on. I had to wear them for so long, they turned brown. Everybody in there's drawers were brown. Some of the guys in the tank stopped wearing them because they were so dirty. When I got to H-6, they told me to strip, and they put my clothes in a red bag and gave me new clothes. I had to keep the same shoes though. I still had all my same old books, papers, and property that I had when I first got corona.
42. I did not get to shower the whole time I was on the medical unit. I think I went 14 days without a shower. It made me feel like the scum of the earth. We couldn't smell ourselves, but we felt dirty.
43. I was not retested before they returned me to my unit.
44. I still was feeling symptoms when I returned to H-17. My sinuses were draining, and I still had a cough for about a week. I still had some chest pains too, but not as bad as they were when I was on the medical unit. Other things felt like they were not right as well. I felt dehydrated, and when I passed gas it felt really hot.
45. The cleaning on my unit, H-17, was the same before and after I went to medical. Nothing changed. The detail workers would use Spray Nine to clean the unit once a day, usually in the evenings. I did not have a way to wipe down the phones before using them.
46. Nobody ever gave me any instructions for how long I had to leave Spray Nine on a surface in order for it to disinfect.
47. I never had any disinfecting wipes to clean the phones with.
48. When I got back to H-17, we were on lockdown so that we had to stay in our cells for 23 hours a day.

49. When I left the jail on May 4, 2020, the only symptom they were checking regularly was temperature. They never asked if people had any other symptoms like cough, shortness of breath, loss of taste or smell, none of that.
50. The staff would come around to take our temperatures twice a day. I remember seeing that the thermometer read 95.3 degrees one time, and right after, it read 100 degrees.
51. Other guys on my unit would tell me that even if they felt sick they would not tell the COs or nurses, because quarantine is like torture and they did not want to go down to medical.
52. I provided the foregoing information over the telephone to Alison Horn. On June 18, 2020, this declaration was read to me and I confirm its accuracy based on my own knowledge and observations.

*I, Alison Horn, am the Investigative Supervisor at Civil Rights Corps. I work under the direction of the attorneys for the Plaintiffs in this matter. I hereby declare that I read the foregoing in its entirety to Alfonso Diantignac on June 18, 2020, and he confirmed its accuracy to me. Under penalties of perjury, I declare that, on June 18, 2020, Mr. Diantignac confirmed each statement in this declaration and orally swore to the truth of its contents.*

*ah*

---

Alison Horn

# EXHIBIT Q

**Declaration of Jose Diaz-Cantillano**

I, Jose Diaz-Cantillano, do solemnly affirm under the penalties of perjury and upon personal knowledge the context of the foregoing paper are true:

1. My name is Jose Diaz-Cantillano. I am a resident of Prince George's County, and I am 29 years old.

2. I am a detainee at the Prince George's County Jail. I came to the jail on January 31, 2020. I stayed in H-8 for about two weeks, and then I spent three weeks in H-15. After that, I moved to H-17 and started working in the kitchen.

3. I have had asthma ever since I was little, and I told the jail about it when I came here. Outside of the jail, I use an inhaler, but here, they won't give it to me. I also told the jail that I have gastritis and nerve problems when I arrived.

4. Around the end of March or beginning of April, I developed a cough. The cough got more and more intense. Eventually my throat hurt very badly and I had shortness of breath. I started coughing up thick mucus, kind of like pieces of chewing gum. At night, I had felt like I had fevers, but they only checked my temperature in the morning.

5. I told the COs [corrections officers] about my symptoms, but no one from medical saw me for about three days.

6. Once I met with the doctor, they put me in an isolation cell in the medical unit. While I was there, I felt like I had fever in my bones. I had a painful cough and I couldn't breathe. I had mucus coming up that was black, green, and yellow. They told me I had tested positive for COVID-19.

7. The isolation cell was horrific. There was mucus, urine, feces, and blood on the floors and on the walls. There's a camera in there, and there was even blood, feces, and urine on that. I couldn't clean, and the smell made me feel worse. It wasn't fit for dogs to live in there.

8. I did not receive any medical treatment while I was in isolation, just gastritis tablets and sleeping pills. I was just in there alone.

9. The only time I ever saw any person was when they came to give me medication a couple of times a day or when they came to give me food. When they brought me food, they would open the door a crack and warn me not to move before they would slide the food in the cell.

10. Then they told me I was going to move to another cell. They gave me paper towels and Clorox and told me to clean the isolation cell before I left. I didn't have any gloves.

11. I was then moved to another cell with four other detainees in it. It was just as bad. There was blood, mucus, and feces on the walls and floors there too. I had started to feel better, but while I was in there, I started coughing again. The vents in the cell were blowing particles that made it harder to breathe. They gave me some red pills that they told me were for allergies.

12. Overall, I think I was in the medical unit for about twenty-two days.

13. Then they sent me back to the housing unit and into a cell with a cellmate.

14. Around the beginning of May, I got sick again. I started having a lot of blood in my stool and my nose was bleeding.

15. I tried to tell the COs so I could get medical help, but no one would take it seriously.

16. I sent in about three sick call slips in around May 5th, 7th, and 9th. I also showed the CO all of the blood on some tissues and in the toilet as proof that I was bleeding from my rectum. He told me there was nothing he could do.

17. One night, I was bleeding a lot. When I told the CO around 7 pm, he said that there were no doctors available until tomorrow. Around 2 am, blood came from my rectum in a small ball. Around 5 am, I was still bleeding from my rectum.



18. It was about a week before I got any medical help. Then one night, around 3 or 4 am, I was on the floor with a pain in my side, and one of the COs finally sent me to medical.

19. They sent me back to isolation and I was there for three days. It was still filthy. There was yellow mucus on the walls and hair everywhere. I had no toothbrush, no toothpaste, and no soap. Nobody checked on me. I only saw people when they came to give me Tylenol for the pain and I think antibiotics a couple of times a day. They didn't ask me any questions when they did that. Other than that, they never checked on me.

20. While I was in isolation, I couldn't get any help when I needed it. Sometimes I would start bleeding from my rectum and I would have to bang on the door trying to get someone. Most of the time, they just ignored it.

21. Unless you're dying, they look at you like you're exaggerating.

22. They gave me some medication (I think antibiotics) and the bleeding stopped. Then they sent me back to my cell in H-17.

23. In H-17, they take our temperature every day, but no one asks anything about any symptoms of COVID-19. The most that happens is that they will say, "You good?"

24. There is still no social distancing around the phones. When you are using the phone, it's like when you're on a bus. That's how close you are. I've never heard or seen a CO or anyone else tell us to stay six feet apart. There are no disinfectant wipes by the phones.

25. I am on lockdown except for my rec time [out-of-cell time]. When I am in my cell, I don't have anything to read or do. Just my Bible.

26. Now, I am getting out three times per day. It could be at any time—1 pm or 1 am. We go out for rec in groups of eight, nine or ten, but it's not always the same group of people every day.

27. For the last month or so, there has been enough soap to wash my hands enough. But it's bad soap. It doesn't make suds and it dries out your skin (some people have lost hair from it).

28. When I want to clean my cell, I can only get cleaning products during my rec time. They don't let you use it when you are in the cell. Sometimes they have Spray 9 to use, but sometimes they don't. I usually clean my room with shampoo.

29. The COs don't clean common surfaces. They just clean their own spot.

30. Around June 1st, I started bleeding from my rectum again. Sometimes the blood was red, but sometimes it was black and coagulated. I also started to feel a lump below my rib. I don't know what it is. And there's a pain on the left side of my head.

31. I kept telling the COs about it and I filled out a sick call slip. I didn't get any medical help for about three days.

32. Then my criminal lawyer talked to the lawyer from the lawsuit, and he said she would tell the Jail that I needed help. My lawyer told me that the lawyer from the lawsuit emailed the Jail's lawyers about how I needed medical help and no one was responding.

33. On June 4th or so (I think right after the lawyer from the lawsuit sent the Jail's lawyers the email about what was happening to me), I went to medical. I think they only saw me then because the lawyer from the lawsuit had contact them. The doctor felt the lump and gave me medicine for the pain. I still have the bleeding and I asked them for medicine to stop it (they had given me some for that before), but they didn't give me any. They did not tell me what the lump was or why I was bleeding. Then they sent me back to my cell again.

34. After I went to medical, I kept bleeding. And it is getting worse. Now I am just dumping blood from my nose and my rectum. It is gummy and black.

35. In the early morning Monday, they sent me back to medical because of the bleeding from my rectum. I wasn't there for long. They said they couldn't give me any medicine, and then they sent me right back to my cell in H-17. I have been saving the tissues I use when I bleed so that I can show them to people so they will believe me.

36. After that, I talked to my lawyer and told him what was happening. He told me that the lawyer from the lawsuit would email the Jail's lawyers again. Then I got sent back to medical again, and I'm still there. This time, they drew blood from me for the first time.

37. Back in April, when I was in medical for COVID-19, the court ordered me released on home detention. But my lawyer told me that he spoke to the people at Pretrial Services, and they told him that I had to have no symptoms for fourteen days before they could send me home.

38. After that time passed, my lawyer said they wouldn't release me because there is a problem with my housing. As soon as I get out, I need to go to the doctor or the hospital.

39. I am an evangelical Christian and I believe my faith is keeping me strong. But I am very scared to be in here. I don't think they are doing anything to protect us in here.

40. Even though we are incarcerated, we are still human, not animals. They should just send me back to my country so I can die with my family there. I don't want to die in here.

#### Attorney Declaration

I René E. B. Tywang hereby declare that I spoke to Mr. Diaz Cantillano about the jail's conditions on the telephone from the jail at least five times during the month of June. I also spoke to him several times in April and May. I estimate I have discussed the facts described in this declaration with him at least ten times, including as the events described were unfolding. I spoke to him in Spanish and the above is an accurate translation of what he told me. On June 12, 2020, he verified the facts in this declaration. He told me that what he was telling me was the truth and gave his permission to use his name. On June 17, 2020, he provided me additional information and confirmed that it could be added to this declaration.

/s/René E. B. Tywang  
René E. B. Tywang  
Assistant Public Defender

# **EXHIBIT R**

**Declaration of Eulalio Corbette**

I, Eulalio Corbette, do solemnly affirm under the penalties of perjury and upon personal knowledge the <sup>contents</sup> ~~context~~ of the foregoing paper are true:

1. My name is Eulalio Corbette. I am a resident of Prince George's County, and I am 29 years old.

2. I was a detainee at the Prince George's County Jail from April <sup>24</sup> ~~26~~, 2020 until May 22, 2020. I was housed on unit H-8, the intake block.

3. When I first got to the jail, I felt good. But after about two weeks in, I had a headache, a sore throat, and a cough. It came out of the blue. The headache came <sup>first, and</sup> ~~a few days~~ <sup>after the sore throat,</sup> ~~came about a week later and the cough~~ <sup>a few days after that.</sup>

4. A couple of days before I was released, I was tested for COVID-19. I had to sign a piece of paper to get tested. The person who tested me put a Q-tip up my nostrils. It was a long Q-tip, but they did not test my throat. They did not do anything else. About a day or so after I got home, I got a phone call from a woman telling me that I had tested positive. The woman who called about COVID-19 was not from the jail, but I am not sure where she was from.

5. For the whole time I was at the jail, they were not checking symptoms. Nobody asks you anything about any symptoms, if you are ok—nothing.

6. During temperature checks, they just take your temperature and don't ask any questions.

7. There was only one time when anyone asked me if I was okay. During the <sup>evening</sup> ~~night~~ shift, a CO [corrections officer] saw me holding my head down and asked what was going on. I told him I had a very bad headache. The CO told me <sup>he was going to tell medical</sup> ~~to tell the nurse when she came for fever~~ check. <sup>but I don't know if he ever did.</sup>

that evening,  
8. When the nurse came for fever check, my head was hurting so much that it was taking me awhile to get over to the slot in the door so she could take my temperature. To get your temperature taken, you have to put your head through the slot in the cell door. I came up to the slot holding my head.

9. The nurse yelled at me and said "we're not playing." The nurse accused me of playing because I was taking too long to put my head through the slot. I told the nurse I'd had a headache for days and it was messing with my eyes. She didn't ask me any questions about my headache or about anything else.

10. I told her that the nurses aren't doing anything about the coronavirus except temperature checks. The nurse threatened to send me to isolation and told the CO to write down that I refused the temperature check, even though I had not refused the temperature check. I don't know if he wrote it down or not. Then she took my temperature anyway. I didn't say anything else because the nurse had already threatened me with isolation and I didn't want to keep going back and forth with her.

11. After that, no one asked me anything about how I was feeling again.

12. I was not surprised that the nurse did not help me or ask me any questions about my symptoms. The nurses don't seem to care. If you ask the nurses too many questions, they will curse you out. I've heard nurses say "fuck you" to inmates. I've heard them <sup>nurses and COs</sup> call inmates "bitches."

13. The COs don't seem to care either. When we tell them something is wrong, they think it's a joke. And not just about the coronavirus, it's any medical problem.

14. One time, I heard someone yelling that his cellie passed out. He was yelling and banging and kicking the door. No one came for about an hour. They took their time.



15. The COs curse us out too. They call us “n---s.”

16. They would let you die in here.

17. After the nurse didn’t do anything to help me with my symptoms, I told my lawyer about my headache. By then, my sore throat and cough were feeling better, but my head still hurt badly. My lawyer pressed the issue and they finally took me to medical. By then, several days had passed since I told the nurse about my symptoms. I had a headache about every day. By the time they took me to medical I was not having the symptoms anymore.

18. When I got to medical, the nurse asked me what was going on. By then, I was feeling better, and I told her that. She did not ask me any questions. I was not isolated or tested for COVID. She just sent me back to my cell in H-8.

19. In the housing unit, I was locked down for 23 hours a day the whole time I was there. There is nothing to do in the cell. There is nothing to read. You could maybe get a newspaper sometimes, but not usually.

20. While I was there, I had three separate cellies for a couple of weeks each. It was impossible to distance yourself from your cellie. The cells are too small. You could never be six feet apart.

21. There is no social distancing at the phones. You are not six feet apart. Nowhere near that. Every time you use the phone, you’re almost shoulder to shoulder with other people. No one ever said anything about it.

22. I knew I was supposed to keep my distance, but I could only use the phones during my one hour of rec time, so I used them anyway because I needed to call my lawyer or my family.



23. The COs only let you use cleaning supplies for your cell during your one hour of rec time. They will let you use Spray-9 and paper towels. But when you're in your cell, they won't give it to you.

24. They passed out bars or soap and they cleaned the rails twice a day. Sometimes they cleaned other things, but not always. They did not clean the showers. They were full of dirt, trash, and hair.

25. About a week after I got to the jail, maybe the first week of May, the cell next to mine was flooded, and my cell got filled with a foot of dirty water. It was black and it had feces in it. It happened around 9:30 pm, but no one came and got us out of the cell until around midnight. They just left us there for two and a half hours. My cellie and I stood on our beds and we got headaches from the smell.

26. We would get new masks here and there. Maybe every two to three weeks.

27. I never saw any supervisors coming through checking on anything.

28. Before I got released, I had to go to the jail courtroom. It is a very small room and there were about 10 of us in there. We couldn't stay six feet apart. We were sitting on the benches next to each other. We tried to keep our distance, but we were maybe two or three feet apart at most. If I had reached out, I could have touched the person next to me. I was in the jail courtroom for an hour or two.

29. When I was released, they made us wait in a little hallway and then in another little room. There were five or so of us in there. There's not a lot of space. We were maybe three feet apart. Not everyone was wearing a mask. I was in the hallway with the people getting released for about an hour ~~and in a separate room for about an hour~~. They weren't being careful or thinking about anyone's safety.

30. I live with my parents, sister, and daughter. When I was around my daughter, before I got the call telling me I tested positive, I was kissing and hugging her. My daughter is 10. Since finding out I was positive for COVID-19, I have been trying to keep my distance from my parents and my daughter. COVID-19 is causing me to have to distance from my family and that has been affecting me.

31. I haven't been looking for a job because of COVID-19. Just because you are not getting sick does not mean other people will not get sick. Everyone is not the same. I do not know how long I have to wait before I get a job. All the woman told me on the phone was to isolate for 10 days. They gave no details at all. I would have worked anywhere after being released.

Date: 06-13-2020

Signed: Eulalio Corbette  
Eulalio Corbette

# **EXHIBIT S**

**Declaration for Derrick Dempsey**

I, Derrick Dempsey, certify under penalty of perjury that the follow statement is true and correct pursuant to 28 U.S.C. §1746.

