IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS REMICK, NADIYAH WALKER, JAY DIAZ, MICHAEL ALEJANDRO, MICHAEL DANTZLER, ROBERT HINTON, JOSEPH WEISS, JOSEPH SKINNER, SADDAM ABDULLAH, and JAMES BETHEA, on behalf of themselves and all others similarly situated, **Plaintiffs-Petitioners,** **v.** **CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,** **Defendants-Respondents.**	**Case No.** **ELECTRONICALLY FILED** **IMMEDIATE RELIEF SOUGHT**

CLASS ACTION COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION FOR WRITS OF HABEAS CORPUS

INTRODUCTION

1. Plaintiffs-Petitioners ("Plaintiffs") are ten individuals held at the Philadelphia Department of Prisons ("PDP") who, as a result of the policies, practices, and actions adopted and undertaken by Defendants-Respondents ("Defendants"), are at significant risk of contracting COVID-19 (also known as the Coronavirus) and suffering from severe disease and possible death. The current conditions of confinement at PDP's facilities create a heightened and unreasonable risk of COVID-19 for any confined person, and a substantial risk of severe illness or death for those who are elderly and/or medically vulnerable to COVID-19. The named Plaintiffs, on their own behalf and on behalf of all others similarly situated, seek immediate changes in the conditions

of their confinement to protect them from this clear and present danger of disease and death, and to ensure humane living conditions, as required by the United States Constitution. Plaintiffs seek injunctive relief that would require, among other things, Defendants to comply with recognized public health and safety measures, as adopted by the Centers for Disease Control and Prevention ("CDC"), to prevent the spread of the virus for those confined at jails and prisons.

2. Absent the implementation of and strict adherence to emergency measures that comply with these recommended public health and safety measures, Plaintiffs seek the release of individuals 55 and older and those with medical conditions that place them at heightened risk of severe illness or death from COVID-19, as these individuals face heightened risks of life-threatening conditions, and their removal from PDP would facilitate the quarantine and social distancing measures recommended by the CDC and other public health officials.

3. Prisons and jails have become epicenters of COVID-19 in cities throughout the country. In the PDP, on April 16, the city reported that a cumulative total of 100 incarcerated people had tested positive for the virus.[1] The next day, Philadelphia Commissioner of Public Health Dr. Thomas Farley reported an additional thirteen new cases within the PDP.[2] By Sunday, April 19, the number of total reported cases rose to over 120.[3] These numbers will continue to rise

[1] On Thursday, April 16, 2020, Philadelphia Managing Director Brian Abernathy provided this information during an April 16th, 2020 press conference. *See* Philadelphia Department of Public Health, *Update on COVID-19 Coronavirus Response in Philadelphia*, Facebook (April 16, 2020), https://www.facebook.com/phillyhealth/videos/175556743555021 (Managing Director Abernathy noting that 100 incarcerated individual tested positive at approximately the 26 minute mark).

[2] *See* Philadelphia Department of Public Health, *Update on COVID-19 Coronavirus Response in Philadelphia,* Facebook (April 17, 2020), https://www.facebook.com/phillyhealth/videos/2975919772519206/ (Dr. Farley noting the increase at approximately the 12 minute mark).

[3] *See* Max Marin & Aaron Moselle, *'Scared for Their Lives': Inside the Coronavirus Outbreak in Philadelphia's Jails,* WHYY (April 19, 2020), https://whyy.org/articles/scared-for-their-lives-inside-the-coronavirus-outbreak-in-philadelphias-jails/.

exponentially. The population within PDP is uniquely vulnerable to the spread of COVID-19 due to the congregate nature of jails, exacerbated by unnecessary crowding, inadequate sanitation, denial of hygiene products, and inadequate quarantine procedures. The current conditions within PDP's facilities create an extreme risk for the rapid, uncontrollable spread of COVID-19 among the incarcerated population, correctional officers, health care workers, and beyond jail walls to the larger Philadelphia community.

4. To comply with basic Constitutional guarantees against cruel and unusual punishment and due process of law, conditions must be substantially improved to adhere to CDC guidelines for social distancing and enhanced sanitation and hygiene practices. Defendants must implement adequate quarantine and social distancing protocols; provide adequate hygiene supplies; ensure that sanitation practices conform to CDC standards; conduct recreation and meal service in a manner that allows for appropriate social distancing; and require the use of Personal Protective Equipment ("PPE") for staff and those incarcerated.

I. JURISDICTION AND VENUE

5. Plaintiffs bring this putative class action pursuant to 22 U.S.C. § 2241, 42 U.S.C. § 1983, 28 U.S.C. §§ 2201, 2202, and the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. ("ADA"), for relief from both detention and conditions of confinement that violate their Fourteenth Amendment and/or Eighth Amendment rights under the U.S. Constitution.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. § 1343(a) (civil rights jurisdiction), and 28 U.S.C. § 1331 (federal question jurisdiction).

7. This Court is the appropriate venue pursuant to 28 U.S.C. § 1391(b)(2) because the events and omissions giving rise to the claims occurred in the Eastern District of Pennsylvania.

II. PARTIES

8. Thomas Remick, Nadiyah Walker, Jay Diaz, Michael Alejandro, Michael Dantzler, Robert Hinton, Joseph Weiss, Joseph Skinner, Saddam Abdullah and James Bethea are all adult individuals currently incarcerated at a PDP facility and are at a heightened risk for more severe symptoms and potential death from COVID-19 due to their age and/or underlying medical conditions. They sue for injunctive and declaratory relief on behalf of themselves and on behalf of those who currently are or will in the future be subject to these unconstitutional conditions of confinement within the PDP.

9. Defendant City of Philadelphia is a political subdivision organized and existing under the laws of the Commonwealth of Pennsylvania. The City of Philadelphia funds, controls, and operates the Philadelphia Department of Prisons. The City of Philadelphia currently has immediate custody over Plaintiffs and all other putative class members.

10. Defendant Blanche Carney is the Commissioner of PDP. Defendant Carney currently has immediate custody over Plaintiffs and all other putative class members. Defendant Carney is a policymaker for the City of Philadelphia, and she is sued in her official capacity.

11. Defendant City of Philadelphia and Carney have at all relevant times acted under color of state law.

III. FACTUAL ALLEGATIONS

A. COVID-19 Poses a Significant Risk of Illness, Injury, and Death.

12. We are in the midst of the most significant pandemic in generations. As of April 20, 2020, there were 32,284 confirmed cases of COVID-19 in Pennsylvania and 1,112 deaths.[4,5] In the City of Philadelphia, there have been 8,764 cases and 240 deaths as of April 20.[6] These numbers likely underestimate the impact and spread of the virus, given the lack of testing.[7]

13. The virus spreads from person to person through respiratory droplets, close personal contact, and from contact with contaminated surfaces and objects.[8] There is no vaccine against COVID-19, and there is no known medication to prevent or treat infection.[9] Social distancing (deliberately keeping at least six feet of space between persons[10]) and a vigilant hygiene regimen, including washing hands frequently with soap and water, are the only known measures

[4] *See* Exhibit A, Expert Declaration of Dr. Joseph Amon, Ph.D. MSPH, ¶ 5 ("Amon Decl."). Dr. Amon is an infectious disease epidemiologist, Director of Global Health and Clinical Professor in the department of Community Health and Prevention at the Drexel Dornsife School of Public Health with past experience as an epidemiologist in the Epidemic Intelligence Service of the U.S. Center for Disease Control and Prevention.

[5] COVID-19 Data for Pennsylvania, Philadelphia Department of Health (April 2020), https://cutt.ly/Tt1J66h.

[6] *Id.*

[7] *See* Exhibit B, Expert Declaration of Robert L. Cohen, M.D., ¶ 24(i) ("Cohen Decl."). Dr. Cohen, an internist with more than 30 years of experience, is an expert in correctional health care and correctional health system management. He has been appointed as a federal court monitor of healthcare delivery in jails and prisons around the country and for decades has provided expert consulting on conditions within the PDP.

[8] Amon Decl. ¶ 21; Cohen Decl. ¶ 11.

[9] Amon Decl. ¶ 6; Cohen Decl. ¶ 2.

[10] Amon Decl. ¶ 22-24; Cohen Decl. ¶ 21.

for protecting against transmission of COVID-19.[11] Because the coronavirus spreads among people who do not show symptoms, *everyone* has to act as if *everyone* has the disease.[12]

14. The older a person is, the greater their risk of serious illness or death from COVID-19.[13] A February 29, 2020 preliminary report found that individuals age 50-59 had an overall mortality rate of 1.3%; 60-69-year-olds had an overall 3.6% mortality rate, and those 70-79 years old had an 8% mortality rate.[14]

15. People of any age are also at an elevated risk if they suffer from certain underlying medical conditions, including lung disease, heart disease, chronic liver or kidney disease (including hepatitis and dialysis patients), diabetes, epilepsy, hypertension, compromised immune systems (such as from cancer, HIV, or autoimmune disease), blood disorders (including sickle cell disease), inherited metabolic disorders, stroke, developmental delay, or asthma.[15] An early report from the World Health Organization ("WHO") estimated the mortality rate of 13.2% for COVID-19 patients with cardiovascular disease, 9.2% for diabetes, 8.4% for hypertension, 8.0% for chronic respiratory disease, and 7.6% for cancer.[16]

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[11] Amon Decl. ¶ 22-24; Cohen Decl. ¶ 9.

[12] Cohen Decl. ¶ 12.

[13] Amon Decl. ¶ 9 (observing that "those ≥54 years could be considered high risk for severe disease and death."); Cohen Decl. ¶ 36.

[14] *Age, Sex, Existing Conditions of COVID-19 Cases and Deaths* Chart, https://cutt.ly/ytEimUQ (data analysis based on WHO China Joint Mission Report).

[15] Amon Decl. ¶ 8; Cohen Decl. ¶ 43.

[16] *Report of the WHO-China Joint Mission on Coronavirus Disease 2019 (COVID-19)*, World Health Organization (Feb. 28, 2020), at 12, https://www.who.int/docs/default-source/coronaviruse/who-china-joint-mission-on-covid-19-final-report.pdf

16. The need for care, including intensive care, and the likelihood of death, is much higher from COVID-19 infection than from influenza.[17] According to recent estimates, the fatality rate of people infected with COVID-19 is about ten times higher than a severe seasonal influenza, even in advanced countries with highly effective health care systems.[18] For people in the highest risk populations, the fatality rate of COVID-19 infection can be greater than 13 percent.[19] Patients who do not die from serious cases of COVID-19 may face prolonged recovery periods, including extensive rehabilitation from neurological damage, loss of digits, and loss of respiratory capacity.[20]

B. COVID-19 Poses an Increased Risk of Serious Harm or Death in Correctional Settings, Including the PDP.

17. People in congregate environments—places where people live, eat, and sleep in close proximity—face increased danger of coronavirus infection and COVID-19, as already evidenced by the rapid spread of the virus in cruise ships and nursing homes.[21] It is extremely difficult, and at times impossible, for people who are confined in prisons, jails, and detention centers to engage in the necessary social distancing and hygiene required to mitigate the risk of transmission of the disease.[22]

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[17] *House Oversight and Reform Committee Hearing on Coronavirus Response, Day 1*, C-SPAN (March 11, 2020), https://www.c-span.org/video/?470224-1/dr-fauci-warns-congress-coronavirus-outbreak-worse.

[18] *How the Novel Coronavirus and the Flu are Alike...and Different*, NPR (March 20, 2020), https://www.npr.org/sections/goatsandsoda/2020/03/20/815408287/how-the-novel-coronavirus-and-the-flu-are-alike-and-different.

[19] Cohen Decl. ¶ 44.

[20] Y. Wu et al., *Nervous System Involvement After Infection with COVID-19 and Other Coronaviruses* (March 30, 2020), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7146689/.

[21] Amon Decl. ¶ 29; Cohen Decl. ¶ 5.

[22] *Id.*

18. Correctional settings further increase the risk of contracting COVID-19 because of the concentration of people with chronic, often untreated, illnesses in a setting with minimal levels of sanitation, limited access to personal hygiene, limited access to medical care, presence of many high-contact surfaces, and no possibility of staying at a distance from others.[23]

19. Incarcerated people are dying, including a recent death of an incarcerated person at the Riverside Correctional Facility ("RCF"), the women's prison within the PDP.[24] At the Chicago Cook County Jail and at New York City Rikers Island, the transmission rates for COVID-19 are estimated to be the highest in the world.[25]

20. Numerous public health experts, including Dr. Joseph Amon,[26] Dr. Robert L. Cohen,[27] Dr. Gregg Gonsalves,[28] Ross MacDonald,[29] Dr. Marc Stern,[30] Dr. Oluwadamilola T.

[23] Amon Decl. ¶¶ 28-29, 33-35, 38, 43, 45; Cohen Decl. ¶¶ 4-5, 36.

[24] Jeremy Roebuck, Laura McCrystal, Chris Palmer and Dylan Purcell, *Philly Reports First Inmate Death From Coronavirus In Its Jails*, Philadelphia Inquirer (April 14, 2020) https://www.inquirer.com/news/philly-jail-coronavirus-death-inmate-first-blanche-carney-20200414.html; *see also He Died In Prison From The Coronavirus — Three Days Before A Breakthrough In His 30-Year Fight To Clear His Name*, Philadelphia Inquirer (April 15, 2020), https://www.inquirer.com/news/sci-phoenix-coronavirus-death-rudolph-sutton-pennsylvania-innocence-project-20200415.html (detailing first death from COVID-19 in the Pennsylvania Department of Corrections).

[25] Amon Decl. ¶ 38; Cohen Decl. ¶ 17-18, 39.

[26] Amon Decl. ¶ 63.

[27] Cohen Decl. ¶ 4-6.

[28] Kelan Lyons, *Elderly Prison Population Vulnerable to Potential Coronavirus Outbreak*, Connecticut Mirror (March 11, 2020), https://cutt.ly/BtRSxCF.

[29]Craig McCarthy and Natalie Musumeci, *Top Rikers Doctor: Coronavirus 'Storm is Coming,'* New York Post (March 19, 2020), https://cutt.ly/ptRSnVo.

[30] Marc F. Stern, MD, MPH, *Washington State Jails Coronavirus Management Suggestions in 3 "Buckets,"* Washington Assoc. of Sheriffs & Police Chiefs (March 5, 2020), https://cutt.ly/EtRSm4R.

Oladeru and Adam Beckman,[31] Dr. Anne Spaulding,[32] Homer Venters,[33] the faculty at Johns Hopkins schools of nursing, medicine, and public health,[34] and Josiah Rich[35] have all strongly cautioned that people booked into and held in jails are likely to face serious, even grave, harm due to the COVID-19 pandemic.

21. Each day of the past week, between 1 and 13 new people have tested positive for the virus within PDP with greater than 120 cases reported within the facilities.[36] On April 17, 2020, at the City's daily Update on COVID-19 Response in Philadelphia, Dr. Thomas Farley, Commissioner of Public Health, announced that there were 13 new cases in PDP in one day alone.[37]

22. Two weeks ago, within PDP, the infection rate was more than double the rate of infection of the City as a whole.[38]

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[31] Oluwadamilola T. Oladeru, et al., *What COVID-19 Means for America's Incarcerated Population – and How to Ensure It's Not Left Behind*, (March 10, 2020), https://cutt.ly/QtRSYNA.

[32] Anne C. Spaulding, MD MPDH, *Coronavirus COVID-19 and the Correctional Jail*, Emory Center for the Health of Incarcerated Persons (March 9, 2020).

[33] Madison Pauly, *To Arrest the Spread of Coronavirus, Arrest Fewer People*, Mother Jones (March 12, 2020), https://cutt.ly/jtRSPnk.

[34] Letter from Faculty at Johns Hopkins School of Medicine, School of Nursing, and Bloomberg School of Public Health to Hon. Larry Hogan, Gov. of Maryland, March 25, 2020, https://cutt.ly/stERiXk.

[35] Amanda Holpuch, *Calls Mount to Free Low-risk US Inmates to Curb Coronavirus Impact on Prisons*, The Guardian (March 13, 2020 3:00 p.m.), https://cutt.ly/itRSDNH.

[36] *See supra* notes 1-2.

[37] *See supra* note 2.

[38] *See* The Defender Association of Philadelphia, *Covid-19 in Philly Jails*, https://www.philadefender.org/wp-content/uploads/2020/04/Jail-Infection-Jurisdictions-and-Zip_Landing-Page_4.8.20.pdf; Cohen Decl. ¶ 7.

23. The higher rate of COVID-19 infections in the PDP exacerbates the disproportionate impact the virus has had on people of color, both nationally and in Philadelphia.[39] In Philadelphia, Black people make up 44 percent of the City's total population, yet as of February, over 69 percent of the incarcerated people in the PDP were Black, and almost 19 percent were Latinx, with racial minorities totaling over 88 percent of the incarcerated population.[40]

24. Staff as well as incarcerated people are being infected with COVID-19. Defendants have adopted a policy of not disclosing the number of correctional officers who have tested positive, but as of April 16, 2020, 43 officers self-reported positive tests.[41]

25. Risk mitigation is the only viable strategy to combat the spread of COVID-19 and prevent serious harm or death to class members.[42] This requires creating and implementing a comprehensive plan to address the spread of COVID-19 in PDP. Given the current population numbers and the housing structures within PDP, risk mitigation also requires the release of individuals who are at high risk of severe disease if infected with COVID-19.[43] Release of the medically vulnerable population protects them from transmission of COVID-19, limits the burden

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[39] Ryan Briggs, Nina Feldman, *African Americans Lead Coronavirus Deaths In Philadelphia*, WHYY (April 8, 2020), https://whyy.org/articles/african-americans-lead-coronavirus-deaths-in-philadelphia/; *see also* CBS News, *Philadelphia's Black Communities Disproportionately Hit By City's Coronavirus Pandemic* (April 10, 2020), https://www.cbsnews.com/news/coronavirus-pandemic-philadelphia-black-communities-disproportionately-hit/.

[40] Philadelphia Jail Report: July 2016 – February 2020, https://www.phila.gov/media/20200320153910/Full-Public-Jail-Report-February-2020-1.pdf.

[41] Prisoners Being Released from City, State Prisons Are Not Being Tested for COVID-19, NBC Philadelphia (April 16, 2020), https://www.nbcphiladelphia.com/investigators/prisoners-being-released-from-city-state-prisons-are-not-being-tested-for-covid-19/2365885/.

[42] *See* Amon Decl. ¶ 60; Cohen Decl. ¶ 9.

[43] Amon Decl. ¶ 60; Cohen Decl. ¶ 43.

on the region's health care infrastructure by reducing the number of people who will become seriously ill from COVID-19, and facilitates other risk mitigation measures.[44]

26. Defendants have failed to respond to and manage the continued risk of harm posed by the COVID-19 outbreak by not following public health guidance from the CDC for correctional facilities. The guidelines require: (a) providing all incarcerated persons a six-foot radius or more of distance from any other persons, including during meals, transportation, court sessions, recreation, counts, and all other activities; (b) instituting a safety plan to prevent a COVID-19 outbreak in PDP's facilities in accordance with CDC guidelines; (c) making sanitation solutions readily and freely available for the purposes of cleaning cells, dormitories, laundry, and eating areas, including sufficient antibacterial soap, and lifting any ban on alcohol-based hygiene supplies (e.g. hand sanitizer, cleaning wipes); (d) providing adequate and appropriate COVID-19 testing for incarcerated persons, jail staff, and visitors; (e) waiving all medical co-pays for those experiencing COVID-19 like symptoms; and (f) providing sufficient personal protective equipment, particularly masks, and to all staff and incarcerated people.[45]

[44] Amon Decl. ¶ 51, 60; Cohen Decl. ¶ 10, 43.

