

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss.

No. SJ-2020-757

COMMITTEE FOR PUBLIC COUNSEL SERVICES and
MASSACHUSETTS ASSOCIATION OF
CRIMINAL DEFENSE LAWYERS,
Plaintiffs,

v.

BARNSTABLE COUNTY SHERIFF'S OFFICE, BERKSHIRE COUNTY SHERIFF'S
OFFICE, BRISTOL COUNTY SHERIFF'S OFFICE, DUKES COUNTY SHERIFF'S
OFFICE, ESSEX COUNTY SHERIFF'S OFFICE, FRANKLIN COUNTY SHERIFF'S
OFFICE, HAMPDEN COUNTY SHERIFF'S OFFICE, HAMPSHIRE COUNTY
SHERIFF'S OFFICE, MIDDLESEX COUNTY SHERIFF'S OFFICE, NORFOLK
COUNTY SHERIFF'S OFFICE, PLYMOUTH COUNTY SHERIFF'S OFFICE,
SUFFOLK COUNTY SHERIFF'S OFFICE, and
WORCESTER COUNTY SHERIFF'S OFFICE,
Defendants.

**FINDINGS OF FACT OF THE SPECIAL MASTER UNDER ORDER OF REFERENCE
DATED MARCH 5, 2021**

I. PROCEDURAL HISTORY AND SUBMISSIONS OF THE PARTIES

Pursuant to an Order of Reference dated March 5, 2021 from the Court, Cypher, J., the Special Master named therein, Robert C. Rufo (ret.) respectfully submits his Findings of Facts together with fifty-five relevant Exhibits attached herein. The Special Master wishes to acknowledge the cooperative efforts of the parties during the fact-finding process which included seven hearings, numerous filings, affidavits, and other submissions. Additionally, the Special Master credits the invaluable assistance of Amy C. Stewart, Second Assistant Clerk for Suffolk County for her efforts in coordinating and monitoring the fact-finding process.

II. AGREED UPON FACTS

The parties agree to the following facts. There are a limited number of instances where the parties agreed to facts for which there is no citation. To the extent it was possible, citations to the parties' joint exhibits are referenced in the factual findings.

COVID-19 Symptoms and Transmission in Congregate Settings

1. COVID-19 is a contagious, dangerous, and sometimes deadly disease.¹
2. SARS-CoV-2, the virus that causes COVID-19, is transmitted in three ways.²
3. First, the virus spreads through inhalation of respiratory droplets expelled when a person exhales, coughs, sings, talks or sneezes.³ Transmission through the inhalation of respiratory droplets commonly occurs when someone is physically near (within 6 feet) a person with COVID-19 or has direct contact with that person.⁴
4. Second, “COVID-19 can sometimes be spread by airborne transmission.”⁵ “Circumstances under which airborne transmission of SARS-CoV-2 appears to have occurred include:” (1) “enclosed spaces”, (2) “prolonged exposure to respiratory particles”, and (3) “inadequate ventilation or air handling”.⁶ “Available data indicate that it is much more common for the virus that causes COVID-19 to spread through close contact with a person has COVID-19 than through airborne transmission.”⁷
5. Third, “[r]espiratory droplets can also land on surfaces and objects. It is possible that a person could get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or eyes.” “Spread from touching surfaces is not thought to be a common way that COVID-19 spreads.”⁸
6. According to the CDC, “[s]ocial distancing is the practice of increasing the space between individuals and decreasing their frequency of contact to reduce the risk of spreading a disease

¹ Andrew Joseph et al., *Seven Months Later, What We Know About Covid-19 and the Pressing Questions that Remain*, STAT (Aug. 17, 2020), <https://www.statnews.com/2020/08/17/what-we-know-know-about-covid19-and-what-questions-remain-to-be-answered>.

² Centers for Disease Control and Prevention, *How COVID-19 Spreads* (updated Oct. 28, 2020) (hereinafter CDC How COVID-19 Spreads), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html> (last visited May 4, 2021).

³ CDC How COVID-19 Spreads; Centers for Disease Control and Prevention, *COVID-19 Frequently Asked Questions, Spread* (updated March 1, 2021) (hereinafter CDC FAQ Spread), <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#Spread> (last visited May 4, 2021); Centers for Disease Control and Prevention, *COVID-19 Guidance for Shared or Congregate Housing*, (updated Dec. 31, 2020) (hereinafter CDC Congregate Housing), <https://www.cdc.gov/coronavirus/2019-ncov/community/shared-congregate-house/guidance-shared-congregate-housing.html> (last visited May 4, 2021).

⁴ CDC How COVID-19 Spreads; see also CDC Congregate Housing.

⁵ CDC How COVID-19 Spreads.

⁶ Centers for Disease Control and Prevention, *Scientific Brief: SARS-CoV-2 and Potential Airborne Transmission* (Oct. 5, 2020), (hereinafter CDC Scientific Brief), <https://www.cdc.gov/coronavirus/2019-ncov/more/scientific-brief-sars-cov-2.html> (last visited May 4, 2021).

⁷ CDC Scientific Brief.

⁸ CDC, How COVID-19 Spreads, <https://tools.cdc.gov/api/v2/resources/media/407478/content.html>.

(ideally to maintain at least 6 feet between all individuals, even those who are asymptomatic). Social distancing strategies can be applied on an individual level (e.g., avoiding physical contact), a group level (e.g., canceling group activities where individuals would be in close contact), and an operational level (e.g., rearranging chairs in the dining hall to increase distance between them). Social distancing can be challenging to practice in correctional and detention environments.”⁹

7. According to the CDC, “[p]eople in correctional and detention facilities are at greater risk for some illnesses, such as COVID-19, because of close living arrangements with other people.”¹⁰

The Centers for Disease Control and Prevention COVID-19 Documents

8. On August 21, 2020, the CDC published its Morbidity and Mortality Weekly Report entitled “Mass Testing for SARS-CoV-2 in 16 Prisons and Jails – Six Jurisdictions, United States, April-May 2020.”¹¹ A true and complete copy of this document, which can be cited as admissible evidence in this matter, is attached as Exhibit 32. Ex. 32, CDC 8/21/20 Morbidity and Mortality Weekly Report.
9. On February 19, 2021, the CDC updated its Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities.¹² As of May 4, 2021, this is the most current CDC update to this document. A true and complete copy of this document, which can be cited as admissible evidence in this matter, is attached as Exhibit 31. Ex. 31, CDC Correctional Management.
10. On March 17, 2021, the CDC updated its Interim Guidance for SARS-CoV-2 Testing in Correctional and Detention Facilities.¹³ A true and complete copy of this document, which can be cited as admissible evidence in this matter, is attached as Exhibit 30. Ex. 30, CDC Correctional Testing.

⁹ Ex. 31, Centers for Disease Control and Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities* (updated Feb. 19, 2021) (hereinafter CDC Correctional Management), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>, (last visited May 4, 2021).

¹⁰ Centers for Disease Control and Prevention, *FAQs for Correctional and Detention Facilities, People in Prison or Jail: Do I have a greater chance of getting COVID-19?* (updated Jan. 26, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/faq.html>.

¹¹ Ex. 32, Centers for Disease Control and Prevention, *Morbidity and Mortality Weekly Report* (hereinafter CDC 8/21/20 Morbidity and Mortality Weekly Report) (Aug. 21, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6933a3.htm#suggestedcitation>.

¹² Ex. 31, CDC Correctional Management.

¹³ Ex. 30, Centers for Disease Control and Prevention, *Testing in Correctional and Detention Facilities* (updated March 17, 2021) (hereinafter CDC Correctional Testing), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/testing.html> (last visited May 4, 2021).

11. On March 17, 2021, the CDC also updated its Overview of Testing for SARS-CoV-2.¹⁴ A true and complete copy of this document, which can be cited as admissible evidence in this matter, is attached as Exhibit 33. Ex. 33, CDC Testing Overview.
12. As of May 4, 2021, the March 17, 2021 updates are the most current CDC updates to its Interim Guidance for SARS-CoV-2 Testing in Correctional and Detention Facilities and its Overview of Testing for SARS-CoV-2.
13. On March 19, 2021, the CDC updated its COVID-19 Pandemic Planning Scenarios.¹⁵ As of May 4, 2021, this is the most current CDC update to this document. A true and complete copy of this document, which can be cited as admissible evidence in this matter, is attached as Exhibit 29. Ex. 29, CDC COVID-19 Pandemic Planning.
14. On April 30, 2021, the CDC updated its SARS-CoV-2 Variant Classifications and Definitions document.¹⁶ As of May 4, 2021, this is the most current CDC update to this document. A true and complete copy of this document, which can be cited as admissible evidence in this matter, is attached as Exhibit 34. Ex. 34, CDC Variant Classifications.

The Houses of Correction's Testing Policies

15. From the onset of the pandemic to the present, the HOCs have not conducted serial screening testing of all or a random-sample of non-symptomatic incarcerated people and staff.¹⁷
16. No HOC has tested non-symptomatic staff without known or suspected exposure to COVID-19, aside from Essex in October 2020, Hampden's single round of testing of all staff in mid-November 2020, and Plymouth in December 2020 and January 2021. Ex. 37, Sheriff Cocchi Aff. ¶ 10c; Ex. 42, Superintendent Eastman Aff. ¶ 2; Ex. 38, Sheriff McDonald Aff. ¶¶ 11, 14.
17. Eight out of the 13 HOCs have not tested non-symptomatic incarcerated people unless they have been in close contact with a COVID-infected individual.¹⁸
18. Four HOCs test non-symptomatic incarcerated people at intake.

¹⁴ Ex. 33, Centers for Disease Control and Prevention, *Overview of Testing for SARS-CoV-2* (updated March 17, 2021) (hereinafter CDC Testing Overview), <https://www.cdc.gov/coronavirus/2019-ncov/hcp/testing-overview.html>, (last visited May 4, 2021).

¹⁵ Ex. 29, Centers for Disease Control and Prevention, *COVID-19 Pandemic Planning Scenarios* (updated March 19, 2021) (hereinafter CDC COVID-19 Pandemic Planning), <https://www.cdc.gov/coronavirus/2019-ncov/hcp/planning-scenarios.html> (last visited May 4, 2021)

¹⁶ Ex. 34, Centers for Disease Control and Prevention, *SARS-CoV-2 Variant Classifications and Definitions* (updated April 30, 2021) (hereinafter CDC Variant Classifications), <https://www.cdc.gov/coronavirus/2019-ncov/casesupdates/variant-surveillance/variant-info.html> (last visited May 4, 2021).

¹⁷ Answer ¶¶ 31, 32.

¹⁸ Answer ¶¶ 31, 32.

19. According to Sheriff McDonald, on December 7, 2020, Plymouth began testing all inmates at intake (unless they had a documented test within 72 hours of arrival) and again before they leave the quarantine unit. Ex. 38, Sheriff McDonald Aff. ¶ 13 According to Sheriff McDonald, on January 13, 2021, Plymouth began testing new intakes regardless of outside tests. Ex. 38, Sheriff McDonald Aff. ¶ 13.
20. According to Sheriff Donelan, all new inmates in Franklin are tested for the COVID-19 virus upon entrance to the facility. Ex. 40, Sheriff Donelan Aff. ¶ 4a.
21. According to Sheriff Cocchi, all non-symptomatic inmates at Hampden are tested for COVID-19 between 7-9 days after arrival. Ex. 37, Sheriff Cocchi Aff. ¶ 10a.
22. According to Sheriff Coppinger, all new Pre-Trial and/or sentenced inmates are placed in a seven (7) day quarantine unit upon arrival at Essex. Ex. 41, Sheriff Coppinger Aff. ¶ 5 [e] According to Sheriff Coppinger, at the end of the seven (7) day quarantine period the new Pre-Trial and/or sentenced inmate is tested for COVID-19. Ex. 41, Sheriff Coppinger Aff. 5 [e].
23. Four HOCs have tested certain non-symptomatic incarcerated people for a limited period of time.
24. According to Sheriff McDonald, following an uptick in COVID-19 cases in the late fall, Plymouth conducted asymptomatic testing of all inmates in three housing units. Ex. 38, Sheriff McDonald Aff. ¶ 10. Specifically, investigatory facility-wide testing of all inmates occurred on December 3, 4, and 7, 2020. Ex. 38, Sheriff McDonald Aff. ¶¶ 10-11. According to Sheriff McDonald, Plymouth conducted follow-up testing in all affected housing units in the weeks that followed. Ex. 38, Sheriff McDonald Aff. 12.
25. According to Sheriff McDonald, Plymouth conducted investigatory facility wide testing on January 26, 27, and 29, 2021. Ex. 38, Sheriff McDonald Aff. ¶ 14. Additionally, according to Sheriff McDonald, Plymouth conducted follow-up investigatory testing of 10 housing units on January 29, February 2 and 5, 2021. Ex. 38, Sheriff McDonald Aff. ¶¶ 14-15.
26. According to Sheriff McDonald, Plymouth conducted follow-up investigatory testing of six housing units on February 10, 12, and 16, 2021, and follow-up investigatory testing of three housing units on February 19, 23, and 26, 2021. Ex. 38, Sheriff McDonald Aff. ¶¶ 16-17.
27. According to Sheriff Cocchi, Hampden has completed two rounds of full-testing of those inmates in custody at all facilities. Ex. 37, Sheriff Cocchi Aff. ¶ 10c. According to Sheriff Cocchi, the most recent round of testing which occurred in mid-November 2020 included all staff as well. Ex. 37, Sheriff Cocchi Aff. ¶ 10c.
28. According to Superintendent Eastman, Essex in October 2020, due to an increase in positive COVID-19 test results for inmates and staff, conducted a facility-wide COVID-19 testing of all inmates, employees and contractors. Ex. 42, Superintendent Eastman Aff. ¶ 2. A total of 1,773 individuals were tested for COVID-19 in this facility-wide test and it was reported to the Special Master on October 7, 2020. Ex. 42, Superintendent Eastman Aff. ¶ 2.

29. According to Superintendent of Health Services Flynn, Norfolk has tested entire housing units where a positive COVID-19 test result was found, and the inmate had had close contact with others. Ex. 51, Flynn Aff. ¶ 8. According to Superintendent of Health Services Flynn, this is the process the Norfolk has followed for all housing units to date where a positive COVID-19 test result was found, unless it was determined that the inmate did not have any close contacts. Ex. 51, Flynn Aff. ¶ 8.

Testing and Cases in Massachusetts

30. According to the White House COVID-19 Team, between April 23 and April 29, 2021, all but three counties in Massachusetts had at least 100-199 new cases per 100,000 persons within the past seven days.¹⁹
31. The Department of Public Health requires weekly testing of all non-vaccinated staff, and testing every other week of all vaccinated staff, in long-term care facilities.²⁰

COVID-19 Testing Rates and Case Rates in the Houses of Correction

32. From October 1, 2020 through January 27, 2021, according to the HOCs' reported numbers, four facilities (Hampden, Essex, Franklin and Plymouth) accounted for 86.6% of all incarcerated people COVID-19 tests in HOCs despite representing just 42% of the population.²¹
33. From October 1, 2020 through January 27, 2021, according to the HOCs' reported numbers, eight facilities (Hampshire, Berkshire, Worcester, Norfolk, Middlesex, Suffolk, Bristol, and Barnstable) represented 57% of the incarcerated population yet accounted for just 13.4% of all incarcerated people COVID-19 tests the total tests in the HOCs.
34. As of April 28, 2021, the cumulative number of COVID-19 tests at four facilities was less than the total population at that facility as of that date. Specifically, as of April 28, 2021, Suffolk had conducted a total of 450 tests among its incarcerated population, but had a total population of 950; Worcester had conducted a total of 354 tests among its incarcerated population, but had a total population of 535; Bristol had conducted a total of 366 tests among its incarcerated population, but had a total population of 628; and Barnstable had conducted a total of 22 tests among its incarcerated population, but had a total population of 177.²²

¹⁹ See COVID-19 State Profile Report – Massachusetts, p.7 (updated April 30, 2021), <https://beta.healthdata.gov/Community/COVID-19-State-Profile-Report-Massachusetts/j75q-tgps> (last visited May 4, 2021).

²⁰ Massachusetts Dep't of Pub. Health, Weekly COVID-19 Public Health Report (April 29, 2021) at 17 (hereinafter DPH Weekly Report), <https://www.mass.gov/doc/weekly-covid-19-public-health-report-april-29-2021/download>.

²¹ SM Report 5/3/21.

²² SM Report 5/3/21.

35. From April 4, 2020 to April 28, 2021, the HOCs reported a total of 17,605 COVID-19 tests administered to incarcerated people.²³
36. From April 4, 2020 to April 28, 2021, the HOCs reported administering a total of 8,057 COVID-19 tests to correctional officers and other staff.²⁴

The Houses of Correction's population and releases

37. The HOCs have statutory authority to release inmates under certain conditions pursuant to G. L. c. 126, § 26, c. 127, § 20B and §49.
38. Bristol, Plymouth, Barnstable, Worcester, Suffolk and Dukes do not have any programs for releases pursuant to G. L. c. 127, § 49, and Norfolk and Berkshire have suspended their programs for releases pursuant to G. L. c. 127 § 49.
39. The HOCs have statutory authority to release pretrial inmates pursuant to G. L. c. 127, § 20B.
40. Plymouth, Hampden, Barnstable, Bristol, Middlesex, Hampshire and Worcester do not have a pretrial diversion program pursuant to G. L. c. 127, § 20B, and Norfolk, Suffolk and Dukes have not released any person pursuant to G. L. c. 127, § 20B since at least April 2020.
41. General Law c. 126, § 26 states: “[i]f disease breaks out in a jail or other county prison, which, in the opinion of the inspectors of the prison, may endanger the lives or health of the prisoners to such a degree as to render their removal necessary, the inspectors may designate in writing a suitable place within the same county, or any prison in a contiguous county, as a place of confinement for such prisoners. Such designation, having been filed with the clerk of the superior court, shall be a sufficient authority for the sheriff, jailer, superintendent or keeper to remove all prisoners in his custody to the place designated, and there to confine them until they can safely be returned to the place whence they were removed. Any place to which the prisoners are so removed shall during their imprisonment therein be deemed a prison of the county where they were originally confined, but they shall be under the care, government and direction of the officers of the county where they are confined.”
42. As of February 21, 2021, no HOC had released an incarcerated person under G. L. c. 126, § 26.
43. As of April 28, 2021, ten counties (Barnstable, Berkshire, Bristol, Essex, Franklin, Hampden, Middlesex, Norfolk, Suffolk and Worcester) are at 80% or more of the population that they had when they started reporting to the Special Master.²⁵

²³ SM Report 5/3/21.

