

CASE No. _____

IN THE SUPREME COURT OF THE UNITED STATES

CHRISTOPHER MARLOWE

Applicant,

v.

STATE OF LOUISIANA THROUGH THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS; JAMES W. LEBLANC, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE LOUISIANA DPSC; DR. RAMAN SINGH, IN HIS OFFICIAL CAPACITY AS THE FORMER MEDICAL AND MENTAL HEALTH DIRECTOR AT THE LOUISIANA DPSC; DR. PAM HEARD, IN HER OFFICIAL CAPACITY AS THE FORMER INTERIM MEDICAL AND MENTAL HEALTH DIRECTOR AT THE LOUISIANA DPSC; DR. JOHN MORRISON, IN HIS OFFICIAL CAPACITY AS THE MEDICAL AND MENTAL HEALTH DIRECTOR AT THE LOUISIANA DPSC; WARDEN TIMOTHY HOOPER, IN HIS OFFICIAL AND PERSONAL CAPACITIES AS THE WARDEN OF ELAYN HUNT CORRECTIONAL CENTER [EHCC], A FACILITY OWNED AND OPERATED BY DPSC; DEPUTY WARDEN STEPHANIE MICHEL, IN HER OFFICIAL AND PERSONAL CAPACITIES AS THE DEPUTY WARDEN OF MEDICAL CARE AT EHCC; ASSISTANT WARDEN MORGAN LEBLANC, IN HIS OFFICIAL AND PERSONAL CAPACITIES AS THE FORMER ASSISTANT WARDEN RESPONSIBLE FOR MENU DEVELOPMENT AND MEAL PLANNING AT EHCC; ASSISTANT WARDEN DARRYL CAMPBELL, IN HIS OFFICIAL AND PERSONAL CAPACITIES AS AN ASSISTANT WARDEN RESPONSIBLE FOR MENU DEVELOPMENT AND MEAL PLANNING AT EHCC; DR. PREETY SINGH, IN HER OFFICIAL AND PERSONAL CAPACITIES AS THE MEDICAL DIRECTOR AT EHCC; GAIL LEVY, IN HER INDIVIDUAL AND OFFICIAL CAPACITIES AS THE FOOD MANAGER AT EHCC; POLLY SMITH, IN HER INDIVIDUAL AND OFFICIAL CAPACITIES AS A FORMER NURSE PRACTITIONER AT EHCC; FALLON STEWART, IN HIS INDIVIDUAL AND OFFICIAL CAPACITIES AS A FORMER EMERGENCY MEDICAL TECHNICIAN AT EHCC; ELIZABETH GAUTHREAUX, IN HER INDIVIDUAL AND OFFICIAL CAPACITIES AS AN EMT AT EHCC; JONATHAN TRAVIS, IN HIS OFFICIAL AND PERSONAL CAPACITIES AS A PHARMACIST AT EHCC; MASTER SGT. ANGEL HORN, IN HER OFFICIAL AND PERSONAL CAPACITIES AS A CORRECTIONAL OFFICER WORKING AT THE PILL CALL WINDOW AT EHCC; MASTER SGT. ROLANDA PALMER, IN HER OFFICIAL AND PERSONAL CAPACITIES AS A CORRECTIONAL OFFICER WORKING AT THE PILL CALL WINDOW AT EHCC; AND SGT CHERMAINE BROWN, IN HER OFFICIAL AND PERSONAL CAPACITIES AS A CORRECTIONAL OFFICER WORKING AT THE PILL CALL WINDOW AT EHCC

Respondents.

**EMERGENCY APPLICATION TO JUSTICE ALITO TO VACATE STAY PENDING
APPEAL OF PRELIMINARY INJUNCTION ENTERED BY THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT**

APPENDIX

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United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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NEW ORLEANS, LA 70130

April 27, 2020

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 20-30276 Christopher Marlowe v. James LeBlanc,
Secretary, et al
USDC No. 3:18-CV-63

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Melissa V. Mattingly, Deputy Clerk
504-310-7719

Ms. Phyllis Esther Glazer
Mr. Michael L. McConnell
Ms. Suzanne Quinlan Mooney
Ms. Emily Henrion Posner

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 20-30276

CHRISTOPHER MARLOWE,

Plaintiff - Appellee

v.

JAMES M. LEBLANC, SECRETARY, DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS; RAMAN SINGH, Doctor; TIMOTHY HOOPER, Warden; STEPHANIE MICHEL, Deputy Warden; MORGAN LEBLANC, Assistant Warden; PREETY SINGH, Doctor; GAIL LEVY; POLLY SMITH; FALLON STEWART; ELIZABETH GAUTHREAUX; JONATHAN TRAVIS; STATE OF LOUISIANA THROUGH THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS; PAM HEARD, Doctor; DARRYL CAMPBELL, Assistant Warden; JOHN MORRISON; ANGEL HORN, Master Sergeant; ROLANDA PALMER, Master Sergeant; CHERMAINE BROWN, Sergeant,

Defendants - Appellants

Appeal from the United States District Court
for the Middle District of Louisiana

Before JONES, HIGGINSON, and OLDHAM, Circuit Judges.

PER CURIAM:

This appeal concerns the efforts of Louisiana’s Department of Public Safety and Corrections (“DPSC”) to respond to the rapidly evolving COVID-19 pandemic on behalf of one prisoner in one unit. On April 23, 2020, the United States District Court for the Middle District of Louisiana issued an injunction requiring Defendants to comply with their own internal policies and submit a

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plan to ensure proper social distancing and hygiene practices. Dist. Ct. Order at 13–14. This order came just one day after this court stayed a similar injunction against the Texas Department of Criminal Justice. *Valentine v. Collier*, No. 20-20207, 2020 WL 1934431 (5th Cir. Apr. 22, 2020). We conclude that *Valentine*'s reasoning controls here and accordingly stay the district court's injunction pending appeal.

BACKGROUND

Plaintiff, a prisoner currently detained at the Rayburn Correctional Center (“RCC”), originally filed suit against Defendants in 2018, alleging they exhibited deliberate indifference toward his medical needs by providing a constitutionally deficient meal service that resulted in his developing diabetes and then failing to adequately treat his illness. On April 1, 2020, Plaintiff filed a motion tangential to the ongoing dispute, requesting a temporary restraining order authorizing his supervised release until spread of the COVID-19 virus is no longer a threat within the Department of Corrections. Defendants opposed the motion on the basis of jurisdictional obstacles, Plaintiff's failure to exhaust administrative remedies, and the deficiency of Plaintiff's constitutional claim on its merits.

The district court conducted a telephonic evidentiary hearing on April 7. Following the evidentiary hearing, Defendants submitted a memorandum updating the district court on the numerous procedures taken at RCC to contain the spread of COVID-19. Plaintiff responded that these procedures were “woefully inadequate” and “deliberately indifferent” to his medical needs. He also suggested, for the first time, that, in lieu of temporary release, the court could order that RCC create conditions that allow for proper social distancing to protect him. The district court latched on to this eleventh-hour request. After determining that Plaintiff was likely to prevail on the merits of

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his deliberate indifference claim, it ordered Defendants to “comply with the Governor’s recommendations and their own internal policies concerning disinfection of common areas and the wearing of masks by staff and certain categories of offenders.” Dist. Ct. Order at 13. It further ordered Defendants to “submit to the [c]ourt a [p]lan to ensure the implementation of proper hygiene practices in the dormitory in which Plaintiff is assigned, and to implement social distancing practices to limit the spread of COVID-19.” *Id.* at 14. The Defendants were ordered to submit said plan within five days, i.e. by Tuesday, April 28. *Id.*

Defendants, relying heavily on this court’s just-issued *Valentine* decision, requested that the district court stay enforcement of the injunction. The district court has yet to rule on that motion. Defendants then appealed to this court, requesting a stay pending appeal.

ANALYSIS¹

Four well established factors govern the propriety of a stay pending appeal: “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” *Nken v. Holder*, 556 U.S. 418, 426, 129 S. Ct. 1749, 1761 (2009) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776, 107 S. Ct. 2113, 2119 (1987)). “The first two factors . . . are the most critical.” *Id.* at 434.

¹ Plaintiff contends that the district court’s order is a TRO, governed by Fed. R. Civ. P. 65(b) and normally unappealable. See *Faulder v. Johnson*, 178 F.3d 741, 742 (5th Cir. 1999). However, precedent makes clear that when a court holds a hearing on a preliminary motion and the motion is strongly contested, its resulting order constitutes an injunction appealable under 28 U.S.C. § 1291(a)(1). See *Sampson v. Murray*, 415 U.S. 61, 87, 94 S. Ct. 937, 951 (1974) (“[W]here an adversary hearing has been held, and the court’s basis for issuing the order strongly challenged, classification of [a] potentially unlimited order as a temporary restraining order seems particularly unjustified.”).

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We begin by considering Defendants' likelihood of success on appeal. In making this assessment, we are bound by a decision in which this court recently resolved a motion for stay raising nearly identical issues. See *Valentine v. Collier*, No. 20-20207, 2020 WL 1934431 (5th Cir. Apr. 22, 2020). Although *Valentine's* facts are slightly different from the facts of this case, we might have expected the district court to at least mention *Valentine*. Perhaps Defendants did not apprise the district court of our decision before the issuance of its injunction. *Valentine* was decided just one day earlier. But Defendants repeatedly cite *Valentine* in their motion to stay enforcement of the injunction pending appeal. And yet, for whatever reason, the district court has not ruled on that motion. Regardless of the basis for the district court's decision, we must consider Defendants' arguments in light of *Valentine*, and, for three independent reasons, conclude that Defendants are likely to succeed on appeal.

First, *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89, 104 S. Ct. 900 (1984), prohibits the injunction imposed by the district court. As this court explained in *Valentine*, a district court cannot enjoin a state facility to follow state law. *Valentine*, 2020 WL 1934431, at *4. Yet that is exactly what the district court did here. It concluded that "Defendants do not appear to be following" their own policy statements. Dist. Ct. Order at 10. For instance, "despite taking some steps to deter the spread of the virus, [RCC] has not effectively implemented the [Department of Correction] policies that require staff members and orderlies to wear masks and other [personal protective equipment] to protect the prison population, including the Plaintiff." *Id.* at 11. The court further determined that RCC "failed to meaningfully implement social-distancing procedures and other measures aimed at thwarting the spread of the coronavirus." *Id.* The court therefore ordered Defendants to comply with "their own internal policies" and "implement social

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distancing practices to limit the spread of COVID-19.” *Id.* at 13–14. *Pennhurst* forbids this.

Plaintiff contends the court’s injunction does not run afoul of *Pennhurst* because it is intended to correct constitutionally deficient medical care. The court did not so express itself, and in any event, the essence of *Pennhurst* is that a federal court lacks jurisdiction to sit as a super-state executive by ordering a state entity to comply with its own law.

Second, the district court’s analysis falls woefully short of satisfying either the objective or subjective requirements of *Farmer v. Brennan*, 511 U.S. 825, 114 S. Ct. 1970 (1994). We do not question that COVID-19 presents a risk of serious harm to those confined in prisons, nor that Plaintiff, as a diabetic, is particularly vulnerable to the virus’s effects. But, for purposes of resolving Plaintiff’s Eighth Amendment claim, we are not tasked with resolving whether, absent RCC’s precautionary measures, the COVID-19 pandemic presents a substantial risk of serious harm to prisoners like Plaintiff. Rather, the question here is whether the Eighth Amendment requires RCC to do more than it has already done to mitigate the risk of harm. The district court’s laconic analysis provides little basis for concluding that RCC’s mitigation efforts are insufficient. Indeed, because the district court made few (if any) factual findings, it left no reviewable basis to conclude that the measures implemented by Defendants are constitutionally deficient.² Plaintiff cites no precedent supporting a contrary conclusion, and we are aware of none.

Even assuming that Plaintiff’s testimony somehow satisfies *Farmer*’s objective requirement, the district court cited no evidence establishing that

² Warden Robert Tanner, the Warden of RCC, offered a declaration that blunts many (if not all) of Plaintiff’s concerns, giving us further cause to doubt that Plaintiff has come close to satisfying the “extremely high standard” of deliberate indifference. *Cadena v. El Paso Cty.*, 946 F.3d 717, 728 (5th Cir. 2020).

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Defendants subjectively believed that the measures they were (and continue) taking were inadequate. If anything, the record proves just the opposite. Defendants point to a plethora of measures they are taking to abate the risks posed by COVID-19, from providing prisoners with disinfectant spray and two cloth masks to limiting the number of prisoners in the infirmary lobby and painting markers on walkways to promote social distancing. Plaintiff's own counsel conceded at the April 7 evidentiary hearing that "everyone here is trying their very, very best to make sure that nobody gets sick at [RCC]." The district court's analysis resembles the analysis we condemned in *Valentine*, where the district court had treated inadequate measures as dispositive of the defendants' mental state. "Such an approach," we explained, "resembles the standard for civil negligence, which *Farmer* explicitly rejected." *Valentine*, 2020 WL 1934431, at *4.

In opposing this stay, Plaintiff now asserts, contrary to the above-quoted statement, that RCC's measures in fact demonstrate deliberate indifference. Plaintiff's evidence is no different, however, and indeed, Defendants have been heightening their efforts to contain the virus. Although the virus has spread within RCC, given the many prevention measures RCC has taken, an increase in infection rate alone is insufficient to prove deliberate indifference.

Third, the district court's exhaustion analysis under the Prison Litigation Reform Act runs counter to Supreme Court precedent. The district court acknowledged that Plaintiff failed to exhaust administrative remedies. It nonetheless excused Plaintiff, reasoning that "the interests of justice" compelled it to act on an emergency basis. *See Johnson v. Ford*, 261 F. App'x 752, 755 (5th Cir. 2008). As this court explained in *Valentine*, such an approach is out-of-step with Supreme Court precedent, *see Valentine*, 2020 WL 1934431, at *6–7, and this court has disavowed the "interests of justice"

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exception embraced in *Johnson*, see *Gonzalez v. Seal*, 702 F.3d 785, 788 (5th Cir. 2012) (holding that *Underwood v. Wilson*, 151 F.3d 292 (5th Cir. 1998), which *Johnson* relied on, was “tacitly overruled and is no longer good law to the extent it permits prisoner lawsuits challenging prison conditions to proceed in the absence of pre-filing administrative exhaustion”). It must be acknowledged that Superintendent LeBlanc issued an order on March 23 temporarily suspending the administrative deadlines for replying to grievances, and such order may have affected the “availability” of exhaustion. But Plaintiff makes no effort to explain the impact of that order on his refusing to file a grievance or on the way in which it would have been processed. The record, moreover, indicates that grievances are currently being processed within 48 hours. Dist. Ct. Order at 6 n.3.

For at least these three, independent reasons,³ we conclude that Defendants have demonstrated a substantial likelihood of success on the merits.

Turning to the second stay factor, Defendants have shown that they will be irreparably injured absent a stay. “When the State is seeking to stay a preliminary injunction, it’s generally enough to say ‘[a]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.’” *Valentine*, 2020 WL 1934431, at *4 (quoting *Maryland v. King*, 567 U.S. 1301, 133 S. Ct. 1, 3 (2012)). The Louisiana Legislature assigned the prerogatives of prison policy to DPSC. See LA. STAT. § 36:401. “The district court’s injunction prevents the State from

³ Defendants also argue that they are likely to succeed on appeal “because the claims upon which the injunctive relief were granted are not pleaded in this lawsuit.” We offer no opinion on this argument at this stage of the appeal.

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effectuating the Legislature’s choice and hence imposes irreparable injury.” *Valentine*, 2020 WL 1934431, at *4.⁴

As if that weren’t enough, the Supreme Court has repeatedly warned that “it is ‘difficult to imagine an activity in which a State has a stronger interest, or one that is more intricately bound up with state laws, regulations, and procedures, than the administration of its prisons.’” *Woodford v. Ngo*, 548 U.S. 81, 94, 126 S. Ct. 2378, 2388 (2006) (quoting *Preiser v. Rodriguez*, 411 U.S. 475, 491–92, 93 S. Ct. 1827, 1837 (1973)). Here, the district court invaded Louisiana’s interests by requiring Defendants to create a plan within five days “to ensure the implementation of proper hygiene practices in the dormitory in which Plaintiff is assigned,” “to implement social distancing practices to limit the spread of COVID-19,” and “to minimize Plaintiff’s exposure to possible infected persons while visiting infirmary and cafeteria areas of the prison.” Dist. Ct. Order at 14. The harm to Louisiana’s interests is “particularly acute because the district court’s order interferes with the rapidly changing . . . approach that [DPSC] has used to respond to the pandemic so far.” *Valentine*, 2020 WL 1934431, at *5. In light of these concerns, the second factor weighs in Defendants’ favor.

The remaining two factors—balance of the harms and the public interest—likewise weigh in favor of staying the district court’s injunction. COVID-19 unquestionably poses risks of harm to all Americans—particularly those like Plaintiff who have underlying health conditions. “But the question

⁴ See also *In re Abbott*, 954 F.3d 772, 792 (5th Cir. 2020) (“As *Jacobson* repeatedly instructs, . . . if the choice is between two reasonable responses to a public crisis, the judgment must be left to the governing state authorities. ‘It is no part of the function of a court or a jury to determine which one of two modes [i]s likely to be the most effective for the protection of the public against disease.’ . . . Such authority properly belongs to the legislative and executive branches of the governing authority.” (second alteration in original) (quoting *Jacobson v. Commonwealth of Massachusetts*, 197 U.S. 11, 30, 25 S. Ct. 358, 363 (1905))).

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is whether Plaintiff[] has shown that [he] will suffer irreparable injuries *even after* accounting for the [DPSC’s] protective measures Neither the Plaintiff[] nor the district court suggest the evidence satisfies that standard. And “[b]ecause the State is the appealing party, its interest and harm merge with that of the public.” *Id.* (emphasis in original) (quoting *Veasey v. Abbott*, 870 F.3d 387, 391 (5th Cir. 2017)).

Because Defendants have satisfied all four stay factors, their motion to stay the preliminary injunction pending appeal is **GRANTED**.

STEPHEN A. HIGGINSON, Circuit Judge, concurring in the judgment:

I concur in the court’s stay order because I agree that the Appellants have demonstrated a substantial likelihood of success on their claim that Marlowe failed to exhaust his administrative remedies. It is undisputed that Marlowe did not file a grievance with the prison until several days *after* he filed his motion with the district court. *See Valentine v. Collier*, -- F.3d --, No. 20-20207, 2020 WL 1934431, at *7 (5th Cir. Apr. 22, 2020) (Higginson, J., concurring in judgment). Though Marlowe now argues that Appellants’ suspension of the grievance deadline process renders the prison’s administrative remedies “unavailable,” the district court was apparently presented with this evidence and still came to the conclusion that the prison is required to adjudicate Marlowe’s grievance by May 7, 2020. In their request for a stay, the Appellants do not dispute that May 7, 2020 is the deadline for their response. Should the prison fail to adjudicate Marlowe’s grievance by May 7, 2020, there may well be an argument that the administrative grievance process is “unavailable.” *See Ross v. Blake*, 136 S. Ct. 1850, 1859 (2016).

Finally, this order does not foreclose Marlowe, a diabetic, from continuing to seek relief through other appropriate channels, such as the state parole process. Marlowe’s September 2019 application for commutation, which

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appears to be pending, includes over 100 pages of exhibits and letters that purport to show that he has been a model prisoner while in the custody of the Louisiana Department of Corrections.⁵

⁵ Although we respect that it is the exclusive prerogative of the Louisiana Pardon and Parole Board to conclude if this evidence demonstrates that he is entitled to relief, all judges on this panel concur that the clemency petition appears well-supported.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CHRISTOPHER MARLOWE

CIVIL ACTION

VERSUS

JAMES LEBLANC, ET AL.

NO.: 18-63-BAJ-EWD

RULING AND ORDER

Before the Court is Plaintiff's **Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Release (Doc. 93)**. Plaintiff has filed an Amended Memorandum in Support (Doc. 100), a Response (Doc. 102), and a Post-Hearing Reply (Doc. 110). Defendants filed an Opposition (Doc. 101) and Sur-Reply Memorandum in Opposition (Doc. 108). For the reasons stated herein, Plaintiff's **Motion (Doc. 93)** is **GRANTED IN PART** and **DENIED IN PART**.

I. FACTS

Plaintiff seeks emergency relief authorizing his temporary supervised release, or other appropriate but unspecified forms of relief, while the spread of the COVID-19 virus remains a threat within the Louisiana Department of Corrections system. (Doc. 100 at p. 1). The Court notes that both the President of the United States and the Governor of Louisiana have declared a state of emergency in response to this pandemic¹. As a diabetic, Plaintiff alleges that he is especially vulnerable to

¹ See, *Proclamation Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak* issued March 13, 2020 by President Donald J. Trump. See also, *Declaration of*

experiencing complications associated with the virus, which is actively circulating at the Rayburn Correctional Center (“Rayburn”), where he is assigned. (*Id.* at 1). According to the evidence presented at the hearing on the Motion, at least 25 people within the facility, including 23 inmates, have tested positive for COVID-19. (Doc. 110, at p. 1).

Plaintiff originally filed this action in 2018, alleging that Defendants, staff at the Elayn Hunt Correctional Center, exhibited deliberate indifference towards his medical needs and provided constitutionally deficient meal service that resulted in Plaintiff developing diabetes and that the failure to adequately treat his illness later exacerbated the symptoms. (Doc. 1, at ¶4). Plaintiff filed Amended Complaints, which Defendants have moved to dismiss. *See* (Doc. 84). While this case was pending, Plaintiff was transferred to the Rayburn. He now brings the instant Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Release (Doc. 93).

The Court held a status conference on April 3, 2020 (Doc. 95) and an evidentiary hearing on April 7, 2020 (Doc. 109). Additionally, both parties have filed numerous memoranda to keep the Court apprised of evolving conditions at the facility.

In his Amended Memorandum in Support (Doc. 100), Plaintiff alleges that his medical condition places him “at extreme risk to develop life-threatening complications should he contract COVID-19.” (Doc. 100 at p. 2). He argues that the

Public Health Emergency in Response to COVID-19 issued March 11, 2020 by Governor John Bel Edwards.

primary steps recommended by the Governor to limit the spread of COVID-19 have not been and cannot be meaningfully implemented within the Department of Corrections because prisoners are housed in compact and confined spaces. *Id.* In his memorandum, Plaintiff alleges that he shares a dormitory with approximately 78 other inmates who sleep in bunk rows and share five toilets. (Doc. 110–1 at p. 56). During the evidentiary hearing, Plaintiff provided testimony about numerous common areas used by the prisoners, including a common water fountain, microwave ovens, telephones, and a common cafeteria. *Id.* at 56-61. He also testified that many prisoners do not take social-distancing measures seriously, that the Warden arranged for social distance markers to be removed from the floors, and that he had received no official guidance concerning social-distancing measures from prison officials. *Id.* at 64. As noted, at least 23 offenders at Rayburn have tested positive for COVID-19. (Doc. 110, at p. 1).

In opposition, Defendants allege that they are protected by Eleventh Amendment immunity and that the Plaintiff fails to sufficiently plead a claim of unconstitutional conditions. (Doc. 108, at p. 2). Defendants additionally argue that the Federal Rules of Civil Procedure do not allow a Plaintiff to request new relief or a new cause of action by way of the filing of a TRO, that Plaintiff lacks standing, and that Plaintiff failed to fully exhaust administrative remedies, which is typically a prerequisite to bringing a prisoner claim in federal court. *See* (Doc. 101).

II. LEGAL STANDARD

To obtain injunctive relief by way of a Temporary Restraining Order, Plaintiff must establish: (1) a substantial likelihood of prevailing on the merits; (2) a substantial threat of irreparable injury if the injunction is not granted; (3) that the threatened injury outweighs any harm that will result to the non-movant if the injunction is granted; and (4) that the injunction will not disserve the public interest. *See Ridgely v. Fed. Emergency Mgmt. Agency*, 512 F.3d 727, 734 (5th Cir. 2008).

III. DISCUSSION

A. Jurisdiction

As an initial matter, the Court reviews its jurisdiction to consider the Motion. Defendants allege that it is improper for Plaintiff to allege new claims, not included in the initial complaint, through the filing of this TRO. While Defendants are correct that Plaintiff's Second Amended Complaint (Doc. 64) does not specifically address the outbreak of the novel coronavirus, it is fully premised upon Plaintiff's diabetes diagnosis and the prison facility's alleged inability to effectively provide medical care related to it.² Plaintiff has been moved to another facility, but remains within the custody of the Louisiana Department of Corrections, a named Defendant. An enhanced risk of contracting COVID-19 due to his condition, while not foreseeable at the time Plaintiff originally filed this lawsuit, stems from the same factual nexus as the original and amended Complaints.

² The underlying Complaint is premised upon allegations against personnel at the Elayn Hunt Correctional Center who allegedly contributed to Plaintiff's diagnosis of diabetes.

In addition to the factual similarities, the Court finds that it serves the interests of judicial economy to adjudicate the instant Motion within this ongoing case. The Court is sufficiently familiar with the claims and defenses asserted by the Parties and finds that an efficient resolution is warranted by the adjudication of the Motion by this Court, given the unique circumstances.

Next, the Court shall consider Plaintiff's standing to bring this claim. Defendants argue that Plaintiff has failed to allege an injury in fact because the potential harms complained of (contracting coronavirus and experiencing complications associated with it) are not sufficiently likely due to the procedures implemented at Rayburn to prevent the spread of COVID-19. (Doc. 101 at p. 5–6). However, the Court notes that when this Motion was filed, only two inmates had tested positive for COVID-19. As of April 13, 2020, less than two weeks later, that number had escalated to 25 infections among inmates and staff. (Doc. 110, at p. 1).

As noted, the exponential growth of the novel coronavirus has resulted in emergency declarations by the President and the Governor, as well as governors of numerous other states. Due to the nature of this virus, the Court finds that the risk of contracting the virus in a prison environment, where at least 23 inmates have already tested positive, poses a sufficiently high risk, rendering this matter ripe for adjudication even though Plaintiff has not contracted the virus. The United States Supreme Court has held that the risk of contracting a serious disease may indeed constitute an unsafe, life-threatening condition that violates the Eighth Amendment. *Helling v. McKinney*, 509 U.S. 25, 33, 113 S. Ct. 2475, 2481, 125 L. Ed. 2d 22 (1993).

Further, the Supreme Court held that it would “be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening condition in their prison on the ground that nothing yet had happened to them.” *Id.* With the clear danger posed by COVID-19 in the Rayburn facility, Plaintiff has adequately demonstrated standing.

Regarding Defendants’ assertion that Plaintiff failed to exhaust the administrative remedies available to him, Plaintiff admits that he did not exhaust administrative remedies and did not file a request to initiate the Administrative Remedy Procedure (ARP) related to this claim until April 7, 2020, after filing the instant Motion. (Doc. 102–2, at p. 2). Plaintiff initially contended that he could not file a claim because he lacked access to a computer and the ARP process had been closed because it was “non-essential.”³ (Doc. 102 at 5).

Generally, under the Prison Labor Reform Act (“PRLA”), pre-litigation exhaustion of available administrative remedies is mandatory for any suits brought under § 1983 by prisoners. *Porter v. Nussle*, 534 U.S. 516, 524, 122 S. Ct. 983, 988, 152 L. Ed. 2d 12 (2002); *see also* 42 U.S.C. § 1997e(a). Despite the strict approach required within this Circuit concerning PLRA exhaustion requirements, the United States Court of Appeals for the Fifth Circuit has recognized that a district court must afford a prisoner an opportunity to show that he has either exhausted the available administrative remedies or that he should be excused from complying with them.

³ Warden Robert Tanner testified at the hearing that this was not the case, and that ARP requests would be processed within 48 hours.

Johnson v. Ford, 261 F. App'x 752, 755 (5th Cir. 2008) (holding that, while the facts presented in that case did not justify excusal, PLRA exhaustion requirements may be excused where dismissal would be “inefficient and would not further the interests of justice or the purposes of the exhaustion requirement”).

Here, the statutory 30-day period to adjudicate Plaintiff's administrative claim will not expire until May 7, at which point Defendants contend the Court may then properly hear this matter if it is not satisfactorily resolved through administrative proceedings sooner. Because of the nature of COVID-19, especially considering its ability to spread with great rapidity among densely populated communities, like prisons, the Court must reject Defendants plea and find that the interests of justice demand action by the Court on an emergency basis.⁴ Further, the Court is vested with a traditional equitable power to issue injunctions to prevent irreparable injury, pending such exhaustion of administrative remedies. *Johnson v. Ford*, 261 F. App'x 752, 755 (5th Cir. 2008); *Jackson v. D.C.*, 254 F.3d 262, 268 (D.C. Cir. 2001). Due to the important implications of this case to the Plaintiff, the Court shall exercise its authority while the administrative proceedings brought by Plaintiff are still under review by prison authorities.

⁴ The Centers for Disease Control and Prevention (CDC) issued specific guidelines pertaining to the spread of COVID-19 within correctional and detention facilities. The CDC explained that it was issuing guidance because detention facilities have a heightened risk for the spread of COVID-19 due to offenders living within congregate environments, the inability to leave, staff ingress and egress, transfers between facilities, and more. See CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (Mar. 23, 2020), at <https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidancecorrectional-detention.pdf>.

Lastly, sovereign immunity does not apply to Defendants with respect to the relief requested in the instant Motion. It is axiomatic that state officials acting in their official capacity can nonetheless be sued for prospective injunctive relief to correct ongoing violations of federal law. *Saahir v. Estelle*, 47 F.3d 758, 761 (5th Cir. 1995), citing *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 105, 104 S. Ct. 900, 910, 79 L. Ed. 2d 67 (1984). Here, Plaintiff seeks relief based on alleged ongoing violations of the Eighth Amendment of the United States Constitution. Thus, this Court is appropriately vested with jurisdiction to consider the claim.

B. Request for Relief

Plaintiff's claim arises under the Eight Amendment, which, as he notes, may hold an official liable for "deliberate indifference." (Doc. 110, at p. 2). The Court has held conferences, conducted an evidentiary hearing and reviewed several filings in this case that all demonstrate the officials at Rayburn have taken numerous steps to implement policies to contain the spread of COVID-19 during these challenging times. While the number of infected inmates has grown, so too have the protective measures implemented at Rayburn by the DOC in response. Indeed, the demands made upon corrections officials in their effort to contain the spread of this pandemic within their facilities is unprecedented.

Robert Tanner, the warden at Rayburn, testified that meetings are held at least three times weekly to assess the facility's response to the coronavirus, often resulting in daily changes. (Doc. 110–1, at p. 26). He further testified that quarantined offenders receive masks, as do staff members and offenders assigned to

the kitchen, laundry, the infirmary, and anyone the medical director deems should wear a mask. (Doc. 110–1, at p. 33). Masks are also provided when “medically necessary.”⁵ Warden Tanner admitted that all offenders in the institution could be provided with a mask, if necessary. *Id.* at 33–34. Additionally, the guidelines provided by the DOC list numerous precautions being taken to handle the COVID-19 outbreak within the prison system. Such guidelines are applicable at Rayburn. Inmates who are asymptomatic, but have been in close contact with an inmate or employee confirmed or suspected to have COVID-19, are required to be quarantined for a minimum of 14 days. (Doc. 108–1, at p. 9). Defendants assert that these measures are adequate to protect Plaintiff from contracting the disease.

However, Plaintiff’s credible testimony paints a very different picture. For example, Plaintiff testified that the common water fountain in his dormitory is not wiped clean after each use by the inmates. He also testified that telephones in the dormitory are spaced a mere 12 inches apart and that no prisoner separation procedures have been implemented in the area of the telephones. The microwave ovens made available to the offenders are not regularly cleaned and disinfected. Also, no procedures have been implemented to avoid chokepoints in the walkways in the dormitory. According to the Plaintiff, foot traffic often results in offenders and staff “almost touching” each other. During mealtimes, inmates allegedly stand in line in the cafeteria in a heel-to-toe fashion to receive meals. After receiving their meals, inmates sit directly next to one another at tables in the cafeteria. More troubling is

⁵ This term was not defined by the Defendants.

the Plaintiff's testimony that the inmates who serve the food only occasionally wear face masks in a proper manner while serving food. And the computers used by the inmates to communicate with family members and attorneys are not cleaned or sanitized after each use.

Plaintiff contends that Rayburn has struggled to sufficiently execute its own policies. Plaintiff's uncontroverted testimony has adequately demonstrated that, under the circumstances, his Eighth Amendment claim will likely prevail on the merits. Deliberate indifference is "a stringent standard of fault, requiring proof that a municipal actor disregarded a known or obvious consequence of his action." *Board of County Com'rs of Bryan Cnty., Okl. v. Brown*, 520 U.S. 397, 410 (1997).

Of particular concern to the Court is the fact that there remain several instances in which Plaintiff is seemingly unable to properly protect himself from infection, despite efforts currently being taken by the facility. For example, Plaintiff testified that while in his bunk, he is capable of touching his bunk neighbor if he reaches to his left. (Doc. 110-1, at p. 55). Also, as a diabetic, he must frequently visit the infirmary for testing and treatment. He alleges that he is required to wait in line at the infirmary in a "shoulder-to-shoulder" manner, thereby increasing the risk of contracting COVID-19. *Id.*, at 69.

The most recent policy statements provided by the Defendants, which include the DOC Medical Division's COVID-19 Guidance (the Policy) issued April 6, 2020, lists several requirements that Defendants do not appear to be following, thereby exposing Plaintiff to an unreasonable risk of serious harm. For example, the Policy

requires routine and frequent cleaning of high-touch surfaces and shared resident equipment. Such cleaning must be conducted using EPA-registered hospital-grade disinfectants. (Doc. 108–1 at p. 2). On April 13, Plaintiff reported that he had received a spray-bottle to clean high-touch surfaces as contemplated. *See* (Doc. 112). However, a few days later, Plaintiff notified the Court that the bottle was often empty. (Doc. 113, at p. 3). He also informed the Court of several other shortcomings. For example, he alleges that two medical orderlies who work in the infirmary that he regularly visits have not worn the proper personal protective equipment recommended for protection of themselves or others who utilize the services of the infirmary. *Id.* Plaintiff has also allegedly witnessed officers and cafeteria workers wearing PPE incorrectly with their noses exposed from the masks. *Id.*

It would appear, therefore, that despite taking some steps to deter the spread of the virus, Rayburn has not effectively implemented the DOC policies that require staff members and orderlies to wear masks and other PPE to protect the prison population, including the Plaintiff. (Doc. 108–1 at p. 12–14). The prison has also failed to meaningfully implement social-distancing procedures and other measures aimed at thwarting the spread of the coronavirus. Although the DOC policy defines “social distancing,” it does not require that it be implemented at Rayburn or any other DOC facilities. *Id.* at 5. The Court finds it troubling that DOC officials, at least at Rayburn, have apparently disregarded the importance of social distancing in preventing the spread of this unique disease, when numerous public health officials, and the Governor of Louisiana, have consistently urged the residents of the state to observe

such measures to slow the spread of the illness.⁶ Defendants' failure to implement their own internal protective policies may itself entitle Plaintiff to relief from the Court. See *Johnson v. Epps*, 479 F. App'x 583, 590 (5th Cir. 2012) (holding that an inmate sufficiently stated a claim for deliberate indifference where prison officials adopted a policy mandating more sanitary procedures, but failed to enforce the policy).

Accordingly, the Court finds that Plaintiff has shown a substantial likelihood of prevailing on the merits of this Motion. He has also demonstrated a sufficiently substantial threat of irreparable injury if relief is not immediately ordered. The threatened injury that he has proven outweighs any harm that may result to the State if the injunction is not granted, and the injunction contemplated herein will not disserve the public. Accordingly, the Court finds that the Plaintiff has met the requirements for injunctive relief. See, *Ridgely* at 734.

C. Remedies

The Court will deny Plaintiff's request to modify his sentence, to include temporary release with monitoring conditions. Plaintiff's sentence was imposed by a state court, and this Court cannot now conclude that the conditions of confinement, despite the lack of sufficient precautionary measures, entitles him to immediate

⁶ The Governor has credited social distancing practices with helping to slow the rate of new COVID-19 infections within Louisiana. See Gov. Edwards: Social Distancing Working in Coronavirus Fight (April 10, 2020), available at <https://www.kalb.com/content/news/Gov-Edwards-provides-updates-on-COVID-19-on-Good-Friday-569540141.html>. Also, the CDC has observed that the best way to prevent contracting COVID-19 is to practice social distancing, as well as other preventative measures such as frequent hand-washing, disinfecting surfaces, and covering one's mouth and nose. See CDC: How to Protect Yourself and Others (April 13, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>.

release. Therefore, the Court will not disturb the judgment of the sentencing court. Counsel for the Plaintiff have acknowledged that although officials have implemented several measures aimed at addressing the prevention of the coronavirus at Rayburn, more must be done, and some remedy other than Plaintiff's immediate release may be appropriate.

Based on the evidence presented and the policies provided by Defendants, the Court finds that Defendants are capable of providing Plaintiff with the care necessary to protect him from COVID-19 without requiring relief in the form of temporary compassionate release during the duration of the COVID-19 crisis. Plaintiff's request to modify his sentence is therefore **DENIED**.

IV. CONCLUSION

Defendants must comply with the Governor's recommendations and their own internal policies concerning disinfection of common areas and the wearing of masks by staff and certain categories of offenders, particularly those who work in the infirmary and cafeteria where the Plaintiff is assigned. Officials must also implement reasonable social-distancing measures to limit the spread of COVID-19 to the Plaintiff.

Accordingly,

IT IS ORDERED that Plaintiff's **Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Release (Doc. 93)** is **GRANTED IN PART** and **DENIED IN PART**.

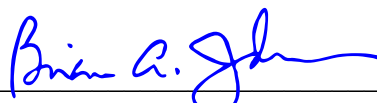
IT IS FURTHER ORDERED that Defendants shall submit to the Court a Plan to ensure the implementation of proper hygiene practices in the dormitory in which Plaintiff is assigned, and to implement social distancing practices to limit the spread of COVID-19, as recommended by the Center For Disease Control and other public health authorities, in Plaintiff's immediate living area, for the protection of the Plaintiff. Defendants shall also submit a Plan to minimize Plaintiff's exposure to possible infected persons while visiting the infirmary and cafeteria areas of the prison.

IT IS FURTHER ORDERED that Defendants shall submit the Plan herein ordered within 5 days of the date of this Order.

IT IS FURTHER ORDERED that Plaintiff's request for an Order authorizing his immediate supervised released is **DENIED**.

The Parties are advised that the Court may impose additional substantive precautionary measures following its review and evaluation of the Plan.

Baton Rouge, Louisiana, this 23rd day of April, 2020.



**JUDGE BRIAN A. JACKSON
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

*

CIVIL ACTION

*

VERSUS

*

NO. 18-63-BAJ-EWD

*

JAMES LEBLANC, ET AL.

*

JUDGE BRIAN A. JACKSON

*

*

MAGISTRATE JUDGE

*

ERIN WILDER-DOOMES

**PLAINTIFF’S MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR
EMERGENCY MOTION FOR TEMPORARY RELEASE**

NOW INTO COURT, through undersigned counsel, comes Plaintiff, Mr. Christopher Marlowe, to file this Notice of Emergency Motion and Emergency Motion for Temporary Release; Memorandum of Points and Authorities in Support, pursuant to Fed. R. Civ. P. 65(b), and thereafter, a preliminary injunction pursuant to Fed. R. Civ. P. 65(a), and request that the matter be heard as soon as possible.

Mr. Marlowe, a diabetic prisoner, seeks emergency relief that is currently only in this Court. Without immediate intervention, the conditions of Mr. Marlowe’s confinement continue to expose him to the COVID-19 virus that is currently circulating at the Rayburn Correctional Center. As a diabetic prisoner, Mr. Marlowe could develop serious and life-threatening complications should he contract COVID-19. As explained in greater detail below, it is impossible for him to exercise any degree of social distancing as recommended by the Center for Disease Control and the State of Louisiana. Consequently, he asks this Court to immediately issue an order that temporarily releases him to home confinement and/or community supervision

Given the urgency, Plaintiff requests that the Court set an expedited briefing schedule and review this motion as soon as practicable. Plaintiff waives any right to file a reply. The Motion is based on this Notice of Motion and Motion, the Accompany Memorandum of Points and Authorities, and the supporting documents filed herewith.

PRAYER FOR RELIEF

Upon the respective exhibits provided therewith, and the accompanying memorandum of law, Plaintiff respectfully moves this Court to:

1. Enter an Order authorizing his temporary supervised release with or without location monitoring until spread of the COVID-19 virus is no longer a threat within the Louisiana Department of Corrections system.
2. Such other relief as the Court deems just and proper.

WHEREFORE, it is respectfully requested that this Court grant this application for a temporary restraining order and preliminary injunction that temporarily releases Mr. Marlowe from the custody of the DPS&C and places him temporarily on supervised release with or without location monitoring

Dated: April 1, 2020

Respectfully submitted,

/s/ Emily H. Posner

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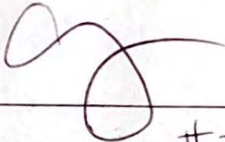
Attorneys for Mr. Marlowe

VERIFICATION OF COMPLAINT

I declare under penalty of perjury that the facts contained in this document are true and correct to the best of my knowledge. Mr. Marlowe is unable to physically sign this document because all attorney-client visitation has been suspended by the Department of Corrections due to the COVID-19 outbreak in Louisiana.¹

DATED: April 1, 2020

Signed,



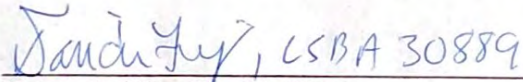
Emily H. Posner #35284
Attorney at Law

FURTHER AFFIANT SAYETH NOT



Emily H. Posner Signature

On this 1st of April, 2020, before me personally appeared Emily H. Posner, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed it as his free act and deed.



Notary Public – Davida Finger
My Commission Expires at Death
State of Louisiana, Parish of Orleans

¹ See DOC Communication (Mar. 12, 2020), available at, <https://doc.louisiana.gov/wp-content/uploads/2020/03/3.13.20-Coronavirus-Inmate-Notification-of-Visiting.pdf>.

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,	*	CIVIL ACTION
	*	
VERSUS	*	NO. 18-63-BAJ-EWD
	*	
JAMES LEBLANC, ET AL.	*	JUDGE BRIAN A. JACKSON
	*	
	*	MAGISTRATE JUDGE
	*	ERIN WILDER-DOOMES

**PLAINTIFF’S AMENDED MEMORANDUM IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER AND/OR EMERGENCY
MOTION FOR TEMPORARY RELEASE**

MAY IT PLEASE THE COURT

INTRODUCTION

The current declared State of Emergency concerning the COVID-19 Pandemic requires expedited and emergency relief in the form of temporarily releasing Mr. Marlowe from custody to supervised release with or without location monitoring. Such relief may very well save his life. The relief requested should only last until the spread of COVID-19 ceases within the Louisiana Department of Safety & Corrections (“DPS&C”) system. As outlined below, the COVID-19 disease has infected staff and prisoners housed at the B.B. Rayburn Correctional Center (“Rayburn”) where Mr. Marlowe is housed.

As of this writing, per the DPS&C’s website, 15 inmates at Rayburn have tested positive for the virus. Louisiana Department of Safety & Corrections, COVID-19 Inmate Positives, <https://doc.louisiana.gov/doc-covid-19-testing/> (last accessed Apr. 5, 2020).

As a diabetic prisoner, Mr. Marlowe is at extreme risk to develop life-threatening complications should he contract COVID-19. It is impossible for Mr. Marlowe to abide by the social distancing and isolation measures suggested by the Center for Disease Control (“CDC”) under the current conditions of his confinement.

Louisiana is today under a state of emergency due to the spread of the novel coronavirus and COVID-19, the deadly disease it causes. Like the rest of the country and the world, the State is bracing for the potentially catastrophic ravages of this pandemic. The Governor has taken significant steps to flatten the curve of new cases before hospitals are overwhelmed and the death toll skyrockets, as it has elsewhere. *See, e.g.*, Exhibit A, Governor John Bel Edwards March 11, 2020 Proclamation Number 25 JBE 2020); Edwards March 13, 2020 Proclamation Number JBE 2020—27); Edwards March 16, 2020 Proclamation Number JBE 2020—30); Edwards March 19, 2020 Proclamation Number JBE 2020—32); Edwards March 22, 2020 Proclamation Number 33 JBE 2020), *available at* <https://gov.louisiana.gov/index.cfm/newsroom/category/10>. The primary components of the governor’s action have been to require social distancing to keep Louisianans at least six feet apart at all times and to prepare hospitals and health care workers for the coming surge in cases.

Those steps have not been, and cannot be, meaningfully implemented in the Louisiana Department of Public Safety and Corrections (DPS&C) for one simple reason: the system houses prisoners in compact spaces. DPS&C houses tens of thousands of people in crowded dormitories where they live, sleep, and bathe within just a few feet of each other. Thousands of these prisoners, like Mr. Marlowe, are those that most vulnerable to death or severe complications

from COVID-19: the elderly and people with serious underlying medical conditions. These conditions pose an unacceptable risk of harm for people who live and work in DPS&C facilities, as well as to the broader public: prison walls cannot stop the spread of pandemic disease. Already, there has been an outbreak of the coronavirus at a federal prison in Louisiana and at least five prisoners have died from, and eleven prisoners have tested positive for, the COVID-19 virus. Caroline Habetz, *Fifth Inmate at Oakdale Federal Prison Dies from COVID-19* (Apr. 3, 2020), <https://www.kplctv.com/2020/04/03/fifth-inmate-oakdale-federal-prison-dies-covid-/>.

In addition, two prisoners housed in the Orleans Parish Justice Center, along with seven medical workers and twenty-two employees at the facility have tested positive for COVID-19. *See Orleans Parish Sheriff's Office Update Regarding Covid-10 Precaution and Activities* (Apr. 3, 2020), <http://www.opcso.org>. As well, at least two prisoners at the East Baton Rouge Parish Prison have tested positive for COVID-19. *See Rachael Thomas, et al., 2 EBR inmates test positive for COVID-19; wing of prison quarantined* (Mar. 30 2020), <https://www.wafb.com/2020/03/31/ebr-inmate-tests-positive-covid-after-reported-drug-overdose-wing-prison-quarantined/>.

Mr. Marlowe is currently housed at the B.B. Rayburn Correctional Center ("Rayburn") in Angie, Louisiana. Rayburn is no different from any other correctional facility, and faces all of the problems mentioned above. Mr. Marlowe reports his Rayburn dormitory houses 79 individuals and is approximately a 5,000 square foot space. *See Exhibit B, Mr. Marlowe's jpay communications*. There are only five (5) toilets shared amongst all of these men. Mr. Marlowe is part of the most vulnerable population, as he suffers from diabetes (the subject of the underlying

lawsuit), thus is acutely at risk of death or severe complication should he become infected with COVID-19.

On March 31, 2020, undersigned counsel received verification that the coronavirus is present at the Rayburn facility, putting Mr. Marlowe at extreme risk of contracting this disease. *See* Exhibit C, Email Confirmation from Lt. Carol Jordan that COVID is present at Rayburn. As of April 5, 2020, per DPS&C's COVID-19 website, **15 prisoners at Rayburn have tested positive for the virus**. Louisiana Department of Safety & Corrections, COVID-19 Inmate Positives, <https://doc.louisiana.gov/doc-covid-19-testing/> (last accessed Apr. 5, 2020).¹ **Therefore, this court should immediately enter a Temporary Restraining Order and Preliminary Injunction ordering Mr. Marlowe's immediate temporary release until the danger of the COVID-19 pandemic in the DPS&C system and Rayburn has passed.**

Mr. Marlowe has been an exemplary resident of the DPS&C system, with only one writeup in 10 years of incarceration. As demonstrated by his DPS&C calculated Targeted Interventions Gaining Enhanced Re-entry (TIGER) score, Mr. Marlowe is a **low risk to reoffend** and is not a flight risk. *See* Exhibit D, Mr. Marlowe's TIGER score.

Mr. Marlowe can be temporarily released to the US Probation Office or the Louisiana Office of Probation and Parole with or without location monitoring, at his cousin's house in Leesville, Louisiana or at his mother's rural property in Lufkin, Texas. *See* Exhibit E, email confirmations from Brooklynn Roberts and Liz Norton.

¹ Undersigned counsel waited until 11:30 AM to file the foregoing. The DPS&C website indicates that it will provide updated numbers of prisoners who have tested positive with COVID-19. However, as of 11:30 AM, the website has not been updated with numbers for April 6, 2020.

Considering the foregoing, Mr. Marlowe requests that this Honorable Court grant him this limited and temporary relief.

I. OVERCROWDING OF MEDICALLY VULNERABLE PEOPLE AND THOSE HOUSED IN CONGREGATE LIVING AREAS CAUSES AN UNACCEPTABLE RISK OF HARM DURING THE GLOBAL COVID-19 PANDEMIC

A. COVID-19 Is a Deadly, Easily Transmissible Virus.

On March 11, 2020, the World Health Organization (“WHO”) declared a global pandemic. *See* World Health Organization, Director-General Opening Remarks (March 11, 2020), <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>. Citing “deep[] concern[] both by the alarming levels of spread and severity, and by the alarming levels of inaction,” it called for countries to take “urgent and aggressive action.” *Id.*; *see also* NPR, Coronavirus: COVID-19 Is Now Officially a Pandemic, WHO Says, (March 11, 2020), <https://www.npr.org/sections/goatsandsoda/2020/03/11/814474930/coronavirus-covid-19-is-now-officially-a-pandemic-who-says>.

The number of people infected is growing exponentially. The death toll in Italy, which began experiencing this epidemic about a week earlier than the first diagnosed American case, saw a rise of 30% overnight in the 24 hours between March 5, 2020, and March 6, 2020 and a rise of 25% on March 15 alone—a day on which 368 people died in Italy from COVID-19. Crispian Balmer & Angelo Amante, Reuters, *Italy coronavirus deaths near 200 after biggest daily jump*, (Mar. 6, 2020), <https://www.reuters.com/article/us-health-coronavirus-italy/italy-coronavirus-deaths-near-200-after-biggest-daily-jump-idUSKBN20T2ML>.

Experts predict similarly rapid growth in the United States. This pandemic has prompted the federal, state, and local governments to declare a state of emergency. White House Proclamation, *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak* (March 13, 2020), <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>; see also Louisiana Office of the Governor, *Gov. Edwards Declares Public Health Emergency in Response to COVID-19* (March 11, 2020), <https://gov.louisiana.gov/index.cfm/newsroom/detail/2400>; Katelyn Umholtz, *New Orleans mayor declares state of emergency after officials confirm 13 cases*, Times-Picayune, (March 11, 2020), https://www.nola.com/news/coronavirus/article_68df3890-63e5-11ea-a4ca-2f0e871e7eaf.html.

The exponential growth of coronavirus cases in Louisiana has been staggering. Data released March 21, 2020 by a researcher at the University of Louisiana Lafayette found that Louisiana presently has the fastest spread of COVID-19 of any region in the world. See Louisiana Governor's Office of Homeland Security and Emergency Preparedness, COVID-19 Louisiana Case Info, <https://gov.louisiana.gov/assets/docs/covid/govCV19Brief-2.pdf>. As of April 5, 2020, there are 13,010 confirmed coronavirus cases in Louisiana, 477 individuals have died and 1,803 are in the hospital. Louisiana Department of Health, Coronavirus (COVID-19), <http://ldh.la.gov/Coronavirus/> (last accessed Apr. 5, 2020). At a news conference on March 24, 2020, Louisiana Governor John Bel Edwards announced that the state had “the fastest growth

rate of confirmed cases in the world in the first 13 days.” Hollie Silverman, *Louisiana Governor Says His State Has the Fastest Growth Rate of Coronavirus Cases in the World*, CNN (Mar. 24, 2020), <https://www.cnn.com/2020/03/23/us/louisiana-coronavirus-fastest-growth/index.html>. The number of cases on March 31, 2020 increased by thirty percent from the day before. See John Bowden, *Coronavirus cases in Louisiana spike by more than 30 percent in 24 hours* (Mar. 31, 2020), <https://thehill.com/homenews/state-watch/490408-coronavirus-cases-in-louisiana-spike-by-more-than-30-percent-in-24-hours>.

The Louisiana Department of Health has reported that, “[b]elow is what we know about the underlying conditions among COVID-19 deaths to date, as of March 29:

- Pulmonary (12%)
- Cardiac (21%)
- **Diabetes (40%)**
- Chronic Kidney Disease (23%)
- Chronic Liver Disease (2%)
- Immunocompromised (4%)
- Neurological (6%)
- Obesity (25%)
- No Underlying Conditions (3%).”

Louisiana Department of Health Updates for 3/30/2020, <http://ldh.la.gov/index.cfm/newsroom/detail/5521>. In addition, staff and prisoners throughout the Louisiana Department of Corrections have contracted COVID-19. See Sledge, Matt, *Louisiana Corrections Staffer and inmate die from coronavirus* (Mar. 30, 2020), https://www.nola.com/news/coronavirus/article_38a10bb0-72d4-11ea-bc5a-

77c8d83cba3d.html; *see also* Louisiana Department of Safety & Corrections, COVID-19 Inmate Positives, <https://doc.louisiana.gov/doc-covid-19-testing/> (last accessed Apr. 5, 2020).

Of particular importance, the COVID-19 virus is currently circulating in B.B. Rayburn Correctional Center (“RCC”) where Mr. Marlowe, a diabetic prisoner, is currently housed. As of April 5, 2020 15 inmates at Rayburn have tested positive. *See* Louisiana Department of Safety & Corrections, COVID-19 Inmate Positives, <https://doc.louisiana.gov/doc-covid-19-testing/> (last accessed Apr. 5, 2020). In just two days since the parties held a telephone conference with the Court, the number of COVID-19 prisoners at Rayburn has tripled.

There is no vaccine for COVID-19, and there is no cure. *See* Exhibit F, Dr. Michael Stern Declaration. No one has prior immunity. *Id.* It is easily transmissible—spreading “through droplets generated when an infected person coughs or sneezes, or through droplets of saliva or discharge from the nose.” *Id.* It is believed “that a significant amount of transmission may be from people who are infected but asymptomatic or pre-symptomatic.” *Id.* at ¶ 5. Once a person has been exposed to the virus, she may show symptoms within as little as two days, and her condition might “seriously deteriorate in as little as five days (perhaps sooner) after that.” *Id.*

The effects of COVID-19 are very serious and can include severe respiratory illness, major organ damage, and, for a significant number of people, death. Stern Decl. ¶¶ 6, 7, 13. The risk of death or serious illness is especially high for vulnerable populations, including people over the age of 50 and people, regardless of age, with “underlying health problems such as—but not limited to—weakened immune systems, hypertension, diabetes, blood, lung, kidney, heart,

and liver disease, and possibly pregnancy.” *Id.* ¶ 6. People infected with COVID-19, especially those in vulnerable populations, may require significant medical attention, including ventilator assistance for respiration and intensive care. *Id.* ¶ 7.

B. COVID-19 Will Spread Rapidly in the Prison Environment, and Incarcerated People Are at Particular Risk Due to Serious Medical Conditions and Crowded Congregate Living Spaces.

Mr. Marlowe, a diabetic incarcerated prisoner at RCC, is at heightened risk of serious illness or death from COVID-19. *See* Exhibit G, Mr. Marlowe’s University Medical Center Records. As discussed *supra*, the Louisiana Department of Health reports that having diabetes is the leading underlying medical complication of all coronavirus deaths in the State.

The WHO has recognized that incarcerated people “are likely to be more vulnerable to the coronavirus disease (COVID-19) outbreak than the general population because of the confined conditions in which they live together.” *See* WHO Preparedness, prevention and control of COVID-19 in prisons and other places of detention (Mar. 13, 2020), *available at* http://www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf?ua=1.

The U.S. Centers for Disease Control and Prevention (“CDC”), in guidance on management of COVID-19 in correctional and detention facilities, has identified that COVID-19 presents a particularly heightened danger in correctional facilities because “incarcerated/detained populations have higher prevalence of infectious and chronic diseases and are in poorer health than the general population, even at younger ages.” *See* CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (Mar. 23,

2020), *available at* <https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidance-correctional-detention.pdf>. On March 27, 2020, a group of Louisiana physicians and epidemiologists wrote to Gov. Edwards to urge him to “take immediate action to safeguard the lives of those involved in our statewide court system and the Louisiana Department of Public Safety and Corrections, including those who work or are detained in these facilities, their families, and their communities.” Exhibit H, Letter from Katherine Andrinopoulos, et al. to Gov. John Bel Edwards, March 27, 2020. The letter further explained that:

Prisons and jails contain high concentrations of people in close proximity, and are breeding grounds for the uncontrolled transmission of SARS-CoV-2, the virus that causes COVID-19. People are housed cheek-by-jowl, in tightly-packed and poorly-ventilated dormitories; they share toilets, showers, and sinks; they wash their bedsheets and clothes infrequently; and often lack access to basic personal hygiene items. These facilities lack the ability to separate sick people from well people and to quarantine those who have been exposed without endangering others. Adequate medical care is hard to provide, even without COVID-19, and **in light of this pandemic jails and prisons are tinderboxes, ready to explode and endanger our entire country.**

Id. (emphasis added).

C. The Most Critical Prevention and Control Strategies—Social Distancing and Isolation to Prevent Transmission—Cannot be Implemented at Rayburn Due to Existing Crowding and Space Constraints.

The only way to control the virus is to use preventive strategies, including social distancing.” *See* Stern Decl. ¶ 4. Put simply, limiting person-to-person contact “is critical to saving lives.” *Id.* ¶ 8. That is why Gov. Edwards has ordered all individuals living in the State of Louisiana to stay home or at their place of residence until April 30, 2020. *See* Exhibit A. That is also why the CDC, in guidance on management of COVID-19 in correctional and detention

facilities, named social distancing as “a cornerstone of reducing transmission of respiratory diseases such as COVID-19.” See CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (Mar. 23, 2020), *available at* <https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidance-correctional-detention.pdf>.

The CDC stated also that social distancing requires people—including those who are asymptomatic—to remain **at least six feet** from each other at all times. *Id.* (emphasis added).

Recognizing the critical importance of social distancing and the difficulty of achieving it under existing conditions in correctional and detention facilities, numerous international, state, and local jurisdictions have taken immediate steps to reduce the number of incarcerated people. Iran, for example, has temporarily released around 85,000 people from its prisons as of March 24, 2020. See Nasser Karimi, *Iran state TV: Khamenei to pardon 10,000 more prisoners* (Mar. 19, 2020), <https://abcnews.go.com/International/wireStory/iran-state-tv-khamenei-pardon-10000-prisoners-69679695>.

States and counties across the United States have undertaken similar measures. For example, the Iowa Department of Corrections plans to expedite the release of 700 incarcerated people, and the North Dakota Parole Board has granted early release to 56 of the 60 people who applied for consideration this month. See Times-Republican, *Iowa’s prisons will accelerate release of approved inmates to mitigate COVID-19* (Mar. 23, 2020), <https://www.timesrepublican.com/news/todays-news/2020/03/iowas-prisons-will-accelerate-release-of-approved-inmates-to-mitigate-covid-19/>. Los Angeles, Denver, and Philadelphia all have instituted policies aimed at reducing jail populations, including reducing or delaying arrests

and releasing individuals being held for drug offenses. *Id.* In Maine, the Department of Corrections has released **at least 29 prisoners to Supervised Community Confinement**. See Judy Harrison, *Inmate population in Maine falls in wake of coronavirus outbreak* (Mar. 28, 2020), <https://bangordailynews.com/2020/03/28/news/bangor/inmate-population-in-maine-falls-in-wake-of-coronavirus-outbreak/>. (emphasis added).

Similarly in New Orleans, the Judges of the Criminal District Court issued an en banc order requiring the Orleans Parish Sheriff to immediately release “all persons detained in his custody for violations of the following:

- a. Arrests for Failure to Appear on Probation Status;
- b. Misdemeanor Pre-Trials;
- c. Contempt of Court; and
- d. Defendants remanded for positive drug tests with a bond in effect.”

See En Banc Order, Orleans Parish Criminal District Court (Marc. 25, 2020), *available at* http://www.criminalcourt.org/uploads/2/5/3/5/25359518/2020-03-25_orleanscriminal.pdf.

Additionally, on April 2, 2020, Louisiana Supreme Court Chief Justice Bernette Joshua Johnson sent a letter to all Louisiana District Court judges urging them to “minimize the number of people detained in jails where possible,” as “an outbreak of COVID-19 in our jails would be potentially catastrophic for jail staff, the families of jail staff, and inmates.” Exhibit I, Letter from Chief Justice Bernette Joshua Johnson to Louisiana District Court Judges, Apr. 2, 2020.

DPS&C, however, has not taken any action to accommodate prisoners like Mr. Marlowe who are at extreme risk to develop life-threatening complication should they contract COVID-19. Namely, medical parole continues to not be an option for Mr. Marlowe, because current

regulations require at least a sixty-day notification to the public about a medical parolee's hearing date. In addition, the Secretary has the authority to furlough thousands of prisoners pursuant to La. R. S. 15:833. Such action would greatly reduce the DP&C's prison population and potentially create the climate for prisoners not eligible for furlough to properly socially distance themselves from one another. However, to date, undersigned counsel know of no such action taken by DPS&C.

Consequently, Mr. Marlowe – a known prisoner at high-risk to develop severe or fatal consequences should he contract COVID-19 – has been left in a facility where COVID-19 is circulating widely. In the absence of action from the State of Louisiana concerning convicted prisoners like Mr. Marlowe, the only humane action to take would be to temporarily release him. Indeed, keeping Mr. Marlowe in prison under such conditions would be a violation of his constitutional rights, specifically his right not to be subjected to cruel and unusual punishment under the Eighth Amendment. Indeed, the risk of contracting “serious contagious diseases” may constitute an “unsafe, life-threatening condition” in violation of the Eighth Amendment. *Helling v. McKinney*, 509 U.S. 25, 33 (1993); *see also Hutto v. Finney*, 437 U.S. 678, 682-685 (1978) (recognizing the need for a remedy where prisoners were crowded into cells and some had infectious diseases).

Mr. Marlowe lives in daily fear of contracting this deadly disease. Living with no control over one's environment in such a dangerous climate is especially cruel and unusual. Courts across the country have already created processes for efficient and widespread review of such dangers. *See e.g. Committee for Pub. Counsel Servs. v. Chief Justice of the Trial Court*,

Massachusetts SJC Docket No. SJ-2020-0115 (appointing an Associate Justice to oversee a petition seeking (among other things) release for post-conviction inmates “who are vulnerable to COVID-19, near the end of their sentence, or who do not pose a threat to the public”).

The conditions at Rayburn simply do not allow for proper prevention and management strategies, as they are physically impossible due to the number of inmates and the facility’s design. Mr. Marlowe reports the following conditions at Rayburn on March 30, 2020:

we don't have free access to bleach or cleaning agents. we dont have anything to wipe the phones with, no alcohol pads or anything like they told dad at the meeting. there are no paper towels to dry hands. they issue us one bar of soap every two weeks to bathe and wash hands with. we live 20-30" apart in our beds. there are 79 inmates in approx 5,000sqft. we share 5 toilets and sinks. all of our clothes/bed sheets are being washed together with other dorms.

we eat at tables, 4 to a table, in a cafeteria that has now proven to have had covid-positive people working until 3 days ago, but the others that worked with him are still there. so, we have possibly contaminated people cooking our food/handling dishes and pots. plus they obviously reuse all trays, cups, and spoons for the whole compound exacerbating the potential for cross contamination.

See Exhibit B.

On March 31, 2020 he reported the following:

they just quarantined another dorm, 158 more people. 3 or 4 of the residents had fevers and went the infirmary. that's a total of 316 on dorm quarantine. they are also keeping people in solitary confinement cells for quarantine and others in makeshift housing areas in the visiting shed, besides what is in quarantine in the infirmary.the scary part is that they decided to do a bed shuffle on Monday and put two of guys from that dorm in my bed area. one or two staff were sent home due to symptoms, also. one minute ago: two guys on my tier just got quarantined, they work for the staff that was sent home. we may be next as a whole dorm. she was the commissary officer.

Id.

On April 1, 2020, Mr. Marlowe reported the following about his conditions at Rayburn:

I have, when I'm layin in my bed, within my 5ft bubble I have 3 people , 11 people within 8 ft of me. if we're not in bed and are standing, its 5-6 ft... and solution to magically fix this is go head to toe... makes no difference. just makes sleep uncomfortable.

Id.

On April 5, 2020, Mr. Marlowe reported:

the yard times have changed, but that doesn't stop people being close, since every yard has 316 inmates living together, ours has half since the other side is a cell block.

no other changes... I'm nervous, but c'est la vie.

did a lot of introspection today. I'm really hoping to have the chance to do good for the world, be a dad, and make my parents proud...

people in here are scared and trying make the best of it, but other inmates are still being retarded and cooking and eating together, hanging out close. . .

Id.

Of particular importance, as Mr. explains below, putting him in an isolation cell is not an option because it puts him at great risk to develop further diabetic complications

cell blocks are horrible idea for a diabetic because you loose any control over access to emergency foods or attention by medical. you are only dealt with during meals and pill call. if I take insulin and it happens to be in excess of what I need and I do have access to my food, I die. most don't understand the dynamics of diabetes and the problem is so big because its hard to maintain as a type one. you're not allowed food, candy, no commissary, and no med attention until pill calls. well, I don't eat rice or bread because of the glucose influence, and if I can't substitute with oatmeal or something, I can die from insulin overdose. of course the simple answer is to take less insulin, but then if I eat too much or eat wrong, I can enter ketoacidosis or have a stroke.

that's the diabetic reason. that's why diabetics tend to be the best behaved inmates

- we're afraid to die because of a dinner roll. the cell block has the very real potential to turn any diabetic's sentence into a death sentence by lethal injection. this is NOT a dramatization.

Id.

D. Time is of the Essence to Prevent the Spread of COVID-19 to Mr. Marlowe – a High Risk, Diabetic Prisoner.

Action must be taken immediately if there is any chance to stop the global COVID-19 pandemic from running rampant in prison systems and striking down the most vulnerable people in custody. As Rick Raemisch, the former executive director of the Colorado Department of Corrections, recognized: “These prisons are bacteria factories. I don’t think people understand the gravity of what’s going to happen if this runs in a prison, and I believe it’s inevitable. You’re going to see devastation that’s unbelievable.” David Montgomery, *Prisons Are Bacteria Factories’; Elderly Most at Risk*, 2 (Mar. 25, 2020), available at <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/03/25/prisons-are-bacteria-factories-elderly-most-at-risk>.

To date, DPS&C has not made public any plans whatsoever as to how it intends to encourage social distancing and manage any cases of COVID-19 in its facilities, let alone how it intends to respond to an outbreak. Even if DPS&C had a robust plan in place, it would still be in its interest and the public interest to release medically vulnerable people, which they have not made any commitment to do.

As such, this Court should immediately order that Mr. Marlowe, a high-risk diabetic prisoner, be temporarily placed in a supervised release program with or without location

monitoring at either his cousin's or mother's home for the duration of this pandemic. Otherwise, Mr. Marlowe remains at grave immediate risk of contracting this serious and potentially fatal disease. This risk is heightened by the confirmation that COVID-19 is now widespread at Rayburn.

The relief requested by Mr. Marlowe will greatly contribute to flattening the curve of COVID-19 cases among incarcerated populations and limit the impact of transmission both inside correctional facilities and in the community after incarcerated people are released. Such measures will also reduce the burden on the correctional system in terms of stabilizing and transferring critically ill patients, as well as the burden on the community health care system to which such patients will be sent. Each person needlessly infected in a correctional setting who develops severe illness will be one too many. *See* Exhibit J, Matthew J. Akiyama, *Flattening the Curve for Incarcerated Populations – Covid-19 in Jails and Prisons*, THE NEW ENGLAND JOURNAL OF MEDICINE (Apr. 2, 2020) (stating also “we believe that we need to prepare now, by “decarcerating,” or releasing, as many people as possible, focusing on those who are least likely to commit additional crimes.”).

II. MR. MARLOWE IS NOT A RISK TO REOFFEND OR DISOBEY CONDITIONS OF AN ORDER FOR TEMPORARY RELEASE

A. Brief Procedural History of Mr. Marlowe's Criminal Case.

Mr. Marlowe is currently serving a twenty-year sentence for attempted second-degree murder. The alleged underlying offense occurred outside of a hotel where Mr. Marlowe was hired as private-security post-Katrina, and a scuffle ensued between him and a fellow private

citizen. Mr. Marlowe's defense rested on a theory of self-defense. The matter proceeded to trial on June 15, 2009. On June 16, 2009, the matter went before a jury, which returned with a hung verdict. On September 21, 2009, a second trial commenced. On September 24, 2009, the jury returned a non-unanimous 11-1 verdict.²

Prior to this incident, Mr. Marlowe's only prior interactions with the criminal justice system were a few parking and speeding tickets. Mr. Marlowe is a decorated veteran of the U.S. Army. *See* Exhibit K, Mr. Marlowe's Clemency/Pardon Petition. He served from 2002-2006 (Serial Number 099-76-5315). *Id.* He was honorably discharged and served in Iraq. During his service he received the following Decorations:

- National Defense Service Medal
- Global War on Terrorism Service Medal
- Louisiana Honor Medal
- Korea Defense Service Medal
- Aviation Badge
- Army Achievement Medal

Id.

Mr. Marlowe is a rehabilitated man. He requests that the Court review his clemency application, which is currently pending before the pardon board.³ He has thus far served ten years at hard labor in the Department of Corrections. *Id.* In that time period, he has received only

² In 2018, Louisiana amended its constitution to require unanimous juries for felony convictions. However, the law does not apply retroactively. Had Mr. Marlowe been tried today, he would never have been convicted and would not be in prison now and facing the heightened risk of contracting COVID-19."

³ Mr. Marlowe has been waiting since January of this year to have the pardon board calendar hearing on this matter. Due to the current state of emergency, the parole and pardon board are no longer meeting. *See* Letter from Francis Abbot (Mar. 13, 2020), *available at* <https://s32082.pcdn.co/wp-content/uploads/2020/03/Coronavirus-Hearing-Suspension-031320.pdf>.

one write-up, which was eight years ago in 2012. *Id.* During his incarceration, Mr. Marlowe has earned the following accolades:

- Bachelor of Arts in Communication (Dec. 2019)
- Associate of Arts in General Studies (Sep. 2018)
- Dean's List (2018/2019)
- Living in Freedom (2017)
- Construction Project Manager (2016)
- Construction Project Supervisor (2016)
- Construction Project Foreman (2016)
- Tutor Training (2015)
- Toastmaster (2015)
- PTSD Peer Counselor (2018)
- Heavy Equipment Operator, Level 1, 2, 3 (2015)
- HVAC Technician (2014)
- Theological Seminar (2014)
- Plumbing Helper (2011)
- Adult Education Tutor (2010)
- Anger Management (certificate attached)
- Substance Abuse (certificate attached)
- Parenting (certificate attached)
- Beat the Streets (certificate attached)
- AA/NA (certificate attached)
- Hospice Care (certificate attached)
- Financial Management (certificate attached)

Id.

Mr. Marlowe is a Class A Trusty and works with the canine chase team. *Id.* Undersigned counsel believe that any official at Rayburn would confirm all of this and recommend Mr. Marlowe for release. Mr. Marlowe's DPS&C generated TIGER score provides further strong evidence of his rehabilitation and the lack of likelihood of recidivism. *See* Exhibit D,

Moreover, Mr. Marlowe is a diabetic inmate. His chronic illness is exceedingly difficult to manage in a prison setting under normal circumstances. He does not have access to regular

dental, podiatry and optometry appointments to help manage his diabetes. Further, his access to appropriate food choices that would best manage his diabetes are extremely limited.

Lastly, and most importantly, Mr. Marlowe's diabetic condition puts him at grave immediate risk to develop serious complications should he contract COVID-19. Due to the unavoidable conditions at RCC, it is impossible for Mr. Marlowe to abide by CDC social distancing recommendations to help reduce his likelihood of contracting the illness.

Mr. Marlowe has a loving and supportive family. Should he be released, he can live with either his mother at her property in Lufkin, Texas or with his cousin in Leesville, Louisiana. *See* Exhibit E, Letters from Liz Norton and Brooklynn Roberts (Mar. 31, 2020).

CONCLUSION

WHEREFORE, Plaintiff respectfully requests that this Court grant this application for a temporary restraining order and preliminary injunction that temporarily releases Mr. Marlowe from the custody of the DPS&C and places him temporarily in a supervised release program with or without location monitoring.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2020 a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the Court’s electronic filing system.

/s/ Emily H. Posner

Emily H. Posner

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

*** CIVIL ACTION**

*** NO. 18-63-BAJ-EWD**

*** JUDGE BRIAN A. JACKSON**

*** MAGISTRATE JUDGE**

*** ERIN WILDER-DOOMES**

EXHIBIT A



EXECUTIVE DEPARTMENT

PROCLAMATION NUMBER 25 JBE 2020

PUBLIC HEALTH EMERGENCY - COVID-19

- WHEREAS,** the Louisiana Health Emergency Powers Act, La. R.S. 29:760, et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with public health emergencies, including an occurrence or imminent threat of an illness or health condition that is believed to be caused by the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin, in order to ensure that preparations of this state will be adequate to deal with such emergencies or disasters and to preserve the health and lives of the people of the State of Louisiana;
- WHEREAS,** when the Governor after consultation with the public health authority determines that a public health emergency has occurred, or the threat thereof is imminent, La. R.S. 29:766(A) empowers him to declare a state of emergency by executive order or proclamation;
- WHEREAS,** the U.S. Centers for Disease Control and Prevention (“CDC”) is responding to an outbreak of respiratory disease caused by a novel (new) coronavirus that was first detected in China and which has now been detected in many other countries, including in the United States. The virus has been named “SARS-CoV-2” and the disease it causes has been named “coronavirus disease 2019” (abbreviated “COVID-19”);
- WHEREAS,** according to the CDC’s website, person-to-person spread has been subsequently reported in countries outside China, including in the United States. Some international destinations now have apparent community spread with the virus that causes COVID-19, as do some parts of the United States. Community spread means some people have been infected and it is not known how or where they became exposed;
- WHEREAS,** on January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the outbreak a “public health emergency of international concern” (PHEIC). On January 31, 2020, Health and Human Services Secretary Alex M. Azar II declared a public health emergency (PHE) for the United States to aid the nation’s healthcare community in responding to COVID-19;
- WHEREAS,** a World Health Organization statement released March 7, 2020 stated that the global number of confirmed cases of COVID-19 has surpassed 100,000;
- WHEREAS,** as of March 11, 2020, the CDC’s website reports that 38 states, including the District of Columbia, have reported cases of COVID-19 to CDC, for a total of 938 confirmed cases, and that states have reported 29 deaths resulting from COVID-19;

WHEREAS, on March, 11, 2020, the World Health Organization designated the COVID-19 outbreak as a worldwide pandemic;

WHEREAS, on March, 9, 2020, a Louisiana resident, pursuant to CDC protocol, was tested for COVID-19, with the test being presumptively positive;

WHEREAS, in the last two days, several more Louisiana residents have tested presumptively positive for COVID-19;

WHEREAS, the State of Louisiana has reason to believe that COVID-19 may be spread amongst the population by various means of exposure, therefore posing a high probability of widespread exposure and a significant risk of substantial future harm to a large number of Louisiana citizens;

WHEREAS, the Governor of the State of Louisiana has consulted with the public health authority regarding COVID-19;

WHEREAS, the Governor, after such consultation, finds that a threat of a public health emergency is imminent;

WHEREAS, a declaration of public health emergency is necessary to allow state agencies to thoroughly prepare for any eventuality related to public health needs and deploy additional resources to assist local authorities, if necessary; and

WHEREAS, the Secretary of the Department of Health and the State Health Officer have requested that a public health emergency be declared.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to the Louisiana Health Emergency Powers Act, La. R.S. 29:760, et seq., a statewide public health emergency is declared to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19, which has created emergency conditions that threaten the lives and health of the citizens of the State.

SECTION 2: The Governor's Office of Homeland Security and Emergency Preparedness and Secretary of the Department of Health are hereby expressly empowered to take any and all actions authorized under the Louisiana Health Emergency Powers Act, La. R.S. 29:760 et seq. in relation to this public health emergency.

SECTION 3: The Secretary of the Department of Health and/or the State Health Officer are hereby expressly empowered to take any and all actions authorized thereto under Titles 29 and 40 of the Louisiana Revised Statutes and under the State Sanitary Code (LAC Title 51) in relation to this public health emergency.

SECTION 4: Pursuant to La. R.S. 29:724(D)(1), the Louisiana Procurement Code (La. R.S. 39:1551, et seq.) and Louisiana Public Bid Law (La. R.S. 38:2211, et seq.) and their corresponding rules and regulations are hereby suspended for the purpose of the procurement of any good or services necessary to respond to this emergency.

SECTION 5: Pursuant to La. R.S. 29:732(A), prices charged or value received for goods and services sold may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk

incurred in procuring or selling the goods or services during the state of emergency.

SECTION 6: In addition to any authority conferred generally herein or by law, the Governor's Office of Homeland Security and Emergency Preparedness, through consultation with the Secretary of the Department of Health, shall have the primary jurisdiction, responsibility and authority for:

1. Planning and executing public health emergency assessment, mitigation, preparedness response, and recovery for the state;
2. Coordinating public health emergency response between state and local authorities;
3. Collaborating with relevant federal government authorities, elected officials of other states, private organizations or companies;
4. Coordinating recovery operations and mitigation initiatives subsequent to public health emergencies;
5. Organizing public information activities regarding public health emergency response operations; and
6. Taking any other measures deemed necessary and proper, as authorized by law.

SECTION 7: The following travel restrictions will apply to all state employees:

- A. All state employees intending to travel beyond the continental United States shall review the CDC's website at <http://wwwnc.cdc.gov/travel/notices> to determine if the country to be visited has been identified as posing a threat of contracting COVID-19;
- B. All state employees traveling on state business to areas designated as Warning Level 2 or Level 3 or above by the CDC are hereby directed to cancel or postpone these trips; all employees traveling internationally to other countries are hereby required to obtain specific authorization from the Commissioner of Administration;
- C. All state employees intending to travel internationally for non-official reasons are hereby directed to notify their supervisor and Human Resources Director of the travel as soon as possible, but in no event later than forty-eight (48) hours prior to travel, and immediately upon return to the United States;
- D. All state employees with household members who intend to travel or have traveled to areas designated as Warning Level 2 or Level 3 or above by the CDC are hereby directed to notify their supervisor and Human Resources Director of the travel as soon as possible, but in no event later than forty-eight (48) hours prior to the household member's departure, to state the household member's expected date of return, and to notify their supervisor and Human Resources Director immediately upon the household member's actual return to the United States; and
- E. All state employees shall notify their supervisor and Human Resources Director if the employee or a household member develops symptoms associated with COVID-19.

SECTION 8: The Civil Service Commission and the Division of Administration are hereby directed to develop a set of guidelines for state employees who are infected with COVID-19 or under quarantine for possible exposure to COVID-19. Such guidelines shall include direction for the management of sick leave by state

employees and provide for direction, if possible, for the employee to work remotely. The guidelines developed by the Civil Service Commission and the Division of Administration shall be put into effect by this order.

SECTION 9: All orders allowing for visitation by the parent of a foster child that resides in a home that is quarantined or isolated due to COVID-19 are hereby suspended. The Department of Child and Family Services is hereby ordered to make all reasonable efforts to allow for alternative visitation.

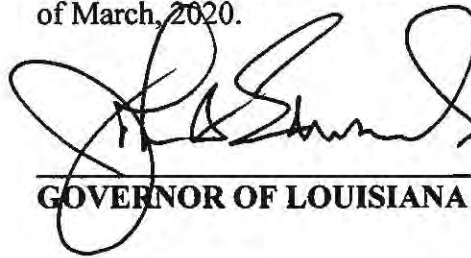
SECTION 10: This Proclamation shall be disseminated promptly by means reasonably calculated to bring its contents to the attention of the general public. The Proclamation shall also be promptly filed with the Governor's Office of Homeland Security and Emergency Preparedness, with the Department of Health, Office of Public Health, and with the Secretary of State.

SECTION 11: All departments, commissions, boards, agencies and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate in actions the State may take in response to the effects of this event.

SECTION 12: This order is effective upon signature and shall remain in effect from Wednesday, March 11, 2020 to Thursday, April 9, 2020, unless terminated sooner.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge on this 11th day of March, 2020.



GOVERNOR OF LOUISIANA

**ATTEST BY THE SECRETARY
OF STATE**



SECRETARY OF STATE



EXECUTIVE DEPARTMENT

PROCLAMATION NUMBER JBE 2020 – 27

***ADDITIONAL MEASURES FOR COVID-19
PUBLIC HEALTH EMERGENCY***

- WHEREAS,** pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, *et seq.*, the Governor declared a Public Health emergency in Proclamation Number 25 JBE 2020;
- WHEREAS,** the worldwide outbreak of COVID-19 and the effects of its extreme risk of person-to-person transmission throughout the United States and Louisiana significantly threatens the safety, health, and security of the citizens of the state, along with public facilities, including, but not limited to schools, workplaces, nursing homes, hospitals, etc.;
- WHEREAS,** Centers for Disease Control (CDC) guidance for responding to the COVID-19 pandemic suggests aggressive measures for limiting the possible interaction of the public with individuals exposed to or infected with COVID-19, including limiting large public gatherings;
- WHEREAS,** limitations in interactions between members of the public includes school age children, who may be in a position to pass COVID-19 to vulnerable populations, including the elderly or those with underlying medical conditions;
- WHEREAS,** CDC guidance also encourages social distancing and prevention of unnecessary personal interactions;
- WHEREAS,** in only a matter of weeks, COVID-19 has had an economic impact on thousands of workers in the State of Louisiana, and will likely result in impacts to many more;
- WHEREAS,** individuals who are impacted by COVID-19 may not be able to report to work, they may need to be isolated or quarantined, they may have to care for a sick family member care for a child whose school is closed or be forced to quit their jobs;
- WHEREAS,** in addition, COVID-19 may cause businesses to shut down due to a slow down or lack of demand, institute temporary or partial layoffs;
- WHEREAS,** an individuals' inability to report to work due to a COVID-19 diagnosis, an individual being isolated or quarantined, caring for a sick family member, caring for a child whose school is closed and the extraordinary volume of resulting unemployment claims pose serious challenges to the effective and timely administration of the unemployment compensation system;
- WHEREAS,** the State of Louisiana intends to proactively address the significant emotional and economic impact upon Louisiana workers;
- WHEREAS,** Louisiana Revised Statute 29:724 confers upon the Governor emergency powers to deal with emergencies and disasters and to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the State of Louisiana, including the authority to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would

in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, the Secretary of the Louisiana Workforce Commission has requested the Governor, due to the extreme volume of claims to be processed, suspend the application of La. R.S. 23:1533, 1552, 1600(2) and (3), and 1601(1), (2) and (7)(a), (b) and (d) for emergency-related claims, so as to allow the timely and fair administration of the unemployment insurance program.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: In an effort to reduce and limit the spread of COVID-19 in Louisiana, and to preserve the health and safety of all members of the public, all gatherings of 250 people or more between Friday, March 13, 2020 and Monday, April 13, 2020 shall be postponed or cancelled. This applies only to gatherings in a single space at the same time where individuals will be in close proximity to one another. It does not apply to normal operations at locations like airports, medical facilities, shopping centers or malls, office buildings, factories or manufacturing facilities, or grocery or department stores. This provision may be extended beyond Monday, April 13, 2020 by further order.

SECTION 2: All public schools in the State of Louisiana shall close facilities to students until April 13, 2020. Schools may offer complete distance learning, as capabilities exist. With appropriate social distancing measures, schools shall, if able, continue to provide meals or other essential services with applicable staff. Instructional minute requirements shall be temporarily suspended for distance education courses and for curriculum delivery. The required 63,720 instructional minute requirement per year shall also be suspended. The Board of Elementary and Secondary Education shall report to the Governor and the Legislature any further actions necessary to ensure that eligible students achieve successful student grading, promotion, and graduation.

SECTION 3: To reduce the burden on members of the public and to limit the interactions of individuals with state employees in governmental offices, the following regulatory statutes are hereby suspended as follows:

A. Department of Public Safety

1. The deadlines for the period to request an administrative hearing pursuant to La. R.S. 15:542.1.3(B)(4) which expired on or after March 9, 2020 but before May 10, 2020 is suspended and extended until June 9, 2020.
2. Further, with regard to Concealed Handgun Permits, the rules related to expiration of permits at LAC 55:1.1307(D) and LAC 55: 1.1309(F) shall be suspended until May 10, 2020.

B. Office of Motor Vehicles

1. Late fees for driver's license which would be charged beginning on March 9, 2020 through May 10, 2020, are suspended until May 20, 2020.
2. The three-day period mandated in La. R.S. 32:863.1 to appear at an Office of Motor Vehicle field office for a notice of violation served on or after March 9, 2020 but before May 10, 2020, are suspended until May 13, 2020.
3. The expiration date of temporary registration plates issued pursuant to La. R.S. 47:519 and La. R.S. 47:519.2 which expired on or before March 9, 2020 is suspended until May 10, 2020.
4. The expiration date of license plates issued pursuant to La. R.S. 47:462, *et seq.*, which expired on or after March 9, 2020 but before May 10, 2020 is suspended until May 10, 2020.

5. The notice of default issued pursuant to La. R.S. 32:429.4 that would be issued on or after March 9, 2020 but before May 15, 2020 is suspended, and the notices will not be issued until after May 15, 2020.
6. The expiration date of an apportioned registration issued under the International Registration Plan which expires March 31, 2020 is suspended and the expiration date is extended to May 31, 2020.
7. The period to request an administrative hearing submitted to the Department pursuant to La. R.S. 32:667, La. R.S. 32:863, La. R.S. 863.1 and LAC Title 55, Part III, Chapter 1, §159 which expired on or after March 9, 2020 but before May 10, 2020 are suspended and extended until June 10, 2020.
8. The sixty-day delay for the Department to submit the administrative hearing record to the Division of Administrative Law pursuant to La. R.S. 32:667(D)(1) for an arrest which occurred on or after March 9, 2020 but before May 10, 2020 is extended until August 8, 2020
9. Office of Motor Vehicles may offer services by remote customer services agent interaction in current Office of Motor Vehicles office locations.

SECTION 4: Any state department or agency or political subdivision is hereby granted authority to extend any non-essential deadline for a period of no longer than 30 days if deemed necessary to respond to the threat of COVID-19.

SECTION 5: The Louisiana Legislature is hereby requested to consider a suspension resolution which would allow for the suspension of any legal requirements to ensure the continued operation of state and local government, including such issues as legal deadlines and quorum requirements for open meetings.

SECTION 6: For the purpose of this executive order, "emergency-related claims" shall mean claims for unemployment compensation filed by persons whose unemployment is directly due to the impact of COVID-19 or due to their inability to get to their job or worksite because they are sick, isolated or quarantined, caring for a sick family member, or when an employees' child's school is closed as determined by the administrator of the state's unemployment compensation program, i.e., the executive director of the Louisiana Workforce Commission. Emergency-related claims will not necessarily include all claims in all parishes included in COVID-19 proclamations, declarations or orders.

SECTION 7: The following statutes relative to unemployment insurance are hereby suspended to the extent and in the manner described below:

- A. La. R.S. 23:1533, which provides for claimants' benefits to be charged against base period employers for purposes of employers' tax experience rating and the protesting of such charges by employers, shall be suspended for emergency-related claims made during the effective period of this Order.
- B. La. R.S. 23:1552, which provides for the charging of claimants' benefits to certain employers, shall be suspended for emergency-related claims made during the effective period of this Order.
- C. La. R.S. 23:1600(2) and (3) shall be suspended while this Order is in effect for emergency-related claims to the extent that they require claimants to register and search for work, but the requirements in La. R.S. 23:1600(2) that claimants continue to report at an employment office in the manner prescribed by the administrator, and in La. R.S. 23:1600(3) that claimants be able to work and be available for work, are not waived. The requirement to continue to report at an employment office, which is accomplished through either an automated telephone system or the Internet, is not impractical and avoids overpayments, which claimants would be liable to repay. Such activities are not practical by an individual who is impacted by COVID-19.

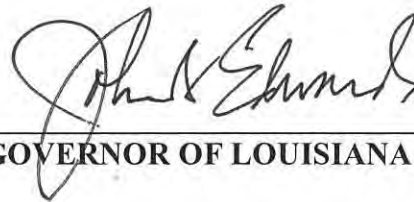
SECTION 8: Any organization licensed by the Louisiana Department of Revenue Office of Charitable Gaming to conduct games of chance pursuant to the Charitable Raffles, Bingo and Keno Licensing Law shall not be authorized to hold or conduct any sessions as defined in La. R.S. 4:740 for the period beginning Friday, March 13, 2020 and ending on Sunday, April 12, 2020.

SECTION 9: All departments, commissions, boards, agencies and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate in actions the State may take in response to the effects of this event.

SECTION 10: This state of emergency extends from Friday, March 13, 2020 to Thursday, April 9, 2020, unless terminated sooner.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 13th day of March, 2020.



GOVERNOR OF LOUISIANA

ATTEST BY THE
SECRETARY OF STATE



SECRETARY OF STATE



EXECUTIVE DEPARTMENT

PROCLAMATION NUMBER JBE 2020 – 32

***ADDITIONAL MEASURES FOR COVID-19
PUBLIC HEALTH EMERGENCY***

- WHEREAS,** pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, *et seq.*, the Governor declared a Public Health emergency in Proclamation Number 25 JBE 2020;
- WHEREAS,** the worldwide outbreak of COVID-19 and the effects of its extreme risk of person-to-person transmission throughout the United States and Louisiana significantly threatens the safety, health, and security of the citizens of the state, along with public facilities, including, but not limited to schools, workplaces, nursing homes, hospitals, etc.;
- WHEREAS,** on March 13, 2020, the Governor issued Proclamation Number 27 JBE 2020 which, among other protective measures, ordered that all public schools in Louisiana be closed to students until April 13, 2020;
- WHEREAS,** administration of the Louisiana Education Assessment Program (LEAP) and the End of Course examinations (EOCs) after April 13, 2020, with students having been out of the classroom for a month, will result in examination results that do not accurately reflect student success;
- WHEREAS,** to assure that the students of Louisiana can be assessed properly in light of the exceptional circumstances created by the threat of COVID-19, it is necessary to suspend certain provisions relating to educational performance;
- WHEREAS,** it is further necessary to suspend certain provisions which have limited the availability of COVID-19 testing in Louisiana and place restrictions on health care providers which do not allow for proper response in this declared emergency, including encouraging the use of telehealth and allowing for an increase in the nursing capacity of the state;
- WHEREAS,** in addition, the director of the Department of Health's Bureau of Emergency Medical Services has been notified that companies operating offshore oil and gas platforms are screening workers for COVID-19 upon deployment and return from offshore platforms, but are running out of paramedics to perform these assessments;
- WHEREAS,** ambulance providers in the state have contacted the Department of Health's Bureau of Emergency Medical Services with concerns that they will be unable to sufficiently respond to the increased number of ambulance transports caused by the COVID-19 outbreak without a suspension of the ambulance staffing requirements set forth in R.S. 40:1135.1(A)(2)(a);
- WHEREAS,** the number of EMS practitioners available in the state to respond to this emergency are insufficient, and there is a need to suspend the ambulance staffing requirements set forth in R.S. 40:1135.1(A)(2)(a) in order to ensure that ambulance services can sufficiently respond to those persons affected by this emergency;

WHEREAS, the Secretary of the Department of Health and the Director of the Department of Health's Bureau of Emergency Medical Services have requested that the ambulance staffing requirements set forth in R.S. 40:1135.1(A)(2)(a) be temporarily suspended; and

WHEREAS, the Office of Motor Vehicles has requested that there be an additional suspension of driving schools and proof of school attendance during the pendency of this emergency.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

- SECTION 1:**
- (A) The provisions of La. R.S. 17:24.4 and BESE Bulletin 741 that mandate annual administration of testing under the Louisiana Education Assessment Program and End of Course examinations are hereby suspended for the entirety of the 2019-2020 school year contingent upon receipt of a waiver of the accountability mandates in the Every Student Succeeds Act from the United States Department of Education.
 - (B) The provisions of La. R.S. 17:4023 and La. R.S. 47:6301(B)(2)(ii) that require nonpublic schools to administer testing under the Louisiana Education Assessment Program and End of Course examinations to students participating in the Louisiana Student Scholarships for Educational Excellence program and to students receiving scholarships from donations to school tuition organizations are hereby suspended for the entirety of the 2019-2020 school year upon receipt of a waiver of the accountability mandates in the Every Student Succeeds Act from the United States Department of Education.
 - (C) The provisions of La. R.S. 17:10.1 that provide for the School and District Accountability System and any rules or regulations adopted by the Board of Elementary and Secondary Education pertaining to the School and District Accountability System are hereby suspended for the 2019-2020 school year upon receipt of a waiver of the accountability mandates in the Every Student Succeeds Act from the United States Department of Education.
 - (D) The provisions of La. R.S. 17:391.2 et seq. that provide for public school accountability and assessment are hereby suspended for the entirety of the 2019-2020 school year upon receipt of a waiver of the accountability mandates in the Every Student Succeeds Act from the United States Department of Education.
 - (E) The provisions of La. R.S. 17:154.3 that require teachers to work a minimum number of days per school year are hereby suspended for the entirety of the 2019-2020 school year.
 - (F) The provisions of La. R.S. 17:221 that mandate every person having control or charge of a child to send that child to a public or nonpublic school are hereby suspended for the entirety of the 2019-2020 school year.
 - (H) The provisions of La. R.S. 17:232 that require attendance to be checked daily at all schools are hereby waived for the entirety of the 2019-2020 school year.
 - (I) The provisions of La. R.S. 17:3881 et seq., La. R.S. 17:3901 et seq., and La. R.S. 17:3997(D) that provide for the use of value-added data in teacher evaluation and as criteria for receipt of teaching credentials are hereby suspended for the entirety of the 2019-2020 school year upon receipt of a waiver of the accountability mandates in the Every Student Succeeds Act from the United States Department of Education.
 - (J) The provisions of La. R.S. 17:3991(C)(1)(b) that require charter schools to adhere to certain student application and enrollment procedures are hereby suspended for the entirety of the 2019-2020 school year.

- (K) The Board of Elementary and Secondary Education shall apply to the United States Department of Education for a waiver of the relevant provisions of the Every Student Succeeds Act necessary to effect the suspension of the statutes requiring a federal waiver described in the sections above.
- (L) The provisions of La. R.S. 17:194(B) are hereby suspended to allow for the school districts to have greater flexibility for administration of a nutrition program for students affected by this emergency.
- (M) The Board of Elementary and Secondary Education shall adopt emergency rules as necessary to effect the suspension of the statutes described in the sections above.

SECTION 2: The following provisions of the Public Bid Law, La. R.S. 38:2211, *et seq.*, are hereby suspended during this emergency:

- (A) Louisiana Public Bid Law (La. R.S. 38:2211, *et seq.*) and its corresponding rules and regulations relating to deadlines for advertisement for bids for public works, submission of bids and ancillary documents, award and execution of public works contracts, and any other deadlines related to the advertisement, award, and execution of a public works contract mandated by statute or by said rules and regulations.
- (B) The provisions of La. R.S. 39:124 through 126 regarding periodic meetings and/or inspections of capital outlay projects by facility planning and control, including inspection of a project prior to the expiration of the guarantee period, and prior approval of change orders are hereby suspended and any meetings and/or inspections shall be limited to only those inspections or meetings determined to be absolutely necessary for the advancement of the capital outlay project.

SECTION 3: Because of the threat posed to health care workers from COVID-19 and the need to allocate resources to respond to this disaster, there is a need to allow for additional telehealth opportunities. To facilitate the provision of telehealth services where available and appropriate, the following guidelines are adopted:

- (A) The requirement of R.S. 40:1223.4 that each state agency or professional or occupational licensing board or commission that regulates the practice of a healthcare provider promulgate any rules necessary to provide for, promote, and regulate the use of telehealth in the delivery of healthcare services within the scope of practice regulated by the licensing entity is hereby suspended during the term of this emergency declaration.
- (B) All licensing boards are encouraged to adopt emergency rules, if necessary, so that it will not be considered unethical nor a violation of any licensing standards of the healthcare provider, solely as a result of the provision of such care via telehealth.
- (C) The practice of the healthcare provider administered via telehealth must be within the scope of the provider's license, skill, training, and experience. The services provided to the patient must meet the standard of care that would be provided if the patient were treated on an in-person basis.
- (D) Prescribing of any controlled substances via telehealth must be medically appropriate, well-documented and continue to conform to rules applicable to the prescription of such medications.

SECTION 4: In an effort to reduce and limit the spread of COVID-19 in Louisiana, and to preserve the health and safety of all members of the public, all Public Post-secondary institutions and proprietary schools within the state of Louisiana that are licensed by the Louisiana Board of Regents shall be allowed to substitute in-person clinical and classroom instruction with online and lab simulations for enrolled students for the duration of the declared emergency.

Further, all proprietary schools within the state of Louisiana that are licensed by the Louisiana Board of Regents shall be allowed to substitute in-person clinical and classroom instruction with online and lab simulations for currently enrolled students as of March 1, 2020.

SECTION 5: The ambulance staffing requirements set forth in R.S. 40:1135.1(A)(2)(a) are hereby temporarily suspended as to ambulance drivers, provided that such driver possesses a driver's license valid in the State of Louisiana and meets the criminal background check requirements of R.S. 40:1203.1 et seq.

Except as expressly suspended herein, all other requirements of R.S. 40:1135.1 shall remain in place, including the requirement that an ambulance be staffed with a minimum of two persons, one of whom shall be a licensed emergency medical technician.

SECTION 6: In addition to the suspension of legal deadlines in Section 5 of JBE 20-30, the deadlines established in Title 46 of Louisiana Revised Statutes, Public Welfare and Assistance are hereby suspended.

Further, this order clarifies that the suspension of Title 23 of the Louisiana Revised Statutes in JBE 20-30 does not apply to the payment of wages in La. R.S. 23:631-653.

SECTION 7: The licensing and certification requirements for Louisiana Clinical Laboratory Personnel set forth in R.S. 37:1318, including any requirements for criminal background checks, be temporarily suspended for those laboratory personnel conducting COVID-19 testing who demonstrate molecular biology polymerase chain reaction (PCR) experience and/or for those who demonstrate serological experience in testing clinical samples, when such testing and related activities are performed under the oversight and responsibility of a licensed physician or doctor of philosophy (Ph.D.) with demonstrated experience in the related laboratory activities who ensures the quality of results.

SECTION 8: All driving schools in the State of Louisiana shall close for in class instruction until April 13, 2020.

In addition, the form documenting school attendance for minors shall not be required for the issuance or renewal of driver's permit or license to operate a motor vehicle until May 10, 2020.

SECTION 9: All departments, commissions, boards, agencies and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate in actions the State may take in response to the effects of this event.

SECTION 10: The provisions in this state of emergency extend from Thursday, March 19, 2020 to Monday, April 13, 2020, unless terminated sooner.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 19th day of March, 2020.

[Handwritten Signature]

GOVERNOR OF LOUISIANA

ATTEST BY THE SECRETARY OF STATE

[Handwritten Signature]

SECRETARY OF STATE



EXECUTIVE DEPARTMENT

PROCLAMATION NUMBER 33 JBE 2020

***ADDITIONAL MEASURES FOR COVID-19
STAY AT HOME***

- WHEREAS,** pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, *et seq.*, the Governor declared a Public Health emergency in Proclamation Number 25 JBE 2020 in response to the threat posed by COVID-19;
- WHEREAS,** on March 11, 2020, in Emergency Proclamation Number 25 JBE 2020, the Governor declared that a statewide public health emergency exists in the State of Louisiana because of COVID-19 and expressly empowered the Governor’s Office of Homeland Security and Emergency Preparedness and the Secretary of the Department of Health and/or the State Health Officer to take all actions authorized under state law;
- WHEREAS,** on March 13, 2020, in Emergency Proclamation Number 27 JBE 2020, the Governor supplemented the measures taken in his declaration of a Public Health Emergency with additional restrictions and suspensions of deadlines and regulations in order to protect the health and safety of the public because of COVID-19;
- WHEREAS,** the extraordinary threat posed by COVID-19 has caused critical shortages of health care equipment, personal protective equipment, and possible shortages in hospital beds, throughout the state;
- WHEREAS,** without additional measures to slow the spread of COVID-19 in the state, health care facilities in parts of the state or even throughout the state are at significant risk of being overwhelmed;
- WHEREAS,** in line with guidance from the Centers for Disease Control (CDC) and after consultation with the State Health Officer and the Director of the National Institute of Allergy and Infectious Disease, it is clear that additional measures are necessary to protect the health and safety of the public, to mitigate the impact of COVID-19, and to disrupt the spread of the virus;
- WHEREAS,** after declaration of a public health emergency, the Governor is authorized by La. R.S. 29:766(D)(7) to control “ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein”;
- WHEREAS,** in addition to the temporary closure of certain businesses ordered because of this emergency in Section 2 of Proclamation Number 30 JBE 2020, certain additional businesses need to be temporarily closed to the public during this emergency;
- WHEREAS,** further, in addition to businesses closed to the public by this order, other businesses throughout the state will need to **reduce operations to continue with minimum contact with members of the public and only essential employees, while requiring proper social distancing;**
- WHEREAS,** these measures relating to closure of certain businesses and to limit the operations of non-essential businesses are necessary because of the propensity of the COVID-19 virus to spread via personal interactions and because of physical contamination of property due to its ability to attach to surfaces for prolonged periods of time; and

WHEREAS, these measures are necessary to protect the health and safety of the people of Louisiana.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: All state office buildings are closed to the public, effective immediately. However, essential state functions shall continue.

SECTION 2: Section 1 of Proclamation Number 30 JBE 2020 is hereby amended as follows:

In an effort to reduce and limit the spread of COVID-19 in Louisiana, and to preserve the health and safety of all members of the public, all gatherings of **10** people or more shall be postponed or cancelled. This applies only to gatherings in a single space at the same time where individuals will be in close proximity to one another. It does not apply to normal operations at locations like airports, medical facilities, office buildings, factories or manufacturing facilities, or grocery stores. This provision may be extended beyond Monday, April 13, 2020 by further order.

SECTION 3: To preserve the public health and safety, and to ensure the healthcare system is capable of serving all citizens in need, especially those at high risk and vulnerable to COVID-19, all individuals within the state of Louisiana are under a general stay-at-home order and are directed to stay home unless performing an essential activity. An activity is essential if the purpose of the activity is one of the following:

- A. Obtaining food, medicine, and other similar goods necessary for the individual or a family member of the individual.
- B. Obtaining non-elective medical care and treatment and other similar vital services for an individual or a family member of the individual.
- C. Going to and from an individual's workplace to perform a job function necessary to provide goods or services being sought in Subsections (A) and (B) of this Section, or as otherwise deemed essential worker functions. Guidance provided by the U.S. Department of Homeland Security, Cybersecurity & Infrastructure Security Agency (CISA) on what workers are essential is outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>.
- D. Going to and from the home of a family member.
- E. Going to and from an individual's place of worship.
- F. Engaging in outdoor activity, provided individuals maintain a distance of six feet from one another and abide by the 10-person limitation on gathering size established in this proclamation.

SECTION 4: (A) Further, in addition to businesses that are closed to the public pursuant to Proclamation Number 30 JBE 2020, the following nonessential businesses shall be closed to the public and members:

1. All places of public amusement, whether indoors or outdoors, including but not limited to, locations with amusement rides, carnivals, amusement parks, water parks, trampoline parks, aquariums, zoos, museums, arcades, fairs, pool halls, children's play centers, playgrounds, theme parks, any theaters, concert and music halls, adult entertainment venues, racetracks, and other similar businesses.
2. All personal care and grooming businesses, including but not limited to, barber shops, beauty salons, nail salons, spas, massage parlors, tattoo parlors, and other similar businesses.

- 3. All malls, except for stores in a mall that have a direct outdoor entrance and exit that provide essential services and products as provided by CISA guidelines.
- (B) Businesses closed to the public pursuant to this provision shall not be prohibited from conducting necessary activities such as payroll, cleaning services, maintenance or upkeep as necessary.

SECTION 5: Any business not covered by the guidance from the CISA discussed in Section 3 and not ordered temporarily closed in Section 4 shall reduce operations to continue with minimum contact with members of the public and essential employees, while requiring proper social distancing. Further, the 10-person limitation on gathering size shall apply to such business operations. Early learning centers and child care facilities adhering to the guidance issued by the Louisiana Department of Education and Office of Public Health may continue to operate.

SECTION 6: The Governor’s Office of Homeland Security and Emergency Preparedness is directed to ensure compliance with this order, and is empowered to exercise all authorities pursuant to La. R.S. 29:721, *et seq.*, and La. R.S. 29:760, *et seq.*

SECTION 7: Unless otherwise provided in this order, these provisions are effective from 5:00 p.m. on Monday, March 23, 2020 to Monday, April 13, 2020, unless terminated sooner.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 22nd day of March, 2020.

[Handwritten Signature]

 GOVERNOR OF LOUISIANA

ATTEST BY THE
 SECRETARY OF STATE

[Handwritten Signature]

 SECRETARY OF STATE

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

* **CIVIL ACTION**
*
* **NO. 18-63-BAJ-EWD**
*
* **JUDGE BRIAN A. JACKSON**
*
* **MAGISTRATE JUDGE**
* **ERIN WILDER-DOOMES**

EXHIBIT B



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From: CHRISTOPHER MARLONE
Date: 3/31/2020 10:15:33 AM
To: Emily Posner

Attachments:

the medical staff has gloves, masks, etc. but since there is a shortage we dont know how often they are changing them. they were told to take them home and rewear their masks, according to staff. I dont go to pill call. but the same nurses that are in he quarantine ward issue insulin and no one knows if they change gloves. the diabetics in quarantine come and use the same glucose meters/counters and a few hours later we are back to use them againn- which contaminates the equipment. again the same nurses deal with them, and we don't know or see if they change gloves or masks. and is the budget and supply shortage are critical, I doubt it. they've told us for weeks that everyone that went to sick call had 'allergies' or flu without testing. they stopped running sick call, hence me having to make an emergency. they are sending people away if they dont have fever. they have not announced sick call in 3 days.

one dorm of 140 inmates is under quarantine, but the whole place is probably a few days away from it. but that doesn't stop anything, since staff are free roaming. there are two stories - at either 6 total or six new cases are confirmed which would make 9 cases. it was one 3 days ago.

we don't have free access to bleach or cleaning agents. we dont have anything to wipe the phones with, no alcohol pads or anything like they told dad at the meeting. there are no paper towels to dry hands. they issue us one bar of soap every two weeks to bathe and wash hands with. we live 20-30" apart in our beds. there are 79 inmates in approx 5,000sqft. we share 5 toilets and sinks. all of our clothes/bed sheets are being washed together with other dorms'.

we eat at tables, 4 to a table, in a cafeteria that has now proven to have had covid-positive people working until 3 days ago, but the others that worked with him are still there. so, we have possibly contaminated people cooking our food/handling dishes and pots. plus they obviously reuse all trays, cups, and spoons for the whole compound exacerbating the potential for cross contamination.

they rotate staff all over the place, possibly cross contaminating covid to other dorms. we're being told its our fault and officers are quitting. they've cancelled all call outs and trips.

its hard to think about this since all of us are pigeon holed. I try to eat from canteen but its expensive...

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From: CHRISTOPHER MARLONE

Date: 3/31/2020 5:46:10 PM

To: Emily Posner

Attachments:

past 3 hours:
 they took our temperature today.
 they just quarantined another dorm, 158 more people. 3 or 4 of the residents had fevers and went the infirmary, that's a total of 316 on dorm quarantine. they are also keeping people in solitary confinement cells for quarantine and others in makeshift housing areas in the visiting shed, besides what is in quarantine in the infirmary.
 the scary part is that they decided to do a bed shuffle on Monday and put two of guys from that dorm in my bed area.
 one or two staff were sent home due to symptoms, also.

one minute ago: two guys on my tier just got quarantined, they work for the staff that was sent home. we may be next as a whole dorm. she was the commissary officer.

will update as more develops.

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From: CHRISTOPHER MARLONE

Date: 4/1/2020 9:02:00 PM

To: Emily Posner

Attachments:

I have, when I'm layin in my bed, within my 5ft bubble I have 3 people , 11 people within 8 ft of me. if we're not in bed and are standing, its 5-6 ft... and solution to magically fix this is go head to toe... makes no difference. just makes sleep uncomfortable.

need anything from me for the other thing, media, etc?

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From: CHRISTOPHER MARLONE
Date: 4/3/2020 5:51:25 AM
To: Emily Posner

Attachments:

Emily,

they are housing the covid positive people with it in the cell block, sick quarantine as well. so if I go, not sick, I will guarantee get sick. the whole block is sick and covid positive people right now. 5 people went there last night sick with fever and breathing probs. that's the only place to put them safely.

cell blocks are horrible idea for a diabetic because you loose any control over access to emergency foods or attention by medical. you are only dealt with during meals and pill call. if I take insulin and it happens to be in excess of what I need and I do have access to my food, I die. most don't understand the dynamics of diabetes and the problem is so big because its hard to maintain as a type one. you're not allowed food, candy, no commissary, and no med attention until pill calls. well, I don't eat rice or bread because of the glucose influence, and if I can't substitute with oatmeal or something, I can die from insulin overdose. of course the simple answer is to take less insulin, but then if I eat too much or eat wrong, I can enter ketoacidosis or have a stroke.

that's the diabetic reason. that's why diabetics tend to be the best behaved inmates - we're afraid to die because of a dinner roll. the cell block has the very real potential to turn any diabetic's sentence into a death sentence by lethal injection. this is NOT a dramatization.

besides that, I'm traumatized from the last time I was in there for 6 months. I don't want to experience that again. I lost my mind. I do not want solitary confinement. I'd rather die. period. I don't want to become a blathering idiot. this is projected to last for the rest of the year. I cannot do a cell time that long but even in the cell blocks aren't totally isolated. they bring you food, deal with medical, and ever cell is at capacity with a cell mate. that is NOT an option I want to explore. I get stomach cramps and nausea thinking about the blocks and being confined again.

there are no social distance areas, since the point is to herd us and maintain supervision.

in the cell block, socially, our communication would stop. they are not allowed any phone, jpay, or anything in the block. there are no TVs, no books, and nothing to do. its total lockdown there. and now since its a sick ward, its a health gauntlet.

please, no... - Chris

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From: CHRISTOPHER MARLONE
Date: 4/5/2020 5:59:41 PM
To: Emily Posner

Attachments:

18 positive inmate cases, new said there are also 17 confirmed officers sick.

the yard times have changed, but that doesn't stop people being close, since every yard has 316 inmates living together, ours has half since the other side is a cell block.

no other changes... I'm nervous, but c'est la vie.

did a lot of introspection today. I'm really hoping to have the chance to do good for the world, be a dad, and make my parents proud...

people in here are scared and trying make the best of it, but other inmates are still being retarded and cooking and eating together, hanging out close, and just lots of stupidity.

I am trying keep distance.

AG Barr released a crap ton of diabetic and other vulnerable inmates in the feds. wondrrin if Louisiana is going to follow suit.

other then that, we're staying the course. dad said you didn't feel good, so I hope that its not serious and it goes way. not covid.. let me know what's up. hope you're good. - Chris

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**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

*** CIVIL ACTION**

*** NO. 18-63-BAJ-EWD**

*** JUDGE BRIAN A. JACKSON**

*** MAGISTRATE JUDGE**

*** ERIN WILDER-DOOMES**

EXHIBIT C



Emily Posner <emilyposnerlaw@gmail.com>

Attorney Calls

CAROL JORDAN <CJORDAN@corrections.state.la.us>
To: Emily Posner <emilyposnerlaw@gmail.com>

Mon, Mar 30, 2020 at 10:23 AM

I'll have to get back to you about this, we have a positive co-vid 19 at this prison and some housing areas are quarantined.

From: Emily Posner <emilyposnerlaw@gmail.com>
To: CAROL JORDAN <cjordan@corrections.state.la.us>
Date: 03/30/2020 10:21 AM
Subject: Attorney Calls

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

[Quoted text hidden]

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

*** CIVIL ACTION**

*** NO. 18-63-BAJ-EWD**

*** JUDGE BRIAN A. JACKSON**

*** MAGISTRATE JUDGE**

*** ERIN WILDER-DOOMES**

EXHIBIT D

Offender Details

First Name:	CHRISTOPHER	Middle Initial:		Last Name:	MARLONE
SID #:	2478137	Docket #:		Active:	Yes
Date of Birth:	12/05/1984	DOC #:			00558725
Gender:	M	Race:			White



Institutional

Risk Score: Low

Last Updated: 12/05/2019

ODARA Score:

Last Updated:

Static 99 Score:

Last Updated:



Mini

Need Score: Low

Last Updated: 12/28/2018

Prescription Bundle

Last Updated:

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

* **CIVIL ACTION**
*
* **NO. 18-63-BAJ-EWD**
*
* **JUDGE BRIAN A. JACKSON**
*
* **MAGISTRATE JUDGE**
* **ERIN WILDER-DOOMES**

EXHIBIT E



Emily Posner <emilyposnerlaw@gmail.com>

Chris Marlowe

1 message

Brooklynn <brooklynnroberts@hotmail.com>
To: emilyposnerlaw@gmail.com

Tue, Mar 31, 2020 at 3:59 PM

Hi Emily. Yes Chris Marlowe can stay with me I have a 2 bedroom apartment at 411 Eissman Rd Apt 41 Leesville, LA 71446. I work locally at the hospital. If you have any questions feel free to contact me by phone or email.

Thank you,
Brooklynn Roberts

Sent from my iPhone



Emily Posner <emilyposnerlaw@gmail.com>

Urgent

Elizabeth Norton <liz.norton@yahoo.com>
To: Emily Posner <emilyposnerlaw@gmail.com>

Tue, Mar 31, 2020 at 12:52 PM

Yes, Chris can live in our 2 bedroom frame house that is our second home. It has a complete bath, full kitchen with a refrigerator and stove, living room, fully furnished , and all utilities. It has a laundry room and a front porch. It is located on 54 acres in East Texas. Chris is welcome to live there permanently and help with our real estate business to earn money. We would enjoy the help. The address is [3421 Narrowway Loop, Lufkin, TX, 75904](#).

We will assist Chris with anything he needs. We will stay in our rv so he can quarantine himself for the 14 day period. We also have a vehicle he can use.

Liz and Mike Norton
936-212-5545
936-366-4900

[Quoted text hidden]

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

*** CIVIL ACTION**

*** NO. 18-63-BAJ-EWD**

*** JUDGE BRIAN A. JACKSON**

*** MAGISTRATE JUDGE**

*** ERIN WILDER-DOOMES**

EXHIBIT F

1 DONALD SPECTER – 083925
STEVEN FAMA – 099641
2 ALISON HARDY – 135966
SARA NORMAN – 189536
3 RITA LOMIO – 254501
MARGOT MENDELSON – 268583
4 PRISON LAW OFFICE
1917 Fifth Street
5 Berkeley, California 94710-1916
Telephone: (510) 280-2621
6

MICHAEL W. BIEN – 096891
ERNEST GALVAN – 196065
LISA ELLS – 243657
JESSICA WINTER – 294237
MARC J. SHINN-KRANTZ – 312968
CARA E. TRAPANI – 313411
ROSEN BIEN
GALVAN & GRUNFELD LLP
101 Mission Street, Sixth Floor
San Francisco, California 94105-1738
Telephone: (415) 433-6830

7 Attorneys for Plaintiffs

8 UNITED STATES DISTRICT COURTS
9 EASTERN DISTRICT OF CALIFORNIA
AND NORTHERN DISTRICT OF CALIFORNIA
10 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES
11 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

12 RALPH COLEMAN, et al.,
13 Plaintiffs,

14 v.

15 GAVIN NEWSOM, et al.,
16 Defendants.

Case No. 2:90-CV-00520-KJM-DB
THREE JUDGE COURT

17 MARCIANO PLATA, et al.,
18 Plaintiffs,

19 v.

20 GAVIN NEWSOM,
21 Defendants.

Case No. C01-1351 JST

THREE JUDGE COURT

**DECLARATION OF MARC STERN,
M.D. IN SUPPORT OF PLAINTIFFS’
EMERGENCY MOTION TO MODIFY
POPULATION REDUCTION ORDER**

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DECLARATION OF MARC STERN, M.D.

I, Marc Stern, declare as follows:

1. I am a physician, board-certified in internal medicine, specializing in correctional health care. I most recently served as the Assistant Secretary for Health Care at the Washington State Department of Corrections. I served for four years as a medical subject matter expert for the Officer of Civil Rights and Civil Liberties, U.S. Department of Homeland Security, and as a medical subject matter expert for one year for the California Attorney General’s division responsible for monitoring the conditions of confinement in Immigration and Customs Enforcement (ICE) detention facilities. I am a court-appointed medical expert in the class action *Parsons v. Ryan*, CV-12-00601-PHX-ROS. Currently, I am the Medical Advisor for the National Sheriffs’ Association on matters related to preventive measures responding to COVID-19. Additionally, in 2009, at the request of the California Receiver Clark Kelso, I toured 10 California State Prisons to assess whether or not the Receiver’s assignment – to restore the delivery of health services within the California State Prisons – to constitutionally adequate levels – had been completed. I have been Attached as Exhibit A is a copy of my curriculum vitae.

2. COVID-19 is a serious disease that has reached pandemic status, and is straining the health care systems around the world. At least 330,000 people around the world have received confirmed diagnoses of COVID 19, including 33,400 people in the United States. At least 14,000 people have died globally as a result of COVID-19, including more than 400 in the United States. These numbers will increase, perhaps exponentially. Moreover, the numbers for the United States currently must be considered in light of nationwide shortages of COVID-19 tests, thus the actual numbers are likely significantly higher than those reported.

3. The California Department of Corrections and Rehabilitation (CDCR) reports that so far five employees and one incarcerated person have tested positive for COVID-19. <https://www.cdcr.ca.gov/covid19/>. The actual number of infections is likely to be higher due to the testing shortage.

1 4. COVID-19 is a novel respiratory virus. It is spread primarily through droplets
2 generated when an infected person coughs or sneezes, or through droplets of saliva or discharge
3 from the nose. There is no vaccine for COVID-19, and there is no cure for COVID-19. No one
4 has prior immunity. The only way to control the virus is to use preventive strategies, including
5 social distancing.

6 5. The time course of the disease can be very rapid. Individuals can show the first
7 symptoms of infection in as little as two days after exposure and their condition can seriously
8 deteriorate in as little as five days (perhaps sooner) after that. It is believed that people can
9 transmit the virus without being symptomatic and, indeed, that a significant amount of
10 transmission may be from people who are infected but asymptomatic or pre-symptomatic.

11 6. The effects of COVID-19 are very serious, especially for people who are most
12 vulnerable. Vulnerable people include people over the age of 50, and those of any age with
13 underlying health problems such as – but not limited to – weakened immune systems,
14 hypertension, diabetes, blood, lung, kidney, heart, and liver disease, and possibly pregnancy.

15 7. Vulnerable people who are infected by the COVID-19 virus can experience severe
16 respiratory illness, as well as damage to other major organs. Treatment for serious cases of
17 COVID-19 requires significant advanced support, including ventilator assistance for respiration
18 and intensive care support. An outbreak of COVID-19 could put significant pressure on or exceed
19 the capacity of local health infrastructure. In the absence of a vaccine and a cure, a significant
20 number of people who are infected with the virus will die. To the extent that the health care
21 infrastructure is overloaded, people will die unnecessarily because necessary respirators and
22 hospital facilities are unavailable.

23 8. Controlling the spread of the virus by limiting person to person contact is critical to
24 saving lives. This is very challenging in prisons, because they are congregate environments, i.e.
25 places where people live and sleep in close proximity. Social distancing in ways that are
26 recommended by public health officials can be difficult, if not impossible in this environment. To
27 the extent that incarcerated people are housed in close quarters, unable to maintain a six-foot
28 distance from others, and sharing or touching objects used by others, infectious diseases that are

1 transmitted via the air or touch (like COVID-19) are more likely to spread, placing people at risk.
2 This is especially true when, as in California, the number of incarcerated people is high and when
3 large numbers of people are housed in open dormitories rather than one or two-person cells. For
4 these reasons, if – but more likely when – COVID-19 is introduced into a prison, the risks of
5 spread is greatly, if not exponentially, increased as already evidenced by spread of COVID-19 in
6 two other congregate environments: nursing homes and cruise ships.

7 9. In addition to the increased risk from COVID-19 to *any* individual in the prisons,
8 there is an especially increased risk of harm to the elderly and people with underlying health
9 conditions. They are not only more likely to become seriously ill, but also, therefore, more likely
10 to require transport to a community hospital.

11 10. California state prisons remain overcrowded, even after the Population Reduction
12 Order upheld by the U.S. Supreme Court in *Brown v. Plata*, 563 U.S. 493 (2001). I have
13 reviewed the Weekly Population Report posted on the website of the CDCR at
14 <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2020/03/Tpop1d200318.pdf>. This
15 report shows that the California state prisons remain at 130% of capacity. Among the 35 state
16 prisons, all but four are over 100% capacity, and 19 are at or over 130% of design capacity, with
17 eight over 150% capacity. Among the four which are below capacity, their occupancies are still
18 high, from a public health standpoint: 90.9%, 96.2%, 97.3%, and 99.7%.

19 11. I visited 10 of the California state prisons in 2009, and have observed many of the
20 large open dormitories, housing groups ranging from a half dozen to scores of incarcerated people.
21 Additionally, I have reviewed photographs taken in 2019 and provided to me by plaintiffs' counsel
22 of living areas and day rooms in four prisons: Central California Women's Facility, California
23 Institution for Men, California Medical Facility, and the Substance Abuse Treatment Facility at
24 Corcoran. I also reviewed a CDCR Institutional Bed Audit dated March 23, 2020 that shows that
25 many of the CDCR dormitories are very crowded. For example, at Avenal State Prison, all people
26 are housed in dormitories designed to house 50-100 people. Most of those dormitories are
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1 currently at 150% capacity. At the Central California Women’s Facility, some of the dormitories
2 are as much as 194% overcrowded.

3 12. The level of crowding in the California state prisons, as evidenced by the
4 population reports, the Institutional Bed Audit and the photographs I reviewed, is very significant
5 and worrisome from a public health standpoint. These crowded conditions, particularly in the
6 dormitories, make it virtually impossible to maintain social distance.

7 13. CDCR already has reported confirmed cases of COVID-19 in the prisons. The
8 conditions in CDCR’s prisons will undoubtedly result in the rapid spread of the COVID-19 virus
9 throughout the prisons, absent significant and immediate interventions. In addition, prisons house
10 a higher percentage than the community of people with underlying health conditions that put them
11 at increased risk of serious complications (including death) from COVID-19. Therefore, based on
12 the crowded conditions, coupled with the increased concentration of people with high risk of
13 complications, including death, from COVID-19, **incarcerated people in California state
14 prisons are at an extraordinary risk of dying from the COVID-19 virus.**

15 14. I have reviewed the CDCR’s COVID-19 Preparedness webpage listing the
16 precautions they report to have implemented in the prisons. See <https://www.cdcr.ca.gov/covid19/>.
17 Even if fully implemented as described, these steps reduce, but do not eliminate significant risk
18 compared to risk in the community. Further, according to CDCR’s own plan, it will likely not be
19 able to fully implement its measures. Indeed, according to the website, “staff and inmates are
20 practicing social distancing strategies *where possible...*” and they will “[adjust] dining schedules
21 *where possible*” (emphasis added.)

22 15. For these reasons, I recommend immediately downsizing the population of these
23 prisons, with priority given to those at high risk of harm due to their age and health status, and
24 with the goal of allowing social distancing and recommended public health practices in all
25 ongoing activities. **To be effective in reducing the spread of the virus, these downsizing
26 measures must occur now.** Currently, the prevalence of the virus in the prisons appears low,
27 limited to a few prisons. This gives the California a critical window of opportunity to contain the
28 virus before it permeates the prison system and becomes completely unmanageable.

1 16. There are two values to immediate downsizing. First, downsizing will reduce the
2 density of congregation. This will allow people in prison to maintain better social distancing. The
3 reduction in population will also make it easier for prison authorities to implement infection
4 prevention measures such as: provision of cleaning supplies to residents; frequent laundering of
5 towels and clothes; provision of soap for handwashing; frequent cleaning of transactional surfaces;
6 frequent showers; etc. The reduction in population while implementing these enhanced measures
7 helps prevent overloading the work of prison staff such that they can continue to ensure the safety
8 of incarcerated people. For those people housed in dormitories, reducing the density will enable
9 people to live in group settings with sufficient space to maintain six feet of distance from others.
10 All these steps can slow or stop the spread of infection, to the benefit of residents and staff and,
11 ultimately, the community at large.

12 17. Second, immediate downsizing that prioritizes residents who are elderly and those
13 with underlying health conditions reduces the likelihood they will contract the disease. Individuals
14 in these groups are at the highest risk of severe complications from COVID-19 and when they
15 develop severe complications they will be transported to community hospitals. Prisons are integral
16 parts of the community's public health infrastructure. Reducing the spread and severity of
17 infection in a state prison slows, if not reduces, the number of people who will become ill enough
18 to require hospitalization where they will be using scarce community resources (ER beds, general
19 hospital beds, ICU beds) which also in turn reduces the health and economic burden to the local
20 community at large.

21 18. In addition to recommending immediate downsizing, I also recommend that the
22 prisons begin planning now to downsize further as conditions change. The change in conditions
23 we need to anticipate is reduction in workforce (custody and health care staff) as workers respond
24 to their personal needs (self-quarantine or isolation, caring for ill relatives, staying home with
25 school-age children). Insufficient custody staffing poses an obvious risk to the safety of the
26 institution. Insufficient health care staffing poses an obvious risk to the health of residents.


27 19. The risks to which incarcerated people at the 35 California state prisons are
28 exposed stem from the congregate nature of their crowded environment and, for the elderly and

1 chronically ill, from their medical histories. Thus, even if the health care delivery system were
2 constitutionally adequate, the incarcerated people living in these prisons would still be at
3 substantial risk of illness and death.

4 20. Thus, in summary, reducing the number of individuals imprisoned in the 35
5 California State Prisons immediately, with plans made for further reductions as staffing levels
6 change, is necessary for the health and safety of the prisons and our communities. This population
7 reduction should begin with the most medically compromised, and continue until the population
8 reaches the point that allows for social distancing and recommended public health practices in all
9 activities.

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

12 Executed this 24th day in March, 2020 in Tumwater, Washington.

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14 
15 _____

16 Dr. Marc Stern

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Exhibit A

MARC F. STERN, M.D., M.P.H., F.A.C.P.

March, 2020

1100 Surrey Trace Drive, SE
Tumwater, Washington 98501, USA

marcstern@live.com
+1 (360) 701-6520

SUMMARY OF EXPERIENCE

CORRECTIONAL HEALTH CARE CONSULTANT

2009 – PRESENT

Consultant in the design, management, and operation of health services in a correctional setting to assist in evaluating, monitoring, or providing evidence-based, cost-effective care consistent with constitutional mandates of quality.

Current activities include:

- COVID-19 Medical Advisor, National Sheriffs Association (2020 -)
- Advisor to various jails in Washington State on patient safety, health systems, and related health care and custody staff activities and operations, and RFP and contract generation (2014 -)
- Consultant to the US Department of Justice, Civil Rights Division, Special Litigation Section. Providing investigative support and expert medical services pursuant to complaints regarding care delivered in any US jail, prison, or detention facility. (2010 -) (no current open cases)
- Physician prescriber/trainer for administration of naloxone by law enforcement officers for the Olympia, Tumwater, Lacey, Yelm, and Evergreen College Police Departments (2017 -)
- Consultant to the Civil Rights Enforcement Section, Office of the Attorney General of California, under SB 29, to review the healthcare-related conditions of confinement of detainees confined by Immigration and Customs Enforcement in California facilities (2017 -)
- Rule 706 Expert to the Court, US District Court for the District of Arizona, in the matter of Parsons v. Ryan (2018 -)

Previous activities include:

- Consultant to Human Rights Watch to evaluate medical care of immigrants in Homeland Security detention (2016 - 2018)
- Consultant to Broward County Sheriff to help develop and evaluate responses to a request for proposals (2017 - 2018)
- Member of monitoring team (medical expert) pursuant to Consent Agreement between US Department of Justice and Miami-Dade County (Unites States of America v Miami-Dade County, *et al.*) regarding, *entre outre*, unconstitutional medical care. (2013 - 2016)
- Jointly appointed Consultant to the parties in Flynn v Walker (formerly Flynn v Doyle), a class action lawsuit before the US Federal District Court (Eastern District of Wisconsin) regarding Eighth Amendment violations of the health care provided to women at the Taycheedah Correctional Institute. Responsible for monitoring compliance with the medical component of the settlement. (2010 - 2015)
- Consultant on “Drug-related Death after Prison Release,” a research grant continuing work with Dr. Ingrid Binswanger, University of Colorado, Denver, examining the causes of, and methods of reducing deaths after release from prison to the community. National Institutes of Health Grant R21 DA031041-01. (2011 - 2016)
- Consultant to the US Department of Homeland Security, Office for Civil Rights and Civil Liberties. Providing investigative support and expert medical services pursuant to complaints regarding care received by immigration detainees in the custody of U.S. Immigration and Customs Enforcement. (2009 - 2014)
- Special Master for the US Federal District Court (District of Idaho) in Balla v Idaho State Board of Correction, *et al.*, a class action lawsuit alleging Eighth Amendment violations in provision of health care at the Idaho State Correctional Institution. (2011 - 2012)
- Facilitator/Consultant to the US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, providing assistance and input for the development of the first National Survey of Prisoner Health. (2010-2011)
- Project lead and primary author of National Institute of Corrections’ project entitled “Correctional Health Care Executive Curriculum Development,” in collaboration with National Commission on Correctional Health Care. NIC commissioned this curriculum for its use to train executive leaders from jails and prisons across the nation to better manage the health care missions of their facilities. Cooperative Agreement 11AD11GK18, US Department of Justice, National Institute of Corrections. (2011 - 2015)

- Co-teacher, with Jaye Anno, Ph.D., for the National Commission on Correctional Health Care, of the Commission's standing course, *An In-Depth Look at NCCHC's 2008 Standards for Health Services in Prisons and Jails* taught at its national meetings. (2010 - 2013)
- Contributor to 2014 Editions of Standards for Health Services in Jails and Standards for Health Services in Prisons, National Commission on Correctional Health Care. (2013)
- Consultant to the California Department of Corrections and Rehabilitation court-appointed Receiver for medical operations. Projects included:
 - Assessing the Receiver's progress in completing its goal of bringing medical care delivered in the Department to a constitutionally mandated level. (2009)
 - Providing physician leadership to the Telemedicine Program Manager tasked with improving and expanding the statewide use of telemedicine. (2009)
- Conceived, co-designed, led, and instructed in American College of Correctional Physicians and National Commission on Correctional Health Care's Medical Directors Boot Camp (now called Leadership Institute), a national training program for new (Track "101") and more experienced (Track "201") prison and jail medical directors. (2009 - 2012)
- Participated as a member of a nine-person Delphi expert consensus panel convened by Rand Corporation to create a set of correctional health care quality standards. (2009)
- Convened a coalition of jails, Federally Qualified Health Centers, and community mental health centers in ten counties in Washington State to apply for a federal grant to create an electronic network among the participants that will share prescription information for the correctional population as they move among these three venues. (2009 - 2010)
- Participated as a clinical expert in comprehensive assessment of Michigan Department of Corrections as part of a team from the National Commission on Correctional Health Care. (2007)
- Provided consultation to Correctional Medical Services, Inc., St. Louis (now Corizon), on issues related to development of an electronic health record. (2001)
- Reviewed cases of possible professional misconduct for the Office of Professional Medical Conduct of the New York State Department of Health. (1999 - 2001)
- Advised Deputy Commissioner, Indiana State Board of Health, on developing plan to reduce morbidity from chronic diseases using available databases. (1992)
- Provided consultation to Division of General Medicine, University of Nevada at Reno, to help develop a new clinical practice site combining a faculty practice and a supervised resident clinic. (1991)

OLYMPIA BUPRENORPHINE CLINIC, OLYMPIA, WASHINGTON 2019 - PRESENT

Volunteer practitioner at a low-barrier clinic to providing Medication Assisted Treatment (buprenorphine) to opioid dependent individuals wishing to begin treatment, until they can transition to a long-term treatment provider

OLYMPIA FREE CLINIC, OLYMPIA, WASHINGTON 2017 - PRESENT

Volunteer practitioner providing episodic care at a neighborhood clinic which provides free care to individuals without health insurance until they can find a permanent medical home

OLYMPIA UNION GOSPEL MISSION CLINIC, OLYMPIA, WASHINGTON 2009 - 2014

Volunteer practitioner providing primary care at a neighborhood clinic which provides free care to individuals without health insurance until they can find a permanent medical home; my own patient panel within the practice focuses on individuals recently released jail and prison.

WASHINGTON STATE DEPARTMENT OF CORRECTIONS 2002 - 2008

Assistant Secretary for Health Services/Health Services Director, 2005 - 2008

Associate Deputy Secretary for Health Care, 2002 - 2005

Responsible for the medical, mental health, chemical dependency (transiently), and dental care of 15,000 offenders in total confinement. Oversaw an annual operating budget of \$110 million and 700 health care staff.

- As the first incumbent ever in this position, ushered the health services division from an operation of 12 staff in headquarters, providing only consultative services to the Department, to an operation with direct authority and

responsibility for all departmental health care staff and budget. As part of new organizational structure, created and filled statewide positions of Directors of Nursing, Medicine, Dental, Behavioral Health, Mental Health, Psychiatry, Pharmacy, Operations, and Utilization Management.

- Significantly changed the culture of the practice of correctional health care and the morale of staff by a variety of structural and functional changes, including: ensuring that high ethical standards and excellence in clinical practice were of primordial importance during hiring of professional and supervisory staff; supporting disciplining or career counseling of existing staff where appropriate; implementing an organizational structure such that patient care decisions were under the final direct authority of a clinician and were designed to ensure that patient needs were met, while respecting and operating within the confines of a custodial system.
- Improved quality of care by centralizing and standardizing health care operations, including: authoring a new Offender Health Plan defining patient benefits based on the Eighth Amendment, case law, and evidence-based medicine; implementing a novel system of utilization management in medical, dental, and mental health, using the medical staffs as real-time peer reviewers; developing a pharmacy procedures manual and creating a Pharmacy and Therapeutics Committee; achieving initial American Correctional Association accreditation for 13 facilities (all with almost perfect scores on first audit); migrating the eight individual pharmacy databases to a single central database.
- Blunted the growth in health care spending without compromising quality of care by a number of interventions, including: better coordination and centralization of contracting with external vendors, including new statewide contracts for hospitalization, laboratory, drug purchasing, radiology, physician recruitment, and agency nursing; implementing a statewide formulary; issuing quarterly operational reports at the state and facility levels.
- Piloted the following projects: direct issuance of over-the-counter medications on demand through inmates stores (commissary), obviating the need for a practitioner visit and prescription; computerized practitioner order entry (CPOE); pill splitting; ER telemedicine.
- Oversaw the health services team that participated variously in pre-design, design, or build phases of five capital projects to build complete new health units.

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES

2001 – 2002

Regional Medical Director, Northeast Region, 2001 – 2002

Responsible for clinical oversight of medical services for 14,000 offenders in 14 prisons, including one (already) under court monitoring.

- Oversaw contract with vendor to manage 60-bed regional infirmary and hospice.
- Coordinated activities among the Regional Medical Unit outpatient clinic, the Albany Medical College, and the 13 feeder prisons to provide most of the specialty care for the region.
- Worked with contracting specialists and Emergency Departments to improve access and decrease medical out-trips by increasing the proportion of scheduled and emergency services provided by telemedicine.
- Provided training, advice, and counseling to practitioners and facility health administrators in the region to improve the quality of care delivered.

CORRECTIONAL MEDICAL SERVICES, INC. (now CORIZON)

2000 – 2001

Regional Medical Director, New York Region, 2000 – 2001

Responsible for clinical management of managed care contract with New York State Department of Correctional Services to provide utilization management services for the northeast and northern regions of New York State and supervision of the 60-bed regional infirmary and hospice.

- Migrated the utilization approval function from one of an anonymous rule-based “black box” to a collaborative evidence-based decision making process between the vendor and front-line clinicians.

MERCY INTERNAL MEDICINE, ALBANY, NEW YORK

1999 – 2000

Neighborhood three-physician internal medicine group practice.

Primary Care Physician, 1999 – 2000 (6 months)

Provided direct primary care to a panel of community patients during a period of staff shortage.

ALBANY COUNTY CORRECTIONAL FACILITY, ALBANY, NEW YORK**1998 – 1999**Acting Facility Medical Director, 1998 – 1999

Directed the medical staff of an 800 bed jail and provided direct patient care following the sudden loss of the Medical Director, pending hiring of a permanent replacement. Coordinated care of jail patients in local hospitals. Provided consultation to the Superintendent on improvements to operation and staffing of medical unit and need for privatization.

VETERANS ADMINISTRATION MEDICAL CENTER, ALBANY, NY**1992 – 1998**Assistant Chief, Medical Service, 1995 – 1998Chief, Section of General Internal Medicine and Emergency Services, 1992 – 1998

Responsible for operation of the general internal medicine clinics and the Emergency Department.

- Designed and implemented an organizational and physical plant makeover of the general medicine ambulatory care clinic from an episodic-care driven model with practitioners functioning independently supported by minimal nursing involvement, to a continuity-of-care model with integrated physician/mid-level practitioner/registered nurse/licensed practice nurse/practice manager teams.
- Led the design and opening of a new Emergency Department.
- As the VA Section Chief of Albany Medical College's Division of General Internal Medicine, coordinated academic activities of the Division at the VA, including oversight of, and direct teaching in, ambulatory care and inpatient internal medicine rotations for medical students, residents, and fellows. Incorporated medical residents as part of the general internal medicine clinics. Awarded \$786,000 Veterans Administration grant ("PRIME I") over four years for development and operation of educational programs for medicine residents and students in allied health professions (management, pharmacy, social work, physician extenders) wishing to study primary care delivery.

ERIE COUNTY HEALTH DEPARTMENT, BUFFALO, NY**1988 – 1990**Director of Sexually Transmitted Diseases (STD) Services, 1989 – 1990Staff Physician, STD Clinic, 1988 – 1989Staff Physician, Lackawanna Community Health Center, 1988 – 1990

Provided leadership and patient care services in the evaluation and treatment of STDs. Successfully reorganized the county's STD services which were suffering from mismanagement and were under public scrutiny. Provided direct patient care services in primary care clinic for underserved neighborhood.

UNION OCCUPATIONAL HEALTH CENTER, BUFFALO, NY**1988 – 1990**Staff Physician, 1988 – 1990

Provided direct patient care for the evaluation of occupationally-related health disorders.

VETERANS ADMINISTRATION MEDICAL CENTER, BUFFALO, NY**1985 – 1990**Chief Outpatient Medical Section and Primary Care Clinic, 1986 – 1988VA Section Head, Division of General Internal Medicine, University of Buffalo, 1986 – 1988

- Developed and implemented a major restructuring of the general medicine ambulatory care clinic to reduce fragmentation of care by introduction of a continuity-of-care model with a physician/nurse team approach.

Medical Director, Anticoagulation Clinic 1986 – 1990Staff Physician, Emergency Department, 1985 – 1986**FACULTY APPOINTMENTS**

2007 – present	Affiliate Assistant Professor, Department of Health Services, School of Public Health, University of Washington
1999 – present	Clinical Professor, Fellowship in Applied Public Health (previously Volunteer Faculty, Preventive Medicine Residency), University at Albany School of Public Health
1996 – 2002	Volunteer Faculty, Office of the Dean of Students, University at Albany
1992 – 2002	Associate Clinical/Associate/Assistant Professor of Medicine, Albany Medical College

1993 – 1997 Clinical Associate Faculty, Graduate Program in Nursing, Sage Graduate School
 1990 – 1992 Instructor of Medicine, Indiana University
 1985 – 1990 Clinical Assistant Professor of Medicine, University of Buffalo
 1982 – 1985 Clinical Assistant Instructor of Medicine, University of Buffalo

OTHER PROFESSIONAL ACTIVITIES

2016 – present Chair, Education Committee, Academic Consortium on Criminal Justice Health
 2016 – present Washington State Institutional Review Board (“Prisoner Advocate” member)
 2016 – 2017 Mortality Reduction Workgroup, American Jail Association
 2013 – present Conference Planning Committee – Medical/Mental Health Track, American Jail Association
 2013 – 2016 “Health in Prisons” course, Bloomberg School of Public Health, Johns Hopkins University/International Committee of the Red Cross
 2013 – present Institutional Review Board, University of Washington (“Prisoner Advocate” member),
 2011 – 2012 Education Committee, National Commission on Correctional Health Care
 2007 – present National Advisory Committee, COCHS (Community–Oriented Correctional Health Services)
 2004 – 2006 Fellow’s Advisory Committee, University of Washington Robert Wood Johnson Clinical Scholar Program
 2004 External Expert Panel to the Surgeon General on the “Call to Action on Correctional Health Care”
 2003 – present Faculty Instructor, Critical Appraisal of the Literature Course, Family Practice Residency Program, Providence St. Peter Hospital, Olympia, Washington
 2001 – present Chair/Co-Chair, Education Committee, American College of Correctional Physicians
 1999 – present Critical Appraisal of the Literature Course, Preventive Medicine Residency Program, New York State Department of Health/University at Albany School of Public Health
 1999 Co–Chairperson, Education Subcommittee, Workshop Submission Review Committee, Annual Meeting, Society of General Internal Medicine
 1997 – 1998 Northeast US Representative, National Association of VA Ambulatory Managers
 1996 – 2002 Faculty Mentor, Journal Club, Internal Medicine Residency Program, Albany Medical College
 1996 – 2002 Faculty Advisor and Medical Control, 5 Quad Volunteer Ambulance Service, University at Albany
 1995 – 1998 Preceptor, MBA Internship, Union College
 1995 Quality Assurance/Patient Satisfaction Subcommittee, VA National Curriculum Development Committee for Implementation of Primary Care Practices, Veterans Administration
 1994 – 1998 Residency Advisory Committee, Preventive Medicine Residency, New York State Department of Health/School of Public Health, University at Albany
 1993 Chairperson, Dean's Task Force on Primary Care, Albany Medical College
 1993 Task Group to develop curriculum for Comprehensive Care Case Study Course for Years 1 through 4, Albany Medical College
 1988 – 1989 Teaching Effectiveness Program for New Housestaff, Graduate Medical Dental Education Consortium of Buffalo
 1987 – 1990 Human Studies Review Committee, School of Allied Health Professions, University of Buffalo
 1987 – 1989 Chairman, Subcommittee on Hospital Management Issues and Member, Subcommittee on Teaching of Ad Hoc Committee to Plan Incoming Residents Training Week, Graduate Medical Dental Education Consortium of Buffalo
 1987 – 1988 Dean's Ad Hoc Committee to Reorganize "Introduction to Clinical Medicine" Course
 1987 Preceptor, Nurse Practitioner Training Program, School of Nursing, University of Buffalo
 1986 – 1988 Course Coordinator, Simulation Models Section of Physical Diagnosis Course, University of Buffalo
 1986 – 1988 Chairman, Service Chiefs' Continuity of Care Task Force, Veterans Administration Medical Center, Buffalo, New York
 1979 – 1980 Laboratory Teaching Assistant in Gross Anatomy, Université Libre de Bruxelles, Brussels, Belgium
 1973 – 1975 Instructor and Instructor Trainer of First Aid, American National Red Cross

- 1972 – 1975 Chief of Service or Assistant Chief of Operations, 5 Quad Volunteer Ambulance Service, University at Albany.
- 1972 – 1975 Emergency Medical Technician Instructor and Course Coordinator, New York State Department of Health, Bureau of Emergency Medical Services

REVIEWER/EDITOR

- 2019 – present Criminal Justice Review (reviewer)
- 2015 – present PLOS ONE (reviewer)
- 2015 – present Founding Editorial Board Member and Reviewer, Journal for Evidence-based Practice in Correctional Health, Center for Correctional Health Networks, University of Connecticut
- 2011 – present American Journal of Public Health (reviewer)
- 2010 – present International Advisory Board Member and Reviewer, International Journal of Prison Health
- 2010 – present Langeloth Foundation (grant reviewer)
- 2001 – present Reviewer and Editorial Board Member (2009 – present), Journal of Correctional Health Care
- 2001 – 2004 Journal of General Internal Medicine (reviewer)
- 1996 Abstract Committee, Health Services Research Subcommittee, Annual Meeting, Society of General Internal Medicine (reviewer)
- 1990 – 1992 Medical Care (reviewer)

EDUCATION

- University at Albany, College of Arts and Sciences, Albany; B.S., 1975 (Biology)
- University at Albany, School of Education, Albany; AMST (Albany Math and Science Teachers) Teacher Education Program, 1975
- Université Libre de Bruxelles, Faculté de Medecine, Brussels, Belgium; Candidature en Sciences Medicales, 1980
- University at Buffalo, School of Medicine, Buffalo; M.D., 1982
- University at Buffalo Affiliated Hospitals, Buffalo; Residency in Internal Medicine, 1985
- Regenstrief Institute of Indiana University, and Richard L. Roudebush Veterans Administration Medical Center; VA/NIH Fellowship in Primary Care Medicine and Health Services Research, 1992
- Indiana University, School of Health, Physical Education, and Recreation, Bloomington; M.P.H., 1992
- New York Academy of Medicine, New York; Mini-fellowship Teaching Evidence-Based Medicine, 1999

CERTIFICATION

- Provisional Teaching Certification for Biology, Chemistry, Physics, Grades 7–12, New York State Department of Education (expired), 1975
- Diplomate, National Board of Medical Examiners, 1983
- Diplomate, American Board of Internal Medicine, 1985
- Fellow, American College of Physicians, 1991
- License: Washington (#MD00041843, active); New York (#158327, inactive); Indiana (#01038490, inactive)
- “X” Waiver (buprenorphine), Department of Health & Human Services, 2018

MEMBERSHIPS

- 2019 – present Washington Association of Sheriffs and Police Chiefs
- 2005 – 2016 American Correctional Association/Washington Correctional Association
- 2004 – 2006 American College of Correctional Physicians (Member, Board of Directors, Chair Education Committee)
- 2000 – present American College of Correctional Physicians

RECOGNITION

B. Jaye Anno Award for Excellence in Communication, National Commission on Correctional Health Care. 2019
 Award of Appreciation, Washington Association of Sheriffs and Police Chiefs. 2018
 Armond Start Award of Excellence, American College of Correctional Physicians. 2010
 (First) Annual Preventive Medicine Faculty Excellence Award, New York State Preventive Medicine Residency Program, University at Albany School of Public Health/New York State Department of Health. 2010
 Excellence in Education Award for excellence in clinical teaching, Family Practice Residency Program, Providence St. Peter Hospital, Olympia, Washington. 2004
 Special Recognition for High Quality Workshop Presentation at Annual Meeting, Society of General Internal Medicine. 1996
 Letter of Commendation, House Staff Teaching, University of Buffalo. 1986

WORKSHOPS, SEMINARS, PRESENTATIONS, INVITED LECTURES

It's the 21st Century – Time to Bid Farewell to “Sick Call” and “Chronic Care Clinic”. Annual Conference, National Commission on Correctional Health Care. Fort Lauderdale, Florida. 2019

HIV and Ethics – Navigating Medical Ethical Dilemmas in Corrections. Keynote Speech, 14th Annual HIV Care in the Correctional Setting. AIDS Education and Training Program (AETC) Mountain West, Olympia, Washington. 2019

Honing Nursing Skills to Keep Patients Safe in Jail. Orange County Jail Special Training Session (including San Bernardino and San Diego Jail Staffs), Theo Lacy Jail, Orange, California. 2019

What Would You Do? Navigating Medical Ethical Dilemmas. Leadership Training Academy, National Commission on Correctional Health Care. San Diego, California. 2019

Preventing Jail Deaths. Jail Death Review and Investigations: Best Practices Training Program, American Jail Association, Arlington, Virginia. 2018

How to Investigate Jail Deaths. Jail Death Review and Investigations: Best Practices Training Program, American Jail Association, Arlington, Virginia. 2018

Executive Manager Program in Correctional Health. 4-day training for custody/health care teams from jails and prisons on designing safe and efficient health care systems. National Institute for Corrections Training Facility, Aurora, Colorado, and other venues in Washington State. Periodically. 2014 – present

Medical Ethics in Corrections. Criminal Justice 441 – Professionalism and Ethical Issues in Criminal Justice. University of Washington, Tacoma. Recurring seminar. 2012 – present

Medical Aspects of Deaths in ICE Custody. Briefing for U.S. Senate staffers, Human Rights Watch. Washington, D.C. 2018

Jails' Role in Managing the Opioid Epidemic. Panelist. Washington Association of Sheriffs and Police Chiefs Annual Conference. Spokane, Washington. 2018

Contract Prisons and Contract Health Care: What Do We Know? Behind Bars: Ethics and Human Rights in U.S. Prisons Conference. Center for Bioethics – Harvard Medical School/Human Rights Program – Harvard Law School. Boston, Massachusetts. 2017

Health Care Workers in Prisons. (With Dr. J. Wesley Boyd) Behind Bars: Ethics and Human Rights in U.S. Prisons Conference. Center for Bioethics – Harvard Medical School/Human Rights Program – Harvard Law School. Boston, Massachusetts. 2017

Prisons, Jails and Medical Ethics: Rubber, Meet Road. Grand Rounds. Touro Medical College. New York, New York. 2017

Jail Medical Doesn't Have to Keep You Up at Night – National Standards, Risks, and Remedies. Washington Association of Counties. SeaTac, Washington. 2017

Prison and Jail Health Care: What do you need to know? Grand Rounds. Providence/St. Peters Medical Center. Olympia, Washington. 2017

Prison Health Leadership Conference. 2-Day workshop. International Corrections and Prisons Association/African Correctional Services Association/Namibian Corrections Service. Omaruru, Namibia. 2016; 2018

- What Would YOU Do? Navigating Medical Ethical Dilemmas.* Spring Conference. National Commission on Correctional Health Care. Nashville, Tennessee. 2016
- Improving Patient Safety.* Spring Provider Meeting. Oregon Department of Corrections. Salem, Oregon 2016
- A View from the Inside: The Challenges and Opportunities Conducting Cardiovascular Research in Jails and Prisons.* Workshop on Cardiovascular Diseases in the Inmate and Released Prison Population. The National Heart, Lung, and Blood Institute. Bethesda, Maryland. 2016
- Why it Matters: Advocacy and Policies to Support Health Communities after Incarceration.* At the Nexus of Correctional Health and Public Health: Policies and Practice session. Panelist. American Public Health Association Annual Meeting. Chicago, Illinois. 2015
- Hot Topics in Correctional Health Care.* Presented with Dr. Donald Kern. American Jail Association Annual Meeting. Charlotte, North Carolina. 2015
- Turning Sick Call Upside Down.* Annual Conference. National Commission on Correctional Health Care. Dallas, Texas, 2015.
- Diagnostic Maneuvers You May Have Missed in Nursing School.* Annual Conference. National Commission on Correctional Health Care. Dallas, Texas. 2015
- The Challenges of Hunger Strikes: What Should We Do? What Shouldn't We Do?* Annual Conference. National Commission on Correctional Health Care. Dallas, Texas. 2015
- Practical and Ethical Approaches to Managing Hunger Strikes. Annual Practitioners' Conference. Washington Department of Corrections. Tacoma, Washington. 2015
- Contracting for Health Services: Should I, and if so, how?* American Jail Association Annual Meeting. Dallas, Texas. 2014
- Hunger Strikes: What should the Society of Correctional Physician's position be?* With Allen S, May J, Ritter S. American College of Correctional Physicians (Formerly Society of Correctional Physicians) Annual Meeting. Nashville, Tennessee. 2013
- Addressing Conflict between Medical and Security: an Ethics Perspective.* International Corrections and Prison Association Annual Meeting. Colorado Springs, Colorado. 2013
- Patient Safety and 'Right Using' Nurses.* Keynote address. Annual Conference. American Correctional Health Services Association. Philadelphia, Pennsylvania. 2013
- Patient Safety: Overuse, underuse, and misuse...of nurses.* Keynote address. Essentials of Correctional Health Care conference. Salt Lake City, Utah. 2012
- The ethics of providing healthcare to prisoners-An International Perspective.* Global Health Seminar Series. Department of Global Health, University of Washington, Seattle, Washington. 2012
- Recovery, Not Recidivism: Strategies for Helping People Who are Incarcerated.* Panelist. NAMI Annual Meeting, Seattle, Washington, 2012
- Ethics and HIV Workshop.* HIV/AIDS Care in the Correctional Setting Conference, Northwest AIDS Education and Training Center. Salem, Oregon. 2011
- Ethics and HIV Workshop.* HIV/AIDS Care in the Correctional Setting Conference, Northwest AIDS Education and Training Center. Spokane, Washington. 2011
- Patient Safety: Raising the Bar in Correctional Health Care.* With Dr. Sharen Barboza. National Commission on Correctional Health Care Mid-Year Meeting, Nashville, Tennessee. 2010
- Patient Safety: Raising the Bar in Correctional Health Care.* American Correctional Health Services Association, Annual Meeting, Portland, Oregon. 2010
- Achieving Quality Care in a Tough Economy.* National Commission on Correctional Health Care Mid-Year Meeting, Nashville, Tennessee, 2010 (Co-presented with Rick Morse and Helena Kim, PharmD.)
- Involuntary Psychotropic Administration: The Harper Solution.* With Dr. Bruce Gage. American Correctional Health Services Association, Annual Meeting, Portland, Oregon. 2010
- Evidence Based Decision Making for Non-Clinical Correctional Administrators.* American Correctional Association 139th Congress, Nashville, Tennessee. 2009
- Death Penalty Debate.* Panelist. Seattle University School of Law, Seattle, Washington. 2009

The Patient Handoff – From Custody to the Community. Washington Free Clinic Association, Annual Meeting, Olympia, Washington. Lacey, Washington. 2009

Balancing Patient Advocacy with Fiscal Restraint and Patient Litigation. National Commission on Correctional Health Care and American College of Correctional Physicians “Medical Directors Boot Camp,” Seattle, Washington. 2009

Staff Management. National Commission on Correctional Health Care and American College of Correctional Physicians “Medical Directors Boot Camp,” Seattle, Washington. 2009

Management Dilemmas in Corrections: Boots and Bottom Bunks. Annual Meeting, American College of Correctional Physicians, Chicago, Illinois. 2008

Public Health and Correctional Health Care. Masters Program in community-based population focused management – Populations at risk, Washington State University, Spokane, Washington. 2008

Managing the Geriatric Population. Panelist. State Medical Directors’ Meeting, American Corrections Association, Alexandria, Virginia. 2007

I Want to do my own Skin Biopsies. Annual Meeting, American College of Correctional Physicians, New Orleans, Louisiana. 2005

Corrections Quick Topics. Annual Meeting, American College of Correctional Physicians. Austin, Texas. 2003

Evidence Based Medicine in Correctional Health Care. Annual Meeting, National Commission on Correctional Health Care. Austin, Texas. 2003

Evidence Based Medicine. Excellence at Work Conference, Empire State Advantage. Albany, New York. 2002

Evidence Based Medicine, Outcomes Research, and Health Care Organizations. National Clinical Advisory Group, Integrail, Inc., Albany, New York. 2002

Evidence Based Medicine. With Dr. LK Hohmann. The Empire State Advantage, Annual Excellence at Work Conference: Leading and Managing for Organizational Excellence, Albany, New York. 2002

Taking the Mystery out of Evidence Based Medicine: Providing Useful Answers for Clinicians and Patients. Breakfast Series, Institute for the Advancement of Health Care Management, School of Business, University at Albany, Albany, New York. 2001

Diagnosis and Management of Male Erectile Dysfunction – A Goal-Oriented Approach. Society of General Internal Medicine National Meeting, San Francisco, California. 1999

Study Design and Critical Appraisal of the Literature. Graduate Medical Education Lecture Series for all housestaff, Albany Medical College, Albany, New York. 1999

Male Impotence: Its Diagnosis and Treatment in the Era of Sildenafil. 4th Annual CME Day, Alumni Association of the Albany-Hudson Valley Physician Assistant Program, Albany, New York. 1998

Models For Measuring Physician Productivity. Panelist. National Association of VA Ambulatory Managers National Meeting, Memphis, Tennessee. 1997

Introduction to Male Erectile Dysfunction and the Role of Sildenafil in Treatment. Northeast Regional Meeting Pfizer Sales Representatives, Manchester Center, Vermont. 1997

Male Erectile Dysfunction. Topics in Urology, A Seminar for Primary Healthcare Providers, Bassett Healthcare, Cooperstown, New York. 1997

Evaluation and Treatment of the Patient with Impotence: A Practical Primer for General Internists. Society of General Internal Medicine National Meeting, Washington D.C. 1996

Impotence: An Update. Department of Medicine Grand Rounds, Albany Medical College, Albany, New York. 1996

Diabetes for the EMT First-Responder. Five Quad Volunteer Ambulance, University at Albany. Albany, New York. 1996

Impotence: An Approach for Internists. Medicine Grand Rounds, St. Mary's Hospital, Rochester, New York. 1994

Male Impotence. Common Problems in Primary Care Precourse. American College of Physicians National Meeting, Miami, Florida. 1994

Patient Motivation: A Key to Success. Tuberculosis and HIV: A Time for Teamwork. AIDS Program, Bureau of Tuberculosis Control – New York State Department of Health and Albany Medical College, Albany, New York. 1994

Recognizing and Treating Impotence. Department of Medicine Grand Rounds, Albany Medical College, Albany, New York. 1992

Medical Decision Making: A Primer on Decision Analysis. Faculty Research Seminar, Department of Family Practice, Indiana University, Indianapolis, Indiana. 1992

Effective Presentation of Public Health Data. Bureau of Communicable Diseases, Indiana State Board of Health, Indianapolis, Indiana. 1991

Impotence: An Approach for Internists. Housestaff Conference, Department of Medicine, Indiana University, Indianapolis, Indiana. 1991

Using Electronic Databases to Search the Medical Literature. NIH/VA Fellows Program, Indiana University, Indianapolis, Indiana. 1991

Study Designs Used in Epidemiology. Ambulatory Care Block Rotation. Department of Medicine, Indiana University, Indianapolis, Indiana. 1991

Effective Use of Slides in a Short Scientific Presentation. Housestaff Conference, Department of Medicine, Indiana University, Indianapolis, Indiana. 1991

Impotence: A Rational and Practical Approach to Diagnosis and Treatment for the General Internist. Society of General Internal Medicine National Meeting, Washington D.C. 1991

Nirvana and Audio-Visual Aids. With Dr. RM Lubitz. Society of General Internal Medicine, Midwest Regional Meeting, Chicago. 1991

New Perspectives in the Management of Hypercholesterolemia. Medical Staff, West Seneca Developmental Center, West Seneca, New York. 1989

Effective Use of Audio-Visual Aids. Nurse Educators, American Diabetes Association, Western New York Chapter, Buffalo, New York. 1989

Management of Diabetics in the Custodial Care Setting. Medical Staff, West Seneca Developmental Center, West Seneca, New York, 1989

Effective Use of Audio-Visuals in Diabetes Peer and Patient Education. American Association of Diabetic Educators, Western New York Chapter, Buffalo, New York. 1989

Pathophysiology, Diagnosis and Care of Diabetes. Nurse Practitioner Training Program, School of Nursing, University of Buffalo, Buffalo, New York. 1989

Techniques of Large Group Presentations to Medical Audiences – Use of Audio-Visuals. New Housestaff Training Program, Graduate Medical Dental Education Consortium of Buffalo, Buffalo, New York. 1988

PUBLICATIONS/ABSTRACTS

Borschmann, R, Tibble, H, Spittal, MJ, ... Stern, MF, Viner, KM, Wang, N, Willoughby, M, Zhao, B, and Kinner, SA. *The Mortality After Release from Incarceration Consortium (MARIC): Protocol for a multi-national, individual participant data meta-analysis.* Int. J of Population Data Science 2019 5(1):6

Binswanger IA, Maruschak LM, Mueller SR, **Stern MF**, Kinner SA. *Principles to Guide National Data Collection on the Health of Persons in the Criminal Justice System.* Public Health Reports 2019 134(1):34S-45S

Stern M. *Hunger Strike: The Inside Medicine Scoop.* American Jails 2018 32(4):17-21

Grande L, **Stern M.** *Providing Medication to Treat Opioid Use Disorder in Washington State Jails.* Study conducted for Washington State Department of Social and Health Services under Contract 1731-18409. 2018.

Stern MF, Newlin N. *Epicenter of the Epidemic: Opioids and Jails.* American Jails 2018 32(2):16-18

Stern MF. *A nurse is a nurse is a nurse...NOT!* Guest Editorial, American Jails 2018 32(2):4,68

Wang EA, Redmond N, Dennison Himmelfarb CR, Pettit B, **Stern M**, Chen J, Shero S, Iturriaga E, Sorlie P, Diez Roux AV. *Cardiovascular Disease in Incarcerated Populations.* Journal of the American College of Cardiology 2017 69(24):2967-76

Mitchell A, Reichberg T, Randall J, Aziz-Bose R, Ferguson W, **Stern M.** *Criminal Justice Health Digital Curriculum.* Poster, Annual Academic and Health Policy Conference on Correctional Health, Atlanta, Georgia, March, 2017

Stern MF. *Patient Safety (White Paper)*. Guidelines, Management Tools, White Papers, National Commission on Correctional Health Care. <http://www.nccchc.org/filebin/Resources/Patient-Safety-2016.pdf>. June, 2016

Binswanger IA, **Stern MF**, Yamashita TE, Mueller SR, Baggett TP, Blatchford PJ. *Clinical risk factors for death after release from prison in Washington State: a nested case control study*. *Addiction* 2015 Oct 17

Stern MF. Op-Ed on Lethal Injections. *The Guardian* 2014 Aug 6

Stern MF. *American College of Correctional Physicians Calls for Caution Placing Mentally Ill in Segregation: An Important Band-Aid*. Guest Editorial. *Journal of Correctional Health Care* 2014 Apr; 20(2):92-94

Binswanger I, Blatchford PJ, Mueller SR, **Stern MF.** *Mortality After Prison Release: Opioid Overdose and Other Causes of Death, Risk Factors, and Time Trends From 1999 to 2009*. *Annals of Internal Medicine* 2013 Nov; 159(9):592-600

Williams B, **Stern MF**, Mellow J, Safer M, Greifinger RB. *Aging in Correctional Custody: Setting a policy agenda for older prisoner health care*. *American Journal of Public Health* 2012 Aug; 102(8):1475-1481

Binswanger I, Blatchford PJ, Yamashita TE, **Stern MF.** *Drug-Related Risk Factors for Death after Release from Prison: A Nested Case Control Study*. Oral Presentation, University of Massachusetts 4th Annual Academic and Health Policy Conference on Correctional Healthcare, Boston, Massachusetts, March, 2011

Binswanger I, Blatchford PJ, Forsyth S, **Stern MF**, Kinner SA. *Death Related to Infectious Disease in Ex-Prisoners: An International Comparative Study*. Oral Presentation, University of Massachusetts 4th Annual Academic and Health Policy Conference on Correctional Healthcare, Boston, Massachusetts, March, 2011

Binswanger I, Lindsay R, **Stern MF**, Blatchford P. *Risk Factors for All-Cause, Overdose and Early Deaths after Release from Prison in Washington State Drug and Alcohol Dependence*. *Drug and Alcohol Dependence* Aug 1 2011;117(1):1-6

Stern MF, Greifinger RB, Mellow J. *Patient Safety: Moving the Bar in Prison Health Care Standards*. *American Journal of Public Health* November 2010;100(11):2103-2110

Strick LB, Saucerman G, Schlatter C, Newsom L, **Stern MF.** *Implementation of Opt-Out HIV testing in the Washington State Department of Corrections*. Poster Presentation, National Commission on Correctional Health Care Annual Meeting, Orlando, Florida, October, 2009

Binswanger IA, Blatchford P, **Stern MF.** *Risk Factors for Death After Release from Prison*. Society for General Internal Medicine 32nd Annual Meeting; Miami: *Journal of General Internal Medicine*; April 2009. p. S164-S95

Stern MF. Force Feeding for Hunger Strikes – One More Step. *CorrDocs* Winter 2009;12(1):2

Binswanger I, **Stern MF**, Deyo RA, Heagerty PJ, Cheadle A, Elmore JG, Koepsell TD. *Release from Prison – A High Risk of Death for Former Inmates*. *New England Journal of Medicine* 2007 Jan 11;356(2):157–165

Stern MF, Hilliard T, Kelm C, Anderson E. *Epidemiology of Hepatitis C Infection in the Washington State Department of Corrections*. Poster Presentation, CDC/NIH *ad hoc* Conference on Management of Hepatitis C in Prisons, San Antonio, Texas, January, 2003

Phelps KR, **Stern M**, Slingerland A, Heravi M, Strogatz DS, Haqqie SS. *Metabolic and skeletal effects of low and high doses of calcium acetate in patients with preterminal chronic renal failure*. *Am J Nephrol* 2002 Sep–Dec;22(5–6):445–54

Goldberg L, **Stern MF**, Posner DS. *Comparative Epidemiology of Erectile Dysfunction in Gay Men*. Oral Presentation, International Society for Impotence Research Meeting, Amsterdam, The Netherlands, August 1998. *Int J Impot Res*. 1998;10(S3):S41 [also presented as oral abstract Annual Meeting, Society for the Study of Impotence, Boston, Massachusetts, October, 1999. *Int J Impot Res*. 1999;10(S1):S65]

Stern MF. *Erectile Dysfunction in Older Men*. *Topics in Geriatric Rehab* 12(4):40–52, 1997. [republished in *Geriatric Patient Education Resource Manual, Supplement*. Aspen Reference Group, Eds. Aspen Publishers, Inc., 1998]

Stern MF, Wulfert E, Barada J, Mulchahy JJ, Korenman SG. *An Outcomes–Oriented Approach to the Primary Care Evaluation and Management of Erectile Dysfunction*. *J Clin Outcomes Management* 5(2):36–56, 1998

Fihn SD, Callahan CM, Martin D, et al.; for the **National Consortium of Anticoagulation Clinics**.* *The Risk for and Severity of Bleeding Complications in Elderly Patients Treated with Warfarin*. *Ann Int Med*. 1996;124:970–979

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EXPERT TESTIMONY

Pajas v. County of Monterey, *et al.* US District Court for the Northern District of California, 2019 (trial)

Dockery, *et al.* v. Hall *et al.* US District Court for the Southern District of Mississippi Northern Division, 2018 (trial)

Benton v. Correct Care Solutions, *et al.* US District Court for the District of Maryland, 2018 (deposition)

Pajas v. County of Monterey, *et al.* US District Court Northern District of California, 2018 (deposition)

Walter v. Correctional Healthcare Companies, *et al.* US District Court, District of Colorado, 2017 (deposition)

Winkler v. Madison County, Kentucky, *et al.* US District Court, Eastern District of Kentucky, Central Division at Lexington, 2016 (deposition)

US v. Miami-Dade County, *et al.* US District Court, Southern District of Florida, periodically 2014 - 2016

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

*** CIVIL ACTION**

*** NO. 18-63-BAJ-EWD**

*** JUDGE BRIAN A. JACKSON**

*** MAGISTRATE JUDGE**

*** ERIN WILDER-DOOMES**

EXHIBIT G

MRO
1000 Madison Avenue
Suite 100
Norristown, PA 19403

Emily Posner, Esq.
Emily Henrion Posner, L.L.C.
7214 St. Charles Avenue
Box 913
New Orleans, LA 70118



Shipment #10262789
CHRISTOPHER MARLOWE
Invoice #16483322
138 pages



MRO
1000 Madison Avenue
Suite 100
Norristown, PA 19403
Ph: (610) 994-7500
Fx: (610) 962-8421

Medical Records Transmittal

Date: 4/9/2017
Request Number: 16483322
Page Count: 138

Your requested medical records are attached.

