EXHIBIT 4

IN THE SUPREME COURT OF PENNSYLVANIA

PENNSYLVANIA DEMOCRATIC PARTY, et al.,

Petitioners,

No. 133 MM 2020

v.

KATHY BOOCKVAR, et al.,

Respondents.

AFFIDAVIT OF DONALD S. BURKE, MD

September 8, 2020

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I. Introduction

1. My name is Donald S. Burke. I have been retained by Wilmer Cutler Pickering Hale and Dorr LLP, counsel for Common Cause Pennsylvania; The League of Women Voters of Pennsylvania; The Black Political Empowerment Project ("B-PEP"); Make the Road Pennsylvania, a project of Make The Road States ("Make the Road PA"); Patricia DeMarco; Danielle Graham Robinson; and Kathleen Wise (together, "Amici") in the matter *Pennsylvania Democratic Party, et al., v. Boockvar, et al.*, No. 133 MM 2020.

2. A central issue in this matter is the impact of COVID-19—including how it spreads, and vulnerable populations—and the related risks created by inperson voting. I have been asked to evaluate the transmission and spread of COVID-19 and the effect of in-person voting on its spread. I have also been asked to assess and comment on any opinions provided by other experts on these same issues.

II. Summary of Opinions

3. The SARS-CoV-2/COVID-19 pandemic is a serious and grave threat to public health that has led to over 6.2 million Americans being infected and has resulted in greater than 187,000 American deaths, and counting.

4. In-person voting at a polling place on election day poses serious health risks to many voters—particularly older voters, persons of color, and/or persons

with conditions that place them at increased risk. In-person voting will likely expose voters and poll workers to the novel coronavirus SARS-CoV-2, lead to new cases of COVID-19, and result in avoidable serious illness and even death. If voters fear casting their ballots in person at a polling place on election day based on spreading or contracting SARS-CoV-2, their concerns are legitimate from a medical and public health basis.

5. Returning any kind of ballot in person, including mail-in or absentee ballots, directly to an election official poses significant health risks to many voters—particularly older voters, persons of color, and/or persons with conditions that place them at increased risk. Returning any kind of ballot in person will likely expose voters to the novel coronavirus SARS-CoV-2, lead to new cases of COVID-19, and result in avoidable serious illness and even death. If voters fear personal delivery of their mail-in ballot based on spreading or contracting SARS-CoV-2, their concerns are legitimate from a medical and public health basis.

6. These health risks will be disproportionately borne by older Americans, low-income communities and communities of color. The disproportionately high prevalence of chronic underlying medical conditions and other risk factors in these communities will be compounded by longer wait times and larger congregations of voters waiting in line to cast their ballot.

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7. As compared to in-person voting at a polling place, voting by depositing a ballot in a mail-box or in a drop-box is significantly safer for individual voters—particularly older voters, persons of color, and/or persons with conditions that place them at increased risk—and would reduce the risk of community spread of SARS-CoV-2.

8. Given that the only viable public health strategies available in the United States currently are risk mitigation and containment, reducing the number of events where large numbers of the general public cycle through enclosed spaces is imperative. Not taking steps to reduce these kinds of events is not only inadvisable but also reckless given the public health realities we now face in the United States.

9. Permitting voters to vote by mail or by drop-box will protect the health of voters and particularly those who are at especially at risk due to their age, compromised immune systems, or because they live with at-risk friends or family members. Steps taken to encourage and promote voting by mail or by drop-box which can take place outside, and do not require interaction with an election official—will reduce the transmission of the novel coronavirus, thereby preventing illness and likely saving lives.

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III. Background

10. I received a B.A. in chemistry and biology, *magna cum laude*, from Western Reserve University in 1967. I received a M.D. from Harvard Medical School in 1971.

11. From 1971-1976, I completed my residency training and fellowship at the Boston City Hospital and the Massachusetts General Hospital. I subsequently spent two years as a research fellow in infectious disease at the Walter Reed Army Medical Center.

12. I am the Distinguished University Professor of Health Science and Policy, the Jonas Salk Chair in Population Health, and a Professor of Epidemiology at the University of Pittsburgh.

13. I was the Dean of the University of Pittsburgh's Graduate School of Public Health from 2006-2019. I also served as the Director of the University of Pittsburgh's Center for Vaccine Research from 2006-2016.

14. I am a member of the Board of Health for Allegheny County, and have served in this capacity since 2008.

15. From 1973 to 1997, I served in the United States Army in multiple capacities, including as a Clinical Ward Officer for the U.S. Army Medical Research Institute of Infectious Diseases, a Clinical Desk Officer and Chief for

the Department of Virus Diseases, a Chief in the Virology Department of the Armed Forces Research Institute of Medical Sciences in Bangkok, Thailand, of which I subsequently served as Deputy Director, and a Research Fellow in Infectious Disease. From 1988-1990 I was a Director in the Division of Retrovirology at the Walter Reed Army Institute of Research. In 1988, I founded the U.S. Military HIV/AIDS Laboratory Complex, of which I served as Director until 1996. From 1996-1997, I was the Associate Director for Emerging Threats and Biotechnology.

16. I retired from the United States Army at the rank of Colonel after 23 years of active duty.

17. From 1997 to 2006, I was a Professor of International Health and Professor of Epidemiology at the Johns Hopkins Bloomberg School of Public Health, and a Professor of Medicine at the Johns Hopkins School of Medicine. I was also the Director of the Johns Hopkins Bloomberg School of Public Health's Center for Immunization Research.

18. I hold the following professional certifications, memberships, and affiliations:

- Elected Member, National Academy of Medicine
- Elected Fellow, American Association for the Advancement of Science
- Elected Fellow, American Academy of Microbiology

- Elected Fellow, American Epidemiological Society
- Fellow and former President (1995-96), American Society of Tropical Medicine and Hygiene
- Fellow, Royal Society of Tropical Medicine and Hygiene (U.K.)
- Fellow, American College of Physicians
- Fellow, Infectious Disease Society of America
- Member, American Public Health Association
- Member, Physicians for Human Rights
- Member, American Society for Virology
- Member, American Association for the History of Medicine
- Member, International AIDS Society
- Member, International Society for Vaccines
- Certified Diplomat in the Sub-Specialty of Infectious Diseases, American Board of Internal Medicine (1978-present)
- Certified Diplomat in the Specialty of Internal Medicine, American Board of Internal Medicine (1977-present)
- 19. I have studied prevention and control of infectious diseases of global

concern, including HIV/AIDS, influenza, dengue, and emerging infectious diseases. I lived for six years in Thailand, worked extensively in Cameroon, and conducted field epidemiology and vaccine studies in those countries and in numerous other developing countries.

20. I led a trans-disciplinary team to develop computational models and simulations of epidemic infectious and chronic diseases and use these simulations to forecast possible future trajectories of epidemics, and to evaluate prevention and control strategies. I have won major competitive grants for research on modeling of epidemic infectious diseases from the National Institutes of Health ("NIH"), the Centers for Disease Control and Prevention ("CDC"), the

Department of Defense, the Bill and Melinda Gates Foundation, and the Robert Wood Johnson Foundation. I am currently conducting research to apply these methods to the COVID-19 pandemic.

21. I co-founded and serve as President and Chairman of the Board of Epistemix, Inc., a start-up company the provides software and services for computational modeling to forecast and control epidemic diseases.

22. I have served on expert advisory panels on epidemic infectious diseases for the NIH, CDC, Food and Drug Administration ("FDA"), and the World Health Organization ("WHO").

23. In a book chapter on emerging viruses,¹ I correctly predicted the epidemic threat posed by coronaviruses, five years before the emergence of SARS. I authored two op-ed articles in *The Wall Street Journal* on the emergence of SARS and related viruses.

24. I have been interviewed and quoted about COVID-19 epidemiology in major national media (*Newsweek*, March 16; *New York Times*, April 23 and May 4), and in Pittsburgh and other Pennsylvania print, radio, and television media on numerous occasions.

¹ DONALD S. BURKE, *Evolvability of Emerging Viruses*, PATHOLOGY OF EMERGING INFECTIONS Ch. 1 (Nelson A.M. and Horsburgh C.R., eds., American Society of Microbiology, 1998).

25. I serve on the expert Advisory Group to the National Academy of Medicine and the American Public Health Association on their national COVID-19 webinar series.

26. I have authored or co-authored over 300 peer-reviewed academic publications mostly on the topic of epidemic infectious diseases. My *curriculum vitae* lists all of the publications I have authored, including all those in the last 10 years, and is attached as Appendix A.

27. My contributions to epidemiology have been recognized by my peers. For example, in 2018, I received the John Snow Award from the Epidemiology Section of the American Public Health Association. In 2019 I was the Alexander Langmuir Keynote Lecturer at the American Epidemiological Society.

28. I have not testified as an expert at deposition or trial in the last four years.

IV. Materials Considered

29. In forming the opinions that I express in this report, I considered the materials referenced in the body of this report, the documents identified in Appendix B, and my own knowledge and experience.

V. Compensation

30. I am being compensated for my time at a consulting rate of \$225 per hour, up to \$4,000, and reimbursement for reasonable travel expenses. My compensation is not contingent upon the nature of my opinions, findings, conclusions, or the outcome of this matter.

VI. COVID-19

31. The SARS-CoV-2 coronavirus causes a disease known as COVID-19.² COVID-19 was declared to a pandemic by the World Health Organization (WHO) in March 2020. As of September 5, 2020, more than 6.1 million people have been infected with the coronavirus in the United States, and more than 187,000 people have died due to COVID-19.³ The reported numbers of infections and of deaths in the United States are likely undercounted due to months of undertesting stemming from a variety of issues including a lack of testing kits, an inadequate

² My report and other sources may refer to COVID-19 (the disease) interchangeably with SARS-CoV-2 (the virus).

³ See Cases in the U.S., CTRS. FOR DISEASE CONTROL AND PREVENTION, https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html (last accessed Sept. 5, 2020).

supply of personal protective equipment, and the sizeable number of people who are asymptomatic carriers of the virus.⁴

32. SARS-CoV-2 is easily spread through respiratory transmission and can be spread by both infected individuals exhibiting symptoms and asymptomatic carriers. Infected persons can transmit the virus before they start to show symptoms, and perhaps even for weeks after their symptoms resolve. A substantial portion of infected individuals, perhaps up to 35%, never show symptoms at all but may still transmit the virus to others.⁵ Others may be capable of transmitting the virus before they develop symptoms. This means that testing or isolating only persons known to have symptoms will not stop the spread of infection. In addition, some people are so-called "superspreaders," who are thought to be more infectious than others and contribute to a higher rate of transmission due to a variety of causes, including behaviors and biological factors.

33. All people are susceptible to and capable of being infected with SARS-CoV-2 because of the ease with which the virus spreads and the low rates of

⁴ See Apoorva Mandavilli, Actual Coronavirus Infections Vastly Undercounted, C.D.C. Data Shows, N.Y. TIMES (June 27, 2020),

https://www.nytimes.com/2020/06/27/health/coronavirus-antibodies-asymptomatic.html (updated Aug. 6, 2020).

