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.

CLASS ACTION

PLAINTIFFS' EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER ENJOINING DEFENDANTS FROM TRANSFERRING COVID-19 CARRIERS TO LOUISIANA STATE PENITENTIARY

NOW INTO COURT COME Plaintiffs in the above-captioned matter, through undersigned counsel, who move this Honorable Court to issue a Temporary Restraining Order (TRO) in order to prevent Defendants from continuing the transfer of people who are COVID-19 carriers from state and local facilities across Louisiana to the Louisiana State Penitentiary ("LSP"). In

direct contravention of public health recommendations and plain common sense, Defendants are implementing a dangerous plan to transfer COVID-19 patients from every part of the State to the remote and notoriously inhumane Camp J at LSP. By crowding large numbers of COVID-19 patients into a facility far removed from hospitals and constitutionally adequate medical care but yet in dangerously close proximity to LSP's medically vulnerable population, this deadly course of action promises to result in the preventable deaths of dozens—if not hundreds or thousands—of people, including Plaintiffs, putative class members, LSP staff, and people in the community.

As set forth in Plaintiffs' Memorandum in Support of this motion, the evidence indisputably satisfies the four-factor test for a temporary restraining order (TRO) enjoining Defendants' "Camp J Plan." Defendants' deliberate decision to isolate COVID-19 patients far from crucially needed adequate medical care and in close proximity to medically vulnerable patients at LSP subjects Plaintiffs and the putative class to a substantial and unconstitutional risk of serious harm. That substantial risk is exponentially compounded by pre-existing unconstitutional defects in LSP's medical system as well as by serious and systemic deficiencies in Defendants' overall COVID-19 plan. As a result, there can be no serious dispute that Plaintiffs will suffer irreparable harm—and possibly preventable death—absent an immediate injunction. The public interest weighs heavily against a plan that would not only deprive COVID-19 patients with access to necessary medical care but also result in the spread of COVID-19 amongst LSP patients and staff as well as the community at large. And even assuming Defendants' suffered some *de minimis* harm from an injunction, such hypothetical harm pales in comparison to the risks to the health and safety of Plaintiffs. Accordingly, Plaintiffs respectfully request that the Court immediately restrain Defendants from transferring patients with COVID-19 to Camp J, and then issue a preliminary injunction enjoining the transfer plan once the parties have fully briefed the issue.

Federal Rule of Civil Procedure 65(c) provides that the Court should levy "security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." Given that there are no costs or damages associated with the relief Plaintiffs request (simply restraining Defendants from transferring people to LSP), the "proper" amount is zero dollars.

If the Court does determine that a different amount would be proper, Plaintiffs respectfully request that the Court waive the bond requirement, given the obviousness of the risk to Plaintiffs' health, their indigence, and the strong public interest involved.[1] Furthermore, the requirement of a bond is contrary to the proposition that inadequate resources under no circumstances justify a prison's deprivation of constitutional rights.[2] Consistent with this well-established principle, this Court should not require Plaintiffs, who are indigent, to post a bond in order to protect their constitutional rights.

For the reasons in the attached memorandum, the Court should immediately issue an order temporarily restraining Defendants from transferring inmates with COVID-19 to LSP; and, after a hearing, preliminarily enjoin Defendants from doing so. Counsel for the Plaintiffs, Mercedes Montagnes, will be available by phone at the pleasure of the Court. She has called chambers to provide her cell phone number.

Respectfully submitted this 14th day of April, 2020.

/s/ Mercedes Montagnes

Mercedes Montagnes, La. Bar No. 33287
Jamila Johnson, La. Bar No. 37953
Nishi Kumar, La. Bar No. 37415

[1] *See, e.g.*, *Molton Co v. Eagle-Picher Industries, Inc.*, 55 F.3d 1171, 1176 (6th Cir. 1995) (approving waiver of bond given strength of case and "the strong public interest" involved); *Campos v. INS*, 70 F. Supp. 2d 1296, 1310 (S.D. Fla. 1998) (because plaintiffs were indigent and sought to vindicate their constitutional rights, consistent with the public interest, the court did not require a bond).
[2] *See, e.g.*, *Smith v. Sullivan*, 553 F.2d 373, 378 (5th Cir. 1977) (inadequate resources can never be a justification for depriving an inmate of his constitutional rights).

The Promise of Justice Initiative
1024 Elysian Fields Avenue
New Orleans, LA 70117
Telephone: (504) 529-5955
Facsimile: (504) 595-8006
Email: mmontagnes@defendla.org

Jared Davidson, La. Bar No. 37093
Southern Poverty Law Center
201 Saint Charles Avenue, Suite 2000
New Orleans, LA 70170
Telephone: (504) 486-8982
Facsimile: (504) 486-8947
Email: jared.davidson@splcenter.org

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, Mercedes Montagnes, an attorney, hereby certify that on April 14, 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/ Mercedes Montagnes

Mercedes Montagnes, La. Bar No. 33287

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.

CLASS ACTION

MEMORANDUM IN SUPPORT OF PLAINTIFFS' EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER ENJOINING DEFENDANTS FROM TRANSFERRING COVID-19 CARRIERS TO LOUISIANA STATE PENITENTIARY

The COVID-19 pandemic represents an unprecedented threat to the lives of Louisianans, particularly those in the State's poorly equipped prison system. At least 884 people have already perished in the State[1]—amongst the highest mortality rates in the world—and that number will grow

[1] Coronavirus, La. Dep't of Health, http://ldh.la.gov/Coronavirus/ (last visited Apr. 13, 2020).

exponentially larger with each passing day. There is no cure for this highly contagious and deadly virus. Instead, social distancing and ready access to adequate medical care are the only reliable methods of protection from the virus's lethal consequences. While the majority of Louisianans shelter in place and enjoy the benefit of self-determination over their medical care, people in the State's prisons remain sitting ducks in an increasingly perilous pond created by Defendants' dangerous COVID-19 response.

In direct contravention of public health recommendations and plain common sense, Defendants are implementing a dangerous plan to transfer COVID-19 patients from every part of the State to the remote and notoriously inhumane Camp J at the Louisiana State Penitentiary ("LSP"). By crowding large numbers of COVID-19 patients into a facility far removed from hospitals and constitutionally adequate medical care but yet in dangerously close proximity to LSP's medically vulnerable population, this deadly course of action promises to result in the preventable deaths of dozens—if not hundreds or thousands—of people, including Plaintiffs, putative class members, LSP staff, and people in the community. Further, the very act of transporting confirmed cases of COVID-19 throughout the state creates innumerable unnecessary opportunities for spread.

As set forth below, the evidence indisputably satisfies the four-factor test for a temporary restraining order (TRO) enjoining Defendants' "Camp J Plan." Defendants' deliberate decision to isolate COVID-19 patients far from crucially needed adequate medical care and in close proximity to medically vulnerable patients at LSP subjects Plaintiffs and the putative class to a substantial and unconstitutional risk of serious harm. That substantial risk is exponentially compounded by pre-existing unconstitutional defects in LSP's medical system as well as by serious and systemic deficiencies in Defendants' overall COVID-19 plan. As a result, there can be no serious dispute that Plaintiffs will suffer irreparable harm—and possibly preventable death—absent an immediate injunction. The public interest weighs heavily against a plan that would not only deprive COVID-19

patients with access to necessary medical care but also result in the spread of COVID-19 amongst LSP patients and staff as well as the community at large. And even assuming Defendants' suffered some *de minimis* harm from an injunction, such hypothetical harm pales in comparison to the risks to the health and safety of Plaintiffs. Accordingly, Plaintiffs respectfully request that the Court immediately restrain Defendants from transferring patients with COVID-19 to Camp J, and then issue a preliminary injunction enjoining the transfer plan once the parties have fully briefed the issue.

FACTUAL BACKGROUND

I. COVID-19 Is a Serious and Deadly Disease That Has Caused a Global Pandemic.

COVID-19 is a novel virus for which there is no established curative medical treatment and no vaccine.[2] It can cause pneumonia, acute respiratory distress syndrome, respiratory failure, heart failure, sepsis, and other potentially fatal conditions.[3] Lab testing and imaging is required to appropriately evaluate and provide treatment to patients. One-fifth of all cases cause serious illness, including respiratory damage that requires hospitalization and mechanical ventilation, and can permanently harm those who survive.[4] Treatment for severe cases of COVID-19 includes respiratory isolation, oxygen, and mechanical ventilation.[5] Symptoms can range from fever, cough, chest pain, and headache to loss of smell, abdominal pain, rash, diarrhea, aches, and vomiting.[6] Severe COVID-19 patients can suffer acute respiratory distress syndrome ("ARDS"), requiring

---

[2] Ex. 1, Puisis Decl. at ¶ 2.

[3] Fei Zhou et al., *Clinical Course and Risk Factors for Mortality of Adult Inpatients with COVID-19 in Wuhan, China: A Retrospective Cohort Study*, 395 LANCET 1054 (Mar. 11, 2020), https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30566-3/fulltext.

[4] "While about 80% of cases manifest as a mild illness (i.e. non-pneumonia or mild pneumonia), approximately 20% progress to a more severe illness, with 6% requiring specialist medical care, including mechanical ventilation." World Health Organization, *Preparedness, Prevention And Control Of COVID-19 In Prisons And Other Places Of Detention: Interim Guidance*, 10 (Mar. 15, 2020), http://www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf?ua=1.

[5] Ex. 1, Puisis Decl. at ¶ 13.

[6] Ex. 2, Vassallo Decl. at ¶ 7.

admission to an intensive care unit and invasive ventilation.[7] The mortality rate for ARDS is 40%.[8] The severity and sensation of ARDS for COVID-19 patients is similar to drowning.[9]

COVID-19 is highly transmissible. Recent estimates by the CDC suggest that, on average in community settings, each infected person transmits the virus to an additional 5.7 additional people.[10] Only the influenza pandemic of 1918 is known to have higher infectivity.[11] COVID-19 is transmitted by droplets of infected aerosol when people with the infection cough, which can survive in the air for up to three hours—and on surfaces such as plastic and stainless steel for up to 2-3 days.[12] COVID-19 can also be transmitted into the air by aerosolized feces when a toilet is flushed.[13]

Many studies have shown the increased risk for serious complications in patients infected with COVID-19 who also suffer from comorbidities, including common health problems that afflict Plaintiffs like hypertension, diabetes, COPD, and cancer.[14] Although advanced age and underlying illnesses or chronic medical conditions increase the risk of serious effects of COVID, younger patients ages 20-54 years old can also have serious complications, including hospital admission, admission to an intensive care unit, invasive ventilation, or death.[15]

---

[7] *Id.* at ¶ 19.
[8] Lizzie Presser, *A Medical Worker Describes Terrifying Lung Failure From COVID-19 — Even in His Young Patients*, PROPUBLICA, (Mar. 21, 2020, 5 AM), https://www.propublica.org/article/a-medical-worker-describes--terrifying-lung-failure-from-covid19-even-in-his-young-patients.
[9] *Id.*; *see also* Ex. 2, Vassallo Decl. at ¶ 20.
[10] *Id.* at ¶ 3.
[11] *Id.*
[12] Ex. 1, Puisis Decl. at ¶ 6, Ex. 2, Vassallo Decl. at ¶ 10.
[13] Alexandra Sternlicht, *Why You Should Flush with the Lid Down: Experts Warn of Fecal-Oral Transmission of COVID-19*, FORBES, (Apr. 2, 4:59 PM), https://www.forbes.com/sites/alexandrasternlicht/2020/04/02/why-you-should-flush-with-the-lid-down-virologist-warns-of-fecal-oral-transmission-of-covid-19/
[14] Ex. 2, Vassallo Decl. at ¶ 19.
[15] *Id.* at ¶ 9.

People in carceral settings are among the most vulnerable populations for COVID-19 infection.[16] It is typically not possible to isolate incarcerated people from the outside world (including from staff and vendors who may have been exposed to COVID-19), nor is it possible to meaningfully isolate them from one another. The transmission of COVID-19 in prisons can be likened to the transmission of TB, where social distancing practices are impossible with incarcerated people living in close quarters and lack of available means to ensure preventative hygiene practices.[17] As a result, jails and prisons are known to be a breeding ground for infectious respiratory illness.[18] The most vivid current example is the Cook County Jail, which currently has the highest outbreak numbers in the country.[19]

To reduce the risk of contracting COVID-19, the CDC advises all people—and particularly those at higher risk of severe illness—to "[w]ash your hands often with soap and water," "[i]f soap and water are not readily available, use a hand sanitizer that contains at least 60% alcohol," "[a]void close contact with people who are sick," "[p]ut distance between yourself and other people," and to "[c]over your mouth and nose with a cloth face cover when around others." None of these recommended preventive measures is available to people who are incarcerated in Louisiana.[20]

Moreover, health profiles of incarcerated people show that they are significantly sicker and more vulnerable to COVID-19 than the population at large.[21] Many have multiple comorbidities and are at a higher risk of complications, including ARDS.[22] LSP has a particularly vulnerable population

---

[16] *Id.* at ¶ 10.
[17] *Id.*
[18] Ex. 1, Puisis Decl. at ¶ 8.
[19] Timothy Williams & Danielle Ivory, *Chicago's Jail is Top U.S. Hot Spot as Virus Spreads Behind Bars*, NY TIMES, (April 8, 2020), https://www.nytimes.com/2020/04/08/us/coronavirus-cook-county-jail-chicago.html
[20] Ex. 2, Vassallo Decl. at ¶ 10.
[21] Peter Wagner & Emily Widra, *No need to wait for pandemics: The public health case for criminal justice reform,* PRISON POLICY INITIATIVE, (March 6, 2020), https://www.prisonpolicy.org/blog/2020/03/06/pandemic/
[22] Ex. 2, Vassallo Decl. at ¶ 19.

with over 50% of people over 50 years of age, many of whom have high risk medical conditions.[23] The number of positive COVID-19 cases throughout Louisiana is climbing rapidly and the death rate per capita is the third highest in the country.[24]

II. The DOC Plans to Manage COVID-19 by Transferring Positive Cases to LSP's Camp J.

According to the DOC, patients housed in DOC facilities or local parish prisons and jails who test positive for COVID-19 may be transported to LSP's Camp J for medical isolation. As of April 11, 2020, at least 40 people had been transferred to Camp J.[25] The DOC's transfer plan has expanded swiftly and must be stopped before preventable harm—and even death—cannot be undone.

