

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

UNITED STATES OF AMERICA

v.

No. 1:18-cr-192-JL

IMRAN ALRAI,

Defendant.

**EMERGENCY MOTION FOR IMMEDIATE RELEASE TO HOME CONFINEMENT  
PENDING SENTENCING AND FOR AN EXPEDITED TELEPHONIC HEARING**

*I want Americans to understand: This week, it's going to get bad.*  
—U.S. Surgeon General Jerome Adams<sup>1</sup>

Mr. Imran Alrai emergently moves for this Court to order his release on the condition of home confinement pending sentencing. The exponential proliferation of the SAR-COV-2 (COVID-19) pandemic in the United States has materially changed the calculus for determining whether a non-violent detainee such as Mr. Alrai can safely remain in the general prison population versus in home confinement pending sentencing. He cannot. Mr. Alrai therefore should be immediately released on the condition of home confinement in the custody of his wife.<sup>2</sup>

**First**, Mr. Alrai is vulnerable to COVID-19. The Centers for Disease Control and Prevention (“CDC”) have issued guidance recommending social distancing, limiting gathering to groups of less than 10 people (if necessary at all), and avoiding all nonessential travel.<sup>3</sup> CDC and

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<sup>1</sup> U.S. Surgeon General, *Surgeon general on coronavirus: “This week, it’s gonna get bad”*, Axios (Mar. 23, 2020), available at <https://www.axios.com/surgeon-general-coronavirus-this-week-gonna-bad-b6eb59a4-9e72-46c6-ab01-b1d61a863e37.html>.

<sup>2</sup> In an email this morning, counsel for the government has indicated the government intends to object to this emergency motion.

<sup>3</sup> Centers for Disease Control and Prevention, *Coronavirus (COVID-19)* (last visited Mar. 21, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

medical professionals have warned that the older or immunocompromised (or both) populations are at increased risk of complications or death resulting from the novel Coronavirus.<sup>4</sup>

According to the Initial Presentence Investigation Report (the “PSR”), Mr. Alrai reported that before undergoing gastric bypass surgery he weighed early 500 pounds. PSR ¶ 73.<sup>5</sup> He also reported suffering complications from such a dramatic surgery and post-operative skin procedures, with such complications including a now “weakened immune system.” *Id.* Mr. Alrai stated that he was anemic, was diagnosed with Hypothyroidism, and had been diagnosed with prediabetes syndrome. *Id.* ¶ 74. In light of this medical history, the extent of Mr. Alrai’s vulnerability to the consequences of COVID-19 are unknown, but concerning.

Detention exacerbates the threat of contracting COVID-19. Much like cruise ships and nursing homes, jails are extremely dangerous in a pandemic because social distancing and self-quarantining techniques cannot be deployed to combat community spread in these confined spaces.<sup>6</sup> As the former chief medical officer of Rikers put it, unlike free people, detainees cannot engage in “‘social distancing’ and ‘self-quarantine’ and ‘flattening the curve’ of the epidemic— all of these things are impossible in jails and prisons, or are made worse by the way jails and prisons are operated.”<sup>7</sup>

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<sup>4</sup> *See id.*

<sup>5</sup> Mr. Alrai received a copy of the PSR. He has not formally objected to the initial PSR in light of the continuance and resetting of associated deadline, but expects to do so. Mr. Alrai’s use of the information in the draft PSR in no way waives his rights to object to same in the future.

<sup>6</sup> Keller, J., M.D., *COVID-19 in Jails? It Might Get Ugly*, Medpage, (Mar. 12, 2020), available at <https://www.medpagetoday.com/blogs/doing-time/85366>.

<sup>7</sup> Gonnerman, J., *How Prisons and Jails can Respond to the Coronavirus*, The New Yorker, (Mar. 14, 2020), available at <https://www.newyorker.com/news/q-and-a/how-prisons-and-jails-can-respond-to-the-coronavirus> (“[I]t’s going to be very, very difficult to deliver a standard of care either in the detection or the treatment of people who are behind bars. I just have really grave concerns”); *see also* Roy, L., M.D., *Infections And Incarceration: Why Jails And Prisons Need To Prepare For COVID-19 Now*, Forbes, (Mar. 11, 2020), available at <https://www.forbes.com/sites/lipiroy/2020/03/11/infections-and-incarceration-why-jails-and-prisons-need-to-prepare-for-covid-19-stat/#1fa6b08e49f3> (“Hand sanitizers, for instance, are often considered contraband. .