⁵ *COVID-19 Pandemic Planning Scenarios*, CTRS. FOR DISEASE CONTROL AND PREVENTION (May 20, 2020), https://www.cdc.gov/coronavirus/2019-ncov/hcp/planning-scenarios.html.

immunity in the population. The virus is spread through large and small airborne droplets; that is, when an infected individual—whether symptomatic or asymptomatic—speaks, coughs, sneezes, talks, sings, etc., that individual expels droplets which can transmit the virus to others in their proximity. Some evidence suggests that the virus can be aerosolized, such that tiny droplets containing the virus can remain in the air and be inhaled by others who come into contact with that air. The virus is also known to be spread through contact with contaminated surfaces, for example, when an infected person touches a surface with a hand they have coughed into and then another person touches that same surface before it has been disinfected and then touches their face. The virus can survive on some contaminated surfaces for up to three days.⁶

34. Without adhering to effective social distancing measures, a SARS-CoV-2 infected individual is estimated to infect on average two to three others, in a community context. This "basic reproduction number," or R_0 , for SARS-CoV-2 is higher in comparison to that of seasonal influenza, where on average one to one and one-half others become infected. The R_0 can vary according to population

⁶ Neeltje van Doremalen et al., *Aerosol and Surface Stability of SARS-CoV-2 as Compared With SARS-CoV-1*, 382 NEW ENG. J. MED. 1962 (2020), https://pubmed.ncbi.nlm.nih.gov/32182409/; *How COVID-19 Spreads*, CTRS. FOR DISEASE CONTROL AND PREVENTION, https://tools.cdc.gov/api/v2/resources/media/407478/content.html (last accessed Sept. 5, 2020). density, with higher population density geographic areas having higher R_0 values than lower population density areas.⁷

35. Outbreaks of COVID-19 have been reported in both indoor and outdoor spaces. Outbreaks have been linked to restaurants (Lu), fitness classes (Jang), and during choir practice in a "large multipurpose room" (Hamner). Attending events at a church led to a high COVID-19 attack rate (James). Family gatherings, such as attending a funeral or a birthday party, have led to COVID-19 clusters (Ghinai). These outbreaks demonstrate the infectiousness of SARS-CoV-2 and the possibility for transmission at indoor congregate activities, even in relatively spacious settings like a church—and, as relevant here, at a polling place where voting is occurring during an election—or in a crowded line without adequate social distancing.⁸

Paul L. Delamater, Erica J. Street, Timothy F. Leslie, Y. Tony Yang, and Kathryn H. Jacobsen, *Complexity of the Basic Reproduction Number (Ro)*, EMERGING INFECTIOUS DISEASES, Vol. 25, No. 1 (January 2019); see also Seth Flaxman et al., *Estimating the effects of non-pharmaceutical interventions on COVID-19 in Europe*, 584 NATURE 257 (2020), https://www.nature.com/articles/s41586-020-2405-7; Eskild Peterson et al., *Comparing SARS-CoV-2 with SARS-CoV and influenza pandemics*, 20 LANCET INFECTIOUS DISEASES e238 (2020), https://doi.org/10.1016/S1473-3099(20)30484-9; Ruiyun Li et al., *Substantial undocumented infection facilitates the rapid dissemination of novel coronavirus (SARS-CoV-2)*, 368 SCIENCE 489 (2020), https://science.sciencemag.org/content/368/6490/489.full; Benjamin J. Cowling et al., *The effective reproduction number of pandemic influenza: Prospective estimation*, 21(6) EPIDEMIOLOGY 842 (2010), author manuscript available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3084966/.

⁸ Jianyun Lu, et al., *Early Release-COVID-19 Outbreak Associated with Air Conditioning in Restaurant, Guangzhou, China, 2020*, 26 EMERG. INFECT. DIS. 1628 (2020), https://wwwnc.cdc.gov/eid/article/26/7/pdfs/20-0764-combined.pdf; Sukbin Jang, et al., *Cluster of Coronavirus Disease Associated with Fitness Dance Classes, South Korea*, 26 EMERG.

36. COVID-19 is a serious multi-system disease, which can lead to, among other things, respiratory, heart, and kidney failure, and ultimately death. Older persons and persons of any age with chronic underlying conditions are at a particularly high risk of severe cases and complications.⁹

37. According to the Centers for Disease Control and Prevention ("CDC"), underlying conditions that create an increased risk of severe illness from COVID-19 include cancer, chronic kidney disease, chronic obstructive pulmonary disease, immunocompromised state, obesity, serious heart conditions, sickle cell disease, and Type 2 diabetes.¹⁰ In addition, conditions that might cause an increased risk of severe illness from COVID-19 include asthma, smoking, hypertension, pregnancy, cerebrovascular disease, cystic fibrosis, neurologic conditions, liver disease, pulmonary fibrosis, thalassemia, and Type 1 diabetes.

INFECT. DIS. 1917 (2020), https://wwwnc.cdc.gov/eid/article/26/8/pdfs/20-0633-combined.pdf; Isaac Ghinai, et al., *Community Transmission of SARS-CoV-2 at Two Family Gatherings -Chicago, Illinois, February-March 2020*, 69 MORBIDITY & MORTALITY WKLY REP. 446 (2020), https://www.cdc.gov/mmwr/volumes/69/wr/mm6915e1.htm; Lea Hamner, et al., *High SARS-CoV-2 Attack Rate Following Exposure at a Choir Practice — Skagit County, Washington, March 2020*, 69 MORBIDITY & MORTALITY WKLY REP. 606 (2020), https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e6.htm.

⁹ Fei Zhou et al., *Clinical Course and Risk Factors for Mortality of Adult Inpatients with COVID-19 in Wuhan, China*, 395 LANCET 1054 (2020), https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30566-3/fulltext.

¹⁰ *People with Certain Medical Conditions*, CTRS. FOR DISEASE CONTROL AND PREVENTION, https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html (last accessed Sept. 5, 2020).

38. The Kaiser Family Foundation has estimated the proportion of each state's population at elevated risk for severe COVID-19 illness due to underlying conditions, based on the definition from the CDC of adults who are at increased risk and the CDC's 2018 Behavioral Risk Factor Surveillance System. Based on this analysis, *in Pennsylvania, 40% of adults (over the age of 18) are at elevated risk for severe illness due to COVID-19—that is approximately four million people*. And older adults (age 65 years and over) make up 58% of that elevated risk population in Pennsylvania.¹¹

39. COVID-19 is associated with an increased need for care, including intensive care, and an increased likelihood of death, compared to seasonal influenza. According to recent estimates, the fatality rate of people infected with COVID-19 is about ten times higher than a severe seasonal influenza, even in

¹¹ State Data and Policy Actions to Address Coronavirus, KAISER FAMILY FOUNDATION, https://www.kff.org/coronavirus-covid-19/issue-brief/state-data-and-policy-actions-to-addresscoronavirus/ (last accessed Sept. 5, 2020); How Many Adults Are at Risk of Serious Illness If Infected with Coronavirus? Updated Data, KAISER FAMILY FOUNDATION, https://www.kff.org/global-health-policy/issue-brief/how-many-adults-are-at-risk-of-seriousillness-if-infected-with-coronavirus/ (last accessed Sept. 5, 2020).

advanced countries with highly effective health care systems.¹² Serious illness, sometimes resulting in death, occurs in approximately 3% of cases.¹³ The rate of life-threatening complications is higher among elderly and other at-risk individuals.

40. Patients with COVID-19, particularly those in high-risk categories, may have serious illness requiring hospitalization. For those hospitalized with COVID-19, their care often requires expensive hospital care, including an entire team of health professionals with 1:1 or 1:2 staff to patient ratios, respiratory therapists, and several specialists, including intensive care and infectious disease physicians.¹⁴ Those infected with coronavirus—both those who were hospitalized and those who had mild to moderate disease not requiring hospitalization—may face prolonged recovery periods, potentially requiring extensive rehabilitation.¹⁵

¹² Marco Cascella et al., *Features, Evaluation, and Treatment of Coronavirus (COVID-19)*, STATPEARLS, https://www.ncbi.nlm.nih.gov/books/NBK554776/ (updated Aug. 10, 2020) (noting the fatality rate of the COVID-19 outbreak in China was 2.3%); Eskild Peterson et al., *Comparing SARS-CoV-2 with SARS-CoV and influenza pandemics*, 20 LANCET INFECTIOUS DISEASES e238 (2020), https://doi.org/10.1016/S1473-3099(20)30484-9 (estimating that COVID-19 has a fatality rate of approximately 1%); *Disease Burden of Influenza*, CTRS. FOR DISEASE CONTROL AND PREVENTION, https://www.cdc.gov/flu/about/burden/index.html (last accessed Sept. 5, 2020) (reporting annual influenza infection numbers of 9 million – 45 million and annual influenza-caused deaths of 12,000 – 61,000 since 2010).

¹³ Supra note 5.

¹⁴ Chris Carter & Joy Notter, *COVID-19 disease: a critical care perspective*, 1 CLINICS IN INTEGRATED CARE 100003 (2020), available at https://doi.org/10.1016/j.intcar.2020.100003.

¹⁵ Derick T. Wade, *Rehabilitation after COVID-19: an evidence-based approach*, 20(4) CLINICAL MED. 359 (2020).

41. Problematically, COVID-19 shares many symptoms with seasonal influenza, and other common infectious diseases, including fever, body aches, cough, chills, and headache. Without testing, it is difficult for healthcare providers to ascertain whether an individual with these symptoms is suffering from COVID-19 or another infection.

42. Aside from self-quarantine, there is no way to completely protect against SARS-CoV-2 infection. Best practices like mask-wearing, hand hygiene, and social distancing only diminish, but do not eliminate, the risk of infection.

VII. Coronavirus Infection and Communities of Color

43. Coronavirus infection has had a disproportionate effect on communities of color.¹⁶ First, communities of color suffer from higher infection rates than white communities. Second, infected individuals within these communities are more likely to experience serious illness or death than those in white communities. This disparity in outcomes is caused by a variety of factors, including issues related to access to care, poor quality of care, the higher prevalence of underlying chronic medical conditions among people of color and low-income people,

¹⁶ *COVID-19 in Racial and Ethnic Minority Groups*, CTRS. FOR DISEASE CONTROL AND PREVENTION (June 4, 2020), https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html.

housing challenges, and the larger proportion of people of color who are employed in essential jobs that contribute to enhanced exposure.

44. Social Determinants of Health are the conditions in a person's life that shape every aspect of their health, including their susceptibility to all kinds of medical conditions and the complications they may face from these conditions. Access to medical care, education, high-quality housing, utilities, and nutritional food are examples of Social Determinants of Health. The Social Determinants of Health are tightly linked to a population's health status, including to their risk of certain health conditions.¹⁷

45. Social Determinants of Health are a major reason why communities of color and low-income communities suffer disproportionately from SARS-CoV-2. To take just one example, people in low-income communities may live in cramped quarters with more household members. These housing conditions increase the risk of coronavirus spread within a living space and make social distancing more difficult.

46. Because of Social Determinants of Health, communities of color and low-income communities also tend to have high rates of chronic underlying

Affidavit of Donald S. Burke, MD

¹⁷ See Elissa M. Abrams & Stanley J. Szefler, COVID-19 and the impact of social determinants of health, 8 LANCET RESPIRATORY MED. 659 (2020), https://doi.org/10.1016/S2213-2600(20)30234-4.

medical issues such as diabetes, hypertension, asthma, heart disease, chronic lung disease, chronic liver disease, and other conditions. People with these conditions are at a higher risk of suffering serious illness or death when they contract SARS-CoV-2.

47. Members of these communities are also, on average, less likely to have jobs that allow them to engage in social isolation, such as by working from home. Instead, they are frequently employed as essential workers in positions that involve high levels of public interaction even during the pandemic. For example, grocery store clerks, cashiers, bus drivers, and certain healthcare workers such as home health aides and nursing assistants are disproportionately people of color.¹⁸ These roles bring workers into contact with dozens or hundreds of different people every day, increasing their risk of contracting the virus.