Kendrick Wilson is in pre-trial detention and was being held at East Baton Rouge Parish Prison ("EBRPP") until April 11, 2020, when the DOC transferred him to Camp J after he was told that he had tested positive for COVID-19.[26] The two guards who woke Mr. Wilson to be transported told him that he would be transferred one way or another, whether willingly or unwillingly.[27] He stated multiple times that he did not want to be taken to Camp J.[28] Mr. Wilson is currently being held at Camp J in an open dorm with approximately 39 other people, none of whom are isolated from one another.[29] Mr. Wilson would like to be near a hospital.[30]

Plaintiff Ernest Rogers is in pretrial detention and was being held at EBRPP.[31] He was tested for COVID-19 at around 2 a.m. on April 9 and is suffering from a cough, sore throat, a fever, and

---

[23] *Id.* at ¶ 11.
[24] *Id.* at ¶ 5.
[25] Ex. 3, Wilson Decl. at ¶ 11.
[26] *Id.* at ¶¶ 4, 7, 10.
[27] *Id.* at ¶ 8.
[28] *Id.*
[29] *Id.* at ¶ 11.
[30] *Id.* at ¶¶ 17, 18.
[31] Ex. 4, Rogers Decl. at ¶ 4.

shortness of breath.[32] Mr. Rogers is 65 years old and has hepatitis C, liver disease, and high blood pressure.[33] The guards have told Mr. Rogers that he will be transferred to Camp J—voluntarily or non-voluntarily—if his test results are positive.[34] Mr. Rogers was previously housed at Camp J while incarcerated at LSP in the 1980s, and he does not want to go back.[35] Mr. Rogers would like to be held somewhere near a hospital.[36]

Plaintiff Julius Allen is in pretrial detention and was held at EBRPP.[37] Like Mr. Rogers, he was tested for COVID-19 around 2 a.m. on April 9 and is suffering from a fever, severe body aches, difficulty breathing, weakness, disorientation, and diarrhea.[38] He has had these symptoms for at least 5-7 days.[39] Mr. Allen has several pre-existing medical conditions—diabetes, hypertension, high cholesterol, and a history of bronchitis[40]—some of which make him more vulnerable to severe symptoms of COVID-19.[41] On April 9, Mr. Allen was taken from EBRPP to Our Lady of the Lake hospital in Baton Rouge.[42] Medical staff at the hospital told Mr. Allen that there was a "10/10" chance that he was COVID-positive.[43] Mr. Allen was sharing a cell with Kendrick Wilson when the guards came to transport Mr. Wilson.[44] Mr. Allen watched the guards force Mr. Wilson out of the

[32] *Id.* at ¶¶ 5-6.
[33] *Id.* at ¶ 7.
[34] *Id.* at ¶ 10.
[35] *Id.*
[36] *Id.* at ¶¶ 11-13.
[37] Ex. 5, Allen Decl. at ¶ 4.
[38] *Id.* at ¶¶ 5-6.
[39] *Id.* at ¶ 6.
[40] *Id.* at ¶ 7.
[41] Ex. 2, Vassallo Decl. at ¶ 11 ("hypertension and diabetes [are] conditions that render patients vulnerable to severe COVID symptoms").
[42] Ex. 5, Allen Decl. at ¶ 8.
[43] *Id.*
[44] *Id.* at ¶ 10.

cell and handcuff him when Mr. Wilson said that he did not want to be transferred.[45] Mr. Allen would like to be kept near a hospital.[46]

III. LSP Is Not Equipped to Treat COVID-19 Patients, and It Is Located Over One Hour's Drive from a Hospital Capable of Providing Adequate Treatment for Life-Threatening Symptoms

LSP is not equipped to treat COVID-19 symptoms, especially if the symptoms become severe—which can occur rapidly and unexpectedly. The care required to appropriately evaluate and provide treatment to patients with COVID-19 includes lab testing, imaging, and treatment individualized to the presentation of the patient.[47] Treatment may require oxygen therapy by nasal cannula, high flow oxygen masks, and intubation and ventilator assistance.[48] Some patients develop blood clots on the lungs and require anticoagulation.[49] Some patients require intravenous fluid therapy.[50] Some patients require vasopressor treatment for low blood pressure, support for kidney failure, and/or early antibiotics.[51] Treatment requires staff that have experience using this equipment and accurately assessing what is needed.[52] The intensity of care and protracted length of care for COVID-19 cannot be provided at LSP or any of the hospitals within an hour of LSP.[53]

Even if the DOC does not plan to attempt to treat severe COVID-19 symptoms at LSP, there is no way to define or predict who will develop severe symptoms in the course of the illness and require treatment and hospitalization.[54] Nor does Camp J have sufficient staffing and equipment to monitor the COVID-19 positive patients for clinical deterioration, including signs of hypoxia.[55] It

---

[45] *Id.*
[46] *Id.* at ¶¶ 14-16.
[47] Ex. 2, Vassallo Decl. at ¶ 7.
[48] *Id.*
[49] *Id.*
[50] *Id.*
[51] *Id.* at ¶ 16.
[52] *Id.*
[53] *Id.*
[54] *Id.* at ¶¶ 7, 12.
[55] *Id.*

is critical that patients be within easy transportable distance of hospitals that can provide the adequate level of care.[56] The likelihood of Plaintiff Julius Allen's symptoms continuing to be severe and ultimately requiring hospitalization is high; Mr. Allen's pre-existing medical conditions, including diabetes, hypertension, and high cholesterol, make him especially vulnerable to COVID-19 complications.[57] The likelihood of Plaintiff Ernest Roger's symptoms continuing to be severe and ultimately requiring hospitalization is high; Mr. Rogers is 65 years old and has a pre-existing medical conditions, which makes him especially vulnerable to COVID-19 complications.[58] If Plaintiffs' COVID-19 cases become severe, they will require hospitalization; LSP does not have the medical equipment or personnel necessary to treat severe COVID-19 symptoms.[59]

Although DOC has stated that if Plaintiffs' COVID-19 cases become severe they will be transported to a hospital, the nearest hospital capable of treating life-threatening COVID-19 symptoms is over one hour's drive from LSP.[60] Ambulance resources will be strained in the area; the parish where LSP is located has only two ambulances, and ambulance personnel everywhere have high rates of COVID-19 infection.[61] The nearest hospital to LSP, West Feliciana Parish Hospital, is not a reference hospital, meaning it is not equipped to accept patients who require a higher level of care, and is not suitable for a patient requiring intubation.[62] There are no ventilators at West Feliciana Hospital.[63] A patient requiring intubation would need to be sent to Baton Rouge or New Orleans, a one-hour hour or three-hour drive from LSP, respectively.[64]

---

[56] *Id.* at ¶ 7, 15.
[57] Ex. 5, Allen Decl. at ¶ 7; Ex. 2, Vassallo Decl., ¶ 19.
[58] Ex. 4, Rogers Decl. at ¶¶ 3, 7; Ex. 2, Vassallo Decl., ¶ 19.
[59] Ex. 2, Vassallo Decl. at ¶¶ 7, 14, 16.
[60] *Lewis v. Cain*, 15-cv-318, Rec. Doc. 585 at 7 ("If an offender housed at Camp J begins to exhibit severe symptoms, he will be transport [sic] to an outside hospital. **Offenders transferred to Camp J will not be sent to the ATU or the treatment center at LSP**."); Ex. 2, Vassallo Decl., ¶ 16.
[61] Ex. 2, Vassallo Decl. at ¶ 17.
[62] Ex. 1, Puisis Decl. at ¶ 14, 18.
[63] Ex. 2, Vassallo Decl. at ¶ 12.
[64] Ex. 1, Puisis Decl. at ¶¶ 14, 18.

Equally alarming, symptoms can rapidly worsen, with people who appear to have mild cases quickly developing severe symptoms that require medical intervention and life-saving measures immediately upon arrival to the hospital.[65] There are no lab tests that predict the course of a COVID patient's illness.[66] Some patients have adequate oxygen saturation for days and then deteriorate.[67] There are no signs or symptoms that can be used to predict clinical deterioration.[68] Given the lack of tell-tale signs or a timeline for subsequent deterioration, it is critical that patients who test positive or likely positive (known as persons under investigation) for COVID-19 or have been exposed and show symptoms, be within easy transportable distance of hospitals in the event that more critical care is necessary.[69] Yet, the Camp J plan does not account for these dangerous realities.

Even if the DOC intends to provide limited medical care, rather than just provide isolation at Camp J—or changes its plan and provides more robust care—the medical care at LSP has long been unconstitutionally deficient. Physicians are not credentialed appropriately and do not provide medical care in line with national standards.[70] Plaintiffs will not receive the medical attention needed to appropriately monitor their COVID-19 there and there are no plans for the DOC to staff Camp J with sufficient medical staff in order to monitor all patients for signs of clinical deterioration.[71] Kendrick Wilson observed two nurses per shift caring for him and approximately 39 other COVID-19 positive patients in an open dorm.[72]

---

[65] Ex. 2, Vassallo Decl. at ¶¶ 7, 12.
[66] *Id.*
[67] *Id.*
[68] *Id.*
[69] *Id.*
[70] *Id.* at ¶ 13.
[71] *Id.* at ¶ 7; Ex. 1, Puisis Decl. at ¶ 14.

IV. LSP's Camp J Is Notoriously Unfit for Housing even Healthy Individuals

After more than 40 years as one of the most restrictive housing units within Louisiana's prison system, DOC closed Camp J in May 2018.[73] At Camp J's peak, it confined more than 400 individuals being disciplined in solitary cells for more than 23 hours a day.[74] Defendant Secretary James LeBlanc himself said of Camp J in 2018, "It's just not a good place to be."[75] The building is notorious for its lack of ventilation, heating, and cooling; people incarcerated in Camp J were forced out of necessity to "strip naked and lie on the cement floors to keep cool during the long, humid summer days; in the winter, the cells can be frigid."[76] Because Camp J's buildings do not have proper ventilation, those facilities are extremely inappropriate for housing patients with COVID-19, an illness that causes severe respiratory symptoms. There are ceiling fans to help circulate air, but large fans blowing air are likely to spread aerosolized agents around the facility, making it more likely that staff at Camp J will breathe in contagions.[77]

V. Defendants' Camp J Plan Threatens the Lives of LSP's Medically Vulnerable Population.

It will be very difficult, if not impossible, for the DOC to prevent the spread of COVID-19 at LSP.[78] For security purposes the prison has one entrance used by everyone. There is no indication that LSP intends to use a separate entrance for Covid-19 patients. While somewhat isolated on the LSP campus, Camp J is, and DOC has always treated it as, a part of the prison. Defendants' plan for

---

[72] Ex. 3, Wilson Decl. at ¶¶ 11, 14.
[73] Grace Toohey, *Angola Closes Its Notorious Camp J, "a Microcosm of a lot of Things that Are Wrong,"* THE ADVOCATE, (May 13, 2018, 8:01 PM), https://www.theadvocate.com/baton_rouge/news/crime_police/article_b39f1e82-4d84-11e8-bbc2-1ff70a3227e7.html.
[74] *Id.*
[75] *Id.*
[76] Brooke Shelby Biggs, *Camp J, Red Hats and the Hole: Inside Angola's three circles of solitary-confinement hell,* MOTHER JONES, (March 5, 2009), https://www.motherjones.com/politics/2009/03/camp-j-red-hats-and-hole.
[77] Ex. 1, Puisis Decl. at ¶ 10.

preventing staff from transmitting the virus is directly contrary to CDC guidelines. Defendants have directed employees found to have a fever to be sent home, and then return to work as soon as 24 hours after they are fever-free without the use of fever medication.[79] But the CDC recommends returning to work no less than *three* days after resolution of the fever—and at least *seven* days after symptoms first appeared (or after receiving multiple negative COVID-19 tests).[80]

LSP poses a particularly high risk of transmission. The CDC recommendations described above are not possible in LSP.[81] The majority of the people incarcerated at LSP live in dormitories of up to 86 people, where social distancing is functionally impossible, as the distance between beds is approximately 3 feet.[82] Large fans blow air through the units which is likely to spread contagious agents embedded in aerosol like COVID-19.[83] As a result, LSP is an environment that could not be more contrary to current public health recommendations and the President's Task Force recommendations.[84] Indeed, LSP has worse living conditions and higher commingling of people than cruise ships and nursing homes, where COVID-19 is known to easily spread and cause significant death.[85]

---

[78] Ex. 2, Vassallo Decl. at ¶ 11 ("Medical and custody staff are also at risk if they come into contact with infected transferred detainees and are likely to spread infection to the uninfected and vulnerable Angola population, no matter what measures are purportedly taken to isolate Camp J.").
[79] *Lewis v. Cain*, 15-cv-318, Rec. Doc. No. 580-4 at 31.
[80] Ex. 1, Puisis Decl. at ¶ 28 n.19; *see also* CDC, "What to Do If You Are Sick" (Mar. 25, 2020), https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html (under "How to discontinue home isolation"); CDC, "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities" (Mar. 23, 2020), https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html (advising that symptomatic correctional staff should follow the guidance in "What to Do If You Are Sick").
[81] Ex. 1, Puisis Decl. at ¶ 7.
[82] *Id.* at ¶ 10.
[83] *Id.*
[84] *Id.*
[85] *Id.* at ¶¶ 7, 10.

Because LSP houses a very large elderly population with significant chronic illnesses, spread of the virus among these vulnerable populations would result in high rates of death.[86]

For example, Plaintiff Daniel Gumns is an LSP prisoner who lives in Falcon 1 dormitory at Camp D with approximately 80 other people and cannot practice social distancing.[87] There are only four or five communal toilets and sinks for the whole dormitory and they are not cleaned every day.[88] He does not have a face mask, gloves, hand sanitizer, or bleach.[89] Two people have been taken out of his dormitory after developing COVID-19 symptoms, including coughing, fevers, and sore throats, and Mr. Gumns has not seen them since.[90] Mr. Gumns is an epileptic and suffers from grand mal seizures.[91] He has had three seizures since arriving at Angola on February 21, 2020.[92] His last seizure was approximately a week and a half ago.[93] He also suffers from asthma, which is triggered when he has seizures and sometimes leaves him unable to breathe without medical support.[94] Mr. Gumns' asthma puts him at higher risk for severe illness if he contracts COVID-19.[95]

Plaintiff Ian Cazenave is an LSP prisoner who lives at Ash 2 dormitory at LSP main prison with approximately 86 other people and cannot practice social distancing.[96] Ash 2 is a dormitory in part for people who are handicapped or have medical needs.[97] There are approximately seven toilets, five sinks, and five or six showers for the whole dorm.[98] Mr. Cazenave has two face coverings made

---

[86] *Id.* at ¶ 12.
[87] Ex. 6, Gumns Decl. at ¶ 6.
[88] *Id.* at 8, 9.
[89] *Id.* at ¶¶ 7, 13.
[90] *Id.* at ¶ 12.
[91] *Id.* at ¶ 14.
[92] *Id.* at ¶¶ 16-17.
[93] *Id.* at ¶ 16.
[94] *Id.* at ¶ 14.
[95] People Who Are at Higher Risk for Severe Illness, CDC, https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html (last visited Apr. 13, 2020) (noting that people who have asthma are at higher risk for severe illness).
[96] Ex. 7, Cazenave Decl., ¶ 6.
[97] *Id.* at ¶ 5.
[98] *Id.* at ¶ 8.

out of t-shirt material but does not have gloves or hand sanitizer.[99] The only soap available is the homemade soap made at LSP.[100] Ash 2 has been in lockdown for almost a month, but there are still medical staff and correctional staff coming in and out of the dormitory.[101] Not everyone is wearing masks.[102] Medical and correctional staff are also going back and forth between Camp J and other places in Angola.[103] One person has been taken out of the dormitory after developing COVID-19 symptoms and has not returned.[104] Mr. Cazenave has sickle cell disease and a heart murmur.[105] As a result of the sickle cell disease, he has open wounds on his legs and feet that require daily dressing changes.[106] He would normally go to the hospital at LSP for his dressing changes, but now the nurses are coming to the dorm.[107] He asked the nurses if they were also going to Camp J but they would not tell him.[108] Mr. Cazenave is at higher risk for severe illness if he contracts COVID-19 as respiratory viruses are known to cause severe complications – including higher rates of hospitalization, acute chest syndrome, and need for mechanical ventilation – for people with sickle cell disease.[109]

---

[99] *Id.* at ¶¶ 7, 12.
[100] *Id.* at ¶ 12.
[101] *Id.* at ¶ 9.
[102] *Id.*
[103] *Id.* at ¶ 10.
[104] *Id.*
[105] *Id.* at ¶ 13.
[106] *Id.*
[107] *Id.*
[108] *Id.*
[109] Amy Sobota, *COVID-19, Sickle Cell Disease, and a Critical Need*, HEALTHCITY, (Mar. 25, 2020), https://www.bmc.org/healthcity/population-health/covid-19-sickle-cell-disease-and-critical-need ("When a respiratory illness causes poor oxygenation in areas of the lungs, it causes more sickling, which impedes blood flow, which in turn causes low oxygen levels, which then leads to sickling… and so on. This, combined with the original respiratory infection in a person with sickle cell disease, is called acute chest syndrome, and is one of the leading causes of death in people with SCD.").

