UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMAAL CAMERON; RICHARD BRIGGS; RAJ LEE; MICHAEL CAMERON; MATTHEW SAUNDERS, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

MICHAEL BOUCHARD, in his official capacity as Sheriff of Oakland County; CURTIS D. CHILDS, in his official capacity as Commander of Corrective Services; OAKLAND COUNTY, MICHIGAN,

Defendants.

Case No. 20-cv-10949

Hon. Linda V. Parker

PLAINTIFFS' COMBINED BRIEF IN RESPONSE TO DEFENDANTS' MOTION TO DISMISS AND IN REPLY TO DEFENDANTS' RESPONSE TO PLAINTIFFS' EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

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INTRODUCTION

As COVID-19 ravages jails and prisons throughout the country where medically vulnerable people are confined to spaces in which social distancing is impossible, Oakland County officials proclaim that they are "entitled to great deference in the operation of prison facilities." Def. Br. at 48. But this Court should follow the lead of so many others that have refused to stand idly by in the face of grave danger to vulnerable populations, as in *Thakker v. Doll*, __ F. Supp. __, 2020 WL 1671563, at *9 (M.D. Pa. Mar. 31, 2020):

> Our world has been altered with lightning speed, and the results are both unprecedented and ghastly. We now face a global pandemic in which the actions of each individual can have a drastic impact on an entire community. The choices we now make must reflect this new reality. . . .
>
> Our Constitution and laws apply equally to the most vulnerable among us, particularly when matters of public health are at issue. This is true even for those who have lost a measure of their freedom. If we are to remain the civilized society we hold ourselves out to be, it would be heartless and inhumane not to recognize [their] plight. And so we will act.

In Defendants' combined motion to dismiss and response to Plaintiffs' motion for a preliminary injunction,[1] they argue that (a) this Court is literally powerless to

[1] Defendants mislabel the "response" portion of their filing as a "response to motion for temporary restraining order." This Court has already granted a TRO and has denied in large part Defendant's motion to reconsider. Thus, the relevant motion before the Court is Plaintiffs' motion for a preliminary injunction, so this Court should construe Defendant's filing as a response to that motion.

order the removal of medically vulnerable individuals from the Oakland County Jail even though they face a high risk of death or serious harm should they contract a deadly virus that is already spreading through the facility, and (b) this Court should deny preliminary injunctive relief despite overwhelming evidence that the Jail environment is perilous for everyone confined there.

The Court should reject both those positions. Plaintiffs can seek habeas relief under 28 U.S.C. § 2241 or removal to another location under 42 U.S.C. § 1983 on behalf of the Medically Vulnerable Subclass because removal from the Jail is the only remedy that would safeguard their constitutional rights—and lives. Therefore, Defendants' motion to dismiss Counts III and IV of Plaintiffs' petition and complaint should be denied. Additionally, Plaintiffs are entitled to both forms of preliminary injunctive relief sought in their motion because they are likely to prevail on their claims and the equities weigh in their favor. On Counts I and II, the Court should convert its TRO into a preliminary injunction and grant further relief requested in Plaintiffs' motion regarding the unsafe policies and practices endangering the health and lives of all people confined in the Jail. And on Counts III and IV, the Court should order the Medically Vulnerable Subclass removed or released from the Jail without delay, as they face a high risk of death or serious harm that cannot be alleviated by the Count I and II relief sought for the class as a whole. Should an

evidentiary hearing be required to resolve any material disputes of fact, Plaintiffs request that one be scheduled at the earliest possible opportunity.

BACKGROUND AND FACTS

I. The COVID-19 Crisis Is a Health Crisis Unmatched in Living Memory.

As this Court knows, we are in the midst of an unprecedented public health crisis, *see* Compl. ¶ 19 (citing sources), and southeastern Michigan is an epicenter.[2] Things have only gotten worse in the ten days since Plaintiffs filed this suit: nationally, the number of people diagnosed with COVID-19 has increased by over 50%, and the number of confirmed deaths has more than doubled from 24,000 to over 52,000.[3] In Michigan there are over 37,000 cases and 3,300 deaths confirmed, approximately one-sixth of which are in Oakland County.[4] Plaintiffs' Complaint recounts in detail the scope of the national disaster; the extraordinary governmental emergency responses; and the horrific nature of COVID-19, which has been

[2] *See* Melissa Nann Burke, *Michigan COVID-19 Deaths at 2,700 as Cases Rise to Nearly 33,000*, Detroit News (Apr. 21, 2020), https://www.detroitnews.com/story/news/local/michigan/2020/04/21/michigan-deaths-2700-cases-rise-nearly-33000/2997405001/.

[3] *Compare* TRO Br. at 5, *with* Coronavirus 2019, Centers for Disease Control, https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html (last visited Apr. 26, 2020).

[4] Coronavirus Michigan Data, Michigan.gov, https://www.michigan.gov/coronavirus/0,9753,7-406-98163_98173---,00.html (last visited Apr. 26, 2020).

compared to "drowning in your own blood." They will not belabor these points further here.

What is critical for purposes of the instant motions is the highly contagious nature of COVID-19 and the particularly grim toll it has on medically vulnerable individuals. The coronavirus is highly contagious and "very efficient" at passing from person to person through respiratory droplets that can survive on inanimate surfaces that people touch. Compl. Ex. 14 ¶ 21 ("Lauring Decl."). Although anyone can die or suffer serious organ damage from the virus, among medically vulnerable people the risk of a "poor outcome" such as death or the need for "mechanical intervention" (such as a ventilator) is over 20%. *Id.* ¶ 22. Indeed, 74% of all cases requiring hospitalization involve individuals over the age of 50. *Id.*; *see* Compl. ¶ 23. Between 1% and 4% of all infected people die, a rate about ten times higher than a severe seasonal influenza. *Id.* ¶ 22. Predictably, "serious illness and death are most common among people with underlying chronic health conditions." *Id.*

The only known effective measure to mitigate the risk is to prevent infection in the first instance. Compl. ¶ 29. Accordingly, medical experts, officials, and the CDC urge "social distancing"—isolating oneself from other people at a minimum distance of six feet—as well as frequent hand-washing, use of hand sanitizer, and frequent cleaning *and* disinfecting of high-touch surfaces and objects. *Id.* ¶ 30.

II. COVID-19 Presents a Particularly Serious Risk in Jail Environments.

Jails are congregate settings in which "infectious diseases that are transmitted via the air or touch, as does COVID-19[,] are more likely to spread." Compl. Ex. 1 ¶ 7 ("Stern Decl."). As a result, a jail outbreak can rapidly become a "public health disaster unfolding before our eyes." Lauring Decl. ¶ 10. This is due to several factors, including forced proximity of detained individuals/inability to socially distance, lack of medical and hygiene supplies, reliance on hospitals for serious medical care, forced labor of incarcerated people in cleaning their own facilities with insufficient supplies, constant cycling of people through the jails, and inadequate medical care within the jail itself. Compl. ¶ 32; Lauring Decl. ¶¶ 12-16. Indeed, it is "nearly impossible for jails and prisons to provide the atmosphere of 'shelter in place' or 'stay at home' social distancing given the number of individuals that work in and are housed in these facilities in the current system." Lauring Decl. ¶ 24.

The Centers for Disease Control's ("CDC's") guidance for detention facilities recognizes that social distancing is the "cornerstone" of outbreak prevention. Compl. Ex. 6 at 4. Moreover, to the extent the guidance imply that social distancing of less than 6 feet can ever be used, is "incorporate[s] a 'harm reduction' approach" that "recognizes that though there is an appropriate and safe way to address a public health problem, people do not always do things in that way." Stern Decl. ¶ 9. Thus, the guidance "does not mean that it is safe to have less than six feet of social distance

in a jail, and in fact a carceral setting that does not allow for such social distancing is not a safe one and is likely to facilitate the spread of COVID-19." *Id.*

Outbreaks around the country, which predated the current outbreak at the Oakland County Jail, demonstrated as much for the world to see. In New York City's Riker's Island Jail, for example, the first case was detected on March 18 and a week later there were 75 cases, representing an infection rate seven times higher than New York City; the carnage has only increased with a current infection rate of 9.29%, two dead jail officers and more than 800 incarcerated people were in quarantine. Compl. ¶ 40 (and sources cited therein).

Nor can an outbreak be contained inside the Jail. What happens to the people in jails affects others who cycle through, including correctional and medical staff. Stern Decl. ¶ 11. Jail outbreaks spread to staff's families and the community, and can quickly overwhelm regional hospitals, making resources unavailable to treat others suffering from COVID-19 or life-threatening conditions like heart attacks. Compl. ¶ 40; Stern Decl. ¶ 11. That risk is particularly grave in southeastern Michigan where jails and hospitals are already at a breaking point. Lauring Decl. ¶¶ 17, 23, 32; Compl. ¶ 61 (and sources cited therein).

III. The Dangerous Conditions at the Jail on April 17

The facts pled and declarations submitted by Plaintiffs paint a mutually corroborating portrait of the Jail when this lawsuit was filed. They "highlight a

number of conditions or practices that are inconsistent with current public health recommendations: crowded conditions which do not allow safe distancing; unsafe practices for isolating residents with suspected COVID-19; inadequate disinfection of frequently touched common surfaces, inadequate provision of supplies for disinfecting surfaces; inadequate provision of hand soap, and inadequate access to episodic care (barriers to requesting care and insufficient evaluation when care is accessed)." Stern Decl. ¶15. Indeed, the conditions show that "[t]he Oakland County Jail is not only obviously under-equipped and ill-prepared to prevent and manage a COVID-19 outbreak . . . but in some cases . . . it is intentionally exposing inmates to COVID-19 as retribution for raising concerns about safety." Lauring Decl. ¶ 27. These conditions are described point by point in the sections that follow.

A. Detained People at the Jail Cannot Practice Social Distancing.

Social distancing is impossible at the Jail. Some people have to sleep a foot apart. TRO Ex. G ("Saunders Decl.") ¶ 2. In the holding cell, often referred to as "the tank," inmates sleep on the concrete floor, close enough together to be nearly "cuddl[ing]." TRO Ex. B ("J. Cameron Decl.") ¶ 9; TRO Ex. D ("Lee Decl.") ¶19. In many other cells, bunks are separated by about three feet. Ex. E ("M. Cameron Decl.") ¶ 6; Ex. F ("Kucharski Decl.") ¶ 3; Ex. H ("Arsineau Decl.") ¶ 2; Ex. C ("Briggs Decl.") ¶ 2. Inmates share showers, toilets, and sinks either on a section-

wide basis or sometimes with the others in their cell. *E.g.*, J. Cameron Decl. ¶¶ 17–18 (Annex)[5]; Briggs Decl. ¶¶ 3–5. Some bunks adjoin toilets. Briggs Decl. ¶ 9.

When people are allowed to leave their cells or are in common space, they are often within one or two feet of other detainees and staff. Arsineau Decl. ¶ 3; Briggs Decl. ¶ 2; Bates Decl. ¶ 9; J. Cameron Decl. ¶ 16; Lee Decl. ¶ 2; Kucharski Decl. ¶ 13. People detained in the tanks can reach through the bars in front of their cell and into the next cell, where quarantined people are housed in similarly dungeon-like circumstances. Lee Decl. ¶ 21; J. Cameron Decl. ¶ 9.

Because of this "layout and crowded environment," the Jail "is not following basic CDC protection and prevention" measures, making it "impossible to prevent the risk or spread of infection." Lauring Decl. ¶ 28.

B. Defendants Do Not Properly Screen or Quarantine Suspected Cases.

Incarcerated people are moved between cells with disregard for the health consequences. In the tanks, a cell under quarantine was emptied, and healthy people were moved into it without it having been cleaned. Lee Decl. ¶ 23. Hair was still on the floor, and the toilet had not been cleaned. Lee Decl. ¶ 23. And an individual who was moved out his cell because he had a high temperature was sent back into his cell

[5] The Jail is composed of three sections, the main jail building, where the COVID-19 outbreak has been concentrated, and two annex buildings which have not yet experienced a (known) widespread outbreak. *See* J. Cameron Decl. ¶ 3.

to retrieve his own belongings, further exposing his cellmates. M. Cameron Decl. ¶ 12. On April 11, 2020, someone in a quarantine cell died. Lee Decl. ¶ 24. Two of his cellmates were then moved to a cell with healthy prisoners. *Id*. Matthew Saunders contracted the virus after being forced to clean a van, which transported a suspected COVID-19 patient, without proper protective equipment. Saunders Decl. ¶¶ 3-6.

Two Plaintiffs were moved from the Annex (where there is not a known outbreak) to the tanks in the main jail (where there is) as punishment for not doing trustee tasks would have put them at risk of infection. J. Cameron Decl. ¶¶ 8–10; Lee ¶¶ 9–17. Their experiences are not anomalies; signs posted in the Jail warn of such consequences for others. Bates Decl. ¶ 12; *see* M. Cameron Decl. ¶ 12.

Defendants are not properly monitoring for COVID-19. Jason Arsineau, who is a paramedic, watched officers incorrectly taking people's temperatures by testing right after meals and by contaminating the thermometer without cleaning it. Arsineau Decl. ¶ 6; *see* Lee Decl. ¶ 5 (guards don't look at thermometer reading). Michael Bates was in direct contact with a COVID-19 patient; his area was locked down but no one explained why or the risks. Bates Decl. ¶¶ 4–6.

Symptomatic people often are not tested or properly isolated. Inmates who work as kitchen trustees[6] have been required to prepare and serve communal food,

[6] Trustees are detained people who are tasked with responsibilities like food service, laundry, and cleaning. Saunders Decl. ¶ 6; Arsineau Decl. ¶ 5.

despite exhibiting symptoms of COVID-19, risking spread to everyone who received food from them. Arsineau Decl. ¶ 5. When Arsineau had most of the symptoms of COVID-19 and told a deputy he was feeling sick and asked to be assigned a new trustee duty, the deputy responded, "motherfucker, you do what I tell you to do, and you are going to serve food." *Id*. Arsineau continued to serve food to others while sick for four days until he could not get out of bed, leading a deputy to physically assault him. *Id*. Richard Briggs was also not tested despite having numerous symptoms of COVID-19; when he reported shortness of breath to a nurse the nurse said "if you are short of breath, how can you be here talking to me?" Briggs. Decl. ¶ 8. He never received treatment and spread his illness to bunkmates. *Id.* ¶¶ 8–9. David Kucharski had a similar experience. Kucharski Decl. ¶ 10. People are sniffling and coughing in the same cells as asymptomatic people, and the Jail has not tested them. Lee Decl. ¶ 20; M. Cameron Decl. ¶ 6.

This "[f]ailure to adequately test for infection results in dramatic undercounting of persons infected, and, in turn, makes it impossible to protect against an outbreak." Lauring Decl. ¶ 33; *see also id.* ¶ 34.

C. Defendants Do Not Provide Adequate or Timely Health Care.

In addition to the failures to diagnose and quarantine COVID-19 cases, medical care is not provided in a timely manner. One of Kucharski's cellmates requested medical treatment for COVID-like symptoms on March 31. A nurse did

not come until April 3. Kucharski Decl. ¶ 5. The day after that, a nurse gave everyone in his cell some Tamiflu, with instructions to take it if they had COVID-19 symptoms. *Id*. ¶ 8. The nurses had not been back as of April 10. *Id.*. A guard told Kucharski he could not help get a nurse to the cell. *Id.* ¶ 10. This experience is widespread. Saunders Decl. ¶¶ 8–10 (same). And in the Annex, people who take prescription drugs were dispensed a thirty-day supply and told that nurses and doctors would not be coming back. J. Cameron Decl. ¶ 16; Lee Decl. ¶ 4.

Nor is medical care sufficient when COVID-19 patients *are* identified. Saunders was quarantined for suspected COVID-19 with a temperature of 103. Saunders Dec. ¶ 3. He was placed in a single cell where no one checked on him for hours at a time. *Id.* ¶ 4. His food was left outside, and when he was too weak to retrieve it, it was simply taken away. *Id.* Four days later, he was returned to his cell with other incarcerated people. *Id.* ¶ 5. And in Arsineau's cell, where several people were sick, nighttime temperatures dropped into the 50s, threatening already depleted immune systems. Arsineau Decl. ¶ 8; *see* Kucharski Decl. ¶ 20.

Based on these conditions, "it is apparent that the Jail is not providing adequate medical treatment to infected inmates. This is also worrisome because it will surely cause unnecessary risk of severe illness or death." Lauring Decl. ¶ 32.

D. Defendants Maintain Dangerous Conditions and Fail to Provide Basic Hygiene Supplies to the People Confined at the Jail.

Many people in the Jail do not have enough soap or, in the Annex, have to rely on a shared soap supply. Briggs Decl. ¶ 6; Saunders Decl. ¶ 11; Kucharski Decl. ¶ 15; J. Cameron Decl. ¶ 19; M. Cameron Decl. ¶ 4; Lee Decl. ¶ 19. The high lye content of the soap that is provided irritates the skin, forcing people "to choose between staying clean or suffering serious skin reactions." Briggs Decl. ¶ 6. Several have not received soap in over a week. Kucharski Decl. ¶15; Saunders Decl. ¶11.

The commissary, which is the only source of most hygiene products like deodorant, non-abrasive soap, and shampoo, has been closed for at least three weeks, so there is no way to purchase basic supplies. M. Cameron Decl. ¶ 4; Arsineau Decl. ¶ 11 (unable to get any toothpaste for days as a result). No one in the Jail has access to hand sanitizer or tissues. Arsineau Decl. ¶ 13–14. Toilet paper supplies are inadequate and sometimes shared, Lee Decl. ¶ 19; J. Cameron Decl. ¶ 18, which risks spreading fecal matter germs to each person who touches the roll. There are no paper towels, and no sanitary way for people to dry their hands after they have been washed. J. Cameron Decl. ¶ 20.

Most people get a change of uniform and linens once a week. Kucharski Decl. ¶ 19. Some cells have a dirty communal bucket that is never replaced in which to wash their clothes and underwear during the week. Briggs Decl. ¶ 3. Recently, laundry service stopped entirely for over two weeks. Briggs Decl. ¶ 15.

Although there is access to showers, they are filthy with scum, mold, clumps of hair, and insects. J. Cameron Decl. ¶ 17; Briggs Decl. ¶ 5; Arsineau Decl. ¶ 4. There is no adequate way to clean showers, toilets, and shared spaces. Kucharski Decl. ¶ 17. In some areas of the Jail, bottles of diluted DMQ (a floor cleaner) is available, but people are not given sufficient clean sponges or rags to clean and disinfect their cell. *Id*.; Arsineau Decl. ¶¶ 4, 9; M. Cameron ¶ 7.

Common surfaces and items that are touched frequently are not cleaned regularly. M. Cameron Decl. ¶ 8. There are no rags or cleaning supplies to clean shared surfaces. Briggs Decl. ¶ 4. The rails on the staircase are cleaned every other day and a shared water cooler is not sanitized between uses. M. Cameron Decl. ¶ 8.

Trustees tasked with cleaning receive one pair of gloves that they must reuse. M. Cameron Decl. ¶ 7. As noted above, Saunders was made to clean a van that transported an inmate with suspected COVID-19 with only a cloth face mask as protection. Saunders Decl. ¶ 6. Kitchen trustees must handle carts and plastic trays that ungloved jail workers touch. J. Cameron Decl. ¶ 4. And some food trustees have only been given a pair of gloves and no mask when distributing food. J. Cameron Decl. ¶¶ 4–7. Laundry trustees are afraid to work with some of the laundry, which comes in biohazard bags. Bates Decl. ¶¶ 11–12; M. Cameron Decl. ¶ 12. Several laundry trustees quit because they felt the job was unsafe. J. Cameron Decl. ¶ 25.

Taken as a whole, these hygienic practices "deprive[] individuals of the most important CDC-recommended measures to protect themselves from infection," Lauring Decl. ¶29, and "demonstrate[] the Jail's failure to take the most fundamental precautions for preventing the spread of the disease[.]"*Id.* ¶ 30.

E. Defendants Fail to Provide Information About COVID-19.

Jail guards studiously refuse to provide information about the outbreak to incarcerated people, leaving them to guess what is happening and rely on relatives or news broadcasts to learn about the outbreak. Bates Decl. ¶¶ 5–6, 8, 10; M. Cameron Decl. ¶ 4; Briggs Decl. ¶ 7; M. Cameron Decl. ¶¶ 4–5. And there has been a lack of signage about coronavirus. J. Cameron Decl. ¶ 10; Bates Decl. ¶ 10. However, the guards are aware of its spread and use it as a threat to terrorize inmates.

F. People Are Punished by Being Exposed to COVID-19.

The Jail has a policy of punishing incarcerated people, including the medically vulnerable, for health and safety advocacy and for other infractions by exposing them to a heightened risk of COVID-19. It is well known in the Jail that the COVID-19 outbreak is in the main building, and Jail officials routinely transfer or threaten to transfer people in the Annex to the main building as a punishment for perceived or actual infractions. As noted earlier, two named Plaintiffs were shipped off to the tanks and placed in a crowded cell directly adjoining a quarantine cell after declining to do trustee tasks that they considered a threat to their health. J. Cameron Decl. ¶¶

8–9; Lee Decl. ¶¶ 9–17. Briggs was threatened with being moved to the tank for requesting a grievance to protest the lack of medical care he was receiving while suffering COVID-like symptoms. Briggs Decl. ¶ 8. And the laundry room in the Annex has a sign telling people they will be relocated to the main building if they refuse to work processing dirty linens from the contaminated main building. Bates Decl. ¶ 12. These threats are widespread. *See* M. Cameron ¶ 12; J. Cameron ¶ 10.

STANDARD OF REVIEW

In ruling on a motion to dismiss, a court "construe[s] the complaint in the light most favorable to the plaintiff, accept its allegations as true, and draw all reasonable inferences in favor of the plaintiff." *Handy-Clay v. City of Memphis, Tenn*., 695 F.3d 531, 538 (6th Cir. 2012) (citation omitted). A motion to dismiss must be denied if plaintiffs allege "facts that 'state a claim to relief that is plausible on its face' and that, if accepted as true, are sufficient to 'raise a right to relief above the speculative level.'" *Id*. (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007)).

The legal requirements for the Court to grant a temporary restraining order and preliminary injunction are different. To determine whether to grant a preliminary injunction or temporary restraining order, a district court must consider: (i) whether the movant has a strong likelihood of success on the merits; (ii) whether the movant would suffer irreparable injury without the injunction; (iii) whether the balance of equities weighs in the movant's favor; and (iv) whether an injunction is in the public

interest. *See Winter v. Nat. Res. Def. Council, Inc*., 555 U.S. 7, 20 (2008); *Ohio Republican Party v. Brunner*, 543 F.3d 357, 361 (6th Cir. 2008). Where, as here, plaintiffs demonstrate "irreparable harm which decidedly outweighs any potential harm to the defendant," the "degree of likelihood of success required" is less, and a plaintiff need only show "serious questions going to the merits." *In re DeLorean Motor Co.*, 755 F.2d 1223, 1229 (6th Cir. 1985) (citation omitted).

ARGUMENT

III. THIS COURT HAS JURISDICTION TO REMOVE MEDICALLY VULNERABLE SUBCLASS MEMBERS FROM THE JAIL.

For the Medically Vulnerable Subclass, every day in the Jail poses an grave—and unmitigable—risk of contracting COVID-19 and suffering illness, organ damage, or death. Because social distancing is impossible in the Jail, removal from the facility is the only cure for the constitutional violations to which subclass members are being subjected. This Court has authority to order their removal from the Jail both under habeas jurisdiction and under 42 U.S.C. § 1983.

C. This Court Has Jurisdiction to Entertain a Federal Habeas Petition Alleging Eighth and Fourteenth Amendment Violations.