48. Compounding these issues, minority communities and low-income communities tend to have less access to SARS-CoV-2 testing. Public testing centers may not be located in minority communities. Even when they are, practices like drive-up testing sites exclude low-income individuals who don't have access to a car. Lack of access to testing prevents individuals, particularly

¹⁸ Hye Jin Rho, Hayley Brown & Shawn Fremstad, *A Basic Demographic Profile of Workers in Frontline Industries*, CTR. FOR ECON. & POL'Y RES. (2020), https://cepr.net/wp-content/uploads/2020/04/2020-04-Frontline-Workers.pdf.

those who are asymptomatic, from knowing the status of their infection, and taking necessary steps to stop the spread of the disease, such as taking sick leave or self-isolating.

49. These trends have played out in Pennsylvania. The Pennsylvania's minority communities, particularly its Black communities, have suffered the most from COVID-19. Black Pennsylvanians are only 12% of the Commonwealth's population but make up approximately 21% of the Commonwealth's COVID-19 deaths, and approximately 14% of the Commonwealth's COVID-19 cases for which racial data has been reported.¹⁹ According to the PA Department of Health, the vast majority of deaths occurred in the >60 age group (7,178 out of 7,742 or 93% as of September 5, 2020).²⁰

50. It is impossible to predict with certainty how the infection rate in vulnerable communities will change as Pennsylvania begins reopening, but experts expect that communities of color will continue to suffer at disproportionate rates.

¹⁹ *Compare Pennsylvania COVID-19 Dashboard*, PA. DEP'T PUBLIC HEALTH (Sept. 5, 2020), *available at*

https://experience.arcgis.com/experience/cfb3803eb93d42f7ab1c2cfccca78bf7 (showing 1,619 Black deaths out of 7,742 total deaths; and 18,728 Black cases out of 138,625 total cases), with *Pennsylvania Population Estimates*, U.S. CENSUS BUREAU (July 1, 2019), *available at* https://www.census.gov/quickfacts/PA.

²⁰ *Pennsylvania COVID-19 Dashboard*, PA. DEP'T PUBLIC HEALTH (Sept. 5, 2020), *available at* https://experience.arcgis.com/experience/cfb3803eb93d42f7ab1c2cfccca78bf7.

VIII. Coronavirus Will Still Threaten Public Health in November

51. Coronaviruses, along with other respiratory viruses, are known to follow a seasonal transmission cycle, with peak transmission in the winter rather than summer months.²¹

52. During the coming winter, the effective reproductive number of the SARS-CoV-2 virus transmission in the United States (including Pennsylvania) is likely to increase by about 1/3 over its mean annual value.²² This "seasonal forcing" of transmission will amplify the effects of other epidemic drivers, such as opening of schools, or continued loosening of social isolation. Because of this, many public health experts, including myself, expect that there will be another, seasonally driven wave of the COVID-19 epidemic, occurring in approximately the late fall to early winter season of 2020.

53. From the onset of the epidemic until the present, the epidemic pattern of SARS-CoV-2 transmission has been remarkably variable across the Commonwealth of Pennsylvania. Cases grew quickly in eastern Pennsylvania, peaking in Philadelphia County on April 8 (555 cases per day). The epidemic also

²¹ You Li, Xin Wang, Harish Nair, *Global Seasonality of Human Seasonal Coronaviruses: A Clue for Postpandemic Circulating Season of Severe Acute Respiratory Syndrome Coronavirus 2?*, 222 J. INFECT. DISEASES 1090 (2020), https://doi.org/10.1093/infdis/jiaa436.

²² Stephen M. Kissler, et al., *Projecting the transmission dynamics of SARS-CoV-2 through the postpandemic period*, 368 SCIENCE 860 (Apr. 14, 2020), https://science.sciencemag.org/content/sci/368/6493/860.full.pdf.

peaked early in other large counties in the eastern region of the Commonwealth (Montgomery, Bucks, Delaware, others). In contrast, Allegheny County in western Pennsylvania experienced a small epidemic in April, but then a much larger peak on 13 July (322 cases per day). Other counties in western Pennsylvania also experienced a dominant epidemic peak in July, rather than in April.²³ If seasonal forcing and other factors generate another epidemic wave in the fall, it could occur anywhere throughout the Commonwealth.²⁴

54. There currently is no approved vaccine to prevent SARS-CoV-2 infection. There is no known cure or FDA-approved²⁵ antiviral treatment for COVID-19 at this time. It is unlikely that a vaccine will be approved and widely distributed by November's election. Even if a vaccine were approved or available under an Emergency Use Authorization, it almost certainly would not be delivered

²³ *COVID-19 Data for Pennsylvania*, PA. DEPT. OF HEALTH (Sept. 5, 2020), *available at* https://www.health.pa.gov/topics/disease/coronavirus/Pages/Cases.aspx.

²⁴ Outbreaks are not limited to large counties. For example, York County has seen a recent outbreak associated with a prison. *See COVID-19 outbreak at York County Prison*, ABC27.com (Sept. 4, 2020), https://www.abc27.com/news/covid-19-outbreak-at-york-county-prison/. Outbreaks in prisons can spread through guards and other staff into the larger community, and York County has seen a significant uptick in COVID cases in recent days. *See York County COVID-19 Resource Center*, YORK COUNTY, https://covid19-yorkcosc.hub.arcgis.com/ (last accessed Sept. 5, 2020).

²⁵ Issuances of Emergency Use Authorizations ("EUAs") are different than, and meet different standards than, full FDA approvals.

to a portion of the population large enough to create meaningful community immunity by November 3 (*i.e.*, election day).²⁶

55. Coronavirus prevention strategies include containment and mitigation. Containment requires identifying and isolating people who are ill or who have had contact with people who are ill. It also requires the widespread use of personal protective equipment such as masks and gloves.

56. As SARS-CoV-2 spreads in a community, mitigation strategies must be used to protect public health. There is a wide consensus among public health and medical experts that avoiding congregative environments and practicing scrupulous social distancing is essential to preventing community transmission of SARS-CoV-2. This consensus is the basis for government actions including unprecedented, sweeping bans on gatherings of any size, shelter-in-place orders, and the closure of all but essential buildings. Schools, courts, collegiate and professional sports, theaters, and other congregate settings have been closed as

²⁶ I am aware of the CDC's recent letter to states requesting that state vaccination sites should be prepared to distribute a potential vaccine for COVID-19 by November 1. *See, e.g., Trump Administration Asks States to Be Ready for Vaccine by November*, WALL STREET JOURNAL (Sept. 3, 2020), *available at* https://www.wsj.com/articles/trump-administration-asksstates-to-be-ready-for-vaccine-by-november-11599075477 (reporting a letter from the director of the CDC to the states, stating, "CDC urgently requests your assistance in expediting applications for these distribution facilities, and, if necessary, asks that you consider waiving requirements that would prevent these facilities from becoming fully operational by Nov. 1, 2020."). Even assuming a vaccine were available to *some* individuals around November 1, it almost certainly would not be delivered to a portion of the population large enough to create meaningful community immunity by November 3 (*i.e.*, election day).

part of this risk mitigation strategy. For example, on April 1, 2020, Pennsylvania Governor Tom Wolf issued an order for all residents of the Commonwealth to stay at home except as needed to maintain critical infrastructure.²⁷ As recognized by CDC guidelines, the stay at home orders, and social-distancing and mask wearing mandates, the only ways to meaningfully limit the spread of SARS-CoV-2 are self-quarantine, social distancing, mask wearing, frequent handwashing, and disinfecting surfaces. Self-quarantine involves not physically interacting with those outside one's household. Social distancing is maintaining at least six feet of distance between individuals. Both of these interventions are aimed at keeping infected individuals (with or without symptoms) far enough apart from other people so that they do not transmit the virus to others. Frequent handwashing and regular disinfection of surfaces can help curb the spread via contaminated surfaces. None of these steps alone or in combination, however, is guaranteed to halt transmission.

57. Transmission of SARS-CoV-2 is more likely to occur in any location where there is close proximity (less than six feet) between individuals, particularly in small and/or poorly ventilated indoor spaces. Because transmission of the virus

²⁷ Gov. Tom Wolf, Plan to Reopen Pennsylvania (July 8, 2020), *available at* https://www.governor.pa.gov/process-to-reopen-pennsylvania/.

can occur via contact with contaminated surfaces, there is also risk of spread of the virus at any location where multiple individuals touch surfaces.

58. An important infection mitigation strategy is to avoid conditions that lead to "cluster transmission," where a single infected individual transmits the coronavirus to a large number of bystanders. Cluster transmissions occur when large groups of people are put into close spaces and are not able to practice appropriate social distancing protocols, or when many persons have close interactions with a single infected individual. A single cluster event can lead to multiple of new infections.

59. In the United States, clusters have been particularly pernicious in meatpacking plants, where workers are required to work on processing lines in close physical proximity to other workers. Otherwise-healthy workers at meat-packing facilities have become infected with the coronavirus at rates comparable to those in outbreaks in nursing homes and prisons.²⁸ Other examples of cluster

²⁸ Michael Corkery, David Yaffe-Bellany & Derek Kravitz, *As Meatpacking Plants Reopen, Data About Worker Illness Remains Elusive*, N.Y. TIMES (May 25, 2020), https://www.nytimes.com/2020/05/25/business/coronavirus- meatpacking-plants-cases.html.

transmissions include choir practices,²⁹ funerals and birthday parties,³⁰ or church services.³¹

60. Higher-than-expected infection rates were also recorded in Wisconsin following the April primary elections.³² A study by University of Wisconsin researchers reported a "statistically and economically significant association" between in-person voting and the spread of COVID-19 weeks after the election.³³

61. Despite a surge in COVID-19 outbreaks in a majority of states in the

United States, states and localities are continuing to lift some, but not all,

containment measures. It is believed that too rash and unsafe re-opening

protocols are at least partially responsible for the current spike in cases and in

²⁹ Lea Hamner et al., *High SARS-CoV-2 Attack Rate Following Exposure at a Choir Practice — Skagit County, Washington, March 2020*, 69 MORBIDITY & MORTALITY WKLY REP. 606 (2020), https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6919e6-H.pdf.

³⁰ Shelby Bremer, *CDC Report Shows How a Funeral and Birthday Party 'Super Spread' COVID-19 in Chicago*, NBC CHI. (Apr. 9, 2020), https://www.nbcchicago.com/news/local/cdcreport-shows-how-a-funeral-and-birthday-party-super-spread-covid-19-in-chicago/2253006/.

³¹ Allison James et al., *High COVID-19 Attack Rate Among Attendees at Events at a Church — Arkansas, March 2020*, 69 MORBIDITY & MORTALITY WKLY REP. 632 (2020), https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6920e2-H.pdf.

³² Nicholas Reimann, *Coronavirus Infections Spiked in Wisconsin After In-Person Election, Study Says*, FORBES (May 19, 2020),

https://www.forbes.com/sites/nicholasreimann/2020/05/19/coronavirus-infections-spiked-in-wisconsin-after-in-person-election-study-says/#44f29b8514b3.

