

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RHONDA JONES *et al.*,

Plaintiffs,

v.

VICTOR HILL *et al.*,

Defendants.

CIVIL ACTION

NO. 1:20-CV-2791-JPB-CCB

**PLAINTIFFS' REPLY BRIEF IN SUPPORT OF
MOTION FOR PRELIMINARY INJUNCTION**

The jail described in Defendants' brief (Doc. 41) bears little resemblance to the one in which Plaintiffs are held. Defendants claim to have implemented comprehensive COVID-19 prevention measures, but their assertions are contradicted by detainees who describe deplorable conditions and harrowing accounts of illness and neglect. Neither do Defendants acknowledge that most of their minimal mitigation measures occurred after this lawsuit was filed.

Plaintiffs attach to this brief thirteen additional declarations from detainees who would not recognize the jail described in Defendant Terrance Gibson's declaration (Doc. 41-1) as the one in which they are incarcerated. The declarations show that Defendants and their officers ignore people who report COVID-19

symptoms; fail to isolate infected persons; fail to test many people, against their own medical provider's advice; fail to provide detainees with useable facemasks; fail to provide sufficient quantities of soap and cleaning supplies; and fail to enforce social distancing measures.

As for Defendants' claim that "statistically speaking," there is "no COVID-19 outbreak at the CCJ" (Doc. 41 at 4), that assertion crosses the line from partisan wordsmithing to misrepresentation of fact. (Ex. A, Supp. Fefferman Decl. ¶ 7.) Defendants' description of the number of positive COVID-19 cases at the jail as "low" is not supported by Defendants' own data, which shows consistently high COVID-19 positivity rates over several months. (*Id.* ¶¶ 7-10.)

Plaintiffs are likely to succeed on the merits of their claims. Given Defendants' insufficient response to the pandemic, members of the putative class face an imminent risk of irreparable injury absent an injunction. The balance of harms favors Plaintiffs because the risk of serious illness is substantial and the proposed injunction is carefully crafted to give Defendants the responsibility in the first instance for formulating and implementing "reasonably specific and detailed written plans" to address deficient conditions. (Doc. 19-15 ¶ 1.) An injunction will serve the public interest by protecting the rights and lives of people in the Jail.

STATEMENT OF FACTS

A. Many of the Prevention Measures Described in Defendants' Brief Are Not Actually in Practice in the Jail.

1. Defendants Have Failed to Identify, Isolate, and Treat Infected Persons, Instead Leaving Them Inside Crowded Cells Where They Spread the Virus to Others.

According to Defendants, “[i]f any inmate shows symptoms of COVID-19 after intake,” the person is “separated from other inmates, medically evaluated in the medical infirmary, and tested for COVID-19.” (Doc. 41 at 12.) Defendants are silent regarding the testimony of numerous detainees who had precisely the opposite experience. (Doc. 19-1 at 8-9, 21.) To give just a few examples:

- In April 2020, F.S., who had no mask, was locked in a cell with a woman who experienced fever, vomiting, and coughing up blood. (F.S. Decl. ¶¶ 21-24.) F.S. became infected. (*Id.* ¶ 25.) She submitted a sick call request but did not see a nurse for a week. (*Id.* ¶¶ 25-26.) Although she reported her symptoms, she was left in her housing unit where she continued to congregate with others for food service. (*Id.* ¶ 25-27.) F.S. and her cellmate were symptomatic for two weeks, during which they were neither tested nor isolated. (*Id.* ¶ 27.)
- In April 2020, D.H. experienced symptoms of COVID-19. (D.H. Decl. ¶ 20.) He reported his symptoms to a nurse but was not isolated or given a mask. (*Id.* ¶ 23.) For the next two weeks, he followed orders to perform his trustee functions while symptomatic. (*Id.* ¶ 24.) He spent twelve hours per day passing out meals in other housing units without a mask. (*Id.*)
- In May 2020, W.L.M. was placed in a cell, without a mask, with a man who had just been tested for COVID-19 and was symptomatic. (W.L.M. Decl. ¶ 18-19.) W.L.M. developed symptoms of COVID-19. (*Id.* ¶ 21.) He told a nurse about his symptoms but was not given a mask or isolated. (*Id.* ¶ 23.)

He experienced vomiting, diarrhea, and “immense difficulty breathing.” (*Id.* ¶ 28.) One night, he “felt as if [his] lungs were going to collapse” (*id.* ¶ 29), and “begged [an officer] for medical attention” (*id.* ¶ 32) but received none. (*Id.* ¶ 33.)

More recent declarations show that Defendants still fail to isolate and treat people with COVID-19 symptoms.

- In July 2020, S.T. developed a fever, diarrhea, shortness of breath, and loss of the ability to taste. (S.T. Decl. ¶ 11.) Her cellmates experienced similar symptoms. (*Id.* ¶ 10.) S.T. reported their symptoms to officers “at each count within the first day of the onset of symptoms.” (*Id.* ¶ 12.) When one of S.T.’s cellmates became dangerously short of breath, S.T. banged on the cell door for assistance, but no one responded. (*Id.*) After three days of asking for help, S.T. saw a nurse. (*Id.* ¶ 13.) The nurse found that all three women had fevers, but S.T. and her cellmates remained in the housing unit. (*Id.* ¶ 14.) S.T. was not tested or isolated. (*Id.* ¶ 15-16.)
- In July 2020, a man showing symptoms of COVID-19, including “severe coughing fits,” was moved into a cell shared by G.R. and R.C. (G.R. Decl. ¶ 7.) G.R. and R.C. repeatedly told officers that the new cellmate could infect them with COVID-19, but the symptomatic man was not moved for a week. (*Id.* ¶ 7-8.) R.C. then developed symptoms of COVID-19. (*Id.* ¶ 9.) R.C. reported these symptoms to officers and submitted sick call requests but was not moved. (*Id.*) G.R. then developed COVID-19 symptoms. (*Id.* ¶ 10.) He submitted sick call requests asking to be tested and evaluated but “never received any response” and was not tested. (*Id.*)
- In July 2020, P.B. developed COVID-19 symptoms, including difficulty breathing and inability to taste or smell. (P.B. Decl. ¶¶ 6-7.) He told an officer but was not isolated or tested. (*Id.*) He then told a nurse about his symptoms and requested a test, but the nurse only took his temperature, gave him Tylenol, and sent him back to his cell. (*Id.*) Worried he would infect others, P.B. asked an officer to move him out of the housing unit. (*Id.* ¶ 7.) Instead, P.B. was moved within the same unit into a cell with two other men. (*Id.*) He was not tested. (*Id.*)

- In June 2020, J.J.L.’s cellmate developed COVID-19 symptoms. (J.J.L. Decl. ¶¶ 6-7.) After reporting his symptoms and asking officers for care for three days, the cellmate finally lay on the dorm floor for hours in protest until a nurse was called. (*Id.* ¶ 7.) Soon thereafter, J.J.L. experienced vomiting, fever, and other symptoms. (*Id.* ¶ 9.) He too sought medical care for days but was not taken to medical until an officer found him passed out on his cell floor. (*Id.* ¶¶ 9-11.) J.J.L. was returned to the dorm without being tested. (*Id.* ¶ 12.)

2. Many Detainees with Active COVID-19 Symptoms and Recent Exposure to Infected People Do Not Receive Tests.

Defendants claim that “[n]o inmates at the CCJ are denied a COVID-19 test.”

(Doc. 41 at 11.)¹ Detainees report otherwise. C.B. developed a fever and lost his senses of taste and smell in late July. (C.B. Decl. ¶ 6.) He asked to be tested by grievance, medical request, and verbal request. (*Id.*) C.B. states:

A nurse came to my cell and took my temperature. She told me my temperature wasn’t high enough to bring me to the medical wing. I had no further contact from her or anyone else about my symptoms, which I continued to experience for weeks. I was not quarantined or provided with any medical care whatsoever. . . I have still never been tested for COVID-19. (C.B. Decl. ¶ 6.)²

R.J. experienced COVID-19 symptoms in July 2020. (R.J. Decl. ¶ 7.) He submitted

¹Defendants claim to provide testing to “any inmate who requests same, any inmate with signs or symptoms consistent with COVID-19, and asymptomatic inmates with recent known or suspected exposure to COVID-19.” (*Id.*)

² C.B. submitted a grievance asking for COVID-19 testing. (C.B. Decl. ¶ 19.) The grievance was “pending” for a month, during which time C.B. submitted a request, asking for a response to the grievance. (*Id.*) C.B. received no response, and the grievance later “disappeared from the kiosk.” (*Id.*)

three sick call requests but did not see a nurse for almost a month. (*Id.*) Regarding testing, R.J. states:

When I was called up to the medical wing, I told the nurse about my symptoms, which were causing me a lot of discomfort and fear. The nurse took my temperature and blood pressure and told me that I was “good.” I asked her if I could be tested for COVID-19, but she told me I had to have a fever to be tested. She then sent me back to my cell. I have never been tested for COVID-19. (R.J. Decl. ¶ 7.)

Plaintiff Singleton, F.S., A.W., J.H., L.P., P.B., and A.B. were also denied tests, despite symptoms and/or exposure to infected people.³ Indeed, Defendants are failing to follow the advice of their own medical director, who recommended testing “all new inmate[s] that are admitted to the jail.”⁴

3. Detained People Still Lack Access to Useable Masks, Minimally Adequate Quantities of Soap, and Cleaning Supplies.

a. Masks

Defendants do not deny that they failed to issue most detainees facial coverings, a critical prevention measure, for at least three months into the pandemic.

³ See Singleton Decl. ¶ 10; F.S. Decl. ¶ 27; A.W. Decl. ¶¶ 40-44; J.H. Decl. ¶ 5; L.P. Decl. ¶ 7; P.B. Decl. ¶ 6; *cf.* A.B. Decl. ¶¶ 7-14 (describing unsuccessful efforts over the course of four months to get COVID-19 test, without success as of September 24, 2020).

⁴ See Exhibit C, Email from E. Smith, July 20, 2020 (stating that “[a]s an intervention to fight COVID-19, our medical director Dr. Clopton is recommending that we test all new inmate[s] that are admitted to the jail.”).

(Doc. 19-1 at 32; C.C. Decl. ¶ 22 (stating on June 25 that “[a]lmost no one has face masks”); J.H. Decl. ¶ 26 (stating “many men in my dorm still did not have masks” as of June 19); G.R. Decl. ¶ 5 (“I received one cloth mask in mid-July.”).) They are silent on the fact that, from March through early July, elderly and medically vulnerable people in their jail resorted to tying bits of torn underwear and ripped sheets over their faces to protect themselves from a deadly virus. (*See, e.g.*, Watkins Decl. ¶ 35; Jones Decl. ¶ 14; Mitchell Decl. ¶¶ 19-20; Singleton Decl. ¶¶ 4, 8.)

Defendants ignore all of that and claim (with no reference to the date of alleged implementation) that “every inmate” is provided with two facemasks at intake, a washable mask and a disposable mask. (Doc. 41 at 7-8.) They state that if a detainee loses her mask, another “will be provided for free.” (*Id.* at 8.)

It is true that more detainees have masks than did when this lawsuit was filed, such that elderly people and cancer patients are no longer walking around the jail with underwear tied over their faces. However, many detainees, such as J.J.L., still have no mask. (*See* J.J.L. Decl. ¶ 5; L.P. Decl. ¶¶ 4-6.) Detainees do not receive two masks and replacements are not available. (*See id.*)⁵

⁵ *See also, e.g.*, R.J. Decl. ¶¶ 6, 15 (stating that he received one mask at intake in July, his mask is now soiled, he has asked for a replacement, “officers told me that they don’t have any more masks,” and his grievance asking for a new mask “disappeared” from the kiosk); C.B. Decl. ¶ 7 (stating that he received a mask in

By way of further example, S.T. did not receive *any* mask when she entered the jail in June and had none for weeks thereafter. (S.T. Decl. ¶ 7.) When F.B. entered the jail on August 7, he received a previously used, “threadbare,” cloth mask, on which “the straps were loose and stretched out.” (F.B. Decl. ¶ 4.) F.B. asked several officers for a replacement without success. (*Id.*) W.G. is a 78-year-old man arrested for a traffic offense, who spent four days in the jail in August and lacked a functional mask until the last day of his incarceration. (W.G. Decl. ¶¶ 5-6.) And P.B. states that as of September 17, three new arrivals in his dorm have no masks. (P.B. Decl. ¶ 14.)

b. Soap for Handwashing

According to Defendants’ “protocol,” all incarcerated persons “are provided multiple bars of soap for personal use and additional soap is available for replacement” free of charge. (Doc. 41 at 7.) In practice, detainees are allotted four ounces of liquid soap (not “bars”) per week, which is an insufficient quantity for handwashing, showering, and in-cell cleaning. (J.H. Decl. ¶ 19; Watkins Decl. ¶ 15; A.W. Decl. ¶ 17; F.S. Decl. ¶ 14.)⁶ Contrary to Defendants’ claims, moreover (Doc.

June, has asked officers for a new mask multiple times, but has never received one).

⁶ Many detainees must use their weekly soap allotment for in-cell cleaning and laundry, in addition to personal hygiene. (Singleton Decl. ¶ 6; Watkins Decl. ¶ 15.)

41 at 7), detainees are not able to get additional soap when needed.⁷ Liquid soap at the jail is strictly rationed, even as disease spreads. (Sparkman Decl. ¶¶ 56-58.)

c. Cleaning Supplies and Sanitation

Defendants claim that “each cell is cleaned and sanitized twice a day by the inmates in the cell.” (Doc. 41 at 9.) For this purpose, detainees allegedly receive “a broom, a mop, and a bucket that contains OPTIM 1 and/or bleach.” (*Id.*) Trustees allegedly spray the toilet and sink twice a day with disinfectant solution. (*See id.*) Here again, the purported protocol does not operate in practice.

- C.B. cannot sanitize his cell twice a day because he lacks the supplies. (C.B. Decl. ¶¶ 12-13.) He has access once a day to a bucket of “black” water and a broom. (*Id.*) He usually does not have enough personal soap for cell cleaning since he must conserve it for showering and washing hands. (*Id.* (“I have only seen a trustee spray my sink and toilet once in the past month.”).)
- R.J. has “[a]t no time” been provided twice a day with a broom, mop, and bucket with cleaning solution. (R.J. Decl. ¶¶ 10-11.) Once per day, he receives a bucket of dirty water. (*Id.* ¶ 10.) Despite his requests for additional cleaning solution, the last time a trustee sprayed the toilet or sink was “at least six weeks ago.” (*Id.* ¶ 10-11)
- S.T. receives a mop, broom, and bucket of dirty water about three times per week, not twice a day. (S.T. Decl. ¶ 8.) Cell toilets are sprayed “infrequently.” (*Id.*)
- F.B. has access once a day to a mop and bucket filled with water that “quickly

⁷ *See also* C.B. Decl. ¶ 15 (stating that the only way to get more than the allotted amount of soap per week is to barter with a trustee or purchase it); R.J. Decl. ¶ 8 (stating that “detainees . . . certainly don’t get free replacement soap”).

becomes filthy and unusable.” (F.B. Decl. ¶ 11.) F.B. does not have access to cleaning chemicals. (*Id.*) He states: “I have asked officers for cleaning supplies. The officers have told me to talk to the trustees, and the trustees have told me that they are not allowed to share cleaning materials with us.” (*Id.*)

4. Several of Defendants’ Purported Social Distancing Protocols Are Not Implemented in Practice.

Defendants claim that they now enforce social distancing, including by distributing meals to each cell and requiring people to come out of cells for pill call “one by one and separate six feet apart.” (Doc. 41 at 10.) As for court appearances, Defendants claim that detainees remain in their pods until their case is called, and then move to a holding area for a Zoom hearing. (*Id.* at 10-11.)

Here again, Defendants’ alleged protocols are not implemented. In a declaration dated September 17, 2020, F.B. reports that detained people still must congregate in crowds of people to receive food and medication.

At mealtime, everyone in my tier necessarily lines up close to one another in order to get their food. If we don’t congregate in line to wait for our food, the officers will wait until we are in line before they start to distribute food trays. At pill call, people who get medications have to line up again. Jail staff do not encourage us to maintain social distancing at all. (F.B. Decl. ¶ 8.)

