IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
SECOND MUNICIPAL DISTRICT – SKOKIE, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	
Plaintiff,	)	
	)	**No.** [redacted]
v.	)	**Hon.** [redacted]
[redacted],	)	
Defendant.	)	
(Cook County ID# [redacted]	)	

DEFENDANT [redacted] ***EMERGENCY*** **MOTION FOR RELEASE ON ELECTRONIC HOME MONITORING DUE TO LIFE-THREATENING COVID-19 CORONAVIRUS PANDEMIC**

Now comes the defendant, [redacted] by his attorneys, [redacted] and respectfully moves this Honorable Court to release him on electronic home monitoring pending sentencing, given the current public health emergency created by the deadly and highly infectious COVID-19 global pandemic, ***for which*** [redacted] ***himself has tested positive.***[1]

1. On December 27, 2019, Defendant [redacted] was remanded to custody to complete the 90-day in-custody substance abuse treatment program administered by the Cook County Sheriff.

2. As of March 24, 2020, [redacted] has been in the custody of the Cook County Sheriff in the Cook County Jail for 89 days.

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[1] [redacted] is the [redacted] Cook County Jail detainee identified in the *Chicago Sun-Times* regarding the COVID-19 pandemic infecting the jail population at the Cook County Jail. *See* Exhibit 1, Andy Grimm, *Two Cook County Jail detainees test positive for coronavirus*, CHICAGO SUN-TIMES (Mar. 23, 2020), available at: https://chicago.suntimes.com/2020/3/23/21191438/two-cook-county-jail-detainees-test-positive-covid-19-coronavirus (last visited Mar. 23, 2020).

3. Since Defendant's remand to the custody of the Cook County Sheriff, the deadly COVID-19 coronavirus has taken ahold globally, resulting in over 381,000 confirmed cases and over 16,500 deaths. *See* Johns Hopkins University & Medicine, Johns Hopkins Coronavirus Resource Center, available at: https://coronavirus.jhu.edu/map.html (last visited Mar. 24, 2020).

4. In Illinois, as of March 23, 2020, there have been nearly 1,300 confirmed cases and 12 deaths. *See* Chicago Tribune Staff, *Coronavirus in Illinois updates: Officials report total COVID-19 cases now at 1,285, with 12 deaths in the state*, CHICAGO TRIBUNE, available at: https://www.chicagotribune.com/coronavirus/ct-coronavirus-pandemic-chicago-illinois-news-20200323-r7kims7ud5agfbgtfdiaid6xga-story.html (last visited Mar. 23, 2020).

5. In Cook County alone – the largest and most densely populated county in Illinois – there have been over 900 confirmed cases, 9 deaths, and at least one Cook County Jail guard has tested positive for the virus thus far. *See* Exhibit 2, Sam Kelly, *Officer at Cook County Jail tests positive for coronavirus,* CHICAGO SUN-TIMES (Mar. 22, 2020), available at: https://chicago.suntimes.com/coronavirus/2020/3/22/21190339/cook-county-jail-coronavirus-correctional-officer-tests-positive-covid-19 (last visited Mar. 23, 2020); Johns Hopkins Coronavirus Resource Center, available at: https://coronavirus.jhu.edu/map.html (last visited Mar. 24, 2020).

6. Governor Pritzker has issued a "shelter in place" order, directing the vast majority of citizens to stay in their homes through April 7, 2020, due to the highly infectious nature of COVID-19. Dan Petrella et al., *Gov. J.B. Pritzker issues order*

requiring residents to "stay at home" starting Saturday, CHICAGO TRIBUNE (Mar. 20, 2020), available at: https://www.chicagotribune.com/coronavirus/ct-coronavirus-illinois-shelter-in-place-lockdown-order-20200320-teedakbfw5gvdgmnaxlel54hau-story.html (last visited Mar. 23, 2020).

7. Globally, nationally, and locally, we are living through a rapidly evolving and exponentially deteriorating public health emergency.

