

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SOUTHERN POVERTY LAW CENTER,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, et al.,

Defendants.

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) Civil Action No. 1:18-cv-0760-CKK
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**DEFENDANTS' CORRECTED OPPOSITION TO PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING ORDER**

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INTRODUCTION

The Court should deny Plaintiff Southern Poverty Law Center’s (“Plaintiff”s” or “SPLC”s”) extraordinary request for this Court to broadly interfere in and assume oversight over the immigration-detention system, despite the laws enacted by Congress. The federal government is responding expeditiously to address the challenges presented by COVID-19. That comprehensive response includes tailored and effective measures taken by Defendants the United States Department of Homeland Security (“DHS”) and United States Immigration and Customs Enforcement (“ICE”) over the four immigration detention facilities at issue in this litigation. ICE “is taking necessary and prompt measures” to curb the spread of COVID-19 while still permitting robust access to counsel and ensuring the safety of staff, detainees, and legal representatives. Exhibit COVID-19 Pandemic Response Requirements (ICE Pandemic Response) 1; Decl. of Russell Hott, Acting Asst. Director of ICE’s Custody Management Division ¶¶ 19–30.

Federal Defendants have implemented COVID-19 protocols necessary to reduce the risk of spreading the virus, which include mandatory use of personal protective equipment (“PPE”) for attorney visits. (Bretz Decl. ¶ 17; First Washburn Decl. ¶¶ 20-22). Additionally, Defendants have expanded hours for video conferencing (“VTC”) attorney-client visits. *E.g.*, Washburn Decl. ¶¶ 23. These necessary pandemic-related accommodations, among others, exist to protect ICE detainees, non-ICE inmates, governmental and contractor staff, visitors, and the public. *Id.* ¶ 6. The changes do not impermissibly interfere with access to counsel, but instead *exceed* the Performance-Based National Detention Standards (“PBNDS”) 2008 and 2011 (revised 2016) that apply to Service Processing Centers (“SPCs”), Contract Detention Facilities (“CDFs”) and

state and local government facilities used by ICE Enforcement and Removal Operations (“ERO”) via Intergovernmental Service Agreements (“IGSAs”). Schriro Decl. ¶ 14.

As a threshold matter, the Court does not have jurisdiction to grant Plaintiff’s TRO. Plaintiff lacks a “legally protected interest” as an organization of members that have been impinged upon and that the relief it seeks is likely to redress its alleged injuries. Further, this Court lacks jurisdiction over all claims because the Immigration and Nationality Act (“INA”) requires “all questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States” to be reviewed exclusively in federal courts of appeals—not district courts—after exhausting administrative proceedings, 8 U.S.C. §§ 1252(b)(9), 1252(a)(5), including Plaintiff’s “policies and practices challenges,” right-to-counsel claims, and procedural-due-process challenges, *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1029, 1033, 1035 (9th Cir. 2016); *National Immigration Project of National Lawyers Guild v. Executive Office of Immigration Review*, No. 20-082, 2020 WL 2026971 (D.D.C. Apr. 28, 2020) (“*NIPNLG*”); *Vetcher v. Sessions*, 316 F. Supp. 3d 70, 76 (D.D.C. 2018). Further, Congress has prohibited this Court from granting Plaintiff’s requested injunctive relief against the operation of statutes governing removal proceedings and alien detention. *See* 8 U.S.C. § 1252(f)(1) (“Limit on Injunctive Relief”).

Even if this Court possesses jurisdiction, it should still deny a TRO because all injunctive factors favor the government. *First*, Plaintiff provides no basis to hamstring Defendants’ abilities to respond to the evolving public health crisis. Plaintiff fails to explain how ICE’s disease-prevention or attorney-access protocols are “tantamount to denial of counsel.” *Biwot v. Gonzalez*, 403 F.3d 1094, 1098 (9th Cir. 2005). Plaintiff does not point to “the actual substance of the hearing[s],” *Lara-Torres v. Ashcroft*, 383 F.3d 968, 973 (9th Cir. 2004), to determine whether

there was a prejudicial violation to detainee non-parties to this litigation. *Second*, Plaintiff's speculative claims of future injury do not outweigh the public interest in retaining ICE's flexibility to respond to changing circumstances. Consistent with the recent decision within this jurisdiction in *NIPNLG*, 2020 WL 2026971, at *1, Plaintiff cannot show that the four factors for an injunction weigh in its favor and the TRO should be denied.

FACTUAL BACKGROUND

I. THE FACILITIES AND THE PBNDS

The PBNDS 2011 reflects ICE's "ongoing effort to tailor the conditions of immigration detention to its unique purpose." PBNDS Preface. Accordingly, the PBNDS 2011 are crafted to "improve medical and mental health services, increase access to legal services and religious opportunities, improve communication with detainees with no or limited English proficiency, improve the process for reporting and responding to complaints, and increase recreation and visitation." *Id.* The PBNDS 2011 are also drafted to "include a range of compliance, from minimal to optimal," in order to apply the standards widely and provide "the groundwork for future changes." *Id.* To further these goals, the PBNDS covers a variety of topics including safety, security, care, activities, and justice. *Id.*

Concerning mail, the PBNDS requires each facility "shall have written policy and procedures concerning detainee correspondence and other mail." PBNDS 5.1(V)(A). The quantity of correspondence a detainee may receive or send at his/her own expense shall not be limited pursuant to the PBNDS, and indigent detainees "shall" be permitted to post an unlimited amount of legal mail, at government expense. *Id.* 5.1(V)(B). The PBNDS further provides that Staff shall "neither read nor copy special correspondence or legal mail," and its inspection shall be limited. *Id.* 5.1(V)(F)-(G).

Regarding telephone access, the 2011 PBNDS provides that “each facility shall provide at least one operable telephone for every 25 detainees.” PBNDS 5.6(V)(A)(1). Further, facilities are strongly encouraged to operate “at the optimal level” with “at least one telephone is provided for every ten (10) detainees.” *Id.* Each facility is also required to maintain detainee telephones in proper working order, including designating facility staff to inspect the telephones daily, and promptly report out-of-order telephones to the repair service so that required repairs are completed quickly. *Id.* 5.6(I)-(II). Importantly, the PBNDS does not require facilities to provide wireless and/or internet based communications, but encourages facilities to explore the use of such technology. *Id.* 5.6(V)(A)(2). Additionally, each facility administrator shall establish and oversee “rules and procedures that provide detainees reasonable and equitable access to telephones during established facility ‘waking hours’ (excluding the hours between lights-out and the morning resumption of scheduled activities).” *Id.* 5.6(V)(D). In order to maximize access and meet detainee demand, the PBNDS permits facilities to implement “rules and procedures [that] may include, but are not limited to, reasonable limitations on the duration and the number of calls per detainee, the use of predetermined time-blocks and institution of an advanced sign-up system.” *Id.* 5.6(V)(D). Facilities, however, have the authority to limit or restrict telephone access to prevent interference with counts, meals, scheduled detainee movements, court schedules, or “other events constituting the orderly operation of the facility.” *Id.* 5.6(V)(D)(3).

