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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

* * * * *)	
EDWARD BANKS, et al.,)	Civil Action
)	No. 20-CV-00849
Plaintiffs,)	
)	
vs.)	
)	
QUINCY L. BOOTH, et al.,)	Washington, DC
)	April 15, 2020
Defendants.)	1:56 p.m.
)	
* * * * *)	

TRANSCRIPT OF TELEPHONE CONFERENCE
BEFORE THE HONORABLE COLLEEN KOLLAR-KOTELLY,
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFFS:	ARTHUR B. SPITZER
<i>(Appearing</i>	MICHAEL PERLOFF, ESQ.
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APPEARANCES, CONT'D:

FOR THE DEFENDANTS:
(*Appearing*
Telephonically)

KARL RACINE, ESQ.
TONI JACKSON, ESQ.
ANDREW SAINDON, ESQ.
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GRACE LOPES
MARK JORDAN
(*AMICI CURIAE*)

REPORTED BY:
(*Telephonically*)

LISA EDWARDS, RDR, CRR
Official Court Reporter
United States District Court for the
District of Columbia
333 Constitution Avenue, NW
Room 6706
Washington, DC 20001
(202) 354-3269

1 THE COURT: This is the matter of Banks, et al.,
2 versus Booth, et al., 20-CV-849.

3 On the phone as those who will speak, Grace
4 Lopes --

5 Ms. Lopes, are you on the phone?

6 MS. LOPES: Yes, your Honor. Yes.

7 THE COURT: Good afternoon.

8 And, Mark Jordan, on the phone as well?

9 MS. LOPES: He should be dialing in any second.

10 THE COURT: Is Mark Jordan on the phone?

11 Let me move on.

12 In terms of the attorneys, is Steven Marcus on the
13 phone?

14 MR. MARCUS: Yes, your Honor.

15 THE COURT: And let me just do the speakers, and
16 I'll get back to those who are also on the phone in
17 connection with each side.

18 Andy Saindon, are you on the phone? Andy Saindon?

19 How about Eric Glover? Are you on the phone? I
20 don't hear that.

21 How about Mark Jordan? Are you on the phone?

22 MR. JORDAN: Yes, your Honor.

23 THE COURT: Oh, good.

24 So we don't have Mr. Saindon on the phone. Is
25 that correct? Mr. Saindon? No. Okay.

1 Let me move to other counsel that are Plaintiffs
2 that will not be the principal speakers, although,
3 Mr. Marcus, you can certainly call on them at any time if
4 you wish them to answer.

5 So, Jonathan Anderson, are you on the phone?

6 MR. ANDERSON: Yes. Good afternoon, your Honor.

7 THE COURT: Good afternoon.

8 Jenna Cobb?

9 MS. COBB: Yes. Good afternoon.

10 THE COURT: Good afternoon.

11 Arthur Spitzer?

12 MR. SPITZER: Yes, your Honor. Good afternoon.

13 THE COURT: Good afternoon.

14 And Scott Michelman?

15 MR. MICHELMAN: Yes, your Honor. Good afternoon.

16 THE COURT: And, Michael Perloff, are you on?

17 MR. PERLOFF: Yes, your Honor. Good afternoon.

18 THE COURT: So the last group besides Mr. Marcus,
19 as we've done in the other telephone conference calls, I
20 would just ask that you not speak up unless Mr. Marcus has
21 asked you to speak. But I will ask you at the end if
22 there's anything you want to add. So let me get back to the
23 defense counsel.

24 Mr. Saindon, are you on the phone?

25 Let me try a couple of other people.

1 Fernando Amarillas, are you on the phone?

2 MR. AMARILLAS: Yes, your Honor. Good afternoon.

3 THE COURT: Toni Jackson, are you on the phone?

4 MS. JACKSON: Yes, your Honor. Good afternoon.

5 THE COURT: Good afternoon.

6 Micah Bluming, are you on the phone?

7 MR. BLUMING: Yes. Hello, your Honor.

8 THE COURT: Hello.

9 And, Pamela Disney, are you on the phone?

10 MS. DISNEY: Yes, your Honor.

11 THE COURT: Good afternoon.

12 Is Eric Glover on the phone as well?

13 Do you know if he's expected to be on the phone,
14 any of the Defendants?

15 MR. SAINDON: Good afternoon. This is Andrew
16 Saindon for the Defendants.

17 Yes. Mr. Glover should be on the phone.

18 THE COURT: So, Mr. Saindon, you're on. So the
19 only person I think we're missing at this point of those who
20 we expected is Mr. Glover.

21 Let me move on to --

22 Is the court reporter on?

23 THE COURT REPORTER: Yes, Judge.

24 THE COURT: Is my law clerk on?

25 THE LAW CLERK: Yes, Judge. I'm here.

1 THE COURT: If I have not called your name, other
2 than Eric Glover, who will hopefully be coming on in a
3 moment, I'd ask if you would put your phone on mute if
4 you're not expected to speak. And you can't record this
5 information. There will be a transcript of it. But I'd ask
6 you to put it on mute, because the problem is there's a back
7 sound to it and also we keeping hearing "bang-bang-bang"
8 back and forth, which is very distracting. So I'd ask that
9 you please -- if I have not called your name, that you put
10 your phone on mute.

11 Mr. Glover, are you on now?

12 MR. GLOVER: Eric Glover is on now, Judge.

13 THE COURT: Okay. So I think we've got all of
14 those people that I would expect.

15 So the way I'm going to proceed is, we'll hear
16 from the *amici*.

17 I will leave it to your discretion, Ms. Lopes and
18 Mr. Jordan, as to how you wish to go forward with it. It
19 would be helpful, I think, to give us some idea of what --
20 how you went about it and what you looked at and how you
21 looked at it before you get into the conditions.

22 And when you start, if you could let me know also
23 whether you're working from the order that set out the areas
24 of medical and some of the other -- the medical and
25 environmental and health and hygiene or whether you went

1 about it another way. It doesn't make any difference to me;
2 it's just what works for you.

3 And let me just indicate that I do want to talk
4 about Judge McKenna's order relating to the misdemeanants
5 and the lawsuit that was filed at the DC Superior Court.

6 I also want to talk about legal calls. That goes
7 beyond what Ms. Lopes and Mr. Jordan were looking at.

8 I'd also want to bring up the parole board. And I
9 would be interested in knowing how many defendants are still
10 in the DC Jail, the two complexes that have a detainer or
11 parole warrant.

12 And I understand that the Defendants, just shortly
13 before the case was filed, filed a motion to join the United
14 States as a necessary party, which I understand Plaintiffs
15 oppose. So I will at the end set a date.

16 But let me go back to the principal purpose for us
17 being here, and that is to get an oral report from the *amici*
18 experts that I appointed.

19 So, Ms. Lopes and Mr. Jordan, I leave it to you as
20 to who wants to speak.

21 And hopefully, these people coming on will end at
22 some point.

23 MS. LOPES: Good afternoon, your Honor. For the
24 record, Grace Lopes.

25 Your Honor, just preliminarily, we appreciate the

1 opportunity to provide this information in this format to
2 the Court and the parties today, and we have arranged our
3 presentation according to the series of questions that are
4 set out in the attachment to the April 9th consent order.
5 There are -- the preliminary findings with respect to those
6 questions will be addressed in some instances by myself and
7 in some instances by Mr. Jordan.

8 As a threshold matter, as your Honor indicated, we
9 think some context setting with respect to methodology is
10 appropriate and would be helpful to the Court and the
11 parties in order to understand exactly how we have gone
12 about this. We also think some context with respect to the
13 facilities would be helpful as well.

14 So first, with respect to the facilities, right
15 now, the --

16 (Ms. Lopes's line goes silent.)

17 THE COURT: Hello? Hello? Hello? Hello?

18 MS. LOPES: There are --

19 THE COURT: You just went off the line. Can you
20 start again? It just sort of dropped when you responded
21 about the facilities. I don't know whether someone muted
22 something or it created a problem.

23 Go ahead.

24 MS. LOPES: Okay. The CDF has a population count
25 that has been hovering around 1,020. There are 18 housing

1 units in the CDF. It includes inmates housed in single and
2 double cells, and we'll be able to provide a percentage
3 breakdown for you during this presentation.

4 Each housing unit has 80 cells. 50 percent are
5 double cells and -- at the CDF; and at the CTF, about 95
6 percent are single cells.

7 At the time of our site visits, there were 16
8 housing units open at the CDF. Two were closed. Two were
9 quarantine units. And, of course, that is evolving over
10 time as more inmates test positive. And there was one
11 isolation unit.

12 Also at the CDF are wet cells in that they have
13 sinks and toilets. Showers are accessible in the CDF in the
14 housing unit, but not in the cells.

15 The culinary unit at the jail is currently serving
16 both the jail, the CDF, and the CTF. And that's because of
17 circumstances reportedly related to COVID-19 and positive
18 testing related to staff and inmates in the CTF that
19 resulted in the Defendants closing the culinary facility in
20 the CTF. And so the jail's culinary facility is being
21 relied upon to provide food services for both facilities
22 right now and has been for approximately the past several
23 weeks.

24 The CTF has a population count of approximately
25 400. There are 23 housing units. 19 have a capacity for 50

1 beds, four for 96 beds. At the time of our site visit, 14
2 were open and nine closed. Three were isolation units and
3 eight were quarantine units. Again, that is evolving as
4 inmates test positive and as some are also discharged from
5 isolation.

6 Not all housing units have showers and sinks in
7 the cells at the CTF. Some are shared in the common area.
8 Seven of the eight quarantine -- seven of the eight
9 quarantine units that were operating during our site visits
10 had showers and sinks in the cells. One did not.

11 The CTF has a 30-room infirmary with 40 beds, and
12 that infirmary serves both the CTF side and the CDF side.

13 In terms of methodology, we have relied on data
14 obtained during our site visits, mostly observational data,
15 structured interviews that were conducted during our site
16 visits as well as before our site visits and subsequent to
17 them by telephone and analysis of various data sets we'll
18 describe that we requested from the Defendants.

19 We'd like to underscore that the Defendants have
20 been very cooperative and responsive throughout this
21 assessment process in terms of providing us with the data
22 and information that we needed.

23 In terms of site visits, we conducted unannounced
24 and unescorted site visits at both facilities on most shifts
25 on April 10th, 11th and 12th. We conducted observations in

1 many of the housing units at both facilities, including
2 cells, day rooms, restrooms and shower facilities. We
3 visited general population, maximum-security and
4 medium-security housing units. We visited intake, the
5 health housing units, isolation housing units and quarantine
6 units. We also made observations in the medical units,
7 culinary, the visitor entry areas and the command center.

8 In terms of structured interviews, we conducted
9 structured interviews with the DOC medical director, the
10 medical director and deputy medical director for Unity
11 Healthcare. Unity is the contract provider for health
12 services at the CDF and CTF.

13 We conducted structured interviews with the
14 management of both facilities, including the warden and the
15 deputies as well as shift commanders. We interviewed dozens
16 of correctional officers assigned to various posts
17 throughout the facilities, including the housing units,
18 environmental posts and culinary posts.

19 And we interviewed and also spoke with in groups
20 and individually over 100 inmates on isolation and
21 quarantined status as well as in the general population at
22 both facilities.

23 We have conducted data analysis, and that analysis
24 has involved first the electronic health records for inmates
25 who are confined at both the jail and the CTF. Our analysis

1 of those records are ongoing.

2 The Defendants provided us with remote access to
3 all of the electronic health records, and we are reviewing
4 and analyzing samples of those records. Some of that
5 reviewing and analysis is complete and we can report on
6 those findings now. Some is ongoing and we will report on
7 those findings in our written report.

8 In addition to the electronic health records, we
9 requested, received and analyzed admission data for both
10 facilities for the period February 15, 2020, to April 10,
11 2020.

12 We also requested and received and analyzed daily
13 census data, including inmate housing assignments for the
14 period February 15, 2020, through April 13th, 2020.

15 We requested, received and have analyzed data
16 related to sick call requests for the period February 5th,
17 2020, through April 12, 2020.

18 And we requested, received and have analyzed data
19 regarding inventories of cleaning supplies and PPE available
20 as of April 13, 2020.

21 Now, with that context in mind, we'd like to turn
22 to the Court's questions, unless the Court has any questions
23 about methodology.

24 THE COURT: Not at all. But you certainly sound
25 like you've been very thorough in a very short period of

1 time, and I appreciate that.

2 I do have one question. When you say "closed
3 unit," is there a reason why they're closed?

4 MS. LOPES: I'm unaware of the reason. I know
5 that in one case, a unit was being used at the CDF -- a unit
6 was being used for storage. And I also know that staffing,
7 which we'll address in more detail, because it's implicated
8 by some of these questions, may be responsible for why units
9 are closed, because of the inability to staff them.