Dr. Robert Greifinger, an expert in health care for prisoners, explained these dangers in a declaration filed in a civil suit seeking relief detainees in a privately-run facility in Washington State. Ex. A, Decl. of Robert Greifinger, *Dawson v. Asher*, 2:20-cv-00409-JLR-MAT (W.D. Wash., March 16, 2020), ECF No. 4. The conditions of confinement he describes are highly similar to those where Mr. Alrai is detained:

Immigration detention facilities are enclosed environments, much like the cruise ships that were the site of the largest concentrated outbreaks of COVID-19. Immigration detention facilities have even greater risk of infectious spread because of conditions of crowding, the proportion of vulnerable people detained, and often scant medical care resources. People live in close quarters and cannot achieve the social distancing needed to effectively prevent the spread of COVID-19. Toilets, sinks, and showers are shared, without disinfection between use. Food preparation and food service is communal, with little opportunity for surface disinfection. Staff arrive and leave on a shift basis; there is little to no ability to adequately screen staff for new, asymptomatic infection.

*Id.* ¶ 11. Dr. Greifinger concluded that in light of the deadly nature of the novel virus, the “only viable public health strategy available is risk mitigation.” *Id.* ¶ 13.

Keeping Mr. Alrai detained at this time unnecessarily and cruelly exposes him to a pandemic that not even the finest hospitals around the world are equipped to handle. The best defense against COVID-19 is to prevent contraction in the first place. His release on the condition of home confinement (and quarantine) to the custody of his wife—and whatever other reasonable conditions this Court sets—better assures his safety and appearance at sentencing.

Over the weekend, it was reported that the first federal inmate tested positive for COVID-19.<sup>8</sup> This will not be the last. While that inmate was isolated, isolation as a response will soon

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[o]ther harsh realities of jail life that prevent proper application of CDC recommendations include limited access to toilet paper and paper towels; and handcuffs prohibit the use of hands to cover one’s mouth.”).

<sup>8</sup> Balsamo, M., *AP Exclusive: 1st fed inmate tests positive for coronavirus*, AP (Mar. 22, 2020), available at [https://apnews.com/ec49cc7f4d1b00bc5010dfb6d935e042?utm\\_campaign=SocialFlow&utm\\_medium=AP&utm\\_source=Twitter](https://apnews.com/ec49cc7f4d1b00bc5010dfb6d935e042?utm_campaign=SocialFlow&utm_medium=AP&utm_source=Twitter). Inmates and a correction officer at the Massachusetts Treatment Center have tested positive now too. Cote, J., *Coronavirus hits 2 more inmates, 1 correction officer at Massachusetts Treatment Center in Bridgewater; National Guard sets up screening tests*, Masslive.com (Mar. 23, 2020), available at

become infeasible as more of the prison population becomes infected. And although there are no known reports of Merrimack County Department of Corrections (“MCDOC”) staff, guards, or inmates testing positive for COVID-19, the time to move Mr. Alrai is now. Inasmuch as the incubation period for COVID-19 is two to fourteen days,<sup>9</sup> if the Court waits for concrete evidence of COVID-19 at MCDOC, it may already be too late to save Mr. Alrai from contracting the virus. *See, e.g.*, 18 U.S.C. § 4042(a)(2) (BOP shall “provide suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States, or held as witnesses or otherwise.”); *see also Fed. Defenders of NY, Inc. v. Federal Bureau of Prisons, et al.*, Dkt. No. 19-1778 (2d Cir. Mar. 20, 2020) (“The impact of [COVID-19] on jail and prison inmates. . . is just beginning to be felt. Its likely course we cannot foresee. Present information strongly suggests, however, that it may be grave and enduring.”).

**Second**, the flight risk calculus has dramatically changed since this Court ordered Mr. Alrai detained three months ago pursuant to 18 U.S.C. § 3143. *See* Doc. No. 68.<sup>10</sup> The global pandemic of novel Coronavirus has resulted in heightened security and travel restrictions worldwide. These restrictions virtually eliminate the risk that Mr. Alrai can flee. Nor would he. Federal and state governments throughout the country have taken—and are expected to take additional—extraordinary steps to limit international, domestic, and local travel for nonessential purposes.