1. My name is Derrick Dempsey. I am a resident of Prince George's County.
2. I was incarcerated at the Prince George's County Jail in Upper Marlboro, Maryland. I was detained from March 11<sup>th</sup>, 2020 to May 28<sup>th</sup>, 2020.
3. I am 47 years old. I have neck and back issues and I walk with a cane. I also suffer from mental health issues. I suffer from anxiety, depression, and suicidal ideations. I take prescription medication for these mental and physical health concerns.
4. When I first arrived at the jail, I was suspected to have COVID-19. I was placed in a dirty isolation cell in the medical unit. I was placed in the medical isolation unit because of my cold-like symptoms and my mental health. Can we add why this was suspected?
5. During my first week at the jail, while I was housed in the isolation cell, I started experiencing cold-like symptoms. I had a runny nose, chest pains, and a cough. I also urinated blood and had sweats. It was really bad for me. I did not know what was going on.
6. I told the CO's about my symptoms, but they said that it's normal for prisoners to be sick, and that they couldn't do anything for me.
7. After spending about a month and a half in the medical isolation cell, I was transferred from the medical unit to H-11B. I do not know why I was transferred. I was still experiencing symptoms of COVID-19 at the time that I was transferred. I had a lot going on as far as my health. I was still have cold-like symptoms like sweats, headaches, chest pains, and coughing

8. On H-11B, I tried to self-isolate because I thought that I was still sick and was worried about passing COVID-19 along to others on my unit. When I was first transferred, we were not on 23/1 lockdown, but I still stayed in my cell 80 percent of the time.
9. I had a cellmate on Housing Unit H-11B. It was impossible for me to stay very far away from him.
10. I experienced cold-like symptoms for about another month after being returned to the unit. The jail was telling us to stay 6 feet apart, but that was very hard. We had masks but they were changed infrequently.
11. There was a lockdown restriction, but I was isolated in my cell most of the time. Toward the end of May they started taking our temperature. They started to do a cleaning once a week in common area. I don't think that was enough, but that was just a little bit. They would not ask about our symptoms, they were just doing the temperature checks until I left the facility.
12. They also started to give out soap, tissue, and toothpaste toward the end of May. I want to say we got a change of soap weekly. They continued to do so until I left.
13. They gave each of us a flyer and they hung information around about COVID-19. The information just emphasized how to protect yourself from the virus and talking about how to socially distance.
14. In the last week before my release, I was given a COVID-19 test. I was never told the results of the test.
15. My health is still poor now that I've been released from jail. I am still really sick.

*I, Savannah Baker, am the Investigative Fellow at Civil Rights Corps. I work under the direction of the attorneys for the Plaintiffs in this matter. I hereby declare that I read the*

*foregoing in its entirety to Derrick Dempsey on June 19, 2020, and he confirmed its accuracy to me. Under penalties of perjury, I declare that, on June 19, 2020, Mr. Dempsey confirmed each statement in this declaration and orally swore to the truth of its contents.*

*SB*

---

Savannah Baker

# **EXHIBIT T**

Declaration of Devon Hill

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

1. My name is Devon Hill. I am a resident of Prince George's County, Maryland.
2. I have been at the Prince George's County Jail in Upper Marlboro since October 2018.
3. I have been housed on unit H-17 since the beginning of the COVID-19 pandemic. H-17 is a work block, and like the other men on my unit, I am assigned to a work detail.
4. As I have told the jail staff on many occasions, I suffer from asthma.
5. In March 2020, I was working in the kitchen and the officer dining room. The woman who was the first confirmed positive case of COVID-19 at this jail also worked in the officer dining room. I would run across her when I dropped the cart off around the time she first got the coronavirus. They made me clean the cart off after she touched it.
6. When she was removed and sent to medical, I was still working in kitchen and officer dining room.
7. Soon after the woman who worked in the kitchen and officer dining room tested positive for COVID-19, I started feeling sick.
8. Around that time, I heard a lot of people coughing and sneezing on my unit. That was when my asthma really started bothering me.
9. I think this was in the end of March or beginning of April.
10. I felt weak, had headaches, and I lost my sense of taste and smell. My whole body ached and I had trouble breathing.
11. I told the COs that I was feeling these symptoms and they kept saying "you're good." One officer told me they're not seeing nobody if you don't have a high temperature.



12. Around the same time, early April, my celly started to have a dry cough. I saw that officers on my unit were coughing and not wearing masks around that time.
13. Over the next few days, my symptoms got worse. I couldn't eat, my body ached and all that. I begged to go to medical, but I was ignored.
14. I started to have chest pains and finally got to go to medical.
15. Grievances and sick call slips have gotten harder and harder to come by. For months, I have tried to get a grievance, but have been refused.
16. When people at this jail first started to get sick with COVID-19, we did not even get soap for free. You had to spend your commissary money, if you had any, to buy soap to wash your hands.
17. After the lawsuit was filed, they started giving out small hotel-sized bars of soap. I wash my hands a lot to try to stay clean and safe, and sometimes I would use up one of those bars of soap in a day.
18. Eventually, when I started to hear that a doctor was coming to do an inspection of the jail, they gave out large bars of soap for free.
19. There are no disinfecting wipes by the phone. I have never seen disinfecting wipes by the phones. I am on cleaning detail, so I know they do not always clean the phones in between uses.
20. In April, some people were removed from my unit and tested positive. A couple of them came back to the unit after about 14 days. They said its jacked up down there, it's dirty. They told me that it was filthy in medical and that they did not have any soap. They said it was a nightmare.

21. In mid to late May, there was an older guy on my unit who had symptoms and thought he had the virus, but he told me he did not want to tell the COs or nurses because he did not want to go back to medical isolation.
22. Another guy on my unit who had COVID-19 in April was taken off the unit again in May because he was having bad symptoms again.
23. I put in at least three slips to go see medical between April and now. I have had to wait a week or a week and a half each time I put in a slip, sometimes longer. Even when you go down there, they do not give you the help you need.
24. In late May, I started feeling awful again. I had aches, a sore throat, and I felt very tired.
25. I told the nurses and the COs that I have asthma and need an inhaler. I saw the nurse circle something on a paper when I told her that, but they still have not given me an inhaler. It took me around a month to get to go to medical for my asthma. I just went the other day.
26. In May, my whole unit got tested for COVID-19.
27. On May 19, the jail finally responded to my requests to go to medical and took me to the medical unit. I was there in an isolation cell from the evening of May 19 until the evening of May 21.
28. I had a fever over 99 degrees and a sore throat and no appetite.
29. The medical isolation cell was filthy, and did not look like it had been cleaned before they put me in there. The sink had hair and spit in it. The blanket was used and was not cleaned before they gave it to me. There were hair balls and wool blanket pieces on the floor. The mattress was stained. There was dust on the floor and the bed. I asked for cleaning supplies multiple times but nobody would give me any.

30. The officers would ignore me for hours.
31. For the first 24 hours in medical isolation, I had no soap or toothpaste.
32. I was given a COVID-19 test and was told I had tested negative but they did not give me proof.
33. When I left medical, I saw that they were putting another person in my cell, and they did not clean the cell before putting a new person in there.
34. I saw a guy down in medical who appeared to be in a lot of pain. His eye was swollen shut from being assaulted by staff, and I heard him asking for medical attention but they kept ignoring him.
35. In May, I remember that at least 2 people on the unit who I observed having symptoms. They told me they refused to tell the staff because they did not want to go to medical because of how bad they heard conditions are down there.
36. I told the medical staff that I have asthma that causes trouble breathing at night. In response, the staff told me to lay on my side when I sleep instead of laying on my back. They are still refusing to give me an inhaler for my Asthma.
37. The whole time I have been at this jail it has taken a long time to get medical care, and often sick call slips go ignored.
38. I can see that there are empty cells on my unit but they still have people doubled up.
39. They have been providing one bar of ivory soap about every week.
40. They are not cleaning phones between uses and still do not have disinfecting wipes.
41. All we have to clean with is Spray Nine, and the COs make me water it down to make it last longer. I have seen them fill up the spray bottles with half Spray Nine and half water. They did not give us any special instructions about how long you need to leave Spray

Nine on a surface in order for it to disinfect the surface. We just spray it on and wipe it right off with some paper towels.

42. A cleaning company came the other day but they do not do a very good job, and the unit was still dirty after they left.

43. I work on the cleaning detail, and a CO asked me to clean up the area around the stairs shortly after the cleaning company left last time. They were still really dirty, and it took me 30 minutes to thoroughly clean them.

44. Ms. Taylor only comes on the unit to see people for mental health once in a blue moon. I do not see her come that often. When she does come, I do not even see her talking to anybody. She definitely does not come every day. She used to come every day before the pandemic.

45. When the nurses come around to check temperatures, they only come once a day now. They just do temperature checks and keep it moving. Some of them ask “do you have any symptoms?” but some of them do not even do that.

46. Today, four of us went down to sick call. I told the officer who was working that I didn’t have a mask. The officer told me he didn’t have one. They let me walk all the way to medical without a mask.

47. When I got to medical, I still didn’t have a mask. I was down there with three other people. We were less than six feet apart.

48. Then, when I got to medical, they called us one by one. A white shirt Lieutenant came in and she asked the Sergeant why I didn’t have a mask on. Then, the Sergeant went to go get me a mask from the nurse. I felt exposed from the people in those hallways and at medical because they took so long to get me a mask.

49. Last week they brought new people on my unit. People are still doubled up in cells and can't distance from each other.

50. I feel like it's still a scary situation because they are still failing to really protect people.

51. It is a scary experience to be here in this jail because they say another wave is coming, and I'm scared for my health in here. You just don't know what is going to happen. I feel like the jail doesn't even care about me and my medical conditions.

52. I provided the foregoing information over the telephone to Alison Horn. On June 18, 2020, this declaration was read to me and I confirm its accuracy based on my own knowledge and observations.

53. *I, Alison Horn, am the Investigative Supervisor at Civil Rights Corps. I work under the direction of the attorneys for the Plaintiffs in this matter. I hereby declare that I read the foregoing in its entirety to Devon Hill on June 18, 2020, and he confirmed its accuracy to me. Under penalties of perjury, I declare that, on June 18, 2020, Mr. Hill confirmed each statement in this declaration and orally swore to the truth of its contents.*

ah

Alison Horn

# **EXHIBIT U**

### Declaration of James Kirkland

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

- JK* 1. My name is James Kirkland. I am 24 years old, and I live in ~~the District of Columbia~~ *Prince George's County, Maryland.*
2. From ~~October 30~~ *September 26,* 2019 until May 18, 2020, I was detained at the Prince George's County Jail in Upper Marlboro, Maryland.
- JK* 3. Before I got to the jail <sup>in</sup> Upper Marlboro, I would sometimes have seizures. I told the jail medical staff about my seizures, and I took medicine for them while I was at the jail.
4. In March or April, the nurses at the jail started to come around twice a day to check our temperatures. The nurses did not ask anybody if they had any other symptoms. All they cared about was your temperature.
5. In April 2020, I was on the work block H-17. I was working in the kitchen.
6. Before I got sick, we did not have access to masks. At that time, if you wanted to have soap to wash your hands, you had to buy it from commissary. They did not allow us to protect ourselves from COVID-19.
7. One day in early April, I had a seizure on my housing unit. After my seizure, I was taken to the medical unit. Other than the seizure, I felt fine at the time.
8. Once I was on the medical unit, they took my temperature. Because I had a high temperature, the nurses told me I would have to go in an isolation cell.
- JK* 9. When they told me I had to go in the isolation cell, there was a Caucasian lady on the medical unit <sup>who</sup> and had tested positive for COVID-19 <sup>and she *JK*</sup> told me "don't go in there baby."

Another guy who had COVID-19 also told me not to go in there. He told me that the <sup>*JK used to be*</sup> person who ~~was~~ in the isolation cell they were trying to put me in had COVID-19.

10. I refused to go in the isolation cell. The jail had to send the ERT to force me to go in the isolation cell.
11. It wasn't until I had spent about a day in the isolation cell that I really started to feel sick. I started to get a bad stomach ache and I lost my appetite. I wasn't eating because I threw up everything I tried to eat.
12. In the isolation cell, there was spit and snot on the walls that turned the walls a different color. The whole cell smelled like urine. I had nothing to clean the cell with.
13. When I was in the isolation cell, I couldn't call my family or my lawyer. I didn't have access to clean clothes or showers. I went the whole time I was on the medical unit without showers or clean clothes. I do not know exactly how long I was on the medical unit, but I think I was there for almost a month.
14. I started to feel worse and worse in the isolation cell. I was in there for about five days before they moved me in a large cell with around six or seven other people in it.
15. I do not remember being tested for COVID-19, but the nurses told me that I had tested positive, and they moved me to the larger cell. It is possible that I got tested while I was still out of it after I had the seizure, or that I just forgot about the test. I never got a copy of my test results.
16. When I moved into the large cell on the medical unit, I was still feeling terrible. I was throwing up blood and I felt like I had a slight fever. I was sweating. I completely lost my sense of smell, and I also could not taste.
17. I lost track of time while I was on the medical unit, but it felt like I was down there for almost a month. I was not allowed to shower the whole time I was there. I got no clean clothes the whole time I was there either.



18. While I was in the large cell, I felt like I was about to have a seizure. I can usually tell when I am about to have a seizure. The other guys and I started banging on the door to try to tell the staff that I was going to have a seizure and they just sat there and said "alright," "OK," and let me have it. They didn't do anything to help.

19. Most of the time, the COs and nurses didn't even come around. They just ignored us. They would come around to give us our medicine and trays, and to take our temperatures through the door of the cell and then they would just leave.

20. We did not always have water to drink, so we had to drink water from the sink.

21. The whole large cell was disgusting. There were dust bunnies everywhere and the bathroom was filthy.

*J* *Before*  
22. ~~After~~ I had the seizure in the large cell, I begged for an IV. I had been throwing up and I felt so weak.

23. I was begging my family to call up to the jail because I was not getting the proper healthcare that I needed. I thought I was about to die. I only had about a month left on my sentence. I saw on the news people were dying. I didn't want to be one of them. It wasn't like they were giving us any medicine or anything for it.

24. The nurses told me that if I needed an IV, I would have to go back into the isolation cell, and so they put me back in the isolation cell.

25. After I tested positive for COVID-19, I was treated like I was in the hole. I could not get any commissary, could not call my family, could not shower, and had to live in a filthy cell that was not cleaned. They punished me for being sick, basically.


26. My family kept calling up to the jail to check on me, because they were really worried about my health.


27. A male CO who works in the medical unit told me “if you keep having your family call up here we’re going to extend your release date and take your good time.” I knew I had a release date in May, but that if the jail took away my good time credits they could hold me longer than that.
28. While I was on the medical unit, the jail sent someone around to take photos of the medical unit, and they made one of the guys in there with me clean up before the pictures. I heard them tell him to clean up before the photos, and I saw him clean. The photos do not show how dirty the medical unit really was.
29. After several weeks on medical, I got moved back to my old unit, H-17. I think this happened in early May. I was not tested again before I returned to my unit. I still felt sick when I returned to H-17. I had a stomach ache and I still did not have an appetite. I finally got my appetite back and started eating again after I got back on H-17.
30. I lost a lot of weight when I was in the medical unit, around 20 pounds. Guys on H-17 noticed that I had lost weight and they were calling me bony.
31. During the COVID-19 pandemic, all the way up until my release date on May 18, it seemed like they stopped sick call. Unless you had a high temperature, you could not go to medical.
32. I completely stopped seeing the people who used to come to the units to check on people’s mental health when the COVID-19 Pandemic started. I did not see them at all, even up to the time I was released.
33. When I was back on H-17, we did not regularly have access to disinfecting wipes to clean the phones between uses.

34. The only cleaning supplies you could get were the disinfecting spray that the guys working the cleaning detail had. I do not know what the disinfecting spray is or how well it works.

35. Social distancing was not happening on my unit, H-17, before I was released from the jail. People were still using the phones right next to each other. They definitely were not staying six feet apart.

36. When I got back to H-17 in May, I only remember the jail giving me one disposable mask. Then, the family of one of the inmates on my unit donated some masks to the jail and we got another mask.

 37. ~~When they came around and tested my unit for COVID-19 in May, they did not give me another test.~~

Date: 6-18-20  
Signed:   
James Kirkland

# **EXHIBIT V**

**Declaration for Denardo Harold McGee**

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

1. My name is Denardo Harold McGee. I am a resident of Prince George's County.
2. I was incarcerated at the Prince George's County Jail in Upper Marlboro, Maryland from about April 22, 2020 to May 22, 2020. I was housed in H-8.
3. I contracted the COVID-19 Coronavirus while being detained at the jail and tested positive for the virus at the end of May, 2020.
4. When I first arrived at the jail, the guard chained me up to a bench in the back room for 6 hours. In the back room, people would pee on the floor and we would wait hours for anyone to clean it up. They did not test me for the virus and they did not ask me about my symptoms. They never asked me anything. There were other people there and we were all close beside each other chained to the bench.
5. Soon after I first entered the jail, I started having symptoms of COVID-19. I had pain in my body and I began throwing up.
6. Every two or three days it began getting worse. I began coughing and I had an ear infection. My ears were clogged up. I was getting hot and cold. I couldn't hear and I couldn't speak. I started feeling sicker the next week. I talked to my mother and she told me to get tested.
7. I also could not breathe, but that might have been because it was so hot in the cell where they put me. There were two people to a cell, and we were in the cell for 23 hours with one hour outside. Sometimes there would be two days before we came out of the cell.