Finally, concerning legal calls, the PBNDS provides a facility may neither restrict the number of calls a detainee places to legal representatives, “nor limit the duration of such calls by rule or automatic cut-off, *unless* necessary for security purposes or to maintain orderly and fair access to telephones.” PBNDS 5.6(V)(F)(1) (emphasis added). Specifically, if time limits are necessary for such calls, the PBNDS states “they shall be no shorter than 20 minutes, and the

detainee shall be allowed to continue the call at the first available opportunity, if desired.” *Id.* A facility may also place reasonable restrictions on “the hours, frequency and duration of such direct and/or free calls” but may not otherwise limit a detainee’s attempt to obtain legal representation. *Id.*

In contracts post-dating the creation of the PBNDS, the PBNDS are incorporated by reference into the IGSAs with the individual facilities. In IGSAs pre-dating the PBNDS of 2011, the PBNDS of either 2008 or 2000 may be incorporated. In contracts pre-dating 2008, the National Detention Standards (“NDS”) of 2000 is incorporated. At a minimum, all facilities adhere to the NDS of 2000. *Detention Management*, U.S. Immigration & Customs Enforcement (last updated May 7, 2020) (<https://www.ice.gov/detention-management>) (“Through an aggressive inspections program, ICE ensures its facilities follow ICE’s National Detention Standards (NDS). ERO’s Detention Standards Compliance Unit ensures that detainees in ICE custody reside in safe, secure and humane environments and under appropriate conditions of confinement.”). ICE conducts annual compliance audits to ensure that the applicable standards are met. *E.g.*, Fourth Washburn Decl. ¶ 4. The 2011 PBNDS apply at Stewart Detention Center (“Stewart” or “SDC”) in Lumpkin, Georgia, LaSalle Ice Processing Center (“LaSalle”) in Jena Louisiana, and Pine Prairie ICE Processing Center (“PPIPC”) in Pine Prairie, Louisiana, and the 2002 PBNDS, applies to Irwin County Detention Center (“Irwin” or ICDC”) in Ocilla, Georgia. *E.g.*, Schriro Decl. ¶ 14.

II. COVID-19 AND THE FACILITIES

President Trump declared the COVID-19 outbreak a national emergency on March 13, 2020, and his Coronavirus Task Force and the Centers for Disease Control and Prevention (CDC) have issued guidance to slow the spread of the disease. *See Declaring a National*

Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, Proclamation No. 9994, 85 Fed. Reg. 15,337, 15,337–38 (Mar. 13, 2020). In response to the global pandemic, Defendants instituted changes at the facilities to protect detainees, staff, and the public.

A. Stewart Detention Center

Defendant ICE contracts with CoreCivic, Inc. (“CoreCivic”), which administers and manages Stewart. Fourth Declaration of Warden Washburn at ¶ 4 (“Fourth Washburn Decl.”).¹ Stewart Detention Center is a dedicated IGSA facility, and is subject to annual compliance audits relating to its compliance with the 2011 PBNDS. Auditors who inspected Stewart in 2017, 2018, and 2019, found the facility met 39 of the standards, and that three additional standards, relating to transportation, escorted trips for non-medical emergencies, and medical care (women) have been rated “Not Applicable.” Fourth Washburn Decl. ¶ 6. No deficiencies have been noted with respect to the operation of the detainee telephone system, visitation, or legal access. *Id.*

ICE and CoreCivic personnel have taken numerous steps to protect those in custody, staff, visitors, and the public during the pandemic. First Washburn Decl. ¶ 6. This includes releasing a large percentage of detainees from custody. While Stewart has design capacity of 2,040 ICE detainees (Second Washburn Decl. ¶ 5), as of 9:00am on May 15, 2020, Stewart's detainee population is 1,129. This number is a decline from the 1,681 detainees who were housed at Stewart on March 18, 2020, to promote social distancing and separation during the COVID-19 global pandemic. Moten Decl. ¶ 19; *see also* Sanchez Martinez Decl. ¶ 1 (noting release on April 16).

¹ Defendants serialize the declarations of each individual chronologically for ease of reference throughout, regardless of whether first entered in this case or a separate litigation.

Vulnerable detainees are placed in protective cohorts. First Washburn Decl. ¶ 11. The purpose of this protective cohort is to limit contact between these vulnerable detainees and the general population in the event that any detainee at SDC is infected by COVID-19. *Id.* ¶ 12. These restricted units are in a protective area, essentially the opposite of a containment area, with the express objective of keeping the space free of COVID-19 virus. *Id.* These units have a dedicated cadre of nurses, providers and security staff, which minimizes the risk of transmission of the virus from other parts of the facility into that protective area. *Id.*

Stewart has also implemented a daily COVID-19 checklist. Daily responsibilities are assigned to the Warden (or the Administrative Duty Officer); each Shift Supervisor (or designed Assistant Shift Supervisor); Unit Manager; Safety Manager; Health Services Administrator; contracted Food Service Manager; and Quality Assurance Manager. *Id.* ¶ 13. The purpose of this checklist is to make sure that each of those facility supervisors is timely aware of new developments; is speaking with staff and detainees about following appropriate precautions; encouraging staff and detainees to seek medical care if they feel ill or show signs of illness; monitoring staff and detainees for signs of illness; engaging in ongoing education efforts with staff and detainees; verifying ample supplies of appropriate materials; and, conducting sanitation inspections on a daily basis in their delegated area of responsibility. *Id.*

The inventory of Stewart sanitation supplies is checked and restocked daily to maintain a sufficient supply on hand, particularly if additional shortages occur in the public market. *Id.* ¶ 44. Hand sanitizer units have been installed in all units and throughout SDC. *Id.* ¶ 45. Sanitary wipes have been made available in all units and throughout SDC, and are available to detainees. *Id.* ¶ 46. During town hall meetings, detainees have been instructed how to safely sanitize common area surfaces they may come into contact with during the day—such as detainee

telephones and kiosks—before and after use. *Id.* ¶ 47. Pump dispensers for HDQ Neutral, a multi-purpose disinfecting antibiotic and antiviral cleaning solution, have been installed in SDC areas for use by individual detainees as well as Voluntary Work Program participants. *Id.* ¶ 48. Sani-T-10 has been procured and issued to the kitchen for sanitation of areas where food contact may occur. *Id.* ¶ 49. SDC continues its practice of issuing hygiene products to detainees twice weekly. Issued hygiene products include soap, toothpaste, shampoo, lotion and toilet paper. While soap is now available throughout the day, if any detainee has a need for any of the other items between distributions, they may receive a replacement by exchanging their empty shampoo bottle, toothpaste tube, toilet paper roll, etc. for a full replacement. First Washburn Decl. ¶ 50.

