PLAINTIFF'S EXHIBIT 2

IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

DECLARATION OF ROY GIBSON PARRISH, MD

I, Roy Gibson Parrish, declare as follows:

1. I am a medical doctor with 35 years of experience as an epidemiologist. From 1982 through 2002, I served as a medical epidemiologist at the U.S. Centers for Disease Control and Prevention, including as the Acting Director of the Division of Public Health Surveillance and Informatics.
2. Since leaving the CDC, I have worked as an independent consultant in population health and population health information systems, continuing to publish and make presentations around the country. From 2003 to 2011, I served as an Adjunct Associate Professor of Community and Family Medicine at Dartmouth Medical School, and from 2013 to the present, I have served on the Adjunct Faculty at the University of New Hampshire. I also currently teach classes at the Maine Medical Center. Attached as Exhibit A is a copy of my curriculum vitae.

Summary of Opinions

3. I have been asked to provide an expert opinion regarding the risks associated with Immigration and Customs Enforcement ("ICE") transferring detainees across state lines, and between multiple detention centers, during the COVID-19 pandemic. Specifically, I have been asked to discuss the risks associated with transfer of ICE detainees from Cumberland County Jail in Portland, Maine, to regions in the country with greater rates of COVID-19 infections.
4. Overall, it is my opinion that transfer from Portland, Maine, to locations with greater COVID-19 risk, carries a heightened risk of exposure to COVID-19, a serious and potentially deadly communicable disease.

5. As discussed below, travel can increase the risk of getting and spreading COVID-19. Additionally, traveling between multiple different closed congregate facilities—like a jail or detention facility—can further increase the risk of exposure for the people traveling, as well as the people in the closed congregate facility at which the travelers arrive. Transferring from an area of relatively low COVID-19 prevalence, to an area of higher COVID-19 prevalence, introduces yet further risks for persons being transferred. In light of these risks, a practice of transferring people from one closed congregate facility, to another closed congregate facility in a higher risk area, can increase the risk of COVID-19 infection for the person being transported.
6. Similarly, transferring people from a closed congregate facility in a higher risk area to other closed congregate facilities in lower risk areas, can increase the risk of COVID-19 infection for people in each detention facility along the way.
7. The mode and condition of transport can also introduce additional risks. According to several materials I have reviewed, it appears that ICE has introduced additional risk by not enforcing safety precautions during transport, such as recommended physical distancing, use of masks by agents and detainees, and adequate ventilation in vehicles.
8. Finally, the safety of the locations to which ICE is transferring people introduces additional potential risks. Based on information provided to me, it appears that at least some of the facilities where ICE transfers people are particularly crowded and unsanitary, imposing yet further risk of infection. Each of these issues is discussed in further detail below.

COVID-19 Is a Potentially Deadly Disease

9. COVID-19 is highly contagious and potentially deadly infection caused by the novel coronavirus SARS-CoV-2. Symptoms of COVID-19 can include cough, shortness of breath or difficulty breathing, fever, muscle pain, headache, sore throat, and new loss of taste or smell.[1]

10. Complications of COVID-19 include pneumonia, respiratory failure, acute respiratory distress syndrome (ARDS), acute cardiac injury, acute liver injury, acute kidney injury, clotting disorders, thromboembolic events, multiple organ failure, and death.[2]

11. Older people are at higher risk for severe illness or death from COVID-19.[3] Compared to people who are 18-29 years old, older people are at higher risks of hospitalization and death:

    a. people in the 30-39 age group face twice the risk of hospitalization, and 4 times the risk of death;

    b. people in the 40-49 age group face 3 times the risk of hospitalization and 10 times the risk of death;

    c. people in the 50-64 age group face 4 times the risk of hospitalization and 30 times the risk of death;

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[1] *Symptoms of COVID-19*, U.S. Centers for Disease Control and Prevention (last visited May 4, 2020), https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html.

[2] Zhao, et al., *A comparative study on the clinical features of COVID-19 pneumonia to other pneumonias* (2020), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7108162/; Fei Zhou, et al., *Clinical Course and Risk Factors for Mortality of Adult Inpatients With COVID-19 in Wuhan, China: A Retrospective Cohort Study*, Lancet (Mar. 28, 2020), available at https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(20)30566-3.pdf; Wiersinga WJ, Rhodes A, Cheng AC, Peacock SJ, Prescott HC. *Pathophysiology, Transmission, Diagnosis, and Treatment of Coronavirus Disease 2019 (COVID-19): A Review*. JAMA. 2020; 324(8):782–793. doi:10.1001/jama.2020.12839.