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<https://www.masslive.com/coronavirus/2020/03/coronavirus-hits-2-more-inmates-1-correction-officer-at-massachusetts-treatment-center-in-bridgewater-national-guard-sets-up-screening-tents.html>.

<sup>9</sup> *Supra* n.2.

<sup>10</sup> The Court has already found that Mr. Alrai is not a danger to the community. There is no evidence that such finding needs to be revisited.

At the federal level, the President has declared a National Emergency. The Department of State issued a Global Level 4 Health Advisory – Do Not Travel.<sup>11</sup> The Canadian and Mexican borders are closed to nonessential travel.<sup>12</sup> The President and his cabinet are conducting daily briefings to update the nation, during which they are expected to announce additional restrictions on daily life in America.

New Hampshire has likewise declared a state of emergency. In the last two weeks, the Governor has issued nine emergency executive orders.<sup>13</sup> All nonessential local businesses and schools have closed to the public or have moved to entirely remote operations. At the time of this motion, California,<sup>14</sup> Illinois,<sup>15</sup> and New York,<sup>16</sup> among others, have ordered their residents to “stay at home,” “shelter in place,” or “pause” all nonessential activities. Other states—including New Hampshire—are likely to follow with similar “shelter in place” orders in the coming days.<sup>17</sup>

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<sup>11</sup> U.S. Dep’t of State, *Global Level 4 Health Advisory – Do Not Travel* (Mar. 19, 2020), available at <https://travel.state.gov/content/travel/en/traveladvisories/ea/travel-advisory-alert-global-level-4-health-advisory-issue.html>.

<sup>12</sup> Kennedy, M., *Trump Administration Says U.S. Border With Mexico To Close to Nonessential Travel* (Mar. 20, 2020), available at <https://www.npr.org/sections/coronavirus-live-updates/2020/03/20/818969256/trump-administration-says-u-s-border-with-mexico-to-close-to-nonessential-travel>.

<sup>13</sup> Office of Governor, *Emergency Orders – 2020* (last visited Mar. 21, 2020), available at <https://www.governor.nh.gov/news-media/emergency-orders/index.htm>.

<sup>14</sup> State of California, *Coronavirus (COVID-19) in California* (Mar. 20, 2020), available at <https://covid19.ca.gov/stay-home-except-for-essential-needs/>.

<sup>15</sup> State of Illinois, *Coronavirus (COVID-19) Response* (Mar. 21, 2020), available at <https://www2.illinois.gov/sites/coronavirus/Pages/default.aspx>.

<sup>16</sup> N.Y. Dep’t of Health, *New York State on PAUSE* (Mar. 22, 2020), available at <https://coronavirus.health.ny.gov/home>.

<sup>17</sup> Over the weekend, a contingent of New Hampshire senators, towns, businesses, and a prominent hospital submitted pleas to Governor Sununu to issue a “shelter-in-place” order. Schreiber, J., *Exeter Hospital CEO, state and local leaders urge governor to order shelter in place*, Union Leader (Mar. 21, 2020), available at [https://www.unionleader.com/news/health/coronavirus/exeter-hospital-ceo-state-and-local-leaders-urge-governor-to/article\\_9fb3d81f-1e3d-5e7d-b3ac-18de897a8e18.html](https://www.unionleader.com/news/health/coronavirus/exeter-hospital-ceo-state-and-local-leaders-urge-governor-to/article_9fb3d81f-1e3d-5e7d-b3ac-18de897a8e18.html). Such pleas are likely to get louder and more urgent in the coming days.

Several countries in Asia and the Middle East, among other regions, have issued travel bans.<sup>18</sup> And the scrutiny on Americans traveling internationally has intensified.<sup>19</sup>

These existing and increasing restrictions on travel and nonessential activity in and outside of New Hampshire and the United States provide additional barriers to Mr. Alrai fleeing the country while evading detection. These restrictions also demonstrate that it is nearly impossible for Mr. Alrai to coordinate an escape with family members living in Canada or the Middle East. Nor would he, especially since Pakistan, for example, is even less equipped to address this pandemic.<sup>20</sup> When all of this is combined with the evidence established at his detention hearing—non-violent, surrendered U.S. and Pakistani passports, nuclear family in New Hampshire, and an unblemished record of compliance with pre-trial release conditions—the evidence is now clear and convincing that Mr. Alrai is not a flight risk. And to add another layer of certainty: Mr. Alrai will adhere to a release condition of monitored home confinement.

