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**TESTIMONY**

The Council of the City of New York

Committee on Public Safety

Hearing on NYPD Enforcement of Social Distancing

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My name is Jennifer Grossman and I am a registered professional nurse and the Executive Director of Nurses for Social Justice, on whose behalf I am testifying today. Thanks to the Committee for the opportunity to provide testimony regarding the New York Police Department’s disciplinary system. Nurses for Social Justice is a nonprofit focused on keeping impoverished people out of prison by providing public defenders with high-quality medical record reviews; offering public defenders free continuing legal education; and encouraging nurses and other medical professionals across the country to get involved in social justice issues. We also review medical records for public defenders to ensure all accused people have access to medical experts. I am licensed by New York State and have worked in New York City in both neurology and in primary care; with subacute and chronic patients; and in the management of primary care doctors, nurses, and staff. Currently I provide continuing legal education to attorneys, and review medical records for attorneys across the country.

As the coronavirus pandemic has unfolded, Nurses for Social Justice has been working with public defenders in New York City and attorneys nationwide to educate lawyers, judges, clients, and our community on the transmission and effects of this novel coronavirus in an effort to help curb the spread, assist community members in decision-making, and help direct individual citizens in health care choices. In our ongoing review of the medical records of incarcerated individuals, we’ve closely followed infection rates, the effects of the virus on people with chronic health issues, and ever-evolving data on the virus, including diagnosis, treatments, and precautions set out for the general public and incarcerated people by the CDC, WHO and other health organizations. This has put us in a unique position to speak on these overlapping issues.

**The Most Vulnerable**

One of the first things the world learned about the novel coronavirus that causes Covid-19 was that the best way to prevent its contraction was to avoid being exposed to the virus in the first place. The CDC reported early on that the virus spreads between people who are in close contact via respiratory droplets produced when an infected person, symptomatic or not, coughs, sneezes or talks.[[1]](#footnote-1) Soon states made suggestions for citizens to distance themselves from one another and shelter at home. It wasn’t long before we were directed to wear masks when leaving our homes. For those of us whose work and lives require acute awareness of our prisons, jails, nursing homes, and/or other congregate settings, our ears perked up.

In the beginning, the most vulnerable to the virus were assumed to be the elderly and infirm. We read about patients experiencing respiratory distress and, as the virus ravaged the lungs, we focused on asthmatics, lung cancer patients, and those who suffer from other lung disease. It was discovered that people who have chronic illnesses, such as high blood pressure and coronary artery disease, are at an increased risk.[[2]](#footnote-2) In fact, even people who simply have high blood pressure are being told to take extra care against being infected with this virus.[[3]](#footnote-3) As people with heart disease, high blood pressure, and high cholesterol were added to the list—chronic diseases that we normally medicate and forget—we read about COVID-19 positive patients having heart attacks and strokes. Now we understand that patients experience myriad symptoms, including inflammation of the heart muscle known as myocarditis, and clotting of the blood. Patients end up with heart damage and dangerous arrhythmia. Their deaths are caused by a stunning variety of immediate causes, including pulmonary embolism, cardiac arrest, respiratory arrest, and organ failure.

More recently, we’ve added obesity to the list. A disease of excess adipose tissue (fat tissue), which is not simply a cosmetic issue, obesity increases the risks of other diseases, such as diabetes, cardiovascular disease, and certain cancers. In obese patients with COVID-19, this excess of tissue can impede diaphragm movement, which restricts ventilation; it impairs the immune response, increases inflammation, and induces diabetes.[[4]](#footnote-4) People who are obese often have other underlying—and at times undiagnosed—health conditions, such as hypertension, high cholesterol, and/or diabetes; recent studies have shown that obesity may be one of the most important predictors of severe coronavirus illness, after age.[[5]](#footnote-5) Whether this is more related to obesity itself or the undiagnosed health conditions that often accompany it, time will tell. Regardless, medical providers started to warn our families, friends, and neighbors that this fast-moving virus renders our most common chronic illnesses life-threatening in new and increasing ways: disturbing news to people all over the world who have had to quickly come to terms with the fact that their chronic illness makes them more susceptible not only to contracting this virus, but also to experiencing a prolonged illness that could result in permanent damage and, possibly, death. In New York State alone, over half of all citizens are obese; an estimated 2 million New Yorkers have diabetes; and over 4.6 million adults in New York have reported that they were told by a health professional they have high blood pressure.[[6]](#footnote-6), [[7]](#footnote-7), [[8]](#footnote-8) We are ripe for the picking.