1. Habeas Is Available When the Only Viable Remedy to a Constitutional Violation Is Removal from Detention.

It has long been true that federal "habeas lies in 'exceptional circumstances'—*as when the petitioner's claims suggest that he has been victim of cruel and unusual punishment*." *Armstrong v. Cardwell*, 457 F.2d 34, 36 (6th Cir. 1972) (emphasis

added). And it remains the law today that "an attack upon *the execution* of a sentence," which is to say "the manner in which the sentence [i]s being executed"—as opposed to an attack on the validity of the sentence itself—"is properly cognizable in a 28 U.S.C. § 2241(a) habeas petition."[7] *United States v. Jalili*, 925 F.2d 889, 893–94 (6th Cir. 1991); *see United States v. Peterman*, 249 F.3d 458, 461 (6th Cir. 2001) (same). Indeed, the Sixth Circuit has specifically held that courts have jurisdiction to consider some habeas petitions that allege Eighth Amendment claims. *See Adams v. Bradshaw*, 644 F.3d 481, 483 (6th Cir. 2011) (recognizing that habeas was the proper mechanism to bring an Eighth Amendment challenge that would render petitioner's death sentence "effectively invalid"). Similarly, an individual in pretrial detention who challenges their confinement does so under 28 U.S.C. § 2241,

[7] Because Petitioners do not challenge the validity of their underlying conviction or sentence but instead seek relief on the grounds that their confinement has become unconstitutional due to the Jail's inability to protect them from the risk of a fatal pandemic, § 2241 is the proper vehicle for their habeas petition. The Supreme Court has already held that habeas petitions filed by state prisoners are sometimes properly categorized as § 2241 petitions. *See Braden v. 30th Judicial Circuit Court of Ky.*, 410 U.S. 484, 498 (1973) (holding that § 2241 permits state prisoners who are "in custody under one sentence to attack a sentence which they had not yet begun to serve"). As the Tenth Circuit has noted, a "challenge to the validity of [petitioner's] conviction and sentence" should "properly be brought under § 2254" but "an attack on the execution of his sentence" should be "pursuant to § 2241." *Montez v. McKinna*, 208 F.3d 862, 865 (10th Cir. 2000) (holding that a state prisoner's challenge to his interstate prison transfers arose under § 2241). In any event, even if Petitioners' claim is characterized as a claim under § 2254, this Court would still have jurisdiction for the reasons explained in this section.

regardless of the legal basis for their claim. *See Christian v. Wellington*, 739 F.3d 294, 297 (6th Cir. 2014).

That is so because the "heart of habeas corpus" is a claim "challenging the fact or duration of [a petitioner's] physical confinement." *Preiser v. Rodriguez*, 411 U.S. 475, 498 (1973). Thus, when a petitioner alleges an Eighth or Fourteenth Amendment claim for which the *only* adequate remedy is immediate removal from detention, habeas jurisdiction lies. Plaintiffs in the Medically Vulnerable Subclass do exactly that: they challenge the "very fact" of their detention during the pandemic because Defendants cannot make the Jail safe enough to avoid exposing them to an unreasonable risk to their lives and bodily integrity. Thus, immediate release is the appropriate remedy, and habeas is the appropriate vehicle.

Federal courts in this district that have considered this issue in the context of COVID-19 agree. In *Malam v. Adducci*, __ F. Supp. 3d __, 2020 WL 1672662 (E.D. Mich. Apr. 5, 2020), Judge Levy held that habeas jurisdiction is proper and released medically vulnerable ICE detainees held in a Michigan jail. As *Malam* explained, "Supreme Court and Sixth Circuit precedent support the conclusion that where a petitioner claims no set of [achievable] conditions would be sufficient to protect her constitutional rights, her claim should be construed as challenging the fact, not conditions, of her confinement and is therefore cognizable in habeas." *Id.* at *3; *see*

Fofana v. Albence, __ F. Supp. 3d __, 2020 WL 1873307 (E.D. Mich. April 15, 2020) (Drain, J.) (granting habeas to medically vulnerable detainees).

Another district court in the Sixth Circuit reached the same conclusion just last week. *See Wilson v. Williams*, __ F. Supp. 3d __, 2020 WL 1940882 (N.D. Ohio Apr. 22, 2020). *Wilson* held that although the "general r[ule]" is that conditions of confinement claims sound in § 1983, "claims concerning COVID-19 are not so easily classified" because "the only truly effective remedy to stop the spread is to separate individuals—a measure that in our nation's densely populated [carceral facilities] is typically impossible without the release of a portion of the population." *Id.* at *5. Such claims sound in habeas because they "ultimately seek to challenge the fact or duration of confinement." *Id.* A cavalcade of other federal courts around the country have agreed, granting habeas relief on the same basis.[8]

Defendants nonetheless argue that there is a categorical prohibition on the use of federal habeas for any claim that could be construed as arising from the conditions

[8] *See, e.g.*, *Rafael L.O. v. Tsoukaris*, No. 20-cv-3481, 2020 WL 1808843 (D.N.J. Apr. 9, 2020); *Francisco Hernandez v. Wolf*, No. 20-cv-617 (C.D. Cal. Apr. 1, 2020) (TRO Ex. I, pp. 20–34); *Thakker v. Doll*, __ F. Supp. 3d __, No. 20-cv-480, 2020 WL 1671563 (M.D. Pa. Mar. 31, 2020); *Avendano Hernandez v. Decker*, 2020 WL 1547459 (S.D.N.Y. Mar. 31, 2020); *Fraihat v. Wolf*, No. 20-cv-590 (C.D. Cal. Mar. 31, 2020) (Appendix A); *Coronel v. Decker*, __ F. Supp. 3d __, No. 20-cv-2472, 2020 WL 1487274 (S.D.N.Y. Mar. 27, 2020); *Basank v. Decker*, __ F. Supp. 3d __, No. 20-cv-2518, 2020 WL 1481503 (S.D.N.Y. Mar. 26, 2020); *Calderon Jimenez v. Wolf*, No. 18-cv-10225 (D. Mass. Mar. 26, 2020) (Appendix A); *Jovel v. Decker*, No. 12-cv-308, 2020 WL 1467397 (S.D.N.Y. Mar. 26, 2020).

of anyone's confinement, relying on a Seventh Circuit case, an unpublished Sixth Circuit case, and unpublished district court opinions. Def. MTD at 19–23. As a threshold matter, none of Defendants' cases are binding on this court. In any event, Defendants' cases are distinguishable. Unlike the present situation, most involve denial of medical treatment for which the proper remedy is treatment rather than, as here, a *complete inability* to protect the petitioners from an imminent but foreseeable and potentially fatal threat, rendering release the *only* adequate remedy. *See Glaus v. Anderson*, 408 F.3d 382, 384 (7th Cir. 2005) (resumption of medical treatment was one remedy available to petitioner);[9] *In re Owens*, 525 F. App'x 287, 290 (6th Cir. 2013) (alleging overcrowding, poor medical care, and inadequate nutrition); *Burton v. McGlasson*, No. 14-CV-10693, 2014 WL 700503 (E.D. Mich. Feb. 24, 2014) (denial of "medication for an unspecified medical condition"); *Martin v. Zych*, No. 09-10423, 2009 WL 398166 (E.D. Mich. Feb. 17, 2009) ("[P]etitioner claims that he is being denied medical treatment."); *Davis v. Zych*, No. 9-11459, 2009 WL 1212489 (E.D. Mich. May 4, 2009) (petitioner "request[ed] a change in his custody level so that he can obtain proper medical care"). Defendants rely on one out-of-circuit case that involves COVID-19, *Peterson v. Diaz*, No. 19-01480, 2020 WL

[9] The court in *Glaus* was also bound by prior in-circuit precedent, but recognized that the "the Supreme Court has left the door open a crack for habeas corpus claims challenging prison conditions." *Id.* at 387.

1640008 (E.D. Cal. Apr. 2, 2020). But the *pro se* petitioner there raised the COVID-19 issue through a motion in the midst of an unrelated habeas proceeding, so the court treated the motion as a request for bail and denied it on the grounds that the underlying petition lacked merit. *Id.* at *2. More importantly, unlike in this case, the petitioner had not shown that social distancing was impossible. *See id.*

Finally, and bizarrely, Defendants also rely heavily upon *Chambers v. Bouchard*, No. 20-cv-10949 (E.D. Mich. Apr. 20, 2020), a case involving a member of the putative class here. Yet *Chambers* actually states that habeas relief *is* available (and the preferred remedy)[10] in cases such as this. Slip op. at 9. *Chambers* in no way supports Defendants' habeas argument.

As *Malam* held, "[r]elease from custody represents the only adequate remedy in this case, and it is within this Court's broad equitable power to grant it." *Malam*, 2020 WL 1672662, at *13. The Medically Vulnerable Subclass faces the same situation as the *Malam* petitioners. Defendants have "conceded that social distancing between prisoners of at least six feet would be impossible." *Id.* at *4.[11] In other

[10] *Chambers* also concluded that it lacked § 1983 jurisdiction. For the reasons described below, *see infra*, Section I.B, that analysis of the § 1983 issue is incorrect. In any event, nothing in *Chambers* supports Defendants' *habeas* arguments.

[11] *See* Mot. to Reconsider, ECF No. 17 at 23 (describing social distancing of six feet as "impractical"); Aileen Wingblad, *Lawsuit Claims Oakland County Jail Conditions Put Inmates at Risk for COVID-19, Demands 'Vulnerable' Be Released*, The Oakland Press (Apr. 17, 2020) ("As for social distancing, [Undersheriff Mike]

words, they have conceded that there is no way to accomplish what the CDC describes as the "cornerstone of reducing respiratory diseases such as COVID-19" in the Oakland County Jail in the middle of an unprecedented pandemic. Compl. Ex. 6 at 4. As such, and as Plaintiffs' medical experts have concluded, Lauring Decl. ¶¶ 36–37; Stern Decl. ¶¶ 12–13, the *only* way to protect the subclass from the imminent threat of death or life-threatening illness is to order them removed from the jail. *See Malam*, 2020 WL 1672662, at *4 ("[T]he public health recommendation is to release high-risk people from detention, given the heightened risks to their health and safety" (citing declaration by infectious disease epidemiologist Joseph Amon)); *see also Thakker*, 2020 WL 1671563, at *9. That is what this Court can, and should, do.

As an alternative to complete release from Defendants' custody, this Court could transfer Petitioners to home confinement. As *Wilson* explained, federal courts' habeas authority includes the power to "enlarge" custody by ordering that the physical location of confinement be altered. *Wilson*, 2020 WL 1940882, at *4.

2. Habeas Can Be Granted in a Way That Protects the Public.

Given the severe and unavoidable risks to the Medically Vulnerable Subclass, this Court can and should act quickly to implement a system for ordering the release of subclass members. In deciding whether to grant this emergency release, the Court

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McCabe said 'that's impossible at any jail. You just can't give six feet between everybody.'").

follows the well-known balancing test that governs preliminary relief, which includes weighing "the public interest." *Winter*, 555 U.S. at 20; *Malam*, 2020 WL 1672662, at **6–7. Thus, this Court can weigh the public interest when granting temporary release to the members of the Medically Vulnerable Subclass. For most members of the subclass, such a balance will inevitably lead to the conclusion that they should be released given the risks to their health of remaining incarcerated and given that every release also reduces the risk to the public, of the Jail becoming a transmission vector and a drain on public health resources. But if the Court concludes that it would be a significant risk to public safety to grant temporary release to certain particular members of the subclass, and that such risk outweighs the other factors, the Court could deny emergency relief to such individuals.

The Court therefore has options to deciding how to exercise its discretion in ordering preliminary relief. Plaintiffs submit that the most sensible approach would be to immediately order the release of members of the subclass who fall into the following categories: (1) subclass members being held on bail who are charged with an offense that does not have as an element the use or threatened use of violence or unwanted sexual touching of another person; (2) subclass members serving sentences for offenses that do not have as an element the use or threatened use of violence or unwanted sexual touching of another person; (3) subclass members whose sentences, regardless of the charged offense, expire by July 1, a period

throughout which the COVID-19 epidemic is likely to remain a major risk in the Jail and the community. For each of these categories of the subclass, it makes sense to determine as a categorical matter that the public interest in reducing the Jail population exceeds any danger in releasing the individuals. And by quickly taking this step, the remainder of the class—and Defendants' staff for that matter—would be made better off by making the Jail a somewhat safer place. Remaining members of the subclass could be promptly evaluated on a case-by-case basis by the Court or by an appointed magistrate or special master. That evaluation could weigh any risk to the public of releasing the individual against the risk to public health of failing to further reduce the jail population.

Several such systems already exist. For example, a federal court in the District of Massachusetts has released (and continues to release) numerous immigration detainees on non-monetary bond conditions while their class action habeas petition is pending. *See Savino v. Souza*, __ F. Supp. 3d __, No. 20-10617-WGY, 2020 WL 1703844, at *8–9 (Apr. 8, 2020) (explaining its decision to grant bail pending habeas). In that case, named petitioners and class members include all immigration detainees held at two facilities in Massachusetts. *Id.* at *1.[12] Finding "exceptional circumstances" in "this nightmarish pandemic," the court opted to "diligently

[12] Unlike in this case, the *Savino* class is not limited to detainees who are medically vulnerable. *Savino*, 2020 WL 1703844, at *1.

entertain[] bail applications while the petitions for habeas corpus are pending." *Id.* at *9. The district court requested and rapidly considered an initial list of 50 detainees for bail, and has since considered class members' bail applications in groups of ten. Order, *Savino v. Souza*, No. 20-10617-WGY, Doc. No. 44, at 3 (Apr. 4, 2020); *see id.*, Doc. No. 45 at 1-3 (listing class members in groups of ten for bail consideration) (Appendix B). Similar solutions could be implemented here.

3. Petitioners are Not Required to Exhaust their Claims

a. State-Level Habeas Relief Is Unavailable to Plaintiffs.

Federal habeas corpus exhaustion requirements are waived when "there is an absence of available State corrective process." 28 U.S.C. § 2254(b)(1)(B)(i); *see Turner v. Bagley*, 401 F.3d 718, 724 (6th Cir. 2005) (exhaustion excused where "there is an absence of state corrective process, or circumstances exist that render such process ineffective to protect the petitioner's rights" or where "further action in state court 'would be an exercise in futility'" (citation omitted)). Defendants' exhaustion argument assumes that such a remedy is in fact *available* to Plaintiffs.

Defendants are wrong. Federal habeas statutes allow a court to review whether a habeas petitioner "is in custody in violation of the Constitution." 28 U.S.C. §§ 2241, 2254. In sharp contrast, the plain language of Michigan's state habeas provision permits a state court only "to inquire into the *cause* of detention." Mich. Ct. R. 3.303(a) (emphasis added); *see also* Mich. Comp. Laws § 600.4307

(authorizing habeas to "inquire into the cause of detention"). Caselaw is in accord. *See Phillips v. Warden*, 396 N.W.2d 482, 486 (Mich. Ct. App. 1986) (stating that under Michigan's habeas provision "a distinction must be made between a challenge to the fact or duration of confinement . . . and an attack on the conditions of confinement. Habeas corpus is proper in the former instance; in the latter it is not." (citation omitted)).

In fact, as interpreted, the writ in Michigan is even narrower than the text, and may only be used to challenge "radical defects rendering a judgment or proceeding absolutely void." *Triplett v. Deputy Warden*, 371 N.W.2d 862, 780 (Mich. Ct. App. 1985); Mich. Comp. Laws § 600.4310(3). And "MCL 600.4310(3) prohibits habeas corpus relief to '[p]ersons convicted, or in execution, upon legal process, civil or criminal" except in one narrow instance, "'where the convicting court was without jurisdiction to try the defendant for the crime in question.'" *Moses v. Dep't of Corrs.*, 736 N.W.2d 269, 273 (Mich. Ct. App. 2007).

Similarly, state-level relief is also unavailable under Mich. Ct. R. 6.501 *et seq.*, which is available only to prisoners who seek to challenge the validity of their underlying conviction or sentence. *See* Mich. Ct. R. 6.501(A); *Washington v. Elo*, No. 99-CV-71187, 2000 WL 356353, at *4 (E.D. Mich. Feb. 29, 2000) ("a motion for relief from judgment pursuant to M.C.R. 6.500, et seq. is the proper and exclusive means *to challenge convictions* in Michigan courts" (citation omitted) (emphasis

added)); *People v. McSwain*, 676 N.W.2d 236, 248 (Mich. Ct. App. 2003) ("It is well settled that [s]ubchapter 6.500 of the Michigan Court Rules establishes the procedures for pursuing postappeal relief from a criminal conviction."). Plaintiffs are not challenging their underlying conviction and sentence—rather, they challenge the execution of their punishment under constitutionally impermissible conditions. This they cannot do via state collateral review.

In sum, Plaintiffs seek removal from the Jail for a subclass of medically vulnerable people on the basis that are no detention conditions at the Jail that can adequately or constitutionally protect them from the fatal risk of COVID-19. Pursuing a state-level habeas remedy, under the narrow confines of Michigan's habeas and postconviction provisions, is thus squarely unavailable to Plaintiffs.

Defendants' reliance on *Irick v. Bell*, 565 F.3d 315, 323 (6th Cir. 2009), to support their exhaustion argument is misplaced. *Irick* is inapposite for two critical reasons: (1) the petitioner in *Irick* was challenging the *validity* of his conviction through habeas, based on alleged constitutional violations in his underlying state criminal proceeding; and (2) the petitioner presented novel claims in his federal habeas petition that were not previously presented to the state court, *but which could have been*. *Id*. at 323–24. Thus, *Irick* is inapplicable here.

Defendants also rely on *Money v. Pritzker*, __ F. Supp. 3d __, 2020 WL 1820660 (Apr. 10, 2020). But there too the Illinois-based petitioners had an available

state habeas remedy that they could have pursued. The Illinois statute governing habeas corpus is expansive: it authorizes a writ of habeas "[w]here, though the original imprisonment was lawful, nevertheless, by some act, omission or event which has subsequently taken place, the party has become entitled to be discharged." 735 Ill. Comp. Stat. Ann. 5/10-124. The *Money* plaintiffs therefore had the ability to pursue state-level habeas relief on the theory they were unlawfully detained due to an "event which has subsequently taken place." Here, by contrast, the "absence of state corrective process" excuses Plaintiffs from resorting to state habeas because "further action in state court 'would be an exercise in futility.'" *Bagley*, 401 F.3d at 724.

b. Even If State Remedies Were Available, the Exhaustion Requirement Should Be Waived in Light of the Unique Threat Posed by Covid-19.

Even if the Court somehow finds that Plaintiffs could have attempted the futile act of exhausting state-level remedies, Defendants are mistaken in concluding that this requires the dismissal of Plaintiffs' federal habeas claim. "A [plaintiff's] failure to exhaust his remedies in state court . . . does not divest a federal court of jurisdiction over the petition." *Puertas v. Overton*, 272 F. Supp. 2d 621, 626 (E.D. Mich. 2003). Rather, a court should assess whether "unusual or exceptional circumstances" exist such that "'the interests of comity and federalism will be better served by addressing the merits.'" *Id.* (quoting *Granberry v. Greer*, 481 U.S. 129, 134 (1987), *superseded*

by statute on other grounds as stated in Rockwell v. Yukins, 217 F.3d 421, 423–24 (6th Cir. 2000)).

Significantly, this Court has applied this exception when pursuit of state court procedure would amount to a death sentence. *Puertas* waived the exhaustion requirement for a 76-year-old prisoner with coronary disease and bladder cancer who had recently gone into remission, releasing him on bond pending a decision on his petition for a writ of habeas corpus. *Id*. at 628. In doing so, the court found that the petitioner's "age, ill health, and dire need for continued medical treatment" warranted special consideration. *Id*. Considering the situation, "the interests of comity and federalism" were better served by addressing the merits of the petition rather than allowing the petitioner to risk death in prison while awaiting adjudication in state court. *Id*. at 629 (quoting *Granberry*, 481 U.S. at 131).

So too here. Any delay in providing relief could be the difference between life and death for the Medically Vulnerable Subclass. The outbreak of COVID-19 at Michigan's Lakeland Correctional Facility is illustrative. On April 1, 2020, it had 14 confirmed COVID-19 cases;[13] by April 25, 2020, there are over 600,[14] and the

[13] Jim Measel, *MDOC Reports Lakeland COVID-19 Cases Up to 14*, WTVB (Apr. 1, 2020), https://wtvbam.com/news/articles/2020/apr/01/mdoc-reports-lakeland-covid-19-cases-increase-14/1001801/

[14] Angie Jackon, Kristi Tanner, *Coronavirus Cases at Michigan Prison Surge as Widespread Testing Begins*, Detroit Free Press (Apr. 25, 2020),

facility leads the state's COVID-19 death count. Defendants have admitted that they cannot provide the necessary six feet of social distancing in the Jail that experts say is necessary to prevent a fatal risk of exposure.

Given this reality and the rapid pace at which COVID-19 spreads, it is "in the interests of comity and federalism," *Granberry*, 481 U.S. at 131, and well within this Court's power, to waive any applicable exhaustion requirements for the Medically Vulnerable Subclass members before it is too late to protect them.

D. Alternatively, Removals from Jail Are Authorized Under § 1983.

Even if this Court lacked habeas jurisdiction, it could still grant immediate relief to the Medically Vulnerable Subclass pursuant to 42 U.S.C. § 1983.

"Prisoners retain the essence of human dignity . . . [that] animates the Eighth Amendment." *See Brown v. Plata*, 563 U.S. 493, 510 (2011). By incarcerating people, "society takes from prisoners the means to provide for their own needs." *Id.* Thus, "[a] prison that deprives prisoners of basic sustenance, including adequate medical care, is incompatible with the concept of human dignity and has no place in civilized society." *Id.* And "[i]f the government fails to fulfill this obligation, *the courts have a responsibility to remedy the resulting Eighth Amendment violation*." *Id.* (emphasis added).

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https://www.freep.com/story/news/local/michigan/2020/04/25/coronavirus-cases-michigan-prison-surge-widespread-testing-prisoners/3002811001/.

The Prison Litigation Reform Act ("PLRA") prescribes a number of rules and procedures for cases involving some § 1983 claims involving prison conditions. *See Plata*, 563 U.S. at 511–12; 18 U.S.C. § 3626. Defendants point to the provision that a court may enter a "prisoner release order" only after it first enters an order for less intrusive relief that has "failed to remedy the deprivation of the Federal right sought to be remedied through the prisoner release order" and after the prison has had a reasonable time to comply under the circumstances. 18 U.S.C. § 3626(a)(3)(A). In turn, a "prisoner release order" can be entered only by a three-judge court, and only upon finding that overcrowding is the primary cause of the violation. 18 U.S.C. § 3626(a)(3)(B)–(E); *Plata*, 563 U.S. at 512. A "prisoner release order" is defined as an order "that has the purpose or effect of reducing or limiting the prison population"—in other words, an order that addresses systemic overcrowding. 18 U.S.C. § 3626(g)(4). For example, the order at issue in *Plata* was a "prisoner release order" because it sought to impose a population cap on the overcrowded California state prison system. *Plata*, 563 U.S. at 511.

Here, the PLRA does not present an obstacle to this Court ordering Defendants to remove or transfer members of the Medically Vulnerable Subclass out of the Jail, for two reasons. First, the PLRA provides the procedures for judicial response to Eighth Amendment violations that result from systemic overcrowding; it does *not* limit a federal court's ability to respond to individualized threats to the

lives and health of incarcerated people. As explained above, the PLRA requires the convening of a three-judge panel to issue "prisoner release orders," but makes clear that the only basis for a three-judge "prisoner release order" is a finding of overcrowding that cannot be ameliorated adequately through other means. Thus, a three-judge panel can order releases from jail *only* on systemic overcrowding grounds. *See* 18 U.S.C. § 3626(a)(3)(E) (prisoner release order be entered "only if the court finds by clear and convincing evidence that . . . crowding is the primary cause of the violation of a Federal right"); *see Plata*, 563 U.S. at 502 (finding that "overcrowding [wa]s the 'primary cause of the violation of a Federal right'").

The PLRA does not, by contrast, constrain a federal district court's authority to order the release of individuals who face a potentially fatal hazard behind bars that is *not* the result of systemic overcrowding. If the PLRA were construed to prohibit a federal district court from ordering *anyone* who raises *any* Eighth Amendment claim to be removed from a prison, it would risk leaving incarcerated people who face imminent risks that derive from causes *other* than systemic overcrowding without any remedy whatsoever to prevent a threat to the lives.[15] For example, if people in the Jail were "in the direct path a hurricane and . . . the facility

[15] To be clear, Plaintiffs' position is that what they seek here is not a "prisoner release order" within the meaning of the PLRA. As such, Defendants' arguments about whether there is a pre-existing order that would permit a three-judge panel to issue a prisoner release order, Def. Br. at 15–16, are a red herring.

was unlikely to withstand the storm," the Defendants' interpretation of the PLRA would prohibit this court—or *any* federal court—from acting immediately to address the risk. *L.O. v. Tsoukaris*, No. 20-3481, 2020 WL 1808843, at *7 (D.N.J. Apr. 9, 2020).[16] As another court has put the point, "[a]ccepting [such an] argument would mean that the only way a district court can order the release of a prisoner is for a violation of his constitutional rights where overcrowding caused the violation, but not if any other reason caused the violation." *Reaves v. Dep't of Corr.*, 404 F. Supp. 3d 520, 523 (D. Mass. 2019). Congress did not intend such a result; rather, "the legislative history suggests that the sponsors of the PLRA were primarily 'concerned with courts setting 'population caps' and ordering the release of inmates as a sanction for prison administrators' failure to comply with the terms of consent decrees designed to eliminate overcrowding.'" *Id.* (quoting *Gilmore v. California*, 220 F.3d 987, 998 n.12 (9th Cir. 2000)); *see* Margo Schlanger, *Anti-Incarcerative Remedies for Illegal Conditions of Confinement*, 6 U. Miami Race & Soc. Just. L. Rev. 1, 27–28 (2016) (collecting congressional testimony and reports).