²⁴ SM Report 5/3/21.

²⁵ SM Report 5/3/21.

44. As of January 27, 2021, seven counties (Essex, Suffolk, Hampden, Worcester, Norfolk, Barnstable, and Franklin) had higher populations than they had in July 2020.²⁶
45. As of April 28, 2021, six counties (Barnstable, Essex, Hampden, Norfolk, Suffolk and Worcester) had higher populations than they had in July 2020.²⁷
46. As of April 12, 2020, the total incarcerated population for all HOCs was 6,863.²⁸
47. As of April 28, 2021, the total incarcerated population for HOCs was 5,910.²⁹
48. On April 12, 2020, Barnstable reported a total incarcerated population of 195 and on April 28, 2021, 177 incarcerated people. Ex. 45, Sheriff Cummings Affidavit, ¶ 3.
49. On April 12, 2020, Berkshire reported a total incarcerated population of 156 and on April 28, 2021, 125 incarcerated people. Ex. 39, Superintendent Little Affidavit, ¶ 8; SM Report 5/3/21.
50. On April 12, 2020, Bristol reported a total incarcerated population of 656 and on April 28, 2021, 628 incarcerated people. Ex. 46, Sheriff Hodgson Affidavit, ¶ 10; SM Report 5/3/21.
51. On April 12, 2020, Dukes reported a total incarcerated population of 11 and on April 28, 2021, 4 incarcerated people. (SM Report 5/3/21).
52. On April 12, 2020, Essex reported a total incarcerated population of 1,126, and on April 28, 2021, 998 incarcerated people. (SM Report 5/3/21).
53. On April 12, 2020, Franklin reported a total incarcerated population of 131 and on April 28, 2021, 116 incarcerated people. Ex. 40, Sheriff Donelan Affidavit, ¶ 8; SM Report 5/3/21.
54. On April 12, 2020, Hampden reported a total incarcerated population of 902 and on April 28, 2021, 875 incarcerated people. (SM Report 5/3/21).
55. On April 12, 2020, Hampshire reported a total incarcerated population of 154 and on April 28, 2021, 107 incarcerated people. (SM Report 5/3/21).
56. On April 12, 2020, Middlesex reported a total incarcerated population of 648 and on April 28, 2021, 550 incarcerated people. (SM Report 5/3/21).
57. As of April 12, 2020, Norfolk reported a total incarcerated population of 388 and on April 28, 2021, 336 incarcerated people. Ex. 50, Superintendent Harris Affidavit, ¶ 10; SM Report 5/3/21.
58. As of April 12, 2020, Plymouth reported a total incarcerated population of 765 and on April 28, 2021, 509 incarcerated people. (SM Report 5/3/21).

²⁶ SM Report 5/3/21

²⁷ SM Report 5/3/21.

²⁸ SM Report 5/3/21.

²⁹ SM Report 5/3/21.

59. According to Superintendent Tuttle, as of April 26, 2021, Worcester has a federal consent decree capping its inmate population at 1251 and currently has 544 inmates at its facility. Ex. 44, Superintendent Tuttle Affidavit, ¶ 12.
60. According to Superintendent Smith, as of April 26, 2021, the Suffolk County House of Correction (SHOC) has a capacity of 1721 and the Suffolk County Jail (SCJ) has a capacity of 744. Ex. 52, Superintendent Smith, ¶¶ 1-2. According to Superintendent Smith, as of April 26, 2021, the SHOC's current inmate population is 497 and the SCJ's current inmate population is 433. Ex. 52, Superintendent Smith, ¶¶ 1-3. As of April 28, 2021, Suffolk reported 950 incarcerated people (SM Report 5/3/21).
61. According to Sheriff Cocchi, pursuant to M.G.L. c. 127, § 49, 22 inmates have been released on GPS monitored devices since March 2020. Ex. 37, Sheriff Cocchi Affidavit, ¶ 11[f]. According to Sheriff Cocchi no inmates currently have a GPS device as the 22 inmates were all released. Ex. 37, Sheriff Cocchi Affidavit, ¶ 11[f]. According to Sheriff Cocchi, potentially eligible inmates are evaluated weekly for home confinement. Ex. 37, Sheriff Cocchi Affidavit, ¶ 11[f].
62. According to Sheriff Donelan, pursuant to M.G.L. c.127, §49: Since March 2020 18 inmates have been released with a GPS monitor. Ex. 40, Sheriff Donelan Affidavit, ¶ 10. According to Sheriff Donelan, only 1 inmate is currently released with a GPS monitoring device, but Franklin periodically evaluates inmates for participation in the GPS program. Ex. 40, Sheriff Donelan Affidavit, ¶ 10.
63. According to Superintendent Harris, the electronic monitoring program was shut down because of COVID-19 and staffing issues. Ex. 50, Superintendent Harris, ¶ 11.
64. According to Sheriff Cahillane, pursuant to M.G.L. c. 127, §49: 15 inmates have been released on GPS monitored device since March 2020. Ex. 53, Sheriff Cahillane, ¶ 59. According to Sheriff Cahillane, 1 inmate currently has a GPS device and all others have been released. Ex. 53, Sheriff Cahillane, ¶ 59. According to Sheriff Cahillane, potentially eligible inmates are evaluated weekly for home confinement. Ex. 53, Sheriff Cahillane, ¶ 59. Additionally, according to Sheriff Cahillane, currently 6 inmates are on work release (they reside in community housing) under Section 49. Ex. 53, Sheriff Cahillane, ¶ 59.
65. According to Superintendent Vidal, pursuant to M.G.L. c.127, §49: Cumulative number is 41 inmates have been placed in an electronic monitoring program. Ex. 48, Superintendent Vidal Aff. ¶9ff. According to Superintendent Vidal, currently 7 inmates are in the electronic monitoring program. Ex. 48, Superintendent Vidal Aff. ¶9ff. According to Superintendent Vidal, Middlesex continues to evaluate all possibly eligible inmates for consideration for the electronic monitoring program. Ex. 48, Superintendent Vidal Aff. ¶9ff.
66. According to Sheriff Coppinger, there have been no releases pursuant to Section 20B. Ex. 41, Sheriff Coppinger Aff. ¶ 23. According to Sheriff Coppinger, as of April 26, 2021, pursuant M.G.L. c. 127, § 49, Essex had 40 inmates equipped with an electronic monitoring bracelet residing in sober housing and placement is reviewed on an ongoing basis. Ex. 41, Sheriff Coppinger Aff. ¶ 24. According to Sheriff Coppinger, since April 1, 2020, 113

inmates have been paroled from Essex's Pre-Release Center and Women in Transition Center, and an additional 117 inmates have been paroled from the Middleton facility. Ex. 41, Sheriff Coppinger Aff. ¶ 24.

67. No HOCs have received any opinions by any inspectors of prisons to relocate inmates to another location to date under G. L. c.126, § 26. Ex. 37-53, Sheriffs/Superintendents' Affidavits.

Hospitalizations and Fatalities of Incarcerated People, Correctional Officers and Staff at the Houses of Correction

68. From April 4, 2020 to April 28, 2021, the HOCs reported a total of 2 COVID-19 related deaths.³⁰
69. There have been no reported inmate deaths of incarcerated people related to COVID-19 at the HOCs since June 2020.³¹
70. The cumulative reported number of confirmed COVID-19 cases among people incarcerated at the HOCs from April 5, 2020 to April 28, 2021 was 1,657.³²
71. The following HOCs have reported no confirmed COVID-19 cases among incarcerated people from April 5, 2020 to April 28, 2021: Barnstable and Dukes.³³
72. Barnstable has reported conducting a total of 22 tests of incarcerated people between April 5, 2020 and April 28, 2021.³⁴
73. Dukes has reported conducting a total of 24 tests of incarcerated people between April 5, 2020 and April 28, 2021.³⁵
74. Berkshire has reported only 1 confirmed COVID-19 case among incarcerated people from April 5, 2020 to April 28, 2021.³⁶
75. Berkshire has reported conducting a total of 138 tests of incarcerated people between April 5, 2020 and April 28, 2021.³⁷
76. From April 5, 2020 to April 28 2021, the HOCs reported no deaths related to COVID-19 for correctional officers or other staff.³⁸

³⁰ SM Report 5/3/21.

³¹ SM Report 5/3/21.

³² SM Report 5/3/21.

³³ SM Report 5/3/21.

³⁴ SM Report 5/3/21.

³⁵ SM Report 5/3/21.

³⁶ SM Report 5/3/21.

³⁷ SM Report 5/3/21.

³⁸ SM Report 5/3/21.

77. According to the sheriffs, the HOCs reported there were a total of 13 overnight hospitalized of incarcerated people due to COVID-19 related issues between April 4, 2020 to April 15, 2021. Ex. 37-53, Sheriffs/Superintendents' Affidavits.
78. According to the sheriffs, as of April 16, 2021, the following HOCs reported there have been no overnight hospitalizations of incarcerated people directly related to COVID-19 at the following HOCs: Dukes, Barnstable, Worcester, Berkshire, Middlesex, Plymouth and Franklin. Ex. 37-53, Sheriffs/Superintendents' Affidavits.

Physical distancing at congregate facilities

79. According to the CDC, as of March 17, 2021, “[i]n correctional and detention facilities, where physical distancing is often impracticable, it can be difficult to determine who has been in close contact with someone with COVID-19.”³⁹

Vaccinations at the Houses of Correction

80. According to the CDC, community immunity—which is sometimes referred to as herd immunity—is “[a] situation in which a sufficient proportion of a population is immune to an infectious disease (through vaccination and/or prior illness) to make its spread from person to person unlikely.” Even individuals not vaccinated (such as newborns and those with chronic illnesses) are offered some protection because the disease has little opportunity to spread within the community.”⁴⁰
81. The CDC has issued “Information about the Moderna COVID-19 Vaccine” which was last updated on April 5, 2021.⁴¹
82. The HOCs are offering the Moderna vaccine to incarcerated people and staff.⁴²
83. The Moderna vaccine requires two shots taken 28 days apart.⁴³
84. According to the CDC, “[i]t typically takes a few weeks for the body to build immunity” after the vaccination is complete.⁴⁴

³⁹ CDC Correctional Testing.

⁴⁰ Centers for Disease Control and Prevention, Glossary, (hereinafter CDC Glossary) <https://www.cdc.gov/vaccines/terms/glossary.html> (last visited March 11, 2021).

⁴¹ <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/different-vaccines/Moderna.html>.

⁴² Sarah Betancourt, *Prisoners to Start Getting Vaccinated Next Week*, Commonwealth Magazine (Jan. 13, 2021), <https://commonwealthmagazine.org/health/prisoners-to-start-getting-vaccinated-next-week/>.

⁴³ See Centers for Disease Control and Prevention, Moderna, (updated April 5, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/different-vaccines/Moderna.html> (last visited April 25, 2021).

⁴⁴ See Centers for Disease Control and Prevention, Myths and Facts, (updated April 15, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/facts.html> (last visited April 25, 2021).

85. According to the CDC, each vial contains ten doses of Moderna vaccine which must be used within twelve hours of opening.⁴⁵
86. The HOCs are collecting and reporting the number of staff members who have been vaccinated at their facilities.⁴⁶
87. The HOCs are not collecting or reporting the number of staff members who have been vaccinated at another location.⁴⁷
88. The HOCs do not know the percentage of their staff members who have been vaccinated.⁴⁸
89. The HOCs are collecting and reporting the cumulative number of vaccines that they have provided to incarcerated people in their facilities.⁴⁹
90. The HOCs are not reporting the number of currently incarcerated people who have been vaccinated.⁵⁰
91. All of the HOCs have the ability to collect the number of currently incarcerated people who have been vaccinated on a weekly basis.
92. As of April 28, 2021, the cumulative number of incarcerated people that received the voluntary 1st shot of the vaccine at an HOC facility was 3,574.⁵¹ Because this number is cumulative, it includes individuals who may have been released from the HOCs.
93. As of April 28, 2021, the cumulative number of incarcerated people that received the voluntary 2nd shot of the vaccine at an HOC facility was 2,678.⁵² Because this number is cumulative, it includes individuals who may have been released from the HOCs.
94. As of April 28, 2021, the cumulative number of HOC staff that was administered the 1st shot of vaccine by the HOCs was 4,502.⁵³
95. As of April 28, 2021, the cumulative number of HOC staff that was administered the 2nd shot of vaccine by the HOCs was 4,050.⁵⁴
96. The HOCs have not reported either the cumulative number of staff at all HOC facilities, or the number of staff at each HOC facility.

⁴⁵ See Centers for Disease Control and Prevention, Questions about Moderna COVID-19 Vaccine, <https://www.cdc.gov/vaccines/covid-19/info-by-product/moderna/moderna-faqs.html> (last visited April 25, 2021).

⁴⁶ SM Report 5/3/21.

⁴⁷ SM Report 5/3/21.

⁴⁸ SM Report 5/3/21.

⁴⁹ SM Report 5/3/21.

⁵⁰ SM Report 5/3/21.

⁵¹ SM Report 5/3/21.

⁵² SM Report 5/3/21.

⁵³ SM Report 5/3/21.

⁵⁴ SM Report 5/3/21.

97. Long-term care facilities, rest homes and assisted living facilities in Massachusetts were prioritized for vaccination during Phase 1 of the vaccine rollout in the Commonwealth.⁵⁵
98. According to the Massachusetts Department of Public Health Weekly COVID-19 Public Health Report, these “[f]acilities are required to conduct surveillance testing every other week among staff who are fully vaccinated against COVID-19, and weekly among staff who are not fully vaccinated against COVID-19. Fully vaccinated means staff are 14 days or more from receiving the final vaccine in the series.”⁵⁶

Hampden’s Responses to COVID-19

99. According to Sheriff Cocchi, all facilities are thoroughly deep-cleaned on a daily basis on all shifts. According to Sheriff Cocchi, efforts are focused not only on general access locations, but specific attention is given to areas such as door handles, countertops, light fixtures, and all other commonly used surfaces. Ex. 37, Sheriff Cocchi Aff. ¶ 4a.
100. According to Sheriff Cocchi, Hampden has installed additional hand-sanitizing stations throughout all locations. Ex. 37, Sheriff Cocchi Aff. ¶ 4a.
101. According to Sheriff Cocchi, inmates have unlimited access to bars of soap and have been educated on proper hand-washing and personal hygiene techniques. Ex. 37, Sheriff Cocchi Aff. ¶ 4a.
102. According to Sheriff Cocchi, signage has been posted throughout Hampden’s facilities with this information to keep these ideas fresh on everyone’s mind. Ex. 37, Sheriff Cocchi Aff. ¶ 4a.
103. According to Sheriff Cocchi, Hampden is well stocked with PPE such as medical masks, gloves, gowns and protective eyewear for staff and the jail and house of corrections populations when necessary. Ex. 37, Sheriff Cocchi Aff. ¶ 4b.
104. According to Sheriff Cocchi, cleaning supplies remain at sufficient levels while an inventory for all needs is conducted and updated daily. Ex. 37, Sheriff Cocchi Aff. ¶ 4b.
105. According to Sheriff Cocchi, all transportation vehicles are sanitized after each use, and the interior of every department vehicle has been sanitized. Ex. 37, Sheriff Cocchi Aff. ¶ 4c.
106. According to Sheriff Cocchi, Hampden has limited unnecessary movement within and between its facilities. Ex. 37, Sheriff Cocchi Aff. ¶ 4d.
107. According to Sheriff Cocchi, all of Hampden’s staff, and entire justice involved population are required to wear masks at all times, unless in their personal offices alone, or in the case of

⁵⁵ Massachusetts Department of Public Health, Long Term Care Facility COVID-19 Vaccine Guidance, <https://www.mass.gov/info-details/long-term-care-facility-covid-19-vaccine-guidance> (last visited March 11, 2021).

⁵⁶ DPH Weekly Report.

Hampden's inmate and detainee population, when they are alone in their cells or showering. Ex. 37, Sheriff Cocchi Aff. ¶ 5.

