

IN RE VULNERABLE AND NON-VIOLENT INMATES LIVING IN THE ORLEANS JUSTICE CENTER DURING GLOBAL PANDEMIC EMERGENCY	)	Criminal District Court Judges White, Flemings-Davilier, Willard Bonin, Johnson, Pittman, Daniels Buras, Herman, Derbigny, Harris, Zibilich, <i>En Banc</i>
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DEPUTY CLERK: \_\_\_\_\_

Undersigned counsel, as representatives of the Office of the Orleans Public Defenders, respectfully move that this Court grant immediate release from custody, or in the alternative, grant a writ of habeas corpus for inmates in the following categories:

- This motion is being filed on an emergency basis to the *en banc* out of the fear that catastrophic consequences will result without immediate and decisive action on the part of the Bench as a whole. National and local health experts agree that no detention facility can protect against an outbreak of COVID-19 that will quickly overwhelm the capacity of both the jail and the city's medical infrastructure. The already predicted shortage of hospital beds and intubators at local hospitals will be dramatically exacerbated if COVID-19 is allowed to spread throughout the Orleans Justice Center.

This motion is filed pursuant to Local Rule 15.0, La. C. Cr. P. art. 351 *et seq.*, La. Const. art. I §§ 2, 13, 18, 19, and 20, and U.S. Const. amends V, VI, VII, and XIV. Pursuant to Local Rule 15.0, this motion is being filed directly with all District Court judges, prior to it being

submitted to the clerk's office. The relief requested is an order dictating that individuals who fall into the categories outlined above shall be released. In the alternative, the petitioners request an evidentiary hearing at which they will present evidence in support of this motion.

In support of this motion, the Petitioners state:

**I. The outbreak of COVID-19 is an unprecedented threat calling for urgent and unprecedented measures to stem it at home and abroad.**

On March 11, 2020, the World Health Organization declared a global pandemic.<sup>1</sup> Citing “deep[] concern[] both by the alarming levels of spread and severity, and by the alarming levels of inaction,” it called for countries to take “urgent and aggressive action.”<sup>2</sup> The number of people infected is growing exponentially. The death toll in Italy, which began experiencing this epidemic about a week earlier than the first diagnosed American case, saw a rise of 30% overnight in the 24 hours between March 5, 2020, and March 6, 2020 and a rise of 25% on March 15 alone—a day 368 on which people died in Italy from COVID-19.<sup>3</sup> Experts predict similarly rapid growth in the United States. This pandemic has prompted the federal,<sup>4</sup> state,<sup>5</sup> and local<sup>6</sup> governments to declare a state of emergency.

The exponential growth of coronavirus cases in Louisiana has been staggering. Data released March 21, 2020 by a researcher at the University of Louisiana Lafayette found that Louisiana presently has the fastest spread of COVID-19 of any region *in the world*.<sup>7</sup> As of March 24, 2020, there are 1,388 confirmed coronavirus cases in Louisiana, a 20% increase from the day before, and a 65% increase from two days earlier.<sup>8</sup> New Orleans presently has 675 cases, more than one case per every 600 residents.<sup>9</sup> Forty-six people have so far died in Louisiana from the coronavirus, including twenty-six in New Orleans.<sup>10</sup>

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<sup>1</sup> See World Health Organization, Director-General Opening Remarks (March 11, 2020), <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.

<sup>2</sup> *Id.*; see also NPR, *Coronavirus: COVID-19 Is Now Officially a Pandemic, WHO Says*, (March 11, 2020), <https://www.npr.org/sections/goatsandsoda/2020/03/11/814474930/coronavirus-covid-19-is-now-officially-a-pandemic-who-says>.

<sup>3</sup> Crispian Balmer & Angelo Amante, Reuters, *Italy coronavirus deaths near 200 after biggest daily jump*, (Mar. 6, 2020), <https://www.reuters.com/article/us-health-coronavirus-italy/italy-coronavirus-deaths-near-200-after-biggest-daily-jump-idUSKBN20T2ML>.

<sup>4</sup> White House Proclamation, *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak* (March 13, 2020), <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

<sup>5</sup> Louisiana Office of the Governor, *Gov. Edwards Declares Public Health Emergency in Response to COVID-19* (March 11, 2020) <https://gov.louisiana.gov/index.cfm/newsroom/detail/2400>.

<sup>6</sup> Katelyn Umholtz, *New Orleans mayor declares state of emergency after officials confirm 13 cases*, Times-Picayune, (March 11, 2020) [https://www.nola.com/news/coronavirus/article\\_68df3890-63e5-11ea-a4ca-2f0e871e7eaf.html](https://www.nola.com/news/coronavirus/article_68df3890-63e5-11ea-a4ca-2f0e871e7eaf.html).

<sup>7</sup> See Louisiana Governor's Office of Homeland Security and Emergency Preparedness, *COVID-19 Louisiana Case Info*, <https://gov.louisiana.gov/assets/docs/covid/govCV19Brief-2.pdf>; Exhibit B.

<sup>8</sup> Louisiana Department of Health statistics updated once daily, available at <http://ldh.la.gov/coronavirus/>.

<sup>9</sup> See *supra* note 10.

<sup>10</sup> See *supra* note 10.

**a. The coronavirus is uniquely dangerous, both because of its severity rate and because of how easily it spreads.**

Specific features of the coronavirus disease make it uniquely dangerous. Unlike with the seasonal flu and other diseases, there is no immunity in the population, because it is a new disease. *See* Exhibit 1, Declaration of Dr. Marcus Bachhuber (“Bachhuber Decl.”) ¶ 5 (Mar. 23, 2020). The coronavirus is also uniquely contagious, with an infection rate approximately double that of the seasonal flu. *Id.* Furthermore, the mortality rate of the coronavirus is high—at least ten times higher than the seasonal flu. *Id.*

Other features of coronavirus make it particularly difficult to inhibit the disease’s spread, particularly within crowded areas or dense populations. The numbers of people diagnosed reflect only a portion of those infected;<sup>11</sup> very few people have been tested, and many are asymptomatic transmitters.<sup>12</sup> Thousands of people are carrying a potentially fatal disease that is easily transmitted—and few are aware of it. Moreover, the current estimated incubation period is between 2 and 14 days.<sup>13</sup> The virus is thought to spread through respiratory droplets or by touching a surface or object that has the virus on it.<sup>14</sup> Thus, infected people—who may be asymptomatic and not even know they are infected—can spread the disease even through indirect contact with others. A study released in the *New England Journal of Medicine* found that the coronavirus can survive for up to three days on surfaces such as plastic and steel, which are prevalent in jail.<sup>15</sup>

**b. Because of the unique features of coronavirus, it poses a particular risk to people incarcerated in jail facilities, which in turn leads to a larger public health risk.**

Reducing the overall jail population, both in Orleans Justice Center and in other facilities, reduces the overall public health risk from the coronavirus, for multiple reasons. *See* Bachhuber Decl. ¶ 18-19. During pandemics, jail facilities become “ticking time bombs” as “[m]any people crowded together, often suffering from diseases that weaken their immune systems, form a

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<sup>11</sup> Melissa Healy, *True Number of US Coronavirus Cases is Far Above Official Tally, Scientists Say*, L.A. Times (Mar. 10, 2020), <https://www.msn.com/en-us/health/medical/true-number-of-us-coronavirus-cases-is-far-above-official-tally-scientists-say/ar-BB110qoA>.

<sup>12</sup> Roni Caryn Rabin, *They Were Infected with the Coronavirus. They Never Showed Signs*, N.Y. Times (Feb. 26, 2020, updated Mar. 6, 2020), <https://www.nytimes.com/2020/02/26/health/coronavirus-asymptomatic.html>; Aria Bendix, *A Person Can Carry and Transmit COVID-19 without Showing Symptoms, Scientists Confirm*, Bus. Insider (Feb. 24, 2020), <https://www.sciencelert.com/researchers-confirmed-patients-can-transmit-the-coronavirus-without-showing-symptoms>.

<sup>13</sup> *Coronavirus Disease COVID-19 Symptoms*, Centers for Disease Control (updated: Feb. 29 2020), <https://www.cdc.gov/coronavirus/2019-ncov/about/symptoms.html>.

<sup>14</sup> Centers for Disease Control, *Coronavirus Factsheet* (Mar. 3, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/downloads/2019-ncov-factsheet.pdf>.

<sup>15</sup> Apoorva Mandavilli, *How Long Will Coronavirus Live on Surfaces or in the Air Around You?*, N.Y. Times (March 20, 2020), <https://www.nytimes.com/2020/03/17/health/coronavirus-surfaces-aerosols.html>.

potential breeding ground and reservoir for diseases.”<sup>16</sup> This is due to a number of factors: the close proximity of individuals in those facilities; their reduced ability to protect themselves through social distancing; the lack of necessary medical and hygiene supplies ranging from hand sanitizer to protective equipment; ventilation systems that encourage the spread of airborne diseases; difficulties quarantining individuals who become ill; the increased susceptibility of the population in jails and prisons; the fact that jails and prisons normally have to rely heavily on outside hospitals that will become unavailable during a pandemic; and loss of both medical and correctional staff to illness. *See* Bachhuber Decl. ¶¶ 7-9.<sup>17</sup> When coronavirus suddenly exploded in China’s prisons, there were reports of more than 500 cases quickly spreading across five facilities in three provinces.<sup>18</sup>

It is difficult for both deputies and inmates to follow the steps necessary to reduce the spread of infection. *See* Bachhuber Decl. ¶ 7. The recommended measures to reduce the spread of coronavirus include “social distancing”—isolating oneself from other people as much as possible,<sup>19</sup> frequent hand-washing, alcohol-based hand sanitizers, and frequent cleaning *and* disinfecting of any surfaces touched by any person.<sup>20</sup> People incarcerated at the jail:

- Are typically housed in close proximity to others and unable to distance themselves;
- Spend significant time in communal spaces, such as eating areas, recreation rooms, bathrooms, and cells or holding areas, and they are unable to choose to do otherwise;
- Live in spaces with open toilets within a few feet of their beds, and unable to access a closed toilet that would not aerosolize bodily fluids into their living spaces;
- Are constantly within six feet of other people, likely none of whom have been tested for COVID-19, and they are unable to choose to do otherwise;
- Must physically touch others or be touched by others, such as correctional officers and medical staff, many of whom have not been tested for COVID-19, and they are unable to opt out of this contact;
- Are frequently subjected to intimate contact by correctional staff, many of whom have not been tested for COVID-19, during searches of their person, including having those staff place their hands inside of people’s mouths and other body cavities;
- Lack recommended frequent access to soap, water, tissues, and paper towels;
- Lack access to hand sanitizer that complies with CDC guidelines.

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<sup>16</sup> *See* Saint Louis University, “Ticking Time Bomb,” *Prisons Unprepared for Flu Pandemic*, ScienceDaily (2006), <https://www.sciencedaily.com/releases/2006/09/060915012301.htm>.

<sup>17</sup> “The pathway for transmission of pandemic influenza between jails and the community is a two-way street. Jails process millions of bookings per year. Infected individuals coming from the community may be housed with healthy inmates and will come into contact with correctional officers, which can spread infection throughout a facility. On release from jail, infected inmates can also spread infection into the community where they reside.” *Pandemic Influenza and Jail Facilities and Populations*, American Journal of Public Health, October, 2009; *See also* Dr. Anne Spaulding, *Coronavirus and the Correctional Facility: for Correctional Staff Leadership*, Mar. 9, 2020, [https://www.ncchc.org/filebin/news/COVID\\_for\\_CF\\_Administrators\\_3.9.2020.pdf](https://www.ncchc.org/filebin/news/COVID_for_CF_Administrators_3.9.2020.pdf).

