COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT FOR SUFFOLK COUNTY

SUFFOLK, ss.

No. SJ-2020-107
Suffolk County
Superior Ct. Dept.
No. 1884PT00608

GLENN CHRISTIE)
)
v.)
)
COMMONWEALTH)
)

AMICUS CURIAE BRIEF OF 10 PUBLIC HEALTH EXPERTS IN SUPPORT OF PETITIONER GLENN CHRISTIE'S EMERGENCY MOTION TO RENEW PETITION FOR RELIEF UNDER G.L. c. 211, § 3

Amici, a group of public health experts, write to respectfully urge this court to act in the best interests of public health and safety and release Mr. Christie from confinement immediately. *Amici* include:

- **Dr. Mary T. Bassett**, MD, MPH, Former Commissioner of the New York City Department of Health and Mental Hygiene, Director of the François-Xavier Bagnoud (FXB) Center for Health and Human Rights and FXB Professor of the Practice of Health and Human Rights in the Department of Social and Behavioral Science at the Harvard T.H. Chan School of Public Health;
- **Prof. Leo Beletsky**, JD, MPH, Professor of Law and Health Sciences, Director, Health in Justice Action Lab at Northeastern University School

of Law & Bouvé College of Health Sciences, Associate Adjunct Professor, UC San Diego School of Medicine;

- **Prof. Lauren Brinkley-Rubinstein**, PhD, Assistant Professor of Social Medicine, UNC–Chapel Hill School of Medicine, Faculty Member, UNC Center for Health Equity Research;
- **David Cloud**, JD, MPH, Research and Program Manager, University of California San Francisco Division of Geriatrics, PhD candidate, Rollins School of Public Health at Emory University;
- **Dr. Warren J. Ferguson**, MD, Professor of Family Medicine and Community Health, University of Massachusetts Medical School;
- **Prof. Robert E. Fullilove**, EdD, Professor of Sociomedical Sciences at the Columbia University Medical Center and Associate Dean, Community and Minority Affairs, Columbia University Mailman School of Public Health;
- **Dr. Mindy Thompson Fullilove**, MD, Professor of Urban Policy and Health, The New School;
- **Prof. Gregg Gonsalves**, PhD, Assistant Professor of Epidemiology (Microbial Diseases) at Yale School of Medicine, Associate Adjunct Professor of Law, Yale Law School, Co-Director, Global Health Justice Partnership and Collaboration for Research Integrity and Transparency;

- **Dr. Josiah "Jody" Rich**, MD, MPH, Professor of Medicine and Epidemiology, Brown University, Director of the Center for Prisoner Health and Human Rights, Attending Physician, The Miriam Hospital;
- **Dr. Bram Wispelwey**, MD, MS, MPH, Chief Strategist & Co-Founder, Health for Palestine, Associate Physician, Division of Global Health Equity, Hospital Medicine Unit, Brigham & Women's Hospital, Instructor in Medicine, Harvard Medical School, 2020 Fellow, Atlantic Fellows for Health Equity.

INTRODUCTION

On Saturday, March 21, 2020, the Massachusetts Department of Correction confirmed the first case of COVID-19 in the state prison system: a state prisoner held at the Massachusetts Treatment Center, the prison where Mr. Christie is incarcerated. Jackson Cote, *Coronavirus and prisons: Inmate serving life sentence tests positive for COVID-19 at Massachusetts Treatment Center in Bridgewater*, Mass Live News (Mar. 21, 2020);[1] *Inmate at Bridgewater prison tests positive for coronavirus, officials say*, WCVB (Mar. 21, 2020).[2] This first person infected was

[1] Available at: https://www.masslive.com/coronavirus/2020/03/coronavirus-and-prisons-inmate-serving-life-sentence-tests-positive-for-covid-19-at-massachusetts-treatment-center-in-bridgewater.html.
[2] Available at: https://www.wcvb.com/article/inmate-at-bridgewater-prison-massachusetts-treatment-center-tests-positive-for-coronavirus-officials-say/31846456#.

an incarcerated man serving a life sentence. He and his cellmate have both been separately quarantined since Thursday, March 19, 2020. As must be obvious, given that this man was already serving a life sentence in state prison, he did not get COVID-19 from international travel or by flouting social distancing. The virus was introduced into the prison. On Sunday evening, the Associated Press reported that three people incarcerated at the Massachusetts Treatment Center now have confirmed cases of COVID-19 and are quarantined, in addition to one corrections officer. *3 inmates, 1 officer at Mass. prison test positive for coronavirus*, WHDH (Mar. 22, 2020).[3] The virus is spreading, and many others are at risk.