A long, healthy life is simple not available to all New Yorkers, especially those in the further reaches of the five boroughs. According to NYC Community Health Profiles, “A baby born to a family that lives in the Upper East Side will live 11 years longer than a baby born to a family in Brownsville.”[[9]](#footnote-9) People living in East New York and Starrett City experience more than double the avoidable hospitalizations than the rest of NYC; too often, they are hospitalized long past the point when the progression of an illness might have been prevented, if only they’d had access to quality primary care. Importantly, people whose diabetes or heart disease has gone undiagnosed or uncontrolled, are at even more risk of fatality due to this illness.[[10]](#footnote-10) Quality primary care is essential not only to diagnose, prevent, and treat chronic illness, but also to create and maintain healthy neighborhoods. It directly affects the health and longevity of individuals and communities alike.

A direct look at the COVID-19 deaths in New York City clearly shows that those most vulnerable to the ravages of the coronavirus live with all of these risks. Hispanic people have made up 34 percent of the city’s deaths, though they make up just 29 percent of the city’s population; African Americans have comprised up 28 percent of the city’s deaths, though they are but 22 percent of the population. The neighborhood with the highest death toll is East New York, 52 percent Black and 37 percent Latino; to date, it has suffered 76 deaths.[[11]](#footnote-11), [[12]](#footnote-12), [[13]](#footnote-13)  NYC Community Health Profiles, which shows health disparities by neighborhood, states that “racist policies and practices have shaped where New Yorkers live and go to school, what jobs they have and what their neighborhoods look like… these policies and practices have built on each other to create deep inequity.” These communities experience higher policing than non-Latinx White New Yorkers do, which leads to a higher rate of face-to-face interactions with the NYPD, pretrial detention, and incarceration. People who are incarcerated are likelier to have poorer general health, and are more vulnerable to specific contagious illnesses than the public is: half of all incarcerated people in the US have at least one chronic illness.

Those chronic illnesses are making them more susceptible to this virus.[[14]](#footnote-14) The New York Department of Health’s COVID-19 Tracker, which breaks down fatalities by race, sex, age, and comorbidities, shows that the top three comorbidities that lead to COVID-19 deaths are hypertension, diabetes, and hyperlipidemia: chronic conditions common among Black and Latino men. No coincidence, then, that these are the populations experiencing the highest death rates.[[15]](#footnote-15)

**Disproportionate and Racist Spread of Coronavirus**

The novel coronavirus has been compared to tuberculosis or the flu, because it spreads when people cough or sneeze, dispersing small droplets in the air around them at a radius of up to twenty-six feet (notably more than the 6 we place between us when in line at the grocery store).[[16]](#footnote-16) Unlike the flu, however, it can also be contracted via what is referred to as the fecal-oral route, making public and shared bathrooms a danger.[[17]](#footnote-17) In fact, there are no specific clinical features that can yet reliably distinguish COVID-19 from other viral respiratory infections. Add to this that we have seen studies showing that up to half of people who have tested positive are asymptomatic, and it becomes very clear why this disease spreads like wildfire. Asymptomatic infections have been well documented, particularly in congregate settings. In one study, fifty percent of patients with asymptomatic infection who underwent chest CT scans had the typical ground-glass opacities or patchy shadowing indicative of COVID-19; another twenty percent had atypical imaging.[[18]](#footnote-18) This is why social distancing and wearing masks correctly are so important.