8. Sometimes the nurses would come through and take your temperature through a slot.  
They would put the temperature gun to your head and that was it. They didn't ask any questions. We would tell them about our symptom.
9. I told the COs I was coughing and I would put money in for the sick call form, but they never came.
10. Only one CO ever asked if I was okay and why I was coughing. She had heard me coughing at two or three in the morning for a few nights. She did not send me straight to medical. But she filed for a sick call and signed her name on the sick slip. When I tried to submit a sick slip on my own, they never came for me at all.
11. It took them about a week after I told the COs I was having symptoms for anyone to send me to medical.
12. Once I got to medical, I wasn't tested. They threw me right back into the cell. They took me back to the same unit and the same cell with my cellmate.
13. I had multiple cellmates while I was in the jail. It was probably four different people. My second cellmate was taken out of the cell because he was coughing.
14. When new people came into the facility, they were not being tested. We would all complain to the CO's, but they would ignore us.
15. When we would ask questions about COVID, the COs would not respond. The COs would even say things like "get away from me you have the corona." They were more scared to come around us. In the hour we did come out they would tell us to get away from the desk and to not talk to them.
16. They were not treating us right. We don't get books or anything to read when we were in the cell for 23 hours a day.

17. The stuff they gave us to clean was not proper stuff. I think gave us Spray-9. The Spay-9 did not work well at all. They ain't really give us anything to clean with, only during the one hour of out-of-cell time that we had. During the one hour we can get on the phone, get in the shower, or clean. Sometimes it would be 40 hours before we received the cleaning stuff. The cell was not sanitized at all.
18. I had the same mask for 8 or 9 days. They only gave us a new mask about every 8 or 9 days. The soap they gave us was little. They really weren't trying to give us any soap until I was about to get released. Sometimes when other people would leave we had to beg the guards to let us use their soap.
19. One time the whole bottom floor flooded. I was in cell unit 113. It smelt really bad. The water was brown and dirty. The entire bottom floor flooded. The water flooded my whole cell. It went past my feet. I was in the cell for three hours before anyone came out. They did take us out of the cell after three hours. Then they vacuumed up the water and put us right back in the cell. They did not clean any more than that.
20. Before I was released, I went to the courtroom in the jail. The courtroom was crowded. There were more than ten of us. We were sitting right next to each other and it's a small room.
21. The day I was released we all had to wait together for our clothes and things into a small room. We did not have on masks while we were in the room. They did not give us wipes or anything to clean. There were about 13 of us in there. We were right behind each other and sat right next to each other. We were in there for two or three hours.
22. Now that I am home, I still have been coughing. I have not been to a doctor. I was not even told I had the virus. The health department called my mother. They did not tell me.

My mother had to tell me. I couldn't taste any of the food I was given in jail and I still can hardly taste my food now. Sometimes I wake up in the morning and have mucus that does not look like mucus. I still spit it out. This happens every other day and I cannot breathe. Due to the Coronavirus, I can't look for a job or anything right now.

*I, Savannah Baker, am the Investigative Fellow at Civil Rights Corps. I work under the direction of the attorneys for the Plaintiffs in this matter. I hereby declare that I read the foregoing in its entirety to Denardo Harold McGee on June 18th, 2020, and he confirmed its accuracy to me. Under penalties of perjury, I declare that, on June 18th, 2020, Mr. McGee confirmed each statement in this declaration and orally swore to the truth of its contents.*

*SB*

---

Savannah Baker



# **EXHIBIT W**

Angela R. McGee

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

1. My name is Angela R. McGee. I am a resident of Prince George's County.
2. My son was incarcerated at the Prince George's County Jail in Upper Marlboro, Maryland. He contracted the COVID-19 Coronavirus while being detained at the jail and have since tested positive for the virus.
3. In the span of 24-28 hours the people incarcerated at the jail are allowed one hour of free time. During this one hour, they were allowed to shower and during this time I was able to talk to my son.
4. My son was there for about a week and a half before he started experiencing symptoms. He said he experienced coughing, chills, sweats, and was throwing up. He also was unable to smell and taste his food. He could not sleep.
5. Only one correctional officer would ask if he was okay. The correctional officers acted like they were scared of them. When I originally told him to ask for a slip to see the doctor he told me the CO's acted like they didn't want to get near them.
6. He told me they had to pay to see a doctor. I sent him money through the commissary. They did not see him until days after he raised concerns about his symptoms. He told me that he went to see a nurse. The nurse checked his ears. He told her about his other symptoms but she did not say anything, she just gave him something for his ears. They did not give him anything for his other symptoms. They did not take any time to see what was wrong.

7. He had to drink water out of the sink in his cell where he also had to wash up. They only gave him one mask. That mask was changed every 8 or 9 days. He said they only would give them a bar of soap and a rag. If they ran out of soap they were not given anything else. They would have to ask for soap when other incarcerated people left. I told him to see if he could buy hand sanitizer in the commissary, but they did not have hand sanitizer in the commissary.
8. Consistent cleaning was also not happening in the jail. He said they did not receive disinfectant for the cell. I asked him about the phone. I ask did they wipe the phone down and he said no you just get on the phone. They would mop the floor maybe once a week. One time he said the cells were flooded with brownish water. He had to stay on his top bunk until they came to clean it up. It took a while for them to clean it up.
9. My son did not get tested for Coronavirus until towards the end of May. The health department called me on May 26<sup>th</sup>. The health department had been trying to contact him to let him know that he had it. They did not give me any information on treatment. They only asked about whether he had a place to stay. I asked can I call her back, they said I couldn't and they would call me. I asked if he should go to the hospital and they said only if he needs to go. The health department provided no resources or information for dealing with the Coronavirus.
10. My son can't go out. He can't work with his dad. He is not sleeping at night because he is coughing. He can't taste or smell his food. He is still getting hot and cold sweats. He has had to shower three or four times a day. Sometimes his temperature rises and he gets a fever and short of breath.

*I, Savannah Baker, am the Investigative Fellow at Civil Rights Corps. I work under the direction of the attorneys for the Plaintiffs in this matter. I hereby declare that I read the*

*foregoing in its entirety to Angela R. McGee on June 18th, 2020, and she confirmed its accuracy to me. Under penalties of perjury, I declare that, on June 18th, 2020, Ms. McGee confirmed each statement in this declaration and orally swore to the truth of its contents.*

*SB*

---

Savannah Baker

# **EXHIBIT X**

Declaration of Corey Nelson

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

1. My name is Corey Nelson. I am a resident of the District of Columbia.
2. I have been at the Prince George's County Jail in Upper Marlboro since January 2020.
3. I have about five to six months left on my sentence. I think my date to go home is in December.
4. I have been on Unit H-17 since the beginning of the COVID-19 pandemic.
5. I have suffered from asthma since I was young. When my asthma acts up, I start breathing hard and breathing funny. When it kicks in, I cannot really breathe for real. I also have ADHD. I have told the jail about my asthma and my mom has told them too.
6. Back in April 2020, I was feeling really sick. I was coughing a lot and was short of breath. I could not taste or smell.
7. I told a nurse that I was feeling sick. All she told me was that my temperature was alright. I tried to show her in the paper that said that wasn't the only symptom but she wasn't really trying to hear it. They left me on the unit and did not take me to medical at all.
8. At that time, they were not trying to let nobody go to medical because they said the whole medical was full.
9. There were a few people on my unit back in April who tested positive for COVID-19. When they got back to the unit they told me how bad the isolation unit was. They told me that people were down there throwing up blood.
10. When they got back to the unit, I saw that some of the guys who had tested positive were still coughing.

11. While I am on Unit H-17, I am working on the cleaning and sanitation detail.
12. They give us Spray Nine to clean with and bleach, but we rarely get the bleach.
13. The COs ask me to put water in the Spray Nine. I do not know why they add water to it.
14. I have never seen any disinfecting wipes at this jail.
15. I am still on H-17. They just moved some new people on the unit with me.
16. I know there are people who have asthma who are in cells with other people.
17. I see COs come in here talking without their masks on and coughing.
18. The only thing they changed is they pass out toothpaste and ivory soap. They even stopped passing out the boxes of tissues.
19. We usually get a new mask once each week on Mondays. It might be other days too, but most of the time, it is just once a week on Monday.
20. Social distancing is not happening when people use the phones. There are six detail people out right now plus the ten other people out of their cells. The COs are not enforcing social distancing. People are all right next to each other on the phones while I am talking to you.
21. I don't feel secure in here. You have COs coming in here talking in people's faces with no masks. I don't think they even think about people with medical conditions.
22. When they come around to do temperature checks, now they just ask people if they are feeling sick. A lot of people who I know are feeling sick will not tell anyone about it because they say they do not want to go to medical.
23. The guys who went to medical because they had COVID-19 told us that medical is like punishment because you don't get commissary and you can't call your family for the first four days when you are down there.

24. I provided the foregoing information over the telephone to Alison Horn. On June 18, 2020, this declaration was read to me and I confirm its accuracy based on my own knowledge and observations.

*I, Alison Horn, am the Investigative Supervisor at Civil Rights Corps. I work under the direction of the attorneys for the Plaintiffs in this matter. I hereby declare that I read the foregoing in its entirety to Corey Nelson on June 18, 2020, and he confirmed its accuracy to me. Under penalties of perjury, I declare that, on June 18, 2020, Mr. Nelson confirmed each statement in this declaration and orally swore to the truth of its contents.*

*ah*

---

Alison Horn



# **EXHIBIT Y**

**Declaration of Quinton Perry**

I, Quinton Perry, do solemnly affirm under the penalties of perjury and upon personal knowledge the context of the foregoing paper are true:

1. My name is Quinton Perry. I am a resident of Prince George's County. I am 60 years old.

2. I have been diagnosed with COPD, heart failure, and pulmonary hypertension. Because of my medical problems, I have been housed in the medical unit ever since I got to the jail on July 18, 2019.

3. They tested me for COVID at the end of May, but I don't think I have it.

4. Around the beginning of June, they put me in a medical isolation cell. I don't know why. The cell was dirty. There is pee in the corner. There's feces on the walls and it stinks. I get a change of clothes on Tuesdays and Fridays.

5. Then today, they moved me into another isolation cell. It doesn't have any running water. I've been in here without water for about ten hours now. The only water I got was a little to take my medicine with. I feel really bad and I can't breathe. My chest hurts.

6. The isolation cell I'm in now has feces everywhere. There's feces on the little camera that's in here. I complained about it and they said, "Well, do you want to clean it?"

7. Right before they moved me into isolation, around the end of May, the medical isolation cells were full of people with COVID.

8. Then they moved all of those people with COVID. Detail isn't working right now, so they told me they would give me extra food from commissary if I would clean all of the medical isolation cells where the people with COVID had been. I did it because the food you get in isolation is cold and it's not a lot.

9. Most of the cells had feces in them everywhere, but I couldn't clean it out because it was stuck on the walls. I tried to clean the room I was going to stay in, but I couldn't get rid of the feces or the pee. Nobody else cleaned those cells but me.

10. Before this, I was in a bigger room in medical that I shared. Now that I am in the medical isolation cell, I can't breathe, especially when I wake up in the morning. It's a little cell and there's no windows or anything. I've been having to get breathing treatments since I've been in there, and I didn't need them before that.

11. When I feel like I can't breathe, I have to bang on the glass to try to get someone. If they come, it takes at least 15 minutes. But sometimes they just ignore you and they don't even come at all.

12. The nurse comes by twice a day, but she doesn't ask me any questions. If you try to tell them something is wrong with you, they act like you're crazy.

13. I keep telling them I can't breathe and they say they don't have anything for me. I tell them my heart and my chest hurts. They told me they don't have anything for that.

14. I told the doctor I've had chest pain for four days and he didn't do anything either. They know I have heart failure.

15. I told the morning nurse, Vanessa, that I couldn't breathe and she laughed at me.

16. The daytime nurses call us n----s. They say, "We have to come here and take care of you "n----s" and, "Look at all you n----s now."

17. The nighttime nurses don't do that, but they don't say much at all.

18. They don't have all of the medicine I need. I am supposed to take fifteen pills for my conditions, but they only have about five of them. I keep asking for my medicine and they say, "We don't carry that here."

19. My nose is really stopped up from being in this cell, and it's so bad I can't use my CPAP breathing machine.

20. I really can't breathe in this iso cell. I'm just getting sicker and sicker. They're going to kill me in here.

21. I talked to the head doctor and I told her that I can't breathe in that isolation cell. She said she doesn't think I should be in there because there is no ventilation.

22. The doctor said security put me there, and she thought maybe I did something and I'm being punished.

23. But I talked to the COs, and they told me I'm not in this cell because I'm being punished. They said the order came from the higher ups.

24. I really don't want to die in here.

25. The guy in the iso cell next to me has COVID. He told me through the door. They've had me surrounded by everybody with COVID since I've been here.

26. I'm using my free calls to talk to my criminal lawyer and to the lawyers for the lawsuit. I get three free ten-minute calls a day. When my time is up, the phone hangs up, so sometimes we can't finish talking.

27. The calls are recorded, so I am scared to talk for this statement. If I get out, I could say a lot more. We'd have more time and it wouldn't be recorded.

28. My criminal lawyer told me I got approved for home detention, so I don't know why I am still here.

#### Investigator Declaration

I, Savannah Baker, am an Investigative Fellow at Civil Rights Corps. I work under the direction of the attorneys for the Plaintiffs in this matter. I hereby declare that I witnessed Mr. Perry's statements about the jail's conditions on telephone calls from the jail on June 10 and June 11,

2020. Under penalties of perjury, I declare that, on June 11, 2020, Mr. Perry confirmed each statement in this declaration and orally swore to the truth of its contents.

*Savannah Baker*

---

Savannah Baker

Investigative Fellow, Civil Rights Corps

# **EXHIBIT Z**

**Declaration of Tyshawn Watts**

I, Tyshawn Watts, do solemnly affirm under the penalties of perjury and upon personal knowledge the context of the foregoing paper are true:

1. My name is Tyshawn Watts. I am a resident of Prince George's County, and I am 29 years old.

2. I am a detainee at the Prince George's County Jail. I am currently housed on H-9.

3. On May 22, I tested positive for COVID-19.

4. I was surprised to learn that I had tested positive. I have been at the jail since February.

When the outbreak first started in April, around six people from my unit were removed because they tested positive. I put in a sick call to get tested because I had been watching the news and was really worried about catching it. In response, I was told that the jail was not testing people who did not have serious symptoms like a high fever. A couple weeks before testing positive, I had a cough. I did not submit a sick call because I knew they wouldn't test me.

5. When my test came back positive, I was moved from H-9 to the medical unit. There, I was put in the medical isolation cell. There was a guy occupying the cell when I arrived in medical. He looked rough; he looked sick and unclean, like he hadn't been able to shower for multiple days. Jail staff opened cell door and let him out, and immediately ushered me into the cell. They did not clean or sanitize the cell in any way. They did not even enter the cell to make sure that it was in OK condition.

6. The isolation cell reeked of urine. There were feces caking the toilet. There were also feces in the top back corner of the cell and down the corner of the wall. It looked like someone had tried to throw their feces at the security camera.

7. The jail staff did not give me any materials with which to clean my cell. The only items I had with me were: my commissary toiletry items and a personal towel. I ripped my towel into strips and wet the strips with water from the sink and used those to try to clean the feces off of the walls and the toilet as best as I could. I spent between two to three hours cleaning my cell before I felt comfortable enough to lie down.
8. I spent four days in the medical isolation cell. During this time, I was unable to shower or call my attorney or my family. I really wanted to talk to my wife and kids to let them know what was going on.
9. A nurse came around when trays were passed out to take my temperature and check my vitals. During these checks, they would ask only, "Are you having any symptoms?" The nurse never listed or explained what symptoms of COVID-19 were.
10. While in medical isolation, I started experiencing body aches. My shoulders and back hurt all day long. I told the medical staff that I was experiencing these aches and asked for a medicine for muscle pain. The medical staff gave me Tylenol, but it didn't really work. These body aches persisted for four or five days.
11. I did not know that body aches are a symptom of COVID-19. No one at the jail ever told me that they were. I don't know how I was supposed to know that body aches were a symptom. Everything that I know about COVID-19 I learned from watching CNN.
12. While still experiencing these body aches, I was transferred from the medical isolation unit to H-6. I was relieved to get out of the medical isolation unit; I don't think I could've survived 14 full days of quarantine in that unsanitary cell.
13. On H-6, I was housed in a single-cell. The unit was also unsanitary. The unit was covered in mold and dust. There was mold on the ceiling and the walls and in the shower. We all



shared one shower which was not cleaned. They gave us spray to use to clean the shower ourselves but no rags or sponges. My cell did not look like it had been cleaned before I arrived. There was mold and dust in the cell and the bed was rusted.

14. There were ants in my cell. They would swarm on my tray when I was finished eating; the jail staff did not give us garbage bags to use to throw away our trays and the leftover food attracted the ants.

15. I did not get fresh oranges for 13 days. I wore the same set of dirty clothes from when I was taken off of H-9 in both medical isolation and H-6. If I had wanted to wash my oranges I would have had to do it in the sink in my cell. I finally got a new set of clothes after asking a CO.

16. On H-6, the nurses would come around three times a day. The COs would not want to come in and pass out trays, so they would have the nurses do it when they entered to take our temperatures. If the trays came 30 minutes before the nurses did, we would have to wait for the nurses to come up and pass them out. The nurses would take our temperatures and ask if we were feeling sick. They would not go through a list of symptoms with us and ask if we were experiencing any of them.

17. The COs did not want to come onto the block. If we wanted to get their attention, we would often have to push the call button for the intercom 9 or 10 times. It would have been hard to get their attention in an emergency.