<sup>18</sup> Claudia Lauer & Colleen Long, *US prisons, jails on alert for spread of coronavirus*, AP News (Mar. 7, 2020), <https://apnews.com/af98b0a38aaabedbc059092db356697>.

<sup>19</sup> *See supra* notes 2 & 3.

<sup>20</sup> *Steps to Prevent Illness*, Centers for Disease Control (updated: Mar. 18, 2020), [https://www.cdc.gov/coronavirus/2019-ncov/about/prevention.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fabout%2Fprevention-treatment.html](https://www.cdc.gov/coronavirus/2019-ncov/about/prevention.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fabout%2Fprevention-treatment.html); *see also supra* notes 1 & 3.

Moreover, the population in jail is at higher risk than the general population. Present studies show that the people with the highest risk of death and complications from the coronavirus include people over 50 years old and those with chronic medical conditions such as heart disease, diabetes, respiratory disease, cancer, or any other condition causing a compromised immune system. *See* Bachhuber Decl. ¶ 9. Individuals in jail are more likely than the general population to be older or suffer from the types of chronic health conditions that put them at risk of respiratory failure or death from the coronavirus.<sup>21</sup>

Because of the nature of a jail where almost all inmates are held in pretrial detention, and where the people who staff the jail live in the general population, a coronavirus outbreak in jail has implications for the health of those on the outside as well. A study published in the American Journal of Public Health (AJPH) demonstrated that increases in county jail incarceration rates was significantly associated with subsequent increases in infectious disease mortality rates throughout the entire population of the county.<sup>22</sup> The constant cycling of people in and out of the jail<sup>23</sup> makes containment impossible, even if visitations are stopped.<sup>24</sup> Deputies who work in the jail come from their communities into jail, interact closely with potentially infected individuals and surfaces throughout the day, and then return home to their families and communities at the end of a shift. *See* Bachhuber Decl. ¶ 11.

In addition, reducing the number of people in jail infected puts less overall strain on the healthcare system, which may shortly be facing collapse due to shortages of hospital beds, hospital staff, and equipment such as ventilators and protective equipment. When hospitals become overwhelmed with patients, mortality rates will rise not only for coronavirus infections but for other serious illnesses (e.g., heart attacks, strokes, and cancer) for which there will be inadequate medical care. *See* Bachhuber Decl. ¶12. Because of the coronavirus's ready ability to spread infection through the air and on surfaces, healthcare workers will fall sick and become unable to work, further straining the healthcare system. *Id.* In Louisiana, there are presently only 2,320 total

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<sup>21</sup> Udo T., *Chronic medical conditions in U.S. adults with incarceration history*, 38 Health Psych. 217 (2019).

<sup>22</sup> Sandhya Kajeepeta, Caroline G. Rutherford, Katherine M. Keyes, Abdulrahman M. El-Sayed, and Seth J. Prins, *County Jail Incarceration Rates and County Mortality Rates in the United States, 1987–2016*, American Journal of Public Health 110, pp. S109–S115, <https://doi.org/10.2105/AJPH.2019.305413>; *see also* Sandhya Kajeepeta & Seth J. Prins, *Why Coronavirus in Jails Should Concern All of Us*, The Appeal (Mar. 24, 2020), <https://theappeal.org/coronavirus-jails-public-health/>.

<sup>23</sup> *See* Peter Wagner & Emily Widra, *No need to wait for pandemics: The public health case for criminal justice reform*, Prison Policy Initiative (Mar. 6, 2020), <https://www.prisonpolicy.org/blog/2020/03/06/pandemic>.

<sup>24</sup> Premal Dharia, *The Coronavirus Could Spark a Humanitarian Disaster in Jails and Prisons*, Slate (Mar. 11, 2020), <https://slate.com/news-and-politics/2020/03/coronavirus-civil-rights-jails-and-prisons.html>.

ventilators available for use across the state, with only 407 in the New Orleans area.<sup>25</sup> If the spread of the coronavirus is not slowed, experts in Louisiana fear they could face a situation already faced by medical professionals in Italy, where doctors have to choose who to provide medical care to and who to let die.<sup>26</sup>

As discussed above, even ideal policies are inadequate to prevent the dangerous scenarios described above. Rikers Island had a policy in place, yet once the virus took hold it spread with remarkable swiftness. The Orleans Justice Center is no different, and the Orleans Justice Center also has a long history of sanitation and medical care issues, leading to a Consent Decree in federal court in 2013. Regardless of its history, the Orleans Justice Center has had a policy regarding COVID-19 in place since at least March 12, yet there are at least 5 cases of recent inmates or staff testing positive already. A rampant spread is inevitable.

**c. Coronavirus is already present within the Orleans Justice Center, so the time to act to reduce the jail population is now.**

On March 21, 2020, it was confirmed by the general counsel for the Orleans Parish Sheriff's Office that at least one medical staffer at the jail has tested positive for the coronavirus.<sup>27</sup> On March 23, 2020, the director of the Orleans Justice Center, Darnley Hodge, confirmed that three more staffers have tested positive.<sup>28</sup> Hodge further confirmed that a recently released inmate has also tested positive, and five other inmates and nine other staffers are showing symptoms and are waiting for the results of their tests.<sup>29</sup> This information confirms what was already suspected – that the virus has entered the facility and is beginning to spread not only among the inmates, but also among the staff who come from outside to work at the jail.

The Dean of the Tulane School of Public Health and Tropical Medicine, along with faculty from the School of Public Health and the School of Medicine, urge that the jail population must be reduced immediately in order to minimize loss of life.<sup>30</sup> Now that it is confirmed within the jail, the only safe way to prevent more inmates, deputies, and jail medical staff from being infected is

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<sup>25</sup> Emily Woodruff, Jessica Williams, et al, *As coronavirus spreads, can hospitals handle it? New Orleans officials name top concerns, shortages*, Times-Picayune, (March 16, 2020), [https://www.nola.com/news/coronavirus/article\\_8d69f4e2-67e2-11ea-97b5-b31dcbe91dfc.html](https://www.nola.com/news/coronavirus/article_8d69f4e2-67e2-11ea-97b5-b31dcbe91dfc.html).

<sup>26</sup> *Id.*

<sup>27</sup> Sledge, Matt, *New Orleans jail medical staffer tests positive for coronavirus, raising fears about further spread*, Times-Picayune (March 21, 2020), [https://www.nola.com/news/coronavirus/article\\_d30c370a-6baf-11ea-ab1e-07aab6f88674.html](https://www.nola.com/news/coronavirus/article_d30c370a-6baf-11ea-ab1e-07aab6f88674.html).

<sup>28</sup> Sledge, Matt, *More positive coronavirus cases for New Orleans jail staff as inmates await results*, Times-Picayune (March 23, 2020), [https://www.nola.com/news/coronavirus/article\\_f8566e2a-6d3c-11ea-b941-f3e3ed246e07.html](https://www.nola.com/news/coronavirus/article_f8566e2a-6d3c-11ea-b941-f3e3ed246e07.html).

<sup>29</sup> *Id.*

<sup>30</sup> See Thomas A. LaVeist et al., *An open letter regarding COVID-19 and jails in Orleans Parish, Louisiana*, Tulane Sch. Pub. Health & Tropical Medicine, <https://sph.tulane.edu/open-letter-covid19-jail>.

to take action. Because of the way the virus spreads exponentially, reducing the jail population now rather than later is essential to “flatten the curve” of virus transmission. *See* Bachhuber Decl. ¶¶ 13–15. Other jurisdictions such as New York have already suffered the consequences of waiting too long to reduce the jail population. For example, in Rikers Island, the first confirmed case was reported on March 18, 2020. Three days later, 21 inmates and 17 employees had tested positive, despite Rikers Island having an 88-bed contagious-disease unit with air-controlled cells – something Orleans Justice Center lacks. *See* Bachhuber Decl. ¶ 16.

Moreover, as Dr. Bachhuber notes in his declaration, from a public health perspective, “[t]he presence of a confirmed case in the jail should not be a deterrent to safely reducing the incarcerated population.” *See* Bachhuber Decl. ¶ 19. Because staff must come into the jail from outside in order to operate it, it is impossible to seal off the effects of any coronavirus outbreak happening in the jail from the outside world. *Id.* Even individuals who have already been infected in the jail would spread that infection to fewer other individuals outside the jail if released, given that they would be going to a setting with both fewer people and fewer personal contacts. *Id.* And of course, people who have not yet been exposed to the infection in jail would be much less likely to contract it once released to a situation where they can minimize their number of social contacts.

It is far safer for those housed in jail to be outside the jail, even if they have nowhere else to go besides a shelter. Now that coronavirus is confirmed within the jail, the safest measure for Petitioners and others, as well as for the staff who work within the jail, is to reduce the total number of human contacts—and the only way to do that is to release people from jail immediately.

### **III. Courts, Jails, Police Departments, and Prosecutor Offices Across the United States are Pursuing Large-Scale Efforts to Decrease their Jail Populations. Orleans Parish Must Do the Same.**

Other jurisdictions across the United States—and across the world<sup>31</sup>—have taken extraordinary steps to prevent a mass outbreak of COVID-19 in jails and other detention facilities. Even though Louisiana has the fastest rate of COVID-19 growth in the world, and New Orleans has the majority of positive tests in Louisiana, Orleans Parish has not taken action that is nearly sufficient.

Courts across the United States have issued orders that have resulted in the release of groups of individuals who are in lower-risk categories in order to guard against a mass-outbreak

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<sup>31</sup> For example, in Iran, 54,000 prisoners were temporarily released to protect them and to protect the community from propagation of an outbreak. *See* Ramin Mostaghim et al., *Iran to temporarily free 54,000 prisoners as coronavirus spreads*, CNN (Mar. 4, 2020), available at <https://www.cnn.com/2020/03/04/middleeast/iran-coronavirus-response-intl/index.html>.

in jails and prisons. After a request for relief by the Office of the New Jersey Public Defender, the New Jersey Supreme Court issued an order that will result in the release of up to 1,000 inmates.<sup>32</sup> Harris County, Texas judges issued an order categorically releasing individuals held on a number of non-violent felonies; the Sheriff is pushing for even more drastic action.<sup>33</sup> The Chief Justice of the California Supreme Court issued guidance urging lower courts to take drastic measures to reduce the jail population, including to release individuals within 60 days of completing their sentences, releasing individuals without bail on lower-level offenses, and reducing the number of individuals held on supervised release violations.<sup>34</sup> The Montana Supreme Court wrote a letter urging lower courts to “release, without bond, as many prisoners as you are able, especially those behind held for non-violent offenses.”<sup>35</sup>

Jails, prisons and detention facilities across the United States have also taken drastic measures to reduce their populations. A number of county jails in Washington State have decided not to book individuals for drug and property crimes.<sup>36</sup> The Alameda County, California Sheriff’s Office released 247 individuals after their sentences were modified.<sup>37</sup> The Cook County, Illinois Sheriff’s Office released individuals who are vulnerable to COVID-19 due to pre-existing health

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<sup>32</sup> See *In the matter of the Request to Commute or Suspend County Jail Sentences*, No. 084230 (Mar. 22, 2020 N.J. Sup. Ct.), [https://www.aclu-nj.org/files/5415/8496/4744/2020.03.22\\_-\\_Consent\\_Order\\_Filed\\_Stamped\\_Copy-1.pdf](https://www.aclu-nj.org/files/5415/8496/4744/2020.03.22_-_Consent_Order_Filed_Stamped_Copy-1.pdf).

<sup>33</sup> Gabrielle Banks, *Sheriff says order for some releases at Harris County jail is not enough*, Houston Chronicle (Mar. 23, 2020), <https://www.houstonchronicle.com/news/houston-texas/houston/article/Harris-County-order-release-of-people-arrested-on-15151417.php>.