Patient Name: CHRISTOPHER MARLOWE
Medical Facility: UMC

Requester: Emily Posner, Esq.
Organization: Emily Henrion Posner, L.L.C.

Your reference number:

Thank you,
MRO
MROcorp.com

730195

1002440171
SSN

Emily Henrion Posner, Attorney At Law, LLC

7214 St. Charles Ave. Box 913 • New Orleans • Louisiana 70118
(t) 207-930-5232 • (f) 225-208-1439 • emilyposnerlaw@gmail.com

March 29, 2017

University Medical Center
Records Room
2000 Canal Street
New Orleans, LA 70012

MRU
APR 03 2017
initials:

**RE: Medical Records
Christopher Marlowe
Date of Birth 12-5-1984**

Dear Sir/Madam:

I am writing to request Mr. Marlowe's medical records from January 1, 2016 through the present that are at your facility. I am attaching a HIPPA Authorization Release from Mr. Christopher Marlowe, Date of Birth: 12-5-1984.

I have included in this request the appropriate HIPPA release form so that you can release to me a fully copy of these medical records.

This is a timely matter and I would appreciate hearing from you upon receipt for this request.

Kind regards,



Emily Posner
Attorney at Law

HIPAA Authorization to Disclose Protected Health Information

I hereby give permission for my personal medical information to be used and given out as described below.

Patient Name: Christopher S. McLow

Patient Social Security Number: 099-76-5315

Patient Date of Birth: 12/05/1984

The following person(s) or organization(s) are permitted to provide the information:

University Medical Center

The following attorney(s) or law firms(s) are permitted to receive and use the information (name, address and telephone number):

Emily Posner, or her agents from:

Emily Posner, Attorney At Law, LLC
7214 St. Charles Ave.
Box 913
New Orleans, Louisiana 70118

The above-named attorney(s) and law firm(s) are permitted to receive the information and are hereby appointed as my representative pursuant to La. R.S. 40:1299.96(A)(2)(b) for the limited purpose of obtaining and using any and all information the releasing person(s) or organization(s) may have concerning treatment or services rendered to the undersigned for any reason, including but not limited to notes (handwritten and/or typed), charts, medical reports, face sheets, discharge summaries, history and physical, consults, laboratory results, reports of x-rays and copies of any and all actual films and/or x-rays, outpatient records, test results, operative reports, pathology reports, physician orders, progress notes, emergency records, therapy records, nurse's notes, opinions, diagnoses, prognoses, histories, statements and/or bills, correspondence, pharmaceutical records, including but not limited to date of prescription, prescribing physician, name of drug, dosage and amount dispensed, and/or any other medical information regarding any treatment, whether inpatient or outpatient. This specifically includes documents to and from other health care providers, attorneys, insurance companies, etc.

The information will be used or given out for the purposes of handling the attorney's or law firm's duties in the investigation and possibly litigation of claims in which I am involved. This authorization is initiated at my request and the health information will be disclosed at my request. Health information released as a result of this authorization may be re-disclosed or shared by the persons or organizations receiving the information and might not be protected by federal or state

regulations upon such disclosure.

I understand that I may refuse to sign this authorization. I further understand that my refusal to sign will not affect my ability to obtain treatment unless a third party requests that treatment and/or release of information.

I understand that I may revoke, or withdraw, this authorization at any time by sending a written notice to the above-named person or organization authorized to release the information. This revocation will be effective for future uses and disclosures of the information described above. The revocation will not have any effect on information already used or given out.

This authorization expires upon final resolution of the litigation entitled:

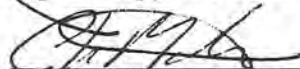
State v. Marlowe
Orleans Parish

I authorize the release of records only, and do not authorize oral communications by the health care provider to the authorized requesting person(s) or organization(s).

The authorized requesting party shall provide to me or my attorney a copy of this authorization at the same time the authorization is provided to the health care provider(s) authorized above to release information.

The authorized requesting party shall mail to me or my attorney a copy of all records received pursuant to this request within seven days of receipt of the information.

A photocopy of this form will serve as an original.


Signature of Patient or Representative

3-20-2017
Date

Christopher S. Marlowe
Printed Name of Patient

Relationship to Patient if Signed by Representative

A copy of this completed form must be given to the patient or the person signing on the patient's behalf.

CC Payment Receipt

Transaction Status:	Approved
Transaction Date and Time:	4/9/2017 9:48:58 AM
Transaction Reference No.:	905542
Approval Code:	0000877906
Order Number:	16483322
Charge Amount:	\$120.80
Credit Card Number:	XXXXXXXXXXXX0122
Credit Card Holder:	Emily Posner

UNIVERSITY MEDICAL CENTER - NO
 2000 Canal St
 New Orleans LA 70112
 Demographics

MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M

Patient Demographics

Name	Patient ID	SSN	Sex	Birth Date
Marlone, Christopher	1002440171	xxx-xx-5315	Male	12/05/84 (32 yrs)
Address	Phone	Email	Employer	
ELAYN HUNT CORRECTIONAL CENTER P O BOX 174 SAINT GABRIEL LA 70776	225-642-3306 (H)		ELAYN HUNT CORRECTIONAL CENTER	
Reg Status	PCP	Date Last Verified	Next Review Date	
ELAPSED		11/15/16	12/15/16	

Admission Information - Patient Record Only

Arrival Date/Time:	11/14/2016 1627	Admit Date/Time:	11/14/2016 1636	IP Adm. Date/Time:	11/15/2016 0104
Admission Type:	Emergency	Point of Origin:	Self Referral	Admit Category:	
Means of Arrival:	Police	Primary Service:	Internal Medicine	Secondary Service:	N/A
Transfer Source:		Service Area:	Umcno Service Area	Unit:	Umcno Cau
Admit Provider:	Alexandra Louise Silverton, MD	Attending Provider:	Victor Edgar Tucker, MD	Referring Provider:	

Discharge Information - Patient Record Only

Discharge Date/Time	Discharge Disposition	Discharge Destination	Discharge Provider	Unit
11/17/2016 1513	Home Or Self Care	None	None	Umcno Cau

Patient Demographics

Name	Patient ID	SSN	Sex	Birth Date
Marlone, Christopher	1002440171	xxx-xx-5315	Male	12/05/84 (31 yrs)
Address	Phone	Email	Employer	
ELAYN HUNT CORRECTIONAL CENTER P O BOX 174 SAINT GABRIEL LA 70776	225-642-3306 (H)		ELAYN HUNT CORRECTIONAL CENTER P O BOX 174 ST GABRIEL LA 70776 225-642-3306	
County	Race	Occupation	Emp Status	
IBERVILLE	White or Caucasian	-	Prisoner - State	
Reg Status	PCP			
Verified				
HAR	Admission Date	Discharge Date	Admitting Provider	
52003806	11/14/16	11/17/16	Alexandra Louise Silverton, MD	
Marital Status	Religion	Language		
Single	Non-Denominational	English		
Emergency Contact 1	Emergency Contact 2			
Liz Norton (Mother) 936-212-5545 (H)	Hunt Correctional Elayn (Other) P O BOX 174 SAINT GABRIEL LA 70776 225-642-3306 (H)			

Account Information

Hospital Account	Primary Payor	Affiliated Recurring Accounts	Combined from HAR
52003806 - MARLONE, CHRISTOPHER	MEDICAID (3000)	None	None

Final Diagnoses (ICD-10-CM)

UNIVERSITY MEDICAL CENTER - NO
 2000 Canal St
 New Orleans LA 70112
 Inpatient Encounter

MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

Final Diagnoses (ICD-10-CM) (continued)

Code	Description	POA	CC	HAC	Affects DRG
E10.65 [Principal]	Type 1 diabetes mellitus with hyperglycemia	Yes	No		Yes
B37.0	Candidal stomatitis	Yes	CC		Yes
E87.0	Hyperosmolality and hypernatremia	Yes	CC		No
E78.5	Hyperlipidemia, unspecified	Yes	No		No
Z87.891	Personal history of nicotine dependence	Exempt from POA reporting	No		No

CPT®/HCPCS Codes

Events

Date/Time	Event	Pt Class	Unit	Room/Bed	Service
11/14/16 1827	ED Arrival		UMCNO EMERGENCY DEPT		
11/14/16 1836	ED Roomed	Emergency	UMCNO EMERGENCY DEPT	2644/2644	Emergency Medicine
11/14/16 1838	ED Transfer	Emergency	UMCNO EMERGENCY DEPT	Wait/Waiting	Emergency Medicine
11/14/16 2326	ED Transfer	Emergency	UMCNO EMERGENCY DEPT	2520/2520	Emergency Medicine
11/15/16 0104	Patient Update	Inpatient	UMCNO EMERGENCY DEPT	2520/2520	Emergency Medicine
11/15/16 0414	Admit from ED	Inpatient	UMCNO CAU	2984/2984	Internal Medicine
11/17/16 1513	Discharge	Inpatient	UMCNO CAU	2984/2984	Internal Medicine

Allergies as of 11/17/2016

Review Complete On: 11/15/2016 By: Lyndrell G Varise, RN

No Known Allergies

Medical

as of 11/17/2016

Problem List

	Noted	Resolved
Diabetes mellitus	11/15/2016 by Cara Varley, MD	No
Diabetes mellitus due to underlying condition with hyperosmolality without coma, without long-term current use of insulin	by Alexandra Louise Silverton, MD	No

ED Provider Notes - Encounter Notes

ED Provider Notes by Victor Edgar Tuckler, MD at 11/14/2016 8:16 PM

Version 1 of 1

Author: Victor Edgar Tuckler, MD
 Filed: 11/14/2016 8:17 PM
 Editor: Victor Edgar Tuckler, MD (Physician)
 Service: Emergency Medicine
 Date of Service: 11/14/2016 8:16 PM
 Author Type: Physician
 Status: Signed

8:16 PM 11/14/16

ED is on saturation.

ED SATURATION / TRIAGE PHYSICIAN NOTE

Triage assessment class 2, urgent

Christopher Marlone 31 y.o. arrived at 1827 on 11/14/16 presents with **Chief Complaint**

Patient presents with

- Hyperglycemia

Paper work reports fasting BS greater than 400. + polyuria, polydipsia. Lab work glucose 896

There are no active problems to display for this patient.

History reviewed. No pertinent past medical history.

UNIVERSITY MEDICAL CENTER - NO
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 Inpatient Encounter

MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

ED Provider Notes - Encounter Notes (continued)

ED Provider Notes by Victor Edgar Tuckler, MD at 11/14/2016 8:16 PM (continued)

Version 1 of 1

**Home Medications:
 Prior to Admission
 medications**

Not on File

No current facility-administered medications for this encounter.

No current outpatient prescriptions on file.

Patient's Medications

No medications on file

Allergies: Review of patient's allergies indicates no known allergies.

Allergies as of 11/14/2016

- (No Known Allergies)

No Known Allergies

History reviewed. No pertinent past medical history.

History reviewed. No pertinent past surgical history.

reports that he has never smoked. He does not have any smokeless tobacco history on file. He reports that he does not drink alcohol or use illicit drugs.

No family history on file.

There is no immunization history on file for this patient.

No future appointments.

No LMP for male patient.

Physical Exam

VS reviewed

Blood pressure 130/89, pulse 112, temperature 99.3 °F (37.4 °C), resp. rate 20, SpO2 98 %.

Vitals:

	11/14/16 1834
BP:	130/89
Pulse:	112
Resp:	20
Temp:	99.3 °F (37.4 °C)
SpO2:	98%

Vitals:

	11/14/16 1834
BP:	130/89
Pulse:	112
Resp:	20

UNIVERSITY MEDICAL CENTER - NO
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New Orleans LA 70112
Inpatient Encounter

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

ED Provider Notes - Encounter Notes (continued)

ED Provider Notes by Victor Edgar Tuckler, MD at 11/14/2016 8:16 PM (continued)

Version 1 of 1

Temp: 99.3 °F (37.4 °C)
SpO2: 98%

ED Triage Vitals		
Enc Vitals Group		
BP	11/14/16 1834	130/89
Heart Rate	11/14/16 1834	112
Resp	11/14/16 1834	20
Temp	11/14/16 1834	99.3 °F (37.4 °C)
Temp src	--	
SpO2	11/14/16 1834	98 %
Weight	--	
Height	--	
Head Cir	--	
Peak Flow	--	
Pain Score	11/14/16 1834	Seven
Pain Loc	--	
Pain Edu?	--	
Excl. in GC?	--	

Nursing notes reviewed
Vital signs and Pulse Ox reviewed

No Beds in MAIN ED.

Prelims orders done to facilitate patient care per ED section protocol.

Patient is awaiting full eval/exam in ED when bed is available.

Christopher Marlone is aware and understands that the ED is on saturation.

Victor Tuckler MD, ED FACULTY^[VT1.1]

Victor Edgar Tuckler, MD
11/14/16 2017
[VT1.2]

Electronically signed by Victor Edgar Tuckler, MD at 11/14/2016 8:17 PM

UNIVERSITY MEDICAL CENTER - NO
 2000 Canal St
 New Orleans LA 70112
 Inpatient Encounter

MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

ED Provider Notes - Encounter Notes (continued)

ED Provider Notes by Victor Edgar Tuckler, MD at 11/14/2016 8:16 PM (continued)

Version 1 of 1

Revision History

User Key	Date/Time	User	Provider Type	Action
> VT1.2	11/14/2016 8:17 PM	Victor Edgar Tuckler, MD	Physician	Sign
VT1.1	11/14/2016 8:16 PM	Victor Edgar Tuckler, MD	Physician	

ED Provider Notes by Lauren Nunez, MD at 11/14/2016 11:53 PM

Version 1 of 1

Author: Lauren Nunez, MD Service: Emergency Medicine Author Type: Resident
 Filed: 11/15/2016 4:33 AM Date of Service: 11/14/2016 11:53 PM Status: Attested
 Editor: Lauren Nunez, MD (Resident) Cosigner: Victor Edgar Tuckler, MD at 11/26/2016 7:45 AM

Attestation signed by Victor Edgar Tuckler, MD at 11/26/2016 7:45 AM

Attending Provider Note / Attestation

This patient was seen by a resident and myself.
 I have personally seen the patient, performed the critical or key portions of the service, and participated in the management of the patient.
 I have reviewed and agree with the resident's note, and I have reviewed all labs and imaging studies or reports.
 I have reviewed assessments and/or procedures performed by the House Officer, I concur with the documentation of this patient.
 I have discussed this case with the residents. I have explained my thought process and medical decision making to the resident.
 Victor Tuckler M.D. ED Staff

History

Chief Complaint

Patient presents with
 • Hyperglycemia

HPJ^[LN1.1]
 31 y.o.^[LN1.2] M with no pmhx presents for c/o hyperglycemia x 1 week. Pt endorses 3 months of polydipsia and polyuria, was seen by physician at Hunt Correctional Facility and had accucheck "HI," had labs with glu >800 and A1C >17 (above upper limits of detection) without evidence of DKA and was thus transferred here for evaluation of new onset DM. No recent illnesses. States 1 week ago had an episode of blood with a bowel movement that has since resolved. Denies fevers, chills, chest pain, shortness of breath, abdominal pain, nausea/vomiting, diarrhea, dark/tarry stools, dysuria, hematuria, or other complaints.

No family h/o DM or autoimmune disorders. Pt given 16 units of insulin at facility and transferred here for further care.^[LN1.3]

History reviewed. No pertinent past medical history.

History reviewed. No pertinent past surgical history.

No family history on file.

Social History

Substance Use Topics

UNIVERSITY MEDICAL CENTER - NO
2000 Canal St
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Inpatient Encounter

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

ED Provider Notes - Encounter Notes (continued)

ED Provider Notes by Lauren Nunez, MD at 11/14/2016 11:53 PM (continued)

Version 1 of 1

- Smoking status: Never Smoker
- Smokeless tobacco: None
- Alcohol use: No

Review of Systems

Constitutional: Negative for chills and fever.

HENT: Negative for sore throat and trouble swallowing.

Eyes: Negative for photophobia and visual disturbance.

Respiratory: Negative for cough, chest tightness and shortness of breath.

Cardiovascular: Negative for chest pain and palpitations.

Gastrointestinal: Negative for abdominal pain, nausea and vomiting.

Endocrine: Positive for polydipsia and polyuria.

Genitourinary: Negative for dysuria and hematuria.

Musculoskeletal: Negative for arthralgias and myalgias.

Skin: Negative for rash and wound.

Neurological: Negative for dizziness, syncope, weakness, numbness and headaches.

Psychiatric/Behavioral: Negative for agitation and confusion.

All other systems reviewed and are negative.

Physical Exam

Blood pressure 130/89, pulse 112, temperature 99.3 °F (37.4 °C), resp. rate 20, SpO2 98 %.

Physical Exam

Constitutional: He is oriented to person, place, and time. He appears well-developed and well-nourished. No distress.

HENT:

Head: Normocephalic and atraumatic.

Eyes: Conjunctivae and EOM are normal. Pupils are equal, round, and reactive to light. No scleral icterus.

Neck: Normal range of motion. Neck supple. No JVD present.

Cardiovascular: Normal rate, regular rhythm, normal heart sounds and intact distal pulses. Exam reveals no gallop and no friction rub.

No murmur heard.

Pulmonary/Chest: Effort normal and breath sounds normal. No respiratory distress. He has no wheezes. He has no rales.

Abdominal: Soft. Bowel sounds are normal. He exhibits no distension. There is no tenderness.

Musculoskeletal: Normal range of motion. He exhibits no edema or tenderness.

Neurological: He is alert and oriented to person, place, and time. No cranial nerve deficit.

Skin: Skin is warm and dry. No rash noted. He is not diaphoretic. No pallor.

Psychiatric: He has a normal mood and affect. His behavior is normal.

Nursing note and vitals reviewed.

ED Course

ED Course

UNIVERSITY MEDICAL CENTER - NO
 2000 Canal St
 New Orleans LA 70112
 Inpatient Encounter

MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

ED Provider Notes - Encounter Notes (continued)

ED Provider Notes by Lauren Nunez, MD at 11/14/2016 11:53 PM (continued)

Version 1 of 1

Procedures

Findings:

Estimated Blood Loss:

Specimens Removed:

Postoperative Diagnosis:

MDM^[LN1.1]

HOIV Note:^[LN1.3]

31 y.o. male^[LN1.4] here with c/o new onset DM. Here, exam significant for well appearing^[LN1.3] male^[LN1.4], resting comfortably in bed calm and cooperative with exam and interview.

DDx includes but is not limited to: new onset type 2 DM vs possible autoimmune or genetic causes of DM given pt's thin body habitus and abrupt onset with high insulin sensitivity (glu down to 110s here after 16 units insulin at OSH x 6 hours ago).

Given HbA1c >17, plan for admission to the hospital for insulin initiation and titration. Pt consulted to Tulane medicine who will place in observation for further workup and ongoing care. Will continue to monitor patient while still in the ED.

Lauren Nunez, MD
 LSU Internal Medicine-Emergency Medicine HOIV
 4:28 AM, 11/15/16^[LN1.3]

Visit Diagnoses:

Diagnoses that have been ruled out:

None

Diagnoses that are still under consideration:

None

Final diagnoses:

None

Re-Evaluation

Vitals Reviewed?

Pain status post procedure?

Pain status post medication?

Attending Provider

Provider	Specialty	From	To
Victor Edgar Tuckler, MD	Emergency Medicine	11/14/16 2059	^[LN1.1]

Attending Provider Note / Attestation

This patient was seen by a resident and myself.

I have personally seen the patient, performed the critical or key portions of the service, and participated in the management of the patient.

I have reviewed and agree with the resident's note, and I have reviewed all labs and imaging studies or reports.

UNIVERSITY MEDICAL CENTER - NO
2000 Canal St
New Orleans LA 70112
Inpatient Encounter

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

ED Provider Notes - Encounter Notes (continued)

ED Provider Notes by Lauren Nunez, MD at 11/14/2016 11:53 PM (continued)

Version 1 of 1

I have reviewed assessments and/or procedures performed by the House Officer, I concur with the documentation of this patient.

I have discussed this case with the residents. I have explained my thought process and medical decision making to the resident.

Victor Tuckler M.D. ED Staff^{VT1.1}

Lauren Nunez, MD
Resident
11/15/16 0433
[LN1.5]

Electronically signed by Lauren Nunez, MD at 11/15/2016 4:33 AM
Electronically signed by Victor Edgar Tuckler, MD at 11/26/2016 7:45 AM

Revision History

User Key	Date/Time	User	Provider Type	Action
> LN1.5	11/15/2016 4:33 AM	Lauren Nunez, MD	Resident	Sign
LN1.4	11/15/2016 4:28 AM	Lauren Nunez, MD	Resident	
LN1.2	11/15/2016 4:20 AM	Lauren Nunez, MD	Resident	
LN1.3	11/15/2016 4:19 AM	Lauren Nunez, MD	Resident	
VT1.1	11/15/2016 1:48 AM	Victor Edgar Tuckler, MD	Physician	Share
LN1.1	11/14/2016 11:53 PM	Lauren Nunez, MD	Resident	Share

Discharge Summaries - Encounter Notes

Discharge Summaries by Robert Raymond, MD at 11/17/2016 3:13 PM

Version 1 of 1

Author: Robert Raymond, MD
Filed: 11/28/2016 4:06 PM
Editor: Robert Raymond, MD (Resident)

Service: Internal Medicine
Date of Service: 11/17/2016 3:13 PM

Author Type: Resident
Status: Attested
Cosigner: Alexandra Louise Silverton, MD at 12/5/2016 2:34 PM

Attestation signed by Alexandra Louise Silverton, MD at 12/5/2016 2:34 PM

Briefly, Christopher Marlone is a 31 year old incarcerated male with no significant PMH p/w several months of polyuria, polydipsia, and weight loss found to have new diagnosis of diabetes. I personally saw & examined this patient and verified key portions of the exam, findings, labs, and studies as documented in the resident's note. I have discussed the patient's condition and plan of care on rounds with the following addendum: Continue lantus at bedtime and aspart sliding scale with meals. Will need follow-up and glucose monitoring, unclear if patient to be released or stay in prison but for now will f/u with Dr. Singh. He was started on metformin bid given felt this more c/w type 2 dm as he had no e/o ketosis despite prolonged hyperglycemia, although given elevated GAD Ab may be more c/w late onset type 1 diabetes and thus would not benefit from metformin.

Physician Discharge Summary

Patient ID:
Christopher Marlone
1002440171
31 y.o.
12/5/1984

Admit date: 11/14/2016

Printed on 4/5/2017 9:56 AM

Page 8

UNIVERSITY MEDICAL CENTER - NO
2000 Canal St
New Orleans LA 70112
Inpatient Encounter

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

Discharge Summaries - Encounter Notes (continued)

Discharge Summaries by Robert Raymond, MD at 11/17/2016 3:13 PM (continued)

Version 1 of 1

Discharge date:^[RR1.1] 11/17/2016^[RR1.2]

Admitting Physician: Alexandra Louise Silverton, MD

Discharge Physician:^[RR1.1] Silverton^[RR1.2]

Admission Diagnoses: Hyperglycemia [R73.9]
Diabetes mellitus [E11.9]

Discharge Diagnoses:^[RR1.1] Type I DM^[RR1.2]

Admission Condition:^[RR1.1] stable^[RR1.2]

Discharged Condition:^[RR1.1] stable^[RR1.2]

Indication for Admission:^[RR1.1] Severe Hyperglycemia^[RR1.2]

Hospital Course:^[RR1.1]

Christopher Marlone is a 31 y.o. male with no past medical history that presented after several weeks of excessive thirst and urination, found to have markedly elevated blood glucose, c/w new diagnosis of diabetes.

Patient is an inmate at Hunt Correctional facility.^[RR1.2]

Glutamic Acid Decarb Ab was found to be significantly elevated indicating a diagnosis of Type I DM, although the patient did not present in DKA. His A1C was found to be 20.3. Patient was treated with IV fluids^[RR1.3]. His sugars were controlled with^[RR1.4] Lantus 22 at bedtime and^[RR1.3] moderate dose sliding scale insulin. The diagnosis of Type I with positive Ab test resulted after the patient was discharged and was called into the facility. We started the patient on crestor 10 and communicated with the prison that he will need to be on a moderate intensity statin in their formulary. Patient had oral thrush likely from Elevated glucose levels, resolved after nystatin swish and spit for 2 days. No complications were encountered during this patients hospital stay.^[RR1.4]

consults:^[RR1.1] none^[RR1.2]

Significant Diagnostic Studies:^[RR1.1] see hospital course^[RR1.2]

Treatments:^[RR1.1] see hospital course^[RR1.2]

Discharge Exam:^[RR1.1]

General appearance: alert, appears stated age and cooperative

HEENT: Normocephalic, Atraumatic, MMM, PERRLA, EOMI

Neck: no JVD and supple, symmetrical, trachea midline

CV: RRR, normal S1, S2, no murmurs, rubs or gallops, DP and Radial pulses 2+ and symmetric

Resp: symmetric expansion, no chest wall tenderness, non-labored breathing, CTA bilaterally

Abdomen: soft, non-tender, non-distended, +bowel sounds, no organomegaly

Skin: Skin color, texture, turgor normal. No rashes or lesions

Neuro: AAOx3, Sensation intact in all distributions, no focal weakness

Psych: normal mood and affect

Extremities: warm and well perfused, no edema, normal ROM, no gross abnormalities^[RR1.2]

UNIVERSITY MEDICAL CENTER - NO
2000 Canal St
New Orleans LA 70112
Inpatient Encounter

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

Discharge Summaries - Encounter Notes (continued)

Discharge Summaries by Robert Raymond, MD at 11/17/2016 3:13 PM (continued)

Version 1 of 1

Disposition: Court / Law Enforcement

Patient Instructions:

Discharge Medication List as of 11/17/2016 2:57 PM

START taking these medications

	Details
aspirin (LO-DOSE ASPIRIN) 81 MG EC tablet	Take 1 tablet (81 mg total) by mouth daily, Starting 11/17/2016, Until Fri 11/17/17, No Print
insulin glargine (LANTUS) 100 unit/mL injection	Inject 22 Units into the skin nightly, Starting 11/17/2016, Until Fri 11/17/17, No Print
metFORMIN (GLUCOPHAGE) 500 MG tablet	Take 1 tablet (500 mg total) by mouth 2 (two) times daily with meals, Starting 11/17/2016, Until Fri 11/17/17, No Print
rosuvastatin (CRESTOR) 10 MG tablet	Take 1 tablet (10 mg total) by mouth nightly, Starting 11/17/2016, Until Fri 11/17/17, No Print

CONTINUE these medications which have CHANGED

	Details
insulin aspart (NOVOLOG) 100 unit/mL injection	Inject 0-8 Units into the skin See Admin Inst 60-149 No Insulin; 150-199 1 unit; 200-249 3u; 250-299 5u; 300-349 7u; >350 8u , Starting 11/17/2016, Until Discontinued, Print

Activity:[RR1.1] activity as tolerated[RR1.2]

Diet:[RR1.1] diabetic diet[RR1.2]

Wound Care:[RR1.1] none needed[RR1.2]

Discussed plan with patient and answered questions:[RR1.1] Yes[RR1.2]

Follow Up Information

Raman Singh, MD
Specialty: Internal Medicine

26, Main St
Angola LA 70712
Phone: 225-655-8849

Follow up in 1 week(s)

Next Steps: NO NEED FOR SCHEDULING, PATIENT WILL FOLLOW UP IN PRISON WITH DR. SINGH

Signed:

Robert Raymond

11/28/2016

12:41 PM[RR1.1]

Electronically signed by Robert Raymond, MD at 11/28/2016 4:06 PM

Electronically signed by Alexandra Louise Silverton, MD at 12/5/2016 2:34 PM

Printed on 4/5/2017 9:56 AM

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Inpatient Encounter

MARLONE, CHRISTOPHER
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Discharge Summaries - Encounter Notes (continued)

Discharge Summaries by Robert Raymond, MD at 11/17/2016 3:13 PM (continued)

Version 1 of 1

Revision History

User Key	Date/Time	User	Provider Type	Action
> RR1.4	11/28/2016 4:06 PM	Robert Raymond, MD	Resident	Sign
RR1.3	11/28/2016 3:54 PM	Robert Raymond, MD	Resident	
RR1.2	11/28/2016 3:49 PM	Robert Raymond, MD	Resident	
RR1.1	11/28/2016 12:41 PM	Robert Raymond, MD	Resident	

H&P - Encounter Notes

H&P by Cara Varley, MD at 11/15/2016 5:19 AM

Version 1 of 1

Author: Cara Varley, MD
Filed: 11/15/2016 6:00 AM
Editor: Cara Varley, MD (Resident)

Service: Internal Medicine
Date of Service: 11/15/2016 5:19 AM

Author Type: Resident
Status: Attested
Cosigner: Alexandra Louise Silverton, MD at
11/15/2016 3:00 PM

Attestation signed by Alexandra Louise Silverton, MD at 11/15/2016 3:00 PM

Briefly, Christopher Marlene is a 31 year old incarcerated male with no significant PMH p/w several months of polyuria, polydipsia, and weight loss found to have new diagnosis of diabetes. All other ROS negative except as noted in HPI. I have reviewed the Past Medical History, Family History, Social History, and Medication History taken by the house officer and confirm the findings. ROS negative except as noted in HPI. I personally saw & examined this patient and verified key portions of the exam, findings, labs, and studies as documented in the resident's note. I have discussed the patient's condition and plan of care on rounds with the following addendum:

- 1) Diabetes – HHS on presentation, no AG or acidosis to suggest DKA. Suspect new diagnosis T2DM given no ketosis despite prolonged, severe hyperglycemia with no treatment.
 - Start .3 units/kg insulin, divided between long and short acting insulin. Monitor FS, adjust as needed. Confirm patient able to receive this regimen at facility. Nurse to provide instructions on self-injection as patient may be released from prison soon and would need to continue this regimen at home.
 - Start metformin bid
 - Nutrition consult for dietary counseling
 - Send urine protein/creatinine ratio

Patient Name: Christopher Marlene (31 y.o. male)
MRN: 1002440171
DOB: 12/5/1984
Date of Admission: 11/14/2016
Date of Note: 11/15/16 5:19 AM

History and Physical - PGY2

Service: Tulane Internal Medicine
Attending Physician: Alexandra Louise Silvert*
Resident: Kristen Shealy, MD 268-4151
Admitting Resident: Cara Varley, MD, MPH

Chief Complaint

Patient presents with

- Hyperglycemia

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H&P - Encounter Notes (continued)

H&P by Cara Varley, MD at 11/15/2016 5:19 AM (continued)

Version 1 of 1

HPI:

Christopher Marlone is a 31 y.o. gentleman with no pmh presenting from Hunt for hyperglycemia. He reports 2-3 months of increased urination, thirst, fatigue, blurry vision, tingling in bilateral feet and a 65 lb weight loss over the past 6 months. He denies any nausea, vomiting, constipation, diarrhea, SOB, cough, chest pain, palpitations, fevers, chills, night sweats, cold or heat intolerance. He does endorse some throat pain over the last few days.

He presented to the physician on 11/10 and glucose was 896, hemoglobin A1c was 17.0. T cholesterol was 278, triglycerides 678, iron 70. He was feeling more tired and presented again 11/14 and he was told he was dying by the prison physician. Glucose was 441, he was given 16 units of humilin R and sent to the ED. On presentation, glucose was 119 without an anion gap. pH was 7.38 on VBG and medicine was called for admission.

Past Medical History:

none

Past Surgical History:

none

Family Medical History:

Dad had afib

No family history of DM1, autoimmune diseases

Social History:

Incarcerated for last 3.5 years at Hunt

Drives a tractor there and works in the garden

Served in the Army for 4 years following 9/11

Tobacco - quit 5 years ago, previously smoked 2PPD

etoh - none

illicits - none

Allergies:

None

Home Medications:

none

Physical Exam:

Current Vitals:

Vitals:

	11/15/16 0414
BP:	125/74
Pulse:	71
Resp:	18
Temp:	97.3 °F (36.3 °C)

Physical Exam:

General: pleasant gentleman, NAD, appears stated age

Printed on 4/5/2017 9:56 AM

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UNIVERSITY MEDICAL CENTER - NO
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H&P - Encounter Notes (continued)

H&P by Cara Varley, MD at 11/15/2016 5:19 AM (continued)

Version 1 of 1

HEENT: PERRL, EOMI, no lymphadenopathy, few white plaques in throat, unable to reach with tongue depressor, no erythema or exudate

CV: RRR no m,r,g

Lungs: CTAB

Abdomen: soft, non-tender, nondistended, no hepatosplenomegaly

Skin: no rashes or lesion, tattoos

Extremities: no peripheral edema, 2+ pulses in all 4 extremities

Neuro: moving all extremities, tingling on plantar surface of both feet

Psych: normal mood and affect

Labs reviewed, notable for:

Recent Labs

Lab	11/14/16 1842	11/14/16 1923
WBC	7.9	--
HGB	15.3	15.0
PLT	281	--
MCV	91.4	--
NEUTROPCT	51	--
LYMPHOPCT	37	--
MONOPCT	10	--
BASOPCT	1	--

Recent Labs

Lab	11/14/16 1842	11/15/16 0201
NA	141	132*
K	3.9	4.5
CL	100	99
CO2	29	23*
BUN	14	14
LABCREA	1.02	0.84
GLU	119*	405*
CALCIUM	11.4*	8.9
PHOS	4.0	--

Recent Labs

Lab	11/14/16 1842
PROT	7.9
ALBUMIN	5.0
BILITOT	0.6
AST	34
ALT	40
ALKPHOS	115

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H&P - Encounter Notes (continued)

H&P by Cara Varley, MD at 11/15/2016 5:19 AM (continued)

Version 1 of 1

No results for input(s): LABPT, INR, APTT in the last 168 hours.

Recent Labs

Lab	11/14/16
	1842

HGBA1C 20.3*

EKG: NSR

Imaging reviewed, notable for:
No results found.

ASSESSMENT & PLAN:

31 yo gentleman presenting with newly diagnosed diabetes, not in DKA. Given history, concerning for type 1. Blood glucose dropped rapidly with 16 units of regular. HbA1c is 20.3. Possible oral thrush.

- lantus 0.2 units/kg at night
- humalog sliding scale
- UA
- 1L NS bolus, with 500cc/hr for an additional L
- insulin and GAD Ab
- accuchecks q4 hrs
- nutrition and DM education consult, requested meal plan to provide to Hunt
- repeat BMP, replace K as needed
- nystatin swish and spit

Prophylaxis: lovenox

Diet: diabetic

Dispo pending stable insulin regimen

Code Status: full

Patient would like his parents notified, however requires permission from the warden at Hunt, Michelle (225-642-3306).

Mom: Liz Norton 936-212-5545

Dad: Phil Marlowe 671-482-9388

CARA VARLEY, MD, MPH

PGY-2

11/15/2016

5:19 AM

Pager #: 268-4120^[CV1.1]

Electronically signed by Cara Varley, MD at 11/15/2016 6:00 AM
Electronically signed by Alexandra Louise Silvertown, MD at 11/15/2016 3:00 PM

UNIVERSITY MEDICAL CENTER - NO
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MARLONE, CHRISTOPHER
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H&P - Encounter Notes (continued)

H&P by Cara Varley, MD at 11/15/2016 5:19 AM (continued)

Version 1 of 1

Revision History

User Key	Date/Time	User	Provider Type	Action
> CV1.1	11/15/2016 6:00 AM	Cara Varley, MD	Resident	Sign

Consults - Encounter Notes

Consults by Rosetta Danigole, LDN, RD at 11/15/2016 10:10 AM

Version 1 of 1

Author: Rosetta Danigole, LDN, RD Service: Nutrition Services Author Type: Registered Dietitian
 Filed: 11/15/2016 10:10 AM Date of Service: 11/15/2016 10:10 AM Status: Signed
 Editor: Rosetta Danigole, LDN, RD (Registered Dietitian)
 Consult Orders:
 1. Inpatient consult to Nutritional Service [79966548] ordered by Cara Varley, MD at 11/15/16 0124

Nutrition note:

MEDICAL NUTRITION THERAPY

ASSESSMENT--Personal diet history as stated by the patient:

Visited pt and discussed diabetic meal planning and provided written information for discharge. Pt stated in the prison all they get is beans/rice/occasional vegetables/ no fruits - they do provide eggs and milk. They do not get animal protein very often. They have a canteen where mostly junk food is available.

RD discussed options in the canteen such as nuts and beef jerky as options.

Provided copy to pt.

Pt can be discharge on 2000-2200 calorie CHO controlled diet.

Pt stated he suffered all symptoms of hyperglycemia and the prison ignored it mostly saying he had "bad shoes".

Diet diabetic 2000 kcal

Estimated Nutritional Requirements:

Kcal needs-- 2200 Kcal/Kg--25-30

Protein needs (grams)-- 88 Gm/Kg-- 1 gram per kg

Fluids (ml)-Per MD

NUTRITION DIAGNOSIS-P.E.S. STATEMENT-

Altered nutrition related laboratory values related to endocrine dysfunction as evidenced by hemoglobin A1C greater than 6%

INTERVENTION:

Nutrition prescription: as above

Goal: optimize learning

Intervention:

1.) Instructions were provided.

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Consults - Encounter Notes (continued)

Consults by Rosetta Danigole, LDN, RD at 11/15/2016 10:10 AM (continued)

Version 1 of 1

MONITORING AND EVALUATION

1.) Follow as needed. Instructions were left with the patient.

[RD1.1]

Electronically signed by Rosetta Danigole, LDN, RD at 11/15/2016 10:10 AM

Revision History

User Key	Date/Time	User	Provider Type	Action
> RD1.1	11/15/2016 10:10 AM	Rosetta Danigole, LDN, RD	Registered Dietitian	Sign

Progress Notes - Encounter Notes

Progress Notes by Kristen Shealy, MD at 11/16/2016 7:38 AM

Version 1 of 1

Author: Kristen Shealy, MD
Filed: 11/16/2016 5:30 PM
Editor: Kristen Shealy, MD (Resident)

Service: Internal Medicine
Date of Service: 11/16/2016 7:38 AM

Author Type: Resident
Status: Attested
Cosigner: Alexandra Louise Silverton, MD at
11/16/2016 7:08 PM

Attestation signed by Alexandra Louise Silverton, MD at 11/16/2016 7:08 PM

Briefly, Christopher Marlone is a 31 year old incarcerated male with no significant PMH p/w several months of polyuria, polydipsia, and weight loss found to have new diagnosis of diabetes. I personally saw & examined this patient and verified key portions of the exam, findings, labs, and studies as documented in the resident's note. I have discussed the patient's condition and plan of care on rounds with the following addendum:

1. Diabetes – HHS on presentation, no AG or acidosis to suggest DKA. Suspect new diagnosis T2DM given no ketosis despite prolonged, severe hyperglycemia with no treatment. Increased lantus to 22 units at bedtime given persistent hyperglycemia, increase to medium dose AISS. Continue metformin bid. Appreciate nutrition recs.

TULANE Resident HO-2 Progress Note

Subjective: [KS1.1]

NAEON. Reports some night sweats and nightmares, but other than that, is feeling well this AM. Reports that in prison, he may only be able to get insulin 3x per day (not 4) and is worried that the food there may be very bad for his diabetes. [KS1.2]

Objective:

Last 24 Hour Vital Signs:

BP Min: 105/56 Max: 128/74
Temp Avg: 97.8 °F (36.6 °C) Min: 97.1 °F (36.2 °C) Max: 98.2 °F (36.8 °C)
Pulse Avg: 64.9 Min: 58 Max: 72
Resp Avg: 18.3 Min: 18 Max: 20
SpO2 Avg: 97.8 % Min: 97 % Max: 98 %
I/O last 3 completed shifts:
In: 2100 [P.O.:2100]
Out: 1950 [Urine:1950]

Physical Examination:

GEN: [KS1.1] A & O x4, NAD. Lying in medicine. [KS1.3]

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Progress Notes - Encounter Notes (continued)

Progress Notes by Kristen Shealy, MD at 11/16/2016 7:38 AM (continued)

Version 1 of 1

HEENT: [KS1.1] No LAD, normal oropharynx. [KS1.3]
CV: [KS1.1] RRR, no m/r/g [KS1.3]
LUNGS: [KS1.1] CTAB, no w/r/r/c [KS1.3]
ABD: [KS1.1] soft, NT, ND. +BS [KS1.3]
MSK: [KS1.1] no c/c/e, moving all extremities [KS1.3]
NEURO: [KS1.1] CN II-XII intact, decreased sensation to fine touch in bilateral toes [KS1.3]
SKIN: [KS1.1] multiple tattoos, no rashes or lesions [KS1.3]
PSYCH: [KS1.1] Appropriate, normal mood and affect [KS1.3]

Laboratory:

Trended Lab Data:

Recent Labs

Lab	11/14/16 1842	11/14/16 1923	11/15/16 0201	11/16/16 0530
WBC	7.9	--	--	6.0
HGB	15.3	15.0	--	13.8
HCT	45.5	45.0	--	40.5
PLT	281	--	--	211
MCV	91.4	--	--	93.1
RDW	13.3	--	--	13.1
NA	141	--	132*	138
K	3.9	--	4.5	4.1
CL	100	--	99	104
CO2	29	--	23*	30
BUN	14	--	14	12
LABCREA	1.02	--	0.84	0.95
GLU	119*	--	405*	216*
CALCIUM	11.4*	--	8.9	9.1
PROT	7.9	--	--	--
ALBUMIN	5.0	--	--	--
BILITOT	0.6	--	--	--
AST	34	--	--	--
ALKPHOS	115	--	--	--
ALT	40	--	--	--

DM: Lab Results

Component	Value	Date
HGBA1C	20.3 (H)	11/14/2016

Urinalysis: Lab Results

Component	Value	Date
COLORU	YELLOW	11/15/2016
SPECGRAV	>1.030	11/15/2016
NITRITE	NEGATIVE	11/15/2016
GLUCOSEU	>=500 (A)	11/15/2016
KETONESU	80 (A)	11/15/2016
UROBILINOGEN	NORMAL	11/15/2016
BILIRUBINUR	NEGATIVE	11/15/2016

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Progress Notes - Encounter Notes (continued)

Progress Notes by Kristen Shealy, MD at 11/16/2016 7:38 AM (continued)

Version 1 of 1

BLOODU NEGATIVE 11/15/2016

Microbiology Data:^[KS1.1]
 N/A^[KS1.3]

Other Laboratory Data:^[KS1.1]
 Insulin ab pending
 GAD ab pending^[KS1.3]

Current Medications:
Infusions:

Scheduled:

• dextrose 50 %	25 g	Intravenous	See Admin Inst
• Insulin (Rapid Acting)	0-5 Units	Subcutaneous	TID AC
• insulin aspart	3 Units	Subcutaneous	TID AC
• insulin glargine	20 Units	Subcutaneous	Nightly
• metFORMIN	500 mg	Oral	BID WC
• nystatin	5 mL	Mouth/Throat	4x daily
• rosuvastatin	20 mg	Oral	Nightly

PRN:
 acetaminophen

Antibiotics and Day Number of Therapy:^[KS1.1]
 N/A^[KS1.3]

Lines and Day Number of Therapy:^[KS1.1]
 PIVs^[KS1.3]

Assessment:

Christopher Marlone is a 31 y.o. male with^[KS1.1] no past medical history that presented after several weeks of excessive thirst and urination, found to have markedly elevated blood glucose, c/w new diagnosis of diabetes.^[KS1.3]

Patient Active Problem List

Diagnosis	Date Noted
• Diabetes mellitus	11/15/2016
• Diabetes mellitus due to underlying condition with hyperosmolarity without coma, without long-term current use of insulin	

Plan:

#^[KS1.1] **Diabetes Mellitus:** Type 1 vs type 2, new diagnosis. Though given h/o obesity and presentation, likely type 2. A1c = 20.3. Urine prot/creat wnl so no need to start statin
 - increase evening lantus to 22 units at bedtime

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Progress Notes - Encounter Notes (continued)

Progress Notes by Kristen Shealy, MD at 11/16/2016 7:38 AM (continued)

Version 1 of 1

- increase SSI to moderate dosing
- cont metformin 500 mg BID
- accuchecks AC HS
- call prison facility to determine how we can dose the insulin and what insulin regimens they have available
- encourage pt to give own injections and check his own sugars
- f/u insulin ab, gad-65 ab

HLD: ASCVD = 4.9%, though given diabetes needs moderate intensity statin

- cont rosuvastatin 10 -> may need to change to simvastatin or pravastatin depending on prison's formulary
- start ASA 81

Oral thrush: ? Not seen on repeat exam, but pt states oral pain improved. Likely 2/2 high glucoses, HIV neg.

- cont nystatin swish and spit^[KS1.3]

Diet:^[KS1.1] diabetic^[KS1.3]

PPx:^[KS1.1] lovenox^[KS1.3]

Code:^[KS1.1] FULL^[KS1.3]

Dispo:^[KS1.1] pending better glucose control and insulin adjustment

** I contacted both his mother and father to update of them of his status per pt's request.^[KS1.3]

KRISTEN SHEALY, MD, MPH, PGY-2

7:38 AM

Pager 268-4151^[KS1.1]

Electronically signed by Kristen Shealy, MD at 11/16/2016 5:30 PM
 Electronically signed by Alexandra Louise Silverton, MD at 11/16/2016 7:08 PM

Revision History

User Key	Date/Time	User	Provider Type	Action
> KS1.3	11/16/2016 5:30 PM	Kristen Shealy, MD	Resident	Sign
KS1.2	11/16/2016 1:14 PM	Kristen Shealy, MD	Resident	
KS1.1	11/16/2016 7:38 AM	Kristen Shealy, MD	Resident	

ED Triage Notes - Encounter Notes

ED Triage Notes by Suzanne N Stuke, RN at 11/14/2016 6:28 PM

Version 1 of 1

Author: Suzanne N Stuke, RN Service: (none) Author Type: Registered Nurse
 Filed: 11/14/2016 6:30 PM Date of Service: 11/14/2016 6:28 PM Status: Signed
 Editor: Suzanne N Stuke, RN (Registered Nurse)

Paper work reports fasting BS greater than 400. + polyuria, polydipsia. Lab work glucose 896^[SS1.1]

Electronically signed by Suzanne N Stuke, RN at 11/14/2016 6:30 PM

Revision History

User Key	Date/Time	User	Provider Type	Action
> SS1.1	11/14/2016 6:30 PM	Suzanne N Stuke, RN	Registered Nurse	Sign

Plan of Care - Encounter Notes

Plan of Care by Rosetta Danigole, LDN, RD at 11/15/2016 10:09 AM

Version 1 of 1

UNIVERSITY MEDICAL CENTER - NO
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MARLONE, CHRISTOPHER
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 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

Plan of Care - Encounter Notes (continued)

Plan of Care by Rosetta Danigole, LDN, RD at 11/15/2016 10:09 AM (continued)

Version 1 of 1

Author: Rosetta Danigole, LDN, RD

Service: Nutrition Services

Author Type: Registered Dietitian

Filed: 11/15/2016 10:09 AM

Date of Service: 11/15/2016 10:09 AM

Status: Signed

Editor: Rosetta Danigole, LDN, RD (Registered Dietitian)

Problem: Altered nutrition-related laboratory values (NC-2.2)

Goal: Nutrition Education

Formal process to instruct or train a patient/client in a skill or to impart knowledge to help patients/clients voluntarily manage or modify food choices and eating behavior to maintain or improve health.

Outcome: Progressing

MEDICAL NUTRITION THERAPY

ASSESSMENT--Personal diet history as stated by the patient:

Visited pt and discussed diabetic meal planning and provided written information for discharge. Pt stated in the prison all they get is beans/rice/occasional vegetables/ no fruits - they do provide eggs and milk. They do not get animal protein very often. They have a canteen where mostly junk food is available.

RD discussed options in the canteen such as nuts and beef jerky as options.

Provided copy to pt.

Pt can be discharge on 2000-2200 calorie CHO controlled diet.

Pt stated he suffered all symptoms of hyperglycemia and the prison ignored it mostly saying he had "bad shoes".

Diet diabetic 2000 kcal

HEIGHT/WEIGHT EVALUATION:

1.93 m (6' 4")

86.2 kg (190 lb)

Ideal body weight: 86.8 kg (191 lb 5.7 oz)

Body mass index is 23.13 kg/(m²).

Present on Admission:

- Diabetes mellitus

Laboratory Values:

Results for MARLONE, CHRISTOPHER (MRN 1002440171) as of 11/15/2016 10:05

	Ref. Range	11/14/2016 18:42
Hemoglobin A1C	Latest Ref Range: 4.7 - 5.6 %	20.3 (H)

MEDICATIONS:

- | | | | |
|-------------------|------|---------------|----------------|
| • dextrose 50 % | 25 g | Intravenous | See Admin Inst |
| • glucagon (human | 1 mg | Intramuscular | Once |

UNIVERSITY MEDICAL CENTER - NO
 2000 Canal St
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 Inpatient Encounter

MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

Plan of Care - Encounter Notes (continued)

Plan of Care by Rosetta Danigole, LDN, RD at 11/16/2016 10:09 AM (continued)

Version 1 of 1

recombinant)			
• Insulin (Rapid Acting)	0-5 Units	Subcutaneous	TID AC
• insulin glargine	17 Units	Subcutaneous	Nightly
• nystatin	5 mL	Mouth/Throat	4x daily

History reviewed. No pertinent past medical history.

Estimated Nutritional Requirements:

Kcal needs-- 2200
 Protein needs (grams)-- 88
 Fluids (ml)-Per MD

Kcal/Kg--25-30
 Gm/Kg-- 1 gram per kg

NUTRITION DIAGNOSIS-P.E.S. STATEMENT-

Altered nutrition related laboratory values related to endocrine dysfunction as evidenced by hemoglobin A1C greater than 6%

INTERVENTION:

Nutrition prescription: as above

Goal: optimize learning

Intervention:

1.) Instructions were provided.

MONITORING AND EVALUATION

1.) Follow as needed. Instructions were left with the patient.

Electronically signed by Rosetta Danigole, LDN, RD at 11/15/2016 10:09 AM

Revision History

Date/Time	User	Provider Type	Action
> 11/15/2016 10:09 AM	Rosetta Danigole, LDN, RD	Registered Dietitian	Sign

Attribution information within the note text is not available.

Plan of Care by Keisha Fisher, RN at 11/16/2016 9:17 AM

Version 1 of 1

Author: Keisha Fisher, RN
 Filed: 11/16/2016 9:17 AM
 Editor: Keisha Fisher, RN (Registered Nurse)

Service: (none)
 Date of Service: 11/16/2016 9:17 AM

Author Type: Registered Nurse
 Status: Signed

Problem: Safety

Goal: Free from accidental physical injury

Outcome: Progressing

Patient will remain free of falls. K. Fisher, RN

Electronically signed by Keisha Fisher, RN at 11/16/2016 9:17 AM

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Plan of Care - Encounter Notes (continued)

Plan of Care by Keisha Fisher, RN at 11/16/2016 9:17 AM (continued)

Version 1 of 1

Revision History

Date/Time	User	Provider Type	Action
> 11/16/2016 9:17 AM	Keisha Fisher, RN	Registered Nurse	Sign

Attribution information within the note text is not available.

Plan of Care by Christina McClain, RN at 11/17/2016 5:33 AM

Version 1 of 1

Author: Christina McClain, RN Service: (none) Author Type: Registered Nurse
 Filed: 11/17/2016 5:33 AM Date of Service: 11/17/2016 5:33 AM Status: Signed
 Editor: Christina McClain, RN (Registered Nurse)

Problem: Glucose Imbalance

Goal: Clinical indication of glucose balance is achieved

Intervention: Monitor blood glucose levels as ordered

Continued to monitor pt's blood glucose level and administer insulin as ordered.

Electronically signed by Christina McClain, RN at 11/17/2016 5:33 AM

Revision History

Date/Time	User	Provider Type	Action
> 11/17/2016 5:33 AM	Christina McClain, RN	Registered Nurse	Sign

Attribution information within the note text is not available.

Nursing Note - Encounter Notes

Nursing Note by Terez A Thompson, RN at 11/15/2016 3:48 AM

Version 1 of 1

Author: Terez A Thompson, RN Service: Internal Medicine Author Type: Registered Nurse
 Filed: 11/15/2016 3:49 AM Date of Service: 11/15/2016 3:48 AM Status: Signed
 Editor: Terez A Thompson, RN (Registered Nurse)

Report received, awaiting pt's arrival to unit.^[TT1.1]

Electronically signed by Terez A Thompson, RN at 11/15/2016 3:49 AM

Revision History

User Key	Date/Time	User	Provider Type	Action
> TT1.1	11/15/2016 3:49 AM	Terez A Thompson, RN	Registered Nurse	Sign

Nursing Note by Krystilia A Williams, RN at 11/15/2016 7:43 AM

Version 1 of 1

Author: Krystilia A Williams, RN Service: (none) Author Type: Registered Nurse
 Filed: 11/15/2016 7:44 AM Date of Service: 11/15/2016 7:43 AM Status: Signed
 Editor: Krystilia A Williams, RN (Registered Nurse)

Bedside report received from off going nurse, pt in bed aaox4 eating breakfast. Md present at pt bedside. Pt in NAD at present time.^[KW1.1]

Electronically signed by Krystilia A Williams, RN at 11/15/2016 7:44 AM

Revision History

User Key	Date/Time	User	Provider Type	Action
> KW1.1	11/15/2016 7:44 AM	Krystilia A Williams, RN	Registered Nurse	Sign

Nursing Note by Lyndrell G Varise, RN at 11/16/2016 7:30 PM

Version 1 of 1

Author: Lyndrell G Varise, RN Service: (none) Author Type: Registered Nurse
 Filed: 11/15/2016 8:04 PM Date of Service: 11/15/2016 7:30 PM Status: Signed
 Editor: Lyndrell G Varise, RN (Registered Nurse)

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Nursing Note - Encounter Notes (continued)

Nursing Note by Lyndrell G Varise, RN at 11/15/2016 7:30 PM (continued)

Version 1 of 1

Report received and care assumed. Patient resting quietly in bed and denies a need for pain medication at this time. NDN. Bed in lowest position and call light within reach. Will continue to monitor.

Lyndrell Varise^[LV1.1]

Electronically signed by Lyndrell G Varise, RN at 11/15/2016 8:04 PM

Revision History

User Key	Date/Time	User	Provider Type	Action
> LV1.1	11/15/2016 8:04 PM	Lyndrell G Varise, RN	Registered Nurse	Sign

Nursing Note by Christina McClain, RN at 11/16/2016 7:30 PM

Version 1 of 1

Author: Christina McClain, RN Service: (none) Author Type: Registered Nurse
 Filed: 11/16/2016 7:56 PM Date of Service: 11/16/2016 7:30 PM Status: Signed
 Editor: Christina McClain, RN (Registered Nurse)

Report received, care assumed. Pt resting quietly in bed. NAD noted or complaints. Bed in lowest position, siderails up X2, bedside table and call light within reach. Will continue to monitor.^[CM1.1]

Electronically signed by Christina McClain, RN at 11/16/2016 7:56 PM

Revision History

User Key	Date/Time	User	Provider Type	Action
> CM1.1	11/16/2016 7:56 PM	Christina McClain, RN	Registered Nurse	Sign

Nursing Note by Lesley C Payton, RN at 11/17/2016 2:22 PM

Version 1 of 1

Author: Lesley C Payton, RN Service: Internal Medicine Author Type: Registered Nurse
 Filed: 11/17/2016 2:22 PM Date of Service: 11/17/2016 2:22 PM Status: Signed
 Editor: Lesley C Payton, RN (Registered Nurse)

Report called to Dianne Dunn at Hunt skilled nursing. Verbalizes understandings of instructions.^[LP1.1]

Electronically signed by Lesley C Payton, RN at 11/17/2016 2:22 PM

Revision History

User Key	Date/Time	User	Provider Type	Action
> LP1.1	11/17/2016 2:22 PM	Lesley C Payton, RN	Registered Nurse	Sign

Nursing Note by Lesley C Payton, RN at 11/17/2016 3:03 PM

Version 1 of 1

Author: Lesley C Payton, RN Service: Internal Medicine Author Type: Registered Nurse
 Filed: 11/17/2016 3:05 PM Date of Service: 11/17/2016 3:03 PM Status: Signed
 Editor: Lesley C Payton, RN (Registered Nurse)

Pt ambulated off the with two Hunt guards.^[LP1.1]

Electronically signed by Lesley C Payton, RN at 11/17/2016 3:05 PM

Revision History

User Key	Date/Time	User	Provider Type	Action
> LP1.1	11/17/2016 3:05 PM	Lesley C Payton, RN	Registered Nurse	Sign

Surgery Report

Op Notes

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Surgery Report (continued)

Op Notes (continued)

No notes of this type exist for this encounter.

Orders

UNIVERSITY MEDICAL CENTER - NO
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MARLONE, CHRISTOPHER
MRN: 1002440171
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Adm: 11/14/2016, D/C: 11/17/2016

All Orders

EKG 12 lead unit performed [79961984]

Electronically signed by: Salvador Javier Suau, MD on 11/14/16 1845	Status: Completed
Mode: Ordering in Per protocol, cosign required mode	Communicated by: Suzanne N Stuke, RN
Ordering user: Suzanne N Stuke, RN 11/14/16 1833	Ordering provider: Salvador Javier Suau, MD
Authorized by: Salvador Javier Suau, MD	
Frequency: Once 11/14/16 1833 - 1 Occurrences	
Questions:	
Reason for Exam chest pain	

Comprehensive metabolic panel [79961985]

Electronically signed by: Salvador Javier Suau, MD on 11/14/16 1845	Status: Completed
Mode: Ordering in Per protocol, cosign required mode	Communicated by: Suzanne N Stuke, RN
Ordering user: Suzanne N Stuke, RN 11/14/16 1833	Ordering provider: Salvador Javier Suau, MD
Authorized by: Salvador Javier Suau, MD	
Frequency: Once 11/14/16 1833 - 1 Occurrences	

HIV Antigen/Antibody Combo [79961986]

Electronically signed by: Salvador Javier Suau, MD on 11/14/16 1845	Status: Completed
Mode: Ordering in Per protocol, cosign required mode	Communicated by: Suzanne N Stuke, RN
Ordering user: Suzanne N Stuke, RN 11/14/16 1833	Ordering provider: Salvador Javier Suau, MD
Authorized by: Salvador Javier Suau, MD	
Frequency: Once 11/14/16 1833 - 1 Occurrences	

Troponin (ED Only) [79961987]

Electronically signed by: Salvador Javier Suau, MD on 11/14/16 1845	Status: Completed
Mode: Ordering in Per protocol, cosign required mode	Communicated by: Suzanne N Stuke, RN
Ordering user: Suzanne N Stuke, RN 11/14/16 1833	Ordering provider: Salvador Javier Suau, MD
Authorized by: Salvador Javier Suau, MD	
Frequency: Once 11/14/16 1833 - 1 Occurrences	

Blood Gases, Venous [79961988]

Electronically signed by: Salvador Javier Suau, MD on 11/14/16 1845	Status: Completed
Mode: Ordering in Per protocol, cosign required mode	Communicated by: Suzanne N Stuke, RN
Ordering user: Suzanne N Stuke, RN 11/14/16 1833	Ordering provider: Salvador Javier Suau, MD
Authorized by: Salvador Javier Suau, MD	
Frequency: Once 11/14/16 1834 - 1 Occurrences	
Order comments:	
Venous	

CBC and differential [79961994]

Electronically signed by: Salvador Javier Suau, MD on 11/14/16 1845	Status: Completed
Mode: Ordering in Per protocol, cosign required mode	Communicated by: Suzanne N Stuke, RN
Ordering user: Suzanne N Stuke, RN 11/14/16 1838	Ordering provider: Salvador Javier Suau, MD
Authorized by: Salvador Javier Suau, MD	
Frequency: Once 11/14/16 1839 - 1 Occurrences	

BETA-HYDROXYBUTYRIC ACID [79962024]

Electronically signed by: Lab In Hiseven Edi on 11/14/16 1842	Status: Completed
Ordering user: Lab In Hiseven Edi 11/14/16 1842	Ordering provider: Salvador Javier Suau, MD
Authorized by: Salvador Javier Suau, MD	
Frequency: Once 11/14/16 1842 - 1 Occurrences	

Hemoglobin A1c [79962026]

Electronically signed by: Lab In Hiseven Edi on 11/14/16 1842	Status: Completed
Ordering user: Lab In Hiseven Edi 11/14/16 1842	Ordering provider: Salvador Javier Suau, MD
Authorized by: Salvador Javier Suau, MD	
Frequency: Once 11/14/16 1842 - 1 Occurrences	

Lipase [79962028]

Electronically signed by: Lab In Hiseven Edi on 11/14/16 1842	Status: Completed
Ordering user: Lab In Hiseven Edi 11/14/16 1842	Ordering provider: Salvador Javier Suau, MD
Authorized by: Salvador Javier Suau, MD	
Frequency: Once 11/14/16 1842 - 1 Occurrences	

Phosphorus [79962030]

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All Orders (continued)

Phosphorus [79962030] (continued)

Electronically signed by: **Lab In Hiseven Edi on 11/14/16 1842** Status: **Completed**
Ordering user: Lab In Hiseven Edi 11/14/16 1842
Authorized by: Salvador Javier Suau, MD Ordering provider: Salvador Javier Suau, MD
Frequency: Once 11/14/16 1842 - 1 Occurrences

POCT Glucose, Point of Care Device [79961998]

Electronically signed by: **Lab In Hiseven Edi on 11/14/16 1852** Status: **Completed**
Ordering user: Lab In Hiseven Edi 11/14/16 1852
Authorized by: Unassigned Doctor Hcsd Ordering provider: Unassigned Doctor Hcsd
Frequency: Once 11/14/16 1852 - 1 Occurrences

POCT glucose [79961996]

Electronically signed by: **Pierre Detiege, MD on 11/17/16 1229** Status: **Completed**
Mode: Ordering in Per protocol, cosign required mode
Ordering user: Kathleen Ann Eppolito, RN 11/14/16 1855
Authorized by: Pierre Detiege, MD Communicated by: Kathleen Ann Eppolito, RN
Ordering provider: Pierre Detiege, MD
Frequency: Once 11/14/16 1856 - 1 Occurrences

Blood gas, venous [79962000]

Electronically signed by: **Lab In Hiseven Edi on 11/14/16 1923** Status: **Completed**
Ordering user: Lab In Hiseven Edi 11/14/16 1923
Authorized by: Unassigned Doctor Hcsd Ordering provider: Unassigned Doctor Hcsd
Frequency: Once 11/14/16 1923 - 1 Occurrences

GLUCOSE (RESP THERAPY) [79962002]

Electronically signed by: **Lab In Hiseven Edi on 11/14/16 1923** Status: **Completed**
Ordering user: Lab In Hiseven Edi 11/14/16 1923
Authorized by: Unassigned Doctor Hcsd Ordering provider: Unassigned Doctor Hcsd
Frequency: Once 11/14/16 1923 - 1 Occurrences

NA (RESP THERAPY) [79962004]

Electronically signed by: **Lab In Hiseven Edi on 11/14/16 1923** Status: **Completed**
Ordering user: Lab In Hiseven Edi 11/14/16 1923
Authorized by: Unassigned Doctor Hcsd Ordering provider: Unassigned Doctor Hcsd
Frequency: Once 11/14/16 1923 - 1 Occurrences

K (RESP THERAPY) [79962006]

Electronically signed by: **Lab In Hiseven Edi on 11/14/16 1923** Status: **Completed**
Ordering user: Lab In Hiseven Edi 11/14/16 1923
Authorized by: Unassigned Doctor Hcsd Ordering provider: Unassigned Doctor Hcsd
Frequency: Once 11/14/16 1923 - 1 Occurrences

IONIZED CA (RESP THERAPY) [79962008]

Electronically signed by: **Lab In Hiseven Edi on 11/14/16 1923** Status: **Completed**
Ordering user: Lab In Hiseven Edi 11/14/16 1923
Authorized by: Unassigned Doctor Hcsd Ordering provider: Unassigned Doctor Hcsd
Frequency: Once 11/14/16 1923 - 1 Occurrences

CL (RESP THERAPY) [79962010]

Electronically signed by: **Lab In Hiseven Edi on 11/14/16 1923** Status: **Completed**
Ordering user: Lab In Hiseven Edi 11/14/16 1923
Authorized by: Unassigned Doctor Hcsd Ordering provider: Unassigned Doctor Hcsd
Frequency: Once 11/14/16 1923 - 1 Occurrences

Urinalysis [79962012]

Electronically signed by: **Victor Edgar Tuckler, MD on 11/14/16 2018** Status: **Completed**
Ordering user: Victor Edgar Tuckler, MD 11/14/16 2018
Authorized by: Victor Edgar Tuckler, MD Ordering provider: Victor Edgar Tuckler, MD
Frequency: Once 11/14/16 2018 - 1 Occurrences

BETA-HYDROXYBUTYRIC ACID (Quantitative) [79962013]

Electronically signed by: **Victor Edgar Tuckler, MD on 11/14/16 2018** Status: **Discontinued**
Ordering user: Victor Edgar Tuckler, MD 11/14/16 2018
Ordering provider: Victor Edgar Tuckler, MD

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All Orders (continued)

BETA-HYDROXYBUTYRIC ACID (Quantitative) [79962013] (continued)

Authorized by: Victor Edgar Tuckler, MD

Frequency: Once 11/14/16 2018 - 1 Occurrences

Discontinued by: Lab In Hlseven Edi 11/14/16 2357 [Canceled by Lab (Order added to previous collection, requested by caregiver.)]

Hemoglobin A1c [79962014]

Electronically signed by: Victor Edgar Tuckler, MD on 11/14/16 2018

Ordering user: Victor Edgar Tuckler, MD 11/14/16 2018

Authorized by: Victor Edgar Tuckler, MD

Frequency: Once 11/14/16 2018 - 1 Occurrences

Ordering provider: Victor Edgar Tuckler, MD

Status: **Discontinued**

Discontinued by: Lab In Hlseven Edi 11/14/16 2358 [Canceled by Lab (Order added to previous collection, requested by caregiver.)]

Lipase [79962015]

Electronically signed by: Victor Edgar Tuckler, MD on 11/14/16 2018

Ordering user: Victor Edgar Tuckler, MD 11/14/16 2018

Authorized by: Victor Edgar Tuckler, MD

Frequency: Once 11/14/16 2018 - 1 Occurrences

Ordering provider: Victor Edgar Tuckler, MD

Status: **Discontinued**

Discontinued by: Lab In Hlseven Edi 11/14/16 2357 [Canceled by Lab (Order added to previous collection, requested by caregiver.)]

Phosphorus [79962016]

Electronically signed by: Victor Edgar Tuckler, MD on 11/14/16 2018

Ordering user: Victor Edgar Tuckler, MD 11/14/16 2018

Authorized by: Victor Edgar Tuckler, MD

Frequency: Once 11/14/16 2018 - 1 Occurrences

Ordering provider: Victor Edgar Tuckler, MD

Status: **Discontinued**

Discontinued by: Lab In Hlseven Edi 11/14/16 2357 [Canceled by Lab (Order added to previous collection, requested by caregiver.)]

POCT Glucose, Point of Care Device [79962022]

Electronically signed by: Lab In Hlseven Edi on 11/14/16 2101

Ordering user: Lab In Hlseven Edi 11/14/16 2101

Authorized by: Victor Edgar Tuckler, MD

Frequency: Once 11/14/16 2101 - 1 Occurrences

Ordering provider: Victor Edgar Tuckler, MD

Status: **Completed**

POCT Glucose, Point of Care Device [79962032]

Electronically signed by: Lab In Hlseven Edi on 11/14/16 2348

Ordering user: Lab In Hlseven Edi 11/14/16 2348

Authorized by: Victor Edgar Tuckler, MD

Frequency: Once 11/14/16 2348 - 1 Occurrences

Ordering provider: Victor Edgar Tuckler, MD

Status: **Completed**

Vital signs [79962034]

Electronically signed by: Cara Varley, MD on 11/15/16 0106

Ordering user: Cara Varley, MD 11/15/16 0106

Authorized by: Alexandra Louise Silverton, MD

Frequency: Per Unit Routine 11/15/16 0104 - Until Specified

Ordering provider: Cara Varley, MD

Status: **Discontinued**

Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Height and weight [79966505]

Electronically signed by: Cara Varley, MD on 11/15/16 0106

Ordering user: Cara Varley, MD 11/15/16 0106

Authorized by: Alexandra Louise Silverton, MD

Frequency: Once 11/15/16 0104 - 1 Occurrences

Ordering provider: Cara Varley, MD

Status: **Completed**

Intake and output [79966506]

Electronically signed by: Cara Varley, MD on 11/15/16 0106

Ordering user: Cara Varley, MD 11/15/16 0106

Authorized by: Alexandra Louise Silverton, MD

Frequency: Q Shift 11/15/16 0104 - Until Specified

Ordering provider: Cara Varley, MD

Status: **Discontinued**

Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Admit to inpatient from ED [79966507]

Electronically signed by: Cara Varley, MD on 11/15/16 0106

Ordering user: Cara Varley, MD 11/15/16 0106

Authorized by: Alexandra Louise Silverton, MD

Cosigning events:

Electronically cosigned by Alexandra Louise Silverton, MD 11/15/16 1349 for Ordering

Frequency: Once 11/15/16 0104 - 1 Occurrences

Ordering provider: Cara Varley, MD

Status: **Completed**

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All Orders (continued)

Admit to inpatient from ED [79966507] (continued)

Questions:

Level of Care Standard
Patient Class ——— DO NOT CHANGE!! Inpatient
Diagnosis Diabetes mellitus
Reason for Inpatient Services? new diabetes diagnosis
Estimated length of Stay: past midnight tomorrow
Plans for Post Hospital Care: Hunt
Certification: I certify that these inpatient services were ordered in accordance with the Medicare regulations governing inpatient admissions
Future Admitting Provider SILVERTON, ALEXANDRA LOUISE
Future Attending Provider SILVERTON, ALEXANDRA LOUISE
Which provider care team? UMCNO-A MEDICINE TULANE MUSSER
Are they the primary team? Yes

Order comments:

I certify that these inpatient services were ordered in accordance with the Medicare regulations governing inpatient admissions. This includes certification that the hospital inpatient admission is reasonable and necessary, and that they are appropriately provided as inpatient services in accordance with the 2-midnight benchmark under 42 CFR 412.3 (e).

Diet diabetic 2000 kcal [79966508]

Electronically signed by: Cara Varley, MD on 11/15/16 0106		Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0106	Ordering provider: Cara Varley, MD	
Authorized by: Alexandra Louise Silverton, MD		
Frequency: Effective Now 11/15/16 0106 - Until Specified	Diet: Diabetic	
Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]		
Questions:		
Total calories: 2000 kcal		

Low Risk for VTE [79966509]

Electronically signed by: Cara Varley, MD on 11/15/16 0106		Status: Completed
Ordering user: Cara Varley, MD 11/15/16 0106	Ordering provider: Cara Varley, MD	
Authorized by: Alexandra Louise Silverton, MD		
Frequency: Once 11/15/16 0106 - 1 Occurrences		

Place TED hose [79966510]

Electronically signed by: Cara Varley, MD on 11/15/16 0106		Status: Completed
Ordering user: Cara Varley, MD 11/15/16 0106	Ordering provider: Cara Varley, MD	
Authorized by: Alexandra Louise Silverton, MD		
Frequency: Once 11/15/16 0106 - 1 Occurrences		

Maintain TED Hose [79966511]

Electronically signed by: Cara Varley, MD on 11/15/16 0106		Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0106	Ordering provider: Cara Varley, MD	
Authorized by: Alexandra Louise Silverton, MD		
Frequency: Until Discontinued 11/15/16 0106 - Until Specified	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]	

Ambulate patient [79966512]

Electronically signed by: Cara Varley, MD on 11/15/16 0106		Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0106	Ordering provider: Cara Varley, MD	
Authorized by: Alexandra Louise Silverton, MD		
Frequency: Q Shift 11/15/16 0107 - Until Specified	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]	
Order comments: (Low Risk DVT)		

Full Code [79966513]

Electronically signed by: Cara Varley, MD on 11/15/16 0106		Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0106	Ordering provider: Cara Varley, MD	
Authorized by: Alexandra Louise Silverton, MD		
Frequency: Continuous 11/15/16 0107 - Until Specified	Code status: Full Code	
Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]		

sodium chloride 0.9 % infusion 1,000 mL [79966524]

Electronically signed by: Cara Varley, MD on 11/15/16 0108		Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0108	Ordering provider: Cara Varley, MD	
Authorized by: Cara Varley, MD		
Frequency: Continuous 11/15/16 0115 - 30 Days	Discontinued by: Cara Varley, MD 11/15/16 0108	

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All Orders (continued)

sodium chloride 0.9 % infusion 1,000 mL [79966525]

Electronically signed by: Cara Varley, MD on 11/15/16 0109	Status: Completed
Ordering user: Cara Varley, MD 11/15/16 0109	Ordering provider: Cara Varley, MD
Authorized by: Cara Varley, MD	
Frequency: Once 11/15/16 0115 - 1 Occurrences	

Weigh patient [79966526]

Electronically signed by: Cara Varley, MD on 11/15/16 0111	Status: Completed
Ordering user: Cara Varley, MD 11/15/16 0111	Ordering provider: Cara Varley, MD
Authorized by: Alexandra Louise Silverton, MD	
Frequency: Once 11/15/16 0112 - 1 Occurrences	
Order comments: Please weigh patient	

Basic metabolic panel [79966528]

Electronically signed by: Cara Varley, MD on 11/15/16 0112	Status: Completed
Ordering user: Cara Varley, MD 11/15/16 0112	Ordering provider: Cara Varley, MD
Authorized by: Alexandra Louise Silverton, MD	
Frequency: Now unit Coll 11/15/16 0112 - 1 Occurrences	

Urinalysis [79966530]

Electronically signed by: Cara Varley, MD on 11/15/16 0112	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0112	Ordering provider: Cara Varley, MD
Authorized by: Alexandra Louise Silverton, MD	
Frequency: Once 11/15/16 0113 - 1 Occurrences	Discontinued by: Lab In Hlseven Ed: 11/15/16 0354 [Canceled by Lab (CANCE DUPLICATE CANCELLED BY LAB)]

POCT glucose [79966532]

Electronically signed by: Cara Varley, MD on 11/15/16 0120	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0120	Ordering provider: Cara Varley, MD
Authorized by: Alexandra Louise Silverton, MD	
Frequency: Q4H 11/15/16 0400 - Until Specified	Discontinued by: Kristen Shealy, MD 11/16/16 1443

insulin glargine (LANTUS) injection 17 Units [79966533]

Electronically signed by: Cara Varley, MD on 11/15/16 0120	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0120	Ordering provider: Cara Varley, MD
Authorized by: Cara Varley, MD	
Frequency: Nightly 11/15/16 0130 - 30 Days	Discontinued by: Alexandra Louise Silverton, MD 11/15/16 2105

insulin aspart (NovoLOG) injection 0-5 Units [79966534]

Electronically signed by: Cara Varley, MD on 11/15/16 0120	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0120	Ordering provider: Cara Varley, MD
Authorized by: Cara Varley, MD	
Frequency: TID AC 11/15/16 0730 - 30 Days	Discontinued by: Kristen Shealy, MD 11/16/16 1443

glucagon (human recombinant) (GLUCAGEN) injection 1 mg [79966535]

Electronically signed by: Cara Varley, MD on 11/15/16 0120	Status: Expired
Ordering user: Cara Varley, MD 11/15/16 0120	Ordering provider: Cara Varley, MD
Authorized by: Cara Varley, MD	
Frequency: Once 11/15/16 0130 - 1 Occurrences	

dextrose 50 % syringe 25 g [79966536]

Electronically signed by: Cara Varley, MD on 11/15/16 0120	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0120	Ordering provider: Cara Varley, MD
Authorized by: Cara Varley, MD	
Frequency: See Admin Inst 11/15/16 0119 - 30 Days	Discontinued by: Automatic Discharge Provider 11/17/16 1713 [Patient Discharge]

Notify physician (specify) [79966537]

Electronically signed by: Cara Varley, MD on 11/15/16 0120	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0120	Ordering provider: Cara Varley, MD
Authorized by: Alexandra Louise Silverton, MD	
Frequency: Until Discontinued 11/15/16 0120 - Until Specified	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]
Order comments:	

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MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

All Orders (continued)

Notify physician (specify) [79966537] (continued)

Any blood glucose below 40 mg/dL

Notify physician (specify) [79966538]

Electronically signed by: Cara Varley, MD on 11/15/16 0120	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0120	Ordering provider: Cara Varley, MD
Authorized by: Alexandra Louise Silverton, MD	
Frequency: Until Discontinued 11/15/16 0120 - Until Specified	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]
Order comments: If 2 consecutive blood glucose above 300 mg/dL	

Notify physician (specify) [79966539]

Electronically signed by: Cara Varley, MD on 11/15/16 0120	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0120	Ordering provider: Cara Varley, MD
Authorized by: Alexandra Louise Silverton, MD	
Frequency: Until Discontinued 11/15/16 0120 - Until Specified	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]
Order comments: If a single blood glucose is above 400 mg/dL	

nystatin (MYCOSTATIN) 100,000 unit/mL suspension 500,000 Units [79966544]

Electronically signed by: Cara Varley, MD on 11/15/16 0122	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0122	Ordering provider: Cara Varley, MD
Authorized by: Cara Varley, MD	
Frequency: 4x daily 11/15/16 0130 - 30 Days	Discontinued by: Automatic Discharge Provider 11/17/16 1713 [Patient Discharge]

Inpatient consult to Diabetes educator [79966545]

Electronically signed by: Cara Varley, MD on 11/15/16 0124	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0124	Ordering provider: Cara Varley, MD
Authorized by: Alexandra Louise Silverton, MD	
Frequency: Once 11/15/16 0124 - 1 Occurrences	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]
Questions: Reason for Consult? Newly Diagnosed Diabetes	

Inpatient consult to Nutritional Service [79966546]

Electronically signed by: Cara Varley, MD on 11/15/16 0124	Status: Completed
Ordering user: Cara Varley, MD 11/15/16 0124	Ordering provider: Cara Varley, MD
Authorized by: Alexandra Louise Silverton, MD	
Frequency: Once 11/15/16 0124 - 1 Occurrences	
Questions: Reason for Consult? new diagnosis of diabetes, pt incarcerated so will need to provide clear food recs at discharge	

Insulin antibody [79966549]

Electronically signed by: Cara Varley, MD on 11/15/16 0142	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0142	Ordering provider: Cara Varley, MD
Authorized by: Alexandra Louise Silverton, MD	
Frequency: Once 11/15/16 0143 - 1 Occurrences	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Gad-65 Ab [79966551]

Electronically signed by: Cara Varley, MD on 11/15/16 0142	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0142	Ordering provider: Cara Varley, MD
Authorized by: Alexandra Louise Silverton, MD	
Frequency: Once 11/15/16 0143 - 1 Occurrences	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]
Questions: Test justification(reason for ordering): new onset diabetes type 1 vs type 2	

POCT Glucose, Point of Care Device [79966554]

Electronically signed by: Lab In Hiseven Edi on 11/15/16 0613	Status: Completed
Ordering user: Lab In Hiseven Edi 11/15/16 0613	Ordering provider: Alexandra Louise Silverton, MD
Authorized by: Alexandra Louise Silverton, MD	
Frequency: Once 11/15/16 0613 - 1 Occurrences	

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All Orders (continued)

acetaminophen (TYLENOL) tablet 650 mg [79971376]

Electronically signed by: Kristen Shealy, MD on 11/15/16 0748	Status: Discontinued
Ordering user: Kristen Shealy, MD 11/15/16 0748	Ordering provider: Kristen Shealy, MD
Authorized by: Kristen Shealy, MD	
PRN reasons: Pain Score 4 - 7	
Frequency: Q6H PRN 11/15/16 0748 - 30 Days	Discontinued by: Automatic Discharge Provider 11/17/16 1713 [Patient Discharge]

POCT Glucose, Point of Care Device [79971378]

Electronically signed by: Lab In Hiseven Edi on 11/15/16 1130	Status: Completed
Ordering user: Lab In Hiseven Edi 11/15/16 1130	Ordering provider: Alexandra Louise Silvertov, MD
Authorized by: Alexandra Louise Silvertov, MD	
Frequency: Once 11/15/16 1130 - 1 Occurrences	

HIV 1/2 AG + AB Combo Screen [79971381]

Electronically signed by: Kristen Shealy, MD on 11/15/16 1235	Status: Completed
Ordering user: Kristen Shealy, MD 11/15/16 1235	Ordering provider: Kristen Shealy, MD
Authorized by: Alexandra Louise Silvertov, MD	
Frequency: Once 11/15/16 1235 - 1 Occurrences	

metFORMIN (GLUCOPHAGE) tablet 500 mg [79971383]

Electronically signed by: Kristen Shealy, MD on 11/15/16 1236	Status: Discontinued
Ordering user: Kristen Shealy, MD 11/15/16 1236	Ordering provider: Kristen Shealy, MD
Authorized by: Kristen Shealy, MD	
Frequency: BID WC 11/15/16 1800 - 30 Days	Discontinued by: Automatic Discharge Provider 11/17/16 1713 [Patient Discharge]

POCT Glucose, Point of Care Device [79971386]

Electronically signed by: Lab In Hiseven Edi on 11/15/16 1408	Status: Completed
Ordering user: Lab In Hiseven Edi 11/15/16 1408	Ordering provider: Alexandra Louise Silvertov, MD
Authorized by: Alexandra Louise Silvertov, MD	
Frequency: Once 11/15/16 1408 - 1 Occurrences	

Protein / creatinine ratio, urine [79971384]

Electronically signed by: Alexandra Louise Silvertov, MD on 11/15/16 1408	Status: Completed
Ordering user: Alexandra Louise Silvertov, MD 11/15/16 1408	Ordering provider: Alexandra Louise Silvertov, MD
Authorized by: Alexandra Louise Silvertov, MD	
Frequency: Once 11/15/16 1409 - 1 Occurrences	

TP/CREAT RATIO [79971388]

Electronically signed by: Lab In Hiseven Edi on 11/15/16 1409	Status: Completed
Ordering user: Lab In Hiseven Edi 11/15/16 1409	Ordering provider: Alexandra Louise Silvertov, MD
Authorized by: Alexandra Louise Silvertov, MD	
Frequency: Once 11/15/16 1409 - 1 Occurrences	

Creatinine, urine, random [79971390]

Electronically signed by: Lab In Hiseven Edi on 11/15/16 1409	Status: Completed
Ordering user: Lab In Hiseven Edi 11/15/16 1409	Ordering provider: Alexandra Louise Silvertov, MD
Authorized by: Alexandra Louise Silvertov, MD	
Frequency: Once 11/15/16 1409 - 1 Occurrences	

Protein / creatinine ratio, urine [79971393]

Electronically signed by: Kristen Shealy, MD on 11/15/16 1618	Status: Completed
Ordering user: Kristen Shealy, MD 11/15/16 1618	Ordering provider: Kristen Shealy, MD
Authorized by: Alexandra Louise Silvertov, MD	
Frequency: Once 11/15/16 1619 - 1 Occurrences	

TP/CREAT RATIO [79971395]

Electronically signed by: Lab In Hiseven Edi on 11/15/16 1710	Status: Completed
Ordering user: Lab In Hiseven Edi 11/15/16 1710	Ordering provider: Kristen Shealy, MD
Authorized by: Kristen Shealy, MD	
Frequency: Once 11/15/16 1710 - 1 Occurrences	

Creatinine, urine, random [79971397]

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All Orders (continued)

Creatinine, urine, random [79971397] (continued)

Electronically signed by: **Lab In Hlseven Edi on 11/15/16 1710** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/15/16 1710 Ordering provider: Kristen Shealy, MD
Authorized by: Kristen Shealy, MD
Frequency: Once 11/15/16 1710 - 1 Occurrences

POCT Glucose, Point of Care Device [79971399]

Electronically signed by: **Lab In Hlseven Edi on 11/15/16 1727** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/15/16 1727 Ordering provider: Alexandra Louise Silverton, MD
Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/15/16 1727 - 1 Occurrences

CBC, NO DIFFERENTIAL [79971401]

Electronically signed by: **Kristen Shealy, MD on 11/15/16 1824** Status: **Discontinued**
Ordering user: Kristen Shealy, MD 11/15/16 1824 Ordering provider: Kristen Shealy, MD
Authorized by: Alexandra Louise Silverton, MD
Frequency: Daily 11/16/16 0530 - Until Specified Discontinued by: Alexandra Louise Silverton, MD 11/17/16 0833

Basic metabolic panel [79971402]

Electronically signed by: **Kristen Shealy, MD on 11/15/16 1824** Status: **Discontinued**
Ordering user: Kristen Shealy, MD 11/15/16 1824 Ordering provider: Kristen Shealy, MD
Authorized by: Alexandra Louise Silverton, MD
Frequency: Daily 11/16/16 0530 - Until Specified Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

rosuvastatin (CRESTOR) tablet 20 mg [79971403]

Electronically signed by: **Kristen Shealy, MD on 11/15/16 1825** Status: **Discontinued**
Ordering user: Kristen Shealy, MD 11/15/16 1825 Ordering provider: Kristen Shealy, MD
Authorized by: Kristen Shealy, MD
Frequency: Nightly 11/15/16 2100 - 30 Days Discontinued by: Kristen Shealy, MD 11/16/16 1713

insulin glargine (LANTUS) injection 20 Units [79971405]

Electronically signed by: **Alexandra Louise Silverton, MD on 11/15/16 2105** Status: **Discontinued**
Ordering user: Alexandra Louise Silverton, MD 11/15/16 2105 Ordering provider: Alexandra Louise Silverton, MD
Authorized by: Alexandra Louise Silverton, MD
Frequency: Nightly 11/16/16 2100 - 28 Occurrences Discontinued by: Alexandra Louise Silverton, MD 11/15/16 2107

insulin glargine (LANTUS) injection 20 Units [79971406]

Electronically signed by: **Alexandra Louise Silverton, MD on 11/15/16 2107** Status: **Discontinued**
Ordering user: Alexandra Louise Silverton, MD 11/15/16 2107 Ordering provider: Alexandra Louise Silverton, MD
Authorized by: Alexandra Louise Silverton, MD
Frequency: Nightly 11/15/16 2115 - 28 Occurrences Discontinued by: Kristen Shealy, MD 11/16/16 1443

POCT Glucose, Point of Care Device [79971407]

Electronically signed by: **Lab In Hlseven Edi on 11/15/16 2150** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/15/16 2150 Ordering provider: Alexandra Louise Silverton, MD
Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/15/16 2150 - 1 Occurrences

POCT Glucose, Point of Care Device [79971413]

Electronically signed by: **Lab In Hlseven Edi on 11/16/16 0530** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/16/16 0530 Ordering provider: Alexandra Louise Silverton, MD
Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/16/16 0530 - 1 Occurrences

Lipid panel [79971422]

Electronically signed by: **Lab In Hlseven Edi on 11/16/16 0530** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/16/16 0530 Ordering provider: Kristen Shealy, MD
Authorized by: Kristen Shealy, MD
Frequency: Once 11/16/16 0530 - 1 Occurrences

POCT Glucose, Point of Care Device [79971420]

Electronically signed by: **Lab In Hlseven Edi on 11/16/16 0734** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/16/16 0734 Ordering provider: Alexandra Louise Silverton, MD

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All Orders (continued)

POCT Glucose, Point of Care Device [79971420] (continued)

Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/16/16 0734 - 1 Occurrences

insulin aspart (NovoLOG) injection 3 Units [79971415]

Electronically signed by: Kristen Shealy, MD on 11/16/16 0735
Ordering user: Kristen Shealy, MD 11/16/16 0735
Authorized by: Kristen Shealy, MD
Frequency: TID AC 11/16/16 1130 - 30 Days

Ordering provider: Kristen Shealy, MD

Status: **Discontinued**

Discontinued by: Kristen Shealy, MD 11/16/16 1443

Nursing communication [79971416]

Electronically signed by: Kristen Shealy, MD on 11/16/16 0735
Ordering user: Kristen Shealy, MD 11/16/16 0735
Authorized by: Alexandra Louise Silverton, MD
Frequency: Until Discontinued 11/16/16 0735 - Until Specified

Ordering provider: Kristen Shealy, MD

Status: **Discontinued**

Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Order comments:

Please teach patient to give his own insulin injections and check his own blood sugars. Thank you.

Lipid panel [79971418]

Electronically signed by: Kristen Shealy, MD on 11/16/16 0737
Ordering user: Kristen Shealy, MD 11/16/16 0737
Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/16/16 0738 - 1 Occurrences

Ordering provider: Kristen Shealy, MD

Status: **Discontinued**

Discontinued by: Lab In Hlseven Edi 11/16/16 0759 [Canceled by Lab (Order added to previous collection, requested by caregiver.)]

POCT Glucose, Point of Care Device [79971425]

Electronically signed by: Lab In Hlseven Edi on 11/16/16 1128
Ordering user: Lab In Hlseven Edi 11/16/16 1128
Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/16/16 1128 - 1 Occurrences

Ordering provider: Alexandra Louise Silverton, MD

Status: **Completed**

POCT Glucose, Point of Care Device [80009432]

Electronically signed by: Lab In Hlseven Edi on 11/16/16 1328
Ordering user: Lab In Hlseven Edi 11/16/16 1328
Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/16/16 1328 - 1 Occurrences

Ordering provider: Alexandra Louise Silverton, MD

Status: **Completed**

insulin glargine (LANTUS) injection 22 Units [80009434]

Electronically signed by: Kristen Shealy, MD on 11/16/16 1443
Ordering user: Kristen Shealy, MD 11/16/16 1443
Authorized by: Kristen Shealy, MD
Frequency: Nightly 11/16/16 2100 - 27 Occurrences

Ordering provider: Kristen Shealy, MD

Status: **Discontinued**

Discontinued by: Automatic Discharge Provider 11/17/16 1713 [Patient Discharge]

insulin aspart (NovoLOG) injection 0-8 Units [80009435]

Electronically signed by: Kristen Shealy, MD on 11/16/16 1443
Ordering user: Kristen Shealy, MD 11/16/16 1443
Authorized by: Kristen Shealy, MD
Frequency: See Admin Inst 11/16/16 1443 - 30 Days

Ordering provider: Kristen Shealy, MD

Status: **Discontinued**

Discontinued by: Automatic Discharge Provider 11/17/16 1713 [Patient Discharge]

POCT glucose [80009436]

Electronically signed by: Kristen Shealy, MD on 11/16/16 1443
Ordering user: Kristen Shealy, MD 11/16/16 1443
Authorized by: Alexandra Louise Silverton, MD
Frequency: 4x Daily AC & HS 11/16/16 1700 - Until Specified

Ordering provider: Kristen Shealy, MD

Status: **Discontinued**

Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

rosuvastatin (CRESTOR) tablet 10 mg [80009438]

Electronically signed by: Kristen Shealy, MD on 11/16/16 1713
Ordering user: Kristen Shealy, MD 11/16/16 1713
Authorized by: Kristen Shealy, MD
Frequency: Nightly 11/16/16 2100 - 29 Occurrences

Ordering provider: Kristen Shealy, MD

Status: **Discontinued**

Discontinued by: Automatic Discharge Provider 11/17/16 1713 [Patient Discharge]

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All Orders (continued)

rosuvastatin (CRESTOR) tablet 10 mg [80009438] (continued)

aspirin (LO-DOSE ASPIRIN) EC tablet 81 mg [80009439]

Electronically signed by: **Kristen Shealy, MD on 11/16/16 1716**
Ordering user: Kristen Shealy, MD 11/16/16 1716
Authorized by: Kristen Shealy, MD
Frequency: Daily 11/16/16 1730 - 30 Days

Ordering provider: Kristen Shealy, MD

Status: **Discontinued**

Discontinued by: Automatic Discharge Provider 11/17/16 1713 [Patient Discharge]

POCT Glucose, Point of Care Device [80009440]

Electronically signed by: **Lab In Hiseven Edi on 11/16/16 1730**
Ordering user: Lab In Hiseven Edi 11/16/16 1730
Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/16/16 1730 - 1 Occurrences

Ordering provider: Alexandra Louise Silverton, MD

Status: **Completed**

POCT Glucose, Point of Care Device [80009443]

Electronically signed by: **Lab In Hiseven Edi on 11/16/16 2019**
Ordering user: Lab In Hiseven Edi 11/16/16 2019
Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/16/16 2019 - 1 Occurrences

Ordering provider: Alexandra Louise Silverton, MD

Status: **Completed**

POCT Glucose, Point of Care Device [80009448]

Electronically signed by: **Lab In Hiseven Edi on 11/17/16 0740**
Ordering user: Lab In Hiseven Edi 11/17/16 0740
Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/17/16 0740 - 1 Occurrences

Ordering provider: Alexandra Louise Silverton, MD

Status: **Completed**

POCT Glucose, Point of Care Device [80009451]

Electronically signed by: **Lab In Hiseven Edi on 11/17/16 1148**
Ordering user: Lab In Hiseven Edi 11/17/16 1148
Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/17/16 1148 - 1 Occurrences

Ordering provider: Alexandra Louise Silverton, MD

Status: **Completed**

rosuvastatin (CRESTOR) 10 MG tablet [80009453]

Electronically signed by: **Robert Raymond, MD on 11/17/16 1400**
Ordering user: Robert Raymond, MD 11/17/16 1400
Authorized by: Robert Raymond, MD
Frequency: Nightly 11/17/16 - 365 Days

Ordering provider: Robert Raymond, MD

Status: **Active**

Diagnoses:

Hyperglycemia [R73.9]
Hypercholesterolemia [E78.00]

Medication comments:

IF CRESTOR NOT AVAILABLE IN PRISON FORMULARY, MAY CHANGE TO ANY MODERATE DOSE STATIN

insulin aspart (NOVOLOG) 100 unit/mL injection [80009454]

Electronically signed by: **Robert Raymond, MD on 11/17/16 1400**
Ordering user: Robert Raymond, MD 11/17/16 1400
Authorized by: Robert Raymond, MD
Frequency: See Admin Inst 11/17/16 - 365 Days

Ordering provider: Robert Raymond, MD

Status: **Discontinued**

Diagnoses:

Hyperglycemia [R73.9]

Discontinued by: Robert Raymond, MD 11/17/16 1456

insulin glargine (LANTUS) 100 unit/mL injection [80009455]

Electronically signed by: **Robert Raymond, MD on 11/17/16 1400**
Ordering user: Robert Raymond, MD 11/17/16 1400
Authorized by: Robert Raymond, MD
Frequency: Nightly 11/17/16 - 365 Days

Ordering provider: Robert Raymond, MD

Status: **Active**

Diagnoses:

Hyperglycemia [R73.9]

metFORMIN (GLUCOPHAGE) 500 MG tablet [80009456]

Electronically signed by: **Robert Raymond, MD on 11/17/16 1400**
Ordering user: Robert Raymond, MD 11/17/16 1400
Authorized by: Robert Raymond, MD
Frequency: BID WC 11/17/16 - 365 Days

Ordering provider: Robert Raymond, MD

Status: **Active**

Diagnoses:

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All Orders (continued)

metFORMIN (GLUCOPHAGE) 500 MG tablet [80009456] (continued)

Hyperglycemia [R73.9]

aspirin (LO-DOSE ASPIRIN) 81 MG EC tablet [80009457]

Electronically signed by: **Robert Raymond, MD on 11/17/16 1400**
Ordering user: Robert Raymond, MD 11/17/16 1400
Authorized by: Robert Raymond, MD

Ordering provider: Robert Raymond, MD

Status: **Active**

Frequency: Daily 11/17/16 - 365 Days
Diagnoses:

Hyperglycemia [R73.9]

Discontinue Foley catheter [80009458]

Electronically signed by: **Robert Raymond, MD on 11/17/16 1400**
Ordering user: Robert Raymond, MD 11/17/16 1400
Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/17/16 1355 - 1 Occurrences

Ordering provider: Robert Raymond, MD

Status: **Discontinued**

Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Discontinue IV [80009459]

Electronically signed by: **Robert Raymond, MD on 11/17/16 1400**
Ordering user: Robert Raymond, MD 11/17/16 1400
Authorized by: Alexandra Louise Silverton, MD

Ordering provider: Robert Raymond, MD

Status: **Discontinued**

Frequency: Once 11/17/16 1355 - 1 Occurrences

Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Discontinue IV [80009460]

Electronically signed by: **Robert Raymond, MD on 11/17/16 1400**
Ordering user: Robert Raymond, MD 11/17/16 1400
Authorized by: Alexandra Louise Silverton, MD

Ordering provider: Robert Raymond, MD

Status: **Discontinued**

Frequency: Once 11/17/16 1355 - 1 Occurrences

Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Discharge to Custody [80009461]

Electronically signed by: **Robert Raymond, MD on 11/17/16 1400**
Ordering user: Robert Raymond, MD 11/17/16 1400
Authorized by: Alexandra Louise Silverton, MD
Frequency: Once 11/17/16 1355 - 1 Occurrences

Ordering provider: Robert Raymond, MD

Status: **Completed**

Notify Physician - call for: [80009462]

Electronically signed by: **Robert Raymond, MD on 11/17/16 1400**
Ordering user: Robert Raymond, MD 11/17/16 1400
Authorized by: Alexandra Louise Silverton, MD

Ordering provider: Robert Raymond, MD

Status: **Active**

Frequency: 11/17/16 -

Diagnoses:

Hyperglycemia [R73.9]

Order comments:

persistent nausea and vomiting

Notify Physician - call for: [80009463]

Electronically signed by: **Robert Raymond, MD on 11/17/16 1400**
Ordering user: Robert Raymond, MD 11/17/16 1400
Authorized by: Alexandra Louise Silverton, MD

Ordering provider: Robert Raymond, MD

Status: **Active**

Frequency: 11/17/16 -

Diagnoses:

Hyperglycemia [R73.9]

Order comments:

persistent dizziness or light-headedness

Activity as tolerated [80009464]

Electronically signed by: **Robert Raymond, MD on 11/17/16 1400**
Ordering user: Robert Raymond, MD 11/17/16 1400
Authorized by: Alexandra Louise Silverton, MD

Ordering provider: Robert Raymond, MD

Status: **Active**

Frequency: 11/17/16 -

Diagnoses:

Hyperglycemia [R73.9]

UNIVERSITY MEDICAL CENTER - NO
2000 Canal St
New Orleans LA 70112
Inpatient Encounter

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

All Orders (continued)

Diet diabetic [80009465]

Electronically signed by: Robert Raymond, MD on 11/17/16 1400		Status: Discontinued
Ordering user: Robert Raymond, MD 11/17/16 1400	Ordering provider: Robert Raymond, MD	
Authorized by: Alexandra Louise Silverton, MD		
Frequency: 11/17/16 -	Diet: Diabetic	
Discontinued by: Robert Raymond, MD 11/17/16 1449		
Diagnoses: Hyperglycemia [R73.9]		

Follow up with PCP identified in Pelican [80009466]

Electronically signed by: Robert Raymond, MD on 11/17/16 1400		Status: Discontinued
Ordering user: Robert Raymond, MD 11/17/16 1400	Ordering provider: Robert Raymond, MD	
Authorized by: Alexandra Louise Silverton, MD		
Frequency: 11/17/16 -	Discontinued by: Robert Raymond, MD 11/17/16 1413	
Diagnoses: Diabetes mellitus due to underlying condition with hyperosmolarity without coma, without long-term current use of insulin [E08.00]		
Order comments: FOLLOW UP WITH DR. SINGH, AT HUNT CORRECTIONAL FACILITY		

Diet diabetic [80009471]

Electronically signed by: Robert Raymond, MD on 11/17/16 1449		Status: Active
Ordering user: Robert Raymond, MD 11/17/16 1449	Ordering provider: Robert Raymond, MD	
Authorized by: Alexandra Louise Silverton, MD		
Frequency: 11/17/16 -	Diet: Diabetic	
Diagnoses: Hyperglycemia [R73.9]		

insulin aspart (NOVOLOG) 100 unit/mL injection [80009472]

Electronically signed by: Robert Raymond, MD on 11/17/16 1456		Status: Active
Ordering user: Robert Raymond, MD 11/17/16 1456	Ordering provider: Robert Raymond, MD	
Authorized by: Robert Raymond, MD		
Frequency: See Admin Inst 11/17/16 - Until Discontinued		
Diagnoses: Hyperglycemia [R73.9]		

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Nursing - Other Orders

Discontinue Foley catheter

Electronically signed by: Robert Raymond, MD on 11/17/16 1400	Status: Discontinued
Ordering user: Robert Raymond, MD 11/17/16 1400	Ordering provider: Robert Raymond, MD
Class: Hospital Performed	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Notify Physician - call for:

Electronically signed by: Robert Raymond, MD on 11/17/16 1400	Status: Active
Ordering user: Robert Raymond, MD 11/17/16 1400	Ordering provider: Robert Raymond, MD
Class: Clinic Performed	

Notify Physician - call for:

Electronically signed by: Robert Raymond, MD on 11/17/16 1400	Status: Active
Ordering user: Robert Raymond, MD 11/17/16 1400	Ordering provider: Robert Raymond, MD
Class: Clinic Performed	

Activity as tolerated

Electronically signed by: Robert Raymond, MD on 11/17/16 1400	Status: Active
Ordering user: Robert Raymond, MD 11/17/16 1400	Ordering provider: Robert Raymond, MD
Class: Clinic Performed	

Follow up with PCP identified in Pelican

Electronically signed by: Robert Raymond, MD on 11/17/16 1400	Status: Discontinued
Ordering user: Robert Raymond, MD 11/17/16 1400	Ordering provider: Robert Raymond, MD
Class: Clinic Performed	Discontinued by: Robert Raymond, MD 11/17/16 1413

Nursing communication

Electronically signed by: Kristen Shealy, MD on 11/16/16 0735	Status: Discontinued
Ordering user: Kristen Shealy, MD 11/16/16 0735	Ordering provider: Kristen Shealy, MD
Class: Hospital Performed	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Notify physician (specify)

Electronically signed by: Cara Varley, MD on 11/15/16 0120	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0120	Ordering provider: Cara Varley, MD
Class: Hospital Performed	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Notify physician (specify)

Electronically signed by: Cara Varley, MD on 11/15/16 0120	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0120	Ordering provider: Cara Varley, MD
Class: Hospital Performed	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Notify physician (specify)

Electronically signed by: Cara Varley, MD on 11/15/16 0120	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0120	Ordering provider: Cara Varley, MD
Class: Hospital Performed	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Weigh patient

Electronically signed by: Cara Varley, MD on 11/15/16 0111	Status: Completed
Ordering user: Cara Varley, MD 11/15/16 0111	Ordering provider: Cara Varley, MD
Class: Hospital Performed	

Vital signs

Electronically signed by: Cara Varley, MD on 11/15/16 0106	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0106	Ordering provider: Cara Varley, MD
Class: Hospital Performed	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Height and weight

Electronically signed by: Cara Varley, MD on 11/15/16 0106	Status: Completed
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Nursing - Other Orders (continued)

Height and weight (continued)

Ordering user: Cara Varley, MD 11/15/16 0106
Class: Hospital Performed

Ordering provider: Cara Varley, MD

Intake and output

Electronically signed by: Cara Varley, MD on 11/15/16 0106
Ordering user: Cara Varley, MD 11/15/16 0106
Class: Hospital Performed

Ordering provider: Cara Varley, MD
Status: Discontinued
Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Place TED hose

Electronically signed by: Cara Varley, MD on 11/15/16 0106
Ordering user: Cara Varley, MD 11/15/16 0106
Class: Hospital Performed

Ordering provider: Cara Varley, MD
Status: Completed

Maintain TED Hose

Electronically signed by: Cara Varley, MD on 11/15/16 0106
Ordering user: Cara Varley, MD 11/15/16 0106
Class: Hospital Performed

Ordering provider: Cara Varley, MD
Status: Discontinued
Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Ambulate patient

Electronically signed by: Cara Varley, MD on 11/15/16 0106
Ordering user: Cara Varley, MD 11/15/16 0106
Class: Hospital Performed

Ordering provider: Cara Varley, MD
Status: Discontinued
Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Code Status - Other Orders

Full Code

Electronically signed by: Cara Varley, MD on 11/15/16 0106
Ordering user: Cara Varley, MD 11/15/16 0106
Class: Hospital Performed
Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Ordering provider: Cara Varley, MD
Status: Discontinued
Code status: Full Code

Consult - Other Orders

Inpatient consult to Diabetes educator

Electronically signed by: Cara Varley, MD on 11/15/16 0124
Ordering user: Cara Varley, MD 11/15/16 0124
Class: Hospital Performed

Ordering provider: Cara Varley, MD
Status: Discontinued
Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Inpatient consult to Nutritional Service

Electronically signed by: Cara Varley, MD on 11/15/16 0124
Ordering user: Cara Varley, MD 11/15/16 0124
Class: Hospital Performed

Ordering provider: Cara Varley, MD
Status: Completed

Point of Care Testing - Other Orders

POCT glucose

Electronically signed by: Kristen Shealy, MD on 11/16/16 1443
Ordering user: Kristen Shealy, MD 11/16/16 1443
Class: Point Of Care

Ordering provider: Kristen Shealy, MD
Status: Discontinued
Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

POCT glucose

Electronically signed by: Cara Varley, MD on 11/15/16 0120
Ordering user: Cara Varley, MD 11/15/16 0120
Class: Point Of Care

Ordering provider: Cara Varley, MD
Status: Discontinued
Discontinued by: Kristen Shealy, MD 11/16/16 1443

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Point of Care Testing - Other Orders (continued)

POCT glucose

Electronically signed by: Pierre Detiege, MD on 11/17/16 1229	Status: Completed
Mode: Ordering in Per protocol, assign required mode	Communicated by: Kathleen Ann Eppolito, RN
Ordering user: Kathleen Ann Eppolito, RN 11/14/16 1855	Ordering provider: Pierre Detiege, MD
Class: Point Of Care	

IV - Other Orders

Discontinue IV

Electronically signed by: Robert Raymond, MD on 11/17/16 1400	Status: Discontinued
Ordering user: Robert Raymond, MD 11/17/16 1400	Ordering provider: Robert Raymond, MD
Class: Hospital Performed	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

Discontinue IV

Electronically signed by: Robert Raymond, MD on 11/17/16 1400	Status: Discontinued
Ordering user: Robert Raymond, MD 11/17/16 1400	Ordering provider: Robert Raymond, MD
Class: Hospital Performed	Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]

CORE MEASURES - Other Orders

Low Risk for VTE

Electronically signed by: Cara Varley, MD on 11/15/16 0106	Status: Completed
Ordering user: Cara Varley, MD 11/15/16 0106	Ordering provider: Cara Varley, MD
Class: Normal	

Point of Care Testing-Docked Device - Other Orders

POCT Glucose, Point of Care Device

Electronically signed by: Lab In Hlseven Edi on 11/17/16 1148	Status: Completed
Ordering user: Lab In Hlseven Edi 11/17/16 1148	Ordering provider: Alexandra Louise Silverton, MD
Class: Lab Collect	

POCT Glucose, Point of Care Device

Electronically signed by: Lab In Hlseven Edi on 11/17/16 0740	Status: Completed
Ordering user: Lab In Hlseven Edi 11/17/16 0740	Ordering provider: Alexandra Louise Silverton, MD
Class: Lab Collect	

POCT Glucose, Point of Care Device

Electronically signed by: Lab In Hlseven Edi on 11/16/16 2019	Status: Completed
Ordering user: Lab In Hlseven Edi 11/16/16 2019	Ordering provider: Alexandra Louise Silverton, MD
Class: Lab Collect	

POCT Glucose, Point of Care Device

Electronically signed by: Lab In Hlseven Edi on 11/16/16 1730	Status: Completed
Ordering user: Lab In Hlseven Edi 11/16/16 1730	Ordering provider: Alexandra Louise Silverton, MD
Class: Lab Collect	

POCT Glucose, Point of Care Device

Electronically signed by: Lab In Hlseven Edi on 11/16/16 1328	Status: Completed
Ordering user: Lab In Hlseven Edi 11/16/16 1328	Ordering provider: Alexandra Louise Silverton, MD
Class: Lab Collect	

POCT Glucose, Point of Care Device

Electronically signed by: Lab In Hlseven Edi on 11/16/16 1128	Status: Completed
Ordering user: Lab In Hlseven Edi 11/16/16 1128	Ordering provider: Alexandra Louise Silverton, MD
Class: Lab Collect	

POCT Glucose, Point of Care Device

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Point of Care Testing-Docked Device - Other Orders (continued)

POCT Glucose, Point of Care Device (continued)

Electronically signed by: **Lab In Hlseven Edi on 11/16/16 0734** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/16/16 0734 Ordering provider: Alexandra Louise Silvertan, MD
Class: Lab Collect

POCT Glucose, Point of Care Device

Electronically signed by: **Lab In Hlseven Edi on 11/16/16 0530** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/16/16 0530 Ordering provider: Alexandra Louise Silvertan, MD
Class: Lab Collect

POCT Glucose, Point of Care Device

Electronically signed by: **Lab In Hlseven Edi on 11/15/16 2150** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/15/16 2150 Ordering provider: Alexandra Louise Silvertan, MD
Class: Lab Collect

POCT Glucose, Point of Care Device

Electronically signed by: **Lab In Hlseven Edi on 11/15/16 1727** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/15/16 1727 Ordering provider: Alexandra Louise Silvertan, MD
Class: Lab Collect

POCT Glucose, Point of Care Device

Electronically signed by: **Lab In Hlseven Edi on 11/15/16 1408** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/15/16 1408 Ordering provider: Alexandra Louise Silvertan, MD
Class: Lab Collect

POCT Glucose, Point of Care Device

Electronically signed by: **Lab In Hlseven Edi on 11/15/16 1130** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/15/16 1130 Ordering provider: Alexandra Louise Silvertan, MD
Class: Lab Collect

POCT Glucose, Point of Care Device

Electronically signed by: **Lab In Hlseven Edi on 11/15/16 0613** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/15/16 0613 Ordering provider: Alexandra Louise Silvertan, MD
Class: Lab Collect

POCT Glucose, Point of Care Device

Electronically signed by: **Lab In Hlseven Edi on 11/14/16 2348** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/14/16 2348 Ordering provider: Victor Edgar Tuckler, MD
Class: Lab Collect

POCT Glucose, Point of Care Device

Electronically signed by: **Lab In Hlseven Edi on 11/14/16 2101** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/14/16 2101 Ordering provider: Victor Edgar Tuckler, MD
Class: Lab Collect

POCT Glucose, Point of Care Device

Electronically signed by: **Lab In Hlseven Edi on 11/14/16 1852** Status: **Completed**
Ordering user: Lab In Hlseven Edi 11/14/16 1852 Ordering provider: Unassigned Doctor Hcscd
Class: Lab Collect

Lab - HIV Results - Other Orders

HIV 1/2 AG + AB Combo Screen

Electronically signed by: **Kristen Shealy, MD on 11/15/16 1235** Status: **Completed**
Ordering user: Kristen Shealy, MD 11/15/16 1235 Ordering provider: Kristen Shealy, MD
Class: Lab Collect

HIV Antigen/Antibody Combo

Electronically signed by: **Salvador Javier Suau, MD on 11/14/16 1845** Status: **Completed**
Mode: Ordering in Per protocol, assign required mode Communicated by: Suzanne N Stuke, RN
Ordering user: Suzanne N Stuke, RN 11/14/16 1833 Ordering provider: Salvador Javier Suau, MD

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Lab - HIV Results - Other Orders (continued)

HIV Antigen/Antibody Combo (continued)

Class: Lab Collect

Diet - Other Orders

Diet diabetic

Electronically signed by: Robert Raymond, MD on 11/17/16 1449	Ordering provider: Robert Raymond, MD	Status: Active
Ordering user: Robert Raymond, MD 11/17/16 1449	Diet: Diabetic	
Class: Clinic Performed		

Diet diabetic

Electronically signed by: Robert Raymond, MD on 11/17/16 1400	Ordering provider: Robert Raymond, MD	Status: Discontinued
Ordering user: Robert Raymond, MD 11/17/16 1400	Diet: Diabetic	
Class: Clinic Performed		
Discontinued by: Robert Raymond, MD 11/17/16 1449		

Diet diabetic 2000 kcal

Electronically signed by: Cara Varley, MD on 11/15/16 0106	Ordering provider: Cara Varley, MD	Status: Discontinued
Ordering user: Cara Varley, MD 11/15/16 0106	Diet: Diabetic	
Class: Hospital Performed		
Discontinued by: Automatic Discharge Provider 11/17/16 1714 [Patient Discharge]		

Clinical Lab Results

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All Results

EKG 12 lead unit performed [79961989] Resulted: 11/14/16 1846, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulted by: Paul Andrew Leloirer, MD
 Resulting lab: LSU OTHER RESULTS

Specimen Information

Type	Source	Collected On
		11/14/16 1846

Components

	Value	Reference Range	Flag	Lab
Interpretation	-			LSURESULTS
Comment: Reason for Exam -> : chest pain				
Result:				
Normal sinus rhythm				
Nonspecific ST abnormality				
Abnormal ECG				
NO PREVIOUS TRACING				

EKG 12 lead unit performed [79961989] Resulted: 11/14/16 1846, Result status: Preliminary result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulted by: Paul Andrew Leloirer, MD
 Resulting lab: LSU OTHER RESULTS

Specimen Information

Type	Source	Collected On
		11/14/16 1846

Components

	Value	Reference Range	Flag	Lab
Interpretation	-			LSURESULTS
Comment: Reason for Exam -> : chest pain				
Result:				
Normal sinus rhythm				
Nonspecific ST abnormality				
Abnormal ECG				
NO PREVIOUS TRACING				

POCT glucose [79961997] (Abnormal) Resulted: 11/14/16 1855, Result status: Final result

Ordering provider: Pierre Detegé, MD 11/14/16 1855

Specimen Information

Type	Source	Collected On
Blood		11/14/16 1855

Components

	Value	Reference Range	Flag	Lab
Glucose POC	126	65 - 99 MG/DL	A	
Performed By POC:	ss, m			

Comprehensive metabolic panel [79961990] Resulted: 11/14/16 1911, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/14/16 1842

Troponin (ED Only) [79961992] Resulted: 11/14/16 1911, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/14/16 1842

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All Results (continued)

Troponin (ED Only) [79961992] (continued) Resulted: 11/14/16 1911, Result status: In process

CBC and differential [79961995] Resulted: 11/14/16 1911, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1838 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/14/16 1842

POCT Glucose, Point of Care Device [79961999] Resulted: 11/14/16 1914, Result status: In process

Ordering provider: Unassigned Doctor Hcsc 11/14/16 1852 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1852

POCT Glucose, Point of Care Device [79961999] (Abnormal) Resulted: 11/14/16 1914, Result status: Final result

Ordering provider: Unassigned Doctor Hcsc 11/14/16 1852 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1852

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE)	126	65 - 99 MG/DL	H	HCSDLAB
Comment: Performed By: STUKE SUZANNE				

CBC and differential [79961995] Resulted: 11/14/16 1925, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1838 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/14/16 1842

Components

	Value	Reference Range	Flag	Lab
CBC PROFILE				
WBC	7.9	4.5 - 11.0 10 ³ /UL		HCSDLAB
Red Blood Cell Count	4.97	4.50 - 5.90 10 ⁶ /UL		HCSDLAB
Hemoglobin	15.3	13.5 - 17.5 GM/DL		HCSDLAB
Hematocrit	45.5	40.0 - 51.0 %		HCSDLAB
MCV	91.4	80.0 - 100.0 FL		HCSDLAB
MCH	30.7	26.0 - 34.0 PG		HCSDLAB
MCHC	33.6	31.0 - 37.0 G/DL		HCSDLAB
RDW	13.3	11.5 - 14.5 %		HCSDLAB
Platelet Cnt	281	130 - 400 10 ³ /UL		HCSDLAB
MPV	8.5	7.4 - 10.4 FL		HCSDLAB
DIFFERENTIAL				
Differential Type	AUTO			HCSDLAB
Neutrophils Absolute	4.1	1.8 - 8.0 10 ³ /UL		HCSDLAB
Lymphocytes Absolute	2.9	1.1 - 5.0 10 ³ /UL		HCSDLAB
Monocytes Absolute	0.8	0.2 - 1.1 10 ³ /UL		HCSDLAB
Eosinophils Absolute	0.1	0.0 - 0.6 10 ³ /UL		HCSDLAB
Basophils Absolute	0.1	0.0 - 0.2 10 ³ /UL		HCSDLAB
Neutrophils Relative	51	%		HCSDLAB
Lymphocytes Relative	37	%		HCSDLAB
Monocytes Relative	10	%		HCSDLAB
Eosinophils Relative	1	%		HCSDLAB
Basophils Relative	1	%		HCSDLAB

Blood gas, venous [79962001] Resulted: 11/14/16 1927, Result status: In process

Ordering provider: Unassigned Doctor Hcsc 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1923

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All Results (continued)

Blood gas, venous [79962001] (continued)

Resulted: 11/14/16 1927, Result status: In process

Blood gas, venous [79962001] (Abnormal)

Resulted: 11/14/16 1927, Result status: Final result

Ordering provider: Unassigned Doctor Hcsd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1923

Components

	Value	Reference Range	Flag	Lab
pH, Ven	7.38	7.32 - 7.42		HCSDLAB
pCO2, Ven	57	41 - 51 mmHg	H	HCSDLAB
Hemoglobin	15.0	12.0 - 18.0 g/dL		HCSDLAB
Hematocrit	45.0	38.0 - 48.0 %		HCSDLAB
Carboxyhemoglobin	1.0	0.0 - 3.0 %		HCSDLAB
Methemoglobin	0.7	0.0 - 1.5 %		HCSDLAB
HCO3, Venous	33.7	25.0 - 40.0 mmol/L		HCSDLAB
SAMPLE DRAW DEVICE	PUNCTURE			HCSDLAB
Site	RIGHT ARM			HCSDLAB
PERFORMED BY	APEREZ			HCSDLAB
FIO2	21.0	%		HCSDLAB

GLUCOSE (RESP THERAPY) [79962003]

Resulted: 11/14/16 1927, Result status: In process

Ordering provider: Unassigned Doctor Hcsd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1923

GLUCOSE (RESP THERAPY) [79962003] (Abnormal)

Resulted: 11/14/16 1928, Result status: Final result

Ordering provider: Unassigned Doctor Hcsd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1923

Components

	Value	Reference Range	Flag	Lab
GLUCOSE (RESP THERAPY)	129	65 - 99 mg/dL	H	HCSDLAB

NA (RESP THERAPY) [79962005]

Resulted: 11/14/16 1928, Result status: In process

Ordering provider: Unassigned Doctor Hcsd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1923

NA (RESP THERAPY) [79962005]

Resulted: 11/14/16 1928, Result status: Final result

Ordering provider: Unassigned Doctor Hcsd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1923

Components

	Value	Reference Range	Flag	Lab
NA(RESP THERAPY)	140	135 - 145 mmol/L		HCSDLAB

K (RESP THERAPY) [79962007]

Resulted: 11/14/16 1928, Result status: In process

Ordering provider: Unassigned Doctor Hcsd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Information

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All Results (continued)

K (RESP THERAPY) [79962007] (continued)

Resulted: 11/14/16 1928, Result status: In process

Type	Source	Collected On
		11/14/16 1923

IONIZED CA (RESP THERAPY) [79962009]

Resulted: 11/14/16 1928, Result status: In process

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1923

K (RESP THERAPY) [79962007]

Resulted: 11/14/16 1928, Result status: Final result

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1923

Components

	Value	Reference Range	Flag	Lab
K (RESP THERAPY)	3.5	3.5 - 5.2 mmol/L		HCSDLAB

IONIZED CA (RESP THERAPY) [79962009] (Abnormal)

Resulted: 11/14/16 1928, Result status: Final result

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1923

Components

	Value	Reference Range	Flag	Lab
IONIZED CALCIUM (RESP. THERAPY)	1.41	1.10 - 1.30 mmol/L	H	HCSDLAB

Troponin (ED Only) [79961992]

Resulted: 11/14/16 1928, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1633 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/14/16 1642

Components

	Value	Reference Range	Flag	Lab
ISTAT TROPONIN	<0.02	<0.09 NG/ML		HCSDLAB

CL (RESP THERAPY) [79962011]

Resulted: 11/14/16 1928, Result status: In process

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1923

CL (RESP THERAPY) [79962011]

Resulted: 11/14/16 1928, Result status: Final result

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1923

Components

	Value	Reference Range	Flag	Lab
CL (RESP THERAPY)	103	96 - 110 mmol/L		HCSDLAB

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All Results (continued)

CL (RESP THERAPY) [79962011] (continued)

Resulted: 11/14/16 1928, Result status: Final result

HIV Antigen/Antibody Combo [79961991]

Resulted: 11/14/16 1931, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/14/16 1838

Comprehensive metabolic panel [79961990] (Abnormal)

Resulted: 11/14/16 1937, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/14/16 1842

Components

	Value	Reference Range	Flag	Lab
Sodium	141	135 - 146 MMOL/L		HCSDLAB
Potassium	3.9	3.6 - 5.2 MMOL/L		HCSDLAB
Chloride	100	96 - 110 MMOL/L		HCSDLAB
CO2	29	24 - 32 MMOL/L		HCSDLAB
Glucose	119	65 - 99 MG/DL	H	HCSDLAB
BUN	14	7 - 25 MG/DL		HCSDLAB
Creatinine	1.02	0.70 - 1.40 MG/DL		HCSDLAB
Calcium	11.4	8.4 - 10.3 MG/DL	H	HCSDLAB
Total Protein	7.9	6.0 - 8.0 GM/DL		HCSDLAB
ALBUMIN	5.0	3.4 - 5.0 GM/DL		HCSDLAB
Total Bilirubin	0.6	<1.3 MG/DL		HCSDLAB
AST	34	<46 U/L		HCSDLAB
Alkaline Phosphatase	115	20 - 120 U/L		HCSDLAB
ALT	40	<46 U/L		HCSDLAB
GFR MDRD Non Af Amer	97	>89 mL/MIN		HCSDLAB
GFR MDRD Af Amer	>105	>89 mL/MIN		HCSDLAB

HIV Antigen/Antibody Combo [79961991]

Resulted: 11/14/16 2028, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/14/16 1838

Components

	Value	Reference Range	Flag	Lab
HIV ANTIGEN/ANTIBODY COMBO	NON REACTIVE	NON REACTIVE		HCSDLAB

POCT Glucose, Point of Care Device [79962023]

Resulted: 11/14/16 2123, Result status: In process

Ordering provider: Victor Edgar Tucker, MD 11/14/16 2101 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 2101

POCT Glucose, Point of Care Device [79962023] (Abnormal)

Resulted: 11/14/16 2123, Result status: Final result

Ordering provider: Victor Edgar Tucker, MD 11/14/16 2101 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 2101

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE)	118	65 - 99 MG/DL	H	HCSDLAB
Comment: Performed By: SCHIAVI FRANK				

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All Results (continued)

BETA-HYDROXYBUTYRIC ACID [79962025] Resulted: 11/14/16 2358, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1842

Hemoglobin A1c [79962027] Resulted: 11/14/16 2358, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1842

Lipase [79962029] Resulted: 11/14/16 2358, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1842

Phosphorus [79962031] Resulted: 11/14/16 2359, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1842

POCT Glucose, Point of Care Device [79962033] Resulted: 11/15/16 0012, Result status: In process

Ordering provider: Victor Edgar Tucker, MD 11/14/16 2348 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 2348

POCT Glucose, Point of Care Device [79962033] (Abnormal) Resulted: 11/15/16 0012, Result status: Final result

Ordering provider: Victor Edgar Tucker, MD 11/14/16 2348 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 2348

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE)	184	85 - 99 MG/DL	H	HCSDLAB
Comment: Performed By: CANCEENNE ANGELLE				

BETA-HYDROXYBUTYRIC ACID [79962025] Resulted: 11/15/16 0014, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1842

Components

	Value	Reference Range	Flag	Lab
OH BUTYRATE SERUM	0.26	<0.3 MMOL/L		HCSDLAB

Lipase [79962029] Resulted: 11/15/16 0014, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Information

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All Results (continued)

Lipase [79962029] (continued)

Resulted: 11/15/16 0014, Result status: Final result

Type	Source	Collected On
		11/14/16 1842

Components

	Value	Reference Range	Flag	Lab
Lipase	28	<90 U/L		HCSDLAB

Phosphorus [79962031]

Resulted: 11/15/16 0014, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1842

Components

	Value	Reference Range	Flag	Lab
Phosphorus	4.0	2.5 - 4.7 MG/DL		HCSDLAB

Hemoglobin A1c [79962027] (Abnormal)

Resulted: 11/15/16 0205, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/14/16 1842

Components

	Value	Reference Range	Flag	Lab
Hemoglobin A1C	20.3	4.7 - 5.6 %	H	HCSDLAB

Comment:

HA1C= 4.7%-5.6%--NORMAL REFERENCE RANGE
 HA1C= 5.7%-6.4%--INCREASED RISK FOR DIABETES
 HA1C= >6.4% (CONFIRMED)-DIAGNOSTIC OF DIABETES
 HA1C= <7.0%----ADULT GLYCEMIC CONTROL TARGET

	Value	Reference Range	Flag	Lab
EAG (Estimated Average Glucose)	>400	<115 mg/dL	H	HCSDLAB

Basic metabolic panel [79966529]

Resulted: 11/15/16 0313, Result status: In process

Ordering provider: Cara Varley, MD 11/15/16 0112 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/15/16 0201

Basic metabolic panel [79966529] (Abnormal)

Resulted: 11/15/16 0349, Result status: Final result

Ordering provider: Cara Varley, MD 11/15/16 0112 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/15/16 0201

Components

	Value	Reference Range	Flag	Lab
Sodium	132	135 - 146 MMOL/L	L	HCSDLAB
Potassium	4.5	3.6 - 5.2 MMOL/L		HCSDLAB
Chloride	99	96 - 110 MMOL/L		HCSDLAB
CO2	23	24 - 32 MMOL/L	L	HCSDLAB
Glucose	405	65 - 99 MG/DL	H	HCSDLAB
BUN	14	7 - 25 MG/DL		HCSDLAB
Creatinine	0.84	0.70 - 1.40 MG/DL		HCSDLAB
Calcium	8.9	8.4 - 10.3 MG/DL		HCSDLAB
GFR MDRD Non Af Amer	>105	>89 mL/MIN		HCSDLAB
GFR MDRD Af Amer	>105	>89 mL/MIN		HCSDLAB

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All Results (continued)

Basic metabolic panel [79966529] (Abnormal) (continued)

Resulted: 11/15/16 0349, Result status: Final result

Basic metabolic panel [79966529] (Abnormal)

Resulted: 11/15/16 0349, Result status: Final result

Ordering provider: Cara Varley, MD 11/15/16 0112 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/15/16 0201

Components

	Value	Reference Range	Flag	Lab
Sodium	132	135 - 146 MMOL/L	L	HCSDLAB
Potassium	4.5	3.6 - 5.2 MMOL/L		HCSDLAB
Chloride	99	96 - 110 MMOL/L		HCSDLAB
CO2	23	24 - 32 MMOL/L	L	HCSDLAB
Glucose	405	65 - 99 MG/DL	H	HCSDLAB
BUN	14	7 - 25 MG/DL		HCSDLAB
Creatinine	0.84	0.70 - 1.40 MG/DL		HCSDLAB
Calcium	8.9	8.4 - 10.3 MG/DL		HCSDLAB
Comment: RESULT CHECKED INCONSISTENT WITH PREVIOUS RESULTS				
GFR MDRD Non Af Amer	>105	>89 mL/MIN		HCSDLAB
GFR MDRD Af Amer	>105	>89 mL/MIN		HCSDLAB

Urinalysis [79962017]

Resulted: 11/15/16 0426, Result status: In process

Ordering provider: Victor Edgar Tucker, MD 11/14/16 2016 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Urine	URINE	11/15/16 0352

Urinalysis [79962017] (Abnormal)

Resulted: 11/15/16 0439, Result status: Final result

Ordering provider: Victor Edgar Tucker, MD 11/14/16 2018 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Urine	URINE	11/15/16 0352

Components

	Value	Reference Range	Flag	Lab
Color, UA	YELLOW	YELLOW		HCSDLAB
Appearance, UA	CLEAR	CLEAR		HCSDLAB
Specific Gravity, UA	>1.030	1.005 - 1.030		HCSDLAB
PH, UA	5.0	4.5 - 8.0		HCSDLAB
Protein, UA	NEGATIVE	NEGATIVE MG/DL		HCSDLAB
Glucose, UA	>=500	NORMAL MG/DL	A	HCSDLAB
Ketones, UA	80	NEGATIVE MG/DL	A	HCSDLAB
Bilirubin, UA	NEGATIVE	NEGATIVE MG/DL		HCSDLAB
Blood, UA	NEGATIVE	NEGATIVE MG/DL		HCSDLAB
Nitrite, UA	NEGATIVE	NEGATIVE		HCSDLAB
Urobilinogen, UA	NORMAL	NORMAL MG/DL		HCSDLAB
Leukocytes, UA	NEGATIVE	NEGATIVE		HCSDLAB
MICROSCOPIC UA	MICRO NOT INDICATED BY MACRO TESTING			HCSDLAB

Gad-65 Ab [79966552]

Resulted: 11/15/16 0548, Result status: In process

Ordering provider: Cara Varley, MD 11/15/16 0142 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
	BLOOD	11/15/16 0201

Insulin antibody [79966550]

Resulted: 11/15/16 0549, Result status: In process

Ordering provider: Cara Varley, MD 11/15/16 0142 Resulting lab: HCSD SUNQUEST

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All Results (continued)

Insulin antibody [79966550] (continued)

Resulted: 11/15/16 0549, Result status: In process

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/15/16 0201

POCT Glucose, Point of Care Device [79966555]

Resulted: 11/15/16 0633, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 0613

Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 0613

POCT Glucose, Point of Care Device [79966555] (Abnormal)

Resulted: 11/15/16 0633, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 0613

Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 0613

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE) Comment: Performed By: VARISE LYNIRELL	332	65 - 99 MG/DL	H	HCSDLAB

POCT Glucose, Point of Care Device [79971379]

Resulted: 11/15/16 1149, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 1130

Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1130

POCT Glucose, Point of Care Device [79971379] (Abnormal)

Resulted: 11/15/16 1149, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 1130

Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1130

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE) Comment: Performed By: WILLIAMS KRYSTILIA	326	65 - 99 MG/DL	H	HCSDLAB

POCT Glucose, Point of Care Device [79971387]

Resulted: 11/15/16 1427, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 1408

Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1408

POCT Glucose, Point of Care Device [79971387] (Abnormal)

Resulted: 11/15/16 1427, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 1408

Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1408

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE) Comment: Performed By: WILLIAMS KRYSTILIA	293	65 - 99 MG/DL	H	HCSDLAB

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All Results (continued)

POCT Glucose, Point of Care Device [79971387] (Abnormal) (continued) Resulted: 11/15/16 1427, Result status: Final result

HIV 1/2 AG + AB Combo Screen [79971382] Resulted: 11/15/16 1459, Result status: In process

Ordering provider: Kristen Shealy, MD 11/15/16 1235 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/15/16 1236

TP/CREAT RATIO [79971389] Resulted: 11/15/16 1500, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 1409 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1409

Creatinine, urine, random [79971391] Resulted: 11/15/16 1500, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 1409 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1409

Protein / creatinine ratio, urine [79971385] Resulted: 11/15/16 1528, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 1409

Specimen Information

Type	Source	Collected On
Urine	URINE	11/15/16 1409

TP/CREAT RATIO [79971389] Resulted: 11/15/16 1528, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 1409 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1409

Components

Value	Reference Range	Flag	Lab
TOT PROTEIN, RANDOM UR	<6.0	MG/DL	HCSDLAB
Creatinine, Random U	57.20	MG/DL	HCSDLAB
Protein/Creat Ratio	UNABLE TO CALCULATE	<200 MG/G	HCSDLAB

Creatinine, urine, random [79971391] Resulted: 11/15/16 1528, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 1409 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1409

Components

Value	Reference Range	Flag	Lab
Creatinine, Urine	57.20	MG/DL	HCSDLAB

TP/CREAT RATIO [79971396] Resulted: 11/15/16 1739, Result status: In process

Ordering provider: Kristen Shealy, MD 11/15/16 1710 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1710

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All Results (continued)

Creatinine, urine, random [79971398] Resulted: 11/15/16 1739, Result status: In process

Ordering provider: Kristen Shealy, MD 11/15/16 1710 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1710

POCT Glucose, Point of Care Device [79971400] Resulted: 11/15/16 1747, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 1727 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1727

POCT Glucose, Point of Care Device [79971400] (Abnormal) Resulted: 11/15/16 1747, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 1727 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1727

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE)	257	65 - 99 MG/DL	H	HCSDLAB
Comment: Performed By: WILLIAMS KRYSTILIA				

Protein / creatinine ratio, urine [79971394] Resulted: 11/15/16 1804, Result status: Final result

Ordering provider: Kristen Shealy, MD 11/15/16 1618

Specimen Information

Type	Source	Collected On
Urine	URINE	11/15/16 1710

TP/CREAT RATIO [79971396] Resulted: 11/15/16 1804, Result status: Final result

Ordering provider: Kristen Shealy, MD 11/15/16 1710 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1710

Components

	Value	Reference Range	Flag	Lab
TOT PROTEIN, RANDOM UR	<6.0	MG/DL		HCSDLAB
Creatinine, Random U	57.30	MG/DL		HCSDLAB
Protein/Creat Ratio	UNABLE TO CALCULATE	<200 MG/G		HCSDLAB

Creatinine, urine, random [79971398] Resulted: 11/15/16 1804, Result status: Final result

Ordering provider: Kristen Shealy, MD 11/15/16 1710 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 1710

Components

	Value	Reference Range	Flag	Lab
Creatinine, Urine	57.30	MG/DL		HCSDLAB

POCT Glucose, Point of Care Device [79971408] (Abnormal) Resulted: 11/15/16 2214, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 2150 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On

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All Results (continued)

POCT Glucose, Point of Care Device [79971408] (Abnormal) (continued) Resulted: 11/15/16 2150, Result status: Final result

Components

Value	Reference Range	Flag	Lab	
POC GLUCOSE (DEVICE) Comment: Performed By: VARISE LYNDRILL	270	65 - 99 MG/DL	H	HCSDLAB

POCT Glucose, Point of Care Device [79971408] Resulted: 11/15/16 2214, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/15/16 2150 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/15/16 2150

POCT Glucose, Point of Care Device [79971414] (Abnormal) Resulted: 11/16/16 0552, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/16/16 0530 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 0530

Components

Value	Reference Range	Flag	Lab	
POC GLUCOSE (DEVICE) Comment: Performed By: VARISE LYNDRILL	189	85 - 99 MG/DL	H	HCSDLAB

POCT Glucose, Point of Care Device [79971414] Resulted: 11/16/16 0552, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/16/16 0530 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 0530

CBC, NO DIFFERENTIAL [79971410] Resulted: 11/16/16 0612, Result status: In process

Ordering provider: Kristen Shealy, MD 11/16/16 0200 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/16/16 0530

Basic metabolic panel [79971411] Resulted: 11/16/16 0612, Result status: In process

Ordering provider: Kristen Shealy, MD 11/16/16 0200 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/16/16 0530

CBC, NO DIFFERENTIAL [79971410] (Abnormal) Resulted: 11/16/16 0627, Result status: Final result

Ordering provider: Kristen Shealy, MD 11/16/16 0200 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/16/16 0530

Components

Value	Reference Range	Flag	Lab
CBC PROFILE RESULTS:			
WBC	6.0	4.5 - 11.0 10 ³ /UL	HCSDLAB
Red Blood Cell Count	4.35	4.50 - 5.90 10 ⁶ /UL	L HCSDLAB
Hemoglobin	13.8	13.5 - 17.5 GM/DL	HCSDLAB
Hematocrit	40.5	40.0 - 51.0 %	HCSDLAB
MCV	93.1	80.0 - 100.0 FL	HCSDLAB

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All Results (continued)

CBC, NO DIFFERENTIAL [79971410] (Abnormal) (continued)

Resulted: 11/16/16 0627, Result status: Final result

MCH	31.8	26.0 - 34.0 PG	HCSDLAB
MCHC	34.2	31.0 - 37.0 G/DL	HCSDLAB
RDW	13.1	11.5 - 14.5 %	HCSDLAB
Platelet Cnt	211	130 - 400 10 ³ /UL	HCSDLAB
MPV	8.1	7.4 - 10.4 FL	HCSDLAB

Basic metabolic panel [79971411] (Abnormal)

Resulted: 11/16/16 0641, Result status: Final result

Ordering provider: Kristen Shealy, MD 11/16/16 0200 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/16/16 0530

Components

	Value	Reference Range	Flag	Lab
Sodium	136	135 - 146 MMOL/L		HCSDLAB
Potassium	4.1	3.6 - 5.2 MMOL/L		HCSDLAB
Chloride	104	96 - 110 MMOL/L		HCSDLAB
CO2	30	24 - 32 MMOL/L		HCSDLAB
Glucose	216	65 - 99 MG/DL	H	HCSDLAB
BUN	12	7 - 25 MG/DL		HCSDLAB
Creatinine	0.95	0.70 - 1.40 MG/DL		HCSDLAB
Calcium	9.1	8.4 - 10.3 MG/DL		HCSDLAB
GFR MDRD Non Af Amer	>105	>89 mL/MIN		HCSDLAB
GFR MDRD Af Amer	>105	>89 mL/MIN		HCSDLAB

POCT Glucose, Point of Care Device [79971421]

Resulted: 11/16/16 0754, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/16/16 0734 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 0734

POCT Glucose, Point of Care Device [79971421] (Abnormal)

Resulted: 11/16/16 0754, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/16/16 0734 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 0734

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE)	186	65 - 99 MG/DL	H	HCSDLAB
Comment: Performed By: FISHER KEISHA				

Lipid panel [79971423]

Resulted: 11/16/16 0759, Result status: In process

Ordering provider: Kristen Shealy, MD 11/16/16 0530 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 0530

Lipid panel [79971423] (Abnormal)

Resulted: 11/16/16 0817, Result status: Final result

Ordering provider: Kristen Shealy, MD 11/16/16 0530 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 0530

Components

	Value	Reference Range	Flag	Lab
Cholesterol	227	<200 MG/DL	H	HCSDLAB
Triglycerides	213	<150 MG/DL	H	HCSDLAB
HDL	37	40 - 59 MG/DL	L	HCSDLAB

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All Results (continued)

Lipid panel [79971423] (Abnormal) (continued)

Resulted: 11/16/16 0817, Result status: Final result

LDL Calculated	148	<130 MG/DL	H	HCSDLAB
Total Non-HDL-Chol (LDL+VLDL)	190	<160 MG/DL	H	HCSDLAB
Chol/HDL Ratio	6.1	0 - 5.0 RATIO	H	HCSDLAB
Estimated CHD Risk	SEE NOTES			HCSDLAB
Comment:				
	M	F		
AVERAGE RISK	5.0	4.4		
2X AVERAGE RISK	9.6	7.1		
3X AVERAGE RISK	23.4	11.0		

HIV 1/2 AG + AB Combo Screen [79971382]

Resulted: 11/16/16 1110, Result status: Final result

Ordering provider: Kristen Shealy, MD 11/15/16 1235 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/15/16 1236

Components

	Value	Reference Range	Flag	Lab
HIV AB/AG 4G	NEGATIVE	NEGATIVE		HCSDLAB

POCT Glucose, Point of Care Device [79971426]

Resulted: 11/16/16 1154, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/16/16 1128 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 1128

POCT Glucose, Point of Care Device [79971426] (Abnormal)

Resulted: 11/16/16 1154, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/16/16 1128 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 1128

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE)	290	65 - 99 MG/DL	H	HCSDLAB
Comment:	Performed By: FISHER KEISHA			

POCT Glucose, Point of Care Device [80009433]

Resulted: 11/16/16 1401, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/16/16 1328 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 1328

POCT Glucose, Point of Care Device [80009433] (Abnormal)

Resulted: 11/16/16 1401, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/16/16 1328 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 1328

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE)	235	65 - 99 MG/DL	H	HCSDLAB
Comment:	Performed By: FISHER KEISHA			

POCT Glucose, Point of Care Device [80009441]

Resulted: 11/16/16 1751, Result status: In process

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All Results (continued)

POCT Glucose, Point of Care Device [80009441] (continued) Resulted: 11/16/16 1751, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/16/16 1730 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 1730

POCT Glucose, Point of Care Device [80009441] (Abnormal) Resulted: 11/16/16 1751, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/16/16 1730 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 1730

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE)	136	65 - 99 MG/DL	H	HCSDLAB
Comment: Performed By: FISHER KEISHA				

POCT Glucose, Point of Care Device [80009444] Resulted: 11/16/16 2040, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/16/16 2019 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 2019

POCT Glucose, Point of Care Device [80009444] (Abnormal) Resulted: 11/16/16 2040, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/16/16 2019 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/16/16 2019

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE)	230	65 - 99 MG/DL	H	HCSDLAB
Comment: Performed By: MCCLAIN CHRISTINA				

CBC, NO DIFFERENTIAL [80009445] Resulted: 11/17/16 0615, Result status: In process

Ordering provider: Kristen Shealy, MD 11/17/16 0200 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/17/16 0530

Basic metabolic panel [80009446] Resulted: 11/17/16 0615, Result status: In process

Ordering provider: Kristen Shealy, MD 11/17/16 0200 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/17/16 0530

CBC, NO DIFFERENTIAL [80009445] (Abnormal) Resulted: 11/17/16 0623, Result status: Final result

Ordering provider: Kristen Shealy, MD 11/17/16 0200 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/17/16 0530

Components

	Value	Reference Range	Flag	Lab
CBC PROFILE	RESULTS:			HCSDLAB
WBC	5.7	4.5 - 11.0 10 ³ /UL		HCSDLAB

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All Results (continued)

CBC, NO DIFFERENTIAL [80009446] (Abnormal) (continued)				Resulted: 11/17/16 0623, Result status: Final result
Red Blood Cell Count	4.33	4.50 - 5.90 10 ⁶ /UL	L	HCSDLAB
Hemoglobin	13.7	13.5 - 17.5 GM/DL		HCSDLAB
Hematocrit	40.1	40.0 - 51.0 %		HCSDLAB
MCV	92.6	80.0 - 100.0 FL		HCSDLAB
MCH	31.6	26.0 - 34.0 PG		HCSDLAB
MCHC	34.1	31.0 - 37.0 G/DL		HCSDLAB
RDW	13.0	11.5 - 14.5 %		HCSDLAB
Platelet Cnt	212	130 - 400 10 ³ /UL		HCSDLAB
MPV	8.0	7.4 - 10.4 FL		HCSDLAB

Basic metabolic panel [80009446] Resulted: 11/17/16 0639, Result status: Final result

Ordering provider: Kristen Shealy, MD 11/17/16 0200 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
Blood	BLOOD	11/17/16 0530

Components

	Value	Reference Range	Flag	Lab
Sodium	141	135 - 146 MMOL/L		HCSDLAB
Potassium	3.7	3.6 - 5.2 MMOL/L		HCSDLAB
Chloride	104	96 - 110 MMOL/L		HCSDLAB
CO2	31	24 - 32 MMOL/L		HCSDLAB
Glucose	94	65 - 99 MG/DL		HCSDLAB
BUN	10	7 - 25 MG/DL		HCSDLAB
Creatinine	0.94	0.70 - 1.40 MG/DL		HCSDLAB
Calcium	9.2	8.4 - 10.3 MG/DL		HCSDLAB
GFR MDRD Non Af Amer	>105	>89 mL/MIN		HCSDLAB
GFR MDRD Af Amer	>105	>89 mL/MIN		HCSDLAB

POCT Glucose, Point of Care Device [80009449] Resulted: 11/17/16 0804, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/17/16 0740 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/17/16 0740

POCT Glucose, Point of Care Device [80009449] Resulted: 11/17/16 0804, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/17/16 0740 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/17/16 0740

Components

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE) Comment: Performed By: PAYTON LESLEY	95	65 - 99 MG/DL		HCSDLAB

POCT Glucose, Point of Care Device [80009452] Resulted: 11/17/16 1207, Result status: In process

Ordering provider: Alexandra Louise Silverton, MD 11/17/16 1148 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/17/16 1148

POCT Glucose, Point of Care Device [80009452] (Abnormal) Resulted: 11/17/16 1207, Result status: Final result

Ordering provider: Alexandra Louise Silverton, MD 11/17/16 1148 Resulting lab: HCSD SUNQUEST

Specimen Information

Type	Source	Collected On
		11/17/16 1148

Components

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All Results (continued)

POCT Glucose, Point of Care Device [80009452] (Abnormal) (continued) Resulted: 11/17/16 1207, Result status: Final result

	Value	Reference Range	Flag	Lab
POC GLUCOSE (DEVICE) Comment: Performed By: PAYTON LESLEY	250	65 - 99 MG/DL	H	HCSDLAB

Gad-65 Ab [79966552] (Abnormal) Resulted: 11/18/16 0915, Result status: Final result

Ordering provider:	Cara Varley, MD 11/15/16 0142	Resulting lab:	HCSL SUNQUEST
Specimen Information			
Type	Source	Collected On	
	BLOOD	11/15/16 0201	

Components

	Value	Reference Range	Flag	Lab
Glutamic Acid Decarb Ab Comment: PERFORMED AT: LABCORP BURLINGTON, 1447 YORK COURT, BURLINGTON, NC 27215-3361, PH: 800-762-4344, DIRECTOR: WILLIAM F HANCOCK MD	144.5	0.0 - 5.0 U/mL	H	HCSDLAB

Insulin antibody [79966550] Resulted: 11/21/16 0919, Result status: Final result

Ordering provider:	Cara Varley, MD 11/15/16 0142	Resulting lab:	HCSL SUNQUEST
Specimen Information			
Type	Source	Collected On	
Blood	BLOOD	11/15/16 0201	

Components

	Value	Reference Range	Flag	Lab
Insulin AutoAb Comment: (NOTE) This test is also known as insulin autoantibody or IAA. Reference Range: <5.0 Negative > or = 5.0 Positive PERFORMED AT: ESOTERIX ENDOCRINOLOGY, 4301 LOST HILLS ROAD, CALABASAS HILLS, CA, PH: 800-444-9111, DIRECTOR: SAMUEL PEKOWITZ MD	<5.0	uU/mL		HCSDLAB

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
16 - HCSDLAB	HCSL SUNQUEST	Unknown	Unknown	11/05/12 1428 - Present
20 - LSURESULTS	LSU OTHER RESULTS	Unknown	Unknown	09/25/12 1654 - Present

Radiology Results

Radiology Results

No matching results found

ECG/EMG Results

EKG 12 lead unit performed [79961989] Resulted: 11/14/16 1846, Result status: Final result

Ordering provider:	Salvador Javier Suau, MD 11/14/16 1833	Resulted by:	Paul Andrew Leloirier, MD
Resulting lab:	LSU OTHER RESULTS		
Specimen Information			
Type	Source	Collected On	
		11/14/16 1846	

Components

	Value	Reference Range	Flag	Lab
Interpretation Comment: Reason for Exam -> : chest pain				

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ECG/EMG Results (continued)

EKG 12 lead unit performed [79961989] (continued)

Resulted: 11/14/16 1846, Result status: Final result

Result:
 Normal sinus rhythm
 Nonspecific ST abnormality
 Abnormal ECG
 NO PREVIOUS TRACING

EKG 12 lead unit performed [79961989]

Resulted: 11/14/16 1846, Result status: Preliminary result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulted by: Paul Andrew Leloirer, MD
 Resulting lab: LSU OTHER RESULTS

Specimen Information

Type	Source	Collected On
		11/14/16 1846

Components

Value	Reference Range	Flag	Lab
Interpretation Comment: Reason for Exam -> : chest pain Result: Normal sinus rhythm Nonspecific ST abnormality Abnormal ECG NO PREVIOUS TRACING			

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
20 - LSURESULTS	LSU OTHER RESULTS	Unknown	Unknown	09/25/12 1654 - Present

All Cardiac Results

EKG 12 lead unit performed [79961989]

Resulted: 11/14/16 1846, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulted by: Paul Andrew Leloirer, MD
 Resulting lab: LSU OTHER RESULTS

Specimen Collection

Type	Source	Collected On
		11/14/16 1846

Components

Value	Reference Range	Flag	Lab
Interpretation Comment: Reason for Exam -> : chest pain Result: Normal sinus rhythm Nonspecific ST abnormality Abnormal ECG NO PREVIOUS TRACING			

EKG 12 lead unit performed [79961989]

Resulted: 11/14/16 1846, Result status: Preliminary result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulted by: Paul Andrew Leloirer, MD
 Resulting lab: LSU OTHER RESULTS

Specimen Collection

Type	Source	Collected On
		11/14/16 1846

Components

Value	Reference Range	Flag	Lab
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All Cardiac Results (continued)

EKG 12 lead unit performed [79961989] (continued)

Resulted: 11/14/16 1846, Result status: Preliminary result

Interpretation

Comment: Reason for Exam -> : chest pain

Result:

Normal sinus rhythm
 Nonspecific ST abnormality
 Abnormal ECG
 NO PREVIOUS TRACING

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
20 - LSURESULTS	LSU OTHER RESULTS	Unknown	Unknown	09/25/12 1654 - Present

Medications

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All Meds and Administrations

sodium chloride 0.9 % infusion 1,000 mL [79966525] Status: Completed (Past End Date/Time)
 Ordering Provider: Cara Varley, MD
 Ordered On: 11/15/16 0109
 Dose (Remaining/Total): 1,000 mL (0/1)
 Route: Intravenous
 Starts/Ends: 11/15/16 0115 - 11/15/16 0343
 Frequency: Once
 Rate/Duration: 1,000 mL/hr / -

Action Time	Action	Dose / Rate	Route	Other information
11/15/16 0343	Stopped	0 mL 0 mL/hr	Intravenous	Given by: Angelle Cancienne, RN
11/15/16 0215	New Bag	1,000 mL 1,000 mL/hr	Intravenous	Given by: Angelle Cancienne, RN

glucagon (human recombinant) (GLUCAGEN) injection 1 mg [79966535] Status: Verified (Past End Date/Time)
 Ordering Provider: Cara Varley, MD
 Ordered On: 11/15/16 0120
 Dose (Remaining/Total): 1 mg (1/1)
 Route: Intramuscular
 Admin Instructions: For blood glucose less than 60 if the patient is NPO and/or non-responsive and IV is unavailable.
 Starts/Ends: 11/15/16 0130 - 11/15/16 1329
 Frequency: Once
 Rate/Duration: - / -

Action Time	Action	Dose / Rate / Duration	Route	Other information
11/15/16 0742	Canceled Entry		Intramuscular	Given by: Krystilia A Williams, RN

Historical Medications Entered This Encounter

This print group is not available in inpatient encounters. Please contact a system administrator.

Multidisciplinary Problems (Active)

Care Plan

Problem: Altered nutrition-related laboratory values (NC-2.2)

Dates: Start: 11/15/16
Description: Changes due to body composition, medications, body system changes or genetics, or change in ability to eliminate byproducts of digestive and metabolic processes.
Etiology: ***
Signs/Symptoms: ***
Disciplines: Nutrition
Goal: Food and/or Nutrient Delivery
Dates: Start: 11/15/16
Description: Individualized approach for food/nutrient provision.
Disciplines: Nutrition
Intervention: Meal and snacks (ND-1)
Dates: Start: 11/15/16
Description: Meals are defined as regular eating events that include a variety of foods consisting of grains and/or starches, meat and/or meat alternatives, fruits and vegetables, and milk or milk products. A snack is defined as food served between regular meals.
Goal: Nutrition Education
Dates: Start: 11/15/16
Description: Formal process to instruct or train a patient/client in a skill or to impart knowledge to help patients/clients voluntarily manage or modify food choices and eating behavior to maintain or improve health.
Disciplines: Nutrition
Intervention: Initial/brief nutrition education (E-1)
Dates: Start: 11/15/16
Description: Instruction or training intended to build or reinforce basic nutrition-related knowledge, or to provide essential nutrition-related information until patient/client returns.

Problem: Daily Care

Dates: Start: 11/16/16
Disciplines: Interdisciplinary
Goal: Daily care needs are met
Dates: Start: 11/16/16
Disciplines: Interdisciplinary
Intervention: Assess ability to perform self care
Dates: Start: 11/16/16

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Care Plan (continued)

Problem: Discharge Barriers

Dates: Start: 11/16/16

Patient Education

Education

Title: Diabetes (Active)

Topic: Psycho/Social/Spiritual Support (Active)

Point: Coping Mechanisms (Active)

Description: Help patient identify healthy coping mechanisms. Refer to Social Service, Case Management, or Spiritual Care, if needed.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Support Systems (Active)

Description: Help patient identify available support systems. Refer to Social Service, Case Management, or Spiritual Care, if needed.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Spiritual/Emotional Needs (Active)

Description: Offer resources to meet spiritual/emotional needs. Refer to Spiritual Care, if needed.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Anxiety Reduction (Active)

Description: Explain the definition of anxiety, signs and symptoms, and examples of ways to reduce anxiety. Inform patient that Spiritual Care and Social Services are available.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Topic: Treatments/Procedures (Active)

Point: Introduction to Diabetes (Done)

Description: Give patient written information on diabetes. Explain the definition of the two types of diabetes, risk factors, causes, signs and symptoms, expected length of stay, and criteria for discharge. Refer to Diabetic Nurse Educator if applicable.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	VU	Patient educated on type 1 and type 2 diabetes	KF 11/16/16 0915	Done
	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Fasting Blood Glucose (Active)

Description: Explain reason for the test and when it will be performed.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: HgbA1c (Active)

Description: Explain that this blood test determines how well the blood sugar level has been controlled. The goal is less than 7%. Explain when this test will be performed.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Diabetic Diet (Active)

Description: Give patient written information on specific diet ordered by physician. Explain why this diet is recommended. Reinforce information on a healthy diet. Discuss the need to spread meals throughout the day. Instruct patient to adjust caloric intake according to activity, consistent carbohydrate intake, avoidance of concentrated sweets, including heart healthy principles.

Learning Progress Summary

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Patient Education (continued)

Education (continued)

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Eager	E	NR		LP 11/17/16 1017	Active
	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Fall (Active)

Description:

Summary: Learning progress - not on file.

Point: Medical Equipment (Active)

Description: Provide written and verbal information on use of medical equipment, if appropriate.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Fall Precautions (Done)

Description: Give patient written information on fall prevention. Explain reason for being on fall precautions.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	VU		CM 11/17/16 0409	Done
	Acceptance	E	VU	Patient encouraged to call for assistance	KF 11/16/16 0916	Done

Topic: Medications (Active)

Point: Insulin (Active)

Description: Give patient written information on insulins prescribed. Explain how insulin works in the body. Instruct the patient on the purpose, dosage, and schedule for taking insulin. Explain the proper storage of insulin. Encourage the patient to take insulin exactly as prescribed.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		CM 11/17/16 0408	Active
	Acceptance	E	NR		LV 11/15/16 2004	Active
	Eager	E	VU	signs and symptoms of hyperglycemia and hypoglycemia	KW 11/15/16 0745	Done

Point: Oral Hypoglycemic Agents (Active)

Description: Give patient written information on specific medication prescribed. Explain why this medication has been prescribed. List possible side effects. In patients that are using insulin, it may reduce the dose needed and decrease the chance of low blood sugar reactions. Insulin is used when the oral antidiabetics do not control sugar levels.

Instruct the patient:

1. not to stop taking insulin without talking to the doctor
2. check blood sugar
3. avoid alcohol.

Instruct the patient to call the doctor for:

1. fever or sore throat
2. unusual bleeding or bruising
3. skin rash
4. dark urine
5. light colored stools
6. low blood sugar
7. high blood sugar.

This medicine should not be taken if the patient becomes pregnant. Encourage the patient to take any medication exactly as prescribed.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Topic: Review Plan of Care (Active)

Point: Review Today's Plan of Care (Active)

Description: Review plan of care including provider roles, health history, IV and medications, labs and tests, and discharge planning. Take extra time to reiterate to patient that they may ask questions at any time and should always let staff know if he/she is having difficulty breathing, pain or discomfort at any time.

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Patient Education (continued)

Education (continued)

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Topic: Self Care (Active)

Point: Exercise (Done)

Description: Give written information on exercise and diabetes. Stress the importance of regular exercise and activity to control blood sugar levels and weight. Instruct the patient to carry simple carbohydrates while exercising in case of hypoglycemic reaction. Encourage the patient to discuss activity limitations with physician. Explain that exercise such as walking, swimming, running, or cycling is preferable. Refer to Diabetic Educator for more instructions.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Eager	E	VU		LP 11/17/16 1017	Done
	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Giving Insulin Injection (Active)

Description: Demonstrate and explain how the injection is given. Allow enough time for the patient/caregiver to practice. Have the patient/caregiver return demonstrate the technique. Teach the patient how to choose and rotate injection sites. Instruct patient on how to safely dispose of used needles and syringes.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Drawing up Insulin (Active)

Description: Instruct patient to wash hands before drawing up insulin. Demonstrate and receive return demonstration of drawing up the correct amount of insulin prescribed. If the patient is going to use an Insulin Pen, demonstrate the use and receive a return demonstration. If the patient is going to mix different types of insulin, demonstrate and receive a return demonstration of the correct way to draw up and mix the insulin.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Blood Glucose Monitoring (Active)

Description: Explain and demonstrate how to check blood sugars. Instruct the patient to check his/her blood sugars as frequently as ordered by the physician. Explain that stress or illness will increase blood sugar, making it necessary to check blood sugars more often than normal. Instruct the patient on an ideal target level. Discuss care of the meter and supplies. Demonstrate and have the patient return demonstrate coding and control test along with checking the blood sugar. Instruct the patient on safe disposal of used syringes and needles. Refer to Diabetic Nurse Educator if applicable.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Use of Insulin Pump (Active)

Description: Instruct the patient on the use and care of the insulin pump. Have patient return demonstrate care of the insertion site, changing the cassette, changing the insulin reservoir and programming the insulin pump. Refer to Diabetic Nurse Educator if applicable.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Diabetic Foot Care (Active)

Description: Explain reason of importance for foot care. Patient should have feet examined by a health care provider at least twice a year. Explain daily foot care. Review importance of wearing well-fitting shoes and stockings/socks. Reinforce the importance of wearing shoes when walking around to prevent injury.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Diabetes Identification Jewelry (Active)

Description: Encourage the patient to wear a piece of jewelry that identifies him/her as a diabetic. This will inform medical personnel that he/she has diabetes if unable to communicate.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Topic: Prevention/Discharge (Active)

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Patient Education (continued)

Education (continued)

Point: Community Resources (Active)

Description: Give written information on available community resources. Refer to Social Services or Case Management, if needed.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Follow-up Appointments (Active)

Description: Give the patient/family information on when to make follow-up appointments. Reinforce importance of making and keeping the appointments. If appointments were made during the visit, give the patient a written reminder of the time and location.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Signs and Symptoms of Hypoglycemia (Active)

Description: Define and explain causes of hypoglycemia. Discuss signs and symptoms (mild, moderate, and severe symptoms).

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Treatment of Hypoglycemia (Active)

Description: Instruct the patient on how to treat low blood sugar. Include teaching the caregiver the use of glucagon. Have the caregiver return demonstrate giving glucagon in a simulated environment.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: When to Call the Doctor (Active)

Description: Instruct the patient/family to call their health care provider if: 1. there are symptoms of hypo or hyperglycemia not controlled by simple measures, 2. skin on the foot becomes red, itchy, swollen or is painful, 3. feet are persistently cold, 4. corns or calluses occur despite preventive measures, 5. cramps occur in the legs or feet.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Signs and Symptoms of Hyperglycemia (Active)

Description: Define and explain causes of hyperglycemia. Discuss signs and symptoms (mild, moderate, severe, and ketoacidosis).

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Prevention of Hyperglycemia (Active)

Description: Encourage patient to follow physician instructions for diet, activity and medications. Explain the importance of good diabetes management and learning to detect and treat hyperglycemia early before it gets worse.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Prevention of Hypoglycemia (Active)

Description: Give patient written information on Hypoglycemia. Encourage patient to follow physician instructions for diet, activity and medications. Explain the importance of good diabetes management and learning to detect and treat hypoglycemia early before it gets worse.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Influenza Vaccine (Active)

Description: Encourage the patient to ask his/her care provider for a yearly influenza vaccine.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Review Discharge Plan (Active)

Description: Review the discharge plan with patient and primary care giver including: diet, activity, medications, and special precautions. Refer to Case Management, if needed.

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Patient Education (continued)

Education (continued)

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Point: Smoking Cessation (Active)

Description: Give the patient information on Smoking Cessation and smoking cessation programs offered in the community. Explain effects smoking and second hand smoke have on the body. Encourage the patient to ask people that smoke around him/her to smoke outside or in another room. Refer patient to Cardiopulmonary rehabilitation if applicable. Assist patient in recognizing danger situations that put him/her at risk of relapsing to tobacco use. Assist patient in developing coping skills to deal with urges. Provide basic information about quitting.

Learning Progress Summary

Learner	Readiness	Method	Response	Comment	Documented by	Status
Patient	Acceptance	E	NR		LV 11/15/16 2004	Active

Title: General Nursing Patient Education Record (Active)

Topic: Psycho/Social/Spiritual Support (Active)

Point: Coping Mechanisms (Active)

Description: Help patient identify healthy coping mechanisms. Refer to Social Service, Case Management, or Spiritual Care, if needed.
 Summary: Learning progress - not on file.

Point: Support Systems (Active)

Description: Help patient identify available support systems. Refer to Social Service, Case Management, or Spiritual Care, if needed.
 Summary: Learning progress - not on file.

Point: Spiritual/Emotional Needs (Active)

Description: Offer resources to meet spiritual/emotional needs. Refer to Spiritual Care, if needed.
 Summary: Learning progress - not on file.

Point: Anxiety Reduction (Active)

Description: Explain the definition of anxiety, signs and symptoms, and examples of ways to reduce anxiety. Inform patient that Spiritual Care and Social Services are available.
 Summary: Learning progress - not on file.

Topic: Prevention / Discharge (Active)

Point: When to Call the Doctor (Active)

Description: Instruct the patient to call the doctor if the patient has an increased temperature (greater than 101), unrelieved pain, symptoms that are not relieved or worsening, or side effects of medications.
 Summary: Learning progress - not on file.

Point: Community Resources (Active)

Description: Give written information on available community resources. Refer to Social Services or Case Management, if needed.
 Summary: Learning progress - not on file.

Point: Home Health Care Services (Active)

Description: Give patient written information on Home Health Care Services that have been arranged. Review the role of the home care nurse and when to expect the first visit. Refer to Case Management or Social Services, if needed.
 Summary: Learning progress - not on file.

Point: Follow-up Appointments (Active)

Description: Give the patient/family information on when to make follow-up appointments. Reinforce importance of making and keeping the appointments. If appointments were made during the visit, give the patient a written reminder of the time and location.
 Summary: Learning progress - not on file.

Point: Review Discharge Plan (Active)

Description: Review the discharge plan with patient and primary care giver including: diet, activity, medications, and special precautions. Refer to Case Management, if needed.
 Summary: Learning progress - not on file.

Point: Smoking Cessation (Active)

Description: Give the patient information on Smoking Cessation and smoking cessation programs offered in the community. Explain effects smoking and second hand smoke have on the body. Encourage the patient to ask people that smoke around him/her to smoke outside or in another room. Refer patient to Cardiopulmonary rehabilitation if applicable. Assist patient in recognizing danger situations that put him/her at risk of relapsing to tobacco use. Assist patient in developing coping skills to deal with urges. Provide basic information about quitting.
 Summary: Learning progress - not on file.

Topic: Self Care (Active)

Point: General Self Care (Active)

Description: Instruct patient on self care needs. These may include: hygiene, how to take a blood pressure, how to change a dressing, etc.
 Summary: Learning progress - not on file.

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Patient Education (continued)

Education (continued)

Point: Demonstrate Handwashing (Active)

Description: Demonstrate proper handwashing. (Handwashing is the single most important step in preventing the spread of germs).

- Use soap, water, and friction
- Clean nails under running water
- Dry hands on clean towel without touching dirty surfaces.

Summary: Learning progress - not on file.

Topic: Review Plan of Care (Active)

Point: Day 5 (Active)

Description: Review plan of care including provider roles, health history, IV and medications, labs and tests, and discharge planning. Take extra time to reiterate to patient that he/she may ask questions at any time and should always let staff know if he/she is having difficulty breathing, pain or any discomfort at any time.