18. After 15 days on H-6, I was told that I would be moved back to H-9. I was not given a test to confirm that I was negative for COVID-19.

19. I have been back on H-9 for about a week. They put me back with the same cellie that I had been with before I tested positive. When I tested positive, my cellmate tested

negative. They moved him out of the cell and left the cell empty. He has not been tested again. He is scared because I am not confirmed negative.

20. I brought the same sheets back with me from H6 to my new cell on H9.

21. I am not currently experiencing any symptoms that I am aware of, but I have been dealing with blood in my stool for a couple of weeks, since before I tested positive. I noticed it more when I was in a single cell on isolation and H-6. I am trying to get medical attention for this. The jail hasn't done anything except give me a pill to help with my digestion. I don't know if this is related to the virus or not.

22. They just took an older man off the unit and put him into isolation because he tested positive for COVID-19.

Dated: June 16, 2020

/s/ Tyshawn Watts

A handwritten signature in black ink, appearing to read 'Kailyn Gaines', with a stylized, cursive script.

Signed: Kailyn Gaines

Under penalty of perjury, I, Kailyn Gaines, swear that the above substance of this declaration was orally shared by Tyshawn Watts on June 16, 2020 over the telephone. Mr. Watts confirmed the accuracy of the statements under penalty of perjury. I am also swearing to these statements because Mr. Watts is currently housed at the Prince George's County jail, and I believe I would risk infection if I were within six feet of him. Accordingly, I have signed this declaration.

# **EXHIBIT AA**

**Declaration of Kailyn Gaines**

I, Kailyn Gaines, under penalty of perjury, attest to the following facts:

1. My name is Kailyn Gaines. I am over 18 years of age.
2. I am an investigator at Civil Rights Corps. I have worked at Civil Rights Corps since January 2018. At Civil Rights Corps, I have done fact investigation for at least ten federal lawsuits challenging abuses in the criminal legal system. As part of this work, I routinely interview witnesses.
3. As part of my work on *Seth v. McDonough*, I have spoken to a number of individuals who are currently incarcerated at the Prince George's County Jail. In preparation for our 6/19 letter brief, I spoke to three individuals who had recently tested positive for COVID-19.
4. Because my team has no way to directly contact individuals at the jail, and getting in touch with detainees is quite challenging, only one of these individuals was able to finalize a declaration in advance of our filing.
5. In order to complete this declaration, I had to reach out to Mr. Watts' private attorney, who passed my phone number along to Mr. Watts' wife, who then dialed me in after Mr. Watts was able to give her a call during his one hour of rec. Because these free jail calls are only ten minutes in length, Mr. Watts was cut off twice during my initial conversation with him. His wife's cell plan ran out of minutes later that day, so I had no way to contact him directly. The only reason I was able to finalize a declaration with Mr. Watts was because he happened to call another investigator on my team during his one hour out of his cell a few days later. This investigator dialed me in. Again, Mr. Watts was cut off while we were speaking and had to call back.

6. I was in the process of completing declarations with the other two witnesses, but was unable to finalize them in advance of our deadline.
7. These witnesses described similar experiences of their treatment at the jail.
8. Both witnesses experienced potential symptoms of COVID-19 before they tested positive: the first witness had a cough and was experiencing headaches, and the second witness experienced a loss in his ability to taste and smell. Because no one at the jail described what the potential symptoms of COVID-19 include and because regular symptoms checks were not being conducted on their units, neither witness reported their symptoms or submitted a sick call form. The witness who lost his sense of taste and smell thought that the food at the jail was getting worse.
9. After testing positive for COVID-19, both witnesses were transferred to H-6. They both spent more than 14 days on this unit.
10. Both witnesses described H-6 as very dirty and uncomfortable. The first witness told me that no staff member entered the unit to clean it for almost two weeks. He said that there was only one spray bottle on the unit, which the detainees had to use to clean their own cells. He was especially concerned about the shower; he says that all four of the detainees on the unit used the same shower, and it was never sanitized. When staff finally came to wipe down the unit they did not clean the shower.
11. The second witness said that H-6 “has to be one of the dirtiest units in the jail.” He described the unit as covered in mold.
12. Both witnesses said that the vents on the unit blew hot air, so the unit was very hot. The second witness said that because the jail had closed the slots on the cell doors, the cells would sometimes steam up from the heat.

13. Both witnesses told me that there was an infestation of ants in the cells. The second witness told me that there were also “flying critters,” like gnats on the unit.
14. Because the COs are not physically on the unit, both witnesses said that it was often challenging to get their attention. The first witness told me that the COs would pick and choose when they wanted to respond to intercom calls from the detainees on the unit. For example, this witness said that sometimes people were supposed to go out for rec, but couldn’t because their cell door was locked. They would try to buzz the COs, but the COs would sometimes ignore them and refuse to come open the door.
15. The second witness said that detainees would often have to call COs multiple times to get their attention and wait until the COs felt like responding to them. He said that oftentimes, the detainees would have to wait until the shift change and try to get the attention of the new COs, because the COs on the earlier shift had decided not to answer the detainees at all.
16. The first witness said that some COs were spiteful and mean. He described an instance in which the staff who dropped trays off at the unit brought extra juice boxes, but rather than give the extra juice boxes out to the prisoners, one of the COs threw the juice into the trash. Later in the day, one of the other detainees on the unit dug through the trash while he was out on rec and passed them out.
17. The witnesses were only allowed one hour out of cell per day, as if they were on disciplinary lockdown. The second witness told me that he found this frustrating, because on the regular housing units, even with restricted recreation, prisoners might get out more than one hour a day, depending on the number of people on their unit. He also said that this hour of recreation on H-6 was often very early in the morning. He believes the jail

decided to give the detainees rec early in the morning so that it would be challenging for them to report any problems they were having, as the hour out was often earlier than most of their family members and attorneys would be up and taking calls.

18. The witnesses said that the nurses would come around and do temperature checks three times a day as they passed out trays. This was the only care that either witness received. The nurses did not do any type of detailed symptom check. The nurses did not do any vitals checks. The first witness said that at most, the nurses would ask only, "How are you feeling today?" The second witness told me that the care he received on H-6 after testing positive was no different than the care he had received elsewhere in the jail.
19. Both witnesses continued to experienced symptoms of COVID-19 while on H-6.
20. The first witness described feeling exhausted and experiencing body aches. He told me that while he typically works out every day, he stopped doing so while on H-6 because he was feeling fatigued. He did not realize that exhaustion and body aches were potential symptoms of COVID-19.
21. The second witness said that he had a cough the entire time that he was on H-6. He also says that he experienced headaches.
22. After spending more than 14 days on H-6, both witnesses were transferred from H-6 and back to housing units in general population.
23. Neither witness was tested again for COVID-19 before they were transferred.
24. During a temperature check on the day before the witnesses were transferred back to general population, the first witness' temperature came back as 102 degrees. For days, this witness' temperature had been around 97 or 98 degrees. After his temperature came

back as 102, the CO said, “That can’t be right,” and the nurse took his temperature two more times. The witness says that the jail ultimately recorded his temperature as 99.6

25. The first witness’ temperature was not taken again before he was moved back to general population. When I spoke to him, he had been back on general population for a day and a half. His temperature had not been taken at all during this time. He also said that he still could not taste correctly.

26. The second witness was still experiencing headaches at the time that he was transferred. He said that the jail staff had him sign a form before they transferred him from H-6 back to H-14, but he didn’t know what the form was.

27. Both witnesses were using the same bedsheets from before they had tested positive. They had brought these bedsheets with them to H-6, and brought them with them when they were transferred to regular housing units. The first witness told me that washing bedsheets is difficult because it requires your sheets to be out overnight, meaning that you would have to sleep on the bare mattress.

28. Both witnesses had court appearances after I talked to them. The second witness said that before court, between 20 and 30 prisoners, all from different housing units across the jail, are crammed together in a small, bullpen-like area. He said that while on the court side, via the camera, it will appear to the judge that the prisoners are spaced out, in actuality the prisoners are packed closely together.

Under penalty of perjury, I, Kailyn Gaines, swear to the accuracy of the substance of the above declaration.

A handwritten signature in black ink, appearing to read 'Kailyn Gaines' in a stylized, cursive script.

/s/ Kailyn Gaines

Date: June 19, 2020



# **EXHIBIT BB**

**Declaration of Marguerite Lanaux**

I, Marguerite Lanaux, do solemnly affirm under the penalties of perjury and upon personal knowledge the context of the foregoing paper are true:

1. My name is Marguerite Lanaux, and I am an Assistant Public Defender in the Office of the Public Defender in Prince George's County, where I have been employed for six years. I supervise nine attorneys along in their cases. Prior to my work in Prince George's County, I was an Assistant Public Defender at the Baltimore County Public Defender's Office for four years.

2. Between June 11 and 15, 2020, I asked the public defenders that I directly supervise along with public defenders that are supervised by others within our office, to ask their clients whether they were being screened for symptoms of COVID-19. I received reports back from nine different attorneys about twelve different clients currently detained at the jail. The clients were detained in five different housing units: H-2, H-7, H-9, H-10, and the medical unit.

3. Five of the twelve clients (housing in H-2, H-9, and the medical unit) reported that they were not asked about symptoms at all at any point in time by anyone. Seven were asked if they had symptoms, but I do not know what, if any, specific questions they were asked. I have heard that when questions are asked, they are usually very general (for example, asking whether the detainee has any "flu-like" symptoms).

4. Two of the twelve clients reported that they actually have symptoms of COVID-19 now. One is having trouble breathing, sneezing, and body aches. The other has been coughing. Although both reported their symptoms, neither of them had been seen by medical staff or isolated.

5. The clients also reported unevenness in temperature checks. A client in the medical unit could not recall a temperature check since the week before. Clients in H-9 reported that

temperature checks happened sometimes twice daily, sometimes once daily, and sometimes not at all.

6. Aside from this review, one of my clients, Robert Pixley, was recently rushed to emergency surgery. I believe that this was a result of the jail's delays in providing medical care for him despite his repeated requests for help.

7. I have spoken to Mr. Pixley two times since he was transferred to the hospital. I have also spoken to Mr. Pixley's mother several times.

8. Mr. Pixley told me that he began experiencing severe pain, but was unable to get medical attention for several days. Finally, he threw up in his cell around 5 in the morning, and a CO sent him to medical.

9. When Mr. Pixley got to medical, he told the nurse there was something wrong with my stomach and I asked her to listen to it with the stethoscope. She listened and said she didn't hear anything wrong. She gave him Tylenol and a juice.

10. After that, Mr. Pixley ended up waiting in the medical unit. He said that the cell in which he was waiting was very dirty, and that the tier he was on was open to where all of the COVID-positive patients were. After about seven hours, Mr. Pixley still felt very sick, but they sent him back to his housing unit.

11. Less than 24-hours later, Mr. Pixley was sent back to medical and waited to see a doctor, but the doctor never came. Then they sent him back to his housing unit again.

12. Mr. Pixley told me that he felt that the nurses in the medical unit didn't seem to take him seriously. They were laughing and acting like he was trying to con them instead of dealing with his pain. This description is consistent with the accounts of the staff in medical unit that I have heard from other clients in the past.

13. This time, when Mr. Pixley was back in his housing unit and was not permitted to contact me because each time he was taken from the unit to medical, the jail would count this as a “reclassification” requiring 24 hours before he was given phone privileges. He was then sent back to the medical unit where he started throwing up blood. He was sent to the hospital and had to have emergency surgery because he had a peptic ulcer that had burned through his stomach. Mr. Pixley had to have eighteen internal staples and two external staples to his stomach.

14. A few days after that initial surgery, Mr. Pixley had to have surgery again.

15. When I spoke to Mr. Pixley, he appeared to be struggling to continue speaking to me because he was exhausted and in pain.

16. After my initial request for a emergency hearing on bond was denied, the court did shortly thereafter grant the hearing, and ordered bond to be set for Mr. Pixley so that he can be released when he is discharged from the hospital and will not have to return to the jail.

17. While held on the case I represented him on since May 8, 2020 a detainer had been lodged for a violation of probation triggered by this case. That warrant was signed by a Prince George’s County Circuit Court Judge on May 26, 2020. It was logged as a detainer with the Detention Center on June 4, 2020. I have been told that the jail is not actively serving warrants on detainees at the jail because of Covid-19. The jail will only serve the warrant/detainer when the client is being released.

18. In Mr. Pixley’s case, he was served with the warrant on or about June 17, 2020 when he was being discharged from the hospital. He was therefore transported and processed back into the jail and not released directly from the hospital. Furthermore, on June 18, 2020 after learning that he would be taken back to the jail I attempted to contact him in the medical unit and request a call back as my office has arranged to do with our clients. I was told by the first nurse

that he was not allowed to speak with me. Specifically she said “do you know this is a jail? He can’t talk to you.” Knowing the severity of his situation, I again informed her that I was his Attorney and insisted she facilitate the phone call as per our offices agreement with the jail. I was transferred to another nurse who agreed to facilitate the call. Yet, once again, because he was considered to have a new classification upon being transferred from the hospital back to the detention center (always under the commitment of the detention center) he could not make a free call to his Attorney and had to call by another means to find out what was happening.

19. When I finally was able to speak to Mr. Pixley he told me that according to his paperwork, his arraignment was set for June 19, 2020 and not the next day. This date was not reflected in the court system as is normal because he had just been served. Because I was able to speak to him, I was able to request his arraignment be moved from June 19, 2020 to June 18, 2020 to limit his exposure at the jail. If I had not pushed to have that phone call I do not believe the medical unit jail staff would have made me aware that he was returned to the jail.

20. Mr. Pixley was ultimately released on June 18, 2020.

21. In my work as a public defender, I routinely work with Pretrial Services. I have reviewed the declarations of Jeff Logan, and his descriptions of Pretrial Services are not consistent with my experiences in several respects.

22. If a client is held after the commissioner sets an initial bond, the court must review the bond set by the commissioner within twenty-four hours or the next business day where applicable. When a Judge reviews the bond, the court considers the nature of the charges, the criminal history, and various other factors. The court then decides whether to set some conditions for release, including whether supervision by Pretrial Services is appropriate. A representative from Pretrial Services is present and is asked by the Court whether they want the option of

supervision. With full knowledge of all the factors considered, Pretrial will tell the Court that they would like the option for pretrial supervision to be added. At the time of the hearing, contrary to their stated rules, does not make a recommendation to the court what level of pretrial is appropriate. Pretrial does not let the court know that the charges of the client before the court disqualify them from supervision. Pretrial does not tell the court of other known disqualifying factors such as additional pending cases or the lack of a verifiable address.

23. Once a judge authorizes a client's release through Pretrial Services, after establishing to the satisfaction of the court that Pretrial Release is an appropriate condition of release and that the court's basic criteria are met, Pretrial applies its own considerations to determine whether to actually release that person.

24. For example, the court in some instances will authorize release at level 4 (home detention) based upon the charges before the court at the bond hearing and having considered any additional outstanding charges and other factors. Pretrial will agree when asked by the Judge that they want the option to supervise the client. After the hearing, when they actually complete their screening process, will then decline to supervise and release the client for reasons already stated by the Judge on the record during the same hearing that Pretrial said they wanted the option to supervise the client. This seems to be without logic because the court already evaluated the nature of the charges when it gave Pretrial Services the option to accept or decline supervision and therefore, Pretrial Services knew the nature of the charges when it accepted the option to supervise.

25. I have reviewed the policy manual provided by Pretrial Services and the practice I have observed, in many instances, is in conflict with their policies. I also know that Pretrial Services has waived some of these requirements stated in the policy manual and imposed

additional policies unstated in the policy manual, which demonstrates that the decision is up to them.

26. If Pretrial Services chooses not to release a person who has been authorized for release, the only recourse I have is to ask the court to convert the authorization into an order or to set a monetary bond. Otherwise, the authorization means that it is entirely the decision of Pretrial Services whether to release the client. Pretrial Services is not violating a court order when it refuses to release someone who has been authorized for release, so it cannot be forced to make the release.

27. I have seen Pretrial Services refuse to release clients who were ordered released by a court. When this happens, we do not receive notice from Pretrial Services that the client is not being released. When we are able to hear from the client that they are still detained or learn of this by some other means, we file a motion with the court. The court will act, and could issue a subpoena to Pretrial Services and put them on the record about why they have not released the person who was ordered released. Meanwhile, the client is still waiting in jail.

28. In my experiences, Pretrial Services never notifies the attorney of record why a client who has been ordered or authorized released has not been released. Never. Instead, the attorney has to affirmatively follow up to find out why the client has not been released.

/s/Marguerite Lanaux  
Marguerite Lanaux  
Assistant Public Defender

Dated: June 18, 2020

# **EXHIBIT CC**



**Declaration of Yvette Pixley**

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

1. My name is Yvette Pixley. I am the mother of Robert Pixley who is currently detained in Prince George's County Corrections Department. I currently reside in Prince George's County, Maryland.
2. Robert was arrested and detained on May 8, 2020. Before Robert was detained in the Prince George's County jail, he was healthy and suffered from no serious medical issues.
3. At the beginning of June, 2020, Robert told me over the telephone that he was very sick. He told me that he was throwing up and that he could not eat, and he had a lot <sup>of</sup> abdominal pain.
4. Robert said he had been trying to get into the medical unit and he would put in sick call slips, but the staff would not take him to the medical unit. To him, it seemed that they were under the impression that he was faking his sickness.
5. For about three days, I called the medical unit repeatedly to tell them about his condition. When I called, the jail the operator would transfer me to the medical unit, but nobody answered my calls. The second time I reached the medical unit I left a message.
6. On the fourth day of trying to reach the medical unit, a Ms. Draper picked up the phone and told me someone would call back with information about my son.
7. Later that day a Dr. H from a hospital called me to say that Robert had been hospitalized and given emergency surgery. Dr. H told me that a peptic ulcer had burst and that they did the surgery to clean his stomach lining from the bacteria that had eaten through it.