³³ Chad D. Cotti et al., *The Relationship between In-Person Voting, Consolidated Polling Locations, and Absentee Voting on COVID-19: Evidence from the Wisconsin Primary*, NAT'L BUREAU ECON. RES. (2020), https://www.nber.org/papers/w27187.pdf.

hospitalizations. For example, on April 17, Pennsylvania sketched a plan for re-

opening; that plan is now being implemented.³⁴

Red Phase	
Work & Congregate Setting Restrictions	
 Life Sustaining Businesses Only Masks Are Required in Businesses Congregate Care and Prison Restrictions in Place Schools (for in-person instruction) and Most Child Care Facilities Closed 	
Social Restrictions	
 Stay at Home Orders in Place Large Gatherings Prohibited Masks Are Required in all Public Spaces Restaurants and Bars Limited to Carry-Out and Delivery Only Only Travel for Life-Sustaining Purposes Encouraged 	

Yellow Phase

Work & Congregate Setting Restrictions

- Telework Must Continue Where Feasible
- Businesses with In-Person Operations Must <u>Follow Business and Building Safety Orders</u>
- Masks Are Required in Businesses
- Child Care May Open Complying with Guidance
- Congregate Care and Prison Restrictions in Place
- Schools may provide in-person instruction only in accordance with <u>Department of Education guidance</u>.

Social Restrictions

- Stay at Home Order Lifted for Aggressive Mitigation
- Large Gatherings of More Than 25 Prohibited
- Masks Are Required in all Public Spaces
- In-Person Retail Allowable, Curbside and Delivery Preferable
- Indoor Recreation, Health and Wellness Facilities and Personal Care Services (such as gyms, spas, hair salons, nail salons and other entities that provide massage therapy), and all Entertainment (such as casinos, theaters) Remain Closed
- Restaurants and Bars May Open Outdoor Dining, in Addition to Carry-Out and Delivery (effective 6/5/2020)

³⁴ Gov. Tom Wolf, Plan to Reopen Pennsylvania (July 8, 2020), *available at* https://www.governor.pa.gov/process-to-reopen-pennsylvania/.

Green Phase		
Work & Congregate Setting Restrictions		
 Telework Must Continue Where Feasible Businesses with In-Person Operations Must Follow Updated <u>Business and Building Safety Requirements</u> All Businesses Operating at 50% Occupancy in the Yellow Phase May Increase to 75% Occupancy, Except Where Noted for Bars and Restaurants Masks Are Required in Businesses Child Care May Open Complying with Guidance Congregate Care Restrictions in Place Prison and Hospital Restrictions Determined by Individual Facilities <u>Schools Subject to CDC</u> and Commonwealth Guidance 		
Social Restrictions		
 Indoor Gatherings of More Than 25 Prohibited; Outdoor Gatherings of More Than 250 Prohibited Masks Are Required in all Public Spaces Restaurants and Bars Open at 25% Capacity for Indoor Dining On-premises Alcohol Consumption Prohibited Unless Part of a Meal; Cocktails-to-go and Carryout Beverages are Allowed Personal Care Services (including hair salons and barbershops) Open at 50% Occupancy and by Appointment Only Indoor Recreation and Health and Wellness Facilities (such as gyms and spas) Open at 50% Occupancy with Appointments Strongly Encouraged; Fitness Facilities Are Directed to Prioritize Outdoor Fitness Activities All Entertainment (such as casinos, theaters, and shopping malls) Open at 50% Occupancy Construction Activity May Return to Full Capacity with Continued Implementation of Protocols 		

62. Notably, under the Red Phase, Pennsylvanians should "Stay at Home" other than for "Life Sustaining Businesses." And even under the Yellow and Green Phases, indoor gatherings of more than 25 people are prohibited, and masks are required in all public spaces. Moreover, in all phases, the Business and Building Safety Requirements state that Pennsylvanians must "[k]eep our physical distance of six feet or more."³⁵

³⁵ *COVID-19 Guidance for Businesses*, https://www.governor.pa.gov/covid-19/business-guidance/ (last accessed Sept. 5, 2020).

63. As of September 5, 2020, all Pennsylvania counties are currently in the Green Phase, but future COVID-19 surges or spikes could cause counties to be placed in the Yellow or Red Phases.

64. The epidemic is ongoing in Pennsylvania, with 800 to 1,000 new cases diagnosed every day across the Commonwealth.³⁶

65. It is not possible to predict with certainty the pandemic's severity in November. A major determinant of the infection rate is how much of the population adheres to mitigation strategies, and it is impossible to know what community behavior will look like in November.³⁷ However, the consensus among public health professionals is that community spread will still be a serious threat to public health and that infection and illness rates will remain high. Some experts have warned of a surge in cases in the fall.³⁸ The difficulties in testing for and detecting SARS-CoV-2 will remain, and there are still no known treatments or vaccines. Government plans should be based on what we know about the

³⁶ Pennsylvania COVID-19 Dashboard, PA. DEP'T PUBLIC HEALTH, *available at* https://experience.arcgis.com/experience/cfb3803eb93d42f7ab1c2cfccca78bf7 (last accessed Sept. 5, 2020); *Pennsylvania Coronavirus Map and Case Count*, N.Y. TIMES, https://www.nytimes.com/interactive/2020/us/pennsylvania-coronavirus-cases.html (last accessed Sept. 5, 2020).

³⁷ Mark Harrington, *Expert Consult Models to Predict If Coronavirus Cases Will Spike*, NEWSDAY (June 4, 2020), https://www.newsday.com/news/health/coronavirus/infectious-coronavirus-model-pandemic-1.45185224.

³⁸ Len Strazewski, *Harvard Epidemiologist: Beware COVID-19's Second Wave This Fall*, AM. MED. ASS'N (May 8, 2020), https://www.ama-assn.org/delivering-care/publichealth/harvard-epidemiologist-beware-covid-19-s-second-wave-fall.

infection right now, including evidence that public gatherings threaten public health and contribute to infection transmission, because we can expect that coronavirus will continue to affect, sicken, and kill large numbers of Americans moving forward and into the fall.

66. Government plans should be based on what we know about the infection right now, including evidence that public gatherings threaten public health and contribute to infection transmission, because it is highly likely that SARS-CoV-2 will continue to infect, sicken, and kill large numbers of Americans into the fall and winter months.

IX. Spread of Infectious Disease at Polling Places

67. There is a significant risk of exposure to infectious diseases in enclosed areas like polling places with many people entering, leaving, and waiting in line to enter. There are several reasons why this is the case.

68. In Pennsylvania, a polling place could serve as many as several thousand people on election day during a presidential election year.³⁹ Thus, a polling place could have hundreds or thousands of people moving through the same enclosed area on election day—precisely the sort of high-traffic event that increases the risk of coronavirus spread.

69. In Pennsylvania, "more than 40,000 poll workers are needed" to staff polling places each election day.⁴⁰ In advance of elections, poll workers must be trained.⁴¹ Training may happen in a group setting, where a poll worker might

³⁹ See, e.g., State election officials urge swift legislative action on voting reforms, PENN LIVE (Aug. 4, 2020), available at https://www.pennlive.com/news/2020/08/state-electionofficials-urge-swift-legislative-action-on-voting-reforms.html?outputType=amp (reporting that "more than 5,000 voters [were] assigned to one polling location" during the June 2020 primary election in Pennsylvania; and further reporting that Allegheny County has "nearly 900,000 voters"); Voting & Election Statistics, PA. DEPT. OF STATE,

https://www.dos.pa.gov/VotingElections/OtherServicesEvents/VotingElectionStatistics/Pages/V otingElectionStatistics.aspx (last updated Aug. 31, 2020) (showing, *e.g.*, approximately 907,000 registered voters in Allegheny County, and 585,000 registered voters in Montgomery County); *Allegheny County issues full list of consolidated polling place locations for June 2 primary election*, WTAE PITTSBURGH (June 1, 2020), *available at*

https://www.wtae.com/article/allegheny-county-issues-full-list-of-consolidated-polling-placelocations-for-june-2-primary-election/32501520# (reporting that Allegheny County issued a "full list of consolidated polling place locations for June 2 primary election" and listing 161 polling places); *Voter Services Polling Locations as of 9/4/2020*, MONTGOMERY COUNTY, https://webapp02.montcopa.org/voterservices/voters/ListPolls1.asp?Municipality=ALL (showing 424 polling locations in Montgomery County). By way of example, this averages out to *nearly 5,600* voters assigned to each polling location in Allegheny County; and *nearly 1,400* voters assigned to each polling location in Montgomery County.

⁴⁰ *Poll Worker Recruitment Newsletter*, PA. DEPT. OF STATE, *available at* https://www.votespa.com/Resources/Documents/PollWorkerRecruitment-Toolkit/PollWorkerRecruitment-Newsletter.pdf (last accessed Sept. 5, 2020).

⁴¹ *Election Poll Workers*, NAT'L CONF. ST. LEGISLATURES (Aug. 19, 2019), https://www.ncsl.org/research/elections-and-campaigns/election-poll-workers637018267.aspx.

interact with dozens of other people in a confined space.⁴² Poll workers may also have to set up the polling place the night before or morning of the election and take it down after the polls close.⁴³ Set up and take down can require poll workers to interact with other individuals by accepting deliveries of supplies, moving tables and other equipment with other poll workers, and touching surfaces and handling equipment that may have been previously touched or handled by other individuals.⁴⁴

70. During in-person voting, poll workers are stationed at each polling place to assist voters and ensure the election is carried out efficiently and securely.⁴⁵ A poll worker at the average precinct could be exposed to hundreds or thousands of voters over the course of election day.⁴⁶ During each interaction

⁴⁶ See supra, calculating the potential number of voters per polling location. See also Poll Worker Recruitment Newsletter, PA. DEPT. OF STATE, available at https://www.votespa.com/Resources/Documents/PollWorkerRecruitment-Toolkit/PollWorkerRecruitment-Newsletter.pdf ("Poll workers generally work all day on Election Day, from before the polls open at 7 a.m. until after the polls close at 8 p.m. In addition, they may be asked to attend a training session before the election.") (last accessed Sept. 5, 2020).

⁴² See, e.g., Election Board Training Seminar, OFFICE OF THE PHILADELPHIA CITY COMMISSIONERS, https://www.philadelphiavotes.com/en/voters/important-dates/details/1507election-board-training-seminar-wards-18-19-23-25-31-33-45-62.

See, e.g., Montgomery County Poll Worker Training – Spring 2020,
 https://www.youtube.com/watch?v=CjkzSbLooJE&feature=youtu.be (last accessed Sept. 5, 2020) (depicting poll worker set up of equipment, including of touch-screen voting machines).

⁴⁴ *Id.*

⁴⁵ *Election Poll Workers*, NAT'L CONF. ST. LEGISLATURES (Aug. 19, 2019), https://www.ncsl.org/research/elections-and-campaigns/election-poll-workers637018267.aspx.

with a particular voter, a poll worker might be expected to greet the voter, check their identification, distribute ballots, answer questions, exchange paperwork, help elderly and disabled people navigate the poll site, and carry out other duties.⁴⁷ Once the last voter has cast her ballot, poll workers must make sure that every paper ballot that was distributed is accounted for and may also have to count the ballots.⁴⁸ Each of these discrete interactions puts the poll worker at risk of contracting the novel coronavirus, and each will be repeated dozens or hundreds of times over the course of Election Day.

71. Poll workers are more likely to be older, and accordingly are also more likely to have higher rates of certain high-risk conditions. One 2016 survey reported that "the poll worker population is skewed towards older Americans," and estimated "24 percent of poll workers were 71 or older and another 32 percent were between the ages of 61 and 70."⁴⁹ Those two factors (age and chronic

⁴⁷ *Election Poll Workers*, NAT'L CONF. ST. LEGISLATURES (Aug. 19, 2019), https://www.ncsl.org/research/elections-and-campaigns/election-poll-workers637018267.aspx.