10 THE COURT: Because I was just thinking if they
11 could be spread out more in terms of the distancing issue.

12 But let me let you get back to answering the
13 questions.

14 MS. LOPES: Okay. With that context in mind, your
15 Honor, Mr. Jordan is -- will address the first four
16 questions related to medical issues.

17 THE COURT: Mr. Jordan?

18 MR. JORDAN: Good afternoon, your Honor.

19 THE COURT: Good afternoon.

20 MR. JORDAN: Questions 1 through 4 addressed
21 inmates who display symptoms of or were suspected of
22 COVID-19.

23 We obtained and analyzed data regarding the 82
24 inmates housed at the CDF or CTF who were testified for
25 COVID to April 10, 2020. We also obtained and analyzed data

1 regarding 6,486 sick call requests and/or sick call
2 encounters for the period February 5th through April 11th,
3 2020.

4 The data provided to us thus far do not enable us
5 to identify either the universe or a representative sample
6 of inmates who display or are suspected of COVID-19 to use
7 as the basis of a finding at this point.

8 Sick call requests and counter data that we
9 received includes thousands of entries with no symptom data
10 included. And while we are reviewing the health records of
11 a sample of inmates who were tested for COVID-19 with both
12 positive and negative test results, those data do not
13 include symptomatic cases that were not seen and tested; and
14 therefore, they would not be useable as a basis of a finding
15 for many of these questions.

16 Preliminarily, it appears that a substantial
17 majority of inmates who were tested for COVID-19 did not
18 submit sick call requests and were not seen during sick call
19 between the beginning of February and the date of their
20 COVID-19 test. The data suggests the identification of
21 inmates who are suspected of COVID-19 relies to a large
22 extent on methods other than inmates self-identifying in the
23 sick call process.

24 Interviews with managers of medical programs
25 confirm that the first case of inmates with COVID-19

1 symptoms were identified through inmates presenting
2 themselves to medical staff through the urgent care-like
3 process.

4 And since that time, particularly at the CTF,
5 which houses most of the positive COVID-19 cases, medical
6 staff indicates that symptomatic and suspected cases of
7 COVID-19 have been identified through the active daily
8 monitoring of inmates on quarantine status, in particular
9 daily taking of temperatures and assessments of quarantined
10 inmates.

11 We are going to continue to discuss this with the
12 appropriate medical personnel and continue our analysis.
13 And we will quote our findings in greater detail on Friday.

14 THE COURT: So --

15 MR. JORDAN: If I can answer any questions.

16 THE COURT: It sounds as if there's system in
17 place. Would that be a fair conclusion, sort of at a broad
18 level?

19 MR. JORDAN: There is an organized sick call
20 process. And that is not the only way that inmates access
21 healthcare. The other way that inmates can access
22 healthcare is through an urgent care-type clinic. They can
23 present themselves to a correctional officer who can bring
24 them to the medical area and be seen that way.

25 And that is how the initial cases of COVID-19 were

1 identified.

2 Once that happens, housing units are quarantined.
3 And as soon as the housing unit is quarantined, there is a
4 much more active surveillance process used by medical staff,
5 where they monitor inmates in the quarantine units daily
6 because they're higher risk, because they've had close
7 contact and have been exposed. And that is how they have
8 detected most of the other cases since then.

9 But there is an organized system for sick call
10 that exists at both facilities.

11 THE COURT: Okay.

12 MR. JORDAN: But that is simply not how inmates
13 are presenting with COVID-19 symptoms at this point.

14 THE COURT: So they're presenting by not going
15 through the sick call process, but basically --

16 MR. JORDAN: Since the initial COVID-19, inmates
17 with the initial cases, what medical staff are telling us is
18 that they've identified the subsequent cases largely through
19 surveillance of inmates who are quarantined. So they began
20 a much more active process of actively surveilling inmates
21 who are on quarantine status knowing that they have been
22 housed in close quarters with somebody with a positive
23 COVID-19 case.

24 THE COURT: So the --

25 MR. JORDAN: And that is -- go ahead.

1 THE COURT: Sorry. Go ahead. Finish that.

2 MR. JORDAN: I was simply going to say that that
3 is in some ways what their expectation was, that inmates who
4 were housed together would be the ones most likely to test
5 positive because of exposure to somebody.

6 THE COURT: So if they're not on quarantine units,
7 how are they identified?

8 MR. JORDAN: Yes. So, for example, the first case
9 at the Central Detention Facility, CDF, happened later than
10 the CTF. And that was not through an active surveillance
11 process; it was an inmate who I believe we were told
12 presented with symptoms and was asked to go to the medical
13 area in the CDF, who presented symptoms there. And the
14 medical provider assessed at that point that the inmate
15 appeared to have symptoms consistent with COVID-19. So that
16 was more an urgent care-like process.

17 THE COURT: So if I were going to do this in
18 general terms, it sounds as if there's more surveillance.
19 One, someone has been identified as having the symptoms; and
20 the rest of wherever their unit would have been would have
21 been quarantined and they would be looked at to see whether
22 those that were quarantined developed the symptoms.

23 If you're not in any of the quarantined areas,
24 then they're not doing any additional testing or
25 temperature-taking or anything. You're waiting for the

1 inmates to present themselves.

2 Is that fair?

3 MR. JORDAN: That's correct.

4 THE COURT: I'll let you go on, then. At the end,
5 I'm going to let -- I know counsel probably want to say
6 something, but let us go through all of it. Take notes of
7 your questions and let us go through all of their
8 information, and then I'll go back and have Plaintiffs'
9 counsel and defense counsel ask things. If not, we're going
10 to break this up too much. And a lot of this sort of flows
11 together. So I will let you ask additional questions.
12 Don't worry.

13 So --

14 MS. LOPES: Your Honor, yes. I can address
15 Question 5, whether residents suspected of COVID-19 are
16 isolated from others.

17 So the reported business practice which has been
18 reported by the healthcare staff is that if the medical
19 provider suspects COVID-19, the inmate is tested. They are
20 placed on cell restriction in their housing unit
21 immediately.

22 And there is evidence that this is happening.

23 All of the inmates we interviewed who were in
24 isolation who had been identified in a regular housing unit
25 and then -- or in a quarantine unit and were isolated

1 because they tested positive reported that before they were
2 put in isolation, they were placed on cell restriction.

3 There is also -- we have also been on site in
4 housing units where there were inmates on cell restrictions
5 pending the results of their testing.

6 So it appears that when inmates are suspected,
7 they are put on cell restrictions by the medical provider.
8 It appears that that is honored. They are restricted from
9 movement from their cell for any reason until they -- the
10 test results are received.

11 Test results --

12 THE COURT: Can I interrupt a second?

13 MS. LOPES: Yes.

14 THE COURT: When they say "cell restrictions," are
15 they by themselves or are they in a cell with another
16 resident? Or are they --

17 MS. LOPES: They're by themselves. They're by
18 themselves. They're by themselves.

19 We have not had an opportunity to conduct, you
20 know, a systematic review of the cell restriction orders.
21 And so this is what we have relied on thus far.

22 Now, as of April 10th, the DOC data indicates that
23 82 inmates have tested positive for COVID-19. That was as
24 of April 10th. There have been more positives. I believe
25 there were six last night. So -- but as of April 10, there

1 were 82 inmates who had tested positive. And we have that
2 data and have reviewed it.

3 Of the 82, 52 were COVID positive; 26 were
4 negative; and at the time we received the data, the balance
5 were pending results.

6 We reviewed a sample of the electronic health
7 records for 28 of those inmates with a distribution of
8 positives, negatives and pending.

9 In the sample we reviewed, there were 16 COVID
10 positives. We looked at the housing records for those
11 inmates; and the housing records indicate that all were
12 moved from their original housing unit to another housing
13 unit within no more than two days, at most within one day of
14 the positive test result.

15 So based on what we know about current DOC
16 business practices, it appears likely this cohort was
17 isolated at the time of testing before being moved to an
18 isolation unit.

19 But again, we haven't been able to review this in
20 a systematic and comprehensive way. Preliminarily, it
21 appears that this is being done.

22 Your Honor, do you have any questions?

23 THE COURT: No. I think -- go ahead.

24 MS. LOPES: Okay. Mr. Jordan is handling Question
25 6.

1 THE COURT: Mr. Jordan?

2 MR. JORDAN: Question 6 gets to whether new
3 residents are quarantined for 14 days.

4 Both facility executives and medical staff
5 recorded a practice of quarantining newly admitted inmates
6 for 14 days prior to moving them to another housing unit.

7 To assess this, we looked at housing assignment
8 data and intake data for the period March 15th through April
9 10th. What the data showed was that starting on March 25th,
10 the Defendants implemented a practice of housing new
11 admissions on an intake unit at the CDF -- it's called
12 South-2 -- for 14 days or until they were released from
13 custody if that occurred prior to 14 days.

14 We did identify six exceptions to this practice,
15 five of which involved inmates being placed in specialized
16 mental health housing units prior to the end of the 14-day
17 period.

18 THE COURT: Okay. So when they were placed in the
19 mental health, were they in quarantine there or not?

20 MR. JORDAN: It is not a quarantine unit. So I
21 don't know the circumstances. We weren't able to
22 investigate those five cases and whether they were put on
23 some sort of cell restriction. I can't say.

24 MS. LOPES: We did bring that to the attention of
25 the medical director, the Unity medical director, that

1 issue; and it is our understanding that she is following up
2 on that, on that issue.

3 THE COURT: Okay.

4 MS. LOPES: With respect to, then, Question 7, how
5 frequently do DOC medical staff or Unity staff meet the
6 staff and residents with respect to education on symptoms
7 and precautions and the information conveyed, the facilities
8 have extensive signage throughout on both COVID-19 symptoms
9 as defined by the CDC and the basic precautions.

10 Healthcare staff from Unity report they've
11 conducted multiple education sessions on the housing units
12 and at roll call. Staff -- correctional staff confirms that
13 they've received education at roll calls.

14 And these sessions focus on symptoms and
15 precautions.

16 More extensive individualized education is
17 conducted on the quarantine and isolation units all the time
18 because the healthcare staff visits those units at least
19 twice daily, sometimes more, for surveillance as --
20 surveillance and monitoring activities with respect to the
21 inmates who are housed on those units.

22 It's our view, your Honor, that there's a
23 substantial need for much more education of staff and
24 inmates. It's apparent.

25 There's enormous fear I would say in both

1 facilities and a lack of understanding by both staff and
2 inmates about appropriate PPE in these circumstances. I
3 think they all understand the symptoms. They all
4 understand -- every inmate we spoke to, there was a
5 widespread understanding of the symptoms and a widespread
6 understanding of the -- of some of the precautions, at least
7 the hand-washing precautions, but a lack of understanding
8 about PPE and what is appropriate and what is not
9 appropriate. And that was displayed time and time again by
10 the inmates we spoke with as well as by the staff we spoke
11 with.

12 THE COURT: Okay.

13 MS. LOPES: Mr. Jordan has this one -- Mr. Jordan
14 is addressing No. 8.

15 MR. JORDAN: Question 8 deals with visitor
16 screening and whether the thermometer used worked.

17 Upon entering the facilities, all staff and all
18 visitors are required to have their temperatures checked and
19 to complete a three-question survey. And the three
20 questions correspond to the CDC-defined symptoms of
21 COVID-19.

22 We did find that the questionnaire and the survey
23 upon entry did change over time in response to the changing
24 circumstances surrounding the pandemic. The initial
25 questions focused on -- or at least included questions about

1 travel and questions about known exposure to individuals of
2 COVID-19. That changed to the three symptomatic base
3 screening questions.

4 With respect to the thermometer, the Defendant
5 used a non-contact infrared thermometer at both facilities.
6 According to the manufacturer's instructions, the device is
7 calibrated at the factory and no calibration by the user is
8 necessary.

9 I personally had my temperature taken five times
10 at the CDF and three times at the CTF. Two of my
11 temperature readings at the CDF registered in the low 90
12 degrees, which was clearly erroneous. The remaining six
13 readings all appeared to be accurate.

14 I believe it is possible that the low temperature
15 reading may have been based on user error and not a defect
16 in the device. The manufacturer's instructions note that to
17 receive a stable, reliable result from these thermometers,
18 the user should, quote-unquote, "avoid drafts and to respond
19 to changes in the ambient temperature."

20 These temperature readings are taken right inside
21 of an exterior door. And on the day where the two
22 temperature readings that I had that appeared to be errant,
23 they were right inside of the door that was opening and
24 closing where substantial cold air was coming in at the
25 time.

1 And in the second instance when it happened, I
2 left the door closed. I waited approximately 30 seconds. I
3 asked the nurse to take my temperature again, and it
4 registered what appeared to me to be a correct temperature.

5 THE COURT: All right. So would you recommend
6 that not so much that they need to change the particular
7 thermometer; they just simply need to know how to use it
8 better?

9 MR. JORDAN: That seems to me the most likely
10 remedy to me. It appears that maybe there needs to be more
11 instruction on appropriate use for accurate temperature
12 readings.