8. This public health emergency threatens the lives of Americans, especially those most at-risk of contracting the virus such as detainees in densely populated jails and prisons, and individuals such as Mr. Mikhail who suffer from asthma and upper respiratory problems. *See, e.g.,* Exhibit 3, Declaration of Medical Professionals Concerned About the Risk of the Spread of COVID-19 in the Cook County Jail and the Illinois Department of Corrections; Exhibit 4, Centers for Disease Control and Prevention, Coronavirus Disease 2019 (COVID-19), *People who are higher risk for serious illness*; Exhibit 5, Declaration of Dr. Danielle C. Ompad; Exhibit 6, Chicago Sun-Times Editorial Board, *Coronavirus, Cook County Jail, and the need to reduce the inmate population…fast*, CHICAGO SUN-TIMES, (Mar. 19, 2020), available at: https://chicago.suntimes.com/2020/3/19/21186898/cook-county-jail-coronavirus-tom-dart-covid-19-social-distancing (last visited Mar. 23, 2020); *see also* Matt Masterson, *Cook County Sheriff: Cutting Jail Population a "High Priority" Amid COVID-19 Pandemic* (Mar. 18, 2020), PBS CHICAGO, available at: https://news.wttw.com/2020/03/18/cook-county-sheriff-cutting-jail-population-high-priority-amid-covid-19-pandemic (last visited Mar. 23, 2020).

9. Given the current public health emergency, [redacted] is unable to complete any type of in-custody substance abuse treatment program as these programs have been shut down.

10. Without intervention, the currently scheduled court date of April 6, 2020, will be administratively continued into May 2020 pursuant to the emergency scheduling order in place.

11. [redacted] is eligible for probation and should be released on electronic home monitoring pending imposition of a sentence.

CONCLUSION

WHEREFORE, based upon the foregoing, the defendant respectfully requests the relief sought above.

Respectfully submitted,

/s/ [redacted] (#[redacted]

[redacted]

Attorneys for [redacted]

EXHIBIT 1

CHICAGO SUN-TIMES

CORONAVIRUS NEWS CHICAGO

Two Cook County Jail detainees test positive for coronavirus

One detainee was housed in same area where a corrections officer who tested positive for COVID-19 had been stationed.

By Andy Grimm | @agrimm34 | Mar 23, 2020, 2:36pm CDT

Sheriff Tom Dart announced March 23, 2020, two Cook County Jail detainees have tested positive for COVID-19 after showing flu-like symptoms. | Sun-Times file photo

Two Cook County Jail detainees have been placed in isolation cells after testing positive for COVID-19, Sheriff Thomas J. Dart announced Monday, marking the first confirmed cases inside the 5,427-person jail complex.

One of the detainees, who is 42, had been housed inside the same facility where a corrections officer who tested positive for coronavirus worked. The detainee had been at the jail since December on an aggravated DUI charge. The positive result of the corrections officer's coronavirus test — the first confirmed case for a jail staff member — was announced Sunday.

The second detainee who tested positive is an 18-year-old who was taken into custody for aggravated discharge of a firearm in mid-February. He had been housed in Division IV at the jail when he developed flu-like symptoms.

Jail officials in recent weeks had taken a number of measures to combat the spread of coronavirus inside the jail — one of the largest correctional facilities in the nation.

Earlier Monday, Chief Criminal Courts Judge LeRoy K. Martin Jr. ordered the start of a review of thousands of criminal cases with the aim of releasing non-violent, low-level offenders from the jail.

Martin's order came in response to a plea from Public Defender Amy Campanelli to release more than 1,000 detainees from the jail to prevent the spread of the virus, noting the rampant spread of the illness inside jails and prisons in Italy, China and at facilities across the U.S.

Martin asked defense attorneys and the state's attorney's office to review cases involving all detainees whose advanced age or underlying health conditions make them especially at risk for serious illness from coronavirus, as well as offenders charged with low-level, non-violent felonies and misdemeanors, who are serving out

short sentences in the jail or who have committed technical violations of their bond or probation.

The correctional officer who tested positive is self-isolating at home. Officials from Cook County Health, which administers the jail's Cermak hospital, did not immediately respond to questions from the Chicago Sun-Times about the number of detainees who have been tested for the virus, or how many have been isolated after showing symptoms.

Exhibit 2

CHICAGO SUN-TIMES

CORONAVIRUS NEWS METRO/STATE

Officer at Cook County Jail tests positive for coronavirus

The officer most recently worked in the jail's Residential Treatment Unit, the wing for inmates who need medical or mental health attention, and Cermak Hospital, the on-site medical center, Cook County sheriff's spokesman Matt Walberg said.

By Sam Kelly | @sgonzalezkelly | Mar 22, 2020, 6:31pm CDT

A correctional officer at Cook County Jail, 2600 S. California Ave., tested positive for coronavirus, officials

announced March 22, 2020. | Sun-Times file photo

A correctional officer at the Cook County Jail has tested positive for coronavirus, the sheriff's office announced Sunday.

