

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
HAL R. LIEBERMAN
DANIEL J. KORNSTEIN
O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
KATHERINE ROSENFELD
DEBRA L. GREENBERGER
ZOE SALZMAN
SAM SHAPIRO

ATTORNEYS AT LAW
600 FIFTH AVENUE AT ROCKEFELLER CENTER
10TH FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
FAX: (212) 763-5001
www.ecbalaw.com

DIANE L. HOUK
EMMA L. FREEMAN
DAVID BERMAN
HARVEY PRAGER
SCOUT KATOVICH
NICK BOURLAND
ANDREW K. JONDAHL
ANANDA BURRA
MAX SELVER

April 11, 2020

Hon. Rachel P. Kovner
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Hassan Chunn et al. v. Warden Derek Edge*, 20 Civ. 1590

Dear Judge Kovner:

Along with the Cardozo Civil Rights Clinic, and Alexander A. Reinert, we represent Petitioners in the above the above-referenced case. In response to Respondent's letter dated April 10, 2020, Dkt. 37, we write to request that the Court permit limited expedited discovery in support of Petitioners' motion for a preliminary injunction, and to oppose Respondent's request to stay discovery pending decision on his contemplated motion to dismiss the Petition.

I. Good Cause Exists for Discovery in this Habeas Proceeding

Petitioners in habeas corpus proceedings "are entitled to careful consideration and plenary processing of their claims including full opportunity for presentation of the relevant facts." *Harris v. Nelson*, 394 U.S. 286, 298 (1969). The All Writs Act, 28 U.S.C. § 1651, thus gives "federal courts the power to fashion appropriate modes of procedure, including discovery, to dispose of habeas petitions as law and justice require." *Bracy v. Gramley*, 520 U.S. 899, 904 (1997) (internal citations and quotation marks omitted). In 1976, the Supreme Court promulgated and Congress adopted, the Rules Governing § 2254 Cases. *See id.* Rule 6(a) of those rules grants courts the discretion, "for good cause shown," to allow habeas petitioners "to invoke the processes of discovery available under the Federal Rules of Civil Procedure." "The simple outline of § 2241 makes clear both that Congress envisioned that habeas petitioners would have some opportunity to present and rebut facts and that courts in cases like this retain some ability to vary the ways in which they do so as mandated by due process." *Hamdi v. Rumsfeld*, 542 U.S. 507, 526 (2004) (finding that courts may accept the government's affidavit evidence *only* where it allows petitioner to develop factual record).

EMERY CELLI BRINCKERHOFF & ABADY LLP

Page 2

“[W]here specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is confined illegally and is therefore entitled to relief, it is the duty of the court to provide the necessary facilities and procedures for an adequate inquiry.” *Harris*, 394 U.S. at 300.

Good cause exists for the limited discovery Petitioners seek here. Petitioners have alleged:

- “The MDC lacks adequate medical infrastructure to address the spread of infectious disease and treat the people most vulnerable to COVID-19” (Pet. ¶ 58);
- “[N]ew arrivals [at the MDC] are screened only for fever and recent travel to designated hotspot countries” (Pet. ¶ 60);
- An incarcerated person who tested positive for COVID-19 was housed in the intake unit at the MDC where he was in contact with other incarcerated persons and staff (Pet. ¶¶ 63-65);
- The MDC staff is giving people diluted soap and asking them to clean their own cells (Pet. ¶ 69);
- No hand sanitizer is available (Pet. ¶ 73(e));
- Tissues are not readily available (Pet. ¶ 73(f));
- Each incarcerated person has received, at most, one bar of soap per week; some units have not received any soap at all (Pet. ¶ 73(g));
- The MDC has not reported how many incarcerated people are symptomatic (Pet. ¶ 71);
- The MDC has no physical space in which an ill inmate can convalesce that is separate from other inmates, warm, clean and has access to fresh water and regular hand-washing (Pet. ¶ 80); and
- Respondent has identified 537 individuals being held at the MDC who fall into the high-risk groups identified by the CDC (Pet. ¶ 59).

There is ample support for these specific allegations. As one court noted, “the MDC is no place for someone considered to be high risk for COVID-19,” going on to state that “by the warden’s own admission, the MDC ‘has not isolated its ‘at risk’ population at this time because the number of inmates who fall into this category is too large to contain and isolate on one or even two units.” *United States v. Nkanga*, No. 18 Cr. 713 (JMF), 2020 WL 1529535, at *2 (S.D.N.Y. March 31, 2020). Respondent does not even know the extent to which COVID-19 has penetrated the MDC and already spread within the population. As of April 10, 2020, only eleven people had been tested for COVID-19. See Respondent’s Letter Report to Chief Judge Mauskopf dated April 9, 2020.

EMERY CELLI BRINCKERHOFF & ABADY LLP

Page 3

A “fully developed” record on Petitioners’ specific allegations would allow Petitioners to “demonstrate that [they are] confined illegally and [are] therefore entitled to relief.” *Harris*, 394 U.S. at 300. It is well established that incarcerated persons, like Petitioners, are entitled to be protected from conditions of confinement that create a serious risk to health or safety, including through release from custody when necessary. *See Brown v. Plata*, 563 U.S. 493, 531-32 (2011) (upholding lower court’s order releasing people from state prison even though release was based on prospect of future harm caused by prison overcrowding); *see also Farmer v. Brennan*, 511 U.S. 825, 834 (1994) (correctional official violates Eighth Amendment by consciously failing to prevent “a substantial risk of serious harm”); *Estelle v. Gamble*, 429 U.S. 97, 104 (1976) (“deliberate indifference” to serious medical needs violate the Eighth Amendment).¹ Where, as here, the conditions of confinement “pose an unreasonable risk of serious damage to [Petitioners’] future health,” a constitutional violation is established. *Phelps v. Kapnolas*, 308 F.3d 180, 185 (2d Cir. 2002) (quoting *Helling v. McKinney*, 509 U.S. 25, 35 (1993)) (alteration and internal quotation marks omitted).

Respondent is in unique and sole possession of many of the facts necessary for the Court to dispose of this habeas petition as “law and justice requires.” *Bracy*, 520 U.S. at 904. No one aside from Respondent’s staff has been permitted to enter the MDC since the facility was locked down several weeks ago. It is difficult for Petitioners to even communicate with their attorneys, and effectively impossible for people incarcerated in the MDC to provide sworn statements in a form that would be admissible in this Court. The information Respondent claims to have provided thus far is nothing more than generalities. For example, Petitioners still do not know the following material facts relevant to their case:

- Whether doctors are available at night and on the weekends;
- Whether MDC has the ability to check oxygenation levels of symptomatic persons;
- How many people at MDC are symptomatic;
- How many people at MDC have been sent to the hospital;
- What are the particular criteria used by the medical staff to decide whether to isolate someone;
- What are the particular criteria used by the medical staff to decide whether to test someone;
- How many test kits are at the MDC;

¹ The named Petitioners are convicted and therefore their treatment is governed by the Eighth Amendment. Class members who are detained for pretrial purposes, however, are protected from deliberate indifference by the Fifth Amendment. Although pretrial class members may be entitled to even greater protection from unsafe conditions than convicted class members, *Bell v. Wolfish*, 441 U.S. 520, 535 n.16 (1979) (“Due process requires that a pretrial detainee not be punished.”), for present purposes the distinction is immaterial because Respondent’s continued detention of the class plainly violates the Eighth Amendment.

EMERY CELLI BRINCKERHOFF & ABADY LLP

Page 4

- How many days positive inmates are kept in isolation after testing positive;
- How many sick inmates are requesting care, and how they make such requests;
- What is the availability of soap for hand hygiene on each unit;
- Whether staff who go into quarantined units are being given N-95 masks and gloves;
- Whether staff who are symptomatic are being asked to return to work after 48 hours;
- Whether, when a staff member is positive or presumed positive, inmates who were in contact with that staff member are being isolated;
- Whether, when a staff member is positive or presumed positive, other staff members who were in contact with that staff member are being notified and quarantined;
- How many new people have been admitted to the MDC (both from the community and transfers from other institutions) since March 13, 2020; and
- Where those new people admitted to the facility since March 13, 2020 are in the facility.