<sup>34</sup> Chief Justice Cantil-Sakauye, California Chief Justice Issues Second Advisory on Emergency Relief Measures (Mar. 20, 2020), <https://newsroom.courts.ca.gov/news/california-chief-justice-issues-second-advisory-on-emergency-relief-measures>.

<sup>35</sup> Montana Supreme Court Chief Justice Mike McGrath, Mar. 20, 2020 Letter to Montana Courts of Limited Jurisdictions, <https://courts.mt.gov/Portals/189/virus/Ltr%20to%20COLJ%20Judges%20re%20COVID-19%20032020.pdf?ver=2020-03-20-115517-333>.

<sup>36</sup> Michael Lang, *Washington Jails Limiting Inmate Booking Over Coronavirus Concerns*, North Coast News (Mar. 11, 2020), <https://www.northcoastnews.com/news/washington-jails-limiting-inmate-bookings-over-coronavirus-concerns/>.

<sup>37</sup> Jay Barman, *Santa Rita Jail in East Bay Releases 300 Inmates to Protect Against Virus Spread*, SF News (Mar. 29, 2020), <https://sfist.com/2020/03/19/santa-rita-jail-in-east-bay-releases-300-inmates-to-protect-against-virus-spread/>.

issues.<sup>38</sup> Jails in Florida,<sup>39</sup> Texas,<sup>40</sup> Pennsylvania,<sup>41</sup> Georgia,<sup>42</sup> and Oregon,<sup>43</sup> among other jurisdictions, are all taking similar actions.

Police departments and other law enforcement departments across the United States have suspended arrests of individuals who do not pose a risk to public safety. The Philadelphia Police Department has stopped arresting individuals for “all narcotics offenses, thefts, burglary, vandalism, prostitution, stolen cars, economic crimes, such as bad checks and fraud, and any existing bench warrants.”<sup>44</sup> Philadelphia’s police union supported this move.<sup>45</sup> Law enforcement in Racine County, Wisconsin has ceased arresting and booking people for non-violent felonies.<sup>46</sup> Immigration and Customs Enforcement (ICE) has changed its policies to only arrest individuals who pose a public safety risk or face mandatory deportation based on criminal grounds.<sup>47</sup> Law enforcement departments in other states—like Texas,<sup>48</sup> California,<sup>49</sup> Colorado,<sup>50</sup> and Ohio<sup>51</sup>—are categorically changing their arrest policies to minimize their jail populations.

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<sup>38</sup> David Struett, *Cook County Jail Releases several detainees 'highly vulnerable' to coronavirus*, Chicago Sun Times (Mar. 17, 2020), <https://chicago.suntimes.com/coronavirus/2020/3/17/21183289/cook-county-jail-coronavirus-vulnerable-detainees-released-covid-19>.

<sup>39</sup> WFTS Digital Staff, *164 'low level, nonviolent' offenders being released from Hillsborough County jails* (Mar. 19, 2020), <https://www.abcactionnews.com/news/region-hillsborough/164-low-level-nonviolent-offenders-being-released-from-hillsborough-county-jails>.

<sup>40</sup> See e.g., *Bexar County Sheriff Announces COVID-19 Prevention Plan for Jail Inmates, Deputies*, KSAT (Mar. 14, 2020), available at *Bexar County Sheriff Announces COVID-19 Prevention Plan for Jail Inmates, Deputies* Joe Cerwinski, DALLAS COUNTY SEEKING RELEASE FOR CERTAIN INMATES DUE TO COVID-19 CONCERNS (Mar. 23, 2020), [www.raccoonvalleyradio.com/2020/03/23/dallas-county-seeking-release-for-certain-inmates-due-to-covid-19-concerns/](http://www.raccoonvalleyradio.com/2020/03/23/dallas-county-seeking-release-for-certain-inmates-due-to-covid-19-concerns/).

<sup>41</sup> *40 to 50 Inmates to be released from Mercer County Jail Over coronavirus concerns*, CNHI News Service (Mar. 17, 2020), [https://www.meadvilletribune.com/coronavirus/to-inmates-to-be-released-from-mercercounty-jail-over/article\\_e3c5ede5-587a-5ac8-ac64-66b7538979d1.html](https://www.meadvilletribune.com/coronavirus/to-inmates-to-be-released-from-mercercounty-jail-over/article_e3c5ede5-587a-5ac8-ac64-66b7538979d1.html).

<sup>42</sup> Blis Savidge, *Fulton County To Release Inmates Early In Light Of Pandemic*, GPB News (Mar. 16, 2020), <https://www.gpbnews.org/post/fulton-county-release-inmates-early-light-pandemic>.

<sup>43</sup> Noelle Crombie, *Oregon courts, jails respond to coronavirus: Washington County jail to release 60 inmates; court hearings see widespread delays*, The Oregonian (Mar. 17, 2020), <https://www.oregonlive.com/coronavirus/2020/03/oregon-courts-jails-respond-to-coronavirus-washington-county-jail-to-release-60-inmates-court-hearings-see-widespread-delays.html>.

<sup>44</sup> Samantha Melamed and Mike Newall, *With Courts Closed by Pandemic, Philly Police Stop Low-level Arrests to Manage Jail Crowding*, Philadelphia Inquirer (March 18, 2020), <https://www.inquirer.com/health/coronavirus/philadelphia-police-coronavirus-covid-pandemic-arrests-jail-overcrowding-larry-krasner-20200317.html>.

<sup>45</sup> *Id.*

<sup>46</sup> Alyssa Mauk, *Sheriff suspends non-violent arrests due to COVID-19*, The Journal Times (Mar. 14, 2020), [https://journaltimes.com/news/local/crime-and-courts/sheriff-suspends-non-violent-arrests-due-to-covid/article\\_141c020d-b911-5453-a04a-e67b8070d17c.html](https://journaltimes.com/news/local/crime-and-courts/sheriff-suspends-non-violent-arrests-due-to-covid/article_141c020d-b911-5453-a04a-e67b8070d17c.html).

<sup>47</sup> Updated ICE statement on COVID-19, U.S. Immigration and Customs Enforcement (Mar. 18, 2020), <https://www.ice.gov/news/releases/updated-ice-statement-covid-19>.

<sup>48</sup> Nichole Manna, *Fort Worth Police Will Give Citations for Low-level Crimes Amid Coronavirus Outbreak*, Fort Worth Star-Telegram (March 17, 2020), <https://www.star-telegram.com/news/coronavirus/article241254951.html>; Charles Scudder, *Facing Coronavirus Concerns, Collin County Sheriff Asks Police Not to Bring Petty Criminals to Jail*, Dallas Morning News (March 12, 2020), <https://www.dallasnews.com/news/public-health/2020/03/12/facing-coronavirus-concerns-collin-county-sheriff-asks-police-not-to-bring-petty-criminals-to-jail/>.

<sup>49</sup> *Coronavirus is Changing Who Gets Arrested in Long Beach*, Long Beach Post News (March 14, 2020), <https://lbpost.com/news/coronavirus-updates?update=42#update-42>.

<sup>50</sup> Elise Schmelzer, *Denver, Aurora Police No Longer Sending Officers to Low-Level Crimes to Minimize Spread of Coronavirus*, Denver Post (March 14, 2020), <https://www.denverpost.com/2020/03/13/denver-aurora-police-coronavirus/>.

<sup>51</sup> *Local County Jails Making Changes Due to Coronavirus Outbreak*, WKBN, (Mar 12, 2020), <https://www.wkbn.com/news/coronavirus/mahoning-county-jail-refusing-some-inmates-due-to-coronavirus-outbreak/>.

District Attorney offices around the United States have moved to have individuals who do not pose a risk to public safety released. On March 18, 2020, thirty-three elected District Attorneys—including District Attorneys in Texas and Mississippi—issued a joint public statement urging measures to “dramatically reduce the number of incarcerated individuals and the threat of disastrous outbreaks.”<sup>52</sup> “Baltimore State’s Attorney Marilyn Mosby ordered her staff Wednesday to dismiss pending criminal charges against anyone arrested for possessing drugs including heroin, attempted distribution of any drug, prostitution, trespassing, minor traffic offenses, open container and urinating in public.”<sup>53</sup> The Miami-Dade State Attorney has pledged to “release misdemeanor and nonviolent inmates from the county jail system during the COVID-19 outbreak.”<sup>54</sup>

There is a growing consensus across the United States the only way to mitigate the effects of a mass outbreak of COVID-19 in jail is to dramatically reduce the jail population. Louisiana’s rate of confirmed positive COVID-19 cases has grown faster than anywhere in the world, including Italy. Orleans Parish has nearly half of the confirmed positive cases in Louisiana, with a population that is less than 10% of Louisiana. Unfortunately, while some individual judges have entertained bond reductions, there has no large-scale coordinated effort in Orleans Parish to reduce the jail population. Orleans Parish needs to take bold action to release low-risk individuals, as many other jurisdictions have already done.

This Court has the inherent authority to take necessary action. The March 12 letter from Chief Justice Johnson<sup>55</sup> and Louisiana Supreme Court Orders from March 16,<sup>56</sup> 20,<sup>57</sup> and 23 acknowledge that the exceptional circumstances of the novel coronavirus pandemic requires extraordinary coordination and action on the part of the Criminal District Court, “[a]s this situation is constantly changing[.]”<sup>58</sup> In response, the Criminal District Court issued an *en banc* decision

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<sup>52</sup> Fair and Just Prosecution, *Joint Statement from Elected Prosecutors on COVID-19 and Addressing the Rights and Needs of Those in Custody* (last updated Mar. 18, 2020), [https://fairandjustprosecution.org/wp-content/uploads/2020/03/Coronavirus-Sign-On-Letter.pdf?utm\\_source=The+Marshall+Project+Newsletter&utm\\_campaign=f1bf35014eEMAIL\\_CAMPAIGN\\_2020\\_03\\_17\\_12\\_07&utm\\_medium=email&utm\\_term=0\\_5e02cdad9d-f1bf35014e-119797937](https://fairandjustprosecution.org/wp-content/uploads/2020/03/Coronavirus-Sign-On-Letter.pdf?utm_source=The+Marshall+Project+Newsletter&utm_campaign=f1bf35014eEMAIL_CAMPAIGN_2020_03_17_12_07&utm_medium=email&utm_term=0_5e02cdad9d-f1bf35014e-119797937).

<sup>53</sup> Tim Prudente and Phillip Jackson, Baltimore State’s Attorney Mosby to stop prosecuting drug possession, prostitution, other crimes amid coronavirus, *Baltimore Sun* (Mar. 18, 2020), <https://www.baltimoresun.com/coronavirus/bs-md-ci-cr-mosby-prisoner-release-20200318-u7knneb6o5ggvnmtpjeiftavia-story.html>.

<sup>54</sup> Jerry Iannelli, *After Criticism, Miami-Dade State Attorney Pledges to Help Release Nonviolent Arrestees*, *Miami New Times* (Mar. 16, 2020), <https://www.miaminewtimes.com/news/miami-dade-jails-state-attorney-rundle-outlines-coronavirus-plan-11598148>.

<sup>55</sup> Letter from Chief Justice Bernette Joshua Johnson to Chief Judges, (Mar. 12, 2020), <https://www.lasc.org/COVID19/2020-03-13-LASC-ChiefLetter.pdf>.

<sup>56</sup> Louisiana Supreme Court Order for Louisiana Courts, (Mar. 16, 2020), [https://www.lasc.org/COVID19/Orders/2020-03-16\\_LASCOrder.pdf](https://www.lasc.org/COVID19/Orders/2020-03-16_LASCOrder.pdf).

<sup>57</sup> Louisiana Supreme Court Order for Louisiana Courts, (Mar. 20, 2020), [https://www.lasc.org/COVID19/orders/2020-03-20\\_LASC\\_EXTENSION.pdf](https://www.lasc.org/COVID19/orders/2020-03-20_LASC_EXTENSION.pdf).