The officer most recently worked in the jail's Residential Treatment Unit, the wing for inmates who need medical or mental health attention, and Cermak Hospital, the on-site medical center, Cook County Sheriff's spokesman Matt Walberg said. The officer is now in isolation at home.

The sheriff's office has contacted employees who may have had contact with the officer and advised a "small number of staff" to self-quarantine for 14 days, though none have shown symptoms, the sheriff's office said.

As of Sunday, no inmates have tested positive for COVID-19, Walberg said.

The areas where the officer works have been disinfected, the sheriff's office said.

Last week, the jail received court orders to release about 100 "highly vulnerable" inmates who were deemed to be at high-risk for contracting the virus. The decision came after Sheriff Tom Dart banned all visitors from the jail, and Cook County Chief Judge Timothy Evans suspended most civil and criminal cases for 30 days.

On Monday, the courts will hear a motion filed Friday by Cook County Public Defender Amy Campanelli, in which she petitioned to have hundreds more inmates released due to risk of infection.

Exhibit 3

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

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

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

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

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

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

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

10. COVID-19 is transmitted by infected people when they cough. Droplets of respiratory secretions infected with the virus can survive as an aerosol for up to three hours[2]. Droplets can be directly transmitted by inhalation to other individuals in close proximity. Droplets can land on surfaces and be picked up by the hands of another person who can then become infected by contacting a mucous membrane (eyes, mouth, or nose) with their hand. Infected droplets can remain viable on surfaces for variable lengths of time, ranging from up to 3 hours on copper, 24 hours on cardboard, and 2-3 days on plastic and stainless steel.[3]

11. There is no evidence that asymptomatic persons can transmit COVID-19. A recent study of a cruise ship[4] demonstrated that about 17% of persons infected with COVID-19 had no symptoms. However, infected individuals become symptomatic in a range of 2.5 to 11.5 days with 97.5% of infected individuals becoming symptomatic within 11.5 days. The total incubation period is thought to extend up to 14 days. Thus, persons coming into jails or prisons can be asymptomatic at intake screening only to become symptomatic later during incarceration. For that reason a correctional intake screening test for COVID-19 is reasonable in our opinion. Screening inmates daily for cough, shortness of breath, or fever daily would be a logistically daunting task that would not be fully effective in these institutions. Because testing kits are not currently available in the volume necessary to screen all inmates, and because the range of symptom acquisition ranges from 2 to 11 days,

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

[3] *Id*.

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

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

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

aim of limiting gatherings of less than 10 individuals. This is contrary to the President's recommendation and contrary to current public health recommendations. This is likely to result in spread of disease.

17. Jails and prisons promote the spread of respiratory illnesses because large groups of strangers are forced suddenly into crowded congregate housing arrangements. This situation is complicated by the fact that custody and other personnel who care for detainees live in the community and can carry the virus into the Jail with them.

18. The current CDC recommendations for social distancing and frequent handwashing measures, which are the only measures available to protect against infection, are not possible in the correctional environment. Furthermore, repeated sanitation of horizontal surfaces in inmate living units and throughout a jail is not typically done and would be an overwhelming task. Jails in this regard are similar to cruise ships and nursing homes where COVID-19 is known to have easily spread. Jails also recirculate air which contributes to spread of airborne infectious disease.

19. A large number of employees are required to work in jails and prisons. These individuals have frequent contact with inmates, often requiring breaking the recommended CDC guidelines for social distancing. Frequent handwashing is not easily available for inmates or staff. Their risk is considerable. Tuberculosis outbreaks in jails and prisons have often resulted in custody employees becoming infected. These employees return to the community and can and will transmit the infection to others in their family and community. In this sense, jails act as incubators of respiratory infectious disease. COVID-19 would have a rapid and dramatic spread within the correctional environment and if this occurs, the outbreak would inevitably result in spread to the community.

20. <u>It is our opinion that steps should be taken to release any inmate who is a low risk to the community</u>. The risk of promoting the spread of the infection to the inmate population, and thereby to the community, needs to be weighed against the reason for not releasing the inmate from incarceration. Release measures should prioritize inmates over 65, inmates with immune disorders, inmates with significant cardiac or pulmonary conditions, or inmates with cognitive disorders. We say this

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

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

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

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

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

/s/ Dr. Michael Puisis
Dr. Michael Puisis

/s/ Dr. Robert Cohen
Dr. Robert Cohen

/s/ Dr. Jack Raba
Dr. Jack Raba

/s/ Dr. Ron Shansky
Dr. Ron Shansky

/s/ Dr. Sergio Rodriguez
Dr. Sergio Rodriguez

EXHIBIT 4

Centers for Disease Control and Prevention
CDC 24/7: Saving Lives, Protecting People™

Coronavirus Disease 2019 (COVID-19)

People who are at higher risk for severe illness

COVID-19 is a new disease and there is limited information regarding risk factors for severe disease. Based on currently available information and clinical expertise, **older adults and people of any age who have serious underlying medical conditions** might be at higher risk for severe illness from COVID-19.