Many reports from people inside the MDC contradict the government's statement to this Court. *Compare, e.g.*, Rosenfeld Decl. dated March 30, 2020 (Dkt. 12-2) ¶ 28 (reports from Petitioner that "we don't have any soap") *with* Resp.'s Mem. Of Law in Opp. To Petrs.' Mot. For a TRO (Doc. No. 18) at 10 ("All inmates have access to soap and sinks at all times."). The government's statements are also apparently contradicted by the reports of employees who work at the MDC. *See Internal Prison Guard Email Contradicts Government's Claims to Judges About Containing Coronavirus at Federal Detention Center*, The Intercept (April 10, 2020), available at <https://theintercept.com/2020/04/10/prison-coronavirus-mdc-bop/>.

Where, as here there are significant discrepancies in the record, and an information gap exists between the parties, discovery is warranted. *See Pizzuti v. U.S.*, 809 F. Supp.2d 164 (S.D.N.Y. 2011) (good cause for discovery in where there is a discrepancy in previously-disclosed materials). Discovery is particularly necessary here in light of the MDC's then-Warden's failure to accurately represent conditions inside the MDC during a crisis. In response to the power failure last winter which left the MDC in frigid darkness for a week, Judge Torres conducted a hearing and ordered an inspection of the MDC, proceedings which revealed that conditions in the jail were significantly worse than the MDC leadership had revealed. *See Brooklyn Federal Jail Had Heat Failures Weeks Before Crisis, Employees Say*, N.Y. Times (Feb. 5, 2019), available at <https://www.nytimes.com/2019/02/05/nyregion/brooklyn-jail-heat-power.html>. *Cf. Drake v. Portuondo*, 321 F.3d 338 (2d Cir. 2003) (finding that prosecution's "covert and evasive" behavior justified discovery in habeas case).

Recognizing the unique circumstances created by the coronavirus pandemic, other courts have ordered limited discovery in response to recent habeas claims alleging unconstitutional conditions of confinement. *See, e.g., Nikolic v. Decker*, 20 Civ. 2500 (LGS), Dkt. 14 (S.D.N.Y. Mar. 30, 2020) (ordering Respondents to respond in writing to questions concerning, *inter alia*,

EMERY CELLI BRINCKERHOFF & ABADY LLP

Page 5

the number of confirmed and suspected COVID-19 cases in the Orange County Jail and the procedures and protocols in place for protecting people in the Orange County Jail); *Savino v. Hodgson*, 20 Civ. 10617 (WGY), Dkt. 60 (D. Mass. Apr. 8, 2020) (granting motion for expedited discovery).

Respondent argues that Petitioners cannot show good cause for discovery here because the Court denied their application for a temporary restraining order. But that argument distorts the record. The Court ruled on the TRO application based solely on the record that was before the Court and specifically ordered the parties to “confer about an expedited discovery schedule and a date for a preliminary injunction hearing.” Order and Minute Entry, Apr. 8, 2020. The Court’s order contemplates that Petitioners should be allowed to supplement the record through limited, expedited discovery in advance of a preliminary injunction hearing. Discovery is appropriate in advance of a preliminary injunction hearing, where, as here, it is “reasonably tailored to the time constraints involved and to the specific issues to be addressed at the preliminary injunction hearing.” *Fed. Exp. Corp. v. Fed. Espresso, Inc.*, No. 97 Civ. 1219, 1997 WL 736530, at *2 (N.D.N.Y. Nov. 24, 1997); *see also* Fed. R. Civ. P. 26(d), Commentary to 1993 Amendments, Subdivision (d) (noting that early discovery by court order “will be appropriate in some cases, such as those involving requests for a preliminary injunction”).

Respondents’ argument that Petitioners are engaged in a fishing expedition is equally misplaced. Petitioners are seeking limited discovery concerning what is currently happening inside the MDC to protect Petitioners from COVID-19 infections. The information that Petitioners seek exists; Respondent simply refuses to disclose it. *See Gonzalez v. U.S.*, No. 12 Civ. 5226 (JLC), 2013 WL 2350434, at *10 (S.D.N.Y. May 23, 2013) (“Petitioner’s discovery request for IAB records *that actually exist* is not a fishing expedition, and Petitioner has shown good cause sufficient to grant the motion for discovery” (emphasis in original)).

Unlike in a more typical habeas case, Petitioners are not seeking discovery about the investigation or prosecution that led to their convictions. They are seeking information about current conditions of their confinement that is exclusively available to Respondent and inaccessible to Petitioners’ counsel. Petitioners have therefore established good cause for discovery here.

II. Good Cause Exists for the Limited Expedited Discovery that Petitioners Seek

Petitioners propose to conduct limited discovery in support of their motion for a preliminary injunction consisting of the production of three documents, a single 30(b)(6) deposition, and an inspection of the MDC by Petitioners’ correctional health expert Dr. Homer Venters.

For many of the same reasons that discovery is warranted generally in this habeas proceeding, limited, expedited discovery is necessary in advance of a preliminary injunction hearing. Courts frequently grant expedited discovery in conjunction with preliminary injunction motions. *See, e.g., Briggs & Stratton Corp. v. Chongqing Rato Power Co., Ltd.*, No. 13 Civ. 316, 2013 WL 12134085, at *1 (N.D.N.Y. Apr. 25, 2013); *3M Co. v. HSBC Bank USA, N.A.*, No. 16 Civ. 5984, 2016 WL 8813992, at *2 (S.D.N.Y. Oct. 21, 2016) (in anticipation of a preliminary injunction motion, granting limited discovery requests regarding document

EMERY CELLI BRINCKERHOFF & ABADY LLP

Page 6

production). A reasonableness or “good cause” standard applies to requests for expedited discovery. *Rotten Records, Inc. v. Doe*, 108 F.Supp.3d 132, 133 (W.D.N.Y. 2015); *see also Ayyash v. Bank Al-Madina*, 233 F.R.D. 325, 326 (S.D.N.Y. 2005) (noting that a good cause standard is consistent with the Federal Rules).²

Petitioners submit that good cause exists for the Court to order such limited discovery—consisting of a very limited document request within a brief date range, a single deposition, and an on-site inspection—because it is narrowly tailored to gather evidence bearing directly on the key factual and legal disputes in this case.

Petitioners’ request for three documents poses minimal burden to Respondent. Rather than multiple time-consuming depositions, Petitioners seek to conduct a single, streamlined 30(b)(6) deposition to obtain the facts needed for Petitioners’ motion for a preliminary injunction. Respondent has made many untested assertions about the facility’s COVID-19 response. Respondent’s claims often conflict with reports from people who are incarcerated in the MDC as relayed to their counsel and family members. Given the urgent threat posed by the spread of COVID-19 to people confined at MDC, which has already resulted in the death of a number of people in federal custody, it is critical for an experienced medical expert (who is not employed by the BOP) to visit the MDC and report about conditions therein.