Similarly, in a declaration dated September 18, 2020, R.J. states that “[i]t is not the case that all meals are delivered to each detainee’s cell.” (R.J. Decl. ¶ 13.) Rather, “we all line up close together” to wait in line for food. (*Id.*) “There is no mention of social distancing from the officers or the trustee workers.” (*Id.*) The jail “does

not require, nor has it really attempted to implement social distancing at mealtimes or pill call.” (S.T. Decl. ¶ 9.) Instead, people must line up or crowd around at mealtimes and pill call. (*Id.*)

Regarding court hearings, video stills from a recent date in magistrate court (September 17) show twelve women (two of whom are in wheelchairs) crammed together in a hallway awaiting court. (Ex. D, Screenshots from Court Appearances.) A large crowd of men is visible in the background. (*Id.*) Consistent with Exhibit D, P.B., described recently being crowded into a small cell with nine other people and made to wait three hours for his case to be called.

When we have a court appearance, we do not stay in our cells until our case is called. I went to court last Friday, September 11, 2020. I was taken to a single holding cell that is about 12 ft by 8 ft and was left there for over 3 hours with about nine other people while we waited for our court appearances. During this time, I had no ability to maintain distance from the other people in the small cell. There were no efforts to allow for social distancing while we waited to see the judge. (P.B. Decl. ¶ 11.)

B. The Jail’s Undisputed COVID-19 Data Shows an Alarming COVID-19 Positivity Rate at the Jail.

There is a COVID-19 outbreak at the Jail.⁸ Defendants cite data from May,

⁸ See Supp. Fefferman Decl. ¶¶ 5-7 (“[T]he infections at the Jail clearly meet the definition of an ongoing outbreak”); see also Exhibit E, Email from O. Adewale, District Epidemiologist, Clayton County Health District, Georgia Department of Public Health, Sept. 23, 2020 (“A confirmed case of COVID-19 in one or more inmates or staff is counted as an outbreak.”).

June, and July and conclude that “the number of positive cases in the CCJ has remained low and stable.” (Doc. 41 at 15-16.) Far from showing a “low” number of cases, the Defendants’ data shows a COVID-19 positivity rate of 27.1% in May, 18.75% in June, and 27.2% in July. (*Id.*) In the medical community, such positivity rates “would not be reasonably characterized as ‘low.’” (Supp. Fefferman Decl. ¶ 8.) Instead, they show that “mitigation efforts have demonstrably failed to prevent ongoing spread.” (*Id.* ¶ 7.)⁹

⁹ With their response brief, Defendants submitted the declaration of Edward Sweeney, a purported corrections expert. (Doc. 41-4.) Though the declaration is cumulative of Defendants’ other evidence and plays a minimal role in Defendants’ response, Plaintiffs object to Sweeney’s declaration for two principal reasons. First, the declaration does not contain proper expert opinions based on his expertise and experience, but instead consists largely of factual recitations (*see, e.g., id.* ¶¶ 11-16, 18-20, 23-26, 42-44) legal conclusions (*see, e.g., id.* ¶¶ 7-8, 10), and impermissible personal opinions and arguments about such matters as the true nature of “justice” (*id.* ¶¶ 27-31) and the appropriateness of “a federal injunction” (*id.* ¶ 35). Courts generally hold this kind of expert testimony improper. *See, e.g., U.S. v. Frazier*, 387 F.3d 1244, 1262-63 (11th Cir. 2004) (noting expert testimony generally unhelpful when it consists of “what lawyers for the parties can argue in closing arguments”); *Montgomery v. Aetna Casualty & Surety Co.*, 898 F.2d 1537, 1541 (11th Cir. 1990) (holding expert “may not testify to the legal implications of conduct”); *Zurich Am. Ins. Co. v. Hardin*, No. 1:16-CV-2312, 2018 WL 5270356, at *3 (N.D. Ga. Mar. 14, 2018) (noting “an expert must conduct an independent analysis when reviewing records” and “may not simply recite a witnesses’ testimony about the facts . . . and refashion it as an expert opinion”). Second, Sweeney’s opinions are not reliable because his declaration provides no indication about “how [his] experience leads to the conclusion reached, why that experience is a sufficient basis for the opinion, and how that experience is reliably applied to the facts.” *See Addison v. Arnett*, No. 2:13-CV-71, 2016 WL 1441803, at *4 (S.D. Ga. Apr. 22, 2016) (citation omitted); *see id.*

ARGUMENT

I. Plaintiffs Are Likely to Succeed on the Merits.

A. Plaintiffs Are Likely to Succeed on Their Deliberate Indifference Claims.

COVID-19 presents an objectively serious risk to detainees. *See Swain v. Junior*, 961 F.3d 1276, 1285 (11th Cir. 2020). (Fefferman Decl. ¶¶ 9-10; Rottnek Decl. ¶¶ 25-27, 43-44.) Defendants are aware of that risk but have failed to take reasonable steps to mitigate it. As discussed above, Defendants regularly deny detainees access to testing, leave detainees known to be sick with COVID-19 symptoms in their cells, fail to supply masks to all detainees, and deprive detainees of adequate cleaning and hygiene supplies. These failures unreasonably expose detainees to a serious risk of harm.

Defendants do not dispute that the risk of harm is serious¹⁰ or that they are

(“The lack of analysis in [expert’s] report leads the Court to surmise that his conclusion that Defendants ‘acted properly and exercised sound correctional judgment’ is merely a personal opinion.”).

¹⁰ To the extent Defendants argue that COVID-19 does not pose “a substantial risk of serious harm” to the plaintiff class, they are incorrect. *See Swain*, 961 F.3d at 1285 (“Here, the defendants seem to agree—wisely, we think—that the risk of COVID-19 satisfies this requirement.”); *cf. Helling v. McKinney*, 509 U.S. 25, 33, 35 (1993) (holding that “exposure of inmates to a serious, communicable disease” that poses a risk of future harm is a sufficiently serious deprivation to invoke constitutional protections).

aware of the obvious risk.¹¹ They instead claim that they have addressed the known risk by adopting a laundry list of “extraordinary” measures.¹² (Doc. 41 at 22.) As discussed above, however, many of those measures are not in place at the Jail, as reflected in sworn statements of numerous current and former detainees.

The policies Defendants reference in their brief exist in word only and in some cases are easily disproven by a YouTube search. (Ex. D.) At a minimum, Defendants clearly “could have, but did not, take steps to minimize” the risk to detainees. *LaMarca v. Turner*, 995 F.2d 1526, 1537 (11th Cir. 1993). Even if Defendants took *some* responsive action, they disregarded and continue to disregard simple steps to prevent and mitigate the virus.¹³ *See Hale v. Tallapoosa Cty.*, 50 F.3d 1579, 1584 (11th Cir. 1995) (holding sheriff, despite taking some steps, could be deliberately indifferent for disregarding “‘alternative means’ or interim measures

¹¹ *See Farmer v. Brennan*, 511 U.S. 825, 842 (1994) (“[A] factfinder may conclude that a prison official knew of a substantial risk from the very fact that the risk was obvious.”).

¹² Despite Defendants’ assertion that their actions were “prompt” (Doc. 41 at 1, 22), the attached declarations are notable for the absence of dates on which these measures allegedly went into place (Doc. 41-1).

¹³ The differences between *Swain v. Junior*, 961 F.3d 1276 (11th Cir. 2020), and this case are striking. In *Swain*, the jailers’ efforts included purchasing air purifiers, installing industrial-grade sanitization equipment for disinfecting common areas, conducting twice-daily temperature checks of detainees, releasing nearly 900 detainees, providing sufficient hygiene products, and other measures. *Id.* Defendants’ efforts are nothing like those deemed sufficient in *Swain*.

for reducing the risk”).¹⁴ For example, Defendants do not promptly test, quarantine, or provide medical attention to individuals who report COVID-19 symptoms. *See Mandel v. Doe*, 888 F.2d 783, 788 (11th Cir. 1989) (holding “intentional refusal to provide [medical] care” is deliberate indifference). Defendants even refuse to follow their own medical director’s “highly suggested” recommendation that they test all new arrivals to the Jail. (Ex. C.) These and numerous other failures to act are objectively unreasonable and constitute deliberate indifference,¹⁵ particularly in the context of Defendants’ actions prior to this lawsuit. *LaMarca*, 995 F.2d at 1542

¹⁴ Defendants erroneously argue that a “complete denial of [medical] treatment’ is the only basis for establishing deliberate indifference. (Doc. 41, at 22-23 & n.14.) As suggested above, however, jailers cannot disregard reasonable measures to reduce a risk of serious harm to detainees. Accordingly, “a decision to take an easier but less efficacious course of [medical] treatment” can support a deliberate indifference claim. *Dimanche v. Brown*, 783 F.3d 1204, 1215 (11th Cir. 2015) (quoting *McElligott v. Foley*, 182 F.3d 1248, 1255 (11th Cir. 1999)).

¹⁵ *See, e.g., Carranza v. Reams*, No. 20-CV-00977, 2020 WL 2320174, at *10 (D. Colo. May 11, 2020) (jail detainees had shown a substantial likelihood of success despite defendants having implemented several important and proactive steps to address the spread of COVID-19); *Criswell v. Boudreaux*, No. 120-CV-01048, 2020 WL 5235675, at *6 (E.D. Cal. Sept. 2, 2020) (same); *Gray v. Cty. of Riverside*, No. 5:13-CV-0444, 2020 WL 4243484, at *4 (C.D. Cal. Apr. 14, 2020) (same); *Banks v. Booth*, No. CV 20-849, 2020 WL 1914896, at *11 (D.D.C. Apr. 19, 2020) (same). Defendants’ contrary authority generally involves substantial proactive measures not in place at the Jail, either on paper or in practice. *See, e.g., Sanchez v. Brown*, No. 3:20-CV-00832, 2020 WL 2615931, at *7 (N.D. Tex. May 22, 2020) (use of outside cleaners instead of trustees to professionally clean potentially infected areas); *Money v. Pritzker*, No. 20-CV-2093, 2020 WL 1820660, at *5 (N.D. Ill. Apr. 10, 2020) (substantial reduction of detainee population).

(holding an “institution’s historical indifference” is relevant in assessing deliberate indifference). Plaintiffs have presented substantial evidence that Defendants knew of and disregarded harmful jail conditions for months (Doc. 19-6; Doc. 19-11); that Defendants failed to broadly issue masks until at least three months into the pandemic (Doc. 19-1 at 32; J.H. Decl. ¶ 26; G.R. Decl. ¶ 5); that Defendants cannot be trusted to implement their own policies (*see* Ex. B, Declarations of Thirteen Detainees); and that most of the meager changes Defendants have made only occurred after the lawsuit was filed (D.H. ¶ 36; G.R. Decl. ¶ 5; J.L. Decl. ¶ 7).

Finally, even if (contrary to the weight of the evidence) Defendants had implemented the policy changes they allege, Plaintiffs would still be entitled to injunctive relief because a defendant’s “voluntary cessation of challenged conduct does not ordinarily render a case moot.” *Knox v. Serv. Employees Int’l Union*, 567 U.S. 298, 307 (2012). To establish mootness, Defendants would have the “heavy burden” of showing that conditions in the Jail would not revert to what they were before this case was filed. *Rich v. Sec’y, Fla. Dep’t of Corr.*, 716 F.3d 525, 532 (11th Cir. 2013). Here, Defendants have not demonstrated an unambiguous break from their old policies, nor have they shown that any policy changes resulted from substantial deliberation and have been followed consistently. *See id.* Thus, injunctive relief is warranted regardless of Defendants’ alleged policy changes.

In sum, Plaintiffs are likely to succeed on the merits of their deliberate indifference claim.¹⁶

B. Plaintiffs Are Likely to Succeed on Their Habeas Corpus Claims.

Defendants argue that habeas is unavailable in this case “for several reasons” raised in their motion to dismiss.¹⁷ (Doc. 41 at 28.) Accordingly, Plaintiffs incorporate by reference the pertinent section of their response to the motion to dismiss. (Doc. 37 at 40-43.)¹⁸

¹⁶ In a footnote, Defendants contend that “the decisional law applicable to prison inmates applies equally to pretrial detainees.” (Doc. 41 at 17 n.12.) They are incorrect. The Eleventh Circuit has declined to resolve whether, after *Kingsley v. Hendrickson*, 135 S. Ct. 2466 (2015), liability for the unconstitutional treatment of pretrial detainees continues to require a showing of subjective deliberate indifference. *Dang ex rel. Dang v. Sheriff, Seminole Cty., Fla.*, 871 F.3d 1272, 1279 n.2 (11th Cir. 2017) (“We cannot and need not reach this question.”). The logic of *Kingsley*—that unreasonable results of intentional acts constitute punishment—applies equally to jail-conditions cases.

¹⁷ Contrary to Defendants’ claim that habeas corpus relief is not available, several courts have left open the availability of habeas corpus relief under the unique circumstances presented in this case. *See, e.g., A.S.M. v. Donahue*, No. 7:20-cv-62, 2020 WL 1847158, at *1 (M.D. Ga. Apr. 10, 2020); *Gayle v. Meade*, No. 20-CV-21553, 2020 WL 1949737, at *26 (S.D. Fla. Apr. 22, 2020).

¹⁸ Defendants also argue that release is unavailable because Plaintiffs’ rights are not being violated (Doc. 41 at 25-26), and that “federalism concerns” and the “public interest” weigh against release (*id.* at 26). As discussed in this brief, Plaintiffs have established likely violations of their rights and releasing certain detainees will promote rather than harm the public interest.

C. Plaintiffs Are Likely to Succeed on Their ADA and RA Claims.

Contrary to Defendants' argument (Doc. 41 at 27), a disability discrimination claim under the ADA and/or the Rehabilitation Act can be based on either a conventional disparate treatment theory, or a theory that the defendant failed to make reasonable accommodations, or both. *Schwarz v. City of Treasure Island*, 544 F.3d 1201, 1212 n.6 (11th Cir. 2008). Here, Plaintiffs allege that Defendants failed to carry out their "affirmative duty to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified [person]." *Nadler v. Harvey*, No. 06-12692, 2007 WL 2404705, at *4 (11th Cir. Aug. 24, 2007). This "affirmative duty" includes making reasonable modifications to ensure people with disabilities¹⁹ have equal access to the services, programs, and activities of the jail, including safe housing, safe access to medical care, and safe adjudication of their criminal cases. 28 C.F.R. §§ 35.130(a), (b)(2), (b)(7)(i); see *Fraihat v. U.S. Immigration & Customs Enf't*, 445 F. Supp. 3d 709, 748 (C.D. Cal. 2020) (disabled people in ICE detention entitled to reasonable accommodations in order to participate in the "programmatic 'benefit'" of the removal process). Because it is an affirmative duty, Defendants'

¹⁹ Disability Subclass representatives are all people with disabilities protected under the ADA and Rehabilitation Act. Each has one or more conditions that "substantially impair" a "major life activity" or "major bodily function" as the ADA and Rehabilitation Act require. 28 C.F.R. § 35.108.

suggestion that they only need to provide accommodations when explicitly requested must be rejected. *See Nattiel v. Fla. Dep't of Corr.*, No. 1:15-CV-150, 2017 WL 5774143, at *1 (N.D. Fla. Nov. 28, 2017) (prison officials were aware of plaintiff's disabilities and therefore had a "duty to accommodate" even without a demand for an accommodation); *Pierce*, 128 F. Supp. 3d at 269 (finding "untenable" the argument that "prison officials have no legal obligation to provide accommodations for disabled inmates unless the inmate specifically requests such aid"). Thus, Plaintiffs are likely to succeed on their ADA and Rehabilitation Act claims.²⁰

II. Plaintiffs Will Suffer Irreparable Injury Absent an Injunction.

The irreparable injury inquiry turns not on whether COVID-19 poses a danger, which "it undoubtedly does." *Swain*, 961 F.3d at 1292. Rather, the inquiry is whether Plaintiffs face a risk of irreparable harm absent an injunction. *Id.* at 1293.

