

1 Jean-Jacques Cabou (#022835)
Matthew R. Koerner (#035018)
2 Margo R. Casselman (#034963)
Benjamin C. Calleros (#034763)
3 **PERKINS COIE LLP**
2901 North Central Avenue, Suite 2000
4 Phoenix, Arizona 85012-2788
Telephone: 602-351-8000
5 Facsimile: 602-648-7000
JCabou@perkinscoie.com
6 MKoerner@perkinscoie.com
MCasselman@perkinscoie.com
7 BCalleros@perkinscoie.com
DocketPHX@perkinscoie.com

8 *Attorneys for Plaintiffs–Petitioners*
9 *(additional counsel identified on signature*
10 *page)*

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE DISTRICT OF ARIZONA**

13 Maria Guadalupe Lucero-Gonzalez; Claudia
14 Romero-Lorenzo; Tracy Ann Peuplie; James
15 Tyler Ciecierski; and Marvin Lee Enos; each
16 individually and on behalf of all others similarly
situated,

17 Plaintiffs–Petitioners,

18 v.

19 Kris Kline, Warden of the Central Arizona
20 Florence Correctional Complex; David
21 Gonzales, U.S. Marshal for the District of
22 Arizona; Donald W. Washington, Director of
the U.S. Marshals Service; Michael Carvajal,
23 Director of the Federal Bureau of Prisons, in
their official capacities,

24 Defendants–Respondents.

No.

**CLASS-ACTION COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF
AND
PETITION FOR WRITS OF
HABEAS CORPUS**

(Jury Trial Demanded)

(Immediate Relief Sought)

25
26
27
28

I. INTRODUCTION

1
2 1. On March 11, 2020, Arizona declared a public health emergency to prepare
3 for, respond to, and mitigate the spread of COVID-19. On March 19, Arizona closed most
4 businesses and gathering places by executive order. On March 30, Arizona issued an order
5 requiring that individuals remain six feet apart when sharing space. And on May 5, “[t]he
6 number of new deaths reported . . . was 33, the largest single-day increase in COVID-19-
7 related deaths in Arizona since the pandemic began.”¹ That day, Arizona’s total
8 identified cases rose to 9,305, with 395 known deaths.²

9 2. Today, social distancing is a necessary part of life, and the sight of people in
10 public wearing masks, gloves, and other personal protective equipment (“PPE”),
11 traditionally reserved for hospitals, is now commonplace. While COVID-19 has radically
12 altered life for most people, though, life remains largely the same for the federal detainees
13 at CoreCivic Inc.’s Central Arizona Florence Correctional Complex (“CoreCivic”). Up to
14 14 people are crammed into a cell and stacked on bunk beds against a single wall. Soap is
15 scarce; disinfecting products are all but non-existent. And those housed in these
16 conditions—afraid of contracting this deadly disease while increasingly noticing those
17 around them showing symptoms—have resorted to wiping down communal telephones
18 with either T-shirts or watered-down menstrual pads. No one outside these walls would
19 willingly risk these conditions in the face of the dangers posed by COVID-19. Nor should
20 those inside be forced to do so. But, as of today, 20 people at CoreCivic have tested positive
21 for COVID-19.³ More will soon.

22
23 ¹ Alison Steinbach, *Arizona coronavirus update: 9,945 confirmed cases, 450 known*
24 *deaths as of Thursday*, AZ CENTRAL (May 7, 2020 9:51 a.m.),
[https://www.azcentral.com/story/news/local/arizona-health/2020/05/07/coronavirus-](https://www.azcentral.com/story/news/local/arizona-health/2020/05/07/coronavirus-arizona-update-may-7-9-945-cases-450-deaths/5179488002/)
25 [arizona-update-may-7-9-945-cases-450-deaths/5179488002/](https://www.azcentral.com/story/news/local/arizona-health/2020/05/07/coronavirus-arizona-update-may-7-9-945-cases-450-deaths/5179488002/).

26 ² *Id.*

27 ³ *About 400 Inmates Quarantined at CoreCivic Prison in Florence, After 13 Test*
28 *Positive for COVID-19*, AZ CENTRAL (May 8, 2020 7:00 a.m.),
[https://www.azcentral.com/story/news/local/arizona-health/2020/05/08/coronavirus-cases-](https://www.azcentral.com/story/news/local/arizona-health/2020/05/08/coronavirus-cases-multiple-inmates-test-positive-corecivic-prison-covid-19/3093348001/)
multiple-inmates-test-positive-corecivic-prison-covid-19/3093348001/ (reporting that “13
inmates” and “seven employees have contracted COVID-19”); see also Declaration of
Christina M. Woehr (“Woehr Decl.”) ¶ 19, attached as Ex. 1.

1 3. Across the globe, COVID-19 has infiltrated our communities. As of May 8,
2 2020, there were 3,860,000 confirmed cases globally, with 270,000 deaths.⁴ The United
3 States has led the world in confirmed cases of COVID-19 since March 26, 2020.⁵ In
4 Arizona, the COVID-19 infection rate is still rising, with over 9,700 confirmed cases and
5 426 deaths statewide, as of May 6, 2020.⁶ Over the last few weeks, as many as 427 new
6 cases of COVID-19 are reported in Arizona, every day.⁷ But, although the Arizona
7 Department of Health Services (“ADHS”) warns that the coronavirus is “widespread”
8 throughout the state, a lack of testing may be causing a drastic undercounting of cases in
9 Arizona.⁸ Arizona, in fact, ranks last out of all 50 states for COVID-19 tests per 1 million
10 people, as of May 7, 2020.⁹

11 4. There is no vaccine or cure for COVID-19.¹⁰ The best course, according to
12 public health experts, is to slow and prevent transmission, primarily through a practice
13 known as “social distancing.”¹¹ Social distancing requires all people to stay at least six feet
14 away from all other people to control the spread of the virus.¹² These measures are
15 particularly important because the novel coronavirus spreads aggressively and because
16 people can spread the disease even if they do not feel sick or show any symptoms.¹³ The

17 _____
18 ⁴ Johns Hopkins University & Medicine, *COVID-19 Dashboard by the Center for
Systems Science and Engineering (CSSE) at Johns Hopkins University (JHU)*,
19 <https://cutt.ly/StEyn2U>.

⁵ Donald G. McNeil, Jr., *The U.S. Now Leads the World in Confirmed Coronavirus
Cases*, N.Y. TIMES (March 26, 2020), <https://cutt.ly/QtQ7zz6>.

⁶ Johns Hopkins University & Medicine, *supra* note 4.

⁷ Arizona Department of Health Services, *Data Dashboard*,
21 [https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-
epidemiology/covid-19/dashboards/index.php](https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/covid-19/dashboards/index.php) (last visited May 7, 2020).

⁸ Lazaro Gamio, Weiyi Cai, & Adeel Hassan, *Where the U.S. Stands Now on
Coronavirus Testing*, N.Y. TIMES (Mar. 26, 2020),
23 <https://www.nytimes.com/interactive/2020/03/26/us/coronavirus-testing-states.html>
(ranking Arizona last among the states in Coronavirus testing).

⁹ Worldometer,
24 <https://www.worldometers.info/coronavirus/country/us/> (last visited May 7, 2020)
(compiling data from state reports).

¹⁰ Declaration of Joseph Goldenson, M.D. (“Goldenson Decl.”) ¶ 17, attached as Ex.
26 2.

¹¹ Goldenson Decl. ¶¶ 17, 21; World Health Organization, *Coronavirus - Prevention*,
27 https://www.who.int/health-topics/coronavirus#tab=tab_2 (last visited May 7, 2020).

¹² Goldenson Decl. ¶ 17.

¹³ Centers for Disease Control and Prevention, *How COVID-19 Spreads*,

1 only assured way to curb the pandemic is through dramatically reducing close physical
2 contact.¹⁴ So, public health officials have urged every American institution—from schools
3 to places of worship, from businesses to legislatures—to reduce the number of people in
4 close quarters, if not to empty entirely. These institutions also have been told to undertake
5 aggressive sanitation measures, such as cleaning and disinfecting all surfaces with products
6 containing particular alcohol concentrations, and closing off any areas used by a sick
7 person.¹⁵

8 5. These imperatives apply especially to jails, prisons, and detention facilities,
9 where the government almost entirely controls a person’s ability to avoid others and
10 maintain adequate sanitation. Yet jails and prisons face inherent challenges with
11 implementing these recommendations. And incarcerated people are already suffering and
12 dying nationwide, and in Arizona, as a result.

13 6. Despite the ubiquity of this guidance, those responsible for Plaintiffs’ custody
14 have failed to provide basic safeguards against COVID-19. People detained at CoreCivic
15 report insufficient access to soap, masks, and gloves. They also report no measures to
16 ensure appropriate social distancing and report, in fact, policies and practices requiring
17 close physical contact. At CoreCivic, detainees are housed in pods with up to 80 people
18 and live in cells with up to 14 people, sleeping on stacked bunk beds spaced only several
19 feet apart.

20 7. Jails are not hermetically sealed. By their nature, the people who go in—from
21 correctional and medical staff, to those detained prior to trial, to those serving short
22 sentences—typically come out in very short order. Failing to mitigate the spread of

23
24 <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>
(last visited May 7, 2020).

25 ¹⁴ Harry Stevens, *Why outbreaks like coronavirus spread exponentially, and how to*
26 *“flatten the curve,”* WASH. POST (Mar. 14, 2020),
<https://www.washingtonpost.com/graphics/2020/world/corona-simulator/>.

27 ¹⁵ Centers for Disease Control and Prevention, *Cleaning and Disinfecting Your*
28 *Facility*,
<https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html> (last visited May 7, 2020).

1 COVID-19 endangers not only those within the institution, but also the entire community.
2 Immediate action therefore is the only mitigation effort that can prevent the current onset
3 of COVID-19 cases at CoreCivic from devolving into a future outbreak.

4 8. Absent intervention from this Court, devastating, and in many cases deadly,
5 irreparable harm will befall incarcerated persons, jail staff, and the community. The
6 outbreaks in similar detention facilities around the country prove the need for immediate
7 action.¹⁶

8 9. Accordingly, the named Plaintiffs here, on behalf of themselves and all other
9 similarly situated persons detained by Defendants at CoreCivic (collectively, “Plaintiffs”),
10 bring this action requesting that this Court (1) appoint a Rule 706 expert to immediately
11 inspect CoreCivic and to recommend to this Court measures and practices sufficient to
12 protect those detained at CoreCivic from contracting COVID-19, and (2) implement the
13 expert’s recommendations to stop the spread of COVID-19 within CoreCivic and beyond.
14 Given the likelihood of COVID-19 spreading exponentially through CoreCivic now that 20
15 people (so far) have tested positive—there is no time to spare. Plaintiffs request a hearing
16 as soon as possible.

17 II. NATURE OF THE ACTION

18 10. Plaintiffs Maria Lucero-Gonzalez, Claudia Romero-Lorenzo, Tracy Peuplie,
19 James Ciecierski, Marvin Lee Enos, and the proposed class members bring this putative
20 class action, seeking constitutionally adequate conditions of confinement, including
21 possible release from confinement, to remedy ongoing violations of Plaintiffs’ rights under
22 the Fifth and Eighth Amendments to the United States Constitution.

23 11. Plaintiffs seek a declaratory judgment, injunctive relief, and writs of habeas
24 corpus.

25 12. Plaintiffs seek this relief from Defendants Kris Kline, David Gonzales,

26 ¹⁶ See, e.g., Sam Kelly, *134 inmates at Cook County Jail confirmed positive for*
27 *COVID-19*, CHICAGO SUN-TIMES (Mar. 30, 2020),
28 [HTTPS://CHICAGO.SUNTIMES.COM/CORONAVIRUS/2020/3/29/21199171/COOK-COUNTY-
JAIL-CORONAVIRUS-POSITIVE-134-CASES-COVID-19](https://chicago.suntimes.com/coronavirus/2020/3/29/21199171/cook-county-jail-coronavirus-positive-134-cases-covid-19).

1 Donald W. Washington, Michael Carvajal, and their successors, as well as their officers,
2 employees, agents, and all persons acting in cooperation with them, under their authority or
3 supervision, at their direction, or under their control (“Defendants”).

4 13. An actual, definite, and concrete controversy exists between Plaintiffs and
5 Defendants, concerning Plaintiffs’ conditions of confinement at CoreCivic.

6 14. This controversy will be resolved through the declaratory and injunctive relief
7 that Plaintiffs seek in this action, as well as the writs of habeas corpus.

8 15. Specifically, Plaintiffs seek a declaratory judgment, under 28 U.S.C. §§ 2201
9 and 2202, that the current conditions of confinement at CoreCivic—exacerbated by the
10 COVID-19 pandemic—violate Plaintiffs’ rights under the Fifth and Eighth Amendments to
11 the United States Constitution and seek writs of habeas corpus under 28 U.S.C. § 2241.

12 16. And, under the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other
13 applicable law, Plaintiffs seek an award of their reasonable attorneys’ fees and their costs.

14 **III. JURISDICTION & VENUE**

15 17. Because this action arises under the Constitution and laws of the United
16 States, this Court has subject-matter jurisdiction. *See* 28 U.S.C. § 1331 (federal-question
17 jurisdiction); 28 U.S.C. § 1346 (original jurisdiction); *see also* 28 U.S.C. §§ 2201–02
18 (Declaratory Judgment Act); 28 U.S.C. § 2241 (habeas corpus).

19 18. Venue is proper in the District of Arizona, under 28 U.S.C. § 1391(b),
20 because a substantial part of the acts or omissions giving rise to this action have occurred
21 in this judicial district. Venue also is proper, under 28 U.S.C. § 2241(d), because Plaintiffs
22 are in custody in this judicial district and venue.

23 **IV. PARTIES**

24 19. Plaintiff Maria Guadalupe Lucero-Gonzalez has been detained in CoreCivic
25 since November 2019. She is 50 years old and is the mother of three children. She suffers
26 from several medical conditions, including asthma, hypertension, diabetes, and kidney
27 cancer. Before being detained at CoreCivic, she was undergoing treatment for her kidney
28 cancer. She has asked CoreCivic staff, on several occasions, to allow her to continue her

1 cancer treatments. CoreCivic staff have refused, stating that she is not allowed to leave
2 CoreCivic due to the COVID-19 pandemic. Ms. Lucero's last cancer treatment was in July
3 2019. That same month, she was convicted of illegally reentering the United States and
4 was sentenced to time served and three years of supervised release. She is being detained
5 at CoreCivic for allegedly violating these conditions of release by illegally reentering the
6 United States. In the last week, sometime around May 4, 2020, Ms. Lucero has developed
7 a fever and a cough. Despite requesting medical care, she has not been tested for COVID-
8 19.¹⁷

9 20. Plaintiff Claudia Romero-Lorenzo has been detained in CoreCivic since
10 January 2020. She was charged with illegal reentry and is awaiting sentencing. She is 39
11 years old and has three children, including a 9-year-old son. She has been diagnosed with
12 several medical conditions, including a type of leukemia. Before being detained at
13 CoreCivic, she was undergoing treatment for this condition, attending regular
14 appointments, and taking medicine. She has asked CoreCivic staff, at least twice, to
15 continue her medical treatments. Ms. Romero's last treatment was in April 2019.¹⁸

16 21. Plaintiff Tracy Ann Peuplie has been detained in CoreCivic since December
17 2019. She is 49 years old and suffers from several medical conditions, including asthma,
18 hypertension, anxiety, substance-abuse disorder, and spinal stenosis. She has asked
19 CoreCivic staff for medicine to treat the pain from her spinal stenosis, a condition where
20 the spine pinches nerves in the lower back and neck. She has not received medication for
21 this pain. She has been told that she needs to go to the hospital for this treatment but that
22 she is not allowed to leave CoreCivic due to the COVID-19 pandemic. Ms. Peuplie was
23 indicted for several offenses and is awaiting trial on these charges. She is presumed
24 innocent of these charges.¹⁹

25 ¹⁷ See generally Declaration of Maria Guadalupe Lucero-Gonzalez ("Lucero Decl."),
26 attached as Ex. 3.

27 ¹⁸ See generally Declaration of Claudia Romero-Lorenzo ("Romero Decl."), attached
as Ex. 4.

28 ¹⁹ See generally Declaration of Tracy Ann Peuplie ("Peuplie Decl."), attached as
Ex. 5.

1 known medication to prevent or treat the virus.²³ The only known measures for effectively
 2 protecting against transmission of COVID-19 are social distancing—that is, keeping at least
 3 six feet between persons to avoid transmission—and a vigilant hygiene regimen, including
 4 frequent and thorough hand washing.²⁴ Because the coronavirus spreads among people
 5 who do not show symptoms, social distancing is the best way to prevent transmission. Up
 6 to 25% of people infected with COVID-19, it is estimated, lack symptoms of COVID-19.²⁵

7 29. Once contracted, COVID-19 can cause severe damage to lung tissue,
 8 including a permanent loss of respiratory capacity. COVID-19 also can damage tissues in
 9 other vital organs, such as the heart and liver.²⁶ The overall fatality rate is estimated to
 10 range from 0.1% to 3.5%, or up to 35 times the rate associated with influenza infection.²⁷

11 30. People over the age of 50 face an increased risk of serious illness or death
 12 from COVID-19.²⁸ In a February 29, 2020 preliminary report, individuals from ages 50 to
 13 59 had an overall mortality rate of 1.3%, those aged 60 to 69 had a 3.6% mortality rate, and
 14 those aged 70 to 79 had an 8% mortality rate.²⁹

15 31. People of any age who suffer from certain underlying medical conditions—
 16 including lung disease, heart disease, chronic liver or kidney disease (including hepatitis
 17 and dialysis patients), diabetes, epilepsy, hypertension, compromised immune systems
 18 (such as from cancer, HIV, or autoimmune disease), blood disorders (including sickle cell
 19 disease), inherited metabolic disorders, stroke, developmental delay, and asthma—also
 20 have elevated risks due to COVID-19.³⁰ Early reports estimate that the mortality rate for

21
 22 *Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease*
 23 *(COVID-19)*, <https://cutt.ly/etRPVRI> (last visited May 7, 2020).

23 ²³ World Health Organization, *supra* note 12.

24 ²⁴ Goldenson Decl. ¶¶ 17, 24; Johns Hopkins Medicine, *Coronavirus, Social and*
 25 *Physical Distancing and Self-Quarantine*, <https://cutt.ly/VtYYiDG> (last visited May 7,
 26 2020).

25 ²⁵ Goldenson Decl. ¶ 28.

26 ²⁶ Centers for Disease Control and Prevention, *supra* note 22.

27 ²⁷ Goldenson Decl. ¶ 9.

28 ²⁸ *Id.*, ¶ 10.