Based upon available information to date, those at high-risk for severe illness from COVID-19 include:

- People aged 65 years and older
- People who live in a nursing home or long-term care facility
- Other high-risk conditions could include:
  - People with chronic lung disease or moderate to severe asthma
  - People who have heart disease with complications
  - People who are immunocompromised including cancer treatment
  - People of any age with severe obesity (body mass index [(BM]I)≥40) or certain underlying medical conditions, particularly if not well controlled, such as those with diabetes, renal failure, or liver disease might also be at risk
- People who are pregnant should be monitored since they are known to be at risk with severe viral illness, however, to date data on COVID-19 has not shown increased risk

Many conditions can cause a person to be immunocompromised, including cancer treatment, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications

Page last reviewed: March 22, 2020
Content source: National Center for Immunization and Respiratory Diseases (NCIRD), Division of Viral Diseases

Exhibit 5

Affidavit of Danielle C. Ompad, PhD regarding SARS-CoV-2 infection (otherwise known as COVID-19) in correctional settings

I, Dr. Danielle C. Ompad, state that the following is a true and accurate statement to the best of my knowledge and belief:

1. I am currently an Associate Professor of Epidemiology at the New York University School of Global Public Health. I have a BS in biology from Bowie State University, and an MHS and PhD in infectious disease epidemiology from the Johns Hopkins School of Public Health.

2. Classically trained as an infectious disease epidemiologist, I am an expert on social determinants of health associated with urban life. My research is focused on the health and wellbeing of people living in urban settings, especially communities that are highly marginalized and vulnerable. Many of these communities have high rates of heroin, crack, and/or cocaine use. My program of research is focused on individual- and structural-level risk and protective factors for the initiation, use, and cessation of specific drugs as well as risk for infectious diseases such as HIV, hepatitis B and C viruses (HBV and HCV), and sexually transmitted infections like herpes and human papillomavirus. Additional and related programs of research include (1) understanding sexual risk and (2) vaccine access among people who use drugs (PWUD) and other vulnerable populations.

3. I have been working with people who use drugs since 1997, many of whom have experience with the criminal justice system. I am providing this affidavit about the risk of SARS-CoV-2 infection, also known as COVID-19 or the novel coronavirus, because correctional settings may be particularly vulnerable to the effects of this pandemic.

4. I am the author of more than 125 peer-reviewed research articles, six book chapters, and two encyclopedia entries.

5. **Overview of the COVID-19 pandemic**
    a. The first case of COVID-19 was diagnosed in Wuhan, China on 29 December 2019. The virus is transmitted through droplets and contaminated surfaces,[1] and possible airborne transmission.[2] Both symptomatic and asymptomatic people can transmit COVID-19.[3] The average incubation period (i.e., time from infection to symptoms) for COVID-19 has generally been reported to be 5.1 days and 97.5% of those who develop symptoms will do so within 11.5 days.[4]
    b. Older adults and people with underlying health conditions like cardiovascular diseases, respiratory diseases, diabetes, and liver disease are at increased risk for severe COVID-

[1] Adhikari SP, Meng S, Wu YJ, et al. Epidemiology, causes, clinical manifestation and diagnosis, prevention and control of coronavirus disease (COVID-19) during the early outbreak period: a scoping review. Infect Dis Poverty. 2020;9(1):29. Published 2020 Mar 17. doi:10.1186/s40249-020-00646-x

[2] van Doremalen N, Bushmaker T, Morris DH, et al. Aerosol and Surface Stability of SARS-CoV-2 as Compared with SARS-CoV-1 [published online ahead of print, 2020 Mar 17]. N Engl J Med. 2020; 10.1056/NEJMc2004973. doi:10.1056/NEJMc2004973