All attorneys, as well as CoreCivic staff, facility contractors, ICE, immigration court personnel, and detainee intakes are screened for symptoms of COVID-19 prior to being permitted entrance to Stewart. *Id.* ¶ 16. That includes completion of a screening questionnaire and a temperature check in accordance with the CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities. *Id.*; *see Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, U.S. Centers for Disease Control. The screening area has been set up outside of Stewart. First Washburn Decl. ¶ 17. If the initial health screening is inconclusive, medical staff is responsible for making any final determination on screening. *Id.* If screening shows an individual may be at risk, they are denied entry, and instructed either to remain at home for a specified quarantine period, or to consult and obtain clearance from their medical provider before they will be admitted to the facility. *Id.* ¶ 16-22. The medical screening questionnaire has been updated based on new and emerging guidance from the CDC. Fourth Washburn Decl. ¶ 29.

Attorney visitors at Stewart are required to bring their own PPE (and may also bring sanitizing wipes) if making an in-person legal visit. *Id.* ¶ 31; First Washburn Decl. ¶ 20. However, if an attorney visitor does not have PPE, Stewart offers it to them free of charge. Fourth Washburn Decl. ¶ 32. In-person attorney visits at Stewart occur in secure visitation areas, with a secure divider between the detainee and attorney visitor. *Id.* ¶ 21. Visitation staff sanitizes legal visitation areas before and after each legal visit. *Id.* ¶ 33. This includes, but is not limited to, wiping down chairs, tables, phones, and other surfaces and equipment using disinfectant. *Id.*

If attorneys choose not to visit in person, they may have confidential communications with detainees either through the detainee telephone system or through the VTC systems. *Id.* ¶ 60. In late March 2020, the available hours were expanded and visits may now be scheduled between 8:00 am and 6:00 pm, on Monday through Friday. *Id.* at ¶ 62. This schedule permits up to 100 VTC legal visits to be conducted at Stewart each week. *Id.* Attorney VTC visits are scheduled on a first-come, first-served basis, in 60-minute blocks. *Id.* ¶ 62. Attorneys are not limited on the number of VTC appointments they can request, but no attorney is permitted more than one 60-minute appointment with any one detainee on any single calendar day. *Id.* ¶ 64. The purpose of the 60-minute per appointment slot is to ensure that attorneys and detainees with later appointments the same day, are permitted to begin on schedule. *Id.* This is consistent with the PBNDS's instruction that limits may be imposed to "maintain orderly and fair access to" telecommunications. PBNDS 5.6(V)(F)(1). Attorneys who anticipate a need for longer consultation are permitted to schedule multiple visits with a single detainee on consecutive days. Fourth Washburn Decl. ¶ 64. Between March 30, 2020, and May 1, 2020, typically 25-30 VTC appointments were available but not reserved for an attorney visit in any given week. *Id.* ¶ 68. Stewart does not unilaterally cancel attorney VTC calls, but appointments may be frustrated

include when a detainee refuses to attend the appointment, or when the detainee was discharged. *Id.* ¶ 73. VTC equipment is not handled by detainees, but by staff. *Id.* ¶ 72. Staff-exclusive handling of the equipment helps ensure that the equipment remains in good working order, but also reduces a potential means of transmission of infectious diseases, such as COVID-19. *Id.*

Stewart has a total of 214 detainee telephones in the housing areas, which detainees may use to call counsel. Fourth Washburn Decl. ¶ 41. At capacity, the detainee-to-phone ratio is 9.53 detainees per telephone. *Id.* At Stewart's current population of 1,060 as of May 11, 2020, the detainee-to-phone ratio is 4.95 detainees per telephone. *Id.* At the current rate, this is *five times* more access than what the PBNDS demands. PBNDS at 386 ("each facility shall provide at least one operable telephone for every 25 detainees"). At full capacity, Stewart's ratio of 1 telephone to every 9.53 detainees is substantially compliant with the higher "optimal" standards, and far exceeds the minimum requirements of the PBNDS. *Id.* Detainees have been provided with instructions and sanitizing wipes, and are encouraged to sanitize each hard surface in common areas, including detainee telephones and kiosks. Fourth Washburn Decl. ¶ 50. This is in addition to the enhanced cleaning and sanitation that is occurring at Stewart, requires all housing units and common facility areas are cleaned with a bleach solution every other day. *Id.* ¶ 25.

Starting on April 24, 2020, Stewart also implemented a new process to facilitate legal calls between detainees and their counsel. Fourth Washburn Decl. ¶ 56. Under this procedure, the attorney contacts the facility, calling the Warden's Secretary during normal business hours, 7:00 am to 3:00 pm, Monday-Friday, and schedule a time. *Id.* At the appointed time, the detainee is taken to the Unit Manager's Office at the facility, and is placed on the phone with the attorney. *Id.* ¶ 57. Although detainees are neither heard nor recorded, they must be visually observed during the call to protect confidential records present in those offices. *Id.*

Regarding legal mail that is clearly marked, it is delivered unopened by facility staff to the detainee. *Id.* ¶ 75. In the presence of the detainee, staff will open the envelope to ensure that it does not contain contraband, and give the communication to the detainee. *Id.* Detainees may similarly seal clearly marked legal mail and deposit it in the facility mail, where it will not be opened by facility staff. *Id.*

B. Irwin County Correctional Facility

Irwin County Detention Facility is owned and operated by LaSalle Corrections Management, LLC.² Second Paulk Decl. ¶ 5. LaSalle Corrections Management, LLC is the service provider under an IGSA between Irwin County Detention Facility and ICE. *Id.* As of May 15, 2020, Irwin’s current ICE detained population is 497 detainees with a capacity of approximately 920 ICE detainees. Declaration of Patrick Musante (“Musante Decl.”) ¶ 18. This number is a decline from the 615 ICE detainees who were housed at Irwin on March 18, 2020, to promote social distancing and separation during the COVID-19 global pandemic. *Id.* Irwin’s management provides ongoing guidance and instruction to Irwin, in accordance with and consistent with recommendations of the CDC and its governmental partners, as well as state and local health authorities where its facilities are located. As additional recommendations are promulgated, and in consideration of local health conditions, practices to prevent the spread of COVID-19 while ensuring that detainees have adequate access to confidential communications with their attorneys at ICDC have evolved, and changes occur often to accommodate the developing situation. *Id.* ¶ 6.

² Irwin County Detention Facility is managed by LaSalle Corrections Management LLC. Warden Paulk’s declaration uses the moniker “LaSalle” throughout his declaration, not to be confused with the LaSalle ICE Processing Facility. Defendants will refer only to Irwin for purposes of clarity, though Irwin takes instruction from the parent corporation.

On April 13, 2020, pursuant to CDC guidelines and directives, Irwin temporarily prohibited in-person visitation to prevent the risk of COVID-19 introduction, with the exception of in-person attorney visitation. *Id.* ¶ 8. At that time, attorneys were to provide their own PPE. *Id.* Since April 14, 2020, pursuant to CDC guidelines, Irwin required that visits take place in a non-contact visitation room. *Id.* ¶¶ 8-9. Attorneys are required to use a mask during in-person visitation; if they do not bring their own, Irwin has provided one. *Id.* ¶ 9.