108. According to Sheriff Cocchi, Hampden implemented enhanced screening processes at its Intake/Discharge Department to help detect potential signs of COVID-19 for non-vaccinated employees and staff. Ex. 37, Sheriff Cocchi Aff. ¶ 8f.
109. According to Sheriff Cocchi, Hampden's medical department, led by Doctor Thomas Lincoln and Infectious Disease Nurse Stephanie Burgess, have worked closely with Hampden's staff to train them to recognize concerning signs and symptoms. Ex. 37, Sheriff Cocchi Aff. ¶ 8f.
110. According to Sheriff Cocchi, individuals presenting with symptoms of COVID-19 are immediately referred to additional medical screening. Ex. 37, Sheriff Cocchi Aff. ¶ 8f.
111. According to Sheriff Cocchi, all staff was required to participate in a mandatory training that addresses the issue of prevention and the spread of COVID-19. According to Sheriff Cocchi, these trainings have been offered electronically to all staff. Ex. 37, Sheriff Cocchi Aff. ¶ 8g.
112. According to Sheriff Cocchi, employees coming to work are asked a specific set of questions regarding their well-being upon arrival, and questions about recent travel by them or their household members. In addition, according to Sheriff Cocchi, medical staff takes employee body temperatures to screen for fever before being allowed entrance into the facilities. Ex. 37, Sheriff Cocchi Aff. ¶ 8h.
113. According to Sheriff Cocchi, employees have been educated that if they are sick with a fever or have flu-like symptoms such as cough, sore throat, or shortness of breath, they should not report to work and they are instructed to contact their supervisor to report symptoms and to consult their doctor. Ex. 37, Sheriff Cocchi Aff. ¶ 8i.
114. According to Sheriff Cocchi, if an employee is sent home with concerning symptoms, they must follow a medical screening process in order to return to work. Ex. 37, Sheriff Cocchi Aff. ¶ 8j.
115. According to Sheriff Cocchi, Hampden's inmate populations have also been educated with regard to recognizing symptom of COVID-19 and have been encouraged to request health care services if symptoms present themselves. Ex. 37, Sheriff Cocchi Aff. ¶ 8k.
116. According to Sheriff Cocchi, non-vaccinated employees and other staff are prohibited from travel outside the Commonwealth of Massachusetts unless upon their return they quarantine for 14 days using their own vacation time. Ex. 37, Sheriff Cocchi Aff. ¶ 6.
117. Sheriff Cocchi has strongly encouraged staff to practice social distancing measures and mask wearing when in public during their time away from the workplace. Ex. 37, Sheriff Cocchi Aff. ¶ 7.

118. According to Sheriff Cocchi, COVID-19 testing is conducted for all inmates and detainees who are symptomatic upon arrival to the facility within 24-72 hours. According to Sheriff Cocchi, non-symptomatic individuals are tested between 7-9 days after arrival. According to Sheriff Cocchi, anyone who is symptomatic upon arrival is housed in B2 for 14 days with daily medial screening. According to Sheriff Cocchi, anyone who is not symptomatic upon arrival is housed in B1 for 14 days and is also screened daily by medical. According to Sheriff Cocchi, all individuals housed in medical quarantine units in B1 or B2 are then moved to a step down quarantine unit for another 14 day period before entering general population. Ex. 37, Sheriff Cocchi Aff. ¶ 10a.
119. According to Sheriff Cocchi, COVID-19 testing is also provided for anyone in the population who becomes symptomatic or has a known exposure. Ex. 37, Sheriff Cocchi Aff. ¶ 10b.
120. According to Sheriff Cocchi, the HCSO has done two rounds of full investigatory testing of those in its custody at all facilities. According to Sheriff Cocchi, the most recent round of testing that began in mid-November included all staff as well. Ex. 37, Sheriff Cocchi Aff. ¶ 10c.
121. According to Sheriff Cocchi, staff who are symptomatic are required to stay home to quarantine and are scheduled for a COVID-19 test on the first available test date. According to Sheriff Cocchi, if the COVID-19 test result is positive, that individual will remain out of work for a minimum of ten days from the date of symptom onset and may return to work at that point so long as symptoms have progressively improved. According to Sheriff Cocchi, if the staff member's COVID-19 test is negative, the individual may return to work unless they need to remain home based on other medical concerns. Ex. 37, Sheriff Cocchi Aff. ¶ 10d.
122. According to Sheriff Cocchi, if staff have a COVID-19 exposure (as defined by the CDC and DPH guidelines) and is symptomatic the staff is placed on COVID-19 pre-caution pending COVID-19 testing at the first available test date. According to Sheriff Cocchi, if the staff member had a COVID-19 exposure and is not symptomatic that individual will be required to be out of work and tested on the 7th day of exposure. According to Sheriff Cocchi, if the test is positive the individual will remain out of work 10 days from positive test. According to Sheriff Cocchi, if the test result is negative the individual is cleared to return to work. Ex. 37, Sheriff Cocchi Aff. ¶ 10e.

Plymouth's Responses to COVID-19

123. According to Sheriff McDonald, beginning in February 2020, Plymouth enhanced its inmate intake procedure to obtain additional information about travel and exposure to illness. Ex. 38, Sheriff McDonald Aff. ¶ 4a.
124. According to Sheriff McDonald, Plymouth suspended visits by friends, families, and volunteers. According to Sheriff McDonald, to assist with the transition, Plymouth arranged with its telephone vendors to provide two free calls per week. According to Sheriff McDonald, Plymouth reinstated personal visits from August until November and suspended

them again as the Commonwealth began to experience more cases. Ex. 38, Sheriff McDonald Aff. ¶ 4c.

125. According to Sheriff McDonald, Plymouth ceased inmate assignments to the farm operation, community work crew, and other work details outside the Facility. Ex. 38, Sheriff McDonald Aff. ¶ 4e.
126. According to Sheriff McDonald, Plymouth eliminated unnecessary movement within the Facility. Ex. 38, Sheriff McDonald Aff. ¶ 4f.
127. According to Sheriff McDonald, Plymouth established an intake quarantine unit for newly admitted inmates and inmates who leave and return to the Facility, to monitor for signs and symptoms of the virus. According to Sheriff McDonald, inmates remain in the unit until they clear the incubation period. Ex. 38, Sheriff McDonald Aff. ¶ 4g.
128. According to Sheriff McDonald, Plymouth changed recreation and meal schedules to provide more space in the dayrooms of the standard large and small units. According to Sheriff McDonald, inmates and detainees in such units have split recreation schedules so that approximately half are permitted access to the day room at one time. According to Sheriff McDonald, the inmates and detainees in those units had split meal periods, as well, until Plymouth began providing meals to inmates in their cells. According to Sheriff McDonald, Plymouth distributes meals in dormitory units in small groups. Ex. 38, Sheriff McDonald Aff. ¶ 4i.
129. According to Sheriff McDonald, Plymouth maintains an aggressive cleaning schedule for the housing units and conducts daily sanitation of transportation vans. Ex. 38, Sheriff McDonald Aff. ¶ 4j.
130. According to Sheriff McDonald, multiple times each day, workers sanitize the housing units. According to Sheriff McDonald, workers clean all tables, phones, day room chairs, showers, and cell door handles with multi-use disinfectant. According to Sheriff McDonald, laundry workers clean all mop heads and cleaning rags twice each week. According to Sheriff McDonald, maintenance officers regularly use Virex spray to disinfect showers, day room chairs, tables, phones, all door handles, and railings before recreation periods begin. According to Sheriff McDonald, a cleaning crew cleans all visit rooms and sally ports with Virex fogging spray. According to Sheriff McDonald, Plymouth provides the inmates antibacterial soap twice weekly and as needed and provides the inmates the cleaning supplies they need. According to Sheriff McDonald, Plymouth provides toilet paper weekly and as needed. According to Sheriff McDonald, the inmates have access to disinfectant to clean their cells. According to Sheriff McDonald, unit workers have access to nitrex gloves for their assignments, and all inmates have access to plastic gloves at the officer panel for cleaning. According to Sheriff McDonald, Plymouth runs a laundry unit to keep clothing clean. Ex. 38, Sheriff McDonald Aff. ¶ 4k.
131. According to Sheriff McDonald, Plymouth educated staff and inmates on sanitation practices and proper social distancing. Ex. 38, Sheriff McDonald Aff. ¶ 4l.

132. According to Sheriff McDonald, Plymouth conducts temperature screenings for all employees, contractors, and visitors to the Facility. Ex. 38, Sheriff McDonald Aff. ¶ 4m.
133. According to Sheriff McDonald, Plymouth has provided masks for all Facility staff and inmates. According to Sheriff McDonald, Plymouth requires all staff to wear masks in the Facility. According to Sheriff McDonald, Plymouth requires inmates to wear masks while out of their cells unless eating or showering. Ex. 38, Sheriff McDonald Aff. ¶ 4n.
134. According to Sheriff McDonald, Plymouth has installed hand sanitizer dispensers in every housing unit. Ex. 38, Sheriff McDonald Aff. ¶ 4o.
135. According to Sheriff McDonald, Plymouth distributed two two-layer cloth masks to each inmate and issues masks to each inmate at intake. Ex. 38, Sheriff McDonald Aff. ¶ 4p.
136. According to Sheriff McDonald, Plymouth has ordered non-essential staff to remain away from the Facility. Ex. 38, Sheriff McDonald Aff. ¶ 4q.
137. According to Sheriff McDonald, on November 20, 2020, Plymouth divided the maintenance and garage staff to reduce the number of employees on duty at any time. Ex. 38, Sheriff McDonald Aff. ¶ 4r.
138. According to Sheriff McDonald, on December 5, 2020, Plymouth began providing meals to inmates in their cells. Ex. 38, Sheriff McDonald Aff. ¶ 4s.
139. According to Sheriff McDonald, as of 10:00AM on April 20, 2021, there were 519 inmates and detainees at the Facility. According to Sheriff McDonald, the Facility originally was designed to house 1250 inmates, and has a maximum capacity of 1742. Ex. 38, Sheriff McDonald, ¶ 5.

Berkshire's Responses to COVID-19

140. According to Superintendent Little, as of April 19, 2021, with the exception of 2 inmates who are double bunked, every inmate has their own cell, with their own toilet, sink, hot water, and soap. According to Superintendent Little, all inmate cells have reinforced cement walls separating them. According to Superintendent Little, there is no dormitory-style housing. Ex. 39, Superintendent Little Aff. ¶ 5.
141. According to Superintendent Little, extra soap has been distributed to every inmate. Ex. 39, Superintendent Little Aff. ¶ 5.
142. According to Superintendent Little, every inmate is provided with an adequate supply of hygiene and cleaning materials. Ex. 39, Superintendent Little Aff. ¶ 5.
143. According to Superintendent Little, every inmate is provided with three masks which are laundered. Ex. 39, Superintendent Little Aff. ¶ 5.
144. According to Superintendent Little, every inmate is required to wear his mask when outside of his cell. Ex. 39, Superintendent Little Aff. ¶ 5.

145. According to Superintendent Little, every incoming inmate is medically screened for COVID-19 (asked a series of questions) and has his temperature taken in intake. Ex. 39, Superintendent Little Aff. ¶ 5.
146. According to Superintendent Little, Police Officers no longer enter the building when bringing in an inmate; the inmate is handed off from the police to BCSO staff outside the building where the inmate is then masked before entering the building. Ex. 39, Superintendent Little Aff. ¶ 5.
147. According to Superintendent Little, every incoming inmate is quarantined for 14 days. Ex. 39, Superintendent Little Aff. ¶ 5.
148. According to Superintendent Little, staff take every inmate's temperature twice a day with an infrared (no touch) thermometer. Ex. 39, Superintendent Little Aff. ¶ 5.
149. According to Superintendent Little, medication carts have been retrofitted with Plexiglas shields to separate inmates from nursing staff. Ex. 39, Superintendent Little Aff. ¶ 5.
150. According to Superintendent Little, all staff are screened before entering the secure area of the facility (asked COVID questions and have their temperatures taken). Ex. 39, Superintendent Little Aff. ¶ 5.
151. According to Superintendent Little, staff also are required to wear masks while on duty as well as engage in frequent and thorough handwashing and social distancing when possible. Ex. 39, Superintendent Little Aff. ¶ 5.
152. According to Superintendent Little, all inmates have been educated on the COVID-19 virus, symptoms of the virus, how to protect themselves from it, good hygiene practices, how to practice social distancing. Ex. 39, Superintendent Little Aff. ¶ 5.
153. According to Superintendent Little, all staff have been educated on the COVID-19 virus, the symptoms of the virus, how to protect themselves from it, good hygiene practices, how and when to don and doff personal protective equipment. Ex. 39, Superintendent Little Aff. ¶ 5.
154. According to Superintendent Little, signs have been posted throughout the facility reinforcing thorough and frequent handwashing, social distancing, proper mask wearing and other COVID protection measures. Ex. 39, Superintendent Little Aff. ¶ 5.
155. According to Superintendent Little, discretionary transfers to and from other county facilities and the DOC were suspended through March 1, 2021. Ex. 39, Superintendent Little Aff. ¶ 5)
156. According to Superintendent Little, all general public visitation has been suspended. (Ex. 39, Superintendent Little Aff. ¶ 5.
157. According to Superintendent Little, non-contact professional visits are still taking place with leave for contact visits if necessary. Ex. 39, Superintendent Little Aff. ¶ 5.

158. According to Superintendent Little, inmate access to telephones has been expanded to offset the temporary loss of visits. In addition, according to Superintendent Little, through December 31, 2020, every inmate was provided two free 30-minute calls each week. Ex. 39, Superintendent Little Aff. ¶ 5.
159. According to Superintendent Little, Berkshire has implemented inmate video visits for personal and professional visits. Ex. 39, Superintendent Little Aff. ¶ 5.
160. According to Superintendent Little, all volunteers have been temporarily excluded from the facility. Ex. 39, Superintendent Little Aff. ¶ 5.
161. According to Superintendent Little, only essential vendors (e.g. HIV testing, dental services, etc.) are permitted in the facility. According to Superintendent Little, non-essential vendors have been excluded. Ex. 39, Superintendent Little Aff. ¶ 5.
162. According to Superintendent Little, all volunteer visits of any type have been suspended. According to Superintendent Little, all facility tours have been discontinued. Ex. 39, Superintendent Little Aff. ¶ 5.
163. According to Superintendent Little, non-essential staff were kept out of the facility until March 8, 2021. Ex. 39, Superintendent Little Aff. ¶ 5.
164. According to Superintendent Little, the Inmate Work Release Program has been suspended. Ex. 39, Superintendent Little Aff. ¶ 5.
165. According to Superintendent Little, all non-essential outside medical services have been temporarily discontinued. According to Superintendent Little, inmates with urgent medical needs, beyond the care level provided by Berkshire medical staff, are still sent to the local emergency room or to outside specialists when required. According to Superintendent Little, upon return, they are quarantined for 14 days. Ex. 39, Superintendent Little Aff. ¶ 5.
166. According to Superintendent Little, Police Departments have been asked to implement COVID-19 screening procedures at their stations prior to anyone being transported to Berkshire facilities. Ex. 39, Superintendent Little Aff. ¶ 5.
167. According to Superintendent Little, employees and inmates experiencing signs of the virus are instructed to immediately notify appropriate BCSO staff. According to Superintendent Little, employees have been educated that if they are sick with a fever or have flu-like symptoms such as fever, cough, sore throat, shortness of breath, sudden loss of smell or taste, etc., they should not report to work and should consult their primary care provider. Ex. 39, Superintendent Little Aff. ¶ 5.
168. According to Superintendent Little, maintenance crews are working extended hours and together with other staff engage a vigorous cleaning protocol on every shift on a daily basis throughout the entire facility. According to Superintendent Little, efforts are focused not only on general access locations, but specific attention is given to areas such as door handles, railings, countertops, light switches, phones, computer keyboards and mice, tables, toilets, faucets, and other commonly touched surfaces. Ex. 39, Superintendent Little Aff. ¶ 5.

169. According to Superintendent Little, administrative staff conduct daily inventories of cleaning supplies, personal protective equipment, and other necessary supplies and equipment; Administrative staff communicate daily to discuss any sick staff or inmates, modifications to staffing plans, and the latest information from the CDC, DPH, Berkshire Medical Center and other sources. Ex. 39, Superintendent Little Aff. ¶ 5.
170. According to Superintendent Little, movement into and out of pods is extremely limited. Ex. 39, Superintendent Little Aff. ¶ 5.
171. According to Superintendent Little, Berkshire purchased and have been using for the past three months a portable fogging machine that disperses an organic, anti-pathogenic aerosol solution in common areas throughout the jail and in departmental vehicles. According to Superintendent Little, the chemical contains certified organic ingredients that are safe for humans. According to Superintendent Little, upon information and belief, this same chemical is used by McDonald's® and Hertz® to clean their facilities and vehicles. Ex. 39, Superintendent Little Aff. ¶ 5.
172. According to Superintendent Little, there is onsite COVID-19 vaccination for staff and inmates. Ex. 39, Superintendent Little Aff. ¶ 5.
173. According to Superintendent Little, Berkshire has developed internal capabilities in collaboration with local health care systems and hospitals to immediately isolate and test any staff or inmate that is symptomatic using in-house medical staff and local hospital lab services to process tests and using expedite test results receiving test results within a few hours of testing. Ex. 39, Superintendent Little Aff. ¶ 5.
174. According to Superintendent Little, coordination through Dr. Wurcel for Harvard Medical Students to have in person "Ask Me Anything" sessions with inmates to educate them about the COVID-19 vaccine, which occurred on March 26, 2021. Ex. 39, Superintendent Little Aff. ¶ 5.

Franklin's Response to COVID-19

175. According to Sheriff Donelan, all new inmates are tested for the COVID-19 upon entrance to the facility. Ex. 40, Sheriff Donelan Aff. ¶ 4a.
176. According to Sheriff Donelan, all inmate visits were suspended effective March 13, 2020. According to Sheriff Donelan, inmate visits were reinstated with a modified schedule starting March 30, 2021. According to Sheriff Donelan, starting March 30, 2021, inmates in all housing units have a weekly one hour, non-contact visit in the visiting area. Inmates continue to have access to video phone visits, tablets and e-messaging to communicate with their families. Ex. 40, Sheriff Donelan Aff. ¶ 4b.
177. According to Sheriff Donelan, business visits (equipment maintenance, pest control) are limited and visitors must conform to agency policy and procedures relating to screening and PPE. According to Sheriff Donelan, inspections conducted by the Department of

Corrections, Department of Public Health and other accreditation agencies are conducted virtually or on-site with limited access to inmate population. According to Sheriff Donelan, all auditors are required to adhere to agency policy and procedures related to COVID-19. Ex. 40, Sheriff Donelan Aff. ¶ 4c.