LEGAL STANDARD

In order to obtain a temporary restraining order or preliminary injunction, Plaintiffs must establish: "(1) a substantial likelihood of success on the merits, (2) a substantial threat of irreparable injury if the injunction is not issued, (3) that the threatened injury if the injunction is denied outweighs any harm that will result if the injunction is granted, and (4) that the grant of an injunction will not disserve the public interest."[110] The Court may issue a temporary restraining order without awaiting for the adverse party's response if it finds that "immediate and irreparable injury … will result to the movant before the adverse party can be heard in opposition."[111]

ARGUMENT

This Court should grant Plaintiffs' motion for a temporary restraining order immediately restraining Defendants from transferring patients with COVID-19 to Camp J because Plaintiffs have established a substantial likelihood of success on the merits, Plaintiffs will suffer irreparable injury absent emergency relief, and the equities and public interest weigh in Plaintiffs' favor.

I. Plaintiffs Have Established a Substantial Likelihood of Success on the Merits of their Eighth and Fourteenth Amendment Claims.

To show a substantial likelihood of success on the merits, Plaintiffs "must present a prima facie case but need not show that [they are] certain to win."[112] Here, however, the evidence indisputably shows that the Camp J plan violates the constitutional rights of Plaintiffs by exposing them to a substantial risk of serious harm in violation of both the Eighth and Fourteenth Amendments.

---

[110] *Janvey v. Alguire*, 647 F.3d 585, 595 (5th Cir. 2011) (citation omitted); *see also Atchafalaya Basinkeeper v. U.S. Army Corps of Eng'rs*, No. 18-cv-23-SDD-EWD, 2018 WL 4701849, at *2 (M.D. La. Jan. 30, 2018) (standard for temporary restraining order same as standard for preliminary injunction).

[111] Fed. R. Civ. P. 65(b)(1).

[112] Charles Alan Wright, Arthur R. Miller, Mary Kay Kane, 11A Federal Practice & Procedure § 2948.3 (2d ed. 1995); *see also Janvey v. Alguire*, 647 F.3d 585, 595-96 (5th Cir. 2011) (noting that plaintiffs are "not required to prove [their] entitlement to summary judgment" to show likelihood of success on the merits).

To establish their entitlement to injunctive relief, Plaintiffs must show that Defendants Camp J plan *likely* constitutes deliberate indifference to a substantial risk of serious harm.[113] This inquiry consists of both an objective test and a subjective test. The objective test considers whether Plaintiffs have been "expos[ed] to a substantial risk of serious harm" due to their serious medical needs.[114] The subjective test can be satisfied by showing that prison officials had requisite knowledge of Plaintiffs' risk of harm and *either* disregarded the risk *or* "fail[ed] to take reasonable measures to abate it."[115] Here, the evidence plainly shows that Plaintiffs are likely to satisfy both tests and thereby establish a constitutional violation warranting emergency injunctive relief.

A. Plaintiffs Satisfy the Objective Test Because COVID-19 Poses a Substantial Risk of Serious Harm.

There can be no serious dispute that COVID-19 poses a substantial—and lethal—risk of harm to Plaintiffs. COVID-19 is a novel, highly infectious and deadly disease without a cure.[116] "[I]t is impossible to predict the course of the illness, who will do well, and who will not."[117] These

---

[113] Here, Plaintiffs consist of people in pre-trial detention and also people who have been convicted of crimes. The Fourteenth Amendment's "substantive due process" protections apply to medical claims brought by individuals in pre-trial detention, whereas the Eighth Amendment applies to people in prison pursuant to convictions. *See Hare v. City of Corinth, Miss.*, 74 F.3d 633, 648-49 (5th Cir. 1996). However, the Fifth Circuit has held that the same subjective deliberate indifference standard applies to both and, therefore, the analysis *infra* proceeds pursuant to the Eighth Amendment's "deliberate indifference" analysis. *Id.* The pre-trial Plaintiffs note that the Fifth Circuit's decision in *Hare* is contrary to the Supreme Court's decision in *Kingsley v. Hendrickson*, 135 S. Ct. 2466 (2015). Following *Kingsley*, other circuits have held that a more protective "objective" deliberate indifference standard should apply to medical claims of individuals in pre-trial detention. *See, e.g., Gordon v. County of Orange,* 888 F.3d 1118, 1124-25 (9th Cir. 2018); *Darnell v. Pineiro*, 849 F.3d 17, 33-36 (2d Cir. 2017). Nevertheless, this Court need not resolve that tension here, because the pre-trial Plaintiffs can easily show that Defendants' Camp J plan constitutes subjective deliberate indifference for the same reasons that the convicted Plaintiffs can show an Eighth Amendment violation.

[114] *Carlucci v. Chapa*, 884 F.3d 534, 538 (5th Cir. 2018).

[115] *See Farmer v. Brennan*, 511 U.S. 825, 847 (1994); *see also, e.g., Braggs v. Dunn,* 257 F. Supp. 3d 1171, 1250 (M.D. Ala. 2017) (("To establish deliberate indifference, plaintiffs must show that defendants had subjective knowledge of the harm or risk of harm, and disregarded it or failed to act reasonably to alleviate it.")

[116] Ex. 2, Vassallo Decl. at ¶ ¶ 2, 7; Ex. 1, Puisis Decl. at ¶¶ 2-6.

[117] Ex. 2, Vassallo Decl. at ¶ 7.

already substantial risks of COVID-19 are exponentially compounded for Plaintiffs and the rest of Louisiana's prison population for numerous reasons including: social distancing is virtually impossible in prisons; the virus's aerosol transmission promises rampant spread in prisons; the high number of medically vulnerable people in Louisiana's prisons, especially LSP; and already inadequate medical resources that will be further strained by the virus.[118]

Plaintiffs themselves face a particularly acute risk as a result of COVID-19. Kendrick Wilson has already tested positive and been transported to Camp J;[119] but his former cellmates Plaintiffs Ernest Rogers and Julius Allen are medically vulnerable to complications of the disease given their underlying conditions of age, hepatitis C, diabetes, and hypertension.[120] In addition, although Plaintiffs Daniel Gumns and Ian Cazenave have not yet tested positive for COVID-19, the Camp J plan substantially threatens to expose them to COVID-19, because they are currently imprisoned at LSP and also suffer from various medical conditions—including asthma and sickle cell disease[121]—that make them highly vulnerable to complications and even death from COVID-19. In sum, the evidence easily establishes that Defendants' Camp J plan threatens Plaintiffs with a substantial risk of serious harm in satisfaction of the Eighth Amendment's objective test.

B. Plaintiffs Satisfy the Subjective Test for Deliberate Indifference, Because Defendants Are Aware of the Risks of COVID-19 and the Camp J Plan Constitutes a Medically Unreasonable Response to that Risk.

The evidence overwhelmingly shows that Defendants are not only subjectively aware of this substantial risk but also that the Camp J plan constitutes an unreasonable response to the COVID-19 pandemic, thereby constituting deliberate indifference. In addition to the risks being obvious,[122] there can be no question that Defendants are in fact aware of the significant risk of harm caused by

[118] *Id.* at ¶¶ 10-14, 16-19; Puisis Dec at ¶¶ 13-14, 22.
[119] Ex. 3, Wilson Decl. at ¶¶ 8-10.
[120] Ex. 4, Rogers Decl. at ¶¶ 3, 7, 9, 11; Ex. 5, Allen Decl. at ¶¶ 7-9, 13.
[121] Ex. 6, Gumns Decl. at ¶¶ 14-20; Ex. 7, Cazenave Decl. at ¶¶ 13-17.

COVID-19.[123] Indeed, Governor Edwards has issued a State of Emergency as a result of the COVID-19 outbreak in Louisiana;[124] the Louisiana Department of Health has publicly recognized the risks of COVID-19 outbreaks in Louisiana's prisons;[125] and DOC Secretary James Le Blanc has publicly observed that "we are all at risk to the virus" following infections of DOC employees.[126] Accordingly, the sole remaining question is whether Defendants' deliberate decision to isolate all COVID-19 patients at Angola's Camp J is a reasonable response. It is not.

The evidence shows that Defendants' Camp J transfer plan is medically unreasonable, contrary to public health recommendations, and dangerous both to COVID-19 patients and to other LSP patients, staff, and the surrounding community.[127] For example, in their attached declarations, Plaintiffs medical experts Mike Puisis[128] and Susi Vassallo[129] detail the dangers of transferring COVID-19 patients to a remote prison far removed from hospitals and necessary specialty care.

---

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

[123] *See* Letter to Governor John Bel Edwards re COVID 19 Prevention and Protection in Louisiana Facilities (with CC to, *inter alia*, DOC Secretary James Le Blanc and DOH Acting Secretary Steve Russo) (Mar. 16, 2020) (detailing COVID-19 risks in Louisiana prisons), https://www.splcenter.org/sites/default/files/coalition_letter_to_governor_edwards_re_covid_19_prevention_and_protection_in_louisiana_facilities.pdf;

[124] Office of the Governor, *Gov. Edwards Declares Public Health Emergency in Response to COVID-19* (Mar. 11, 2020), https://gov.louisiana.gov/index.cfm/newsroom/detail/2400.

[125] LA Department of Health Memo to Louisiana Department of Public Safety and Corrections re COVID-10; recommendations regarding prisons and juvenile detention centers (Apr. 8, 2020).

[126] *Two DOC employees test positive for COVID-19*, KATC3 (Mar. 26, 2020), https://www.katc.com/news/covering-louisiana/two-doc-employees-test-positive-for-covid-19.

[127] Defendants have actual notice of substantial risks inherent in their plan as counsel for Plaintiffs raised them in a filing last week and Secretary LeBlanc and Dr. Morrison both issued defensive declarations. *See Lewis v. Cain*, 15-cv-318, Rec. Doc. 585-1, 585-3.

[128] Dr. Puisis is a doctor and expert in correctional medicine with over 35 years of experience. He has managed correctional systems across the country, drafted standards for the provision of correctional medicine, and is the editor of the only textbook on correctional medicine. Dr. Puisis is deeply familiar with medical care at LSP and evaluated the medical care system there between 2016 and 2018 in connection with systemic litigation. *See* Ex. 1, Puisis Decl. at ¶ 1.

[129] Dr. Vassallo is a board-certified emergency room physician and medical toxicologist who works in the emergency room at Bellevue Hospital in New York City. Dr. Vassallo has substantial experience treating patients with COVID-19. She is also deeply familiar with the medical care system

According to Dr. Vassallo and Dr. Puisis, COVID-19 patients require ready access to hospitals, particularly because "severe COVID-19 disease is treated only with supportive care including respiratory isolation, oxygen, and mechanical ventilation as a last resort."[130] Even if COVID-19 patients do not require immediate placement in the ICU, they may still require critical specialists and specialized treatment not available, such as vasopressor treatment for low blood pressure, intravenous fluid therapy, support for kidney failure, respiratory therapists, and/or early antibiotics.[131] Yet Camp J is located in a remote and rural area far from such specialized medical services, and the closest adequate emergency room with numerous ventilators is over an hour away in Baton Rouge.[132] Plaintiffs' experts' conclusions in this regard are consistent with the guidance of Defendant Department of Health, which itself noted that anyone expected to have COVID-19 should be transported to a *healthcare* facility.[133]

The evidence also establishes that Defendants' plan to only transfer COVID-19 patients at Camp J who are "not displaying serious symptoms"[134] is based on fundamental misunderstandings of COVID-19 and how it operates. As Dr. Vassallo notes, the DOC's plan provides "no information or medical criteria on how to identify patients as meeting that definition. In fact, at this

---

at LSP, and evaluated the medical care system there between 2016 and 2018 in connection with systemic litigation. *See* Ex. 2, Vassallo Decl. at ¶¶ 1, 7, 11-14.

[130] Ex. 1, Pusis Decl. at ¶ 13; Ex. 2, Vassallo Decl. at ¶¶ 7, 16.

[131] Ex. 2, Vassallo Decl. at ¶ 16.

[132] *Id.* at ¶ 12; Ex. 1, Puisis Decl. at ¶ 20.

[133] Ex. 2, Vassallo Decl. at ¶ 11.