[45] Centers for Disease Control and Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html.

C. The Current Conditions of Confinement at PDP's Facilities Fail to Comply with CDC Guidelines and Exacerbate the Extreme and Imminent Danger Faced by Class Members of Contracting and Possibly Dying from COVID-19.

27. Defendants have failed to implement the necessary safeguards outlined above, thus creating extreme risk to all incarcerated individuals in the PDP, and imminent danger to Plaintiffs.[46]

28. Defendants fail to allow for adequate social distancing consistent with all public health guidelines.

a. The Detention Center ("DC") contains both dormitory-style housing ("dorms") as well as several cellblocks. Individuals housed in dorms sleep in bunk beds less than 6 feet apart. The dorms, in some circumstances, house more than 30 individuals in a unit. One block is comprised of multiple dorm units, each a cage-like structure, with only metal fencing separating each unit such that air flows between each block, allowing the transmission of COVID-19 between units. Social distancing is not possible in this setting.

b. Many people incarcerated in PDP are double-celled. In Curran-Fromhold Correctional Facility ("CFCF"), up to four people may be housed in a quarantine cell. Due to the size of the typical PDP cell, which contains bunk beds, a toilet, a sink, and sometimes a desk, it is difficult or impossible for cellmates to remain six feet apart at all times.

c. Phone usage is vital during the pandemic for people to contact their attorneys as well as friends and family who are not permitted to visit. Because of the way phones

[46] The named Plaintiffs have provided Declarations outlining their experiences in PDP's facilities. *See* Exhibit C. Plaintiffs' experts' Declarations review the concerning patterns and trends identified in those Declarations. *See* Amon Decl. ¶ 33; Cohen Decl. ¶ 24.

are positioned, using phones requires standing within two feet of other people for extended periods of time.

29. Defendants have failed to adequately and consistently provide necessary hygiene products for incarcerated people in PDP.

a. Soap is not available for all incarcerated people at all times, especially for those who cannot buy soap from the commissary. Some who have requested soap from correctional officers were told that no free soap is available.

b. At least one named Plaintiff went without soap for four days.

c. Plaintiffs are unable to consistently wash their hands.

d. PDP does not provide any hand sanitizer to those incarcerated within their facilities.

30. Defendants have failed to provide for adequate cleaning, sanitizing and disinfecting of all spaces.

a. Cleaning and disinfectant supplies are inadequate for regular and necessary cleaning of living areas, including cells. PDP failed to provide plaintiffs with the bleach and disinfectant necessary to clean their cells on a regular basis. Some Plaintiffs have gone for a month without being able to clean and disinfect their cells.

b. People at all PDP facilities must share phones that are not disinfected between uses.

c. People at all PDP facilities must share showers, sinks, and toilets that are not cleaned or disinfected between each use.

d. No toilets in PDP facilities have lids. Many toilets fail to adequately flush, allowing waste matter to remain.

31. Defendants have failed to provide and mandate the use of adequate personal protective equipment.

a. Correctional officers, and even prison medical staff, inconsistently use masks and often interact with people without wearing masks. These same correctional officers move between different areas of PDP's facilities.

b. Although PDP has distributed cloth face masks to incarcerated people, PDP does not clean or exchange these cloth face masks on an adequate basis, and Plaintiffs have been required to wear the same mask for multiple days or weeks. Nor does PDP instruct people how to wear the masks.

32. Defendants have failed to provide for adequate isolation or quarantine measures.

a. Upon entry to the PDP, incarcerated people are placed into a "quarantine" unit. This is a standard prison practice for new admissions to jail facilities at all times. Due to the COVID-19 pandemic, the need for a quarantine unit is enhanced—and requires placement for a minimum of 14 days. In PDP facilities, however, people newly admitted are not always held in quarantine for a full 14 days before transfer to general population.

b. When an incarcerated person displays symptoms of COVID-19, he or she is frequently neither isolated nor tested for COVID-19.

c. Even if someone has tested positive for COVID-19 and is taken to another location, he or she is often returned to general population without testing to ensure that COVID-19 is no longer present or contagious.

33. PDP relies on near 24-hour lockdowns.

a. People are let out of their cells for a mere 15 minutes, occasionally once a day, but many PDP facilities do not let people out for days on end.

b. In these circumstances, people are unable to bathe or shower for multiple days.

c. For those in single or double cells, these conditions constitute solitary confinement, causing and exacerbating mental illness and mental distress.

d. People detained in these conditions suffer serious physical harms without the ability to exercise for prolonged periods of times.

e. With people locked in their cells for prolonged periods, access to medical care for chronic conditions and acute illnesses unrelated to COVID-19 has been severely limited.

34. PDP's measures have improperly interfered with the right to counsel.

a. Given the PDP's failure to take adequate risk mitigation measures, in-person legal visits pose an unreasonable medical risk to all involved.

b. Further, PDP administrators have not undertaken efforts to arrange legal calls between counsel and incarcerated clients, and any such efforts have resulted in a laborious and time-consuming process.

D. The Named Plaintiffs are at Heightened Risk due to the Unsafe and Inhumane Conditions of Confinement at PDP's Facilities.

35. Plaintiffs are at a heightened risk for serious illness and death due to medical vulnerabilities and/or age. These risks are exacerbated—thus further increasing the risk of serious illness or death—because Plaintiffs are incarcerated under the conditions described above.

36. Thomas Remick is a 30-year-old individual held at DC, who was diagnosed with sarcoma and requires regular chest x-rays. He also lives in a dorm setting.

37. Jay Diaz is a 30-year-old individual housed at RCF who suffers from asthma. He requires breathing treatments, which have not been provided despite his requests. He has stage 3 cervical and ovarian cancer.

38. Nadiyah Walker is a 43-year-old individual housed at RCF who suffers from seizure-causing epilepsy, diabetes, asthma, and anemia.

39. Michael Alejandro is a 27-year-old individual held at DC who suffers from asthma. He lives in a dorm setting.

40. Michael Dantzler is a 45-year-old individual incarcerated in the medical unit at DC. He has vascular disease that makes him prone to blood clots, and in February 2020, had emergency surgery to remove a pulmonary embolism. Even in the medical unit, Mr. Dantzler has not had his cell cleaned nor has he had access to cleaning products to clean the cell himself. A doctor comes to his cell every week, but the doctor does not always wear a mask.

41. Robert Hinton is a 63-year-old individual held at CFCF, who has Hepatitis C that has caused damage and scarring to his liver. He is currently experiencing pain on the side of his abdomen.

42. Joseph Weiss is a 57-year-old Army Veteran held at CFCF. Due to being wounded in combat, he has a metal rod and pins in his femur and walks with a cane.

43. Joseph Skinner is a 38-year-old individual held at CFCF with severe asthma currently incarcerated at CFCF. He must use an inhaler daily, has been hospitalized 4 or 5 times, and was previously intubated due to his asthma.

44. James Bethea is a 53-year-old individual housed at the Philadelphia Industrial Correctional Center ("PICC"), and suffers from asthma, Hepatitis C, arthritis, and diabetes.

45. Saddam Abdullah is a 29-year-old individual incarcerated at PICC. He has asthma and had 4 recent acute asthma attacks. His inhaler is not working, and after his most recent asthma attack, medical staff refused to provide a breathing treatment. He has experienced chills, loss of

taste and smell, and difficulty breathing. Because he did not have a fever, he was not tested for COVID-19 and was not medically isolated.

IV. CLASS ACTION ALLEGATIONS

46. Plaintiffs Remick, Walker, Diaz, Alejandro, Dantzler, Hinton, Weiss, Skinner, Abdullah, and Bethea bring this action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of themselves and a class of similarly situated individuals.

47. Plaintiffs Remick, Walker, Diaz, Alejandro, Dantzler, Hinton, Weiss, Skinner, Abdullah, and Bethea seek to represent a class of all current and future detainees held in custody at PDP's facilities ("Class"), including two subclasses: (1) persons who, by reason of age or medical condition, are particularly vulnerable to injury or death if they were to contract COVID-19 ("Medically-Vulnerable Subclass"), and (2) persons who, by reason of their disability, are particularly vulnerable to injury or death if they were to contract COVID-19 ("Disability Subclass").

48. The "Medically Vulnerable Subclass" is defined as all current and future persons in the custody of the Philadelphia Department of Prisons who are 55 or older,[47] as well as all current and future persons held of any age who have a medical condition that places them at increased risk of COVID-19 illness, injury, or death, including but not limited to: (a) lung disease, including asthma, chronic obstructive pulmonary disease (*e.g.* bronchitis or emphysema), or other chronic conditions associated with impaired lung function; (b) heart disease, such as congenital heart disease, congestive heart failure, or coronary artery disease; (c) chronic liver or kidney disease (including hepatitis and dialysis patients); (d) diabetes or other endocrine disorders; (e) epilepsy; (f) hypertension; (g) compromised immune systems (such as from cancer, HIV, receipt

[47] Amon Decl. ¶ 9; Cohen Decl. ¶ 43.

of an organ or bone marrow transplant, as a side effect of medication, or other autoimmune disease); (h) blood disorders (including sickle cell disease); (i) inherited metabolic disorders; (j) history of stroke; (k) a developmental disability; and/or (l) a current or recent (last two weeks) pregnancy. All Plaintiffs represent the Medically Vulnerable Subclass.

49. The "Disability Subclass" is defined as all current and future persons in the custody of the Philadelphia Department of Prisons who have an impairment that substantially limits one or more of their major life activities and who are at increased risk of COVID-19 illness, injury, or death due to their disability or any medical treatment necessary to treat their disability, including but not limited to those who have: (a) lung disease, including asthma, chronic obstructive pulmonary disease (*e.g.* bronchitis or emphysema), or other chronic conditions associated with impaired lung function; (b) heart disease, such as congenital heart disease, congestive heart failure, or coronary artery disease; (c) chronic liver or kidney disease (including hepatitis and dialysis patients); (d) diabetes or other endocrine disorders; (e) epilepsy; (f) hypertension; (g) compromised immune systems (such as from cancer, HIV, receipt of an organ or bone marrow transplant, as a side effect of medication, or other autoimmune disease); (h) blood disorders and/or (i) developmental disability.[48] All Plaintiffs represent the Disability Subclass.

50. This action has been brought and may properly be maintained as a class action as it satisfies the numerosity, commonality, typicality, and adequacy requirements for maintaining a class action under Fed. R. Civ. P. 23(a).

51. Joinder is impracticable because (1) the class members are numerous; (2) the classes include unidentifiable future members; and (3) the class members are incarcerated,

[48] The disability subclass is separate and apart from the medically vulnerable class as age, and some conditions within the medically vulnerable class, such as pregnancy, are not factors that place a person under the ambit of the ADA's protections.

rendering their ability to institute individual lawsuits limited, particularly in light of the court closures in the City of Philadelphia.

52. Common questions of law and fact exist as to all members of the proposed classes: All have the right to receive adequate COVID-19 prevention, testing, and treatment.

53. Plaintiffs' claims are typical of the members of the class because Plaintiffs and all class members are injured by the same wrongful acts, omissions, policies, and practices of Defendants-Respondents as described in this Complaint. Plaintiffs' claims arise from the same practices, policies, and conduct that gives rise to the claims of the class members, and are based on the same legal theories.

54. Plaintiffs Remick, Walker, Diaz, Alejandro, Dantzler, Hinton, Weiss, Skinner, Abdullah, and Bethea have the requisite personal interest in the outcome of this action and will fairly and adequately protect the interests of the class. They have no interests adverse to the interests of the proposed class. They retained *pro bono* counsel with experience and success in the prosecution of civil rights litigation. Counsel for Plaintiffs know of no conflicts among proposed class members or between counsel and proposed class members.

55. Defendants have acted on grounds generally applicable to all proposed class members, and this action seeks declaratory and injunctive relief. Plaintiffs therefore seek class certification under Rule 23(b)(2).

56. In the alternative, the requirements of Rule 23(b)(1) are satisfied, because prosecuting separate actions would create a risk of inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of contact for the party opposing the proposed classes.

V. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Unconstitutional Conditions of Confinement in Violation of the Eighth and Fourteenth Amendment to the U.S. Constitution
42 U.S.C. § 1983/28 U.S.C. § 2241

Class & Medically Vulnerable Subclass versus All Defendants

57. Under the Eighth and Fourteenth Amendments, corrections officials are required to provide for the reasonable health and safety of persons, whether sentenced or in pretrial detention, and they must provide humane conditions of confinement. *Farmer v. Brennan*, 511 U.S. 825, 832 (1994); *Youngberg v. Romeo*, 457 U.S. 307, 315–16, 324 (1982). Correctional officials have an affirmative obligation to protect persons in their custody from infectious disease. Correctional officials also have an obligation not to place persons in their custody in oppressive conditions involving prolonged lockdowns and solitary confinement. Officials violate the rights of incarcerated individuals when they are either deliberately indifferent to conditions of confinement that are likely to cause them serious illness and that pose an unreasonable risk of serious damage to their future health, *Helling v. McKinney*, 509 U.S. 25, 33-34 (1993), or if their acts are objectively unreasonable. *Kingsley v. Hendrickson*, 135 S. Ct. 2466, 2470 (2015).

58. PDP's facilities, as currently operated, are unable to comply with public health guidelines to prevent an outbreak of COVID-19, and Defendants have not and cannot provide for the safety of the Class, nor have they been providing humane conditions of confinement. Defendants have not taken appropriate steps to test for, treat, or prevent COVID-19 outbreaks, and Defendants are unable to protect the Medically Vulnerable Subclass from serious harm caused by COVID-19, in violation of their constitutional obligation to provide humane conditions of confinement for the Class and Medically Vulnerable Subclass.

59. Absent the immediate implementation of the CDC-mandated health and safety measures, further relief in the form of releases of highly vulnerable inmates will be necessary.

60. Defendants have violated the rights of the Class under the Eighth and Fourteenth Amendments.

SECOND CLAIM FOR RELIEF

Violation of the Americans with Disabilities Act
42 U.S.C. §§ 12101 et seq
Disability Subclass versus Defendant City of Philadelphia

61. Title II of the ADA requires public entities, such as PDP, to reasonably accommodate people with disabilities in all programs and services for which people with disabilities are otherwise qualified.

62. Plaintiffs, and other members of the Class, are qualified individuals with a disability under the meaning of the ADA.

63. Access to medical treatment and safe conditions of confinement are programs or services that PDP's facilities must provide to incarcerated people for purposes of the ADA.

64. Defendants intentionally discriminate against people with disabilities by intentionally denying them reasonable accommodations in accordance with CDC guidelines and necessary to protect themselves from COVID-19.

65. If the population is reduced to allow for adequate social distancing, reasonable accommodations in accordance with CDC guidelines are necessary to protect people with disabilities including, but not limited to: single celling, provision of cleaning supplies, access to soap to facilitate handwashing, and staggered dining and recreation times in numbers that permit social distancing.

66. Failing to provide these reasonable accommodations is illegal discrimination under the ADA entitling Plaintiffs and members of the Disability Subclass to injunctive and declaratory relief.

VI. REQUEST FOR RELIEF

67. Plaintiffs Thomas Remick, Nadiyah Walker, Jay Diaz, Michael Alejandro, Michael Dantzler, Robert Hinton, Joseph Weiss, Joseph Skinner, Saddam Abdullah, and James Bethea and Class Members respectfully request that the Court order the following:

a. Certification of this case as a Class Action under Fed. R. Civ. P. 23(b)(2);

b. Injunctive relief ordering Defendants to immediately mitigate the serious risk of illness, death, and harm from COVID-19 and to provide humane conditions of confinement to those who are incarcerated or detained in the PDP;

c. A preliminary injunction directing Defendants to submit a plan to the Court within five days, to be overseen by a qualified public health expert pursuant to Fed. R. Evid. 706, which outlines specific mitigation efforts, in line with CDC guidelines, to significantly reduce the risk of contraction of COVID-19 by all Class Members;

d. In the absence of immediate and effective compliance with paragraphs b and c, injunctive relief and/or writs of habeas corpus requiring Defendants to:

(i.) Release the Medically Vulnerable Subclass Members;

(ii.) Provide these individuals with educational resources on COVID-19, including instructions that they should self-isolate for the CDC-recommended period of time (currently 14 days) following release;

(iii.) A housing and/or public support plan for any released Class or Subclass Members with exposure to or infection with COVID-19 confirmed by testing, and who do not readily have a place to self-isolate for the CDC-recommended period of time (currently 14 days).

e. A declaration that Defendants' policies and practices violate the Eighth and Fourteenth Amendments and that Defendants' policies and practices violate the Americans with Disabilities Act with respect to the Disability Subclass.

f. An award of Plaintiffs' attorneys' fees and costs; and

g. Any further relief this Court deems just and appropriate.

Respectfully submitted,

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Attorneys for Petitioners/Plaintiffs

DATE: April 20, 2020

Exhibit A

Declaration of Joseph J. Amon, Ph.D. MSPH

I, Joseph J. Amon, declare as follows:

Background and Expertise

1. I am an infectious disease epidemiologist, Director of Global Health and Clinical Professor in the department of Community Health and Prevention at the Drexel Dornsife School of Public Health. I also hold an appointment as an Associate in the department of epidemiology of the Johns Hopkins University Bloomberg School of Public Health. My Ph.D. is from the Uniformed Services University of the Health Sciences in Bethesda, Maryland and my Master of Science in Public Health (MSPH) degree in Tropical Medicine is from the Tulane University School of Public Health and Tropical Medicine.

2. Prior to my current position, I have worked for a range of non-governmental organizations and as an epidemiologist in the Epidemic Intelligence Service of the US Centers for Disease Control and Prevention. Between 2010 and 2018, I was a Visiting Lecturer at Princeton University, teaching courses on epidemiology and global health. I currently serve on advisory boards for UNAIDS and the Global Fund against HIV, TB and Malaria and have previously served on advisory committees for the World Health Organization.

3. I have published 60 peer-reviewed journal articles and more than 100 book chapters, letters, commentaries and opinion articles on issues related to public health and health policy.