27 ²⁹ *Age, Sex, Existing Conditions of COVID-19 Cases and Deaths*, Worldometer (Apr.
 28 16, 2020, 7:00 GMT update), <https://cutt.ly/ytEimUQ>.

³⁰ Goldenson Decl. ¶ 10; *Coronavirus disease (COVID-19) advice for the public:*

1 those with cardiovascular disease was 13.2%, 9.2% for diabetes, 8.4% for hypertension,
2 8.0% for chronic respiratory disease, and 7.6% for cancer.³¹

3 32. Most people in higher risk categories who develop serious illness will need
4 advanced medical support, requiring highly specialized equipment like ventilators that are
5 in limited supply, and an entire team of care providers, including 1:1 or 1:2 nurse to patient
6 ratios, respiratory therapists, and intensive care physicians.³²

7 33. In serious cases, COVID-19 causes acute respiratory disease syndrome
8 (“ARDS”), which is life-threatening: those who receive ideal medical care with ARDS have
9 a 30% mortality rate.³³ COVID-19 also can trigger an over-response of the immune system
10 and result in widespread damage to other organs, including permanent injury to the kidneys
11 and neurologic injury.³⁴

12 34. Many of these complications can manifest at an alarming pace. Patients can
13 show the first symptoms of infection in as little as two days after exposure, and their
14 condition can seriously deteriorate in as little as five days or sooner.³⁵

15 35. Beyond the general health concerns presented by the COVID-19 pandemic,
16 people in congregate environments—i.e., places where people live, eat, and sleep in close
17 proximity—face increased risks of contracting COVID-19. These risks are evidenced by
18 the rapid spread of the virus in cruise ships and nursing homes, as well as the dramatic
19 outbreaks in the Cook County Jail³⁶ and Rikers Island in New York City, where the

21 _____
22 *Myth busters*, World Health Organization, <https://cutt.ly/dtEiCyc> (last visited May 7, 2020).

23 ³¹ World Health Organization, *Report of the WHO-China Joint Mission on*
24 *Coronavirus Disease 2019 (COVID-19)* at 12 (Feb. 28, 2020),
[https://www.who.int/publications-detail/report-of-the-who-china-joint-mission-on-](https://www.who.int/publications-detail/report-of-the-who-china-joint-mission-on-coronavirus-disease-2019-(covid-19))
[coronavirus-disease-2019-\(covid-19\)](https://www.who.int/publications-detail/report-of-the-who-china-joint-mission-on-coronavirus-disease-2019-(covid-19)).

25 ³² Goldenson Decl. ¶ 11.

26 ³³ Letter from Faculty at Johns Hopkins School of Medicine, School of Nursing, and
27 Bloomberg School of Public Health to Hon. Larry Hogan, Gov. of Maryland, March 25,
2020, [https://bioethics.jhu.edu/wp-content/uploads/2019/10/Johns-Hopkins-faculty-letter-](https://bioethics.jhu.edu/wp-content/uploads/2019/10/Johns-Hopkins-faculty-letter-on-COVID-19-jails-and-prisons.pdf)
[on-COVID-19-jails-and-prisons.pdf](https://bioethics.jhu.edu/wp-content/uploads/2019/10/Johns-Hopkins-faculty-letter-on-COVID-19-jails-and-prisons.pdf).

28 ³⁴ *Id.*

³⁵ Centers for Disease Control and Prevention, *supra* note 22.

³⁶ *See supra* note 17.

1 transmission rate for COVID-19 is estimated to be among the highest in the world.³⁷ These
2 congregate environments also are susceptible to “community spread,” where the virus
3 spreads easily and sustainably within a community and where the source of the infection is
4 unknown.³⁸

5 36. Correctional settings—like CoreCivic—further increase the risk of
6 contracting COVID-19 due to the high numbers of people with chronic, often untreated,
7 illnesses housed in a setting with minimal levels of sanitation, limited access to personal
8 hygiene products, limited access to medical care, numerous high-contact surfaces, and no
9 possibility of staying at a distance from others.³⁹ Correctional facilities house large groups
10 of people together, and move people in groups to eat, recreate, and go to court. They
11 frequently have insufficient medical care for the population even outside times of crisis.
12 Hot water, soap, and paper towels are often in limited supply. And detained people, rather
13 than professional cleaners, are responsible for cleaning the facilities and often are not given
14 appropriate supplies.

15 37. As CDC staff explained in a recent report: “Although symptom screening is
16 important, an investigation of a COVID-19 outbreak in a skilled nursing facility found that
17 approximately one half of cases identified through facility-wide testing were among
18 asymptomatic and presymptomatic persons, who likely contributed to transmission. These
19 data indicate that symptom screening alone is inadequate to promptly identify and isolate
20 infected persons in congregate settings such as correctional and detention facilities.
21 Additional strategies, including physical distancing, movement restrictions, use of cloth
22 face coverings, intensified cleaning, infection control training for staff members, and

23 ³⁷ See Legal Aid Society, *Analysis of COVID-19 Infection Rate in NYC Jails*,
24 <https://cutt.ly/RtYTbWd> (last visited May 7, 2020).

³⁸ Centers for Disease Control and Prevention, *see supra* note 13.

25 ³⁹ Goldenson Decl. ¶¶ 18–30; David Waldstein, *To Fight Virus in Prisons, C.D.C.*
26 *Suggests More Screenings*, N.Y. TIMES (May 6, 2020),
27 <https://www.nytimes.com/2020/05/06/health/coronavirus-prisons-cdc.html> (“Jails and
28 prisons are among the most challenging places to control the outbreak of the coronavirus. Similar to cruise ships and nursing homes, detention facilities have crowded living spaces and shared dining areas, as well as communal bathrooms and a lack of space to isolate infected detainees, all of which makes physical distancing practices difficult to achieve.”).

1 disinfection of high-touch surfaces in shared spaces are recommended to prevent and
 2 manage spread within correctional and detention facilities. Some jurisdictions have
 3 implemented decompression strategies to reduce crowding, such as reducing or eliminating
 4 bail and releasing persons to home confinement or community supervision.”⁴⁰

5 38. Numerous public health experts have all strongly cautioned that people
 6 booked into and held in jails are likely to face serious, even deadly, harm due to the outbreak
 7 of COVID-19.⁴¹

8 **B. Governments, businesses, and communities have implemented stringent**
 9 **preventative measures to slow the spread of COVID-19.**

10 39. Due to the risks posed by the COVID-19 pandemic, people have implemented
 11 responsive measures globally, nationally, and in Arizona.

12 40. On March 13, 2020, the President declared a national state of emergency.⁴²

13 41. Numerous states also have issued “stay at home” orders, asking people to stay
 14 home in order to stop the spread of COVID-19.

15 42. The State of Arizona similarly is taking unprecedented steps to manage the
 16 public health crisis caused by COVID-19 and to minimize the spread of the virus. On March
 17 11, 2020, Arizona Governor Doug Ducey declared a State of Emergency due to the COVID-
 18 19 outbreak. Days later, on March 15, Governor Ducey closed all public schools, a closure

19 _____
 20 ⁴⁰ Megan Wallace et al., *COVID-19 in Correctional and Detention Facilities—*
 21 *United States, February–April 2020* (May 6, 2020),
https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e1.htm?s_cid=mm6919e1_w.

22 ⁴¹ Kelan Lyons, *Elderly prison population vulnerable to potential coronavirus*
 23 *outbreak*, CONNECTICUT MIRROR (Mar. 11, 2020), <https://cutt.ly/BtRSxCF>; Craig
 24 McCarthy and Natalie Musumeci, *Top Rikers doctor: Coronavirus ‘storm is coming,’* NEW
 25 YORK POST (Mar. 19, 2020), <https://cutt.ly/ptRSnVo>; Marc F. Stern, MD, MPH,
 26 *Washington State Jails Coronavirus Management Suggestions in 3 “Buckets,”* Washington
 27 Assoc. of Sheriffs & Police Chiefs (Mar. 5, 2020), <https://cutt.ly/EtRSm4R>; Oluwadamilola
 28 T. Oladeru et al., *What COVID-19 Means for America’s Incarcerated Population – and*
How to Ensure It’s Not Left Behind, Health Affairs Blog (Mar. 10, 2020),
<https://cutt.ly/QtRSYNA>; Anne C. Spaulding, MD, MPDH, *Coronavirus and the*
Correctional Facility, Emory Center for the Health of Incarcerated Persons (Mar. 9, 2020),
<http://www.chip.sph.emory.edu/documents/For%20Correctional%20Facility%20Leadership%202020.pdf>;
 Madison Pauly, *To Arrest the Spread of Coronavirus, Arrest Fewer People*,
 MOTHER JONES (Mar. 12, 2020), <https://cutt.ly/jtRSPnk>.

⁴² Derek Hawkins et al., *Trump declares coronavirus outbreak a national*
emergency, WASH. POST (Mar. 13, 2020, 10:46 PM EST), <https://cutt.ly/ftWyIPb>.

1 later extended through the end of the 2019–2020 school year. Then, in a March 30 letter to
 2 Governor Ducey, ADHS Director Dr. Cara M. Christ implored the State to “prioritize
 3 *physical distancing* as a critical mitigation strategy to protect [the state’s] healthcare
 4 system.”⁴³ In response, on March 30 Governor Ducey ordered a statewide “stay-at-home”
 5 order.⁴⁴ And on April 29, Governor Ducey extended the stay-at-home order to at least May
 6 15, 2020.⁴⁵

7 43. Both this Court and the Arizona Supreme Court have implemented similar
 8 measures in response to COVID-19. Since March 13, 2020, the Arizona Supreme Court
 9 has limited or halted entirely in-person proceedings, including grand-jury proceedings,
 10 hearings, trials, and sentencings.⁴⁶ The U.S. District Court for the District of Arizona has
 11 acted similarly, suspending certain in-person proceedings since March 16, 2020.⁴⁷

12 **C. Despite the grave risks posed by COVID-19, Defendants have not provided safe**
 13 **conditions of confinement to protect Plaintiffs from infection.**

14 44. Defendants must respond to and manage the continued risks posed by the
 15 COVID-19 outbreak by following CDC and other public health guidelines.⁴⁸

16 45. The conditions and policies at CoreCivic expose Plaintiffs to unreasonable
 17 risks of contracting COVID-19. With at least 20 confirmed cases of COVID-19 at

18 _____
 19 ⁴³ Letter from ADHS Director Dr. Cara M. Christ to Hon. Douglas A. Ducey,
 20 Governor of Arizona, March 30, 2020,
 21 [https://www.azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-
 22 disease-epidemiology/novel-coronavirus/governor-letter-recommendations-3-30-
 23 2020.pdf](https://www.azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/novel-coronavirus/governor-letter-recommendations-3-30-2020.pdf).

24 ⁴⁴ State of Arizona, Exec. Order No. 2020-18, Stay Home, Stay Healthy, Stay
 25 Connected: Physical Distancing to Mitigate COVID-19 Transmission, (Mar. 30, 2020),
 26 [https://www.azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-
 27 disease-epidemiology/novel-coronavirus/eo-stay-home-stay-healthy-stay-connected.pdf](https://www.azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/novel-coronavirus/eo-stay-home-stay-healthy-stay-connected.pdf).

28 ⁴⁵ State of Arizona, Exec. Order No. 2020-33, Returning Stronger: Amending the
 Stay Home, Stay Healthy, Stay Connected Order (Apr. 29, 2020),
https://azgovernor.gov/sites/default/files/eo_2020-33_sw.pdf.

⁴⁶ Admin. Order No. 2020-44, *Matter of Judicial Review of Public Health
 Emergency Orders to Control Communicable or Infectious Diseases* (Ariz. Mar. 13, 2020),
<http://www.azcourts.gov/Portals/22/admorder/Orders20/2020-44.pdf>.

⁴⁷ General Order 20-12, *Matter of Suspension of Grand Jury Proceedings in the
 District of Arizona in Response to Coronavirus Disease (COVID-19)* (D. Ariz. Mar. 16,
 2020), <http://www.azd.uscourts.gov/sites/default/files/general-orders/20-12.pdf>; see also
 Woehr Decl. ¶¶ 4–17 (outlining changes to court procedures and resulting consequences).

⁴⁸ See, e.g., Centers for Disease Control and Prevention, *supra* note 22.

1 CoreCivic already and hundreds of detainees reportedly under counterproductive “group
2 quarantine” without widespread testing,⁴⁹ these risks increase daily.

3 46. At CoreCivic, Plaintiffs are detained in community “pods,” or housing units,
4 containing either 40 or 80 people.⁵⁰ All 40 or 80 people in the pod share between four to
5 six showers and three to four telephones.⁵¹

6 47. Within their pods, Plaintiffs share a cell with either one person or as many as
7 13 other people.⁵² In cells with one other person, beds are placed only a couple feet, or
8 arms’ length, apart.⁵³ In cells with bunk beds, as many as six bunks are often placed against
9 the same wall, within one or two feet apart.⁵⁴ Everyone in a cell—regardless of whether it
10 houses two or 14 people—shares a single toilet and sink.⁵⁵

11 48. In isolation, Plaintiff Enos is held in a small cell with two other people as
12 close to two feet apart without access to daily showers.⁵⁶

13 49. When people are first transferred to CoreCivic, they are placed in a
14 “quarantine room” or “cohort” with other people who recently came to the facility.⁵⁷ These
15 cohorts are held in a small room for 14 days.⁵⁸ After 14 days, these people are moved to
16 the pod and are placed in a cell housing between two to 14 people.⁵⁹ Sometimes before the
17 end of the 14 days, though, people in quarantine are removed from quarantine and placed
18 in the general population, “by mistake,” before eventually being returned to quarantine.⁶⁰

19 50. Defendants have not attempted to implement social distancing.⁶¹ People
20 frequently stand close together in lines when waiting for food at mealtime, for medical

21 _____
22 ⁴⁹ Woehr Decl. ¶¶ 19, 22.

⁵⁰ Ciecierski Decl. ¶ 4; Peuplie Decl. ¶ 5; Lucero Decl. ¶ 8; Romero Decl. ¶ 7.

⁵¹ Ciecierski Decl. ¶ 4; Peuplie Decl. ¶ 5; Lucero Decl. ¶ 8; Woehr Decl. ¶ 33.

⁵² Ciecierski Decl. ¶¶ 4–5; Woehr Decl. ¶ 42; Peuplie Decl. ¶ 6; Lucero Decl. ¶ 10;
23 Romero Decl. ¶ 8.

⁵³ Woehr Decl. ¶ 43; Ciecierski Decl. ¶ 4; Lucero Decl. ¶ 10; Romero Decl. ¶ 8.

⁵⁴ Ciecierski Decl. ¶ 5; Peuplie Decl. ¶ 6.

⁵⁵ Peuplie Decl. ¶ 6; Lucero Decl. ¶ 10; Romero Decl. ¶ 8.

⁵⁶ Enos Decl. ¶¶ 13–15.

⁵⁷ Peuplie Decl. ¶ 12.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Woehr Decl. ¶ 30.

⁶¹ Peuplie Decl. ¶ 7; Lucero Decl. ¶ 8; Romero Decl. ¶¶ 7, 16.

1 appointments at CoreCivic’s medical office, and for the communal telephones.⁶² These
 2 telephones are placed “considerably less than six feet apart, requiring [detainees] to stand
 3 within 2 to 3 feet to other detainees while using the phone to call their attorneys or
 4 families.”⁶³ There is nearly always a line of people waiting to use these phones.⁶⁴ People
 5 cram together at tables during mealtime.⁶⁵ And jobs for detainees, including kitchen staff
 6 and barbers, have continued as usual, with as many as 167 people working in close
 7 quarters.⁶⁶

8 51. Despite CDC and other public health recommendations, Plaintiffs did not
 9 receive any sort of mask until mid-April 2020.⁶⁷ Some still have not received masks.⁶⁸ The
 10 masks Plaintiffs did receive, if at all, were thin disposable paper masks, not the N95 masks
 11 recommended by the CDC.⁶⁹ CoreCivic’s guards also tease detainees that these disposable
 12 masks “‘don’t work’ against the virus.”⁷⁰

13 52. When Plaintiffs eventually received masks, Defendants did not require
 14 everyone to wear a mask.⁷¹ And because masks were not required, most people—including
 15 guards and other CoreCivic staff—did not wear a mask.⁷²

16 53. Although beginning around April 30, 2020, Plaintiffs have been required to
 17 wear masks when outside the pods, Plaintiffs are not required to wear masks when in their
 18 pods or cells.⁷³ Few people (if any) wear masks inside the pods and cells.⁷⁴ Guards and
 19 other CoreCivic staff began wearing masks beginning around April 30, 2020, after the first
 20 confirmed case within the facility, but many still are not consistently wearing masks or

21
 22 ⁶² Ciecierski Decl. ¶ 9; Peuplie Decl. ¶ 7; Lucero Decl. ¶ 9; Woehr Decl. ¶ 40.

⁶³ Woehr Decl. ¶ 36.

⁶⁴ *Id.*; Peuplie Decl. ¶ 7.

⁶⁵ Woehr Decl. ¶ 38; Ciecierski Decl. ¶ 9; Peuplie Decl. ¶ 7; Lucero Decl. ¶ 9.

⁶⁶ Ciecierski Decl. ¶ 9; Romero Decl. ¶ 9; Woehr Decl. ¶¶ 72–73.

⁶⁷ Ciecierski Decl. ¶ 7; Lucero Decl. ¶ 17; Romero Decl. ¶ 12.

⁶⁸ Woehr Decl. ¶¶ 61–63.

⁶⁹ Woehr Decl. ¶ 62; Ciecierski Decl. ¶ 7; Peuplie Decl. ¶ 9; Lucero Decl. ¶ 17; Romero
 25 Decl. ¶ 11.

⁷⁰ Woehr Decl. ¶ 68.

⁷¹ Ciecierski Decl. ¶ 7; Peuplie Decl. ¶ 9; Lucero Decl. ¶ 15.

⁷² Ciecierski Decl. ¶ 7; Peuplie Decl. ¶¶ 9, 11; Lucero Decl. ¶ 17.

⁷³ Peuplie Decl. ¶ 9; Lucero Decl. ¶ 17; Romero Decl. ¶ 11.

⁷⁴ Lucero Decl. ¶ 17; Woehr Decl. ¶ 62.