It is also one of the reasons why there has been such widespread frustration with the NYPD, and the way they have been interacting with the public. Any New Yorker can walk out their door and see police officers congregating without PPE, or wearing it incorrectly. NYPD’s own data shows that between March 16th and May 5th 374 summons were handed out “for violations of emergency procedures and acts liable to spread disease.” Furthermore, people of color continue to be disproportionately policed. Of those 374 summonses handed out, 304 of them went to Black and Hispanic people. The Brooklyn DA’s office confirmed that 40 people were *arrested* between March 17th and May 4th for not following social distancing. 35 were Black, four were Hispanic, and one was white.[[19]](#footnote-19) All of them, presumably, were touched by the arresting officers before riding with them in a closed vehicle and undergoing processing that exposed them and others multiple times.

Congregate settings are designed in such a way that, once the coronavirus enters a place like a nursing home, jail, or other congregate setting, conditions are conducive to rapid proliferation. Detained and imprisoned people are kept in particularly close proximity in cells and/or dormitories. They share cafeterias, bathrooms, and lounges, where extra space is nonexistent and ventilation is often inadequate. Because the virus moves through droplets, the rapidity with which it spreads in such contexts is immeasurably higher than that of other health concerns common in congregate settings, such as HIV or Hepatitis C.

While people in the community are told to wash their hands frequently, put the lid of the toilet down before flushing, stay home from work, and only leave the house for “essential business” at the grocery store or pharmacy, people who are incarcerated must move about in order to have meals together, be transported together, and shower together. Because their toilets do not have lids, every time one is flushed, aerosolized toilet plume is emitted, containing potential coronavirus from a previous user.[[20]](#footnote-20) Organizations directly involved in the health care of inmates, such as DOCCS, NCCHC, and the ACA, have linked to CDC and NYDOHMH sources on their own Web sites in an effort to guide corrections management, but limited space and poor ventilation makes the CDC’s recommendation of social distancing virtually impossible. People of color, then, who have disproportionately subpar access to health care, and are disproportionately policed and incarcerated, are thus set up for disproportionate exposure to a virus that is disproportionately likely to kill them.[[21]](#footnote-21), [[22]](#footnote-22)

Recommendations

On April 23, 2020, Nurses for Social Justice joined over 200 medical workers and public health professionals, and other organizations, in signing a letter voicing our concerns over the NYPD’s policing priorities during this public health crisis. The letter, which was submitted to the Mayor and Commissioner Shea, urged the NYPD to modify its protocols and heed guidelines from the CDC, the Police Executive Research Forum, and the International Association of Chiefs of Police to protect officers and the community. It requested that the NYPD cease enforcement of low-level offenses like social distancing, and that officers wear proper PPE when interacting with members of the public. It has been met with deflection and dismissiveness.

Nurses for Social Justice now recommends removing the NYPD from social distancing enforcement completely. We urge the Police Benevolent Association of New York City (NYC PBA) to heed this call to end the NYPD’s oversight of social distancing, which they themselves have described as “untenable.”[[23]](#footnote-23) We recommend enforcement of public health measures be guided by appropriately trained community leaders and community-based organizations committed to public health. Cure Violence, an organization that trains outreach workers to mitigate conflict on the street, is one example of such an organization: it is made up of trusted members of the community who are trained in peaceful conflict resolution. Nurses for Social Justice can offer free health education to this organization, and to any other health or community-based education organization deemed an acceptable replacement for the NYPD.

Furthermore, we stand with the Legal Aid Society in requesting greater transparency and accountability from the NYPD, and asking that they disclose all enforcement data and guidelines related to Executive Orders 202.10 and 202.17, including demographic and geographic information, FINEST messages, memos, reports, training, and enforcement guidelines. If the city insists on police enforcement of social distancing, we demand a drastically decreased number of officers on the streets, particularly in communities of color.