[16] *Tsouarkaris* involved the court's habeas jurisdiction. Of course, if this Court holds that relief is available via habeas, it need not reach the PLRA issue. But if this Court concludes that habeas relief is not available, that leaves § 1983 as the only remaining avenue for relief. And if the Court were to accept Defendants' position with respect to § 1983 as well, it would mean that no avenue would exist to remedy the hurricane hypothetical—a situation that is analogous to the harm cause by a pandemic sweeping towards and through the Jail.

To interpret the PLRA in the manner proposed by Defendants risks rendering the PLRA unconstitutional because it would leave prisoners who face imminent lethal threats without a remedy in contravention of *Plata*'s core insight that "courts have a responsibility to remedy. . . Eighth Amendment violation[s]." *Plata*, 563 U.S. at 511; *see Reaves*, 404 F. Supp. 3d at 523. A "court is obligated 'to avoid an interpretation of a federal statute that engenders constitutional issues if a reasonable alternative interpretation poses no constitutional question.'" *In re Dow Corning Corp.*, 199 B.R. 896, 899 (E.D. Mich. 1996 (quoting *Gomez v. United States*, 490 U.S. 858, 864 (1989))); *see Sasser v. Hobbs*, 735 F.3d 833, 844 (8th Cir. 2013) (applying constitutional avoidance canon to avoid an Eighth Amendment issue); *United States v. $11,500 in United States Currency*, 869 F.3d 1062, 1071 (9th Cir. 2017) (same). In short, under Defendants' interpretation of the PLRA, detainees in the gravest and most immediate danger can be left with no practical recourse to federal court. That cannot be, and is not, the law.

Defendants' principal PLRA case, the unpublished decision in *Money v. Pritzker*, is admittedly in tension with Plaintiffs' position on this issue. But it is wrongly decided. It errs by treating a request for short-term releases due to the inability to control an infectious disease as tantamount to the orders that the PLRA is intended to govern, i.e., orders whose purpose is to systemically reduce or cap an overcrowded prison population. And it fails to even mention the potential

unconstitutionality of interpreting the PLRA in the manner urged by Defendants, and thus does not apply the constitutional avoidance canon.

Second, even if this Court concludes that the PLRA prohibits an order *releasing* members of the Medically Vulnerable Subclass from the Sheriff's legal custody, the PLRA presents no barrier to this Court ordering that members of subclass be transferred to an alternate form of custody, including home confinement, for the duration of the COVID-19 crisis.[17] Multiple federal courts have held that an order that prisoners be moved into alternative custody is not a "prisoner release order" within the meaning of the PLRA and, therefore, may be issued by a single-judge court. *See Plata v. Brown*, __ F. Supp. 3d __, 2013 WL 12436093, at *8 (N.D. Cal. June 24, 2013) (holding that transferring a group of inmates at high risk of contracting a fatal disease out of a prison was not a "prisoner release order" under the PLRA); *Reaves*, 404 F. Supp. 3d at 523 (similar).

It is also clear, under the PLRA, that home confinement is not "release." Federal law defines "home confinement" as a form of (prerelease) custody. 18 U.S.C. § 3624(g)(2)(A). Caselaw is in accord. *See Jackson v. Johnson*, 475 F.3d 261, 265-66 (5th Cir. 2007) (holding that a person confined in a halfway house is still a

[17] Thus, the court's suggestion to the contrary in *Chambers* was mistaken, because if this Court were to transfer Plaintiffs to home confinement, it would not result in shortening the duration or altering the validity of their sentences. Rather, the Court would merely be altering the physical location in which those sentences are served.

"prisoner" under the PLRA); *Witzke v. Femal*, 376 F.3d 744, 752 (7th Cir. 2004) (similar). So is Michigan law, which allows for "house arrest" as a form of sentence that is on par with jail time as a criminal sanction available for individuals who do not receive a prison sentence. Mich. Comp. Laws § 769.31(b)(ii), (viii), (xiv); *see People v. Stauffer*, 640 N.W.2d 869, 870 n.7 (Mich. 2002).[18]

In sum, the PLRA should not be construed to prevent a federal court ordering that individuals be released from jail in response to an imminent and fatal threat that is not the result of systemic overcrowding. But even if this Court were to disagree, it still has the power under § 1983 to transfer the Medically Vulnerable Subclass into home confinement without running afoul of the PLRA. If this Court concludes that it cannot order releases or enlargement under its habeas jurisdiction, *see* Section I.A, *supra*, then it can and should instead act pursuant to § 1983.

IV. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS OF THEIR EIGHTH AND FOURTEENTH AMENDMENT CLAIMS.

A. Plaintiffs Have Made a Strong Showing of Defendants' Deliberate Indifference to the Grave Risk of Harm Posed by COVID-19.

Corrections officials have a constitutional obligation to protect incarcerated people from a substantial risk of serious harm. *Farmer v. Brennan*, 511 U.S. 825, 828 (1994). Under the Eighth Amendment, prison officials "must provide humane

[18] *See also* https://www.oakgov.com/sheriff/Corrections-Courts/Satellites-and-Court-Services/Pages/Work-Release-Tether.aspx (making clear that a sentence to work release is a sentence served under the sheriff's extensive supervision).

conditions of confinement; . . . must ensure that inmates receive adequate . . . medical care, and must take reasonable measures to guarantee the safety of the inmates[.]" *Id.* at 832 (internal quotation marks omitted). The obligation requires corrections officials to address prisoners' serious medical needs—including needs far less dire than those at stake here. *See Plata*, 563 U.S. at 531–32; *Helling v. McKinney*, 509 U.S. 25, 28, 35 (1993); *Estelle v . Gamble*, 429 U.S. 97, 104 (1976); *Flanory v. Bonn*, 604 F.3d 249, 255 (6th Cir. 2010) (extended failure to provide toothpaste); *Talal v. White*, 403 F.3d 423, 427 (6th Cir. 2005) (exposure to tobacco smoke). This obligation requires corrections officials to protect incarcerated people from the risk of "infectious maladies" and "serious contagious diseases" rather than waiting until someone tests positive and providing treatment. *McKinney*, 509 U.S. at 33–34 ("It would be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening condition in their prison on the ground that nothing yet had happened to them."); *see Farmer*, 511 U.S. at 833 ("[H]aving stripped [prisoners] of virtually every means of self-protection and foreclosed their access to outside aid, the government and its officials are not free to let the state of nature take its course.").

Eighth Amendment claims require a showing of "deliberate indifference" to a substantial risk of serious harm. *Farmer*, 511 U.S. at 828. "Deliberate indifference has two components to it: objective and subjective." *Villegas v. Metro. Govt. of*

Nashville, 709 F.3d 563, 568 (6th Cir. 2013).[19] It may be "infer[red] from circumstantial evidence," including "the very fact that the risk was obvious." *Farmer*, 511 U.S. at 842. In the midst of the COVID-19 pandemic, the deliberate indifference test has been easily satisfied in this District and elsewhere that medically vulnerable inmates are detained in unsafe conditions. *See, e.g.*, *Wilson*, 2020 WL 1940882, at *8; *Fofana*, 2020 WL 1873307, at *8; *Malam*, 2020 WL 1672662, at *12; *Thakker*, 2020 WL 1671563, at *8 n.15.

As explained below, the record in this case demonstrates that Defendants are deliberately indifferent to the serious risks posed by COVID-19, requiring immediate action by this Court. With respect to conditions for the Medically Vulnerable Subclass, there is no dispute that remaining in the Jail places them at a risk of death or serious harm that is both objectively intolerable and obvious to Defendants. For that subclass, as in *Wilson*, *Fofana*, *Malam*, *Thakker*, and other

[19] Defendants' assertion that "[d]eliberate indifference claims are the same under the Eighth and Fourteenth Amendments," Def. Br. at 29, relies entirely on outdated case law preceding *Kingsley v. Hendrickson*, 576 U.S. 389 (2015). Since *Kingsley*, the Sixth Circuit has recognized that pre-trial detainees, whose terms of confinement are governed by the Fourteenth Amendment, may no longer need to demonstrate the subjective component of the deliberate indifference standard in order to show that their conditions of confinement are unconstitutional. *See Richmond v. Huq*, 885 F.3d 928, 938 n.3 (6th Cir. 2018); *see* Pl. TRO Br. at 15 & n.6. In any event, Plaintiffs meet both standards as explained herein.

cases ordering release from detention, preliminary injunctive relief immediately removing them from the Jail environment is urgently needed.

As for the highly generalized evidence submitted by Defendants regarding purported efforts to marginally improve some conditions within the Jail, the mutually corroborating declarations of eight individuals overwhelmingly refute Defendants' assertions and conclusively demonstrate that the Jail is not doing what it claims. *See* Facts, *supra*. But to the extent there are genuine factual disputes about Defendants' conduct, which go only to Counts I and II and not the urgent need to remove the Medically Vulnerable Subclass pursuant to Counts III and IV, they should be resolved at an evidentiary hearing on Plaintiffs' motion for a preliminary injunction, not by dissolving the TRO as Defendants seem to request.

1. COVID-19 Presents an Objectively Unreasonable Risk.

As Plaintiffs have already established, the risk of infection from COVID-19 is plainly a serious one, and Plaintiffs are "incarcerated under conditions posing a substantial risk of serious harm." *Farmer*, 511 U.S. at 834. Pl. TRO Br. at 15–17; *see* Facts, Sections I–II, *supra*. The only way to alleviate the risk is to reduce the jail population. Stern Decl. ¶¶ 10–13; Lauring Decl. ¶¶ 36–37.

Defendants do not contend that the Jail can be made safe without further population reductions, and submit no evidence to the contrary. Thus, they have essentially conceded that the conditions in the Jail present an objective risk of grave

harm to Plaintiffs. *Accord Malam*, 2020 WL 1672662, at **4, 12; *Wilson*, 2020 WL 1940882, at *8; *Thakker*, 2020 WL 1671563, at *8 n.15. As such, they concede that the conditions in the Jail are unconstitutional with respect to the Pre-Trial Subclass, which need only show that they are exposed to an objectively unreasonable risk of harm in order to establish a violation of their Fourteenth Amendment rights. *See Richmond*, 885 F.3d at 938 n.3; Pl. TRO Br. at 15 & n.6.

2. Defendants Are Subjectively Aware of the Risks.

Plaintiffs also satisfy the "subjective" component of the Eighth Amendment test because Defendants acknowledge their awareness of the risks of the COVID-19 pandemic to the incarcerated population. Indeed, based on the publicity, warnings, letters, and CDC guidance surrounding the COVID-19 pandemic, it can hardly be doubted that "risk of harm is obvious." *Farmer*, 511 U.S. at 842.

Defendants offer two responses, neither persuasive. First, they contend essentially that they are not "deliberately indifferent" because they are making efforts to keep the Jail safe and are not exhibiting "total unconcern" for inmates' welfare. But that is not the law. Plaintiffs are not required to demonstrate that Defendants are bad people, harbor malicious intent, or are personally responsible for having created conditions that are now intolerable. Even if Defendants *were* trying their best to achieve social distancing (contrary to the record in this case), their conceded and knowing inability to accomplish it establishes their subjective

awareness of the unconstitutional conditions in the Jail. In *Plata*, for example, the Supreme Court confirmed that where a reduction in prison population is the only way to cure a constitutional violation, an injunction may issue even if the defendants did not intend to create the overcrowding. *Plata*, 563 U.S. at 521, 526–29.

Thus, when "the risk of harm is obvious," *Farmer*, 511 U.S. at 842, Defendants' conduct is unconstitutional because they have the information they need to know that whatever attempts they are making are not enough to keep Plaintiffs safe. *See Malam*, 2020 WL 1672662, at **11–12 (finding deliberate indifference even though jail "t[ook] a range of precautionary measures" because "even with these precautionary measures, in light of Petitioner's underlying health conditions, she is not ensured anything close to 'reasonable safety'"); *see also Wilson*, 2020 WL 1940882, at *8; *Fofana*, 2020 WL 1873307, at *8.

This principle is illustrated by binding precedent in injunctive relief cases. The Supreme Court has held that if "the evidence before a district court establishes that an inmate faces an objectively intolerable risk of serious injury, the defendants could not plausibly persist in claiming lack of awareness." *Farmer*, 511 U.S. at 846 n.9. Similarly, in cases involving "future conduct to correct prison conditions," the Sixth Circuit has said that "[i]f those conditions are found to be objectively unconstitutional, then that finding would also satisfy the subjective prong because the same information that would lead to the court's conclusion was available to the

prison officials." *Hadix v. Johnson*, 367 F.3d 513, 526 (6th Cir. 2004).

Consequently, it is Defendants' *knowledge* of the conditions that threaten Plaintiffs' health and safety that is the critical factor in analyzing Plaintiffs' claims. And that analysis demands the conclusion that the Medically Vulnerable Subclass is entitled to immediate relief. For, despite any efforts Defendants are making,[20] they admit that six-feet social distancing is currently impossible in the Jail. That impossibility does not make the jailer immune; it requires the removal of individuals whose confinement in the Jail cannot be made safe.

Continuing to expose medically vulnerable individuals to deadly contagion so clearly meets the deliberate indifference standard that immediate relief removing them from the Jail environment is the only way to address the constitutional violation. *See Malam*, 2020 WL 1672662, at *8 ("[E]ven the most stringent precautionary measures—short of limiting the detained population itself—simply cannot protect [vulnerable] detainees from the extremely high risk of contracting this unique and deadly disease."); *Fofana*, 2020 WL 1873307, at *8 (releasing medically vulnerable detainees despite jail taking "some steps to address the COVID-19

[20] Defendants told this Court last Thursday that they have no obligation to provide additional care to medically vulnerable Plaintiffs and will not do so. *See* Appendix C at 11 (transcript of Apr. 23, 2020 hearing). Thus, even accepting that Defendants are not responsible for the difficulties of achieving social distancing in the Jail, they clearly have not tried to reduce the risks to medically vulnerable individuals.

pandemic"); *Thakker*, 2020 WL 1671563, at *9 (ordering release where facilities were "plainly not equipped to protect Petitioners" even though the "deficiency is neither intentional nor malicious"); *Wilson*, 2020 WL 1940882, at *8 (ordering release despite defendants "offer[ing] certain prison-practice changes to show they know COVID-19 risks and have sought to reduce those risks").

Defendants cannot hide behind the fact that the CDC says that social distancing measures will need to "be tailored to the individual space in the facility." Def. Br. at 36. The CDC guidance does not state what is *medically required* to protect people's lives—which is the analysis the Eighth and Fourteenth Amendments require. Nor are these specific statements a repudiation of the CDC's *scientific* guidance that social distancing is required to stop the transmission of the virus and why, in other settings, the CDC recommends wholesale cancellation of schools, closures of nursing facilities and business offices, cancellation of "faith-based gatherings of any size," and emphasizes that social distancing is "especially important" for vulnerable individuals.[21] Indeed, in its correctional guidance, the CDC describes social distancing as "a cornerstone of reducing transmission of respiratory diseases such as COVID-19." Compl., Ex. 6 at 4.

In any event, it is ultimately for this Court to determine whether the risk to

[21] *See* Appendix D (compiling CDC guidance documents).

Plaintiffs' lives is an unconstitutional one. And Plaintiffs' experts expressly confirm that proper social distancing is medically necessary to protect people from the risk of serious harm posed by COVID-19, especially the medically vulnerable, and they explain that the CDC's correctional guidance reflects harm reduction principles recognizing that some Jails will not do what is actually safe. Stern Decl. ¶ 9; Lauring Decl. ¶ 24. These scientific facts, of which Defendants are aware, render them deliberately indifferent to the objective risks to the lives and health of the Medically Vulnerable Subclass.

Defendants' second major argument against a finding of deliberate indifference is to assert that they are taking responsive protective measures. *See* Def. Exs. B, F, M (jail manager declarations). But their generalized claims are not credible when compared with the detailed declarations provided Plaintiffs. For example, Curtis Childs claims that no one has been transferred to the main jail as punishment, Ex. B ¶ 15, but does not address the specific claims by two Plaintiffs who were the victims of such transfers or the fact that a sign was posted in the laundry room making such a threats as a matter of policy. Facts, Section III.F, *supra*. Childs also states that inmates are given adequate soap and cleaning supplies, Childs Decl. ¶ 6, but does not explain how almost every declarant reports otherwise, *see* Facts, Section III.D, *supra*. Similarly, Defendants rely on a declaration from Vicki-Lyn Warren, who claims that sick slips are distributed daily, inmates are properly

assessed for COVID-19, and named Plaintiffs in the medically vulnerable subclass lack a medical vulnerability. Def. Ex. F. Yet Ms. Warren does not explain how it is that multiple inmate declarants were unable to obtain medical attention, Facts Section III.C, *supra*, resulting in three declarants (one a paramedic) having to sweat it out while infecting cellmates, Arsineau Decl. ¶¶ 5–8; Briggs Decl. ¶¶ 8–9; Kucharski Decl. ¶¶ 8–10. Nor does she explain the withdrawal of nurses from the Annex, or the fact that two medically vulnerable plaintiffs are receiving their hypertension medication from the Jail itself.

Defendants' only real response is to call the declarants liars and "wonder if these career criminals are not simply looking for a 'get-out-of-jail-free' card." Def. Br. at 10. Defendants' sweeping suggestion that anyone convicted of a crime is a liar ignores: (1) the interlocking and mutually corroborating nature of declarants' testimony; (2) five of eight declarants are not medically vulnerable and thus have *not* sought to "get out of jail free"; and (3) two declarants (Arsineau and Kucharski) were scheduled to get out of jail anyhow within a few days of filing. Rather, one might wonder, based on the generalized and easily refuted nature of Defendants' declarations, whether they have an incentive to be fully forthcoming about the brutal and embarrassing conditions they have overseen in the Jail.

Defendants again rely on *Money v. Pritzker*, but *Money* does not support their position. The court there concluded that plaintiffs had not shown "deliberate

indifference" to an unconstitutional risk of serious harm because numerous measures were being implemented such that there was no factual showing of an immediate intolerable risk to the plaintiffs' health and lives. *Money*, 2020 WL 1820660, at *17–18. Most importantly, however, *Money* did not have the benefit of an evidentiary record that establishes that the only way to mitigate medically intolerable serious risk of infection was social distancing, nor did it have the rich record presented here of a systemic failure to take other measures.

For these reasons, Plaintiffs have shown that their Eighth Amendment rights are being violated, a preliminary injunction should issue, and an unacceptable risk to the Medically Vulnerable Subclass will persist no matter what Defendants do. Their immediate release is warranted pursuant to Counts III and IV. To the extent factual disputes as potentially dispositive of Plaintiffs' request for preliminary injunctive relief regarding Counts I and II, an evidentiary hearing should be held.

B. Defendants' Deliberate Indifference Is Attributable to Oakland County Under *Monell*.

"A municipality or other local government may be liable under [42 U.S.C. § 1983] if the governmental body itself subjects a person to a deprivation of rights or causes a person to be subjected to such deprivation." *Richmond,* 885 F.3d at 948 (quotation and citation omitted). "To make such a claim, plaintiffs must prove that 'action pursuant to official municipal policy caused their injury." *Id.* (quoting *Monell v. New York City Dep't of Soc. Servs.*, 436 U.S. 658, 691 (1978)). "[O]fficial

municipal policy extends to "the acts of its policymaking officials[] and practices so persistent and widespread as to practically have the force of law." *Id.*.

Here, Plaintiffs are incarcerated in the Oakland County Jail, so Oakland County and the official-capacity defendants are responsible for ensuring that Plaintiffs are protected from and not exposed to the jail-wide substantial risks posed by COVID-19. *See McKinney*, 509 U.S. at 32 (quoting *DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189, 199–200 (1989)). Defendants acknowledge that they have been aware of the jail-wide risk for some time, so there can be little doubt that they are responsible for the policy response.

In similar cases, courts have held that municipal policies, practices, and customs violate the Constitution. For example, in *Duvall v. Dallas Cty., Tex.*, 631 F.3d 203 (5th Cir. 2011), there was a "legally sufficient evidentiary basis for a reasonable jury to find a custom or practice" of deliberate indifference to a jail outbreak of an infectious disease in the Dallas County Jail.

Here, as in *Duvall*, there is overwhelming evidence of policies, practices, and customs exhibiting deliberate indifference. Based on Plaintiffs' extensive factual record, Dr. Lauring concluded that the Jail "is not only obviously under-equipped and ill-prepared to prevent and manage a COVID-19 outbreak . . . but in some cases . . . it is intentionally exposing inmates to COVID-19 as retribution for raising concerns about safety." Lauring Decl. ¶ 27. Defendants are either unwilling or

unable, as a matter of policy to take steps needed to control the infection. Stern Decl. ¶ 15; Lauring Decl. ¶¶ 26–34. *See generally* Facts, *supra*.

Taken together, Defendants' action and inaction plainly reflects municipal policy. *See Duvall*, 631 F.3d at 208–09. The inability to provide social distancing alone, which Defendants have acknowledged, suffices to show a "direct causal link between [the County's] action and the deprivation of federal rights." *Gregory v. Shelby Cty.*, 220 F.3d 433, 442 (6th Cir. 2000). And the larger policy failure to take adequate and known measures to alleviate the threat makes the link yet more clear.

Defendants' arguments against *Monell* liability are unpersuasive. First, Defendants say that because COVID-19 is novel, they cannot be responsible for failing to take proper precautions to protect inmates. Def. Br. at 26. The Supreme Court has expressly rejected the notion that a jail can avoid liability in the face of a known "unsafe, life-threatening condition in their prison" simply because nothing "yet had happened to [the inmates]." *McKinney*, 509 U.S. at 33. "[A] remedy for unsafe conditions need not await a tragic event." *Id*.

Second, Defendants take issue with Plaintiffs' "anecdotal" evidence of unconstitutional conditions, citing cases that suggest that a municipal policy cannot be established based on "one instance of potential misconduct." Def. Br. at 45 (citation omitted). But this argument, if accepted by the Court, would construct an impossible burden of proof. Who but the people detained inside the jail could offer

testimony regarding the conditions inside? Moreover, Plaintiffs are not relying on allegations of "one instance of potential misconduct," but rather on eight interlocking and mutually corroborative declarations that demonstrate a clear and systemic policy failure to protect the Jail population from the pandemic.

Defendants' position is also foreclosed by controlling case law. The Sixth Circuit has held that plaintiffs may prove a policy, custom, or practice by pointing to "a single incident of arguably unconstitutional activity," combined with "proof that the activity 'was [arguably] caused by an existing, unconstitutional municipal policy.'" *Richmond*, 885 F.3d at 948 (quoting *City of Oklahoma v. Tuttle*, 471 U.S. 808, 823-24 (1985)). The County and official defendants are solely responsible for maintaining practices that will protect those it detains from "a substantial risk of serious harm." Indeed, this is their constitutional duty. *Farmer*, 511 U.S. at 834. There is no serious dispute that the official policies, practices, and customs of the Defendants are at issue. The *Monell* standard is satisfied here.

CONCLUSION

Defendants contend that this Court is powerless to protect inmates, even if floodwaters are rising at the Jail's doorstep. Defendants are wrong. Their motion to dismiss should be denied and a preliminary injunction should issue. This Court has jurisdiction to remove medically vulnerable people from the Jail, and it should so immediately. The floodwaters are rising.

Respectfully submitted,

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Dated: April 27, 2020

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was filed with the U.S. District Court through the ECF filing system and that all parties to the above cause was served via the ECF filing system on April 27, 2020.

Signature: ___/s/ Carrie Bechill_____

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMAAL CAMERON; RICHARD BRIGGS; RAJ LEE; MICHAEL CAMERON; MATTHEW SAUNDERS, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

MICHAEL BOUCHARD, in his official capacity as Sheriff of Oakland County; CURTIS D. CHILDS, in his official capacity as Commander of Corrective Services; OAKLAND COUNTY, MICHIGAN,

Defendants.

Case No. 20-cv-10949

Hon. Linda V. Parker

INDEX OF EXHIBITS

Appendix A – Calderon Order and Fraihat Docket Entry

Appendix B – Savino Order

Appendix C – Cameron v. Bouchard Status Conference Transcript

Appendix D – Centers for Disease Control COVID-19 Guidance

Appendix A

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LILIAN PAHOLA CALDERON JIMENEZ AND LUIS GORDILLO, ET AL., individually and on behalf of all others similarly situated,	)	
Petitioners-Plaintiffs,	)	
v.	)	C.A. No. 18-10225-MLW
CHAD WOLF, ET AL.,	)	
Respondents-Defendants.	)	

MEMORANDUM AND ORDER

WOLF, D.J. March 26, 2020

Attached is a transcript of the decision, issued orally on March 25, 2020, granting the Motion for Immediate Interim Release of Class Member Salvador Rodriguez-Aguasviva (Docket No. 500).

UNITED STATES DISTRICT JUDGE

* * * * *

THE COURT: I'm going to decide this matter, and I will explain my decision. The transcript will be a record of the decision and you must order it. It's possible I'll write this up, but I do think this is an urgent matter and I should tell you my decision, so I will.