[134] *Lewis v. Cain*, 15-cv-318, Rec. Doc. 585 at 7 ("If an offender housed at Camp J begins to exhibit severe symptoms, he will be transport [sic] to an outside hospital. **Offenders transferred to Camp J will not be sent to the ATU or the treatment center at LSP**."). Further, to the extent Defendants may contend that the majority of COVID-19 patients transported to Camp J will be young and healthy, this action is also medically unreasonable. As Dr. Vassallo notes, "the relatively young and healthy are also in the intensive care units and die. . . . [I]ncreasing evidence in the US has shown the dire risk that COVID-19 poses to younger patients. Young patients ages 20-54 years old can have serious complications from COVID-19 including hospital admission, admission to an intensive care unit, invasive ventilation, or death." Ex. 2, Vassallo Decl. at ¶ 9.

time, there is no way to define who will do well and who will do poorly."[135] Moreover, this policy wholly ignores that COVID-19 patients "can deteriorate very rapidly"[136] and it is impossible to "determine whether patients will abruptly need escalated medical care requiring hospitalization."[137] As Dr. Vassallo explains, "[g]iven the lack of tell-tale signs or a timeline for subsequent deterioration, it is absolutely critical and necessary that patients who test positive or likely positive . . . for COVID-19 or have been exposed and show symptoms, be within easy transportable distance of hospitals in the event that more critical care is necessary."[138] Further, by crowding large numbers of COVID-19 patients into a packed facility, Defendants' plan substantially increases the likelihood that COVID-19 patients at Camp J will have higher viral loads and thereby develop more serious symptoms, thus requiring access to faraway hospitals.[139] Making matters worse, in addition to the long distance to adequate hospitals from Camp J, scarcities in access to ambulance services will make transfer to faraway hospitals even more difficult—if not impossible.[140]

The evidence also shows that Camp J most lacks sufficient, qualified and competent medical staff to provide necessary care to COVID19 patients. A "robust" number of medical staff are needed to appropriately treat COVID-19.[141] Yet, Angola has a history of insufficient medical staffing and there is nothing in Defendants' plans reflecting increased staffing.[142] As Dr. Puisis notes, "[i]t is not clear from a practical matter how they would provide sufficient medical personnel at Camp J, who would have no contact with patients at the rest of LSP, without further diminishing the capacity

---

[135] Vassallo Dec at ¶ 12.
[136] *Id.* at ¶ 7.
[137] *Id.* at ¶ 15.
[138] *Id.* at ¶ 7.
[139] James D. Walsh, *Is 'Viral Load' Why Some People Get a Mild Case of COVID-19?*, NY MAG (Mar. 27, 2020), https://nymag.com/intelligencer/2020/03/is-viral-load-key-to-understanding-coronaviruss-severity.html.
[140] Ex. 2, Vassallo Decl. at ¶ 17; *see also* Ex. 1, Puisis Decl. at ¶ 13 ("getting a patient to a hospital from LSP will be challenging under current circumstances.").
[141] Ex. 2, Vassallo Decl. at ¶ 20.
[142] *Id.* at ¶ 11; Ex. 1, Puisis Decl. at ¶ 14.

of the already over-taxed LSP doctors and nurses."[143] In addition, LSP medical staff are not qualified or equipped to manage patients needing hospital-level care.[144] Relatedly, the evidence also shows that LSP medical staff would be unable to consistently determine when patients are medically decompensating as a result of COVID-19; in fact, both Dr. Vassallo and Dr. Puisis previously observed LSP staff failing to recognize typical signs of respiratory decompensation and other "red flags", which is critical for COVID-19 patients.[145] These defects are ever further exacerbated by Defendants' failure to adequately provide guidance when hospitalization of COVID-19 patients is warranted.[146]

The evidence further establishes that the present conditions at Camp J make it no place for the transfer of people with a highly infectious and deadly disease. The state's plan and affidavits do not lay out adequate protocols for medical isolation of Camp J from the rest of LSP's population, the majority of whom are elderly or otherwise at high risk because of their medical conditions.[147] The state's plan and affidavits also do not describe who will provide medical care for the population expected to be housed at Camp J; whether and how workers serving the population at Camp J will be separate from workers serving the remainder of the prison; what clinical monitoring will be provided; whether and how these known COVID-19 patients will receive hospital care if necessary; and where they will find medical staff and providers to care for the patients.[148] Kendrick Wilson is being housed on an open dorm with approximately 39 other people who have tested positive for COVID-19, many of whom are coughing and some of whom have or had required fluid therapy or

[143] Ex. 1, Puisis Decl. at ¶ 19.
[144] *Id.* at ¶ 13.
[145] Ex. 2, Vassallo Decl. at ¶ 13; Ex. 1, Puisis Decl. at ¶ 14.
[146] Ex. 1, Puisis Decl. at ¶ 18.
[147] *Id.* at ¶ 14.
[148] *Id.* at ¶P 15-20.

oxygen.[149] There are only two nurses per shift and a nurse checks on him approximately twice a day.[150] He has not seen any doctors or observed anyone being taken to the hospital.[151]

Although the evidence summarized above is alone sufficient to demonstrate that the Camp J plan is medically unreasonable, the dangers of that plan are exponentially compounded by indisputable evidence showing systemic and unconstitutional inadequacies in LSP's overall medical care, which would be treating COVID-19 patients. As detailed in their declarations, Dr. Vassallo and Dr. Puisis have both comprehensively examined the medical care system at LSP and found it to be wholly inadequate. Dr. Puisis summarizes some of these inadequacies as follows:

> Physicians were not credentialed appropriately and did not perform consistent with existing standards of care. On record reviews, we noted failure to recognize indications for hospitalization which is critical in the COVID-19 population. There was failure to recognize typical signs of respiratory decompensation which is also critical for COVID-19 patients. There were delays in transfer of patients to a hospital when indicated. Both physicians and other staff (nurses and emergency medical technicians) failed to recognize "red flag" signs resulting in adverse events. Also, LSP is not set up to manage acutely ill patients.[152]

Consistent with these assessments of LSP's inadequate medical system, this Court recently observed that medical care at LSP is "unconstitutional in some respects."[153] Yet, Defendants are *knowingly* and unreasonably placing additional strains on LSP's already broken medical system by transferring COVID-19 patients who require significant and complex levels of care. This dangerous course of conduct will inevitably threaten the lives of not only COVID-19 patients but also of other people

[149] Ex. 3, Wilson Decl. at ¶ 11.
[150] *Id.* at ¶ 14.
[151] *Id.* at ¶¶ 11, 14.
[152] Ex. 1, Puisis Decl. at ¶ 14; *see also* Ex. 2, Vassallo Decl. at ¶¶ 13-14.
[153] *Lewis v. Cain*, 15-cv-318, Docket No. 578 (Feb. 21, 2020 order directing parties to meet and confer).

imprisoned at LSP, who were already suffering as a result of LSP's constitutionally inadequate medical system.[154]

In addition, the evidence further establishes the medical unreasonableness of Defendants' Camp J plan given that the plan substantially threatens the health of LSP's population—especially medically vulnerable people. "[C]orrectional officials have an affirmative obligation to protect inmates from infectious disease."[155] The Eighth Amendment "require[s] a remedy" where 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."[156] Here, the evidence shows that Defendants have failed to lay out adequate protocols to ensure that COVID-19 is not transmitted from Camp J to the rest of LSP's population.[157] Nor could they given the high likelihood that staff will intermingle between facilities,[158] and also that LSP has only a single entry which could serve as vector point even in the unlikely event of separate staffing.[159] The risk of further spreading COVID-19 at LSP is especially dangerous to LSP's medically vulnerable population.[160] As Dr. Puisis explains, "LSP has a particularly vulnerable population with over 50% of inmates over 50 years of age and many vulnerable persons with high risk medical conditions."[161] As a result, increased spread of COVID-19 via the Camp J plan "would result in high rates of death" for LSP patients.[162] Plaintiffs Daniel Gumns and Ian Cazenave are currently imprisoned at LSP and suffer from various medical

---

[154] *See Newman v. Alabama*, 503 F.2d 1320 (5th Cir. 1974), *cert. denied*, 421 U.S. 948 (1975) (finding that when systematic deficiencies in staffing, facilities or procedures make unnecessary suffering inevitable, a court will not hesitate to use its injunctive powers).
[155] *Jolly v. Coughlin*, 76 F.3d 468, 477 (2d Cir. 1996).
[156] *Helling v. McKinney*, 509 U.S. 25, 33 (1993).
[157] Ex. 1, Puisis Decl. at ¶ 20; Ex. 2, Vassalo Decl. at ¶ 11.
[158] Ex. 7, Cazenave Decl. at ¶ 10.
[159] Ex. 2, Vassallo Decl. ¶ 11.
[160] Ex. 1, Puisis Decl. at ¶¶ 12, 14.
[161] *Id.* at ¶ 14; *see also* Ex. 2, Vassallo Decl. at ¶ 11.
[162] Ex. 1, Puisis Decl. at ¶ 12.

conditions—including asthma and sickle cell disease[163]—that make them highly vulnerable to complications and even death from COVID-19.[164] Mr. Gumns and Mr. Cazenave are concerned that transferring COVID-19 patients to Camp J will increase their risk of exposure.[165] The Fifth Circuit has repeatedly recognized that unreasonably subjecting detained people to infectious diseases constitutes deliberate indifference.[166]

Finally, as the evidence makes clear, this is not a situation where Defendants have chosen a medically reasonable alternative with which Plaintiffs merely disagree.[167] Rather, the evidence summarized *supra* and the attached declarations indisputably show that the Camp J plan is medically unsound and poses a grave danger to Plaintiffs and the putative Class. Nor is this a situation where there are simply no better precautionary measures that can be taken by the State. The State has taken significant—and unprecedented—measures to ensure adequate treatment of people who are not incarcerated—for example, by repurposing the New Orleans Convention Center[168] and hotels[169] into field hospitals in proximity to actual hospitals with ICUs. And yet, it is incarcerated people to

---

[163] Ex. 6, Gumns Decl. at ¶¶ 14-20; Ex. 7, Cazenave Decl. at ¶¶ 13-17.

[164] *See* People Who Are at Higher Risk for Severe Illness, CDC, https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html (last visited Apr. 13, 2020).

[165] FN 165: Ex. 6, Gumns Decl. at ¶¶ 11, 14-20; Ex. 7, Cazenave Decl. at ¶¶ 9-10, 17.

[166] *See, e.g., Gomez v. Warner*, 39 F.3d 320 (5th Cir. 1994) (per curiam) (prisoner alleged deliberate indifference by prison officials where the prison's razor-swapping program created the mere "risk" of "possible spread" in the transmission of deadly "infectious diseases such as HIV, AIDS, and hepatitis."); *Johnson v. Epps*, 479 F. App'x 583, 589-92 (5th Cir. 2012) (allegations that inmate was exposed to "serious, communicable diseases" and that prison officials were aware of the risk and did nothing to prevent it were sufficient to state a claim for violation of Eighth Amendment rights); *Gates v. Collier*, 501 F.2d 1291, 1300-03 (5th Cir. 1974) (affirming district court's holding that allowing "[s]ome inmates with serious contagious diseases . . . to mingle with the general prison population," alongside maintaining a host of other unsanitary and inhumane conditions, "constitute[d] cruel and unusual punishment").

[167] *Compare Thompson v. Basse*, 202 F. App'x 654 (5th Cir. 2006) (unpub.).

[168] Josh Roberson, *TODAY: New Orleans Convention Center accepting COVID-19 patients*, FOX8 (Apr. 6, 2020), https://www.fox8live.com/2020/04/06/today-new-orleans-convention-center-accepting-covid-patients/.

whom the State owes an affirmative constitutional obligation to provide adequate care during this COVID-19 pandemic.[170] Therefore, as the evidence shows, the Camp J plan represents yet another dark chapter in the State's long history of failing to fulfill that constitutional obligations to incarcerated people.[171] Indeed, rather than providing a medically necessary and reasonable response to this crisis, Defendants are simply shipping COVID-19 patients to a remote out-camp—far removed from adequate and necessary medical care—as though they are mere afterthoughts or inconveniences in this deadly pandemic. For all these reasons, Plaintiffs are likely to succeed on their constitutional claims that Defendants' conduct constitutes deliberate indifference.

II. Plaintiffs Will Suffer Irreparable Injury Absent an Emergency Injunction.

The evidence also establishes that Plaintiffs and putative class members will suffer irreparable injury—including severe infections, serious medical complications and even death—unless this court enjoins the Camp J plan. As detailed above, Defendants' Camp J plan will result in COVID-19 patients being shipped to a remote facility far from necessary hospitals and adequate medical care for this deadly disease. In addition to threatening the lives of COVID-19 patients, the Camp J plan also threatens the health and safety of LSP's medically vulnerable population. Plaintiffs need not await severe infections, complications or even outright denial of medical care in order to obtain an injunction. As the Supreme Court has long recognized, "[i]t would be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening condition in their prison on the

---

[169] *Sheraton New Orleans to be used as coronavirus field hospital, report says*, WWLTV (Apr. 6, 2020), https://www.wwltv.com/article/news/health/coronavirus/sheraton-new-orleans-to-be-used-as-coronavirus-field-hospital/289-e1a61b70-d597-478d-96a7-1b2d07fb565d.

[170] *See Estelle v. Gamble*, 429 U.S. 97, 103 (1976) (Incarcerated people "must rely on prison authorities to treat [their] medical needs" because "if the authorities fail to do so, those needs will not be met.").

[171] *See generally Lynn v. Williams*, 92-cv-001 (M.D. La.)

ground that nothing yet had happened to them. . . . [A] remedy for unsafe conditions need not await a tragic event."[172]

Nor can there be any question that the threatened harm is irreparable. Likely hundreds of putative Class members have risk factors making death or severe illness likely if they contract COVID-19. "It goes without saying that . . . death is an irreparable injury."[173] Even for those who recover—a touch-and-go proposition, given the demonstrated seriousness and spread of COVID-19, particularly for vulnerable populations—the extreme suffering that they may experience during their illness and the possibility of long-term respiratory impairment could not be erased.

For these reasons, the evidence firmly establishes that the Camp J plan threatens Plaintiffs and the putative class with irreparable harm. An immediate injunction is the only way to abate that substantial and life-threatening risk.

III. The Equities and Public Interest Clearly Favor Plaintiffs.

The third and fourth TRO factors, "harm to the opposing party and weighing the public interest …[,] merge when the Government is the opposing party."[174] Here, those factors weigh heavily in favor of granting relief.

As an initial matter, the requested injunction would protect Plaintiffs' constitutional rights under the Eighth and Fourteenth Amendments, and "[i]t is always in the public interest to prevent the violation of a party's constitutional rights."[175] Because "confidence in the humane application of

---

[172] *Helling v. McKinney*, 509 U.S. 25, 33 (1993); *see also Gates v. Cook*, 376 F.3d 323, 333 (5th Cir. 2004) ("It is also important to note that [an] inmate need not show that death or serious illness has [already] occurred.")

[173] *East v. Blue Cross & Blue Shield of La.*, No. 14-cv-115-BAJ-RLB, 2014 WL 8332136, at *2 (M.D. La. Feb. 24, 2014); *accord, e.g.*, *Turner v. Epps*, 842 F. Supp. 2d 1023, 1028 (S.D. Miss. 2012) (describing death as "the single most irreparable harm of all").

[174] *Nken v. Holder*, 556 U.S. 418, 435 (2009).

[175] *Jackson Women's Health Org. v. Currier*, 760 F.3d 448, 458 n.9 (5th Cir. 2014) (quoting *Awad v. Ziriax*, 670 F.3d 1111, 1132 (10th Cir. 2012)); *accord, e.g.*, *June Medical Servs., LLC v. Caldwell*, No. 14-cv-525-JWD-RLB, 2014 WL 4296679, at *8 (M.D. La. Aug. 31, 2014).

the governing laws of the State must be in the public's interest,"[176] there is a clear public interest in preventing Defendants from exposing Plaintiffs and putative class members to cruel and unusual punishment in the form of inadequate medical care and willful exposure to a serious risk of severe harm.