1 gloves.⁷⁵

2 54. Plaintiffs have received only one or two masks, and when these masks are
3 broken or lost, Defendants have required Plaintiffs to share and swap each other's masks in
4 order to leave the pod for things like laundry and legal calls.⁷⁶

5 55. Plaintiffs receive, only once per week, a small amount of soap and shampoo.⁷⁷
6 Plaintiffs have not received additional or different hygiene products since COVID-19
7 spread to Arizona.⁷⁸ These bathroom supplies frequently are not enough to last the week,
8 especially because Plaintiffs—lacking other cleaning supplies—are forced to use their
9 personal allotment of soap to clean their plates, cups, or even cells.⁷⁹ When people run out
10 of their weekly allotment of soap, they must purchase more—if they can afford to do so—
11 from the commissary at CoreCivic.⁸⁰ If they cannot afford to do so, they have no soap at
12 all.⁸¹

13 56. Defendants also fail to adequately and consistently clean the pods and cells,
14 in order to disinfect and stop the spread of COVID-19. Plaintiffs are responsible for
15 cleaning their own pods and cells.⁸² When cleaning the pods and cells, Plaintiffs do not
16 receive or wear PPE, like gloves or masks.⁸³ To clean both the pods and cells, Plaintiffs
17 receive only a small amount of cleaning solution—none of which is antibacterial.⁸⁴ For
18 some, this cleaning solution runs out, every day, before the pod and cells are cleaned.⁸⁵

20 _____
21 ⁷⁵ Lucero Decl. ¶¶ 18–19; Romero Decl. ¶ 12; Woehr Decl. ¶¶ 31, 66–67.

⁷⁶ Peuplie Decl. ¶ 10; Woehr Decl. ¶ 29.

⁷⁷ Ciecierski Decl. ¶ 6; Lucero Decl. ¶ 15; Romero Decl. ¶ 10; Woehr Decl. ¶ 53.

⁷⁸ Peuplie Decl. ¶ 8; Lucero Decl. ¶¶ 15–16; Romero Decl. ¶ 10; Woehr Decl. ¶ 29.

⁷⁹ Lucero Decl. ¶ 15; Romero Decl. ¶ 10; Woehr Decl. ¶¶ 27–28, 52, 54.

⁸⁰ Lucero Decl. ¶ 15; Romero Decl. ¶ 10.

⁸¹ Woehr Decl. ¶ 28 (“[D]etainees had requested additional soap and shampoo to clean
24 the showers with, since they frequently run out of ‘chemicals,’ but were told no by staff.”).

⁸² Peuplie Decl. ¶¶ 5–6; Lucero Decl. ¶¶ 12, 14; Romero Decl. ¶ 13; Woehr Decl. ¶¶ 48–
25 49.

⁸³ Peuplie Decl. ¶ 5; Lucero Decl. ¶ 12; Romero Decl. ¶ 13.

⁸⁴ Peuplie Decl. ¶ 5; Lucero Decl. ¶ 14.

⁸⁵ Woehr Decl. ¶ 50; Peuplie Decl. ¶ 5; *see also* Woehr Decl. ¶ 51 (“At least two detainees
27 reported . . . that they are not allowed to use the pink cleaner to clean their rooms, and stated
28 [they] have to resort to using their personal shampoo or soap to clean their rooms and their
toilets.”).

1 Some resort to cleaning with water only.⁸⁶ And frequently used items—like communal
2 telephones—are not cleaned between uses, or even every day.⁸⁷

3 57. Lacking any disinfecting products or wipes to clean the telephones between
4 uses and fearing the possibility of contracting COVID-19, women in the pods have resorted
5 to cleaning the phones with shirts or with menstrual pads wet down with water.⁸⁸

6 58. Plaintiffs also have been exposed to numerous people who have showed
7 symptoms of COVID-19.⁸⁹ Some of the people showing such symptoms were placed in
8 quarantine and then returned to the pod without being tested for COVID-19, even though
9 their symptoms continued.⁹⁰

10 59. Despite the risks of COVID-19 spreading through CoreCivic and signs of
11 symptoms from people at CoreCivic, Defendants also have failed to even investigate the
12 spread at the facility. Only a handful of people at CoreCivic have been tested for COVID-
13 19 or checked for symptoms of COVID-19 by, for example, taking a person's temperature.⁹¹
14 And even some showing symptoms of COVID-19 and requesting medical care have not
15 been tested.⁹²

16 60. Defendants also have exposed Plaintiffs to unnecessary risk of exposure by
17 failing to provide them with information about COVID-19. Defendants generally have not
18 provided Plaintiffs with any information about COVID-19, measures for preventing its
19 spread, or the very real risks of contracting and spreading COVID-19 at CoreCivic.⁹³ And
20 despite acknowledging elsewhere that COVID-19 has spread to CoreCivic and that at least
21 20 people have tested positive,⁹⁴ Defendants have refused to inform the people most
22 needing this information: Plaintiffs. Defendants have failed to disclose to Plaintiffs that

23 ⁸⁶ Woehr Decl. ¶ 50.

24 ⁸⁷ *Id.* ¶¶ 33, 46; Lucero Decl. ¶ 13.

25 ⁸⁸ Lucero Decl. ¶ 13; Romero Decl. ¶ 13.

26 ⁸⁹ Lucero Decl. ¶ 19; Romero Decl. ¶ 15.

27 ⁹⁰ Romero Decl. ¶ 15.

28 ⁹¹ Ciecierski Decl. ¶ 7; Peuplie Decl. ¶ 13; Lucero Decl. ¶ 20; Romero Decl. ¶ 14;
Woehr Decl. ¶¶ 19, 69–70.

⁹² Woehr Decl. ¶ 70.

⁹³ Peuplie Decl. ¶ 11; Lucero Decl. ¶ 11; Ciecierski Decl. ¶ 8; Woehr Decl. ¶ 76.

⁹⁴ Woehr Decl. ¶¶ 19, 76.

1 people at CoreCivic have tested positive for COVID-19.⁹⁵ Defendants, in fact, have
 2 affirmatively denied these positive tests, claiming they are merely “rumors” from other
 3 facilities.⁹⁶ But even the correctional officers at CoreCivic acknowledge (privately) these
 4 positive tests.⁹⁷

5 61. Furthermore, Defendants’ generic policies for “managing” COVID-19 are
 6 inadequate to stop it from spreading.⁹⁸ Defendants’ policy of quarantining groups of
 7 persons who are transferred to CoreCivic on the same day, for example, will not stop
 8 COVID-19 from continuing to spread within the facility. The World Health Organization
 9 has reported that “the incubation period for COVID-19, which is the time between exposure
 10 to the virus (becoming infected) and symptoms onset, is an average of 5–6 days, however
 11 can be up to 14 days.”⁹⁹ During this “pre-symptomatic” time, “infected persons can be
 12 contagious.”¹⁰⁰ Because Defendants have quarantined people together without social
 13 distancing, proper PPE, or sanitation, detainees can spread the virus to each other and then
 14 throughout the facility. One medical physician, in fact, concludes that this practice at
 15 CoreCivic “does not conform to CDC guidelines and it would likely contribute to the overall
 16 transmission rate.”¹⁰¹

17 62. Pursuant to CoreCivic Policy 14-103, Detainee Grievance Procedures (USMS
 18 only), an emergency grievance is “[a] grievance for which the potential for personal injury
 19 or irreparable harm exists.” By the terms of the same policy, “[g]rievance forms are readily
 20

21 ⁹⁵ Peuplie Decl. ¶ 11; Ciecierski Decl. ¶ 8; Lucero Decl. ¶ 11; Romero Decl. ¶ 17.

22 ⁹⁶ Romero Decl. ¶ 17.

23 ⁹⁷ Ciecierski Decl. ¶ 8.

24 ⁹⁸ See CoreCivic Inc., *How CoreCivic is Managing COVID-19*,
<https://www.corecivic.com/hubfs/files/CoreCivic%20Response%20to%20COVID-1.pdf>;
 25 see also Media Statement, CoreCivic Inc., *CoreCivic Statement on COVID-19 Prevention*,
<https://www.corecivic.com/en/corecivic-statement-on-covid-19-prevention>; CoreCivic
 Inc., *Frequently Asked Questions Regarding COVID-19*,
<https://www.corecivic.com/hubfs/files/FAQ%20Regarding%20COVID.pdf>.

26 ⁹⁹ World Health Organization, *Coronavirus disease 2019 (COVID-19) Situation*
 Report – 73 (Apr. 2, 2020), https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200402-sitrep-73-covid-19.pdf?sfvrsn=5ae25bc7_2.

27 ¹⁰⁰ *Id.*

28 ¹⁰¹ Goldenson Decl. ¶ 26.

1 available and easily accessible to detainees . . . in such a manner that the detainee is not
2 required to request a form from a correctional or other facility staff.” Where a grievance is
3 an emergency as defined above, “[a]n individual authorized to serve as Administrative Duty
4 Officer . . . shall take action to resolve the grievance within one (1) calendar day of receipt
5 of the grievance and provide a written response to the detainee.”

6 63. Fearful for her health and well-being at CoreCivic, Ms. Peuplie filed an
7 emergency grievance on or around April 22, 2020. She did not receive a response, so she
8 filed a second emergency grievance on April 30, 2020. At that time, she handed her
9 emergency-grievance form to a CoreCivic staff member and inquired about the status of her
10 first emergency grievance. The staff member replied that CoreCivic receives about 400
11 grievances per day and “we’ll get to it whenever we get to it.” Ms. Peuplie has not received
12 a response to either emergency grievance.¹⁰²

13 64. Concerned for his safety given his health and the unsafe conditions at
14 CoreCivic, Mr. Ciecierski filed a grievance on or around April 15, 2020, requesting that
15 conditions be improved to reduce the risk of COVID-19 spreading in his pod. He did not
16 receive a response. He filed a second grievance asking for the same on April 30, 2020. He
17 tried to file both grievances as emergency grievances, but no emergency grievance forms
18 were available. He has continued to look for grievance forms, but they are rarely available.
19 He has not received a response to either grievance he filed.¹⁰³

20 65. Concerned for her health and safety and survival under current conditions at
21 CoreCivic, Plaintiff Romero-Lorenzo attempted to file an emergency grievance on April
22 29, 2020. She went with several other people from her pod and asked for a grievance form
23 from an officer. The officer denied that anyone at CoreCivic had tested positive for COVID-
24 19 and told them that everything was fine. Ms. Romero-Lorenzo looked again and
25 eventually found a grievance form and filed an emergency grievance on May 1, 2020,
26 seeking improved conditions to protect against COVID-19. She has not received any

27 ¹⁰² See Peuplie Decl. ¶¶ 14–15.

28 ¹⁰³ See Ciecierski Decl. ¶ 10.

1 response.¹⁰⁴

2 66. Concerned for her health and safety, on May 1, 2020, Ms. Lucero-Gonzalez
3 filed an emergency grievance seeking improved conditions of confinement and protection
4 against the spread of COVID-19. She has not received a response. She also sought review
5 of her detention on April 20, 2020, based on her serious medical conditions and the risks
6 posed by the COVID-19 pandemic. That request was denied on April 28, 2020.¹⁰⁵

7 67. Concerned about the conditions at CoreCivic, Mr. Enos filed emergency
8 grievances on April 19, 2020, and April 22, 2020, requesting safer and more sanitary
9 conditions to protect against the spread of COVID-19. Approximately one week after his
10 April 19 grievance he was informed by the unit manager in his pod that everything was
11 “fine” and there would be no changes. His grievance receipt was confiscated. Mr. Enos
12 also sought review of his detention in light of COVID-19 through the Bail Reform Act.
13 That request was denied on April 30, 2020.¹⁰⁶

14 68. Now, with 20 confirmed cases among both detainees and staff, Defendants
15 have failed to implement policies and conditions to stop the outbreak of COVID-19
16 spreading through CoreCivic. Defendants thus have exposed Plaintiffs (and the public) to
17 unreasonable and increased risks of harm arising from this global pandemic.

18 VI. CLASS ACTION ALLEGATIONS

19 69. Plaintiffs bring this action, under Rule 23 of the Federal Rules of Civil
20 Procedure, on behalf of themselves and a class of similarly situated individuals.

21 70. Plaintiffs Romero, Peuplie, Ciecierski, and Enos seek to represent a class of
22 all current and future persons detained by Defendants Kline, Gonzales, and Washington at
23 CoreCivic pending trial (the “Pretrial Class”).

24 71. Plaintiff Lucero seeks to represent a class of all current and future persons
25 detained by Defendants Kline and Carvajal at CoreCivic following a judgment of
26

27 ¹⁰⁴ See Romero Decl. ¶¶ 17–18.

28 ¹⁰⁵ See Lucero Decl. ¶¶ 21–22.

¹⁰⁶ See Enos Decl. ¶ 22.

1 conviction (the “Post-Conviction Class”).

2 72. Plaintiffs reserve the right to amend the class definitions or establish sub-
3 classes as appropriate if discovery or further investigation reveals that the class or a subclass
4 should be expanded or modified.

5 73. This action is brought, and may properly be maintained, as a class action
6 under federal law. It satisfies the numerosity, commonality, typicality, and adequacy
7 requirements for maintaining a class action under Rule 23(a) of the Federal Rules of Civil
8 Procedure.

9 74. Numerosity: The class is so numerous that joinder is impracticable. Joinder
10 is impracticable because (1) the classes are numerous; (2) the classes include future
11 members, and (3) the class members are incarcerated, rendering their ability to institute
12 individual lawsuits limited, particularly due to Defendants terminating legal visits at
13 CoreCivic, to reduced availability of legal calls at CoreCivic, and to court closures in
14 Arizona. Based on information and belief, there are several hundred people in the proposed
15 Pretrial Class and the proposed Post-Conviction Class.

16 75. Commonality: The claims of the Pretrial Class and the Post-Conviction Class
17 share common issues of fact and law, including whether Defendants’ policies and the
18 conditions of confinement at CoreCivic violate the Fifth and Eighth Amendments to the
19 United States Constitution. The resolution of these issues will drive the outcome of this
20 action.

21 76. Typicality: The claims of the named plaintiffs are typical of the claims of the
22 classes as a whole. Each named plaintiff is currently detained at CoreCivic and these
23 plaintiffs’ claims arise from the same policies, practices, and procedures (or lack thereof)
24 that provide the basis for all proposed class members’ claims.

25 77. Adequacy: The named plaintiffs are adequate class representatives who meet
26 all the requirements of Rule 23(a)(4) of the Federal Rules of Civil Procedure. The named
27 plaintiffs maintain the requisite personal interest in the outcome of this action, will fairly
28 and adequately represent the interests of the class, understand the responsibilities as a class

1 representative, and have retained *pro bono* counsel with experience and success in the
2 prosecution of civil-rights litigation. Counsel for Plaintiffs know of no conflicts among
3 proposed class members or between counsel and proposed class members.

4 78. Defendants have acted on grounds generally applicable to all proposed class
5 members, and this action seeks declaratory and injunctive relief. Plaintiffs therefore seek
6 class certification under Rule 23(b)(2).

7 79. In the alternative, the requirements of Rule 23(b)(1) of the Federal Rules of
8 Civil Procedure are satisfied, because prosecuting separate actions would create a risk of
9 inconsistent or varying adjudications with respect to individual class members that would
10 establish incompatible standards of contact for the party opposing the proposed classes.

11 VII. CLAIMS FOR RELIEF

12 First Claim for Relief

13 **Unconstitutional Conditions of Confinement in Violation of 14 the Due Process Clause of the Fifth Amendment to the U.S. Constitution**

15 *The Pretrial Class against Defendants Kline, Gonzales, and Washington*

16 80. The Pretrial Class incorporates by reference Paragraphs 1 through 79 above
as though fully set forth herein.

17 81. The Due Process Clause guarantees that no person shall “be deprived of life,
18 liberty, or property without due process of law.” U.S. Const. amend. V. Based on this
19 guarantee, “when the [government] takes a person into its custody and holds him there
20 against his will, the Constitution imposes upon [the government] a corresponding duty to
21 assume some responsibility for [the person’s] safety and general well-being.” *DeShaney v.*
22 *Winnebago Cty. Dep’t of Soc. Servs.*, 489 U.S. 189, 199–200 (1989). This responsibility
23 includes the “unquestioned duty to provide reasonable safety for all residents and personnel
24 within the institution” and “to provide adequate ... medical care.” *Youngberg v. Romeo*,
25 457 U.S. 307, 324 (1982); *accord DeShaney*, 489 U.S. at 200 (observing that “when the
26 State by the affirmative exercise of its power so restrains an individual’s liberty that it
27 renders him unable to care for himself,” then the State assumes the responsibility “to
28 provide for his basic human needs—e.g., food, clothing, shelter, medical care, and

1 reasonable safety”). The government violates these obligations by exposing pretrial
2 detainees—i.e., individuals who have not been convicted of the charges for which they
3 stand—to conditions that are “objectively unreasonable.” *Kingsley v. Hendrickson*, 135 S.
4 Ct. 2466, 2473 (2015); *Gordon v. Cty. of Orange*, 888 F.3d 1118, 1124–25 (9th Cir. 2018)
5 (“[C]laims for violations of the right to adequate medical care ‘brought by pretrial detainees
6 against individual defendants under the [Due Process Clause]’ must be evaluated under an
7 objective deliberate indifference standard.” (quoting *Castro v. County of Los Angeles*, 833
8 F.3d 1060, 1070 (9th Cir. 2016) (en banc))).

9 82. Defendants have violated the Pretrial Class’s rights under the Due Process
10 Clause of the Fifth Amendment to the United States Constitution, by failing to provide for
11 the Pretrial Class’s reasonable safety and by failing to provide adequate medical care.

12 83. Defendants also have violated the Pretrial Class’s Fifth Amendment rights
13 because “the challenged governmental action is not rationally related to a legitimate
14 governmental objective or . . . it is excessive in relation to that purpose.” *Kingsley*, 135 S.
15 Ct. at 2473–74.

16 84. Defendants have made an intentional decision regarding the conditions under
17 which the Pretrial Class have been confined and regarding the denial of medical care.

18 85. The conditions of confinement and the denial of needed medical care have
19 put the Pretrial Class at substantial risk of suffering serious harm.

20 86. Defendants have not taken reasonable available measures to abate or reduce
21 the risk of serious harm, even though a reasonable custodian under the circumstances would
22 have understood the high degree of risks involved—making the consequences of
23 Defendants’ conduct obvious.

24 87. By not taking such measures, Defendants have placed the Pretrial Class at risk
25 of irreparable harm or even death.

26 88. Defendants have known, or reasonably should have known, about the
27 substantial risk to the Pretrial Class’s health or safety—including the risks posed by
28 COVID-19—and have disregarded such risks.

1 and its officials are not free to let the state of nature take its course.”).

2 95. By failing to provide such protection, Defendants have shown and continue
3 to show deliberate indifference to a substantial risk of serious harm. Thus, Defendants have
4 violated and continue to violate the Eighth Amendment.

5 96. Defendants’ acts and failures to act have placed the Plaintiffs at risk of
6 irreparable harm or even death.

7 97. Defendants have exposed the Plaintiffs to a risk of harm that today’s society
8 does not tolerate, namely the risk of exposure to COVID-19.