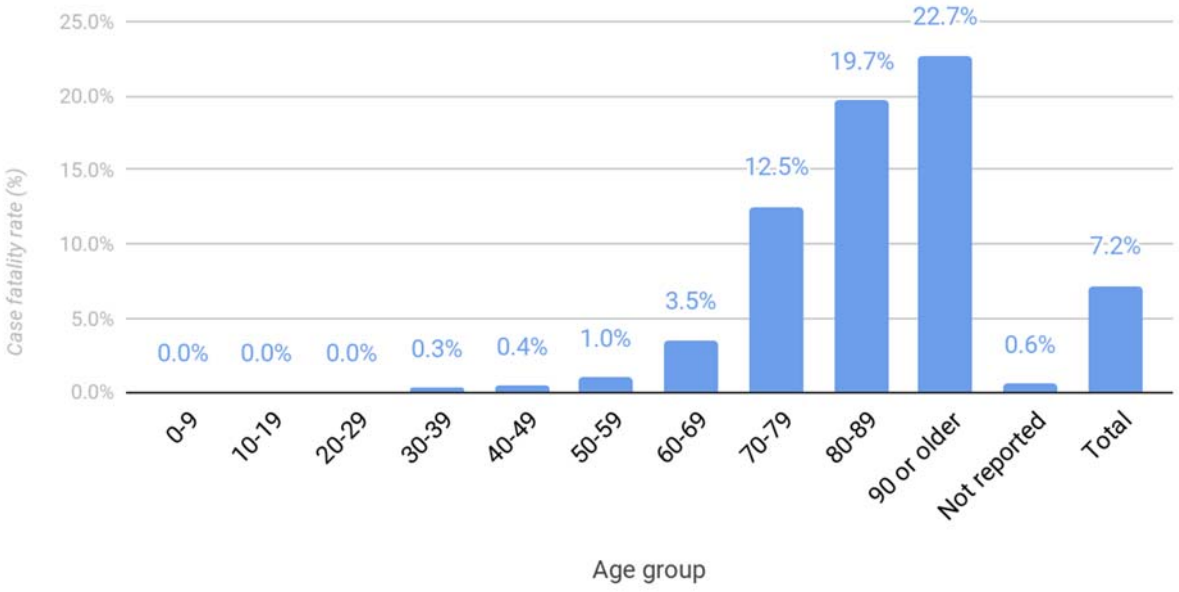
[3] Tong ZD, Tang A, Li KF, et al. Potential Presymptomatic Transmission of SARS-CoV-2, Zhejiang Province, China, 2020 [published online ahead of print, 2020 May 17]. Emerg Infect Dis. 2020;26(5):10.3201/eid2605.200198. doi:10.3201/eid2605.200198

[4] Lauer SA, Grantz KH, Bi Q, et al. The Incubation Period of Coronavirus Disease 2019 (COVID-19) From Publicly Reported Confirmed Cases: Estimation and Application [published online ahead of print, 2020 Mar 10]. Ann Intern Med. 2020;10.7326/M20-0504. doi:10.7326/M20-0504

19 complications and death. Of note, risk for death appears to increase substantially with age although actual age-specific death rates should be considered in the context of a lack of widespread testing in most countries, including the U.S. In most countries testing is being conducted among hospitalized cases and health care workers. South Korea is the exception, where mild and severe cases have been tested with over 300,000 people have been tested.

c. The case fatality rate (CFR) is the number of deaths divided by the number of people with COVID-19. Note that the denominator (i.e., number of people with COVID-19) is determined by the number of people tested as well as the testing criteria. Therefore, the CFR is likely inflated (i.e., an overestimate). The World Health Organization estimates that the overall case fatality rate is 3.4%.[5] Table 1 provides case fatality rates from Italy by decade of age. You can see that risk of death starts increasing among people in their sixties and then increases dramatically for each decade of life thereafter.

Figure 1. COVID-19 case fatality rates by age group as of 15 March 2020, Italy



d. Recent reporting revealed that young people are experiencing severe disease. The New York Times reported that approximately 40% of hospitalized COVID-19 cases were under the age of 60.[6]

e. Prevention of COVID-19 transmission is highly dependent on physical social distancing (i.e., at least six feet from other people) as well as hand washing and sanitizing with an alcohol-based hand sanitizer. Surfaces should be cleaned and disinfected regularly. Confirmed COVID-19 cases (with or without symptoms) must be quarantined to prevent transmission. People who have been exposed to someone who has (or may have) COVID-19 are asked to self-isolate for at least two weeks. Many US jurisdictions are