²⁰ Plaintiffs will respond by September 30 to the Non-Final Report and Recommendation dismissing these claims. (Doc. 52.) The principal ground for the recommended dismissal is that Plaintiffs failed to show disparate treatment and that detainees with disabilities failed to request an accommodation. (Doc. 52 at 35-6.) These conclusions are inconsistent with settled law. *See, e.g., Schwarz*, 544 F.3d at 1212 n.6; *Holly v. Clairson Indus., L.L.C.*, 492 F.3d 1247, 1262 (11th Cir. 2007) (explaining that a public entity is not insulated from liability under the ADA by treating disabled people exactly the same as non-disabled people because "uniformly-applied, disability-neutral policies . . . would utterly eviscerate [the] ADA requirement [of reasonable accommodations]"); *Todd v. Carstarphen*, 236 F. Supp. 3d 1311, 1328 n.33. (N.D. Ga. 2017) (recognizing that a specific demand for an accommodation is unnecessary where the need for one is obvious).

Here, they undoubtedly do because Defendants' pandemic response has been, and remains, insufficient and unreasonable.

- Defendants regularly leave symptomatic people in overcrowded cells, where sick people infect others. (*See* Part A.1. *supra*.)
- Defendants fail to provide tests to people who show COVID-19 symptoms. (*See* Part A.2. *supra*.)
- Six months into the pandemic, Defendants *still* fail consistently to provide detainees with facemasks and have no functioning system to replace and clean them. (*See* Part A.3.a. *supra*; L.P. Decl. ¶ 4; F.B. Decl. ¶ 4.)
- Defendants have failed to provide even minimally adequate cleaning supplies, such that detainees resort to using scraps of toilet paper, blankets, and their personal allotment of body soap to clean their cells. (*See* Part A.3.b-c. *supra*; Singleton Decl. ¶¶ 3, 6; M.B. Decl. ¶ 10; R.L. Decl. ¶ 19.)
- Defendants have failed even to provide detainees with utensils for eating, such that detainees resort to the unsanitary practice of eating foods like rice, noodles, or eggs with their hands. (A.J.W. Decl. ¶ 8; G.W. Decl. ¶ 10.)
- Defendants require detainees to congregate in close proximity during meal distribution, pill call, and video court. (*See* Part A.4. *supra*.) Social distancing protocols are still not enforced (*see id.*), and recent video evidence shows detained people crammed together in crowded hallways (Ex. D).²¹

²¹ Though not directly relevant to the COVID-19 response, Defendants have failed to provide minimally adequate hygiene supplies, such that, for extended periods, detained people lack basic items like toothbrushes (A.J.W. Decl. ¶ 9) (“I was unable to brush my teeth for a week.”), and feminine hygiene products (F.S. Decl. ¶ 15) (stating that she resorted to using a spare sheet as a sanitary napkin).

Defendants' insufficient response endangers all detainees, *cf. Swain*, 961 F.3d at 1293, but particularly those with health conditions that make them vulnerable to serious illness from COVID-19.²² Absent an injunction, there is an imminent risk that more people will become infected. Some may suffer permanent injury or die.

If Defendants' real-life mitigation plan mirrored that described in Defendants' legal briefs, and if there were a basis for believing Defendants would consistently follow those policies going forward, an injunction might be unnecessary. But detainees credibly report that those policies are not being followed, and Defendants' misrepresentations regarding the existence of an outbreak (Doc. 19-1 at 15) and misleading description of jail conditions undermine their claim that sufficient mitigation strategies are in place.

Defendants claim that there is no irreparable injury because the named Plaintiffs have not been infected. (Doc. 41 at 33.) Even if that were true (it is not),²³ Plaintiffs need only show that they face an "actual and imminent" risk of becoming infected absent an injunction. *Swain*, 961 F.3d at 1292. They have met this burden.²⁴

²² See, e.g., Supp. Watkins Decl. ¶¶ 2-3 (stating that he is 61 and has diabetes); M.B. Decl. ¶¶ 2, 12 (stating she is 52 and received chemotherapy for breast cancer); J.H. Decl. ¶¶ 2, 6 (stating that he is 51 and has hypertension).

²³ Three of the named Plaintiffs experienced COVID-19-like symptoms but were not tested. (Watkins Decl. ¶¶ 37-41; Singleton Decl. ¶ 10; Mitchell Decl. ¶¶ 13-14.)

²⁴ *Swain* does not compel a contrary result. In *Swain*, a district court's irreparable-

III. The Balance of Harms Favors Plaintiffs.

COVID-19 “unquestionably poses a serious threat” to jail detainees. *Swain*, 961 F.3d at 1293. That risk is heightened for people in the Clayton County Jail. Due to Defendants’ unreasonable acts and omissions, Plaintiffs and the nearly 2,000 putative class members are at risk of contracting COVID-19 and experiencing preventable serious illness and death on a massive scale. As a result, Defendants are violating Plaintiffs’ federal rights, and “[c]ourts may not allow constitutional violations to continue simply because a remedy would involve intrusion into the realm of prison administration.” *Brown v. Plata*, 563 U.S. 493, 511 (2011).

In contrast to the serious threat to detainees, an injunction would pose no undue burden on Defendants’ legitimate interests. The proposed injunction (Doc. 19-15) would leave Defendants with responsibility for formulating “reasonably specific and detailed written plans” in the first instance (*id.* ¶ 1).²⁵ Similarly, the

harm analysis was flawed because the court “opted not to resolve” certain factual disputes regarding defendants’ alleged protective measures. *Swain*, 961 F.3d at 1293. Here, there is substantial evidence in the record regarding the inadequacy of Defendants’ COVID-19 response, much of it undisputed, whereas Defendants’ submissions are unpersuasive and, in some instances, demonstrably false.

²⁵ See *Thomas v. Bryant*, 614 F.3d 1288, 1323 (11th Cir. 2010) (approving of seeking proposed remedial plans from prison officials before entering injunction); *LaMarca*, 995 F.2d at 1543 (approving of injunction terms “to ensure that [certain] specific policies were carried out [by prison staff]” as opposed to “the methods by which [prison officials] effectuated these policies”).

proposed order would not necessarily result in release of detainees but would require only preliminary steps to “aid the Court’s evaluation of whether release and/or enlargement is appropriate” (*id.* ¶¶ 6, 8-9) and a plan by Defendants to review (but not necessarily discharge) detainees eligible for discretionary release (*id.* ¶ 7).

Defendants argue that an injunction would interfere with the Sheriff’s “flexibility” by “order[ing] the Sheriff to conform to standards on the day of entry” of the injunction. (Doc. 41 at 36.) As noted above, however, the proposed preliminary injunction allows Defendants to identify areas in which flexibility is needed.²⁶ Thus, an injunction will not improperly restrain Defendants’ flexibility but will merely keep it within constitutional bounds. *Plata*, 653 U.S. at 511 (“If government fails to fulfill this obligation [to provide for prisoners’ basic needs], the courts have a responsibility to remedy the resulting Eighth Amendment violation.”).

IV. An Injunction Will Serve the Public Interest.

It is well established that “the public interest is served when constitutional rights are protected.” *Jones v. Governor*, 950 F.3d 795, 830 (11th Cir. 2020)

²⁶ Similarly, if an unforeseen problem arises after an injunction issues, the “settled rule” is that “district courts retain power to modify injunctions in light of changed circumstances.” *Dombrowski v. Pfister*, 380 U.S. 479, 492 (1965); *see Plata*, 563 U.S. at 542 (stating in prison-conditions case that district courts should “remain open to a showing or demonstration by either party that the injunction should be altered”).

(quoting *Democratic Exec. Comm. v. Lee*, 915 F.3d 1312, 1327 (11th Cir. 2019)). That rule applies with particular force here, as “the integrity of the criminal justice system depends on full compliance” with the proscription against cruel and unusual conditions of confinement. *Johnson v. California*, 543 U.S. 499, 511 (2005).

Defendants argue that a preliminary injunction would disserve the public interest because it would require “immediate release” of detainees, certain detainees may not “be able to protect themselves any better” outside of the Jail, and releasing detainees would allegedly pose a “risk of danger to the public” because they have “committed or allegedly committed a myriad of crimes.” (Doc. 41 at 37-38.) Plaintiffs’ proposed injunction does not ask for “immediate release,” but provides for release “where appropriate” and only if Defendants fail to “ensure that each detainee no longer faces an unreasonable risk of injury or death.” (Doc. 19-15 ¶ 5.) In all events, releasing detainees will not harm the public interest.²⁷ Defendants’ suggestion that detainees may not be able to “provide for their food and medical care needs” or “protect themselves any better” from COVID-19 (Doc. 41 at 37) are

²⁷ See, e.g., *Savino v. Souza*, No. 20-CV-10617, 2020 WL 2404923, at *1 (D. Mass May 12, 2020) (“[T]his injunction does not prohibit the government’s (and the public’s) [interest in] confining those who are dangerous or flight risks. Yet, to the extent it reduces the risk of an uncontrollable outbreak in the facility, the injunction secures the safety of the detainees, the guards and other staff, their families, and ultimately the public at large.”).

wholly speculative, and are factors that the Court could consider in determining whether to release a *particular* detainee. Irrespective of whatever hardships detainees might face in the community, they would not be confined to a mismanaged “incubator[] for the coronavirus.” (Rottnek Decl. ¶ 15.) *Coreas v. Bounds*, No. 20-CV-780, 2020 WL 1663133, at *6 (D. Md. Apr. 3, 2020) (noting “the absurdity of the claim that someone will be safer from a contagious disease while confined in close quarters with dozens of other detainees and staff than while at liberty”).

With respect to public-safety concerns, the proposed order provides for identifying detainees deemed “unsuitable for release under any circumstances.” (Doc. 19-15 ¶¶ 8-9.) If the Court finds it necessary to order the release of certain detainees, it may consider public-safety concerns when making individualized release decisions. Thus, a preliminary injunction would not harm the public interest.

CONCLUSION

The Court should grant Plaintiffs’ motion for a preliminary injunction.

Respectfully submitted,

Kosha S. Tucker
Ga. Bar No. 214335
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF GEORGIA
P.O. Box 77208
Atlanta, GA 30357

/s/ Jeremy Cutting
Sarah Geraghty
Ga. Bar No. 291393
Jeremy Cutting
Ga. Bar No. 947729
Ryan Primerano
Ga. Bar No. 404962

(678) 981-5295
ktucker@acluga.org

Stephen L. Pevar
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
765 Asylum Avenue
Hartford, Connecticut 06105
(860) 570-9830
spevar@aclu.org

David C. Fathi
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
915 Fifteenth Street, N.W., Seventh Floor
Washington, DC 20005
(202) 548-6603
dfathi@aclu.org

SOUTHERN CENTER
FOR HUMAN RIGHTS
60 Walton Street, N.W.
Atlanta, GA 30303
(404) 688-1202
sgeraghty@schr.org

Brandon Buskey
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
125 Broad Street
New York, NY 10004
(212) 284-7364
bbuskey@aclu.org

Counsel for Plaintiffs

CERTIFICATE OF COMPLIANCE

I certify that this document has been prepared in compliance with Local Rule 5.1C using 14-point Times New Roman font.

/s/ Jeremy Cutting

September 24, 2020

CERTIFICATE OF SERVICE

I certify that I filed the foregoing using the Court's CM/ECF system, which will send notification of filing to all counsel of record.

/s/ Jeremy Cutting

September 24, 2020

EXHIBIT A

**Supplemental Declaration of
Nina H. Fefferman, Ph.D**

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RHONDA JONES *et al.*,

Plaintiffs,

v.

VICTOR HILL *et al.*,

Defendants.

CIVIL ACTION

NO. 1:20-CV-2791-ELR-CCB

SECOND DECLARATION OF NINA H. FEFFERMAN

1. I, Nina Fefferman, being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

2. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge, or on information that experts in the field of infectious disease epidemiology would reasonably rely on in forming an opinion, and are true and correct to the best of my knowledge.

I. Expert Qualifications

3. I am a full Professor at the University of Tennessee, Knoxville in both the Department of Ecology and Evolutionary Biology and the Department of

Mathematics. I am also the Director of the Mathematical Modeling Consulting Center at the National Institute for Mathematical and Biological Synthesis, and the Associate Director of the University of Tennessee One Health Initiative. I previously submitted a Declaration (Doc. 19-2) with a more complete summary of my qualifications and experience, attached to which is my CV.

4. I am not being compensated for my work in this litigation. I view my work on this case as part of my civic duty.

II. Opinion

5. I have been provided a copy of Defendants' legal brief in which Defendants state that "[s]tatistically speaking, there is no COVID-19 outbreak at the CCJ." (Doc. 41 at 4.) In my professional opinion based on 16 years of research and teaching in the fields of epidemiology, ecology, evolution of infectious disease, pandemic preparedness, and national biosecurity, this statement is incorrect. As explained more fully below, the undisputed data clearly shows that there has been an outbreak of COVID-19 at the Clayton County Jail.

6. I have also carefully examined the declaration submitted by Charles V. Clopton, Jr. MD (Doc. 41-3). In my professional opinion, Dr. Clopton's declaration reaches unreliable conclusions and makes unsound or ill-informed findings on key

epidemiological issues. Dr. Clopton's declaration further supports my opinion that unsafe conditions within the Jail are exacerbating the spread of COVID-19.

A. Defendants' Claim That There Is "No Outbreak" at the Jail Is Incorrect.

7. The Defendants contend that "statistically speaking," there has not been an "outbreak" at the jail. (Doc. 41 at 4.) The data show otherwise. While there are many definitions of what constitutes an outbreak, for novel pandemics such as COVID-19, a common and functional definition is that an outbreak occurs when new cases are increasing faster than our ability to epidemiologically mitigate or medically treat those cases. According to Dr. Clopton, the average positivity rate at the jail for May, June, and July was 24.35%, with a positivity rate of 27.2% in July. (Doc. 41-3 ¶ 34.) This limited data shows there has been no substantial decrease in positivity rates from the testing conducted over a three-month period. Therefore, mitigation efforts have demonstrably failed to prevent ongoing spread, and the infections at the Jail clearly meet the definition of an ongoing outbreak.

B. Dr. Clopton Provides No Adequate Epidemiological Basis for His Claims About the Level of Outbreak in the Jail.

8. In paragraph 18 of his declaration, Dr. Clopton opines that broad-based testing of detainees for COVID-19 is not recommended for the Clayton County Jail

(“Jail” or “CCJ”) because, he claims, the Jail “had a very low level of community transmission.” That statement finds no support in the data he cites or in any data that I am aware of.

- a. First, the Jail’s data reveals that it has not conducted a sufficient level of testing to know with any degree of reliability the true level of community transmission. In July, for example, Dr. Clopton states that a total of 158 detainees and staff were tested, a figure which, even if it did not include staff members, would constitute less than 9% of the jail’s detainee population. The only ways to reliably estimate community transmission are through extensive randomized testing or by testing a sufficiently large portion of the population. Given that the Jail has not conducted random testing¹ (such as testing all incoming detainees or every other one) or tested an adequate level of the population, the Jail has not *looked* for the data needed to accurately determine the level of community transmission. Thus, Dr. Clopton’s statement is epidemiologically unsound and cannot be credited.

¹ Dr. Clopton states in paragraph 21 of his Declaration that CCJ tests “both symptomatic and asymptomatic individuals,” but he does not provide information as to how these persons are selected.

b. Second, to the extent the Jail's testing data support any conclusion about the level of community transmission, it contradicts Dr. Clopton's assertion. Dr. Clopton states in paragraph 34 of his declaration that the Jail has found a month-over-month positivity rate of nearly 25%, a figure he characterizes as "low." In the medical community, a positivity rate of 25% would not be reasonably characterized as "low."² The positivity rate in surrounding Georgia, for comparison, is 10.3%.³ For reference, Georgia has currently tested 2,783,427 people. If Georgia were experiencing a 25% positivity rate, rather than the 286,876 positive cases which have been identified (yielding a 10.3% positivity rate), there would have instead been 695,856 positive cases; in other words, *over 400,000 more Georgians* would have had to have

² The World Health Organization and many other public health organizations use a 5% positivity rate in the general population as a cut-off over which the prevalence of an infectious disease in a community is deemed to be "too high" to assume the success of mitigation efforts. See David Dowdy and Gypsyamber D'Souza, *COVID-19 Testing: Understanding the "Percent Positive"*, Johns Hopkins School of Public Health (Aug. 10, 2020), <https://www.jhsph.edu/covid-19/articles/covid-19-testing-understanding-the-percent-positive.html> ("As a rule of thumb, however, one threshold for the percent positive being 'too high' is 5%.").