First, I've concluded for the reasons described by the Second Circuit in Mapp v. Reno, 241 F. 3d 221 at 230, a 2001 Second Circuit case, that District Courts do have the power to order the release of immigration detainees on bail. I don't think that the REAL ID Act alters that fundamental authority.

As I said earlier, I believe that the Glynn v. Donnelly case, the First Circuit case, 470 F.2d 95, 98 is distinguishable in a material respect. In Glynn, the First Circuit did hold that in certain extraordinary circumstances a District Court could release a detained petitioner before the petition was decided on the merits. It created a higher standard or stated a higher standard than the Second Circuit in Mapp. In Glynn, the petitioner was somebody who had been convicted of a crime. I believe his appeal had been denied, and then he was petitioning for habeas corpus, but he had no presumption of innocence.

In this case, it's important to remember we're talking about a civil detainee, somebody who has never been charged, let alone convicted of any crime. And I think that the Mapp

test or something similar or perhaps less is appropriate. As I said, the Mapp test where the court in Mapp said -- I don't know -- somebody perhaps didn't mute their phone because, unless I'm hearing the court reporter, there's something clicking, banging.

But the court in Mapp said the court considering a habeas petitioner's fitness for bail must inquire into whether the habeas petitioner raises substantial claims and whether extraordinary circumstances exist to make the grant of bail necessary to make the habeas remedy effective. And I would add to that that, even if those requirements are met, the court would have to be satisfied that the petitioner would not be a danger to the community, reasonably assured that the petitioner would not be a danger to the community or not would flee if released on reasonable feasible conditions.

I do find, without expressing any prediction of how the merits will be resolved, that a substantial claim or question is raised by the petitioner's habeas petition. The initial description by ICE of the reason for his detention -- well, the reason for his detention sent to petitioner's counsel in an email was that in effect -- well, that he was likely to be unable -- the petitioner was likely to be unable to receive an approved I-601A because he did not appear at his removal hearing. He was ordered removed in absentia. The essence of this, the way it was stated initially indicated that ICE was

under the impression or misimpression that the petitioner is ineligible for an I-601A.

While I've commended Mr. Lyons and Mr. Charles on many things they've done, since June 2018, I have found ICE has repeatedly failed to understand its own regulations as I held in 2018. And I learned, to my dismay, in the fall of 2019, when the witness responsible for much of the national program for many years testified that he didn't understand -- he didn't realize there was a regulation that required that everybody detained more than six months had to be interviewed. It would be sadly consistent with the pattern in this case if ICE misunderstood whether somebody who failed to appear for a removal hearing was ineligible for an I-601A.

And indeed it appears that ICE's position has evolved and they don't take that position anymore. Mr. Lyons has articulated in his declaration other reasons for the detention, but there is the question of whether those reasons were in his mind when he decided to detain the petitioner or whether the affidavit that appears to have been drafted by a lawyer has rationalizations that weren't part of the decisionmaking process at issue. That's an issue that I may need to hear testimony on. I also -- but I do think that there's a substantial question, a substantial claim.

In addition, I find that extraordinary circumstances exist that make the grant of bail necessary to make the habeas

effective, to make the habeas remedy effective. To be blunt, we're living in the midst of a coronavirus pandemic. Some infected people die; not all, but some infected people die. If the petitioner is infected and dies, the case will be moot. The habeas remedy will be ineffective.

And being in a jail enhances risk. Social distancing is difficult or impossible. Washing hands repeatedly may be difficult. There is, it appears not to be disputed, one court -- one Plymouth County jail employee who has been infected, and there's a genuine risk that this will spread throughout the jail. Again, the petitioner is in custody with people charged with or convicted of crimes. He's not been charged or convicted of anything.

I've also considered what I ordinarily consider in making or reviewing bail decisions in criminal cases. There's no contention that the petitioner will be dangerous to any individual or the community if he's released on reasonable conditions.

ICE does contend that he would be a risk of flight. That is based on the fact that he missed one immigration hearing at which his removal was ordered and apparently did not tell ICE of his change of address. And he is facing a serious risk of being removed. He may not prevail on the habeas petition. And if he does, he may not get a provisional waiver.

However, there's no indication that the petitioner has

anyplace to go. Being among other people, say, in a homeless shelter is very dangerous, like being in a jail. There's no indication that he has any relatives or others who might take him in other than his wife. And I am ordering that he live with his wife in Lawrence, Massachusetts; that he stay in their residence, except if there is a medical need for him to leave; and, unless it's a genuine emergency, he would need the permission of ICE to leave. And he is to be on electronic monitoring, so if he leaves the residence when he hasn't been authorized to leave, ICE would know that and, if appropriate, could come back to me to revoke his release.

In addition, there are certain equities that favor the release of the petitioner. He's now been detained since September 4, 2019. On January 27, the motion was filed to enjoin his removal. As I indicated in the course of the argument, with the assent of petitioner's counsel, class counsel, ICE has repeatedly been given extensions of time to respond to the motion.

On January 31, 2020, the parties filed a joint motion to give ICE until February 14 to confer, and then on February 13, the respondents filed an unopposed motion for an extension of time to file their opposition until February 20, which I allowed. Then I was asked not to schedule a hearing in this case until after March 25 because Mr. Lyons would not be available from March 10 to 24. I accommodated that. And I was

told that local counsel, Ms. Piemonte, would be on trial until April 6. On March 19 I allowed the respondent's motion for respondents to file a sur-reply. And though it's possible, except for ICE asking for and receiving extensions of time to respond or file a sur-reply, that there would have been a hearing and a decision on this case earlier.

So essentially we're in a circumstance where an individual who has not been accused of any crime has been detained for -- I think it comes to about six and a half months. Part of that is because I've stayed his removal pending the decision on his motion to enjoin removal, but because of accommodations to ICE, that wasn't fully briefed until less than a week ago, and I had been asked to defer to Mr. Lyons' availability, which I did.

So for all of those reasons, I'm ordering that the petitioner be released no later than tomorrow, March 26, 2020, on the conditions I articulated and will memorialize in a brief order.

I'm ordering counsel for ICE to inform me when he has been released, and if there's some problem with implementing this order by tomorrow, you'll have to let me know promptly. Petitioners' counsel I'm directing, ordering, to inform the petitioner and his wife of my decision, including the requirements that he live with his wife and that he be on electronic monitoring. And he'll have to confirm for ICE, he'll have to provide ICE her address if they don't have it and

confirm her willingness to have her husband with her for the duration of this case.

* * * * *

ACCO,TRO,194,RELATED-DDJ,STAYED

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA (Eastern Division - Riverside)
CIVIL DOCKET FOR CASE #: 5:20-cv-00590-TJH-KS

Faour Abdallah Fraihat v. Chad T. Wolf et al
Assigned to: Judge Terry J. Hatter, Jr
Referred to: Magistrate Judge Karen L. Stevenson
Related Case: 5:07-cv-01687-VAP-JTL
Cause: 28:2241 Petition for Writ of Habeas Corpus (federal)

Date Filed: 03/23/2020
Jury Demand: None
Nature of Suit: 463 Habeas Corpus - Alien Detainee
Jurisdiction: U.S. Government Defendant

Petitioner

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Date Filed	#	Docket Text

03/23/2020	1	PETITION for Writ of Habeas Corpus by a Person in Federal Custody (28 USC 2241),, filed by petitioner Faour Abdallah Fraihat. (Attachments: # 1 Exhibit Exhibits A-I) (Attorney David Lee Menninger added to party Faour Abdallah Fraihat(pty:pet)) (Menninger, David) (Entered: 03/23/2020)
03/23/2020	2	CIVIL COVER SHEET filed by Petitioner Faour Abdallah Fraihat. (Menninger, David) (Entered: 03/23/2020)
03/23/2020	3	APPLICATION for Temporary Restraining Order as to for petitioner's release filed by petitioner Faour Abdallah Fraihat. (Attachments: # 1 Proposed Order Proposed Temporary Restraining Order, # 2 Proposed Order Proposed Order to Show Cause Why Preliminary Injunction Should Not Issue) (Menninger, David) (Entered: 03/23/2020)
03/23/2020		(Menninger, David) (Entered: 03/23/2020)
03/23/2020	4	NOTICE OF REFERENCE to a U.S. Magistrate Judge. This case has been assigned to the calendar of the Honorable District Judge Virginia A. Phillips and referred to Magistrate Judge Karen L. Stevenson, who is authorized to consider preliminary matters and conduct all further hearings as may be appropriate or necessary. Pursuant to Local Rule 83-2.4, the Court must be notified within five (5) days of any address change. See notice for additional details. (lh) (Entered: 03/23/2020)
03/24/2020	5	ORDER SETTING BRIEFING SCHEDULE (IN CHAMBERS) by Judge Virginia A. Phillips. Petitioner filed an Application for Temporary Restraining Order on March 23, 2020. Government shall file a response/opposition no later than 12 noon of Thursday, March 26, 2020. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (cch) TEXT ONLY ENTRY (Entered: 03/24/2020)
03/24/2020	6	Notice of Appearance or Withdrawal of Counsel: for attorney Paul Bartholomew Green counsel for Respondents Matthew T. Albence, David A. Marin, Chad T. Wolf. Adding Paul B. Green as counsel of record for Chad T. Wolf; Matthew T. Albence; and David A. Marin for the reason indicated in the G-123 Notice. Filed by respondent Chad T. Wolf; Matthew T. Albence; and David A. Marin. (Attorney Paul Bartholomew Green added to party Matthew T. Albence(pty:res), Attorney Paul Bartholomew Green added to party David A. Marin(pty:res), Attorney Paul Bartholomew Green added to party Chad T. Wolf(pty:res))(Green, Paul) (Entered: 03/24/2020)
03/24/2020	7	NOTICE of Related Case(s) filed by petitioner Faour Abdallah Fraihat. Related Case(s): ED CV17-1370-VAP-KS; ED CV 19-1546-JGB-SHK (Menninger, David) (Entered: 03/24/2020)
03/26/2020	8	MEMORANDUM in Opposition to APPLICATION for Temporary Restraining Order as to for petitioner's release 3 filed by Respondents Matthew T. Albence, David A. Marin, Chad T. Wolf. (Attachments: # 1 Declaration of Edgar Duran, # 2 Declaration of Paul B. Green, # 3 Exhibit A, # 4 Exhibit B (Moon Declaration))(Green, Paul) (Entered: 03/26/2020)
03/26/2020	9	REQUEST FOR JUDICIAL NOTICE *of Exhibit B to the Declaration of Paul B. Green (ECF No. 8-4)* filed by Respondents Matthew T. Albence, David A. Marin, Chad T. Wolf. (Green, Paul) (Entered: 03/26/2020)
03/26/2020	10	SUPPLEMENT to APPLICATION for Temporary Restraining Order as to for petitioner's release 3 *March 26, 2020 Declaration of Captain Moon, in Opposition to Petitioner's Application for Temporary Restraining Order,* filed by Respondents Matthew T. Albence, David A. Marin, Chad T. Wolf. (Green, Paul) (Entered: 03/26/2020)
03/27/2020	11	RESPONSE IN SUPPORT of APPLICATION for Temporary Restraining Order as to for petitioner's release 3 filed by Petitioner Faour Abdallah Fraihat. (Attachments: # 1 Exhibit

		Exhibits J and K)(Menninger, David) (Entered: 03/27/2020)
03/27/2020	12	ORDER TRANSFERRING CIVIL ACTION pursuant General Order 19-03. ORDER case transferred from Judge Virginia A. Phillips to the calendar of Judge Terry J. Hatter, Jr for all further proceedings. The case number will now reflect the initials of the transferee Judge 5:20-cv-00590. Signed by Judge Virginia A. Phillips and Judge Terry J. Hatter, Jr.. (rn) (Entered: 03/27/2020)
03/27/2020	13	MINUTE IN CHAMBERS -NEW CASE BEFORE JUDGE HATTER: This action has been assigned to the calendar of the HONORABLE TERRY J. HATTER, JR., United States District Judge. Please include the initials TJH in all documents pertaining to this case, as documents are routed using the judges initials, it is imperative that the correct initials TJH be used on all subsequent filings to prevent any delays in the processing of documents. Judge Hatter's Courtroom Deputy Clerk is Yolanda Skipper. She can be reached at (213) 894-5276. Counsel shall not attempt to contact the Court or its chambers staff by telephone or by any other ex parte means, although counsel may contact the Courtroom Deputy, Yolanda Skipper, at: yolanda_skipper@cacd.uscourts.gov, with appropriate inquiries. Judge Hatters courtroom is located on the 9th Floor, at 350 W. 1st Street, United States Courthouse, Courtroom No. 9B. Additional information about Judge Hatters procedures and schedules can be found on the courts website at www.cacd.uscourts.gov. The Court further orders Respondent to file their opposition to the Temporary Restraining Order by no later than Monday, March 30, 2020 at 5pm. See order for further details. (shb) (Entered: 03/30/2020)
03/30/2020	14	SUPPLEMENT *Notice of Supplemental Authority in Opposition to Petitioner's Application for a Temporary Restraining Order* filed by Respondents Matthew T. Albence, David A. Marin, Chad T. Wolf. (Green, Paul) (Entered: 03/30/2020)
03/30/2020	15	MINUTE IN CHAMBERS-ORDER AND NOTICE TO ALL PARTIES by Judge Terry J. Hatter, Jr: Counsel are hereby notified that pursuant to the Judge's directive, the Court is considering Petitioner Fraihats ex parte application for a temporary restraining order. Fraihat, or his counsel, shall file, as soon as possible, a supplemental declaration setting forth where and with whom Petitioner would reside and shelter in place if the Court were to grant the requested relief? After filing, a copy of the declaration shall be emailed to TJH Chambers@cacd.uscourts.gov. (shb) (Entered: 03/30/2020)
03/30/2020	16	DECLARATION of David Menninger re Minutes of In Chambers Order/Directive - no proceeding held,, 15 filed by Petitioner Faour Abdallah Fraihat. (Menninger, David) (Entered: 03/30/2020)
03/30/2020	17	DECLARATION of David Menninger re Minutes of In Chambers Order/Directive - no proceeding held,, 15 filed by Petitioner Faour Abdallah Fraihat. (Menninger, David) (Entered: 03/30/2020)
03/30/2020	18	TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE by Judge Terry J. Hatter, Jr: It is Ordered that the application for a temporary restraining order be, and hereby is, Granted. It is further Ordered that Respondents shall, by 5:00 p.m. on March 31, 2020, release Petitioner Faour Abdallah Fraihat from custody pending further order of this Court, and subject to the following conditions of release: 1. Petitioner shall reside, and shelter in place, at the residence of Radi Saad. 2. Petitioner shall be transported from the Adelanto Detention Center directly to the Residence by Radi Saad; 3. Petitioner shall not leave the Residence, pending further order of the Court, except to obtain medical care; 4. Petitioner shall not violate any federal, state or local laws; and 5. At the discretion of DHS and/or BICE, to enforce the above restrictions, Petitioners whereabouts may be monitored by telephonic and/or electronic and/or GPS monitoring and/or a location verification system and/or an automated identification system. It is further Ordered that Respondents shall show cause, if they have any, as to why the Court should not issue a preliminary

		injunction in this case. Respondents response, if any, to this order to show cause shall be filed by Noon on April 6, 2020. Fraihats reply, if any, to Respondents response shall be filed by Noon on April 9, 2020. The matter will then stand submitted. See order for further details. (shb) (Entered: 03/31/2020)
04/01/2020	19	FINANCIAL ENTRY: Received $5.00 into the registry of the Court from David Menninger FBO Faour Abdallah Fraihat. Re: Petition for Writ of Habeas Corpus, 1 . Receipt number LA204453. (Fe) (Entered: 04/01/2020)
04/06/2020	20	REPLY *To The Order To Show Cause As To Why A Preliminary Injunction Should Not Be Issued* filed by Respondents Matthew T. Albence, David A. Marin, Chad T. Wolf. (Attachments: # 1 Declaration of Gabriel Valdez)(Green, Paul) (Entered: 04/06/2020)
04/09/2020	21	REPLY IN SUPPORT OF *PRELIMINARY INJUNCTION; EXHIBIT L* filed by Petitioner Faour Abdallah Fraihat. (Attachments: # 1 Exhibit L)(Menninger, David) (Entered: 04/09/2020)
04/09/2020	22	NOTICE OF LODGING filed re Reply (Motion related) 21 (Attachments: # 1 Proposed Order Petitioner's Proposed Findings of Fact and Conclusions of Law)(Menninger, David) (Entered: 04/09/2020)
04/10/2020	23	MINUTE IN CHAMBERS-ORDER AND NOTICE TO ALL PARTIES by Judge Terry J. Hatter, Jr: Pursuant to Fed. R. Civ. P. 65(b)(2), the TRO will expire on April 13, 2020, the fourteenth day after the date of issuance, unless, for good cause, the Court extends it. The parties have filed their respective briefs in response to the Courts Order to Show Cause: re: Preliminary Injunction. The Court finds that good cause exists under Rule 65(b)(2)to extend the TRO for an additional 14 days. The good cause is that the extension will allow the Court time to consider the significant constitutional issues raised in the parties briefs. The TRO will remain in effect until April 27, 2020. (shb) (Entered: 04/10/2020)
04/24/2020	24	STAY ORDER by Judge Terry J. Hatter, Jr., that, pursuant to the Preliminary Injunction issued in Roman, Petitioner shall remain released pending a final resolution of Roman or further order of the Court. Further Ordered that pending a final resolution of Roman, this case be, and hereby is, Stayed. (See document for further details). (jp) (Entered: 04/24/2020)

PACER Service Center

Transaction Receipt

04/27/2020 07:02:53

PACER Login:	pmayor714	**Client Code:**	
Description:	Docket Report	**Search Criteria:**	5:20-cv-00590-TJH-KS End date: 4/27/2020
Billable Pages:	6	**Cost:**	0.60

Appendix B

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MARIA ALEJANDRA CELIMEN SAVINO, JULIO CESAR MEDEIROS NEVES, and all those similarly situated, Petitioners,	)	
v.	)	CIVIL ACTION NO. 20-cv-10617-WGY
STEVEN J. SOUZA, Respondent.	)	

YOUNG, D.J. April 4, 2020

ORDER

As set forth at the hearing on April 3, 2020, it is hereby Ordered:

1. Upon release by respondent of Hayk Khachatyan, Kokou Aziabo, Srikalathan Rohan, Firdavs Salakhidinov, Ruben Poghosyan, and Marcio De Sauza, the petition with respect these individuals is MOOT.

2. The Court grants bail to Henry Urbina Rivas, Robson Maria-De Oliveira, and Jervis Vernon pending resolution of the habeas corpus petition, upon all bail conditions deemed appropriate and imposed by ICE, and the following additional terms and conditions as to each of them: (a) release only to an acceptable custodian; (b) such custodian will pick the releasee

up outside the facility by car; (c) releasee will be taken from the facility to the place of residence previously identified to ICE (ICE shall notify the state and local law enforcement authorities about their presence and thee details of their bail status); (d) releasees are to be fully quarantined for 14 days from date leaving facility to the residence; (e) during and after the 14-day quarantine, releasees will remain under house arrest, without electronic monitoring, and shall not to leave the residence for any reason save to attend immigration proceedings or attend to their own medical needs should those needs be so severe that they have to go to a doctor's office or hospital (in which case they shall notify ICE as soon as practicable of their medical necessity); (f) releasees are not to be arrested by ICE officers unless: (i) upon probable cause a warrant is issued by a United States Magistrate Judge or United States District Judge that they have violated any terms of their bail, or (ii) there is a final order of removal making them presently removable from the United States within two weeks. The Court may, sua sponte or on motion of the parties, modify or revoke the bail provided herein.

3. Bail is DENIED without prejudice to Mohamad Bassyouni subject to resubmission by petitioners' counsel of a more detailed request.

4. The Court continues its consideration of bail for Gerson McGlashin. Respondent shall by the 5:00 p.m. April 6, 2020, provide a detailed explanation to the Court of how ICE intends to execute the final removal order within the next two weeks.

5. The Court continues its consideration of bail for Jesse Maina. Petitioner shall by Friday, April 10, 2020 provide the Court with a detailed plan of where he would reside, with whom, and who would be the custodian.

6. The parties shall by 4:00 pm, Saturday, April 4, 2020, submit, a single list (if possible) of 50 detainee names without regard to groupings previously identified by the Court. If no list is provided, or multiple lists are provided, then the Court will select its own list by 4:00 pm on Sunday, April 5, 2020. The Court proposes, if possible, to review ten petitions for bail per day beginning Tuesday, April 7, 2020, and continuing Wednesday, Thursday, Friday and Monday of the following week. As soon as practicable before each hearing date, the Court requests the parties submit briefing as to each detainee's circumstances relevant to the Court's bail determination.

7. The proposed stipulated Protective Order (ECF No. 39-1) is adopted as submitted. All parties are bound by the protective order, including the parties in the related matter.

8. Counsel for Darcy McMenamin and Gerardo Portillo shall by 12:00 noon on Monday April 6, 2020 notify the Court of their response to the respondent's counsel's proposal in the related action and whether that matter is resolved.

9. The 48-hour notification order issued in this action (ECF No. 22) does not apply to those voluntarily released by respondent in paragraph 1, supra, as the petition is moot as to those individuals, but it remains in effect as to those individuals granted bail by this Court and all other class members.

SO ORDERED.

/s/ William G. Young
WILLIAM G. YOUNG
DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

MARIA ALEJANDRA CELIMEN SAVINO, *et al*., Petitioners-Plaintiffs, v. STEVEN SOUZA Respondent-Defendant.	Case No. 1:20-cv-10617-WGY

STIPULATED PROTECTIVE ORDER REGARDING CONFIDENTIAL INFORMATION

With the agreement of the Parties, the Court having determined that there is good cause for issuance of a protective order to govern the disclosure, use, and handling by the Parties and their respective agents, successors, personal representatives and assignees of certain information in the above-captioned action, IT IS HEREBY ORDERED as follows:

1. Private medical information produced by either Party during informal discovery or otherwise made available for the litigation will not be disseminated beyond the Counsel (including outside counsel) for the Parties, as defined to include associated personnel necessary to assist counsel in this Action, such as law student interns working under the supervision of counsel of record in this matter, litigation assistants, paralegals, and litigation support, information technology, information or records management, investigative, secretarial, or clerical personnel.

2. Such private medical information may be disclosed to experts or consultants for the Parties, provided the attorney of record first informs the expert that such information to be disclosed is confidential and to be used solely for the purpose of this litigation and further that

these restrictions are imposed by a court order.

3. The Parties will redact all private medical information in any publicly-available filings submitted to the Court.

Dated: April 4, 2020

/s/ William G. Young
WILLIAM J. YOUNG
UNITED STATES DISTRICT JUDGE

Appendix C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMAAL CAMERON, RICHARD BRIGGS, RAJ LEE, MICHAEL CAMERON, MATTHEW SAUNDERS, individually and on behalf of all others similarly situated,

Plaintiffs,

V.

CIVIL ACTION
NO. 20-10949

MICHAEL BOUCHARD, in his official capacity as Sheriff of Oakland County, CURTIS D. CHILDS, in his official capacity as Commander of Corrective Services, OAKLAND COUNTY, MICHIGAN,

Defendants.

_____/

STATUS CONFERENCE
BEFORE THE HONORABLE LINDA V. PARKER
United States District Judge
Detroit, Michigan
(All Parties Appearing Telephonically)
April 23, 2020

APPEARANCES:

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- - -

To Obtain Certified Transcript:
Andrea E. Wabeke
Certified Realtime Reporter • Federal Official Court Reporter
Email: federalcourttranscripts@gmail.com

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On behalf of Defendants.

I N D E X

E X H I B I T S

Exhibit No.	**Offered**	**Received**
(None Offered)		

Detroit, Michigan

April 23, 2020

1:05 p.m.

- - - -

THE COURT: Telephonic status conference, 20-10949, Cameron, et.al. versus Bouchard, et.al.

Counsel, please state your appearances starting with the Plaintiffs.

MR. MAYOR: This is Phil Mayor from the ACLU for Plaintiffs.

MR. KOROBKIN: This is Daniel Korobkin, also from the ACLU, for the Plaintiffs.

MS. McGEHEE: Cary McGehee for the Plaintiffs.

MR. CARLSON: Kevin Carlson for the Plaintiffs.

MS. SANTHANAM: Krithika Santhanam for the Plaintiffs.

MS. KRIGER: Good afternoon. Allison Kriger for the Plaintiffs.

THE COURT: All right. The Defendants.

MR. POTTER: Mr. Potter, Mr. DeAgastino, and Mr. Clark present, your Honor.

MR. MENNA: And Pete Menna also present for the Defendants.

THE COURT: I'm sorry, who is the last person?

MR. MENNA: Peter Menna, M-e-n-n-a, your Honor.

THE COURT: Thank you. Did someone else just join? Okay. All righty. So how are things proceeding, let me hear from you Mr. Potter, with the inspection?