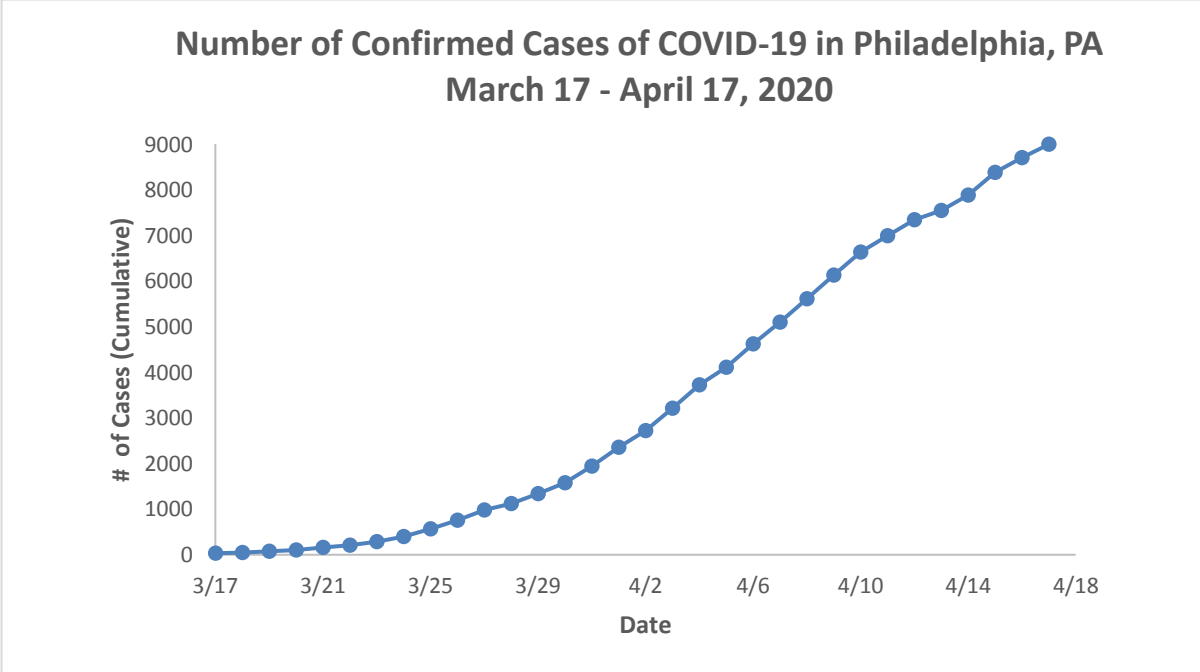
4. One of my main areas of research focus relates to infectious disease control, clinical care, and obligations of government related to individuals in detention settings, in which I have published a number of reports assessing health issues in prison and detention settings and more than a dozen peer-reviewed articles. In 2015-2016, I was a co-editor of a special issue of the British journal, "The Lancet," on HIV, TB and hepatitis in prisons. I also serve on the editorial boards of two public health journals. My resume is attached as Exhibit A.

Information on COVID-19 and Vulnerable Populations

5. COVID-19 is a coronavirus disease that has reached pandemic status. As of today (4/19), according to the World Health Organization 2,245,872 confirmed cases have been diagnosed in 213 countries or territories around the world and more than 152,707 deaths due to COVID-19 have been reported.[1] In the United States, which has the highest number of reported cases in the world, 695,353 confirmed cases have been reported with the disease and 32,427 people have died thus far,[2] though

[1] See https://www.who.int/emergencies/diseases/novel-coronavirus-2019 accessed April 19, 2020.
[2] See https://covid19.who.int/region/amro/country/us accessed April 19, 2020

these numbers likely underreport the actual infections and deaths.[3] In Pennsylvania, as of 12:00 pm on April 18, 2020, there were 31, 069 confirmed cases and 836 deaths reported by the state department of health.[4] In Philadelphia alone, as of April 17, 2020 there were a total of 8,563 cases and 298 deaths. Friday, April 17th, saw a one-day increase in the city of 518 new cases and 24 deaths.[5] Since March 6, there have been 2,618 individuals hospitalized due to COVID-19, with 99% of those cases occurring in individuals age 25 years or older.[6] There has been an exponential increase in cases in Philadelphia since March 12 with the number of people infected increasing, on average, by 20% every day[7]:



6. COVID-19 is a serious disease, ranging from no symptoms or mild ones for people at low risk, to respiratory failure and death. There is no vaccine to prevent COVID-19. There is no known cure or proven anti-viral treatment for COVID-19 at this time. The specific mechanism of mortality of critically ill COVID-19 patients is

[3] See https://www.washingtonpost.com/national/us-deaths-from-coronavirus-top-1000-amid-incomplete-reporting-from-authorities-and-anguish-from-those-left-behind/2020/03/26/2c487ba2-6ad0-11ea-9923-57073adce27c_story.html accessed April 3, 2020.
[4] See https://www.health.pa.gov/topics/disease/coronavirus/Pages/Cases.aspx accessed April 17, 2020;
[5] See Update on COVID-19 Coronavirus Response in Philadelphia, available at https://www.facebook.com/phillyhealth/videos/2975919772519206/.(As reported by Dr. Thomas Farley, Philadelphia's Commissioner of Public Health).
[6] Ibid; https://www.arcgis.com/apps/opsdashboard/index.html#/85054b06472e4208b02285b8557f24cf accessed April 17, 2020.
[7] See http://91-divoc.com/pages/covid-visualization/ accessed April 12, 2020

uncertain but may be related to virus-induced acute lung injury, inflammatory response, multiple organ damage and secondary nosocomial infections.

7. The World Health Organization (WHO) identifies individuals at highest risk to include those over 60 years of age and those with cardiovascular disease, diabetes, chronic respiratory disease, and cancer.[8] The WHO further states that the risk of severe disease increases with age starting from around 40 years.

8. The US CDC identifies "older adults [65 and older] and people of any age who have serious underlying medical conditions" as at higher risk of severe disease and death.[9] The CDC identifies underlying medical conditions to include: blood disorders, chronic kidney or liver disease, compromised immune system, endocrine disorders, including diabetes, metabolic disorders, heart and lung disease ("including asthma or chronic obstructive pulmonary disease [chronic bronchitis or emphysema] or other chronic conditions associated with impaired lung function"), neurological and neurologic and neurodevelopmental conditions "[including disorders of the brain, spinal cord, peripheral nerve, and muscle such as cerebral palsy, epilepsy (seizure disorders), stroke, intellectual disability…"], and current or recent pregnancy.[10] The CDC also identifies individuals with a body mass index (BMI) greater than 40 to be at higher risk for severe illness.[11] According to the CDC, hypertension has been associated with increased illness severity and outcomes.[12] Hypertension is the most common underlying condition, either alone or in combination with others, for people hospitalized for COVID-19.[13] Based upon reports of a high proportion of ICU patients with cerebrovascular disease and diabetes, some researchers have speculated that increased risk of severe illness may be associated with common medicines (ACE2-stimulating drugs) prescribed for hypertension and diabetes.[14]

9. Data from US COVID-19 cases published by the CDC on March 19, 2020, found that hospitalization rates and intensive care unit (ICU) admission rates were nearly identical for individuals aged 45-54 and individuals aged 55-64 (between approximately 20-30% for both groups for hospitalization and between 5-11% for

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[8] See https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200311-sitrep-51-covid-19.pdf?sfvrsn=1ba62e57_4 accessed March 21, 2020

[9] See https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html accessed March 21, 2020

[10] See https://www.cdc.gov/coronavirus/2019-ncov/downloads/community-mitigation-strategy.pdf accessed March 21, 2020

[11] See https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html accessed April 3, 2020

[12] https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html April 14, 2020.

[13] See https://www.cdc.gov/mmwr/volumes/69/wr/mm6915e3.htm?s_cid=mm6915e3_w accessed April 13, 2020. Hypertension may be an indicator of heart disease. It is a stronger indicator when coupled with high cholesterol.

[14] See https://www.thelancet.com/journals/lanres/article/PIIS2213-2600(20)30116-8/fulltext?fbclid=IwAR2oRXHweQuw3CLmgJuAh7q556SJ83lnw4m8_G9LK8GtppeAPUtwGG1Fn9o accessed April 3, 2020

both groups for ICU admission).[15] This suggests that individuals >45 years could be considered high risk for severe disease while those ≥54 years could be considered high risk for severe disease and death. In a recent CDC Morbidity and Mortality Weekly Report, 89% of patients hospitalized for COVID-19 had at least one underlying health condition. The most frequently reported underlying health conditions included hypertension (50%), obesity (48%), chronic metabolic disease, including diabetes (36%), chronic lung disease, including asthma and COPD (35%), cardiovascular disease (28%), neurological disease (14%), renal disease (13%), immunosuppressive conditions (10%), and gastrointestinal and liver disease (7%).[16] While these findings do not demonstrate causality, the association of these conditions with individuals with severe illness is broadly consistent with other knowledge of the risk for severe illness from COVID-19 and other types of coronaviruses.

Health profile of plaintiffs

10. I have reviewed the declarations of the following individuals: Michael Alejandro, Joseph Skinner, Robert Hinton, Joseph Weiss, Jay Diaz (birth-name Jessica Garcia), Thomas Remick, Michael Dantzler, James Bethea, Saddam Abdullah, and Nadiyah Walker.

11. Michael Alejandro is a 27-year-old man held at the Detention Center in Philadelphia who reports having asthma. This condition puts him at increased risk for severe symptoms and death from COVID-19 if infected.

12. Joseph Skinner is 38-year-old man currently held at Curran Fromhold Correctional Facility (CFCF) facility in Philadelphia. Mr. Skinner reports having asthma, which in the past required hospitalization and intubation. This condition puts him at increased risk for severe symptoms and death from COVID-19 if infected.

13. Robert Hinton is a 63-year-old man held at CFCF. He reports having hepatitis C which previously caused damage to his liver. His age and medical condition puts him at increased risk for severe symptoms and death from COVID-19 if infected.

14. Joseph Weiss is a 57-year-old man held at CFCF. His age puts him at increased risk for severe symptoms and may put him at increased risk of death from COVID if infected.

15. Jay Diaz is a 30-year-old individual, held at Riverside Correctional Facility. He reports having asthma and stage 3 cervical and ovarian cancer. His medical conditions puts him at increased risk for severe symptoms and death from COVID-19

[15] See https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e2.htm, accessed March 21, 2020
[16] See https://www.cdc.gov/mmwr/volumes/69/wr/mm6915e3.htm, accessed April 19, 2020.

if infected.

16. Thomas Remick is a 30-year-old man, held at the Detention Center. He reports being diagnosed with aggressive sarcoma. His medical condition puts him at increased risk for severe symptoms and death from COVID-19 if infected.

17. Michael Dantzler is a 45-year-old man, held in the medical unit at the Detention Center. He reports having a vascular disease that makes him prone to blood clots and reports undergoing emergency surgery on February 20, 2020 to remove a pulmonary embolism, during that operation the doctor lacerated his kidney, and he must receive periodic imaging and medication to ensure the kidney heals properly. His medical conditions put him at increased risk for severe symptoms and death from COVID-19 if infected.

18. James Bethea is a 53-year-old man held at the Philadelphia Industrial Correctional Center (PICC). He reports having asthma, being a regular smoker, having diabetes, and a prior diagnosis of hepatitis C. In addition, he reports suffering from schizophrenia and bipolar disorder. His medical condition puts him at increased risk for severe symptoms and death from COVID-19 if infected.

19. Saddam Abdullah is a 29-year-old man held at PICC. He reports having severe asthma. His medical condition puts him at increased risk for severe symptoms and death from COVID-19 if infected. He also reports having symptoms consistent with those of COVID-19, including difficulty breathing, chills, and loss of smell and taste. He reports that despite being examined by medical staff, he was neither tested for COVID-19 or isolated from other patients and treated as a "suspect case". If detention staff do not take immediate steps to isolate individuals reporting these types of symptoms, with or without accompanying fever, they are putting at risk everyone who comes in close contact (as defined by CDC as within six feet) with such individuals.

20. Nadiyah Walker is a 43-year-old woman held at RCF. She reports having epilepsy, diabetes, and asthma. Her medical condition puts her at increased risk for severe symptoms and death from COVID-19 if infected.

Understanding of COVID-19 Transmission

21. According to the US CDC, the disease is transmitted mainly between people who are in close contact with one another (within about 6 feet) via respiratory droplets produced when an infected person coughs or sneezes.[17] It may be possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes, but this is not thought to

[17] See https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html accessed March 21, 2020

be the main way the virus spreads.[18] New data examining the potential for air and surface contamination, conducted in a hospital setting, suggests that the transmission distance of COVID-19 may extend to 4 meters or about 13 feet.[19] This same study found that half the samples taken from the soles of the shoes of hospital staff were positive for SARS-CoV-2 virus.

22. People are thought to be most contagious when they are most symptomatic (the sickest), however there is increasing evidence of asymptomatic[20] and presymptomatic transmission, and there remain unclear dynamics around "super spreader" events where large numbers of people become infected from one source. Speech and other vocal activities such as shouting or singing have been shown to generate air particles which could transmit the virus responsible for COVID-19, with the rate of emission corresponding to voice loudness. News outlets have reported that during a choir practice in Washington on March 10, presymptomatic transmission likely played a role in SARS-CoV-2 transmission to approximately 40 of 60 choir members.[21] A recent report by the CDC of presymptomatic transmission in Singapore identified seven clusters of COVID-19 in which presymptomatic transmission likely occurred, accounting for 6.4% of locally acquired cases examined.[22] These findings are similar to research outside of Hubei province, China, which found that 12.6% of transmissions could have occurred before symptom onset in the source patient.[23] In a recent report from a Boston homeless shelter, of 397 people tested, 146 (37%) tested positive for the coronavirus. All reported no symptoms.[24] In some studies, up to half of individuals testing positive for the coronavirus reported no or mild symptoms.[25] While the degree of asymptomatic transmission remains uncertain, a CDC MMWR stated that, "Because persons with asymptomatic and mild disease…are likely playing a role in transmission and spread of COVID-19 in the community, social distancing and everyday preventive behaviors are recommended for persons of all ages to slow the spread of the virus, protect the health care system from being overloaded, and protect older adults and persons of any age with serious underlying medical conditions."[26]

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[18] See https://www.cdc.gov/coronavirus/2019-ncov/prepare/transmission.html accessed March 21, 2020

[19] See https://wwwnc.cdc.gov/eid/article/26/7/20-0885_article accessed April 13, 2020/

[20] See https://www.cdc.gov/coronavirus/2019-ncov/prepare/transmission.html accessed March 21, 2020; See also: Bai Y, Yao L, Wei T, et al. *Presumed asymptomatic carrier transmission of COVID-19*.JAMA. Published online February 21, 2020. doi:10.1001/jama.2020.2565 and Zhang W, Du RH, Li B, et al. *Molecular and serological investigation of 2019-nCoV infected patients: implication of multiple shedding routes*. Emerg Microbes Infect. 2020;9(1):386-389.

[21] See https://www.latimes.com/world-nation/story/2020-03-29/coronavirus-choir-outbreak accessed April 2, 2020

[22] See https://www.cdc.gov/mmwr/volumes/69/wr/mm6914e1.htm?s_cid=mm6914e1_w accessed April 2, 2020

[23] See https://wwwnc.cdc.gov/eid/article/26/6/20-0357_article accessed April 2, 2020

[24] *CDC Reviewing 'Stunning' Universal Testing Results from Boston Homless Shelter*, Boston 25 News https://www.boston25news.com/news/cdc-reviewing-stunning-universal-testing-results-boston-homeless-shelter/Z253TFBO6RG4HCUAARBO4YWO64/ (April 15, 2020).

[25] *See* Pien Huang, *What We Know About The Silent Spreaders Of COVID-19*, NATIONAL PUBLIC RADIO (Apr. 13, 2020), https://www.npr.org/sections/goatsandsoda/2020/04/13/831883560/can-a-coronavirus-patient-who-isnt-showing-symptoms-infect-others.

[26] *See Coronavirus Disease 2019 in Children — United States, February 12–April 2, 2020*, CENTERS FOR DISEASE CONTROL & PREVENTION (Apr. 20, 2020), https://www.cdc.gov/mmwr/volumes/69/wr/mm6914e4.htm?s_cid=mm6914e4_w.

23. **The understanding of direct transmission as the most likely means of SARS-CoV-2 coronavirus transmission combined with evidence of asymptomatic and presymptomatic transmission suggests that, while hand washing and disinfecting surfaces is advisable, the main strategy for limiting disease transmission is social distancing and that for such distancing to be effective it must occur before individuals display symptoms.**

24. Because of the risk of airborne spread, the CDC now recommends that everyone who is coming into contact with the air that others may breathe covers their face, though the CDC recognizes that a face covering is not a substitute for social distancing.[27] On April 16, 2020, the Pennsylvania Department of Health called for everyone to wear masks in public spaces. The CDC guidance recommends washing these masks after use. The CDC further recommends that individuals not to touch their eyes, nose, and mouth when removing their face covering and, after removal, immediately wash their hands.[28]

25. Recognizing the importance of social distancing, public health officials have recommended extraordinary measures to combat the spread of COVID-19. Schools, courts, collegiate and professional sports, theater and other congregate settings have been closed as part of risk mitigation strategy. 50 states, 7 territories, and the District of Columbia have taken some type of formal executive action in response to the COVID-19 outbreak.[29] Through one form or another, these jurisdictions have declared, proclaimed, or ordered a state of emergency, public health emergency, or other preparedness and response activity for the outbreak. Earlier this month Pennsylvania Governor, Tom Wolf, declared a state of emergency, which he buttressed on March 19 with an order closing non-essential businesses.[30] On April 1, Governor Wolf extended county-by-county stay at home orders to cover the entire state of Pennsylvania.[31] These kinds of orders are quickly spreading nationwide, after beginning in California on March 19. As of April 7, at least 316 million people in at least 42 states, 3 counties, 9 cities, the District of Columbia, and Puerto Rico are being directed to stay home.[32]

26. These public health measures aim to "flatten the curve" of the rates of infection so that those most vulnerable to serious complications from infection will be least likely to be exposed and, if they are the numbers of infected individuals will be low enough that medical facilities will have enough beds, masks, and ventilators for those who need them.

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[27] See https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html

[28] See https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html

[29] See https://www.astho.org/COVID-19/ accessed March 21, 2020

[30] See https://www.governor.pa.gov/wp-content/uploads/2020/03/20200319-TWW-COVID-19-business-closure-order.pdf

[31] See https://www.governor.pa.gov/newsroom/gov-wolf-sec-of-health-pennsylvania-on-statewide-stay-at-home-order-beginning-at-8-pm-tonight-most-prudent-option-to-stop-the-spread/ accessed April 2, 2020.

[32] See https://www.nytimes.com/interactive/2020/us/coronavirus-stay-at-home-order.html accessed April 14, 2020.

27. US cities are starting to see the level of COVID-19 cases seen in previous global hotspots. On Thursday, March 26, Governor Cuomo announced that 100 people had died of the coronavirus between Wednesday and Thursday morning. [33] As of Friday, March 27, the cumulative death toll in the state stood at 450.[34] In response, the city's health commissioner again urged all New Yorkers to follow the stay at home order, emphasizing the impact on the city's already strained health system.[35] As of April 18, 2020, New York City's death toll had reached 12,712.[36] Pennsylvania is roughly 10 days behind New York City, following a similar trendline of cases and deaths.[37]

Risk of COVID-19 in Jail Facilities

28. The conditions of jail facilities pose a heightened public health risk to the spread of COVID-19, even greater than other non-carceral institutions.

29. Jails are enclosed environments. These kinds of enclosed environments, like cruise ships and nursing homes, have seen higher rates of COVID-19 infection than the general population. Jails have even greater risk of COVID-19 transmission than other enclosed environments because of crowding within the facility, limited access to hygiene, and structural limitations. People in jails are housed in crowded spaces of limited size and are subjected to security measures that force them into close contact with guards. They cannot practice the "social distancing" necessary to effectively prevent the spread of COVID-19. Bathrooms facilities—toilets, showers, and sinks—phones, and other common areas are shared, without adequate surface disinfection between users. Food preparation and distribution without proper precautions also presents a further site for the virus to spread. Infectious spread presents a particular challenge in these facilities where the population often is disproportionately vulnerable, while facilities provide limited medical care.[38]

30. CDC guidance on correctional and detention facilities,[39] posted March 23, 2020, specifically recommends implementing social distancing strategies to increase the

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[33] See https://www.nytimes.com/2020/03/26/world/coronavirus-news.html?action=click&pgtype=Article&state=default&module=styln-coronavirus&variant=show&region=TOP_BANNER&context=storyline_menu?action=click&pgtype=Article&state=default&module=styln-coronavirus&variant=show&region=TOP_BANNER&context=storyline_menu#link-18cce12f accessed March 26, 2020.