⁴⁸ *Election Poll Workers*, NAT'L CONF. ST. LEGISLATURES (Aug. 19, 2019), https://www.ncsl.org/research/elections-and-campaigns/election-poll-workers637018267.aspx.

⁴⁹ *Eavs Deep Dive: Poll Workers and Polling Places*, U.S. ELECTION ASSISTANCE COMM'N (Nov. 15, 2017), https://www.eac.gov/documents/2017/11/15/eavs-deep-dive-poll-workers-and-polling-places.

medical conditions) put poll workers at a higher risk of serious complications and death from COVID-19.⁵⁰

72. Congregate settings such as polling places allow for rapid spread of infectious diseases that are transmitted person to person, especially those passed by droplets through coughing, sneezing, or even talking. When people are forced into close, crowded quarters the opportunities for transmission are greater. Polling places, which are almost always indoor spaces in public or private buildings repurposed for Election Day, may promote highly efficient spread of diseases through droplets.⁵¹ If polling places have a low number of voting booths and privacy screens where ballots might be filled out and cast, that funnels every voter into small, intentionally enclosed areas used by dozens or hundreds of voters before them. This increases the risk of SARS-CoV-2 infection.

73. Some voting machines require voters to physically interact with them for example, by using touch screens or by pushing buttons to indicate their

⁵⁰ Michael Barthel & Galen Stocking, *Older People Account for Large Shares of Poll Workers and Voters in U.S. General Elections*, PEW RES. CTR. (April 6, 2020), https://www.pewresearch.org/fact-tank/2020/04/06/older-people-account-for-large-shares-ofpoll-workers-and-voters-in-u-s-general-elections/.

⁵¹ For Building Administrators and Proprietors: Use of Facilities as Polling Places During COVID-19, PA. DEPT. OF HEALTH,

https://www.health.pa.gov/topics/disease/coronavirus/Pages/Guidance/Polling-Places-Guidance.aspx (last accessed Sept. 5, 2020) (noting polling places may be, *e.g.*, churches, private banquet halls, community centers, schools, fitness centers, libraries, township buildings, "private clubs with large common area," membership organization facilities (Legion, VFW, or social clubs), or hotel meeting or banquet rooms).
candidate or choice.⁵² Poll workers may have to assist voters with malfunctioning machines and assistive devices.⁵³ Any surface that is touched by multiple voters, or by a voter and a poll worker, needs to be sanitized after every interaction in order to minimize the risk of coronavirus transmission. The combination of a high number of surfaces touched by voters and a large number of voters increases the risk that other voters or poll workers will become infected from touching a contaminated surface.

74. Every surface will have to be properly disinfected between voters, which may be difficult to achieve, and may delay voting, causing people to wait outside or inside for prolonged periods of time. Even if that cleaning was possible, workers tasked with carrying it out would themselves risk contracting SARS-CoV-2.

⁵² For example, all voters in Philadelphia County vote using the Verified Voter – Express Vote XL ES&S voting machine, which requires use of a touch screen or a physical assistive device. *See Philadelphia County Voting System*, VotesPA.com, https://www.votespa.com/readytovote/Pages/Philadelphia-County-Voting-System.aspx (last accessed Sept. 5, 2020). Some voters in Alleghany County will use the ES&S ExpressVote 2.1

to mark their ballot, which similarly involves use of a touch screen or a physical assistive device. *See Alleghany County Voting System*, VotesPA.com,

⁵³ See, e.g., Philadelphia County Voting System, VotesPA.com, https://www.votespa.com/readytovote/Pages/Philadelphia-County-Voting-System.aspx (last accessed Sept. 5, 2020); Alleghany County Voting System, VotesPA.com, https://www.votespa.com/readytovote/Pages/Allegheny-County-Voting-System.aspx (last accessed Sept. 5, 2020).

https://www.votespa.com/readytovote/Pages/Allegheny-County-Voting-System.aspx (last accessed Sept. 5, 2020).

75. Polling places may be unable to adequately provide the mitigation recommendations described above and still carry out their primary mission of allowing voters to cast ballots effectively. During a coronavirus outbreak, people can protect themselves by washing their hands or frequently using alcohol-based sanitizers when handwashing is unavailable. For a poll worker or voter to sanitize her hands after every voter interaction, however, would substantially increase the amount of time it takes for each voter to cast a ballot, and could thus increase already-substantial waiting times. It may also cause skin conditions related to frequent washing and sanitizing.

76. If voters must wait longer to vote, they will inevitably stand in longer lines for more time with more people, exposing themselves to more people who might be infected with the novel coronavirus. In Washington D.C.'s election on June 2, conducted under pandemic conditions, voters stood in lines for up to five hours.⁵⁴ In Georgia's election on June, also conducted under pandemic conditions, "[s]ocial distancing requirements created long lines" and some voters

⁵⁴ Julie Zauzmer et al., Voting Problems in D.C., Maryland Lead to Calls for Top Officials to Resign, WASH. POST (June 3, 2020), https://www.washingtonpost.com/local/dcpolitics/voting-problems-in-dc-maryland-lead-to-calls-for-top-officials-toresign/2020/06/03/24b47220-a5a8-11ea-b619-3f9133bbb482_story.html. waited for up to three hours and 45 minutes to cast their ballot.⁵⁵ In Allegheny County, Pennsylvania, during the June 2020 election, there were reports of "long lines" of voters, and a lack of social distancing in polling places with people standing "only two feet apart."⁵⁶ Moreover, not all voters in Allegheny County wore masks, and voters were not turned away for failing to wear masks.⁵⁷

77. Precincts can easily become coronavirus transmission clusters if an infected voter is waiting in a long line to cast a ballot or an infected poll worker spends all day interacting with voters in the precinct. Proper disinfecting protocols might reduce the likelihood that a precinct can become a cluster, but they cannot eliminate the possibility. Pennsylvania has thousands of precincts;⁵⁸ if even a tiny fraction become transmission clusters, then the state could see thousands or tens of thousands of new infections.

⁵⁵ Voting machines and coronavirus force long lines on Georgia voters, ATLANTA JOURNAL-CONSTITUTION, https://www.ajc.com/news/state--regional-govt--politics/votingmachines-and-coronavirus-force-long-lines-georgia-voters/VajM2D3aSHALhCz7KwDrpJ/ (June 9, 2020).

⁵⁶ Primary 2020 updates: Polls now closed across Allegheny County: Officials receive complaints that some voters not 'social distancing,' wearing masks, PITTSBURGH POST-GAZETTE (June 2, 2020), https://www.post-gazette.com/news/politics-local/2020/06/02/Primary-election-western-pennsylvania/stories/202006020068.

⁵⁷ *Id.*

⁵⁸ See Election Returns, PENN. DEP'T STATE, https://www.electionreturns.pa.gov/ (last accessed Sept. 5, 2020) (noting results for a total of 9,128 precincts in the June primary election).

78. There is no way to hold in-person voting without risking that some members of the public or some poll workers will be exposed to SARS-CoV-2. Not every member of the public nor every poll worker will follow best practices, but even if they did—wearing masks and gloves, maintaining six feet of distance between each person, and avoiding the polling place if they have any symptoms of COVID-19—infection still could not be entirely prevented. Asymptomatic individuals who are contagious but unaware will still vote; people who have mild symptoms may still decide to vote; people who are opposed to mask-wearing in public may show up to polling stations;⁵⁹ people may still touch contaminated surfaces and then touch their face; and respiratory droplets containing the virus may still circulate within the polling place.

79. Screening procedures, for example asking voters if they have symptoms or taking voters' temperatures before allowing them to enter a polling place, likewise cannot guarantee that an infection won't spread. Many contagious individuals can be asymptomatic or pre-symptomatic. Moreover, many contagious individuals do not have a fever or display the symptoms that the general public has come to associate with the disease, like coughing or fever.

⁵⁹ Primary 2020 updates: Polls now closed across Allegheny County: Officials receive complaints that some voters not 'social distancing,' wearing masks, PITTSBURGH POST-GAZETTE (June 2, 2020), https://www.post-gazette.com/news/politics-local/2020/06/02/Primary-election-western-pennsylvania/stories/202006020068.

Others are entirely asymptomatic, or have not yet developed symptoms, but are still contagious. Thus, many contagious individuals could not be identified by common screening procedures.

80. Voters with chronic underlying medical conditions are more likely to suffer serious complications or death from COVID-19. Communities with high rates of risk factors are also communities where the coronavirus has spread most quickly, due to socioeconomic factors and the Social Determinants of Health, and thus where in-person voting may contribute to a higher risk of new cases of COVID-19.

81. Minority communities with high rates of poverty and other risk factors are also communities where polling places tend to have the longest lines and where voting tends to take the most time, increasing voters' likelihood of exposure to the coronavirus. Even before the pandemic, residents of these communities were required to wait in line for longer periods in order to cast a ballot than residents of whiter, more affluent communities.⁶⁰

82. These risks and expected results have all been borne out in states that have permitted in-person voting during the pandemic. In Milwaukee, for

⁶⁰ Matthew Weil, et al., *The 2018 Voting Experience: Polling Place Lines*, BIPARTISAN POL'Y CTR. (Nov. 4, 2019), https://bipartisanpolicy.org/report/the-2018-voting-experience/.

example, at least 71 SARS-CoV-2 infections have been attributed to in-person voting held in Wisconsin on April 7, 2020.⁶¹

83. A careful study by Cotti et al. released as a National Bureau of Economic Research working paper: (1) compared county-level data on the proportion of people voting in person and the proportion of COVID-19 tests that were positive; (2) assessed a time period after the election through May 3; (3) factored in measures of social distancing and county-specific demographics (population, population density); and (4) used the proportion of tests that were positive rather than just positive cases to control for temporal differences in testing. This study found that counties with higher than average in-person voting had twice the rate of COVID-19 positive tests in the weeks that followed the election. Across a range of exploratory models, the team found a large postelection increase in COVID-19 cases in counties that had more in-person votes per voting location, all else being equal. They also noted a decrease in the number of new positive COVID-19 cases in counties with relatively more mail-in absentee votes after accounting for differences in in-person voting, county-level COVID-

⁶¹ See Chad D. Cotti, Bryan Engelhardt, Joshua Foster, Erik T. Nesson, Paul S. Niekamp, *The Relationship between In-Person Voting and COVID-19: Evidence from the Wisconsin Primary*, NBER Working Paper (Issued May 2020, Rev. June 2020), https://www.nber.org/papers/w27187.pdf. As discussed above, reported numbers likely undercount the total number of infections because of the lack of testing and the high number of infection by asymptomatic individuals. 19 testing, and population measures.⁶² This study was a thorough attempt to determine the relationship between the amount of in-person voting per polling station and subsequent COVID-19 diagnoses in the relevant counties.

84. Two other studies (other than that by Cotti et al.), both done quickly and published within weeks of the Wisconsin primary election on April 7, did not detect an association of voting and new SARS-CoV-2 infections. Both of those studies, however, have significant flaws. The epidemiological analysis of this problem is not simple because it requires a determination of the epidemic trajectory before the vote (increasing or decreasing) and then an analysis to detect any deflections of the expected epidemic trajectory that could be attributed to voting. In the week before the vote, the overall epidemic trajectory in Wisconsin was downward (199 cases on April 1; 138 cases on voting day April 7).

85. A study by Berry et al.⁶³ compares the growth of cases in Wisconsin counties before and after the April 7 primary election to the growth of cases over the same time period nationwide and found no comparative increase in Wisconsin.

