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7 Attorney for *Amicus Curiae* Rick Raemisch

8 **UNITED STATES DISTRICT COURTS**
9 **EASTERN DISTRICT OF CALIFORNIA**
10 **AND NORTHERN DISTRICT OF CALIFORNIA**
11 **UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES**
12 **PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE**

13
14 RALPH COLEMAN, et al.,
15 Plaintiffs,
16 v.
17 GAVIN NEWSOM, et al.,
18 Defendants.

Case No. 2:90-CV-00520-KJM-DB
THREE JUDGE COURT

19
20 MARCIANO PLATA, et al.,
21 Plaintiffs,
22 v.
23 GAVIN NEWSOM, et al.,
24 Defendants.

Case No. C01-1351 JST
THREE JUDGE COURT
UNOPPOSED MOTION FOR
LEAVE TO FILE *AMICUS CURIAE*
STATEMENT OF CORRECTIONAL
EXPERT
RICK RAEMISCH

1 **UNOPPOSED MOTION FOR LEAVE TO FILE**

2 ***AMICUS CURIAE* STATEMENT**

3 Rick Raemisch, former Executive Director of the Colorado Department of
4 Corrections and Secretary of the Wisconsin Department of Corrections, hereby requests
5 permission to file the attached *amicus curiae* statement in relation to Plaintiffs’
6 Emergency Motion to Modify Population Reduction Order (Doc. 6522). Mr. Raemisch
7 and undersigned counsel believe that his statement can assist this Court in responding
8 to the motion filed by Plaintiffs seeking emergency relief – an order “requiring the
9 State to reduce the population in crowded congregate living spaces to a level that will
10 permit social distancing and protect the medically vulnerable by releasing or relocating
11 class members who are at especially high risk of severe illness from COVID-19.” (Doc.
12 6522 at 40.) Mr. Raemisch provides the attached statement to help this Court and the
13 parties to proceed in a manner that best serves public safety and public health in this
14 unprecedented crisis. The parties have consented to his filing the statement.

15 Mr. Raemisch has decades of experience in criminal justice. After being
16 appointed the Executive Director of the Colorado Department of Corrections in 2013,
17 Mr. Raemisch helped that department to undertake many reforms. He previously
18 served as the Secretary of the Wisconsin Department of Corrections, the elected sheriff
19 of Dane County, Wisconsin, an Assistant United States Attorney for the Western
20 District of Wisconsin, and an Assistant District Attorney in Dane County, Wisconsin.
21 He holds a J.D. awarded *cum laude* by the University of Wisconsin School of Law. *See*
22 *Raemisch Statement ¶¶ 2-6, Exh. 1 at 1-2.*

23 Mr. Raemisch has testified on corrections matters before a United States Senate
24 Subcommittee. He has served as a member of the United States Delegation to the
25 United Nations convenings in Cape Town and Vienna tasked with revising its standards
26 for the treatment of prisoners, adopted by the U.N. General Assembly in 2015 and
27 known as the Nelson Mandela Rules. He has been invited to participate in numerous
28

1 forums on corrections law and policy, including at Yale Law School, New York
2 University Law School, John Jay College of Criminal Justice, and the Ninth Circuit.
3 His colleagues have repeatedly recognized his contributions. He has received
4 numerous awards for his work, including the 2018 International Corrections and
5 Prisons Association Head of State Award, the 2017 Association of State Correctional
6 Administrators Tom Clements Award, and the 2016 National Alliance on Mental
7 Illness Sam Cochran Award. *See* Raemisch Statement at ¶¶ 7-10, Exh. 1 at 3.

8 As reflected in his statement, Mr. Raemisch believes that it is incumbent upon
9 him during the COVID-19 pandemic to volunteer his expertise to aid courts and public
10 officials in understanding the urgent need – and the best approaches – to reduce
11 substantially incarceration levels in order to protect the health and safety of
12 incarcerated people, correctional and medical staff, and the broader community.
13 Raemisch Statement at ¶ 12. If this Court or the parties were to believe it useful, he
14 would be willing to provide help with respect to the resolution of Plaintiffs’ Emergency
15 Motion to Modify Population Reduction Order. Raemisch Statement at ¶ 29.