Non-contact visitation rooms—which are thoroughly cleaned and sanitized with disinfectant between each visitation, both on the visitor side and the detainee side (*id.* ¶ 15)—are separate, secure visitation rooms where attorneys and detainees are entirely separated by a divider, and there is no opportunity or potential for the two communicants to come into physical contact with one another. *Id.* ¶ 10. Irwin nonetheless provides a mask to any attorney who does not bring his/her own, while maintaining a sufficient supply on hand. *Id.* ¶¶ 10-11. Because it is impossible for the attorney and detainee to have physical contact in a non-contact visitation room, Irwin considers the use of a mask to be sufficient PPE for these encounters, per CDC guidelines. *Id.* ¶ 10. Additionally, all entrants are screened prior to entry to Irwin; this screening includes a temperature check and completion of a medical questionnaire, which is updated from time to time to account for evolutions in CDC guidance. *Id.* ¶ 12. This practice has been employed since the pandemic's inception. *Id.* Irwin also employs social distancing recommendations, and Irwin staff who escort detainees to in-person attorney visits wear personal protective equipment, including masks and gloves. *Id.* ¶¶ 13-14.

Non-contact visitation rooms are each separate rooms with a closing door that allows for complete and total privacy between the visiting attorney and detainee. *Id.* ¶ 16. Irwin staff have been trained and instructed not to enter a non-visitation room during a visit unless summoned or

to inquire as to whether the visit is ongoing. This instruction is enforced to ensure privacy and confidentiality for the attorney and detainee. *Id.* Cleaning of both sides of the non-contact rooms occurs between visits. *Id.* ¶ 15.

Irwin also provides for confidential communications with detainees through VTC devices. *Id.* ¶ 18. Irwin has worked to ensure that detainees have adequate access to these devices, and currently maintains four fully-operational VTC devices for the specific purpose of legal visitation. Each device is located in a secure, separate room with a closing door to ensure privacy for the VTC meeting, which are not recorded or monitored. *Id.* ¶ 17.

During the pandemic, Irwin's VTC devices have remained fully-operational. *Id.* ¶ 19. Attorneys may make appointments for VTC calls with detainees by calling or emailing the Inmates' Services Department. *Id.* ¶ 28. Irwin employs one full-time clerk to manage attorney scheduling for VTC calls, and maintains a separate email and phone line specifically for attorney communication requests. *Id.* Similarly, detainees may request a VTC appointment either by written request or via a tablet device. *Id.* ¶ 38. These requests are reviewed daily, and Irwin responds within twenty-four (24) hours to each detainee request and works to coordinate an appointment. *Id.* In the majority of circumstances, Irwin typically responds within twenty-four (24) hours to attorney appointment requests to schedule the appointment. *Id.* ¶ 28. While Irwin strives to meet an attorney's first preference for appointment time, Irwin offers alternative appointments if the first preference is unavailable. *Id.* ¶ 29. An appointment-based system ensures equal access for detainees, and appointments are typically scheduled between 9:00 a.m.–4:00 p.m., Monday through Friday, but this time can be and has been expanded when increased need arises. *Id.* ¶¶ 27-28. There is a one-hour time limitation, but requests for additional time are routinely accommodated. *Id.* ¶ 30. If an attorney notifies Irwin that an expedited or emergency

VTC appointment with a detainee is necessary, Irwin works diligently to schedule that appointment, going so far as to schedule appointments for the same day as the request if necessary. *Id.* ¶ 35. Such emergency requests are routed to the attention of the Inmate Services Administrator, who quickly handles the accommodation of such requests. *Id.*

Detainees are escorted to their VTC calls by PPE-clad staff. *Id.* ¶ 22. Two full-time staff members oversee VTC communications, and are trained to rectify any technical, maintenance, or operational problems with VTC devices quickly. *Id.* ¶ 19, 21. Four court officers assist staff as necessary. *Id.* ¶ 19. As in *Stewart* (Fourth Washburn Decl. ¶ 72), Irwin has developed a touch-free system for these devices, and VTC devices are disinfected between each call by one of the two full-time staff members. Second Paulk Decl. ¶ 19-20. The VTC calls take place in a closed room, and only one detainee is allowed in the room during their scheduled call time and during the pendency of the call, ensuring confidentiality. *Id.* ¶ 22. An Irwin staff member is placed outside of the entrance to the VTC room to protect the privacy of the communications. *Id.*

ICDC receives many requests for attorney VTC calls, and it maintains a regimented schedule for calls so that all detainees can adequately experience confidential access to their attorney(s). *Id.* ¶ 23. While it is occasionally necessary for Irwin staff enter the VTC room for the limited purposed of inquiring whether the call is ongoing, Irwin staff are careful not to abruptly cut-off an ongoing legal call. *Id.* Further, Irwin offers additional guidance to make sure that detainees are fully informed about the process of exercising their legal rights by providing three Irwin full-time case managers who are available to detainees to answer questions regarding VTC communications. *Id.* ¶ 37. Two to three Irwin staff members also conduct walk-throughs of each housing unit once every week day. *Id.* Finally, an Irwin officer is stationed in each housing

unit all day, every day. *Id.* These officers are fully trained and educated regarding confidential attorney communications, and they are available to detainees to answer questions. *Id.*

Telephones are also readily available at Irwin. There are 89 telephones available at Irwin: one in the library; forty among the ten open dormitory units, and forty-eight among the sixteen closed cell units. *Id.* ¶¶ 49-52. Telephones are available on Sunday through Thursday from 5:00a.m. to 11:00p.m., and on Friday and Saturday from 5:00a.m. to 1:00a.m. *Id.* ¶ 53.

Irwin works to ensure that detainees and attorneys can sufficiently communicate via mail sent through the U.S. Postal Services, FedEx, UPS, and other delivery services. *Id.* ¶ 54. Legal mail is taken directly to the detainee in his or her housing unit daily upon arrival. *Id.* The mail is then opened in front of the detainee, and the Irwin staff member completes a cursory check for contraband in front of the detainee, maintaining extreme care in protecting the confidentiality of the mail and in not examining the communications therein. *Id.* Detainees can send confidential legal mail to their attorney by securing postage supplies from the commissary, assembling mail, and providing it to Irwin's outgoing mail service. *Id.* ¶ 55. Attorneys can send pre-stamped envelopes to detainees that detainees can use to provide information; this mail is treated like all other legal mail, and provided to the detainee in the housing unit daily upon arrival. *Id.* ¶ 57.

