

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION**

IN RE STATE AND NATIONAL EMERGENCY)
AND PROTECTION OF THE LIFE AND)
HEALTH OF DETAINEES IN THE COUNTY)
JAIL AND THOSE WHO INTERACT WITH)

2020 Misc. # MR 00010
The Hon. Leroy K. Martin, Jr.,
Presiding Judge of the
Criminal Division

**EMERGENCY PETITION FOR IMMEDIATE RELEASE OF PERSONS DETAINED
IN THE COUNTY JAIL WHO DO NOT NEED TO BE CONFINED THERE**

Amy P. Campanelli, Public Defender of Cook County, respectfully moves this Honorable Court on behalf of all those who are being detained in the Cook County Jail and who are clients of the Law Office of the Cook County Public Defender for entry of an order (A) directing the immediate consideration for release and release from custody of (1) all persons who are at elevated risk of contracting COVID-19, either because of age and/or because of underlying health conditions; (2) all pregnant women; (3) all persons who are being confined on misdemeanor charges, felony charges as to which they are probationable or non-violent felony charges, including in particular all non-violent class 3 and class 4 felony charges; (4) all persons who are being confined following a judicial determination that they are bailable, but who remain in Jail because they cannot pay the money bond set in their cases; (5) all persons who are being confined following arrest on a warrant or upon an allegation of parole or probation violation and who are not charged with or suspected of a crime of violence; (6) all persons serving sentences of imprisonment in the Jail; and (7) all persons who are eligible for release only if they satisfy the conditions of electronic monitoring but who remain in the Jail because they have “no place to stay;” (B) directing that no newly arrested person be admitted to the Jail absent a showing by clear and convincing evidence that there are no conditions upon which the person could be released that would reasonably assure the safety of a particular person or persons within the

community; and (C) all other relief necessary to contain and mitigate the spread of COVID-19 within the Cook County Jail. In support, Petitioner states:

COVID-19: NATIONAL AND GLOBAL HEALTH EMERGENCY

1. We are living in the midst of an extreme, unprecedented, world-wide health emergency caused by the rapid spread of the deadly coronavirus, COVID-19. There is no vaccine for this novel virus and there is no cure for COVID-19. On March 9, Illinois Governor J.B. Pritzker issued a proclamation declaring a disaster in the State of Illinois.¹ The World Health Organization has declared COVID-19 to be a global pandemic.² On Friday, March 13, President Trump declared a national emergency.³

2. The number of known COVID-19 infections is increasing daily. As of March 19, 2020, there have been more than 218,000 infections globally⁴; in the United States, there are thousands of known cases of COVID-19⁵; Illinois has over 400 known cases.⁶ These numbers will rise. The disease is extremely serious. Globally, more than 9800 people have died.⁷ There

¹ See <https://www2.illinois.gov/sites/gov/Documents/APPROVED%20-%20Coronavirus%20Disaster%20Proc%20WORD.pdf>.

² "WHO has been assessing this outbreak around the clock [and]... are deeply concerned both by the alarming levels of spread and severity, and by the alarming level of inaction." <https://www.who.int/emergencies/diseases/novel-COVID-19-2019/events-as-they-happen>.

³ Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak (Mar. 13, 2020) <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

⁴ See Coronavirus Resource Center, John Hopkins Univ. (last accessed on Mar. 20, 2020), <https://coronavirus.jhu.edu/map.html>; see also Declaration of Medical Professionals Concerned about the Risk of the Spread of COVID-19 in the Cook County Jail and the Illinois Department of Corrections (Ex. A hereto).

⁵ See *id.*

⁶ See Coronavirus Disease 2019 (COVID-19), Ill. Dept. of Pub. Health (last updated Mar. 17, 2020), <http://www.dph.illinois.gov/topics-services/diseases-and-conditions/diseases-a-z-list/coronavirus>.

⁷ See *supra* note 4.

have been over 205 deaths in the United States.⁸ In Illinois, the death toll has risen to four.⁹ A significant percentage of those who do not die will require hospitalization and intensive treatment, including ventilation.¹⁰ Medical providers and medical facilities are in peril of becoming completely overwhelmed.¹¹

3. COVID-19 is highly transmissible. The Centers for Disease Control and Prevention (“CDC”) advise that the virus passes through coughing and by contact with surfaces.¹² In Illinois, Gov. Pritzker deployed the National Guard to combat the spread of the virus.¹³ Gov. Pritzker also ordered the cancellation of all public gatherings of greater than 50 people.¹⁴ As of March 17, 2020, all restaurants, bars,¹⁵ and K-12 schools have been shut down.¹⁶ The CDC has issued a guidance that gatherings of more than 10 people must not occur.¹⁷ The CDC also urges social distancing—every person should remain at a distance of at least six feet

⁸ See *id.*

⁹ See *id.*

¹⁰ See *id.*

¹¹ *Id.*

¹² See “How It Spreads,” Center for Disease Control and Prevention (last accessed 03/19/2020), <https://www.cdc.gov/coronavirus/2019-ncov/prepare/transmission.html>.

¹³ See “Gov. Pritzker activates Illinois National Guard to help with COVID-19 response,” Chi. Sun Times (Mar. 17, 2020) <https://chicago.suntimes.com/coronavirus/2020/3/17/21184440/gov-pritzker-activates-illinois-national-guard-help-covid-19-response>.

¹⁴ *Id.*

¹⁵ “Gov. Pritzker Announces Bars and Restaurants Will Close to Public by End of Monday,” Office of the Governor (Mar. 15, 2020) <https://www2.illinois.gov/Pages/news-item.aspx?ReleaseID=21254>.

¹⁶ “Gov. Pritzker Announces Two-Week Statewide School Closure to Minimize COVID-19 Spread, Additional Economic Measures to Reduce Burden on Illinois Families,” Office of the Governor (Mar. 13, 2020) <https://www2.illinois.gov/Pages/news-item.aspx?ReleaseID=21247>.

¹⁷ Implementation of Mitigation Strategies for Communities with Local COVID-19 Transmission, Center for Disease Control and Prevention, 3 (Mar. 12, 2020) available at <https://www.cdc.gov/coronavirus/2019-ncov/downloads/community-mitigation-strategy.pdf>.

from every other person.¹⁸ Proper hygiene, including frequent cleaning of all surfaces and frequent, thorough hand washing is also recommended.¹⁹

4. Governors around the country have also taken substantial steps to curb the spread of the virus. The governors of Florida, Texas, and New Jersey have deployed their national guards to help with COVID-19.²⁰ In California, all 40 million residents have been ordered to “shelter in place.”²¹

5. None of the recommended measures for mitigating the spread of COVID-19 are available for persons confined in the Cook County Jail and for those who must interact with them.²² The Jail is a congregate environment in which over 5600 detainees are confined in close proximity to one another and to their keepers. The Jail is not sanitary. Surfaces are infrequently washed, if at all. Many of those detained suffer from underlying health conditions, including, among many others, asthma, diabetes and hypertension, that place them at elevated risk for contracting serious COVID-19.²³ Like a cruise ship or a nursing home, the Cook County Jail is

¹⁸ See *supra* note 12; see also Lisa Maragakis, “Coronavirus, Social Distancing, and Self-Quarantine,” John Hopkins Univ. (last accessed Mar. 19, 2020), <https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/coronavirus-social-distancing-and-self-quarantine>.

¹⁹ See “How to Protect Yourself,” Center for Disease Control & Prevention (last accessed Mar. 19, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html>.

²⁰ See “California Coronavirus Response,” <https://covid19.ca.gov/stay-home-except-for-essential-needs/> (last accessed Mar. 20, 2020).

²¹ See “California coronavirus deaths rise to 17 as millions shelter in place,” (Mar. 18, 2020) <https://www.latimes.com/california/story/2020-03-18/coronavirus-has-8-million-californians-under-shelter-in-place-orders>. A “shelter in place” order directs individuals to remain inside their home as much as possible, and imposes fines on any violators.

²² See Declaration of Medical Professionals Concerned about the Risk of the Spread of COVID-19 in the Cook County Jail and the Illinois Department of Corrections (Ex. A).

²³ See “Are You at Higher Risk for Severe Illness?” Center for Disease Control & Prevention (last accessed Mar. 19, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>.

an environment in which the COVID-19 virus can easily gain a foothold and, when it does, spread rapidly.²⁴

6. Although the Jail is a congregate environment, *it is not and cannot become an isolated environment*. By necessity, members of the free community, including Jail correctional officers, social workers, attorneys, medical personnel and many others, must enter and leave the Jail on a daily basis. If the COVID-19 virus occurs and spreads within the Jail, all of these persons are at heightened risk of contracting the virus and, in turn, spreading the virus to others with whom they come in contact in their homes, neighborhoods, and communities.²⁵

7. If prisoners and detainees incarcerated in the County Jail were to become infected with COVID-19 and, as must be anticipated, the virus were to spread rapidly within the Jail, many prisoners and detainees would require urgent care.²⁶ The capacity of Cermak Health Services to provide such care is limited and could be exceeded, exacerbating the death toll and the risks to all involved.²⁷

²⁴ See Declaration of Medical Professionals Concerned about the Risk of the Spread of COVID-19 in the Cook County Jail and the Illinois Department of Corrections; Matt Masterson, "Cook County Sheriff: Cutting Jail Population a 'High-Priority' Amid COVID-19 Pandemic," PBS Chicago (Mar. 18, 2020), <https://news.wttw.com/2020/03/18/cook-county-sheriff-cutting-jail-population-high-priority-amid-covid-19-pandemic>.

²⁵ See Declaration of Medical Professionals Concerned about the Risk of the Spread of COVID-19 in the Cook County Jail and the Illinois Department of Corrections (Ex. A).

²⁶ "If you think a cruise ship is a dangerous place to be during a pandemic, consider America's jails and prisons. The new coronavirus spreads at its quickest in closed environments." Dr. Amanda Klonsky, "An Epicenter of the Pandemic Will Be Jails and Prisons, if Inaction Continues," *New York Times* (Mar. 16, 2020), <https://www.nytimes.com/2020/03/16/opinion/coronavirus-in-jails.html>.

²⁷ Dr. Tyler Winkelman, a doctor and researcher at the University of Minnesota focused on health care and criminal justice, said about the potential impact of coronavirus on jail health care systems, "If Covid spreads in a large, thousand-person facility, and within five days you have a thousand people with multiple chronic conditions who just got the virus, that has the potential to really overwhelm a health care system." German Lopez, "A coronavirus outbreak in jails or prisons could turn into a nightmare," *Vox* (Mar. 17, 2020), <https://www.vox.com/policy-and-politics/2020/3/17/21181515/coronavirus-covid-19-jails-prisons-mass-incarceration>. "One problem is that jails and prisons notoriously do a bad job providing health care to inmates. ... [T]hese facilities often deny or delay even basic medical care, causing preventable complications and deaths. In the context of Covid-19, those kinds of delays could mean more time for a sick inmate to infect others." *Id.*

8. The world already knows the extreme risks that jails and prisons pose for the spread of COVID-19. Last month, the virus rapidly spread across China’s prisons and jails. As of February 25, there were 555 confirmed infections in five prisons of three provinces — Hubei, Shandong, and Zhejiang. As of February 29, 806 people in Wuhan city prisons were infected by the virus.²⁸ The virus has also spread rapidly in Iran, prompting U.S. Secretary of State Mike Pompeo to call for Iran to release Americans detained there because of the “deeply troubling” “[r]eports that COVID-19 has spread to Iranian prisons,” noting that “[t]heir detention amid increasingly deteriorating conditions defies basic human decency.”²⁹ Recognizing the unique risks to jail populations, courts across Iran granted 54,000 inmates furlough as part of the measures to contain coronavirus across the country.³⁰

9. Bold, forceful action is a necessity here in Cook County, not only for the health and well-being of all those confined in the Jail but also for the safety of the larger community.

10. It is the urgent recommendation of medical experts who specialize in corrections health that, to maximize the opportunity for appropriate distancing, for proper sanitization and personal hygiene and for appropriate care for those who are or may be infected with COVID-19, the population of detention centers, jails and prisons be dramatically reduced from current levels. *See, e.g.*, Declaration of Dr. Marc Stern, filed in *Dawson v. Asher*, Case No. 20-cv-409 (W.D. Wash.), attached as Ex. B (“As a correctional health expert, I recommend release of eligible individuals from detention ...”); Declaration of Medical Professionals Concerned about the Risk

²⁸ The Justice Collaborative, “Explainer: Prisons and Jails are Particularly Vulnerable to Covid-19 Outbreaks,” available at <https://thejusticecollaborative.com/wp-content/uploads/2020/03/TJCVulnerabilityofPrisonsandJailstoCOVID19Explainer.pdf>.

²⁹ Jennifer Hansler and Kylie Atwood, “Pompeo calls for humanitarian release of wrongfully detained Americans in Iran amid coronavirus outbreak,” *CNN* (Mar. 10, 2020), at <https://cnn.it/2W4OpV7>.

³⁰ Claudia Lauer and Colleen Long, “US Prisons, Jails on Alert for Spread of Coronavirus”, *The Associated Press* (Mar. 7, 2020) at <https://apnews.com/af98b0a38aaabedbc059092db356697>.

of the Spread of COVID-19 in the Cook County Jail and the Illinois Department of Corrections, attached as Ex. A; Dr. Jonathan Giftos, formerly Medical Director for Correctional Health Services at Rikers Island (“It’s my view that the only way to really mitigate the harm of rapid spread of coronavirus in the jail system is through depopulation, releasing as many people as possible with focus on those at highest risk of complication”)³¹; Professor Josiah Rich, Professor Scott Allen, and Dr. Mavis Nimoh (“Authorities should release those who do not pose an immediate danger to public safety, while also reducing arrests and delaying sentencings. . . . Those being held in jails simply due to their inability to afford bail, or for minor infractions or violations, can generally be released promptly by the judiciary or even the local sheriff. Those eligible for parole can and should be released.”)³²; Professor Rich has also said, “the number one change people can make to minimize this threat is simply to reduce the number of imprisoned people.”³³; Dr. Homer Venters, former chief medical officer for New York City Correctional Health Services (“Consideration should be underway concerning the number of people entering jails and prisons and how each step can be re-evaluated and monitored.”)³⁴; Jennifer Gonnerman (“From the standpoint of responding to this outbreak, one of the most important questions is:

³¹ “‘Recipe for disaster:’ The spread of coronavirus among detained populations,” *MSNBC* (Mar. 18, 2020), <https://www.msnbc.com/all-in/watch/-recipe-for-disaster-the-spread-of-coronavirus-among-detained-populations-80947781758>.

³² Josiah Rich, Scott Allen and Mavis Nimoh, “We must release prisoners to lessen the spread of coronavirus,” *Washington Post* (Mar. 17, 2020), <https://www.washingtonpost.com/opinions/2020/03/17/we-must-release-prisoners-lessen-spread-coronavirus/>. Josiah Rich is professor of medicine and epidemiology at Brown University. Scott Allen is professor of medicine emeritus at the University of California at Riverside. Mavis Nimoh is executive director of the Center for Prisoner Health and Human Rights at the Miriam Hospital.

³³ Amanda Holpuch, “Calls mount to free low-risk US inmates to curb coronavirus impact on prisons,” *The Guardian* (Mar. 13, 2020), <https://www.theguardian.com/us-news/2020/mar/13/coronavirus-us-prisons-jails>

³⁴ Dr. Homer Venters, “4 ways to protect our jails and prisons from coronavirus,” *The Hill* (Feb. 29, 2020), <https://thehill.com/opinion/criminal-justice/485236-4-ways-to-protect-our-jails-and-prisons-from-coronavirus?rnd=1582932792>. Dr. Venters has responded to multiple outbreaks within correctional settings, including seasonal influenza, pertussis, legionella and others.

How can we have fewer people in these places—in jails and prisons? ... If fewer people are in these systems—and, in particular, fewer people who have risk factors for serious complications—the more likely we are to succeed.”³⁵; Dr. Oluwadamilola T. Oladeru and Professor Gregg Gonsalves (“Policing patterns should not continue at the status quo. Bringing more people into the correctional setting during this period creates additional risk. In the absence of more comprehensive judicial reform, law enforcement agents can consider limiting further incarceration to egregious crimes rather than populating our jails and prisons with individuals convicted of non-violent crimes.”).³⁶

11. A group of doctors who work in New York City’s jails, hospitals, and shelters recently wrote a letter to the city council urging them to take urgent measures to curtail the spread of the virus, including ordering the courts to consider release for anyone in pretrial detention over the age of 60, administratively rescheduling all criminal court proceedings for people who are not currently incarcerated, and ordering the NYPD to stop making low level arrests for violations and misdemeanors.³⁷

12. In a recent presentation to correctional healthcare workers developed in cooperation with the Centers for Disease Control and Prevention, Dr. Anne Spaulding, a professor of epidemiology and the director of the Emory Center for the Health of Incarcerated

³⁵ Jennifer Gonnerman, “How Prisons and Jails Can Respond to the Coronavirus,” *The New Yorker* (Mar. 14, 2020), <https://www.newyorker.com/news/q-and-a/how-prisons-and-jails-can-respond-to-the-coronavirus>.

³⁶ Dr. Oluwadamilola T. Oladeru, Adam Beckman, Dr. Gregg Gonsalves, “What COVID-19 Means For America’s Incarcerated Population — And How To Ensure It’s Not Left Behind,” *Health Affairs* (Mar. 10, 2020), <https://www.healthaffairs.org/doi/10.1377/hblog20200310.290180/full/>.

³⁷ Brad Lander, “Doctors in NYC Hospitals, Jails, and Shelters Call on the City to Take More Aggressive Action to Combat the Spread of Coronavirus,” *Medium* (Mar. 12, 2020), <https://medium.com/@bradlander/doctors-in-nyc-hospitals-jails-and-shelters-call-on-the-city-to-take-more-aggressive-action-to-fb75f0b131c2>.

Persons, encouraged jurisdictions to consider alternatives to incarceration or detention, such as at-home electronic monitoring, diversionary courts, and community corrections.³⁸

13. These concerns and recommendations apply with full force to the Cook County Jail. Drs. Michael Puisis, Robert Cohen, Jack Raba, Sergio Rodriguez and Ron Shansky opine that: “steps should be taken to release any inmate [from the Cook County Jail] who is a low risk to the community.” Declaration of Medical Professionals Concerned about the Risk of the Spread of COVID-19 in the Cook County Jail and the Illinois Department of Corrections (Ex. A), at ¶ 20.

14. — This court should order the immediate release, on appropriate conditions, of all persons currently confined in the Jail who are at elevated risk for contracting COVID-19; who are detained on misdemeanors or on low-level drug offenses; who are confined in the Jail pursuant to unaffordable money bonds; who are being detained on warrants or parole or probation violation holds and who are not alleged to have committed a crime of violence; or who meet any of the other criteria specified in the final paragraph of this Petition.

**THE COURT SHOULD ACT IN CONFORMITY WITH THE
MEASURES OTHER GOVERNMENT, LAW ENFORCEMENT AND
JUDICIAL BODIES ARE TAKING AROUND THE COUNTRY**

15. Throughout the State of Illinois, the United States and the world, congregate environments are being temporarily closed in the interest of public health. Residents of California have been ordered to “shelter at home.” Businesses throughout the nation have shut down their operations. The Governor of Illinois has taken extraordinary measures. The

³⁸ Dr. Anne Spaulding, Coronavirus COVID-19 and the Correctional Facility for the Correctional Healthcare Worker (Mar. 9, 2020), https://www.ncchc.org/filebin/news/COVID_for_CF_HCW_3.9.20.pdf.

universal goal is to minimize contact, particularly among large groups of people, that fosters the spread of the virus.

16. Because of the concerns summarized in the preceding section, other jurisdictions have already taken emergency action.

17. Corrections and government entities throughout the country have acted on their own initiative to release detainees.

18. In Cleveland, Ohio, criminal court judges have released dozens of pre-trial detainees and anticipate the eventual release of some 300 detainees from the Cuyahoga County Jail and “almost any kind of inmate was considered.”³⁹ Erie County has also released inmates.⁴⁰ The Richland County Jail has released non-violent low-level inmates.⁴¹

19. In California, the San Francisco Public Defender’s office and district attorney’s office have both directed their staffs to agree to the release of pre-trial detainees who are at heightened risk for illness.⁴² The Los Angeles County Sheriff’s Department has released over 600 inmates and has directed officers to cite and release individuals in lieu of arrest.⁴³

³⁹ “Ohio jail Releases Hundreds of Inmates Due to Coronavirus Concerns,” *Oklahoma’s News4* (Mar 16, 2020, 8:36 AM), <https://kfor.com/health/coronavirus/ohio-jail-releases-hundreds-of-inmates-due-to-coronavirus-concerns/>.

⁴⁰ Peggy Gallek, “Erie County Reducing Jail Population Due to COVID-19 Concerns,” *Fox8* (Mar 17, 2020, 5:07 PM), <https://fox8.com/news/coronavirus/erie-county-reducing-jail-population-due-to-covid-19-concerns/>.

⁴¹ “Richland County jail Releasing Some Non-violent, Low-level Offenders Due to COVID-19,” *RichlandSource* (March 18, 2020), https://www.richlandsource.com/news/covid19/richland-county-jail-releasing-some-non-violent-low-level-offenders/article_0df572a8-692d-11ea-99aa-1fdd2d880565.html.

⁴² Darwin Bond Graham, “San Francisco Officials Push to Reduce Jail Population to Prevent Coronavirus Outbreak,” *The Appeal* (March 11, 2020), <https://theappeal.org/coronavirus-san-francisco-reduce-jail-population/>.

⁴³ Alene Tchekmedyan, Paige St. John & Matt Hamilton, “L.A. County Releasing Some Inmates from Jail to Combat Coronavirus,” *L.A. Times* (March 16, 2020), <https://www.latimes.com/california/story/2020-03-16/la-jail-population-arrests-down-amid-coronavirus>.

20. In Texas, the Texas Commission on Jail Standards (“TCJS”) advised jails to release non-violent detainees and implement cite-and-release policies to reduce bookings. The McLennan County Jail is releasing “as many misdemeanor inmates out of the jail as possible,” and modifying arrests.⁴⁴ In San Antonio, Bexar County is working to reduce its jail population by maximizing GPS releases.⁴⁵ Travis County is releasing inmates charged with non-violent criminal offenses.⁴⁶

21. In Pennsylvania, the Philadelphia District Attorney’s office has moved to release most people charged with non-violent offenses or misdemeanors. Officials in Philadelphia, as well as Delaware and Montgomery Counties, have been working to release or parole prisoners early.⁴⁷ Lackawanna County Prison is reviewing prisoners for release.⁴⁸ Mercer County is also releasing inmates.⁴⁹

⁴⁴ Rissa Shaw, “Local jail to release some inmates because of COVID-19 threat,” *KWTX* (March 18, 2020, 3:34 PM), <https://www.kwtx.com/content/news/Local-jail-to-release-some-inmates-because-of-COVID-19-threat-568904541.html>.

⁴⁵ Courtney Friedman, “Bexar County Sheriff Announces COVID-19 Prevention Plan for Jail Inmates, Deputies,” *KSAT* (March 14, 2020), <https://www.ksat.com/news/local/2020/03/15/bexar-county-sheriff-announces-covid-19-prevention-plan-for-jail-inmates-deputies/>

⁴⁶ “Travis County Judges Releasing Inmates to Limit Coronavirus Spread, Report Claims,” *KVUE* (March 16, 2020), <https://www.kvue.com/article/news/health/coronavirus/coronavirus-travis-county-inmates-released/269-91ede984-e2dd-4afd-9f94-43d04349ffba>.

⁴⁷ Samantha Melamed & Mike Newall, “With Courts Closed by Pandemic, Philly Police Stop Low-level Arrests to Manage Jail Crowding,” *Philadelphia Inquirer* (March 18, 2020) <https://www.inquirer.com/health/coronavirus/philadelphia-police-coronavirus-covid-pandemic-arrests-jail-overcrowding-larry-krasner-20200317.html>

⁴⁸ Kevin Hayes, “Lackawanna County Reviews Possible Release of Low Level Inmates to Mitigate Spread of COVID-19,” *PA HomePage* (March 18, 2020), <https://www.pahomepage.com/top-news/lackawanna-county-to-release-low-level-inmates-to-mitigate-spread-of-covid-19/>.

⁴⁹ Gerry Ricciutti, “Mercer County Jail Releases Some Lower-Level Offenders Amid COVID-19 Outbreak,” *WKBN* (March 18, 2020), <https://www.wkbn.com/news/local-news/mercy-county-jail-releases-some-lower-level-offenders-amid-covid-19-outbreak/>.

22. In Atlanta, Georgia, Fulton County is releasing inmates early and postponing those serving intermittent “weekend” sentences.⁵⁰

23. In Oregon, the Washington County Jail is releasing inmates and ensuring that all remaining inmates have their own cell.⁵¹

24. In Charlotte, North Carolina, the Mecklenburg County Jail has begun releasing inmates, and is actively considering more pre-trial detainees on misdemeanor and felony charges for release.⁵²

25. In Tampa, Florida, Hillsborough County is releasing non-violent, pre-trial detainees.⁵³

26. In Washington State, Spokane County has already released low-level inmates.⁵⁴ Kitsap County has also released non-violent inmates and is considering more for release.⁵⁵

27. Jurisdictions around the country have also taken steps to reduce the number of people in custody by suspending arrests. In Washington, D.C., the D.C. Superior Court Chief Judge “issued an emergency order allowing police and prosecutors to exercise discretion to

⁵⁰ Blis Savidge, “Fulton County To Release Inmates Early In Light Of Pandemic,” *GPB News* (March 16, 2020), <https://www.gpbnews.org/post/fulton-county-release-inmates-early-light-pandemic>.

⁵¹ Drew Reeves, “Washington County Jail Releases Some Inmates to Prevent Spread of COVID-19,” *Fox12 Oregon* (March 17, 2020), https://www.kptv.com/news/washington-county-jail-releases-some-inmates-to-prevent-spread-of/article_34cdc2c2-68d3-11ea-bfc0-3725e49b0c0c.html

⁵² “Mecklenburg Begins Releasing Jail Inmates to Avoid Cellblock Outbreak of COVID-19,” *WBTV* (March 18, 2020), <https://www.wbtv.com/2020/03/18/mecklenburg-begins-releasing-jail-inmates-avoid-cellblock-outbreak-covid-/>

⁵³ “164 ‘Low Level, Nonviolent’ Offenders Being Released From Hillsborough County Jails,” *ABC Action News* (March 19, 2020), <https://www.abcactionnews.com/news/region-hillsborough/164-low-level-nonviolent-offenders-being-released-from-hillsborough-county-jails>.

⁵⁴ “48 Low-level Inmates Released from Spokane County Jail,” *KHQ* (March 17, 2020), https://www.khq.com/coronavirus/low-level-inmates-released-from-spokane-county-jail/article_5fc7e406-68a3-11ea-b73e-132316bf68fd.html.

⁵⁵ Andrew Binion, “Kitsap County Jail Taking Steps to Reduce Chance of COVID-19 Infections,” *Kitsap Sun* (March 18, 2020), <https://www.kitsapsun.com/story/news/2020/03/18/kitsap-county-jail-taking-steps-reduce-chance-covid-19-infections/2869893001/>.

determine whether a person arrested should be held until their first court appearance or given citation release with notice of their future court date.”⁵⁶

28. The Philadelphia Police have been instructed to delay arrests for low-level crimes—a decision supported by the Fraternal Order of the Police.⁵⁷

29. The Fort Worth Police will stop arresting people for misdemeanors.⁵⁸ Collin County Sheriff has directed police departments to cite and release people suspected of non-violent offenses. Dallas County already does not accept Class C misdemeanors.⁵⁹

30. In California, the Long Beach Police are arresting fewer low-level, alleged misdemeanor offenders.⁶⁰

31. In Wisconsin, Milwaukee County will not be booking alleged misdemeanor offenders.⁶¹ Racine County is suspending arrests for non-violent offenses.⁶² In a statement, the

⁵⁶ “DC Superior Court issues Emergency Order Allowing Police/Prosecutorial Discretion re: Detaining Arrestees,” *District of Columbia Courts Newsroom* (March 16, 2020), https://newsroom.dccourts.gov/press-releases/stories-20200316#.Xm_xsekxS3k.twitter.

⁵⁷ *See supra* note 47.

⁵⁸ Nichole Manna, “Fort Worth Police Will Give Citations for Low-level Crimes Amid Coronavirus Outbreak,” *Fort Worth Star-Telegram* (March 17, 2020), <https://www.star-telegram.com/news/coronavirus/article241254951.html>.

⁵⁹ Charles Scudder, “Facing Coronavirus Concerns, Collin County Sheriff Asks Police Not to Bring Petty Criminals to Jail,” *Dallas Morning News* (March 12, 2020), <https://www.dallasnews.com/news/public-health/2020/03/12/facing-coronavirus-concerns-collin-county-sheriff-asks-police-not-to-bring-petty-criminals-to-jail/>.

⁶⁰ “*Coronavirus is Changing Who Gets Arrested in Long Beach*,” *Long Beach Post News* (March 14, 2020), <https://lbpost.com/news/coronavirus-updates?update=42#update-42>.

⁶¹ Bruce Vielmetti, “Federal, State Courts Curtail Most Activities, and the Jail is Booking Fewer Defendants,” *Milwaukee Journal Sentinel* (March 13, 2020), <https://www.jsonline.com/story/news/crime/2020/03/13/coronavirus-milwaukee-county-trials-canceled-jail-bookings-limited/5040956002/>.

⁶² Alyssa Mauk, “Sheriff Suspends Non-Violent Arrests Due to COVID-19,” *Journal Times* (March 14, 2020), https://journaltimes.com/news/local/crime-and-courts/sheriff-suspends-non-violent-arrests-due-to-covid/article_141c020d-b911-5453-a04a-e67b8070d17c.html.

Sheriff's Office said: "This proactive, temporary directive's number one priority is to protect law enforcement and the inmates confined in the Racine County Jail."⁶³

32. In Denver and Aurora, Colorado, the police will no longer send an officer to report low-level incidents.⁶⁴

33. In Youngstown, Ohio, the Mahoning County jail is refusing all non-violent misdemeanor arrests.⁶⁵

34. Jails across Washington State are not booking low level alleged offenders, including for drug and property crimes, in Garfield County, Grays Harbour County, and Kitsap County.⁶⁶

35. Prosecutor and Public Defender offices across the country are seeking the same relief sought here.

36. Thirty-three elected prosecutors from across the nation, in jurisdictions ranging from California to Mississippi, recently signed a public statement calling for urgent measures to "dramatically reduce the number of incarcerated individuals," to protect incarcerated populations from the threat of COVID-19.⁶⁷

⁶³ Racine County Sheriff's Office, *Facebook* (March 15, 2020), <https://www.facebook.com/pg/RacineCountySheriffsOffice/posts/>.

⁶⁴ Elise Schmelzer, "Denver, Aurora Police No Longer Sending Officers to Low-Level Crimes to Minimize Spread of Coronavirus," *Denver Post* (March 14, 2020), <https://www.denverpost.com/2020/03/13/denver-aurora-police-coronavirus/>.

⁶⁵ "Local County Jails Making Changes Due to Coronavirus Outbreak," *WKBN*, (Mar 12, 2020), <https://www.wkbn.com/news/coronavirus/mahoning-county-jail-refusing-some-inmates-due-to-coronavirus-outbreak/>.

⁶⁶ Michael Lang, "Washington Jails Limiting Inmate Bookings Over Coronavirus Concerns," *North Coast News* (March 11, 2020), <https://www.northcoastnews.com/news/washington-jails-limiting-inmate-bookings-over-coronavirus-concerns/>.

⁶⁷ Fair and Just Prosecution, *Joint Statement from Elected Prosecutors on COVID-19 and Addressing the Rights and Needs of Those in Custody* (last updated Mar. 18, 2020), https://fairandjustprosecution.org/wp-content/uploads/2020/03/Coronavirus-Sign-On-Letter.pdf?utm_source=The+Marshall+Project+Newsletter&utm_campaign=f1bf35014e-

37. In Kentucky, the Department of Public Advocacy, the state's Public Defender System, has moved the state to release all pre-trial detainees in county and regional jails.⁶⁸ Twenty-nine pretrial defendants, who were being held on cash bond, have already been released from Boyle, Mercer, and Lincoln counties.⁶⁹

38. In New York⁷⁰ and San Francisco,⁷¹ public defenders filed motions seeking release based on a combination of factors including detainee vulnerability due to underlying medical conditions, and age.

39. Public defenders in at least four jurisdictions, including New Orleans,⁷² Santa Barbara, California,⁷³ Sacramento,⁷⁴ and Colorado⁷⁵ have called for the release of all low-level or non-violent detainees.

EMAIL_CAMPAIGN_2020_03_17_12_07&utm_medium=email&utm_term=0_5e02cdad9d-f1bf35014e-119797937.

⁶⁸ Henry Culvyhouse, "DPA Requests Release of Pretrial Detainees," *The Daily Independent* (Mar. 18, 2020), https://www.dailyindependent.com/news/dpa-requests-release-of-pretrial-detainees/article_3b8416c2-695d-11ea-b683-e3d21bdf59cc.html.

⁶⁹ "Defenders Want Dozens of Defendants Released from Jail to Reduce COVID-19 Threat," *The Advocate-Messenger* (Mar. 16, 2020), <https://www.amnews.com/2020/03/16/defenders-want-dozens-of-defendants-released-from-jail-to-reduce-covid-19-threat/>.

⁷⁰ Jim Mustian, "Inmates Fearful of Virus Argue for Release," *PBS* (Mar. 18, 2020), <https://www.pbs.org/newshour/health/get-out-of-jail-inmates-fearful-of-virus-argue-for-release>.

⁷¹ Jeffrey Cawood, "San Francisco Public Defender Seeks 'Immediate Release' of Some Jail Inmates due to Coronavirus," *Daily Wire* (Mar. 16, 2020), <https://www.dailywire.com/news/san-francisco-public-defender-seeks-immediate-release-of-some-jail-inmates-due-to-coronavirus>.

⁷² Nicholas Chrastil, "Public Defenders Request the Release of all Non-Violent Offenders in Jail due to Coronavirus," *The Lens* (Mar. 12, 2020), <https://thelensnola.org/2020/03/12/public-defenders-request-the-release-of-all-non-violent-offenders-in-jail-due-to-coronavirus/>.

⁷³ Delaney Smith, "Santa Barbara Public Defender Calls for Release of Low-Level Offenders," *Santa Barbara Independent* (Mar. 17, 2020), <https://www.independent.com/2020/03/17/santa-barbara-public-defender-calls-for-release-of-low-level-offenders/>.

⁷⁴ Sam Stanton & Darrell Smith, "Coronavirus Response: Some Low-level, Non-violent Inmates Being Released from Sacramento Jails," *Sacramento Bee* (Mar. 18, 2020), <https://www.sacbee.com/news/local/crime/article241305216.html>.

⁷⁵ John Herrick, "Colorado Public Defenders Seek to Release People from Jail Before COVID-19 Outbreak," *Colorado Independent* (Mar. 13, 2020), <https://www.coloradoindependent.com/2020/03/13/colorado-public-defenders-jails-covid-19/>.

**POPULATION REDUCTION IS ESSENTIAL TO PROTECT
THE CONSTITUTIONAL RIGHTS OF JAIL DETAINEES AND PRISONERS**

40. If immediate action is not taken to dramatically reduce the population of the Cook County Jail, then persons detained in the Jail will remain at grave and unacceptable risk of contracting COVID-19—a serious and potentially life-threatening illness. Persons confined in prisons and jails must “be furnished with the basic human needs, one of which is ‘reasonable safety.’” *Helling v. McKinney*, 509 U.S. 25, 33-34 (1993 (citing *DeShaney v. Winnebago County Dept. of Soc. Serv.*, 489 U.S. 189, 200 (1989))).

41. It would be ostrich-like to presume that no harm will befall prisoners and detainees within the Jail because COVID-19 has yet to be detected there. Detection is imminent, as exposure to the virus is occurring throughout Illinois and all of the United States. There are confirmed cases in every state.⁷⁶

42. To expose prisoners to the unmitigated risk of contracting COVID-19—*where there are obvious steps that can be taken to achieve such mitigation*—is constitutionally impermissible. COVID-19 is a dangerous communicable disease. To allow prisoners to suffer unnecessary exposure violates the constitutional imperative that prisoners be afforded “reasonable safety” while they are confined. *Cf. Helling*, 509 U.S. at 33 (the Eighth Amendment may be violated even where a possible infection might not affect all of those exposed).

43. Failure to act in accordance with speed and urgency to drastically lower the population of the Cook County Jail will constitute a wholesale violation of the constitutional rights of those confined there.

⁷⁶ Jamie Ducharme, West Virginia Just Became the Last State to Report a COVID-19 Case. It was Only a Matter of Time (Mar. 17, 2020), <https://time.com/5805097/west-virginia-covid-19-testing/>.

**PUBLIC SAFETY CAN BE PROTECTED
WHILE REDUCING THE JAIL'S POPULATION,
IN ACCORDANCE WITH THE ILLINOIS BAIL STATUTE**

44. Petitioner understands that the safety of our community also requires consideration and protection. If the State can show by clear and convincing evidence that the release of a prisoner would endanger the safety of a particular person or persons within the community, and that there are not measures that could be taken to mitigate that danger, the Jail may remain an appropriate place for such a person to await trial. *See* 725 ILCS 5/110-6.1(c) (in hearing for denial of bail, court must make “a finding that the defendant poses a real and present threat to the physical safety of any person or persons...[which is] supported by clear and convincing evidence presented by the State.”); *People v. Gil*, 2019 IL App (1st) 192419, ¶ 18 (“the procedural and substantive requirements of section 110-6.1 must be...followed” prior to imposition of a no-bond order); *see also generally United States v. Salerno*, 481 U.S. 739 (1987).

45. But just as surely, there are thousands of detainees in the Jail whose release would not endanger the safety of the public or any particular person. This includes hundreds of individuals who have *already* been deemed bailable by courts in this Circuit. As the *Chicago Sun-Times* editorial board put it on March 19, 2020: “About 25 percent of the detainees at Cook County Jail are behind bars because they don’t have the money to make bond. In addition to turning loose [low-risk], non-violent offenders charged with lesser crimes, the county should work to reduce this group of 1,500 detainees. A detainee’s exposure to the coronavirus should not be based on his financial circumstances.” “Coronavirus, Cook County Jail and the need to reduce the inmate population . . . fast,” *Chicago Sun-Times* (March 19, 2020), attached as Ex.

C.⁷⁷ In other words, the real and present risks to the safety of the detained population *and to the safety of the community at large* dictate that, to the greatest extent possible, prisoners and detainees who can safely be released, must be released immediately.

46. The release of all detainees within the following categories is presumptively consistent with the needs of public safety. All detainees in these categories should immediately be reviewed and should be released unless it could be shown by clear and convincing evidence that, contrary to the presumption, that prisoner's release would endanger the safety of a particular person or persons within the community:

- a. All persons who are at elevated risk of contracting COVID-19, either because of age and/or because of underlying health conditions;
- b. All pregnant women;
- c. All persons who are being confined on misdemeanor charges, felony charges as to which they are probationable or non-violent felony charges, including in particular all non-violent class 3 and class 4 felony charges;
- d. All persons who are being confined following a judicial determination that they are bailable, but who remain in Jail because they cannot pay the money bond set in their cases;
- e. All persons who are being confined following arrest on a warrant or upon an allegation of parole or probation violation and who are not charged with or suspected of a crime of violence;
- f. All persons serving sentences of imprisonment in the Jail;

⁷⁷ The *Sun-Times* editorial is available here: <https://chicago.suntimes.com/2020/3/19/21186898/cook-county-jail-coronavirus-tom-dart-covid-19-social-distancing>

- g. All persons who are eligible for release only if they satisfy the conditions of electronic monitoring but who remain in the Jail because they have “no place to stay.”

47. Similarly, public safety can be protected while also limiting new admissions to the Jail such that no newly arrested person be admitted to the Jail absent a showing by clear and convincing evidence that there are no conditions upon which the person could be released that would reasonably assure the safety of a particular person or persons within the community.

WHEREFORE, Petitioner respectfully requests that this court enter an order:

1. Establishing a procedure whereby all persons who fall within the following categories are immediately released from the Cook County Jail, unless as to a particular detainee, it can be shown by clear and convincing evidence that the release of the detainee would endanger the safety of a particular person or persons within the community:

- a. All detainees who are at elevated risk of contracting COVID-19, either because of their age or because of underlying health conditions, such as diabetes, asthma or hypertension, among others;
- b. All pregnant women;
- c. All detainees who are being confined on misdemeanor charges, felony charges as to which they are probationable or non-violent felony charges, including in particular all non-violent class 3 and class 4 felony charges;
- d. All detainees who are being confined following a judicial determination that they are bailable, but who remain in Jail because they cannot pay the money bond set in their cases;

- e. All detainees who are being confined following arrest on a warrant or upon an allegation of parole or probation violation and who are not charged with or suspected of a crime of violence;
 - f. All prisoners serving sentences of imprisonment in the Jail;
 - g. All detainees who are eligible for release only if they satisfy the conditions of electronic monitoring but who remain in the Jail because they have “no place to stay.”
2. Providing that such reviews shall occur with urgent expedition and shall be completed within five days of the entry of the court’s order.
3. Providing that no recently arrested person shall be admitted to the Jail absent a showing by clear and convincing evidence that there are no conditions upon which the person could be released that would reasonably assure the safety of a particular person or persons within the community.
4. Providing for such relief as may be necessary to achieve rapid mitigation of the risk of spread of the COVID-19 virus within the Cook County Jail.

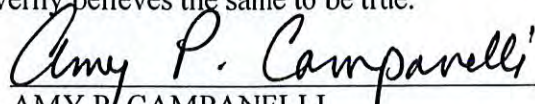
Respectfully submitted,


AMY P. CAMPANELLI
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CERTIFICATION OF ATTORNEY

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned attorney certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.


AMY P. CAMPANELLI
Public Defender of Cook County

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that the foregoing “Emergency Petition for Immediate Release of Persons Detained in the County Jail Who Do Not Need to Be Confined There” was served upon the Cook County Sheriff’s Department, c/o Sheriff Tom Dart, and the Cook County State’s Attorney’s Office, c/o Cook County State’s Attorney Kim Foxx, before the hour of 5:00 p.m. on March 20, 2020.


AMY P. CAMPANELLI
Public Defender of Cook County

EXHIBIT A

Declaration of Medical Professionals Concerned about the Risk of the Spread of COVID-19 in the Cook County Jail and Illinois Department of Corrections

Dr. Michael Puisis, Dr. Robert Cohen, Dr. John Raba, Dr. Sergio Rodriguez, and Dr. Ron Shansky

1. Dr. Michael Puisis is an internist who has worked in correctional medicine for 35 years. He was the Medical Director of the Cook County Jail from 1991 to 1996 and Chief Operating Officer for the medical program at the Cook County Jail from 2009 to 2012. He has worked as a Monitor or Expert for Federal Courts on multiple cases and as a Correctional Medical Expert for the Department of Justice on multiple cases. He has also participated in revisions of national standards for medical care for the National Commission on Correctional Health Care and for the American Public Health Association. Additionally, he participated in revision of tuberculosis standards for the Centers for Disease Control and Prevention (CDC).
2. Dr. Robert Cohen is an internist. He has worked as a physician, administrator, and expert in the care of prisoners and persons with HIV infection for more than thirty years. He was Director of the Montefiore Rikers Island Health Services from 1981 to 1986. In 1986, he was Vice President for Medical Operations of the New York City Health and Hospitals Corporation. In 1989, he was appointed Director of the AIDS Center of St. Vincent's Hospital. He represented the American Public Health Association (APHA) on the Board of the National Commission for Correctional Health Care for 17 years. He has served as a Federal Court Monitor overseeing efforts to improve medical care for prisoners in Florida, Ohio, New York State, and Michigan. He has been appointed to oversee the care of all prisoners living with AIDS in Connecticut, and also serves on the nine member New York City Board of Corrections.
3. Dr. Raba is an internist who was the Medical Director of the Cook County Jail from 1980 to 1991. He was the Medical Director of the Fantus Health Center of the Cook County Health and Hospital System from 1992 to 2003. He was the Co-Medical Director of Ambulatory and Community Health Network for the Cook County Bureau of Health Services from 1998 to 2003. He has monitored multiple jail and prison systems for

Federal Courts. He has also provided consultations for many jail systems in the United States.

4. Dr. Sergio Rodriguez is a practicing internist. He was Medical Director of the Cook County Jail from 2005 to 2008. He was Medical Director of the Fantus Health Center of the Cook County Health and Hospital System until 2015.
5. Dr. Ronald Shansky is an internist who has worked in correctional medicine for 45 years. He was the Medical Director of the Illinois Department of Corrections from 1982 to 1992 and from 1998 to 1999. He was a Court Appointed Receiver of two correctional medical programs. He has been appointed by U.S. Courts as Medical Expert or Monitor in ten separate Court cases and has been a Court appointed Special Master in two cases. He has been a consultant to the Department of Justice involving correctional medical care. He also participated in revision of national standards for medical care for the American Public Health Association and of standards for the National Commission on Correctional Health Care.
6. Coronavirus disease of 2019 (COVID-19) is a pandemic. This is a novel virus for which there is no established curative medical treatment and no vaccine.
7. The number of cases of COVID-19 in the United States are rising rapidly. As of March 19, 2020, cases in the United States have been doubling almost every day and a half. Cases in Illinois total 288 as of March 19, 2020. There were 170 cases on March 18, 2020, indicating that the doubling rate was slightly over 1 day, which suggests a significantly expanding infection rate.
8. UpToDate¹ reports an overall case mortality rate from the disease of 2.3%.
9. Medical care for COVID-19 focuses on prevention, which emphasizes social distancing, handwashing, and respiratory hygiene. Currently, severe disease is treated only with supportive care including respiratory isolation, oxygen, and mechanical ventilation as a last resort. In cities with widespread disease, hospitals are anticipating a lack of ventilation

¹ UpToDate is an online widely used medical reference in hospitals, health organizations and by private physicians.

equipment to handle the expected cases. Cook County Health and Hospital System has suspended scheduled appointments for outpatient care. Chicago may experience a similar lack of ventilation equipment, but we will not know for a week or two if that will occur, and if it occurs there will be little time to adjust to the situation.

10. COVID-19 is transmitted by infected people when they cough. Droplets of respiratory secretions infected with the virus can survive as an aerosol for up to three hours². Droplets can be directly transmitted by inhalation to other individuals in close proximity. Droplets can land on surfaces and be picked up by the hands of another person who can then become infected by contacting a mucous membrane (eyes, mouth, or nose) with their hand. Infected droplets can remain viable on surfaces for variable lengths of time, ranging from up to 3 hours on copper, 24 hours on cardboard, and 2-3 days on plastic and stainless steel.³
11. There is no evidence that asymptomatic persons can transmit COVID-19. A recent study of a cruise ship⁴ demonstrated that about 17% of persons infected with COVID-19 had no symptoms. However, infected individuals become symptomatic in a range of 2.5 to 11.5 days with 97.5% of infected individuals becoming symptomatic within 11.5 days. The total incubation period is thought to extend up to 14 days. Thus, persons coming into jails or prisons can be asymptomatic at intake screening only to become symptomatic later during incarceration. For that reason a correctional intake screening test for COVID-19 is reasonable in our opinion. Screening inmates daily for cough, shortness of breath, or fever daily would be a logistically daunting task that would not be fully effective in these institutions. Because testing kits are not currently available in the volume necessary to screen all inmates, and because the range of symptom acquisition ranges from 2 to 11 days,

² National Institute of Health, available at <https://www.nih.gov/news-events/news-releases/new-coronavirus-stable-hours-surfaces>.

³ *Id.*

⁴ Kenji Mizumoto, Kayaya Katsushi, Alexander Zarebski, Gerardo Chowell; *Estimating the asymptomatic proportion of coronavirus disease 2019 (COVID-19) cases on board the Diamond Princess cruise ship, Yokohama, Japan, 2020*, EURO SURVEILLANCE (Mar. 12, 2020), <https://www.eurosurveillance.org/content/10.2807/1560-7917.ES.2020.25.10.2000180>.

symptom screening at booking alone will not identify all persons who will become ill.

12. Supply of testing material for COVID-19 is limited. The CDC reports as of March 19, 2020 that CDC and public health laboratories have performed only 37,824 tests for COVID-19 nationwide. The CDC's current recommendation for testing for COVID-19 is that physicians should use their judgment to determine if a patient has signs or symptoms of the disease and whether the person should be tested. They include priorities for testing as hospitalized patients, symptomatic older adults especially with co-morbid conditions, and any person who has had close contact with a known case of COVID-19. These guidelines are apparently based on the limitation of testing material. There are numerous examples in the press of physicians being unable to order tests and people who have symptoms being unable to obtain testing.
13. Medical personnel are hampered by the inability to readily access testing. Testing resources are so scarce that, nationwide, rationing of this test is occurring even for persons who are symptomatic.
14. An individual's immune system is the primary defense against this infection. As a result, people over 65 years of age and persons with impaired immunity have a higher probability of death if they are infected. It is important to note that the older a person is, the higher likelihood of death; this is thought to be due to impaired immunity with aging. Persons with severe mental illness in jails and prisons are also, in our opinion, at increased risk of acquiring and transmitting infection because they may be unable to communicate symptoms appropriately.
15. Jails and prisons are long known to be a breeding ground for infectious respiratory illnesses. Tuberculosis is a bacteria which is significantly less transmissible than COVID-19 yet has been responsible for numerous outbreaks of illness in prisons and jails over the years. For this reason, the CDC still recommends screening for this condition in jails and prisons.
16. At a time when the President's task force on COVID-19 recommends limiting gatherings to no more than 10 persons, the County of Cook is forcing 5,500 people to live in congregate living conditions at the Cook County Jail with an influx of approximately 100 to 150 new inmates a day. These inmates intermingle and it is not possible to attain the President's

- aim of limiting gatherings of less than 10 individuals. This is contrary to the President's recommendation and contrary to current public health recommendations. This is likely to result in spread of disease.
17. Jails and prisons promote the spread of respiratory illnesses because large groups of strangers are forced suddenly into crowded congregate housing arrangements. This situation is complicated by the fact that custody and other personnel who care for detainees live in the community and can carry the virus into the Jail with them.
 18. The current CDC recommendations for social distancing and frequent handwashing measures, which are the only measures available to protect against infection, are not possible in the correctional environment. Furthermore, repeated sanitation of horizontal surfaces in inmate living units and throughout a jail is not typically done and would be an overwhelming task. Jails in this regard are similar to cruise ships and nursing homes where COVID-19 is known to have easily spread. Jails also recirculate air which contributes to spread of airborne infectious disease.
 19. A large number of employees are required to work in jails and prisons. These individuals have frequent contact with inmates, often requiring breaking the recommended CDC guidelines for social distancing. Frequent handwashing is not easily available for inmates or staff. Their risk is considerable. Tuberculosis outbreaks in jails and prisons have often resulted in custody employees becoming infected. These employees return to the community and can and will transmit the infection to others in their family and community. In this sense, jails act as incubators of respiratory infectious disease. COVID-19 would have a rapid and dramatic spread within the correctional environment and if this occurs, the outbreak would inevitably result in spread to the community.
 20. It is our opinion that steps should be taken to release any inmate who is a low risk to the community. The risk of promoting the spread of the infection to the inmate population, and thereby to the community, needs to be weighed against the reason for not releasing the inmate from incarceration. Release measures should prioritize inmates over 65, inmates with immune disorders, inmates with significant cardiac or pulmonary conditions, or inmates with cognitive disorders. We say this

because of the unlikelihood of effective screening and protective housing for all inmates.

21. It is our opinion that at this time, if and when COVID-19 testing becomes widely and readily available, all inmates coming into a jail or prison should be tested for COVID-19 prior to congregate housing. This is our expert opinion because inmates will be forced to live with one another with the uncertain risk that one of them is infected. Inmates cannot engage in social distancing. In our experience, spread of contagious respiratory disease can be prevented by screening. Also, intake symptom screening alone will not identify all inmates who may have disease but are not yet symptomatic.
22. It is our opinion that all persons with any symptom consistent with COVID-19 or with fever be placed in respiratory isolation and tested for COVID-19.
23. It is our opinion that all inmates over 65, all persons with severe mental illness, all persons with immune disorders or with serious cardiac or pulmonary disease, and all persons with any cognitive disorder should have a daily symptom and temperature screening. Any positive symptom or temperature should require respiratory isolation and testing for COVID-19.
24. It is our opinion that all inmates coming into the jail on any day be housed in separate housing (quarantined).⁵ Pending release from quarantine, all individuals in such housing should have a symptom and temperature screening daily. The CDC recommends a 14 day isolation and this should be considered.
25. It is our opinion that convicted inmates in the Cook County Jail who are not screened and tested should not be transferred to the Illinois Department of Corrections. If such inmates are properly quarantined for 14 days prior to transfer and present without symptoms, this transfer would be acceptable.
26. We did not address the personal protection equipment of health care and custody personnel and presume that this is being done at the facility.

⁵ 97.5 % of infected individuals become symptomatic by day 11.5 as reported in UpToDate.

Lack of this equipment places both inmates and staff at high risk of infection and transmission.

Executed this 20th day in March, 2020 in Chicago, Illinois

/s/ Dr. Michael Puisis
Dr. Michael Puisis

/s/ Dr. Robert Cohen
Dr. Robert Cohen

/s/ Dr. Jack Raba
Dr. Jack Raba

/s/ Dr. Ron Shansky
Dr. Ron Shansky

/s/ Dr. Sergio Rodriguez
Dr. Sergio Rodriguez

EXHIBIT B

Declaration of Dr. Marc Stern

I, Marc Stern, declare as follows:

1. I am a physician, board-specialized in internal medicine, specializing in correctional health care. I most recently served as the Assistant Secretary for Health Care at the Washington State Department of Corrections. I also have considerable familiarity with the immigration detention system. I served for four years as a medical subject matter expert for the Officer of Civil Rights and Civil Liberties, U.S. Department of Homeland Security, and as a medical subject matter expert for one year for the California Attorney General's division responsible for monitoring the conditions of confinement in Immigration and Customs Enforcement (ICE) detention facilities. I have also served as a consultant to Human Rights Watch in their preparation of two reports on health-related conditions of confinement in ICE detention facilities. In those capacities, I have visited and examined more than 20 ICE detention facilities and reviewed hundreds of records, including medical records and detention death reviews of individuals in ICE detention. Attached as Exhibit A is a copy of my curriculum vitae.
2. COVID-19 is a serious disease and has reached pandemic status. At least 132,758 people around the world have received confirmed diagnoses of COVID 19 as of March 13, 2020, including 1,629 people in the United States. At least 4,955 people have died globally as a result of COVID-19 as of March 13, 2020, including 41 in the United States. These numbers will increase, perhaps exponentially.
3. COVID-19 is a novel virus. There is no vaccine for COVID-19, and there is no cure for COVID-19. No one has immunity. The only way to control the virus is to use preventive strategies, including social distancing.
4. The time course of the disease can be very rapid. Individuals can show the first symptoms of infection in as little as two days after exposure and their condition can seriously deteriorate in as little as five days (perhaps sooner) after that.
5. The effects of COVID-19 are very serious, especially for people who are most vulnerable. Vulnerable people include people over the age of 50, and those of any age with underlying health problems such as – but not limited to – weakened immune systems, hypertension, diabetes, blood, lung, kidney, heart, and liver disease, and possibly pregnancy.
6. Vulnerable people who are infected by the COVID-19 virus can experience severe respiratory illness, as well as damage to other major organs. Treatment for serious cases of COVID-19 requires significant advanced support, including ventilator assistance for respiration and intensive care support. An outbreak of COVID-19 could put significant pressure on or exceed the capacity of local health infrastructure.
7. Detention facilities are congregate environments, i.e. places where people live and sleep in close proximity. In such environments, infectious diseases that are transmitted via the air or touch are more likely to spread. This therefore presents an increased danger for the spread of COVID-

19 if and when it is introduced into the facility. To the extent that detainees are housed in close quarters, unable to maintain a six-foot distance from others, and sharing or touching objects used by others, the risks of spread are greatly, if not exponentially, increased as already evidenced by spread of COVID-19 in another congregate environment: nursing homes and cruise ships.

8. Social distancing in ways that are recommended by public health officials can be difficult, if not impossible in detention facilities, placing people at risk, especially when the number of detainees is high.

9. For detainees who are at high risk of serious illness or death should they contract the COVID-19 virus, release from detention is a critically important way to meaningfully mitigate that risk. Additionally, the release of detainees who present a low risk of harm to the community is also an important mitigation strategy as it reduces the total number of detainees in a facility. Combined, this has a number of valuable effects on public health and public safety: it allows for greater social distancing, which reduces the chance of spread if virus is introduced; it allows easier provision of preventive measures such as soap for handwashing, cleaning supplies for surfaces, frequent laundering and showers, etc.; and it helps prevent overloading the work of detention staff such that they can continue to ensure the safety of detainees.

10. The release of detainees, especially those with increased health-related vulnerability, also supports the broader community because carceral and detention settings, regardless of the level of government authorities that oversee them, are integral parts of the community's public health infrastructure. Reducing the spread and severity of infection in a Federal immigration detention center slows, if not reduces, the number of people who will become ill enough to require hospitalization, which in turn reduces the health and economic burden to the local community at large.

11. As a correctional public health expert, I recommend release of eligible individuals from detention, with priority given to the elderly and those with underlying medical conditions most vulnerable to serious illness or death if infected with COVID-19.

12. Conditions related to COVID-19 are changing rapidly and may change between the time I execute this Declaration and when this matter appears before the Court. One of the most worrisome changes would be confirmation of a case of COVID-19 within the detention center, either among staff or detainees. In the event of this occurring, and eligible detainees being quarantined or isolated due to possible exposure to the virus, I recommend that the detainee(s) be tested for the virus if testing is available. Armed with the results of that test if it is available, or in the absence of other instructions from the health authority of the municipality to which they will be returning or the Washington State public health authority, those who can easily return to a home without exposure to the public, should be released to that home for continued quarantine or isolation for the appropriate time period. All others can be released to appropriate housing as directed or arranged in coordination with the relevant health authority.

13. I have reviewed Plaintiffs' complaint and on the basis of the claims presented, conclude that Plaintiffs have underlying medical conditions that increase the risk of serious illness or death if exposed to COVID-19. Due to the risks caused by the congregate environment in immigration

detention, compounded by the marked increase in risk conferred by their underlying medical conditions, I recommend their release.

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

Executed this __15th__ day in March, 2020 in Tumwater, Washington.



Dr. Marc Stern

EXHIBIT C

Get the latest coronavirus news in one daily email

EDITORIALS **NEWS** **METRO/STATE**

Coronavirus, Cook County Jail, and the need to reduce the inmate population . . . fast

A hundred new detainees arrive daily, any one of whom could carry in the virus. And the social distancing necessary to protect against it is impossible in a jail.

By CST Editorial Board | Mar 19, 2020, 5:44pm CDT



There are no known cases of coronavirus at the jail so far, but the risk is high. | Santiago Covarrubias/Sun-Times file photo

If we've learned anything about COVID-19 in recent weeks, it's that the virus can flourish in close settings with many people. That means nursing homes, schools and hospitals — and Cook County Jail, the largest single-site jail in the United States.

The good news is there are no known coronavirus cases at the jail so far, and judges, prosecutors and public defenders are working together to release non-violent offenders who would be at particularly high risk if the virus were to surface there. This would include older men and women and those with existing health issues, such as diabetes.

Editorials

But the method of doing so — requiring each detainee to ask a judge for release during a regularly scheduled court hearing — is a gear that grinds too slowly. Fewer than 10 incarcerated people have been released since the outbreak began.

We strongly urge county justice officials and the office of Chief Judge Timothy Evans to develop a process to more quickly release many more incarcerated people — without compromising public safety — who run a high risk of being felled by the disease. The pool of candidates for release should also include other non-violent detainees charged with low-level crimes.

The looming danger

Located at 26th Street and California Avenue, the sprawling 96-acre jail houses 5,600 detainees. There are 100 new arrivals daily, any one of whom potentially could bring the virus into the jail. And there simply isn't room enough to practice the social distancing to protect against the virus that is recommended by the Centers for Disease Control. Soap and facilities for frequent hand washing also are limited.

“One hundred people a day coming in,” Cook County Sheriff Thomas Dart told us. “And I can't say ‘No, I'm not taking them.’ There is no playbook for this.”

“One hundred people a day coming in,” Cook County Sheriff Thomas Dart says. “And I can't say ‘No, I'm not taking them.’ There is no playbook for this.”

Members of the jail's 3,300-member correctional staff could carry the virus into the jail or — equally sobering — carry it back out into the general public.

“Our employees — out living their lives,” Dart said.

Freeing up space in the jail would make it easier to quarantine and treat detainees if and when the virus does strike — and it is hard to imagine that it won't.

The jail has taken precautions such as screening incoming detainees for flu-like symptoms and holding them for seven days of observation. Dart is limiting anyone from visiting the facility other than clergy, lawyers, essential volunteers and attorneys.

Those measures eliminate some risk, but certainly not all or enough. In Santa Clara, California, this week, a pair of jail detainees were quarantined after they were visited by a defense attorney who later tested positive for coronavirus. In New York City this week, a Rikers Island inmate was discovered to have contracted the virus, as was a correctional officer assigned to an entry gate.

“A storm is coming” if New York corrections officials don’t get better prepared, Rikers’ chief medical officer, Ross MacDonald, warned Wednesday on Twitter.

What should be done?

About 25 percent of the detainees at Cook County Jail are behind bars because they don’t have the money to make bond. In addition to turning loose high-risk, non-violent offenders charged with lesser crimes, the county should work to reduce this group of 1,500 detainees. A detainee’s exposure to the coronavirus should not be based on his financial circumstances.

Police departments across Cook County can take steps, as well, to ameliorate the problem. The Chicago Police Department this week began instructing officers to issue citations, rather than make arrests, for minor offenses such as simple battery and small retail theft, said CPD spokesman Anthony Guglielmi. The idea is to reduce the number of detainees in both the county jail and police lock-ups.

It’s a simple but effective change. The number of suspects taken to jail in Los Angeles County dropped from 300 a day to 60 after sheriff’s police last month began issuing citations for minor crimes as an alternative to arrest.

“This is a moment for Cook County officials to be creative,” said Camille Bennett, director of the Illinois ACLU’s Corrections Reform Project.

We couldn’t agree more. Lives — in and out of the jail — depend on it.

Send letters to letters@suntimes.com.

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION**

IN RE STATE AND NATIONAL EMERGENCY)
AND PROTECTION OF THE LIFE AND)
HEALTH OF DETAINEES IN THE COUNTY)
JAIL AND THOSE WHO INTERACT WITH)

MR 00010
2020 Misc. # _____
The Hon. Leroy K. Martin, Jr.
Presiding Judge of the
Criminal Division

2020 MAR 20 PM 1:43
FILED
CLERK OF THE
CIRCUIT COURT
CRIMINAL DIVISION

**BRIEF OF AMICI CURIAE IN SUPPORT OF THE
PETITION BY THE COOK COUNTY PUBLIC DEFENDER**

Amici curiae The Roderick and Solange MacArthur Justice Center, The Chicago Community Bond Fund, Illinois Justice Project, and Chicago Appleseed Fund for Justice, through their counsel Riley Safer Holmes & Cancila LLP, and in support of the Petition by the Cook County Public Defender requesting the expeditious release of certain residents of the Cook County Jail, state to this Court as follows:

INTRODUCTION

As noted in the Petition, there is a dire emergency facing the over 5,500 people currently in the custody of the Cook County Department Corrections. The urgent need to rectify this dangerous situation extends beyond the incarcerated people themselves. Once the COVID-19 infection is contracted in the Cook County Jail, it can be expected to rapidly spread to the various staff and personnel who are required to work in jail throughout this pandemic, as well as to the general public as people leave the jail. This in turn will inevitably be passed on to the families and neighbors of those persons moving in and out of the jail. Continued incarceration creates an unnecessary risk of increased exposure to a deadly disease not just to them, but to all the residents of Cook County. About this there can be no credible debate.

INTEREST OF THE *AMICI*

The Roderick and Solange MacArthur Justice Center, The Chicago Community Bond Fund, Illinois Justice Project, and Chicago Appleseed Fund for Justice are public interest organizations and advocacy groups that have, collectively, worked for decades to further the interests of social justice and human rights in the criminal legal system. The *amici* organizations are deeply concerned about the failure of the Cook County Jail and the criminal legal system to respond decisively to the crisis created within the jail by the threat of spread of COVID-19.

DISCUSSION

The World Health Organization has characterized COVID-19 as a global pandemic, with nearly 250,000 people reported infected with the virus worldwide.¹ While initially described by some media outlets as a “flu,” current data shows that COVID-19 is roughly 34 times as deadly as common influenza, as well as significantly more infectious. This respiratory illness has proven especially dangerous for the elderly and individuals with compromised immune systems.² In response, on March 13, the United States government declared the spread of COVID-19 a national emergency.³ Meanwhile, in response to the growing threat, the Centers for Disease Control (“CDC”) recommends that citizens engage in “social distancing” – namely, maintaining a distance

¹ “WHO Characterizes COVID-19 as a Pandemic,” *World Health Organization* (Mar. 11, 2020), <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>; see also “Coronavirus Map: Tracking the Spread of the Outbreak,” *The New York Times* (Mar. 19, 2020), <https://www.nytimes.com/interactive/2020/world/coronavirus-maps.html> (updating regularly).

² Coronavirus Disease 2019 (COVID-19) Situation Report 46, *World Health Organization* (Mar. 6, 2020), https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200306-sitrep-46-covid-19.pdf?sfvrsn=96b04adf_2.

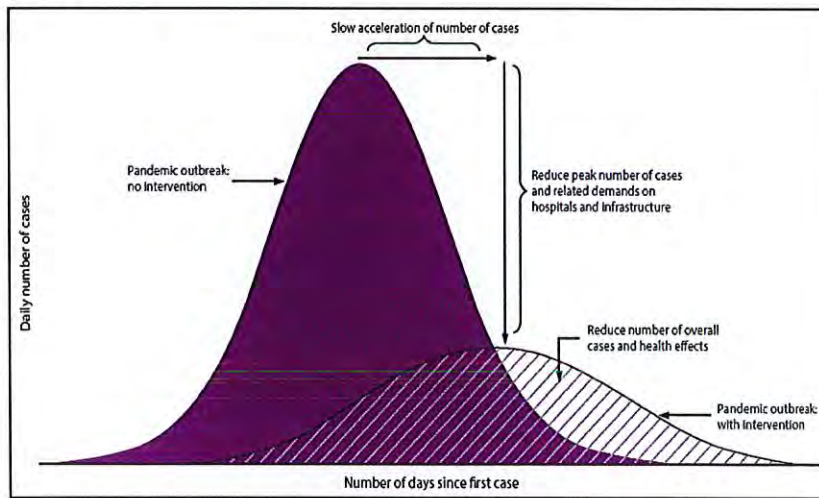
³ Declaration of National Emergency in Response to COVID-19, <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

of approximately six feet from others when possible. The CDC also recommends more stringent food safety procedures, frequent hand-washing and sanitizing, and avoiding large gatherings.⁴

As of this filing, there are hundreds of diagnosed cases in the State of Illinois, and the situation continues to evolve daily and hourly. On March 9, Governor Pritzker issued a disaster proclamation. Consistent with CDC guidelines, on March 13, he announced the closure of all public and private schools statewide. On March 16, Governor Pritzker closed dine-in service at all restaurants and bars and restricted crowd sizes to fewer than 50 people. On March 17, he activated 60 members of the Illinois National Guard to assist with logistical support and medical staffing. On March 18, the Village of Oak Park issued the first shelter-in-place order in Illinois.

The purpose of these precautions is to slow the spread of COVID-19:

FIGURE 1. Goals of community mitigation for pandemic influenza



Source: Adapted from: CDC. Interim pre-pandemic planning guidance: community strategy for pandemic influenza mitigation in the United States—early, targeted, layered use of nonpharmaceutical interventions. Atlanta, GA: US Department of Health and Human Services, CDC; 2007. <https://stacks.cdc.gov/view/cdc/11425>.

If COVID-19 spreads quickly, it will have a devastating effect on hospitals as they flood with patients more quickly than those patients can be treated. If rapid infections create a demand

⁴ Interim U.S. Guidance for Risk Assessment and Public Health Management of Person with Potential Coronavirus Disease 2019 (COVID-19) Exposures: Geographic Risk and Contacts of Laboratory-Confirmed Cases, *Centers for Disease Control* (updated Mar. 14, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/php/risk-assessment.html>.

that cannot be met by hospital capacity, the risk of death for infected individuals increases dramatically. Social distancing is the single most effective tool we have to “flatten the curve” of transmission of the virus so that our healthcare system can keep up.⁵ Yet the realities of incarceration make compliance with these guidelines impossible.

A. Risk Factors for Incarcerated People and Detainee Populations

Cook County Jail (“CCJ”), one of the largest single-site jails in the country, presents a perfect breeding ground for COVID-19. If there has not yet been a confirmed case of the COVID-19 virus among incarcerated individuals in Cook County, that will likely occur soon. Based on the documented rate of transmission of this particular disease, the proliferation of that infection will be rapid once it is inside the jail. Contributing to this is poor hygiene access for incarcerated people, the sharing of facilities, and the unavoidable gathering of people in large groups. Social distancing is impossible inside a jail.

As of this filing, roughly 5,600 people are incarcerated in CCJ. Nearly 500 of them are over age 55.⁶ Jail populations also include disproportionately high numbers of individuals who may be particularly vulnerable to COVID-19, such as those with asthma, heart disease, lung disease, diabetes, autoimmune diseases, or other conditions resulting in a suppressed immune system⁷:

⁵ Katie Pearce, “What is social distancing and how can it slow the spread of COVID-19?,” *Johns Hopkins University* (Mar. 13, 2020), <https://hub.jhu.edu/2020/03/13/what-is-social-distancing/>.

⁶ Cook County Sheriff’s Jail Population Daily Report (Mar. 18, 2020), <https://www.cookcountysheriff.org/data/jail-population-march-18-2020/>.

⁷ See Peter Wagner & Emily Widra, “No need to wait for pandemics: The public health case for criminal justice reform,” *Prison Policy Initiative* (Mar. 6, 2020), www.prisonpolicy.org/blog/2020/03/06/pandemic/; see also Laura M. Maruschak et al., “Medical Problems of State and Federal Prisoners and Jail Inmates,” *Bureau of Justice Statistics* (2015), <https://www.bjs.gov/content/pub/pdf/mpsfpi1112.pdf>.

Prevalence of health condition by population

Health condition	Jails	State prisons	Federal prisons	United States
Ever tested positive for Tuberculosis	2.5%	6.0%		0.5%
Asthma	20.1%	14.9%		10.2%
Cigarette smoking	n/a	64.7%	45.2%	21.2%
HIV positive	1.3%	1.3%		0.4%
High blood pressure/hypertension	30.2%	26.3%		18.1%
Diabetes/high blood sugar	7.2%	9.0%		6.5%
Heart-related problems	10.4%	9.8%		2.9%
Pregnancy	5.0%	4.0%	3.0%	3.9%

*Health conditions that make respiratory diseases like COVID-19 more dangerous are far more common in the incarcerated population than in the general U.S. population. Pregnancy data come from our report, [Prisons neglect pregnant women in their healthcare policies](#), the CDC's [2010 Pregnancy Rates Among U.S. Women](#), and data from the [2010 Census](#). Cigarette smoking data are from a 2016 study, [Cigarette smoking among inmates by race/ethnicity](#), and all other data are from the 2015 BJS report, [Medical problems of state and federal prisoners and jail inmates, 2011-12](#), which does not offer separate data for the federal and state prison populations. Cigarette smoking *may be part of the explanation* of the higher fatality rate in China among men, who are far more likely to smoke than women.*

Moreover, conditions of confinement – including overcrowding, barracks-style housing, communal dining, and restricted access to hygiene products – make local jails like CCJ particularly susceptible to outbreaks of communicable diseases; according to public health experts, incarcerated individuals “are at special risk of infection, given their living situations” and are “less able to participate in proactive measures to keep themselves safe.”⁸ Flu outbreaks occur regularly in jails. For example, in 2013, an outbreak of the stomach flu required the quarantine of 700 people.⁹ Likewise, during the H1N1 epidemic in 2009, many jails and prisons faced high numbers

⁸ Achieving A Fair And Effective COVID-19 Response: An Open Letter to Vice-President Mike Pence, and Other Federal, State, and Local Leaders from Public Health and Legal Experts in the United States, (Mar. 2, 2020), https://law.yale.edu/sites/default/files/area/center/ghjp/documents/final_covid-19_letter_from_public_health_and_legal_experts.pdf.

⁹ Carlos Sadovi, “Virus quarantines 700 inmates at Cook County Jail,” *Chicago Tribune* (Feb. 6, 2013), <https://www.chicagotribune.com/news/ct-xpm-2013-02-06-chi-flu-cook-county-jail-20130206-story.html>.

of cases.¹⁰ In China, officials have confirmed the rapid spread of COVID-19 in Chinese prisons, with more than 500 reported cases across five facilities in three provinces.¹¹

Cermak Health Services of Cook County, the medical facility within CCJ, and Stroger Hospital are not equipped to accommodate the medical needs of these incarcerated patients. Depending on the age and compromised immune systems of these patients, severity of the symptoms will vary. It is predictable that the seriousness of the illnesses expected to develop among incarcerated people will be greater than the population as a whole. The choices to be made about humane treatment for gravely ill people in jail will be stark.

B. Risk Factors for the Broader Community

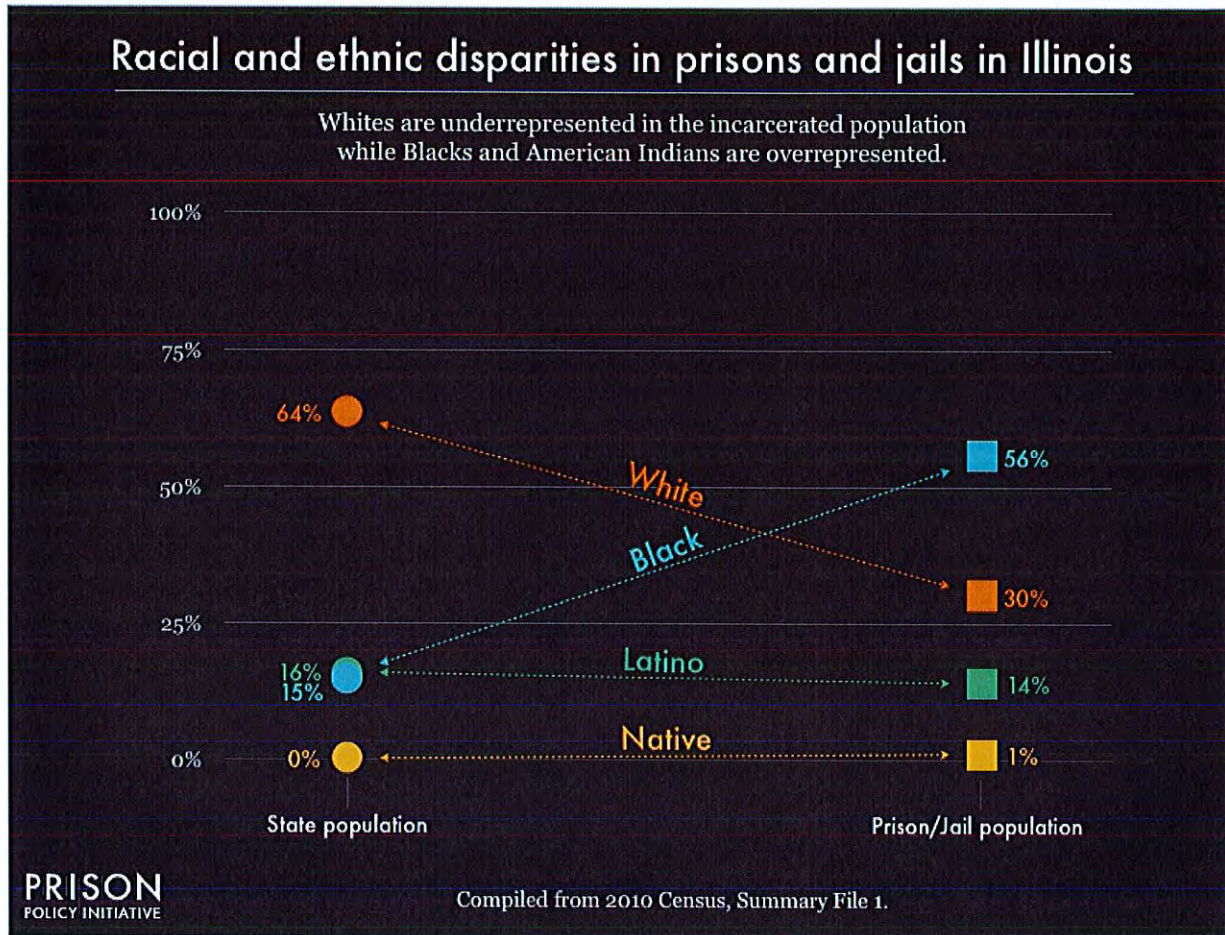
An outbreak of COVID-19 in the CCJ also poses a threat to the broader community. The CCJ employs on various shifts hundreds of guards, sheriff's deputies, medical staff, and other persons with administrative, social work, and clerical responsibilities. These employees are in daily contact with incarcerated people, often in close quarters. When their shifts conclude, they go home. Jails also have extremely high turnover rates, as individuals are admitted and released on a daily basis. CCJ logs many thousands of admissions each year, and a substantial majority of discharged individuals return directly to their communities. This regularly cycling in and out of jails is particularly hazardous now.

Further, "jail churn" has the potential to disproportionately endanger communities of color in Cook County. It is no secret that people of color are overrepresented in prisons and jails in

¹⁰ David M. Reutter, "Swine flu widespread in prisons and jails, but deaths are few," *Prison Legal News* (Feb. 15, 2010), <https://www.prisonlegalnews.org/news/2010/feb/15/swine-flu-widespread-in-prisons-and-jails-but-deaths-are-few/>.

¹¹ Rhea Mahbubani, "Chinese jails have become hotbeds of coronavirus as more than 500 cases have erupted, prompting the ouster of several officials," *Business Insider* (Feb. 21, 2020), <https://www.businessinsider.com/500-coronavirus-cases-reported-in-jails-in-china-2020-2>.

Illinois; for example, Black people comprise 15% of the population of Illinois, but 56% of its incarcerated individuals.¹²



If incarcerated people are discharged from CCJ after being exposed to COVID-19, they risk carrying the virus back to local communities of color at disproportionate rates.

On March 18, the Cook County Sheriff issued a press release addressing CCJ's response to the public health crisis, including screening measures, limiting visitation, and housing

¹² Illinois Profile, Prison Policy Initiative, <https://www.prisonpolicy.org/profiles/IL.html>.

changes.¹³ Ongoing modification of jail policies on an ad hoc basis will be ineffective once this highly infectious sickness takes hold in the jail and propagates uncontrollably, as has been seen in countries, cities, and communities worldwide. The only effective method to deal with this impending crisis is to move aggressively to de-populate the jail and allow these presumptively innocent members of our society to take steps available to the rest of us to avoid infection.

CONCLUSION

It is essential that the changes urged in the Public Defender's petition be implemented immediately so as to avoid the inevitable spread of this virus through the jail. It is imperative to immediately reduce the number of people in Cook County Jail. Eliminating unnecessary pre-trial detention is a vital step to protecting these incarcerated populations and the community at large.

Dated: March 20, 2020

Respectfully submitted,

/s/ Jeffrey Urdangen

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¹³ Cook County Sheriff Press Release (Mar. 18, 2020), <https://www.cookcountysheriff.org/update-on-efforts-to-reduce-population-at-cook-county-jail-and-ongoing-precautions-to-prevent-covid-19/>.

¹⁴ Appendix A constitutes a list of organizations and entities all of whom join the *amici* in this request to the Court.

APPENDIX A

ACLU of Illinois	Loevy & Loevy
American Friends Service Committee - Chicago	Love & Protect
Believers Bail Out	Lucy Parsons Labs
Black Lives Matter: Chicago	Moms United Against Violence and Incarceration
Chicago Alliance Against Racist and Political Repression	The People's Law Office
Chicago Council of Lawyers	The People's Lobby
Chicago Desi Youth Rising	Organized Communities Against Deportations
Chicago Freedom School	Restore Justice
Chicago Torture Justice Center	Southsiders Organized for Unity and Liberation
Chicago Votes Action Fund	Trinity United Church of Christ
First Defense Legal Aid	Uptown People's Law Center
Gay Liberation Network	Westside Justice Center
Liberation Library	

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that the foregoing "Brief of Amici Curiae in Support of the Petition by the Cook County Public Defender," was served upon the Cook County Sheriff's Department, c/o Sheriff Tom Dart, and the Cook County State's Attorney's Office, c/o Cook County State's Attorney Kim Foxx, before the hour of 5:00 p.m. on March 20, 2020.



AMY P. CAMPANELLI

Public Defender of Cook County