8. The doctor was calling me because I was listed as his emergency contact. The doctor told me that she would contact me if he was not doing well so if I heard nothing from the doctor it means he was doing fine.
9. I tried calling the hospital room he was staying in but they told me that he was not in the room. I was able to speak with Robert on Monday, June 8, 2020. Robert told me he was still in pain and he was doing okay and that he was trying to get his strength back. Robert said he had 20 staples in his stomach and that he would be staying in the hospital for a week or longer.
10. On June 15, I was told by Ms. Marguerite Lanaux that Robert had gone into surgery again earlier that day. I was told he was doing okay but I am worried since I have not been able to hear from him directly.
11. I do not feel comfortable with Robert going back to Prince George's County jail. I am concerned for his wellbeing, both that he heals from the surgery and that he does not get COVID-19. I do not feel confident in the medical care at the jail. They took their time getting him to the medical unit once before so I am worried about what would happen if there were a second incident.

Date: 6-16-2020  
Signed: Yvette S Pixley  
Yvette Pixley

# **EXHIBIT DD**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

EDWARD BANKS, et al.,  
Plaintiffs

v.

QUINCY L. BOOTH, *et al.*,  
Defendants

Civil Action No. 20-849(CKK)

**MEMORANDUM OPINION**  
(June 18, 2020)

This case is brought by various inmates of the District of Columbia’s Department of Corrections (“DOC”) detained in the Central Detention Facility (“CDF”) and the Correctional Treatment Facility (“CTF”). Plaintiffs bring claims against Quincy Booth, in his official capacity as Director of the DOC, and Lennard Johnson, in his official capacity as Warden of the DOC. Plaintiffs’ claims relating to the conditions of their confinement during the COVID-19 pandemic are brought pursuant to the due process clause of the Fifth Amendment of the United States Constitution and the Eighth Amendment of the United States Constitution. Plaintiffs’ claims relating to release from confinement are brought pursuant to writs of habeas corpus.

Before the Court is Plaintiffs’ [70] Amended Motion for a Preliminary Injunction, which is opposed. Upon consideration of the pleadings,<sup>1</sup> the relevant legal authorities, and the record

---

<sup>1</sup> The Court’s consideration has focused on the following documents:

- Pls.’ Am. Mot. for a PI (“Pls.’ Mot.”), ECF No. 70;
- Opp’n by U.S. to Pls.’ Mot. for a PI (“Def. U.S.’s Opp’n”), ECF No. 80;
- Defs.’ Opp’n to Pls.’ Am. Mot. for a PI (“D.C. Defs.’ Opp’n”), ECF No. 82;
- Pls.’ Reply Brief in Support of Am. Mot. for a PI (“Pls.’ Reply”), ECF No. 89;
- Defs.’ Notice of Supp. Decs. (“Defs.’ Notice”), ECF No. 94;
- Defs.’ Notice of Supp. Authority (“Defs.’ Auth.”), ECF No. 95; and
- Pls.’ Res. to Defs.’ Notice of Supp. Authority (“Pls.’ Res.”), ECF No. 96.

for purposes of this motion, the Court GRANTS IN PART AND DENIES IN PART Plaintiffs’ [70] Motion. The Court concludes that Plaintiffs have shown a likelihood of success on the merits, irreparable harm, and that the balance of the equities and the public interest favors injunctive relief. However, as will be further explained below, the Court concludes that some of the relief requested by Plaintiffs is not appropriate at this time.

## **I. BACKGROUND**

The Court previously recounted the background of this case in its Memorandum Opinion granting Plaintiffs’ Motion for a Temporary Restraining Order (“TRO”). ECF No. 51. However, for ease of reading, the Court shall recount that background here.

Prior to proceeding through the procedural background of this case, the Court notes that the hearings held in this matter have been conducted either telephonically or through video conferencing. Due to the restrictions of the COVID-19 pandemic, the United States District Court for the District of Columbia postponed all civil hearings to occur before July 15, 2020. In Re: Further Extension of Postponed Court Proceedings in Standing Order 20-9 and Limiting Court Operations in Exigent Circumstances Created by the COVID-19 Pandemic, Standing Order No. 20-29 (BAH), May 26, 2020. As such, in compliance with the standing order and recommended precautionary measures, the Court has conducted these emergency matters virtually.

On March 30, 2020, Plaintiffs filed their Complaint in this matter. That same day, Plaintiffs also filed a Motion to Certify a Class of all persons confined or to be confined in DOC facilities, a Motion for a TRO, and a Motion for a Preliminary Injunction. ECF Nos. 3, 5, 6.

On March 31, 2020, the Court ordered that a teleconference be held to discuss scheduling for Plaintiffs' pending Motion for a TRO. March 31, 2020 Minute Order. During the hearing, the Court ordered Defendants to provide specific, relevant information to the Court over the following two days. For example, the Court ordered Defendants to provide a list of the names of the approximately 94 inmates who had been sentenced to misdemeanors and who could be released; the numbers of people who had been tested for COVID-19 and a break-down of the identities of those individuals (such as inmates, visitors, etc.) and the results of those tests; the date on which Defendants began testing people coming into the jails; the number and a breakdown of the results of COVID-19 tests which had been done on those who were incarcerated prior to the date on which Defendants began testing all incoming inmates; all relevant written procedures and practices concerning COVID-19; and Defendants' process which was in place or would be put in place to allow legal counsel to communicate with their clients electronically or by other means. April 1, 2020 Minute Order. The Court also ordered Defendants to provide Declarations about the processes and procedures in place and the conditions of DOC facilities in light of COVID-19. *Id.* The Court further set a briefing schedule for Plaintiffs' Motion for a TRO and stayed Defendants' Responses to Plaintiffs' Motion for a Preliminary Injunction, Complaint, and Motion for Class Certification pending the resolution of the TRO. *Id.* A court reporter was present at the hearing, and a transcript of the hearing is on the docket. ECF No. 18.

On April 1, 2020 and April 2, 2020, Defendants filed Responses to the Court's Order. ECF Nos. 19, 20, 21.

On April 2, 2020, the Fraternal Order of Police for the District of Columbia Department of Corrections Labor Committee filed for leave to submit an amicus curiae brief in support of

Plaintiffs' Motion for a TRO. ECF No. 23. After considering Defendants' opposition, the Court granted the motion, finding that the amicus brief could assist the Court in its analysis of certain, relevant issues. April 3, 2020 Minute Order.

On April 3, 2020, Plaintiffs filed an Emergency Motion to Expedite the Hearing on the Application for a TRO. ECF No. 24. In consideration of Plaintiffs' arguments, the Court scheduled a videoconference on the merits of Plaintiffs' Motion for a TRO for April 7, 2020. April 3, 2020 Minute Order.

Prior to the hearing on Plaintiffs' Motion for a TRO, Defendants filed their Opposition to Plaintiffs' Motion for a TRO on April 3, 2020, and Plaintiffs filed their Reply in support of their Motion on April 4, 2020. ECF Nos. 25, 26.

On April 7, 2020, the court conducted a two-hour video conference on the merits of Plaintiffs' Motion for a TRO. A court reporter was present, and a transcript of the hearing is on the docket. ECF No. 37. Also on that day, the Court conducted a second teleconference with the parties. The parties determined that they would confer and propose names for an amicus of the Court to inspect the conditions of CTF and CDF. April 8, 2020 Minute Order.

On April 8, 2020, the Court again conducted a teleconference with the parties to ascertain their proposed amicus of the Court. The parties ultimately agreed to the appointment of Grace Lopes and Mark Jordan as amici of the Court to provide information on the actual conditions of CTF and CDF and to make findings on Defendants' responses to COVID-19. A court reporter was present, and a transcript of the hearing is on the docket. ECF No. 33. On April 9, 2020, the Court issued a consent order appointing Ms. Lopes and Mr. Jordan as amici. ECF No. 34.

The amici reviewed records from the DOC facilities and conducted unannounced and unescorted site visits on multiple shifts at both CDF and CTF on April 10, 11, and 12, 2020.

Defendants cooperated with amici in providing them with necessary materials and in providing them access to the facilities, staff, and inmates during their visits.

On April 15, 2020, the Court held a telephone conference at which the amici presented their oral preliminary findings and both parties as well as the Court asked questions. A court reporter was present, and a transcript of the hearing is on the docket. ECF No. 45.

On April 18, 2020, the amici submitted their final written report. Attachment 1.<sup>2</sup> The Court incorporates that report into this Memorandum Opinion. The Court further notes that on April 17, 2020, following the amici's oral presentation of their preliminary findings, Mr. Booth provided a memorandum to all DOC employees and contractors entitled "Reminders and Updated COVID-19 Policies and Procedures." Exhibits to Report Submitted by Amicus Curiae, Attachment 2, Ex. 11. In this memorandum, Mr. Booth addressed some of the deficiencies identified by the amici.

On April 19, 2020, the Court granted in part and denied in part Plaintiffs' motion for a TRO. Specifically, the Court ordered that Defendants follow many of the recommendations set out in the amici report relating to the conditions of confinement at DOC facilities. However, the Court did not order the release of any inmates. ECF Nos. 50, 51.

On April 22, 2020, the Court held a teleconference during which the parties agreed to propose a schedule for briefing Plaintiffs' Amended Motion for Preliminary Injunction. April 23, 2020 Minute Order. A court reporter was present, and a transcript of the hearing is on the docket. ECF No. 57.

---

<sup>2</sup> On April 19, 2020, the amici filed a corrected version of their Report with minor edits. The corrected version is attached to this Memorandum Opinion.



On April 28, 2020, the Court entered a consent Order setting out a schedule for briefing on Plaintiffs' Amended Motion for a Preliminary Injunction, structuring the role of the amici, and extending the TRO Order pending the Court's resolution of Plaintiffs' Amended Motion for a Preliminary Injunction. ECF No. 62.

On May 1, 2020, the Court issued a Memorandum Opinion and Order joining the United States as a necessary party limited to issues involving the release of inmates under Plaintiffs' claims for writs of habeas corpus. ECF Nos. 63, 64.

On May 11, 2020, the Court held a telephone conference at which the amici presented their oral preliminary findings in response to particular questions and both parties as well as the Court asked additional questions. A court reporter was present, and a transcript of the hearing is on the docket. ECF No. 69, Attachment 3. And, on May 22, 2020, the amici submitted their final written report. Attachment 4. The Court incorporates that report into this Memorandum Opinion. The Court has excerpted portions of the report in this Memorandum Opinion, focusing on the issues which are most exigent and most relevant to the resolution of Plaintiffs' Amended Motion for a Preliminary Injunction.

As explained in the report, in preparation for their oral findings and their final written report, the amici reviewed records from the DOC facilities, conducted telephonic and in-person interviews with members of the DOC, and conducted unannounced and unescorted site visits on multiple shifts at both CDF and CTF on May 7 and 8, 2020. Amici also conducted an unannounced and unescorted site visit at CDF during the PM shift on May 14, 2020. Defendants cooperated with amici in providing them with necessary materials and in providing them access to the facilities, staff, and inmates during their visits.

Finally, on May 27, 2020, the Fraternal Order of Police for the District of Columbia Department of Corrections Labor Committee filed for leave to submit an amicus curiae brief in support of Plaintiffs' Amended Motion for a Preliminary Injunction. ECF No. 83. After considering Defendants' opposition, the Court granted the motion, finding that the amicus brief could assist the Court in its analysis of certain, relevant issues. June 8, 2020 Minute Order.

In resolving Plaintiff's Amended Motion for a Preliminary Injunction, the Court relies on the record evidence as it currently stands, including the findings in the amici's final report. In consideration of the above information, the materials which have been provided, and the present factual record, the Court now issues its decision on Plaintiffs' Amended Motion for a Preliminary Injunction.

## **II. LEGAL STANDARD**

A preliminary injunction is an extraordinary form of relief. An application for a preliminary injunction is analyzed using factors applicable to a motion for a TRO. *See, e.g., Gordon v. Holder*, 632 F.3d 722, 723-24 (D.C. Cir. 2011) (applying preliminary injunction standard to district court decision denying motion for TRO and preliminary injunction); *Sibley v. Obama*, 810 F. Supp. 2d 309, 310 (D.D.C. 2011) (articulating TRO elements based on preliminary injunction case law).

Preliminary injunctive relief is "an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Sherley v. Sebelius*, 644 F.3d 388, 392 (D.C. Cir. 2011) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008)); *see also Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (per curiam) ("[A] preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." (internal quotation marks omitted)). A plaintiff seeking preliminary injunctive relief "must establish [1] that he is likely to succeed on the merits,

[2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest.” *Aamer v. Obama*, 742 F.3d 1023, 1038 (D.C. Cir. 2014) (quoting *Sherley*, 644 F.3d at 392 (quoting *Winter*, 555 U.S. at 20) (alteration in original; internal quotation marks omitted)). When seeking such relief, “the movant has the burden to show that all four factors, taken together, weigh in favor of the injunction.” *Abdullah v. Obama*, 753 F.3d 193, 197 (D.C. Cir. 2014) (quoting *Davis v. Pension Benefit Guar. Corp.*, 571 F.3d 1288, 1292 (D.C. Cir. 2009)) (internal quotation marks omitted). “The four factors have typically been evaluated on a ‘sliding scale.’” *Davis*, 571 F.3d at 1291. Under this sliding-scale framework, “[i]f the movant makes an unusually strong showing on one of the factors, then it does not necessarily have to make as strong a showing on another factor.” *Id.* at 1291-92.

The Court notes that it is not clear whether the United States Court of Appeals for the District of Columbia Circuit’s (“D.C. Circuit”) sliding-scale approach to assessing the four preliminary injunction factors survives the Supreme Court’s decision in *Winter*. See *Save Jobs USA v. U.S. Dep’t of Homeland Sec.*, 105 F. Supp. 3d 108, 112 (D.D.C. 2015). Several judges on the D.C. Circuit have “read *Winter* at least to suggest if not to hold ‘that a likelihood of success is an independent, free-standing requirement for a preliminary injunction.’” *Sherley*, 644 F.3d at 393 (quoting *Davis*, 571 F.3d at 1296 (Kavanaugh, J., concurring)). However, the D.C. Circuit has yet to hold definitively that *Winter* has displaced the sliding-scale analysis. See *id.*; see also *Save Jobs USA*, 105 F. Supp. 3d at 112. In light of this ambiguity, the Court shall consider each of the preliminary injunction factors and shall evaluate the proper weight to accord the likelihood of success only if the Court finds that its relative weight would affect the outcome.

### **III. DISCUSSION**

The Court will proceed to analyze each of the requirements for granting a preliminary injunction.

#### **A. Likelihood of Success on the Merits**

The Court will begin by analyzing whether or not Plaintiffs have shown a likelihood of success on the merits of their constitutional claims for inadequate conditions of confinement and their habeas claims for release of inmates.

##### **1. Conditions of Confinement**

In order to meet the first requirement for granting injunctive relief on their conditions of confinement claims, Plaintiffs must show that they have a likelihood of success on the merits of their Fifth Amendment claim for pre-trial detainees and of their Eighth Amendment claim for post-conviction detainees. The Court concludes that Plaintiffs have made a sufficient showing as to some of the conditions of their confinement.

It is undisputed that the proper avenue for relief for pre-trial detainees, such as Plaintiffs Phillips and Smith, is the Fifth Amendment due process clause and the proper avenue for relief for post-conviction detainees, such as Plaintiff Banks, is the Eighth Amendment. However, the parties dispute whether or not the standards for sustaining a claim under the different Amendments are the same. The parties agree that to show a violation of the Eighth Amendment, jail officials must have (1) exposed inmates to an unreasonable risk of serious damage to their health and (2) acted with deliberate indifference in posing such a risk. D.C. Defs.' Opp'n, ECF No. 82, 25. However, the parties disagree on the standard for showing a violation of the Fifth Amendment. Defendants contend that the two standards are the same. *Id.* at 26. However, under the due process clause, Plaintiffs argue that they need only show that the Defendants knew or should have known that the conditions posed an excessive risk to the health of the inmates. The

main difference being that the due process clause analysis does not require a finding of deliberate indifference. As explained in the Memorandum Opinion granting Plaintiffs' Motion for a TRO, the Court agrees with Plaintiffs. ECF No. 51, 9-12.

The rights of pre-trial detainees are different than the rights of post-conviction detainees. Because pre-trial detainees are presumed innocent, they are "entitled to more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish." *Youngberg v. Romeo*, 457 U.S. 307, 322 (1982). "While a convicted prisoner is entitled to protection only against 'cruel and unusual' punishment [under the Eighth Amendment], a pretrial detainee, not yet found guilty of any crime, may not be subjected to punishment of any description." *Hardy v. District of Columbia*, 601 F. Supp. 2d 182, 188 (D.D.C. 2009) (quoting *Hill v. Nicodemus*, 979 F.2d 987, 991 (4th Cir. 1992)).