As detailed in the Petitioner's Motion, Mr. Christie is fifty-four years old and suffers from several severe, ongoing medical conditions: nephropathy (kidney disease), hypothyroidism, and malignant neoplasm of the thyroid gland. He had a thyroidectomy (removal of his thyroid) in 2010. He is presently seeking testing and treatment for a potential recurrence of thyroid cancer, which had been in remission prior to his detention. He currently relies on a wheelchair due to spinal stenosis, a narrowing of the spinal column. He requires surgery to regain his ability to walk. Mr. Christie's combined age and debilitating health conditions subject him to particular risk of life-threatening complications were he to contract COVID-19.

[3] Available at: https://whdh.com/news/3-inmates-1-officer-at-mass-prison-test-positive-for-coronavirus/.

Mr. Christie's continued detention during this pandemic poses a great threat to his life and health; increases the risk that COVID-19 will be spread within the prison because the greater the density of people in a confined space, the greater the likelihood that the virus will spread; and undermines public health and safety, exposing the entire population inside the Massachusetts Treatment Center—as well as all who interact with the staff who work in the facility—to heightened risks. The safest possible response is releasing as many people as possible to self-isolate—especially people who are particularly vulnerable due to health or age like Mr. Christie—thereby protecting those who are released, the general public, and people who will remain incarcerated or who must staff the facility.

Close contact and conditions of incarceration are unsafe in light of the global COVID-19 pandemic. *See* World Health Organization, *Director-General Opening Remarks* (Mar. 11, 2020).[4] These conditions pose a substantial risk of serious illness and possible death to Mr. Christie. As Dr. Ross McDonald, Chief Medical Officer at Rikers Island in New York City, recently put it, "We cannot socially distance dozens of elderly men living in a dorm, sharing a bathroom." Andrew Naughtie, *Coronavirus: US Doctors Demand Immediate Release of Prisoners and*

[4] Available at: https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020.

Detainees to Avert Disaster, Independent (Mar. 9, 2020).[5] Every additional day that Mr. Christie is held in an unhygienic prison environment where social distancing is functionally impossible, he is placed at risk and, in turn, he poses a risk to anyone who comes in contact with him: other prisoners, jail staff, visiting lawyers, and all of their families and contacts beyond the prison walls.

In the right conditions, even one case of COVID-19 can infect hundreds of other people. *See, e.g., The Korean Clusters*, Reuters (updated Mar. 20, 2020) (one South Korean patient likely responsible for transmitting virus to over 1,000 people).[6] Facing down the aggressive spread of COVID-19—and the growing risk that, if not slowed, it will overwhelm the Commonwealth's healthcare system and thereby cause countless more needless deaths—Mr. Christie should be released.

DISCUSSION

A. The exponentially growing COVID-19 pandemic is putting millions of Americans at risk, including in Massachusetts.

On March 11, 2020, the World Health Organization declared a global pandemic based on the coronavirus, or COVID-19. Bill Chappell, *Coronavirus:*

[5] Available at: https://www.independent.co.uk/news/world/americas/coronavirus-us-prison-release-doctors-medical-workers-symptoms-a9410501.html. The original tweet by Dr. McDonald is available here: Ross McDonald (@RossMcDonaldMD), Twitter (Mar. 18, 2020, 9:51 PM), https://twitter.com/RossMacDonaldMD/status/1240455801397018624?s=20.

[6] Available at: https://graphics.reuters.com/CHINA-HEALTH-SOUTHKOREA-CLUSTERS/0100B5G33SB/index.html.