⁶² Chad D. Cotti, Bryan Engelhardt, Joshua Foster, Erik T. Nesson, Paul S. Niekamp, *The Relationship between In-Person Voting and COVID-19: Evidence from the Wisconsin Primary*, NBER Working Paper (Issued May 2020, Rev. June 2020), https://www.nber.org/papers/w27187.pdf.

⁶³ Berry et al., *Wisconsin April 2020 Election Not Associated with Increase in COVID-19 Infection Rates*, non-peer reviewed preprint posted at https://www.medrxiv.org/content/10.1101/2020.04.23.20074575v1 (posted April 28, 2020).

This is not surprising, given that the epidemic trajectory was already downward in Wisconsin. Given the variability in local epidemic patterns in states and counties across the United States, comparisons to other jurisdictions can provide little meaningful insight into deflections in the expected epidemic trajectory in Wisconsin.

86. A study by Leung et al.⁶⁴ calculated the daily epidemic reproduction number Rt ("t" refers to the calculated effective epidemic reproduction number at any given point in time, t) in Wisconsin before and after the April 7 primary election. They observed a falling Rt in the days leading up to the vote, consistent with a decreasing epidemic at that time. They then found a flattening or stabilization of Rt around the day of the vote, but no major spike in Rt in the 11 days following the vote that they analyzed and concluded that the vote had no effect on the epidemic trajectory. Had they instead analyzed the case data for a few days longer they would undoubtedly have seen a major spike in Rt, because counts in Wisconsin increased from 138 cases on the April 7 election day to 314 cases one month later on May 7.

⁶⁴ Leung, et al., *No Detectable Surge in SARS-CoV-2 Transmission due to the April 7, 2020 Wisconsin Election*, non-peer reviewed preprint posted at https://www.medrxiv.org/content/10.1101/2020.04.24.20078345v1 (posted April 29, 2020).

87. Collectively, these studies do not definitively prove a direct and causal association of voting with increased SARS-CoV-2 transmission in Wisconsin. Nonetheless, given the superior study design of the Cotti et al. study showing an association of voter density and subsequent case incidence, compared to the much weaker study designs of Berry et al. and Leung et al., in my judgment the weight of this limited published literature is that voting in Wisconsin was probably associated with an increased risk of SARS-CoV-2 infection.

88. Notably, this risk persisted *despite* attempts by the state of Wisconsin to protect the safety of in-person voting, including social-distancing signs and tape, masks and gloves for poll workers, and use of disinfectant.⁶⁵

89. Additionally, consolidation of in-person voting to a small number of polling places may contribute to an increase in infections. Milwaukee, for example, was forced to shut 175 of its 180 polling places due to a lack of poll workers. The five remaining polling places had long lines where voters waited for hours to cast their ballot.⁶⁶ The same was true in Pennsylvania, where, for

April 7, 2020 Election Summary Report, WISCONSIN ELECTIONS COMMISSION (April 18, 2020),

https://www.eac.gov/sites/default/files/paymentgrants/cares/WI_20CARES_Progress_Report_04 2820.pdf.

⁶⁶ Alison Dirr & Mary Spicuzza, *What We Know So Far About Why Milwaukee Only Had 5 Voting Sites for Tuesday's Election While Madison Had 66*, MILWAUKEE J. SENTINEL (Apr. 9, 2020), https://www.jsonline.com/story/news/politics/elections/2020/04/09/wisconsin-electionmilwaukee-had-5-voting-sites-while-madison-had-66/2970587001/.

example, "[p]olling places were consolidated in Allegheny County, and that led to some challenges — long lines, traffic problems and tight spaces that weren't conducive to social distancing practices."⁶⁷

90. Based on my decades of professional experience in medicine, epidemiology, and public health, it is my assessment that the health risks of inperson voting in the midst of an infectious disease pandemic are clear and significant. In-person voting on election day will undoubtedly increase the chances for exposure to the novel coronavirus for poll workers and voters alike, leading to more cases of SARS-CoV-2 infection. Reducing in-person voting on election day will reduce the spread of SARS-CoV-2 and reduce illness and deaths from the resulting COVID-19.

X. Potential Alternatives To In-Person Voting At A Polling Place On Election Day

91. I understand that potential alternatives to in-person voting at issue in this case include the voter delivering a mail-in ballot in person to an election official at the headquarters of their county board of elections, sending a mail-in

⁶⁷ Primary 2020 updates: Polls now closed across Allegheny County: Officials receive complaints that some voters not 'social distancing,' wearing masks, PITTSBURGH POST-GAZETTE (June 2, 2020), https://www.post-gazette.com/news/politics-local/2020/06/02/Primary-election-western-pennsylvania/stories/202006020068.

ballot by mail (*e.g.*, by bringing it to the post office, or depositing it in a mailbox), or by depositing a mail-in ballot in a dropbox.

92. Returning any kind of ballot in person to another individual at the headquarters of a county board of elections (*i.e.*, a public office building) entails similar risks to in-person voting. Like polling places, public office buildings are congregate settings that allow for rapid spread of infectious diseases that are transmitted person to person. Public office buildings have narrow hallways, enclosed rooms, and a high number of surfaces that are touched by multiple people that would need to be sanitized after every interaction in order to minimize the risk of coronavirus transmission. A large number of people cycle through public office buildings. The combination of a high number of surfaces touched by people and a large number of people indoors creates a significant risk that voters, other visitors, and public employees could become infected.

93. Depositing a ballot in a mailbox or drop-box does not require that a voter interact with other members of the public, compared to in-person voting and personally delivering a mail-in ballot to a public office building. Thus, depositing a ballot in a mailbox and depositing a ballot in a drop-box are potential methods of voting that impart the least health risk to individual voters, and the least public health risk to the community.

94. My affidavit, with supporting appendices, is contained herein, and

represents my opinion and the bases and reasons thereof. To the extent any additional information is produced or served by any party, I reserve the right to incorporate such additional information in my affidavit. This affidavit was prepared solely for the above-captioned matter and should not be used for any other purpose without prior authorization. I hereby certify that the foregoing statements are true and correct to the best of my knowledge, information, and belief. This verification is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 3 th day of September, 2020 in Pitts burgh, PH

Donald S. Burle

Donald S. Burke, MD

APPENDIX A

CURRICULUM VITAE

NAME:	Donald Scott Burke, M.D.
	Distinguished University Professor of Health Science and Policy Jonas Salk Chair in Population Health Professor of Epidemiology
CITIZENSHIP:	United States
BUSINESS ADDRESS:	University of Pittsburgh Graduate School of Public Health 130 DeSoto Street Pittsburgh, PA 15261 Telephone: 412-383-3595 E-mail: donburke@pitt.edu

EDUCATION AND TRAINING

<u>Undergraduate</u>			
1963-1967	Western Reserve University, Cleveland, OH	B.A	Chemistry major; honors in biology; magna cum laude; Phi Beta Kappa
<u>Graduate</u>			
1967-1971	Harvard Medical School, Boston, MA	M.D.	Medicine
Post Graduate			
1971-1973	Harvard University and the Boston City Hospital, Boston, Massachusetts	Clinical Fellow Intern & Junior Resident Physician	Internal Medicine
1975-1976	Harvard University and the Massachusetts General Hospital, Boston Massachusetts	Clinical Fellow Senior Resident Physician	Internal Medicine
1976-1978	Walter Reed Army Medical Center, Washington, DC	Research Fellow	Infectious Disease

APPOINTMENTS AND POSITIONS

2018-present	Jonas Salk Chair in Population Health	University of Pittsburgh Pittsburgh, PA	
2011-present	Distinguished University Professor of Health Science and Policy	University of Pittsburgh, Pittsburgh, PA	
2006-2019	Dean	Graduate School of Public Health, University of Pittsburgh, Pittsburgh, PA	
2006-2019	Associate Vice Chancellor for Global Health	University of Pittsburgh, Pittsburgh, PA	
2006-2018	UPMC- Jonas Salk Chair in Global Health	University of Pittsburgh, Pittsburgh, PA	
2006-2016	Director	Center for Vaccine Research, University of Pittsburgh, Pittsburgh, PA	
2006-present	Professor of Epidemiology and Professor of Medicine	University of Pittsburgh, Pittsburgh, PA	
1997-2006	Professor of International Health and Professor of Epidemiology	Johns Hopkins Bloomberg School of Public Health, Baltimore, MD	
	Professor of Medicine	Johns Hopkins School of Medicine, Baltimore, MD	
	Director	Center for Immunization Research, Johns Hopkins Bloomberg School of Public Health, Baltimore, MD	
1996-1997	Associate Director	For Emerging Threats and Biotechnology, Walter Reed Army Institute of Research (WRAIR), Washington, DC	
1988-1996	Director	US Military HIV/AIDS Research Program. Rockville, MD	
1988-1990	Director	Division of Retrovirology, WRAIR, Washington, DC	
	Founder and Director	US Military HIV/AIDS Laboratory Complex, Rockville, MD	
1984-1988	Chief	Department of Virus Diseases, WRAIR, Washington, DC	
1983-1984	Deputy Director	Armed Forces Research Institute of Medical Sciences, Bangkok Thailand	

1978-1984	Chief	Virology Department, Armed Forces Research Institute of Medical Sciences (AFRIMS), Bangkok, Thailand
1976-1978	Clinical Desk Officer	Department of Virus Diseases, WRAIR, Walter Reed Army Medical Center, Washington, DC
1973-1975	Clinical Ward Officer	Medical Division, US Army Medical Research Institute of Infectious Diseases (USAMRID), Fort Detrick, MD

ACADEMIC AND MEDICAL APPOINTMENTS / US MILITARY

1992-1997	Professor, Department of Medicine, Uniformed Service University of The Health Sciences, Bethesda, Maryland Uniformed Service University of The Health Sciences, Bethesda, MD
1985-1997	Staff Physician, Department of Medicine, Walter Reed Army Medical Center, Washington, DC
1990-1992	Faculty, Pre-Command Course, U.S. Army Command and General Staff College, Fort Leavenworth, KS
1987-1992	Associate Professor, Department of Medicine, Uniformed Service University of The Health Sciences, Bethesda, MD
1985-1992	Adjunct Associate Professor, Department of Preventive Medicine/Biometrics, Uniformed Service University of The Health Sciences, Bethesda, MD
1985-1990	Attending Physician, Infectious Diseases Service Walter Reed Army Medical Center, Washington, DC
CERTIF	ICATION AND LICENSURE

1978	Diplomat in the Sub- Specialty of Infectious Diseases	American Board of Internal Medicine
1977	Diplomat in the Specialty of Internal Medicine	American Board of Internal Medicine

MEDICAL OR OTHER PROFESSIONAL LICENSURE

Not current

Medical License #D16350 Specialist in Internal Medicine and Infectious Diseases

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State of Maryland

MEMBERSHIP IN PROFESSIONAL AND SCIENTIFIC SOCIETIES

Elected Member	National Academy of Medicine	
Elected Fellow	American Association for the Advancement of Science	
Elected Fellow	American Academy of Microbiology	
Elected Fellow	American Epidemiological Society	
Fellow; President (1995-96)	American Society of Tropical Medicine and Hygiene	
Fellow	Royal Society of Tropical Medicine and Hygiene (U.K.)	
Fellow	American College of Physicians	
Fellow	Infectious Disease Society of America	
Member	American Public Health Association	
Member	Physicians for Human Rights	
Member	American Society for Virology	
Member	American Association for the History of Medicine	
Member	International AIDS Society	
Member	International Society for Vaccines	