Summary: Learning progress - not on file.

Point: Day 1 (Active)

Description: Review plan of care including provider roles, health history, IV and medications, labs and tests, and discharge planning. Take extra time to reiterate to patient that he/she may ask questions at any time and should always let staff know if he/she is having difficulty breathing, pain or any discomfort at any time.

Summary: Learning progress - not on file.

Point: Day 2 (Active)

Description: Review plan of care including provider roles, health history, IV and medications, labs and tests, and discharge planning. Take extra time to reiterate to patient that he/she may ask questions at any time and should always let staff know if he/she is having difficulty breathing, pain or any discomfort at any time.

Summary: Learning progress - not on file.

Point: Day 3 (Active)

Description: Review plan of care including provider roles, health history, IV and medications, labs and tests, and discharge planning. Take extra time to reiterate to patient that he/she may ask questions at any time and should always let staff know if he/she is having difficulty breathing, pain or any discomfort at any time.

Summary: Learning progress - not on file.

Point: Day 4 (Active)

Description: Review plan of care including provider roles, health history, IV and medications, labs and tests, and discharge planning. Take extra time to reiterate to patient that he/she may ask questions at any time and should always let staff know if he/she is having difficulty breathing, pain or any discomfort at any time.

Summary: Learning progress - not on file.

Topic: Treatments and Procedures (Active)

Point: General Medication Information (Active)

Description: Give patient written information on medication prescribed. Explain the action of medication, reason for taking, side effects, signs of allergic reaction, and when the doctor should be called. Reinforce that this medication should be taken exactly as the doctor has prescribed.

Summary: Learning progress - not on file.

Point: Medical Equipment (Active)

Description: Provide written and verbal information on use of medical equipment, if appropriate.

Summary: Learning progress - not on file.

Point: Foley Catheter (Active)

Description: 1. Explain the reason for the catheter, and how it will be/was placed.

2. Always wash hands/sanitize before touching catheter.

3. Keep catheter and tube free from kinks.

4. Keep collection bag below level of bladder and off the floor.

5. Do not let visitors touch the catheter or tubing.

6. List the symptoms of a Urinary Tract Infection (burning pain in lower abdomen, fever, or increased frequency of urination) and tell patient to contact their doctor or nurse immediately if they have any of these symptoms.

7. Explain that the patient should notify the nurse or patient care tech if the bag needs to be emptied.

8. If a post-op patient, inform the patient the catheter will be removed 12-24 hours after surgery.

Summary: Learning progress - not on file.

Point: Diet Instruction (Active)

Description: Provide information on patient's diet. Refer to Dietician, if needed.

Summary: Learning progress - not on file.

Point: Activity (Active)

Description: Explain activity limitations. Encourage activity at a level appropriate to the patient's physical ability.

Summary: Learning progress - not on file.

Point: Tests (Active)

Description: Include reason for test, preparation for test and how the test is performed. Encourage patient to ask any questions. Provide handouts specific to tests/procedures/treatments, if applicable.

Summary: Learning progress - not on file.

Topic: Anticoagulant Therapy (Active)

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Patient Education (continued)

Education (continued)

Point: Anticoagulant Therapy Medication (Active)

Description: Give the patient written information on the anticoagulant that has been prescribed. Explain the action of this medication and why the patient has been prescribed anticoagulants. If this patient goes home on parenteral anticoagulants, demonstrate how to draw up and give the injection. Encourage the patient to take this medication around the same time each day. The doctor will order blood tests to see how long the blood takes to clot while taking this medication. The dose of this medication may be changed according to the results of these tests.
 Summary: Learning progress - not on file.

Point: Sequential Compression Device (Active)

Description: Explain the reason for using the Sequential Compression Device and how it works. Encourage the patient to call the staff if there are any questions about the use of the device.
 Summary: Learning progress - not on file.

Point: Pressure Stockings (Active)

Description: Explain the reason for using the pressure stockings and how they work. Demonstrate and have the patient return demonstrate the correct application of the stockings.
 Summary: Learning progress - not on file.

Point: Anticoagulant Therapy Diet (Active)

Description: Avoid alcohol, salicylates such as aspirin, larger than usual amounts of foods rich in vitamin K (including liver, vegetable oil, egg yolks, and green leafy vegetables) or any other drastic change in diet which can counteract the effect of anticoagulants. Refer to Dietician, if needed.
 Summary: Learning progress - not on file.

Additional Points For This Title

Point: Orientation to Unit (Active)

Description: Give patient information on the following: safe room set up, chapel location, use of electrical equipment, gift shop location, handwashing recommendations, hospitality/dining, hourly rounding, initial care planning process, leaving the unit, no smoking policy, pain assessment, pastoral services, patient's rights and responsibilities, therapy process, toy policy (if applicable), unit director, video on demand (if applicable), visiting hours/phone number.
 Summary: Learning progress - not on file.

Point: Review Today's Plan of Care (Active)

Description: Review plan of care including provider roles, health history, IV and medications, labs and tests, and discharge planning. Take extra time to reiterate to patient that they may ask questions at any time and should always let staff know if he/she is having difficulty breathing, pain or discomfort at any time.
 Summary: Learning progress - not on file.

User Key

Initials	Effective Dates	Name	Provider Type	Discipline
CM	09/09/14 -	Christina McClain, RN	Registered Nurse	Nurse
KF	09/09/14 -	Keisha Fisher, RN	Registered Nurse	Nurse
KW	07/15/15 -	Krystilia A Williams, RN	Registered Nurse	Nurse
LP	01/16/15 -	Lesley C Payton, RN	Registered Nurse	Nurse
LV	07/15/15 -	Lyndrell G Varise, RN	Registered Nurse	Nurse

Discharge Instructions

None

Christopher Marlon

Christopher Marlon does not have an active treatment plan of type ONCOLOGY TREATMENT 2 in this episode.

Cancer Staging Summary for Marlon, Christopher

None

Flowsheets

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Flowsheet (all recorded)

Custom Formula Data - Thu November 17, 2016

	1200	0745	0400
Vitals Assessment			
Automatic Restart		Yes -LP	Yes -CM
Vitals Timer			
Relevant Labs and Vitals			
Temp (in Celsius)	36.4 -LP	36.2 -LP	35.6 -CM

Triage Vitals - Thu November 17, 2016

	1200	0745	0400
Vitals Assessment			
Automatic Restart		Yes -LP	Yes -CM
Vitals Timer			
Quick Triage Vitals			
BP	102/72 -LP	119/63 -LP	99/54 -CM
Pulse	72 -LP	69 -LP	62 -CM
Resp	18 -LP	18 -LP	18 -CM
Temp	97.5 °F (36.4 °C) -LP	97.1 °F (36.2 °C) -LP	96.1 °F (35.6 °C) -CM
SpO2		98 % -LP	97 % -CM
Currently in Pain	No/denies -LP	No/denies -LP	
Pain Assessment			
Pain Score	Zero -LP	Zero -LP	
Vitals			
Temp src	Oral -LP	Oral -LP	Oral -CM
Heart Rate Source	Monitor -LP	Monitor -LP	Monitor -CM
Patient Position	Supine -LP	Supine -LP	Supine -CM
BP Location	Left arm -LP	Left arm -LP	Left arm -CM
BP Method	Automatic -LP	Automatic -LP	Automatic -CM
Pain Assessment	0-10 -LP	0-10 -LP	
Oxygen Therapy			
O2 Device		None (Room air) -LP	

Immunization History - Thu November 17, 2016

*** No data found ***

Vital Signs - Thu November 17, 2016

	1200	0745	0400
Vital Signs			
Temp	97.5 °F (36.4 °C) -LP	97.1 °F (36.2 °C) -LP	96.1 °F (35.6 °C) -CM
Temp src	Oral -LP	Oral -LP	Oral -CM
Pulse	72 -LP	69 -LP	62 -CM
Heart Rate Source	Monitor -LP	Monitor -LP	Monitor -CM
Resp	18 -LP	18 -LP	18 -CM
BP	102/72 -LP	119/63 -LP	99/54 -CM
Patient Position	Supine -LP	Supine -LP	Supine -CM
BP Location	Left arm -LP	Left arm -LP	Left arm -CM
BP Method	Automatic -LP	Automatic -LP	Automatic -CM
Currently in Pain	No/denies -LP	No/denies -LP	
Pain Assessment			
Pain Assessment	0-10 -LP	0-10 -LP	
Pain Score	Zero -LP	Zero -LP	
Oxygen Therapy			
SpO2		98 % -LP	97 % -CM
O2 Device		None (Room air) -LP	

Intake/Output - Thu November 17, 2016

	0800	0742	0600	0400	0200
Output (mL)					
Urine		600 mL -KF		400 mL -CM	
[REMOVED] Peripheral IV 11/15/16 Right Forearm					
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				
Site Assessment	Clean/Dry/Intact -LP		Clean/Dry/Intact -CM	Clean/Dry/Intact -CM	Clean/Dry/Intact -CM
Line Status	Saline locked/Flushed/Capped		Saline locked -CM	Saline locked -CM	Saline locked -CM

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Flowsheet (all recorded) (continued)

Intake/Output - Thu November 17, 2016 (continued)

	0800	0742	0600	0400	0200
Dressing Type	-LP				
Dressing Status	Transparent -LP		Transparent -CM	Transparent -CM	Transparent -CM
Reason Not Rotated	Clean Dry/Intact -LP		Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -CM
	Not due -LP				
	0000				
[REMOVED] Peripheral IV 11/15/16 Right Forearm					
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				
Site Assessment	Clean Dry/Intact -CM				
Line Status	Saline locked -CM				
Dressing Type	Transparent -CM				
Dressing Status	Clean Dry/Intact -CM				

IV Assessment - Thu November 17, 2016

	0800	0600	0400	0200	0000
OTHER					
Specimen Collection	Lab -LP				
[REMOVED] Peripheral IV 11/15/16 Right Forearm					
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				
Site Assessment	Clean Dry/Intact -LP	Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -CM
Line Status	Saline locked/Flushed/Capped -LP	Saline locked -CM	Saline locked -CM	Saline locked -CM	Saline locked -CM
Dressing Type	Transparent -LP	Transparent -CM	Transparent -CM	Transparent -CM	Transparent -CM
Dressing Status	Clean Dry/Intact -LP	Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -CM
Reason Not Rotated	Not due -LP				

Assessment - Thu November 17, 2016

	0800	0600	0400	0200	0000
Deteriorating Condition					
Patient's Current Condition	No acute changes -LP	No acute changes -CM	No acute changes -CM	No acute changes -CM	No acute changes -CM
Neurological					
Neuro (WDL)	WDL -LP				
Level of Consciousness	Alert -LP				
Orientation Level	Oriented X4 -LP				
Cognition	Appropriate judgement; Appropriate safety awareness; Appropriate attention/concentration; Appropriate for developmental age; Follows commands -LP				
Speech	Clear -LP				
R Pupil Size (mm)	3 -LP				
R Pupil Reaction	Brisk -LP				
L Pupil Size (mm)	3 -LP				
L Pupil Reaction	Brisk -LP				
HEENT					
HEENT (WDL)	WDL -LP				
Respiratory					
Respiratory Pattern	Regular; Easy; Unlabored -LP				
Chest Assessment	Chest expansion symmetrical -LP				
R Breath Sounds	Clear -LP				
L Breath Sounds	Clear -LP				
Respiratory (WDL)	WDL -LP				
Cardiac					
Cardiac (WDL)	WDL -LP				
Telemetry Monitor On	No -LP				

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Flowsheet (all recorded) (continued)

Assessment - Thu November 17, 2016 (continued)

	0800	0800	0400	0200	0000
Peripheral Vascular					
Peripheral Vascular (WDL)	WDL	-LP			
Generalized Edema	None	-LP			
RUE Edema	None	-LP			
LUE Edema	None	-LP			
RLE Edema	None	-LP			
LLE Edema	None	-LP			
Facial	None	-LP			
RUE Neurovascular Assessment					
Capillary Refill	Less than/equal to 3 seconds	-LP			
Color	Appropriate for ethnicity	-LP			
Temperature	Warm	-LP			
R Radial Pulse	+2	-LP			
LUE Neurovascular Assessment					
Capillary Refill	Less than/equal to 3 seconds	-LP			
Color	Appropriate for ethnicity	-LP			
Temperature	Warm	-LP			
L Radial Pulse	+2	-LP			
RLE Neurovascular Assessment					
Capillary Refill	Less than/equal to 3 seconds	-LP			
Color	Appropriate for ethnicity	-LP			
Temperature	Warm	-LP			
R Pedal Pulse	+2	-LP			
LLE Neurovascular Assessment					
Capillary Refill	Less than/equal to 3 seconds	-LP			
Color	Appropriate for Ethnicity	-LP			
Temperature	Warm	-LP			
L Pedal Pulse	+2	-LP			
Integumentary					
Integumentary (WDL)	WDL	-LP			
Braden Scale					
Sensory Perceptions	4	-LP			
Moisture	3	-LP			
Activity	4	-LP			
Mobility	3	-LP			
Nutrition	3	-LP			
Friction and Shear	3	-LP			
Braden Scale Score	20	-LP			
Musculoskeletal					
Musculoskeletal (WDL)	WDL	-LP			
Gastrointestinal					
Gastrointestinal (WDL)	WDL	-LP			
Abdomen Inspection	Soft, Flat; Nondistended	-LP			
Bowel Sounds (All Quadrants)	Active	-LP			
Tenderness	Soft; No guarding; Nontender	-LP			
Genitourinary					
Genitourinary (WDL)	WDL	-LP			
Anus/Rectum					
Anus/Rectum (WDL)	WDL	-LP			
Psychosocial					
Psychosocial (WDL)	WDL	-LP			
Charting Type					
Charting Type	Shift assessment	-LP			
Chart Reviewed	Y	-LP			

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Flowsheet (all recorded) (continued)

Screenings - Thu November 17, 2016

0800	
Suicide Risk Assessment	
Charting Type	Shift assessment -LP
Braden Scale	
Sensory Perceptions	4 -LP
Moisture	3 -LP
Activity	4 -LP
Mobility	3 -LP
Nutrition	3 -LP
Friction and Shear	3 -LP
Braden Scale Score	20 -LP
Morse Fall Risk	
History of Falling	0 -LP
Secondary Diagnosis	15 -LP
Ambulatory Aids	0 -LP
Intravenous Therapy/Infusion	0 -LP
Gait/Transferring	0 -LP
Mental Status	0 -LP
Score	15 -LP

Daily Cares/Safety - Thu November 17, 2016

	1400	1200	1000	0800	0600
Precautions					
Precautions	Fall risk -LP	Fall risk -LP	Fall risk -LP	Fall risk -LP	Fall risk -CM
5 P's Hourly Rounding					
5 P's Have Been Met	Yes -LP	Yes -LP	Yes -LP	Yes -LP	Yes -CM
Safe Environment					
Uniformed Officer Present	Yes -LP	Yes -LP	Yes -LP	Yes -LP	Yes -CM
Cuff Extremity	Right Leg -LP	Right Leg -LP	Right Leg -LP	Right Leg -LP	Right Leg -CM
Cuff Type	Shackle -LP	Shackle -LP	Shackle -LP	Shackle -LP	Shackle -CM
Cuff Secured	Bed Frame -LP	Bed Frame -LP	Bed Frame -LP	Bed Frame -LP	Bed Frame -CM
Neurovascular Assessment	Refer to full assessment -LP	Refer to full assessment -LP	Refer to full assessment -LP	Refer to full assessment -LP	Refer to full assessment -CM
Arm Bands On	ID, Fall, Offender care -LP	ID, Fall, Offender care -LP	ID, Fall, Offender care -LP	ID, Fall, Offender care -LP	ID, Fall, Offender care -CM
Call Light Within Reach	Yes -LP	Yes -LP	Yes -LP	Yes -LP	Yes -CM
Overbed Table Within Reach	Yes -LP	Yes -LP	Yes -LP	Yes -LP	Yes -CM
Bed In Lowest Position	Yes -LP	Yes -LP	Yes -LP	Yes -LP	Yes -CM
Bed Wheels Locked	Yes -LP	Yes -LP	Yes -LP	Yes -LP	Yes -CM
Side Rails/Bed Safety	2/4 -LP	2/4 -LP	2/4 -LP	2/4 -LP	2/4 -CM
NonSkid Footwear	Patient in bed -LP	Patient in bed -LP	Patient in bed -LP	Patient in bed -LP	Patient in bed -CM
Telemetry Details					
Telemetry Monitor On				No -LP	
Morse Fall Risk					
History of Falling				0 -LP	
Secondary Diagnosis				15 -LP	
Ambulatory Aids				0 -LP	
Intravenous Therapy/Infusion				0 -LP	
Gait/Transferring				0 -LP	
Mental Status				0 -LP	
Score				15 -LP	
Fall Risk Interventions					
Toilet Every 2 Hours-In Advance of Need	Yes -LP	Yes -LP	Yes -LP	Yes -LP	Yes -CM
Pain Assessed?	Yes -LP	Yes -LP	Yes -LP	Yes -LP	Yes -CM
Ensured proper patient positioning?	Yes -LP	Yes -LP	Yes -LP	Yes -LP	Yes -CM
Hourly Visual Checks	Awake; in bed -LP	Awake; in bed -LP	Eyes closed; in bed -LP	Awake; in bed -LP	Eyes closed; in bed -CM
Fall Armband On	Yes -LP	Yes -LP	Yes -LP	Yes -LP	Yes -CM
Room Door Open	Deferred to promote rest -LP	Deferred to promote rest -LP	Deferred to promote rest -LP	Deferred to promote rest -LP	Deferred to promote rest -CM
Gait Belt Used For Transfers	Not applicable -LP	Not applicable -LP	Not applicable -LP	Not applicable -LP	Not applicable -CM

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Flowsheet (all recorded) (continued)

Daily Cares/Safety - Thu November 17, 2016 (continued)

	1400	1200	1000	0800	0600
Alarm On	Bed -LP	Bed -LP	Bed -LP	Bed -LP	Bed -CM
Appropriate Fall Identification in Use	Yes -LP	Yes -LP	Yes -LP	Yes -LP	Yes -CM
Mobility					
Activity				Up ad lib -LP	
Repositioned				Turns self -LP	
Positioning Frequency				Able to turn self -LP	
Head of Bed Elevated				Self regulated -LP	
Nutrition					
Feeding				Able to feed self -LP	
Diet Type				Diabetic -LP	

	0400	0200	0000
Precautions			
Precautions	Fall risk -CM	Fall risk -CM	Fall risk -CM
5 P's Hourly Rounding			
5 P's Have Been Met	Yes -CM	Yes -CM	Yes -CM
Safe Environment			
Uniformed Officer Present	Yes -CM	Yes -CM	Yes -CM
Cuff Extremity	Right Leg -CM	Right Leg -CM	Right Leg -CM
Cuff Type	Shackle -CM	Shackle -CM	Shackle -CM
Cuff Secured	Bed Frame -CM	Bed Frame -CM	Bed Frame -CM
Neurovascular Assessment	Refer to full assessment -CM	Refer to full assessment -CM	Refer to full assessment -CM
Arm Bands On	ID Fall/Offender care -CM	ID Fall/Offender care -CM	ID Fall/Offender care -CM
Call Light Within Reach	Yes -CM	Yes -CM	Yes -CM
Overbed Table Within Reach	Yes -CM	Yes -CM	Yes -CM
Bed In Lowest Position	Yes -CM	Yes -CM	Yes -CM
Bed Wheels Locked	Yes -CM	Yes -CM	Yes -CM
Side Rails/Bed Safety	2/4 -CM	2/4 -CM	2/4 -CM
NonSkid Footwear	Patient in bed -CM	Patient in bed -CM	Patient in bed -CM
Fall Risk Interventions			
Toilet Every 2 Hours-In Advance of Need	Yes -CM	Yes -CM	Yes -CM
Pain Assessed?	Yes -CM	Yes -CM	Yes -CM
Ensured proper patient positioning?	Yes -CM	Yes -CM	Yes -CM
Hourly Visual Checks	Eyes closed in bed -CM	Eyes closed in bed -CM	Eyes closed in bed -CM
Fall Arm Band On	Yes -CM	Yes -CM	Yes -CM
Room Door Open	Deferred to promote rest -CM	Deferred to promote rest -CM	Deferred to promote rest -CM
Gait Belt Used For Transfers	Not applicable -CM	Not applicable -CM	Not applicable -CM
Alarm On	Bed -CM	Bed -CM	Bed -CM
Appropriate Fall Identification in Use	Yes -CM	Yes -CM	Yes -CM

- Thu November 17, 2016

*** No data found ***

Triage Start - Thu November 17, 2016

	0800	0600	0400	0200	0000
[REMOVED] Peripheral IV 11/15/16 Right Forearm					
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				
Site Assessment	Clean Dry/Intact -LP	Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -CM
Line Status	Saline locked/Flushed/Capped -LP	Saline locked -CM	Saline locked -CM	Saline locked -CM	Saline locked -CM
Dressing Type	Transparent -LP	Transparent -CM	Transparent -CM	Transparent -CM	Transparent -CM
Dressing Status	Clean Dry/Intact -LP	Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -CM
Reason Not Rotated	Not due -LP				

Giving Handoff - Thu November 17, 2016

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Flowsheet (all recorded) (continued)

Giving Handoff - Thu November 17, 2016 (continued)

*** No data found ***

Receiving Handoff - Thu November 17, 2016

*** No data found ***

PT PLACED SERVICES - Thu November 17, 2016

*** No data found ***

Patient Safety Initial Screen - Thu November 17, 2016

*** No data found ***

Anthropometrics - Thu November 17, 2016

*** No data found ***

Viral Screening - Thu November 17, 2016

*** No data found ***

Focused Assessment - Thu November 17, 2016

	0800	0745	0400
Breathing			
Chest Assessment	Chest expansion symmetrical -LP		
Respiratory Pattern	Regular, Easy, Unlabored -LP		
R Breath Sounds	Clear -LP		
L Breath Sounds	Clear -LP		
SpO2	98 % -LP		97 % -CM
Circulation			
L Radial Pulse	+2 -LP		
R Radial Pulse	+2 -LP		
Disability/Neurological			
R Pupil Size (mm)	3 -LP		
L Pupil Size (mm)	3 -LP		
R Pupil Reaction	Brisk -LP		
L Pupil Reaction	Brisk -LP		

Neurological - Thu November 17, 2016

	0800
Neurological	
Level of Consciousness	Alert -LP
Orientation Level	Oriented X4 -LP
Cognition	Appropriate judgement; Appropriate safety awareness; Appropriate attention/concentration; Appropriate for developmental age; Follows commands -LP
Speech	Clear -LP
L Pupil Reaction	Brisk -LP
L Pupil Size (mm)	3 -LP
R Pupil Reaction	Brisk -LP
R Pupil Size (mm)	3 -LP

Cardiac/Telemetry - Thu November 17, 2016

	0800
Cardiac	
Telemetry Monitor On	No -LP

Gastrointestinal - Thu November 17, 2016

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Flowsheet (all recorded) (continued)

Gastrointestinal - Thu November 17, 2016 (continued)

	0800
Abdominal	
Bowel Sounds (All Quadrants)	Active -LP
Abdomen Inspection	Soft, Flat; Nondistended -LP
Tenderness	Soft, No guarding; Nontender -LP

Peripheral Vascular - Thu November 17, 2016

	0800
Edema	
Generalized Edema	None -LP
Facial	None -LP
RUE Edema	None -LP
LUE Edema	None -LP
RLE Edema	None -LP
LLE Edema	None -LP
RUE Neurovascular Assessment	
Capillary Refill	Less than/equal to 3 seconds -LP
Color	Appropriate for ethnicity -LP
Temperature	Warm -LP
R Radial Pulse	+2 -LP
LUE Neurovascular Assessment	
Capillary Refill	Less than/equal to 3 seconds -LP
Color	Appropriate for ethnicity -LP
Temperature	Warm -LP
L Radial Pulse	+2 -LP
RLE Neurovascular Assessment	
Capillary Refill	Less than/equal to 3 seconds -LP
Color	Appropriate for ethnicity -LP
Temperature	Warm -LP
R Pedal Pulse	+2 -LP
LLE Neurovascular Assessment	
Capillary Refill	Less than/equal to 3 seconds -LP
Color	Appropriate for Ethnicity -LP
Temperature	Warm -LP
L Pedal Pulse	+2 -LP

Abuse Indicators - Thu November 17, 2016

*** No data found ***

Patient Belongings - Thu November 17, 2016

*** No data found ***

Specimen Collection Status - Thu November 17, 2016

	0800
Specimen Collection Status	
Specimen Collection	Lab -LP

Custom Formula Data - Wed November 16, 2016

	2000	1824	1140	0730	0400
Vitals Assessment					
Automatic Restart	Yes -CM	Yes -KF	Yes -KF	Yes -KF	Yes -LV
Vitals Timer					
Relevant Labs and Vitals					
Temp (in Celsius)	36.9 -CM	36.9 -KF	36.5 -KF	36.2 -KF	36.6 -LV

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Flowsheet (all recorded) (continued)

Custom Formula Data - Wed November 16, 2016 (continued)

	0000
Vitals Assessment	
Automatic Restart	Yes -LV
Vitals Timer	
Relevant Labs and Vitals	
Temp (in Celsius)	36.8 -LV

Triage Vitals - Wed November 16, 2016

	2000	1624	1140	0730	0400
Vitals Assessment					
Automatic Restart	Yes -CM	Yes -KF	Yes -KF	Yes -KF	Yes -LV
Vitals Timer					
Quick Triage Vitals					
BP	106/71 -CM	104/61 -KF	102/58 -KF	108/62 -KF	116/67 -LV
Pulse	66 -CM	67 -KF	58 -KF	59 -KF	72 -LV
Resp	18 -CM	18 -KF	18 -KF	18 -KF	18 -LV
Temp	98.5 °F (36.9 °C) -CM	96.7 °F (35.9 °C) -KF	97.7 °F (36.5 °C) -KF	97.1 °F (36.2 °C) -KF	97.9 °F (36.6 °C) -LV
SpO2	100 % -CM	100 % -KF	100 % -KF	98 % -KF	98 % -LV
Currently in Pain		No/denies -KF	No/denies -KF	No/denies -KF	No/denies -LV
Vitals					
Temp src	Oral -CM	Oral -KF	Oral -KF	Oral -KF	Oral -LV
Heart Rate Source	Monitor -CM	Monitor -KF	Monitor -KF	Monitor -KF	Monitor -LV
Patient Position	Supine -CM	Supine -KF	Supine -KF	Supine -KF	Supine -LV
BP Location	Left arm -CM	Left arm -KF	Left arm -KF	Left arm -KF	Right arm -LV
BP Method	Automatic -CM	Automatic -KF	Automatic -KF	Automatic -KF	Automatic -LV
Concurrent BP					No -LV

	0000
Vitals Assessment	
Automatic Restart	Yes -LV
Vitals Timer	
Quick Triage Vitals	
BP	128/74 -LV
Pulse	67 -LV
Resp	20 -LV
Temp	98.2 °F (36.8 °C) -LV
SpO2	98 % -LV
Currently in Pain	No/denies -LV
Vitals	
Temp src	Oral -LV
Heart Rate Source	Monitor -LV
Patient Position	Supine -LV
BP Location	Right arm -LV
BP Method	Automatic -LV
Concurrent BP	No -LV

Immunization History - Wed November 16, 2016

*** No data found ***

Vital Signs - Wed November 16, 2016

	2000	1624	1140	0730	0400
Vital Signs					
Temp	98.5 °F (36.9 °C) -CM	96.7 °F (35.9 °C) -KF	97.7 °F (36.5 °C) -KF	97.1 °F (36.2 °C) -KF	97.9 °F (36.6 °C) -LV
Temp src	Oral -CM	Oral -KF	Oral -KF	Oral -KF	Oral -LV
Pulse	66 -CM	67 -KF	58 -KF	59 -KF	72 -LV
Heart Rate Source	Monitor -CM	Monitor -KF	Monitor -KF	Monitor -KF	Monitor -LV
Resp	18 -CM	18 -KF	18 -KF	18 -KF	18 -LV
BP	106/71 -CM	104/61 -KF	102/58 -KF	108/62 -KF	116/67 -LV
Patient Position	Supine -CM	Supine -KF	Supine -KF	Supine -KF	Supine -LV
BP Location	Left arm -CM	Left arm -KF	Left arm -KF	Left arm -KF	Right arm -LV
BP Method	Automatic -CM	Automatic -KF	Automatic -KF	Automatic -KF	Automatic -LV
Concurrent BP					No -LV
Currently in Pain		No/denies -KF	No/denies -KF	No/denies -KF	No/denies -LV
Oxygen Therapy					
SpO2	100 % -CM	100 % -KF	100 % -KF	98 % -KF	98 % -LV

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Flowsheet (all recorded) (continued)

Vital Signs - Wed November 16, 2016 (continued)

	0000
Vital Signs	
Temp	98.2 °F (36.8 °C) -LV
Temp src	Oral -LV
Pulse	67 -LV
Heart Rate Source	Monitor -LV
Resp	20 -LV
BP	128/74 -LV
Patient Position	Supine -LV
BP Location	Right arm -LV
BP Method	Automatic -LV
Concurrent BP	No -LV
Currently in Pain	No/denies -LV
Oxygen Therapy	
SpO2	98 % -LV

Intake/Output - Wed November 16, 2016

	2200	2000	1745	1626	1600
Output (mL)					
Urine		500 mL -CM	500 mL -KF	- -KF	
[REMOVED] Peripheral IV 11/15/16 Right Forearm					
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				
Site Assessment	Clean Dry/Intact -CM	Clean Dry/Intact -CM			Clean Dry/Intact -KF
Line Status	Saline locked -CM	Saline locked -CM			Saline locked -KF
Dressing Type	Transparent -CM	Transparent -CM			Transparent -KF
Dressing Status	Clean Dry/Intact -CM	Clean Dry/Intact -CM			Clean Dry/Intact -KF
	1530	1230	1200	1000	0840

Intake (mL)					
P.O.			420 mL -KF		360 mL -KF
Percent Meals Eaten (%)			100 % -KF		100 % -KF

Output (mL)					
Urine	350 mL -KF	500 mL -KF			
Unmeasured Output					
Urine Occurrence				1 -KF	
[REMOVED] Peripheral IV 11/15/16 Right Forearm					
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				
Site Assessment					Clean Dry/Intact -KF
Line Status					Saline locked -KF
Dressing Type					Transparent -KF
Dressing Status					Clean Dry/Intact -KF

	0800	0400	0000		
Output (mL)					
Urine			400 mL -LV		
[REMOVED] Peripheral IV 11/15/16 Right Forearm					
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				
Site Assessment	Clean Dry/Intact -KF	Clean Dry/Intact -LV	Clean Dry/Intact -LV		
Phlebitis Scale	0 -LV	0 -LV	0 -LV		
Line Status	Saline locked -KF	Saline locked -LV	Saline locked -LV		
Dressing Type	Transparent -KF	Transparent -LV	Transparent -LV		
Dressing Status	Clean Dry/Intact -KF	Clean Dry/Intact -LV	Clean Dry/Intact -LV		

IV Assessment - Wed November 16, 2016

	2343	2200	2000	1800	1200
OTHER					
Specimen Collection	Lab -CM			Lab -KF	Lab -KF
[REMOVED] Peripheral IV 11/15/16 Right Forearm					
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				

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Flowsheet (all recorded) (continued)

IV Assessment - Wed November 16, 2016 (continued)

	2313	2200	2000	1600	1200
Site Assessment		Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -KF	Clean Dry/Intact -KF
Line Status		Saline locked -CM	Saline locked -CM	Saline locked -KF	Saline locked -KF
Dressing Type		Transparent -CM	Transparent -CM	Transparent -KF	Transparent -KF
Dressing Status		Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -KF	Clean Dry/Intact -KF
	0800	0750	0400	0000	
OTHER					
Specimen Collection	Lab -KF	Lab -KF			
[REMOVED] Peripheral IV 11/15/16 Right Forearm					
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				
Site Assessment		Clean Dry/Intact -KF	Clean Dry/Intact -LV	Clean Dry/Intact -LV	
Phlebitis Scale			0 -LV	0 -LV	
Line Status		Saline locked -KF	Saline locked -LV	Saline locked -LV	
Dressing Type		Transparent -KF	Transparent -LV	Transparent -LV	
Dressing Status		Clean Dry/Intact -KF	Clean Dry/Intact -LV	Clean Dry/Intact -LV	

Assessment - Wed November 16, 2016

	2200	2000	0800	0400	0000
Deteriorating Condition					
Patient's Current Condition	No acute changes -CM		No acute changes -KF	No acute changes -LV	No acute changes -LV
Neurological					
Neuro (WDL)		WDL -CM	WDL -KF		
Level of Consciousness		Alert -CM	Alert -KF		
Orientation Level		Oriented X4 -CM	Oriented X4 -KF		
Cognition		Appropriate judgement; Appropriate safety awareness; Appropriate attention/concentration; Appropriate for developmental age; Follows commands -CM	Appropriate judgement; Appropriate safety awareness; Appropriate attention/concentration; Appropriate for developmental age; Follows commands -KF		
Speech		Clear -CM	Clear -KF		
R Pupil Size (mm)		3 -CM	3 -KF		
R Pupil Reaction		Brisk -CM	Brisk -KF		
L Pupil Size (mm)		3 -CM	3 -KF		
L Pupil Reaction		Brisk -CM	Brisk -KF		
HEENT					
HEENT (WDL)		WDL -CM	WDL -KF		
Respiratory					
Respiratory Pattern		Regular, Easy, Unlabored -CM	Regular, Easy, Unlabored -KF		
Chest Assessment		Chest expansion symmetrical -CM	Chest expansion symmetrical -KF		
R Breath Sounds		Clear -CM	Clear -KF		
L Breath Sounds		Clear -CM	Clear -KF		
Respiratory (WDL)		WDL -CM			
Cardiac					
Cardiac (WDL)		WDL -CM			
Telemetry Monitor On		No -CM			
Peripheral Vascular					
Peripheral Vascular (WDL)		WDL -CM			
Generalized Edema		None -CM	None -KF		
RUE Edema		None -CM	None -KF		
LUE Edema		None -CM	None -KF		
RLE Edema		None -CM	None -KF		
LLE Edema		None -CM	None -KF		
Facial		None -CM	None -KF		
RUE Neurovascular Assessment					
Capillary Refill		Less than/equal to 3 seconds -CM	Less than/equal to 3 seconds -KF		
Color		Appropriate for ethnicity	Appropriate for ethnicity		

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Flowsheet (all recorded) (continued)

Assessment - Wed November 16, 2016 (continued)

	2200	2000	0800	0400	0000
Temperature		-CM	-KF		
R Radial Pulse		Warm -CM	Warm -KF		
LUE Neurovascular Assessment					
Capillary Refill		Less than/equal to 3 seconds -CM	Less than/equal to 3 seconds -KF		
Color		Appropriate for ethnicity -CM	Appropriate for ethnicity -KF		
Temperature		Warm -CM	Warm -KF		
L Radial Pulse		+2 -CM	+2 -KF		
RLE Neurovascular Assessment					
Capillary Refill		Less than/equal to 3 seconds -CM	Less than/equal to 3 seconds -KF		
Color		Appropriate for ethnicity -CM	Appropriate for ethnicity -KF		
Temperature		Warm -CM	Warm -KF		
R Pedal Pulse		+2 -CM	+2 -KF		
LLE Neurovascular Assessment					
Capillary Refill		Less than/equal to 3 seconds -CM	Less than/equal to 3 seconds -KF		
Color		Appropriate for Ethnicity -CM	Appropriate for Ethnicity -KF		
Temperature		Warm -CM	Warm -KF		
L Pedal Pulse		+2 -CM	+2 -KF		
Integumentary					
Integumentary (WDL)		WDL -CM			
Braden Scale					
Sensory Perceptions		4 -CM	4 -KF		
Moisture		3 -CM	3 -KF		
Activity		4 -CM	4 -KF		
Mobility		3 -CM	3 -KF		
Nutrition		3 -CM	3 -KF		
Friction and Shear		3 -CM	3 -KF		
Braden Scale Score		20 -CM	20 -KF		
Is patient at increased risk of pressure ulcer		No -CM	No -KF		
Musculoskeletal					
Musculoskeletal (WDL)		WDL -CM	WDL -KF		
Gastrointestinal					
Gastrointestinal (WDL)		WDL -CM			
Abdomen Inspection		Soft, Flat, Nondistended -CM	Soft, Flat, Nondistended -KF		
Bowel Sounds (All Quadrants)		Active -CM	Active -KF		
Tenderness		Soft, No guarding; Nontender -CM	Soft, No guarding; Nontender -KF		
Genitourinary					
Genitourinary (WDL)		WDL -CM			
Anus/Rectum					
Anus/Rectum (WDL)		WDL -CM			
Psychosocial					
Psychosocial (WDL)		WDL -CM	WDL -KF		
Alcohol Withdrawal Assessment					
Nausea/Vomiting			0 -KF		
Anxiety			0 -KF		
Paroxysmal Sweats			0 -KF		
Tactile Disturbances			0 -KF		
Visual Disturbances			0 -KF		
Tremors			0 -KF		
Agitation			0 -KF		
Orientation and Clouding of Sensorium			0 -KF		
Auditory Disturbances			0 -KF		
Headache			0 -KF		
Alcohol Withdrawal Assessment Score			0 -KF		
Charting Type					

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Flowsheet (all recorded) (continued)

Assessment - Wed November 16, 2016 (continued)

	2200	2000	0800	0400	0000
Charting Type		Shift assessment -CM	Shift assessment -KF		
Chart Reviewed		Y -CM			
Cardiac					
Cardiac Rhythm		NSR -CM	NSR -KF		

Screenings - Wed November 16, 2016

	2000	0800
Suicide Risk Assessment		
Charting Type	Shift assessment -CM	Shift assessment -KF
Braden Scale		
Sensory Perceptions	4 -CM	4 -KF
Moisture	3 -CM	3 -KF
Activity	4 -CM	4 -KF
Mobility	3 -CM	3 -KF
Nutrition	3 -CM	3 -KF
Friction and Shear	3 -CM	3 -KF
Braden Scale Score	20 -CM	20 -KF
Is patient at increased risk of pressure ulcer	No -CM	No -KF
Morse Fall Risk		
History of Falling	0 -CM	0 -KF
Secondary Diagnosis	15 -CM	15 -KF
Ambulatory Aids	0 -CM	0 -KF
Intravenous	0 -CM	0 -KF
Therapy/Infusion		
Gait/Transferring	0 -CM	0 -KF
Mental Status	0 -CM	0 -KF
Score	15 -CM	15 -KF

Daily Cares/Safety - Wed November 16, 2016

	2200	2000	1800	1600	1500
Precautions					
Precautions	Fall risk -CM	Fall risk -CM	Fall risk -KF	Fall risk -KF	Fall risk -KF
5 P's Hourly Rounding					
5 P's Have Been Met	Yes -CM	Yes -CM	Yes -KF	Yes -KF	Yes -KF
Safe Environment					
Uniformed Officer Present	Yes -CM	Yes -CM	Yes -KF	Yes -KF	Yes -KF
Cuff Extremity	Right Leg -CM	Right Leg -CM	Right Leg -KF	Right Leg -KF	Right Leg -KF
Cuff Type	Shackle -CM	Shackle -CM	Shackle -KF	Shackle -KF	Shackle -KF
Cuff Secured	Bed Frame -CM	Bed Frame -CM	Bed Frame -KF	Bed Frame -KF	Bed Frame -KF
Neurovascular Assessment	Refer to full assessment -CM	Refer to full assessment -CM	Refer to full assessment -KF	Refer to full assessment -KF	Refer to full assessment -KF
Arm Bands On	ID; Fall; Offender care -CM	ID; Fall; Offender care -CM	ID; Fall; Offender care -KF	ID; Fall; Offender care -KF	ID; Fall; Offender care -KF
Call Light Within Reach	Yes -CM	Yes -CM	Yes -KF	Yes -KF	Yes -KF
Overbed Table Within Reach	Yes -CM	Yes -CM	Yes -KF	Yes -KF	Yes -KF
Bed in Lowest Position	Yes -CM	Yes -CM	Yes -KF	Yes -KF	Yes -KF
Bed Wheels Locked	Yes -CM	Yes -CM	Yes -KF	Yes -KF	Yes -KF
Side Rails/Bed Safety	2/4 -CM	2/4 -CM	2/4 -KF	2/4 -KF	2/4 -KF
NonSkid Footwear	Patient in bed -CM	Patient in bed -CM	Patient in bed -KF	Patient in bed -KF	Patient in bed -KF
Telemetry Details					
Telemetry Monitor On		No -CM			
Morse Fall Risk					
History of Falling		0 -CM			
Secondary Diagnosis		15 -CM			
Ambulatory Aids		0 -CM			
Intravenous		0 -CM			
Therapy/Infusion					
Gait/Transferring		0 -CM			
Mental Status		0 -CM			
Score		15 -CM			
Fall Risk Interventions					
Toilet Every 2 Hours-In Advance of Need	Yes -CM	Yes -CM	Yes -KF	Yes -KF	Yes -KF

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MARLONE, CHRISTOPHER
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 Adm: 11/14/2016, D/C: 11/17/2016

Flowsheet (all recorded) (continued)

Daily Cares/Safety - Wed November 16, 2016 (continued)

	2200	2000	1800	1600	1500
Pain Assessed?	Yes -CM	Yes -CM	Yes -KF	Yes -KF	Yes -KF
Ensured proper patient positioning?	Yes -CM	Yes -CM	Yes -KF	Yes -KF	Yes -KF
Hourly Visual Checks	Awake in bed -CM	Awake in bed -CM	Awake in bed -KF	Awake in bed -KF	Awake in bed -KF
Fall Armband On	Yes -CM	Yes -CM	Yes -KF	Yes -KF	Yes -KF
Room Door Open	Deferred to promote rest -CM	Deferred to promote rest -CM	Deferred to promote rest -KF	Deferred to promote rest -KF	Deferred to promote rest -KF
Gait Belt Used For Transfers	Not applicable -CM	Not applicable -CM	Not applicable -KF	Not applicable -KF	Not applicable -KF
Alarm On	Bed -CM	Bed -CM	Bed -KF	Bed -KF	Bed -KF
Appropriate Fall Identification in Use	Yes -CM	Yes -CM	Yes -KF	Yes -KF	Yes -KF
Mobility					
Activity		Up ad lib -CM			
Level of Assistance		Independent -CM			
Repositioned		Turns self -CM			
Positioning Frequency		Able to turn self -CM			
Head of Bed Elevated		Self regulated -CM			
Range of Motion		Active -CM			
Anti-Embolism Devices		Bilateral, Sequential compression devices below knee -CM			
Communication Needs					
Communication Needs		None -CM			
Nutrition					
Feeding		Able to feed self -CM			
Diet Type		Diabetic -CM			
Comfort and Environment Interventions					
Comfort		Repositioned -CM			
Entertainment					
Entertainment Activities		Books -CM			
	1400	1300	1200	1100	1000
Precautions					
Precautions	Fall risk -KF	Fall risk -KF	Fall risk -KF	Fall risk -KF	Fall risk -KF
5 P's Hourly Rounding					
5 P's Have Been Met	Yes -KF	Yes -KF	Yes -KF	Yes -KF	Yes -KF
Safe Environment					
Uniformed Officer Present	Yes -KF	Yes -KF	Yes -KF	Yes -KF	Yes -KF
Cuff Extremity	Right Leg -KF	Right Leg -KF	Right Leg -KF	Right Leg -KF	Right Leg -KF
Cuff Type	Shackle -KF	Shackle -KF	Shackle -KF	Shackle -KF	Shackle -KF
Cuff Secured	Bed Frame -KF	Bed Frame -KF	Bed Frame -KF	Bed Frame -KF	Bed Frame -KF
Neurovascular Assessment	Refer to full assessment -KF	Refer to full assessment -KF	Refer to full assessment -KF	Refer to full assessment -KF	Refer to full assessment -KF
Arm Bands On	ID, Fall, Offender care -KF	ID, Fall, Offender care -KF	ID, Fall, Offender care -KF	ID, Fall, Offender care -KF	ID, Fall, Offender care -KF
Call Light Within Reach	Yes -KF	Yes -KF	Yes -KF	Yes -KF	Yes -KF
Overbed Table Within Reach	Yes -KF	Yes -KF	Yes -KF	Yes -KF	Yes -KF
Bed in Lowest Position	Yes -KF	Yes -KF	Yes -KF	Yes -KF	Yes -KF
Bed Wheels Locked	Yes -KF	Yes -KF	Yes -KF	Yes -KF	Yes -KF
Side Rails/Bed Safety	2/4 -KF	2/4 -KF	2/4 -KF	2/4 -KF	2/4 -KF
Non-Skid Footwear	Patient in bed -KF	Patient in bed -KF	Patient in bed -KF	Patient in bed -KF	Patient in bed -KF
Fall Risk Interventions					
Toilet Every 2 Hours-in Advance of Need	Yes -KF	Yes -KF	Yes -KF	Yes -KF	Yes -KF
Pain Assessed?	Yes -KF	Yes -KF	Yes -KF	Yes -KF	Yes -KF
Ensured proper patient positioning?	Yes -KF	Yes -KF	Yes -KF	Yes -KF	Yes -KF
Hourly Visual Checks	Awake in bed -KF	Awake in bed -KF	Awake in bed -KF	Awake in bed -KF	Eyes closed in bed -KF
Fall Armband On	Yes -KF	Yes -KF	Yes -KF	Yes -KF	Yes -KF
Room Door Open	Deferred to promote rest -KF	Deferred to promote rest -KF	Deferred to promote rest -KF	Deferred to promote rest -KF	Deferred to promote rest -KF
Gait Belt Used For Transfers	Not applicable -KF	Not applicable -KF	Not applicable -KF	Not applicable -KF	Not applicable -KF
Alarm On	Bed -KF	Bed -KF	Bed -KF	Bed -KF	Bed -KF
Appropriate Fall Identification in Use	Yes -KF	Yes -KF	Yes -KF	Yes -KF	Yes -KF

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Flowsheet (all recorded) (continued)

Daily Cares/Safety - Wed November 16, 2016 (continued)

	1400	1300	1200	1100	1000
Identification in Use					
	0900	0800	0400	0200	0000
Precautions					
Precautions	Fall risk -KF	Fall risk -KF	Fall risk -LV	Fall risk -LV	Fall risk -LV
5 P's Hourly Rounding					
5 P's Have Been Met	Yes -KF	Yes -KF	Yes -LV	Yes -LV	Yes -LV
Safe Environment					
Uniformed Officer Present	Yes -KF	Yes -KF	Yes -LV	Yes -LV	Yes -LV
Cuff Extremity	Right Leg -KF	Right Leg -KF	Right Leg -LV	Right Leg -LV	Right Leg -LV
Cuff Type	Shackle -KF	Shackle -KF	Shackle -LV	Shackle -LV	Shackle -LV
Cuff Secured	Bed Frame -KF	Bed Frame -KF	Bed Frame -LV	Bed Frame -LV	Bed Frame -LV
Neurovascular Assessment	Refer to full assessment -KF	Refer to full assessment -KF	Refer to full assessment -LV	Refer to full assessment -LV	Refer to full assessment -LV
Arm Bands On	ID, Fall, Offender care -KF	ID, Fall, Offender care -KF	ID, Fall, Offender care -LV	ID, Fall, Offender care -LV	ID, Fall, Offender care -LV
Call Light Within Reach	Yes -KF	Yes -KF	Yes -LV	Yes -LV	Yes -LV
Overbed Table Within Reach	Yes -KF	Yes -KF	Yes -LV	Yes -LV	Yes -LV
Bed In Lowest Position	Yes -KF	Yes -KF	Yes -LV	Yes -LV	Yes -LV
Bed Wheels Locked	Yes -KF	Yes -KF	Yes -LV	Yes -LV	Yes -LV
Side Rails/Bed Safety	2/4 -KF	2/4 -KF	2/4 -LV	2/4 -LV	2/4 -LV
NonSkid Footwear	Patient in bed -KF	Patient in bed -KF	Patient in bed -LV	Patient in bed -LV	Patient in bed -LV
Moore Fall Risk					
History of Falling		0 -KF			
Secondary Diagnosis		15 -KF			
Ambulatory Aids		0 -KF			
Intravenous Therapy/Infusion		0 -KF			
Gait/Transferring		0 -KF			
Mental Status Score		15 -KF			
Fall Risk Interventions					
Toilet Every 2 Hours-In Advance of Need	Yes -KF	Yes -KF	Yes -LV	Yes -LV	Yes -LV
Pain Assessed?	Yes -KF	Yes -KF	Yes -LV	Yes -LV	Yes -LV
Ensured proper patient positioning?	Yes -KF	Yes -KF	Yes -LV	Yes -LV	Yes -LV
Hourly Visual Checks	Eyes closed, in bed -KF	Awake, in bed -KF	Eyes closed, in bed -LV	Eyes closed, in bed -LV	Eyes closed, in bed -LV
Fall Armband On	Yes -KF	Yes -KF	Yes -LV	Yes -LV	Yes -LV
Room Door Open	Deferred to promote rest -KF	Deferred to promote rest -KF	Deferred to promote rest -LV	Deferred to promote rest -LV	Deferred to promote rest -LV
Gait Belt Used For Transfers	Not applicable -KF	Not applicable -KF	Not applicable -LV	Not applicable -LV	Not applicable -LV
Alarm On	Bed -KF	Bed -KF	Bed -LV	Bed -LV	Bed -LV
Appropriate Fall Identification in Use	Yes -KF	Yes -KF	Yes -LV	Yes -LV	Yes -LV
Mobility					
Activity		Up ad lib -KF			
Level of Assistance		Independent -KF			
Repositioned		Turns self -KF			
Positioning Frequency		Able to turn self -KF			
Head of Bed Elevated		Self regulated -KF			
Range of Motion		Active -KF			
Anti-Embolism Devices		Bilateral, Sequential compression devices, below knee -KF			
Communication Needs					
Communication Needs		None -KF			
Nutrition					
Feeding		Able to feed self -KF			
Diet Type		Diabetic -KF			
Hygiene					
Level of Assistance		Independent -KF			
Comfort and Environment Interventions					
Comfort		Repositioned -KF			

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Flowsheet (all recorded) (continued)

Daily Cares/Safety - Wed November 16, 2016 (continued)

	0900	0800	0400	0200	0000
Entertainment					
Entertainment Activities		Books -KF			

- Wed November 16, 2016

*** No data found ***

Triage Start - Wed November 16, 2016

	2200	2000	1800	1200	0800
[REMOVED] Peripheral IV 11/15/16 Right Forearm					
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				
Site Assessment	Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -KF	Clean Dry/Intact -KF	Clean Dry/Intact -KF
Line Status	Saline locked -CM	Saline locked -CM	Saline locked -KF	Saline locked -KF	Saline locked -KF
Dressing Type	Transparent -CM	Transparent -CM	Transparent -KF	Transparent -KF	Transparent -KF
Dressing Status	Clean Dry/Intact -CM	Clean Dry/Intact -CM	Clean Dry/Intact -KF	Clean Dry/Intact -KF	Clean Dry/Intact -KF
	0400	0000			

[REMOVED] Peripheral IV 11/15/16 Right Forearm

IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				
Site Assessment	Clean Dry/Intact -LV	Clean Dry/Intact -LV			
Phlebitis Scale	0 -LV	0 -LV			
Line Status	Saline locked -LV	Saline locked -LV			
Dressing Type	Transparent -LV	Transparent -LV			
Dressing Status	Clean Dry/Intact -LV	Clean Dry/Intact -LV			

Giving Handoff - Wed November 16, 2016

	1907				
Giving Handoff					
SBAR Used?	Yes -KF				
Handoff report given to:	Christina, RN -KF				
Questions Asked					
Questions Asked	Yes -KF				

Receiving Handoff - Wed November 16, 2016

	0712				
Receiving Handoff					
SBAR Used?	Yes -KF				
Handoff report received from:	Lynndrell, RN -KF				
Care Handoff					
Opportunity for Questions	Yes -KF				

PT PLACED SERVICES - Wed November 16, 2016

*** No data found ***

Patient Safety Initial Screen - Wed November 16, 2016

*** No data found ***

Anthropometrics - Wed November 16, 2016

*** No data found ***

Viral Screening - Wed November 16, 2016

*** No data found ***

Focused Assessment - Wed November 16, 2016

	2000	1624	1140	0600	0730
Breathing					

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Flowsheet (all recorded) (continued)

Focused Assessment - Wed November 16, 2016 (continued)

	2000	1624	1140	0800	0730
Chest Assessment	Chest expansion symmetrical -CM			Chest expansion symmetrical -KF	
Respiratory Pattern	Regular, Easy, Unlabored -CM			Regular, Easy, Unlabored -KF	
R Breath Sounds	Clear -CM			Clear -KF	
L Breath Sounds	Clear -CM			Clear -KF	
SpO2	100 % -CM	100 % -KF	100 % -KF		98 % -KF
Circulation					
L Radial Pulse	+2 -CM			+2 -KF	
R Radial Pulse	+2 -CM			+2 -KF	
Disability/Neurological					
R Pupil Size (mm)	3 -CM			3 -KF	
L Pupil Size (mm)	3 -CM			3 -KF	
R Pupil Reaction	Brisk -CM			Brisk -KF	
L Pupil Reaction	Brisk -CM			Brisk -KF	
Breathing					
SpO2	98 % -LV	98 % -LV			

Neurological - Wed November 16, 2016

	2000	0800
Neurological		
Level of Consciousness	Alert -CM	Alert -KF
Orientation Level	Oriented X4 -CM	Oriented X4 -KF
Cognition	Appropriate judgement; Appropriate safety awareness; Appropriate attention/concentration; Appropriate for developmental age; Follows commands -CM	Appropriate judgement; Appropriate safety awareness; Appropriate attention/concentration; Appropriate for developmental age; Follows commands -KF
Speech	Clear -CM	Clear -KF
L Pupil Reaction	Brisk -CM	Brisk -KF
L Pupil Size (mm)	3 -CM	3 -KF
R Pupil Reaction	Brisk -CM	Brisk -KF
R Pupil Size (mm)	3 -CM	3 -KF

Cardiac/Telemetry - Wed November 16, 2016

	2000	0800
Cardiac		
Cardiac Rhythm	NSR -CM	NSR -KF
Telemetry Monitor On	No -CM	

Gastrointestinal - Wed November 16, 2016

	2000	0800
Abdominal		
Bowel Sounds (All Quadrants)	Active -CM	Active -KF
Abdomen Inspection	Soft, Flat, Nondistended -CM	Soft, Flat, Nondistended -KF
Tenderness	Soft, No guarding, Nontender -CM	Soft, No guarding, Nontender -KF

Peripheral Vascular - Wed November 16, 2016

	2000	0800
Edema		
Generalized Edema	None -CM	None -KF
Facial	None -CM	None -KF
RUE Edema	None -CM	None -KF
LUE Edema	None -CM	None -KF
RLE Edema	None -CM	None -KF
LLE Edema	None -CM	None -KF

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Flowsheet (all recorded) (continued)

Peripheral Vascular - Wed November 16, 2016 (continued)

	2000	0800
RUE Neurovascular Assessment		
Capillary Refill	Less than/equal to 3 seconds -CM	Less than/equal to 3 seconds -KF
Color	Appropriate for ethnicity -CM	Appropriate for ethnicity -KF
Temperature	Warm -CM	Warm -KF
R Radial Pulse	+2 -CM	+2 -KF
LUE Neurovascular Assessment		
Capillary Refill	Less than/equal to 3 seconds -CM	Less than/equal to 3 seconds -KF
Color	Appropriate for ethnicity -CM	Appropriate for ethnicity -KF
Temperature	Warm -CM	Warm -KF
L Radial Pulse	+2 -CM	+2 -KF
RLE Neurovascular Assessment		
Capillary Refill	Less than/equal to 3 seconds -CM	Less than/equal to 3 seconds -KF
Color	Appropriate for ethnicity -CM	Appropriate for ethnicity -KF
Temperature	Warm -CM	Warm -KF
R Pedal Pulse	+2 -CM	+2 -KF
LLE Neurovascular Assessment		
Capillary Refill	Less than/equal to 3 seconds -CM	Less than/equal to 3 seconds -KF
Color	Appropriate for Ethnicity -CM	Appropriate for Ethnicity -KF
Temperature	Warm -CM	Warm -KF
L Pedal Pulse	+2 -CM	+2 -KF

Abuse Indicators - Wed November 16, 2016

*** No data found ***

Patient Belongings - Wed November 16, 2016

*** No data found ***

Specimen Collection Status - Wed November 16, 2016

	2313	1600	1200	0800	0750
Specimen Collection Status					
Specimen Collection	Lab -CM	Lab -KF	Lab -KF	Lab -KF	Lab -KF

Custom Formula Data - Tue November 15, 2016

	2000	1600	1200	0800	0414
Vitals Assessment					
Automatic Restart	Yes -LV			Yes -TB	Yes -TT
Vitals Timer					
Relevant Labs and Vitals					
Temp (in Celsius)	36.6 -LV	36.6 -TB	36.7 -TB	36.4 -TB	36.3 -TT
OTHER					
Low Range Vt 6cc/kg					520.8 mL -LV
MALE					
Adult Moderate Range Vt 8cc/kg MA					694.4 mL -LV
Adult High Range Vt 10cc/kg MALE					868 mL -LV
FEMALE					
Low Range Vt 6cc/kg					493.8 mL -LV
Adult Moderate Range Vt 8cc/kg FEMALE					658.4 mL -LV
Adult High Range Vt 10cc/kg FEMALE					823 mL -LV
Low Range Vt 6cc/kg					520.8 mL -LV
Adult Moderate Range Vt 8cc/kg					694.4 mL -LV
Adult High Range Vt 10cc/kg					868 mL -LV

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Flowsheet (all recorded) (continued)

Custom Formula Data - Tue November 15, 2016 (continued)

	2000	1600	1200	0800	0414
IBW/kg (Calculated)					86.8 kg -LV
Male					
IBW/kg (Calculated)					82.3 kg -LV
FEMALE					
IBW/kg (Calculated)					86.8 -LV
AIBW (Calculated)					83.85 kg -LV
Female					
FLOW1.6					3.47 CC/MIN -LV
FLOW1.8					3.91 CC/MIN -LV
FLOW2.0					4.34 CC/MIN -LV
FLOW2.2					4.77 CC/MIN -LV
FLOW2.4					5.21 CC/MIN -LV
FLOW2.8					6.08 CC/MIN -LV
FLOW3.0					6.51 CC/MIN -LV
FLOW1.0					2.17 CC/MIN -LV
FLOW1.2					2.6 CC/MIN -LV
FLOW1.4					3.04 CC/MIN -LV
FLOW2.6					5.64 CC/MIN -LV
Percent Weight Change Since Birth					0 -LV
Weight and Growth Recommendation					
AIBW (Calculated)					86.55 kg -LV
Male					
	0400				
Nutrition Screen Category 1					
Category 1 Total	1 -TT				
OTHER					
Category 2 total	0 -TT				

Triage Vitals - Tue November 15, 2016

	2000	1600	1200	0926	0800
Vitals Assessment					
Automatic Restart	Yes -LV				Yes -TB
Vital's Timer					
Quick Triage Vitals					
BP	105/56 -LV	116/62 -TB	124/70 -TB		109/61 -TB
Pulse	58 -LV	68 -TB	66 -TB		64 -TB
Resp	18 -LV	18 -TB	18 -TB		18 -TB
Temp	97.8 °F (36.6 °C) -LV	97.8 °F (36.6 °C) -TB	98.1 °F (36.7 °C) -TB		97.6 °F (36.4 °C) -TB
SpO2	97 % -LV				98 % -TB
Currently in Pain	No/denies -LV				
Pain Assessment					
Pain Score				Zero -KW	
Vitals					
Temp src	Oral -LV	Oral -TB	Oral -TB		Oral -TB
Heart Rate Source	Monitor -LV	Monitor -TB	Monitor -TB		Monitor -TB
Patient Position	Supine -LV	Supine -TB	Supine -TB		Supine -TB
BP Location	Right arm -LV	Left arm -TB	Left arm -TB		Left arm -TB
BP Method	Automatic -LV	Automatic -TB	Automatic -TB		Automatic -TB
Concurrent BP	No -LV				
Pain Assessment				0-10 -KW	
Oxygen Therapy					
Pulse Oximetry Site					Right Hand -TB

	0414
Vitals Assessment	
Automatic Restart	Yes -TT
Vital's Timer	
Quick Triage Vitals	
BP	125/74 -TT
Pulse	71 -TT
Resp	18 -TT
Temp	97.3 °F (36.3 °C) -TT
SpO2	100 % -TT
Height	1.93 m (6' 4") -LV
Weight	86.2 kg (190 lb) -LV

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Flowsheet (all recorded) (continued)

Triage Vitals - Tue November 15, 2016 (continued)

	0414			
Vitals				
Temp src	Oral -TT			
Patient Position	Supine -TT			
BP Location	Left arm -TT			

Immunization History - Tue November 15, 2016

	0012			
Patient stated Immunization History				
Last Tetanus vaccine?	> 5 years -AC			
Influenza Vaccine Screen - October through April				
Have you had an influenza vaccine this season? (0=No, 1=Yes)	0 -AC			
Influenza Vaccine Contraindication	Patient Refused -AC			
Does Patient Meet Criteria	No, Patient Does not meet criteria for Flu Vaccine -AC			
ILH PNEUMONIA VACCINATION				
Pneumococcal Vaccine Patient Age	Age 19-64 -AC			
Pneumococcal 19-64				
Pneumococcal Vaccine Contraindication (19-64)	No Contraindication -AC			
Anaphylaxis to DTaP, or any vaccine containing diphtheria toxoid?	No -AC			
Have you had a pneumococcal vaccine?	Unsure -AC			
Pneumococcal Verification	Self-Reported -AC			
Screening				
Are any of the following diseases present?	None Present -AC			
Does pt have any of the following	None Present -AC			

Vital Signs - Tue November 15, 2016

	2000	1600	1200	0926	0800
Vital Signs					
Temp	97.8 °F (36.6 °C) -LV	97.8 °F (36.6 °C) -TB	98.1 °F (36.7 °C) -TB		97.6 °F (36.4 °C) -TB
Temp src	Oral -LV	Oral -TB	Oral -TB		Oral -TB
Pulse	58 -LV	68 -TB	66 -TB		64 -TB
Heart Rate Source	Monitor -LV	Monitor -TB	Monitor -TB		Monitor -TB
Resp	18 -LV	18 -TB	18 -TB		18 -TB
BP	105/56 -LV	116/62 -TB	124/70 -TB		109/61 -TB
Patient Position	Supine -LV	Supine -TB	Supine -TB		Supine -TB
BP Location	Right arm -LV	Left arm -TB	Left arm -TB		Left arm -TB
BP Method	Automatic -LV	Automatic -TB	Automatic -TB		Automatic -TB
Concurrent BP	No -LV				
Currently in Pain	No/denies -LV				
Pain Assessment					
Pain Assessment				0-10 -KW	
Pain Score				Zero -KW	
Oxygen Therapy					
SpO2	97 % -LV				98 % -TB
Pulse Oximetry Site					Right Hand -TB

	0414			
Vital Signs				
Temp	97.3 °F (36.3 °C) -TT			
Temp src	Oral -TT			
Pulse	71 -TT			

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 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

Flowsheet (all recorded) (continued)

Vital Signs - Tue November 15, 2016 (continued)

	0414			
Resp	18 -TT			
BP	125/74 -TT			
Patient Position	Supine -TT			
BP Location	Left arm -TT			
Oxygen Therapy				
SpO2	100 % -TT			
Height and Weight				
Height	1.93 m (6' 4") -LV			
Weight	86.2 kg (190 lb) -LV			
BSA (Calculated - sq m)	2.17 sq meters -LV			
BMI (Calculated)	23.2 -LV			

Intake/Output - Tue November 15, 2016

	2000	1800	1400	1230	0800
Intake (mL)					
P.O.		720 mL -TB	540 mL -TB	540 mL -TB	300 mL -TB
Percent Meals Eaten (%)		100 % -TB	0 % -TB	100 % -TB	100 % -TB
Output (mL)					
Urine		350 mL -TB	1200 mL -TB		
Unmeasured Output					
Stool Occurrence		0 -TB	0 -TB		
[REMOVED] Peripheral IV 11/15/16 Right Forearm					
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				
Site Assessment	Clean Dry/Intact -LV				
Phlebitis Scale	0 -LV				
Line Status	Saline locked -LV				
Dressing Type	Transparent -LV				
Dressing Status	Clean Dry/Intact -LV				

	0700	0600	0417	0414	0343
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Weights					
Weight				86.2 kg (190 lb) -LV	
BSA (Calculated - sq m)				2.17 sq meters -LV	

sodium chloride 0.9 % infusion 1,000 mL					
Start: 11/15/16 0115					
Rate					0 mL/hr -AC
Output (mL)					
Urine		0 mL -LV			

[REMOVED] Peripheral IV 11/15/16 Right Forearm					
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP				
Site Assessment	Clean Dry/Intact -KW			Clean Dry/Intact -LV	
Phlebitis Scale	0 -KW			0 -LV	
Line Status	Saline locked -KW			Saline locked -LV	
Dressing Type	Transparent -KW			Transparent -LV	
Dressing Status	Clean Dry/Intact -KW			Clean Dry/Intact -LV	

sodium chloride 0.9 % infusion 1,000 mL					
Start: 11/15/16 0115					
Rate	1000 mL/hr -AC				

IV Assessment - Tue November 15, 2016

	2000	0700	0417
OTHER			
Specimen Collection		Lab -KW	Lab -LV
[REMOVED] Peripheral IV 11/15/16 Right Forearm			
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP		
Site Assessment	Clean Dry/Intact -LV	Clean Dry/Intact -KW	Clean Dry/Intact -LV

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Flowsheet (all recorded) (continued)

IV Assessment - Tue November 15, 2016 (continued)

	2000	0700	0417
Phlebitis Scale	0 -LV	0 -KW	0 -LV
Line Status	Saline locked -LV	Saline locked -KW	Saline locked -LV
Dressing Type	Transparent -LV	Transparent -KW	Transparent -LV
Dressing Status	Clean,Dry,Intact -LV	Clean,Dry,Intact -KW	Clean,Dry,Intact -LV

Assessment - Tue November 15, 2016

	2000	1100	1000	0800	0700
Deteriorating Condition					
Patient's Current Condition	No acute changes -KW		No acute changes -KW		
Neurological					
Neuro (WDL)	WDL -LV		WDL -KW		
Level of Consciousness	Alert -LV		Alert -KW		Alert -KW
Orientation Level	Oriented X4 -LV		Oriented X4 -KW		Oriented X4 -KW
Cognition	Appropriate judgement;Appropriate safety awareness;Appropriate attention/concentration;Appropriate for developmental age;Follows commands -LV		Appropriate judgement -KW		Appropriate judgement;Appropriate safety awareness;Appropriate attention/concentration; Appropriate for developmental age;Follows commands -KW
Speech	Clear -LV		Clear -KW		Clear -KW
R Pupil Size (mm)	3 -LV		3 -KW		3 -KW
R Pupil Reaction	Brisk -LV		Brisk -KW		Brisk -KW
L Pupil Size (mm)	3 -LV		3 -KW		3 -KW
L Pupil Reaction	Brisk -LV		Brisk -KW		Brisk -KW
HEENT					
HEENT (WDL)	WDL -LV		WDL -KW		
Respiratory					
Respiratory Pattern	Regular;Easy,Unlabored -LV			Regular;Easy,Unlabored -KW	
Chest Assessment	Chest expansion symmetrical -LV			Chest expansion symmetrical -KW	
R Breath Sounds	Clear -LV		Clear -KW		
L Breath Sounds	Clear -LV		Clear -KW		Clear -KW
Respiratory (WDL)	WDL -KW				
Cardiac					
Telemetry Monitor On	Yes -LV		Yes -KW		Yes -KW
Cardiac Monitor					
Telemetry Audible	Yes -LV		Yes -KW		
Telemetry Alarms Set	Yes -LV		Yes -KW		
Peripheral Vascular					
Generalized Edema	None -LV		None -KW		
RUE Edema	None -LV		None -KW		
LUE Edema	None -LV		None -KW		
RLE Edema	None -LV		None -KW		
LLE Edema	None -LV		None -KW		
Facial	None -LV		None -KW		
RUE Neurovascular Assessment					
Capillary Refill	Less than/equal to 3 seconds -LV		Less than/equal to 3 seconds -KW		
Color	Appropriate for ethnicity -LV		Appropriate for ethnicity -KW		
Temperature	Warm -LV		Warm -KW		
R Radial Pulse	+2 -LV		+2 -KW		
LUE Neurovascular Assessment					
Capillary Refill	Less than/equal to 3 seconds -LV		Less than/equal to 3 seconds -KW		
Color	Appropriate for ethnicity -LV		Appropriate for ethnicity -KW		
Temperature	Warm -LV		Warm -KW		
L Radial Pulse	+2 -LV		+2 -KW		
RLE Neurovascular Assessment					
Capillary Refill	Less than/equal to 3		Less than/equal to 3		

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Flowsheet (all recorded) (continued)

Assessment - Tue November 15, 2016 (continued)

	2000	1100	1000	0800	0700
Color	seconds -LV Appropriate for ethnicity -LV				seconds -KW Appropriate for ethnicity -KW
Temperature	Warm -LV				Warm -KW
R Pedal Pulse	+2 -LV				+2 -KW
LL E Neurovascular Assessment					
Capillary Refill	Less than/equal to 3 seconds -LV				Less than/equal to 3 seconds -KW
Color	Appropriate for Ethnicity -LV				Appropriate for Ethnicity -KW
Temperature	Warm -LV				Warm -KW
L Pedal Pulse	+2 -LV				+2 -KW
Braden Scale					
Sensory Perceptions	4 -LV				
Moisture	3 -LV				
Activity	4 -LV				
Mobility	3 -LV				
Nutrition	3 -LV				
Friction and Shear	3 -LV				
Braden Scale Score	20 -LV				
Is patient at increased risk of pressure ulcer	No -LV				
Gastrointestinal					
Abdomen Inspection	Soft, Flat, Nondistended -LV				Soft, Flat, Nondistended -KW
Bowel Sounds (All Quadrants)	Active -LV				Active -KW
Tenderness	Soft, No guarding, Nontender -LV				Soft, No guarding, Nontender -KW
Psychosocial					
Psychosocial (WDL)	WDL -LV				
Alcohol Withdrawal Assessment					
Nausea/Vomiting	0 -LV				
Anxiety	0 -LV				
Paroxysmal Sweats	0 -LV				
Tactile Disturbances	0 -LV				
Visual Disturbances	0 -LV				
Tremors	0 -LV				
Agitation	0 -LV				
Orientation and Clouding of Sensorium	0 -LV				
Auditory Disturbances	0 -LV				
Headache	0 -LV				
Alcohol Withdrawal Assessment Score	0 -LV				
Charting Type					
Charting Type	Shift assessment -LV				
Chart Reviewed	Y -LV				
Cardiac					
Cardiac Rhythm	NSR -LV				NSR -KW
	0418	0400	0000		
Neurological					
Neuro (WDL)	WDL -LV				
Level of Consciousness			Alert -AC		
Orientation Level			Oriented X4 -AC		
Cognition			Appropriate judgement, Appropriate safety awareness, Appropriate attention/concentration, Appropriate for developmental age, Follows commands -AC		
Speech			Clear -AC		
R Pupil Size (mm)			3 -AC		

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Flowsheet (all recorded) (continued)

Assessment - Tue November 15, 2016 (continued)

	0418	0400	0000
R Pupil Reaction			Brisk -AC
L Pupil Size (mm)			3 -AC
L Pupil Reaction			Brisk -AC
HEENT			
HEENT (WDL)	WDL -LV		
Respiratory			
Respiratory Pattern			Regular Easy Unlabored -AC
Chest Assessment			Chest expansion symmetrical -AC
R Breath Sounds			Clear -AC
L Breath Sounds			Clear -AC
Respiratory (WDL)	WDL -LV		
Cardiac			
Telemetry Monitor On			Yes -AC
Cardiac Monitor			
Telemetry Audible			Yes -AC
Telemetry Alarms Set			Yes -AC
Peripheral Vascular			
Peripheral Vascular (WDL)	WDL -LV		
Generalized Edema			None -AC
RUE Edema			None -AC
LUE Edema			None -AC
RLE Edema			None -AC
LLE Edema			None -AC
Facial			None -AC
RUE Neurovascular Assessment			
Capillary Refill	Less than/equal to 3 seconds -LV		Less than/equal to 3 seconds -AC
Color	Appropriate for ethnicity -LV		Appropriate for ethnicity -AC
Temperature	Warm -LV		Warm -AC
R Radial Pulse	+2 -LV		+2 -AC
LUE Neurovascular Assessment			
Capillary Refill	Less than/equal to 3 seconds -LV		Less than/equal to 3 seconds -AC
Color	Appropriate for ethnicity -LV		Appropriate for ethnicity -AC
Temperature	Warm -LV		Warm -AC
L Radial Pulse	+2 -LV		+2 -AC
RLE Neurovascular Assessment			
Capillary Refill	Less than/equal to 3 seconds -LV		Less than/equal to 3 seconds -AC
Color	Appropriate for ethnicity -LV		Appropriate for ethnicity -AC
Temperature	Warm -LV		Warm -AC
R Pedal Pulse	+2 -LV		+2 -AC
LLE Neurovascular Assessment			
Capillary Refill	Less than/equal to 3 seconds -LV		Less than/equal to 3 seconds -AC
Color	Appropriate for Ethnicity -LV		Appropriate for Ethnicity -AC
Temperature	Warm -LV		Warm -AC
L Pedal Pulse	+2 -LV		+2 -AC
Integumentary			
Integumentary (WDL)	WDL -LV		
Braden Scale			
Sensory Perceptions	4 -LV	4 -TT	
Moisture	4 -LV	4 -TT	
Activity	4 -LV	4 -TT	
Mobility	4 -LV	4 -TT	
Nutrition	3 -LV	3 -TT	
Friction and Shear	3 -LV	3 -TT	
Braden Scale Score	22 -LV	22 -TT	
Is patient at increased risk of pressure ulcer	No -LV	No -TT	

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Flowsheet (all recorded) (continued)

Assessment - Tue November 15, 2016 (continued)

	0418	0400	0000
Musculoskeletal			
Musculoskeletal (WDL)	WDL -LV		
Gastrointestinal			
Gastrointestinal (WDL)	WDL -LV		
Abdomen Inspection			Soft, Flat, Nondistended -AC
Bowel Sounds (All Quadrants)			Active -AC
Tenderness			Soft, No guarding, Nontender -AC
GI Symptoms			None -AC
Genitourinary			
Genitourinary (WDL)	WDL -LV		
Psychosocial			
Psychosocial (WDL)	WDL -LV		
Alcohol Withdrawal Assessment			
Nausea/Vomiting	0 -LV		
Anxiety	0 -LV		
Paroxysmal Sweats	0 -LV		
Tactile Disturbances	0 -LV		
Visual Disturbances	0 -LV		
Tremors	0 -LV		
Agitation	0 -LV		
Orientation and Clouding of Sensorium	0 -LV		
Auditory Disturbances	0 -LV		
Headache	0 -LV		
Alcohol Withdrawal Assessment Score	0 -LV		
Name of MD Notified	0 -LV		
Score was > 8:			
Charting Type			
Charting Type	Admission -LV		
Chart Reviewed	Y -LV		
Cardiac			
Cardiac Rhythm	NSR -LV		NSR -AC

Screenings - Tue November 15, 2016

	2000	0420	0418	0400
Admission Notification				
Family Notification of Admission				Other (comment) offender -TT
Advance Directives (For Healthcare)				
Healthcare Directive				No, patient does not have an advance directive for healthcare treatment -TT
Nutrition Screen Category 1				
NPO - 7 Days				0 -TT
Newly Diagnosed Renal Failure				0 -TT
Newly diag. Diabetic/Gestational DM				1 -TT
Diag. of Malnutrition/Failure to Thrive				0 -TT
Ventilation Patient Enteral/Parenteral feeding and/or feeding tube in place				0 -TT
Decubitis/Wounds/Burns				0 -TT
Trauma				0 -TT
Cystic Fibrosis				0 -TT
NICU Grad < 6 months old				0 -TT
Category 1 Total				1 -TT

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Flowsheet (all recorded) (continued)

Screenings - Tue November 15, 2016 (continued)

	2000	0420	0418	0400
Nutrition Screen Category 2				
NPO > 3 days				0 -TT
Nausea/Vomiting more than 72 hrs				0 -TT
Diarhea/Constipation more than 72hrs				0 -TT
Swallowing/Chewing Difficulty				0 -TT
Unintentional weight loss				0 -TT
Category 2 total				0 -TT
ADL Screening				
Patient's Vision Adequate to Safely Complete Daily Activities				1 -TT
Patient's Judgement Adequate to Safely Complete Daily Activities				1 -TT
Patient's Memory Adequate to Safely Complete Daily Activities				1 -TT
Patient Able to Express Needs/Desires				1 -TT
Dressing				Independent -TT
Grooming				Independent -TT
Feeding				Independent -TT
Bathing				Independent -TT
Toileting				Independent -TT
In/Out Bed				Independent -TT
Walks in Home				Independent -TT
Weakness of Legs				None -TT
Weakness of Arms/Hands				None -TT
Hearing - Right Ear				Functional -TT
Hearing - Left Ear				Functional -TT
Assistive Devices				
Assistive Devices				None -TT
Therapy Consults				
PT Evaluation Needed				2 -TT
OT Evaluation Needed				2 -TT
SLP Evaluation Needed				2 -TT
Domestic Abuse Assessment				
Physical Abuse				Denies -TT
Verbal Abuse				Denies -TT
Values / Beliefs				
Cultural Requests During Hospitalization				none -TT
Spiritual Requests During Hospitalization				none -TT
Consults				
Spiritual Care Consult Needed				No -TT
Social Services Consult Needed				No -TT
Suicide Risk Assessment				
Charting Type	Shift assessment -LV		Admission -LV	
Braden Scale				
Sensory Perceptions	4 -LV		4 -LV	4 -TT
Moisture	3 -LV		4 -LV	4 -TT
Activity	4 -LV		4 -LV	4 -TT
Mobility	3 -LV		4 -LV	4 -TT
Nutrition	3 -LV		3 -LV	3 -TT
Friction and Shear	3 -LV		3 -LV	3 -TT
Braden Scale Score	20 -LV		22 -LV	22 -TT

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Flowsheet (all recorded) (continued)

Screenings - Tue November 15, 2016 (continued)

	2000	0420	0418	0400
Is patient at increased risk of pressure ulcer	No -LV		No -LV	No -TT
Morse Fall Risk				
History of Falling	0 -LV	0 -LV		
Secondary Diagnosis	15 -LV	15 -LV		
Ambulatory Aids	0 -LV	0 -LV		
Intravenous Therapy/Infusion	0 -LV	0 -LV		
Gait/Transferring	0 -LV	0 -LV		
Mental Status	0 -LV	0 -LV		
Score	15 -LV	15 -LV		

Daily Cares/Safety - Tue November 15, 2016

	2200	2000	1800	1700	1600
Precautions					
Precautions	Fall risk -LV	Fall risk -LV	Fall risk -KW	Fall risk -TB	Fall risk -KW
5 P's Hourly Rounding					
5 P's Have Been Met	Yes -LV	Yes -LV	Yes -KW	Yes -TB	Yes -KW
Safe Environment					
Uniformed Officer Present	Yes -LV	Yes -LV		Yes -TB	Yes -KW
Cuff Extremity	Right Leg -LV	Right Leg -LV	Right Leg -KW		Right Leg -KW
Cuff Type	Shackle -LV	Shackle -LV	Shackle -KW		Shackle -KW
Cuff Secured	Bed Frame -LV	Bed Frame -LV	Bed Frame -KW		Bed Frame -KW
Neurovascular Assessment	Refer to full assessment -LV	Refer to full assessment -LV			
Arm Bands On	ID;Fall;Offender care -LV	ID;Fall;Offender care -LV	ID;Fall;Offender care -KW	ID;Fall;Offender care -TB	ID;Fall;Offender care -KW
Call Light Within Reach	Yes -LV	Yes -LV	Yes -KW	Yes -TB	Yes -KW
Overbed Table Within Reach	Yes -LV	Yes -LV	Yes -KW	Yes -TB	Yes -KW
Bed in Lowest Position	Yes -LV	Yes -LV	Yes -KW	Yes -TB	Yes -KW
Bed Wheels Locked	Yes -LV	Yes -LV	Yes -KW	Yes -TB	Yes -KW
Side Rails/Bed Safety	2/4 -LV	2/4 -LV	2/4 -KW	2/4 -TB	2/4 -KW
NonSkid Footwear	Patient in bed -LV	Patient in bed -LV	Patient in bed -KW	Patient in bed -TB	Patient in bed -KW
Telemetry Details					
Telemetry Monitor On		Yes -LV			
Telemetry Audible		Yes -LV			
Telemetry Alarms Set		Yes -LV			
Morse Fall Risk					
History of Falling		0 -LV			
Secondary Diagnosis		15 -LV			
Ambulatory Aids		0 -LV			
Intravenous Therapy/Infusion		0 -LV			
Gait/Transferring		0 -LV			
Mental Status		0 -LV			
Score		15 -LV			
Fall Risk Interventions					
Toilet Every 2 Hours-In Advance of Need	Yes -LV	Yes -LV	Yes -KW	Yes -TB	Yes -KW
Pain Assessed?	Yes -LV	Yes -LV	Yes -KW	Yes -TB	Yes -KW
Ensured proper patient positioning?	Yes -LV	Yes -LV	Yes -KW	Yes -TB	Yes -KW
Hourly Visual Checks	Eyes closed in bed -LV	Awake in bed -LV	Awake in bed -KW	Awake in bed -TB	Awake in bed -KW
Fall Armband On	Yes -LV	Yes -LV	Yes -KW	Yes -TB	Yes -KW
Room Door Open	Deferred to promote rest -LV	Deferred to promote rest -LV	Deferred to promote rest -KW	Deferred to promote rest -TB	Deferred to promote rest -KW
Gait Belt Used For Transfers	Not applicable -LV	Not applicable -LV	Not applicable -KW	Not applicable -TB	Not applicable -KW
Alarm On	Bed -LV	Bed -LV	Bed -KW	Bed -TB	Bed -KW
Appropriate Fall Identification in Use	Yes -LV	Yes -LV	Yes -KW	Yes -TB	Yes -KW
Mobility					
Activity		Bathroom privileges -LV	Bathroom privileges -KW	Bathroom privileges -TB	Bathroom privileges -KW
Level of Assistance		Independent -LV	Independent -KW	Independent -TB	

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Flowsheet (all recorded) (continued)

Daily Cares/Safety - Tue November 15, 2016 (continued)

	2200	2000	1800	1700	1600
Assistive Device			None -KW	None -TB	
Repositioned		Turns self -LV	Turns self -KW	Turns self -TB	Turns self -KW
Positioning Frequency		Able to turn self -LV	Able to turn self -KW	Able to turn self -TB	Able to turn self -KW
Head of Bed Elevated		Self regulated -LV	Self regulated -KW	Self regulated -TB	Self regulated -KW
Range of Motion		Active -LV	Active -KW	Active -TB	Active -KW
Communication Needs					
Communication Needs		None -LV	None -KW	None -TB	
Nutrition					
Feeding		Able to feed self -LV		Able to feed self -TB	Able to feed self -KW
Diet Type		Diabetic -LV			
Hygiene					
Level of Assistance				Independent -TB	
Comfort and Environment Interventions					
Comfort		Repositioned -LV		Repositioned -TB	
Entertainment					
Entertainment Activities		Books -LV		Books -TB	
	1500	1400	1300	1200	1100
Precautions					
Precautions	Fall risk -TB	Fall risk -KW	Fall risk -TB	Fall risk -KW	Fall risk -TB
5 P's Hourly Rounding					
5 P's Have Been Met	Yes -TB	Yes -KW	Yes -TB	Yes -KW	Yes -TB
Safe Environment					
Uniformed Officer Present	Yes -TB	Yes -KW	Yes -TB	Yes -KW	Yes -TB
Cuff Extremity		Right Leg -KW		Right Leg -KW	
Cuff Type		Shackle -KW		Shackle -KW	
Cuff Secured		Bed Frame -KW		Bed Frame -KW	
Neurovascular Assessment				Refer to full assessment -KW	
Arm Bands On	ID/Fall/Offender care -TB	ID/Fall/Offender care -KW	ID/Fall/Offender care -TB	ID/Fall/Offender care -KW	ID/Fall/Offender care -TB
Call Light Within Reach	Yes -TB	Yes -KW	Yes -TB	Yes -KW	Yes -TB
Overbed Table Within Reach	Yes -TB	Yes -KW	Yes -TB	Yes -KW	Yes -TB
Bed In Lowest Position	Yes -TB	Yes -KW	Yes -TB	Yes -KW	Yes -TB
Bed Wheels Locked	Yes -TB	Yes -KW	Yes -TB	Yes -KW	Yes -TB
Side Rails/Bed Safety	2/4 -TB	2/4 -KW	2/4 -TB	2/4 -KW	2/4 -TB
NonSkid Footwear	Patient in bed -TB	Patient in bed -KW	Patient in bed -TB	Patient in bed -KW	Patient in bed -TB
Fall Risk Interventions					
Toilet Every 2 Hours-In Advance of Need	Yes -TB	Yes -KW	Yes -TB	Yes -KW	Yes -TB
Pain Assessed?	Yes -TB	Yes -KW	Yes -TB	Yes -KW	Yes -TB
Ensured proper patient positioning?	Yes -TB	Yes -KW	Yes -TB	Yes -KW	Yes -TB
Hourly Visual Checks	Awake in bed -TB	Eyes closed in bed -KW	Eyes closed in bed -TB	Awake in bed -KW	Awake in bed -TB
Fall Armband On	Yes -TB	Yes -KW	Yes -TB	Yes -KW	Yes -TB
Room Door Open	Deferred to promote rest -TB	Deferred to promote rest -KW	Deferred to promote rest -TB	Deferred to promote rest -KW	Deferred to promote rest -TB
Gait Belt Used For Transfers	Not applicable -TB	Not applicable -KW	Not applicable -TB	Not applicable -KW	Not applicable -TB
Alarm On	Bed -TB	Bed -KW	Bed -TB	Bed -KW	Bed -TB
Appropriate Fall Identification in Use	Yes -TB	Yes -KW	Yes -TB	Yes -KW	Yes -TB
Mobility					
Activity	Bathroom privileges -TB	Bathroom privileges -KW	Bathroom privileges -TB	Bathroom privileges -KW	Bathroom privileges -TB
Level of Assistance	Independent -TB	Independent -KW	Independent -TB	Independent -KW	Independent -TB
Assistive Device	None -TB	None -KW	None -TB	None -KW	None -TB
Repositioned	Turns self -TB	Turns self -KW	Turns self -TB	Turns self -KW	Turns self -TB
Positioning Frequency	Able to turn self -TB	Able to turn self -KW	Able to turn self -TB	Able to turn self -KW	Able to turn self -TB
Head of Bed Elevated	Self regulated -TB	Self regulated -KW	Self regulated -TB	Self regulated -KW	Self regulated -TB
Range of Motion	Active -TB	Active -KW	Active -TB	Active -KW	Active -TB
Communication Needs					
Communication Needs	None -TB		None -TB	None -KW	None -TB
Nutrition					
Feeding	Able to feed self -TB		Able to feed self -TB	Able to feed self -KW	Able to feed self -TB

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Flowsheet (all recorded) (continued)

Daily Cares/Safety - Tue November 15, 2016 (continued)

	1500	1400	1300	1200	1100
Hygiene					
Level of Assistance	Independent -TB		Independent -TB		Independent -TB
Comfort and Environment Interventions					
Comfort	Repositioned -TB		Repositioned -TB		Repositioned -TB
Entertainment					
Entertainment Activities	Books -TB		Books -TB		Books -TB
	1000	0900	0800	0700	0600
Precautions					
Precautions	Fall risk -TB (r) KW (t)	Fall risk -TB	Fall risk -KW	Fall risk -KW	Fall risk -LV
3 P's Hourly Rounding					
3 P's Have Been Met	Yes -TB (r) KW (t)	Yes -TB	Yes -KW	Yes -KW	Yes -LV
Safe Environment					
Uniformed Officer Present	Yes -TB (r) KW (t)	Yes -TB	No -KW	Yes -KW	Yes -LV
Cuff Extremity	Right Leg -TB (r) KW (t)		Right Leg -KW	Right Leg -KW	Right Leg -LV
Cuff Type	Shackle -TB (r) KW (t)		Shackle -KW	Shackle -KW	Shackle -LV
Cuff Secured	Bed Frame -TB (r) KW (t)		Bed Frame -KW	Bed Frame -KW	Bed Frame -LV
Neurovascular Assessment	Refer to full assessment -TB (r) KW (t)		Refer to full assessment -KW	Refer to full assessment -KW	Refer to full assessment -LV
Arm Bands On	ID; Fall; Offender care -TB (r) KW (t)	ID; Fall; Offender care -TB	ID; Fall; Offender care -KW	ID; Fall; Offender care -KW	ID; Fall; Offender care -LV
Call Light Within Reach	Yes -TB (r) KW (t)	Yes -TB	Yes -KW	Yes -KW	Yes -LV
Overbed Table Within Reach	Yes -TB (r) KW (t)	Yes -TB	Yes -KW	Yes -KW	Yes -LV
Bed in Lowest Position	Yes -TB (r) KW (t)	Yes -TB	Yes -KW	Yes -KW	Yes -LV
Bed Wheels Locked	Yes -TB (r) KW (t)	Yes -TB	Yes -KW	Yes -KW	Yes -LV
Side Rails/Bed Safety	2/4 -TB (r) KW (t)	2/4 -TB	2/4 -KW	2/4 -KW	2/4 -LV
NonSkid Footwear	Patient in bed -TB (r) KW (t)	Patient in bed -TB	Patient in bed -KW	Patient in bed -KW	Patient in bed -LV
Telemetry Details					
Telemetry Monitor On	Yes -KW		Yes -KW	Yes -KW	
Telemetry Audible				Yes -KW	
Telemetry Alarms Set				Yes -KW	
Fall Risk Interventions					
Toilet Every 2 Hours-In Advance of Need	Yes -TB (r) KW (t)	Yes -TB	Yes -KW	Yes -KW	Yes -LV
Pain Assessed?	Yes -TB (r) KW (t)	Yes -TB	Yes -KW	Yes -KW	Yes -LV
Ensured proper patient positioning?	Yes -TB (r) KW (t)	Yes -TB	Yes -KW	Yes -KW	Yes -LV
Hourly Visual Checks	Awake; In bed -TB (r) KW (t)	Awake; In bed -TB	Eyes closed; In bed -KW	Eyes closed; In bed -KW	Eyes closed; In bed -LV
Fall Armband On	Yes -TB (r) KW (t)	Yes -TB	Yes -KW	Yes -KW	Yes -LV
Room Door Open	Deferred to promote rest -TB (r) KW (t)	Deferred to promote rest -TB	Deferred to promote rest -KW	Deferred to promote rest -KW	Deferred to promote rest -LV
Gait Belt Used For Transfers	Not applicable -TB (r) KW (t)	Not applicable -TB	Not applicable -KW	Not applicable -KW	Not applicable -LV
Alarm On	Bed -TB (r) KW (t)	Bed -TB	Bed -KW	Bed -KW	Bed -LV
Appropriate Fall Identification in Use	Yes -TB (r) KW (t)	Yes -TB	Yes -KW	Yes -KW	Yes -LV
Mobility					
Activity		Bathroom privileges -TB	Bathroom privileges -KW	Bathroom privileges -KW	
Level of Assistance		Independent -TB	Independent -KW	Independent -KW	
Assistive Device		None -TB			
Repositioned		Turns self -TB	Turns self -KW	Turns self -KW	
Positioning Frequency		Able to turn self -TB	Able to turn self -KW	Able to turn self -KW	
Head of Bed Elevated		Self regulated -TB	Self regulated -KW	Self regulated -KW	
Range of Motion		Active -TB		Active -KW	
Communication Needs					
Communication Needs		None -TB		None -TB	
Nutrition					
Feeding		Able to feed self -TB		Able to feed self -TB	
Hygiene					
Level of Assistance		Independent -TB		Independent -TB	
Comfort and Environment Interventions					
Comfort		Repositioned -TB		Repositioned -TB	
Entertainment					

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MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

Flowsheet (all recorded) (continued)

Daily Cares/Safety - Tue November 15, 2016 (continued)

	1000	0900	0800	0700	0600
Entertainment Activities		Books -TB		Books -TB	
	0420	0800			
Precautions					
Precautions	Fall risk -LV				
5 P's Hourly Rounding					
5 P's Have Been Met	Yes -LV				
Safe Environment					
Uniformed Officer Present	Yes -LV				
Cuff Extremity	Right Leg -LV				
Cuff Type	Shackle -LV				
Cuff Secured	Bed Frame -LV				
Neurovascular Assessment	Refer to full assessment -LV				
Arm Bands On	ID Fall Offender care -LV				
Call Light Within Reach	Yes -LV				
Overbed Table Within Reach	Yes -LV				
Bed in Lowest Position	Yes -LV				
Bed Wheels Locked	Yes -LV				
Side Rails/Bed Safety	2/4 -LV				
NonSkid Footwear	Patient in bed -LV				
Telemetry Details					
Telemetry Monitor On	Yes -AC				
Telemetry Audible	Yes -AC				
Telemetry Alarms Set	Yes -AC				
Morse Fall Risk					
History of Falling	0 -LV				
Secondary Diagnosis	15 -LV				
Ambulatory Aids	0 -LV				
Intravenous Therapy/Infusion	0 -LV				
Gait/Transferring	0 -LV				
Mental Status Score	0 -LV				
	15 -LV				
Fall Risk Interventions					
Toilet Every 2 Hours-In Advance of Need	Yes -LV				
Pain Assessed?	Yes -LV				
Ensured proper patient positioning?	Yes -LV				
Hourly Visual Checks	Awake in bed -LV				
Fall Armband On	Yes -LV				
Room Door Open	Deferred to promote rest -LV				
Gait Belt Used For Transfers	Not applicable -LV				
Alarm On	Bed -LV				
Appropriate Fall Identification in Use	Yes -LV				
Mobility					
Activity	Bathroom privileges -LV				
Level of Assistance	Independent -LV				
Repositioned	Turns self -LV				
Positioning Frequency	Able to turn self -LV				
Head of Bed Elevated	Self regulated -LV				
Range of Motion	Active -LV				
Communication Needs					
Communication Needs	None -LV				
Nutrition					
Feeding	Able to feed self -LV				
Diet Type	Diabetic -LV				
Comfort and Environment Interventions					
Comfort	Repositioned -LV				
Entertainment					
Entertainment Activities	Books -LV				

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Flowsheet (all recorded) (continued)

Daily Cares/Safety - Tue November 16, 2016 (continued)

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Flowsheet (all recorded)

- Tue November 15, 2016

*** No data found ***

Triage Start - Tue November 15, 2016

	2000	0700	0417
(REMOVED) Peripheral IV 11/15/16 Right Forearm			
IV Properties	Placement Date: 11/15/16 -LV Placement Time: 0417 -LV Present on Admission: No -LV Placed by EMS?: No -LV IV Change Due: 11/19/16 -LV Size (Gauge): 22 G -LV Orientation: Right -LV Location: Forearm -LV Removal Date: 11/17/16 -LP Removal Time: 1512 -LP		
Site Assessment	Clean Dry/Intact -LV	Clean Dry/Intact -KW	Clean Dry/Intact -LV
Phlebitis Scale	0 -LV	0 -KW	0 -LV
Line Status	Saline locked -LV	Saline locked -KW	Saline locked -LV
Dressing Type	Transparent -LV	Transparent -KW	Transparent -LV
Dressing Status	Clean Dry/Intact -LV	Clean Dry/Intact -KW	Clean Dry/Intact -LV

Giving Handoff - Tue November 15, 2016

*** No data found ***

Receiving Handoff - Tue November 15, 2016

	1930	0349
Receiving Handoff		
SBAR Used?	Yes -LV	Yes -TT
Handoff report received from:	K. Williams, RN -LV	A Cancienne, RN -TT
Care Handoff		
Opportunity for Questions	Yes -LV	Yes -TT

PT PLACED SERVICES - Tue November 15, 2016

	0159
PT PLACED SERVICES	
PT PLACED SERVICE-STATUS	Inpatient -AC
PT PLACED SERVICE TIME	0106 -AC

Patient Safety Initial Screen - Tue November 15, 2016

*** No data found ***

Anthropometrics - Tue November 15, 2016

	0414
Anthropometrics	
Height	1.93 m (6' 4") -LV
Weight	86.2 kg (190 lb) -LV
Weight Change	0 -LV
BMI (Calculated)	23.2 -LV

Viral Screening - Tue November 15, 2016

*** No data found ***

Focused Assessment - Tue November 15, 2016

	2000	1000	0800	0700	0418
Breathing					
Chest Assessment	Chest expansion symmetrical -LV			Chest expansion symmetrical -KW	
Respiratory Pattern	Regular, Easy, Unlabored -LV			Regular, Easy, Unlabored -KW	
R Breath Sounds	Clear -LV	Clear -KW		Clear -KW	
L Breath Sounds	Clear -LV	Clear -KW		Clear -KW	
SpO2	97 % -LV		98 % -TB		
Circulation					
L Radial Pulse	+2 -LV			+2 -KW	+2 -LV
R Radial Pulse	+2 -LV			+2 -KW	+2 -LV
Disability/Neurological					

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Flowsheet (all recorded) (continued)

Focused Assessment - Tue November 15, 2016 (continued)

	2000	1000	0800	0700	0418
R Pupil Size (mm)	3 -LV	3 -KW	3 -KW	3 -KW	
L Pupil Size (mm)	3 -LV	3 -KW	3 -KW	3 -KW	
R Pupil Reaction	Brisk -LV	Brisk -KW	Brisk -KW	Brisk -KW	
L Pupil Reaction	Brisk -LV	Brisk -KW	Brisk -KW	Brisk -KW	
	0414	0000			
Airway					
Obstructed?		Patent -AC			
Breathing					
Chest Assessment		Chest expansion symmetrical -AC			
Respiratory Pattern		Regular, Easy, Unlabored -AC			
R Breath Sounds		Clear -AC			
L Breath Sounds		Clear -AC			
SpO2	100% -TT				
Circulation					
L Radial Pulse		+2 -AC			
R Radial Pulse		+2 -AC			
Heart Rhythm		Regular -AC			
Capillary Refill		Less Than 2 Seconds -AC			
Color		WDL -AC			
Cardiac Regularity		Regular -AC			
Disability/Neurological					
LOC					
Glasgow Coma 5+ - Eye Opening		4 -AC			
Glasgow Coma 5+ - Motor Response		6 -AC			
Glasgow Coma 5+ - Verbal Response		5 -AC			
Glasgow Coma Scale 5+ - Total Score		15 -AC			
R Pupil Size (mm)		3 -AC			
L Pupil Size (mm)		3 -AC			
R Pupil Reaction		Brisk -AC			
L Pupil Reaction		Brisk -AC			

Neurological - Tue November 15, 2016

	2000	1000	0700	0000
Neurological				
Level of Consciousness	Alert -LV	Alert -KW	Alert -KW	Alert -AC
Orientation Level	Oriented X4 -LV	Oriented X4 -KW	Oriented X4 -KW	Oriented X4 -AC
Cognition	Appropriate judgement; Appropriate safety awareness; Appropriate attention/concentration; Appropriate for developmental age; Follows commands -LV	Appropriate judgement -KW	Appropriate judgement; Appropriate safety awareness; Appropriate attention/concentration; Appropriate for developmental age; Follows commands -KW	Appropriate judgement; Appropriate safety awareness; Appropriate attention/concentration; Appropriate for developmental age; Follows commands -AC
Speech	Clear -LV	Clear -KW	Clear -KW	Clear -AC
L Pupil Reaction	Brisk -LV	Brisk -KW	Brisk -KW	Brisk -AC
L Pupil Size (mm)	3 -LV	3 -KW	3 -KW	3 -AC
R Pupil Reaction	Brisk -LV	Brisk -KW	Brisk -KW	Brisk -AC
R Pupil Size (mm)	3 -LV	3 -KW	3 -KW	3 -AC

Cardiac/Telemetry - Tue November 15, 2016

	2000	1000	0800	0700	0418
Cardiac					
Cardiac Rhythm	NSR -LV			NSR -KW	NSR -LV
Telemetry Monitor On	Yes -LV	Yes -KW	Yes -KW	Yes -KW	
Telemetry Audible	Yes -LV			Yes -KW	
Telemetry Alarms Set	Yes -LV			Yes -KW	

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Flowsheet (all recorded) (continued)

Cardiac/Telemetry - Tue November 15, 2016 (continued)

	0000
Cardiac	
Cardiac Regularity	Regular -AC
Cardiac Rhythm	NSR -AC
Heart Sounds	S1, S2 -AC
Telemetry Monitor On	Yes -AC
Telemetry Audible	Yes -AC
Telemetry Alarms Set	Yes -AC

Gastrointestinal - Tue November 15, 2016

	2000	0700	0000
Abdominal			
Bowel Sounds (All Quadrants)	Active -LV	Active -KW	Active -AC
Abdomen Inspection	Soft, Flat, Nondistended -LV	Soft, Flat, Nondistended -KW	Soft, Flat, Nondistended -AC
Tenderness	Soft, No guarding, Nontender -LV	Soft, No guarding, Nontender -KW	Soft, No guarding, Nontender -AC
GI Symptoms			None -AC

Peripheral Vascular - Tue November 15, 2016

	2000	0700	0418	0000
Edema				
Generalized Edema	None -LV	None -KW		None -AC
Facial	None -LV	None -KW		None -AC
RUE Edema	None -LV	None -KW		None -AC
LUE Edema	None -LV	None -KW		None -AC
RLE Edema	None -LV	None -KW		None -AC
LLE Edema	None -LV	None -KW		None -AC
RUE Neurovascular Assessment				
Capillary Refill	Less than/equal to 3 seconds -LV	Less than/equal to 3 seconds -KW	Less than/equal to 3 seconds -LV	Less than/equal to 3 seconds -AC
Color	Appropriate for ethnicity -LV	Appropriate for ethnicity -KW	Appropriate for ethnicity -LV	Appropriate for ethnicity -AC
Temperature	Warm -LV	Warm -KW	Warm -LV	Warm -AC
R Radial Pulse	+2 -LV	+2 -KW	+2 -LV	+2 -AC
LUE Neurovascular Assessment				
Capillary Refill	Less than/equal to 3 seconds -LV	Less than/equal to 3 seconds -KW	Less than/equal to 3 seconds -LV	Less than/equal to 3 seconds -AC
Color	Appropriate for ethnicity -LV	Appropriate for ethnicity -KW	Appropriate for ethnicity -LV	Appropriate for ethnicity -AC
Temperature	Warm -LV	Warm -KW	Warm -LV	Warm -AC
L Radial Pulse	+2 -LV	+2 -KW	+2 -LV	+2 -AC
RLE Neurovascular Assessment				
Capillary Refill	Less than/equal to 3 seconds -LV	Less than/equal to 3 seconds -KW	Less than/equal to 3 seconds -LV	Less than/equal to 3 seconds -AC
Color	Appropriate for ethnicity -LV	Appropriate for ethnicity -KW	Appropriate for ethnicity -LV	Appropriate for ethnicity -AC
Temperature	Warm -LV	Warm -KW	Warm -LV	Warm -AC
R Pedal Pulse	+2 -LV	+2 -KW	+2 -LV	+2 -AC
LLE Neurovascular Assessment				
Capillary Refill	Less than/equal to 3 seconds -LV	Less than/equal to 3 seconds -KW	Less than/equal to 3 seconds -LV	Less than/equal to 3 seconds -AC
Color	Appropriate for Ethnicity -LV	Appropriate for Ethnicity -KW	Appropriate for Ethnicity -LV	Appropriate for Ethnicity -AC
Temperature	Warm -LV	Warm -KW	Warm -LV	Warm -AC
L Pedal Pulse	+2 -LV	+2 -KW	+2 -LV	+2 -AC

Abuse Indicators - Tue November 15, 2016

	0012
Screening	
Safe in Home	Yes -AC
Safe in Relationship	Yes -AC
Are you in immediate danger?	No -AC
Is your partner at the health facility now?	No -AC

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Flowsheet (all recorded) (continued)

Abuse Indicators - Tue November 15, 2016 (continued)

0012	
Do you want to (or have to) go home with your partner?	Yes -AC
Do you have someplace safe to go?	Yes -AC
Have there been threats or direct abuse of you or your children?	No -AC
Are you afraid your life may be in danger?	No -AC
Has the violence gotten worse or is it getting scarier? More often?	No -AC
Has your partner used weapons, alcohol or drugs?	No -AC
Has your partner ever held you or your children against your will?	No -AC
Does your partner ever watch you closely, follow you or stalk you?	No -AC
Has your partner ever threatened to kill you, him/herself or your children?	No -AC

Patient Belongings - Tue November 15, 2016

0400	
Patient Belongings at Bedside	
Belongings at Bedside	Clothing -TT
Clothing	Pants; Shirt; Footwear -TT
Type of footwear	Tennis Shoes -TT

Specimen Collection Status - Tue November 15, 2016

D700		D417	
Specimen Collection Status			
Specimen Collection	Lab -KW	Lab -LV	

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Flowsheet (all recorded)

Custom Formula Data - Mon November 14, 2016

	2345	1834
Vitals Assessment		
Automatic Restart	Yes -AC	Yes -SS
Vitals Timer		

Triage Vitals - Mon November 14, 2016

	2345	1834
Vitals Assessment		
Restart Vitals Timer		Yes -SS
Automatic Restart	Yes -AC	Yes -SS
Vitals Timer		
Quick Triage Vitals		
BP	131/88 -AC	130/89 -SS
Pulse	66 -AC	112 -SS
Resp	18 -AC	20 -SS
Temp		99.3 °F (37.4 °C) -SS
SpO2	99 % -AC	98 % -SS
Currently in Pain		Yes -SS
Pain Assessment		
Pain Score		Seven -SS
Pain Type		Acute pain -SS
Pain Location		Head -SS
Pain Descriptors		Aching -SS
Vitals		
Pain Assessment		0-10 -SS
Oxygen Therapy		
O2 Device	None (Room air) -AC	

Immunization History - Mon November 14, 2016

*** No data found ***

Vital Signs - Mon November 14, 2016

	2345	1834
Vital Signs		
Temp		99.3 °F (37.4 °C) -SS
Pulse	66 -AC	112 -SS
Resp	18 -AC	20 -SS
BP	131/88 -AC	130/89 -SS
Currently in Pain		Yes -SS
Pain Assessment		
Pain Assessment		0-10 -SS
Pain Score		Seven -SS
Pain Type		Acute pain -SS
Pain Location		Head -SS
Pain Descriptors		Aching -SS
Oxygen Therapy		
SpO2	99 % -AC	98 % -SS
O2 Device	None (Room air) -AC	

Intake/Output - Mon November 14, 2016

*** No data found ***

IV Assessment - Mon November 14, 2016

*** No data found ***

Assessment - Mon November 14, 2016

*** No data found ***

Screenings - Mon November 14, 2016

	1832
Morse Fall Risk	
History of Falling	0 -SS

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Flowsheet (all recorded) (continued)

Screenings - Mon November 14, 2016 (continued)

	1832
Secondary Diagnosis	0 -SS
Ambulatory Aids	0 -SS
Intravenous Therapy/infusion	0 -SS
Gait/Transferring	0 -SS
Mental Status Score	0 -SS

Daily Cares/Safety - Mon November 14, 2016

	1832
Morse Fall Risk	
History of Falling	0 -SS
Secondary Diagnosis	0 -SS
Ambulatory Aids	0 -SS
Intravenous Therapy/infusion	0 -SS
Gait/Transferring	0 -SS
Mental Status Score	0 -SS

- Mon November 14, 2016

	1832
Triage Plan	
Patient Acuity	2 -SS
Deteriorating Condition instruction given?	Yes -SS

Triage Start - Mon November 14, 2016

	1835	1828
Triage Start		
Triage Start		Start -SS
Prehospital Treatment		
Prehospital Treatment	Yes -KE	No -SS
Prehospital Care		
Meds Prior to Arrival	16 units humulin @ 1535 -KE	
Language Assistant		
Preferred Language		English -SS
Patient FYI		
Prisoner?	Yes -SS	

Giving Handoff - Mon November 14, 2016

*** No data found ***

Receiving Handoff - Mon November 14, 2016

*** No data found ***

PT PLACED SERVICES - Mon November 14, 2016

*** No data found ***

Patient Safety Initial Screen - Mon November 14, 2016

	1832
Patient Safety Initial Screen	
Over the past 2 weeks, have you felt down, depressed, or hopeless?	No -SS
Over the past 2 weeks, have you had thoughts of harming/killing yourself?	No -SS
Have you ever attempted to harm/kill	No -SS

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Flowsheet (all recorded) (continued)

Patient Safety Initial Screen - Mon November 14, 2016 (continued)

1832				
yourself?				

Anthropometrics - Mon November 14, 2016

*** No data found ***

Viral Screening - Mon November 14, 2016

1828				
Viral Screening Questions				
In the last 21 days, has the patient been to Guinea or Sierra Leone?	No	-SS		
Has the patient been near persons or the remains of persons with Ebola?	No	-SS		
Does the patient have or in the past 21 days had any of the following symptoms?	None	-SS		
Patient is no longer an Ebola Risk	Remove Ebola BPA	-SS		
Ebola Risk Removal Reasons	Cleared/Not an Ebola Risk	-SS		

Focused Assessment - Mon November 14, 2016

2345	1834			
Breathing				
SpO2	99 % -AC	98 % -SS		

Neurological - Mon November 14, 2016

*** No data found ***

Cardiac/Telemetry - Mon November 14, 2016

*** No data found ***

Gastrointestinal - Mon November 14, 2016

*** No data found ***

Peripheral Vascular - Mon November 14, 2016

*** No data found ***

Abuse Indicators - Mon November 14, 2016

*** No data found ***

Patient Belongings - Mon November 14, 2016

*** No data found ***

Specimen Collection Status - Mon November 14, 2016

*** No data found ***

User Key

Initials	Name	Effective Dates
CM	Christina McClain, RN	09/09/14 -
AC	Angelle Candienne, RN	10/24/14 -
KE	Kathleen Ann Eppolito, RN	10/24/14 -
KF	Keisha Fisher, RN	09/09/14 -
KVV	Krystilia A Williams, RN	07/15/15 -
LP	Lesley C Payton, RN	01/16/15 -
LV	Lyndrell G Varise, RN	07/15/15 -
SS	Suzanne N Stuke, RN	06/22/15 -

(r) = Recorded By, (t) = Taken By, (c) = Cosigned By

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Flowsheet (all recorded) (continued)

User Key (continued)

Initials	Name	Effective Dates
TB	Tracy J Bickham	-
TT	Terez A Thompson, RN	01/16/15 -

(r) = Recorded By, (t) = Taken By, (c) = Cosigned By

Flowsheet Notes

No notes of this type exist for this encounter.

Scanned Information

Encounter-Level Documents - 11/14/2016:

Electronic signature on 11/15/2016 1:55 AM

Scan on 11/16/2016 7:21 AM by Joycelyn Williams (below)

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Scanned Information (continued)

Encounter-Level Documents - 11/14/2016: (continued)

S

MARLONE, CHRISTOPHER
 SAK: NONE
 CSN: 600055570708
 DOB: 12/5/1984 (31 yrs) SEX: M
 MRN: 1002440171
 Adm Date: 11/14/2016



Your Responsibilities

- You are expected to provide complete and accurate information, including your full name, address, and home telephone number, date of birth, Social Security number, insurance carrier and employer when it is required.
- You should provide the hospital or your doctor with a copy of your advance directive if you have one.
- You are expected to provide complete and accurate information about your health and medical history, including present condition, past illnesses, hospital stays, medicines, vitamins, herbal products, and any other matters that pertain to your health, including perceived safety risks.
- You are expected to ask questions when you do not understand information or instructions. If you believe you cannot follow through with your treatment plan, you are responsible for telling your doctor. You are responsible for outcomes if you do not follow the care, treatment, and service plan.
- You are expected to actively participate in your pain management plan and to keep your doctors and nurses informed of the effectiveness of your treatment.
- You are asked to please leave valuables at home and bring only necessary items for your hospital stay.
- You are expected to treat all hospital staff, other patients, and visitors with courtesy and respect; abide by all hospital rules and safety regulations; and be mindful of noise levels, privacy, and number of visitors.
- You are expected to provide complete and accurate information about your health insurance coverage and to pay your bills in a timely manner.
- You have the responsibility to keep appointments, be on time, and call your health care provider if you cannot keep your appointments.
- You have the responsibility to voice your concerns about the care you receive. If you have a problem or complaint, you should talk with your nurse, doctor, nurse manager, and/or a department manager. You may also contact the Executive Lead - Patient Experience at 504-702-3600.

Would you like to appoint a designated representative at this time? This person will be informed of medical information including but not limited to your diagnosis and medical testing.

A designated representative is defined as someone appointed by the patient to act on behalf of the patient when the patient is unable to do so, or when the patient has given permission to the designated representative to make decisions.

- Yes, proceed
 No, stop here

Appointed Designated Representative _____

Relationship to Patient _____

Home Phone Number _____ Cell Phone Number _____

Your signature below ensures you have reviewed your rights and responsibilities as a UMCNO patient.

Chris Marlowe

Signature of Patient or Patient's Designated Representative

Date: 11-15-16

Time: 1:56 pm

For inpatients only, please check the appropriate response:

- Yes, I received a UMCNO Patient Information booklet.
 No, one will be delivered prior to discharge.
 I declined a UMCNO Patient Information Handbook because I already have one.

Scan on 11/15/2016 8:38 AM by Berlyn Anne Martin : EKG (below)

UNIVERSITY MEDICAL CENTER - NO
2000 Canal St
New Orleans LA 70112
Inpatient Encounter

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

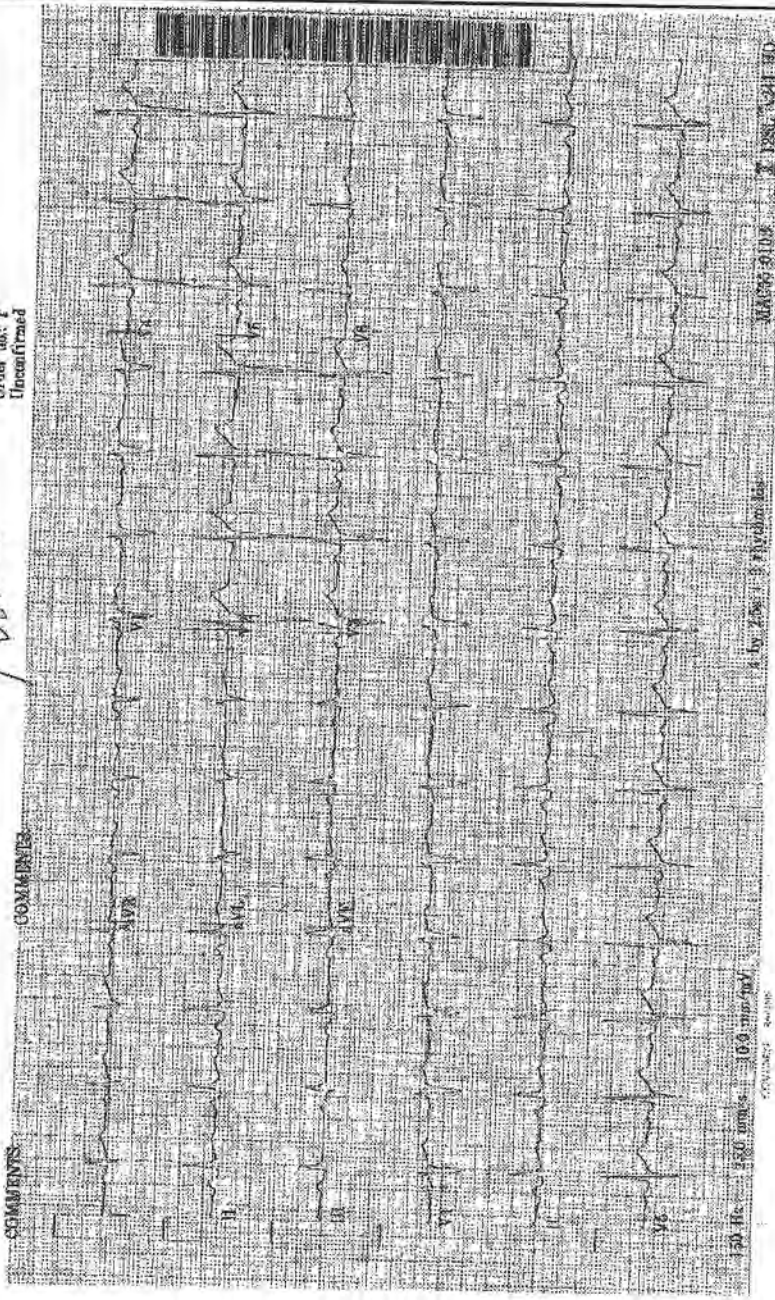
Scanned Information (continued)

Encounter-Level Documents - 11/14/2016: (continued)

5-Dec-1984
Male
Room: EMS
Vent. rate 87 bpm
PR interval 160 ms
QRS duration 102 ms
QT/QTc 382/436 ms
P-R-T axes 67 73 49
Normal sinus rhythm
Non-specific ST abnormality
Abnormal ECG
Technician: OMORRIS

Dr. Steiner 11/14/16
EMR

Order no: T
Unconfirmed



150 Hz 150 mm/s 10.0 mm/mV
MAR 15 9 10 AM '16
T 128L 021 10


Scan on 11/15/2016 9:45 AM by Iva J Adams (below)

UNIVERSITY MEDICAL CENTER - NO
2000 Canal St
New Orleans LA 70112
Inpatient Encounter

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

Scanned Information (continued)

Encounter-Level Documents - 11/14/2016: (continued)

FAX  **LSU Health**
UNIVERSITY MEDICAL CENTER

To: Isabel Conner From: Perkins Access (via phone)
 Fax: 505.842.2622 Page: (2)
 Patient: MRN# 1002440171 Date: 11-15-2016
 Ref: 1002440171 Cl: _____

Urgent For Review For Action Missed Page Missed Envelope

Comments:
Inpatient admit notification / observation admit
 "CORRECT CARE INTO HLT"

4/15/2016

Scan on 11/15/2016 9:45 AM by Iva J Adams (below)

UNIVERSITY MEDICAL CENTER - NO
 2000 Canal St
 New Orleans LA 70112
 Inpatient Encounter

MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

Scanned Information (continued)

Encounter-Level Documents - 11/14/2016: (continued)

<h1>LSU Health</h1> <p>UNIVERSITY MEDICAL CENTER - NO</p>	Encounter Date: 11/14/2016
	Hospital Acct: 52003306
	SPN: 09976-8315
	MRN: 1002440171
	Geosort: MARLONE, CHRISTOPHER Clinical Serial: 608155570708

ENCOUNTER	
Patient Class: Inpatient	Unit: LMCNO CAU
Hospital Service: Intergal Med/Surg	Room: 2964
Patient Type: OFFENDER INCARCERATED/CC*	Accident Related?: NO
Facility Class: PRISONER	Referring Physician:
Attending Provider: Alexandra Louise Silvert*	Adm Diagnosis: Hyperglycemia [E71.5]
Attending Provider: Alexandra Louise Silvert*	

PATIENT	
Name: MARLONE, CHRISTOPHER	DOB: 12/5/1984 (31 yrs)
Address: ELAIN HUNT CORRECTIONAL *	Sex: MALE
City: SAINT GABRIEL, LA 70776	Marital Status: SINGLE
Parish: IBERVILLE	Race: WHITE OR CAUCASIAN
Phone: 225-642-3386	Ethnicity: NON-HISPANIC
Religion: NON-DENOMINATIONAL	Language: ENGLISH
Advanced Directive: none information	Interpreter Needed: NO
Primary Care Provider:	Primary Phone: 225-642-3386

EMERGENCY CONTACT				
Contact Name	Local Guardian?	Relationship to Patient	Home Phone	Work Phone
J. Norman, Jr	Yes	Mother	0361213-5545	
2. Elain Hunt Correctional		Other	12251642-3386	

GUARANTOR	
Guarantor: MARLONE, CHRISTOPHER	DOB: 12/5/1984
Address: ELAIN HUNT CORRECTIONAL *	Sex: Male
Saint Gabriel, LA 70776	
Relation to Patient: Self	Home Phone: 225-642-3386
Guarantor ID: 1407074	Work Phone:

GUARANTOR EMPLOYER	
Employer: ELAIN HUNT	Status: PRISONER *

COVERAGE			
PRIMARY INSURANCE			
Plan: PRISONER STATE/LOCAL	Plan: CORRECT CARE INTG HLY		
Group Number:	Insurance Type: INDEMNITY		
Subscriber Name: MARLONE, CHRISTOPHER	Subscriber DOB: 12/05/1984		
Subscriber ID: 899-76-8315	Pat. Rel. to Subscriber: Self		

SECONDARY INSURANCE			
Plan:	Plan:		
Group Number:	Insurance Type:		
Subscriber Name:	Subscriber DOB:		
Subscriber ID:	Pat. Rel. to Subscriber:		

Contact Serial # (60035570708) Encounter ID: 2016 Chart ID (1002440171-1141-4)

Scan on 11/15/2016 9:45 AM by Iva J Adams (below)

UNIVERSITY MEDICAL CENTER - NO
 2000 Canal St
 New Orleans LA 70112
 Inpatient Encounter

MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

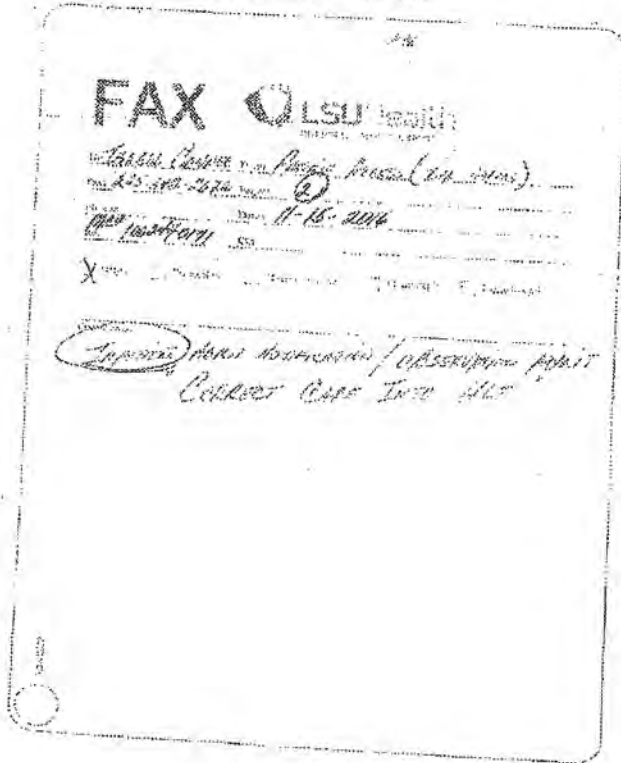
Scanned Information (continued)

Encounter-Level Documents - 11/14/2016: (continued)

Transmission Report

Date/Time: 11-15-2016 09:27:58
 Local ID 1: S047022373
 Transmit Header Text: UMC Case Management
 Local Name 1:

This document : Confirmed
 (reduced sample and details below)
 Document size : 8.5"x11"



Total Pages Scanned : 2			Total Pages Confirmed : 2						
No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	656	1285422622	09:28:09 11-15-2016	06:06:53	2/2	1	EC	HS	C21000

Abbreviations:
 EC: Error Correct
 ER: Error Report
 MS: Mailbox save
 FF: Fax Forward
 TLF: Terminated by user
 EC: Error Correct

ED Records

ED Arrival Information

Expected	Arrival	Acuity	Means of Arrival	Escorted By	Service	Admission Type
-	11/14/2016	Emergent	Police	Police (HUNT)	Internal	Emergency

Printed on 4/5/2017 9:56 AM

UNIVERSITY MEDICAL CENTER - NO
2000 Canal St
New Orleans LA 70112
ED Record

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

ED Records (continued)**ED Arrival Information (continued)**

Expected	Arrival	Acuity	Means of Arrival	Escorted By	Service	Admission Type
	18:27				Medicine	
Arrival Complaint						
Hyperglycemia						

Chief Complaint

Hyperglycemia [160285]

Diagnosis

Hyperglycemia

ED Events

Date/Time	Event	User	Comments
11/14/16 1827	Patient arrived in ED	STUKE, SUZANNE N	
11/14/16 1827	Patient expected in ED	STUKE, SUZANNE N	
11/14/16 1828		STUKE, SUZANNE N	
11/14/16 1828		STUKE, SUZANNE N	
11/14/16 1828		STUKE, SUZANNE N	
11/14/16 1828	Triage Started	STUKE, SUZANNE N	
11/14/16 1832	Triage Completed	STUKE, SUZANNE N	
11/14/16 1832	ED LSU DETERIORATING CONDITION	STUKE, SUZANNE N	
11/14/16 1833	Lab Ordered	STUKE, SUZANNE N	TRIAGE TROPONIN, HIV ANTIGEN/ANTIBODY COMBO, COMPREHENSIVE METABOLIC PANEL EKG 12 LEAD UNIT PERFORMED
11/14/16 1833	EKG Ordered	STUKE, SUZANNE N	
11/14/16 1834	Vitals Assessment	STUKE, SUZANNE N	
11/14/16 1835	Vitals Assessment	STUKE, SUZANNE N	
11/14/16 1836	Prisoner patient	STUKE, SUZANNE N	
11/14/16 1836	Patient roomed in ED	STUKE, SUZANNE N	To room 2644
11/14/16 1838	Lab Ordered	STUKE, SUZANNE N	CBC AND DIFFERENTIAL
11/14/16 1838	Patient transferred	STUKE, SUZANNE N	From room 2644 to room Wait
11/14/16 1925	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) CBC AND DIFFERENTIAL
11/14/16 1926	Lab Ordered	EDI, LAB IN HLSEVEN	BLOOD GAS VENOUS
11/14/16 1926	Lab Ordered	EDI, LAB IN HLSEVEN	GLUCOSE (RESP THERAPY)
11/14/16 1926	Lab Ordered	EDI, LAB IN HLSEVEN	NA (RESP THERAPY)
11/14/16 1926	Lab Ordered	EDI, LAB IN HLSEVEN	K (RESP THERAPY)
11/14/16 1926	Lab Ordered	EDI, LAB IN HLSEVEN	IONIZED CA (RESP THERAPY)
11/14/16 1926	Lab Ordered	EDI, LAB IN HLSEVEN	CL (RESP THERAPY)
11/14/16 1927	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) BLOOD GAS, VENOUS
11/14/16 1928	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) GLUCOSE (RESP THERAPY)
11/14/16 1928	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) NA (RESP THERAPY)
11/14/16 1928	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) K (RESP THERAPY)
11/14/16 1928	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) IONIZED CA (RESP THERAPY)
11/14/16 1928	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) TRIAGE TROPONIN
11/14/16 1928	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) CL (RESP THERAPY)
11/14/16 1937	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) COMPREHENSIVE

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UNIVERSITY MEDICAL CENTER - NO
2000 Canal St
New Orleans LA 70112
ED Record

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

ED Records (continued)

ED Events (continued)

Date/Time	Event	User	Comments
11/14/16 2014	Ultrasound Final Result	EDI, EXTERNAL RIS IN	METABOLIC PANEL (Final result) EKG 12 LEAD UNIT PERFORMED
11/14/16 2018		TUCKLER, VICTOR	
11/14/16 2018		TUCKLER, VICTOR	
11/14/16 2018	Lab Ordered	TUCKLER, VICTOR	PHOSPHORUS, LIPASE, HEMOGLOBIN A1C, BETA-HYDROXYBUTYRIC ACID, URINALYSIS
11/14/16 2028	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) HIV ANTIGEN/ANTIBODY COMBO
11/14/16 2059	Assign Attending	TUCKLER, VICTOR	Victor Edgar Tuckler, MD assigned as Attending
11/14/16 2059	Assign Physician	TUCKLER, VICTOR	
11/14/16 2059	Patient contact filed	TUCKLER, VICTOR	
11/14/16 2326	Patient transferred	JONES, FRANK K	From room Wait to room 2520
11/14/16 2326	Assign Nurse	CANCIENNE, ANGELLE	Angelle Cancienne, RN assigned as Registered Nurse
11/14/16 2345	Vitals Assessment	CANCIENNE, ANGELLE	
11/14/16 2357	Lab Ordered	EDI, LAB IN HLSEVEN	BETA-HYDROXYBUTYRIC ACID
11/14/16 2357	Lab Ordered	EDI, LAB IN HLSEVEN	HEMOGLOBIN A1C
11/14/16 2357	Lab Ordered	EDI, LAB IN HLSEVEN	LIPASE
11/14/16 2357	Lab Ordered	EDI, LAB IN HLSEVEN	PHOSPHORUS
11/15/16 0000	ED Census	TUCKLER, VICTOR	
11/15/16 0012		CANCIENNE, ANGELLE	
11/15/16 0013	Consult Called	TUCKLER, VICTOR	
11/15/16 0014	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) BETA-HYDROXYBUTYRIC ACID
11/15/16 0014	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) LIPASE
11/15/16 0014	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) PHOSPHORUS
11/15/16 0104	Assign Attending	VARLEY, CARA	SILVERTON, A assigned as Attending Provider
11/15/16 0104	ED Boarder Patient	VARLEY, CARA	
11/15/16 0106	Admit Disposition Selected	VARLEY, CARA	ED Disposition set to Admit
11/15/16 0106	Disposition Selected	VARLEY, CARA	
11/15/16 0106	Bed Requested	VARLEY, CARA	ED ADMIT TO INPATIENT
11/15/16 0106	Assign Physician	VARLEY, CARA	
11/15/16 0106	Bed Requested	VARLEY, CARA	Requested: Internal Medicine
11/15/16 0106	Bed Request Ready to Plan	VARLEY, CARA	Ready to Plan: Internal Medicine
11/15/16 0112		VARLEY, CARA	
11/15/16 0112	Lab Ordered	VARLEY, CARA	BASIC METABOLIC PANEL
11/15/16 0112		VARLEY, CARA	
11/15/16 0112	Lab Ordered	VARLEY, CARA	URINALYSIS
11/15/16 0124	Consult Ordered	VARLEY, CARA	IP CONSULT TO NUTRITION, IP CONSULT TO DIABETES EDUCATOR
11/15/16 0142	Lab Ordered	VARLEY, CARA	INSULIN ANTIBODY
11/15/16 0142	Lab Ordered	VARLEY, CARA	GAD-65 AB
11/15/16 0148	Physician LOS Filed	TUCKLER, VICTOR	LOS Code 99285 filed

UNIVERSITY MEDICAL CENTER - NO
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New Orleans LA 70112
ED Record

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

ED Records (continued)

ED Events (continued)

Date/Time	Event	User	Comments
11/15/16 0157	Registration Completed	WILLIAMS, JOYCELYN	
11/15/16 0205	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) HEMOGLOBIN A1C
11/15/16 0223	IP Bed Assigned	HALL, NATASHA	
11/15/16 0223	Bed Assigned	HALL, NATASHA	Assigned: UMCNO CAU - 2984/2984
11/15/16 0349	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) BASIC METABOLIC PANEL
11/15/16 0349	Lab Resulted	EDI, LAB IN HLSEVEN	(Final result) BASIC METABOLIC PANEL
11/15/16 0352	ED SPECIMEN UNIT COLLECT	TUCKLER, VICTOR	Specimen collected by ED - Urinalysis - [79962017]
11/15/16 0352	ED SPECIMEN UNIT COLLECT	VARLEY, CARA	Specimen collected by ED - Urinalysis - [79966531]
11/15/16 0414	Vitals Assessment	THOMPSON, TEREZ	
11/15/16 0414		THOMPSON, TEREZ	
11/15/16 0414	Patient admitted	THOMPSON, TEREZ	To department UMCNO CAU
11/15/16 0414	Billing Extract Generated	THOMPSON, TEREZ	
11/15/16 0414	Patient departed from ED	THOMPSON, TEREZ	
11/15/16 0414		THOMPSON, TEREZ	
11/15/16 0414		THOMPSON, TEREZ	
11/15/16 0414	Charting Complete	SILVERTON, ALEXANDRA	
11/15/16 0414	Charting Complete	CANCIENNE, ANGELLE	
11/15/16 0414	Charting Complete	CERVANTES, NICOLE	
11/15/16 0414	Charting Complete	RAYMOND, ROBERT	
11/15/16 0414	Charting Complete	SHEALY, KRISTEN	
11/15/16 0414	Charting Complete	SAYDE, GEORGE	
11/15/16 0414	Charting Complete	TRIVELLAS, ANDROMAHI	
11/15/16 0523	Charting Complete	VARISE, LYNDRELL G	
11/15/16 0727	Charting Complete	WILLIAMS, KRYSTILIA A	
11/15/16 0800	Vitals Assessment	BICKHAM, TRACY J	
11/15/16 1618		SHEALY, KRISTEN	
11/15/16 2000	Vitals Assessment	VARISE, LYNDRELL G	
11/16/16 0000	Vitals Assessment	VARISE, LYNDRELL G	
11/16/16 0400	Vitals Assessment	VARISE, LYNDRELL G	
11/16/16 0710	Charting Complete	FISHER, KEISHA	
11/16/16 0730	Vitals Assessment	FISHER, KEISHA	
11/16/16 1140	Vitals Assessment	FISHER, KEISHA	
11/16/16 1624	Vitals Assessment	FISHER, KEISHA	
11/16/16 1943	Charting Complete	MCCLAIN, CHRISTINA	
11/16/16 2000	Vitals Assessment	MCCLAIN, CHRISTINA	
11/17/16 0400	Vitals Assessment	MCCLAIN, CHRISTINA	
11/17/16 0745	Vitals Assessment	PAYTON, LESLEY C	
11/17/16 0745	Charting Complete	PAYTON, LESLEY C	
11/17/16 1400		RAYMOND, ROBERT	
11/17/16 1400		RAYMOND, ROBERT	
11/17/16 1413		RAYMOND, ROBERT	
11/17/16 1423		PAYTON, LESLEY C	
11/17/16 1423		PAYTON, LESLEY C	

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MARLONE, CHRISTOPHER
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 Adm: 11/14/2016, D/C: 11/17/2016

ED Records (continued)

ED Events (continued)

Date/Time	Event	User	Comments
11/17/16 1423		PAYTON, LESLEY C	
11/17/16 1423		PAYTON, LESLEY C	
11/17/16 1449		RAYMOND, ROBERT	
11/17/16 1449		RAYMOND, ROBERT	
11/17/16 1454		PAYTON, LESLEY C	
11/17/16 1454		PAYTON, LESLEY C	
11/17/16 1454		PAYTON, LESLEY C	
11/17/16 1454		PAYTON, LESLEY C	
11/17/16 1456		RAYMOND, ROBERT	
11/17/16 1456		RAYMOND, ROBERT	
11/17/16 1457		PAYTON, LESLEY C	
11/17/16 1457		PAYTON, LESLEY C	
11/17/16 1457		PAYTON, LESLEY C	
11/17/16 1457		PAYTON, LESLEY C	
11/17/16 1513		PAYTON, LESLEY C	
11/17/16 1513		PAYTON, LESLEY C	
11/17/16 1513		PAYTON, LESLEY C	
11/26/16 0745	Charting Complete	TUCKLER, VICTOR	Auto-retract event: New reminders
01/19/17 1536	Manual Professional Billing Extract Sent	ITZKOWITZ, EMILY	

ED Treatment Team

Provider	Role	From	To	Phone	Pager
Victor Edgar Tuckler, MD	Attending Provider	11/14/16 2059	11/15/16 0103	504-903-3000	504-664-5383
Angelle Cancienne, RN	Registered Nurse	11/14/16 2326	11/15/16 0414		
Alexandra Louise Silverton, MD	Admitting Provider	--	--	504-702-5700	

Discharge Orders

None

ED Notes

ED Triage Notes by Suzanne N Stuke, RN at 11/14/2016 6:28 PM

Version 1 of 1

Author: Suzanne N Stuke, RN Service: (none) Author Type: Registered Nurse
 Filed: 11/14/2016 6:30 PM Date of Service: 11/14/2016 6:28 PM Status: Signed
 Editor: Suzanne N Stuke, RN (Registered Nurse)

Paper work reports fasting BS greater than 400. + polyuria, polydipsia. Lab work glucose 896^{SS1.1}

Electronically signed by Suzanne N Stuke, RN at 11/14/2016 6:30 PM

Revision History

User Key	Date/Time	User	Provider Type	Action
> SS1.1	11/14/2016 6:30 PM	Suzanne N Stuke, RN	Registered Nurse	Sign

UNIVERSITY MEDICAL CENTER - NO
2000 Canal St
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ED Record

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

ED Notes (continued)

ED Provider Notes by Victor Edgar Tuckler, MD at 11/14/2016 8:16 PM

Version 1 of 1

Author: Victor Edgar Tuckler, MD Service: Emergency Medicine Author Type: Physician
Filed: 11/14/2016 8:17 PM Date of Service: 11/14/2016 8:16 PM Status: Signed
Editor: Victor Edgar Tuckler, MD (Physician)

8:16 PM 11/14/16

ED is on saturation.

ED SATURATION / TRIAGE PHYSICIAN NOTE

Triage assessment class 2, urgent

Christopher Marlone 31 y.o. arrived at 1827 on 11/14/16 presents with **Chief Complaint**

Patient presents with

- Hyperglycemia

Paper work reports fasting BS greater than 400. + polyuria, polydipsia. Lab work glucose 896

There are no active problems to display for this patient.

History reviewed. No pertinent past medical history.

**Home Medications:
Prior to Admission
medications**

Not on File

No current facility-administered medications for this encounter.

No current outpatient prescriptions on file.

Patient's Medications

No medications on file

Allergies: Review of patient's allergies indicates no known allergies.

Allergies as of 11/14/2016

- (No Known Allergies)

No Known Allergies

History reviewed. No pertinent past medical history.

History reviewed. No pertinent past surgical history.

reports that he has never smoked. He does not have any smokeless tobacco history on file. He reports that he does not drink alcohol or use illicit drugs.

No family history on file.

There is no immunization history on file for this patient.

Printed on 4/5/2017 9:56 AM

UNIVERSITY MEDICAL CENTER - NO
 2000 Canal St
 New Orleans LA 70112
 ED Record

MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

ED Notes (continued)

ED Provider Notes by Victor Edgar Tuckler, MD at 11/14/2016 8:16 PM (continued)

Version 1 of 1

No future appointments.

No LMP for male patient.

Physical Exam

VS reviewed

Blood pressure 130/89, pulse 112, temperature 99.3 °F (37.4 °C), resp. rate 20, SpO2 98 %.

Vitals:

	11/14/16 1834
BP:	130/89
Pulse:	112
Resp:	20
Temp:	99.3 °F (37.4 °C)
SpO2:	98%

Vitals:

	11/14/16 1834
BP:	130/89
Pulse:	112
Resp:	20
Temp:	99.3 °F (37.4 °C)
SpO2:	98%

ED Triage Vitals		
Enc Vitals Group		
BP	11/14/16 1834	130/89
Heart Rate	11/14/16 1834	112
Resp	11/14/16 1834	20
Temp	11/14/16 1834	99.3 °F (37.4 °C)
Temp src	--	
SpO2	11/14/16 1834	98 %
Weight	--	
Height	--	
Head Cir	--	
Peak Flow	--	
Pain Score	11/14/16 1834	Seven
Pain Loc	--	
Pain Edu?	--	
Excl. in GC?	--	

Nursing notes reviewed

Printed on 4/5/2017 9:56 AM

UNIVERSITY MEDICAL CENTER - NO
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MARLONE, CHRISTOPHER
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ED Notes (continued)

ED Provider Notes by Victor Edgar Tuckler, MD at 11/14/2016 8:16 PM (continued)

Version 1 of 1

Vital signs and Pulse Ox reviewed

No Beds in MAIN ED.

Prelims orders done to facilitate patient care per ED section protocol.

Patient is awaiting full eval/exam in ED when bed is available.

Christopher Marlone is aware and understands that the ED is on saturation.

Victor Tuckler MD, ED FACULTY^[VT1.1]

Victor Edgar Tuckler, MD
 11/14/16 2017
^[VT1.2]

Electronically signed by Victor Edgar Tuckler, MD at 11/14/2016 8:17 PM

Revision History

User Key	Date/Time	User	Provider Type	Action
> VT1.2	11/14/2016 8:17 PM	Victor Edgar Tuckler, MD	Physician	Sign
VT1.1	11/14/2016 8:16 PM	Victor Edgar Tuckler, MD	Physician	

ED Notes by Angelle Cancienne, RN at 11/14/2016 11:55 PM

Version 1 of 1

Author: Angelle Cancienne, RN Service: (none) Author Type: Registered Nurse
 Filed: 11/15/2016 12:18 AM Date of Service: 11/14/2016 11:55 PM Status: Signed
 Editor: Angelle Cancienne, RN (Registered Nurse)

Pt to ER from Hunt correctional facility reporting high blood sugar x1 week. Per paperwork pt CBG was 900 and A1C >17. + Polyuria/polydipsia/polyphagia. Pt also reports tingling in Bilat toes x2 months. CBG 184 at this time. Pt currently denies any pain/discomfort. VSS. NAD noted. SR up x2. Bed locked/low. MD at bedside assessing pt. Further assessment per flow sheet. ER workup in progress.^[AC1.1]

Electronically signed by Angelle Cancienne, RN at 11/15/2016 12:18 AM

Revision History

User Key	Date/Time	User	Provider Type	Action
> AC1.1	11/15/2016 12:18 AM	Angelle Cancienne, RN	Registered Nurse	Sign

ED Notes by Angelle Cancienne, RN at 11/15/2016 3:42 AM

Version 1 of 1

Author: Angelle Cancienne, RN Service: (none) Author Type: Registered Nurse
 Filed: 11/15/2016 3:43 AM Date of Service: 11/15/2016 3:42 AM Status: Signed
 Editor: Angelle Cancienne, RN (Registered Nurse)

UNIVERSITY MEDICAL CENTER - NO
 2000 Canal St
 New Orleans LA 70112
 ED Record

MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

ED Notes (continued)

ED Notes by Angelle Cancienne, RN at 11/15/2016 3:42 AM (continued)

Version 1 of 1

Report called to T Thompson, RN. SBAR used. Pt escorted to CAU with hospital police and Hunt correctional officer.^[AC1.1]

Electronically signed by Angelle Cancienne, RN at 11/15/2016 3:43 AM

Revision History

User Key	Date/Time	User	Provider Type	Action
> AC1.1	11/15/2016 3:43 AM	Angelle Cancienne, RN	Registered Nurse	Sign

ED Orders (From 11/14/16 0000 through 11/15/16 0414)

Start	Ordered		Status	Ordering Provider
11/14/16 2348	11/14/16 2348	POCT Glucose, Point of Care Device ONCE	Final result	TUCKLER, VICTOR EDGAR
11/14/16 2101	11/14/16 2101	POCT Glucose, Point of Care Device ONCE	Final result	TUCKLER, VICTOR EDGAR
11/14/16 2018	11/14/16 2018	Urinalysis ONCE	Final result	TUCKLER, VICTOR EDGAR
11/14/16 1923	11/14/16 1923	Blood gas, venous ONCE	Final result	DOCTOR HCSD, UNASSIGNED
11/14/16 1923	11/14/16 1923	GLUCOSE (RESP THERAPY) ONCE	Final result	DOCTOR HCSD, UNASSIGNED
11/14/16 1923	11/14/16 1923	NA (RESP THERAPY) ONCE	Final result	DOCTOR HCSD, UNASSIGNED
11/14/16 1923	11/14/16 1923	K (RESP THERAPY) ONCE	Final result	DOCTOR HCSD, UNASSIGNED
11/14/16 1923	11/14/16 1923	IONIZED CA (RESP THERAPY) ONCE	Final result	DOCTOR HCSD, UNASSIGNED
11/14/16 1923	11/14/16 1923	CL (RESP THERAPY) ONCE	Final result	DOCTOR HCSD, UNASSIGNED
11/14/16 1856	11/14/16 1855	POCT glucose ONCE	Final result	DETIEGE, PIERRE
11/14/16 1852	11/14/16 1852	POCT Glucose, Point of Care Device ONCE	Final result	DOCTOR HCSD, UNASSIGNED
11/14/16 1842	11/14/16 1842	BETA-HYDROXYBUTYRIC ACID ONCE	Final result	SUAU, SALVADOR JAVIER
11/14/16 1842	11/14/16 1842	Hemoglobin A1c ONCE	Final result	SUAU, SALVADOR JAVIER
11/14/16 1842	11/14/16 1842	Lipase ONCE	Final result	SUAU, SALVADOR JAVIER
11/14/16 1842	11/14/16 1842	Phosphorus ONCE	Final result	SUAU, SALVADOR JAVIER
11/14/16 1839	11/14/16 1838	CBC and differential ONCE	Final result	SUAU, SALVADOR JAVIER
11/14/16 1834	11/14/16 1833	Blood Gases, Venous ONCE Comments: Venous	Completed by PEREZ, ANNETTE K on 11/14/2016 at 7:38 PM	SUAU, SALVADOR JAVIER
11/14/16 1833	11/14/16 1833	EKG 12 lead unit performed ONCE	Final result	SUAU, SALVADOR JAVIER

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ED Orders (continued) (From 11/14/16 0000 through 11/15/16 0414)

Start	Ordered		Status	Ordering Provider
11/14/16 1833	11/14/16 1833	Comprehensive metabolic panel ONCE	Final result	SUAU, SALVADOR JAVIER
11/14/16 1833	11/14/16 1833	HIV Antigen/Antibody Combo ONCE	Final result	SUAU, SALVADOR JAVIER
11/14/16 1833	11/14/16 1833	Troponin (ED Only) ONCE	Final result	SUAU, SALVADOR JAVIER

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Lab Results (11/14/2016 - 11/15/2016)

Comprehensive metabolic panel [79961990]

Resulted: 11/14/16 1911, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Blood	BLOOD	11/14/16 1842

Troponin (ED Only) [79961992]

Resulted: 11/14/16 1911, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Blood	BLOOD	11/14/16 1842

CBC and differential [79961995]

Resulted: 11/14/16 1911, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1838 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Blood	BLOOD	11/14/16 1842

CBC and differential [79961995]

Resulted: 11/14/16 1925, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1838 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Blood	BLOOD	11/14/16 1842

Components

	Value	Reference Range	Flag	Lab
CBC PROFILE	RESULTS:			
WBC	7.9	4.5 - 11.0 10 ³ /UL		
Red Blood Cell Count	4.97	4.50 - 5.90 10 ⁶ /UL		
Hemoglobin	15.3	13.5 - 17.5 GM/DL		
Hematocrit	45.5	40.0 - 51.0 %		
MCV	91.4	80.0 - 100.0 FL		
MCH	30.7	26.0 - 34.0 PG		
MCHC	33.6	31.0 - 37.0 G/DL		
RDW	13.3	11.5 - 14.5 %		
Platelet Cnt	281	130 - 400 10 ³ /UL		
MPV	8.5	7.4 - 10.4 FL		
DIFFERENTIAL	RESULTS:			
Differential Type	AUTO			

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Lab Results (11/14/2016 - 11/15/2016) (continued)

CBC and differential [79961995] (continued)

Resulted: 11/14/16 1925, Result status: Final result

Neutrophils Absolute	4.1	1.8 - 8.0
Lymphocytes Absolute	2.9	10 ³ /UL 1.1 - 5.0
Monocytes Absolute	0.8	10 ³ /UL 0.2 - 1.1
Eosinophils Absolute	0.1	10 ³ /UL 0.0 - 0.6
Basophils Absolute	0.1	10 ³ /UL 0.0 - 0.2
Neutrophils Relatives	51	%
Lymphocytes Relative	37	%
Monocytes Relative	10	%
Eosinophils Relative	1	%
Basophils Relative	1	%

Blood gas, venous [79962001]

Resulted: 11/14/16 1927, Result status: In process

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1923

Blood gas, venous [79962001] (Abnormal)

Resulted: 11/14/16 1927, Result status: Final result

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1923

Components

	Value	Reference Range	Flag	Lab
pH, Ven	7.38	7.32 - 7.42		
pCO ₂ , Ven	57	41 - 51 mmHg	H	
Hemoglobin	15.0	12.0 - 18.0 g/dL		
Hematocrit	45.0	38.0 - 48.0 %		
Carboxyhemoglobin	1.0	0.0 - 3.0 %		
Methemoglobin	0.7	0.0 - 1.5 %		
HCO ₃ , Venous	33.7	25.0 - 40.0 mmol/L		
SAMPLE DRAW DEVICE	PUNCTUR			
Site	E			
	RIGHT			
	ARM			
PERFORMED BY	APEREZ			
FIO ₂	21.0	%		

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Lab Results (11/14/2016 - 11/15/2016) (continued)

GLUCOSE (RESP THERAPY) [79962003]

Resulted: 11/14/16 1927, Result status: In process

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1923

GLUCOSE (RESP THERAPY) [79962003] (Abnormal)

Resulted: 11/14/16 1928, Result status: Final result

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1923

Components

	Value	Reference Range	Flag	Lab
GLUCOSE (RESP THERAPY)	129	65 - 99 mg/dL	H	

NA (RESP THERAPY) [79962005]

Resulted: 11/14/16 1928, Result status: In process

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1923

NA (RESP THERAPY) [79962005]

Resulted: 11/14/16 1928, Result status: Final result

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1923

Components

	Value	Reference Range	Flag	Lab
NA (RESP THERAPY)	140	135 - 145 mmol/L		

K (RESP THERAPY) [79962007]

Resulted: 11/14/16 1928, Result status: In process

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1923

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Lab Results (11/14/2016 - 11/15/2016) (continued)

IONIZED CA (RESP THERAPY) [79962009]

Resulted: 11/14/16 1928, Result status: In process

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1923

K (RESP THERAPY) [79962007]

Resulted: 11/14/16 1928, Result status: Final result

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1923

Components

	Value	Reference Range	Flag	Lab
K (RESP THERAPY)	3.5	3.5 - 5.2 mmol/L		

IONIZED CA (RESP THERAPY) [79962009] (Abnormal)

Resulted: 11/14/16 1928, Result status: Final result

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1923

Components

	Value	Reference Range	Flag	Lab
IONIZED CALCIUM (RESP. THERAPY)	1.41	1.10 - 1.30 mmol/L	H	

Troponin (ED Only) [79961992]

Resulted: 11/14/16 1928, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Blood	BLOOD	11/14/16 1842

Components

	Value	Reference Range	Flag	Lab
ISTAT TROPONIN	<0.02	<0.09 NG/ML		

CL (RESP THERAPY) [79962011]

Resulted: 11/14/16 1928, Result status: In process

Ordering provider: Unassigned Doctor Hcscd 11/14/16 1923 Resulting lab: HCSD SUNQUEST

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Lab Results (11/14/2016 - 11/15/2016) (continued)

CL (RESP THERAPY) [79962011] (continued)

Resulted: 11/14/16 1928, Result status: In process

Specimen Collection

Type	Source	Collected On
		11/14/16 1923

CL (RESP THERAPY) [79962011]

Resulted: 11/14/16 1928, Result status: Final result

Ordering provider: Unassigned Doctor Hcsc 11/14/16 1923

Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1923

Components

	Value	Reference Range	Flag	Lab
CL (RESP THERAPY)	103	96 - 110 mmol/L		

HIV Antigen/Antibody Combo [79961991]

Resulted: 11/14/16 1931, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833

Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Blood	BLOOD	11/14/16 1838

Comprehensive metabolic panel [79961990] (Abnormal)

Resulted: 11/14/16 1937, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833

Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Blood	BLOOD	11/14/16 1842

Components

	Value	Reference Range	Flag	Lab
Sodium	141	135 - 146		
Potassium	3.9	MMOL/L 3.6 - 5.2		
Chloride	100	MMOL/L 96 - 110		
CO2	29	MMOL/L 24 - 32		
Glucose	119	65 - 99 MG/DL	H	
BUN	14	7 - 25 MG/DL		
Creatinine	1.02	0.70 - 1.40		
Calcium	11.4	MG/DL 8.4 - 10.3	H	
Total Protein	7.9	MG/DL 6.0 - 8.0		
ALBUMIN	5.0	3.4 - 5.0 GM/DL		

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Lab Results (11/14/2016 - 11/15/2016) (continued)

Comprehensive metabolic panel [79961990] (Abnormal) (continued)

Resulted: 11/14/16 1937, Result status: Final result

Total Bilirubin	0.6	<1.3 MG/DL
AST	34	<45 U/L
Alkaline Phosphatase	115	20 - 120 U/L
ALT	40	<46 U/L
GFR MDRD Non Af Amer	97	>89 mL/MIN
GFR MDRD Af Amer	>105	>89 mL/MIN

HIV Antigen/Antibody Combo [79961991]

Resulted: 11/14/16 2028, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Blood	BLOOD	11/14/16 1838

Components

	Value	Reference Range	Flag	Lab
HIV ANTIGEN/ANTIBODY COMBO	NON REACTIVE	NON REACTIVE		

BETA-HYDROXYBUTYRIC ACID [79962025]

Resulted: 11/14/16 2358, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1842

Hemoglobin A1c [79962027]

Resulted: 11/14/16 2358, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1842

Lipase [79962029]

Resulted: 11/14/16 2358, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1842

Phosphorus [79962031]

Resulted: 11/14/16 2359, Result status: In process

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

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Lab Results (11/14/2016 - 11/15/2016) (continued)

Phosphorus [79962031] (continued)

Resulted: 11/14/16 2359, Result status: In process

Specimen Collection

Type	Source	Collected On
		11/14/16 1842

BETA-HYDROXYBUTYRIC ACID [79962025]

Resulted: 11/15/16 0014, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1842

Components

	Value	Reference Range	Flag	Lab
OH BUTYRATE SERUM	0.26	<0.3 MMOL/L		

Lipase [79962029]

Resulted: 11/15/16 0014, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1842

Components

	Value	Reference Range	Flag	Lab
Lipase	28	<90 U/L		

Phosphorus [79962031]

Resulted: 11/15/16 0014, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1842

Components

	Value	Reference Range	Flag	Lab
Phosphorus	4.0	2.5 - 4.7 MG/DL		

Hemoglobin A1c [79962027] (Abnormal)

Resulted: 11/15/16 0205, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1842 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
		11/14/16 1842

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Lab Results (11/14/2016 - 11/15/2016) (continued)

Hemoglobin A1c [79962027] (Abnormal) (continued)

Resulted: 11/15/16 0205, Result status: Final result

Components

	Value	Reference Range	Flag	Lab
Hemoglobin A1C	20.3	4.7 - 5.6 %	H	

Comment:
 HA1C= 4.7%-5.6%—NORMAL REFERENCE RANGE
 HA1C= 5.7%-6.4%—INCREASED RISK FOR DIABETES
 HA1C= >6.4% (CONFIRMED)—DIAGNOSTIC OF DIABETES
 HA1C= <7.0%—ADULT GLYCEMIC CONTROL TARGET

EAG (Estimated Average Glucose)	>400	<115 mg/dL	H	
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Basic metabolic panel [79966529]

Resulted: 11/15/16 0313, Result status: In process

Ordering provider: Cara Varley, MD 11/15/16 0112

Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Blood	BLOOD	11/15/16 0201

Basic metabolic panel [79966529] (Abnormal)

Resulted: 11/15/16 0349, Result status: Final result

Ordering provider: Cara Varley, MD 11/15/16 0112

Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Blood	BLOOD	11/15/16 0201

Components

	Value	Reference Range	Flag	Lab
Sodium	132	135 - 146	L	
Potassium	4.5	3.6 - 5.2		
Chloride	99	96 - 110		
CO2	23	24 - 32 MMOL/L	L	
Glucose	405	65 - 99 MG/DL	H	
BUN	14	7 - 25 MG/DL		
Creatinine	0.84	0.70 - 1.40		
Calcium	8.9	8.4 - 10.3		
GFR MDRD Non Af Amer	>105	>89 mL/MIN		
GFR MDRD Af Amer	>105	>89 mL/MIN		

Basic metabolic panel [79966529] (Abnormal)

Resulted: 11/15/16 0349, Result status: Final result

Ordering provider: Cara Varley, MD 11/15/16 0112

Resulting lab: HCSD SUNQUEST

Specimen Collection

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Lab Results (11/14/2016 - 11/15/2016) (continued)

Basic metabolic panel [79966529] (Abnormal) (continued)

Resulted: 11/15/16 0349, Result status: Final result

Type	Source	Collected On
Blood	BLOOD	11/15/16 0201

Components

	Value	Reference Range	Flag	Lab
Sodium	132	135 - 146 MMOL/L	L	
Potassium	4.5	3.6 - 5.2 MMOL/L		
Chloride	99	96 - 110 MMOL/L		
CO2	23	24 - 32 MMOL/L	L	
Glucose	405	65 - 99 MG/DL	H	
BUN	14	7 - 25 MG/DL		
Creatinine	0.84	0.70 - 1.40 MG/DL		
Calcium	8.9	8.4 - 10.3 MG/DL		

Comment: RESULT CHECKED
 INCONSISTENT WITH PREVIOUS RESULTS

GFR MDRD Non Af Amer	>105	>89 mL/MIN
GFR MDRD Af Amer	>105	>89 mL/MIN

Urinalysis [79962017]

Resulted: 11/15/16 0426, Result status: In process

Ordering provider: Victor Edgar Tuckler, MD 11/14/16 2018
 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Urine	URINE	11/15/16 0352

Urinalysis [79962017] (Abnormal)

Resulted: 11/15/16 0439, Result status: Final result

Ordering provider: Victor Edgar Tuckler, MD 11/14/16 2018
 Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Urine	URINE	11/15/16 0352

Components

	Value	Reference Range	Flag	Lab
Color, UA	YELLOW	YELLOW		
Appearance, UA	CLEAR	CLEAR		
Specific Gravity, UA	>1.030	1.005 - 1.030		
PH, UA	5.0	4.5 - 8.0		
Protein, UA	NEGATIVE	NEGATIVE MG/DL		
Glucose, UA	>=500	NORMAL	A	

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Lab Results (11/14/2016 - 11/15/2016) (continued)

Urinalysis [79962017] (Abnormal) (continued)

Resulted: 11/15/16 0439, Result status: Final result

Ketones, UA	80	MG/DL	NEGATIVE	A
Bilirubin, UA	NEGATIVE	MG/DL	NEGATIVE	
Blood, UA	NEGATIVE	MG/DL	NEGATIVE	
Nitrite, UA	NEGATIVE	MG/DL	NEGATIVE	
Urobilinogen, UA	NORMAL	MG/DL	NORMAL	
Leukocytes, UA	NEGATIVE	MG/DL	NEGATIVE	
MICROSCOPIC UA	MICRO NOT INDICATED BY MACRO TESTING			

Gad-65 Ab [79966552]

Resulted: 11/15/16 0548, Result status: In process

Ordering provider: Cara Varley, MD 11/15/16 0142

Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
	BLOOD	11/15/16 0201

Insulin antibody [79966550]

Resulted: 11/15/16 0549, Result status: In process

Ordering provider: Cara Varley, MD 11/15/16 0142

Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
Blood	BLOOD	11/15/16 0201

Gad-65 Ab [79966552] (Abnormal)

Resulted: 11/18/16 0915, Result status: Final result

Ordering provider: Cara Varley, MD 11/15/16 0142

Resulting lab: HCSD SUNQUEST

Specimen Collection

Type	Source	Collected On
	BLOOD	11/15/16 0201

Components

	Value	Reference Range	Flag	Lab
Glutamic Acid Decarb Ab	144.5	0.0 - 5.0 U/mL	H	

Comment:

PERFORMED AT: LABCORP BURLINGTON, 1447 YORK COURT, BURLINGTON, NC 27215-3361, PH: 800-762-4344, DIRECTOR: WILLIAM F HANCOCK MD

Insulin antibody [79966550]

Resulted: 11/21/16 0919, Result status: Final result

Ordering provider: Cara Varley, MD 11/15/16 0142

Resulting lab: HCSD SUNQUEST

Specimen Collection

UNIVERSITY MEDICAL CENTER - NO
 2000 Canal St
 New Orleans LA 70112
 ED Record

MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

Lab Results (11/14/2016 - 11/15/2016) (continued)

Insulin antibody [79966550] (continued)

Resulted: 11/21/16 0919, Result status: Final result

Type	Source	Collected On
Blood	BLOOD	11/15/16 0201

Components

	Value	Reference Range	Flag	Lab
Insulin AutoAb	<5.0	uU/mL		

Comment:
 (NOTE)
 This test is also known as insulin autoantibody or IAA.
 Reference Range:

<5.0 Negative
 > or = 5.0 Positive

PERFORMED AT: ESOTERIX ENDOCRINOLOGY, 4301 LOST HILLS ROAD, CALABASAS HILLS, CA, PH: 800-444-9111, DIRECTOR: SAMUEL PEPKOWITZ MD

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
16 - HCSDLAB	HCSD SUNQUEST	Unknown	Unknown	11/05/12 1428 - Present

Radiology Results (11/14/2016 - 11/15/2016)

No matching results found

ECG/EMG Results (11/14/2016 - 11/15/2016)

EKG 12 lead unit performed [79961989]

Resulted: 11/14/16 1846, Result status: Final result

Ordering provider: Salvador Javier Suau, MD 11/14/16 1833 Resulted by: Paul Andrew Lelorier, MD
 Resulting lab: LSU OTHER RESULTS

Specimen Information

Type	Source	Collected On
		11/14/16 1846

Components

	Value	Reference Range	Flag	Lab
Interpretation				

Comment: Reason for Exam-> : chest pain
 Result:
 Normal sinus rhythm
 Nonspecific ST abnormality
 Abnormal ECG
 NO PREVIOUS TRACING

EKG 12 lead unit performed [79961989]

Resulted: 11/14/16 1846, Result status: Preliminary result

Ordering provider: Salvador Javier Suau, MD 11/14/16 Resulted by: Paul Andrew Lelorier, MD

UNIVERSITY MEDICAL CENTER - NO
 2000 Canal St
 New Orleans LA 70112
 ED Record

MARLONE, CHRISTOPHER
 MRN: 1002440171
 DOB: 12/5/1984, Sex: M
 Adm: 11/14/2016, D/C: 11/17/2016

ECG/EMG Results (11/14/2016 - 11/15/2016) (continued)

EKG 12 lead unit performed [79961989] (continued)

Resulted: 11/14/16 1846, Result status:
 Preliminary result

Resulting lab: 1833
 LSU OTHER RESULTS

Specimen Information

Type	Source	Collected On
		11/14/16 1846

Components

Value	Reference Range	Flag	Lab

Interpretation

Comment: Reason for Exam-> : chest pain
 Result:
 Normal sinus rhythm
 Nonspecific ST abnormality
 Abnormal ECG
 NO PREVIOUS TRACING

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
20 - LSURESULTS	LSU OTHER RESULTS	Unknown	Unknown	09/25/12 1654 - Present

ED Medication Administration from 11/14/2016 0000 to 11/15/2016 0414

Date/Time	Order	Dose	Route	Action	Action by	Comments
11/15/2016 0215	sodium chloride 0.9 % infusion 1,000 mL	1,000 mL	Intravenous	New Bag	Angelle Cancienne, RN	
11/15/2016 0343	sodium chloride 0.9 % infusion 1,000 mL	0 mL	Intravenous	Stopped	Angelle Cancienne, RN	
11/15/2016 0216	insulin glargine (LANTUS) injection 17 Units	17 Units	Subcutaneous	Given	Angelle Cancienne, RN	
11/15/2016 0216	nystatin (MYCOSTATIN) 100,000 unit/mL suspension 500,000 Units	500,000 Units	Mouth /Throat	Given	Angelle Cancienne, RN	

ED Current OP Medications

Medication	Sig	Dispense	Start Date	End Date	Doc. Provider
aspirin (LO-DOSE ASPIRIN) 81 MG EC tablet	Take 1 tablet (81 mg total) by mouth daily	30 tablet	11/17/2016	11/17/2017	Robert Raymond, MD

UNIVERSITY MEDICAL CENTER - NO
2000 Canal St
New Orleans LA 70112
ED Record

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

ED Current OP Medications (continued)

Medication	Sig	Dispense	Start Date	End Date	Doc Provider
insulin aspart (NOVOLOG) 100 unit/mL injection	Inject 0-8 Units into the skin See Admin Inst 60-149 No Insulin; 150-199 1 unit; 200-249 3u; 250-299 5u; 300-349 7u; >350 8u	10 mL	11/17/2016		Robert Raymond, MD
insulin glargine (LANTUS) 100 unit/mL injection	Inject 22 Units into the skin nightly	10 mL	11/17/2016	11/17/2017	Robert Raymond, MD
metFORMIN (GLUCOPHAGE) 500 MG tablet	Take 1 tablet (500 mg total) by mouth 2 (two) times daily with meals	60 tablet	11/17/2016	11/17/2017	Robert Raymond, MD
rosuvastatin (CRESTOR) 10 MG tablet	Take 1 tablet (10 mg total) by mouth nightly	30 tablet	11/17/2016	11/17/2017	Robert Raymond, MD

Last reviewed by Angelle Cancienne, RN on 11/15/16 0012

Medication Comments

** No Medication Comments Found **

ED Prescriptions

Medication	Sig	Dispense	Start Date	End Date	Auth Provider
rosuvastatin (CRESTOR) 10 MG tablet	Take 1 tablet (10 mg total) by mouth nightly	30 tablet	11/17/2016	11/17/2017	Robert Raymond, MD
insulin aspart (NOVOLOG) 100 unit/mL injection (Status: Discontinued)	Inject 0-8 Units into the skin See Admin Inst	10 mL	11/17/2016	11/17/2016	Robert Raymond, MD
insulin glargine (LANTUS) 100 unit/mL injection	Inject 22 Units into the skin nightly	10 mL	11/17/2016	11/17/2017	Robert Raymond, MD
metFORMIN (GLUCOPHAGE) 500 MG tablet	Take 1 tablet (500 mg total) by mouth 2 (two) times daily with meals	60 tablet	11/17/2016	11/17/2017	Robert Raymond, MD
aspirin (LO-DOSE ASPIRIN) 81 MG EC tablet	Take 1 tablet (81 mg total) by mouth daily	30 tablet	11/17/2016	11/17/2017	Robert Raymond, MD
insulin aspart (NOVOLOG) 100 unit/mL injection	Inject 0-8 Units into the skin See Admin Inst 60-149 No Insulin; 150-199 1 unit; 200-249 3u; 250-299 5u; 300-349 7u; >350 8u	10 mL	11/17/2016		Robert Raymond, MD

UNIVERSITY MEDICAL CENTER - NO
2000 Canal St
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ED Record

MARLONE, CHRISTOPHER
MRN: 1002440171
DOB: 12/5/1984, Sex: M
Adm: 11/14/2016, D/C: 11/17/2016

Allergies (verified on: 11/15/16)
(No Known Allergies)

Follow-up Information

Follow up With	Details	Comments	Contact Info
Raman Singh, MD	In 1 week	NO NEED FOR SCHEDULING, PATIENT WILL FOLLOW UP IN PRISON WITH DR. SINGH	26, Main St Angola LA 70712 225-655-8849

Discharge Instructions

None

END OF REPORT

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

* **CIVIL ACTION**
*
* **NO. 18-63-BAJ-EWD**
*
* **JUDGE BRIAN A. JACKSON**
*
* **MAGISTRATE JUDGE**
* **ERIN WILDER-DOOMES**

EXHIBIT H

March 27, 2020

The Honorable John Bel Edwards
Governor of Louisiana
900 N 3rd St #4
Baton Rouge, LA 70802

Dear Governor Edwards,

As you are taking crucial steps to prevent the spread of COVID-19 by ensuring Louisianans [practice social distancing and stay home](#), we, as public health experts and concerned citizens, write to urge you to take immediate action to safeguard the lives of those involved in our statewide court system and the Louisiana Department of Public Safety and Corrections, including those who work or are detained in these facilities, their families, and their communities.