In *Kingsley v. Hendrickson*, 135 S. Ct. 2466 (2015), the United States Supreme Court considered the differences between pre-trial and post-conviction detainees in deciding that, to state an excessive force claim, a pre-trial detainee need only show that the use of force was objectively unreasonable. 135 S. Ct. at 2473-74. The officers' subjective state of mind in using the force was irrelevant. *Id.* While *Kingsley* relates to excessive force rather than prison conditions, in making its decision, the *Kingsley* court relied on *Bell v. Wolfish*, 441 U.S. 520 (1979), a case pertaining to prison conditions. According to the *Kingsley* court, "as *Bell* itself shows (and as our later precedent affirms), a pretrial detainee can prevail by providing only objective evidence that the challenged governmental action is not rationally related to a legitimate governmental objective or that it is excessive in relation to that purpose." *Id.* Together *Kingsley* and *Bell* provide persuasive authority that a pre-trial detainee need only show that

prison conditions are objectively unreasonable in order to state a claim under the due process clause.

The parties did not cite, and the Court could not find, a D.C. Circuit case interpreting *Kingsley* in the context of a claim for deficient prison conditions. However, many circuit courts have extended *Kingsley*'s objective standard to apply to other due process claims by pre-trial detainees. For example, the United States Court of Appeals for the Second Circuit has held that, following *Kingsley*, in the context of challenged prison conditions for pre-trial detainees, "the Due Process Clause can be violated when an official does not have subjective awareness that the official's acts (or omissions) have subjected the pretrial detainee to a substantial risk of harm." *Darnell v. Pineiro*, 849 F.3d 17, 35 (2d 2017); *see also* *Castro v. County of Los Angeles*, 833 F.3d 1060, 1070 (9th Cir. 2016) (applying *Kingsley* standard to failure to protect claims by pre-trial detainees); *Hardeman v. Curran*, 933 F.3d 816, 823 (7th Cir. 2019) (finding that "*Kingsley*'s objective inquiry applies to all Fourteenth Amendment conditions-of-confinement claims brought by pretrial detainees"). And, at least one district court within this Circuit has also applied *Kingsley*'s objective standard to due process claims brought by pre-trial detainees. *See United States v. Moore*, Case No. 18-198-JEB, 2019 WL 2569659, \*2 (D.D.C. June 21, 2019) (explaining that a pretrial detainee could prevail on a due process claim "if she either introduces evidence of a subjective intent to punish or demonstrates that a restriction is objectively unreasonable or excessive relative to the Government's proffered justification").

Based on the pertinent reasoning of *Kingsley* and the persuasive authority of other courts, the Court concludes that pre-trial detainee Plaintiffs Phillips and Smith do not need to show deliberate indifference in order to state a due process claim for inadequate conditions of confinement. As such, under the due process clause, pre-trial detainee Plaintiffs Phillips and

Smith are likely to succeed on the merits by showing that the Defendants knew or should have known that the jail conditions posed an excessive risk to their health and intentionally or recklessly failed to act. And, under the Eighth Amendment, post-conviction detainee Plaintiff Banks must show that the jail conditions exposed him to an unreasonable risk of serious damage to his health and that Defendants acted with deliberate indifference in posing such a risk.

Despite recognizing that pre-trial detainee Plaintiffs need not demonstrate deliberate indifference to show a likelihood of success on their due process claims, the Court will also analyze the deliberate indifference prong as such a showing is still required for post-conviction Plaintiff's Eighth Amendment claim.

**a. Unreasonable risk to Plaintiffs' Health**

Now that the Court has determined the standards under the due process clause and the Eighth Amendment, the Court will assess whether or not Plaintiffs have shown a likelihood of success in proving that they have been exposed to an unreasonable risk of damage to their health. Determining whether or not Plaintiffs have been exposed to an unreasonable risk is an objective analysis which "requires a court to assess whether society considers the risk that the prisoner complains of to be so grave that it violates contemporary standards of decency to expose *anyone* unwillingly to such a risk." *Helling v. McKinney*, 509 U.S. 25, 36 (1993) (emphasis in original). In sum, Plaintiffs "must show that the risk of which [they] complain[] is not one that today's society chooses to tolerate." *Id.*

Both parties and the Court recognize the seriousness of the threat posed by COVID-19. Despite the seriousness of the threat, in their briefing for Plaintiffs' Motion for a TRO, Defendants argued that Plaintiffs were unlikely to succeed in establishing that they have been exposed to an unreasonable risk to their health. ECF No. 25, 15-17. While Defendants previously

disputed the unreasonable risk factor, in their briefing for this Motion, Defendants make little mention of unreasonable risk, focusing instead on deliberate indifference.

Lacking substantial argument on this issue from Defendants, the Court finds that Plaintiffs have been exposed to an unreasonable risk to their health. It is undisputed that as of May 15, 2020, the rate of infection in DOC facilities was 13.5%, which is nearly 14 times higher than the rate of infection for other District of Columbia residents. Pls.' Mot., ECF No. 70, 29. The Court notes that this percentage represents an increase from April 4, 2020, when the infection rate in DOC facilities was only 7 times the infection rate of the District of Columbia at large. ECF No. 51, 13.

In a supplemental declaration, Defendants state that on May 22, 2020, the DOC tested a sample of 304 asymptomatic DOC residents which revealed a positive testing rate of 4.6%. Dec. of Beth Jordan, ECF No. 94, ¶ 7. While any progress in decreasing the positive testing rate of asymptomatic inmates is to be lauded, such progress does not negate the fact that those detained in DOC facilities are far more likely to be exposed to and infected by COVID-19. Defendants further highlight a downward trend in the number of new positive cases. Again, the Court commends Defendants on this progress; however, this progress post-dates the Court's TRO Order and the mandated steps for improvement of conditions at DOC facilities. Additionally, Defendants' identification of potentially infected inmates relies primarily on self-reporting, which may be affected by deficiencies with the sick call system and the punitive conditions of isolation units discussed further below. *See Supra* III.A.1.b.

Plaintiffs' statistical data is also supported by Plaintiffs' unrefuted expert declaration. In her Declaration, Dr. Jaimie Meyer, who reviewed reports on conditions in DOC facilities,



reaffirmed that “people living and working in DC DOC facilities remain at risk of serious harm due to COVID-19 infection.” Dec. of Jaimie Meyer, ECF No. 70-2, ¶ 3.

The Court further considers the conditions in the DOC facilities which pose an unreasonable risk of harm to Plaintiffs’ health. These conditions include issues with medical care, social distancing, sanitation, and conditions in isolation units. These conditions will be discussed in greater detail in the Court’s discussion of deliberate indifference. *See Infra* Sec. III.A.1.b. However, for purposes of establishing an unreasonable risk to Plaintiffs’ health, the Court notes that Defendants’ policies, and the delayed and insufficient implementation of many of those policies, has prevented Plaintiffs from being able to take the preventative and precautionary steps that the larger, non-detained population has been able to take to slow the spread of COVID-19.

The Court recognizes that Defendants’ response to this sudden and unprecedented pandemic is ongoing. And, the Court recognizes that additional evidence will likely be provided as litigation proceeds. But, based on the current record, the Court credits Plaintiffs’ argument that they experience a significantly higher rate of infection and risk of harm than the population at large. Plaintiffs’ argument is supported by statistical evidence, Plaintiffs’ expert evidence, the declarations of DOC inmates and staff, and the amici reports. Accordingly, based on the limited record before the Court, the Court finds that Plaintiffs have established a likelihood that they will be able to show that they have been exposed to an unreasonable risk of damage to their health.

#### **b. Deliberate Indifference**

The Court will next determine whether or not Plaintiffs have shown a likelihood of success in establishing Defendants’ deliberate indifference. A showing of deliberate indifference requires “that officials had subjective knowledge of the serious medical need and recklessly

disregarded the excessive risk to inmate health or safety from that risk.” *Baker v. District of Columbia*, 326 F.3d 1302, 1306 (D.C. Cir. 2003). In order to establish deliberate indifference, “the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.” *Farmer v. Brennan*, 511 U.S. 825, 837 (1994).

There does not appear to be any dispute that Defendants are aware of the threat that COVID-19 poses to the health of Plaintiffs. Instead, the only dispute is whether or not Defendants have recklessly disregarded the risk to Plaintiffs’ health. In analyzing this standard, the Court recognizes that COVID-19 poses an unprecedented challenge and that the precautionary measures taken by Defendants are rapidly evolving.

In its Memorandum Opinion granting Plaintiffs’ TRO, the Court thoroughly recounted the conditions at DOC facilities as they stood at that time. ECF Nos. 50, 51. The Court will not recount that information in full and instead fully incorporates its findings from that Memorandum Opinion. Instead, the Court will focus on any new arguments presented by the parties. The Court will focus on difficulties noted in providing medical care to inmates in the general population units, in social distancing, in sanitation, in conditions on isolation units, and in access to legal calls.

To begin, the Court notes that much of Defendants’ argument opposing injunctive relief is based on steps which Defendants have taken subsequent to the Court’s TRO Order to remedy the cited deficiencies. While the Court appreciates that efforts have been made to improve conditions, “Defendants cannot claim that the need for an injunction is now moot because the [Defendants have] ‘ceased [their] wrongful conduct.’” *Costa v. Bazron*, Case No. 19-3185, 2020 WL 2735666, \*4 (May 24, 2020 D.D.C.) (quoting *Taylor v. Resolution Trust Corp.*, 56 F.3d

1497 (D.C. Cir. 1995)). The inability of Defendants’ actions to moot the need for injunctive relief is true particularly where those actions “follow[ed] the entry of a TRO.” *Id.* A “‘court’s power to grant injunctive relief survives discontinuance of the illegal conduct,’ ... because the ‘purpose ... is to prevent future violations.’” *U.S. Dep’t of Justice v. Daniel Chapter One*, 89 F. Supp. 3d 132, 143 (D.D.C. 2015), *aff’d*, 650 F. App’x 20 (D.C. Cir. 2016) (quoting *United States v. W.T. Grant Co.*, 345 U.S. 629, 633 (1953)). In so finding, the Court is in no way impugning the good faith behind Defendants’ efforts to ameliorate conditions at DOC facilities. However, “[i]f compliance with the terms of a TRO were sufficient to defeat entry of a preliminary injunction, few—if any—cases would make it past the TRO stage.” *Costa*, 2020 WL 2735666, at \*4.

The Court begins by assessing Defendants’ efforts in supplying general population inmates with adequate medical care. During their oral presentation, amici “described significant barriers to access to health care” for inmates on non-quarantine, non-isolation units. Attachment 4, 9. Most inmates who access care on general population units rely on the sick call process by which they request sick call forms from correctional officers and submit those forms to health care staff through designated collection boxes. *Id.* at 10. In their inspections, amici found that the sick call forms were not readily available to inmates and that many correctional officers were unable to produce the forms when requested to by amici. *Id.*; *see also* Attachment 3, 17: 2-4. Without consistent access to sick call forms, “the sick call process does not provide reliable, timely access to health care for inmates.” Attachment 4, 10. For example, at CDF, 20% of sick call forms were collected two to three days after submission and 5% were collected four days after submission. Attachment 3, 18: 16-22. And, at CTF, 24% of the sick call forms were collected two to three days after submission and 12% were collected 4 to 5 days after they were

submitted. *Id.* at 18: 25-19: 3. In at least one case, an inmate at CDF had to wait over a week for medical assistance. *Id.* at 19: 22-23. Another inmate at CDF who requested care for COVID-19 symptoms was not seen for approximately four days and later tested positive for COVID-19. *Id.* at 20: 1-7.

The difficulties with obtaining medical care through the sick call process, which were documented by amici, are also supported by the declarations of various inmates. One inmate reported that “they ran out of sick slips” in his housing unit so no residents in that unit were able to utilize the system. Ex. 4, Dec. of LeDauntae Perry, ECF No. 70-5, ¶ 8. Another inmate reported that “[s]ick call slips and Inmate Grievance Procedure forms were not ... available on my unit between the dates of April 23, 2020 and May 12, 2020.” Ex. 30, Dec. of Kenneth Knight, ECF No. 70-31, ¶ 5. A housing unit in CTF, which houses inmates over 50 years of age, reportedly did not have sick call slips “[f]or the entire week of May 4, 2020.” Ex. 5, Dec. of Joseph Stankavage, ECF No. 70-6, ¶ 15. This delay in obtaining medical care allows those who may be infected with COVID-19 to spread the infection to others.

Defendants contend that, as of May 18, 2020, they have enhanced the sick call process by tasking medical providers with visiting housing units daily to retrieve sick call slips thus ensuring that inmates are seen by a high-level medical provider within 24 hours. Dec. of Beth Jordan, ECF No. 82-2, ¶ 9. However, it is not evident that this new system will address the issues that amici identified involving difficulties accessing sick call forms. Additionally, Defendants failed to make these improvements until recently, despite having been previously alerted to the insufficiencies with the medical care system in the Court’s TRO Order. ECF No. 50, 1. And, the Court has no evidence as to how or whether this new procedure works in practice.

Defendants primarily rely on inmates to self-report symptoms of COVID-19. If inmates cannot adequately access medical care, then they will not be effectively or efficiently tested for infection. Absent testing, sick inmates may continue to reside in the general population and infect others. Following amici's initial report, Defendants were on notice of the deficiencies in the sick call process; however, many of these deficiencies continue to hinder Defendants' response to the COVID-19 pandemic.

The Court next examines Defendants' efforts in maintaining social distancing. In its TRO Memorandum Opinion, the Court described in detail the insufficiencies in social distancing practices at DOC facilities. ECF No. 51, 13-15. Following the TRO Order, amici have reported some improvements in social distancing practices. Amici cited additional educational materials on social distancing as well as reports that "staff are being disciplined for the failure to enforce social distancing." Attachment 3, 42: 14-16. Amici further reported that, because fewer inmates are allowed out of their cells at any given time, "at least some housing units are less chaotic." *Id.* at 43: 1-2. Despite these improvements, amici reported that social distancing in DOC facilities "certainly is not prevalent, certainly not during our visits." *Id.* at 42: 18-19. Amici further stated that "there still isn't a prevalence of social distancing." *Id.* at 43: 14-15. Amici attributed this deficiency, in part, to insufficient staffing on the housing units. *Id.* at 43: 16-18.

In arguing that it has made progress in enforcing social distancing, Defendants cite a decrease in the overall inmate population as well as an increase in the percentage of inmates housed in single cells. Dec. of Rena Chakraborty, ECF No. 82-3, ¶¶ 5-6. Defendants have also provided inmates and staff with increased educational information about social distancing. Dec. of Lennard Johnson, ECF No. 82-1, ¶¶ 6-7. Defendants echo the amici finding that staff are being monitored for inmate compliance with social distancing requirements and are being

disciplined for failures. *Id.* at ¶ 6. Given the steps which have been taken to enforce social distancing, Defendants contend that they cannot be blamed for isolated instances of clustering.

The Court commends Defendants for their increased focus on social distancing policies. However, better policies mean little if they are not correctly implemented in practice. *Daskalea v. District of Columbia*, 227 F.3d 433, 442 (D.C. Cir. 2000) (explaining that “a ‘paper’ policy cannot insulate a municipality from liability where there is evidence, as there was here, that the municipality was deliberately indifferent to the policy’s violation.”). And, amici found more than isolated instances of clustering. They specifically stated that social distancing “is not prevalent.” Attachment 3, 42: 18-19.

In addition to the amici findings, Plaintiffs have presented evidence that social distancing is still inadequately enforced. One inmate reported that he was never told to socially distance himself from others. Ex. 2, Dec. of Brian Thomas, ECF No. 70-3, ¶ 17. Another inmate on a different housing unit stated that, sometimes, more than 10 inmates are allowed out of their cells at one time, resulting in clustering. Ex. 11, Dec. of Tony Horne, ECF No. 70-12, ¶ 9. One inmate reported that, on May 12, 2020, DOC staff forced him into an elevator with approximately a dozen other inmates from various housing units to travel to the medical unit. Ex. 5, Dec. of Joseph Stankavage, ECF No. 70-6, ¶ 3. Once at the medical unit, the inmate had to await medical attention in a small room with 15 to 20 other inmates. *Id.* at ¶ 6. These inmate declarations are supported by video footage from DOC facilities showing approximately 10 inmates out of their cells congregating around telephones and DOC staff. Ex. 32.

As such, the Court finds that many of the deficiencies in social distancing practices which were identified in the Court’s TRO Order remain present today. Plaintiffs have provided expert evidence that social distancing is a crucial part of containing the spread of COVID-19. Dec. of

Marc Stern, ECF No. 1-1, ¶ 13. With the closures of schools, theaters, and restaurants, governments across the nation have emphasized social distancing as a way to slow the spread of the disease. In the District of Columbia, Mayor Muriel Bowser has implemented an order for social distancing which requires individuals “to maintain a distance of at least six (6) feet from persons not in their household.” Phase One Order, <https://coronavirus.dc.gov/phaseone> (May 27, 2020). Despite widespread understanding of the importance of social distancing, Defendants have taken insufficient and delayed steps to ensure that social distancing is occurring consistently.