In addition to the public interest in protecting Plaintiffs and putative class members themselves, minimizing risk of transmission of COVID-19 is inarguably in the public interest. As already explained, the transfer plan is likely to spread COVID-19 to the staff of LSP and then to the broader West Feliciana and central Louisiana community.[177] "[A] COVID-19 outbreak at a detention facility could quickly overwhelm" not only the facility's medical system, but "surrounding community hospitals" as well.[178] The resulting effect on "public health and safety" would plainly harm the public interest.[179] Indeed, courts across the country have recognized the significant threat to public safety that outbreaks in detention centers pose.[180]

By contrast, there is no substantial harm to Defendants in enjoining the transfer plan. Defendants can have no interest in implementation of a plan that will expose not only Plaintiffs and putative class members but hundreds of their own staff to COVID-19 as well as the public at large. Moreover, Defendants have other, safer options than transferring persons with COVID-19 to a

---

[176] *Harris v. Johnson*, 323 F. Supp. 2d 797, 810 (S.D. Tex. 2004).
[177] Ex. 2, Vassallo Decl. at ¶ 18.
[178] *Coronel v. Decker*, No. 20-cv-2472 AJN, 2020 WL 1487274, at *7 (S.D.N.Y. Mar. 27, 2020).
[179] *Id.*
[180] *See, e.g.*, *Mays v. Thomas*, 20-cv-2134, Dkt. No. 47 (N.D. Ill. April 9, 2020) (finding that "the interest of the public in containing the further spread of this highly contagious virus also favors granting relief to the plaintiffs"); *Francisco Hernandez v. Wolf*, No. 20-cv-617-TJH, Dkt. No. 17 (C.D. Cal., Apr. 1, 2020); *Fraihat v. Wolf*, No. 20-CV-590 (C.D. Cal. Mar. 30, 2020) (noting risk of asymptomatic spread and unsafe conditions in immigration detention mean "[t]he balance of equities tip sharply in [Fraihat's] favor" and thus ordering release); *Thakker v. Doll*, No. 1:20-cv-480-JEJ (M.D. Pa. Mar. 31, 2020) (granting TRO releasing high-risk immigration detainees from custody due to the dangers of COVID-19); *Basank v. Decker*, No. 20-cv-2518, (S.D.N.Y. Mar. 26, 2020) (finding "[t]he nature of detention facilities makes exposure and spread of the [coronavirus] particularly harmful" so granting TRO and releasing high-risk plaintiffs); *Castillo v. Barr*, No. 20-cv-605-TJH-

prison distinctly ill-suited to house and treat them, and to prevent transmission.[181] And even if there were some harm to Defendants, it would be greatly outweighed by the catastrophic risk to Class members.

IV. The Court Should Immediately Enter a Temporary Restraining Order While It Adjudicates This Motion

Defendants have already begun transferring people with COVID-19 to LSP,[182] threatening the lives of not only COVID-19 patients but also other LSP patients, staff and community members. Even on an expedited briefing schedule, by the time the Court can receive full briefing and hold a preliminary injunction hearing, Defendants' Camp J plan may result in substantial spread of the virus at LSP and also severe infections, complications, and even death for Plaintiffs and putative class members. For this reason, "[a] hearing *weeks* from now may be no relief at all."[183]

Plaintiffs are prepared to proceed to a preliminary injunction hearing as soon as Defendants and the Court are able. But in the interim, a temporary restraining order is the only way to ensure that Defendants' dangerous plan does not threaten the lives of Plaintiffs and the putative class prior to a hearing.

V. The Court Should Waive the Security Bond.

Plaintiffs also request that the Court exercise its broad discretion to waive any security bond for issuance of the TRO.

Federal Rule of Civil Procedure 65(c) provides that "[t]he court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been

---

AFM, Dkt. No. 32 (C.D. Cal. Mar. 27, 2020); *Ronal Umana Jovel v. Decker*, 12-cv-308-GBD, Dkt. No. 27 (S.D.N.Y. Mar. 26, 2020).

[181] *See* Ex. 1, Puisis Decl. at ¶¶ 21-29; *see also* Ex. 2, Vassallo Decl. at ¶¶ 1-8 (under "My recommendations for the DOC to mitigate the spread of the coronavirus among Louisiana's incarcerated population are"); *supra* n.169.

[182] *See* Ex. 3, Wilson Decl. at ¶ 8-11.

[183] *Coronel*, 2020 WL 1487274, at *7.

wrongfully enjoined or restrained." However, "[t]he amount of security required is a matter for the discretion of the trial court; *it may elect to require no security at all.*"[184]

Here, Plaintiffs are incarcerated individuals who are seeking to vindicate their constitutional rights. Furthermore, the requirement of a bond is contrary to the proposition that inadequate resources under no circumstances justify a prison's deprivation of constitutional rights.[185] Under these circumstances, waiver of the security bond is proper, and Plaintiffs therefore respectfully request that the Court exercise its broad discretion to do so.[186]

CONCLUSION

For these reasons, Plaintiffs respectfully request that the 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.

Respectfully submitted this 14th day of April, 2020.

/s/ Mercedes Montagnes

Mercedes Montagnes, La. Bar No. 33287
Jamila Johnson, La. Bar No. 37953
Nishi Kumar, La. Bar No. 37415
The Promise of Justice Initiative
1024 Elysian Fields Avenue
New Orleans, LA 70117
Telephone: (504) 529-5955
Facsimile: (504) 595-8006
Email: mmontagnes@defendla.org

Jared Davidson, La. Bar No. 37093

[184] *Corrigan Dispatch Co. v. Casa Guzman, S. A.*, 569 F.2d 300, 303 (5th Cir. 1978) (emphasis added).
[185] *See, e.g., Smith v. Sullivan*, 553 F.2d 373, 378 (5th Cir. 1977) (inadequate resources can never be a justification for depriving an inmate of his constitutional rights). *See* Ex. 7, Cazenave Decl. at ¶ 4 (declaring indigency); Ex. 6, Gumns Decl. at ¶ 4 (declaring indigency).
[186] *See, e.g., Molton Co v. Eagle-Picher Industries, Inc.,* 55 F.3d 1171, 1176 (6th Cir. 1995) (approving waiver of bond given strength of case and "the strong public interest" involved); *Campos v. INS*, 70 F. Supp. 2d 1296, 1310 (S.D. Fla. 1998) (because plaintiffs were indigent and sought to vindicate their constitutional rights, consistent with the public interest, the court did not require a bond).

Southern Poverty Law Center
201 Saint Charles Avenue, Suite 2000
New Orleans, LA 70170
Telephone: (504) 486-8982
Facsimile: (504) 486-8947
Email: jared.davidson@splcenter.org

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, Mercedes Montagnes, an attorney, hereby certify that on April 14, 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/ Mercedes Montagnes
Mercedes Montagnes, La. Bar No. 33287

DECLARATION OF DR. MICHAEL PUISIS CONCERNING THE RISK OF THE SPREAD OF COVID-19 IN THE LOUISIANA STATE PRISON (LSP) AT ANGOLA

1. Dr. Michael Puisis is an internist who has worked in correctional medicine for 35 years. He began working at the Cook County Jail as a physician in 1985 and became the Medical Director of 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 in and managed correctional medical programs in multiple state prisons including in Illinois and New Mexico. He has worked as a Monitor or Expert for Federal Courts on multiple cases and has worked 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. He also participated in revision of tuberculosis standards for the Center for Disease Control. Dr. Puisis has edited the only textbook on correctional medicine, Clinical Practice in Correctional Medicine. Dr. Puisis evaluated the Louisiana State Prison at Angola for The Promise of Justice Initiative in 2016 (and also conducted records review in 2018) and previously monitored Louisiana State Prison at Angola for the Department of Justice.

2. Coronavirus disease of 2019 (COVID-19) is a viral pandemic. This is a novel virus for which there is no established curative medical treatment and no vaccine.

3. The number of cases of COVID-19 in the United States are rising rapidly. On April 13, 2020, Johns Hopkins reported that there were 572,587 reported COVID-19 infections in the U.S. The number of deaths is over 23,000 but both cases and deaths are rising rapidly so by the time this declaration is read the numbers of both cases and deaths will be significantly larger. The number of cases of COVID-19 is the highest number of reported cases of any country in the world.

4. Louisiana has a rapidly accelerating rate of COVID-19 infections. A study from the University of Louisiana at Lafayette reported that COVID-19 cases grew at a 67.8% rate, the highest rate in the U.S.[1] The Louisiana Department of Health reported on April 13, 2020 that there were 21,016 cases of COVID-19 with 884 deaths. Louisiana has the third most deaths per capita of any state in the U.S.

5. UpToDate[2] reports an overall case mortality rate from the disease of 2.3. Louisiana has 884 deaths for 21,016 cases; more than 4.2% of persons diagnosed with the infection in Louisiana die.

[1] Coronavirus cases grew faster in Louisiana than anywhere else in the world: UL study, The Acadiana Advocate, Adam Daigle March 24, 2020, https://www.theadvocate.com/acadiana/news/coronavirus/article_94494420-6d4b-11ea-ac42-ff7dd722c084.html.

[2] UpToDate is an online medical reference widely used in hospitals, health organizations, and private physicians.

6. COVID-19 is transmitted by droplets of infected aerosol when people with the infection cough. Droplets of respiratory secretions infected with the virus can survive as an aerosol for up to three hours.[3] [4] 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.[5]

7. Medical care for COVID-19 focuses on prevention, which emphasizes social distancing, handwashing, and respiratory hygiene. 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 LSP. Furthermore, repeated sanitation of horizontal and touch surfaces in inmate living units and throughout LSP is not typically done based on our review and would be an overwhelming task. LSP has worse living conditions and higher comingling of people than cruise ships and nursing homes, where COVID-19 is known to have easily spread. Prevention of contact with an infected droplet is significantly more difficult in a prison than in the community.

8. With respect to transmission of disease by droplet inhalation, correctional environments, including LSP, actually promote spread of respiratory contagious disease. Jails and prisons are long known to be a breeding ground for infectious respiratory illness. 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. Respiratory infectious disease like TB are thought to be made worse in prisons because of crowding and recirculated air. Because of transmissibility of TB in prisons the CDC still recommends screening for this condition in prisons. Proper screening for tuberculosis can control that disease in prison populations.

9. The COVID-19 virus is a different type of respiratory illness; its spread is rapid and it is more easily transmissible. Control through screening with a test as is done for TB in prisons would be optimal but current CDC guidance[6] does not recommend a test as a screening method. Likely, this is due to a critical shortage of testing material. The method of control in an intake of a correctional facility is quarantine for up to 14 days.[7] If testing material

---

[3] National Institute of Health, available at https://www.nih.gov/news-events/news-releases/new-coronavirus-stable-hours-surfaces

[4] Neeltje van Doremalen and Others, Aerosol and Surface Stability of SARS-CoV-2 as Compared with SARS-CoV-1, Correspondence in New England Journal of Medicine, March 17, 2020, https://www.nejm.org/doi/full/10.1056/NEJMc2004973?cid=DM88773_&bid=171021451

[5] *Id.*

[6] Evaluating and Testing Persons for Coronavirus Disease 2019 (COVID-19) Centers for Disease Control as found at https://www.cdc.gov/coronavirus/2019-nCoV/hcp/clinical-criteria.html

[7] In their Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities guidance the CDC recommends "If possible, consider quarantining all new intakes for 14 days before they enter the facility's general population

becomes readily available, I would recommend testing and a quarantine until the test is complete.

10. Jails and prisons promote spread of respiratory illnesses because of crowded congregate housing arrangements. LSP is the largest maximum security prison in the U. S. and has a population of approximately 6000 individuals. The main unit of LSP contains 32 dormitories. The remote camps C and D have a combination of dormitories and cellblocks. Camp F is a minimum dormitory. I have visited multiple inmate dormitories. All dormitories I visited were filled to capacity and were crowded. The dormitories are not arranged to provide social distancing as the distance between beds is approximately 3 feet. Large fans blow air through the units which is likely to spread contagious agents embedded in aerosol like COVID-19. Washing areas are shared. There is no privacy and it is not possible to remain 6 feet apart as recommended. Infirmary beds are in dormitory style setting and are close together. If inmates with COVID-19 are housed on the infirmary rather than outside hospitals, the infection is likely to spread throughout this unit of compromised patients. Photos in our prior 2016 report[8] show what some of these dormitories and showers look like.[9] Notable in these pictures is that soap is not consistently present on sinks used by staff and in showers used by inmates. Currently the President's Task Force on COVID-19 recommends limiting gatherings to no more than 10 persons. Inmates at LSP live in large dormitories with over 80 persons per dormitory. These dormitories are incapable of allowing inmates to follow current CDC recommendations regarding prevention against COVID-19. Officers guarding the inmates can carry the infection into the prison. One couldn't devise a system more contrary to current public health recommendations and the President's Task Force recommendations than a prison like LSP. The elderly and those with significant medical conditions are housed together in some of these dormitories creating a nursing home like environment; environments where COVID-19 is known to have rapidly spread. Dormitories with large numbers of persons with severe medical conditions are similar to nursing homes where COVID is known to have caused significant death.

11. There is a lack of information about what is occurring within LSP and testing is not being widely performed. A bullet point summary of the LSP COVID-19 plan states that "any LSP offender presenting with symptoms is given both a flu test and COVID-19 test." A news report on March 26, 2020 stated that two employees at different state prisons tested positive for COVID-19 but that no inmates have tested positive. The newspaper reported that only 32 inmates in the entire Louisiana Department of Corrections have been tested and all have tested negative. On April 13, 2020, the Louisiana Department of Corrections reported that

---

(SEPARATELY from other individuals who are quarantined due to contact with a COVID-19 case). As found at https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html

[8] Louisiana State Penitentiary at Angola; Health Care Evaluation Submitted October 3, 2016; Lewis et al v. Cain et al Class Action Complaint. United States District Court, Middle District of Louisiana. Case No. 3:15-cv-00318-BAJ-RLB Document 133-1 10/14/16

[9] Photos PX006.0279, PX006.0280, PX006.0277

57 inmates in DOC custody and 45 staff members across the DOC had tested positive. One staff member at LSP had died. Currently, transfers into LSP have been suspended absent extenuating circumstances and if an inmate is transferred into LSP, they are supposed to be quarantined for a 14-day period. LSP screens visitors and new inmates with symptom screening and a temperature. These measures are consistent with recommendations of the Centers for Disease Control (CDC) correctional guidelines.[10] However, based on our review of this facility in 2018, we noted ineffective medical care with several unqualified physicians, insufficient nurse staff, no infection control nurse, and lack of supervision of front line medical staff. While CDC procedures are in place I question the ability to effectively carry out the procedures as stated.

12. An individual's immune system is the primary defense against this infection. As a result, people over age 65 years of age and persons with impaired immunity may have a higher probability of death if they are infected. Age related risk is a result of impaired immunity with aging. The older a person is the greater the apparent risk. In LSP 90% of inmates are incarcerated for life and approximately 50% of inmates are over age 50. People on immunosuppressive medication, with diseases causing impaired immunity, or with significant cardiac or pulmonary medical conditions also are at increased risk of death. It has recently been reported that younger patients with cardiovascular disease or hypertension may have unappreciated risk for severe disease.[11] This has significant implications for correctional facilities with high rates of hypertension. Persons with severe mental illness in prisons are also, in my opinion, at increased risk of acquiring and transmitting infection because they are unable to understand social distancing and hand hygiene and may be unable to communicate symptoms appropriately. Also, by classification, like other prison systems, LSP houses inmates who are elderly, have disabilities, are mentally ill or have severe chronic illness profiles in specific housing areas, making this population at great risk if one of them becomes infected. Because LSP has a very large elderly population with significant chronic illness spread of infection in LSP would result in high rates of death.