16 Accordingly, Mr. Raemisch requests leave to file the attached *amicus* statement.
17 Counsel for both Plaintiffs and Defendants have consented to the filing.¹

18 Respectfully submitted,

19 DATED: March 27, 2020

/s/ Charles D. Weisselberg

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Attorney for Rick Raemisch

26 ¹ No counsel for a party authored his statement in whole or part, nor did any
27 person or entity, other than *amicus* or his counsel, make any monetary contribution to
28 its preparation or submission.

1 Of counsel:

2 Judith Resnik

3 (Conn. Bar No. 049660)

4 127 Wall St.

5 New Haven, Connecticut 06520

6 Email: judith.resnik@yale.edu

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STATEMENT OF *AMICUS CURIAE*
CORRECTIONAL EXPERT RICK
RAEMISCH

26 **STATEMENT OF *AMICUS CURIAE* RICK RAEMISCH**

27 I, Rick F. Raemisch, state as follows:
28

1 1. I believe that the unprecedented health crisis created by the COVID-19
2 pandemic makes it imperative for those of us with experience in prison system
3 management to volunteer our expertise to help.

4 2. I have decades of experience in criminal justice. In 2013, I was appointed
5 to be the Executive Director of the Colorado Department of Corrections. I worked on
6 an array of projects that required a deep understanding of the system as a whole.

7 3. As part of that work, I identified ways to make substantial changes in the
8 use of restrictive housing, in which individuals were kept for 22 hours or more each day
9 for weeks and months on end. By 2016, the Department had reformed its practices and
10 no person was held for more than fifteen days in such confinement.

11 4. Before becoming the head of the Colorado Department, I had served from
12 2007 to 2011 as the Secretary of the Wisconsin Department of Corrections. Again, I
13 was charged with managing the entire system, and again I brought about significant
14 reforms, including ways to reduce population density.

15 5. In addition, I have significant experience in law enforcement. I served as
16 the elected sheriff of Dane County, Wisconsin from 1990 to 1997.

17 6. I hold a J.D. awarded *cum laude* by the University of Wisconsin School of
18 Law. I have worked as a prosecutor, both as an Assistant United States Attorney for
19 the Western District of Wisconsin and as an Assistant District Attorney in Dane
20 County, Wisconsin.

21 7. In light of my experience, I have been asked to contribute my expertise in
22 many venues. In 2014, I testified on corrections matters before a United States Senate
23 Subcommittee.

24 8. Soon thereafter, I served as a member of the United States Delegation to
25 the United Nations convenings in Cape Town and Vienna tasked with revising the
26 hundreds of standards for the treatment of prisoners that were adopted by the United
27 Nations in 2015 and are known as the Nelson Mandela Rules.

1 9. Because of my work, I have been invited to participate in numerous
2 forums on corrections law and policy, including at Yale Law School, New York
3 University Law School, the John Jay College of Criminal Justice, and the Ninth Circuit.

4 10. My colleagues in corrections have recognized my work. I have received
5 the 2018 International Corrections and Prisons Association (ICPA) Head of State
6 Award, the 2017 Association of State Correctional Administrators Tom Clements
7 Award, and the 2016 National Alliance on Mental Illness Sam Cochran Award, among
8 others. In addition, in 2018, Governing (which is an organization that speaks for state
9 and local officials) named me as one of the top ten public officials in the country. I am
10 grateful for this recognition and, as I understand it, I am the only American to have
11 received the ICPA Head of State Award. Attached as Exhibit 1 is a copy of my
12 resume.

13 11. I consider myself a strong advocate of law and order. I am submitting this
14 *amicus curiae* statement due to my grave concern about the lack of attention many
15 governors and state legislators are paying to the effects of the virus. COVID-19 will
16 have terrible impacts if officials do not release those prisoners who will not jeopardize
17 the safety of their communities. Officials can identify significant numbers of prisoners
18 for release to allow for social distancing.

19 12. My concern is about the well-being of inmates, of staff, and the
20 communities to which they return. While elected officials and public health experts are
21 pleading for citizens to stay home and “flatten the curve,” the changes underway thus
22 far in prisons are hardly sufficient to make that flattening possible. My concerns are so
23 serious that I feel that it is incumbent upon me to volunteer my knowledge as a
24 correctional expert. I understand that the Plaintiffs’ Emergency Motion to Modify
25 Population Reduction Order is currently pending. I believe that my expertise can assist
26 in reaching a resolution that will protect the health and safety of all of us.