With respect to documents, Petitioners seek: (1) the testing protocol for COVID-19 in effect at the MDC from February 1, 2020 to date; (2) documents sufficient to show how much soap was received at the MDC from February 1, 2020 to date and (3) the sick call requests for medical care made by people incarcerated at the MDC from March 13, 2020, in redacted form to omit the person’s name and DIN number. Respondent’s objections to these requests, and claims that they will require extensive privilege reviews and custodian searches, are overblown. First, Chief Judge Mauskopf previously ordered Respondent to disclose the same testing protocol that Petitioners seek. *See* Admin Order No. 2020-14 (requiring Warden of MDC to provide to Court “Protocols for screening and testing inmates, staff, and other entering or leaving each facility.”). Respondent has failed to comply with this order since it has never produced the actual protocols but instead submitted a few paragraphs of generic and vague descriptions of their screening practices and absolutely nothing about their testing protocol. *See* Respondent’s Letter Report to Chief Judge Mauskopf dated April 9, 2020. Second, documents showing how much soap was received at MDC in the last few months are necessary to rebut Respondent’s assertion that Petitioners are receiving adequate hygiene supplies; people confined in MDC report there is little to no soap available. Third, the request for sick call requests is necessary to show that incarcerated people are requesting medical care from Respondent for COVID-19 symptoms but Respondent fails to test these individuals for the disease, as well as the changing volume of sick call requests over time. People incarcerated in the jail make sick call requests electronically, and there should be minimal burden associated with producing an electronic report. This request in

² While some courts have adopted a formulation of the preliminary injunction test to determine whether to grant expedited discovery, such a standard “makes little sense” when expedited discovery is sought precisely so that it can be used as part of a request for preliminary injunctive relief. *See Ayyash*, 233 F.R.D. at 326-27 (considering, and rejecting, this alternative standard because “employing a preliminary-injunction type analysis to determine entitlement to expedited discovery makes little sense, especially when applied to a request to expedite discovery in order to prepare for a preliminary injunction hearing.”).

EMERY CELLI BRINCKERHOFF & ABADY LLP

Page 7

no way requires defendants to parse through “hundreds of inmates’ private medical files,” Resp. Ltr. at 6, and to the extent an electronic log of these sick call requests is not available, Petitioners will of course revisit this request to tailor it to current practices for logging requests.

Petitioners are not seeking emails or ESI at this time, or the type of discovery that would involve lengthy internal processes with custodians; these are three straightforward requests for documents sufficient to show whether there is enough soap in the jail, what formal criteria are used to test sick people confined in the jail, and how many people are requesting medical care. In the time that Respondent devoted to its 10-page letter objecting to this discovery, counsel could have made a significant start on collecting the requested materials.

With respect to the 30(b)(6) notice, Petitioners will provide a notice by close of business on Sunday, April 13th. To the extent that there are disputes about the breadth of the notice, the parties will either resolve them internally or with the Court’s assistance. Again, appreciating the competing demands of the current situation on Respondent’s time, Petitioners intend to keep the deposition pointed, efficient, and narrow.

On April 10, 2020, Petitioners served their Notice of Entry on Land on Respondent. *See* Ex. A. Petitioners seek access to the MDC for their correctional health expert Dr. Homer Venters on April 21, 2020. Respondent objects to the proposed inspection generally but fails to cite any basis. The Court should permit the inspection. Courts routinely permit inspections of jails and prisons for the purpose of expert and counsel’s fact-gathering. *See, e.g., Nunez v. City of New York*, 11 Civ. 5845 (LS) (expert inspections of Rikers Island jail complex with correctional experts to photograph and inspect premises). Dr. Venters is eminently qualified to inspect the MDC and report on conditions. Dr. Venters is a physician and epidemiologist and a nationally recognized leader in correctional health. He previously served as the Chief Medical Officer for the NYC Jail system. During this time running health care on Riker Island, Dr. Venters managed multiple communicable disease outbreaks including H1N1 in 2009, which impacts almost 1/3 of housing areas inside the adolescent jail, multiple seasonal influenza outbreaks, a recurrent legionella infection and several other smaller outbreaks. Decl. of Dr. Venters ¶ 2 (Dkt. 26-4). A copy of Dr. Venters’ CV is attached as Ex. B.

III. Petitioners’ Proposed Expedited Discovery Plan Is Reasonable

Petitioners’ proposed expedited schedule is necessary given the irreparable harm faced by Petitioners, who remain in detention at the MDC, and reasonable in light of the fast-moving spread of the coronavirus in correctional institutions. As of Friday, April 10, 2020, the BOP reported that it had tested 11 people held at the MDC, and that 3 incarcerated people and 12 staff members had tested positive. (MDC’s report does not specify whether the three positive tests for incarcerated people is a cumulative number or a snapshot of the people who are currently diagnosed.) Public reports in the media suggest that sick people in the MDC are being denied access to medical care, and sent to SHU with little medical care if they become symptomatic. Reports from incarcerated people confirm that the MDC is moving symptomatic people to SHU where they receive minimal if any medical care during their “quarantine,” and that staff are routinely ignoring the emergency call bell requests for medical care from people in housing units, to the point where one sick person (who was later put in quarantine) banged on the cell

EMERY CELLI BRINCKERHOFF & ABADY LLP

Page 8

door so hard to get attention that the door broke. Employees of the MDC report that there is not sufficient Personal Protective Equipment (PPE), that staff are not being quarantined even when they have direct contact with incarcerated people who had tested positive or were symptomatic, and that incarcerated people who tested positive were released to general population without sufficient quarantine. *See United States v. Rabadi*, No. 13 Cr. 353 (KMK), Dkt. 90 (Federal Defenders Letter to the Court dated April 9, 2020).

Respondent's suggestion that the parties spend the next two months conducting discovery culminating in a preliminary injunction hearing in late June 2020 misses the point; by late June 2020, the coronavirus will either have spread exponentially in the MDC causing serious illness and potentially death, or the facility will have successfully controlled the outbreak of the virus by reducing the jail's population and implementing large scale testing. If ever there was a situation calling for expedited discovery, it is this one, where a global pandemic threatens the health of people incarcerated in the MDC.

IV. Respondent's Request to Stay Discovery Should Be Denied

Respondent's request to stay discovery pending the filing of a motion to dismiss should be denied. The "mere filing of a motion to dismiss" is not automatic grounds for a stay of discovery; rather, Defendants need to make a strong showing that Plaintiffs' claim has no merit. *See Hollins v. U.S. Tennis Ass'n*, 469 F. Supp. 2d 67 (E.D.N.Y. 2006); *HAHA Glob., Inc. v. Barclays*, No. 19 Civ. 4749, 2020 WL 832341, at *1 (S.D.N.Y. Feb. 20, 2020). At the very least, Respondent needs to show that his "arguments are likely to succeed on the merits." *Kirschner v. J.P. Morgan Chase Bank, N.A.*, No. 17 Civ. 6334, 2020 WL 230183, at *2 (S.D.N.Y. Jan. 15, 2020). That is difficult given that the Respondent has given no indication as to the basis for his motion to dismiss. *Mirra v. Jordan*, No. 15-CV-4100 AT KNF, 2015 WL 6202339, at *1 (S.D.N.Y. Oct. 16, 2015) ("Absent the defendant's motion to dismiss, it is impossible for the Court to ascertain whether a non-existing motion shows merit on its face.").

At this time, the only arguments raised by Respondent were raised in opposition to Petitioners' motion for a TRO, which do not suggest that Petitioners' substantive claims lack merit. To the extent Respondent addressed the substance of Petitioners' Eighth Amendment claim (as opposed to whether release is an appropriate remedy at the TRO stage), his argument was based entirely on the factual assertion that the BOP was taking adequate steps to protect Petitioners from harm. *See Resp.'s Mem. Of Law in Opp. To Petrs.' Mot. For a TRO* (Doc. No. 18) at 12-14 (asserting that "MDC has instituted numerous provisions and safeguards to protect inmates at the MDC from infection," that "[t]he government has taken steps to provide all MDC inmates with adequate medical care, both with respect to the prevention of infection with COVID-19 as well as the treatment should they become infected with COVID-19," and that "the government has taken significant steps to minimize the risk of infection at the MDC."). This response simply emphasizes how central discovery is to resolving this case, especially because the "passage of time" that would be inherent in any stay of discovery unduly prejudices the Petitioners. *Kirschner*, 2020 WL 620339, at *3. Moreover, in denying Petitioners' request for a TRO, this Court notably did not find Petitioners' Eighth Amendment claims unlikely to succeed on the merits, but focused instead on the balance of equities and the possibility that Petitioners would obtain relief through alternative means.