13 THE COURT: If I could just ask to diverge a
14 little bit:

15 Is this the same thermometer that's used in other
16 settings as well, other than just coming into the screening?
17 In other words, is it used --

18 MR. JORDAN: In the medical area?

19 THE COURT: Yes. Yes.

20 MR. JORDAN: I do not know. I did not see them
21 take a temperature in the medical area.

22 MS. LOPES: We can check.

23 THE COURT: I'm just curious as to whether that's
24 an issue throughout the facilities where training needs to
25 be done about how to use it or whether it's -- this is a

1 quick way of doing it, so they're doing it at the screening,
2 but not necessarily when they're taking the temperature of
3 residents.

4 MR. JORDAN: I was going to say, anecdotally,
5 based on our review of electronic health records, we did see
6 some evidence of temperature readings that seemed
7 questionable to us.

8 MS. LOPES: We --

9 MR. JORDAN: It wasn't a comprehensive review, but
10 it was a review of certain temperatures related to inmates
11 who tested positive. And some of the readings seemed
12 questionable, and we surmised that it might be a similar
13 training issue.

14 THE COURT: Ms. Lopes, did you want to add
15 something to that?

16 MS. LOPES: That's exactly what I was going to
17 say, your Honor -- thank you -- that we had those
18 observations.

19 I have Question 9.

20 THE COURT: Okay.

21 MS. LOPES: How conditions in the quarantine
22 housing compare to conditions in non-quarantine housing and
23 whether inmates are deterred from reporting symptoms:

24 For these purposes, I think it's helpful to think
25 about three different types of housing units: quarantine,

1 isolation and non-quarantine, non-isolation.

2 The non-quarantine, non-isolation would include
3 general population or some other types of specialized
4 housing units that are operating.

5 Now, the quarantine units are designated for
6 inmates suspected of having COVID-19 or who are asymptomatic
7 but determined to have been exposed to someone who has
8 tested positive.

9 So if an inmate on a housing unit tests positive,
10 everyone on the unit is quarantined and the staff who have
11 been assigned to the unit are released from duty for a
12 14-day quarantine period.

13 Now, parenthetically, I should note that there is
14 a reported effort to maintain all the cohorts in quarantine.
15 But we have heard anecdotally that there may have been or
16 may continue to be deviations from that practice. We
17 haven't had an opportunity to confirm that. That's
18 something that we think the Court should be aware of.

19 According to current DOC policy, quarantine units
20 should be operating like all the other housing units except
21 for the isolation unit. And we'll discuss that in a minute.

22 But the quarantine units should operate as the
23 other housing units because the operations have changed, you
24 know, in the wake of COVID-19, and that should be in all
25 respects except a few. And those exceptions are inmates in

1 quarantine have their temperature monitored by medical staff
2 twice per day. As we indicated earlier, that's not the case
3 in other types of housing units except for the isolation
4 units.

5 Second, staff in quarantine units are required to
6 wear gloves and masks at all times. During our site visits
7 to multiple quarantine units in both facilities, staff for
8 the most part, not always, wore masks. Many reported they
9 purchased them themselves. Some of the masks were
10 ill-fitting and in very poor condition. And as a general
11 matter, the staff in the quarantine units did not wear
12 gloves.

13 Inmates in the quarantine units are required to
14 wear masks at all times when outside their cells. Many of
15 the inmates in the quarantine units we visited had masks,
16 but they were not consistently wearing them, nor were they
17 required to wear them. Some were very ill-fitting, visibly
18 soiled and ripped.

19 During our site visits, except for the isolation
20 units, inmates and staff on the non-quarantine units did not
21 have masks, nor did the CDC recommend it except for a few
22 exceptions, where masks had been provided by their
23 healthcare provider because of a specific health risk.

24 The Defendants did not have sufficient quantities
25 of masks for staff or inmates during March. They received a

1 shipment on Friday, April 10th, and they began issuing them
2 to staff at roll call on April 11th. And we will provide,
3 you know, much more specific information on this in our
4 written report.

5 The Defendants also began to replace masks for
6 inmates on a daily basis this week; and they report that
7 they are now providing masks, something that they were not
8 doing before, but now this week, providing masks to all
9 inmates on all housing units. We have not had an
10 opportunity to confirm this change in practice this week.

11 The Defendants also state that they are requiring
12 all staff to wear masks and they are issuing them at roll
13 call for all staff this week.

14 Now, with respect to conditions in the quarantine
15 units and other units, this is different than the isolation
16 units. But all quarantine units and all the other units
17 except the isolation units have, you know, cell
18 restrictions.

19 As of April 4th, inmates in quarantine and the
20 other units except for isolation are restricted to their
21 cells except for 30 minutes each day for phone calls,
22 showers and cleaning their cells.

23 Now, at some point very recent, the Defendants
24 indicated that they had changed the 30-minute rule to a
25 one-hour rule. For the most part, during our site visits,

1 staff were unaware of the one-hour rule and staff and
2 inmates in all of those units reported on the 30-minute
3 ceiling.

4 During this 30-minute period, they are allowed out
5 of their cells in groups of five and required to maintain
6 social distancing pursuant to policy.

7 But during our site visits in the quarantine unit
8 and the non-quarantine unit, we observed, in just about
9 every unit we were in, well more than five inmates typically
10 out of their cells at a time. Social distancing was not
11 enforced and there were no attempts I was aware of by the
12 correctional officers in those units to enforce social
13 distancing.

14 And it appears that one reason for this is the
15 understaffing with respect to the correctional staff. There
16 is a shortage of line staff and supervisors that is evident
17 at both facilities.

18 Both facilities recently converted from three
19 shifts per day to two shifts per day during weekdays in
20 order to limit the extensive overtime that staff had been
21 working in order to compensate for the number of staff who
22 were unavailable for duty.

23 The Defendants are facing substantial challenges
24 as a result of this and they are challenged, I would say, at
25 a minimum in providing direct and appropriate supervision to

1 inmates at both facilities because of the staffing shortage.

2 Again, this appears to be particularly acute at
3 the CTF. But it affects, you know, all areas of operation.
4 We have requested and expect to receive data relevant to
5 this issue by tomorrow.

6 There is no access; and this is something we
7 looked at when we were looking at conditions in the
8 quarantine unit relative to other units. We looked at not
9 just out-of-cell-time access, but access to legal calls and
10 other calls. There is no access to confidential legal calls
11 for inmates on quarantine and non-quarantine housing units.

12 Historically, calls that provide for
13 confidentiality were arranged by the case management staff,
14 who were able to provide the inmates with a confidential
15 environment in which to place these calls.

16 The case management staff by and large is working
17 remotely or on quarantine status, and they are not available
18 to facilitate those calls.

19 Now, the Defendants recently began to allow
20 scheduled legal calls using the telephones in the day room.
21 And there is evidence that this has occurred, but on a very
22 limited basis for a limited number of inmates.

23 Now, we have not had an opportunity to confirm
24 whether these calls are not monitored. Inmates certainly
25 expressed a lot of concerns about the calls being monitored,

1 because the calls on those telephones are monitored.

2 But those telephones are in the day rooms of the
3 housing units, and the day rooms do not afford
4 confidentiality for legal calls, regardless of whether
5 they're monitored or not. And even assuming they're not
6 monitored, the situation itself does not afford
7 confidentiality.

8 Now, with respect to conditions in isolation
9 relative to other units, inmates in isolation are completely
10 restricted to their cells. They are not allowed out of
11 their cells, although several of them told me that they came
12 out of their cells a few feet when being examined by medical
13 providers.

14 The first cohort of inmates who were isolated for
15 COVID were housed in a special management unit at the CTF,
16 which was like a high-security management unit that was
17 converted into the first isolation unit at the CTF.

18 Several of the inmates in this cohort who had been
19 released from isolation reported to me that they were
20 escorted to and from showers in handcuffs. Now, I have not
21 been able to confirm that, but that's what they reported.

22 Ultimately, inmates in isolation are prohibited --
23 were prohibited from taking showers, and they continue to be
24 prohibited from taking showers as a matter of policy. There
25 is a concern, I am told, that the steaming could aerosolize

1 the virus.

2 THE COURT: Excuse me. How long do they go
3 without taking showers, then?

4 MS. LOPES: I interviewed inmates who had been in
5 isolation for nine days. There are some who have been in
6 isolation much longer than that who did not take showers.

7 To the extent they conveyed they must use the
8 sinks in their cells to do so, the supply of towels,
9 et cetera, appears to be inadequate.

10 Body wipes were ordered, and they were not
11 available until yesterday.

12 THE COURT: I'm sorry. What was ordered?

13 MS. LOPES: Body wipes.

14 THE COURT: Oh, okay.

15 MS. LOPES: Body wipes were ordered as an
16 alternative.

17 They are not permitted to -- at the CTF, inmates
18 in isolation are not permitted to use the telephone for any
19 reason, to call their families or for legal calls.

20 At the jail during our site visits, there were
21 only -- and that was just a few days ago -- there were only
22 three inmates in isolation, and they were able to make
23 telephone calls to their families. However, I was told
24 yesterday that that might no longer be the case. We have
25 not had an opportunity to confirm that.

1 Medical staff visit the isolation unit twice a day
2 for temperature checks, to assess vital signs and to do a
3 health assessment as indicated.

4 Laundry services have been limited at best. Many
5 inmates we observed in entering the isolation units were
6 wearing the same clothes that they had on throughout their
7 stays in the isolation units; and in fact, most of the
8 clothes that they were in were visibly soiled. There were
9 also reports of substantial delays in receiving fresh
10 linens.

11 Now, in terms of the question whether conditions
12 are a deterrent in reporting symptoms, many inmates in
13 isolation volunteered that isolation is far too punitive
14 and, if they had it to do over again, they would never have
15 reported their symptoms in the first place.

16 There is no question that a deprivation of
17 showers, the absence of any ability to maintain any type of
18 contact with family members during their illness, the lack
19 of access to legal calls, to clean clothing and clean linens
20 are plainly a disincentive for them and, you know, are
21 likely to deter in the future reporting symptoms.

22 So if the Court has any questions, those are kind
23 of the major points I wanted to make.

24 THE COURT: As part of this review, you'll be
25 pointing out what -- obviously, what's not being done. And

1 I'm assuming that to the degree that you have, that you will
2 be -- whether deficiencies such as we've just discussed,
3 that you'll be recommending what needs to be done. Or am I
4 wrong?

5 MS. LOPES: We can do that, your Honor. We can do
6 that. Yes.

7 THE COURT: I mean, the more obvious, on the
8 things that -- on the conditions, putting it in that
9 context.

10 MS. LOPES: Yes. Yes.

11 THE COURT: All right. Maybe what I'll do at this
12 point, before we go into the environmental health and
13 hygiene, are there specific questions that you want for
14 clarification from Plaintiffs' counsel? Not statements or
15 conclusions, just questions to Ms. Lopes or Mr. Jordan about
16 the medical information that they've provided. If there's
17 something you want clarified.

18 Mr. Marcus?

19 MR. MARCUS: This is Steven Marcus, your Honor.

20 I'm curious, Grace and Mark, if you were able to
21 speak on when the signs -- the more instructional signs went
22 up around CDF and CTF and when the medical staff educational
23 sessions started occurring, if you were aware of that.

24 MS. LOPES: I would have to go through my notes.

25 And I may have something in my notes. But I don't -- I

1 can't pinpoint a date for you right now. I can certainly
2 look at my notes and address it if we have it and follow up
3 between now and a hearing date.

4 Unless Mr. Jordan can recall.

5 MR. JORDAN: I do not have a specific memory of
6 that.

7 THE COURT: If it would be put in the written
8 summary, that would be helpful.

9 MS. LOPES: Yes. Yes.

10 THE COURT: Mr. Marcus, anything else you want to
11 ask?

12 MR. MARCUS: Yes.

13 Ms. Lopes and Mr. Jordan, are you aware of how
14 often residents use sick calls versus just the urgent call
15 mechanism that Mr. Jordan describes?

16 MR. JORDAN: We do not. We received data on sick
17 call, but we do not have any data on this more walk-up-type
18 encounter. So I can't give you a comparison of those
19 numbers.

20 What we do have is data regarding sick call
21 requests submitted by inmates and what medical staff has
22 described to us as -- since recently, probably March, they
23 said that sick call providers who go to the housing units to
24 see inmates who requested a sick call are now instructed to
25 allow inmates who did not submit a sick call request to

1 receive services there as well. And we have records of
2 those encounters as well, but not specific records of
3 inmates who approach correctional officers and are taken to
4 medical for this urgent care.

5 THE COURT: Are there records that exist about the
6 urgent calls or not? Do you know?

7 MR. JORDAN: There are records in the
8 electronic -- they maintain an electronic health record, and
9 there are records of those clinical encounters. I do not
10 know if they have a readily accessible report of those
11 encounters. That's something that we could inquire about to
12 try to get a relative number.

13 THE COURT: I think that would be helpful.

14 Did you get a sense of --

15 I'm sorry to interrupt, Mr. Marcus.

16 Did you get a sense of if they did -- if somebody
17 made a sick call that they would actually -- I'm sorry.
18 There's a jackhammer outside doing construction in the
19 street, which is annoying.

20 But anyway, in terms of the sick calls, how
21 quickly they went to see them? Because we did have
22 declarations that they put in a sick call and they were not
23 seen for several days. Is there some pattern relating to
24 that?

25 MR. JORDAN: So we took the data set of over 6

1 ,000 -- it was 6,480 sick call requests or encounters and
2 tried to analyze exactly that.

3 And I produced an analysis that showed what
4 appeared to be the length of time between the request and
5 the medical encounter.

6 But I then went into a sample of those -- of
7 specific records to take a look at the electronic health
8 record. And I was finding that often the date of the
9 clinical encounter in the data set we were provided was not
10 accurate. Most often, in the ones that I looked at, it was
11 to the Defendants' detriment, the dates that were recorded
12 in the data set.

13 And so the answer is, I don't think we have any
14 accurate picture of how long it takes for medical staff to
15 respond to sick call requests based on the data we have.

16 THE COURT: So is that something that needs -- is
17 that information that needs to be kept? Or it needs to be
18 just more accurate?

19 MS. LOPES: I think we have to do more of a
20 review, your Honor, and make some recommendations in the
21 report we submit on Friday.

22 THE COURT: Okay.

23 MS. LOPES: I think that's probably the best
24 course, because we did get many, many complaints from
25 inmates about access to sick calls. That was kind of a

1 constant refrain.

2 And we thought the objective -- the quote-unquote
3 "objective data" would be helpful in resolving that
4 question. And as Mr. Jordan pointed out, at least
5 preliminarily, it hasn't been.

6 And we do need to go back and see whether there's
7 any other kind of, you know, centralized compendium of
8 records that log the sick call requests, because we don't
9 know whether the entries in the electronic health records
10 are accurate. We don't know where they're pulling the data
11 from this data report we got. We assume it was from the
12 electronic health records. So we're going to have to
13 reconcile that if we can in the time we have.

14 THE COURT: That would be very helpful.

15 Mr. Marcus, I didn't mean to interrupt; but your
16 questions prompted another one from me. Anything else,
17 Mr. Marcus?

18 MR. MARCUS: Just a couple more, your Honor.

19 THE COURT: Sure.

20 MR. MARCUS: Mr. Jordan, did the process to -- the
21 process to put in an urgent care request, is that residents
22 waiting for a staff member to walk by before they can
23 request it in person? And, if so, is there a concern that
24 the staffing shortages will make it difficult or complicate
25 the ability of residents to make the urgent care requests if

1 they're waiting on the presence of a staff member to flag
2 them down?

3 MR. JORDAN: I would say we don't have enough
4 information about that process yet. Certainly if the
5 process is organized based on finding a staff member who can
6 escort you to medical, then staffing levels would absolutely
7 be a concern.

8 I think it's an issue that we would need to
9 explore in greater detail with staff and inmates to
10 understand how that process actually works. I don't have an
11 in-detail-enough understanding of it right now.

12 MR. MARCUS: One final question: Are the staff
13 that are currently at the facilities able to enforce social
14 distancing at their current level?

15 MS. LOPES: No. No. No.

16 MR. MARCUS: Okay.

17 MS. LOPES: I mean, that was something that we saw
18 in virtually all the housing units we visited and even
19 within common areas where inmates were working, unescorted
20 and escorted, to and from medical, for example. Social
21 distancing is not being enforced.

22 THE COURT: So if they had staff, it could be
23 enforced; but because they don't have enough staff, it's not
24 enforced. Is that what you're saying?

25 MS. LOPES: That's the conclusion. And it's not

1 just enough staff; it's not enough staff and not enough
2 supervisors supervising the staff to enforce it.

3 THE COURT: Okay. Anything else, Mr. Marcus?

4 MR. MARCUS: No. Thank you, your Honor.

5 THE COURT: Mr. Saindon, is there anything you
6 wish to add?

7 MR. SAINDON: Thank you, your Honor.

8 I would like to thank Mr. Jordan and Ms. Lopes for
9 their work right now. I don't know that I have any
10 questions right now. Obviously, we are keen to get this
11 transcript, and we're going to start working on a lot of
12 these things and respond to them when we get the written
13 report.

14 The only thing I think I have now that I would
15 like to note is we discussed the sick calls appear to exceed
16 the mandates for the *amici*. That's not in the order. But
17 again, we can address that in writing later.

18 THE COURT: Well, it does say, "Are there requests
19 for sick calls based on the suspected COVID-19 symptoms
20 where there's no response?" So sick calls are covered.

21 MR. SAINDON: I'm sorry, your Honor. I meant
22 legal calls. If I said sick calls, that was my fault.

23 THE COURT: Legal calls, no. But I think what
24 they're indicating -- and the legal calls, I had separated
25 that out.

1 But it is important in terms of where they're --
2 the activity -- the question that I think was asked that
3 brought this up was what activities that were available --
4 were available to them in the various units that they were
5 on, depending on whether it was isolation, quarantine or
6 neither of those two things. And obviously, it does -- that
7 certainly is one issue that has come up.

8 So specifically, they weren't asked; but they were
9 asked as to what activities they could do. And legal calls
10 I see as an activity.

11 Anything else, Mr. Saindon?

12 MR. SAINDON: That's it for now. Thank you, your
13 Honor.

14 THE COURT: Mr. Glover, is there anything you wish
15 to ask?

16 MR. GLOVER: Not at this time, your Honor.

17 THE COURT: So then let's move on to environmental
18 health and hygiene.

19 MR. JORDAN: I will address Environmental Question
20 No. 1, the quantity of personal protection equipment and
21 cleaning products in the stockpile.

22 First, DOC representatives have stated that they
23 have a sufficient supply of PPE to provide daily
24 replacements for 60 days.

25 According to DOC data, as of April 13th, the

1 agency had 73,000 surgical masks; 1,560 N95 masks; and I do
2 not have current inventories of gloves or eye protection,
3 unfortunately.

4 With respect to cleaning products, your Honor, I
5 can -- I have inventories by type of surface cleaner and
6 sanitizing solution. If you'd like, I can walk through the
7 gallons of each or we could include those in the written
8 submission.

9 I will say that we also reviewed -- in addition to
10 the stockpile, we reviewed delivery records. And the
11 delivery records show that there were consistent deliveries
12 of cleaning supplies to the facilities between December 31st
13 and now.

14 THE COURT: Okay. And --

15 MR. JORDAN: I --

16 THE COURT: Go ahead. I'm sorry.

17 MR. JORDAN: I was just going to say, if you'd
18 like, I can walk you through the volumes that they had in
19 the stockpile. But I don't know that it's going to be
20 instructive as to whether it's sufficient for the purpose.

21 THE COURT: That was going to be my question, as
22 to whether you could come to a conclusion as to whether it
23 was sufficient or not.

24 MR. JORDAN: Question No. 5 is as to whether
25 residents or inmates have access to cleaning supplies in

1 sufficient quantity and concentration. So it's an indirect
2 way of addressing that. If you want, I can address that
3 question now.

4 THE COURT: I'll leave it to you as to which is a
5 better question to answer it with.

6 MR. JORDAN: To your first question, in the
7 abstract, I don't know how much you need to keep it running.
8 What we did was in response to Question 5 is look at access
9 at the cell level, at the housing unit level.

10 So I --

11 THE COURT: I think we'll wait until you get to 5,
12 then.

13 MR. JORDAN: Good.

14 THE COURT: Is that all we need on 1?

15 MS. LOPES: Yes.

16 THE COURT: How about 2?

17 MS. LOPES: I have the soap.

18 So inmates reported that they purchased soap
19 through the commissary. And those who don't were able to
20 show us their soap. And no one -- and, you know, we did go
21 to many housing units and we did interview many inmates.
22 And they all had soap.

23 The soap -- there were limited supplies of soap
24 also available through the officers in the housing units.
25 And the only exception was the special management unit at

1 the CDF, South-1, where soap is not -- bars of soap were not
2 provided, but these very, very small packets of liquid soap
3 are provided to the inmates because the bars of soap are
4 viewed to be a security concern.

5 So there didn't appear to be a problem with the
6 access to the soap at both facilities.

7 THE COURT: Are they getting it weekly? Are they
8 getting it weekly? That's what we were told.

9 MS. LOPES: Yes. Yes. Weekly. Yes. There does
10 not appear to be a problem and there does not appear to be a
11 shortage. And we can report on the inventories in our
12 written report.

13 THE COURT: I guess we'll move to Question --

14 MS. LOPES: This is Mr. Jordan.

15 MR. JORDAN: Staff who interact with visitors and
16 residents and PPE:

17 Staff who interact with visitors do have access to
18 and they wear sufficient PPE. For example, the nurses and
19 correctional officers performing staff and visitor screening
20 were wearing PPE recommended by the CDC guidelines.

21 Staff who interact with inmates on isolation units
22 had access to and wore sufficient PPE consistent with the
23 CDC guidelines, including N95 masks, eye protection, gloves
24 and a gown.

25 For staff in contact with quarantined inmates, CDC

1 guidelines state that they should wear a facemask, eye
2 protection and gloves as the local supply and scope of
3 duties allow.

4 Staff who interact with inmates on the quarantine
5 units frequently but not always had surgical or similar
6 masks. A smaller number of staff on the quarantine units
7 wore gloves. We did not observe any staff on the quarantine
8 units who were wearing facility-issued eye protection.

9 Our understanding is that beginning on Friday,
10 April 10th, more PPE was made available -- more widely
11 available to staff in both facilities. Over the course of
12 our visits over the 10th, 11th and 12th, we did observe an
13 increase in the number of staff wearing PPE throughout the
14 facilities over time.

15 THE COURT: Okay.

16 MS. LOPES: And I have Question 4, your Honor,
17 whether staff and prisoner workers are given masks,
18 particularly in the food service area, and instructed to
19 wear that equipment.

20 We did visit the culinary area on our site visits.
21 Everyone uniformly, the contract staff and the correctional
22 officers, had hair nets, masks and gloves. We did not
23 confirm the instructions they received, but there were no
24 deviations at all.

25 And --

1 MR. SAINDON: Your Honor, this is Andrew Saindon.
2 I'm sorry. I hate to interrupt. The phone call dropped me.
3 I don't know if it happened to others.

4 But I'd appreciate it, Grace, if you could start
5 over again. I didn't hear anything from Mr. Jordan on
6 Question 3.

7 THE COURT: Oh. Oh, boy.

8 MR. SAINDON: If cut off.

9 MR. JORDAN: I'm happy to repeat.

10 MR. SAINDON: Thank you.

11 MR. JORDAN: So regarding staff who interact with
12 visitors and residents and their access to PPE, staff who
13 interact with visitors do have access to and wear sufficient
14 PPE. Specifically, staff who performed staff and visitor
15 screening were wearing PPE as recommended by the CDC
16 guidelines.

17 We also observed that staff who interact with
18 inmates on isolation units had access to and wore sufficient
19 PPE consistent with CDC guidelines, which include N95 masks,
20 eye protection, gloves and a gown.

21 Staff in contact with inmates on quarantine units,
22 the CDC guidelines state that they should wear a facemask,
23 eye protection and gloves as the local supply and scope of
24 duties allow.

25 We found that staff on the quarantine units

1 frequently but not always had surgical or similar masks. A
2 smaller number than wore masks wore gloves. And we did not
3 see any staff on quarantine units who were wearing
4 facility-issued eye protection.

5 And our understanding was that beginning on April
6 10th, which was last Friday, PPE was made much more widely
7 available to staff at both the facilities. And our
8 observation was that over the course of our three days of
9 site visits, we saw increasing numbers of staff wearing PPE
10 at the facilities.

11 MR. SAINDON: Thank you, Mr. Jordan.

12 THE COURT: And we had started to move into 4 with
13 Ms. Lopes.

14 MR. SAINDON: I apologize. Thank you.

15 MS. LOPES: What I said was that we visited the
16 culinary unit at the jail. During our site visit, the
17 contract staff as well as the correctional officers who were
18 staffing the culinary unit had the requisite hair nets,
19 masks and gloves.

20 We were unable to confirm the instructions they
21 received, but there were no deviations whatsoever. And
22 there were a number of staff working, and no deviations at
23 all.

24 THE COURT: What about the -- aren't there
25 prisoner workers? Were they --

1 MS. LOPES: There are no --

2 THE COURT: No prisoner workers?

3 MS. LOPES: The prisoner workers had been pulled
4 from that assignment the night before because an inmate who
5 worked in culinary tested positive for COVID. And so all of
6 them were diverted from that assignment. And so the
7 correctional staff was substituting for the inmates.