COVID-19 is Now Officially a Pandemic, WHO Says, NPR (Mar. 11, 2020).[7] COVID-19 is an infectious disease caused by severe acute respiratory syndrome coronavirus 2. *See generally Coronavirus (COVID-19)*, Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/index.html (last visited Mar. 21, 2020). Although some people with COVID-19 have less serious symptoms, those who become more seriously ill suffer bilateral interstitial pneumonia—which causes partial or total collapse of the lung alveoli, making it difficult or impossible to breathe. *See id.* COVID-19 "is deadlier than the flu"—perhaps "10 times deadlier." Charles Ornstein, *This Coronavirus Is Unlike Anything in Our Lifetime, and We Have To Stop Comparing It to the Flu*, ProPublica (Mar. 14, 2020).[8]

As a result of COVID-19, President Trump declared a national emergency on March 13. *See* White House, *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19 Outbreak)* (Mar. 13, 2020).[9] On March 15, the Centers for Disease Control warned against holding "in-

[7] Available at: https://www.npr.org/sections/goatsandsoda/2020/03/11/814474930/coronavirus-covid-19-is-now-officially-a-pandemic-who-says.
[8] Available at: https://www.propublica.org/article/this-coronavirus-is-unlike-anything-in-our-lifetime-and-we-have-to-stop-comparing-it-to-the-flu.
[9] Available at: https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.

person events that consist of 50 people or more throughout the United States." CDC, *Interim Guidance for Coronavirus Disease 2019 (COVID-19)*, https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html (last visited Mar. 15, 2020). On March 16, Massachusetts Governor Charlie Baker banned gatherings of over 25 people. *See Gov. Baker bans gatherings of over 25 people, orders school closure, restaurants take-out only*, WCVB (Mar. 16, 2020).[10] And yesterday, he reduced that number to 10. Martin Finucane et al., *Mass. issues stay-at-home advisory, closes non-essential businesses to slow coronavirus*, Bos. Globe (Mar. 23, 2020).[11]

The number of people infected is growing exponentially. *See* Harry Stevens, *Why Outbreaks Like Coronavirus Spread Exponentially, and How To 'Flatten the Curve'*, Wash. Post (Mar. 14, 2020).[12] If the number of domestic cases "were to continue to double every three days, there would be about a hundred million cases in the United States by May." *Id.* And the actual tally almost certainly dwarfs the

[10] Available at: https://www.wcvb.com/article/gov-charlie-baker-massachusetts-covid-19-coronavirus-update-march-15-2020/31647097#.
[11] Available at: https://www.bostonglobe.com/2020/03/23/metro/coronavirus-latest-updates.
[12] Available at: https://www.washingtonpost.com/graphics/2020/world/corona-simulator.

official tally. Melissa Healy, *True Number of U.S. Coronavirus Cases Is Far Above Official Tally, Scientists Say*, L.A. Times (Mar. 10, 2020).[13]

Of perhaps greatest concern is that many people are contagious before they have symptoms. The infamous cluster of cases in Massachusetts "was started by people who were not yet showing symptoms, and more than half a dozen studies have shown that people without symptoms are causing substantial amounts of infection." Elizabeth Cohen, *Infected People Without Symptoms Might Be Driving the Spread of Coronavirus More Than We Realized*, CNN (Mar. 14, 2020), https://www.cnn.com/2020/03/14/health/coronavirus-asymptomatic-spread/index.html. Now there are currently thousands of people under quarantine in Massachusetts, *see Massachusetts Residents Subject to COVID-19 Quarantine*, Mass.gov, https://www.mass.gov/info-details/covid-19-cases-quarantine-and-monitoring#massachusetts-residents-subject-to-covid-19-quarantine-, while rapid undetected spread continues among the general public. As a result, thousands or tens of thousands of people are carrying a highly contagious, potentially fatal disease.