MR. POTTER: The inspection is completed, your Honor and went forward without, from my standpoint, a hitch. I got no calls from my clients indicating that the inspector was exceeding the limits of your order, and all reports are that it's completed and he got -- whatever he came to do, he did.

THE COURT: Very good. Mr. Mayor?

MR. MAYOR: The same report from us. We -- I have not heard any concerns from the inspector and it's news to me that he's out, but sounds good.

THE COURT: Okay. He had his test this morning?

MR. MAYOR: He did. He had the test.

MR. POTTER: He did, yep.

THE COURT: He had the test this morning and then he had one at the jail; is that true?

MR. POTTER: Yes, and he tested negative on the 15-minute test.

THE COURT: Okay. Good. Okay. All right. So I've gotten -- I received the agenda in terms of what we need to discuss. Let me just also say something else, too, that the -- I'm going to -- you know, the Chambers case that's been filed, we talked about that yesterday. I am -- it doesn't pertain to you all anyway I don't think. I'm going to just meet with the

lawyers who are on that case at 2:00 p.m. telephonically. So to whatever extent I might have inferred that there was overlap with Cameron, it is whoever is named on those filings as the Plaintiffs' lawyers and the lawyers for the Defendant who I'll be speaking with at 2:00 p.m. Okay.

MR. MENNA: Thank you, your Honor. This is Peter Menna. I think I'm the only lawyer on this call who's also on that one. So thank you.

THE COURT: That's right, Mr. Menna. Right. Exactly. Okay. All right. So I see that the first issue that Plaintiffs s would like to raise is whether or not I would want to have oral argument following the briefing that closes early next week, and, you know, my feeling on that is is that I feel like I'd be in a better position to reach that decision once I have reviewed the briefs to determine whether or not I need oral argument, and if that's okay with you, I would like to leave it at that.

Let me hear from you, who is speaking on behalf, Mr. Mayor, of the Plaintiffs, is that okay for you?

MR. MAYOR: Sure. Of course, your Honor. We just -- if there was something that you knew you wanted to do, we wanted to make sure we put it on our calendars.

THE COURT: Yes, so you could put it on your calendar.

MR. MAYOR: Of course we're at the Court's disposal.

THE COURT: Okay. I appreciate that. Okay. And let's see, the next question relates to -- or next issue related to the medically vulnerable Plaintiffs -- okay, the format of the list. This is going forward with the list of those who were deemed to be medically vulnerable. And my view on this is is that that is an issue that I can decide after we deal with the issue of jurisdiction. I just don't see that Mr. Potter is going to do anything in terms of sharing -- you know, starting to produce any of that information.

Does that summarize your position, Mr. Potter?

MR. POTTER: You're clairvoyant, Judge. You summarized our position, but I would also add to this that we are in the process of compiling the information, and we continue to be in the process, because regardless of what this Court rules, we're still going to do -- request another relief from the state court judges so -- of prisoners. So it's all being done regardless of this lawsuit. But yes, I do not want to produce anything until you settle the jurisdictional issues. Thank you.

THE COURT: And you know, the position that I'm holding now, counsel, this applies to everyone, is is that I'm not going to, you know, order Mr. Potter to do so. That would just get into another fight, legally, and I just don't -- I don't want to do it. So -- and that's my decision. So that's where I am on that. I'm going to hold off on -- now, that

doesn't mean that the -- you know, I can look at the disagreement. I know what the disagreement is between the parties about the meaning of medically vulnerable. I mean at least I know that at least one of the factors that you're not in agreement upon and that would be the age, correct?

MR. MAYOR: Your Honor -- this is Mr. Mayor, I'm sorry. That's true. I understand that your Honor has ruled on the question of going forward.

Could I speak to a few facets of that that would concern us?

THE COURT: Okay. Yep.

MR. MAYOR: One thing is that even if your Honor were to conclude that you don't have jurisdiction to release folks, the list would still be important because the medically vulnerable individuals in the jail still need to be specially treated, and so even if you were to say, you know, I'm not allowed to order anyone out of the jail under any of Plaintiffs' theories, we would still need to know how many medically vulnerable people there are in the jail because it goes to the fact that there may need to be measures taken, especially if they're not being -- getting out somehow to ensure that they have special protections because they would remain medically vulnerable.

So I think regardless of the jurisdictional issue, we're going to need that list and it's urgent and so we

struggle to see why it's so hard, especially because Defendants have represented they already have at least a first round list.

And then, you know, our next concern, and this is part of why we wanted to speak about this, is even if your Honor is not willing to order them to turn over the list to us in advance of its jurisdictional ruling, we would suggest that it might be helpful to have some rulings on what needs to go into the list. So this relates to the subject you were alluding to about the definition of medically vulnerable. The parties aren't in full agreement on that definition.

Now, if I understand your order correctly, they're required to include people on the list that meet our definition that would be the subclass as we defined it. So if that's what's happening, that's fine. We just want to make sure that's what's happening, but then on top of that, we do have serious concerns about the methodology. What we have been told is that they have derived these lists and then don't intend to change how they derived these lists, simply by looking at intake forms, and we know from what has happened to the named Plaintiffs, that that has failed to identify medical vulnerabilities that we know at least two of the named Plaintiffs have.

So if the list it allowed to be created without any orders or instructions from your Honor about who should be on it, then I fear that when the time comes to look at the list,

even if you agree with Mr. Potter about when we can see the list, that what we're going to have is an incomplete list and then we're going to lose more time trying to go back and get it done properly.

THE COURT: Okay. I don't fully understand that. I'm going to tell you what I do understand of what you said.

MR. MAYOR: Sure.

THE COURT: That the medically vulnerable would still have to be specially treated. I get that part.

MR. MAYOR: Right.

THE COURT: That caught my attention, just in terms of --

MR. MAYOR: Okay.

THE COURT: Okay. And just expand on that a little bit. So you're saying that we know -- obviously, there are medically vulnerable individuals who are in that jail, and that's the Plaintiffs' position, and even if I don't have jurisdiction, under what the authority from the -- that I have from the TRO, is that why --

MR. MAYOR: Well --

THE COURT: Tell me.

MR. MAYOR: Yeah. So our view is that you will have jurisdiction both under the PLRA and the habeas claim to facilitate getting folks -- medically vulnerable folks out of the jail immediately. And even if you were to decide that we

were wrong about that after reviewing the briefing, it would be vital to ensuring that extra social distancing measures are being taken for the medically vulnerable subclass. So for example, they should be housed in the least congregate environment possible, right. So right now we know, for example, that named Plaintiff Jamaal Cameron is detained in the tank, which is one of the most congregate environments in the jail. He's medically vulnerable. If he's going to be -- continue to be detained, which we don't think he should be, then, you know, he should be located into the safest place, not in the most dangerous place, for example.

That one we know because he's a named Plaintiff but we don't know how many other similar people might be at issue. So that's the reason why the list is going to be relevant, no matter what your Honor decides about the ability to get people out of jail, because if they're in jail, they still need to be properly -- or handled as best as can be.

THE COURT: Okay. Let me hear from you, Mr. Potter.

MR. POTTER: I completely disagree with the premise, so that medically vulnerable need special treatment. Their conditions are being taken care of in the jail. I don't -- I don't -- you know, that is -- their construct that they're building here is not a construct that is compatible with what our duties are under the Eighth Amendment. They're going way beyond what the Eighth Amendment would require in terms of

medical care to these individuals, and we are providing medical care to these individuals who have vulnerabilities to the extent they require it. We're doing that. So I don't -- they're not -- I don't buy into this special treatment class that they're now alluding to, and in fact, Mr. Mayor told me a few days ago that if you decline on jurisdiction, that the subclass of medically vulnerable is irrelevant.

Now, evidently, they're changing positions on that, and so be it. I guess they're entitled to do it, change their mind that is, that what they're asking for is tremendous amounts -- this is discovery, and we haven't even gotten by -- we're three, four days into this. We filed one motion for reconsideration. Now, we're filing motions to dismiss today, which you're going to decide Monday or hopefully soon thereafter. This can wait until they -- until we determine whether they're even entitled to discovery, and also on top of that, there is no -- we haven't even begun to talk about the motion for class certification, which we're going to oppose vehemently.

So there's so many issues, I think, that need to be resolved before we get into the minutiae of what Mr. Mayor is talking about, which is a discovery issue, and we're -- I'm reporting to the Court again, we are compiling a list of medically vulnerable, per your order, which required us to take into account the Plaintiffs' definition of those individuals in

Paragraph 93 or 4 of their complaint.

THE COURT: 94, yes.

MR. POTTER: We're doing it. We have dedicated the health administrator for the jail clinic, at significant expense to us in terms of her -- her -- in a time of a pandemic, we've basically taken her out of the delivery of medical care function at the jail, and she's doing nothing but compiling the list right now. So we're complying. They have no evidence -- other -- they talk about their one Plaintiff. That Plaintiff, on a classification screen, denied everything that he says he has in this complaint, and I can send you that classification screen, point blank denied everything. Now he's got diabetes, heart disease and something else.

So -- so anecdotally, if they can point to something, which we dispute but -- I don't want to be redundant here. I said what I had to say, your Honor. I agree completely with how you ruled before Mr. Mayor talked, and I don't think he said anything that should cause you to second guess how you ruled at the beginning of this conversation.

THE COURT: Okay. Mr. Mayor, anything else?

MR. MAYOR: Yes. Thank you, your Honor. I obviously have disagreed with Mr. Potter before on these calls, but I'm literally shocked to hear him say that no special treatment should be given to medically vulnerable individuals. I mean it's almost the definition of being deliberately indifferent to

even say those words. We know that these are the people who are at the highest risk of death or serious injury and that the jail has admitted, in its public comments, that it's impossible to achieve social distancing inside the jail. I believe they admitted it to your Honor as well, and in light of those facts, for Mr. Potter to suggest that the most social distancing possible shouldn't be provided to the most medically vulnerable, evinces a level of callousness that really surprises me.

And with respect to the Plaintiffs that we have identified who are medically vulnerable, I just want to correct the record, because Mr. Potter, what he just said was completely inaccurate. Mr. Jamaal Cameron, who is -- who we claim is medically vulnerable has not claimed diabetes, has not claimed heart disease. He has claimed bronchitis and he has claimed hypertension. He is receiving medication from the jail for that hypertension. It is the jail itself that is providing the medication. They're the ones that diagnosed him. So for Mr. Potter to sit here and say that he's going to provide you with a document that shows that he didn't claim it on intake. Even if he didn't claim it on intake, he was diagnosed inside the jail, which goes to the point I was making, that I hope we'll be able to get back to, about the methodology of how these lists are supposedly being compiled.

Second, another named Plaintiff, who is medically

vulnerable, Mr. Michael Cameron, one of the bases on which he claims medical vulnerability is obesity. The jail has his weight. The jail has his height. They should be able to calculate his body mass index. That's how you get to an obesity diagnosis. Again, the jail is claiming they have no record or knowledge of the people being medically vulnerable when they have all of the information they should have to know that they're medically vulnerable, and they're clearly not showing up on their medical vulnerability list.

As to the resource diversion. Mr. Potter represented to you, I believe our very first call, that they were already creating these lists. I'm a little perplexed as to how the creation of the lists adding new burdens when the jail said it was doing it already.

MR. POTTER: Short reply to that, Judge?

I did misspeak. There's two Camerons. It's Michael Cameron, not Jamaal, who put in his affidavit that he suffers from hypertension, cardiac disease, and obesity, and denied those in his med screen. It's Michael, not Jamaal. I got my Camerons confused. I apologize for that.

THE COURT: Okay. Let's see here. I am still not inclined to get into the discussions of the format of the methodology used to complete it. I'm just not -- I'm not ready to do that. I don't think that -- I don't think that that's going to be -- I don't think that that's an undertaking that I

need to be involved with until I am convinced that I do have jurisdiction here. So please allow me the time to read the briefs and make a decision based on the authority.

Now, in terms of the resolution of the disagreement between the parties about the meeting -- meaning of medical vulnerability, I am prepared to accept a short brief from both sides as to why their definition, you know, should be used and what's the authority for the respective definition. I would allow for that, but I just am not going to get into any other resolution dealing with formatting methodology used to compile it, a date certain for the list to be produced, and all of that because it's all just too arbitrary until I learn that I do have jurisdiction here. That's my view at this point.

MR. MAYOR: Understood, your Honor. This is Mr. Mayor.

THE COURT: Okay. Yep. Do you want to submit any kind of a short brief for me as to why you are -- you know, what -- why you think it should be defined the way the Plaintiffs are defining it and you can include -- I mean you have experts, don't you, Mr. Mayor, that support your definition?

MR. MAYOR: Correct.

THE COURT: Did you submit affidavits from them already?

MR. MAYOR: We have -- our particular experts I'm not

sure how much they spoke to the definition. There are a number of experts around the country cited in our complaint who speak to it, but we can -- I believe that Dr. Loring actually does speak to our definition, our expert, Dr. Loring. I apologize. In any event, we're happy to submit, you know, a short brief on that subject.

THE COURT: Good.

MR. MAYOR: I don't think it would probably require extensive additional work. The primary concern I would have about it for the moment is ensuring that we correctly understand your Honor's order and the jail correctly understands your Honor's order that the list they are compiling is the list that is consistent with our subclass and then if we have to fight about whether or not everybody should be in our subclass or not, we can do that, but you'll have the list of people regardless of which definition you choose.

THE COURT: Okay. Mr. Potter, you're on board with filing something to support your reasoning for the definition that you want to have advanced?

MR. POTTER: Yes, it's pretty much going to be the CDC guidelines, Judge, and there was an agreement -- I'm going to let Mr. D'Agastino speak to this, so we -- that we -- our side and Mr. Mayor are on the same page because he's been dealing with the jail on the medically vulnerable list.

MR. DeAGOSTINO: Your Honor, there is this

suggestion -- Tom Deagastino for the court reporter.

Early on, you asked us to put together a stipulated agreement, and ultimately we did, and we did have a conversation with you in a conference call, and one of those issues dealt with the definition of medically vulnerable individuals. That was Paragraph D.

THE COURT: Of stipulation?

MR. DeAGOSTINO: Of the stipulation. Now, you -- that wasn't included in the stipulation. You told us you didn't want to deal with it at that time, pretty much for the same reasons you didn't want to deal with it today, but I want to be sure that when we see them -- when we're hearing from the Plaintiffs' counsel about any disputes, we're talking about the disputes of the medical -- of the definition of medically vulnerable individuals that we worked out, and in that previous document that we filed with the Court that has the Plaintiff's contentions and Defendant's contentions, and those are the only areas of dispute that I'm aware of as we stand here today. If they're going back to the very beginning to something that was in the complaint and they want to throw out what they've previously said to you, then we're going to have to start all over again.

THE COURT: All right. Mr. Mayor, can you clarify that?

MR. MAYOR: Of course. Yeah, I don't -- we're not

going back to anything. I believe that what we submitted to your Honor reflected what we already said in the subclass definition. Correct me if you think I'm wrong, Mr. DeAgostino, but I believe that everything that we indicated was in dispute was the things that we put in the medically vulnerable subclass that you did not agree was medically vulnerable. So I don't -- I don't think there's anything that our complaint calls medically vulnerable that is not called out as something we think is medically vulnerable in the draft stipulation that we submitted to the Court. So I'm not trying to go back on anything, just so -- I hope that clarifies things. I'm not trying to trick anybody.

MR. POTTER: This is Mr. Potter. We're going to use the prior agreed-to language that was in the stipulation that we originally filed that we took out per the Judge instruction, and that contains our position, your position. That's the one we've been using.

MR. MAYOR: That's fine. As long as you're telling me that you are identifying the individuals who we think are medically vulnerable and you don't in your list, so that the Court will have that list when we need it.

MR. POTTER: I believe that's what's happening, yes.

THE COURT: Okay. That's good. Okay. Very good. When could we expect to get the report from the inspector, Mr. Mayor?

MR. MAYOR: I believe an order provided that it was due to the Court by Monday the 27th, and I haven't heard anything from the inspector to indicate that that would be a problem for him. I'll double check with him.

THE COURT: Okay. Good. All right. I am -- and the issue that you raised here about expedited discovery, that too should await a decision on the -- you know, from the briefing, okay. You know I'm being consistent. I'm just going to deal with these issues once the jurisdiction issue has been ruled on by me. Okay?

MR. MAYOR: Understood, your Honor.

MR. POTTER: Yes.

THE COURT: Okay. Is there anything else that we need to talk about? I know that I still -- I'm going to be issuing a ruling today on the motion for reconsideration just to keep everything nice and clean here. So that's forthcoming. Won't be any surprises in there I'm certain.

Is there anything else that anyone would like to raise at this point, Mr. Mayor, on behalf of the Plaintiff?

MR. MAYOR: No, I don't think we have anything further, your Honor. Thank you.

THE COURT: Okay. Mr. Potter?

MR. POTTER: Yes, I have a short item, your Honor, and it's very painful for me to ask you this, but my son is sitting here and he passed the bar last night, and it's painful

for me because I spent my entire life trying to dissuade him from being a lawyer. So -- and he's got a big grin on his face here, but yes, he passed last night.

THE COURT: Congratulations.

MR. POTTER: Thank you, Judge. And there was some talk about, I thought from Richard, when the Plaintiffs are talking about pro hoc vice lawyers, are you amenable, Judge, to doing the swear -- telephonic swearing in for him so I can increase his hourly rate on this file as soon as possible?

THE COURT: Can I do that, Richard?

THE CLERK: Should we go off the record, Judge?

THE COURT: You and I?

THE CLERK: I meant do you want to have this on the record?

THE COURT: Yes. No, we don't have to put this on the record. You know what, we can -- let me just deal with this. For the --

THE CLERK: Judge, to answer your question.

THE COURT: Go ahead, Richard.

THE CLERK: We can do it if he has submitted his application and everything already to the clerk's office. So if he hasn't done that, then we can't swear him in.

MR. POTTER: To the clerk of your Court, you mean, right, Richard, the Eastern District clerk?

THE CLERK: Right.

MR. POTTER: We'll get on that, and thank you for not yelling at me for my tongue-in-cheek humor, Judge.

THE COURT: No problem, and when you've done that, you can reach out to Richard and I can do that over the phone if you're serious about me doing that.

MR. POTTER: I am serious about doing it, and I was not serious about increasing the hourly rate.

THE COURT: No. I knew that, yeah. Okay. All right.

MR. POTTER: Thank you, Judge.

THE COURT: Okay. All right. So we're -- and Mr. Mayor, your colleagues who you need to have sworn in, where are you -- this is in the event that we need the oral argument, right?

MR. MAYOR: Right. So two of them have actually already been sworn in by the clerk's office. I believe Mr. Loury pointed out that we could do it that way, and the third I believe is it still awaiting his certificate of good standing from his home court. So until he gets that he won't be able to be formally sworn in.

THE COURT: Okay. Fair enough. All right. Well, I think this concludes the call. If there's anything that pops up, please feel free to reach out to Richard. If we need to reconvene -- do we need to schedule -- the briefs are due by Monday? Everything should be fully briefed by Monday, am I

right? I don't have anything in front of me.

MR. POTTER: Ours will be filed today and theirs are due Monday. And you're going -- you told us that to only file a reply if you ask us for a reply.

THE COURT: Right, that is true. Okay. All right. Well, watch your e-mails from Richard. If I need to speak with you -- as to when I would want us to speak again, okay. He'll probably shoot you something on Monday after I've reviewed everything, okay.

MR. POTTER: Thank you, Judge.

MR. MAYOR: Thank you, your Honor.

THE COURT: All right. Thank you everyone. Take care.

(Proceedings concluded 1:32 p.m.)

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C E R T I F I C A T I O N

I, Andrea E. Wabeke, official court reporter for the United States District Court, Eastern District of Michigan, Southern Division, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a correct transcript of the proceedings in the above-entitled cause on the date hereinbefore set forth. I do further certify that the foregoing transcript has been prepared by me or under my direction.

/s/Andrea E. Wabeke April 24, 2020

Official Court Reporter Date
RMR, CRR, CSR

- - -

Centers for Disease Control and Prevention

Coronavirus Disease 2019

Social Distancing, Quarantine, and Isolation

Keep Your Distance to Slow the Spread

Limiting face-to-face contact with others is the best way to reduce the spread of coronavirus disease 2019 (COVID-19).

What is social distancing?

Social distancing, also called “physical distancing,” means keeping space between yourself and other people outside of your home. To practice social or physical distancing:

- Stay at least 6 feet (2 meters) from other people
- Do not gather in groups
- Stay out of crowded places and avoid mass gatherings

In addition to everyday steps to prevent COVID-19, keeping space between you and others is one of the best tools we have to avoid being exposed to this virus and slowing its spread locally and across the country and world.

When COVID-19 is spreading in your area, everyone should limit close contact with individuals outside your household in indoor and outdoor spaces. Since people can spread the virus before they know they are sick, it is important to stay away from others when possible, even if you have no symptoms. Social distancing is especially important for people who are at higher risk of getting very sick.

Why practice social distancing?

COVID-19 spreads mainly among people who are in close contact (within about 6 feet) for a prolonged period. Spread happens when an infected person coughs, sneezes, or talks, and droplets from their mouth or nose are launched into the air and land in the mouths or noses of people nearby. The droplets can also be inhaled into the lungs. Recent studies indicate that people who are infected but do not have symptoms likely also play a role in the spread of COVID-19.

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 eyes. However, this is not thought to be the main way the virus spreads. COVID-19 can live for hours or days on a surface, depending on factors such as sun light and humidity. Social distancing helps limit contact with infected people and contaminated surfaces.

Although the risk of severe illness may be different for everyone, anyone can get and spread COVID-19. Everyone has a role to play in slowing the spread and protecting themselves, their family, and their community.

Tips for social distancing

- Follow guidance from authorities where you live.
- If you need to shop for food or medicine at the grocery store or pharmacy, stay at least 6 feet away from others.
  - Use mail-order for medications, if possible.
  - Consider a grocery delivery service.
  - Cover your mouth and nose with a cloth face cover when around others, including when you have to go out in public, for example to the grocery store.
    - Stay at least 6 feet between yourself and others, even when you wear a face covering.
- Avoid large and small gatherings in private places and public spaces, such a friend’s house, parks, restaurants, shops, or any other place. This advice applies to people of any age, including teens and younger adults. Children should not

have in-person playdates while school is out. To help maintain social connections while social distancing, learn tips to keep children healthy while school's out.

- Work from home when possible.
- If possible, avoid using any kind of public transportation, ridesharing, or taxis.
- If you are a student or parent, talk to your school about options for digital/distance learning.

Stay connected while staying away. It is very important to stay in touch with friends and family that don't live in your home. Call, video chat, or stay connected using social media. Everyone reacts differently to stressful situations and having to socially distance yourself from someone you love can be difficult. Read tips for stress and coping.

What is the difference between quarantine and isolation?

Quarantine

Quarantine is used to **keep someone who *might* have been exposed to COVID-19 away from others**. Someone in self-quarantine stays separated from others, and they limit movement outside of their home or current place. A person may have been exposed to the virus without knowing it (for example, when traveling or out in the community), or they could have the virus without feeling symptoms. Quarantine helps limit further spread of COVID-19.

Isolation

Isolation is used to **separate sick people from healthy people**. People who are in isolation should stay home. In the home, anyone sick should separate themselves from others by staying in a specific "sick" bedroom or space and using a different bathroom (if possible).

What should I do if I might have been exposed? If I feel sick? Or have confirmed COVID-19?

If you think you have been exposed to COVID-19, read about symptoms.

If you...
If you or someone in your home might have been exposed

Steps to take...
Self-Monitor

Be alert for symptoms. Watch for **fever,* cough, or shortness of breath**.

- Take your temperature if symptoms develop.
- Practice social distancing. Maintain 6 feet of distance from others, and stay out of crowded places.
- Follow CDC guidance if symptoms develop.

If you...
If you feel healthy but:

- Recently had close contact with a person with COVID-19, or
- Recently traveled from somewhere outside the U.S. or on a cruise ship or river boat

Steps to take...
Self-Quarantine

- Check your temperature twice a day and watch for symptoms

- Check your temperature twice a day and watch for symptoms.
- Stay home for 14 days **and** self-monitor.
- If possible, stay away from people who are high-risk for getting very sick from COVID-19.

If you...

If you:

- Have been diagnosed with COVID-19, or
- Are waiting for test results, or
- Have symptoms such as cough, fever, or shortness of breath

Steps to take...

Self-Isolate

- **Stay in a specific "sick room" or area** and away from other people or animals, including pets. If possible, use a separate bathroom.
- Read important information about caring for yourself or someone else who is sick.

More Information

- How to Protect Yourself
- Cleaning and Disinfecting Your Home
- Gatherings and Community Events

Page last reviewed: April 4, 2020

March 24, 2020

Open letter to the American public:

Physicians, nurses and our entire medical community are urging all people to stay at home. We are honored to serve and put our lives on the front line to protect and save as many lives as possible. But we need your help.

Physical distancing and staying at home are the key to slowing the spread of 2019 novel coronavirus (COVID-19) to give physicians, nurses and everyone on the front lines a fighting chance at having the equipment, time and resources necessary to take on this immense challenge. Those contracting COVID-19 are your family, friends, and loved ones.

That's why we're urging the public to #StayHome as we reach the critical stages of our national response to COVID-19. Of course, those with urgent medical needs, including pregnant women, should seek care as needed. Everyone else should #StayHome.

Millions of you are already leading this effort – and we thank you. You're still connecting with friends and loved ones through video chats, social media or just over the telephone - proving that meaningful social connections can happen at a safe distance. Millions more must join this effort, which is why we're calling for all-hands-on-deck to confront this public health battle against COVID-19.

Staying at home in this urgent moment is our best defense to turn the tide against COVID-19. Physicians, nurses and health care workers are staying at work for you. Please stay at home for us.

Your partners in health,

American Hospital Association
American Medical Association
American Nurses Association

Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities

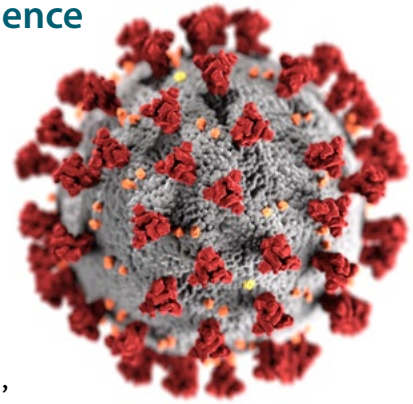
This interim guidance is based on what is currently known about the transmission and severity of coronavirus disease 2019 (COVID-19) as of **March 23, 2020**.

The US Centers for Disease Control and Prevention (CDC) will update this guidance as needed and as additional information becomes available. Please check the following CDC website periodically for updated interim guidance: https://www.cdc.gov/coronavirus/2019-ncov/index.html.

This document provides interim guidance specific for correctional facilities and detention centers during the outbreak of COVID-19, to ensure continuation of essential public services and protection of the health and safety of incarcerated and detained persons, staff, and visitors. Recommendations may need to be revised as more information becomes available.

In this guidance

Who is the intended audience for this guidance?



This document is intended to provide guiding principles for healthcare and non-healthcare administrators of correctional and detention facilities (including but not limited to federal and state prisons, local jails, and detention centers), law enforcement agencies that have custodial authority for detained populations (i.e., US Immigration and Customs Enforcement and US Marshals Service), and their respective health departments, to assist in preparing for potential introduction, spread, and mitigation of COVID-19 in their facilities. In general, the document uses terminology referring to correctional environments but can also be applied to civil and pre-trial detention settings.

This guidance will not necessarily address every possible custodial setting and may not use legal terminology specific to individual agencies' authorities or processes. **The guidance may need to be adapted based on individual facilities' physical space, staffing, population, operations, and other resources and conditions.** Facilities should contact CDC or their state, local, territorial, and/or tribal public health department if they need assistance in applying these principles or addressing topics that are not specifically covered in this guidance.

Why is this guidance being issued?

Correctional and detention facilities can include custody, housing, education, recreation, healthcare, food service, and workplace components in a single physical setting. The integration of these components presents unique challenges for control of COVID-19 transmission among incarcerated/detained persons, staff, and visitors. Consistent application of specific preparation, prevention, and management measures can help reduce the risk of transmission and severe disease from COVID-19.

- Incarcerated/detained persons live, work, eat, study, and recreate within congregate environments, heightening the potential for COVID-19 to spread once introduced.
- In most cases, incarcerated/detained persons are not permitted to leave the facility.
- There are many opportunities for COVID-19 to be introduced into a correctional or detention facility, including daily staff ingress and egress; transfer of incarcerated/detained persons between facilities and systems, to court appearances, and to outside medical visits; and visits from family, legal representatives, and other community members. Some settings, particularly jails and detention centers, have high turnover, admitting new entrants daily who may have been exposed to COVID-19 in the surrounding community or other regions.
- Persons incarcerated/detained in a particular facility often come from a variety of locations, increasing the potential to introduce COVID-19 from different geographic areas.
- Options for medical isolation of COVID-19 cases are limited and vary depending on the type and size of facility, as well as the current level of available capacity, which is partly based on medical isolation needs for other conditions.
- Adequate levels of custody and healthcare staffing must be maintained to ensure safe operation of the facility, and options to practice social distancing through work alternatives such as working from home or reduced/alternate schedules are limited for many staff roles.
- Correctional and detention facilities can be complex, multi-employer settings that include government and private employers. Each is organizationally distinct and responsible for its own operational, personnel, and occupational health protocols and may be prohibited from issuing guidance or providing services to other employers or their staff within the same setting. Similarly, correctional and detention facilities may house individuals from multiple law enforcement agencies or jurisdictions subject to different policies and procedures.
- Incarcerated/detained persons and staff may have medical conditions that increase their risk of severe disease from COVID-19.
- Because limited outside information is available to many incarcerated/detained persons, unease and misinformation regarding the potential for COVID-19 spread may be high, potentially creating security and morale challenges.
- The ability of incarcerated/detained persons to exercise disease prevention measures (e.g., frequent handwashing) may be limited and is determined by the supplies provided in the facility and by security considerations. Many facilities restrict access to soap and paper towels and prohibit alcohol-based hand sanitizer and many disinfectants.
- Incarcerated persons may hesitate to report symptoms of COVID-19 or seek medical care due to co-pay requirements and fear of isolation.

CDC has issued separate COVID-19 guidance addressing healthcare infection control and clinical care of COVID-19 cases as well as close contacts of cases in community-based settings. Where relevant, community-focused guidance documents are referenced in this document and should be monitored regularly for updates, but they may require adaptation for correctional and detention settings.

This guidance document provides additional recommended best practices specifically for correctional and detention facilities. **At this time, different facility types (e.g., prison vs. jail) and sizes are not differentiated. Administrators and agencies should adapt these guiding principles to the specific needs of their facility.**

What topics does this guidance include?

The guidance below includes detailed recommendations on the following topics related to COVID-19 in correctional and detention settings:

- √ Operational and communications preparations for COVID-19
- √ Enhanced cleaning/disinfecting and hygiene practices
- √ Social distancing strategies to increase space between individuals in the facility
- √ How to limit transmission from visitors
- √ Infection control, including recommended personal protective equipment (PPE) and potential alternatives during PPE shortages
- √ Verbal screening and temperature check protocols for incoming incarcerated/detained individuals, staff, and visitors
- √ Medical isolation of confirmed and suspected cases and quarantine of contacts, including considerations for cohorting when individual spaces are limited
- √ Healthcare evaluation for suspected cases, including testing for COVID-19
- √ Clinical care for confirmed and suspected cases
- √ Considerations for persons at higher risk of severe disease from COVID-19

Definitions of Commonly Used Terms

Close contact of a COVID-19 case—In the context of COVID-19, an individual is considered a close contact if they a) have been within approximately 6 feet of a COVID-19 case for a prolonged period of time or b) have had direct contact with infectious secretions from a COVID-19 case (e.g., have been coughed on). Close contact can occur while caring for, living with, visiting, or sharing a common space with a COVID-19 case. Data to inform the definition of close contact are limited. Considerations when assessing close contact include the duration of exposure (e.g., longer exposure time likely increases exposure risk) and the clinical symptoms of the person with COVID-19 (e.g., coughing likely increases exposure risk, as does exposure to a severely ill patient).

Cohorting—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. Ideally, cases should be isolated individually, and close contacts should be quarantined individually. However, some correctional facilities and detention centers do not have enough individual cells to do so and must consider cohorting as an alternative. See Quarantine and Medical Isolation sections below for specific details about ways to implement cohorting to minimize the risk of disease spread and adverse health outcomes.

Community transmission of COVID-19—Community transmission of COVID-19 occurs when individuals acquire the disease through contact with someone in their local community, rather than through travel to an affected location. Once community transmission is identified in a particular area, correctional facilities and detention centers are more likely to start seeing cases inside their walls. Facilities should consult with local public health departments if assistance is needed in determining how to define "local community" in the context of COVID-19 spread. However, because all states have reported cases, all facilities should be vigilant for introduction into their populations.

Confirmed vs. Suspected COVID-19 case—A confirmed case has received a positive result from a COVID-19 laboratory test, with or without symptoms. A suspected case shows symptoms of COVID-19 but either has not been tested or is awaiting test results. If test results are positive, a suspected case becomes a confirmed case.

Incarcerated/detained persons—For the purpose of this document, "incarcerated/detained persons" refers to persons held in a prison, jail, detention center, or other custodial setting where these guidelines are generally applicable. The term includes those who have been sentenced (i.e., in prisons) as well as those held for pre-trial (i.e., jails) or civil purposes (i.e, detention centers). Although this guidance does not specifically reference individuals in every type of custodial setting (e.g., juvenile facilities, community confinement facilities), facility administrators can adapt this guidance to apply to their specific circumstances as needed.

Medical Isolation—Medical isolation refers to confining a confirmed or suspected COVID-19 case (ideally 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. Medical isolation ends when the individual meets pre-established clinical and/or testing criteria for release from isolation, in consultation with clinical providers and public health officials (detailed in guidance below). In this context, isolation does NOT refer to punitive isolation for behavioral infractions within the custodial setting. Staff are encouraged to use the term "medical isolation" to avoid confusion.

Quarantine—Quarantine refers to the practice of confining individuals who have had close contact with a COVID-19 case to determine whether they develop symptoms of the disease. Quarantine for COVID-19 should last for a period of 14 days. Ideally, each quarantined individual would be quarantined in a single cell with solid walls and a solid door that closes. If symptoms develop during the 14-day period, the individual should be placed under medical isolation and evaluated for COVID-19. If symptoms do not develop, movement restrictions can be lifted, and the individual can return to their previous residency status within the facility.

Social Distancing—Social distancing is the practice of increasing the space between individuals and decreasing the frequency of contact to reduce the risk of spreading a disease (ideally to maintain at least 6 feet between all individuals, even those who are asymptomatic). Social distancing strategies can be applied on an individual level (e.g., avoiding physical contact), a group level (e.g., canceling group activities where individuals will be in close contact), and an operational level (e.g., rearranging chairs in the dining hall to increase distance between them). Although social distancing is challenging to practice in correctional and detention environments, it is a cornerstone of reducing transmission of respiratory diseases such as COVID-19. Additional information about social distancing, including information on its use to reduce the spread of other viral illnesses, is available in this CDC publication.

Staff—In this document, "staff" refers to all public sector employees as well as those working for a private contractor within a correctional facility (e.g., private healthcare or food service). Except where noted, "staff" does not distinguish between healthcare, custody, and other types of staff including private facility operators.

Symptoms—Symptoms of COVID-19 include fever, cough, and shortness of breath. Like other respiratory infections, COVID-19 can vary in severity from mild to severe. When severe, pneumonia, respiratory failure, and death are possible. COVID-19 is a novel disease, therefore the full range of signs and symptoms, the clinical course of the disease, and the individuals and populations most at risk for disease and complications are not yet fully understood. Monitor the CDC website for updates on these topics.

Facilities with Limited Onsite Healthcare Services

Although many large facilities such as prisons and some jails usually employ onsite healthcare staff and have the capacity to evaluate incarcerated/detained persons for potential illness within a dedicated healthcare space, many smaller facilities do not. Some of these facilities have access to on-call healthcare staff or providers who visit the facility every few days. Others have neither onsite healthcare capacity nor onsite medical isolation/quarantine space and must transfer ill patients to other correctional or detention facilities or local hospitals for evaluation and care.

The majority of the guidance below is designed to be applied to any correctional or detention facility, either as written or with modifications based on a facility's individual structure and resources. However, topics related to healthcare evaluation and clinical care of confirmed and suspected COVID-19 cases and their close contacts may not apply directly to facilities with limited or no onsite healthcare services. It will be especially important for these types of facilities to coordinate closely with their state, local, tribal, and/or territorial health department when they encounter confirmed or suspected cases among incarcerated/detained persons or staff, in order to ensure effective medical isolation and quarantine, necessary medical evaluation and care, and medical transfer if needed. The guidance makes note of strategies tailored to facilities without onsite healthcare where possible.

Note that all staff in any sized facility, regardless of the presence of onsite healthcare services, should observe guidance on recommended PPE in order to ensure their own safety when interacting with confirmed and suspected COVID-19 cases. Facilities should make contingency plans for the likely event of PPE shortages during the COVID-19 pandemic.

COVID-19 Guidance for Correctional Facilities

Guidance for correctional and detention facilities is organized into 3 sections: Operational Preparedness, Prevention, and Management of COVID-19. Recommendations across these sections can be applied simultaneously based on the progress of the outbreak in a particular facility and the surrounding community.

- **Operational Preparedness**. This guidance is intended to help facilities prepare for potential COVID-19 transmission in the facility. Strategies focus on operational and communications planning and personnel practices.
- **Prevention.** This guidance is intended to help facilities prevent spread of COVID-19 from outside the facility to inside. Strategies focus on reinforcing hygiene practices, intensifying cleaning and disinfection of the facility, screening (new intakes, visitors, and staff), continued communication with incarcerated/detained persons and staff, and social distancing measures (increasing distance between individuals).
- **Management.** This guidance is intended to help facilities clinically manage confirmed and suspected COVID-19 cases inside the facility and prevent further transmission. Strategies include medical isolation and care of incarcerated/detained persons with symptoms (including considerations for cohorting), quarantine of cases' close contacts, restricting movement in and out of the facility, infection control practices for individuals interacting with cases and quarantined contacts or contaminated items, intensified social distancing, and cleaning and disinfecting areas visited by cases.

Operational Preparedness

Administrators can plan and prepare for COVID-19 by ensuring that all persons in the facility know the symptoms of COVID-19 and how to respond if they develop symptoms. Other essential actions include developing contingency plans for reduced workforces due to absences, coordinating with public health and correctional partners, and communicating clearly with staff and incarcerated/detained persons about these preparations and how they may temporarily alter daily life.

Communication & Coordination

√ **Develop information-sharing systems with partners.**

R Identify points of contact in relevant state, local, tribal, and/or territorial public health departments before cases develop. Actively engage with the health department to understand in advance which entity has jurisdiction to implement public health control measures for COVID-19 in a particular correctional or detention facility.

R Create and test communications plans to disseminate critical information to incarcerated/detained persons, staff, contractors, vendors, and visitors as the pandemic progresses.

- R Communicate with other correctional facilities in the same geographic area to share information including disease surveillance and absenteeism patterns among staff.
- R Where possible, put plans in place with other jurisdictions to prevent confirmed and suspected COVID-19 cases and their close contacts from being transferred between jurisdictions and facilities unless necessary for medical evaluation, medical isolation/quarantine, clinical care, extenuating security concerns, or to prevent overcrowding.
- R Stay informed about updates to CDC guidance via the CDC COVID-19 website as more information becomes known.

√ **Review existing pandemic flu, all-hazards, and disaster plans, and revise for COVID-19.**

- R Ensure that physical locations (dedicated housing areas and bathrooms) have been identified to isolate confirmed COVID-19 cases and individuals displaying COVID-19 symptoms, and to quarantine known close contacts of cases. (Medical isolation and quarantine locations should be separate). The plan should include contingencies for multiple locations if numerous cases and/or contacts are identified and require medical isolation or quarantine simultaneously. See Medical Isolation and Quarantine sections below for details regarding individual medical isolation and quarantine locations (preferred) vs. cohorting.
- R Facilities without onsite healthcare capacity should make a plan for how they will ensure that suspected COVID-19 cases will be isolated, evaluated, tested (if indicated), and provided necessary medical care.
- R Make a list of possible social distancing strategies that could be implemented as needed at different stages of transmission intensity.
- R Designate officials who will be authorized to make decisions about escalating or de-escalating response efforts as the epidemiologic context changes.

√ **Coordinate with local law enforcement and court officials.**

- R Identify lawful alternatives to in-person court appearances, such as virtual court, as a social distancing measure to reduce the risk of COVID-19 transmission.
- R Explore strategies to prevent over-crowding of correctional and detention facilities during a community outbreak.

√ **Post signage throughout the facility communicating the following:**

- R **For all:** symptoms of COVID-19 and hand hygiene instructions
- R **For incarcerated/detained persons:** report symptoms to staff
- R **For staff:** stay at home when sick; if symptoms develop while on duty, leave the facility as soon as possible and follow CDC-recommended steps for persons who are ill with COVID-19 symptoms including self-isolating at home, contacting their healthcare provider as soon as possible to determine whether they need to be evaluated and tested, and contacting their supervisor.
- R Ensure that signage is understandable for non-English speaking persons and those with low literacy, and make necessary accommodations for those with cognitive or intellectual disabilities and those who are deaf, blind, or low-vision.

Personnel Practices

√ **Review the sick leave policies of each employer that operates in the facility.**

- R Review policies to ensure that they actively encourage staff to stay home when sick.
- R If these policies do not encourage staff to stay home when sick, discuss with the contract company.
- R Determine which officials will have the authority to send symptomatic staff home.

√ **Identify staff whose duties would allow them to work from home. Where possible, allowing staff to work from home can be an effective social distancing strategy to reduce the risk of COVID-19 transmission.**

- R Discuss work from home options with these staff and determine whether they have the supplies and technological equipment required to do so.
- R Put systems in place to implement work from home programs (e.g., time tracking, etc.).

√ **Plan for staff absences.** Staff should stay home when they are sick, or they may need to stay home to care for a sick household member or care for children in the event of school and childcare dismissals.

- R Allow staff to work from home when possible, within the scope of their duties.
- R Identify critical job functions and plan for alternative coverage by cross-training staff where possible.
- R Determine minimum levels of staff in all categories required for the facility to function safely. If possible, develop a plan to secure additional staff if absenteeism due to COVID-19 threatens to bring staffing to minimum levels.
- R Consider increasing keep on person (KOP) medication orders to cover 30 days in case of healthcare staff shortages.

√ **Consider offering revised duties to staff who are at** higher risk of severe illness with COVID-19**.** Persons at higher risk may include older adults and persons of any age with serious underlying medical conditions including lung disease, heart disease, and diabetes. See CDC's website for a complete list, and check regularly for updates as more data become available to inform this issue.

- R Facility administrators should consult with their occupational health providers to determine whether it would be allowable to reassign duties for specific staff members to reduce their likelihood of exposure to COVID-19.

√ **Offer the seasonal influenza vaccine to all incarcerated/detained persons (existing population and new intakes) and staff throughout the influenza season.** Symptoms of COVID-19 are similar to those of influenza. Preventing influenza cases in a facility can speed the detection of COVID-19 cases and reduce pressure on healthcare resources.

√ **Reference the Occupational Safety and Health Administration website for recommendations regarding worker health.**

√ **Review** CDC's guidance for businesses and employers to identify any additional strategies the facility can use within its role as an employer.

Operations & Supplies

√ **Ensure that sufficient stocks of hygiene supplies, cleaning supplies, PPE, and medical supplies (consistent with the healthcare capabilities of the facility) are on hand and available, and have a plan in place to restock as needed if COVID-19 transmission occurs within the facility.**

- R Standard medical supplies for daily clinic needs
- R Tissues
- R Liquid soap when possible. If bar soap must be used, ensure that it does not irritate the skin and thereby discourage frequent hand washing.
- R Hand drying supplies
- R Alcohol-based hand sanitizer containing at least 60% alcohol (where permissible based on security restrictions)
- R Cleaning supplies, including EPA-registered disinfectants effective against the virus that causes COVID-19

- R Recommended PPE (facemasks, N95 respirators, eye protection, disposable medical gloves, and disposable gowns/one-piece coveralls). See PPE section and Table 1 for more detailed information, including recommendations for extending the life of all PPE categories in the event of shortages, and when face masks are acceptable alternatives to N95s.
- R Sterile viral transport media and sterile swabs to collect nasopharyngeal specimens if COVID-19 testing is indicated

√ **Make contingency plans for the probable event of PPE shortages during the COVID-19 pandemic, particularly for non-healthcare workers.**

- R See CDC guidance optimizing PPE supplies.

√ **Consider relaxing restrictions on allowing alcohol-based hand sanitizer in the secure setting where security concerns allow.** If soap and water are not available, CDC recommends cleaning hands with an alcohol-based hand sanitizer that contains at least 60% alcohol. Consider allowing staff to carry individual-sized bottles for their personal hand hygiene while on duty.

√ **Provide a no-cost supply of soap to incarcerated/detained persons, sufficient to allow frequent hand washing.** (See Hygiene section below for additional detail regarding recommended frequency and protocol for hand washing.)

- R Provide liquid soap where possible. If bar soap must be used, ensure that it does not irritate the skin and thereby discourage frequent hand washing.

√ **If not already in place, employers operating within the facility should establish a respiratory protection program as appropriate, to ensure that staff and incarcerated/detained persons are fit tested for any respiratory protection they will need within the scope of their responsibilities.**

√ **Ensure that staff and incarcerated/detained persons are trained to correctly don, doff, and dispose of PPE that they will need to use within the scope of their responsibilities.** See Table 1 for recommended PPE for incarcerated/detained persons and staff with varying levels of contact with COVID-19 cases or their close contacts.

Prevention

Cases of COVID-19 have been documented in all 50 US states. Correctional and detention facilities can prevent introduction of COVID-19 from the community and reduce transmission if it is already inside by reinforcing good hygiene practices among incarcerated/detained persons, staff, and visitors (including increasing access to soap and paper towels), intensifying cleaning/disinfection practices, and implementing social distancing strategies.

Because many individuals infected with COVID-19 do not display symptoms, the virus could be present in facilities before cases are identified. Both good hygiene practices and social distancing are critical in preventing further transmission.

Operations

√ **Stay in communication with partners about your facility's current situation.**

- R State, local, territorial, and/or tribal health departments
- R Other correctional facilities

√ **Communicate with the public about any changes to facility operations, including visitation programs.**

√ **Restrict transfers of incarcerated/detained persons to and from other jurisdictions and facilities unless necessary for medical evaluation, medical isolation/quarantine, clinical care, extenuating security concerns, or to prevent overcrowding.**

- R Strongly consider postponing non-urgent outside medical visits.
- R If a transfer is absolutely necessary, perform verbal screening and a temperature check as outlined in the Screening section below, before the individual leaves the facility. If an individual does not clear the screening process, delay the transfer and follow the protocol for a suspected COVID-19 case—including putting a face mask on the individual, immediately placing them under medical isolation, and evaluating them for possible COVID-19 testing. If the transfer must still occur, ensure that the receiving facility has capacity to properly isolate the individual upon arrival. Ensure that staff transporting the individual wear recommended PPE (see Table 1) and that the transport vehicle is cleaned thoroughly after transport.

√ **Implement lawful alternatives to in-person court appearances where permissible.**

√ **Where relevant, consider suspending co-pays for incarcerated/detained persons seeking medical evaluation for respiratory symptoms.**

√ **Limit the number of operational entrances and exits to the facility.**

Cleaning and Disinfecting Practices

√ **Even if COVID-19 cases have not yet been identified inside the facility or in the surrounding community, begin implementing intensified cleaning and disinfecting procedures according to the recommendations below. These measures may prevent spread of COVID-19 if introduced.**

√ **Adhere to** CDC recommendations for cleaning and disinfection during the COVID-19 response. Monitor these recommendations for updates.

- R Several times per day, clean and disinfect surfaces and objects that are frequently touched, especially in common areas. Such surfaces may include objects/surfaces not ordinarily cleaned daily (e.g., doorknobs, light switches, sink handles, countertops, toilets, toilet handles, recreation equipment, kiosks, and telephones).
- R Staff should clean shared equipment several times per day and on a conclusion of use basis (e.g., radios, service weapons, keys, handcuffs).
- R Use household cleaners and EPA-registered disinfectants effective against the virus that causes COVID-19 as appropriate for the surface, following label instructions. This may require lifting restrictions on undiluted disinfectants.
- R Labels contain instructions for safe and effective use of the cleaning product, including precautions that should be taken when applying the product, such as wearing gloves and making sure there is good ventilation during use.

√ **Consider increasing the number of staff and/or incarcerated/detained persons trained and responsible for cleaning common areas to ensure continual cleaning of these areas throughout the day.**

√ **Ensure adequate supplies to support intensified cleaning and disinfection practices, and have a plan in place to restock rapidly if needed.**

Hygiene

√ **Reinforce healthy hygiene practices, and provide and continually restock hygiene supplies throughout the facility, including in bathrooms, food preparation and dining areas, intake areas, visitor entries and exits, visitation rooms and waiting rooms, common areas, medical, and staff-restricted areas (e.g., break rooms).**

√ **Encourage all persons in the facility to take the following actions to protect themselves and others from COVID-19. Post signage throughout the facility, and communicate this information verbally on a regular basis.** Sample signage and other communications materials **are available on the CDC website.** Ensure that materials can be understood by non-English speakers and those with low literacy, and make necessary accommodations for those with cognitive or intellectual disabilities and those who are deaf, blind, or low-vision.

- R **Practice good cough etiquette:** Cover your mouth and nose with your elbow (or ideally with a tissue) rather than with your hand when you cough or sneeze, and throw all tissues in the trash immediately after use.
- R **Practice good** hand hygiene**:** Regularly wash your hands with soap and water for at least 20 seconds, especially after coughing, sneezing, or blowing your nose; after using the bathroom; before eating or preparing food; before taking medication; and after touching garbage.
- R **Avoid touching your eyes, nose, or mouth without cleaning your hands first.**
- R **Avoid sharing eating utensils, dishes, and cups.**
- R **Avoid non-essential physical contact.**

√ **Provide incarcerated/detained persons and staff no-cost access to:**

- R **Soap—**Provide liquid soap where possible. If bar soap must be used, ensure that it does not irritate the skin, as this would discourage frequent hand washing.
- R **Running water, and hand drying machines or disposable paper towels for hand washing**
- R **Tissues** and no-touch trash receptacles for disposal

√ **Provide alcohol-based hand sanitizer with at least 60% alcohol where permissible based on security restrictions.** Consider allowing staff to carry individual-sized bottles to maintain hand hygiene.

√ **Communicate that sharing drugs and drug preparation equipment can spread COVID-19 due to potential contamination of shared items and close contact between individuals.**

Prevention Practices for Incarcerated/Detained Persons

√ **Perform pre-intake screening and temperature checks for all new entrants. Screening should take place in the sallyport, before beginning the intake process,** in order to identify and immediately place individuals with symptoms under medical isolation. See Screening section below for the wording of screening questions and a recommended procedure to safely perform a temperature check. Staff performing temperature checks should wear recommended PPE (see PPE section below).

- R **If an individual has symptoms of COVID-19** (fever, cough, shortness of breath):
  - ☒ Require the individual to wear a face mask.
  - ☒ Ensure that staff who have direct contact with the symptomatic individual wear recommended PPE.
  - ☒ Place the individual under medical isolation (ideally in a room near the screening location, rather than transporting the ill individual through the facility), and refer to healthcare staff for further evaluation. (See Infection Control and Clinical Care sections below.)
  - ☒ Facilities without onsite healthcare staff should contact their state, local, tribal, and/or territorial health department to coordinate effective medical isolation and necessary medical care.

- R **If an individual is a close contact of a known COVID-19 case (but has no COVID-19 symptoms):**
  - Quarantine the individual and monitor for symptoms two times per day for 14 days. (See Quarantine section below.)
  - Facilities without onsite healthcare staff should contact their state, local, tribal, and/or territorial health department to coordinate effective quarantine and necessary medical care.

√ **Implement social distancing strategies to increase the physical space between incarcerated/detained persons (ideally 6 feet between all individuals, regardless of the presence of symptoms).** Strategies will need to be tailored to the individual space in the facility and the needs of the population and staff. Not all strategies will be feasible in all facilities. Example strategies with varying levels of intensity include:

- R **Common areas:**
  - Enforce increased space between individuals in holding cells, as well as in lines and waiting areas such as intake (e.g., remove every other chair in a waiting area)
- R **Recreation:**
  - Choose recreation spaces where individuals can spread out
  - Stagger time in recreation spaces
  - Restrict recreation space usage to a single housing unit per space (where feasible)
- R **Meals:**
  - 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
- R **Group activities:**
  - Limit the size of group activities
  - Increase space between individuals during group activities
  - Suspend group programs where participants are likely to be in closer contact than they are in their housing environment
  - Consider alternatives to existing group activities, in outdoor areas or other areas where individuals can spread out
- R **Housing:**
  - If space allows, reassign bunks to provide more space between individuals, ideally 6 feet or more in all directions. (Ensure that bunks are cleaned thoroughly if assigned to a new occupant.)
  - Arrange bunks so that individuals sleep head to foot to increase the distance between them
  - Rearrange scheduled movements to minimize mixing of individuals from different housing areas
- R **Medical:**
  - If possible, designate a room near each housing unit to evaluate individuals with COVID-19 symptoms, rather than having them walk through the facility to be evaluated in the medical unit. If this is not feasible, consider staggering sick call.
  - Designate a room near the intake area to evaluate new entrants who are flagged by the intake screening process for COVID-19 symptoms or case contact, before they move to other parts of the facility.

- √ **Communicate clearly and frequently with incarcerated/detained persons about changes to their daily routine and how they can contribute to risk reduction.**
- √ **Note that if group activities are discontinued, it will be important to identify alternative forms of activity to support the mental health of incarcerated/detained persons.**
- √ **Consider suspending work release programs and other programs that involve movement of incarcerated/detained individuals in and out of the facility.**
- √ **Provide** up-to-date information about COVID-19 **to incarcerated/detained persons on a regular basis, including:**
  - R Symptoms of COVID-19 and its health risks
  - R Reminders to report COVID-19 symptoms to staff at the first sign of illness
- √ **Consider having healthcare staff perform rounds on a regular basis to answer questions about COVID-19.**

Prevention Practices for Staf

- √ **Remind staff to stay at home if they are sick.** Ensure that staff are aware that they will not be able to enter the facility if they have symptoms of COVID-19, and that they will be expected to leave the facility as soon as possible if they develop symptoms while on duty.
- √ **Perform verbal screening (for COVID-19 symptoms and close contact with cases) and temperature checks for all staff daily on entry.** See Screening section below for wording of screening questions and a recommended procedure to safely perform temperature checks.
  - R In very small facilities with only a few staff, consider self-monitoring or virtual monitoring (e.g., reporting to a central authority via phone).
  - R Send staff home who do not clear the screening process, and advise them to follow CDC-recommended steps for persons who are ill with COVID-19 symptoms.
- √ **Provide staff with up-to-date information about COVID-19 and about facility policies on a regular basis, including:**
  - R Symptoms of COVID-19 and its health risks
  - R Employers' sick leave policy
  - R **If staff develop a fever, cough, or shortness of breath while at work:** immediately put on a face mask, inform supervisor, leave the facility, and follow CDC-recommended steps for persons who are ill with COVID-19 symptoms.
  - R **If staff test positive for COVID-19:** inform workplace and personal contacts immediately, and do not return to work until a decision to discontinue home medical isolation precautions is made. Monitor CDC guidance on discontinuing home isolation regularly as circumstances evolve rapidly.
  - R **If a staff member is identified as a close contact of a COVID-19 case (either within the facility or in the community):** self-quarantine at home for 14 days and return to work if symptoms do not develop. If symptoms do develop, follow CDC-recommended steps for persons who are ill with COVID-19 symptoms.
- √ **If a staff member has a confirmed COVID-19 infection, the relevant employers should inform other staff about their possible exposure to COVID-19 in the workplace, but should maintain confidentiality as required by the Americans with Disabilities Act.**
  - R Employees who are close contacts of the case should then self-monitor for symptoms (i.e., fever, cough, or shortness of breath).

√ **When feasible and consistent with security priorities, encourage staff to maintain a distance of 6 feet or more from an individual with respiratory symptoms while interviewing, escorting, or interacting in other ways.**

√ **Ask staff to keep interactions with individuals with respiratory symptoms as brief as possible.**

Prevention Practices for Visitors

√ **If possible, communicate with potential visitors to discourage contact visits in the interest of their own health and the health of their family members and friends inside the facility.**

√ **Perform verbal screening (for COVID-19 symptoms and close contact with cases) and temperature checks for all visitors and volunteers on entry.** See Screening section below for wording of screening questions and a recommended procedure to safely perform temperature checks.

- R Staff performing temperature checks should wear recommended PPE.
- R Exclude visitors and volunteers who do not clear the screening process or who decline screening.

√ **Provide alcohol-based hand sanitizer with at least 60% alcohol in visitor entrances, exits, and waiting areas.**

√ **Provide visitors and volunteers with information to prepare them for screening.**

- R Instruct visitors to postpone their visit if they have symptoms of respiratory illness.
- R If possible, inform potential visitors and volunteers before they travel to the facility that they should expect to be screened for COVID-19 (including a temperature check), and will be unable to enter the facility if they do not clear the screening process or if they decline screening.
- R Display signage outside visiting areas explaining the COVID-19 screening and temperature check process. Ensure that materials are understandable for non-English speakers and those with low literacy.

√ **Promote non-contact visits:**

- R Encourage incarcerated/detained persons to limit contact visits in the interest of their own health and the health of their visitors.
- R Consider reducing or temporarily eliminating the cost of phone calls for incarcerated/detained persons.
- R Consider increasing incarcerated/detained persons' telephone privileges to promote mental health and reduce exposure from direct contact with community visitors.

√ **Consider suspending or modifying visitation programs, if legally permissible. For example, provide access to virtual visitation options where available.**

- R If moving to virtual visitation, clean electronic surfaces regularly. (See Cleaning guidance below for instructions on cleaning electronic surfaces.)
- R Inform potential visitors of changes to, or suspension of, visitation programs.
- R Clearly communicate any visitation program changes to incarcerated/detained persons, along with the reasons for them (including protecting their health and their family and community members' health).
- R If suspending contact visits, provide alternate means (e.g., phone or video visitation) for incarcerated/detained individuals to engage with legal representatives, clergy, and other individuals with whom they have legal right to consult.

NOTE: Suspending visitation would be done in the interest of incarcerated/detained persons' physical health and the health of the general public. However, visitation is important to maintain mental health.

If visitation is suspended, facilities should explore alternative ways for incarcerated/detained persons to communicate with their families, friends, and other visitors in a way that is not financially burdensome for them. See above suggestions for promoting non-contact visits.

√ **Restrict non-essential vendors, volunteers, and tours from entering the facility.**

Management

If there has been a suspected COVID-19 case inside the facility (among incarcerated/detained persons, staff, or visitors who have recently been inside), begin implementing Management strategies while test results are pending. Essential Management strategies include placing cases and individuals with symptoms under medical isolation, quarantining their close contacts, and facilitating necessary medical care, while observing relevant infection control and environmental disinfection protocols and wearing recommended PPE.

Operations

√ **Implement alternate work arrangements deemed feasible in the** Operational Preparedness **section.**

√ **Suspend all transfers of incarcerated/detained persons to and from other jurisdictions and facilities (including work release where relevant), unless necessary for medical evaluation, medical isolation/quarantine, care, extenuating security concerns, or to prevent overcrowding.**

- R If a transfer is absolutely necessary, perform verbal screening and a temperature check as outlined in the Screening section below, before the individual leaves the facility. If an individual does not clear the screening process, delay the transfer and follow the protocol for a suspected COVID-19 case—including putting a face mask on the individual, immediately placing them under medical isolation, and evaluating them for possible COVID-19 testing. If the transfer must still occur, ensure that the receiving facility has capacity to appropriately isolate the individual upon arrival. Ensure that staff transporting the individual wear recommended PPE (see Table 1) and that the transport vehicle is cleaned thoroughly after transport.

√ **If possible, consider quarantining all new intakes for 14 days before they enter the facility's general population (SEPARATELY from other individuals who are quarantined due to contact with a COVID-19 case).** Subsequently in this document, this practice is referred to as **routine intake quarantine**.

√ **When possible, arrange lawful alternatives to in-person court appearances.**

√ **Incorporate screening for COVID-19 symptoms and a temperature check into release planning.**

- R Screen all releasing individuals for COVID-19 symptoms and perform a temperature check. (See Screening section below.)
  - ☒ If an individual does not clear the screening process, follow the protocol for a suspected COVID-19 case—including putting a face mask on the individual, immediately placing them under medical isolation, and evaluating them for possible COVID-19 testing.
  - ☒ If the individual is released before the recommended medical isolation period is complete, discuss release of the individual with state, local, tribal, and/or territorial health departments to ensure safe medical transport and continued shelter and medical care, as part of release planning. Make direct linkages to community resources to ensure proper medical isolation and access to medical care.
  - ☒ Before releasing an incarcerated/detained individual with COVID-19 symptoms to a community-based facility, such as a homeless shelter, contact the facility's staff to ensure adequate time for them to prepare to continue medical isolation, or contact local public health to explore alternate housing options.

√ **Coordinate with state, local, tribal, and/or territorial health departments.**

- R When a COVID-19 case is suspected, work with public health to determine action. See Medical Isolation section below.
- R When a COVID-19 case is suspected or confirmed, work with public health to identify close contacts who should be placed under quarantine. See Quarantine section below.
- R Facilities with limited onsite medical isolation, quarantine, and/or healthcare services should coordinate closely with state, local, tribal, and/or territorial health departments when they encounter a confirmed or suspected case, in order to ensure effective medical isolation or quarantine, necessary medical evaluation and care, and medical transfer if needed. See Facilities with Limited Onsite Healthcare Services section.

Hygiene

√ **Continue to ensure that hand hygiene supplies are well-stocked in all areas of the facility.** (See above.)

√ **Continue to emphasize practicing good hand hygiene and cough etiquette.** (See above.)

Cleaning and Disinfecting Practices

√ **Continue adhering to recommended cleaning and disinfection procedures for the facility at large.** (See above.)

√ **Reference specific cleaning and disinfection procedures for areas where a COVID-19 case has spent time (below).**

Medical Isolation of Confirmed or Suspected COVID-19 Cases

NOTE: Some recommendations below apply primarily to facilities with onsite healthcare capacity. Facilities with Limited Onsite Healthcare Services, or without sufficient space to implement effective medical isolation, should coordinate with local public health officials to ensure that COVID-19 cases will be appropriately isolated, evaluated, tested (if indicated), and given care.

√ **As soon as an individual develops symptoms of COVID-19, they should wear a face mask (if it does not restrict breathing) and should be immediately placed under medical isolation in a separate environment from other individuals.**

√ **Keep the individual's movement outside the medical isolation space to an absolute minimum.**

- R Provide medical care to cases inside the medical isolation space. See Infection Control and Clinical Care sections for additional details.
- R Serve meals to cases inside the medical isolation space.
- R Exclude the individual from all group activities.
- R Assign the isolated individual a dedicated bathroom when possible.

√ **Ensure that the individual is wearing a face mask at all times when outside of the medical isolation space, and whenever another individual enters.** Provide clean masks as needed. Masks should be changed at least daily, and when visibly soiled or wet.

√ **Facilities should make every possible effort to place suspected and confirmed COVID-19 cases under medical isolation individually. Each isolated individual should be assigned their own housing space and bathroom where possible.** Cohorting should only be practiced if there are no other available options.

- R If cohorting is necessary:
  - ☒ **Only individuals who are laboratory confirmed COVID-19 cases should be placed under medical isolation as a cohort. Do not cohort confirmed cases with suspected cases or case contacts.**
  - ☒ Unless no other options exist, do not house COVID-19 cases with individuals who have an undiagnosed respiratory infection.
  - ☒ Ensure that cohorted cases wear face masks at all times.

√ **In order of preference, individuals under medical isolation should be housed:**

- R Separately, in single cells with solid walls (i.e., not bars) and solid doors that close fully
- R Separately, in single cells with solid walls but without solid doors
- R As a cohort, in a large, well-ventilated cell with solid walls and a solid door that closes fully. Employ social distancing strategies related to housing in the Prevention section above.
- R As a cohort, in a large, well-ventilated cell with solid walls but without a solid door. Employ social distancing strategies related to housing in the Prevention section above.
- R As a cohort, in single cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells. (Although individuals are in single cells in this scenario, the airflow between cells essentially makes it a cohort arrangement in the context of COVID-19.)
- R As a cohort, 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. Employ social distancing strategies related to housing in the Prevention section above.
- R Safely transfer individual(s) to another facility with available medical isolation capacity in one of the above arrangements
  (NOTE—Transfer should be avoided due to the potential to introduce infection to another facility; proceed only if no other options are available.)

If the ideal choice does not exist in a facility, use the next best alternative.

√ **If the number of confirmed cases exceeds the number of individual medical isolation spaces available in the facility, be especially mindful of cases who are at higher risk of severe illness from COVID-19.** Ideally, they should not be cohorted with other infected individuals. If cohorting is unavoidable, make all possible accommodations to prevent transmission of other infectious diseases to the higher-risk individual. (For example, allocate more space for a higher-risk individual within a shared medical isolation space.)

- R Persons at higher risk may include older adults and persons of any age with serious underlying medical conditions such as lung disease, heart disease, and diabetes. See CDC's website for a complete list, and check regularly for updates as more data become available to inform this issue.
- R Note that incarcerated/detained populations have higher prevalence of infectious and chronic diseases and are in poorer health than the general population, even at younger ages.

√ **Custody staff should be designated to monitor these individuals exclusively where possible.** These staff should wear recommended PPE as appropriate for their level of contact with the individual under medical isolation (see PPE section below) and should limit their own movement between different parts of the facility to the extent possible.

√ **Minimize transfer of COVID-19 cases between spaces within the healthcare unit.**

√ **Provide individuals under medical isolation with tissues and, if permissible, a lined no-touch trash receptacle.** Instruct them to:

- R **Cover** their mouth and nose with a tissue when they cough or sneeze
- R **Dispose** of used tissues immediately in the lined trash receptacle
- R **Wash hands** immediately with soap and water for at least 20 seconds. If soap and water are not available, clean hands with an alcohol-based hand sanitizer that contains at least 60% alcohol (where security concerns permit). Ensure that hand washing supplies are continually restocked.

√ **Maintain medical isolation until all the following criteria have been met. Monitor the CDC website for updates to these criteria.**

For individuals who will be tested to determine if they are still contagious:

- ☒ The individual has been free from fever for at least 72 hours without the use of fever-reducing medications **AND**
- ☒ The individual's other symptoms have improved (e.g., cough, shortness of breath) **AND**
- ☒ The individual has tested negative in at least two consecutive respiratory specimens collected at least 24 hours apart

For individuals who will NOT be tested to determine if they are still contagious:

- ☒ The individual has been free from fever for at least 72 hours without the use of fever-reducing medications **AND**
- ☒ The individual's other symptoms have improved (e.g., cough, shortness of breath) **AND**
- ☒ At least 7 days have passed since the first symptoms appeared

For individuals who had a confirmed positive COVID-19 test but never showed symptoms:

- R At least 7 days have passed since the date of the individual's first positive COVID-19 test **AND**
- R The individual has had no subsequent illness

√ **Restrict cases from leaving the facility while under medical isolation precautions, unless released from custody or if a transfer is necessary for medical care, infection control, lack of medical isolation space, or extenuating security concerns.**

- R If an incarcerated/detained individual who is a COVID-19 case is released from custody during their medical isolation period, contact public health to arrange for safe transport and continuation of necessary medical care and medical isolation as part of release planning.

Cleaning Spaces where COVID-19 Cases Spent Time

Thoroughly clean and disinfect all areas where the confirmed or suspected COVID-19 case spent time. Note—these protocols apply to suspected cases as well as confirmed cases, to ensure adequate disinfection in the event that the suspected case does, in fact, have COVID-19. Refer to the Definitions section for the distinction between confirmed and suspected cases.

- R Close off areas used by the infected individual. If possible, open outside doors and windows to increase air circulation in the area. Wait as long as practical, up to 24 hours under the poorest air exchange conditions (consult CDC Guidelines for Environmental Infection Control in Health-Care Facilities for wait time based on different ventilation conditions), before beginning to clean and disinfect, to minimize potential for exposure to respiratory droplets.
- R Clean and disinfect all areas (e.g., cells, bathrooms, and common areas) used by the infected individual, focusing especially on frequently touched surfaces (see list above in Prevention section).

√ **Hard (non-porous) surface cleaning and disinfection**

- R If surfaces are dirty, they should be cleaned using a detergent or soap and water prior to disinfection.
- R For disinfection, most common EPA-registered household disinfectants should be effective. Choose cleaning products based on security requirements within the facility.
  - ☒ Consult a list of products that are EPA-approved for use against the virus that causes COVID-19. Follow the manufacturer's instructions for all cleaning and disinfection products (e.g., concentration, application method and contact time, etc.).
  - ☒ Diluted household bleach solutions can be used if appropriate for the surface. Follow the manufacturer's instructions for application and proper ventilation, and check to ensure the product is not past its expiration date. Never mix household bleach with ammonia or any other cleanser. Unexpired household bleach will be effective against coronaviruses when properly diluted. Prepare a bleach solution by mixing:
    - 5 tablespoons (1/3rd cup) bleach per gallon of water or
    - 4 teaspoons bleach per quart of water

√ **Soft (porous) surface cleaning and disinfection**

- R For soft (porous) surfaces such as carpeted floors and rugs, remove visible contamination if present and clean with appropriate cleaners indicated for use on these surfaces. After cleaning:
  - ☒ If the items can be laundered, launder items in accordance with the manufacturer's instructions using the warmest appropriate water setting for the items and then dry items completely.
  - ☒ Otherwise, use products that are EPA-approved for use against the virus that causes COVID-19 and are suitable for porous surfaces.

√ **Electronics cleaning and disinfection**

- R For electronics such as tablets, touch screens, keyboards, and remote controls, remove visible contamination if present.
  - ☒ Follow the manufacturer's instructions for all cleaning and disinfection products.
  - ☒ Consider use of wipeable covers for electronics.
  - ☒ If no manufacturer guidance is available, consider the use of alcohol-based wipes or spray containing at least 70% alcohol to disinfect touch screens. Dry surfaces thoroughly to avoid pooling of liquids.

Additional information on cleaning and disinfection of communal facilities such can be found on CDC's website.

√ **Ensure that staff and incarcerated/detained persons performing cleaning wear recommended PPE.** (See PPE section below.)

√ **Food service items.** Cases under medical isolation should throw disposable food service items in the trash in their medical isolation room. Non-disposable food service items should be handled with gloves and washed with hot water or in a dishwasher. Individuals handling used food service items should clean their hands after removing gloves.

√ Laundry from a COVID-19 cases **can be washed with other individuals' laundry.**

- R Individuals handling laundry from COVID-19 cases should wear disposable gloves, discard after each use, and clean their hands after.
- R Do not shake dirty laundry. This will minimize the possibility of dispersing virus through the air.
- R Launder items as appropriate in accordance with the manufacturer's instructions. If possible, launder items using the warmest appropriate water setting for the items and dry items completely.

- R Clean and disinfect clothes hampers according to guidance above for surfaces. If permissible, consider using a bag liner that is either disposable or can be laundered.

√ **Consult** cleaning recommendations above **to ensure that transport vehicles are thoroughly cleaned after carrying a confirmed or suspected COVID-19 case.**

Quarantining Close Contacts of COVID-19 Cases

NOTE: Some recommendations below apply primarily to facilities with onsite healthcare capacity. Facilities without onsite healthcare capacity, or without sufficient space to implement effective quarantine, should coordinate with local public health officials to ensure that close contacts of COVID-19 cases will be effectively quarantined and medically monitored.

√ **Incarcerated/detained persons who are close contacts of a** confirmed or suspected COVID-19 case **(whether the case is another incarcerated/detained person, staff member, or visitor) should be placed under quarantine for 14 days (see CDC guidelines).**

- R If an individual is quarantined due to contact with a suspected case who is subsequently tested for COVID-19 and receives a negative result, the quarantined individual should be released from quarantine restrictions.

√ **In the context of COVID-19, an individual (incarcerated/detained person or staff) is considered a close contact if they:**

- R Have been within approximately 6 feet of a COVID-19 case for a prolonged period of time OR
- R Have had direct contact with infectious secretions of a COVID-19 case (e.g., have been coughed on)

Close contact can occur while caring for, living with, visiting, or sharing a common space with a COVID-19 case. Data to inform the definition of close contact are limited. Considerations when assessing close contact include the duration of exposure (e.g., longer exposure time likely increases exposure risk) and the clinical symptoms of the person with COVID-19 (e.g., coughing likely increases exposure risk, as does exposure to a severely ill patient).

√ **Keep a quarantined individual's movement outside the quarantine space to an absolute minimum.**

- R Provide medical evaluation and care inside or near the quarantine space when possible.
- R Serve meals inside the quarantine space.
- R Exclude the quarantined individual from all group activities.
- R Assign the quarantined individual a dedicated bathroom when possible.

√ **Facilities should make every possible effort to quarantine close contacts of COVID-19 cases individually.** Cohorting multiple quarantined close contacts of a COVID-19 case could transmit COVID-19 from those who are infected to those who are uninfected. Cohorting should only be practiced if there are no other available options.

- R If cohorting of close contacts under quarantine is absolutely necessary, symptoms of all individuals should be monitored closely, and individuals with symptoms of COVID-19 should be placed under medical isolation immediately.
- R If an entire housing unit is under quarantine due to contact with a case from the same housing unit, the entire housing unit may need to be treated as a cohort and quarantine in place.
- R Some facilities may choose to quarantine all new intakes for 14 days before moving them to the facility's general population as a general rule (not because they were exposed to a COVID-19 case). Under this scenario, avoid mixing individuals quarantined due to exposure to a COVID-19 case with individuals undergoing routine intake quarantine.

- R If at all possible, do not add more individuals to an existing quarantine cohort after the 14-day quarantine clock has started.

√ **If the number of quarantined individuals exceeds the number of individual quarantine spaces available in the facility, be especially mindful of those who are at higher risk of severe illness from COVID-19.** Ideally, they should not be cohorted with other quarantined individuals. If cohorting is unavoidable, make all possible accommodations to reduce exposure risk for the higher-risk individuals. (For example, intensify social distancing strategies for higher-risk individuals.)

√ **In order of preference, multiple quarantined individuals should be housed:**

- R Separately, in single cells with solid walls (i.e., not bars) and solid doors that close fully
- R Separately, in single cells with solid walls but without solid doors
- R As a cohort, in a large, well-ventilated cell with solid walls, a solid door that closes fully, and at least 6 feet of personal space assigned to each individual in all directions
- R As a cohort, in a large, well-ventilated cell with solid walls and at least 6 feet of personal space assigned to each individual in all directions, but without a solid door
- R As a cohort, in single cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells creating at least 6 feet of space between individuals. (Although individuals are in single cells in this scenario, the airflow between cells essentially makes it a cohort arrangement in the context of COVID-19.)
- R As a cohort, 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. Employ social distancing strategies related to housing in the Prevention section to maintain at least 6 feet of space between individuals housed in the same cell.
- R As a cohort, in individuals' regularly assigned housing unit but with no movement outside the unit (if an entire housing unit has been exposed). Employ social distancing strategies related to housing in the Prevention section above to maintain at least 6 feet of space between individuals.
- R Safely transfer to another facility with capacity to quarantine in one of the above arrangements

(NOTE—Transfer should be avoided due to the potential to introduce infection to another facility; proceed only if no other options are available.)

√ **Quarantined individuals should wear face masks if feasible based on local supply, as source control, under the following circumstances** (see PPE section and Table 1):

- R If cohorted, quarantined individuals should wear face masks at all times (to prevent transmission from infected to uninfected individuals).
- R If quarantined separately, individuals should wear face masks whenever a non-quarantined individual enters the quarantine space.
- R All quarantined individuals should wear a face mask if they must leave the quarantine space for any reason.
- R Asymptomatic individuals under routine intake quarantine (with no known exposure to a COVID-19 case) do not need to wear face masks.

√ **Staff who have close contact with quarantined individuals should wear recommended PPE if feasible based on local supply, feasibility, and safety within the scope of their duties** (see PPE section and Table 1).

- R Staff supervising asymptomatic incarcerated/detained persons under routine intake quarantine (with no known exposure to a COVID-19 case) do not need to wear PPE.

- √ **Quarantined individuals should be monitored for COVID-19 symptoms twice per day, including temperature checks.**
  - R If an individual develops symptoms, they should be moved to medical isolation immediately and further evaluated. (See Medical Isolation section above.)
  - R See Screening section for a procedure to perform temperature checks safely on asymptomatic close contacts of COVID-19 cases.
- √ **If an individual who is part of a quarantined cohort becomes symptomatic:**
  - R **If the individual is tested for COVID-19 and tests positive:** the 14-day quarantine clock for the remainder of the cohort must be reset to 0.
  - R **If the individual is tested for COVID-19 and tests negative:** the 14-day quarantine clock for this individual and the remainder of the cohort does not need to be reset. This individual can return from medical isolation to the quarantined cohort for the remainder of the quarantine period.
  - R **If the individual is not tested for COVID-19:** the 14-day quarantine clock for the remainder of the cohort must be reset to 0.
- √ **Restrict quarantined individuals from leaving the facility (including transfers to other facilities) during the 14-day quarantine period, unless released from custody or a transfer is necessary for medical care, infection control, lack of quarantine space, or extenuating security concerns.**
- √ **Quarantined individuals can be released from quarantine restrictions if they have not developed symptoms during the 14-day quarantine period.**
- √ **Meals should be provided to quarantined individuals in their quarantine spaces.** Individuals under quarantine should throw disposable food service items in the trash. Non-disposable food service items should be handled with gloves and washed with hot water or in a dishwasher. Individuals handling used food service items should clean their hands after removing gloves.
- √ **Laundry from quarantined individuals can be washed with other individuals' laundry.**
  - R Individuals handling laundry from quarantined persons should wear disposable gloves, discard after each use, and clean their hands after.
  - R Do not shake dirty laundry. This will minimize the possibility of dispersing virus through the air.
  - R Launder items as appropriate in accordance with the manufacturer's instructions. If possible, launder items using the warmest appropriate water setting for the items and dry items completely.
  - R Clean and disinfect clothes hampers according to guidance above for surfaces. If permissible, consider using a bag liner that is either disposable or can be laundered.

Management of Incarcerated/Detained Persons with COVID-19 Symptoms

NOTE: Some recommendations below apply primarily to facilities with onsite healthcare capacity. Facilities without onsite healthcare capacity or without sufficient space for medical isolation should coordinate with local public health officials to ensure that suspected COVID-19 cases will be effectively isolated, evaluated, tested (if indicated), and given care.

- √ **If possible, designate a room near each housing unit for healthcare staff to evaluate individuals with COVID-19 symptoms, rather than having them walk through the facility to be evaluated in the medical unit.**
- √ **Incarcerated/detained individuals with COVID-19 symptoms should wear a face mask and should be placed under medical isolation immediately. Discontinue the use of a face mask if it inhibits breathing. See Medical Isolation section above.**

√ **Medical staff should evaluate symptomatic individuals to determine whether COVID-19 testing is indicated.** Refer to CDC guidelines for information on evaluation and testing. See Infection Control and Clinical Care sections below as well.

√ **If testing is indicated (or if medical staff need clarification on when testing is indicated), contact the state, local, tribal, and/or territorial health department. Work with public health or private labs as available to access testing supplies or services.**

- R If the COVID-19 test is positive, continue medical isolation. (See Medical Isolation section above.)
- R If the COVID-19 test is negative, return the individual to their prior housing assignment unless they require further medical assessment or care.

Management Strategies for Incarcerated/Detained Persons without COVID-19 Symptoms

√ **Provide clear information to incarcerated/detained persons about the presence of COVID-19 cases within the facility, and the need to increase social distancing and maintain hygiene precautions.**

- R Consider having healthcare staff perform regular rounds to answer questions about COVID-19.
- R Ensure that information is provided in a manner that can be understood by non-English speaking individuals and those with low literacy, and make necessary accommodations for those with cognitive or intellectual disabilities and those who are deaf, blind, or low-vision.

√ **Implement daily temperature checks in housing units where COVID-19 cases have been identified, especially if there is concern that incarcerated/detained individuals are not notifying staff of symptoms.** See Screening section for a procedure to safely perform a temperature check.

√ **Consider additional options to intensify** social distancing within the facility.

Management Strategies for Staf

√ **Provide clear information to staff about the presence of COVID-19 cases within the facility, and the need to enforce social distancing and encourage hygiene precautions.**

- R Consider having healthcare staff perform regular rounds to answer questions about COVID-19 from staff.

√ **Staff identified as close contacts of a COVID-19 case should self-quarantine at home for 14 days and may return to work if symptoms do not develop.**

- R See above for definition of a close contact.
- R Refer to CDC guidelines for further recommendations regarding home quarantine for staff.

Infection Control

Infection control guidance below is applicable to all types of correctional facilities. Individual facilities should assess their unique needs based on the types of exposure staff and incarcerated/detained persons may have with confirmed or suspected COVID-19 cases.

√ **All individuals who have the potential for direct or indirect exposure to COVID-19 cases or infectious materials (including body substances; contaminated medical supplies, devices, and equipment; contaminated environmental surfaces; or contaminated air) should follow infection control practices outlined in the CDC Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 (COVID-19) in Healthcare Settings. Monitor these guidelines regularly for updates.**

- R Implement the above guidance as fully as possible within the correctional/detention context. Some of the specific language may not apply directly to healthcare settings within correctional facilities and detention centers, or to facilities without onsite healthcare capacity, and may need to be adapted to reflect facility operations and custody needs.
- R Note that these recommendations apply to staff as well as to incarcerated/detained individuals who may come in contact with contaminated materials during the course of their work placement in the facility (e.g., cleaning).

√ **Staff should exercise caution when in contact with individuals showing symptoms of a respiratory infection.** Contact should be minimized to the extent possible until the infected individual is wearing a face mask. If COVID-19 is suspected, staff should wear recommended PPE (see PPE section).

√ **Refer to PPE section to determine recommended PPE for individuals persons in contact with confirmed COVID-19 cases, contacts, and potentially contaminated items.**

Clinical Care of COVID-19 Cases

√ **Facilities should ensure that incarcerated/detained individuals receive medical evaluation and treatment at the first signs of COVID-19 symptoms.**

- R If a facility is not able to provide such evaluation and treatment, a plan should be in place to safely transfer the individual to another facility or local hospital.
- R The initial medical evaluation should determine whether a symptomatic individual is at higher risk for severe illness from COVID-19. Persons at higher risk may include older adults and persons of any age with serious underlying medical conditions such as lung disease, heart disease, and diabetes. See CDC's website for a complete list, and check regularly for updates as more data become available to inform this issue.

√ **Staff evaluating and providing care for confirmed or suspected COVID-19 cases should follow the CDC Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease (COVID-19) and monitor the guidance website regularly for updates to these recommendations.**

√ **Healthcare staff should evaluate persons with respiratory symptoms or contact with a COVID-19 case in a separate room, with the door closed if possible, while wearing recommended PPE and ensuring that the suspected case is wearing a face mask.**

- R If possible, designate a room near each housing unit to evaluate individuals with COVID-19 symptoms, rather than having them walk through the facility to be evaluated in the medical unit.

√ **Clinicians are strongly encouraged to test for other causes of respiratory illness (e.g., influenza).**

√ **The facility should have a plan in place to safely transfer persons with severe illness from COVID-19 to a local hospital if they require care beyond what the facility is able to provide.**

√ **When evaluating and treating persons with symptoms of COVID-19 who do not speak English, using a language line or provide a trained interpreter when possible.**

Recommended PPE and PPE Training for Staff and Incarcerated/Detained Persons

√ **Ensure that all staff (healthcare and non-healthcare) and incarcerated/detained persons who will have contact with infectious materials in their work placements have been trained to correctly don, doff, and dispose of PPE relevant to the level of contact they will have with confirmed and suspected COVID-19 cases.**

- R Ensure that staff and incarcerated/detained persons who require respiratory protection (e.g., N95s) for their work responsibilities have been medically cleared, trained, and fit-tested in the context of an employer's respiratory protection program.
- R For PPE training materials and posters, please visit the CDC website on Protecting Healthcare Personnel.

√ **Ensure that all staff are trained to perform hand hygiene after removing PPE.**

√ **If administrators anticipate that incarcerated/detained persons will request unnecessary PPE, consider providing training on the different types of PPE that are needed for differing degrees of contact with COVID-19 cases and contacts, and the reasons for those differences (**see Table 1). **Monitor linked CDC guidelines in Table 1 for updates to recommended PPE.**

√ **Keep recommended PPE near the spaces in the facility where it could be needed, to facilitate quick access in an emergency.**

√ **Recommended PPE for incarcerated/detained individuals and staff in a correctional facility** will vary based on the type of contact they have with COVID-19 cases and their contacts (see Table 1). Each type of recommended PPE is defined below. **As above, note that PPE shortages are anticipated in every category during the COVID-19 response.**

- R **N95 respirator**

See below for guidance on when face masks are acceptable alternatives for N95s. N95 respirators should be prioritized when staff anticipate contact with infectious aerosols from a COVID-19 case.

- R **Face mask**
- R **Eye protection—**goggles or disposable face shield that fully covers the front and sides of the face
- R **A single pair of disposable patient examination gloves**

Gloves should be changed if they become torn or heavily contaminated.

- R **Disposable medical isolation gown or single-use/disposable coveralls, when feasible**
  - ☒ If custody staff are unable to wear a disposable gown or coveralls because it limits access to their duty belt and gear, ensure that duty belt and gear are disinfected after close contact with the individual. Clean and disinfect duty belt and gear prior to reuse using a household cleaning spray or wipe, according to the product label.
  - ☒ If there are shortages of gowns, they should be prioritized for aerosol-generating procedures, care activities where splashes and sprays are anticipated, and high-contact patient care activities that provide opportunities for transfer of pathogens to the hands and clothing of staff.

√ **Note that shortages of all PPE categories are anticipated during the COVID-19 response, particularly for non-healthcare workers. Guidance for optimizing the supply of each category can be found on CDC's website:**

- R **Guidance in the event of a shortage of N95 respirators**
  - ☒ Based on local and regional situational analysis of PPE supplies, **face masks are an acceptable alternative when the supply chain of respirators cannot meet the demand.** During this time, available respirators should be prioritized for staff engaging in activities that would expose them to respiratory aerosols, which pose the highest exposure risk.
- R **Guidance in the event of a shortage of face masks**
- R **Guidance in the event of a shortage of eye protection**
- R **Guidance in the event of a shortage of gowns/coveralls**

Table 1. Recommended Personal Protective Equipment (PPE) for Incarcerated/Detained Persons and Staff in a Correctional Facility during the COVID-19 Response

Classification of Individual Wearing PPE	N95 respirator	Face mask	Eye Protection	Gloves	Gown/ Coveralls
Incarcerated/Detained Persons					
Asymptomatic incarcerated/detained persons (under quarantine as close contacts of a COVID-19 case*)	Apply face masks for source control as feasible based on local supply, especially if housed as a cohort				
Incarcerated/detained persons who are confirmed or suspected COVID-19 cases, or showing symptoms of COVID-19	–	9	–	–	–
Incarcerated/detained persons in a work placement handling laundry or used food service items from a COVID-19 case or case contact	–	–	–	9	9
Incarcerated/detained persons in a work placement cleaning areas where a COVID-19 case has spent time	Additional PPE may be needed based on the product label. See CDC guidelines for more details.			9	9
Staff					
Staff having direct contact with asymptomatic incarcerated/detained persons under quarantine as close contacts of a COVID-19 case* (but not performing temperature checks or providing medical care)	–	Face mask, eye protection, and gloves as local supply and scope of duties allow.			–
Staff performing temperature checks on any group of people (staff, visitors, or incarcerated/detained persons), or providing medical care to asymptomatic quarantined persons	–	9	9	9	9
Staff having direct contact with (including transport) or offering medical care to confirmed or suspected COVID-19 cases (see CDC infection control guidelines)	9 **		9	9	9
Staff present during a procedure on a confirmed or suspected COVID-19 case that may generate respiratory aerosols (see CDC infection control guidelines)	9	–	9	9	9
Staff handling laundry or used food service items from a COVID-19 case or case contact	–	–	–	9	9
Staff cleaning an area where a COVID-19 case has spent time	Additional PPE may be needed based on the product label. See CDC guidelines for more details.			9	9

* If a facility chooses to routinely quarantine all new intakes (without symptoms or known exposure to a COVID-19 case) before integrating into the facility's general population, face masks are not necessary.

** A NIOSH-approved N95 is preferred. However, based on local and regional situational analysis of PPE supplies, face masks are an acceptable alternative when the supply chain of respirators cannot meet the demand. During this time, available respirators should be prioritized for procedures that are likely to generate respiratory aerosols, which would pose the highest exposure risk to staff.

Verbal Screening and Temperature Check Protocols for Incarcerated/Detained Persons, Staff, and Visitors

The guidance above recommends verbal screening and temperature checks for incarcerated/detained persons, staff, volunteers, and visitors who enter correctional and detention facilities, as well as incarcerated/detained persons who are transferred to another facility or released from custody. Below, verbal screening questions for COVID-19 symptoms and contact with known cases, and a safe temperature check procedure are detailed.

- √ **Verbal screening for symptoms of COVID-19 and contact with COVID-19 cases should include the following questions:**
  - R *Today or in the past 24 hours, have you had any of the following symptoms?*
    - ☒ *Fever, felt feverish, or had chills?*
    - ☒ *Cough?*
    - ☒ *Difficulty breathing?*
  - R *In the past 14 days, have you had contact with a person known to be infected with the novel coronavirus (COVID-19)?*
- √ **The following is a protocol to safely check an individual's temperature:**
  - R Perform hand hygiene
  - R Put on a face mask, eye protection (goggles or disposable face shield that fully covers the front and sides of the face), gown/coveralls, and a single pair of disposable gloves
  - R Check individual's temperature
  - R **If performing a temperature check on multiple individuals, ensure that a clean pair of gloves is used for each individual and that the thermometer has been thoroughly cleaned in between each check.** If disposable or non-contact thermometers are used and the screener did not have physical contact with an individual, gloves do not need to be changed before the next check. If non-contact thermometers are used, they should be cleaned routinely as recommended by CDC for infection control.
  - R Remove and discard PPE
  - R Perform hand hygiene

Centers for Disease Control and Prevention

Coronavirus Disease 2019

How to Protect Yourself & Others

Older adults and people who have severe underlying medical conditions like heart or lung disease or diabetes seem to be at higher risk for developing serious complications from COVID-19 illness. More information on Are you at higher risk for serious illness?

Know how it spreads

- There is currently no vaccine to prevent coronavirus disease 2019 (COVID-19).
- **The best way to prevent illness is to avoid being exposed to this virus.**
- The virus is thought to spread mainly from person-to-person.
  - Between people who are in close contact with one another (within about 6 feet).
  - Through respiratory droplets produced when an infected person coughs, sneezes or talks.
  - These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.
  - Some recent studies have suggested that COVID-19 may be spread by people who are not showing symptoms.

Everyone Should

Wash your hands often

- Wash your hands often with soap and water for at least 20 seconds especially after you have been in a public place, or after blowing your nose, coughing, or sneezing.
- If soap and water are not readily available, **use a hand sanitizer that contains at least 60% alcohol**. Cover all surfaces of your hands and rub them together until they feel dry.
- **Avoid touching your eyes, nose, and mouth** with unwashed hands.

Avoid close contact

- **Avoid close contact** with people who are sick
- Stay home as much as possible. | [Español]
- Put **distance between yourself and other people**.
  - Remember that some people without symptoms may be able to spread virus.
  - Keeping distance from others is especially important for people who are at higher risk of getting very sick.

Cover your mouth and nose with a cloth face cover when around others

- You could spread COVID-19 to others even if you do not feel sick.
- Everyone should wear a cloth face cover when they have to go out in public, for example to the grocery store or to pick up other necessities.
  - Cloth face coverings should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance.
- The cloth face cover is meant to protect other people in case you are infected.
- Do NOT use a facemask meant for a healthcare worker.
- Continue to keep about 6 feet between yourself and others. The cloth face cover is not a substitute for social distancing.

Cover coughs and sneezes

- **If you are in a private setting and do not have on your cloth face covering, remember to always cover your mouth and nose** with a tissue when you cough or sneeze or use the inside of your elbow.
- **Throw used tissues** in the trash.
- Immediately **wash your hands** with soap and water for at least 20 seconds. If soap and water are not readily available, clean your hands with a hand sanitizer that contains at least 60% alcohol.

Clean and disinfect

- **Clean AND disinfect** frequently touched surfaces **daily**. This includes tables, doorknobs, light switches, countertops, handles, desks, phones, keyboards, toilets, faucets, and sinks.
- **If surfaces are dirty, clean them.** Use detergent or soap and water prior to disinfection.
- **Then, use a household disinfectant.** Most common EPA-registered household disinfectants will work.

Handwashing Resources

Handwashing tips

Hand Hygiene in Healthcare Settings

More information

Symptoms

What to do if you are sick

If someone in your house gets sick

Frequently asked questions

Travelers

Individuals, schools, events, businesses and more

Healthcare Professionals

6 Steps to Prevent COVID-19

6 Steps to Prevent COVID-19 (ASL Version)

Social Distancing (ASL Video)

ASL Video Series: What You Need to Know About Handwashing

Page last reviewed: April 24, 2020

Centers for Disease Control and Prevention

Coronavirus Disease 2019

What You Can Do

Stay home and avoid close contact, especially if you are at higher risk of severe illness or if you may have issues getting assistance if you get sick.

Steps you can take

If you are at higher risk for serious illness from COVID-19 because of your age or because you have a serious long-term health problem, it is extra important for you to take actions to reduce your risk of getting sick with the disease.

- **Stay home if possible.**
- **Wash your hands** often.
- **Take everyday precautions to keep space between yourself and others** (stay 6 feet away, which is about two arm lengths).
- **Keep away from** people who are sick.
- **Stock up on supplies**.
- **Clean and disinfect** frequently touched services.
- **Avoid all cruise travel** and non-essential air travel.
- **Call your healthcare professional if you have concerns** about COVID-19 and your underlying condition or if you are sick.
- Steps You Can Take (Printer Friendly version)

Related: How to Protect Yourself

Coping with stress

Older people and **people of any age who have serious underlying health conditions** are at higher risk for severe illness from COVID-19. **People who may have issues getting assistance** if they become ill, like those experiencing homelessness or people with disabilities are also at increased risk from COVID-19.

These conditions and situations may result in **increased stress** during this pandemic. Fear and anxiety can be overwhelming and cause strong emotions.

Things you can do to support yourself:

- **Take breaks from watching, reading, or listening to news** stories and social media. Hearing about the pandemic repeatedly can be upsetting.
- **Take care of your body**. Take deep breaths, stretch, or meditate. Try to eat healthy, well-balanced meals, exercise regularly, get plenty of sleep, and avoid alcohol and drugs.
- **Make time to unwind**. Try to do some other activities you enjoy.
- **Connect with others**. Talk with people you trust about your concerns and how you are feeling.
- **Call your healthcare provider if stress gets in the way** of your daily activities for several days in a row.
- **If you, or someone you care about, are feeling overwhelmed** with emotions like sadness, depression, or anxiety, or feel like you want to harm yourself or others call
  - 911

- Substance Abuse and Mental Health Services Administration's (SAMHSA's) Disaster Distress Helpline: 1-800-985-5990 or text TalkWithUs to 66746. (TTY 1-800-846-8517)

> **Related:** Stress and Coping

Have a plan for if you get sick

- **Know how to stay in touch with others by phone or email.** You may need to ask for help from friends, family, neighbors, and community health workers if you become sick.
- **Determine who can care for you** if your caregiver gets sick.
- **Contact your healthcare provider to ask about obtaining extra necessary medications** to have on hand in case there is an outbreak of COVID-19 in your community and you need to stay home for a prolonged period of time.
- If you cannot get extra medications, consider using **mail-order for medications**.
- **Be sure you have over-the-counter medicines and medical supplies** (tissues, etc.) to treat fever and other symptoms. Most people will be able to recover from COVID-19 at home.
- **Have enough household items and groceries** on hand so that you will be prepared to stay at home.
- **Consider ways of getting medications and food brought to your house** through family, social, or commercial networks.
- **Have a plan for someone to care for your pets** during your illness.

> **Related:** Cleaning and Disinfecting Your Home

Check with your local public health officials

Depending on how severe the outbreak is, **your local public health officials may recommend community actions** to reduce people's risk of being exposed to COVID-19. These actions can slow the spread and reduce the impact of disease.

Stay home as much as possible. Take extra measures to put distance between yourself and other people to further reduce your risk of being exposed to this new virus.

> **Related:** List of Local Health Departments

What to do if you have symptoms

Watch for symptoms and emergency warning signs.

- **Pay attention for potential COVID-19 symptoms** including, fever, cough, and shortness of breath.
- If you feel like you are developing symptoms, **stay home and call your doctor**. Tell them that you have or may have COVID-19. This will help them take care of you and keep other people from getting infected or exposed.
- **If you are not sick enough to be hospitalized**, you can recover at home.
- **If you develop emergency warning signs for COVID-19 get medical attention immediately.** In adults, emergency warning signs* are:
  - Difficulty breathing or shortness of breath
  - Persistent pain or pressure in the chest
  - New confusion or inability to arouse
  - Bluish lips or face

*This list is not all inclusive. Please consult your medical provider for any other symptoms that are severe or concerning.

> **Related:** Symptoms and Testing | What to do if You Are Sick

What others can do

Community support

Community preparedness planning for COVID-19 should include **older adults and people with disabilities**, and the organizations that support them in their communities, to ensure their needs are taken into consideration. Many of these individuals live in the community, and many depend on services and supports provided in their homes or in the community to maintain their health and independence.

Long-term care facilities should be vigilant to prevent the introduction and spread of COVID-19. See guidance for long-term care facilities.

> **Related:** Schools, Workplaces, and Community Locations

Family and caregiver support

- **Know what medications your loved one is taking** and see if you can help them have extra on hand.
- **Monitor food and other medical supplies** (oxygen, incontinence, dialysis, wound care) needed and create a back-up plan.
- **Stock up on non-perishable food** to have on hand in your home to minimize trips to stores.
- **If you care for a loved one living in a care facility**, monitor the situation, ask about the health of the other residents frequently and know the protocol if there is an outbreak.

Related: If you are Sick or Caring for Someone

More information

More information

Page last reviewed: April 3, 2020