[3] *COVID-19: Who's at higher risk of serious symptoms?*, Mayo Clinic (last accessed Oct. 17, 2020), available at https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/coronavirus-who-is-at-risk/art-20483301#:~:text=People%20with%20several%20chronic%20conditions,COVID%2D19%20symptoms (hereinafter referred to as *COVID-19: Who's at higher risk*, Mayo Clinic).

d. people in the 65-74 age group face 5 times the risk of hospitalization and 90 times the risk of death;

e. people in the 75-84 age group face 8 times the risk of hospitalization and 220 times the risk of death; and

f. people over 85 face 13 times the risk of hospitalization and 630 times the risk of death.[4]

12. People with certain medical conditions are at higher risk for severe illness or death from COVID-19.[5] According to the CDC,

> "Adults of any age with the following conditions **are at increased risk** of severe illness from the virus that causes COVID-19: cancer; chronic kidney disease; COPD (chronic obstructive pulmonary disease); heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies; immunocompromised state (weakened immune system) from solid organ transplant; obesity…; sickle cell disease; smoking; [and] type 2 diabetes mellitus."[6]

13. Additionally, people with the following conditions might be at increased risk of serious illness from COVID-19:

> "asthma (moderate-to-severe); cerebrovascular disease…; cystic fibrosis; hypertension or high blood pressure; immunocompromised state…from blood or bone marrow transplant, immune deficiencies, HIV, use of corticosteroids, or use of other immune weakening medicines; neurologic conditions, such as dementia; liver disease; overweight…; pregnancy; pulmonary fibrosis; thalassemia (a type of blood disorder); and type 1 diabetes mellitus."[7]

14. For people who survive COVID-19, symptoms can continue for a lengthy period of time. In one study of patients who had ostensibly recovered from COVID-19, researchers

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[4] *COVID-19 Hospitalization and Death by Age*, U.S. Centers for Disease Control and Prevention (Aug. 18, 2020), available at https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-age.html.

[5] *COVID-19: Who's at higher risk*, Mayo Clinic, *supra* n.3 (capitalization altered).

[6] *People with Certain Medical Conditions*, U.S. Centers for Disease Control and Prevention (Oct. 16, 2020), available at https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html; *see also Evidence used to update the list of underlying medical conditions that increase a person's risk of severe illness from COVID-19*, U.S. Centers for Disease Control and Prevention (Oct. 6, 2020), available at https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/evidence-table.html.

[7] *Id.*

found that "87.4% reported persistence of at least 1 symptom," most frequently fatigue and difficulty breathing.[8] Other studies found that following hospitalization patients with COVID-19 had persistent symptoms.[9]

15. COVID-19 is a novel disease, and its long-term implications are not fully known. Nevertheless, some studies suggest there may be long-term lung and cardiovascular abnormalities from COVID-19, even for people who have only mild symptoms or no symptoms at all. One study conducted cardiac magnetic resonance imaging of patients who had recently recovered from COVID-19, and found "cardiac involvement in 78 patients (78%) and ongoing myocardial inflammation in 60 patients (60%), which was independent of preexisting conditions, severity and overall course of the acute illness, and the time of the original diagnosis."[10] Other studies have referred to abnormal lung CT scans associated with asymptomatic COVID-19.[11]

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[8] Angelo Carfi, et al., *Persistent Symptoms in Patients After Acute COVID-19*, JAMA. 2020; 324(6):603-605. doi:10.1001/jama.2020.12603, available at https://jamanetwork.com/journals/jama/fullarticle/2768351.

[9] DT Arnold, *Patient outcomes after hospitalization with COVID-19 and implications for follow-up; results from a prospective UK cohort*, medRxiv (Aug. 14, 2020), available at https://doi.org/10.1101/2020.08.12.20173526; Garrigues E, Janvier P, Kherabi Y, et al. *Post-discharge persistent symptoms and health-related quality of life after hospitalization for COVID-19* [published online ahead of print, 2020 Aug 25]. J Infect. 2020; S0163-4453(20)30562-4. doi:10.1016/j.jinf.2020.08.029.