Because COVID-19 takes up to fourteen days to incubate, patients who show symptoms today may have been inadvertently spreading the disease for the

[13] Available at: https://www.latimes.com/science/story/2020-03-10/us-coronavirus-cases-far-above-official-tally-scientists.

past two weeks. Centers for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-19): Symptoms* (last updated Mar. 14, 2020), https://tinyurl.com/utnov9c. The first case of an incarcerated person with the disease at the Massachusetts Treatment Center—where Mr. Christie is confined—was confirmed by testing on Friday, March 20. The Massachusetts DOC did not prohibit non-legal visits until March 12, a mere eight days prior. *Updated: DOC Temporarily Suspends Family and Friend Visits at Facilities Statewide*, Mass.gov (Mar. 12, 2020), https://www.mass.gov/news/updated-doc-temporarily-suspends-family-and-friend-visits-at-facilities-statewide. The virus likely has been spreading across the walls—from members of the community and staff and introduced into prisons—long before this first case was detected.

In the United States, we are just eleven days behind Italy, and our only chance of avoiding a similar catastrophe is through "widespread, uncomfortable, and comprehensive social distancing." Asaf Bitton, MD, MPH, *Social Distancing: This Is Not a Snow Day*, Medium: Ariadne Labs (Mar. 13, 2020), https://tinyurl.com/vp7hrkv. Because the United States has fewer than 100,000 ICU beds nationwide, *see id.*, without slowing the rate of transmission our doctors and hospitals will be overwhelmed: "[W]e won't have anywhere for sick patients to go. We will quickly run out of capacity." Ornstein, *supra*.

B. People incarcerated in DOC facilities, including the Massachusetts Treatment Center, are even more vulnerable to COVID-19 due to immutable conditions of confinement, well-documented unhygienic prison environments, and inadequate medical care.

Those who are incarcerated, including those locked up in the Massachusetts Treatment Center, a medium security facility operated by the Department of Correction within the Bridgewater Correctional Complex, are even more vulnerable to catching COVID-19 and to getting seriously ill or dying from it. *See generally* David Cloud, Vera Inst. of Justice, On Life Support: Public Health in the Age of Mass Incarceration 5–12 (2014) (report authored by member of *amici* expert group).[14] Infection control in jails and prisons is nearly impossible. *See, e.g.*, Joseph A. Bick, *Infection Control in Jails and Prisons*, 45 Clinical Infectious Diseases 1047 (2007), https://doi.org/10.1086/521910; John E. Dannenburg, *Prisons as Incubators and Spreaders of Disease and Illness*, Prison Legal News (Aug. 15, 2007).[15]

Those acute risks, in turn, endanger others, including lawyers, prison staff, and the families of those who come in contact with the facility. *See, e.g.*, Emily Bazelon, *Our Courts and Jails Are Putting Lives at Risk*, N.Y. Times (Mar. 13,

[14] Available at: https://www.vera.org/downloads/Publications/on-life-support-public-health-in-the-age-of-mass-incarceration/legacy_downloads/on-life-support-public-health-mass-incarceration-report.pdf.
[15] Available at: https://www.prisonlegalnews.org/news/2007/aug/15/prisons-as-incubators-and-spreaders-of-disease-and-illness/.

2020);[16] Premal Dharia, *The Coronavirus Could Spark a Humanitarian Disaster in Jails and Prisons,* Slate (Mar. 11, 2020).[17] Further, some prisoners who get COVID-19 will need to go to the hospital, further stressing our increasingly precarious medical capacity. *See* Martin Kaste, *Prisons and Jails Worry About Becoming Coronavirus "Incubators,"* NPR (Mar. 13, 2020).[18]

Several aspects of the Massachusetts Treatment Center make it an oversized petri dish for COVID-19. The virus spreads mainly between people who are less than six feet from one another, through respiratory droplets produced and propelled when an infected person coughs or sneezes. Ctrs. for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-19) and You* (Mar. 3, 2020).[19] It likely stays airborne for up to three hours. *See* John Bowden, *Tests Indicate Coronavirus Can Survive in the Air*, The Hill (Mar. 11, 2020).[20] For three full days, it remains alive—and contagious—on plastic, metal, and other hard surfaces. *See* Allison Aubrey, *The New Coronavirus Can Live on Surfaces for 2–3 Days—*

[16] Available at: https://www.nytimes.com/2020/03/13/opinion/coronavirus-courts-jails.html.
[17] Available at: https://slate.com/news-and-politics/2020/03/coronavirus-civil-rights-jails-and-prisons.html.
[18] Available at: https://www.npr.org/2020/03/13/815002735/prisons-and-jails-worry-about-becoming-coronavirus-incubators.
[19] Available at: https://www.cdc.gov/coronavirus/2019-ncov/downloads/2019-ncov-factsheet.pdf.
[20] Available at: https://thehill.com/policy/healthcare/487110-tests-indicate-coronavirus-can-survive-in-the-air.