9 98. Plaintiffs are exposed to a substantial risk of serious harm to their health and
10 safety, including the possibility of death, due to the presence and spread of COVID-19.

11 99. Defendants have acted with deliberate indifference to the risks posed to
12 Plaintiffs, due to the presence and spread of COVID-19.

13 100. Defendants have known of, or are presumed to have known of, the risks that
14 COVID-19 poses to Plaintiffs.

15 101. The risks posed by COVID-19 are and have been obvious to Defendants.

16 102. Defendants’ response to COVID-19 has not been reasonable.

17 103. As a result of Defendants’ actions, Plaintiffs have suffered—and likely will
18 continue to suffer—irreparable injury.

19 **VIII. PRAYER FOR RELIEF**

20 **WHEREFORE**, Plaintiffs respectfully request that this Court grant the following
21 relief:

- 22 1. Assume jurisdiction over this action;
- 23 2. Certify the proposed classes;
- 24 3. Issue a declaration that Defendants’ acts and omissions violate,
 - 25 a. with respect to the Pretrial Class, the Due Process Clause of the Fifth
26 Amendment to the United States Constitution,
 - 27 b. with respect to the Post-Conviction Class, the Eighth Amendment to
28 the United States Constitution;

1 4. Enter a temporary restraining order and/or preliminary injunction requiring
2 an independent Rule 706 expert to lead a review of CoreCivic to determine whether
3 Defendants have implemented consistent social (or physical) distancing, novel coronavirus
4 testing procedures, and hygienic practices sufficient to reasonably protect Plaintiffs and
5 proposed class members from contracting COVID-19 while in Defendants' custody. The
6 initial review will be completed within 48 hours of this Court's order. If the expert
7 concludes that Defendants have not implemented the social and physical distancing, novel
8 coronavirus testing procedures, and hygienic practices sufficient to reasonably protect
9 Plaintiffs and Class Members from contracting COVID-19, then the expert will submit
10 within 24 hours recommendations as to how such practices should be achieved and this
11 Court will order Defendants to: (a) begin implementing the expert's recommendations
12 immediately, (b) provide weekly updates to Plaintiffs' counsel and this Court on their
13 progress, and (c) complete the implementation of the recommendations within the timeline
14 established by the expert, unless Defendants can show good cause as to why an extension
15 is necessary;

16 5. Enter a preliminary and/or permanent injunction to ensure:

- 17 a. That all detainees and staff can practice social (or physical) distancing
18 at all times (with exceptions for exigent medical and security needs),
19 b. That every detainee is able to practice adequate hygiene including by
20 providing access, free of charge to:
21 i. a sufficient supply of hand soap, disposable paper towels,
22 and hot water, for frequent and adequate hand washing,
23 ii. hand sanitizer containing at least 60% alcohol, when not in
24 a location where the detainee can access hot water and soap
25 for adequate hand washing, and
26 iii. disinfectant hand wipes or cleaning products effective
27 against the virus that causes COVID-19,
28 c. That frequently touched surfaces be cleaned and disinfected with

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

disinfectant products effective against the virus that causes COVID-19 multiple times per day,

- d. That every staff member and detainee has access to adequate personal protective equipment including masks and gloves,
- e. That every staff member and detainee exposed to COVID-19 is quarantined in a non-punitive setting and tested for COVID-19, and
- f. That CoreCivic implement novel coronavirus testing procedures consistent with CDC and other public health guidance;

6. If the expert’s recommendations cannot be achieved without reducing the detained population at CoreCivic, issue writs of habeas corpus on the ground that Plaintiffs’ continued detentions violate the Due Process Clause or the Eighth Amendment, and order Plaintiffs’ release;

7. Award Plaintiffs their attorneys’ fees and costs under 5 U.S.C. § 504 and 28 U.S.C. § 2412 (the Equal Access to Justice Act, as amended), and any other applicable law; and

8. Award any further relief that this Court deems appropriate.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: May 8, 2020

PERKINS COIE LLP

By: /s/ Matthew R. Koerner

Jean-Jacques Cabou (#022835)
Matthew R. Koerner (#035018)
Margo R. Casselman (#034963)
Benjamin C. Calleros (#034763)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788

Emma Andersson*
eandersson@aclu.org
Taylor Brown*
tbrown@aclu.org
Alejandro Ortiz*
ortiza@aclu.org
Chase Strangio*
cstrangio@aclu.org
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
125 Broad St., 18th Fl.
New York, New York 10004
Telephone: 917-345-1742

Somil Trivedi*
strivedi@aclu.org
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
915 15th St., NW
Washington, DC 20012
Telephone: 202-715-0802

Jared G. Keenan (#027068)
jkeenana@acluaz.org
Christine K. Wee (#028535)
CWee@acluaz.org
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF ARIZONA
3707 N. 7th Street, Suite 235
Phoenix, AZ 85014

Attorneys for Plaintiffs

*Applications for *pro hac vice* forthcoming.

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2020, I electronically transmitted the attached documents to the Clerk's Office using the CM/ECF System for filing and transmittal of same to:

Kris Kline, Warden of the Central Arizona Florence Correctional Complex
Kristopher.kline@corecivic.com
publicaffairs@corecivic.com

David Gonzales, U.S. Marshal for the District of Arizona
District of Arizona (D/AZ)
U.S. Marshal: David Gonzales
Sandra Day O'Connor U.S. Courthouse
401 W. Washington St., SPC 64, Suite 270
Phoenix, AZ 85003-2159
David.Gonzales2@usdoj.gov

Donald W. Washington, Director of the U.S. Marshals Service
District of Arizona (D/AZ)
U.S. Marshal: Donald W. Washington
Sandra Day O'Connor U.S. Courthouse
401 W. Washington St., SPC 64, Suite 270
Phoenix, AZ 85003-2159

Michael Carvajal, Director of the Federal Bureau of Prisons
Two Renaissance Square 40 N. Central Avenue, Suite 1800
Phoenix, AZ 85004-4449
mcarvajal@bop.gov

By: Jennifer McNamara
Perkins Coie, LLP

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): Maria Guadalupe Lucero-Gonzalez ;
Claudia Romero-Lorenzo ; Tracy Ann
Peuplie ; James Tyler Ciecierski ;
Marvin Lee Enos

Defendant(s): Kris Kline , Warden of the Central
Arizona Florence Correction
Complex; David Gonzalez , U.S.
Marshal for the District of Arizona;
Michael Carvajal , Director of the
Federal Bureau of Prisons; Donald
W. DWashington

County of Residence: Pinal

County of Residence: Pinal

County Where Claim For Relief Arose: Pinal

Plaintiff's Atty(s):

Defendant's Atty(s):

Jean-Jacques Cabou (Maria Guadalupe Lucero-
Gonzalez ; Claudia Romero-Lorenzo ; Tracy Ann
Peuplie ; James Tyler Ciecierski ; Marvin Lee Enos)
Perkins Coie LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012
6023518119

Matthew R. Koerner (Maria Guadalupe Lucero-
Gonzalez ; Claudia Romero-Lorenzo ; Tracy Ann
Peuplie ; James Tyler Ciecierski ; Marvin Lee Enos)
Perkins Coie LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012
6023518119

Margo Casselman (Maria Guadalupe Lucero-
Gonzalez ; Claudia Romero-Lorenzo ; Tracy Ann
Peuplie ; James Tyler Ciecierski ; Marvin Lee Enos)
Perkins Coie LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012
6023518119

Benjamin C. Calleros (Maria Guadalupe Lucero-Gonzalez ; Claudia Romero-Lorenzo ; Tracy Ann Peuplie ; James Tyler Ciecierski ; Marvin Lee Enos)
Perkins Coie LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012
6023518119

II. Basis of Jurisdiction: **2. U.S. Government Defendant**

III. Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff:- N/A
Defendant:- N/A

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **440 Other Civil Rights**

VI. Cause of Action: **Violations of Fifth and Eighth Amendment rights**

VII. Requested in Complaint

Class Action: **Yes**
Dollar Demand:
Jury Demand: **Yes**

VIII. This case is not related to another case.

Signature: Matthew R. Koerner

Date: 2020-05-08

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014

**INDEX OF EXHIBITS TO
COMPLAINT**

Exhibit	Document
1	Declaration of Christina M. Woehr (May 7, 2020)
2	Declaration of Joseph Goldenson, M.D. (May 7, 2020)
3	Declaration of Maria Guadalupe Lucero-Gonzalez (May 4, 2020)
4	Declaration of Claudia Romero-Lorenzo (May 4, 2020)
5	Declaration of Tracy Ann Peuplie (May 4, 2020)
6	Declaration of James Tyler Ciecierski (May 4, 2020)
7	Declaration of Marvin Lee Enos (Apr. 30, 2020)

EXHIBIT 1

DECLARATION OF CHRISTINA M. WOEHR

- 1
2 1. My name is Christina M. Woehr, and I am an Assistant Federal Public Defender in
3 Tucson, Arizona. I have been employed by the Federal Public Defender (“FPD”) for
4 the District of Arizona since 2017; previously I worked as an AFPD in the
5 Southern District of Texas. The statements and opinions in this declaration are my
6 own, and do not represent those of my employer, the FPD.
- 7 2. The FPD represents hundreds of indigent people charged with federal crimes in the
8 District of Arizona, many of whom remain detained in U.S. Marshal Service custody
9 prior to conviction and sentencing. The majority of our detained pretrial clients are
10 held at the Central Arizona Florence Correctional Complex (“CCA”) in Florence,
11 Arizona.
- 12 3. At this time, based on a search of FPD records, the FPD has hundreds of clients with
13 open cases who are detained at CCA. This number includes pretrial detainees. as
14 well as post-conviction detainees who are awaiting sentencing. It is also my
15 understanding, based on communications with my colleagues and clients, that a
16 higher-than-normal number of our clients who have been sentenced remain at CCA,
17 instead of being transferred into Bureau of Prisons custody, due to the pandemic.
- 18 4. Due to COVID-19, court procedures in the District of Arizona have changed
19 drastically. General Order 20-15, dated March 20, 2020, noted the national
20 emergency, as well as the CDC recommendation that people practice social
21 distancing and “attempt to keep physical distance between themselves and other
22 people,” in order to slow the spread of COVID-19. General Order 20-15 continued
23 all civil and criminal jury trials set to commence in the District of Arizona on or
24 before May 4, 2020, pending further order of the court. A later General Order
25 20-20, dated April 16, 2020, extended this continuance and continued civil and
26 criminal jury trials set to commence on or before June 1, 2020, pending further order.
- 27 5. Furthermore, for felony criminal cases, General Order 20-20 suspended grand jury
28 proceedings through June 1, and ordered that the period of time for presenting the
case to the grand jury shall be extended 30 days from the indictment deadline for any
cases that would have required presentment to the grand jury during this period.

- 1 6. Notably, General Order 20-20 found that “the period of the continuances
2 implemented by this General Order will be excluded under the Speedy Trial Act,”
3 with leave for individual defendants to file a motion seeking an exception to this
4 order to exercise their speedy trial rights. This means that our clients face significant
5 delay in adjudication of their criminal cases. For example, I have one client who
6 was arrested and detained at the end of February, who has yet to be indicted.
- 7 7. In response to the outbreak, our clients are no longer transported to court for
8 hearings, including initial appearances (“IAs”). Instead, IAs in the district are
9 conducted via videoconference, with our clients appearing via videolink from CCA.
10 This means that clients that could otherwise have been released at initial appearances
11 must instead go to the CCA facility, where they seem to be held with others in their
12 arrest cohort. If they are released, it is from the CCA facility, putting the burden on
13 the indigent client’s family to arrange their transportation home from Florence.
- 14 8. This also means that FPD and defense attorneys only have a very limited time in
15 which they can speak to their clients prior to IAs. Defense attorneys are allowed 15
16 minutes apiece to meet with their clients via phone; the call disconnects
17 automatically after 15 minutes, which is an extremely short time period in which to
18 explain charges, explain the initial appearance procedure, exchange contact
19 information with the client, explain the upcoming preliminary and detention hearing
20 procedures, and obtain a knowing and voluntary waiver, if applicable, of either of
21 those hearings.
- 22 9. Generally over the past month or so, it has been my experience that magistrate judges
23 in Tucson have not been able to schedule Change of Plea hearings until the summer,
24 except for defendants facing very short sentences, meaning that even if a felony
25 client wants to plead guilty and proceed to sentencing, it is very difficult for them to
26 begin that process. Particularly in the Tucson division, priority for Change of Plea
27 hearings has been given to “flip/flop” cases, or defendants who are pleading guilty
28 to a misdemeanor and are facing less time than defendants in felony cases.

- 1 10. This means that a felony defendant in Tucson whose sentencing guideline
2 calculations reflect a recommended sentence of over six months, but who has
3 mitigating health or disability factors justifying a downward variance in sentencing,
4 will face delays and cannot swiftly plead guilty and proceed to sentencing, even if
5 they desire to do so, because of the delays they face in pleading guilty.
- 6 11. In addition, it is my understanding, based on communications from the Tucson CJA
7 Panel Representative, that we can make requests to expedite the normally-lengthy
8 period it takes for completion of a Presentence Report, but only for clients facing
9 sentences of six months or less.
- 10 12. Due to the outbreak of COVID-19, our ability to consult with our clients has been
11 severely restricted. Out of concern for the safety of our clients, as well as attorneys
12 and staff, the FPD office shifted to videoconference and teleconference meetings in
13 lieu of in-person visitation, following the advice of health experts and the CJA Panel
14 Representative, who strongly discourage in-person legal visitation.
- 15 13. The pandemic has made it very difficult to effectively communicate with our clients.
16 In March, we began moving away from in-person visitation and shifted to video-
17 teleconference (“VTC”) or teleconference meetings with our clients at CCA.
18 However, as the court began having our clients appear by VTC for their hearings, it
19 has become very difficult to obtain a VTC timeslot to meet with our clients. Many
20 of our VTC meetings have been abruptly cancelled. Some VTC timeslots are
21 available before 8 am or after 5 pm, but attorneys have to compete with each other
22 for those timeslots, as well as the probation office, which conducts Presentence
23 Interviews at those times as well. It is also my understanding from speaking to my
24 colleagues that currently, detainees housed in certain pods have no access to VTC.
- 25 14. Timeslots are also scarce for dedicated legal calls at CCA, which must be requested
26 at least 48 hours in advance. In addition, many of my colleagues have had legal calls
27 cancelled by the facility. This means that the fastest way to get a message to my
28 detained clients is to ask a family member to have them call me, or to ask the facility
to send them a message to call me from one of the telephones in their pod. Such

- 1 communication is, of course, better than nothing, but background noise and lack of
2 privacy make such calls suboptimal for privileged legal discussions. And if their
3 pod is placed on “lockdown,” my clients generally cannot use the phone to call me.
- 4 15. This has made it very difficult to meaningfully consult with our clients about their
5 cases. Some of my clients have mental health issues or developmental delays. They
6 have been found competent, but additional time and care is still required in
7 explaining complex legal concepts to them. Conversing only by phone or blurry
8 VTC means that I cannot show them the discovery in their case, and cannot use
9 visual aids to help explain complex concepts, such as the Sentencing Guidelines.
10 This means that extra time is required to speak to them, which we do not always
11 have. At least one of my clients speaks O’Odham as his first language, and English
12 is his second language, and the lack of visual aids and sufficient time to speak with
13 him makes communication very difficult. Another one of my clients spoke an
14 indigenous dialect, and I could not communicate with him without an interpreter,
15 making it nearly impossible for him to call me himself and communicate any sudden
16 emergencies or problems.
- 17 16. For my English-speaking clients, it is still very difficult to have a conversation about
18 difficult decisions in their case when they are surrounded by other inmates making
19 noise near the phone, and they lack privacy.
- 20 17. This, combined with the continuances and delays in their cases, has left many of my
21 clients frustrated, frightened, and feeling abandoned. I frequently receive client
22 phone calls in which detained clients ask me “what is going on” with their case or
23 ask me why their sentencing or plea deadlines were continued.
- 24 18. Due to outbreaks in jails and prisons across the country, as well as the opinions of
25 public health experts that incarcerated individuals are particularly vulnerable to an
26 outbreak of COVID-19, our office is extremely concerned about the health of our
27 detained clients.
- 28 19. As of May 6, 2020, five detainees at CCA have tested positive for COVID-19; with
eleven detainees awaiting test results. At least four CCA staff have tested positive.

1 20. It is my understanding, from emails from a FPD supervisor and from speaking to
2 clients, that CCA now requires staff to wear masks. Notably, detainees are forbidden
3 from wearing N95 masks, which is considered contraband for detainees. Based on
4 the statements of about 8 detainees, it is my understanding that CCA now requires
5 detainees to wear surgical masks when they leave their pod, but does not require
6 detainees to wear masks while within their “pod,” or the housing unit where
7 detainees live.

8 21. Despite the drop in new arrests, CCA still sees turnover, both from new detainees
9 arrested on new charges, as well as arrests of defendants previously released on
10 pretrial conditions of release. Pretrial violation arrests for minor violations are
11 ongoing, despite the pandemic. For example, one of my clients now detained at
12 CCA, who was previously residing in a halfway house, was arrested at the end of
13 March for the alleged pretrial violation of possession of a tobacco product—a legal
14 substance that was against halfway house rules. Another one of my clients at CCA
15 had been released pretrial for about a year without incident, but was arrested at the
16 end of March for walking out of his apartment (without leaving the apartment
17 complex) for 20 minutes at night, a violation of his home confinement.

18 22. It is my understanding, based on communications from the CJA Panel
19 Representative, new arrestees at CCA are placed in “cohorts,” so that groups of
20 detainees are housed together based on their arrest date, and remain together for 14
21 days in separate housing.

22 23. As of May 5, 2020, it is my understanding, based on communications from a trial
23 unit supervisor in my office, that five detainees at CCA developed symptoms and
24 tested positive for COVID-19; they were previously housed in “Lima” (where new
25 intakes were housed). More detainees previously housed in Lima are awaiting
26 COVID-19 test results. Detainees in Lima had been exposed to an employee who
27 tested positive for COVID-19. Notably, at least two CCA detainees from other
28 housing units—not Lima—have also developed symptoms and are awaiting
COVID-19 test results.

1 24. Given the concern for our clients' health and safety, I spoke with several of my
2 detained clients, as well my colleagues and detained clients of my colleagues at the
3 FPD, regarding conditions within CCA. This declaration summarizes the responses
4 of 11 of our clients between April 24, 2020 to May 6, 2020, with respect to what
5 they have observed at CCA.

6 25. I do not have personal knowledge of the conditions in any of these facilities. My
7 knowledge of these conditions is based on information relayed to me through clients
8 or attorneys working in my office.