178. According to Sheriff Donelan, clergy visits are conducted via teleconference and individual requests for clergy are dealt with on a case-by-case basis with the clergy available via contact visits within individual housing units. Visits within individual housing units are held in accordance with COVID-19 social distancing and PPE guidelines. Pre-release inmates (who are vaccinated) may attend off-site religious services supervised by a Corrections Officer. Proper social distancing and PPE protocols apply. Ex. 40, Sheriff Donelan Aff. ¶ 4d.
179. According to Sheriff Donelan, in March 2020 and as of April 16, 2021, all Community Service inmates were restricted to on-site work assignments. Ex. 40, Sheriff Donelan Aff. ¶ 4e.
180. According to Sheriff Donelan, in March 2020, inmate movement within the facility had been limited in an effort to reduce the chances of transmitting the virus. According to Sheriff Donelan, as of March 2, 2021, inmate movement has been extended and inmates are now attending programs outside of the housing units in the library and classroom. Ex. 40, Sheriff Donelan Aff. ¶ 4f.
181. According to Sheriff Donelan, in March 2020 Franklin established a Quarantine Unit for all new intakes. According to Sheriff Donelan, the Quarantine Unit is still in effect as of April 16, 2021. Ex. 40, Sheriff Donelan Aff. ¶ 4h.
182. According to Sheriff Donelan, policies and procedures instituted in March 2020 continue to be in place as of April 16, 2021, with additional procedures established for distribution of the COVID-19 Vaccine. According to Sheriff Donelan, such policies include (Directive: COVID-19 Employee Return to Work Protocol, Directive: COVID-19 Personal Protective Equipment, Directive: Quarantine of Inmates, and Directive: COVID-19 Vaccine). Additionally, according to Sheriff Donelan, safety measures were added to Franklin's booking policy, sanitation and hygiene policies, and policies that deal with the distribution of medication and the MAT Program. Ex. 40, Sheriff Donelan Aff. ¶ 4j.
183. According to Sheriff Donelan, on March 2, 2021, all full-time FCSO employees returned to work. All support staff (part-time clinicians, interns and other per diem staff) have returned to work with a reduced schedule. Ex. 40, Sheriff Donelan Aff. ¶ 4j-k.
184. According to Sheriff Donelan, Franklin policy and procedure includes adherence to current travel restrictions established by the Governor's office. Ex. 40, Sheriff Donelan Aff. ¶ 4l.
185. According to Sheriff Donelan, facility maintenance staff continue daily deep cleaning methods for all areas of facility including the Quarantine Unit. According to Sheriff Donelan, agency purchased "Victory Electrostatic Sanitizing Equipment" to clean potentially exposed areas. Ex. 40, Sheriff Donelan Aff. ¶ 4m.

186. According to Sheriff Donelan, Franklin continues to provide in-service training on infectious diseases and Franklin COVID-19 related policy and procedures. Ex. 40, Sheriff Donelan Aff. ¶ 4n.
187. According to Sheriff Donelan, Franklin continues providing inmates with educational information relating to COVID-19, COVID-19 practices and the COVID-19 vaccine. According to Sheriff Donelan, sessions offered in all housing units via internal TV network, Zoom Meetings, and live presentation by medical department. Ex. 40, Sheriff Donelan Aff. ¶ 4o.

Essex's Responses to COVID-19

188. According to Sheriff Coppinger, all facilities undergo a thorough deep-cleaning to disinfect and sanitize Essex' facilities, and these efforts continue daily on all three shifts at all locations. According to Sheriff Coppinger, efforts are focused not only on general access locations, but specific attention is given to areas such as door handles, countertops, light fixtures, or anywhere people touch. Ex. 41, Sheriff Coppinger Aff. ¶ 3a.
189. According to Sheriff Coppinger, Essex installed additional hand-sanitizing stations throughout all locations, and inmates have access to these hand sanitizers. According to Sheriff Coppinger, inmates have also been given additional bars of soap and educated on proper hand-washing and personal hygiene techniques. According to Sheriff Coppinger he has been advised by staff that every occupied cell housing inmate has a sink with hot water to allow for hand-washing and personal hygiene. According to Sheriff Coppinger, for those inmates detained in a dormitory style setting, inmates also have access to a sink with hot water. Ex. 41, Sheriff Coppinger Aff. ¶ 3b.
190. According to Sheriff Coppinger, signage, in both Spanish and English, has been posted throughout our facilities with this information to keep hand-washing and personal hygiene techniques fresh on everyone's mind. Ex. 41, Sheriff Coppinger Aff. ¶ 3b.
191. According to Sheriff Coppinger, Essex is ensuring it is well stocked with medical masks, gloves, gowns, Tyvek suits and protective eyewear for staff. According to Sheriff Coppinger, it is mandatory that all inmates, staff and visitors to the facilities are wearing protective masks. According to Sheriff Coppinger, cleaning supplies remain at sufficient levels while an inventory for all needs is conducted and updated daily. Ex. 41, Sheriff Coppinger Aff. ¶ 3c.
192. According to Sheriff Coppinger, all general public visitation has currently been suspended at Essex' Middleton, Lawrence, and Salisbury locations due to the COVID positive rates prevalent in the local communities. Ex. 41, Sheriff Coppinger Aff. ¶ 3d.
193. According to Sheriff Coppinger, programming, via outside vendors is continuing at all three locations. According to Sheriff Coppinger, to reduce the risk of COVID spread, programming personnel are required to socially distance, class sizes have been reduced and inmates from various housing units do not interact. According to Sheriff Coppinger, classrooms are sanitized and disinfected between each use. Ex. 41, Sheriff Coppinger Aff. ¶ 3f.

194. According to Sheriff Coppinger, programming conducted via internal resources, i.e. Department Chaplain, inmate “peer-to-peer” led groups, etc. is continuing. According to Sheriff Coppinger, counseling and treatment for substance abuse and mental illness is also continuing. Ex. 41, Sheriff Coppinger Aff. ¶ 3g.
195. According to Sheriff Coppinger, as of April 26, 2021, all volunteer visits of any type have resumed. Ex. 41, Sheriff Coppinger Aff. ¶ 3h.
196. According to Sheriff Coppinger, all facility tours have currently been discontinued. Ex. 41, Sheriff Coppinger Aff. ¶ 3i.
197. According to Sheriff Coppinger, major outside vendors who provide critical services, i.e. Wellpath (our primary health care provider), Acadia Healthcare, Aramark Food Services, Spectrum Health Systems, etc. have remained operational at all facilities to serve the needs of the inmate population. Ex. 41, Sheriff Coppinger Aff. ¶ 4a.
198. According to Sheriff Coppinger, Medication Assisted Treatment has continued for eligible inmates per Essex policy. Ex. 41, Sheriff Coppinger Aff. ¶ 4b.
199. According to Sheriff Coppinger, Essex implemented an enhanced screening process at its Intake Unit to help detect signs of COVID-19. According to Sheriff Coppinger, WellPath has taken the lead on this working closely with Essex staff. According to Sheriff Coppinger, this process has been in effect since early February 2020 and is continuing as of January 13, 2021. According to Sheriff Coppinger, inmates presenting with symptoms of COVID-19 are immediately referred to additional medical screening. Ex. 41, Sheriff Coppinger Aff. ¶ 5a.
200. According to Sheriff Coppinger, employees coming to work are asked a specific set of questions regarding their well-being upon arrival. In addition, according to Sheriff Coppinger, everyone entering the three facilities is required to have a temperature check by means of an infra-red thermometer, which is part of the entry screening process upon arrival. Ex. 41, Sheriff Coppinger Aff. ¶ 5b.
201. According to Sheriff Coppinger, employees have been educated that if they are sick with a fever or have flu-like symptoms such as cough, sore throat, or shortness of breath, they should not report to work and should consult their doctor. According to Sheriff Coppinger, inmates have also been educated in this regard and encouraged to request health care services if symptoms present themselves. According to Sheriff Coppinger, employees, inmates and vendors exhibiting these symptoms, or who have contact with COVID positive individuals are routinely given COVID tests. Ex. 41, Sheriff Coppinger Aff. ¶ 5c.
202. According to Sheriff Coppinger, Essex no longer routinely accepts “safekeeps” from local and state police departments. Ex. 41, Sheriff Coppinger Aff. ¶ 5d.
203. According to Sheriff Coppinger, a quarantine unit has been set up internally at Essex’ Middleton facility to house and monitor new Pre-Trial and/or Sentenced inmates for a 7-day period to monitor for signs of COVID-19. According to Sheriff Coppinger, at the conclusion of the 7 day period, inmates are COVID tested. According to Sheriff Coppinger, COVID-19 positive inmates remain in quarantine, and COVID-19 negative inmates are

offered vaccination before they are reclassified to other housing units. Ex. 41, Sheriff Coppinger Aff. ¶ 5e.

204. According to Sheriff Coppinger, Essex' Medical Housing Unit, operated by WellPath, is equipped with two "negative pressure" rooms to assist with treatment/screening of COVID-19 cases. According to Sheriff Coppinger, routine medical care is also available 24/7. Ex. 41, Sheriff Coppinger Aff. ¶ 5f.
205. According to Sheriff Coppinger, inmates who are currently COVID positive are only housed in a single cell or with another COVID positive individual. In addition, according to Sheriff Coppinger, any inmate with a known exposure to a COVID positive individual is classified as "suspected," and is promptly COVID tested and housed with other inmates who have suspected COVID exposure. Ex. 41, Sheriff Coppinger Aff. ¶ 11.
206. According to Sheriff Coppinger, Essex currently has an ample supply of Personal Protective Equipment (PPE's) and cleaning supplies which are routinely replenished. Ex. 41, Sheriff Coppinger Aff. ¶ 12.
207. According to Sheriff Coppinger, Essex utilizes electro-static cleaners throughout the facility for sanitation and disinfection. Ex. 41, Sheriff Coppinger Aff. ¶ 13.

Dukes' Responses to COVID-19

208. According to Sheriff Ogden, Dukes is continuing with programming and online learning via edovo tablets, which have been issued to inmates on a continuous basis. Ex. 43, Sheriff Ogden Aff. ¶ 1.
209. According to Sheriff Ogden, Dukes continues to use telehealth conferencing for mental health evaluations and sessions for inmates. Ex. 43, Sheriff Ogden Aff. ¶ 2.
210. According to Sheriff Ogden, Dukes reduced attorney visits to no contact, and suspended all personal visits. Ex. 43, Sheriff Ogden Aff. ¶ 3.
211. According to Sheriff Ogden, Dukes has kept non-essential staff from entering the facility consistent with the Governor's order for Executive Branch personnel. Ex. 43, Sheriff Ogden Aff. ¶ 4.
212. According to Sheriff Ogden, the Inmate Litter Pickup program has been suspended. Ex. 43, Sheriff Ogden Aff. ¶ 5.
213. According to Sheriff Ogden, Dukes implemented a rigorous cleaning regimen of the entire facility, three times daily, paying close attention to any contact surfaces to include doorknobs, tables, computers, etc. According to Sheriff Ogden, this included the use of disinfectant solutions. Ex. 43, Sheriff Ogden Aff. ¶ 6.
214. According to Sheriff Ogden, Dukes suspended all incoming and outgoing transfers. Ex. 43, Sheriff Ogden Aff. ¶ 7.

215. According to Sheriff Ogden, Dukes implemented a procedure for sanitization for all vehicles required for transportation. Ex. 43, Sheriff Ogden Aff. ¶ 8.
216. According to Sheriff Ogden, Police Departments have been instructed to implement COVID-19 screening procedures prior to anyone being transported for booking at Duke's Regional Lockup. Ex. 43, Sheriff Ogden Aff. ¶ 9.
217. According to Sheriff Ogden, Dukes has implemented screening procedures for any new intakes to include a screening questionnaire and temperature readings. According to Sheriff Ogden, any positive screens will be isolated in a single occupancy cell and monitored until released. Ex. 43, Sheriff Ogden Aff. ¶ 10.
218. According to Sheriff Ogden, Dukes dispensed personal protective equipment to Officers and has a supply of gloves, masks, and gowns on standby for use when needed. Ex. 43, Sheriff Ogden Aff. ¶ 11.
219. According to Sheriff Ogden, Dukes has educated staff and inmates on proper handwashing and social distancing procedures. Ex. 43, Sheriff Ogden Aff. ¶ 12.
220. According to Sheriff Ogden, Dukes implemented screening procedures for all staff entering the facility to include a medical questionnaire and temperature readings. According to Sheriff Ogden, both intakes and staff are mandated to use a COVID-19 Screening Questionnaire. Ex. 43, Sheriff Ogden Aff. ¶ 13.

Worcester's Responses to COVID-19

221. According to Superintendent Tuttle, all areas of the facility are being sanitized multiple times a day. Ex. 44, Superintendent Tuttle Aff. ¶ 3.
222. According to Superintendent Tuttle, all attorneys are asked COVID-19 screening questions and required to wear masks. Ex. 44, Superintendent Tuttle Aff. ¶ 4.
223. According to Superintendent Tuttle, any staff member who has been symptomatic must self-quarantine at home and may not return to work until cleared. Ex. 44, Superintendent Tuttle Aff. ¶ 5.
224. According to Superintendent Tuttle, all incoming inmates are screened by medical personnel for symptoms or risk associated behavior and then placed in an isolated unit for a fourteen day quarantine. Ex. 44, Superintendent Tuttle Aff. ¶ 6.
225. According to Superintendent Tuttle, if an inmate in a housing unit develops upper respiratory symptoms/fever that inmate is moved to quarantine. Ex. 44, Superintendent Tuttle Aff. ¶ 7.
226. According to Superintendent Tuttle, if the inmate was housed in a cell with a roommate, the same process described in the immediately preceding paragraph will occur for that inmate as well. Ex. 44, Superintendent Tuttle Aff. ¶ 8.

227. According to Superintendent Tuttle, all COVID-19 testing is performed on-site with a private vendor. Ex. 44, Superintendent Tuttle Aff. ¶ 8.
228. According to Superintendent Tuttle, all staff inside the secured perimeter must wear a mask. Ex. 44, Superintendent Tuttle Aff. ¶ 9.
229. According to Superintendent Tuttle, all officers who accompany an inmate to an outside hospital visit must wear masks and gloves. Ex. 44, Superintendent Tuttle Aff. ¶ 10.
230. According to Superintendent Tuttle, all inmates must wear masks when out of cells. Ex. 44, Superintendent Tuttle Aff. ¶ 11.
231. According to Superintendent Tuttle, soap is available for use by the inmates at no cost. Ex. 44, Superintendent Tuttle Aff. ¶ 13.

Barnstable's Responses to COVID-19

232. According to Sheriff Cummings, since March 26, 2020, all inmates have been housed in their own single cell through April 22, 2021. According to Sheriff Cummings, there are no "bunk rooms" or common sleeping areas at the Barnstable County Correctional Facility. Ex. 45, Sheriff Cummings Aff. ¶ 10a.
233. According to Sheriff Cummings, since March 26, 2020, all inmates have their own sink, hot water, and bathroom facilities through April 22, 2021. According to Sheriff Cummings, most inmates have access to daily showers, and access to free soap and cleaning supplies to clean their cells. Ex. 45, Sheriff Cummings Aff. ¶ 10b.
234. According to Sheriff Cummings, inmates have been provided with education packets and time out of their cells and have been given access to free phone calls to their families. Ex. 45, Sheriff Cummings Aff. ¶ 10c.
235. According to Sheriff Cummings, inmates have been given masks and have been educated regarding social distancing. According to Sheriff Cummings, inmates are required to wear their masks when out of their cell. Ex. 45, Sheriff Cummings Aff. ¶ 10d.
236. According to Sheriff Cummings, alcohol based cleaning products and Virex are being used in the Barnstable County Correctional Facility and staff may bring their own cleaning products for personal use into the facility. According to Sheriff Cummings, the common areas are cleaned more frequently. Ex. 45, Sheriff Cummings Aff. ¶ 10e.
237. According to Sheriff Cummings, incoming inmates are screened for possible exposure or symptoms of COVID-19 prior to entering the Barnstable County Correctional Facility. Ex. 45, Sheriff Cummings Aff. ¶ 10f.
238. According to Sheriff Cummings, all new non-symptomatic admissions to the Barnstable County Correctional Facility are housed in POD-K in a single cell, placed on a Non-Constant Observation Medical Watch, and monitored by medical for symptoms of COVID-19 for a period of fourteen (14) days. According to Sheriff Cummings, as a precaution, during the fourteen (14) day quarantine, new inmate movement is limited. According to

Sheriff Cummings, these inmates are permitted out of the cell for a shower and phone use only. Additionally, according to Sheriff Cummings, all inmates who leave the Barnstable County Correctional Facility and leave the custody of Barnstable County Correctional Facility staff, such as an in-person court appearance, are housed in POD-K and quarantined for fourteen (14) days upon their return to the facility. Ex. 45, Sheriff Cummings Aff. ¶ 10g.