EMERY CELLI BRINCKERHOFF & ABADY LLP

Page 9

V. Respondent's Objection to the Scope of Petitioner's Discovery Demands are Without Merit

Petitioners seek limited, expedited discovery aimed at determining how Respondent is undertaking to mitigate Petitioners' risk of infection, not class-wide discovery. The discovery they seek is aimed at supporting their anticipated motion for a preliminary injunction, and is thus purposefully circumscribed so that it can be completed according to the schedule proposed by Petitioners. Despite Respondent's claim that he "still does not know the full scope of Petitioners' anticipated discovery," Petitioners made clear during the meet and confer that the discovery would consist of an expert inspection of the MDC, one deposition of a Rule 30(b)(6) witness and a request for three specified documents. This was plainly laid out as Petitioners' position in Section C. of the Proposed Case Management Plan submitted yesterday by Respondents. In their letter, Respondent makes no claim that the specific discovery sought by Petitioners is inappropriate prior to class certification, rather he states that if Petitioners were to seek class discovery, he would object. As no such discovery is sought, the Court need not address Respondent's hypothetical concern.

The discovery sought by Petitioners is intended to uncover facts concerning what steps MDC has taken to mitigate risk of transmission of COVID-19 to Petitioners. That the discovery Petitioners seek – such as the testing protocol being employed at MDC – necessarily relates to how MDC is handling the pandemic with respect to putative class members as well as the individual Petitioners does not render it class-wide discovery. Petitioner also seeks a Rule 30(b)(6) deposition of a witness with knowledge of the steps Respondent is taking to mitigate risk of infection and does not intend to request information about specific members of the putative class. This is the most efficient way to obtain this information, particularly given the exigencies of the situation. *Uni-Sys, LLC v. United States Tennis Ass'n, Inc.*, No. 17 Civ. 147, 2018 WL 6179433, at *3 (E.D.N.Y. Nov. 27, 2018) (suggesting that Rule 30(b)(6) might be more efficient means than contention interrogatories of obtaining information). Moreover, Petitioners' notice of inspection is necessary to evaluate the current conditions at the MDC, clearly relevant to Petitioners' claims, even if also relevant to the class-wide claims. Such discovery is routine in cases involving prison and jail conditions. *Kotler v. Donelli*, No. 06 Civ. 1308, 2007 WL 2757968, at *2 (N.D.N.Y. Sept. 21, 2007) (granting motion to enforce notice to inspect and photograph prison); *see also Guadalupe v. City of New York*, 15 Civ. 0220 (CM) (E.D.N.Y.) Dkt. 67-1 (Stipulation and Order governing plaintiff's counsel access to Rikers Island jail); *Berrian v. City of New York*, 13 Civ. 1719 (DC) (S.D.N.Y.) Dkt. 28 (same); *Mack v. City of New York*, No. 14 Civ. 3321 (S.D.N.Y.) Dkt. 36 (same); *Filer v. City of New York*, 14 Civ. 5672 (PKC/LB) (E.D.N.Y.) Dkt. 60 (Stipulation and order for access to NYPD's 113th Precinct).

Finally, even if some of Petitioners' discovery could be construed as only relevant to class-wide relief, court routinely grant pre-certification discovery in the Second Circuit. *Bais Yaakov of Spring Valley v. Houghton Mifflin Harcourt Publishers, Inc.*, 36 F. Supp. 3d 417, 421–22 (S.D.N.Y. 2014). The Second Circuit itself has recognized that "at least minimal class discovery must be conducted in order to provide the court with the factual information necessary to decide" class certification. *Parker v. Time Warner Entm't Co., L.P.*, 331 F.3d 13, 21 (2d Cir. 2003). Thus, to the extent that any of the discovery sought by Petitioners is viewed as relevant

EMERY CELLI BRINCKERHOFF & ABADY LLP

Page 10

only to class-wide relief, discovery is still available to the extent that discovery bears on the issues of numerosity, typicality, and adequacy of representation. The MDC's response to the COVID-19 crisis, for example, is relevant not only to Petitioners' individual claims but also may be relevant to issues that go to class certification.

For the foregoing reasons, Petitioners request that the Court permit limited expedited discovery in this action in support of Petitioners' motion for a preliminary injunction, and deny Respondent's request to stay discovery pending decision on his contemplated motion to dismiss.

Respectfully Submitted,

/s

Katherine Rosenfeld

cc: All Counsel (via ECF)

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
HAL R. LIEBERMAN
DANIEL J. KORNSTEIN
O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
KATHERINE ROSENFELD
DEBRA L. GREENBERGER
ZOE SALZMAN
SAM SHAPIRO

ATTORNEYS AT LAW
600 FIFTH AVENUE AT ROCKEFELLER CENTER
10th FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
FAX: (212) 763-5001
www.ecbalaw.com

DIANE L. HOUK
EMMA L. FREEMAN
DAVID BERMAN
HARVEY PRAGER
SCOUT KATOVICH
NICK BOURLAND
ANDREW K. JONDAHL
ANANDA BURRA
MAX SELVER

April 12, 2020

Hon. Roanne L. Mann
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Hassan Chunn et al. v. Warden Derek Edge, 20 Civ. 1590

Dear Judge Mann:

Enclosed with this letter please find Exhibits A and B to Petitioners' Letter dated April 11, 2020, Dkt. 39. When filing the exhibits yesterday, April 11, 2020, I inadvertently filed only the exhibit cover pages, Dkt. 39-1. The two exhibits are now enclosed with this letter. I apologize to the Court for any inconvenience.

Respectfully Submitted,
/s
Katherine Rosenfeld

Enc.

cc: All Counsel (via ECF)

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HASSAN CHUNN, et al,

individually and on behalf of all others similarly
situated,

Petitioners,

-against-

WARDEN DEREK EDGE.,

Respondent.

No. 20 Civ. 1590

NOTICE OF ENTRY ON LAND

PLEASE TAKE NOTICE THAT, pursuant to Rule 34(a)(2) of the Federal Rules of Civil Procedure, Petitioners by and through their attorneys, Emery Celli Brinckerhoff & Abady LLP, the Cardozo Civil Rights Clinic, and Alexander A. Reinert, request permission for Dr. Homer Venters, M.D., and two attorneys for Petitioners from the undersigned counsel, to enter the Metropolitan Detention Center (MDC), located at 80 29th Street, Brooklyn, New York, 11232, on April 21, 2020 at 10:00am, to review logbooks and posted orders relevant to the conditions alleged in the Petition, inspect the conditions in the facility alleged in the Petition in the following locations, and speak to incarcerated individuals (confidentially) and staff in these locations about those conditions: the Medical Unit, the Intake Unit, all Housing Units (4, 5, 6, 7, and 8), the Special Housing Unit, the Women's Unit, the Isolation Unit, the Commissary, the staff screening area, and cleaning and sanitation areas.

During the inspection, counsel and their experts will be permitted to wear personal protective equipment, including facemasks, and carry materials necessary to ensure adequate personal hygiene, including hand sanitizer.