**Conclusion**

Sadly, we are seeing the same racial disparities in the enforcement of social distancing that we have seen in health care and law enforcement in New York City for decades. Witnessing the way Mayor Bill de Blasio has sent the NYPD into low-income neighborhoods to make arrests, thus putting underserved New Yorkers with chronic health issues at further risk, it is hard to believe he is as troubled by the disproportionate deaths of Black and Latinx people from COVID-19 as he purports to be. Let’s prevent this epidemic from becoming an opportunity for the city to persist with racist stop-and-frisk policing. Let’s not police the communities that are already hardest hit in a way that is directly counterproductive to our collective public health goals.[[24]](#footnote-24)

1. <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> [↑](#footnote-ref-1)
2. <https://www.health.harvard.edu/blog/how-does-cardiovascular-disease-increase-the-risk-of-severe-illness-and-death-from-covid-19-2020040219401> [↑](#footnote-ref-2)
3. <https://www.wsj.com/articles/heart-conditions-prove-especially-dangerous-for-covid-19-patients-11586683801> [↑](#footnote-ref-3)
4. <https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31024-2/fulltext> [↑](#footnote-ref-4)
5. <https://www.medrxiv.org/content/10.1101/2020.04.08.20057794v1> [↑](#footnote-ref-5)
6. <https://www.health.ny.gov/prevention/obesity/> [↑](#footnote-ref-6)
7. <https://www.diabetes.org/community/local-offices/greater-nycnj> [↑](#footnote-ref-7)
8. <https://www.health.ny.gov/statistics/brfss/reports/docs/1911_brfss_hbp.pdf> [↑](#footnote-ref-8)
9. <https://www1.nyc.gov/assets/doh/downloads/pdf/data/2018chp-bk5.pdf> [↑](#footnote-ref-9)
10. <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> [↑](#footnote-ref-10)
11. <https://www.politico.com/states/new-york/city-hall/story/2020/05/18/poorest-nyc-neighborhoods-have-highest-death-rates-from-coronavirus-1284519> [↑](#footnote-ref-11)
12. <https://www1.nyc.gov/assets/doh/downloads/pdf/data/2018chp-bk5.pdf> [↑](#footnote-ref-12)
13. <https://www.foxnews.com/health/data-reveals-highest-coronavirus-death-rate-per-nyc-zipcode> [↑](#footnote-ref-13)
14. <https://www.bjs.gov/content/pub/pdf/mpsfpji1112.pdf> [↑](#footnote-ref-14)
15. <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Fatalities?%253Aembed=yes&%253Atoolbar=no&%3AisGuestRedirectFromVizportal=y&%3Aembed=y> [↑](#footnote-ref-15)
16. <https://jamanetwork.com/journals/jama/fullarticle/2763852> [↑](#footnote-ref-16)
17. <https://www.gastrojournal.org/article/S0016-5085(20)30282-1/pdf?referrer=https%3A%2F%2Fwww.medpagetoday.com%2Finfectiousdisease%2Fcovid19%2F85315> [↑](#footnote-ref-17)
18. <https://www.uptodate.com/contents/coronavirus-disease-2019-covid-19-epidemiology-virology-clinical-features-diagnosis-and-prevention#H3822360508> [↑](#footnote-ref-18)
19. <https://time.com/5834414/nypd-social-distancing-arrest-data/> [↑](#footnote-ref-19)
20. <https://www.ajicjournal.org/article/S0196-6553(12)00812-7/fulltext> [↑](#footnote-ref-20)
21. <https://doccs.ny.gov/doccs-covid-19-report> [↑](#footnote-ref-21)
22. <https://www.ncchc.org/downloadable-materials> [↑](#footnote-ref-22)
23. <https://time.com/5832403/nypd-pandemic-police-social-distancing-arrests/> [↑](#footnote-ref-23)
24. <https://gothamist.com/news/nypd-still-refusing-release-social-distancing-arrest-data-race> [↑](#footnote-ref-24)