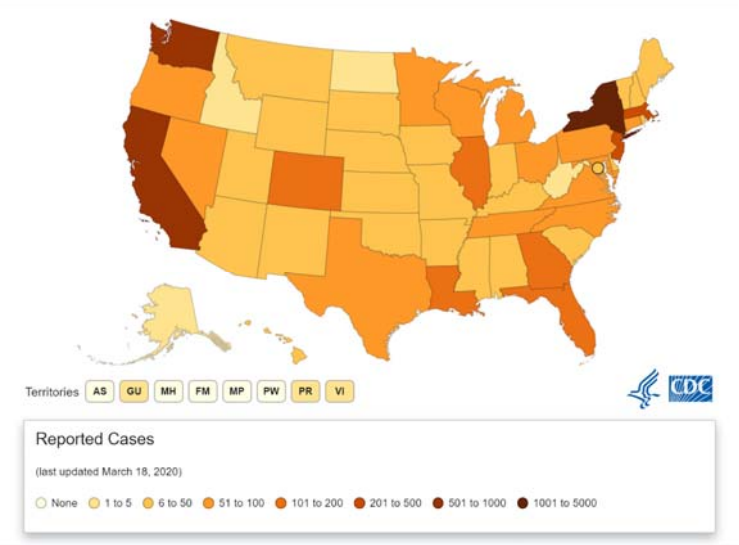
[5] WHO Director-General's opening remarks at the media briefing on COVID-19 - 3 March 2020 - World Health Organization, March 3, 2020

[6] Belluck P. Younger Adults Make Up Big Portion of Coronavirus Hospitalizations in U.S. New York Times. 20 March 2020

beginning to ask residents to engage in physical social distancing and self-isolation. Non-essential workers and businesses are being asked to close.

f. As 20 March 2020, the Johns Hopkins COVID-19 dashboard[7] reports that there are 259,215 cases worldwide and 11,283 deaths. COVID-19 cases have been detected in all 50 states, the District of Columbia, American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands (Figure 2). As of 20 March 2020, there are 17,303 reported cases and 215 deaths in the United States.[8] Testing for COVID-19 infections has not been fully implemented and is mainly targeted to hospitalized people with COVID-19 symptoms (i.e., dry cough, fever, shortness of breath, acute respiratory distress syndrome), those with contact with a suspected or known cases, and health care workers with symptoms, known exposure to a case, or travel history to countries with cases; people with mild symptoms are not generally being tested because of the limited supply of tests. As a result, any case counts are an underestimate of the true number of cases.

Figure 2. Distribution of COVID-19 cases in the United States as of 18 March 2020 (U.S. Centers for Disease Control and Prevention)

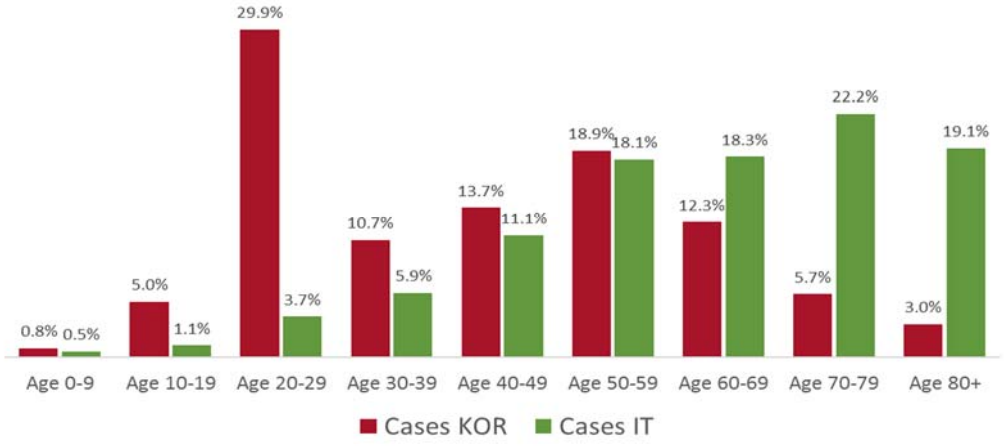


[7] https://www.arcgis.com/apps/opsdashboard/index.html#/bda7594740fd40299423467b48e9ecf6

[8] Reported cases include both confirmed and presumptive positive cases of COVID-19 reported to CDC or tested at CDC since January 21, 2020, with the exception of testing results for persons repatriated to the United States from Wuhan, China and Japan.

g. Data from South Korea, where testing is conducted for mild and severe cases (more than 300,000 tested so far),[9] suggest that individuals in their 20s have the highest prevalence of COVID-19 infection (Figure 3).[10]

Figure 3. COVID-19 cases (%) in South Korea and Italy by age group



6. Transmission risk in correctional settings

a. The risk of transmission of COVID-19 in correctional settings is high. Correctional facilities are often crowded and people who are incarcerated (PWI) are likely unable to maintain the requisite social distance of six feet. This is especially an issue within individual cells, where bunked beds make distancing of six feet impossible. Cafeteria areas and dormitory-type sleep quarters also create challenges to social distancing depending on how these spaces are organized and the number of people in the space at any one time.