[10] Valentina O. Puntmann, *Outcomes of Cardiovascular Magnetic Resonance Imaging in Patients Recently Recovered From Coronavirus Disease 2019 (COVID-19)*, JAMA Cardiol. Published online July 27, 2020. doi:10.1001/jamacardio.2020.3557, available at https://jamanetwork.com/journals/jamacardiology/fullarticle/2768916; *see also* Bandirali M., Sconfienza L.M., Serra R., *Chest radiograph findings in asymptomatic and minimally symptomatic quarantined patients in Codogno, Italy,* Radiology. 2020;295:E7, available at https://pubmed.ncbi.nlm.nih.gov/32216718/.

[11] Laura Cella, et al., *Injuries From Asymptomatic COVID-19 Disease: New Hidden Toxicity Risk Factors in Thoracic Radiation Therapy*, Int J Radiat Oncol Biol Phys. 2020 Oct 1; 108(2): 394–396, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7462877/#bib5 (citing Inui S., Fujikawa A., Jitsu M., *Chest CT findings in cases from the cruise ship "Diamond Princess" with*

16. At this time, there is no vaccine or cure for COVID-19. The development of numerous vaccines is underway, and one or more effective vaccines may be available within the next year.[12] Absent an effective and widely available and administered vaccine, the most effective strategy to reduce COVID-19 infections, morbidity, and mortality is to avoid being exposed to the virus through the adoption and use of personal and community nonpharmaceutical interventions (NPIs), such as the following:[13]

    a. Wash your hands often
    b. Avoid close contact
    c. Cover your mouth and nose with a mask when around others
    d. Cover coughs and sneezes
    e. Clean and disinfect
    f. Monitor your health daily
    g. Stay home when you are sick

17. Although more therapeutic options for people with COVID-19 are available now than during the spring, none is curative and none is currently approved for COVID-19 by the Food and Drug Administration. Treatment guidelines for clinicians have been developed

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coronavirus disease 2019 (COVID-19), Radiol Cardiothorac Imaging. 2020;2, available at https://pubs.rsna.org/doi/full/10.1148/ryct.2020200110; Pang K.H., Osman N.I. Asymptomatic *COVID-19 infection in a patient evaluated for ureteric colic: Radiological findings and impact on management*, Urology. 2020;141:183–184, available at https://pubmed.ncbi.nlm.nih.gov/32339558/; McGinnis G.J., Ning M.S., Nitsch P.L., *Rapid detection of asymptomatic COVID-19 by CT image-guidance for stereotactic ablative radiotherapy*, J Thorac Oncol. 2020;15:1085–1087, available at https://pubmed.ncbi.nlm.nih.gov/32311499/).

[12] *Fact Sheet: Explaining Operation Warp Speed*, National Institutes of Health, available at https://www.hhs.gov/coronavirus/explaining-operation-warp-speed/index.html; Le TT, Cramer JP, Chen R, Mayhew S. Evolution of the COVID-19 vaccine development landscape, *Nature Reviews Drug Discovery* 19, 667-668 (2020) doi: https://doi.org/10.1038/d41573-020-00151-8.

[13] *How to Protect Yourself & Others*, U.S. Centers for Disease Control and Prevention, available at https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html (Updated Sept. 11, 2020); *Nonpharmaceutical Interventions (NPIs)*, U.S. Centers for Disease Control and Prevention, available at https://www.cdc.gov/nonpharmaceutical-interventions/index.html.

for caring for patients with COVID-19 by a panel of Federal agencies and professional societies with the goal of reducing morbidity and mortality from COVID-19. The guidelines include antiviral therapy (e.g., remdesivir), immune-based therapy (e.g., monoclonal antibodies and dexamethasone), and adjunctive therapy (e.g., antithrombotic therapy).[14]

18. In sum, COVID-19 can result in a serious illness or even death, and may also carry longer term effects that are not yet fully understood. At this time, there is no vaccine or cure for COVID-19, and the most effective strategy to reduce COVID-19 infections, morbidity, and mortality is to avoid being exposed to the virus.

The Virus that Causes COVID-19 Is Easily Transmitted to Others

19. A person can become infected with the SARS-CoV-2 virus through contact transmission, droplet transmission, or airborne transmission.[15] Contact transmission is when someone is infected "through direct contact with an infectious person (e.g., touching during a handshake)…" Droplet transmission occurs "through exposure to virus-containing respiratory droplets . . . exhaled by an infectious person," often when someone is "close to the infectious person, generally within about 6 feet." Finally, airborne transmission occurs when someone is infected through exposure to "small droplets and particles that

[14] *Coronavirus Disease 2019 (COVID-19) Treatment Guidelines*, National Institutes of Health, available at https://www.covid19treatmentguidelines.nih.gov/whats-new/ (updated October 9, 2020).