The COVID-19 pandemic requires a strategic response based on the conditions we know to exist and the interventions we know to effectively limit transmission. We know that the COVID-19 virus [transmits rapidly in densely populated spaces](#), which is why the CDC [recommends](#) that people keep at least six feet away from each other and avoid gatherings of more than ten people. This kind of social distancing has been difficult to accomplish in our society generally, but is impossible to achieve in jail and prison facilities as things currently stand.

Prisons and jails contain high concentrations of people in close proximity, and are breeding grounds for the uncontrolled transmission of SARS-CoV-2, the virus that causes COVID-19. People are [housed](#) cheek-by-jowl, in tightly-packed and poorly-ventilated dormitories; they share toilets, showers, and sinks; they wash their bedsheets and clothes infrequently; and often lack access to basic personal hygiene items. These facilities lack the ability to [separate sick people from well people](#) and to quarantine those who have been exposed without endangering others. Adequate medical care is hard to provide, even without COVID-19, and in light of this pandemic jails and prisons are [tinderboxes, ready to explode and endanger](#) our entire country.

Concern over the people detained in these facilities should be sufficient to spur you to action, but they are not nearly the only people who stand to suffer if conditions are not changed: it is likely that an outbreak in a prison or detention center will spread beyond that facility. Through “jail churn” staff, correctional officers, judges, doctors, and visitors will all be exposed to COVID-19 in these facilities and will carry and spread it in the community at large. Facilities face the same risks as cruise ships and nursing homes when dealing with COVID-19.

Unless you immediately address this threat, you are leaving Louisiana vulnerable to a massive outbreak of COVID-19. But it is within your power **to immediately release people from jails and prisons** and thus work to mitigate the spread of this disease. To that end, we ask that you take the following urgent steps:

First, we ask that you commute sentences for **all elderly people**. While the SARS-CoV-2 virus infects people of all ages, the World Health Organization (WHO) is clear that [older people](#) are at a higher risk of getting severe COVID-19 disease and dying. In fact, the risk of severe disease gradually increases with age starting from around 40 years. Also, older people who are released from prison [pose little risk to public safety](#).

Second, we are also asking that you commute sentences for the **medically vulnerable population** including persons suffering from [cardiovascular disease, diabetes, chronic respiratory disease, or cancer](#). In addition to older people, WHO has identified persons with these underlying medical conditions to be at greater risk for contracting severe COVID-19. While there is little known yet about the effects of COVID-19 on pregnant women, the CDC [explains](#) that with viruses from the same family as COVID-19, and other viral respiratory infections such as influenza, pregnant women have had a higher risk of developing severe illness.

Third, we are asking that you commute sentences for **all persons who have one year or less remaining on their sentence**. This measure will limit overcrowding that can lead to [further spread](#) of COVID-19 and free up beds that will be needed to care for the sick who should be housed separate from others.

Fourth, we call on you to urge local officials to **drastically reduce jail populations**. Many who are admitted to jail only stay for a short period of time, and more people churn through jails in a day than are admitted or released from state and federal prisons in 2 weeks. To prevent a severe outbreak, local officials should take the following steps immediately:

- 1) Release of anyone who is held pretrial and who does not pose an unreasonable safety risk to a specific person or persons;
- 2) Release of all people serving a misdemeanor sentence who are within six months of their release date;
- 3) Release of all people held locally on probation and parole technical violation detainers or sentences;
- 4) Increased use of citations in place of arrests and limit custodial arrest only to those few accused of crimes that pose a serious safety risk to a specific person or persons; and
- 5) Reclassification of misdemeanor offenses that do not threaten public safety into non-jailable offenses.

Only if such steps are taken will Louisiana have a chance to flatten the curve of COVID-19 in our communities.

Respectfully,

Katherine Andrinopoulos, PhD
Associate Professor
Program Director, International Health and Development MPH Program
Tulane University School of Public Health & Tropical Medicine

Julia Fleckman, PhD
Assistant Professor
Tulane University School of Public Health & Tropical Medicine

Elizabeth Fontham, MPH, DrPH
Professor
Founding Dean Emeritus
Louisiana State University Health Sciences Center School of Public Health

Marcia Glass, MD
Associate Professor of Internal Medicine
Program Director, Hospice and Palliative Medicine Fellowship
Tulane University School of Medicine

David Hotchkiss, PhD
Professor
Tulane University School of Public Health & Tropical Medicine

Joseph Keating, PhD, MA
Professor
Associate Dean of Undergraduate Education
Tulane University School of Public Health & Tropical Medicine

Patricia Kissinger, PhD, MPH
Professor of Epidemiology
Associate Dean for Faculty Affairs and Development
Tulane University School of Public Health & Tropical Medicine

Thomas LaVeist, PhD

Dean and Professor
Weatherhead Presidential Chair in Health Equity
Tulane University School of Public Health & Tropical Medicine

David Mushatt, MD, MPH&TM, FIDSA, FACP
Associate Professor of Medicine
Section Chief, Adult Infectious Diseases Section
Tulane University School of Medicine

Diego Rose, PhD, MPH, RD
Professor
Tulane University School of Public Health & Tropical Medicine

David W. Seal, PhD
Professor, Vice Chair, Doctoral Director
Tulane University School of Public Health & Tropical Medicine

Ashley Wennerstrom, PhD
Associate Professor, Behavioral & Community Health
Louisiana State University Health Sciences Center School of Public Health

Joshua O. Yukich, PhD, MPH
Assistant Professor, Epidemiology
Tulane University School of Public Health & Tropical Medicine

**Affiliations for identification purposes only*

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

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CIVIL ACTION

NO. 18-63-BAJ-EWD

JUDGE BRIAN A. JACKSON

**MAGISTRATE JUDGE
ERIN WILDER-DOOMES**

EXHIBIT I



Supreme Court

STATE OF LOUISIANA
400 ROYAL STREET
SUITE 1190
New Orleans
70130-8101

CHIEF JUSTICE

BERNETTE JOSHUA JOHNSON

JUDICIAL ADMINISTRATOR

SANDRA A. VUJNOVICH

TELEPHONE: (504) 310-2550

FAX: (504) 310-2587

April 2, 2020

To the Louisiana District Judges:

Thank you for all that you are doing during this crisis to mitigate the spread of COVID-19 throughout our state. Experts estimate the rate of spread of COVID-19 in Louisiana will be one of the highest in the nation. The decisions that you make will have a significant impact on our communities and our state and will save lives.

Louisiana has a significantly higher-than-average parish jail population. An outbreak of COVID-19 in our jails would be potentially catastrophic for jail staff, the families of jail staff, and inmates. Therefore at this time, it is important to safely minimize the number of people detained in jails where possible. In order to restrict the potential spread of this contagion through jails, I ask that each judge in her/his criminal division, and in conjunction with prosecutors, public defenders and sheriffs, conduct a comprehensive and heightened risk-based assessment of all detainees (except those who have been convicted of felony offenses and remanded to the Department of Corrections) in accordance with the following guidelines:

1. For those charged with misdemeanor crimes, other than domestic abuse battery, favor a nominal bail amount, or a release on recognizance order – with, of course, a notice to appear on a future date;
2. For those convicted of a misdemeanor crime, consider modification to a release and supervised probation or simply time-served;
3. For those charged with a non-violent offense, consider a reduced bail obligation or a release on recognizance order with, of course, a notice to appear on a future date;
4. For those charged in other criminal matters, re-examine the nature of the offense and criminal history, if any, to determine if any bail revisions are appropriate;

Page 2

April 2, 2020

5. Where the Department of Probation and Parole requests a revocation of probation and it is within your discretion to revoke, please confer with Probation and Parole to determine whether there is an alternative to detention, especially with technical violations;
6. For those being held due to an outstanding warrant “hold” from another judicial district or jurisdiction, please request prosecutors and a designated sheriff’s deputy promptly communicate with that jurisdiction to determine whether the underlying reason for the hold is sufficiently minor (e.g., a minor traffic offense, failure to pay money obligations, failure to return a rental movie) such that release can be effected or whether the detainee can be immediately transferred;
7. Please suggest to law enforcement that, whenever practicable, they issue summons and citations on misdemeanor crimes and non-violent offenses in lieu of arrest, with a notice to appear on a future date.

During this very challenging time, the health of thousands of people is dependent on you, the District Judges of Louisiana. I commend the way that many of you have already been pursuing ways to minimize outbreaks of COVID-19 in jails. This letter is to provide guidance on further comprehensive, heightened risk-based assessments in this unprecedented and challenging time.

Thank you for your valuable service to your community and our state. Please take good care of yourselves and your families!

Sincerely,

A handwritten signature in black ink, reading "Bernette J. Johnson". The signature is written in a cursive, flowing style.

Chief Justice Bernette J. Johnson

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

* **CIVIL ACTION**
*
* **NO. 18-63-BAJ-EWD**
*
* **JUDGE BRIAN A. JACKSON**
*
* **MAGISTRATE JUDGE**
* **ERIN WILDER-DOOMES**

EXHIBIT J



The NEW ENGLAND JOURNAL of MEDICINE

Perspective

Flattening the Curve for Incarcerated Populations — Covid-19 in Jails and Prisons

Matthew J. Akiyama, M.D., Anne C. Spaulding, M.D., and Josiah D. Rich, M.D.

Because of policies of mass incarceration over the past four decades, the United States has incarcerated more people than any other country on Earth. As of the end of 2016, there were

nearly 2.2 million people in U.S. prisons and jails.¹ People entering jails are among the most vulnerable in our society, and during incarceration, that vulnerability is exacerbated by restricted movement, confined spaces, and limited medical care. People caught up in the U.S. justice system have already been affected by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), and improved preparation is essential to minimizing the impact of this pandemic on incarcerated persons, correctional staff, and surrounding communities.

Populations involved with the criminal justice system have an increased prevalence of infectious diseases such as HIV and hepatitis C virus (HCV) infections and

tuberculosis. Disparities in social determinants of health affecting groups that are disproportionately likely to be incarcerated — racial minorities, persons who are unstably housed, persons with substance use disorders or mental illness — lead to greater concentrations of these illnesses in incarcerated populations. Yet implementation of interventions to address these conditions is often challenging in correctional settings owing to resource limitations and policy constraints. Therefore, comprehensive responses that straddle correctional facilities and the community often need to be devised.

For example, HCV, which is the most prevalent infectious disease in incarcerated populations,

is most commonly spread through injection drug use. Transmission can be reduced using measures known to reduce high-risk behaviors, such as opioid agonist therapy and syringe exchange. Although much of the country has yet to implement these strategies in correctional settings, managing transitions in care to and from the community and providing such services to people after incarceration has a large impact. Similarly, we have learned that controlling infections such as HIV and HCV in correctional settings can have positive effects both in these settings and on surrounding communities, as a form of treatment as prevention.

Highly transmissible novel respiratory pathogens pose a new challenge for incarcerated populations because of the ease with which they spread in congregate settings. Perhaps most relevant to the Covid-19 pandemic, the 2009 H1N1 influenza pandemic

exposed the failure to include jails in planning efforts. By the spring of 2010, vaccine was plentiful, yet most small jails never received vaccine, despite the presence of high-risk persons, such as pregnant women, and the increased risk of transmission among unvaccinated persons who spent time detained in close proximity to one another.²

“Social distancing” is a strategy for reducing transmission and “flattening the curve” of cases entering the health care system. Although correctional facilities face risks similar to those of community health care systems, social distancing is extremely challenging in these settings. Furthermore, half of all incarcerated persons have at least one chronic disease,³ and according to the U.S. Department of Justice, 81,600 are over the age of 60, factors that increase the risk of poor outcomes of infection. With limited ability to protect themselves and others by self-isolating, hundreds of thousands of susceptible people are at heightened risk for severe illness.

To date, the Federal Bureau of Prisons and certain states and municipalities have opted to suspend visitation by community members, limit visits by legal representatives, and reduce facility transfers for incarcerated persons. To reduce social isolation and maintain a degree of connectedness for incarcerated people, some correctional systems are providing teleconferencing services for personal and legal visits. Irrespective of these interventions, infected persons — including staff members — will continue to enter correctional settings. By March 14, some U.S. correctional staff members had tested posi-

tive for SARS-CoV-2, and the first Covid-19 diagnosis in a detained person was announced on March 16. A recent SARS-CoV-2 outbreak among cruise-ship passengers and crew in Yokohama, Japan, provides a warning about what could soon happen in correctional settings.⁴

To operationalize a response for incarcerated populations, three levels of preparedness need to be addressed: the virus should be delayed as much as possible from entering correctional settings; if it is already in circulation, it should be controlled; and jails and prisons should prepare to deal with a high burden of disease. The better the mitigation job done by legal, public health, and correctional health partnerships, the lighter the burden correctional facilities and their surrounding communities will bear. We have learned from other epidemics, such as the 1918 influenza pandemic, that nonpharmaceutical interventions are effective, but they have the greatest impact when implemented early.⁵

Therefore, we believe that we need to prepare now, by “decarcerating,” or releasing, as many people as possible, focusing on those who are least likely to commit additional crimes, but also on the elderly and infirm; urging police and courts to immediately suspend arresting and sentencing people, as much as possible, for low-level crimes and misdemeanors; isolating and separating incarcerated persons who are infected and those who are under investigation for possible infection from the general prison population; hospitalizing those who are seriously ill; and identifying correctional staff and health care providers who became infected early and have recovered,

who can help with custodial and care efforts once they have been cleared, since they may have some degree of immunity and severe staff shortages are likely.

All these interventions will help to flatten the curve of Covid-19 cases among incarcerated populations and limit the impact of transmission both inside correctional facilities and in the community after incarcerated people are released. Such measures will also reduce the burden on the correctional system in terms of stabilizing and transferring critically ill patients, as well as the burden on the community health care system to which such patients will be sent. Each person needlessly infected in a correctional setting who develops severe illness will be one too many.

Beyond federal, state, and local action, we need to consider the impact of correctional facilities in the global context. The boundaries between communities and correctional institutions are porous, as are the borders between countries in the age of mass human travel. Despite security at nearly every nation’s border, Covid-19 has appeared in practically all countries. We can’t expect to find sturdier barriers between correctional institutions and their surrounding communities in any affected country. Thus far, we have witnessed a spectrum of epidemic responses from various countries when it comes to correctional institutions. Iran, for example, orchestrated the controlled release of more than 70,000 prisoners, which may help “bend the curve” of the Iranian epidemic. Conversely, failure to calm incarcerated populations in Italy led to widespread rioting in Italian prisons. Reports have also emerged of in-

carceration of exposed persons for violating quarantine, a practice that will exacerbate the very problem we are trying to mitigate. To respond to this global crisis, we need to consider prisons and jails as reservoirs that could lead to epidemic resurgence if the epidemic is not adequately addressed in these facilities everywhere.

As with general epidemic preparedness, the Covid-19 pandemic will teach us valuable lessons for preparedness in correctional settings. It will also invariably highlight the injustice and inequality in the United States that are magnified in the criminal justice system. As U.S. criminal justice reform continues to unfold, emerging communicable diseases and our ability to combat them need to be taken into account. To promote public health,

we believe that efforts to decarcerate, which are already under way in some jurisdictions, need to be scaled up; and associated reductions of incarcerated populations should be sustained. The interrelation of correctional-system health and public health is a reality not only in the United States but around the world.

Disclosure forms provided by the authors are available at NEJM.org.

From the Department of Medicine, Divisions of General Internal Medicine and Infectious Diseases, Albert Einstein College of Medicine and Montefiore Medical Center, Bronx, NY (M.J.A.); the Department of Epidemiology, Rollins School of Public Health, Emory University, Atlanta (A.C.S.); and the Departments of Medicine and Epidemiology, Division of Infectious Diseases, Brown University and the Miriam Hospital, Providence, RI (J.D.R.).

This article was published on April 2, 2020, at NEJM.org.

1. Kaeble D, Cowhig M. Correctional populations in the United States, 2016. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, April 2018 (<https://www.bjs.gov/content/pub/pdf/cpus16.pdf>).
2. Lee AS, Berendes DM, Seib K, et al. Distribution of A(H1N1)pdm09 influenza vaccine: need for greater consideration of smaller jails. *J Correct Health Care* 2014;20:228-39.
3. Maruschak LM, Berzofsky M, Unangst J. Medical problems of state and federal prisoners and jail inmates, 2011–12. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. February 2015 (<https://www.bjs.gov/content/pub/pdf/mpsfj1112.pdf>).
4. Kakimoto K, Kamiya H, Yamagishi T, Matsui T, Suzuki M, Wakita T. Initial investigation of transmission of COVID-19 among crew members during quarantine of a cruise ship — Yokohama, Japan, February 2020. *MMWR Morb Mortal Wkly Rep* 2020; 69:312-3.
5. Hatchett RJ, Mecher CE, Lipsitch M. Public health interventions and epidemic intensity during the 1918 influenza pandemic. *Proc Natl Acad Sci USA* 2007;104:7582-7.

DOI: 10.1056/NEJMp2005687

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**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

* **CIVIL ACTION**
*
* **NO. 18-63-BAJ-EWD**
*
* **JUDGE BRIAN A. JACKSON**
*
* **MAGISTRATE JUDGE**
* **ERIN WILDER-DOOMES**

EXHIBIT K

REVISED APRIL 2017

LOUISIANA PARDON AND PAROLE BOARD APPLICATION FOR CLEMENCY. COMMUTATION OF SENTENCE

Note: Type or print the answers in ink. If the application is illegible, the application will be returned and will not be processed. Each question must be answered fully, truthfully, and accurately. Do not leave sections blank. It is the applicant's responsibility to submit a complete application. The application will not be processed until it is complete. If the application is incomplete, the applicant will be notified about the missing information. If the space provided for any answer is insufficient, answers may be completed on the Optional Continuation Page, listing the question number, and attaching it to the application. Additional documentation that is relevant to the application may also be attached. The submission of any false information is grounds for immediate denial of the application.

GENERAL INFORMATION

Name: Christopher Scott Marlone (Marlowe)
First Middle Last Suffix (i.e. Junior)
Facility: Rayburn Correctional Center
Facility Address: 27268 Highway 21 N.
City: Angie State: LA Zip: 70426
Date of Birth: December 5, 1984 Place of Birth: Nurnberg, Germany
Gender: Male DOC #: 558725

Application for Commutation (Jan 2017)

1. List the following: A) Every other name by which you have been known, including the name under which you were convicted; B) the reason for your use of another name; and C) the dates during which you were so known. Include your maiden name, name(s) by a former marriage, aliases, and nicknames.

Marlone; Marlowe (Due to a typo during DPS&C processing.)

2. Are you a United States citizen? [X] Yes No

A. If you are not a U.S. citizen, list your nationality and your alien registration number.

[Blank lines for answer to question 2A]

B. If you are a naturalized U.S. citizen, list the date and place of your naturalization. Otherwise, list "not applicable".

Not applicable

REVISED APRIL 2017

3. Have you ever applied for a Commutation before? Yes No

If so, list the month(s) and year(s) of the applications for which you have previously applied? Start with the first application and end with the most recent application.

MONTH	YEAR

OVERVIEW OF OFFENSES FOR COMMUTATION CONSIDERATION

4. List the case number(s), offense(s) or the crime(s) committed, and the parish for every Louisiana conviction for which a commutation is being requested. The subsequent section entitled, Detail of Offenses for Commutation Consideration, will request more detailed information. If additional space is needed, list the question number on the Optional Continuation Page

CASE NUMBER (docket number)	OFFENSE (Crime Committed as named on the Judgment and Sentence)	PARISH OF CONVICTION
Docket # 467-635	Attempted 2 nd Degree Murder	Orleans

Were there victims in your crimes? Yes No

5.

A. If yes, how many? 1

B Did you know the victim(s)? Yes No

C. If yes, what was the relationship? _____

D. Were the victim(s) injured? Yes No

E. Age(s) of the victim(s) 31

REVISED APRIL 2017

F. Were other persons involved in the crimes listed above? Yes No

G. If yes, list the name(s) of your accomplice(s) and what, if any sentences they received.

NAME OF ACCOMPLICES	SENTENCE OF ACCOMPLICES	CRIME

6. Do you have a detainer(s)? Yes No

7. If yes, list the authority (I.C.E, Parish or County, City, State ,etc.) _____

8. Were you ordered to pay restitution? Yes No

9. If so, how much restitution was ordered? _____

10. Has the restitution been paid? Yes No

11. If restitution has not been paid, explain why not?

Not Applicable

ACCOUNT OF THE OFFENSE

12. In your own words, provide to the best of your knowledge and recollection the account of the offense(s) or convictions for which you are seeking commutation. Describe your involvement in the criminal activity. If more space is needed, use the Optional Continuation Page and list the question number.

On June 26, 2006, I was on duty as an Armed Security Officer subcontracted to FEMA, working for American Maritime Protection and Security, and assigned to the Royal St. Charles Hotel, New Orleans, LA.

At Approximately 6:20 AM, what appeared to be a highly intoxicated man and a known female prostitute entered the hotel lobby and proceeded to take the elevator to another floor.

Approximately 15 minutes later, on or around 6:35 AM, the intoxicated individual and his companion exited the elevator and stated he was seeking the ATM machine. I indicated to him that the hotel ATM was inoperative. However, despite being told that it did not work, the individual and his companion continued to walk to the ATM and attempted to use it. As he walked away from the hotel's ATM, I told him he could get money from the bank's ATM, located across the street. His attempt to use the inoperative ATM in the presence of a known prostitute had generated a bit of good-natured laughter on the part of the hotel employees including the desk clerk, the concierge, and the valet, who were also in the lobby, and myself as well. The laughter appeared to anger the individual who got loud and verbally aggressive, and began to gesture and move toward me in a threatening manner. My response to his aggression and behavior was to direct him to leave, at which time his companion literally took control over him and physically led him out the hotel doors onto the sidewalk in front of the hotel.

(continued in Optional Continuation Page)

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REASON(S) FOR SEEKING A COMMUTATION

13. A Court sentenced you for a crime or crimes that you committed. Please explain why you are now seeking to reduce your sentence through a commutation?

If more space is needed, use the Optional Continuation Page and list the question number

I request favorable consideration and commutation of my prison sentence. Please consider the following in reaching your decision:

- 1) I am a first offender. Prior to this incident, I was not, nor had I ever been, a participant in any form of criminal activity. Except for getting a few traffic speeding tickets as a teenager, I was not in the habit of breaking the law. I actually held a government security clearance. My father was a police officer/ law enforcement instructor who raised me to respect the law and law enforcement at all times and, to this day, I remain faithful to this upbringing.
- 2) When this incident took place, I was 21 years old, on duty as an undertrained contract armed security officer, and found myself embroiled in an inescapable, confrontational, and violent event for which I had not received training. To compound the situation, I was authorized to carry a firearm while on duty, though I never received training to ensure I was familiar and knowledgeable of Louisiana law governing private security operations, use of force, or conflict resolution from the company I worked for prior to my being posted. That lack of training on safeguarding my weapon, and appropriate dealing with threats, resulted in my weapon being withdrawn from my holster and discharging.

(continued in Optional Continuation Page)

PRIOR AND SUBSEQUENT CRIMINAL RECORD

14. Aside from the offense(s) for which you seek a commutation, have you ever been arrested, charged by any law enforcement authority, or convicted in any court, either as a juvenile or an adult, for any other incident?

Yes No

For each such incident, identify the date, the nature of the charge, the relevant facts, the law enforcement authority involved, the location, and the disposition of the incident. Every incident must be listed, excluding traffic violations. Describe in your own words the relevant facts of each incident.

Not Applicable

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BIOGRAPHICAL INFORMATION

For each marriage, include the name of spouse, the date and place of marriage, and if applicable the date and place of divorce. If more space is needed, use the Optional Continuation Page, list the question number, and attach it to the application.

15. Current Marital Status: Never Married Married Divorced
 Widowed Separated

Shanna Elon Bouche	10/25/2005 Lufkin, TX	8/19/15 Livingston Parish, LA
Name of Spouse/Former Spouse	Date/Place of Marriage	Date/Place of Divorce
Name of Spouse/Former Spouse	Date/Place of Marriage	Date/Place of Divorce
Name of Spouse/Former Spouse	Date/Place of Marriage	Date/Place of Divorce
Name of Spouse/Former Spouse	Date/Place of Marriage	Date/Place of Divorce

16. If you have children, list the number of children that you have under and over the age of 18, the names of the children for which you paid child support prior to incarceration for any conviction, the total amount of child support that was paid, whether payments were current at the time of the most recent incarceration, and if not, the reason for your failure to pay and any agreements that have been or were made to satisfy the payment obligation.

Children	I have <u> 0 </u> children under the age of 18 years.
	I have <u> 0 </u> children over the age of 18 years.
	I have custody of <u> 0 </u> children under the age of 18 years.

Child Support: I am responsible for child support for the following children (list names and ages):

Not Applicable

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INCARCERATION INFORMATION

17. Provide each facility in which you have been incarcerated, beginning with the present and working backward. All time periods must be accounted for. If more space is needed, use the Optional Continuation Page, list the question number, and attach to the application. A copy of the Master Prison

Record may be attached and will be deemed sufficient in answer to this question. If the Master Prison Record will be the source of this information, the applicant must indicate "see Master Prison Record" in the space provided. The applicant may include additional information that he wishes the Board to consider

Please see Master Prison Record

18. List all programs, including GED classes, that you have attended since your conviction, beginning with the most recent and working backward. Indicate the type of degree, diploma, or certificate received or anticipated and the date of completion. **Note: if you were assessed for programming and did not receive an opportunity to participate or complete such, state the reasons in your own words**, If more space is needed, use the Optional Continuation Page, list the question number, and attach it to the application,

Bachelor of Arts in Communication / December 2019; Associate of Arts in General Studies / September 2018; Dean's List 2018/2019; Living in Freedom 2017; Construction Project Manager / 2016; Construction Project Supervisor / 2016; Construction Project Foreman / 2016; Tutor Training 2015; Toastmasters 2015; PTSD Peer Counselor / 2018; Heavy Equipment Operator, Level 1, 2, 3 / 2015; HVAC Technician / 2014; Theological Seminar 2014; Plumbing Helper / 2011; Adult Education Tutor / 2010; Anger Management; Substance Abuse; Parenting; Beat the Streets; AA/NA; Hospice Care; Financial Management.

19. Were you dismissed, removed, or transferred from a program due to allegations of misconduct or unsatisfactory performance? Yes No

If yes, list the program(s), date(s) of enrollment, and date(s) of dismissal AND explain in your own words why you were dismissed, removed, or transferred. If more space is needed, use the Optional Continuations Page, list the question number, and attach it to the application

Not Applicable

20. What is your current work assignment and how long have you been in this assignment. If you are not working, please explain. If more space is needed, use the Optional Continuation Page, list the question number, and attach it to the application.

K9 Orderly; Tractor/Heavy Equipment Operator (9 Months at Rayburn, 24 Months at Elayn Hunt Correctional)

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21. Since your conviction, have you been terminated from a work detail, suspended from a work detail, or transferred due to allegations of misconduct or unsatisfactory job performance?

Yes No

If yes, explain in your own words why you were terminated, suspended, or transferred.

Not Applicable

22. Describe the efforts that you have made to demonstrate your rehabilitation, such as community programs, volunteer work, mentoring to others, or other contributions that you have made since your conviction. If you need more space, use the Optional Continuation Page(s), list the question number, and attach it to the application.

Throughout my incarceration, I have been actively engaged, striving to become a better person through education, self-help programs, mentoring, and doing volunteer work. Though not every program offers a certificate, every program offers the possibility of learning. More than earning certificates or proof of participation, I have earned the opportunity to help others, to learn, to grow, and to mature.

(continued in Optional Continuation Page)

23. List all disciplinary write-ups and outcomes you have received within the past 36 months. Include all Schedule A and B write-ups. If more space is needed, use the Optional Continuation Page, list the question number, and attach it to the application. A copy of the DOC Conduct Summary Report may be attached. If this method is used to list disciplinary write-ups, please mark in the space below: "See attached Conduct Summary Report".

Date	Misconduct/Rule Violation #	Penalty Imposed
n/a	n/a	n/a

The above section must be verified as accurate by the classification officer at the applicant's housing facility. **By the classification officer's signature below, the officer is verifying the above listing of disciplinary write-ups is complete and accurate for the past 36 months**


 Classification Officer Signature

9/30/19
 (Date)

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SUBSTANCE ABUSE INFORMATION

24. Have you ever sought or participated in counseling, treatment, or a rehabilitation program for drug use or alcohol use? Yes No

If yes, Indicate whether the consultation occurred: prior to incarceration during current period of incarceration.

MILITARY RECORD

25. Have you ever served in the armed forces of the United States? Yes No

If yes, provide the following details:

A. Date(s) of service: 2002 - 2006

B. Branch(es): U.S. Army

C. Serial Number: 099-76-5315

D. Type of Discharge: Honorable

If you were other than Honorably Discharged, describe in detail the factual circumstances surrounding your discharge. If more space is needed, use the Optional Continuation Page, list the question number, and attach it to the application. Attach a copy of your separation papers (Form DD-214), if available.

E. Decoration (if any): National Defense Service Medal, Global War on Terrorism Service Medal, Louisiana Honor Medal, Korea Defense Service Medal, Aviation Badge, Army Achievement medal.

F. While serving in the armed forces, did you receive non-judicial punishment, or were you the defendant in any court-martial? Yes No

If yes, list the nature of the charge, the relevant facts, the disposition of the proceedings, and the date thereof. If you were convicted of an offense by court-martial, provide a copy of the court-martial promulgating order. If more space is needed, use the Optional Continuation Page, list the question number, and attach it to the application.

Not Applicable

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DETAIL OF OFFENSES FOR COMMUTATION CONSIDERATION

Instructions: Complete a separate line for EACH Louisiana conviction for which you are seeking a commutation. If more space is needed, use the Optional Continuation Page, list the question number, and attach it to the application. All information in this section is required.

	Offense (Crime Committed as Named on the Judgment and Sentence	Parish of Conviction	Date of Conviction	Sentence
1.	Attempted 2 nd Degree Murder	Orleans	9/25/2009	20 Years
2.				

3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

26. Did you appeal the conviction(s)? Yes No

If you appealed the conviction(s) or sentence(s), provide the date of the decision(s) by the appellate court. Also provide citations to any published judicial opinion(s), and a copy of any unpublished opinion(s), if available, If more space is needed, use the Optional Continuation Page, list the question number, and attach it to the application.

Court of Appeal, Fourth Circuit; State of Louisiana versus Christopher Marlowe, 81 So.3d 944,
No. 2010-KA-1116; Conviction and Sentence Affirmed; December 22, 2011.

Supreme Court of Louisiana; State of Louisiana versus Christopher Marlowe, 89 So. 3d 1191,
No. 2012-K-0231; Writ of Certiorari Denied; May 18, 2012.

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CERTIFICATION AND PERSONAL OATH

I certify that all answers to the above questions and all statements contained herein are true and correct to the best of my knowledge and information. I understand that any intentional misstatement of material facts contained in this application may cause adverse action on my application for a commutation.

I understand that there is no appeal process upon denial of an application for commutation.

I understand that pursuant to Act 52 of the 2016 Legislative session, should my application advance to Stage 2 of the process, I agree to pay an assessment fee of 5150.00 to the Louisiana Department of Public Safety & Corrections for a clemency investigation to be conducted by the Division of Probation & Parole.

I have read and understand the Commutation application instructions. By signing and submitting this application, I understand and voluntarily accept the terms of the commutation if it is approved. In making application for a commutation from the Governor of the State of Louisiana, I do solemnly swear that I will be a law-abiding citizen and that I take this obligation freely and without any mental reservation whatsoever.

Name of Applicant: Christopher S. Marlowe

Signature of Applicant: *Christopher S. Marlowe*

Date: 9-30-19
(Month, Day, Year)

NOTARY

Subscribed and sworn before me this 30th day of September, 2019
(Day) (Month) (Year)

[Signature]
Notary Public

My commission expires: _____

My commission number is: 69536

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AUTHORIZATION FOR RELEASE OF INFORMATION

Carefully read this authorization to release information, then complete and sign in ink (blue or black).

I authorize any duly accredited representative of the Louisiana Pardon and Parole Board and/or the Louisiana Department of Corrections, to obtain any information relating to my activities from schools, residential management agents, employers, criminal justice agencies, retail business establishments, courts, or other sources of information. This information may include, but is not limited to, my academic, achievement, performance, attendance, and disciplinary; residential history, employment history, criminal history, including arrest, charges, conviction, and the pre-sentence investigation report, if any, medical, psychiatric/psychological and/or other, health care records; and financial, and credit information.

I understand that, for financial or lending institutions, medical providers, and certain other sources of information, a separate specific release may be needed (pursuant to their request or as may be required by law), and I may be contacted for such a release at a later date.

I further authorize the Louisiana Pardon and Parole Board and/or the Louisiana Department of Corrections, or any other authorized state agency, to request criminal record information about me from criminal justice agencies for the purpose of determining my suitability for a commutation.

I authorize custodians of records and sources of information pertaining to me to release such information upon request of any duly accredited representative of the Louisiana Pardon and Parole Board and/or the Louisiana Department of Corrections or any state agency authorized above regardless of any previous agreement to the contrary. I understand that the information released by records custodians and sources of information is for official use by the State of Louisiana only for the purposes of processing my application for a commutation, and may be re-disclosed by the State of Louisiana only as authorized by law

Copies of this authorization that show my signature are as valid as the original release signed by me. This authorization is valid for one (1) year from the date signed.

Christopher Marlowe (Marlowe)

Full name (Typed or Printed)

Christopher Marlowe

Signature of Applicant

10-1-2019

Date Signed

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OPTIONAL CONTINUATION PAGE

The applicant must list the question number for each response in which the Optional Continuation Page is used. Use as many Optional Continuation Pages as needed.

For Question # 12

As it was nearing the end of my shift (7:00 AM), I conducted my final rounds and prepared to call in to let my supervisor know I was off shift. I then realized that I had left my cell phone in my truck and proceeded to exit the hotel to retrieve it. As I exited the hotel and approached my truck, the individual and his companion were standing on the sidewalk approximately 30 feet from where I was parked. I entered my truck to retrieve my cell phone. After I grabbed it and exited my vehicle, the individual asked me if I had served in the military and if I had a problem with him. He then stated "I'm an Army Ranger, I bet you're scared, huh, bitch." At that time, I put my hands up and verbally suggested he go home. I backed away to put distance between us, but I ended up against a trash can attached to the sidewalk, and stumbled.

As the individual closed the distance between us, I stood back up, stepped to my right, lifted my right arm in a "stopping" motion, and pointed down the street with my left hand, directing him to leave once again. As I did so, the individual struck my left ear and the side of my head with his right fist. I pulled away from his attack, drew my ASP (baton) from its holster and struck the individual in an attempt to back him away. During this entire exchange, his female companion unsuccessfully attempted to talk him into walking away, even trying to pull him to get him to return to the hotel room, to no avail. As the individual continued his attack, I attempted to strike him a second time with the ASP, but he caught the baton, tore it from my grip, and threw it on the street.

At this point, his companion turned away and ran to the front door of the hotel. The man then took a fighter's stance and kept coming after me as I was backing into the street. I turned my body, blading myself, continuing to back up into the street, and put my hand on my firearm, telling him to "stop," "freeze," and to "get down on the ground;" however, he continued to walk toward me and stated, "You don't know who you're [messing] with. I'm gonna take your gun and shoot [you]." He then rushed me and I became physically engaged. As he attacked me, I attempted to keep my firearm away from him—due to his latest verbal threat—as we wrestled back and forth across the street.

I do not know how; I have no memory of the action, but at some point during the attack, my firearm was drawn from my holster. As the individual and I fought over it, the pistol discharged and I saw, afterward, that the bullet had struck the individual's right cheek, with the entry wound being next to his mouth where his lips come together, and that it had exited just below his earlobe.

The individual looked at me in surprise stating, "You hit me with your gun." I quickly told him he had been shot, immediately holstered my weapon, wrapped him in my arms, and walked him to the curb where I took my shirt off and used it to apply pressure to the wounds. I also called 911 in a rush to request an ambulance.

The police and ambulance arrived. The individual was transported to the hospital where it was determined he had a 0.253 Blood Alcohol Level, plus narcotics in his system. I was arrested and booked for aggravated battery by shooting.

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OPTIONAL CONTINUATION PAGE

The applicant must list the question number for each response in which the Optional Continuation Page is used. Use as many Optional Continuation Pages as needed.

For Question # 13

- 3) At the time of the event, I was performing my duties as an armed contract private security officer and was not involved in the commission of any criminal activity. Despite my lack of training, I did everything possible to defuse the situation as best I could in an attempt to do my job.
- 4) Charges in Louisiana law regarding convictions and sentencing have changed, but not retroactively. I am currently serving 85% of my sentence where the new standard is 65%. I was also convicted without a unanimous verdict of 11-1. I submit there is room for clemency here based on both current law and my excellent record as an exemplary trustee, for which I submit the following statement and supporting documents, to include:
 - a. I will complete my Bachelor's Degree in Communication from Ashland University, in December 2019. I will graduate Cum Laude or better.
 - b. Earned an Associate of Arts from Ashland University in 2018.
 - c. Earned multiple NCCER trades, including Construction, Project Management, Project Supervision, Crew Leadership, Site Engineering, HVAC, Heavy Equipment Operation, and others.
 - d. Completed various Personal Development Courses.
 - e. Multiple letters of support and commendation provided by former DPSC staff indicating that I gave back to the system with my involvement as a GED tutor, mentor, hospice volunteer, and veteran leader and mentor.
- 5) Additionally, I submit that I have received only one write-up during my ten years of incarceration, and I will further submit that I was not the subject of the write-up, but was caught in a situation where the actions of another inmate resulted in the remanding of the entire team, moving us back to DOC, from the State Police Barracks. This taught me to choose my associates wisely.
- 6) My first trial resulted in a hung jury, where the jury could not reach a unanimous or convictable verdict. My second trial ended in an 11-1 verdict, which Louisiana no longer holds constitutional.
- 7) I submit that I was convicted of a crime, but I am not a criminal. Every day that I have been a resident of the Department of Corrections, I think about the event that resulted in my incarceration. I sincerely regret my part in it, and if it were possible, would do anything in my power to change the situation and to have done things differently. However, I submit that even though I see the event and my role in it with the clarity afforded someone who has had ten years to reflect on it, I did not become negative or bitter, nor was I influenced by the negativity that permeates incarceration. Instead, I sought out and embraced the positives offered by the Department of Corrections and capitalized on my time here to grow and learn both personally and professionally by engaging in DOC's personal and professional development programs in academics and trade schools. I have taken every opportunity available to become a better person and to be a positive influence for others.

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- 8) Additionally, I used my time and experiences to facilitate programs for veterans and other offenders including PTSD peer counseling, GED school, and a safe environment.
- 9) I endeavor to do as much as I can to give back to my community, both in and outside the institution. Everything I do, and have done, is to maintain a positive outlook and impact upon my environment and to prove to myself and the Department of Corrections that I am someone trustworthy. I have strived to maintain my moral character and my identity for ten years, without falling victim to the negativity of the system.
- 10) On a personal note, I submit for your consideration that as I and my family age, I recognize our mortality. I am now an insulin-dependent diabetic at 34 years old. I have no children, and frankly, I am terrified that I will not have the opportunity to have a child before it is not medically possible.

I respectfully submit the foregoing to demonstrate my efforts to prepare myself to retake my place as a positive member of society by owning my situations, both good and bad, and to support my request for favorable consideration for clemency and possible commutation of my current prison sentence.

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OPTIONAL CONTINUATION PAGE

The applicant must list the question number for each response in which the Optional Continuation Page is used. Use as many Optional Continuation Pages as needed.

For Question # 22

Throughout my entire stay, I have been engaged in the Incarcerated Veterans associations from various facilities. Currently, I am an active member at Rayburn Correctional Center, my newest facility, where I participate in any way I can, providing input from past experiences at other veterans' clubs, volunteering, and participating in committees.

I have held various board positions in other facilities' veterans organizations, such as: Treasurer, Deputy Commander, and Commander. I was the Commander/President of the Vets at Elayn Hunt Correctional Center, JCDCC, and AVC, where I helped implement PTSD training and counseling for veterans. I successfully started a Vets Mentoring dorm to help at risk offenders and to provide Vets a safe and productive place to live. I was part of the team that successfully petitioned the American Legion, establishing EHCC as the third American Legion Post in a prison, in the world. At the Vets, we sponsored various charities and community service projects such as *Toys for Tots*, *Bikes for Kids*, *2016 Flood Relief Aid*, donations to *Wounded Warriors Project*, donations to *St. Jude's Children's Hospital* and other charities. I also coordinated the Vets to clean and G.I. the facility's kitchen and the cell blocks of EHCC, an event worthy of coverage by EHCC's offender publication, *The Walk Talk*. I was also a member of the Color Guard, and I helped many apply for and receive the Louisiana Honor Medal.

As a veteran leader, I have helped spearhead various projects, including at Rayburn, where we recently proposed implementation of a Veterans Dorm Program. Being a part of the veterans has helped me reclaim the pride in my commitment to our country, the principles of teamwork and camaraderie, and all the traits that honorable service entails.

During my incarceration, I have also participated as an active member of Toastmasters and the Human Resources Club, learning to communicate effectively, and reaching out to others in our community. These experiences have led me to believe that, through service, we can make prison a better place.

Besides clubs, I was active in Hospice Care for years, supporting men during long-term illnesses and helping them in their last hours. Hospice Care is one of the most humbling experiences I have had. It has taught me the value of life and our mortality. I have learned that every day counts, and so, every day must be productive.

I have also been engaged in faith-based course work. I completed two semesters worth of classes from Global University. I participated and facilitated Living in Freedom. I helped build an extension to the chapel at EHCC as well, so students could further their studies. Currently, I attend services on Sundays and privately read my Bible for strength and guidance.

I have volunteered in many crises that have faced our State. In 2012, I helped local communities near Avoyelles Parish. In 2016, the great floods severely impacted the community in and around EHCC. I loaded sand bags, operated heavy equipment, and assisted in helicopter sling-load operations for several weeks. I helped sandbag citizens' residences and businesses around St. Gabriel and Baton Rouge; the cleanup efforts were extended for months. All of this was on a voluntary basis and I experience the pride of service.

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This year, while at Rayburn, I had the opportunity to help in Plaquemines Parish, filling sandbags in preparation for hurricanes and subsequent flooding.

I have had the opportunity to serve at the local schools as well, painting and renovating their campuses. I have volunteered at the Food Bank, where we serve the elderly and those in need with supplies, a warm smile, and a helping hand.

Another important role that has shaped my identity and further my development is mentoring others.

Since early in my incarceration, I found that I could use my education to benefit other offenders, and eventually, society. After helping others in their school work informally, I applied to work tutoring others and was eventually assigned as a GED tutor. I became part of a great team of tutors and we helped hundreds of offenders reach their academic goals. From tutoring, I was given the opportunity to facilitate programs like Anger Management and Beat the Streets. This further helped me identify my personality and similar traits to others who were in prison, and to help control emotions and teach conflict resolution. I have been a tutor at four out of five facilities I have been in at. At EHCC and RCC I have been a college mentor, helping other men with their college studies, but I believe my major accomplishment has been in character development and confidence building for at-risk offenders. By using the Vets as a platform, I became a "big brother" figure to many other offenders, mostly vulnerable, scared, and at-risk offenders. I taught them to make an identity that has morals and ethics. I mentored men to stay away from drugs, gambling, sex, and anything else that may land them in trouble; I have urged them to embrace education, exercise, reading, and service work. I also helped many offenders plan their life after release, assisting them with business plans and finding residences and resources. Service is something that I hold dear to my heart.

Most importantly, for myself, I realize that you can only help others when you own your circumstances, using your experiences, both good and bad, as a stepping stone to teach others to avoid resentment and negativity.

Much of my time has been spent in program/project development and management, conflict resolution, and mediation.

I am definitely not perfect; there is still much room to grow, but I recognized how I have changed in spirit and mentality. I want to help. I want to create. I want to make the world a better place. The experiences I've had while incarcerated have taught me that humility, empathy, patience, and respect are high values. I know these values will help me live a productive life.

I am thankful and humbled by the opportunities provided by the DPSC.

Thank you for reading this and accepting this as evidence as how I have been engaged in prison.

DATE: 05/17/19
 AMENDED: 02/21/19

DPS&C CORRECTIONS SERVICES
 MASTER RECORD

TIME: 09:44
 PAGE 1

----- D E S C R I P T I O N -----

DOC #...: 00558725 CURRENT LOC: RAYBURN CORR CENTER
 NAME: MARLONE, CHRISTOPHER W/M DOB.....: 12/05/1984

SID NUMBER: 002478137 FBI NUMBER: 576771MC7 SOC.SEC.....: 099765315
 DRIVER LIC: 00000015921502 - TX STRIKE.....: NO
 HGT.....: 6`04 WEIGHT.....: 300 HAIR.....: BROWN
 EYES.....: BROWN COMPLEXION: RUDDY SHOE SIZE.: 130

***** R E L E A S E I N F O R M A T I O N *****

DN DNA: Y
 OFFENDER CLASS: 01 GT ACT.: ACT1099 TEST DATE: 11/25/2009
 D: 03/10/2025 DS ...: 09/05/2026 FTD: 09/06/2029
 EC ATE: / / ADJUSTED.: 09/08/2025

PB ACTION...: TOTAL SENTENCE
 MS ON TOTAL LOSS OF GT 020YRS/ 00MTH/ 00DAYS
 TYPE ACTION: TO DATE:
 ACTION DATE: RESTORED: 0
 CTRP Release Factor: *** DAYS
 COMMENTS: CTRP FOR IND STUDY ENTERED; MAXED OUT NO CHANGE

DETAINER: N DETAINER INFO:

----- O F F E N S E I N F O R M A T I O N -----

DOCKET NUMBER	PAR CON	HW CR	SENTENCE DATE	MOD1&2	STATUTE	TERM CNT	HW YYMMDD	REV CR	GT FLG	APP ACT JCR
467635	ORL	CC	11/19/09	Att/	SECOND DEGREE MUR	001	0200000	NA	099	0074

DOC #.: 00558725 NAME.: MARLONE, C

PG 2

----- A L I A S -----
 CHRIS S MARLOWE 12/05/84

***** E M E R G E N C Y C O N T A C T *****

EMERGENCY CONTACT: ELIZABETH NORTON RELATION.....: MOTHER
 EMERGENCY ADDRESS: 374 WINTERHAVEN LANE EMER.CITY/ST: BROWNSVILLE TX
 EMERGENCY ZIPCODE: 78526 EMERGENCY PHONE: (936) 212-5545

----- P E R S O N A L D A T A -----

ADDRESS.:107 NORTH GLADYS STREET LEESVILLE, LA 71446
 BIRTH CITY:
 MARITAL ST: DIVORCED CHILDREN: 00 CITIZEN...: NO
 OCCUPATION.: 13 YRS. ELOC.....: 2 RELIGION...: NON-DENOMINATIO
 GOVT ASST.:
 MOTHER'S NAME: ELIZABETH NORTON FATHER'S NAME: PHILLIP MARLONE

----- S C A R S - M A R K S - T A T T O O S -----

MARK/INFIRMITY.1: SC L ARM LITERAL: SCAR
 MARK/INFIRMITY.2: TAT BACK LITERAL: US ARMY VETERAN
 MARK/INFIRMITY.3: LITERAL:
 MARK/INFIRMITY.4: LITERAL:
 MARK/INFIRMITY.5: LITERAL:

----- T R A N S F E R I N F O R M A T I O N -----

ASSIGNED LOCATION	PHYSICAL LOCATION	FROM DATE	TYPE SUPV
NEW ORLEANS DISTRICT	NEW ORLEANS DISTRICT	09/28/09	I
NEW ORLEANS DISTRICT	RELEASE	11/12/09	I
OAS/SOUTH JAILS	ORLEANS PP	11/19/09	A
HUNT RECEPTION AND DI	HUNT RECEPTION AND DI	12/08/09	A
RAYMOND LABORDE CORRE	RAYMOND LABORDE CORRE	01/19/10	A
J LEVY DABADIE CORREC	J LEVY DABADIE CORREC	09/12/11	A
RAYMOND LABORDE CORRE	RAYMOND LABORDE CORRE	07/23/12	A
OAS/STATE POLICE	OAS/STATE POLICE	11/13/12	A
HUNT RECEPTION AND DI	HUNT RECEPTION AND DI	09/25/13	A
ELAYN HUNT CORR CTR	ELAYN HUNT CORR CTR	02/17/14	A
ELAYN HUNT CORR CTR	UNIVERSITY MEDICAL CE	11/14/16	A
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RAYBURN CORR CENTER	RAYBURN CORR CENTER	12/17/18	A

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STATE OF LOUISIANA VERSUS CHRISTOPHER MARLOWE
COURT OF APPEAL OF LOUISIANA, FOURTH CIRCUIT
81 So. 3d 944; 2011 La. App. LEXIS 1601
NO. 2010-KA-1116
December 22, 2011, Decided

Editorial Information: Subsequent History

Released for Publication February 8, 2012. Writ denied by State v. Marlowe, 89 So.3d 1191, 2012 La. LEXIS 1450 (La., 2012)

Editorial Information: Prior History

APPEAL FROM CRIMINAL DISTRICT COURT ORLEANS PARISH. NO. 467-635, SECTION "G".
Honorable Julian A. Parker, Judge.

Disposition:

CONVICTION AND SENTENCE AFFIRMED.

Counsel FOR APPELLEE: LEON A. CANNIZZARO, JR., DISTRICT ATTORNEY, NISHA SANDHU, ASSISTANT
DISTRICT ATTORNEY, NEW ORLEANS, LA.
FOR DEFENDANT/APPELLANT: DONALD L. HYATT II, DONALD L. HYATT, II APLC, NEW ORLEANS,
LA.

Judges: (Court composed of Chief Judge Joan Bernard Armstrong, Judge Patricia Rivet Murray, Judge Michael E. Kirby). MURRAY, J., CONCURS IN THE RESULT.

CASE SUMMARY Trial court did not err in an attempted second-degree murder trial in excluding the testimony of defendant's use of force expert because the expert's testimony would not assist the jury to understand the facts or determine whether defendant acted in self-defense but would be offered to bolster defendant's credibility and the defense theory.

OVERVIEW: Trial court did not err in an attempted second-degree murder trial in excluding the testimony of defendant's expert in the use of force in lethal and non-lethal violent encounters because the expert's proposed testimony would not assist the jury to understand or determine the facts in issue or determine the ultimate issue--whether defendant acted in self-defense--but would be offered to bolster defendant's credibility and the defense theory. There was a substantial danger of unfair prejudice to the State, and the danger of substantial prejudice outweighed the probative value of the evidence.

OUTCOME: The judgment convicting defendant of attempted second-degree murder by shooting under La. R.S. 14:30.1 was affirmed.

LexisNexis Headnotes

Criminal Law & Procedure > Criminal Offenses > Inchoate Crimes > Attempt > Penalties

See La. Rev. Stat. Ann. 14:27(D)(1)(a).

Criminal Law & Procedure > Criminal Offenses > Homicide > Murder > Second-Degree Murder > Penalties

See La. Rev. Stat. Ann. 14:30.1.

Criminal Law & Procedure > Criminal Offenses > Homicide > Murder > Second-Degree Murder > Penalties

Criminal Law & Procedure > Criminal Offenses > Inchoate Crimes > Attempt > Penalties

La. Rev. Stat. Ann. 14:27(D)(1)(a) provides, in part, that if the offense attempted is punishable by life imprisonment, the offender shall be imprisoned at hard labor for not less than 10 nor more than 50 years without benefit of parole, probation, or suspension of sentence. The offense of second-degree murder is punishable by mandatory life imprisonment at hard labor. La. Rev. Stat. Ann. 14:30.1(B). Therefore, the sentence for attempted second-degree murder must be served without benefit of probation, suspension, of sentence or parole. However, La. Rev. Stat. Ann. 15:301.1(A) provides that the failure of a sentencing

court to specifically state that all or a portion of the sentence is to be served without benefit of parole, probation, or suspension of sentence shall not in any way affect the statutory requirement that all or a portion of the sentence be served without such benefits. La. Rev. Stat. Ann. ~~15:301.1~~(A) deems that those required statutory restrictions are contained in the sentence, whether or not imposed by the sentencing court, and that statutory provision self-activates the correction and eliminates the need to remand for a ministerial correction of an illegally lenient sentence resulting from the failure of the sentencing court to impose the restrictions.

Criminal Law & Procedure > Trials > Motions for Mistrial

See La. Code Crim. Proc. Ann. art. 775.1.

Criminal Law & Procedure > Trials > Motions for Mistrial

Criminal Law & Procedure > Appeals > Reviewability > Preservation for Review > Exceptions to Failure to Object

The failure of defendant to object to a mistrial that he did not seek and from which he has not benefited is inconsequential since, once a mistrial is declared, the trial is over. Contemporaneous objection and reservation of a bill are not applicable to a plea of double jeopardy. As originally drafted, La. Code Crim. Proc. Ann. art. 841 did not require a bill to be reserved for a ground for arrest of judgment under La. Code Crim. Proc. Ann. art. 859, one of which is double jeopardy. Moreover, it is clear that requiring a contemporaneous objection to an improperly granted mistrial does not advance the purpose of the rule, which is to put the trial judge on notice of the alleged irregularity and to provide him with the opportunity to correct the problem during trial. When a mistrial is declared, the jury is dismissed. Unless defendant anticipates the declaration of a mistrial, the trial ends without the opportunity to object. In addition, a function of the contemporaneous objection rule is to facilitate appellate review of adverse lower court rulings. Since appellate review does not in the normal course follow a trial aborted by the grant of a mistrial, this purpose is not served by the noting of an objection to the granting of a mistrial.

Criminal Law & Procedure > Appeals > Reviewability > Preservation for Review > Requirements

See La. Code Crim. Proc. Ann. art. 841.

Criminal Law & Procedure > Trials > Motions for Mistrial

See La. Code Crim. Proc. Ann. art. 770.

Criminal Law & Procedure > Appeals > Reviewability > Preservation for Review > Requirements

The contemporaneous objection rule of La. Code Crim. Proc. Ann. art. 841(A) not only provides that an irregularity or error cannot be availed of after verdict unless it was objected to at the time of the occurrence but also requires that the party state the grounds for the objection. Defendant must state the basis for his objection when he makes it so that the trial judge has an opportunity to rule on it and prevent or cure an error. Moreover, defendant is limited on appeal to those grounds for the objections that he articulates at trial.

Criminal Law & Procedure > Appeals > Reviewability > Preservation for Review > Requirements

There are two purposes behind La. Code Crim. Proc. Ann. art. 841(A)'s contemporaneous objection rule: (1) to put the trial court on notice of the alleged irregularity or error, so that the court can cure the error and (2) to prevent a party from gambling for a favorable outcome and then appealing on errors that could have been addressed by an objection if the outcome is not as hoped.

Criminal Law & Procedure > Trials > Motions for Mistrial

Criminal Law & Procedure > Appeals > Standards of Review > Harmless & Invited Errors > General Overview

A trial court's erroneous denial of a motion for mistrial based on one of the provisions of La. Code Crim. Proc. Ann. art. 770 is subject to the harmless error analysis.

Criminal Law & Procedure > Trials > Closing Arguments > Inflammatory Statements

District attorneys are prohibited from making references to race. The purpose of this mandatory prohibition is to avoid the use of racial prejudice to obtain convictions. This is in accord with Louisiana

jurisprudence and is founded upon a stringent requirement that trials be conducted in accordance with law and that convictions be founded on evidence of guilt and not upon prejudice. Without this mandatory rule of law, the convictions of innocent defendants could be secured, not because of their guilt, but because of their race.

Criminal Law & Procedure > Trials > Closing Arguments > Inflammatory Statements

When the alleged criminal conduct arises out of an incident among persons filled with racial animosity, the American system of criminal justice requires that those charged with the responsibility for the conduct of criminal trials strictly avoid any actions that might influence the jury to decide the guilt or innocence of the accused upon prejudice rather than on the law and the evidence. The jury is a time-honored and respected institution, indispensable to the system of criminal justice, and its members are expected to arrive at a verdict in a calm and detached fashion, without having latent racial prejudices, which are sometimes strong, aroused by brutal incitements to convict and thereby obtain revenge inherent in racial remarks.

Criminal Law & Procedure > Appeals > Standards of Review > Clearly Erroneous Review > Findings of Fact

Evidence > Testimony > Experts > Daubert Standard

A trial court acts as a gatekeeper to the admissibility of expert testimony under Daubert, which decision the Louisiana Supreme Court has adopted. The court set forth the applicable law concerning the trial court's gatekeeping function in the qualification of expert witnesses under Daubert. A determination regarding the competency of a witness is a question of fact, and a trial judge is vested with wide discretion in determining questions of fact. Therefore, rulings on the qualifications of an expert witness will not be disturbed on appeal absent manifest error.

Evidence > Testimony > Experts > Daubert Standard

La. Code Evid. Ann. art. 702 dictates the admissibility of expert testimony, providing that, if scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise. Limitations have been placed on this codal provision in that, expert testimony, while not limited to matters of science, art, or skill, cannot invade the field of common knowledge, experience, and education of men. Louisiana has adopted the guidelines set forth by the United States Supreme Court in Daubert for determining the reliability of expert scientific testimony under La. Code Evid. Ann. art. 702. Daubert set a new standard to assist trial courts in evaluating the admissibility of expert testimony. It requires district courts to perform a gatekeeping function to ensure that any and all scientific testimony or evidence admitted is not only relevant but reliable.

Evidence > Testimony > Experts > Daubert Standard

Daubert articulated the following non-exclusive factors to be considered by district courts in determining the admissibility of expert testimony: (1) the testability of the scientific theory or technique; (2) whether the theory or technique has been subjected to peer review and publication; (3) the known or potential rate of error; and (4) whether the methodology is generally accepted in the scientific community. The Daubert analysis is to be applied to determine the admissibility of all expert testimony, not just scientific testimony.

Evidence > Testimony > Experts > Daubert Standard

Evidence > Testimony > Experts > Qualifications

Generally, the test of competency of an expert is the expert's knowledge of the subject about which he is called upon to express an opinion. A combination of specialized training, work experience, and practical application of the expert's knowledge can combine to establish that person as an expert. Courts can also consider whether a witness has previously been qualified as an expert. Importantly, the refusal of a trial court to receive expert testimony will rarely, if ever, provide grounds for reversal.

Evidence > Hearsay > Exceptions > Spontaneous Statements > General Overview

La. Code Evid. Ann. art. 801(D)(4).

Evidence > Relevance > Prior Acts, Crimes & Wrongs

La. Code Evid. Ann. art. 404(B)(1).

Evidence > Relevance > Prior Acts, Crimes & Wrongs

The Louisiana Supreme Court has long approved of the introduction of other crimes evidence both under the provisions of former La. Rev. Stat. Ann. 15:448 relating to res gestae evidence and as a matter of integral act evidence under La. Code Evid. Ann. art. 404(B) when it is related and intertwined with the charged offense to such an extent that the State could not have accurately presented its case without reference to it. This doctrine encompasses not only spontaneous utterances and declarations made before and after commission of the crime but also testimony of witnesses and police officers pertaining to what they heard or observed before, during, or after the commission of the crime if the continuous chain of events is evident under the circumstances. A close connexity between the charged and uncharged conduct is required to ensure that the purpose served by admission of other crimes evidence is not to depict the defendant as a bad man but, rather, to complete the story of the crime on trial by proving its immediate context of happenings near in time and place.

Evidence > Relevance > Prior Acts, Crimes & Wrongs

The res gestae sic or integral act doctrine thus reflects the fact that making a case with testimony and tangible things not only satisfies the formal definition of an offense, but tells a colorful story with descriptive richness. The test of integral act evidence is therefore not simply whether the state might somehow structure its case to avoid any mention of the uncharged act or conduct but whether doing so would deprive its case of narrative momentum and cohesiveness with power not only to support conclusions but to sustain the willingness of jurors to draw the inferences, whatever they may be, necessary to reach an honest verdict.

Evidence > Hearsay > Exceptions > Spontaneous Statements > Res Gestae

Evidence > Relevance > Prior Acts, Crimes & Wrongs

Evidence > Relevance > Sex Offenses > Similar Crimes > Sexual Assault Cases

A defendant has a right to present evidence of other crimes, wrongs, or acts by a victim as part of the res gestae. La. Code Evid. Ann. art. 404(B)(1) begins by stating that, except as provided in La. Code Evid. Ann. art. 412, evidence of other crimes, wrongs, or acts is not admissible. La. Code Evid. Ann. art. 412 refers to evidence of a victim's past sexual behavior in sexual assault cases. Thus, under La. Code Evid. Ann. art. 404(B)(1) evidence as to other crimes, wrongs, or acts by a victim is admissible under the limited exceptions provided by the article unless such evidence is evidence of a victim's past sexual behavior in sexual assault cases. The res gestae encompasses not only spontaneous utterances and declarations made before and after commission of the crime but also testimony of witnesses and police officers pertaining to what they heard or observed before, during, or after the commission of the crime if the continuous chain of events is evident under the circumstances.

Criminal Law & Procedure > Appeals > Standards of Review > Abuse of Discretion > Evidence

Evidence > Relevance > Prior Acts, Crimes & Wrongs

A trial court's ruling on the admissibility of evidence under La. Code Evid. Ann. art. 404 (B)(1) will not be disturbed absent an abuse of discretion.

Criminal Law & Procedure > Trials > Closing Arguments > Fair Comment & Fair Response

The State's rebuttal shall be confined to answering the argument of the defendant. However, prosecutors have wide latitude in choosing closing argument tactics. Further, a trial court has broad discretion in controlling the scope of closing arguments. Even in the case of a prosecutor exceeding the bounds of proper argument, a reviewing court will not reverse a conviction unless thoroughly convinced that the argument influenced the jury and contributed to the verdict. Even where the prosecutor's statements are improper, a reviewing court should accord credit to the good sense and fair-mindedness of the jurors who heard the evidence.

Criminal Law & Procedure > Appeals > Reversible Errors > Cumulative Errors

The cumulative effect of alleged errors complained of by a defendant on appeal, none of which constitutes reversible error individually, does not deprive the defendant of his right to a fair trial and thus does not constitute reversible error. Further, the cumulative effect of harmless errors does not warrant reversal of a conviction or a sentence.

Opinion

Opinion by: Joan Bernard Armstrong

Opinion

[*948] [Pg 1] STATEMENT OF THE CASE

The defendant, Christopher Marlowe,¹ was charged by bill of information with attempted second-degree murder, by shooting, of Erik Beelman,² a violation of La. R.S. 14:27, 30.1. The defendant pleaded not guilty at his December 6, 2006 arraignment. The defendant waived motions on April 25, 2007. The defendant was tried on June 15-16, 2009, by a twelve-person jury, but a mistrial was declared after the jury was unable to reach a verdict. The defendant was retried by a twelve-person jury on September 21-24, 2009, and found guilty as charged. The defendant was sentenced on November 19, 2009, to twenty years at hard labor, without benefit of probation or [*2] suspension of sentence. The defendant now appeals raising five assignments of error.

[Pg 2] FACTS

The shooting occurred on June 27, 2006.

New Orleans Police Department Assistant Police Communications Supervisor Andrea Taylor identified incident recall item number F-2728906, and the associated 911 audio recording.

New Orleans Police Department Crime Lab technician Aven Cooper processed the scene of the shooting on June 27, 2006, at the Royal St. Charles Hotel, located in the 100 block of St. Charles Avenue. Cooper identified numerous photographs she took of the scene. She collected one spent Winchester [*949] .40 caliber Smith & Wesson cartridge casing in the 100 block St. Charles Avenue; one black blood stained night stick located on the ground in the street, near the sidewalk; one belt buckle located on the sidewalk, near the blood; and one "Sea Hawk" knife located on the ground in the street. Cooper testified on cross examination that [*3] Officer Defillo was the investigating officer at the scene. Cooper did not submit anything for blood analysis, fingerprints, etc., nor was she ever directed to do so by an investigator.

New Orleans Police Officer Terrell Defillo testified that he responded to the shooting. He observed one white male lying on the ground at the northeast corner of the intersection and another white male (the defendant) standing over him. The defendant was dressed in a white shirt, black BDU trousers and a gun belt with a holstered gun. Officer Defillo asked the defendant what was going on, and the defendant said, "I shot him." When asked whether the defendant said he had been beaten, Officer Defillo said defendant said he had been pushed. Officer Defillo further elaborated, "That was his initial statement. If I recall correctly he said, 'He pushed me so I shot him.'" The officer observed no bleeding or bruising on the [Pg 3] defendant. The defendant did not complain to the officer of any injuries. The defendant was the first person to whom Officer Defillo spoke, and the officer was the first officer to arrive on the scene. After the defendant made the aforementioned initial statement(s), Officer Defillo [*4] advised him of his Miranda³ rights and did not talk to him anymore. Officer Defillo identified the firearm, cartridges, and magazine he confiscated from defendant, as well as the defendant's gun belt, flashlight, and handcuffs. He identified clothing the defendant was wearing on the night of the shooting. An EMS unit arrived on the scene almost simultaneously with Officer Defillo. The defendant did not make any requests for treatment or assistance. Officer Defillo's role in the investigation concluded after taking witness statements and placing the defendant under arrest for aggravated battery.

Officer Defillo confirmed that there was nothing unusual about the defendant's handcuffs, his gun, his flashlight, or his duty belt for a security officer or police officer. Officer Defillo said one piece of evidence, a shirt with a label reading "American Maritime Protection Service," was in the street on the scene.

Meredith Acosta, a firearms examiner for the Jefferson Parish Sheriff's Office Crime Lab, testified that she conducted an analysis in connection with a shooting in the 100 block of St. Charles Avenue, [*5] under item number F-27289-06. She examined one spent .40 caliber cartridge case and a Springfield Armory, Model SP40, .40 caliber semi-automatic pistol, and determined that the casing had been "fired" by the pistol.

[Pg 4] Philip Barbarin was working on the night of the shooting in the instant case for Downtown Parking as a supervisor for an overnight valet crew. One of his assigned locations was the Royal St. Charles Hotel at the corner of St. Charles Avenue and Common Street. He identified the

defendant in court, confirming that the defendant was a little smaller in terms of weight than he had been at the time of the June 2006 shooting. Barbarin testified that the defendant began working at the hotel approximately two weeks before the incident occurred. Barbarin did not know the victim, except from that night. On the night in question, Erik Beelman, entered the hotel with a female, talking. Barbarin said [*950] Beelman seemed to be very, very jolly, and went up into the hotel with his companion. Barbarin did not hear anything said between the defendant and Beelman when Beelman came into the hotel. Barbarin replied in the negative when asked whether Beelman was being aggressive toward anyone, [*6] was standoffish or hostile towards anyone, or was cursing or using foul language.

Barbarin testified that when Beelman came down and was leaving the hotel, Barbarin said something to him, and the two men started a conversation. The front desk people and others also began conversing with Beelman. Barbarin also heard Beelman telling the defendant about what a "bad mother f-er" Beelman's brother, a police officer who had been injured in a shoot-out, was. Beelman was not being confrontational. Barbarin went to do some paperwork, and at some point he realized that Beelman and defendant were outside and were engaged in "sort of an argument." Barbarin testified that, as he recalled it, the defendant was telling Beelman that he, the defendant, was also a "bad f-er and in the military." The defendant "just started getting a little rude" toward Beelman. Barbarin replied in [Pg 5] the negative when asked whether, up to that point, Beelman had been confrontational at all toward the defendant.

Barbarin said others present were hyping up the defendant to get into a fight with Beelman. "So, you know, [defendant] was like, man, you know, get the f--k up the street." Beelman's female companion grabbed [*7] Beelman to move on. The defendant was coming toward Beelman, telling him to move on up the street. Barbarin said Beelman was "like, dude, what is your problem, man. What is wrong? Man, what'd I do to you? So he is steady going at him, get the F up the street." The defendant repeatedly struck Beelman with his night stick. Beelman would block the blows, asking defendant what his problem was. When Barbarin was asked whether, up to that point, he had seen Beelman push the defendant, punch him, kick him or spit on him, Barbarin replied that Beelman never "threw a lick"; he never did anything. Beelman was backing up, and when they were in the street the defendant pulled out a gun and told Beelman to get on the ground. Beelman threw his hands up "like, whoa, whoa, whoa, whoa," and Barbarin said at that point he went back inside the hotel to tell the front desk to call the police because the defendant was about to shoot Beelman. Barbarin said that as soon as he said to the front desk attendant that the defendant was about to shoot Beelman, he (Barbarin), turned around and the defendant shot Beelman in the face. Barbarin was the first person to render aid to Beelman. He identified the shirt [*8] he was wearing that night and had taken off to hold to Beelman's face after Beelman was shot. Another individual, a guest from the hotel, also gave his shirt to use.

The defendant was standing over Beelman, and Barbarin asked him why he shot Beelman. Barbarin testified that at that point the defendant threw a knife on the ground. Barbarin identified the knife in evidence and a photograph of the [Pg 6] scene where he and Beelman sat on the ground after Beelman was shot. Barbarin identified on another photograph the location where Beelman was first shot and the location where he staggered to afterward and collapsed. Barbarin identified on a third photograph where he was sitting on the ground with Beelman and where the defendant threw the knife down.

Barbarin confirmed that he twice met and discussed his testimony with civil attorneys for Erik Beelman. Barbarin initially denied ever viewing a video clip at [*951] either of those meetings, but later said he recalled seeing a video shown to him by Beelman's civil attorney. Barbarin confirmed that he had never given a recorded statement to police or prosecutors or a statement that was typed up for him to sign. Barbarin said he was not certain where [*9] Beelman and the defendant were when they were talking about Beelman's brother having been a police officer and having been shot in the line of duty. Barbarin did not recall Beelman telling the defendant that his (Beelman's) brother had also been a bad dude in the military. Barbarin recalled Beelman's companion telling Beelman, "let's go, let's just go."

Barbarin implicitly confirmed on cross examination that at the point in time that he went back inside the hotel to ask the desk clerk to call the police because he believed the defendant was going to shoot Beelman, the defendant and Beelman were at the corner of Common Street. He said the door of the hotel was at least twenty-five feet from the corner where everything happened. Barbarin confirmed that it was his testimony that Beelman had his hands up when Barbarin left the scene to return to the hotel, and that after he walked into the hotel lobby and turned to look out the window, Beelman still had his hands up. Barbarin confirmed that he had testified, and maintained that former testimony, that the defendant had pointed the gun at Beelman and that he thought the defendant was going to shoot [Pg 7] Beelman. Barbarin confirmed that [*10] he did not see the defendant walk to his truck. He confirmed that he was not sure whether Beelman was talking about his brother inside the hotel or outside.

On redirect examination Barbarin replied in the affirmative when asked whether he saw Beelman get shot. He said Beelman was not moving toward the defendant at the time; rather, the defendant was moving toward Beelman.

Erik Beelman admitted that ten or so years ago he was convicted of possession of a controlled dangerous substance known as Ecstasy. Beelman testified that on the day in question, he walked in with a guest of the Royal St. Charles Hotel. He said some people who worked there--including the defendant, a person behind the front desk, and some others in regular clothes--greeted him and that he greeted them in return. He did not know who any of them were at the time. He said he also heard snickering and laughing from those persons, who were around the front desk. Beelman said he did not know if the snickering and laughing had been directed towards him. Beelman and his companion passed by the group and went upstairs on the elevator. Beelman said he was only upstairs for a minute or two, because he got a call on his cell phone [*11] and had to leave to meet someone who was going to do some work on his apartment. When Beelman went back downstairs to the hotel lobby, he was still talking on his cell phone. Beelman said that when he returned to the lobby, the defendant was leaning on the concierge desk. Beelman again heard some laughing and also a derogatory comment. He said he looked, shrugged it off, and kept carrying on his cell phone conversation. Beelman said there were two entrances/exits to the hotel, one on Common Street and one on St. Charles Avenue. He and his companion walked through the lobby [Pg 8] toward the St. Charles Avenue doors. However, there was some obstruction, and they turned around and went towards the Common Street exit.

As Beelman and his companion walked back through the lobby, there was some more laughing and derogatory comments, and defendant told Beelman to "get the f - - [*952] out of there." Beelman said he threw up his hands, gesturing "like, what?" Beelman said he realized they had been laughing at and making comments about him the entire time. Beelman said he pointed at the guy sitting behind the counter laughing, and "basically said to him, 'What the hell y'all laughing at. I'm not doing [*12] anything. Y'all over there talking trash. That ain't right.'" Beelman said he recalled that "he" told me to leave again, to get out. Beelman said, "'Who the hell are you, man? You work here and you're talking trash to me. You don't know who I am. Screw you,' and I left." Beelman walked out the Common Street door and took a left towards St. Charles Avenue. Beelman said he had made it approximately one-half way from the door to St. Charles Avenue when Philip Barbarin came out apologizing. The two men talked briefly, and then the defendant came out the Common Street door and went to his truck, which Beelman said was parked on the street directly across the sidewalk from the Common Street hotel door.

Beelman said the defendant opened the door of his truck, reached in and grabbed something, and walked briskly over to him. When asked whether he began moving in the defendant's direction when the defendant went to his truck, Beelman said he might have taken a step to the side, put his hands up again, apparently meaning in a gesture, and put his hands on his hips in a non-threatening manner. When the defendant came up to him, he said to the defendant, "Look, man, I wasn't doing anything in there." [*13] He asked the defendant if he was in the [Pg 9] military, and then the two started talking about the military, about Beelman having had friends who went to Iraq, and about the fact that Beelman's father and his brother were both Marines. Beelman said he then mentioned to the defendant that his brother had been shot on a SWAT roll last week, a story that had been all over the news. Beelman said the defendant turned to walk off, and turned back to say, "f - your brother." The defendant then walked off past Beelman, toward St. Charles Avenue. Two of the other males who had been in the hotel came outside and walked up. One stood behind the defendant. Beelman said at that time he believed something was about to "go down." Beelman testified that at that point he walked toward the defendant. Beelman denied hitting, pushing or spitting on the defendant.

Beelman said the defendant kind of postured himself up and had his ASP (baton) in his hand. Beelman identified the ASP in evidence. Beelman testified that the defendant extended the ASP, pointed down the street, and said, "Go ahead on. Get up the street." Beelman stated that he said, "Wait a second, man." He said he believed that at that point [*14] he took a step back or kind of stepped to the side and said, "Whoa. Hold up." Beelman said he put his hand on a road construction barrel on the sidewalk located towards the corner of St. Charles Avenue and Common Street and said, "Whoa. Wait up, man. Hold up. I'm not doing anything." He said that as soon as he displaced his weight onto the barrel and kind of put his feet together, the defendant hit him with ASP. Beelman identified a photograph in evidence of the construction barrels. Beelman testified that he flew back into the street, and the defendant started coming at him, "boom, boom, boom." Beelman said he took a couple of blows, and that he was just trying to get distance between him and the defendant. He pushed the defendant back with his [Pg 10] hand. Beelman said that because he was trying to get distance between him and the defendant, they ended up almost across the street. He said there was approximately eight feet between him and the defendant. He said he "was like, [*953] 'Dude, what are you doing, man? What the f's your problem?' And then he pulls out his gun and walks up to me, boom, shot me, tried to blow my head off. Plain and simple. That's it."

Beelman said that after he [*15] was shot he blacked out, came to, had a loud buzzing sound in his head, and that everything was spinning. He realized what had happened, and he saw the defendant walking toward him. He said his mouth was hanging, that the roof of his mouth was on his tongue, and he was trying not to swallow it. Blood was going down his throat. He grabbed his cell phone and attempted to call 911. He said someone came over and took off his own (the other

person's) shirt, put it on Beelman's face, and tried to calm Beelman down. He identified the shirt worn by Philip Barbarin, the hotel employee who came outside to attempt to diffuse the situation and apologize. That shirt and another one were on his face when he was transported to the Elmwood Trauma Center. Beelman viewed a surveillance video, pointed out individuals involved, and narrated the events recorded.

Beelman stated that when he walked into the hotel that morning at about 7:00 am, he had been out at bars since approximately 9:30 or 10:00 p.m. the night before and had had drinks. He was at the Maple Leaf until 1:00 or 2:00 a.m., then went to Friar Tucks bar, and then to the French Quarter. He met the female companion he was with at the hotel that [16] morning in the French Quarter. Beelman denied attempting to use an ATM, or automated teller machine, located in the bar area of the hotel lobby. When asked whether the defendant was laughing when [Pg 11] Beelman came back through the lobby, Beelman replied, "Probably." He said the individual the defendant was talking to definitely was laughing. When asked whether the defendant said anything to him at that point, Beelman said that eventually the defendant told him to "get the f... out of there."

However, Beelman admitted that when giving testimony under oath on March 4 and 5, 2008, he had said he could not recall exactly what was said. Beelman admitted pointing his hand at the person behind the hotel front desk, and then pointing at his chest and saying something like, "You don't know who you talking to. Screw you." Beelman admitted he was upset. When asked whether that was all he said, Beelman admitted there were other words, that he said something to the effect of, "Y'all siting back there and shouting things and y'all work here. Who the hell do you think you are? Y'all work here. Screw you. You don't know who I am. Screw you." Beelman admitted that he may have said, "What the fuck's [17] your problem?" Beelman confirmed that his female companion was pulling on his arm to get him to leave the hotel. But he said his intent upon leaving was to go, meet his employee, and let him start on his work. He intended to walk up St. Charles Avenue and cross over into the French Quarter, where his car was parked. Beelman conceded that he may have taken a step toward the defendant.

Beelman was asked how long the conversation between him and the defendant lasted, the one after the defendant returned from his truck, when Phillip Barbarin and Beelman's female companion were present. He said it lasted a minute or so. Beelman was facing the defendant, within arm's reach. He said the defendant had something in his hand at the time, but he could not tell what it was. He did not recall the defendant threatening him, but said the defendant may have made a derogatory comment toward him. The defendant did not extend the ASP [Pg 12] baton until the defendant reached the corner. [954] Beelman said he pushed the defendant and that the defendant may have fallen, but not to the pavement. Beelman conceded that he might have punched the defendant when he was trying to get separation between himself and the [18] defendant, as the defendant was striking him with the baton. However, he said that he did not think it was an all-out punch. He was not sure how many times he contacted the defendant with his hands. Beelman conceded that he was in good physical condition at the time and that he had generally been working jobs that had a physical labor component to them that helped keep him in good physical condition. He also conceded that he had played football in the Southeastern Conference as a linebacker.

When asked whether at any time he had acted aggressively toward the defendant, Beelman stated that he had been offended, and he conceded that his actions could have come off as aggressive. Beelman said he was referring to him walking toward the defendant after the defendant said "f..." Beelman's brother, after Beelman had said something to the defendant about his brother, a Jefferson Parish Sheriffs deputy, having been shot in the line of duty. Beelman replied in the negative when asked whether he had taken any other aggressive acts toward the defendant between the time he left the hotel lobby and the time when the gun discharged. Beelman denied that when he pointed to the defendant and then pointed [19] back at himself on a video that he was inviting the defendant to fight. Beelman denied attempting to take the defendant's gun out of its holster. Beelman admitted he had a pending personal injury suit arising out of the shooting.

[Pg 13] The trial court conducted a Daubert4 hearing on September 22, 2009, concerning the proposed testimony of Greg Meyer as an expert in the field of the use of force in lethal and non-lethal violent encounters. At the conclusion of the hearing the trial court pretermitted decision until the following day. Prior to the start of the third day of trial on September 23, 2009, the trial court ruled that Meyer would not be permitted to testify as an expert in the use of force in lethal and non-lethal violent encounters. The trial court later granted defense counsel's request to proffer what the expert opinion testimony of Meyer would have been.

Dr. Bruce Wainer, called as a defense witness, was qualified by the court as an expert in the field of forensic pathology and neuropathology. Dr. Wainer reviewed Beelman's medical records. He said Beelman's blood alcohol [20] level was 0.253, in the range of severe intoxication, which he said was 0.2 to 0.3. He noted that the legal blood alcohol limit for operating a motor vehicle is 0.08. Dr. Wainer said that it was his opinion, within a reasonable degree of medical certainty, that there would be significant memory impairment in the range of 0.15 to 0.29 blood alcohol level. He said a person's recollection of an event occurring under that degree of intoxication may be distorted and inaccurate. Dr. Wainer referred to a phenomenon called confabulation, when a person has a

memory deficit and so makes up a fantasy that sounds credible but is, in fact, inaccurate. He said that confabulation was a medical condition that was a symptom and sign of chronic alcohol degenerative brain disease, but that it was possible it could occur with a single episode of severe intoxication.

[*955] [Pg 14] Dr. Wainer also described the "fight or flight" syndrome that could affect perception of such things as recollecting the chronological time of events. He said it was his opinion that, considering Beelman's level of intoxication, Beelman's fight or flight reaction time and coordination would have been diminished or slowed, but that his [*21] state of agitation would have been more heightened than if he had not been intoxicated. Viewing a photograph of Beelman's face after he had been shot, he said that he did not see any evidence of stippling-- partially burned gunpowder particulate matter residue that enters the skin, resulting from a firearm fired anywhere from two inches to twenty-four inches away. He confirmed that if medical intervention had not eliminated stippling caused by a contact gunshot wound, he would have expected to see such stippling if there had been a contact gunshot.

The defendant, Christopher Marlowe, testified that he was twenty-one years old at the time of the incident and was working at the time for American Maritime Protection and Security. He was not an employee of the Royal St. Charles Hotel. The night of the shooting was his third night on the job at the hotel. Marlowe had never fired a weapon at anyone while he was in the military. He had never been convicted of a criminal offense. That night he was working the 11 p.m. to 7 a.m. shift for another security guard. His job duties included telling people loitering about the outside of the hotel to leave. The incident in question occurred about ten [*22] minutes before he was scheduled to go off duty. There had not been any disturbances that night, nor on the two previous nights. He had never seen Beelman before that night. The main entrance to the hotel was on Common Street; people did not come and go through the St. Charles Avenue door.

[Pg 15] The defendant replied in the negative when asked whether there was any conversation when Beelman and his companion first walked into the hotel and went to the elevator. When the two came down the defendant was talking to the desk clerk. Neither Beelman nor his companion was the subject of any part of the conversation. The defendant said he was laughing at something in the conversation. Beelman's companion went toward the St. Charles Avenue door to use an ATM, which the defendant said was broken, and Beelman followed her. The defendant said that when the two walked back toward the Common Street door, Beelman got loud and belligerent, and defendant told him he needed to leave. He said Beelman pointed at him, "like more or less come get some."

Beelman then left, when his companion was pulling on his arm. The defendant replied in the negative when asked whether he ever left the counter to approach [*23] Beelman. The Defendant said he was getting ready to get off work, and he went out to his truck to get his cell phone and call his boss. His cell phone had been charging in his truck. He said that, from watching the video of the events, he knew that he had left the hotel some twenty seconds after Beelman left the hotel.

When the defendant exited Beelman said, "Hey, hey, you." The defendant asked him if he had been in the military, "You were in the Army, huh?" The defendant said he walked toward Beelman, and Beelman asked him if he was in the Army. The defendant replied that he had just gotten out. Beelman said his brother and father had been Marine Recon. The defendant vaguely stated that something then happened, and he did not recall the next word, but Beelman said, "I bet you're scared now, huh, bitch?" The defendant said he decided to ask Beelman where he went to training, and Beelman "was just like 'Yeah,'" so he walked around Beelman and [*956] left, ending the conversation because it had gotten "really weird."

[Pg 16] The defendant said he told Beelman to have a nice day and walked to the corner. The defendant said he noticed alcohol on Beelman's breath, and that Beelman was talking loudly. [*24] The defendant denied ever talking to Beelman about Beelman's brother being a Jefferson Parish Sheriff's deputy, and he denied every saying "F--- you" and "f- your brother" to Beelman.

The defendant walked to the corner, sat down on a city trash can, pulled out his knife, and started cleaning his fingernails, something he indicated he used to do in the Army when he had nothing to do. The defendant said he threw down the knife when Beelman subsequently walked up to him. The Defendant said Beelman got very close to him, and Beelman had both of his fists balled up. The defendant said he forgot what Beelman was saying, but the defendant told him again that he had to leave. Beelman said, "Make me." The Defendant said that at that point he stood up and told Beelman to leave. The Defendant said he was face to face with Beelman, so he walked around him and said, "Get the fuck out of here." Beelman shoved him. He shoved Beelman back. They moved toward the corner, and Beelman punched him in his left ear, almost knocking him down. The defendant responded by pulling his ASP out, because Beelman was attacking him and had punched him in the head. The defendant said his ASP was on his duty belt, right [*25] behind his gun.

The defendant said he extended his ASP and hit Beelman twice, once on the shoulder and once on the arm. He said Beelman shrugged off the strikes like nothing had happened, and he would not stop attacking the defendant. Beelman grabbed the defendant's ASP and tried to yank it out of his hand. The defendant said that scared him, and so he tossed the ASP into the street. He then put his hand on the grip of his gun and told Beelman to freeze, to stop. Then he put his hand [Pg 17] down, off the gun. Beelman did not stop. Instead, he charged the defendant, saying, "I'm going to get your gun from you, Mother Fucker."

The defendant said that at this point he was scared out of his mind, and he indicated that he did not have the ability to handle Beelman. He noted that he had broken his back in the military and had bad knees, and that Beelman said he had been an Army Ranger. Beelman charged him, and the defendant said all he felt was Beelman's hands grabbing him and the next thing he knew, "Bang." He did not recall the instant the gun went off, although he said he was struggling with Beelman at the time it went off. He did not recall pulling the gun out of its holster. The defendant [*26] said he did not intentionally pull the trigger, and that he had not wanted to hurt Beelman.

He rushed Beelman back to the hotel side of the street, took off his own uniform shirt, put it on Beelman's face, and called an ambulance. The defendant identified that shirt and said he had gained approximately sixty pounds since the shooting. The defendant said he tried to lay Beelman down, but Beelman kept wanting to sit up. He said he called 911 twice, and that Officer Defillo arrived while he was talking during the second call. The defendant replied in the negative when asked whether he had been drinking any alcohol during his 11:00 p.m. to 7:00 a.m. shift or had consumed any kind of narcotics or drugs prior to going on his shift.

The defendant was questioned on direct examination concerning the hotel videos. The first one began after Beelman and his companion had exited the hotel elevator after having gone up and come right back [*957] down. Approximately one minute into the video Beelman and his companion were shown walking back from the ATM on the St. Charles Avenue side of the hotel. The defendant said the video [Pg 18] showed him and the desk clerk having a conversation. The desk clerk was [*27] laughing loudly. The defendant noted a hand motion he made in the video and said that was when he said to Beelman, "Yeah, you go ahead and leave." The video next showed the defendant going to his truck, at 51.12 minutes. Another camera, with a view from the hotel lobby looking outside toward Common Street, showed Beelman's female companion outside the hotel at 50.29 minutes, with Beelman pointing at the defendant or him and the desk clerk, saying something. Another view showed Beelman, as the defendant characterized it, being "drug out" of the hotel by his female companion, with Beelman pointing at his chest.

Beelman was out of the hotel by 50.49 minutes. The defendant pointed to a place in the video where he and Beelman were almost back-to-back, with defendant saying he was walking away from Beelman at that point. The defendant said that was after Beelman had come over for a conversation. At 52.55 minutes the video showed defendant and Beelman, with Beelman's female companion between the two men. The defendant said the female was saying, "Let's go." At 53.36 Beelman's companion was coming back out to tell Beelman, "Let's go, leave. What are you doing?" At 53.56 the defendant's left [*28] arm was extended, where, he admitted, he was saying, "Get the fuck out of here." The defendant said minute 54.02 from camera 15 was where he had been hit by Beelman, had almost fallen down, and had drawn his baton. None of the cameras caught the moment when the defendant's gun was fired. The defendant said he never pointed the gun at Beelman.

The defendant identified his cell phone record showing two 911 calls he made that morning. The first did not go through. In the second call he said he requested an ambulance and then next told the operator that he had just shot the [Pg 19] injured person. He indicated that he told either the 911 operator or a police officer that it "was my discharge," which he said meant that it was his gun and not someone else's. When asked whether he intentionally shot Beelman, the defendant replied, "Absolutely not." When asked whether he had wanted to hurt Beelman, the defendant replied, "No, sir."

On cross examination, the defendant admitted that the defense transcript of the second 911 call was inaccurate in omitting someone saying, "Hold on, hold on. Here." When asked if it was correct that whether that "Here" meant that someone was handing him the phone, [*29] the defendant replied that he did not believe that was why "Here" was said. The defendant conceded that the defense transcript of the 911 call did not reflect that right after he said he needed an ambulance he said, "This guy tried to hit me." When asked whether he heard that on the 911 recording, the defendant said he believed he might have heard that. The defendant confirmed that he was the person who told the 911 operator that the guy tried to hit him. However, the defendant replied in the negative when asked whether it was true that Beelman never hit him or tried to hit him. When asked why he told the 911 operator that Beelman "tried" to hit him, the defendant replied that in the rush of things he could not recall anything. The defendant conceded, with regard to his claim that he went to his truck to get his cell phone during the sequence of events preceding the shooting, that his cell phone was on his person at 4:55 a.m. that morning, at 12:58 a.m., and at 3:09 a.m.

[*958] The defendant testified further on cross examination that his handgun was never out of its holster. The defendant handled the handgun while on the witness stand, exhibiting the grip safety on the gun's backstrap that [*30] had to be depressed in order for the gun to fire. The defendant said his hand was on the grip of the gun, [Pg 20] but that the gun was in its holster. The defendant confirmed that the gun had to have come out of the holster for Beelman to have been shot in the face with it, but the defendant did not remember taking it out of the holster or firing it. He said the gun "somehow came out and then the struggle." When asked later if it was "our testimony that that gun was wrestled from you from that holster, right?," the defendant replied, "Yes."

The defendant demonstrated how it happened for the jury, saying that he told Beelman, "Freeze, stop, freeze." The defendant stated further, "He comes. This thing's out, his hand's up. He's coming and he's also reaching by his head. He's got - - hands are going, it's going, and it comes out." The defendant conceded that he had not told Officer Defillo, the first officer to arrive on the scene, that the gun went off accidentally or that Beelman had been trying to take it from him.

The defendant conceded that the gun went off approximately ten inches from Beelman's face. The defendant replied in the negative when asked whether he had had use of force [*31] training or anything similar as a security guard. When asked why he believed he could beat and shoot Beelman, the defendant replied that he was defending himself.

Dr. Alvaro Hunt, senior forensic pathologist with the Orleans Parish Coroner's Office, was called as rebuttal witness by the State. He was qualified by the trial court as an expert in the field of clinical, anatomical, and forensic pathology. Dr. Hunt testified that, based on the absence of any indication in Erik Beelman's emergency room/hospital records of gunpowder stippling or soot, and the absence of any indication of such soot/stippling in photographs of Erik Beelman's wound, it was his opinion the gun had been fired from a distance of two feet or more. Dr. Hunt could not say how Erik Beelman's blood alcohol level of [Pg 21] 0.253 had affected him. He did not think combining Red Bull energy drink with alcohol would have had much in the way of an effect on the alcohol in Beelman's system.

Dr. Hunt stated on cross examination that at a 0.253 blood alcohol level one would be past the point of loss of inhibition. He agreed that at that level one's inhibitions are gone; that a level of 0.253 would affect a person's ability [*32] to tell right from wrong; that at that level one would be likely to get into situations he might not have found himself in had he been sober; and that at a 0.253 blood alcohol level a person might act in ways that would not normally be within their character. Dr. Hunt saw nothing in Beelman's medical chart that would give him any reason to believe Beelman would have reacted any differently than an average person with a 0.253 blood alcohol level. With regard to gunpowder soot deposits being on Beelman, Dr. Hunt agreed that it would be reasonable to assume that, had there been soot present, it may well have been cleaned when Beelman was cleaned very well in the hospital.

Dr. Hunt opined that with a 0.253 blood alcohol level one would have problems remembering things from the point of intoxication to that degree. He also confirmed that one's recollection might be very skewed for rapidly occurring events during a fight or flight experience. Dr. Hunt also confirmed that there was insufficient data to definitively say that the defendant [*959] raised his arm and fired a level shot into Beelman.

On redirect examination, Dr. Hunt testified that, in a situation where a gun is fired within ten inches [*33] from someone's face, it is not unusual to get hot burning particles that would burn the conjunctiva, the lining of the eye, causing bleeding into the eye and extensive swelling of the soft tissues of the eye itself. He confirmed [Pg 22] that in such a case one would expect to see burning from the soot on other parts of that person's face. His review of Beelman's medical records revealed none of those types of burns on Beelman, or any burns on his hands either. As for the effects of a blood alcohol level of 0.253, Dr. Hunt testified that once one gets above 0.25, many people begin to get so overwhelmed by the sedative effects of alcohol that they basically become immobile. He noted, however, that there was the so-called "aggressive" or "mean" drunk who becomes unusually aggressive when he begins to drink, the sort of person who picks barroom brawls. But, he said, once one gets above 0.253 blood alcohol level the sedative effects of the alcohol on the brain have begun to take effect and, while one might try to pick a fight, in his opinion he did not think the person would be very successful because of the central nervous system effects of alcohol.

On recross examination, Dr. Hunt agreed [*34] that it was possible a 0.10 or 0.20 blood alcohol level might cause decreased pain sensation such that one might continue to fight even after being struck with a baton. When asked whether in the New Orleans Coroner's Office he routinely tests for gunshot residue the hands of decedents who are autopsied and who may have fired a handgun, Dr. Hunt replied that the office did not. He stated that it costs over \$2,000.00 to have the test done and that the test was unreliable because one might not have been in contact with gunshot residue for weeks but the test will come back positive. He said that a lot of law

enforcement agencies in the country had totally ceased doing gunpowder residue determinations for that second reason.

[Pg 23] ERRORS PATENT

A review of the record reveals one patent error, in the trial court's sentencing of the defendant on his conviction for attempted second degree murder to serve twenty years at hard labor without benefit of probation or suspension of sentence. The sentence must be served without benefit of parole, as well as without benefit of probation or suspension of sentence. See La. R.S.

14:27(D)(1)(a)5 and La. R.S. 14:30.1(B).6

La. R.S. 14:27(D)(1)(a) provides, in pertinent part, that if the offense attempted is punishable by life imprisonment, the offender shall be imprisoned at hard labor for not less than ten nor more than fifty years without benefit of parole, probation or suspension of sentence. The offense of second degree murder is punishable by mandatory life imprisonment at hard labor. La. R.S. 14:30.1(B).

Therefore, the sentence for attempted second degree [*960] murder must be served without benefit of probation, suspension of sentence or parole.

However, La. R.S. 15:301.1(A) provides that the failure of a sentencing court to specifically state that all or a portion of the sentence is to be served without benefit [*36] of parole, probation or suspension of sentence shall not in any way affect the statutory requirement that all or a portion of the sentence be served without such benefit(s). La. R.S. 15:301.1(A) deems that those required statutory [Pg 24] restrictions are contained in the sentence, whether or not imposed by the sentencing court, and that statutory provision self-activates the correction and eliminates the need to remand for a ministerial correction of an illegally lenient sentence resulting from the failure of the sentencing court to impose the restriction(s). State v. Williams, 2000-1725, p. 10 (La. 11/28/01), 800 So.2d 790, 799; State v. Boudreaux, 2007-0089, pp. 3-4 (La.App. 4 Cir. 8/15/07), 966 So.2d 79, 81-82.

Accordingly, the defendant's sentence is automatically required to be served without benefit of parole, probation or suspension of sentence, regardless of whether trial court included those limitations in the sentence.

ASSIGNMENT OF ERROR NO. 1

In his first assignment of error, the defendant argues that the trial court erred in granting a mistrial based on juror misconduct, then reconsidering its ruling and going forward with the trial.

After selection and swearing of the [*37] jury, prior to the swearing of the first witness, a deputy sheriff overheard one of the jurors, Cressida Rhodes-Polk, referred to as Ms. Rhodes by the trial court, state: "I don't care if they keep me here for three days, I'm going to vote guilty. I didn't think I was going to be picked on the jury." Rhodes also stated, apparently at the same time, something to the effect that she believed that if one leaves his home with a gun that one intends to cause bodily harm, a view she had openly expressed during voir dire. Rhodes replied in the affirmative when asked by defense counsel if other jurors had been present when she made those comments to the deputy, and whether they heard it.

[Pg 25] The following colloquy occurred:

MR. CAPITELLI:

We move for a cause - - challenge - -

THE COURT:

You can go.

MR. CAPITELLI:

Your honor, additionally at this time we would move for a mistrial.

THE COURT:

Motion granted. Motion granted. I have to declare a mistrial.

MR. PHILLIPS:

Judge, before --

THE COURT:

I'm going to listen, Mr. Phillips, but I think the lady has tainted the entire jury, but go ahead. I'm going to listen.

MR. PHILLIPS:

Before the court declares a mistrial, Judge, we're going to ask that we be, [*38] under 775.1, allowed to ask for a 24 hour --

THE COURT:

I thought you were going to ask me if you could do individual voir dire on her comment.

MR. PHILLIPS:

I mean, I would like that also.

THE COURT:

You're entitled to that.

MR. PHILLIPS:

[Pg 26] Yes, sir.

THE COURT:

[*961] You're entitled to that.

MR. PHILLIPS:

If the Court will so allow us --

THE COURT:

Absolutely. All right. We are going to have to bring them down one at a time.

Now, the only issue now is, is this entire panel tainted to the point where the Defense cannot get a fair trial.

Each individual juror was brought down and questioned by the State and defense counsel. Immediately thereafter, defense counsel stated: "Your Honor, we would like to -- I want to renew this motion for a mistrial." The trial court found no evidence "whatsoever" that the jury had been tainted by what Cressida Rhodes-Polk had said. The court found that Rhodes-Polk had simply wished to avoid serving on the jury, and it denied the motion for mistrial. At no point did defendant object that the trial court had already granted the motion for mistrial and was improperly "reconsidering" it. As far as all were concerned, the trial court had not granted the motion [*39] for mistrial, but instead, after questioning all the jurors, the trial court denied the motion for mistrial.

On appeal the defendant argues that the trial court erred in declaring a mistrial based upon prejudicial statements by a juror in the presence of other jurors, and then "implicitly" withdrawing its prior factual finding and declaration [Pg 27] of a mistrial and ordering that the trial go forward.

The defendant concedes that his research has not revealed a Louisiana case directly on point concerning the withdrawal or reconsideration by a trial court of the declaration of a mistrial in a criminal case.

The first issue is whether or not the trial court actually declared a mistrial. As quoted above, upon defense counsel moving for a mistrial, the trial court immediately stated: "Motion granted. Motion granted. I have to grant a mistrial." However, the trial court made this purported ruling prior to it giving the State an opportunity to respond, effectively granting a motion for mistrial *ex parte*, which obviously is impermissible. The prosecutor, when given the opportunity to respond to the defendant's motion for mistrial, initially stated: "Before the court declares a mistrial," [*40] This suggests that the State did not contemplate that the trial court had granted a motion for mistrial. However, in the same sentence the prosecutor went on to say: "Judge, we're going to ask that we be, under 775.1, allowed to ask for a 24 hour - -," before being interrupted by the trial court. This reference by the prosecutor to La. C.Cr.P. art. 775.1 suggests that the prosecutor was of the opinion that the trial court had granted the motion for mistrial, given that the article is directed to providing a remedy in the event the trial court grants a mistrial. La. C.Cr.P. art. 775.1 states:

If a judge orders a mistrial, then upon motion of either the state or the defendant, the court shall order an automatic twenty-four-hour stay of all proceedings in which either the state or the defendant may take an emergency writ application to the appropriate reviewing court. The jury shall not be released pending the stay unless both the state and defendant agree to release the jury.

There is no Louisiana appellate decision citing La. C.Cr.P. art. 775.1, which took effect in 2004. Acts 2004, No. 413 1. The defendant cites State v. Joseph, [Pg 28] 434 So.2d 1057 (La. 1983), for the proposition [*41] that the Louisiana Supreme Court "has taken the view that an order for a mistrial is immediately self-operative and dismisses the jury." In Joseph, the trial court declared a mistrial on its own motion after [*962] the State rested, apparently because of the court's concern over the State not having presented evidence to rebut the defendant's testimony that he had not freely confessed to the crime. The defendant, being tried for attempted second degree murder, had not sought the mistrial and did not object or say anything more after the trial court declared the mistrial. Prior to the beginning of the defendant's second trial, he filed a motion to quash based upon double jeopardy. The motion was denied, and the defendant was tried for the second time and found guilty as charged. On appeal, the defendant raised the denial of his motion to quash, which had been based on double jeopardy. The Louisiana Supreme Court agreed that the motion had merit, ruling in general that a plea of double jeopardy should be maintained when a defendant has been impermissibly deprived of his right to have his trial completed by the jury before which he had been placed in jeopardy, by the trial court's own granting [*42] of a mistrial without the defendant's express consent and without his interest having prompted the court's ruling. The court found that Joseph was just such a case and so reversed the defendant's conviction and sentence and dismissed the charge.

The instant case is not concerned with a double jeopardy issue, given that defendant moved for the mistrial and the ground was not due to any action by the State. However, in Joseph, prior to reaching its conclusion, the court had to address the State's argument that the defendant's failure to voice any objection to the trial court's *sua sponte* order of mistrial precluded him from raising the issue on appeal. The court, citing and quoting State v. Simpson, 371 So.2d 733 (La. [Pg 29] 1979), stated that in Simpson it had noted that the failure of the defendant to object to a mistrial which he had not sought and from which he had not benefitted was inconsequential "since once a mistrial is declared the trial is over." The defendant in the instant case cites Joseph for this proposition, that once the trial court in the instant case said, "Motion granted. Motion granted. I have to declare a mistrial," the mistrial took effect; the trial had ended. [*43] The defendant also cites Joseph because the court also quoted Simpson as follows concerning the contemporaneous objection rule of La. C.Cr.P. art. 8417:

As a final point in Simpson this Court noted that the failure of the defendant to object to a mistrial which he had not sought and from which he was not benefitted was inconsequential since once a mistrial is declared the trial is over. We stated clearly at 371 So.2d 738:

it [sic] is apparent that contemporaneous objection and reservation of a bill are not applicable to a plea of double jeopardy. As originally drafted, Article 841 did not require a bill to be reserved for "a ground for arrest of judgment under Article 859," one of which is double jeopardy. Moreover, it is clear that requiring a contemporaneous objection to an improperly granted mistrial does not advance the purpose of the rule, which is to put the trial judge on notice of the alleged irregularity and to provide him with the opportunity to correct the problem during trial. State v. [963] Dupre, 339 So.2d 10 (La. 1976); State v. Charles, 326 So.2d 335 (La. 1976). When a mistrial is declared, the jury is dismissed. (Compare the effect of granting a motion for acquittal, even [*44] when erroneously granted. State v. Hurst, 367 So.2d 1180 (La. 1979). Unless the defendant anticipates the declaration of a mistrial, the trial ends without the opportunity to object. See United States v. Jorn, [400 U.S. 470, 91 S. Ct. 547, 27 L. Ed. 2d 543 (1971)] *supra*.

In addition to the above, a function of the contemporaneous objection rule is to facilitate appellate review of adverse lower court rulings. Since [Pg 30] appellate review does not in the normal course follow a trial aborted by the grant of a mistrial, this purpose is not served by the noting of an objection to the granting of a mistrial. Joseph, 434 So.2d at 1060.

Insofar as the purpose of the contemporaneous objection rule, the circumstances of the instant case are [*45] completely unlike those in either Simpson or Joseph. In the instant case the motion for mistrial was made prior to the first witness being sworn, and defendant essentially acquiesced in the trial court's action in commencing the three-day trial. It cannot be said that the purpose of the contemporaneous objection rule is not advanced by requiring, under the circumstances presented by the instant case, that the defendant object to the trial court action, giving the trial court the opportunity to consider the issue of whether it had already declared a mistrial. If the trial court had considered that issue and determined that it had already granted defendant's motion for mistrial, then it could have granted the State the opportunity pursuant to La. C.Cr.P. art. 775.1 to take an emergency writ application to this court.

The trial court stated: "Motion granted. Motion granted. I have to grant a mistrial." Supra. The next spoken words were by the prosecutor, "Judge, before - - Supra. The court interrupted to say that it believed Rhodes-Polk had tainted the entire jury, but directed the prosecutor to continue. The prosecutor then stated: "Before the court declares a mistrial, Judge, we're [*46] going to ask that we be, under 775.1, allowed to ask for a 24 hour - -" Supra. While the prosecutor mentioned La. C.Cr.P. art. 775.1, which is applicable only after a mistrial is ordered, from that point on the trial court, defense counsel, and the State all treated the matter as a pending motion for mistrial.

[Pg 31] Each juror was questioned apart from the other jurors by both the State and the defense as to the behavior of Rhodes-Polk. After all of the jurors had been questioned, defense counsel simply renewed the motion for a mistrial, arguing that the jury had been tainted. The trial court gave reasons why it found no evidence of a taint, stating that it believed the other jurors viewed Rhodes-Polk's statement as "just exactly what it was, a lie to get off of jury service." The trial court said it did not believe there was one single juror who would give either side an unfair trial because Rhodes-Polk "told a lie." The trial court concluded by stating: "Therefore, your motion for a mistrial is overruled. I note your objection. Ms. Fathery is installed as the twelfth juror."

The defendant's failure to object after the trial court proceeded precludes the defendant from complaining [*47] of any error by the trial court in continuing the trial. Moreover, defense counsel's actions effectively operated as a judicial confession that the trial court had in fact not granted a mistrial. Finally, the actions of defense counsel, the trial court, and the prosecutor all belie the notion that a mistrial had been [*964] granted at the point where defendant claims it was.

There is no merit to this assignment of error.

ASSIGNMENT OF ERROR NO. 2

In his second assignment of error the defendant argues that the trial court erred in overruling the defendant's objections and his motion for mistrial based on what the defendant argues were comments by the prosecutor during his closing argument that improperly appealed to racial prejudice.

The defendant's argument is premised on the fact that Erik Beelman's female companion at the time was a black female. While there was no testimony [Pg 32] that his companion was black, she was pictured at least once on the video shown the jury from the Royal St. Charles Hotel's video surveillance cameras. Thus, the jury knew Beelman's companion was black.

The defendant first points to part of the prosecutor's argument wherein he was referring to the testimony of Phillip [*48] Barbarin, who was working on the night of the shooting for Downtown Parking as a supervisor for an overnight valet crew, one of his assigned locations being the Royal St. Charles Hotel. The prosecutor stated, in part:

MR. PHILLIPS:

He wanted to do the right thing, and that's why he's here to tell you the truth. To tell you what happened as he saw it and he didn't tell you anything about Erik being belligerent [sic], being stumbling down drunk, did [sic] none of that. He told you Erik was friendly and the defendant was the one trying to pick a fight with him for whatever reason. Maybe it was the company he had. Maybe he didn't like the company Erik had. Maybe that's why he was so mad.

MR. CAPITELLI:

Objection, Your Honor.

THE COURT:

Overruled.

MR. PHILLIPS:

Maybe that's why he was so mad, but is that illegal to walk with someone? Does that warrant to be shot in the head? Does it?

The second comment objected to by defense counsel was:

MR. PHILLIPS:

You got a cell phone on you and this man is getting so loud and belligerent [sic] and you don't -- well, you said you couldn't detain people allegedly. Well, why didn't you put these on? Why didn't you call and say, Look [sic], 911. I need [*49] help here. This guy doesn't want to leave. I need some help [Pg 33] here. This guy doesn't want to leave. I need some help. The first thing he pulls out is this, is this (indicating), and ladies and gentlemen, I know I'm not, my years aren't that long, but I remember there was a day when the police told you to do something and you didn't do it, then they just pull this thing out, because you didn't listen, because [sic] you didn't do what they told you to do. But this is 2009, ladies and gentlemen. So you're going to tell me if the police tell you to walk up the street, a street that you have just as much a right to be on as anybody else, a street, he wasn't in the hotel. A street. Get up the street. and [sic] you don't get up the street [sic], then we get the batons out. What we going to get next, the fire hoses out?

MR. LONDON:

I object to that, Your Honor.

THE COURT:

Overruled.

[*965] Later, after the conclusion of closing arguments, the trial court asked the parties whether either had any objection to the jury charge. Defense counsel replied in the negative, but noted that the defense had made objections during closing arguments that needed to be put on the record. After the trial court heard [*50] some more argument, it asked whether there was anything else, whereupon defense counsel stated, in pertinent part:

MR. LONDON:

Yes, there is, Your Honor. I object to the obvious racial overtones made during the closing arguments by Mr. Phillips when he discussed fire hoses that he may not be that old but he's old enough to know how police run people off the street. I believe that that, and the record, read in the record would constitute racial overtones and I would ask for a mistrial based on that.

THE COURT:

Motion denied. Next. Anything else?

MR. LONDON:

[Pg 34] Just for the record I would object to that continuing line of closing dealing with chasing people off the street and whatever is contained in that. Not just that one reference to the fire hose. That whole --

THE COURT:

Okay. Your objection is noted, overruled, motion for mistrial is denied. Sheriff, put us in recess.

La. C.Cr.P. art. 770 states, in pertinent part:

Upon motion of a defendant, a mistrial shall be ordered when a remark or comment, made within the hearing of the jury by the judge, district attorney, or a court official, during the trial or in argument, refers directly or indirectly to:

- (1) Race, religion, color or national [*51] origin, if the remark or comment is not material and relevant and might create prejudice against the defendant in the mind of the jury;

An admonition to the jury to disregard the remark or comment shall not be sufficient to prevent a mistrial. If the defendant, however, requests that only an admonition be given, the court shall admonish the jury to disregard the remark or comment but shall not declare a mistrial.

At no time did the defendant in the instant case request that only an admonition be given. The defendant asserts that the prosecutor apparently made the comments to inflame the passion of black jurors against defendant. However, the defendant does not identify the racial makeup of the jury. The record does not reflect the racial makeup of the jury, or the number of jurors who voted guilty--although the September 24, 2009 minute entry from the day the verdict was returned states that the defense moved the court to poll the jury.

Initially, it is to be noted that in objecting to the first comment cited by the defendant in this assignment of error, the reference to the defendant picking a fight with Erik Beelman because the defendant did not like the company Beelman was [Pg [*52] 35] with, defense counsel merely stated: "Objection, Your Honor." Supra. The contemporaneous objection rule of La. C.Cr.P. art. 841(A)8 not only provides that [*966] "[a]n irregularity or error cannot be availed of after verdict unless it was objected to at the time of the occurrence," but also requires that the party state the grounds for the objection. See State v. Richards, 99-0067, p. 4 (La. 9/17/99), 750 So.2d 940, 942 ("An objection stating no basis presents nothing for this court to review"), quoting State v. Dupar, 353 So.2d 272, 273 (La. 1977); State ex rel. D.R., 2010-0405, p. 3 (La.App. 4 Cir. 10/13/10), 50 So.3d 927, 929 ("It is well settled that [a] defendant must state the basis for his objection when he makes it so that the trial judge has an opportunity to rule on it and prevent or cure an error.", quoting Dupar, supra). Moreover, a defendant is limited on appeal to those grounds for the objections which he articulates at trial. State v. Brooks, 98-0693, p. 9 (La.App. 4 Cir. 7/21/99), 758 So.2d 814, 819; State v. Buffington, 97-2423, p. 9 (La.App. 4 Cir. 2/17/99), 731 So.2d 340, 346.

There are two purposes behind La. C.Cr.P. art. 841(A)'s contemporaneous objection rule: (1) to put the trial court on notice of the alleged irregularity or error, so that the court can cure the error; and (2) to prevent a party from gambling for a favorable outcome and then appealing on errors that could have been addressed by an objection if the outcome is not as hoped. State v. Lanclos, 2007-0082, [Pg 36] p. 6 (La. 4/8/08), 980 So.2d 643, 648, citing State v. Knott, 2005-2252 (La. 5/5/06), 928 So.2d 534, and State v. Thomas, 427 So.2d 428 (La. 1983).

Accordingly, given that the defendant failed to state any ground for the objection to the "company" comment, any complaint as to the trial court's ruling as to that comment was not preserved for review.

Defense counsel also failed initially to state a ground for the objection to the [*54] prosecutor's second comment to which defendant objected, concerning getting the fire hose out. However, shortly thereafter, following the conclusion of closing arguments and the trial court's instructions to the jury, defense counsel stated the racial prejudice ground for the fire hose comment and moved for a mistrial. Thus, the defendant adequately preserved for review the trial court's ruling as to that second complaint. When moving for a mistrial based on the fire hose comment, defense counsel did not refer at all to the prior comment concerning the "company" Beelman was with. Thus, the racial ground stated by defense counsel as to the fire hose comment does not cover the objection to the "company" comment.

It can also be noted that had defense counsel initially approached the bench and stated the racial basis of his first objection to the prosecutor's comment concerning the "company" Beelman was with, the trial court could have admonished the prosecutor not to make any further comments that might be interpreted as appealing to race, and thus perhaps the prosecutor might not have made the subsequent fire hose comment. Instead, the defendant now seeks the reversal of his conviction [*55] and sentence based on both comments.

A trial court's erroneous denial of a motion for mistrial based on one of the provisions of La. C.Cr.P. art. 770 is subject to the harmless error analysis. State v. [Pg 37] Johnson, 94-1379, pp. 16-17 (La. 11/27/95), 664 So.2d 94, 101-102; State v. Whins, 96-0699, p. 8 (La.App. 4 Cir. 4/9/97), 692 So.2d 1350, 1355.

[*967] In State v. Kaufman, 278 So.2d 86, 98 (La. 1973), the Louisiana Supreme Court commented on the prohibition against references by the district attorney to race:

The purpose of this mandatory prohibition of our 1966 code is to avoid the use of racial prejudice to obtain convictions. This is in accord with our jurisprudence since our earliest days as an American jurisdiction. It is, of course, founded upon a stringent requirement that trials be conducted in accordance with law and that convictions be founded on evidence of guilt and not upon prejudice. Without this mandatory rule of law, the convictions of innocent defendants may be secured, not because of their guilt, but because of their race. Id.

In Kaufman, "two black defendants were on trial for the brutal murder of the two white victims before at [sic] white jury." 278 So.2d at 96. [*56] The State presented as a witness Delores Williams, who had been riding with the two defendants on the night of the murder and had shared a motel room with them. Williams testified on direct examination as to the defendants' actions that evening, without directly implicating them in the murder. On redirect examination the State asked this witness about a telephone conversation she had on the morning after the murder with Patricia Butler, asking Williams if she denied that she told Butler that "there were just two White honkys who got killed, and if it had been two colored people they would have forgotten about it." The witness denied making the statement. The defendants moved for a mistrial. Later, Butler was called as a witness and asked about her conversation with Williams. Butler testified that Williams had said "something about honkys." 278 So.2d at 97. The State immediately asked what she said about that, and the defendants moved for mistrial. [Pg 38] The objection was overruled, and Butler again said Williams had said something about "honkys." The State asked her what Williams had said about "that." Id. Over defense objections and motions for mistrial, all overruled, Butler eventually [*57] testified that Williams "just kept saying the white honkys. She said something about the honkys, these two men that was killed." (Id.). The defendants again objected and moved for mistrial, which objection/motion were overruled.

Finally, in closing argument the prosecutor in Kaufman stated that Williams had denied telling Butler not to worry about those two "honkys." Again, another objection/motion for mistrial were overruled. The two defendants were convicted of first degree murder and sentenced to death. On appeal, the Louisiana Supreme Court, on rehearing, found the issue of whether or not Williams had ever mentioned anything about "honkys" was "utterly irrelevant." The court stated that the prosecutor had repeatedly emphasized the use of the derogatory epithet by an associate of the black defendants "with reference to the piteous innocent white victims of the crime, and this emphasis (without probative value as to the innocence or guilt of the defendants) could have only the effect of inflaming the white jury." 278 So.2d at 98. The court held that the defendants' motions for mistrial should have been granted, and it reversed the defendants' convictions and death sentences.

In State v. Wilson, 404 So.2d 968 (La. 1981), [*58] two black defendants were tried for the shooting death of a white male. The incident, which the court said had obvious racial overtones, occurred on a Sunday in a shopping center parking lot where a group of white males had gathered to drink beer and socialize. A confrontation occurred between the defendants and the [*968] group of white males, in the course of which the defendants pulled out guns and fired several shots, one of them [Pg 39] striking one of the white males. During closing arguments in the trial, the prosecutor first stated: "Why is it a black Sunday? Because these two animals decided to shoot white honkies." 404 So.2d at 969. The defense objected and moved for a mistrial. The trial court denied the motion and instructed the jury to disregard the statement. The prosecutor then made a number of similar statements: "They were going to shoot white honkies. ... They were going to shoot white honkey. ... They left Oakwood Shopping Center, armed themselves and came back to shoot whitey, to kill whitey, and that's exactly what they did. ... These gentlemen had the opportunity to leave at any time, at any time. Nobody forced them into that shopping center with guns to kill whitey." [*59] Id. Defense counsel did not object to these comments or then move for mistrial. The prosecutor subsequently made further racial remarks in rebuttal, to which defense counsel objected and moved for a mistrial. The trial court denied the motion for mistrial, but instructed the jury to disregard the comments.

The defendants in Wilson were convicted. On appeal, the Louisiana Supreme Court found that the comments were obviously intended to appeal to racial prejudice, as they had no relevance to the elements of the crime with which defendants were charged, murder, and did not tend to enlighten the jury as to a relevant fact. The court stated:

When the alleged criminal conduct arises out of an incident among persons filled with racial animosity our system of criminal justice requires that those charged with the responsibility for the conduct of criminal trials strictly avoid any actions which might influence the jury to decide the guilt or innocence of the accused upon prejudice rather than on the law and the evidence.

The jury is a time-honored and respected institution, indispensable to our system of criminal justice, and its members are expected to arrive at a [Pg 40] verdict in a calm [*60] and detached fashion, without having latent racial prejudices, which are sometimes strong, aroused by brutal incitements to convict and thereby obtain revenge inherent in racial remarks such as those made by the assistant district attorney in this case, Wilson, 404 So.2d at 971.

The court in Wilson held that the trial court should have granted the defendants' motions for mistrial, and it reversed the defendants' convictions and sentences.

In the instant case, the defendant submits that the prosecutor's fire hose comment constituted an indirect racial reference. The prosecutor stated that he remembered a day when the police told one to do something and if one did not they pulled "this thing" out, apparently referring/gesturing to the ASP baton in evidence, followed by the comment, "[w]hat we going [sic] to get next, the fire hoses out." Supra. This reference could not have been anything other than a reference to the use of fire hoses by authorities to control and/or disperse primarily black Americans peacefully protesting the continued systemic deprivation of their civil rights in the segregated South. That image of protestors being pummeled and knocked down by water coming from high-pressure [*61] fire hoses is integral to any complete historical film footage record of the civil rights movement.

One could possibly see the fire hose reference as a general nonracial comment intended to get across to the jury the [*969] objectionable nature of the security guard defendant's actions in ordering Beelman and his companion, then on a public street, to move on, to "get on up the street." Notably, the comment did not refer to Erik Beelman's companion. However, because the fire hose comment unquestionably derives from the use of fire hoses by civil authorities to control or disperse demonstrators in the segregated South, it necessarily raised the specter of [Pg 41] race. Nevertheless, that comment, viewed alone, does not appear to be the type of comment that might create prejudice against the defendant in the mind of the jury such that a reasonable juror would tend to convict the defendant even if said juror found the evidence insufficient. The comment was so far from the inciting and inflammatory statements of the prosecutors in Kaufman, supra, and particularly Wilson, supra, so as to be almost incomparable.

In addition, as previously noted, while the defendant asserts that the prosecutor apparently [*62] made the fire hose comment to inflame the passion of black jurors against defendant, he never states precisely how he might have been prejudiced in the mind of the jury by the comment. The defendant does not discuss the racial makeup of the jury, and the record does not reflect it. The defendant could have been convicted of attempted second degree murder by ten jurors concurring in the guilty verdict. See La. C.Cr.P. art. 782 ("Cases in which punishment is necessarily confinement at hard labor shall be tried by a jury composed of twelve jurors, ten of whom must concur to render a verdict); La. R.S. 14:27(D)(1)(a) and La. R.S. 14:30.1(B) (conviction for attempted second-degree murder carries sentence of imprisonment at hard labor). The defendant fails to show that any black juror served on his jury, much less that any black juror voted to convict him.

Considering all the record evidence; the defects in the defendant's argument insofar as him failing to state with specificity how he was or might have been prejudiced by the fire hose comment; his failure to address the issue of the racial makeup of the jury or how many jurors voted to convict; and the indirect nature and quality of the [*63] comment; even assuming the comment was of such a nature that it might have created prejudice against defendant in the mind of the jury, and thus [Pg 42] that the trial court should have granted the motion for mistrial under La. C.Cr.P. art. 770, any such error would have been harmless because, based on the record, the verdict was surely unattributable to any such error. See State v. Higginbotham, 2011-0564, p. 3 (La. 5/16/11), 60 So.3d 621, 623 (harmless error exists where the guilty verdict actually rendered was surely unattributable to the error.).

For the foregoing reasons, there is no merit to this assignment of error.

ASSIGNMENT OF ERROR NO. 3

In his third assignment of error the defendant argues that the trial court erred in excluding the testimony of Greg Meyer, defendant's use of force expert, after a September 22, 2009 Daubert hearing at which the defense sought to have Meyer qualified as an expert in the field of the use of force in lethal and non-lethal violent encounters.

A trial court acts as a gatekeeper to the admissibility of expert testimony under Daubert, which decision the Louisiana Supreme Court adopted in State v. Foret, 628 So.2d 1116, 1121 (La. 1993). [*64] The court set forth the applicable law concerning the trial court's gatekeeping function in the qualification of expert witnesses [*970] under Daubert in State v. Young, 2009-1177, pp. 7-9 (La. 4/5/10), 35 So.3d 1042, 1046-47, cert. denied, Young v. Louisiana, ___ U.S. ___, 131 S. Ct. 597, 178 L. Ed. 2d 434 (2010), as follows:

A determination regarding the competency of a witness is a question of fact. Cheairs v. State ex rel. Dept. of Transp. & Dev., 03-0680, p. 5 (La. 12/3/03), 861 So.2d 536, 541. It is well settled that a trial judge is vested with wide discretion in determining questions of fact. Therefore, rulings on the qualifications of an expert witness will not be disturbed on appeal absent manifest error. Id.

[Pg 43] Louisiana Code of Evidence article 702 dictates the admissibility of expert testimony. It provides, "[i]f scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise." State v. Higgins, 03-1980, p. 33 (La. 4/1/05), 898 So.2d 1219, 1239. Notably, [*65] this Court has placed limitations on this codal provision in that, "[e]xpert testimony, while not limited to matters of science, art or skill, cannot invade the field of common knowledge, experience and education of men." Stucke, 419 So.2d at 945.

In Foret, this Court adopted the guidelines set forth by the United States Supreme Court in Daubert for determining the reliability of expert scientific testimony under Louisiana Code of Evidence article 702. Foret, 628 So.2d at 1121. Daubert set a new standard to assist trial courts in evaluating the admissibility of expert testimony. It requires district courts to perform a "gatekeeping" function to "ensure that any and all scientific testimony or evidence admitted is not only relevant, but reliable." Id., 509 U.S. at 589, 113 S. Ct. at 2795.

In addressing the issue of reliability, Daubert articulated the following non-exclusive factors to be considered by district courts in determining the admissibility of expert testimony:

- (1) The "testability" of the scientific theory or technique;
- (2) Whether the theory or technique has been subjected to peer review and publication;
- (3) The known or potential rate of error; and
- (4) Whether the methodology [*66] is generally accepted in the scientific community.

Cheairs, 03-0680 at 7, 861 So.2d at 541.

The United States Supreme Court later held in Kumho Tire Co., Ltd. v. Carmichael, 526 U.S. 137, 147, 119 S. Ct. 1167, 1174, 143 L. Ed. 2d 238 (1999), that the Daubert analysis is to be applied to determine the admissibility of all expert testimony, not just scientific testimony. Cheairs, 03-0680 at 7, 861 So.2d at 541.

Generally, the test of competency of an expert is the expert's knowledge of the subject about which he is called upon to express an opinion. State v. Ferguson, 2009-1422, p. 25 (La.App. 4 Cir. 12/15/10), 54 So.3d 152, 166, writ denied, 2011-0135 (La. 6/3/11), 63 So.3d 1008. A combination of specialized training, [Pg 44] work experience and practical application of the expert's knowledge can combine to establish that person as an expert. Id. Courts can also consider whether a witness has previously been qualified as an expert. State v. Craig, 95-2499, p. 9 (La. 5/20/97), 699 So.2d 865, 870. Importantly, the refusal of a trial court to receive expert testimony "will rarely, if ever, provide grounds for reversal." Craig, supra: [*971] State v. Baker, 97-2856, p. 8 (La.App. 4 Cir. 3/3/99), 729 So.2d 167, 171. [*67] In the instant case, the defendant's proposed expert, Greg Meyer, said he was an expert in the field of the use of force in lethal and non-lethal violent encounters. Meyer testified that he had an Associate of Arts degree, a Bachelor's degree, and a Master of Science degree in Public Administration. He was a retired police officer, retiring as the captain of the Los Angeles Police Academy. He said that among his duties he was in charge of firearms and tactics training at the LAPD Academy.

When he was captain at the LAPD Academy in 2005, the Chief of the LAPD assigned him to lead the overhauling of the LAPD use of force policy. He retired while the process was ongoing, but continued to serve on that committee. He had conducted or supervised approximately two hundred homicide investigations and had been involved in investigations of officer-involved shootings as an investigator or reviewer for a higher authority for twenty years. He was on the National advisory Board of Force Science Research Center, within which was the Force Science Institute. The latter institute certifies experts on force science matters having to do with the biomechanics of officer-involved shootings and other major [*68] incidences, as well as the psychology involved in those incidents. He was a certified expert, having attended a five-day school and passed all the tests. Meyer testified that he had testified as an expert in federal courts on several occasions and [Pg 45] in state courts in California, Arizona, Nevada, Florida, and Ohio. He had never been denied qualification as an expert witness.

However, Meyer admitted on cross examination that he had only testified in eight criminal cases, none of which involved a shooting. The prosecutor went through each of the eight criminal cases in which Meyer had testified, one-by-one.

Meyer detailed what he would review in a security officer case such as the instant one, saying he would look at the tactics used, the equipment and training provided to the security officer, the police report, videos, witness statements, medical records, and photographs. When asked whether he and other experts in the field would be able to replicate one another's results by drawing on the above data, Meyer said one arguably could if looking at the same data and using the same source material, but that the opinions of different experts might vary. When asked whether there was a [*69] known or potential rate of error to the inquiry, Meyer replied that the error was in judgment calls an expert might make because he misinterpreted data and source material. He later explained during cross examination that it was not the type of field that would have a fixed error rate.

Defense counsel asked Meyer whether there had been or could be scientific inquiries to test the biomechanical factors involved, and he replied that that was the whole purpose of the Force Science Research Center--to conduct research and testing of the biomechanical and psychological factors that are evident in violent encounters. In response to a question by the court, Meyer estimated that the Force Science Research Center, headquartered at the University of Minnesota at Mankato, had been in operation at least twelve to fifteen years.

On cross examination, Meyer said that the Force Science Institute was the training division of the Force Science Research Center, and the former had been in [Pg 46] existence for two to two and half years. Later, under questioning by the trial court, which stated that it was then on the Force Science Research Center's website, Meyer [*972] conceded that the center might have been [*70] formed longer ago than the two and one half years he had estimated. Meyer explained that the Force Science Research Center conducts scientific experiments around the country, typically using police departments for different research scenarios having to do with various aspects of the use of force, such as reaction time, biomechanic issues, stress issues, and the psychological issues in violent encounters. The Force Science Institute, he said, trains people on the subject of the biomechanics and the psychology of violent encounters. Meyer estimated that he had sixty to seventy-five, maybe as many as eighty, hours of study in bio-mechanics and psychology. He said he had also attended courses through the International Association of Chiefs of Police, American Society for Law Enforcement Training, and the Peace Officers Association of Los Angeles.

Commenting on his experience as a police officer, Meyer said he was the investigator's supervisor at the lieutenant and captain level over approximately two hundred homicides over a period of years. However, he conceded that for the most part in the homicide investigations his investigation was directed toward developing or capturing a suspect. [*71] He said that in officer-involved use-of-force incidents, the police department had a lot of internal processes he was involved in to determine the propriety of those incidents. Meyer replied in the affirmative when asked whether he had written anything in the field that had been published, stating that his *curriculum vitae* contained an extensive listing of his articles over several pages. Meyer admitted that he had never written anything for the Force [Pg 47] Science Center, but said it interviews him now and then and quotes him in its articles. Meyer said he wrote for PoliceOne.com and several other organizations.

Under questioning by the court, Meyer said he did not know if there were any experts qualified in Louisiana in lethal and non-lethal violent encounters, specifically including the biomechanics and the psychological issues of shootings. He said that several dozen people had been certified by the Force Science Institute over the last few years, but he did not know if any resided in Louisiana.

Meyer was uncertain whether there was an annual gathering of experts in the field to have an exchange of ideas and training.

Meyer confirmed under questioning by the court that most of [*72] his published articles, which the trial court referred to as numerous, came from PoliceOne.com. He said that for a couple of years he had written a monthly article for it. He had also written several for Police Magazine, and he noted that he also was on that magazine's advisory board. The trial court asked whether the bulk of Meyer's publications had to do with alternatives to lethal force. Meyer replied in affirmative, stating that was one of his primary fields of expertise for thirty years, since he did the LAPD's original research on lethal weapons in 1979 and 1980. The trial court asked Meyer when was the first time an expert was qualified by a district court in the United States in this field of expertise. Meyer said it as about twenty years ago, since a 1989 U.S. Supreme Court decision, Graham v. Connor, (no citation given), established the standards nationally by which police use of force is to be judged, which gave rise to a whole need for expert analysis to determine what was objectionably reasonable.

The trial court questioned whether any part of the field of expertise had been subjected to scientific scrutiny. Meyer said there were certainly a lot of [Pg 48] psychologists [*73] involved in the experiments, and that the training derived from [*973] the results. Asked what the

methodology of the experiments was, Meyer said that if the question had to do with reaction time in a stress scenario, for example, they would set up experimental groups and control groups to see how they perform. He said they would film it down to the thousandth of a second with super high speed cameras and then evaluate the data. He said "a lot of the articles about these experiments are peer reviewed before they're published." The trial court asked whether there was any publication outside the Force Science Research Center that had assessed the scientific validity of the tests. Meyer replied that as far as he knew there were none, stating that he thought the Force Science Research Center was pretty unique in studying these particular issues.

On redirect examination Meyer replied in the affirmative when asked whether he been qualified as an expert in civil cases, be it in lethal and non-lethal force, use of force or police procedure, in which there was a shooting. He named three, all involving fatal shootings. He said that typically a shooting is the high end of a use of force continuum, and [*74] he confirmed that all of his force cases involved applications of force that fell somewhere along that continuum. He estimated that approximately one in six of his cases involved the use of a firearm, and that the others involved other types of force. Meyer confirmed that police in Los Angeles carry ASPs. When the trial court noted that it looked like police used pepper spray, Tasers and dogs before going to the ASP and the pistol, Meyer replied: "I think it's safe to say that for the past 18 years there's been very little baton use in law enforcement around the country, not just in Los Angeles." He said striking somebody with an ASP or a regular type police baton is frowned on greatly by the public. He said the whole idea in using ASPs, regular batons, [Pg 49] pepper spray, and Tasers was to prevent the situation from degenerating into a shooting confrontation. He said most of the time it works, but sometimes it does not.

Meyer replied in the affirmative when asked whether he had done similar review of the application of force along that force continuum when he did internal investigations and reviews of officer involved shootings for a period of some twenty years. He confirmed that [*75] the process generally mirrored what he did as a private consultant on cases, stating that the analytical approach was identical.

Prior to the start of the third day of trial on September 23, 2009, the trial court ruled that Meyer would not be permitted to testify as an expert in the use of force in lethal and non-lethal violent encounters. The court stated that it was readily apparent that the proposed field of the "science" of human behavior had not been tested, and that the court had not been presented any information about it, other than from Meyer himself. The court found that there was no way to test Meyer's reasoning or methodology to determine whether it was scientifically valid, and that the field of endeavor was not that type of inherently reliable field of which the court could take judicial notice.

The court stated that it had carefully considered the seven suggested factors in Daubert and found that Greg Meyer's testimony would not assist the jury as a finder of fact to understand or determine the facts in issue and determine the ultimate issue in the case--what the court said was whether defendant acted in self-defense. The court found that Meyer's testimony would be offered [*76] to the jury to bolster defendant's credibility and/or bolster the defense theory. Noting that the admissibility of expert testimony is considered under the general evidentiary probative [*974] value/prejudicial balancing test under La. C.E. art. 403, the court [Pg 50] believed there was a substantial danger of unfair prejudice against the State, implicitly finding that this danger of substantial prejudice outweighed the probative value of the evidence.

After Greg Meyer's testimony concluded at the Daubert hearing, defense counsel submitted a number of cases to the trial court. The Defendant argues that the expert field of "use of force" and "police procedure" is well established in Louisiana and has been recognized by both Louisiana courts and federal courts sitting in Louisiana.

The defendant cites Evangelist v. Department of Police, 2008-1375 (La.App. 4 Cir. 9/16/09), 32 So.3d 815, an appeal by a former police officer from a decision by the New Orleans Civil Service Commission affirming his termination, wherein Dr. Wade Schindler testified "as an expert in the proper use of force by a police officer." 2008-1375, p. 14, 32 So.3d at 824. No issue as to the qualification of Dr. Schindler [*77] as an expert was mentioned. The Commission had upheld the New Orleans Police Department's termination of the police officer plaintiff for, *inter alia*, simple battery and unauthorized use of force, all charges deriving from the plaintiff's striking of an individual three times in his chest, apparently with a baton, after the individual had allegedly been subdued by plaintiff and other law enforcement officers and was lying on the ground with three other officers holding him down. Dr. Schindler expressed his opinion that Mr. Evangelist acted appropriately in conformity with his training and NOPD rules on use of force. In addition, the Commission had accepted the expert testimony of Major Kerry Najolia, via the admission of a transcript of his testimony from Evangelist's criminal trial, presumably for a grade of battery. Maj. Najolia was the Director of Training at the Jefferson Parish Sheriff's Office Training Academy and [Pg 51] a certified POST instructor "and expert in 'force continuum' (the protocol or escalation of methods and devices to subdue opponents with appropriate force--from a wave-over to a taser)...." Id. This Court reversed the Commission's decision, stating in pertinent [*78] part:

All the witnesses who testified regarding police training on the use-of-force continuum--Major Najolia, Dr. Schindler, Sgt. Harris, and Mr. Evangelist, agreed that blows to the torso are among accepted maneuvers to obtain compliance, and are not unauthorized force. For instance, a blow to the shoulder area, the brachial-plexus tie-in muscle zone is to effect the hand's release of a grip or a weapon. No witness testified that blows to the torso area were not appropriate, and witnesses who did testify on that issue agreed that individual circumstances vary, and the criterion is necessary force to obtain compliance. Thus the charges of the Appointing Authority are inherently erroneous and cannot support the termination of Mr. Evangelist. Evangelist, 2008-1375, p. 21, 32 So.3d at 828-29.

The defendant also cites Estate of Francis v. City of Rayne, 2007-359 (La.App. 3 Cir. 10/3/07), 966 So.2d 1105, involving a wrongful death suit filed against the City of Rayne, Louisiana, and two of its police officers after the plaintiffs' decedent was shot to death following a low-speed pursuit by police. The trial court accepted the testimony of Lloyd Grafton, "qualified as an expert in the field [*79] of use of force and police policy and procedure." 2007-359, p. 8, 966 So.2d at 1111. The officers fired approximately twenty rounds at the decedent, who was seated in his car shifting [*975] between drive and reverse, and revving his car engine, after decedent refused their commands to exit the car. Dr. Grafton referenced photographs showing the final location of the car and explained that its position and lack of tires (the tires had been blown out and the car was on wheel rims), indicated that the car would not have had traction if the decedent had attempted to escape. He opined that, given these circumstances, "at the point [the officers] used deadly force, in my judgment, had they slowed down, they could have used other [Pg 52] options without taking the man's life." Id. There was no discussion as to the witness's qualifications as an expert.

The defendant also cites several federal court decisions, none of which was reported in the pertinent respective reporters. The first case was Harris v. City of Shreveport, 69 Fed. Appx. 657, 2003 WL 21355841 (5 Cir. 2003), involving the shooting death of the plaintiff's son by a Shreveport, Louisiana police officer. The plaintiff asserted claims [*80] under 42 U.S.C. 1981 and 1985 and also pled several Louisiana state law claims, including assault, battery, false imprisonment, negligence, wrongful death, loss of enjoyment of life, and violations of the decedent's constitutional rights. The jury concluded that the plaintiff had failed to prove excessive force by a preponderance of the evidence, and the trial court entered a take-nothing judgment and dismissed the plaintiff's remaining claims with prejudice. On appeal, as to the trial court's denial of the plaintiff's motion for judgment as matter of law or, alternatively, a new trial, the appellate court noted that a use of force expert testified that the police officer who shot and killed the decedent acted appropriately in using deadly force.

The next case cited by the defendant is Thomas v. City of Monroe, 157 F.3d 901 (5 Cir. 1998), (unpub), involving excessive force claims by police officers. However, the only use of force expert at issue in Thomas was a deputy sheriff with over twenty years of experience tendered by the plaintiff as an expert in the area of police conduct relative to entry of a residence, use of force, excessive force and standards of care for custody of [*81] intoxicated people. The trial court refused to qualify the deputy sheriff as an expert, and on plaintiff's appeal the appellate court found no abuse of discretion in that ruling.

[Pg 53] The defendant next cites two unreported decisions involving suits against the City of Bunkie, Louisiana, where the same Dr. Grafton who testified for the plaintiff in Estate of Francis v. City of Rayne, supra, testified for the respective plaintiffs.

In Clayton v. City of Bunkie, 2009 U.S. Dist. LEXIS 30565, 2009 WL 840225 (W.D. La. 2009), the plaintiff was sprayed by a police officer, Officer Sanders, with a chemical agent "Freeze Plus P," handcuffed, and arrested. The district court decision recited that Dr. Lloyd Grafton, an associate professor of criminal justice at an unnamed Louisiana university, was accepted as an expert in the use of force and general police procedures. Dr. Grafton testified as to the continuum of force, which explains the general levels of control an officer should exert in response to degrees of resistance asserted by a subject. Dr. Grafton referred to the "Defensive Tactics Student Manual" issued by PPCT Management Systems, Inc., and specifically explained the "Resistance Control Continuum" found in the [*82] "PPCT" (see Doucet, infra) Manual. Based on his review of the records, Dr. Grafton opined that Officer Sanders should have effected the arrest of the plaintiff by using a soft empty hand control technique, such as a wrist lock, rather than deploying his chemical weapon. The district court returned a decision in favor of the plaintiff.

[*976] In Doucet v. City of Bunkie, 2008 U.S. Dist. LEXIS 18336, 2008 WL 649123 (W.D. La. 2008), affd. 316 Fed.Appx. 321 (5 Cir. 2009), an "Officer Sanders" sprayed the plaintiff with a chemical agent "Freeze Plus P", handcuffed and arrested him. The court accepted Dr. Grafton as an expert in the use of force. Dr. Grafton took the court through portions of the "PPCT" (Pressure Point Control Tactics) Defensive Tactics Student Manual, including the "Resistance Control Continuum," which, the decision noted, explains the general levels of control an officer should exert in response to degrees [Pg 54] of resistance asserted by a subject. As in Clayton, Dr.

Grafton opined that the officer involved should have acted other than he did. The district court returned a decision in favor of the plaintiff.

It can be noted that Dr. Wade Schindler, who testified as an expert in Evangelist, supra, has a Ph.D., [*83] and is or was a professor of Criminology at Tulane University. He also is or was president of Orleans Regional Security Institute, a consulting firm. See Wilson v. Town of Mamou, 2007-409, p. 9 (La.App. 3 Cir. 12/19/07), 972 So.2d 461, 468 (Dr. Schindler qualified as an expert in police procedure) and Reinhardt v. City of New Orleans (NOPD), 2009-1116, p. 3 (La.App. 4 Cir. 1/13/10), 30 So.3d 229, 233 (Dr. Schindler qualified as an expert in police officer qualifications). As noted in Clayton, supra, Dr. Lloyd Grafton is an associate professor of criminal justice at an unnamed Louisiana university. Greg Meyer touted no similar academic qualification, although he had associate and bachelor's degrees, as well as a Master of Science degree in Public Administration.

None of the cases cited by the defendant and discussed above was a criminal case. The instant case is a criminal matter. Nor did any of those cases cited by the defendant involve the use of force by a security guard. The instant case does. Greg Meyer did not refer to any authority such as the "Defensive Tactics Student Manual" issued by PPCT Management Systems, Inc., and the "Resistance Control Continuum" found in the "PPCT," [*84] as relied on by Dr. Grafton in Clayton and Doucet.

The trial court granted defense counsel's request to proffer what the opinion testimony of Meyer would have been. Meyer testified on proffer that in his opinion there should have been gunshot residue tests performed on the defendant and the victim, and he also stated that an effort should have been made to retrieve [Pg 55] video evidence from any cameras that might have been at the Marriott Hotel across St. Charles Avenue from where the incident occurred. Meyer said he also would have testified that if a person hit a security guard in the head and continued to attack him, the security guard would have been justified in using an ASP baton on the attacker, and that if there was a struggle over a firearm, there could have been an accidental shooting or even a legitimate intentional shooting if the security guard struggling to retain his firearm reasonably believed that he was subject to a deadly force attack or serious bodily injury attack.

This proffer shows the very limited nature of Greg Meyer's proposed testimony. The senior forensic pathologist with the Orleans Coroner's Office, Dr. Alvaro Hunt, stated that gunshot residue tests cost [*85] over \$2,000.00 to perform; that they are unreliable; and that a lot of law enforcement agencies in the country had totally ceased doing gunpowder residue determinations because of their unreliability. There was no evidence there had been any video surveillance cameras at the Marriott Hotel across St. Charles Avenue from where the incident occurred. The trial court instructed the jury on the homicide self-defense theory, La. R.S. 14:20(A), at the [*977] defendant's request, as well as La. R.S. 14:19(C) (person not engaged in unlawful activity and in a place where he has a right to be has no duty to retreat before using deadly force or violence), and La. R.S. 14:21 (aggressor cannot claim self-defense).

The jury verdict shows that it obviously found the defendant's testimony not credible insofar as the gun having accidentally discharged or insofar as that defendant was in imminent danger of losing his life or receiving great bodily harm and that he needed to shoot Erik Beelman to save himself from that danger. The issue of self-defense depended on the credibility of the witnesses, and the jury [Pg 56] obviously found the testimony of Philip Barbarin and Erik Beelman credible and the testimony [*86] of the defendant not credible.

Considering all of the evidence, it cannot be said that the trial court clearly abused its discretion in not accepting the testimony of Greg Meyer. Moreover, to the extent that it could possibly be said that the trial court clearly abused its discretion in its ruling, considering Meyer's proffered testimony, any such error would be harmless-the verdict was surely unattributable to any such error. Higginbotham, supra.

There is no merit to this assignment of error.

ASSIGNMENT OF ERROR NO. 4

In his fourth assignment of error, the defendant argues that the trial court erred in precluding the defense from asking whether Erik Beelman had "reached an agreement with [his female companion] for an illegal exchange of money and sex." It was the defendant's position that Beelman's female companion was a prostitute date. The trial transcript reflects the following colloquy:

BY MR. HYATT:

Q Immediately prior to you walking in the door of the hotel had you reached an agreement with her -

MR. PHILLIPS:

Objection. It calls for hearsay, Your Honor, and he's trying to testify in front of the Jury.

THE COURT:

Sustained.

Immediately prior to that colloquy defense counsel had asked Beelman [*87] what happened in the hotel room after he and his female companion went upstairs. The [Pg 57] prosecutor objected on the ground of relevance, and the trial court sustained the objection.

The defendant cites, in the Supplemental record, pages six through eight of the nine-page transcript entitled: "IN-CHAMBER ARGUMENT held on the 22nd day of September, 2009," In the transcript defense counsel, Mr. Capitelli, moved the court to reconsider "the sustainment of objection on the grounds that the question I'm asking seeks relevant questions surrounding what we referenced at the bench." It can be noted that another defense counsel, Mr. Hyatt, examined Erik Beelman, and it is unclear from the September 22, 2009 trial transcript exactly at what point during Beelman's testimony the parties went into chambers to discuss this prostitute issue.

The trial court replied to Mr. Capitelli that, having considered La. C.E. art. 801(D)(4), the objection was overruled in part, as to what he, Beelman, said, and sustained in part, as to whatever someone else said. However, the court then cautioned defense counsel, noting that in the first trial there was an effort by the defense to prove Beelman was with [*88] a prostitute at the time of the incident, and that the court assumed that was going to be part of the defense strategy in the second [*978] trial. The trial court stated that it had not allowed it at the first trial, and it was not going to allow it at the second trial. Unidentified defense counsel argued that the evidence was permissible under La. C.E. art. 404(B). Defense counsel reasoned that defendant was a security guard charged with securing the hotel from illegal conduct, and thus there was justification for his interaction with Beelman. The trial court countered that the shots were fired on a city street, and that the defense had failed to present a compelling argument that the fact that Beelman's female [Pg 58] companion was a prostitute fell under La. C.E. art. 404(B). The trial court stated that such evidence was nothing more than showing Beelman had a bad character.

On appeal, the defendant cites La. C.E. art. 801(D)(4), and argues that evidence Beelman's female companion was a prostitute was part of the *res gestae*. La. C.E. art. 801(D)(4) provides that a statement is not hearsay if:

The statements are events speaking for themselves under the immediate pressure of the occurrence, [*89] through the instructive, impulsive and spontaneous words and acts of the participants, and not the words of the participants when narrating the events, and which are necessary incidents of the criminal act, or immediate concomitants of it, or form in conjunction with it one continuous transaction.

However, La. C.E. art. 801(D)(4) is not the *res gestae* article. It refers to statements. The defendant fails to specify what statements he was trying to get into evidence. It could be that he is referring to any statement by either Beelman or his female companion to each other that would constitute evidence of a prostitution arrangement. However, the defendant's argument is couched in terms of *res gestae*, or the integral act exception to the general rule that evidence of other crimes, wrongs, or acts by a person is generally inadmissible.

La. C.E. art. 404(B)(1) is the *res gestae* article, and provides in pertinent part that:

(1) Except as provided in Article 412, evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, [*90] intent, preparation, plan, knowledge, identity, absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, of the nature of any such evidence it intends to introduce at trial for such purposes, or when it relates to conduct that constitutes an integral part of the act or transaction that is the subject of the present proceeding. (Emphasis added).

[Pg 59] The Louisiana Supreme Court explained the *res gestae* and integral act evidence in State v. Colomb, 98-2813, pp. 3-4 (La. 10/1/99), 747 So.2d 1074, 1075-1076, vis-à-vis the State seeking to introduce evidence, as follows:

This Court has long approved of the introduction of other crimes evidence, both under the provisions of former R.S. 15:448 relating to *res gestae* evidence and as a matter of integral act evidence under La. C.E. art. 404(B), "when it is related and intertwined with the charged offense to such an extent that the state could not have accurately presented its case without reference to it."

State v. Brewington, 601 So.2d 656, 657 (La. 1992). This doctrine encompasses "not only spontaneous utterances and declarations made [*91] before and after commission of the crime but also testimony [*979] of witnesses and police officers pertaining to what they heard or observed before, during, or after the commission of the crime if the continuous chain of events is evident under the circumstances." State v. Molinario, 383 So.2d 345, 350 (La. 1980). We have required a close connexity between the charged and uncharged conduct to insure that "the purpose served by admission of other crimes evidence is not to depict the defendant as a bad man, but rather to complete the story of the crime on trial by proving its immediate context of happenings near in time and place." State v. Haarala, 398 So.2d 1093, 1098 (La. 1981) (emphasis added); see also 1 McCormick on Evidence, 190, p. 799 (4th ed., John William Strong, ed., 1992) (other crimes evidence may be admissible "[t]o complete the story of the crime on trial by placing it in the context of nearby and nearly contemporaneous happenings.") (footnote omitted). The *res gestae* [sic] or integral act doctrine thus "reflects the fact that making a case with testimony and tangible things not only satisfies the formal definition of an offense, but tells a colorful story with descriptive [*92] richness." Old Chief v. United States, 519 U.S. 172, 186, 117 S. Ct. 644, 653, 136 L. Ed. 2d 574 (1997). The test of integral act evidence is therefore not simply whether the state might somehow structure its case to avoid any mention of the uncharged act or conduct but whether doing so would deprive its case of narrative momentum and cohesiveness, "with power not only to support conclusions but to sustain the willingness of jurors to draw the inferences, whatever they may be, necessary to reach an honest verdict." Id.

The defendant argues that, just as the State can introduce evidence of other crimes, wrongs or acts as integral act evidence/*res gestae*, to complete the story of the crime on trial by placing it in the context of nearby and nearly [Pg 60] contemporaneous happenings, he too should have been permitted to present evidence that Beelman, the victim, was with a prostitute.

Lest there be some doubt or uncertainty, given that the situation rarely arises, a defendant has a right to present evidence of other crimes, wrongs or acts by a victim as part of the *res gestae*. La. C.E. art. 404(B)(1) begins by stating that "[e]xcept as provided in Article 412, evidence of other crimes, wrongs, [*93] or acts is not admissible" La. C.E. art. 412 refers to evidence of a victim's past sexual behavior in sexual assault cases. Thus, under La. C.E. art. 404(B)(1) evidence as to other crimes, wrongs, or acts by a victim is admissible under the limited exceptions provided by the article unless such evidence is evidence of a victim's past sexual behavior in sexual assault cases.

As set forth hereinabove, the *res gestae* "encompasses 'not only spontaneous utterances and declarations made before and after commission of the crime but also testimony of witnesses and police officers pertaining to what they heard or observed before, during, or after the commission of the crime if the continuous chain of events is evident under the circumstances.'" Colomb, 98-2813, p. 3, 747 So.2d at 1075-1076, quoting State v. Molinario, 383 So.2d 345, 350 (La. 1980).

Defense counsel's question to Beelman was: "Immediately prior to you walking in the door of the hotel had you reached an agreement with her -," and then the State objected. It appears that the question, assuming defense counsel had completed it by asking Beelman if he had reached an agreement with her to exchange sex for money, or something similar, [*94] would have been proper, as it would have called for [*980] evidence of a statement made immediately before the two entered the hotel and moments prior to what Beelman testified was snickering and laughing by the defendant, the hotel desk clerk and others, possibly directed at [Pg 61] Beelman and his companion. Based on Beelman's testimony, and to a lesser degree that of the defendant also, this snickering and laughing was the inception of the chain of events leading to the shooting.

The trial court sustained the State's objection based on what it later stated was its belief that the question was intended to show nothing more than that Beelman had a bad character, or that he was bad man. The evidence was not admissible for the purpose of showing that Beelman was a bad man. Colomb, 98-2813, p. 3, 747 So.2d at 1076 ("We have required a close connexity between the charged and uncharged conduct to insure that 'the purpose served by admission of other crimes evidence is not to depict the defendant as a bad man, but rather to complete the story of the crime on trial by proving its immediate context of happenings near in time and place.'", quoting State v. Haarala, 398 So.2d 1093, 1098 (La. 1981)).

However, [*95] the defendant submits that much was made throughout Beelman's testimony on direct examination and the State's cross examination of defendant concerning defendant's attitude or interest in Beelman. The defendant submits that much of any interest in Beelman could be explained as the defendant, a security guard at his post, taking an interest in a person apparently engaged in illegal conduct. This argument is a legitimate one and does not suggest a desire by the defendant to introduce the evidence to paint Erik Beelman as a bad man. While the

trial court correctly noted that the shooting, virtually the entire confrontation, occurred outside the hotel on a city street, the genesis of the incident, according to the Beelman, occurred inside. Beelman testified that when he entered, after the defendant, a person behind the front desk and others in regular clothes greeted him [Pg 62] and he greeted them, he heard snickering and laughing coming from them. Beelman testified that he did not know if it had been directed towards him.

Beelman testified that he met his female companion that morning in the French Quarter, where he had been drinking at one or more bars. The possibility that the two met [*96] in a French Quarter bar, left the bar, walked across Canal Street, one block up to the hotel, but that any arrangement to exchange sex for money occurred "immediately prior to them walking in the door of the hotel," is extremely remote. The defendant fails to show that, had a prostitution arrangement been confected at any time before the point in time that was immediately before the two walked into the door of the hotel, evidence of the arrangement could be said to have been encompassed by the *res gestae* doctrine. Obviously, that is why defense counsel phrased the question to Beelman as whether "immediately prior to you walking in the door of the hotel had you reached an agreement with her-." He wanted to get the evidence in as part of the *res gestae*.

A trial court's ruling on the admissibility of evidence under La. C.E. art. 404 (B)(1) will not be disturbed absent an abuse of discretion. State v. Lawrence, 2009-1637, p. 8 (La.App. 4 Cir. 8/25/10), 47 So.3d 1003, 1008; State v. Gibson, 99-2827, p. 12 (La.App. 4 Cir. 4/11/01), 785 So.2d 213, 220.

Considering how remote the possibility was that Erik Beelman and his companion confected an agreement to exchange sex for money "immediately [*97] prior to" them entering the hotel, and not before then, it cannot be said that the trial court would have [*981] erred in implicitly considering that factor and thus concluding that defense counsel's primary purpose in asking the full question, which counsel was unable to do before the State objected, was to get before the jury the notion that Beelman was with a prostitute--that Beelman was a bad man, which is [Pg 63] impermissible. Thus, it cannot be said that the trial court abused its discretion in sustaining the State's objection to the question.

There is no merit to this assignment of error.

ASSIGNMENT OF ERROR NO. 5

In this last assignment of error, the defendant argues that during rebuttal argument the State inappropriately vouched for the veracity and accuracy of the statements of an unknown cab driver on the recording of the 911 call.

The defendant prefaces his argument by stating that the 911 recording, which was properly admitted in evidence, "included a call from a cab driver to the 911 call center relating what he claimed he saw." Thus, the defendant admits that the call at issue was from a cab driver.

In rebuttal the prosecutor stated:

MR. PHILLIPS:

See, at the end of the day all [*98] of this was convenient for them. It's convenient to say off the screen, all of this, they make up all this stuff that happened, reach for this, reach for that, but how do you explain Barbarin? How do you explain this man on the tape? He's a cab driver. Use your common sense here. We're from New Orleans. Where do cab driver's [sic] go?

MR. LONDON:

I object to that, Your Honor.

THE COURT:

Overruled.

MR. PHILLIPS:

Where are the cab stands? By hotels. Especially downtown. You see cabs lining up for blocks. Sometimes you can't even park on the street [Pg 64] because cab drivers - - and when did this happen? Seven o'clock on a week day morning, in the CBD. You're going to have cab drivers all over there. You saw the video. They had seven, eight cabs driving down the street, and this is a cab driver who is right there.

MR. CAPITELLI:

Objection.

THE COURT:

Overruled.

MR. CAPITELLI:

I didn't hear anything about - -

THE COURT:

Overruled.

MR. PHILLIPS:

And you know - -

THE COURT:

Hold on a second. Hold on. Listen, I've ruled on this. Don't make anymore [sic] statements like that to the jury, Mr. Capitelli. I have ruled on this. We've had a conference on the sidebar about it. You are overruled. Do not make anymore [*99] [sic] arguments to the jury.

Proceed.

Reading the colloquy in a light most favorable to the defendant, and particularly noting defense counsel's comment that he did not "hear anything about-" (before being interrupted by the court), it is fair to say that the objection was as to the prosecutor representing something to the jury that was not reflected in the 911 tape or as to which other evidence had not been introduced. Thus, defendant preserved the issue for review.

[Pg 65] The defendant argues that the State went beyond the evidence as to what the [*982] cab driver could see, where the cab driver was located, and used that argument beyond the evidence to vouch for and support the prosecution theory of the case.

However, the closing argument transcript shows that immediately prior to making the comments about the cab driver/cab drivers in general to which defendant objected, the prosecutor played for the jury the 911 call from the cab driver. Thus, the jury was well aware of what precisely the cab driver said or did not say. Immediately prior to the cab driver's 911 call being played for the jury, defense counsel objected and the bench conference referred to by the trial court above was held.

The [*100] defendant argues that the prosecutor's actions in talking about the prevalence of cabs and their parking habits, no evidence of which was presented during the trial, suggested to the jury that the cab driver who called had a vantage point from which he could see the events in issue.

The general rules on closing/rebuttal argument are that the scope of closing argument shall be confined to the evidence admitted, the lack of evidence, conclusions of fact that the state or defendant may draw therefrom, and the law applicable to the case; the argument shall not appeal to prejudice. La. C.Cr.P. art. 774. The state's rebuttal shall be confined to answering the argument of the defendant. *Id.* However, prosecutors have wide latitude in choosing closing argument tactics. *State v. Casey*, 99-0023, p. 17 (La. 1/26/00), 775 So.2d 1022, 1036; *State v. Jackson*, 2008-0286, p. 10-11 (La.App. 4 Cir. 4/29/09), 11 So.3d 524, 533. Further, a trial court has broad discretion in controlling the scope of closing arguments. *Casey*, *supra*; *State v. Jones*, 2010-0018, p. 9 (La.App. 4 Cir. 11/10/10), 51 So.3d 827, 833, writ denied, 2010-2683 (La. 4/25/11), 62 So.3d 85. [Pg 66] Even in the case of a prosecutor [*101] exceeding the bounds of proper argument, a reviewing court will not reverse a conviction unless thoroughly convinced that the argument influenced the

jury and contributed to the verdict. State v. Wiltz, 2008-1441, p. 6 (La.App. 4 Cir. 12/16/09), 28 So.3d 554, 558, writ denied, 2010-0103 (La. 11/12/10), 49 So.3d 885; State v. Harvey, 2008-0217, p. 4 (La.App. 4 Cir. 5/13/09), 12 So.3d 496, 499. Even where the prosecutor's statements are improper, a reviewing court should accord credit to the good sense and fair-mindedness of the jurors who heard the evidence. Harvey, supra.

In the instant case, the prosecutor apparently exceeded the scope of proper rebuttal in referring to facts not in evidence with regard to cab drivers being parked in front of hotels. However, the reference to the cab driver being "right there," was proper. It could be inferred from the 911 call by someone apparently identifying him(her)self as a cab driver that such cab driver was in a position to see what he reported to the 911 operator, and thus had been "right there" to view what he later reported.

Crediting the good sense and fair-mindedness of the jurors who heard the evidence, it cannot be said that the trial [*102] court erred in overruling the defendant's objection. Further, considering the record evidence, any error by the prosecutor in making the comment about cab drivers parking in front of hotels was harmless. The guilty verdict rendered in the instant case was surely unattributable to such comment. State v. Higginbotham, 2011-0564, p. 3 (La. 5/16/11), 60 So.3d 621, 623 (harmless error exists where the guilty verdict actually rendered was surely unattributable to the error.).

[*983] There is no merit to this assignment of error.

[Pg 67] In his prayer for relief the defendant argues that the assigned errors, both individually "and collectively," justify a reversal of his conviction. However, none of the alleged errors raised by the defendant individually constitutes reversible error. The cumulative effect of alleged errors complained of by a defendant on appeal, none of which constitutes reversible error individually, does not deprive the defendant of his right to a fair trial, and thus does not constitute reversible error. See State v. Draughn, 2005-1825, p. 70 (La. 1/17/07), 950 So.2d 583, 629, citing State v. Copeland, 530 So.2d 526, 544-545 (La. 1988). Further, the cumulative effect of harmless [*103] errors does not warrant reversal of a conviction or a sentence. State v. Strickland, 94-0025, pp. 51-52 (La. 11/1/96), 683 So.2d 218, 239; State v. Tart, 93-0772, p. 55 (La. 2/9/96), 672 So.2d 116, 154.

DECREE

For the foregoing reasons, we affirm the defendant's conviction and sentence.

CONVICTION AND SENTENCE AFFIRMED

Footnotes

1

The bill of information charging defendant spells his last name as "Marlone." However, the correct spelling is "Marlowe."

2

The State spelled Beelman's first name as "Eric" in the bill of information, but subsequently amended it to spell the first name as "Erik."

3

Miranda v. Arizona, 384 U.S. 436, 444, 86 S. Ct. 1602, 1612, 16 L. Ed. 2d 694 (1966).

4

Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 113 S. Ct. 2786, 125 L. Ed. 2d 469 (1993).

5

La. R.S. 14:27(D)(1)(a) [*35] states:

D. Whoever attempts to commit any crime shall be punished as follows:

(1)(a) If the offense so attempted is punishable by death or life imprisonment, he shall be imprisoned at hard labor for not less than ten nor more than fifty years without benefit of parole, probation, or suspension of sentence.

6

La. R.S. 14:30.1(B) states:

B. Whoever commits the crime of second degree murder shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

7

La. C.Cr.P. art. 841 states, in pertinent part:

A. An irregularity or error cannot be availed of after verdict unless it was objected to at the time of occurrence. A bill of exceptions to rulings or orders is unnecessary. It is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take, or of his objections to the action of the court, and the grounds therefor.

8

La. C.Cr.P. art. 841(A) states:

A. An irregularity or error cannot be availed of after [*53] verdict unless it was objected to at the time of occurrence. A bill of exceptions to rulings or orders is unnecessary. It is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take, or of his objections to the action of the court, and the grounds therefor.

9

See citation at footnote 3.

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES THIS IS AN IMPORTANT RECORD. SAFEGUARD IT. ANY ALTERATIONS IN SHADDED AREAS RENDER FORM VOID

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, First, Middle) MARLOWE, CHRISTOPHER SCOTT		2. DEPARTMENT, COMPONENT AND BRANCH ARMY/RA		3. SOCIAL SECURITY NUMBER 099 76 5315	
4a. GRADE, RATE OR RANK SPC	b. PAY GRADE E04	5. DATE OF BIRTH (YYYYMMDD) 19841205	6. RESERVE OBLIGATION TERMINATION DATE (YYYYMMDD) 00000000		
7a. PLACE OF ENTRY INTO ACTIVE DUTY SHREVEPORT, LOUISIANA		b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known) 107 N GLADYS LEESVILLE LOUISIANA 71446			
8a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND USA GAR FT HOOD FC			b. STATION WHERE SEPARATED FORT HOOD, TX 76544-5056		
9. COMMAND TO WHICH TRANSFERRED N/A			10. SGLI COVERAGE AMOUNT: \$ 400,000.00		NONE
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) 15Q10 AIR TRAF CTRL OPER - 2 YRS 3 MOS// NOTHING FOLLOWS		12. RECORD OF SERVICE			
		a. DATE ENTERED AD THIS PERIOD	2003	05	21
		b. SEPARATION DATE THIS PERIOD	2006	05	04
		c. NET ACTIVE SERVICE THIS PERIOD	0002	11	14
		d. TOTAL PRIOR ACTIVE SERVICE	0000	00	00
		e. TOTAL PRIOR INACTIVE SERVICE	0001	00	01
		f. FOREIGN SERVICE	0001	00	01
		g. SEA SERVICE	0000	00	00
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) ARMY ACHIEVEMENT MEDAL//NATIONAL DEFENSE SERVICE MEDAL//GLOBAL WAR ON TERRORISM SERVICE MEDAL//KOREA DEFENSE SERVICE MEDAL//ARMY SERVICE RIBBON//AVIATION BADGE//NOTHING FOLLOWS		14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed) AIR TRAFFIC CONTROL OPERATOR, 16 WEEKS, 2004// NOTHING FOLLOWS			
15a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM			YES	X	NO
b. HIGH SCHOOL GRADUATE OR EQUIVALENT		X	YES		NO
16. DAYS ACCRUED LEAVE PAID 8	17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION			YES	NO
18. REMARKS: DISABILITY SEVERANCE PAY -- \$11055.60//MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE// NOTHING FOLLOWS					
The information contained herein is subject to computer matching within the Department of Defense or with any other affected Federal or non-Federal agency for verification purposes and to determine eligibility for, and/or continued compliance with, the requirements of a Federal benefit program.					
19a. MAILING ADDRESS AFTER SEPARATION (Include ZIP Code) 6401 FM 2497 LUFKIN TEXAS 75901		b. NEAREST RELATIVE (Name and address - include ZIP Code) LIZ SLOAN 6401 FM 2497 LUFKIN TEXAS 75901			
20. MEMBER REQUESTS COPY 6 BE SENT TO		TX	DIRECTOR OF VETERANS AFFAIRS	X	YES
21. SIGNATURE OF MEMBER BEING SEPARATED 		22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature) RICKY E ALLEN, CIV TRANSITION CENTER 			

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23. TYPE OF SEPARATION DISCHARGE	24. CHARACTER OF SERVICE (Include upgrades) HONORABLE
25. SEPARATION AUTHORITY AR 635-40, PARA 4-24B(3)	26. SEPARATION CODE JFL
27. REENTRY CODE 3	28. NARRATIVE REASON FOR SEPARATION DISABILITY, SEVERANCE PAY
29. DATES OF TIME LOST DURING THIS PERIOD (YYYYMMDD) NONE	30. MEMBER REQUESTS COPY 4 (Initials)

Elayn Hunt Correctional Center - Education Department

FROM: Henry E. Sanders, Jr., Ph.D.
Education Curriculum Coordinator
NCCER Master Trainer – Hunt Correctional Center ATS

DATE: 4/3/2017

RE: CHRISTOPHER MARLOWE

To Whom May be Concerned,

This is a letter of reference for Mr. Christopher Marlowe. I have observed him as his supervisor and academic counselor. Chris was a tutor under my supervision for several years. He's had stellar performance and maintained successful graduation rates in his classes by helping many students achieve their academic goals. He is very interactive and attentive. His teaching methods always drew people to class and kept their rapt attention. Mr. Marlowe is a great asset as a trainer and would be valuable to any company or business.