<sup>58</sup> Louisiana Supreme Court Order for Louisiana Courts, ¶ 3 (Mar. 23, 2020), [https://www.lasc.org/COVID19/orders/2020-03-23\\_LASC.pdf](https://www.lasc.org/COVID19/orders/2020-03-23_LASC.pdf).

dismissing jurors for the month of March, reducing dockets, and ordering the utilization of audio and video conferencing from March 13 onward.<sup>59</sup> All sections of Criminal District Court are now addressing matters before the Court via teleconference. The Louisiana Supreme Court’s March 23, 2020, specifically directed district courts to “alleviate potential overcrowding of jails, which is a public health emergency for citizens and jail personnel.”<sup>60</sup> This Court should take immediate and decisive action.

## **II. This court should use habeas relief to protect both those detained and the larger New Orleans community.**

Code of Criminal Procedure Article 351 *et seq.* provides for the writ of habeas corpus when a defendant is detained and is used to require the jailer “to state the authority for the custody.” La. C. Cr. P. art. 351. Venue is proper before this Court because the defendant is detained in Orleans Parish. La. C. Cr. P. art. 352. “The ‘Great Writ’ historically has been used to challenge pre-conviction custody which was unlawful at its inception or which, although initially lawful, had become unlawful due to some omission *or event occurring after the arrest*.” *State v. Wallace*, 392 So. 2d 410, 413 n.5 (La. 1980) (emphasis added). In this case, justice urgently requires discharge of the defendants. As noted previously, events after arrest have dramatically altered the risks to the defendants and the risks to the general public in maintaining their detention. To the extent that the defendants were initially detained based on considerations of public safety, that purported use of custody is undermined during a global pandemic. As discussed above, jails incubate and amplify infectious diseases—putting not just detainees but staff and consequently the outside community at greater risk. Detaining these defendants not only risks their own physical and mental health, but also the staff at OJC, our city, and our country.

Pursuant to the Eighth Amendment to the United States Constitution, as well as Article I, § 20 of the Louisiana Constitution, cruel and unusual punishment is prohibited, even for those convicted of crimes. For pretrial detainees like most of those included in the categories listed in this pleading, *any* conditions that amount to punishment are prohibited, because they violate the presumption of innocence and thus the Fifth Amendment to the United States Constitution and Article I, § 16 of the Louisiana Constitution. *Bell v. Wolfish*, 441 U.S. 520, 535; 99 S.Ct. 1861, 1872 (1979) (“under the Due Process Clause, a detainee may not be punished prior to an

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<sup>59</sup> Orleans Criminal District Court En Banc Announcement, ¶¶ 1-3 (Mar. 13, 2020), <http://www.criminalcourt.org/announcements.html>.

<sup>60</sup> Louisiana Supreme Court Order for Louisiana Courts, ¶ 3 (Mar. 23, 2020), [https://www.lasc.org/COVID19/orders/2020-03-23\\_LASC.pdf](https://www.lasc.org/COVID19/orders/2020-03-23_LASC.pdf).

adjudication of guilt in accordance with due process of law”). Because subjecting the defendant to a heightened risk of severe health complications or even death while in custody is not only a punishment, but surely a cruel and unusual one, this Court should order the release of all persons in the enumerated categories.

Whenever the government detains or incarcerates someone, it has an affirmative duty to provide conditions of reasonable health and safety. As the United States Supreme Court has explained, “when the State takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general well-being.” *DeShaney v. Winnebago County Dept. of Soc. Servs.*, 489 U.S. 189, 199–200 (1989). The State also owes the same duty under the Eighth and Fifth Amendments to provide both pretrial detainees and convicted inmates with basic human needs, including medical care and protection from harm, during their confinement. *Hare v. City of Corinth*, 74 F.3d 633, 650 (5th Cir. 1996). As a result, the government must provide those in its custody with “food, clothing, shelter, medical care, and reasonable safety.” *DeShaney*, 489 U.S. at 200. The Louisiana Supreme Court has ruled in the civil context that the Orleans Parish Sheriff’s Office owes the same duty of care to those in its custody as the state does. *See, e.g., State ex rel. Jackson v. Phelps*, 672 So.2d 665, 667 (La. 1996) (“penal authorities have a duty to use reasonable care in preventing harm after they have reasonable cause to anticipate it”); *Washington v. Gusman*, 183 So. 3d 510, 524 (La. App. 4th Cir. 2015) (applying the *State ex rel. Jackson* standard to employees of OPSO); *Griffin v. Foti*, 523 So. 2d 935, 941 (La. App. 4th Cir. 1988), *writ denied*, 531 So. 2d 272 (La. 1988) (The Orleans Parish Sheriff “has a duty to protect those in his care from a foreseeable risk[.]”).

The U.S. Supreme Court and the Federal Fifth Circuit have recognized that the risk of contracting a communicable disease constitutes an “unsafe, life-threatening condition” that threatens “reasonable safety” and is cognizable under the Eighth Amendment. *Helling v. McKinney*, 509 U.S. 25, 33 (1993); *Johnson v. Epps*, 479 F. App’x 583, 592 (5th Cir. 2012) (claim that the prison barbershop that required reuse of blades exposed inmates to serious, communicable diseases sufficient to defeat a claim of qualified immunity regarding claim of deliberate indifference). *See also Robinson v. Cain*, 739 So. 2d 882, 884 (La. App. 1st Cir. 1999) (“It is undisputed that the treatment a prisoner receives in prison and the conditions under which he is confined are subject to scrutiny under the Eighth Amendment as well as Louisiana Constitution art. 1, § 20.”). Because the rights of a pretrial detainee to be free from punishment are, if anything,

greater than those of a convicted person, such future threats to their health and safety are subject to at least the same level of scrutiny. *Hare*, 74 F.3d at 639 (“a pretrial detainee's due process rights are said to be at least as great as the Eighth Amendment protections available to a convicted prisoner”).

The affirmative obligation to protect against infectious disease empowers Courts to provide remedies designed to prevent imminent harm to future health. Conditions that pose an unreasonable risk of future harm violate the Eighth Amendment’s prohibition against cruel and unusual punishment, even if that harm has not yet come to pass. *See Helling*, 509 U.S. at 33 (“It would be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening condition in their prison on the ground that nothing yet had happened to them.”); *Sanchez v. State of New York*, 99 N.Y.2d 247, 254 (NY 2002) (recognizing that it is “duty of the State, as [petitioner’s] custodian, to safeguard and protect him from the harms it should reasonably foresee based on its knowledge derived from operation of a maximum security prison.”); *Jabbar v. Fischer*, 683 F.3d 54, 57 (2d Cir. 2012) (“We have held that prisoners may not be deprived of their basic human needs—*e.g.*, food, clothing, shelter, medical care, and reasonable safety—and they may not be exposed to conditions that pose an unreasonable risk of serious damage to [their] future health.”) (internal citation omitted); *Beagle v. Schwarzenegger*, 107 F. Supp. 3d 1056, 1065 (E.D. Cal. 2014) (explaining that a “plaintiff, who allegedly was exposed to Valley Fever, but did not contract the disease, may have [] a viable Eighth Amendment claim”) (emphasis in original).

Courts must also account for prisoner’s individual circumstances and medical histories in determining whether a health risk rises to the level of an Eighth Amendment violation. *See Ball v. LeBlanc*, 792 F.3d 584, 596 (5th Cir. 2015) (finding an Eighth Amendment violation where Plaintiffs were housed on Angola’s death row, “in very hot cells without sufficient access to heat-relief measures, while knowing that each suffers from conditions that render him extremely vulnerable to serious heat-related injury”). There are known risk factors for COVID-19, and failing to take those into account when determining whether incarceration remains appropriate violates the Eighth Amendment and Art I § 20 of the Louisiana Constitution, as well as the Fifth Amendment and Art. I § 16 of the Louisiana Constitution for pretrial detainees. However, the absence of any known risk factors on the part of a given defendant does not mean that he or she is not exposed to an unconstitutional level of risk of contracting the virus. *Beagle*, 107 F.Supp.3d at 1069 (“Whether some groups are more susceptible to the disease than others in some way is not

dispositive at the pleading stage for Eighth Amendment purposes. Although one group may be at more risk than another, they both may be at a constitutionally unacceptable level of risk.”).

In such cases, Louisiana Courts have found that detainees have a right to present evidence regarding the allegedly unconstitutional conditions. *State ex rel. Robinson v. Cain*, 766 So.2d 1268 (La. 2000); (“in light of the possible Eight Amendment violations at issue, the district court abused its discretion in failing to order that additional evidence be taken”); *Samuels v. Gryder*, 2005-1231 (La. App. 1st Cir. 9/1/06) (finding that the district court erred by not taking evidence and “apparently placing a burden of production of the poop on” prisoner alleging unsafe and unsanitary conditions due to the presence of horse manure in living quarters).

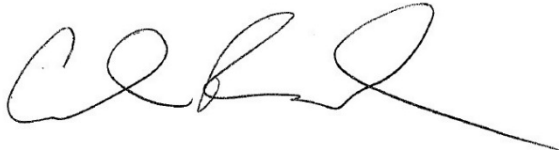
This Court should consider the “total harm and benefits to prisoner and society” that continued imprisonment of the defendant will yield, relative to the heightened health risks posed to the detainees during this rapidly encroaching pandemic. *See Davis v. Ayala*, 135 S. Ct. 2187, 2209 (2015) (Kennedy, J., concurring) (calling for heightened judicial scrutiny of the projected impact of jail and prison conditions on a defendant); *United States v. Mateo*, 299 F. Supp. 2d 201, 212 (S.D.N.Y. 2004) (reducing sentence where defendant’s pretrial conditions were “qualitatively more severe in kind and degree than the prospect of such experiences reasonably foreseeable in the ordinary case”). As set forth above, the risk the novel coronavirus poses to detainees’ health and safety—as well as to the health and safety of OJC staff and to the broader community—is immense and unprecedented. Consequently, the benefits to both prisoners and society will best be served by the pretrial release of Petitioners in accordance with the recommendations of medical experts cited above.

## CONCLUSION

Here, release via the Great Writ is the appropriate use of this Court’s power and duty to protect those in custody. Undersigned counsel therefore prays that this court grant this Writ, and, pursuant to La. C. Cr. P. art. 354, **that a hearing date be set** no later than 72 hours from today for the Sheriff to appear and answer why the following classes of inmates should not be released given the global pandemic:

- 1) all inmates who have risk factors such as age or underlying health conditions that make them more susceptible to serious health consequences from COVID-19;
- 2) all inmates presently held on misdemeanor charges;
- 3) all inmates presently held on felony charges that are not crimes of violence or sex charges;
- 4) all inmates held on just probation or parole detainers, or probation or parole detainers in combination with categories (2) and (3); and
- 5) all inmates serving a sentence who are within 30 days of their release dates.

Respectfully Submitted,

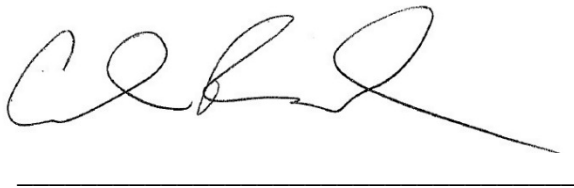


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Certificate of Service

I hereby certify that I have caused to be served a copy of the foregoing document upon the prosecution on or about the day of filing.