[15] *Scientific Brief: SARC-CoV-2 and Potential Airborne Transmission*, U.S. Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/more/scientific-brief-sars-cov-2.html (updated Oct. 5, 2020).

can remain suspended in the air over long distances (usually greater than 6 feet) and time (typically hours)."[16]

20. Most SARS-CoV-2 infections are spread through droplet transmission, but airborne transmission can occur under special circumstances, some of which can be associated with travel, and with jail or prison facilities:

- "**Enclosed spaces** within which an infectious person either exposed susceptible people at the same time or to which susceptible people were exposed shortly after the infectious person had left the space.
- **Prolonged exposure to respiratory particles**, often generated with expiratory exertion (e.g., shouting, singing, exercising) that increased the concentration of suspended respiratory droplets in the air space.
- **Inadequate ventilation or air handling** that allowed a build-up of suspended small respiratory droplets and particles."[17]

21. Factors that increase community spread of SARS-CoV-2 and individual risk for becoming infected include crowded situations, close physical contact, enclosed spaces, and longer duration of exposure.[18] Thus, COVID-19 is particularly likely to spread in closed, congregate facilities like nursing homes, prisons and jails,[19] and during travel in

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[16] *Id*.

[17] *Id*.

[18] *COVID-19 Hospitalization and Death by Age*, U.S. Centers for Disease Control and Prevention (Aug. 18, 2020), available at https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-age.html.

[19] In view of these risks the CDC has issued guidance for managing COVID-19 risk for "administrators of correctional and detention facilities (including but not limited to federal and state prisons, local jails, and detention centers), law enforcement agencies that have custodial authority for detained populations (i.e., U.S. Immigration and Customs Enforcement and U.S. Marshals Service), and their respective health departments." *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, U.S. Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html (Oct. 21, 2020) (hereinafter referred to as *Guidance for Correctional and Detention Facilities*, U.S. Centers for Disease Control and Prevention).

confined, crowded vehicles or other spaces, where maintaining adequate physical distancing is difficult.[20] This is borne out by the high rates of COVID-19 cases and deaths that have been associated with nursing homes,[21] prisons and jails,[22] and cruise ships.[23]

22. For example, "The COVID-19 case rate for prisoners was 5.5 times higher than the US population case rate … [and] the adjusted death rate in the prison population was 3.0 times higher than would be expected if the age and sex distributions of the US and prison populations were equal."[24] "Because many individuals infected with SARS-CoV-2 do not display symptoms, the virus could be present in [correctional and detention] facilities before infections are identified."[25]

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[20] *Travel during the COVID-19 Pandemic*, U.S. Centers for Disease Control and Prevention, available at https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-during-covid19.html (Updated Oct. 6, 2020); *Public Health Guidance for Potential COVID-19 Exposure Associated with International or Domestic Travel*, U.S. Centers for Disease Control and Prevention, available at https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-during-covid19.html (Updated Sept. 14, 2020); *CDC's role in helping cruise ship travelers during the COVID-19 pandemic*, U.S. Centers for Disease Control and Prevention, available at https://www.cdc.gov/coronavirus/2019-ncov/travelers/cruise-ship/what-cdc-is-doing.html (Updated Sept. 30, 2020).

[21] *About 38% of U.S. Coronavirus Deaths Are Linked to Nursing Homes*. New York Times. Updated October 20, 2020, available at https://www.nytimes.com/interactive/2020/us/coronavirus-nursing-homes.html.

[22] Saloner B, Parish K, Ward JA, DiLaura G, Dolovich S. *COVID-19 Cases and Deaths in Federal and State Prisons*. JAMA. 2020;324(6):602–603. doi:10.1001/jama.2020.12528.

[23] *Public Health Responses to COVID-19 Outbreaks on Cruise Ships — Worldwide*, February–March 2020, MMWR / March 27, 2020 / 69(12);347-352. Available at https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e3.htm.

[24] Saloner B, Parish K, Ward JA, DiLaura G, Dolovich S. *COVID-19 Cases and Deaths in Federal and State Prisons*. JAMA. 2020;324(6):602–603. doi:10.1001/jama.2020.12528.

[25] *Guidance for Correctional and Detention Facilities*, U.S. Centers for Disease Control and Prevention), *supra* n. 19.