The Court next examines the status of sanitation efforts at DOC facilities. In its TRO Order, the Court noted the deficiencies in sanitation. The court ordered DOC to retain a registered sanitarian and to provide appropriate cleaning products, and training on the use of those products, to inmates and staff. ECF No. 50, 2-3.

Defendants have made progress on ensuring adequate sanitation. Defendants have received authorization to post a vacancy for a full-time sanitarian at the DOC. Attachment 4, 14. Until a sanitarian can be hired, beginning on May 18, 2020, Defendants contracted with a vendor to provide services related to environmental health and safety. *Id.* Additionally, as of May 12, 2020, Defendants contracted for professional cleaning services on the secure and non-secure sides of the DOC facility, including the common areas of all housing units. *Id.* at 15. And, Defendants have created new protocols to ensure that cleaning supplies are available and to require correctional officers to verify that cells are cleaned daily. Dec of Michele Jones, ECF No. 82-6, ¶¶ 5, 9.

However, there are other aspects of sanitation which have not improved. The amici noted that during their visits, availability of cleaning materials and cleaning equipment was not

uniform between the housing units. Attachment 3, 40: 24-41: 3. Defendants began providing inmates with paper towels sprayed with cleaning solution; however, because the paper towels are not absorbent, many inmates continue to have difficulties cleaning their cells. *Id.* at 41: 9-15. Some inmates continue to rely on ripped towels and ripped t-shirts to clean their cells. *Id.* at 41: 13-15. Amici noted that this issue is “[a]bout the same” as it was prior to the Court’s TRO Order. *Id.* at 44: 2. Amici concluded that “appropriate sanitation is ... a continuing issue at both facilities, and clearly especially deficient at the jail [CDF].” *Id.* at 41: 20-22.

Plaintiffs have provided evidence from inmates which echoes these noted deficiencies. Many inmates explained that they lack cleaning supplies to clean their cells. *See, e.g.*, Ex. 14, Dec. of Delonte Ingraham, ECF No. 70-15, ¶ 47 (“On April 27, our unit ran out of cleaning supplies”); Ex. 16, Dec. of Jarvis Burl, ECF No. 70-17, ¶ 8 (“I have not been provided any cleaning supplies to clean my cell”) Ex. 12, Dec. of Delonte Johnson, ECF No. 70-13, ¶ 3 (“During the period from April 22, 2020 to May 8, 2020 I did not have access to any chemicals to clean my cell”). At least one inmate reported having to clean the cells of inmates who tested positive for COVID-19 with Oasis Pro Laundry Fresh Room Refresher, a product which does “not have activity against and is not approved for disinfection for COVID-19.” Ex. 1, Dec. of Jaimie Meyer, ECF No. 70-2, ¶ 11; Ex. 21, Dec. of Elijah Warren, ECF No. 70-22, ¶ 21. Even when residents have adequate access to cleaning materials, often they have not been informed on how to effectively use those materials. Ex. 14, Dec. of Delonte Ingraham, ECF No. 70-15, ¶ 44 (“Since April 19, my unit has not received any instructions on which cleaning chemicals to use on which surfaces”).

Without proper cleaning materials used effectively, COVID-19 can linger on surfaces allowing the virus to spread swiftly in contained environments such as DOC facilities. Ex. 1,



Dec. of Jaimie Meyer, ECF No. 70-2, ¶ 11. “Cleaning and disinfecting practices can mitigate this risk of disease transmission but remains inadequate in the DC DOC.” *Id.* While progress has been made, most of that progress post-dates the Court’s TRO Order. And, many of the issues initially identified by the amici persist.<sup>3</sup>

Next, the Court considers conditions in isolation units. In its TRO Order, the Court ordered Defendants to make conditions in the isolation unit non-punitive by providing reliable access to telephone calls, daily showers, and clean clothing and linens. ECF No. 50, 2. In conducting their review, the amici noted some continuing issues in the isolation units. While inmates in the isolation unit at the infirmary in CTF had access to calls through a rolling telephone cart, inmates in isolation at CDF had continued difficulties with personal and legal calls. Attachment 3, 29: 12-30: 8. The rolling telephone cart was not available to isolation inmates in a particular segment of the housing unit. Instead, they had to make calls from the office area which was not always available. *Id.* at 30: 3-10. While there has been improvement in the isolation units with access to legal and personal calls, “[i]t appears that additional progress may be necessary.” *Id.* at 33: 10-12. The amici also noted that while showers were being provided to inmates in isolation, sometimes several days would pass between showers. *Id.* at 34: 15-18. Amici attributed the lack of shower access to inadequate staffing combined with other incidents and disturbances. *Id.* at 34: 19-23. Amici further explained that staff and inmates had reported clothing and linen exchanges. However, those exchanges were occurring with increased

---

<sup>3</sup> The Court notes that Defendants contend that they have now provided each inmate with a microfiber towel for cleaning. Defendants cite paragraph 12 of the declaration of either Kathleen Landerkin or Michele Jones. However, neither declaration contains a paragraph 12, and the Court did not see mention of a microfiber towel. *See generally*, Dec. of Kathleen Landerkin, ECF No. 82-5; Dec. of Michele Jones, ECF No. 82-6. Additionally, these towels were not provided until after the amici’s visit, and the Court has no evidence of how this new cleaning tool works in practice.

frequency only very recently. It was too early for amici to be able to judge whether or not those exchanges occurred with consistency. *Id.* at 35: 9-16.

Defendants contend that conditions on the isolation unit are greatly improved. According to Defendants, following the amici review, all residents in isolation units have access to the rolling telephone carts. Dec. of Kathleen Landerkin, ECF No. 82-5, ¶ 11. Defendants also highlight that residents in isolation units are checked by medical staff at least twice daily. Dec. of Beth Jordan, ECF No. 82-2, ¶ 4.

Again, the Court credits Defendants for their progress in making isolation units less punitive environments. However, the Court notes that this progress occurred only subsequent to the Court's TRO Order. Moreover, there remains progress to be made. While Defendants claim that all inmates in isolation units now have access to the rolling telephone cart for personal and legal calls, this was not the case during the amici visits. Additionally, amici noted that Defendants had only recently increased the frequency of the clothing and linen exchanges for those in isolation. And, amici found that many inmates in isolation were having to wait several days between showers. Amici's findings are supported by declarations of inmates who have been in the isolation units. Ex. 7, Dec. of Romiel Hightower, ECF No. 70-8, ¶ 9 ("I had many fewer opportunities to shower, only once every three or four days after lots of complaining"); Ex. 13, Dec. of Anthony Robertson, ECF no. 70-14, ¶ 10 ("Between April 23rd and April 28th [in isolation unit], I was not able to shower"). The lack of daily access to showers for those in isolation violates Defendants' own policies and procedures. *See* Attachment 2, Ex. 11, 2 ("All residents housed in isolation units shall be allowed to shower each day."). The continuation of punitive conditions on the isolation units serves as a barrier to containing the spread of COVID-19 as Defendants primarily rely on inmates to self-report symptoms.

Finally, the Court addresses inmates' access to confidential legal calls. In its TRO Order, the Court required Defendants to "ensure that all inmates, including those on isolation, have access to confidential, unmonitored legal calls of a duration sufficient to discuss legal matters." ECF No. 50, 3. As previously explained, inmates in isolation have access to a rolling telephone cart to make personal and legal calls. Lacking telephone carts, those in general population units have been forced to make calls through the case managers' office; however, these calls are not confidential. Dec. of Camile Williams, ECF No. 82-9, ¶ 4. Defendants state that they have recently obtained 50 cellphones and 10 wired headsets to allow inmates to make confidential calls. *Id.* at ¶ 5. Defendants have ordered an additional 50 wireless headsets which will arrive in June 2020. *Id.* Additionally, Defendants state that they have harnessed digital tablets to allow inmates to message securely with their attorneys. Dec. of Amy Lopez, ECF No. 82-8, ¶¶ 4-6. Defendants currently have 500 tablets and expect an order of 1,000 more to arrive in June 2020. *Id.* at ¶¶ 5, 8.

The use of cellphones, wireless headsets, and tablets is a recent development and was not seen during the amici visit. Amici reported that, in order to obtain 30-minute unmonitored legal calls, attorneys are required to email DOC case managers to register for the call system. Attachment 3, 31: 13-15. Once the attorney has registered, the attorney notifies the client by mail and provides contact information. *Id.* at 31: 23-32: 4. Due to mail delays, some inmates have difficulty accessing this information. *Id.* at 32: 4-8. When these calls are conducted, they are conducted in the presence of a case manager, so the calls are not confidential. *Id.* at 33: 13-23. Amici witnessed two to three inmates "conducting legal calls in the case manager's office with the case manager clearly within earshot." *Id.* at 33: 18-21; *see also* Ex. 9, Dec. of Kennard Johnson, ECF No. 70-10, ¶ 16 ("On April 27, 2020, I had a legal call in the case manager's

office. The case manager was sitting right there during the legal call and could hear the conversation.”).

In addition to the case manager system, inmates in general population can use phones in the housing units to contact their legal counsel. However, a barrier to the use of phones in the housing units is the fact that inmates are frequently locked in their cells and sometimes “do not receive an hour out of their cells daily.” Attachment 3, 17: 13-17. When inmates are let out of their cells, it may be in the middle of the night. *Id.* at 36: 10-19. So, while general population inmates may be allowed to call their attorneys from phones in the housing units, the inability to leave their cells during business hours prevents inmates from being able to reach their attorneys. Ex. 10, Dec. of Eric Cooper, ECF No. 70-11, ¶ 13 (“Sometimes I am not let out for my hour of recreation time. Sometimes when they do let me out it is done at 3:00 in the morning so I cannot call my family or attorney.”).

The Court credits Defendants for their efforts to obtain new technology to ensure inmates have access to confidential legal calls. However, it appears that some of these new processes have not yet reached the implementation stage. Defendants report that they “*have been working* to set up accounts for each resident” to be able to use the tablets to message their attorneys. Dec. of Amy Lopez, ECF No. 82-6, ¶ 6 (emphasis added). Defendants “*have also been working*” with defense attorneys to ensure that they have access to the messaging system. *Id.* (emphasis added). Similarly, as to the cellphones, Defendants report that “[c]ase managers *will use* these cell phones to facilitate secure, unmonitored attorney calls.” Dec. of Camile Williams, ECF No. 82-9, ¶ 5 (emphasis added). Defendants do not provide a timeline for the implementation of this new technology. As such, nearly four months into the COVID-19 pandemic, Defendants have not yet

developed a consistent procedure for all inmates to be able to make and receive confidential legal calls.

Based on the current record, Plaintiffs have provided evidence that Defendants are aware of the risks that COVID-19 poses to Plaintiffs' health and have disregarded those risks by failing to take comprehensive, timely, and proper steps to stem the spread of the virus. Again, the Court acknowledges that additional development of the record may show that Defendants are taking sufficient precautions and that Defendants' response continues to evolve. However, on the current record, the Court finds that Plaintiffs have established a likelihood of success in showing deliberate indifference.

**c. Municipal Liability**

Defendants further argue that Plaintiffs cannot show a likelihood of success on the merits of their constitutional claims because Plaintiffs have failed to establish a municipal policy or custom necessary for liability. “[E]pisodic failures of process do not make out a constitutional violation.” *Lightfoot v. District of Columbia*, 246 F.R.D. 326, 335 (D.D.C. 2007) (quoting *Lightfoot v. District of Columbia*, 448 F.3d 392, 402 (D.C. Cir. 2006) (Silberman, S.J., concurring)). Instead, “[p]laintiffs who seek to impose liability on local governments under § 1983 must prove that ‘action pursuant to official municipal policy’ caused their injury.” *Connick v. Thompson*, 563 U.S. 51, 60 (2011) (quoting *Monell v. Dep’t of Soc. Servs. of New York*, 436 U.S. 658, 691 (1978)); *see also Martin v. Malhoyt*, 830 F.2d 237, 255 (D.C. Cir. 1987) (“One instance, however egregious, does not a pattern or practice make.”). Generally, in order to establish a policy or custom sufficient to confer liability, a plaintiff must establish an express municipal policy, actions of a policy maker, consistent conduct by non-policy makers, or

deliberate indifference to the risk of constitutional injury. *See Baker v. District of Columbia*, 326 F.3d 1302, 1306-07 (D.C. Cir. 2003).

Defendants contend that Plaintiffs cannot make such a showing because their evidence of misconduct amounts to no more than anecdotes and hearsay. Defendants further assert that they have established policies to address the conditions, and the imperfect implementation of those policies is insufficient to establish municipal liability. The Court disagrees.

The Court finds that Plaintiffs are likely to establish municipal liability because the challenged conditions are the actions of a policy maker and because Defendants have exhibited deliberate indifference.

First, the challenged conditions represent the policies and procedures approved of by Defendant Booth, the final policy maker at DOC facilities. *See Triplett v. District of Columbia*, 108 F.3d 1450, 1453 (D.C. Cir. 1997) (recognizing director of DOC as final policy maker). Defendant Booth has personally approved plans and policies for addressing COVID-19. *See* ECF No. 40-2 (emergency plan for COVID-19, signed by Defendant Booth); Attachment 2, Ex. 11 (update memorandum from Defendant Booth on COVID-19 procedures). Because a final policy maker was involved in addressing the conditions of the DOC facilities in response to COVID-19, and because this was a matter within his authority, the Court finds that Plaintiffs have established a likelihood of municipal liability. *See Costa*, 2020 WL 2735666, at \*14 (finding likelihood of municipal liability where the director of the hospital was personally involved in the hospital's response to COVID-19); *see also Thompson v. District of Columbia*, 832 F.3d 339, 347-48 (D.C. Cir. 2016) (explaining that a "single action can represent municipal policy where the acting official has final policymaking authority over the particular area, or ... particular issue" (internal quotation marks omitted)).

Second, the Court finds that Plaintiffs have established a likelihood of success on the merits of their claim of municipal liability through a showing of deliberate indifference. A municipality is liable where the government failed “to respond to a need (for example, training of employees) in such a manner as to show ‘deliberate indifference’ to the risk that not addressing the need will result in constitutional violations.” *Baker*, 326 F. 3d at 1306-07. The standard for deliberate indifference for purposes of municipal liability is lower than the standard for deliberate inference for purposes of Eighth Amendment violations because a showing of subjective indifference is not required. Rather the plaintiff must show that the government “knew or should have known of the risk of constitutional violations, an objective standard.” *Id.* at 1307. For the reasons discussed above, the Court has already found that Defendants’ conduct meets this standard of deliberate indifference. *See Supra* III.A.1.b.

Based on both the conduct of a final policy maker and deliberate indifference, the Court finds that Plaintiffs have shown a likelihood of success on the merits of their municipal liability claims for the conditions of their confinement.

#### **d. Exhaustion**

Finally, Defendants contend that Plaintiffs cannot show a likelihood of success on the merits of their constitutional claims because Plaintiffs have failed to exhaust their administrative remedies. Pursuant to the Prison Litigation Reform Act (“PLRA”), “[n]o action shall be brought with respect to prison conditions ... by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a); *Porter v. Nussle*, 534 U.S. 516, 520 (2002) (holding that the PLRA’s “exhaustion requirement applies to all prisoners seeking redress for prison circumstances or occurrences”).

Defendants contend that Plaintiffs cannot bring their conditions of confinement claims because they have not exhausted the DOC's Inmate Grievance Procedures.

However, Defendants appear to be mistaken. Plaintiff Banks has submitted evidence that he filed an emergency grievance with Defendant Booth on March 24, 2020. *See* Ex. H, ECF No. 89-8. DOC policies require a response to emergency grievances within 72 hours. Ex. G, ECF No. 89-7, 17. However, Plaintiff had not received a response when this lawsuit was filed six days later on March 30, 2020. “[A] prison’s failure to timely respond to an inmate’s properly filed grievance renders its remedies ‘unavailable’ under the PLRA.” *Robinson v. Superintendent Rockview SCI*, 831 F.3d 148, 153 (3d Cir. 2016); *see also Lineberry v. Fed. Bureau of Prisons*, 923 F. Supp. 2d 284, 293 (D.D.C. 2013) (“If . . . prison officials . . . ignore such a request . . . exhaustion may be excused.” (internal quotation marks omitted)).

Because at least one Plaintiff has pursued available administrative remedies through the emergency grievance process, “the plaintiff class has met the filing prerequisite.” *Jackson v. District of Columbia*, 254 F.3d 262, 269 (D.C. Cir. 2001) (internal quotation marks omitted). The Court acknowledges that it has not yet ruled on Plaintiffs’ Motion to Certify a Class. ECF No. 3. However, the Court finds Plaintiffs’ evidence of exhaustion sufficient to show a likelihood of success on the merits of exhaustion.