Irwin additionally works to ensure that detainees have adequate access to a facsimile machine to send documents and information to their attorneys. *Id.* ¶ 59. Irwin makes an announcement to the entire facility every day notifying detainees that ICDC staff will come to each housing unit to pick up materials to be faxed, and of the time that this collection will occur. *Id.* ¶ 59. Irwin staff have been fully trained and educated regarding the confidentiality of faxed materials to attorneys, and use extreme care in maintaining the confidentiality of such documents and in not examining the communications therein when taking documents to the facsimile

machine. *Id.* ¶ 60. Documents gathered from detainees are faxed daily, after which an Irwin staff member delivers a fax confirmation receipt to the detainee after the fax transmits. *Id.* ¶ 61. Further, Irwin disseminated a specific, designated legal fax number for use by outside attorneys to fax information to detainees, and incoming faxes from attorneys are treated like legal mail and delivered to detainees daily upon receipt. *Id.* ¶ 62.

C. LaSalle ICE Processing Center

The GEO Group, Inc. (“GEO”), administers and operates LaSalle, an ICE processing center that counts with onsite health care services provided by ICE Health Services Corps medical professionals. Declaration of Facility Administrator Shad Rice (“Rice Decl.”) ¶¶ 1-6. In coordination with ICE, LaSalle has informed staff and detainees how to recognize the symptoms of COVID-19, and how to respond if symptoms develop or are observed. *Id.* ¶ 9. In response to the pandemic, LaSalle is operating at 58% capacity, housing 769 detainees despite capacity for up to 1,335 and a contract with ICE to house 1,160. *Id.* ¶ 10; Declaration of Matthew Reaves (“Reaves Decl.”) ¶ 19.

LaSalle has held town hall meetings and posted signs describing symptoms and demonstrating hand hygiene instructions for detainees. Rice Decl. ¶ 13. Additional information is also delivered to the detainees via messaging with tablets. *Id.* Detainees have been asked to report symptoms to staff immediately so the appropriate medical response is provided. *Id.* Detainees are provided with soap and are issued supplies once a week. *Id.* ¶ 15.

LaSalle has also implemented intensified cleaning of surfaces and objects that are frequently touched such as tables, door knobs, phones, VTC equipment, and recreation equipment. *Id.* ¶¶ 17-18. GEO has instructed detainees and staff to clean and disinfect shared equipment and property with frequency. *Id.* ¶ 17. After each use, law library, telephones, visiting

rooms, and VTC rooms are sanitized. *Id.* ¶ 36. Also, LaSalle has adopted social distancing strategies including reducing trips within the facility and moving in mass from location to location. *Id.* ¶ 21. LaSalle has taken the step of prohibiting visitors, with the exception of legal counsel who may visit in person and confer via glass enclosures. *Id.* ¶ 23.

Each detainee is provided with 3 masks per week, and may request more. Rice Decl. ¶ 11. LaSalle staff must also wear protective gear including masks. *Id.* ¶ 24. Attorney visitors must wear eye protection and face masks, however, if they do not have PPE LaSalle will provide it without charge. *Id.* In person legal visitation is available from 6:00 am through 11:00 pm every day to include weekends and holidays. *Id.* ¶ 31.

In response to the crisis, LaSalle has increased VTC rooms available for attorney meetings to three units. Rice Decl. ¶ 30. Additionally, VTC hours have been extended to 7:00 AM to 7:00 PM, seven (7) days a week. *Id.* ¶ 31. Additional reasonable accommodations will also be made upon request. *Id.* As a special accommodation to Plaintiff, LaSalle has agreed to a special two-hour block (5:00 pm to 7:00 pm) automatically dedicated VTC machine for SPLC. *Id.* ¶ 34. Moreover, SPLC has access to any other available time slots between 7:00 am and 7:00 pm on all VTC machines. *Id.* There is no limitation to the number or frequency of legal visits other than the availability of VTC machines. *Id.*

A detainee and their legal representative may also communicate by legal mail. Legal mail from an attorney should be clearly marked, and will be delivered unopened by facility staff to the detainee. In the presence of the detainee, staff will open the envelope to ensure that it does not contain contraband, and give the communication to the detainee. *Id.* ¶43. All receipt of legal mail is signed for on delivery by the detainee. *Id.* Detainees may similarly seal clearly-marked legal

mail and deposit it in the facility mail, where it will not be opened by facility staff. *Id.* LaSalle is unaware of any issues related to the receipt or sending of legal mail. *Id.*

D. Pine Prairie ICE Processing Center

Pine Prairie ICE Processing Center employs the CDC's Coronavirus Disease 2019 Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) In Correctional and Detention Facilities (CDC Guidance), to educate its personnel and detainees. Declaration of Facility Administrator Eric Staiger ("Decl. Staiger") ¶ 7. PPIPC is operating significantly below capacity in response to the pandemic. *Id.* ¶ 8. As of May 15, 2020, PPIPC houses only 435, but has a capacity of 730. Chambarlain Decl. ¶ 18. This number is a decline from 471 on April 13, 2020, to promote social distancing and separation during the COVID-19 global pandemic. *Id.*

PPIPC has posted signage that identifies symptoms of COVID-19 in multiple languages and that provide hand hygiene instructions. Staiger Decl. ¶ 15. Facility staff have described symptoms and has demonstrated hand hygiene instructions in daily briefings referred to as "town hall" meetings with detainees and asked detainees to report symptoms to staff. *Id.* ¶ 35. Twice a week, each detainee is provided with shampoo/body wash, tissue paper along with other hygiene products, as required and followed by facility issuance schedule, above PBNDS requirements. *Id.* ¶ 17. Living areas are sanitized four times per shift, and additional hygiene products are available at all times if needed. *Id.* Soap is readily available and available on demand. *Id.* ¶ 35

All detainees and staff at Pine Praire have been issued masks to reduce the likelihood of COVID-19 transmission. Staiger Decl. ¶¶ 14, 26. Attorney visitors must wear masks and gloves; if an attorney does not have PPE, masks and gloves free of charge. *Id.* ¶ 40. Legal representatives for the SPLC continue meet with clients at PPIPC on a frequent basis. *Id.* ¶ 41.

In response to COVID-19, PPIPC has doubled the number of visitation rooms and increased the daily visitation window for both in-person visits and VTC appointments. Staiger Decl. ¶ 29. VTC is now available from 8:00am through 7:00pm during the week, and 8:00am through 2:00pm on weekends. *Id.* No restrictions are placed on the number of visits, or how often a legal representative can communicate with a detainee client detainee. *Id.* Further, all video conferences and telephone calls between detainees and their legal counsel are private and confidential and comply with PBNDS 5.6 (Telephone Access). *Id.* ¶¶ 30, 31. VTC connection speed has a download of 96.51 Mbps and an upload of 54.13 Mbps. Chambarlain Decl. ¶ 44. All VTC units have been tested multiple times with successful results each time. The video receptions have been clear with strong connections, clear voices, and appropriate volume. *Id.* There has been no identifiable echoing effect or interruption when tested. *Id.* To reserve a room for VTC or phone calls, a legal representative calls or emails the facility and requests a time to speak with their client. Staiger Decl. ¶ 36. There are two employees who tasked with scheduling requests who ensure that all requests are filled. *Id.*

Additionally, as a result of COVID-19, Detainees are provided free minutes to use the telephone to confidentiality consult with their legal representatives. *Id.* ¶ 38. There is no restriction on their use and are available 24 hours a day, 7 days a week in the housing units. Staiger Decl. ¶ 38. Additionally, Detainees at PPIPC are also provided access to tablets in order to communicate with their legal representation by video. *Id.* ¶ 37. At present, PPIPC has 166 tablets available for detainees to reach their attorneys. *Id.* This is a rate of 1 tablet for every 2.62 detainees. *Compare id* and Chambarlain Decl. ¶ 18.