³ Georgia Dep't of Public Health, *Daily Status Report* (Sept. 23, 2020), <https://dph.georgia.gov/covid-19-daily-status-report>.

tested positive for COVID-19 so far to reach the positivity rate seen in the Jail.⁴ The consistently high positivity rate across the past three months suggests the community transmission rate in the Jail is more likely “moderate to substantial” such that the CDC Testing Guidelines recommend testing of asymptomatic individuals.⁵

C. Dr. Clopton’s Opinion that Detainees Are Safer Inside the Jail Than Outside It Is Unfounded and Incorrect.

9. Dr. Clopton states in paragraph 33 his opinion that detainees “are safer” in the Jail than in the community. Dr. Clopton offers no data to support this assertion. Based on the information and data set forth in his declaration, this opinion is factually unsupported and epidemiologically unsound.

10. The testing data provided in paragraph 34 of Dr. Clopton’s declaration does not support his opinion that detainees are “safer” from contracting COVID-19 in the Jail than in the community. As stated earlier, no one can form a reliable opinion that the Jail is “safer” than the community until the Jail has conducted

⁴ *Id.*

⁵ Ctrs. for Disease Control and Prevention, *Interim Considerations for SARS-CoV-2 Testing in Correctional and Detention Facilities* (Aug. 10, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/testing.html>.

sufficient random or widespread testing, and it has not done so. Additionally, as explained above, if anything, the limited available testing data suggests a transmission level within the Jail that is higher—not lower—than that of the surrounding community.

11. Dr. Clopton opines in paragraph 36 that “[t]here have been no inmates that have contracted COVID-19 at the CCJ that have died as a result.” I have not seen any evidence that the Jail, health department, or other entity has collected the extensive data that would be required to support such an assertion. Certainly, Dr. Clopton does not reference any such data in his declaration. It can take weeks or months for someone exposed to COVID-19 to die from complications from this disease. For Dr. Clopton’s conclusion to be reliable, *every* detainee who entered the CCJ, even for booking and immediate release, would need to have been tested and tracked for several weeks following their release or transfer from the Jail. There is no statement in Dr. Clopton’s declaration indicating this was done. In fact, he states that the Jail is *not* testing all detainees. In doing so, he admits his assertion is unsupported.

D. Dr. Clopton Describes an Epidemiologically Unsound Approach to Quarantine and Isolation.

12. Dr. Clopton describes in paragraphs 26-30 of his declaration the Jail’s

approach to quarantine and isolation. The described approach does not make the critical distinction between “quarantine” and “medical isolation,” and does not comport with the existing science on how to effectively respond to potential infections.

13. The CDC defines “quarantine” as “the practice of separating individuals who have had close contact with someone with COVID-19 to determine whether they develop symptoms or test positive for the disease.”⁶ “Medical isolation,” on the other hand, “refers to separating someone with *confirmed or suspected COVID-19 infection* to prevent their contact with others and to reduce the risk of transmission.”⁷ The terms are not interchangeable, and call for different treatment, yet Dr. Clopton repeatedly uses one term when the other is appropriate. For example, he states that, “[i]f an inmate is in the medical infirmity due to suspected or confirmed COVID-19, the inmate is quarantined...” (¶ 28.) However, if an inmate were suspected or confirmed to have COVID-19, they should be placed

⁶ Ctrs. for Disease Control and Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities* (July 22, 2020), https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#For_cases.

⁷ *Id.* (emphasis added).

in medical isolation, not quarantine.

14. Based on my understanding of the limited space available in the jail, those who are in quarantine are housed together with others who are also quarantining (i.e. a cohort design). These individuals are not known to have caught COVID-19 and are being held apart from others as a protective measure against possible infection. If used effectively, quarantine interrupts disease spread because it eliminates transmission even from those who may not be symptomatic. Many people complete quarantine in a state of good health, having never been infected in the first place. Housing quarantined individuals together with those who are isolating (and can therefore be assumed to be actively infectious) puts the individuals in quarantine at increased risk by housing all of them (including those who are not infected) with actively infectious cases, thereby ensuring their ongoing exposure. Best practice is to quarantine potentially exposed individuals in a way that allows for any individuals who develop symptoms or test positive for infection to be immediately removed and placed into separate isolation, a precaution aimed at maximizing the chance that any uninfected individuals in quarantine do not become infected. The quarantine protocol described in Dr. Clopton's declaration does not separate people who are quarantined while they await test results from people who

are in isolation with a confirmed infection, nor does it account for the risk of cross-contamination within quarantine cohorts. Epidemiologically speaking, it is unlikely to be effective.

15. Dr. Clopton states that individuals suspected of or confirmed for COVID-19 are quarantined in the medical infirmary and “[a]fter 14 days of quarantine in the medical infirmary, and only if the inmate tests negative for COVID-19 and is not exhibiting symptoms, the inmate is transferred to general population.” (¶ 28.) However, because people in the infirmary are held in “cohorts of quarantined” detainees (*id.*), no person from a given cohort should be sent to the general population until 14 days after the last person who entered the cohort tested negative, not 14 days after the first individual was quarantined. Otherwise, this “quarantine” in the infirmary may instead serve to *spread* COVID-19 by exposing healthy, but already-quarantined individuals to infected newcomers before releasing the recently exposed individuals back into the general population.

16. Based on the description contained in Dr. Clopton’s Declaration (¶ 29), the Jail’s “step down” unit suffers from the same medical shortcoming as the infirmary. Rather than release an individual from that unit who tests negative after 14 days, release should not occur until after the newest person to enter that cohort

has passed the 14-day window for developing symptoms *and* everyone in the unit has tested negative.⁸

17. Moreover, the “step down” unit is a converted housing unit where the conditions may make effective quarantining difficult. If there is insufficient ventilation such that air is shared or recirculated between the individual cells, then someone “quarantined” in one cell may be properly considered a “close contact” of someone in another cell, even if both cell doors remain closed at all times. Thus, in a converted housing unit with insufficient ventilation, infected individuals may be spreading the virus to others who are on the verge of being released back to the healthy population.

18. In addition to the two quarantine programs described in paragraphs 28 and 29, Dr. Clopton describes a third program in paragraph 30: “Housing Unit 4 Section 500 has also been established for quarantine purposes in response to COVID-19 in order to combat the spread of COVID-19.” Detainees are placed at this location “if they have had contact with someone who is suspected of having

⁸ There are measures that would render Defendants’ infirmary and “step down” programs epidemiologically sound, such as keeping individuals separate from each other, but these measures are not stated by Dr. Clopton as being present in either program.

COVID-19, is showing COVID-19 related symptoms, or has tested positive for COVID-19.” *Id.* As described by Dr. Clopton, management of this third location is inconsistent with recognized protocol and is likely to spread COVID-19 because persons sent to this unit who “test negative and are not showing symptoms, they are then transferred back to general population.” *Id.* To illustrate, a person who has had recent contact with an infected person may test negative for several days and show no symptoms. Yet that person is a spreader of the disease who should be quarantined, not returned to the general population. Thus, the protocol described in paragraph 30 is not sufficiently stringent and is epidemiologically unsound.

III. CONCLUSION

19. Based on my expertise in the epidemiology of infectious pandemics, I stand by my earlier conclusion that unsafe conditions within the Jail are exacerbating the spread of COVID-19. The information and data contained in Dr. Clopton’s Declaration do not undermine that conclusion. On the contrary, they reinforce it.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.



Nina H. Fefferman, PhD
Name

September 24, 2020
Date

Knoxville, TN

The University of Tennessee, Knoxville
447 Hesler Biology Building, 1406 Circle Dr.
Knoxville, TN 37996
Phone: 781 710 5025
Fax: 865-974-3067
E-mail: nina.h.fefferman@gmail.com

EXHIBIT B

Declarations of 13 Current or Recent Detainees

INDEX OF DETAINEE DECLARATIONS

	Exhibit No.
Supplemental Declaration of Barry Watkins	B-1
Declaration of J.L.L.	B-2
Declaration of L.P.	B-3
Declaration of C.B.	B-4
Declaration of F.B.	B-5
Declaration of G.R.	B-6
Declaration of J.L.	B-7
Declaration of P.B.	B-8
Declaration of R.J.	B-9
Declaration of S.T.	B-10
Declaration of A.B.	B-11
Declaration of A.J.W.	B-12
Declaration of W.G.	B-13

EXHIBIT B-1

Supplemental Declaration of Barry Watkins

SECOND DECLARATION OF BARRY WATKINS

I, Barry Watkins, being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am a 61-year-old man incarcerated at the Clayton County Jail in Jonesboro, Georgia. I have been incarcerated at the jail for over two years and am awaiting trial. My LE number is 1973257.
3. I am diabetic, a condition I understand puts me at heightened risk for COVID-19 complications.
4. I am currently housed in Dorm 5, which is an open dorm. Other detainees in Dorm 5 have told me that it is a dorm for people aged 55 or older. There are only about 29 people in the dorm. I had to ask Classification to transfer me into the dorm even though I am 61 years old.
5. My attorney read me the declaration of Lieutenant Gibson in which he makes statements about conditions in the jail's general housing units. I don't recognize the conditions he describes. I was housed in Housing Unit 5, Pod 1 until the middle of August, 2020, when I was transferred to my current dorm. As of the

time I left the housing unit in mid-August, the conditions were very different.

6. It was not the case that social distancing was being emphasized. Aside from the reminder on the kiosk, we received no instructions on social distancing and were often put into situations where maintaining distance was difficult.

7. We were not directed to separate six feet apart while we waited in line for our medications at pill call. Nobody ever instructed us to maintain distance from one another at pill call.

8. Social distancing was also not enforced in the infirmary. In the middle of August, when I went to diabetic call, which I do twice a day, there was a sign on the entrance to the medical wing encouraging people to employ social distancing. But inside that door, everyone was still close together and jail staff did not encourage detainees to maintain distance.

9. It was not the case that all meals were delivered to our cells. Our cell doors were opened, and we lined up close together in the day room to receive our second meal of the day and our sandwiches for dinner. There were no efforts to encourage or enforce social distancing.

10. Nothing in the common area was cleaned twice a day. The trustees cleaned some common area items like tables and chairs roughly once a week. I never saw trustees clean some other common area surfaces like kiosks or railings.

11. It was not the case that the dorm phones are sanitized by trustees between each recreation time shift. I never once observed the dorm phones or other high touch surfaces cleaned between each out-of-cell time shift. At the very most, the trustees wiped down the phones once a night.

12. It was not the case that each cell was cleaned and sanitized twice a day. I was never given adequate cleaning materials to clean or sanitize my cell. On occasion, around once or twice a week, a trustee would spray something on the sink and toilet, but that was it. During out of cell time in the morning, we had access to a mop and bucket, but the mop and water was usually too dirty to use.

13. It was not the case that we received two bars of soap each week. When I left the housing unit in August, we still received only a single 4-ounce bottle of liquid soap each week. We have not received soap in bar form in over a year.

14. I was never instructed that I could request additional soap for free. The supply of soap in my pod remained strictly limited at one bottle per week and we could not freely get additional soap from officers. The only way to get extra soap was to purchase it from a trustee or from the commissary store.

15. It was not the case that no detainees were required to sleep on the floor of a cell where the toilet was overflowing. At the time I left the housing unit in mid-August, I could still observe at least two people sleeping on their mats on

the floor surrounded by foul-smelling toilet water.

16. It was not the case that laundry was done twice a week. In the nearly two years I spent in the general housing units, laundry was never done twice in one week, including in August 2020. In my experience, laundry was done at most once a week.

17. As I wrote in my first declaration, I filed a grievance in May asking the jail for information about COVID-19 and how I could protect myself. That grievance was pending for about a month and then it disappeared completely from the grievance section of the kiosk without any message about it being substantiated or resolved.

18. I have been at the jail for over two years. When I pull up my grievance page on the kiosk, I can see each of my past grievances except one. The only grievance that does not show up in my past grievances is the one I filed regarding COVID-19. I do not know where it went.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this 17th day of September, 2020.

/s/ Barry Watkins
Barry Watkins
(signed with express permission)

EXHIBIT B-2

Declaration of J.L.L.

DECLARATION OF [REDACTED] (J.J.L.)

I, [REDACTED] (J.J.L.), being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am 48 years old. I have been incarcerated at the Clayton County Jail for more than 6 months awaiting trial. My LE number is [REDACTED].
3. I am currently in Housing Unit 6, Pod 1, but I was in Housing Unit 7, Pod 2 for most of my time in the jail.
4. I have high blood pressure and polycystic kidney disease. It is my understanding that this puts me at risk for serious illness from COVID-19.
5. I do not currently have a mask despite requesting one on many occasions. When I request one from officers verbally, officers have told me that they don't have any masks to give me and have told me to put in a request on the kiosk. When I placed a request on the kiosk, I received a response that indicated that I had to ask officers in my dorm. I received a single-use mask approximately 3 months ago, but that mask ripped after extended use and is no longer useable. I

was never given a reusable cloth mask.

6. In June, my cellmate, D.B., began to experience symptoms of COVID-19. His symptoms came on at night and included a fever, headache, sweating, and loss of smell and taste. At first count the following morning, D.B. told officers about his symptoms, asking that they take D.B. to medical or call a nurse to the dorm. The officers appeared scared of getting too close. I recall one officer saying, "I'm not coming in that cell." They ignored D.B.'s request and told us to "get in []our cell." D.B. requested medical assistance from the officers at each count and mealtime over the course of three days. He requested assistance over twenty times in those three days. No one from medical came to check on D.B., nor was he sent to medical or isolated from others.

7. On the third day, D.B.'s symptoms worsened. He appeared very fatigued and appeared to walk with difficulty when moving around the dorm. Still, D.B. got no help from officers or the medical staff, and he was not isolated from other detainees. That same day, at the end of evening out-of-cell time, D.B. decided to lay on the floor of the dorm's common area. He refused to move when the officers told him to, and instead demanded that they call medical. The officers appeared scared to touch him and physically remove him from the common area of the dorm. D.B. laid on the floor for almost two hours before a nurse finally

arrived. The nurse took his vitals and then escorted him to the medical unit. I did not see D.B. for another six weeks, after which he was returned to my housing unit.

8. No one came to sanitize or clean our cell following D.B.'s removal from the dorm. Over the next three days, my other cellmate, C.H., and I requested cleaning materials from officers at every count time and mealtime. We requested cleaning materials more than twenty times over the next few days from both officers and trustees. We were refused every time. The officers ignored us or simply told us that they did not have cleaning materials to give us. We were not even given a mop or a broom, let alone bleach or any other cleaning chemical to wipe down the toilet or D.B.'s sleeping area.

9. Approximately four days after D.B. left the dorm, I got a terrible headache unlike any I had had before. Then came cold sweats, a fever, a loss of appetite, and no taste or smell. Then I started vomiting. I was unable to hold any food down. I reported my symptoms to officers at count. Like with D.B., the officers appeared scared to come near me or my cell. C.H. and I pressed the emergency help button repeatedly. No help came.

10. By the second day, my symptoms were so severe that I had difficulty getting up out of my bed. I couldn't walk down the stairs from the top tier into the common area. And still I was unable to get any medical attention.

11. Approximately two days later, I fainted in my cell. I awoke on the floor to a light being flashed into my cell. It was an officer conducting count. He did not stop to check on me. I was called up to the medical unit approximately ten hours later. I was in bad shape at this point. I had immense difficulty walking down the stairs of my dorm and all the way to the medical unit. I did not have a mask throughout this entire time.