[34] https://nypost.com/2020/03/27/another-84-people-killed-by-coronavirus-in-new-york-city/ accessed March 28, 2020.

[35] See https://nypost.com/2020/03/25/de-blasio-warns-half-of-all-new-yorkers-will-get-covid-19/ accessed March 26, 2020.

[36] See https://nypost.com/2020/04/18/nyc-coronavirus-deaths-near-13000-but-daily-toll-is-going-down/ accessed April 19, 2020.

[37] See https://www.businessinsider.com/new-york-city-coronavirus-cases-over-time-chart-2020-3 accessed March 26, 2020.

[38] https://www.prisonpolicy.org/health.html accessed March 26, 2020.

[39] See: https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html accessed March 23, 2020

physical space between incarcerated/detained persons "ideally 6 feet between all individuals, regardless of the presence of symptoms" including: 1) increased space between individuals in holding cells, as well as in lines and waiting areas such as intake; stagger time in recreation spaces; restrict recreation space usage to a single housing unit per space; stagger meals; rearrange seating in the dining hall so that there is more space between individuals (e.g., remove every other chair and use only one side of the table); provide meals inside housing units or cells; limit the size of group activities; reassign bunks to provide more space between individuals, ideally 6 feet or more in all directions.

31. The CDC guidance also describes necessary disinfection procedures including to thoroughly clean and disinfect all areas where a confirmed or suspected COVID-19 case spent time.[40]

32. The CDC guidance also recommends that correctional facilities provide a no-cost supply of soap, preferably liquid soap, sufficient to allow frequent hand washing.

33. Based upon the declarations I reviewed (paragraph 10 above), the Philadelphia Department of Prisons (PDP) does not appear to be adopting the procedures necessary to prevent COVID-19 transmission. The physical infrastructure and routine practice of Philadelphia jails raise significant challenges to maintaining distancing between detainees and preventative hygiene by those within the facilities. These challenges, which are typical of most detention centers, include

    a) People housed in PDP facilities either live in a dormitory setting (such as those described by plaintiffs housed in the Detention Center where approximately 30 men live in the same room and sleep within 6 feet of each other) or are routinely double-celled. People at all PDP facilities share showers, sinks and toilets. In addition, large groups of people share the same phones. Using the phones requires standing within two feet of other people for extended periods. As a result, no one held within PDP facilities can practice social distancing to the extent required by CDC necessary to prevent the spread of COVID-19.

    b) Access to soap is limited, with many people in the PDP going days without the use of soap to wash their hands. Nor does PDP provide hand sanitizer to those incarcerated with its facilities.

    c) Correctional officers inconsistently use masks and often interact with incarcerated people without masks.

    d) Though PDP distributed cloth-face-coverings to incarcerated people, people in PDP facilities are not able to clean or wash their face coverings. Nor did PDP provide people with additional coverings to allow for alternating and cleaning their masks.

[40] Ibid

e) Facilities used by multiple people, including toilets, showers, and telephones are not cleaned or disinfected on a regular basis.

f) People incarcerated within PDP have no regular access to cleaning materials to clean and disinfect their cells or living quarters.

g) PDP has adopted inconsistent practices for quarantining people newly admitted to PDP facilities.

h) People who display symptoms of COVID-19 within the facilities have not been tested or isolated from others and remain in general population. PDP medical staff appear not to be testing all people who exhibit symptoms of COVID-19.

i) As is true in detention facilities generally, communal bathroom facilities pose a risk of transmission and it is not usually possible for an incarcerated person to move throughout PDP without coming into contact with many other people.

j) Access to medical care is inadequate at PDP. There are delays in individuals' ability to access care.

34. Based upon the information provided to me, and my prior knowledge of detention facilities, I am concerned that the Philadelphia Department of Prisons does not have the ability to implement the critically important principle of social distancing, such as maintaining six feet of separation at all times between detainees, including at meals and with the location of beds. Where detention facilities house detained individuals in dormitory style arrangements or small cells where they are crowded and bunked together and must share phones, bathrooms, and showers, these facilities will not be able to prevent or slow COVID-19 transmission.

35. Nor am I aware of the necessary measures being taken at the PDP to identify and properly quarantine individuals at high risk, those with potential exposure to suspected or confirmed cases or to isolate those with symptoms consistent with COVID-19. These steps are essential to preventing transmission of COVID-19.

36. Introduction of new people into detention facilities who have had contact with the community outside the facility—be it correctional officers and other staff, new individuals coming into custody, people on work release, or individuals serving intermediate sentences—creates a link from transmission occurring in the community to those who are detained. The possibility of asymptomatic transmission means that monitoring fever of staff or detainees is inadequate for identifying all who may be infected and preventing transmission. This is also true because not all individuals infected with COVID-19 report fever in early stages of infection.

37. The alternative is to test all staff and detainees entering the facility. However, this would require frequent (daily) tests, implemented at multiple times a day as staff and detainees entered the facility. In addition to the cost and labor required to implement

this approach, the United States is currently facing a shortage of COVID-19 tests that make such a solution impracticable: In a survey of U.S. cities (that included Philadelphia, Pittsburgh, Erie, and Easton), 92.1% of cities reported that they do not have an adequate supply of test kits.[41] Shortages are likely to become more severe over the next three to four weeks when there will be a major shortage of chemical reagents for COVID-19 testing and enormous increases in demand.[42] Given the shortage of COVID-19 testing in the United States, it is likely that jails are and will continue to be unable to conduct aggressive, widespread testing to identify all positive cases of COVID-19. The lack of widespread testing in communities and the current presence of COVID-19 in all 50 states means that it is impractical to ask detainees about their travel history– all communities should be assumed to have community transmission which is why statewide and national restrictions on movement and gatherings have been put in place.

Heightened Rates of COVID-19 Infection and Spread Within Detention Facilities

38. The rates of spread in the facilities that have been testing for COVID-19 illustrates the dangers the conditions in these facilities pose to those who are detained there, and to the broader community. In Cook County Jail, Chicago in a matter of two days, the number of individuals infected jumped from 38 inmates[43] to 89 inmates and 12 staff members.[44] As of April 1, there were 167 confirmed cases among detained individuals, even after the jail released 400 individuals.[45] At Rikers Island in New York, on Saturday March 21, a jail oversight agency indicated that 21 inmates and 17 employees tested positive.[46] Four days later, on Wednesday, March 26, 75 inmates and 37 employees tested positive.[47] As of Tuesday, March 31, 141 staff and 180 individuals in custody had tested positive at Rikers and city jails in New York City.[48] **The Legal Aid Society in New York recently reported that the infection rate for COVID-19 at local jails is more than seven times higher than the rate citywide and 87 times higher than the country at large.[49]**

39. On Friday, March 27, 2020, the first incarcerated person in PDP tested positive for COVID-19.[50] Since that time, the number of infections within Philadelphia's jails has

[41] https://www.usmayors.org/issues/covid-19/equipment-survey/ accessed March 28, 2020.
[42] https://www.nytimes.com/2020/03/27/opinion/coronavirus-trump-testing-shortages.html accessed March 28, 2020.
[43] See https://www.nbcchicago.com/news/local/cook-county-jail-says-17-inmates-have-tested-positive-for-coronavirus/2244652/ accessed March 26, 2020.
[44] See https://www.politico.com/news/2020/03/29/federal-prison-first-coronavirus-death-153387 accessed March 29, 2020.
[45] See https://www.nbcchicago.com/news/local/167-cook-county-jail-detainees-have-tested-positive-for-covid-19-officials-say/2248892/ accessed April 2, 2020.
[46] https://www.nbcnewyork.com/news/coronavirus/21-inmates-17-employees-test-positive-for-covid-19-on-rikers-island-officials/2338242/ accessed March 23, 2020.
[47] See https://nypost.com/2020/03/25/new-coronavirus-cases-in-nyc-jails-outpacing-rest-of-the-city/ accessed March 26, 2020
[48] See https://www.theguardian.com/us-news/2020/apr/01/rikers-island-jail-coronavirus-public-health-disaster accessed April 2, 2020.
[49] See: https://newyork.cbslocal.com/2020/03/26/coronavirus-rikers-island/ accessed March 26, 2020
[50] https://www.phila.gov/2020-03-27-city-provides-update-on-covid-19-for-friday-march-27-2020/

risen exponentially. Over the past week, each day between 1 and 13 new people test positive for the virus within PDP. On April Thursday 16, 2020, the City reported approximately a total 100 of incarcerated people tested positive for the virus within PDP.[51] On Friday, Commissioner of Public Health Dr. Thomas Farley reported 13 additional new cases incarcerated people with the virus within PDP.[52]

40. On April 14, 2020 a woman in her forties held at Riverside Correctional Facility, was the first incarcerated person to die as a result of COVID19.[53] It was reported that she had underlying medical conditions but the city government did not specify what conditions she had.

41. In addition to the incarcerated people, the rate of infection among correctional officers has risen exponentially. Although PDP's Commissioner, Blanche Carney, declined to report the total number of correctional employees who contracted the virus, the prison's labor union business agent, Eric Hill informed reporters that as of Tuesday, April 14th, 43 officers tested positive. Hill warned this was only a self-reported number and the true number of prison employees who contracted the virus could be higher.[54]

42. The data above confirms high rates of infection among correctional officers and other staff. These individuals all face an increased risk of COVID-19 exposure as they are less able to practice the recommended strategy of social distancing in carrying out their official duties. If corrections officers are significantly affected by COVID-19, whether through being infected, exposed by detainees, their fellow officers or in the community, large numbers will be unavailable to work due to self-quarantine or isolation, at the same time that large numbers of detainees who are potentially exposed will need to be put into individual isolation or transferred to advanced medical care, putting tremendous stress on detention facilities.

Infrastructure in Detention Facilities Will Likely Be Insufficient to Address Needs of COVID-19 Patients

43. Once COVID-19 enters into detention facilities, these facilities will likely be unable to address the infectious spread and the needs of infected individuals due to lack of testing and insufficient physical and medical infrastructure.

44. In cases where there are confirmed or suspected cases of COVID-19, the CDC recommends medical isolation, defined by the CDC confining the case "ideally to a single cell with solid walls and a solid door that closes" to prevent contact with others

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[51] Philadelphia's Managing Director Brian Abernathy provided this information during Mayor Kenney's April 16th, 2020 press conference at approximately the 25 minute mark. *See* https://www.phila.gov/programs/coronavirus-disease-2019-covid-19/updates/

[52] See *Update on COVID-19 Coronavirus Response in Philadelphia,* available at https://www.facebook.com/phillyhealth/videos/2975919772519206/.

[53] https://www.phila.gov/2020-04-14-city-provides-update-on-covid-19-for-april-14-2020/

[54] Claudia Vargas, *Prisoners Not Being Released from City, State Prisons not Being Tested for COVID-19,* NBC Philadlephia, https://www.nbcphiladelphia.com/investigators/prisoners-being-released-from-city-state-prisons-are-not-being-tested-for-covid-19/2365885/ (April 16, 2020).

and to reduce the risk of transmission. Individuals in isolation should also be provided their own bathroom space.[55]

45. Individuals in close contact of a confirmed or suspected COVID-19 case - defined by the CDC as having been within approximately 6 feet of the individual for a prolonged period of time or having had direct contact with secretions of a COVID-19 case (e.g., have been coughed on) – should be quarantined for a period of 14 days. The same precautions should be taken for housing someone in quarantine as for someone who is a confirmed or suspected COVID-19 case put in isolation.[56]

46. The CDC guidance recognizes that housing detainees in isolation and quarantine individually, while "preferred", may not be feasible in all county jail settings and discusses the practice of "cohorting" when individual space is limited. The term "cohorting" refers to the practice of isolating multiple laboratory-confirmed COVID-19 cases together as a group or quarantining close contacts of a particular case together as a group. The guidance states specifically that "Cohorting should only be practiced if there are no other available options" and exhorts correctional officials: "**Do not cohort confirmed cases with suspected cases or case contacts."** [emphasis in original]. Individuals who are close contacts of different cases should also not be kept together.

47. The CDC guidance also says that detention facilities should "Ensure that cohorted cases wear face masks at all times."[57] This is critical because not all close contacts may be infected and those not infected must be protected from those who are if individuals are cohorted. In a survey of United States cities, 91.5% of the cities reported that they do not have an adequate supply of face masks for their first responders and medical personnel.[58] There are also widespread shortages of personal protective equipment — particularly N-95 masks — sufficient to provide even for health care workers, in our nation's hospitals, let alone medical providers and other individuals coming into contact with the virus in county jails .[59] Many public health leaders are calling for masks to be reserved for health care staff, who face increased risk and are vitally needed to sustain emergency care. Hospitals in the New York City area, unable to access masks locally, are reportedly turning to a private distributor to airlift millions of protective masks out of China.[60]

48. Cloth face masks, like the ones provided to those within PDP, are not considered by the Pennsylvania Health department as personal protective equipment.[61] However, the

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[55] Ibid.
[56] Ibid
[57] Ibid
[58] https://www.usmayors.org/issues/covid-19/equipment-survey/ accessed March 28, 2020.
[59] https://www.nytimes.com/2020/03/27/opinion/coronavirus-trump-testing-shortages.html accessed March 28, 2020.
[60] See: https://lancasteronline.com/news/health/hospital-suppliers-take-to-the-skies-to-combat-dire-shortages/article_0830ffb0-6f89-11ea-89ed-bbd859186614.html accessed March 26, 2020
[61] https://www.health.pa.gov/topics/Documents/Diseases%20and%20Conditions/Homemade%20Mask%20Guidance.pdf

health department recognizes that homemade masks can be an effective complement to handwashing, social-distancing and other mitigation measures. Nonetheless, they are effective **only** when used in combination with frequent hand-cleaning with alcohol-based hand rub or soap and water. To properly clean and sanitize masks, according to the CDC, they should be washed with a washing machine.[62] Detainees should be instructed in how to properly put on and take off masks, including cleaning their hands every time they touch the mask, covering the mouth and nose with the mask and making sure there are no gaps, avoiding touching the mask while using it; and replacing the mask with a new one if it becomes damp (e.g., from sneezing) and not to re-use single-use masks. For those wearing the cloth masks on a continuous basis, the masks should be replaced and washed daily. There are times when detainees will necessarily not be able to wear masks, if available. For example, during meals. In these instances, detainees should eat individually or with proper distancing from others.

49. Where individual rooms are not available, the CDC guidance describes a hierarchy of next best options for cohorting, which in order from lesser risk to greater risk includes housing individuals under medical isolation: 1) in a large, well-ventilated cell with solid walls and a solid door that closes fully; 2) in a large, well-ventilated cell with solid walls but without a solid door; 3) in single cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells; 4) in multi-person cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells.[63]

50. Many jails and prisons also lack adequate medical care infrastructure to address the spread of infectious disease and treatment of high-risk people in detention. As examples, jails often use practical nurses who practice beyond the scope of their licenses; have part-time physicians who have limited availability to be on-site; and facilities with no formal linkages with local health departments or hospitals.

51. According to Commissioner of Health Dr. Thomas Farley, as of April 17, 2020, 33% of Philadelphia's hospital beds and ICU beds were still available.[64] In other public data, as of April 19, 2020 the City of Philadelphia reports having only 252 remaining ICU beds available.[65] Large numbers of ill detainees and corrections staff will strain Philadelphia's medical infrastructure. If infection spreads throughout Philadelphia's jails, overwhelming the facilities own limited resources, the burden of caring for these individuals will shift to local medical facilities. The few facilities will likely not be able to provide care to all infected individuals with serious cases, increasing the likelihood that these individuals will die.[66]

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[62] https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html
[63] Ibid
[64] See *Update on COVID-19 Coronavirus Response in Philadelphia*, available at https://www.facebook.com/phillyhealth/videos/2975919772519206/.
[65] *See* https://www.arcgis.com/apps/opsdashboard/index.html#/85054b06472e4208b02285b8557f24cf (accessed April 19, 2020).
[66] See https://www.post-gazette.com/news/health/2020/03/20/Rural-counties-in-Pennsylvania-struggle-on-their-own-as-COVID-19-spreads/stories/202003180034 accessed March 23, 2002. Even in regions with highly developed

Existing Protocols Will Not Prevent Introduction of COVID-19

52. I have reviewed the PDP Response to COVID-19[67] released on April 13, 2020 and PDP's COVID-19 Frequently Asked Questions.

53. Based on my training and decades of professional experience in public health, the procedures described therein are entirely inadequate to prevent or mitigate the rapid transmission of COVID-19 in Philadelphia's jails. I am unaware of any epidemiologist or any public health expert who would consider these procedures to be sufficient preventive measures. The protocols do not sufficiently implement any of the preventative measures outlined below. The lack of specific attention to date in PDP's guidance on COVID-19 indicates that they do not plan to establish special protections for high-risk patients, instead waiting for them to become symptomatic. This will lead to unnecessary illness and death for the people most vulnerable to this disease.

54. **Social distancing**: Although PDP recognizes that social distancing is an important preventive measure, its guidance remains woefully inadequate. The PDP Response to COVID-19 document refers to inmate social distancing only in the context of official/legal visits. Nothing is stated in reference to how social distancing among inmates will be carried out.

    a) The PDP protocol notes that inmates will be "housed shelter-in-place" and only have limited movement outside of their cells for showers and phone calls. The Protocol further notes "to allow for increased social distancing" certain staff will be working on a rotational basis, one week on and one week off. The protocol only notes that "social distancing" will occur during official and legal visits. While PDP correctly recognizes the importance of social distancing, these suggested steps fall woefully short of what is necessary to prevent transmission of COVID-19 and say nothing about crowding in housing units.

    b) While the prison population has declined approximately 13 percent in the last month,[68] this population decrease provides no indication that to believe that social distancing within dormitories and cells will be possible when the facilities are operating at close to normal capacity. To the contrary, according to two of the plaintiffs, when the population of jails increase, staff consolidate the remaining people into limited sections of the units. The plaintiffs report most people remain double-celled. Nor is there any indication that social distancing will be possible where bathrooms and phones are shared by many individuals.

    c) Nor has PDP made any functional attempt to improve social distancing within the facilities. No Plaintiffs reported beds moved to accommodate more space

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health systems, COVID-19 is straining ability to care, creating cause for alarm for less-equipped health care systems in regions that do not act to mitigate risk of infection. See https://www.nytimes.com/2020/03/12/world/europe/12italy-coronavirus-health-care.html accessed March 23, 2020

[67] https://www.phila.gov/media/20200413152258/PDP-Response-COVID-19.pdf

[68] *See First Death Reported in Philadelphia Prison System,* https://whyy.org/articles/coronavirus-update-growth-of-pa-cases-continues-to-slow-police-urge-asian-americans-to-report-hate-crimes/ (April 14, 2020).

between people while sleeping.