Legal mail from an attorney or legal representative should be clearly marked and will be delivered unopened by facility staff to the detainee. Chambarlain Decl. ¶ 44. In the presence of

the detainee, staff will open the envelope to ensure that it does not contain contraband and give the communication to the detainee. *Id.* Detainees may also seal clearly marked legal mail and deposit it in the facility mail, where it will not be opened by facility staff. *Id.*

III. PLAINTIFF’S MOTION FOR A PRELIMINARY INJUNCTION

In its motion, SPLC seeks measures that are permanent, affirmative, and are not limited to the 15-day period associated with a temporary restraining order. *See generally* Memo. SPLC requests that the Court order a litany of actions including, but not limited to: (1) improvements to ratios for telephone and VTC equipment; (2) provide greater privacy for counsel calls, enjoin any limitation on the number and duration of legal calls or VTC; (3) require all legal calls be free of charge; (4) provide confidential telephone calls and VTC within 24 hours of the request, between 8:00 a.m. and 8:00 p.m; and (5) create and implement a system by which parole requests or custody redeterminations are decided within 7 days. *See* Proposed Order at ECF No. 105-11.

A. Alleged In-Person Visit Difficulty

SPLC alleges that they are likely to succeed on the merits of their preliminary injunction motion because the “restrictions and conditions on legal communications during the COVID-19 pandemic deprive SPLC’s clients of their fundamental right to access crucially needed counsel during this dangerous period.” Memo at 20-21. SPLC claims that “legal visits are functionally impossible during the COVID-19 pandemic due to a variety of factors, including the high-risk of infection and the national shortage of PPE.” *Id.* However, SPLC acknowledges that it has access to PPE. Rivera Decl. ¶ 19. None of the declarations attached to Plaintiff’s motion claim that SPLC attorneys do not have access to PPE. *See* Memo. Additionally, regardless of the quantity of PPE that SPLC possesses or could acquire, in “early March” SPLC set a corporate policy to “limit in-person visits to certain circumstances.” Rivera Decl. ¶ 17.

B. Alleged VTC & Telephonic Difficulty

SPLC also makes numerous complaints concerning VTC calls, specifically alleging that “inadequate safeguards to protect detained individuals from the virus during VTC calls have forced SIFI attorneys to think twice about proceeding with remote legal visits to avoid health risks to their clients.” Memo at 12. Additionally, SPLC claims that it is entitled to a preliminary injunction because “SIFI has experienced scheduling delays at all facilities at every step of the process: delays in receiving a response to a VTC request, delays between the date requested and the date made available, delays on the day of the appointment, as well as outright cancellations.” Memo at 10. SPLC claims that delays, fuzzy connections, and scheduling mishaps violate the rights of non-parties to this suit, and SPLC entitled to relief. *Id.* at 10-12.

In regards to phone calls, SPLC alleges that their staff have had difficulty navigating the process of setting up legal phone calls, which SPLC admits has been expanded at Stewart and PPIPC in response to the pandemic. *Id.* at 13. SPLC further concedes that “a new process set up at Stewart, requiring the SIFI attorney to email the warden to request the call, and the warden to confirm the time and date and then provide the attorney with a phone number.” *Id.* at 14. SPLC claims that an unnamed SIFI attorney has not “successfully request[ed] a facility legal call” since she started in October 2018. *Id.* SPLC also cites to one example of an instance when an unnamed SIFI staff member was allegedly advised by unknown GeoGroup employee to attempt to use speaker-phone rather than using the receiver to fix a connectivity issue when speaking to an unnamed detainee. *Id.* (citing Rivera Decl. ¶ 43). Another anonymous SPLC attorney has relied on the phones in the housing units in relation to a separate case. *Id.* (citing Williams Decl. ¶ 14). SPLC further alleges that, “SIFI has asked Defendants to place SIFI staff’s phone numbers on a do-not-monitor list” and that Defendants “verbally confirmed that they were able to do this

at only three of the facilities: Stewart, LaSalle, and Pine Prairie.” Memo at 15. At Irwin, SPLC alleges that Irwin has not yet responded to the request an unnamed attorney placed two days before filing the preliminary injunction motion. *Id.* Finally, SPLC claims that—despite having no first-hand knowledge—“detained clients are waiting in line to use the shared telephones, [] often extremely close to one another and, because they also lack protective equipment, they are exposing themselves to the virus.” *Id.* (citing Venters Decl. ¶ 36). Dr. Homer Venters is a physician located in New York, and does not claim to have visited or examined any of the Facilities at issue, nor does he offer any specific testimony concerning the four facilities at issue.³ The extent of his facility-specific testimony consists of publicly posted information from the ICE website. Venters Decl. ¶ 13.

C. Alleged Difficulties with Mail & Document Exchange

SPLC claims “Defendants’ COVID-19 policies on document exchange are unreasonably restrictive and make SPLC’s ability to maintain necessary contact and move expeditiously on its clients’ cases extremely and needlessly difficult.” Memo at 16. Defendants allegedly imposed this difficulty through their unwillingness to “retrieve fax [legal] documents or download electronic [legal] documents for detained individuals at the Facilities[,]” and demands judicial creation of such a system. Memo at 16, 33⁴; *but see* Second Paulk Decl. ¶¶ 58-62 (explaining that Irwin already has such a system). SPLC also complains that the prohibition on stamps forces them to “to deposit funds into their clients’ accounts or break stay-at-home orders to

³ Plaintiff has excluded Dr. Venters’ CV and statement of compensation from his report. Such attachments are necessary to determine Dr. Venters’ qualifications.

⁴ Plaintiff has inconsistently alleged that such a practice violates confidentiality. *See* Second Am. Complaint at ¶ 140 (“On occasion the guards will ... offer to take confidential papers from one person and deliver them to the person on the other side of the partition.”). Stewart, PPIPC, and LaSalle will not offer such service *specifically* because of confidentiality concerns. Fourth Washburn Decl. ¶ 80; Staiger Decl. ¶ 46; Rice Decl. ¶ 48.

obtain prepaid envelopes that they *may* have success sending to facility.” *Id.* (emphasis in original). Although Plaintiff does not allege it has attempted to use the mail since the pandemic and suffered harm, it expresses generalized distrust of the mail. Memo. at 17-18.