Dated: April 10, 2020
New York, New York

EMERY CELLI BRINCKERHOFF
& ABADY LLP

By: _____/s
Katherine Rosenfeld
O. Andrew F. Wilson
Scout Katovich
600 Fifth Avenue, 10th Floor
New York, NY 10020
(212) 763-5000

CARDOZO CIVIL RIGHTS CLINIC
Betsy Ginsberg
Cardozo Civil Rights Clinic
Benjamin N. Cardozo School of Law
55 Fifth Avenue, 11th Floor
New York, NY 1003
(212) 790-0871

Alexander A. Reinert
55 Fifth Avenue, Room 1005
New York, NY 1003
(212) 790-0403

Attorneys for Petitioners

EXHIBIT B

Dr. Homer D. Venters

10 ½ Jefferson St., Port Washington, NY, 11050
hventers@gmail.com, Phone: 646-734-5994

HEALTH ADMINISTRATOR

PHYSICIAN

EPIDEMIOLOGIST

Professional Profile

- International leader in provision and improvement of health services to patients with criminal justice involvement.
- Innovator in linking care of the incarcerated to Medicaid, health homes, DSRIPs.
- Successful implementer of nations' first electronic health record, performance dashboards and health information exchange among pre-trial patients.
- Award winning epidemiologist focused on the intersection of health, criminal justice and human rights in the United States and developing nations.
- Human rights leader with experience using forensic science, epidemiology and public health methods to prevent and document human rights abuses.

Professional Experience

President, Community Oriented Correctional Health Services (COCHS), 1/1/2020-present.

- Lead COCHS efforts to provide technical assistance, policy guidance and research regarding correctional health and justice reform.
- Oversee operations and programmatic development of COCHS
- Serve as primary liaison between COCHS board, funders, staff and partners.

Senior Health and Justice Fellow, Community Oriented Correctional Health Services (COCHS), 12/1/18-12/31/2018

- Lead COCHS efforts to expand Medicaid waivers for funding of care for detained persons relating to Substance Use and Hepatitis C.
- Develop and implement COCHS strategy for promoting non-profit models of diversion and correctional health care.

Medical/Forensic Expert, 3/2016-present

- Provide expert input, review and testimony regarding health care, quality improvement, electronic health records and data analysis in detention settings.

Director of Programs, Physicians for Human Rights, 3/16-11/18.

- Lead medical forensic documentation efforts of mass crimes against Rohingya and Yazidi people.
- Initiate vicarious trauma program.
- Expand forensic documentation of mass killings and war crimes.
- Develop and support sexual violence capacity development with physicians, nurses and judges.
- Expand documentation of attacks against health staff and facilities in Syria and Yemen.

Chief Medical Officer/Assistant Vice President, Correctional Health Services, NYC Health and Hospitals Corporation 8/15-3/17.

- Transitioned entire clinical service (1,400 staff) from a for-profit staffing company model to a new division within NYC H + H.
- Developed new models of mental health and substance abuse care that significantly lowered morbidity and other adverse events.
- Connected patients to local health systems, DSRIP and health homes using approximately \$5 million in external funding (grants available on request).
- Reduced overall mortality in the nation's second largest jail system.
- Increased operating budget from \$140 million to \$160 million.
- Implemented nation's first patient experience, provider engagement and racial disparities programs for correctional health.

Assistant Commissioner, Correctional Health Services, New York Department of Health and Mental Hygiene, 6/11-8/15.

- Implemented nation's first electronic medical record and health information exchange for 1,400 staff and 75,000 patients in a jail.
- Developed bilateral agreements and programs with local health homes to identify incarcerated patients and coordinate care.
- Increased operating budget of health service from \$115 million to \$140 million.
- Established surveillance systems for injuries, sexual assault and mental health that drove new program development and received American Public Health Association Paper of the Year 2014.
- Personally care for and reported on over 100 patients injured during violent encounters with jail security staff.

Medical Director, Correctional Health Services, New York Department of Health and Mental Hygiene, 1/10-6/11.

- Directed all aspects of medical care for 75,000 patients annually in 12 jails, including specialty, dental, primary care and emergency response.
- Direct all aspects of response to infectious outbreaks of H1N1, Legionella, Clostridium Difficile.
- Developed new protocols to identify and report on injuries and sexual assault among patients.

Deputy Medical Director, Correctional Health Services, New York Department of Health and Mental Hygiene, 11/08-12/09.

- Developed training program with Montefiore Social internal medicine residency program.
- Directed and delivered health services in 2 jails.

Clinical Attending Physician, Bellevue/NYU Clinic for Survivors of Torture, 10/07-12/11.

Clinical Attending Physician, Montefiore Medical Center Bronx NY, Adult Medicine, 1/08-11/09.

Education and Training

Fellow, Public Health Research, New York University 2007-2009. MS 6/2009
Projects: Health care for detained immigrants, Health Status of African immigrants in NYC.

Resident, Social Internal Medicine, Montefiore Medical Center/Albert Einstein University 7/2004- 5/2007.

M.D., University of Illinois, Urbana, 12/2003.

M.S. Biology, University of Illinois, Urbana, 6/03.

B.A. International Relations, Tufts University, Medford, MA, 1989.

Academic Appointments, Licensure

Clinical Associate Professor, New York University College of Global Public Health, 5/18-present.

Clinical Instructor, New York University Langone School of Medicine, 2007-2018.

M.D. New York (2007-present).

Media

TV

i24 Crossroads re Suicide in U.S. Jails 8/13/19.

i24 Crossroads re re *Life and Death in Rikers Island* 6/13/19.

Amanpour & Company, NPR/PBS re *Life and Death in Rikers Island* 4/15/19.

CNN, Christiane Amanpour re Forensic documentation of mass crimes against Rohingya. 7/11/18.

i24 Crossroads with David Shuster re health crisis among refugees in Syria. 7/6/18.

Canadian Broadcasting Corporation TV with Sylvie Fournier (in French) re crowd control weapons. 5/10/18

i24 Crossroads with David Shuster re Cholera outbreak in Yemen. 2/15/18.

China TV re WHO guidelines on HIV medication access 9/22/17.

Radio/Podcast

Morning Edition, NPR re Health Risks of Criminal Justice System. 8/9/19.

Fresh Air with Terry Gross, NPR re *Life and Death in Rikers Island*, 3/6/19.

Morning Edition, NPR re *Life and Death in Rikers Island*, 2/22/19.

LeShow with Harry Sherer re forensic documentation of mass crimes in Myanmar, Syria,

Iraq. 4/17/18.

Print articles and public testimony

Oped: Four ways to protect our jails and prisons from coronavirus. *The Hill* 2/29/20.

Oped: It's Time to Eliminate the Drunk Tank. *The Hill* 1/28/20.

Oped: With Kathy Morse. A Visit with my Incarcerated Mother. *The Hill* 9/24/19.

Oped: With Five Omar Muallim-Ak. The Truth about Suicide Behind Bars is Knowable. *The Hill* 8/13/19.

Oped: With Katherine McKenzie. Policymakers, provide adequate health care in prisons and detention centers. *CNN Opinion*, 7/18/19.

Oped: Getting serious about preventable deaths and injuries behind bars. *The Hill*, 7/5/19.

Testimony: Access to Medication Assisted Treatment in Prisons and Jails, New York State Assembly Committee on Alcoholism and Drug Abuse, Assembly Committee on Health, and Assembly Committee on Correction. NY, NY, 11/14/18.

Oped: Attacks in Syria and Yemen are turning disease into a weapon of war, *STAT News*, 7/7/17.

Testimony: Connecticut Advisory Committee to the U.S. Commission on Civil Rights: Regarding the use of solitary confinement for prisoners. Hartford CT, 2/3/17.

Testimony: Venters HD, New York Advisory Committee to the U.S. Commission on Civil Rights: Regarding the use of solitary confinement for juveniles in New York. July 10, 2014. NY NY.

Testimony: New York State Assembly Committee on Correction with the Committee on Mental Health: Regarding Mental Illness in Correctional Settings. November 13, 2014. Albany NY.

Testimony: New York State Assembly Committee on Correction with the Committee on Mental Health: Regarding Mental Illness in Correctional Settings. November 13, 2014. Albany NY.

Oped: Venters HD and Keller AS, The Health of Immigrant Detainees. *Boston Globe*, April 11, 2009.

Testimony: U.S. House of Representatives, House Judiciary Committee's Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law: Hearing on Problems with Immigration Detainee Medical Care, June 4, 2008.