55. **Screening Measures**: PDP's protocols do not address how the facilities will account for the large number of people who have already been exposed to COVID-19. This includes not only new detainees, but also staff, vendors and other individuals who go in and out of detention facilities. Screening measures will not be sufficient to identify infected individuals who come into PDP facilities because of presymptomatic and asymptomatic transmission and community spread, which make temperature checks insufficient. Facilities would also need increased physical space to isolate those who may be infected upon entry.
    a) The FAQ states that "Before entry, every employee/vendor/attorney/etc. will be screened at each point of entry, every time he/she enters a PDP facility. When entering a PDP facility, employees will be asked to tell medical personnel if they have a fever, dry cough or shortness of breath- the significant symptoms of COVID-19." These are "significant symptoms" of COVID-19 but individuals with COVID-19 may be asymptomatic or presymptomatic and other symptoms are also associated with COVID-19. The FAQ goes on to state that employees, attorneys, and non-PDP City staff will not be permitted entry if they are symptomatic. Again, this is insufficient. At a minimum, staff and vendors answering affirmative to any of the following questions should be told to isolate or quarantine themselves and seek medical clearance before returning to work:
        - Have you experienced any symptoms of COVID-19 (fever, shortness of breath, sore throat, cough, temperature, loss of smell, loss of taste, myalgia, fatigue, nausea, diarrhea) since your last screening?
        - Have you had any close contact with anyone diagnosed with COVID-19?
        - Have you had any close contact with anyone displaying symptoms of COVID-19 (shortness of breath, cough, temperature, loss of smell, loss of taste, fatigue, sore throat, myalgia, nausea, and diarrhea)?
        - Have you been in close contact with anyone who has been told to self-quarantine themselves?

    b) PDP Protocol states that newly admitted people will be quarantined for 14 days and kept separate from the general population until cleared. Individuals are quarantined in cohorts (groups), however they are not given masks upon entering quarantine, are unable to maintain social distancing, and do not have consistent access to soap and disinfecting agents. Moreover, one plaintiff reported being transferred into general population within a couple days after sharing a cell with someone exhibiting COVID symptoms, violating the basic purpose of quarantine. It is difficult to manage the quarantining of all new intakes as each cohort must be quarantined for 14 days without admitting anyone new. If a new person is added to the cohort the period of quarantine must restart.

56. **Isolation**: The CDC recommends medical isolation of confirmed or suspected cases. A range of strategies are presented for isolation depending upon the infrastructure of the facility, however what is recommended as the most effective approach is confining confirmed and suspected cases individually "to a single cell with solid walls and a solid door that closes" to prevent contact with others and to reduce the risk of transmission. Individuals in isolation should also be provided their own bathroom space.[69]
    a) PDP protocol notes that "inmate exhibiting symptoms or self-reporting exposure will be removed from the standard intake quarantine area and housed separate on another facility or campus for presumed or possible cases." The PDP protocol does not require isolation of confirmed or suspected cases, the protocol only that "housing units" may be isolated and those people who require COVID-19 assessment may be together in a facility with 100 beds. Such protocols will do nothing to mitigate the spread of this virus.
    b) Moreover, several plaintiffs reporting seeing or hearing multiple people on their unit who displayed symptoms of the virus. These symptomatic people remained on their unit in general population and in close proximity to others. Plaintiff Saddam Abdullah reports experiencing symptoms consistent with COVID-19 for over one week, yet the staff has not acted to test or isolate Mr. Abdullah from the rest of the men incarcerated in PICC. Allowing these symptomatic individuals to remain in general population endangers the health and safety of all those inside PDP facilities.
    c) The PDP protocol in general lacks a clear understanding of the difference between isolation and quarantine. **Medical isolation** refers to confining a confirmed or suspected COVID-19 case to prevent contact with others and to reduce the risk of transmission. **Quarantine** involves separating and restricting the movement of people who were close contacts of an individual who is sick with a contagious disease. **The document refers to isolation, "quarantine" and "self-quarantine" only briefly and inappropriately**.

57. **Failure to Comply with Its Own Protocol:** Even where PDP states that it is addressing this source of infection, discrepancies between the stated policies and the declarations of the plaintiffs provide a basis for concerns that ideal response plans are not being implemented.
    a) PDP states that staff will supply inmates with cleaning products and soap. Plaintiffs report *not* receiving either cleaning supplies or hand sanitizer or even a sufficient amount of soap to allow for hand cleaning. The lack of soap is such that several plaintiffs report being without soap for days. Moreover, all plaintiffs report that in order to obtain sufficient soap they must have access to money and purchase it from the commissary.
    b) Moreover, as noted above, it does not appear that PDP is following it's own protocol when it comes to quarantining those coming into the prison or even testing and isolating symptomatic individuals.

[69] Ibid.

58. **PPE**: The CDC recognizes that masks are not a substitute for social distancing. Therefore, even when masks are worn, it is still important for facilities to practice social distancing. This is especially true where the masks are only cloth masks, not the medical grade N-95 masks that are being used in hospitals to prevent spread of COVID-19 between workers who come into close contact with the virus.

    a) Plaintiffs report receiving one cloth-face-coverings per person, they have no ability to wash or clean these coverings and no ability to receive new masks. They report wearing the same mask without interruption for days or weeks. The distribution of one face-covering to each incarcerated person without providing a concomitant ability for the person to wash that covering will do nothing to mitigate the spread of the virus.

Conclusions

59. CDC guidance on correctional and detention facilities,[70] posted March 23, 2020 reiterates many of the points previously made in this declaration, including: 1) Incarcerated/detained persons are at "heightened" risk for COVID-19 infection once the virus is introduced; 2) There are many opportunities for COVID-19 to be introduced into a correctional or detention facility, including from staff and transfer of incarcerated/detained persons; 3) Options for medical isolation of COVID-19 cases are limited; 4) Incarcerated/detained persons and staff may have medical conditions that increase their risk of severe disease from COVID-19; 5) The ability of incarcerated/detained persons to exercise disease prevention measures (e.g., frequent handwashing) may be limited and many facilities restrict access to soap and paper towels and prohibit alcohol-based hand sanitizer and many disinfectants; and 6) Incarcerated persons may hesitate to report symptoms of COVID-19 or seek medical care due to co-pay requirements and fear of isolation.

60. The only viable public health strategy available is risk mitigation. Even with the best-laid plans to address the spread of COVID-19 in detention facilities, the release of individuals who can be considered at high-risk of severe disease if infected with COVID-19 is a key part of a risk mitigation strategy. In my opinion, the public health recommendation is to release high-risk people from detention, given the heightened risks to their health and safety, especially given the lack of a viable vaccine for prevention or effective treatment at this stage.

61. To the extent that vulnerable detainees have had exposure to known cases with laboratory-confirmed infection with the virus that causes COVID-19, they should be tested immediately in concert with the local health department. Those who test negative should be released to home quarantine for 14 days. Where there is not a suitable location for home quarantine available, these individuals could be released to housing identified by the county or state Department of Health.

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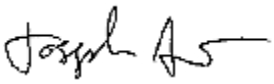
[70] See: https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html accessed March 23, 2020

62. Other individuals who may not be identified as high risk should also be considered for release. Reducing the overall number of individuals in detention facilities will facilitate social distancing for remaining detainees and lessen the burden of ensuring the safety of detainees and corrections officers.

63. Given the physical infrastructure of facilities, the challenges of providing security without close contact, and the lack of proper equipment (such as masks) to prevent transmission, I do not believe detention facilities are equipped to ensure the safety of those in their custody. Releasing individuals at highest risk who can then self-isolate – either in their homes or in facilities arranged by the local department of health – provides a significantly better likelihood of preventing infection, disease spread and death, both in the facility and in the community at large.

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

Executed this 19th day of April 2020 in Princeton, New Jersey.



Joseph J. Amon, PhD MSPH

Exhibit B

Declaration of Robert L. Cohen, M.D.
Regarding the Spread of COVID-19 in the Philadelphia Department of Prisons

Professional Background

1. I am an internist with expertise in correctional health care and the management of health care delivery systems in the correctional setting. I received my M.D. degree from Rush Medical College at Rush University. I have worked as a physician, administrator, and expert in the care of prisoners and persons with HIV infection for more than thirty years. I was Director of the Montefiore Rikers Island Health Services from 1981 to 1986. In 1986, I was Vice President for Medical Operations of the New York City Health and Hospitals Corporation. In 1989, I was appointed Director of the AIDS Center of St. Vincent's Hospital. I represented the American Public Health Association (APHA) on the Board of the National Commission for Correctional Health Care for 17 years. I have served as a federal court monitor overseeing efforts to improve medical care for prisoners in Florida, Ohio, New York State, and Michigan. I have served as a testifying expert in numerous prior cases concerning medical care issues in the Philadelphia Department of Prisons (formerly known as the Philadelphia Prison System).[1] I have been appointed to oversee the care of all prisoners living with AIDS in Connecticut, and I also serve on the nine-member New York City Board of Corrections.

Coronavirus of 2019 Poses a Significant Threat in the PDP

2. Coronavirus disease of 2019 (COVID-19) is a pandemic. COVID-19 is caused by a novel coronavirus (SARS-CoV-2) for which there is no established curative medical treatment

[1] My work in Philadelphia has included expert testimony on behalf of the plaintiff classes in *Bowers v. City of Philadelphia*, No. 06-cv-3229, and *Williams v. City of Philadelphia*, No. 08-cv-1979. Additionally, the Philadelphia Court of Common Pleas appointed me to monitor the Philadelphia jail medical care system in 1991 in the *Jackson v. Hendrick* matter.

and no vaccine. UpToDate[2] reports an overall case mortality rate from the disease of 2.3 percent, though the rate ranges in different geographical regions.

3. The numbers of COVID-19 cases in Philadelphia and Pennsylvania are rising rapidly, resulting in a public health crisis. Pennsylvania was declared a major disaster area due to COVID-19 on March 30, 2020. Cases in the City of Philadelphia increased from the first positive tests on or about March 16, 2020 to 8,045 as of April 16, 2020.[3] As of April 16, 2020, there were 27,735 cases in Pennsylvania.[4]

4. The current conditions in the Philadelphia Department of Prisons (PDP) create a high risk of contributing to an uncontrolled outbreak of COVID-19. Jails and prisons are long known to rapidly spread air-borne respiratory infection because they house a large number of persons held in cramped conditions with inadequate airflow. Tuberculosis, for example, is a respiratorally transmitted disease that is significantly less transmissible than COVID-19, yet it has been responsible for numerous outbreaks of illness in prisons and jails over the years. For this reason, the Centers for Disease Control and Prevention (CDC) recommend screening for tuberculosis in all jails and prisons. Everyone is at risk for COVID-19 infection, and, given the danger of transmission presented by COVID-19, jails and prisons require more intense screening and testing than conducted for tuberculosis.

5. Everyone who lives and works in a jail is at high risk of contracting the disease.

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[2] UpToDate is an online medical reference resource widely used in hospitals and health organizations and by private physicians. The 2.3 percent figure is from an update on April 4, 2020.

[3] City of Philadelphia, Coronavirus Disease 2019 (COVID-19), https://www.phila.gov/programs/coronavirus-disease-2019-covid-19/testing-and-data/#covid-19-positive-test-results

[4] Pennsylvania Department of Health, COVID-19 Data for Pennsylvania, https://www.health.pa.gov/topics/disease/coronavirus/Pages/Cases.aspx

Jails promote the spread of respiratory illnesses because large groups of people are forced suddenly into crowded congregate housing arrangements. Normal civilian recommendations that are made with the expectation that individuals can safely shelter in place are not relevant to a jail where congregate living is forced on all who enter. This situation is complicated by the fact that custody and other personnel who care for detainees live in the community and can carry the virus into the facility with them and, just as concerning, out into the community at large.

6. At a time when (a) the President's task force on COVID-19 recommends limiting gatherings to no more than 10 persons, (b) the President has declared a national emergency, (c) CDC recommends wearing a face mask in public settings where social distancing is difficult to maintain, and (d) there is a stay-at-home order in Pennsylvania through at least April 30, 2020, the City of Philadelphia has nearly 4,000 people residing in congregate living conditions in the PDP with a continuing influx of new admissions every day. Because of the structure of PDP's facilities and manner in which daily activities occur in those facilities, incarcerated persons intermingle, and it is not possible to limit gatherings to less than 10 individuals or engage in social distancing required by public health guidance. The conditions in the PDP's facilities are contrary to current public health recommendations. These circumstances have already, and will continue to, result in the spread of disease both within the PDP and to the broader community.

7. Indeed, there are already large numbers of confirmed cases of COVID-19 in the PDP. On Friday, March 27, 2020, the first incarcerated person in PDP tested positive for COVID-19.[5] Since that time, the number of infections within Philadelphia's jails rose exponentially. Over the past week, each day between 1 and 9 new people test positive for the virus within PDP. As of April 16, 2020 at 1pm, in total approximately 100 incarcerated people

[5] https://www.phila.gov/2020-03-27-city-provides-update-on-covid-19-for-friday-march-27-2020/

have tested positive for the virus within PDP.[6] Within PDP, the infection rate appears to be more than double the rate of infection of the City as a whole.[7] On April 17, 2020, at the City's daily Update on COVID-19 Response in Philadelphia, Dr. Thomas Farley, Commissioner of Public Health, announced that there were 13 new cases in PDP.[8]

8. The PDP's Commissioner has adopted a policy of not disclosing the number of correctional officers who have tested positive, but as of April 16, 2020, 43 officers had self-reported positive tests.[9] Full disclosure of the quantitative metrics of the COVID-19 pandemic in the PDP is critical to provide those who work and live there, and those to whom they come home, full and up-to-date understanding of this evolving medical crisis. Critically, infection rates can identify preventive actions which are succeeding, and more importantly, prevention strategies which are not working.

9. Medical care for COVID-19 focuses on prevention, which emphasizes physical distancing, handwashing, respiratory hygiene, and the wearing of masks. Paper masks should be replaced daily, cloth masks can be washed and re-used, but must be washed on a daily basis. Improper use of masks can transfer the virus.[10]

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[6] Philadelphia's Managing Director Brian Abernathy provided this information during Mayor Kenney's April 16th, 2020 press conference at approximately the 25 minute mark. *See* https://www.phila.gov/programs/coronavirus-disease-2019-covid-19/updates/

[7] *See* The Defender Association Of Philadelphia, *Covid-19 in Philly Jails* avail at https://www.philadefender.org/wp-content/uploads/2020/04/Jail-Infection-Jurisdictions-and-Zip_Landing-Page_4.8.20.pdf.

[8] This information was provided at the 12-minute mark of the press conference: https://www.facebook.com/phillyhealth/videos/2975919772519206/ at the 12-minute mark

[9] Prisoners Being Released from City, State Prisons Are Not Being Tested for COVID-19, NBC Philadelphia (April 16, 2020), https://www.nbcphiladelphia.com/investigators/prisoners-being-released-from-city-state-prisons-are-not-being-tested-for-covid-19/2365885/

[10] https://health.ny.gov/publications/7224/

10. Currently, severe cases of the disease can be treated only with supportive care including respiratory isolation, oxygen, and mechanical ventilation. In cities with widespread disease, hospitals are anticipating a lack of ventilation equipment to handle the expected cases.

11. COVID-19 is transmitted by infected people when they sneeze or cough. Droplets of respiratory secretions infected with the virus can survive as an aerosol for up to three hours.[11] Droplets can be directly transmitted by inhalation to other individuals in close proximity. Droplets can land on surfaces and be picked up by the hands of another person who can then become infected by contacting a mucous membrane (eyes, mouth, or nose) with their hand. Infected droplets can remain viable on surfaces for variable lengths of time, ranging from up to three hours on copper, 24 hours on cardboard, and two to three days on plastic and stainless steel.[12]

12. COVID-19 can be transmitted by asymptomatic individuals, and it is estimated that approximately six percent of infections are transmitted by asymptomatic persons.[13] This is critical in a jail because persons coming into the jail or already in jail and newly infected may be asymptomatic, are confined in close quarters, and are passing the infection without outward signs of illness.

13. Infected individuals become symptomatic in a range of 2.5 to 11.5 days with 97.5 percent of infected individuals becoming symptomatic within 11.5 days. Typically, an infected individual becomes symptomatic around day five of their infection. The total incubation period is

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[11] National Institute of Health (available at https://www.nih.gov/news-events/news-releases/new-coronavirus-stable-hours-surfaces).
[12] *Id.*
[13] Wycliffe Wei, Zongbin Li, Calvin Chiew, Sarah Yong, Matthias Toh, and Vernon Lee, Presymptomatic Transmission of SARS-CoV-2 Singapore, January 23-March 16, 2020, Morbidity and Mortality Weekly Report, Vol. 69, April 1, 2020 (available at https://www.cdc.gov/mmwr/volumes/69/wr/mm6914e1.htm).

thought to extend up to 14 days.[14] Thus, persons coming into jails can be asymptomatic at intake screening only to become symptomatic later during incarceration. For that reason, a comprehensive correctional intake screening test for COVID-19, including COVID-19 testing, is essential. No person whose COVID-19 status is unknown should be admitted into the general population of PDP without being tested for the presence of virus. With the rapid testing now available, results can be available in less than an hour, and certainly within one day. COVID-19 testing of new admissions to the jail is the appropriate strategy for mitigating spread of the disease.

Despite Some Appropriate Policy Measures Taken to Address COVID-19 in the PDP, Considerably More Must be Done to Protect Incarcerated Persons and the Community

14. I have reviewed the PDP's published explanation of measures it has declared it will pursue to respond to COVID-19.[15] Although some of the measures outlined in PDP's public statement are appropriate, there are significant omissions which indicate that PDP is not taking sufficient action to limit the spread of COVID-19. I note that, for purposes of my commentary on these measures (paragraphs 15-22), I have assumed that PDP is actually implementing the measures it has described in its public statements. As discussed below (starting at paragraph 23), it appears that PDP is not appropriately implementing the measures it describes.

15. PDP's policy is to quarantine all new admissions for 14 days. It would be more appropriate to test all new admissions, and then place them in the appropriate setting in the jails when results are available. Removing infected persons from the intake quarantine group as quickly as possible will reduce the likelihood of spread within the new intake population.

[14] https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html#Asymptomatic

[15] PDP Response to COVID-19, https://www.phila.gov/media/20200413152258/PDP-Response-COVID-19.pdf

Maintenance of a "new admission quarantine" group is difficult, and persons living in the jail have reported that PDP does not keep this group together for 14 days, with some people sent to general population after as little as 7 days.

16. PDP's plan to quarantine symptomatic patients is appropriate, but the plan must include testing these persons for COVID-19. PDP's plan states that symptomatic patients should be "assessed accordingly." If "assessed accordingly" means testing for COVID-19, that is appropriate. If not, the plan should be revised to include testing of all symptomatic patients. Symptomatic persons and persons with confirmed COVID-19 diagnoses should be cohorted separately.