13. Based on our review of care at LSP through 2018, inmates lacked access to hospital care under ordinary circumstances; the COVID-19 pandemic will only make that worse. Currently, severe COVID-19 disease is treated only with supportive care including respiratory isolation, oxygen, and mechanical ventilation as a last resort. LSP is a remote prison which is also remote from hospitals. There are reports that Louisiana's hospitals could be overwhelmed by COVID-19 cases.[12] The reports of possible lack of hospital beds

[10] Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, Centers for Disease Control and Prevention posted March 23, 2020 as found at https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html

[11] ACE2 is the SARS-CoV-2 Receptor Required for Cell Entry, Summary, New England Journal of Medicine, March 18, 2020 Review of article of Hoffman, M et al in Cell 2020 Mar 5

[12] Louisiana's hospitals could be overwhelmed by COVID-19 virus in all but best scenario; Daily Adviser March 26, 2020 as found at

would place LSP inmates in a dire predicament.[13] Also, LSP is not set up to manage hospital level care including managing patients on ventilators. The infirmary is a dormitory and housing a COVID-19 patient on this unit would result in spread to other uninfected but medically compromised patients. There is therefore no place to treat an ill person with COVID-19 except in a general housing unit or on the infirmary, both of which would expose other patients to infection. The existing staff at LSP could not manage any hospital-level patient and getting a patient to a hospital from LSP will be challenging under current circumstances. This will invariably place inmates at risk of death.

14. The state is proposing transferring detained individuals with COVID-19 from the state's numerous jails to Angola. This would entail transportation of COVID-19 infected detainees to Angola for housing. It is my opinion that transferring detainees from jails to LSP for medical isolation and clinical management is not a good idea for multiple reasons. First, because the process for transporting COVID positive cases to a parish and a prison without cases—or with few cases—would increase the risk of transmission of positive cases to a location without cases or few cases, thereby increasing risk of spread including to West Feliciana Parish and the surrounding communities. Second, LSP has a particularly vulnerable population with over 50% of inmates over 50 years of age and many vulnerable persons with high risk medical conditions. Staffing deficiencies will likely result in medical and custody staff working with infected transferred detainees as well as LSP prisoners, which is likely to spread infection to the uninfected prisoners currently housed at LSP. This places them at significant risk. Third, medical care at LSP is not good and transferred inmates are unlikely to receive the medical attention needed to appropriately monitor their disease. LSP had insufficient staff in 2016 and was unable to adequately provide medical care such that officers and inmates were used to provide medical care.[14] Introduction of a COVID-19 infected population into a system without adequate medical staff can only result in less attention being paid to both the existing LSP patients who have substantial medical needs as well as the newly transferred inmates who should be monitored multiple times daily. Additionally, the quality of care at LSP was substandard in 2016 when we produced a report of our investigation and again in 2018 based on selected record reviews. Physicians were not credentialed appropriately and did not perform consistent with existing standards of care. On record reviews, we noted failure to recognize indications for hospitalization which is critical in the COVID-19 population. There was failure to recognize typical signs of respiratory decompensation which is also critical for COVID-19 patients. There were delays in transfer of patients to a hospital when indicated. Both physicians and other staff (nurses and emergency medical technicians) failed to recognize "red flag" signs resulting in adverse events. Also, LSP is not set up to manage acutely ill patients. Laboratory services are only

---

https://www.theadvertiser.com/story/news/local/2020/03/26/coronavirus-louisiana-hospitals-overwhelmed-under-all-covid-19-scenarios/2884019001/

[13] Who gets a ventilator? Hospitals facing coronavirus surge are preparing for life-or-death decisions. NBC News as found at https://www.nbcnews.com/health/health-care/who-gets-ventilator-hospitals-facing-coronavirus-surge-are-preparing-life-n1162721

[14] Officers passed medications on most units, and inmates assisted in providing some services to inmates on the infirmary during our 2016

available weekdays during working-day-hours and not at all on weekends. Blood gas assessments, critical for managing acute respiratory distress are not available at LSP. Physician evaluations during evening and nights were mostly telephonic and inadequate for patient needs. Also, the higher-level-of-care infirmary houses many long-term ill patients. These patients are at very high risk of death in the event of COVID-19 making the infirmary not useable for COVID-19 patients who deteriorate. Further, the local hospital is not a reference hospital and patients requiring intubation would need to be sent to Baton Rouge or New Orleans, an hour to three hour ride, respectively, a long ride with a potentially decompensating patient. For these reasons, detainees involved in these transfers would not be transferred into a situation that would include improved medical services. Services would likely be worse. Fourth and last, there is no evidence that the Louisiana Department of Health was involved in this decision. This appears to be a custody decision without consultation during a pandemic crisis with the Louisiana Department of Health. I have listed multiple reasons why this decision make little sense from a medical perspective. It also is not a good decision from a public health perspective. Custody leadership should not be making a decision that is likely to have great impact on a public health crisis, both with respect to introduction of active COVID-19 cases into a naïve and vulnerable population, and because the impact on local hospital resources could overwhelm the local community and reduce availability of ICU beds to community residents. For all of these reasons, it is my opinion that this transfer is not a good idea and will worsen the impact of this pandemic.

15. I have reviewed the plan submitted by the state, as well as the affidavits of Secretary James M. LeBlanc, Tracy Falgout, and Dr. John E. Morrison.[15] None of these documents changed in any way my opinion that using LSP as a statewide isolation unit, specifically at Camp J, will worsen the impact of the pandemic and poses a serious public health risk.

16. First, there is still no evidence that the Department of Health is involved in making the decision to use Camp J. This is a public health emergency, not a custody or other non-medical emergency. For this reason, the Department of Health should be directing decisions around transfers between facilities rather than custody officials. While Dr. Morrison is a medical doctor, his specialty is in general surgery and advanced cardiac life support, not epidemiology, pulmonology, or emergency medicine, and he has no relevant expertise in correctional medicine. I noted that the affidavits do not reference a public health official in attendance at the daily phone meetings – Dr. Morrison simply claims that the DOC is in "direct contact" with the Department of Health. Lack of coordination with the Department of Health puts at risk the lives of patients at LSP or who will be transferred to LSP and who may need to be hospitalized at some point. The Department of Public Health should have been part of the development of this plan in conjunction with their other statewide decision-making and planning around COVID-19.[16]

[15] *Lewis v. Cain*, 15-cv-318 (M.D.La.), Docket No. 585.

[16] On April 8, 2020, the Department of Health Office of Public Health issued recommendations regarding prisons and juvenile detention centers. These recommendations were rescinded without explanation on April 9, 2020.

17. Second, the pandemic plan they reference in their plan and affidavits is dated and not consistent with requirements of COVID-19. For COVID-19, three distinct types of special housing are needed: quarantine, isolation for people with known COVID019, and isolation for persons under investigation ("PUI"). The PUI group are people who are symptomatic (fever, symptoms of cough, shortness of breath, etc.) but have not yet been tested or test results are pending. These three groups should be housed separately. The current plan does not address this.

18. Third, the state's plan and affidavits do not address hospitalization. Specifically, they did not discuss how the PUI group or the COVID-19 positive groups would be monitored and, when and if they would be sent to a hospital, what arrangements would be made. Because LSP is so remote, an earlier admission is probably indicated due to the expected long distance they would have to travel to Baton Rouge or New Orleans if the patient required hospitalization or intubation. The West Feliciana Hospital does not support mechanical ventilation.

19. Fourth, the state's plan and affidavits did not address the capacity of LSP to provide appropriate medical care, particularly while maintaining isolation and quarantine from the rest of LSP. It is not clear from a practical matter how they would provide sufficient medical personnel at Camp J, who would have no contact with patients at the rest of LSP, without further diminishing the capacity of the already over-taxed LSP doctors and nurses. Nor was there any indication how the state plans to monitor the patients at Camp J in any of the three groups mentioned above. If hospitalization becomes necessary the travel time to the hospital delays initiation of care with resultant risk. In my previous reviews of medical records documenting the quality of care at LSP, I noted the failure to recognize indications for hospitalization and typical signs of respiratory decompensation, both of which are critical for COVID-19 patients. There were also many examples of delays in transfer of patients to a hospital when indicated.

20. Finally, the state's plan and affidavits do not lay out adequate protocols for medical isolation of Camp J from the rest of LSP's population, the majority of whom are elderly or otherwise at high risk because of their medical conditions. The state's plan and affidavits also do not describe who will provide medical care for the population expected to be housed at Camp J; whether and how workers serving the population at Camp J will be separate from workers serving the remainder of the prison; what the clinical monitoring will consist of; whether and how these known COVID-19 patients will receive hospital care if necessary; and where they will find medical staff and providers to care for the population. Most troubling in the state's plan is the lack of coordination with the Louisiana Department of Health. Creating an isolation unit for COVID-19 in a remote rural area with few cases and with a lack of reference hospital resources risks increased transmission and increased risk for individuals transferred as well as risk of infecting the local LSP inmate population which is high risk because of age and disease burden. There is also the increased risk of spillover into the local civilian population. Further, even assuming Defendants ultimately utilized different staff at Camp J, that staff will be at high risk of infecting the community, including staff that serve the rest of LSP. Because this is a pandemic, the Louisiana Department of Health should

approve of such a transfer as part of its broader effort to control the pandemic statewide. This is not something correctional officials should do without consultation and approval of the Department of Health.

Recommendations

21. Steps should be taken to release any inmate who is a low risk to the community. The additional risk to inmates by virtue of crowding in prisons and the risk of promoting 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 based on risk should prioritize inmates over 65 years of age, inmates with immune disorders, inmates with significant cardiac (including hypertension) or pulmonary conditions, or inmates with cognitive disorders. Keeping healthy individuals in prison for short sentences, or for parole violations or other marginal public safety reasons only promotes crowding. Crowding decreases the ability of maintaining distancing of prisoners which risks spread of the virus. Therefore, healthy prisoners with low risk sentences are best sent home as a preventive measure.

22. Because LSP is a maximum security prison with a 90% of inmates having a life sentence, depopulation of low risk inmates may not yield many inmates who can be released. Depopulating should be done at other Louisiana prisons to permit LSP to reassign inmates to other prisons that will permit appropriate distancing in dormitories. Such reassignment is permissible under CDC guideline on the basis of depopulation. Current dormitory arrangements are inconsistent with current public health and CDC recommendations regarding social distancing and if COVID-19 transmission penetrates the prison, the infection will spread widely.

23. If and when COVID-19 testing becomes readily available, expanded testing should be done.

24. All persons over 65, with severe mental illness, with immune disorders, with serious cardiac or pulmonary disease, or with any cognitive disorder should have daily symptom screening and temperature screening. Any positive symptom or temperature should require respiratory isolation and testing for COVID-19. Temperatures should be taken with infrared no-touch thermometers so that symptom screening and temperatures can be taken without touching the patient.

25. Persons suspicious for or known to be infected with COVID-19 should NOT be transferred to LSP.[17] As of April 13, 2020, West Feliciana Parish only had 46 cases and 0 deaths. LSP had 24 cases between staff and inmates. To send patients infected with COVID-19 to a parish and correctional facility with few known cases risks spreading the disease further into Louisiana and has ramifications for the community at large. Furthermore, approximately

[17] Louisiana plans to house local and state inmates with coronavirus at Angola and Allen Correctional; Emily Lane, WDSU News March 27, 2020; as found at https://www.wdsu.com/article/louisiana-plans-to-house-inmates-with-coronavirus-at-angola-and-another-prison/31960114

50% of the LSP population is over age 50 with many high risk medical conditions and a majority of inmates live in dormitories. This increases risk of transmission into an uninfected population and increases risk of death.

26. The CDC recommends suspending all transfers between facilities or jurisdictions.[18] LSP should enact this recommendation. However, if a transfer must be done, any person is transferred from one prison to another, they should have a negative COVID-19 test result or be quarantined for 14 days prior to transfer and known to not have COVID-19.

27. LSP needs to develop guidelines for when to send patients to a hospital. These should be developed with the reference hospital. Contact information with the reference hospital should be established as soon as possible. Criteria for hospital referral should be established in advance and posted so that all physicians, physician assistants and nurse practitioners are aware.

28. The current Pandemic Flu Plan (PFP) of LSP is a generic influenza-like-illness plan which is not consistent with guidance regarding COVID-19[19] and should not be used. Instead, rather than re-writing a document at this late stage, I recommend the existing CDC guidelines should be used as a plan and appropriately adapted to LSP conditions. The adaptions and CDC guidelines should be widely distributed to health and custody staff.

29. A point of contact with the Louisiana Department of Health should be established and contact information shared with medical leadership. The Department of Health should have contact information of DOC and LSP medical leadership and an update conference call with the Department of Health should occur every few days or more frequently if needed.

---

[18] In the Operations item of the Management section of the CDC correctional guidance, it states, "Suspend all transfers of incarcerated/detained persons to and from other jurisdictions and facilities (including work release where relevant), unless necessary for medical evaluation, medical isolation/quarantine, care, extenuating security concerns, or to prevent overcrowding". LSP is not a location ideal for medical isolation or medical care due to poor service history, lack of nearby hospitals, and because the prison and surrounding area have no cases. Sending patients with COVID-19 to this facility risk spread and places them in a facility with less medical resources than a facility closer to a large city.

[19] I give only one example. Item 4.a, of the Yellow/Orange Phase of the LSP plan states that "employees will complete a self-screening at roll call. Employees who state they are sick shall be triaged by medical staff or health trained staff, and if found to have a fever shall be sent home. Staff with ILI shall remain at home at least 24 hours after they are free of fever (100F) or signs of fever, without the use of fever medication". This is incorrect information with respect to COVID-19 and could result in increased transmission of infection. The CDC recommends not returning to work until there is resolution of fever without use of medication *and* improvement of symptoms *and* negative COVID-19 tests on at least two consecutive occasions 24 hours apart OR at least 3 days since resolution of fever without use of medication *and* improvement of respiratory symptoms *and* at least 7 days have passed since symptoms first appeared.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on April 13, 2020 in Chicago, Illinois.

/s/ Michael Puisis

Michael Puisis D.O.

DECLARATION OF DR. SUSI VASSALLO CONCERNING THE RISK OF COVID-19 IN THE LOUISIANA STATE PRISON AT ANGOLA

1. I am a board-certified emergency room physician and medical toxicologist. I practice as an attending physician in the emergency room of Bellevue Hospital, a large urban emergency department in New York City, and have practiced at various sites in Texas for many years. I am a Clinical Professor of Emergency Medicine at the New York University School of Medicine. I am certified as a correctional health professional by NCCHC and have evaluated correctional health care systems in nine states. I evaluated the Louisiana State Prison at Angola ("Angola") for The Promise of Justice Initiative in 2016 (and also conducted records review in 2018). I have also been retained by the Department of Homeland Security to review medical care delivery at its detention facilities, and the Fifth Circuit and other courts have relied on my reports.

2. Coronavirus disease of 2019 (COVID-19) is a viral pandemic. This is a novel virus for which there is no established curative medical treatment and no vaccine. Severe pneumonia is one of the serious consequences of COVID-19 and the lungs become filled with fluid. I have had patients tell me "I can't do this anymore" as they realize they can no longer keep up the work of breathing and require life saving interventions.

3. The U.S. Centers for Disease Control (CDC) estimates that the reproduction rate of the virus, the R0, is 3.8-8.9-3.8, meaning that each newly infected person is estimated to infect on average 5.7 additional persons.[1] This is highly infectious and only the great influenza pandemic of 1918 is thought to have higher infectivity. This is likely a function of all human populations currently being highly susceptible. The attack rate given an exposure is also high, estimated at 20-30% depending on community conditions, but may be as high as 80% in some settings and populations. The incubation period is thought to be 2-14 days, which is why isolation is generally 14 days.[2] The long incubation period is particularly concerning for transmission rates given that so many people are asymptomatic and infectious.