b. Correctional facilities have significant flows of people from the community into the facility and back out. Correctional staff, visitors, and attorneys come to and from the facility from their home communities. In addition, newly incarcerated individuals, who have been circulating in the community prior to entering the facility, are coming into facilities. As a result, current PWI are likely to be exposed to COVID-19 through their interactions with correctional staff, visitors, attorneys, and newly arrived PWI.

c. Generally, there is a shortage of personal protective equipment (PPE) such as N95 masks in the U.S. Local jurisdictions are prioritizing health care facilities for scarce PPE, making access to such protective gear challenging for correctional facility staff.

d. Client reports from nine Massachusetts correctional facilities revealed that PWI at two facilities did not have access to soap at all and only three had access to free soap. In four facilities, PWI did not have access to hand sanitizer.

e. Thus, the risk for transmission in correctional facilities may be high. This will have implications for the general population from which correctional staff, visitors, and attorneys come and as a result, may place communities in which correctional facilities are located at enhanced risk of COVID-19 transmission as well as challenging the limited health care infrastructure and staff in local hospitals.

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[9] Zastrow M. South Korea is reporting intimate details of COVID-19 cases: has it helped? [news]. Nature 2020.
[10] https://medium.com/@andreasbackhausab/coronavirus-why-its-so-deadly-in-italy-c4200a15a7bf

7. **Risk for severe disease and death among incarcerated individuals**
    a. If COVID-19 enters correctional facilities, the likelihood that there will be severe cases is high. According to the Massachusetts Department of Corrections, 983 PWI (11.2%) were aged 60 and over in 2019 among 8,784 total PWI. As previously mentioned, older adults are at increased risk for severe COVID-19 complications as well as death.
    b. According to data from the 2011-2012 National Inmate Survey,[11] there is a substantial burden of disease among correctional populations. Approximately half of state and federal prisoners and jail inmates have ever had a chronic medical condition (defined as cancer, high blood pressure, stroke-related problems, diabetes, heart-related problems, kidney-related problems, arthritis, asthma, and/or cirrhosis of the liver). Twenty-one percent of state and federal prisoners and 14% of jail inmates have ever had tuberculosis, hepatitis B or C, or sexually transmitted infections (excluding HIV or AIDS). Table 1 displays lifetime prevalence of specific chronic conditions with implications for COVID-19 severity and death among state and federal prisoners and jail inmates. Note that older prisoners were about three times more likely than younger persons to have had a chronic condition or infectious disease in their lifetime.

Table 1. Lifetime prevalence of specific chronic conditions and infectious diseases with implications for COVID-19 severity and death among state and federal prisoners and jail inmates, 2011-2012 National Inmate Survey

Condition	State and federal prisoners (%)	Jail inmates (%)
Cancer	3.5	3.6
Diabetes	9.0	7.2
Stroke-related problems	1.8	2.3
Heart-related problems	9.8	10.4
Kidney-related problems	6.1	6.7
Asthma	14.9	20.1
Cirrhosis of the liver	1.8	1.7
Tuberculosis	6.0	2.5
Hepatitis B	10.9	1.7
Hepatitis C	2.7	5.6
HIV/AIDS	9.8	1.3

[11] Maruschak LM, Berzofsky M, Unangst J. Medical problems of state and federal prisoners and jail inmates, 2011-12. Washington, DC: US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics; 2015 Feb.

c. Collectively, these data suggest that there is a risk that a significant proportion of PWI will experience severe COVID-19 disease requiring hospitalization and many are at risk of dying from COVID-19.

8. Healthcare response and correctional settings

a. Healthcare provision in correctional settings is limited and a rapid increase in COVID-19 cases may overwhelm the capacity of a jail or prison's healthcare facilities. Moreover, health care providers in correctional settings may not have the equipment (i.e., ventilators) or specialty skill set to support PWI with severe COVID-19 disease.
b. There is already growing concern in the medical community that the need for intensive care unit beds and ventilators will outstrip the supply. We saw this in China, where new hospitals were built to treat the surge in patients. We are seeing this now in northern Italy, where unused wards are being retrofitted to serve as ICUs.
c. Severe COVID-19 cases in correctional facilities may be transferred to local hospitals. An outbreak at a local correctional facility, where there is a high likelihood of rapid transmission to a large number of people, could quickly overwhelm local hospitals.