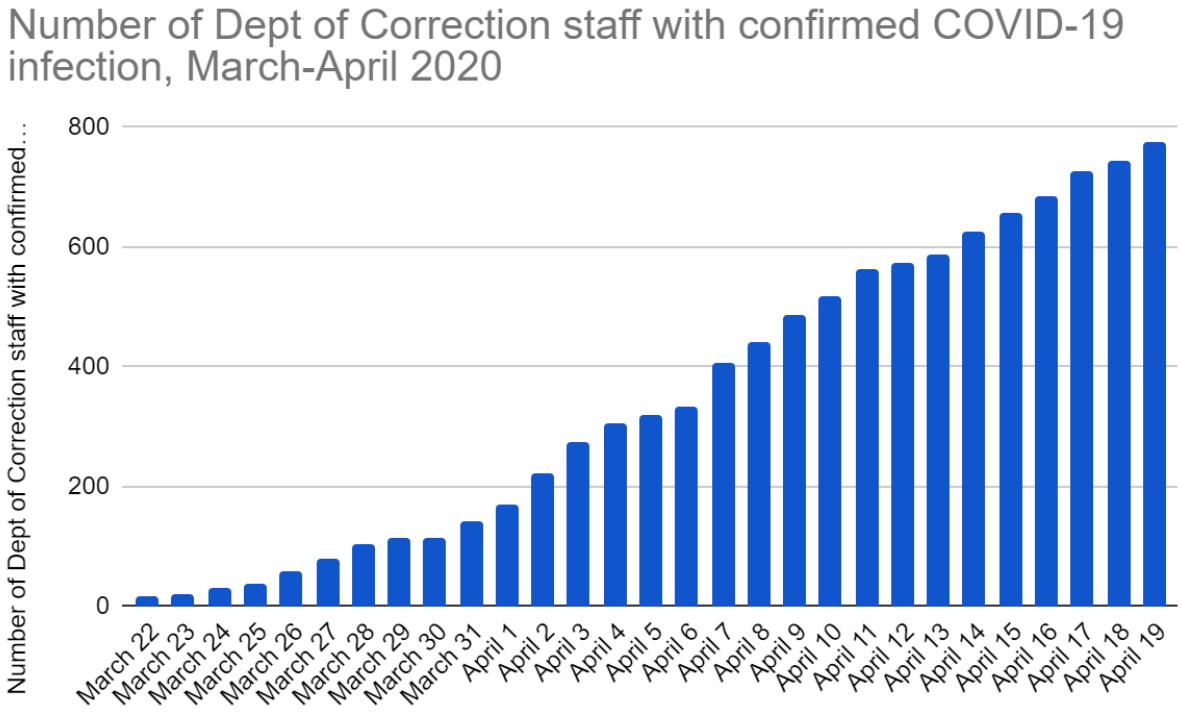
17. PDP describes a 100-bed facility for housing symptomatic and COVID-19 confirmed patients. The population of PDP is approximately 4,000. This 100-person facility will be filled very quickly. In New York City's Jails, which also house a population of approximately 4,000, there are currently 362 persons who are confirmed COVID-19 positive. 143 more are under observation and may be COVID-10 positive.

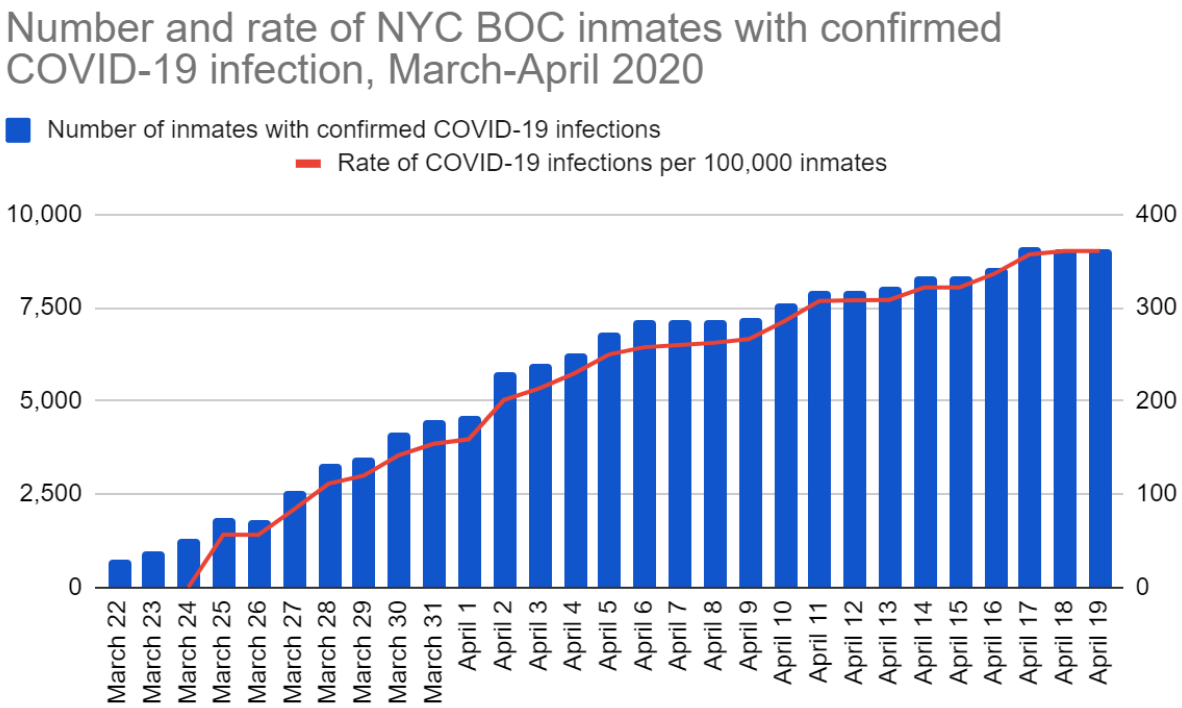
18. The charts below show the scope of the epidemic in New York City's jails, which as of April 19, 2020, had a population of 4,078 incarcerated people. The charts below show that as of Sunday, April 19, there were cumulatively 775 Department of Correction staff with confirmed COVID-19. 123 staff of the Correctional Health Services had confirmed COVID-19.

Board of Correction
Daily Covid-19 Update
Sunday, April 19, 2020[1]

Table 1

Correctional Health Services (CHS) and Department of Correction (DOC) Updates to the Board of Correction (BOC)	
As of 7:00 am on Sunday April 19, 2020	
Incarcerated Patients	
Number of patients under observation by CHS (confirmed COVID-19 patients and symptomatic patients in DOC facilities, excludes hospitalized patients)	143
Number of currently incarcerated patients with confirmed COVID-19 This metric includes hospitalized patients. A proportion of currently incarceration patients with confirmed COVID-19 are also represented in the 'under observation' metric above.	362
Number of deaths while in custody (in hospital)	2
Staff	
Number of CHS staff currently under quarantine/ isolation	20
Number of CHS staff with confirmed COVID-19 (cumulative)	123
Number of DOC staff with confirmed COVID-19 (cumulative) (as of 9:00 am)	775


Number of Dept of Correction staff with confirmed COVID-19 infection, March-April 2020
Number of Dept of Correction staff with confirmed...
800
600
400
200
0
March 22
March 23
March 24
March 25
March 26
March 27
March 28
March 29
March 30
March 31
April 1
April 2
April 3
April 4
April 5
April 6
April 7
April 8
April 9
April 10
April 11
April 12
April 13
April 14
April 15
April 16
April 17
April 18
April 19


Number and rate of NYC BOC inmates with confirmed COVID-19 infection, March-April 2020
Number of inmates with confirmed COVID-19 infections
Rate of COVID-19 infections per 100,000 inmates
10,000
7,500
5,000
2,500
0
400
300
200
100
0
March 22
March 23
March 24
March 25
March 26
March 27
March 28
March 29
March 30
March 31
April 1
April 2
April 3
April 4
April 5
April 6
April 7
April 8
April 9
April 10
April 11
April 12
April 13
April 14
April 15
April 16
April 17
April 18
April 19

19. PDP states that it will provide incarcerated people with masks, but this is not sufficient. If paper masks are provided, a new one must be provided every day. If cloth masks are provided, people who receive them should be given an opportunity to wash them at least once daily. Training on putting on masks, and training on the safe removal of masks must be provided by health staff.

20. A program of health education, provided by health trained professionals, not PDP security staff, must be provided, in addition to posting appropriate printed material encouraging physical distancing, handwashing, mask wearing, intensive surface cleaning, and hygienic coughing procedures, and showing the videos mentioned in the PDP Response document.

21. The PDP Response document makes no mention of physical distancing except for a section on counsel visits. Distancing should take place in every aspect of life within PDP facilities. For example, sleeping arrangements must allow for six feet of separation between beds in dormitory areas. When people housed in cells are permitted to leave their cells, distancing must be required. Distancing is not optional. It is essential for individuals to be able to separate six feet to prevent them from getting infected.

22. The PDP response essentially places the entire jail population in solitary confinement. There is no provision for at least four hours of day of out of cell time, which allows for at least two hours of large muscle recreation out of doors.

Accounts Provided by Persons Incarcerated in PDP Facilities Show Deeply Concerning Trends Which Indicate that PDP is Placing the Incarcerated Population, and Especially the Medically Vulnerable Population, at Great Risk.

23. I have reviewed the Declarations of Saddam Abdullah, Michael Alejandro, James Bethea, Michael Dantzler, Jay Garcia, Robert Hinton, Thomas Remick, Joseph Skinner, Nadiyah Walker, and Joseph Weiss. Based upon this review, and assuming the truth of the statements

made in these Declarations, there are significant problems in the manner in which PDP is addressing COVID-19 in its facilities.

24. In summary, those Declarations establish the following patterns:

a. People housed in PDP facilities either live in a dormitory setting, where more than 30 people sleep within 6 feet of each other, or are routinely double-celled. People at all PDP facilities share showers, sinks and toilets. In addition, people share the phones, which are located less than 2 feet apart from each other. Using the phones requires standing within two feet of other people for extended periods of time. As a result, no one held within PDP facilities can practice social distancing to the extent required by CDC guidance necessary to prevent the spread of COVID-19.

b. Many people incarcerated in PDP are double celled.

c. Access to soap is limited, with many people incarcerated in the PDP going days without the use of soap to wash their hands. Nor does PDP provide hand sanitizer to those incarcerated with its facilities.

d. Correctional officers inconsistently use masks and often interact with incarcerated people without masks.

e. Though PDP has distributed cloth face coverings to incarcerated people, people in PDP facilities are not able to clean or wash their face coverings. Nor did PDP provide people with additional coverings to allow for alternating and cleaning their masks.

f. Facilities used by multiple people, including toilets, showers, and telephones are not cleaned or disinfected on a regular basis.

g. People incarcerated within PDP have no regular access to cleaning materials to clean and disinfect their cells or living quarters.

h. PDP has adopted inconsistent practices for quarantining people newly admitted to PDP facilities.

i. People who display symptoms of COVID-19 within the facilities have not been tested or isolated from others and remain in general population. PDP medical staff appear not to be testing all people who exhibit symptoms of COVID-19. Moreover, when incarcerated people do test positive for COVID-19, PDP does not quarantine them for a sufficient length of time to ensure they are no longer contagious.

25. These patterns are deeply problematic. They demonstrate a failure to properly protect persons incarcerated in the PDP from the spread of COVID-19 and result in a substantial risk that the disease will be spread throughout the PDP's facilities. The risk of spread within PDP's facilities likewise presents a significant risk to the entire community given that correctional staff enter and exit PDP facilities every day. With significant spread of disease among people incarcerated in the PDP's facilities, there is an enhanced likelihood of spread of the disease in the communities where correctional staff members live.

26. In review of the declarations referenced in paragraph 23, I have observed that several of these incarcerated persons have underlying medical conditions or illness that make them especially vulnerable to complications or death should they contract COVID-19.

27. Joseph Skinner has severe asthma, and required intubation in the past. He is 38 years old. COVID-19 presents as an upper respiratory illness, and progresses over several days

to lower respiratory disease, and often severe pneumonia. Mr. Skinner is at high risk of serious complications and death should he become infected.

28. Robert Hinton is a 63 year old man with chronic Hepatitis C, and according to his description, cirrhosis. His age and his chronic liver disease with cirrhosis places him at high risk of serious complications and death should he become infected.

29. Joseph Weiss is 57 years old. He describes being exposed to an incarcerated person with a high fever. Because of his age, he is at high risk for becoming seriously ill and dying should he become infected.

30. Jay Diaz is 30 years old. He has two serious medical problems, asthma and ovarian cancer, which place him at high risk of serious complications and death should be become infected and develop COVID-19.

31. Thomas Remick is a 30-year-old man with a history of sarcoma, a cancer. For this reason he is at high risk for developing serious complications and death should be become infected with the coronavirus.

32. Michael Dantzler is a 45 year old. He has vascular disease and has had life threatening complications of his disease. Two months ago, on February 20, a blood clot caused a pulmonary embolism and he received emergency surgery. The surgery was complicated by a laceration of his kidney. Mr. Dantzler has serious underlying vascular disease which means he is at increased risk for serious complications and death should he become sick with COVID-19.

33. James Bethea is 53 years old. He has multiple medical problems including hepatitis C and diabetes. He also has serious mental illness for which he has been treated with anti-psychotic medications. Because of his age, his liver disease, his diabetes, and his serious

mental illness, James Bethea is at increased risk of becoming seriously ill and dying should he contract COVID-19.

34. Saddam Abdullah is a 29 year old man. He has severe asthma. He had four asthma attacks in April which were not responsive to his inhaler. In these circumstances he requires a nebulizer to provide him with aerosolized medication. PDP Medical staff refused to provide Mr. Abdulla with his required nebulizer treatment because they were concerned that the nebulized might spread coronavirus treatment. The medical staff's concern is not without merit, but Mr. Abdulla requires treatment for his asthma. He is at high risk for serious complications and death should he become infected.

35. Nadiyah Walker is a 43-year-old woman. She has epilepsy, asthma, diabetes and anemia. She has not been provided with the inhaler she uses to treat her asthma. Because of her asthma, she is at high risk for complications and death from COVID-19 infection. Patients with asthma and diabetes are a very high risk for complications and death from COVID-19 infection.

36. These medical issues are representative of what I would expect to see in a large urban jail. There is a high prevalence of serious chronic disease. Persons older than 50 are likely to have multiple chronic medical conditions and be receiving multiple medications. For these reasons, I expect that large portions of the PDP population are at risk of severe complications or death from COVID-19. This underscores the urgent need for PDP to engage in appropriate measures to limit the spread of COVID-19 among the incarcerated population in its facilities.

Recommendations for Safe Management of COVID-19 in PDP

37. Incarcerated persons in quarantine or in isolation for suspicion or known infection must be monitored. Persons in quarantine should be monitored daily for symptoms and

temperature. Individuals in isolation require multiple daily temperature checks and monitoring of blood oxygen levels to ensure stability. The required monitoring has had an effect – severely stressing or overwhelming – on staffing in facilities with significant infections. The COVID-19 pandemic has had a similar effect on staffing in most hospital settings.

38. All persons newly admitted to PDP should be tested for COVID-19.

39. Most persons being discharged from the PDP have uncertain COVID-19 status. All persons living and working in the jails are at very high risk of COVID-19 infection. Data published by the Philadelphia Defender Association suggest that rates within the PDP's jails are close to three times the rates in the general population of Philadelphia.[16] By comparison, the infection rates for persons living in New York City's jails is more than 8,000 per 100,000, with 686 correctional officers having become infected as of April 16, 2020.[17] If a person of unknown COVID-19 status is discharged from the jail quarantine, they have a significant likelihood of being infected, and they can infect persons they come into contact with in the community. For this reason, persons being discharged from PDP who have uncertain status need to be tested with a rapid COVID-19 test prior to discharge and given appropriate instructions on protecting themselves and others. Testing should not be used to delay release. Additionally, homeless persons who are COVID-19 positive and symptomatic should be provided a hotel room on release from jail until their condition has stabilized.

40. The current CDC recommendations for social distancing and frequent handwashing measures, which are the only measures available to protect against infection, are extremely unlikely to be adequately enforced in the current correctional environment at the PDP. The mandatory cleaning and sanitizing of all surfaces multiple times each day, in bathrooms,

[16] https://www.philadefender.org/covid-philly-jails/.
[17] https://www1.nyc.gov/site/boc/covid-19.page

toilets, showers, tables, and all surfaces will be extremely difficult to ensure, as evidenced by the information provided in the above-referenced declarations. Adequate cleaning supplies and necessary personal protective equipment for all persons must be provided, including a daily disposable mask or a means to clean cloth masks. Alcohol based hand sanitizer should also be provided.

41. A large number of employees work in jails and prisons. These individuals have frequent contact with incarcerated persons, which often requires them to violate the recommended CDC guidelines for social distancing.[18] Frequent handwashing is not easily available for inmates or staff. Their risk is considerable. As noted, at least 40 employees of the PDP self reported that they tested positive for COVID-19 as of April 16, 2020, and the number of infected employees will undoubtedly be larger when this Declaration is filed. These employees return to their homes and can and will transmit the infection to others in their families and community. In this sense, jails act as incubators of respiratory infectious disease. COVID-19 is experiencing a rapid and dramatic spread within the PDP and this ongoing outbreak is inevitably resulting in spread to the community. All staff entering the jail should be screened daily for temperature and symptoms, and should be sent home if they cannot pass the screen.

Opinions and Conclusions

42. It is my opinion that at this time, testing for COVID-19 must be expanded to all persons admitted to PDP, all symptomatic persons, and all persons about to be discharged. These tests need to be done as rapidly as possible due to problems with potential for transmission in the quarantined population and the need to discharge people quickly. Rapid COVID-19 testing also

[18] CDC, Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (available at https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html)

needs to be expanded for as many people as possible because of the ongoing continuing rise in cases and continuing transmission within PDP's jails. Implementation of this measure is necessary to protect both the population of incarcerated people and the civilian population who will be exposed to employees who work within the jails.

43. It is my opinion that—to the extent, for any reason, they are not immediately released—any incarcerated person over 50 and, certainly anyone over 55, or with severe mental illness, or a medical vulnerability as set forth below, along with all persons in quarantine or who have potentially been exposed to the virus should, immediately, have a daily symptom and temperature screening. An individual's immune system is the primary defense against this infection. As a result, people over 55 years of age and persons with impaired immunity, including chronic diseases, have a higher probability of death if they are infected. It is important to note that the older a person is, the higher the likelihood of death; this is thought to be due to impaired immunity with aging. Persons of any age with a number of health conditions including lung disease, heart disease, chronic liver or kidney disease (including hepatitis and dialysis patients), diabetes, hypertension, compromised immune systems (such as from cancer, HIV, or autoimmune disease), blood disorders (including sickle cell disease), inherited metabolic disorders, stroke, developmental delay, severe obesity, and asthma, also have an elevated risk.[19]

44. Early reports estimate that the mortality rate for those with cardiovascular disease was 13.2%, 9.2% for diabetes, 8.4% for hypertension, 8.0% for chronic respiratory disease, and

[19] World Health Organization, *Coronavirus disease (COVID-19) advice for the public: Myth busters* (available at https://cutt.ly/dtEiCyc) ("Older people, and people with pre-existing medical conditions (such as asthma, diabetes, heart disease) appear to be more vulnerable to becoming severely ill with the virus."); *see* CDC, "Groups at Higher Risk of Severe Illness" (available at https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html) .

7.6% for cancer.[20] Persons with severe mental illness in jails and prisons are also, in my opinion, at increased risk of acquiring and transmitting infection because of likely inability or impaired ability to communicate their symptoms and their difficulty in accessing care.

45. Any positive symptom or temperature should require respiratory isolation and testing for COVID-19. All symptomatic persons under investigation and known COVID-19 positive detainees need to have clinical monitoring every shift including vital signs (pulse, temperature, respirations) and pulse oximeter testing to determine respiratory status. This information is essential to identify patients who cannot be cared for in the jails who require hospitalization.