12. At the medical unit, a nurse took my blood pressure and temperature. I reported my symptoms and requested a COVID-19 test. But I was not tested. The nurses told me that I did not need a test because I was “fine.” I told the nurses that I was not “fine,” I repeated my symptoms, and I told them that I didn’t want to get other men in my dorm sick. I was given two ibuprofen and sent back to my dorm.

13. Back in the dorm, my condition gradually began to improve. I was moved to a different cell with a man named P.T. Approximately one week later, an officer informed us that P.T.’s former cellmate had tested positive after being transferred to prison. P.T. and I were moved to the medical unit where we were placed in the same medical isolation cell.

14. We waited for approximately one week before seeing a doctor who performed the nasal swab COVID-19 test. During this week, we received no

medical attention whatsoever. We received test results three days after we were tested. I tested negative, but P.T. tested positive. We spent another three days in “medical isolation” after receiving our results.

15. Our time in medical isolation was a terrible experience. We were more or less left alone. We received only one shower in two weeks, and we weren’t able to change jumpsuits. Nurses did not perform any vital checks. They conducted count by looking through the double doors. Food was placed through a flap in the door.

16. From medical isolation, P.T. and I were transferred to Housing Unit 4, Pod 6, known among detainees as the “corona dorm.” We stayed there for one week. P.T. was tested again, but I did not receive a second test, even though I was spending every moment of my time alongside someone who had tested positive. Officers in the “corona dorm” did not enforce any social distancing precautions. In fact, officers would let out the whole tier together for free time, even though P.T. and others in the dorm had tested positive. Eventually, P.T. and I were transferred back to Housing Unit 7, Pod 2.

17. The jail is still not taking basic precautions to protect us. Social distancing is not enforced at mealtimes or pill call. Cell cleaning is minimal and inconsistent. We do not regularly receive cleaning materials with which to clean

our cells. No trustee has come by my cell to spray the toilet in more than a week. I do not have permission to get cleaning chemicals on my own; we have to wait for the trustees to bring them. It has been over a week since I had access to a mop or a broom.

18. On or around September 18, an officer let everyone out of their cells, and required all of the detainees to gather together in the dorm's common area to make an announcement about detainees not following certain rules. I could not believe that he called approximately 48 men to congregate in a small area to make a minor announcement when everyone is supposed to be keeping "socially distanced."

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this **23** day of September, 2020.

/s/

[REDACTED] (J.J.L.)
(signed with express permission)

EXHIBIT B-3

Declaration of L.P.

DECLARATION OF [REDACTED] (L.P.)

I, [REDACTED], being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am a 47-year-old man incarcerated at the Clayton County Jail in Jonesboro, Georgia. I entered the jail on or around November 12, 2019 and am awaiting trial. My LE number is [REDACTED].
3. I am currently in Housing Unit 5, Pod 1.
4. I have one mask. It is a blue surgical mask. In early August, the elastic strap on one side of the mask snapped. Now I have to hold it in place with my hand. I requested a replacement mask from a floor officer, but he told me to ask a nurse. During pill call, I asked a nurse for a mask but she told me that she didn't have any in her cart. Later, in the medical wing, I asked a nurse if I could have a new mask but she told me that she didn't have any replacements for lost or broken masks.
5. Over the past six weeks, several new detainees have been placed in my dorm without masks. There are at least nine detainees living in my dorm right

now who do not appear to have a mask.

6. Last week, three new men were placed in our dorm without a mask. Once of these men asked me if I had an extra mask to give him, but I only have one, broken mask. I heard an officer ask the three men where their masks were. They responded to the officer that they never got any masks. The officer left them alone after that.

7. I experienced symptoms in June. I couldn't breathe and I felt hot. I approached an officer about my symptoms, and he allowed me to go to the medical wing. In medical, I told the nurse about my symptoms. He said, "You don't look sick to me," and sent me back to my pod. For the next three weeks, my symptoms got worse. I hardly slept and lost my sense of taste and smell for over a week. I couldn't breathe when I was laying down, so I tried to sleep while sitting upright. My symptoms frightened me, and I asked the nurse on pill call to help me get medical care. She told me she would "go and talk to somebody" in medical about me, but nobody ever came to see me, and I was not called back to medical. I repeatedly asked the nurse at pill call to be tested but was told "you're fine." They did not take my temperature. I was not tested.

8. In August, I was in the medical wing and I asked a nurse there if I could be tested for COVID-19. I still didn't feel like I had fully recovered from the illness I developed in June. I was still coughing, and I wanted to know if I had the

disease. The nurse told me that she couldn't give me a test because they didn't have any tests. Her exact words were "we ran out." The doctor, Doctor Clopton, was nearby when the nurse said that. He came over to me and said that he could not help. He said, "I don't have anything to work with." I still have not been tested for COVID-19.

9. In mid-July, jail staff put up a sign in our pod that instructs us to wear a mask and practice social distancing. But every day, officers tell us to form a line to get our food and medications. They do not encourage us to maintain social distancing at all.

10. All detainees are not provided multiple bars of soap for personal use each week. We receive a single four-ounce bottle of liquid soap each week. I have been asking for the bar of soap since I got to the jail because my skin has a bad reaction to the liquid soap, which makes me break out. The doctor has told me he can't give me a bar of soap because bars of soap are not permitted in the housing units. If we run out of liquid soap, we have to wait until the next week to receive more. Officers and trustees will not give us extra soap.

11. The trustees rarely spray any disinfectant in our cells. I know from my time working as a trustee in the housing units that this is because trustees receive only a limited amount of cleaner each week. In the past three months, my cell has been sprayed four or five times.

12. The common areas are not cleaned regularly. Yesterday, there were scraps of food all over the common area tables and floor. This happens frequently. Even though it's not my job, I asked an officer for the broom so I could clean it up. The officer became visibly angry, cursed me out, and told me I need to get back to my room "before [I] get sprayed."

13. Laundry is not done regularly. I have had no sheets for over a month. I sleep directly on my mat. I have not received a clean uniform in three weeks. Wearing this dirty jumpsuit irritates my skin and is uncomfortable.

14. I was never given any instruction or materials on the grievance process. I learned from other detainees that one can submit a grievance on the electronic kiosk in our housing unit.

15. I would like to write grievances about some of the issues discussed in this declaration. However, I have two grievances pending on the kiosk, so I can't file a new grievance until one of them is resolved. Those grievances have been pending since May.

16. In April, I filed a grievance asking for the jail to protect trustee workers from COVID-19. I was a trustee at the time, and I was concerned that I was being exposed to COVID-19 by entering the housing units for my job. The grievance asked the Jail to provide us with masks to protect ourselves and chemicals to clean with. That grievance was pending for several weeks but it was

never answered. On the kiosk, if I try to pull up that grievance by clicking on it, it says “cleared, per your request.” I never asked for this grievance to be cleared.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this 22nd day of September, 2020.

/s/ I [REDACTED] P [REDACTED] _____
[REDACTED] (L.P.)
(signed with express permission)

EXHIBIT B-4

Declaration of C.B.

DECLARATION OF [REDACTED] (C.B.)

I, [REDACTED], being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am a 43-year-old man incarcerated at the Clayton County Jail in Jonesboro, Georgia. My LE # is [REDACTED]. I entered the jail on or around December 28, 2019. I am serving a one-year sentence for a probation violation.
3. I was previously diagnosed with tuberculosis about two years ago and was never treated for the disease. I understand this condition may make me more vulnerable to COVID-19.
4. I am currently in Housing Unit 6, Pod 1. I have been in this housing unit since I arrived at the jail. I was never placed into any kind of “orientation” pod, so far as I know.
5. I never received any education on the jail’s grievance process. I never saw a video about the grievance process. I was never instructed on how to appeal a grievance. I have never seen or even heard of an inmate handbook. I learned that the jail had a grievance process from other detainees in my pod.

6. It is not true that jail staff tests any detainee who requests a COVID-19 test. It is not true that no detainee is denied a COVID-19 test. In late July, I began feeling feverish and lost my senses of taste and smell. I was concerned I might have COVID-19, so I submitted both a medical request and a grievance, and also made an in-person verbal request to a nurse, all asking to be tested. A nurse came to my cell and took my temperature. She told me my temperature wasn't high enough to bring me to the medical wing. I had no further contact from her or anyone else about my symptoms, which I continued to experience for weeks. I was not quarantined or provided with any medical care whatsoever. I am only now beginning to regain my senses of taste and smell. I have still never been tested for COVID-19.

7. Detainees do not receive multiple masks or have access to replacements. I did not receive a mask until June, when I was given a single thin cloth mask. I am still using that same mask. I was never given a second mask. I have asked jail officers for a replacement mask multiple times, but I have never received one.

8. All meals are not delivered to each cell. Detainees in my pod are let out of our cells to collect our second and third meals of the day.

9. Social distancing is not enforced when we come to get our food. Each day, when it is time to get my lunch tray and dinner sack, I have to line up in close

single file with the other 20 to 23 people in my tier. My cell is in the top tier of the pod. In a continuous line, we go down the narrow stairway to the bottom, receive our tray, turn around, and go back up the stairs. During this process, I necessarily come within less than six feet of every person in my tier. Jail staff do not advise us to practice social distancing.

10. The phones are not sanitized between each recreation shift and, in my time in the pod, trustees have never wiped down the tables anywhere close to twice a day. There is trash and dirt surrounding the common area tables. Currently, the trustees wipe down those surfaces about once a week.

11. It is not the case that the showers are cleaned regularly. Up until last week, I had not seen the shower cleaning crew in several months. The showers were filthy and had attracted flies. I had asked multiple jail officers on multiple occasions to send the shower crew to our pod, but they had not appeared.

12. Our cells are not cleaned and sanitized twice a day. It is difficult if not impossible to clean our cells because we don't have the necessary supplies. Once a day, during the morning break, we get access to a bucket of dirty water and a broom. I cannot use the water to clean my cell because it is black by the time it gets to me. I also usually don't have enough personal soap to use to clean, since I have to conserve it for showering and washing my hands.

13. The trustees do not regularly spray the toilets and sinks in the cells

with disinfectant. I have only seen a trustee spray my sink and toilet once in the past month. I have asked several trustees if they will use their cleaning products on my toilet and sink, but they say the officers won't let them.

14. We do not receive two bars of soap a week. We receive just a single 4-ounce bottle of liquid soap each week. In my time at the jail, I have never once received a bar of soap.

15. Detainees are not freely able to get additional soap from officers. When I have asked officers for extra soap to allow me to clean my cell, they have told me to "wait until next week." The only ways to get an extra bit of soap are to barter with the trustees or purchase it from the commissary.

16. It is not the case that the jail addresses issues with detainees' cell toilets. The toilet in my cell does not work. It leaves feces in the bowl. As a result, my cellmates and I can only use the toilet to urinate, and not to defecate. When we need to defecate, we must wait for out of cell time and use the common bathroom. The toilet has been broken since I arrived in the cell in December. I have asked the jail officers to send someone to fix it on several occasions, but nobody has ever come to address the issue.

17. I have observed at least two other cells in my pod where the toilet does not work. Since I arrived in the pod in December, both the water and the toilet in Cell 13 have not worked. The toilet in Cell 1 is broken as well.

18. Laundry is not done twice a week. Some personal clothing items are laundered once a week, on Sunday. We receive them back on Monday. However, other items, like jumpsuits, sheets, and blankets, are not laundered regularly. I have been wearing the same jump suit for the past three weeks without a replacement. My blanket has not been washed or changed in the last three months. On the occasions our sheets are taken for laundry, we may not get them back for an extended period of time. It is common to go multiple months without sheets to sleep on. Right now, I have no sheets and must sleep directly on my mat. I have not had sheets in roughly three weeks.

19. I have tried unsuccessfully to grieve some of these issues. In the middle of July, there was a COVID-19 outbreak in our pod. Several people were removed from the pod after complaining of COVID-19 symptoms. I filed a grievance asking the jail staff to come and test the whole pod. The grievance stayed pending on the kiosk for about a month. I then submitted a request in which I asked the jail to respond to my grievance. Soon after that, the grievance disappeared from the kiosk. I received no response, and it is not recorded as one of my past grievances. It is just gone.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this 16th day of September, 2020.

/s/ C [REDACTED] B [REDACTED] _____
[REDACTED] (C.B.)
(signed with express permission)

EXHIBIT B-5

Declaration of F.B.

DECLARATION OF [REDACTED] (F.B.)

I, [REDACTED], being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am a 56-year-old man incarcerated at the Clayton County Jail in Jonesboro, Georgia. I entered the jail on or around August 7, 2020 and am awaiting trial. My LE number is [REDACTED].
3. I am currently in Housing Unit 6, Pod 1.
4. It is not the case that every detainee is provided with two face masks at intake. When I went through intake on or about August 7, 2020, I was given a single cloth mask. The mask was threadbare, and the straps were loose and stretched out. It had clearly already been used. I still have that mask. I never received a second mask. I have asked several officers for a replacement but never received one.
5. It is not the case that detainees are educated on the grievance process during orientation. I was not educated on the inmate handbook. I was not shown a video on the television screen monitors about the grievance or medical request

processes. I was not educated as to the appeal process for grievances.

6. I was not instructed during orientation about COVID-19 or about the availability of testing, social distancing measures, mandatory use of facemasks at all times, or handwashing.

7. It is not the case that all meals are delivered to each person's cell. Each day, we leave our cells to get our lunch tray and dinner sack.

8. Social distancing is not emphasized or enforced for detainees. At mealtime, everyone in my tier necessarily lines up close to one another in order to get their food. If we don't congregate in line to wait for our food, the officers will wait until we are in line before they start to distribute food trays. At pill call, people who get medications have to line up again. Jail staff do not encourage us to maintain social distancing at all.

9. It is not the case that all detainees are provided multiple bars of soap for personal use each week and additional soap for replacement. In my experience, we receive no bars of soap at all. We receive a single small bottle of liquid soap each week and we cannot get additional soap from officers or trustees.

10. It is not the case that all common areas are cleaned twice a day with cleaning chemicals by trustees. In my experience, the trustees typically clean the common areas once or twice a week.

11. It is not the case that each cell is cleaned and sanitized twice a day.

Once a day, we have access to one bucket with a mop. There are 16 cells, so the water quickly becomes filthy and unusable. We have no access to extra water and cleaning chemicals. I have asked officers for cleaning supplies. The officers have told me to talk to the trustees, and the trustees have told me that they are not allowed to share cleaning materials with us.

12. It is not the case that jumpsuits are exchanged once or twice a week. My jumpsuit has been changed only one time in the past three weeks. I have had no other opportunities to swap it out for a clean one.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this 17th day of September, 2020.

/s/ F [REDACTED] B [REDACTED] _____
[REDACTED] (F.B.)
(signed with express permission)

EXHIBIT B-6

Declaration of G.R.

DECLARATION OF [REDACTED] (G.R.)

I, [REDACTED] (G.R.), being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am 26 years old. I have been incarcerated at the Clayton County Jail for almost two years awaiting trial. My inmate number is [REDACTED].
3. I am currently in Housing Unit 6, Pod 6. I have been housed in this pod since February 2020.
4. Cleaning and hygiene protocols have not improved since the start of the pandemic. I still receive only one small bottle of liquid soap per week. There is no additional soap provided. My cell is not cleaned every day because we often do not receive cleaning materials. We are only able to clean our cells once or twice per week. Inmate workers, also known as “trustees,” do not clean our cells either. Cleaning in the common areas of the dorm is irregular, and surfaces, like phones, kiosks, and tables, do not appear to be cleaned consistently.
5. I received one cloth mask in mid-July. I have not received a

replacement mask. It is my understanding that I have to purchase a new mask from the commissary if I want a new one.

6. Beginning in early July, before masks were available in my pod, I began to fear that COVID-19 had spread to my pod. I witnessed men coughing during free time and in the meal line. I was very worried because social distancing is not enforced. Multiple men in my dorm told me that they weren't feeling well, and that their cellmates were staying in their cells during free time because they were too ill to come out.