9. What would an outbreak look like in a correctional facility?

a. There are no descriptions of a COVID-19 outbreak in a correctional facility to date. However, we can hypothesize what one may look like drawing on published reports of influenza and tuberculosis outbreaks – both respiratory infections – in correctional facilities.[12,13]
b. Introduction of the SAR-CoV-2 virus to the correctional facility could be from visitors, correctional staff, attorneys, and/or a newly incarcerated person. The person will likely be asymptomatic. As a result, the first facility-acquired COVID-19 case will not be detected until the that person is shows symptoms. This means that the person could have transmitting the infection from 2 to 14 days without knowing it.
c. The opportunities for transmission in correctional facilities are myriad and there is limited ability for PWI to engage in social distancing or self-isolation. The minimum cell size in the U.S. is 80 square feet based on American Correctional Association standards.[14] Some cells in Massacusetts are approximately 73 square feet. Beds can be bunked, ensuring that PWI are within six feet of each other in shared cells. Community meals in cafeteria/chow hall type settings as well as group recreation time in gyms and outdoor spaces also make social distancing challenging.
    i. At the Hampshire House of Corrections and North Central Correctional Institution in Gardner, groups of inmates are still going to "chow" and sitting and eating together with no instructions regarding social distancing.
    ii. At the Middleton House of Corrections, a whole unit has been quarantined in the gym.
d. Given the crowded conditions as well as challenges with social distancing and access to PPE for staff, the infections could spread rapidly and by the time the first case is identified many will have already been infected.
e. After the first symptomatic case is identified, the number of additional cases is likely to occur rapidly over the next days and weeks. The hospitalization rate is unknown at this

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[12] Sosa LE, Lobato MN, Condren T, Williams MN, Hadler JL. Outbreak of tuberculosis in a correctional facility: consequences of missed opportunities. Int J Tuberc Lung Dis. 2008;12(6):689–691.
[13] Awofeso N, Fennell M, Waliuzzaman Z, et al. Influenza outbreak in a correctional facility. Aust N Z J Public Health. 2001;25(5):443–446.
[14] http://www.aca.org/ACA_Prod_IMIS/docs/Standards%20And%20Accreditation/RH%20-%20Proposed%20Standards%20.%2012.4.2015.pdf

point, but given the high burden of high-risk conditions among PWI, we can anticipate the jail and prison health facilities will face shortages of beds, ventilators, PPE, testing supplies, and masks.

f. When correctional facility health services are exhausted, or the type of care needed for a patient is beyond the capacity of the facility, PWI COVID-19 cases will need to be transferred to local hospitals.

10. Summary

a. Incarcerating individuals who cannot make bail as well as current PWI that do not pose a danger to the community may increase the risk of COVID-19 outbreaks in correctional facilities when we consider the following issues:
   i. COVID-19 transmission is possible even when people are asymptomatic and the average incubation period is five days.
   ii. According to the Massachusetts Department of Corrections, 19.4% of PWI in 2019 were between the ages of 18 and 29. Some evidence suggests that this age group has the highest prevalence of COVID-19.
   iii. There is high risk for transmission in correctional facilities.
   iv. A substantial proportion of PWI aged 60 and older and/or with health conditions with implications for severe COVID-19 disease requiring hospitalization and possibly resulting in death
   v. The implications of a correctional facility outbreak for local hospitals.

b. By acting now and releasing a significant number of people who are currently detained you will save lives. You can prevent outbreaks in correctional facilities by reducing the number of people who are coming in from the community and reducing the number of people at risk within the facilities. This action would then protect correctional officers, attorneys, and PWI as well as the families of these groups.

c. This would result in the courts contributing to "Flatten the Curve" efforts because it will increase the ability of PWI and correctional facility staff to engage in social distancing inside as well as allowing released criminal-justice involved people to engage in social distancing and/or self-isolation (as appropriate) in the community, thereby reducing the likelihood of transmission and disease.

Signed this 20th day of March, 2020,

Danielle C. Ompad, PhD[15]
Associate Professor of Epidemiology
New York University School of Global Public Health

[15] This statement reflects my own views. I do not speak for New York University or any department therein.

Exhibit 6

CHICAGO SUN-TIMES

EDITORIALS NEWS METRO/STATE

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

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

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

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

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

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

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

Editorials

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

The looming danger

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

Control. Soap and facilities for frequent hand washing also are limited.

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

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

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

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

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

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

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

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

What should be done?

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

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

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

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

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

Send letters to letters@suntimes.com.