9 26. On or around April 29, 2020, one detainee in the **Lima unit** told me that he was
10 housed in a 2-man cell and shared a room with another detainee. He shared a
11 common area (the "day room") with his entire pod.

12 27. He reported that the communal showers should be cleaned twice a day, but that
13 detainees were only given enough "chemicals" (cleaner) to do a proper cleaning once
14 a day, so they cleaned the showers with water alone in the afternoon.

15 28. He reported that he and his fellow detainees had requested additional soap and
16 shampoo to clean the showers with, since they frequently run out of "chemicals," but
17 were told no by staff.

18 29. Detainees in his pod were given one disposable mask per person and instructed to
19 reuse them. Detainees did not have gloves, nor did they have access to hand
20 sanitizer.

21 30. He reported that his pod was released from quarantine last week for a few hours,
22 seemingly by mistake, because they went back to general population for a few hours,
23 and then were returned back to quarantine.

24 31. He stated that nurses had begun to take their temperatures twice per day. Staff wear
25 masks and gloves, but he reported that he sees staff remove their mask and put them
26 back on.

27 32. Staff bring their meals on disposable Styrofoam trays, and detainees can either eat
28 in the day room or their cell.

1 33. He reported that his pod had 4 phones, placed very close to each other, meaning that
2 he had to stand close to others while on the phone. The phones are not cleaned in
3 between individual uses.

4 **34. Social distancing is not possible for detainees in regular housing.**

5 35. Beyond the Lima unit, US Marshals inmates are housed in housed in several
6 pods/units across two buildings. Nine detainees that I spoke with, across different
7 pods and units, indicated that their pod had shared rooms where detainees slept,
8 along with a common area or “day room” with tables, chairs, televisions, and
9 microwaves, as well as communal showers.

10 36. Eight detainees indicated telephones in the day room areas of their pods were placed
11 considerably less than six feet apart, requiring them to stand within 2 to 3 feet to
12 other detainees while using the phone to call their attorneys or families.

13 37. Eight detainees stated that there is almost always a line of detainees waiting to use
14 telephones in their pod, and that it was not possible to stand 6 feet away from others
15 in the line.

16 38. Nine detainees reported that they eat meals in the day room for their pod, where each
17 table seats 4 detainees; detainees sit less than 6 feet apart while eating meals. Each
18 table has four stools around it. The stools and the tables are bolted to the ground. The
19 tables are generally close together, less than six feet apart.

20 39. Detainees are also able to buy additional food from the commissary, which they cook
21 in the microwaves and eat in the day room.

22 40. Moreover, several detainees indicated that there is almost always a line of detainees
23 waiting to use the microwaves, and that it was not possible to stand 6 feet away from
24 others in the line.

25 41. Microwaves and telephones are generally cleaned once or twice a day, and are not
26 cleaned between individual uses.

27 42. Nine detainees reported that they share rooms. Some detainees share a room with
28 one other person, others share a room with up to 13 other detainees. Each shared

1 room has one toilet to be shared by all occupants; that toilet is not sanitized between
2 individual uses.

3 43. These detainees reported that their beds are much closer than 6 feet apart from their
4 cellmates' beds, meaning they generally sleep a few feet away from other detainees.

5 44. Nine detainees reported that they use their pod's communal showers.

6 45. Four or five detainees reported that other detainees blow their noses and cough in
7 the shower in the communal showers at times. One woman reported that there were
8 often feminine hygiene products and sometimes feces on the shower floor.

9 46. The communal showers are not cleaned or disinfected between individual uses.

10 47. One detainee housed in the medical unit, for non COVID-19 reasons, reported on
11 April 29, 2020, that she had her own room, but did not have access to daily showers,
12 nor did she have a toilet in her room. She had to urinate and defecate in a bedpan.

13 **48. CCA relies on detainee cleaning crews for sanitation.**

14 49. Nine detainees reported that showers, common areas, and even their own cells had
15 to be cleaned by the detainees themselves.

16 50. Detainee cleaning crews are provided with a pink liquid disinfectant or "chemicals"
17 to clean the common areas, such as the day room or showers. Three detainees report
18 that the facility does not provide sufficient disinfectant to conduct thorough twice-a-
19 day cleanings, and they have to resort to cleaning common areas and showers with
20 water or else dilute the cleaning chemicals with water.

21 51. At least two detainees reported on April 30, 2020, and May 5, 2020, that they are not
22 allowed to use the pink cleaner to clean their rooms, and stated have to resort to using
23 their personal shampoo or soap to clean their rooms and their toilets.

24 52. Detainees are **not always given a sufficient amount of personal hygiene products
25 to last through the week.**

26 53. Once a week on "hygiene day," detainees are given two small travel size bars of
27 soap, along with a small travel size bottle of shampoo (approximately 100 ml), toilet
28 paper, a small toothpaste, and toothbrush.

1 54. At least three detainees reported that the soap provided did not always last them until
2 the end of the week, because they had to use it for personal hygiene, hand hygiene,
3 as well as cleaning their cell on occasion. Another detainee stated that he bought
4 soap through the commissary to supplement the soap provided by CCA.

5 55. Detainees have the option of buying full-sized bar soap at the commissary, but not
6 all detainees can afford this option.

7 56. Detainees are not provided with Kleenex or tissue. Detainees reported that if you
8 had to sneeze or blow your nose, you had to use your hand or toilet paper, if you
9 were in your cell and had some nearby.

10 57. Temperature checks are not conducted daily in normal pods. CCA places the burden
11 on detainees to seek medical attention if they feel sick.

12 58. One detainee in the medical unit for non-COVID-19 reasons reported that she did
13 have her own room, but that there was no toilet in the room. She had to use a bedpan
14 to urinate and defecate. There was no shower in her room, and she could not shower
15 daily. In order to make a phone call, she had to request to use a cordless phone that
16 staff brought to her. She did not see it disinfected between uses.

17 59. The **lack of personal protective equipment** is also a concern for detainees at CCA.

18 60. Detainees are not given gloves unless they are on duty in a specific job (such as food
19 server or kitchen worker), nor are they given hand sanitizer.

20 61. Not all detainees have been given masks yet; and not all detainees who have a mask
21 wear it daily.

22 62. CCA has given many, but not all, detainees a single disposable mask, to be worn
23 when leaving their pod. One detainee reported on April 30, 2020, that “mask usage
24 isn't mandatory within the tank, and we have to hold on to our [disposable] masks,
25 but I don't even have one yet. The only ones that get masks are the detainees that
26 leave the tank.”

27 63. One detainee reported on May 5, 2020, that he still did not have a mask, even though
28 “I have been asking for a mask since I got here.”

1 64. Detainees wear masks when leaving their pod to visit the medical provider or their
2 counselor.

3 65. One detainee who visited the medical provider in mid-April reported that for that
4 visit, neither he nor the medical provider wore a mask.

5 66. One detainee told me on May 5, 2020, that he had visited the CCA medical provider
6 the week before, and reported that although he was wearing a mask and the medical
7 provider wore a mask, the guard in the medical area was not wearing a mask.

8 67. Detainees state that guards do not all wear N95 masks; instead guards wear a variety
9 of masks, including cloth masks, N95 masks, surgical masks, or simply neckgaiters
10 pulled up over their mouth. Guards do not always wear gloves.

11 68. One client told me that guards had made fun of the detainees' surgical masks, telling
12 her "they don't work" against the virus.

13 69. The **lack of widespread testing in the facility is a concern to detainees**. It is my
14 understanding based on communications from a FPD supervisor that, at this time,
15 less than 20 detainees in the facility have been tested in the facility.

16 70. One detainee told me she had symptoms of a cough, chest pain, and shortness of
17 breath, and that she made a medical request on about May 4, 2020. She was able to
18 visit the CCA medical provider on May 6, 2020. Both the detainee and the provider
19 were wearing masks during the visit, but detainees within her pod are not wearing
20 masks inside her pod. This detainee was not moved out of her pod, nor was she
21 tested for COVID-19 at that time.

22 71. **Food preparation and service is also a safety concern** for detainees.

23 72. One detainee housed in Golf pod, who works in the CCA kitchen, reported on April
24 28, 2020, that all meals for detainees in the facility are prepared by detainees.
25 Normally, approximately 16 detainees work together in one shift in the kitchen.
26 Detainees preparing food stand about arms-length apart, while a guard watches.

27 73. Detainees also work as servers, distributing meals to fellow detainees. Not all
28 servers wear masks while distributing meals.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

74. For pods that are not in quarantine, meals are generally served on plastic reusable trays. The trays are returned after meals and then cleaned with water and soap, then with disinfectant, then rinsed off in clean water.

75. Kitchen workers are patted down and searched after their shift by guards who, as of April 28, 2020, did not always use masks or gloves when conducting the searches.

76. At least three detainees reported a lack of overall communication from CCA about the virus. One told me on April 28, 2020, that “a supervisor told us there is no virus in our pod, but we don’t believe him.” Another reported on May 5, 2020, that on the day there were community protests in the Florence area regarding detainees’ conditions, CCA was “locked down” and no one was allowed to make calls, stating that “we only saw the protests later on the news.”

77. A common refrain from detainees is fear for their safety while detained. One detainee told me on April 28, 2020, “we are afraid of the COVID-19, we know things are bad.” Another told me the same day, “we see the news in here, we know what happens. I don’t want to die in here.”

I state under penalty of perjury that the foregoing is true and correct

Executed on:
May 7, 2020

By: 
Christina M. Woehr

EXHIBIT 2

DECLARATION OF JOSEPH GOLDENSON, MD

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
1. I am a medical physician with 33 years of experience in correctional health care. For 28 years, I worked for Jail Health Services of the San Francisco Department of Public Health. For 22 of those years, I served as the Director and Medical Director. In that role, I provided direct clinical services, managed public health activities in the San Francisco County jail, including the management of HIV, tuberculosis, Hepatitis C, and other infectious diseases in the facility and the planning and coordination of the jail's response to H1N1, and administered the correctional health enterprise, including its budget, human resources services, and medical, mental health, dental, and pharmacy services.
2. I served as a member of the Board of Directors of the National Commission on Correctional Health Care for eight years and am past President of the California chapter of the American Correctional Health Services Association. In 2014, I received the Armond Start Award of Excellence from the Society of Correctional Physicians, which recognizes its recipient as a representative of the highest ideals in correctional medicine.
3. For 35 years, I held an academic appointment as an Assistant Clinical Professor at the University of California, San Francisco.
4. I have worked extensively as a correctional health medical expert and court monitor. I have served as a medical expert for the United States District Court for the Northern District of California for 25 years. I am currently retained by that Court as a medical expert in *Plata v. Newsom*, Case No. 3:01-cv-01351 (N.D. Cal.), to evaluate medical care provided to inmate patients in the California Department of Correctional Rehabilitation. I have also served as a medical expert and monitor at Cook County Jail in Chicago; Los Angeles County Jail; at other jails in Washington state, Texas, and Florida; and at prisons in Illinois, Ohio, and Wisconsin.
5. My curriculum vitae is attached as exhibit A.

1 **6. The Nature of COVID-19**

2 7. The SARS-nCoV-2 virus (“COVID-19”), and the human infection it causes,
3 COVID-19 disease, is a global pandemic and has been termed a global health
4 emergency by the World Health Organization (“WHO”). Cases first began appearing
5 between December 1 and December 31, 2019, in Hubei Province, China.

6 8. On January 7, 2020, the virus was isolated. The virus was analyzed and discovered
7 to be a coronavirus closely related to the SARS coronavirus that caused the 2002–
8 2003 SARS epidemic.

9 9. COVID-19 is a serious disease. The overall case fatality rate has been estimated to
10 range from 0.1 to 3.5%, which is up to 35 times the fatality associated with influenza
11 infection. COVID-19 is characterized by a flu-like illness. While more than 80% of
12 cases are self-limited and generally mild, overall some 20% of cases will have more
13 severe disease requiring medical intervention and support.

14 10. The case fatality rate varies significantly depending on the presence of certain
15 demographic and health factors. The case fatality rate varies significantly with
16 advancing age, rising after age 50, and above 5% (1 in 20 cases) for those with pre-
17 existing medical conditions including cardiovascular diseases, hypertension,
18 respiratory diseases, like asthma and COPD, diabetes, and immune compromise.

19 11. Among patients who have more serious disease, some 30% will progress to Acute
20 Respiratory Distress Syndrome (ARDS), which has a 30% mortality rate overall,
21 higher in those with other health conditions. Some 13% of these patients will require
22 mechanical ventilation, which is why intensive care beds and ventilators have been
23 in insufficient supply in Italy, Iran, and in parts of China.

24 12. COVID-19 is widespread. Since it first appeared in China in late 2019, outbreaks
25 have subsequently occurred in more than 160 countries and all populated continents;
26 heavily affected countries include Italy, Spain, Iran, South Korea, and the U.S. The
27 U.S. is now the world’s most affected country. As of May 7, 2020, there have been
28

1 3,784,085 confirmed human cases globally and 264,679 known deaths.¹ It is not
2 contained, and cases are growing exponentially.

3 13. In the United States alone, the Centers for Disease Control and Prevention (“CDC”)
4 reports 1,193,813 cases and 70,802 deaths as of May 7, 2020.² Arizona Department
5 of Health Services reports 9,945 cases and 450 deaths as of May 7, 2020.³ All these
6 numbers are likely underestimates because of limited availability of testing.

7 14. COVID-19 is now known to be fully adapted to human-to-human spread. This is
8 almost certainly a new human infection, which also means that there is no pre-
9 existing or “herd” immunity, allowing for very rapid chains of transmission once the
10 virus is circulating in communities.

11 15. The CDC estimates that the reproduction rate of the virus, the R_0 , is 2.4-3.8, meaning
12 that each newly infected person is estimated to infect on average 3 additional
13 persons. This is highly infectious and only the great influenza pandemic of 1918 (the
14 Spanish Flu as it was then known) is thought to have higher infectivity. This again
15 is likely a function of all human populations currently being highly susceptible. The
16 attack rate given an exposure is also high, estimated at 20–30% depending on
17 community conditions, but may be as high as 80% in some settings and populations.
18 The incubation period is thought to be 2–14 days, which is why isolation is generally
19 limited to 14 days.

20 16. The CDC has recently added to the list of possible signs and symptoms of COVID-
21 19 to include fever, cough, shortness of breath or difficulty breathing, chills, repeated
22 shaking with chills, muscle pain, headache, sore throat, or new loss of taste or smell.⁴

23 This means the questionnaires currently used to screen staff and prisoners need to be

24 ¹ <https://coronavirus.jhu.edu/map.html> (last accessed May 7, 2020).

25 ² <https://www.cdc.gov/covid-data-tracker/index.html> (last accessed May 7, 2020).

26 ³ <https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/covid-19/dashboards/index.php> (last accessed May 7, 2020).

27 ⁴ Centers for Disease Control and Prevention, Symptoms of Coronavirus,
28 <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> (last accessed May 7, 2020).

1 updated and the numbers of suspect cases will increase.

2 17. There is currently no vaccine for COVID-19, and no cure. The only known ways to
3 prevent the spread of COVID-19 involve measures such as thorough handwashing,
4 frequent decontamination of surfaces, and maintaining six feet of physical distance
5 between individuals (“social distancing”).

6 **18. The Risks of COVID-19 in Detention Facilities**

7 19. COVID-19 poses a serious risk to prisoners, workers, and anyone else in detention
8 facilities. Detention facilities, including facilities like CoreCivic’s Central Arizona
9 Florence Correctional Complex (“CoreCivic”), have long been associated with high
10 transmission probabilities for infectious diseases, including tuberculosis, multi-drug
11 resistant tuberculosis, MRSA (methicillin resistant staph aureus), and viral hepatitis.

12 20. The severe epidemic of tuberculosis in prisons in Central Asia and Eastern Europe
13 was demonstrated to increase *community* rates of tuberculosis in multiple states in
14 that region, underscoring the risks prison outbreaks can lead to for the communities
15 surrounding a prison.

16 21. Infections that are transmitted through droplets, like influenza and COVID-19, are
17 particularly difficult to control in detention facilities, as social distancing and proper
18 decontamination of surfaces are virtually impossible.

19 22. For example, several deaths were reported in the U.S. in immigration detention
20 facilities associated with ARDS following influenza A, including a 16-year old
21 immigrant child who died of untreated ARDS in custody in May 2019.

22 23. It is estimated that during the Spanish influenza of 1918 half of the 1900 inmates at
23 San Quentin Prison in California contracted the disease during the first wave of the
24 epidemic. Sick calls increased from 150 to 700 daily. Most of the ill were kept in the
25 general prison population because the hospital ward was full.⁵

26
27 ⁵ L.L. Stanley, M.D., 43 Public Health Reports (1896-1970), *Influenza at San Quentin*
28 *Prison, California* (May 9, 1919),
https://www.jstor.org/stable/4575142?seq=1#metadata_info_tab_contents (last accessed

1 24. Current recommendations for social distancing, frequent hand washing, and frequent
2 cleansing of surfaces to prevent infection and the spread of the virus are extremely
3 difficult, if not impossible, to implement in the correctional setting. A number of
4 features of these facilities can heighten risks for exposure, acquisition, transmission,
5 and clinical complications of these infectious diseases. These include
6 physical/mechanical risks such as overcrowding; population density in close
7 confinement; insufficient ventilation; shared toilet, shower, and eating
8 environments; and limits on hygiene and personal protective equipment (“PPE”)
9 such as masks and gloves in some facilities. Shared spaces and equipment (such as
10 telephones) are commonly not adequately disinfected, especially during the current
11 pandemic when more frequent cleaning and disinfecting are required. Limits on soap
12 (copays are common) and hand sanitizer, since they can contain alcohol, are also
13 risks for spread. The nationwide shortage of PPE, as well as ancillary products (such
14 as cleaning supplies and thermometer probes) further impacts the ability of
15 correctional facilities to implement necessary precautions.⁶

16 25. The risk of exposure to and transmission of infectious diseases, as well as the risk of
17 harm from developing severe complications or death if infected, is significantly
18 higher in jails, prisons, and detention centers than in the community.

19 26. Close, poorly ventilated living quarters and often overcrowded conditions in these
20 facilities foster the rapid transmission of infectious diseases, particularly those
21 transmitted by airborne droplets through sneezing, speaking, or coughing. In these
22 congregate settings, large numbers of people are closely confined and forced to share
23 living spaces, bathrooms, eating areas, and other enclosed spaces. Groups of persons
24 are often moved from space to space, for example, from a dormitory to a cafeteria.
25 Persons congregate and come in close contact while standing in lines for medication,

26
27 _____
28 May 7, 2020).

⁶ *Study of COVID-19 in Correctional Facilities*, Harvard University and National
Commission on Correctional Health Care, April 9, 2020.