D. Extraneous Alleged Difficulties & Requests for Relief Against Third Parties

SPLC contends that, “Defendants have restricted SPLC’s access to the ICE official who oversees their clients’ parole requests and *Frailhat* custody redeterminations.” Memo at 18 (citing Rivera Decl. ¶ 56). In support, SPLC points to an isolated instance when a SIFI attorney had to resubmit a humanitarian parole request, and the response took 13 days. *Id.*

LEGAL STANDARD

“‘A temporary restraining order is an extraordinary remedy, one that should be granted only when the moving party, by a clear showing, carries the burden of persuasion.’” *NIPNLG*, 2020 WL 2026971, at *5 (quoting *Sibley v. Obama*, 810 F. Supp. 2d 309, 310 (D.D.C. 2011)). “The standard for obtaining injunctive relief through either a temporary restraining order or a preliminary injunction is well established.” *Gomez v. Kelly*, 237 F. Supp. 3d 13, 14 (D.D.C. 2017). A plaintiff must establish (1) that it is likely to succeed on the merits; (2) that it is likely to suffer irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in its favor; and (4) that the proposed relief is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The Court “must balance the strengths of the requesting party’s arguments in each of the four required areas.” *CityFed Fin. Corp. v. Office of Thrift Supervision*, 58 F.3d 738, 747 (D.C. Cir. 1995). “If the arguments for one factor are particularly strong, an injunction may issue even if the arguments in other areas are rather weak.” *Id.*

ARGUMENT

I. PLAINTIFF LACKS STANDING

Plaintiff SPLC is the sole plaintiff in this lawsuit. Accordingly, Plaintiff must show that it has standing to litigate for the relief sought. “‘The first component of the likelihood of success on the merits prong usually examines whether the plaintiffs have standing in a given case.’” *NIPNLG*, 2020 WL 2026971, at *5 (quoting *Barton v. District of Columbia*, 131 F. Supp. 2d 236, 243 n.6 (D.D.C. 2001)). “It is well established that the ‘irreducible constitutional minimum of standing contains three elements’: (1) injury in fact; (2) causation; and (3) redressability.” *Baz v. Dep’t of Homeland Sec.*, No. 18-cv-01013, 2019 WL 5102827, at *3 (D.D.C. Oct. 11, 2019) (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992)). The injury-in-fact element requires an injury that is “concrete and particularized and actual or imminent, not conjectural or hypothetical.” *In re U.S. Office of Pers. Mgmt. Data Sec. Breach Litig.*, 928 F.3d 42, 54 (D.C. Cir. 2019) (quoting *Spokeo, Inc. v. Robins*, — U.S. —, 136 S. Ct. 1540, 1548 (2016)). And where plaintiffs seek only prospective relief, “past injuries alone are insufficient to establish standing.” *Dearth v. Holder*, 641 F.3d 499, 501 (D.C. Cir. 2011). Rather, they must “establish an ongoing or future injury that is ‘certainly impending.’” *Williams v. Lew*, 819 F.3d 466, 472 (D.C. Cir. 2016) (quoting *Arpaio v. Obama*, 797 F.3d 11, 19 (D.C. Cir. 2015)). Causation requires “that the injury is fairly traceable to the defendant’s challenged conduct.” *Am. Soc’y for Prevention of Cruelty to Animals v. Feld Entm’t, Inc.*, 659 F.3d 13, 19 (D.C. Cir. 2011) (citing *Lujan*, 504 U.S. at 560–61). And redressability requires that the injury can be remedied “by a favorable decision.” *Arpaio*, 797 F.3d at 19 (quoting *Lujan*, 504 U.S. at 561).

A. Plaintiff Lacks a Cognizable Injury

As an organization, no member of SPLC is detained in any of the facilities at issue. The actual movants are not the beneficiaries of a right to counsel, nor fear the adverse consequences if conditions at the facilities interfere with that right, which form the basis for this motion and its requested relief. *See* Memo at 4. Throughout its Motion and Memo, SPLC does not claim that any of SPLC's substantive rights that have been invaded by Defendants' response to COVID-19. Instead, SPLC asserts claims entirely on behalf of the rights of hypothetical and/or unnamed non-party clients. *E.g.*, Memo at 19 ("SPLC has a substantial likelihood of succeeding on the merits of its clients' Fifth Amendment access claims."); 24 ("SPLC has a substantial likelihood of succeeding on the merits of its clients' substantive due process claims."); 28 ("Defendants' violation of SPLC's clients' constitutional rights causes irreparable harm."); 30 ("The balance of equities and the public interest weigh in favor of restraining Defendants from violating SPLC's clients' constitutional rights."). SPLC does not explain why its clients cannot litigate in first party standing.

Though it does not do so, SPLC may assert standing on its own behalf, organizational standing requires SPLC, "like an individual plaintiff, to show actual or threatened injury in fact that is fairly traceable to the alleged illegal action and likely to be redressed by a favorable court decision." *Food & Water Watch, Inc. v. Vilsack*, 808 F.3d 905, 919 (D.C. Cir. 2015). "An organization must allege more than a frustration of its purpose because frustration of an organization's objectives 'is the type of abstract concern that does not impart standing.'" *Id.* (quoting *Nat'l Taxpayers Union, Inc. v. United States*, 68 F.3d 1428, 1433 (D.C. Cir. 1995)). SPLC's various political platforms and litigation on behalf of non-parties is insufficient to confer standing. *Spann v. Colonial Vill., Inc.*, 899 F.2d 24, 27 (D.C. Cir. 1990) (a "setback to the

organization's abstract social interests” is insufficient to confer standing). Similar assertions of mission-centric standing theory have been roundly rejected. *E.g.*, *Movimiento Democracia, Inc. v. Johnson*, 193 F. Supp. 3d 1353, 1367 (S.D. Fla. 2016) *aff’d* *Movimiento Democracia, Inc. v. Sec’y Dep’t of Homeland Sec.*, 720 F. App’x 545, 547 (11th Cir. 2017) (“If analyzed, Movimiento's failure to adequately allege an injury in fact to itself or one of its members precludes finding organizational or associational standing[.]”). For the above reasons, SPLC lacks a cognizable injury, and therefore lacks standing to petition for the relief sought in the preliminary injunction motion. *NIPNLG*, 2020 WL 2026971, at *7 (“An organizational plaintiff must ‘show that they have ‘at least one member’ who has suffered, or imminently will suffer, an injury-in-fact.’”).