Increased Risks of Infection from Transfer between Closed Congregate Facilities

23. I have been informed that ICE has a practice of transferring people from Cumberland County Jail to one or more facilities in the southern United States. Such a practice presents a significantly heightened risk of infection with COVID-19, because of the combination of travel-associated risk, and risks associated with closed congregate facilities.

24. Given the risk of asymptomatic spread of COVID-19, every transfer of a new person into a closed congregate facility carries the risk that the person may be infected with COVID-19 and could infect others in the closed congregate facility; or that an infected person in the facility could infect a susceptible, uninfected transferee. This risk increases with each successive transfer to a new facility and the associated exposures to new settings and new people (whether staff or other detainees).

25. As the CDC explained earlier in the pandemic,

    - "There are many opportunities for COVID-19 to be introduced into a correctional or detention facility, including daily staff ingress and egress; transfer of incarcerated/detained persons between facilities and systems, to court appearances, and to outside medical visits; and visits from family, legal representatives, and other community members. Some settings, particularly jails and detention centers, have high turnover, admitting new entrants daily who may have been exposed to COVID-19 in the surrounding community or other regions.

- Persons incarcerated/detained in a particular facility often come from a variety of locations, increasing the potential to introduce COVID-19 from different geographic areas."[26]

26. Two high-profile examples illustrate the potential for deadly outbreaks of COVID-19 following transfers between closed congregate facilities:

a. The COVID-19 virus "arrived in San Quentin after busloads of prisoners were transferred from another facility where infections were rising," [27] leading to one of the largest COVID-19 clusters in the country. Before the transfer on May 30, 2020, "there were no inmates known to have had the virus at San Quentin," but within a matter of weeks, almost a third of prisoners in San Quentin were infected.[28] By mid-September, "26 inmates [had] died of the virus and more than 2,500 prisoners and staff members [had] been sickened[.]"[29]

b. A COVID-19 outbreak occurred at a facility in Farmville, Virginia, after ICE transferred in 74 people during June from other detention facilities.[30] By September, "more than 300 inmates" had been infected and one person had died.[31]

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[26] *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, U.S. Centers for Disease Control and Prevention, (updated May 7, 2020), available at http://web.archive.org/web/20200701081318/https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html.

[27] Timothy Williams and Rebecca Griesbach, *San Quentin Prison Was Free of the Virus. One Decision Fueled an Outbreak*, New York Times (June 30, 2020), available at https://www.nytimes.com/2020/06/30/us/san-quentin-prison-coronavirus.html.

[28] *Id*.

[29] Tim Arango and Nicholas Bogel-Burroughs, *For Prisoners in the West, the Virus and the Wildfires Are Colliding Threats*, New York Times (Sept. 14, 2020), available at https://www.nytimes.com/2020/09/14/us/prisons-fires-coronavirus.html.

[30] Antonio Olivo and Nick Miroff, *ICE flew detainees to Virginia so the planes could transport agents to D.C. protests. A huge coronavirus outbreak followed*, The Washington Post (Sept. 11, 2020), available at https://www.washingtonpost.com/coronavirus/ice-air-farmville-protests-covid/2020/09/11/f70ebe1e-e861-11ea-bc79-834454439a44_story.html.

[31] *Id.*

27. In recognition of these risks, the CDC instructs that correctional and detention facilities must generally "[l]imit transfers of incarcerated / detained persons to and from other jurisdictions and facilities" and "[m]ake every possible effort to modify staff assignments to minimize movement across housing units and other areas of the facility."[32]

28. CDC also recommends that facilities "consider testing all newly incarcerated/detained persons before they join the rest of the population in the correctional or detention facility … [and] quarantining all new intakes for 14 days before they enter the facility's general population (separately from other individuals who are quarantined due to contact with someone who has COVID-19)."[33]

29. In guidance last updated on September 4, 2020, ICE similarly instructs that "[w]here possible," ICE officials must "limit transfers of ICE detainees and non-ICE detained populations to and from other jurisdictions and facilities unless necessary for medical evaluation, medical isolation/quarantine, clinical care, extenuating security concerns, to facilitate release or removal, or to prevent overcrowding."[34]

Travel to Regions with Greater Prevalence of COVID-19 Presents an Even Greater Risk of Infection

30. Different regions in the country have different rates of COVID-19 in the community, and these differences influence the risk of infection in these locations.