7. In mid-July, a man named K.R. was transferred into my cell. K.R. was having severe coughing fits. The coughing fits scared my cellmate, R.C., and me because we worried that K.R. might have had COVID-19. R.C., in particular, was worried because he is elderly with an underlying heart condition that makes him especially vulnerable to COVID-19 complications. R.C. and I communicated our concerns about K.R.'s placement in our cell to multiple officers over several days. The officers assured us that we had nothing to worry about and telling us that we "would be OK." They did not communicate any justification for that belief. K.R. reported to me that he had not been tested and he continued to be symptomatic.

8. K.R. remained in our cell for approximately one week before he was transferred to another cell in my dorm where he stayed for a few days. It is my

understanding that he was then released from the jail.

9. Approximately one day after K.R. left our cell, my cellmate, R.C., reported that he was experiencing headaches and shortness of breath. His symptoms began to worsen. He started having severe coughing fits, difficulty breathing, and he couldn't eat anything. He began to lose a lot of weight. I heard R.C. report these symptoms verbally to officers conducting count and he told me that he submitted sick call requests asking for COVID-19 testing and medical treatment. R.C. told me that he never received a test. He remained in my cell until early September when he was released.

10. About five days after R.C. began to experience symptoms, and about one week after K.R. left our cell, I too began experiencing shortness of breath, painful headaches, dizziness, nose bleeds, lost appetite, dry nose, and loss of smell. Like R.C., I verbally reported my symptoms to officers during count. I submitted several sick call requests asking to be tested for COVID-19 and asking to receive medical care to treat my symptoms. I never received any response to my sick call requests from medical. I was not tested for COVID-19, nor did I receive any medical care, evaluation, or treatment for my symptoms.

11. I am still experiencing symptoms to this day. While the worst of my respiratory symptoms have passed, I still do not have a sense of smell.

12. When I first heard about the COVID-19 pandemic from my loved ones, I was terrified of contracting COVID-19 at this jail. The conditions at this jail unnecessarily put my health and life at risk.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this **10** day of **September**, 2020.

/s/

[REDACTED] (G.R.)
(signed with express permission)

EXHIBIT B-7

Declaration of J.L.

DECLARATION OF [REDACTED] (J.L.)

I, [REDACTED] (J.L.), being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am 25 years old. I have been incarcerated at the Clayton County Jail for approximately 14 months awaiting trial. My inmate number is [REDACTED].
3. I was in Housing Unit 6, Pod 1 for most of my time in the jail until I was recently transferred to Housing Unit 5, Pod 1 on or around September 14.
4. I have severe asthma that requires two different types of inhalers, a steroid inhaler and a rescue inhaler. The steroid inhaler helps prevent asthma attacks while the rescue inhaler helps mitigate asthma attacks when they occur. I have not received my steroid inhaler despite requesting it many times throughout my 14 months in the jail. As a result, I have had several asthma attacks that I believe would have been prevented had I been provided my steroid inhaler.
5. The conditions at the jail, including leaking from the ceiling and mold in the cell I was housed in for almost a year, have exacerbated my asthma as well.

6. With my asthma uncontrolled, I have been worried about contracting COVID-19 since the first time I heard about the pandemic from my loved ones in March.

7. For the first several months of the pandemic, the jail did almost nothing to prevent an outbreak of COVID-19. We did not have masks for months, and we were given no information whatsoever about COVID-19 or its symptoms. More recently, jailers have distributed masks and put up signs encouraging handwashing. But that is about it.

8. I have received only one cloth mask and it is my understanding that replacements are not available. When I wash my mask, I do not have a mask to wear while I wait for it to dry. I receive only one small bottle of liquid soap per week. Additional soap, including “soap bars,” have not been made available to me.

9. Social distancing is still not enforced. Staff do not walk through the dorm to enforce social distancing amongst detainees or officers. We are required to line up for the second meal of the day, and men in my pod line up or crowd around the pill cart in close proximity to receive medication during pill calls. Officers don’t say anything, and if you want your meals or medication, you have no choice but to join the crowd of people.

10. Cleaning in the dorm’s common areas and in our cells continues to be

minimal. In Housing Unit 6, Pod 1, the toilet in my cell was sprayed infrequently with cleaning fluid by inmate workers, also known as “trustees.” It had been approximately two months since my cell was sprayed by trustees at the time I was transferred to my new dorm in Housing Unit 5. We were given cleaning materials to clean our own cells at most once or twice per week. Those cleaning materials included a mop with dirty, unusable mop water, and a broom. We were not given cleaning chemicals, like bleach. Cleaning in Housing Unit 6, Pod 1’s common area consisted primarily of sweeping and trash collection, and rarely were frequently-touched surfaces cleaned. The surfaces did not appear to have been cleaned for months. It is not the case that trustees clean the common areas twice per day. In my brief time in Housing Unit 5, Pod 1, my experience with cleaning and sanitation has been similar to that of Housing Unit 6, Pod 1.

11. Most troubling of all, people with symptoms of COVID-19 are often not tested and not isolated from others.

12. In early August, one of my cellmates, B.S., began to experience symptoms, including shortness of breath, body aches, loss of appetite, and loss of smell. He reported his symptoms verbally to officers at count on multiple occasions over several days. As far as I know, no one from medical ever came to see B.S., nor did he receive a COVID-19 test. I also requested to be removed from

the cell with B.S., but this request was ignored.

13. One week after B.S.'s symptoms emerged, I began experiencing similar symptoms. I had a sore throat, a cough, headaches, body aches, and had lost my sense of smell. I reported my symptoms verbally to officers at count time on multiple occasions. Officers told me that they would alert medical, but no nurse ever arrived, nor was I called to medical for assessment. On or around August 10, I put in a sick call request on the kiosk reporting my symptoms, requesting a COVID-19 test, and asking for immediate medical attention. After submitting this sick call request, I was still not seen by anyone on the medical staff for approximately ten days. I was not tested or isolated from other men in my pod at that time. While I waited for medical to respond to my sick call request, my cough worsened for a few days before my symptoms began to improve.

14. Approximately ten days after I reported my symptoms, I was sent to the medical unit to see a nurse. By the time I saw the nurse, the worst of my symptoms had passed. The nurse took my temperature and my blood pressure. I was not running a fever, so she sent me back to my cell. I did not receive any other care from the nurse, nor did she give me any additional instructions about follow up care. And while I had requested a COVID-19 test in my sick call request on the kiosk, the nurse did not test me for COVID-19. I have never been tested for

COVID-19.

15. By the time I came back from medical, it was too late. Others in the dorm appeared to have become infected. Throughout August, I saw many other men in my pod coughing or appearing as if they were having difficulty breathing. Most were not removed from the dorm or isolated.

16. I do not believe that the jail is really trying to protect us from COVID-19. It feels like no one cares if we contract the virus.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this **17** day of September, 2020.

/s/ [REDACTED]

[REDACTED] (J.L.)
(signed with express permission)

EXHIBIT B-8

Declaration of P.B.

DECLARATION OF [REDACTED] (P.B.)

I, [REDACTED], being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am a 32-year-old man incarcerated at the Clayton County Jail in Jonesboro, Georgia. My LE number is [REDACTED]. I am awaiting trial. I entered the jail on or around May 26, 2020.
3. When I arrived at the jail, I spent about five days in the “orientation” pod before I was transferred to my current housing unit, Housing Unit 6, Pod 1.
4. At no point during my time in the “orientation” pod was I instructed about COVID-19 or about the availability of testing, social distancing measures, mandatory use of facemasks at all times, or handwashing.
5. I was not educated on the grievance process during my time in the “orientation” pod. I was not educated on the inmate handbook during orientation, nor was any handbook or rulebook made available to me. I was never shown a video on the television screen monitors about the grievance or medical request processes. I was not educated as to the appeal process for grievances.

6. In my experience, detainees at the jail are regularly denied a COVID-19 test and cannot receive a test by asking. In early July, I began to develop symptoms of COVID-19. I experienced difficulty breathing, and I couldn't taste or smell. I told an officer about my symptoms and asked to go to medical, but the officer would not let me. I then put in a sick call request through the kiosk. Once I was called to medical, I told a nurse about my symptoms and asked to be tested for COVID-19. The nurse took my temperature, gave me some Tylenol, and sent me back to my cell. She did not give me a COVID-19 test.

7. For the next three days, I couldn't eat. I put on extra clothing and my blanket and sweated through my symptoms. I asked the officer to be moved out of the housing unit, but he just moved me four doors down, into another cell with two new cellmates. I worried that I could be infecting my new cellmates. I have still never been tested.

8. Staff do not continually walk through the jail to enforce social distancing by officers and detainees. I have never seen officers enforce social distancing in my pod.

9. It is not the case that only every other phone works to promote social distancing. All five of the phones in our pod are fully functional.

10. It is not the case that all meals are delivered to each cell. Rather, when we receive our lunch tray and dinner "sack," everyone in the tier lines up no

more than a foot apart to go down the stairs and get our food. We cannot go back up the stairs to our cells until the last person has received his tray, so everyone gathers in a large crowd until that happens. There are no efforts to maintain or enforce social distancing.

11. When we have a court appearance, we do not stay in our cells until our case is called. I went to court last Friday, September 11, 2020. I was taken to a single holding cell that is about 12 ft by 8 ft and was left there for over 3 hours with about nine other people while we waited for our court appearances. During this time, I had no ability to maintain distance from the other people in the small cell. There were no efforts to allow for social distancing while we waited to see the judge.

12. It is not the case that all detainees receive two bars of soap each week or that additional soap is free. In my experience, we receive a single 4-ounce bottle of liquid soap. I have never received a “bar” of soap in this jail. I find the weekly allotment of soap only lasts about two or three days. When I have asked officers for more soap, they have told me to wait until supplies are issued again. There is no other way to get soap unless you have the money to purchase it from commissary.

13. It is not the case that every detainee is provided with two face masks. I did not receive a mask until about June, when an officer gave me a single cloth

mask. I can't send it to get cleaned because I would not have a backup to use. Over two months later, I am still using the same mask. I have asked multiple officers for a new mask but have not received one.

14. Three new people just entered our pod three days ago. Each one of them does not have a mask. Every day, I see them walking around the pod without a mask.

15. It is not the case that all common areas are cleaned twice a day with cleaning chemicals by trustees. Rather, my experience has been that the trustees only clean about once a week and, when they do, they only sweep and mop the common area. They do not regularly disinfect or wipe down phones, kiosks, tables, railings, handles, or buttons.

16. It is not my experience that when a detainee is removed from the pod due to COVID-19 symptoms, the cell is sanitized with disinfectant cleaning solution. In July, multiple people were removed from my pod after coughing and complaining of COVID-19 symptoms like fever, loss of taste and smell, and body aches. When these symptomatic people were removed from the pod, the cells' floors were usually swept and mopped, but nothing else. Then, new people would be put inside it.

17. It is not the case that each cell is cleaned and sanitized twice a day. Rather, my experience has been that a mop and bucket is available once a day from

Monday to Thursday. We do not receive access to the mop and bucket on Friday, Saturday, or Sunday. On the days when it is available, the water is too dirty to use and the officers refuse our requests to change the water or add new cleaning chemicals to it.

18. Our sinks and toilets are not sprayed with disinfectant daily, or even regularly. The last time a trustee sprayed my cell was over a week ago. On many occasions I have asked a trustee to spray the toilet or the sink. Each time, he told me that they ran out of spray or that they were too busy to do it. I do not have access to these cleaning supplies on my own.

19. In late July or early August, I submitted a medical request asking to be tested for COVID-19. I was not called up to medical, so around a week later I filed a grievance asking why I was being denied a COVID-19 test and medical treatment. Unlike the other grievances I have filed at this jail, this one just disappeared from the kiosk. I never received a response or a resolution. When I log on to my jail account on the kiosk and click the “grievance” button, it shows all my previous grievances but not the one asking for a COVID-19 test. In my other experiences with jail grievance systems, I have always received a paper receipt as proof of the grievance I filed, but the digital system in this jail prevents me from following up on this missing grievance.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this 17th day of September, 2020.

/s/ P [REDACTED] B [REDACTED]
[REDACTED] (P.B.)
(signed with express permission)

EXHIBIT B-9

Declaration of R.J.

DECLARATION OF [REDACTED] (R.J.)

I, Ronald Jackson, being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am a 26-year-old man incarcerated and awaiting trial at the Clayton County Jail in Jonesboro, Georgia. My LE number is [REDACTED].
3. I entered the jail on or around July 15, 2020. I am currently in Housing Unit 6, Pod 1.
4. When I went through the “orientation pod” in late July, I received no education on the grievance process. I was not educated on, or even told about the inmate handbook. I was not shown a video on the television screen monitors about the grievance or medical request processes. I was not educated as to the appeal process for grievances. I had to ask my cellmate to show me how to work the grievance system.
5. In the “orientation pod,” I was not instructed regarding any matters relating to COVID-19, such as testing, social distancing measures, mandatory use of facemasks at all times, or handwashing.

6. Every detainee is not provided with two face masks at intake. When I went through intake on July 15, 2020, I received one cloth mask. In a jail environment, my mask quickly became dirty, despite my efforts to keep it clean. I put in a grievance asking for a new mask, but that grievance was never answered. I have asked multiple officers on multiple occasions for a new mask. The officers told me that they don't have any more masks.

7. In late July, I began experiencing symptoms of COVID-19. I was having bad headaches, I was lightheaded, and I couldn't smell or taste. I put in three sick call requests to see a nurse. I didn't see a nurse until late August, nearly a month after the first sick call request. When I was called up to the medical wing, I told the nurse about my symptoms, which were causing me a lot of discomfort and fear. The nurse took my temperature and blood pressure and told me that I was "good." I asked her if I could be tested for COVID-19, but she told me I had to have a fever to be tested. She then sent me back to my cell. I have never been tested for COVID-19.

8. Detainees are not provided any "bars" of soap, and we certainly don't get free replacement soap. We receive a single 4-ounce bottle of liquid soap each week. We cannot get more soap without paying for it.

9. It is not the case that all common areas are cleaned twice a day with cleaning chemicals by trustees. Rather, my experience has been that the trustee

workers clean some of the surfaces in the common area once or twice a week.

10. It is not the case that each cell is cleaned and sanitized twice a day. At no time have I ever been provided twice a day with a broom, a mop, and a bucket with cleaning solution. I get access once a day to a mop and bucket during out-of-cell time, but the water is black from use by many others. I have asked officers and trustees to change the water for us, but they refused.

11. It is not the case that inmate trustees spray the toilets and sink in the cells with any regularity. No trustee worker has sprayed the sink or toilet in my cell since July, at least six weeks ago. I have asked both officers and trustees to come spray the sink and toilet with disinfectant, but they told me that they can't do it.

12. It is not the case that our jumpsuits are laundered regularly. The jumpsuit I am currently wearing has not been changed in over three weeks.

13. It is not the case that all meals are delivered to each detainee's cell. Rather, for the second meal of the day, we all line up close together and, for the top tier, are made to go down steps, get our food, turn around, and go back up the steps. There is no mention of social distancing from the officers or the trustee workers.

14. It is not the case that, if there is an issue with a toilet in any of the cells, the toilet gets unclogged immediately or as soon as practicable. The toilet in

my cell doesn't flush. It is backed up and smells awful. It has been that way since I got to the cell. My cellmates and I put a net bag over the toilet to try to contain the smell, but it often makes me nauseous. If I need to have a bowel movement, I hold it until I can use the bathroom in the common area. I asked an officer several times to get the toilet fixed and I placed a request on the kiosk in August. That request is still pending.

15. In August, I filed a grievance asking the jail to enforce social distancing requirements and to replace our masks. The grievance remained pending on the kiosk for a while and then it just disappeared. It is not listed as one of my past grievances. I do not know what happened to it.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this 18th day of September, 2020.

/s/ R [REDACTED] J [REDACTED]
[REDACTED] (R.J.)
(signed with express permission)

EXHIBIT B-10

Declaration of S.T.

DECLARATION OF [REDACTED] (S.T.)

I, [REDACTED] (S.T.), being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am a 43-year-old woman. I have been incarcerated at the Clayton County Jail for approximately 3 months. My inmate number is [REDACTED].
3. I am in Housing Unit 3, Pod 3. I have been housed in this pod for most of my time in the jail.
4. I have underlying medical conditions, including asthma and high blood pressure, that put me at high risk for COVID-19 complications. I also have a history of seizures. My seizures have become more frequent and more severe while at the jail.
5. When I entered the jail in June, I spent less than 2 days in the “orientation pod.” During my time in the “orientation pod,” I did not receive any education about the grievance process, nor was I educated on the inmate handbook. I specifically asked a sergeant for an inmate handbook or rulebook during this

time, and the sergeant told me that they do not distribute the handbook. I was not continuously shown a video on the television screen monitors educating me about the grievance and medical request process. I was not educated on how to appeal a grievance.

6. When I entered the jail, I was not asked about any COVID-related symptoms I was having. I did not receive any education about COVID-19 during my time in orientation. There was no instruction about the availability of testing, social distancing measures, mandatory use of masks at all times, or handwashing.

7. I did not receive a mask when I entered the jail in June. I only received a disposable mask when I visited the medical unit weeks after my entry into the jail. I currently have one cloth mask that I received in July. They took my disposable mask at that time. I do not have a second mask, nor do I believe that additional masks are available. When I wash my mask, I don't have a back-up to wear while it dries.

8. The dorm and cell cleaning in this jail is clearly deficient. It is not the case that my cell is cleaned twice per day by inmate workers. Our cell toilets are sprayed by inmate workers infrequently, and no other parts of our cells are cleaned by inmate workers. We receive cleaning materials, including a mop and a broom, only about 3 times per week. The water in the mop bucket is too dirty to use. We

do not receive any other sanitizing materials for cell cleaning. The common areas in my dorm are not cleaned twice per day. It appears that the surfaces, including tables, phones, and kiosks, are cleaned rarely, if at all.

9. The jail does not require, nor has it really attempted to implement social distancing at mealtimes or pill call. Women still line up or crowd around at mealtimes and pill call. We were initially told to make our own masks but were given no other information about how to protect ourselves. Recently, the jail has issued cloth masks and put up signs urging us to wash our hands. But the jail has failed to isolate and test people who come down with COVID-19 symptoms. I know this because that was my experience.

10. In early- and mid-July, many women in my pod began to experience symptoms consistent with COVID-19. I witnessed women coughing, and some began reporting that they were feeling ill and weak. One of my two cellmates, S.T., was the first in my cell to report symptoms. She experienced headaches, fever, chills, stomach pain, and diarrhea. Soon after, my other cellmate, N.W., began experiencing many of the same symptoms. N.W. has asthma, so she had difficulty breathing.

11. I began experiencing symptoms of COVID-19 on or around July 14. Due to my asthma, I experienced severe shortness of breath, which was frightening

since I was locked in a cell for most of the day and night. I also had headaches, fever, diarrhea, lack of taste, and body aches.

12. My cellmates and I reported our symptoms to officers at each count within the first day of the onset of symptoms. S.T. told me that she also put in a sick call request at the kiosk. The officers either ignored our complaints or dismissed them. One officer even told me that if I was so concerned about contracting COVID-19, then I should try to bond out. When S.T.'s difficulty breathing worsened, we were incredibly worried, and we began to bang on the cell for help. Other cells began to bang on their doors to amplify our call for help, but no officer came.

13. Approximately three days later, on or around July 17, after not getting assistance from officers at count, we asked to speak with a sergeant about our symptoms. Later that day, a sergeant came to our cell. He agreed to contact medical about our symptoms.

14. Later the same day, a nurse came to our housing unit to check on me, S.T., and N.W. She took our blood pressures and temperatures. We all had temperatures over 100 degrees. The nurse gave us each ibuprofen, and her only instructions were to get rest and drink fluids. She sent us back to our cell.

15. We were not tested for COVID-19. We were not isolated from other

women in our pod. We remained in the dorm where we continued to be required to line up in a crowd of other women for meals and pill call.

16. My difficulty breathing, headaches, body aches, and my lack of taste remained for about two more weeks. I began to feel better on or around July 30, but some of my respiratory symptoms remain to this day. I was never tested for COVID-19. To the best of my knowledge, S.T. and N.W. have not been tested for COVID-19 either.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this **15** day of September, 2020.

/s/

[REDACTED] (S.T.)

(signed with express permission)

EXHIBIT B-11

Declaration of A.B.

DECLARATION OF [REDACTED] (A.B.)

I, [REDACTED], being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am a 32-year-old man incarcerated and awaiting trial at the Clayton County Jail in Jonesboro, Georgia. I have been at the jail for over a year, since August 2019. My LE number is [REDACTED].
3. I am currently in Housing Unit 6, Pod 1.
4. I received no education on the grievance or medical request processes when I went through “orientation.” I was not educated on, or even told about the inmate handbook. I have never seen the inmate handbook. I was not shown a video on the television screen monitors about the grievance or the medical request processes. I had to ask my cellmates to show me how to work the grievance and medical request systems.
5. I keep a detailed list of the medical requests and grievances I have filed while at the Jail. That list includes the date when I filed the grievance or request, the ID number of the grievance or request, and notes about the content of

the grievance or request.

6. In late May 2020, several people in my dorm began complaining of symptoms associated with COVID-19. Through the vent connecting our cells, I could hear the men in the cell next to me constantly coughing.

7. Shortly after that, on May 31, I filed a grievance asking for our dorm to be cleaned and disinfected and asking to be tested for COVID-19. That grievance's identification number is 247082. It remained pending for nearly two months.

8. In July, while my first COVID-19 grievance was still pending, at least six men in my dorm became visibly sick and were removed from the dorm. They were removed, but their cellmates remained in our dorm. I worried that the sick men might have infected their cellmates before they were removed.

9. Several weeks later, the detainees who had been removed came back to the dorm. One of those men told me that he had tested positive for COVID-19. I had been frequently exposed to these men before they were removed from the dorm, and so I became even more concerned that I might have contracted COVID-19 from them or one of their cellmates.

10. The grievance I filed on May 31 asking to be tested remained pending for nearly two months. Then, around the end of July, the status of the grievance suddenly changed from pending to "cleared, per your request." I had not asked

anyone to clear the grievance.

11. On July 26, I submitted a second grievance stating that I had not asked for my grievance to be cleared, and that I would like an answer to my original grievance. That July 26 grievance's identification number is 258656. That one was "cleared" as well. Today, when I go to the grievances section of the kiosk, the grievances from May 31 and July 26 are both there, but the "notes" and "response" sections say "hidden." I do not know what this means or why they are "hidden."

12. On or around July 27, three other men were removed from the dorm after many days of complaining of COVID-19 symptoms.

13. The next day, July 28, I filed a medical request in which I again asked to be tested. This was the third time I had formally asked to be tested for COVID-19 through the kiosk over the course of three months. The identification number for that medical request is 1374751. In this request, I asked to be tested for COVID-19 because several detainees in my dorm had recently tested positive.

14. Within a week of me filing the July 28 request, a nurse came to my dorm and told me that I would get called to medical the following week to get tested. I was never called to medical. I have still not been tested for COVID-19.

15. I am scared of getting COVID-19 in this Jail. I feel that if the Jail had taken the infection seriously back in March, when people first started getting sick, we would not be in so much danger right now.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this 24th day of September, 2020.

/s/ A [REDACTED] B [REDACTED]
[REDACTED] (A.B.)
(signed with express permission)

EXHIBIT B-12

Declaration of A.J.W.

DECLARATION OF [REDACTED] (A.J.W.)

I, [REDACTED] (A.J.W.), being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.

2. I am 36 years old. I was recently incarcerated at the Clayton County Jail, while awaiting transfer to the DeKalb County Jail on an outstanding warrant. My inmate number was [REDACTED]. I was in the Clayton County Jail from August 13, 2020 until August 19, 2020.

3. I was arrested on the afternoon of August 13, 2020, following a car accident. I was not charged with any offense, to my knowledge, but Clayton County officers told me I had an outstanding warrant in DeKalb County. The officer who arrested me and took me to the jail was not wearing a mask.

4. Upon arriving at the jail, a nurse took my temperature and asked if I was experiencing any shortness of breath. No one on the jail's security or medical staff asked me any additional questions about my potential exposure, other symptoms, or recent contacts with anyone who had COVID-19. I received a mask

during this intake process.

5. I was then moved to a holding cell that is approximately 12 feet by 7 feet. There were approximately eight other men already in that holding cell; some were wearing masks and others had them around their necks. Social distancing was impossible; we were at most a foot or two from each other. I waited in that holding cell for more than ten hours. I felt worried about my potential exposure to the virus the entire time.

6. After I left the intake holding cell, I was transferred to the “orientation pod,” where I remained for the duration of my incarceration. While housed in the “orientation pod,” I did not receive any verbal orientation or instructions about jail rules and regulations. I did not receive an inmate handbook, nor did I have access to one. I did not receive any information about the jail’s grievance process.

7. I was the third man in a two-bed cell. This meant that I had to sleep on the floor in my cell. My thin mattress was directly on the ground; the cell’s dirt and grime were all over my sheets. Most cells in this “orientation pod” had three men in a two-person cell.

8. I was not given any utensils to use at meals in my time at the jail. My cellmates and everyone I could see in the “orientation pod” also had no utensils for eating. At mealtimes, we had to eat with our hands or, when one was available, tear

a Styrofoam cup in half and scoop food from our trays to our mouths. It was very difficult to eat most food items, including grits, eggs, noodles, rice, and vegetables.

9. I was not issued a toothbrush, a washcloth, or undergarments in my time at the jail. I was unable to brush my teeth for a week. I received only an inadequate amount of liquid soap: a four-ounce bottle that is our only option for personal cleaning and handwashing.

10. Cleaning in my dorm and cell was deficient. While inmate workers, also known as “trustees,” occasionally sprayed the in-cell toilets, no other part of my cell was cleaned. I asked an officer for a broom and other cleaning materials, but my request was refused. While it is my understanding that trustees are supposed to clean the dorm’s common areas, the “cleaning” was cursory at best. I did not see trustees wipe down common surfaces, like phones and kiosks. When I used the phones or kiosk, they did not appear to or smell as though they had been wiped down recently. They were certainly not wiped down between uses. There were massive puddles throughout the pod caused by multiple plumbing leaks.

11. The jail is not taking basic precautions to protect us from COVID-19, like providing adequate cleaning materials or ensuring social distancing. Social distancing was not encouraged or maintained at any time. No officers issued any verbal instructions, guidance, or education about COVID-19 protocol except the

occasional mention of mask-wearing outside of cells. We all left our cells for our second meal of the day and lined up to receive our trays. By necessity, we stood only a foot from each other while waiting for our lunch trays. I do not take medications, but I had a clear view of pill call through my cell door window. Men left their cells to receive pills from a nurse. There was no attempt to keep people “socially distanced” from each other in the pill call line. I was very surprised to see this disregard for social distancing when I first arrived in the “orientation pod.”

12. While I was in jail, we were locked down in our cells at least twenty-three hours per day. Often, we received less than an hour of free time in which to call loved ones, use the kiosk, and shower. Multiple cells were let out at a time, and because we had very little time to perform the same essential tasks, men crowded around the phones and showers in the little time we were given out of our cells.

13. This jail has some strange and arbitrary rules. For example, we were required to fold our toilet paper rolls into the letter “V” for Victor Hill, the sheriff. This “V” toilet paper rule is posted on paper in the dorm. Other detainees told me that there were consequences for disobeying this toilet paper rule, including time in solitary confinement, also known as “the hole,” or loss of kiosk privileges. The only other rule that I saw posted in the dorm is about the proper organization of

detainees' cells, including the correct way to make one's bed. I also saw one small sign with general COVID-19 information that did not include any instructions on social distancing. Officers enforced a rule that required detainees to face the wall whenever officers were nearby. This rule felt unnecessary.

14. I was shocked and horrified by the treatment of detainees at this jail. We were all very afraid of our exposure to COVID-19 at a jail that does not appear to be taking the threat to our safety seriously.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this **4** day of **September**, 2020.

/s/

[REDACTED] (A.J.W.)
(signed with express permission)

EXHIBIT B-13

Declaration of W.G.

DECLARATION OF [REDACTED] (W.G.)

I, [REDACTED] (W.G.), being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.

2. I am a 78-year-old man with several underlying health conditions, including high blood pressure, that put me at risk for serious illness if I were to contract COVID-19.

3. I was recently incarcerated at the Clayton County Jail on charges of driving on a suspended license and no proof of insurance. I was in the Clayton County Jail for approximately four days, from around August 10, 2020 until August 14, 2020.

4. I was arrested late at night on August 10 for traffic violations. After waiting in a police car for several hours, I was taken to the Clayton County Jail. The officer who escorted me to the jail was not wearing a mask.

5. After entering the jail, I spent the rest of the night in an intake cell with approximately six other men. The cell was only approximately 10 feet by 12

feet, and there was no room to distance from the other men. I was not given a mask at that point. None of the other men were wearing masks either. I was very worried about my exposure to COVID-19.

6. I only received one disposable mask late that night after I was booked into the jail. But while I was changing into the jail-issued jumpsuit, the mask ripped and was no longer useable. I requested another mask on several occasions but never received one.

7. After I left the holding cell the next morning, I was transferred to a cell in the “orientation pod.”

8. There were two other men in my cell. One man slept on the floor. Most cells in this “orientation pod” had three men in each two-person cell.

9. I was concerned to find that I was not the only man in my dorm without a mask. Many other men in the dorm also did not have masks. Officers did nothing to enforce social distancing. I lined up next to men each day at mealtimes to receive a food tray. When I received medication for my high blood pressure, I walked with more than ten other men and lined up to see the nurse at pill call. We were required to congregate in a group right next to each other to receive our medications. I did not have a mask during this entire time.

10. I was not given any utensils with which to eat my meals. And I didn’t

see anyone else in the dorm with eating utensils. I was forced to eat with my hands or, if a Styrofoam cup was available, I would tear the cup in half and attempt to scoop my food from my tray to my mouth.

11. While I was only at the Clayton County Jail for four days, I could not believe that this jail risked my health and safety by failing to take basic precautions to ensure that I and others did not contract COVID-19.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this **24** day of **September**, 2020.

/s/

[REDACTED] (W.G.)

(signed with express permission)

EXHIBIT C

**Email from E. Smith to E.
Peterkin, et al., July 20, 2020**

From: Elizabeth Smith <elizabeth.smith@correcthealth.org>
Sent: Monday, July 20, 2020 10:42 AM
To: Eugene Peterkin; Roland Boehrer; Mitzi Bickers; Elvis Lynch
Subject: EXTERNAL: Covid-19 testing new intakes

This email originated from outside your organization. Do **NOT** click links or open attachments from this email unless you know the sender and trust the content. If you suspect this email to be a phishing attempt, please forward this message to phishing@claytoncountyga.gov.

As an intervention to fight COVID-19, our medical director Dr Clopton is recommending that we test all new inmate that are admitted to the jail.

He would like to streamline this process to take place after inmates are here for 1-2 days. Testing will be done in a designated area in Housing unit 1 for new arrivals. As Georgia and Atlanta areas continues to increase with positive numbers, this process is highly suggested to help prevent coronavirus in the jail.

Please let us know if this is approved or any other suggestions are welcomed.

Thank you

Elizabeth Smith RN

Health Service Administrator

Correct Health

Clayton County Jail

office: 770.477.4424

cell: 404.729.5948

fax: 678.479.5393

Elizabeth.smith@correcthealth.org

EXHIBIT D

**Screenshots from Court Appearances
at the Clayton County Jail**

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RHONDA JONES *et al.*,

Plaintiffs,

v.

VICTOR HILL *et al.*,

Defendants.

CIVIL ACTION

NO. 1:20-CV-2791-ELR-CCB

DECLARATION OF NICHOLAS BARBER

I, Nicholas Barber, being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am an investigator and paralegal at the Southern Center for Human Rights in Atlanta, Georgia.
3. On or around September 20, 2020, I accessed the online YouTube channel for Clayton County Magistrate Court's First Appearances, which are currently streamed live. Each magistrate court judge has her or his own YouTube

channel. The channel for Magistrate Court Five’s video streams can be found at the following link:

<https://www.youtube.com/channel/UCgU95dasqrihVcwhdSs9z4g>.

4. I took screenshots of several recorded video streams to document crowding during court appearances at the Clayton County Jail in September 2020. To take a screenshot, I used the “Snipping Tool” application on my Windows computer to drag a box over the window I would like to capture.

5. I took a screenshot at 0:00 of a video titled “Magistrate Court's Zoom Meeting,” which was streamed live on September 5, 2020. (Attach. 1.) The image appears to depict more than twenty detainees in a jail hallway, in close proximity to each other. That video can be found at the following YouTube link:

<https://www.youtube.com/watch?v=Xp1EoIBjFzY>.

6. I took a screenshot at 1:31 of a video titled “Magistrate Court's Zoom Meeting,” which was streamed live on September 8, 2020. (Attach. 1.) The image appears to depict more than twenty detainees in a jail hallway, in close proximity to each other. That video can be found at the following YouTube link:

https://www.youtube.com/watch?v=k-L5RgG_b5A.

7. I took a screenshot at 2:19:06 of a video titled “Magistrate Court's 1st Appearance Zoom Meeting,” which was streamed live on September 10, 2020.

(Attach. 1.) The image appears to depict four men in a closed room during a court proceeding, in close proximity to each other and not wearing masks. That video can be found at the following YouTube link:

<https://www.youtube.com/watch?v=4c074wzACB8>.

8. I took a screenshot at :02 of a video titled “Magistrate Court's 1st Appearance Zoom Meeting,” which was streamed live on September 17, 2020.

(Attach. 1.) The image appears to depict more than twenty detainees in a jail hallway, in close proximity to each other. Two detainees are in wheelchairs. That video can be found at the following YouTube link:

<https://www.youtube.com/watch?v=nixUaejKhUE>.

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this 23 day of September, 2020.

/s/ Nicholas Barber
Nicholas Barber

ATTACHMENT 1



Clayton County Jail

0:00 / 2:13:13

Magistrate Court's Zoom Meeting

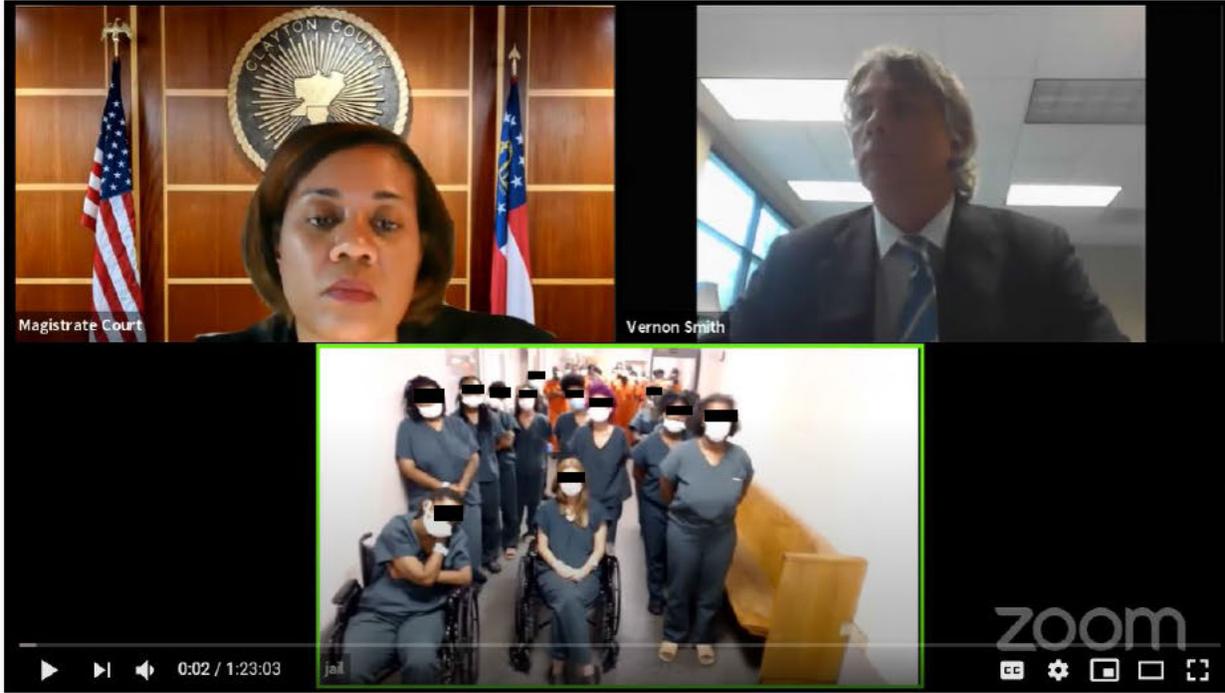
131 views • Streamed live on Sep 5, 2020

1 0 SHARE SAVE ...

Clayton Magistrate5
200 subscribers

SUBSCRIBE

This video shows a Zoom meeting of a hallway in a jail. A group of people, mostly women in blue scrubs and white face masks, are walking away from the camera. Some individuals in orange jumpsuits are visible in the background. The hallway has white walls and fluorescent lighting. A Zoom watermark is visible in the bottom right corner of the video frame.



Magistrate Court

Vernon Smith

0:02 / 1:23:03

Magistrate Court's 1st Appearance Zoom Meeting

103 views • Streamed live on Sep 17, 2020

0 0 SHARE SAVE ...

Clayton Magistrate5
198 subscribers

SUBSCRIBE

This video shows a Zoom meeting with a gallery view. The top left window shows a woman in a courtroom setting with an American flag and a Clayton County seal. The top right window shows a man in a suit. The bottom window shows a gallery view of the jail hallway from the first video, with people in scrubs and masks. A Zoom watermark is visible in the bottom right corner of the video frame.



Magistrate Court's Zoom Meeting

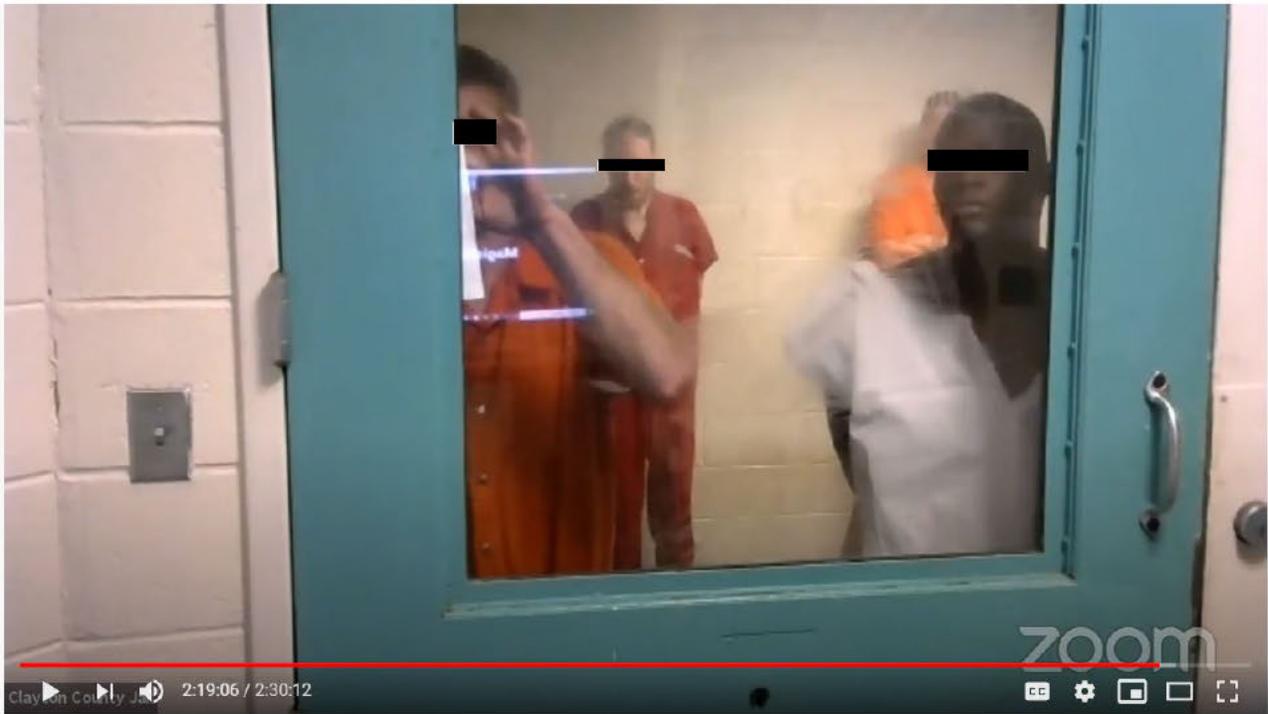
176 views · Streamed live on Sep 8, 2020

2 likes, 1 comment, SHARE, SAVE, ...

Clayton Magistrate5
198 subscribers

SUBSCRIBE

The screenshot shows a Zoom meeting with two video feeds. The left feed shows a woman with glasses in a room with a window. The right feed shows a group of people in a hallway, some wearing blue scrubs and masks. A 'jail' label is visible in the bottom right of the right feed. The Zoom player shows a progress bar at 1:31 / 2:09:22.



Magistrate Court's 1st Appearance Zoom Meeting

256 views · Streamed live on Sep 10, 2020

1 like, 0 comments, SHARE, SAVE, ...

Clayton Magistrate5
200 subscribers

SUBSCRIBE

The screenshot shows a Zoom meeting with a video feed of a person in a white shirt in a room. The Zoom player shows a progress bar at 2:19:06 / 2:30:12.

EXHIBIT E

**Email from O. Adewale,
District Epidemiologist,
Clayton County Health District,
Georgia Department of Public Health,
Sept. 23, 2020**

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RHONDA JONES *et al.*,

Plaintiffs,

v.

VICTOR HILL *et al.*,

Defendants.

CIVIL ACTION

NO. 1:20-CV-2791-ELR-CCB

DECLARATION OF NICHOLAS BARBER

I, Nicholas Barber, being competent to make this declaration and having personal knowledge of the matters stated herein, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. The statements contained in this declaration are based on my personal knowledge and are true and correct. I am aware that they will be used in a court of law.
2. I am an investigator and paralegal at the Southern Center for Human Rights in Atlanta, Georgia.
3. As part of my duties working for the Southern Center, I regularly request records from state and local government agencies under the Georgia Open Records Act. The Georgia Open Records Act provides that “[a]ll public records

shall be open for personal inspection and copying, except those which by order of a court of this state or by law are specifically exempted from disclosure.” O.C.G.A. § 50-18-71(a). The Act provides for civil and criminal penalties to enforce compliance, thereby giving government officials incentives to respond completely and accurately to requests for public documents. *See* O.C.G.A. § 50-18-73.

4. Before and after filing this lawsuit on behalf of the plaintiffs, my office sent several requests for records to the Clayton County Health District of the Georgia Department of Public Health. Because Plaintiffs intend to file some of the responsive documents and emails we received from the Department of Public Health as exhibits in support of their motion for preliminary injunction, I am preparing this declaration to explain some of the records my office requested and what was provided in response.

5. On September 18, 2020, I sent an Open Records Act request via email to Dr. Olatanwa Adewale, district epidemiologist for the Clayton County Health District, requesting “documents sufficient to show the circumstances under which a COVID-19 disease cluster in a congregate setting could trigger an outbreak investigation by the health department.” (Attach. 1.)

6. On September 23, 2020, Dr. Adewale provided the following response by email, “A confirmed case of COVID-19 in one or more inmates or staff is

counted as an outbreak.” (Attach. 2.)

I swear under penalty of perjury that the information given herein is true and correct, and I understand that a false answer to any item may result in a charge of false swearing.

Sworn by me this 23 day of September, 2020.

/s/ Nicholas Barber
Nicholas Barber

ATTACHMENT 1

Cody Cutting

From: Nick Barber
Sent: Friday, September 18, 2020 11:50 AM
To: Adewale, Olatanwa
Cc: Heath, Carla
Subject: Quick follow-up request

Hi Dr. Adewale,

Thank you for letting me know about the new data you're preparing.

In the meantime, we have just one additional Open Records Act request, that is just a brief question I'm copying below. No production of documents is necessary if you just want to answer the question in the body of an email. We are requesting:

- **Documents sufficient to show the circumstances under which a COVID-19 disease cluster in a congregate setting could trigger an outbreak investigation by the health department.**

Specifically, we are interested in knowing how large a disease cluster (N=?) must be before it triggers an outbreak in a congregate setting.

Thank you again for all of your help, and I hope you have a restful weekend.

Best,
Nick Barber



Nick Barber

Investigator / Paralegal Southern Center for Human Rights
Impact Litigation Unit

Phone (404) 688-1202 **Mobile** (917) 293-4150 **Fax** (404) 688-9440

Address 60 Walton Street NW, Atlanta, GA 30303-2149

Email nbarber@schr.org **Website** www.schr.org

Connect with us!



IMPORTANT: This message is confidential. It may also be privileged or otherwise protected by work product immunity or other legal rules. If you have received it by mistake, please let us know by e-mail reply and delete it from your system; you may not copy this message or disclose its contents to anyone. Please send us by fax any message containing deadlines as incoming e-mails are not screened for response deadlines. The integrity and security of this message cannot be guaranteed on the Internet.

Please consider the environment before printing.

ATTACHMENT 2

Cody Cutting

From: Adewale, Olatanwa <Olatanwa.Adewale@dph.ga.gov>
Sent: Wednesday, September 23, 2020 9:00 AM
To: Nick Barber
Cc: Heath, Carla
Subject: RE: Quick follow-up request

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning,
A confirmed case of COVID-19 in one or more inmates or staff is counted as an outbreak.

Olatanwa Adewale, Dr.PH, MPH, BSc

District Epidemiologist

Clayton County Health District, Georgia Department of Public Health

We Inform, We Prevent, We Protect!

1895 Phoenix Blvd Suite 400

College Park, GA 30349

Office: (678) 610-7193

Fax: (770) 892-9148

Follow us on Twitter: <https://twitter.com/CCBOH>

Facebook: <https://www.facebook.com/CCBOH>

Visit our website: www.claytoncountypublichealth.org

MISSION STATEMENT

To improve the overall health and safety of the community through health promotion, prevention, protection, and preparedness planning activities that are evidence-based and data-driven.

VISION STATEMENT

Clayton County, a place where people are safe, healthy, and thriving.

Notice: Email to and from CCHD is generally a public record, except for the content that is confidential under specific laws. Security by encryption is applied to all confidential information sent by email from CCHD

From: Nick Barber <nbarber@schr.org>
Sent: Friday, September 18, 2020 11:50 AM
To: Adewale, Olatanwa <Olatanwa.Adewale@dph.ga.gov>
Cc: Heath, Carla <Carla.Heath@dph.ga.gov>
Subject: Quick follow-up request

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Dr. Adewale,

Thank you for letting me know about the new data you're preparing.

In the meantime, we have just one additional Open Records Act request, that is just a brief question I'm copying below. No production of documents is necessary if you just want to answer the question in the body of an email. We are requesting:

- **Documents sufficient to show the circumstances under which a COVID-19 disease cluster in a congregate setting could trigger an outbreak investigation by the health department.**

Specifically, we are interested in knowing how large a disease cluster (N=?) must be before it triggers an outbreak in a congregate setting.

Thank you again for all of your help, and I hope you have a restful weekend.

Best,
Nick Barber



Nick Barber

Investigator / Paralegal **Southern Center for Human Rights**
Impact Litigation Unit

Phone (404) 688-1202 **Mobile** (917) 293-4150 **Fax** (404) 688-9440

Address 60 Walton Street NW, Atlanta, GA 30303-2149

Email nbarber@schr.org **Website** www.schr.org

Connect with us!



IMPORTANT: This message is confidential. It may also be privileged or otherwise protected by work product immunity or other legal rules. If you have received it by mistake, please let us know by e-mail reply and delete it from your system; you may not copy this message or disclose its contents to anyone. Please send us by fax any message containing deadlines as incoming e-mails are not screened for response deadlines. The integrity and security of this message cannot be guaranteed on the Internet.

Please consider the environment before printing.