1 13. Based on my experience in correctional administration, I firmly believe
2 that rather than waiting for the adjudication of time-consuming lawsuits raising
3 constitutional claims of medical deliberate indifference, and rather than waiting for
4 corrections professionals to attempt to deal with this viral pandemic on their own by
5 trying to contain infections through lockdowns, governors and state legislators must
6 work today to assist corrections in releasing non-violent inmates.

7 14. Only by immediately releasing non-violent inmates can governors and
8 state legislators prevent the devastating consequences to corrections staff, inmates, and
9 the communities where prisons are located that will result when – not if – infections
10 enter these facilities. Due to the rapid spread of this deadly virus, it is too late to debate
11 and too late to litigate. Indeed, it may be too late for some states to develop a release
12 plan. For most states, however, there is a short window in which to act.

13 15. In most states, including California, given current population levels, social
14 distancing in prisons is not feasible. Large dining rooms, dormitories, and cells with
15 multiple bunks are all settings in which distancing is extremely difficult if not
16 impossible. Even in super-maximum-security prisons, where inmates are isolated, staff
17 has body-to-body contact with them when they are moved, including when they are
18 taken to receive medical treatment.

19 16. Many state correctional systems also have significant shortages of
20 correctional officers and medical staff, whose ability to respond to the urgent needs of
21 inmates is taxed even at the best of times, without a deadly virus tearing through the
22 facility and sickening both inmates and staff (and reducing staffing levels further).

23 17. Crowded conditions, staff shortages, and a rapidly spreading virus are a
24 recipe for disaster.

25 18. Many prisons across the nation, including in California, are located in
26 small communities with small health care facilities that are not equipped to handle
27 large-scale public health crises. In addition to the interests of the inmates, it is vital for
28

1 public officials to consider the impact that outbreaks in prisons will have on
2 correctional staff and these communities from which they come. Staff will become
3 infected, transmit the virus to their families, and spread it within these small
4 communities.

5 19. If governors and state legislators are serious about “flattening the curve,”
6 inmates need to be released to allow for social distancing in prisons, ensure that
7 medical staff have fewer inmates to treat in the event of an outbreak, and create the
8 space to effectively quarantine those who do become infected.

9 20. Provisions of law already authorize these releases in many states. In
10 circumstances such as this, many governors have the authority to grant reprieves.

11 21. In some states, for example North Dakota, directors of corrections have the
12 authority to determine placement of inmates and can provide placements in appropriate
13 instances in community or other facilities.

14 22. If necessary, “prison without walls” statutes could quickly be passed with
15 bipartisan support; these provisions would allow corrections officials to release non-
16 violent offenders on monitors.

17 23. Executive orders or legislation may also enable parole and pardon boards
18 to act more quickly and identify people to move outside of prison.

19 24. Many inmates can be supervised safely in the community. When I led the
20 Department of Corrections in Wisconsin, I asked the warden of a medium-security
21 facility, “With proper supervision, how many of these inmates could be released?” She
22 immediately replied, “All of them.” Of course, there will be exceptions, including
23 those inmates for whom a residential placement is not available.

24 25. Public safety is always the first priority in the corrections business, but
25 public safety also includes protecting staff and our communities from a deadly virus by
26 doing everything we can to keep our prisons medically safe and prevent them from
27 becoming incubators of infection.

28

1 26. The most medically vulnerable inmates should be prioritized for release,
2 including those who are elderly and those with health issues that put them at higher risk
3 of serious illness or death from COVID-19. But more inmates than these must be
4 released, so that appropriate social distancing can be implemented.

5 27. If prison populations are rapidly reduced, it will become possible to
6 transfer the inmates who remain incarcerated between facilities to reduce density. For
7 example, most states have minimum security facilities that house those inmates who
8 have little remaining time on their sentences and generally pose little risk to the
9 community. If they are released, the space in these prisons can be used to house
10 higher-security inmates at a greater distance.

11 28. Full prisons are factories of disease by their very nature. This virus will
12 consume prisons across the country unless immediate steps are taken by governors and
13 state legislators to assist corrections officials in releasing inmates. The results of
14 outbreaks in full prisons – to prison staff, inmates, and the communities they are housed
15 in – will be devastating.