B. Plaintiff’s Third Party Claim of Standing Fails

To the extent that SPLC is attempting to proceed on a third-party standing theory, this should fail. Plaintiff relies entirely on alleged harms to detained aliens to justify their own standing, “a party must assert his own legal rights and cannot rest his claim to relief on the legal rights of third parties.” *Sessions v. Morales-Santana*, 137 S. Ct. 1678, 1689 (2017). SPLC cannot assert third-party standing based on any purported right that detained aliens have to access counsel or to challenge the impact of ICE policies on aliens. *See Am. Immigration Lawyers Ass’n v. Reno (AILA)*, 199 F.3d 1352, 1364 (D.C. Cir. 2000) (rejecting third-party standing “to raise claims, whether statutory or constitutional, on behalf of aliens,” noting “the judicial presumption against suits seeking relief for a large and diffuse group of individuals, none of whom are party to the lawsuit”). That is especially so where Plaintiff purports to speak on behalf of not only its own unnamed clients, but also as to “potential clients” (*e.g.*, Memo at 13) and seeks relief on behalf of all detainees at the facilities. *See Kowalski v. Tesmer*, 543 U.S. 125, 134 (2004). In

particular, an attorney’s putative “future attorney-client relationship with as yet unascertained” clients is not a permissible basis for standing. *Id.* at 130; *see Cuban Am. Bar Ass’n, Inc. v. Christopher*, 43 F.3d 1412, 1422–23 (11th Cir. 1995) (legal organization lacked standing to assert alleged injury to aliens it did not represent); *Haitian Refugee Ctr. v. Gracey*, 809 F.2d 794, 809–10 (D.C. Cir. 1987) (similar). Organizations cannot demonstrate third-party standing based on alleged injury to “the rights of some hypothetical claimant.” *Kowalski*, 543 U.S. at 134 n.5.

Further, if Plaintiff has an attorney-client relationship with any alien adversely affected by the challenged policies, they can represent the alien in a first-party challenge to the policies. As SPLC’s declarations make clear, they can and have done so. Williams Decl. ¶¶ 5-6. The only detainee declaration is from a former detainee who has not one, but *two* sets of counsel (including SPLC) in two federal lawsuits on opposite sides of the country. *Id.*; Sanchez Martinez Decl. ¶¶ 1-2. An individual alien—including the only one who submits a declaration here—plainly can “protect his or her own interests.” *AILA*, 199 F.3d at 1358, 1362; *see Kowalski*, 543 U.S. at 129 (party invoking third-party standing must show that “the party asserting the right ha[d] a ‘close’ relationship with the person who possesses the right,” and “there [was] a ‘hindrance’ to the possessor’s ability to protect his own interests”). SPLC cannot earnestly claim that the litigants detained at the facilities cannot litigate as first parties, when dozens of them are currently doing so nationwide. In fact, SPLC’s own declarations state that they can and have litigated such claims on behalf of aliens in their own names. *E.g.*, Williams Decl. ¶¶ 5-6.

II. SPLC HAS NOT ESTABLISHED A LIKELIHOOD OF SUCCESS ON LACK OF SUBJECT MATTER JURISDICTION

Plaintiff argues that “SPLC’s clients are unable to reliably, adequately, and confidentially communicate with attorneys who can assist them in their removal cases[.]” Memo at 23. As to removal cases, the INA divests district courts of jurisdiction to review those claims because they

“aris[e] from” removal proceedings. 8 U.S.C. § 1252(b)(9). Therefore, those claims cannot form the basis for a preliminary injunction. *See Munaf v. Geren*, 553 U.S. 674, 690 (2008).

The INA states that “a petition for review filed with an appropriate court of appeals in accordance with [8 U.S.C. § 1252] shall be the sole and exclusive means for judicial review of an order of removal.” 8 U.S.C. § 1252(a)(5). The same section permits “[j]udicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States ... *only* in judicial review of a final order.” *Id.* § 1252(b)(9) (emphasis added). Through § 1252, “Congress has clearly provided that all claims—whether statutory or constitutional—that ‘aris[e] from’ immigration removal proceedings can only be brought through the petition for review process in federal courts of appeals.” *J.E.F.M.*, 837 F.3d at 1029. Section 1252(b)(9)’s channeling provisions are “breathtaking” in scope and “vise-like” in grip, swallowing up “virtually all claims that are tied to removal proceedings.” *Id.* at 1031 (quoting *Aguilar v. ICE*, 510 F.3d 1, 9 (1st Cir. 2007)). “Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether legal or factual—arising from *any* removal-related activity can be reviewed *only* through the PFR process.” *Id.*; *see also Jennings v. Rodriguez*, 138 S. Ct. 830, 840 (2018) (§ 1252(b)(9) is a “jurisdiction bar” to challenges to “any part of the process by which [an alien’s] removability will be determined”); *id.* at 841 n.3 (“the question is not whether [the *challenged action*] is an action taken to remove an alien but whether *the legal questions* in this case arise from such an action” (emphases in original)). These channeling provisions include “right-to-counsel claims” and “challenges to agency policies,” *J.E.F.M.*, 837 F.3d at 1033 and 1035 (constitutional and statutory “policies-and-practices challenges” and “right-to-counsel claims must be raised through the PFR process because they “arise from” removal

proceedings”); *Vetcher*, 316 F. Supp. 3d at 76 (similar). That includes Plaintiffs’ claims that ICE’s failure to expand its video-teleconference or telephonic-hearing policies violates their statutory or due-process rights in removal proceedings. *P.L. v. ICE*, No. 19-cv-1336, 2019 WL 2568648, at *3 (S.D.N.Y. June 21, 2019) (“Plaintiffs’ challenge to Defendants’ VTC policy arises from ‘proceeding[s] brought to remove [undocumented immigrants] from the United States.’”).

Section 1252(b)(9) channels the claims brought on behalf of third parties against EOIR into the courts of appeals. Plaintiff, as a third party, makes a challenge on behalf of all detainees’ concerning their ability to retain or consult with counsel. *See, e.g.*, Mot. 8–20, 30–37. But the right to counsel exists only “[i]n any removal proceedings,” 8 U.S.C. § 1362, so any challenge based on the deprivation of that right (and its attendant procedural-due-process challenge), “however it is framed,” is reviewable only as part of the review of a final removal order. *Martinez v. Napolitano*, 704 F.3d 620, 623 (9th Cir. 2012); *see J.E.F.M.*, 837 F.3d at 1035 (§ 1252(b)(9) bars constitutional and statutory “right-to-counsel claims”); *Aguilar*, 510 F.3d at 18 (right-to counsel and procedural-due-process claims, like claims involving “difficulties in calling witnesses and in presenting evidence at the removal proceedings,” are subject to § 1252(b)(9)); *Alvarez v. Sessions*, 338 F. Supp. 3d 1042, 1048 (N.D. Cal. 2018) (“Petitioners’ challenge based on the potential loss of counsel ‘arises from’ their removal proceedings and can only be raised through the PFR process, as required by § 1252(a)(5) and § 1252(b)(9).”).

Plaintiff cites *Arroyo v. DHS*, No. 19-cv-815, 2019 WL 2912848, at *12 (C.D. Cal. June 20, 2019), to claim that § 1252(b)(9) does not apply to claims regarding an existing attorney-client relationship. Memo 20. Section 1252(b)(9), however, applies to existing *and* prospective attorney-client relationships. *See Avilez v. Barr*, No. 2020 WL 570987, at *3 (N.D. Cal. Feb. 5,

2020) (following *Alvarez* instead of *Arroyo* because *Arroyo* is inconsistent with circuit precedent and “is not persuasive”). Likewise, Plaintiff’s reliance on *Innovation Law Lab v. Nielsen*, 310 F. