

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DANIEL GUMNS, MICHAEL VIDEAU,
TREVON WILEY, IAN CAZENAVE,
REGINALD GEORGE, LIONEL
TOLBERT, OTTO BARRERA, KENTRELL
PARKER, MICHAEL ROBINSON, JULIUS
ALLEN, ERNEST ROGERS, ALFOANSO
GARNER, BRADLEY WINTERS,
KENDRICK WILSON, and JAMES
HUGHES, on behalf of themselves and all
similarly situated individuals,

Plaintiffs,

v.

JOHN BEL EDWARDS, in his official capacity
as Governor of the State of Louisiana;
LOUISIANA DEPARTMENT OF PUBLIC
SAFETY & CORRECTIONS; JAMES
LEBLANC, in his official capacity as Secretary
of the Department of Safety and Corrections;
JOHN MORRISON, in his official capacity as
Medical Director of the Department of Safety
and Corrections; LOUISIANA
DEPARTMENT OF HEALTH; and
STEPHEN R. RUSSO, in his official capacity
as Interim Secretary of the Louisiana
Department of Health,

Defendants.

CIVIL ACTION NO. 3:20-cv-00231-SDD-
RLB

CLASS ACTION

**MOTION FOR LEAVE TO FILE REPLY IN SUPPORT OF EMERGENCY
MOTION TO RESTRAIN DEFENDANTS FROM TRANSFERRING COVID-19 CAR
TO LOUISIANA STATE PENITENTIARY**

NOW INTO COURT COME PLAINTIFFS, through undersigned counsel, who respectfully request leave of the Court to file the attached Reply to Defendants' *Memorandum in Opposition to Plaintiffs' Motion to Restrain Defendants from Transferring COVID-19 Carriers to Louisiana State Penitentiary* (Rec. Doc. 24).

Plaintiffs submit that the attached proposed pleading provides argument that will assist this Court in ruling on Plaintiffs' *Emergency Motion to Restrain Defendants from Transferring COVID-19 Carriers to Louisiana State Penitentiary* (Rec. Doc. 15).

Respectfully submitted this 26th day of April, 2020.

Respectfully submitted by:

/s/ Mercedes Montagnes

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CERTIFICATE OF SERVICE

I, Nishi Kumar, an attorney, hereby certify that on April 26, 2020, I caused a copy of the foregoing to be filed using the Court's CM/ECF system.

I further certify that I, or another one of Plaintiffs' attorneys, will promptly electronically serve a copy of the same, along with all other pleadings and papers filed in the action to date to the General Counsel for the Louisiana Department of Corrections, the General Counsel for the Louisiana Governor, and the General Counsel for the Louisiana Department of Health, as well as the Louisiana Department of Justice Director of Litigation via email.

/s/ Nishi Kumar

Nishi Kumar, La. Bar No. 37415

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CIVIL ACTION NO. 3:20-cv-00231-SDD-
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CLASS ACTION

**MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO FILE REPLY IN
SUPPORT OF EMERGENCY MOTION TO RESTRAIN DEFENDANTS FROM
TRANSFERRING COVID-19 CARRIERS TO LOUISIANA STATE PENITENTIARY**

NOW INTO COURT COME PLAINTIFFS, through undersigned counsel, who respectfully move this Court to grant this Motion for Leave to file a Reply in support of Plaintiffs' *Emergency Motion to Restrain Defendants from Transferring COVID-19 Carriers to Louisiana State Penitentiary* (Rec. Doc. 15). In support of their Motion for Leave, Plaintiffs file this Memorandum in Support.

Plaintiffs submit that the attached reply will materially assist this Court in ruling on Plaintiffs' Emergency Motion by clarifying multiple factual issues and points of law.

Respectfully submitted this 26th day of April, 2020.

Respectfully submitted by:

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Attorneys for Plaintiff

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I further certify that I, or another one of Plaintiffs' attorneys, will promptly electronically serve a copy of the same, along with all other pleadings and papers filed in the action to date to the General Counsel for the Louisiana Department of Corrections, the General Counsel for the Louisiana Governor, and the General Counsel for the Louisiana Department of Health, as well as the Louisiana Department of Justice Director of Litigation via email.

/s/ Nishi Kumar

Nishi Kumar, La. Bar No. 37415

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CIVIL ACTION NO. 3:20-cv-00231-SDD-
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CLASS ACTION

**PLAINTIFFS' REPLY MEMORANDUM IN SUPPORT OF EMERGENCY MOTION
FOR TEMPORARY RESTRAINING ORDER**

INTRODUCTION

Historically, being sent to Camp J symbolized a death sentence. Its remoteness from the main prison, its poor spatial ergonomics, its unsanitary conditions, and its indignity dehumanize people and deprive identity. Very few return from Camp J without deep emotional trauma. Repurposing Camp J as a COVID unit sends a similar message: you may never return, and you may die alone.¹

“Camp J began accepting patients for isolation on or about April 2, 2020,”² the same day this Court denied—on procedural grounds—a motion for temporary restraining order to prevent the transfer of patients to Camp J.³ As of April 25, 100 COVID-19 patients are being housed at Camp J,⁴ and “Camp J plans to continue to accept offenders from local jails.”⁵

Defendants’ opposition is rife with vague, conclusory assertions as to the appropriateness of their Camp J plan, “evidenced” only by vague, conclusory assertions in their own recycled affidavits, none of which are based on first-hand knowledge of Camp J’s operations.⁶ There is no evidence to support Defendants’ blustering. So far, Defendants have administered only 299 COVID-19 tests to the state’s prison population, despite having received 600 tests.⁷ Of the 292 tests completed (seven are pending), 122 have been positive, a rate of nearly 42 percent positive.⁸ In the three weeks since Defendants began transfers to Camp J, over 30 new cases of COVID-19 have been confirmed among LSP’s incarcerated population and at least 20 new confirmed cases among LSP’s staff.⁹ As

¹ Ex. 1, MASS Design Group, *The Role of Architecture in Fighting COVID-19: Prisons Case Study* at 8.

² Defs.’ Opp’n to TRO at 6.

³ This Court’s previous finding that the earlier motion in *Lewis* was based on speculation is not relevant to the instant motion. Defendants now freely admit that they have begun transferring COVID-19 patients to Camp J and will continue to do so. *See, e.g.*, Defs.’ Opp’n to TRO at 10.

⁴ Situational Awareness Report, LA. BUSINESS EMERGENCY OPERATIONS CENTER, https://www.labeoc.org/alerts/Alert_Details.aspx?id=1559 (last visited Apr. 26, 2020).

⁵ Defs.’ Opp’n to TRO at 10.

⁶ Both Secretary LeBlanc and Dr. Morrison’s declarations were signed before the Camp J plan went into effect. Tracy Falgout is a LSP employee and, by Defendants’ own admission, Camp J is being run “as an independent prison” from LSP. Defs.’ Opp’n to TRO at 7.

⁷ Situational Awareness Report, *supra* note 4.

⁸ *Id.* This does not include numbers from Louisiana jails, which report 187 positive tests so far (no information on total number of tests is provided).

⁹ Ex. 2, LSP COVID-19 Cases Chart. Women in the system are being centralized at the Louisiana Correctional Institute for Women (LCIW) at Elayn Hunt Correctional Center. The DOC reports that the number of positive cases at LCIW are now the highest out of the eight state facilities – 171 women have tested positive and 1 has died. DOC, COVID-19 Inmate Positives, <https://doc.louisiana.gov/doc-covid-19-testing/> (last visited Apr. 26, 2020).

detailed below, Defendants’ conclusory claims that Camp J is now fit for patients and that it is isolated from LSP are false, and Defendants have failed to rebut Plaintiffs’ evidence—including two expert declarations—of the dangers of the Camp J plan. Moreover, Defendants hang the bulk of their legal argument on a case that is easily distinguishable from Plaintiffs’.¹⁰ Plaintiffs request that this Court issue a TRO because the Camp J plan creates a substantial risk of serious harm for every person facing transfer as well as for the existing LSP population.

I. Defendants Misstate the Standard for Deliberate Indifference

Defendants’ reliance on *Valentine v. Collier* is misplaced. *Valentine* emphasized three key points that are wholly distinguishable from Plaintiffs’ motion: (1) the district court found that the Texas Department of Criminal Justice’s (“TDCJ”) COVID-19 response was *in compliance* with CDC guidelines, (2) the court’s injunction ordered the TDCJ to follow its own existing procedures, and (3) the court cited *no evidence* that Defendants were aware that their plan was inadequate.¹¹

First, unlike in *Valentine*, Defendants’ Camp J transfers are *not* in compliance with CDC guidelines, which warn that transfers between facilities should be prevented “*unless necessary* for medical evaluation, medical isolation/quarantine, clinical care, extenuating security concerns, or to prevent overcrowding.”¹² CDC guidelines also note that the DOC should “[a]ctively engage with the health department to understand in advance which entity has jurisdiction to implement public health control measures,”¹³ which the DOC cites no evidence of having done—Defendants have not even provided an affidavit from any public health official. Nor have Defendants provided any evidence

¹⁰ See *Valentine v. Collier*, Case No. 20-20207 (5th Cir., Apr. 22, 2020).

¹¹ *Id.* at 1-8.

¹² CDC, “Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities” at 9 (Mar. 23, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html> (emphasis added). Defendants claim that transfers to Camp J are necessary for medical isolation, but this argument completely ignores the availability of the Medical Monitoring Station (“MMS”) at the Morial Convention Center in New Orleans, which is fully equipped to house incarcerated patients and has hundreds of empty beds. Situational Awareness Report, *supra* note 4 (“384 beds are available.”). Defendants have unnecessarily opted to isolate patients over one hour’s drive from the nearest hospital, despite knowing that COVID-19 patients can decline quickly. Vassallo Decl., Dkt. 15-3 at ¶ 7.

that their existing flu pandemic plan has been “revise[d] for COVID-19,” that they have “[p]lan[ned] for staff absences,” or that they have “[e]nsure[d] that staff and incarcerated/detained persons are trained to correctly don, doff, and dispose of PPE,” per CDC guidelines.¹⁴ Unlike in *Valentine*, Defendants have proffered no evidence that they are in compliance with CDC guidelines.¹⁵

Second, contrary to Fifth Circuit precedent, the district court in *Valentine* ordered the TDCJ to follow state law, since there was significant overlap between the TDCJ’s existing policies and the injunction.¹⁶ Plaintiffs are not requesting that this Court order Defendants to comply with their own existing policies; Plaintiffs are requesting that this Court enjoin further dangerous transfers.

Finally, Defendants had actual knowledge of the risks of the Camp J transfers. In *Valentine*, the district court cited *no evidence* that Defendants were aware that their plan was inadequate.¹⁷ Here, Defendants have been on notice that Camp J presents a substantial risk since before transfers began. Defendants cannot claim that they initiated their transfer plan in good faith, with no concerns about the risks, because advocates, news articles, medical experts, and Members of Plaintiffs’ putative Class have warned the DOC about the inevitable risks of the transfers and counseled against the plan, and even attempted to enjoin it, before and since transfers began.¹⁸ Further, this Court’s recognition that medical care at LSP is unconstitutional in some respects further puts Defendants on notice that moving patients to LSP not only risks the lives of those patients but also other vulnerable LSP patients who are now exposed to transmission via the Camp J plan. Thus, unlike in *Valentine*, Defendants have—and had—actual notice of the substantial risks created by the Camp J plan.

¹³ CDC Interim Guidance, *supra* note 12, at 5.

¹⁴ *Id.* at 6-8.

¹⁵ Defendants’ argument that Dr. Puisis states that they are compliant with CDC guidance is inappropriately overstated. Dr. Puisis indicated that *one* aspect of the DOC’s plan appeared to be compliant (with a caveat that it likely would not be compliant in practice).

¹⁶ *Valentine*, 20-20207 at 7.

¹⁷ *Id.* at 8.

¹⁸ See, e.g., Alice Speri and Akela Lacy, *Louisiana’s Coronavirus Plan for Prisons Could Create Death Camps*, THE INTERCEPT (Apr. 7, 2020, 1:49 PM), <https://theintercept.com/2020/04/07/louisiana-coronavirus-prisons/>; *Lewis v. Cain*, 15-cv-318, Dkt. 582-1, 582-2 (M.D. La. Mar. 31, 2020) (Pls.’ memo. in support of motion for TRO).

Defendants’ argument that Plaintiffs’ claims of substantial risk of serious harm are based upon speculation and conjecture because there is (allegedly) no evidence that Camp J is causing the virus to spread at LSP is essentially a (meritless) ripeness argument. But under Defendants’ logic, there is never a proper time to request a TRO: If the harm has not yet occurred, no risk can be proven, and if the harm is already occurring, then it is too late for it to be enjoined. Defendants’ flawed logic reveals their misunderstanding of the law. As the Supreme Court has long recognized, 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.”¹⁹

II. The Camp J Transfer Plan Presents Both an Objective and a Subjective Substantial Risk of Serious Harm

A. Defendants’ Camp J Transfer Plan Creates a Substantial Risk of Serious Harm to Patients Because Camp J Is Not Fit to House COVID-19 Patients

Camp J presents an objective substantial risk of serious harm because it is an unsuitable living environment even for healthy individuals; it is unconscionable for Defendants to use the facility to house people who are sick. Defendants are aware of the risks therein because they are obvious:²⁰ Camp J is a punitive facility that was shut down *by the DOC* due to health and safety concerns.

Many factors make Camp J unfit to house COVID-19 patients. Despite Defendants’ conclusory contention that Camp J has been updated, a “lack of equipment and power outlets[] and unsanitary conditions make it difficult to reconfigure Camp J as a medical unit.”²¹ Camp J’s buildings have inadequate natural ventilation, which means that the existing mechanical ventilation systems cannot “effectively disperse contaminated air and that the buildings pose a public health hazard to patients, staff, and medical personnel.”²² The cells are not compliant with the Americans with Disabilities Act

¹⁹ *Helling v. McKinney*, 509 U.S. 25, 33 (1993).

²⁰ See *Gates v. Cook*, 376 F.3d 323, 333 (5th Cir. 2004) (“[A] factfinder may conclude that a prison official knew of a substantial risk from the very fact that the risk was obvious.”).

²¹ Ex. 1, MASS Design Group, *The Role of Architecture in Fighting COVID-19: Prisons Case Study* at 8.

²² *Id.* at 6.

or with the latest American Correctional Association standards.²³ The lack of “unencumbered space” makes the cells “ergonomically unfit for medical treatment, let alone inhabitation.”²⁴

Putative Class Member Paul Nash was transferred to Camp J on April 11 and reports that “only two” of the four toilets in his first Camp J dormitory (presumably “Bass”²⁵) was working.²⁶ The patients are responsible for keeping the facility clean, even though the majority are “really, really sick.”²⁷ Contrary to Defendants’ glowing characterization of their preparations, Mr. Nash reports that “[t]he cells have not been cleaned and there is black mold everywhere.”²⁸

Defendants’ description of the isolation procedures at Camp J are also inconsistent with what is occurring in practice. They claim that all Camp J arrivals go through a two-step isolation process: held at Bass for “approximately” seven days and then, if improving, transferred to Gar for another “approximately” seven days.²⁹ Paul Nash arrived at Camp J on April 11 and was “moved to another part of Camp J” on April 15, only four days later—he believes he was moved not because his condition had improved, but rather “to make room for other people” being transferred.³⁰ The nurses “used to come check on” the patients twice a day, but now only once per day.³¹

Even if all Camp J transfers were being isolated according to Defendants’ description, it would still be inadequate. Moving patients to “step down” status after only seven days does not account for the unpredictability of the disease, which can remain mild for much longer than seven days before worsening to the point of requiring hospitalization.³²

²³ *Id.* at 8.

²⁴ *Id.*

²⁵ *See* Defs.’ Opp’n to TRO at 7.

²⁶ Ex. 3, Supp. Nash Decl. at ¶ 10.

²⁷ *Id.* at ¶¶ 9-10.

²⁸ *Id.* at ¶ 11.

²⁹ Defs.’ Opp’n to TRO at 7-8.

³⁰ Ex. 3, Supp. Nash Decl. at ¶ 11.

³¹ *Id.*

³² *See* Vassallo Decl., Dkt. 15-3 at ¶ 7.

Defendants vaguely allude to “Camp J isolation criteria”³³ but do not describe how determinations are made as to whether a person should remain at Camp J or be hospitalized. Mr. Nash observed at least one person with pneumonia at Camp J—but no one was taken to the hospital.³⁴ Defendants admit that at least two individuals were sent to the hospital upon their arrival at Camp J because they did not meet the “criteria” and “should not have been sent to Camp J in the first instance.”³⁵ This is evidence that sheriffs sending transfers to Camp J do not have adequate guidance on the transfer criteria.

No matter how much Defendants claim to have cleaned, the inhumanity of housing sick and suffering human beings at Camp J is obvious. Thus, Defendants are subjectively aware of the risk.

B. Defendants’ Camp J Transfer Plan Creates a Substantial Risk of Serious Harm Because It Increases the Risk of Transmission Among LSP’s Population

Defendants’ insistence that “[t]he offenders and employees assigned to Camp J do not have interaction with other employees or offenders of LSP so as to limit the potential for exposure to COVID-19” is inconsistent with reports from LSP inmates.³⁶ Named Plaintiff Otto Barrera was *taken to Camp J* from LSP’s Nursing Ward 1 on April 22 for approximately two hours before being *transported back* to Ward 1—he was not told why.³⁷ Mr. Barrera was taken to Camp J by an EMT in an ambulance that has been “going back and forth to every place in Angola.”³⁸ Before his brief stay at Camp J, Mr. Barrera was taken to Our Lady of the Lake Hospital with a high fever on April 20, where he was tested for COVID-19 (but not told his results), and a doctor told him that he had fluid in both his lungs.³⁹ He was taken from the hospital to Ward 1 for a few days, and then transferred to

³³ Defs.’ Opp’n to TRO at 8.

³⁴ Ex. 3, Supp. Nash Decl. at ¶ 9. One nurse told Mr. Nash, “this is [your] hospital.” *Id.*

³⁵ Defs.’ Opp’n to TRO at 12 n.54.

³⁶ Defs.’ Opp’n to TRO at 8; *see also id.* at 15, 16.

³⁷ Ex. 4, Barrera Decl. at ¶¶ 13-15.

³⁸ *Id.* at ¶ 13.

³⁹ *Id.* at ¶¶ 10-12.

Camp J.⁴⁰ During his two hours at Camp J, he was held in Bass with “40-50 people,” including people who “were walking around” and “not staying six feet away from each other.”⁴¹

Mr. Barrera’s experience shows that Camp J’s isolation is at the very least inconsistent. Under Defendants’ description of Camp J’s policies, Mr. Barrera should have remained at Bass for seven days, with an additional seven days at Gar before being tested—only after testing negative should he have been transferred out of Camp J.⁴² By being transported back and forth between Ward 1 and Camp J, Mr. Barrera could have exposed everyone at Ward 1, a nursing ward, to infection.

Defendants’ insistence that Camp J is completely separate from LSP also conveniently ignores the fact that uninfected LSP residents are required to work at Camp J, which exposes them to transmission. John Tonnubbee is a resident of Camp F, and he is aware of at least four individuals from Camp F who are working at Camp J, including three people from his dorm.⁴³ Patrick Courtney is a resident of Camp F who was disciplined for refusing to work at Camp J, and he knows of other Camp F residents who are working there.⁴⁴ Mr. Courtney refuses to work at Camp J because he is still presumably COVID-negative, and he has pre-existing conditions that put him at high risk.⁴⁵ By forcing COVID-negative LSP residents to work at Camp J, Defendants are creating a substantial risk of serious harm because they are knowingly exposing presumably virus-free inmates to the virus.

III. Plaintiffs’ Motion Is Not Moot Because the LSP Population Is Still at Risk of Exposure, and Thousands of Others Remain at Risk of Transfer

A. LSP Inmates Are Named Plaintiffs and Putative Class Members Who Are Put at Risk by the Transfer of COVID-19 Patients to Camp J

Plaintiffs’ motion is not moot because Named Plaintiffs and putative Class Members who are currently housed at LSP are put at risk by the Camp J transfer plan. “[C]orrectional officials have an

⁴⁰ *Id.* at ¶¶ 12-13.

⁴¹ *Id.* at ¶ 14.

⁴² Defs.’ Opp’n to TRO at 7-8.

⁴³ Ex. 5, Tonnubbee Decl. at ¶ 8. Mr. Tonnubbee also reports that “[u]ntil recently, the Camp F kitchen crew was working at Camp J while COVID-19 patients were already there.” *Id.*

⁴⁴ Ex. 6, Courtney Decl. at ¶¶ 8, 9.

affirmative obligation to protect inmates from infectious disease.”⁴⁶ The Eighth Amendment “require[s] a remedy” when their jailors knowingly expose them to a risk of contracting serious infectious diseases, even if “it was not alleged that the likely harm would occur immediately and even though the possible infection might not affect all of those exposed.”⁴⁷

As discussed above, Camp J is not effectively isolated from LSP. Otto Barrera’s two-hour stay at Camp J and transfer back to Ward 1 prove as much. Moreover, the residents of Camp F who are required to work at Camp J are putative Class Members who are put at risk by being physically present at Camp J, a purported medical isolation facility. Because “Camp J plans to continue to accept offenders from local jails,”⁴⁸ Plaintiffs’ TRO motion is not moot, as ongoing transfers will increase the risk of spread to LSP and continue to overrun Camp J.⁴⁹

B. Named Plaintiffs and Putative Class Members Still Face Imminent Risk of Transfer to Camp J

Plaintiffs’ motion is not moot because Named Plaintiffs Daniel Gumns and Ian Cazenave still face transfer to Camp J if they contract the virus,⁵⁰ and there are many confirmed patients in other facilities who face imminent risk of transfer. Plaintiffs’ counsel have so far obtained sworn declarations from six putative Class Members,⁵¹ four of whom have already tested positive and are being held at Orleans Justice Center (“OJC”), where an officer announced on April 24 that “starting

⁴⁵ *Id.* at ¶ 10, 11.

⁴⁶ *Jolly v. Coughlin*, 76 F.3d 468, 477 (2d Cir. 1996).

⁴⁷ *Helling v. McKinney*, 509 U.S. 25, 33 (1993).

⁴⁸ Defs.’ Opp’n to TRO at 10.

⁴⁹ Defendants interestingly admit that if any cross-contamination was going to occur, it “has already occurred.” *Id.* at 12. But contamination is not a single-event occurrence; it can be mitigated, or it can be exacerbated. Indeed, for this reason, communities around the world tighten social isolation practices when the virus reaches them rather than abandoning precautions.

⁵⁰ See Ex. 4, Barrera Decl. at ¶ 13; see also Defs.’ Opp’n to TRO at 7 (“Camp J is being operated as independent prison separate and apart from the rest of DOC and LSP.”).

⁵¹ See Ex. 7, Gallagher Decl. (OJC, confirmed positive Apr. 22); Ex. 8, Perkins Decl. (OJC, confirmed positive Apr. 19); Ex. 9, Curtis Decl. (OJC, confirmed positive Apr. 17); Ex. 10, Nathan Decl. (OJC, confirmed positive Apr. 23); Ex. 11, Cooks Decl. (Franklin Parish Correctional Center, 17 people are positive, has heard that they are being moved to Camp J); Ex. 12, Hymes Decl. (Franklin Parish Correctional Center, has heard about people being moved to Camp J).

Monday, April 27,” confirmed patients from OJC would be moved to Camp J.⁵² These putative Class Members face an imminent risk of serious harm if transferred.

Plaintiffs’ motion does not become moot once Named Plaintiffs are transferred.⁵³ Plaintiffs have moved for class certification, and their claims with respect to this TRO are “inherently transitory” and therefore not mooted as soon as Named Plaintiffs’ “individual interest[s]” in the TRO “expire[.]”⁵⁴ The time between a person testing positive and being transferred to Camp J is only a few days. The risk of transfer is “fleeting [and] temporary in nature,” patients are “uncertain[.]” of the “duration” of the period of risk, “it is unlikely that any given individual [P]laintiff could see his claim to fruition prior to” transfer, and Defendants’ continued transfers and the ongoing pandemic assure that “there exists a constant group of people suffering the harm alleged by [Plaintiffs].”⁵⁵

C. Individuals at EBR Still Face a Risk of Transfer to Camp J Because Defendants’ Stopping of Transfers from EBR Is Voluntary Cessation

Defendants’ assertion that transfers from East Baton Rouge Parish Prison (“EBR”) have stopped does not moot Plaintiffs’ motion because it is textbook voluntary cessation.⁵⁶ Plaintiffs’ motion with respect to EBR Class Members is not moot because the cessation of EBR transfers does not make it “absolutely clear that the [transfers] could not reasonably be expected to recur.”⁵⁷

While the “heavy burden” of showing that EBR transfers will not recur is somewhat lessened for governmental cessations,⁵⁸ Defendants have not met that burden. The only evidence they have provided regarding EBR transfers is LSP Deputy Warden Falgout’s vague assertions.⁵⁹ Mr. Falgout is not an EBR official; Defendants have not provided testimony from any EBR official. Defendants

⁵² Ex. 7, Gallagher Decl. at ¶ 7.

⁵³ Defendants’ additional argument that Plaintiffs’ TRO is moot because transfers have already begun is puzzling. Plaintiffs ask this Court to enjoin Defendants’ *ongoing practice* of transferring COVID-19 patients to Camp J.

⁵⁴ *United States Parole Comm’n v. Geraghty*, 445 U.S. 388, 399 (1980).

⁵⁵ *Adickes v. Hellerstedt*, 753 F. App’x 236, 242 (5th Cir. 2018).

⁵⁶ *Sossamon v. Lone Star State of Tex.*, 560 F.3d 316, 325 (5th Cir. 2009) (“[I]t is well settled that a defendant’s voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice.”) (quoting *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 189 (2000)).

⁵⁷ *Id.*

⁵⁸ *Id.*

offer no explanation of EBR’s new isolation arrangements, their capacity, or what will happen if that capacity is exceeded. Mr. Falgout does not state that EBR transfers have stopped as a matter of policy; he merely states that they have stopped. EBR transferred 18 people to Camp J before transfers ceased.⁶⁰ Transfers from EBR stopped almost immediately after Plaintiffs’ motion for TRO was filed. Defendants have offered no evidence that transfers from EBR cannot recur.

IV. Plaintiffs Have Complied with the PLRA

Plaintiffs have complied with the PLRA’s exhaustion requirement because, unlike in *Valentine*,⁶¹ administrative remedies are not currently “available.” 42 U.S.C. § 1997e(a). Under the DOC’s flu pandemic plan, which is currently “activated to the highest level,”⁶² Administrative Remedy Procedures (“ARPs”) are “considered non-essential and suspended.”⁶³ Nevertheless, at least two Named Plaintiffs and two class members at risk of being transferred to Camp J filed or attempted to file grievances.⁶⁴ In any event, given the imminent risks of COVID-19 in Louisiana prisons, Plaintiffs cannot be expected to complete a lengthy exhaustion process.⁶⁵

CONCLUSION

For these reasons, Plaintiffs request that this Court immediately issue an order temporarily restraining Defendants from transferring Plaintiffs and any patients with COVID-19 to Camp J; and, after a hearing, preliminarily enjoin Defendants from doing so. Alternatively, Plaintiffs request that this Court hold an evidentiary hearing on the TRO motion to resolve the disputed facts.

Respectfully submitted this 26th day of April, 2020.

Respectfully submitted by:

/s/ Mercedes Montagnes

⁵⁹ Supp. Aff. of Tracy Falgout, Dkt. 24-3 at ¶ 20.

⁶⁰ Situational Awareness Report, *supra* note 4.

⁶¹ *Valentine*, 20-20207 at 11 (“All parties agree that the TDCJ administrative process is open for Plaintiffs’ use”).

⁶² Defs.’ Opp’n to TRO at 2-3.

⁶³ *Lewis v. Cain*, 15-cv-318, Dkt. 580-4 at 42 (2020.03.20 LSP COOP Plan Attachment 8).

⁶⁴ Ex. 4, Barrera Decl. at ¶ 19; Ex. 13, Supp. Allen Decl. at ¶ 13; Ex. 7, Gallagher Decl. at ¶ 9; Ex. 9, Curtis Decl. at ¶ 6.

⁶⁵ *See Marlowe v. LeBlanc*, 18-cv-63-BAJ-EWD, Dkt. 115, at 6-7 (M.D. La. April 23, 2020).

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Nishi Kumar, an attorney, hereby certify that on April 26, 2020, I caused a copy of the foregoing to be filed using the Court's CM/ECF system.

I further certify that I, or another one of Plaintiffs' attorneys, will promptly electronically serve a copy of the same, along with all other pleadings and papers filed in the action to date to the General Counsel for the Louisiana Department of Corrections, the General Counsel for the Louisiana Governor, and the General Counsel for the Louisiana Department of Health, as well as the Louisiana Department of Justice Director of Litigation via email.

/s/ Nishi Kumar
Nishi Kumar, La. Bar No. 37415

Prisons Case Study

“Jails are petri dishes,” rang the title of an article in the New York Times on March 30, 2020.

Carceral environments - Prisons, jails, and detention centers - are constrained, dense, overcrowded and poorly ventilated spaces with minimal access to the outdoors—design qualities that are counterproductive to infection control and which make social distancing difficult, if not physically impossible.

As cities, states, and countries sought to implement social distancing efforts--those working in the carceral system knew that social distancing in our country’s jails, prisons and detention centers would be a herculean, if not altogether impossible task

Unless drastic actions are taken to reduce the density and improve conditions within our correctional environments, these spaces will continue to pose a significant public health threat that will be felt throughout our communities.

Departments of corrections across the country are developing plans to release incarcerated populations, increase clarity of communication, implement social distancing strategies, stock medical and disinfectant equipment, and provide social and emotional support to staff, residents, and families. These plans are rightfully involving those outside of the prison walls, such as community partners working to address homelessness, to support released residents with appropriate housing and employment opportunities, being aware that many shelters and halfway houses are likewise overcrowded.

Andre Stancil, Deputy Director of Prison Operations, at the Colorado Department of Corrections, encourages us to remember that there does not need to be a tension between public health or public safety—in fact, **public safety is threatened when health is threatened, and concerns about security needs do not mean we cannot be innovative in the rethinking of spaces of incarceration.** Drastic and ill-planned response to the spread of COVID-19 can threaten fundamental human rights issues, whereas thoughtful interventions might bring the opportunity to promote health, wellness, and safety for staff, residents, family members, and the community. Amidst continuing uncertainty about the future of our public spaces, and the threat of regular outbreaks of infectious disease, our responses today must consider the long-term implications of each intervention.

As these plans take fruition, certain spatial strategies can be incorporated to help facilitate the achievement of safer spaces for our communities. This document presents the following design strategies:

Ensure adequate space for each person’s safety.

Sequence flows and segment populations.

Reconfigure medical facilities to control contagion and accommodate extended stays.

Make your spaces breathe better.

Design for people, not for lockdown.

About this document

These rules of thumb draw upon MASS’s design experience with epidemic outbreaks as well as work within the incarceration system in partnership with the Vera Institute of Justice, MILPA Collective, Dr. Baz Dreisinger at the John Jay College of Criminal Justice, and the South Carolina, Connecticut, and Colorado Departments of Corrections. While there are no existing design standards or guidelines that have been created in response to coronavirus, our hope is to provide best practice mitigation strategies to further the continued spread of the disease. These rules of thumb can be used by administrators, wardens, correctional officers, politicians, advocates, and activists seeking to limit contagion while safeguarding those who live and work in prisons, jails, and detention centers. Please note that while these recommendations include suggestions to improve conditions of overcrowding, they are not intended to be an ideal design nor an implicit approval of the current conditions within correctional facilities.

Ensure adequate space for each person's safety.



In common spaces and open dorms, 150 SF - 200 SF per person is recommended to provide social distancing and freedom of movement.

Reduce density

The single most impactful and necessary action to prevent the spread of the Coronavirus in jails and prisons is to reduce density by immediately reducing the populations. A number of states and organizations have issued recommendations regarding early and compassionate releases, furloughs, and the cessation of new intakes. These policies focus on populations that do not pose an imminent threat: those who are elderly, ill, en route to parole or release within a year, in pretrial detention, awaiting sentencing, or are incarcerated on nonviolent charges, and make it possible for the spaces to achieve an ideal ratio of square foot per person needed to maintain social distance.

Executive orders by the governor in Colorado (here and here) and Connecticut (link?) have accelerated this process in these states.

Additionally, the Vera Institute of Justice has released a set of recommendations for preventive measures in jails, prisons, immigration detention and youth facilities, which can be found here.

Convert existing spaces.

As the incarcerated population drops, the following opportunities become available to convert existing spaces to support a reduction in density:

- Convert double- and triple-bunked cells into single rooms.
- Convert empty cells into programmed spaces, including mediation room, exercise room, art studio, recording studio, libraries, and kitchenettes, among others.

In dormitories

People (and beds) should be separated by 6 ft (2 m) to minimize droplet transmission.

Where partitions are available, ensure that each person's personal space is at least 9'x9', with each bed placed alongside non-adjacent walls to prevent aerosolized transmission, and accessible to a corridor at least 12' wide.

Where partitions are not available, ensure that each person's personal space is at least 195 square feet (15' x 13') and immediately adjacent to a 12' wide corridor.

Consider how each unit can be self-sufficient by converting empty cells and buildings into recreational and programming spaces. Consider activities to support meditation, exercise, classes, and reading rooms, among others.

In group congregation spaces

Rearrange dining halls to accommodate more space between each person and use only one side of the table. Consider allowing small groups of people to eat outside where they can spread out more without experiencing isolation.

Communal spaces like hallways, dayrooms, cafeterias, and sally ports, are the most contagious because they're where crowding occurs. Meet, interact, collect, connect outdoors if you can, and choose recreation spaces where people can spread out.

Reduce congestion and reliance on communal spaces where infectious and healthy people or where staff and incarcerated people mix and restrict recreation space usage to a single space per unit.

Sequence flows and segment populations.

Prisons, jails, and detention centers are confined spaces, which poses two implications on the spread of COVID-19.

The first implication is that staff members, who may interact with those carrying the virus in their homes and communities in between each shift, may unwittingly import the virus into prisons, jails, and detention centers. The second implication is that once COVID-19 enters the prison, it can rapidly spread and result in inhumane confinement where people are increasingly stressed, completely immobilized, and deprived of normalcy. Prisons, jails and detention centers can adopt the following strategies to control exposure:

Limit the number of contacts between staff and incarcerated people and segment staff by space and shift to eliminate overlaps.

Reduce the overlap of space to avoid cross-contamination and contain the spread of the virus.

Reconfigure medical facilities to control contagion and accommodate extended stays.

Not every correctional environment has a medical facility equipped to deal with coronavirus patients. Each facility should assess their medical capabilities, review protocols for dealing with disease outbreaks and exposure, and coordinate with state, local, tribal, or territorial health departments. Correctional institutions should take care to separate testing, suspected, confirmed, acute cases as well as those in recovery.

Just as patients must be triaged to prioritize those most in need of care; spaces must be triaged to protect healthy people from getting sick—including staff and incarcerated people with non-confirmed cases. Prepare spaces for those infected with coronavirus with access to comfortable furnishings and personal belongings, a telephone, and programming, even if that programming is done via videoconference or another technology. Below are some additional strategies related to medical preparation:

Consider how a reduction in the institution's overall capacity can open units to be used as quarantine wards for cases that require less intensive care.

Assign a room near each unit to for COVID-19 testing and evaluation to limit spread to other parts of the facility.

Sequence the flows of people to limit unnecessary overlaps.

Create clear thresholds for donning and doffing of personal protective equipment (PPE) before entering and exiting areas with individuals that have been confirmed or are suspected of having the coronavirus infection.

Make your spaces breathe better.

COVID-19 is mainly spread by droplets—produced by coughing, sneezing or even just talking—that can travel up to 6 ft (2 m). There is early evidence that smaller particles may be able to float even longer distances. In the latter situation, called airborne transmission, proper ventilation and simple airflows strategies can help.

To dilute and remove contaminated indoor air, open windows on opposite ends for cross ventilation (if appropriate, and if the space allows), or use exhaust fans or mechanical systems to pull air outside. Air cleansing strategies are also an effective option, such as Germicidal Ultraviolet (GUV) air disinfection units or air filters, which can be installed inside cells and throughout dayrooms and common spaces that are used by several different groups of people.

Regularly clean vents and replace air filters.

Introduce air-purifying plants (snake plant, spider plant, dracena, weeping fig, chinese evergreen, among others) in cells and

throughout the space, which can reduce harmful VOCs, ease irritation to eyes, ears, nose and throat, prevent coughing and congestion, and lower stress

Use outdoor spaces for programming activities where possible.

As these strategies are implemented, also consider how they might inform ventilation strategies over the long term to control airborne pathogens and maintain a healthy environment. Don't be afraid to make permanent interventions to bring in more daylight, air, views, and access to nature, as these elements bring in additional positive health benefits to both staff and residents.

Design for people, not for lockdown.

Even the best-intentioned plans will fail if they do not consider the needs of the individuals and communities—staff and residents—who will be affected. Options like lockdown, tent dorms, or converting gyms into warehouse dorms may seem like the easiest interventions to implement, but can result in increased fear, panic, and distress, and subsequently increased distrust, violence, vandalism, and recidivism. Keep in mind that the social and emotional needs of incarcerated people are different and often more severe than those who practice social distancing outside confined facilities. Sensitivity to an increased need for emotional and counseling support, transparency, and family connection should guide how correctional institutions balance social distancing with social connectivity. Below are some considerations for further limiting the spread of the virus while maintaining critical programming and rebuilding trust, hope, and solidarity in the public domain:

Although prisons, jails, and detention facilities are often seen as spaces of isolation, research has shown a correlation between communal programming and improved outcomes, including increased education and vocational skills that contribute to successful re-entry as well as reduced violence, vandalism, assault, and recidivism. Where possible, make every effort to facilitate access to these programming opportunities.

Classes should be sized for social distancing.

Prepare spaces with access to comfortable furnishings and personal belongings, a telephone, and programming, even if that programming is done via videoconference or another technology.

Acknowledge the reality of human emotions and honor those whose lives have been impacted or lost in the path of the virus. Consider how current spaces can be reimagined into spaces that support the grieving process, preserve memory, and offer comfort.

Look for opportunities to involve both staff and residents in the COVID-19 prevention efforts. It's likely that they may be spending extended periods of time in a smaller area, and letting them define their spaces can help bring a sense of agency and control in a difficult situation.

Vandal-proof is not virus-proof.

It is believed that surfaces contaminated with infected droplets can transmit disease. Non-porous surfaces (e.g., stainless steel, plastic, composites) are proving to be materials where COVID-19 has been shown to live the longest and tend to be used on doors, handrails, and tables. Typical correctional furniture, and finishes feature surfaces that are made of metallic, hard, and nonporous materials (e.g., stainless steel, plastic, composites), on which the virus can survive for up to 72 hours, as research has shown. In addition, these nonporous surfaces require continuous cleaning, which can introduce harmful chemical fumes. In an environment with inadequate ventilation, this can significantly degrade interior air quality and pose a health risk to incarcerated people and staff working in these spaces.

Especially in conditions where there is a lack of supplies and materials to clean surfaces frequently, consider the introduction of softer, natural, and porous materials, including textiles and wood, on which early research has shown the virus has a shorter lifespan. These materials, along with couches and area rugs, evoke normalcy, comfort, and dignity, qualities that are not only increasingly crucial to everyone's mental health during this time, but which have been shown to contribute to significantly lower rates of violence, vandalism, and verbal assault in correctional environments. In short, more normalized environments are healthier and safer for everyone.

Highlight high-touch surfaces (door handles, handrails, tabletops) with bright-colored paint, tape, and/or signage. Clearly identify spaces where masks and regular cleaning are required. Use language that conveys firm but encouraging reminders instead of an aggressive tone, which can add stress.

Take special care to routinely clean high-touch surfaces and non-porous surfaces, and consider creating no-touch surfaces where possible (i.e., leave doors open to reduce interaction with door handles or doors).

Place sanitizers or hand wash stations next to high-touch surfaces.

While you're at it, build a sense of solidarity and accountability by engaging residents in creating signage, painting walls, doors, and furniture to design how they want their spaces to look like, especially during a time of dramatic change.

Case Study: The Louisiana State Penitentiary at Angola

In spring 2018, the Louisiana State Penitentiary closed its most restrictive housing unit, Camp J, citing its deteriorating infrastructure and facilities. Described as a “dungeon” and a “microcosm of a lot of things that were wrong,” the closure of Camp J was seen by many activists as a symbolic victory against inhumane incarceration.

Despite these gains, Camp J soon reared its horrors again, this time during this year’s coronavirus pandemic. Disregarding the protests of incarcerated people, public health experts, and COVID-19 guidances issued by the Centers for Disease Control as well as correctional and advocacy organizations including the Vera Institute of Justice and Amend, the Louisiana Department of Corrections moved to re-open Camp J to house anyone in the state (whether in prison or jail) who tests positive for COVID-19. At the time of this publication, there are over 40 people housed at Camp J, many of whom were forced to relocate without a choice.

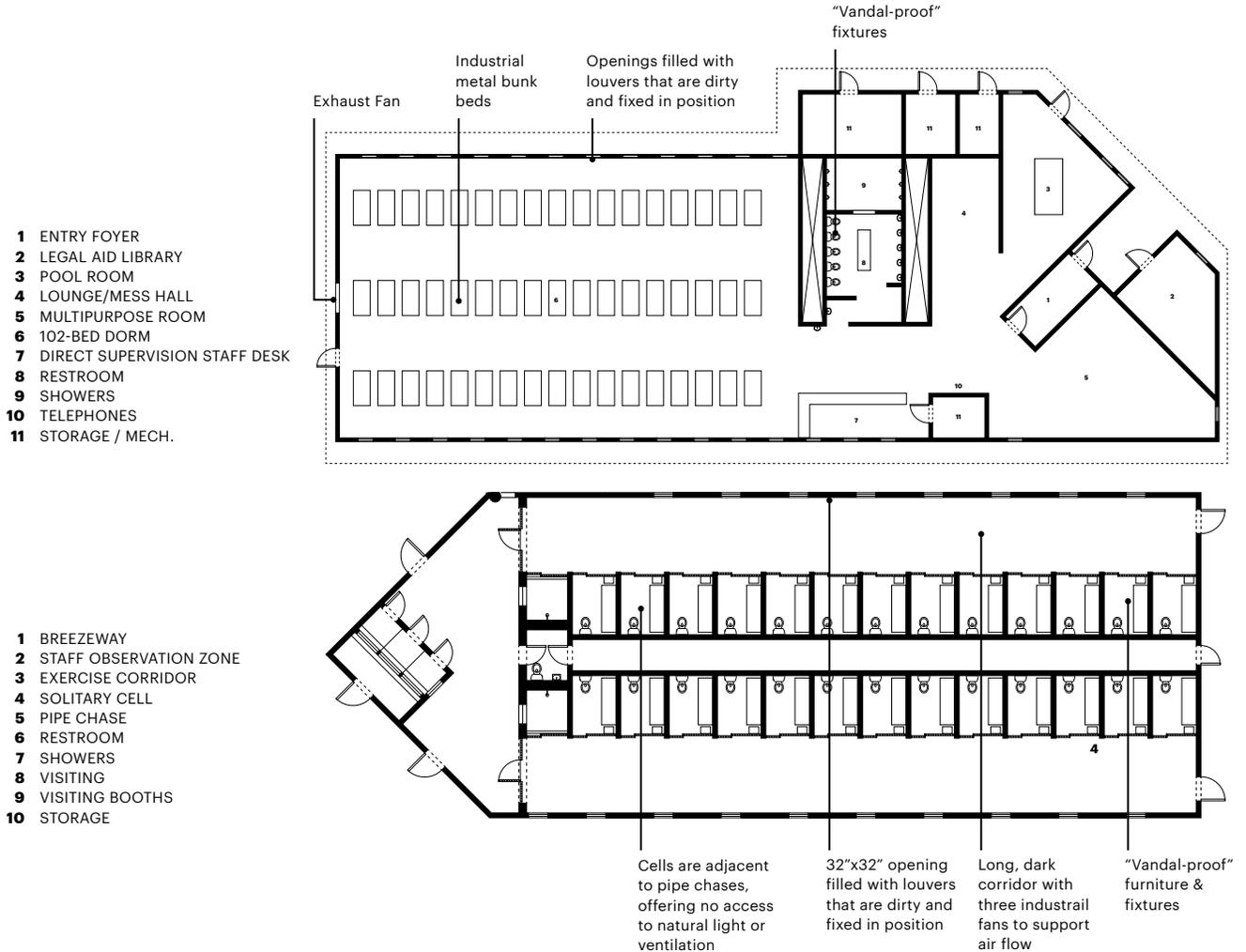


About Camp J

Built in 1977 as mass incarceration began to skyrocket, Camp J is located approximately a mile from the main prison on the southwestern shore of Lake Killarney, and served over forty years as Angola’s disciplinary unit—the prison to the prison. Its grounds consist of five identical restrictive housing buildings, each totaling 104 cells—some of which were double-bunked—and a large, open-plan warehouse dorm known as the Bass Dorm that housed over a hundred at full capacity, 26 outdoor solitary-confinement “recreation” cages, and several smaller, auxiliary structures. At its peak, Camp J housed over 400 people in solitary cells 23 hours a day for 7 days a week.

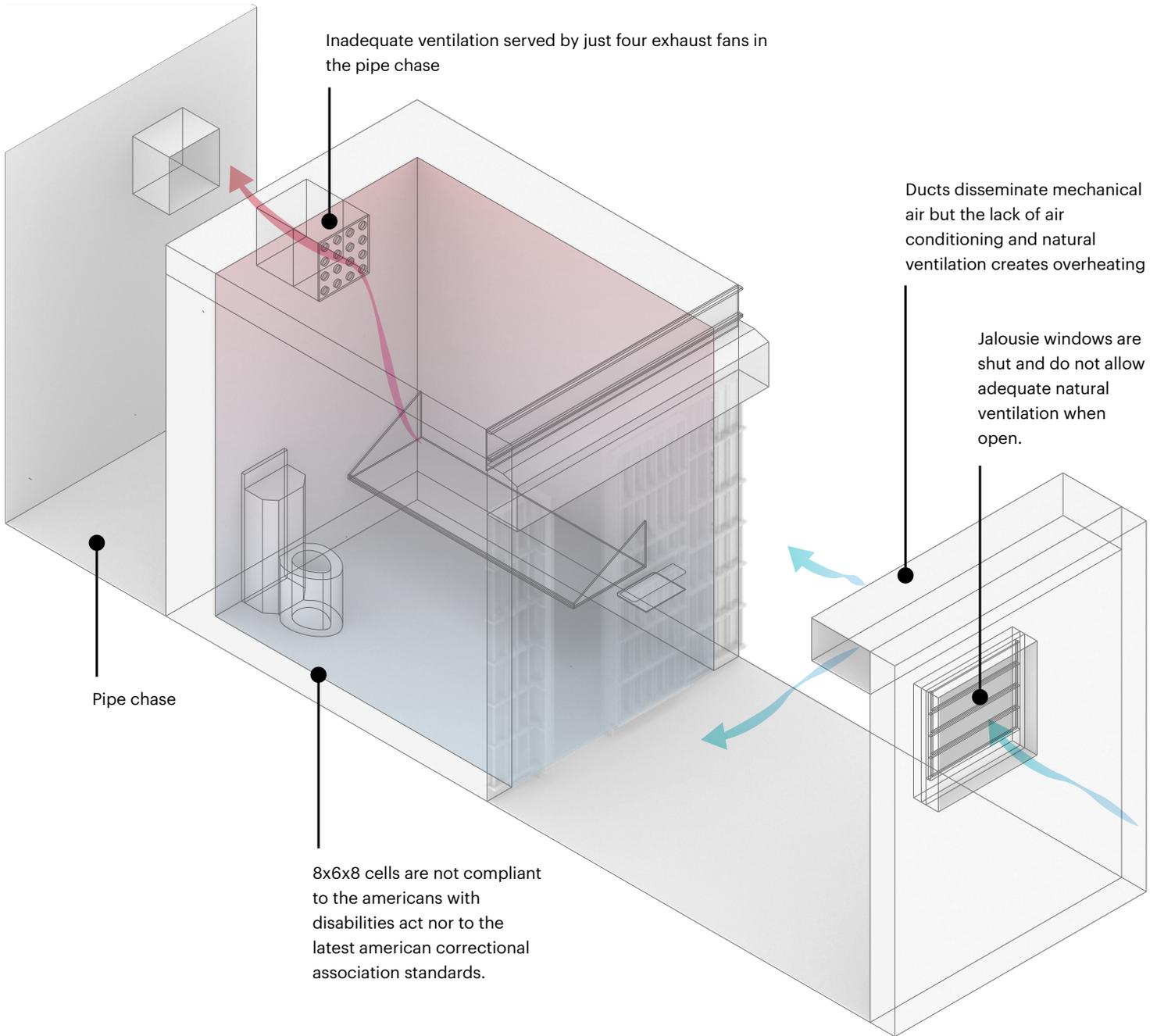
Ventilation

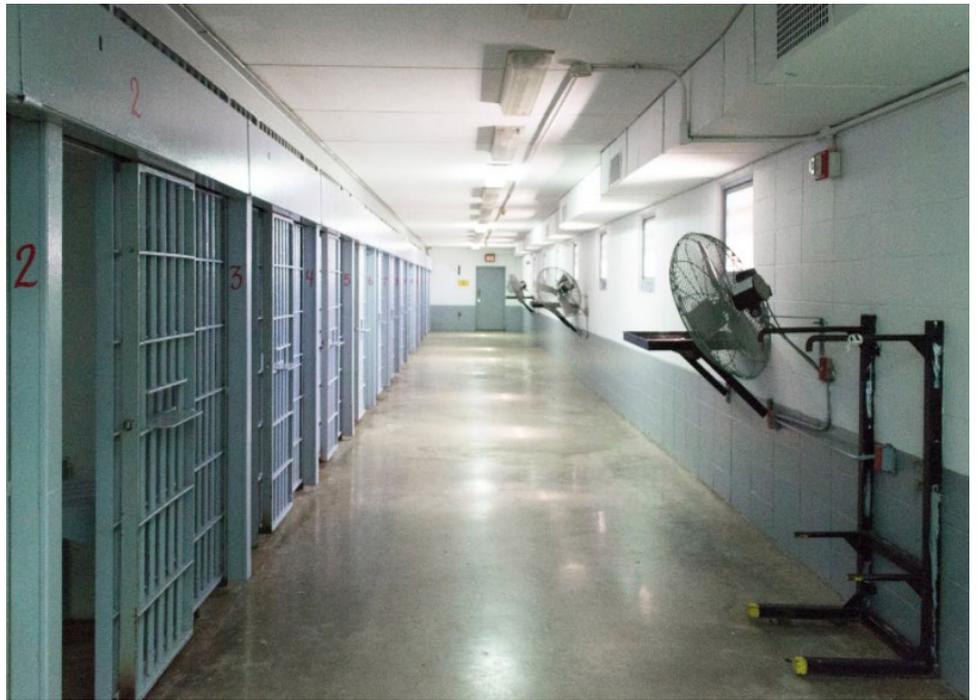
Although each of Camp J’s five restrictive buildings primarily rely on mechanical ventilation, the resulting airflow is inadequate for infection control. Negative pressure spaces, which maintain a continuous vacuum that draws in contaminated air and disperses it to the outdoors through a mechanical ventilation system, are ideal in containing the spread of contaminants. However, because of doors that open to the outdoors and operable jalousie windows, the space does not form a seal, and as a result, air finds a way in, and airflow control is compromised, meaning that the risk of airborne contamination is increased. In addition, the lack of sealed barriers between each cell in the restrictive housing structures increases the likelihood of the virus being suspended in air throughout these structures.



The Bass Dorm, an open-plan dormitory, has just a single industrial-grade exhaust fan along one end of the building. Along its perimeter, there are jalousie windows that open only to a fixed amount of space between each slat, limiting the amount of natural ventilation that enters the space. To circulate air, ceiling fans are located throughout the dorm; however, they merely circulate contaminated air when the exhaust fan isn’t running. When it is running, the fan draws contaminated throughout the space, exposing everyone who stands in the path of air.

However, harnessing constant natural ventilation through contaminated spaces can effectively disperse the virus to the outdoors, where fresh air dilutes the virus. In addition, early studies suggest that the ultraviolet light of the sun can disinfect the contaminated air. However, the inadequacy of natural ventilation in both the Bass Dorm and the restrictive housing units at Camp J means that existing ventilation can’t effectively disperse contaminated air and that the buildings pose a public health hazard to patients, staff, and medical personnel.





Cell Layout

The narrowness of each cell, just six feet wide in the restrictive housing units, the location of the bed, bolted against the wall, and narrow cell openings make the space ergonomically unfit for medical treatment, let alone habitation. In fact, the current cell dimensions violate current American Correctional Association standards as they fail to provide seven feet of unencumbered space. In addition, the cells are not compliant with the Americans with Disabilities Act, an important consideration as patients, especially those who are elderly or severely ill, experience reduced mobility and become more dependent on staff for mobility. With mobility inconvenienced, people are more likely to be left in cells 24 hours a day and 7 days a week for the duration of their illness.

Access to Healthcare

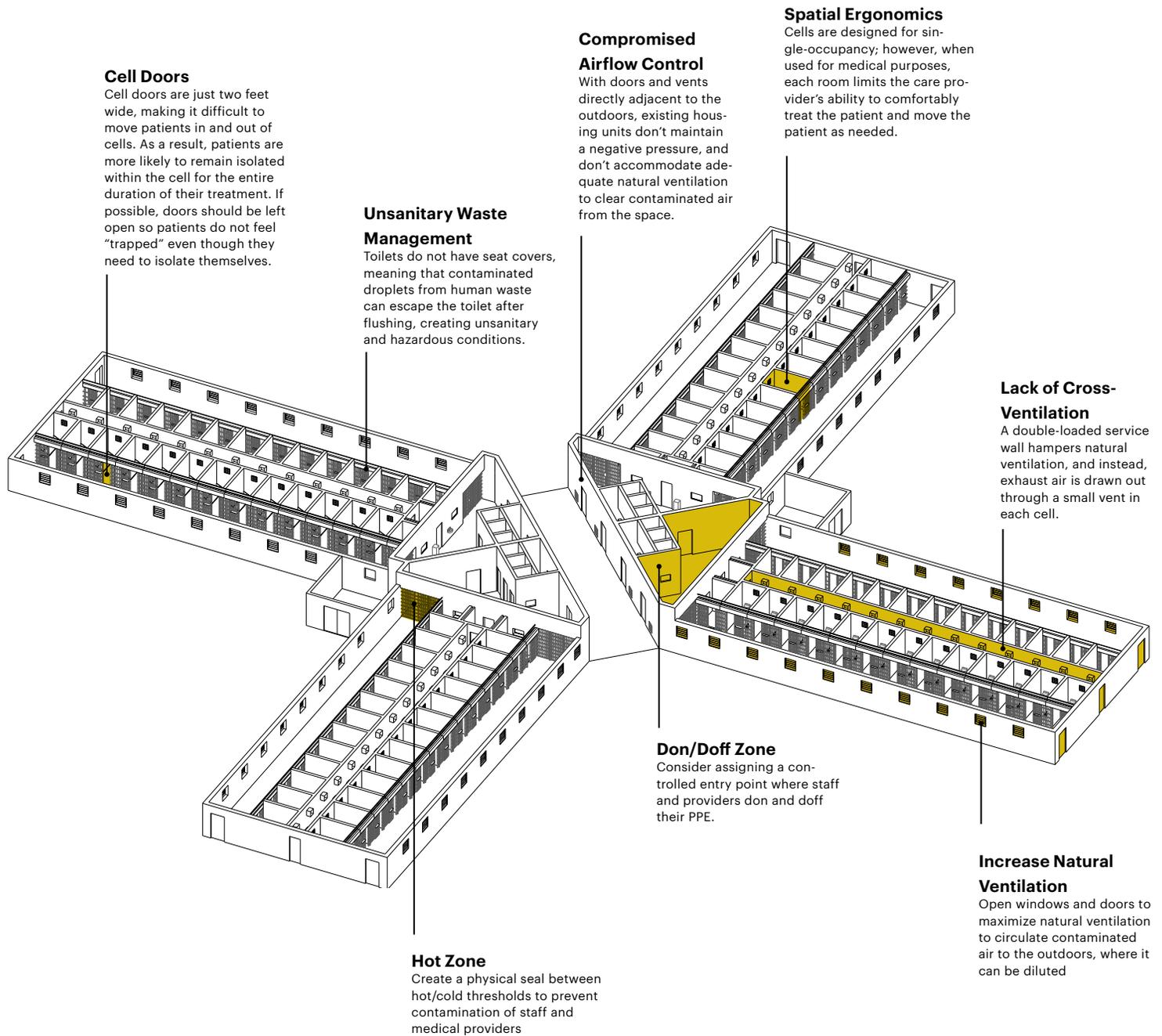
Inadequate ventilation, lack of equipment and power outlets, and unsanitary conditions make it difficult to reconfigure Camp J as a medical unit. In addition, due to harsh sentencing laws, Angola currently houses a disproportionate number of elderly people and people with chronic pre-existing conditions who require regular or continuous medical care. However, in the event that the elderly and those with chronic pre-existing conditions contract COVID-19 and are moved to Camp J, the distance between Camp J and Angola's limited medical facilities, located within the main prison, effectively isolates these people from critical medical care. Housing COVID-19 patients at Camp J puts them over an hour from the nearest hospital equipped to treat more acute medical needs. As a result, access to healthcare is exposed, and those with COVID-19 face increased medical risks, including death.

Emotional Destruction

Dimly lit, poorly ventilated, and lacking a view to the outdoors, people housed in Camp J spend their days in extreme abnormality, staring at walls or ceilings, listening to a barrage of noises throughout the unit, and immobile on narrow, uncomfortable beds. Historically, being sent to Camp J symbolized a death sentence. Its remoteness from the main prison, its poor spatial ergonomics, its unsanitary conditions, and its indignity dehumanize people and deprive identity. Very few return from Camp J without deep emotional trauma. Repurposing Camp J as a COVID unit sends a similar message: you may never return, and you may die alone.

Restrictive Housing Unit

Louisiana State Penitentiary, Angola



Additional resources for COVID-19 in prisons:

- The Centers for Disease Control guidance on the [Management of COVID-19 in Correctional and Detention Facilities](#).
- Restoring Promise [Webinar](#) on COVID-19 in prisons
- [Staff guidelines](#) from Amend
- World Health Organization guidance on the [Preparedness, prevention, and control of COVID-19 in prisons and other places of detention](#)
- National Commission on Correctional Health Care [COVID-19 Weekly Roundtable For Law Enforcement & Correctional Health Care Webinar](#)
- Holly Yan, CNN, [Prisons and jails across the US are turning into 'petri dishes' for coronavirus. Deputies are falling ill, too.](#)

Acknowledgements

Special thanks to:

- Alexandra Frank, Restoring Promise, Vera Institute of Justice
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- Scott Semple, Warden (ret.), Cheshire Correctional Institution, Connecticut
- Andre Stancil, Colorado Department of Corrections
- Richard Cho, CEO, Connecticut Coalition to End Homelessness
- Baz Dreisinger, Prison to College Pipeline, John Jay College of Criminal Justice
- Andrea Armstrong, Loyola University School of Law
- David Cloud, Amend

Appendix

Calculating space per person

In a 5,000 square-foot dayroom, the maximum allowable capacity is between 20 people (200 square feet per person) to 25 people (150 square feet per person). Anything less creates a "gridlock" where any movement will likely expose people to contamination.

To calculate the capacity of a dayroom or common space:

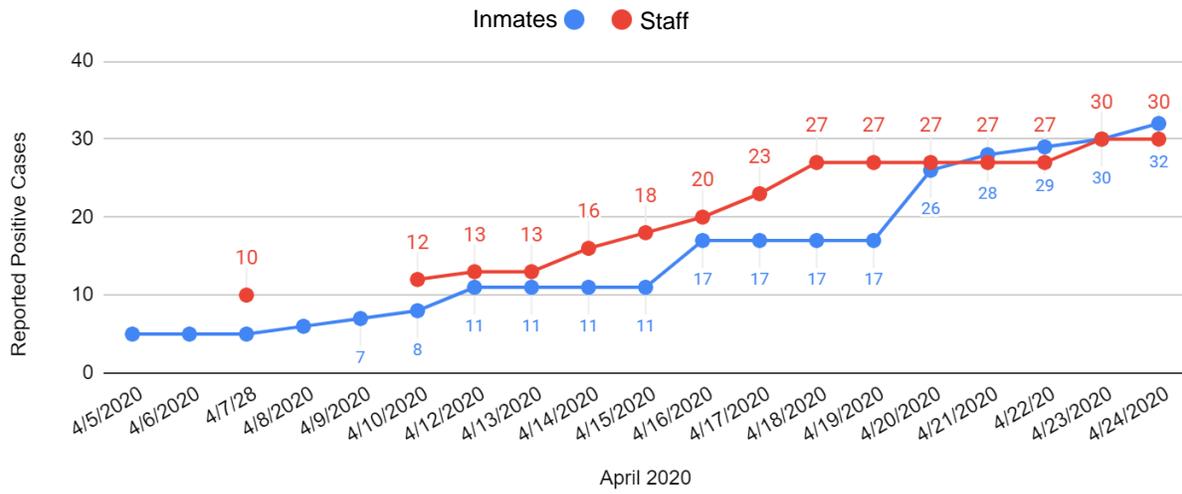
$$\text{Number of People} = (\text{Total Area} - \text{Circulation Area}) / \text{Area per Person}$$

With a typical circulation allocation equivalent to 30% the total area, the above equation can also be written as:

$$\text{Number of People} = (\text{Total Area} - (0.3 * \text{Total Area})) / \text{Area per Person}$$

Reported LSP COVID-19 Cases

<https://doc.louisiana.gov/doc-covid-19-testing/>



SUPPLEMENTAL DECLARATION OF PAUL NASH:

I, Paul Nash, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is Paul Nash.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am 42 years old.
4. I am pre-trial and was being held pending my trial in Bienville Parish Prison.
5. I was having symptoms and was tested for COVID on the night of April 8. I was told I tested positive.
6. On April 11, 2020, I thought I was being brought to the hospital because I was having breathing issues but I was instead brought to Camp J at Angola. I did not want to come to Camp J.
7. I am suffering from chills, aches, fever, and shortness of breath. I had a temperature of 101 degrees on April 15, 2020. I have no sense of taste or smell.
8. I have pre-existing medical conditions of asthma and kidney problems that put me at risk of medical complications.
9. I was in a dormitory at Camp J with 40-50 people. There were at least 30 people who are really, really sick. Some of them have respiratory issues. One person has pneumonia in his lungs. Nobody has been taken to the hospital. I was told by the nurse that “this is our hospital.” There are no doctors.
10. The dormitory has four toilets and six showers but only two of the toilets work. We are responsible for keeping everything clean.
11. On April 15, 2020, I was moved to another part of Camp J. I am now in Cellblock 3 along with seven other patients. The bars of the cell are open. The nurses used to come check on us at 6:00 am and 6:00 pm. As of April 24, 2020, the nurse only comes to check on us once a

day. People are sick and coughing. The cells have not been cleaned and there is black mold everywhere. It is my understanding I was moved to the cell to make room for other people who are being transferred in to Camp J.

12. I am worried that I will develop even worse symptoms and need to be hospitalized. I want to make sure I am close to a hospital in case that happens.
13. I would prefer to be home with my family, recovering and staying away from other people who are also sick. My family lives near a hospital.
14. If I can't go home, I would prefer to go to the medical facility at the convention center in New Orleans. It is my belief that they have appropriate staff, medical isolation, and the ability to house people who have tested positive for COVID-19 who are incarcerated. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary.
15. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to provide them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of other individuals detained in Louisiana as long as I am a named plaintiff.
16. I seek only declaratory and injunctive relief on behalf of the subclass. I am not seeking monetary damages, and I understand this this civil case will not result in the dismissal of my criminal proceedings against me or others.

17. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.

18. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar

Nishi Kumar on behalf of Paul Nash

April 24, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant Mr. Nash. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Mr. Nash's behalf with his express consent.
3. Mr. Nash is currently being held at Louisiana State Penitentiary. Visitation has been suspended since March 12, 2020
4. I spoke with Mr. Nash over the phone. Mr. Nash has confirmed that I can sign on his behalf as reflected in his declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on April 24, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

April 24, 2020

DECLARATION OF OTTO BARRERA:

I, Otto Barrera, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is Otto Barrera.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am 54 years old.
4. I am indigent.
5. I am in DOC custody and was previously housed at Angola's Main Prison in the Ash 2 dormitory. Ash 2 is in part a dormitory for people who are handicapped or have medical needs.
6. I was housed in close quarters in the dormitory with approximately 86 other people. I was unable to maintain 6 feet of space between me and other people.
7. Someone in my dorm got sick and was taken out of the dorm. I didn't know where he was taken at the time.
8. I had a cough for four days and then developed a fever
9. On the night of April 19, 2020, I was feeling really bad and took ib profen. Nobody had told me not to take ib profen.
10. On April 20, 2020, I woke up and was told by a nurse that I had a high fever. My bones were also hurting. I think my fever was 103 degrees but I was pretty out of it. I was brought to the ATU. They did a flu test that came back negative. They did a COVID-19 test but did not tell me if it was positive or negative.
11. I was then put in a jumpsuit and shackles by two trip officers and an EMT in an ambulance to Our Lady of the Lake in Baton Rouge and they tested me there for COVID again. After dropping me off, the EMT picked up someone who had died from Our Lady of the Lake and drove the body back to Angola.

12. The doctor told me that I had fluid in both of my lungs. I was prescribed antibiotics. I was taken back to Angola Ward 1. The nurses check on me during their rounds and take my temperature. Those nurses are also treating the other patients on Ward 1.
13. On April 22, 2020, I was taken to Camp J by an EMT. The EMTs have been going back and forth between Camp J and the hospital wards. The ambulances and EMTs have been going back and forth to every place in Angola.
14. I was at Camp J for about two hours in the Bass dorm but they had not yet assigned me a bed. There were probably 40-50 people in the dorm and people were walking around. People were not staying six feet away from each other. I saw one nurse while I was there.
15. On April 22, 2020, the same EMT brought me back to Ward 1. They did not tell me why I was moved back. There is another person named Allen Thompson who was the first person to get sick in Ash 2 who is also on Ward 1.
16. I only have one face mask. I have had it on since I went to the hospital at Our Lady of the Lake.
17. I have pre-existing medical conditions including high blood pressure and high cholesterol that put me at risk of medical complications from COVID-19. I have been prescribed a mechanical soft diet.
18. I am currently experiencing symptoms of weakness and nausea.
19. On April 24, 2020, I tried to file an emergency grievance to not be transferred back to Camp J. I was denied a grievance form.
20. My work release date is August 2020. My full release is in February of 2021. I would prefer to go home to my family to rest and recover, away from other people who are also sick.
21. I do not want to go back to Camp J. I would prefer to go to the medical facility at the convention center in New Orleans or in Baton Rouge. It is my belief that they have

appropriate staff, medical isolation, and the ability to house people who have tested positive for COVID-19 who are incarcerated. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary.

22. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to provide them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of other individuals detained in Louisiana as long as I am a named plaintiff.
23. I seek only declaratory and injunctive relief on behalf of the class and subclass. I am not seeking monetary damages, and I understand this this civil case will not result in the dismissal of the criminal proceedings against me or others.
24. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
25. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar

Nishi Kumar on behalf of Otto Barrera

April 24, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant Mr. Barrera. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Ian Barrera's behalf with his express consent.
3. Mr. Barrera is currently being held at Louisiana State Penitentiary. All in-person visitation was cancelled effective March 12, 2020.
4. I spoke with Mr. Barrera over the phone. Mr. Barrera has confirmed that I can sign on his behalf as reflected in his declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on April 24, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

April 24, 2020

DECLARATION OF JOHN TONNUBEE:

I, John Ton nubbee, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is John Ton nubbee.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am 77 years old.
4. I am in DOC custody and currently housed at Camp F in Dorm 1. Camp A is for Class-A Trustees.
5. I am housed in close quarters in the dormitory with approximately 40 and 50 other people. I am unable to maintain 6 feet of space between me and other people.
6. I do not have gloves or hand sanitizer. They took away our bleach bottles a month ago.
7. There are 5 toilets, 5 sinks, and one open shower with 6 faucets in Dorm 1.
8. I know of at least four people from Camp F who are working at Camp J, including three people from my dorm, Ronald Adams (DOC # 273974), Peter Davis (DOC # 090015), and Ardie Cole (DOC # 31589). I don't know where they are staying. One is doing general maintenance and one is doing yardwork. One is likely working in the kitchen. Until recently, the Camp F kitchen crew was working at Camp J while COVID-19 patients were already there.
9. Patrick Courtney (DOC # 295356) was told to go work in the kitchen at Camp J and was put into disciplinary lockdown when he refused.
10. John Morott from Camp F went out on a work assignment on April 22, 2020, and got kicked by a horse so they took him to the Treatment Center where they have COVID-19 patients in both of the emergency rooms at the ATU. Then they brought him back to Camp F. I am worried that he brought the virus back to Camp F. They did not do anything to quarantine him. He is sleeping two beds from me.

11. I have pre-existing conditions that put me at a high risk if I become infected with COVID-19, including high blood pressure, sinus trouble, and an enlarged prostate. I had a cardiac arrest on July 31, 2019 and they have still not determined the cause.
12. I have not been tested for COVID-19 nor am I experiencing any symptoms.
13. Because of my age and pre-existing medical conditions, I am concerned that bringing people who have already tested positive for COVID-19 to Camp J increases the risk that I will be exposed and have severe medical complications. I don't know if they would take me to a hospital from Angola if I got very sick.
14. If I test positive for COVID-19, I do not want to go to Camp J. I would prefer to go home to my family in Kentwood, Louisiana. I want to be near a hospital. I have a pending pardon application and have been granted a hearing but do not yet have a hearing date.
15. If I test positive for COVID-19 and cannot go home to my family, I would prefer to go to the medical facility at the convention center in New Orleans. It is my belief that they have appropriate staff, medical isolation, and the ability to house people who have tested positive for COVID-19 who are incarcerated. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary. I am a veteran of the United States air force and could be treated at the VA hospital in New Orleans.
16. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
17. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

Nishi Kumar on behalf of John Tonnubbee

April 24, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant Mr. Tonnubbee. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on John Tonnubbee behalf with his express consent.
3. Mr. Tonnubbee is currently being held at Louisiana State Penitentiary. All in-person visitation was cancelled effective March 12, 2020.
4. I spoke with Mr. Tonnubbee over the phone. Mr. Tonnubbee has confirmed that I can sign on his behalf as reflected in his declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on April 24, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

April 24, 2020

DECLARATION OF PATRICK COURTNEY:

I, Patrick Courtney, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is Patrick Courtney.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am 50 years old.
4. I am in DOC custody and currently housed at Camp F in Dorm 4. Camp F is for Class-A Trustees.
5. I have very high blood pressure and am waiting for medication that has been prescribed for me.
6. I am housed in close quarters in the dormitory with approximately 96 other people. I am unable to maintain 6 feet of space between me and other people.
7. There are 5 toilets, 5-6 sinks, and 4 showers in Dorm 4.
8. I am a baker at Camp F. I was sleeping in the dorm on April 17, 2020, and the Warden came and told me to pack my stuff to go to Camp J. He wanted me to move to Camp J to work. I told him I wouldn't go and he wrote me up and locked up me and another person Leo Looney in a cell for refusing to go. I was there for five days. I lost my phone privileges for four days and was sentenced to 90 days suspended in the cell.
9. There are other people from Camp F who are working at Camp J.
10. I have pre-existing conditions that put me at a high risk if I become infected with COVID-19, including high blood pressure. I do not want to go to Camp J.
11. I have not been tested for COVID-19 nor am I experiencing any symptoms.
12. Because of my pre-existing medical conditions, I am concerned that bringing people who have already tested positive for COVID-19 to Camp J increases the risk that I will be

exposed and have severe medical complications. I don't know if they would take me to a hospital from Angola if I got very sick.

13. If I test positive for COVID-19, I do not want to go to Camp J. I would prefer to go home to my family in St. Martinsville. I want to be near a hospital.

14. If I test positive for COVID-19 and cannot go home to my family, I would prefer to go to the medical facility at the convention center in New Orleans or in Baton Rouge. It is my belief that they have appropriate staff, medical isolation, and the ability to house people who have tested positive for COVID-19 who are incarcerated. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary.

15. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.

16. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar

Nishi Kumar on behalf of Patrick Courtney

April 24, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant Mr. Courtney. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Patrick Courtney behalf with his express consent.
3. Mr. Courtney is currently being held at Louisiana State Penitentiary. All in-person visitation was cancelled effective March 12, 2020.
4. I spoke with Mr. Courtney over the phone. Mr. Courtney has confirmed that I can sign on his behalf as reflected in his declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on April 24, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

April 24, 2020

DECLARATION OF ANTONIO GALLAGHER:

I, Antonio Gallagher, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is Antonio Gallagher.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am 48 years old.
4. I am pre-trial and am being held in Orleans Parish Prison. I am currently housed a single cell on 1C with around 30 other people who all appear to be COVID-positive.
5. I was tested for COVID on April 20, 2020. I was told I tested positive on April 22, 2020. A doctor told me I would be getting multivitamins and Gatorade. The doctor also told me to exercise but I am in my cell for almost 24 hours a day. I am let out of my cell for 30 minutes to an hour each day to make phone calls or take a shower.
6. I have underlying medical conditions, including hypertension, diabetes, obesity, and a history of tobacco use. I take medication for my hypertension and diabetes.
7. On April 24, 2020, a ranking officer whose name I believe to be Lieutenant Blanchard came onto my tier and announced to everyone on my tier that, starting Monday, April 27, 2020, the jail would be moving us to Camp J at Angola.
8. I do not want to be moved to Camp J at Angola.
9. I filed an emergency grievance about not wanting to be moved to Camp J.
10. I am currently experiencing body aches and pains but no other symptoms.
11. I am worried that I will develop worse symptoms and need to be hospitalized. I want to make sure I am close to a hospital in case that happens.
12. I would prefer to be home with my family, recovering and staying away from other people who are also sick. My family lives near a hospital.

13. If I can't go home, I would prefer to go to the medical facility at the convention center in New Orleans. It is my belief that they have appropriate staff, medical isolation, and the ability to house people who have tested positive for COVID-19 who are incarcerated. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary.
14. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to provide them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of other individuals detained in Louisiana as long as I am a named plaintiff.
15. I seek only declaratory and injunctive relief on behalf of the subclass. I am not seeking monetary damages, and I understand this this civil case will not result in the dismissal of my criminal proceedings against me or others.
16. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
17. This declaration was read to me in English over the phone and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Laura Bixby

Laura Bixby on behalf of Antonio Gallagher

April 25, 2020

I, Laura Bixby, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant Mr. Gallagher. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Mr. Gallagher's behalf with his express consent.
3. Mr. Gallagher is currently being held at Orleans Parish Prison. In-person visitation has been suspended indefinitely.
4. I spoke with Mr. Gallagher over the phone. Mr. Gallagher has confirmed that I can sign on his behalf as reflected in his declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on April 25, 2020 in New Orleans, Louisiana.

Signature:

/s/ Laura Bixby

Laura Bixby

April 25, 2020

DECLARATION OF KENDRICK PERKINS:

I, KENDRICK PERKINS, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is Kendrick Perkins.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am 20 years old.
4. I am pre-trial and being held in Tier 1A in the Orleans Justice Center. I was moved to that tier on April 19, 2020 after testing positive for COVID-19. Prior to that I was being held on Tier 4C since February 24, 2020.
5. I was tested for COVID-19 sometime during the week of April 13.
6. On April 19, a deputy called me out of my cell and told me to pack up as I was being transferred to a different location within the Orleans Justice Center. The deputy called out maybe 5-7 other people as well. She said that some people had tested positive and they were being moved as a precaution. After I was moved to 1A, I was informed I had tested positive for COVID-19. I was not shown my test results.
7. I am suffering from headaches and stomach pain. I have lost my sense of smell and taste, and my nose is running.
8. I am worried that I will develop even worse symptoms and need to be hospitalized.
9. I would prefer to be home with my uncle in Kenner, recovering and staying away from other people who are also sick.
10. If I can't go home, I would prefer to go to the medical facility at the convention center in New Orleans. It is my belief that they have appropriate staff, medical isolation, and the ability to house people who have tested positive for COVID-19 who are incarcerated. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary.

11. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to provide them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of other individuals detained in Louisiana as long as I am a named plaintiff.
12. I seek only declaratory and injunctive relief on behalf of the class and subclass. I am not seeking monetary damages, and I understand this this civil case will not result in the dismissal of the criminal proceedings against me or others.
13. I have authorized my attorney to sign on my behalf given the impossibility of arranging in person visitation due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
14. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Carrie Ellis

Carrie Ellis on behalf of Kendrick Perkins

April 23, 2020

I, Carrie Ellis, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant Mr. Perkins. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Kendrick Perkins' behalf with his express consent.
3. Mr. Perkins is currently being held at the Orleans Justice Center. Since March 20, 2020, video visitation is the only visitation permitted.
4. I visited with Mr. Perkins via video. Mr. Perkins has confirmed that I can sign on his behalf as reflected in his declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on April 23, 2020 in New Orleans, Louisiana.

/s/ Carrie Ellis

Carrie Ellis

April 23, 2020

DECLARATION OF DIJON CURTIS:

I, Dijon Curtis, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is Dijon Curtis.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am pre-trial and am being held pending my trial in Orleans Parish Prison. I am currently housed on D1. Before that, I was housed on 4E.
4. I was tested for COVID some time between April 14 and April 16. I was told I tested positive for COVID-19 on April 17. I have been having body aches. I verbally requested Tylenol and haven't yet received it.
5. I do not want to be moved to Camp J at Angola.
6. I tried to file an emergency grievance about not being transferred to Camp J but the kiosk for filing grievances that I have access to was broken.
7. I am worried that I will develop even worse symptoms and need to be hospitalized. I want to make sure I am close to a hospital in case that happens.
8. I would prefer to be home with my family, recovering and staying away from other people who are also sick. My family lives near a hospital.
9. If I can't go home, I would prefer to go to the medical facility at the convention center in New Orleans. It is my belief that they have appropriate staff, medical isolation, and the ability to house people who have tested positive for COVID-19 who are incarcerated. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary.
10. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me

updated on the litigation. I regularly speak with my attorneys and their staff to prove them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of other individuals detained in Louisiana as long as I am a named plaintiff.

11. I seek only declaratory and injunctive relief on behalf of the subclass. I am not seeking monetary damages, and I understand this this civil case will not result in the dismissal of my criminal proceedings against me or others.
12. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
13. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Jennifer Hull

Jennifer Hull on behalf of Dijon Curtis

April 24, 2020

I, Jennifer Hull, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant Mr. Curtis. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Mr. Curtis' behalf with his express consent.
3. Mr. Curtis is currently being held at Orleans Parish Prison. In-person visitation has been suspended indefinitely.
4. I spoke with Mr. Curtis over video phone. Mr. Curtis has confirmed that I can sign on his behalf as reflected in his declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on April 24, 2020 in New Orleans, Louisiana.

Signature:

/s/ Jennifer Hull

Jennifer Hull

April 24, 2020

DECLARATION OF TRAVIS NATHAN:

I, Travis Nathan, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is Travis Nathan.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am 54 years old.
4. I am pre-trial and am being held in Orleans Parish Prison. I have a pending hearing that was scheduled for March and has not yet been rescheduled. I am currently housed on the first floor. Before that, I was housed on the second floor.
5. I was tested for COVID on April 15, 2020. I did not know I had tested positive until my attorney Jennifer Hull told me on April 23.
6. I have underlying medical conditions, including high blood pressure. I regularly take medication for my blood pressure and sometimes take Motrin for an old injury. My left arm is paralyzed.
7. I do not want to be moved to Camp J at Angola.
8. I am worried that I will develop worse symptoms and need to be hospitalized. I want to make sure I am close to a hospital in case that happens.
9. I would prefer to be home with my family, recovering and staying away from other people who are also sick. My family lives near a hospital.
10. If I can't go home, I would prefer to go to the medical facility at the convention center in New Orleans. It is my belief that they have appropriate staff, medical isolation, and the ability to house people who have tested positive for COVID-19 who are incarcerated. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary.

11. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to provide them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of other individuals detained in Louisiana as long as I am a named plaintiff.
12. I seek only declaratory and injunctive relief on behalf of the subclass. I am not seeking monetary damages, and I understand this this civil case will not result in the dismissal of my criminal proceedings against me or others.
13. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
14. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Jennifer Hull

Jennifer Hull on behalf of Travis Nathan

April 23, 2020

I, Jennifer Hull, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant Mr. Nathan. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Mr. Nathan's behalf with his express consent.
3. Mr. Nathan is currently being held at Orleans Parish Prison. In-person visitation has been suspended indefinitely.
4. I spoke with Mr. Nathan over video phone. Mr. Nathan has confirmed that I can sign on his behalf as reflected in his declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on April 23, 2020 in New Orleans, Louisiana.

Signature:

/s/ Jennifer Hull

Jennifer Hull

April 23, 2020

DECLARATION OF JORDAN COOKS:

I, Jordan Cooks, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is Jordan Cooks.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am post-trial and am being held in Franklin Parish Correctional Center. It is my belief that I had a non-unanimous jury. I am in a dorm with 68 people. We are in quarantine and can't go to other parts of the jail. We have been in quarantine for about three weeks.
4. It is my belief that at least 17 people in the jail have tested positive for COVID.
5. I have heard that people are supposed to be moved to Camp J when they test positive for COVID-19.
6. I do not want to be moved to Camp J at Angola.
7. If I test positive, I want to make sure I am close to a hospital.
8. If I test positive, I would prefer to be home with my family, recovering and staying away from other people who are sick. My family lives near a hospital.
9. If I test positive and can't go home, I would prefer to go to the medical facility at the convention center in New Orleans or the medical monitoring station in Baton Rouge. It is my belief that they have appropriate staff, medical isolation, and the ability to house people who have tested positive for COVID-19 who are incarcerated. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary.
10. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to prove them information in support of this lawsuit. I have responded and will continue to respond to the

lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of other individuals detained in Louisiana as long as I am a named plaintiff.

11. I seek only declaratory and injunctive relief on behalf of the subclass. I am not seeking monetary damages, and I understand this this civil case will not result in the dismissal of my criminal proceedings against me or others.
12. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
13. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar

Nishi Kumar on behalf of Jordan Cooks

April 24, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant Mr. Cooks. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Mr. Cooks' behalf with his express consent.
3. Mr. Cooks is currently being held at Franklin Parish Correctional Center. In-person visitation has been suspended indefinitely.
4. I spoke with Mr. Cooks over the phone. Mr. Cooks has confirmed that I can sign on his behalf as reflected in his declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on April 24, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

April 24, 2020

DECLARATION OF CHRISTOPHER HYMES:

I, Christopher Hymes, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is Christopher Hymes.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am post-trial and am being held in Franklin Parish. It is my belief that I had a non-unanimous jury. I am in a dorm with 50 people. We are locked down in the dorm for 23 hours a day.
4. I have heard about people being moved to Camp J when they test positive for COVID-19.
5. I do not want to be moved to Camp J at Angola.
6. If I test positive, I want to make sure I am close to a hospital.
7. If I test positive, I would prefer to be home with my family, recovering and staying away from other people who are sick. My family lives near a hospital.
8. If I test positive and can't go home, I would prefer to go to the medical facility at the convention center in New Orleans or the medical monitoring station in Baton Rouge. It is my belief that they have appropriate staff, medical isolation, and the ability to house people who have tested positive for COVID-19 who are incarcerated. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary.
9. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to prove them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my

attorneys on behalf of other individuals detained in Louisiana as long as I am a named plaintiff.

10. I seek only declaratory and injunctive relief on behalf of the subclass. I am not seeking monetary damages, and I understand this this civil case will not result in the dismissal of my criminal proceedings against me or others.
11. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
12. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar

Nishi Kumar on behalf of Christopher Hymes

April 24, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant Mr. Hymes. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Mr. Hymes' behalf with his express consent.
3. Mr. Hymes is currently being held at Franklin Parish Correctional Center. In-person visitation has been suspended indefinitely.
4. I spoke with Mr. Hymes over the phone. Mr. Hymes has confirmed that I can sign on his behalf as reflected in his declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on April 24, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

April 24, 2020

DECLARATION OF JULIUS ALLEN:

I, Julius Allen, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is Julius Allen.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am 33 years old.
4. I am pre-trial and being held in Unit A2 at East Baton Rouge Parish Prison. Before this, I was being held in Unit Q11 and 12. I was moved to A2 on April 8, 2020.
5. I was tested for COVID-19 around two o'clock in the morning on April 9, 2020.
6. I am suffering from a fever, severe body aches, difficulty breathing, weakness, disorientation, and diarrhea. I have been having these symptoms for at least 5-7 days.
7. I have pre-existing medical conditions, including diabetes, hypertension, high cholesterol, and a history of bronchitis. I take medications for these conditions.
8. On April 9, I was taken from East Baton Rouge Parish Prison to Our Lady of the Lake hospital in Baton Rouge in order to receive medical attention. The hospital told me there was a 10/10 chance I was COVID positive because I had the symptoms, including a fever. The hospital checked my oxygen and said it was good enough at that point and they could admit me if I later needed a ventilator.
9. I was told by a guard that I tested positive for COVID-19 on April 10 but was not shown my test results. I did not talk to a nurse or doctor about my test results.
10. On April 11, two guards came in and told my cellmate Kendrick Wilson that transport was waiting for him. Mr. Wilson said he did not want to be transferred and the guards forced him out of the cell and handcuffed him. It is my understanding that they took him to Camp J at Angola.

11. The guards have told me that I will not be shown my test results but that I will be transferred to Camp J if they are positive, voluntarily or non-voluntarily. I do not want to go to Camp J.
12. On April 12, 2020, at approximately 8:35 p.m., a nurse came and told me she needed to another nasal swab sample to do another COVID-19 test. I told her they had already done a test and would not share the results so I did not want to do another test at this time. I asked her what happened to the results of my first test and she said they had the results but weren't going to give them to me.
13. I have asked the guards for the paperwork at least ten times so that I could file an emergency grievance and they have refused to bring it to me. I was told that a superior guard said "that will have to be on hold for now," in reference to my request. I was also told that they didn't have any forms.
14. Because of my pre-existing medical conditions, I am worried that I will develop even worse symptoms and need to be hospitalized. I have already been to the hospital once.
15. I would prefer to be home with my wife and three daughters in Baton Rouge, recovering and staying away from other people who are also sick.
16. If I can't go home, I would prefer to go to the medical facility at the convention center in New Orleans. It is my belief that they have appropriate staff, medical isolation, and the ability to house people who have tested positive for COVID-19 who are incarcerated. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary.
17. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me

updated on the litigation. I regularly speak with my attorneys and their staff to provide them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of other individuals detained in Louisiana as long as I am a named plaintiff.

18. I seek only declaratory and injunctive relief on behalf of the class and subclass. I am not seeking monetary damages, and I understand this this civil case will not result in the dismissal of the criminal proceedings against me or others.

19. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.

20. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar

Nishi Kumar on behalf of Julius Allen

April 25, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant Mr. Allen. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Julius Allen's behalf with his express consent.
3. Mr. Allen is currently being held at East Baton Rouge Parish Prison. Visitation has been suspended since March 19, 2020. No in-person attorney visits are being scheduled at East Baton Rouge Prison.
4. I spoke with Mr. Allen over the phone. Mr. Allen has confirmed that I can sign on his behalf as reflected in his declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on April 25, 2020 in New Orleans, Louisiana.

/s/ Nishi Kumar

Nishi Kumar

April 25, 2020

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

DANIEL GUMNS, MICHAEL VIDEAU,
TREVON WILEY, IAN CAZENAVE,
REGINALD GEORGE, LIONEL
TOLBERT, OTTO BARRERA, KENTRELL
PARKER, MICHAEL ROBINSON, JULIUS
ALLEN, ERNEST ROGERS, ALFOANSO
GARNER, BRADLEY WINTERS,
KENDRICK WILSON, and JAMES
HUGHES, on behalf of themselves and all
similarly situated individuals,

Plaintiffs,

v.

JOHN BEL EDWARDS, in his official capacity
as Governor of the State of Louisiana;
LOUISIANA DEPARTMENT OF PUBLIC
SAFETY & CORRECTIONS; JAMES
LEBLANC, in his official capacity as Secretary
of the Department of Safety and Corrections;
JOHN MORRISON, in his official capacity as
Medical Director of the Department of Safety
and Corrections; LOUISIANA
DEPARTMENT OF HEALTH; and
STEPHEN R. RUSSO, in his official capacity
as Interim Secretary of the Louisiana
Department of Health,

Defendants.

CIVIL ACTION NO. 3:20-cv-00231-SDD-
RLB

CLASS ACTION

[PROPOSED] ORDER

Considering the foregoing *Motion for Leave to File a Reply Memorandum*,

IT IS HEREBY ORDERED that Plaintiffs' motion is **GRANTED** and Plaintiffs' Reply
in Support of Their Motion may be filed.

Signed in Baton Rouge, Louisiana, this ____ day of _____, 2020.

CHIEF JUDGE SHELLY DICK

CERTIFICATE OF SERVICE

I, Nishi Kumar, an attorney, hereby certify that on April 26, 2020, I caused a copy of the foregoing to be filed using the Court's CM/ECF system.

I further certify that I, or another one of Plaintiffs' attorneys, will promptly electronically serve a copy of the same, along with all other pleadings and papers filed in the action to date to the General Counsel for the Louisiana Department of Corrections, the General Counsel for the Louisiana Governor, and the General Counsel for the Louisiana Department of Health, as well as the Louisiana Department of Justice Director of Litigation via email.

/s/ Nishi Kumar

Nishi Kumar, La. Bar No. 37415