16 29. I declare that this statement is my best understanding of how to respond in
17 this difficult and challenging time. I have not been retained by anyone to make this
18 statement nor have I received any compensation to do so. If I can be of further service
19 to this Court or to the parties involved, I am willing to do so.

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22 _____
23 Rick Raemisch
24 Waunakee, Wisconsin
25 March 26, 2020
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EXHIBIT 1 TO STATEMENT OF
RICK RAEMISCH

RICK F. RAEMISCH

EDUCATION

Legal - Juris Doctorate/Cum Laude; University of Wisconsin Law School, 1984-1988.

Undergraduate - Bachelor of Science in Political Science, Minor in Public Administration; University of Wisconsin-Stevens Point, 1971-1975.

EXPERIENCE

Independent Corrections Consultant *2019 - Present*

Colorado Department of Corrections, Colorado Springs CO

Executive Director *July 2013 - 2019*

Oversee, for the Governor of the State of Colorado, the largest Cabinet agency responsible for over 20,000 inmates and 10,000 parolees. The Colorado Department of Corrections has approximately 6000 employees and a budget of 808 million dollars.

Madison College, Madison WI

Dean-School of Human and Protective Services *2011 - 2013*

Provide leadership, design, organization, delivery, supervision, assessment and fiscal management for the programs within the School of Human and Protective Services. This includes overseeing the programs in Emergency Medical Services, Criminal Justice, Fire, Human Services, and Early Childcare Education.

Wisconsin Department of Corrections, Madison WI

Secretary *2007 - 2011*

Oversee, for the Governor of Wisconsin, the largest Cabinet agency responsible for over 22,000 inmates, over 73,000 probation and/or parolees, and approximately 1000 juveniles in institutions or on supervision.

Deputy Secretary *2005 - 2007*

Manage a workforce of 10,000 employees with oversight of an approximate one billion dollar budget.

Division Administrator *2003 - 2004*

Manage a work force of over 1800 employees with oversight of 68,000 probation and parolees.

Wisconsin Tax Appeals Commission, Madison WI

Commissioner *2002 - 2003*

Decide tax appeal issues before the Tax Appeals Commission.

KNK Holdings, LLC, Cambridge WI

General Counsel

2000 - 2002

Provided general counsel for commercial developers, including; land acquisitions, drafting developer agreements, operating agreements, working with governmental units for various permits, and giving routine legal advice on a day to day basis.

Martin Security, Inc., Madison WI

Vice President

1997 - 2000

Manage a security workforce of over 150 employees with operations in three states. Duties also included performing legal work for the business, consultations in the area of security, employee policies, and consulting for the Gunta Law Office (Milwaukee) in the area of sexual harassment and law enforcement related issues.

Dane County Wisconsin, Madison WI

Sheriff

1990 - 1997

Manage a workforce of over 400 employees with a budget of approximately 30 million dollars. Elected for four terms.

U.S. Attorney's Office, Madison WI

Assistant U.S. Attorney

1989 - 1990

Assigned as a federal drug prosecutor to investigate and prosecute complex federal controlled substance violations cases.

Dane County District Attorney's Office, Madison WI

Assistant District Attorney

1988 - 1989

Assigned to the Misdemeanor and Traffic Unit with a caseload of over 400.

Circuit Court Branch I, Madison WI

Judicial Internship

1987

Legal research, primarily in civil cases, drafting court orders, and decisions.

Dane County Sheriff's Office, Madison WI

Detective

1981 - 1988

Investigation of narcotic and vice offenses, including extensive undercover work, organizing and directing complex controlled substance violations, directing drug related homicide investigations, and other drug-related violent crimes, drafting search warrants, criminal complaints and warrants, and civil forfeitures, assisting the District Attorney's Office in preparing cases for trial, and assisting the prosecutor during trial.

Deputy Sheriff

1976 - 1980

Enforcement of the Wisconsin State Statutes, primarily in the area of criminal law.