239. According to Sheriff Cummings, a separate Pod, D-Pod, has been designated as a Medical Isolation Unit with a Negative Air-Flow Cell for any inmate exhibiting signs or symptoms of COVID-19. According to Sheriff Cummings, Personal Protective Equipment (PPE) has been placed into Pod D for officer safety. According to Sheriff Cummings, measures have been taken to ensure that should an inmate need treatment for the COVID-19 virus, appropriate medical and safety protocols are in place. Ex. 45, Sheriff Cummings Aff. ¶ 10h.
240. According to Sheriff Cummings, food service has been modified for Pods K and D. Food is served on disposable Styrofoam trays in these Pods. Ex. 45, Sheriff Cummings Aff. ¶ 10i.
241. According to Sheriff Cummings, inmates in all Pods eat in their cells for social distancing. Ex. 45, Sheriff Cummings Aff. ¶ 10j.
242. According to Sheriff Cummings, lock-ups from police agencies have been suspended. Ex. 45, Sheriff Cummings Aff. ¶ 10k[i].
243. According to Sheriff Cummings, at the request of the Courts, video conferencing is being used for Court appearances to reduce the need for transportation and in court appearances. Ex. 45, Sheriff Cummings Aff. ¶ 10k[ii].
244. According to Sheriff Cummings, inmate transfers have been limited. Ex. 45, Sheriff Cummings Aff. ¶ 10k[iv].
245. According to Sheriff Cummings, all Community Service work crews are suspended. Ex. 45, Sheriff Cummings Aff. ¶ 10k[vi].
246. According to Sheriff Cummings, Work Release has been suspended. Ex. 45, Sheriff Cummings Aff. ¶ 10k[vii].
247. According to Sheriff Cummings, the Oyster Bag inmate construction project has been suspended. Ex. 45, Sheriff Cummings Aff. ¶ 10k [viii]. According to Sheriff Cummings, non-emergency off-site medical consultations are limited. Ex. 45, Sheriff Cummings Aff. ¶ 10k[ix].
248. According to Sheriff Cummings, all student groups/tours of any type of Barnstable County Correctional Facility are cancelled until further notice. Ex. 45, Sheriff Cummings Aff. ¶ 10k[x].
249. According to Sheriff Cummings, the use of volunteers for inmate programs including religious groups, AA, NA and education has been suspended. Ex. 45, Sheriff Cummings Aff. ¶ 10k[xi].

250. According to Sheriff Cummings, all staff of the Barnstable County Sheriff's Office are required to follow workplace protocols to limit the spread of COVID-19. According to Sheriff Cummings, staff attendance at conferences has been cancelled until further notice. According to Sheriff Cummings, the staff are required to comply with all Massachusetts Travel Orders as they are revised. Ex. 45, Sheriff Cummings Aff. ¶ 11a.
251. According to Sheriff Cummings, in-person staff roll calls have been suspended and other social distancing and safety measures are in place within the facility. Ex. 45, Sheriff Cummings Aff. ¶ 11b.
252. According to Sheriff Cummings, the communal salad bar and soup tureen in the cafeteria have been closed and all food is prepackaged. Ex. 45, Sheriff Cummings Aff. ¶ 11c.
253. According to Sheriff Cummings, supervisors have been directed to have medical immediately evaluate any staff believed to be presenting with signs of COVID-19, and the staff shall be sent home if the staff presents a risk to others. Ex. 45, Sheriff Cummings Aff. ¶ 11d.
254. According to Sheriff Cummings, Public Health Information is posted on the front door of all Barnstable County Sheriff's Office locations and in all inmate housing units. According to Sheriff Cummings, staff safety information is repeatedly reinforced. According to Sheriff Cummings, floor markings have been added to enforce social distancing, where applicable. Ex. 45, Sheriff Cummings Aff. ¶ 11e.
255. According to Sheriff Cummings, staff related information concerning COVID-19 updates and safety measures is posted on the Human Resources section of the Intranet. Ex. 45, Sheriff Cummings Aff. ¶ 11f.
256. According to Sheriff Cummings, the staff are reminded not to report to work if they are experiencing symptoms associated with the flu or COVID-19. (Ex. 45, Sheriff Cummings Aff. ¶ 11g)
257. According to Sheriff Cummings, the Barnstable County Sheriff's Office currently contracts with Wellpath Health Services (Wellpath) for medical, mental health, and nursing services. According to Sheriff Cummings, inmates in custody have access to 24/7 medical care. Ex. 45, Sheriff Cummings Aff. ¶ 8.
258. According to Sheriff Cummings, as of April 20, 2021, Barnstable has tested eight (8) inmates on-site and sixteen (16) inmates have been tested off-site in connection with medical appointments. According to Sheriff Cummings, as of April 20, 2021, Barnstable has had no confirmed positive cases of COVID-19 amongst the inmate population. Ex. 45, Sheriff Cummings Aff. ¶ 9.
259. According to Sheriff Cummings, beginning on March 26, 2020, Barnstable has made a number of operational changes to limit the numbers of persons the staff and inmates come into contact with. Ex. 45, Sheriff Cummings Aff. ¶ 10.

Bristol's Responses to COVID-19

260. According to Superintendent Souza, all inmate/detainee visitation, with the sole exception of attorney and clergy visitation, has been cancelled until further notice. Ex. 47, Superintendent Souza Aff. ¶ 3.
261. According to Superintendent Souza, volunteer assisted programs have been suspended but program material continue to be available to those incarcerated. Ex. 47, Superintendent Souza Aff. ¶ 3.
262. According to Superintendent Souza, attorneys and clergy, who visit as well as all BCSO staff, are medically screened prior to entrance by questions relating to COVID-19 symptoms and by body temperature assessment. Ex. 47, Superintendent Souza Aff. ¶ 3.
263. According to Superintendent Souza, inmates who are admitted to custody are medically screened by CPS staff prior to being admitted to the general population with the intake area and holding cells being continually sanitized. Ex. 47, Superintendent Souza Aff. ¶ 3.
264. According to Superintendent Souza, protocol requires that any admission suspected of having contracted COVID-19 is provided a PPE mask, placed in isolation for 14 days and continually monitored for symptoms and followed continually by CPS medical personnel as well as the Mental Health Department. Ex. 47, Superintendent Souza Aff. ¶ 3.
265. According to Superintendent Souza, all housing units are sanitized no less than three times per day. Fresh air is constantly circulated by opening windows and utilizing handler/vents throughout the day. Ex. 47, Superintendent Souza Aff. ¶ 3.
266. According to Superintendent Souza, all meals are provided in the housing or cells and inmates do not congregate for meals in the main dining hall. Ex. 47, Superintendent Souza ¶ 3.
267. According to Superintendent Souza, outside recreation is done as usual daily except that it is now done on split schedule. Ex. 47, Superintendent Souza Aff. ¶ 3.
268. According to Superintendent Souza, staff and inmates have been educated as to proper sanitary procedure, including repeated hand washing, and social distancing and hand sanitizers as well as soap and water are readily available to all inmates and staff. Ex. 47, Superintendent Souza Aff. ¶ 3.
269. According to Superintendent Souza, any inmate placed into isolation pending testing or having received positive results is allowed to keep their personal property to include books, magazines, mail, canteen and have access to phone calls. Ex. 47, Superintendent Souza Aff. ¶ 3.
270. According to Superintendent Souza, in consultation with the Medical Director and Clinical Team of our contractual Medical vendor CPS, a practice was instituted in June of 2020 to collect sick clips on 1st and 2nd shift each day to monitor and triage for any COVID symptoms or flu like symptoms. According to Superintendent Souza, unit nurses immediately conduct

- in person assessments of sick slips indicating these symptoms. Ex. 47, Superintendent Souza Aff. ¶ 3.
271. According to Superintendent Souza, all inmates are provided two cloth masks. Ex. 47, Superintendent Souza Aff. ¶ 3.
272. According to Superintendent Souza, Bristol has a mandatory mask-wearing policy for all pretrial detainees and inmates, corrections officers and staff. Ex. 47, Superintendent Souza Aff. ¶ 3.
273. According to Superintendent Souza, command staff meetings are conducted to discuss and determine additional protocols to implement in response to the COVID-19 situation. According to Superintendent Souza, the daily command staff meetings also involve reviewing recommendations from infectious disease medical professionals. Ex. 47, Superintendent Souza Aff. ¶ 3.
274. According to Superintendent Souza, all staff entering the facility are required to wear protective masks for the duration of their shifts. According to Superintendent Souza, masks are provided by the BCSO, and all staff have been instructed as to effective mask wearing. According to Superintendent Souza, vendors, contractors, clergy and attorneys will be issued masks if they do not have one. Ex. 47, Superintendent Souza Aff. ¶ 3.
275. According to Superintendent Souza, all cells within the facility are cleaned and sanitized after each use as well as high traffic areas within the facility. Ex. 47, Superintendent Souza Aff. ¶ 3.
276. According to Superintendent Souza, the BCSO provides hand sanitizer throughout the facility for staff and incarcerated individuals. Ex. 47, Superintendent Souza Aff. ¶ 3.
277. According to Superintendent Souza, incarcerated individuals are provided free bars of soap in every housing unit, and have been educated on proper hand washing and personal hygiene techniques. Ex. 47, Superintendent Souza Aff. ¶ 3.
278. According to Superintendent Souza, the BCSO is ensuring it is well-stocked with medical masks, gloves, and protective eyewear for staff. Ex. 47, Superintendent Souza Aff. ¶ 3.
279. According to Superintendent Souza, cleaning supplies remain at sufficient levels while an inventory for all needs is conducted and updated daily. Ex. 47, Superintendent Souza Aff. ¶ 3.
280. According to Superintendent Souza, the BCSO instituted video messages informing incarcerated individuals about COVID related issues including proper hygiene protocols. Ex. 47, Superintendent Souza Aff. ¶ 3.
281. According to Superintendent Souza, corrections officers are generally assigned to the same unit during each shift, and the facility takes every precaution to ensure that officers are not alternating between different units. Ex. 47, Superintendent Souza Aff. ¶ 3.

282. According to Superintendent Souza, as another necessary precaution, all staff assigned to outside hospital coverage are required to wear BCSO supplied PPE for the duration of their shifts. Ex. 47, Superintendent Souza Aff. ¶ 3.
283. According to Superintendent Souza, all facility tours have been discontinued until further notice. Ex. 47, Superintendent Souza Aff. ¶ 3.
284. According to Superintendent Souza, routine medical care for incarcerated individuals has continued without disruption throughout the pandemic. Ex. 47, Superintendent Souza Aff. ¶ 3.
285. According to Superintendent Souza, employees have been educated that if they are sick with a fever or have flu-like symptoms such as cough, sore throat, or shortness of breath, they should not report to work and should consult their doctor. Ex. 47, Superintendent Souza Aff. ¶ 3.
286. According to Superintendent Souza, the BCSO changed its roll call practice for staff to reduce large gatherings of staff before each shift. According to Superintendent Souza, the BCSO has also streamlined employees punching out at the end of their shifts to reduce large gatherings of staff at the end of shifts. Ex. 47, Superintendent Souza Aff. ¶ 3.
287. According to Superintendent Souza, all new arrivals to the facility undergo a mandatory fourteen (14) day quarantine (in a unit & another 14 Days in quarantine in a Dormitory Style Unit). Ex. 47, Superintendent Souza Aff. ¶ 3

Middlesex's Responses to COVID-19

288. According to Superintendent Vidal, the MSO provides 24/7 health care services to the incarcerated individuals through its Health Services Unit (hereinafter "HSU") which is operated by its contracted vendor, CPS Healthcare, in conjunction with MSO-employed health professionals. According to Superintendent Vidal, the MSO's HSU also arranges for outside care for incarcerated individuals at area hospitals, including but not limited to Massachusetts General Hospital, Lowell General Hospital, Lahey Hospital, Lemuel Shattuck Hospital. Ex. 48, Superintendent Vidal Aff. ¶ 7.
289. According to Superintendent Vidal, throughout the COVID-19 pandemic, MSO command staff and its dedicated infectious disease specialist have been in regular contact with the Department of Public Health (hereinafter "DPH") and other health agencies. Ex. 48, Superintendent Vidal Aff. ¶ 8.
290. According to Superintendent Vidal, Middlesex has instituted a mandatory mask-wearing policy for all pretrial detainees and inmates, corrections officers and staff. Ex. 48, Superintendent Vidal Aff. ¶ 9a.
291. According to Superintendent Vidal, daily command staff meetings are conducted to discuss and determine additional protocols to implement in response to the COVID-19 situation. According to Superintendent Vidal, the daily command staff meetings also involve reviewing recommendations from infectious disease medical professionals. Ex. 48, Superintendent

Vidal Aff. ¶ 9b.

292. According to Superintendent Vidal, all staff entering the facility are required to wear protective masks for the duration of their shifts. According to Superintendent Vidal, masks are provided by the MSO, and all staff have been instructed as to effective mask wearing. Ex. 48, Superintendent Vidal Aff. ¶ 9c.
293. According to Superintendent, the MJHOC has undergone extensive deep cleaning, which is being maintained through a housekeeping plan that vigilantly cleans and sanitizes high traffic areas on a daily basis during all three (3) shifts. According to Superintendent Vidal, all cells within the facility are cleaned and sanitized after each use as well as high traffic areas within the facility. Ex. 48, Superintendent Vidal Aff. ¶ 9d.
294. According to Superintendent Vidal, the MSO provides hand sanitizer throughout the MJHOC for staff and incarcerated individuals. According to Superintendent Vidal, incarcerated individuals are provided free bars of soap in every housing unit, and have been educated on proper hand washing and personal hygiene techniques. According to Superintendent Vidal, employees are continuously advised as to maintain proper hygiene inside and outside of the facility. According to Superintendent Vidal, informational signage, in both Spanish and English, has been posted throughout the MJHOC with this information to keep these ideas fresh on everyone's mind. Ex. 48, Superintendent Vidal Aff. ¶ 9e.
295. According to Superintendent Vidal, the MSO is ensuring it is well-stocked with medical masks, gloves, and protective eyewear for staff. According to Superintendent Vidal, cleaning supplies remain at sufficient levels while an inventory for all needs is conducted and updated daily. Ex. 48, Superintendent Vidal Aff. ¶ 9f.
296. According to Superintendent Vidal, any incarcerated individual who tests positive is immediately housed in the HSU, placed on full PPE restrictions, and remains under close observation by medical staff throughout their quarantine. According to Superintendent Vidal, any incarcerated individual who exhibits symptoms is separated from the general population and tested the next business day. According to Superintendent Vidal, test results are typically available within twenty-four hours. According to Superintendent Vidal, any asymptomatic incarcerated individual who contract tracing demonstrates was exposed to an individual who tested positive will also be tested. Ex. 48, Superintendent Vidal Aff. ¶ 9g.
297. According to Superintendent Vidal, any incarcerated individual leaving the facility for programming or parole, or visiting an outside hospital for medical procedures is also tested. Those returning after leaving the facility are quarantined upon their return. Ex. 48, Superintendent Vidal Aff. ¶ 9h.
298. According to Superintendent Vidal, any corrections officer exposed to a positive incarcerated individual is also immediately separated and tested. According to Superintendent Vidal, any corrections officer who self-reports outside exposure is also examined and tested. According to Superintendent Vidal, the facility employs significant contract tracing methods for any corrections officer or staff who tests positive. Ex. 48,

Superintendent Vidal Aff. ¶ 9i.

299. According to Superintendent Vidal, at intake, the MSO's infectious disease nurse educates incarcerated individuals on proper hygiene and COVID-19 protocols issued by the CDC and the DPH. Ex. 48, Superintendent Vidal Aff. ¶ 9j.
300. According to Superintendent Vidal, the MSO implemented a COVID-19 questionnaire for all new intakes about symptoms and travel. According to Superintendent Vidal, all new intakes have their temperatures taken to monitor for fever and are evaluated for other COVID-19 symptoms. According to Superintendent Vidal, corresponding protocols have been implemented should cases of concern arise, including proper triaging, self-isolation spaces within the HSU and notification and coordination with the DPH. Ex. 48, Superintendent Vidal Aff. ¶ 9k.
301. According to Superintendent Vidal, the MSO instituted video messages from Sheriff Peter Koutoujian, as well as our infectious disease doctor, informing incarcerated individuals about COVID related issues including proper hygiene protocols. Ex. 48, Superintendent Vidal Aff. ¶ 9l.
302. According to Superintendent Vidal, all new arrivals to the facility undergo a mandatory fourteen (14) day quarantine. According to Superintendent Vidal, those incarcerated individuals wishing to be tested for COVID-19 on day seven (7) of their quarantine may be removed from quarantine with a negative test result. According to Superintendent Vidal, new arrivals are also questioned about symptoms and exposure during intake and, where appropriate, segregated until examined and/or tested by a medical provider. Ex. 48, Superintendent Vidal Aff. ¶ 9m.
303. According to Superintendent Vidal, the MJHOC separates the following categories of incarcerated individuals from one another and the general population: (a) COVID-positive individuals, (b) individuals exhibiting symptoms but not yet tested or awaiting test results, and (c) individuals in quarantine. Ex. 48, Superintendent Vidal Aff. ¶ 9n.
304. According to Superintendent Vidal, corrections officers are generally assigned to the same unit during each shift, and the facility takes precautions to ensure that officers are not alternating between different units. Ex. 48, Superintendent Vidal Aff. ¶ 9o.
305. According to Superintendent Vidal, incarcerated individuals are provided meals in their single cells, and are not allowed to congregate or eat in groups. Ex. 48, Superintendent Vidal Aff. ¶ 9p.
306. According to Superintendent Vidal, recreation periods are allowed, but occur in small cohorts rather than by unit or floor. According to Superintendent Vidal, all incarcerated individuals wear masks and are advised to socially distance. Ex. 48, Superintendent Vidal Aff. ¶ 9q.
307. According to Superintendent Vidal, as another necessary precaution, all staff assigned to

outside hospital coverage are required to wear MSO-supplied PPE for the duration of their shifts. According to Superintendent Vidal, they are supplied with a hospital bag that includes KN95 masks, gloves, gown and goggles. Ex. 48, Superintendent Vidal Aff. ¶ 9r.

308. According to Superintendent Vidal, the MSO has taken efforts to limit large gatherings of incarcerated individuals in the facility. According to Superintendent Vidal, the MSO has reduced large gatherings for inmate programs and replaced them with individualized programming for incarcerated individuals. Ex. 48, Superintendent Vidal Aff. ¶ 9t.
309. According to Superintendent Vidal, all facility tours have been discontinued until further notice. Ex. 48, Superintendent Vidal Aff. ¶ 9u.
310. According to Superintendent Vidal, routine medical care for incarcerated individuals has continued without disruption throughout the pandemic. Ex. 48, Superintendent Vidal Aff. ¶ 9v.
311. According to Superintendent Vidal, the MSO has increased telehealth visits with medical providers to minimize the additional transportation of incarcerated individuals. Ex. 48, Superintendent Vidal Aff. ¶ 9w.
312. According to Superintendent Vidal, in consultation with the MSO's infectious disease doctor, a new practice has been implemented of collecting sick call slips during each shift to monitor and triage them for any flu-like symptoms. According to Superintendent Vidal, HSU staff addresses any slips indicating these symptoms immediately. Ex. 48, Superintendent Vidal Aff. ¶ 9x.
313. According to Superintendent Vidal, employees have been educated that if they are sick with a fever or have flu-like symptoms such as cough, sore throat, or shortness of breath, they should not report to work and should consult their doctor. According to Superintendent Vidal, incarcerated individuals have also been educated in this regard and encouraged to request health care services if symptoms present themselves. Ex. 48, Superintendent Vidal Aff. ¶ 9y.
314. According to Superintendent Vidal, the MSO changed its roll call practice for staff to an automated system to reduce large gatherings of staff before each shift. According to Superintendent Vidal, the MSO has also streamlined employees punching out at the end of their shifts to reduce large gatherings of staff at the end of shifts. Ex. 48, Superintendent Vidal Aff. ¶ 9z.
315. According to Superintendent Vidal, purchase orders for equipment, supplies, or other items that would require hand-delivery from an outside party is limited to operational necessities. Ex. 48, Superintendent Vidal Aff. ¶ 9aa.
316. According to Superintendent Vidal, the MSO has been working with judges and other court personnel to encourage video conferencing in lieu of incarcerated individuals being transported to/from courts. Ex. 48, Superintendent Vidal Aff. ¶ 9bb.

317. According to Superintendent Vidal, the MSO has been working with the Parole Board to conduct parole hearings at the MJHOC with no contact. Ex. 48, Superintendent Vidal Aff. ¶ 9cc.
318. As a COVID-19 preventative policy and practice measure, the MSO issues employee advisories with state travel protocols updates and strongly discourages employees from taking leisure travel to non-lower-risk destinations. According to Superintendent Vidal, the MSO further requires that employees choosing to travel out-of-state for personal reasons must notify Human Resources prior to their intended travel, and either utilize their own accrued vacation, personal or compensation time to quarantine until they obtain a negative COVID test result prior to returning to work or qualify for a CDC/DPH-approved exception. Ex. 48, Superintendent Vidal Aff. ¶ 9dd.
319. According to Superintendent Vidal, on or about April 2, 2021, the MSO began a pilot program utilizing Biobot COVID-19 Detection Technology (“Biobot”). According to Superintendent Vidal, Biobot obtains weekly samples of MJHOC wastewater (this includes staff, incarcerated individuals, visitors, anyone that uses MJHOC bathrooms) coming out of the facility to help detect COVID. According to Superintendent Vidal, the MSO enrolled in Biobot’s variant detection program which allows Middlesex to detect if any variants of the COVID-19 virus are present in the samples. See <https://www.biobot.io/covid19>. Ex. 48, Superintendent Vidal Aff. ¶ 9ee.
320. According to Superintendent Vidal, on or about April 22, 2021, the MSO installed Ultraviolet Germicidal Irradiation (hereinafter “UVGI”) disinfection equipment in the HVAC system that provides air to and from the HSU. According to Superintendent Vidal, the HSU houses all incarcerated individuals who test positive for COVID-19. According to Superintendent Vidal, the UVGI system reduces the transmission of airborne bacterial and viral infections, including COVID-19, by passaging the air flow through UV-C light sterilizing the air of contaminants and killing the COVID-19 virus in the HVAC system. Ex. 48, Superintendent Vidal Aff. ¶ 9hh.

Norfolk’s Responses to COVID-19

321. According to Superintendent Harris, all facilities have undergone extensive deep cleaning, which is being maintained through a housekeeping plan that vigilantly cleans and sanitizes high traffic areas on a daily basis during all three (3) shifts. According to Superintendent Harris, all HSU and “safe keep” cells are cleaned and sanitized after each use. Ex. 50, Superintendent Harris Aff. ¶ 8.
322. According to Superintendent Harris, the NSO provides hand sanitizer throughout the NCHOC for staff and incarcerated individuals. According to Superintendent Harris, incarcerated individuals are provided free bars of soap in every housing unit and have been educated on proper hand washing and personal hygiene techniques. According to Superintendent Harris, employees are continuously advised regarding maintaining proper hygiene inside and outside the facility. According to Superintendent Harris, informational

signage in both Spanish and English is posted throughout our facilities to keep these ideas fresh in everyone's minds. Ex. 50, Superintendent Harris Aff. ¶ 8.

323. According to Superintendent Harris, the NSO is ensuring it is well stocked with medical masks, gloves, and protective eyewear for staff. According to Superintendent Harris, cleaning supplies remain at sufficient levels, while an inventory for all needs is conducted and updated daily. Ex. 50, Superintendent Harris Aff. ¶ 8.
324. According to Superintendent Harris, daily command staff meetings are conducted to discuss and determine additional protocols for implementation in response to the Covid-19 situation. According to Superintendent Harris, the daily command staff meetings also involve reviewing recommendations from infectious disease medical professionals. Ex. 50, Superintendent Harris Aff. ¶ 8.
325. According to Superintendent Harris, while all non-attorney visits have been suspended, the NSO has instituted limited video visits for inmate families. According to Superintendent Harris, inmate access to telephones has expanded to offset the temporary suspension of general public visits. Additionally, according to Superintendent Harris, 30-minutes of calls are being provided for each inmate weekly during this time. According to Superintendent Harris, the NSO will review to add more time in the near future. Ex. 50, Superintendent Harris Aff. ¶ 8.
326. According to Superintendent Harris, all attorney visits with clients are non-contact visits. According to Superintendent Harris, additional non-recording phone lines have been installed to accommodate this change. According to Superintendent Harris, correctional staff are assisting attorneys with transferring paperwork in a confidential manner. According to Superintendent Harris, the NSO installed Jurislink, which allows for attorney-client video visitation. According to Superintendent Harris, the NSO is cleaning all areas of the attorney visiting rooms after each visitation and has provided additional hand sanitizer and disinfecting wipes. Ex. 50, Superintendent Harris Aff. ¶ 8.
327. According to Superintendent Harris, all community work program (CWP) and work release activities have resumed but inmates wear masks, socially distance and all work crews are less than five (5) inmates. Ex. 50, Superintendent Harris Aff. ¶ 8.
328. According to Superintendent Harris, limited programming has resumed in cases where inmates can wear masks and socially distance. According to Superintendent Harris, in cases where that has not occurred, group programming has been replaced by individualized programming. Ex. 50, Superintendent Harris Aff. ¶ 8.
329. According to Superintendent Harris, all current volunteer and intern services are suspended to limit the flow of outside symptoms. According to Superintendent Harris, corresponding protocols have been implemented should cases of concern arise, including proper triaging, self-isolation spaces within the HSU and notification and coordination with the Department of Public Health (DPH). Ex. 50, Superintendent Harris Aff. ¶ 8.

330. According to Superintendent Harris, in consultation with the NSO's infectious disease doctor, a new practice has been implemented of collecting sick call slips during each shift to monitor and triage for any flu-like symptoms. According to Superintendent Harris, HSU staff immediately addresses any slips indicating these symptoms. Ex. 50, Superintendent Harris Aff. ¶ 8.
331. According to Superintendent Harris, employees have been educated that if they are sick with a fever or have flu-like symptoms such as a cough, sore throat, or shortness of breath, they should not report to work and should consult their doctor. According to Superintendent Harris, inmates have also been educated in this regard and encouraged to request health care services if symptoms present themselves. Additionally, according to Superintendent Harris, employees who have traveled internationally, or who have had contact with individuals who have traveled internationally are advised to contact their health care provider for guidance and further instruction. Ex. 50, Superintendent Harris Aff. ¶ 8.
332. According to Superintendent Harris, in accordance with Governor Baker's Emergency Essential Services Order on March 23, 2020, all NSO locations, except for the NCHOC, suspended operations as of March 24, 2020 at 12 Noon. According to Superintendent Harris, designated essential personnel working at the effected locations, including payroll and purchasing, work remotely in order to provide support services. Ex. 50, Superintendent Harris Aff. ¶ 8.
333. According to Superintendent Harris, the NSO has plans in place and logistics identified should this pandemic increase in severity. Moreover, according to Superintendent Harris, the NSO has disorder management policies and procedures in place in the event of a staff shortage and/or related operational issues due to Covid-19 exposure. Ex. 50, Superintendent Harris Aff. ¶ 8.
334. According to Superintendent Harris, the NSO has been working with judges and other court personnel to encourage video conferencing in lieu of incarcerated individuals being transported to/from courts. Ex. 50, Superintendent Harris Aff. ¶ 8.
335. According to Superintendent Harris, the NSO has been working with the Parole Board to conduct parole hearings at the NSO with no contact. Ex. 50, Superintendent Harris Aff. ¶ 8.
336. According to Superintendent Harris, the NSO has been diligently working with Mass Bail Fund to assist with identifying eligible individuals to reduce bails. Additionally, according to Superintendent Harris, the NSO has been actively reviewing classification statutes to identify individuals potentially eligible for release and has increased the availability of electronic monitoring to allow for release whenever possible. Ex. 50, Superintendent Harris Aff. ¶ 8.
337. According to Superintendent Harris, roll call has resumed; however, it is held in a larger room where all correctional officers can socially distance. Ex. 50, Superintendent Harris Aff. ¶ 8.

338. According to Superintendent Harris, purchase orders for equipment, supplies, or other items that require hand-delivery from an outside party is limited to operational necessities. Ex. 50, Superintendent Harris Aff. ¶ 8.
339. According to Superintendent Harris, all new arrivals to the facility undergo a mandatory fourteen (14) day quarantine. Ex. 50, Superintendent Harris Aff. ¶ 8.
340. According to Superintendent Harris, the NSO has increased telehealth visits with our medical provider to minimize the additional transportation of incarcerated individuals. Ex. 50, Superintendent Harris Aff. ¶ 8.
341. According to Superintendent Harris, the wearing of masks throughout the facility is mandatory. Ex. 50, Superintendent Harris Aff. ¶ 8.
342. According to Superintendent Harris, the NSO, on March 12, 2021, hosted the “Ask me anything” question and answer session hosted by visiting medical professionals. According to Superintendent Harris, during these sessions inmates can ask any questions concerning the COVID-19 vaccination process and are encouraged to take the vaccine. Ex. 50, Superintendent Harris Aff. ¶ 8.

Suffolk’s Responses to COVID-19

343. According to Superintendent Smith, since the outset of the pandemic the SCSD has observed certain procedures and protocols in order to protect the health and safety of prisoners in its custody. Ex. 52, Superintendent Smith Aff. ¶ 4.
344. According to Superintendent Smith, SCSD's intake procedures are as follows. According to Superintendent Smith, when SCSD Deputies pick up newly-arraigned detainees, prisoners are loaded into transportation vans that are disinfected before and after each trip. According to Superintendent Smith, upon arrival at the Jail, staff take the prisoners' temperatures before permitting them to enter the booking room. According to Superintendent Smith, during the booking process, detainees meet with a Registered Nurse or a Licensed Practical Nurse who ask a number of screening questions to determine whether the detainee has symptoms of COVID-19. Ex. 52, Superintendent Smith Aff. ¶ 5.
345. According to Superintendent Smith, within hours of booking and screening, a Physician, Nurse Practitioner, or a Physician’s Assistant conducts a complete physical examination of the prisoner. According to Superintendent Smith, once that has been completed, the prisoner is either medically housed or placed for 14 days in a unit reserved for new admissions. Ex. 52, Superintendent Smith Aff. ¶ 6.
346. According to Superintendent Smith, each detainee is placed in a single occupancy cell for the 14 day quarantine period. According to Superintendent Smith, detainees with symptoms consistent with COVID-19 or those awaiting test results are housed in single occupancy cells in a separate building known as Building 8. According to Superintendent Smith, officers posted there wear personal protective equipment that includes goggles, N-95 masks, gloves and Tyvek coveralls in order to prevent the spread of any pathogens from that area. Ex. 52, Superintendent Smith Aff. ¶ 6.

347. According to Superintendent Smith, in the common areas of all housing units, all high-contact surfaces, including door handles, sinks, and plumbing fixtures are disinfected every two hours. According to Superintendent Smith, the SCSD provides prisoners with all the soap and hot water needed. According to Superintendent Smith, there are sinks in nearly all cells and in all common areas. According to Superintendent Smith, each housing unit has a hand sanitizer dispenser. Ex. 52, Superintendent Smith Aff. ¶ 7.
348. According to Superintendent Smith, in an effort to prevent the introduction of coronavirus into the facility the SCSD has suspended all visits except for attorney visits, which are now conducted in a noncontact setting. According to Superintendent Smith, the Department has also excluded volunteers from entering the SJC or the SHOC. According to Superintendent Smith, vendors are permitted access only if they are needed to address an item that is essential to the safe running of the institution. Ex. 52, Superintendent Smith Aff. ¶ 8.
349. According to Superintendent Smith, inmate activities have been sharply curtailed in response to the pandemic. According to Superintendent Smith, the Department has suspended all classroom education and programming. Ex. 52, Superintendent Smith Aff. ¶ 9.
350. According to Superintendent Smith, inmates who seek medical attention are triaged so that whenever possible, medical staff visit them in their cells, thereby avoiding a prisoner's need to walk through the facility to the infirmary. Ex. 52, Superintendent Smith Aff. ¶ 10.
351. According to Superintendent Smith, inmates in need of more immediate medical attention visit healthcare workers in the infirmary. Ex. 52, Superintendent Smith Aff. ¶ 10.
352. According to Superintendent Smith, as a result of reduced staffing levels at the SCSD, pre-release planning is done solely on an emergent basis. Ex. 52, Superintendent Smith Aff. ¶ 11.
353. According to Superintendent Smith, outside addiction programs no longer accept new referrals from the SCSD, and the SCSD refers inmates who were involved in the MAT program to Boston Medical Center, Massachusetts General Hospital, or Boston Healthcare for the Homeless to continue MAT. Ex. 52, Superintendent Smith, ¶ 11.

Hampshire's Responses to COVID-19

354. According to Sheriff Cahillane, no person with a temperature or reported symptoms of fever or cough is permitted to enter the HSO facility. Ex. 53, Sheriff Cahillane Aff. ¶ 6.
355. According to Sheriff Cahillane, any staff member who is ill is directed to stay home and contact their primary care provider for follow up and get tested for respiratory illness. Ex. 53, Sheriff Cahillane Aff. ¶ 7.
356. According to Sheriff Cahillane, any staff member who may in the future test positive for COVID-19 will be directed to stay home and self-quarantine for at least 10-14 days. Ex. 53, Sheriff Cahillane Aff. ¶ 8.

357. According to Sheriff Cahillane, HSO continues to allow clergy and attorneys noncontact visits, all other visits have been suspended. Ex. 53, Sheriff Cahillane Aff. ¶ 9.
358. According to Sheriff Cahillane, family visits are allowed via Zoom and are scheduled by staff. Ex. 53, Sheriff Cahillane Aff. ¶ 10.
359. According to Sheriff Cahillane, all volunteer visits of any type have been indefinitely suspended. Ex. 53, Sheriff Cahillane Aff. ¶ 10.
360. According to Sheriff Cahillane, facility tours have been indefinitely suspended. Ex. 53, Sheriff Cahillane Aff. ¶ 11.
361. According to Sheriff Cahillane, the Inmate Work Release Program has been restarted under community COVID-19 protocols. Ex. 53, Sheriff Cahillane Aff. ¶ 12.
362. According to Sheriff Cahillane, Police Departments have been asked to implement COVID-19 screening procedures at their stations prior to anyone being transported to Hampshire's facilities. Ex. 53, Sheriff Cahillane Aff. ¶ 14.
363. According to Sheriff Cahillane, all incoming inmates are screened in the intake unit. According to Sheriff Cahillane, Hampshire's officers meet the arresting officers outside the entry door. According to Sheriff Cahillane, Hampshire has implemented an enhanced screening process at its Intake Unit to help detect signs of COVID-19. According to Sheriff Cahillane, inmates are assessed by medical staff asking a variety of health screening questions including a series of questions specifically designed to determine whether the inmate may have or may have been exposed to someone with the COVID-19 virus. According to Sheriff Cahillane, each inmate's body temperature is taken during this intake medical process. According to Sheriff Cahillane, as an added prophylactic temperatures are taken on every inmate and staff member each day. According to Sheriff Cahillane, if an inmate gives any indication or shows any signs of having the COVID-19 virus or having been exposed to the COVID-19 virus, the inmate will be masked and sent to a special housing unit, tested for COVID-19 and quarantined. Ex. 53, Sheriff Cahillane Aff. ¶ 15.
364. According to Sheriff Cahillane, all new inmates entering the facility are quarantined in a single cell and in a housing unit separated from the general population for a period of at least 14 days with negative COVID-19 swab results. Ex. 53, Sheriff Cahillane Aff. ¶ 16.
365. According to Sheriff Cahillane, employees and inmates experiencing any signs of the COVID-19 virus are instructed to immediately notify appropriate HSO staff. According to Sheriff Cahillane, medical personnel make the rounds in every housing unit on every shift seven days a week. Ex. 53, Sheriff Cahillane Aff. ¶ 18.
366. According to Sheriff Cahillane, employees have been educated that if they are sick with a fever or have flu-like symptoms such as fever, cough, sore throat, shortness of breath, etc., they should not report to work and should consult their primary care provider. According to Sheriff Cahillane, inmates have also been educated about the and symptoms of the virus and how to best avoid it (wear a mask, vigorously and thoroughly wash hands with soap and water, turn away from others and cough in elbow, practice social distancing to the extent

possible, etc.) and how to request medical services if their experience any signs or symptoms. Ex. 53, Sheriff Cahillane Aff. ¶ 19.

367. According to Sheriff Cahillane, HSO is accepting transfers and are currently sending inmates/detainees to other facilities as needed. According to Sheriff Cahillane, when HSO receives transfers into the facility, it is screening /swabbing and quarantining the individual for a 14 day period. Ex. 53, Sheriff Cahillane Aff. ¶ 20.
368. According to Sheriff Cahillane, the HSO has instituted a vigorous cleaning protocol on every shift on a daily basis throughout the entire facility. According to Sheriff Cahillane, efforts are focused not only on general access locations, but special attention is given to commonly touched surfaces including door handles, railings, countertops, light fixtures, phones, computer keyboards and mice, tables, toilets, faucets, and other. Ex. 53, Sheriff Cahillane Aff. ¶ 21.
369. According to Sheriff Cahillane, every inmate has a mask, soap, a sink and hot/cold and warm water in their cell and/or in the dayrooms in their housing units. According to Sheriff Cahillane, additional handwashing sinks with soap are located in the kitchen, the medical exam rooms, staff and inmate restrooms, staff locker rooms, and at various other locations throughout the facility. According to Sheriff Cahillane, Hampshire installed additional hand-sanitizing stations in strategic locations in our facility where sinks are not immediately available. According to Sheriff Cahillane, inmates have also been given bars of soap and educated on proper hand-washing and personal hygiene techniques. According to Sheriff Cahillane, signs have been posted throughout the facility containing this information. Ex. 53, Sheriff Cahillane Aff. ¶ 22.
370. According to Sheriff Cahillane, the HSO is making every effort to be well-stocked with gloves, medical masks (N95 and surgical masks), gowns and protective eyewear for staff within the limits of availability. Ex. 53, Sheriff Cahillane Aff. ¶ 23.

The Parties' Affiants

371. Dr. Yonatan Grad is qualified as an expert by his knowledge, skill, experience, training and education who may offer opinion testimony regarding COVID-19 infection, transmission, and vaccination; methods to measure COVID-19 prevalence; and methods to prevent COVID-19 transmission. A true and complete copy of his affidavit with Ms. Accorsi, which can be cited as admissible evidence in this matter, is attached as Exhibit 7. Ex. 7, Dr. Grad & Ms. Accorsi Aff.
372. Ms. Emma Accorsi is qualified as an expert by her knowledge, skill, experience, training and education who may offer opinion testimony regarding COVID-19 infection, transmission, and vaccination; methods to measure COVID-19 prevalence; and methods to prevent COVID-19 transmission. A true and complete copy of her affidavit with Dr. Grad, which can be cited as admissible evidence in this matter, is attached as Exhibit 7. Ex. 7, Dr. Grad & Ms. Accorsi Aff.

373. Dr. Monik Jiménez is qualified as an expert by her knowledge, skill, experience, training and education who may offer opinion testimony regarding COVID-19 infection, transmission, and vaccination; methods to measure COVID-19 prevalence; and methods to prevent COVID-19 transmission. A true and complete copy of her affidavit with Ms. Cowger, which can be cited as admissible evidence in this matter, is attached as Exhibit 10. Ex. 10, Dr. Jiménez & Ms. Cowger Aff.
374. Ms. Tori Cowger is qualified as an expert by her knowledge, skill, experience, training and education who may offer opinion testimony regarding COVID-19 infection, transmission, and vaccination; methods to measure COVID-19 prevalence; and methods to prevent COVID-19 transmission. A true and complete copy of her affidavit with Dr. Jiménez, which can be cited as admissible evidence in this matter, is attached as Exhibit 10. Ex. 10, Dr. Jiménez & Ms. Cowger Aff.
375. Dr. Alysse Wurcel (“Dr. Wurcel”) is qualified as an expert by knowledge, skill, experience, training and education who may offer opinion testimony regarding COVID-19 infection, transmission, testing, vaccination; and methods to prevent COVID-19 transmission. A true and complete copy of her affidavit, which can be cited as admissible evidence in this matter, is attached as Exhibit 54. Ex. 54, Dr. Wurcel Aff.

DPH Responses

376. On April 30, 2021, the Department of Public Health responded to a series of questions related to this matter. A true and complete copy of its responses, which can be cited as admissible evidence in this matter, is attached as Exhibit 35. Ex. 35, 4/30/21 DPH Resp.
377. On May 5, 2021, the Department of Public Health responded to a series of questions related to this matter. A true and complete copy of its responses, which can be cited as admissible evidence in this matter, is attached as Exhibit 36. Ex. 36, 5/5/21 DPH Resp.

Bristol County - Attorney-Client Communication Options

378. According to Sheriff Hodgson, Bristol has instituted a protocol whereby attorneys can fax, email, or call the superintendent’s office between the hours of 8:00AM and 4:00PM to have a message delivered to their clients advising the clients to telephone the attorney at a set date or time. Ex. 46, Sheriff Hodgson Aff. ¶ 6b. According to Sheriff Hodgson, the attorney can ask that the call be made at any reasonable time of the day or evening. Ex. 46, Sheriff Hodgson Aff. ¶ 6b.
379. According to Sheriff Hodgson, Bristol does not have the equipment necessary nor the internet bandwidth available to allow video-conferencing outside of the court video-conferencing. Ex. 46, Sheriff Hodgson Aff. ¶ 6c. According to Sheriff Hodgson, confidentiality of prisoner phone calls is exactly the same as it has been for many years before the pandemic. Ex. 46, Sheriff Hodgson Aff. ¶ 6c. During the pandemic, as was the case prior, attorneys who wish to review materials with their clients are able to come to the facility and meet in private with their clients to do so. Ex. 46, Sheriff Hodgson Aff. ¶ 6c.

380. The parties agree that Exhibit 55 consisting of: 1) a text from Kelly Barley, Executive Director of Bristol County Bar Advocates Inc., in November 2020; and 2) a letter from Robert Novack, Esq. to Ms. Barley dated November 18, 2020, is authentic. Ex. 55.
381. According to Sheriff Hodgson, attorneys are provided contact and non-contact visits with prisoners at the Bristol County House of Correction. Ex. 46, Sheriff Hodgson Aff. ¶ 6a-e.
382. According to Sheriff Hodgson, all prisoners are allowed attorney visits whether within the quarantine period or not. Ex. 46, Sheriff Hodgson Aff. ¶ 6e.
383. Attorneys are provided contact visits with prisoners at the Ash Street Jail.
384. At the Bristol County House of Correction, attorney visits are permitted during most lockdowns unless there is an emergency situation going on.
385. Prisoners have access to telephones to consult with attorneys. Attorneys must schedule telephone calls one day in advance.
386. Scheduled calls to attorneys are made from the unit phones in a common area. This is the same arrangement which was in place prior to the pandemic.
387. Some people held pretrial are held in dormitory-style living arrangements with bunk beds. Ex. 23, Vita Aff. ¶ 11.
388. Scheduled calls to attorneys are limited to 30 minutes. According to Sheriff Hodgson, however, this is something outside of Bristol's control and is part of the Securus system which handles telephone communications throughout the facility.
389. Jurislink is not in place.
390. Videoconferencing is currently not offered.
391. Prisoners do not have access to tablets.
392. Non-contact visits occur in a small booth used for that purpose that does not have a door. The booth opens into the visiting room, where an officer sits at a desk. Attorneys can have non-contact visits in a booth if they so desire. These are the booths that are used for normal visits before COVID-19. All communication is done by phone and during COVID-19 if there is more than one attorney visits at a time there is always at least an empty booth of separation.
393. The Ash Street Jail does not provide any private rooms for non-contact visits.
394. The seven photographs of the contact visit room at the Ash Street Jail, the four photographs of the non-contact booths at the Bristol County House of Correction, and the two photographs of the contact visiting rooms at the Bristol County House of Correction are attached as exhibits. Ex. 26, Ash Street Jail Photos; Ex. 27, BCHOC Non-Contact Booth Photos; Ex. 28, BCHOC Contact Visiting Room Photos.

Bristol County - Attorney Experiences

395. According to Attorneys Bermudez, Humm, Kastner, Mello, O'Regan, Steadman, Tacher, and Vita, they do not feel safe visiting Bristol County carceral facilities due to concerns associated with the covid-19 pandemic. Ex. 1, Bermudez Aff. ¶ 2; Ex. 9, Humm Aff. ¶¶ 3-4; Ex. 11, Kastner Aff. ¶ 2; Ex. 13, Mello Aff. ¶ 2; Ex. 15, O'Regan Aff. ¶ 2; Ex. 20, Steadman Aff. ¶ 2; Ex. 21, Tacher Aff. ¶ 2; Ex. 23, Vita Aff. ¶¶ 8-10.
396. According to Attorney Yankowitz, he has reservations about visiting not only for his safety, but his client's safety, since his client is elderly and has pre-existing conditions that make him more vulnerable. Ex. 24, Yankowitz Aff. ¶¶ 4-5.
397. According to Attorney Yankowitz, he was unable to meet effectively with his client at the Bristol House of Correction and the facility refused to bring his client to two prior virtual arraignment dates. Ex. 24, Yankowitz Aff. ¶ 13.
398. Attorney Yankowitz received a court ordered transfer to the facility in Norfolk County which has JurisLink. Ex. 24, Yankowitz Aff. ¶¶ 10, 13, 15. See also Exhibit 25, Allowed Defendant's Motion to Remand Him to the Norfolk County House of Corrections in Dedham.
399. According to Attorneys Vita and Sargent, they needed experts to meet with their clients, but the experts refused to go to the Bristol County House of Correction. Ex. 18, Sargent Aff. ¶ 4; Ex. 23, Vita Aff. ¶ 18.
400. According to Attorneys Vita and Sargent, they had their clients brought to the courthouse for the expert evaluation. Ex. 18, Sargent Aff. ¶¶ 4, 8; Ex. 23, Vita Aff. ¶ 18.
401. According to Attorney Sargent, he had the evaluation in a holding cell of the Bristol Superior Court. Ex. 18, Sargent Aff. ¶ 9. According to Attorney Sargent, he brought in a laptop and the evaluation was conducted over Zoom. Ex. 18, Sargent Aff. ¶ 8. According to Attorney Sargent, the client was not permitted to have the laptop in the holding cell, so he sat outside the cell and pointed the laptop at the client to permit the client and the expert to see each other. Ex. 18, Sargent Aff. ¶ 10. According to Attorney Sargent, due to the thick glass between the client and the attorney, the expert and client could not hear each other, so he had to place the laptop on the floor, where there was steel mesh rather than glass. Sargent Ex. 18, Aff. ¶ 10. According to Attorney Sargent, this forced the client to sit on the floor, one of whom was a 67-year-old man who had a very difficult time tolerating the length of time he had to sit on the floor for the evaluation and fell down when he attempted to stand up. Ex. 18, Sargent Aff. ¶ 11.
402. According to Attorney Vita, the necessity of bringing his client to court for a competency evaluation contributed to his case being delayed by almost two months. Ex. 23, Vita Aff. ¶ 18.
403. According to Attorneys Bermudez, O'Regan, and Vita, they do not send discovery to their clients at Bristol County House of Correction if they are charged with certain serious offenses, such as sex offenses, because they could be harmed if other people read these materials. Ex. 1, Bermudez Aff. ¶ 3(f); Ex. 15, O'Regan Aff. ¶ 4(e); Ex. 23, Vita Aff. ¶ 19.

404. According to Attorneys Bermudez, Humm, Kastner, Mello, O'Regan, Steadman, and Vita, they have heard other people in the background when their clients calls them from Bristol County House of Correction. Ex. 1, Bermudez Aff. ¶ 3(a); Ex. 9, Humm Aff. ¶ 10; Ex. 11, Kastner Aff. ¶ 4; Ex. 13, Mello Aff. ¶ 5; Ex. 15, O'Regan Aff. ¶ 4(a); Ex. 20, Steadman Aff. ¶ 5; Ex. 23, Vita Aff. ¶ 20.
405. According to Attorneys Bermudez, Kastner, Mello, O'Regan, and Steadman, they heard their clients speak to other people while on the phone with them. Ex. 1, Bermudez Aff. ¶ 3(d); Ex. 11, Kastner Aff. ¶ 4; Ex. 13, Mello Aff. ¶ 5; Ex. 15, O'Regan Aff. ¶ 4(c); Ex. 20, Steadman Aff. ¶ 5.
406. According to Attorneys Bermudez and O'Regan, they have heard other people speak to their clients while on the phone with them. Ex. 1, Bermudez Aff. ¶ 3(c); Ex. 15, O'Regan Aff. ¶ 4(b).
407. According to Attorneys Bermudez and O'Regan, they sometimes have to ask their clients only yes or no questions because their clients have not felt comfortable talking to them about their cases over the phone. Ex. 1, Bermudez Aff. ¶ 3(e); Ex. 15, O'Regan Aff. ¶ 4(d).
408. According to Attorneys Bermudez and Humm, background noise at the Bristol County carceral facilities makes it difficult for clients to hear and they frequently have to repeat themselves. Ex. 1, Bermudez Aff. ¶ 3(b); Ex. 9, Humm Aff. ¶ 9.
409. According to Attorneys Bermudez, Tacher, and Vita, they cannot review videos with their clients over the phone. Ex. 1, Bermudez Aff. ¶ 3(g); Ex. 21, Tacher Aff. ¶ 6; Ex. 23, Vita Aff. ¶ 16.
410. According to Attorneys Dearborn, Gioia, Mello, Steadman, and Tacher, it is more difficult or impossible to review evidence with clients over the phone and it is nearly impossible to review audio with a client over the phone. Ex. 5, Dearborn Aff. ¶ 8; Ex. 6, Gioia Aff. ¶ 12; Ex. 13, Mello Aff. ¶ 6(B); Ex. 20, Steadman Aff. ¶ 6(B); Ex. 21, Tacher Aff. ¶ 6.
411. According to Attorneys Dearborn, Gioia, Humm, Mello, Steadman, and Tacher, it is difficult to gauge whether their clients understand over the phone without the ability to read body language or observe non-verbal cues that reveal misunderstanding or confusion. Ex. 5, Dearborn Aff. ¶ 8; Ex. 6, Gioia Aff. ¶ 12; Ex. 9, Humm Aff. ¶ 14; Ex. 13, Mello Aff. ¶ 6(C); Ex. 20, Steadman Aff. ¶ 6(C); Ex. 21, Tacher Aff. ¶ 5.
412. According to Attorneys Dearborn, Gioia, Humm, Mello, Steadman, and Tacher, it is difficult to build rapport and a trusting relationship with their clients if they never see them. Ex. 5, Dearborn Aff. ¶ 8; Ex. 6, Gioia Aff. ¶ 5; Ex. 9, Humm Aff. ¶¶ 11, 13; Ex. 13, Mello Aff. ¶ 6(A); Ex. 20, Steadman Aff. ¶ 6(A); Ex. 21, Tacher Aff. ¶ 4.
413. According to Attorneys Dearborn, Gioia, Humm, Mello, and Steadman, telephone calls are an insufficient substitute for in-person meetings. Ex. 5, Dearborn Aff. ¶ 8; Ex. 6, Gioia Aff. ¶ 12; Ex. 9, Humm Aff. ¶ 14; Ex. 13, Mello Aff. ¶ 6; Ex. 20, Steadman Aff. ¶ 6.

Essex County – Attorney-Client Communication Options

414. According to Sheriff Coppinger, the Essex County Sheriff's Department (ECSD) has implemented an emergency protocol with respect thereto on its website in a tab entitled "COVID-19 State Of Emergency Announcement For Attorneys," Ex. 41, Sheriff Coppinger Aff. ¶ 16 and attached Exhibit A. According to Sheriff Coppinger, as part of that initiative, Essex has established an email response system, covid19inmateinquiries@essexsheriffma.org, which has enhanced attorneys' ability to communicate with their clients by, among other things, adding their private telephone numbers to the phone system, helping facilitate messages to be passed to their clients to call them directly, and the ability to request medical records in an expedited manner. Ex. 41, Sheriff Coppinger Aff. ¶ 16.
415. According to Sheriff Coppinger, between April 7, 2020, and April 26, 2021, ECSD has received and processed 3,797 attorney-client inquiries, via the COVID-19 email system. Ex. 41, Sheriff Coppinger Aff. ¶ 16.
416. According to Sheriff Coppinger, Essex will forward an attorney request for a telephone call with their client who is then able to contact their attorney from their Housing Unit phone or from a tablet. Ex. 41, Sheriff Coppinger Aff. ¶¶ 17a -g.
417. According to Sheriff Coppinger, prisoners can make telephone calls to their attorneys from their housing unit phones or tablets. Ex. 41, Sheriff Coppinger Aff. ¶ 17e.
418. The housing unit telephones are located on the walls in the common areas and the tablets are mobile and can be used in the housing unit.
419. According to Sheriff Coppinger, prisoners scheduled for court appearances via video/teleconference, prior to the start of the hearing, are permitted to speak confidentially with their attorney telephonically up to thirty (30) minutes on a private, non-recorded line. Ex. 41, Sheriff Coppinger Aff. ¶ 17c. Moreover, Sheriff Coppinger states that on a case-by-case basis as requested by counsel, Essex has provided in excess of thirty (30) minutes when necessary and warranted. Ex. 41, Sheriff Coppinger Aff. ¶ 17c.
420. According to Sheriff Coppinger, on or about May 15, 2020, Essex began facilitating third-party three-way calls between the client, counsel, and interpreters in response to inquiries and requests received from counsel and interpreters via its COVID email hotline. Ex. 41, Sheriff Coppinger Aff. ¶ 17e. Sheriff Coppinger states the procedure is as follows: Upon receipt of certain requested identifying information from counsel (i.e. BBO number, prisoner name and D/O/B, interpreter name, etc.), the ECSD would request a two hour window from counsel and the interpreter during which time they would be available to receive the call. Prisoners could then elect to place the call during the designated time from either the Unit telephone or a tablet. Ex. 41, Sheriff Coppinger Aff. ¶ 17e. Sheriff Coppinger further states that he was advised that for the time period May 15, 2020, through April 26, 2021, Essex facilitated approximately 182 interpreter calls. Ex. 41, Sheriff Coppinger Aff. ¶ 17e).
421. Sheriff Coppinger states that in addition to interpreters, Essex has extended the ability to make third-party three-way calls to social workers and medical professionals affiliated with

the defense team and has facilitated approximately an additional (114) of such three-way calls between May 15, 2020, and April 26, 2021. Ex. 41, Sheriff Coppinger Aff. ¶ 17e.

422. According to Sheriff Coppinger, some attorneys have and continue to visit their clients at the facility. Ex. 41, Sheriff Coppinger Aff. ¶ 17d. According to Sheriff Coppinger, these meetings are conducted in areas which are repeatedly cleaned, disinfected and sanitized after every attorney-client visit, and attorneys are provided with personal protective equipment prior to entering the facility. Ex. 41, Sheriff Coppinger Aff. ¶ 17d.
423. According to Sheriff Coppinger, between April 2, 2020, and April 22, 2021, there have been 1,623 in-person attorney-client visits at the Middleton facility, and a listing of the attorney visits is attached to Sheriff Coppinger's Affidavit as Exhibit C. Ex. 41, Sheriff Coppinger Aff. ¶ 17d and Exhibit C.
424. According to Sheriff Coppinger, prisoners in the new man/quarantine unit can have attorney visits.
425. According to Sheriff Coppinger, prisoners in a COVID-19 related locked down unit can have attorney visits.
426. According to Sheriff Coppinger, Essex contracts with SECURUS to provide telephone and communications services to Essex' prisoner population. Essex and SECURUS have installed two (2) video conferencing modules located in the attorney visit rooms at the Middleton facility. Ex. 41, Sheriff Coppinger Aff. ¶ 17f.
427. According to Sheriff Coppinger, this is a system, referred to as Attorney-Client Video Connect, separate and distinct from that utilized by Essex for court video conferences, and accommodates two (2) prisoners at a time, permitting Essex to move prisoners on a manageable basis. Ex. 41, Sheriff Coppinger Aff. ¶ 17f.
428. According to Sheriff Coppinger, for properly registered and approved counsel, the conferences are not subject to recording and/or monitoring. Ex. 41, Sheriff Coppinger Aff. ¶ 17f.
429. Sheriff Coppinger states that this video conferencing system has been in place since the first week in December, 2020, and through April 22, 2021, there have been approximately (1,137) such video conferences. Ex. 41, Sheriff Coppinger Aff. ¶ 17f.
430. Prisoners in the new man/quarantine unit can have videoconference meetings with their attorneys.
431. According to Sheriff Coppinger, prisoners in a COVID-19 related locked down unit can have videoconference meetings with their attorneys.
432. The videoconferencing modules do not have a screen sharing feature.
433. Essex' Video Connect system only allows two parties to be on the call, attorney and client. To accommodate and incorporate third parties (such as interpreters) to the calls, counsel either conduct the call with the interpreter present on their end, or the interpreter

can call counsel directly on a second line which can be placed on speaker so the interpreter can hear the inmate and translate.

434. Tablets are available to all prisoners and they may telephonically speak with their attorneys using the tablet.
435. Individuals interested in possessing and using their own individualized tablet, which have more than merely telephonic capabilities, including downloading movies, music, and reading materials, are assessed a \$5.00 subscription charge to possess their own individualized tablet for a 30-day period. At the end of every 30-day period, they can elect to renew their subscription and are assessed another \$5.00 subscription charge. As with normal telephone calls through the ECSD's telephone communications provider, Securus, there are additional charges with respect to making telephone calls via the tablet, as well as with respect to downloading other content, be it movies, music, or literature.
436. Nearly all of the housing assignments at the Middleton facility are in either double-bunk cells or dormitory-style housing units. The ECSD does have a limited number of single cells available in its Restrictive Housing Unit and Medical Housing Unit.
437. The number of individuals residing in dormitory style housing on February 21, 2021, was between 26 and 45. The number of individuals residing in dorm-style units on 2/21/21 was as follows: 80 Upper Unit (45), Voke I (32), II (26), III (26), and IV (38).
438. According to Sheriff Coppinger, inmates have access to legal mail. Ex. 41, Sheriff Coppinger Aff. ¶ 17g.
439. According to Sheriff Coppinger, with the myriad of court closures throughout the pandemic, court appearances were and continue to be conducted largely via video and/or teleconference. Ex. 41, Sheriff Coppinger Aff. ¶ 20. Sheriff Coppinger states that these video conference rooms have been utilized continuously throughout the pandemic on a daily basis beginning at approximately 8:30 a.m. through 3:30 p.m., and on a number of occasions, extended until 6:00 p.m. to accommodate the courts. Ex. 41, Sheriff Coppinger Aff. ¶ 20. Sheriff Coppinger further states that Essex County House of Correction routinely conducts approximately forty (40) such video conferences a day, and by way of further example, has conducted as many as 723 in the month of January 2021, 718 in the month of February 2021, and 793 in the month of March 2021. Ex. 41, Sheriff Coppinger Aff. ¶ 20.
440. At the beginning of any attorney visit, the attorney has the option of meeting with the inmate in the regular visit area, which is non-contact, or in an attorney room.
441. In the regular visit area there is Plexiglas between the attorney and inmate. There is also Plexiglas between the attorney and other individuals. Documents may be passed between the inmate and attorney via a correctional officer and they speak via a telephone.
442. The attorney room is a private room with a door that closes and there is Plexiglas between the inmate and attorney. There are multiple attorney rooms.

443. According to Sheriff Coppinger, both the regular visit area and the attorney room are thoroughly sanitized after visits. Ex. 41, Sheriff Coppinger Aff. ¶ 17d. According to Sheriff Coppinger, attorneys are provided with PPE prior to entering the facility. Ex. 41, Sheriff Coppinger Aff. ¶ 17d.

Essex County – Attorney Experiences

444. According to Attorneys Hernon, McCamic, Reeves, and Schmidt, they do not feel safe visiting the Essex County House of Correction at Middleton due to concerns associated with the Covid-19 pandemic. Ex. 8, Hernon Aff. ¶ 5; Ex. 12, McCamic Aff. ¶ 2; Ex. 17, Reeves Aff. ¶ 3; Ex. 19, Schmidt Aff. ¶ 3.

445. According to Attorneys Cahill, Hernon, McCamic, Pierce, and Reeves, when their clients call them from the tablets, it is difficult to hear, the connection is poor and the calls are sometimes disconnected. Ex. 4, Cahill ¶ 5; Ex. 8, Hernon Aff. ¶ 15; Ex. 12, McCamic Aff. ¶ 4; Ex. 16, Pierce Aff. ¶ 16; Ex. 17, Reeves Aff. ¶ 16.

446. According to Attorneys Cahill, Hernon, McCamic, Pierce, and Reeves, they have heard other people in the background when their clients call them from Essex County House of Correction. Ex. 4, Cahill Aff. ¶ 3(a); Ex. 8, Hernon Aff. ¶ 13(a); Ex. 12, McCamic Aff. ¶ 5; Ex. 16, Pierce Aff. ¶ 14; Ex. 17, Reeves Aff. ¶ 16.

447. According to Attorneys Cahill, Hernon, and Pierce, they have heard their clients speak to other people while on the phone with them. Ex. 4, Cahill Aff. ¶ 3(c); Ex. 8, Hernon Aff. ¶ 13(c); Ex. 16, Pierce Aff. ¶ 14.

448. According to Attorneys Cahill, Hernon, McCamic, Morris, and Pierce, they have heard other people speaking to their clients while on the phone or tablet with them. Ex. 4, Cahill Aff. ¶ 3(b); Ex. 8, Hernon Aff. ¶ 13(b); Ex. 12, McCamic Aff. ¶ 5; Ex. 14, Morris Aff. ¶ 35; Ex. 16, Pierce Aff. ¶ 14.

449. According to Attorneys Cahill, Hernon, McCamic, Morris, and Pierce, sometimes they have to be careful about asking questions or ask their clients only yes or no questions because other people are around and due to the nature of their charges could be harmed or they don't feel comfortable talking about their cases over the phone or tablet. Ex. 4, Cahill Aff. ¶ 4; Ex. 8, Hernon Aff. ¶ 14; Ex. 12, McCamic Aff. ¶¶ 8-9; Ex. 14, Morris Aff. ¶ 35; Ex. 16, Pierce Aff. ¶ 15.

450. According to Attorney McCamic, he does not send discovery to his clients at the Essex County House of Correction if they are charged with certain offenses because they will be in danger if other people read these materials. Ex. 12, McCamic Aff. ¶ 10.

451. According to Attorneys Cahill, McCamic, and Pierce, for non-contact visits, where the attorneys and clients are separated by Plexiglas and speak over a phone, there are multiple phones in a row and they can hear other attorneys speaking to their clients if more than one visit is occurring at the same time. Ex. 4, Cahill Aff. ¶¶ 11-14; Ex. 12, McCamic Aff. ¶ 12; Ex. 16, Pierce Aff. ¶ 8.

452. According to Attorneys Cahill, McCamic, and Pierce, due to the Plexiglas barrier between the attorney and the client in non-contact visits, it is not possible to share papers with their clients during a meeting. According to Attorneys Cahill and Pierce, the only way to go over a document with their clients is to hold it up to the Plexiglas or to ask a correctional officer to bring it to their client. Ex. 4, Cahill Aff. ¶ 16; Ex. 12, McCamic Aff. ¶ 12; Ex. 16, Pierce Aff. ¶ 9.
453. According to Attorneys Reeves and Schmidt, videoconferences at the Essex County House of Correction are limited to either 30 or 60 minutes and must be scheduled and paid for in advance. Ex. 17, Reeves Aff. ¶ 6; Ex. 19, Schmidt Aff. ¶ 5.
454. According to Attorneys Reeves and Schmidt, their clients frequently do not appear until after the videoconferencing session has begun, which cuts into the meeting time because the timer begins at the time the meeting was scheduled to begin, not the time their client appears on the screen. Ex. 17, Reeves Aff. ¶ 7; Ex. 19, Schmidt Aff. ¶¶ 6-7.
455. According to Attorneys McCamic, Reeves, and Schmidt, the video image on the screen is small and cannot be enlarged. Ex. 12, McCamic Aff. ¶ 13; Ex. 17, Reeves Aff. ¶ 8; Ex. 19, Schmidt Aff. ¶ 8.
456. According to Attorneys McCamic and Schmidt, documents are not easily read and photographs are not clearly seen through the computer camera. Ex. 12, McCamic Aff. ¶ 13; Ex. 19, Schmidt Aff. ¶ 10.
457. According to Attorney Reeves, because there is no mechanism for third parties to join the videoconferencing at Essex County House of Correction, the interpreter is on speaker phone, and unable to translate written reports or describe maps or photographs for the client during a meeting. Ex. 17, Reeves Aff. ¶ 12.
458. According to Attorneys Dearborn and Morris, they have experienced technical issues with the Securus videoconferencing system. Ex. 5, Dearborn Aff. ¶¶ 3(a)-(c); Ex. 14, Morris Aff. ¶¶ 20-22, 28, 30, 42.
459. According to Attorney Pierce, at the beginning of the pandemic, attorney visits were non-contact only at the Essex County House of Correction. At some point, the facility began permitting contact visits, but then it switched back to non-contact visits after there was a spike in COVID infections at the jail. Currently, attorneys have the option of either contact or non-contact visits. Ex. 16, Pierce Aff. ¶ 5.

Access to Counsel Generally

460. Plaintiffs stated they had no information responsive to the question posed by Defendants “[h]ow many motions/complaints have been made by CPCS on behalf of their clients with the individual trial courts concerning alleged denial of access to counsel-broken down by the five counties.”
461. According to Attorney Gioia, to ensure high quality representation, CPCS has promulgated performance standards with which all attorneys, superior court and district court, must

comply. Ex. 6, Gioia Aff. ¶ 3 and attached Ex. 6A – Assigned Counsel Manual, Performance Standards Governing Representation of Indigents in Criminal Cases.

462. The Manual states that general duties of defense counsel include:
- a. “honoring the attorney/client privilege, respecting the client at all times, and keeping the client informed of the progress of the case.” Ex. 6, Gioia Aff. ¶ 4(a) and Ex. 6A at 4.4.
 - b. “In order to properly prepare the client’s case and to apprise the client of the progress of the case, counsel must arrange for prompt and timely consultation with the client, in person, in an appropriate and private setting.” For clients in custody, “counsel should visit the client within three business days of receiving the appointment.” Ex. 6, Gioia Aff. ¶ 4(b) and Ex. 6A at 4.5.
 - c. “In order to advise the client about decisions to assert or waive rights, to prepare the client to testify at any hearing, and to apprise the client of the progress of the case, counsel must meet with the client as needed and at regular intervals ... at the client’s place of confinement throughout the pendency of the case, and until the representation has concluded.” Ex. 6, Gioia Aff. ¶ 4(c) and Ex. 6A at 4.5.
463. The Manual states that under normal circumstances, “A remote visit, via a videoconference feed, is not a substitute for an in-person visit to the place of confinement.” Ex. 6, Gioia Aff. ¶ 5 and Ex. 6A at 4.5.
464. According to Attorney Gioia, as a result of the Covid-19 pandemic, CPCS updated its performance standards to state that visits should only occur “as long as [the attorney’s] health and the health of [the] in-custody client will not be jeopardized by the visit.” Ex. 6, Gioia Aff. ¶ 6 and attached Ex. 6B – Important Notice to PDD Staff Counsel and Private Counsel, Notice #1 – March 19, 2020.
465. According to Attorney Gioia, JurisLink is a company that offers an Internet based conferencing system that allows attorneys to conduct a secure video-conference with clients housed in correctional facilities equipped with a JurisLink kiosk. According to Attorney Gioia, the kiosk permits screen sharing and third parties such as interpreters and experts to be part of the video call. Ex. 6, Gioia Aff. ¶ 15.

Assignment of Counsel

466. The Court assigns CPCS after a finding of indigency and CPCS assigns the particular attorney. Ex. 6, Gioia Aff. ¶ 5. See also G. L. c. 211D.

Videoconference options in other counties

467. The following counties permit videoconferencing with attorneys via Zoom: Berkshire, Franklin, Hampden, Hampshire, Middlesex, and Worcester. Ex. 6, Gioia Aff. ¶ 13.
468. The following counties permit videoconferencing with attorneys via JurisLink: Norfolk and Plymouth. Barnstable will have JurisLink in the next two weeks. Ex. 6, Gioia Aff. ¶ 14.

Demands of Counsel for § 58A Hearings

469. According to Attorney Gioia, the need for immediate attorney communication is especially acute for those persons facing pretrial detention pursuant to G. L. c. 276, § 58A. According to Attorney Gioia, prior to the pandemic, an adverse decision on a § 58A motion immediately deprived the client of his or her freedom for at least 120 days in district court, and possibly an additional 180 days if the person was indicted. According to Attorney Gioia, currently, an adverse decision results in indefinite detention for clients. Ex. 6, Gioia Aff. ¶ 7.
470. According to Attorney Gioia, given the inherent difficulties and significance of a § 58A hearing, it is important that counsel who is assigned to the case is able to promptly meet with the client and develop a rapport. According to Attorney Gioia, the timing of the § 58A hearing requires an attorney to quickly evaluate the case and prepare a defense because the manner in which a § 58A hearing is defended may have an adverse effect on the overall defense of the case and any future trial proceedings and may also provide opportunities to enhance the defense. Ex. 6, Gioia Aff. ¶ 8.
471. According to Attorney Gioia, for example, the hearing may preserve the testimony of a prosecution witness under the prior recorded testimony exception to the hearsay rule. Thus, if the witness were to become unavailable at trial, the § 58A hearing testimony might be admissible against the defendant. According to Attorney Gioia, as such, defense counsel at a § 58A hearing must take this into account and be prepared to cross-examine witnesses as if the hearing were a trial. According to Attorney Gioia, at the same time, a § 58A hearing may provide counsel with the ability to either develop exculpatory evidence or to discover information about the case which will lead to helpful evidence or a potential defense. Ex. 6, Gioia Aff. ¶ 9.
472. According to Attorney Gioia, thus, there is a great need to establish an effective attorney-client relationship quickly. According to Attorney Gioia, usually, counsel assigned to a § 58A hearing has no prior knowledge or information concerning the client. According to Attorney Gioia, important information must be gathered quickly and important decisions must be made quickly. According to Attorney Gioia, the need to promptly interview witnesses and the defendant while events are still fresh in their memories, to preserve physical evidence and promptly locate defense witnesses are more pronounced in § 58A hearings. Ex. 6, Gioia Aff. ¶ 10.

SJC Order

473. On April 15, 2021, the Supreme Judicial Court issued its “sixth updated order regarding court operations under the exigent circumstances created by the COVID-19 (coronavirus) pandemic.” Ex. 6, Gioia Aff. ¶ 17 and Ex. 6C - SJC Sixth Updated Order.
474. According to that order, “Phase 3 of the resumption of jury trials in Massachusetts state courts will commence on May 1, 2021. ... During Phase 3, the Trial Court departments will conduct trials to juries of six (plus alternates) and twelve (plus alternates). ... During Phase 3, priority should be given to jury trials in criminal cases and sexually dangerous person cases under G. L. c. 123A where, as applicable, the defendant, the person who filed the petition

pursuant to G. L. c. 123A, § 9, or the person named in the petition filed pursuant to G. L. c. 123A, § 12 is in custody.” Ex. 6, Gioia Aff. ¶ 18 and Ex. 6C - SJC Sixth Updated Order.

Respectfully submitted,

/s/ Robert C. Rufo (ret.)

Special Master by Order of Reference dated March 5, 2021

May 10, 2021