Peer Reviewed Publications

Parmar PK, Leigh J, **Venters H**, Nelson T. Violence and mortality in the Northern Rakhine State of Myanmar, 2017: results of a quantitative survey of surviving community leaders in Bangladesh. *Lancet Planet Health*. 2019 Mar;3(3):e144-e153.

Venters H. Notions from Kavanaugh hearings contradict medical facts. *Lancet*. 10/5/18.

Taylor GP, Castro I, Rebergen C, Rycroft M, Nuwayhid I, Rubenstein L, Tarakji A, Modirzadeh N, **Venters H**, Jabbour S. Protecting health care in armed conflict: action towards accountability. *Lancet*. 4/14/18.

Katyal M, Leibowitz R, **Venters H**. IGRA-Based Screening for Latent Tuberculosis Infection in Persons Newly Incarcerated in New York City Jails. *J Correct Health Care*. 2018 4/18.

Harocopos A, Allen B, Glowa-Kollisch S, **Venters H**, Paone D, Macdonald R. The Rikers Island Hot Spotters: Exploring the Needs of the Most Frequently Incarcerated. *J Health Care Poor Underserved*. 4/28/17.

MacDonald R, Akiyama MJ, Kopolow A, Rosner Z, McGahee W, Joseph R, Jaffer M, **Venters H**. Feasibility of Treating Hepatitis C in a Transient Jail Population. *Open Forum Infect Dis*. 7/7/18.

Siegler A, Kaba F, MacDonald R, **Venters H**. Head Trauma in Jail and Implications for Chronic Traumatic Encephalopathy. *J Health Care Poor and Underserved*. In Press (May 2017).

Ford E, Kim S, **Venters H**. Sexual abuse and injury during incarceration reveal the need for re-entry trauma screening. *Lancet*. 4/8/18.

Alex B, Weiss DB, Kaba F, Rosner Z, Lee D, Lim S, **Venters H**, MacDonald R. Death After Jail Release. *J Correct Health Care*. 1/17.

Akiyama MJ, Kaba F, Rosner Z, Alper H, Kopolow A, Litwin AH, **Venters H**, MacDonald R. Correlates of Hepatitis C Virus Infection in the Targeted Testing Program of the New York City Jail System. *Public Health Rep*. 1/17.

Kalra R, Kollisch SG, MacDonald R, Dickey N, Rosner Z, **Venters H**. Staff Satisfaction, Ethical Concerns, and Burnout in the New York City Jail Health System. *J Correct Health Care*. 2016 Oct;22(4):383-392.

Venters H. A Three-Dimensional Action Plan to Raise the Quality of Care of US Correctional Health and Promote Alternatives to Incarceration. *Am J Public Health*. April 2016.104.

Glowa-Kollisch S, Kaba F, Waters A, Leung YJ, Ford E, **Venters H**. From Punishment to Treatment: The “Clinical Alternative to Punitive Segregation” (CAPS) Program in New York City Jails. *Int J Env Res Public Health*. 2016. 13(2),182.

Jaffer M, Ayad J, Tungol JG, MacDonald R, Dickey N, Venters H. Improving Transgender Healthcare in the New York City Correctional System. *LGBT Health*. 2016 1/8/16.

Granski M, Keller A, Venters H. Death Rates among Detained Immigrants in the United States. *Int J Env Res Public Health*. 2015. 11/10/15.

Michelle Martelle, Benjamin Farber, Richard Stazesky, Nathaniel Dickey, Amanda Parsons, **Homer Venters**. Meaningful Use of an Electronic Health Record in the NYC Jail System. *Am J Public Health*. 2015. 8/12/15.

Fatos Kaba, Angela Solimo, Jasmine Graves, Sarah Glowa-Kollisch, Allison Vise, Ross MacDonald, Anthony Waters, Zachary Rosner, Nathaniel Dickey, Sonia Angell, **Homer Venters**. Disparities in Mental Health Referral and Diagnosis in the NYC Jail Mental Health Service. *Am J Public Health*. 2015. 8/12/15.

Ross MacDonald, Fatos Kaba, Zachary Rosner, Alison Vise, Michelle Skerker, David Weiss, Michelle Brittner, Nathaniel Dickey, **Homer Venters**. The Rikers Island Hot Spotters. *Am J Public Health*. 2015. 9/17/15.

Selling Molly Skerker, Nathaniel Dickey, Dana Schonberg, Ross MacDonald, **Homer Venters**. Improving Antenatal Care for Incarcerated Women: fulfilling the promise of the Sustainable Development Goals. *Bulletin of the World Health Organization*. 2015.

Jasmine Graves, Jessica Steele, Fatos Kaba, Cassandra Ramdath, Zachary Rosner, Ross MacDonald, Nathaniel Dickey, **Homer Venters**. Traumatic Brain Injury and Structural Violence among Adolescent males in the NYC Jail System *J Health Care Poor Underserved*. 2015;26(2):345-57.

Glowa-Kollisch S, Graves J, Dickey N, MacDonald R, Rosner Z, Waters A, **Venters H**. Data-Driven Human Rights: Using Dual Loyalty Trainings to Promote the Care of Vulnerable Patients in Jail. *Health and Human Rights*. Online ahead of print, 3/12/15.

Teixeira PA¹, Jordan AO, Zaller N, Shah D, **Venters H**. Health Outcomes for HIV-Infected Persons Released From the New York City Jail System With a Transitional Care-Coordination Plan. 2014. *Am J Public Health*. 2014 Dec 18.

Selling D, Lee D, Solimo A, **Venters H**. A Road Not Taken: Substance Abuse Programming in the New York City Jail System. *J Correct Health Care*. 2014 Nov 17.

Glowa-Kollisch S, Lim S, Summers C, Cohen L, Selling D, **Venters H**. Beyond the Bridge: Evaluating a Novel Mental Health Program in the New York City Jail System. *Am J Public Health*. 2014 Sep 11.

Glowa-Kollisch S, Andrade K, Stazesky R, Teixeira P, Kaba F, MacDonald R, Rosner Z, Selling D, Parsons A, **Venters H**. Data-Driven Human Rights: Using the Electronic Health Record to Promote Human Rights in Jail. *Health and Human Rights*. 2014. Vol 16 (1): 157-165.

MacDonald R, Rosner Z, **Venters H**. Case series of exercise-induced rhabdomyolysis in the New York City Jail System. *Am J Emerg Med*. 2014. Vol 32(5): 446-7.

Bechelli M, Caudy M, Gardner T, Huber A, Mancuso D, Samuels P, Shah T, **Venters H**. Case Studies from Three States: Breaking Down Silos Between Health Care and Criminal Justice. *Health Affairs*. 2014. Vol. 3. 33(3):474-81.

Selling D, Solimo A, Lee D, Horne K, Panove E, **Venters H**. Surveillance of suicidal and non-suicidal self-injury in the new York city jail system. *J Correct Health Care*. 2014. Apr:20(2).

Kaba F, Diamond P, Haque A, MacDonald R, **Venters H**. Traumatic Brain Injury Among Newly Admitted Adolescents in the New York City Jail System. *J Adolesc Health*. 2014. Vol 54(5): 615-7.

Monga P, Keller A, **Venters H**. Prevention and Punishment: Barriers to accessing health services for undocumented immigrants in the United States. *LAWS*. 2014. 3(1).

Kaba F, Lewsi A, Glowa-Kollisch S, Hadler J, Lee D, Alper H, Selling D, MacDonald R, Solimo A, Parsons A, **Venters H**. Solitary Confinement and Risk of Self-Harm Among Jail Inmates. *Amer J Public Health*. 2014. Vol 104(3):442-7.

MacDonald R, Parsons A, **Venters H**. The Triple Aims of Correctional Health: Patient safety, Population Health and Human Rights. *Journal of Health Care for the Poor and Underserved*. 2013. 24(3).

Parvez FM, Katyal M, Alper H, Leibowitz R, **Venters H**. Female sex workers incarcerated in New York City jails: prevalence of sexually transmitted infections and associated risk behaviors. *Sexually Transmitted Infections*. 89:280-284. 2013.

Brittain J, Axelrod G, **Venters H**. Deaths in New York City Jails: 2001 – 2009. *Am J Public Health*. 2013 103:4.

Jordan AO, Cohen LR, Harriman G, Teixeira PA, Cruzado-Quinones J, **Venters H**. Transitional Care Coordination in New York City Jails: Facilitating Linkages to Care for People with HIV Returning Home from Rikers Island. *AIDS Behav*. Nov. 2012.

Jaffer M, Kimura C, **Venters H**. Improving medical care for patients with HIV in New York City jails. *J Correct Health Care*. 2012 Jul;18(3):246-50.

Ludwig A, Parsons, A, Cohen, L, **Venters H**. Injury Surveillance in the NYC Jail System, *Am J Public Health* 2012 Jun;102(6).

Venters H, Keller, AS. *Psychiatric Services*. (2012) Diversion of Mentally Ill Patients from Court-ordered care to Immigration Detention. Epub. 4/2012.

Venters H, Gany, F. *Journal of Immigrant and Minority Health* (2011) Mental Health Concerns Among African Immigrants. 13(4): 795-7.

Venters H, Foote M, Keller AS. *Journal of Immigrant and Minority Health*. (2010) Medical Advocacy on Behalf of Detained Immigrants. 13(3): 625-8.

Venters H, McNeely J, Keller AS. *Health and Human Rights*. (2010) HIV Screening and Care for Immigration Detainees. 11(2) 91-102.

Venters H, Keller AS. *Journal of Health Care for the Poor and Underserved*. (2009) The Immigration Detention Health Plan: An Acute Care Model for a Chronic Care Population. 20:951-957.

Venters H, Gany, F. *Journal of Immigrant and Minority Health* (2009) African Immigrant Health. 4/4/09.

Venters H, Dasch-Goldberg D, Rasmussen A, Keller AS, *Human Rights Quarterly* (2009) Into the Abyss: Mortality and Morbidity among Detained Immigrant. 31 (2) 474-491.

Venters H, *The Lancet* (2008) Who is Jack Bauer? 372 (9653).

Venters H, Lainer-Vos J, Razvi A, Crawford J, Sha'ron Venable P, Drucker EM, *Am J Public Health* (2008) Bringing Health Care Advocacy to a Public Defender's Office. 98 (11).

Venters H, Razvi AM, Tobia MS, Drucker E. *Harm Reduct J.* (2006) The case of Scott Ortiz: a clash between criminal justice and public health. *Harm Reduct J.* 3:21

Cloez-Tayarani I, Petit-Bertron AF, **Venters HD**, Cavaillon JM (2003) *Internat. Immunol.* Differential effect of serotonin on cytokine production in lipopolysaccharide-stimulated human peripheral blood mononuclear cells. 15,1-8.

Strle K, Zhou JH, Broussard SR, **Venters HD**, Johnson RW, Freund GG, Dantzer R, Kelley KW, (2002) *J. Neuroimmunol.* IL-10 promotes survival of microglia without activating Akt. 122, 9-19.

Venters HD, Broussard SR, Zhou JH, Bluthe RM, Freund GG, Johnson RW, Dantzer R, Kelley KW, (2001) *J. Neuroimmunol.* Tumor necrosis factor(alpha) and insulin-like growth factor-I in the brain: is the whole greater than the sum of its parts? 119, 151-65.

Venters HD, Dantzer R, Kelley KW, (2000) *Ann. N. Y. Acad. Sci.* Tumor necrosis factor-alpha induces neuronal death by silencing survival signals generated by the type I insulin-like growth factor receptor. 917, 210-20.

Venters HD, Dantzer R, Kelley KW, (2000) *Trends. Neurosci.* A new concept in neurodegeneration: TNFalpha is a silencer of survival signals. 23, 175-80.

Venters HD, Tang Q, Liu Q, VanHoy RW, Dantzer R, Kelley KW, (1999) *Proc. Natl. Acad. Sci. USA.* A new mechanism of neurodegeneration: A proinflammatory cytokine inhibits receptor signaling by a survival peptide, 96, 9879-9884.

Venters HD, Ala TA, Frey WH 2nd, (1998) Inhibition of antagonist binding to human brain muscarinic receptor by vanadium compounds. *Recept. Signal. Transduct.* 7, 137-142.

Venters HD, Tang Q, Liu Q, VanHoy RW, Dantzer R, Kelley KW, (1999) *Proc. Natl. Acad. Sci. USA.* A new mechanism of neurodegeneration: A proinflammatory cytokine inhibits receptor signaling by a survival peptide, 96, 9879-9884.

Venters HD, Ala TA, Frey WH 2nd, (1998) Inhibition of antagonist binding to human brain muscarinic receptor by vanadium compounds. *Recept. Signal. Transduct.* 7, 137-142.

Venters HD, Bonilla LE, Jensen T, Garner HP, Bordayo EZ, Najarian MM, Ala TA, Mason RP, Frey WH 2nd, (1997) Heme from Alzheimer's brain inhibits muscarinic receptor binding via thiyl radical generation. *Brain. Res.* 764, 93-100.

Kjome JR, Swenson KA, Johnson MN, Bordayo EZ, Anderson LE, Klevan LC, Fraticelli AI, Aldrich SL, Fawcett JR, **Venters HD**, Ala TA, Frey WH 2nd (1997) Inhibition of antagonist and agonist binding to the human brain muscarinic receptor by arachidonic acid. *J. Mol. Neurosci.* 10, 209-217.

Honors and Presentations (past 10 years)

Keynote Address, Academic Correctional Health Conference, April 2020, Chapel Hill, North Carolina.

TedMed Presentation, Correctional Health, Boston MA, March 2020.

Finalist, Prose Award for Literature, Social Sciences category for *Life and Death in Rikers Island*, February, 2020.

Keynote Address, John Howard Association Annual Benefit, November 2019, Chicago IL.

Keynote Address, Kentucky Data Forum, Foundation for a Healthy Kentucky, November 2019, Cincinnati Ohio.

Oral Presentation, Dual loyalty and other human rights concerns for physicians in jails and prisons. Association of Correctional Physicians, Annual meeting. 10/16, Las Vegas.

Oral Presentation, Clinical Alternatives to Punitive Segregation: Reducing self-harm for incarcerated patients with mental illness. American Public Health Association Annual Meeting, November 2015, Chicago IL.

Oral Presentation, Analysis of Deaths in ICE Custody over 10 Years . American Public Health Association Annual Meeting, November 2015, Chicago IL.

Oral Presentation, Medication Assisted Therapies for Opioid Dependence in the New York City Jail System. American Public Health Association Annual Meeting, November 2015, Chicago IL.

Oral Presentation, Pathologizing Normal Human Behavior: Violence and Solitary Confinement in an Urban Jail. American Public Health Association Annual Meeting, November 2014, New Orleans, LA.

Training, International Committee of the Red Cross and Red Crescent, Medical Director meeting 10/15, Presentation on Human Rights and dual loyalty in correctional health.

Paper of the Year, American Public Health Association. 2014. (Kaba F, Lewis A, Glowa-Kollisch S, Hadler J, Lee D, Alper H, Selling D, MacDonald R, Solimo A, Parsons A, Venters H. Solitary Confinement and Risk of Self-Harm Among Jail Inmates. *Amer J Public Health.* 2014. Vol 104(3):442-7.)

Oral Presentation, Pathologizing Normal Human Behavior: Violence and Solitary Confinement in an Urban Jail. *American Public Health Association Annual Meeting*, New Orleans LA, 2014.

Oral Presentation, Human rights at Rikers: Dual loyalty among jail health staff. American Public Health Association Annual Meeting, New Orleans LA, 2014.

Poster Presentation, Mental Health Training for Immigration Judges. American Public Health

Association Annual Meeting, New Orleans LA, 2014.

Distinguished Service Award; Managerial Excellence. Division of Health Care Access and Improvement, NYC DOHMH. 2013.

Oral Presentation, Solitary confinement in the ICE detention system. American Public Health Association Annual Meeting, Boston MA, 2013.

Oral Presentation, Self-harm and solitary confinement in the NYC jail system. American Public Health Association Annual Meeting, Boston MA, 2013.

Oral Presentation, Implementing a human rights practice of medicine inside New York City jails. American Public Health Association Annual Meeting, Boston MA, 2013.

Poster Presentation, Human Rights on Rikers: integrating a human rights-based framework for healthcare into NYC's jail system. *American Public Health Association* Annual Meeting, Boston MA, 2013.

Poster Presentation, Improving correctional health care: health information exchange and the affordable care act. *American Public Health Association* Annual Meeting, Boston MA, 2013.

Oral Presentation, Management of Infectious Disease Outbreaks in a Large Jail System. American Public Health Association Annual Meeting, Washington DC, 2011.

Oral Presentation, Diversion of Patients from Court Ordered Mental Health Treatment to Immigration Detention. *American Public Health Association* Annual Meeting, Washington DC, 2011.

Oral Presentation, Initiation of Antiretroviral Therapy for Newly Diagnosed HIV Patients in the NYC Jail System. *American Public Health Association* Annual Meeting, Washington DC, 2011.

Oral Presentation, Medical Case Management in Jail Mental Health Units. *American Public Health Association* Annual Meeting, Washington DC, 2011.

Oral Presentation, Injury Surveillance in New York City Jails. *American Public Health Association* Annual Meeting, Washington DC, 2011.

Oral Presentation, Ensuring Adequate Medical Care for Detained Immigrants. Venters H, Keller A, American Public Health Association Annual Meeting, Denver, CO, 2010.

Oral Presentation, HIV Testing in NYC Correctional Facilities. Venters H and Jaffer M, *American Public Health Association*, Annual Meeting, Denver, CO, 2010.

Oral Presentation, Medical Concerns for Detained Immigrants. Venters H, Keller A, *American Public Health Association* Annual Meeting, Philadelphia, PA, November 2009.

Oral Presentation, Growth of Immigration Detention Around the Globe. Venters H, Keller A, *American Public Health Association* Annual Meeting, Philadelphia, PA, November 2009.

Oral Presentation, Role of Hospital Ethics Boards in the Care of Immigration Detainees. Venters H, Keller A, *American Public Health Association* Annual Meeting, Philadelphia, PA,

November 2009.

Oral Presentation, Health Law and Immigration Detainees. Venters H, Keller A, *American Public Health Association Annual Meeting*, Philadelphia, PA, November 2009.

Bro Bono Advocacy Award, Advocacy on behalf of detained immigrants. Legal Aid Society of New York, October 2009.

Oral Presentation, Deaths of immigrants detained by Immigration and Customs Enforcement. Venters H, Rasmussen A, Keller A, *American Public Health Association Annual Meeting*, San Diego CA, October 2008.

Poster Presentation, Death of a detained immigrant with AIDS after withholding of prophylactic Dapsone. Venters H, Rasmussen A, Keller A, *Society of General Internal Medicine Annual Meeting*, Pittsburgh PA, April 2008.

Poster Presentation, Tuberculosis screening among immigrants in New York City reveals higher rates of positive tuberculosis tests and less health insurance among African immigrants. *Society of General Internal Medicine Annual Meeting*, Pittsburgh PA, April 2008.

Daniel Leicht Award for Achievement in Social Medicine, Montefiore Medical Center, Department of Family and Social Medicine, 2007.

Poster Presentation, Case Findings of Recent Arrestees. Venters H, Deluca J, Drucker E. *Society of General Internal Medicine Annual Meeting*, Toronto Canada, April 2007.

Poster Presentation, Bringing Primary Care to Legal Aid in the Bronx. Venters H, Deluca J, Drucker E. *Society of General Internal Medicine Annual Meeting*, Los Angeles CA, April 2006.

Poster Presentation, A Missed Opportunity, Diagnosing Multiple Myeloma in the Elderly Hospital Patient. Venters H, Green E., *Society of General Internal Medicine Annual Meeting*, New Orleans LA, April 2005.

Grants: Program

San Diego County: Review of jail best practices (COCHS), 1/2020, \$90,000.

Ryan White Part A - Prison Release Services (PRS). From HHS/HRSA to Correctional Health Services (NYC DOHMH), 3/1/16-2/28/17 (Renewed since 2007). Annual budget \$ 2.7 million.

Ryan White Part A - Early Intervention Services- Priority Population Testing. From HHS/HRSA to Correctional Health Services (NYC DOHMH), 3/1/16-2/28/18 (Renewed since 2013). Annual budget \$250,000.

Comprehensive HIV Prevention. From HHS to Correctional Health Services (NYC DOHMH), 1/1/16-12/31/16. Annual budget \$500,000.

HIV/AIDS Initiative for Minority Men. From HHS Office of Minority Health to Correctional Health Services (NYC DOHMH), 9/30/14-8/31/17. Annual budget \$375,000.

SPNS Workforce Initiative, From HRSA SPNS to Correctional Health Services (NYC DOHMH), 8/1/14-

7/31/18. Annual budget \$280,000.

SPNS Culturally Appropriate Interventions. From HRSA SPNS to Correctional Health Services (NYC DOHMH), 9/1/13-8/31/18. Annual budget \$290,000.

Residential substance abuse treatment. From New York State Division of Criminal Justice Services to Correctional Health Services (NYC DOHMH), 1/1/11-12/31/17. Annual budget \$175,000.

Community Action for Pre-Natal Care (CAPC). From NY State Department of Health AIDS Institute to Correctional Health Services (NYC DOHMH), 1/1/05-12/31/10. Annual budget \$290,000.

Point of Service Testing. From MAC/AIDS, Elton John and Robin Hood Foundations to Correctional Health Services (NYC DOHMH), 11/1/09-10/31/12. Annual budget \$100,000.

Mental Health Collaboration Grant. From USDOJ to Correctional Health Services (NYC DOHMH), 1/1/11-9/30/13. Annual budget \$250,000.

Teaching

Instructor, Health in Prisons Course, Bloomberg School of Public Health, Johns Hopkins University, June 2015, June 2014, April 2019.

Instructor, Albert Einstein College of Medicine/Montefiore Social Medicine Program Yearly lectures on Data-driven human rights, 2007-present.

Other Health & Human Rights Activities

DIGNITY Danish Institute Against Torture, Symposium with Egyptian correctional health staff regarding dual loyalty and data-driven human rights. Cairo Egypt, September 20-23, 2014.

Doctors of the World, Physician evaluating survivors of torture, writing affidavits for asylum hearings, with testimony as needed, 7/05-11/18.

United States Peace Corps, Guinea Worm Educator, Togo West Africa, June 1990- December 1991.

- Primary Project*; Draconculiasis Eradication. Activities included assessing levels of infection in 8 rural villages and giving prevention presentations to mothers in Ewe and French
- Secondary Project*; Malaria Prevention.

Books

Venters H. *Life and Death in Rikers Island*. Johns Hopkins University Press. 2/19.

Chapters in Books

Venters H. Mythbusting Solitary Confinement in Jail. In Solitary Confinement Effects, Practices, and Pathways toward Reform. Oxford University Press, 2020.

MacDonald R. and **Venters H.** Correctional Health and Decarceration. In Decarceration. Ernest

Drucker, New Press, 2017.

Membership in Professional Organizations
American Public Health Association

Foreign Language Proficiency

French	Proficient
Ewe	Conversant