4. The number of cases of COVID-19 in the United States are rising rapidly. On April 13, 2020, Johns Hopkins reported that there were 572,587 reported COVID-19 infections in the U.S. The number of deaths is over 23,000 but both cases and deaths are rising rapidly so by the time this declaration is read the numbers of both cases and deaths will be significantly larger. The number of cases of COVID-19 is the highest number of reported cases of any country in the world.

---

[1] CDC, Emerging Infectious Diseases, High Contagiousness and Rapid Spread of Severe Acute Respiratory Syndrome Coronatvirus 2 (April 7, 2020), https://wwwnc.cdc.gov/eid/article/26/7/20-0282_article

[2] The Incubation Period of Coronavirus Disease 2019 (COVID-19) From Publicly Reported Confirmed Cases: Estimation and Application (March 10, 2020), https://annals.org/aim/fullarticle/2762808/incubation-period-coronavirus-disease-2019-covid-19-from-publicly-reported

5. Louisiana has a rapidly accelerating rate of COVID-19 infections. A study from the University of Louisiana at Lafayette reported that COVID-19 cases grew at a 67.8% rate, the highest rate in the U.S.[3] The Louisiana Department of Health reported on April 13, 2020 that there were 21,016 cases of COVID-19 with 884 deaths. Louisiana has the third most deaths per capita of any state in the U.S.

6. UpToDate reports an overall case mortality rate from the disease of 2.3. Louisiana has 884 deaths for 21,016 cases; more than 4.2% of persons diagnosed with the infection in Louisiana die.

7. The symptoms of COVID-19 present variably from fever, cough, chest pain, and headache to symptoms of loss of smell, diarrhea, aches, and vomiting.[4] At present, there are no markers identified nor signs or symptoms that would predict clinical deterioration. In at least one study, half of the patients admitted to the intensive care unit for COVID died on the first day.[5] However, COVID patients may also present insidiously and it is impossible to predict the course of the illness, who will do well, and who will not. It is my experience treating patients in the emergency departments of NYU Langone Health and Bellevue Hospital Center that patients are not always aware of the degree of hypoxia (lack of oxygen) present in their bodies. Unlike the more common experience of holding one's breath for as long as possible and then gasping for breath, these patients teeter on the edge of death with no gasping for breath or feeling their need for oxygen. This has been shocking to us working in Emergency Departments. Immediately upon arrival to the hospital, life-saving measures may be required. In some cases the patients code (suffer cardiac arrest) precipitously. In other experiences, some patients have adequate oxygen saturations for days and then deteriorate. To wit, the Prime Minister of England Boris Johnson was able to stay at home for 12 days before he was transferred to the hospital intensive care unit. In some cases, corrections staff and medical staff on the frontline may not be alarmed by a patient's complaint or appearance. This is not a predictable illness with a predictable course. There is no lab test that predicts the patient's course. In fact, the laboratory tests for COVID may give inaccurate results. Fifteen percent of patients who are tested for COVID have a false negative, meaning they do indeed have COVID but the test is negative. Given the lack of tell-tale signs or a timeline for subsequent deterioration, it is absolutely critical and necessary that patients who test positive or likely positive (known as person under investigation) for COVID-19 or have been exposed and show symptoms, be within easy transportable distance of hospitals in the event that more critical care is necessary. The care required to

---

[3] Coronavirus cases grew faster in Louisiana than anywhere else in the world: UL study, The Acadiana Advocate, Adam Daigle March 24, 2020, https://www.theadvocate.com/acadiana/news/coronavirus/article_94494420-6d4b-11ea-ac42-ff7dd722c084.html.

[4] Breaking News: Update on Evaluation and Management for COVID-19 Patients – Updated 4/7/20, Emergency Medicine News (March 31, 2020), https://journals.lww.com/em-news/blog/breakingnews/pages/post.aspx?PostID=508.

[5] Covid-19 in Critically Ill Patients in the Seattle Region — Case Series, The New England Journal of Medicine (March 30, 2020), https://www.nejm.org/doi/pdf/10.1056/NEJMoa2004500?articleTools=true

appropriately evaluate and provide treatment to patients with COVID includes lab testing, imaging, and treatment individualized to the presentation of the patient. This may range from oxygen therapy by nasal cannula, or high flow oxygen, continuous positive pressure masks; to intubation of the trachea and ventilator assistance. These are difficulty decisions influenced by not only the level of oxygen in the blood to the all important work of breathing. This viral infection is showing a serious predisposition to hypercoaguopathy and patients have pulmonary emboli (blood clots in the lungs) necessitating anticoaguation. Some patients' clinical course are complicated by superimposed bacterial infections of the lungs. Fluid therapy is complicated by dehydration due to fever and decreased fluid intake due to illness and the need to restrict the willy-nilly administration of IV fluids as the lungs are damaged by the virus and the attempts to oxygenated using positive pressure. Camp J is located in a remote prison that is lacking in these capabilities and technologies and is at least an hour from a facility that could provide them.

8. During this pandemic, patients with COVID often present with cough or fever or both. However, there are enormous numbers of patients with other symptoms and no cough and or fever. In one study of critically ill patients, only 88% presented with cough and only 50% had a fever.[6] In this pandemic, fatigue alone, sore throats, body aches, ear aches, or congestion frequently prove to be COVID. Abdominal pain with or without fever and cough is COVID. Back pain is COVID, with or without fever or cough. In fact most of our trauma patients at Bellevue, appendicitis and any other problem are found to have COVID. Diarrhea is COVID. Rash may be COVID and can be mistaken for other illnesses. Because the ACE2 receptors are on the intestines and the lungs, diarrhea is a common presentation. Screening for cough and or fever is inadequate to exclude the possibility of infection from COVID. Moreover, many patients are asymptomatic and are infectious to others.

9. Although advanced age and underlying illnesses or chronic medical conditions increase the risk of serious effects of COVID, the relatively young and healthy are also in the intensive care units and die. While fatalities have been highest for older patients, increasing evidence in the US has shown the dire risk that COVID-19 poses to younger patients. Young patients ages 20-54 years old can have serious complications from COVID-19 including hospital admission, admission to an intensive care unit, invasive ventilation, or death. As of late March 2020, 38% of those individuals hospitalized in the US were between 20-54 years old.[7] Of those admitted to the ICU, 12% were aged 20-44 years and 36% were age 45-64 years. These statistics highlight the significant risk younger people are at for serious complications due to coronavirus. A few days ago, at the hospital where I work, there were 482 patients in isolation and 209 patients on ventilators. Almost 50% of the COVID positive patients are less than 65 years old. 13 patients are on extracorporeal membrane oxygenation, 10 are on

---

[6] Covid-19 in Critically Ill Patients in the Seattle Region — Case Series, The New England Journal of Medicine (March 30, 2020), https://www.nejm.org/doi/full/10.1056/NEJMoa2004500

[7] John Hopkins Medicine, Coronavirus and COVID-19: Younger Adults Are at Risk, Too, https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/coronavirus-and-covid-19-younger-adults-are-at-risk-too (accessed April 9, 2020).

continuous venovenous dialysis. Autopsy studies are demonstrating widespread tissue destruction due to the COVID virus. The numbers show that all types of people – healthy and unhealthy, young and old – are impacted by this virus, and we are learning more each day.

10. Those incarcerated in U.S. jails and prisons make up 2.2 million people of our U.S. population.[8] This population is one the most vulnerable in society, with high rates of coinfection with hepatitis C, HIV, and tuberculosis (TB). More specifically, the World Health Organization has identified the level of TB in prisons to be 100 times higher than that of the civilian population, due to the hazardous combination of overcrowding, poor ventilation, and inadequate treatment and diagnosis.[9] The transmission of COVID-19 in prisons can easily be likened to the transmission of TB, where "social distancing" practices are impossible with inmates living in close quarters and the lack of available measures to ensure proper handwashing, hygiene, and sanitation. What's more, half of this vulnerable population of incarcerated individuals have at least one comorbid condition, increasing the risk of poor outcomes for those who also contract COVID-19. COVID-19 is likely to rampantly spread within jails and prisons given its droplet aerosol transmission that is stable for hours and can even last on cardboard and metal surfaces for hours per the National Institutes of Health.[10] This has been the experience at the Cook County Jail, which now has the highest outbreak numbers in the country.[11]

11. The Department of Corrections plan is to allow for the transfer of detained individuals - including people who have not been convicted of a crime - from the state's over 100 numerous jails and prisons to Camp J at Angola. It is my opinion that transferring detainees who test positive for COVID from jails around the state to Camp J is a medically unsound plan and contrary to public health guidelines for multiple reasons. First, it is against the recommendation of the Louisiana Department of Health.[12] The State Health Officer, Jimmy Guidry, issued recommendations to prisons and juvenile detention centers on April 8, 2020. In it he states that correctional and detention centers should "have a trained Emergency Medical Service/Emergency Medical Technician (EMS/EMT) assess and transport anyone you think might have COVID--19 to a healthcare facility." Camp J is not a healthcare facility and the DOC plan goes against this guidance.[13] This plan is also against the guidance

---

[8] Flattening the Curve for Incarcerated Populations — Covid-19 in Jails and Prisons, The New England Journal of Medicine (April 2, 2020), https://www.nejm.org/doi/full/10.1056/NEJMp2005687?query=featured_coronavirus

[9] World Health Organization, *Tuberculosis in Prisons*, https://www.who.int/tb/areas-of-work/population-groups/prisons-facts/en/ (accessed April 9, 2020).

[10] National Institutes of Health, New coronavirus stable for hours on surfaces (March 17, 2020), https://www.nih.gov/news-events/news-releases/new-coronavirus-stable-hours-surfaces

[11] Chicago's Jail is Top U.S. Hot Spot as Virus Spreads Behind Bars, New York Times (April 8, 2020), https://www.nytimes.com/2020/04/08/us/coronavirus-cook-county-jail-chicago.html

[12] Louisiana Department of Health, Office of Public Health, COVID-19; recommendations regarding prisons and juvenile detention centers (April 8, 2020).

[13] Without any explanation, these recommendations were rescinded on April 9, 2020.

of the CDC, which recommends that all transfers of incarcerated and detained people are suspended, unless necessary for medical evaluation, medical isolation/quarantine, care, extenuating security concerns, or to prevent overcrowding.[14] Each facility should be able to provide isolation and quarantine services on-site. If not, release or repurposing of other unused spaces (dorms, hotels) is preferable to transfer. Even if up-to-date medical records are sent along with people who are transported to Angola, there is no indication that Angola is in a position to provide newly transferred detainees with any prescribed medications for underlying medical conditions, such as hypertension and diabetes; conditions that render patients vulnerable to severe COVID symptoms. The process of transporting COVID positive cases to a parish like West Feliciana with relatively fewer cases increases the risk of spread throughout that parish and the surrounding communities. Angola has a particularly vulnerable population with over 50% of people over 50 years of age, many of whom have high risk medical conditions and are vulnerable to serious medical complications if infected. Medical and custody staff are also at risk if they come into contact with infected transferred detainees and are likely to spread infection to the uninfected and vulnerable Angola population, no matter what measures are purportedly taken to isolate Camp J. Angola had insufficient staff when we reviewed in 2016 and there is no reason to believe they have seriously increased their staffing numbers since. Introduction of COVID-19 into the system will result in the existing Angola patients not having their substantial medical needs met.

12. The Department of Corrections has said that only people who have tested positive but are not displaying serious symptoms and who are not in medical distress are supposed to be sent to Camp J. There is no information or medical criteria on how to identify patients as meeting that definition. In fact, at this time, there is no way to define who will do well and who will do poorly. And nothing is said about what will happen if and when the medical conditions of those people deteriorate and medical intervention and hospitalization becomes necessary. As the other two medical experts in *Lewis v. Cain* and I noted in our review of care at Angola, the people incarcerated there lack access to hospital care across the board and this pandemic will only make it worse. Angola is remote from hospitals. The closest emergency room of any kind is at least 30 minutes away and it does not have a ventilator, and the space at that hospital is otherwise limited. The closest emergency room that can provide adequate services is in Baton Rouge, more than an hour away. Louisiana's hospitals are already overwhelmed by COVID-19 cases, and transporting more people who have tested positive to a remote location with already-limited hospital beds puts those people at unnecessary risk. For example, people held in the East Baton Rouge Parish Prison who test positive are being transported more than an hour away to Camp J, putting staff who are transporting them at increased risk of transmission. And then transporting them back to Baton Rouge or New Orleans when they require hospitalization. People who test positive in the New Orleans jail could be taken three hours away to Camp J and then be transported to Baton Rouge or New Orleans when they require hospitalization. Angola is not set up to manage hospital level care including ventilation. Housing a COVID-19 patient on the

[14] CDC, Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (Mar. 23, 2020), https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html

infirmary where the most vulnerable, uninfected, medically compromised patients are housed all the patients and staff at risk.

13. Additionally, the quality of care at Angola was substandard in 2016 when we produced a report of our investigation and again in 2018 based on selected record reviews. Physicians were not credentialed appropriately and did not provide medical care in line with national standards. While reviewing records, we noted many examples of failure to recognize indications for hospitalization, including many cases of failure to recognize typical signs of respiratory decompensation which is critical for COVID-19 patients. There were delays in transfer of patients to a hospital when indicated. Physicians, nurses, and EMTs failed to recognize "red flag" signs resulting in adverse events.

14. From our review, we also found that medical care was substandard in other ways that would impact the care that the positive transported detainees and any COVID-19 positive Angola inmates would be provided, either at Camp J or at the infirmary. For example, laboratory services are only available on weekdays and blood gas assessments are not available at all.

15. The Director of the CDC has warned that as many as 25% of individuals infected with COVID-19 may be symptom-free, leading to the broadening of their criteria as to who should wear masks.[15] With limiting testing performed on asymptomatic patients, we cannot confirm or negate the presence of COVID-19 in an individual. As such, incarcerated individuals and staff can be infected with the virus and unknowingly spread it throughout the already overcrowded prison. We further cannot determine whether patients will abruptly need escalated medical care requiring hospitalization. One precautionary measure that must be taken is that people who are COVID positive are not transferred to Camp J, which is more than an hour from the closest hospital able to provide appropriate medical intervention.

16. Patients with severe COVID-19 symptoms may require critical specialists even if not in the intensive care unit; ICU-level supplies and specialized treatment, including but not limited to invasive mechanical ventilation, vasopressor treatment for low blood pressure, intravenous fluid therapy, support for kidney failure, respiratory therapists, and/or early antibiotics.[16] High flow oxygen administered in a hospital is tricky; continuous positive pressure ventilation is tricky; the need for a ventilator is unpredictable except at the point of respiratory arrest. Treatment requires staff that have experience in using this equipment. The intensity of care and the protracted length of this care with this illness can not be provided at Angola or at any of the hospitals within an hour from Angola. What's more, highly specific airborne precautions with N95 respirators, face shields, and gowns for personal protective equipment are critical to prevent spread of the virus. On a national level,

---

[15] Infected but Feeling Fine: The Unwitting Coronavirus Spreaders, New York Times (March 31, 2020), https://www.nytimes.com/2020/03/31/health/coronavirus-asymptomatic-transmission.html

[16] Care for Critically Ill Patients with COVID-19, JAMA Insights (March 11, 2020), https://jamanetwork.com/journals/jama/fullarticle/2762996

these supplies and highly advanced and expensive equipment of ventilators are limited across the country. Angola is lacking in these capabilities and is not an appropriate site to manage patients with COVID-19

17. In my experience in New York City and from what I know is happening in the rest of the country, there are not enough resources to battle the COVID pandemic in the big cities, much less in rural areas like West Feliciana Parish that only have two ambulances as of my last review. Even without the influx of positive detained transferees to Angola, West Feliciana would be strained for resources like ambulances and ambulance personnel. Ambulance personnel are being infected daily and they transmit the infection widely. Transporting many COVID positive people to the parish will further strain what is already a strained system, at increased risk to both those patients and the surrounding community.