*Third*, complex legal and factual issues were—or, perhaps, were not—litigated before and during Mr. Alrai’s trial. Undersigned counsel has not yet received the trial transcripts, and thus does not yet know whether there are substantial issues for appeal. Nevertheless, based on counsel’s understanding of the case to date, complex legal and factual questions are also likely to be presented at the sentencing, forfeiture, and restitution phases of this case. Even counsel for the

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<sup>18</sup> N.Y. Times, *Coronavirus Travel Restrictions, Across the Globe* (Mar. 21, 2020), available at <https://www.nytimes.com/article/coronavirus-travel-restrictions.html>.

<sup>19</sup> See, e.g., Department of Homeland Security, *Fact Sheet: DHS Notice of Arrival Restrictions on China, Iran, and Certain Countries of Europe* (Mar. 17, 2020), available at <https://www.dhs.gov/news/2020/03/17/fact-sheet-dhs-notice-arrival-restrictions-china-iran-and-certain-countries-europe>.

<sup>20</sup> Secretary of State Mike Pompeo has advocated for the release of Americans detained in neighboring Iran, for example, because of the “[r]eports that COVID-19 has spread to Iranian prisons,” which he found “deeply troubling and demand[s] nothing less than the full and immediate release of all American citizens.” Hansler, J., et al., *Pompeo calls for humanitarian release of wrongfully detained Americans in Iran amid coronavirus outbreak*, CNN (Mar. 10, 2020), available at <https://www.cnn.com/2020/03/10/politics/mike-pompeo-iran-release-detained-americans-coronavirus/index.html>.

government acknowledged the complexity of this case during the March 19, 2020 status call with the court when the parties were discussing how to reset sentencing and forfeiture filing deadlines.

As one example, Mr. Alrai believes this Court will soon grapple with both the law and facts related to the loss calculation under the United States Sentencing Guidelines. *See* U.S.S.G. § 2B1.1(b)(1). And although Mr. Alrai deeply regrets hiding his conflict of interest from the United Way Massachusetts Bay and Merrimack Valley (“UWMB”), he anticipates demonstrating at sentencing that this Court cannot calculate the ostensible loss based on the excessive, duplicative, or services-never rendered billing methodology the government put forward through its expert and which Probation is presently relying on in making its sentencing recommendation. *See* PSR ¶ 46. The highly-technical and technological nature of the services Mr. Alrai and DigitalNet Technology Solutions LLC (“DigitalNet”) provided UWMB (and the Robert Allen Group) require objective assessment of the government’s expert’s loss analysis which, on its face, appears impermissibly simplistic and flawed in material respects. Mr. Alrai therefore anticipates loss calculation as a central issue for sentencing, forfeiture, and restitution. Depending on how and what loss is ultimately determined—if any—appellate review of that process and result may be warranted. *Cf. United States v. Castiello*, 878 F.2d 554, 555 (1st Cir. 1989) (recognizing that, although a court may consider it, a request for release pending *sentencing* does not specifically require a showing, by clear and convincing evidence, that there are strong grounds for appeal).

**Fourth**, if Mr. Alrai is released to home confinement, he will play an important role in keeping the case on track for the scheduled hearing date. There is voluminous discovery, expert reports, and 10 days of trial testimony, all of which Mr. Alrai knows well. Undersigned counsel is working diligently to prepare for the sentencing, forfeiture, and restitution phases of this case.

But the unprecedented operational disruption brought on by COVID-19 has caused and will continue to cause setbacks in the preparatory process.

Mr. Alrai's predecessor counsel, for example, has not yet transferred the case file to undersigned counsel likely because he is now coordinating that process internally, remotely. That case file, unfortunately, does not include any of the trial transcripts, which were ordered and remain pending. Although the transcripts are expected by the second week of April, that timeline may change because of additional COVID-19-related restrictions or disruptions. Additionally, though undersigned counsel's firm, Nixon Peabody LLP, remains operational, all personnel, lawyers, paralegals, administrative staff, and technology specialists (including e-discovery teams) are working remotely from their homes. To date, the transition to remote operations has been largely successful, but unavoidable disruptions and delays have happened and are expected to continue for the weeks to come.

Mr. Alrai's ability to assist in preparing for this hearing was already extremely limited before the COVID-19 pandemic because he only had access to his discovery roughly once every two weeks. As detention facilities continue to prepare and manage the novel Coronavirus, it is reasonable to assume that Mr. Alrai will experience even further restrictions on his ability to coordinate with counsel in preparation of his sentencing, forfeiture, and restitution defense. Mr. Alrai is entitled to his due process and the government and victims have interests and rights in seeing this matter timely conclude. His release to home confinement advances them all.

For these reasons and those articulated during his post-conviction detention hearing, Mr. Alrai has demonstrated, by clear and convincing evidence, that he is neither a danger to the community nor a flight risk. His release on the condition of home confinement (to the custody of his wife) will advance the interests of justice in this case by preserving Mr. Alrai's well-being

pending sentencing and allowing for the proper preparation of his defenses. Mr. Alrai respectfully requests that this Court order him immediately released to home confinement pending sentencing.

**REQUEST FOR EXPEDITED PROCESS**

Mr. Alrai, through counsel, sought the government's assent to the relief requested in this motion. The government, via email this morning, indicated it does not assent to Mr. Alrai's proposed expedited process, but instead its own schedule, including a deadline of Thursday, March 26, 2020 at midnight for filing its response. Because time is of the essence, Mr. Alrai cannot assent to the government's proposed schedule.

Clear and convincing evidence now demonstrates that Mr. Alrai is not a flight risk. As a non-violent offender, moreover, Mr. Alrai should not be subjected to the heightened risk posed by pre-sentence detention. Monitored confinement, and a reinstatement of his pretrial conditions, will ensure his appearance at sentencing. Remaining detained in an extremely dangerous environment with limited medical capabilities will not. As the U.S. Surgeon General warned Americans today, "this week, it's going to get bad." COVID-19 is spreading at an exponential rate, as much as doubling its number of infections every three days. As grim as the outlook is today, it appears inevitable it will look much worse by Friday, March 27, 2020.

ADM-1-Order 20-5, Court Operations Under the Exigent Circumstances Created By COVID-19, requires the parties to proceed with a review hearing on this motion via videoconference. *Id.* ¶ 5. Because of the emergent nature of the relief requested in this motion, Mr. Alrai requests a telephonic hearing by no later than Thursday, March 26, 2020. *See id.* ¶ 12.

WHEREFORE, Mr. Alrai respectfully and emergently requests that this Court:

- A. Grant his Motion;
- B. Release him pending sentencing on the condition of home confinement to the third-party custody of his wife, Saima Alrai, and whatever other reasonable conditions this Court deems necessary to ensure his appearance at sentencing;
- C. Order a telephonic hearing by no later than Thursday, March 26, 2020, or at the soonest practicable date that aligns with the Court's schedule; or
- D. Alternatively grant the Motion without hearing; and
- E. Grant such other and further relief as is just and equitable.

Dated: March 23, 2020

**IMRAN ALRAI**

By his attorneys,

/s/ Michael E. Strauss

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**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system on March 23, 2020 will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants, if any.

/s/ Michael E. Strauss

# **EXHIBIT A**

**Declaration of Robert B. Greifinger, M.D.**

## Declaration of Robert B. Greifinger, MD

I, Robert B. Greifinger, declare as follows:

1. I am a physician who has worked in health care for prisoners for more than 30 years. I have managed the medical care for inmates in the custody of New York City (Rikers Island) and the New York State prison system. I have authored more than 80 scholarly publications, many of which are about public health and communicable disease. I am the editor of *Public Health Behind Bars: from Prisons to Communities*, a book published by Springer (a second edition is due to be published in early 2021); and co-author of a scholarly paper on outbreak control in correctional facilities.<sup>1</sup>
2. I have been an independent consultant on prison and jail health care since 1995. My clients have included the U.S. Department of Justice, Division of Civil Rights (for 23 years) and the U.S. Department of Homeland Security, Section for Civil Rights and Civil Liberties (for six years). I am familiar with immigration detention centers, having toured and evaluated the medical care in approximately 20 immigration detention centers, out of the several hundred correctional facilities I have visited during my career. I currently monitor the medical care in three large county jails for Federal Courts. My resume is attached as Exhibit A.
3. COVID-19 is a coronavirus disease that has reached pandemic status. As of today, according to the World Health Organization, more than 132,000 people have been diagnosed with COVID-19 around the world and 4,947 have died.<sup>2</sup> In the United States, about 1,700 people have been diagnosed and 41 people have died thus far.<sup>3</sup> These numbers are likely an underestimate, due to the lack of availability of testing.
4. COVID-19 is a serious disease, ranging from no symptoms or mild ones for people at low risk, to respiratory failure and death in older patients and patients with chronic underlying conditions. There is no vaccine to prevent COVID-19. There is no known cure or anti-viral treatment for COVID-19 at this time. The only way to mitigate COVID-19 is to use scrupulous hand hygiene and social distancing.
5. People in the high-risk category for COVID-19, i.e., the elderly or those with underlying disease, are likely to suffer serious illness and death. According to preliminary data from China, 20% of people in high risk categories who contract COVID-19 have died.

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<sup>1</sup> Parvez FM, Lobato MN, Greifinger RB. Tuberculosis Control: Lessons for Outbreak Preparedness in Correctional Facilities. *Journal of Correctional Health Care Online* First, published on May 12, 2010 as doi:10.1177/1078345810367593.

<sup>2</sup> See <https://experience.arcgis.com/experience/685d0ace521648f8a5beee1b9125cd>, accessed March 13, 2020.

<sup>3</sup> See <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html?searchResultPosition=1>, accessed March 13, 2020.

6. Those who do not die have prolonged serious illness, for the most part requiring expensive hospital care, including ventilators that will likely be in very short supply.
7. The Centers for Disease Control and Prevention (CDC) has identified underlying medical conditions that may increase the risk of serious COVID-19 for individuals of any age: blood disorders, chronic kidney or liver disease, compromised immune system, endocrine disorders, including diabetes, metabolic disorders, heart and lung disease, neurological and neurologic and neurodevelopmental conditions, and current or recent pregnancy.
8. Social distancing and hand hygiene are the only known ways to prevent the rapid spread of COVID-19. For that reason, public health officials have recommended extraordinary measures to combat the spread of COVID-19. Schools, courts, collegiate and professional sports, theater and other congregate settings have been closed as part of risk mitigation strategy. At least one nursing home in the Seattle area has had cases of COVID-19 and has been quarantined.
9. The Seattle metropolitan area, hit hard by COVID, is the epicenter of the largest national outbreak at this time. Therefore, it is highly likely, and perhaps inevitable, that COVID-19 will reach the immigration detention facility in Tacoma, Washington. Immigration courts and the ICE field office in Seattle have already closed this month due to staff exposure to COVID-19.
10. The conditions of immigration detention facilities pose a heightened public health risk to the spread of COVID-19, even greater than other non-carceral institutions.
11. Immigration detention facilities are enclosed environments, much like the cruise ships that were the site of the largest concentrated outbreaks of COVID-19. Immigration detention facilities have even greater risk of infectious spread because of conditions of crowding, the proportion of vulnerable people detained, and often scant medical care resources. People live in close quarters and cannot achieve the “social distancing” needed to effectively prevent the spread of COVID-19. Toilets, sinks, and showers are shared, without disinfection between use. Food preparation and food service is communal, with little opportunity for surface disinfection. Staff arrive and leave on a shift basis; there is little to no ability to adequately screen staff for new, asymptomatic infection.
12. Many immigration detention facilities lack adequate medical care infrastructure to address the spread of infectious disease and treatment of high-risk people in detention. As examples, immigration detention facilities often use practical nurses who practice beyond the scope of their licenses; have part-time physicians who have limited availability to be on-site; and facilities with no formal linkages with local health departments or hospitals.
13. The only viable public health strategy available is risk mitigation. Even with the best-laid plans to address the spread of COVID-19 in detention facilities, the release of high-risk individuals is a key part of a risk mitigation strategy. In my opinion, the public health recommendation is to release high-risk people from detention, given the heightened risks

to their health and safety, especially given the lack of a viable vaccine for prevention or effective treatment at this stage.

14. To the extent that vulnerable detainees have had exposure to known cases with laboratory-confirmed infection with the virus that causes COVID-19, they should be tested immediately in concert with the local health department. Those who test negative should be released.
15. This release cohort can be separated into two groups. Group 1 could be released to home quarantine for 14 days, assuming they can be picked up from NWDC by their families or sponsors. Group 2 comprises those who cannot be easily transported to their homes by their families or sponsors. Group 2 could be released to a housing venue for 14 days, determined in concert with the Pierce County or Washington State Department of Health.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day in March, 2020 in New York City, New York.

A handwritten signature in blue ink, appearing to read "Robert B. Greifinger", written over a light blue horizontal line.

Robert B. Greifinger, M.D.