AWARDS

- ❖ International Corrections and Prison Association Head of State Award: *awarded for both national and international progressive corrections reforms*, 2018
- ❖ Named one of top ten public officials in the nation by *Governing*, 2018.
- ❖ Association of State Correctional Administrators Tom Clements Award: *awarded annually to a member who displays innovation and achievement as a leader in the corrections profession*, 2017.
- ❖ National Alliance on Mental Illness Sam Chochran Award: *outstanding work in implementing widespread reforms in the use of solitary confinement in Colorado prisons*, 2016.
- ❖ Luan Gilbert Award: *outstanding contributions in domestic violence intervention and prevention*, 1995.
- ❖ Attorney General's Wisconsin Law Enforcement Executive of the Year, 1996.
- ❖ Voted one of Madison's most 25 influential people by Madison Magazine, 1994.
- ❖ International Narcotics Officers Association Commendation: *outstanding service in the field of narcotics enforcement*, 1989.
- ❖ Madison South Beltline Optimist Club - Law Enforcement Officer of the Year, 1988.
- ❖ Madison Police Department Commendation: *outstanding service to the community*, 1988.
- ❖ University of Wisconsin Law School - George Young Memorial Award: *outstanding contribution to the law school community*, 1988.
- ❖ Dane County Humane Society Commendation: *initiating and directing an investigation which led to Wisconsin's first felony dog fighting conviction*, 1983.
- ❖ Dane County Board of Supervisors - Outstanding Service Award: *arranging and purchasing a large quantity of cocaine from a defendant and apprehending the defendant in the State of Florida after he had escaped from the Dane County Jail*, 1981.

MEMBERSHIPS**CURRENT**

- Retired Member, Wisconsin State Bar, 1988 - present.
- Association of State Correctional Administrators
 - Co-chair, Racial Disparity Committee, 2013 - present.
 - Co-chair, Tom Clements Award Committee, 2015 - present.
 - Member, Information Sharing Committee, 2015 - present.
 - Member, Mental Health Subcommittee, 2014 - present.
 - Member, Policy, Resolutions, Legislation and Legal Issues Committee, 2013 - present.
 - Member, Prison Rape Elimination Act (PREA) Committee, 2013 - present.
 - Member, Program and Training Committee, 2015 - present.
 - Member, Restrictive Housing Committee, 2013 - present.
 - Member, Reentry and Community Corrections Committee, 2013 - present.
 - Member, Research and Best Practices Committee, 2013 - present.

PREVIOUS

- Member, Governor's Advisory Council on Community Corrections, 2013 - 2019.
- Member, Governor's Executive Clemency Advisory Board, 2013 - 2019.
- Member, Colorado Criminal and Juvenile Justice Commission, 2013 - 2019.
- Member, Executive Board - Colorado's Integrated Criminal Justice Information System, 2013 - 2019.

- Member, Vera Institute of Justice - Advisory Council to the Safe Alternative to Segregation Initiative, 2015.
- Co-Chair, American Correctional Association Restrictive Housing Ad-hoc Subcommittee, 2014 - present.
- Association of State Correctional Administrators
 - Co-chair, Racial Disparity Committee, 2008-2011.
 - Member, Program and Training Committee, 2008-2011.
 - Member, Legal Issues Committee, 2007-2011.
 - Member, Reentry Committee, 2007-2011.
- Member, Governor's State Advisory Council on Early Childhood Education and Care, 2008-2011.
- Member, Governor's Council on Workforce Investment, 2007-2011.
- Member, Educational Approval Board, 2003-2011.
- Member, Dane County Drug Treatment Court, 1996-1997.
- Member, Judicial Courtroom Security Committee, 1990-1997.
- Member, Dane County Domestic Abuse Task Force, 1990 to 1997.
- Member, Attorney General's Advisory Committee on Juvenile Justice, 1994.
- Member, Commission on Sensitive Crimes Coordinated Community Response Task Force, 1992-1997.
- Member, Governor's Gang Violence Prevention Council, 1995.
- Member, Governor's Council on Domestic Abuse, 1992-1995.
- Past President, Badger State Sheriff's Association, 1994-1995.

PUBLICATIONS

- ◇ *Restrictive Housing: Taking the Lead*, Corrections Today Guest Editorial March/April 2015.
- ◇ *Opening the Steel Door*, Corrections Managers' Report, April/May 2014.
- ◇ *My Night in Solitary Confinement*, New York Times Op-Ed Contributor, February 2014.
- ◇ *Cops in Court*, copyright 1992, a training manual used throughout Wisconsin to prepare police officers for courtroom testimony.