1 commissary, fresh laundry, telephones, showers, restroom use or court appearances.
2 These group movements, which may cluster large numbers of people together in
3 small spaces, increase the risk of transmission. It is common for detainees in a given
4 housing unit to routinely be subjected to such group movements multiple times each
5 day. They are physically unable to practice social distancing, which the CDC has
6 identified as the “cornerstone of reducing transmission of respiratory diseases such
7 as COVID-19.”⁷

8 27. This forced congregation spreads infection from one area of a prison to other areas,
9 too. In addition, detention facilities often rely on detainees to perform work that
10 supports the operation of the facility, such as food service, laundry, and cleaning. To
11 perform these work assignments, they typically travel from their housing units to
12 other parts of the facility. Officers and other detention facility staff routinely have
13 direct physical contact with detainees, especially when handcuffing or removing
14 handcuffs from detainees who are entering or exiting the facility. Staff members also
15 move around within the facility, which creates opportunities for transmission both
16 among staff in different parts of the facility and transmission to and from detainees
17 in different parts of the facility. This regular circulation makes the spread of infection
18 throughout a prison all but inevitable.

19 28. While jails, prisons, and detention centers are often thought of as closed
20 environments, this is not the case. Custody, medical, and other support staff and
21 contractors enter and leave the facility throughout the day. New detainees arrive on
22 a frequent basis. Since there is no effective way to screen for newly infected or
23 asymptomatic individuals, they can unknowingly transmit COVID-19 to those

24
25 ⁷ Centers for Disease Control and Prevention, Interim Guidance on Management of
26 Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (April
27 18, 2020),
28 [https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-
correctional-detention.html](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html) (last accessed May 7, 2020)(hereinafter “CDC Interim
Guidance”).

1 housed in the facility. Detainees and inmates are often transferred between housing
2 units, into and out of isolation, to other facilities, and to and from court. This further
3 increases the likelihood of transmission of COVID-19.

4 29. It has long been known that jails, prisons, and detention centers can be hotbeds of
5 disease transmission. Due to the frequent ingress and egress of employees at these
6 facilities, an outbreak within a jail, prison, or detention center can quickly spread to
7 surrounding communities. For example, the tuberculosis epidemic that broke out in
8 New York City in the early 1990s began in jails and was spread to the community
9 by jail employees who became infected and then returned home to their families and
10 communities.

11 30. In addition to the nature of the prison environment, prison and jail populations are
12 also at additional risk due to high rates of chronic health conditions, substance use,
13 mental health issues, and, particularly in prisons, aging and chronically ill
14 populations who may be vulnerable to death or severe illnesses after infection from
15 COVID-19 disease.

16 31. Testing kits are widely unavailable, and it can take anywhere from a day to a week
17 or more to obtain test results. Someone who is tested shortly after he or she was
18 infected may test negative. In most symptomatic individuals, the test does not
19 become positive until the onset of symptoms.⁸ Non-test-based screens like taking
20 people's temperatures or asking them for subjective reports of symptoms—cannot
21 adequately screen for new, asymptomatic or pre-symptomatic infections. The time
22 between exposure to COVID-19 and the moment when symptoms start is commonly
23 around five to six days but can range from 1 – 14 days.⁹ According to the CDC, up
24 to 25 percent of people infected with COVID-19 will remain asymptomatic.¹⁰

25 _____
26 ⁸ Sethuraman, MD, *Interpreting Diagnostic Tests for SARS-CoV-2*, JAMA, May 6, 2020.

27 ⁹ World Health Organization, Q&A on coronaviruses (COVID-19) April 17, 2020,
<https://www.who.int/news-room/q-a-detail/q-a-coronaviruses> (last accessed May 7, 2020).

28 ¹⁰ Apoorva Mandavilli, *Infected but Feeling Fine: The Unwitting Coronavirus Spreaders*,
N.Y. Times (Mar. 31, 2020), <https://www.nytimes.com/2020/03/31/health/coronavirus->

1 Similarly, infected individuals may experience only mild symptoms. These newly
2 infected, asymptomatic, and mildly symptomatic individuals can, and do, transmit
3 the virus, contributing to its rapid spread. As a result, such inadequate screening
4 presents a critical problem. The possibility of asymptomatic transmission means that
5 monitoring staff and incarcerated people for symptoms and fever is inadequate to
6 identify all who may be infected and to prevent transmission.

7 32. Social distancing is the most effective method of preventing the spread of COVID-
8 19. It must be utilized conjointly with other practices, like testing, isolation, and
9 quarantine, to achieve maximal efficacy in reducing transmission. If a facility is not
10 practicing social distancing, CDC testing protocols are not sufficient to prevent the
11 spread of the illness.

12 33. It is my understanding that CoreCivic may be quarantining individuals, with
13 confirmed and unconfirmed COVID-19 infections, together in one unit. If this is
14 CoreCivic's protocol, it does not conform to CDC guidelines¹¹ and it would likely
15 contribute to the overall transmission rate. This protocol can and would result in the
16 housing of individuals with differing incubation periods together and the
17 transmission of COVID-19 from an infected individual to an uninfected one, some
18 of whom will be asymptomatic. As mentioned above, individuals with an
19 asymptomatic presentation, are still able to transmit COVID-19.

20 34. As of May 7, 2020, it is my understanding that CoreCivic has 10 confirmed cases of
21 COVID-19, 8 detainees and 2 staff members. It is my understanding that CoreCivic
22 has at least 480 detainees quarantined in response to possible COVID-19 exposure.
23 Data from April 28, 2020, listed the total number of quarantined individuals at 115.
24 That is an increase of 365 detainees exposed and/or infected with COVID-19 over a
25 9-day window of time. It is my understanding that detainees have reported that there
26 is no social distancing, a general lack of sanitation, no access to hand sanitizer or

27 asymptomatic-transmission.html (last accessed May 7, 2020).

28 ¹¹ CDC Interim Guidance at 15.

1 gloves, and that detainees have been given only one mask and no new masks have
2 been issued to detainees since the initial mask over three weeks ago. The rapid
3 increase in exposure and potential infections are a natural consequence of these
4 conditions. Without meaningful intervention conditions will likely continue to
5 deteriorate.

6 35. It is my understanding that in lieu of social distancing, CoreCivic is using contact
7 tracing as a major method of prevention and identification of possible COVID-19
8 exposure and infections. Contact tracing is essentially identification of all people that
9 a confirmed infected individual has come into contact with within a given window
10 of time. The difficulty with contact tracing in a detention facility is that there are
11 likely many asymptomatic individuals, coupled with constant staff movement in and
12 out of the facility. Without constant and widespread testing, potential sources of
13 infection would be very difficult to establish. Without constantly testing everyone to
14 detect asymptomatic individuals, contact tracing alone is not a meaningful method
15 of prevention. Contact tracing is important but it does not replace social distancing,
16 adequate PPE, and testing.

17 36. Ultimately, once confirmed cases of COVID-19 exist in a detention facility like
18 CoreCivic, the population density, lack of PPE, and inability to properly sanitize
19 areas of dense congregation will result in widespread transmission of the disease
20 inside of the facility and in the broader community through daily staff ingress and
21 egress.

22 37. While every effort should be made to reduce exposure in detention facilities through
23 internal mitigation efforts, this may be extremely difficult to achieve and sustain
24 quickly enough. Further, no mitigation effort can change the inherent nature of
25 detention facilities, which force people to live in close proximity to one another. It
26 is therefore an urgent priority in this time of national public health emergency to
27 reduce the number of persons in detention as quickly as possible. Indeed, that is the
28 only public health solution available at this time to reduce the spread of COVID-19

1 and potentially save lives.

2 38. Given the experience in China as well as the literature on infectious diseases in jail,
3 additional outbreaks of COVID-19 among the U.S. jail and prison populations are
4 highly likely. Releasing as many inmates as possible is important to protect the
5 health of inmates, correctional facility staff, health care workers at jails and other
6 detention facilities, and the community as a whole. Indeed, according to the WHO,
7 “enhanced consideration should be given to resorting to non-custodial measures at
8 all stages of the administration of criminal justice, including at the pre-trial, trial and
9 sentencing as well as post-sentencing stages.”¹²

10 39. It is difficult to overstate the devastation that a COVID-19 outbreak could inflict on
11 a correctional facility such as CoreCivic. At Rikers Island jail in New York, between
12 April 1 and April 15, 2020, the number of COVID-19 positive incarcerated
13 individuals and staff members grew by 104 and 114 people, respectively, upping the
14 jail’s total numbers of confirmed cases to 288 among the incarcerated population,
15 488 among correction staff, and 78 among health care workers.^{13,14} The first known
16 case of COVID-19 at Rikers was confirmed on March 18,¹⁵ illustrating just how
17 quickly this disease can and will overwhelm detention facilities. Two Ohio prisons,
18 Marion Correctional Institution and Pickaway Correctional Institution, have
19 emerged as the largest-known sources of U.S. coronavirus infections, according to
20

21 ¹² World Health Organization, Regional Office for Europe, Preparedness, prevention and
22 control of COVID-19 in prisons and other places of detention: Interim guidance (Mar. 15,
23 2020), [http://www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-](http://www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf)
24 [prevention-and-control-of-COVID-19-in-prisons.pdf](http://www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf) (last accessed May 7, 2020).

24 ¹³ Julia Craven, *Coronavirus Cases Are Spreading Rapidly on Rikers Island*, Slate (Apr. 2,
25 2020), <https://slate.com/news-and-politics/2020/04/rikers-coronavirus-cases-increase.html>
26 (last accessed May 7, 2020).

26 ¹⁴ Jan Ranson, *Jailed on a Minor Parole Violation, He Caught the Virus and Died*, N.Y.
27 Times (Apr. 10, 2020).

27 ¹⁵ New York Times, *As Testing Expands, Confirmed Cases of Coronavirus in N.Y.C. Near*
28 *2,000* (Mar. 18, 2020), [https://www.nytimes.com/2020/03/18/nyregion/coronavirus-new-](https://www.nytimes.com/2020/03/18/nyregion/coronavirus-new-york-update.html)
[york-update.html](https://www.nytimes.com/2020/03/18/nyregion/coronavirus-new-york-update.html) (last accessed May 7, 2020).

1 data compiled by The New York Times. To date 3,808 cases have been connected
2 to the two prisons.¹⁶ Over 80% of the approximately 2,500 prisoners in Marion tested
3 positive.¹⁷ In addition, 169 staff have tested positive for COVID-19.¹⁸ Eight of the
4 ten largest-known infections sources in the U.S. are jails or prisons.

5 40. At Ohio's Marion Correctional, close to 95% of those who tested positive were
6 asymptomatic and would otherwise not have been tested.¹⁹ This underscores the risk
7 of the spread of COVID-19 by asymptomatic individuals.

8 41. Based on these understandings, it is my opinion that the exponential infection of rate
9 for COVID-19 we already see in the community would be magnified within
10 CoreCivic. Adequate social distancing would be impossible to achieve. What's
11 more, the infection in CoreCivic would not stay limited to the facility, but would
12 worsen infection rates in the broader community. The infection rate will increase
13 substantially before it starts to diminish without major interventions. The number at
14 risk for death is substantial. This is why leaving implementation in the hands of local
15 officials alone, who lack the expertise and resources and were incapable of
16 preventing the outbreak in the first place, is insufficient.

17 **42. Conclusions**

18 43. For the reasons above, it is my professional opinion that persons currently detained
19 at CoreCivic are at significantly greater risk of contracting COVID-19 than if they
20

21 ¹⁶ New York Times, *Coronavirus in the U.S.: Latest Map and Case Count*,
22 [https://www.nytimes.com/interactive/2020/us/coronavirus-us-](https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html?action=click&module=Top%20Stories&pgtype=Homepage&action=click&module=Spotlight&pgtype=Homepage#states)
23 [cases.html?action=click&module=Top%20Stories&pgtype=Homepage&action=click&module=Spotlight&pgtype=Homepage#states](https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html?action=click&module=Top%20Stories&pgtype=Homepage&action=click&module=Spotlight&pgtype=Homepage#states) (last accessed May 7, 2020).

24 ¹⁷ Ohio Department of Rehabilitation & Correction, COVID-19 Inmate Testing Updated
25 May 7, 2020, <https://coronavirus.ohio.gov/static/DRCCOVID-19Information.pdf> (last
26 accessed May 7, 2020).

27 ¹⁸ *Id.*

28 ¹⁹ Linda So & Grant Smith, *In Four U.S. State Prisons, Nearly 3,300 Inmates Test Positive for Coronavirus -- 96% Without Symptoms*, New York Times (April 25, 2020),
[https://www.nytimes.com/reuters/2020/04/25/us/25reuters-health-coronavirus-prisons-](https://www.nytimes.com/reuters/2020/04/25/us/25reuters-health-coronavirus-prisons-testing-insight.html?searchResultPosition=8)
testing-insight.html?searchResultPosition=8 (last accessed May 7, 2020).

1 were permitted to shelter in place in their home communities. If infected, many are
2 at increased risk of suffering severe complications and outcomes particularly given
3 the underlying health conditions of many people in detention settings as well as the
4 constrained provision of health care within facilities during the pandemic.

5 44. It is my professional opinion that conditions in CoreCivic threaten the health and
6 safety of every individual within the prison—detained persons and staff alike—and
7 in their surrounding communities.

8 45. It is my professional opinion that a necessary component of bringing CoreCivic into
9 compliance with the recommendations of the CDC to minimize the risk of COVID-
10 19 transmission within the facility and to the larger community is to substantially
11 reduce the population. Doing so will allow the facility to significantly reduce the risk
12 of infection for both incarcerated people and correctional officers, which in turn
13 protects the communities where corrections staff live.

14 46. It is my professional opinion that those who are medically vulnerable²⁰ need to be
15 moved out of CoreCivic to the absolute maximum extent possible. In addition, the
16 overall population needs to be significantly lowered to reduce the density in the jails
17 to allow for adequate social distancing, minimize the strain on the jail's medical care
18 system, ensure adequate space is available for necessary quarantining.

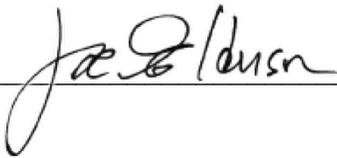
19
20
21 _____
22 ²⁰ Persons held at CoreCivic over the age of 50, as well as all current and future persons
23 held at CoreCivic of any age who experience (a) lung disease, including asthma, chronic
24 obstructive pulmonary disease (e.g. bronchitis or emphysema), or other chronic conditions
25 associated with impaired lung function; (b) heart disease, such as congenital heart disease,
26 congestive heart failure and coronary artery disease, or other chronic conditions associated
27 with impaired heart function; (c) chronic liver or kidney disease (including hepatitis and
28 dialysis patients); (d) diabetes or other endocrine disorders; (e) epilepsy; (f) hypertension;
(g) compromised immune systems (such as from cancer, HIV, receipt of an organ or bone
marrow transplant, as a side effect of medication, or other autoimmune disease); (h) blood
disorders (including sickle cell disease); (i) inherited metabolic disorders; (j) history of
stroke; (k) a developmental disability; and/or (l) a current or recent (last two weeks)
pregnancy.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

47. It is my public health recommendation that a public health expert be appointed to oversee operations related to preventing further spread of COVID-19 in CoreCivic, which may include authorizing further staggered release of detainees until it is possible to maintain consistent social distancing and appropriate hygiene within the facility.

I state under penalty of perjury that the foregoing is true and correct

Executed on:
May 7, 2020

By:  _____

JOSEPH GOLDENSON, MD

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

References

1. Dolan K, Wirtz A, Maazen B., et al. Global Burdern of HIV, viral hepatitis, and tuberculosis in prisoners and detainees. *The Lancet*, July 14, 2016.
2. Stuckler D, Basu S, McKee M, King I. Mass incarceration can explain population increases in TB and multi-drug resistant TB in European and Central Asian countries. *Proceedings of the National Academy of Science USA*, 2008. 105:13280-85.
3. Beyrer C, Kamarulzaman A, McKee M; Lancet HIV in Prisoners Group. Prisoners, prisons, and HIV: time for reform. *The Lancet*. 2016 Jul 14. pii: S0140-6736(16)30829-7. doi: 10.1016/S0140-6736(16)30829-7. [Epub ahead of print] No abstract available. PMID: 27427447.
4. Marusshak LM, Sabol W, Potter R, Reid L, Cramer E. Pandemic Influenza and Jail Facilities and Populations. *American Journal of Public Health*. 2009 October; 99(Suppl 2): S339–S344.
5. Rubenstein LS, Amon JJ, McLemore M, Eba P, Dolan K, Lines R, Beyrer C. HIV, prisoners, and human rights. *The Lancet*. 2016 Jul 14. pii: S0140-6736(16)30663-8. doi: 10.1016/S0140-6736(16)30663-8
6. Wang J, Ng, CY, Brook R. Response to COVID-19 in Taiwan: Big Data Analytics, New Technology, and Proactive Testing. March 3, 2020. *JAMA*. Published online March 3, 2020. doi:10.1001/jama.2020.3151.

EXHIBIT A

CURRICULUM VITAE

JOE GOLDENSON, MD
1406 CYPRESS STREET
BERKELEY, CA 94703
(510) 557-1086
jgoldenson@gmail.com

EDUCATION

Post Graduate Training

February 1992 University of California, San Francisco, CPAT/APEX
Mini-Residency in HIV Care
1979-1980 Robert Wood Johnson Fellowship in Family Practice
1976-1979 University of California, San Francisco
Residency in Family Practice

Medical School

1973-1975 Mt. Sinai School of Medicine, New York
M.D. Degree
1971-1973 University of Michigan, Ann Arbor

Undergraduate Education

1967-1971 University of Michigan, Ann Arbor
B.A. in Psychology

PROFESSIONAL EXPERIENCE

Practice Experience

1993-2015 Director/Medical Director
Jail Health Services
San Francisco Department of Public Health
1991-1993 Medical Director
Jail Health Services
San Francisco Department of Public Health
1990-1991 Chief of Medical Services, Hall of Justice
Jail Health Services
San Francisco Department of Public Health
1987-1990 Staff Physician
Jail Health Services
San Francisco Department of Public Health

1980-1987 Sabbatical
 1975-1976 Staff Physician
 United Farm Workers Health Center, Salinas, CA

Consulting

6/16-8/19 Consultant to Los Angeles Department of Health Services re: provision of health care services in the LA County Jail

4/02-Present Federal Court Medical Expert, *Plata v. Newsome*, Class Action Lawsuit re: prisoner medical care in California State Prison System

6/14-9/14 Medical expert for the Illinois Department of Corrections and the ACLU of Illinois

6/10-12/13 Federal Court appointed Medical Monitor, U.S.A. v. Cook County, et al., United States District Court for the Northern District of Illinois, No. 10 C 2946, re: medical care in the Cook County Jail

6/08-6/12 Member, *Plata v. Schwarzenegger* Advisory Board to the Honorable Thelton E. Henderson, U.S. District Court Judge

5/08-9/09 Medical Expert for ACLU re Maricopa County Jail, Phoenix, AZ
 1/08 Member of the National Commission on Correctional Health Care's Technical Assistance Review Team for the Miami Dade Department of Corrections

9/07-1/10 Federal Court appointed Medical Expert, *Herrera v. Pierce County, et al.*, re: medical care at the Pierce County Jail, Tacoma, WA

8/06-8/12 State Court Appointed Medical Expert, *Farrell v. Allen*, Superior Court of California Consent Decree re medical care in the California Department of Juvenile Justice

6/05 Member of Technical Assistance Review Team for the Dallas County Jail

11/02-4/03 Medical Expert for ACLU re Jefferson County Jail, Port Townsend, Washington

4/02-8/06 Federal Court Medical Expert, *Austin, et. al vs Wilkinson, et al*, Class Action Law Suit re: Prisoner medical care at the Ohio State Penitentiary Supermax Facility

1/02-3/02 Consultant to the Francis J. Curry, National Tuberculosis Center re: *Tuberculosis Control Plan for the Jail Setting: A Template (Jail Template)*,

8/01-4/02 Medical Expert for ACLU re Wisconsin Supermax Correctional Facility, Boscobel, WI

7/01-4/02 Medical Expert for Ohio Attorney General's Office re Ohio State Prison, Youngstown, OH

1/96-1/14 Member and Surveyor, California Medical Association

5/95-6/08	Corrections and Detentions Health Care Committee Medical Expert for the Office of the Special Master, <i>Madrid vs Alameida</i> , Federal Class Action Law Suit re: Prisoner medical care at the Pelican Bay State Prison Supermax Facility
3/98-12/98	Member, Los Angeles County Department of Public Health Jail Health Services Task Force
2/98	Medical Expert, Department of Justice Investigation of Clark County Detention Center, Las Vegas, Nevada
6/94	Surveyor, National Commission on Correctional Health Care, INS Detention Center, El Centro, CA

Work Related Committees

1/14 to present	Member, Editorial Advisory Board, <i>Correctional Health Care Report</i>
10/11 to 5/19	Member, Board of Directors of the National Commission on Correctional Health Care
5/07-10/12	Liaison to the CDC Advisory Council for the Elimination of Tuberculosis (ACET) from the National Commission on Correctional Health Care
12/04-3/06	Member of the CDC Advisory Council for the Elimination of Tuberculosis (ACET) Ad Hoc Working Group on the <i>Prevention and Control of Tuberculosis in Correctional and Detention Facilities: Recommendations from CDC</i> (MMWR 2006; 55(No. RR-9))
6/03-8/03	Member of the Advisory Panel for the Francis J. Curry National Tuberculosis Center and National Commission on Correctional Health Care, 2003: <i>Corrections Tuberculosis Training and Education Resource Guide</i>
3/02-1/03	Member of the Advisory Committee to Develop the <i>Tuberculosis Control Plan for the Jail Setting: A Template (Jail Template)</i> , Francis J. Curry, National Tuberculosis Center
6/01-1/15	Director's Cabinet San Francisco Department of Public Health
3/01	Consultant to Centers for Disease Control on the Prevention and Control of Infections with Hepatitis Viruses in Correctional Settings (MMWR 2003; 52(No. RR-1))
9/97-6/02	Member, Executive Committee of Medical Practice Group, San Francisco Department of Public Health
3/97-3/02	American Correctional Health Services Association Liaison with American Public Health Association
3/96-6/12	Chairperson, Bay Area Corrections Committee (on tuberculosis)
2/00-12/00	Medical Providers' Subcommittee of the Office-based Opiate Treatment Program, San Francisco Department of public Health

12/98-12/00 Associate Chairperson, Corrections Sub-Committee, California Tuberculosis Elimination Advisory Committee

7/94-7/96 Advisory Committee for the Control And Elimination of Tuberculosis, San Francisco Department of Public Health

6/93-6/95 Managed Care Clinical Implementation Committee, San Francisco Department of Public Health

2/92-2/96 Tuberculosis Control Task Force, San Francisco Department of Public Health

3/90-7/97 San Francisco General Hospital Blood Borne Pathogen Committee

1/93-7/93 Medical Staff Bylaws Committee, San Francisco Department of Public Health

ACADEMIC APPOINTMENT

1980-2015 Assistant Clinical Professor
University of California, San Francisco

PROFESSIONAL AFFILIATIONS

Society of Correctional Physicians, Member of President's Council, Past-Treasurer and Secretary

American Correctional Health Services Association, Past-President of California Chapter

American Public Health Association, Jails and Prison's Subcommittee

Academy of Correctional Health Professionals

PROFESSIONAL PRESENTATIONS

Caring for the Inmate Health Population: A Public Health Imperative, Correctional Health Care Leadership Institutes, July 2015

Correctional Medicine and Community Health, Society of Correctional Physicians Annual Meeting, October, 2014

Identifying Pulmonary TB in Jails: A Roundtable Discussion, National Commission on Correctional Health Care Annual Conference, October 31, 2006

A Community Health Approach to Correctional Health Care, Society of Correctional Physicians, October 29, 2006

Prisoners the Unwanted and Underserved Population, Why Public Health Should Be in Jail, San Francisco General Hospital Medical Center, Medical Grand Rounds, 10/12/04

TB in Jail: A Contact Investigation Course, Legal and Administrative Responsibilities, Francis J. Curry National Tuberculosis Center, 10/7/04

Public Health and Correctional Medicine, American Public Health Association Annual Conference, 11/19/2003

Hepatitis in Corrections, CA/NV Chapter, American Correctional Health Services Association Annual Meeting, 1/17/02

Correctional Medicine, San Francisco General Hospital Medical Center, Medical Grand Rounds, 12/16/02

SuperMax Prisons, American Public Health Association Annual Conference, 11/8/01

Chronic Care Programs in Corrections, CA/NV Chapter, American Correctional Health Services Association Annual Meeting, 9/19/02

Tuberculosis in Corrections - Continuity of Care, California Tuberculosis Controllers Association Spring Conference, 5/12/98

HIV Care Incarcerated in Incarcerated Populations, UCSF Clinical Care of the AIDS Patient Conference, 12/5/97

Tuberculosis in Correctional Facilities, Pennsylvania AIDS Education and Training Center, 3/25/93

Tuberculosis Control in Jails, AIDS and Prison Conference, 10/15/93

The Interface of Public Health and Correctional Health Care, American Public Health Association Annual Meeting, 10/26/93

HIV Education for Correctional Health Care Workers, American Public Health Association Annual Meeting, 10/26/93

PUBLICATIONS

Structure and Administration of a Jail Medical Program. Correctional Health Care: Practice, Administration, and Law. Kingston, NJ: Civic Research Institute. 2017.

Structure and Administration of a Jail Medical Program – Part II. Correctional Health Care Report. Volume 16, No. 2, January-February 2015.

Structure and Administration of a Jail Medical Program – Part I. Correctional Health Care Report. Volume 16, No. 1, November-December 2014.

Pain Behind Bars: The Epidemiology of Pain in Older Jail Inmates in a County Jail. Journal of Palliative Medicine. 09/2014; DOI: 10.1089/jpm.2014.0160

Older jail inmates and community acute care use. Am J Public Health. 2014 Sep; 104(9):1728-33.

Correctional Health Care Must be Recognized as an Integral Part of the Public Health Sector, Sexually Transmitted Diseases, February Supplement 2009, Vol. 36, No. 2, p.S3-S4

Use of sentinel surveillance and geographic information systems to monitor trends in HIV prevalence, incidence, and related risk behavior among women undergoing syphilis screening in a jail setting. Journal of Urban Health 10/2008; 86(1):79-92.

Discharge Planning and Continuity of Health Care: Findings From the San Francisco County Jail, American Journal of Public Health, 98:2182–2184, 2008

Public Health Behind Bars, Deputy Editor, Springer, 2007

Diabetes Care in the San Francisco County Jail, American Journal of Public Health, 96:1571-73, 2006

Clinical Practice in Correctional Medicine, 2nd Edition, Associate Editor, Mosby, 2006.

Tuberculosis in the Correctional Facility, Mark Lobato, MD and Joe Goldenson, MD,

Clinical Practice in Correctional Medicine, 2nd Edition, Mosby, 2006.

Incidence of TB in inmates with latent TB infection: 5-year follow-up. American Journal of Preventive Medicine. 11/2005; 29(4):295-301.

Cancer Screening Among Jail Inmates: Frequency, Knowledge, and Willingness
Am J Public Health. 2005 October; 95(10): 1781–1787

Improving tuberculosis therapy completion after jail: translation of research to practice.
Health Education Research. 05/2005; 20(2):163-74.

Incidence of TB in Inmates with Latent TB Infection, 5-Year Follow-up, American
Journal of Preventive Medicine, 29(4), 2005

Prevention and Control of Infections with Hepatitis Viruses in Correctional Settings,
Morbidity and Mortality Reports, (External Consultant to Centers for Disease
Control), Vol. 52/No. RR-1 January 24, 2003

*Randomized Controlled Trial of Interventions to Improve Follow-up for Latent
Tuberculosis Infection After Release from Jail*, Archives of Internal Medicine,
162:1044-1050, 2002

*Jail Inmates and HIV care: provision of antiretroviral therapy and Pneumocystis
carinii pneumonia prophylaxis*, International Journal of STD & AIDS; 12: 380-385,
2001

Tuberculosis Prevalence in an urban jail: 1994 and 1998, International Journal of
Tuberculosis Lung Disease, 5(5):400-404, 2001

Screening for Tuberculosis in Jail and Clinic Follow-up after Release, American
Journal of Public Health, 88(2):223-226, 1998

*A Clinical Trial of a Financial Incentive to Go to the Tuberculosis Clinic for Isoniazid
after Release from Jail*, International Journal of Tuberculosis Lung Disease, 2(6):506-
512, 1998

AWARDS

Armond Start Award of Excellence, Society of Correctional Physicians, 2014

Award of Honor, San Francisco Board of Supervisors, 2014

Award of Honor, San Francisco Health Commission, 2014

Certificate of Appreciation, San Francisco Public Defender's Office, 2014

Certificate for Excellence in Teaching, California Department of Health Services, 2002

Employee Recognition Award, San Francisco Health Commission, July 2000

Public Managerial Excellence Award, Certificate of Merit, San Francisco, 1997

LICENSURE AND CERTIFICATION

Medical Board of California, Certificate #A32488

Fellow, Society of Correctional Physicians

Board Certified in Family Practice, 1979-1986 (Currently Board Eligible)

EXHIBIT 3

DECLARATION OF MARIA GUADALUPE LUCERO-GONZALEZ

I, Maria Guadalupe Lucero-Gonzalez, do hereby declare, under penalty of perjury under the laws of the United States of America, that the following is true and correct to the best of my knowledge and belief:

1. I am currently detained at Central Arizona Florence Correctional Complex (“CCA”). I have been detained at CCA since November 2019.

2. In July 2019, I was convicted of illegal reentry and sentenced to time served and three years of supervised release, in case No. 2:19-cr-00426-JGZ-BGM-1. In January 2020, the United States petitioned to revoke my supervised release, alleging that I had violated the conditions of this release. Based on these allegations, I also am charged with illegal reentry in case No. 4:19-cr-03359-JGZ-BGM-1.

3. On April 20, 2020, I asked the U.S. District Court for the District of Arizona to reopen my detention hearing. This request was based on my serious medical conditions and the risks posed by the COVID-19 pandemic. On April 28, 2020, the Court denied this motion.

4. I am 50 years old. I am the mother of three children: a 30-year-old daughter, a 28-year-old daughter, and a 25-year-old-son.

5. I have been diagnosed with several serious medical conditions, including asthma, high blood pressure, diabetes, and kidney cancer. All these conditions require medical care. For my asthma, I frequently use an inhaler. For my kidney cancer, I was receiving treatment before I was detained at CCA. My last treatment for my kidney cancer was in July 2019. At this treatment, the doctor told me I needed surgery to remove either my kidney or the tumor. The doctor asked me to return for a follow-up appointment in three months. Before this follow-up appointment, I was arrested and then detained at CCA. Staff at CCA have refused my requests to arrange this follow-up appointment and have told me that I am not allowed to leave for treatment, due to the COVID-19 pandemic.

1 6. I also have requested medicine to help with the pain from my medical
2 conditions. Previously, medical staff at CCA provided me with this medicine, but for the
3 last month they have suspended my medicine, stating that it will ruin my kidneys. They
4 give me Tylenol or Ibuprofen instead, but this does not help with my pain. I need to see
5 my urologist to determine which medicine I can take without harming my kidneys. I have
6 been waiting over two months for an appointment with my urologist.

7 7. I am unable to work at CCA because of my serious health conditions. Due
8 to these conditions, I do not have the energy to work, and I am in too much pain.

9 8. I live in a pod with about 40 people. The 40 people in my pod share five
10 showers and three telephones. When we are not in our cells, we are able to interact and
11 typically are in close contact with each other. We are not physically separated.

12 9. At mealtimes, the people in my pod wait in a line to receive a tray with
13 food. The people in this line stand closer than six feet apart. During mealtimes, most
14 people congregate and eat at ten tables, each with four chairs. These tables are full during
15 mealtimes. The people in my pod also stand closer than six feet apart when waiting in
16 lines for medical visits at CCA.

17 10. I also share a cell with one other woman. Our beds are placed about arms'
18 length apart. There is one toilet and sink in my cell that I share with the woman in my
19 cell.

20 11. I saw information on television about COVID-19, but the staff here have not
21 provided any information about COVID-19.

22 12. About six people from my pod are responsible for cleaning the pod. They
23 do not wear any personal protective equipment, like masks or gloves. They clean the
24 showers and sweep and mop the pod. Although they clean the showers twice a day, they
25 clean the rest of the pod only once a day, around 6 p.m.

26 13. The people who clean my pod only occasionally clean the
27 telephones. Because the telephones are not cleaned after they are used and because I am
28 afraid of contracting COVID-19, I clean the telephone myself before using it. People in

1 my pod do so as well. To clean the telephones, we wipe them down with our shirts or
2 with feminine pads that we wet down with water.

3 14. My cellmate and I are responsible for cleaning our cell. Twice a day, we
4 receive cleaning supplies to clean the cell, including a bottle with pink liquid that is not
5 antibacterial. We are allowed to use these supplies only briefly, and they are immediately
6 taken away after the cell is cleaned.

7 15. Once a week, all the people in my pod receive a bag with bathroom
8 supplies, including a small amount of soap and shampoo. We have not received any hand
9 sanitizer or any antibacterial cleaning products. Because I do not have access to other
10 soap or cleaning materials, I use my shampoo to clean my dishes, in addition to using it
11 for personal hygiene. If someone runs out of soap or shampoo, they either need to buy
12 more supplies from the commissary or wait until the next week to get more. We are not
13 given more soap if we need it.

14 16. We have received this same bag of bathroom supplies since I have been
15 detained at CCA. We have not received different or additional cleaning products since the
16 COVID-19 pandemic.

17 17. Around April 15, 2020, everyone in my pod received a thin paper
18 mask. We were told that no one needs to wear a mask, so no one wore a mask for the last
19 few weeks. On April 30, 2020, correctional officers began requiring us to wear masks
20 when we go outside our pod. We are not required to wear masks inside our pod or cells,
21 and no one in my pod is wearing a mask in the pod.

22 18. Correctional officers started wearing masks on April 28, 2020; they did not
23 wear masks before this date. Many correctional officers still are not wearing gloves.

24 19. At CCA I have been exposed to at least two people who showed symptoms
25 of COVID-19. One woman was in my pod for ten days before she was placed in
26 quarantine. Another woman who also showed symptoms was in my pod for about ten
27 days. I am very scared because I often sat at the same table as these two women and was
28 in close contact with them for long periods of time. Some correctional officers also have

1 shown symptoms of COVID-19, but they do not consistently wear masks or gloves.

2 20. Despite women showing symptoms of COVID-19, CCA staff have not
3 tested people in my pod for COVID-19. CCA staff also have not taken the temperatures
4 of the people in my pod, except during our periodic medical checks.

5 21. I am concerned for my health, well-being, and ability to survive under these
6 conditions at CCA. Based on these concerns, I filed with CCA an emergency grievance
7 on May 1, 2020, asking for improved conditions of confinement based on the risks posed
8 by COVID-19. I still have not received a response to this grievance.

9 22. I am worried that by filing a grievance I will be retaliated against. The
10 correctional officers are always listening to our conversations and telephone calls.

11 23. If I was released from CCA during the pendency of my criminal
12 proceedings, I would be able to live with my family in the United States. I would be able
13 to self-isolate in this location for at least 14 days.

14 24. I am afraid of contracting COVID-19 at CCA and of continuing to live and
15 interact with people who show symptoms of COVID-19. I recently asked to see a doctor
16 because I have developed a fever and a cough. I am in delicate health and am trying to
17 survive in these difficult conditions.

18
19 I, Matthew R. Koerner, certify that I reviewed the information contained in this
20 declaration with Maria Guadalupe Lucero-Gonzalez by telephone on May 4, 2020, and
21 that she certified that the information contained in this declaration was true and correct to
22 the best of her knowledge.

23 Executed this 4th day of May, 2020.

24
25 /s/ Matthew R. Koerner
26
27
28

EXHIBIT 4

DECLARATION OF CLAUDIA ROMERO-LORENZO

1
2
3 I, Claudia Romero-Lorenzo, do hereby declare, under penalty of perjury under the
4 laws of the United States of America, that the following is true and correct to the best of
5 my knowledge and belief:

6 1. I am currently detained at Central Arizona Florence Correctional Complex
7 (“CCA”). As of May 2, 2020, I have been detained at CCA for five months.

8 2. My case number is 4:20-cr-00171-1. I am charged with illegal reentry and
9 am awaiting sentencing.

10 3. I am 39 years old. I am the mother of three children: a 22-year-old son, a
11 19-year-old daughter, and a 9-year-old son.

12 4. I have been diagnosed with several serious health conditions, including a
13 type of leukemia or cancer of the blood. Before my arrest, I had been receiving therapy
14 treatments for this condition. I would receive four intravenous steroid treatments
15 throughout a single day. Then, three weeks after this treatment, I would return for a
16 checkup. I also was prescribed and would take medicine between these treatments. My
17 last treatment for this medical condition was over one year ago, in April 2019.

18 5. I have asked CCA to continue my therapy treatments, on at least two
19 separate occasions. Medical staff at CCA tested my blood, told me everything was fine,
20 and recommended that I go on walks and drink water instead.