8 THE COURT: And the correctional staff all had the
9 appropriate --

10 MS. LOPES: Yes.

11 THE COURT: -- protective equipment?

12 MS. LOPES: Yes.

13 THE COURT: All right.

14 MR. JORDAN: Question 5. This is: Do residents
15 have access to cleaning supplies in sufficient quantity and
16 concentration, including rags to clean their cells?

17 As I mentioned in Question 1, we analyzed data
18 regarding cleaning supplies, not only the current inventory,
19 but also the delivery schedule to the facilities. And there
20 is evidence that there are regular deliveries of cleaning
21 and sanitizing products from a central storage area to the
22 facilities.

23 Historically, we found that there are three types
24 of cleaning and sanitizing products available on housing
25 units. And beginning in mid-March, the DOC added a fourth

1 type of disinfecting agent in a peroxide-based cleaner that
2 we did see on some housing units.

3 Our observations and interviews with inmates and
4 staff indicate that inmates' access to supplies on housing
5 units varies from unit to unit. There was at least one unit
6 we visited on which all of the cleaning supplies had been
7 depleted at the time of our visit. On some housing units
8 that did have cleaning supplies, inmates reported they did
9 not have access to the cleaning agents for them to clean
10 their cells.

11 But in general, there was very little knowledge
12 regarding which of the four available cleaning and
13 sanitizing agents to use on which surfaces and in what
14 quantities. One inmate told me, "We just use everything for
15 everything."

16 Residents reported and our observations confirmed
17 that rags were generally not accessible for cleaning cells.
18 We observed the inmates routinely fashioned rags out of the
19 facility-issued towels and T-shirts, and they appeared
20 soiled.

21 On a limited number of housing units, there were
22 paper towels that could be requested from a correctional
23 officer for inmates to use to clean. And as previously
24 discussed, on isolation units, inmates were not able to
25 clean their own cells.

1 THE COURT: So did anybody clean them?

2 MR. JORDAN: Some inmates did report that they
3 were able to clean them.

4 Frequently, the process is they would have to talk
5 to the inmate detailee. So there are detailees assigned to
6 each housing unit with a work responsibility that included
7 mixing chemicals and cleaning certain areas and making
8 cleaning agents available.

9 And so there was inconsistency. On some units,
10 inmates would say: Yes. I have access to some sort of
11 cleaning agent and I clean. And on other units, they say:
12 No. We never got them.

13 THE COURT: In terms of the isolation, you
14 indicated they were not able to clean the cells. So did
15 anybody clean them if they weren't able? Did anybody else
16 come in and clean them? Or were they just --

17 MR. JORDAN: No, they were not.

18 MS. LOPES: No.

19 And they don't have any -- one thing, I think,
20 that might have been missed is they don't have the
21 equipment. The rags available to them are not sanitized or
22 appropriate, really, for cleaning, particularly in this
23 environment. So they really are, you know, resorting to
24 ripping up, you know, their T-shirts and using them to
25 clean. So there is a shortage of appropriate equipment and

1 supplies for cleaning on that level. Not the chemicals, but
2 the cleaning equipment.

3 THE COURT: Okay.

4 MR. JORDAN: Question 6: The housing units and
5 particularly common spaces, such as bathrooms and showers,
6 appear to be sufficiently clean.

7 The cleanliness in common spaces was very
8 inconsistent. The cleaning of housing units, including
9 showers, and, when they were present, common bathrooms, is
10 again the responsibility of these designated inmate
11 detailees supervised by correctional officers. And there's
12 just very little quality control.

13 So it's widely variable from one housing unit to
14 another. There were some housing units that appeared clean
15 and tidy and there were some that did not, or housing units
16 with trash on the floor on cell block corridors. And in
17 certain units, with shared tile showers -- this was at the
18 CTF -- there was visible mold growth in showers.

19 At the CTF, there's one portion of the CTF called
20 Building D. It's designed with shared sinks, toilets and
21 showers. In that area, in Building D, we found multiple
22 examples of nonfunctional toilets and sinks.

23 THE COURT: All right. And is there a difference
24 between the common spaces within the housing units, which it
25 sounds like the inmate detailees do the work, and then the

1 common spaces that are outside of the housing units?

2 MS. LOPES: Yes.

3 MR. JORDAN: Yes.

4 THE COURT: In terms of the common spaces within
5 the housing units, are they supposed to clean them at a
6 particular time or a certain number of times a day or
7 anything else?

8 MR. JORDAN: They are supposed to clean every two
9 hours. And in fact, there are announcements made over the
10 PA that inmates are to clean every two hours. So there's an
11 awareness of that.

12 It is very clear that the knowledge of these
13 chemicals that are available is very low. We even talked to
14 one of the staff members. There are what are called
15 environmental posts, and those are correctional officers who
16 are responsible for managing the environmental health and
17 safety program on different shifts.

18 And we were asking one about the appropriate
19 dilution of these chemicals, and he stated that he had
20 recently started using his own Clorox bleach solution that
21 he mixed up. And so we asked him in what quantity he did
22 that.

23 And he gave us very rough estimates, that he put
24 in a couple of inches into a gallon.

25 And in order to use these chemicals, there are

1 appropriate concentrations that need to be used. And so we
2 were surprised at the lack of precision for that sort of
3 chemical mixing he was describing.

4 THE COURT: And when you say every two hours,
5 we're talking about the common areas within the housing
6 units. Is that correct?

7 MR. JORDAN: That is correct.

8 THE COURT: And so it sounds like they're not
9 doing that.

10 MS. LOPES: They are. They don't have the
11 equipment.

12 THE COURT: All right.

13 MS. LOPES: They are doing it, your Honor. But
14 they don't have the training and they don't have the basic
15 equipment to do it correctly.

16 So, you know, so they're trying to clean all the
17 touched surfaces. And when you ask a detail inmate, "What
18 are you doing, what are you supposed to do," they all --
19 they will all tell you, "Well, I have to clean all the
20 touched surfaces, the doorknobs, the railings," and they'll
21 go into detail. But they just don't have the equipment to
22 do it well or the training or the supervision, for that
23 matter.

24 MR. JORDAN: And there are four types of chemicals
25 available, and they don't all do the same thing. Some of

1 them are cleaning agents; some of them are sanitizing
2 agents; and disinfecting agents. And they ordered one in
3 particular in mid-March, this peroxide-based agent, which
4 was intended to get at the coronavirus and to be able to
5 kill it.

6 But the level of knowledge among the individuals
7 who are actually using these chemicals was very low. When
8 you would ask them, "What do you use this solution for
9 versus the other," we did not receive any consistent
10 response. And they said they did not receive training on
11 that.

12 THE COURT: This is the common areas. Is this
13 true of all the ones, you know, the general areas, the
14 non-quarantine isolation areas, the quarantine areas and the
15 isolation? Is this through this sort of what I view as the
16 three types of housing units?

17 MS. LOPES: Yes. Yes. It's the case in all of
18 them.

19 THE COURT: Let's go on, then, to I guess No. 7.

20 MS. LOPES: Whether the professional cleaning
21 crews clean the hallways and common areas.

22 Not in the housing units. And inmates do.
23 Mr. Jordan has told you about some of that.

24 A professional cleaning crew was engaged by the
25 DOC to clean certain common areas on the nonsecure side of

1 both facilities on a daily basis beginning in late March.

2 There was an apparent misunderstanding about the
3 scope of services that this contractor was required to
4 perform. That came to light this week. The chief
5 administrative officer at DOC understood that they would be
6 required to mop all of the hallways in these common areas
7 and learned this week that they weren't mopping any of the
8 hallways in these common areas, so they had not been
9 cleaned, and has indicated that she would address -- was
10 addressing this and was remedying this problem.

11 So this is limited to really the administrative
12 side of both facilities, the non-secured side, where these
13 crews were coming in daily to perform these cleaning
14 activities.

15 And insofar as the housing units, as we said, the
16 inmates and details cleaned the common spaces. And there is
17 the issue with the training and the knowledge about products
18 and the need to bolster the quality of the equipment that
19 they use, the rags and mops, et cetera, so they can
20 actually -- so their cleaning activities are more effective.
21 Let's put it that way.

22 THE COURT: In terms of what I'll call the
23 administrative areas, because it's not the housing units,
24 would visitors go through there or any of the inmates go
25 through there? Or is this strictly staff that's not going

1 to have any contact with either the inmates or visitors?

2 MS. LOPES: Visitors and staff would be going
3 through, not the inmates. But visitors and staff who have
4 contacts with the inmates would be going through these
5 common spaces. Yes.

6 THE COURT: Then we'll move to 8.

7 MS. LOPES: The hand sanitizer.

8 Inmates do not have access to the hand sanitizer
9 at the CTF. It is provided for staff on the housing units.
10 So the hand sanitizer that is on the housing units is not
11 available to the staff, according to the staff in those
12 housing units, as well as according to the inmates.

13 THE COURT: Can you say that again? I'm not sure
14 who gets -- who has this.

15 MS. LOPES: It's the staff. It's mounted -- at
16 the CTF, it's mounted in the day room area for staff use.

17 THE COURT: So no inmates get hand sanitizer or
18 the use of it?

19 MS. LOPES: No. No.

20 THE COURT: Okay.

21 MS. LOPES: And in terms of social distancing, you
22 know, as I said --

23 THE COURT: Is any going on?

24 MS. LOPES: It's not. No. I did not observe it,
25 and I don't believe Mr. Jordan has observed any effort to

1 enforce social distancing. Certainly there's the space to
2 do it, but no effort to enforce it.

3 THE COURT: Where would the space be to do it?

4 MS. LOPES: In the day rooms. There are
5 multilevel areas in the housing units. There's enough room
6 in the day rooms for them, you know. They could start
7 limiting the number of the inmates to maintain at least a
8 six-foot distance.

9 But it's just not enforced.

10 And I was in the housing units, where I was
11 surrounded by inmates. I mean, like ten, twelve, you know,
12 even more inmates who were gathering next to each other. I
13 would say to them: Listen, you need to maintain a distance
14 of six feet from each other. But I was telling them that,
15 not the correctional staff.

16 And it depends. I mean, we would walk into
17 housing units and inmates would be, you know, collected
18 together, many of them. It's just not being enforced.

19 THE COURT: At one point, there was an indication
20 from DOC that they had cut the number of people that were
21 going out for recreation at the same time. I don't know
22 whether that means outside or whether it means in the day
23 room or both.

24 Does it look like they've cut the number? It went
25 from 80 to 40 and then --

1 MS. LOPES: Yes. Yes. They cut it to five,
2 ostensibly, to five in every unit but the isolation unit.
3 But there is the five inmates they let out, and then
4 typically they will let out of their cells the detail
5 inmates as well. So there could be as many as eight who are
6 out at one time. And we have seen more than that, a number
7 of inmates out in both facilities at one time during our
8 site visits.

9 But yes. As a matter of policy, the Defendants
10 did reduce the number to five at a time everywhere but in
11 isolation.

12 MR. JORDAN: And I was just saying, as Grace said,
13 on multiple units we did observe there were times when over
14 ten, sometimes closer to 15, inmates were out at a time in
15 contravention of the policy.

16 THE COURT: And I guess No. 10 is next. You did
17 give some information earlier. I don't know whether there's
18 additional information for No. 10 that you want to bring up.

19 MS. LOPES: I think Mr. Jordan had --

20 MR. JORDAN: I'm sorry. Yes. That is my
21 question.

22 It's: How many residents share a cell?

23 So we analyzed individual-level housing assignment
24 data from both facilities every day from March 15 through
25 April 13th. As of April 13th, 586 of the 1,041 inmates,

1 which is 56 percent, were assigned to a cell with another
2 inmate.

3 On the same date, April 13th, at the CTF, 22
4 inmates, only 5 percent, were assigned to a cell with
5 another inmate.

6 And in terms of cell size, I did measure what I
7 took to be a representative cell at each facility. At the
8 CDF, the cell was approximately 86 square feet. And at the
9 CTF, the cell was approximately 72 square feet.

10 THE COURT: Is there any sort of reason why some
11 are shared and some are not in terms of how they select the
12 inmates to be in a cell that's shared and one that's not
13 shared? Or is it just the luck of the draw, that you show
14 up and they happen to have one open?

15 MR. JORDAN: I don't know the logic they use when
16 making cell assignments. Certainly housing unit assignments
17 have a lot to do with classification procedures. But the
18 decision regarding who is assigned to a cell with another
19 inmate is not clear. We did not explore that in any detail.

20 There are probably all, certainly most of the
21 housing units, that have inmates sharing cells. There are
22 many vacant cells as well. So it was not clear to me at the
23 time why there were inmates assigned with another cellmate.

24 THE COURT: So there are vacant cells. And they
25 couldn't split them?

1 MR. JORDAN: Correct.

2 THE COURT: Can you hold on one second? I'm at
3 home. They're doing construction outside, and they want me
4 to move my car. So I'm going to tell them they'll have to
5 wait a minute. So if you all can hang on, I'll be right
6 back.

7 (Brief pause in the proceedings.)

8 THE COURT: I'm back. Sorry. So much for social
9 distancing. They're doing construction and they're on top
10 of each other. But leaving that aside, I had to move my
11 car, which was in a handicapped spot, away.

12 All right. Let's get back to this. We're on --
13 we have vacant cells, as I recall, where you could split
14 them up. Is that correct?

15 MR. JORDAN: That's correct.

16 THE COURT: There was another question. Let me
17 just get back in here.

18 In terms of the -- I've indicated sort of three
19 types of units. In the isolation, they're by themselves.
20 In quarantine, do they share cells? Or they don't share
21 cells there either?

22 MR. JORDAN: I believe on quarantine units they
23 can share cells.

24 THE COURT: So the only ones where they
25 actually -- absolutely don't share cells is in isolation?

1 Or is that not --

2 MR. JORDAN: I believe that is accurate.

3 THE COURT: Okay. So there may be some sharing of
4 cells in the quarantine section, and certainly some in just
5 the general housing, I'll call it?

6 MR. JORDAN: Right.

7 MS. LOPES: Yes.

8 THE COURT: I guess we can move on to No. 11,
9 which is the last one.

10 MR. JORDAN: Yes. Do all residents have access to
11 sinks, soap and toilets?

12 At the CDF, all of the cells are what are called
13 wet cells, which includes sinks and toilets.

14 At the CTF, as I mentioned before, there's
15 Building D in which the inmates share common sinks and
16 toilets. In that building, the cell doors are designed not
17 to lock, and inmates can access the sink and toilets without
18 intervention from a correctional officer.

19 We did, as I previously noted, identify multiple
20 sinks and toilets in Building D that were not operational
21 when we visited.

22 And as Ms. Lopes mentioned, every inmate that we
23 spoke to stated that they had access to soap. And we did
24 review the supply of the inventory of soap the DOC
25 maintains. And I also reviewed soap delivery records to the

1 facilities. In between March 13 and April 13th, DOC's data
2 shows that 7,000 bars of soap were delivered to the two
3 facilities.

4 I would note that some inmates say that they use
5 their soap to clean their clothes and shower and that a
6 single bar of soap is not enough to make it through a week
7 under those circumstances.

8 THE COURT: In the part where they share the
9 toilets, how many sinks and toilets are there? I mean, is
10 there a sink and toilet and there are five inmates that use
11 it, say, or is it that three or five inmates use it or
12 something like that?

13 MR. JORDAN: It's two toilets, two sinks and one
14 shower. And it's on a corridor -- and I'm estimating
15 here -- that might have ten cells on it.

16 Grace, does that sound accurate to you? I'm just
17 visualizing.

18 MS. LOPES: Yes.

19 THE COURT: Again, those cells could have double
20 people or one of them?

21 MR. JORDAN: They could. But as of now, they have
22 single. Yes.

23 THE COURT: Let me just ask if there are any
24 questions, and then we'll get back to whether you've got
25 some other observations you wanted to make.

1 So let me -- Mr. Marcus, if there are any
2 questions about what we've just gone over.

3 MR. MARCUS: Yes, Judge.

4 First, for Mr. Jordan and Ms. Lopes, in what rough
5 proportion of housing units that you visited would you say
6 that there was sufficient cleaning solution accessible? You
7 mentioned variation between housing units. But in what
8 proportion would you say that there was sufficient
9 available?

10 MR. JORDAN: I would say definitely the majority.

11 So there was only one housing unit where the
12 containers of cleaning solutions were empty. On some of the
13 other units, the supply was low. I just don't know what
14 their internal process is for refilling -- identifying
15 cleaning solution that needs to be refilled and then
16 refilling it.

17 MR. MARCUS: Ms. Lopes, given the staffing
18 shortages that you noted, is that a concern as far as the
19 training and supervision of the resident details that clean
20 the common areas of the housing units?

21 MS. LOPES: It could be. And it affects -- you
22 know, it affects all areas of operations so that -- you
23 know, we were in housing units with one officer and, you
24 know, 45 inmates. You know, that officer cannot
25 supervise -- provide direct supervision to all of those

1 inmates.

2 So yes. It has implications for cleaning. It has
3 limitations for all areas of management in the facility.

4 MR. JORDAN: I was just going to add to that: The
5 CDF in particular, the structural design of the facility is
6 inherently more staff-intensive than the CTF.

7 Because of its linear layout, the sight lines are
8 very difficult. So a given officer cannot see large
9 portions of the cells at any given time. And that just
10 needs -- in order to do direct observation, you need more
11 staff at any given time.

12 THE COURT: If I can just interrupt here for a
13 second.

14 Did you have a discussion with the DOC officials
15 that you talked to about the staffing shortages and what
16 seemed --

17 MS. LOPES: Sorry. You cut off.

18 THE COURT: Did you have an opportunity to --

19 MS. LOPES: Your Honor?

20 THE COURT: Yes. I'm still here.

21 MS. LOPES: Hello?

22 THE COURT: Hello?

23 MS. LOPES: Hello?

24 MR. MARCUS: Judge, this is Steven Marcus. I can
25 hear Ms. Lopes and your Honor. I'm not sure what the

1 trouble is.

2 MR. SAINDON: This is Andrew Saindon. I can hear
3 both sides, too.

4 THE COURT: Ms. Lopes, can you hear me?

5 MS. LOPES: I've got you, your Honor. Yes. For
6 some reason I couldn't hear you. Yes.

7 THE COURT: I'm speaking as directly as I can into
8 the phone.

9 What I was asking is whether in relation to the
10 staff shortages, whether you had any discussions with the
11 DOC representatives as to why, and are they doing something
12 about it? Is it because people have been quarantined, staff
13 has been quarantined or they're not showing up? Or did you
14 have -- first, did you have any discussions about it?

15 MS. LOPES: Yes. Yes, I did. And it appears that
16 there are at least three if not four factors.

17 The first: There are a number of vacancies in the
18 staffing complements. There are positions that are funded
19 that are not filled.

20 Then there are a significant percentage of members
21 of the workforce who are unavailable for duty
22 notwithstanding COVID-19 for reasons such as long-term
23 workers' compensation, AWOL, military service, training,
24 et cetera, one of those categories that rendered them
25 unavailable for duty.

1 And that is compounded by the number of staff who
2 are quarantined or are self-quarantined. Staff who have
3 specific vulnerabilities, you know, have been permitted --
4 who have medical vulnerabilities have been permitted to, you
5 know, take leave, extended leave.

6 And then that's combined with staff who have been
7 in direct contact or otherwise exposed to those who test
8 positive at the institution or those who test positive in
9 the community where, you know, they've had direct contact.
10 So they have a number of staff on quarantine status.

11 I had requested all of that data, and I anticipate
12 getting it tomorrow from their personnel director.

13 So all of those factors combined have really
14 undercut the staffing levels.

15 THE COURT: Mr. Marcus, I'm sorry. I had
16 interrupted you. Do you have any other questions?

17 MR. MARCUS: Yes, Judge. Just one more for
18 Mr. Jordan.

19 You mentioned in Building D at CTF where the sinks
20 and toilets and showers are all outside of the housing
21 units, you mentioned that residents -- or outside of the
22 cells; sorry -- you mentioned that residents are able to
23 come and go from their cells as they like to access their
24 facilities.

25 Is that still true in light of the 23-hour

1 lockdown? And if that is the case, are staff monitoring to
2 make sure that no more than five people are outside at a
3 given time?

4 MR. JORDAN: They are not supposed to come out of
5 their cells unless they are permitted to come out of their
6 cells. And so the same policy of having five people out at
7 a time is supposed to apply. Even though they can open
8 their doors, you're not supposed to do that.

9 When we went to a housing unit in Building D,
10 there were many more than five inmates out at the time.

11 MS. LOPES: There were many more.

12 MR. JORDAN: So just because the doors can open
13 doesn't mean they're exempt from the policy.

14 THE COURT: Is there anything else, Mr. Marcus?

15 MR. MARCUS: Not from me, your Honor.

16 THE COURT: Mr. Saindon, is there anything you
17 wish to add?

18 MR. SAINDON: No, your Honor. Just one thing I
19 heard. And I might have written it down, but I think
20 Ms. Lopes said early on as of a particular date there
21 were -- April 10th, I think she said -- there were -- it
22 sounded like she said there were 82 positive tests, but I
23 think she meant 82 tests given. I just wanted to clarify if
24 that was true.

25 MR. JORDAN: That's correct. 82 test

1 administered.

2 MS. LOPES: Yes. Yes. That's what I meant to
3 say. I said 82 inmates had been tested, I thought; and of
4 the 82, 52 were COVID positive; 26 were negative; and the
5 balance were pending results.

6 MR. SAINDON: Great. Thank you. It was different
7 from the numbers I had today, so I just wanted to verify.

8 MS. LOPES: That's fine.

9 THE COURT: Mr. Saindon, anything else?

10 MR. SAINDON: That's all I have for now. Thank
11 you, your Honor.

12 THE COURT: Mr. Glover, did you have any
13 questions?

14 MR. GLOVER: No questions, Judge.

15 THE COURT: Okay. So as I understand it,
16 Mr. Lopes and Ms. Jordan, you'll be putting together a
17 written summary. You're obviously still in the process of
18 getting information, from what I gathered.

19 Is there anything additional that you need that
20 you have not received in order for you to, you know,
21 conclude on this -- conclude the summary?

22 MS. LOPES: You know --

23 MR. JORDAN: Based on today's --

24 MS. LOPES: Sorry. Go ahead, Mark.

25 MR. JORDAN: I was just going to say, based on

1 this call, we will need data on urgent-care visits in
2 medical. So that is a request that we will make of the DOC.

3 THE COURT: Because it seems to me there were
4 several complaints in the declarations, as I recall, from
5 the Plaintiff, indicating individual distinctions between
6 sick calls and not being seen immediately, and then the
7 urgent call sounds as if it's sort of happenstance. A staff
8 member comes by and the person asks for it, although they
9 have not necessarily asked for a sick call and, you know,
10 the staff member is going to bring somebody for a sick call
11 and somebody else speaks up. At least that's sort of the
12 impression I got.

13 It would be very helpful to find out -- to
14 hopefully have a more systematic way of making sure that
15 those who -- the inmates, if you're relying on the inmates
16 for the most part who have the symptoms, that they would
17 immediately get the attention and be looked at.

18 So whatever information -- and it would be
19 interesting to know whether this information is being kept
20 or not; and if it's not, it's something that, you know,
21 should be kept.

22 So one thing that would be helpful, although I
23 didn't necessarily put it in there, but I'm assuming it's a
24 natural aspect of this, is the -- if there are particular
25 areas that you're indicating are issues -- and you've

1 indicated there's a number of them -- as to whether you have
2 specific recommendations, having gone into the facility and
3 observed it, which would be -- you know, I'm not suggesting
4 medical treatment, because these are sort of conditions; but
5 if you have particular recommendations, having been there,
6 it would be very helpful to have that.

7 And I don't know whether that makes it beyond what
8 you had planned or if you were planning on doing that
9 anyway.

10 MS. LOPES: We weren't planning on it, your Honor,
11 but we can do it. Not a problem.

12 THE COURT: That would, I think, be very helpful,
13 since you have gone in there. If there are things that you
14 would observe, probably, you know, if they're not doing
15 something and it's something that could be easily fixed or
16 not-so-easily fixed, but at least could be remedied, it
17 would be very helpful to have that information.

18 I think at this point, unless Mr. Marcus or
19 Mr. Saindon has anything that we need to hear on from
20 Ms. Lopes and Mr. Jordan, I would move on to a couple of
21 others.

22 You could stay on, Ms. Lopes and Mr. Jordan. You
23 may want to listen to the rest of this, and some of this may
24 or may not be of interest to you anyway.

25 MS. LOPES: Thank you, your Honor.

1 (Discussion had off the record between the Court
2 and the court reporter.)

3 THE COURT: When we interrupt each other, besides
4 all the people coming on and off the line, it makes it much
5 more difficult in terms of doing it, although Ms. Edwards is
6 an excellent court reporter and does realtime. So what we
7 get is really quite perfection.

8 Let me move to a couple of other things. We've
9 already been on the phone almost -- let's see. It's a
10 quarter to 4:00.

11 But I did want to bring up that Judge McKenna in
12 DC Superior Court in 20-CNC-000120, which was *In Re:*
13 *Sentenced Misdemeanants*, had indicated in her order -- she
14 dismissed the case as moot, but has indicated that of the
15 misdemeanants, which I think was the first issue that the
16 Plaintiffs in this case have brought up, was the
17 misdemeanants that should be released based on the good-time
18 issues.

19 And there have been several series of things, both
20 in terms of what the legislation had done and Mayor Bowser,
21 which has shortened and come forward.

22 So at this point, as I understand, of the
23 misdemeanants, there are -- what's left is nine people.
24 Eight of them they have considered and have denied the
25 release. And there's one individual that evidently has not

1 requested it, although the order seems to indicate that
2 there may be some issues with the release of that individual
3 anyway.