Here's How To Clean Them, NPR (Mar. 14, 2020).[21] As a result, CDC recommends that people wash their hands frequently and thoroughly, avoid touching their own and others' faces, use alcohol-based hand sanitizers when soap and water are unavailable, regularly disinfect frequently touched items, and honor social distancing. *See, e.g.*, Ctrs. for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-19): How To Protect Yourself* (last updated Mar. 14, 2020), https://tinyurl.com/tcn892b.

These elementary, essential steps are virtually impossible for those, like Mr. Christie, who are locked up at the Massachusetts Treatment Center. Despite its name, the Massachusetts Treatment Center at the Bridgewater Correctional Complex is not a therapeutic or clinical environment:

> Bridgewater State Hospital is a medium-security prison run by the Department of Correction, not a hospital. The facility has long been plagued with patient deaths, evidence of wholesale neglect, and the illegal use of seclusion and restraints. Several attempted reforms have either fallen by the wayside or proven to be ineffective.

[21] Available at: https://www.npr.org/sections/health-shots/2020/03/14/811609026/the-new-coronavirus-can-live-on-surfaces-for-2-3-days-heres-how-to-clean-them.

Michael Rezendes, *Baker to propose new spending to improve Bridgewater State Hospital*, Bos. Globe (Jan. 24, 2017).[22] Mr. Christie faces the following conditions—with no ability to choose otherwise or take prophylactic precautions:

- He lives in a six-man dorm room, in close quarters;
- He is regularly in communal spaces, such as eating areas, bathrooms, and cells or holding areas;
- He lives in spaces with open toilets within a few feet of his bed, unable to access a closed toilet that would not aerosolize bodily fluids into living spaces;
- He is nearly always in "close contact" with others;
- He is frequently in actual physical contact with others, such as correctional officers, kitchen staff, and medical staff;
- He is regularly subject to intimate physical contact, including in searches of mouths and body cavities; and
- He lacks regular, uninhibited access to soap, water, tissues, and paper towels.

These general conditions of confinement, similar to those in most correctional institutions, make any prison a particularly dangerous place for the spread of infectious disease. But in the case of the Massachusetts Treatment Center, longstanding public health defects exacerbate these risks.

[22] Available at: https://www.bostonglobe.com/metro/2017/01/24/baker-propose-new-spending-improve-care-bridgewater-state-hospital/sp3GJM6mWz4JMj4zJlZ4lK/story.html.

The Massachusetts Treatment Center had more than 250 *repeated* public health violations documented by the Department of Public Health in each of its two most recent reviews, in February and September 2019 respectively. *See* Executive Office of Health and Human Services, Department of Public Health, Bureau of Environmental Health, Community Sanitation Program, *Facility Inspection – Massachusetts Treatment Center, Bridgewater* (Mar. 6, 2019), https://www.mass.gov/doc/massachusetts-treatment-center-bridgewater-february-27-2019/download (271 repeat violations); *see also* Executive Office of Health and Human Services, Department of Public Health, Bureau of Environmental Health, Community Sanitation Program, *Facility Inspection – Massachusetts Treatment Center, Bridgewater* (Sept. 26, 2019), https://www.mass.gov/doc/massachusetts-treatment-center-bridgewater-september-17-2019/download (296 repeat violations). Based on these inspections, and those going back many years prior, the DOC fails to meet standards that adequately promote and protect the health and safety of its population under non-emergency conditions. In a global pandemic, where heightened hygiene and physical distancing are required, the DOC must receive every possible assistance to protect its population—including substantial decarceration of vulnerable populations to promote health and safety.

People in DOC facilities also lack access to timely, quality medical care. On January 9, 2020, the Massachusetts Office of the State Auditor, Suzanne Bump,

released a review of the Massachusetts DOC's medical care after a two-year audit, finding that DOC does not comply with authoritative guidance for incarcerated people's healthcare related to sick call requests, doctors' appointments, health insurance coverage, and medications during reentry preparation under normal operating times. Commonwealth of Massachusetts, Office of the State Auditor, *Official Audit Report of Massachusetts Department of Correction For the Period July 1, 2016 through June 30, 2018* (Jan. 9, 2020), https://www.mass.gov/doc/audit-of-the-department-of-correction/download. For example, the State Auditor wrote:

> During the audit period, Sick Call Request Forms (SCRFs) were not processed or triaged within 24 hours (72 on weekends) and/or were not completely filled out by nurses and/or physicians, and inmates were not always seen by a qualified healthcare professional (QHP) within seven days after they submitted SCRFs. Without timely treatment for physical and mental health issues, an inmate's condition could worsen. Additionally, the Department of Correction (DOC) puts itself at risk of legal action by not documenting that SCRFs are triaged and inmates are seen promptly.

Id. at 11. Even *timely* processing of prisoners' requests for medical care can take at least a day—and pursuant to the audit, about one-third of people whose records were audited (19 out of 60) were not even seen within a week. At a time of pandemic, these existing deficiencies will create new crises and are only likely to worsen as more people become infected and in need of urgent or intensive care.

The Office of the State Auditor reported that "DOC officials could not provide us with a reason for these issues at the time of our audit. However, we did note that controls over the administration of these activities appeared to be deficient." *Id.* at 12. The DOC, operating from a baseline of impairment, will be stretched thinner during this emergency. Based on these evaluations by other state agencies, the DOC is not equipped to flexibly adapt in a manner that will serve the needs of the population it detains. The best thing for the administration of the Commonwealth's prisons is to release people like Mr. Christie, who are extremely vulnerable to infection due to age and underlying debilitating health conditions.

Lawmakers in the Commonwealth have long recognized that the most humane and safest response to a rapidly spreading disease among people who are incarcerated is to get them out of the infection environment. For example, longstanding Massachusetts law explicitly authorizes sheriffs in county facilities to release people to another confined setting in the face of an infectious disease. *See* G.L. c. 126, § 26 ("If 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 . . . as a place of confinement for such prisoners.").

Finally, COVID-19 makes steps like isolation, segregation, and lockdowns all but futile. COVID-19 can survive in the air, so separation in a facility where there is movement and interaction will not contain it. Surfaces are still touched—inside cells, in bathrooms, and in transport, at the very least. Contact with others—including intake officers, kitchen staff, and medical personnel—is inevitable. Meanwhile, solitary confinement causes severe, long-term damage to the brain, and replaces one acute health threat with another. *See, e.g.*, Dana G. Smith, *Neuroscientists Make a Case Against Solitary Confinement*, Sci. Am. (Nov. 9, 2018), https://www.scientificamerican.com/article/neuroscientists-make-a-case-against-solitary-confinement/.

C. These risks to Mr. Christie and, in turn, to the broader population are especially intolerable given his current medical conditions and that he is currently sentenced on technical probation violations.

At fifty-four years old, wheelchair-bound, and in ailing health, Mr. Christie is not a risk to the safety of the public—unless, that is, he gets COVID-19 while in prison, which puts us all at further risk of rapid community spread. Releasing Mr. Christie would promote public health and safety; keeping him detained would threaten it.

Circumstances in the Massachusetts Treatment Center make prisoners especially likely to contract COVID-19, get sick from it, and die from it. And there is little hope of preventing this result while so many people remain densely

incarcerated—especially given the number of new prisoners, employees, and lawyers entering and exiting the facility every day. *See* Peter Wagner & Emily Widra, *No Need To Wait for Pandemics: The Public Health Case for Criminal Justice Reform*, Prison Policy Initiative (Mar. 6, 2020), https://tinyurl.com/sdl2x7n.

Given Mr. Christie's age and ailing health, keeping him "incarcerated under conditions posing a substantial risk of serious harm," while government officials "fail[] to act despite [] knowledge of a substantial risk of serious harm" risks violating his human rights as well as his constitutional rights. *Farmer v. Brennan*, 511 U.S. 825, 834, 842 (1994) (citation omitted). As detailed above, the Massachusetts DOC simply cannot meet its obligations to protect those imprisoned from contracting and transmitting COVID-19; indeed, they have already failed in the very facility where Mr. Christie is incarcerated—and though they took steps to quarantine the infected man and his cellmate on Thursday, March 19, they did not alert the public to this risk until Saturday, March 21 and new cases have already sprouted up. This will have profound consequences for Mr. Christie and the public.

Conclusion

For the foregoing reasons, *amici* respectfully request that this Court order the Department of Correction to release Mr. Christie immediately.

Respectfully submitted,

Amici Curiae Public Health Experts

Dr. Mary T. Bassett, MD, MPH
Former Commissioner, New York City Department of Health and Mental Hygiene
Director, François-Xavier Bagnoud (FXB) Center for Health and Human Rights
FXB Professor of the Practice of Health and Human Rights, Department of Social and Behavioral Science, Harvard T.H. Chan School of Public Health

Prof. Leo Beletsky, JD, MPH
Professor of Law and Health Sciences, Northeastern University School of Law & Bouvé College of Health Sciences
Director, Health in Justice Action Lab
Associate Adjunct Professor, UC San Diego School of Medicine

Prof. Lauren Brinkley-Rubinstein, **PhD**
Assistant Professor of Social Medicine, UNC–Chapel Hill School of Medicine,
Faculty Member, UNC Center for Health Equity Research

David Cloud, JD, MPH
Research and Program Manager, University of California San Francisco Division of Geriatrics,
PhD candidate, Rollins School of Public Health at Emory University

Dr. Warren J. Ferguson, MD
Professor of Family Medicine and Community Health, University of Massachusetts Medical School

Prof. Robert E. Fullilove, EdD
Professor of Sociomedical Sciences, Columbia University Medical Center
Associate Dean, Community and Minority Affairs, Columbia University Mailman School of Public Health

Dr. Mindy Thompson Fullilove, MD
Professor of Urban Policy and Health, The New School

Prof. Gregg Gonsalves, PhD
Assistant Professor of Epidemiology (Microbial Diseases), Yale School of Medicine
Associate Adjunct Professor of Law, Yale Law School
Co-Director, Global Health Justice Partnership and Collaboration for Research Integrity and Transparency

Dr. Josiah "Jody" Rich, MD, MPH
Professor of Medicine and Epidemiology, Brown University
Director, Center for Prisoner Health and Human Rights
Attending Physician, The Miriam Hospital

Dr. Bram Wispelwey, MD, MS, MPH
Chief Strategist & Co-Founder, Health for Palestine
Associate Physician, Division of Global Health Equity, Hospital Medicine Unit, Brigham & Women's Hospital
Instructor in Medicine, Harvard Medical School
2020 Fellow, Atlantic Fellows for Health Equity

By their attorney

/s/ *Katharine Naples-Mitchell*
Katharine Naples-Mitchell
BBO #704239
Charles Hamilton Houston Institute for
Race & Justice at Harvard Law School
Areeda Hall, Room 521
1545 Massachusetts Ave.
Cambridge, MA 02138
(617) 495-5121
knaplesmitchell@law.harvard.edu

Counsel for Amici Curiae

March 24, 2020

CERTIFICATE OF SERVICE

On March 24, 2020, I served a copy of this brief on all parties by email.

/s/ *Katharine Naples-Mitchell*
Katharine Naples-Mitchell
BBO #704239
Charles Hamilton Houston Institute for
Race & Justice at
Harvard Law School
Areeda Hall, Room 521
1545 Massachusetts Ave.
Cambridge, MA 02138
(617) 495-5121
knaplesmitchell@law.harvard.edu

Counsel for Amici Curiae