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	)	
IN RE VULNERABLE AND NON-	)	Criminal District Court Judges
VIOLENT INMATES LIVING IN THE	)	White, Flemings-Davilier, Willard
ORLEANS JUSTICE CENTER DURING	)	Bonin, Johnson, Pittman, Daniels
GLOBAL PANDEMIC EMERGENCY	)	Buras, Herman, Derbigny, Harris, Zibilich
	)	<i>En Banc</i>
	)	

DEPUTY CLERK: \_\_\_\_\_

Premises considered, it is HEREBY ORDERED that this **WRIT OF HABEAS CORPUS AND IMMEDIATE RELEASE is GRANTED** and that Orleans Parish Criminal Sheriff shall immediately release the following categories of inmates:

- It is HEREBY ORDERED that if these categories of inmates are *not* immediately released, **A HEARING SHALL BE HELD** at which the Orleans Parish Criminal Sheriff shall appear before this Court to answer why these groups of inmates should not be released given the global pandemic, on \_\_\_\_\_, 2020.

Dated: \_\_\_\_\_

**AFFIDAVIT OF DR. MARCUS BACHHUBER**

STATE OF LOUISIANA     §  
   §  
PARISH OF ORLEANS     §

BEFORE ME, the undersigned Notary Public, personally came and appeared:

**Marcus Bachhuber**, who after being duly sworn did depose and state the following:

1. I am a Medical Doctor licensed in the State of Louisiana. I have been practicing for 8 years and am board-certified in Internal Medicine.
2. I am the Medical Director of Louisiana Medicaid, part of the Louisiana Department of Health, and an Assistant Professor of Clinical Medicine at Louisiana State University Health Sciences Center-New Orleans. I am also a practicing physician at University Medical Center New Orleans. My curriculum vitae is attached as Exhibit A.
3. The following statements reflect my best assessment of the medical and public health evidence available to date. As of March 21, 2020, there is a confirmed case of COVID-19 in a staff member at the Orleans Justice Center.<sup>1</sup> This development significantly increases the urgency with which I am providing this information. This development should also increase the salience of this information to all those who are in a position to take action.
4. The pandemic of novel coronavirus disease (COVID-19) is a public health emergency in Louisiana, nationally, and globally. Governor Edwards announced on March 22, 2020 that Louisiana has the fastest growth rate of confirmed COVID-19 cases out of any state or country in the world.<sup>2</sup> Based on statistics from March 19, 2020, New Orleans has the highest per capita rate of confirmed cases of COVID-19 of any city in the United States.<sup>3</sup>
5. SARS-CoV-2, the virus that causes COVID-19, is easily spread in congregate settings such as jails. It can be spread through droplet particles, such as by coughing, or through contact with contaminated surfaces. SARS-CoV-2 represents a unique threat due to several factors. First, there is no immunity in the population, as it is a novel coronavirus. Second, it is significantly contagious, with an infection rate estimated to be approximately double that of the seasonal flu.<sup>4</sup> Third, the mortality rate is high and is estimated to be at least ten times that of the seasonal flu.<sup>5</sup>

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<sup>1</sup> Matt Sledge, *New Orleans jail medical staffer test positive for coronavirus, raising fears about further spread*, New Orleans Advocate (Mar. 21, 2020), available at [https://www.nola.com/news/coronavirus/article\\_d30c370a-6baf-11ea-ab1e-07aab6f88674.html](https://www.nola.com/news/coronavirus/article_d30c370a-6baf-11ea-ab1e-07aab6f88674.html)

<sup>2</sup> Hollie Silverman, *Louisiana governor says his state has the fastest growth rate of coronavirus cases in the world*, CNN (Mar. 23, 2020), available at [www.cnn.com/2020/03/23/us/louisiana-coronavirus-fastest-growth/index.html](http://www.cnn.com/2020/03/23/us/louisiana-coronavirus-fastest-growth/index.html). This information is based on a statistics conducted by an economist at the University of Louisiana, Lafayette. See *COVID-19 Louisiana Case Info*, Louisiana Governor's Office of Homeland Security and Emergency Preparedness, available at <https://gov.louisiana.gov/assets/docs/covid/govCV19Brief-2.pdf>, attached as *Exhibit B*.

<sup>3</sup> Patrick Madden, *New Orleans is Outpacing Other COVID-19 Hotspots in Rate of Cases Per Capita*, New Orleans Public Radio (Mar. 19, 2020), available at <https://www.wwno.org/post/new-orleans-outpacing-other-covid-19-hotspots-rate-cases-capita>.

<sup>4</sup> Qun Li et al., *Early Transmission Dynamics in Wuhan, China, of Novel Coronavirus-Infected Pneumonia*, N Engl J Med (Jan. 29, 2020), available at <https://www.nejm.org/doi/full/10.1056/NEJMoa2001316>.

<sup>5</sup> Wei-Jie Guan et al., *China Medical Treatment Expert Group for Covid-19. Clinical characteristics of coronavirus disease 2019 in China*, N Engl J Med. (Feb. 28, 2020), available at <https://www.nejm.org/doi/full/10.1056/NEJMoa2002032>.

6. The presence of COVID-19 in the greater New Orleans area, and specifically in the Orleans Justice Center, represents an urgent and grave threat to public health for several reasons.
7. First, typical prevention measures are not possible in jail. The Centers for Disease Control and Prevention (CDC) recommends several interventions to prevent COVID-19, including avoiding close contact and frequent cleaning and disinfecting of surfaces.<sup>6</sup> For avoiding close contact, CDC recommends that individuals remain at least 6 feet apart from others to prevent transmission. For people in jails, avoiding such contact is not possible. Furthermore, I have reviewed the latest report (Report 11), released January 19, 2020, of the Independent Monitors, who evaluate the Orleans Parish Sheriff's Office compliance with the 2013 Consent Judgment in *Jones v. Gusman*.<sup>7</sup> This Report notes several specific areas of concern. The Report found "obstructed cell vents"<sup>8</sup> as well as other concerns with limited air flow and circulation, which increase the risk of transmission through droplet particles released by coughing. For surfaces, CDC recommends cleaning and disinfecting frequently touched surfaces daily. The Report found "dirty floors/walls, lavatories, [and] trash/excess clutter"<sup>9</sup> as well as "dirty carts utilized to transport meal trays,"<sup>10</sup> among other sanitation issues. A study on coronaviruses found that these viruses can live on surfaces such as metal, glass or plastic for up to 9 days.<sup>11</sup> The presence of dirty, frequently touched, surfaces is a significant risk factor for transmission.
8. Second, there are no reliable screening protocols to identify individuals with COVID-19. Protocols to screen for COVID-19 often include collecting a travel history, contact history, a symptom screen, and a temperature check. For travel history, there is evidence of rapidly intensifying community spread within Louisiana, particularly within the greater New Orleans area, and so the lack of an international travel history to an affected country is not a reliable indicator. For contact history, current challenges in testing availability mean that individuals may not know if a close contact had COVID-19 because many cases go undiagnosed. For the symptom screen, it may miss many confirmed cases of COVID-19 due to the large numbers of patients, who are still believed to be infectious, that have mild or asymptomatic illness. Finally, for the temperature check, recent data indicate that less than half of patients with confirmed COVID-19 have a fever on presentation to the hospital and the fever course during COVID-19 can be intermittent.<sup>12</sup> In other words, a temperature check will miss more than half of confirmed COVID-19 cases. Laboratory testing is the only reliable way to diagnose COVID-19. However, there remain challenges in testing scale-up and test results currently take 3 to 5 days, or more, to return. The implication of this is that, real-time, accurate, identification of individuals with active, infectious, COVID-19 is not possible at this time. The current public health recommendation is to assume that everyone has COVID-19 and to make every effort to avoid all close contact.
9. Third, certain individuals are at a high risk of complications and death from COVID-19. These include individuals over age 50 years old and those with chronic medical conditions such as heart disease, diabetes, respiratory disease, cancer, or any other condition that leads to a compromised immune system. Individuals who are incarcerated are more likely than the general population to have pre-existing medical

<sup>6</sup> *Coronavirus Disease 2019 (COVID-19): How to Protect Yourself*, Center for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html>.

<sup>7</sup> *Jones v. Gusman*, Case 2:12-cv-00859-LMA, Jan. 19, 2020 Report of Independent Monitor, attached as Exhibit C.

<sup>8</sup> *Id.* at 81.

<sup>9</sup> *Id.* at 81.

<sup>10</sup> *Id.* at 91.

<sup>11</sup> G. Kampf et al., *Persistence of coronaviruses on inanimate surfaces and their inactivation with biocidal agents*, 104 J Hosp Infect. 246, (Mar. 2020), available at [https://www.journalofhospitalinfection.com/article/S0195-6701\(20\)30046-3/pdf](https://www.journalofhospitalinfection.com/article/S0195-6701(20)30046-3/pdf)

<sup>12</sup> Wei-Jie Guan et al., *China Medical Treatment Expert Group for Covid-19. Clinical characteristics of coronavirus disease 2019 in China*, N Engl J Med. (Feb. 28, 2020), available at <https://www.nejm.org/doi/full/10.1056/NEJMoa2002032>.

conditions such as these.<sup>13</sup> Individuals who have these conditions and later contract COVID-19 have an increased risk of severe illness, such as respiratory failure, and death.<sup>14</sup>

10. Once an individual with COVID-19 enters the jail, the conditions, as described above, are ideal to facilitate a widespread outbreak with severe consequences. As individuals are arrested and move through the system, they come into contact with numerous other individuals and surfaces, each with a potential for transmission. As such, jail can be a major nidus for community spread.
11. Jail staff, too, are at risk. They come from their communities into the jail, interact with numerous individuals and surfaces throughout the day, and return home to their families. The infectious and serious nature of COVID-19 has the potential to cause widespread illness in the jail's workforce in addition to further driving spread into the community.
12. Beyond the medical consequences to individuals that contract COVID-19, the pandemic has broader public health implications. Since a large percentage of the population is anticipated to become infected, there is estimated to be an overwhelming number of patients with serious illness that will need hospitalization. When hospitals become overwhelmed with infectious patients, COVID-19-related mortality rates will increase, as will mortality rates related to other illnesses (e.g., heart attacks and strokes) for which there will be inadequate services. This is not a hypothetical situation but is happening right now in Italy, where healthcare workers are facing shortages of essential equipment such as ventilators.<sup>15</sup> In addition, healthcare workers will fall ill, as has been seen on a concerning scale in Italy and China, further limiting services. It is imperative to reduce the rate of transmission through preventive measures, such as by reducing close contact to the maximum extent possible. This represents the only way to mitigate the anticipated effects of the pandemic at this time.
13. Early in a pandemic, the spread of infectious diseases proceeds rapidly by exponential growth. One way to measure growth is by the "doubling time," which is the number of days it takes for cases to double. The current estimate is that COVID-19 cases double every 2.5 days.<sup>16</sup> When a pandemic is first starting, a doubling of cases can represent low numbers of new cases per day (e.g., 1 to 2 cases, 2 to 4 cases) for several days. But by day 15, there are 64 cases with approximately 26 new cases per day. By day 20, there are 256 cases with approximately 102 new cases per day. And by day 25, there are 1,024 cases with approximately 410 new cases per day, and so on. (The numbers provided here are for illustration purposes.) The threat of pandemics like COVID-19 is that they rapidly overwhelm the systems set up to manage them.
14. Because the growth of pandemics is not linear, early interventions make much larger impacts. Consider, for example, a scenario where aggressive precautions are implemented immediately versus a scenario where aggressive precautions are implemented starting on day 15. In each scenario, the aggressive precautions increase the doubling time to 6 days, meaning that it takes 3.5 more days for the case count to double. In the first scenario, with immediate precautions, a case count of 1,024 is reached in 60 days. In the second scenario, when there is a delay, a case count of 1,024 is reached much sooner, in 43 days. This difference of 17 days is critical so that

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<sup>13</sup> Udo T., *Chronic medical conditions in U.S. adults with incarceration history*, 38 Health Psych. 217 (2019).

<sup>14</sup> *Coronavirus Disease 2019 (COVID-19): If You are at Higher Risk*, Center for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>.