## **2. Claims for Release**

While the Court finds that Plaintiffs have shown a likelihood of success on their claims for Eighth and Fifth Amendment violations based on the conditions of their confinement, the Court further finds that Plaintiffs have not shown a likelihood of success on the merits of their habeas claims for release. Plaintiffs have failed to show a likelihood of success on the merits of



their habeas claims because, without Court intervention, Defendants have already taken substantial steps to decrease the inmate population at DOC facilities.<sup>4</sup>

In the Court's TRO Order, the Court did not order Defendants to take any actions for the release of inmates. *See* ECF No. 50. Even before the Court issued its TRO Order, the adjudication of individualized petitions for release and the doubling of the maximum number of sentencing credits that a misdemeanant could receive had already led to the release of all but nine inmates convicted of misdemeanors. ECF No. 51, 27.

Since the Court's TRO Order, the population of the DOC facilities has continued to decline. In their oral report, the amici of the Court noted a "significant reduction" in the population of DOC facilities. Attachment 3, 7: 11-16. On March 24, 2020, the total inmate population at DOC facilities was 1,739. Dec. of Aaron Sawyer, ECF No. 80-1, ¶ 7. And, as of June 16, 2020, that population had decreased to 1,260. This reduction represents a population decrease of approximately 28%. *See* Pls.' Mot., ECF No. 70, 1-2 (lauding Arlington County Detention Center for decreasing its inmate population by slightly less than a third).

This reduction has been accomplished through many avenues. As has already been discussed, both the Superior Court for the District of Columbia and the United States District Court for the District of Columbia have adjudicated individual petitions for release relating to the COVID-19 crisis. Additionally, the DOC doubled the maximum number of sentencing credits that a misdemeanant could receive in order to expedite the release of non-dangerous misdemeanants. And, the Metropolitan Police Department and the United States Attorney's

---

<sup>4</sup> Throughout their briefing, the parties devote considerable space to arguing about whether or not the Prison Litigation Reform Act ("PLRA") applies to Plaintiffs' habeas requests for release. Because the Court concludes that Plaintiffs have not shown a sufficient need for the release of inmates, at this time, the Court does not need to determine whether or not the PLRA would apply to Plaintiffs' habeas claims.

Office have made efforts to classify more offenses as citations not requiring detention.

Attachment 3, 49: 1-3.

The United States Marshals Service has also taken steps to reduce the inmate population. As of April 14, 2020, the Marshals Service ceased processing federal arrests through DOC facilities. Dec. of Aaron Sawyer, ECF No. 80-1, ¶ 12. And, in early June 2020, the Marshals Service moved approximately 120 sentenced and designated inmates from DOC facilities to BOP quarantine facilities where they will await transfer to other BOP facilities. *Id.* at ¶¶ 7-9. In addition, the Marshals Service has transferred approximately 15 inmates at high risk for contracting COVID-19 and is working to transfer approximately 20 more high-risk inmates. *Id.* at ¶ 10. The Marshals Service has further collaborated with the United States Attorney's Office for the District of Columbia in an effort to transfer 50-100 inmates who are committed to other institutions but are being temporarily detained in DOC facilities. *Id.* at ¶ 11. The Court commends the Marshals Service's success in moving inmates from DOC facilities particularly given the travel restrictions and other regulations stemming from COVID-19 and their other responsibilities.

Additionally, the United States Parole Commission has made progress in reducing the inmate population at DOC facilities. Starting in mid-March 2020, the Parole Commission has reduced the number of warrants issued for parole and supervised release violations to those posing an imminent risk to public safety. Dec. of Stephen J. Husk, ECF No. 80-3, ¶ 5. And, on April 3, 2020, the Parole Commission began reviewing supervised release violators to consider reducing the prison term imposed for offenders 60 years of age or older who meet certain requirements. *Id.* at ¶ 7. During April 2020, the Parole Commission further individually reviewed each inmate confined on a parole matter and considered them for possible release. *Id.* at ¶ 8.

Throughout the end of May and the beginning of June 2020, the Parole Commission has also been reviewing approximately 90 offenders who have detainers against them to apply heightened scrutiny to see if the detainer may be removed. *Id.* at ¶ 13. These efforts have resulted in the DOC inmate population under the Parole Commission's jurisdiction being reduced from 270 on March 16, 2020 to 121 as of May 21, 2020. *Id.* at ¶ 6.

Plaintiffs complain that the steps that Defendants have taken are too little too late. While the Court agrees that more can yet be accomplished, the Court finds that Defendants have taken concrete steps, dating from before the TRO Order, to reduce the inmate population at DOC facilities. Without Court intervention, the DOC inmate population has already decreased by approximately 28%, and Defendants have indicated steps that will be taken to continue to reduce the population. As such, the Court finds that Plaintiffs are unlikely to prevail on their habeas claims for release.

The Court acknowledges that reducing the inmate population will likely slow the spread of COVID-19. However, in addition to individual inmates who have requested reviews for release, Defendants have already initiated systematic approaches to inmate population reduction without Court intervention. The Court finds it necessary and proper for Defendants to continue updating the Court on their approaches to inmate population reduction and for the Court to continue reviewing those approaches. However, at this time, the Court does not find that additional intervention is warranted on this issue.

For the reasons explained above, the Court finds that Plaintiffs have not established a likelihood of success on their habeas claims for release. The Court DENIES WITHOUT PREJUDICE Plaintiffs' Motion on this ground.

## B. Irreparable Harm

Next, the court considers whether or not Plaintiffs have made a showing of irreparable harm on their constitutional claims for conditions of confinement. “[P]erhaps the single most important prerequisite for the issuance of a preliminary injunction is a demonstration that if it is not granted the applicant is likely to suffer irreparable harm before a decision on the merits can be rendered.” *Sierra Club v. United States Army Corps of Engineers*, 990 F. Supp. 2d 9, 38 (D.D.C. 2013) (quoting 11A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 2948.1 (2d ed.2013)). “[P]roving irreparable injury is a considerable burden, requiring proof that the movant’s injury is *certain, great and actual*—not theoretical—and *imminent*, creating a clear and present need for extraordinary equitable relief to prevent harm.” *Power Mobility Coal. v. Leavitt*, 404 F. Supp. 2d 190, 204 (D.D.C. 2005) (citations and internal quotation marks omitted, emphasis in original).

Plaintiffs’ theory of irreparable harm rests on the risk of contracting COVID-19 and the resulting health complication. The Court concludes that Plaintiffs’ risk of contracting COVID-19 and the resulting complications, including the possibility of death, is the prototypical irreparable harm. *See Harris v. Board of Supervisors, Los Angeles County*, 366 F.3d 754, 766 (9th Cir. 2004) (finding irreparable harm from pain, infection, and possible death due to delayed treatment from the reduction of hospital beds). “Facing requests for preliminary injunctive relief, courts often find a showing of irreparable harm where the movant’s health is in imminent danger.” *Al-Joudi v. Bush*, 406 F. Supp. 2d 13, 20 (D.D.C. 2005) (citing *Wilson v. Group Hosp. & Med. Servs., Inc.*, 791 F. Supp. 309, 314 (D.D.C. 1992) (granting preliminary injunction where cancer patient’s “health and future remain[ed] in serious doubt” and insurance would not pay for life-saving treatment)).

Defendants do not appear to contest that the risk of contracting COVID-19 constitutes irreparable harm. Instead, Defendants contend that Plaintiffs cannot establish irreparable harm “given that the considerable efforts of DOC are working to slow and prevent the spread of COVID-19 in its facilities.” D.C. Defs.’ Opp’n, ECF No. 82, 37. Defendants further argue that “the three plaintiffs have failed to show that they are facing any risk of imminent harm themselves” as each Plaintiff has not submitted an individualized declaration of potential risk. *Id.*

The Court disagrees. Plaintiffs have submitted evidence that “people living and working in DC DOC facilities remain at risk of serious harm due to COVID-19 infection.” Dec. of Jaimie Meyer, ECF No. 70-2, ¶ 3. While the Court lauds the progress Defendants have made, such progress is not sufficient to negate Plaintiffs’ risk of harm from contracting COVID-19. This risk of harm applies to Plaintiffs as COVID-19 is an infectious disease which spreads quickly and fatally in congregate settings, such as DOC facilities. “The risk posed by infectious diseases in jails and prisons is significantly higher than in the community, both in terms of risk of transmission, exposure, and harm to individuals who become infected.” Dec. of Jaimie Meyer, ECF No. 5-2, ¶ 9. As inmates at DOC facilities, this increased risk of exposure, contraction, and harm applies to Plaintiffs. The fact that the increased risk is widespread among inmates at DOC facilities does nothing to reduce Plaintiffs’ potential for irreparable harm.

Defendants, as well as society at large, are facing an unprecedented challenge. The risks of contracting COVID-19 are very real for those both inside and outside DOC facilities. However, Plaintiffs have produced evidence that inadequate precautionary measures at DOC facilities have increased their risk of contracting COVID-19 and facing serious health consequences, including death. Given the gravity of Plaintiffs’ asserted injury, as well as the

permanence of death, the Court finds that Plaintiffs have satisfied the requirement of facing irreparable harm unless injunctive relief is granted.

### **C. The Balance of Hardships and the Public Interest**

The Court moves to the final factors to be considered in granting a temporary restraining order—the balance of the equities and the public interest. In this case, where the government is a party to the suit, the harm to Defendants and the public interest merge and “are one and the same, because the government’s interest *is* the public interest.” *Pursuing America’s Greatness v. FEC*, 831 F.3d 500, 511 (D.C. Cir. 2016) (emphasis in original). The Court finds that the public interest weighs in favor of granting injunctive relief on Plaintiffs’ constitutional claims for the conditions of their confinement.

First, the Court notes that Plaintiffs have established a likelihood that they will prevail on the merits of their due process and Eighth Amendment claims. And, “[i]t is always in the public interest to prevent the violation of a party’s constitutional rights.” *Simms v. District of Columbia*, 872 F. Supp. 2d 90, 105 (D.D.C. 2012) (internal quotation marks omitted). There is no harm to the Government when a court prevents unlawful practices.

Additionally, granting injunctive relief which lessens the risk that Plaintiffs will contract COVID-19 is in the public interest because it supports public health. No man’s health is an island. If Plaintiffs contract COVID-19, they risk infecting others inside the DOC facilities. Plaintiffs also risk infecting DOC staff members who work inside DOC facilities but also live in the community, thus increasing the number of people vulnerable to infection in the community at large. Additionally, if Plaintiffs contract COVID-19 and experience complications, “they will be transported to community hospitals— thereby using scarce community resources (ER beds, general hospital beds, ICU beds).” Dec. of Marc Stern, ECF No. 1-1, ¶ 13. As such, ordering

Defendants to take precautions to lower the risk of infections for Plaintiffs also benefits the public.

Defendants argue that imposing injunctive relief will disrupt efforts already underway to address the COVID-19 crisis. Defendants contend that injunctive relief would impose an undue burden which would divert time and resources from the precautions already being undertaken.

However, the Court finds that the relief which will be granted, to be detailed below, is narrowly tailored and does not impose an undue burden on Defendants. The Court begins by noting that the D.C. Circuit “has rejected any distinction between a mandatory and prohibitory injunction.” *League of Women Voters of United States v. Newby*, 838 F.3d 1, 7 (D.C. Cir. 2016). Declarations by DOC officials claim that Defendants are already complying with much of the requested relief. *See, e.g.*, Dec. of Lennard Johnson, ECF No. 82-1, ¶ 6 (social distancing enforced); ¶ 8 (clean linens and clothing for inmates); ¶ 10 (availability of free legal calls); Dec. of Beth Jordon, ECF No. 82-2, ¶ 4 (description of practices in isolation units); ¶ 5 (quarantine and isolation standards); ¶¶ 8-9 (enhanced sick call process); ¶ 10 (testing). The Court’s Order simply ensures that the precautions are being taken consistently and effectively. Moreover, the Court does not order Defendants to take precautions that are not already being undertaken by much of the population. In lessening the number of inmates infected with COVID-19, Defendants actually lessen the healthcare burden that they will be facing in the weeks and months to come.

Defendants further argue that ordering injunctive relief will impose on the broad discretion of the executive in operating correctional institutions. The Court acknowledges the public interest in permitting the government discretion to carry out its authorized functions. However, “[c]ourts may not allow constitutional violations to continue simply because a remedy

would involve intrusion into the realm of prison administration.” *Brown*, 563 U.S. at 511. The D.C. Circuit has previously authorized injunctive relief against correctional facilities, even where the injunctive relief imposes a particular set of conditions. *See Campbell v. McGruder*, 580 F.2d 521, 551-52 (D.C. Cir. 1978) (finding specific conditions not unduly intrusive because there was “no alternative if the rights of pretrial detainees are to be respected”). And, other courts have also found that the balance of the equities favors injunctive relief to ensure that inmates are adequately protected from the threat of COVID-19. *See Seth v. McDonough*, Case No. 20-cv-1028, 2020 WL 2571168 (D. Md. May 21, 2020) (granting injunctive relief requiring correctional facility to take actions on testing, PPE, training, education, supervision, and medical care due to COVID-19); *Cameron v. Bouchard*, Case No. 20-10949, 2020 WL 1929876 (E.D. Mich. April 17, 2020) (injunctive order mandating correctional facility take certain steps involving sanitation, PPE, and medical care in response to COVID-19); *Mays v. Dart*, Case No. 20-C-2134, 2020 WL 1987007 (N.D. Ill. April 27, 2020) (granting injunctive relief ordering correctional facility to conduct specific testing, enforce social distancing, provide specified sanitation materials, and more).

For the foregoing reasons, the Court finds that the balance of the equities and the public interest weigh in favor of granting injunctive relief.

#### **D. Specific Relief Granted**

While the Court has concluded that, on the current factual record, Plaintiffs are entitled to some injunctive relief, the Court is not granting the totality of the relief requested.

First, the Court does not order the release of any inmates. However, the Court does ORDER the United States to provide the Court with a detailed plan for the review and possible further reduction of DOC inmates under their supervision/care by JULY 1, 2020. The Court



further ORDERS the United States Parole Commission to provide the Court with a detailed plan for the review and possible further reduction of DOC inmates under their supervision/care by JULY 1, 2020.

As to the conditions of Plaintiffs' confinement, the Court ORDERS the following.

First, the Court ORDERS that Defendants implement a medical care system on general population units that ensures inmates receive attention from a medical provider within 24 hours of reporting health issues. If this system continues to use sick call slips, Defendants shall ensure that inmates have consistent and immediate access to such sick call slips and that said slips are collected at regular intervals. Defendants shall provide the Court with details of their enhanced medical care system by JUNE 29, 2020.

Second, the Court ORDERS that Defendants comply with District of Columbia and Centers for Disease Control regulations on social distancing in DOC facilities. Defendants shall address challenges which have prevented the implementation of social distancing including but not limited to lack of education and staffing shortages. Defendants shall provide the Court an update on their improvements to enforcing social distancing by JUNE 29, 2020.

Third, Defendants shall continue the services of their newly-contracted environmental health and safety vendor. Defendants shall further continue their contract to provide COVID-19 cleaning services on the secure and non-secure sides of the DOC facility, including the common areas of all housing units. Defendants shall further continue their efforts to hire a registered sanitarian. Defendants shall ensure that inmates have access to the necessary materials to clean their cells, including cleaning solutions which protect against COVID-19 and adequate cleaning textiles and tools. Defendants shall further ensure that DOC staff and inmates are informed of and trained on the proper techniques for mixing and preparing cleaning solutions as necessary.

Defendants shall provide the Court an update on their improvements to sanitation by JUNE 29, 2020.

Fourth, Defendants shall ensure that conditions in isolation units are non-punitive. This includes ensuring reliable and regular access to legal calls, personal telephone calls, daily showers, and clean clothing and clean linens to all inmates on isolation status. Defendants shall provide the Court an update on their improvements to conditions in isolation cells by JUNE 29, 2020.

Fifth, Defendants shall ensure that all inmates have access to confidential, unmonitored legal calls of a duration sufficient to discuss legal matters. Insofar as inmates' access to confidential, unmonitored legal calls is reliant on the use of new technology, Defendants shall swiftly implement the use of such technology. Defendants shall provide the Court an update on their improvements to the legal call system by JUNE 29, 2020.

Finally, the Court notes that Defendants have increased testing for COVID-19, now testing any resident to be transferred to Saint Elizabeths Hospital or to a federal correctional facility. Defendants also test any cell mate of an inmate who tests positive and all new residents upon intake. Defendants continue to test those inmates who report positive for COVID-19 symptoms. The Court ORDERS that Defendants continue implementing this increased testing. The Court further ORDERS that Defendants update the Court on any changes to the testing protocol at DOC facilities, including the further testing of asymptomatic inmates.

After the Court has received the ordered updates, the Court shall schedule a further hearing to discuss next steps and the continued role of the amici of the Court.

#### IV. CONCLUSION

For the foregoing reasons, Plaintiffs' [70] Amended Motion for a Preliminary Injunction is GRANTED IN PART AND DENIED IN PART. Plaintiffs have demonstrated a likelihood of success on the merits, irreparable harm, and that the balance of the hardships and the public interest weigh in their favor for their constitutional claims involving the conditions of their confinement. Accordingly, Plaintiffs are entitled to the injunctive relief which is detailed above. However, the Court finds that some of the relief requested by Plaintiffs, such as the immediate release of inmates and the appointment of a downsizing expert, is inappropriate at this time on the current factual record.

An appropriate Order accompanies this Memorandum Opinion.

/s/  
\_\_\_\_\_  
COLLEEN KOLLAR-KOTELLY  
United States District Judge