4 So my question to Plaintiffs -- and you may not
5 want to answer this immediately. I don't know whether
6 you've had access to the order.

7 Have you, Mr. Marcus?

8 MR. MARCUS: Yes, Judge. We have had access to
9 it.

10 THE COURT: Does that take care of No. 1? It
11 seems to me it looks as if they've gone through everybody
12 that would have gotten the good-time credits and have
13 considered whether -- yes. Either they've been released
14 based on the good-time credits or, for the rest of them,
15 there has been a review. Now, granted, there's no felonies,
16 et cetera, looking at it from the misdemeanants.

17 Is there some issue that's left?

18 MR. MARCUS: No. No, Judge.

19 We would just note that as far as our argument as
20 to deliberate indifference goes, just to note that the
21 emergency legislation was passed on March 17th. And the
22 actual steps to comply with that emergency legislation did
23 not really take place until this suit was filed. And we
24 still think it goes to deliberate indifference, the speed at
25 which the DOC took those actions.

1 But as far as release is concerned, we are
2 satisfied that they have complied with that at this point.

3 THE COURT: All right. The other -- the next
4 thing that I have is legal calls.

5 And, Mr. Glover or Mr. Saindon, that is not
6 working. I have a number of Defendants that I'm trying to
7 set up of -- set up videoconferences with who are still at
8 the jail. And their lawyers are having a terrible time
9 trying to get in touch with them.

10 Forget 30 minutes or whatever else. They're not
11 getting ten minutes. They're not getting in touch with
12 them.

13 I don't know what system you've set up, but it's
14 not working. I don't want to set up -- it's quite elaborate
15 to set up these videoconferences with people at home,
16 offices and the jail, and then have defense counsel
17 indicate, "Well, Judge, we couldn't talk to our client, so
18 we need to put this off."

19 So, you know, they've been working hard to try and
20 do this. And I have a number of them set up for next week
21 and the week after.

22 So I don't know what you're doing, but it's not
23 working. And this needs to be fixed.

24 Mr. Saindon or Mr. Glover, you need to do
25 something.

1 MR. SAINDON: Understood, your Honor. We'll take
2 it with all the other things and put it at the top of the
3 list of everything we've heard today to investigate this as
4 soon as we can.

5 THE COURT: Is this Mr. Saindon?

6 MR. SAINDON: Yes. I'm sorry, your Honor.

7 THE COURT: I think part of it is that people need
8 to know how to do it.

9 I mean, I must admit that, unfortunately, I have
10 sent your way a number of defense counsel in my cases to
11 you, Mr. Glover, and I apologize for doing that. But I
12 needed to hear an answer as to whether they've been able to
13 consult with their clients about a whole series of different
14 things in their cases. So I know that they've reached out
15 to you. Some have gotten in touch with you and some have
16 not been able to.

17 But there needs to be a set system so that both
18 the lawyers and frankly the defendants know how to get in
19 touch with each other. It's just not working.

20 I mean, out of the eight people that have cases,
21 I've only had one that has had any contact to be able to
22 figure out what's going on. That's just not acceptable.

23 MR. GLOVER: If I may, your Honor, the Court has
24 directed units. We have worked on this diligently --

25 THE COURT: I'm not saying you're not cooperative.

1 You have been. You've been very helpful in terms of trying
2 to set this up.

3 I'm talking generally, that the system just isn't
4 working. And I shouldn't have to send them to you. There
5 should be a system that's set up.

6 If these calls are taking place, especially when
7 you changed it from ten to 30 minutes, although I think 30
8 minutes for some of this is still -- if they're trying to
9 discuss pleas, sentencings or other kinds of things -- but
10 it's better than ten minutes. But if they're not getting
11 even 30, it's not working.

12 So it's not you. You've been responsive. They've
13 called, and you evidently have made efforts. But the system
14 just is not working out. That's my complaint. Not that
15 you're not being responsive as to the individual requests,
16 but that the whole system itself is not working.

17 So I'm hoping to get something -- I would like
18 something back in 24 hours, that you've looked at it and
19 something's getting better.

20 MR. GLOVER: Your Honor, we will do our best and
21 get back with the Court.

22 THE COURT: So you just file a notice saying
23 whatever you set up.

24 My next question is, I know that there are some
25 cases that have -- or I'm assuming there are -- that have

1 detainers based on parole warrants. And I'd like to know
2 how many people there are, because obviously the courts
3 can't do anything about those; the parole board does. So
4 I'd like to know -- I don't know whether you know off the
5 top of your head or you quickly could find out.

6 And also, has anybody talked to the parole boards
7 to make sure that they're reviewing as to whether these
8 people actually need to be detained at this point or they
9 could be released into the community?

10 So first, do you know a figure?

11 MR. MARCUS: This is Steven Marcus, your Honor.

12 I do have a figure available. As of today, it
13 looks like there's 165 people listed as parole violators in
14 DOC custody, with 131 at CDF and 34 at CTF.

15 We do think -- well, first I will say, your Honor,
16 that I know that the Public Defender Service has had
17 communication with the Parole Commission, and the process
18 there is moving incredibly slowly. They are aware of the
19 conditions at the jail. There have been extensive efforts
20 on our part to work with them to release people that are
21 being held as parole violators. But the process has moved
22 incredibly slowly.

23 And relatedly, I will say that your Honor does
24 have the authority and the ability to release those people
25 or to change the conditions of their confinement via the

1 writ of *habeas corpus* that --

2 THE COURT: What I'd like to do is take a look at
3 what they're doing first before I do something, because I
4 don't know, frankly, what the reasons are for their
5 detainers.

6 Do you know -- the 165, has that been broken down
7 into felonies, misdemeanors, anything?

8 MR. MARCUS: If it has, your Honor, I don't have
9 that breakdown.

10 THE COURT: If DC could -- if -- do you have that
11 breakdown of misdemeanors versus felonies? That would be
12 most helpful.

13 Mr. Saindon.

14 MR. SAINDON: This is Mr. Saindon, your Honor.

15 We don't have it right now, but we can find it and
16 get it in front of the Court.

17 THE COURT: Okay. From the Public Defender's
18 perspective, has anybody looked at what detainers -- in
19 terms of what the nature of the detainers are?

20 MR. MARCUS: Your Honor, there are --

21 THE COURT: Excuse me. Let me refine that
22 question.

23 I'm trying to figure out whether people would have
24 been released except for the detainer or whether they would
25 not be released, and there just happens to be a detainer in

1 addition.

2 MR. MARCUS: I am not sure of the answer to that
3 question, your Honor.

4 I do know that a number of the detainers are for
5 technical violations, like a failure to maintain
6 communication with the officer or a positive drug test or
7 something like that. And those are people who would not be
8 incarcerated but for the parole detainer.

9 THE COURT: Okay. But, you know, you don't have a
10 breakdown? I don't know whether you have access to this
11 information.

12 MR. MARCUS: I don't have the breakdown, but I'm
13 not sure if the Public Defender Service would have access to
14 that.

15 THE COURT: Mr. Saindon, would you have access to
16 that or not? Or could you request it of the Parole
17 Commission?

18 MR. SAINDON: We can certainly try, your Honor, to
19 look at it.

20 I mean, I think this speaks to the motion to join
21 that you asked to be filed today. You'll see in there
22 there's some data tables from our analyst at the Department
23 of Corrections that basically shows the vast majority of
24 people in DOC facilities now are there because of the
25 authority -- under some federal authority; and that includes

1 the people that are there for suspected parole violations.
2 So that's why we think we need to hear from the Feds on that
3 issue.

4 THE COURT: In terms of --

5 MR. SAINDON: But I can certainly try and --

6 THE COURT: I'm sorry. Go ahead.

7 MR. SAINDON: I was going to say, we're going to
8 try and get a breakdown of the data as much as we can and
9 provide it, your Honor. But as I understand it, the
10 majority of the people are alleged parole violators and
11 everyone else is -- they're under federal authority. So
12 that just kind of highlights that issue. But we'll try and
13 get that breakdown of data and get it in front of the Court
14 as soon as we can.

15 MR. RACINE: Your Honor, if I can, this is
16 Attorney General Karl Racine.

17 THE COURT: Oh, okay.

18 MR. RACINE: This is Karl Racine. How are you,
19 your Honor?

20 THE COURT: I'm fine, thank you.

21 MR. RACINE: Good.

22 And what Mr. Saindon said, of course, is correct.

23 I would additionally note that the Office of the
24 Attorney General is a member of the CJCC -- that's the
25 Criminal Justice Coordinating Council -- to which all of the

1 agencies in law enforcement with the exception, actually, of
2 the federal court are represented.

3 And at those meetings, the Public Defender Service
4 properly asked the questions of our federal agencies and, of
5 course, of the DC agencies. We at the Office of Attorney
6 General also joined in those questions of our federal
7 partners.

8 And I can renew that request when we next meet at
9 the CJCC and let them know that, you know, your Honor asked
10 for that information. So we're happy to do that.

11 THE COURT: And when would your next meeting be?

12 MR. RACINE: It is scheduled for Friday. I'll
13 just confirm with the calendar really quickly. One second.

14 THE COURT: Sure. No problem.

15 MR. RACINE: For some reason, your Honor, it is
16 not appearing on my calendar on Friday.

17 I will certainly convey that to Mr. Saindon, who
18 will appropriately convey it to the parties.

19 UNIDENTIFIED FEMALE VOICE: Your Honor, this is
20 [inaudible] from the Office of the Attorney General.

21 THE COURT REPORTER: Excuse me. Who is speaking,
22 please?

23 THE COURT: Could you spell your name for the
24 court reporter?

25 UNIDENTIFIED FEMALE VOICE: [Inaudible.]

1 THE COURT: To move this along, it would be
2 helpful to have it voluntarily done at the Parole
3 Commission, you know, to look at these cases very quickly so
4 that if there are people that actually can be released, that
5 we get this -- you know, get the population down as far as
6 we can.

7 Obviously, both courts are still looking at the
8 felonies and the motions, which, if they're consented to,
9 people are immediately released.

10 I understand that the Attorney General Barr has
11 suggested some additional language which has not been
12 presented when they've been filing their oppositions for the
13 most part to the releases that would suggest that there
14 be -- and I don't have it in front of me, so I may make a
15 mistake here -- but some sort of quarantine before people
16 are released.

17 My assumption is that's not simply done.

18 I don't know whether -- I know there's no testing
19 done on the individuals that the Court is ordering to be
20 released. But that -- I'm sure that you could take a look
21 at that and see whether that is going to create an
22 additional issue if judges at least on the federal courts
23 are putting that language in.

24 We are holding off doing that. And I know that
25 there's some inquiries being made. We have our own

1 committees on the District Court as to whether this is
2 appropriate language to be included in it. Obviously, you
3 would not want to release somebody going home and then have
4 them -- have the COVID-19 and they infect the rest of their
5 family.

6 So I would just ask, Mr. Saindon or Mr. Racine, if
7 you would find out about that as well, because I want to
8 make sure that we don't create some additional problems for
9 the DOC by putting that kind of order in. At this point, I
10 don't think anybody is.

11 MR. RACINE: Certainly.

12 THE COURT: But Attorney General Barr came out
13 with this recently. There's a lot of stuff coming out now.
14 I'd have to check to find out exactly. But it did talk
15 about some sort of quarantine, which I think is not, it
16 seems to me, feasible. And it depends on whether somebody
17 has already been in quarantine.

18 MR. RACINE: Sure. Well, we're happy -- of
19 course, we will follow the Court's guidance and instruction
20 and we'll ask those questions.

21 THE COURT: Thank you very much. I very much
22 appreciate it.

23 MR. RACINE: Thank you.

24 THE COURT: The last thing I have is the
25 Defendants' motion to join the United States as a necessary

1 party.

2 My understanding is that at least from -- I must
3 admit, I did not get a chance to read it in great detail,
4 which I will do. But the Plaintiffs oppose this. So I
5 wanted to set a briefing schedule. And I will invite the
6 United States to take a position as well.

7 When can you get your position in, Mr. Marcus?

8 MR. MARCUS: Your Honor, we could have our
9 position in within 48 hours.

10 THE COURT: So we're talking about April 17th,
11 Friday?

12 MR. MARCUS: Yes.

13 THE COURT: By what time?

14 MR. MARCUS: 4:00 p.m., your Honor.

15 THE COURT: Perfect.

16 When would the defense like to reply?

17 MR. SAINDON: It won't take long, your Honor. I
18 guess it depends on when the federal authorities come in.
19 Is Monday the 20th too late, your Honor?

20 THE COURT: No. I'd rather you had an opportunity
21 to consider the issues and being able to get everything. So
22 that'll be April 20th.

23 And I will see if I can invite the United States
24 to take a position along as well on April 17th. That may
25 not be possible.

1 Was this shared with the federal people at all,
2 the motion?

3 MR. SAINDON: Yes, your Honor. Yes. We have
4 discussed the idea with a number of attorneys at the US
5 Attorney's Office.