<sup>15</sup> *There Aren't Enough Ventilators to Cope with the Coronavirus*, New York Times (Mar. 18, 2020), available at [www.nytimes.com/2020/03/18/business/coronavirus-ventilator-shortage.html](http://www.nytimes.com/2020/03/18/business/coronavirus-ventilator-shortage.html).

<sup>16</sup> Kamalich Muniz-Rodriguez et al., *Epidemic doubling time of the COVID-19 epidemic by Chinese province*, MedRxiv (preprint), available at <https://www.medrxiv.org/content/10.1101/2020.02.05.20020750v4>.

sick patients are spread out over time, to ensure hospitals have sufficient capacity to care for them. This approach is referred to as “flattening the curve.” Acting as quickly as possible is essential and earlier action will have an outsized impact.

15. In summary, an outbreak of COVID-19 in the Orleans Justice Center has begun. Due to the high prevalence of chronic medical conditions in the incarcerated population, the high potential to disrupt the jail’s workforce, the high potential for the jail to be a major driver of community spread, and the broader public health consequences of an accelerated pandemic, the impacts of this outbreak are estimated to be catastrophic.
16. The outbreak occurring at Rikers Island, the primary pre-trial detention facility in New York City, illustrates how quickly COVID-19 could grow in a jail like the Orleans Justice Center. The first confirmed case of COVID-19 at Rikers Island was reported on Wednesday, March 18, 2020.<sup>17</sup> As of March 21, 2020, 21 inmates and 17 employees of Rikers Island have tested positive.<sup>18</sup> This occurred even considering the fact that Rikers Island has “an 88-bed contagious disease unit with air-controlled cells.”<sup>19</sup>
17. Given the rapidly intensifying community transmission in the greater New Orleans area, it is highly likely that other individuals with COVID-19 are incarcerated or working at the Orleans Justice Center, and are actively transmitting the infection to others. COVID-19 symptoms appear after 2 to 14 days from the date of infection, and the tests available now can take 3 to 5 days, or more, to complete. Therefore, the number of cases identified today actually represents a snapshot in time that is up to 19 days old, or older. The reported case of COVID-19 in a medical worker at the Orleans Justice Center is a harbinger of what will inevitably follow.
18. While true social distancing may not ever be possible in a jail setting, safely reducing the inmate population would decrease crowding and decrease the number of individuals interacting with each other and with contaminated surfaces. This reduction in contacts would be anticipated to mitigate, at least in part, the magnitude of the anticipated COVID-19 outbreak in the Orleans Justice Center.
19. After leaving the jail, individuals may go to a variety of settings. As long as the setting is a location with fewer people and less close contact than the jail, going to that location would be anticipated to be beneficial to both the individual and to public health. On average, individuals without COVID-19 are less likely to contract it in a setting with fewer people. On average, individuals with mild or asymptomatic COVID-19 who have not yet been identified would transmit it to fewer people when going to a setting with fewer people. Further, individuals may play an important role as a caregiver for their sick family members and help keep them out of the hospital, making space for other sick patients. From a medical and public health standpoint, the exact location to which an individual goes is not necessarily important, as long as it contains fewer people and affords less close contact than the jail. Given that staff from the community are needed to run the jail, it is impossible to seal off the incarcerated population from infection risk or to insulate the community from a COVID-19 outbreak occurring in the jail. The presence of a confirmed case in the jail should not be a deterrent to safely reducing the incarcerated population. On average, everyone would be anticipated to benefit from being in a location with fewer people and less close contact.

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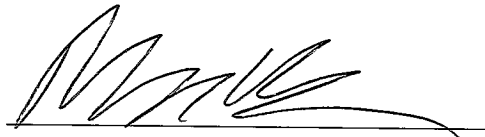
<sup>17</sup> 21 Inmates, 17 Employees Test Positive for COVID-19 on Rikers Island: Officials, NBC News (Mar. 21, 2020), available at <https://www.nbcnewyork.com/news/coronavirus/21-inmates-17-employees-test-positive-for-covid-19-on-rikers-island-officials/2338242/>.

<sup>18</sup> *Id.*

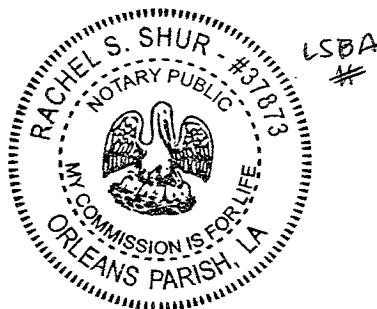
<sup>19</sup> Jan Ransom and Alan Feuer, ‘A Storm Is Coming’: Fears of an Inmate Epidemic as the Virus Spreads in the Jails, New York Times (Mar. 20, 2020), available at <https://www.nytimes.com/2020/03/20/nyregion/nyc-coronavirus-rikers-island.html>.

20. Any efforts that can be undertaken to safely reduce the inmate population at the Orleans Justice Center would be anticipated to broadly reduce the public health impact of the pandemic to the greater New Orleans area. To be clear, I am not an attorney nor am I intending to provide any legal recommendation or comment on any legal matter. I am providing this information to help inform decisions about whether or not to detain specific individuals, given the new evidence of an outbreak at the Orleans Justice Center, to the degree it may be useful for that purpose. From a medical and public health standpoint, for the reasons detailed above, safely reducing the inmate population would be anticipated to slow the spread of the virus and reduce the number of patients presenting to the hospital, freeing up hospital resources for other patients in need. Measures to safely reduce crowding could include reducing the number of new entrants to the jail as well as releasing currently incarcerated individuals.

That these statements are true and correct to the best of my knowledge, information and belief.



SWORN TO AND SUBSCRIBED TO BEFORE ME, NOTARY, THIS 23<sup>rd</sup> DAY OF MARCH, 2020.

  
NOTARY PUBLIC

## CURRICULUM VITAE

Date: 3/19/2020

Marcus A. Bachhuber, MD MSHP

### Contact Information:

533 Bolivar St, 5<sup>th</sup> Fl  
New Orleans, LA 70119  
mbachh@lsuhsc.edu

### Education:

Aug 2000-Dec 2003	BS, University of Wisconsin-Madison
Aug 2004-May 2009	MD, Perelman School of Medicine, University of Pennsylvania
Jul 2013-Jun 2015	MSHP, Perelman School of Medicine, University of Pennsylvania

### Postgraduate Training and Fellowship Appointments:

Jun 2009-Jun 2010	Intern, Primary Care/Social Internal Medicine, Montefiore Medical Center/Albert Einstein College of Medicine, Bronx, NY
Jul 2010-Jun 2012	Resident, Primary Care/Social Internal Medicine, Montefiore Medical Center/Albert Einstein College of Medicine, Bronx, NY
Jul 2012-Jun 2013	Chief Resident, Primary Care/Social Internal Medicine, Montefiore Medical Center/Albert Einstein College of Medicine, Bronx, NY
Jul 2013-Jun 2015	Fellow, Philadelphia VA Medical Center and Robert Wood Johnson Foundation Clinical Scholars Program, Philadelphia, PA

### Hospital and/or Administrative Appointments:

Jul 2013-Jun 2015	Attending Physician, Philadelphia Veterans Affairs Medical Center, Philadelphia, PA
Jan 2015-Feb 2015	Ebola Response Clinician, Partners in Health, Maforki Ebola Treatment Centre, Port Loko, Sierra Leone (6 weeks)
Sep 2015-Sept 2018	Assistant Professor of Medicine, Montefiore Medical Center/Albert Einstein College of Medicine, Bronx, NY
Oct 2018-Present	Assistant Professor of Clinical Medicine, Louisiana State University Health Sciences Center-New Orleans, New Orleans, LA
Oct 2018-Present	Medical Director, Louisiana Medicaid, Louisiana Department of Health, Baton Rouge, LA

### Other Appointments:

Jul 2013-Jun 2015	Fellow, Leonard Davis Institute of Health Economics, University of Pennsylvania
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### Specialty Certification:

Oct 2012	American Board of Internal Medicine
Jan 2018	Addiction Medicine (American Board of Preventive Medicine)

### Licensure:

Jul 2012	New York (Inactive)
Jul 2013	Pennsylvania (Inactive)

Aug 2018

Louisiana

Awards, Honors and Membership in Honorary Societies:

2003	Phi Beta Kappa and Honors in the Major, University of Wisconsin-Madison
2004-2009	Class of 1950 and 1951 Scholarship, Perelman School of Medicine, University of Pennsylvania
2004	Petrus Camper Grant for Research in the Netherlands, Perelman School of Medicine, University of Pennsylvania
2007	Jonathan Lax Scholarship, Bread and Roses Community Fund, Philadelphia, PA
2010	Matthew Florczyk Award for Commitment During Internship, Montefiore Medical Center/Albert Einstein College of Medicine, Bronx, NY
2010	Finalist, House Staff Research Day, Montefiore Medical Center/Albert Einstein College of Medicine, Bronx, NY
2011	David Levine House Staff Research Award, Division of General Internal Medicine, The Johns Hopkins University, Baltimore, MD
2013	First Prize, House Staff Research Day, Montefiore Medical Center/Albert Einstein College of Medicine, Bronx, NY
2013	Finalist, Mack Lipkin Sr. Award, Society for General Internal Medicine Research Meeting, Denver, CO
2015	Travel Award for Early Investigators, Addiction Health Services Research Annual Meeting, Los Angeles, CA
2018	Fellow, American College of Physicians

Other Professional Activities:

2016	Policy Research Case Study Author, Robert Wood Johnson Foundation Health and Society Scholars Program
2016-2018	Research Consultant, New York City Department of Health and Mental Hygiene, Bureau of Alcohol and Drug Use—Prevention, Care, and Treatment
2017-Present	Member, New York State AIDS Institute Substance Use Disorder Clinical Guidelines Development Committee

Memberships in Professional and Scientific Societies and Other Professional Activities:

2010-Present	Society of General Internal Medicine
2010-Present	AcademyHealth
2010-Present	American College of Physicians
2013-Present	Association for Medical Education and Research in Substance Abuse
2015-Present	American Society of Addiction Medicine

Editorial Positions:

2009-Present	Peer Reviewer: JAMA, JAMA Internal Medicine, New England Journal of Medicine, Health Affairs, American Journal of Public Health, Annals of Internal Medicine, Journal of General Internal Medicine, Medical Care, Substance Abuse, Substance Use and Misuse, Drug and Alcohol Dependence, American Journal of Preventive Medicine, Pharmacoepidemiology and Drug Safety, and Cochrane Reviews
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2018-Present

Associate Editor, Addiction Science and Clinical Practice

Prior Research and Clinical Experience:

2004

Research Associate, Queen Mary University of London – Barts and the London School of Medicine and Dentistry, London, UK

2007-2008

Fellow, Centers for Disease Control and Prevention and Botswana Ministry of Health (BOTUSA), Gaborone, Botswana

Funding Support:

Ongoing:

1. 1R01DA044171, National Institute on Drug Abuse  
Cunningham, Chinazo (PI)  
07/01/17-06/30/22  
Does medical cannabis reduce opioid analgesics in HIV+ and HIV- adults with pain?  
Role: Consultant

Completed:

1. Pilot Award, Center for Health Incentives and Behavioral Economics, University of Pennsylvania  
Richards, Michael (PI)  
04/01/14-03/31/15  
Financial Incentives for Benzodiazepine Discontinuation - Using Stated Preferences Techniques to Inform Incentive Design  
Role: Co-Investigator
2. Pilot Award, Division of General Internal Medicine, Perelman School of Medicine at the University of Pennsylvania  
**Bachhuber, Marcus** (PI)  
06/01/14-05/30/15  
Neighborhood Impacts of Substance Abuse Treatment Facilities  
Role: PI
3. Pilot Award, Center for Health Equity Research and Promotion  
**Bachhuber, Marcus** (PI)  
10/01/14-09/30/15  
Homelessness among Veterans with Opioid Use Disorders Receiving Medication-Assisted Treatment: Characteristics and Outcomes  
Role: PI
4. Pilot Award, Institute for Clinical and Translational Research, Albert Einstein College of Medicine  
07/01/16-06/30/17  
**Bachhuber, Marcus** (PI)  
Leveraging the electronic health record to reduce opioid analgesic prescribing  
Role: PI
2. Loan Repayment Program, National Institute on Minority Health and Health Disparities  
**Bachhuber, Marcus** (PI)  
7/1/16-6/30/18  
An electronic health record-based intervention to reduce opioid prescribing  
Role: PI
3. 1P30DA040500, National Institute on Drug Abuse  
Schackman, Bruce (PI)  
07/15/15-07/15/20

Health Economics of Substance Use Disorder, HCV, and HIV Treatment in the Era of Integrated Health Care

Role: Consultant

4. 1K08DA043050, National Institute on Drug Abuse

**Bachhuber, Marcus** (PI)

08/15/17-09/30/2018

Leveraging the electronic health record to reduce opioid analgesic prescriptions

Role: PI

#### Bibliography:

##### Research Publications, peer reviewed (print or other media):

1. **Bachhuber MA**, Cunningham CO. Availability of buprenorphine on the Internet for purchase without a prescription. Drug and Alcohol Dependence. 2013 Jun 1;130(1-3):238-40. PMID: 23201172.
2. **Bachhuber MA**, Cunningham CO. Changes in testing for human immunodeficiency virus, sexually transmitted infections, and hepatitis C virus in opioid treatment programs. Journal of the American Medical Association. 2013 Dec 25;310(24):2671-2. PMID: 24368468
3. **Bachhuber MA**, Southern WN. Hospitalizations of persons with HIV in the United States, 2009. Public Health Reports. 2014 Mar;129(2):178-86. PMID: 24587553
4. **Bachhuber MA**, Tschannerl A, Lechuga C, Anderson M. Racial discrimination in health care settings: does insurance matter? American Journal of Public Health. 2014 Mar;104(3):e10-1. PMID: 24432944
5. **Bachhuber MA**, Southern WN, Cunningham CO. Profiting and providing less care: comprehensive services at for-profit, nonprofit, and public opioid treatment programs in the United States. Medical Care. 2014 May;52(5):428-34. PMID: 24638120
6. Mayer VL, Hillier A, **Bachhuber MA**, Long JA. Food Insecurity, Neighborhood Food Access, and Food Assistance in Philadelphia. Journal of Urban Health. 2014 Jul 22. PMID: 25047157
7. **Bachhuber MA**, Saloner B, Cunningham CO, Barry CL. Medical cannabis laws and opioid analgesic overdose mortality in the United States, 1999-2010. Journal of the American Medical Association Internal Medicine. 2014 Oct;174(10):1668-73. PMID: 25154332
8. Sridharan A, Jain R, **Bachhuber MA**, Yu Y, Ramesh Kh, Gundabolu K, Friedman EW, Verma AK. Epidemiologic study of myelodysplastic syndromes in a multiethnic, inner city cohort. Experimental Hematology & Oncology. 2014 Aug 23;3:22. PMID: 25170429
9. Menzies HJ, Moalosi G, Anisimova V, Gammino V, Sentle C, **Bachhuber MA**, Bile E, Radisowa K, Kachuwaire O, Basotli J, Maribe T, Makombe R, Shepherd J, Kim B, Samandari T, El-Halabi S, Chirenda J, Cain KP. Increase in anti-tuberculosis drug resistance in Botswana: results from the fourth National Drug Resistance Survey. International Journal of Tuberculosis and Lung Disease. 2014 Sep;18(9):1026-33. PMID: 25189548
10. **Bachhuber MA**, McGinty EE, Kennedy-Hendricks A, Niederdeppe J, Barry CL. Messaging to increase public support for naloxone distribution policies in the United States: Results from a randomized survey experiment. PLoS One. 2015 Jul 1;10(7):e0130050. PMID: 26132859
11. Barry CL, Kennedy Hendricks A, Gollust SE, Niederdeppe J, **Bachhuber MA**, Webster D, McGinty EE. Understanding Americans' views on opioid pain reliever abuse. Addiction. 2015 Jul 25. PMID: 26212522
12. **Bachhuber MA**, Maughan BC, Mitra N, Feingold J, Starrels JL. Prescription monitoring programs and emergency department visits involving benzodiazepine misuse: Early

evidence from 11 United States metropolitan areas. International Journal of Drug Policy. 2015 Aug 13. PMID: 26345658

13. Maughan BC, **Bachhuber MA**, Mitra N, Starrels JL. Prescription monitoring programs and emergency department visits involving opioids, 2004-2011. Drug and Alcohol Dependence. 2015 Nov 1;156:282-8. PMID: 26454836
14. **Bachhuber MA**, Roberts CB, Metraux S, Montgomery AE. Screening for homelessness among individuals initiating medication-assisted treatment for opioid use disorder in the Veterans Health Administration. Journal of Opioid Management. 2015 Nov-Dec;11(6):459-62. PMID: 26728642
15. **Bachhuber MA**, Hennessy S, Cunningham CO, Starrels JL. Increasing Benzodiazepine Prescriptions and Overdose Mortality in the United States, 1996-2013. American Journal of Public Health. 2016 Apr;106(4):686-8. PMID: 26890165
16. Kennedy-Hendricks A, Busch SH, McGinty EE, **Bachhuber MA**, Niederdeppe J, Gollust SE, Webster DW, Fiellin DA, Barry CL. Primary care physicians' perspectives on the prescription opioid epidemic. Drug and Alcohol Dependence. 2016 Aug 1;165:61-70. PMID: 27261154
17. McGinty EE, Samples H, Bandara SN, Saloner B, **Bachhuber MA**, Barry CL. The emerging public discourse on state legalization of marijuana for recreational use in the US: Analysis of news media coverage, 2010-2014. Preventive Medicine. 2016 Sep;90:114-20. PMID: 27373208
18. Saloner B, **Bachhuber M**, Barry CL. Physicians as a Source of Medications for Nonmedical Use: Comparison of Opioid Analgesic, Stimulant, and Sedative Use in a National Sample. Psychiatric Services. 2017 Jan 1;68(1):56-62. PMID: 27417892
19. Mehta PK, **Bachhuber MA**, Hoffman R, Srinivas SK. Deaths from unintentional injury, homicide, and suicide during or within 1 year of pregnancy in Philadelphia. American Journal of Public Health. 2016 Dec;106(12):2208-2210. PMID: 27736205
20. Saloner B, Bandara S, **Bachhuber M**, Barry CL. Insurance Coverage and Treatment Use Under the Affordable Care Act Among Adults With Mental and Substance Use Disorders. Psychiatric Services. 2017 Jun 1;68(6):542-548. PMID: 28093059
21. Norton BL, Fleming J, **Bachhuber MA**, Steinman M, DeLuca J, Cunningham CO, Johnson N, Laraque F, Litwin AH. High HCV cure rates for people who use drugs treated with direct acting antiviral therapy at an urban primary care clinic. International Journal of Drug Policy. 2017 Sep;47:196-201. PMID: 28811158
22. Marti J, **Bachhuber M**, Feingold J, Meads D, Richards M, Hennessy S. Financial incentives to discontinue long-term benzodiazepine use: a discrete choice experiment investigating patient preferences and willingness to participate. BMJ Open. 2017 Oct 6;7(10):e016229. PMID: 28988167
23. **Bachhuber MA**, Mehta PK, Faherty LJ, Saloner B. Medicaid Coverage of Methadone Maintenance and the Use of Opioid Agonist Therapy Among Pregnant Women in Specialty Treatment. Medical Care. 2017 Dec;55(12):985-990. PMID: 29135769.
24. **Bachhuber MA**, O'Grady MA, Chung H, Neighbors CJ, DeLuca J, D'Aloia EM, Diaz A, Cunningham CO. Delivery of screening and brief intervention for unhealthy alcohol use in an urban academic Federally Qualified Health Center. Addiction Science and Clinical Practice. 2017 Dec 7;12(1):33. PMID: 29212532.
25. **Bachhuber MA**, Arnsten JH, Starrels JL, Cunningham CO. Willingness to Participate in Longitudinal Research Among People with Chronic Pain Who Take Medical Cannabis: A Cross-Sectional Survey. Cannabis and Cannabinoid Research. 2018 Mar 1;3(1):45-53. PMID: 29607410.
26. Sohler NL, Starrels JL, Khalid L, **Bachhuber MA**, Arnsten JH, Nahvi S, Jost J, Cunningham CO. Cannabis Use is Associated with Lower Odds of Prescription Opioid Analgesic Use

Among HIV-Infected Individuals with Chronic Pain. Substance Use and Misuse. 2018 Jan 17;1-6. PMID: 29338578.