21 6. I also suffer from anxiety and depression. I have asked for medical
22 treatment, but I have received only Tylenol, which does not help.

23 7. I live in a pod with about 40 people. We share four showers and four
24 telephones. When we are not in our cells, the people in my pod are able to interact and
25 we often are in close contact with each other. We are not physically separated.

26 8. I also share a cell with another woman. Our beds are placed about one
27 meter (or about 3 feet) apart. From my bed, I can touch my cellmate’s bed. There is one
28 toilet and sink in my cell that I share with the woman in my cell.

1 9. At CCA I work in the sewing workshop with four other people. We are not
2 physically separated, and we work within a close distance of each other. When one
3 worker sews something, the other worker cuts it at the same time. We also share tools in
4 the workshop that are not cleaned or disinfected.

5 10. Once a week, every person in my pod receives a hygiene bag containing
6 toothpaste, a toothbrush, a razor, shampoo, and soap. This is the same as what we
7 received before COVID-19. We receive only a small amount of soap and shampoo. We
8 do not receive either hand sanitizer or cleaning supplies to clean our pods, cells, cups, or
9 dishes. Because we do not receive these cleaning supplies, I often use my own soap or
10 shampoo to clean things like cups and dishes. Because I use my soap and shampoo for
11 both personal hygiene and cleaning, I sometimes run out of soap or shampoo. If I need
12 more soap or shampoo, I am required to purchase these items from CCA's commissary or
13 to wait until the next week's hygiene bag.

14 11. On April 30, 2020, the people in my pod received thin paper masks. We
15 are required to wear these masks when we go outside of our pods, but we are not required
16 to wear the masks inside our cells or pods. CCA staff also began wearing masks last
17 week.

18 12. Before last week, the people in my pod had not received any masks. The
19 staff at CCA also did not wear masks or gloves until last week. CCA staff had worn
20 gloves only when searching someone's cell.

21 13. A group of people from my pod clean the pod. When they clean, I have not
22 seen them wear masks or gloves. They clean the pod once per day, between 8:00 a.m.
23 and 10:00 a.m. I have not seen anyone clean the four telephones in the pod. Because I
24 am afraid of contracting COVID-19, I use my own shirt to clean the telephone before
25 placing a call.

26 14. Neither I nor the people in my pod have been tested for COVID-19. The
27 staff at CCA also are not taking the temperatures of the people in the pod, except during
28 our periodic medical check-ups.

1 15. I know of at least two women who showed symptoms of COVID-19. One
2 woman in my pod was placed in quarantine because she had a fever. She was removed
3 from quarantine and returned to my pod, even though she said she still felt sick. We were
4 in the same pod for about one week, and I came into close contact with her on several
5 occasions. I remember sitting at the same table as her and listening to her tell a story
6 about being in quarantine. Another woman, who also showed symptoms of COVID-19,
7 was transported past my sewing workshop. CCA staff placed us in lockdown until she
8 passed through the hallway and told the people in my workshop that the woman had
9 some kind of infection or contagion. I do not know what happened to these two women.

10 16. There is no social distancing in my pod. People in the pod—including both
11 detainees and CCA staff—frequently interact with each other and are within six feet of
12 each other.

13 17. Concerned for my health, safety, and ability to survive under these
14 conditions, I attempted to file a grievance on April 29, 2020. I went with several other
15 people from my pod and asked a correctional officer for a grievance form. This officer
16 denied that anyone at CCA has tested positive for COVID-19 and told us that everything
17 at CCA is just fine. The officer also said that the stories about positive tests at CCA are
18 merely rumors relating to some positive tests at the other jails and prisons in Florence,
19 Arizona. I again tried to file a grievance and eventually found a grievance form. I filed a
20 grievance on May 1, 2020, asking for improved conditions of confinement due to
21 COVID-19. I still have not received a response.

22 18. I am afraid to file a grievance because CCA staff might retaliate against me.
23 Staff at CCA have acted badly when people complain or file grievances. I previously
24 filed a grievance for another medical issue, and the doctor summoned me and then
25 scolded me for filing the grievance. The doctor said that I filed the grievance only
26 because my lawyer put me up to it. Another woman in my pod also filed a grievance
27 asking for certain medical care. CCA staff told her that the only reason we file grievances
28 is to get attention. The correctional officers and medical staff have been very difficult

1 when a grievance is filed. Based on these incidents, I never want to file another grievance
2 at this facility.

3 19. I have a family whom I support and care for, including my young son. I
4 lived in Philadelphia, Pennsylvania, for 10 years. In Philadelphia, I have a close
5 community, including my siblings and my church. If I was released from CCA during the
6 pendency of my criminal proceeding, I would be able to live with my family in
7 Philadelphia. I would be able to self-isolate in this location for at least 14 days.

8 20. My health is not good, and I am afraid of contracting COVID-19.

9
10 I, Casey Arellano, certify that I reviewed the information contained in this
11 declaration with Claudia Romero-Lorenzo by telephone on May 4, 2020, and that she
12 certified that the information contained in this declaration was true and correct to the best
13 of her knowledge.

14 Executed this 4th day of May, 2020.

15

16 /s/ Casey Arellano

17

18

19

20

21

22

23

24

25

26

27

28

EXHIBIT 5

DECLARATION OF TRACY ANN PEUPLIE

1
2
3 I, Tracy Ann Peuplie, do hereby declare, under penalty of perjury under the laws of
4 the United States of America, that the following is true and correct to the best of my
5 knowledge and belief:

6 1. I am currently detained at Central Arizona Florence Correctional Complex
7 (“CCA”). I have been detained at CCA since December 28, 2019.

8 2. My case number is 4:20-cr-00299-CKJ-DTF. I am charged with several
9 drug offenses and am awaiting trial in this case.

10 3. I am 49 years old. I have several serious medical conditions, including
11 high blood pressure, asthma, anxiety, substance-abuse disorder, and spinal stenosis. I
12 also was transported to the hospital recently for heavy menstrual bleeding. My physical
13 and mental-health conditions are serious, and I am afraid of contracting COVID-19 due
14 to these serious medical conditions.

15 4. I have asked CCA staff for medicine to help treat the pain from my spinal
16 stenosis, a condition where the spine puts pressure on nerves in the lower back and neck.
17 I still have not received any medication. CCA staff have refused to give me medicine for
18 this condition and my pain, stating that I need to go to the hospital but that I cannot do so
19 because of COVID-19.

20 5. I live in a pod with about 80 people. These 80 people share six showers
21 and four telephones. The people in my pod are responsible for cleaning the pod,
22 including the showers and floors. We are given one bottle of pink liquid to clean the
23 entire pod and all the cells. This cleaning solution runs out every day before the pod and
24 all the cells are cleaned. When we clean, we are not given personal protective equipment,
25 like gloves. The showers are cleaned twice a day, and the pods are cleaned once or
26 maybe twice a day. We do not have access to disinfecting chemicals, cleaning supplies,
27 or wipes.
28

1 6. In the pod, I live in a cell with ten people. We sleep on six bunk beds that
2 are pushed against the same wall. The bunks are only about two feet apart from each
3 other. The ten people in my cell share a single toilet and sink. We are responsible for
4 cleaning our cell and are given only one bottle of chemicals to do so.

5 7. There is no social distancing in our pod or cells. When we are allowed out
6 of our cells, people wait in lines, standing closer than six feet apart, to use the four
7 telephones that are available. There are always lines to use the telephones. Also, during
8 mealtimes, everyone in the pod waits in line for food or the microwaves. Everyone
9 stands in line closer than six feet apart and then sits to eat at about 18 tables, each of
10 which has four chairs. The tables are always full of people during mealtime because
11 there are not enough chairs for everyone in the pod.

12 8. Once a week, the people in my pod receive a hygiene bag that includes
13 soap, shampoo, and rolls of toilet paper. We have received the same hygiene bag since I
14 have been detained at CCA.

15 9. Several weeks ago, we received thin paper masks. These masks are not
16 N95 masks. After receiving the masks, CCA staff told us that we were not required to
17 wear the masks, so no one was wearing a mask. Beginning on April 30, 2020, we were
18 told that we are required to wear the masks when we go outside our pod. We are not
19 required to wear the masks inside the pod or our cells.

20 10. Although we are required to wear masks now, we did not receive new
21 masks until recently. My original mask was broken, so I requested a new one on April
22 30, 2020. CCA staff refused to provide me with a mask and would not let me leave my
23 pod for a legal call until I found another mask. I was required to borrow another person's
24 mask in order to leave my pod and speak with my attorney. I did not receive a new mask
25 until later that night. Other people in my pod also did not have masks and have not been
26 provided with them. Last week, the people who work in the laundry room did not have
27 masks, so they were not allowed to leave the pod to do laundry. As a result, the people in
28 my pod did not have clean clothes, towels, or bedsheets.

1 11. Until recently, CCA staff were not wearing masks. On April 30, 2020,
2 CCA staff told us they would begin wearing masks, but they reassured us that no one at
3 CCA has tested positive for COVID-19. I have seen a few signs posted about COVID-
4 19, but CCA staff otherwise have not told us anything about COVID-19 or the measures
5 at CCA in response to COVID-19.

6 12. CCA staff have set-up a room that is referred to as the “quarantine room.”
7 When new detainees come to CCA, they all stay in the quarantine room for 14 days.
8 After these 14 days, the detainees are released from the quarantine room. They are
9 moved into the pod with 80 other people and into a cell with ten people.

10 13. CCA staff have not tested people in my pod for COVID-19. CCA staff also
11 have not taken the temperatures of the people in my pod, except during our periodic
12 medical checks.

13 14. I am afraid of contracting COVID-19 and am concerned for my health and
14 well-being at CCA. Based on these concerns, I filed an emergency grievance with CCA
15 around April 22, 2020. I still have not received a response to this emergency grievance.
16 Having received no response, I filed a second emergency grievance on April 30, 2020. I
17 handed my grievance form to a member of the CCA staff and asked about the status of my
18 first emergency grievance. The staff member replied that they receive about 400
19 grievances a day and that “we’ll get to it whenever we get to it.” I still have not received a
20 response to either my first or my second emergency grievance.

21 15. Grievance forms are not always available at CCA. On several recent
22 occasions, I attempted to fill out a grievance form, but no grievance form was available.

23 16. If I was released from CCA during the pendency of my criminal proceeding,
24 I would be able to live and stay with my family in Oklahoma. I would be able to self-
25 isolate in this location for at least 14 days.

26 17. I am scared that if conditions do not improve at CCA or if I am not released,
27 then something horrible will happen to me. I am afraid of contracting COVID-19.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I, Matthew R. Koerner, certify that I reviewed the information contained in this declaration with Tracy A. Peuplie by telephone on May 4, 2020, and that she certified that the information contained in this declaration was true and correct to the best of her knowledge.

Executed this 4th day of May, 2020.

/s/ Matthew R. Koerner

EXHIBIT 6

DECLARATION OF JAMES TYLER CIECIERSKI

1
2
3 I, James Tyler Ciecierski, do hereby declare, under penalty of perjury under the
4 laws of the United States of America, that the following is true and correct to the best of
5 my knowledge and belief:

6 1. I am currently detained at Central Arizona Florence Correctional Complex
7 (“CCA”). I have been detained at CCA since the end of February 2020. My case number
8 is 4:19-cr-03122-RM-LAB-1. I am charged with bank robbery and am awaiting trial.

9 2. I am 26 years old. I have a fiancée and 10-month-old daughter.

10 3. I have been diagnosed with severe asthma and always need to keep my
11 inhaler nearby. I also have a history of substance-use disorder.

12 4. I live in a pod with about 40 people. We share three telephones and five
13 showers. I also share a cell with one other person. Our beds are placed about one foot
14 apart, and we share a bathroom and a sink.

15 5. Before moving to my current cell, I lived in a cell with 14 people. In this
16 cell, we slept on bunk beds that were about one foot apart. The 14 people in my cell
17 shared one bathroom and one sink.

18 6. Once a week, the people in my pod receive bathroom products like soap
19 and toothpaste. I do not know how to get more soap if I need it.

20 7. Around April 15, 2020, the people in my pod received paper masks, but we
21 were not required to wear them. No one wore the masks, including CCA staff. The staff
22 is not taking anyone’s temperature unless people go to the medical unit. Nor is anyone in
23 my pod being tested for COVID-19.

24 8. On April 30, 2020, the guards told us that they would begin wearing masks,
25 but they reassured us that no one at CCA has tested positive for COVID-19. A guard at
26 CCA separately told me that someone has tested positive for COVID-19.

27 9. There is no social distancing. People in my pod can interact closer than six
28 feet apart, and they frequently do so. During mealtimes, people wait in lines for food and

1 then sit at the 12 tables in the pod. Each table has 4 chairs, and these tables are full
2 during mealtimes. Inmate jobs also are continuing as usual, despite the risks from
3 COVID-19. These jobs include shower porters, tray washers, table washers, kitchen
4 staff, and barbers. The people working these jobs typically work close to each other and
5 often work in small rooms or spaces.

6 10. Due to the conditions at CCA, I am afraid of contracting COVID-19. This
7 particularly worries me because of my severe asthma. Based on these concerns, I filed a
8 grievance around April 15, 2020, asking for conditions that would reduce the risk of
9 COVID-19 spreading through my pod. I did not receive a response, so I filed another
10 grievance on April 30, 2020. On both occasions, I tried to file an emergency grievance,
11 but no emergency-grievance forms were available. Grievance forms are rarely available,
12 and I have looked for them on several different occasions. I still have not received a
13 response to either grievance that I filed.

14 11. I have a young family, including my fiancée and 10-month-old daughter. If
15 I was released from CCA during the pendency of my criminal proceeding, I would be able
16 to live with my family in Tucson, Arizona. I would be able to self-isolate in this location
17 for at least 14 days.

18
19 I, Matthew R. Koerner, certify that I reviewed the information contained in this
20 declaration with James T. Ciecierski by telephone on May 4, 2020, and that he certified
21 that the information contained in this declaration was true and correct to the best of his
22 knowledge.

23 Executed this 4th day of May, 2020.

24
25 /s/ Matthew R. Koerner
26
27
28

EXHIBIT 7

DECLARATION OF MARVIN LEE ENOS

1
2 I, Marvin Lee Enos, do hereby declare, under penalty of perjury under the laws of the United
3 States of America, that the following is true and correct to the best of my knowledge and belief:

4
5 1. I am currently detained at Central Arizona Florence Correctional Complex awaiting trial.
6 I have been here since August of 2019. My case number is 19-cr-02041-JAS-DTF.

7 2. I am charged with two counts of aggravated sexual abuse and two counts of assault with
8 intent to commit aggravated sexual abuse.

9 3. I am 29 years old. I have a number of serious medical conditions including hypertension
10 and asthma. Before I was incarcerated I smoked a pack a day of cigarettes and have a Body Mass
11 Index of 41.96. I am scared for my well-being because of these conditions.

12
13 4. I am generally held in a segregated housing unit. In that unit there are 56 people in our
14 pod and 14 people in our shared room. We sleep in bunk beds about five feet apart. We share a
15 single toilet and four showerheads.

16 5. The toilet and showers are not cleaned between individual uses.

17 6. We have only been provided one mask since the COVID-19 outbreak started. It is a thin
18 blue mask, not an N95 mask. I am wearing mine but most people are not wearing masks inside
19 the pod. We have no gloves.

20
21 7. Until recently, no staff members were wearing masks.

22 8. Once a week, on Wednesdays, we receive two small bars of soap and a small bottle of
23 shampoo, which is often not enough to keep clean for the week. When I run out of soap, I just
24 have to wait until the next Wednesday to get more. They have not provided us more soap since
25 the pandemic started.

26 9. In my regular housing unit, I work as a shower cleaner and am responsible for cleaning
27 the showers with one other inmate. We are not given protective equipment and only a small
28

1 amount of cleaning supplies, which are not enough to clean the showers at all. Sometimes I try to
2 use my personal shampoo to clean the showers for my job.

3 10. We eat meals in the shared dayroom area. The tables in the dayroom seat four people per
4 table, and we sit and eat meals together on trays. Neither the tables nor the trays are cleaned as
5 far as I can tell. Inmates used to have a job of cleaning the tables before we would eat but that is
6 not happening anymore.
7

8 11. In the segregated housing unit there is no social distancing. We are all very close to each
9 other.

10 12. There is no hand sanitizer.

11 13. On April 29 after an incident in my housing pod I was sent to isolation. Things are even
12 worse here.

13 14. In isolation, I am in a cell with two other people. We cannot be further than 2 feet from
14 each other. Staff checks on us every hour.

15 15. We are not permitted to shower every day so I am worried about staying clean.

16 16. We are sharing a shower and a toilet. They are filthy.

17 17. I still only have the one mask I was given weeks ago. It is not clean.

18 18. I was not tested for COVID before being moved from my regular housing unit into
19 isolation. Nobody that I know has been tested for COVID.
20

21 19. I have not had my temperature taken at any time.

22 20. When we speak on the phone to our lawyers, we are near other people and the phones are
23 not cleaned between calls. During my most recent legal call, I was crammed into a room with
24 about 10 people and we were given a cordless phone to use that was not being cleaned as far as I
25 could tell.
26
27
28

1 21. This week we heard that someone tested positive for COVID-19 within the facility. I
2 heard from another inmate whose sister informed him based on something she saw on Facebook.
3 No one informed us directly. Nothing has changed within the facility except now the staff are
4 wearing their masks. They also have blue masks but theirs are much thicker than ours. I do not
5 know how often they change out their masks.
6

7 22. Concerned for my safety and well-being and my ability to survive under these conditions,
8 I filed an emergency grievance April 19 and April 22 asking to be protected from COVID-19.
9 After about one week, the unit manager responded to my April 19 grievance and said that
10 everything was fine. I still have not received a response to my April 22 grievance. I kept the
11 receipt from the grievance in a book in my cell but it was taken away from me so now I do not
12 have it.
13

14 23. I am scared that if conditions do not improve in here that I will get really sick and that I
15 could die.

16 24. My defense lawyer appealed my detention here based on COVID-19 in court but it was
17 denied.

18 25. If I were released I would live with my mother at our home in the Sif Oidak District
19 within the Tohono O'Odham Nation Reservation in Arizona, south of Florence. She has a vehicle
20 and could transport me safely home. The only people in the house would be me, my mother and
21 her boyfriend and I could safely quarantine for fourteen days or longer as needed.
22
23
24
25
26
27
28

1 I, Chase Strangio, certify that I reviewed the information contained in this declaration
2 with Marvin Lee Enos by telephone on April 30, 2020, and that he certified that the information
3 contained in this declaration was true and correct to the best of his knowledge.
4

5
6

7 Executed this 30th day of April, 2020.

8
9

/s/Chase Strangio_____

10
11

Chase Strangio

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28