6 THE COURT: And Mr. --

7 MS. JACKSON: Your Honor, if I may.

8 THE COURT: Who's speaking?

9 MS. JACKSON: This is Toni Jackson, Deputy at the
10 Public Interest Division.

11 THE COURT: Okay.

12 MR. JACKSON: Fernando Amarillas and I talked with
13 Dan Van Horn, the head of the Civil Division. And he agreed
14 that a joinder was appropriate. So I'm sure we have to get
15 them to file something. But we did talk with them and talk
16 over the different options. So they know.

17 THE COURT: So you talked with Mr. Van Horn, who's
18 the head of the Civil Division within the US Attorney's
19 Office. Did he take a position or he's just considering it?

20 MS. JACKSON: No. He agreed that our interests
21 were aligned and that we should move to join the United
22 States.

23 THE COURT: Oh, okay. Does he have a copy of your
24 motion? I hope?

25 MS. JACKSON: I hope so. Mr. Saindon would know

1 if that's the case.

2 MR. SAINDON: Yes. We have not sent it to them,
3 your Honor, but I can do it right now.

4 THE COURT: If you would do so, that would be
5 great, because what I'll do is I'll put some sort of an
6 order out and try and contact Mr. Van Horn relating to it
7 and see whether what we have set out works.

8 MR. MARCUS: Your Honor, this is --

9 THE COURT: Let me just finish.
10 So we would set out whatever position they have
11 with it.

12 My suggestion, Mr. Marcus, would be to give
13 Mr. Van Horn a call if you can to see what their interests
14 are or gauge their interest in it before you file your
15 response.

16 MR. MARCUS: This is Mr. Marcus, your Honor.

17 Would it be possible for the briefing schedule to
18 allow for the United States to file their position and for
19 Plaintiffs to respond after that position is in? I'm
20 wondering, if the United States has been in contact with the
21 Office of Attorney General, if they would be ready to file
22 something, say, tomorrow; and then our briefing -- our
23 briefing on Friday could respond to the United States'
24 position.

25 THE COURT: I'd be surprised if the United States

1 after they get an order -- it's now almost ten after 4:00 --
2 to get them to turn it around that quickly, because they
3 probably will have to have some consultations.

4 I can -- my inclination would have been to perhaps
5 give the United States until Friday, say, at noon to come
6 in, or by no later than that. And it may be that they can
7 do something earlier. Fine. And then I'd have you file
8 something Monday.

9 If I could ask the Defendants, if we sort it out a
10 little bit -- though it wouldn't be until next week that I
11 would get this all fully briefed, and I'll obviously work on
12 this quickly -- is there something that would hold it up in
13 terms of doing it later into next -- early next week that
14 would be a problem in terms of whatever else is going on?

15 MR. SAINDON: I'm sorry, your Honor. This is
16 Andrew Saindon.

17 THE COURT: I have to rule on it. I'm trying to
18 figure out whether if we did the briefing so that we got the
19 United States to do, say, something Friday, then Monday the
20 Plaintiff would come in and do whatever they're going to do
21 and then, say, Tuesday at noon you would indicate, DC, what
22 your response is, whether waiting until Tuesday raises an
23 issue to you in terms of -- it making a difference in terms
24 of, for instance, the TRO. I don't see how it does,
25 frankly.

1 MR. SAINDON: This is Andrew Saindon, your Honor.

2 It won't make a difference. No. We're happy to
3 comply with whatever schedule you set.

4 THE COURT: All right. Then let me try this: Let
5 me do -- I'll call -- if I can get ahold of somebody, I'll
6 call and see whether we can get the Government to come in by
7 April 17th, have you on April 20th.

8 Plaintiffs, could you come in, say, by 4:00? And
9 then --

10 MR. MARCUS: Steven Marcus, your Honor.

11 Yes. That would be fine.

12 Our only concern is it sounds like the Defendants
13 are comfortable with the TRO order proceeding. And we agree
14 that so long as the Court isn't delaying the TRO order to
15 complete briefing on this issue, then we have no problem
16 with that schedule.

17 MR. RACINE: I'm not sure [inaudible].

18 THE COURT: I'm sorry. Who spoke?

19 MR. SAINDON: Your Honor, this is Andy Saindon. I
20 believe Mr. Racine directed me to respond.

21 And yes. We are not agreeing to a TRO. We don't
22 believe a TRO is appropriate. I did want to point that out.

23 And if the Court would like to wait, we're happy
24 to do briefing over the weekend. But we don't obviously
25 believe a TRO is appropriate. But we're happy to brief as

1 quickly as you'd like this issue on the joinder of the US
2 and the reply to the Plaintiffs' opposition.

3 THE COURT: I know you're opposed to the TRO. I'm
4 well aware of that.

5 It didn't seem to me that the two things were
6 connected. In other words, my moving forward on a TRO does
7 not have to, it seems to me, await whether the Federal
8 Government comes in or not.

9 MR. SAINDON: Andrew Saindon.

10 I would respectfully disagree, your Honor. We
11 think, as we indicated in our motion, you will see that we
12 have concerns about the Prison Litigation Reform Act and the
13 constraints on the Court's authority. I'm not aware of that
14 law --

15 THE COURT: This is the *habeas corpus* writ that
16 they have filed, among other things?

17 MR. SAINDON: As I understand it, it's not, your
18 Honor. It's conditions -- the PLRA addresses two areas:
19 the conditions of confinement and population. And we
20 think that what the Plaintiffs asked for implicates both of
21 those areas.

22 And to the extent they've said misdemeanor inmates
23 are taken care of, that's fine. But there's still the
24 conditions of confinement. And we think that's squarely
25 covered by the PLRA. And we think you'd benefit from the

1 views of the US, however brief.

2 THE COURT: All they're going to do is come in --

3 MR. SAINDON: Certainly, your Honor. Certainly.
4 Yes, your Honor. I understand that. But the vast minority,
5 as you'll see from our motion, the vast majority of inmates
6 in DOC facilities are federally implicated and not District
7 implicated.

8 THE COURT: I believe that the majority of the
9 Defendants that are left, which would be felonies, are from
10 DC Superior Court, not the federal court.

11 MR. SAINDON: That's correct, your Honor. But the
12 District itself does not prosecute felonies. That's the US
13 Attorney's Office. So the prosecutors, we believe, should
14 have a chance to weigh in on that release process.

15 MR. MARCUS: Judge, this is Steven Marcus.

16 Our request at this point has been the appointment
17 of an expert to make recommendations to this Court as far as
18 release.

19 And so we really don't see --

20 THE COURT: Hold on. Hold on. That's the
21 downsizing. We're not discussing that right now.

22 What we're talking about is whether or not there
23 is a basis to grant or not grant a TRO at this time based on
24 what I believe is left, which is the conditions of release,
25 conditions at CDF and CTF, and the legal calls.

1 The downsizing issue is something to be done --
2 dealt with at a later point. So I'm not getting into that
3 at this point.

4 MR. MARCUS: As far --

5 THE COURT: It's a question of whether or not --
6 Who is speaking?

7 MR. MARCUS: This is Steven Marcus, your Honor.

8 As far as the conditions, that is squarely a
9 District of Columbia issue.

10 In *Campbell versus McGruder*, that case was brought
11 directly against the District of Columbia with no
12 intervention as far as I'm aware of by federal agencies.
13 Prison conditions litigation is regularly brought only
14 against the actual custodian.

15 It's not relevant for the Court's consideration of
16 the conditions of confinement to bring in the interests of
17 the United States solely because some percentage of people
18 in the District of Columbia's custody are being held
19 pursuant to federal interest. I don't see the connection.

20 THE COURT: Let's not have a motions argument
21 about this at this point.

22 If as I continue to review the materials I need to
23 have some answers, I'll set up a conference call.

24 Let me get back to -- we will get the report on
25 Friday. We will set up -- and I'm in the process of still

1 looking at the motions for the TRO. We will -- I will see
2 if we can get in touch with Mr. Van Horn, and we will see
3 about setting a schedule.

4 My proposal would be the federal people, April
5 17th; the Plaintiff on the 20th; and the Defendants DC on
6 the 21st. And I will -- depending on how complicated it is,
7 we'll try and get that out as quickly as possible.

8 Is there anything further? There isn't anything
9 else from my perspective.

10 Is there anything further, Mr. Marcus?

11 MR. MARCUS: Yes, your Honor.

12 We know that the Court is not addressing the
13 matter of downsizing at this moment.

14 From Plaintiffs' perspective, what we heard today
15 is gravely concerning from the inspectors. And the
16 situation at the jail continues to worsen.

17 We do ask that the Court direct the parties to at
18 least identify an expert who would be available, should the
19 Court order that. We have tried conferring with defense
20 counsel on identifying at least someone who, if the Court
21 goes down that path, would be available.

22 But given the rapid nature of things moving and
23 the urgency, we think that it would benefit the expediency
24 of this litigation to at least have someone who the parties
25 agree on who is available should the Court go in that

1 direction to avoid additional delay, selecting the expert,
2 ensuring availability, that kind of thing.

3 THE COURT: My understanding is that Defendant is
4 dead set against having a downsizing expert which would be
5 looking at risk assessment issues. It is sort of an area
6 that is not -- that has some controversy about it.

7 Am I wrong, Mr. Saindon, about your position?

8 MR. SAINDON: It's Mr. Saindon.

9 Your Honor, no. That's exactly right.

10 THE COURT: Which doesn't mean the Court might
11 not -- wouldn't consider it. I'm just pointing out that I
12 think trying to come up with an agreement is -- I would hope
13 that you would confer, but at least at this point there has
14 not been an interest in it.

15 Mr. Saindon, anything else from you?

16 MR. SAINDON: I think that's it, your Honor. You
17 said the Defendants reply on the 21st unless we can get --

18 THE COURT: Right. I'll put something out. We
19 need the federal people to hopefully come in.

20 Mr. Glover, anything from you?

21 MR. GLOVER: Yes, your Honor.

22 The Court instructed DOC to provide an update as
23 to the calls in 24 hours. I would just note it is now
24 approximately 4:15. We would have to --

25 THE COURT: When do you want to get something

1 provided? I want something that's going to work. What I
2 want is a procedure as to how to do it so that lawyers will
3 know how to do it and the Defendants at the DOC have -- know
4 how to go about it. So if you need a little time, that's
5 fine. When do you propose to give it to me? You can do it
6 as a notice.

7 MR. GLOVER: Pardon?

8 THE COURT: You can do it as a notice. This is
9 what we are doing.

10 MR. GLOVER: Can we do it on the close of business
11 on the 21st, your Honor?

12 THE COURT: You can't do it any earlier than that?
13 I mean, for some of my videoconferencing, they're still
14 waiting to try and talk to them.

15 How about --

16 MR. GLOVER: The close of business on the 20th?

17 THE COURT: Yes. If you could do it by then, so
18 at least hopefully defense counsel on my cases can talk.

19 MR. GLOVER: We'll have something for the Court by
20 close of business on the 20th, your Honor.

21 Thank you.

22 THE COURT: What I need is a notice that just
23 says, "This is what you need to do, lawyers. This is what
24 you need to do -- this is what the clients need to do." And
25 then the Defendants need to be told that's how they get

1 their legal calls.

2 Mr. Racine, is there anything additional you wish
3 to say?

4 MR. RACINE: I don't have anything else, your
5 Honor, unless I misunderstood your question.

6 THE COURT: I'm just asking if there's anything in
7 general that -- I'm getting off the phone.

8 MR. RACINE: Oh, yes.

9 THE COURT: I wanted to make sure there's nothing
10 else.

11 MR. RACINE: I really appreciate it.

12 I think, you know, what's clear is that the
13 Department of Corrections and Mr. Glover as well as Quincy
14 Booth totally want to be cooperative in this process. And
15 to the extent that there are corrective actions to be taken,
16 that's what they're going to do, because they want to run an
17 operation that the District of Columbia can be proud of.
18 And of course they'll continue to participate in this as
19 well.

20 But thank you for today's hearing.

21 THE COURT: All right. Thank you all for taking
22 the time. Sorry about the little break in here to move my
23 car. That's the problem of teleworking from home.

24 Anyway, everybody be well. And we'll be in touch.

25 MR. MARCUS: Thank you, your Honor.

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MR. SAINDON: Thank you, your Honor.

MR. GLOVER: Thank you, your Honor.

(Proceedings concluded.)

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CERTIFICATE

I, LISA EDWARDS, RDR, CRR, do hereby
certify that the foregoing constitutes a true and accurate
transcript of my stenographic notes, and is a full, true,
and complete transcript of the proceedings produced to the
best of my ability.

Dated this 16th day of April, 2020.

/s/ Lisa Edwards, RDR, CRR
Official Court Reporter
United States District Court for the
District of Columbia
333 Constitution Avenue, NW, Room 6706
Washington, DC 20001
(202) 354-3269

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