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[32] *Guidance for Correctional and Detention Facilities*, U.S. Centers for Disease Control and Prevention), *supra* n. 19.

[33] *Id*.

[34] *COVID-19 Pandemic Response Requirements*, U.S. Immigration and Customs Enforcement, https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf.

31. For example, the rate of COVID-19 in Maine is one of the lowest in the country.[35] As of October 16, 2020, Maine had recorded only 199 cases during the past seven days, with Vermont being the only state with a lower seven-day count. During this same period, Maine's rate of new COVID-19 cases was 2.1 per 100,000 residents; the only state with a lower rate was Vermont, at 1.5 positive cases per 100,000 residents.[36] For this reason, people from many other states are restricted in traveling to Maine because people traveling from a region with higher COVID-19 rates could bring the infection to Maine.[37]

32. By contrast, several of the states to which ICE reportedly transfers detainees, including Louisiana, Alabama, and Texas, have significantly higher rates of COVID-19. As of October 16, 2020, Louisiana had 11.7 new cases per 100,000; Texas had 13.9 cases per 100,000; and Alabama had 21 cases per 100,000—all of which are several times greater than Maine's rate of 2.1.[38] As of October 16, 2020, Texas was the state with the highest total count of cases in the prior seven days, with 28,014 total cases.[39]

33. Forcing a person to travel from a region with lower rates of COVID-19 cases, to an area with higher rates of COVID-19 cases, introduces additional risks to that person. The risk may be even greater when forcing someone to travel to a closed congregate facility in a higher-risk region. The more people who are infected in the community, the more likely

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[35] *COVID Data Tracker*, U.S. Centers for Disease Control and Prevention, (Oct. 16, 2020), available at https://covid.cdc.gov/covid-data-tracker/#cases_casesinlast7days.

[36] *Id*.

[37] *See, e.g.*, An Order Regarding Travelers Into Maine, Executive Order 57 (June 9, 2020), available at https://www.maine.gov/governor/mills/sites/maine.gov.governor.mills/files/inline-files/EO-57.pdf.

[38] COVID Data Tracker, U.S. Centers for Disease Control and Prevention, (Oct. 16, 2020), available at https://covid.cdc.gov/covid-data-tracker/#cases_casesinlast7days.

[39] *Id*.

it is that a staff member or other person visiting the facility will introduce the virus to the facility. Once introduced, the difficulty of physical distancing can facilitate viral transmission and spread in any closed congregate facility.

34. For example, the jails and prisons in Maine made it through most of the summer with minimal positive COVID-19 tests.[40] Yet after an outbreak initiated by a wedding reception in Millinocket in early August, Maine saw a spike in positive COVID-19 cases.[41] A member of the York County Jail staff was infected during the wedding and introduced the virus to the facility after returning from the wedding to work at the jail. The subsequent COVID-19 outbreak at the jail was the largest in a Maine correctional facility.[42]

35. Consistent with these principles, the CDC recommends that "[v]isiting parts of the country where there are fewer cases of COVID-19 may be less risky than visiting parts of the country where there are more cases of COVID-19."[43] "The more cases at [the] destination, the more likely [the traveler] is to get infected during travel and spread the

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[40] This includes three positive tests in the Cumberland County Jail; Megan Gray, *All inmates at Cumberland County Jail now have tested negative, sheriff says*, Portland Press Herald (July 15, 2020), available at https://www.pressherald.com/2020/07/15/all-inmates-at-cumberland-county-jail-now-have-tested-negative-for-covid-19-sheriff-says/.

[41] *See Maine CDC Investigates COVID-19 Outbreak Associated with Wedding Reception in Millinocket*, Maine CDC Press Release (Aug. 17, 2020), available at https://www.maine.gov/dhhs/mecdc/press-release.shtml?id=3144586.

[42] Megan Gray, *At York County Jail, masks were not allowed ahead of outbreak*, Portland Press Herald (Oct. 4, 2020), https://www.pressherald.com/2020/10/04/at-york-county-jail-masks-were-not-allowed-ahead-of-outbreak/ ("A jail employee attended an Aug. 7 wedding in the Millinocket region that is now considered a superspreader event linked to more than 170 cases statewide. By the time the first person in the jail tested positive for the virus two weeks later, dozens of people were infected.").

[43] *Know Your Travel Risk*, U.S. Centers for Disease Control and Prevention, available at https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-risk.html (last updated Aug. 27, 2020).

virus to others when you return."[44] Thus, by transferring people from Maine to regions and facilities with greater prevalence of COVID-19, ICE exposes them to additional risk of infection.