Christopher has also maintained his own education by completing every course afforded to him while incarcerated. He has completed a number of technical and trade certifications and has been actively pursuing a degree. Chris has always maintained a full schedule throughout his time here. For several years, he was studying at the same time he was teaching classes.

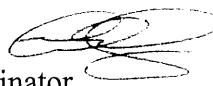
After he moved on from helping others as a tutor, he became very active in the prison community by leading various organizations and clubs. He is currently the Vice-President of the Veterans Incarcerated group, leads a physical fitness group, is a member of the American Sign Language study group, and participates in the creative writing group. He's earned various awards from Toastmasters, Veterans Incarcerated, and has won various contests, such as the Black History Month Essay contest, Toastmasters Table Topics, and a few others.

Besides being active in the community, he has maintained a great conduct record, receiving only one disciplinary report in eight years. He has never given me a problem and has always been able to go with the flow. Mr. Marlowe maintains a great rapport with my faculty, the education staff and other offenders. He is always willing to help and never complains about doing assigned tasks. He has a positive, can-do attitude, always inquisitive and wanting to learn all he can on a variety of subject areas.

Please take this letter into consideration and know that I am a willing reference of Chris' attitude and work ethic.

*Elayn Hunt Correctional Center
Education Department*

TO: TO WHOM IT MAY CONCERN

FROM: Henry E. Sanders, Jr., Ph.D. 
Education Curriculum Coordinator

DATE: 9/22/15

RE: Christopher Marlowe

This letter is to verify and recognize that Christopher Marlowe was under my supervision from 2013 through 2015.

Christopher worked for me as a tutor for the G.E.D./ HiSet (High School Equivalency) program. He has years of experience as a tutor and has assisted nearly 1,000 men achieve their academic success. His teaching methods are unusual, very entertaining, motivational and quite effective. He achieved recognition in his tutor evaluations for having great rapport with students and staff alike.

Christopher furthered his own education by taking part in several National Center for Construction Education & Research (NCCER) based curriculums. He has accomplished various levels in different technical trade areas, including the NCCER Crew Leadership course. He participated in River Parishes Community College courses and made straight A's, while still teaching, and being an active member in various clubs / social functions like WhoDat Café, Piano / Keyboard for a church, learning sign language, and leading a fitness group.

Christopher Marlowe is a natural leader and a young man with potential for great success. I hope this letter provides some measure of his character and that you give him consideration in any matter of employment and service. I am willing to provide a personal reference if needed.

BOBBY JINDAL
Governor



JAMES M. Le BLANC
Secretary

State of Louisiana
Department of Public Safety and Corrections
Clayn Hunt Correctional Center

FROM: Dr. Lawton Searcy
Corrections Program Manager

DATE: August 25, 2015

RE: Christopher Marlone #558725

To Whom It May Concern:

As the Corrections Program Manager for Elyan Hunt Correctional Center, I have had the opportunity to both watch and to interact with Christopher Marlone on a virtual daily basis. I have gained a deep respect for this young man and his efforts to improve his life, education, and future.

I have witnessed no offender in this institution out work Christopher nor have a greater desire for education. Within the last year, Christopher has inhaled education offered through EHCC by taking our college classes, faith-based classes, other therapeutic classes while maintaining his prison job.

Christopher is always respectful. He always dresses and grooms himself to the very best of his abilities under the circumstances he has found himself in as an offender. He never makes excuses. He does not complain. He has an amazing concern for the welfare of our older and infirmed offenders.

I can tell you there is no offender in this institution that is more respected and trusted by security, non-security, and administration than Christopher Malone. He is not in any way what one would call a typical offender. He deserves and has earned every consideration he can be afforded.

With Great Sincerity,


Lawton Searcy, D.Min.

Form B-07-001-C
22 January 2010

Tutor Evaluation

Offender Name: Marlone, Christopher

Current Tutor Assignment: GED02

DOC #: 558725

Is tutor certified in area of current position? YES

Supervisor's Name: David Olivier

Rating Year: 2015 Date of Rating: 4-30-15

Rate each factor between 0 and 5, with 0 being lowest and 5 being highest.

5

1. Instructional Organization: Prepares and secures appropriate instructional supplies and equipment efficiently and in a timely manner.

Comments: Great organizational skills!

5

2. Effectiveness: Performs the duties of a tutor, which appropriately meets the needs of the department and offender population. Clearly communicates with others (administration, co-tutors, security and students), all concerns and best practices on a regular basis.

Comments: Extremely effective!

5

3. Certification & Professional Development: Tutors must possess a current and valid CEA, NCCER, or another approved industry-based Tutor Certificate as outlined in Department Regulation B-07-001. (Contact the institution's Education Coordinator to verify certification.) All fulltime academic tutors are encouraged to participate in professional development opportunities offered by the institution. These professional development hours are documented in a personnel file in the institution's education department.

Has the tutor obtained/maintained certification requirements as outlined in Dept. Reg. B-07-001? No (Rating of 0 must be entered)

Comments:

5

4. Punctuality & Reliability: The tutor reports to work on time or contacts his/her immediate supervisor prior to a necessary absence.

Comments: Is very punctual and reliable.

5

5. Cooperative Environment: The tutor works consistently and amiably with administration, co-tutors, security and students. He/she creates an environment conducive to learning.

Comments: He has the best classroom rapport of any of our tutors.

25

TOTAL (0 - 25)

OS

OVERALL RATING (OS, VG, S, NI, or P)

Overall Rating Scale

23-25 = Outstanding (OS)	20-22 = Very Good (VG)	15-19 = Satisfactory (S)	11-14 = Needs Improvement (NI)	0-10 = Poor (P)
-----------------------------	---------------------------	-----------------------------	-----------------------------------	--------------------

Christopher Marlone
Tutor Signature

4-8-15
Date

David Olivier
Supervisor Signature

4-8-15
Date

OVERALL RATINGS OF POOR OR NEEDS IMPROVEMENT MUST BE BROUGHT TO THE ATTENTION OF THE INSTITUTION'S EDUCATION COORDINATOR AND THE WARDEN.

Tutor Evaluation

Offender Name: Marlone, Christopher Current Tutor Assignment: GED02
 DOC #: 558725 Is tutor certified in area of current position? Yes, "R"
 Supervisor's Name: TERRY BOURGEOIS
 Rating Year: 2014-15 Date of Rating: 10/20/2014

Rate each factor between 0 and 5 with 0 being lowest and 5 being highest.

- 4

1. Instructional Organization: Prepares and secures appropriate instructional supplies and equipment efficiently and in a timely manner.

Comments: Has appropriate materials on a daily basis.
- 4

2. Effectiveness: Performs the duties of a tutor, which appropriately meet the needs of the department and offender population. Clearly communicates with others (administration, co-tutors, security and students), all concerns and best practices on a regular basis.

Comments: Provides interesting details along with appropriate subject matter; challenges students to do their best.
- 5

3. Certification & Professional Development: Tutors must possess a current and valid CEA, NCCER, or another approved industry-based Tutor Certificate s outlined in Department Regulation B-07-001. (Contact the institution's Education Coordinator to verify certification.) All fulltime academic tutors are encouraged to participate in professional development opportunities offered by the institution. These professional development hours are documented in a personnel file in the institution's education department.

Has the tutor obtained/maintained certification requirements as outlined in Dept. Reg. B-07-001? No (Rating of 0 must be entered)

Comments: Has maintained appropriate tutor qualifications.
- 5

4. Punctuality & Reliability: The tutor reports to work on time or contacts his/her immediate supervisor prior to a necessary absence.

Comments: Continues to report in a timely manner daily—both mornings and evenings.
- 4

5. Cooperative Environment: The tutor works consistently and amiably with administration, co-tutors, security and students. He/she creates an environment conducive to learning.

Comments: Conducts himself appropriately with all concerned.

22

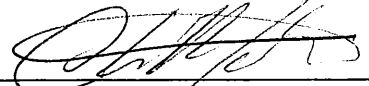
TOTAL (0 – 25)

VG

OVERALL RATING (OS, VG, S, NI, or P)

Overall Rating Scale

23-25 = Outstanding (OS)	20-22 = Very Good (VG)	15-19 = Satisfactory (S)	11-14 = Needs Improvement (NI)	0-10 = Poor (P)
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 Tutor Signature 10-20-14
 Date


 Supervisor Signature 10-20-14
 Date

OVERALL RATINGS OF POOR OR NEEDS IMPROVEMENT MUST BE BROUGHT TO THE ATTENTION OF THE INSTITUTION'S EDUCATION COORDINATOR AND THE WARDEN.

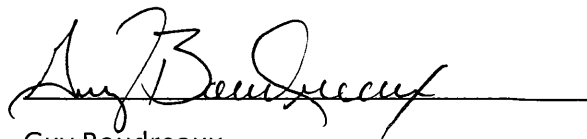
To Whom It May Concern:

Thank you for taking time with this letter. I am writing in reference to Christopher Marlowe. Chris and I met almost four years ago. We have worked together as certified adult education tutors; we are both board members in the veterans club here at Hunt; and yes, we are friends. The last is most important as in this environment real friends are few and far between. Through time, Chris has proven himself trust worthy and reliable. As a coworker, he showed the same characteristics. To this day, no combination of tutors in the EHCC Education Department averaged the number of graduates as Chris and I did during our time working together. In our veterans club, I am the president and Chris is our vice-president. Again, he is reliable; and as a board member, he displays all of the leadership traits taught to us in the Armed Services.

Now, Chris is not perfect by any means. But, who among us is? There are times when as an older friend, as a big brother, or as the president of the veterans group, I have to help temper his ego and adjust his direction. But, I understand his drive. You see, it is hard, very hard, to not see yourself as better than the next man behind these walls when you have accomplished as much as Chris has. Along with all of the training and education he completed prior to his conviction, Chris has completed many hours of college course work while incarcerated. Most of our peer offenders choose to not even make the effort to complete a GED. Chris does not steal, do drugs, gamble, or chase after homosexual inmates. These choices are not the norms in prison either. Lastly, Chris truly feels sorry for this entire situation. Again, this is not the usual mind set of a convicted offender. While most go about their days in here planning a life outside of prison doing the same things that got them in here, Chris spends his free time formulating ways to never return, and to help others not return.

As a friend, coworker, and fellow veteran, I have found no better behind these walls. Although he is still a work in progress, as we all are, Chris knows his faults and actively works to fix them. He is truly sorry for this whole ordeal. I know, if he could change it, he would; and not because of the time that he is serving, but because of the impact it had on so many other people. Chris is the epitome of rehabilitation. When he is given a second chance, it is easy to say Chris will not return to prison, but I can honestly say he will excel in society. Thank you for your time and consideration.

Very respectfully:



Guy Boudreaux
576362
EHCC - Golf 3
P.O. Box 174
St. Gabriel, La 70776

Wednesday, March 08, 2017

Your Honor,

I am writing this letter in reference to Christopher Marlowe. I have known Christopher for approximately two years. I met him the first week I was moved to Elayn Hunt Correctional Center. I would like to take this opportunity to tell you a little bit about what I know of Christopher.

This is my first experience with being incarcerated and to say I was nervous about it would be an understatement. From the time I arrived at Elayn Hunt and met Christopher, he has been a tremendous support system for me. He has shown great concern for my wellbeing for no other reason other than genuine concern. He helped me with understanding the way things around here worked and he also let me know that if I ever needed anything, he was available. People like that are not easy to meet in this type of setting and I am grateful that I was fortunate enough to have met him when I arrived here.

Since I met Christopher, I have come to know him very well. I know he comes from a good family and he was raised with good values which are similar to the way I was raised by my family. I know this to be true because he exhibits great control in situations that other people might lose control in. He is one of the most dependable people I know. I consider him to be a close friend and I intend to call him that one day when we are both home with our families.

Thank you for taking the time to read this reference letter. If you have any additional questions for me, please feel free to contact me.

A handwritten signature in black ink that reads "Joseph S. Branch". The signature is written in a cursive style with a large, looping initial "J".

Joseph Branch #629820
Elayn Hunt Correctional Center
P.O. Box 174
St. Gabriel, LA 70776



**Indiana State
University**

More. From day one.

College of Technology,
Office of Associate Dean

Terre Haute, Indiana 47809
812-237-2987
888-478-7003
Fax 812-237-2823

Memorandum

To: Whom It May Concern

From: Dr. Jeffrey McNabb, Associate Dean *JM*

Date: October 1, 2009

Re: Christopher Marlowe

As Associate Dean of the Indiana State University College of Technology, I am aware of our student Christopher Marlowe's service in the army, in which he served his country well and was honorably discharged.

Chris began as an ISU student in the fall of 2008 and is a student in good standing in his program of Professional Aviation Flight Technology within our Aviation Department. As such, he has successfully completed courses in piloting, navigation, aircraft systems, pilot theory, criminal justice, English, and German.

FROM: VERNON BOTHWELL

TO: WHOM IT MAY CONCERN

SUBJECT: MR. CHRIS MARLOWE

I hereby wish to write on behalf of Mr. Chris Marlowe. I had Chris in an aircraft systems ground school class; his attendance was good and he very actively participated in all class discussions. I would welcome him in any future class I may teach, as he was knowledgeable in the subject, well prepared, and possessed an outgoing nature which positively contributed to the class's interest level.

I personally feel society can be best served by allowing Chris to return to school, complete his education, and become a productive member of the work force.



Vernon Bothwell

Capt, USN (RET)

09/26/18

Ashland University
Academic Evaluation

Student.....: Christopher S. Marlowe (1379137)
Program.....: BACHELOR OF ARTS IN COMMUNICATION STUDIES (OR2.BA.COM)
Catalog.....: 2017
Ant Completion Date: 01/10/22
E-Mail Address.....: ChristopherMARLONE00558725@jpay.com

Home phone:
Cell phone:
Advisor: Kacey B. Pakunpanya
Pamela J. Justice
Barbara S. Oliver

*Projected
Graduation BA
Fall 19*

Christopher S. Marlowe
PO Box 3071
Prairieville, LA 70769
Program Status: In Progress

Institutional Credits:	Required	Current	Remaining	Anticipated(*)
Institutional GPA.....	30.00	Earned 39.00	0.00	Remaining 0.00
Combined Credits:	2.000	3.463	Met	15.00
Combined GPA.....	120.00	98.00	22.00	15.00
	2.000	3.463	Met	7.00

(* Anticipates completion of in-progress and registered and planned courses
Statuses: W=Waived, C=Complete, I=In progress, N=Not started
P=Pending completion of unfinished activity

- I) 1: INSTITUTIONAL REQUIREMENTS
 - Credits: 39
 - Complete all 10 subrequirements:
 - C) A: CORE COMM
 - > CORE COMMUNICATIONS COURSE
 - > See Academic Affairs Area in catalog for approved courses COM*120 FOUND OF HEALTH COMMUNICATI 18/SP A- 3
 - C) B: CORE COMP 1
 - > CORE COMPOSITION I
 - > See Academic Affairs Area in catalog for approved courses ENG*101 ENGLISH COMPOSITION I..... 08/15/08 K 3 *TE
 - C) C: CORE COMP 2
 - > CORE COMPOSITION II
 - > See Academic Affairs Area in catalog for approved courses ENG*102 ENGLISH COMPOSITION II..... 18/SU A- 3
 - C) D: CORE MATH LOGIC
 - > CORE MATH LOGIC
 - > See Academic Affairs Area in catalog for approved courses PHIL*220 PRACTICAL THINKING..... 10

09/27/19

Ashland University
Academic Evaluation

Page 1

Student.....: Christopher S. Marlowe (1379137)
 Program.....: Bachelor of Arts in Communication Studies (OR2.BA.COMMST)
 Catalog.....: 2017
 Ant Completion Date: 01/10/22
 E-Mail Address.....: ChristopherMARLONE00558725@jpay.com

Home Phone:
 Cell Phone:
 Advisor: Kimberly L. Evans
 Pamela J. Justice
 Barbara S. Oliver

Christopher S. Marlowe
 PO Box 134
 Angie, LA 70426

Program Status: Pending (Anticipated complete)

	Required	Current..... Earned	Remaining	Anticipated(*)..... Additional	Remaining
Institutional Credits:	30.00	78.00	0.00	12.00	0.00
Institutional GPA....:	2.000	3.539	Met		
Combined Credits:	120.00	137.00	0.00	12.00	0.00
Combined GPA....:	2.000	3.539	Met		

(*) Anticipates completion of in-progress and registered and planned courses

=====
 Statuses: W=Waived, C=Complete, I=In progress, N=Not started
 P=Pending completion of unfinished activity
 =====

C) 1: INSTITUTIONAL REQUIREMENTS

Credits: 42

Complete all 10 subrequirements:

C) A: CORE COMM

> CORE COMMUNICATIONS COURSE

> See Academic Affairs Area in catalog for approved courses

COM*120 FOUND OF HEALTH COMMUNICATI 18/SP A- 3

C) B: CORE COMP 1

> CORE COMPOSITION I

> See Academic Affairs Area in catalog for approved courses

ENG*101 ENGLISH COMPOSITION I..... 08/15/08 K 3 *TE

C) C: CORE COMP 2

> CORE COMPOSITION II

> See Academic Affairs Area in catalog for approved courses

ENG*102 ENGLISH COMPOSITION II..... 18/SU A- 3

C) D: CORE MATH LOGIC

> CORE MATH LOGIC

> See Academic Affairs Area in catalog for approved courses

PHIL*220 PRACTICAL THINKING..... 18/SP C 3

C) E: CORE RELIGION
 > CORE RELIGION

09/27/19

Christopher S. Marlowe

Page 2

> See Academic Affairs Area in catalog for approved courses
 REL*107 EXPLORING WORLD RELIGIONS.. 18/SP A- 3

C) F: CORE AESTHETICS
 > CORE AESTHETICS

> See Academic Affairs Area in catalog for approved courses
 Credits: 6
 MUSIC*253 Listening to Jazz..... 18/FA B+ 3
 ART*150 ART & IDEAS..... 04/15/12 K 3 *TE

C) G: CORE HUMANITIES
 > CORE HUMANITIES

> See Academic Affairs Area in catalog for approved courses
 Credits: 6
 REL*220 TAKING HUMAN LIFE..... 18/SU A 3
 PHIL*280H APPL ETHICS: WORKPLACE ET 18/FA B 3

C) H: CORE NAT SCIENCE
 > CORE NATURAL SCIENCES

> See Academic Affairs Area in catalog for approved courses
 Credits: 6
 BIO*1SGF CONCEPTS IN BIOLOGY..... 18/SP A 3
 GEOL*210 NAT DISAST: SEVERE WEATHER 18/FA B- 3

C) I: CORE SOCIAL SCIENCES
 > CORE SOCIAL SCIENCES

> See Academic Affairs Area in catalog for approved courses
 Credits: 6
 ECON*101 MARKET FUNDAMENTALS..... 18/SP B- 3
 SOC*111 PRINCIPLES OF SOCIOLOGY.... 19/SP B+ 3

C) J: CORE HIST REASONING
 > CORE HISTORICAL REASONING

> See Academic Affairs Area in catalog for approved courses
 HIST*213 AMER HIST AFTER CIVIL WAR. 18/SU A 3

C) 2: CRITICAL CULTURAL INQUIRY COURSE

> TAKE 1 CRITICAL CULTURAL INQUIRY COURSE
 > See catalog for list of approved courses
 FL*220 LATIN AMER LIT IN TRANSLATIO 18/SU A 3

P) 3: BA IN COMMUNICATION STUDIES

GPA Achieved/Needed: 3.810 / 2.250

- > TAKE ALL OF THE FOLLOWING:
- > COM 101: HUMAN COMMUNICATION
- > COM 120: FOUND OF HEALTH COMM
- > COM 204: COMM THEORY & RESEARCH
- > COM 210: FAMILY COMMUNICATION
- > COM 302: INTERCULTURAL COMMUNICATION
- > COM 304: INTERPERSONAL COMMUNICATION
- > COM 305: ORGANIZATIONAL COMMUNICATION
- > COM 333: LEADERSHIP COMMUNICATION
- > COM 343: CONFLICT, MEDIATION, NEGOTIATION
- > COM 425: RISK & CRISIS COMMUNICATIONS

GENERAL ELECTIVES
 ELECT*000..... 17/FA K 3.00 3.00 *TE
 GENERAL ELECTIVES

09/27/19 Christopher S. Marlowe Page 4

 ELECT*000..... 17/FA K 3.00 3.00 *TE
 GENERAL ELECTIVES
 ELECT*000..... 17/FA K 3.00 3.00 *TE
 GENERAL ELECTIVES
 ELECT*000..... 17/FA K 3.00 3.00 *TE
 GENERAL ELECTIVES
 ELECT*000..... 17/FA K 3.00 3.00 *TE
 GENERAL ELECTIVES
 ELECT*000..... 17/FA K 3.00 3.00 *TE
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 ELECT*000..... 17/FA K 3.00 3.00 *TE
 GENERAL ELECTIVES
 ELECT*000..... 17/FA K 3.00 3.00 *TE
 GENERAL ELECTIVES
 ELECT*000..... 17/FA K 2.00 2.00 *TE
 GENERAL ELECTIVES
 ELECT*000..... 17/FA K 2.00 2.00 *TE
 GENERAL ELECTIVES

(Credits in parentheses are anticipated earned)

NOTES

- *IP In Progress
- *TE Transfer Equivalency



September 17, 2019

Christopher Marlowe
1379137
Rayburn Correctional Center

Dear Mr. Marlowe:

Congratulations! I am delighted to learn that based upon your academic record you have been named to the Dean's List for the Summer Semester 2019. This recognition goes to all full-time students who achieved a grade point average of 3.5 or higher for the semester.

The faculty and administration at Ashland University are committed to providing a learning environment that is both challenging and supportive. We are proud of you and hope you, too, are proud of your academic accomplishment.

Please accept my personal congratulations on your achievement and my best wishes for your continued success as you progress toward the completion of your undergraduate degree at Ashland University!

Sincerely,

Cathy Britton

Cathy Britton
Director of Records and Advising
Corrections Education
Ashland University



May 20, 2019

Christopher Marlowe
1379137
Rayburn Correctional Institution

Dear Mr. Marlow:

Congratulations! I am delighted to learn that based upon your academic record you have been named to the Dean's List for the Spring Semester 2019. This recognition goes to all full-time students who achieved a grade point average of 3.5 or higher for the semester.

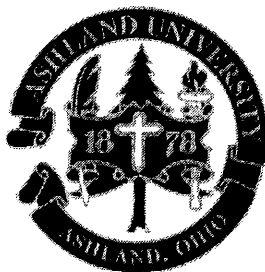
The faculty and administration at Ashland University are committed to providing a learning environment that is both challenging and supportive. We are proud of you and hope you, too, are proud of your academic accomplishment.

Please accept my personal congratulations on your achievement and my best wishes for your continued success as you progress toward the completion of your undergraduate degree at Ashland University!

Sincerely,

Cathy Britton

Cathy Britton
Director of Records and Advising
Corrections Education
Ashland University



August 30, 2018

Christopher Marlowe
1379137
Hunt Correctional Center

Dear Mr. Marlowe:

Congratulations! I am delighted to learn that based upon your academic record you have been named to the Dean's List for the Summer Semester 2018. This recognition goes to all full-time students who achieved a grade point average of 3.5 or higher for the semester.

The faculty and administration at Ashland University are committed to providing a learning environment that is both challenging and supportive. We are proud of you and hope you, too, are proud of your academic accomplishment.

Please accept my personal congratulations on your achievement and my best wishes for your continued success as you progress toward the completion of your undergraduate degree at Ashland University!

Sincerely,

Cathy Britton

Cathy Britton
Director of Records and Advising
Corrections Education
Ashland University

STATE OF TEXAS
 MARLOWE, CHRISTOPHE S.
 13093 099765315
 12/05/84 MALE
 WHITE - NOT HISP

ACADEMIC ACHIEVEMENT RECORD
 Parent/Guardian Name:
 ELIZABETH SLOAN
 421 HOUSE AVE
 LUFKIN TX 75904

(ACCREDITED)
 LUFKIN INDEPENDENT SCHOOL
 STUBBLEFIELD LEARNING CEN
 HIGHWAY 94 AND LOOP 287
 LUFKIN TX 75901
 936 634-1100 444385

TAAS MASTERY: Reading: 2/01 Mathematics: 2/01 Writing: 2/01
 Schools Awarding Credit: 99/00 3903-001 00/01 3903-001 01/02 222222-222
 02/03 3903-001 02/03 3903-004

COURSE	S1	S2	AV	CRED	COURSE	S1	S2	AV	CRED
ENGLISH					ECONOMICS				
99/00 ENG 1	65	87	76	1.00	02/03 ECO-FE	85		85	.50
00/01 ENG 2 Q	70	69	70	1.00	HEALTH				
00/01 DEBATE 1	83	75	79	1.00	99/00 HLTH ED		85	85	.50
01/02 ENG 3	78	75	77	1.00	PHYSICAL ED				
02/03 DEBATE 2	75		75		99/00 PE IS	91	89	90	1.00
02/03 ENG 4	93	86	90	1.00	99/00 PE EQ1	81		81	.50
MATHEMATICS					LANGUAGES				
99/00 ALG 1	76	75	76	1.00	99/00 SPAN1	81	87	84	1.00
00/01 GEOM	71	57	64		00/01 GERMAN1	77	74	76	1.00
00/01 GEOM	72	67	70	1.00	00/01 GERMAN2	68	83	76	1.00
01/02 ALG 2	70		70	.50	FINE ARTS				
02/03 ALG 2	74	86	80	.50	99/00 TH1	90	90	90	1.00
SCIENCE					02/03 TH2	50		50	
99/00 BIO I	87	91	89	1.00	COMPUTERS				
00/01 CHEM Q	75	71	73	1.00	01/02 COMSC1		78	78	.50
01/02 ANAT&PHY H	73	65	69	.50	02/03 COMSC1	70		70	.50
02/03 PHYSICS	71		71		VOC ED				
SOCIAL					01/02 INROBUS	80		80	1.00
99/00 W GEO H	83	67	75	1.00	01/02 ITSC		80	80	.50
00/01 W HIST	94	83	89	1.00	OTHERS				
01/02 US HIST	73	72	73	1.00	01/02 JRNLMS	84	75	80	1.00
02/03 GOVT	81		81	.50					

Credit Totals	Local	State	Total
99/00 09		8.00	8.00
00/01 10		7.00	7.00
01/02 11		6.00	6.00
02/03 12		3.00	3.00
TOTAL		24.00	24.00

Date Printed: 3/08/04



Date of Certificate of Coursework Completion:
 Date of Graduation: 1/23/03
 Grad. Program Type: *Stubblefield-Minimum*
 Signature and Title of School Official:
Sally Smith, Registrar 10-25-0

Date of Class Rank:
 Rank:
 Class Size:
 GPA:
 Quarter:

Texas Grant
 Academic Elig **NO**

Q-PRE AP H-HONORS

STATE OF TEXAS
 MARLOWE, CHRISTOPHE S.
 13093 099765315
 12/05/84 MALE
 WHITE - NOT HISP

ACADEMIC ACHIEVEMENT RECORD
 PARENT/GUARDIAN NAME:
 ELIZABETH GUIORY
 421 HOUSE AVE
 LUFKIN TEXAS TX 75904

(ACCREDITED)
 LUFKIN INDEPENDENT SCHOOL
 LUFKIN HIGH SCHOOL
 309 SOUTH MEDFORD DRIVE
 LUFKIN TX 75901
 936 632-7721

~~TEXAS~~ CONFIDENTIAL

EXIT LEVEL CUMULATIVE LABEL
 STUDENT: MARLOWE CHRISTOPHE S
 STUDENT-ID (PEINS): 099765315 DOB: 12/05/84
 DISTRICT: 003-903 LUFKIN ISD
 CAMPUS: 001 LUFKIN H S

G
R
A
D
E
10

	SCALE SCORE	TLI	MET EXPECT.	MIN. ALL OBJ.	MASTERS ALL OBJ.	TEST DATE
WRITING	1580		YES			02/01
READING		X-92	YES	YES		02/01
MATH		X-83	YES			02/01

CONFIDENTIAL
 TEXAS END-OF-COURSE - CUMULATIVE LABEL

STUDENT: MARLOWE CHRISTOPHE S
 STUDENT-ID (PEINS): 099765315 DOB: 12/05/84
 DISTRICT: 003-903 LUFKIN ISD
 CAMPUS: 001 LUFKIN H S

	SCALE SCORE	PASS	TEST DATE
ENGLISH II	1660	YES	FALL 2000
ALGEBRA I	1450	NO	APRIL 2000
BIOLOGY	1550	YES	APRIL 2000
U.S. HISTORY	NO INFORMATION AVAILABLE		

CONFIDENTIAL
 TEXAS END-OF-COURSE - ENGLISH II

TEST DATE: FALL 2000
 STUDENT: MARLOWE CHRISTOPHE S
 STUDENT-ID (PEINS): 099765315 DOB: 12/05/84
 DISTRICT: 003-903 LUFKIN ISD
 CAMPUS: 001 LUFKIN H S
 GRADE: 10

	SCALE SCORE	PASS
ENGLISH II	1660	YES

MARLOWE, CHRISTOPHER S. ID: 13093
 Cmp: 013 Cl: G1 DOB: 12/05/84 Print: 2/02/05
 DTP: 3/04/85 5/06/85 8/01/85
 7/11/86 5/15/90 8/27/99
 Polio: 3/04/85 5/06/85 8/01/85
 7/11/86 5/15/90 6/03/02
 MMR: 6/11/86 8/16/97 6/03/02

Measles:

Mumps:

Rubella:

HIB: 4/04/87

HBV:

Varicella:

Hep A:

National Center for Construction Education and Research

And the

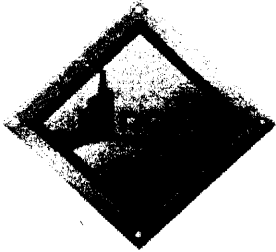
CHCC Construction Management Academy

Confers upon

Christopher Marlowe

Completion of

Management Education Training Curriculum



Under the Authority granted this institution of and by its charter from NCCER, given at St. Gabriel, Louisiana on the Seventh day of October in the year of Two Thousand and Sixteen AD

Henry C. Sanders, PhD.
ACS Master Trainer

Donald R. Stoball, PMP
ACS Management Education Instructor

NCCER

Board of Trustees confers upon

Chris Marlowe

this certificate of completion for

Project Management

in the Standardized Craft Training Program
on this Twenty-Third day of August, in the year 2016



Donald E. Whyte

Donald E. Whyte
President, NCCER



NCCER

Board of Trustees confers upon

Chris Marlowe

this certificate of completion for

Project Supervision

in the Standardized Craft Training program

on this Seventeenth day of June, 2016



Donald E. Whyte

Donald E. Whyte

President, NCCER



NCCER

Board of Trustees confers upon

Chris Marlowe

this certificate of completion for

Fundamentals of Crew Leadership

in the Standardized Craft Training program
on this First day of October, 2015



Donald E. Whyte

Donald E. Whyte
President, NCCER



NCCER

Board of Trustees confers upon

Chris Marlowe

this certificate of completion for

Site Layout Level One

in the Standardized Craft Training program
on this Sixteenth day of May, 2016



Donald E. Whyte

Donald E. Whyte
President, NCCER



NCCER

Board of Trustees confers upon

Chris Marlowe

this certificate of completion for

Core Curriculum

in the Standardized Craft Training program
on this Nineteenth day of December, 2014



Donald E. Whyte

Donald E. Whyte
President, NCCER



Chris Marlowe,

Card Number: 12818879

Project Management	08/23/2016	
Heavy Equipment Operations Level Two	08/01/2016	
Project Supervision	06/17/2016	
Project Supervision (Russian)	06/17/2016	
Site Layout Level One	05/16/2016	
Fundamentals of Crew Leadership	10/01/2015	
Core Curriculum	12/19/2014	
22203-14	Compaction Equipment	09/21/2016
22302-14	Dozers	09/21/2016
22303-14	Backhoes	09/21/2016
22305-14	Motor Graders	09/21/2016
22307-14	Finishing and Grading	09/21/2016
22310-14	Off Road Dump Trucks	09/21/2016
44101-08	Introduction to Project Management	08/23/2016

44102-08	Safety	08/23/2016
		016
44103-08	Interpersonal Skills	08/23/2016
		016
44104-08	Issues and Resolutions	08/23/2016
		016
44105-08	Construction Documents	08/23/2016
44106-08	Construction Planning	08/23/2016
44107-08	Estimating and Cost Control	08/23/2016
44108-08	Scheduling	08/23/2016
44109-08	Resource Control	08/23/2016
44110-08	Quality Control	08/23/2016
44111-08	Continuous Improvement	08/23/2016
22202-13	On-Road Dump Trucks	08/01/2016
22204-13	Scrapers	08/01/2016
22205-13	Loaders	08/01/2016

22206-13	Rough Terrain Forklifts	08/01/201 6
22207-13	Excavation Math	08/01/201 6
22209-13	Interpreting Civil Drawings	08/01/201 6
22210-13	Site Work	08/01/201 6
22212-13	Skid Steers	08/01/201 6
22308-13	Soils	08/01/201 6
MT201-01	Orientation to the Job	06/17/201 6
MT202-01	Human Relations and Problem Solving	06/17/201 6
MT203-01	Safety	06/17/201 6
MT204-01	Quality Control	06/17/201 6
MT205-01	Contract and Construction Documents	06/17/2016
MT206-01	Document Control and Estimating	06/17/2016
MT207-01	Planning and Scheduling	06/17/2016
MT208-01	Resource Control and Cost Awareness	06/17/2016

78101-04	Introduction to Site Layout	05/16/2016
78102-04	Surveying Math	05/16/2016
78103-04	Survey Equipment Use and Care I	05/16/2016
78104-04	Blueprint Reading for Surveyors	05/16/2016
46101-11	Fundamentals of Crew Leadership	10/01/2015
03101-07	Introduction to HVAC	08/24/2015
03102-07	Trade Mathematics	08/24/2015
03103-07	Copper and Plastic Piping Practices	08/24/2015
03104-07	Soldering and Brazing	08/24/2015
03105-07	Ferrous Metal Piping Practices	08/24/2015
00101-09	Basic Safety	12/19/2014
00102-09	Introduction to Construction Math	12/19/2014
00103-09	Introduction to Hand Tools	12/19/2014
00104-09	Introduction to Power Tools	12/19/2014
00105-09	Introduction to Construction Drawings	12/19/2014
00106-09	Basic Rigging	12/19/2014
00107-09	Basic Communication Skills	12/19/2014
00108-09	Basic Employability Skills	12/19/2014
00109-09	Introduction to Materials Handling	12/19/2014

Christopher Marlowe,

Card Number: 9092626

Heavy Equipment Operations:

Utility Tractors

06/30/2016

22101-12	Orientation to the Trade	06/30/2 016
22102-12	Heavy Equipment Safety	06/30/2 016
22103-12	Identification of Heavy Equipment	06/30/2 016
22104-12	Basic Operational Techniques	06/30/2 016
22105-12	Utility Tractors	06/30/2 016
22106-12	Grades	06/30/2 016
22201-12	Introduction to Earthmoving	06/30/2 016
00101-04	Basic Safety	05/17/2 012
00103-04	Introduction to Hand Tools	05/17/2 012
00104-04	Introduction to Power Tools	05/17/2 012
00105-04	Introduction to Blueprints	05/17/2012

00106-04	Basic Rigging	05/17/2012
00107-04	Basic Communication Skills	05/17/2012
00108-04	Basic Employability Skills	05/17/2012
02101-05	Introduction to the Plumbing Profession	05/17/2012
02103-05	Plumbing Tools	05/17/2012
02105-05	Introduction to Plumbing Drawings	05/17/2012
02106-05	Plastic Pipe and Fittings	05/17/2012
02107-05	Copper Pipe and Fittings	05/17/2012
02109-05	Carbon Steel Pipe and Fittings	05/17/2012
02110-05	Corrugated Stainless Steel Tubing	05/17/2012

Baton Rouge Community College



By the authority of the Board of Supervisors of the Louisiana Community and Technical College System and upon the recommendation of the Faculty

Christopher S Marlowe

is hereby awarded the degree of
Technical Competency
in A/C & Refrigeration: Helper I

and all the rights and privileges thereto appertaining under the seal of the college
Awarded on this twenty-second day of May, two thousand fifteen.

CHANCELLOR
Baton Rouge Community College

PRESIDENT
Louisiana Community and Technical College System

Baton Rouge Community College



By the authority of the Board of Supervisors of the Louisiana Community and Technical College System and upon the recommendation of the Faculty

Christopher S Marlowe

is hereby awarded the degree of
Certificate of Technical Studies
in A/C & Refrigeration: Helper II

and all the rights and privileges thereto appertaining under the seal of the college
Awarded on this thirtieth day of July, two thousand fifteen.

CHANCELLOR
Baton Rouge Community College

PRESIDENT
Louisiana Community and Technical College System

esco institute PO Box 521 • Mount Prospect II • 60056

Enclosed are the results of your EPA Section 608 Certification examination. A passing score of 70% or greater is required in each section. Additionally, you must pass the Core or "Section A" plus another section in order to be issued a certification. The scores of your exam are listed on the right and your certification card is attached.

Please visit our website at www.escoinst.com for additional training resources or contact us at 1-800-726-9696 with any questions!

CHRISTOPHER S. MARLOWE
107 N GLADYS
LEESVILLE, LA, 71446

Scores:
Core: 96% Type-I: 96% Type-II: 96% Type-III: 88%

esco institute
Program EPA Approved
December 28, 1993




CERTIFICATE NO. 796991233810


CHRISTOPHER S. MARLOWE
has been certified as a
UNIVERSAL
technician as required by 40CFR part 82 subpart F

Please report address changes to 800/726-9696. Visit www.escoinst.com to replace a lost card.

Toastmasters International
BEST TABLE TOPICS Award
Presented to
Christopher Marlowe
Turning Point Toastmasters
Club Name
Ronald Walker
Club President
6-6-15
Date



Toastmasters International
BEST TABLE TOPICS Award
Presented to
Christopher Marlowe
Turning Point Toastmasters
Club Name
Ronald Walker
Club President
6-27-15
Date





ARMY/AMERICAN COUNCIL ON EDUCATION
REGISTRY TRANSCRIPT

ISSUED: 08/05/2008

** INSTITUTIONAL COPY **

Page 1

ADMISSIONS
INDIANA STATE UNIV
200 NORTH 7TH STREET
TERRE HAUTE IN 47809-1902

559.189

NAME: MARLOWE CHRISTOPHER SCOTT
SSN: 099-76-5315
RANK: PRIVATE FIRST CLASS, E3
STATUS: ACTIVE

AARTS ID: 2008-WO090515

MILITARY COURSE COMPLETIONS

COURSE NUMBER: 750-BT
TITLE: BASIC COMBAT TRAINING
LOCATION: US ARMY TRAINING CENTER FT SILL, OK
DATES TAKEN: 05/30/2003-07/31/2003
DESCRIPTION:

ACE GUIDE NUMBER
AR-2201-0399

UPON COMPLETION OF THE COURSE, THE STUDENT WILL BE ABLE TO DEMONSTRATE THE SKILLS NECESSARY FOR SURVIVAL IN A COMBAT ENVIRONMENT INCLUDING MARKSMANSHIP, PHYSICAL CONDITIONING, NAVIGATION, AND COMBAT TECHNIQUES. AUDIO-VISUAL MATERIALS, PRACTICAL AND CLASSROOM EXERCISES, DISCUSSION, AND LECTURE. TOPICS INCLUDE PHYSICAL FITNESS, MARKSMANSHIP, COMMUNICATION SKILLS, FIRST AID, COMBAT SKILLS, TACTICS, NAVIGATION, N.B.C. WEAPONS, AND TESTING.

ACE CREDIT RECOMMENDATION:

IN THE LOWER-DIVISION BACCALAUREATE/ASSOCIATE DEGREE CATEGORY, 2 SEMESTER HOURS IN PHYSICAL CONDITIONING, 2 IN MARKSMANSHIP, AND 1 IN FIRST AID (10/02).

COURSE NUMBER: 222-15Q10
TITLE: AIR TRAFFIC CONTROL OPERATOR
LOCATION: AVIATION SCHOOL FT RUCKER, AL
DATES TAKEN: 11/05/2003-03/09/2004
DESCRIPTION:

ACE GUIDE NUMBER
AR-1704-0283

UPON COMPLETION OF THE COURSE, THE STUDENT WILL BE ABLE TO MANAGE SITE AND FIELD TRAINING FOR TOWER, RADAR, AND NON-RADAR AIR TRAFFIC CONTROL FACILITIES; SUPERVISE THE ESTABLISHMENT OF TERMINAL INSTRUMENT APPROACH PROCEDURES FOR VARIOUS AIRCRAFT CATEGORIES, INTERPRET AND IMPLEMENT AIRSPACE MANAGEMENT PROCEDURES TO PROVIDE FOR THE SAFE, ORDERLY AND EXPEDITIOUS FLOW OF AIR TRAFFIC WHILE PREPARING FOR THE FEDERAL AVIATION ADMINISTRATION (FAA) CONTROL TOWER OPERATOR EXAMINATION. AUDIOVISUAL MATERIALS, PRACTICAL EXERCISES, DISCUSSION, LECTURE, COMPUTER-BASED TRAINING AND AIR TRAFFIC CONTROL (ATC) SIMULATION. TOPICS INCLUDE REGULATIONS FOR CONTROL OF AIR TRAFFIC USING VISUAL AND INSTRUMENT FLIGHT RULES IN TOWER, RADAR AND NON-RADAR CONTROL, AIRSPACE MANAGEMENT, WEATHER REPORTS, FLIGHT FOLLOWING, CONTROL TOWER PROCEDURES, RADAR SEPARATION, MINIMA, PROCEDURES AND EQUIPMENT, AIRPLANE COMMAND AND CONTROL PROCEDURES.

RECEIVED
AUG 11 2008

BY:.....

"The Federal Family Educational Rights and Privacy ACT (FERPA) Prohibits further release of this record without the written consent of the individual"

NAME: MARLOWE CHRISTOPHER SCOTT
SSN: 099-76-5315

AARTS ID: 2008-WO090515

ACE CREDIT RECOMMENDATION:

IN THE LOWER-DIVISION BACCALAUREATE/ASSOCIATE DEGREE CATEGORY, 3 SEMESTER HOURS IN AIR TRAFFIC CONTROL PROCEDURES AND 2 IN AIR TRAFFIC CONTROL FUNDAMENTALS (5/07).

TEST SCORES

NONE

MILITARY EXPERIENCE

MILITARY OCCUPATIONAL SPECIALTIES HELD: 15Q10 PRIMARY 10/2003-PRESENT
15Q10 DUTY

SQT (THRU OCT 1991)/SDT (NOV 1991 THRU FEB 1995) TAKEN: NONE

MILITARY OCCUPATIONAL SPECIALTY GROUP: 15Q (PRIMARY)

ACE GUIDE NUMBER:

TITLE: AIR TRAFFIC CONTROL OPERATOR

MOS 15Q-001

DESCRIPTION OF 15Q10:

CONTROLS TAKEOFFS, FLIGHT, AND LANDING OF IFR/VFR/SVFR AIR TRAFFIC; PROVIDES FLIGHT FOLLOWING, ENROUTE ROUTING, TERMINAL APPROACH CONTROL, AND GROUND-CONTROLLED APPROACH SERVICES; OPERATES RADAR; INSTALLS AND MOVES ATC RADAR AND ASSOCIATED EQUIPMENT; APPLIES FAA AND ARMY AIR TRAFFIC RULES AND REGULATIONS; MAY HOLD AN FAA RADAR CONTROLLER CERTIFICATE; ISSUES SPECIAL AIR TRAFFIC CONTROL INSTRUCTIONS TO AVIATORS CONCERNING AIRFIELD FACILITIES, EMERGENCY LANDING AREAS, OBSTRUCTIONS, LANDMARKS, FLYING AREAS, RESTRICTIONS, LOCAL REGULATIONS, WEATHER ADVISORIES, AND OBSERVED HAZARDS THAT AFFECT THE SAFE OPERATION OF AIRCRAFT; KEEPS RECORDS AND STATISTICS, INCLUDING TAPE RECORDINGS OF VOICE RADIO COMMUNICATIONS, ON DAILY AIR TRAFFIC OPERATIONS; PROCESSES INCOMING AND OUTGOING FLIGHT DATA INFORMATION AND ANALYZES AIR TRAFFIC; OPERATES AIRFIELD LIGHTING SYSTEMS, LIGHT SIGNALS, AND NONRADAR APPROACH CONTROL BOARDS; EMPLOYS AERONAUTICAL CHARTS, MAPS, RADIO, AND GROUND COMMUNICATIONS; APPLIES FAA AND ARMY AIR TRAFFIC RULES AND REGULATIONS AND HOLDS AN FAA CONTROL TOWER OPERATOR CERTIFICATE; CONTROLS VEHICULAR TRAFFIC ON AIRPORT MOVEMENT AREA.

ACE CREDIT RECOMMENDATION FOR 15Q10:

CREDIT MAY BE GRANTED ON THE BASIS OF AN INDIVIDUALIZED ASSESSMENT OF THE STUDENT (11/99).

MILITARY OCCUPATIONAL SPECIALTIES HELD: 31U10 PRIMARY 06/2002-04/2003
31U10 PRIMARY 06/2003-06/2003
31U10 PRIMARY 07/2003-07/2003
31U10 DUTY

SQT (THRU OCT 1991)/SDT (NOV 1991 THRU FEB 1995) TAKEN: NONE

MILITARY OCCUPATIONAL SPECIALTY GROUP: 31U (PRIMARY)

ACE GUIDE NUMBER:

TITLE: SIGNAL SUPPORT SYSTEMS SPECIALIST

MOS 31U-003

DESCRIPTION OF 31U10:

INSTALLS, MAINTAINS, AND TROUBLESHOOTS SIGNAL SUPPORT EQUIPMENT, RADIO SYSTEMS, AND DATA DISTRIBUTION SYSTEMS; PROVIDES TECHNICAL SUPPORT AND TRAINING FOR USERS.

ACE CREDIT RECOMMENDATION FOR 31U10:

CREDIT MAY BE GRANTED ON THE BASIS OF AN INDIVIDUALIZED ASSESSMENT OF THE STUDENT (3/95).

MILITARY OCCUPATIONAL SPECIALTIES HELD: 93C10 PRIMARY 05/2003-05/2003
93C10 PRIMARY 06/2003-06/2003
93C10 PRIMARY 08/2003-08/2003

SQT (THRU OCT 1991)/SDT (NOV 1991 THRU FEB 1995) TAKEN: NONE

MILITARY OCCUPATIONAL SPECIALTY GROUP: 93C (PRIMARY)

ACE GUIDE NUMBER:

TITLE: AIR TRAFFIC CONTROL OPERATOR

MOS 93C-004

"The Federal Family Educational Rights and Privacy ACT (FERPA) Prohibits further release of this record without the written consent of the individual"

Nondenominational

Advanced Theological Seminar

Participation

Christopher Kardone



Will D. Yastrom, Jr.

Wesley C. King

Certificate of Participation

This document certifies that

CHRISTOPHER MARLOWE

558725

Participated in the One Day
TUTOR TRAINING CONFERENCE
Provided by the Professional Teaching Staff
At Elayn Hunt Correctional Center on January 15, 2015.



Henry Sanders, Ph.D., Curriculum Coordinator

1-23-15
Date

Full Gospel Fellowship

Certificate of Participation

IS PRESENTED TO

Christopher Marlowe

FOR ATTENDING THE FINANCIAL SEMINAR GIVEN BY JOHN ROSENSTERN.
YOUR DEDICATION TO LEARNING SPIRITUAL VALUES OF MONEY
MAKING DECISIONS SHOWS YOUR DESIRE TO LEAD A PRODUCTIVE
AND SUCCESSFUL LIFE.

PRESENTED THIS 28TH DAY OF MAY, 2014


THADDIUS WEBB

PASTOR


TIMOTHY BRANNON
ASSISTANT PASTOR

J. Leby Dabadie Correctional Center
Beat The Street
Certificate of Completion

CHRISTOPHER MARLONE #558725

10 weeks

Susie Drell, CSW
MENTAL HEALTH DIRECTOR

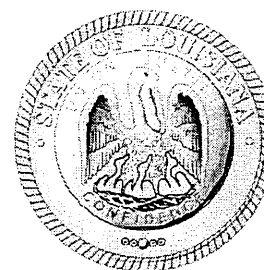


DATE 07/06/2012

**J. Leby Dabadie Correctional Center
12 Step Study Group
Certificate of Completion**

CHRISTOPHER MARLONE #558725

12 Weeks



Susan Dull, LCSW

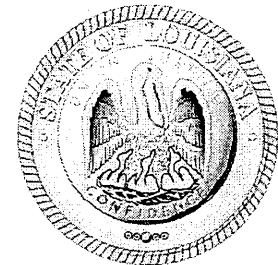
MENTAL HEALTH DIRECTOR

DATE 07/06/2012

**J. Leby Dabadie Correctional Center
Narcotics Anonymous Fellowship
Certificate of Attendance**

CHRISTOPHER MARLONE #558725

13 Weeks



Susan Dull, LCSW
MENTAL HEALTH DIRECTOR

DATE 07/06/2012

Certificate of Merit

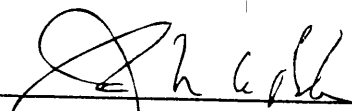
Awarded to

Christopher Marlone

In recognition for meeting all requirements to serve as a

Registered Tutor

for the Louisiana Department of Public Safety & Corrections



James LeBlanc, Secretary

November 15, 2010

Date

Certificate of Completion

This Certifies That

Christopher Malone #558725

has completed the 16 hour
“CAGE YOUR RAGE” ANGER MANAGEMENT
at Avoyelles Correctional Center

On this 27th Day of October, 2010

Lisa D. Broussard, LCSW

Facilitator

Nondenominational
Member

This Certifies That

Christopher Marbone

is a member of

**THE
NONDENOMINATIONAL
BROTHERHOOD CHURCH**



“LIVING IN FREEDOM EVERYDAY”

Certificate of Completion
is presented to

Christopher Marlowe

FOR FAITHFULLY COMPLETING THE 15-WEEK STUDY, LEARNING TO
LIVE DAILY IN THE GRACE OF JESUS CHRIST REGARDLESS OF LIFE'S
CIRCUMSTANCES OR SITUATIONS.

Presented this 28th day of November, 2017

Michael D. Hodgeson
Michael D. Hodgeson

Lawton Searcy
Lawton Searcy

IN RECOGNITION OF UNWAVERING DEDICATION

in appreciation the Veterans Association
would like to recognize

Chris Marlowe

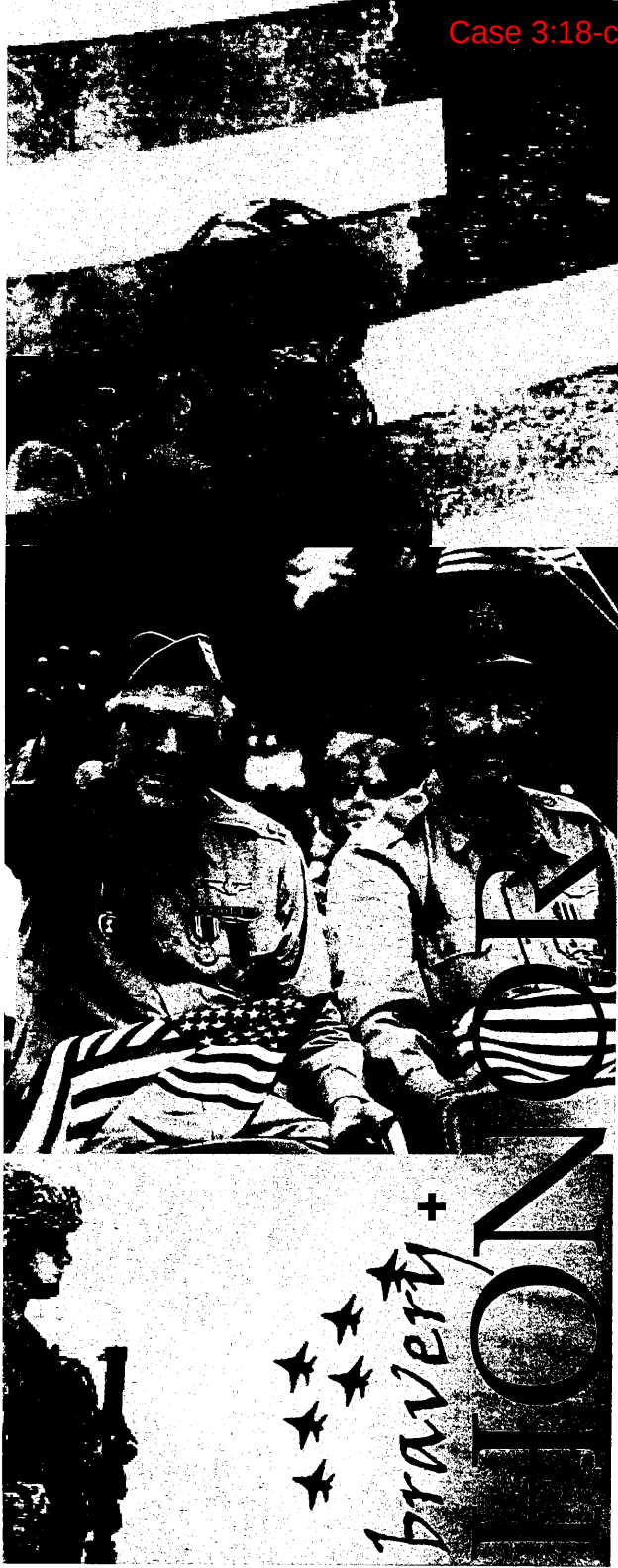
for his dedication to the United States of America
and the Veterans Association.

Given this 9th day of November, Two Thousand and Eighteen.

VETERANS
ASSOCIATION

Lawton Searcy
Dr. Lawton Searcy, Sponsor

Chris Marlowe
Chris Marlowe, Commander



VETERANS

making a difference

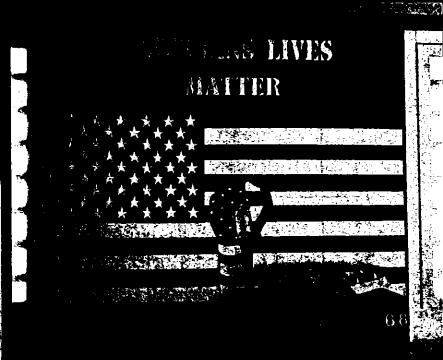
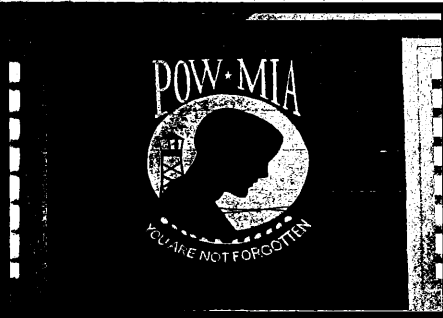
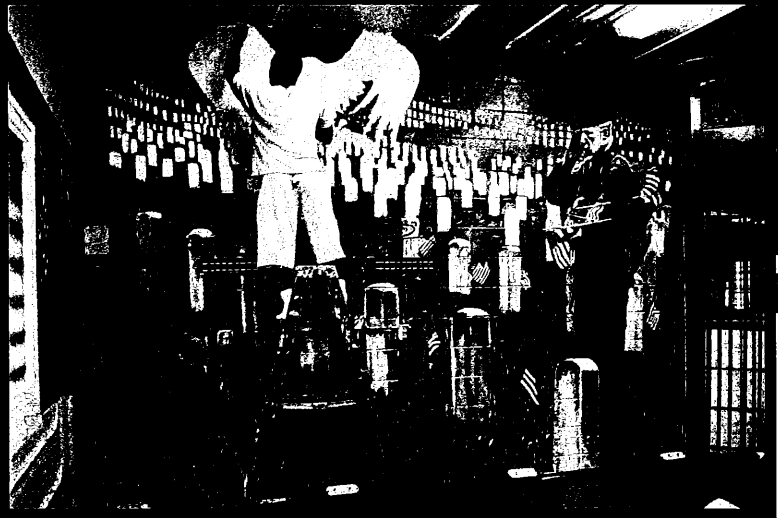
BY JOEY BRANCH

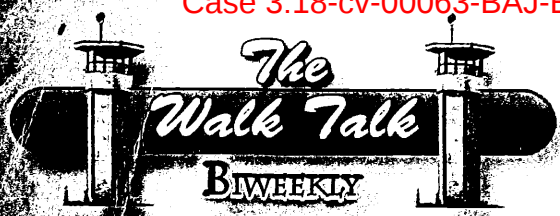
In May, 2018, the Veterans Association group at Elayn Hunt Correctional Center (EHCC) transformed one of the four tiers in the Fox-6 dormitory into a veteran's tier. This consisted of a head-to-toe clean up and facelift of the tier. The goal, according to club president, Christopher Marlowe, is to create a tier with veterans and mentees that, "promotes cleanliness, order, and peace." So far, this has proven to be a success. "The veterans are using their backgrounds of military service to try and influence others around them to strive for order in a place that is typically viewed as chaotic," said Marlowe. The initiative started out as a way for veterans to come together, but has quickly branched out into an outreach program for all offenders. Since the establishment of this program, an additional tier in the dorm has been converted into a veteran's tier.

Recently, the program has started a Post-Traumatic Stress Disorder (PTSD) class to help veterans cope with trauma experienced from the military and throughout life. The class was launched by a coordinated effort of WD Simmons, D. Searcy, and John Thomas. The course is designed to recollect thoughts and experiences while explaining the course of thought and the patterns of behavior. Throughout the course, the students are asked to remember traumatic events that took place, reengage them in a separated point of view and analyze if and how they could have acted differently. In addition to this, participants are asked to examine how they could effectively use these experiences for something positive.

The Veterans Association group has painted military themed murals on the walls of the tiers. The tiers have also been given a fresh coat of paint. The wall and floor lockers have been painted a uniformed black which gives the tier a similar look to that of military barracks; something that reminds them of their time of service for this country. Many offenders have dedicated themselves to the Veterans Program out of respect and memory of parents or grandparents. Clifford Etienne, Mark Jenkins, Charles Benton, Chad Batiste, Jared Pontiff, Milton Lovell, and Mitchel Mayeux have dedicated themselves to painting murals on the walls, depicting military and national pride. Many other offenders used their hobby shop equipment and skills to clean, scrape, and repaint the lockers, walls, and ceilings.

The men in this program range anywhere from teenagers to men in their 90s and their service extends from World War II to post 9/11 efforts. Overall, the combination of these men has proven to be a winning mixture for improvements within the prison. They have drawn on their diverse backgrounds and come together as a collective that is fundamentally effecting change at EHCC. While the non-veteran members of this tier are not familiar with life in the military, their total inclusion within the veteran's tier will hopefully aid in their success. "The non-veteran members of the tier are viewed as honorary veterans," said Marlowe. "Any of the incentives that the veterans receive from the club or the administration will be granted to these mentees as well." The mentees living on the veteran's tier have one major goal in mind - change. Whether it is changing their daily habits or changing the perceptions that other offenders may have of them, these mentees are working hard to become better in very dynamic ways. ¶





Biweekly

September 26, 2014

Honoring Louisiana's Heroes Incarcerated Veterans receive the Louisiana Honor Medal

Bobby Jindal
Governor

James Le Blanc
DOC Secretary

Seth Smith
Warden

Tim Hooper
Deputy Warden of
Operations

Tim Delaney
Deputy Warden of Healthcare
Services and Programs

Greg McKey
Assistant Warden of
Security

Stephanie Michel
Assistant Warden of
Healthcare Services

Morgan Le Blanc
Assistant Warden of
Administration

Frederick Boutte
Assistant Warden of
Classification

Kirt Guerin
Assistant Warden
Unit I Manager

Todd Barrere
Assistant Warden
Unit II and III Manager

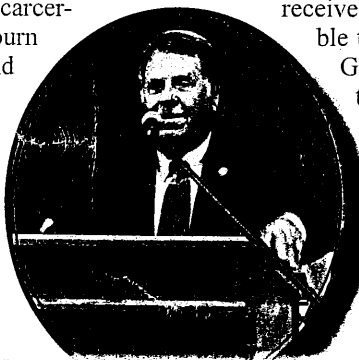
Jim Tillman
Assistant Warden
Unit IV Manager

Lt. Colonel Wanda Matthews
Walk Talk Administrative
Editor



(l-r) Christopher Marlowe, John Thomas, Eddie Keel, and Donald Stovall

On Thursday, August 28, 2014, the Elayn Hunt Correctional Center (EHCC) Veterans Incarcerated traveled to Rayburn Correctional Center (RCC) to attend the second annual Louisiana Veterans Incarcerated Summit. RCC Warden Robert Tanner explained that the summit's purpose was threefold: "One is to give you information of the programs and assistance available to you, both while you are incarcerated and when you are released. Second is to allow you to interact with the larger community of veterans. Lastly, to confer the Louisiana Honor Medal to those men and women who honorably served the country."



A.G. Crowe
Louisiana State Senator

In 2008, Louisiana Governor Bobby Jindal made an executive decision to recognize Louisiana's veterans who honorably served their country. With the enactment of Act No. 685, Louisiana soldiers who received an honorable discharge are eligible to receive a special medal from the Governor's office. A felony conviction does not disqualify a veteran from receiving the medal. Though many prisons throughout the state held their own ceremonies, RCC was the first to streamline the process, allowing the veterans to gather in a central location and be recognized for their service to the country. The Governor's office said that they received more requests from incarcerated veterans for the medal in the past year than in any other.

Whalen Gibbs, Undersecretary for the Department of Corrections said the reason for this is, "Today we have almost 1,600 veterans who are incarcerated in

THE WALK TALK STAFF

Raymond Bender

Jason Chavanel

James Lavigne

Charles Rodgers

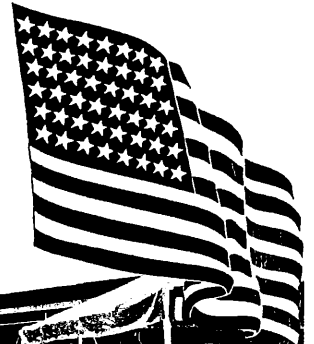
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Biweekly

JULY 17, 2014



HAPPY



DAY

By Kendrick Volter

Bobby Jindal
Governor

James LeBlanc
Secretary

Seth Smith
Warden

Tim Hooper
Deputy Warden of
Operations

Tim DeLaney
Deputy Warden of
Health Care Services
and Programs

Greg McKey
Assistant Warden
of Security

Charlene Haydel
Assistant Warden of
Healthcare Services

Stephanie Michel
Assistant Warden of
Administration

Frederick Boutté
Assistant Warden of
Classification

Kirt Guerin
Assistant Warden
Unit 1 Manager

Todd Barrere
Assistant Warden
Unit 2 & 3 Manager

Jim Tillman
Assistant Warden
Unit 4 Manager

Lt. Col. Wanda Matthews
Walk Talk Administrative
Editor

The average American on Independence Day, looks forward to traveling out of town to visit family members, BBQing in the back yard, watching the kids enjoy playing with fireworks, or even going watch the cities fireworks festivities Downtown.

Well, in prison, traditional family outings on the Fourth of July are far from optional. However, at Elayn Hunt Correctional Center, this national honorary day is hardly a bore. The offenders revel in the salivating thought of BBQ ribs and chicken, along with baked beans, potato salad, corn on the cob, and a brownie. In an effort to beat the heat, the institution provides a quarter of a slice of watermelon.

There is a variety of ways to stay entertained. Many offenders sit under tents on the small recreation yard to enjoy the melodious sounds of the Music Association, an offender organization that specializes in all genre of music. While a game of volleyball is played nearby. Other offenders seek refuge from the heat in the gymnasium where games such as chess, dominoes, and spades are played.

IN THIS ISSUE

The Walk Talk
Staff
Raymond Bender
Jason Chavanel
James Lavigne
Kendrick Volter

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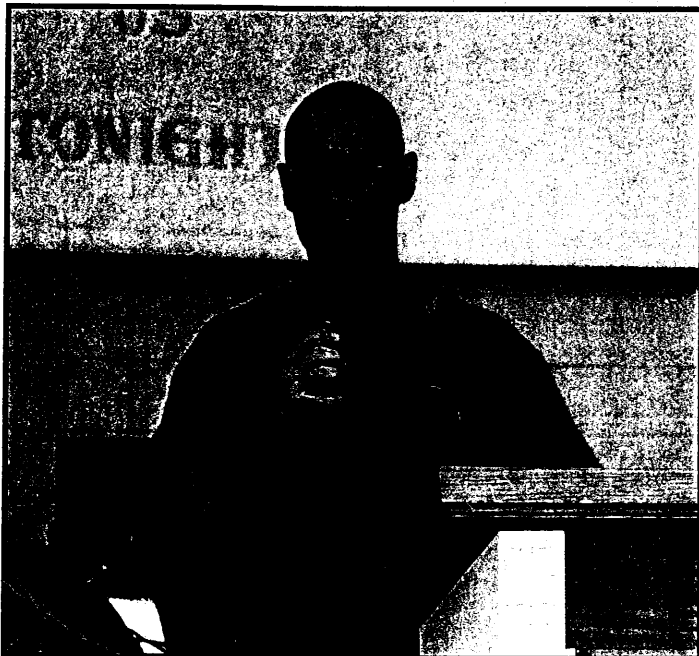
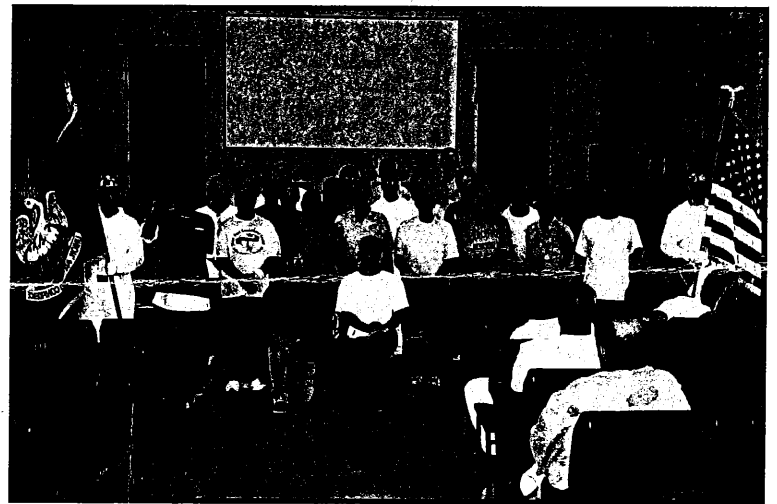


permission to take on this task and the Fourth of July program was the first time a non-IMPACT group presented the colors during a function.

Vets Incarcerated Honor Guard members Vice Commander Guy Boudreaux and Christopher Marlowe, along with another veteran marched in step to present the colors. Lee said afterwards, "We hope this is just the first of many programs we are able to present the colors to. In the military, being a part of the Honor Guard is such a huge honor and we hope this tradition will continue in future programs held at EHCC." After the flags were posted, offender John Kennedy sang a beautiful rendition of America's National Anthem.

Boudreaux spoke about the activities that the Vets Incarcerated club takes part in throughout the year. He said the club is working with the churches to give back to the indigent offenders, St. Jude's Children's Hospital, Wounded Warriors program, and Toys for Tots. He said, "We're continuing to turn our lives around for the betterment and showing others on the outside the same. Supporting these organizations shows, that regardless to our felon status, we still want to make a difference in the lives of others. It is because of your support we are able to do that. Thank you."

Following Boudreaux's statement, Full Gospel choir members led everyone in praise and worship songs and offender Pastor Thaddius Webb brought the message for the night. The night ended with offender Assistant Pastor Timothy Brannon inviting the membership to partake of the Body and Blood of Christ.



LEFT PHOTO: FULL GOSPEL MINISTRIES PASTOR THADDIUS WEBB;

TOP PHOTO: VICE COMMANDER (LEFT) AND CHRISTOPHER MARLOWE (CENTER) RECEIVES INSTRUCTIONS FROM VETS INC. COMMANDER JUSTIN LEE

BOTTOM PHOTO: VETS INC. AND FULL GOSPEL MINISTRY MEMBERS POSE TOGETHER

CERTIFICATE OF APPRECIATION FOR SERVICE

ON THE EXECUTIVE BOARD
PRESENTED TO

Commander

Christopher Marlowe

In appreciation of your devoted membership
to Veterans Incarcerated.

Your dedication and service
is a shining example of our
military core values.

Presented this 7th day of December, 2017.



Veterans Incarcerated

**CERTIFICATE OF
APPRECIATION
FOR DEDICATED MEMBERSHIP
AND SERVICE TO COUNTRY
PRESENTED TO**

Christopher Marlowe

In appreciation of your devoted membership
to Veterans Incarcerated.

Your dedication and service
is a shining example of our
military core values.



Veterans Incarcerated

Certificate of Outstanding Service

IS PRESENTED TO


Christopher Marlowe

*Veterans Incarcerated Vice Commander
2015-2016*

It is because of your sincere desire to serve, motivate, inspire, and lead that you were able to bring out the best, not only in yourself, but in those who elected you to office. Thank you for your hard work and dedication.

Presented this 15th day of December, 2016

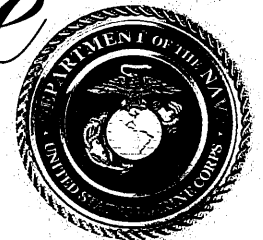

Assistant Warden Todd Barrere
Veterans Incarcerated
Sponsor


Guy Boudreaux
Veterans Incarcerated
Commander

Certificate of Appreciation

presented to

Christopher Marlowe



In appreciation for your devoted membership
to the Veterans Incarcerated.

Your dedication and service to the Veterans Incarcerated is a shining
example of our military core values.

Presented this 15th day of December 2016

T

ASSISTANT WARDEN TODD BARRERE
VETERANS INCARCERATED SPONSOR



Guy Boudreaux

GUY BOUDREAU
VETERANS INCARCERATED COMMANDER

Veterans Incarcerated

TOASTMASTERS INTERNATIONAL®

SUCCESS/**COMMUNICATION** AND SUCCESS/**LEADERSHIP** SERIES

Christopher Marlowe

served as

PARTICIPANT

for

SPEECHCRAFT

MAY 2, 2015

Date

TURNING POINT, #6146

Club Name and Number



[Signature]
Club Vice President Education

Ronald Walker
Club President

Outstanding Member

IS PRESENTED TO

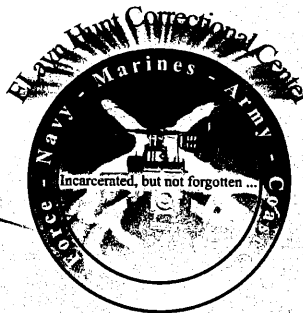
Christopher Marlboro

in appreciation for outstanding service and for being a dedicated member of the Veterans Incarcerated. Your dedication is a shining example to all club members

PRESENTED THIS 11TH DAY OF DECEMBER, 2014



CAPTAIN CREDIT
VETS INCARCERATED SPONSOR



Veterans Incarcerated
2024



COMMANDING OFFICER

2012 BLACK HISTORY
MONTH
ESSAY CONTEST
2ND. PLACE WINNER
CHRISTOPHER MARLONE

CONGRATULATIONS FOR AN
OUTSTANDING ESSAY

Mrs. P. Kittinger

MRS. P. KITTINGER

Ms. T. Conti

MS. T. CONTI

Certificate of Membership

This award is presented to

Christopher Marlone

In recognition of your dedicated service to the


Human Relations Club

PRESENTED THIS TWENTY-EIGHTH OF JANUARY
IN THE YEAR OF OUR LORD TWO THOUSAND AND TWELVE

J. Levy Dabadie Correctional Center



Sgt. F. Herring, Sponsor



Charles Campbell, Club President

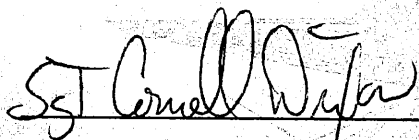
CERTIFICATE OF PARTICIPATION

PRESENTED TO

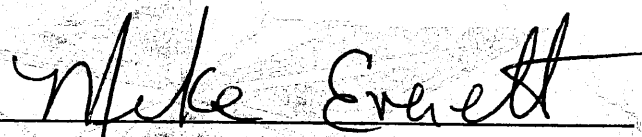
CHRISTOPHER MARLONE

**THIS IS TO ACKNOWLEDGE OUR GRATITUDE TO YOU
FOR ALL YOU HAVE DONE OVER THE LAST YEAR FOR
THE INCARCERATED VETERANS CLUB. THIS IS A BIG
THANK YOU FROM ALL OF US!!**

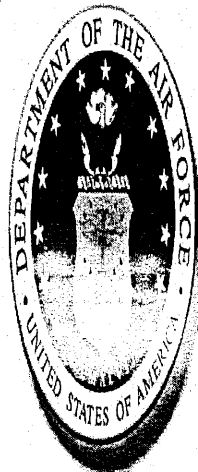
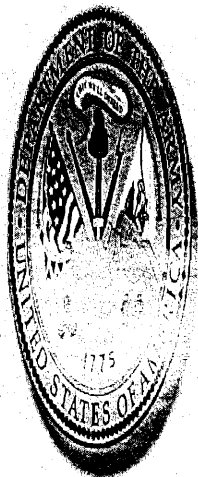
**PRESENTED THIS TWENTY-THIRD DAY OF NOVEMBER IN
THE YEAR TWO-THOUSAND AND ELEVEN.**



Sgt. C. Dixon, Sponsor



Mike Everett, Club President



CERTIFICATE OF ACCOMPLISHMENT


The Avoyelles Correctional Center Veterans Organization would like to present this


Certificate of Accomplishment to

Christopher Marlon

for being elected as Deputy Commander of the Veterans Organization for the year of 2011

Presented on this 6th day of January 2011


CPT Perry Cates
Sponsor


Clayton Russell
Program Manager

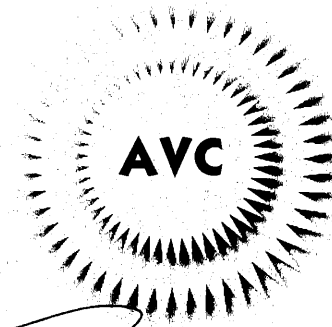
Certificate of Appreciation


*This is to acknowledge that the following individual is a member in good standing
in the Incarcerated Veterans organization of Avoyelles Correctional Center.*

Christopher Marlone

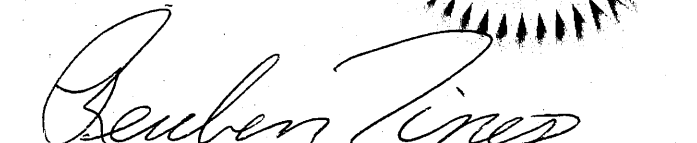
*Your committment to the organization and its goal of
raising money for charitable causes is appreciated.*

12/29/10





Mr. Clayton Russell / Sponsor



Reuben Tines, Commander

Elayn Hunt Correctional Center
CERTIFICATE OF APPRECIATION

This certificate is presented to

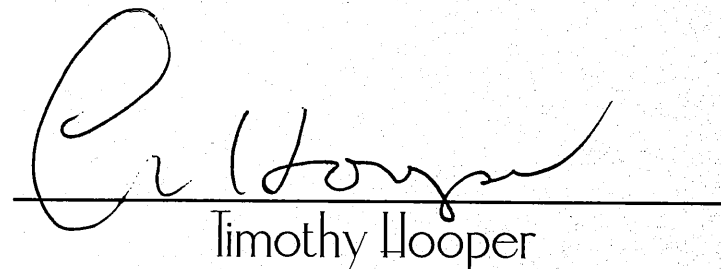
Christopher Marlowe 558725

Thank you for your service to the EICC Population.
Your work on the Ice Plant is greatly appreciated.

Presented this 25th day of January, 2018


Gus May

Maintenance Supervisor


Timothy Hooper

Warden

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CHRISTOPHER MARLOWE : CIVIL ACTION
(DPSC#558725) :
VERSUS : NO. 18-63-BAJ-EWD
 : JUDGE BRIAN A. JACKSON
JAMES LEBLANC, ET AL : MAGISTRATE JUDGE
 : ERIN WILDER-DOOMES

MEMORANDUM IN OPPOSITION TO PLAINTIFFS’ MOTION FOR RESTRAINING
ORDER AND/OR EMERGENCY MOTION FOR TEMPORARY RELEASE(Rec Doc 93)

MAY IT PLEASE THE COURT:

The defendants, State of Louisiana, through the Department of Public Safety & Corrections (DPSC), DPSC Secretary James LeBlanc, Dr. Raman Singh, Dr. Pam Heard, Dr. John Morrison, Warden Timothy Hooper, Dep. Warden Stephanie Michel, Asst. Warden Morgan LeBlanc, Asst. Warden Darryl Campbell, Dr. Preetly Singh, Gail Levy, Polly Smith, Fallon Stewart, Elizabeth Gauthreaux, Jonathon Travis, Msgt. Angel Horn, Msgt. Rolanda Palmer, Sgt. Chermaine Brown, and Sgt. Chameka Johnson¹ oppose the Plaintiff’s Motion for Temporary Restraining Order and/or Emergency Motion For Temporary Release (hereafter TRO)² and respectfully request this Honorable Court deny the TRO for the reasons set forth below.

I. STATEMENT OF THE CASE

The plaintiff, Christopher Marlowe (herein “plaintiff”), was convicted of committing attempted second degree murder and, on or about September 24, 2009, sentenced to the custody

¹ The plaintiff’s motion does not state the identity of the Defendant(s) against whom the requested injunction should issue. The vast majority of the named defendants do not have the legal authority or actual ability to effectuate the release of the plaintiff.

² Rec. Doc. 93.

of DPSC to serve a 20 year sentence. ³ As is required by law,⁴ the plaintiff filed Administrative Remedy Procedures 2016-1101 and 2017-257, which form the basis of this suit, but are irrelevant to the relief claimed in the TRO. Plaintiff sued defendants for medical indifference because of the treatment or lack of treatment he received for diabetes while housed at the Elayn Hunt Correctional Center. Plaintiff is currently housed at the Rayburn Correctional Center (RCC) in Angie, Louisiana, which is located within the Eastern District of Louisiana.

Plaintiff has not asserted he ever filed an ARP regarding the medical treatment or lack of preventative measures taken by defendants in reference to COVID-19. The underlying lawsuit does not pertain to COVID-19.

On April 1, 2020, plaintiff filed the action for TRO. The Motion is purportedly based on F.R.C.P. 65. The Motion speculates Plaintiff is unsafe residing at RCC during the COVID – 19 pandemic because his pre-existing diabetes puts him at higher risk of death and the department lack of protocols to combat COVID -19 by the Department will eventually rise to a violation of his Constitutional Rights.

Plaintiff requests a release from custody. Plaintiff argues the risk of harm is so high it justifies release. Plaintiff fails to meet his burden of proving this Honorable Court has the authority to release the plaintiff from custody. The defendants herein explain why this Honorable Court lacks authority to release the Plaintiff.

II. ARGUMENT

There are only two legal bases on which a federal court can order the release of a state prisoner: one is the writ of habeas corpus, which is not requested in this case; the second is found in the Prison Litigation Reform Act (PLRA), 18 U.S.C. §3626, regarding prisoner release based

³ Rec. Doc. 93-1, p. 14

⁴ 42 U.S.C. §1997e(a).

on prison conditions. Section 3626 undeniably governs Plaintiff's request for release from custody yet, the Plaintiff did not even cite the statute in his Motion or accompanying Memorandum.⁵

A. FED. R. CIV. P. 65 DOES NOT APPLY.

The Plaintiff alleges Rule 65 of the Federal Rules of Civil Procedure provides the governing procedure for preliminary injunctions and temporary restraining orders. However, Rule 65(e) states the rule does not modify 28 U.S.C. § 2284, which relates to actions that must be heard and decided by a three-judge district court. A request for a prisoner release order must be presented to a three-judge court.⁶ Therefore, Rule 65 is inapplicable.

B. THE COURT LACKS AUTHORITY TO RELEASE PLAINTIFF

The PLRA establishes the procedure, in 18 U.S.C. §3626, that must be followed in order for the federal court to release a state inmate.

(3) Prisoner release order.--(A) In any civil action with respect to prison conditions, no court shall enter a prisoner release order unless--

(i) a court has previously entered an order for less intrusive relief that has failed to remedy the deprivation of the Federal right sought to be remedied through the prisoner release order; and

(ii) the defendant has had a reasonable amount of time to comply with the previous court orders.

(B) In any civil action in Federal court with respect to prison conditions, a prisoner release order shall be entered only by a three-judge court in accordance with section 2284 of title 28, if the requirements of subparagraph (E) have been met.

(C) A party seeking a prisoner release order in Federal court shall file with any request for such relief, a request for a three-judge court and materials sufficient to demonstrate that the requirements of subparagraph (A) have been met.

(D) If the requirements under subparagraph (A) have been met, a Federal judge before whom a civil action with respect to prison conditions is pending who believes that a prison release order should be considered may sua sponte request

⁵ See generally, Rec. Doc. 93; 93-1.

⁶ 18 U.S.C. §3626(a)(3)(B)

the convening of a three-judge court to determine whether a prisoner release order should be entered.

(E) The three-judge court shall enter a prisoner release order only if the court finds by clear and convincing evidence that--

(i) crowding is the primary cause of the violation of a Federal right; and

(ii) no other relief will remedy the violation of the Federal right.

(F) Any State or local official including a legislator or unit of government whose jurisdiction or function includes the appropriation of funds for the construction, operation, or maintenance of prison facilities, or the prosecution or custody of persons who may be released from, or not admitted to, a prison as a result of a prisoner release order shall have standing to oppose the imposition or continuation in effect of such relief and to seek termination of such relief, and shall have the right to intervene in any proceeding relating to such relief.⁷

The United States Supreme Court declared, “[t]ogether, these requirements ensure that the ‘last resort remedy’ of a population limit is not imposed ‘as a first step.’ ”⁸ The Plaintiff demands release from custody in violation of *every* mandatory element of the PLRA section quoted above. The statutory mandates of the PLRA have not been met.

This Honorable Court has made no finding that Plaintiff’s constitutional rights were, or are being, violated. Defendants’ Motion to Dismiss is currently pending.⁹ No corresponding order has been issued, which is narrowly tailored to correct that violation. The Defendants, clearly, were not provided a reasonable amount of time to comply with any non-existent order, and have not violated any non-existent order.

Considering the mandates of the PLRA have not been completed, this Honorable Court has no authority to release the Plaintiff.

⁷ 18 U.S.C.A. § 3626 (a)(3).

⁸ *Brown v. Plata*, 563 U.S. 493, 514, 131 S. Ct. 1910, 1930, 179 L. Ed. 2d 969 (2011) (quoting *Inmates of Occoquan v. Barry*, 844 F.2d 828, 843 (C.A.D.C.1988)).

⁹ Rec doc

C. PLAINTIFF LACKS STANDING TO SUE FOR INJUNCTIVE RELIEF

The Plaintiff lacks standing to sue for injunctive relief.

“ ‘No principle is more fundamental to the judiciary’s proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies.’ ” *Raines v. Byrd*, 521 U.S. 811, 818, 117 S.Ct. 2312, 138 L.Ed.2d 849 (1997).

Standing to sue is a doctrine rooted in the traditional understanding of a case or controversy. The doctrine developed in our case law to ensure that federal courts do not exceed their authority as it has been traditionally understood. See *id.*, at 820, 117 S.Ct. 2312. The doctrine limits the category of litigants empowered to maintain a lawsuit in federal court to seek redress for a legal wrong.¹⁰

The Plaintiff must affirmatively prove his standing to sue for injunctive relief.

The party invoking federal jurisdiction bears the burden of establishing these elements. Since they are not mere pleading requirements but rather an indispensable part of the plaintiff’s case, each element must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, *i.e.*, with the manner and degree of evidence required at the successive stages of the litigation.¹¹

“Our cases have established that the “irreducible constitutional minimum” of standing consists of three elements. The plaintiff must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.”¹²

Regarding “injury-in-fact”, a speculative injury is not sufficient; there must be more than an unfounded fear on the part of the applicant.¹³

Future injuries can provide the basis for standing, but they “must be certainly impending to constitute injury in fact,” and “ [a]llegations of possible future injury’ are not sufficient.” An injury that is based on a “speculative chain of possibilities” does not confer Article III standing.¹⁴

¹⁰ *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547, 194 L. Ed. 2d 635 (2016), as revised (May 24, 2016) (additional internal citations omitted).

¹¹ *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561, 112 S. Ct. 2130, 2136, 119 L. Ed. 2d 351 (1992) (citation omitted).

¹² *Spokeo*, 136 S. Ct. at 1547 (internal citations omitted).

¹³ *Holland Am. Ins. Co. v. Succession of Roy*, 777 F.2d 992, 997 (5th Cir. 1985).

¹⁴ *Barber v. Bryant*, 860 F.3d 345, 357 (5th Cir. 2017) (quoting *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 133 S.Ct. 1138, 1147, 1150, 185 L.Ed.2d 264 (2013)).

As explained below, procedures have been implemented by DPSC and at RCC to prevent the spread of COVID – 19 and to comply with guidelines set forth by the Center for Disease Control and Prevention (CDC) for washing hands, social distancing, sanitizing the area and all utensils. Plaintiff’s fear that he will contract COVID-19 despite the precautions implemented by DPSC and RCC is insufficient to confer standing to demand release from custody.¹⁵

D. THE DEFENDANTS ARE ENTITLED TO SOVEREIGN IMMUNITY

The Eleventh Amendment to the United States Constitution protects the states and “arms of the state,” from a suit in federal court.¹⁶ The State, DPSC, and their officials acting in their official capacities, are not “persons” under § 1983.¹⁷ The Plaintiff does not identify which of the numerous Defendants is allegedly to be subjected to the TRO but, DPSC, and numerous state officials, are still parties to this action only because this Honorable Court has not ruled on Defendants’ pending Motion to Dismiss.

State officials, in an official capacity, can be sued for prospective injunctive relief to correct ongoing violations of *federal law*.

Ex parte Young was the culmination of efforts by this Court to harmonize the principles of the Eleventh Amendment with the effective supremacy of rights and powers secured elsewhere in the Constitution. Our decisions repeatedly have emphasized that the *Young* doctrine rests on the need to promote the vindication of federal rights.¹⁸

¹⁵ *Accord United States v. Martin*, No. CR PWG-19-140-13, 2020 WL 1274857, at *4 (D. Md. Mar. 17, 2020) (denying Defendant’s appeal from a detention order pursuant to the Bail Reform Act and finding (“while the record confirms that Martin has disclosed that he suffers from asthma, high blood pressure, and diabetes, this alone is insufficient to rebut the proffer by the Government that the correctional and medical staff at CDC are implementing precautionary and monitoring practices sufficient to protect detainees from exposure to the COVID-19 virus.”))

¹⁶ *Vogt. Bd. Of Comm’rs of Orleans Levee Dist.*, 294 F.3d 684, 688-89 (5th Cir. 2002)(citing *Regents of the Uni. Of Cal v. Doe*, 519 U.S. 425, 429 (1997))

¹⁷ *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 109 S.Ct. 2304, 105 L.Ed.2d 45 (1989).

¹⁸ *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 105, 104 S. Ct. 900, 910, 79 L. Ed. 2d 67 (1984) (internal quotation marks and citations omitted).

Plaintiff, “requests that the Court review his clemency application, which is currently pending before the pardon board.”¹⁹ That request asks this Honorable Court to stand in place of the pardon board. The United States Constitution does not create a liberty interest in parole.²⁰ “Parole is a privilege, not a right, even after an inmate accrues the minimum amount of time-served credit necessary to be eligible for parole.”²¹

Plaintiff’s request that this Honorable Court usurp the role of the parole or pardon board unconstitutionally interferes with the state function of that Board and would violate the sovereign immunity of the State. Similarly, requests for “clemency” or “medical furlough” are requests based on available remedies under state law, not the U.S. Constitution, and this Honorable Court lacks jurisdiction to grant such requests.²²

A federal court's grant of relief against state officials on the basis of state law, whether prospective or retroactive, does not vindicate the supreme authority of federal law. On the contrary, it is difficult to think of a greater intrusion on state sovereignty than when a federal court instructs state officials on how to conform their conduct to state law. Such a result conflicts directly with the principles of federalism that underlie the Eleventh Amendment.²³

E. PLAINTIFF FAILED TO EXHAUST ADMINISTRATIVE REMEDIES

“No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”²⁴ A prisoner must complete the administrative process in accordance with the applicable procedural rules set by the

¹⁹ Rec. Doc. 93-1, p. 15.

²⁰ *Greenholtz v. Inmates of Nebraska Penal & Corr. Complex*, 442 U.S. 1, 7 (1979).

²¹ *Moore v. Davis*, No. A-18-CA-104-LY, 2018 WL 1902689, at *3 (W.D. Tex. Apr. 20, 2018) (citing *Greenholtz*, 442 U.S. at 7 (convicted persons have no constitutional right to be conditionally released before the expiration of a valid sentence); additional citations omitted).

²² *Pennhurst*, *supra*.

²³ *Pennhurst*, 465 U.S. at 106.

²⁴ 42 U.S.C. §1997e(a).

prison grievance process.²⁵ Through 42 U.S.C. § 1997e(a), Congress mandates exhaustion of administrative remedies, regardless of the relief offered through administrative procedures.²⁶ The Plaintiff's claims regarding the COVID-19 response are new claims not within the scope of this case and, thus, were not presented in the two ARPs the Plaintiff filed regarding the actual subject matter of this lawsuit. Plaintiff has not pursued his administrative remedies on his claim regarding COVID -19. Therefore, this Honorable Court cannot grant the relief requested.

F. PLAINTIFF'S PROPOSED PLAN IS NOT THE LEAST RESTRICTIVE MEANS OF CORRECTING THE ALLEGED PROBLEM; IT IS FACIALLY UNLIKELY TO WORK AT ALL.

The Plaintiff did not explain to this Honorable Court why his release from custody is the only possible measure the Defendants could take to correct the alleged problem.²⁷ Nonetheless, the plan proposed by the Plaintiff is not logically calculated to resolve any his most material concern. The Plaintiff is fearful of contracting the virus but, the plan he proposes would not alleviate that fear or the likelihood of his exposure. The Plaintiff wishes to reside in his cousin's two-bedroom apartment. According to the evidence attached to his Motion, Plaintiff's cousin works at a local hospital. Because of the high chance of exposure faced by healthcare professionals, anyone who comes in contact with the Plaintiff's cousin after her shift must be quarantined.²⁸

III. COVID – 19 PROCEDURES IMPLEMENTED BY DPSC and RCC.

DPSC and Rayburn Correctional Center ("RCC"), the facility at which Plaintiff is currently housed (but which is not involved in the claims forming the actual basis of this lawsuit), have taken steps to protect both offenders and staff. Even though the procedures implemented are irrelevant

²⁵ *Butts v. Martin*, 877 F.3d 571, 582 (5th Cir. 2017) (citing *Jones v. Bock*, 549 U.S. 199, 218, 127 S. Ct. 910, 166 L. Ed. 2d 798 (2007) (*emphasis added*) (internal citation and quotation marks omitted).

²⁶ *Booth v. Churner*, 121 S.Ct. 1819, 1825 (2001). See also *Porter v. Nussle*, 122 S.Ct. 983, 988 (2002).

²⁷ *Brown v. Plata*, 563 U.S. 493, 514, 131 S. Ct. 1910, 1930, 179 L. Ed. 2d 969 (2011)

²⁸ See Plaintiff's exhibits.

to this case and to this Honorable Court's authority to release a prisoner based on a procedurally deficient request for a TRO, per the request of this Honorable Court, below is a detailed description of the efforts being coordinated statewide to address this serious issue and to provide for the health and welfare of offenders at RCC and all DPSC facilities.²⁹

A. DPSC's REPOSE TO COVID-19

In response to the COVID-19 pandemic, DPSC has developed a plan to protect the health and safety of all offenders within the DPSC system.³⁰ DPSC activated this regulation to the highest level, and DPSC facility plans have been customized specifically to address COVID-19.³¹

Pursuant to the DPSC regulation, each state prison has implemented a thorough and detailed Continuity of Operations Plan ("COOP"), which have been reviewed by DPSC Headquarters Medical/Operations.³² DPSC is coordinating with the Governor's office and other state agencies to stay up to date on all COVID-19 related issues, developments, and discussions.³³ Secretary LeBlanc has engaged in daily phone calls with the Unified Command Group headed by the Governor. Moreover, DPSC leadership has conference calls every Monday, Wednesday, and Friday with all Wardens, Louisiana State Police, and the Louisiana Sheriff's Association. These phone calls discuss updates from each institution, medical reports and updates, institutional reports, and strategy for continued management related to COVID-19.³⁴

In an effort to proactively deal with the COVID-19 pandemic and to protect the safety and welfare of offenders housed in DPSC facilities, DPSC has suspended visitation, volunteering,

²⁹ Exhibit 1 and 2

³⁰ The defendants request that this court take judicial notice of the Affidavit of Secretary James LeBlanc at para. 2, attached as Ex. 1., In Lewis v. Cain USM 15-318 Record Doc 585.1

³¹ *Id.* at para. 3.

³² *Id.* at para. 4. See also A copy of the COOP Plan for Angola and relevant amendments were provided to Plaintiffs' counsel prior to their filing of this motion. See R. Doc. 580-4. In Lewis case

³³ *Id.* at para. 5.

³⁴ *Id.* at para. 8.

tours, transfers between prisons/routine transfers from local level, and postponed the Angola spring rodeo, all in effort to minimize movement.³⁵ DPSC has also limited new intakes to only those who must be housed in a state prison. Each intake is screened and assessed for symptoms, and then quarantined for 14 days before placed in general population.³⁶ DPSC has created a COVID-19 webpage on its website and updates it frequently with the latest information. This has proven useful for staff and offenders' families during this pandemic.³⁷

In an effort to educate and assist offenders during this difficult time, DPSC has created two COVID-19 informational videos for offenders. These videos are available in both English and Spanish. These videos are played on loop at all prisons and are also available on the Department's website for families to view.³⁸ DPSC is also working in conjunction with Securus Technologies, Inc. to provide offenders in state-run prisons two (2) free 15-minute phone calls per week and two (2) free email stamps per week to allow offenders to maintain communication with family and friends during this event.³⁹ DPSC has suspended medical visit co-payments in state prisons and has also ensured that ample hand sanitizer and anti-bacterial soap are readily available at all state prisons.⁴⁰

DPSC has been proactive in its fight against the COVID-19 pandemic and is following the guidelines of the United States Centers for Disease Control and Prevention ("CDC").⁴¹ In addition to the CDC guidelines, DPSC has instituted reverse isolation for the most vulnerable of the inmate population.

³⁵ *Id.* at para. 9

³⁶ *Id.* at para. 10.

³⁷ *Id.* at para. 11.

³⁸ *Id.* at para. 12.

³⁹ *Id.* at para. 13.

⁴⁰ *Id.* at para. 14-16.

⁴¹ *Id.* at para. 17.

DPSC has obtained from the Louisiana Department of Health (“LDH”) COVID-19 test sample collection kits, which have been issued to all prison facilities.⁴² Inmate testing criteria guidelines have been issued to all state facilities, which are based upon the direction of LDH. The guidelines require that any inmate exhibiting symptoms of an influenza-like illness, such as fever or fever and a cough shall be tested for COVID-19 and influenza.⁴³ Personal Protective Equipment (“PPE”) has been distributed to staff and offenders, as needed.⁴⁴ DPSC has issued COVID-19-specific guidelines and trained all state prisons regarding screening, isolation, quarantine, housing, proper use of PPE, and precautionary measures. These guidelines are revised and updated as the CDC issues new information.⁴⁵ Each DPSC facility has quarantine and isolation capabilities, which are used as needed.⁴⁶ DPSC has implemented daily tracking of all inmate influenza and COVID-19 testing at each facility and delivers the COVID-19 test samples to LDH for laboratory testing.⁴⁷

B. COOP GENERAL SUMMARY FOR RCC

DPSC developed Regulation No. HCP-26 for pandemic illness alert as a guideline for activation of a Continuity of Operations Plan (“COOP”). The RCC Correction Center (“RCC”) COOP aims to minimize the risks associated with the pandemic illness to offenders and staff; ensure the continuance of all essential functions; and provide for the care and treatment of infected offenders. In order to follow DPSC Regulation No. HCP-26 to protect both offenders and staff, RCC has implemented necessary actions based on the following phases: (1) Ready/Green (Watch); (2) Yellow/Orange (Alert); and (3) Red (Pandemic). For offenders, RCC has implemented a

⁴² *Id.* at para. 19.

⁴³ *Id.* at para. 20.

⁴⁴ *Id.* at para. 21.

⁴⁵ *Id.* at para. 22.

⁴⁶ *Id.* at para. 23.

⁴⁷ *Id.* at para. 24.

screening checklist for flu symptoms (Green Phase) and created a color-coded identification system where offenders wear colored wristbands to indicate their health levels, from no symptoms to positive test results (Yellow Phase). In addition to those actions, RCC has implemented the following Red Phase protections: RCC has cancelled all group offender activities, with meals being delivered to offenders in their assigned housing units and pill calls conducted in separate housing units. Access to the infirmary is limited to only those offenders as approved by the Medical Director. RCC has also set up designated quarantine areas for offenders that do not require hospitalization. Access to recreation yards is by individual dorms and open yard call is not allowed. Additionally, all staff are being screened upon entrance to the unit and are required to wear Personal Protection Equipment (“PPE”) when in contact with any person who has a fever and/or

C. ADDITIONAL PROTOCOLS AT RCC

Warden Robert Tanner sent a list of all 760 of offenders housed at RCC with chronic conditions.⁴⁸ Warden Tanner provided the following in response to arguments presented in TRO. Offender Marlowe currently has a “Regular Duty” medical duty status with no restrictions. He is housed in Sleet 2 which has 79 beds. The dorm has a total of 6,647 square feet of space. Beds are spaced 2 feet apart.⁴⁹ The current practice of alternating head and toe, provides approximately 6 feet of face to face spacing.

In the dining room Offenders sitting at these tables are in close proximity. Serving trays and cutlery are properly cleaned in accordance with applicable Health Department requirements. Please note, we are currently sending our dorms to the dining room dorm by dorm. After each table is emptied it is cleaned and disinfected with an appropriate bleach

⁴⁸ Exhibit 2

⁴⁹ Plaintiff stated in his motion that the dormitory is 5000 sq feet and houses 79 prisoners. That, if equally spread apart, is 63 sq feet each or 10ft by 6 ft of area for each. In reality the Warden said it was larger

solution. Offenders in quarantined areas have their meals delivered to their housing area and are served on disposable trays and cutlery.

Liquid soap is provided in every bathroom and replenished as needed. We also provide hand sanitizer to staff and offenders who are not in a position to wash their hands with soap and water.

Staff working in quarantine and isolation areas are provided N95 masks, Nitrile gloves, and eye protection. Those working in isolation areas are also provided gowns and shoe coverings. Staff working in other areas in close proximity to offenders are issued surgical masks.

Offenders in quarantine areas are provided surgical masks. Offenders working in the kitchen, infirmary, and other areas as specified by our Medical Director are issued surgical masks as well.

Offenders go to pill call by dorm and are instructed to stay 6 ft. apart while in line. We take the temperatures of offenders in quarantined dorms twice a day. If we detect an offender with a fever, he is isolated and a COVID test is done. We transport the test to the La. Dept. of Health and Hospital's lab in Baton Rouge within 24 hours. We have been getting the tests result back the following day. As an added measure, we take the temperature of the entire compound at least once per week. As previously noted, anyone with a fever is isolated and a COVID test is done. We hope to pick up two foggers today and put them to use no later than tomorrow in the dorms for sterilization.

We are making every effort to contain this virus and mitigate its spread. Anyone having reason to enter the facility's Front Gate, which includes employees, have their temperatures taken and answer a standard questionnaire about their comings and goings, and possible exposure to the virus. A nurse is dispatched to the Front Gate to examine anyone who is questionable.

As the Warden, I take my responsibility to the offenders under my care and my employees seriously. Myself and several employees and their families also reside on the grounds. We are aware that the virus makes no distinction between free person and offender. We are adhering to the instructions of the Department's Medical Director and are in daily contact with him. I truly believe the offender population are in a better position to avoid exposure to COVID-19 inside our facility than they would be left to their own devices on the streets."

IV. CONCLUSION

This Honorable Court lacks the authority to grant any relief to the Plaintiff based on Plaintiff's Motion. The Plaintiff, who bears the burden of proving both that he is legally entitled to the relief requested *and* that this Honorable Court has the jurisdiction and authority to grant it, has completely failed to satisfy his burden. Plaintiff's motion must be denied.

Respectfully Submitted,

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**RAYBURN CORRECTIONAL CENTER
CONTINUITY OF OPERATIONS PLAN (COOP)
PANDEMIC ILLNESS
Revised: MARCH 20, 2020**

I. Purpose and Scope:

The purpose of this document is to provide procedures for planning and guidance, before, during, and after, a pandemic outbreak. This plan shall be integrated into the RCC COOP and adhere to all relevant policies and procedures as outlined.

The first line of defense for a pandemic is to prevent the contamination from entering the compound.

In the event of a pandemic outbreak, Rayburn Correctional Center will direct and control the emergency in accordance with Department Regulation No. HCP-26, "Influenza and Pandemic Viral Diseases: Preparedness, Response and Recovery" and the Incident Management Center (IMC) located at Corrections Services Headquarters, 504 Mayflower, Baton Rouge, LA.

II. Assumptions:

There have been four pandemics in the last century and public health experts predict that another will occur in the future. No one can predict when it might happen or how severe it will be. Because of the effects that a pandemic could have on the essential functions of the institution, it is prudent to prepare and plan for one. It is safe to assume that if a pandemic occurs:

- A large number of the offender population would become infected and require medical treatment.
- Employee absences could reach levels of 30 – 40%. This could include administrative staff and other staff members in leadership positions responsible for ensuring the essential functions of the institution.
- Food, medical, and other supplies would be in short supply. Re-supplying could be difficult, if not impossible for some items.
- Outside medical care would be limited because of the burden placed on area hospitals by civilians requiring medical care.
- There could be deaths, both offender and staff, because of complications from the pandemic.

III. Objectives:

In the event of a pandemic outbreak, RCC will have the following objectives:

- Minimize the risks associated with the pandemic illness to offenders, staff, vendors, contractors, and visitors.

- Ensure the continuance of all essential functions and services necessary for institutional operations.
- Provide for the care and treatment of infected offenders.
- Resume normal operations as soon as possible after the outbreak.

IV. Incident Command Team:

An Institutional Incident Command Team shall be established to determine actions that shall be taken to prevent the spread of pandemic illness among staff, offenders, volunteers, visitors, and other civilians. The team will consist of the Warden, Deputy Warden, Assistant Warden/Security, Assistant Warden/Administration, Medical Director, Health Authority, Director of Nurses, Infection Control Nurse, Unit Managers, Human Resource Director, and Information Services Services, with seven-day-a-week availability to respond to a potential outbreak of a pandemic viral disease or Influenza-like Illness (ILI). Each team member has a designated area of responsibility and shall have an assigned back up person in the event that the team member becomes ill during the pandemic.

An Incident Command Team will be appointed to include the following with alternates as backups:

- Pandemic Coordinator – Deputy Warden Keith Bickham (Alternate Assistant Warden Gerald Lebo, Assistant Warden Beverly Kelly) responsible for pandemic planning and preparedness.
- Medical Director – Dr. Robert Cleveland (Alternate, Marsha Seibert, Marsha Culpepper)
- Nursing Director – Ms. Marsha Culpepper (Alternate, Lesley Wheat, Reed Wallace)
- Infection Control Nurse – Tiffany Bell (Alternate Mistie Creel, Laura Buckley)
- Security Chief – Assistant Warden Billy Anderson (Alternates, Colonel Jody Knight and Colonel Kevin Luper.)
- Human Resources – Carrie Hartzog (Alternate, Linda Brockhaus, Susan Seal)
- Business Office – Assistant Warden Gerald Lebo (Alternate, Thomas Pounds, Ronald Toomer)
- Public Information Officer – Assistant Warden Beverly Kelly (Alternate, Cynthia Crain, Karla Hillman)
- Information Technology – Mr. Damon Breland (Alternate, Don Wheat)

The team will meet weekly or as needed to coordinate activities. A database will be created by IT in Lotus Notes that includes input from all team members. There will be a check-off list and each time the database is modified it will automatically be sent to all team members. The database will include a form to be used in the event of the death of an offender.

V. Baseline readiness:

The Director of Nursing (DON) or designee will ensure adequate medical supplies are in stock at all times to include tissues, gloves, biohazard bags, hazard receptacles, masks, and Waterless Hand Sanitizers (alcohol based.)

The DON or designee will establish points of contact for pandemic preparedness in the local and state health departments, local, regional or state agency preparedness groups and local hospitals. Maintain the unit's agreement with the Office of Public Health to be a point of dispensing and have required procedures in place.

The DON or designee will maintain a list of high risk offenders for seasonal influenza based on current CDC guidelines.

In response to a pandemic threat or during an ongoing pandemic the actions listed in Department Regulation HCP26 section 7.E will be taken.

In response to a pandemic threat or during an ongoing pandemic, the Warden, in collaboration with the Department's Medical/Mental Health Director, any or all of following actions listed in Department Regulation HCP26 section 7.F may be taken.

The Warden will approve alternate work schedules on a case-by-case basis as needed.

As necessary, employees will be cross-trained. The use of auxiliary personnel and recent retirees, recruiting temporary personnel and/or establishing flexible worksite options (for example, telecommuting) and flexible work hours (for example, staggered shifts) will be considered.

VI. Activation:

The necessity for activation of the Pandemic COOP will not come without prior warning. Cases of pandemic illness from around the world are constantly being monitored and information updated as needed by organizations such as the World Health Organization (WHO). Current information is also available from the United States Government Avian and Pandemic FLU Website and the United States Department of Health and Human Services' Center for Disease Control and Prevention Health Alert Network. These sites will be monitored by RCC's Health Authority. Updates concerning pandemic outbreaks will be provided through the Corrections Services Medical Director, the IMC, the RCC Health Care Authority and/or the Incident Command Team to staff and offenders as appropriate through such means as meetings, E-Mails, Daily Notification for Offenders, or as deemed appropriate under existent circumstances.

RCC shall use the following phases, as outlined in Department Regulation No. HCP-26, Influenza and Pandemic Viral Diseases: Preparedness, Response and Recovery, for pandemic illness alert as a guideline for activation of the COOP and the implementation of necessary actions. The three phases of pandemic alert indicate the seriousness of the threat and the need to launch progressively more intense preparedness activities.

Phase	World Health Organization (WHO) & United States Government (USG) Pandemic Flu Response Stages	Case Location
Ready / Green (Watch)	WHO Inter-Pandemic Period Phases 1 -2; USG Stage 0	Anywhere outside of the Continental United States and bordering countries (i.e. Canada and Mexico)
Yellow / Orange (Alert)	WHO Inter-Pandemic Period Phases 3 -5; USG Stage 0 - 2	First human case in the Mainland United States (excluding Louisiana and neighboring states)
Red (Pandemic)	WHO Inter-Pandemic Period Phases 6; USG Stage 0	First human case in Louisiana or neighboring states.

A. Ready/Green Phase:

At this phase, pandemic flu is anywhere outside of the continental United States and bordering countries, Canada and Mexico. RCC will complete the following:

1. Provide training for both staff and offenders on recognizing the signs and symptoms of the illness and on standard safety precautions to minimize and prevent the spread of the virus. This training will be provided through the following means:
 - The use of staff and roll call meetings.
 - The use of informative DVDs and/or videos (to be shown to both staff and offenders.)
 - The use of E-Mails, memos, and the Daily Notification of Offenders, as appropriate.
 - The use of educational posters and warning signs placed in strategic locations around the institution as reminders to both staff and offenders.
2. RCC will work closely with the Louisiana Office of Public Health in Washington Parish and the Louisiana Department of Health and Hospitals as needed.
3. RCC Medical Director will make recommendations on housing offenders who have the symptoms of the pandemic illness. In general, if the numbers remain low, offenders with similar symptoms will be housed in the Alternative Housing Unit (Gym). If the number of identified cases increases, offenders will be housed in place, in either their assigned dorm or cell, and provisions will be made to have meals delivered to the housing units.
4. Decontamination and Reception facilities will established in the Alternative Housing Unit.
5. In the event of a pandemic outbreak at the institution, there is the real possibility that deaths could occur. In preparation for this worst case scenario, the refrigerated cooler located in front of the Warehouse has been designated for use as a temporary morgue. This area has access to the outside for the removal of any bodies with as little exposure to staff and offenders as possible.
6. At the Incident Command Team’s discretion, procedures will be implemented to begin screening individuals who report pneumonia or other respiratory infections according to the approved screening checklist to identify possible clusters (group) of ill individuals who may be linked. Appropriate reporting of possible clusters will be communicated to the Headquarters IMC by the Infection Control Nurse.

Screening Checklist for Flu Symptoms
Temperature Greater than 100.4 Degrees – Plus one of the following:
Sore Throat
Coughing/Sneezing
Dyspnea (shortness of breath and/or difficulty breathing)
Headaches
Overall Body Aches
Recently visited or lives in an area of a confirmed case.

7. Once screening has begun, all staff and offenders shall use droplet precautions (masks, hand washing), as well as any other appropriate PPE when they are within six feet of an ill individual or for all contact with any individual who has a new cough and fever.

Personal Protective Equipment (PPE) is defined as masks, gloves, eye protection, etc. used to avoid direct contact with an infected patient's blood, body fluids, secretions, and non-intact skin.

8. Approved Infection Control Signs will be posted at all building entrances, bathrooms, Dining Rooms, and Visitation.
9. Antibacterial soap and surface cleaners will be supplied to all common areas such as, but not limited to, housing units, indoor recreation areas, Infirmary, waiting areas, and hospital prison wards.
10. Staff and offenders will be encouraged to get flu, pneumonia and other available vaccines developed for the prevention of a pandemic outbreak.

B. Yellow/Orange Phase:

At this phase, pandemic outbreak has been confirmed in the mainland United States. In addition to the previous steps outlined in the Green Phase, the following additional steps will be incorporated into preparedness activities.

1. Stockpiling requirements for antibiotics and other necessary medications and medical supplies, as recommended by the Department's Medical/Mental Health Director, will begin.
2. A compiled inventory list of all PPE supplies will be compiled and maintained by the DON. Copies will be sent to the Department's Medical/Mental Health Director.
3. The Secretary, Chief of Operations, Medical/Mental Health Director and Regional Wardens shall be notified and any outside travel will cease. The exceptions would be medical / mental health emergencies and pre-approved Court appearances after consultation with the presiding Judge.
4. Restrictions on entrance to the institution will be placed on all vendors, visitors, conferences or group activities. All persons must have a health screen prior to entry and before permission is granted for entry.
5. At the discretion of the Incident Command Team, staff, offenders, visitors, volunteers, and civilians may be required to wear identification wristbands designated by color at all times. The color designations are defined as follows:
 - **Green** – Has not exhibited any symptoms of the illness.
 - **Blue** – Has exhibited symptoms, but tested negative for the illness.
 - **Red** – Has exhibited symptoms and tested positive for the illness.

6. All persons, whether staff, offenders, or institutional guest, identified as at-risk will be instructed to wear a mask and go to the Alternative Housing Unit for further instructions.
7. If an initial clinical screening indicates a suspected Epidemic Respiratory Infection (ERI), the Louisiana Office of Public Health and the Headquarters IMC will be notified. Infection Control Precautions will be implemented after a positive diagnosis on any staff, offender, or institutional guest screened as a possible ERI case.
8. High Risk Areas will be determined by the Louisiana Office of Public Health. Staff and offenders traveling to designated areas of known infectious outbreaks or have recently traveled to high risk areas, must register with the medical department and complete the approved screening checklist for five consecutive days.
9. All staff and offenders will be advised of the importance of good hand washing and covering coughs and sneezes. Staff and offenders who have fever and a new cough will be restricted from any work, class or group activity. Staff member who are suspected of having a communicable disease that puts others at risk will be sent home until recovered and will only be allowed to return to work after a complete and proper screening has been conducted by the RCC Medical Authority and approval of the Incident Management Team.
10. All staff or offenders who have had contact with suspected patients will be reviewed at the Medical Director's discretion.
11. Offenders will be kept informed of any needed information by the Daily Notification for Offenders. Information will be shared with staff with bulletins posed in areas accessed by staff.
12. The Incident Command Team will meet daily to review the situation and respond to any changes in the situation as necessary. Reports will be prepared and forwarded to the Headquarters IMC.
13. Yard and phone restrictions may be lifted to allow communication with family members and outdoor exercise.

C. Red Phase:

At this phase there is evidence of transmission of ERI in the unit or there is widespread human-to-human transmission in the region of the unit. This is the highest level of alert, with restrictions on access to the unit, more active screening and a shift away from normal unit operations. In addition to the steps in the Green and Yellow/Orange Phases, the following steps will be incorporated into pandemic preparedness activities:

1. All entrances to the unit will be locked except for the main entrance. Those that cannot be locked will be monitored.

2. All staff shall have valid identification to enter the prison. Anyone else must be screened according to the approved checklist.
3. There will be no group activities. Meals will be delivered to the offenders in their assigned housing units.
4. Pill calls will be conducted in separate housing units.
5. To prevent further spread of the epidemic, the Incident Command Team may request that the Secretary close the institution to further admissions.
6. All routine sick calls and non-emergency health care services shall be suspended. Offenders will have access to health care through emergency sick call.
7. Access to the Infirmary will be limited to those approved by the Medical Director.
8. Any offender identified with fever or cough will be instructed to don a mask and use good hand washing. They will be sent to the medical department for screening.
9. Weekly reports of the number of persons seen with suspected ERI will be prepared and sent to the Chief of Operations and the Department's Medical/Mental Health Director.
10. In the event an offender warrants an evaluation off site or in a hospital setting, the medical staff will alert the referral hospital that a suspected or confirmed case needs evaluation so that the referral center can make arrangements for infection control precautions.
11. For infection control purposes, all staff will wear PPE who have contact with any person who has a fever and/or a new cough. Anyone providing patient care will have access to appropriately fitting PPE.
12. If a suspected or confirmed case does not require hospitalization, housing needs or the need to quarantine will be assessed by the Incident Command Team. The Gym, Visiting Room and/or Infirmary isolation cells may be used to quarantine offenders as deemed necessary. Should the number of offenders infected reach the capacity of a dormitory, a dormitory may be designated as a quarantine location. Infirmary beds will be reserved for acute care offenders. Arrangements will be made to provide all offenders with necessary daily items such as meals, water, and hygiene supplies.
13. All known contacts, either staff or offender, must register with the medical department and be screened daily utilizing the screening checklist for five consecutive days after the last documented or suspected contact or for a period determined by the health authority.
14. The Incident Command Team will consult Headquarters Senior Staff, the Medical Director, and the IMC Director for recommendations for the quarantine

of non-ill contacts. All directives and approved medical treatment protocols shall be implemented regarding the details of quarantine, including grouping of contacts, sites to be used for quarantine, and legal authority. Arrangements will be made to provide all those quarantined with necessary daily items including meals, water, and hygiene items.

15. The Incident Command Team will continue to provide updates to staff and offenders as more information is obtained.
16. Essential personnel may be allowed to remain on the grounds (logistics permitting) both to keep the sickness out, and to protect their family members from possible exposure. Essential personnel will include security, medical, and department heads.
17. Movements of offenders from any area of the compound to other housing will have to be approved by the Medical Director.
18. Establish a decontamination station at each area of confinement.
19. Meals and medications will be delivered to the individual housing units. Offenders may be allowed to maintain a 30 day supply of certain types of medications.
20. Access to recreation yards will be by individual dorms. Open yard call will not be allowed
21. Maintenance workers will work in dorms while offenders are on the yard and all surfaces will be cleaned and sanitized prior to being worked on.
22. Offender family death notifications will be made in the dorm and the offender will be allowed to call from there.
23. All employee positions will be categorized into one of the following three exposure risk categories. This classification is done to minimize the potential for cross contamination, thus slowing down the spread of illness in the unexposed population.
 - A. High Exposure Risk: Staff with high potential for exposure to known or suspected sources of pandemic illness, such as healthcare delivery and support staff, staff transporting known or suspected pandemic influenza infected patients, etc.
 - B. Medium Exposure Risk: Staff with high-frequency contact within six feet of the offender population, such as security staff, social workers, chaplains, etc., who work in dorms or cellblocks.
 - C. Lower Exposure Risk (caution): Staff who do not require routine contact with the offender population, such as administrative staff (i.e. institution Business Office, Human Resources, etc.). Activities outside of the workplace shall be considered when classifying employees into low exposure risk, such as other employment which may involve routine

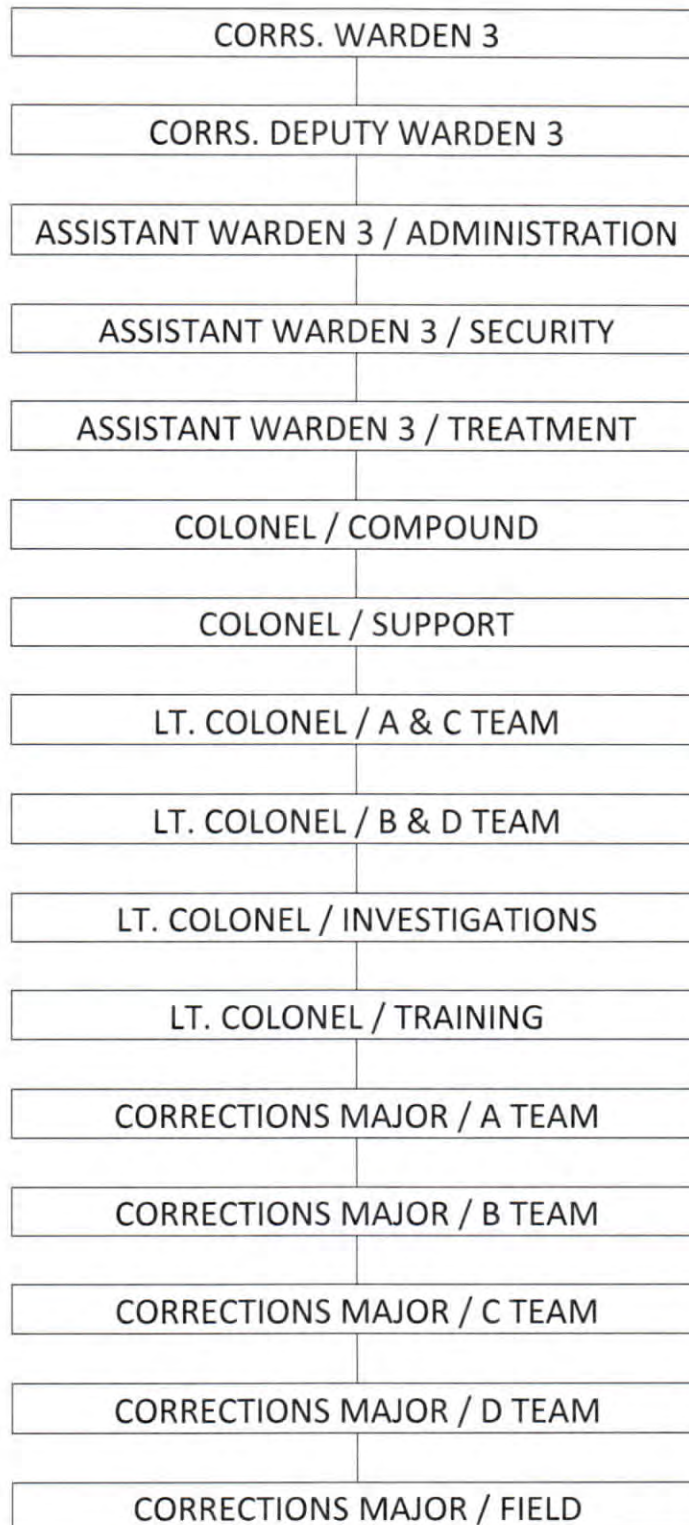
contact with an offender population (part-time security.) Such risky activities outside of the workplace shall be discouraged for low risk staff in the event of a pandemic.

VI. Operational Staffing:

To ensure that the security and safety of the institution is effectively met in the event of a pandemic outbreak, every effort will be made to ensure adequate staffing in accordance with RCC Directive #1.3.17, Operational Capacity and Staffing Requirements and RCC Directive #1.3.10, Security Staff On-Call Policy. During a pandemic outbreak, it is estimated that staff absenteeism could reach levels of 30 – 40 %. To compensate for this, the following procedures will be taken as necessary:

- All unnecessary field operations as determined by the Warden will be suspended and officers assigned to the Field Unit will be utilized were needed on the Compound. (See Attached information concerning the expected reductions in force due to Pandemic Events.)
- With the exception of medical / mental health emergencies and Court appearances, after consultation with the presiding Judge, all travel will be suspended. Transportation officers will be utilized were needed at the institution.
- With the exception of emergency and sick leave, no leave time will be approved.
- Officers will be required to work overtime as needed.
- Depending on the severity of the pandemic at other facilities, officers could be utilized from or for other facilities.
- The possibility of utilizing recent retirees and hiring temporary staff would be considered.
- In a worst case scenario, "Alternative Housing Orderlies" could be used to assist correctional staff. An offender watcher is an offender that has received special training on the symptoms of the pandemic illness and necessary precautions to be taken with those individuals with a possible indication of infection. Training and notification will be provided by the RCC Medical Authority.
- Shift Plan
 - a. Nurse 1 – work 6:00 am – 3:00 pm
 - b. Nurse 2 – work 2:00 pm – 11:00 pm
 - c. Nurse 3 – work 10:00 pm – 7:00 am

RCC COOP – Attachment #1 Orders of Succession Organizational Chart



RCC COOP – Attachment #2

Operational Security Staffing

In an emergency situation caused by a Pandemic Outbreak, with the anticipation of up to a 40% reduction in staff, security job assignments (drops) would be filled and manned as follows in addition to increasing the number of on-call security staff as determined by the Deputy Warden or his designee:

North Compound:

Unless otherwise noted, all job assignments must be manned on a 24 hour basis.

Job Assignments	Normal Staffing	Emergency Staffing
Wind Dormitories	4	3
Rain Dormitories	4	3
Snow Dormitories	4	3
Sleet Dormitories/ Sleet Cellblock	7	6
Sun Cell Block	6	5
Towers (Days)	1	1
Towers (Nights)	1	1
Infirmary	1 (when offenders are present)	0
Control Center	2	2
Front Gate	1	1
Kitchen	5	2 (should be no more than 5 offenders in the kitchen)
Totals	36	27

During an emergency situation, a minimum of two supervisors (Shift Supervisor and 1 Lieutenant and/or Captain) would need to be on duty on a 24-hour basis.

Activities in the following areas will be suspended and officers normally assigned to these areas utilized where needed:

Academic School
Gym
Field
Armory

Vocational School
Warehouse
Kitchen
Training

RCC COOP – Attachment #3

Continuity of Operations Plan for Mental Health (COOP)

The Mental Health Department will suspend all non-emergent/group related mental health services once a pandemic situation is declared. The staff listed below will be the front line treatment staff for those offenders needing services in affected areas. Only one staff member will be assigned to treat offenders in those areas at a time. If that staff members is no longer able to provide services, the next staff member in the list will continue services. The remaining staff will be conducting all other mental health services in non-affected areas.

List of staff available for meeting the mental health needs of Rayburn Correctional Center are as follows:

1. Floyd Brooks (985) 515-0073
2. Gertrude Estell (504) 975-0894
3. Adrienne Seal(601) 303-7908
4. Shunna Bickham (985) 516-6679
5. Christen Ladner (601) 522-3854

All staff members are cross-trained and able to report pertinent mental health information to Dr. Robert Cleveland.

These members of the Mental Health Staff will conduct daily operations from designated office areas and stagger staffing based on institutional need. All staff is cross-trained and able to report pertinent mental health information to Dr. Robert Cleveland.

1. Suzanne Sheridan (985) 750-2151

RCC COOP – Attachment #4

Classification/Records Pandemic Preparedness

Response Order:

Classification

Team Leader: Karla Hillman (985) 750-8568

1. Brittany Polk (985) 515-5435
2. Kimberly Rimes (985) 516-1555
3. Daisy Jarrell (985) 415-9586

All institutional transfers and court trips will temporarily cease. The only outside travel will be in the cases of medical and mental health emergencies. Group activities and call outs will be streamlined. Necessary callouts for legal or out-processing would continue.

Most staff members are cross trained in two or more of these areas. In the event we have only 40% staff available, the following are priorities for the Classification division.

No callouts.

Review incoming mail and emails for prioritizing and action.

Reassigning jobs as offenders become ill to ensure proper running of the facility. As transfers will cease, there will not be an immediate need for staffing nor screening offenders for work release.

Response Order:

Records

Team Leader: Carolyn Wade (985) 276-3951

1. Jennifer Bigner (601) 731-0047
2. Kerri Cross (985) 335-6079
3. Kristen Herbert (601) 916-4475

Check and review incoming mail and emails for prioritizing and action. Calculate forfeiture of good time for disciplinary court. Process any releases.

RCC COOP – Attachment #5

Essential Functions Responsibilities

Codes: EFS=Essential Function Staff, EFR=Essential Function Resources, NES=Nonessential Function Staff, NER=Nonessential Function Resource

A. RCC Warden's Office Essential Functions

1. Public Safety – Institutional Leadership

1RCC EFS	Warden
1RCC EFR	Communication to all leadership staff through existing phone line or interoperable communications, contact information

2. Leadership Support

2RCC EFS	Deputy Warden, Asst. Warden/Administration, Asst. Warden/ Security, Asst. Warden/Treatment, Unit Managers
2RCC EFR	Communication to all staff through existing phone line or interoperable communications, contact information

3. Communication – Handling of media request, dissemination of information and support of ESF-15 (Emergency Public Information)

3RCC EFS	Warden, Deputy Warden, Public Information Officer
3RCC EFR	Media lists, Mobile Phone (number to be published as means of alternate contact information), Fax Machine, Copier

4. Court Orders

1RCC NES	Assistant Warden/Security, Support Services Colonel, Trip Supervisor
1RCC NER	CAJUN, Computer Equipment, Fax Machine

(RCC) NON-ESSENTIAL FUNCTIONS

1. ARPs and DB Appeals

2RCCNES	Warden, Administrative Program Specialist C, Support Services Colonel
2RCCNER	Computer, Lotus Notes, Fax Machine, Printer

B. DPW Office of Deputy Warden/Programs Essential Functions

1. Administration of RCC's budgetary activities

1DPW EFS	Assistant Warden/Administration, Administrative Program Director, Accountant
1DPW EFR	Mapper, Quickbooks, CAJUN, ISIS HR, ISIS, LaGov, PULSE, Computer Equipment, Access to Lotus notes, Fax Machine, Offender Banking, Copier

2. Preparation and review of institutional budget requests with appropriate recommendations made to the Secretary and Undersecretary. Approval of all budget transactions.

2DPW EFS	Assistant Warden/Administration, Administrative Program Director, Accountant
2DPW EFR	Mapper, Quickbooks, CAJUN, ISIS HR, ISIS, LaGov, PULSE, Computer Equipment, Access to Lotus notes, Fax Machine, Offender Banking, Copier

3. Performance Indicators compilation, reporting and analysis

3DPW EFS	Assistant Warden/Administration, Administrative Program Director, Accountant
3DPW EFR	Mapper, Quickbooks, CAJUN, ISIS HR, ISIS, LaGov, PULSE, Computer Equipment, Access to Lotus notes, Fax Machine, Offender Banking, Copier

C. PUR Office of Purchasing and Receiving Essential Functions**1. Leadership – Procurement and Contractual review Department**

1PUR EFS	Assistant Warden/Administration, Administrative Program Director, Accountant, Property Control Manager
1PUR EFR	Mapper, ISIS/AGPS, LaGov, PULSE, Computer Equipment, Access to Lotus Notes, Fax Machine, Offender Banking, Internet, Copier

2. Supplies and Equipment – Provide support to affected units in securing supplies and equipment needed immediately from local vendors.

2PUR EFS	Assistant Warden/Administration, Administrative Program Director, Accountant, Procurement Manager
2PUR EFR	Telephones, Computers, Fax Machines, Internet, Vehicles, Executive Orders, Activation of statewide contingency contracts through office of State Purchasing, HQ Purchasing, Copier

3. Property Assistance – Maintenance and control of state property.

3PUR EFS	Administrative Program Director, Property Control Manager, Maintenance Manager
3PUR EFR	RCC state property listings, Emergency Declaration Executive Orders, La. Property Assistance Agency, Federal Property Assistance Agency, Copier

4. Business Office – Provide the necessary supplies and equipment to support RCC operations.

4PUR EFS	Assistant Warden/Administration, Administrative Program Director, Accountant, Property Control Manager
4PUR EFR	Mapper, ISIS/AGPS, LaGov, PULSE, Computer Equipment, Access to Lotus Notes, Fax Machine, Offender Banking, Internet, Copier, VISA Cards

5. Accounts Payable – Contracting and paying vendors to insure an uninterrupted delivery of supplies and services. Staff will have to review reports to determine the order of payment process.

5PUR EFS	HQ Disbursements, Administrative Program Director III, Administrative Program Mgr. I, Accountant (2)
5PUR EFR	ISIS/AGPS, Internet, Computer Equipment, PULSE, VISA Cards, Copier

6. Accounting Services – ensuring the availability of operating cash in ISIS system and IMPREST Fund (Unit Level) to process the required payments.

6PUR EFS	Administrative Program Director III, RCC Business Office, HQ Accounting Services
6PUR EFR	ISIS/AGPS, LaGov, Copier

D. AWS Office of Assistant Warden for Security Essential Functions**1. Public Safety relating housing, movement, transportation of offenders, etc. as directed by Warden's Office**

1AWS EFS	Deputy Warden, Asst Wardens/ Unit Managers (2)
1AWS EFR	Communication to all staff through existing phone line or interoperable communications, contact information

2. RCC Facility Assessment – Review and list each of the facilities critical needs for equipment and supplies based upon the situation

2AWS EFS	Deputy Warden, Asst Wardens/Unit Managers, Safety Officer, Maintenance Manager
2AWS EFR	Communications, Access to computers, Emergency Equipment

3. Officer accommodations – Prepare alternate housing areas and logistic support for staff that may have to remain at the facility

3AWS EFS	Deputy Warden, Asst Wardens/Unit Managers, Safety Officer, Maintenance Manager
3 AWS EFR	Guest Housing, Training Center, Visiting Room, K-9 Building

E. OHR Office of Human Resources Essential Functions

1. Payroll related to all RCC employees. Employees should not experience an interruption of pay. Department of Civil Service and state law will mandate how pay should be determined.

1OHR EFS	Human Resource Supervisor, Human Resource Analyst (2)
1OHR EFR	Access to ISIS-HR, Communication with Department of Civil Service via phone and email, Internet access, RCC HR computer programs

2. Benefits such as Health Insurance, Miscellaneous Plans, Flexible Spending Accounts, Deferred Compensation, and Retirement Plans should continue without interruption.

2OHR EFS	Human Resource Supervisor, Human Resource Analyst (2)
2 OHR EFR	Access to ISIS-HR, DOC Retirement Database, Communicate with Office of Group Benefits via phone, email and internet. Communicate with all miscellaneous vendors via phone, email and internet

3. Staff Safety/Employee Assistance Program – Determine the location and status of each employee. Those severely impacted from a disaster will be evaluated for special needs such as, medical or mental health assistance, alternative work schedules, etc.

3OHR EFS	Human Resource Supervisor, Human Resource Analyst (2)
3OHR EFR	Access to ISIS-HR, Communicate with third parties via phone, email, and internet

4. Selection and Recruitment – Ensure that employees who have been offered employment and are expected to start work are processed timely. Continue to monitor the available workforce for positions that may be needed on a temporary or permanent basis.

4OHR EFS	Human Resource Supervisor, Human Resource Analyst (2)
4OHR EFR	Access to ISIS-HR, Civil Service Job Search Website via internet

5. Governmental Orders – Executive Orders from the President/Governors office must be monitored in order to insure compliance with federal and state laws.

5OHR EFS	Human Resource Supervisor, Human Resource Analyst (2)
5 OHR EFR	Access to ISIS-HR, Phone, email, and internet

(OHR) NON-ESSENTIAL FUNCTIONS

6. Employee Testing and Training – Corrections Lieutenant, Captain, and Major promotional tests. Drivers Training, PPR Training, Interview Training, ETC.

6OHR EFS	Human Resource Supervisor, Human Resource Analyst (2), RCC Training Department
6OHR EFR	Access to ISIS-HR, DOC Lt, Captain and Major Testing database, Access to phone, email and internet

7. Employee Pre-employment Drug Testing and TB Testing

7OHR EFS	Assistant Warden/Security, Human Resource Supervisor, Human Resource Analyst (2)
7OHR EFR	Access to Medical personnel

8. Monthly Reports – Monthly reports range from Quality Assurance, Payroll, Detail to Special Duty Reports, Rehire, other Comp, K-Time Liability, Security Staffing, QSPR, ACA Accreditation, and Annual Civil Service Reports.

8OHR EFS	Human Resource Supervisor, Human Resource Analyst (2)
8OHR EFR	Access to ISIS-HR, Access to DOC Retirement Database, Access to Civil Service Website

9. HR Program Review Audits

9OHR EFS	Human Resource Supervisor, Human Resource Analyst (2)
9OHR EFR	Access to ISIS-HR, Access to DOC Retirement Database, Access to Civil Service Website

10. Records request

10OHR EFS	Human Resource Supervisor, Human Resource Analyst (2)
10OHR EFR	Access to ISIS-HR, Access to DOC Retirement Database, Access to Civil Service Website

F. REC - Office of Records Management Essential Functions**1. Offender Records – Maintaining offender accountability through effective records management**

1REC EFS	Records Supervisor, Records Specialist (2)
1REC EFR	Inmate Records, CAJUN, Clerk of Court Contacts, Internet, Computer Programs

G. CLS Office of Classification Essential Functions**1. Maintain and meet offender's' needs throughout the pandemic.**

1CLS EFS	Classification Supervisor, Classification Officers (3)
1CLS EFR	CAJUN, Computer Programs (Ultrapls), Lotus Notes, Inmate Records, Medical/Mental Health Staff

H. MED – RCC Medical Department Essential Functions**1. Maintain and provide medical needs throughout the pandemic.**

1MED ESF	Medical Director, Director of Nursing II, Director of Nursing I, RNs (7), LPNs (7), Director of Programs, Mental Health Director, Asst. Mental Health Director, Transition Specialist (1)
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1MED EFR	Medical Records, SIPS Program, Computers
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2. Training and Communication – Provide staff and offenders with knowledge on safety procedures to prevent and minimize the effects of pandemic.

2MED ESF	Medical Director, Director of Nursing II, Director of Nursing I, Infection Control Nurse
2MED EFR	Computers, Internet Access to keep up with latest updates, Communicate information to staff and offenders through appropriate means (Posters, E-Mail, Daily Notification Bulletin, etc.)

RCC COOP – Attachment #6**Essential Contractual Arrangement and Interdependencies**

Essential Service or Function	Primary Contractor	Back-Up Contractor(s)
Medical (Medical Waste)	Steri Cycle	Am3CI
Security (Solid Waste)	PDI	Waste Management, BFI
Medical (Ambulance)	Northshore Ambulance	Advance Medical Service,
Kitchen (Cleaning)	Auto-Chlor	Davis Products
Security (Pest Control)	Eco-Lab	Orkin
Kitchen (Cleaning)	LA Grease Service	JGT Acq.
Milk (As Needed)	Kleinpeter Dairy	Borden
Meat Orders	Prison Enterprises	Bill & Ralph, Sysco
Produce (Weekly)	Shaver	Groetesch
Canned Food Items	Shaver	Lacassagnes
Dry Staples	Shaver	Lacassagnes
Cleaning Supplies (Disinfectant)	Prison Enterprises	VCC, Guy Paper, Dixie Paper
Laundry Supplies	Prison Enterprises	VCC, Guy Paper, Dixie Paper
Pharmacy Medications	Morris & Dickson and Elayn Hunt Correctional Center	Nielsen's Drugs, and City Drugs
Medical Supplies	Medline	Moore Medical, Health Care Logistics, Luffeys

RCC COOP – Attachment #7**DHH/Office of Public Health Technical Assistance Contacts**

Position	Name/Department/Agency	Contact Information	
Technical Assistance	Thomas Jordan Public Health Emergency Response Coordinator DHH/Office of Public Health	Work	985- 543-4855
		After Hours	225 200-2473
		Mobile	225 200-2473
		Email	Thomas.Jordan@la.gov
Technical Assistance	Melissa Carter Jeffries, RN Hospital Nurse Coordinator DHH/Office of Public Health	Work	985 543-4880
		After Hours	
		Mobile	
		Email	Melissa.Carter@la.gov
Technical Assistance	Latoya Williams, Pharm.D., AAHIVP Pharmacist DHH/Office of Public Health Center for Community Preparedness	Work	225 354-3508
		After Hours	
		Mobile	
		Email	Latoya.Williams@la.gov
Technical Assistance	Glennis Gray, RN SNS Coordinator DHH/Office of Public Health Center for Community Preparedness	Work	225 354-3510
		After Hours	225 454-7653
		Mobile	225 454-7653
		Email	Glennis.Gray@la.gov

RCC COOP
Appendix 1**Correctional Facility Pandemic Illness Preparedness & Response Checklist
Level Ready-Green (ERI alert matrix)/Interpandemic Period (WHO)**

	Form an Institutional Incident Command Team, if one does not already exist.
	Headquarters staff as directed by the Chief of Operations shall perform authority/legal preparedness activities.
	Pre-incident activity list completed. (For example: Pandemic COOP Plan.)
A. Access Control	
	Develop a plan and a timeline for implementing a policy that enables controlling access to the institution.
	Develop a plan to close down or curtail facility transportation, including facility buses and shuttles if necessary, when ordered by the Institutional Incident Command Team.
B. Surveillance, Screening and Triage	
	Have the institution's medical personnel screen all individuals upon intake and at the time of registration following LOPH recommended precautions.
	Report possible clusters to the State's Infectious Disease Epidemiology Section via Headquarters Incident Management Center.
	Post informative infection control signs at building entrances and common areas.
	Rotate the infection control signs periodically.
	Monitor national, regional and local data related to pandemic.
C. Infection control/Precautions	
	Maintain adequate supplies of Personal Protective Equipment (PPE), waterless hand sanitizers, surface disinfectants and tissues throughout public areas and meeting rooms.
	Display hand-washing posters, biohazard bags and waste receptacles in high-traffic areas.
D. Communication/Education	
	Implement a plan for communication and promotion of messages relating to ERI to offenders and staff.
	Implement a plan to orient and educate staff regarding basic readiness activities at the institution.
	Deploy translation services needs within facility population.
	Identify behavioral health providers to incorporate into communication plans.
E. Additional Preparedness Activities	
	Implement vaccination campaign (offer vaccine on-site or provide references to area clinics, as applicable.)
	Develop educational and promotional materials to promote availability and desirability of influenza vaccine for all.
	If administering flu vaccine on-site, document administration of vaccine, preferably in a computerized database.
	Provide regular updates to staff and offenders.
	Health Authority will monitor the Health Alert Network and other communications from public health officials and communicate changes to clinicians on a quarterly basis.

**Correctional Facility Pandemic Influenza Preparedness & Response Checklist
Level Yellow-Orange (ERI plan)/Pandemic Alert Period (WHO)**

	Continue applicable activities from Level Green/Interpandemic Period.
	Implement incident checklist.
A. Access Control	
	Restrict vendors, visitors and group activities and facility group transportation and work activities.
B. Surveillance, Screening and Triage	
	Provide patients who have a new cough with a facemask and/or tissues, and replace frequently if soiled or moist.
	Restrict individuals (staff and offenders) who have fever and a new cough from work class or any group activity.
	Send any staff member home that is suspected of having a communicable disease that puts others in the institution at risk.
	Consult with Headquarters Incident Management Center when it is suspected, after initial clinical evaluation, that a patient may have an Epidemic Respiratory Infection (ERI).
	Register staff traveling to, or offenders who recently traveled to, designated high risk areas and report any symptoms of fever or cough that occur (check with Headquarters Incident Management Center for high risk areas, symptoms and time period for surveillance).
	Register staff and offenders who have had contact with suspected patients and screen daily for fever or respiratory symptoms for five consecutive days or a period determined by the health authority.
C. Infection Control/Precautions	
	Expand precautions for staff with Personal Protective Equipment (PPE) based on their exposure risk.
	Institute infection control precautions with Personal Protective Equipment (PPE) and possible housing assignments for symptomatic offenders.
D. Communication/Education	
	Place staff at high-traffic areas to answer questions and direct persons to the medical department as needed.
	Keep staff and offenders informed and provide education about prevention and symptom surveillance.
E. Additional Preparedness Activities	
	The Institutional Incident Command Team shall meet daily to review situation and strategies.

**Correctional Facility Pandemic Influenza Preparedness & Response Checklist
Level Red (ERI plan)/Pandemic Period (WHO)**

	Continue applicable activities from Level Green/Interpandemic Period and Level Yellow-Orange/Pandemic Alert Period.
A. Access Control	
	Restrict access to the institution to identified staff.
	Suspend eateries, shops and other group activities, including sporting events and classes, as determined by the Incident Command Team.
	Implement plan for delivering meals to offenders.
	Suspension of facility group transportation.
B. Surveillance, Screening and Triage	
	Screen those allowed into the facility for fever or cough and have their temperature taken.
	Record the number of all persons seen with suspected ERI and report to Headquarters Incident Management Center within one week.
C. Infection Control/Precautions	
	Continue practice of airborne precautions, including staff who conducts screenings at institution entrances.
	Implement isolation and quarantine guidelines as they are made available by LOPH.
	If suspected cases do not require hospitalization, housing assignments will be assessed by the Institutional Incident Command Team.
	Assist LOPH with contact investigations.
D. Communication/Education	
	Provide daily or more frequent updates to staff and offenders.

Illness	Housing	DOC	Name	TOTAL
Column1	Column2	Column3	Column4	Column5
Asthma				114
Back Pain				102
Blood Disorders				3
CAD				11
CAD/ICH/Heart Disease				2
CAD/IHD/Heart Disease				1
Chemotherapy				1
CHF				8
Cirrhosis				2
COPD				27
Dermatitis				8
End Stage Liver Disease				1
Epilepsy				36
GERD				181
Glaucoma				11
Healthy				213
Heart Disease				21
Hepatitis B				15
Hepatitis C				122
Hernia				17
HIV				59
Hyperlipidemia				236
Hypertension				590
Hypertriglyceridemia				7
Hypothyroidism				16
Insulin Dependent Diabetic				52
Intrinsic Kidney Dx				2
Long Term Steroid Use				1
Non-Insulin Dependent Diabetic				64
On Coumadin				7
Oncology				15
Pacemaker / Defibrilator				6
Pre-Diabetic				76
PUD (Peptic Ulcer Disease)				4
Seizure Disorder				25
Sickle Cell				7

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CHRIS MARLOWE, * CIVIL ACTION
VERSUS * NO. 18-63-BAJ-EWD
JAMES LEBLANC, ET AL. * JUDGE BRIAN A. JACKSON
* MAGISTRATE JUDGE
* ERIN WILDER-DOOMES
*

PLAINTIFF’S REPLY MEMORANDUM TO DEFENDANTS’ OPPOSITION TO HIS MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR EMERGENCY MOTION FOR TEMPORARY RELEASE

MAY IT PLEASE THE COURT

Through undersigned counsel, Plaintiff Mr. Chris Marlowe submits this Reply to the Defendants’ Opposition to his Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Relief.

The current climate is unprecedented. At no time in modern history, has the Louisiana Governor issued a “shelter-in-place” order to prevent the rapid spread of a deadly virus. In the seven years that undersigned as practiced law, the Louisiana Department of Corrections has never suspended visitation and proceeded with such intense restrictions and protocols as outlined by Warden Tanner and the Department of Corrections. See Doc. 101, pp. 12-14. We live in unprecedented times that call for unprecedented solutions to the perils facing prisoners like Mr. Marlowe. Within this context, Mr. Marlowe presents the following reply arguments in the same order as presented by the Defendants’ in their Opposition.

A. Fed. R. Civ. P. 65 Does Apply

As a preliminary matter, Plaintiff argues that the release he is asking for is not a release from prison as defined by 18 U.S. Code § 3626(g)(4). Rather he is asking to be placed on home confinement with or without location monitoring, and to be supervised by the US Probation Office or another office with such capacity. Mr. Marlowe has every intention to return to prison once the COVID-19 outbreak is no longer a threat at Rayburn. Home confinement under such conditions is not a “prisoner release order” as contemplated by 18 U.S. Code § 3626(g)(4), and there is no judicial authority that states otherwise. Consequently, Rule 65(e) is not applicable, and this Court has the authority to grant the relief sought by Mr. Marlowe.

In the alternative, even if this Court determines that 18 U.S. Code § 3626(g)(4) does apply, the Court still has the authority to issue an injunction pursuant to 18 U.S. Code § 3626(a)(3) that recognizes the following: 1) as a diabetic prisoner, Mr. Marlowe’s current conditions of confinement violate his constitutional rights and pose a threat of irreparable harm should he contract COVID-19 at Rayburn; 2) in order to remedy Mr. Marlowe’s unconstitutional conditions of confinement, Defendant Leblanc must furlough him pursuant to La. R.S. 15:833 or immediately remedy the unconstitutional conditions at Rayburn in order to protect Mr. Marlowe’s life – preferably within the next twenty-four hours.

Defendant Leblanc has a plethora of options to reduce crowding at places like Rayburn. Namely, he has access to every prisoner’s TIGER Score to determine which prisoners are at low risk to reoffend should they be released from incarceration to home confinement. Of note, Mr. Marlowe has a low-risk TIGER Score. He also has the authority to furlough prisoners, like Mr. Marlowe, pursuant to La. R.S. 15:833. However, the Defendant has taken no such action to

dramatically reduce the prison population at Rayburn so that those who remain incarcerated can properly socially distance themselves from others.

B. Mr. Marlowe Has Standing to Sue for Injunctive Relief

Mr. Marlowe has standing to sue for injunctive relief. Without a doubt, seventeen (17) prisoners at Rayburn have contracted COVID-19. *See* <https://doc.louisiana.gov/doc-covid-19-testing/> (last visited Apr. 7, 2020). **The number of incarcerated prisoners has tripled since the Court held a telephone conference on this matter on April 3, 2020.** Without just a basic understanding of how this virus rapidly spreads, the actual number of Rayburn prisoners that have the virus is actually much higher: as asymptomatic prisoners are continuing to pass it and there are probably prisoners exhibiting other symptoms besides having a fever that have not been tested. For instance, the Defendants' Opposition indicates that prisoners with a fever are being tested for COVID-19. However, as the CDC states, fever is just one symptom of COVID-19. *See Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease*, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html>, (last visited Apr. 7, 2020). In fact, the CDC writes

The signs and symptoms of COVID-19 present at illness onset vary, but over the course of the disease, most persons with COVID-19 will experience the following^{1,4-9}:

- Fever (83–99%)
- Cough (59–82%)
- Fatigue (44–70%)
- Anorexia (40–84%)
- Shortness of breath (31–40%)
- Sputum production (28–33%)
- Myalgias (11–35%)

. . . Headache, confusion, rhinorrhea, sore throat, hemoptysis, vomiting, and diarrhea have been reported but are less common (<10%). Some persons with COVID-19 have

experienced gastrointestinal symptoms such as diarrhea and nausea prior to developing fever and lower respiratory tract signs and symptoms.

Id. (footnotes omitted). Clearly from the Defendants' Opposition, Rayburn is only conducting limited testing if prisoners present with one specific symptom – fever. As such, one prisoner may have fatigue and myalgias, go undetected and infect potentially hundreds more people because Rayburn prisoners cannot possibly socially distance themselves.

Furthermore, the United States Supreme Court has already ruled on this issue. *See Helling v. McKinney*, 509 U.S. 25, 30 (affirming appellate court's decision that "it would be cruel and unusual punishment to house a prisoner in an environment exposing him to levels of ETS that pose an unreasonable risk of harming his health."). In fact, the *Helling* Court summarized this issue by stating

In *Hutto v. Finney*, 437 U.S. 678, 682, 57 L. Ed. 2d 522, 98 S. Ct. 2565 (1978), we noted that inmates in punitive isolation were crowded into cells and that some of them had infectious maladies such as hepatitis and venereal disease. This was one of the prison conditions for which the Eighth Amendment required a remedy, even though it was not alleged that the likely harm would occur immediately and even though the possible infection might not affect all of those exposed. **We would think that a prison inmate also could successfully complain about demonstrably unsafe drinking water without waiting for an attack of dysentery.**

Id. at 33 (emphasis added).

Without doubt, Mr. Marlowe has presented sufficient evidence that he is being housed in prison conditions where he is exposed to a potentially fatal disease considering his underlying health conditions. He can complain about being exposed to COVID-19 without demonstrating that he has it, just like a prison inmate could complain about drinking unsafe water without waiting for an attack of dysentery.

C. This Is Not A Lawsuit Against the State

Secretary Leblanc is a named defendant in this litigation. As conceded by the Defendants' in their Opposition, he is regularly briefed via conference call and is fully aware of the situation on the ground at Rayburn. The Plaintiff should not be penalized in this emergency situation for his references to DPS&C. Secretary Leblanc is also the only individual who can properly remedy this situation. He has all the tools at his disposal to rectify this situation.

D. Plaintiff Cannot Exhaust this Claim

Mr. Marlowe cannot exhaust this claim as required by the Prisoner Litigation Reform Act ("PLRA"), as conceded by Rayburn's Continuity of Operations Plan (Mar. 20, 2020). *See* Doc. 101-1, p. 14. Specifically, this document indicates that ARPs and DB appeals are Non-Essential Functions. *Id.* Consequently, even if Mr. Marlowe wanted to try to file an ARP concerning this matter, he is unable because the facility is operating in a Phase Red, as per the directives of this Exhibit. *Id.*

Lastly, Mr. Marlowe cannot actually file any kind of ARP because under his current conditions he does not have access to "paperwork/computers," and upon information and belief the law library is closed. *See* Exhibit A.

Nevertheless, undersigned counsel wishes to represent to this Court that she has emailed an ARP as of today to Lt. Carol Jordan who works in the legal department and to Attorney Debbie Rutledge and Jonathan Vining, who are lawyers for the DPS&C lawyer and handle matters at Rayburn. *See* Exhibit B.

Furthermore, the PLRA "contains nothing expressly foreclosing courts from exercising their traditional equitable power to issue injunctions to prevent irreparable injury pending

exhaustion of administrative remedies.” *See Jackson v. District of Columbia*, 254 F. 3d 262, 268 (D.C. Cir. 2001).

E. Mr. Marlowe Should Be Placed on Home Confinement

Mr. Marlowe is a Class A Trusty and works with the canine chase team. Undersigned counsel believe that any official at Rayburn would confirm all of this and recommend Mr. Marlowe for release. Mr. Marlowe’s DPS&C generated TIGER score provides further strong evidence of his rehabilitation and the lack of likelihood of recidivism.

Moreover, Mr. Marlowe is a diabetic inmate. His chronic illness is exceedingly difficult to manage in a prison setting under normal circumstances. He does not have access to regular dental, podiatry and optometry appointments to help manage his diabetes. Further, his access to appropriate food choices that would best manage his diabetes are extremely limited.

Lastly, and most importantly, Mr. Marlowe’s diabetic condition puts him at grave immediate risk to develop serious complications should he contract COVID-19. Due to the unavoidable conditions at RCC, it is impossible for Mr. Marlowe to abide by CDC social distancing recommendations to help reduce his likelihood of contracting the illness.

Mr. Marlowe has a loving and supportive family. Should he be released, he can live with either his mother at her property in Lufkin, Texas or with his cousin in Leesville, Louisiana.

WHEREFORE, Plaintiff respectfully requests that this Court grant this application for a temporary restraining order and preliminary injunction that temporarily releases Mr. Marlowe from the custody of the DPS&C and places him temporarily in a supervised release program with or without location monitoring.

Respectfully submitted,

/s/ Emily H. Posner

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/s/ Alexander Bollag

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New Orleans, Louisiana 70115
Phone: 504.913.7740
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Attorneys for Mr. Marlowe

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2020 a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system.

/s/ Emily H. Posner



Inmate Search Prison Search Help

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Home Send Money Email Music My Account

Inbox (135)



Compose

Sent

Buy Stamps

Stamp Balance (5)

Transfer Stamps

Transaction History

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Reply

◀ Prev Next ▶

From: CHRISTOPHER MARLONE
Date: 4/6/2020 6:10:15 AM
To: Emily Posner

Attachments:

also, I meet ALL criteria for med. par. ... are you going write the ARP? I don't have access to paperwork/computers here. this is a twiligh zone camp.

they haven't announced sick call since this started.

my mom/step dad are moving some tools and amenities to the farm this week, just in case. brooklyn said she'd come pick me up if it worked out. grandpa is 85 and I talked to him for the first time in 4 years last night, and he was tearing up and hopeful I got to see him before he died. he said he's holding up for me to come home, locked in his house and watching the news. so everyone is hopeful, but a tinge nervous it won't work out or I'll get sick.

can't say I don't believe in you, you killing it. just hope we pull a sympathetic ear. the ag Barr released over 500 diabetics to house arrest.. there's gotta be a precedent set by someone. bingo bango the feds did it, now the state should follow suit with usin their administrative parole or medical parole powers, or give relief via clemency. how are these not explored options by the state?

OK, enough ranting. I'm stressed and excited. I'm gonna owe you so big if I get to hug my grandpa.

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CHRIS MARLONE (DOC # 558-725)

V.

STATE OF LOUISIANA and WARDEN TANNER and SECRETARY LEBLANC

REQUEST TO INITIATE ADMINISTRATIVE REMEDY PROCEDURE

TO: Warden Robert Tanner
Office of the Warden
Rayburn Correctional Center
27268 Hwy 21
Angie, Louisiana 70426

FROM: Emily Henrion Posner #35284
7214 St. Charles Ave.
Box 913
New Orleans, Louisiana 70118
Phone: 225-746-8820
Cell: 207-930-5232
Fax: 225-208-1439
Email: ep@emilyposnerlaw.com

CC: Mr. Jonathan Vining: JVining@corrections.state.la.us

Carol Jordan: cjordan@corrections.state.la.us

Debbie Rutledge: drutledge@corrections.state.la.us

Dear Warden Tanner:

I am filing this request for administrative remedy on behalf of Chris Marlone (DOC #558725) and in light of the emergent Covid-19 pandemic, its affects on the RCC offender population and staff, and his inability to remain socially distant from other offenders, as mandated by Governor John Bel Edwards.

According to the Federal Coronovirus Task Force and Governor Edwards, it is mandated that everyone, including offenders, keep a distant of six feet apart from others to stop the spread of the virus.

Unfortunately, Mr. Marlone is unable to follow the mandate at RCC or any prison, for many reasons: 1) RCC is overcrowded, 2) the bunks are only two feet apart, 3) the shower and bathroom area force offenders to stand one feet part to shower, wash their hands, or urinate, 4) the t.v and game room area have the potential to produce a cluster of covid cases because of the close proximity Mr. Marlone is forced to share with other offenders to watch the news, and 5) the very small tables in the kitchen seat four offenders at a time, which place offenders within inches of each other to eat their meals. It is a medically accepted fact that the virus is easily spreading by talking to another person. Talking is normal while eating in the kitchen.

As the number of positive cases and potentially suspect cases grow at RCC, among both officers

and offenders, there is an increase risk of exposure and danger to Mr. Marlone's health and safety as a diabetic. Mr. Marlone wasn't sentenced to death, rather he was sentenced to a fix of number of years, but his continual incarceration at RCC, with the increase exposure to the virus rapidly spreading at this prison imposes an unlawful death sentence in violation of his Eighth Amendment right to remain free of cruel and unusual punishment.

Relief Requested

1. That Mr. Marlone be temporarily released from the custody of RCC until after the spread of COVID-19 abates or a vaccine is manufactured.
2. That Mr. Marlone be released to the custody of his cousin in Leesville, Louisiana or his mother in Luftkin, Texas.
3. That as a condition of parole, Mr. Marlone wear an ankle bracelet and follow all the guidelines required of a parolee under Louisiana's parole laws.

Respectfully submitted,

/s/ Emily H. Posner

Emily H. Posner (La. Bar No. 35284)
7214 St. Charles Box 913
New Orleans, Louisiana 70118
Phone: 225-746-8820
Cell: 207-930-5232
Fax: 225-208-1439
Email: emilyposnerlaw@gmail.com

ORIGINAL DATE OF ARP REQUEST: April 7, 2020
SUPPLEMENTAL DATE OF ARP REQUEST:
SUBMITTED BY: Emily Posner on behalf of Mr. Chris Marlone (DOC # 558-725)

I hereby certify by signature below that a true, correct, and complete copy of this supplemental **request for administrative remedy or "ARP,"** was submitted by email to Lt. Carol Jordan and Attorney Debbie Rutledge of the Department of Corrections on April 7, 2020. The original, signed copy will follow by Fed-Ex.

/s/ Emily H. Posner

Emily H. Posner

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

MARLOWE : CIVIL ACTION
VERSUS : NO. 18-63-BAJ-EWD
LEBLANC, ET AL : APRIL 7, 2020

=====

TELEPHONIC EVIDENTIARY HEARING
BEFORE THE HONORABLE BRIAN A. JACKSON
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S
(TELEPHONICALLY)

FOR THE PLAINTIFF:

BY: EMILY HENRION POSNER, ESQ.
7214 ST. CHARLES AVENUE
BOX 913
NEW ORLEANS, LOUISIANA 70118

BY: ALEXANDER BOLLAG, ESQ.
5208 MAGAZINE STREET
SUITE #191
NEW ORLEANS, LOUISIANA 70115

FOR THE DEFENDANTS:

LOUISIANA DEPARTMENT OF JUSTICE
BY: SUZANNE QUINLAN MOONEY, ESQ.
1885 NORTH THIRD STREET
SUITE FOURTH FLOOR
BATON ROUGE, LOUISIANA 70802

FOR THE DEPARTMENT OF CORRECTIONS:

BY: JONATHAN R. VINING, ESQ.
BY: DEBRA A. RUTLEDGE, ESQ.
504 MAYFLOWER STREET
BATON ROUGE, LOUISIANA 70802

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**REPORTED BY: NATALIE W. BREAUX, RPR, CRR
UNITED STATES COURTHOUSE
777 FLORIDA STREET
BATON ROUGE, LOUISIANA 70801
(225) 389-3565**

**PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING
COMPUTER-AIDED TRANSCRIPTION SOFTWARE**

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I N D E X

DEFENSE WITNESS:

WARDEN ROBERT TANNER	PAGE
DIRECT EXAMINATION BY MS. MOONEY	24
CROSS-EXAMINATION BY MR. BOLLAG	29

PLAINTIFF WITNESS:

CHRIS MARLOWE	
DIRECT EXAMINATION BY MS. MOONEY	54

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PROCEEDINGS

THE COURT: GOOD AFTERNOON, EVERYONE. THIS IS JUDGE JACKSON.

WHO IS ON THE LINE FOR THE PLAINTIFF?

MS. POSNER: EMILY POSNER.

MR. BOLLAG: ALEXANDER BOLLAG.

THE COURT: I'M SORRY. LET'S TRY THAT AGAIN, PLEASE.

MS. POSNER: EMILY POSNER.

THE COURT: MS. POSNER.

MR. BOLLAG: ALEXANDER BOLLAG.

THE COURT: THANK YOU, MR. BOLLAG. ANYONE ELSE?

AND WHO IS ON THE PHONE FOR THE DEFENDANT?

MS. MOONEY: SUZANNE MOONEY FOR ALL OF THE DEFENDANTS, YOUR HONOR. AND WE HAVE DEBBIE RUTLEDGE ON THE PHONE, WHO IS WARDEN TANNER'S ASSIGNED ATTORNEY FROM DOC. AND JONATHAN VINING, THE GENERAL COUNSEL FROM DOC, IS ON THE PHONE, ALSO.

THE COURT: OKAY. VERY GOOD. THANK YOU ALL FOR JOINING US THIS AFTERNOON.

LET ME JUST ASSURE EVERYONE, OF COURSE, THAT I'VE READ ALL THE PLEADINGS AND I'VE READ ALL THE ATTACHMENTS. I DO NOT -- I WILL TELL YOU AT THE OUTSET I DO NOT ANTICIPATE HAVING TO TAKE ACTUAL

1 EVIDENCE IN THE CASE. AND THE REASON FOR THAT IS
2 THAT I DON'T KNOW IF ANY OF THE EVIDENCE IS IN
3 DISPUTE -- ANY OF THE FACTUAL EVIDENCE, AT LEAST --
4 IS IN DISPUTE AT THIS TIME.

5 LET ME FIRST TURN TO YOU, MS. MOONEY. YOU
6 SAW THAT MS. POSNER AND MR. BOLLAG HAVE FILED A
7 NUMBER OF EXHIBITS TO THEIR MOST RECENT FILING. DO
8 YOU TAKE ISSUE WITH ANY OF THE FACTS THAT ARE LAID
9 OUT IN THE VARIOUS EXHIBITS?

10 **MS. POSNER:** YOUR HONOR, EXCUSE ME. ARE WE
11 TALKING ABOUT -- SOMETHING JUST CAME THROUGH AND I
12 HAVEN'T BEEN ABLE TO GET THE INTERNET TO OPEN IT UP,
13 A RESPONSE.

14 ARE WE TALKING ABOUT THEIR INITIAL -- THEIR
15 AMENDED EXHIBITS? BECAUSE I DON'T HAVE ANY PROBLEM
16 WITH THE AMENDED EXHIBITS THAT I SAW EARLIER TODAY OR
17 YESTERDAY.

18 **THE COURT:** RIGHT. THERE WAS YESTERDAY
19 THAT -- AND SPECIFICALLY, FOR THE RECORD -- AND FIRST
20 OF ALL, LET ME JUST BACK UP FOR A MOMENT AND JUST
21 STATE FOR THE RECORD THAT THIS HEARING IS BEING
22 CONDUCTED VIA VIDEO -- OR TELEPHONE CONFERENCING, AND
23 WE ARE ON THE RECORD IN THIS HEARING.

24 MS. POSNER, HAVE YOU DISCUSSED THE FACT THAT
25 WE WILL HAVE THIS HEARING VIA TELEPHONE CONFERENCE

1 MEANS WITH YOUR CLIENT PRIOR TO TODAY?

2 MS. POSNER: JUDGE, YES. YOUR HONOR, I HAVE
3 SPOKEN VIA JPEG EMAIL WITH MR. MARLOWE. AND MR.
4 MARLOWE IS ALSO PRESENT ON THE PHONE AND IS ABLE TO
5 LISTEN AND IS PREPARED TO PROVIDE TESTIMONY.

6 AND IF I MAY, MS. MOONEY AND MYSELF
7 CONFERRED EARLIER TODAY ABOUT THE EXHIBITS TO OUR TRO
8 AND MEMORANDUM IN SUPPORT AND TO THEIR OPPOSITION,
9 AND WE BOTH AGREED TO STIPULATE THAT ALL OF THOSE
10 EXHIBITS COULD BE ENTERED INTO THE RECORD.

11 I DID, ABOUT 30 MINUTES AGO, FILE A REPLY TO
12 THEIR OPPOSITION WHERE THERE IS TWO ADDITIONAL
13 EXHIBITS, BUT WE HAVE NOT HAD A CHANCE TO SPEAK ABOUT
14 THAT.

15 THE COURT: AND WE'LL TAKE THAT UP IN JUST A
16 MOMENT.

17 HAVING DISCUSSED WITH YOUR CLIENT THE FACT
18 THAT THE COURT WILL CONDUCT THIS HEARING VIA
19 TELEPHONE CONFERENCE, DOES YOUR CLIENT HAVE ANY
20 OBJECTION TO THE COURT PROCEEDING IN THIS MANNER?

21 MS. POSNER: NO, JUDGE.

22 THE COURT: VERY WELL.

23 MS. MOONEY, HAVE YOU DISCUSSED WITH
24 SECRETARY LEBLANC, AND THE OTHER DEFENDANTS IN THE
25 CASE, THE FACT THAT THE COURT WILL CONDUCT THIS

1 HEARING VIA TELEPHONE CONFERENCING CAPABILITY?

2 MS. MOONEY: YES, YOUR HONOR.

3 THE COURT: DO THEY HAVE ANY OBJECTION TO
4 THE COURT PROCEEDING ACCORDINGLY?

5 MS. MOONEY: NO, YOUR HONOR.

6 THE COURT: THANK YOU ALL VERY MUCH.

7 AS YOU KNOW -- AND I WILL JUST OBSERVE FOR
8 THE RECORD THAT THE COURT IS NOT IN SESSION IN THE
9 COURTHOUSE AT THIS TIME BECAUSE OF THE STATE OF
10 EMERGENCY ISSUED BY THE PRESIDENT AS WELL AS THE
11 STAY-AT-HOME ORDER ISSUED BY THE GOVERNOR. I WILL
12 ALSO NOTE THAT IN THE INTEREST OF PUBLIC SAFETY AND
13 THE SAFETY OF OUR EMPLOYEES AND STAFF MEMBERS, THE
14 COURT HAS ELECTED TO CONDUCT THESE TYPES OF HEARINGS
15 VIA TELEPHONE OR VIDEO CONFERENCING. IN THIS CASE,
16 OF COURSE, WE ARE PROCEEDING VIA TELEPHONE
17 CONFERENCING.

18 AND GIVEN THAT THERE IS NO OBJECTION TO
19 SUCH -- AND I'LL ALSO STATE THAT THE CHIEF JUDGE OF
20 THE DISTRICT HAS SIGNED AN ADMINISTRATIVE ORDER
21 PERMITTING THESE TYPES OF HEARINGS, AGAIN, IN
22 ADDITION TO THE NATIONAL AND STATE PROCLAMATION THAT
23 HAS RESULTED IN THE COURT PROCEEDING IN THIS MANNER.

24 NOW, WITH RESPECT TO YOUR MOST RECENT
25 PLEADING, MS. POSNER, I HAVEN'T SEEN THAT EITHER, I

1 MUST TELL YOU. OF COURSE, I HAVE REVIEWED THE
2 DOCUMENTS YOU FILED YESTERDAY AS WELL AS YOUR AMENDED
3 PLEADING.

4 SO, MS. MOONEY, I DON'T KNOW IF YOU FEEL
5 LIKE YOU'RE AT A DISADVANTAGE AT THIS TIME; BUT IF AT
6 ANY TIME YOU BELIEVE THAT YOU ARE AND YOU NEED TIME
7 TO REVIEW THESE ADDITIONAL FILINGS, LET ME KNOW. I
8 WOULD SUGGEST, HOWEVER, THAT WE PROCEED BASED UPON
9 THE RECORD THAT I GUESS YOU AND I HAVE REVIEWED UP TO
10 THIS POINT. IS THAT AGREEABLE TO YOU, MS. MOONEY?

11 **MS. MOONEY:** YES, YOUR HONOR.

12 **THE COURT:** VERY WELL.

13 SO AGAIN, IT IS NOT MY -- IT IS MY
14 INTENTION, I SHOULD SAY, TO NOT TAKE TESTIMONY IN THE
15 CASE. THE REASON FOR THAT IS BECAUSE I'M SURE -- AND
16 MY COMMENTS AT THIS TIME ARE DIRECTED TO MR. MARLOWE;
17 THAT IF MR. MARLOWE WERE TO TESTIFY UNDER OATH TODAY,
18 THAT HE WOULD TESTIFY CONSISTENT WITH THE INFORMATION
19 THAT'S BEEN PREVIOUSLY PROVIDED BY HIS COUNSEL. I
20 DON'T THINK THERE IS ANY FACTUAL DISPUTE REGARDING
21 THE REASONS WHY MR. MARLOWE IS INCARCERATED AT THIS
22 TIME. THERE IS CERTAINLY NO FACTUAL DISPUTE THAT
23 COVID-19 HAS NOW SADLY MANIFESTED ITSELF IN, I WOULD
24 IMAGINE, SEVERAL OF THE DOC FACILITIES AT THIS TIME
25 BUT, MOST CERTAINLY, THE RAYBURN CORRECTIONAL

1 FACILITY.

2 THERE IS NO DISPUTE REGARDING ANY OF THAT
3 INFORMATION. IS THAT CORRECT, MS. MOONEY?

4 **MS. MOONEY:** THAT'S CORRECT, YOUR HONOR.

5 **THE COURT:** OKAY. BUT LET ME GIVE YOU,
6 MS. POSNER, AN OPPORTUNITY TO PROVIDE ANY OTHER
7 INFORMATION -- NOT IN THE WAY OF ARGUMENT BUT IN THE
8 WAY OF FACT. I'M AWARE OF MR. MARLOWE'S MEDICAL
9 HISTORY. I HAVE REVIEWED THE MEDICAL RECORDS THAT
10 YOU SUPPLIED AS ONE OF YOUR EXHIBITS. NO ONE
11 DISPUTES THE FACT THAT YOUR CLIENT HAS BEEN DIAGNOSED
12 WITH AN ILLNESS THAT PERHAPS PLACES HIM IN A HIGHER
13 RISK CATEGORY. THERE IS NO QUESTION ABOUT THAT.

14 BUT LET ME GIVE YOU AN OPPORTUNITY TO AT
15 LEAST TELL ME ANYTHING ELSE THAT YOU THINK I SHOULD
16 KNOW, BEARING IN MIND, AGAIN, THAT I'VE ALREADY READ
17 THE PLEADINGS AND THE EXHIBITS.

18 **MS. POSNER:** CERTAINLY, JUDGE. I DO BELIEVE
19 THAT THERE ARE ADDITIONAL FACTS, AT LEAST IN REGARDS
20 TO HOW CHALLENGING IT TRULY IS IN THIS TYPE OF A
21 SETTING, FOR PRISONERS LIKE MR. MARLOWE TO SOCIALLY
22 DISTANCE IN A WAY THAT MOST PROPERLY PROTECTS HIM AND
23 IN A WAY THAT YOU AND MYSELF, MS. MOONEY AND
24 EVERYBODY ELSE THAT IS CURRENTLY SOCIALLY DISTANCING.

25 THESE ARE FACTS THAT I HAVE CONTINUED TO

1 LEARN FROM MR. MARLOWE -- WE'VE ENGAGED VIA JPEG
2 COMMUNICATION AND -- AS I'VE LEARNED, YOU KNOW, TRULY
3 WHAT HIS DAILY LIFE IS LIKE AS AN INCARCERATED
4 INDIVIDUAL.

5 SO HE HAS EXPRESSED TO ME, YOU KNOW,
6 CHALLENGES AROUND LAUNDRY, AROUND THE ICE CHEST THAT
7 IS IN HIS DORMITORY, AROUND USE OF THE MICROWAVE,
8 AROUND AISLES IN THE BED, AROUND THE -- WHEN PEOPLE
9 ARE BRUSHING THEIR TEETH, CLEANING THE TOILETS; THE
10 SHOWERS, THE SINKS, CHOW HALL, THE ASSEMBLY LINE, THE
11 CHOKE AISLE -- CHOKE POINTS THAT EXIST ON THE WALKS
12 FROM THE TIER WHEN GUYS ARE WALKING; USING THE
13 COMPUTER TO DO THESE JPEG COMMUNICATIONS. THESE ARE
14 ALL THINGS THAT HE'S PREPARED TO CONTINUE TO TESTIFY
15 ABOUT -- HOW MAINTAINING SIX FEET IS VIRTUALLY
16 IMPOSSIBLE FOR HIS FELLOW PRISONERS -- THAT I WAS NOT
17 ABLE -- MR. BOLLAG AND MYSELF ARE NOT ABLE TO GET
18 INTO INITIAL PLEADINGS.

19 AND SO, JUDGE, MR. MARLOWE IS PREPARED TO
20 PROVIDE ANY ADDITIONAL FACTS RELATED TO ALL OF THOSE,
21 YOU KNOW, INSTANCES THAT I JUST SPOKE ABOUT.

22 I WOULD ALSO SAY THAT WE HAVE CONCERN -- AND
23 THAT MR. BOLLAG IS PREPARED TO TAKE TESTIMONY FROM
24 WARDEN TANNER RELATED TO WARDEN TANNER'S STATEMENT
25 COMPARED TO THE -- I DON'T KNOW IF IT'S -- THE

1 CORRECT PRONUNCIATION IS EITHER COOP OR THE COOP, THE
2 PLAN, AND WHAT'S ACTUALLY HAPPENING ON THE GROUND.
3 THERE SEEMS TO BE SOME DISCREPANCY THERE.

4 AND I DO ACKNOWLEDGE THAT I THINK EVERYONE
5 HERE IS TRYING THEIR VERY, VERY BEST TO MAKE SURE
6 THAT NOBODY GETS SICK AT RAYBURN, SO THIS IS NOT, YOU
7 KNOW, ABOUT ANYONE INDIVIDUALLY OR THEIR ACTIONS OR
8 INACTIONS BUT JUST ABOUT THE CHALLENGES THAT EXIST IN
9 THIS TYPE OF A CORRECTIONAL SETTING. SO WE WOULD
10 LIKE THE OPPORTUNITY TO EXPLORE THIS DISCREPANCY WITH
11 THE APPROPRIATE COURT.

12 **THE COURT:** OKAY. WELL, AGAIN, I AND
13 EVERYONE ELSE IS VERY MUCH AWARE THAT INCARCERATED
14 PERSONS DO NOT ENJOY THE DEGREE OF LATITUDE AND
15 FREEDOM THAT UNINCARCERATED OR FREE PEOPLE -- I GUESS
16 THE TERM THAT'S USED -- ENJOY TO DO WHAT THEY SHOULD
17 TAKE TO OBSERVE ALL THE SOCIAL DISTANCING THAT THE
18 GOVERNOR AND OTHERS HAVE CALLED FOR.

19 AND AGAIN, MS. MOONEY, I'LL GIVE YOU AN
20 OPPORTUNITY TO ADDRESS THAT IN JUST A MOMENT.
21 SUFFICE IT TO SAY THAT I THINK WE'RE VERY MUCH ALL
22 AWARE OF THE DIFFICULTIES THAT INCARCERATED PERSONS
23 FACE AT A TIME LIKE THIS.

24 I WILL SAY THAT -- I WILL OFFER THE
25 OBSERVATION -- I THINK THE STATE HAS RAISED THIS --

1 FIRST ON A PROCEDURAL MATTER; AND THAT IS WHETHER
2 THIS ISSUE OR THIS CLAIM IS PROPERLY BROUGHT IN THIS
3 PROCEEDING; THAT IS, THE 18-63 THAT WAS FILED ALMOST
4 TWO YEARS AGO NOW.

5 IT SEEMS TO ME, MS. POSNER, THIS IS AN
6 ENTIRELY DIFFERENT CLAIM, INDEED AN ENTIRELY
7 DIFFERENT CAUSE OF ACTION HERE. SO WHY SHOULD THE
8 COURT EVEN CONSIDER THIS MATTER WITH RESPECT TO THE
9 CURRENT CLAIM PENDING BROUGHT BY YOUR CLIENT; AND
10 WHY, MORE SPECIFICALLY, SHOULDN'T I REQUIRE THAT YOU
11 FILE A SEPARATE LAWSUIT?

12 **MS. POSNER:** I'M SORRY, YOUR HONOR. I
13 WANTED TO MAKE SURE MY PHONE WAS NOT ON MUTE.

14 WE DID ADDRESS THIS IN OUR RESPONSE THAT WAS
15 FILED JUST, YOU KNOW, ABOUT 30 MINUTES BEFORE THIS
16 HEARING. SO SPECIFICALLY IF WE WANT TO TALK ABOUT
17 EXHAUSTION AND WHY WE SHOULD NOT BE FILING A SEPARATE
18 SUIT, IF YOU LOOK -- SPECIFICALLY I'D LIKE TO POINT
19 OUT IN THE COOP PLAN THAT WAS FILED AS AN EXHIBIT --
20 OR COOP PLAN -- TO THE DEFENDANTS' OPPOSITION, IF YOU
21 GO DOWN TO PAGE 14, IT SPECIFICALLY SAYS THAT ARP'S
22 AND DB APPEALS ARE NON-ESSENTIAL ACTIVITIES AT THE
23 FACILITY. AND SO THESE ARE ACTIVITIES THAT ARE --
24 WHICH MEANS THAT MR. MARLOWE IS COMPLETELY UNABLE TO
25 FILE AN ARP TO BEGIN THE EXHAUSTION PROCESS IN ORDER

1 TO MAKE THIS TYPE OF A CLAIM RIPE IN ORDER TO COME
2 INTO COURT.

3 I WOULD ALSO LIKE TO POINT OUT THAT THERE IS
4 JURISPRUDENCE SPECIFICALLY FROM THE D.C. CIRCUIT THAT
5 SAYS -- LET ME JUST FIND IT. YES. THAT SPECIFIC
6 COURT CASE SPECIFICALLY SAYS THAT THE PLRA, QUOTE,
7 CONTAINS NOTHING EXPRESSLY FORECLOSING COURTS FROM
8 EXERCISING THEIR TRADITIONAL EQUITABLE POWER TO ISSUE
9 INJUNCTIONS TO PREVENT IRREPARABLE INJURY PENDING
10 EXHAUSTION OF ADMINISTRATIVE REMEDIES. AND THAT CASE
11 IS *JACKSON VS. DISTRICT OF COLUMBIA*, 254 F.3D 262 AT
12 PAGE 268.

13 AND SO CONSIDERING THE EXTREMELY UNUSUAL
14 CIRCUMSTANCES THAT WE LIVE IN, I CAN THINK OF NO
15 OTHER TIME INVOLVING HISTORY WHERE SUCH SHELTER-IN-
16 PLACE ORDERS HAVE BEEN ISSUED BY THE GOVERNOR, LET
17 ALONE, YOU KNOW, THE SUSPENSION OF VISITATION BY BOTH
18 ATTORNEYS AND BY THE PUBLIC TO PRISONERS. IN THE
19 SEVEN YEARS I'VE BEEN PRACTICING, NOTHING LIKE THIS
20 HAS EVER HAPPENED IN A DEPARTMENT OF CORRECTIONS
21 FACILITY THAT I KNOW OF.

22 I THINK THAT EXHAUSTION AT THIS POINT IS
23 SOMETHING THAT CAN BE WAIVED SO THAT THE COURT CAN
24 LOOK IN TERMS OF WHETHER AN EQUITABLE REMEDY IS
25 AVAILABLE. AND WE BELIEVE, CONSIDERING THAT

1 DEFENDANT LEBLANC IS THE PERSON WHO HAS THE AUTHORITY
2 TO RECTIFY THIS PARTICULAR SITUATION IN REGARDS TO
3 OVERCROWDING -- I MEAN, I WOULD SAY NORMALLY MAYBE
4 MR. MARLOWE DOES NOT LIVE IN A DORM THAT IS
5 OVERCROWDED. BUT IN THE CLIMATE WHERE COVID-19 IS A
6 PANDEMIC, THE CONDITIONS THAT MR. MARLOWE IS LIVING
7 IN ARE OVERCROWDING. AND THE SECRETARY HAS THE
8 AUTHORITY TO RELEASE PEOPLE; HE HAS THE AUTHORITY TO
9 DETERMINE WHO IS CONSIDERED LOW RISK VIA THEIR
10 INTERNAL ABILITY -- THEIR TIGER SCORE; HE HAS THE
11 ABILITY TO FURLOUGH --

12 **THE COURT:** LET ME STOP YOU RIGHT THERE.
13 MS. POSNER, LET ME STOP YOU RIGHT THERE. I
14 UNDERSTAND ALL THAT, AND I DON'T -- AGREE WITH YOU
15 THAT THE SECRETARY HAS THE AUTHORITY TO DO ALL THE
16 THINGS YOU'VE JUST LISTED.

17 MY QUESTION TO YOU IS -- THIS IS COMPLETELY
18 UNRELATED -- AT LEAST THE CLAIM HERE BEFORE THE COURT
19 AT LEAST AT THIS TIME IS COMPLETELY UNRELATED TO THE
20 1983 ACTION THAT WAS INITIALLY FILED BY YOUR CLIENT.
21 IN FACT, I BELIEVE THAT MUCH OF THE ALLEGATIONS
22 INVOLVED A DIFFERENT DOC FACILITY. IS THAT RIGHT?

23 **MS. POSNER:** THAT IS CORRECT, YOUR HONOR.
24 HOWEVER, WE WOULD ARGUE THAT BECAUSE THE UNDERLYING
25 ISSUE IS RELATED TO HIS MEDICAL CARE CONCERNING HIS

1 DIABETES, AND HIS DIABETIC CONDITION IS WHAT MAKES
2 HIM SO EXTREMELY VULNERABLE TO COMPLICATIONS,
3 WHICH -- SHOULD HE CONTRACT COVID-19, THAT THIS TYPE
4 OF EMERGENCY MOTION IS APPROPRIATE IN THIS AVENUE IN
5 ORDER FOR THE COURT TO -- YOU KNOW, TO PROTECT MR.
6 MARLOWE'S LIFE.

7 **THE COURT:** WELL, LET ME HEAR FROM MS.
8 MOONEY. I'M SURE, MS. MOONEY, YOU -- IF YOU -- YOU
9 MAY NOT AGREE WITH THAT.

10 **MS. MOONEY:** YOUR HONOR, I DON'T. THE
11 OVERCROWDING IS SPECIFIC TO THE PLRA. AND WHEN
12 THEY'RE TALKING ABOUT OVERCROWDING, IT'S NOT MEANT IN
13 THIS FASHION. AND EVEN IF IT WAS -- AND EVEN IF YOU
14 WERE GOING TO SAY IT'S OVERCROWDING, WELL, THEN YOU
15 GO RIGHT BACK TO OUR MAIN ARGUMENT THAT THEY DIDN'T
16 FULFILL THE REQUIREMENTS IN SECTION 3626. THEY JUST
17 SIMPLY HAVEN'T -- THE DEFENDANTS HAVE NOT HAD AN
18 ORDER AGAINST THEM SAYING THAT THEY VIOLATED THE
19 PLAINTIFF'S RIGHTS. AND WE CAN'T GO PAST THERE AT
20 THIS POINT. IT'S JUST -- THERE IS NOTHING ELSE TO BE
21 DONE IN THAT AVENUE.

22 AND JUST -- YOUR HONOR, I DIDN'T PUT THEM IN
23 MY -- I THINK SOMEHOW DIDN'T GET PUT IN THE
24 OPPOSITION, BUT THERE IS MORE AND MORE CASES COMING
25 OUT. THERE IS A *U.S. V CLARK*, *U.S. V BOATRIGHT*, *U.S.*

1 V KANSAS. I MEAN -- LET'S SEE -- *U.S. V MARTIN*. AND
2 IN ALL OF THOSE CASES THEY'RE PRETRIAL DETAINEES THAT
3 THE FEDERAL COURT LOOKS AT THAT HAVE RISK FACTORS AND
4 COVID-19.

5 AND THOSE COURTS, WHICH ARE DISTRICT FEDERAL
6 COURTS, HAVE FOUND CONSISTENTLY THAT HAVING DIABETES
7 IS NOT ENOUGH. IT HAS TO BE A TERMINAL ILLNESS OR
8 SOMETHING PRESSING; IF YOUR DIABETES WAS EXTREMELY
9 OUT OF WHACK OR SOMETHING, MAYBE. BUT THEY DO AN
10 ANALYSIS AND LOOK AT THE REASONS WHY THEY'RE IN -- IN
11 PRETRIAL DETENTION AND HAVE COME OUT ON THE SIDE OF
12 PUBLIC INTEREST.

13 **THE COURT:** OKAY.

14 **MS. MOONEY:** AND JUST LEFT THEM THERE.

15 **THE COURT:** WELL, LET ME SAY -- LET ME JUST
16 ASK YOU -- THANK YOU, MS. MOONEY.

17 MS. POSNER, LET ME ASK YOU. AGAIN, I HAVE
18 NOT HAD THE BENEFIT OF REVIEWING THE PLEADINGS YOU
19 RECENTLY FILED. AND SINCE YOU ADDRESSED THE COURT'S
20 AUTHORITY ON THIS MATTER -- THIS IS A PURELY EIGHTH
21 AMENDMENT CLAIM, IT SEEMS TO ME -- I WILL GIVE YOU,
22 MS. MOONEY, AN OPPORTUNITY TO REVIEW IT AND TO FILE
23 INTO THE RECORD A REPLY, A RESPONSE, IF YOU WISH TO
24 DO SO.

25 BECAUSE AGAIN, AS YOU BOTH KNOW, THE COURT

1 IS UNDER A CONTINUING OBLIGATION AT EVERY PHASE OF
2 ALL FEDERAL LITIGATION TO SATISFY ITSELF OF ITS
3 JURISDICTION. AND SO I WILL NOT ENTER A RULING WITH
4 RESPECT TO THE COURT'S JURISDICTION AT THIS TIME
5 UNTIL I HAVE AN OPPORTUNITY TO REVIEW MS. POSNER'S
6 MOST RECENT PLEADING -- OR THE PLAINTIFF'S MOST
7 RECENT PLEADING -- AND GIVE THE DEFENDANTS AN
8 OPPORTUNITY TO RESPOND.

9 I WILL SET A DEADLINE FOR A RESPONSE, MS.
10 MOONEY. AND UNFORTUNATELY, AS YOU KNOW, YOU WOULD
11 OTHERWISE BE ENTITLED TO 21 DAYS UNDER OUR LOCAL
12 RULES. HOWEVER, GIVEN THE URGENCY OF THIS ISSUE AND
13 THE UNIQUE ISSUES INHERENT IN THIS, I'M GOING TO ASK
14 YOU TRY TO FILE SOMETHING BY NOON ON THURSDAY. I
15 KNOW THAT DOESN'T GIVE YOU A WHOLE LOT OF TIME. I
16 DON'T NEED A WHOLE LOT ON IT. LET ME ASSURE YOU,
17 WE'VE DONE OUR OWN RESEARCH ON THIS. BUT I
18 NONETHELESS FEEL OBLIGATED TO AT LEAST GIVE YOU AN
19 OPPORTUNITY TO ADDRESS THE FUNDAMENTAL ISSUE OF THE
20 COURT'S JURISDICTION IN THIS MATTER.

21 DO YOU HAVE ANY QUESTIONS ABOUT THAT, MS.
22 MOONEY?

23 **MS. MOONEY:** NO, YOUR HONOR. THANK YOU.

24 **THE COURT:** OKAY. NOW, LET'S ASSUME THEN
25 THAT I FIND THAT I HAVE JURISDICTION TO HEAR THIS

1 ISSUE AND TO ADJUDICATE THIS CLAIM IN THE CONTEXT OF
2 A TRO. AGAIN, I DON'T THINK THERE HAS BEEN ANY
3 ISSUES OR EVIDENCE IN DISPUTE AT THIS TIME. I MEAN,
4 WE KNOW THAT THINGS ARE CHANGING DAILY, WE KNOW THAT
5 THIS IS A VERY, VERY SERIOUS ILLNESS, AND IT IS
6 ESPECIALLY SERIOUS AND PERHAPS EVEN FATAL TO THOSE
7 WHO SUFFER SOME SERIOUS UNDERLYING MEDICAL CONDITION
8 SUCH AS DIABETES.

9 I DON'T THAT THINK THERE IS ANY DISPUTE
10 ABOUT THAT. CORRECT, MS. MOONEY?

11 MS. MOONEY: YES. THAT INCLUDES ME.

12 THE COURT: YES.

13 MS. MOONEY: I MEAN, IT INCLUDES -- LIKE
14 THERE ARE SO MANY PEOPLE -- THAT'S WHY WE'VE PUT THE
15 EXHIBITS TO THE LIST OF HOW MANY INDIVIDUALS AT
16 RAYBURN ALONE HAVE HIGH-RISK FACTORS.

17 THE COURT: RIGHT. SO -- AND I UNDERSTAND
18 ALL OF THE THINGS THAT THE -- THAT THE FACILITY IS
19 DOING TO TRY TO MITIGATE THE CHANCES OF INMATES
20 PICKING UP THIS VIRUS. I KNOW THAT THERE ARE SPACING
21 POLICIES THAT ARE NOW IN PLACE AND THERE IS THE
22 HEAD-TO-TOE ALTERNATING SLEEPING ARRANGEMENTS WITH
23 BEDS TWO FEET APART.

24 BUT LET ME GIVE YOU AN OPPORTUNITY TO TELL
25 ME MORE ABOUT, FRANKLY, WHAT THE DEPARTMENT IS DOING

1 NOW AND WHETHER THE DEPARTMENT HAS PLANS TO IMPLEMENT
2 ANY ADDITIONAL MEASURES.

3 MS. MOONEY: YOUR HONOR, COULD I HAVE
4 MR. VINING RESPOND TO THAT?

5 THE COURT: YES.

6 MR. VINING: HI, YOUR HONOR. THIS IS
7 JONATHAN VINING. I'M THE GENERAL COUNSEL FOR DOC.

8 I GUESS -- WHAT I'M GOING TO TELL YOU I
9 DON'T KNOW WOULD BENEFIT MS. POSNER'S CLIENT. BUT
10 WHAT IS IN THE WORKS -- AND I EXPECT TO BE ENACTED IF
11 NOT BY THE END OF THE WEEK, THEN CERTAINLY BY
12 MONDAY -- IS A PLAN TO EXECUTE ON THE SECRETARY'S
13 AUTHORITY TO FURLOUGH INDIVIDUALS, QUITE FRANKLY.

14 THERE ARE A LOT OF PARTIES THAT HAVE TO
15 BASICALLY GIVE THEIR BLESSINGS ESSENTIALLY FOR THIS
16 PROCESS TO WORK. THE SHERIFFS WILL BE INVOLVED, THE
17 DOC INVOLVED. BUT ESSENTIALLY ONCE THE PLAN IS
18 FINALIZED -- AND AGAIN, I DIDN'T SUBMIT THAT TO MS.
19 MOONEY TO FILE BECAUSE IT'S NOT FINALIZED YET. BUT
20 IT WILL ONLY APPLY TO PEOPLE THAT WERE WITHIN SIX
21 MONTHS OF RELEASE. IT WOULD ONLY APPLY TO
22 NON-VIOLENT OFFENDERS AND NON-SEX OFFENDERS.

23 BUT WE'RE STILL TALKING ABOUT 1500 TO A
24 THOUSAND PEOPLE THAT THIS COULD APPLY TO AND THAT
25 HOPEFULLY WE CAN WORK THROUGH SOON IN THE NEXT FEW

1 WEEKS TO GET OUT. BUT MOST OF THAT -- I'M GOING TO
2 BE QUITE FRANK WITH DETAIL -- ALLEVIATE OVERCROWDING,
3 IF WE'RE GOING TO CALL IT THAT, OR ISSUES WITH, YOU
4 KNOW, NOT BEING ABLE TO PROPERLY SPACE PEOPLE IN THE
5 LOCAL FACILITIES. AND SOME OF THE LOCAL FACILITIES
6 ARE OVERCROWDED, AND THOSE ARE FACILITIES THAT ARE
7 RUN BY SHERIFFS.

8 I'M NOT SURE THAT THIS IS BEING DONE WITH SO
9 MUCH IMPACT TOWARD DOC OR DOC STATE PRISONS. BUT
10 THAT'S GOING TO BE TO HELP ALLEVIATE THE STRAIN OF
11 DOC PRISONERS AND LOCAL FACILITIES, SO THAT IS
12 COMING. I EXPECT IT TO BE DONE. THE FINAL DRAFT, AT
13 LEAST FROM MY POINT OF VIEW, WAS SENT OVER THIS
14 AFTERNOON. BUT THE GOVERNOR HAS TO APPROVE IT, SIGN
15 OFF ON IT, AND SO DO THE SHERIFFS AND THE DISTRICT
16 ATTORNEYS.

17 BUT THOSE ARE THE WORKS THAT I GUESS --
18 THAT'S IN THE PIPELINE. AND IT WILL BE ENACTED SOON,
19 BUT I DON'T KNOW HOW MUCH IT WOULD AFFECT THIS CASE
20 AS -- MS. POSNER AND I HAVE ACTUALLY ALREADY
21 DISCUSSED IT EARLIER TODAY -- WITH REGARD TO HER
22 CLIENT.

23 **THE COURT:** SO I TAKE IT THEN, MR. VINING,
24 THAT WHATEVER MEASURES ARE IMPLEMENTED, PARTICULARLY
25 IN THE WAY OF FURLOUGHING PRISONERS AND EARLY RELEASE

1 POLICIES, MAY NOT NECESSARILY AFFECT INMATES AT
2 RAYBURN. CORRECT?

3 MR. VINING: YES, SIR, YOU'RE CORRECT IN
4 THAT.

5 THE COURT: WOULD IT FREE UP SPACE ELSEWHERE
6 THAT WOULD FACILITATE THE MOVEMENT OF INMATES FROM
7 RAYBURN TO OTHER FACILITIES SO THAT GREATER SOCIAL
8 DISTANCING COULD BE ACHIEVED?

9 MR. VINING: THAT'S POSSIBLE, YOUR HONOR.
10 BUT I WOULD HATE TO GO ON THE RECORD AND SAY THAT
11 THAT WOULD BE A DEFINITE POSSIBILITY. BUT AGAIN, I
12 THINK THAT WE'VE GOTTEN CONTACT FROM MULTIPLE
13 SHERIFFS THAT FEEL THAT ESSENTIALLY THEY'RE JUST --
14 THEY'RE OVERPOPULATED. AND MAYBE FREEING UP I GUESS
15 THEIR DOC POPULATIONS ARE THE EASIEST WAY TO
16 ALLEVIATE AND CREATE SPACE ISSUES, THEY HAVE THEIR
17 OWN ISSUES, I GUESS, WITH THEIR PRETRIAL DETAINEES.
18 BUT AGAIN, THIS IS MORE TOWARD AN EYE ON HELPING WITH
19 THE LOCAL POPULATION.

20 IF THE NEED ARISES, I BELIEVE THAT -- YOU
21 KNOW, WE HAD CERTAIN SPACES WHERE WE COULD MOVE
22 INDIVIDUALS, BUT I DON'T BELIEVE THAT ANY OF THE
23 PRISONS FEEL THAT THEY'RE AT THAT POINT TO WHERE
24 THAT'S BECOME NECESSARY.

25 THE COURT: ALL RIGHT. NOW, LET ME ASK YOU,

1 MR. VINING, WITH RESPECT TO THE CONTINUITY OF
2 OPERATION PLANS AT LEAST FOR RAYBURN. THE EXHIBIT
3 THAT WAS ATTACHED TO THE PLEADINGS EARLIER TODAY --
4 THIS IS EXHIBIT 1 SPECIFICALLY FOR THE RECORD, AND
5 THAT'S AT DOCUMENT 101-1 -- APPEARS TO HAVE LAST BEEN
6 REVISED ON MARCH 20TH OF THIS YEAR.

7 ARE THERE ANY PLANS NOW THAT -- SINCE WE'VE
8 SEEN THAT EVERY DAY, EVERY COUPLE OF DAYS WE'RE
9 LEARNING MORE ABOUT THIS DISEASE, ARE THERE PLANS TO
10 FURTHER ADVISE OR TO AMEND THIS PLAN IN ANY WAY?

11 **MR. VINING:** JUDGE, WHAT I'LL TELL YOU IS
12 THAT SPECIFICALLY AN EMAIL CAME OUT FROM THE
13 SECRETARY'S OFFICE THIS MORNING, BECAUSE THE CDC
14 AND I BELIEVE (INAUDIBLE) SOME UPDATED WITH
15 ADDITIONAL GUIDANCE AND SUGGESTIONS FOR HOW
16 FACILITIES -- I SAY *FACILITIES*, BUT HOW INDIVIDUALS
17 AND BUSINESSES SHOULD APPROACH, I GUESS, THIS
18 EMERGENCY. AND THOSE PLANS ARE MEANT TO BE UPGRADED
19 ON A CONTINUING BASIS.

20 WITH REGARD TO RAYBURN SPECIFICALLY -- I
21 KNOW YOU DON'T WANT TO TAKE TESTIMONY, BUT I WOULD
22 ALMOST HAVE TO DEFER TO WARDEN TANNER FOR HIM TO GIVE
23 HIS THOUGHTS, BECAUSE HE IS THE ONE THAT MAINTAINS
24 IT. BUT YES, I CAN ASSURE YOU THAT AS NEED ARISES,
25 THOSE PLANS ARE MEANT TO BE UPDATED ON AN ONGOING

1 BASIS.

2 **THE COURT:** ALL RIGHT. WELL, I TELL YOU
3 WHAT I'LL DO. I WOULD LIKE TO HEAR FROM WARDEN
4 TANNER.

5 AND, MS. POSNER, I WILL -- AT THIS TIME I
6 WILL ACCEPT TESTIMONY AND GIVE YOU AN OPPORTUNITY TO
7 CROSS-EXAMINE HIM, IF YOU WISH. I'D RATHER DO IT IN
8 THAT MANNER RATHER THAN RECEIVING A PROFFER.
9 OBVIOUSLY THE LAWYERS -- I'M ALWAYS WILLING TO TAKE A
10 PROFFER FROM LAWYERS TO AVOID HAVING TO TAKE
11 TESTIMONY WHEN APPROPRIATE. BUT IT SOUNDS TO ME THAT
12 IT'S UNAVOIDABLE THAT I HAVE TO HEAR FROM WARDEN
13 TANNER. AND SO AGAIN, MS. POSNER, I'LL GIVE YOU AN
14 OPPORTUNITY TO CROSS-EXAMINE HIM.

15 MS. MOONEY OR MR. VINING, ARE YOU ALL
16 PREPARED TO PRESENT THE TESTIMONY OF WARDEN TANNER AT
17 THIS TIME?

18 **MS. MOONEY:** JONATHAN, WOULD YOU BE ABLE TO
19 GUIDE HIM THROUGH IT OR WOULD YOU WANT ME TO?

20 **MR. VINING:** YOU KNOW WHAT? I WOULD
21 ACTUALLY PREFER YOU TO, SUZANNE. I HATE TO PUT THAT
22 ON YOU, BUT IF ANYTHING POPS UP THAT I CAN ANSWER
23 FROM A DEPARTMENTAL PERSPECTIVE, I'D BE MORE THAN
24 HAPPY TO.

25 **THE COURT:** AND AGAIN, WE'RE GOING TO REMAIN

1 FLUID IN THIS SITUATION. THIS IS, AGAIN, NOT THE
2 MANNER IN WHICH WE, AS YOU ALL KNOW, CUSTOMARILY
3 CONDUCT HEARINGS AND ESPECIALLY EVIDENTIARY HEARINGS
4 IN FEDERAL COURT. BUT AGAIN, WE'RE GOING TO GIVE
5 EVERYONE SOME LATITUDE.

6 I WILL REQUIRE, OF COURSE, WARDEN, THAT YOUR
7 TESTIMONY BE GIVEN UNDER OATH. AT THIS TIME I WOULD
8 ASK MY COURTROOM DEPUTY, MS. HARTER, TO NOW
9 ADMINISTER THE OATH TO THE WITNESS.

10 **REPORTER'S NOTE: (WHEREUPON, WARDEN ROBERT**
11 **TANNER, BEING DULY SWORN, TESTIFIED AS FOLLOWS.)**

12 **THE COURTROOM DEPUTY:** PLEASE STATE AND
13 SPELL YOUR NAME FOR THE RECORD.

14 **THE WITNESS:** ROBERT, R-O-B-E-R-T, TANNER,
15 T-A-N-N-E-R.

16 **THE COURT:** THANK YOU, WARDEN TANNER.
17 MS. MOONEY, YOU MAY PROCEED.

18 **DIRECT EXAMINATION**

19 **BY MS. MOONEY:**

20 **Q** WARDEN TANNER, ARE YOU FAMILIAR WITH THE
21 PLAN -- THE COOP PLAN WE WERE JUST TALKING ABOUT THAT
22 WAS ISSUED ON MARCH 20TH?

23 **A** YES.

24 **Q** AND HAVE YOU UPDATED AND MADE CHANGES TO THE
25 PROTOCOLS WITHIN THE PRISON SINCE THEN?

1 A SINCE MARCH 20TH? YES -- WELL, WE -- I TELL
2 YOU, IT'S A FLUID SITUATION. WE -- YOU KNOW, THE
3 PLAN IS THERE AND IT SERVES AS GUIDANCE TO US.

4 WE MET -- WE MEET ALMOST DAILY, BUT FOR SURE
5 WE MEET MONDAY, WEDNESDAY AND FRIDAY TELECONFERENCE
6 WITH THE SECRETARY AND THE -- AND HIS STAFF AND OTHER
7 WARDENS FROM THE OTHER FACILITIES. AND THINGS, YOU
8 KNOW, ARE CHANGING DAILY. SO, YOU KNOW, THE PLAN, I
9 WOULD SAY, SERVES AS A -- AS A GUIDANCE FOR US.

10 Q SO YOU WOULD CHANGE THINGS ON A DAILY BASIS
11 OR AS SOMETHING COMES TO YOUR ATTENTION?

12 A YES.

13 Q WELL, MS. POSNER SAID SHE HAD SOME ISSUES
14 WITH CERTAIN THINGS. CAN YOU TELL US: HOW DOES THE
15 LAUNDRY WORK?

16 A I MEAN, THEY HAVE A SCHEDULE -- WE HAVE A
17 GENERAL SCHEDULE FOR THE OFFENDERS TO HAVE THEIR
18 LAUNDRY DONE. IT GOES BY HOUSING UNIT. WE HAVE AN
19 OFFICER THAT'S ASSIGNED TO THE LAUNDRY WHO SUPERVISES
20 THE LAUNDERING OF CLOTHES. WE HAVE A SYSTEM WHEREBY
21 WE USE A OZONE TREATMENT TO SANITIZE THE CLOTHES. WE
22 HAVE A SYSTEM OF WEIGHING THE CLOTHES TO MAKE SURE
23 THAT WE DON'T PUT TOO MANY CLOTHES IN THE WASHING
24 MACHINE OR THE DRYER.

25 THEY'RE BROUGHT BACK, YOU KNOW, TO THE

1 DORMITORY IN BUNDLES, THE CLEANED BUNDLES, AND
2 THEY'RE SORTED OUT BY THE ORDERLIES TO BE PASSED OUT
3 TO THE OFFENDERS.

4 Q IS THERE ANY INSTRUCTIONS THAT ARE GIVEN TO
5 THE INMATES ON MAYBE -- THE SOCIAL DISTANCING WHEN IT
6 COMES TO USING THE BATHROOMS, LIKE BRUSHING THEIR
7 TEETH AND STUFF LIKE THAT? ARE THEY INSTRUCTED TO
8 MONITOR THEMSELVES TO STAY SIX FEET AWAY OR HAVE WE
9 PUT DOWN TAPE, OR --

10 A NO, THERE IS -- I MEAN, THERE IS NO
11 REQUIREMENT THAT EVERYBODY HAVE TO GO IN THERE AT THE
12 SAME TIME. THERE IS -- THE SINKS, WE HAVE -- I
13 BELIEVE IT'S THREE, MAYBE FOUR SINKS -- FOUR SINKS
14 PER -- FOR -- PER DORMITORY, WHICH IS -- MEETS THE
15 HEALTH DEPARTMENT REQUIREMENTS FOR THE DORM HOUSING
16 79 OFFENDERS.

17 Q AND IS THERE SOAP AVAILABLE AT ALL TIMES IN
18 THE RESTROOM?

19 A ABSOLUTELY. WE'RE INSISTENT UPON THAT.
20 THERE IS LIQUID HAND SOAP DISPENSERS IN EACH BATHROOM
21 AREA, WHETHER IT'S IN A HOUSING UNIT OR A WORK AREA.
22 AND WE -- WE'VE BEEN PRETTY PERSISTENT ABOUT -- WITH
23 OUR SECURITY STAFF -- ABOUT ENSURING THAT THOSE ARE
24 REFILLED AS NEEDED.

25 Q AND ARE YOU AWARE THAT SOME INMATES ARE AT A

1 HIGHER RISK FOR COMPLICATIONS FROM COVID?

2 A CERTAINLY. THE -- WE HAVE A NUMBER OF
3 INMATES HERE -- AS YOU'RE AWARE, THAT I PROVIDED THE
4 LIST OF SOMETHING OVER 600 OFFENDERS HERE -- THAT
5 HAVE CHRONIC CONDITIONS THAT MAKE THEM MORE
6 SUSCEPTIBLE TO THE VIRUS, AND -- SO WE'RE VERY
7 CONCERNED ABOUT THAT.

8 Q AND IS THERE ANYTHING ELSE YOU WANT TO TELL
9 ME ABOUT HOW YOUR PRISON WORKS AND WHAT YOU'RE DOING?

10 A WELL, YOU KNOW, AS -- AS HAS BEEN NOTED, YOU
11 KNOW, IN THE RECORD, THE STEPS THAT WE'RE TAKING TO
12 CLEAN THE FACILITY OR TO KEEP IT CLEAN, THAT'S NOT
13 SOMETHING WE JUST DO FOR THE VIRUS. THAT'S SOMETHING
14 THAT WE INSIST UPON YEAR-ROUND.

15 ON A DAILY BASIS WE TAKE, YOU KNOW, EVERY
16 EFFORT TO MAKE SURE THAT THE FACILITY IS CLEAN AND
17 MEETS APPLICABLE STANDARDS. WE, YOU KNOW, HAVE NO
18 SHORTAGE OF OFFENDERS THAT ARE -- THAT CAN PERFORM
19 THE WORK, AND WE CERTAINLY MAKE SURE THAT THEY HAVE
20 THE MATERIALS TO PROPERLY CLEAN THE FACILITY.

21 WITH EVERYTHING THAT'S BEEN GOING ON WITH
22 THE VIRUS, WE'VE BEEN PROVIDING ADDITIONAL
23 INSTRUCTIONS TO THE OFFENDERS TO -- TO -- ON THE
24 PROPER METHODS OF WASHING THEIR HANDS AND HOW TO, YOU
25 KNOW, COUGH OR SNEEZE INTO THE CROOK OF THEIR SHIRT

1 IF THEY -- OF THEIR ELBOW -- IF THERE IS NOT A TISSUE
2 AVAILABLE. YOU KNOW, JUST ALL THE THINGS THAT WE ALL
3 HEAR ON A DAILY BASIS.

4 AND WE'RE, YOU KNOW, CONTINUING TO ENFORCE
5 THE -- OUR CLEANING RESPONSIBILITIES AS FAR AS HAVING
6 THE ORDERLIES CLEAN WITH A BLEACH SOLUTION, AN
7 APPROPRIATE BLEACH SOLUTION, SURFACES, ALL SURFACES.
8 JUST REALLY BEING A LITTLE -- A WHOLE LOT MORE
9 PROACTIVE ABOUT THAT.

10 THE -- WE RECENTLY ALSO -- TODAY, IN FACT,
11 WE PICKED UP TWO ADDITIONAL -- OR TWO FOG MACHINES
12 THAT ARE INTENDED TO KIND OF HELP WITH THE BATTLE,
13 THE -- OF SANITIZING THE DORMITORIES AND THE HOUSING
14 AREAS. THIS IS A FOGGER THAT USES A DISINFECTANT
15 THAT WILL GO THROUGH THE DORMITORIES AND EMPTY THE
16 DORMITORIES TEMPORARILY WHILE -- YOU KNOW, HAVE THE
17 OFFENDERS STEP OUTSIDE WHILE WOULD WE DO THIS. AND I
18 UNDERSTAND IT SHOULD TAKE MAYBE 30 MINUTES PER DORM
19 TO GET THAT DONE. AND WE'RE GOING TO INITIATE THAT
20 PROCEDURE AS WELL.

21 Q IS THERE AN EMERGENCY ARP PROCEDURE?

22 A THERE IS PROVISIONS IN THE ADMINISTRATIVE
23 REMEDY FOR FILING A REQUEST -- AN EMERGENCY REQUEST
24 FOR A -- TO FILE A GRIEVANCE, YES.

25 Q WOULD THAT BE SUSPENDED AS NON-ESSENTIAL

1 RIGHT NOW?

2 A NO. WE'RE STILL PROCESSING ARP'S AT THIS
3 TIME. WE HAVEN'T SUSPENDED THAT PROCESS. AT THIS
4 FACILITY WE'RE STILL ACCEPTING AND ANSWERING ARP'S,
5 DISCIPLINARY APPEALS AND SUCH AS THAT, AT THE FIRST
6 LEVEL, AT THE WARDEN'S LEVEL, YES.

7 Q DOES YOUR FAMILY RESIDE ON THE POST?

8 A AT THIS TIME MY WIFE AND I DO. AND THEN I
9 HAVE THE DEPUTY WARDEN AND HIS WIFE, AND THEY HAVE A
10 DAUGHTER THAT RESIDES WITH THEM. I HAVE MY
11 CLASSIFICATION DIRECTOR AND HER DAUGHTER, AND THE
12 FACILITY PHYSICIAN RESIDES ON THE GROUND.

13 Q AND ARE YOU EXPOSED TO THE SAME THINGS THAT
14 THE OFFENDERS ARE EXPOSED TO ON A REGULAR DAY?

15 A YES, MA'AM.

16 MS. MOONEY: I DON'T THINK I HAVE ANY MORE
17 QUESTIONS, YOUR HONOR.

18 THE COURT: OKAY. WELL, THANK YOU, MS.
19 MOONEY.

20 MS. POSNER, ANY CROSS-EXAMINATION?

21 MS. POSNER: JUDGE, MR. BOLLAG IS GOING TO
22 DO THE CROSS OF WARDEN TANNER.

23 THE COURT: VERY WELL.

24 CROSS-EXAMINATION

25 BY MR. BOLLAG:

1 Q YES. HI, THIS IS ALEXANDER BOLLAG. THANK
2 YOU, WARDEN TANNER, FOR JOINING US TODAY. I KNOW
3 YOU'RE VERY BUSY, ESPECIALLY RIGHT NOW. I KNOW YOU
4 HAVE ANOTHER APPOINTMENT TO GET TO, SO WE'LL TRY TO
5 GET THROUGH THIS AS QUICKLY AS POSSIBLE. I DO HAVE A
6 FEW QUESTIONS FOR YOU, BUT WE'LL TRY TO DO THIS
7 QUICKLY.

8 YOU JUST MENTIONED THAT THERE IS CHANGES
9 BEING MADE TO THE COOP -- COOP -- COOP/COOP PLAN AS
10 NEEDED ON A DAILY BASIS. CAN YOU TELL US WHAT
11 CHANGES HAVE BEEN MADE.

12 A THERE IS MULTIPLE THINGS THAT ARE CHANGING.
13 BUT AS WE GO THROUGH IT, THERE IS THINGS THAT WE'VE
14 DONE AS FAR AS THE QUESTIONS THAT WE ASK THE
15 EMPLOYEES WHEN THEY COME THROUGH THE FRONT GATE. I'M
16 TRYING TO THINK RIGHT NOW. PRACTICES REGARDING
17 PROTECTIVE EQUIPMENT; WHEN TO ISSUE IT, WHEN NOT TO
18 ISSUE IT.

19 Q SO ACTUALLY, YEAH, I WANTED TO TALK ABOUT
20 THE PROTECTIVE EQUIPMENT. CAN YOU TELL US: DO YOU
21 HAVE AN INVENTORY OF THE PPE, AS THE COOP PLAN
22 MENTIONS?

23 A DO I HAVE AN INVENTORY?

24 Q YEAH.

25 A I HAVE -- YEAH, I HAVE A SUPPLY ON HAND,

1 YES.

2 Q AND DO YOU KNOW HOW MANY MASKS, HOW MANY
3 GLOVES, OTHER MATERIALS?

4 A I DON'T HAVE THAT IN FRONT OF ME AT THIS
5 MOMENT, BUT IT IS AVAILABLE. WE KEEP UP WITH THAT,
6 YES, ON A DAILY BASIS.

7 Q AND DO YOU HAVE SUFFICIENT TO -- FOR ALL
8 MEANS THERE OR -- SPECIFICALLY ABOUT MASKS. SO ALL
9 THE -- NOT EVERYBODY AT THE FACILITY IS WEARING A
10 MASK. IS THAT CORRECT?

11 A THAT'S CORRECT.

12 Q WHEN --

13 THE COURT: LET ME ASK, MR. BOLLAG, JUST SO
14 THAT I'M CLEAR. WHEN YOU SAY "EVERYONE," ARE YOU
15 TALKING ABOUT THE STAFF OR ARE YOU TALKING ABOUT THE
16 OFFENDER OR ARE YOU SPEAKING OR REFERRING TO THE
17 STAFF AND THE OFFENDER?

18 MR. BOLLAG: I'M TALKING ABOUT BOTH, STAFF
19 AND THE OFFENDERS, YOUR HONOR.

20 THE COURT: ALL RIGHT. DID YOU UNDERSTAND
21 THAT, WARDEN?

22 THE WITNESS: YES, WELL, NOW THAT YOU
23 CLARIFIED IT.

24 A YOU KNOW, THE -- WHAT WE HAVE -- WHAT WE'RE
25 DOING NOW IS THAT ALL EMPLOYEES WHO ARE IN CONTACT

1 WITH THE OFFENDERS ARE WEARING, AT A MINIMUM, OF A
2 SURGICAL MASK. THE EMPLOYEES THAT WORK IN THE
3 DORMITORIES OR HOUSING AREAS THAT ARE QUARANTINED OR
4 ISOLATED ARE WEARING THE N95 MASK, THEY'RE WEARING
5 GOWNS, THEY'RE WEARING THE GLASSES, AND THEY'RE
6 WEARING GLOVES; THE NITRO GLOVES.

7 WE'RE -- THE ONLY OFFENDERS THAT WE'RE
8 PROVIDING MASKS TO ARE THE ONES THAT ARE IN THE
9 QUARANTINE DORMS AT THE TIME. AND WE ALSO ISSUE
10 PROTECTIVE EQUIPMENT TO THE OFFENDERS THAT HAVE --
11 THAT WORK IN THE KITCHEN WHO ARE SERVING THE MEALS,
12 TO THE LAUNDRY WORKERS, TO THE INFIRMARY, ORDERLIES,
13 AND ANYBODY LIKE THAT THAT THE MEDICAL DIRECTOR FEELS
14 LIKE -- ANY OFFENDER THAT THE MEDICAL DIRECTOR
15 INDICATES SHOULD BE WEARING A MASK.

16 **BY MR. BOLLAG:**

17 Q OKAY. AND IF AN OFFENDER REQUESTS A MASK --
18 JUST SOMEBODY TO GO TO WORK IN ONE OF THOSE AREAS, IF
19 THEY WERE TO REQUEST A MASK, ARE THEY PROVIDED A
20 MASK?

21 A IF IT WERE MEDICALLY NECESSARY.

22 Q OKAY. SO DO YOU HAVE ENOUGH MASKS ON HAND
23 TO PROVIDE ALL OFFENDERS WITH MASKS, OR YOU WOULDN'T
24 HAVE ENOUGH MASKS FOR THAT?

25 A IF I'M -- IF I'M DIRECTED TO, I COULD

1 PROVIDE ALL OF THE OFFENDERS ON THE INSTITUTION A
2 MASK.

3 Q AND ARE YOU ABLE TO GET MORE MASKS IF
4 NEEDED? DO YOU HAVE A SUPPLY, OR NO?

5 A I MEAN, WE'RE WORKING ON IT. WE -- WE'RE
6 ANTICIPATING A DELIVERY.

7 Q AND IS THAT JUST SURGICAL MASKS OR N95'S OR
8 BOTH?

9 A RIGHT NOW WE'RE ANTICIPATING A DELIVERY OF
10 MASKS THAT HAVE -- THAT THE DEPARTMENT IS MAKING.

11 Q OKAY. AND WHAT ABOUT MEDICATION AND MEDICAL
12 SUPPLIES ON HAND? DO YOU HAVE SUFFICIENT SUPPLIES OF
13 THAT? ARE YOU ABLE TO GET MORE?

14 A ABSOLUTELY. I HAVE A SUFFICIENT SUPPLY.

15 Q YOU MENTIONED THE FOGGERS. THAT WAS ONE OF
16 MY QUESTIONS I WANTED TO -- CAN YOU TELL US A LITTLE
17 BIT MORE ABOUT THOSE. WHAT DO THEY USE? I ASSUME
18 IT'S SOME SORT OF CHEMICAL. WHAT IS THAT AND DOES IT
19 TREAT FOR COVID SPECIFICALLY? JUST IF YOU WOULD TELL
20 US A LITTLE BIT MORE ABOUT THAT, PLEASE.

21 A NO, THE -- I'M NOT REALLY SURE OF WHAT THE
22 CHEMICALS ARE IN IT. I WASN'T PREPARED TO DISCUSS
23 THAT. I DON'T HAVE THAT INFORMATION IN FRONT OF ME
24 RIGHT NOW.

25 Q OKAY. I GUESS --

1 A ALL I -- IT'S A SANITIZER, IS WHAT I WAS,
2 YOU KNOW --

3 Q SO ON WHAT ADVICE OR WHAT GUIDELINES ARE YOU
4 FOLLOWING IN TERMS OF USING THOSE FOGGERS?

5 A I'M USING -- TRYING TO DO EVERYTHING I CAN
6 THAT I CAN COME UP WITH TO HELP DO ANYTHING. IT'S
7 SOMETHING, YOU KNOW, I SAW ON THE NEWS SOMEWHERE, AND
8 THEN I HAD SOMEONE LOOK INTO IT AND WE BOUGHT SOME.
9 SO IF IT'S SOMETHING I THINK WE NEED, YOU KNOW, OR IF
10 SOMEBODY GIVES ME, YOU KNOW, AN IDEA, THEN I'M GOING
11 TO LOOK INTO IT.

12 IN FACT, ONE OF MY ASSISTANT WARDENS WAS THE
13 ONE WHO -- WHILE SERVING IN THE ARMY NOTED THAT THEY
14 WERE -- THE BEDDING SITUATION, HEAD TO TOE, THAT WAS
15 SOMETHING THAT THEY WERE REQUIRED TO DO WHEN HE WAS
16 IN THE ARMY. AND I THOUGHT THAT WAS A GOOD IDEA, AND
17 THAT'S WHY WE INSTITUTED THAT.

18 Q OKAY. SO THAT WAS ANOTHER QUESTION I HAD.
19 I WANTED TO -- JUST FOR THOSE OF US WHO AREN'T THAT
20 FAMILIAR WITH THE PRISON AND THE PHYSICAL LAYOUT AND
21 SPECIFICALLY THE SLEEPING AREAS BUT ALSO MORE
22 GENERALLY.

23 SO I UNDERSTAND PEOPLE ARE SLEEPING HEAD TO
24 TOE, THE BEDS ARE TWO FEET APART. SO THERE IS -- I
25 THINK ONE THING SAID THERE IS SIX -- APPROXIMATELY

1 SIX FEET OF FACE-TO-FACE DISTANCE. BUT PEOPLE
2 ACTUALLY ARE NOT SIX FEET APART WHEN THEY'RE IN THE
3 SLEEPING ARRANGEMENTS. IS THAT CORRECT?

4 A WELL, YOU HAVE TWO INMATES LAYING SIDE BY
5 SIDE. BEFORE THEY WERE -- THEIR HEAD WAS IN THE SAME
6 DIRECTION. NOW ONE'S HEAD IS AT THE -- WHAT WOULD
7 HAVE BEEN THE FOOT OF THE BED, AND THE OTHER STAYS IN
8 THE SAME POSITION, SO THAT ROUGHLY PUTS THEM -- THEIR
9 FACE -- FACE -- FACES SIX FEET APART.

10 Q OKAY. AND ARE THESE IN DORMITORIES, CELLS,
11 DOUBLE CELLS, OR WHERE ARE WE TALKING ABOUT?

12 A DORMITORIES. WE CALL THEM DORMITORIES, BUT
13 THEY'RE MORE LIKE AN OPEN BARRACKS.

14 Q AND SO THESE ARE THE ONES THAT HOUSE 79
15 PEOPLE?

16 A CORRECT.

17 Q AND THEY'RE ABOUT 6600 SQUARE FEET. IS THAT
18 CORRECT?

19 A I BELIEVE THAT'S (INAUDIBLE).

20 Q OKAY. AND HOW MANY DORMS DO YOU HAVE THERE?

21 A WE HAVE 14.

22 Q OKAY. WHAT ABOUT COMMON AREAS? WHAT'S THE
23 STATUS OF THOSE? WHAT'S THE -- KIND OF THE PHYSICAL
24 SPACE OF THOSE? HOW CLOSE ARE PEOPLE TOGETHER IN
25 THOSE AREAS; TV ROOMS, WEIGHT ROOM, LIBRARY, ET

1 CETERA?

2 A THE COMMON ROOM IS -- THAT THEY HAVE A BENCH
3 STYLE SEATING THAT FACES -- THERE IS TWO TELEVISIONS.
4 THEY'RE KIND OF SITUATED IN THE CORNER OF A ROOM; ONE
5 POINTING ONE WAY, ONE ON THE OTHER WALL POINTING THE
6 OPPOSITE WAY. AND THE BENCHES ARE ALONG THE WALL TO
7 WHERE THEY'RE FACING ONE OR THE OTHER TV.

8 THE INMATES NORMALLY WOULD SIT -- I MEAN,
9 THE INMATE COULD SIT IN THERE SHOULDER TO SHOULDER
10 AND THERE WOULD BE NOTHING PREVENTING THAT. NOTHING
11 REQUIRING IT, EITHER.

12 Q RIGHT. AND SO NOW UNDER THE SITUATION WE'RE
13 IN TODAY, ARE PEOPLE STILL SITTING LIKE THAT? ARE
14 THERE ANY RULES REGARDING HOW PEOPLE SHOULD BE
15 SITTING IN THOSE ROOMS?

16 A THERE IS NO -- THERE IS NO -- WE ENCOURAGE
17 THEM TO MAINTAIN SIX FOOT APART, YOU KNOW, BUT WE'RE
18 NOT ACTIVELY BREAKING THEM UP.

19 Q AND HOW ABOUT HALLWAYS? HOW WIDE ARE THE
20 HALLWAYS THERE?

21 A YOU'RE TALKING ABOUT -- WHEN YOU SAY
22 HALLWAYS, WHAT ARE YOU REFERRING TO? AISLES BETWEEN
23 THE BED?

24 Q WELL, THAT AND THEN JUST ALSO ANY HALLWAYS
25 THAT FOLKS HAVE TO PASS THROUGH TO GET FROM THE DORM

1 TO A COMMON AREA OR TO MOVE BETWEEN DIFFERENT AREAS.
2 BUT ALSO I WOULD BE CURIOUS ABOUT BETWEEN BEDS -- THE
3 AISLES BETWEEN BEDS AS WELL.

4 A AISLES BETWEEN THE BEDS ARE PROBABLY ABOUT
5 FIVE FOOT, I GUESS. AND THE -- THERE REALLY IS NO
6 HALLWAYS. WHEN THEY LEAVE THE DORM, THEY'RE IN -- ON
7 OPEN-AIR BREEZEWAYS BETWEEN BUILDINGS.

8 Q OKAY. AND HOW WIDE ARE THOSE BREEZEWAYS,
9 ROUGHLY?

10 A TEN FEET.

11 Q OKAY. YOU MENTIONED THAT THE ARP OFFICE IS
12 FUNCTIONING. ARE THERE OTHER NON-ESSENTIAL FUNCTIONS
13 THAT ARE LISTED IN THE COOP THAT YOU ALL ARE STILL
14 OPERATING?

15 A WE'RE STILL OPERATING WITH FULL STAFF.

16 Q OKAY. THAT WAS ONE OF MY QUESTIONS. SO --

17 A I'M SORRY, I DO HAVE TO SAY THIS. THE
18 EDUCATION -- EDUCATION HAS BEEN SHUT DOWN. THE --
19 AND THEN AS WE SAID, YOU KNOW, THE VISITING AND ALL
20 THAT, THAT'S ALREADY BEEN STIPULATED THAT ALL OF THAT
21 HAS BEEN CLOSED. BUT THE EDUCATION WAS ONE THAT JUST
22 RECENTLY WE DID. AND THE -- AND THE INMATE CALL-
23 OUTS, THE CLUBS, THE -- EVEN THE RELIGIOUS GROUPS,
24 THEY'RE NOT MEETING NOW.

25 Q OKAY. BUT OTHER THAN THOSE THINGS, MOST OF

1 THE OTHER FUNCTIONS ARE OPERATING AS NORMAL?

2 A THE -- YEAH. WELL, WE CUR -- YOU KNOW,
3 CURTAILED A LOT OF THINGS LIKE MEDICAL TRIPS OUT.
4 WE'RE DOING A LOT MORE OF THINGS WHERE WE TRY TO
5 HANDLE OUR -- EVERYTHING WITHIN. ONLY EMERGENCY
6 TRIPS ARE GOING OUT. I THINK THAT ANSWERS YOUR
7 QUESTION.

8 Q IT DID, YEAH. NO, THAT'S FINE. AND I KNOW
9 YOU HAVE TO GO IN A FEW MINUTES, SO JUST A FEW MORE
10 THINGS.

11 I WANTED TO TALK ABOUT THE TESTING REAL
12 QUICK. DO YOU HAVE A NUMBER OF HOW MANY FOLKS HAVE
13 BEEN TESTED?

14 A WELL, I KNOW WE HAVE 17 AT THIS MOMENT THAT
15 ARE POSITIVE, AND WE HAVE TWO -- TWO TESTS THAT ARE
16 PENDING.

17 Q AND SO HAVE THERE BEEN ANY TESTS THAT CAME
18 BACK NEGATIVE, OR NO?

19 A YEAH, I'M NOT -- I DON'T REALLY KNOW. I
20 THINK IT'S ABOUT TWO OR THREE.

21 Q OKAY. AND SO I KNOW A NUMBER OF PLACES IT
22 WAS SAID THAT, YOU KNOW, IF THERE IS A FEVER THEY GET
23 TESTED. ARE THERE ANY OTHER SYMPTOMS THAT A PRISONER
24 EXHIBITS AND IS TESTED FOR?

25 A RIGHT NOW IT'S ANYBODY THAT HAS A FEVER IS

1 BEING TESTED.

2 Q OKAY. BECAUSE I KNOW THE CDC LISTS A NUMBER
3 OF, YOU KNOW, OTHER SYMPTOMS: COUGH, FATIGUE,
4 SHORTNESS OF BREATH, YOU KNOW, THOSE SORT OF THINGS.

5 SO RIGHT NOW IT'S ONLY IF THEY HAVE A FEVER
6 THEY'RE BEING TESTED?

7 A A HUNDRED -- IF THEY HAVE A HUNDRED -- A
8 HUNDRED OR ABOVE THEY'RE BEING TESTED.

9 Q OKAY. HOW MANY TESTS DO YOU HAVE ON HAND?
10 DO YOU KNOW?

11 A WE PROBABLY GOT ABOUT 40, 50 TESTS ON HAND.

12 Q AND ANOTHER THING THAT THE COOP PLAN
13 MENTIONED WAS WEEKLY REPORTS OF THE NUMBER OF PERSONS
14 SEEN WITH SUSPECTED ERI. ARE Y'ALL BEING ABLE TO PUT
15 THOSE TOGETHER?

16 A WE'RE -- WE SEND OUT A NUMBER OF REPORTS
17 DAILY. WE HAVE TO HAVE OUR REPORTS TO HEADQUARTERS
18 AT TWO O'CLOCK EVERY DAY.

19 Q OKAY. SO ALL OF THE PATIENTS WHO WERE --
20 TESTED POSITIVE RIGHT NOW, THEY'RE ALL BEING TREATED
21 AT YOUR FACILITY?

22 A YES.

23 Q AND ARE THERE ANY PLANS TO TRANSFER THEM TO
24 OUTSIDE HOSPITALS IF NECESSARY?

25 A IF NECESSARY.

1 Q HAVE YOU MADE ARRANGEMENTS WITH OUTSIDE
2 HOSPITALS?

3 A WE HAVE STANDING ARRANGEMENTS.

4 Q WITH WHICH HOSPITALS?

5 A WITH THE LOCAL HOSPITAL HERE IN BOGALUSA,
6 LADY OF ANGELS. AND WE ALSO TRANSPORT INMATES TO --
7 WELL, ACTUALLY, I MEAN, IT'S WHATEVER HOSPITAL THAT
8 WE NEED TO. I MEAN, WE'VE TAKEN INMATES -- GENERALLY
9 TO NEW ORLEANS, TO UNIVERSITY. BUT WE'VE TAKEN
10 INMATES TO HAMMOND, TO WHEREVER THE NEED AROSE.

11 Q OKAY. AND HOW MANY BEDS DO YOU HAVE AT YOUR
12 FACILITY THERE? MEDICAL BEDS.

13 A MEDICAL BEDS?

14 Q YEAH.

15 A WE HAVE SIX OR EIGHT -- SIX OR EIGHT IN THE
16 INFIRMARY FLOOR WARD AND WE HAVE TWO ISOLATION BEDS.

17 Q DO YOU HAVE ANY VENTILATORS?

18 A NO. WE'RE JUST A SMALL INFIRMARY.

19 Q I THINK -- SORRY. LASTLY I JUST WANT TO
20 TALK ABOUT THE TESTING OF THE STAFF. ARE YOU TESTING
21 (INAUDIBLE) STAFF AT HOME WITH SYMPTOMS?

22 A WHEN THEY -- IF ANYBODY THAT HAS SYMPTOMS, A
23 FEVER, WE'RE REFERRING THEM TO THEIR PERSONAL
24 PHYSICIAN.

25 Q AND DO YOU KNOW HOW MANY PEOPLE HAVE THAT

1 THAT'S APPLIED TO?

2 A I THINK WE'VE HAD PROBABLY ABOUT A DOZEN
3 MAYBE.

4 Q AND --

5 A NO REPORTED COVID POSITIVE EMPLOYEES AT THIS
6 TIME. PROBABLY HAVE I THINK ABOUT FOUR OR FIVE THAT
7 HAVE BEEN TESTED, SO -- BUT NO POSITIVES.

8 Q OKAY. I'M GOING TO STOP THERE, UNLESS MY
9 CO-COUNSEL HAS ANY OTHER QUESTIONS, BECAUSE I KNOW
10 YOU HAVE TO GO. I WANT TO THANK YOU AGAIN FOR YOU
11 TIME.

12 A OKAY.

13 **THE COURT:** MS. POSNER, DID YOU HAVE -- I'M
14 SORRY. MS. MOONEY, ANYTHING VERY BRIEFLY BEFORE WE
15 EXCUSE THE WARDEN?

16 HEARING NOTHING -- WARDEN, I KNOW YOU'VE GOT
17 TO GO. LET ME JUST ASK YOU ONE THING -- A COUPLE OF
18 THINGS HERE. ACTUALLY, MOST OF MY QUESTIONS I'M SURE
19 CAN BE ANSWERED BY EITHER SECRETARY LEBLANC OR
20 MR. VINING.

21 SECRETARY LEBLANC HASN'T JOINED US TODAY.
22 IS THAT CORRECT?

23 **MR. VINING:** I'M SORRY, JUDGE. REPEAT REAL
24 QUICK. I COULDN'T GET IT.

25 **THE COURT:** I WAS ASKING IF SECRETARY -- IF

1 SECRETARY LEBLANC HAS JOINED US.

2 MR. VINING: OH. NO, SIR, THE SECRETARY IS
3 NOT ON THE PHONE.

4 THE COURT: ALL RIGHT. WARDEN, ARE YOU ALL
5 COORDINATING WITH OFFICIALS AT THE LOUISIANA
6 DEPARTMENT OF HEALTH?

7 THE WITNESS: WE COORDINATE THROUGH
8 HEADQUARTERS AND THROUGH THEM, YES.

9 THE COURT: ALL RIGHT. AGAIN, I KNOW THAT
10 YOU HAVE A TIME-SENSITIVE MATTER TO ATTEND TO, WHICH
11 WE WILL NOT DISCUSS ON THE RECORD. I WILL ASK,
12 HOWEVER -- MY FINAL QUESTION TO YOU IS: DO YOU MAKE
13 DISINFECTANT PRODUCTS AVAILABLE TO THE INMATE IN THE
14 RESTROOMS AND OTHER AREAS OF THE PRISON, OR IS THAT
15 SOMETHING THAT'S CONSIDERED TO BE A -- THAT MIGHT
16 PRESENT A SECURITY RISK?

17 THE WITNESS: WE MAKE HAND SANITIZER
18 AVAILABLE IN CERTAIN AREAS. IN THE DORMITORIES THEY
19 HAVE SOAP, THEY HAVE -- AS I'M SPEAKING OF, THEY HAVE
20 THE ANTIBACTERIAL HAND SOAP THAT'S AVAILABLE AT THE
21 -- IN THE BATHROOMS TO WASH THEIR HANDS WITH. WHAT I
22 UNDERSTAND FROM THE MEDICAL IS THAT'S THE BEST -- THE
23 BEST COURSE OF ACTION IN WASHING YOUR HANDS IS USING
24 THE SOAP.

25 THERE IS SANITIZER AVAILABLE FOR THE WORK

1 CREWS AND -- AT THE ENTRY POINTS TO THE COMPOUND, TO
2 THE INFIRMARY. AND THEY HAVE HAND SANITIZERS
3 AVAILABLE. AND WE HAVE A -- AN ABUNDANT SUPPLY OF
4 HAND SANITIZER THERE.

5 **THE COURT:** WHAT ABOUT DISINFECTANT WIPES?
6 ARE THOSE MADE AVAILABLE TO THE PRISON POPULATION AS
7 WELL?

8 **THE WITNESS:** NO, WE DON'T HAVE THOSE.

9 **THE COURT:** AND THE INMATES WHO ARE IN
10 QUARANTINE, I ASSUME THAT INCLUDES THE 17 CONFIRMED
11 CASES AS WELL AS THE TWO WHO -- FOR WHOM YOU'RE STILL
12 AWAITING TEST RESULTS. IS THAT CORRECT?

13 **THE WITNESS:** THOSE INMATES ARE IN
14 ISOLATION; IN MEDICAL ISOLATION. AND THE -- WE HAVE
15 TWO -- WE HAVE A RAIN UNIT, WHICH COMPRISES FOUR
16 DORMS, IS UNDER QUARANTINE AT THIS TIME, AS WELL AS A
17 FEW OTHER OFFENDERS THAT ARE HOUSED IN DIFFERENT
18 AREAS. FOR INSTANCE, WE HAVE A WAREHOUSE EMPLOYEE
19 THAT WAS SUSPECTED THAT SHE MAY HAVE COVID. SHE
20 SINCE TESTED NEGATIVE. BUT IN -- OUT OF AN ABUNDANCE
21 OF PRECAUTION, WE QUARANTINED THOSE WORKERS. AND
22 THEY WERE PLACED IN OUR VISITING ROOM, AND THAT WAS
23 TURNED INTO A MAKE-SHIFT HOUSING AREA.

24 **THE COURT:** OKAY. AND I KNOW I KEEP SAYING
25 *ONE MORE QUESTION*, BUT THIS IS, I PROMISE YOU, MY

1 ABSOLUTE LAST QUESTION. AND THAT IS: WITH RESPECT
2 TO THE EMERGENCY ARP'S THAT MIGHT BE FILED BY AN
3 INMATE, HOW LONG WOULD AN EMERGENCY ARP TAKE TO BE
4 ADJUDICATED?

5 **THE WITNESS:** IF IT WERE TRULY WHAT THE --
6 WHAT THE SYSTEM DESCRIBES AS A -- WELL, THE PROCEDURE
7 DESCRIBED AS AN EMERGENCY, IT WOULD BE ADDRESSED
8 IMMEDIATELY.

9 **THE COURT:** SO WITHIN 24 HOURS, 48 HOURS?
10 WHAT DO YOU THINK?

11 **THE WITNESS:** FORTY-EIGHT HOURS.

12 **THE COURT:** VERY WELL. WELL, WARDEN, I KNOW
13 YOU HAVE AN EXCEPTIONALLY CHALLENGING JOB AT TIMES
14 LIKE THIS AND YOU'VE GOT A LOT OF OTHER THINGS GOING
15 ON AS WELL, SO LET ME THANK YOU FOR JOINING US TODAY.
16 WE MAY HAVE ADDITIONAL QUESTIONS FOR YOU AT A LATER
17 TIME. BUT AGAIN, I THANK YOU FOR JOINING US. YOU
18 ARE NOW EXCUSED.

19 **THE WITNESS:** THANK YOU, JUDGE. I
20 APPRECIATE IT.

21 **THE COURT:** ALL RIGHT. NOW, MS. MOONEY,
22 ANYTHING ELSE THAT YOU WOULD LIKE ME TO KNOW ABOUT
23 THE -- EITHER THE COOP PLAN AT RAYBURN OR ANY OTHER
24 POLICIES OR PRACTICES THAT YOUR CLIENT HAS UNDERTAKEN
25 TO PROTECT THE INMATE POPULATION?

1 MS. MOONEY? MR. VINING?

2 MS. MOONEY: I'M SORRY, YOUR HONOR. I WAS
3 ON MUTE.

4 THE COURT: DID YOU HEAR MY QUESTION?

5 MS. MOONEY: YES. MR. VINING, WOULD YOU BE
6 ABLE TO RESPOND TO THAT ANY BETTER?

7 MR. VINING: I THINK THAT, YOU KNOW, WHAT
8 WAS IN THE AFFIDAVIT HAS PROBABLY SUFFICIENTLY
9 COVERED IT. AND, YOU KNOW, IF I BECOME AWARE OF
10 ANYTHING THAT CHANGES IN THE NEXT COUPLE OF DAYS, I
11 WILL CERTAINLY LET MS. MOONEY AND THE COURT KNOW.
12 BUT I THINK THAT HE SUFFICIENTLY COVERED IT.

13 THE COURT: THE QUESTION IN MY MIND -- AND
14 I'M SURE THAT IN MS. POSNER'S MIND -- IS THE SOCIAL
15 DISTANCING. ACCORDING TO THE GOVERNOR, THAT'S BEEN
16 ONE OF THE RECOMMENDATIONS THAT WILL GO A LONG WAY TO
17 SORT OF FLATTENING THE CURVE, AS I GUESS THE COMMON
18 NOMENCLATURE NOW PUTS IT. AND I KNOW IT'S, AGAIN,
19 EXCEPTIONALLY CHALLENGING TO IMPLEMENT THAT SOCIAL
20 DISTANCING TO THAT DEGREE IN A PRISON FACILITY.

21 HAS THE WARDEN, DO YOU KNOW, OR OTHERS AT
22 THE PRISON CONSIDERED USING ADDITIONAL SPACE TO
23 IMPLEMENT MORE SOCIAL DISTANCING AMONG THE INMATES
24 THERE?

25 MR. VINING: YOUR HONOR, YOU KNOW, I KNOW

1 THAT THEY'RE DOING EVERYTHING THAT THEY CAN. I KNOW
2 THAT OUR MEDICAL DIRECTOR, DR. MORRISON, HAS REVIEWED
3 ALL OF THESE PLANS AND THEY'RE ACTING UNDER HIS
4 GUIDANCE. AND I THINK THAT PART OF THE -- I GUESS
5 THE DECISION TO LOCK THESE FACILITIES DOWN -- BY THAT
6 I DON'T MEAN THE PRISON POPULATION, BUT IN AND OUT --
7 IS THAT THESE PLACES ARE ESSENTIALLY BEING TREATED
8 LIKE HOUSEHOLDS. AND THERE IS ONLY SO FAR AWAY YOU
9 CAN GET FROM YOUR HOUSEHOLD MEMBER IF YOU'RE THERE.

10 AND I KNOW IT'S NOT EXACTLY THE SAME, BUT
11 THAT'S THE REASON THAT WE AREN'T ALLOWING OUTSIDE
12 CONTRACTORS OR ATTORNEYS OR VISITATION RIGHT NOW, IS
13 THAT THERE IS A LIMIT TO HOW MUCH, YOU KNOW, WE CAN
14 DO. AND I CERTAINLY KNOW THESE STATE PRISONS ARE
15 BETTER ABLE TO DO IT. BUT WITHOUT SAYING WITH ANY
16 EXACT CERTAINTY, I KNOW THAT THEY'VE DONE, I THINK
17 PROBABLY IN THEIR MINDS, THE VERY BEST JOB THAT THEY
18 CAN UNDER THE CIRCUMSTANCES.

19 **THE COURT:** OKAY. WELL, LET ME JUST ASK YOU
20 TO ADDRESS A COUPLE OF THINGS IN THE PLEADING THAT
21 WILL BE FILED ON THURSDAY.

22 ONE OF THE ADDITIONAL ISSUES I WOULD LIKE
23 YOU TO ADDRESS, MS. MOONEY, OR PRISON OFFICIALS, IS
24 THE USE OF DISINFECTANT THROUGHOUT THE FACILITY; HOW
25 THEY'RE USED, TO WHOM THEY'RE AVAILABLE, WHETHER --

1 AS IS VERY COMMON NOW IN GROCERY STORES AND OTHER
2 PLACES, ARE THERE PLANS TO PUT TAPE ON THE FLOORS
3 THAT WILL ENCOURAGE AND -- IF NOTHING ELSE, ENCOURAGE
4 INMATES TO ENGAGE IN SOCIAL DISTANCING ACTIVITY.

5 I'D LIKE TO KNOW MORE ABOUT THE MASKS; FROM
6 WHAT SOURCE. THE WARDEN TESTIFIED THAT THEY'LL BE
7 PROVIDED BY THE STATE DEPARTMENT OF HEALTH
8 PRESUMABLY. BUT I'D LIKE TO KNOW MORE OF WHAT KIND
9 OF MASKS THOSE ARE AND WHETHER THOSE MASKS WILL BE
10 AVAILABLE TO THE GENERAL POPULATION OF PRISONERS AS
11 WELL. AND, OF COURSE, ANYTHING ELSE THAT THE PRISON
12 OFFICIALS WILL CONSIDER GOING FORWARD, IN LIGHT OF
13 ALL OF THE NEW RECOMMENDATIONS COMING OUT, NOT JUST
14 FROM THE LOUISIANA DEPARTMENT OF HEALTH BUT BY THE
15 CDC, INCLUDING, AGAIN, THE USE OF MASKS.

16 ANY QUESTIONS ABOUT THAT?

17 **MS. MOONEY:** NO, YOUR HONOR.

18 **MR. VINING:** NO, SIR, YOUR HONOR.

19 **THE COURT:** ALL RIGHT. NOW, MS. POSNER,
20 LET'S TURN NEXT TO THE RELIEF THAT YOU REQUESTED.
21 YOU REQUESTED THAT I ORDER THE IMMEDIATE RELEASE OF
22 YOUR CLIENT.

23 AS YOU KNOW, THAT IS AN EXTRAORDINARY REMEDY
24 AT THIS POINT. ONE, I AM NOT THE JUDGE WHO IMPOSED
25 THE SENTENCE IN YOUR CLIENT'S CASE. PERHAPS THAT

1 JUDGE MIGHT BE WILLING TO RECONSIDER THE SENTENCING
2 ORDER IN THE CASE. I DON'T KNOW. I'M NOT AN EXPERT
3 ON LOUISIANA STATE CRIMINAL PROCEDURE.

4 BUT I WILL TELL YOU THAT I'M NOT INCLINED TO
5 IMPOSE MY JUDGMENT FOR THAT OF A SENTENCING JUDGE WHO
6 IS MORE FAMILIAR WITH THE FACTS THAT RESULTED IN HIS
7 CONVICTION. I UNDERSTAND THAT HE'S FACING A SERIOUS
8 MEDICAL ISSUE AT THIS TIME. I ALSO UNDERSTAND THAT
9 PRISON OFFICIALS ARE NOT ABLE TO OR -- I UNDERSTAND
10 YOUR OPINION -- PERHAPS ARE UNWILLING TO PROVIDE
11 ADDITIONAL REMEDIES THAT WILL SERVE TO PROTECT YOUR
12 CLIENT.

13 BUT YOU UNDERSTAND, MA'AM, THAT FOR ME TO
14 ORDER THE IMMEDIATE RELEASE OF YOUR -- OF YOUR
15 CLIENT, WHILE IT MAY NOT NECESSARILY BE
16 UNPRECEDENTED, IT IS CERTAINLY HIGHLY UNUSUAL.

17 WOULD YOU AGREE WITH THAT?

18 **MS. POSNER:** OF COURSE, YOUR HONOR. WE
19 DON'T MAKE THIS REQUEST LIGHTLY, BY ANY MEANS.

20 **THE COURT:** YOUR OPPONENTS HAVE CITED TO
21 PROVISIONS IN FEDERAL LAW THAT REQUIRE A
22 CONVICTED PRISON -- OR A PRISONER'S RELEASE ONLY
23 FOLLOWING A HEARING OR AT LEAST SOME CONSIDERATION BY
24 A THREE-JUDGE PANEL.

25 WHAT IS YOUR RESPONSE TO THAT?

1 **MS. POSNER:** JUDGE, I AM PREPARED TO RESPOND
2 TO THAT. I ALSO JUST WOULD LIKE TO SPECIFICALLY ASK
3 IF IT WOULD BE POSSIBLE FOR AT SOME POINT -- EITHER
4 AFTER I RESPOND TO THAT PARTICULAR LEGAL QUESTION OR
5 RIGHT NOW -- FOR MR. MARLOWE TO PROVIDE, YOU KNOW, A
6 FEW STATEMENTS ABOUT WHAT HIS CONDITIONS ARE LIKE. I
7 KNOW THAT HE CAN PROVIDE SOME VERY, VERY DETAILED
8 ACCOUNTS AS TO HOW CHALLENGING THE CONDITIONS ARE
9 THAT HE'S LIVING IN AND HE IS TRYING TO KEEP HIMSELF
10 SAFE.

11 **THE COURT:** AND I WILL PERMIT -- I WILL
12 ACCEPT VERY LIMITED TESTIMONY ON THAT POINT. BUT MY
13 POINT TO YOU IS THAT I'M CONVINCED THAT, YOU KNOW,
14 HIS MEDICAL CONDITION, HIS STATE OF HEALTH, AND THE
15 STATE OF CONDITIONS AT THE PRISON OBVIOUSLY WOULD
16 RENDER HIM CONSIDERABLY MORE SUSCEPTIBLE TO THIS
17 DISEASE. THE QUESTION STILL IS: WHAT IS MY
18 AUTHORITY.

19 I MEAN, LISTEN, YOU KNOW, FEDERAL JUDGES
20 ENJOY SWEEPING JURISDICTIONAL AUTHORITY AND POWER,
21 BUT I'M NOT SURE IT WOULD EXTEND TO PROVIDING THE
22 FORM OF RELIEF THAT YOUR CLIENT IS REQUESTING NOW.

23 SO LET ME GIVE YOU AN OPPORTUNITY TO ADDRESS
24 THAT.

25 **MS. POSNER:** CERTAINLY. I KNOW THAT SECTION

1 3626(G)(4) PROVIDES A DEFINITION, I BELIEVE, OF WHAT
2 A TEMPORARY -- OR EXCUSE ME -- WHAT A PRISONER
3 RELEASE ORDER IS. AND I THINK OUR FIRST POINT IS
4 THAT THAT PARTICULAR DEFINITION DOES NOT APPLY TO THE
5 RELIEF THAT WE ARE SEEKING. WE ARE SIMPLY SEEKING
6 TEMPORARY HOME CONFINEMENT WHERE MR. MARLOWE COULD
7 EITHER BE SUPERVISED WITH OR WITHOUT LOCATION
8 MONITORING. AND SO THAT PARTICULAR TYPE OF RELIEF IS
9 NOT SOMETHING THAT IS CONTEMPLATED BY THE DEFINITION
10 OF WHAT A PRISONER RELEASE ORDER IS IN SECTION
11 3626(G)(4). AND THERE REALLY IS NO AUTHORITY THAT
12 SPEAK OTHERWISE OR SPEAK THAT A TEMP -- YOU KNOW,
13 THIS SORT OF HOME CONFINEMENT RELEASE WOULD NOT --
14 WOULD QUALIFY AS A TEMP -- AS A PRISONER RELEASE.

15 IN THE ALTERNATIVE, WHAT I WOULD SUGGEST TO
16 THIS COURT, AFTER, YOU KNOW, REVIEWING ALL THE
17 PLEADINGS AND REVIEWING THIS LAW, IS THAT BASED ON
18 THE TESTIMONY THAT YOU'VE HEARD, BASED ON THE
19 EXHIBITS THAT HAVE BEEN ENTERED INTO THE RECORD, AND
20 WHAT WE ALL KNOW ABOUT COVID-19, THAT WE ENCOURAGE
21 THIS COURT TO ISSUE A RULING THAT DECLARES THAT AS A
22 DIABETIC PRISONER, MR. MARLOWE'S HEALTH CONDITIONS OF
23 CONFINEMENT DO VIOLATE HIS CONSTITUTIONAL RIGHT AND
24 POSE A THREAT OF IRREPARABLE HARM SHOULD HE CONTRACT
25 COVID-19.

1 AND THAT WE WOULD ALSO ASK YOU TO ISSUE AN
2 INJUNCTION ASKING THAT RAYBURN REMEDY THESE
3 PARTICULAR -- THIS PARTICULAR SITUATION AND HIS
4 CONDITION BY EITHER FURLOUGHING PRISONERS UNDER
5 15:833 OR PROVIDING SOME OTHER FORMS OF HOUSING TO
6 PEOPLE LIKE MR. MARLOWE. THEN IF THIS COURT IS --
7 EXCUSE ME. THEN IF THE DEFENDANTS ARE UNABLE TO MEET
8 THAT INJUNCTION, MR. MARLOWE CAN COME BACK AND ASK
9 FOR A THREE-JUDGE PANEL FOR HIS RELEASE. AND WE MAKE
10 THAT AS AN ALTERNATIVE ARGUMENT IN THIS PARTICULAR
11 MATTER.

12 WE DO BELIEVE THAT INJUNCTIVE RELIEF -- THAT
13 THIS COURT HAS THE AUTHORITY TO ISSUE INJUNCTIVE
14 RELIEF. AND WE THINK THAT IT IS ABSOLUTELY ESSENTIAL
15 AT THIS POINT BASED OFF OF THE TESTIMONY THAT WE'VE
16 HEARD FROM WARDEN TANNER WHO, WITHOUT A DOUBT, IS
17 DOING EVERYTHING, I BELIEVE, THAT HE CAN. I DON'T
18 THINK ANYONE IS IN THE BUSINESS OF TRYING TO GET
19 PRISONERS INCARCERATED, YOU KNOW, HAVING THEM
20 INFECTED WITH THIS PARTICULAR DISEASE. BUT I THINK
21 THAT THERE ARE OTHER THINGS THAT CAN BE DONE IN ORDER
22 TO PROTECT MR. MARLOWE.

23 **THE COURT:** SO YOU WOULD AGREE WITH ME,
24 MS. POSNER, THAT AN ACCEPTABLE AND EFFECTIVE FORM OF
25 RELIEF MAY BE PROVIDED TO YOUR CLIENT SHORT OF

1 RELEASING HIM TO RELATIVES, AS YOU HAVE REQUESTED?

2 MS. POSNER: I'M NOT SURE THAT MY CLIENT
3 WOULD AGREE WITH ME ON THAT, BUT I THINK THAT --

4 THE COURT: I DIDN'T POSE THE QUESTION
5 TO YOUR --

6 MS. POSNER: YEAH, I --

7 THE COURT: I DIDN'T POSE THE QUESTION TO
8 YOUR CLIENT. I POSED THE QUESTION TO YOU.

9 IT MAY NOT BE -- LET ME BE CLEAR. IT MAY
10 NOT BE THE REMEDY THAT MR. MARLOWE LIKES. I
11 UNDERSTAND THAT. HE WANTS TO BE RELEASED FROM
12 CUSTODY, UNDERSTANDABLY.

13 BUT THE POINT OF THE MATTER IS, IS THAT, AS
14 WE'VE DISCUSSED EARLIER, FEDERAL LAW ONLY PERMITS A
15 FEDERAL COURT TO AWARD THAT KIND OF RELIEF IN VERY,
16 VERY LIMITED EXTRAORDINARY CIRCUMSTANCES, WHICH MAY
17 OR MAY NOT BE HERE. BUT MY POINT IS TO YOU: IF I
18 FIND THAT, YOU KNOW, THE FACTS DON'T JUSTIFY THE
19 RELIEF YOUR CLIENT WANTS, YOU -- AT LEAST YOUR
20 ARGUMENT IS THAT THERE MAY BE SOME ALTERNATIVE FORMS
21 OF RELIEF AVAILABLE?

22 MS. POSNER: MY ARGUMENT WOULD CERTAINLY BE
23 THAT IF THE COURT DOES NOTHING, THAT THE CONDITIONS
24 THAT STAND AS IS ARE NOT ACCEPTABLE IN PARTICULAR TO
25 PRISONERS LIKE MR. MARLOWE, MY CLIENT, WHO HAS VERY

1 SERIOUS UNDERLYING MEDICAL CONDITIONS. WITHOUT SOME
2 ADDITIONAL DIRECTION FROM THIS COURT INSTRUCTING
3 RAYBURN AS TO HOW TO GET UP TO A PLACE WHERE
4 PRISONERS LIKE MR. MARLOWE CAN BE SAFE, HIS LIFE
5 CONTINUES TO BE IN DANGER.

6 **THE COURT:** UNDERSTOOD.

7 MS. MOONEY, LET ME GIVE YOU AN OPPORTUNITY
8 TO RESPOND, IF YOU'D LIKE.

9 **MS. MOONEY:** YOUR HONOR, I DON'T BELIEVE
10 THAT YOU HAVE ANY AUTHORITY FOR TYPICAL INJUNCTIVE
11 RELIEF BECAUSE OF THE WAY THE FEDERAL CODE OF CIVIL
12 PROCEDURE 65 IS WRITTEN. THE EXCEPTION -- OR DOWN IN
13 "E" IT SAYS THAT THAT WOULD NOT MODIFY ANYTHING THAT
14 CALLS FOR THE THREE-JUDGE PANEL. AND THE PLRA CALLS
15 FOR THE THREE-JUDGE PANEL UNDER THAT SAME STATUTE.
16 SO I THINK IT WAS MEANT TO GO TO THE THREE-JUDGE
17 PANEL IF IN THE RARITY THAT THE CIRCUMSTANCES EXIST
18 TO RELEASE A PRISONER.

19 **THE COURT:** OKAY. WELL, LISTEN, I THINK
20 THAT'S ALL THE QUESTIONS I HAVE FOR BOTH SIDES AT
21 THIS TIME. HOWEVER, I DID COMMIT TO ALLOWING MR.
22 MARLOWE A VERY BRIEF OPPORTUNITY TO ADDRESS THE COURT
23 PERSONALLY.

24 AT THIS TIME, MS. POSNER, YOU MAY CALL YOUR
25 CLIENT.

1 **MS. POSNER:** DOES THAT MAKE -- DOES MR.
2 MARLOWE -- I THINK HE NEEDS TO BE SWORN IN?

3 **THE COURT:** YES. SO THE RECORD WILL REFLECT
4 THAT YOU'RE NOW CALLING MR. MARLOWE TO TESTIFY.
5 CORRECT?

6 **MS. POSNER:** CORRECT, JUDGE.

7 **THE COURT:** VERY WELL. I WOULD ASK THE
8 COURTROOM DEPUTY TO NOW ADMINISTER THE OATH TO MR.
9 MARLOWE.

10 **REPORTER'S NOTE:** (WHEREUPON, CHRIS MARLOWE,
11 BEING DULY SWORN, TESTIFIED AS FOLLOWS.)

12 **THE COURTROOM DEPUTY:** STATE AND SPELL YOUR
13 NAME FOR THE RECORD.

14 **THE WITNESS:** CHRIS MARLOWE. C-H-R-I-S
15 M-A-R-L-O-W-E.

16 **THE COURT:** YOU MAY BEGIN.

17 **MS. POSNER:** VERY GOOD.

18 **DIRECT EXAMINATION**

19 **BY MS. POSNER:**

20 **Q** MR. MARLOWE, CAN YOU PLEASE STATE WHAT YOUR
21 DEPARTMENT OF CORRECTIONS NUMBER IS.

22 **A** MY NUMBER IS 558725.

23 **Q** AND, MR. MARLOWE, WHAT IS THE DORMITORY THAT
24 YOU LIVE IN?

25 **A** I LIVE IN A DORM NAMED SLEET TWO.

1 Q AND HOW MANY PRISONERS LIVE IN THAT DORM
2 WITH YOU?

3 A APPROXIMATELY 78 OTHERS.

4 Q TELL ME ABOUT THE SLEEPING CONDITIONS IN
5 THAT DORM.

6 A LAYING IN MY BED, I CAN REACH MY LEFT HAND
7 OVER AND TOUCH MY NEIGHBOR. THE AISLE TO MY RIGHT IS
8 FIVE FEET WIDE, HAS TRAFFIC OF ABOUT 45 INMATES 24
9 HOURS A DAY. FIVE FEET FROM MY HEAD IS A WATER
10 FOUNTAIN. IT'S THE ONLY WATER FOUNTAIN TRAFFICKED BY
11 EVERY INMATE IN THE DORM. THE AISLE BY MY HEAD HAS
12 APPROXIMATELY 30 INMATES TRAFFICKING THAT BECAUSE
13 THAT'S WHERE OUR BOXES ARE WHERE WE KEEP OUR
14 PROPERTY. WITHIN THREE FEET I HAVE ONE OTHER INMATE.
15 WITHIN SIX FEET I HAVE THREE OTHERS. WITHIN EIGHT
16 FEET I HAVE 11 OTHERS.

17 Q IS THAT THE CONDITIONS OF YOUR DORMITORY
18 THIS MORNING?

19 A YES.

20 Q TELL ME ABOUT THE WATER FOUNTAIN. ARE THE
21 PRISONERS IN YOUR DORMITORY PROVIDED WITH GLOVES?

22 A NO.

23 Q AND WHEN SOMEONE USES THE WATER FOUNTAIN,
24 ARE THEY REQUIRED TO WIPE IT DOWN AFTER THEY USE IT?

25 A NO.

1 Q AND SO WHEN THEY TAKE -- I PRESUME -- LET ME
2 ACTUALLY BACKTRACK.

3 ARE YOU ALL -- HAVE YOU ALL IN YOUR
4 DORMITORY BEEN ISSUED MASKS TO WEAR?

5 A NO. MASKS --

6 Q WHEN SOMEONE --

7 A SORRY.

8 Q GO AHEAD, PLEASE. I CUT YOU OFF.

9 A WERE ISSUED ONE DORM MASKS, AND THEY WERE
10 MADE AT ANOTHER FACILITY, AT A PRISON FACILITY, OUT
11 OF T-SHIRT MATERIAL.

12 Q THE MASKS THAT WERE ISSUED WERE NOT MEDICAL
13 MASKS?

14 A RIGHT.

15 Q BUT IN YOUR PARTICULAR DORM YOU DO NOT HAVE
16 MASKS?

17 A NO, WE HAVE NO MASKS.

18 Q AND SO WHEN SOMEONE USES THE WATER FOUNTAIN,
19 THEY'RE BREATHING ON THAT AREA, POTENTIALLY COUGHING
20 ON IT, TOUCHING IT, AND IT IS NOT DISINFECTED AFTER
21 IT'S USED?

22 A NO. AND THAT'S ONE FOOT AWAY FROM THE
23 TELEPHONES.

24 Q TELL ME ABOUT THE TELEPHONES.

25 A THE TELEPHONES ARE SPACED APPROXIMATELY 12

1 INCHES APART. THERE IS THREE OF THEM. AND THERE IS
2 A SIX-FOOT-LONG BENCH THAT, ESPECIALLY AFTER THIS
3 COVID DILEMMA, HAS BEEN AT FULL CAPACITY ANYTIME
4 THERE IS NOT WORK CALL.

5 Q SO ALL THREE PHONES ARE BEING USED AT THE
6 SAME TIME?

7 A YES.

8 Q AND THERE WILL PROBABLY BE SOME SORT OF
9 EMOTIONAL AND MENTAL HEALTH PROBLEM IF THIS PHONE IN
10 USE WAS RESTRICTED (INAUDIBLE) --

11 **COURT REPORTER:** I'M SORRY, MA'AM.

12 A YES. CONSIDERING A COUPLE OF INMATES HAVE
13 LOST THEIR PARENTS DUE TO COVID-19, SO IT'S TRICKLING
14 OUT AND CAUSING CHAOTIC PANIC.

15 Q AND IS THERE A MICROWAVE IN YOUR DORM?

16 A ABOUT EIGHT FEET FROM THE TELEPHONES THERE
17 IS TWO MICROWAVES. THEY'RE SPACED ABOUT TWO FEET
18 APART. AND THAT'S THE ONLY PLACE WE HAVE TO HEAT UP
19 OUR FOOD.

20 Q AND HOW FREQUENTLY ARE THOSE MICROWAVES
21 BEING USED?

22 A ALL DAY, NONSTOP.

23 Q ARE THEY BEING DISINFECTED AFTER A PRISONER
24 USES THEM BEFORE THE NEXT PRISONER USES THEM?

25 A THEY DON'T. AT 7 A.M. THE ORDERLIES CLEAN

1 THE DORM. THEY DUST THE FAN, MOP THE FLOORS AND WIPE
2 THE BATHROOM, AND THAT'S IT UNTIL SEVEN O'CLOCK THE
3 NEXT MORNING.

4 Q IS THE ORDERLY SOMEONE WHO LIVES IN YOUR
5 DORMITORY?

6 A YES.

7 Q TELL ME ABOUT ICE CHESTS. ARE THOSE ALSO
8 SOMETHING IN YOUR DORM?

9 A YES. THEY -- THEY SEND TWO ORDERLIES FROM
10 THE NEXT-DOOR DORM TO TAKE OUR ICE CHEST DOWN TO THIS
11 -- I THINK THEY CALL IT THE ICE HOUSE WHERE A BUNCH
12 OF ICE MACHINES ARE. FILL THEM UP AND BRING THEM
13 BACK. BUT THERE IS ONE HANDLE, ONE SCOOP. AND
14 EVERYBODY -- THE SCOOPS STAYS IN THE ICE AND
15 EVERYBODY USES IT OVER AND OVER AGAIN.

16 Q AND THE ORDERLIES ARE LEAVING TO GO TO
17 ANOTHER PART OF THE PRISON IN ORDER TO GET THAT ICE?

18 A YES.

19 Q TELL ME ABOUT YOUR WORK. WHAT DO YOU DO
20 RIGHT NOW AT RAYBURN?

21 A I TRAIN THE CHASE TEAM DOG FOR THE K-9
22 DEPARTMENT.

23 Q AND SO ARE YOU STILL ON WORK DUTY SINCE THIS
24 COVID-19 PANDEMIC HAS STARTED?

25 A YES. I GO OUT AT FIVE IN THE MORNING, 5:45,

1 AND I COME BACK AT FOUR IN THE AFTERNOON.

2 Q HOW ABOUT OTHER PRISONERS IN YOUR DORM? ARE
3 THEY STILL ON WORK DUTY?

4 A YES. ALL THE -- THE TRUSTEES STILL HAVE TO
5 GO TO WORK. A LOT OF THEM ARE ON GRASS CREWS,
6 MAINTAINING THE GROUNDS. ME AND ONE OTHER DO THE JOB
7 I HAVE. ME AND THE WARDEN'S ORDERLIES STILL GO OVER
8 THERE (INAUDIBLE).

9 Q AND SO WHAT OTHER TYPES -- I HEARD YOU SAY
10 GRASS CREW. YOU WORK WITH THE DOGS. WHAT OTHER TYPE
11 OF JOBS DO PEOPLE IN YOUR PARTICULAR DORM DO?

12 A FARM WORK, GREENHOUSE WORK, SEWAGE TREATMENT
13 PLANT -- YOU KNOW, TWO ORDERLIES DO THAT -- MECHANIC
14 WORK, MAINTENANCE WORK, ELECTRICIANS, PLUMBERS, AIR
15 CONDITIONING SPECIALIST.

16 Q SO THOSE INDIVIDUALS ARE INTERACTING WITH
17 OTHER INDIVIDUAL -- OTHER PRISONERS AND EMPLOYEES
18 FROM OTHER PARTS OF THE PRISON?

19 A EVERY DAY.

20 Q AND THEN THEY COME BACK AND SLEEP IN YOUR
21 DORM?

22 A YES.

23 Q I'M SURE YOU HEARD THE WARDEN SPEAK ABOUT
24 THE BREEZEWAY. YOU HAD TOLD ME SOMETHING ABOUT CHOKE
25 POINT. CAN YOU DESCRIBE TO THE COURT WHAT A CHOKE

1 POINT IS ON THE BREEZEWAY.

2 A THEY DECIDED TO FENCE THE BREEZEWAYS IN WITH
3 CHAIN-LINK HURRICANE FENCE. AND APPROXIMATELY EVERY
4 HUNDRED TWENTY FEET THEY PUT GATES THAT COME OUT
5 ABOUT A FOOT AND A HALF FROM THE FENCE. AND THEY PUT
6 A LOCKABLE GATE SO THEY CAN CONTROL THEM, AND IF
7 THERE -- LIKE I'M ASSUMING IF THERE IS AN EMERGENCY.
8 AND IT --

9 Q AND SO --

10 A IT DRIVES THE TRAFFIC OVER THE SHOULDER AT
11 ANY GIVEN TIME.

12 Q WHEN YOU COME TO A CHOKE POINT, ARE YOU
13 WITHIN SIX FEET OF SOMEBODY ELSE?

14 A YES. YOU'RE ALMOST TOUCHING.

15 Q YOU'RE ALMOST TOUCHING. AND WHO ARE THOSE
16 INDIVIDUALS THAT YOU'RE TOUCHING? ARE THEY PRISONERS
17 OR ARE THEY EMPLOYEES?

18 A BOTH.

19 Q THEY'RE BOTH. AND ARE THOSE INDIVIDUALS
20 THAT YOU'RE ALMOST TOUCHING WEARING ANY KIND OF
21 PROTECTIVE EQUIPMENT? ARE THEY WEARING MASKS?

22 A SOMETIMES THEY'RE WEARING MASKS, EVERY NOW
23 AND THEN. LIKE ON MY WAY TO THIS APPOINTMENT I
24 PASSED TWO WITH NO MASKS ON. THE OFFICERS WHO ARE AT
25 THE PHONE WITH ME RIGHT HERE DIDN'T HAVE MASKS ON OR

1 GLOVES.

2 Q AND WHAT ABOUT OTHER PRISONERS THAT YOU SEE
3 WHEN YOU GO OUT TO WORK? ARE YOU SEEING THEM WEARING
4 MASKS OR GLOVES?

5 A NO.

6 Q TALK TO ME ABOUT HOW YOU RECEIVE FOOD. DO
7 YOU EAT IN THE DORM OR DO YOU EAT IN ANOTHER
8 BUILDING?

9 A WE EAT IN A CAFETERIA STYLE. THE CHOW HALL
10 IS DOWN THE WALK ABOUT 400 YARDS FROM THE DORM I LIVE
11 IN. AND ALL THE DORMS CYCLE THROUGH THERE.

12 Q AND TELL ME HOW EATING OCCURS.

13 A WELL, YOU WALK IN AND YOU WALK ALONG THE
14 SAME WALL TO -- THE PRISON IS DESIGNED WITH A QUEUING
15 SYSTEM. SO YOU GO SCAN YOUR ID CARD, AND THEN THERE
16 IS AN ASSEMBLY LINE WHERE INMATES ASSEMBLE YOUR FOOD
17 BEHIND A COUNTER AND THEN HAND IT TO YOU. AND THEN
18 YOU HAVE TO GO SIT AT TABLES THAT ARE FOUR DEEP THAT
19 ARE THREE FOOT BY THREE FOOT AND THEY'RE TWO FEET
20 APART SO AS TO MAINTAIN SPACE. THEY DON'T REALLY
21 WANT YOU TO MISS ANY SEAT.

22 Q AND SO WHEN YOU GO TO THE -- IN THE QUEUE
23 LINE, ARE YOU STANDING -- IN THE LAST, SAY, TWO DAYS,
24 HAVE PRISONERS BEEN STANDING SIX FEET APART FROM ONE
25 ANOTHER?

1 A NO. IT'S ALMOST TOE -- TOE TO HEEL ALMOST
2 THE WHOLE LENGTH.

3 Q AND WHEN YOU GO -- YOU SAID THAT OTHER
4 PRISONERS WHO WORK IN THE CHOW HALL ASSEMBLE YOUR
5 TRAY. ARE -- THOSE PRISONERS ASSEMBLING YOUR TRAY,
6 ARE THEY WEARING MASKS?

7 A SOMETIMES. SOMETIMES THEY'RE WEARING THEM
8 ON THEIR FOREHEAD.

9 Q ARE THEY WEARING GLOVES?

10 A WELL, THE SEE-THROUGH FOOD SERVICE DON'T
11 USUALLY.

12 Q AND DO YOU -- IF YOU DON'T KNOW, JUST SAY "I
13 DON'T KNOW." BUT DO YOU KNOW IF THEY ARE WEARING
14 MASKS OR GLOVES WHILE THEY'RE PREPARING THE FOOD?

15 A WELL, I SEE THROUGH THE DOOR, AND THEY ARE
16 NOT USUALLY.

17 Q AND THEN ONCE YOU GET THE FOOD, YOU SAID YOU
18 GO TO A TABLE. AND HOW MANY PEOPLE SIT AT THE TABLE
19 WITH YOU?

20 A FOUR TO EACH TABLE. AND IT'S MANDATORY.

21 Q IT'S MANDATORY. AND HOW CLOSE ARE THEY AT
22 THE TABLE?

23 A A FOOT APART. YOUR TRAY CORNERS ARE
24 TOUCHING.

25 Q OKAY. AND ARE THERE -- IN THE CHOW HALL, IN

1 THE CAFETERIA TODAY AND YESTERDAY, THERE ARE
2 CORRECTIONAL OFFICERS THAT ARE STAFFING THAT ROOM?

3 A YES.

4 Q ARE THEY WEARING PROTECTIVE EQUIPMENT?

5 A THE ONE WHERE YOU SCAN YOUR ID CARD IS. AND
6 THE OTHERS, I MEAN, IT VARIES. IT DEPENDS ON WHO IS
7 IN THERE.

8 Q SOME CORRECTIONAL OFFICERS ARE WEARING MASKS
9 AND OTHERS ARE NOT?

10 A YES.

11 Q AND HOW ABOUT GLOVES?

12 A NOT IN THE CHOW HALL. IN THE DORMS THEY DO
13 WEAR GLOVES WHEN THEY MAKE THEIR ROUND.

14 Q TELL ME ABOUT THE DAY ROOM. IS THAT --
15 WHERE THE TV'S ARE, IS THAT IN YOUR DORM OR IS THAT A
16 DIFFERENT ROOM?

17 A IT'S IN THE DORM ON THE OTHER SIDE OF THE
18 BATHROOM. IT'S A 30-BY-30 ROOM WITH TWO TV'S,
19 APPROXIMATELY 11 OR 12 BENCHES THAT SEAT THREE TO
20 FOUR PEOPLE. AND THERE IS TWO OF THE SAME TABLE FROM
21 THE CHOW HALL.

22 Q AND HAVE THERE BEEN ANY RESTRICTIONS AS TO
23 HOW MANY PEOPLE CAN BE IN THE DAY ROOM SINCE THE
24 COVID-19 OUTBREAK HAS STARTED?

25 A OH, NO. NO.

1 Q DO PRISONERS SELF -- OR SOCIALLY DISTANCE
2 THEMSELVES IN THE DAY ROOM?

3 A NO. A LOT OF PRISONERS TAKE THIS AS A JOKE.

4 Q SAY THAT AGAIN. I COULDN'T HEAR YOU. I'M
5 SORRY.

6 A A LOT OF PRISONERS TAKE THIS AS A JOKE.

7 Q WHY WOULD YOU THINK THEY ARE TAKING -- I'M
8 SORRY. LET ME REPHRASE THE QUESTION.

9 HAVE THE STAFF AT RAYBURN INSTRUCTED YOU ALL
10 ABOUT THE IMPORTANCE OF SOCIAL DISTANCING?

11 A NO. AT ONE TIME SOMEBODY PAINTED X'S ON THE
12 SIDEWALK, AND THEN THE WARDEN HAD THEM REMOVED THE
13 NEXT DAY.

14 Q WHAT DO YOU MEAN BY X'S?

15 A THEY HAD SOCIAL DISTANCE X'S. ONE OFFICER
16 DECIDED TO PUT THEM DOWN ON THE SIDEWALK, AND THE
17 NEXT DAY THEY WERE REMOVED.

18 Q HAVE YOU RECEIVED ANY KIND OF MEMORANDUM
19 FROM THE INSTITUTION ABOUT SOCIAL DISTANCING?

20 A NO.

21 Q HAVE YOU RECEIVED ANY KIND OF MEMORANDUM
22 ABOUT THEM TAKING ADDITIONAL HYGIENE MEASURES?

23 A THEY PUT THE CDC "WASH YOUR HANDS" POSTER ON
24 A EIGHT-BY-ELEVEN PIECE OF PAPER ON OUR BULLETIN
25 BOARD.

1 Q DOES THAT PIECE OF PAPER INDICATE TO WASH
2 YOUR HANDS BECAUSE OF COVID-19?

3 A I DON'T KNOW. I THINK IT'S JUST THE REGULAR
4 "WASH YOUR HANDS" THING.

5 Q HAS THERE BEEN ANY ADDITIONAL INSTRUCTION
6 ABOUT HOW TO KEEP YOURSELF SAFE DURING COVID-19?

7 A NO.

8 Q TELL ME ABOUT THE COMPUTER THAT YOU USE TO
9 JPEG MYSELF AND YOUR FAMILY MEMBERS. WHERE IS THAT?

10 A IT'S IN THE DAY ROOM ON A --

11 Q SO IN ORDER --

12 A -- OPPOSITE OF THE TV.

13 Q AND IS THAT COMPUTER SANITIZED OR CLEANED
14 AFTER YOU USE IT?

15 A NO.

16 Q ARE YOU PROVIDED WITH MATERIALS TO CLEAN THE
17 COMPUTER, SAY, AFTER YOU USE IT?

18 A NO. THE ONLY INMATES AUTHORIZED CLEANING
19 MATERIALS, WHICH IS CLOROX® BLEACH, ARE ACTUAL
20 ORDERLIES. IF YOU HAVE IT IN YOUR LOCKER, YOU GET A
21 WRITE-UP WITH THAT.

22 Q SO YOU DON'T HAVE ANY MATERIAL THAT YOU
23 COULD USE TO CLEAN THE COMPUTER AFTER YOU -- BEFORE
24 OR AFTER YOU USE IT?

25 A NOT THAT WOULDN'T DESTROY IT.

1 Q YOU DON'T HAVE ANY MATERIALS TO CLEAN THE
2 PHONE BEFORE OR AFTER YOU USE IT?

3 A NO.

4 Q OR THE MICROWAVE?

5 A NO.

6 Q OR THE ICE CHEST?

7 A NO.

8 Q IS CANTEEN STILL OCCURRING --

9 A YES.

10 Q IS CANTEEN STILL OCCURRING NOW THAT COVID-19
11 HAS HAPPENED IN THE FACILITY?

12 A YES.

13 Q HOW OFTEN DO YOU GET TO GO TO CANTEEN?

14 A ONCE A WEEK WE MAKE OUR CANTEEN ORDER.

15 Q DO YOU STAY WITH PRISONERS FROM YOUR DORM AT
16 CANTEEN OR DO YOU MIX WITH OTHER DORMS?

17 A THE DORM NEXT TO US, WE GO IN WITH THEM. WE
18 LINE UP TOGETHER.

19 Q WHEN WAS THE LAST TIME YOU MADE CANTEEN?

20 A THAT WAS LAST WEDNESDAY OR THURSDAY OR
21 FRIDAY. FRIDAY.

22 Q LAST FRIDAY?

23 A YES, LAST FRIDAY.

24 Q DID YOU MIX WITH THE OTHER DORM WHEN YOU
25 MADE CANTEEN?

1 A I HAD TO, YES, TO GET MY SPACE, MY STUFF.

2 Q DO YOU STAND IN A LINE OR A QUEUE IN ORDER
3 TO MAKE CANTEEN?

4 A YES.

5 Q AND HOW CLOSE ARE YOU STANDING AT CANTEEN?

6 A SHOULDER TO SHOULDER.

7 Q WHAT -- AS A DIABETIC, WHAT KIND OF THINGS
8 DO YOU PURCHASE AT CANTEEN IN ORDER TO HELP YOURSELF?

9 A MY PURCHASES PRIMARILY MADE ARE AN ITEM
10 CALLED SUMMER SAUSAGES, SALTED PEANUTS, OATMEAL,
11 MACKEREL. EVERY NOW AND THEN I'LL BUY A BAG OF CHIPS
12 IN CASE MY SUGAR GOES LOW, BECAUSE IT'S
13 UNCONTROLLABLE.

14 Q SO HAVING ACCESS TO THE CANTEEN IS ESSENTIAL
15 IN ORDER FOR YOU TO SELF-REGULATE YOUR DIABETES?

16 A YES.

17 Q OKAY. IS THERE -- I REMEMBER AT ELAYN HUNT
18 YOU USED TO GO TO A PARTICULAR CLUB THAT MADE THINGS
19 LIKE GRILLED CHICKEN SALADS. YOU TALKED ABOUT THAT
20 IN YOUR PETITION -- EXCUSE ME -- YOUR COMPLAINT.
21 DOES SOMETHING LIKE THAT EXIST AT RAYBURN?

22 A NO. I HAVEN'T HAD A FRESH VEGETABLE IN OVER
23 A YEAR.

24 **THE COURT:** OKAY. SO, MS. POSNER, WE NEED
25 TO WRAP IT UP, MA'AM.

1 MS. POSNER: I JUST HAVE ONE MORE SECTION.

2 THE COURT: JUST A FEW MORE -- A COUPLE MORE
3 QUESTIONS.

4 MS. POSNER: IF I COULD JUST ASK HIM -- VERY
5 GOOD. IF I COULD JUST ASK HIM ABOUT HIS MEDICAL
6 CARE.

7 BY MS. POSNER:

8 Q TELL ME ABOUT WHEN YOU'D MAKE FIELD CALL.

9 A FIELD CALL AND INSULIN ARE: YOU LINE UP
10 TOGETHER ON THE WALK. AND THEY DO ALLOW ONLY TWO
11 PEOPLE IN THE OFFICE TO GET YOUR INSULIN.

12 Q WHO PROVIDES YOU YOUR INSULIN?

13 A THE NURSES BEHIND A WINDOW.

14 Q THE NURSES BEHIND THE WINDOW. OKAY.
15 AND WHO TAKES YOUR BLOOD?

16 A THE SAME. WE KEPT OUR OWN OUTSIDE, BUT THE
17 SAME STUFF THEY USE FOR EVERYBODY ELSE.

18 Q SO EXPLAIN. DO YOU HAVE CONCERNS ABOUT
19 SOCIAL DISTANCING RELATED TO WHEN YOU GO TO GET YOUR
20 MEDICATION?

21 A YES. THE LINE WAITING TO GET INSIDE IS AT
22 SHOULDER TO SHOULDER. AND THEN WHEN YOU GET IN TO
23 CHECK YOUR BLOOD SUGAR LEVELS, EVERYBODY IS USING THE
24 SAME EQUIPMENT. AND THE PEOPLE WHO ARE IN THE
25 INFIRMARY USE THE SAME EQUIPMENT AS THE FELLOWS

1 OUTSIDE FROM THE INFIRMARY.

2 Q AND WHEN IS THE LAST TIME YOU WENT TO GET
3 YOUR BLOOD SUGAR CHECKED?

4 A LAST, I WANT TO SAY, THURSDAY OR FRIDAY. I
5 TRY TO AVOID IT. BUT I DON'T HAVE TO GO THROUGH
6 EVERY DAY TO GET MINE AT OUR O'CLOCK.

7 Q SO YESTERDAY AT FOUR O'CLOCK YOU WENT TO GET
8 YOUR INSULIN. AND WERE YOU STANDING SHOULDER TO
9 SHOULDER WITH OTHER PRISONERS?

10 A YES.

11 THE COURT: OKAY.

12 MS. POSNER: I THINK THAT'S IT, JUDGE.

13 THE COURT: ANY CROSS-EXAMINATION, MS.
14 MOONEY? VERY, VERY BRIEFLY.

15 MS. MOONEY: NO, YOUR HONOR.

16 THE COURT: VERY WELL.

17 AND, MR. MARLOWE, I DON'T HAVE ANY QUESTIONS
18 FOR YOU AT THIS TIME, EITHER. THANK YOU FOR YOUR
19 TESTIMONY, SIR. YOU ARE NOW EXCUSED, AT LEAST AS A
20 WITNESS.

21 THE WITNESS: THANK YOU, YOUR HONOR.

22 THE COURT: SO BEFORE WE WRAP UP, LET ME
23 JUST REMIND BOTH SIDES THAT -- AND, MS. MOONEY, I'M
24 GIVING YOU 48 HOURS ESSENTIALLY TO PUT SOMETHING
25 TOGETHER HERE THAT IS A RESPONSE TO THE PLAINTIFF'S

1 MOST RECENT FILING.

2 I WILL ALSO ASK YOU TO PROVIDE THE
3 INFORMATION THAT I'VE JUST DESCRIBED; AGAIN, THE
4 SOURCE OF THE MASKS. I'D LIKE SOME VERIFICATION, FOR
5 INSTANCE, THAT IF THE ARP, SHOULD ONE BE FILED ON BY
6 ANY INMATE, CAN BE HANDLED ON AN EXPEDITED BASIS. I
7 UNDERSTAND THAT THE PRISON LITIGATION ACT REQUIRES
8 THAT. BUT AS YOU ALSO KNOW, THAT THERE ARE CERTAIN
9 CIRCUMSTANCES IN WHICH THE FEDERAL COURTS CANNOT TURN
10 A BLIND EYE TO ANY ALLEGATIONS OF IMMEDIATE HARM NO
11 MATTER WHAT THE CIRCUMSTANCES ARE. NONETHELESS, I
12 WOULD ASK YOU TO PROVIDE AN EXPLANATION OF THE
13 PROCESS.

14 I WOULD ALSO LIKE MORE INFORMATION UPON THE
15 USE OF DISINFECTANTS AND OTHER MEASURES THAT HAVE
16 BEEN REQUESTED BY THE GOVERNOR. NEEDLESS TO SAY,
17 JUST BECAUSE THESE MEN AND, IN SOME CASES, WOMEN ARE
18 INSTITUTIONALIZED IN A PRISON SETTING DOES NOT MEAN
19 THAT THEY SHOULD NOT BE THE BENEFICIARIES OF ALL OF
20 THE THINGS THAT THE MEDICAL PROFESSIONALS HAVE
21 REQUESTED AND URGED ALL OF US.

22 MS. MOONEY, YOU'VE HEARD THE TESTIMONY OF
23 MR. MARLOWE. I WOULD INVITE YOU TO TAKE THE
24 OPPORTUNITY TO RESPOND, IF YOU WISH, TO SOME OF THE
25 FACTS ABOUT WHICH MR. MARLOWE HAS TESTIFIED. ANY

1 QUESTIONS ABOUT THAT?

2 MS. MOONEY: I DON'T THINK SO, YOUR HONOR.

3 THE COURT: ALL RIGHT. AGAIN, I KNOW THAT
4 THAT'S A LOT TO COVER IN A SPAN OF 48 HOURS, BUT -- I
5 TELL YOU WHAT I'LL DO. IF -- DO YOU THINK YOU CAN
6 COVER IT -- I MEAN, I CAN GIVE YOU TILL FRIDAY. WHAT
7 DO YOU THINK?

8 MS. MOONEY: FRIDAY WOULD BE PREFERABLE, IF
9 THAT'S ALL RIGHT.

10 THE COURT: ABSOLUTELY, MS. MOONEY. AND
11 AGAIN, I'M NOT TRYING TO IMPOSE UNREASONABLE
12 DEADLINES ON YOU, AS YOU KNOW, I'M SURE. IT'S JUST
13 THAT GIVEN THE NATURE OF THE ALLEGATIONS HERE, IT IS
14 CRITICAL THAT THE COURT MOVE WITH SOME DISPATCH ON
15 THESE MATTERS.

16 AND SO, MS. POSNER, I'LL GIVE YOU AN
17 OPPORTUNITY TO REPLY AS WELL. IF YOU WISH TO REPLY,
18 I WOULD INVITE YOU TO DO SO. I WOULD EXPECT A --
19 FIRST OF ALL, LET ME JUST BACK UP.

20 IF YOU COULD HAVE SOMETHING FILED BY CLOSE
21 OF BUSINESS ON FRIDAY, MS. MOONEY. MS. POSNER, I
22 CAN'T GIVE YOU A WHOLE LOT OF TIME FOR THE SAME
23 REASONS THAT I'VE ALREADY, OF COURSE, DESCRIBED FOR
24 MS. MOONEY. SO I CAN GIVE YOU TILL CLOSE OF BUSINESS
25 ON MONDAY TO REPLY. AFTER THAT I'LL BE PREPARED TO

1 ENTER A RULING, ASSUMING, OF COURSE, THAT I FIND THAT
2 I HAVE JURISDICTION TO DO SO IN THIS CASE.

3 IS THERE ANYTHING FURTHER OR ANY QUESTIONS,
4 FIRST BY THE PLAINTIFF?

5 **MS. POSNER:** NO, JUDGE. I THINK I
6 UNDERSTAND WHERE WE'RE HEADING WITH THIS ON THE
7 BRIEFING DEADLINE.

8 **THE COURT:** VERY WELL.

9 MS. MOONEY, ANYTHING -- ANY QUESTIONS BY THE
10 DEFENDANTS?

11 **MS. MOONEY:** NO. WE HAVE -- ON FRIDAY BY
12 CLOSE OF BUSINESS WE'RE GOING TO RESPOND TO THE --
13 WE'RE GOING TO REPLY TO THE RESPONSE THAT WAS FILED
14 EARLIER TODAY THAT WE HAVEN'T SEEN IN RESPECT TO THE
15 COURT'S AUTHORITY.

16 I HAVE NOTES ON THAT WE WOULD WANT THE
17 WARDEN TO EXPLAIN DISINFECTANTS, HOW THEY'RE USED,
18 WHO THEY'RE AVAILABLE TO; WHETHER THERE IS TAPE ON
19 THE FLOOR; WHETHER THERE IS MASKS AND WHO THEY'RE
20 AVAILABLE TO TO THE GENERAL POPULATION; AND THEN
21 ANYTHING THAT I NOTED FROM MR. MARLOWE'S TESTIMONY TO
22 RESPOND TO THAT.

23 DOES THAT SOUND LIKE WHAT YOUR HONOR IS
24 LOOKING FOR?

25 **THE COURT:** YES. INCLUDING ANY -- AND AS WE

1 KNOW, THE CDC AND THE LOUISIANA DEPARTMENT OF HEALTH
2 HAVE RELEASED JUST A MYRIAD OF INFORMATION ABOUT HOW
3 TO BEST ADDRESS THIS SITUATION AND TO PROTECT
4 OURSELVES. SO I WOULD INVITE YOU TO RELY ON THAT AS
5 WELL, THOSE SOURCES AS WELL. I MEAN, AGAIN, THAT'S
6 THE POINT HERE, IS TO DETERMINE WHETHER THE STATE
7 AUTHORITIES HAVE DONE ALL THAT IS WITHIN REASON TO
8 PROTECT THESE INMATES.

9 AND OF COURSE, I'LL BE EVALUATING MUCH OF
10 THE GUIDANCE THAT IS -- WELL, I'LL BE EVALUATING THE
11 CONDUCT OF THE PRISON OFFICIALS LARGELY ON THE BASIS
12 OF THE GUIDANCE THAT HAS BEEN PROVIDED TO US BY THE
13 CENTER FOR DISEASE CONTROL AND OTHER MEDICAL
14 AUTHORITY. SO ANYTHING THAT YOU'D LIKE TO ADD FROM
15 THOSE SOURCES OR ADDRESS ANYTHING FROM THOSE SOURCES,
16 I WOULD INVITE YOU TO DO SO.

17 **MS. MOONEY:** THANK YOU, YOUR HONOR.

18 **THE COURT:** AND AGAIN, I UNDERSTAND THAT I
19 WOULD -- I REPEAT THAT I WOULD OTHERWISE GIVE YOU A
20 LOT MORE TIME, MS. MOONEY. BUT AS I'M SURE YOU KNOW,
21 THE CIRCUMSTANCES SIMPLY WON'T PERMIT ME TO DO SO IN
22 THIS CASE. AND I KNOW WE HAVE A RELIGIOUS HOLIDAY
23 APPROACHING THIS WEEKEND FOR MANY, BUT I THINK WE CAN
24 ALL AGREE THAT GIVEN THAT THIS IS OR CAN BE A LIFE OR
25 DEATH SITUATION, IT'S SOMETHING THAT WE'RE JUST GOING

1 TO HAVE TO COMMIT OURSELVES TO WORKING THROUGH AS
2 BEST WE CAN.

3 SO LET ME THANK THE LAWYERS FOR BOTH SIDES
4 AS WELL AS THE PARTIES FOR JOINING US FOR THIS
5 HEARING UNDER THESE EXTRAORDINARY CIRCUMSTANCES.

6 MY FINAL COMMENT IS THAT, MR. MARLOWE, I
7 UNDERSTAND FULLY YOUR CONCERN. I WILL DO CERTAINLY
8 MY BEST TO ADDRESS YOUR CONCERNS.

9 AND MR. VINING AND MS. MOONEY AND
10 MS. RUTLEDGE, IF YOU WOULD CONVEY TO THE SECRETARY
11 AND THE WARDEN AND THE OTHER DEFENDANTS IN THIS CASE
12 THAT I'M VERY MUCH AWARE THAT THEY TOO -- OR MUCH IS
13 BEING ASKED OF THEM AT THIS EXTRAORDINARY TIME AS
14 WELL. SO AGAIN, HOPEFULLY WE CAN ACHIEVE A RESULT
15 THAT IS IN EVERYONE'S INTEREST.

16 ALL RIGHT. AGAIN, THANK YOU ALL FOR JOINING
17 US. THAT CONCLUDES THE HEARING.

18 COURT IS NOW ADJOURNED.

19 MS. POSNER: THANK YOU, YOUR HONOR.

20 MR. VINING: THANK YOU, YOUR HONOR.

21 MS. MOONEY: THANK YOU, YOUR HONOR.

22 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)

23 C E R T I F I C A T E

24 I CERTIFY THAT THE FOREGOING IS A CORRECT
25 TRANSCRIPT FROM THE RECORD OF THE PROCEEDINGS IN THE

1 ABOVE-ENTITLED NUMBERED MATTER.

2 S:/NATALIE W. BREAUX

3 NATALIE W. BREAUX, RPR, CRR

4 OFFICIAL COURT REPORTER

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CHRISTOPHER MARLOWE : CIVIL ACTION
(DPSC#558725) :
VERSUS : NO. 18-63-BAJ-EWD
 : JUDGE BRIAN A. JACKSON
JAMES LEBLANC, ET AL : MAGISTRATE JUDGE
 : ERIN WILDER-DOOMES

**SUR-REPLY MEMORANDUM IN OPPOSITION TO PLAINTIFF’S MOTION FOR
TEMPORARY RESTRAINING ORDER AND/OR EMERGENCY MOTION FOR
TEMPORARY RELEASE (Rec Doc 93) AND POST-HEARING MEMORANDUM
REGARDING UPDATED COVID-19 PROCEDURES RELATED TO INCARCERATED
PRISONERS**

MAY IT PLEASE THE COURT:

Defendants¹ herein respectfully respond to Plaintiff’s Reply Memorandum (Rec. Doc. 9) on Plaintiff’s Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Release (hereafter TRO). Plaintiff’s reply memorandum² is void of any substantive law or evidence to justify the granting of Plaintiff’s motion. Accordingly, this Honorable Court should deny Plaintiff’s motion.

I. SUR-REPLY IN RESPONSE TO PLAINTIFF’S REPLY MEMORANDUM

Plaintiff continues to fail to meet his burden of proving this Honorable Court has the authority to release Plaintiff from custody. Plaintiff alleges his TRO does not request a “prisoner release order” as that term is defined in 18 U.S.C. §3626(g)(4). “[T]he term ‘prisoner release

¹ Plaintiff acknowledges the only Defendant with the possibility if granting relief to Plaintiff is Secretary James LeBlanc. Rec Doc 102, page 5.

² Approximately 30 min prior to the hearing, Plaintiff filed a Reply Memorandum without leave of court. Rec doc 102. United States District Court for the Middle District of Louisiana Local Rule 7f requires any reply except for Rule 12 and 56 motions to have leave of court. At the April 7, 2020 hearing, this Honorable Court allowed Defendants to file a sur-reply by close of business on Friday, April 7, 2020.

order’ includes any order, including a temporary restraining order or preliminary injunctive relief, that has the purpose or effect of reducing or limiting the prison population, or that directs the release from or nonadmission of prisoners to a prison.” 18 U.S.C. §3626(g)(4). Plaintiff requests temporary “release from the custody of DPS&C.” Rec. Doc. 93, p. 2. Plaintiff is requesting release from prison. Therefore, the requested TRO is, clearly, a “prisoner release order” as that term is defined in §3626(g)(4).

Plaintiff then claims, if Plaintiff’s request for entry of a TRO to release him from prison is considered by this Honorable Court to be a “prisoner release order,” 18 U.S.C. §3626(a)(3) provides this Honorable Court with authority to enter the release order. Rec. Doc. 102. Plaintiff alleges:

1) as a diabetic prisoner, Mr. Marlowe’s current conditions of confinement violate his constitutional rights and pose a threat of irreparable harm should he contract COVID-19 at Rayburn; 2) in order to remedy Mr. Marlowe’s unconstitutional conditions of confinement, Defendant Leblanc must furlough him pursuant to La. R.S. 15:833 or immediately remedy the unconstitutional conditions at Rayburn in order to protect Mr. Marlowe’s life – preferably within the next twenty-four hours.

Rec. Doc. 102. There are two fundamental errors in Plaintiff’s argument that are fatal to his conclusion that §3626(a)(3) entitles him to release. First, the Eleventh Amendment to the United States Constitution protects Secretary LeBlanc from the entry of an injunction (temporary or otherwise) which forces him to act in accordance with state law. *See Jordan v. Fisher*, 823 F.3d 805, 809 (5th Cir. 2016)(citing *Pennhurst State School and Hospital, et al v. Halderman, et al*, 465 U.S. 89, 106-107 (1984)). Thus, this Honorable Court lacks jurisdiction to order Secretary LeBlanc to “furlough [Plaintiff] pursuant to La. R.S. 15:833.”

Second, Plaintiff has not pled any claim regarding allegedly unconstitutional conditions of confinement at Rayburn Correctional Center as mandated by Fed. R. Civ. P. 8, and the TRO motion requested only one type of relief – release from prison. The instant lawsuit pertains to the Elayn

Hunt Correctional Center. The Federal Rules of Civil Procedure do not allow a Plaintiff to request brand new relief on a new cause of action in a reply memorandum filed to support a TRO. Plaintiff's Reply Memorandum provides this Honorable Court no legitimate basis for the extraordinary exercise of authority Plaintiff pleads for. Furthermore, as explained in Defendants' Memorandum in Opposition to Plaintiff's TRO Motion, the governing statutory law, which has not been acknowledged or distinguished by Plaintiff, prohibits this Honorable Court from granting the relief requested by Plaintiff in the current procedural posture of this case. Therefore, Plaintiff's Motion must be denied.

II. POST-HEARING MEMORANDUM REGARDING RECENT UPDATES TO COVID-19 PROCEDURES RELATED TO INCARCERATED PRISONERS

During the April 7, 2020 hearing, this Honorable Court requested an update regarding certain procedures implemented at Rayburn Correctional Center ("RCC") to combat the spread of COVID-19. In response to this Honorable Court's inquiries, Defendants have attached to this memorandum (1) the Department of Correction's April 6, 2019 "COVID-19 FAQ Guidance to Prison Facilities," (2) Department of Corrections Regulation B-05-005, entitled "Administrative Remedy Procedure," and (3) guidance and forms used as a part of the Department's COVID-19 testing, and (4) The affidavit of RCC Warden Robert Tanner³ detailing the various procedures put into place at RCC.⁴

Because of the ever-changing nature of current events and the fluidity of Center for Disease Control/Louisiana Department of Health guidelines, Defendants and Warden Tanner reserve their right to supplement these responses as necessary.

³ Since this case arises out of Plaintiff's treatment at Elayn Hunt Correctional Center ("EHCC"), Warden Robert Tanner is not a named defendant in this litigation.

⁴ While the attached affidavit is true and correct to the best of Warden Tanner's knowledge, this affidavit is not exhaustive of every measure taken in response to the ongoing COVID-19 pandemic.

Respectfully Submitted,

JEFF LANDRY
ATTORNEY GENERAL

BY: /s/ Suzanne Quinlan Mooney
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Attorney for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of April, 2020, the foregoing was filed electronically with the Clerk of Court by using the CM/ECF system. Notice of this filing will be sent to all parties who participate in electronic filing by operation of the court's electronic filing system.

/s/ Suzanne Quinlan Mooney
Suzanne Quinlan Mooney

Louisiana Department of Corrections
DOC-HQ Medical Division
COVID-19 FAQ Guidance to Prison Facilities
V3 Issue Date: 4.6.2020

FAQ and Guidance
Screening Assessment and Infection Control
Inmates and Staff

(V3- this document supersedes V2 issued 3.25.2020)

This document shall serve to aid and equip prison facility staff in their ongoing effort to reduce the inmate population's risk of exposure to Coronavirus (COVID-19). Furthermore, this document provides guidance on response and spread prevention measures to be used in the event that a state prison facility has (1) an inmate(s) suspected or confirmed to have COVID-19 in their respective population and/or (2) an employee(s) suspected or confirmed to have COVID-19 or has close contact with a person suspected or confirmed to have COVID-19.

Note* This document serves as general guidance and is based upon a variety of more narrow questions received related to COVID-19 concerns (screening, assessment, testing, isolation, and quarantine procedures) and does not supersede specific procedures and protocols delineated in detail in **D.R. HCP-26 Influenza and Pandemic Viral Diseases: Preparedness, Response and Recovery**, facility individual COOP plans as required by the regulation, and other applicable Department regulations/state and federal laws.

SECTION 1 of this document relates to facility measures pertaining to inmates and COVID prevention/response measures.

SECTION 2 of this document relates to facility measures pertaining to staff with symptoms/leave/return to work etc. or close contact exposure to persons infected with COVID-19.

Section 3 of this documents provides guidelines regarding issuance and use of PPE

I. SECTION 1

A. Ensure Access to Masks

1. Each housing unit and shift supervisor's office shall maintain a supply of masks.
2. Surgical / cloth masks should be made available in clinic waiting rooms and provided to persons in assessment and screening areas.

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3. Immediately direct a symptomatic inmate that is suspected or confirmed as a COVID-19 case, to put on a surgical mask until the inmate can be isolated and inform inmate to avoid contact with others. Inmates suspected to have **COVID-19** shall be immediately isolated until they are further evaluated by a medical provider.

B. Routine Environmental Cleaning of Prison Health Care Units

1. Enhanced frequency of cleaning and disinfection procedures of high touch surfaces is required for COVID-19 in all prison areas to include housing areas and healthcare settings, including those inmate-care areas in which aerosol-generating procedures are performed.
2. Disinfectants: Use only EPA-approved as a hospital/healthcare or broad spectrum disinfectant.
3. Environmental cleaning and disinfection:
 - Ensure that EPA-registered, hospital-grade disinfectants are available to allow for frequent cleaning of high-touch surfaces and shared resident care equipment.

Refer to [List Nexternal icon](#) on the EPA website for EPA-registered disinfectants which are qualified under EPA's emerging viral pathogens program for use against SARS-CoV-2.

<https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2>

C. COVID-19 Initial Screening on Inmates:

1. **Inter-system intakes (Inmate arriving from other than a DOC facility):** All intersystem intakes coming into DOC facilities are required to have temperature taken/be screened for signs and symptoms of COVID-19 and tested (if meet testing criteria below).
2. **Intra-system intakes (Inmates transferring to another DOC facility):** Take temperature of each inmate prior to boarding the transport bus. If the inmate has temperature greater than 100.0F immediately direct the inmate to don a surgical mask, place them in an isolated area, and contact healthcare staff to determine if transfer should occur or the inmate remain at the facility for further evaluation.
3. **Inmates presenting with symptoms to Security, Classification (Non Health Care staff):** Direct the inmate to immediately don a surgical mask and place them in an isolated area and contact Healthcare staff for Health Care Services Evaluation.

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4. **Inmates presenting with symptoms to Healthcare staff: *See criteria/protocol in (D) below.***
Persons with influenza like illness shall be tested for flu and tested for COVID-19.

D. Health Services Evaluation for COVID-19:

1. To extent possible, designate separate area in clinic for persons with potential Influenza Like Illness
2. Any health care staff assessing inmates referred from the **COVID-19 Initial Screening Assessment** above should don personal protective equipment listed below *before* doing the evaluation:
 - N95 mask
 - Eye protection: goggles or facemask
 - Gown
 - Gloves
 - Shoe covers
3. Any inmate exhibiting, reporting, or determined to have symptoms of an ***influenza like illness*** (fever of 100 Degrees Fahrenheit and cough) shall be tested for influenza and COVID-19. See below Procedures in E.

E. Influenza and COVID-19 Testing Criteria:

1. State prison facilities **shall test any inmate** that presents **signs or symptoms** of an **influenza like illness (fever of 100.0)** for **both Influenza and COVID-19.**

Influenza / COVID-19 Testing/Results Procedures:

- i. Apply mask, isolate and test for influenza and COVID 19.
- ii. **Influenza, Positive Result:** If rapid influenza test positive, keep isolated, may return to population if COVID -19 results are negative and 24 hours after afebrile and symptoms improve;
- iii. **Influenza, Negative Result:** If influenza test negative, treat as suspected COVID-19 and use COVID-19 isolation procedures pending COVID-19 test results.

COVID-19 Testing/Results Procedures:

- i. **Nasal swab** – obtain nasal swab place specimen and place in viral transport medium in accordance with infectious disease testing procedures

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- a. Nasal swab is the method of choice. Complete LDH LAB Test Request Form. Store Sample in accordance with LDH Guidance See **Attachment A**
 - ii. **Transport Test to State Lab.**
 - iii. **Prior to Results:** Isolate person in accordance with COVID-19 isolation procedures
 - iv. **COVID-19 Positive Result:** isolate for at least 14 days – must have two (2) negative COVID-19 test- that are 24 hours apart and resolved symptoms prior to return to population.
 - v. **COVID-19 Negative Result:** keep isolated, may return to population **24 hours after** inmate's afebrile and have symptoms improved.
2. Inmates suspected to have **COVID-19** shall be immediately isolated until they are further evaluated by a medical provider.
 3. Immediately direct a symptomatic inmate that is suspected or confirmed as a COVID-19 case, to put on a surgical mask until the inmate can be isolated and inform inmate to avoid contact with others.
 4. In addition to COVID-19 Testing, immediately follow the **below Infection Control and Spread Prevention Procedures.**
 5. Ensure ALL tests administered and results are reported to HQ-Medical Division as required.

F. COVI-19 Confirmed Positive Result in Prison Facility:

1. Isolation of symptomatic confirmed COVID-19 cases.
2. In the event of a confirmed positive result for COVID-19, Inmates shall be placed in/remain in isolation (appropriate location determined by facility).
3. Inmate shall remain isolated in accordance with the guidance below and DR HCP-26.
4. Inmates that were housed in the same dorm as the inmate with confirmed positive COVID-19, shall be quarantined for 14 days and shall be further evaluated by a Health Care Staff. **(See section J)**
5. **Isolated Inmates shall not be combined or cohorted with quarantined inmates.**
6. See below guidance regarding isolation and quarantine/ Infection Control/Spread Prevention.

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G. Infection Control and Spread Prevention:

Key Definitions from CDC:

Isolation: Separating a symptomatic inmate with a concern for a communicable disease from other inmates.

Quarantine: Separating asymptomatic inmates who have been exposed to a contagious disease from other inmates.

Cohorting: Cohorting refers to the practice of isolating multiple laboratory-confirmed COVID-19 cases together as a group, or quarantining close contacts of a particular case together as a group.

NOTE* Isolated Inmates shall not be combined or cohorted with quarantined inmates.

Close Contact of COVID-19 case: In the context of COVID-19 in general, an individual is considered a “close contact” if they a) have been within approximately 6 feet of a COVID-19 case for a prolonged period of time or b) have had direct contact with infectious secretions from a COVID-19 case (e.g., have been coughed on). Close contact can occur while caring for, living with, visiting, or sharing a common space with a COVID-19 case. Data to inform the definition of close contact are limited. Considerations when assessing close contact include the duration of exposure (e.g., longer exposure time likely increases exposure risk) and the clinical symptoms of the person with COVID-19 (e.g., coughing likely increases exposure risk, as does exposure to a severely ill patient).

In the correctional setting context:

For purposes of determining if an **inmate, detainee, or staff person onsite/working** has had “**close contact**” with a suspected or confirmed case of COVID-19 **within a prison or jail facility**, “**close contact**” means the inmate/detainee/staff person onsite has:

- been within approximately 6 feet of a COVID-19 case for a prolonged period of time **OR**
- had direct contact with infectious secretions of a COVID-19 case (e.g., have been coughed on)

Social Distancing: the practice of increasing the space between individuals and decreasing the frequency of contact to reduce the risk of spreading a disease (ideally to maintain at least 6 feet between all individuals, even those who are asymptomatic). Social distancing strategies can be applied on an individual level (e.g., avoiding physical contact), a group level (e.g., canceling group activities where individuals will be in close contact), and an operational level (e.g., rearranging chairs in the dining hall to increase distance between them).

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H. Isolation procedures for Inmate(s) suspected or confirmed to have COVID-19

- 1. Staff Restrictions:** Elderly staff and those with any known pulmonary issue should not be assigned to work in isolation or quarantine areas.
- 2. Isolation Housing Location:** Security and medical staff work together to determine the best location to house inmate or inmates on isolation status. Inmates under medical isolation should be housed in the following order of priority:
 - i.** Separately, in single cells with solid walls (i.e., not bars) and solid doors that close fully; if not available then
 - ii.** Separately, in single cells with solid walls but without solid doors; if not available then
 - iii.** As a cohort, in a large, well-ventilated cell with solid walls and a solid door that closes fully. Employ social distancing strategies related to housing in the Prevention section above; if not available then
 - iv.** As a cohort, in a large, well-ventilated cell with solid walls but without a solid door. Employ social distancing strategies related to housing in the Prevention section above; if not available then
 - v.** As a cohort, in single cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells. (Although individuals are in single cells in this scenario, the airflow between cells essentially makes it a cohort arrangement in the context of COVID-19.); if not available then
 - vi.** As a cohort, in multi-person cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells. Employ social distancing strategies related to housing in the Prevention section above; if not available then
 - vii.** Safely transfer individual(s) to another facility with available medical isolation capacity in one of the above arrangements.
 - i.** (NOTE – Transfers should be avoided if at possible due to the potential to introduce infection to another facility; proceed only if no other options are available.)
- 3. Initiate Droplet Precautions**
 - i.** Hang droplet precaution isolation signs outside the room at cell or front of dorm (if group isolation)

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- ii. Make proper PPE available outside the isolation cell / dorm or somewhere easily accessible.
- iii. All staff must wash hands with soap and water or with alcohol sanitizer prior to entering an and isolation area.
- iv. All staff must wear appropriate PPE when within 6 feet of an isolation area, which includes N95 mask, eye protection, gown, gloves and shoe covers.
- v. All staff must wash hands with soap and water or with alcohol sanitizer after leaving an inmate's cell and removing gloves and/or PPE.

4. Restricted Movement:

- i. As a general rule, isolated inmates will not be allowed out of the cell / isolation area unless security or medical needs absolutely require it.
- ii. If an inmate in isolation must be taken out of the isolation cell/area, inmate must don a surgical mask during the necessary movement and staff persons must wear PPE as required.
- iii. Staff must ensure that inmate only travels to and from to exact pre-determined location as required.

5. Medication:

- i. Any pill line medications will be delivered by medical staff unless medical staff determines the need for a different protocol.

6. Nursing Assessments:

- i. Inmates isolated in a living unit with suspected or confirmed COVID-19 will have nursing assessments and vital signs at a minimum of every shift, with referral to a practitioner as clinically indicated.

7. Length of time in Isolation:

- i. **Inmates previously located at DOC and placed in** Isolation must remain in isolation as follows:
 - i. At least 3 days (72 hours) have passed *since recovery* defined as resolution of fever without the use of fever-reducing medications **and**
 - ii. Improvement in respiratory symptoms (e.g., cough, shortness of breath); **and,**
 - iii. At least 7 days have passed *since the COVID-19 collections was completed*.
- ii. **Inmates discharged from an offsite** hospital after being diagnosed with and treated for COVID-19 shall be placed in isolation under the following conditions:
 - i. At least 3 days (72 hours) have passed *since recovery* defined as resolution of fever without the use of fever-reducing medications **and**
 - ii. Improvement in respiratory symptoms (e.g., cough, shortness of breath); **and,**
 - iii. At least 7 days have passed *since the COVID-19 collections was completed*.
- iii. Following removal from isolation all inmates shall be housed in a step down isolation area determined by the facility for a period of 7 days. At the end of the 7 days a COVID 19 test shall be collected. A negative COVID-19 result is required for discharge from the step down isolation area.

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I. Transportation of inmates with suspected or confirmed COVID-19 disease: (ONLY IF NECESSARY)

1. No inmate with a confirmed COVID-19 disease will be transported into or between DOC facilities without the prior approval of the Secretary of DPS&C/DOC Medical Director.
2. In the event of an approved transfer, of an inmate confirmed or suspected of COVID-19 disease into or between DOC facilities
 - i. custody officers, community custody officers, or other DOC staff in close contact with the inmate, must don the following personal protective equipment:
 - A pair of disposable examination gloves
 - Disposable isolation gown or single-use/disposable coveralls
 - Any NIOSH-approved particulate respirator (i.e., N-95 or higher-level respirator)
 - Eye protection (i.e., goggles or disposable face shield)
 - If unable to wear a disposable gown or coveralls because it limits access to duty belt and gear, ensure duty belt and gear are disinfected after contact with individual.
 - Shoe covers
 - ii. Inmate shall wear a protective mask.
3. The transport vehicle windows should be down and the air return be turned to allow air from the outside.
4. Clean and disinfect the transport vehicle after transport.

J. Contact Tracking for those suspected/Confirmed to have COVID-19/ Quarantine Determination:

1. Cases of suspected and confirmed COVID-19 should be thoroughly investigated by the Healthcare and security staff to identify close contacts (inmates and other staff)
2. Review the inmate's cell and living unit location, job, classes, etc. to determine who could have been exposed and needs to be quarantined.
3. Report the need to quarantine other inmate/s as indicated to the Warden at the facility, Facility Medical Director, and headquarters Medical Director and Chief of Operations
4. Report the results of the contact investigation to the Facility Medical Director, facility warden, HQ-Medical Director and HQ Chief of Operations who will help ensure that people who have been

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exposed are identified, notified, and all appropriate infection control measures are put in place to reduce transmission (masking, quarantine, cohorting etc.)

K. Quarantine of Inmates in close contact with an Inmate or employee with Confirmed or Suspected COVID-19; And quarantine of those inmates who have previously been in an offsite facility:

1. Inmates who are asymptomatic but have been in **close contact** with an inmate or employee confirmed or suspected to have COVID-19 **must be quarantined for a minimum of 14 days**, temperature checked 2x day, and monitored for signs and symptoms of an Influenza like illness throughout entirety of quarantine.
2. **Close Contact:** For purposes of the unique context of a correctional setting (living, congregating etc.) and determining who should be placed in quarantine inmates in “**close contact**” are those inmates who
 - i. Have been within approximately 6 feet of a COVID-19 case for a prolonged period of time **OR**
 - ii. Have had direct contact with infectious secretions of a COVID-19 case (e.g., have been coughed on)
3. **Travelled to Offsite Facility:** Inmates that have been off-site for any reason (an appointment, procedure, emergency visit, admission, etc.) **must be quarantined for 14 days.**
4. If an inmate(s) is quarantined due to contact with a suspected case who is subsequently tested for COVID-19 and receives a negative result, the quarantined inmate(s) should be released from quarantine restrictions.
5. Quarantined inmates can be housed alone or in a cohort comprised of other inmates quarantined for the same reason.
6. If a quarantined inmate develops symptoms of the COVID-19, they will immediately be isolated and tested for Flu and COVID – 19 and removed from quarantine if they were housed with other asymptomatic inmates, and placed into isolation.
7. **Impact on rest of the inmates in quarantine cohort when an individual who is part of a quarantined cohort becomes symptomatic:**
 - a. **If the individual is tested for COVID-19 and tests positive:** the 14-day quarantine clock for the remainder of the inmates in the quarantine cohort must be reset to 0.
 - b. **If the individual is tested for COVID-19 and tests negative:** the 14-day quarantine clock for this individual and the remainder of the cohort does not need to be reset. This individual can return from medical isolation to the quarantined cohort for the remainder of the quarantine period.

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8. Inmates in quarantine shall be screened and have temperature checks at a minimum of twice daily by healthcare staff. If the inmate develops symptoms while in quarantine they will be assessed by a medical practitioner per Health Services
9. Any pill line medications will be delivered to the quarantined inmate by medical staff unless medical staff determines the need for different protocol.

L. Facility management of Isolated Inmates and Quarantined Inmates: Food, Recreation, Healthcare, Laundry etc.

1. **Cluster:** If possible, cluster cases in isolation within in a single location/wing within the facility to help streamline ongoing assessments and delivery of services to the affected population
2. **Group Living Locations:** If inmates may be isolated or quarantined in a living unit as opposed to a cell block, allowances will be made to accommodate inmates in this location.
3. **Recreation:** Television, playing cards and/or other recreational activities should be provided if possible
4. **Provision of health care in isolation and quarantine areas:**
 - a. Routine health care will be provided.
 - b. Medications will be given
 - c. Insulin and other diabetic services will be given
 - d. Routine mental health services will be provided
 - e. Emergency medical needs will be assessed immediately by medical personnel, as required and transported if deemed absolutely necessary.
 - f. Inmate must don cloth mask during this time.
5. **Meals:**
 - a. Meals will be provided by Food Services and delivered to the cell or isolation/quarantine areas.
 - b. The Unit staff will notify Food Services at the beginning of each shift the number of meals that are needed.
 - c. Disposable food trays and utensils will be used.
 - d. Gloves will be worn when picking up used trays
6. **Laundry:**
 - a. Laundry from a person infected with COVID-19 may be washed with other individuals' laundry.
 - b. Individuals handling laundry from COVID-19 cases should wear mask, disposable gloves, discard after each use, and clean their hands after.

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- c. Do not shake dirty laundry. This will minimize the possibility of dispersing virus through the air.
- d. Launder items as appropriate in accordance with the manufacturer's instructions. If possible, launder items using the warmest appropriate water setting for the items and dry items completely.
- e. Clean and disinfect clothes hampers according to guidance above for surfaces. If permissible, consider using a bag liner that is either disposable or can be laundered.

M. Release of Inmate with suspected or confirmed case of COVID-19

1. If an Inmate with suspected or confirmed COVID-19 disease becomes eligible for release from a DOC facility via GTPS or Full Term Release date, DOC HQ- Medical Director shall work with LDH and Probation and Parole to determine appropriate placement guidance prior to the inmate's release. Housing and the ability to isolate should be determined prior to release.
2. **DO NOT RELEASE ANY INMATE SUSPECTED OR CONFIRMED TO HAVE COVID-19 WITHOUT CONFERRING WITH DOC HQ Medical Director and Chief of Operations.**

II. SECTION 2

A. General Guidance to Employees:

1. Instruct all employees at your facility to keep Warden or his designee updated regarding their health status if feeling ill or currently at home due to illness symptoms.
2. Any employee should notify immediately the Warden or designee if tested for COVID as well as the results once received.

B. If an Employee has a positive test result for COVID-19:

1. Employee shall notify Warden or designee immediately and identify/provide names of all known close contacts.
2. The employee shall not return to work/remain in home self-isolation
3. Warden or his designee shall notify the employees in the location where infected employee worked of their possible exposure to COVID-19 in the workplace, but shall also maintain confidentiality as required by the Americans with Disabilities Act.
4. Employees identified as close contacts of the infected employee (have been within 6 feet of the person for a pro-longed period of time) that have no COVID-19 symptoms shall:
 - i. Be sent home for 14 days' quarantine

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- ii. and to self-monitor for symptoms (i.e., fever, cough, or shortness of breath). Instruct employee to contact local physician or emergency health care provider if symptoms do develop.
- iii. Employee may return to work after the 14 days if no symptoms at any point during the 14 days.

5. Return to Work Criteria for an employee with a positive COVID-19

1. The individual has been free from fever for at least 72 hours without the use of fever-reducing medications **AND**
2. The individual's other symptoms have improved (e.g., cough, shortness of breath) **AND**
3. At least 7 days have passed since the date of the collection of the COVID -19 test.

c. Employees (with no COVID-19 symptoms) that have a spouse or other household member(s) that test positive for COVID-19:

1. Household members are considered "close contacts"
2. Employee shall notify Warden or designee and shall not return to work for 14 days
3. Employee shall self-quarantine for 14 days and self-monitor for symptoms (i.e., fever or fever and cough)
4. Instruct employee to contact local physician or emergency health care provider if symptoms do develop. If health care provider does not test for COVID-19- 14-day period starts over from first date of symptoms.
5. Employee may return to work after 14 days if no symptoms at any point during the 14-day period.

III. Section 3:

A. MASKS: issuance and use of N95, surgical and cloth mask use during COVID-19 are as follows:

1. Healthcare staff:

- Type of mask – N95 or surgical as dictated by infection control protocols.

2. Direct care staff:

- Type of mask – surgical
 - Issued at the beginning of the staff's 2 or 3 day shift rotation.
 - Staff working more than a 3 day shift rotation shall be issued a mask every 3 days.
 - Discard at the end of your shift rotation or sooner if there is damage (holes, tears or obvious gross contamination). A new mask will be issued at this time.
 - Place mask in Ziploc bag when not in use
 - **DO Not launder**

3. Staff that work with those isolation: N95 masks for those working directly with offenders in isolation.

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4. Inmates:

- **Type - Cloth**
 - Issue to isolation and quarantine inmates
 - Issue two masks to each offender
 - Mask are to be marked with the offender's name and doc #
 - Masks are to be laundered daily and returned to offender.
 - Mask shall be reissued if damaged

Classification of Individual Wearing PPE					
Classification of Individual Wearing PPE	N95 respirator	Face mask	Eye Protection	Gloves	Gown/Coveralls
Incarcerated/Detained Persons					
Incarcerated/detained persons who are confirmed or suspected COVID-19 cases, or showing symptoms of COVID-19		X			
Incarcerated/detained persons in a work placement handling laundry or used food service items from a COVID-19 case or case contact		X		X	X
Incarcerated/detained persons in a work placement cleaning areas where a COVID-19 case has spent time		Additional PPE may be needed based on the product label. See CDC guidelines for more details.		X	X
Staff					
Staff having direct contact with asymptomatic incarcerated/detained persons under quarantine as close contacts of a COVID-19 case* (but not performing temperature checks or providing medical care)		Face mask, eye protection, and gloves as local supply and scope of duties allow.			
Staff performing temperature checks on any group of people (staff, visitors, or incarcerated/detained persons), or providing medical care to asymptomatic quarantined persons		X	X	X	X

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Staff having direct contact with (including transport) or offering medical care to confirmed or suspected COVID-19 cases (see CDC infection control guidelines)	X	X**	X	X	X
Staff present during a procedure on a confirmed or suspected COVID-19 case that may generate respiratory aerosols (see CDC infection control guidelines)	X		X	X	X
Staff handling laundry or used food service items from a COVID-19 case or case contact		X		X	X
Staff cleaning an area where a COVID-19 case has spent time		Additional PPE may be needed based on the product label. See CDC guidelines for more details.		X	X

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ADMINISTRATIVE REMEDY PROCEDURE

PURPOSE

On September 18, 1985, the Department of Public Safety and Corrections installed in all of its adult institutions a formal grievance mechanism for use by all offenders committed to the custody of the Department. The process bears the name Administrative Remedy Procedure (ARP). Offenders are required to use and complete all steps in the procedure properly, including obeying all rules of the procedural process, before they can proceed with a suit in Federal and State Courts. No action shall be brought in a federal or state court with respect to prison conditions by any offender confined in any jail or correctional facility until all available administrative remedies are properly exhausted.

Corrections Services has established the Administrative Remedy Procedure through which an offender may seek formal review of a complaint which relates to any aspect of his incarceration if less formal methods have not resolved the matter. Such complaints and grievances include, but are not limited to any and all claims seeking monetary, injunctive, declaratory or any other form of relief authorized by law and by way of illustration, includes actions pertaining to conditions of confinement, personal injuries, medical malpractice, time computations, even though urged as a writ of habeas corpus, or challenges to rules, regulations, policies or statutes, including grievances such as discrimination based on disability, offender requests for accommodations under the Americans with Disabilities Act (Department Regulation No. B-08-010), and for complaints of sexual abuse under the Prison Rape Elimination Act (Department Regulation No. C-01-022).

Through this procedure, offenders shall receive reasonable responses and where appropriate, meaningful remedies.

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This document rescinds and supersedes the "Administrative Remedy Procedure" dated 10 July 2013.

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CHAPTER 1

DEFINITIONS

As used in this procedure, the following definitions shall apply:

ARP SCREENING OFFICER: A staff member, designated by the Warden, whose responsibility is to coordinate and facilitate the Administrative Remedy Procedure process.

GRIEVANCE[OR REQUEST FOR ADMINISTRATIVE REMEDY]: A written complaint by an offender on the offender's own behalf regarding anything relating to prison conditions, including but not limited to a policy applicable within an institution, a condition within an institution, an action involving an offender of an institution, an incident occurring within an institution, or discrimination based on disability.

EMERGENCY GRIEVANCE [OR REQUEST FOR EMERGENCY ADMINISTRATIVE REMEDY]:A matter in which disposition within the regular time limits would subject the offender to a substantial risk of personal injury or cause other serious and irreparable harm to the offender.

EXHAUSTION: Proper exhaustion only occurs when an offender files a timely and procedurally proper request for remedy, which after it is accepted, is addressed on the merits at both the first and second Step. A request for administrative remedy that is rejected is not considered properly exhausted, as such request has not been addressed on its merits at either of the two steps.

DAYS: Calendar days.

NOTE: The pronouns "he" and "his" as used herein are for convenience only and are not intended to discriminate against female employees or offenders.

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CHAPTER 2

GENERAL POLICY

Offenders may request administrative remedies to situations arising from policies, conditions or events within the institution that affect them personally, including discrimination based on disability.

All offenders, regardless of their classification, impairment or disability, shall be entitled to invoke this grievance procedure. It shall be the responsibility of the Warden to provide appropriate assistance for offenders with literacy deficiencies or language barriers (including hearing and visual impairments).

There are procedures already in place within all DPS&C institutions which are specifically and expressly incorporated into and made a part of this Administrative Remedy Procedure. These procedures shall constitute the administrative remedies for disciplinary matters and lost property claims.

1. General Procedures

A. Notification of Procedures

- 1) Offenders must be made aware of the system by oral explanation at orientation and should have the opportunity to ask questions and receive oral answers.
- 2) The procedures shall be posted in writing in areas readily accessible to all offenders.
- 3) All offenders may request information about or assistance in using the procedure from their classification officer or from a counsel substitute who services their living area.

B. Nothing in this procedure should serve to prevent or discourage an offender from communicating with the Warden or anyone else in the Department. All forms of communication to the Warden will be handled, investigated and responded to as the Warden deems appropriate.

C. The requirements set forth in this document for acceptance into the Administrative Remedy Procedure are solely to assure that incidents which may give rise to a cause of action will be handled through this two-step system of review.

D. The following matters shall not be appealable through this Administrative Remedy Procedure:

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- 1) Court decisions and pending criminal matters over which the Department has no control or jurisdiction;
 - 2) Board of Pardons and Parole decisions (under Louisiana law, these decisions are discretionary and may not be challenged);
 - 3) Sex Offender Assessment Panel recommendations;
 - 4) Lockdown Review Board decisions (offenders are furnished written reasons at the time this decision is made as to why they are not being released from lockdown, if that is the case. The Board's decision may not be challenged. However, a request for administrative remedy on Lockdown Review Board hearings can be made in the following instances):
 - i. That no reasons were given for the decision of the Board;
 - ii. That a hearing was not held within 90 days from the offender's original placement in lockdown or from the last hearing. There will be a 20 day grace period attached hereto, due to administrative scheduling problems of the Board; therefore, a claim based on this ground will not be valid until 110 days have passed and no hearing has been held.
 - 5) Warden's decision regarding restoration of good time pursuant to Department Regulation No. B-04-006 "Restoration of Good Time."
- E. A request for accommodation under the Americans with Disabilities Act (Department Regulation No. B-08-010) made using the Administrative Remedy Procedure process and the resolution of the offender's request shall be deemed to be exhaustion of the administrative procedure. The initiation of the process and deadlines and time limits stated in the Administrative Remedy Procedure remain applicable.
- F. If an offender registers a complaint against a staff member, that employee shall not be involved in the decision making process on the request for remedy. However, this shall not prevent the employee from participating at the Step One level, since this employee may be the best source from which to begin collecting information on an alleged incident.
- G. At each stage of decision and review, offenders will be provided written answers that explain the information gathered or the reason for the decision reached along with simple directions for obtaining further review.

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- H. Prior to filing a grievance in Federal or State Court, unless specifically excepted by law, the offender must properly exhaust all available administrative remedies. Only after the request for administrative remedy is accepted can proper exhaustion occur. Exhaustion can only occur when a Second Step Response on the merits has been issued.
- I. If an offender submits multiple requests during the review of a previous request, they will be logged and set aside for handling at such time as the request currently in the system has been exhausted at the Second Step or until time limits to proceed from the First Step to the Second Step have lapsed. The Warden may determine whether a letter of instruction to the offender is in order.
- J. In cases where a number of offenders have filed similar or identical requests seeking administrative remedy, it is appropriate to respond only to the offender who filed the initial request. Copies of the decision sent to other offenders who filed requests simultaneously regarding the same issue will constitute a completed action. All such requests shall be logged separately.
- K. When an offender has filed a request at one institution and is transferred prior to the review, or if he files a request after transfer on an action taken by the sending institution, the sending institution shall complete the processing through the First Step Response (Form B-05-005-ARP-2). The Warden of the receiving institution shall assist in communication with the offender.
- L. If an offender is discharged before the review of an issue is completed that affects the offender after discharge, or if he files a request after discharge on an issue that affects him after discharge, the institution shall complete the processing and shall notify the offender at his last known address. All other requests shall be considered moot when the offender discharges and the process shall not be completed.
- M. No action shall be taken against anyone for the good faith use of or good faith participation in the procedure.
 - 1) Reprisals of any nature are prohibited. Offenders are entitled to pursue, through the grievance procedure, a complaint that a reprisal occurred.
 - 2) The prohibition against reprisals should not be construed to prohibit discipline of offenders who do not use the system in good faith. Those who file requests that are frivolous or deliberately malicious may be disciplined under the appropriate rule violation described in

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the DPS&C "Disciplinary Rules and Procedures for Adult Offenders."

2. Maintenance of Records

- A. Administrative Remedy Procedure records are confidential. Employees who are participating in the disposition of a request may have access to records essential to the resolution of requests. Otherwise, release of these records is governed by La. R.S. 15:574.12.
- B. All reports, investigations, etc., other than the offender's original letter and responses, are prepared in anticipation of litigation and to become part of the attorney's work product for the attorney handling any anticipated future litigation of this matter; therefore these documents are confidential and not subject to discovery or the Public Records Act outlined in La. R.S. 44:1, et seq.
- C. Records shall be maintained as follows:
 - 1) An electronic log shall document the nature of each request, all relevant dates and disposition at each step.
 - i. Each institution shall submit reports on Administrative Remedy Procedure activity in accordance with Department Regulation No. C-05-001 "Activity Reports/Unusual Occurrence Reports-Operational Units."
 - ii. Cross references and notations shall be made on other appropriate databases such as ADA and PREA as may be warranted.
 - 2) Individual requests and disposition, and all responses and pertinent documents shall be kept on file at the institution or at Headquarters.
 - 3) Records shall be kept four years following final disposition of the request in accordance with the Department's records retention schedule pursuant to Department Regulation No. A-01-009 "Records Management Program."

3. Annual Review

The Warden shall annually solicit comments and suggestions on the processing, the efficiency and the credibility of the Administrative Remedy Procedure from offenders and staff. A report with the results of such review shall be provided to

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the Chief of Operations/Office of Adult Services no later than January 31st of each year.

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CHAPTER 3

INITIATING A FORMAL GRIEVANCE

Offenders are encouraged to resolve their problems within the institution informally before initiating the formal process. Informal resolution is accomplished through communication with appropriate staff members. If an offender is unable to resolve his problems or obtain relief in this fashion, he may initiate the formal process. In order to ensure their right to use the formal procedure, a request to the Warden shall be made in writing within a 90 day period after an incident has occurred. This requirement may be waived when circumstances warrant. The Warden or designee shall use reasonable judgment in such matters. There is no time limit imposed for grievances alleging sexual abuse.

1. Initiating a Formal Grievance

- A. The offender commences the process by completing a Request for Administrative Remedy (Form B-05-005-ARP-1) or writing a letter to the Warden in which he briefly sets out the basis for his claim and the relief sought. For purposes of this process, a letter is:
 - 1) Any form of written communication which contains the phrase: "This is a request for administrative remedy" or "ARP;" or
 - 2) Request for Administrative Remedy (Form B-05-005-ARP-1) at those institutions that wish to furnish forms for commencement of this process.
- B. The institution is not required to be responsible for furnishing the offender with copies of his letter of complaint. It is the offender's responsibility for obtaining or duplicating a copy of his letter of complaint through established institutional procedures and for retaining the copy for his own records. The form or original letter will become a part of the administrative record and will not be returned to the offender.
- C. Original letters or requests to the Warden should be as brief as possible. Offenders should present as many facts as possible to answer all questions (who, what, when, where and how) concerning the incident. If a request is unclear or the volume of attached material is too great, it may be rejected and returned to the offender with a request for clarity or summarization on one additional page. The response deadline for a request for clarity or summarization begins on the date the resubmission is received by the ARP screening officer.
- D. No request for administrative remedy shall be denied acceptance into the

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Administrative Remedy Procedure because it is or is not on a form; however, no letter as set forth above shall be accepted into the process unless it contains the phrase, "This is a request for administrative remedy or 'ARP'."

2. Withdrawing a Formal Grievance

After filing a formal request for administrative remedy, the offender may request in writing that the Warden or Secretary cancel the administrative remedy request at any time and for any reason. A withdrawn request cannot constitute a properly exhausted administrative remedy.

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CHAPTER 4

EMERGENCY OR SENSITIVE ISSUES

In instances where the offender's request is of an emergency or sensitive issue as defined below, the following procedures will apply.

1. If an offender feels he is subjected to emergency conditions, he must send an emergency request to the shift supervisor. The shift supervisor shall immediately review the request to determine the appropriate corrective action to be taken. All emergency requests shall be documented on an Unusual Occurrence Report (Form C-05-001-W-1) by the appropriate staff member.

Abuse of the emergency review process by an offender shall be treated as a frivolous or malicious request and the offender shall be disciplined accordingly. Particularly, but not exclusively, matters relating to administrative transfers and time computation disputes are not to be treated as emergencies for purposes of this procedure, but shall be expeditiously handled by the shift supervisor, when appropriate.

2. If the offender believes the complaint is sensitive and that he would be adversely affected if the complaint became known at the institution, he may file the complaint directly with the Secretary through the Chief of Operations/Office of Adult Services(Second Step Response-Form B-05-005-ARP-3). The offender must explain, in writing, his reason for not filing the complaint at the institution.

If the Chief of Operations/Office of Adult Services agrees that the complaint is sensitive, he shall accept and respond to the complaint at the Second Step. If he does not agree that the complaint is sensitive, he shall so advise the offender in writing, and return the complaint to the Warden's office. The offender shall then have five days from the date the rejection memo is received in the Warden's office to submit his request through regular channels (beginning with the First Step if his complaint is acceptable for processing in the Administrative Remedy Procedure).

3. If an emergency complaint alleges that the offender is subject to a substantial risk of imminent sexual abuse, the grievance shall be sent immediately to the unit's PREA Compliance Manager who shall then immediately notify the unit's PREA Investigator. The unit PREA Compliance Manager shall provide an initial response with 48 hours of receipt of the grievance outlining any corrective actions warranted and shall issue a First Step Response within five days. If the offender has been secured and is no longer in danger or imminent harm, the grievance procedure shall proceed as outlined within the deadlines and time limits stated in the Administrative Remedy Procedure.

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CHAPTER 5

GRIEVANCE SCREENING

The ARP Screening Officer shall screen all requests prior to assignment to the First Step. The screening process should not unreasonably restrain the offender's opportunity to seek a remedy.

1. The ARP Screening Officer shall provide notice to the offender that his request is either:
 - A. Being accepted and will be processed, or
 - B. Being rejected and will not be processed until the noted deficiency is corrected.
2. Accepted Requests
 - A. If the request is accepted, the Warden, or designee, will assign a staff member to conduct further fact-finding and/or information gathering prior to rendering his response.
 - B. Once an offender's request is accepted into the procedure, he must use the manila envelope that is furnished to him with the First Step Response (Form B-05-005-ARP-2) to continue in the procedure. The flaps on the envelope may be tucked into the envelope for mailing to the facility's ARP Screening Officer.
2. Rejected Requests
 - A. If a request is rejected, it must be for one of the following reasons:
 - 1) This matter is not appealable through this process, such as:
 - i. Court decisions;
 - ii. Board of Pardons and Committee on Parole decisions;
 - iii. Sex Offender Assessment Panel recommendations;
 - iv. Lockdown Review Board (refer to Chapter 2 "General Policy").
 - 2) There are specialized administrative remedy procedures in place for this specific type of complaint, such as:

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- i. Disciplinary matters;
 - ii. Lost property claims.
- 3) It is a duplicate request.
- 4) The complaint concerns an action not yet taken or a decision which has not yet been made.
- 5) The offender has requested a remedy for another offender (unless the request is a third party report of an allegation of sexual abuse).
- 6) The request was not written by the offender and a waiver was not approved. The only exception is if the offender has alleged sexual abuse. In this instance, the offender:
 - i. May seek help from a third party to file the initial grievance;
 - ii. Must attach written authorization for the named third party to submit the grievance on the offender's behalf; and
 - iii. Must personally pursue any remaining subsequent steps in the process, including participation in any resulting investigation.
- 7) The offender has requested a remedy for more than one incident (a multiple complaint) unless the request is a report of an allegation of sexual abuse.
- 8) Established rules and procedures were not followed.
- 9) There has been a time lapse of more than 90 days between the event and the initial request, unless waived by the Warden. Some exceptions may apply such as time computation issues, ADA issues, PREA issues, and on-going medical issues.
- 10) The offender does not request some type of remedy unless the request pertains to an allegation of sexual abuse, in which case stopping the abuse is the implied request for remedy.
- 11) The offender's request is unclear or the volume of attached material is too great.
- 12) The offender requests a religious exemption via this Administrative Remedy Procedure prior to exhausting the religious exemption

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process outlined in Department Regulation No. B-08-005 “Faith-Based Programs and Services”.

- B. The offender shall be provided written notification of the grounds upon which the rejection is based.
- C. A rejected request is not appealable to the Second Step. If a request is rejected for any of the reasons listed above, the offender must correct the noted deficiencies and resubmit the request to the ARP screening officer.
- D. The offender has not properly exhausted administrative remedies if his request is rejected for any of the reasons listed above.

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CHAPTER 6

GRIEVANCE PROCESSING

The following process and time limits shall be adhered to in processing any ARP request.

1. FIRST STEP (Time Limit 40 days/Five days for PREA)

- A. If an offender refuses to cooperate with the inquiry into his allegation, the request may be denied by noting the lack of cooperation on the appropriate Step Response and returning it to the offender.
- B. The Warden shall respond to the offender within 40 days/five days for PREA from the date the request is received at the First Step utilizing the First Step Response (Form B-05-005-ARP-2).
- C. If the offender is not satisfied with the decision rendered at the First Step, he should pursue his grievance to the Secretary, through the Chief of Operations/Office of Adult Services via the Second Step.
- D. For offenders wishing to continue to the Second Step, sufficient space will be allowed on the response to give a reason for requesting review at the next level. It is not necessary to rewrite the original letter of request as it will be available to all reviewers at each Step of the process.

2. SECOND STEP (Time limit 45 days)

- A. An offender who is dissatisfied with the First Step Response (Form B-05-005-ARP-2) may appeal to the Secretary of the Department of Public Safety and Corrections by so indicating that he is not satisfied in the appropriate space on the response form and forwarding it to the ARP Screening Officer within five days of receipt of the decision.
- B. A final decision will be made by the Secretary or designee and the offender shall be sent a response within 45 days from the date the request is received at the Second Step utilizing the Second Step Response (Form B-05-005-ARP-3).
- C. A copy of the Secretary's decision shall be sent to the Warden.
- D. If an offender is not satisfied with the Second Step Response (Form B-05-005-ARP-3), he may file suit in District Court. The offender must furnish the administrative remedy procedure number on the court documents.

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3. **DEADLINES AND TIME LIMITS:** No more than 90 days from the initiation to completion of the process shall elapse, unless an extension has been granted. Absent such an extension, expiration of response time limits shall entitle the offender to move on to the next Step in the process.
 - A. An offender may request an extension in writing of up to five days in which to file at any stage of the process.
 - 1) This request shall be made to the ARP Screening Officer for an extension to initiate a request; to the Warden for the First Step Response (Form B-05-005-ARP-2) and to the Secretary through the Chief of Operations/Office of Adult Services for the Second Step Response (Form B-05-005-ARP-3).
 - 2) The offender must certify valid reasons for the delay, which must accompany his untimely request. The issue of sufficiency of valid reasons for delay shall be addressed at each Step, along with the substantive issue of the complaint.
 - B. The Warden may request permission for an extension of time not more than five days from the Chief of Operations/Office of Adult Services for the Step One review/response.
 - 1) The offender must be notified in writing of such an extension.
 - 2) Cumulative extensions of time shall not exceed 25 days unless the grievance concerns sexual abuse, in which case an extension of time up to 70 days may be made.
 - 3) If the extension is approved, written communication shall be sent to the offender of the extension and a date by which the decision shall be rendered. Reasons for the extension of time for unusual circumstances shall be maintained in the administrative record.

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CHAPTER 7

MONETARY DAMAGES

Based upon credible facts within a grievance or complaint filed by an offender, the Department of Public Safety and Corrections may determine that such an offender is entitled to monetary damages where such damages are deemed by the Department as appropriate to render a fair and just remedy.

1. Upon a determination that monetary damages should be awarded, the only remaining question is quantum or the dollar amount of the monetary damages to be awarded.
2. The determination of quantum shall be made after a formal review by the Case Contractor for the Office of Risk Management within the Division of Administration. The determination reached by the Case Contractor shall be submitted to the Office of Risk Management and the Department of Public Safety and Corrections for a final decision.
3. If a settlement is reached, a copy of the signed release shall be given to the Warden on that same date.

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CHAPTER 8

LOST PROPERTY CLAIMS

The purpose of this section is to establish a uniform procedure for handling "Lost Property Claims" filed by offenders in the custody of the Department of Public Safety and Corrections. Each Warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this procedure and for advising offenders and affected employees of its contents.

1. When an offender suffers a loss of personal property, he may submit a Lost Personal Property Claim (Form B-05-005-A) to the Warden or designee. The claim shall include the date the loss occurred, a full statement of the circumstances which resulted in the loss of property, a list of the items which are missing, the value of each lost item and any proof of ownership or value of the property available to the offender. All claims for lost personal property must be submitted to the Warden or designee within ten days of discovery of the loss.

Under no circumstances will an offender be compensated for an unsubstantiated loss, or for a loss which results from the offender's own acts or for any loss resulting from bartering, trading, selling to or gambling with other offenders.

2. The Warden or designee shall assign an employee to investigate the claim. The investigative officer shall investigate the claim fully and will submit his report and recommendations to the Warden or designee.
3. If a loss of an offender's personal property occurs through the negligence of the institution and/or its employees, the offender's claim may be processed in accordance with the following procedures:

A. Monetary

- 1) The Warden or designee shall recommend a reasonable value for the lost personal property as described on the Lost Personal Property Claim (Form B-05-005-A). The state assumes no liability for any lost personal clothing. Liability shall be pursuant to Department Regulation No. C-03-007 "Offender Personal Property List, State Issued Items, Procedures for the Reception, Transfer and Disposal of Offender Personal Belongings";
- 2) A Lost Personal Property Claim Response (Form B-05-005-B) and Agreement (Form B-05-005-C) shall be completed and submitted to the offender for his signature; and
- 3) The claim shall be submitted to the Chief of Operations/Office of

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Adult Services for review and final approval.

- B. Non-monetary
 - 1) The offender is entitled only to state issue where state issued items are available;
 - 2) The Warden or designee shall review the claim and determine whether or not the institution is responsible;
 - 3) A Lost Personal Property Claim Response (Form B-05-005-B) shall be completed and submitted to the offender for his signature;
 - 4) An Agreement (Form B-05-005-C) shall be completed and submitted to the offender for his signature when state issue replacement has been offered.

- 4. If the Warden or designee determines that the institution and/or its employees are not responsible for the offender's loss of property, the claim shall be denied, and a Lost Personal Property Claim Response (Form B-05-005-B) shall be submitted to the offender indicating the reason. If the offender is not satisfied with the resolution at the unit level, he may indicate by checking the appropriate box on the Lost Personal Property Claim Response (Form B-05-005-B) and submitting it to the ARP Screening Officer within five days of receipt. The Screening Officer shall provide the offender with an acknowledgment of receipt and date forwarded to the Chief of Operations/Office of Adult Services. A copy of the offender's original Lost Personal Property Claim (Form B-05-005-A) and Lost Personal Property Claim Response (Form B-05-005-B) and other relevant documentation shall be attached.

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CHAPTER 9

DPS&C OFFENDERS HOUSED IN NON-DPS&C FACILITIES

Pursuant to Basic Jail Guideline VI-B-002 "Grievance Process," offenders shall have reasonable access to a grievance remedy procedure that includes at least two levels of review if necessary. (See Department Regulation No. C-05-004 "Basic Jail Guidelines" for more information.)

1. A DPS&C offender housed in a non-DPS&C facility with a complaint that relates to time computation, requests for transfer, or transitional work program requests should submit his grievance request directly to DPS&C Headquarters Internal Affairs. A representative from Headquarters Internal affairs shall respond to the offender within 90 days. If the offender is not satisfied with the response, he may file suit with the 19th Judicial District Court.
2. A DPS&C offender housed in a non-DPS&C facility with a complaint that relates to conditions of confinement, personal injuries, medical complaints, the classification process, challenges to rules, regulations, or policies, or any other complaint not outlined above in Section 1. should submit his grievance request to the jail administrator of the facility in which he is housed. If the offender is not satisfied with the response, he may file suit with the District Court of the parish in which the facility is located.

ATTACHMENT A:

Revised: 20 March 2020 4:15 pm

COVID-19 Testing

Lab Test Request Form Guidance:

The "Lab Test Request" form and the "COVID-19 Screening and Case" form shall be completed and sent with every COVID-19 specimen collected.

The DOC# shall be entered in the "2nd Unique ID" field following "LA2020."

EXAMPLE: LA2020123456

The offender's name and 2nd Unique ID must be the same on the forms submitted and the specimen.

Specimen Collection and Storage:

Specimens are to be collected using the specimen collection kit provided by LDH.

Use of any other collection kit will not be accepted.

Specimens shall be refrigerated between 35° F and 46° F and transported immediately.

Should circumstances arise that prohibit the transport of the collected specimen within 24-hours, the specimen **MUST** be frozen and [REDACTED] shall be notified immediately for further instructions.

Facility staff shall scan all completed forms and send, via email, to [REDACTED] as soon as possible.

Specimen Transport:

The State Lab accepts specimen deliveries Monday – Sunday from 8:30a – 4:00p.

Specimens shall be packaged in a lunch size igloo ice chest with two cold packs and transported immediately.

Facility staff shall notify [REDACTED] via email, immediately after the specimen is transported. Facility staff shall include date and time of transport in the email notification.

DO NOT PACKAGE THE SPECIMENS IN ICE.

Delivery Process:

State Lab Address: [REDACTED]

EXHIBIT 3

PUI: LA2020

COVID-19 Screening and Case Form

CDC-EOC at 770-488-7100

Epi: _____ Date: _____

Patient Name: _____ DOB: _____ Age: _____ Sex: Male Female Race: _____

Patient Phone Number: _____ or Emergency Contact Name/Number: _____

Address (if approved): _____ City: _____ Parish: _____ Zip: _____

Special Housing: Nursing Home LTAC Group Home Military Base Correctional ICE Behavioral/Rehab Center

Name of Special Housing Facility: _____

Name of Physician: Dr. John Morrison Facility Name: DOC / IMC City: Baton Rouge

Caller/Facility number: [REDACTED] If Approved, Physician Email: [REDACTED]

Hospitalization Status and Symptoms

Hospitalized? Yes No If yes, Admit date: _____ Discharge date: _____

If Hospitalized, reason/status: _____

Admitted to ICU? Yes No ER Visit (Not Admitted)? Yes No Date: _____

Intubated (Mechanical Vent)? Yes No Extracorporeal Membrane Oxygenation (ECMO)? Yes No

SYMPTOM ONSET DATE: _____ **Date of Symptom Resolution:** _____

Fever, Temp: _____ Cough Vomiting Abnormal Chest X-Ray

Sore throat Shortness of breath Diarrhea Pneumonia, specify: _____

Chills Headache Muscle aches Other: _____

Abdominal pain Runny nose ARDS

Has testing been done to rule out other respiratory illnesses? Yes No

Influenza? Not done Negative Positive _____ if performed, Rapid Test PCR Test (part of RVP)

Respiratory Virus Panel? Not done Negative Positive _____

Blood cultures? Not done Negative Positive _____ Other? Specify: _____

Does the patient have any comorbid conditions? No Yes, check all that apply:

Chronic Pulmonary Disease (COPD) Chronic Kidney Disease- if yes, dialysis? Yes No Diabetes

Chronic Liver Disease Immunocompromising condition: _____ Obesity

Cardiovascular Disease Asthma Other: _____

Have close contact with a laboratory confirmed COVID-19 case? Yes No Name: _____

Prioritization Questions

Occupation: _____ (Healthcare worker includes nursing home, anything at hospital, dental hygienist, etc.)

Is the patient a healthcare worker? Yes No If yes, did they care for a COVID-19 patient? Yes No

Location: _____ Last Day Worked: _____ Notes: _____

Has the patient worked or spent time in another high-risk setting such as a school, daycare, medical facility?

Yes No, If yes, please describe: correctional facility

Has the patient been on a cruise recently? Yes No If yes, Where/When: _____

If Case is POSITIVE, confirm information above and answer additional questions:

Where was testing performed? State Lab Commercial Lab

Does the patient have any contact with high risk settings? Yes No, if yes, describe: _____

Did the patient have any other medical visits while ill? Yes No, if yes, describe: _____

Did the patient attend any events/meetings/public gatherings while ill where other individuals would have been exposed? Describe, including dates: _____

Inform the patient that any high risk contacts (elderly, immune-compromised) should be notified of their exposure by the patient or other close contact (person being interviewed) and told to self-isolate and monitor for symptoms.

Correctional Facility

Lab Form 96

Lab Test Request Form VIROLOGY / IMMUNOLOGY

Revision 07/2019

BOLD PRINT INDICATES REQUIRED INFORMATION. INCOMPLETE INFORMATION MAY CAUSE SPECIMEN REJECTION.

Patient Information

First Name: _____ **Last Name:** _____ **Middle Initial:** _____ **Date of Birth:** _____ / _____ / _____

Address: _____ **City:** _____

State: _____ **Zipcode:** _____ **Parish:** _____

Marital Status: <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed <input type="checkbox"/> Married <input type="checkbox"/> Unknown <input type="checkbox"/> Separated <input type="checkbox"/> Other <input type="checkbox"/> Single	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female Hispanic? _____	Race: <input type="checkbox"/> AI - American Indian/Alaskan Native <input type="checkbox"/> BL - Black/African American <input type="checkbox"/> PI - Pacific Islander/Native Hawaiian <input type="checkbox"/> WH - White/Caucasian	<input type="checkbox"/> AP - Asian Pacific <input type="checkbox"/> MR - More than One <input type="checkbox"/> OT - Other <input type="checkbox"/> UK - Unknown/Unreported
---	---	---	---

Medicaid Number: NA **2nd Unique ID (chart#, MR#, EHR#):** LA2020 **Clinic Type or OPH Code:** NA

Specimen Information

For test information, see www.lab.dhh.louisiana.gov or email questions to oph.publikealthlab@la.gov

<input type="checkbox"/> Influenza Real Time RT-PCR	<input type="checkbox"/> Hepatitis A IgM / PCR	<input type="checkbox"/> Mumps	Vaccination Date: _____
<input type="checkbox"/> Respiratory Virus Panel	<input type="checkbox"/> Hepatitis B Immunization	<input type="checkbox"/> Measles	Risk Factors: _____
<input type="checkbox"/> Arbovirus Panel IgM _____	<input type="checkbox"/> Hepatitis B Panel	<input type="checkbox"/> Orthopox	
<input type="checkbox"/> Arbovirus Panel PCR (Triplex)	<input type="checkbox"/> Hepatitis C	<input type="checkbox"/> MERS-CoV	<input checked="" type="checkbox"/> Other <u>COVID-19</u>

Date of Collection: _____ / _____ / _____ **Time:** _____ : _____ **Frozen Date and Time:** _____

Specimen Type: Swab Aspirate/Wash Tissue Viral Culture Original Material Other _____

Specimen Source: Nasal Nasopharynx Trachea Blood Vomitus Other _____
 Oropharynx Bronchii CSF Stool Serum (Acute / Convalescent)

Submitter Information

Facility Name: DOC / IMC **Ordering Provider:** Dr. John Morrison

Facility Address: _____

Contact Person: Dr. John Morrison

Phone/Fax: _____ / _____

Optional: Facility Stamp

Ship Specimens to DHH-OPH Central Lab, 1209 Leesville Avenue, Baton Rouge, LA 70802

TO BE COMPLETED BY STATE LABORATORY

LABORATORY NUMBER:	TEMPERATURE:	DATE/TIME RECEIVED STAMP:			
	TUBE EXPIRATION:				
	<table border="1" style="width: 100%;"> <tr> <td style="width: 33%;">Collection Tube</td> <td style="width: 33%;">Viral Transport</td> <td style="width: 33%;">Other</td> </tr> </table>	Collection Tube	Viral Transport	Other	
Collection Tube	Viral Transport	Other			

Drop off DIRECTIONS.-LAB

Revised: 20 March 2020 4:15 pm

Upon arrival, drive to the call box located on the west side of the building and press the red button.

When asked the Trip Officer shall advise security that they are delivering COVID-19 specimens.

Proceed to the back of the building, under the overhang.

Push the ring button.

State Lab personnel will arrive to take the temperature of the specimen.

Results:

OPH shall report lab results directly to Dr. John Morrison.

The HQ Command Center shall contact OPH multiple times per day for lab results.

FACILITIES ARE NOT TO CALL FOR RESULTS.

When results are received, the appropriate facility shall be notified by Dr. John Morrison.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CHRISTOPHER MARLOWE : CIVIL ACTION
(DOC#558725) :
VERSUS : NO. 18-63-BAJ-EWD
 : JUDGE BRIAN A. JACKSON
JAMES LEBLANC, ET AL : MAGISTRATE JUDGE
 : ERIN WILDER-DOOMES

AFFIDAVIT

BEFORE ME, the undersigned counsel, came and appeared:

Robert C. Tanner

who, after being duly sworn, did depose and say:

1.

I am employed by the Louisiana Department of Public Safety & Corrections as a Corrections Warden 3 at Rayburn Correctional Center (“RCC”) in Angie, Louisiana.

2.

I have been Warden of RCC for 10 years.

3.

The Administrative Remedy Procedure (“ARP”) request submitted by Offender Marlowe’s attorney was received on April 8, 2020, and assigned ARP #RCC-20-208. It will be processed in accordance with the appropriate DOC regulations.

4.

As Warden of RCC, I am familiar with the policies, procedures, and directives of RCC. Additionally, I am familiar with the policies, procedures, and regulations of the Louisiana Department of Corrections.

5.

RCC has implemented new COVID-19 guidelines on April 6, 2020. As Warden of RCC, I am familiar with these guidelines, as well as the implementation of these guidelines into practice.

6.

Each dorm receives an all-purpose soap and a 1:10 bleach solution daily for cleaning purposes. The officer assigned to the dorm dispenses the required amount of soap into the buckets used for cleaning and issues the bleach solution to the offender orderlies to use when cleaning the dorm.

7.

Dormitory bathrooms are cleaned three times a day. They are routinely cleaned in the morning, after the noon meal, and again after the evening showers are completed. Additionally, offenders have access to a spray bottle containing a 1:10 bleach/water solution, which may be used to sanitize a bathroom fixture.

8.

Blood sugar testing is performed in the Infirmary lobby, at a window with the nurse on the inside of the window. After the first RCC offender tested positive for COVID-19, RCC now limits only two offenders in the Infirmary lobby at a time. The remaining offenders are required to line

up on the walk, maintaining at least six feet between each other. Tape/and or paint has been placed on the floor/walkways to designate six foot intervals.

9.

With respect to the use of the Canteen, RCC has created numbered “store sheets” for every offender in a dormitory. To maintain adequate social distancing, offenders are called one by one (by their numbered store sheet) to the Canteen counter, where their order is processed.

10.

Offenders housed in dormitories, such as Offender Marlowe, are not required to use the telephone or J-Pay kiosk at any specific time. The phones/kiosks are available for their use 24 hours per day and an offender is free to decide when he will use them. Some offenders, such as Offender Marlowe, have purchased J-Pay tablets that provide them with the opportunity to make phone calls and receive e-mails from anywhere in the dormitory, including their own bed. The tablet can also be used outside of the dormitory, provided that the offender is within range of the dormitory’s Wi-Fi.

11.

Offenders are required to travel the facility’s walkways on the right side of the walk. We have painted yellow lines on the walks for this purpose. For security reasons, RCC staff has always been instructed to not allow offenders to “bunch up” at gates within the facility.

12.

Surgical masks are supplied to those inmates who have tested positive and are under quarantine. Surgical masks are also required for offenders working in the kitchen, infirmary,

laundry, and other areas in which our Medical Director has suggested. Currently, we are in the process of obtaining two cloth masks for every offender.

13.

Water may be obtained from the water fountains or any faucet in the dorm. Offenders are issued plastic cups and do not have to drink directly from water fountains. Additionally, offenders have access to a spray bottle with a 1:10 bleach/water solution (available in the dormitory), which may be used to sanitize the water fountain fixtures.

14.

Offenders have access to a microwave 24 hours per day. They have ample time to avail themselves of this privilege without having to stand in line. As noted above, offenders have access to the 1:10 bleach/water solution, which may be used to sanitize the microwave.

15.

A chest of ice is made available to the offenders. In accordance with Health Department requirements, the scoop is required to be stored in the ice, handle up. Offenders have access to the 1:10 bleach/water solution, which may be used to sanitize the scoop.

16.

RCC has deployed MDF-500 foggers, designed to disinfect all surfaces within a room. RCC has begun using them.

17.

We have posted flyers on the bulletin boards in the housing areas and common areas such as the Kitchen explaining COVID and outlining precautions that should be used to prevent

contracting and/or spreading the virus. An educational video is shown over one channel of our television system. I have issued instructions that the video be shown on all channels each day after the evening news.

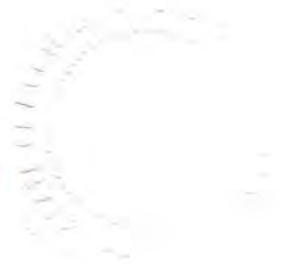


ROBERT C. TANNER

SWORN TO AND SUBSCRIBED before me on this the 10th day of April, 2020,
in Angie, Louisiana



NOTARY PUBLIC *Ex-Officio*



UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CHRIS MARLOWE, * CIVIL ACTION
VERSUS * NO. 18-63-BAJ-EWD
JAMES LEBLANC, ET AL. * JUDGE BRIAN A. JACKSON
* MAGISTRATE JUDGE
* ERIN WILDER-DOOMES

PLAINTIFF’S REPLY TO THE DEFENDANTS’ POST-HEARING BRIEF

MAY IT PLEASE THE COURT

A major humanitarian disaster is unfolding in jails and prisons across the United States as the COVID-19 virus has begun to infect these vulnerable populations living in compact spaces across the country.¹ It is no different here in Louisiana. As of April 12, 2020, fifty-seven prisoners and forty-five Department of Corrections (“DOC”) staff have contracted COVID-19.² In fact, as of filing only one DOC facility, Allen Correctional Center, appears to be unaffected by COVID-19.³ B.B. Rayburn Correctional Center (“Rayburn”), where Mr. Marlowe is housed, is a hot spot of infections with 25 confirmed infections (23 prisoners and 2 staff).⁴ **Alarminglly, this number has dramatically increased from 4 to 23 in just the last thirteen days.**

¹ See Timothy Williams, et al., *Chicago’s Jail is top U.S. Hot Spot as Virus Spreads Behind Bars*, NYTIMES.COM (Apr. 8, 2020), <https://www.nytimes.com/2020/04/08/us/coronavirus-cook-county-jail-chicago.html> (stating that since March 23, 2020, the number of infected prisoners at the Cook County Jail has risen from 2 to 238, and that other large clusters in prisons include “the Parnall Correctional Facility in Jackson, Mich., which is tied to more than 100 cases; the Stateville Correctional Center in Crest Hill, Ill., linked to more than 90 cases; and the Federal Medical Center in Butner, N.C., where at least 58 inmates and staff have tested positive.”).

² *Covid-19 Inmate Positives* (Apr. 13, 2020), <https://doc.louisiana.gov/doc-covid-19-testing/>.

³ *Id.*

⁴ *Id.*

Mr. Marlowe is diabetic, and it is undisputed that his condition puts him in extreme danger should he contract COVID-19.⁵ The evidence before this Court demonstrates clearly that Mr. Marlowe's current prison conditions during the COVID-19 pandemic 1) violate his Eighth Amendment Right, which 2) requires immediate intervention from this Court. Mr. Marlowe briefly summarizes below why current prison conditions violate his Eighth Amendment rights, and why this Court has jurisdiction to act.

A. Rayburn's Current Conditions Violate Mr. Marlowe's Eighth Amendment Right to Be Free from Cruel and Unusual Punishment

The government has a constitutional duty to protect those it detains from conditions of confinement that create "a substantial risk of serious harm" to detained individuals.⁶ The right to be free from exposure to serious harm arises under the Eighth Amendment for people convicted of a crime.⁷ Under the Eighth Amendment, an official is liable if he displays "deliberate indifference" to "a condition of confinement that is sure or very likely to cause serious illness and needless suffering" to someone detained, which includes "exposure of inmates to a serious, communicable disease."⁸ To demonstrate a violation of the Eighth Amendment, a plaintiff must show that the alleged deprivation was objectively serious, exposing him "to a substantial risk of serious harm." Second, a prisoner must prove that the official possessed "a subjectively culpable state of mind"⁹ in that he exhibited "deliberate indifference to serious medical needs."¹⁰

As a Three-Judge Court in *Coleman v. Newsom* recently recognized, "the Eighth Amendment requires [prison officials] to take adequate steps to curb the spread of disease within

⁵ See Exhibit A, Transcript, p. 9 (Apr. 7, 2020) (counsel for the DOC indicating that none of the factual information provided by Mr. Marlowe in his Motion for Temporary Restraining Order and Motion for Emergency Release is in dispute).

⁶ *Farmer v. Brennan*, 511 U.S. 825, 834 (1994).

⁷ *Id.*; *Estelle v. Gamble*, 429 U.S. 97, 104 (1976).

⁸ *Helling v. McKinney*, 509 U.S. 25, 33 (1993); see also *Truss v. Warden*, 684 F. App'x 794, 796 (11th Cir. 2017) (recognizing that exposure to tuberculosis can constitute a substantial risk of serious harm).

⁹ *Farmer*, 511 U.S. at 846 n.9; see also *Herman*, 238 F.3d at 66

¹⁰ *Gamble*, 429 U.S. at 106.

the prison system.”¹¹ “Thus far, the only way to stop [COVID-19’s] spread is through preventative measures—**principal among them maintaining physical distancing sufficient to hinder airborne person-to-person transmission.**”¹² In fact, the *Coleman* Court has now ordered that the California Defendants file by “5 p.m. on Thursday, April 16, 2020, a strategic plan for achieving compliance with the U.S. Centers for Disease Control and Prevention (CDC) Interim Guidance on Management of Coronavirus Disease (2019) (COVID-19) in Correctional and Detention Facilities (CDC Guidance).”¹³ Of note, that CDC Guidance has named social distancing as “a cornerstone of reducing transmission of respiratory diseases such as COVID-19.”¹⁴ The CDC also states that social distancing requires people—including those who are asymptomatic—to remain **at least six feet** from each other at all times.¹⁵

Considering the foregoing, and the evidence taken at the April 7, 2020 evidentiary hearing, Defendant LeBlanc and the DOC,¹⁶ as well as Warden Tanner¹⁷ are without doubt aware of the substantial risk of serious harm that Mr. Marlowe currently faces while housed at

¹¹ See *Coleman v. Newsom*, 2020 U.S. LEXIS 62575, * 15 (Apr. 4, 2020).

¹² *Id.* (emphasis added).

¹³ *Coleman v. Newsom*, 2020 U.S. LEXIS 63529, * 6 (Apr. 10, 2020).

¹⁴ See Exhibit B, CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, p. 4 (Mar. 23, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidance-correctional-detention.pdf>.

¹⁵ *Id.* at 11 (emphasis added).

¹⁶ Defendant LeBlanc and the DOC are currently named Defendants to Plaintiff’s civil rights lawsuit. In his April 7, 2020 filing, Plaintiff inadvertently indicated that this is not a lawsuit against the State. See Doc. 102. However, Mr. Marlowe’s underlying Complaint does sue Defendant LeBlanc in his official capacity for prospective injunctive relief pursuant to 42 U.S.C. § 1983 and the ADA. Fed. R. Civ. P. 18 permits the joinder of claims against named Defendants. Mr. Marlowe now has a pending ARP and Request for Reasonable Accommodations that named Defendant LeBlanc. See Exhibit C, Mr. Marlowe’s ARP (Apr. 7, 2020). With leave of Court, pursuant to Fed. R. Civ. P. 15(a)(2), the Plaintiff can amend his current Complaint in order to bring this new claim arising out of Defendant DOC’s and LeBlanc’s failures during the COVID-19 crisis.

¹⁷ Warden Tanner is not currently a named Defendant in this lawsuit. Mr. Marlowe contends that he has now filed an ARP and Request for Reasonable Accommodations naming Warden Tanner. See Exhibits C-D (Mr. Marlowe’s ARP and Emergency Request for Reasonable Accommodations). With leave of Court, pursuant to Fed. R. Civ. P. 15(a)(2), the Plaintiff can amend his current Complaint in order to bring this new claim arising out of Defendant DOC’s and LeBlanc’s failures during the COVID-19 crisis.

Rayburn.¹⁸ However, despite clear guidance from the CDC, their subjective actions are woefully inadequate and deliberately indifferent to Mr. Marlowe's serious medical needs for the following reasons:

- **Mr. Marlowe's conditions at Rayburn do not allow for social distancing.¹⁹ The conditions created by Defendants DOC, Leblanc, and Tanner in Mr. Marlowe's dormitory and at the cafeteria do not permit for social distancing of six or more feet.²⁰**

Social distancing is the cornerstone preventative measure that has been taken in this state and around the country to "flatten the curve" and spread of COVID-19. This is why the CDC recommends social distancing of **at least** 6 feet between all individuals.²¹ However, it is undisputed that the prisoners at Rayburn are unable to socially distance themselves throughout Rayburn, in places such as the dormitory and cafeteria.²²

- **Mr. Marlowe does not have access to personal cleaning supplies to clean shared spaces and devices in his dormitory.**

As of April 13, 2020, Mr. Marlowe does not have access to personal cleaning supplies to disinfect shared spaces and devices such as the microwave, ice chest, water fountain, TV benches, etc. He specifically indicates that he does not have access to any kind of spray bottle and that his dorm is only cleaned once at 7 am.²³

¹⁸ See e.g. Transcript, p. 25 (Defendant Tanner stating that he and Defendant LeBlanc have regular conference calls concerning COVID-19 on Monday, Wednesday and Friday of every week).

¹⁹ See e.g. Doc. 108-4, Warden Tanner does not attest to any action taken at Rayburn to provide for social distancing in the dormitory and at the cafeteria. He simply references measures taken at the canteen and infirmary.

²⁰ Mr. Marlowe notes that policies referenced by Warden Tanner in his affidavit were not implemented at Rayburn's canteen, infirmary line, and cafeteria line until these issues were brought to the attention of the Warden following the April 7, 2020 evidentiary hearing in this matter. Consequently, the virus was very likely transmitted amongst prisoners and staff up until this point at these places.

²¹ See Ex. B.

²² Notably, the Warden's Affidavit does not address how he intends to allow prisoners to socially distance themselves in the dormitories and cafeteria.

²³ See Exhibit E, Mr. Marlowe J-Pay Communication (Apr. 13, 2020).

- **Defendant LeBlanc is only using his furlough power under La. R.S. 15:833 to release DOC prisoners primarily at local parish prisons and relieve overcrowding in these institutions rather than at DOC facilities.**²⁴

However, La. R. S. 15:833 specifically empowers the secretary to furlough any prisoner, except those convicted of particular crimes of violence. Defendant Leblanc has the authority to determine which prisoners at Rayburn qualify for furlough, and which prisoners are “low-risk” pursuant to the Department’s Targeted Interventions Gaining Enhanced Reentry (“TIGER”) Score. However, at the April 7, 2020 evidentiary hearing, counsel for the DOC readily admitted that this practice is not being used in DOC facilities because it does not have the “blessing” of the sheriffs and district attorneys in the state.²⁵ This Court has the authority under 18 U.S. C. § 3626(a)(1)(B) to issue an injunction, requiring Defendant Secretary to utilize his furlough powers to alleviate the overcrowding that prevents Mr. Marlowe from being able to socially distance himself from others.

- **Defendants DOC, LeBlanc and Defendant Tanner’s COVID-19 testing policy is deficient, because the facility only tests correctional officers and prisoners for COVID-19 if s/he has a 100° fever, causing them to have no true idea of how rampant the virus is at the facility.**²⁶

However, fever is just one symptom of COVID-19. Many of those infected with COVID-19 do not have a fever, and can exhibit a range of symptoms including sore throat, cough, loss of taste, loss of smell, chills, anorexia, shortness of breath, and diarrhea,²⁷ or even be entirely

²⁴ See Exhibit A, pp. 19-20 (stating that the Secretary will be furloughing prisoners, most of whom are in local facilities, and this action will not reduce the current prisoner population at Rayburn.

²⁵ See Ex. A, pp. 19-20.

²⁶ See Doc. 108-1, p. 3 (stating state prison facilities shall test any inmate with a fever greater than 100.0° F for COVID-19).

²⁷ See Kristina L. Bajema et al., *Persons Evaluated for 2019 Novel Coronavirus — United States*, MMWR Morb Mortal Wkly Rep 2020, at *168 (Feb. 14 2020) <http://dx.doi.org/10.15585/mmwr.mm6906e1> (stating having a cough or shortness of breath were more prevalent symptoms in more positive cases than a fever, and that individuals who did not have cough or shortness of breath often exhibited a sore throat or congestion.); also Wei-jie Guan, Ph.D., et al., *Clinical characteristics of Coronavirus disease 2019 in China*, The New England Journal of Medicine, at *5(Feb. 28, 2020), <https://www.nejm.org/doi/10.1056/NEJMoa2002032> (stating that certain studies have shown that fever is not present in more than half COVID-19 cases during the initial stage of the disease.); also Claire Hopkins & Nirmal Kumar, *Loss of sense of smell as marker of COVID-19 infection*, *British Association of*

asymptomatic. In fact, the CDC recommends a more robust screening protocol, including verbal screenings for the symptoms of fever, chills, cough and/or difficulty breathing.²⁸ By limiting prisoner and correctional officer testing for COVID-19 only to those with a fever greater than 100°, Defendants DOC, Leblanc, and Tanner cannot possibly know how widespread COVID-19 truly is at Rayburn. In turn, these Defendants continue to expose Mr. Marlowe to conditions that greatly increase his likelihood of contracting COVID-19.

B. This Court Has Jurisdiction to Act

Secretary LeBlanc and the DOC are currently named Defendants in Mr. Marlowe’s § 1983 and Americans with Disabilities Act (“ADA”) lawsuit. On April 1, 2020, he filed a TRO and Motion for Emergency Release that directly concerns these litigants. On April 7, 2020, Mr. Marlowe filed a request for Administrative Remedy (“ARP”) that names the DOC, Secretary LeBlanc and Warden Tanner concerning the same allegations he raised in his TRO.²⁹ On April 10, 2020, Mr. Marlowe filed an Emergency Request for Reasonable Accommodations pursuant to the ADA.³⁰ Consequently, Mr. Marlowe has now initiated the process for litigation concerning his § 1983 and ADA claims arising out of the conditions of his confinement at Rayburn during the COVID-19 pandemic.

Otorhinolaryngology ENTUK (2020), available at <https://www.entuk.org/sites/default/files/files/Loss%20of%20sense%20of%20smell%20as%20marker%20of%20COVID.pdf> (stating “There is already good evidence from South Korea, China and Italy that significant numbers of patients with proven COVID-19 infection have developed anosmia/hyposmia. In Germany it is reported that more than 2 in 3 confirmed cases have anosmia. In South Korea, where testing has been more widespread, 30% of patients testing positive have had anosmia as their major presenting symptom in otherwise mild cases.”)(emphasis added).

²⁸ See e.g. Ex. B at p. 26.

²⁹ See Ex. C (Mr. Marlowe’s ARP); also Doc. 103-4, ¶ 3 (Warden Tanner stating he has received Mr. Marlowe’s ARP).

³⁰ See Ex. D (Mr. Marlowe’s Request for Reasonable Accommodations).

Full exhaustion of these claims is not necessary in this particularly urgent and timely matter.³¹ Specifically, the Fifth Circuit has determined that “a district court must afford a prisoner an opportunity to show that he has either exhausted the available administrative remedies or that he should be excused from this requirement.”³² Similarly, a fellow Court in this jurisdiction has found that “the exhaustion of ARP remedies requirement is not jurisdictional, and “[e]xhaustion ‘may be excused where dismissal **would be inefficient and would not further the interest of justice** or the purposes of the exhaustion requirement. . .”³³

While Mr. Marlowe has initiated the exhaustion requirement, exhaustion, or the lack thereof, does not deprive this Court of jurisdiction.³⁴ Rather, this Court must and can determine that Mr. Marlowe is excused from exhausting his administrative remedies in this matter because of the urgent and life-threatening nature of the COVID-19 pandemic.

Furthermore, once this Court determines that Mr. Marlowe is excused from fully exhausting his administrative remedies, the principles of Fed. R. Civ. P. 15(a)(2) and 18 permit joinder of the new claims and parties brought in his Motion for Temporary Restraining Order.³⁵ Consequently, while the original action before this Court concerns Mr. Marlowe’s unconstitutional treatment at a different DOC facility, joinder principles allow this Court to hear these claims.³⁶

³¹ See *Woodford v. Ngo*, 548 U.S. 81, 103-4 (2006)(Breyer, S., concurring (stating “[a]dministrative law, however, contains well established exceptions to exhaustion . . . [a]t least two Circuits have interpreted the statute in a manner similar to that which the Court today adopts have concluded that the PLRA’s proper exhaustion requirement is not absolute.”)(emphasis added).

³² *Johnson v. Ford*, 261 F. App’x 752, 754 (5th Cir. 2008).

³³ *Lewis v. Todd*, 2019 U.S. Dist. LEXIS 184122, fn 4 (La. E.D. Sept. 26, 2019)(citations omitted), *adopted by Lewis v. Todd*, 2019 U.S. Dist. LEXIS 183374 (La. E.D. Oct. 23, 2019).

³⁴ See *Woodford*, 548 U.S. at 101 (“[It is] clear that the PLRA exhaustion requirement is not jurisdictional.”)

³⁵ Doc. 93.

³⁶ Mr. Marlowe is prepared to amend his Complaint within a 24 hour period to include additional claims and defendants should this Court require it. See e.g. *Pub. Health Equip. & Supply Co. v. Clarke Mosquito Control Equip., Inc.*, 410 Fed. Appx. 738, 740 (5th Cir. 2010).

Consequently, this Court has jurisdiction to hear Mr. Marlowe's Motion for Temporary Restraining Order and Emergency Motion for Temporary Release.

C. Mr. Marlowe Has Standing to Sue for Injunctive Relief

Mr. Marlowe has standing to sue for injunctive relief. Without a doubt, twenty-three (23) prisoners at Rayburn have contracted COVID-19. *See* <https://doc.louisiana.gov/doc-covid-19-testing/> (last visited Apr. 13, 2020). With just a basic understanding of how this virus rapidly spreads, the actual number of Rayburn prisoners that have the virus is mostly likely much higher, as asymptomatic prisoners are continuing to pass it and there are probably prisoners exhibiting other symptoms besides having a fever who have not been tested. The U.S. Supreme Court has already ruled on this issue in *Helling v. McKinney*, 509 U.S. 25 (1993).³⁷ In fact, the *Helling* Court summarized this issue by stating,

In *Hutto v. Finney*, 437 U.S. 678, 682, 57 L. Ed. 2d 522, 98 S. Ct. 2565 (1978), we noted that inmates in punitive isolation were crowded into cells and that some of them had infectious maladies such as hepatitis and venereal disease. This was one of the prison conditions for which the Eighth Amendment required a remedy, even though it was not alleged that the likely harm would occur immediately and even though the possible infection might not affect all of those exposed. **We would think that a prison inmate also could successfully complain about demonstrably unsafe drinking water without waiting for an attack of dysentery.**³⁸

Without doubt, Mr. Marlowe has presented sufficient evidence that he is being housed in prison conditions where he is exposed to a potentially fatal disease considering his underlying health conditions. He can complain about being exposed to COVID-19 without demonstrating that he has it, just like a prison inmate could complain about drinking unsafe water without waiting for an attack of dysentery.

³⁷ *See Helling v. McKinney*, 509 U.S. 25, 30 (1993)(affirming appellate court's decision that "it would be cruel and unusual punishment to house a prisoner in an environment exposing him to levels of ETS that pose an unreasonable risk of harming his health.").

³⁸ *Id.* at 33 (emphasis added).

D. This Court Should Temporarily Place Mr. Marlowe in Home Incarceration or Issue an Injunction Mandating that Rayburn Create Conditions that Adequately Allow Mr. Marlowe to Socially Distance Himself by at Least Six Feet from Other Prisoners and Correctional Officers.

Mr. Marlowe contends that the relief he is requesting is not a release from prison as defined by 18 U.S. Code § 3626(g)(4). Rather he is asking to be placed in home incarceration with or without location monitoring, and to be supervised by the US Probation Office or another office with such capacity. Mr. Marlowe has every intention to return to Rayburn once the COVID-19 outbreak is no longer a threat there. Home incarceration under such conditions is not a “prisoner release order” as contemplated by 18 U.S. Code § 3626(g)(4), and there is no judicial authority that states otherwise. Consequently, as argued by the Defendants, Rule 65(e) is not applicable, and this Court has the authority to grant the relief sought by Mr. Marlowe. Furthermore, this Court has the authority to put Mr. Marlowe under the supervision of the US Probation Office pursuant to 18 U.S.C. § 3603(10).

In the alternative, even if this Court determines that 18 U.S. Code § 3626(g)(4) does apply, the Court still has the authority to issue an injunction pursuant to 18 U.S. Code § 3626(a)(3) that recognizes the following: 1) as a diabetic prisoner, Mr. Marlowe’s current conditions of confinement violate his constitutional rights and pose a threat of irreparable harm should he contract COVID-19 at Rayburn; 2) in order to remedy Mr. Marlowe’s unconstitutional conditions of confinement, Defendant Leblanc must temporarily release him or immediately remedy the unconstitutional conditions at Rayburn in order to protect Mr. Marlowe’s life.

Defendant Leblanc has a plethora of options to reduce crowding at places like Rayburn. Namely, he has access to every prisoner’s TIGER Score to determine which prisoners are at low risk to reoffend should they be released from incarceration to home confinement. Of note, Mr. Marlowe has a low-risk TIGER Score. He also has the authority to furlough prisoners pursuant

to La. R.S. 15:833. However, the Defendant has taken no such action to dramatically reduce the prison population at Rayburn so that those who remain incarcerated can properly socially distance themselves from others.

E. Conclusion

The testimony submitted by Warden Tanner, Mr. Marlowe and the parties' post-hearing briefs unambiguously demonstrate that in his most vulnerable spaces (the dormitory and cafeteria), Mr. Marlowe is regularly within less than six feet of his fellow prisoners and guards. The alleged spray bottle available to Mr. Marlowe to clean the microwave, ice bucket, water fountain, and other surfaces in his dorm is locked in a closet and only accessible by a prison orderly.³⁹ Mr. Marlowe does not have a mask, and not until following this Court's evidentiary hearing on April 7, 2020 did the Warden begin institutionalizing social distancing in prison lines at the canteen and infirmary.

The facts before this Court demonstrate that the Defendants DOC, Leblanc and Tanner are violating Mr. Marlowe's Eighth Amendment right to be free from cruel and unusual punishment during the COVID-19 outbreak at Rayburn. Immediate and injunctive action is necessary from this Court to remedy Mr. Marlowe's conditions of his confinement.

Respectfully submitted,

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³⁹ See Exhibit E, Mr. Marlowe's Jpay Communication (Apr. 13, 2020).

/s/ Alexander Bollag

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Attorneys for Mr. Marlowe

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2020 a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the Court’s electronic filing system.

/s/ Emily H. Posner

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

CHRIS MARLOWE

*

CIVIL ACTION

*

VERSUS

*

NO. 18-63-BAJ-EWD

*

JAMES LEBLANC, ET AL.

*

JUDGE BRIAN A. JACKSON

*

*

MAGISTRATE JUDGE

*

ERIN WILDER-DOOMES

EXHIBIT A

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

MARLOWE : CIVIL ACTION
VERSUS : NO. 18-63-BAJ-EWD
LEBLANC, ET AL : APRIL 7, 2020

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TELEPHONIC EVIDENTIARY HEARING
BEFORE THE HONORABLE BRIAN A. JACKSON
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S
(TELEPHONICALLY)

FOR THE PLAINTIFF:

BY: EMILY HENRION POSNER, ESQ.
7214 ST. CHARLES AVENUE
BOX 913
NEW ORLEANS, LOUISIANA 70118

BY: ALEXANDER BOLLAG, ESQ.
5208 MAGAZINE STREET
SUITE #191
NEW ORLEANS, LOUISIANA 70115

CERTIFIED
COPY

FOR THE DEFENDANTS:

LOUISIANA DEPARTMENT OF JUSTICE
BY: SUZANNE QUINLAN MOONEY, ESQ.
1885 NORTH THIRD STREET
SUITE FOURTH FLOOR
BATON ROUGE, LOUISIANA 70802

FOR THE DEPARTMENT OF CORRECTIONS:

BY: JONATHAN R. VINING, ESQ.
BY: DEBRA A. RUTLEDGE, ESQ.
504 MAYFLOWER STREET
BATON ROUGE, LOUISIANA 70802

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**REPORTED BY: NATALIE W. BREAU, RPR, CRR
UNITED STATES COURTHOUSE
777 FLORIDA STREET
BATON ROUGE, LOUISIANA 70801
(225) 389-3565**

**PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING
COMPUTER-AIDED TRANSCRIPTION SOFTWARE**

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I N D E X

DEFENSE WITNESS:

WARDEN ROBERT TANNER	PAGE
DIRECT EXAMINATION BY MS. MOONEY	24
CROSS-EXAMINATION BY MR. BOLLAG	29

PLAINTIFF WITNESS:

CHRIS MARLOWE	
DIRECT EXAMINATION BY MS. MOONEY	54

1 **PROCEEDINGS**

2 **THE COURT:** GOOD AFTERNOON, EVERYONE. THIS
3 IS JUDGE JACKSON.

4 WHO IS ON THE LINE FOR THE PLAINTIFF?

5 **MS. POSNER:** EMILY POSNER.

6 **MR. BOLLAG:** ALEXANDER BOLLAG.

7 **THE COURT:** I'M SORRY. LET'S TRY THAT
8 AGAIN, PLEASE.

9 **MS. POSNER:** EMILY POSNER.

10 **THE COURT:** MS. POSNER.

11 **MR. BOLLAG:** ALEXANDER BOLLAG.

12 **THE COURT:** THANK YOU, MR. BOLLAG. ANYONE
13 ELSE?

14 AND WHO IS ON THE PHONE FOR THE DEFENDANT?

15 **MS. MOONEY:** SUZANNE MOONEY FOR ALL OF THE
16 DEFENDANTS, YOUR HONOR. AND WE HAVE DEBBIE RUTLEDGE
17 ON THE PHONE, WHO IS WARDEN TANNER'S ASSIGNED
18 ATTORNEY FROM DOC. AND JONATHAN VINING, THE GENERAL
19 COUNSEL FROM DOC, IS ON THE PHONE, ALSO.

20 **THE COURT:** OKAY. VERY GOOD. THANK YOU ALL
21 FOR JOINING US THIS AFTERNOON.

22 LET ME JUST ASSURE EVERYONE, OF COURSE, THAT
23 I'VE READ ALL THE PLEADINGS AND I'VE READ ALL THE
24 ATTACHMENTS. I DO NOT -- I WILL TELL YOU AT THE
25 OUTSET I DO NOT ANTICIPATE HAVING TO TAKE ACTUAL

1 EVIDENCE IN THE CASE. AND THE REASON FOR THAT IS
2 THAT I DON'T KNOW IF ANY OF THE EVIDENCE IS IN
3 DISPUTE -- ANY OF THE FACTUAL EVIDENCE, AT LEAST --
4 IS IN DISPUTE AT THIS TIME.

5 LET ME FIRST TURN TO YOU, MS. MOONEY. YOU
6 SAW THAT MS. POSNER AND MR. BOLLAG HAVE FILED A
7 NUMBER OF EXHIBITS TO THEIR MOST RECENT FILING. DO
8 YOU TAKE ISSUE WITH ANY OF THE FACTS THAT ARE LAID
9 OUT IN THE VARIOUS EXHIBITS?

10 **MS. POSNER:** YOUR HONOR, EXCUSE ME. ARE WE
11 TALKING ABOUT -- SOMETHING JUST CAME THROUGH AND I
12 HAVEN'T BEEN ABLE TO GET THE INTERNET TO OPEN IT UP,
13 A RESPONSE.

14 ARE WE TALKING ABOUT THEIR INITIAL -- THEIR
15 AMENDED EXHIBITS? BECAUSE I DON'T HAVE ANY PROBLEM
16 WITH THE AMENDED EXHIBITS THAT I SAW EARLIER TODAY OR
17 YESTERDAY.

18 **THE COURT:** RIGHT. THERE WAS YESTERDAY
19 THAT -- AND SPECIFICALLY, FOR THE RECORD -- AND FIRST
20 OF ALL, LET ME JUST BACK UP FOR A MOMENT AND JUST
21 STATE FOR THE RECORD THAT THIS HEARING IS BEING
22 CONDUCTED VIA VIDEO -- OR TELEPHONE CONFERENCING, AND
23 WE ARE ON THE RECORD IN THIS HEARING.

24 MS. POSNER, HAVE YOU DISCUSSED THE FACT THAT
25 WE WILL HAVE THIS HEARING VIA TELEPHONE CONFERENCE

1 MEANS WITH YOUR CLIENT PRIOR TO TODAY?

2 MS. POSNER: JUDGE, YES. YOUR HONOR, I HAVE
3 SPOKEN VIA JPEG EMAIL WITH MR. MARLOWE. AND MR.
4 MARLOWE IS ALSO PRESENT ON THE PHONE AND IS ABLE TO
5 LISTEN AND IS PREPARED TO PROVIDE TESTIMONY.

6 AND IF I MAY, MS. MOONEY AND MYSELF
7 CONFERRED EARLIER TODAY ABOUT THE EXHIBITS TO OUR TRO
8 AND MEMORANDUM IN SUPPORT AND TO THEIR OPPOSITION,
9 AND WE BOTH AGREED TO STIPULATE THAT ALL OF THOSE
10 EXHIBITS COULD BE ENTERED INTO THE RECORD.

11 I DID, ABOUT 30 MINUTES AGO, FILE A REPLY TO
12 THEIR OPPOSITION WHERE THERE IS TWO ADDITIONAL
13 EXHIBITS, BUT WE HAVE NOT HAD A CHANCE TO SPEAK ABOUT
14 THAT.

15 THE COURT: AND WE'LL TAKE THAT UP IN JUST A
16 MOMENT.

17 HAVING DISCUSSED WITH YOUR CLIENT THE FACT
18 THAT THE COURT WILL CONDUCT THIS HEARING VIA
19 TELEPHONE CONFERENCE, DOES YOUR CLIENT HAVE ANY
20 OBJECTION TO THE COURT PROCEEDING IN THIS MANNER?

21 MS. POSNER: NO, JUDGE.

22 THE COURT: VERY WELL.

23 MS. MOONEY, HAVE YOU DISCUSSED WITH
24 SECRETARY LEBLANC, AND THE OTHER DEFENDANTS IN THE
25 CASE, THE FACT THAT THE COURT WILL CONDUCT THIS

1 HEARING VIA TELEPHONE CONFERENCING CAPABILITY?

2 MS. MOONEY: YES, YOUR HONOR.

3 THE COURT: DO THEY HAVE ANY OBJECTION TO
4 THE COURT PROCEEDING ACCORDINGLY?

5 MS. MOONEY: NO, YOUR HONOR.

6 THE COURT: THANK YOU ALL VERY MUCH.

7 AS YOU KNOW -- AND I WILL JUST OBSERVE FOR
8 THE RECORD THAT THE COURT IS NOT IN SESSION IN THE
9 COURTHOUSE AT THIS TIME BECAUSE OF THE STATE OF
10 EMERGENCY ISSUED BY THE PRESIDENT AS WELL AS THE
11 STAY-AT-HOME ORDER ISSUED BY THE GOVERNOR. I WILL
12 ALSO NOTE THAT IN THE INTEREST OF PUBLIC SAFETY AND
13 THE SAFETY OF OUR EMPLOYEES AND STAFF MEMBERS, THE
14 COURT HAS ELECTED TO CONDUCT THESE TYPES OF HEARINGS
15 VIA TELEPHONE OR VIDEO CONFERENCING. IN THIS CASE,
16 OF COURSE, WE ARE PROCEEDING VIA TELEPHONE
17 CONFERENCING.

18 AND GIVEN THAT THERE IS NO OBJECTION TO
19 SUCH -- AND I'LL ALSO STATE THAT THE CHIEF JUDGE OF
20 THE DISTRICT HAS SIGNED AN ADMINISTRATIVE ORDER
21 PERMITTING THESE TYPES OF HEARINGS, AGAIN, IN
22 ADDITION TO THE NATIONAL AND STATE PROCLAMATION THAT
23 HAS RESULTED IN THE COURT PROCEEDING IN THIS MANNER.

24 NOW, WITH RESPECT TO YOUR MOST RECENT
25 PLEADING, MS. POSNER, I HAVEN'T SEEN THAT EITHER, I

1 MUST TELL YOU. OF COURSE, I HAVE REVIEWED THE
2 DOCUMENTS YOU FILED YESTERDAY AS WELL AS YOUR AMENDED
3 PLEADING.

4 SO, MS. MOONEY, I DON'T KNOW IF YOU FEEL
5 LIKE YOU'RE AT A DISADVANTAGE AT THIS TIME; BUT IF AT
6 ANY TIME YOU BELIEVE THAT YOU ARE AND YOU NEED TIME
7 TO REVIEW THESE ADDITIONAL FILINGS, LET ME KNOW. I
8 WOULD SUGGEST, HOWEVER, THAT WE PROCEED BASED UPON
9 THE RECORD THAT I GUESS YOU AND I HAVE REVIEWED UP TO
10 THIS POINT. IS THAT AGREEABLE TO YOU, MS. MOONEY?

11 **MS. MOONEY:** YES, YOUR HONOR.

12 **THE COURT:** VERY WELL.

13 SO AGAIN, IT IS NOT MY -- IT IS MY
14 INTENTION, I SHOULD SAY, TO NOT TAKE TESTIMONY IN THE
15 CASE. THE REASON FOR THAT IS BECAUSE I'M SURE -- AND
16 MY COMMENTS AT THIS TIME ARE DIRECTED TO MR. MARLOWE;
17 THAT IF MR. MARLOWE WERE TO TESTIFY UNDER OATH TODAY,
18 THAT HE WOULD TESTIFY CONSISTENT WITH THE INFORMATION
19 THAT'S BEEN PREVIOUSLY PROVIDED BY HIS COUNSEL. I
20 DON'T THINK THERE IS ANY FACTUAL DISPUTE REGARDING
21 THE REASONS WHY MR. MARLOWE IS INCARCERATED AT THIS
22 TIME. THERE IS CERTAINLY NO FACTUAL DISPUTE THAT
23 COVID-19 HAS NOW SADLY MANIFESTED ITSELF IN, I WOULD
24 IMAGINE, SEVERAL OF THE DOC FACILITIES AT THIS TIME
25 BUT, MOST CERTAINLY, THE RAYBURN CORRECTIONAL

1 FACILITY.

2 THERE IS NO DISPUTE REGARDING ANY OF THAT
3 INFORMATION. IS THAT CORRECT, MS. MOONEY?

4 **MS. MOONEY:** THAT'S CORRECT, YOUR HONOR.

5 **THE COURT:** OKAY. BUT LET ME GIVE YOU,
6 MS. POSNER, AN OPPORTUNITY TO PROVIDE ANY OTHER
7 INFORMATION -- NOT IN THE WAY OF ARGUMENT BUT IN THE
8 WAY OF FACT. I'M AWARE OF MR. MARLOWE'S MEDICAL
9 HISTORY. I HAVE REVIEWED THE MEDICAL RECORDS THAT
10 YOU SUPPLIED AS ONE OF YOUR EXHIBITS. NO ONE
11 DISPUTES THE FACT THAT YOUR CLIENT HAS BEEN DIAGNOSED
12 WITH AN ILLNESS THAT PERHAPS PLACES HIM IN A HIGHER
13 RISK CATEGORY. THERE IS NO QUESTION ABOUT THAT.

14 BUT LET ME GIVE YOU AN OPPORTUNITY TO AT
15 LEAST TELL ME ANYTHING ELSE THAT YOU THINK I SHOULD
16 KNOW, BEARING IN MIND, AGAIN, THAT I'VE ALREADY READ
17 THE PLEADINGS AND THE EXHIBITS.

18 **MS. POSNER:** CERTAINLY, JUDGE. I DO BELIEVE
19 THAT THERE ARE ADDITIONAL FACTS, AT LEAST IN REGARDS
20 TO HOW CHALLENGING IT TRULY IS IN THIS TYPE OF A
21 SETTING, FOR PRISONERS LIKE MR. MARLOWE TO SOCIALLY
22 DISTANCE IN A WAY THAT MOST PROPERLY PROTECTS HIM AND
23 IN A WAY THAT YOU AND MYSELF, MS. MOONEY AND
24 EVERYBODY ELSE THAT IS CURRENTLY SOCIALLY DISTANCING.

25 THESE ARE FACTS THAT I HAVE CONTINUED TO

1 LEARN FROM MR. MARLOWE -- WE'VE ENGAGED VIA JPEG
2 COMMUNICATION AND -- AS I'VE LEARNED, YOU KNOW, TRULY
3 WHAT HIS DAILY LIFE IS LIKE AS AN INCARCERATED
4 INDIVIDUAL.

5 SO HE HAS EXPRESSED TO ME, YOU KNOW,
6 CHALLENGES AROUND LAUNDRY, AROUND THE ICE CHEST THAT
7 IS IN HIS DORMITORY, AROUND USE OF THE MICROWAVE,
8 AROUND AISLES IN THE BED, AROUND THE -- WHEN PEOPLE
9 ARE BRUSHING THEIR TEETH, CLEANING THE TOILETS; THE
10 SHOWERS, THE SINKS, CHOW HALL, THE ASSEMBLY LINE, THE
11 CHOKE AISLE -- CHOKE POINTS THAT EXIST ON THE WALKS
12 FROM THE TIER WHEN GUYS ARE WALKING; USING THE
13 COMPUTER TO DO THESE JPEG COMMUNICATIONS. THESE ARE
14 ALL THINGS THAT HE'S PREPARED TO CONTINUE TO TESTIFY
15 ABOUT -- HOW MAINTAINING SIX FEET IS VIRTUALLY
16 IMPOSSIBLE FOR HIS FELLOW PRISONERS -- THAT I WAS NOT
17 ABLE -- MR. BOLLAG AND MYSELF ARE NOT ABLE TO GET
18 INTO INITIAL PLEADINGS.

19 AND SO, JUDGE, MR. MARLOWE IS PREPARED TO
20 PROVIDE ANY ADDITIONAL FACTS RELATED TO ALL OF THOSE,
21 YOU KNOW, INSTANCES THAT I JUST SPOKE ABOUT.

22 I WOULD ALSO SAY THAT WE HAVE CONCERN -- AND
23 THAT MR. BOLLAG IS PREPARED TO TAKE TESTIMONY FROM
24 WARDEN TANNER RELATED TO WARDEN TANNER'S STATEMENT
25 COMPARED TO THE -- I DON'T KNOW IF IT'S -- THE

1 CORRECT PRONUNCIATION IS EITHER COOP OR THE COOP, THE
2 PLAN, AND WHAT'S ACTUALLY HAPPENING ON THE GROUND.
3 THERE SEEMS TO BE SOME DISCREPANCY THERE.

4 AND I DO ACKNOWLEDGE THAT I THINK EVERYONE
5 HERE IS TRYING THEIR VERY, VERY BEST TO MAKE SURE
6 THAT NOBODY GETS SICK AT RAYBURN, SO THIS IS NOT, YOU
7 KNOW, ABOUT ANYONE INDIVIDUALLY OR THEIR ACTIONS OR
8 INACTIONS BUT JUST ABOUT THE CHALLENGES THAT EXIST IN
9 THIS TYPE OF A CORRECTIONAL SETTING. SO WE WOULD
10 LIKE THE OPPORTUNITY TO EXPLORE THIS DISCREPANCY WITH
11 THE APPROPRIATE COURT.

12 **THE COURT:** OKAY. WELL, AGAIN, I AND
13 EVERYONE ELSE IS VERY MUCH AWARE THAT INCARCERATED
14 PERSONS DO NOT ENJOY THE DEGREE OF LATITUDE AND
15 FREEDOM THAT UNINCARCERATED OR FREE PEOPLE -- I GUESS
16 THE TERM THAT'S USED -- ENJOY TO DO WHAT THEY SHOULD
17 TAKE TO OBSERVE ALL THE SOCIAL DISTANCING THAT THE
18 GOVERNOR AND OTHERS HAVE CALLED FOR.

19 AND AGAIN, MS. MOONEY, I'LL GIVE YOU AN
20 OPPORTUNITY TO ADDRESS THAT IN JUST A MOMENT.
21 SUFFICE IT TO SAY THAT I THINK WE'RE VERY MUCH ALL
22 AWARE OF THE DIFFICULTIES THAT INCARCERATED PERSONS
23 FACE AT A TIME LIKE THIS.

24 I WILL SAY THAT -- I WILL OFFER THE
25 OBSERVATION -- I THINK THE STATE HAS RAISED THIS --

1 FIRST ON A PROCEDURAL MATTER; AND THAT IS WHETHER
2 THIS ISSUE OR THIS CLAIM IS PROPERLY BROUGHT IN THIS
3 PROCEEDING; THAT IS, THE 18-63 THAT WAS FILED ALMOST
4 TWO YEARS AGO NOW.

5 IT SEEMS TO ME, MS. POSNER, THIS IS AN
6 ENTIRELY DIFFERENT CLAIM, INDEED AN ENTIRELY
7 DIFFERENT CAUSE OF ACTION HERE. SO WHY SHOULD THE
8 COURT EVEN CONSIDER THIS MATTER WITH RESPECT TO THE
9 CURRENT CLAIM PENDING BROUGHT BY YOUR CLIENT; AND
10 WHY, MORE SPECIFICALLY, SHOULDN'T I REQUIRE THAT YOU
11 FILE A SEPARATE LAWSUIT?

12 **MS. POSNER:** I'M SORRY, YOUR HONOR. I
13 WANTED TO MAKE SURE MY PHONE WAS NOT ON MUTE.

14 WE DID ADDRESS THIS IN OUR RESPONSE THAT WAS
15 FILED JUST, YOU KNOW, ABOUT 30 MINUTES BEFORE THIS
16 HEARING. SO SPECIFICALLY IF WE WANT TO TALK ABOUT
17 EXHAUSTION AND WHY WE SHOULD NOT BE FILING A SEPARATE
18 SUIT, IF YOU LOOK -- SPECIFICALLY I'D LIKE TO POINT
19 OUT IN THE COOP PLAN THAT WAS FILED AS AN EXHIBIT --
20 OR COOP PLAN -- TO THE DEFENDANTS' OPPOSITION, IF YOU
21 GO DOWN TO PAGE 14, IT SPECIFICALLY SAYS THAT ARP'S
22 AND DB APPEALS ARE NON-ESSENTIAL ACTIVITIES AT THE
23 FACILITY. AND SO THESE ARE ACTIVITIES THAT ARE --
24 WHICH MEANS THAT MR. MARLOWE IS COMPLETELY UNABLE TO
25 FILE AN ARP TO BEGIN THE EXHAUSTION PROCESS IN ORDER

1 TO MAKE THIS TYPE OF A CLAIM RIPE IN ORDER TO COME
2 INTO COURT.

3 I WOULD ALSO LIKE TO POINT OUT THAT THERE IS
4 JURISPRUDENCE SPECIFICALLY FROM THE D.C. CIRCUIT THAT
5 SAYS -- LET ME JUST FIND IT. YES. THAT SPECIFIC
6 COURT CASE SPECIFICALLY SAYS THAT THE PLRA, QUOTE,
7 CONTAINS NOTHING EXPRESSLY FORECLOSING COURTS FROM
8 EXERCISING THEIR TRADITIONAL EQUITABLE POWER TO ISSUE
9 INJUNCTIONS TO PREVENT IRREPARABLE INJURY PENDING
10 EXHAUSTION OF ADMINISTRATIVE REMEDIES. AND THAT CASE
11 IS *JACKSON VS. DISTRICT OF COLUMBIA*, 254 F.3D 262 AT
12 PAGE 268.

13 AND SO CONSIDERING THE EXTREMELY UNUSUAL
14 CIRCUMSTANCES THAT WE LIVE IN, I CAN THINK OF NO
15 OTHER TIME INVOLVING HISTORY WHERE SUCH SHELTER-IN-
16 PLACE ORDERS HAVE BEEN ISSUED BY THE GOVERNOR, LET
17 ALONE, YOU KNOW, THE SUSPENSION OF VISITATION BY BOTH
18 ATTORNEYS AND BY THE PUBLIC TO PRISONERS. IN THE
19 SEVEN YEARS I'VE BEEN PRACTICING, NOTHING LIKE THIS
20 HAS EVER HAPPENED IN A DEPARTMENT OF CORRECTIONS
21 FACILITY THAT I KNOW OF.

22 I THINK THAT EXHAUSTION AT THIS POINT IS
23 SOMETHING THAT CAN BE WAIVED SO THAT THE COURT CAN
24 LOOK IN TERMS OF WHETHER AN EQUITABLE REMEDY IS
25 AVAILABLE. AND WE BELIEVE, CONSIDERING THAT

1 DEFENDANT LEBLANC IS THE PERSON WHO HAS THE AUTHORITY
2 TO RECTIFY THIS PARTICULAR SITUATION IN REGARDS TO
3 OVERCROWDING -- I MEAN, I WOULD SAY NORMALLY MAYBE
4 MR. MARLOWE DOES NOT LIVE IN A DORM THAT IS
5 OVERCROWDED. BUT IN THE CLIMATE WHERE COVID-19 IS A
6 PANDEMIC, THE CONDITIONS THAT MR. MARLOWE IS LIVING
7 IN ARE OVERCROWDING. AND THE SECRETARY HAS THE
8 AUTHORITY TO RELEASE PEOPLE; HE HAS THE AUTHORITY TO
9 DETERMINE WHO IS CONSIDERED LOW RISK VIA THEIR
10 INTERNAL ABILITY -- THEIR TIGER SCORE; HE HAS THE
11 ABILITY TO FURLOUGH --

12 **THE COURT:** LET ME STOP YOU RIGHT THERE.
13 MS. POSNER, LET ME STOP YOU RIGHT THERE. I
14 UNDERSTAND ALL THAT, AND I DON'T -- AGREE WITH YOU
15 THAT THE SECRETARY HAS THE AUTHORITY TO DO ALL THE
16 THINGS YOU'VE JUST LISTED.

17 MY QUESTION TO YOU IS -- THIS IS COMPLETELY
18 UNRELATED -- AT LEAST THE CLAIM HERE BEFORE THE COURT
19 AT LEAST AT THIS TIME IS COMPLETELY UNRELATED TO THE
20 1983 ACTION THAT WAS INITIALLY FILED BY YOUR CLIENT.
21 IN FACT, I BELIEVE THAT MUCH OF THE ALLEGATIONS
22 INVOLVED A DIFFERENT DOC FACILITY. IS THAT RIGHT?

23 **MS. POSNER:** THAT IS CORRECT, YOUR HONOR.
24 HOWEVER, WE WOULD ARGUE THAT BECAUSE THE UNDERLYING
25 ISSUE IS RELATED TO HIS MEDICAL CARE CONCERNING HIS

1 DIABETES, AND HIS DIABETIC CONDITION IS WHAT MAKES
2 HIM SO EXTREMELY VULNERABLE TO COMPLICATIONS,
3 WHICH -- SHOULD HE CONTRACT COVID-19, THAT THIS TYPE
4 OF EMERGENCY MOTION IS APPROPRIATE IN THIS AVENUE IN
5 ORDER FOR THE COURT TO -- YOU KNOW, TO PROTECT MR.
6 MARLOWE'S LIFE.

7 **THE COURT:** WELL, LET ME HEAR FROM MS.
8 MOONEY. I'M SURE, MS. MOONEY, YOU -- IF YOU -- YOU
9 MAY NOT AGREE WITH THAT.

10 **MS. MOONEY:** YOUR HONOR, I DON'T. THE
11 OVERCROWDING IS SPECIFIC TO THE PLRA. AND WHEN
12 THEY'RE TALKING ABOUT OVERCROWDING, IT'S NOT MEANT IN
13 THIS FASHION. AND EVEN IF IT WAS -- AND EVEN IF YOU
14 WERE GOING TO SAY IT'S OVERCROWDING, WELL, THEN YOU
15 GO RIGHT BACK TO OUR MAIN ARGUMENT THAT THEY DIDN'T
16 FULFILL THE REQUIREMENTS IN SECTION 3626. THEY JUST
17 SIMPLY HAVEN'T -- THE DEFENDANTS HAVE NOT HAD AN
18 ORDER AGAINST THEM SAYING THAT THEY VIOLATED THE
19 PLAINTIFF'S RIGHTS. AND WE CAN'T GO PAST THERE AT
20 THIS POINT. IT'S JUST -- THERE IS NOTHING ELSE TO BE
21 DONE IN THAT AVENUE.

22 AND JUST -- YOUR HONOR, I DIDN'T PUT THEM IN
23 MY -- I THINK SOMEHOW DIDN'T GET PUT IN THE
24 OPPOSITION, BUT THERE IS MORE AND MORE CASES COMING
25 OUT. THERE IS A *U.S. V CLARK*, *U.S. V BOATRIGHT*, *U.S.*

1 V KANSAS. I MEAN -- LET'S SEE -- *U.S. V MARTIN*. AND
2 IN ALL OF THOSE CASES THEY'RE PRETRIAL DETAINEES THAT
3 THE FEDERAL COURT LOOKS AT THAT HAVE RISK FACTORS AND
4 COVID-19.

5 AND THOSE COURTS, WHICH ARE DISTRICT FEDERAL
6 COURTS, HAVE FOUND CONSISTENTLY THAT HAVING DIABETES
7 IS NOT ENOUGH. IT HAS TO BE A TERMINAL ILLNESS OR
8 SOMETHING PRESSING; IF YOUR DIABETES WAS EXTREMELY
9 OUT OF WHACK OR SOMETHING, MAYBE. BUT THEY DO AN
10 ANALYSIS AND LOOK AT THE REASONS WHY THEY'RE IN -- IN
11 PRETRIAL DETENTION AND HAVE COME OUT ON THE SIDE OF
12 PUBLIC INTEREST.

13 **THE COURT:** OKAY.

14 **MS. MOONEY:** AND JUST LEFT THEM THERE.

15 **THE COURT:** WELL, LET ME SAY -- LET ME JUST
16 ASK YOU -- THANK YOU, MS. MOONEY.

17 MS. POSNER, LET ME ASK YOU. AGAIN, I HAVE
18 NOT HAD THE BENEFIT OF REVIEWING THE PLEADINGS YOU
19 RECENTLY FILED. AND SINCE YOU ADDRESSED THE COURT'S
20 AUTHORITY ON THIS MATTER -- THIS IS A PURELY EIGHTH
21 AMENDMENT CLAIM, IT SEEMS TO ME -- I WILL GIVE YOU,
22 MS. MOONEY, AN OPPORTUNITY TO REVIEW IT AND TO FILE
23 INTO THE RECORD A REPLY, A RESPONSE, IF YOU WISH TO
24 DO SO.

25 BECAUSE AGAIN, AS YOU BOTH KNOW, THE COURT

1 IS UNDER A CONTINUING OBLIGATION AT EVERY PHASE OF
2 ALL FEDERAL LITIGATION TO SATISFY ITSELF OF ITS
3 JURISDICTION. AND SO I WILL NOT ENTER A RULING WITH
4 RESPECT TO THE COURT'S JURISDICTION AT THIS TIME
5 UNTIL I HAVE AN OPPORTUNITY TO REVIEW MS. POSNER'S
6 MOST RECENT PLEADING -- OR THE PLAINTIFF'S MOST
7 RECENT PLEADING -- AND GIVE THE DEFENDANTS AN
8 OPPORTUNITY TO RESPOND.

9 I WILL SET A DEADLINE FOR A RESPONSE, MS.
10 MOONEY. AND UNFORTUNATELY, AS YOU KNOW, YOU WOULD
11 OTHERWISE BE ENTITLED TO 21 DAYS UNDER OUR LOCAL
12 RULES. HOWEVER, GIVEN THE URGENCY OF THIS ISSUE AND
13 THE UNIQUE ISSUES INHERENT IN THIS, I'M GOING TO ASK
14 YOU TRY TO FILE SOMETHING BY NOON ON THURSDAY. I
15 KNOW THAT DOESN'T GIVE YOU A WHOLE LOT OF TIME. I
16 DON'T NEED A WHOLE LOT ON IT. LET ME ASSURE YOU,
17 WE'VE DONE OUR OWN RESEARCH ON THIS. BUT I
18 NONETHELESS FEEL OBLIGATED TO AT LEAST GIVE YOU AN
19 OPPORTUNITY TO ADDRESS THE FUNDAMENTAL ISSUE OF THE
20 COURT'S JURISDICTION IN THIS MATTER.

21 DO YOU HAVE ANY QUESTIONS ABOUT THAT, MS.
22 MOONEY?

23 **MS. MOONEY:** NO, YOUR HONOR. THANK YOU.

24 **THE COURT:** OKAY. NOW, LET'S ASSUME THEN
25 THAT I FIND THAT I HAVE JURISDICTION TO HEAR THIS

1 ISSUE AND TO ADJUDICATE THIS CLAIM IN THE CONTEXT OF
2 A TRO. AGAIN, I DON'T THINK THERE HAS BEEN ANY
3 ISSUES OR EVIDENCE IN DISPUTE AT THIS TIME. I MEAN,
4 WE KNOW THAT THINGS ARE CHANGING DAILY, WE KNOW THAT
5 THIS IS A VERY, VERY SERIOUS ILLNESS, AND IT IS
6 ESPECIALLY SERIOUS AND PERHAPS EVEN FATAL TO THOSE
7 WHO SUFFER SOME SERIOUS UNDERLYING MEDICAL CONDITION
8 SUCH AS DIABETES.

9 I DON'T THAT THINK THERE IS ANY DISPUTE
10 ABOUT THAT. CORRECT, MS. MOONEY?

11 MS. MOONEY: YES. THAT INCLUDES ME.

12 THE COURT: YES.

13 MS. MOONEY: I MEAN, IT INCLUDES -- LIKE
14 THERE ARE SO MANY PEOPLE -- THAT'S WHY WE'VE PUT THE
15 EXHIBITS TO THE LIST OF HOW MANY INDIVIDUALS AT
16 RAYBURN ALONE HAVE HIGH-RISK FACTORS.

17 THE COURT: RIGHT. SO -- AND I UNDERSTAND
18 ALL OF THE THINGS THAT THE -- THAT THE FACILITY IS
19 DOING TO TRY TO MITIGATE THE CHANCES OF INMATES
20 PICKING UP THIS VIRUS. I KNOW THAT THERE ARE SPACING
21 POLICIES THAT ARE NOW IN PLACE AND THERE IS THE
22 HEAD-TO-TOE ALTERNATING SLEEPING ARRANGEMENTS WITH
23 BEDS TWO FEET APART.

24 BUT LET ME GIVE YOU AN OPPORTUNITY TO TELL
25 ME MORE ABOUT, FRANKLY, WHAT THE DEPARTMENT IS DOING

1 NOW AND WHETHER THE DEPARTMENT HAS PLANS TO IMPLEMENT
2 ANY ADDITIONAL MEASURES.

3 MS. MOONEY: YOUR HONOR, COULD I HAVE
4 MR. VINING RESPOND TO THAT?

5 THE COURT: YES.

6 MR. VINING: HI, YOUR HONOR. THIS IS
7 JONATHAN VINING. I'M THE GENERAL COUNSEL FOR DOC.

8 I GUESS -- WHAT I'M GOING TO TELL YOU I
9 DON'T KNOW WOULD BENEFIT MS. POSNER'S CLIENT. BUT
10 WHAT IS IN THE WORKS -- AND I EXPECT TO BE ENACTED IF
11 NOT BY THE END OF THE WEEK, THEN CERTAINLY BY
12 MONDAY -- IS A PLAN TO EXECUTE ON THE SECRETARY'S
13 AUTHORITY TO FURLOUGH INDIVIDUALS, QUITE FRANKLY.

14 THERE ARE A LOT OF PARTIES THAT HAVE TO
15 BASICALLY GIVE THEIR BLESSINGS ESSENTIALLY FOR THIS
16 PROCESS TO WORK. THE SHERIFFS WILL BE INVOLVED, THE
17 DOC INVOLVED. BUT ESSENTIALLY ONCE THE PLAN IS
18 FINALIZED -- AND AGAIN, I DIDN'T SUBMIT THAT TO MS.
19 MOONEY TO FILE BECAUSE IT'S NOT FINALIZED YET. BUT
20 IT WILL ONLY APPLY TO PEOPLE THAT WERE WITHIN SIX
21 MONTHS OF RELEASE. IT WOULD ONLY APPLY TO
22 NON-VIOLENT OFFENDERS AND NON-SEX OFFENDERS.

23 BUT WE'RE STILL TALKING ABOUT 1500 TO A
24 THOUSAND PEOPLE THAT THIS COULD APPLY TO AND THAT
25 HOPEFULLY WE CAN WORK THROUGH SOON IN THE NEXT FEW

1 WEEKS TO GET OUT. BUT MOST OF THAT -- I'M GOING TO
2 BE QUITE FRANK WITH DETAIL -- ALLEVIATE OVERCROWDING,
3 IF WE'RE GOING TO CALL IT THAT, OR ISSUES WITH, YOU
4 KNOW, NOT BEING ABLE TO PROPERLY SPACE PEOPLE IN THE
5 LOCAL FACILITIES. AND SOME OF THE LOCAL FACILITIES
6 ARE OVERCROWDED, AND THOSE ARE FACILITIES THAT ARE
7 RUN BY SHERIFFS.

8 I'M NOT SURE THAT THIS IS BEING DONE WITH SO
9 MUCH IMPACT TOWARD DOC OR DOC STATE PRISONS. BUT
10 THAT'S GOING TO BE TO HELP ALLEVIATE THE STRAIN OF
11 DOC PRISONERS AND LOCAL FACILITIES, SO THAT IS
12 COMING. I EXPECT IT TO BE DONE. THE FINAL DRAFT, AT
13 LEAST FROM MY POINT OF VIEW, WAS SENT OVER THIS
14 AFTERNOON. BUT THE GOVERNOR HAS TO APPROVE IT, SIGN
15 OFF ON IT, AND SO DO THE SHERIFFS AND THE DISTRICT
16 ATTORNEYS.

17 BUT THOSE ARE THE WORKS THAT I GUESS --
18 THAT'S IN THE PIPELINE. AND IT WILL BE ENACTED SOON,
19 BUT I DON'T KNOW HOW MUCH IT WOULD AFFECT THIS CASE
20 AS -- MS. POSNER AND I HAVE ACTUALLY ALREADY
21 DISCUSSED IT EARLIER TODAY -- WITH REGARD TO HER
22 CLIENT.

23 **THE COURT:** SO I TAKE IT THEN, MR. VINING,
24 THAT WHATEVER MEASURES ARE IMPLEMENTED, PARTICULARLY
25 IN THE WAY OF FURLOUGHING PRISONERS AND EARLY RELEASE

1 POLICIES, MAY NOT NECESSARILY AFFECT INMATES AT
2 RAYBURN. CORRECT?

3 MR. VINING: YES, SIR, YOU'RE CORRECT IN
4 THAT.

5 THE COURT: WOULD IT FREE UP SPACE ELSEWHERE
6 THAT WOULD FACILITATE THE MOVEMENT OF INMATES FROM
7 RAYBURN TO OTHER FACILITIES SO THAT GREATER SOCIAL
8 DISTANCING COULD BE ACHIEVED?

9 MR. VINING: THAT'S POSSIBLE, YOUR HONOR.
10 BUT I WOULD HATE TO GO ON THE RECORD AND SAY THAT
11 THAT WOULD BE A DEFINITE POSSIBILITY. BUT AGAIN, I
12 THINK THAT WE'VE GOTTEN CONTACT FROM MULTIPLE
13 SHERIFFS THAT FEEL THAT ESSENTIALLY THEY'RE JUST --
14 THEY'RE OVERPOPULATED. AND MAYBE FREEING UP I GUESS
15 THEIR DOC POPULATIONS ARE THE EASIEST WAY TO
16 ALLEVIATE AND CREATE SPACE ISSUES, THEY HAVE THEIR
17 OWN ISSUES, I GUESS, WITH THEIR PRETRIAL DETAINEES.
18 BUT AGAIN, THIS IS MORE TOWARD AN EYE ON HELPING WITH
19 THE LOCAL POPULATION.

20 IF THE NEED ARISES, I BELIEVE THAT -- YOU
21 KNOW, WE HAD CERTAIN SPACES WHERE WE COULD MOVE
22 INDIVIDUALS, BUT I DON'T BELIEVE THAT ANY OF THE
23 PRISONS FEEL THAT THEY'RE AT THAT POINT TO WHERE
24 THAT'S BECOME NECESSARY.

25 THE COURT: ALL RIGHT. NOW, LET ME ASK YOU,

1 MR. VINING, WITH RESPECT TO THE CONTINUITY OF
2 OPERATION PLANS AT LEAST FOR RAYBURN. THE EXHIBIT
3 THAT WAS ATTACHED TO THE PLEADINGS EARLIER TODAY --
4 THIS IS EXHIBIT 1 SPECIFICALLY FOR THE RECORD, AND
5 THAT'S AT DOCUMENT 101-1 -- APPEARS TO HAVE LAST BEEN
6 REVISED ON MARCH 20TH OF THIS YEAR.

7 ARE THERE ANY PLANS NOW THAT -- SINCE WE'VE
8 SEEN THAT EVERY DAY, EVERY COUPLE OF DAYS WE'RE
9 LEARNING MORE ABOUT THIS DISEASE, ARE THERE PLANS TO
10 FURTHER ADVISE OR TO AMEND THIS PLAN IN ANY WAY?

11 **MR. VINING:** JUDGE, WHAT I'LL TELL YOU IS
12 THAT SPECIFICALLY AN EMAIL CAME OUT FROM THE
13 SECRETARY'S OFFICE THIS MORNING, BECAUSE THE CDC
14 AND I BELIEVE (INAUDIBLE) SOME UPDATED WITH
15 ADDITIONAL GUIDANCE AND SUGGESTIONS FOR HOW
16 FACILITIES -- I SAY *FACILITIES*, BUT HOW INDIVIDUALS
17 AND BUSINESSES SHOULD APPROACH, I GUESS, THIS
18 EMERGENCY. AND THOSE PLANS ARE MEANT TO BE UPGRADED
19 ON A CONTINUING BASIS.

20 WITH REGARD TO RAYBURN SPECIFICALLY -- I
21 KNOW YOU DON'T WANT TO TAKE TESTIMONY, BUT I WOULD
22 ALMOST HAVE TO DEFER TO WARDEN TANNER FOR HIM TO GIVE
23 HIS THOUGHTS, BECAUSE HE IS THE ONE THAT MAINTAINS
24 IT. BUT YES, I CAN ASSURE YOU THAT AS NEED ARISES,
25 THOSE PLANS ARE MEANT TO BE UPDATED ON AN ONGOING

1 BASIS.

2 **THE COURT:** ALL RIGHT. WELL, I TELL YOU
3 WHAT I'LL DO. I WOULD LIKE TO HEAR FROM WARDEN
4 TANNER.

5 AND, MS. POSNER, I WILL -- AT THIS TIME I
6 WILL ACCEPT TESTIMONY AND GIVE YOU AN OPPORTUNITY TO
7 CROSS-EXAMINE HIM, IF YOU WISH. I'D RATHER DO IT IN
8 THAT MANNER RATHER THAN RECEIVING A PROFFER.
9 OBVIOUSLY THE LAWYERS -- I'M ALWAYS WILLING TO TAKE A
10 PROFFER FROM LAWYERS TO AVOID HAVING TO TAKE
11 TESTIMONY WHEN APPROPRIATE. BUT IT SOUNDS TO ME THAT
12 IT'S UNAVOIDABLE THAT I HAVE TO HEAR FROM WARDEN
13 TANNER. AND SO AGAIN, MS. POSNER, I'LL GIVE YOU AN
14 OPPORTUNITY TO CROSS-EXAMINE HIM.

15 MS. MOONEY OR MR. VINING, ARE YOU ALL
16 PREPARED TO PRESENT THE TESTIMONY OF WARDEN TANNER AT
17 THIS TIME?

18 **MS. MOONEY:** JONATHAN, WOULD YOU BE ABLE TO
19 GUIDE HIM THROUGH IT OR WOULD YOU WANT ME TO?

20 **MR. VINING:** YOU KNOW WHAT? I WOULD
21 ACTUALLY PREFER YOU TO, SUZANNE. I HATE TO PUT THAT
22 ON YOU, BUT IF ANYTHING POPS UP THAT I CAN ANSWER
23 FROM A DEPARTMENTAL PERSPECTIVE, I'D BE MORE THAN
24 HAPPY TO.

25 **THE COURT:** AND AGAIN, WE'RE GOING TO REMAIN

1 FLUID IN THIS SITUATION. THIS IS, AGAIN, NOT THE
2 MANNER IN WHICH WE, AS YOU ALL KNOW, CUSTOMARILY
3 CONDUCT HEARINGS AND ESPECIALLY EVIDENTIARY HEARINGS
4 IN FEDERAL COURT. BUT AGAIN, WE'RE GOING TO GIVE
5 EVERYONE SOME LATITUDE.

6 I WILL REQUIRE, OF COURSE, WARDEN, THAT YOUR
7 TESTIMONY BE GIVEN UNDER OATH. AT THIS TIME I WOULD
8 ASK MY COURTROOM DEPUTY, MS. HARTER, TO NOW
9 ADMINISTER THE OATH TO THE WITNESS.

10 **REPORTER'S NOTE: (WHEREUPON, WARDEN ROBERT**
11 **TANNER, BEING DULY SWORN, TESTIFIED AS FOLLOWS.)**

12 **THE COURTROOM DEPUTY:** PLEASE STATE AND
13 SPELL YOUR NAME FOR THE RECORD.

14 **THE WITNESS:** ROBERT, R-O-B-E-R-T, TANNER,
15 T-A-N-N-E-R.

16 **THE COURT:** THANK YOU, WARDEN TANNER.
17 MS. MOONEY, YOU MAY PROCEED.

18 **DIRECT EXAMINATION**

19 **BY MS. MOONEY:**

20 **Q** WARDEN TANNER, ARE YOU FAMILIAR WITH THE
21 PLAN -- THE COOP PLAN WE WERE JUST TALKING ABOUT THAT
22 WAS ISSUED ON MARCH 20TH?

23 **A** YES.

24 **Q** AND HAVE YOU UPDATED AND MADE CHANGES TO THE
25 PROTOCOLS WITHIN THE PRISON SINCE THEN?

1 A SINCE MARCH 20TH? YES -- WELL, WE -- I TELL
2 YOU, IT'S A FLUID SITUATION. WE -- YOU KNOW, THE
3 PLAN IS THERE AND IT SERVES AS GUIDANCE TO US.

4 WE MET -- WE MEET ALMOST DAILY, BUT FOR SURE
5 WE MEET MONDAY, WEDNESDAY AND FRIDAY TELECONFERENCE
6 WITH THE SECRETARY AND THE -- AND HIS STAFF AND OTHER
7 WARDENS FROM THE OTHER FACILITIES. AND THINGS, YOU
8 KNOW, ARE CHANGING DAILY. SO, YOU KNOW, THE PLAN, I
9 WOULD SAY, SERVES AS A -- AS A GUIDANCE FOR US.

10 Q SO YOU WOULD CHANGE THINGS ON A DAILY BASIS
11 OR AS SOMETHING COMES TO YOUR ATTENTION?

12 A YES.

13 Q WELL, MS. POSNER SAID SHE HAD SOME ISSUES
14 WITH CERTAIN THINGS. CAN YOU TELL US: HOW DOES THE
15 LAUNDRY WORK?

16 A I MEAN, THEY HAVE A SCHEDULE -- WE HAVE A
17 GENERAL SCHEDULE FOR THE OFFENDERS TO HAVE THEIR
18 LAUNDRY DONE. IT GOES BY HOUSING UNIT. WE HAVE AN
19 OFFICER THAT'S ASSIGNED TO THE LAUNDRY WHO SUPERVISES
20 THE LAUNDERING OF CLOTHES. WE HAVE A SYSTEM WHEREBY
21 WE USE A OZONE TREATMENT TO SANITIZE THE CLOTHES. WE
22 HAVE A SYSTEM OF WEIGHING THE CLOTHES TO MAKE SURE
23 THAT WE DON'T PUT TOO MANY CLOTHES IN THE WASHING
24 MACHINE OR THE DRYER.

25 THEY'RE BROUGHT BACK, YOU KNOW, TO THE

1 DORMITORY IN BUNDLES, THE CLEANED BUNDLES, AND
2 THEY'RE SORTED OUT BY THE ORDERLIES TO BE PASSED OUT
3 TO THE OFFENDERS.

4 Q IS THERE ANY INSTRUCTIONS THAT ARE GIVEN TO
5 THE INMATES ON MAYBE -- THE SOCIAL DISTANCING WHEN IT
6 COMES TO USING THE BATHROOMS, LIKE BRUSHING THEIR
7 TEETH AND STUFF LIKE THAT? ARE THEY INSTRUCTED TO
8 MONITOR THEMSELVES TO STAY SIX FEET AWAY OR HAVE WE
9 PUT DOWN TAPE, OR --

10 A NO, THERE IS -- I MEAN, THERE IS NO
11 REQUIREMENT THAT EVERYBODY HAVE TO GO IN THERE AT THE
12 SAME TIME. THERE IS -- THE SINKS, WE HAVE -- I
13 BELIEVE IT'S THREE, MAYBE FOUR SINKS -- FOUR SINKS
14 PER -- FOR -- PER DORMITORY, WHICH IS -- MEETS THE
15 HEALTH DEPARTMENT REQUIREMENTS FOR THE DORM HOUSING
16 79 OFFENDERS.

17 Q AND IS THERE SOAP AVAILABLE AT ALL TIMES IN
18 THE RESTROOM?

19 A ABSOLUTELY. WE'RE INSISTENT UPON THAT.
20 THERE IS LIQUID HAND SOAP DISPENSERS IN EACH BATHROOM
21 AREA, WHETHER IT'S IN A HOUSING UNIT OR A WORK AREA.
22 AND WE -- WE'VE BEEN PRETTY PERSISTENT ABOUT -- WITH
23 OUR SECURITY STAFF -- ABOUT ENSURING THAT THOSE ARE
24 REFILLED AS NEEDED.

25 Q AND ARE YOU AWARE THAT SOME INMATES ARE AT A

1 HIGHER RISK FOR COMPLICATIONS FROM COVID?

2 A CERTAINLY. THE -- WE HAVE A NUMBER OF
3 INMATES HERE -- AS YOU'RE AWARE, THAT I PROVIDED THE
4 LIST OF SOMETHING OVER 600 OFFENDERS HERE -- THAT
5 HAVE CHRONIC CONDITIONS THAT MAKE THEM MORE
6 SUSCEPTIBLE TO THE VIRUS, AND -- SO WE'RE VERY
7 CONCERNED ABOUT THAT.

8 Q AND IS THERE ANYTHING ELSE YOU WANT TO TELL
9 ME ABOUT HOW YOUR PRISON WORKS AND WHAT YOU'RE DOING?

10 A WELL, YOU KNOW, AS -- AS HAS BEEN NOTED, YOU
11 KNOW, IN THE RECORD, THE STEPS THAT WE'RE TAKING TO
12 CLEAN THE FACILITY OR TO KEEP IT CLEAN, THAT'S NOT
13 SOMETHING WE JUST DO FOR THE VIRUS. THAT'S SOMETHING
14 THAT WE INSIST UPON YEAR-ROUND.

15 ON A DAILY BASIS WE TAKE, YOU KNOW, EVERY
16 EFFORT TO MAKE SURE THAT THE FACILITY IS CLEAN AND
17 MEETS APPLICABLE STANDARDS. WE, YOU KNOW, HAVE NO
18 SHORTAGE OF OFFENDERS THAT ARE -- THAT CAN PERFORM
19 THE WORK, AND WE CERTAINLY MAKE SURE THAT THEY HAVE
20 THE MATERIALS TO PROPERLY CLEAN THE FACILITY.

21 WITH EVERYTHING THAT'S BEEN GOING ON WITH
22 THE VIRUS, WE'VE BEEN PROVIDING ADDITIONAL
23 INSTRUCTIONS TO THE OFFENDERS TO -- TO -- ON THE
24 PROPER METHODS OF WASHING THEIR HANDS AND HOW TO, YOU
25 KNOW, COUGH OR SNEEZE INTO THE CROOK OF THEIR SHIRT

1 IF THEY -- OF THEIR ELBOW -- IF THERE IS NOT A TISSUE
2 AVAILABLE. YOU KNOW, JUST ALL THE THINGS THAT WE ALL
3 HEAR ON A DAILY BASIS.

4 AND WE'RE, YOU KNOW, CONTINUING TO ENFORCE
5 THE -- OUR CLEANING RESPONSIBILITIES AS FAR AS HAVING
6 THE ORDERLIES CLEAN WITH A BLEACH SOLUTION, AN
7 APPROPRIATE BLEACH SOLUTION, SURFACES, ALL SURFACES.
8 JUST REALLY BEING A LITTLE -- A WHOLE LOT MORE
9 PROACTIVE ABOUT THAT.

10 THE -- WE RECENTLY ALSO -- TODAY, IN FACT,
11 WE PICKED UP TWO ADDITIONAL -- OR TWO FOG MACHINES
12 THAT ARE INTENDED TO KIND OF HELP WITH THE BATTLE,
13 THE -- OF SANITIZING THE DORMITORIES AND THE HOUSING
14 AREAS. THIS IS A FOGGER THAT USES A DISINFECTANT
15 THAT WILL GO THROUGH THE DORMITORIES AND EMPTY THE
16 DORMITORIES TEMPORARILY WHILE -- YOU KNOW, HAVE THE
17 OFFENDERS STEP OUTSIDE WHILE WOULD WE DO THIS. AND I
18 UNDERSTAND IT SHOULD TAKE MAYBE 30 MINUTES PER DORM
19 TO GET THAT DONE. AND WE'RE GOING TO INITIATE THAT
20 PROCEDURE AS WELL.

21 Q IS THERE AN EMERGENCY ARP PROCEDURE?

22 A THERE IS PROVISIONS IN THE ADMINISTRATIVE
23 REMEDY FOR FILING A REQUEST -- AN EMERGENCY REQUEST
24 FOR A -- TO FILE A GRIEVANCE, YES.

25 Q WOULD THAT BE SUSPENDED AS NON-ESSENTIAL

1 RIGHT NOW?

2 A NO. WE'RE STILL PROCESSING ARP'S AT THIS
3 TIME. WE HAVEN'T SUSPENDED THAT PROCESS. AT THIS
4 FACILITY WE'RE STILL ACCEPTING AND ANSWERING ARP'S,
5 DISCIPLINARY APPEALS AND SUCH AS THAT, AT THE FIRST
6 LEVEL, AT THE WARDEN'S LEVEL, YES.

7 Q DOES YOUR FAMILY RESIDE ON THE POST?

8 A AT THIS TIME MY WIFE AND I DO. AND THEN I
9 HAVE THE DEPUTY WARDEN AND HIS WIFE, AND THEY HAVE A
10 DAUGHTER THAT RESIDES WITH THEM. I HAVE MY
11 CLASSIFICATION DIRECTOR AND HER DAUGHTER, AND THE
12 FACILITY PHYSICIAN RESIDES ON THE GROUND.

13 Q AND ARE YOU EXPOSED TO THE SAME THINGS THAT
14 THE OFFENDERS ARE EXPOSED TO ON A REGULAR DAY?

15 A YES, MA'AM.

16 MS. MOONEY: I DON'T THINK I HAVE ANY MORE
17 QUESTIONS, YOUR HONOR.

18 THE COURT: OKAY. WELL, THANK YOU, MS.
19 MOONEY.

20 MS. POSNER, ANY CROSS-EXAMINATION?

21 MS. POSNER: JUDGE, MR. BOLLAG IS GOING TO
22 DO THE CROSS OF WARDEN TANNER.

23 THE COURT: VERY WELL.

24 CROSS-EXAMINATION

25 BY MR. BOLLAG:

1 Q YES. HI, THIS IS ALEXANDER BOLLAG. THANK
2 YOU, WARDEN TANNER, FOR JOINING US TODAY. I KNOW
3 YOU'RE VERY BUSY, ESPECIALLY RIGHT NOW. I KNOW YOU
4 HAVE ANOTHER APPOINTMENT TO GET TO, SO WE'LL TRY TO
5 GET THROUGH THIS AS QUICKLY AS POSSIBLE. I DO HAVE A
6 FEW QUESTIONS FOR YOU, BUT WE'LL TRY TO DO THIS
7 QUICKLY.

8 YOU JUST MENTIONED THAT THERE IS CHANGES
9 BEING MADE TO THE COOP -- COOP -- COOP/COOP PLAN AS
10 NEEDED ON A DAILY BASIS. CAN YOU TELL US WHAT
11 CHANGES HAVE BEEN MADE.

12 A THERE IS MULTIPLE THINGS THAT ARE CHANGING.
13 BUT AS WE GO THROUGH IT, THERE IS THINGS THAT WE'VE
14 DONE AS FAR AS THE QUESTIONS THAT WE ASK THE
15 EMPLOYEES WHEN THEY COME THROUGH THE FRONT GATE. I'M
16 TRYING TO THINK RIGHT NOW. PRACTICES REGARDING
17 PROTECTIVE EQUIPMENT; WHEN TO ISSUE IT, WHEN NOT TO
18 ISSUE IT.

19 Q SO ACTUALLY, YEAH, I WANTED TO TALK ABOUT
20 THE PROTECTIVE EQUIPMENT. CAN YOU TELL US: DO YOU
21 HAVE AN INVENTORY OF THE PPE, AS THE COOP PLAN
22 MENTIONS?

23 A DO I HAVE AN INVENTORY?

24 Q YEAH.

25 A I HAVE -- YEAH, I HAVE A SUPPLY ON HAND,

1 YES.

2 Q AND DO YOU KNOW HOW MANY MASKS, HOW MANY
3 GLOVES, OTHER MATERIALS?

4 A I DON'T HAVE THAT IN FRONT OF ME AT THIS
5 MOMENT, BUT IT IS AVAILABLE. WE KEEP UP WITH THAT,
6 YES, ON A DAILY BASIS.

7 Q AND DO YOU HAVE SUFFICIENT TO -- FOR ALL
8 MEANS THERE OR -- SPECIFICALLY ABOUT MASKS. SO ALL
9 THE -- NOT EVERYBODY AT THE FACILITY IS WEARING A
10 MASK. IS THAT CORRECT?

11 A THAT'S CORRECT.

12 Q WHEN --

13 THE COURT: LET ME ASK, MR. BOLLAG, JUST SO
14 THAT I'M CLEAR. WHEN YOU SAY "EVERYONE," ARE YOU
15 TALKING ABOUT THE STAFF OR ARE YOU TALKING ABOUT THE
16 OFFENDER OR ARE YOU SPEAKING OR REFERRING TO THE
17 STAFF AND THE OFFENDER?

18 MR. BOLLAG: I'M TALKING ABOUT BOTH, STAFF
19 AND THE OFFENDERS, YOUR HONOR.

20 THE COURT: ALL RIGHT. DID YOU UNDERSTAND
21 THAT, WARDEN?

22 THE WITNESS: YES, WELL, NOW THAT YOU
23 CLARIFIED IT.

24 A YOU KNOW, THE -- WHAT WE HAVE -- WHAT WE'RE
25 DOING NOW IS THAT ALL EMPLOYEES WHO ARE IN CONTACT

1 WITH THE OFFENDERS ARE WEARING, AT A MINIMUM, OF A
2 SURGICAL MASK. THE EMPLOYEES THAT WORK IN THE
3 DORMITORIES OR HOUSING AREAS THAT ARE QUARANTINED OR
4 ISOLATED ARE WEARING THE N95 MASK, THEY'RE WEARING
5 GOWNS, THEY'RE WEARING THE GLASSES, AND THEY'RE
6 WEARING GLOVES; THE NITRO GLOVES.

7 WE'RE -- THE ONLY OFFENDERS THAT WE'RE
8 PROVIDING MASKS TO ARE THE ONES THAT ARE IN THE
9 QUARANTINE DORMS AT THE TIME. AND WE ALSO ISSUE
10 PROTECTIVE EQUIPMENT TO THE OFFENDERS THAT HAVE --
11 THAT WORK IN THE KITCHEN WHO ARE SERVING THE MEALS,
12 TO THE LAUNDRY WORKERS, TO THE INFIRMARY, ORDERLIES,
13 AND ANYBODY LIKE THAT THAT THE MEDICAL DIRECTOR FEELS
14 LIKE -- ANY OFFENDER THAT THE MEDICAL DIRECTOR
15 INDICATES SHOULD BE WEARING A MASK.

16 **BY MR. BOLLAG:**

17 Q OKAY. AND IF AN OFFENDER REQUESTS A MASK --
18 JUST SOMEBODY TO GO TO WORK IN ONE OF THOSE AREAS, IF
19 THEY WERE TO REQUEST A MASK, ARE THEY PROVIDED A
20 MASK?

21 A IF IT WERE MEDICALLY NECESSARY.

22 Q OKAY. SO DO YOU HAVE ENOUGH MASKS ON HAND
23 TO PROVIDE ALL OFFENDERS WITH MASKS, OR YOU WOULDN'T
24 HAVE ENOUGH MASKS FOR THAT?

25 A IF I'M -- IF I'M DIRECTED TO, I COULD

1 PROVIDE ALL OF THE OFFENDERS ON THE INSTITUTION A
2 MASK.

3 Q AND ARE YOU ABLE TO GET MORE MASKS IF
4 NEEDED? DO YOU HAVE A SUPPLY, OR NO?

5 A I MEAN, WE'RE WORKING ON IT. WE -- WE'RE
6 ANTICIPATING A DELIVERY.

7 Q AND IS THAT JUST SURGICAL MASKS OR N95'S OR
8 BOTH?

9 A RIGHT NOW WE'RE ANTICIPATING A DELIVERY OF
10 MASKS THAT HAVE -- THAT THE DEPARTMENT IS MAKING.

11 Q OKAY. AND WHAT ABOUT MEDICATION AND MEDICAL
12 SUPPLIES ON HAND? DO YOU HAVE SUFFICIENT SUPPLIES OF
13 THAT? ARE YOU ABLE TO GET MORE?

14 A ABSOLUTELY. I HAVE A SUFFICIENT SUPPLY.

15 Q YOU MENTIONED THE FOGGERS. THAT WAS ONE OF
16 MY QUESTIONS I WANTED TO -- CAN YOU TELL US A LITTLE
17 BIT MORE ABOUT THOSE. WHAT DO THEY USE? I ASSUME
18 IT'S SOME SORT OF CHEMICAL. WHAT IS THAT AND DOES IT
19 TREAT FOR COVID SPECIFICALLY? JUST IF YOU WOULD TELL
20 US A LITTLE BIT MORE ABOUT THAT, PLEASE.

21 A NO, THE -- I'M NOT REALLY SURE OF WHAT THE
22 CHEMICALS ARE IN IT. I WASN'T PREPARED TO DISCUSS
23 THAT. I DON'T HAVE THAT INFORMATION IN FRONT OF ME
24 RIGHT NOW.

25 Q OKAY. I GUESS --

1 A ALL I -- IT'S A SANITIZER, IS WHAT I WAS,
2 YOU KNOW --

3 Q SO ON WHAT ADVICE OR WHAT GUIDELINES ARE YOU
4 FOLLOWING IN TERMS OF USING THOSE FOGGERS?

5 A I'M USING -- TRYING TO DO EVERYTHING I CAN
6 THAT I CAN COME UP WITH TO HELP DO ANYTHING. IT'S
7 SOMETHING, YOU KNOW, I SAW ON THE NEWS SOMEWHERE, AND
8 THEN I HAD SOMEONE LOOK INTO IT AND WE BOUGHT SOME.
9 SO IF IT'S SOMETHING I THINK WE NEED, YOU KNOW, OR IF
10 SOMEBODY GIVES ME, YOU KNOW, AN IDEA, THEN I'M GOING
11 TO LOOK INTO IT.

12 IN FACT, ONE OF MY ASSISTANT WARDENS WAS THE
13 ONE WHO -- WHILE SERVING IN THE ARMY NOTED THAT THEY
14 WERE -- THE BEDDING SITUATION, HEAD TO TOE, THAT WAS
15 SOMETHING THAT THEY WERE REQUIRED TO DO WHEN HE WAS
16 IN THE ARMY. AND I THOUGHT THAT WAS A GOOD IDEA, AND
17 THAT'S WHY WE INSTITUTED THAT.

18 Q OKAY. SO THAT WAS ANOTHER QUESTION I HAD.
19 I WANTED TO -- JUST FOR THOSE OF US WHO AREN'T THAT
20 FAMILIAR WITH THE PRISON AND THE PHYSICAL LAYOUT AND
21 SPECIFICALLY THE SLEEPING AREAS BUT ALSO MORE
22 GENERALLY.

23 SO I UNDERSTAND PEOPLE ARE SLEEPING HEAD TO
24 TOE, THE BEDS ARE TWO FEET APART. SO THERE IS -- I
25 THINK ONE THING SAID THERE IS SIX -- APPROXIMATELY

1 SIX FEET OF FACE-TO-FACE DISTANCE. BUT PEOPLE
2 ACTUALLY ARE NOT SIX FEET APART WHEN THEY'RE IN THE
3 SLEEPING ARRANGEMENTS. IS THAT CORRECT?

4 A WELL, YOU HAVE TWO INMATES LAYING SIDE BY
5 SIDE. BEFORE THEY WERE -- THEIR HEAD WAS IN THE SAME
6 DIRECTION. NOW ONE'S HEAD IS AT THE -- WHAT WOULD
7 HAVE BEEN THE FOOT OF THE BED, AND THE OTHER STAYS IN
8 THE SAME POSITION, SO THAT ROUGHLY PUTS THEM -- THEIR
9 FACE -- FACE -- FACES SIX FEET APART.

10 Q OKAY. AND ARE THESE IN DORMITORIES, CELLS,
11 DOUBLE CELLS, OR WHERE ARE WE TALKING ABOUT?

12 A DORMITORIES. WE CALL THEM DORMITORIES, BUT
13 THEY'RE MORE LIKE AN OPEN BARRACKS.

14 Q AND SO THESE ARE THE ONES THAT HOUSE 79
15 PEOPLE?

16 A CORRECT.

17 Q AND THEY'RE ABOUT 6600 SQUARE FEET. IS THAT
18 CORRECT?

19 A I BELIEVE THAT'S (INAUDIBLE).

20 Q OKAY. AND HOW MANY DORMS DO YOU HAVE THERE?

21 A WE HAVE 14.

22 Q OKAY. WHAT ABOUT COMMON AREAS? WHAT'S THE
23 STATUS OF THOSE? WHAT'S THE -- KIND OF THE PHYSICAL
24 SPACE OF THOSE? HOW CLOSE ARE PEOPLE TOGETHER IN
25 THOSE AREAS; TV ROOMS, WEIGHT ROOM, LIBRARY, ET

1 CETERA?

2 A THE COMMON ROOM IS -- THAT THEY HAVE A BENCH
3 STYLE SEATING THAT FACES -- THERE IS TWO TELEVISIONS.
4 THEY'RE KIND OF SITUATED IN THE CORNER OF A ROOM; ONE
5 POINTING ONE WAY, ONE ON THE OTHER WALL POINTING THE
6 OPPOSITE WAY. AND THE BENCHES ARE ALONG THE WALL TO
7 WHERE THEY'RE FACING ONE OR THE OTHER TV.

8 THE INMATES NORMALLY WOULD SIT -- I MEAN,
9 THE INMATE COULD SIT IN THERE SHOULDER TO SHOULDER
10 AND THERE WOULD BE NOTHING PREVENTING THAT. NOTHING
11 REQUIRING IT, EITHER.

12 Q RIGHT. AND SO NOW UNDER THE SITUATION WE'RE
13 IN TODAY, ARE PEOPLE STILL SITTING LIKE THAT? ARE
14 THERE ANY RULES REGARDING HOW PEOPLE SHOULD BE
15 SITTING IN THOSE ROOMS?

16 A THERE IS NO -- THERE IS NO -- WE ENCOURAGE
17 THEM TO MAINTAIN SIX FOOT APART, YOU KNOW, BUT WE'RE
18 NOT ACTIVELY BREAKING THEM UP.

19 Q AND HOW ABOUT HALLWAYS? HOW WIDE ARE THE
20 HALLWAYS THERE?

21 A YOU'RE TALKING ABOUT -- WHEN YOU SAY
22 HALLWAYS, WHAT ARE YOU REFERRING TO? AISLES BETWEEN
23 THE BED?

24 Q WELL, THAT AND THEN JUST ALSO ANY HALLWAYS
25 THAT FOLKS HAVE TO PASS THROUGH TO GET FROM THE DORM

1 TO A COMMON AREA OR TO MOVE BETWEEN DIFFERENT AREAS.
2 BUT ALSO I WOULD BE CURIOUS ABOUT BETWEEN BEDS -- THE
3 AISLES BETWEEN BEDS AS WELL.

4 A AISLES BETWEEN THE BEDS ARE PROBABLY ABOUT
5 FIVE FOOT, I GUESS. AND THE -- THERE REALLY IS NO
6 HALLWAYS. WHEN THEY LEAVE THE DORM, THEY'RE IN -- ON
7 OPEN-AIR BREEZEWAYS BETWEEN BUILDINGS.

8 Q OKAY. AND HOW WIDE ARE THOSE BREEZEWAYS,
9 ROUGHLY?

10 A TEN FEET.

11 Q OKAY. YOU MENTIONED THAT THE ARP OFFICE IS
12 FUNCTIONING. ARE THERE OTHER NON-ESSENTIAL FUNCTIONS
13 THAT ARE LISTED IN THE COOP THAT YOU ALL ARE STILL
14 OPERATING?

15 A WE'RE STILL OPERATING WITH FULL STAFF.

16 Q OKAY. THAT WAS ONE OF MY QUESTIONS. SO --

17 A I'M SORRY, I DO HAVE TO SAY THIS. THE
18 EDUCATION -- EDUCATION HAS BEEN SHUT DOWN. THE --
19 AND THEN AS WE SAID, YOU KNOW, THE VISITING AND ALL
20 THAT, THAT'S ALREADY BEEN STIPULATED THAT ALL OF THAT
21 HAS BEEN CLOSED. BUT THE EDUCATION WAS ONE THAT JUST
22 RECENTLY WE DID. AND THE -- AND THE INMATE CALL-
23 OUTS, THE CLUBS, THE -- EVEN THE RELIGIOUS GROUPS,
24 THEY'RE NOT MEETING NOW.

25 Q OKAY. BUT OTHER THAN THOSE THINGS, MOST OF

1 THE OTHER FUNCTIONS ARE OPERATING AS NORMAL?

2 A THE -- YEAH. WELL, WE CUR -- YOU KNOW,
3 CURTAILED A LOT OF THINGS LIKE MEDICAL TRIPS OUT.
4 WE'RE DOING A LOT MORE OF THINGS WHERE WE TRY TO
5 HANDLE OUR -- EVERYTHING WITHIN. ONLY EMERGENCY
6 TRIPS ARE GOING OUT. I THINK THAT ANSWERS YOUR
7 QUESTION.

8 Q IT DID, YEAH. NO, THAT'S FINE. AND I KNOW
9 YOU HAVE TO GO IN A FEW MINUTES, SO JUST A FEW MORE
10 THINGS.

11 I WANTED TO TALK ABOUT THE TESTING REAL
12 QUICK. DO YOU HAVE A NUMBER OF HOW MANY FOLKS HAVE
13 BEEN TESTED?

14 A WELL, I KNOW WE HAVE 17 AT THIS MOMENT THAT
15 ARE POSITIVE, AND WE HAVE TWO -- TWO TESTS THAT ARE
16 PENDING.

17 Q AND SO HAVE THERE BEEN ANY TESTS THAT CAME
18 BACK NEGATIVE, OR NO?

19 A YEAH, I'M NOT -- I DON'T REALLY KNOW. I
20 THINK IT'S ABOUT TWO OR THREE.

21 Q OKAY. AND SO I KNOW A NUMBER OF PLACES IT
22 WAS SAID THAT, YOU KNOW, IF THERE IS A FEVER THEY GET
23 TESTED. ARE THERE ANY OTHER SYMPTOMS THAT A PRISONER
24 EXHIBITS AND IS TESTED FOR?

25 A RIGHT NOW IT'S ANYBODY THAT HAS A FEVER IS

1 BEING TESTED.

2 Q OKAY. BECAUSE I KNOW THE CDC LISTS A NUMBER
3 OF, YOU KNOW, OTHER SYMPTOMS: COUGH, FATIGUE,
4 SHORTNESS OF BREATH, YOU KNOW, THOSE SORT OF THINGS.

5 SO RIGHT NOW IT'S ONLY IF THEY HAVE A FEVER
6 THEY'RE BEING TESTED?

7 A A HUNDRED -- IF THEY HAVE A HUNDRED -- A
8 HUNDRED OR ABOVE THEY'RE BEING TESTED.

9 Q OKAY. HOW MANY TESTS DO YOU HAVE ON HAND?
10 DO YOU KNOW?

11 A WE PROBABLY GOT ABOUT 40, 50 TESTS ON HAND.

12 Q AND ANOTHER THING THAT THE COOP PLAN
13 MENTIONED WAS WEEKLY REPORTS OF THE NUMBER OF PERSONS
14 SEEN WITH SUSPECTED ERI. ARE Y'ALL BEING ABLE TO PUT
15 THOSE TOGETHER?

16 A WE'RE -- WE SEND OUT A NUMBER OF REPORTS
17 DAILY. WE HAVE TO HAVE OUR REPORTS TO HEADQUARTERS
18 AT TWO O'CLOCK EVERY DAY.

19 Q OKAY. SO ALL OF THE PATIENTS WHO WERE --
20 TESTED POSITIVE RIGHT NOW, THEY'RE ALL BEING TREATED
21 AT YOUR FACILITY?

22 A YES.

23 Q AND ARE THERE ANY PLANS TO TRANSFER THEM TO
24 OUTSIDE HOSPITALS IF NECESSARY?

25 A IF NECESSARY.

1 Q HAVE YOU MADE ARRANGEMENTS WITH OUTSIDE
2 HOSPITALS?

3 A WE HAVE STANDING ARRANGEMENTS.

4 Q WITH WHICH HOSPITALS?

5 A WITH THE LOCAL HOSPITAL HERE IN BOGALUSA,
6 LADY OF ANGELS. AND WE ALSO TRANSPORT INMATES TO --
7 WELL, ACTUALLY, I MEAN, IT'S WHATEVER HOSPITAL THAT
8 WE NEED TO. I MEAN, WE'VE TAKEN INMATES -- GENERALLY
9 TO NEW ORLEANS, TO UNIVERSITY. BUT WE'VE TAKEN
10 INMATES TO HAMMOND, TO WHEREVER THE NEED AROSE.

11 Q OKAY. AND HOW MANY BEDS DO YOU HAVE AT YOUR
12 FACILITY THERE? MEDICAL BEDS.

13 A MEDICAL BEDS?

14 Q YEAH.

15 A WE HAVE SIX OR EIGHT -- SIX OR EIGHT IN THE
16 INFIRMARY FLOOR WARD AND WE HAVE TWO ISOLATION BEDS.

17 Q DO YOU HAVE ANY VENTILATORS?

18 A NO. WE'RE JUST A SMALL INFIRMARY.

19 Q I THINK -- SORRY. LASTLY I JUST WANT TO
20 TALK ABOUT THE TESTING OF THE STAFF. ARE YOU TESTING
21 (INAUDIBLE) STAFF AT HOME WITH SYMPTOMS?

22 A WHEN THEY -- IF ANYBODY THAT HAS SYMPTOMS, A
23 FEVER, WE'RE REFERRING THEM TO THEIR PERSONAL
24 PHYSICIAN.

25 Q AND DO YOU KNOW HOW MANY PEOPLE HAVE THAT

1 THAT'S APPLIED TO?

2 A I THINK WE'VE HAD PROBABLY ABOUT A DOZEN
3 MAYBE.

4 Q AND --

5 A NO REPORTED COVID POSITIVE EMPLOYEES AT THIS
6 TIME. PROBABLY HAVE I THINK ABOUT FOUR OR FIVE THAT
7 HAVE BEEN TESTED, SO -- BUT NO POSITIVES.

8 Q OKAY. I'M GOING TO STOP THERE, UNLESS MY
9 CO-COUNSEL HAS ANY OTHER QUESTIONS, BECAUSE I KNOW
10 YOU HAVE TO GO. I WANT TO THANK YOU AGAIN FOR YOU
11 TIME.

12 A OKAY.

13 **THE COURT:** MS. POSNER, DID YOU HAVE -- I'M
14 SORRY. MS. MOONEY, ANYTHING VERY BRIEFLY BEFORE WE
15 EXCUSE THE WARDEN?

16 HEARING NOTHING -- WARDEN, I KNOW YOU'VE GOT
17 TO GO. LET ME JUST ASK YOU ONE THING -- A COUPLE OF
18 THINGS HERE. ACTUALLY, MOST OF MY QUESTIONS I'M SURE
19 CAN BE ANSWERED BY EITHER SECRETARY LEBLANC OR
20 MR. VINING.

21 SECRETARY LEBLANC HASN'T JOINED US TODAY.
22 IS THAT CORRECT?

23 **MR. VINING:** I'M SORRY, JUDGE. REPEAT REAL
24 QUICK. I COULDN'T GET IT.

25 **THE COURT:** I WAS ASKING IF SECRETARY -- IF

1 SECRETARY LEBLANC HAS JOINED US.

2 MR. VINING: OH. NO, SIR, THE SECRETARY IS
3 NOT ON THE PHONE.

4 THE COURT: ALL RIGHT. WARDEN, ARE YOU ALL
5 COORDINATING WITH OFFICIALS AT THE LOUISIANA
6 DEPARTMENT OF HEALTH?

7 THE WITNESS: WE COORDINATE THROUGH
8 HEADQUARTERS AND THROUGH THEM, YES.

9 THE COURT: ALL RIGHT. AGAIN, I KNOW THAT
10 YOU HAVE A TIME-SENSITIVE MATTER TO ATTEND TO, WHICH
11 WE WILL NOT DISCUSS ON THE RECORD. I WILL ASK,
12 HOWEVER -- MY FINAL QUESTION TO YOU IS: DO YOU MAKE
13 DISINFECTANT PRODUCTS AVAILABLE TO THE INMATE IN THE
14 RESTROOMS AND OTHER AREAS OF THE PRISON, OR IS THAT
15 SOMETHING THAT'S CONSIDERED TO BE A -- THAT MIGHT
16 PRESENT A SECURITY RISK?

17 THE WITNESS: WE MAKE HAND SANITIZER
18 AVAILABLE IN CERTAIN AREAS. IN THE DORMITORIES THEY
19 HAVE SOAP, THEY HAVE -- AS I'M SPEAKING OF, THEY HAVE
20 THE ANTIBACTERIAL HAND SOAP THAT'S AVAILABLE AT THE
21 -- IN THE BATHROOMS TO WASH THEIR HANDS WITH. WHAT I
22 UNDERSTAND FROM THE MEDICAL IS THAT'S THE BEST -- THE
23 BEST COURSE OF ACTION IN WASHING YOUR HANDS IS USING
24 THE SOAP.

25 THERE IS SANITIZER AVAILABLE FOR THE WORK

1 CREWS AND -- AT THE ENTRY POINTS TO THE COMPOUND, TO
2 THE INFIRMARY. AND THEY HAVE HAND SANITIZERS
3 AVAILABLE. AND WE HAVE A -- AN ABUNDANT SUPPLY OF
4 HAND SANITIZER THERE.

5 **THE COURT:** WHAT ABOUT DISINFECTANT WIPES?
6 ARE THOSE MADE AVAILABLE TO THE PRISON POPULATION AS
7 WELL?

8 **THE WITNESS:** NO, WE DON'T HAVE THOSE.

9 **THE COURT:** AND THE INMATES WHO ARE IN
10 QUARANTINE, I ASSUME THAT INCLUDES THE 17 CONFIRMED
11 CASES AS WELL AS THE TWO WHO -- FOR WHOM YOU'RE STILL
12 AWAITING TEST RESULTS. IS THAT CORRECT?

13 **THE WITNESS:** THOSE INMATES ARE IN
14 ISOLATION; IN MEDICAL ISOLATION. AND THE -- WE HAVE
15 TWO -- WE HAVE A RAIN UNIT, WHICH COMPRISES FOUR
16 DORMS, IS UNDER QUARANTINE AT THIS TIME, AS WELL AS A
17 FEW OTHER OFFENDERS THAT ARE HOUSED IN DIFFERENT
18 AREAS. FOR INSTANCE, WE HAVE A WAREHOUSE EMPLOYEE
19 THAT WAS SUSPECTED THAT SHE MAY HAVE COVID. SHE
20 SINCE TESTED NEGATIVE. BUT IN -- OUT OF AN ABUNDANCE
21 OF PRECAUTION, WE QUARANTINED THOSE WORKERS. AND
22 THEY WERE PLACED IN OUR VISITING ROOM, AND THAT WAS
23 TURNED INTO A MAKE-SHIFT HOUSING AREA.

24 **THE COURT:** OKAY. AND I KNOW I KEEP SAYING
25 *ONE MORE QUESTION*, BUT THIS IS, I PROMISE YOU, MY

1 ABSOLUTE LAST QUESTION. AND THAT IS: WITH RESPECT
2 TO THE EMERGENCY ARP'S THAT MIGHT BE FILED BY AN
3 INMATE, HOW LONG WOULD AN EMERGENCY ARP TAKE TO BE
4 ADJUDICATED?

5 **THE WITNESS:** IF IT WERE TRULY WHAT THE --
6 WHAT THE SYSTEM DESCRIBES AS A -- WELL, THE PROCEDURE
7 DESCRIBED AS AN EMERGENCY, IT WOULD BE ADDRESSED
8 IMMEDIATELY.

9 **THE COURT:** SO WITHIN 24 HOURS, 48 HOURS?
10 WHAT DO YOU THINK?

11 **THE WITNESS:** FORTY-EIGHT HOURS.

12 **THE COURT:** VERY WELL. WELL, WARDEN, I KNOW
13 YOU HAVE AN EXCEPTIONALLY CHALLENGING JOB AT TIMES
14 LIKE THIS AND YOU'VE GOT A LOT OF OTHER THINGS GOING
15 ON AS WELL, SO LET ME THANK YOU FOR JOINING US TODAY.
16 WE MAY HAVE ADDITIONAL QUESTIONS FOR YOU AT A LATER
17 TIME. BUT AGAIN, I THANK YOU FOR JOINING US. YOU
18 ARE NOW EXCUSED.

19 **THE WITNESS:** THANK YOU, JUDGE. I
20 APPRECIATE IT.

21 **THE COURT:** ALL RIGHT. NOW, MS. MOONEY,
22 ANYTHING ELSE THAT YOU WOULD LIKE ME TO KNOW ABOUT
23 THE -- EITHER THE COOP PLAN AT RAYBURN OR ANY OTHER
24 POLICIES OR PRACTICES THAT YOUR CLIENT HAS UNDERTAKEN
25 TO PROTECT THE INMATE POPULATION?

1 MS. MOONEY? MR. VINING?

2 MS. MOONEY: I'M SORRY, YOUR HONOR. I WAS
3 ON MUTE.

4 THE COURT: DID YOU HEAR MY QUESTION?

5 MS. MOONEY: YES. MR. VINING, WOULD YOU BE
6 ABLE TO RESPOND TO THAT ANY BETTER?

7 MR. VINING: I THINK THAT, YOU KNOW, WHAT
8 WAS IN THE AFFIDAVIT HAS PROBABLY SUFFICIENTLY
9 COVERED IT. AND, YOU KNOW, IF I BECOME AWARE OF
10 ANYTHING THAT CHANGES IN THE NEXT COUPLE OF DAYS, I
11 WILL CERTAINLY LET MS. MOONEY AND THE COURT KNOW.
12 BUT I THINK THAT HE SUFFICIENTLY COVERED IT.

13 THE COURT: THE QUESTION IN MY MIND -- AND
14 I'M SURE THAT IN MS. POSNER'S MIND -- IS THE SOCIAL
15 DISTANCING. ACCORDING TO THE GOVERNOR, THAT'S BEEN
16 ONE OF THE RECOMMENDATIONS THAT WILL GO A LONG WAY TO
17 SORT OF FLATTENING THE CURVE, AS I GUESS THE COMMON
18 NOMENCLATURE NOW PUTS IT. AND I KNOW IT'S, AGAIN,
19 EXCEPTIONALLY CHALLENGING TO IMPLEMENT THAT SOCIAL
20 DISTANCING TO THAT DEGREE IN A PRISON FACILITY.

21 HAS THE WARDEN, DO YOU KNOW, OR OTHERS AT
22 THE PRISON CONSIDERED USING ADDITIONAL SPACE TO
23 IMPLEMENT MORE SOCIAL DISTANCING AMONG THE INMATES
24 THERE?

25 MR. VINING: YOUR HONOR, YOU KNOW, I KNOW

1 THAT THEY'RE DOING EVERYTHING THAT THEY CAN. I KNOW
2 THAT OUR MEDICAL DIRECTOR, DR. MORRISON, HAS REVIEWED
3 ALL OF THESE PLANS AND THEY'RE ACTING UNDER HIS
4 GUIDANCE. AND I THINK THAT PART OF THE -- I GUESS
5 THE DECISION TO LOCK THESE FACILITIES DOWN -- BY THAT
6 I DON'T MEAN THE PRISON POPULATION, BUT IN AND OUT --
7 IS THAT THESE PLACES ARE ESSENTIALLY BEING TREATED
8 LIKE HOUSEHOLDS. AND THERE IS ONLY SO FAR AWAY YOU
9 CAN GET FROM YOUR HOUSEHOLD MEMBER IF YOU'RE THERE.

10 AND I KNOW IT'S NOT EXACTLY THE SAME, BUT
11 THAT'S THE REASON THAT WE AREN'T ALLOWING OUTSIDE
12 CONTRACTORS OR ATTORNEYS OR VISITATION RIGHT NOW, IS
13 THAT THERE IS A LIMIT TO HOW MUCH, YOU KNOW, WE CAN
14 DO. AND I CERTAINLY KNOW THESE STATE PRISONS ARE
15 BETTER ABLE TO DO IT. BUT WITHOUT SAYING WITH ANY
16 EXACT CERTAINTY, I KNOW THAT THEY'VE DONE, I THINK
17 PROBABLY IN THEIR MINDS, THE VERY BEST JOB THAT THEY
18 CAN UNDER THE CIRCUMSTANCES.

19 **THE COURT:** OKAY. WELL, LET ME JUST ASK YOU
20 TO ADDRESS A COUPLE OF THINGS IN THE PLEADING THAT
21 WILL BE FILED ON THURSDAY.

22 ONE OF THE ADDITIONAL ISSUES I WOULD LIKE
23 YOU TO ADDRESS, MS. MOONEY, OR PRISON OFFICIALS, IS
24 THE USE OF DISINFECTANT THROUGHOUT THE FACILITY; HOW
25 THEY'RE USED, TO WHOM THEY'RE AVAILABLE, WHETHER --

1 AS IS VERY COMMON NOW IN GROCERY STORES AND OTHER
2 PLACES, ARE THERE PLANS TO PUT TAPE ON THE FLOORS
3 THAT WILL ENCOURAGE AND -- IF NOTHING ELSE, ENCOURAGE
4 INMATES TO ENGAGE IN SOCIAL DISTANCING ACTIVITY.

5 I'D LIKE TO KNOW MORE ABOUT THE MASKS; FROM
6 WHAT SOURCE. THE WARDEN TESTIFIED THAT THEY'LL BE
7 PROVIDED BY THE STATE DEPARTMENT OF HEALTH
8 PRESUMABLY. BUT I'D LIKE TO KNOW MORE OF WHAT KIND
9 OF MASKS THOSE ARE AND WHETHER THOSE MASKS WILL BE
10 AVAILABLE TO THE GENERAL POPULATION OF PRISONERS AS
11 WELL. AND, OF COURSE, ANYTHING ELSE THAT THE PRISON
12 OFFICIALS WILL CONSIDER GOING FORWARD, IN LIGHT OF
13 ALL OF THE NEW RECOMMENDATIONS COMING OUT, NOT JUST
14 FROM THE LOUISIANA DEPARTMENT OF HEALTH BUT BY THE
15 CDC, INCLUDING, AGAIN, THE USE OF MASKS.

16 ANY QUESTIONS ABOUT THAT?

17 **MS. MOONEY:** NO, YOUR HONOR.

18 **MR. VINING:** NO, SIR, YOUR HONOR.

19 **THE COURT:** ALL RIGHT. NOW, MS. POSNER,
20 LET'S TURN NEXT TO THE RELIEF THAT YOU REQUESTED.
21 YOU REQUESTED THAT I ORDER THE IMMEDIATE RELEASE OF
22 YOUR CLIENT.

23 AS YOU KNOW, THAT IS AN EXTRAORDINARY REMEDY
24 AT THIS POINT. ONE, I AM NOT THE JUDGE WHO IMPOSED
25 THE SENTENCE IN YOUR CLIENT'S CASE. PERHAPS THAT

1 JUDGE MIGHT BE WILLING TO RECONSIDER THE SENTENCING
2 ORDER IN THE CASE. I DON'T KNOW. I'M NOT AN EXPERT
3 ON LOUISIANA STATE CRIMINAL PROCEDURE.

4 BUT I WILL TELL YOU THAT I'M NOT INCLINED TO
5 IMPOSE MY JUDGMENT FOR THAT OF A SENTENCING JUDGE WHO
6 IS MORE FAMILIAR WITH THE FACTS THAT RESULTED IN HIS
7 CONVICTION. I UNDERSTAND THAT HE'S FACING A SERIOUS
8 MEDICAL ISSUE AT THIS TIME. I ALSO UNDERSTAND THAT
9 PRISON OFFICIALS ARE NOT ABLE TO OR -- I UNDERSTAND
10 YOUR OPINION -- PERHAPS ARE UNWILLING TO PROVIDE
11 ADDITIONAL REMEDIES THAT WILL SERVE TO PROTECT YOUR
12 CLIENT.

13 BUT YOU UNDERSTAND, MA'AM, THAT FOR ME TO
14 ORDER THE IMMEDIATE RELEASE OF YOUR -- OF YOUR
15 CLIENT, WHILE IT MAY NOT NECESSARILY BE
16 UNPRECEDENTED, IT IS CERTAINLY HIGHLY UNUSUAL.

17 WOULD YOU AGREE WITH THAT?

18 **MS. POSNER:** OF COURSE, YOUR HONOR. WE
19 DON'T MAKE THIS REQUEST LIGHTLY, BY ANY MEANS.

20 **THE COURT:** YOUR OPPONENTS HAVE CITED TO
21 PROVISIONS IN FEDERAL LAW THAT REQUIRE A
22 CONVICTED PRISON -- OR A PRISONER'S RELEASE ONLY
23 FOLLOWING A HEARING OR AT LEAST SOME CONSIDERATION BY
24 A THREE-JUDGE PANEL.

25 WHAT IS YOUR RESPONSE TO THAT?

1 **MS. POSNER:** JUDGE, I AM PREPARED TO RESPOND
2 TO THAT. I ALSO JUST WOULD LIKE TO SPECIFICALLY ASK
3 IF IT WOULD BE POSSIBLE FOR AT SOME POINT -- EITHER
4 AFTER I RESPOND TO THAT PARTICULAR LEGAL QUESTION OR
5 RIGHT NOW -- FOR MR. MARLOWE TO PROVIDE, YOU KNOW, A
6 FEW STATEMENTS ABOUT WHAT HIS CONDITIONS ARE LIKE. I
7 KNOW THAT HE CAN PROVIDE SOME VERY, VERY DETAILED
8 ACCOUNTS AS TO HOW CHALLENGING THE CONDITIONS ARE
9 THAT HE'S LIVING IN AND HE IS TRYING TO KEEP HIMSELF
10 SAFE.

11 **THE COURT:** AND I WILL PERMIT -- I WILL
12 ACCEPT VERY LIMITED TESTIMONY ON THAT POINT. BUT MY
13 POINT TO YOU IS THAT I'M CONVINCED THAT, YOU KNOW,
14 HIS MEDICAL CONDITION, HIS STATE OF HEALTH, AND THE
15 STATE OF CONDITIONS AT THE PRISON OBVIOUSLY WOULD
16 RENDER HIM CONSIDERABLY MORE SUSCEPTIBLE TO THIS
17 DISEASE. THE QUESTION STILL IS: WHAT IS MY
18 AUTHORITY.

19 I MEAN, LISTEN, YOU KNOW, FEDERAL JUDGES
20 ENJOY SWEEPING JURISDICTIONAL AUTHORITY AND POWER,
21 BUT I'M NOT SURE IT WOULD EXTEND TO PROVIDING THE
22 FORM OF RELIEF THAT YOUR CLIENT IS REQUESTING NOW.

23 SO LET ME GIVE YOU AN OPPORTUNITY TO ADDRESS
24 THAT.

25 **MS. POSNER:** CERTAINLY. I KNOW THAT SECTION

1 3626(G)(4) PROVIDES A DEFINITION, I BELIEVE, OF WHAT
2 A TEMPORARY -- OR EXCUSE ME -- WHAT A PRISONER
3 RELEASE ORDER IS. AND I THINK OUR FIRST POINT IS
4 THAT THAT PARTICULAR DEFINITION DOES NOT APPLY TO THE
5 RELIEF THAT WE ARE SEEKING. WE ARE SIMPLY SEEKING
6 TEMPORARY HOME CONFINEMENT WHERE MR. MARLOWE COULD
7 EITHER BE SUPERVISED WITH OR WITHOUT LOCATION
8 MONITORING. AND SO THAT PARTICULAR TYPE OF RELIEF IS
9 NOT SOMETHING THAT IS CONTEMPLATED BY THE DEFINITION
10 OF WHAT A PRISONER RELEASE ORDER IS IN SECTION
11 3626(G)(4). AND THERE REALLY IS NO AUTHORITY THAT
12 SPEAK OTHERWISE OR SPEAK THAT A TEMP -- YOU KNOW,
13 THIS SORT OF HOME CONFINEMENT RELEASE WOULD NOT --
14 WOULD QUALIFY AS A TEMP -- AS A PRISONER RELEASE.

15 IN THE ALTERNATIVE, WHAT I WOULD SUGGEST TO
16 THIS COURT, AFTER, YOU KNOW, REVIEWING ALL THE
17 PLEADINGS AND REVIEWING THIS LAW, IS THAT BASED ON
18 THE TESTIMONY THAT YOU'VE HEARD, BASED ON THE
19 EXHIBITS THAT HAVE BEEN ENTERED INTO THE RECORD, AND
20 WHAT WE ALL KNOW ABOUT COVID-19, THAT WE ENCOURAGE
21 THIS COURT TO ISSUE A RULING THAT DECLARES THAT AS A
22 DIABETIC PRISONER, MR. MARLOWE'S HEALTH CONDITIONS OF
23 CONFINEMENT DO VIOLATE HIS CONSTITUTIONAL RIGHT AND
24 POSE A THREAT OF IRREPARABLE HARM SHOULD HE CONTRACT
25 COVID-19.

1 AND THAT WE WOULD ALSO ASK YOU TO ISSUE AN
2 INJUNCTION ASKING THAT RAYBURN REMEDY THESE
3 PARTICULAR -- THIS PARTICULAR SITUATION AND HIS
4 CONDITION BY EITHER FURLOUGHING PRISONERS UNDER
5 15:833 OR PROVIDING SOME OTHER FORMS OF HOUSING TO
6 PEOPLE LIKE MR. MARLOWE. THEN IF THIS COURT IS --
7 EXCUSE ME. THEN IF THE DEFENDANTS ARE UNABLE TO MEET
8 THAT INJUNCTION, MR. MARLOWE CAN COME BACK AND ASK
9 FOR A THREE-JUDGE PANEL FOR HIS RELEASE. AND WE MAKE
10 THAT AS AN ALTERNATIVE ARGUMENT IN THIS PARTICULAR
11 MATTER.

12 WE DO BELIEVE THAT INJUNCTIVE RELIEF -- THAT
13 THIS COURT HAS THE AUTHORITY TO ISSUE INJUNCTIVE
14 RELIEF. AND WE THINK THAT IT IS ABSOLUTELY ESSENTIAL
15 AT THIS POINT BASED OFF OF THE TESTIMONY THAT WE'VE
16 HEARD FROM WARDEN TANNER WHO, WITHOUT A DOUBT, IS
17 DOING EVERYTHING, I BELIEVE, THAT HE CAN. I DON'T
18 THINK ANYONE IS IN THE BUSINESS OF TRYING TO GET
19 PRISONERS INCARCERATED, YOU KNOW, HAVING THEM
20 INFECTED WITH THIS PARTICULAR DISEASE. BUT I THINK
21 THAT THERE ARE OTHER THINGS THAT CAN BE DONE IN ORDER
22 TO PROTECT MR. MARLOWE.

23 **THE COURT:** SO YOU WOULD AGREE WITH ME,
24 MS. POSNER, THAT AN ACCEPTABLE AND EFFECTIVE FORM OF
25 RELIEF MAY BE PROVIDED TO YOUR CLIENT SHORT OF

1 RELEASING HIM TO RELATIVES, AS YOU HAVE REQUESTED?

2 MS. POSNER: I'M NOT SURE THAT MY CLIENT
3 WOULD AGREE WITH ME ON THAT, BUT I THINK THAT --

4 THE COURT: I DIDN'T POSE THE QUESTION
5 TO YOUR --

6 MS. POSNER: YEAH, I --

7 THE COURT: I DIDN'T POSE THE QUESTION TO
8 YOUR CLIENT. I POSED THE QUESTION TO YOU.

9 IT MAY NOT BE -- LET ME BE CLEAR. IT MAY
10 NOT BE THE REMEDY THAT MR. MARLOWE LIKES. I
11 UNDERSTAND THAT. HE WANTS TO BE RELEASED FROM
12 CUSTODY, UNDERSTANDABLY.

13 BUT THE POINT OF THE MATTER IS, IS THAT, AS
14 WE'VE DISCUSSED EARLIER, FEDERAL LAW ONLY PERMITS A
15 FEDERAL COURT TO AWARD THAT KIND OF RELIEF IN VERY,
16 VERY LIMITED EXTRAORDINARY CIRCUMSTANCES, WHICH MAY
17 OR MAY NOT BE HERE. BUT MY POINT IS TO YOU: IF I
18 FIND THAT, YOU KNOW, THE FACTS DON'T JUSTIFY THE
19 RELIEF YOUR CLIENT WANTS, YOU -- AT LEAST YOUR
20 ARGUMENT IS THAT THERE MAY BE SOME ALTERNATIVE FORMS
21 OF RELIEF AVAILABLE?

22 MS. POSNER: MY ARGUMENT WOULD CERTAINLY BE
23 THAT IF THE COURT DOES NOTHING, THAT THE CONDITIONS
24 THAT STAND AS IS ARE NOT ACCEPTABLE IN PARTICULAR TO
25 PRISONERS LIKE MR. MARLOWE, MY CLIENT, WHO HAS VERY

1 SERIOUS UNDERLYING MEDICAL CONDITIONS. WITHOUT SOME
2 ADDITIONAL DIRECTION FROM THIS COURT INSTRUCTING
3 RAYBURN AS TO HOW TO GET UP TO A PLACE WHERE
4 PRISONERS LIKE MR. MARLOWE CAN BE SAFE, HIS LIFE
5 CONTINUES TO BE IN DANGER.

6 **THE COURT:** UNDERSTOOD.

7 MS. MOONEY, LET ME GIVE YOU AN OPPORTUNITY
8 TO RESPOND, IF YOU'D LIKE.

9 **MS. MOONEY:** YOUR HONOR, I DON'T BELIEVE
10 THAT YOU HAVE ANY AUTHORITY FOR TYPICAL INJUNCTIVE
11 RELIEF BECAUSE OF THE WAY THE FEDERAL CODE OF CIVIL
12 PROCEDURE 65 IS WRITTEN. THE EXCEPTION -- OR DOWN IN
13 "E" IT SAYS THAT THAT WOULD NOT MODIFY ANYTHING THAT
14 CALLS FOR THE THREE-JUDGE PANEL. AND THE PLRA CALLS
15 FOR THE THREE-JUDGE PANEL UNDER THAT SAME STATUTE.
16 SO I THINK IT WAS MEANT TO GO TO THE THREE-JUDGE
17 PANEL IF IN THE RARITY THAT THE CIRCUMSTANCES EXIST
18 TO RELEASE A PRISONER.

19 **THE COURT:** OKAY. WELL, LISTEN, I THINK
20 THAT'S ALL THE QUESTIONS I HAVE FOR BOTH SIDES AT
21 THIS TIME. HOWEVER, I DID COMMIT TO ALLOWING MR.
22 MARLOWE A VERY BRIEF OPPORTUNITY TO ADDRESS THE COURT
23 PERSONALLY.

24 AT THIS TIME, MS. POSNER, YOU MAY CALL YOUR
25 CLIENT.

1 **MS. POSNER:** DOES THAT MAKE -- DOES MR.
2 MARLOWE -- I THINK HE NEEDS TO BE SWORN IN?

3 **THE COURT:** YES. SO THE RECORD WILL REFLECT
4 THAT YOU'RE NOW CALLING MR. MARLOWE TO TESTIFY.
5 CORRECT?

6 **MS. POSNER:** CORRECT, JUDGE.

7 **THE COURT:** VERY WELL. I WOULD ASK THE
8 COURTROOM DEPUTY TO NOW ADMINISTER THE OATH TO MR.
9 MARLOWE.

10 **REPORTER'S NOTE:** (WHEREUPON, CHRIS MARLOWE,
11 BEING DULY SWORN, TESTIFIED AS FOLLOWS.)

12 **THE COURTROOM DEPUTY:** STATE AND SPELL YOUR
13 NAME FOR THE RECORD.

14 **THE WITNESS:** CHRIS MARLOWE. C-H-R-I-S
15 M-A-R-L-O-W-E.

16 **THE COURT:** YOU MAY BEGIN.

17 **MS. POSNER:** VERY GOOD.

18 **DIRECT EXAMINATION**

19 **BY MS. POSNER:**

20 **Q** MR. MARLOWE, CAN YOU PLEASE STATE WHAT YOUR
21 DEPARTMENT OF CORRECTIONS NUMBER IS.

22 **A** MY NUMBER IS 558725.

23 **Q** AND, MR. MARLOWE, WHAT IS THE DORMITORY THAT
24 YOU LIVE IN?

25 **A** I LIVE IN A DORM NAMED SLEET TWO.

1 Q AND HOW MANY PRISONERS LIVE IN THAT DORM
2 WITH YOU?

3 A APPROXIMATELY 78 OTHERS.

4 Q TELL ME ABOUT THE SLEEPING CONDITIONS IN
5 THAT DORM.

6 A LAYING IN MY BED, I CAN REACH MY LEFT HAND
7 OVER AND TOUCH MY NEIGHBOR. THE AISLE TO MY RIGHT IS
8 FIVE FEET WIDE, HAS TRAFFIC OF ABOUT 45 INMATES 24
9 HOURS A DAY. FIVE FEET FROM MY HEAD IS A WATER
10 FOUNTAIN. IT'S THE ONLY WATER FOUNTAIN TRAFFICKED BY
11 EVERY INMATE IN THE DORM. THE AISLE BY MY HEAD HAS
12 APPROXIMATELY 30 INMATES TRAFFICKING THAT BECAUSE
13 THAT'S WHERE OUR BOXES ARE WHERE WE KEEP OUR
14 PROPERTY. WITHIN THREE FEET I HAVE ONE OTHER INMATE.
15 WITHIN SIX FEET I HAVE THREE OTHERS. WITHIN EIGHT
16 FEET I HAVE 11 OTHERS.

17 Q IS THAT THE CONDITIONS OF YOUR DORMITORY
18 THIS MORNING?

19 A YES.

20 Q TELL ME ABOUT THE WATER FOUNTAIN. ARE THE
21 PRISONERS IN YOUR DORMITORY PROVIDED WITH GLOVES?

22 A NO.

23 Q AND WHEN SOMEONE USES THE WATER FOUNTAIN,
24 ARE THEY REQUIRED TO WIPE IT DOWN AFTER THEY USE IT?

25 A NO.

1 Q AND SO WHEN THEY TAKE -- I PRESUME -- LET ME
2 ACTUALLY BACKTRACK.

3 ARE YOU ALL -- HAVE YOU ALL IN YOUR
4 DORMITORY BEEN ISSUED MASKS TO WEAR?

5 A NO. MASKS --

6 Q WHEN SOMEONE --

7 A SORRY.

8 Q GO AHEAD, PLEASE. I CUT YOU OFF.

9 A WERE ISSUED ONE DORM MASKS, AND THEY WERE
10 MADE AT ANOTHER FACILITY, AT A PRISON FACILITY, OUT
11 OF T-SHIRT MATERIAL.

12 Q THE MASKS THAT WERE ISSUED WERE NOT MEDICAL
13 MASKS?

14 A RIGHT.

15 Q BUT IN YOUR PARTICULAR DORM YOU DO NOT HAVE
16 MASKS?

17 A NO, WE HAVE NO MASKS.

18 Q AND SO WHEN SOMEONE USES THE WATER FOUNTAIN,
19 THEY'RE BREATHING ON THAT AREA, POTENTIALLY COUGHING
20 ON IT, TOUCHING IT, AND IT IS NOT DISINFECTED AFTER
21 IT'S USED?

22 A NO. AND THAT'S ONE FOOT AWAY FROM THE
23 TELEPHONES.

24 Q TELL ME ABOUT THE TELEPHONES.

25 A THE TELEPHONES ARE SPACED APPROXIMATELY 12

1 INCHES APART. THERE IS THREE OF THEM. AND THERE IS
2 A SIX-FOOT-LONG BENCH THAT, ESPECIALLY AFTER THIS
3 COVID DILEMMA, HAS BEEN AT FULL CAPACITY ANYTIME
4 THERE IS NOT WORK CALL.

5 Q SO ALL THREE PHONES ARE BEING USED AT THE
6 SAME TIME?

7 A YES.

8 Q AND THERE WILL PROBABLY BE SOME SORT OF
9 EMOTIONAL AND MENTAL HEALTH PROBLEM IF THIS PHONE IN
10 USE WAS RESTRICTED (INAUDIBLE) --

11 **COURT REPORTER:** I'M SORRY, MA'AM.

12 A YES. CONSIDERING A COUPLE OF INMATES HAVE
13 LOST THEIR PARENTS DUE TO COVID-19, SO IT'S TRICKLING
14 OUT AND CAUSING CHAOTIC PANIC.

15 Q AND IS THERE A MICROWAVE IN YOUR DORM?

16 A ABOUT EIGHT FEET FROM THE TELEPHONES THERE
17 IS TWO MICROWAVES. THEY'RE SPACED ABOUT TWO FEET
18 APART. AND THAT'S THE ONLY PLACE WE HAVE TO HEAT UP
19 OUR FOOD.

20 Q AND HOW FREQUENTLY ARE THOSE MICROWAVES
21 BEING USED?

22 A ALL DAY, NONSTOP.

23 Q ARE THEY BEING DISINFECTED AFTER A PRISONER
24 USES THEM BEFORE THE NEXT PRISONER USES THEM?

25 A THEY DON'T. AT 7 A.M. THE ORDERLIES CLEAN

1 THE DORM. THEY DUST THE FAN, MOP THE FLOORS AND WIPE
2 THE BATHROOM, AND THAT'S IT UNTIL SEVEN O'CLOCK THE
3 NEXT MORNING.

4 Q IS THE ORDERLY SOMEONE WHO LIVES IN YOUR
5 DORMITORY?

6 A YES.

7 Q TELL ME ABOUT ICE CHESTS. ARE THOSE ALSO
8 SOMETHING IN YOUR DORM?

9 A YES. THEY -- THEY SEND TWO ORDERLIES FROM
10 THE NEXT-DOOR DORM TO TAKE OUR ICE CHEST DOWN TO THIS
11 -- I THINK THEY CALL IT THE ICE HOUSE WHERE A BUNCH
12 OF ICE MACHINES ARE. FILL THEM UP AND BRING THEM
13 BACK. BUT THERE IS ONE HANDLE, ONE SCOOP. AND
14 EVERYBODY -- THE SCOOPS STAYS IN THE ICE AND
15 EVERYBODY USES IT OVER AND OVER AGAIN.

16 Q AND THE ORDERLIES ARE LEAVING TO GO TO
17 ANOTHER PART OF THE PRISON IN ORDER TO GET THAT ICE?

18 A YES.

19 Q TELL ME ABOUT YOUR WORK. WHAT DO YOU DO
20 RIGHT NOW AT RAYBURN?

21 A I TRAIN THE CHASE TEAM DOG FOR THE K-9
22 DEPARTMENT.

23 Q AND SO ARE YOU STILL ON WORK DUTY SINCE THIS
24 COVID-19 PANDEMIC HAS STARTED?

25 A YES. I GO OUT AT FIVE IN THE MORNING, 5:45,

1 AND I COME BACK AT FOUR IN THE AFTERNOON.

2 Q HOW ABOUT OTHER PRISONERS IN YOUR DORM? ARE
3 THEY STILL ON WORK DUTY?

4 A YES. ALL THE -- THE TRUSTEES STILL HAVE TO
5 GO TO WORK. A LOT OF THEM ARE ON GRASS CREWS,
6 MAINTAINING THE GROUNDS. ME AND ONE OTHER DO THE JOB
7 I HAVE. ME AND THE WARDEN'S ORDERLIES STILL GO OVER
8 THERE (INAUDIBLE).

9 Q AND SO WHAT OTHER TYPES -- I HEARD YOU SAY
10 GRASS CREW. YOU WORK WITH THE DOGS. WHAT OTHER TYPE
11 OF JOBS DO PEOPLE IN YOUR PARTICULAR DORM DO?

12 A FARM WORK, GREENHOUSE WORK, SEWAGE TREATMENT
13 PLANT -- YOU KNOW, TWO ORDERLIES DO THAT -- MECHANIC
14 WORK, MAINTENANCE WORK, ELECTRICIANS, PLUMBERS, AIR
15 CONDITIONING SPECIALIST.

16 Q SO THOSE INDIVIDUALS ARE INTERACTING WITH
17 OTHER INDIVIDUAL -- OTHER PRISONERS AND EMPLOYEES
18 FROM OTHER PARTS OF THE PRISON?

19 A EVERY DAY.

20 Q AND THEN THEY COME BACK AND SLEEP IN YOUR
21 DORM?

22 A YES.

23 Q I'M SURE YOU HEARD THE WARDEN SPEAK ABOUT
24 THE BREEZEWAY. YOU HAD TOLD ME SOMETHING ABOUT CHOKE
25 POINT. CAN YOU DESCRIBE TO THE COURT WHAT A CHOKE

1 POINT IS ON THE BREEZEWAY.

2 A THEY DECIDED TO FENCE THE BREEZEWAYS IN WITH
3 CHAIN-LINK HURRICANE FENCE. AND APPROXIMATELY EVERY
4 HUNDRED TWENTY FEET THEY PUT GATES THAT COME OUT
5 ABOUT A FOOT AND A HALF FROM THE FENCE. AND THEY PUT
6 A LOCKABLE GATE SO THEY CAN CONTROL THEM, AND IF
7 THERE -- LIKE I'M ASSUMING IF THERE IS AN EMERGENCY.
8 AND IT --

9 Q AND SO --

10 A IT DRIVES THE TRAFFIC OVER THE SHOULDER AT
11 ANY GIVEN TIME.

12 Q WHEN YOU COME TO A CHOKE POINT, ARE YOU
13 WITHIN SIX FEET OF SOMEBODY ELSE?

14 A YES. YOU'RE ALMOST TOUCHING.

15 Q YOU'RE ALMOST TOUCHING. AND WHO ARE THOSE
16 INDIVIDUALS THAT YOU'RE TOUCHING? ARE THEY PRISONERS
17 OR ARE THEY EMPLOYEES?

18 A BOTH.

19 Q THEY'RE BOTH. AND ARE THOSE INDIVIDUALS
20 THAT YOU'RE ALMOST TOUCHING WEARING ANY KIND OF
21 PROTECTIVE EQUIPMENT? ARE THEY WEARING MASKS?

22 A SOMETIMES THEY'RE WEARING MASKS, EVERY NOW
23 AND THEN. LIKE ON MY WAY TO THIS APPOINTMENT I
24 PASSED TWO WITH NO MASKS ON. THE OFFICERS WHO ARE AT
25 THE PHONE WITH ME RIGHT HERE DIDN'T HAVE MASKS ON OR

1 GLOVES.

2 Q AND WHAT ABOUT OTHER PRISONERS THAT YOU SEE
3 WHEN YOU GO OUT TO WORK? ARE YOU SEEING THEM WEARING
4 MASKS OR GLOVES?

5 A NO.

6 Q TALK TO ME ABOUT HOW YOU RECEIVE FOOD. DO
7 YOU EAT IN THE DORM OR DO YOU EAT IN ANOTHER
8 BUILDING?

9 A WE EAT IN A CAFETERIA STYLE. THE CHOW HALL
10 IS DOWN THE WALK ABOUT 400 YARDS FROM THE DORM I LIVE
11 IN. AND ALL THE DORMS CYCLE THROUGH THERE.

12 Q AND TELL ME HOW EATING OCCURS.

13 A WELL, YOU WALK IN AND YOU WALK ALONG THE
14 SAME WALL TO -- THE PRISON IS DESIGNED WITH A QUEUING
15 SYSTEM. SO YOU GO SCAN YOUR ID CARD, AND THEN THERE
16 IS AN ASSEMBLY LINE WHERE INMATES ASSEMBLE YOUR FOOD
17 BEHIND A COUNTER AND THEN HAND IT TO YOU. AND THEN
18 YOU HAVE TO GO SIT AT TABLES THAT ARE FOUR DEEP THAT
19 ARE THREE FOOT BY THREE FOOT AND THEY'RE TWO FEET
20 APART SO AS TO MAINTAIN SPACE. THEY DON'T REALLY
21 WANT YOU TO MISS ANY SEAT.

22 Q AND SO WHEN YOU GO TO THE -- IN THE QUEUE
23 LINE, ARE YOU STANDING -- IN THE LAST, SAY, TWO DAYS,
24 HAVE PRISONERS BEEN STANDING SIX FEET APART FROM ONE
25 ANOTHER?

1 A NO. IT'S ALMOST TOE -- TOE TO HEEL ALMOST
2 THE WHOLE LENGTH.

3 Q AND WHEN YOU GO -- YOU SAID THAT OTHER
4 PRISONERS WHO WORK IN THE CHOW HALL ASSEMBLE YOUR
5 TRAY. ARE -- THOSE PRISONERS ASSEMBLING YOUR TRAY,
6 ARE THEY WEARING MASKS?

7 A SOMETIMES. SOMETIMES THEY'RE WEARING THEM
8 ON THEIR FOREHEAD.

9 Q ARE THEY WEARING GLOVES?

10 A WELL, THE SEE-THROUGH FOOD SERVICE DON'T
11 USUALLY.

12 Q AND DO YOU -- IF YOU DON'T KNOW, JUST SAY "I
13 DON'T KNOW." BUT DO YOU KNOW IF THEY ARE WEARING
14 MASKS OR GLOVES WHILE THEY'RE PREPARING THE FOOD?

15 A WELL, I SEE THROUGH THE DOOR, AND THEY ARE
16 NOT USUALLY.

17 Q AND THEN ONCE YOU GET THE FOOD, YOU SAID YOU
18 GO TO A TABLE. AND HOW MANY PEOPLE SIT AT THE TABLE
19 WITH YOU?

20 A FOUR TO EACH TABLE. AND IT'S MANDATORY.

21 Q IT'S MANDATORY. AND HOW CLOSE ARE THEY AT
22 THE TABLE?

23 A A FOOT APART. YOUR TRAY CORNERS ARE
24 TOUCHING.

25 Q OKAY. AND ARE THERE -- IN THE CHOW HALL, IN

1 THE CAFETERIA TODAY AND YESTERDAY, THERE ARE
2 CORRECTIONAL OFFICERS THAT ARE STAFFING THAT ROOM?

3 A YES.

4 Q ARE THEY WEARING PROTECTIVE EQUIPMENT?

5 A THE ONE WHERE YOU SCAN YOUR ID CARD IS. AND
6 THE OTHERS, I MEAN, IT VARIES. IT DEPENDS ON WHO IS
7 IN THERE.

8 Q SOME CORRECTIONAL OFFICERS ARE WEARING MASKS
9 AND OTHERS ARE NOT?

10 A YES.

11 Q AND HOW ABOUT GLOVES?

12 A NOT IN THE CHOW HALL. IN THE DORMS THEY DO
13 WEAR GLOVES WHEN THEY MAKE THEIR ROUND.

14 Q TELL ME ABOUT THE DAY ROOM. IS THAT --
15 WHERE THE TV'S ARE, IS THAT IN YOUR DORM OR IS THAT A
16 DIFFERENT ROOM?

17 A IT'S IN THE DORM ON THE OTHER SIDE OF THE
18 BATHROOM. IT'S A 30-BY-30 ROOM WITH TWO TV'S,
19 APPROXIMATELY 11 OR 12 BENCHES THAT SEAT THREE TO
20 FOUR PEOPLE. AND THERE IS TWO OF THE SAME TABLE FROM
21 THE CHOW HALL.

22 Q AND HAVE THERE BEEN ANY RESTRICTIONS AS TO
23 HOW MANY PEOPLE CAN BE IN THE DAY ROOM SINCE THE
24 COVID-19 OUTBREAK HAS STARTED?

25 A OH, NO. NO.

1 Q DO PRISONERS SELF -- OR SOCIALLY DISTANCE
2 THEMSELVES IN THE DAY ROOM?

3 A NO. A LOT OF PRISONERS TAKE THIS AS A JOKE.

4 Q SAY THAT AGAIN. I COULDN'T HEAR YOU. I'M
5 SORRY.

6 A A LOT OF PRISONERS TAKE THIS AS A JOKE.

7 Q WHY WOULD YOU THINK THEY ARE TAKING -- I'M
8 SORRY. LET ME REPHRASE THE QUESTION.

9 HAVE THE STAFF AT RAYBURN INSTRUCTED YOU ALL
10 ABOUT THE IMPORTANCE OF SOCIAL DISTANCING?

11 A NO. AT ONE TIME SOMEBODY PAINTED X'S ON THE
12 SIDEWALK, AND THEN THE WARDEN HAD THEM REMOVED THE
13 NEXT DAY.

14 Q WHAT DO YOU MEAN BY X'S?

15 A THEY HAD SOCIAL DISTANCE X'S. ONE OFFICER
16 DECIDED TO PUT THEM DOWN ON THE SIDEWALK, AND THE
17 NEXT DAY THEY WERE REMOVED.

18 Q HAVE YOU RECEIVED ANY KIND OF MEMORANDUM
19 FROM THE INSTITUTION ABOUT SOCIAL DISTANCING?

20 A NO.

21 Q HAVE YOU RECEIVED ANY KIND OF MEMORANDUM
22 ABOUT THEM TAKING ADDITIONAL HYGIENE MEASURES?

23 A THEY PUT THE CDC "WASH YOUR HANDS" POSTER ON
24 A EIGHT-BY-ELEVEN PIECE OF PAPER ON OUR BULLETIN
25 BOARD.

1 Q DOES THAT PIECE OF PAPER INDICATE TO WASH
2 YOUR HANDS BECAUSE OF COVID-19?

3 A I DON'T KNOW. I THINK IT'S JUST THE REGULAR
4 "WASH YOUR HANDS" THING.

5 Q HAS THERE BEEN ANY ADDITIONAL INSTRUCTION
6 ABOUT HOW TO KEEP YOURSELF SAFE DURING COVID-19?

7 A NO.

8 Q TELL ME ABOUT THE COMPUTER THAT YOU USE TO
9 JPEG MYSELF AND YOUR FAMILY MEMBERS. WHERE IS THAT?

10 A IT'S IN THE DAY ROOM ON A --

11 Q SO IN ORDER --

12 A -- OPPOSITE OF THE TV.

13 Q AND IS THAT COMPUTER SANITIZED OR CLEANED
14 AFTER YOU USE IT?

15 A NO.

16 Q ARE YOU PROVIDED WITH MATERIALS TO CLEAN THE
17 COMPUTER, SAY, AFTER YOU USE IT?

18 A NO. THE ONLY INMATES AUTHORIZED CLEANING
19 MATERIALS, WHICH IS CLOROX® BLEACH, ARE ACTUAL
20 ORDERLIES. IF YOU HAVE IT IN YOUR LOCKER, YOU GET A
21 WRITE-UP WITH THAT.

22 Q SO YOU DON'T HAVE ANY MATERIAL THAT YOU
23 COULD USE TO CLEAN THE COMPUTER AFTER YOU -- BEFORE
24 OR AFTER YOU USE IT?

25 A NOT THAT WOULDN'T DESTROY IT.

1 Q YOU DON'T HAVE ANY MATERIALS TO CLEAN THE
2 PHONE BEFORE OR AFTER YOU USE IT?

3 A NO.

4 Q OR THE MICROWAVE?

5 A NO.

6 Q OR THE ICE CHEST?

7 A NO.

8 Q IS CANTEEN STILL OCCURRING --

9 A YES.

10 Q IS CANTEEN STILL OCCURRING NOW THAT COVID-19
11 HAS HAPPENED IN THE FACILITY?

12 A YES.

13 Q HOW OFTEN DO YOU GET TO GO TO CANTEEN?

14 A ONCE A WEEK WE MAKE OUR CANTEEN ORDER.

15 Q DO YOU STAY WITH PRISONERS FROM YOUR DORM AT
16 CANTEEN OR DO YOU MIX WITH OTHER DORMS?

17 A THE DORM NEXT TO US, WE GO IN WITH THEM. WE
18 LINE UP TOGETHER.

19 Q WHEN WAS THE LAST TIME YOU MADE CANTEEN?

20 A THAT WAS LAST WEDNESDAY OR THURSDAY OR
21 FRIDAY. FRIDAY.

22 Q LAST FRIDAY?

23 A YES, LAST FRIDAY.

24 Q DID YOU MIX WITH THE OTHER DORM WHEN YOU
25 MADE CANTEEN?

1 A I HAD TO, YES, TO GET MY SPACE, MY STUFF.

2 Q DO YOU STAND IN A LINE OR A QUEUE IN ORDER
3 TO MAKE CANTEEN?

4 A YES.

5 Q AND HOW CLOSE ARE YOU STANDING AT CANTEEN?

6 A SHOULDER TO SHOULDER.

7 Q WHAT -- AS A DIABETIC, WHAT KIND OF THINGS
8 DO YOU PURCHASE AT CANTEEN IN ORDER TO HELP YOURSELF?

9 A MY PURCHASES PRIMARILY MADE ARE AN ITEM
10 CALLED SUMMER SAUSAGES, SALTED PEANUTS, OATMEAL,
11 MACKEREL. EVERY NOW AND THEN I'LL BUY A BAG OF CHIPS
12 IN CASE MY SUGAR GOES LOW, BECAUSE IT'S
13 UNCONTROLLABLE.

14 Q SO HAVING ACCESS TO THE CANTEEN IS ESSENTIAL
15 IN ORDER FOR YOU TO SELF-REGULATE YOUR DIABETES?

16 A YES.

17 Q OKAY. IS THERE -- I REMEMBER AT ELAYN HUNT
18 YOU USED TO GO TO A PARTICULAR CLUB THAT MADE THINGS
19 LIKE GRILLED CHICKEN SALADS. YOU TALKED ABOUT THAT
20 IN YOUR PETITION -- EXCUSE ME -- YOUR COMPLAINT.
21 DOES SOMETHING LIKE THAT EXIST AT RAYBURN?

22 A NO. I HAVEN'T HAD A FRESH VEGETABLE IN OVER
23 A YEAR.

24 **THE COURT:** OKAY. SO, MS. POSNER, WE NEED
25 TO WRAP IT UP, MA'AM.

1 MS. POSNER: I JUST HAVE ONE MORE SECTION.

2 THE COURT: JUST A FEW MORE -- A COUPLE MORE
3 QUESTIONS.

4 MS. POSNER: IF I COULD JUST ASK HIM -- VERY
5 GOOD. IF I COULD JUST ASK HIM ABOUT HIS MEDICAL
6 CARE.

7 BY MS. POSNER:

8 Q TELL ME ABOUT WHEN YOU'D MAKE FIELD CALL.

9 A FIELD CALL AND INSULIN ARE: YOU LINE UP
10 TOGETHER ON THE WALK. AND THEY DO ALLOW ONLY TWO
11 PEOPLE IN THE OFFICE TO GET YOUR INSULIN.

12 Q WHO PROVIDES YOU YOUR INSULIN?

13 A THE NURSES BEHIND A WINDOW.

14 Q THE NURSES BEHIND THE WINDOW. OKAY.
15 AND WHO TAKES YOUR BLOOD?

16 A THE SAME. WE KEPT OUR OWN OUTSIDE, BUT THE
17 SAME STUFF THEY USE FOR EVERYBODY ELSE.

18 Q SO EXPLAIN. DO YOU HAVE CONCERNS ABOUT
19 SOCIAL DISTANCING RELATED TO WHEN YOU GO TO GET YOUR
20 MEDICATION?

21 A YES. THE LINE WAITING TO GET INSIDE IS AT
22 SHOULDER TO SHOULDER. AND THEN WHEN YOU GET IN TO
23 CHECK YOUR BLOOD SUGAR LEVELS, EVERYBODY IS USING THE
24 SAME EQUIPMENT. AND THE PEOPLE WHO ARE IN THE
25 INFIRMARY USE THE SAME EQUIPMENT AS THE FELLOWS

1 OUTSIDE FROM THE INFIRMARY.

2 Q AND WHEN IS THE LAST TIME YOU WENT TO GET
3 YOUR BLOOD SUGAR CHECKED?

4 A LAST, I WANT TO SAY, THURSDAY OR FRIDAY. I
5 TRY TO AVOID IT. BUT I DON'T HAVE TO GO THROUGH
6 EVERY DAY TO GET MINE AT OUR O'CLOCK.

7 Q SO YESTERDAY AT FOUR O'CLOCK YOU WENT TO GET
8 YOUR INSULIN. AND WERE YOU STANDING SHOULDER TO
9 SHOULDER WITH OTHER PRISONERS?

10 A YES.

11 THE COURT: OKAY.

12 MS. POSNER: I THINK THAT'S IT, JUDGE.

13 THE COURT: ANY CROSS-EXAMINATION, MS.
14 MOONEY? VERY, VERY BRIEFLY.

15 MS. MOONEY: NO, YOUR HONOR.

16 THE COURT: VERY WELL.

17 AND, MR. MARLOWE, I DON'T HAVE ANY QUESTIONS
18 FOR YOU AT THIS TIME, EITHER. THANK YOU FOR YOUR
19 TESTIMONY, SIR. YOU ARE NOW EXCUSED, AT LEAST AS A
20 WITNESS.

21 THE WITNESS: THANK YOU, YOUR HONOR.

22 THE COURT: SO BEFORE WE WRAP UP, LET ME
23 JUST REMIND BOTH SIDES THAT -- AND, MS. MOONEY, I'M
24 GIVING YOU 48 HOURS ESSENTIALLY TO PUT SOMETHING
25 TOGETHER HERE THAT IS A RESPONSE TO THE PLAINTIFF'S

1 MOST RECENT FILING.

2 I WILL ALSO ASK YOU TO PROVIDE THE
3 INFORMATION THAT I'VE JUST DESCRIBED; AGAIN, THE
4 SOURCE OF THE MASKS. I'D LIKE SOME VERIFICATION, FOR
5 INSTANCE, THAT IF THE ARP, SHOULD ONE BE FILED ON BY
6 ANY INMATE, CAN BE HANDLED ON AN EXPEDITED BASIS. I
7 UNDERSTAND THAT THE PRISON LITIGATION ACT REQUIRES
8 THAT. BUT AS YOU ALSO KNOW, THAT THERE ARE CERTAIN
9 CIRCUMSTANCES IN WHICH THE FEDERAL COURTS CANNOT TURN
10 A BLIND EYE TO ANY ALLEGATIONS OF IMMEDIATE HARM NO
11 MATTER WHAT THE CIRCUMSTANCES ARE. NONETHELESS, I
12 WOULD ASK YOU TO PROVIDE AN EXPLANATION OF THE
13 PROCESS.

14 I WOULD ALSO LIKE MORE INFORMATION UPON THE
15 USE OF DISINFECTANTS AND OTHER MEASURES THAT HAVE
16 BEEN REQUESTED BY THE GOVERNOR. NEEDLESS TO SAY,
17 JUST BECAUSE THESE MEN AND, IN SOME CASES, WOMEN ARE
18 INSTITUTIONALIZED IN A PRISON SETTING DOES NOT MEAN
19 THAT THEY SHOULD NOT BE THE BENEFICIARIES OF ALL OF
20 THE THINGS THAT THE MEDICAL PROFESSIONALS HAVE
21 REQUESTED AND URGED ALL OF US.

22 MS. MOONEY, YOU'VE HEARD THE TESTIMONY OF
23 MR. MARLOWE. I WOULD INVITE YOU TO TAKE THE
24 OPPORTUNITY TO RESPOND, IF YOU WISH, TO SOME OF THE
25 FACTS ABOUT WHICH MR. MARLOWE HAS TESTIFIED. ANY

1 QUESTIONS ABOUT THAT?

2 MS. MOONEY: I DON'T THINK SO, YOUR HONOR.

3 THE COURT: ALL RIGHT. AGAIN, I KNOW THAT
4 THAT'S A LOT TO COVER IN A SPAN OF 48 HOURS, BUT -- I
5 TELL YOU WHAT I'LL DO. IF -- DO YOU THINK YOU CAN
6 COVER IT -- I MEAN, I CAN GIVE YOU TILL FRIDAY. WHAT
7 DO YOU THINK?

8 MS. MOONEY: FRIDAY WOULD BE PREFERABLE, IF
9 THAT'S ALL RIGHT.

10 THE COURT: ABSOLUTELY, MS. MOONEY. AND
11 AGAIN, I'M NOT TRYING TO IMPOSE UNREASONABLE
12 DEADLINES ON YOU, AS YOU KNOW, I'M SURE. IT'S JUST
13 THAT GIVEN THE NATURE OF THE ALLEGATIONS HERE, IT IS
14 CRITICAL THAT THE COURT MOVE WITH SOME DISPATCH ON
15 THESE MATTERS.

16 AND SO, MS. POSNER, I'LL GIVE YOU AN
17 OPPORTUNITY TO REPLY AS WELL. IF YOU WISH TO REPLY,
18 I WOULD INVITE YOU TO DO SO. I WOULD EXPECT A --
19 FIRST OF ALL, LET ME JUST BACK UP.

20 IF YOU COULD HAVE SOMETHING FILED BY CLOSE
21 OF BUSINESS ON FRIDAY, MS. MOONEY. MS. POSNER, I
22 CAN'T GIVE YOU A WHOLE LOT OF TIME FOR THE SAME
23 REASONS THAT I'VE ALREADY, OF COURSE, DESCRIBED FOR
24 MS. MOONEY. SO I CAN GIVE YOU TILL CLOSE OF BUSINESS
25 ON MONDAY TO REPLY. AFTER THAT I'LL BE PREPARED TO

1 ENTER A RULING, ASSUMING, OF COURSE, THAT I FIND THAT
2 I HAVE JURISDICTION TO DO SO IN THIS CASE.

3 IS THERE ANYTHING FURTHER OR ANY QUESTIONS,
4 FIRST BY THE PLAINTIFF?

5 **MS. POSNER:** NO, JUDGE. I THINK I
6 UNDERSTAND WHERE WE'RE HEADING WITH THIS ON THE
7 BRIEFING DEADLINE.

8 **THE COURT:** VERY WELL.

9 MS. MOONEY, ANYTHING -- ANY QUESTIONS BY THE
10 DEFENDANTS?

11 **MS. MOONEY:** NO. WE HAVE -- ON FRIDAY BY
12 CLOSE OF BUSINESS WE'RE GOING TO RESPOND TO THE --
13 WE'RE GOING TO REPLY TO THE RESPONSE THAT WAS FILED
14 EARLIER TODAY THAT WE HAVEN'T SEEN IN RESPECT TO THE
15 COURT'S AUTHORITY.

16 I HAVE NOTES ON THAT WE WOULD WANT THE
17 WARDEN TO EXPLAIN DISINFECTANTS, HOW THEY'RE USED,
18 WHO THEY'RE AVAILABLE TO; WHETHER THERE IS TAPE ON
19 THE FLOOR; WHETHER THERE IS MASKS AND WHO THEY'RE
20 AVAILABLE TO TO THE GENERAL POPULATION; AND THEN
21 ANYTHING THAT I NOTED FROM MR. MARLOWE'S TESTIMONY TO
22 RESPOND TO THAT.

23 DOES THAT SOUND LIKE WHAT YOUR HONOR IS
24 LOOKING FOR?

25 **THE COURT:** YES. INCLUDING ANY -- AND AS WE

1 KNOW, THE CDC AND THE LOUISIANA DEPARTMENT OF HEALTH
2 HAVE RELEASED JUST A MYRIAD OF INFORMATION ABOUT HOW
3 TO BEST ADDRESS THIS SITUATION AND TO PROTECT
4 OURSELVES. SO I WOULD INVITE YOU TO RELY ON THAT AS
5 WELL, THOSE SOURCES AS WELL. I MEAN, AGAIN, THAT'S
6 THE POINT HERE, IS TO DETERMINE WHETHER THE STATE
7 AUTHORITIES HAVE DONE ALL THAT IS WITHIN REASON TO
8 PROTECT THESE INMATES.

9 AND OF COURSE, I'LL BE EVALUATING MUCH OF
10 THE GUIDANCE THAT IS -- WELL, I'LL BE EVALUATING THE
11 CONDUCT OF THE PRISON OFFICIALS LARGELY ON THE BASIS
12 OF THE GUIDANCE THAT HAS BEEN PROVIDED TO US BY THE
13 CENTER FOR DISEASE CONTROL AND OTHER MEDICAL
14 AUTHORITY. SO ANYTHING THAT YOU'D LIKE TO ADD FROM
15 THOSE SOURCES OR ADDRESS ANYTHING FROM THOSE SOURCES,
16 I WOULD INVITE YOU TO DO SO.

17 **MS. MOONEY:** THANK YOU, YOUR HONOR.

18 **THE COURT:** AND AGAIN, I UNDERSTAND THAT I
19 WOULD -- I REPEAT THAT I WOULD OTHERWISE GIVE YOU A
20 LOT MORE TIME, MS. MOONEY. BUT AS I'M SURE YOU KNOW,
21 THE CIRCUMSTANCES SIMPLY WON'T PERMIT ME TO DO SO IN
22 THIS CASE. AND I KNOW WE HAVE A RELIGIOUS HOLIDAY
23 APPROACHING THIS WEEKEND FOR MANY, BUT I THINK WE CAN
24 ALL AGREE THAT GIVEN THAT THIS IS OR CAN BE A LIFE OR
25 DEATH SITUATION, IT'S SOMETHING THAT WE'RE JUST GOING

1 TO HAVE TO COMMIT OURSELVES TO WORKING THROUGH AS
2 BEST WE CAN.

3 SO LET ME THANK THE LAWYERS FOR BOTH SIDES
4 AS WELL AS THE PARTIES FOR JOINING US FOR THIS
5 HEARING UNDER THESE EXTRAORDINARY CIRCUMSTANCES.

6 MY FINAL COMMENT IS THAT, MR. MARLOWE, I
7 UNDERSTAND FULLY YOUR CONCERN. I WILL DO CERTAINLY
8 MY BEST TO ADDRESS YOUR CONCERNS.

9 AND MR. VINING AND MS. MOONEY AND
10 MS. RUTLEDGE, IF YOU WOULD CONVEY TO THE SECRETARY
11 AND THE WARDEN AND THE OTHER DEFENDANTS IN THIS CASE
12 THAT I'M VERY MUCH AWARE THAT THEY TOO -- OR MUCH IS
13 BEING ASKED OF THEM AT THIS EXTRAORDINARY TIME AS
14 WELL. SO AGAIN, HOPEFULLY WE CAN ACHIEVE A RESULT
15 THAT IS IN EVERYONE'S INTEREST.

16 ALL RIGHT. AGAIN, THANK YOU ALL FOR JOINING
17 US. THAT CONCLUDES THE HEARING.

18 COURT IS NOW ADJOURNED.

19 MS. POSNER: THANK YOU, YOUR HONOR.

20 MR. VINING: THANK YOU, YOUR HONOR.

21 MS. MOONEY: THANK YOU, YOUR HONOR.

22 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)

23 C E R T I F I C A T E

24 I CERTIFY THAT THE FOREGOING IS A CORRECT
25 TRANSCRIPT FROM THE RECORD OF THE PROCEEDINGS IN THE

1 ABOVE-ENTITLED NUMBERED MATTER.

2 S:/NATALIE W. BREAUX

3 NATALIE W. BREAUX, RPR, CRR

4 OFFICIAL COURT REPORTER

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**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

* **CIVIL ACTION**
*
* **NO. 18-63-BAJ-EWD**
*
* **JUDGE BRIAN A. JACKSON**
*
* **MAGISTRATE JUDGE**
* **ERIN WILDER-DOOMES**

EXHIBIT B

Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities

This interim guidance is based on what is currently known about the transmission and severity of coronavirus disease 2019 (COVID-19) as of **March 23, 2020**.

The US Centers for Disease Control and Prevention (CDC) will update this guidance as needed and as additional information becomes available. Please check the following CDC website periodically for updated interim guidance: <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

This document provides interim guidance specific for correctional facilities and detention centers during the outbreak of COVID-19, to ensure continuation of essential public services and protection of the health and safety of incarcerated and detained persons, staff, and visitors. Recommendations may need to be revised as more information becomes available.

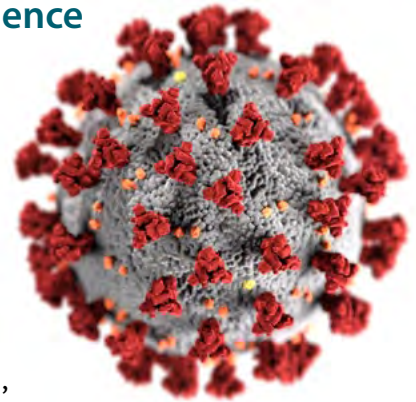
In this guidance

- Who is the intended audience for this guidance?
- Why is this guidance being issued?
- What topics does this guidance include?
- Definitions of Commonly Used Terms
- Facilities with Limited Onsite Healthcare Services
- COVID-19 Guidance for Correctional Facilities
- Operational Preparedness
- Prevention
- Management
- Infection Control
- Clinical Care of COVID-19 Cases
- Recommended PPE and PPE Training for Staff and Incarcerated/Detained Persons
- Verbal Screening and Temperature Check Protocols for Incarcerated/Detained Persons, Staff, and Visitors

Who is the intended audience for this guidance?

This document is intended to provide guiding principles for healthcare and non-healthcare 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., US Immigration and Customs Enforcement and US Marshals Service), and their respective health departments, to assist in preparing for potential introduction, spread, and mitigation of COVID-19 in their facilities. In general, the document uses terminology referring to correctional environments but can also be applied to civil and pre-trial detention settings.

This guidance will not necessarily address every possible custodial setting and may not use legal terminology specific to individual agencies' authorities or processes. **The guidance may need to be adapted based on individual facilities' physical space, staffing, population, operations, and other resources and conditions.** Facilities should contact CDC or their state, local, territorial, and/or tribal public health department if they need assistance in applying these principles or addressing topics that are not specifically covered in this guidance.



Why is this guidance being issued?

Correctional and detention facilities can include custody, housing, education, recreation, healthcare, food service, and workplace components in a single physical setting. The integration of these components presents unique challenges for control of COVID-19 transmission among incarcerated/detained persons, staff, and visitors. Consistent application of specific preparation, prevention, and management measures can help reduce the risk of transmission and severe disease from COVID-19.

- Incarcerated/detained persons live, work, eat, study, and recreate within congregate environments, heightening the potential for COVID-19 to spread once introduced.
- In most cases, incarcerated/detained persons are not permitted to leave the facility.
- 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.
- Options for medical isolation of COVID-19 cases are limited and vary depending on the type and size of facility, as well as the current level of available capacity, which is partly based on medical isolation needs for other conditions.
- Adequate levels of custody and healthcare staffing must be maintained to ensure safe operation of the facility, and options to practice social distancing through work alternatives such as working from home or reduced/alternate schedules are limited for many staff roles.
- Correctional and detention facilities can be complex, multi-employer settings that include government and private employers. Each is organizationally distinct and responsible for its own operational, personnel, and occupational health protocols and may be prohibited from issuing guidance or providing services to other employers or their staff within the same setting. Similarly, correctional and detention facilities may house individuals from multiple law enforcement agencies or jurisdictions subject to different policies and procedures.
- Incarcerated/detained persons and staff may have [medical conditions that increase their risk of severe disease from COVID-19](#).
- Because limited outside information is available to many incarcerated/detained persons, unease and misinformation regarding the potential for COVID-19 spread may be high, potentially creating security and morale challenges.
- The ability of incarcerated/detained persons to exercise disease prevention measures (e.g., frequent handwashing) may be limited and is determined by the supplies provided in the facility and by security considerations. Many facilities restrict access to soap and paper towels and prohibit alcohol-based hand sanitizer and many disinfectants.
- Incarcerated persons may hesitate to report symptoms of COVID-19 or seek medical care due to co-pay requirements and fear of isolation.

CDC has issued separate COVID-19 guidance addressing [healthcare infection control](#) and [clinical care of COVID-19 cases](#) as well as [close contacts of cases](#) in community-based settings. Where relevant, community-focused guidance documents are referenced in this document and should be monitored regularly for updates, but they may require adaptation for correctional and detention settings.

This guidance document provides additional recommended best practices specifically for correctional and detention facilities. **At this time, different facility types (e.g., prison vs. jail) and sizes are not differentiated. Administrators and agencies should adapt these guiding principles to the specific needs of their facility.**

What topics does this guidance include?

The guidance below includes detailed recommendations on the following topics related to COVID-19 in correctional and detention settings:

- ✓ Operational and communications preparations for COVID-19
- ✓ Enhanced cleaning/disinfecting and hygiene practices
- ✓ Social distancing strategies to increase space between individuals in the facility
- ✓ How to limit transmission from visitors
- ✓ Infection control, including recommended personal protective equipment (PPE) and potential alternatives during PPE shortages
- ✓ Verbal screening and temperature check protocols for incoming incarcerated/detained individuals, staff, and visitors
- ✓ Medical isolation of confirmed and suspected cases and quarantine of contacts, including considerations for cohorting when individual spaces are limited
- ✓ Healthcare evaluation for suspected cases, including testing for COVID-19
- ✓ Clinical care for confirmed and suspected cases
- ✓ Considerations for persons at higher risk of severe disease from COVID-19

Definitions of Commonly Used Terms

Close contact of a COVID-19 case—In the context of COVID-19, an individual is considered a close contact if they a) have been within approximately 6 feet of a COVID-19 case for a prolonged period of time or b) have had direct contact with infectious secretions from a COVID-19 case (e.g., have been coughed on). Close contact can occur while caring for, living with, visiting, or sharing a common space with a COVID-19 case. Data to inform the definition of close contact are limited. Considerations when assessing close contact include the duration of exposure (e.g., longer exposure time likely increases exposure risk) and the clinical symptoms of the person with COVID-19 (e.g., coughing likely increases exposure risk, as does exposure to a severely ill patient).

Cohorting—Cohorting refers to the practice of isolating multiple laboratory-confirmed COVID-19 cases together as a group, or quarantining close contacts of a particular case together as a group. Ideally, cases should be isolated individually, and close contacts should be quarantined individually. However, some correctional facilities and detention centers do not have enough individual cells to do so and must consider cohorting as an alternative. See [Quarantine](#) and [Medical Isolation](#) sections below for specific details about ways to implement cohorting to minimize the risk of disease spread and adverse health outcomes.

Community transmission of COVID-19—Community transmission of COVID-19 occurs when individuals acquire the disease through contact with someone in their local community, rather than through travel to an affected location. Once community transmission is identified in a particular area, correctional facilities and detention centers are more likely to start seeing cases inside their walls. Facilities should consult with local public health departments if assistance is needed in determining how to define “local community” in the context of COVID-19 spread. However, because all states have reported cases, all facilities should be vigilant for introduction into their populations.

Confirmed vs. Suspected COVID-19 case—A confirmed case has received a positive result from a COVID-19 laboratory test, with or without symptoms. A suspected case shows symptoms of COVID-19 but either has not been tested or is awaiting test results. If test results are positive, a suspected case becomes a confirmed case.

Incarcerated/detained persons—For the purpose of this document, “incarcerated/detained persons” refers to persons held in a prison, jail, detention center, or other custodial setting where these guidelines are generally applicable. The term includes those who have been sentenced (i.e., in prisons) as well as those held for pre-trial (i.e., jails) or civil purposes (i.e., detention centers). Although this guidance does not specifically reference individuals in every type of custodial setting (e.g., juvenile facilities, community confinement facilities), facility administrators can adapt this guidance to apply to their specific circumstances as needed.

Medical Isolation—Medical isolation refers to confining a confirmed or suspected COVID-19 case (ideally to a single cell with solid walls and a solid door that closes), to prevent contact with others and to reduce the risk of transmission. Medical isolation ends when the individual meets pre-established clinical and/or testing criteria for release from isolation, in consultation with clinical providers and public health officials (detailed in guidance [below](#)). In this context, isolation does NOT refer to punitive isolation for behavioral infractions within the custodial setting. Staff are encouraged to use the term “medical isolation” to avoid confusion.

Quarantine—Quarantine refers to the practice of confining individuals who have had close contact with a COVID-19 case to determine whether they develop symptoms of the disease. Quarantine for COVID-19 should last for a period of 14 days. Ideally, each quarantined individual would be quarantined in a single cell with solid walls and a solid door that closes. If symptoms develop during the 14-day period, the individual should be placed under [medical isolation](#) and evaluated for COVID-19. If symptoms do not develop, movement restrictions can be lifted, and the individual can return to their previous residency status within the facility.

Social Distancing—Social distancing is the practice of increasing the space between individuals and decreasing the frequency of contact to reduce the risk of spreading a disease (ideally to maintain at least 6 feet between all individuals, even those who are asymptomatic). Social distancing strategies can be applied on an individual level (e.g., avoiding physical contact), a group level (e.g., canceling group activities where individuals will be in close contact), and an operational level (e.g., rearranging chairs in the dining hall to increase distance between them). Although social distancing is challenging to practice in correctional and detention environments, it is a cornerstone of reducing transmission of respiratory diseases such as COVID-19. Additional information about social distancing, including information on its use to reduce the spread of other viral illnesses, is available in this [CDC publication](#).

Staff—In this document, “staff” refers to all public sector employees as well as those working for a private contractor within a correctional facility (e.g., private healthcare or food service). Except where noted, “staff” does not distinguish between healthcare, custody, and other types of staff including private facility operators.

Symptoms—[Symptoms of COVID-19](#) include fever, cough, and shortness of breath. Like other respiratory infections, COVID-19 can vary in severity from mild to severe. When severe, pneumonia, respiratory failure, and death are possible. COVID-19 is a novel disease, therefore the full range of signs and symptoms, the clinical course of the disease, and the individuals and populations most at risk for disease and complications are not yet fully understood. Monitor the [CDC website](#) for updates on these topics.

Facilities with Limited Onsite Healthcare Services

Although many large facilities such as prisons and some jails usually employ onsite healthcare staff and have the capacity to evaluate incarcerated/detained persons for potential illness within a dedicated healthcare space, many smaller facilities do not. Some of these facilities have access to on-call healthcare staff or providers who visit the facility every few days. Others have neither onsite healthcare capacity nor onsite medical isolation/quarantine space and must transfer ill patients to other correctional or detention facilities or local hospitals for evaluation and care.

The majority of the guidance below is designed to be applied to any correctional or detention facility, either as written or with modifications based on a facility's individual structure and resources. However, topics related to healthcare evaluation and clinical care of confirmed and suspected COVID-19 cases and their close contacts may not apply directly to facilities with limited or no onsite healthcare services. It will be especially important for these types of facilities to coordinate closely with their state, local, tribal, and/or territorial health department when they encounter confirmed or suspected cases among incarcerated/detained persons or staff, in order to ensure effective medical isolation and quarantine, necessary medical evaluation and care, and medical transfer if needed. The guidance makes note of strategies tailored to facilities without onsite healthcare where possible.

Note that all staff in any sized facility, regardless of the presence of onsite healthcare services, should observe guidance on [recommended PPE](#) in order to ensure their own safety when interacting with confirmed and suspected COVID-19 cases. Facilities should make contingency plans for the likely event of [PPE shortages](#) during the COVID-19 pandemic.

COVID-19 Guidance for Correctional Facilities

Guidance for correctional and detention facilities is organized into 3 sections: Operational Preparedness, Prevention, and Management of COVID-19. Recommendations across these sections can be applied simultaneously based on the progress of the outbreak in a particular facility and the surrounding community.

- **Operational Preparedness.** This guidance is intended to help facilities prepare for potential COVID-19 transmission in the facility. Strategies focus on operational and communications planning and personnel practices.
- **Prevention.** This guidance is intended to help facilities prevent spread of COVID-19 from outside the facility to inside. Strategies focus on reinforcing hygiene practices, intensifying cleaning and disinfection of the facility, screening (new intakes, visitors, and staff), continued communication with incarcerated/detained persons and staff, and social distancing measures (increasing distance between individuals).
- **Management.** This guidance is intended to help facilities clinically manage confirmed and suspected COVID-19 cases inside the facility and prevent further transmission. Strategies include medical isolation and care of incarcerated/detained persons with symptoms (including considerations for cohorting), quarantine of cases' close contacts, restricting movement in and out of the facility, infection control practices for individuals interacting with cases and quarantined contacts or contaminated items, intensified social distancing, and cleaning and disinfecting areas visited by cases.

Operational Preparedness

Administrators can plan and prepare for COVID-19 by ensuring that all persons in the facility know the [symptoms of COVID-19](#) and how to respond if they develop symptoms. Other essential actions include developing contingency plans for reduced workforces due to absences, coordinating with public health and correctional partners, and communicating clearly with staff and incarcerated/detained persons about these preparations and how they may temporarily alter daily life.

Communication & Coordination

√ **Develop information-sharing systems with partners.**

- Identify points of contact in relevant state, local, tribal, and/or territorial public health departments before cases develop. Actively engage with the health department to understand in advance which entity has jurisdiction to implement public health control measures for COVID-19 in a particular correctional or detention facility.
- Create and test communications plans to disseminate critical information to incarcerated/detained persons, staff, contractors, vendors, and visitors as the pandemic progresses.

- Communicate with other correctional facilities in the same geographic area to share information including disease surveillance and absenteeism patterns among staff.
 - Where possible, put plans in place with other jurisdictions to prevent [confirmed and suspected COVID-19 cases and their close contacts](#) from being transferred between jurisdictions and facilities unless necessary for medical evaluation, medical isolation/quarantine, clinical care, extenuating security concerns, or to prevent overcrowding.
 - Stay informed about updates to CDC guidance via the [CDC COVID-19 website](#) as more information becomes known.
- ✓ **Review existing pandemic flu, all-hazards, and disaster plans, and revise for COVID-19.**
- Ensure that physical locations (dedicated housing areas and bathrooms) have been identified to isolate confirmed COVID-19 cases and individuals displaying COVID-19 symptoms, and to quarantine known close contacts of cases. (Medical isolation and quarantine locations should be separate). The plan should include contingencies for multiple locations if numerous cases and/or contacts are identified and require medical isolation or quarantine simultaneously. See [Medical Isolation](#) and [Quarantine](#) sections below for details regarding individual medical isolation and quarantine locations (preferred) vs. cohorting.
 - [Facilities without onsite healthcare capacity](#) should make a plan for how they will ensure that suspected COVID-19 cases will be isolated, evaluated, tested (if indicated), and provided necessary medical care.
 - Make a list of possible [social distancing strategies](#) that could be implemented as needed at different stages of transmission intensity.
 - Designate officials who will be authorized to make decisions about escalating or de-escalating response efforts as the epidemiologic context changes.
- ✓ **Coordinate with local law enforcement and court officials.**
- Identify lawful alternatives to in-person court appearances, such as virtual court, as a social distancing measure to reduce the risk of COVID-19 transmission.
 - Explore strategies to prevent over-crowding of correctional and detention facilities during a community outbreak.
- ✓ **Post [signage](#) throughout the facility communicating the following:**
- **For all:** symptoms of COVID-19 and hand hygiene instructions
 - **For incarcerated/detained persons:** report symptoms to staff
 - **For staff:** stay at home when sick; if symptoms develop while on duty, leave the facility as soon as possible and follow [CDC-recommended steps for persons who are ill with COVID-19 symptoms](#) including self-isolating at home, contacting their healthcare provider as soon as possible to determine whether they need to be evaluated and tested, and contacting their supervisor.
 - Ensure that signage is understandable for non-English speaking persons and those with low literacy, and make necessary accommodations for those with cognitive or intellectual disabilities and those who are deaf, blind, or low-vision.

Personnel Practices

- ✓ **Review the sick leave policies of each employer that operates in the facility.**
- Review policies to ensure that they actively encourage staff to stay home when sick.
 - If these policies do not encourage staff to stay home when sick, discuss with the contract company.
 - Determine which officials will have the authority to send symptomatic staff home.

- ✓ **Identify staff whose duties would allow them to work from home. Where possible, allowing staff to work from home can be an effective social distancing strategy to reduce the risk of COVID-19 transmission.**
 - Discuss work from home options with these staff and determine whether they have the supplies and technological equipment required to do so.
 - Put systems in place to implement work from home programs (e.g., time tracking, etc.).
- ✓ **Plan for staff absences.** Staff should stay home when they are sick, or they may need to stay home to care for a sick household member or care for children in the event of school and childcare dismissals.
 - Allow staff to work from home when possible, within the scope of their duties.
 - Identify critical job functions and plan for alternative coverage by cross-training staff where possible.
 - Determine minimum levels of staff in all categories required for the facility to function safely. If possible, develop a plan to secure additional staff if absenteeism due to COVID-19 threatens to bring staffing to minimum levels.
 - Consider increasing keep on person (KOP) medication orders to cover 30 days in case of healthcare staff shortages.
- ✓ **Consider offering revised duties to staff who are at [higher risk of severe illness with COVID-19](#).** Persons at higher risk may include older adults and persons of any age with serious underlying medical conditions including lung disease, heart disease, and diabetes. See [CDC's website](#) for a complete list, and check regularly for updates as more data become available to inform this issue.
 - Facility administrators should consult with their occupational health providers to determine whether it would be allowable to reassign duties for specific staff members to reduce their likelihood of exposure to COVID-19.
- ✓ **Offer the seasonal influenza vaccine to all incarcerated/detained persons (existing population and new intakes) and staff throughout the influenza season.** Symptoms of COVID-19 are similar to those of influenza. Preventing influenza cases in a facility can speed the detection of COVID-19 cases and reduce pressure on healthcare resources.
- ✓ **Reference the [Occupational Safety and Health Administration website](#) for recommendations regarding worker health.**
- ✓ **Review [CDC's guidance for businesses and employers](#)** to identify any additional strategies the facility can use within its role as an employer.

Operations & Supplies

- ✓ **Ensure that sufficient stocks of hygiene supplies, cleaning supplies, PPE, and medical supplies (consistent with the healthcare capabilities of the facility) are on hand and available, and have a plan in place to restock as needed if COVID-19 transmission occurs within the facility.**
 - Standard medical supplies for daily clinic needs
 - Tissues
 - Liquid soap when possible. If bar soap must be used, ensure that it does not irritate the skin and thereby discourage frequent hand washing.
 - Hand drying supplies
 - Alcohol-based hand sanitizer containing at least 60% alcohol (where permissible based on security restrictions)
 - Cleaning supplies, including [EPA-registered disinfectants effective against the virus that causes COVID-19](#)

- Recommended PPE (facemasks, N95 respirators, eye protection, disposable medical gloves, and disposable gowns/one-piece coveralls). See [PPE section](#) and [Table 1](#) for more detailed information, including recommendations for extending the life of all PPE categories in the event of shortages, and when face masks are acceptable alternatives to N95s.
 - Sterile viral transport media and sterile swabs [to collect nasopharyngeal specimens](#) if COVID-19 testing is indicated
- ✓ **Make contingency plans for the probable event of PPE shortages during the COVID-19 pandemic, particularly for non-healthcare workers.**
 - See CDC guidance [optimizing PPE supplies](#).
 - ✓ **Consider relaxing restrictions on allowing alcohol-based hand sanitizer in the secure setting where security concerns allow.** If soap and water are not available, [CDC recommends](#) cleaning hands with an alcohol-based hand sanitizer that contains at least 60% alcohol. Consider allowing staff to carry individual-sized bottles for their personal hand hygiene while on duty.
 - ✓ **Provide a no-cost supply of soap to incarcerated/detained persons, sufficient to allow frequent hand washing.** (See [Hygiene](#) section below for additional detail regarding recommended frequency and protocol for hand washing.)
 - Provide liquid soap where possible. If bar soap must be used, ensure that it does not irritate the skin and thereby discourage frequent hand washing.
 - ✓ **If not already in place, employers operating within the facility should establish a [respiratory protection program](#) as appropriate, to ensure that staff and incarcerated/detained persons are fit tested for any respiratory protection they will need within the scope of their responsibilities.**
 - ✓ **Ensure that staff and incarcerated/detained persons are trained to correctly don, doff, and dispose of PPE that they will need to use within the scope of their responsibilities.** See [Table 1](#) for recommended PPE for incarcerated/detained persons and staff with varying levels of contact with COVID-19 cases or their close contacts.

Prevention

Cases of COVID-19 have been documented in all 50 US states. Correctional and detention facilities can prevent introduction of COVID-19 from the community and reduce transmission if it is already inside by reinforcing good hygiene practices among incarcerated/detained persons, staff, and visitors (including increasing access to soap and paper towels), intensifying cleaning/disinfection practices, and implementing social distancing strategies.

Because many individuals infected with COVID-19 do not display symptoms, the virus could be present in facilities before cases are identified. Both good hygiene practices and social distancing are critical in preventing further transmission.

Operations

- ✓ **Stay in communication with partners about your facility's current situation.**
 - State, local, territorial, and/or tribal health departments
 - Other correctional facilities
- ✓ **Communicate with the public about any changes to facility operations, including visitation programs.**

- ✓ **Restrict transfers of incarcerated/detained persons to and from other jurisdictions and facilities unless necessary for medical evaluation, medical isolation/quarantine, clinical care, extenuating security concerns, or to prevent overcrowding.**
 - Strongly consider postponing non-urgent outside medical visits.
 - If a transfer is absolutely necessary, perform verbal screening and a temperature check as outlined in the [Screening](#) section below, before the individual leaves the facility. If an individual does not clear the screening process, delay the transfer and follow the [protocol for a suspected COVID-19 case](#)— including putting a face mask on the individual, immediately placing them under medical isolation, and evaluating them for possible COVID-19 testing. If the transfer must still occur, ensure that the receiving facility has capacity to properly isolate the individual upon arrival. Ensure that staff transporting the individual wear recommended PPE (see [Table 1](#)) and that the transport vehicle is [cleaned](#) thoroughly after transport.
- ✓ **Implement lawful alternatives to in-person court appearances where permissible.**
- ✓ **Where relevant, consider suspending co-pays for incarcerated/detained persons seeking medical evaluation for respiratory symptoms.**
- ✓ **Limit the number of operational entrances and exits to the facility.**

Cleaning and Disinfecting Practices

- ✓ **Even if COVID-19 cases have not yet been identified inside the facility or in the surrounding community, begin implementing intensified cleaning and disinfecting procedures according to the recommendations below. These measures may prevent spread of COVID-19 if introduced.**
- ✓ **Adhere to [CDC recommendations for cleaning and disinfection during the COVID-19 response](#).** Monitor these recommendations for updates.
 - Several times per day, clean and disinfect surfaces and objects that are frequently touched, especially in common areas. Such surfaces may include objects/surfaces not ordinarily cleaned daily (e.g., doorknobs, light switches, sink handles, countertops, toilets, toilet handles, recreation equipment, kiosks, and telephones).
 - Staff should clean shared equipment several times per day and on a conclusion of use basis (e.g., radios, service weapons, keys, handcuffs).
 - Use household cleaners and [EPA-registered disinfectants effective against the virus that causes COVID-19](#) as appropriate for the surface, following label instructions. This may require lifting restrictions on undiluted disinfectants.
 - Labels contain instructions for safe and effective use of the cleaning product, including precautions that should be taken when applying the product, such as wearing gloves and making sure there is good ventilation during use.
- ✓ **Consider increasing the number of staff and/or incarcerated/detained persons trained and responsible for cleaning common areas to ensure continual cleaning of these areas throughout the day.**
- ✓ **Ensure adequate supplies to support intensified cleaning and disinfection practices, and have a plan in place to restock rapidly if needed.**

Hygiene

- ✓ **Reinforce healthy hygiene practices, and provide and continually restock hygiene supplies throughout the facility, including in bathrooms, food preparation and dining areas, intake areas, visitor entries and exits, visitation rooms and waiting rooms, common areas, medical, and staff-restricted areas (e.g., break rooms).**
- ✓ **Encourage all persons in the facility to take the following actions to protect themselves and others from COVID-19. Post signage throughout the facility, and communicate this information verbally on a regular basis. [Sample signage and other communications materials](#) are available on the CDC website.** Ensure that materials can be understood by non-English speakers and those with low literacy, and make necessary accommodations for those with cognitive or intellectual disabilities and those who are deaf, blind, or low-vision.
 - **Practice good [cough etiquette](#):** Cover your mouth and nose with your elbow (or ideally with a tissue) rather than with your hand when you cough or sneeze, and throw all tissues in the trash immediately after use.
 - **Practice good [hand hygiene](#):** Regularly wash your hands with soap and water for at least 20 seconds, especially after coughing, sneezing, or blowing your nose; after using the bathroom; before eating or preparing food; before taking medication; and after touching garbage.
 - **Avoid touching your eyes, nose, or mouth without cleaning your hands first.**
 - **Avoid sharing eating utensils, dishes, and cups.**
 - **Avoid non-essential physical contact.**
- ✓ **Provide incarcerated/detained persons and staff no-cost access to:**
 - **Soap**—Provide liquid soap where possible. If bar soap must be used, ensure that it does not irritate the skin, as this would discourage frequent hand washing.
 - **Running water, and hand drying machines or disposable paper towels for hand washing**
 - **Tissues** and no-touch trash receptacles for disposal
- ✓ **Provide alcohol-based hand sanitizer with at least 60% alcohol where permissible based on security restrictions.** Consider allowing staff to carry individual-sized bottles to maintain hand hygiene.
- ✓ **Communicate that sharing drugs and drug preparation equipment can spread COVID-19 due to potential contamination of shared items and close contact between individuals.**

Prevention Practices for Incarcerated/Detained Persons

- ✓ **Perform pre-intake screening and temperature checks for all new entrants. Screening should take place in the sallyport, before beginning the intake process,** in order to identify and immediately place individuals with symptoms under medical isolation. See [Screening section](#) below for the wording of screening questions and a recommended procedure to safely perform a temperature check. Staff performing temperature checks should wear recommended PPE (see [PPE section](#) below).
 - **If an individual has symptoms of COVID-19** (fever, cough, shortness of breath):
 - Require the individual to wear a face mask.
 - Ensure that staff who have direct contact with the symptomatic individual wear [recommended PPE](#).
 - Place the individual under [medical isolation](#) (ideally in a room near the screening location, rather than transporting the ill individual through the facility), and refer to healthcare staff for further evaluation. (See [Infection Control](#) and [Clinical Care](#) sections below.)
 - Facilities without onsite healthcare staff should contact their state, local, tribal, and/or territorial health department to coordinate effective medical isolation and necessary medical care.

- **If an individual is a [close contact](#) of a known COVID-19 case (but has no COVID-19 symptoms):**
 - Quarantine the individual and monitor for symptoms two times per day for 14 days. (See [Quarantine](#) section below.)
 - Facilities without onsite healthcare staff should contact their state, local, tribal, and/or territorial health department to coordinate effective quarantine and necessary medical care.
- ✓ **Implement [social distancing](#) strategies to increase the physical space between incarcerated/detained persons (ideally 6 feet between all individuals, regardless of the presence of symptoms).** Strategies will need to be tailored to the individual space in the facility and the needs of the population and staff. Not all strategies will be feasible in all facilities. Example strategies with varying levels of intensity include:
 - **Common areas:**
 - Enforce increased space between individuals in holding cells, as well as in lines and waiting areas such as intake (e.g., remove every other chair in a waiting area)
 - **Recreation:**
 - Choose recreation spaces where individuals can spread out
 - Stagger time in recreation spaces
 - Restrict recreation space usage to a single housing unit per space (where feasible)
 - **Meals:**
 - Stagger meals
 - Rearrange seating in the dining hall so that there is more space between individuals (e.g., remove every other chair and use only one side of the table)
 - Provide meals inside housing units or cells
 - **Group activities:**
 - Limit the size of group activities
 - Increase space between individuals during group activities
 - Suspend group programs where participants are likely to be in closer contact than they are in their housing environment
 - Consider alternatives to existing group activities, in outdoor areas or other areas where individuals can spread out
 - **Housing:**
 - If space allows, reassign bunks to provide more space between individuals, ideally 6 feet or more in all directions. (Ensure that bunks are [cleaned](#) thoroughly if assigned to a new occupant.)
 - Arrange bunks so that individuals sleep head to foot to increase the distance between them
 - Rearrange scheduled movements to minimize mixing of individuals from different housing areas
 - **Medical:**
 - If possible, designate a room near each housing unit to evaluate individuals with COVID-19 symptoms, rather than having them walk through the facility to be evaluated in the medical unit. If this is not feasible, consider staggering sick call.
 - Designate a room near the intake area to evaluate new entrants who are flagged by the intake screening process for COVID-19 symptoms or case contact, before they move to other parts of the facility.

- ✓ **Communicate clearly and frequently with incarcerated/detained persons about changes to their daily routine and how they can contribute to risk reduction.**
- ✓ **Note that if group activities are discontinued, it will be important to identify alternative forms of activity to support the mental health of incarcerated/detained persons.**
- ✓ **Consider suspending work release programs and other programs that involve movement of incarcerated/detained individuals in and out of the facility.**
- ✓ **Provide [up-to-date information about COVID-19](#) to incarcerated/detained persons on a regular basis, including:**
 - [Symptoms of COVID-19](#) and its health risks
 - Reminders to report COVID-19 symptoms to staff at the first sign of illness
- ✓ **Consider having healthcare staff perform rounds on a regular basis to answer questions about COVID-19.**

Prevention Practices for Staff

- ✓ **Remind staff to stay at home if they are sick.** Ensure that staff are aware that they will not be able to enter the facility if they have symptoms of COVID-19, and that they will be expected to leave the facility as soon as possible if they develop symptoms while on duty.
- ✓ **Perform verbal screening (for COVID-19 symptoms and close contact with cases) and temperature checks for all staff daily on entry.** See [Screening](#) section below for wording of screening questions and a recommended procedure to safely perform temperature checks.
 - In very small facilities with only a few staff, consider self-monitoring or virtual monitoring (e.g., reporting to a central authority via phone).
 - Send staff home who do not clear the screening process, and advise them to follow [CDC-recommended steps for persons who are ill with COVID-19 symptoms](#).
- ✓ **Provide staff with [up-to-date information about COVID-19](#) and about facility policies on a regular basis, including:**
 - [Symptoms of COVID-19](#) and its health risks
 - Employers' sick leave policy
 - **If staff develop a fever, cough, or shortness of breath while at work:** immediately put on a face mask, inform supervisor, leave the facility, and follow [CDC-recommended steps for persons who are ill with COVID-19 symptoms](#).
 - **If staff test positive for COVID-19:** inform workplace and personal contacts immediately, and do not return to work until a decision to discontinue home medical isolation precautions is made. Monitor [CDC guidance on discontinuing home isolation](#) regularly as circumstances evolve rapidly.
 - **If a staff member is identified as a close contact of a COVID-19 case (either within the facility or in the community):** self-quarantine at home for 14 days and return to work if symptoms do not develop. If symptoms do develop, follow [CDC-recommended steps for persons who are ill with COVID-19 symptoms](#).
- ✓ **If a staff member has a confirmed COVID-19 infection, the relevant employers should inform other staff about their possible exposure to COVID-19 in the workplace, but should maintain confidentiality as required by the Americans with Disabilities Act.**
 - Employees who are [close contacts](#) of the case should then self-monitor for [symptoms](#) (i.e., fever, cough, or shortness of breath).

- ✓ **When feasible and consistent with security priorities, encourage staff to maintain a distance of 6 feet or more from an individual with respiratory symptoms while interviewing, escorting, or interacting in other ways.**
- ✓ **Ask staff to keep interactions with individuals with respiratory symptoms as brief as possible.**

Prevention Practices for Visitors

- ✓ **If possible, communicate with potential visitors to discourage contact visits in the interest of their own health and the health of their family members and friends inside the facility.**
- ✓ **Perform verbal screening (for COVID-19 symptoms and close contact with cases) and temperature checks for all visitors and volunteers on entry.** See [Screening](#) section below for wording of screening questions and a recommended procedure to safely perform temperature checks.
 - Staff performing temperature checks should wear [recommended PPE](#).
 - Exclude visitors and volunteers who do not clear the screening process or who decline screening.
- ✓ **Provide alcohol-based hand sanitizer with at least 60% alcohol in visitor entrances, exits, and waiting areas.**
- ✓ **Provide visitors and volunteers with information to prepare them for screening.**
 - Instruct visitors to postpone their visit if they have symptoms of respiratory illness.
 - If possible, inform potential visitors and volunteers before they travel to the facility that they should expect to be screened for COVID-19 (including a temperature check), and will be unable to enter the facility if they do not clear the screening process or if they decline screening.
 - Display [signage](#) outside visiting areas explaining the COVID-19 screening and temperature check process. Ensure that materials are understandable for non-English speakers and those with low literacy.
- ✓ **Promote non-contact visits:**
 - Encourage incarcerated/detained persons to limit contact visits in the interest of their own health and the health of their visitors.
 - Consider reducing or temporarily eliminating the cost of phone calls for incarcerated/detained persons.
 - Consider increasing incarcerated/detained persons' telephone privileges to promote mental health and reduce exposure from direct contact with community visitors.
- ✓ **Consider suspending or modifying visitation programs, if legally permissible. For example, provide access to virtual visitation options where available.**
 - If moving to virtual visitation, clean electronic surfaces regularly. (See [Cleaning](#) guidance below for instructions on cleaning electronic surfaces.)
 - Inform potential visitors of changes to, or suspension of, visitation programs.
 - Clearly communicate any visitation program changes to incarcerated/detained persons, along with the reasons for them (including protecting their health and their family and community members' health).
 - If suspending contact visits, provide alternate means (e.g., phone or video visitation) for incarcerated/detained individuals to engage with legal representatives, clergy, and other individuals with whom they have legal right to consult.

NOTE: Suspending visitation would be done in the interest of incarcerated/detained persons' physical health and the health of the general public. However, visitation is important to maintain mental health.

If visitation is suspended, facilities should explore alternative ways for incarcerated/detained persons to communicate with their families, friends, and other visitors in a way that is not financially burdensome for them. See above suggestions for promoting non-contact visits.

- ✓ **Restrict non-essential vendors, volunteers, and tours from entering the facility.**

Management

If there has been a suspected COVID-19 case inside the facility (among incarcerated/detained persons, staff, or visitors who have recently been inside), begin implementing Management strategies while test results are pending. Essential Management strategies include placing cases and individuals with symptoms under medical isolation, quarantining their close contacts, and facilitating necessary medical care, while observing relevant infection control and environmental disinfection protocols and wearing recommended PPE.

Operations

- ✓ **Implement alternate work arrangements deemed feasible in the [Operational Preparedness](#) section.**
- ✓ **Suspend all transfers of incarcerated/detained persons to and from other jurisdictions and facilities (including work release where relevant), unless necessary for medical evaluation, medical isolation/quarantine, care, extenuating security concerns, or to prevent overcrowding.**
 - If a transfer is absolutely necessary, perform verbal screening and a temperature check as outlined in the [Screening](#) section below, before the individual leaves the facility. If an individual does not clear the screening process, delay the transfer and follow the [protocol for a suspected COVID-19 case](#)—including putting a face mask on the individual, immediately placing them under medical isolation, and evaluating them for possible COVID-19 testing. If the transfer must still occur, ensure that the receiving facility has capacity to appropriately isolate the individual upon arrival. Ensure that staff transporting the individual wear recommended PPE (see [Table 1](#)) and that the transport vehicle is [cleaned](#) thoroughly after transport.
- ✓ **If possible, consider 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 a COVID-19 case).** Subsequently in this document, this practice is referred to as **routine intake quarantine**.
- ✓ **When possible, arrange lawful alternatives to in-person court appearances.**
- ✓ **Incorporate screening for COVID-19 symptoms and a temperature check into release planning.**
 - Screen all releasing individuals for COVID-19 symptoms and perform a temperature check. (See [Screening](#) section below.)
 - If an individual does not clear the screening process, follow the [protocol for a suspected COVID-19 case](#)—including putting a face mask on the individual, immediately placing them under medical isolation, and evaluating them for possible COVID-19 testing.
 - If the individual is released before the recommended medical isolation period is complete, discuss release of the individual with state, local, tribal, and/or territorial health departments to ensure safe medical transport and continued shelter and medical care, as part of release planning. Make direct linkages to community resources to ensure proper medical isolation and access to medical care.
 - Before releasing an incarcerated/detained individual with COVID-19 symptoms to a community-based facility, such as a homeless shelter, contact the facility's staff to ensure adequate time for them to prepare to continue medical isolation, or contact local public health to explore alternate housing options.

✓ **Coordinate with state, local, tribal, and/or territorial health departments.**

- When a COVID-19 case is suspected, work with public health to determine action. See [Medical Isolation](#) section below.
- When a COVID-19 case is suspected or confirmed, work with public health to identify close contacts who should be placed under quarantine. See [Quarantine](#) section below.
- Facilities with limited onsite medical isolation, quarantine, and/or healthcare services should coordinate closely with state, local, tribal, and/or territorial health departments when they encounter a confirmed or suspected case, in order to ensure effective medical isolation or quarantine, necessary medical evaluation and care, and medical transfer if needed. See [Facilities with Limited Onsite Healthcare Services](#) section.

Hygiene

- ✓ **Continue to ensure that hand hygiene supplies are well-stocked in all areas of the facility.** (See [above](#).)
- ✓ **Continue to emphasize practicing good hand hygiene and cough etiquette.** (See [above](#).)

Cleaning and Disinfecting Practices

- ✓ **Continue adhering to recommended cleaning and disinfection procedures for the facility at large.** (See [above](#).)
- ✓ **Reference specific cleaning and disinfection procedures for areas where a COVID-19 case has spent time ([below](#)).**

Medical Isolation of Confirmed or Suspected COVID-19 Cases

NOTE: Some recommendations below apply primarily to facilities with onsite healthcare capacity. [Facilities with Limited Onsite Healthcare Services](#), or without sufficient space to implement effective medical isolation, should coordinate with local public health officials to ensure that COVID-19 cases will be appropriately isolated, evaluated, tested (if indicated), and given care.

- ✓ **As soon as an individual develops symptoms of COVID-19, they should wear a face mask (if it does not restrict breathing) and should be immediately placed under medical isolation in a separate environment from other individuals.**
- ✓ **Keep the individual's movement outside the medical isolation space to an absolute minimum.**
 - Provide medical care to cases inside the medical isolation space. See [Infection Control](#) and [Clinical Care](#) sections for additional details.
 - Serve meals to cases inside the medical isolation space.
 - Exclude the individual from all group activities.
 - Assign the isolated individual a dedicated bathroom when possible.
- ✓ **Ensure that the individual is wearing a face mask at all times when outside of the medical isolation space, and whenever another individual enters.** Provide clean masks as needed. Masks should be changed at least daily, and when visibly soiled or wet.
- ✓ **Facilities should make every possible effort to place suspected and confirmed COVID-19 cases under medical isolation individually. Each isolated individual should be assigned their own housing space and bathroom where possible.** [Cohorting](#) should only be practiced if there are no other available options.

- If cohorting is necessary:
 - **Only individuals who are laboratory confirmed COVID-19 cases should be placed under medical isolation as a cohort. Do not cohort confirmed cases with suspected cases or case contacts.**
 - Unless no other options exist, do not house COVID-19 cases with individuals who have an undiagnosed respiratory infection.
 - Ensure that cohorted cases wear face masks at all times.
- ✓ **In order of preference, individuals under medical isolation should be housed:**
 - Separately, in single cells with solid walls (i.e., not bars) and solid doors that close fully
 - Separately, in single cells with solid walls but without solid doors
 - As a cohort, in a large, well-ventilated cell with solid walls and a solid door that closes fully. Employ [social distancing strategies related to housing in the Prevention section above](#).
 - As a cohort, in a large, well-ventilated cell with solid walls but without a solid door. Employ [social distancing strategies related to housing in the Prevention section above](#).
 - As a cohort, in single cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells. (Although individuals are in single cells in this scenario, the airflow between cells essentially makes it a cohort arrangement in the context of COVID-19.)
 - As a cohort, in multi-person cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells. Employ [social distancing strategies related to housing in the Prevention section above](#).
 - Safely transfer individual(s) to another facility with available medical isolation capacity in one of the above arrangements
(NOTE—Transfer should be avoided due to the potential to introduce infection to another facility; proceed only if no other options are available.)

If the ideal choice does not exist in a facility, use the next best alternative.

- ✓ **If the number of confirmed cases exceeds the number of individual medical isolation spaces available in the facility, be especially mindful of [cases who are at higher risk of severe illness from COVID-19](#).** Ideally, they should not be cohorted with other infected individuals. If cohorting is unavoidable, make all possible accommodations to prevent transmission of other infectious diseases to the higher-risk individual. (For example, allocate more space for a higher-risk individual within a shared medical isolation space.)
 - Persons at higher risk may include older adults and persons of any age with serious underlying medical conditions such as lung disease, heart disease, and diabetes. See [CDC's website](#) for a complete list, and check regularly for updates as more data become available to inform this issue.
 - Note that incarcerated/detained populations have higher prevalence of infectious and chronic diseases and are in poorer health than the general population, even at younger ages.
- ✓ **Custody staff should be designated to monitor these individuals exclusively where possible.** These staff should wear recommended PPE as appropriate for their level of contact with the individual under medical isolation (see [PPE](#) section below) and should limit their own movement between different parts of the facility to the extent possible.
- ✓ **Minimize transfer of COVID-19 cases between spaces within the healthcare unit.**

- ✓ **Provide individuals under medical isolation with tissues and, if permissible, a lined no-touch trash receptacle.** Instruct them to:
 - **Cover** their mouth and nose with a tissue when they cough or sneeze
 - **Dispose** of used tissues immediately in the lined trash receptacle
 - **Wash hands** immediately with soap and water for at least 20 seconds. If soap and water are not available, clean hands with an alcohol-based hand sanitizer that contains at least 60% alcohol (where security concerns permit). Ensure that [hand washing supplies](#) are continually restocked.
- ✓ **Maintain medical isolation until all the following criteria have been met. Monitor the [CDC website](#) for updates to these criteria.**

For individuals who will be tested to determine if they are still contagious:

 - The individual has been free from fever for at least 72 hours without the use of fever-reducing medications **AND**
 - The individual's other symptoms have improved (e.g., cough, shortness of breath) **AND**
 - The individual has tested negative in at least two consecutive respiratory specimens collected at least 24 hours apart

For individuals who will NOT be tested to determine if they are still contagious:

 - The individual has been free from fever for at least 72 hours without the use of fever-reducing medications **AND**
 - The individual's other symptoms have improved (e.g., cough, shortness of breath) **AND**
 - At least 7 days have passed since the first symptoms appeared

For individuals who had a confirmed positive COVID-19 test but never showed symptoms:

 - At least 7 days have passed since the date of the individual's first positive COVID-19 test **AND**
 - The individual has had no subsequent illness
- ✓ **Restrict cases from leaving the facility while under medical isolation precautions, unless released from custody or if a transfer is necessary for medical care, infection control, lack of medical isolation space, or extenuating security concerns.**
 - If an incarcerated/detained individual who is a COVID-19 case is released from custody during their medical isolation period, contact public health to arrange for safe transport and continuation of necessary medical care and medical isolation as part of release planning.

Cleaning Spaces where COVID-19 Cases Spent Time

Thoroughly clean and disinfect all areas where the confirmed or suspected COVID-19 case spent time. Note—these protocols apply to suspected cases as well as confirmed cases, to ensure adequate disinfection in the event that the suspected case does, in fact, have COVID-19. Refer to the [Definitions](#) section for the distinction between confirmed and suspected cases.

- Close off areas used by the infected individual. If possible, open outside doors and windows to increase air circulation in the area. Wait as long as practical, up to 24 hours under the poorest air exchange conditions (consult [CDC Guidelines for Environmental Infection Control in Health-Care Facilities for wait time based on different ventilation conditions](#)), before beginning to clean and disinfect, to minimize potential for exposure to respiratory droplets.
- Clean and disinfect all areas (e.g., cells, bathrooms, and common areas) used by the infected individual, focusing especially on frequently touched surfaces (see list above in [Prevention](#) section).

✓ **Hard (non-porous) surface cleaning and disinfection**

- If surfaces are dirty, they should be cleaned using a detergent or soap and water prior to disinfection.
- For disinfection, most common EPA-registered household disinfectants should be effective. Choose cleaning products based on security requirements within the facility.
 - Consult a [list of products that are EPA-approved for use against the virus that causes COVID-19](#). Follow the manufacturer's instructions for all cleaning and disinfection products (e.g., concentration, application method and contact time, etc.).
 - Diluted household bleach solutions can be used if appropriate for the surface. Follow the manufacturer's instructions for application and proper ventilation, and check to ensure the product is not past its expiration date. Never mix household bleach with ammonia or any other cleanser. Unexpired household bleach will be effective against coronaviruses when properly diluted. Prepare a bleach solution by mixing:
 - 5 tablespoons (1/3rd cup) bleach per gallon of water or
 - 4 teaspoons bleach per quart of water

✓ **Soft (porous) surface cleaning and disinfection**

- For soft (porous) surfaces such as carpeted floors and rugs, remove visible contamination if present and clean with appropriate cleaners indicated for use on these surfaces. After cleaning:
 - If the items can be laundered, launder items in accordance with the manufacturer's instructions using the warmest appropriate water setting for the items and then dry items completely.
 - Otherwise, use products [that are EPA-approved for use against the virus that causes COVID-19](#) and are suitable for porous surfaces.

✓ **Electronics cleaning and disinfection**

- For electronics such as tablets, touch screens, keyboards, and remote controls, remove visible contamination if present.
 - Follow the manufacturer's instructions for all cleaning and disinfection products.
 - Consider use of wipeable covers for electronics.
 - If no manufacturer guidance is available, consider the use of alcohol-based wipes or spray containing at least 70% alcohol to disinfect touch screens. Dry surfaces thoroughly to avoid pooling of liquids.

Additional information on cleaning and disinfection of communal facilities such can be found on [CDC's website](#).

✓ **Ensure that staff and incarcerated/detained persons performing cleaning wear recommended PPE.** (See [PPE](#) section below.)

✓ **Food service items.** Cases under medical isolation should throw disposable food service items in the trash in their medical isolation room. Non-disposable food service items should be handled with gloves and washed with hot water or in a dishwasher. Individuals handling used food service items should clean their hands after removing gloves.

✓ **[Laundry from a COVID-19 cases](#) can be washed with other individuals' laundry.**

- Individuals handling laundry from COVID-19 cases should wear disposable gloves, discard after each use, and clean their hands after.
- Do not shake dirty laundry. This will minimize the possibility of dispersing virus through the air.
- Launder items as appropriate in accordance with the manufacturer's instructions. If possible, launder items using the warmest appropriate water setting for the items and dry items completely.

- Clean and disinfect clothes hampers according to guidance above for surfaces. If permissible, consider using a bag liner that is either disposable or can be laundered.
- ✓ **Consult [cleaning recommendations above](#) to ensure that transport vehicles are thoroughly cleaned after carrying a confirmed or suspected COVID-19 case.**

Quarantining Close Contacts of COVID-19 Cases

NOTE: Some recommendations below apply primarily to facilities with onsite healthcare capacity. [Facilities without onsite healthcare capacity](#), or without sufficient space to implement effective quarantine, should coordinate with local public health officials to ensure that close contacts of COVID-19 cases will be effectively quarantined and medically monitored.

- ✓ **Incarcerated/detained persons who are close contacts of a [confirmed or suspected COVID-19 case](#) (whether the case is another incarcerated/detained person, staff member, or visitor) should be placed under quarantine for 14 days (see CDC guidelines).**
 - If an individual is quarantined due to contact with a suspected case who is subsequently tested for COVID-19 and receives a negative result, the quarantined individual should be released from quarantine restrictions.
- ✓ **In the context of COVID-19, an individual (incarcerated/detained person or staff) is [considered a close contact](#) if they:**
 - Have been within approximately 6 feet of a COVID-19 case for a prolonged period of time OR
 - Have had direct contact with infectious secretions of a COVID-19 case (e.g., have been coughed on)

Close contact can occur while caring for, living with, visiting, or sharing a common space with a COVID-19 case. Data to inform the definition of close contact are limited. Considerations when assessing close contact include the duration of exposure (e.g., longer exposure time likely increases exposure risk) and the clinical symptoms of the person with COVID-19 (e.g., coughing likely increases exposure risk, as does exposure to a severely ill patient).

- ✓ **Keep a quarantined individual's movement outside the quarantine space to an absolute minimum.**
 - Provide medical evaluation and care inside or near the quarantine space when possible.
 - Serve meals inside the quarantine space.
 - Exclude the quarantined individual from all group activities.
 - Assign the quarantined individual a dedicated bathroom when possible.
- ✓ **Facilities should make every possible effort to quarantine close contacts of COVID-19 cases individually. [Cohorting](#) multiple quarantined close contacts of a COVID-19 case could transmit COVID-19 from those who are infected to those who are uninfected. Cohorting should only be practiced if there are no other available options.**
 - If cohorting of close contacts under quarantine is absolutely necessary, symptoms of all individuals should be monitored closely, and individuals with symptoms of COVID-19 should be placed under [medical isolation](#) immediately.
 - If an entire housing unit is under quarantine due to contact with a case from the same housing unit, the entire housing unit may need to be treated as a cohort and quarantine in place.
 - Some facilities may choose to quarantine all new intakes for 14 days before moving them to the facility's general population as a general rule (not because they were exposed to a COVID-19 case). Under this scenario, avoid mixing individuals quarantined due to exposure to a COVID-19 case with individuals undergoing routine intake quarantine.

- If at all possible, do not add more individuals to an existing quarantine cohort after the 14-day quarantine clock has started.
- ✓ **If the number of quarantined individuals exceeds the number of individual quarantine spaces available in the facility, be especially mindful of those who are at higher risk of severe illness from COVID-19.** Ideally, they should not be cohorted with other quarantined individuals. If cohorting is unavoidable, make all possible accommodations to reduce exposure risk for the higher-risk individuals. (For example, intensify [social distancing strategies](#) for higher-risk individuals.)
- ✓ **In order of preference, multiple quarantined individuals should be housed:**
 - Separately, in single cells with solid walls (i.e., not bars) and solid doors that close fully
 - Separately, in single cells with solid walls but without solid doors
 - As a cohort, in a large, well-ventilated cell with solid walls, a solid door that closes fully, and at least 6 feet of personal space assigned to each individual in all directions
 - As a cohort, in a large, well-ventilated cell with solid walls and at least 6 feet of personal space assigned to each individual in all directions, but without a solid door
 - As a cohort, in single cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells creating at least 6 feet of space between individuals. (Although individuals are in single cells in this scenario, the airflow between cells essentially makes it a cohort arrangement in the context of COVID-19.)
 - As a cohort, in multi-person cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells. Employ [social distancing strategies related to housing in the Prevention section](#) to maintain at least 6 feet of space between individuals housed in the same cell.
 - As a cohort, in individuals' regularly assigned housing unit but with no movement outside the unit (if an entire housing unit has been exposed). [Employ social distancing strategies related to housing in the Prevention section above](#) to maintain at least 6 feet of space between individuals.
 - Safely transfer to another facility with capacity to quarantine in one of the above arrangements

(NOTE—Transfer should be avoided due to the potential to introduce infection to another facility; proceed only if no other options are available.)
- ✓ **Quarantined individuals should wear face masks if feasible based on local supply, as source control, under the following circumstances** (see [PPE](#) section and [Table 1](#)):
 - If cohorted, quarantined individuals should wear face masks at all times (to prevent transmission from infected to uninfected individuals).
 - If quarantined separately, individuals should wear face masks whenever a non-quarantined individual enters the quarantine space.
 - All quarantined individuals should wear a face mask if they must leave the quarantine space for any reason.
 - Asymptomatic individuals under [routine intake quarantine](#) (with no known exposure to a COVID-19 case) do not need to wear face masks.
- ✓ **Staff who have close contact with quarantined individuals should wear recommended PPE if feasible based on local supply, feasibility, and safety within the scope of their duties** (see [PPE](#) section and [Table 1](#)).
 - Staff supervising asymptomatic incarcerated/detained persons under [routine intake quarantine](#) (with no known exposure to a COVID-19 case) do not need to wear PPE.

- ✓ **Quarantined individuals should be monitored for COVID-19 symptoms twice per day, including temperature checks.**
 - If an individual develops symptoms, they should be moved to medical isolation immediately and further evaluated. (See [Medical Isolation](#) section above.)
 - See [Screening](#) section for a procedure to perform temperature checks safely on asymptomatic close contacts of COVID-19 cases.
- ✓ **If an individual who is part of a quarantined cohort becomes symptomatic:**
 - **If the individual is tested for COVID-19 and tests positive:** the 14-day quarantine clock for the remainder of the cohort must be reset to 0.
 - **If the individual is tested for COVID-19 and tests negative:** the 14-day quarantine clock for this individual and the remainder of the cohort does not need to be reset. This individual can return from medical isolation to the quarantined cohort for the remainder of the quarantine period.
 - **If the individual is not tested for COVID-19:** the 14-day quarantine clock for the remainder of the cohort must be reset to 0.
- ✓ **Restrict quarantined individuals from leaving the facility (including transfers to other facilities) during the 14-day quarantine period, unless released from custody or a transfer is necessary for medical care, infection control, lack of quarantine space, or extenuating security concerns.**
- ✓ **Quarantined individuals can be released from quarantine restrictions if they have not developed symptoms during the 14-day quarantine period.**
- ✓ **Meals should be provided to quarantined individuals in their quarantine spaces.** Individuals under quarantine should throw disposable food service items in the trash. Non-disposable food service items should be handled with gloves and washed with hot water or in a dishwasher. Individuals handling used food service items should clean their hands after removing gloves.
- ✓ **Laundry from quarantined individuals can be washed with other individuals' laundry.**
 - Individuals handling laundry from quarantined persons should wear disposable gloves, discard after each use, and clean their hands after.
 - Do not shake dirty laundry. This will minimize the possibility of dispersing virus through the air.
 - Launder items as appropriate in accordance with the manufacturer's instructions. If possible, launder items using the warmest appropriate water setting for the items and dry items completely.
 - Clean and disinfect clothes hampers according to guidance above for surfaces. If permissible, consider using a bag liner that is either disposable or can be laundered.

Management of Incarcerated/Detained Persons with COVID-19 Symptoms

NOTE: Some recommendations below apply primarily to facilities with onsite healthcare capacity. Facilities without onsite healthcare capacity or without sufficient space for medical isolation should coordinate with local public health officials to ensure that suspected COVID-19 cases will be effectively isolated, evaluated, tested (if indicated), and given care.

- ✓ **If possible, designate a room near each housing unit for healthcare staff to evaluate individuals with COVID-19 symptoms, rather than having them walk through the facility to be evaluated in the medical unit.**
- ✓ **Incarcerated/detained individuals with COVID-19 symptoms should wear a face mask and should be placed under medical isolation immediately. Discontinue the use of a face mask if it inhibits breathing. See [Medical Isolation](#) section above.**

- ✓ **Medical staff should evaluate symptomatic individuals to determine whether COVID-19 testing is indicated.** Refer to CDC guidelines for information on [evaluation](#) and [testing](#). See [Infection Control](#) and [Clinical Care](#) sections below as well.
- ✓ **If testing is indicated (or if medical staff need clarification on when testing is indicated), contact the state, local, tribal, and/or territorial health department. Work with public health or private labs as available to access testing supplies or services.**
 - If the COVID-19 test is positive, continue medical isolation. (See [Medical Isolation](#) section above.)
 - If the COVID-19 test is negative, return the individual to their prior housing assignment unless they require further medical assessment or care.

Management Strategies for Incarcerated/Detained Persons without COVID-19 Symptoms

- ✓ **Provide [clear information](#) to incarcerated/detained persons about the presence of COVID-19 cases within the facility, and the need to increase social distancing and maintain hygiene precautions.**
 - Consider having healthcare staff perform regular rounds to answer questions about COVID-19.
 - Ensure that information is provided in a manner that can be understood by non-English speaking individuals and those with low literacy, and make necessary accommodations for those with cognitive or intellectual disabilities and those who are deaf, blind, or low-vision.
- ✓ **Implement daily temperature checks in housing units where COVID-19 cases have been identified, especially if there is concern that incarcerated/detained individuals are not notifying staff of symptoms.** See [Screening](#) section for a procedure to safely perform a temperature check.
- ✓ **Consider additional options to intensify [social distancing](#) within the facility.**

Management Strategies for Staff

- ✓ **Provide clear information to staff about the presence of COVID-19 cases within the facility, and the need to enforce social distancing and encourage hygiene precautions.**
 - Consider having healthcare staff perform regular rounds to answer questions about COVID-19 from staff.
- ✓ **Staff identified as close contacts of a COVID-19 case should self-quarantine at home for 14 days and may return to work if symptoms do not develop.**
 - See [above](#) for definition of a close contact.
 - Refer to [CDC guidelines](#) for further recommendations regarding home quarantine for staff.

Infection Control

Infection control guidance below is applicable to all types of correctional facilities. Individual facilities should assess their unique needs based on the types of exposure staff and incarcerated/detained persons may have with confirmed or suspected COVID-19 cases.

- ✓ **All individuals who have the potential for direct or indirect exposure to COVID-19 cases or infectious materials (including body substances; contaminated medical supplies, devices, and equipment; contaminated environmental surfaces; or contaminated air) should follow infection control practices outlined in the [CDC Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 \(COVID-19\) in Healthcare Settings](#). Monitor these guidelines regularly for updates.**

- Implement the above guidance as fully as possible within the correctional/detention context. Some of the specific language may not apply directly to healthcare settings within correctional facilities and detention centers, or to facilities without onsite healthcare capacity, and may need to be adapted to reflect facility operations and custody needs.
- Note that these recommendations apply to staff as well as to incarcerated/detained individuals who may come in contact with contaminated materials during the course of their work placement in the facility (e.g., cleaning).
- ✓ **Staff should exercise caution when in contact with individuals showing symptoms of a respiratory infection.** Contact should be minimized to the extent possible until the infected individual is wearing a face mask. If COVID-19 is suspected, staff should wear recommended PPE (see [PPE](#) section).
- ✓ **Refer to [PPE](#) section to determine recommended PPE for individuals persons in contact with confirmed COVID-19 cases, contacts, and potentially contaminated items.**

Clinical Care of COVID-19 Cases

- ✓ **Facilities should ensure that incarcerated/detained individuals receive medical evaluation and treatment at the first signs of COVID-19 symptoms.**
 - If a facility is not able to provide such evaluation and treatment, a plan should be in place to safely transfer the individual to another facility or local hospital.
 - The initial medical evaluation should determine whether a symptomatic individual is at [higher risk for severe illness from COVID-19](#). Persons at higher risk may include older adults and persons of any age with serious underlying medical conditions such as lung disease, heart disease, and diabetes. See [CDC's website](#) for a complete list, and check regularly for updates as more data become available to inform this issue.
- ✓ **Staff evaluating and providing care for confirmed or suspected COVID-19 cases should follow the [CDC Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease \(COVID-19\)](#) and monitor the guidance website regularly for updates to these recommendations.**
- ✓ **Healthcare staff should evaluate persons with respiratory symptoms or contact with a COVID-19 case in a separate room, with the door closed if possible, while wearing [recommended PPE](#) and ensuring that the suspected case is wearing a face mask.**
 - If possible, designate a room near each housing unit to evaluate individuals with COVID-19 symptoms, rather than having them walk through the facility to be evaluated in the medical unit.
- ✓ **Clinicians are strongly encouraged to test for other causes of respiratory illness (e.g., influenza).**
- ✓ **The facility should have a plan in place to safely transfer persons with severe illness from COVID-19 to a local hospital if they require care beyond what the facility is able to provide.**
- ✓ **When evaluating and treating persons with symptoms of COVID-19 who do not speak English, using a language line or provide a trained interpreter when possible.**

Recommended PPE and PPE Training for Staff and Incarcerated/Detained Persons

- ✓ **Ensure that all staff (healthcare and non-healthcare) and incarcerated/detained persons who will have contact with infectious materials in their work placements have been trained to correctly don, doff, and dispose of PPE relevant to the level of contact they will have with confirmed and suspected COVID-19 cases.**

- Ensure that staff and incarcerated/detained persons who require respiratory protection (e.g., N95s) for their work responsibilities have been medically cleared, trained, and fit-tested in the context of an employer's [respiratory protection program](#).
- For PPE training materials and posters, please visit the [CDC website on Protecting Healthcare Personnel](#).
- ✓ **Ensure that all staff are trained to perform hand hygiene after removing PPE.**
- ✓ **If administrators anticipate that incarcerated/detained persons will request unnecessary PPE, consider providing training on the different types of PPE that are needed for differing degrees of contact with COVID-19 cases and contacts, and the reasons for those differences (see [Table 1](#)). Monitor linked CDC guidelines in [Table 1](#) for updates to recommended PPE.**
- ✓ **Keep recommended PPE near the spaces in the facility where it could be needed, to facilitate quick access in an emergency.**
- ✓ **Recommended PPE for incarcerated/detained individuals and staff in a correctional facility will vary based on the type of contact they have with COVID-19 cases and their contacts (see [Table 1](#)). Each type of recommended PPE is defined below. **As above, note that PPE shortages are anticipated in every category during the COVID-19 response.****

- **N95 respirator**

See below for guidance on when face masks are acceptable alternatives for N95s. N95 respirators should be prioritized when staff anticipate contact with infectious aerosols from a COVID-19 case.

- **Face mask**

- **Eye protection**—goggles or disposable face shield that fully covers the front and sides of the face

- **A single pair of disposable patient examination gloves**

Gloves should be changed if they become torn or heavily contaminated.

- **Disposable medical isolation gown or single-use/disposable coveralls, when feasible**

- If custody staff are unable to wear a disposable gown or coveralls because it limits access to their duty belt and gear, ensure that duty belt and gear are disinfected after close contact with the individual. Clean and disinfect duty belt and gear prior to reuse using a household cleaning spray or wipe, according to the product label.
- If there are shortages of gowns, they should be prioritized for aerosol-generating procedures, care activities where splashes and sprays are anticipated, and high-contact patient care activities that provide opportunities for transfer of pathogens to the hands and clothing of staff.

- ✓ **Note that shortages of all PPE categories are anticipated during the COVID-19 response, particularly for non-healthcare workers. Guidance for optimizing the supply of each category can be found on CDC's website:**

- [Guidance in the event of a shortage of N95 respirators](#)

- Based on local and regional situational analysis of PPE supplies, **face masks are an acceptable alternative when the supply chain of respirators cannot meet the demand.** During this time, available respirators should be prioritized for staff engaging in activities that would expose them to respiratory aerosols, which pose the highest exposure risk.

- [Guidance in the event of a shortage of face masks](#)

- [Guidance in the event of a shortage of eye protection](#)

- [Guidance in the event of a shortage of gowns/coveralls](#)

Table 1. Recommended Personal Protective Equipment (PPE) for Incarcerated/Detained Persons and Staff in a Correctional Facility during the COVID-19 Response

Classification of Individual Wearing PPE	N95 respirator	Face mask	Eye Protection	Gloves	Gown/Coveralls
Incarcerated/Detained Persons					
Asymptomatic incarcerated/detained persons (under quarantine as close contacts of a COVID-19 case*)	Apply face masks for source control as feasible based on local supply, especially if housed as a cohort				
Incarcerated/detained persons who are confirmed or suspected COVID-19 cases, or showing symptoms of COVID-19	–	✓	–	–	–
Incarcerated/detained persons in a work placement handling laundry or used food service items from a COVID-19 case or case contact	–	–	–	✓	✓
Incarcerated/detained persons in a work placement cleaning areas where a COVID-19 case has spent time	Additional PPE may be needed based on the product label. See CDC guidelines for more details.			✓	✓
Staff					
Staff having direct contact with asymptomatic incarcerated/detained persons under quarantine as close contacts of a COVID-19 case* (but not performing temperature checks or providing medical care)	–	Face mask, eye protection, and gloves as local supply and scope of duties allow.			–
Staff performing temperature checks on any group of people (staff, visitors, or incarcerated/detained persons), or providing medical care to asymptomatic quarantined persons	–	✓	✓	✓	✓
Staff having direct contact with (including transport) or offering medical care to confirmed or suspected COVID-19 cases (see CDC infection control guidelines)	✓**		✓	✓	✓
Staff present during a procedure on a confirmed or suspected COVID-19 case that may generate respiratory aerosols (see CDC infection control guidelines)	✓	–	✓	✓	✓
Staff handling laundry or used food service items from a COVID-19 case or case contact	–	–	–	✓	✓
Staff cleaning an area where a COVID-19 case has spent time	Additional PPE may be needed based on the product label. See CDC guidelines for more details.			✓	✓

* If a facility chooses to routinely quarantine all new intakes (without symptoms or known exposure to a COVID-19 case) before integrating into the facility's general population, face masks are not necessary.

** A NIOSH-approved N95 is preferred. However, based on local and regional situational analysis of PPE supplies, face masks are an acceptable alternative when the supply chain of respirators cannot meet the demand. During this time, available respirators should be prioritized for procedures that are likely to generate respiratory aerosols, which would pose the highest exposure risk to staff.

Verbal Screening and Temperature Check Protocols for Incarcerated/Detained Persons, Staff, and Visitors

The guidance above recommends verbal screening and temperature checks for incarcerated/detained persons, staff, volunteers, and visitors who enter correctional and detention facilities, as well as incarcerated/detained persons who are transferred to another facility or released from custody. Below, verbal screening questions for COVID-19 symptoms and contact with known cases, and a safe temperature check procedure are detailed.

✓ **Verbal screening for symptoms of COVID-19 and contact with COVID-19 cases should include the following questions:**

- *Today or in the past 24 hours, have you had any of the following symptoms?*
 - *Fever, felt feverish, or had chills?*
 - *Cough?*
 - *Difficulty breathing?*
- *In the past 14 days, have you had contact with a person known to be infected with the novel coronavirus (COVID-19)?*

✓ **The following is a protocol to safely check an individual's temperature:**

- Perform hand hygiene
- Put on a face mask, eye protection (goggles or disposable face shield that fully covers the front and sides of the face), gown/coveralls, and a single pair of disposable gloves
- Check individual's temperature
- **If performing a temperature check on multiple individuals, ensure that a clean pair of gloves is used for each individual and that the thermometer has been thoroughly cleaned in between each check.** If disposable or non-contact thermometers are used and the screener did not have physical contact with an individual, gloves do not need to be changed before the next check. If non-contact thermometers are used, they should be [cleaned routinely as recommended by CDC for infection control](#).
- Remove and discard PPE
- Perform hand hygiene

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

*** CIVIL ACTION**

*** NO. 18-63-BAJ-EWD**

*** JUDGE BRIAN A. JACKSON**

*** MAGISTRATE JUDGE**

*** ERIN WILDER-DOOMES**

EXHIBIT B

CHRIS MARLONE (DOC # 558-725)

V.

STATE OF LOUISIANA and WARDEN TANNER and SECRETARY LEBLANC

REQUEST TO INITIATE ADMINISTRATIVE REMEDY PROCEDURE

TO: Warden Robert Tanner
Office of the Warden
Rayburn Correctional Center
27268 Hwy 21
Angie, Louisiana 70426

FROM: Emily Henrion Posner #35284
7214 St. Charles Ave.
Box 913
New Orleans, Louisiana 70118
Phone: 225-746-8820
Cell: 207-930-5232
Fax: 225-208-1439
Email: ep@emilyposnerlaw.com

CC: Mr. Jonathan Vining: JVining@corrections.state.la.us

Carol Jordan: cjordan@corrections.state.la.us

Debbie Rutledge: drutledge@corrections.state.la.us

Dear Warden Tanner:

I am filing this request for administrative remedy on behalf of Chris Marlone (DOC #558725) and in light of the emergent Covid-19 pandemic, its affects on the RCC offender population and staff, and his inability to remain socially distant from other offenders, as mandated by Governor John Bel Edwards.

According to the Federal Coronovirus Task Force and Governor Edwards, it is mandated that everyone, including offenders, keep a distant of six feet apart from others to stop the spread of the virus.

Unfortunately, Mr. Marlone is unable to follow the mandate at RCC or any prison, for many reasons: 1) RCC is overcrowded, 2) the bunks are only two feet apart, 3) the shower and bathroom area force offenders to stand one feet part to shower, wash their hands, or urinate, 4) the t.v and game room area have the potential to produce a cluster of covid cases because of the close proximity Mr. Marlone is forced to share with other offenders to watch the news, and 5) the very small tables in the kitchen seat four offenders at a time, which place offenders within inches of each other to eat their meals. It is a medically accepted fact that the virus is easily spreading by talking to another person. Talking is normal while eating in the kitchen.

As the number of positive cases and potentially suspect cases grow at RCC, among both officers

and offenders, there is an increase risk of exposure and danger to Mr. Marlone's health and safety as a diabetic. Mr. Marlone wasn't sentenced to death, rather he was sentenced to a fix of number of years, but his continual incarceration at RCC, with the increase exposure to the virus rapidly spreading at this prison imposes an unlawful death sentence in violation of his Eighth Amendment right to remain free of cruel and unusual punishment.

Relief Requested

1. That Mr. Marlone be temporarily released from the custody of RCC until after the spread of COVID-19 abates or a vaccine is manufactured.
2. That Mr. Marlone be released to the custody of his cousin in Leesville, Louisiana or his mother in Luftkin, Texas.
3. That as a condition of parole, Mr. Marlone wear an ankle bracelet and follow all the guidelines required of a parolee under Louisiana's parole laws.

Respectfully submitted,

/s/ Emily H. Posner

Emily H. Posner (La. Bar No. 35284)
7214 St. Charles Box 913
New Orleans, Louisiana 70118
Phone: 225-746-8820
Cell: 207-930-5232
Fax: 225-208-1439
Email: emilyposnerlaw@gmail.com

ORIGINAL DATE OF ARP REQUEST: April 7, 2020
SUPPLEMENTAL DATE OF ARP REQUEST:
SUBMITTED BY: Emily Posner on behalf of Mr. Chris Marlone (DOC # 558-725)

I hereby certify by signature below that a true, correct, and complete copy of this supplemental **request for administrative remedy or "ARP,"** was submitted by email to Lt. Carol Jordan and Attorney Debbie Rutledge of the Department of Corrections on April 7, 2020. The original, signed copy will follow by Fed-Ex.

/s/ Emily H. Posner

Emily H. Posner

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

*** CIVIL ACTION**

*** NO. 18-63-BAJ-EWD**

*** JUDGE BRIAN A. JACKSON**

*** MAGISTRATE JUDGE**

*** ERIN WILDER-DOOMES**

EXHIBIT D

CHRIS MARLONE (DOC # 558-725)

V.

STATE OF LOUISIANA and WARDEN TANNER and SECRETARY LEBLANC

EMERGENCY REQUEST FOR REASONABLE ACCOMODATIONS

TO: Warden Robert Tanner
Office of the Warden
Rayburn Correctional Center
27268 Hwy 21
Angie, Louisiana 70426

FROM: Emily Henrion Posner #35284
7214 St. Charles Ave.
Box 913
New Orleans, Louisiana 70118
Phone: 225-746-8820
Cell: 207-930-5232
Fax: 225-208-1439
Email: ep@emilyposnerlaw.com

CC: Mr. Jonathan Vining: JVining@corrections.state.la.us

Carol Jordan: cjordan@corrections.state.la.us

Debbie Rutledge: drutledge@corrections.state.la.us

Dear Warden Tanner:

I am writing on behalf of my client Mr. Christopher S. Marlowe¹ (DOC # 558725) with a formal **emergency request** pursuant to the Americans with Disabilities Act and the Rehabilitation Act that your facility provide appropriate programs and services that reasonably accommodate Mr. Christopher Marlowe's diabetes disability during the COVID-19 pandemic. This emergency request is made pursuant to LA. ADMIN. CODE tit. 22, pt. 3 § 325(H)-(J).

As a diabetes patient, Mr. Marlowe has a disability recognized and protected under Title II of the Americans with Disabilities Act and § 504 of the Rehabilitation Act.² Both pieces of federal legislation require institutions such as Rayburn to make reasonable accommodations to policies, rules, and practices so that inmates with disabilities – like Mr. Marlowe -- can participate in the facility's programs and services.³ Refusing to make reasonable accommodations is tantamount to denying access to programs and services based on a claimant's disability.⁴

¹ Christopher S. Marlowe is my client's legal name. However, the Department of Corrections has incorrectly entered his last name into their system as Christopher Marlone. Please take note of this error and recognize that from hereinafter the name "Mr. Marlowe" references the Christopher Marlone in DOC's system with the DOC number 558725.

² See 29 C.F.R. § 1630.2(j)(3)(iii)(stating "diabetes substantially limits endocrine function").

³ See e.g. Americans with Disabilities Act (hereinafter "ADA"), 42 U.S.C. § 1231(2)(2006).

⁴ See *Jaros v. Ill. Dep't of Corr.*, 684 F.3d 667, 672 (7th Cir. 2012).

As of today, the facility is struggling to maintain a COVID-19 outbreak as there are 21 confirmed COVID + prisoners. As a diabetic prisoner, Mr. Marlowe is highly susceptible to serious or fatal complications should he contract COVID-19.

On April 8, 2020, the Louisiana Department of Health has issued recommendations on how to handle this pandemic within the corrections setting. The last recommendation is that all prisoners and guards maintain six (6) feet from one another. While this recommendation has been formally withdrawn, it is in line with the recommendations from Federal Center for Disease Control and Governor Bel Edwards needed to “flatten the curve” of this outbreak.

It is impossible for Mr. Marlowe to maintain six feet from his fellow prisoners and guards in the dorm where he is living. An isolation unit is also not an option for Mr. Marlowe as he will not have access to the resources that he needs to self-regulate his diabetes symptoms.

Nevertheless, Rayburn needs to reasonably accommodate his disability and ensure his safety from contracting this potentially fatal disease.

Consequently, if Rayburn cannot provide the conditions for Mr. Marlowe as outlined by the Louisiana Department of Health, he respectfully requests that the Department of Corrections engage with the District Attorney’s Office and his criminal defense attorney to secure his release.

Respectfully submitted,

/s/ Emily H. Posner

Emily H. Posner (La. Bar No. 35284)
7214 St. Charles Box 913
New Orleans, Louisiana 70118
Phone: 225-746-8820
Fax: 225-208-1439
Email: emilyposnerlaw@gmail.com

Original Date of Reasonable Accommodations Request: April 10, 2020

SUBMITTED BY: Emily Posner on behalf of Mr. Chris Marlone (DOC # 558-725)

I hereby certify by signature below that a true, correct, and complete copy of this supplemental **request for administrative remedy or “ARP,”** was submitted by email to Lt. Carol Jordan and Attorneys Jonathan Vining and Debbie Ruttledge of the Department of Corrections on April 10, 2020. The original, signed copy will follow by Fed-Ex.

/s/ Emily H. Posner

Emily H. Posner

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHRIS MARLOWE,

VERSUS

JAMES LEBLANC, ET AL.

*** CIVIL ACTION**

*** NO. 18-63-BAJ-EWD**

*** JUDGE BRIAN A. JACKSON**

*** MAGISTRATE JUDGE**

ERIN WILDER-DOOMES

EXHIBIT E



Inmate Search

Prison Search

Help

Logout

Home Send Money Email Music

My Account

Inbox (133)



Compose

Sent

Buy Stamps

Stamp Balance (44)

Transfer Stamps

Transaction History

Delete

Reply

◀ Prev Next ▶

From: CHRISTOPHER MARLONE
Date: 4/13/2020 5:37:02 AM
To: Emily Posner

Attachments:

no spray bottle because those are for the orderly, locked up. still nothing is wiped down except for the initial cleaning Mon-fri at 7am. other than that, there is no cleaning.
they have fliers up about washing hands for covid. and last night (just noticed) they put a post of hygiene practices for covid. the cafeteria is still two men a table, 3 feet apart. era table is roughly 3x3
there are still 79 people per dorm. no ppe, still lots of traffic.
many officers still dont wear their masks. one even had the mask on, but had a rolled up piece of paper inserted through the side, like a snorkle. many just keep them on their forehead. even the nurse that gave me my insulin yesterday had no ppe on at all. weekends are very lax, but also people are just getting tired of worrying...
there are more sick but they are keeping it mum. last rumor said near 30 on Sat.

I hope your weekend was great. I didnt email yesterday cause you are really busting your ass and working hard. I felt guilty and didn't want to disturb your time with your kiddo.
If you need more, I'm sure you an set a call up. I won't be around email until 4pm.
hopeful Chris

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UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

CHRIS MARLOWE,	*	CIVIL ACTION
	*	
VERSUS	*	NO. 18-63-BAJ-EWD
	*	
JAMES LEBLANC, ET AL.	*	JUDGE BRIAN A. JACKSON
	*	
	*	MAGISTRATE JUDGE
	*	ERIN WILDER-DOOMES

NOTICE TO UPDATE THE COURT

NOW INTO COURT, through undersigned counsel, comes Plaintiff, Mr. Chris Marlowe, who wishes to file this update to the Court. Since the briefing deadline in this matter has closed, additional new information has come to light concerning the conditions of Mr. Marlowe’s confinement during the COVID-19 pandemic, and how those conditions do not comply with the Center for Disease Control guidance to correctional and detention facilities. As such, undersigned counsel would like to file this notice to update the Court with the attached Declaration from the Plaintiff.

Respectfully submitted,

/s/ Emily H. Posner
Emily H. Posner (La. Bar No. 35284)
7214 St. Charles Box 913
New Orleans, Louisiana 70118
Phone: 225-746-8820
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emilyposnerlaw@gmail.com

/s/ Alexander Bollag
Alexander “Sascha” Bollag (La. Bar No. 34447)
5208 Magazine St, #191
New Orleans, Louisiana 70115
Ph: (504) 913-7740

Fax: (813) 774-6595

Email: sbollag@greenjusticelegal.org

Attorneys for Mr. Marlowe



Inmate Search

Prison Search

Help

Logout

Home Send Money Email Music

My Account

Inbox (137)



Compose

Sent

Buy Stamps

Stamp Balance (29)

Transfer Stamps

Transaction History

Delete

Reply

◀ Prev Next ▶

From: CHRISTOPHER MARLONE
Date: 4/17/2020 6:01:37 PM
To: Emily Posner

Attachments:

I, Christopher Marlowe (ask Marlone), declare under the penalty of perjury that the forgoing is true and correct.

In my dorm live two medical orderlies that work I the infirmary, where sick, covid-19 positive/possible, and other infected people go daily. I strongly doubt they have any medically qualifying certifications, education, or training to handle covid-19 or prevent the spread of illness. I have also seen them without PPE at various times, when I've gone to get my insulin.

I have yet to see bleach or cleaner after coming in from work in any spray bottle that I can use. When I come in, there is now a spray bottle, but it is always empty.

The canteen is operated by three inmates from different dorms than mine, that to the best of my knowledge, along with the staff, work in the quarantined dorms, creating a risk for cross-dorm contamination.

Some officers in the dorms and on the walk are still refusing to wear their PPE as directed by the wardens. They either wear their masks incorrectly, allowing either their nose to hang over or mouth to be exposed beneath their mask, if they are wearing one at all. Officers are assigned to rotating locations, allowing them to potentially expose multiple dormitories to covid-19 by direct interaction and being assigned to areas with potential exposure. While in the dorms, officers are required to search multiple lockers for contraband on each shift, and if they do not have masks on, or are on incorrectly, they may be leaving traces of covid-19 in their wake.

I have seen with my eyes inmates cooking without PPE.

Inmates still interact with others from different dorms at work/meals, possibly creating a situation for spread.

Executed on April 17, 2020
Christopher Marlowe

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CHRISTOPHER MARLOWE : CIVIL ACTION
(DPSC#558725) :
VERSUS : NO. 18-63-BAJ-EWD
: JUDGE BRIAN A. JACKSON
JAMES LEBLANC, ET AL : MAG. JUDGE ERIN WILDER-DOOMES

EMERGENCY MOTION TO STAY ENFORCEMENT OF THE TRO (REC. DOC. 115)
PENDING APPEAL; EXPEDITED CONSIDERATION REQUESTED

NOW INTO COURT, through undersigned counsel, come the Defendants:

STATE OF LOUISIANA through the DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS (hereinafter “DPSC”);

JAMES W. LEBLANC (hereinafter “SECRETARY LEBLANC”), in his official capacity as Secretary of the Louisiana DPSC;

DR. RAMAN SINGH, in his official capacity as the former medical and mental health director at the Louisiana DPSC;

DR. PAM HEARD (hereinafter “DR. HEARD”), in her official capacity as the former interim medical and mental health director at the Louisiana DPSC;

DR. JOHN MORRISON (hereinafter “DR. MORRISON”), in his official capacity as the medical and mental health director at the Louisiana DPSC;

WARDEN TIMOTHY HOOPER (hereinafter “HOOPER”), in his official and personal capacities as the Warden of Elayn Hunt Correctional Center [EHCC], a facility owned and operated by DPSC;

DEPUTY WARDEN STEPHANIE MICHEL (hereinafter “MICHEL”), in her official and personal capacities as the deputy warden of medical care at EHCC;

ASSISTANT WARDEN MORGAN LEBLANC (“hereinafter “MORGAN LEBLANC”), in his official and personal capacities as the former assistant warden responsible for menu development and meal planning at EHCC;

ASSISTANT WARDEN DARRYL CAMPBELL (hereinafter “CAMPBELL”), in his official and personal capacities as an assistant warden responsible for menu development and meal planning at EHCC;

DR. PREETY SINGH (hereinafter “DR. PREETY SINGH”), in her official and personal capacities as the medical director at EHCC;

GAIL LEVY (hereinafter “LEVY”), in her individual and official capacities as the food manager at EHCC;

POLLY SMITH (hereinafter “SMITH”), in her individual and official capacities as a former nurse practitioner at EHCC;

FALLON STEWART (hereinafter “STEWART”), in his individual and official capacities as a former emergency medical technician (“EMT”) at EHCC;

ELIZABETH GAUTHREAU (hereinafter “GAUTHREAU”), in her individual and official capacities as an EMT at EHCC;

JONATHAN TRAVIS (hereinafter “TRAVIS”), in his official and personal capacities as a pharmacist at EHCC;

MASTER SGT. ANGEL HORN (hereinafter “HORN”), in her official and personal capacities as a correctional officer working at the Pill Call window at EHCC;

MASTER SGT. ROLANDA PALMER (hereinafter “PALMER”), in her official and personal capacities as a correctional officer working at the Pill Call window at EHCC;

SGT CHERMAINE BROWN (hereinafter “BROWN”), in her official and personal capacities as a correctional officer working at the Pill Call window at EHCC;

Rec. Doc. 64, Plaintiff’s operative Second Amended Complaint, at pp. 4-6, ¶9. Collectively, the eighteen (18) Defendants listed above will be referred to as “The Defendants”. The Defendants herein respectfully move to stay enforcement of the Temporary Restraining Order (Rec. Doc. 115) entered by this Honorable Court on April 23, 2020.

1.

The Defendants filed a Notice of Appeal (Rec. Doc. 116) from the Ruling (Rec. Doc. 115), which granted, in part, granting Plaintiff’s “Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Release” (Rec. Doc. 93).

2.

The TRO entered by this Honorable Court mandates compliance by the Defendants within five (5) days.

2

3.

Enforcement of the TRO should be stayed pending appeal pursuant to Rule 62 of the Federal Rules of Civil Procedure.

4.

“The factors for evaluating the appropriateness of a stay pending appeal are well-established” *Moore v. Tangipahoa Par. Sch. Bd.*, 507 F. App'x 389, 392 (5th Cir. 2013) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776, 107 S.Ct. 2113, 95 L.Ed.2d 724 (1987); and citing *Nken v. Holder*, 556 U.S. 418, 426, 129 S.Ct. 1749, 173 L.Ed.2d 550 (2009)).

(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. The first two factors are the most critical.

Valentine v. Collier, No. 20-20207, 2020 WL 1934431, at *3 (5th Cir. Apr. 22, 2020) (quoting *Nken v. Holder*, 556 U.S. 418, 426, 129 S.Ct. 1749, 173 L.Ed.2d 550 (2009); *Barber v. Bryant*, 833 F.3d 510, 511 (5th Cir. 2016)).

5.

The day before the Ruling of this Honorable Court was entered, a Motions Panel of the U.S. Fifth Circuit Court of Appeals entered an Order in the *Valentine* case, in which the Panel considered the foregoing well-established factors in light of a preliminary injunction entered against the executive director of the Texas prison system and the warden of one of its prisons regarding their response to COVID-19.

6.

As will be explained in the accompanying Memorandum in Support of the instant Motion, the TRO entered in this case should be stayed pending appeal for essentially the same reasons the stay was entered in the *Valentine* case.

7.

The Defendants are likely to succeed on the merits of their appeal; the Defendants will be irreparably harmed if the TRO is not stayed; a stay will not substantially harm the Plaintiff, who is the only other interested party; and the Defendants have a compelling interest in continuing their efforts to protect themselves and the offenders from contracting and spreading COVID-19.

8.

Counsel for the Plaintiff, on behalf of the Plaintiff, objects to the instant request for a stay.

9.

Because this Honorable Court provided the Defendants five (5) days to comply with the TRO, expedited hearing of the instant motion is necessary.

WHEREFORE, the Defendants pray this Honorable Court stays enforcement of the TRO pending appeal to the U.S. Fifth Circuit.

Respectfully Submitted,

JEFF LANDRY
ATTORNEY GENERAL

BY: s/Phyllis E. Glazer
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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CHRISTOPHER MARLOWE : CIVIL ACTION
(DPSC#558725) :
VERSUS : NO. 18-63-BAJ-EWD
: JUDGE BRIAN A. JACKSON
JAMES LEBLANC, ET AL : MAG. JUDGE ERIN WILDER-DOOMES

**MEMORANDUM IN SUPPORT OF EMERGENCY MOTION TO STAY
ENFORCEMENT OF THE TRO (REC. DOC. 115) PENDING APPEAL**

MAY IT PLEASE THE COURT:

The Defendants, STATE OF LOUISIANA through the DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS (hereinafter “DPSC”); JAMES W. LEBLANC (hereinafter “SECRETARY LEBLANC”), in his official capacity as Secretary of the Louisiana DPSC; DR. RAMAN SINGH, in his official capacity as the former medical and mental health director at the Louisiana DPSC; DR. PAM HEARD (hereinafter “DR. HEARD”), in her official capacity as the former interim medical and mental health director at the Louisiana DPSC; DR. JOHN MORRISON (hereinafter “DR. MORRISON”), in his official capacity as the medical and mental health director at the Louisiana DPSC; WARDEN TIMOTHY HOOPER (hereinafter “HOOPER”), in his official and personal capacities as the Warden of Elayn Hunt Correctional Center [EHCC], a facility owned and operated by DPSC; DEPUTY WARDEN STEPHANIE MICHEL (hereinafter “MICHEL”), in her official and personal capacities as the deputy warden of medical care at EHCC; ASSISTANT WARDEN MORGAN LEBLANC (“hereinafter “MORGAN LEBLANC”), in his official and personal capacities as the former assistant warden responsible for menu development and meal planning at EHCC; ASSISTANT WARDEN DARRYL CAMPBELL (hereinafter “CAMPBELL”), in his official and personal capacities as an

assistant warden responsible for menu development and meal planning at EHCC; DR. PREETY SINGH (hereinafter “DR. PREETY SINGH”), in her official and personal capacities as the medical director at EHCC; GAIL LEVY (hereinafter “LEVY”), in her individual and official capacities as the food manager at EHCC; POLLY SMITH (hereinafter “SMITH”), in her individual and official capacities as a former nurse practitioner at EHCC; FALLON STEWART (hereinafter “STEWART”), in his individual and official capacities as a former emergency medical technician (“EMT”) at EHCC; ELIZABETH GAUTHREAUX (hereinafter “GAUTHREAUX”), in her individual and official capacities as an EMT at EHCC; JONATHAN TRAVIS (hereinafter “TRAVIS”), in his official and personal capacities as a pharmacist at EHCC; MASTER SGT. ANGEL HORN (hereinafter “HORN”), in her official and personal capacities as a correctional officer working at the Pill Call window at EHCC; MASTER SGT. ROLANDA PALMER (hereinafter “PALMER”), in her official and personal capacities as a correctional officer working at the Pill Call window at EHCC; and SGT CHERMAINE BROWN (hereinafter “BROWN”), in her official and personal capacities as a correctional officer working at the Pill Call window at EHCC; herein explain why the TRO entered against them should be stayed pending appeal.

Collectively, the eighteen (18) Defendants listed above will be referred to as “The Defendants”. The Defendants herein respectfully move to stay enforcement of the Temporary Restraining Order (Rec. Doc. 115) entered by this Honorable Court on April 23, 2020.

I. STATEMENT OF THE CASE

The Plaintiff, a prisoner sentenced to the custody of the Louisiana Department of Public Safety and Corrections and currently housed at the Rayburn Correctional Center (RCC) in Angie, Louisiana,¹ filed the instant suit on January 25, 2018, under 42 U.S.C §1983, the Americans with

¹ Angie, Louisiana, is in Washington Parish, which is located within the Eastern District of Louisiana.

Disabilities Act, the Rehabilitation Act, and Louisiana law. Rec. Doc. 1, ¶6. Plaintiff subsequently amended his lawsuit twice, and the superseding, operative complaint is the Second Amended Complaint, Rec. Doc. 64.² Therein, the Plaintiff explains:

This action for injunctive, declaratory, and monetary relief is brought pursuant to 42 U.S.C. § 1983, pursuant to the First, Eighth and Fourteenth Amendment rights of the United States Constitution, and pursuant to the Americans with Disabilities Act, the Americans with Disabilities Act Amendment, and the Rehabilitation Act. Jurisdiction lies under 28 U.S.C. §§ 1331, 1343(a)(3) and (4), and 2201. Mr. Marlowe asserts state law claims, and thus invokes supplemental jurisdiction of all state law claims under 28 U.S.C. §1367.

Rec. Doc. 64, ¶6. The Plaintiff's claims he is entitled to compensatory and punitive damages, attorneys' fees, and the following pertinent injunctive relief:

Issue an injunction that restrains, enjoins, and prohibits the Defendants from serving food that does not meet the medical needs of diabetic inmates like Mr. Marlowe;

Issue an injunction that restrains, enjoins, and prohibits the Defendants from denying Mr. Marlowe access to appropriate medical care, including timely distribution of his medication, access to equipment to monitor his glucose levels, and timely dental, eye, and podiatrist appointments;

Rec. Doc. 64, p. 33 (Relief Requested), ¶3-4.

The Defendants moved to dismiss Plaintiff's Second Amended Complaint on October 10, 2019. Rec. Doc. 84. The Motion is still pending.

On April 1, 2020, the Plaintiff filed a "Motion for Temporary Restraining Order and/or Emergency Motion for Temporary Release" (Rec. Doc. 93, hereinafter referred to as the "TRO Motion"). Therein, the Plaintiff requested the following relief:

1. Enter an Order authorizing his temporary supervised release with or without location monitoring until spread of the COVID-19 virus is no longer a threat within the Louisiana Department of Corrections system.

² The Second Amended Complaint was filed ex parte, without leave of court.

2. Such other relief as the Court deems just and proper.

Rec. Doc. 93, p. 2. This Honorable Court conducted an evidentiary hearing by telephone on Friday April 7, 2020, during which the Court accepted the evidence presented by the parties in their respective memoranda and heard the testimony of the Plaintiff and of Warden Robert Tanner, a non-party, who is the Warden of RCC. A post-hearing legal memorandum was submitted by the Defendants in accordance with the Order of this Honorable Court at the hearing. Rec. Doc. 108. The Plaintiff filed a post-hearing memorandum, which was supposed to have responded to the Defendants' post-hearing memorandum but which, instead, presented to the Court for the first time, its request for the relief that was ultimately granted by this Honorable Court. Rec. Doc. 110. Subsequently, the Plaintiff filed two additional supplemental memoranda, which were filed *ex parte*, without leave of court, and labeled as "Notices". Rec. Docs. 112, 113.

On April 23, 2020, this Honorable Court granted, in part, the Plaintiff's Motion. Rec. Doc. 115. The Court denied the Plaintiff's sole request for immediate relief from custody but granted the Plaintiff's unpleaded, alternative request for "other appropriate relief." *Id.* This Honorable Court entered a preliminary injunction against the Defendants, rather than the requested TRO, and provided the Defendants five (5) days to comply with the injunction. *Id.*

Earlier today, April 24, 2020, the Defendants filed a Notice of Appeal (Rec. Doc. 116) from the Ruling (Rec. Doc. 115). Herein, the Defendants request a stay of the preliminary injunction.

II. LEGAL STANDARD – STAY OF PROCEEDINGS

"The factors for evaluating the appropriateness of a stay pending appeal are well-established" *Moore v. Tangipahoa Par. Sch. Bd.*, 507 F. App'x 389, 392 (5th Cir. 2013) (quoting

Hilton v. Braunskill, 481 U.S. 770, 776, 107 S.Ct. 2113, 95 L.Ed.2d 724 (1987); and citing *Nken v. Holder*, 556 U.S. 418, 426, 129 S.Ct. 1749, 173 L.Ed.2d 550 (2009)).

(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. The first two factors are the most critical.

Valentine v. Collier, No. 20-20207, 2020 WL 1934431, at *3 (5th Cir. Apr. 22, 2020) (quoting *Nken v. Holder*, 556 U.S. 418, 426, 129 S.Ct. 1749, 173 L.Ed.2d 550 (2009); *Barber v. Bryant*, 833 F.3d 510, 511 (5th Cir. 2016)).

The day before this Honorable Court entered the TRO at issue herein (Rec. Doc. 115), a Motions Panel of the U.S. Fifth Circuit Court of Appeals granted a stay of a preliminary injunction, which is extremely similar to that entered in this case. *Valentine v. Collier*, No. 20-20207, 2020 WL 1934431, at *1 (5th Cir. Apr. 22, 2020). This motion and the underlying injunction are procedurally similar to *Valentine v. Collier* (5th Circuit No. 20-20207) and arise out of a highly similar situation, that is, COVID-19 issues in a state prison system (in that case, Texas). The district court in *Valentine* granted COVID-19 related injunctive relief to the inmates on Thursday, April 16, 2020. On Wednesday, April 22, 2020 the Fifth Circuit granted the FRAP Rule 8 motion filed by the Texas prison officials and stayed the injunction pending appeal.

III. ARGUMENT

A. The Fifth Circuit has jurisdiction to review the Order of this Honorable Court

To show they have a substantial likelihood of succeeding on the merits, the Defendants must first show the Fifth Circuit has jurisdiction to review the challenged order. Although the Plaintiff filed a Motion for TRO, the Order entered is a preliminary injunction.

A circuit court normally has no authority to review a TRO. *Faulder v. Johnson*, 178 F.3d 741, 742 (5th Cir.1999). However, circuit courts do have the authority to review preliminary injunctions pursuant to 28 U.S.C. § 1292(a)(1) (permitting

interlocutory review of orders “granting, continuing, modifying, refusing or dissolving injunctions”). Thus, when a “district court’s [granting] of [a] TRO ha[s] the same practical effect as the granting of a preliminary injunction, it is immediately appealable under 28 U.S.C. § 1292(a)(1).” *Jones v. Belhaven Coll.*, 98 Fed.Appx. 283, 284 (5th Cir.2004); *see also Belo Broad. Corp. v. Clark*, 654 F.2d 423, 426 (5th Cir.1981) (“In certain circumstances the denial of a requested TRO can be considered denial of a preliminary injunction.”).

Turner v. Epps, 460 F. App'x 322, 325–26 (5th Cir. 2012). Rule 65 of the Federal Rules of Civil Procedure distinguishes preliminary injunctions from temporary restraining orders.

The Fifth Circuit in *Belo Broad. Corp.* explained:

In determining whether a district court has ordered a TRO or preliminary injunction:

The label appended by the requesting party or the judge is not conclusive as to its proper characterization. The central inquiry goes to the nature and scope of the hearing that precedes the denial of the motion. The denial of a so-called temporary restraining order is properly appealable when entered after a hearing in which all interested parties had an opportunity to participate, thus allowing for full presentation of relevant facts.

Belo Broad. Corp., 654 F.2d at 426. As the Supreme Court has explained, in cases “where an adversary hearing has been held, and the court’s basis for issuing the order strongly challenged, classification of the potentially unlimited order as a temporary restraining order seems particularly unjustified.” *Sampson v. Murray*, 415 U.S. 61, 87, 94 S.Ct. 937, 39 L.Ed.2d 166 (1974).

Turner, 460 F. App'x at 326. *See also Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers*, 415 U.S. 423, 439 (1974) (holding a temporary restraining order is meant to “preserve the status quo and prevent irreparable harm just so long as is necessary to hold a hearing, and no longer.”) Considering this Honorable Court conducted an evidentiary hearing, the text of Rule 65, the precedent of *Turner*, and the cases cited therein, the Order (Rec. Doc. 115) meets all of the criteria of an injunction and none of the criteria of a temporary restraining order. The Fifth Circuit has jurisdiction over the Defendants’ direct appeal from the injunction. 28 U.S.C. §1292(a)(1).

- B. Additionally, the Fifth Circuit has jurisdiction and the Defendants are likely to succeed on appeal because the Injunction is barred by the Eleventh Amendment.

Even if this Honorable Court's Order is considered a TRO for purposes of appeal, the Fifth Circuit nonetheless has jurisdiction to review the Order. The defendants invoked Eleventh Amendment immunity, which this Court specifically denied. Rec. Doc. 115, p. 8. Thus, the Fifth Circuit has jurisdiction to hear Defendants' appeal pursuant to the collateral order doctrine.

Appellate jurisdiction is generally limited to "final decisions of the district courts of the United States." 28 U.S.C. §1291. There nonetheless exists a class of rulings, not concluding the litigation, but that resolve "claims of right separable from, and collateral to, rights asserts in the action." *Martin v. Halliburton*, 618 F.3d 476, 582 (5th Cir. 2010) (citing *Will v. Hallock*, 546 U.S. 345, 349, 126 S.Ct. 952, 163 L.Ed.2d 836 (2006)). This "collateral order doctrine" involves claims "too important to be denied review and too independent of the cause itself to require that appellate consideration be deferred until the whole case is adjudicated." *Id.* The Fifth Circuit has specifically recognized that a trial court's denial of Eleventh Amendment immunity is an order subject to collateral appeal. *Martin v. Halliburton*, 618 F.3d at 483 fn. 10 (citing *P.R. Aqueduct and Sewer Authority v. Metcalf & Eddy, Inc*, 506 U.S. 139, 113 S.Ct. 684, 121 L.Ed.2d 605 (1993)).

The Fifth Circuit has collateral order jurisdiction *and* Defendants are likely to succeed on appeal because this Honorable Court was without jurisdiction to order compliance with state law, policies, or internal agency guidance. This Honorable Court found, "[i]t is axiomatic that state officials acting in their official capacity can nonetheless be sued for prospective injunctive relief to correct ongoing violations of federal law." Rec. Doc. 115, p. 8 (citing *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 105, 104 S. Ct. 900, 910, 79 L. Ed. 2d 67 (1984) (additional citation omitted).

Despite citing *Pennhurst*, this Honorable Court concluded “Defendants must comply with the Governor’s recommendations and their own internal policies[.]” Rec. Doc. 115, p. 13. This Honorable Court also specifically noted that DOC’s COVID-19 guidance “lists several requirements that Defendants do not appear to be following[.]” and lists examples of same. *Id.*, pp. 10-12. As this Honorable Court noted, state officials can only be sued for prospective injunctive relief to correct ongoing violations of *federal law*, not *state law*. *Id.* at p. 13.

In *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89, 104 S.Ct. 900, 79 L.Ed.2d 67 (1984), a plaintiff class brought suit under inter alia the Eighth Amendment and state law to challenge the conditions at a state facility for people with mental disabilities. See *id.* at 92, 104 S.Ct. 900. The Supreme Court held that the Eleventh Amendment prohibits federal courts from enjoining state facilities to follow state law. See *id.* at 103–23, 104 S.Ct. 900.

Valentine, 2020 WL 1934431, at *4.

This Honorable Court’s injunction requiring the defendants to follow the instructions of the Louisiana Governor and internal DOC policies are contrary to the Fifth Circuit’s recent *Valentine* decision. In *Valentine*, the Fifth Circuit applied the *Pennhurst* analysis and rejected the notion that a district court can enjoin a state facility from following state law. *Valentine*, *7. Directly pertinent to this case, the *Valentine* Court also specifically noted that an injunction “promoting compliance” with internal agency policies was prohibited. *Id.* This Honorable Court’s Order forces the Defendants to enforce state guidance and/or policies without a finding that the policies themselves are constitutionally infirm. See *Valentine*, *6-7 (“Plaintiffs have cited no precedent holding that the CDC recommendation are insufficient to satisfy the Eighth Amendment”). The injunction issued by this Honorable Court violates the Eleventh Amendment, and the Defendants are likely to prevail on their appeal.

- C. The Defendants are likely to succeed on the merits of their appeal because the Plaintiff's lawsuit does not plead a claim for the relief that was granted by this Honorable Court.

A claim for injunctive relief must be pled in the underlying complaint. Fed. R. Civ. P. 8.

The Plaintiff claims the following:

Issue an injunction that restrains, enjoins, and prohibits the Defendants from serving food that does not meet the medical needs of diabetic inmates like Mr. Marlowe;

Issue an injunction that restrains, enjoins, and prohibits the Defendants from denying Mr. Marlowe access to appropriate medical care, including timely distribution of his medication, access to equipment to monitor his glucose levels, and timely dental, eye, and podiatrist appointments;

Rec. Doc. 64, p. 33 (Relief Requested), ¶3-4. The Defendants' pending Motion to Dismiss seeks dismissal of the foregoing claims for injunctive relief.

This Honorable Court found:

Defendants allege that it is improper for Plaintiff to allege new claims, not included in the initial complaint, through the filing of this TRO. While Defendants are correct that Plaintiff's Second Amended Complaint (Doc. 64) does not specifically address the outbreak of the novel coronavirus, it is fully premised upon Plaintiff's diabetes diagnosis and the prison facility's alleged inability to effectively provide medical care related to it. [FN2 The underlying Complaint is premised upon allegations against personnel at the Elayn Hunt Correctional Center who allegedly contributed to Plaintiff's diagnosis of diabetes.] Plaintiff has been moved to another facility, but remains within the custody of the Louisiana Department of Corrections, a named Defendant. An enhanced risk of contracting COVID-19 due to his condition, while not foreseeable at the time Plaintiff originally filed this lawsuit, stems from the same factual nexus as the original and amended Complaints.

Rec. Doc. 115, p. 4. There appears to be no dispute that Plaintiff's Complaint does not state a plausible claim for relief related to the Department's response to COVID-19. Fundamentally, Plaintiff's claim for injunctive relief is premised on an Eighth Amendment violation which is actionable under 42 U.S.C. §1983 but, the Department of Corrections, albeit a named Defendant, is not a "person" capable of being sued under §1983. *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71 (1989); *Washington v. Louisiana*, 425 F. App'x 330, 333 (5th Cir. 2011) ("The State

and DPSC are not persons....”). The Defendants are likely to succeed on appeal because the claims upon which the injunctive relief were granted are not pleaded in this lawsuit.

- D. The Defendants are likely to succeed on the merits of their appeal because the Plaintiff, a prisoner, failed to exhaust administrative remedies prior to demanding the injunction.

This Honorable Court found, “Plaintiff admits that he did not exhaust administrative remedies and did not file a request to initiate the Administrative Remedy Procedure (ARP) related to this claim until April 7, 2020, after filing the instant Motion.” Rec. Doc. 115, p. 6 (citing Doc. 102–2, at p. 2).

The Defendants are likely to succeed on the merits of their appeal because, “[i]n the Supreme Court’s view, reading a “special circumstances” exception into the PLRA would undo the PLRA and “resurrect” its predecessor.” *Valentine*, No. 20-20207, 2020 WL 1934431, at *6 (5th Cir. Apr. 22, 2020) (citing *Ross v. Blake*, — U.S. —, 136 S. Ct. 1850, 1859–60, 195 L.Ed.2d 117 (2016)). The Fifth Circuit explained,

The PLRA requires inmates to exhaust “such administrative remedies as are available” before filing suit in federal court to challenge prison conditions. 42 U.S.C. § 1997e(a). This exhaustion obligation is mandatory—there are no “futility or other [judicially created] exceptions [to the] statutory exhaustion requirements” *Booth v. Churner*, 532 U.S. 731, 741 n.6, 121 S.Ct. 1819, 149 L.Ed.2d 958 (2001). So long as the State’s administrative procedure grants “authority to take some action in response to a complaint,” that procedure is considered “available,” even if it cannot provide “the remedial action an inmate demands.” *Id.* at 736, 121 S.Ct. 1819 (emphasis added); *see also id.* at 739, 121 S.Ct. 1819 (“Congress meant to require procedural exhaustion regardless of the fit between a prisoner’s prayer for relief and the administrative remedies possible.”).

Valentine, 2020 WL 1934431, at *5–6.

This Honorable Court excused the Plaintiff from complying with the mandatory exhaustion requirement as to the claims in his Motion because the Fifth Circuit has afforded the District Courts discretion to excuse prisoners from the exhaustion requirement. Rec. Doc. 115 at pp. 6-7 (quoting *Johnson v. Ford*, 261 F. App’x 752, 755 (5th Cir. 2008) (holding that, while the facts presented in

that case did not justify excusal, PLRA exhaustion requirements may be excused where dismissal would be “inefficient and would not further the interests of justice or the purposes of the exhaustion requirement”). In addition to the *Valentine* decision, which clearly establishes that no “special circumstances” exception to the exhaustion requirement exists, the Fifth Circuit had, approximately 8 years ago, abrogated the very language relied on by this Honorable Court in support of its purported discretion to excuse the exhaustion mandate. *Gonzalez v. Seal*, 702 F.3d 785, 788 (5th Cir. 2012).

After *Woodford*^[3] and *Jones*,^[4] there can be no doubt that pre-filing exhaustion of prison grievance processes is mandatory. We thus hold that *Underwood*^[5] has been tacitly overruled and is no longer good law to the extent it permits prisoner lawsuits challenging prison conditions to proceed in the absence of pre-filing administrative exhaustion. District courts have no discretion to excuse a prisoner's failure to properly exhaust the prison grievance process before filing their complaint. It is irrelevant whether exhaustion is achieved during the federal proceeding. Pre-filing exhaustion is mandatory, and the case must be dismissed if available administrative remedies were not exhausted.

(Emphasis added). In *Gonzalez*, after holding that *Underwood* has been overruled, the Fifth Circuit dismissed the prisoner-plaintiff's lawsuit for failure to exhaust administrative remedies because the prisoner-plaintiff filed his initial ARP grievance after suit was filed. Thus, for the same reason *Gonzalez's* Complaint was dismissed by the Fifth Circuit, the Plaintiff's injunctive relief claim will be dismissed for failure to exhaust. See also *Jones v. Bock, supra*, which found non-exhausted claims must be dismissed.

³ *Woodford v. Ngo*, 548 U.S. 81, 126 S.Ct. 2378, 165 L.Ed.2d 368 (2006).

⁴ *Jones v. Bock*, 549 U.S. 199, 127 S.Ct. 910, 166 L.Ed.2d 798 (2007).

⁵ *Underwood v. Wilson*, 151 F.3d 292 (5th Cir.1998). In *Underwood*, the Fifth Circuit “rejected a ‘strict’ reading of 42 U.S.C. § 1997e(a); instead adopting a discretionary test because ‘dismissing the suit and requiring [Underwood] to refile is inefficient,’ and mandatory pre-filing exhaustion ‘would not further the interests of justice or the Congressional purposes behind the PLRA.’” *Gonzalez*, 702 F.3d at 787 (quoting *Underwood*, 151 F.3d at 296).

- E. The Defendants are likely to succeed on the merits of their appeal because the finding that the Defendants are violating the Eighth Amendment was in error.

This Honorable Court held the Plaintiff's "credible" testimony established that he will likely be able to prevail on the merits of his Eighth Amendment claim at trial. Rec. Doc. 115, p.

10. This Honorable Court explained:

It would appear, therefore, that despite taking some steps to deter the spread of the virus, Rayburn has not effectively implemented the DOC policies that require staff members and orderlies to wear masks and other PPE to protect the prison population, including the Plaintiff. (Doc. 108–1 at p. 12–14). The prison has also failed to meaningfully implement social-distancing procedures and other measures aimed at thwarting the spread of the coronavirus.

Id. at p. 11. This Honorable Court held:

Defendants' failure to implement their own internal protective policies may itself entitle Plaintiff to relief from the Court. See *Johnson v. Epps*, 479 F. App'x 583, 590 (5th Cir. 2012) (holding that an inmate sufficiently stated a claim for deliberate indifference where prison officials adopted a policy mandating more sanitary procedures, but failed to enforce the policy). Accordingly, the Court finds that Plaintiff has shown a substantial likelihood of prevailing on the merits of this Motion.

Id. at p. 12. The Defendants are likely to succeed on the merits of their appeal because this Honorable Court misapplied the deliberate indifference analysis as articulated by the Supreme Court in *Farmer v. Brennan*.

In a constitutional claim alleging deliberate indifference to the conditions of a prisoner's confinement, the plaintiff must satisfy both the "subjective and objective requirements" of the Eighth Amendment inquiry. *Farmer v. Brennan*, 511 U.S. 825, 846, 114 S.Ct. 1970, 128 L.Ed.2d 811 (1994). To satisfy the objective requirement, the plaintiff must show an "objectively intolerable risk of harm." *Ibid.* To satisfy the subjective requirement, the plaintiff must show that the defendant: "(1) was 'aware of facts from which the inference could be drawn that a substantial risk of serious harm exists'; (2) subjectively 'dr[e]w the inference' that the risk existed; and (3) disregarded the risk." *Cleveland v. Bell*, 938 F.3d 672, 676 (5th Cir. 2019) (quoting *Farmer*, 511 U.S. at 837, 114 S.Ct. 1970). The "incidence of diseases or infections, standing alone," do not "imply unconstitutional confinement conditions, since any densely populated residence may be subject to outbreaks." *Shepherd v. Dallas Cty.*, 591 F.3d 445, 454 (5th Cir. 2009). Instead, the plaintiff must show a denial of "basic human needs." *Ibid.* "Deliberate indifference is an

extremely high standard to meet.” *Cadena v. El Paso Cty.*, 946 F.3d 717, 728 (5th Cir. 2020).

Valentine, 2020 WL 1934431, at *3.

With regard to the first element of the deliberate indifference analysis, substantial risk of harm, neither the Plaintiff nor this Honorable Court cited any precedent to support that the measures implemented by DPSC and RCC, which this Honorable Court discussed in detail, are constitutionally deficient. Furthermore, this Honorable Court wholly bypassed the subjective component of the deliberate indifference analysis. On this element of the deliberate indifference analysis, this Honorable Court committed a similar error to that discussed by the Fifth Circuit in *Valentine*.

Even assuming that there is a substantial risk of serious harm, the Plaintiffs lack evidence of the Defendants’ subjective deliberate indifference to that risk. In *Farmer v. Brennan*, the Supreme Court held that deliberate indifference requires the defendant to have a subjective “state of mind more blameworthy than negligence,” *Farmer*, 511 U.S. at 835, 114 S.Ct. 1970, akin to criminal recklessness, *id.* at 839–40, 114 S.Ct. 1970. The district court misapplied this standard. It appeared to think that the question was “whether [the Defendants] reasonably abate[d] the risk” of infection, D. Ct. Op. at 20, or stated differently, “whether and how [TDCJ’s] policy is being administered,” *id.* at 23.

The district court thus collapsed the objective and subjective components of the Eighth Amendment inquiry established in *Farmer*, treating inadequate measures as dispositive of the Defendants’ mental state. Such an approach resembles the standard for civil negligence, which *Farmer* explicitly rejected. Though the district court cited the Defendants’ general awareness of the dangers posed by COVID-19, it cited no evidence that they subjectively believe the measures they are taking are inadequate. To the contrary, the evidence shows that TDCJ has taken and continues to take measures—informed by guidance from the CDC and medical professionals—to abate and control the spread of the virus. *See* Dkt. 36-7 (declaration of TDCJ Health Services Director); Dkt. 36 at 13–20 (compiling evidence of protective measures taken by TDCJ). Although the district court might do things differently, mere “disagreement” with TDCJ’s medical decisions does not establish deliberate indifference. *Cadena*, 946 F.3d at 729.

Valentine, 2020 WL 1934431, at *4. The Fifth Circuit stayed the injunction issued against TDCJ pending appeal. Here, the Plaintiff produced no evidence that any Defendant (or non-Defendant

Robert Tanner) believes the measures they are taking to protect the offenders and staff from contracting COVID-19 are inadequate. On the contrary, after reviewing the evidence offered by the Defendants and having numerous conversations by phone and email with the Plaintiff, counsel for the Plaintiff made the following admission during the hearing on the injunction:

4 AND I DO ACKNOWLEDGE THAT I THINK EVERYONE
5 HERE IS TRYING THEIR VERY, VERY BEST TO MAKE SURE
6 THAT NOBODY GETS SICK AT RAYBURN, SO THIS IS NOT, YOU
7 KNOW, ABOUT ANYONE INDIVIDUALLY OR THEIR ACTIONS OR
8 INACTIONS BUT JUST ABOUT THE CHALLENGES THAT EXIST IN
9 THIS TYPE OF A CORRECTIONAL SETTING.

Rec. Doc. 110-1, p. 11:4-9. The Defendants are likely to succeed on the merits of the Eighth Amendment claim on appeal.

F. The State of Louisiana, through its officials, will be irreparably injured absent a stay.

The second of the two most critical factors in determining whether to grant a stay is whether the Defendants will be irreparably injured absent a stay. *Barber v. Bryant*, 833 F.3d 510, 511 (5th Cir. 2016)). In *Valentine*, the Fifth Circuit explained the irreparable injury that will be suffered by TDCJ should that injunction stand; such is the case here.

When the State is seeking to stay a preliminary injunction, it's generally enough to say " '[a]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.' " *Maryland v. King*, 567 U.S. 1301, 133 S. Ct. 1, 3, 183 L.Ed.2d 667 (2012) (Roberts, C.J., in chambers) (quoting *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351, 98 S.Ct. 359, 54 L.Ed.2d 439 (1977) (Rehnquist, J., in chambers)). The Texas Legislature assigned the prerogatives of prison policy to TDCJ. See, e.g., TEX. GOV'T CODE ch. 501. The district court's injunction prevents the State from effectuating the Legislature's choice and hence imposes irreparable injury.

Moreover, the Supreme Court has repeatedly warned that "it is 'difficult to imagine an activity in which a State has a stronger interest, or one that is more intricately

bound up with state laws, regulations, and procedures, than the administration of its prisons.’ ” *Woodford v. Ngo*, 548 U.S. 81, 94, 126 S.Ct. 2378, 165 L.Ed.2d 368 (2006) (quoting *Preiser v. Rodriguez*, 411 U.S. 475, 491–92, 93 S.Ct. 1827, 36 L.Ed.2d 439 (1973)); see also *Missouri v. Jenkins*, 495 U.S. 33, 51, 110 S.Ct. 1651, 109 L.Ed.2d 31 (1990).

[...]

The harm to TDCJ is particularly acute because the district court’s order interferes with the rapidly changing and flexible system-wide approach that TDCJ has used to respond to the pandemic so far. [...]

TDCJ’s ability to continue to adjust its policies is significantly hampered by the preliminary injunction, which locks in place a set of policies for a crisis that defies fixed approaches. See, e.g., *Jacobson v. Massachusetts*, 197 U.S. 11, 28–29, 25 S.Ct. 358, 49 L.Ed. 643 (1905); *In re Abbott*, 954 F.3d 772, — (5th Cir. 2020) (describing COVID-19 as a “massive and rapidly-escalating threat”). And it prevents TDCJ from responding to the COVID-19 threat without a permission slip from the district court. That constitutes irreparable harm.

Valentine, 2020 WL 1934431, at *4–5. The Louisiana Legislature assigned the prerogatives of prison policy to DPSC. See e.g. La. R.S. 36:401. “The district court’s injunction prevents the State from effectuating the Legislature’s choice and hence imposes irreparable injury.” *Valentine*, *supra*.

Warden Robert Tanner, the Warden of RCC, who is not a party to this lawsuit, testified at the preliminary injunction proceeding and additionally submitted an affidavit in connection with the post-hearing memorandum filed by the Defendants. Warden Tanner explained the steps that were being taken at the time the affidavit was signed, as well as steps being taken for the future, to protect the offenders from contracting COVID-19. Rec. Doc. 108-4. This Honorable Court found:

The officials at Rayburn have taken numerous steps to implement policies to contain the spread of COVID-19 during these challenging times. While the number of infected inmates has grown, so too have the protective measures implemented at Rayburn by the DOC in response. Indeed, the demands made upon corrections officials in their effort to contain the spread of this pandemic within their facilities is unprecedented.

Rec. Doc. 115, p. 7. This Honorable Court then found specific deficiencies in the protective measures implemented. The Court's ruling was based on the testimony of the offender which the Court determined was "credible" and "uncontroverted." However, the post-hearing affidavit submitted by Warden Tanner controverts the Plaintiff's self-serving testimony.

"Plaintiff testified that the common water fountain in his dormitory is not wiped clean after each use by the inmates." Rec. Doc. 115, p. 8. Warden Tanner attested:

Water may be obtained from the water fountains or any faucet in the dorm. Offenders are issued plastic cups and do not have to drink directly from water fountains. Additionally, offenders have access to a spray bottle with a 1:10 bleach/water solution (available in the dormitory), which may be used to sanitize the water fountain fixtures.

Rec. Doc. 108-4, ¶13. Following the hearing, "On April 13, Plaintiff reported that he had received a spray-bottle to clean high-touch surfaces as contemplated. See (Doc. 112). However, a few days later, Plaintiff notified the Court that the bottle was often empty. (Doc. 113, at p. 3)." Rec. Doc. 115, p. 11. Often-empty bottles are often-refilled.

The Plaintiff "also testified that telephones in the dormitory are spaced a mere 12 inches apart and that no prisoner separation procedures have been implemented in the area of the telephones." Warden Tanner attested that the Plaintiff has a personal JPAY tablet that can be used anywhere within wi-fi range to make telephone calls and send emails. Rec. Doc. 108-4, ¶10. Thus, the Plaintiff has no reason to use dormitory telephones. Additionally, the offenders' bleach-solution-filled spray bottles can be used to disinfect the phones. Such is the case with the microwaves and computers, which may be disinfected by the offender's personal spray bottle.

The Plaintiff incredibly alleges "no procedures have been implemented to avoid chokepoints in the walkways in the dormitory." Clearly, any "chokepoint" or gathering of offenders poses a risk to security. Warden Tanner attested, "Offenders are required to travel the facility's walkways on the right side of the walk. We have painted yellow lines on the walks for

this purpose. **For security reasons, RCC staff has always been instructed to not allow offenders to “bunch up” at gates within the facility.**” Rec. Doc. 108-4, ¶11.

This Honorable Court further stated, “More troubling is the Plaintiff’s testimony that the inmates who serve the food only occasionally wear face masks in a proper manner while serving food.” Warden Tanner responded to this allegation with evidence this Honorable Court did not acknowledge in the Ruling. Warden Tanner attested, “Surgical masks are supplied to those inmates who have tested positive and are under quarantine. Surgical masks are also required for offenders working in the kitchen, infirmary, laundry, and other areas in which our Medical Director has suggested. **Currently, we are in the process of obtaining two cloth masks for every offender.**” Rec. Doc. 108-4, ¶12.

Deliberate indifference is an extremely high standard to meet. The Plaintiff did not satisfy his burden and the Defendants are likely to succeed on the merits of their appeal.

G. The final two elements of the stay should be resolved in favor of the Defendants.

The Fifth Circuit explained in *Valentine*:

The remaining two factors of the stay standard are the balance of the harms and the public interest. See *Nken*, 556 U.S. at 426, 129 S.Ct. 1749. Both weigh in favor of staying the district court’s injunction. There is no doubt that COVID-19 poses risks of harm to all Americans, including those in the Pack Unit. But the question is whether Plaintiffs have shown that they will suffer irreparable injuries even after accounting for the protective measures in TDCJ Policy B-14.52. Neither the Plaintiffs nor the district court suggest the evidence satisfies that standard. And “[b]ecause the State is the appealing party, its interest and harm merge with that of the public.” *Veasey v. Abbott*, 870 F.3d 387, 391 (5th Cir. 2017) (citing *Nken*, 556 U.S. at 435, 129 S.Ct. 1749). Therefore, TDCJ has satisfied all four requirements of the stay standard.

Valentine v. Collier, No. 20-20207, 2020 WL 1934431, at *3 (5th Cir. Apr. 22, 2020) (quoting *Nken v. Holder*, 556 U.S. 418, 426, 129 S.Ct. 1749, 173 L.Ed.2d 550 (2009)).

IV. CONCLUSION

Considering the foregoing, particularly the Fifth Circuit ruling in *Valentine*, the preliminary injunction (Rec. Doc. 115) should be stayed pending appeal.

Respectfully Submitted,

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CHRIS MARLOWE, * CIVIL ACTION
*
VERSUS * NO. 18-63-BAJ-EWD
*
JAMES LEBLANC, ET AL. * JUDGE BRIAN A. JACKSON
*
* MAGISTRATE JUDGE
* ERIN WILDER-DOOMES

PLAINTIFF’S OPPOSITION TO THE DEFENDANTS’ EMERGENCY MOTION TO
STAY ENFORCEMENT OF THE TRO (Rec. Doc. 115) PENDING APPEAL

MAY IT PLEASE THE COURT

Plaintiff, Mr. Christopher Marlowe, submits this Memorandum of Law in opposition to the Defendants’ Emergency Motion to Stay the Enforcement of the TRO Pending Appeal.¹

PRELIMINARY STATEMENT

A major and unprecedented humanitarian disaster is unfolding in jails and prisons across the United States as the COVID-19 virus has begun to infect these vulnerable populations living in compact spaces across the country.² It is no different here in Louisiana. As of April 25, 2020, two-hundred and forty-five (245) prisoners and ninety-one (91) Department of Corrections (“DOC”) staff have contracted the virus.³ Defendant James LeBlanc, DOC Secretary, has

¹ Doc. 117.

² See e.g. Cary Aspinwall and Joseph Neff, *These Prisons are Doing Mass Testing for COVID-19 – And Finding Mass Infections*, THE MARSHALL PROJECT (Apr. 25, 2020), <https://www.themarshallproject.org/2020/04/24/these-prisons-are-doing-mass-testing-for-covid-19-and-finding-mass-infections> (last visited Apr. 25, 2020) (stating that Ohio’s Marion Correctional Institution has “reported four deaths, but has more than 2,000 and at least 160 staffers who have tested positive for the virus.”).

³ See *Covid-19 Inmate Positives* (Apr. 13, 2020), <https://doc.louisiana.gov/doc-covid-19-testing/> (last visited Apr. 25, 2020).

himself publicly observed that “we are all at risk to the virus.”⁴ Recently, Warden Sandy McCain and Dr. Casey McVea of DOC’s Raymond Laborde Correctional Center died from coronavirus complications.⁵ B.B. Rayburn Correctional Center (“Rayburn”), where Mr. Marlowe is housed, is a hot spot of infections now with 31 confirmed infections (29 prisoners and 2 staff).⁶ **Alarminglly, this number has dramatically increased from 4 to 29, since Mr. Marlowe first filed for emergency injunctive relief.** Additionally, at the April 7, 2020 evidentiary hearing, **Warden Tanner indicated that it was just one unit – the Rain Unit – that was under quarantine for exposure to coronavirus.**⁷ However, since that time an additional unit – the Snow Unit – which houses much of the kitchen workers is now also under quarantine.⁸

This Court issued a carefully reasoned ruling and order on April 23, 2020, requiring the Defendants to submit to the Court within five days,

a Plan to ensure the implementation of proper hygiene practices in the dormitory in which Plaintiff is assigned, and to implement social distancing practices to limit the spread of COVID-19, as recommended by the Center For Disease Control and other public health authorities, in Plaintiff’s immediate living area, for the protection of the Plaintiff. Defendants shall also submit a Plan to minimize Plaintiff’s exposure to possible infected persons while visiting the infirmary and cafeteria areas of the prison.⁹

The Court came to this decision after reviewing documentary evidence submitted by both the Plaintiff and the Defendant DOC, as well as taking testimony from both the Plaintiff and Warden Tanner.

⁴ *Two DOC employees test positive for COVID-19*, KATC3 (Mar. 26, 2020), <https://www.katc.com/news/covering-louisiana/two-doc-employees-test-positive-for-covid-19> (last visited April 19, 2020).

⁵ See Lea Skene, *Coronavirus hits Louisiana prisons: Medical director, head warden, first state inmate die*, The New Orleans Advocate, Apr. 20, 2020, available at https://www.theadvocate.com/baton_rouge/news/coronavirus/article_697c5eb6-8354-11ea-a205-9726a420e972.html (last visited April 23, 2020).

⁶ *Id.*

⁷ Doc. 110-1, Transcript, p. 44.

⁸ See Ex. A (Marlowe Communication Apr. 25, 2020) (a formal declaration is forthcoming concerning the quarantine of the Snow Unit, however, considering the emergency motion filed by the Defendants, undersigned believed it necessary to provide this information to the Court as soon as possible).

⁹ Doc. 115 at 14.

This decision does not dictate or impose the Court’s opinion as to how the Defendants should provide relief to Mr. Marlowe, rather it requires them to develop a plan as to how it intends to implement lifesaving social distancing measures required to protect Mr. Marlowe from imminent harm.

STANDARD OF REVIEW

“A stay is an intrusion into the ordinary processes of administration and judicial review’ and a party is not entitled to a stay as a matter of right.”¹⁰ “The parties and the public, while entitled to both careful review and a meaningful decision, are also generally entitled to the prompt execution of” judgments.¹¹ Thus Defendants DOC and Leblanc, as the “part[ies] requesting a stay,” “bear[] the burden of showing that the circumstances justify an exercise of [this Court’s] discretion.”¹²

Courts “consider four factors in deciding whether to grant a stay pending appeal: (1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.”¹³ In other words, given this standard, in order “[t]o succeed on the merits, [a party] must show that [the court] *abused its discretion* by entering a preliminary injunction.”¹⁴ As set forth more fully below, Defendants have plainly failed to do so here.

ARGUMENT

I. Likelihood of Success on the Merits

¹⁰ *Campaign for S. Equal. v. Bryant*, 773 F.3d 55, 57 (5th Cir. 2014) (quoting *Nken v. Holder*, 556 U.S. 418, 427 (2009)).

¹¹ *Nken*, 556 U.S. at 427.

¹² *Id.* at 433-34; *see also Moore v. Tangipahoa Par. Sch. Bd.*, 507 F. App’x 389, 392 (5th Cir. 2013) (per curiam).

¹³ *Texas v. United States*, 787 F.3d 733, 74647 (5th Cir. 2015) (internal quotation marks omitted).

¹⁴ *Id.* at 747 (emphasis added).

This Court has already and correctly concluded that Mr. Marlowe’s “uncontroverted testimony has adequately demonstrated that, under the circumstances, his Eighth Amendment claim will likely prevail on the merits.”¹⁵

Said differently, the Defendants should be denied a stay because they will not succeed in demonstrating that Rayburn’s conditions during the COVID-19 pandemic comply with the Eighth Amendment.

Mr. Marlowe has presented a “prima facie case but need not show that he is certain to win.”¹⁶ The evidence in this matter shows that Rayburn’s policies (or lack thereof) surrounding COVID-19 violate Mr. Marlowe’s constitutional rights by exposing him to a substantial risk of serious harm in violation of the Eighth Amendment. Prison officials have an affirmative constitutional obligation under the Eighth Amendment to provide for incarcerated persons’ reasonable safety and to address their serious medical needs; **this obligation includes “protect[ing] inmates from infectious disease.”**¹⁷

Mr. Marlowe has shown that Defendants’ refusal to implement policies that protect him from the spread of COVID-19 *likely* constitutes deliberate indifference to a substantial risk of serious harm. The evidence demonstrates that under both an objective test and a subjective test, the Defendants are failing to comply with the Eighth Amendment. The objective test considers whether Plaintiff has been “expos[ed] to a substantial risk of serious harm” due to his serious

¹⁵ Doc. 115 at 10.

¹⁶ Charles Alan Wright, Arthur R. Miller, Mary Kay Kane, 11A Federal Practice & Procedure § 2948.3 (2d ed. 1995); *see also Janvey*, 647 F.3d at 595–96 (5th Cir. 2011) (noting that plaintiffs are “not required to prove [their] entitlement to summary judgment” to show likelihood of success on the merits).

¹⁷ *Jolly v. Coughlin*, 76 F.3d 468, 477 (2d Cir. 1996) (emphasis added); *see, e.g., Farmer*, 511 U.S. at 832–33 (1994) (under the Eighth Amendment, prison officials “must provide humane conditions of confinement,” including adequate medical care, and “must take reasonable measures to guarantee the safety of the inmates”); *Estelle v. Gamble*, 429 U.S. 97, 104 (1976) (“deliberate indifference to serious medical needs of prisoners” is “proscribed by the Eighth Amendment”); *Hinojosa v. Livingston*, 807 F.3d 657, 666 (5th Cir. 2015) (plaintiff stated an Eighth Amendment claim when defendants subjected him to conditions “posing a substantial risk of serious harm” to his health).

medical needs.¹⁸ Without doubt, as a diabetic prisoner, Mr. Marlowe’s serious medical conditions makes him more vulnerable to the coronavirus, which is now rapidly spreading in Rayburn.

The subjective test is satisfied because prison officials have requisite knowledge of Mr. Marlowe’s risk of harm and have either disregarded the risk or “fail[ed] to take reasonable measures to abate it.”¹⁹

Here, the evidence plainly shows that despite the Defendants knowledge of serious risk Mr. Marlowe faces to contracting COVID-19 because they house him in conditions where he cannot socially distance himself or implement a proper hygiene routine.

A. COVID-19 poses a substantial risk of serious harm to Mr. Marlowe.

There can be no question that COVID-19 poses a substantial—indeed possibly lethal—risk of harm to Mr. Marlowe. The virus is an unprecedented and deadly pandemic that has spread across the country, hitting Louisiana and its prison system especially hard.

It is indisputable that COVID-19 is more likely to cause serious illness to people with underlying health conditions. Indeed, courts around the country have already recognized viral diabetes as an underlying medical condition that heightens their risk of serious COVID-19 effects.²⁰ Diabetes is one of the most common pre-existing condition in Louisiana’s coronavirus

¹⁸ *Carlucci v. Chapa*, 884 F.3d 534, 538 (5th Cir. 2018).

¹⁹ *See Farmer v. Brennan*, 511 U.S. 825, 847 (1994); *see also, e.g., Braggs v. Dunn*, 257 F. Supp. 3d 1171, 1250 (M.D. Ala. 2017) (“To establish deliberate indifference, plaintiffs must show that defendants had subjective knowledge of the harm or risk of harm, and disregarded it or failed to act reasonably to alleviate it.”).

²⁰ *See e.g. United States v. Barkman*, No. 3:19-CR-0052-RCJ-WGC, 2020 WL 1811343, at *1 (D. Nev. Mar. 17, 2020) (“Many people who are incarcerated also have chronic conditions, like *diabetes*, asthma, high blood pressure, hepatitis, or HIV, which makes them vulnerable to severe forms of COVID-19.”) (emphasis added).

fatalities.²¹ Mr. Marlowe faces an acute risk should he contract COVID-19, given his underlying medical condition.

This risk is compounded given that Mr. Marlowe is forced to live in a confined, congregate living space. The WHO has recognized that incarcerated people “are likely to be more vulnerable to the coronavirus disease (COVID-19) outbreak than the general population because of the confined conditions in which they live together for prolonged periods of time.”²² The CDC agrees: “[I]ncarcerated/detained populations have higher prevalence of infectious and chronic diseases and are in poorer health than the general population, even at younger ages.”²³

Louisiana’s own Dr. Katherine Andrinopoulos put it best when urging Governor Edwards to take action to protect detained persons: “[I]n light of this pandemic jails and prisons are tinderboxes, ready to explode and endanger our entire country.”²⁴

Although Mr. Marlowe has not yet tested positive for COVID-19, the measures (or lack thereof) enacted by Rayburn substantially threaten to expose him to COVID-19. He is even more susceptible due to his underlying medical condition.

B. Prison officials know of the risk of harm to Mr. Marlowe and have failed to take reasonable measures to abate it.

It is indisputable that prison officials at Rayburn know of, and have disregarded, the risk COVID-19 poses. This Court has specifically found that

²¹ See Louisiana Department of Public Health Updates for Apr. 13, 2020, <http://ldh.la.gov/index.cfm/newsroom/detail/5544> (last visited Apr. 25, 2020).

²² *Preparedness, prevention and control of COVID-19 in prisons and other places of detention*, World Health Organization (March 15, 2020), available at http://www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf?ua=1 (last visited April 19, 2020).

²³ *CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional Detention Facilities*, CDC (Mar. 23, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html> (last visited Apr. 18, 2020).

²⁴ See Doc. 96-9, Letter from Katherine Andrinopoulos, et al. to Gov. John Bel Edwards, March 27, 2020.

it [is] troubling that DOC officials, at least at Rayburn, have apparently disregarded the importance of social distancing in preventing the spread of this unique disease, when numerous public health officials, and the Governor of Louisiana, have consistently urged the residents of the state to observe such measures to slow the spread of the illness. Defendants' failure to implement their own internal protective policies may itself entitle Plaintiff to relief from the Court.²⁵

“A prison official acts with deliberate indifference when he ‘knows of and disregards an excessive risk to inmate health or safety.’”²⁶ A court “may conclude that a prison official knew of a substantial risk from the very fact that the risk was obvious.”²⁷

With respect to “infectious maladies,” such as COVID-19, prison officials act with deliberate indifference when they “ignore a condition of confinement that is sure or very likely to cause serious illness and needless suffering the next week or month or year.”²⁸ This is true even when “the complaining inmate shows no serious current symptoms.”²⁹ “That the Eighth Amendment protects against future harm to inmates is not a novel proposition. . . . It would be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening condition in their prison on the ground that nothing yet had happened to them.”³⁰

There is overwhelming evidence that Defendant DOC and Leblanc are subjectively aware of the risk of COVID-19 to incarcerated persons, including Mr. Marlowe. In addition, at this

²⁵ See Doc. 115, pp. 11–12.

²⁶ *Hinojosa*, 807 F.3d at 665 (quoting *Farmer*, 511 U.S. at 837).

²⁷ *Ball v. LeBlanc*, 792 F.3d 584, 594 (5th Cir. 2015) (quoting *Farmer*, 511 U.S. at 842); see also *Hinojosa*, 807 F.3d at 667 (“open and obvious nature” of dangerous prison conditions supported an inference of deliberate indifference).

²⁸ *Helling v. McKinney*, 509 U.S. 25, 33 (1993).

²⁹ *Id.* (“Nor can we hold that prison officials may be deliberately indifferent to the exposure of inmates to a serious, communicable disease on the ground that the complaining inmate shows no serious current symptoms.”).

³⁰ *Id.* at 33; see also *Gates v. Cook*, 376 F.3d 323, 333 (5th Cir. 2004) (“It is also important to note that [an] inmate need not show that death or serious illness has [already] occurred.”) (citing *Helling*, 509 U.S. at 32).

point, the risk of COVID-19 on incarcerated persons is obvious.³¹ Government and health agencies—worldwide to local—have acknowledged the spread of the virus in prisons and that prisons are “epicenters” for the pandemic.³² DOC publishes COVID-19 testing results online and updates it daily.³³ Defendant James LeBlanc, DOC Secretary, has himself publicly observed that “we are all at risk to the virus.”³⁴ Recently, Warden Sandy McCain and Dr. Casey McVea of DOC’s Raymond Laborde Correctional Center died from coronavirus complications.³⁵ Defendant Warden Tanner has also sworn a declaration regarding COVID-19 measures being taken at Rayburn.³⁶

The question, then, is whether Defendants’ deliberate decision to deny Mr. Marlowe adequate social distancing and hygiene measures is a reasonable response. It is not.

It is well known that there is currently no cure for COVID-19. The only way to control the virus is to use preventative strategies like social distancing because “limiting person to

³¹ “[A] factfinder may conclude that a prison official knew of a substantial risk from the very fact that the risk was obvious.” *Gates v. Cook*, 376 F.3d 323, 333 (5th Cir. 2004).

³² *An Epicenter of the Pandemic Will Be Jails and Prisons, if Inaction Continues*, The New York Times, March 16, 2020, available at <https://www.nytimes.com/2020/03/16/opinion/coronavirus-in-jails.html> (last visited April 19, 2020); see also *Preparedness, prevention and control of COVID-19 in prisons and other places of detention*, World Health Organization (March 15, 2020), available at http://www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf?ua=1 (last visited April 19, 2020); *CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional Detention Facilities*, CDC (Mar. 23, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html> (last visited Apr. 18, 2020).

³³ *COVID-19 Inmate Positives*, Louisiana Department of Public Safety & Corrections, updated on April 18, 2020 at 11:00 a.m., available at <https://doc.louisiana.gov/doc-covid-19-testing/> (last visited April 19, 2020).

³⁴ *Two DOC employees test positive for COVID-19*, KATC3 (Mar. 26, 2020), <https://www.katc.com/news/covering-louisiana/two-doc-employees-test-positive-for-covid-19> (last visited April 19, 2020).

³⁵ See Lea Skene, *Coronavirus hits Louisiana prisons: Medical director, head warden, first state inmate die*, The New Orleans Advocate, Apr. 20, 2020, available at https://www.theadvocate.com/baton_rouge/news/coronavirus/article_697c5eb6-8354-11ea-a205-9726a420e972.html (last visited April 23, 2020).

³⁶ Tanner Affidavit, Exhibit D.

person contact is critical to saving lives.”³⁷ Yet Rayburn “has . . . failed to meaningfully implement social-distancing procedures and other measures aimed at thwarting the spread of coronavirus.”³⁸ Mr. Marlowe is one of 78 individuals who sleeps in bunks, arranged row-by-row, about three feet apart. Defendants allow medical orderlies who work 12-hour shifts at the infirmary to return to Mr. Marlowe’s dorm without any further precaution. The TV room, the only place where Mr. Marlowe and others can get information about COVID-19, has only benches for prisoners to sit should-to-shoulder. Defendants have implemented no social distancing measures in the cafeteria or canteen.

Nor have Defendants implemented proper sanitizing practices. Mr. Marlowe’s dorm is not provided with any disposable towels to clean common surfaces, like the microwave, that are regularly used throughout the day.³⁹ Defendants provide no towels whatsoever to Mr. Marlowe or his dorm-mates to dry their hands in the restroom. Defendants also do not provide Mr. Marlowe or his dorm-mates with hand sanitizer, even though DOC has publicly claimed that it is available to prisoners.

Although Defendants have implemented some policies in response to the COVID-19 pandemic, the policies (or implementation thereof) are inadequate and do not comport with the CDC’s specific guidelines to correctional facilities.

“[H]aving stripped [prisoners] of virtually every means of self-protection and foreclosed their access to outside aid, the government and its officials are not free to let the state of nature take its course.”⁴⁰ The evidence is clear that Defendants are well aware of the dangers of

³⁷ Declaration of Marc Stern, M.D., Exhibit F, filed as R. Doc. 6524 in *Coleman, et al. v. Newsom*, No. 2:90-cv-00520 (E.D. Cal.), at ¶¶ 4, 8.

³⁸ Doc. 115 at p. 11.

³⁹ *Id.* at 9 (“The microwave ovens made available to the offenders are not regularly cleaned and disinfected.”).

⁴⁰ *Farmer*, 511 U.S. at 833.

COVID-19, especially to those prisoners like Mr. Marlowe with underlying medical conditions. But Defendants have ignored grave warnings from governmental and health officials, have not implemented proper protocols to protect Mr. Marlowe, and therefore have acted with deliberate indifference to the serious risk that COVID-19 poses to Mr. Marlowe, a prisoner in their custody and care, without regard to his safety and health.

The Court has thus correctly concluded that Mr. Marlowe satisfied both the objective and subjective deliberate indifference tests. It is clear that the Defendants are violating Mr. Marlowe's constitutional rights, and their inaction warrants emergency injunctive relief.

Considering the evidence before this Court, it is clear the Defendants will not likely succeed on the merits, and thereby their request for a stay of this Court's TRO should be denied.

C. Exhaustion Is Not Required in this Instance

The record in this matter reflects that Mr. Marlowe has filed a request for administrative remedy⁴¹ and an emergency request for reasonable accommodations.⁴² Furthermore, the Court specifically found that it has equitable power to issue injunctions to prevent irreparable injury pending such exhaustion of administrative remedies.⁴³

Mr. Marlowe wishes to further advise that the Defendants were not fully forthright about the current state of the grievance process at the DOC. The Governor of Louisiana has suspended all legal deadlines until April 30, 2020.⁴⁴ Accordingly, administrative regulations governing the time frame in which Defendants must respond to Mr. Marlowe's grievance are currently suspended. Furthermore, on March 23, 2020, Defendant LeBlanc suspended the grievance

⁴¹ See Doc. 108-4, § 3.

⁴² See Doc. 110-4.

⁴³ Doc. 115 at 7.

⁴⁴ See Executive Order No. 2016-57, available at <http://files.lsba.org/documents/News/LSBANews/AmendedExOrderJBE201657.pdf> (last visited Apr. 25, 2020).

deadline process in Louisiana's DOC system for a period of thirty days.⁴⁵ Then on April 21, 2020 Defendant LeBlanc suspended these deadlines indefinitely.⁴⁶ Such action by the Governor and Defendant LeBlanc renders the administrative grievance process in Louisiana inaccessible and unavailable to Mr. Marlowe. Any exhaustion requirements under the Prisoner Litigation Reform Act are therefore inapplicable in this matter, as Mr. Marlowe is unable to timely pursue any administrative remedies prior to seeking relief in this Court.

Given all of this, the Defendants are *not* likely to succeed on the merits, and thus do not meet the threshold requirement to obtain a stay.

II. Defendants Will Not Suffer Irreparable Harm in the Absence of a Stay

The Defendants wrongly rely on *Valentine v. Collier*, No. 20-20207, 2020 WL 1934431, at *3 (5th Cir. Apr. 22, 2020), to come to the conclusion that they will suffer irreparable harm should they have to come up with a plan on how to provide Mr. Marlowe with 1) hygiene measures in his dormitory; and 2) social distancing measures to his living area, the infirmary, and cafeteria.⁴⁷

In *Valentine*, the Court issued a stay concerning a preliminary injunction issued in the Southern District of Texas. However, the injunction that was stayed in *Valentine* was significantly different than that issued by this Court. Most importantly, in staying the injunction, the Fifth Circuit noted that “the district court admitted that its injunction ‘goes beyond’ the recommendations of the [CDC]” and that, among other things, it regulates “in minute detail” various sanitary measures that the Texas Department of Criminal Justice must take.⁴⁸ The Fifth

⁴⁵ See Exhibit B.

⁴⁶ See Exhibit C.

⁴⁷ See Doc. 115 at 14.

⁴⁸ *Id.* at *1-2.

Court further noted that the injunction required “‘extra measures’ [that] ‘go beyond TDCJ and CDC policies.’” *Id.* at *6.

Here by contrast, the District Court is ordering Defendant LeBlanc and Defendant DOC to provide a plan within five days as to how it will implement social distancing and hygiene practices as recommended by the Center for Disease Control. This order is similar to the ruling in *Coleman v. Newsom*, where the federal court has required the correctional defendant to provide it with a “strategic plan for achieving compliance with the U.S. Centers for Disease Control and Prevention (CDC) Interim Guidance on Management of Coronavirus Disease (2019) (COVID-19) in Correctional and Detention Facilities (CDC Guidance).”⁴⁹

Judge Jackson’s order does not harm the Defendants by interfering with their efforts to respond to the pandemic. Rather it asks them to actually articulate a plan that accounts for essential hygiene and social distancing measures recommended by the CDC. Developing such a plan will not only protect Mr. Marlowe, but also the greater public at large, by minimizing the risk of further transmission of COVID-19. At least two staff members at Rayburn have contracted COVID-19 and three DOC employees have died from complications after contracting the virus. If staff members are infected, there is a higher chance that COVID-19 will spread to the Washington Parish community. Further, “a COVID-19 outbreak at a detention facility could quickly overwhelm” Rayburn’s medical system and also “surrounding community hospitals.”⁵⁰ In fact, the protective measures that the Court asks the Defendants to develop will actually protect them as well. If any harm to Defendants does exist, it is greatly outweighed by the risk to Mr. Marlowe.

III. Defendants Have Failed to Make A Strong Showing that Mr. Marlowe Will Not Be Substantially Injured by a Stay

⁴⁹ *Coleman v. Newsom*, 2020 U.S. LEXIS 63529, * 6 (Apr. 10, 2020).

⁵⁰ *Coronel v. Decker*, No. 20-cv-2472 AJN, 2020 WL 1487274, at *7 (S.D.N.Y. Mar. 27, 2020).

In fact, the Defendants do not brief this essential factor concerning stay orders. Rather they present a block quote from *Valentine* that states “the question is whether Plaintiffs have shown that they will suffer irreparable injuries even after accounting for the protective measures in TDCJ Policy B-14.52.”⁵¹ The Court has already determined that Mr. Marlowe, a medically vulnerable prisoner, is being harmed by Rayburn’s hygiene and social distancing policies which do not comport with CDC guidance. Staying this matter, by even just one day, unnecessarily puts Mr. Marlowe at a greater risk to contract COVID-19, which is rapidly circulating at this prison.

VI. Defendants Have Failed to Make a Strong Showing that Violating Mr. Marlowe’s Rights Is in the Public Interest

“It is always in the public interest to prevent the violation of a party’s constitutional rights.”⁵² Because “confidence in the humane application of the governing laws of the State must be in the public’s interest,”⁵³ there is a public interest in preventing Defendants from exposing Mr. Marlowe to cruel and unusual punishment in the form of exposing him to a serious risk of harm or even death.

The public also has an interest in protecting Mr. Marlowe (as well as his dormmates) and minimizing the risk of further transmission of COVID-19. At least two staff members at Rayburn have contracted COVID-19, three DOC prisoners, and three DOC employees have died from complications after contracting the virus. In fact, the protective measures that the Court asks the Defendants to develop will actually protect them, and the greater public as well, by helping to curtail the spread of COVID-19 in Washington Parish.

⁵¹ *Valentine*, 2020 WL 1934431 at * 3.

⁵² *Jackson Women’s Health Org. v. Currier*, 760 F.3d 448, 458 n.9 (5th Cir. 2014) (quoting *Awad v. Ziriak*, 670 F.3d 1111, 1132 (10th Cir. 2012)).

⁵³ *Harris v. Johnson*, 323 F. Supp. 2d 797, 810 (S.D. Tex. 2004).

CONCLUSION

For the foregoing reasons, Mr. Marlowe respectfully request that this Court deny Defendants' Motion for a stay pending appeal.

Respectfully submitted,

/s/ Emily H. Posner

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CERTIFICATE OF SERVICE

I hereby certify that on the date of filing a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system.

/s/ Emily H. Posner



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Prison Search

Help

Logout

Home Send Money Email Music

My Account

Inbox (138)



Compose

Sent

Buy Stamps

Stamp Balance (9)

Transfer Stamps

Transaction History

Delete

Reply

◀ Prev Next ▶

From: CHRISTOPHER MARLONE

Date: 4/25/2020 6:23:29 PM

To: Emily Posner

Attachments:

just now*
another 350+ people are quarantined - all of snow yard. kitchen worker... almost all of the kitchen workers live in there. so... now I think we are the only dorm not quarantined.. they brought the guy by all the diabetics and he was in the chowhall cooking all day... is there a way to readdress the ruling/situation if it gets worse?
concerned n- Chris

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EXHIBIT A

Department of Public Safety & Corrections

State of Louisiana

Secretary's Office



JOHN BEL EDWARDS
GOVERNOR

JAMES M. LE BLANC
SECRETARY

Date: March 23, 2020

To: DPS&C Leadership
Air Wardens

From:  James M. Le Blanc, Secretary

Re: Grievance Deadlines

In response to the Public Health Emergency declared by Governor John Bel Edwards in Executive Proclamation Number 25 JBE 2020, and due to the continued challenges to DPS&C employees who are focused on prevention and response to this emergency, effective immediately, I am suspending the following agency, staff, and prisoner grievance deadlines:

1. La. Admin Code. tit. 22, Pt I, § 325 (DOC Regulation OP-C-13);
2. La. Admin Code. tit. 22, Pt I, § 341 (DOC Regulation OP-C-1).

This suspension shall be in effect for a period of 30 days unless otherwise expressly extended. Please ensure your staff and prison population are notified of this action as soon as possible.

EXHIBIT B

Department of Public Safety & Corrections

State of Louisiana

Secretary's Office



JOHN BEL EDWARDS
GOVERNOR

JAMES M. LE BLANC
SECRETARY

Date: April 21, 2020

To: DPS&C Leadership
All Wardens

From: James M. Le Blanc, Secretary

Re: Extension of Waivers and Timelines

As you all know, in response to Governor Edwards Proclamation 25 JBE 2020 (*Public Health Emergency – COVID 19*), I issued several memorandums providing guidelines regarding timeline extensions and waivers for our operations. Each of those contained expiration dates that varied between last week and the end of the month. **The purpose of this memorandum is to extend those actions until further notice.** This includes:

1. All deadlines and timeframes contained within the following Department Regulations:
 - a. AM-F-34/A-02-045 Employee Grievance Procedure
 - b. AM-F-34/A-02-045 Employee Manual Section II, Part V – The Violation Reporting Process
2. All deadlines and timeframes relating to grievance deadlines as outlined in:
 - a. La. Admin Code. tit. 22, Pt I, § 325 (DOC Regulation OP-C-13)
 - b. La. Admin Code. tit. 22, Pt I, § 341 (DOC Regulation OP-C-1)
3. The waiver of medical access fees as outlined in Department Regulation IS-D-HCP-14, Section 3.E. Please note that this waiver is being amended to include waiver of healthcare access fees only when it is for influenza or COVID-19 signs and symptoms.

All previously issued memorandums related to these waivers are hereby rescinded effective this date.

Exhibit C