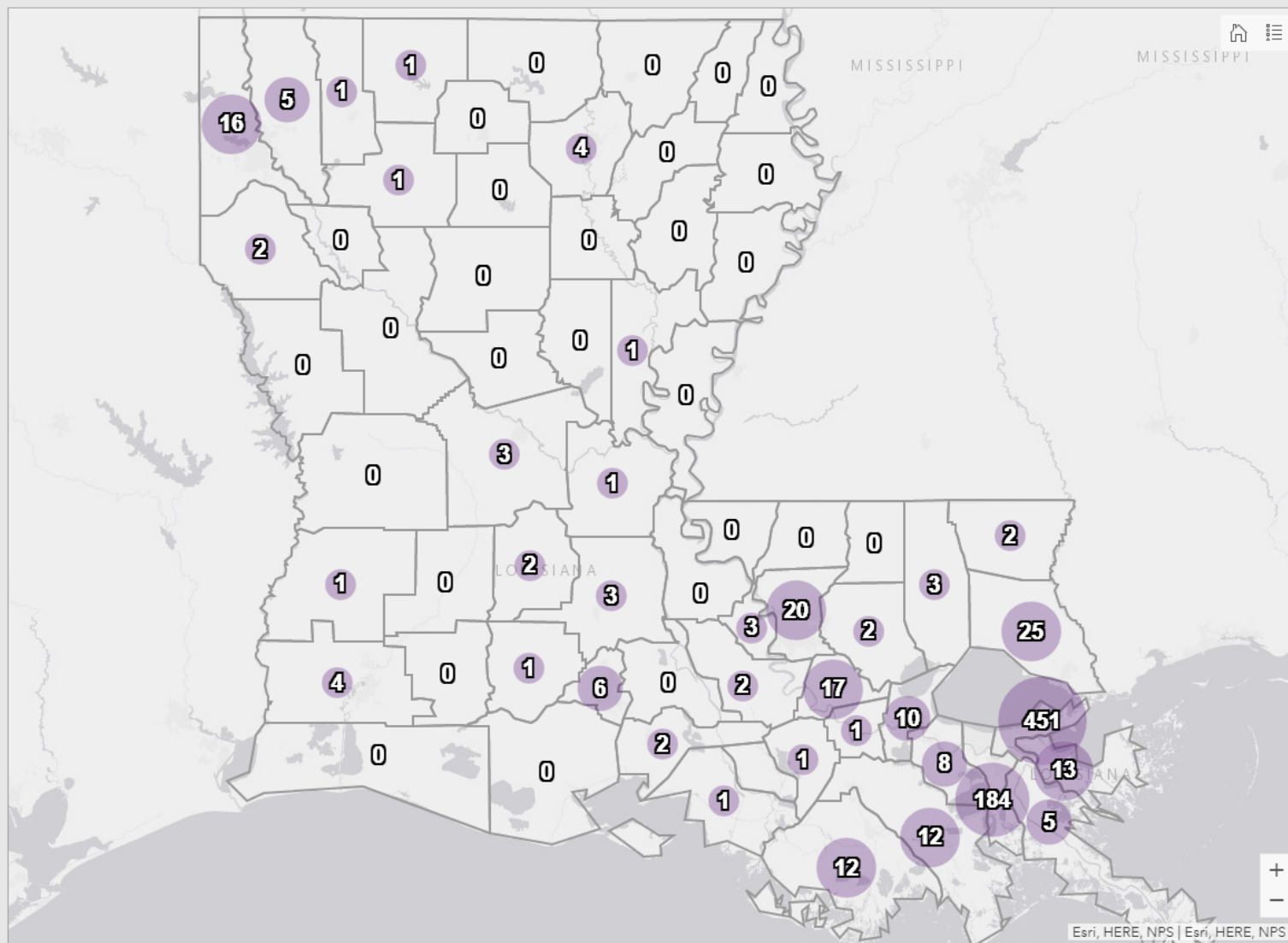
27. **Bachhuber MA**, Thompson C, Prybylowski A, Benitez J, Mazzella S, Barclay D. Description and outcomes of a buprenorphine maintenance treatment program integrated within Prevention Point Philadelphia, an urban syringe exchange program. Substance Abuse. 2018 Feb 23;1-22. PMID: 29474119.
28. **Bachhuber MA**, Saloner B, LaRochelle M, Merlin JS, Maughan BC, Polsky D, Shaparin N, Murphy SM. Physician Time Burden Associated with Querying Prescription Drug Monitoring Programs. Pain Medicine. 2018 Mar 30. PMID: 29618105.
29. **Bachhuber MA**, Nash D, Southern WN, Heo M, Berger M, Schepis M, Cunningham CO. Reducing the default dispense quantity for new opioid analgesic prescriptions: study protocol for a cluster randomised controlled trial. BMJ Open. 2018 Apr 20;8(4):e019559. PMID: 29678969
30. Miclette MA, Leff JA, Cuan I, Samet JH, Saloner B, Mendell G, Bao Y, Ashburn MA, **Bachhuber MA**, Schackman BR, Polsky DE, Meisel ZF. Closing the gaps in opioid use disorder research, policy and practice: conference proceedings. Addiction Science and Clinical Practice. 2018 Nov 13;13(1):22. PMID: 30424803
31. Jakubowski A, Pappas A, Isaacsohn L, Castillo F, Masyukova M, Silvera R, Holaday L, Rausch E, Farooq S, Veltri KT, Cunningham CO, **Bachhuber MA**. Development and evaluation of a pilot overdose education and naloxone distribution program for hospitalized general medical patients. Substance Abuse. 2019;40(1):61-65. PMID: 30475162
32. Zezza MA, **Bachhuber MA**. Payments from drug companies to physicians are associated with higher volume and more expensive opioid analgesic prescribing. PLoS One. 2018 Dec 19;13(12):e0209383. PMID: 30566426
33. Kladney M, Joudrey P, Cunningham CO, **Bachhuber MA**. Pharmacotherapy Prescribing to Patients with Concurrent Tobacco and Alcohol Use Disorder in a Large, Urban, Integrated Health System. Journal of General Internal Medicine. 2019 Jun;34(6):804-805. PMID: 30604121
34. **Bachhuber MA**, Tuazon E, Nolan ML, Kunins HV, Paone D. Impact of a prescription drug monitoring program use mandate on potentially problematic patterns of opioid analgesic prescriptions in New York City. Pharmacoepidemiology and Drug Safety. 2019 May;28(5):734-739. PMID: 30920062
35. Ross J, Sinayobye JD, Yotebieng M, Hoover DR, Shi Q, Ribakare M, Remera E, **Bachhuber MA**, Murenzi G, Sugira V, Nash D, Anastos K; for Central Africa IeDEA. Early outcomes after implementation of treat all in Rwanda: an interrupted time series study. Journal of the International AIDS Society. 2019 Apr;22(4):e25279. PMID: 30993854
36. Joudrey PJ, Kladney M, Cunningham CO, **Bachhuber MA**. Primary care engagement is associated with increased pharmacotherapy prescribing for alcohol use disorder (AUD). Addiction Science and Clinical Practice. 2019 May 1;14(1):19. PMID: 31039820
37. **Bachhuber M**, Arnsten JH, Wurm G. Use of Cannabis to Relieve Pain and Promote Sleep by Customers at an Adult Use Dispensary. Journal of Psychoactive Drugs. 2019 Nov-Dec;51(5):400-404. PMID: 31264536
38. Mehta PK, Kieltyka L, **Bachhuber MA**, Smiles D, Wallace M, Zapata A, Gee RE. Racial Inequities in Preventable Pregnancy-Related Deaths in Louisiana, 2011-2016. Obstetrics and Gynecology. 2020 Feb;135(2):276-283. PMID: 31923055
39. Sugarman OK, **Bachhuber MA**, Wennerstrom A, Bruno T, Springgate BF. Interventions for incarcerated adults with opioid use disorder in the United States: A systematic review with a focus on social determinants of health. PLoS One. 2020 Jan 21;15(1):e0227968. PMID: 31961908

Research Publications, not peer reviewed:

1. **Bachhuber MA**, Cunningham CO. For-profit treatment of opioid addiction. Health Affairs (Millwood). 2013 Nov;32(11):2060. PMID: 24191105
2. **Bachhuber MA**, Saloner B, Cunningham CO, Feingold J, Barry CL. Could Delaware's medical marijuana law reduce harms from opioid analgesics? Delaware Medical Journal. 2014 Nov;86(11):341-3. PMID: 25647864
3. **Bachhuber MA**, Bradley KA. Evidence-Based Care for People with Unhealthy Alcohol Use-Still Elusive. Journal of General Internal Medicine. 2016 Jul;31(7):710-1. PMID: 27071398
4. **Bachhuber MA**, Merchant RM. Buying Drugs Online in the Age of Social Media. American Journal of Public Health. 2017 Dec;107(12):1858-1859. PMID: 29116843.
5. **Bachhuber MA**, Arnsten JH, Cunningham CO, Sohler N. Does Medical Cannabis Use Increase or Decrease the Use of Opioid Analgesics and Other Prescription Drugs? Journal of Addiction Medicine. 2018 Apr 17. PMID: 29664894.



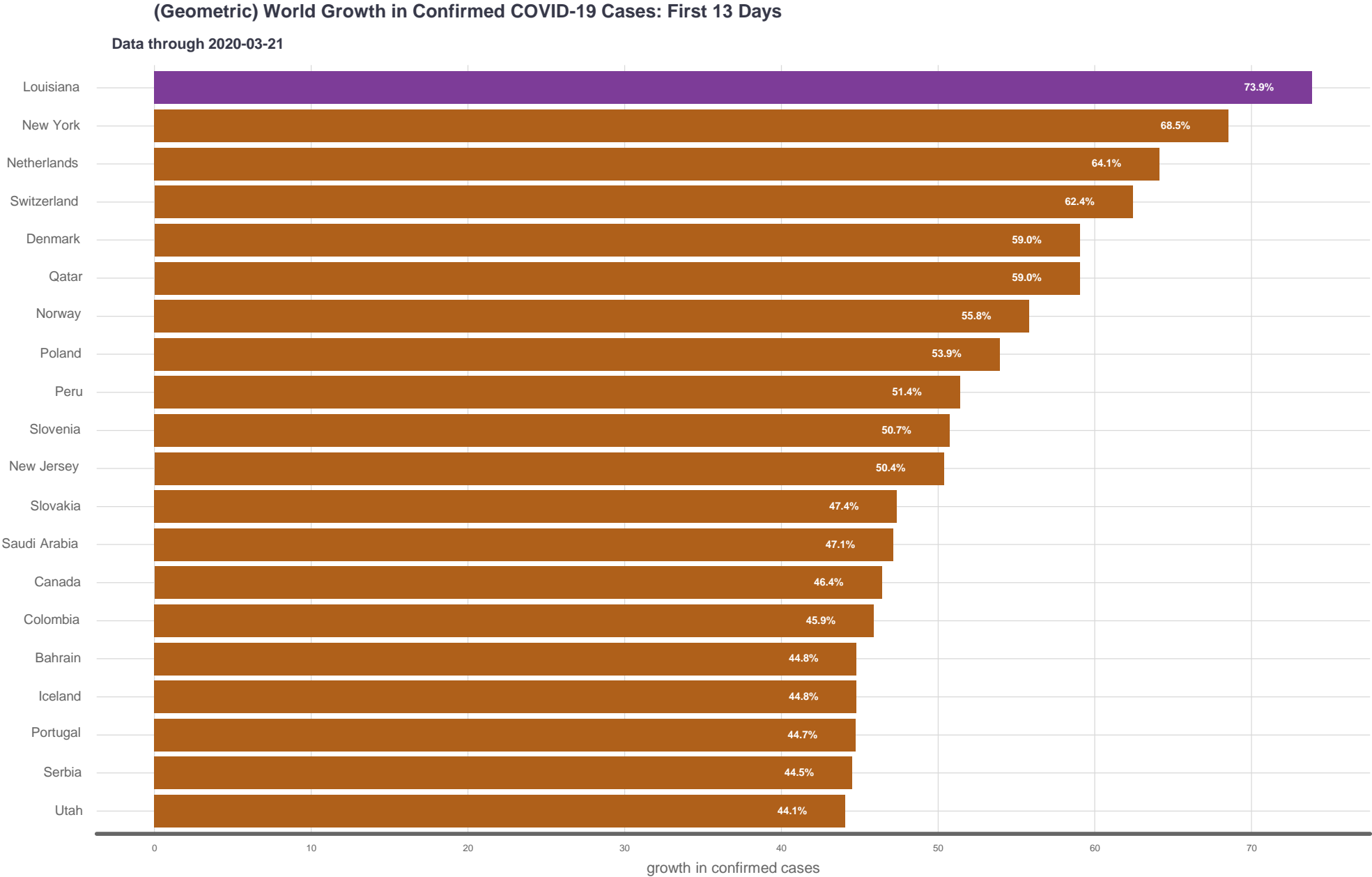
## Louisiana GOHSEP GIS



Data Sources: LDH Infectious Disease Epidemiology Program & LDH Bureau of Health Informatics

- 1. New York**  
Population: 19,453,561  
Percent Infected: 0.0633%
- 2. Washington**  
Population: 7,614,893  
Percent Infected: 0.0235%
- 3. LOUISIANA**  
Population: 4,648,794  
Percent Infected: 0.0180%
- 4. New Jersey**  
Population: 8,882,190  
Percent Infected: 0.0149%
- 5. District of Columbia**  
Population: 705,749  
Percent Infected: 0.0139%
- 6. Colorado**  
Population: 5,758,736  
Percent Infected: 0.0082%
- 7. Michigan**  
Population: 9,986,857  
Percent Infected: 0.0079%
- 8. Vermont**  
Population: 623,989  
Percent Infected: 0.0079%
- 9. Massachusetts**  
Population: 6,892,503  
Percent Infected: 0.0077%
- 10. Connecticut**  
Population: 3,565,287  
Percent Infected: 0.0063%
- 11. Rhode Island**  
Population: 1,059,361  
Percent Infected: 0.0062%
- 12. Illinois**  
Population: 12,671,821  
Percent Infected: 0.0059%
- 13. Tennessee**  
Population: 6,829,174

# Figure 1: Fastest Growth in Confirmed Cases: All Areas



Sources: Coronavirus data are from Johns Hopkins University CSSE. Calculations by Gary A. Wagner, Ph.D.

# Figure 2: Growth Trajectory After First 100 Confirmed Cases

## Cumulative Confirmed COVID-19 Case Growth After 100 Confirmed Cases

Median is the daily growth rate across all affected areas with 100 or more cases. Data through 2020-03-21.