HONORS

<u>Military</u>	
1997	Legion of Merit
1991	National Defense Service Medal, First Oak Leaf Cluster
1991	Meritorious Service Medal, Third Oak Leaf Cluster
1990	Department of the Army "A" Proficiency Designator, Infectious Diseases
1989	Order of Military Medical Merit
1986	Meritorious Service Medal, Second Oak Leaf Cluster
1985	Meritorious Service Medal, First Oak Leaf Cluster

1984	Armed Forces Reserves Medal
1984	Overseas Ribbon
1981	Humanitarian Service Medal
1978	Meritorious Service Medal
1975	Army Commendation Medal
1973	National Defense Service Medal
1973	Army Service Ribbon

Medical and Public Health

2019	September 13, 2019 declared Donald S. Burke Day in Pittsburgh and Allegheny County by Mayor William Peduto and County Executive Richard Fitzgerald
2019	Porter Prize, Pittsburgh, for exemplary performance of health promotion and disease prevention
2018	John Snow Award American Public Health Association, Epidemiology Section
2018	Jonas Salk Chair in Population Health, University of Pittsburgh
2016	Fellow, American Society of Tropical Medicine & Hygiene
2011	Distinguished University Professor of Health Science and Policy, University of Pittsburgh
2009	Elected Member, Institute of Medicine (now National Academy of Medicine), National Academies of Science
2008	Lifetime National Associate of the National Research Council, for "Extraordinary Service to the NRC and the Academies"
2007	Ambassador, Paul G. Rogers Society for Global Health Research
2006	UPMC – Jonas Salk Chair in Global Health, University of Pittsburgh
2006	Elected Fellow, American Epidemiological Society
2003	Elected Fellow, American Association for the Advancement of Science (Medical Science)
2000	Elected Fellow, American Academy of Microbiology
2000	Elected Member, Delta Omega Public Health Honorary Society
1999	Golden Apple Award (best teacher), Johns Hopkins School of Hygiene and Public Health

1995	Elected President, American Society of Tropical Medicine & Hygiene
1992	Sustaining Membership Award, Association of Military Surgeons of the US, for outstanding contributions to medical research
1990	Bailey K. Ashford Medal of the American Society of Tropical Medicine and Hygiene, for outstanding achievements in tropical medicine by a society member under the age of 45 years
1989	Nathaniel A. Young Memorial Award of the American Committee on Arthropod-borne viruses, American Society of Tropical Medicine and Hygiene for outstanding contributions to arbovirology by a scientist under the age of 45 years
1989	Kimble Methodology Award of the Conference of Public Health Laboratorians, for outstanding contributions to Public Health by development and implementation of HIV diagnostics

RESEARCH AND TRAINING

Grants and Contracts Received

Years Inclusive	Title	Role
2019 - 2020	Advancing Analytics to Improve Actionable Changes in the Opioid Overdose Epidemic (CDC)	Principal Investigator
2018 - 2020	Support the Creation of a Pittsburgh Regional Forum on Opioid Epidemic (The Pittsburgh Foundation)	Co-Principal Investigator
2018 - 2020	PA Opioid Data Dashboard and Data Analytics Tool (PA Dept. of Health)	Co-Principal Investigator
2016 - 2021	Outpatient VE for Seasonal Flu Pandemic Flu and RSV in a Large Diverse Network (NIH)	Co-Investigator
2016 - 2020	Development of a Novel, Sensitive ZIKV-Specific Sero-diagnostic Assay Utilizing Biologically Inspired Synthetic Molecules (NIH/NIAID)	Principal Investigator
2004 - 2020	Modeling of Infectious Disease Agent Study Center of Excellence "MIDAS" (NIH/NIGMS)	Principal Investigator

Years Inclusive	Title	Role
2015 - 2019	Developing Public Health Decision Support Tools: FRED Ages and Stages and MPDS (Robert Wood Johnson Foundation)	Principal Investigator
2015 – 2019	Empowering Indian Health Researchers with Computational Modeling Tools (NIH / Fogarty International Center)	Co-Principal Investigator
2013 - 2019	Improving Global Health Through the Use of Modeling and Simulation in Brazil, South Africa, Taiwan, and Burma (Benter Foundation)	Principal Investigator
2013 - 2018	VMI II: Application of Computational Models to Guide and Evaluate Global Infectious Disease Control Programs (Bill and Melinda Gates Foundation)	Principal Investigator
2008 - 2016	Evaluation of Candidate Vaccine Technologies using Computational Models "Vaccine Modeling Initiative" Bill and Melinda Gates Foundation)	Principal Investigator
2013 - 2015	Detection of Recent HIV-1 Infections Based on Naturally Inspired Synthetic Oligomers (Bill and Melinda Gates Foundation)	Principal Investigator
2008 - 2014	Preparedness and Emergency Response Research Center: A Public Health Systems Approach (CDC)	Investigator
2009 - 2012	Center for Immunology of Emerging Infectious Diseases (NIH/NIAID)	Principal Investigator
2007 - 2010	Dengue Envelope Domain III C3D Vaccine (Dept of Defense)	Principal Investigator
2007 - 2011	Dengue Virus-Like Particle Vaccine (Department of Defense)	Investigator
2006 - 2009	Pittsburgh Influenza Prevention Project "PIPP" (CDC)	Principal Investigator

2005 - 2010	Planning for Avian Influenza Outbreaks and Potential Pandemics in Thailand (NIH/Fogarty International Center)	Principal Investigator
2003 - 2006	Mid-Atlantic Regional Center of Excellence for Biodefense (NIH/NIAD)	Co-Principal Investigator
2000 - 2006	Johns Hopkins HIV Vaccine Trials Unit (NIH/NIAID)	Principal Investigator

HONORARY LECTURES AND SEMINARS

December 2019	Keynote Address	Epidemics7, Charleston, SC
March 2019	Alexander Langmuir Keynote Lecturer	American Epidemiological Society, Annual Meeting, Los Angeles, CA
February 2015	Keynote Speaker	Sixth Annual J. Robert Clapp, Jr., Diversity Leadership Award Ceremony, Rush University Medical Center, Chicago, IL
April, 2009	O. Ray Kling Distinguished Lecturer	University of Oklahoma, Oklahoma City, OK
December 2008	Keynote Address	Tulane University President's Symposium, New Orleans, LA
June 2008	Invited Lecturer	"Science with the Stars" Walter Reed Army Institute of Research Seminar Series, Silver Springs, MD
December 2007	Keynote Address	Institute of Medicine Forum on Microbial Threats, Washington, DC
August 2007	Keynote Address	Annual Meeting of the US Department of Defense Global Emerging Infection Surveillance and Response System, Louisville, KY
September 2006	John C. Cutler Memorial Lecturer	University of Pittsburgh Graduate School of Public Health. Pittsburgh, PA
June 2005	Keynote Address	Annual Symposium, New York Academy of Medicine and the Royal Society of Medicine, New York, NY
April 2004	Invited Lecturer	Annual Meeting of the National Academy of Sciences, Washington, DC
December 2003	Centennial Anniversary Lecturer	American Society of Tropical Medicine and Hygiene, Philadelphia, PA
November 2002	Distinguished Scientist Seminar	Marine Biological Laboratory, Woods Hole, MA

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March 2001	Thomas Francis, Jr. Annual Memorial Lecturer	University of Michigan School of Public Health, Ann Arbor, MI
February 1999	Invited Lecturer, 50 th Anniversary Celebration	University of Pittsburgh, Graduate School of Public Health, Pittsburgh, PA
November 1997	Chapman Binford Memorial Lecture	American Society of Microbiology, Atlanta, GA
December 1996	Presidential Address	American Society of Tropical Medicine and Hygiene, Baltimore, MD
May 1995	Visiting Professor	University of Pittsburgh, School of Medicine, Department of Molecular Genetics and Biochemistry, Pittsburgh, PA
February 1995	Visiting Lecturer	Department of Microbiology and Molecular Genetics, Harvard Medical School, Boston, MA
March 1994	Visiting Professor	Tulane University School of Public Health and Tropical Medicine, New Orleans, LA
April 1993	Visiting Professor	Dartmouth Medical School and Dartmouth College, Hanover, NH

PUBLICATIONS ORCID ID: 0000-0002-5704-8094

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- 2. Burke DS. Cardiac monitor malfunction simulating bizarre rhythm. Postgrad Med 1976;60:265-66
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2006-2019	Graduate School of Public Health, University of Pittsburgh, Pittsburgh, PA	Dean
2006-2019	Center for Global Health, University of Pittsburgh, Pittsburgh, PA	Associate Vice Chancellor
2006 - 2016	Center for Vaccine Research, University of Pittsburgh, Pittsburgh, PA	Director
2011 - 2014	Distinguished Faculty Committee, University of Pittsburgh	Chair
2013 - 2014	Chancellor Search Committee, University of Pittsburgh	Member
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2002-2006	Committee on Appointments and Promotions / school-wide	Member
2002-2006	Disease Prevention and Control Division	Assoc Dept Chairman
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1998-2006	Certificate Program in Vaccine Science and Policy	Director
1997-2006	Appointments and Promotions Committee	Member
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1997-2002	Graduate Degree Program in Vaccine Science and Policy	Director

CONSULTATIONS, PANELS, AND BOARDS

World Health Organization/SE Asia Regional Office, Temporary Advisor, on Research in Viral Hemorrhagic Fevers, 1980; on Dengue Hemorrhagic Fever, 1983; on Viral Hepatitis, 1984 Steering Committee on Dengue Vaccines, World Health Organization, Member, 1985 – 1988 AIDS Vaccine Research and Development Subgroup, US Public Health Service, DoD representative, 1987 – 1992 HIV Early Care Advisory Group, American Medical Association, Member, 1989 – 1990 Diagnostic and Therapeutic Technology Assessment Panel, American Medical Association, Member, 1989 – 1991 Roundtable for the Development of Drugs and Vaccines against AIDS, Institute of Medicine, Member, 1989 – 1994 International Forum on AIDS Research, Institute of Medicine, Member, 1990 - 1992 Steering Committee on AIDS/HIV Vaccine Development, World Health Organization, Member, 1991 - 1994HIV/AIDS Working Group, Center for Strategic and International Studies, Member, 1992 – 1994 Mahidol University, Consultant, Post-graduate Training in Virology in Response to the HIV/AIDS Epidemic, Bangkok, Thailand, 1993 Civil-Military Alliance against HIV/AIDS, Co-Founder, 1993 Working Group on HIV Vaccine Development and International Field Trials of the Federal Coordinating Committee on Science, Engineering and Technology Committee on Life Sciences and Health, Co-Chairman, 1992 - 1994 Pharmaceutical Organization, Royal Thai Government, Consultant, on Local Production of HIV Vaccines, 1994 AIDS Vaccine Trials Data and Safety Monitoring Board, Member, National Institutes of Health, 1988 - 1996UNAIDS, Temporary Advisor on HIV Molecular Epidemiology, 1996 and 2000 Vice President's Working Group on HIV Vaccines and Therapeutics, White House, Member, 1996 American Association of Blood Banks, Consultant, Think Tank on Emerging Viruses, 1996 Ministry of Agriculture, Government of New Zealand, Consultant, on Rabbit Hemorrhagic Disease Virus as a Bio-control Agent, 1997 National Institutes of Health Study Section on Tropical Medicine and Parasitology, Member, 1997 -2000 Food and Drug Administration, Transmissible Spongiform Encephalopathies Advisory Committee, Member, 1998 – 2002 National Research Council, Panel on Climate, Ecology, Infectious Diseases, and Health, Chairman, 1999 - 2001 Institute of Medicine, Department of Defense Global Emerging Infectious Surveillance Committee, Member, 2000 – 2001

- International Research Institute for Climate Prediction of Columbia University, Scientific Advisory Committee, Member, 2000 – 2003
- Institute of Medicine, Committee on Emerging Microbial Threats to Health in the 21st Century, Member, 2001 – 2003

Smallpox Computational Modeling Working Group, Office of Public Health Emergency Preparedness, US Department of Health and Human Services, Member, 2002 – 2004. SARS Task Force, Defense Science Board, Department of Defense, Member, 2003 – 2004.