46. It is my opinion that all persons whom PDP anticipates discharging who have uncertain COVID-19 status need to be tested with a rapid COVID-19 test prior to discharge.

47. All symptomatic persons requiring discharge planning services to assure safe transition back to their community must have access to these services, including temporary housing.

48. Maintaining physical distance of six feet between incarcerated persons would not be possible in two person cells, which have a footprint of approximately 6' by 9'. The bunk beds take up a large part of the available space, as does the sink and the toilet in these rooms. I have visited many two-person cells in PDP. They do not allow for maintenance of six feet of distance between persons. Similarly, dormitory housing at more than 50% utilization does not allow for maintenance of six feet distance between persons because beds are fixed to the floor much closer than six feet apart.

49. COVID-19 is present in fecal matter. Persons sharing toilets which are not sterilized after each use may place persons at risk for infection by COVID-19 via fecal oral transmission.[21] [22]

50. It is my opinion, consistent with CDC recommendations, that all incarcerated persons and staff should wear a facemask—and a facemask that is clean. Employees interacting with potentially positive people (most incarcerated people at this time) must wear CDC recommended personal protective equipment.

51. It is my opinion that all inmates in the PDP's jails should receive full and free access to sanitation supplies (including soap, cleaning supplies, paper supplies and sanitizer with at least 60 percent alcohol) and adequate advice, orally and in writing, by appropriately trained health personnel, regarding the relevant symptoms to look for, the urgency of the social distancing, and appropriate use of PPE.

52. Free and unlimited phone calls should be available to mitigate the extreme stress of the prolonged solitary confinement status now operating at PDP facilities, and the banning of visits from family and friend. Alcohol or bleach wipes should be provided to each person before they make a phone call to allow them to sterilize the phone, both the handpiece and the phone's keyboard. Adequate phones should be available to allow for increased use, and they should be spaced six feet apart.

53. PDP administration should document that cleaning supplies are available to persons working and living in the jail, that all surfaces in all housing and living areas are cleaned at least three/four times a day. This information should be published.

[21] https://doi.org/10.1038/s41575-020-0295-7
[22] https://linkinghub.elsevier.com/retrieve/pii/S0016508520302821

54. It is my opinion that all persons housed in the Jail should receive information, both verbally and in writing, about the latest CDC and public health guidance about the COVID-19 disease, including best practices and updated protocols as they emerge.

55. It is my opinion that all persons housed in the PDP should receive clean, laundered sheets and clothing at least twice a week, and showers with soap once per day, and at least two hours daily of large muscle recreation.

56. It is my opinion that sufficient physical distancing must be implemented throughout the PDP jails, including allowing for six feet of distance between inmates, in addition to the measures outlined above for those who are positive or symptomatic, pending test results.

57. It is my opinion that inmates must continue to have access to timely and emergency medical and mental health care as this virus continues to spread.

58. It is my opinion that statistics reflecting the state of the pandemic in PDP be published daily and provided to the community, including those who live and work in the jails. This data is essential to assure that current pandemic management plans are working, and to provide timely evidence if they are not, so that plans can be changed. Elements of this daily published report must include:

a. Number of patients with confirmed COVID-19
b. Number of patients tested each day
c. Number of positive and number of negative results received each day
d. Number of correctional staff with confirmed COVID-19 positive (cumulative)
e. Number of health staff with confirmed COVID-19 (cumulative)

f. Total number of incarcerated people over the age of 55

g. Total in infirmary status

h. Total pregnant women in custody

i. Number in quarantine status, including those quarantined upon admission and those quarantined as a result of exposure to COVID-19 infected persons

j. Number of symptomatic persons awaiting testing results

k. Number of COVID-19 positive persons in cohorted housing

l. Total hospitalized

i. Daily hospital admissions

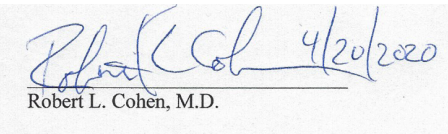
ii. Daily hospital discharges

iii. Daily number of patients on ventilators

iv. Deaths (daily and cumulative)

59. In reaching my opinions in this matter, I have relied on my personal expertise, professional experience in correctional medicine, as well as the statements referenced above regarding operations at the PDP

I declare under penalty of perjury that the foregoing is true and correct. Executed this 20th day of April, 2020 in New York, New York.



Robert L. Cohen, M.D.

Exhibit C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS REMICK, JAY DIAZ, NADIYAH WALKER, MICHAEL ALEJANDRO, MICHAEL DANTZLER, ROBERT HINTON, JOSEPH WEISS, JOSEPH SKINNER, SADDAM ABDULLAH, and JAMES BETHEA, on behalf of themselves and all others similarly situated,	:	**Case No.**
Plaintiffs-Petitioners,	:	**Filed Via ECF**
v.	:	
CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,	:	
Defendants-Respondents.	:	

DECLARATION OF THOMAS REMICK

THOMAS REMICK, one of the Plaintiffs herein, hereby declares that the following is true and correct to the best of his knowledge and belief:

1. I am a 30-year-old man serving a sentence of 11 ½ to 23 months of incarceration for robbery and burglary. I have been in custody since May 2019**.** I am held at the Detention Center (DC) in Philadelphia.
2. I was diagnosed with sarcoma in 2015, and had a tumor removed from my leg in 2016. The doctor told me my tumor was an aggressive type of cancer that commonly spreads to the lungs. As part of my medical care, I am supposed to have chest x-rays every 6 months. When I arrived at PDP a little over a year ago, I received one x-ray. I had a second x-ray in March, after my public defender complained to the prison.

3. As a result of this medical condition, I understand that I am at heightened risk of severe symptoms and death due to COVID-19.
4. I have already filed grievances seeking assistance due to my medical condition.
5. In addition to my sarcoma condition, I have a broken kneecap as a result of a car accident that occurred before my incarceration. While I was housed at CFCF, I wore a brace. When I entered DC, they took this brace away from me.
6. I also suffer from headaches and allergies. When I reported this to the medical staff, I was instructed to buy Tylenol from the commissary.
7. I am currently housed in Q dorm with 20 other people, though the dorm normally holds 48 people. This is a large open space with bunk beds, shared toilets, and sinks. However, even with fewer people, the beds in the dorm are still close together and we all sleep within 3 feet of other people. It is impossible for all of us to stay six feet apart from every other person while in the dorm.
8. Previously, I was housed in D Dorm, where there were mice on the bunks.
9. Most of the time, several people in Q dorm are coughing.
10. Two weeks ago, a man in Q Dorm became very ill, and started urinating and defecating on himself. The officers removed him from the dorm.
11. Recently, three new people were transferred to our block from E&D annex because the prison was planning on closing the annex and was spreading people out among the other dorms. However, the new people only stayed for lunch and then were moved back to their original dorm. I later learned that someone on the E&D annex had been sent to the hospital. The hospital tested him for COVID-19, the test came back positive, and that is why the prison returned everyone to E&D annex.

12. One officer who works the 7 am to 3 pm shifts gives us cleaning supplies and lets us clean our dorm every three hours. When this officer is not on duty, the other officers keep the cleaning supplies locked up and refuse to give us access to them. As a result, we can only clean our dorms when this one specific officer is on duty.
13. We received face masks last week. We are supposed to be allowed to change them every Tuesday.
14. Not all of the people in my dorm wear their masks all the time. The officers told us that we have to wear the masks when we leave the dorm, but they do not make us wear them while in the dorm.
15. While I see officers with masks on when they are coming into or leaving our dorm, officers will sometimes remove their masks once they are on our dorm and are staying for a shift.
16. Someone came onto our block from the quarantine unit and told us he had been there for between 7 and 10 days. I thought people were supposed to be quarantined for 14 days when they arrived at the prison.
17. The officers hand out soap and toilet paper once per week. If you run out of soap, you have to wait until the following week or buy it from the commissary. If you do not have money or access to the commissary, you will not have enough soap to wash yourself.
18. The officers have a hand sanitizer pump for their own use in their enclosed officers' station. Most of the officers prohibit us from using the hand sanitizer, though one officer lets me have some hand sanitizer when I help hand out the food.
19. I understand that the food trays are prepared and assembled at a central location in CFCF then distributed to all the other facilities.
20. I am scared that I will get sick.

I, Susan Lin, certify that Thomas Remick relayed the above information to me over the phone on April 16, 2020 and that he gave me permission to relay this information in a declaration signed on his behalf. Due to restrictions on communication between counsel and those incarcerated in the Philadelphia Department of Prisons, the finished declaration has not been reviewed with Mr. Remick.

/s/ Susan M. Lin

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Dated: April 16, 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS REMICK, JAY DIAZ, NADIYAH WALKER, MICHAEL ALEJANDRO, MICHAEL DANTZLER, ROBERT HINTON, JOSEPH WEISS, JOSEPH SKINNER, SADDAM ABDULLAH, and JAMES BETHEA, on behalf of themselves and all others similarly situated,	:	**Case No.**
Plaintiffs-Petitioners,	:	**Filed Via ECF**
v.	:	
CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,	:	
Defendants-Respondents.	:	

DECLARATION OF JAY DIAZ

JAY DIAZ, one of the Plaintiffs herein, hereby declares that the following is true and correct to the best of his knowledge and belief:

1. I am a 30-year-old man. I have been held at Riverside Correctional Facility (RCF) since November 9, 2019. I am being held on $10,000 cash bail for an open possession with intent to deliver controlled substances charge. I also have a probation detainer that holds me in custody.
2. I have asthma, and I normally use an inhaler. Since being incarcerated, I have not had access to an inhaler. In addition, I sometimes need “breathing treatments” but I have not received those while in custody. I currently have to take deep breaths when I talk. I have asked a nurse for breathing treatments but have not received any.

3. In addition, I have stage 3 cervical and ovarian cancer. I was diagnosed in December 2018, and before my incarceration I was receiving treatment at Temple Hospital. My oncologist told me that the cancer made me more susceptible to infections. I was scheduled to have a hysterectomy in May followed by radiation and chemotherapy. I am currently experiencing abdominal pain, difficulty holding urine, lower back pain and frequent feeling that I need to urinate. Since being incarcerated, I have not had any treatment for this cancer. I was supposed to go for a medical visit on March 27, 2020 but was not sent to this visit.
4. I filed a grievance a week or so ago about the lack of access to medical care and my situation but received no response.
5. As a result of my asthma and cancer, I understand that I am at heightened risk of severe symptoms and risk of death due to COVID-19.
6. I am currently housed in E Unit with about 60 other people. While the unit is less than half full, the staff has condensed us into the bottom tier of the unit, leaving the top tier empty. Though I do not have a cellmate, many people on the unit are double-celled.
7. We eat our meals in our cells.
8. We are on lockdown and generally get out of our cells for about 15-20 minutes, sometimes once a day, sometimes twice. It has been weeks since we have been let into the yard.
9. When we are let out of our cells, 10-20 people are let out at a time to use the phones, showers, and to get water.
10. Some staff try to enforce social distancing but others do not. There are distance markers on the floor but no instructions on how to use them.
11. While most of us try to abide by social distancing, it is impossible do so when using the phones as they are less than 2 feet apart. When we use the phones we must stand elbow to

elbow. We generally try to clean the phones after every use with disinfectant that staff gives us. The staff do not require that we clean the phones, nor does the staff clean the phones for us, but we do it on our own initiative. I am the block representative and I make sure the phones are cleaned.

12. We share the showers, which are separate stalls. Showers are cleaned twice a day, but not after every use.
13. On April 1, I received a cloth mask, but no instructions on whether or how often to clean it. We all wear masks whenever we leave our cells.
14. Some staff wear masks and others do not. Multiple sergeants have visited our unit without masks.
15. At least four people on my unit have had symptoms of COVID-19, including loss of sense of taste, burning nostrils, and waking up in sweats. None of those people have been medically isolated or tested.
16. I was supposed to have a court date on March 17, where I understood I was to plead guilty and receive a sentence of 11 ½ to 23 months of incarceration with immediate parole. This meant I would have been released from jail. I did not get into court on March 17th and have not heard anything about my case since February. I do not know when my next court date is.
17. I fear for my life if I am kept in jail.

I, Matthew A. Feldman, certify that Jay Diaz relayed the above information to me over the phone on April 16, 2020 and that he gave me permission to relay this information in a declaration signed on his behalf. Due to restrictions on communication between counsel and those incarcerated in

the Philadelphia Department of Prisons, the finished declaration has not been reviewed with Mr. Diaz.

/s/ Matthew A. Feldman
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Dated: April 19, 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS REMICK, JAY DIAZ, NADIYAH WALKER, MICHAEL ALEJANDRO, MICHAEL DANTZLER, ROBERT HINTON, JOSEPH WEISS, JOSEPH SKINNER, SADDAM ABDULLAH, and JAMES BETHEA, on behalf of themselves and all others similarly situated, **Plaintiffs-Petitioners,** **v.** **CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,** **Defendants-Respondents.**	:	**Case No.** **Filed Via ECF**

DECLARATION OF NADIYAH WALKER

NADIYAH WALKER, one of the Plaintiffs herein, hereby declares that the following is true and correct to the best of her knowledge and belief:

1. I am a 43-year-old woman currently held at the Riverside Correctional Facility (RCF). I have been in custody since September 1, 2019. I am held on $150,000 bail for an open robbery charge. I also have probation detainers holding me as a result of this open charge.
2. I have epilepsy and suffer from seizures. My last seizure occurred in February. In addition, I also have diabetes, asthma, and anemia.
3. I have not received any medical treatment for my asthma. A few days ago, I had an asthma attack and the staff refused to give me a pump. They told me I was “hyperventilating.”
4. I filed a grievance on or around April 11, 2020 and received no response.

5. I understand that as a result of my medical conditions, I am at heightened risk of severe symptoms and death due to COVID-19.
6. I am currently housed on E-Unit at RCF with approximately 60 other women. Although the unit is less than half full, they closed the top tier, so the remaining women are mostly double-celled on the bottom tier. I do not have a cellmate, though many others do.
7. We all share showers and phones.
8. My toilet has no lid and low water pressure; it does not flush properly and waste comes up after I flush.
9. We are on lockdown and only let out of our cells for about 15-20 minutes in the morning and 15-20 minutes most nights. The guards generally let 10-20 people out of their cells at a time to shower, use the phones, and get water.
10. We cannot social distance when we use the phones because the phones are spaced less than 2 feet apart.
11. The shower is cleaned twice a day, not after every use.
12. I received one cloth mask around April 9. I try to wash my mask in my sink every night with soap that I purchased from the commissary. The staff do not provide additional masks or soap for washing masks.
13. I have to purchase soap because the staff do not provide soap sufficient for us to wash our hands frequently.
14. I see the staff use hand sanitizer but they have not provided any for us.
15. I heard that an RCF staff member who sometimes worked on my unit died from the virus.
16. I know that two women on my unit had fevers but the staff did not take them off the unit. Instead, they were just told to stay in their cells.

17. I am terrified for my life. I am afraid that if I had an asthma attack or a seizure, no one would come to help me.

I, Matthew A. Feldman, certify that Nadiyah Walker relayed the above information to me over the phone on April 16, 2020 and that she gave me permission to relay this information in a declaration signed on her behalf. Due to restrictions on communication between counsel and those incarcerated in the Philadelphia Department of Prisons, the finished declaration has not been reviewed with Ms. Walker.

/s/ Matthew A. Feldman

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Dated: April 19, 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS REMICK, JAY DIAZ, NADIYAH WALKER, MICHAEL ALEJANDRO, MICHAEL DANTZLER, ROBERT HINTON, JOSEPH WEISS, JOSEPH SKINNER, SADDAM ABDULLAH, and JAMES BETHEA, on behalf of themselves and all others similarly situated,	:	**Case No.**
Plaintiffs-Petitioners,	:	**Filed Via ECF**
v.	:	
CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,	:	
Defendants-Respondents.	:	

DECLARATION OF MICHAEL ALEJANDRO

MICHAEL ALEJANDRO, one of the Plaintiffs herein, hereby declares that the following is true and correct to the best of his knowledge and belief:

1. I am a plaintiff in this lawsuit. I am a 27-year-old man currently held at the Detention Center (DC) in Philadelphia. I have been in custody since February 25, 2020.
2. I am being held as a pretrial detainee charged with aggravated assault. My bail on these charges is set at 10% of $25,000.
3. I am also being held pursuant to a probation detainer, as my new charges would constitute a violation of probation if I am found guilty of them.
4. I suffer from asthma, which I understand places me at heightened risk for more severe symptoms and potential death from COVID-19.

5. I am currently housed with 31 other inmates in a dorm, which is approximately the size of half of a basketball court (approximately 2,350 square feet). We sleep in bunkbeds, approximately 2 to 3 feet apart.
6. We all eat together in this one large room.
7. It is impossible to stay 6 feet apart from each other while in this jail.
8. All 32 of us share 1 shower, 2 urinals, and 1 toilet. The toilet does not have a lid.
9. The showers and toilets are only cleaned once a day in the morning.
10. All of the inmates use the same phones. These phones are spaced less than 2 feet apart. The phones are cleaned only once per day in the morning, and the phones are not cleaned after each use.
11. The block itself is cleaned once per day in the morning, but the bunks are not cleaned, because people are often sleeping in their bunks during cleaning.
12. While we are told that everyone is supposed to get soap once a week on Monday, we do not actually receive soap. I asked a correctional officer whether I could get soap, and was told they did not have any to give out. In order to get soap to wash my hands and body, I have to purchase it from the commissary with my personal money.
13. We are not given hand sanitizer, disinfectant, or cleaning materials. In order to obtain disinfectants, people have to sneak it from staff and block workers, who will occasionally look the other way.
14. Two weeks ago, the prison staff gave the inmates cloth masks, made of what appeared to be bedsheet-like material and elastic. We cannot wash these masks. We had one opportunity to switch out our mask and receive a fresh mask. I chose not to switch mine

out. In order to get a new mask, you had to be without a mask for a couple of hours while you waited for a new one.

15. The correctional officers wear masks.
16. We do not have gloves.
17. I hear a lot of coughing in my unit and think at least 3 people may be sick. I have not seen or heard anything about the medical department evaluating them.
18. I have not been tested for COVID-19 and I have not seen nor heard that anyone else in my unit has been tested either.
19. We have been locked down in this dorm for almost one month.

I, Susan Lin, certify that Michael Alejandro relayed the above information to me over the phone on April 15, 2020 and that he gave me permission to relay this information in a declaration signed on his behalf. Due to restrictions on communication between counsel and those incarcerated in the Philadelphia Department of Prisons, the finished declaration has not been reviewed with Mr. Alejandro.

/s/ Susan M. Lin

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Dated: April 15, 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS REMICK, JAY DIAZ, NADIYAH WALKER, MICHAEL ALEJANDRO, MICHAEL DANTZLER, ROBERT HINTON, JOSEPH WEISS, JOSEPH SKINNER, SADDAM ABDULLAH, and JAMES BETHEA, on behalf of themselves and all others similarly situated,	:	**Case No.**
Plaintiffs-Petitioners,	:	**Filed Via ECF**
v.	:	
CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,	:	
Defendants-Respondents.	:	

DECLARATION OF MICHAEL DANTZLER

MICHAEL DANTZLER, one of the Plaintiffs herein, hereby declares that the following is true and correct to the best of his knowledge and belief:

1. I am a 45-year-old man currently incarcerated at the Detention Center (DC). I am held pretrial on $150,000 cash bail in an open case where the main charge is the unlawful possession of firearms. I was arrested on September 20, 2018, and have been held in custody since that time.
2. I have a vascular disease that makes me prone to blot clots. On February 20, 2020, I had emergency surgery to remove a pulmonary embolism. During the surgery, the doctors lacerated my kidney by accident. I take medication to help the laceration heal and receive

periodic imaging to ensure it is healing properly. I lost 50 pounds in the two months since my surgery.

3. I understand that, because of my medical condition, I am at heightened risk of severe symptoms and death due to COVID-19.
4. I filed a grievance challenging the conditions at this jail and asking to be released. I have not received an answer to my grievance.
5. I am currently housed in a cell by myself on the medical unit at DC along with two other people.
6. In the whole time I have been here, no one has ever cleaned my cell. I do not have access to any cleaning products so I cannot clean the cell myself.
7. Block workers clean the hallways and other areas outside of the cells.
8. The officers have never given me any soap. I have had to buy all my soap from the commissary.
9. I am on lockdown and in my cell for at least 23 hours a day. I am allowed out of my cell only to use the shower and phone. I am worried that not moving around will lead to another blood clot.
10. A doctor comes to my cell every week. The doctor does not always wear a mask.
11. The officers are supposed to wear masks but do not always do so. The officers do not wear gloves.
12. I was first given a mask about 2 weeks ago. It was made out of white fabric. I was not able to clean or change my mask. I wore that same mask for 14 days before I was given a second mask.

13. I am worried that I will die here either from COVID-19 or from a blood clot because I am not able to move.

I, Hayden Nelson-Major, certify that Michael Dantzler relayed the above information to me over the phone on April 16, 2020 and that he gave me permission to relay this information in a declaration signed on his behalf. Due to restrictions on communication between counsel and those incarcerated in the Philadelphia Department of Prisons, the finished declaration has not been reviewed with Mr. Dantzler.

/s/ Hayden Nelson-Major

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Dated: April 16, 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS REMICK, JAY DIAZ, NADIYAH WALKER, MICHAEL ALEJANDRO, MICHAEL DANTZLER, ROBERT HINTON, JOSEPH WEISS, JOSEPH SKINNER, SADDAM ABDULLAH, and JAMES BETHEA, on behalf of themselves and all others similarly situated, **Plaintiffs-Petitioners,** **v.** **CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,** **Defendants-Respondents.**	:	**Case No.** **Filed Via ECF**

DECLARATION OF ROBERT HINTON

ROBERT HINTON, one of the Plaintiffs herein, hereby declares that the following is true and correct to the best of his knowledge and belief:

1. I am 63-years-old and currently held at Curran-Fromhold Correctional Facility (CFCF) in Philadelphia. I have been in custody since my arrest on April 7, 2020. I was admitted to CFCF on April 8, 2020.
2. I am being held as a pretrial detainee charged with aggravated assault. My bail is set at $200,000.
3. I have Hepatitis C, which caused damage to and scarring of my liver. I understand that as a result of my age and medical condition I am at heightened risk for more severe symptoms and death due to COVID-19,

4. I am currently experiencing pain on the side of my abdomen.
5. I have been in "quarantine" since I arrived at CFCF on April 8th. This "quarantine" means that I have been housed in a small "multipurpose room" with 2 other people. There are 2 bunk beds, and we all share one toilet and one sink. It is impossible to keep 6 feet away from the other people given the size of the room.
6. Once a day, I am released from the multipurpose room for 20 minutes to use the phone and shower. The showers are not being cleaned with disinfectant and I have no shower shoes, so I must walk barefoot in these showers.
7. When I arrived at CFCF, I received some soap. It did not last long. I used up all of this soap a few days ago. I have been begging officers to give me more. I have had to go without soap for several days.
8. I clean the cell when I can. I ask the correctional officers for a spray bottle of cleaner and sometimes the officers will give it to me; sometimes the officers refuse.
9. All meals are brought to our cell. The officers do not always collect the trays after meals. In the late afternoon on April 16, my breakfast and lunch trays were still on the floor and there were cockroaches in the cell.
10. The officers gave me a single mask made out of cloth when I arrived. Because I do not have consistent access to soap, I am not able to wash or clean this mask. I have not received a replacement mask in the eight days that I have been at CFCF.
11. I do not have access to gloves or hand sanitizer.
12. The officers wear masks most of the time but there have been occasions when I have seen them interacting with incarcerated people while not wearing masks.
13. Someone takes my temperature two or three times a day.

14. When I initially arrived, I was told that I would be in "quarantine" for fourteen days but a lieutenant recently told me it might be longer because there is "no room in the jail."
15. I am scared that I will die if I stay in custody and catch the virus.

I, Hayden Nelson-Major, certify that Robert Hinton relayed the above information to me over the phone on April 16, 2020 and that he gave me permission to relay this information in a declaration signed on his behalf. Due to restrictions on communication between counsel and those incarcerated in the Philadelphia Department of Prisons, the finished declaration has not been reviewed with Mr. Hinton.

/s/ Hayden Nelson-Major

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Dated: April 16, 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS REMICK, JAY DIAZ, NADIYAH WALKER, MICHAEL ALEJANDRO, MICHAEL DANTZLER, ROBERT HINTON, JOSEPH WEISS, JOSEPH SKINNER, SADDAM ABDULLAH, and JAMES BETHEA, on behalf of themselves and all others similarly situated, **Plaintiffs-Petitioners,** **v.** **CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,** **Defendants-Respondents.**	:	**Case No.** **Filed Via ECF**

DECLARATION OF JOSEPH WEISS

JOSEPH WEISS, one of the Plaintiffs herein, hereby declares that the following is true and correct to the best of his knowledge and belief:

1. I am 57-years-old. I am an Army veteran, having served for 10 years. I was wounded in combat, and as a result have a metal rod and pins in my femur. I walk with a cane.
2. I have been in custody since my arrest on April 3, 2020. I have been held at Curran-Fromhold Correctional Facility (CFCF) since April 4, 2020.
3. I am being held pretrial at CFCF on $75,000 bail for an open aggravated assault charge.
4. I understand that I am at heightened risk of severe symptoms and death due to COVID-19 because of my age.

5. Upon arriving at CFCF, I was placed in a "quarantine" cell. It is a converted multipurpose room. It is only a couple of feet bigger than a normal cell. This multipurpose room has two bunk beds, and a shared sink and toilet.
6. In the quarantine multipurpose room, I was housed with two other people. It was impossible to stay 6 feet away from the other people.
7. Someone checked our temperatures three times a day.
8. I did not receive a mask when I arrived. I only received one several days after my arrival.
9. I do not have access to gloves.
10. The correctional officers are wearing gloves and masks.
11. On April 7, 2020, one of the other men in the multipurpose room with me ran a 103 degree fever and the officers removed him from the multipurpose room. The next day the correctional officers gave us spray bottles of bleach and told us to clean down the room.
12. I was later transferred to a regular cell within CFCF. I am currently by myself in the cell. Since being transferred to the cell, the officers check my temperature twice a day.
13. I did not have access to any soap for the first four days of my time at CFCF. I did not receive any soap until I was transferred out of the multipurpose room to a regular cell.
14. No one cleans our cells and we do not have access to cleaning products.
15. I am scared for my life here and I feel like I am in a death trap.

I, Hayden Nelson-Major, certify that Joseph Weiss relayed the above information to me over the phone on April 16, 2020 and that he gave me permission to relay this information in a declaration signed on his behalf. Due to restrictions on communication between counsel and those

incarcerated in the Philadelphia Department of Prisons, the finished declaration has not been reviewed with Mr. Weiss.

/s/ Hayden Nelson-Major
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Dated: April 16, 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS REMICK, JAY DIAZ, NADIYAH WALKER, MICHAEL ALEJANDRO, MICHAEL DANTZLER, ROBERT HINTON, JOSEPH WEISS, JOSEPH SKINNER, SADDAM ABDULLAH, and JAMES BETHEA, on behalf of themselves and all others similarly situated, **Plaintiffs-Petitioners,** **v.** **CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,** **Defendants-Respondents.**	:	**Case No.** **Filed Via ECF**

DECLARATION OF JOSEPH SKINNER

JOSEPH SKINNER, one of the Plaintiffs herein, hereby declares that the following is true and correct to the best of his knowledge and belief:

1. I am a plaintiff in this lawsuit. I am a 38-year-old man currently held at the Curran-Fromhold Correctional Facility (CFCF) in Philadelphia. I have been in custody since July 2, 2019.
2. I suffer from severe asthma. I use an inhaler daily. In the past, I have been hospitalized 4 or 5 times and have been intubated due to my asthma. The last time I was hospitalized was in 2015. I understand that my medical condition places me at heightened risk for more severe symptoms and potential death from COVID-19.

3. I am being held as a pretrial detainee charged with possession with intent to deliver drugs. My bail on these charges is set at $20,000
4. I am also being held pursuant to a probation detainer, as my new charges would constitute a violation of probation if I am found guilty of them.
5. I am housed in a cell on a block with over 70 people in it.
6. Most people on this block are double-celled. I shared my cell with someone until the morning of April 15th. I expect to have a new cellmate shortly.
7. The cell, which is roughly the same size as the inside of a standard SUV, contains a set of bunk beds, a chair, as well as a toilet and sink which we both share. The toilet does not have a lid. There is no way to maintain a distance of six feet apart from your cellmate at all times.
8. We have been on lockdown for the past month. We were told we would be let out twice a day for 15 minutes each time. This does not happen daily because there have been too few correctional officers showing up for work.
9. I receive food in my cell and eat while in my cell.
10. The phones are approximately 1 foot apart from each other. Because we only have limited opportunities to use the phones, every time you use the phones, you are within six feet of another inmate. The phones are not cleaned between each use; the block workers clean them approximately 2 to 4 times per day.
11. The block workers clean the block 2 to 4 times per day.
12. I received one mask a week ago. I cannot wash this mask. I have been using the same mask for a week without cleaning it.
13. The correctional officers have been wearing masks and gloves for the past two weeks.

14. None of the inmates have gloves except for the block workers who get them to clean.
15. The jail is not giving us soap – not even "county soap" (the soap everyone is supposed to get for free). When we ask the officers for it, the officers say they do not have any. In order to get soap to wash my hands and body, I have to purchase it from commissary with my own money.
16. Nor do I have access to hand sanitizer.
17. There are 8 showers on the block, and they are shared among 70 people. These showers are only cleaned once per week. The showers are not cleaned after each use.
18. Before the lockdown began, we could clean our cell one time per week. Now, if you want to clean your cell, you have to ask an officer for cleaning material – some officers will give it to you and some refuse. They will give you a broom, a mop, bleach, and disinfectant. I have cleaned my cell once per week since the lockdown began.
19. The officers continually bring newly admitted people onto my block. I had heard that the jail would keep people in the quarantine unit for 14 days after they were admitted to the jail, but officers brought 8 new people onto my block after only 7 days of being quarantined.

I, Susan Lin, certify that Joseph Skinner relayed the above information to me over the phone on April 15, 2020 and that he gave me permission to relay this information in a declaration signed on his behalf. Due to restrictions on communication between counsel and those incarcerated in the Philadelphia Department of Prisons, the finished declaration has not been reviewed with Mr. Skinner.

/s/ Susan M. Lin
Susan Lin (PA 94184)
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Dated: April 15, 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS REMICK, JAY DIAZ, NADIYAH WALKER, MICHAEL ALEJANDRO, MICHAEL DANTZLER, ROBERT HINTON, JOSEPH WEISS, JOSEPH SKINNER, SADDAM ABDULLAH, and JAMES BETHEA, on behalf of themselves and all others similarly situated,	:	**Case No.**
Plaintiffs-Petitioners,	:	**Filed Via ECF**
v.	:	
CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,	:	
Defendants-Respondents.	:	

DECLARATION OF SADDAM ABDULLAH

SADDAM ABDULLAH, one of the Plaintiffs herein, hereby declares that the following is true and correct to the best of his knowledge and belief:

1. I am a 29-year-old man currently held pretrial at Philadelphia Industrial Correctional Center (PICC). I am being held on $1,000,000 cash bail as a result of a third degree homicide charge.
2. I have asthma, and had four asthma attacks during the week of April 6, 2020 alone. My inhaler is not working. After one of my asthma attacks, medical staff came and checked me but refused to give me a breathing treatment. They told me the droplets from the breathing treatment could spread the virus.

3. I understand that as a result of my medical condition, I am at heightened risk for severe symptoms and death due to COVID-19.
4. Last week, I had chills. I could not taste or smell and had difficulty breathing. I put in a sick call request detailing my symptoms. Medical staff came and checked my temperature, but told me I did not have a fever. The staff offered me Tylenol and Robitussin, but I declined.
5. I filed an emergency grievance, but have not yet received any response.
6. I was not tested for the coronavirus nor was I medically isolated in any way.
7. I am currently on H-1 unit with approximately 100 other people on the unit. The unit is mostly full and generally, we are all double-celled.
8. I am in a cell approximately 6' x 9' with a cellmate. It is impossible to stay 6 feet apart from my cellmate when we are in the cell.
9. We share a toilet and sink. The toilet does not have a lid and when the people in the cell next to mine flush their toilet, some of the material they flushed comes up in my toilet, and vice versa.
10. We have been on lockdown for several weeks. We are only allowed out of our cells for 15-20 minutes once every 3-4 days.
11. When people are let out of their cells, the officers let eight people out at a time, sometimes fewer than that.
12. From approximately March 31 through April 15, 2020, I did not have any toilet paper.
13. I have one bar of soap that I purchased from commissary but no hand soap. The officers are supposed to give out soap every week but they do not do so.

14. I received one cloth mask made out of bedsheet material. I received that mask on March 23. I received no instructions on how to clean this mask.
15. I have not been able to clean my cell for the entire time I have been on lockdown. I received no cleaning supplies for my cell.
16. When we are out of our cells, there is no enforcement of social distancing.
17. The phones are very close together, close enough that when I am standing in front of one phone, I can touch the phone next to it. Whenever I use the phone, I am within 2 feet of another person.
18. Last week, approximately six or seven people on my unit had symptoms of the virus, including coughing and fever. They were all left on the unit. To my knowledge, the staff did not test or isolate any of those people.
19. Staff sometimes, but not always, wear masks. Some staff approach and talk to inmates without masks on.
20. On April 15, while I was on the phone, a Major approached me without a mask on. He got right in my face, close enough to touch me, and told me to get off the phone. The guard then threatened me, saying "I'm gonna put you in the hospital."
21. I know one inmate who was transferred to our unit after being quarantined in the COVID trailers for only 14 days. He had tested positive for coronavirus and staff moved him to our unit without a second test to confirm that he was virus-free.
22. I fear that my life is in jeopardy if I remain in custody.

I, Matthew A. Feldman, certify that Saddam Abdullah relayed the above information to me over the phone on April 15 and April 16, 2020 and that he gave me permission to relay this information

in a declaration signed on his behalf. Due to restrictions on communication between counsel and those incarcerated in the Philadelphia Department of Prisons, the finished declaration has not been reviewed with Mr. Abdullah.

/s/ Matthew A. Feldman
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Dated: April 19, 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS REMICK, JAY DIAZ, NADIYAH WALKER, MICHAEL ALEJANDRO, MICHAEL DANTZLER, ROBERT HINTON, JOSEPH WEISS, JOSEPH SKINNER, SADDAM ABDULLAH, and JAMES BETHEA, on behalf of themselves and all others similarly situated, **Plaintiffs-Petitioners,** **v.** **CITY OF PHILADELPHIA; and BLANCHE CARNEY, in her official capacity as Commissioner of Prisons,** **Defendants-Respondents.**	:	**Case No.** **Filed Via ECF**

DECLARATION OF JAMES BETHEA

JAMES BETHEA, one of the Plaintiffs herein, hereby declares that the following is true and correct to the best of his knowledge and belief:

1. I am a 53-year-old man currently housed at Philadelphia Industrial Correctional Center (PICC). I am serving a sentence for a technical violation of parole. In March 2018, Judge Coyle sentenced me to time-in to 23 months of incarceration, followed by probation, for a misdemeanor simple assault and resisting arrest. On September 24, 2018, Judge Coyle revoked my parole as a result of a technical violation and I was taken into custody. For my technical violation, I was sentenced to serve my back-time. I understand that I will not be released until July 2020.

2. I am also facing charges for contraband, but was ordered released on own recognizance, so this charge is not holding me in custody.
3. I have asthma and use albuterol daily. When out of custody, I smoke daily. I have been treated for Hepatitis C and suffer from arthritis. In addition, I have been diagnosed with schizophrenia and bipolar disorder and was previously prescribed zyprexa. I have also been diagnosed as borderline diabetic and was previously prescribed metformin.
4. I understand that as a result of my medical condition, I am at heightened risk for serious symptoms and death due to COVID-19.
5. I have asked to go to medical, but those requests have been denied. I understand that the medical staff have stopped taking all sick calls.
6. Officers come around twice a day to check everyone's temperature.
7. I am currently held in the punitive segregation unit because I was caught with a cigarette. I have been here for 63 days.
8. I share an 8' x 10' cell with a cellmate. It is impossible to stay 6 feet apart from each other at all times. We share a sink, toilet, one chair, and a desk.
9. There are approximately 50 men on the block and we share 5 phones and 4 showers.
10. Most of the people on the block are double-celled.
11. Before the lockdown began, about a month ago, we were able to clean our cell once every week. For the past month we have not been able to clean our cells. I asked the officers for bleach and disinfectant and they refused to give any to me.
12. There is a significant staffing shortage. Due to this shortage, there are many days on which the officers have not let us out of our cells at all. I last showered 4 days ago. I last used the phone 2 or 3 days ago.

13. When there are enough officers, we are allowed out 5 cells at a time but only for about an hour.
14. Phones are cleaned only once per day. They are not cleaned between each usage. When you use the phone, you are locked in a cage with the phone. You are about three feet away from the person next to you who is in his own cage with a phone. Every time you use the phone, you are within 6 feet of another inmate.
15. The showers are cleaned only once per day and not between each usage.
16. In order to have soap, I have to buy it from the commissary. Over the past two months, I have run out of soap 2 to 3 times. When that happened, I asked officers for soap but they said they did not have any. I had to wait for my family to put money on my books before I could get soap. During those times, I had to use just water to clean myself.
17. The officers never provided me with hand sanitizer.
18. I received one cloth mask about three weeks ago. I have not received a replacement. I have washed the mask as best I can in the sink in my cell.
19. I have never been given gloves.
20. On April 16, 2020, the officers took 3 men off the block on stretchers and took 4 men off the block in wheelchairs. They all looked really sick. They were brought back onto the block after a few hours. I have no idea if they were tested for coronavirus and no one has told us anything about whether these men were tested.
21. Two men on the block said that they had been tested and tested positive for the coronavirus. They are still on my block and come out of their cells with others.
22. I hear men and officers on my block coughing and sneezing.
23. I have not received any information on how to stay safe from the coronavirus.

24. I am scared I am going to get the virus and die from it.

I, Susan Lin, certify that James Bethea relayed the above information to me over the phone on April 17, 2020 and that he gave me permission to relay this information in a declaration signed on his behalf. Due to restrictions on communication between counsel and those incarcerated in the Philadelphia Department of Prisons, the finished declaration has not been reviewed with Mr. Bethea.

/s/ Susan M. Lin

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Dated: April 17, 2020