The Method of Transfer and Characteristics of the Facilities Create Additional Risk

36. The risk of infection during transfer between different closed congregate facilities is even greater when the conditions during transport, or in the destination facility, are unhygienic, or do not meet basic CDC guidelines for physical distancing, masking, testing, sanitation, and other precautions for such settings.

37. I have reviewed materials that describe conditions during transfer of ICE detainees and conditions at facilities to which the detainees have been transferred.[45] Based on these descriptions, it appears that the conditions during transfer and the conditions of the facilities impose increased risk of COVID-19 infection.

38. For example, it appears that ICE does not make it possible for ICE detainees to adequately physically distance during transfer. Although detainees and staff are masked in some instances, there are also reported periods of time when people are not masked in a crowded setting, e.g., while eating a meal.[46] This could introduce additional risk

[44] *Travel During the COVID-19 Pandemic*, Coronavirus Disease 2019 (COVID-19), U.S. Centers for Disease Control and Prevention, available at https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-during-covid19.html (Updated Oct. 6, 2020).

[45] *See* Decl. of JC (filed concurrently with this declaration); Decl. of Ritch Cardy Dorce (Attached as Exhibit B); Decl. of R- (Attached as Exhibit C); Decl. of Jessica Meyers Vosburgh (Attached as Exhibit D).

[46] *See* Decl. of JC, ¶¶ 5, 10.

because a person with COVID-19 and not wearing a mask, even temporarily, could exhale infectious droplets that could infect others.[47]

39. According to multiple declarations, moreover, ICE detainees must use shared bathrooms that may be unsanitary.[48] Some bathrooms, e.g., on vans and planes, may not have a sink at which people can wash their hands. This could introduce additional risk of exposure to infectious material.

40. There are additional concerns that the planes and vans used for ICE transport may be inadequately ventilated, which could further increase the risk of exposure to infection.

41. Finally, some of the destination facilities are described as failing to provide masks, providing insufficient sanitation, placing detainees in crowded settings, and exposing detainees to the general population without any quarantine period. By failing to provide

[47] Notably, the CDC defines a close contact as "[s]omeone who was within 6 feet of an infected person for at least 15 minutes starting from 2 days before illness onset (or, for asymptomatic patients, 2 days prior to specimen collection) until the time the patient is isolated." *See Appendices, Coronavirus Disease 2019 (COVID-19)*, U.S. Centers for Disease Control and Prevention (updated May 29, 2020), https://www.cdc.gov/coronavirus/2019-ncov/php/contact-tracing/contact-tracing-plan/appendix.html#contact. According to the CDC, one factor in considering whether someone is a "close contact" is whether the patient or contact was "wearing an N95 respirator." However, "differential determination of close contact for those using fabric face coverings is not recommended." *Id.* A recent report from the CDC further advised that, in correctional settings, "public health officials should consider transmission-risk implications of cumulative exposure time within such settings." Pringle, et al., *COVID-19 in a Correctional Facility Employee Following Multiple Brief Exposures to Persons with COVID-19 — Vermont, July–August 2020*, CDC Morbidity and Mortality Weekly Report (Oct. 21, 2020), available at https://www.cdc.gov/mmwr/volumes/69/wr/mm6943e1.htm?s_cid=mm6943e1_x.

[48] *See* Decl. of JC ¶ 6 (describing a "single toilet on the flight," that "was dirty, covered with sprayed urine"); Decl. of R-, ¶ 4(e) (describing that "it was impossible to avoid coming into contact with other people's bodily fluids in the van's bathroom").

basic masking, sanitation, physical distancing, and other precautions,[49] these conditions could expose detainees to additional risk.

42. For these reasons, I believe that there is a significantly increased risk of exposure to COVID-19, by (a) transferring someone from Cumberland County Jail—a location with comparatively low COVID-19 prevalence—to a facility in another state with greater prevalence of COVID-19, (b) traveling between multiple different closed congregate facilities, (c) being transported in crowded, poorly ventilated, and unhygienic travel conditions, and (d) traveling to a facility that may be crowded and unhygienic.

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

Executed this 22nd day of October, 2020

R. Gibson Parrish, M.D.

[49] *See, e.g.*, *Guidance for Correctional and Detention Facilities*, U.S. Centers for Disease Control and Prevention), *supra* n. 19.