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April 2, 2020

Francis V. Kenneally
Clerk, Supreme Judicial Court
John Adams Courthouse
One Pemberton Square
Suite 1300
Boston, MA 02108

**Re: *CPCS v. Chief Justice of the Trial Court*
SJC-12926**

Dear Clerk Kenneally:

Petitioners write, with profound alarm, about today's submissions from the Department of Correction and the Sheriffs. These submissions present two crises: one inside Massachusetts carceral facilities, and one in this litigation.

The crisis for incarcerated people is that, as petitioners feared (*see* Pet. Reply Br. 1-3), vast numbers of them have no meaningful opportunity to avoid being infected by, or infecting others with, COVID-19. In the DOC, an estimated 72% of prisoners sleep within six feet of another person; an estimated 70% of prisoners eat within six feet of another person, to say nothing of standing in line next to them to receive food; and 100% of prisoners recreate within six feet of another person.

Meanwhile, in five counties—Middlesex, Norfolk, Plymouth, Suffolk, and Worcester—the Sheriffs have acknowledged that many or most people in their custody are sleeping or eating less than six feet apart. And in three other counties—Bristol, Essex, and Hampden—untold numbers are sleeping head to toe. In Bristol, prisoners and detainees sleep in dormitories where the bunks are “at least approximately 3 feet” apart.

The crisis for this litigation is the willingness of the Sheriffs in Bristol, Essex, and Hampden Counties to claim that the head-to-toe arrangements in their facilities constitute six feet of separation. Those claims are inaccurate. And although those Sheriffs suggest that their actions are consistent with CDC guidance, that is not so. The CDC's housing guidance calls for “ideally 6 feet or more in all directions,” *plus*

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arranging individuals so that they sleep “head to foot.”¹ We are equally concerned that the Bristol Sheriff announced this afternoon on Twitter, but not in his submission to this Court, that “[a] health care professional working at the Bristol County Sheriff’s Office has tested positive for COVID-19.”²

No matter how the living arrangements inside Massachusetts’ carceral facilities are described, they are dangerous—to incarcerated people, to corrections staff, and to the public. In the time since this case was argued, that dire circumstance has only grown more apparent and more urgent.

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew Segal", written in a cursive style.

Matthew R. Segal

¹ <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>.

² <https://twitter.com/BristolSheriff/status/1245761575245484038?s=20>.