18. Anyone who comes into proximity to someone who is tested positive for COVID is at increased risk of infection. COVID-19 is a highly contagious respiratory virus that spreads through droplets created when an infected person coughs, sneezes or speaks. Normal breathing can spread the virus. The virus can also be transmitted through saliva or discharge from the nose. While the droplets generated by infected people only hang in the air for a short period of time, they can easily be breathed in by people within one meter of a person with COVID-19. Furthermore, the droplets generated will contaminate the surfaces they land on resulting in transmission of the virus if someone touches a contaminated surface and then touches their eyes, nose or mouth before washing their hands. In the close-quarters setting of a vehicle this means that even one infected person could easily spread the virus to everyone else in the vehicle. Additionally, reduced airflow in a transport vehicle could result in higher concentrations of contaminated droplets remaining in the air and on surfaces. Transport should be avoided unless necessary for hospitalization and then only having to travel a short distance to the hospital is the safest option. Staff at Angola may contract the virus as a result of its high infectivity and then spread the virus amongst the West Feliciana community. There are only 46 confirmed cases in West Feliciana as of April 12, 2020. The high concentration of infected persons at Angola would increase the likelihood of the virus spreading to West Feliciana community members via infected Angola medical and custodial staff who are exposed to those viral loads.

19. Many studies have shown the increased risk for serious complications in patients infected with COVID-19 that also suffer from comorbidities. Those comorbidities include common health problems like hypertension and diabetes, among others. Many people in jails and prisons have multiple comorbidities and are at an even higher risk of complications. The complications include development of serious illness such as acute respiratory distress syndrome (ARDS) requiring admission to an intensive care unit, invasive ventilation or death. Studies found that COPD, diabetes, hypertension, cancer, and the presence of multiple comorbidities resulted in the highest increased risk of the above mentioned serious complications.[17] This puts the most vulnerable patient populations, including people in jails

[17] Comorbidity and its impact on 1590 patients with Covid-19 in China: A Nationwide Analysis, European Respiratory Journal (March 26, 2020), https://doi.org/10.1183/13993003.00547-2020

and prisons with chronic health problems, at increased risk for severe medical complications or death from COVID-19. If transferred to Camp J, transferred detainees – particularly those who had only been incarcerated for short periods of time and not sufficiently evaluated by medical staff – may also have difficulties or delays in getting any of their regular prescribed medications for conditions such as hypertension and diabetes, even if they are transported to Angola with their medical records.

20. COVID-19 can result in serious complications leading to death where people feel the same pain as if they were drowning because their lungs are so filled with fluid. In cases where people are suffering from life-limiting illness due to COVID-19 it is imperative that they have access to palliative care. Palliative care is a crucial part of any health care plan to ensure that patients do not suffer needlessly and that in the case of life-limiting illness the treatments needed to relieve suffering are available.[18] Furthermore, a robust supply of medicines, equipment and trained medical professionals is required to appropriately treat and manage patients with COVID-19. The DOC plan (provision of Tylenol, Motrin, NS for IV flush, Imodium, and Insulin) is insufficient as a response to the needs of COVID-19 positive patients. The provision of morphine or other end-of-life drugs is crucial to manage pain and symptoms and to allow for a humane death. The pandemic has resulted in widespread shortages of the pharmaceuticals needed to treat COVID patients.

My recommendations for the DOC to mitigate the spread of the coronavirus among Louisiana's incarcerated population are:

1. Transfer people who test *negative* for COVID-19 to Angola to free up space in the remaining DOC facilities so that the non-Angola incarcerated populations will be able to practice social distancing and will have space to provide appropriate quarantine and isolation areas for those who test positive or may be positive.

2. House COVID-19 patients in locations where they can reach a hospital—one that is equipped to treat severe COVID-19 symptoms—quickly. The illness progresses quickly and unpredictably; patients' symptoms can worsen very suddenly, so it is not safe for them to be housed far from a hospital. To move COVID-19 patients farther from health care is anathema to the care of these patients. The emphasis must be on these patients being housed near to the care they need.

3. Protect the current Angola population—many of whom are elderly and chronically ill and therefore at greater risk of developing severe or deadly COVID-19 symptoms—from an increased risk of infection by not transferring any confirmed COVID-19 patients to Camp J or any other part of Angola.

4. Increase the chances of survival for COVID-19 patients by not transferring them to Angola, which is located in a parish where there are no ventilators. No one can predict whether a COVID-19 patient's symptoms will progress to the point of respiratory distress such that

[18] The Role of Palliative Care in a COVID-19 Pandemic, Shiley Institute for Palliative Care, https://csupalliativecare.org/palliative-care-and-covid-19/ (accessed April 9, 2020).

the patient will require a ventilator; patients can deteriorate very rapidly. If a patient tests positive for COVID-19, that patient is at risk of requiring a ventilator and should not be housed in a location where there are none.

5. Involve the Department of Health in the development of any transport plans for medical isolation needs and follow the Department's initially guidance and advice as well as the CDC's guidance regarding transport.

6. Prepare for a widespread outbreak by streamlining medical power of authority.

7. Prepare for a widespread outbreak by developing adequate policies related to palliative care for incarcerated individuals who may die from COVID-19 complications.

8. Reduce the incarcerated population by allowing furlough for anyone who is 60 years of age or older and for anyone who has an underlying medical condition that puts him or her at greater risk of developing a severe case of COVID-19. This will allow incarcerated individuals to practice social distancing throughout the state and free up space for appropriate quarantine and isolation units at individual DOC facilities. All of these measures would reduce the risk of a widespread outbreak among the incarcerated population.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on April 13, 2020 in New York, New York.

/s/ Susi Vassallo

Susi Vassallo

DECLARATION OF KENDRICK WILSON:

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

1. My name is Kendrick Wilson.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am 20 years old.
4. Until April 11, 2020, I was pre-trial and being held in Unit A2 at East Baton Rouge Parish Prison.
5. I was tested for COVID-19 around two o'clock in the morning on April 9. My temperature before I was tested was 102.5 degrees.
6. I experienced symptoms of body pain, a cough, and congestion.
7. I was told that I tested positive for COVID on April 10 or 11 but was not shown my test results. I did not talk to a nurse or doctor about my test results.
8. On April 11, around 5:00 p.m. I was asleep when two guards woke me up and said transport was waiting for me and to pack my things. They said I would be transferred one way or another, whether willingly or not. The guards handcuffed and shackled me and said they couldn't tell me where they were taking me. I said many times that I did not want to be taken to Camp J.
9. I was transported in a van with 3 other people and 2 correctional officers.
10. I am currently detained at Camp J at Louisiana State Penitentiary in an open dorm. I do not know the name of the dorm.
11. There are about 39 other people in the dorm with me. There is nothing isolating us from each other. A lot of people are coughing, and there were some people on IV machines or with oxygen masks. I have one face mask. They have not taken anyone to the hospital.

12. It is my understanding that putting a lot of people together who have tested positive for COVID increases the risk to me and to others.
13. There is no air conditioning and there are ceiling fans blowing the air around.
14. There are two nurses walking around the dorm. They checked on me twice on April 11 and once on April 12. I haven't seen any doctors.
15. I told a nurse my body was hurting and that I was congested and I was given some pain medicine and sinus medicine.
16. I have been told that I will stay at Camp J for 5 days and then moved to another building for 5 more days. I don't know what that other building is or where it is. I don't know where I will go after that. I don't know if they will take me to a hospital if I need to go to a hospital.
17. I would prefer to be home with my mother in Baton Rouge, recovering and staying away from other people who are also sick. I would like to be near a hospital.
18. If I can't go home, I would prefer to go to a 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 who are incarcerated. It is my understanding that there are at least 900 beds available there. I would like to be near a hospital.
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.

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 Kendrick Wilson
April 13, 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. Wilson. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Kendrick Wilson's behalf with his express consent.
3. Mr. Wilson is currently being held at Camp J at Louisiana State Penitentiary. The Secretary of the Department of Corrections suspended all visitation at Louisiana's eight state-run prisons on March 12, 2020. No attorney visits are being scheduled.
4. I spoke with Mr. Wilson over the phone. Mr. Wilson 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 13, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar
Nishi Kumar
April 13, 2020

DECLARATION OF ERNEST ROGERS:

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

1. My name is Ernest Rogers.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am 65 years old.
4. I am pre-trial and being held in Unit 2 at East Baton Rouge Parish Prison.
5. I was tested for COVID around two o'clock in the morning on April 9.
6. I am suffering from a cough, a sore throat, a fever, and shortness of breath.
7. I have hepatitis C and would be able to get treatment through my health insurance if I were not detained right now. I also have liver disease and high blood pressure.
8. I was told 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. I ask the nurse for my test results twice a day.
9. 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 and shackled him. Mr. Wilson was very upset. The guards told him they didn't know where he was going but my understanding is they took him to Camp J at Angola.
10. 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. I was previously housed at Camp J when I was incarcerated at Angola. The last time I was at Camp J was in the 1980s and I do not want to go back there.

11. Because of my age and pre-existing medical conditions, 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.
12. I would prefer to be home with my family in Baton Rouge, 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 understanding that there are at least 900 beds available there. 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 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.
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 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 Ernest Rogers
April 13, 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. Rogers. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Ernest Rogers' behalf with his express consent.
3. Mr. Rogers 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. Rogers over the phone. Mr. Rogers 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 13, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar
Nishi Kumar
April 13, 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. 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.
14. 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.
15. 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 understanding that there are at least 900 beds available there. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary.
16. 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.

17. 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.
18. 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.
19. 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 13, 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 13, 2020 in New Orleans, Louisiana.

/s/ Nishi Kumar
Nishi Kumar
April 13, 2020

DECLARATION OF DANIEL GUMNS:

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

1. My name is Daniel Gumns.
2. I am at least 18 years of age and am competent to make this declaration.
3. I am 25 years old.
4. I am indigent.
5. I am in DOC custody and currently housed at Angola's Camp D in the Falcon 1 dormitory.
6. I am housed in close quarters in the dormitory with approximately 80 other people. I am unable to maintain 6 feet of space between me and other people.
7. I do not have a face mask or gloves. Only some of the guards have face masks and gloves.
8. There are 4 or 5 toilets, 4 or 5 sinks, and one communal shower in Falcon 1.
9. The dorm and bathroom are not cleaned every day.
10. Even though we are in quarantine, people come in and out of the dormitory, including two guards per shift and two orderlies per shift. We can still go in and out of other dorms but cannot leave Camp D.
11. It is my understanding that medical and correctional staff are going back and forth between Camp J and other places at Angola.
12. Camp D has been in quarantine for 2 or 3 weeks. 2 people have been taken out of the dormitory by EMTs after they developed COVID-19 symptoms, such as coughing, fevers, and sore throats. I do not know their names. I have not seen them since and it is my understanding that they went to Camp J.
13. I purchased my own soap for $15-20 and I do not have any hand sanitizer. I do not have any bleach.

14. I have pre-existing conditions that put me at a high risk if I become infected with COVID-19. I am epileptic and suffer from grand mal seizures. I also have asthma. My asthma is triggered when I have seizures and I sometimes need medical support to breath.
15. I take eight medications per day, including Keppra, Dilantin, and Xopenex.
16. I have been to the hospital at Angola three times since February 21, 2020, for seizures. My last seizure was approximately a week and a half ago. I was taken to the Treatment Center at the main prison.
17. I have been to the hospital at Rapides Regional Medical Center three to five times in the past year for seizures. I was last released from the hospital on February 20, 2020 and was brought to Angola the next day.
18. In the past week, I have had symptoms including cold chills, headaches, cough, fatigue, and fever. I have had to use my inhaler for my asthma.
19. I have not been tested for COVID-19.
20. 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 Camp J in time to receive treatment if I got very sick or had another seizure.
21. If I test positive for COVID-19, I do not want to go to Camp J. I have 18-20 months left on my sentence and could be eligible for parole within the next year. I would prefer to go home to my family in New Orleans for medical isolation and to recover.
22. If I 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 understanding that there are at least 900 beds available there. It is my

belief that I can be transported easily from there to a hospital for treatment if it becomes necessary or if I have a seizure.

23. 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.
24. 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.
25. 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.
26. 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 Daniel Gumns
April 13, 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. Gumns. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Michael Gumns's behalf with his express consent.
3. Mr. Gumns is currently being held at Louisiana State Penitentiary. All in-person visitation was cancelled effective March 12, 2020.
4. I spoke with Mr. Gumns over the phone. Mr. Gumns 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 13, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar
Nishi Kumar
April 13, 2020

DECLARATION OF IAN CAZENAVE:

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

1. My name is Ian Cazenave
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 currently 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 am housed in close quarters in the dormitory with approximately 86 other people. I am unable to maintain 6 feet of space between me and other people.
7. I have two face coverings made out of t-shirt material. I do not have gloves.
8. There are 7 toilets, 5 sinks, and 5-6 showers in Ash 2.
9. Even though we are on lockdown, people come in and out of the dormitory each day, including 2-4 medical staff and 3-4 guards. Not everyone is wearing masks.
10. To my knowledge, medical and correctional staff are going back and forth between Camp J and other places at Angola.
11. Ash 2 has been on lockdown for about a month. One person has been taken out of the dormitory after they developed COVID-19 symptoms. I have not seen him since and I don't know where he went.
12. I have access to soap that they make at LSP but I don't have any other soap because it would cost money. I had some hand sanitizer left over from when I was at University Medical Center but I just ran out. They don't sell hand sanitizer at the canteen.
13. I have pre-existing conditions that may put me at a high risk if I become infected with COVID-19, including sickle cell disease and resulting complications and a heart murmur. I

need daily dressing changes for the open wounds on my feet and legs. Usually I would go to the hospital for my dressing changes but now the nurses are coming to the dorm. I asked the nurses if they were also going to Camp J but they would not tell me.

14. I last went to the hematologist around June of 2019. I last went to wound care in December of 2019.
15. I take around ten medications per day, including aspirin, ibuprofen, Tylenol, and Trental.
16. I have not been tested for COVID-19 nor am I experiencing any symptoms.
17. 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 sick.
18. If I test positive for COVID-19, I do not want to go to Camp J. 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 understanding that there are at least 900 beds available there. It is my belief that I can be transported easily from there to a hospital for treatment if it becomes necessary.
19. 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.

20. 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.
21. 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.
22. 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 Ian Cazenave
April 13, 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. Cazenave. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on Ian Cazenave's behalf with his express consent.
3. Mr. Cazenave is currently being held at Louisiana State Penitentiary. All in-person visitation was cancelled effective March 12, 2020.
4. I spoke with Mr. Cazenave over the phone. Mr. Cazenave 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 13, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar
Nishi Kumar
April 13, 2020