National Biodefense Analysis and Countermeasure Center, Department of Homeland Security, Working Group on Threat Prioritization, Chair, Virology Group, 2003 – 2004

- Federation of American Scientists, Biosecurity Education for Biology Graduate Students Project, Temporary Advisor, 2004
- International AIDS Vaccine Initiative, Co-founder, 1994-96; Senior Scientific Advisor, 1997-2002; Policy Advisory Board Member, 2003 present
- Institute of Medicine, Department of Defense / Veterans Affairs Medical Follow-up Agency, Member of the Board, 2002-2006

Physicians for Human Rights / Health Action AIDS, Executive Committee, 2003 – 2006

- Data Safety and Monitoring Board, HIV RV144 Phase III Clinical Trial (Rayong Thailand), Member, 2004 – 2009
- Middle Atlantic Regional Center of Excellence for Biodefense and Emerging Infections (MARCE), Steering Committee, 2004 – 2008
- Consortium for Conservation Medicine, Executive Committee, 2004-present

Bill & Melinda Gates Foundation, Technical Review Panel, HIV/AIDS Vaccines, Member, 2005

Special Review Panel of the Joint National Institutes of Health / National Science Foundation

Ecology of Infectious Disease Program, Panel Chairman, 2005

- Jewish Healthcare Foundation, Board Member, 2006 2012
- Community Health Committee of the UPMC Board of Directors, 2006 2009
- National Biodefense Analysis & Countermeasures Center, Science & Technology Advisory Committee, Department of Homeland Security, 2006 – present
- Brookings Institution Center on Social and Economics Dynamics Advisory Board Member, 2006 2007
- Wellcome Trust / Bill & Melinda Gates Foundation Ad Hoc Advisory Meeting on Innovation in Research, Delegate, London, 2007
- South African AIDS Vaccine Initiative of the South African Medical Research Council, Scientific Advisory Committee, 2007 2009
- Pediatric Dengue Vaccine Initiative, Board of Counselors, Chair, 2007 2010
- Jewish Health Care Pittsburgh Regional Health Initiative (PRHI) Oversight Committee Member, 2008 2018
- Institute of Medicine, Board on Global Health, Committee on Research Needs for Retention of Variola Virus Member, 2008 2009
- NIH Director's Blue Ribbon Panel for the Risk Assessment of the National Emerging Infectious Diseases Laboratories, Member, 2008 2011
- University of Pittsburgh Confucius Institute Advisory Board Member, 2008 2015
- Dengue Vaccine Advocacy Initiative (Sanofi-Pasteur) Steering Committee Member, 2008 2018
- UPMC/21CB Vaccine Production Steering Committee Member, 2009 2011

Institute of Medicine Report on Personal Protective Equipment against H1N1 Review Coordinator, 2009

Pennsylvania's Public Health Law Advisory Committee, 2009 – 2012

- National Biosurveillance Advisory Subcommittee, Centers for Disease Control, Member and Champion for National Workforce Development Taskforce, 2010 2011
- Institute of Medicine, Committee on the Special Immunizations Program for Laboratory Personnel Engaged in Research on Countermeasures for Select Agents, Chair, 2010 - 2012
- Office of Public Health Preparedness and Response Board of Scientific Counselors, CDC,

2011 - 2014

- Association for Schools and Programs of Public Health Global Health Committee Chair, 2011 2015
- National Research Council, Committee on Support to the Department of Defense's Programs to Counter Biologic Threats, Chair, 2012 2015
- World Health Organization, Immunization and Vaccines Implementation Research Committee, 2012 2019
- Governor's Health Innovation in Pennsylvania (HIP) Steering Committee, 2015 2016
- National Academies of Science-Engineering-Medicine, Planning Committee on Gain-of-Function Research, The Second Symposium, 2016
- Association for Schools and Programs of Public Health, member of Task Force on Public Health Initiatives to Address the Substance Abuse Crisis, 2018

Current Consultations, Boards, and Panels

Allegheny County Board of Health, Member, 2008 - present

- MRC Centre for Outbreak Analysis and Modeling, Scientific Advisory Board Member, Imperial College, London, 2008 present
- Grace and Harold Sewell Memorial Fund for Medical Librarians, Board Member and Vice-President, 2012 – present

Magee Women's Research Institute & Foundation, Board Member, 2019 - present

National Academy of Medicine / American Public Health Association Expert Advisory Panel, COVID-19 Webinar Series, 2020 – present

BUSINESS ACTIVITIES

Epistemix, Inc. Co-founder and President, 2018 - present

CLINICAL AND RELATED ACTIVITIES

Inpatient: Patient Care		
LOCATION/SERVICE	ACTIVITY	TIME DEVOTED TO ACTIVITY
Walter Reed Army Medical Center, Washington, DC	Attending Physician, Infectious Diseases Service	1985-1990

I was previously licensed in Maryland but I do not currently practice medicine

PATENTS

Title:	PRIMATE T-LYMPHOTROPIC VIRUSES (HTLV-3 and HTLV-4)		
Patent Holders:	Switzer WM, Heneine W, Folks TM, Wolfe ND, Burke DS, Mpoudi-Ngole E		
Patent #:	8,541,221 B2 (formerly 7794998)		
Application Date:	7/01/2010		
Issue Date:	9/24/2013		
Title:	SIMIAN T-CELL LYMPHOTROPIC VIRUS		
	Switzer WM, Heneine W, Folks TM, Wolfe		
Patent Holders:	ND, Burke DS, Sintasath DM		
Patent #:	8,663,968		
Application Date:	05/20/2008		
Issue Date:	03/04/2014		
Title:	COMPOSITIONS AND METHODS FOR PEPTOID-BASED DETECTION AND DIAGNOSIS OF HIV/AIDS AND OTHER INFECTIOUS DISEASES		
	Burke DS, Montelaro RC, Gearhart TL,		
Patent Holders:	Marques ET		
Provisional Patent Application University of Pittsburgh Ref #:	03791		
Application #:	62/335,893		
Recorded date:	06/09/2016		

APPENDIX B

Materials Considered

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Benjamin J. Cowling et al., *The effective reproduction number of pandemic influenza: Prospective estimation*, 21(6) EPIDEMIOLOGY 842 (2010), author manuscript available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3084966/.

Berry et al., *Wisconsin April 2020 Election Not Associated with Increase in COVID-19 Infection Rates*, non-peer reviewed preprint posted at https://www.medrxiv.org/content/10.1101/2020.04.23.20074575v1 (posted April 28, 2020).

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Chad D. Cotti et al., *The Relationship between In-Person Voting*, *Consolidated Polling Locations, and Absentee Voting on Covid-19: Evidence from the Wisconsin Primary*, NAT'L BUREAU ECON. RES. (2020), https://www.nber.org/papers/w27187.pdf.

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Elissa M. Abrams & Stanley J. Szefler, *COVID-19 and the impact of social determinants of health*, 8 LANCET RESPIRATORY MED. 659 (2020), https://doi.org/10.1016/S2213-2600(20)30234-4.

Eskild Peterson et al., *Comparing SARS-CoV-2 with SARS-CoV and influenza pandemics*, 20 LANCET INFECTIOUS DISEASES e238 (2020), https://doi.org/10.1016/S1473-3099(20)30484-9.

Fei Zhou et al., *Clinical Course and Risk Factors for Mortality of Adult Inpatients with COVID-19 in Wuhan, China*, 395 LANCET 1054 (2020), https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30566-3/fulltext.

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Hye Jin Rho, Hayley Brown & Shawn Fremstad, *A Basic Demographic Profile of Workers in Frontline Industries*, CTR. FOR ECON. & POL'Y RES. (2020), https://cepr.net/wp-content/uploads/2020/04/2020-04-Frontline-Workers.pdf.

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Jianyun Lu, et al., *Early Release-COVID-19 Outbreak Associated with Air Conditioning in Restaurant, Guangzhou, China, 2020*, 26 EMERG. INFECT. DIS. 1628 (2020), https://wwwnc.cdc.gov/eid/article/26/7/pdfs/20-0764-combined.pdf.

Julie Zauzmer et al., Voting Problems in D.C., Maryland Lead to Calls for Top Officials to Resign, WASH. POST (June 3, 2020), https://www.washingtonpost.com/local/dc-politics/voting-problems-in-dcmaryland-lead-to-calls-for-top-officials-to-resign/2020/06/03/24b47220-a5a8-11ea-b619-3f9133bbb482 story.html.

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Mark Harrington, *Expert Consult Models to Predict If Coronavirus Cases Will Spike*, NEWSDAY (June 4, 2020), https://www.newsday.com/news/health/coronavirus/infectious-coronavirus-model-pandemic-1.45185224.

Matthew Weil et al., *The 2018 Voting Experience: Polling Place Lines*, BIPARTISAN POL'Y CTR. (Nov. 4, 2019), https://bipartisanpolicy.org/report/the-2018-voting-experience/.

Michael Barthel & Galen Stocking, *Older People Account for Large Shares of Poll Workers and Voters in U.S. General Elections*, PEW RES. CTR. (April 6, 2020), https://www.pewresearch.org/fact-tank/2020/04/06/older-people-account-for-large-shares-of-poll-workers-and-voters-in-u-s-general-elections/.

Michael Corkery, David Yaffe-Bellany & Derek Kravitz, *As Meatpacking Plants Reopen, Data About Worker Illness Remains Elusive*, N.Y. TIMES (May 25, 2020), https://www.nytimes.com/2020/05/25/business/coronavirus-meatpacking-plants-cases.html.

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Paul L. Delamater, Erica J. Street, Timothy F. Leslie, Y. Tony Yang, and Kathryn H. Jacobsen, *Complexity of the Basic Reproduction Number* (R_0), EMERGING INFECTIOUS DISEASES, Vol. 25, No. 1 (January 2019).

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Shelby Bremer, *CDC Report Shows How a Funeral and Birthday Party 'Super Spread' COVID-19 in Chicago*, NBC CHI. (Apr. 9, 2020), https://www.nbcchicago.com/news/local/cdc-report-shows-how-a-funeral-andbirthday-party-super-spread-covid-19-in-chicago/2253006/.

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Stephen M. Kissler, et al., *Projecting the transmission dynamics of SARS-CoV-2 through the postpandemic period*, 368 SCIENCE 860 (Apr. 14, 2020), https://science.sciencemag.org/content/sci/368/6493/860.full.pdf.

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Voting machines and coronavirus force long lines on Georgia voters, ATLANTA JOURNAL-CONSTITUTION https://www.ajc.com/news/state--regionalgovt--politics/voting-machines-and-coronavirus-force-long-lines-georgiavoters/VajM2D3aSHALhC z7KwDrpJ/ (June 9, 2020).

York County COVID-19 Resource Center, YORK COUNTY, https://covid19yorkcosc.hub.arcgis.com/ (last accessed Sept. 5, 2020).

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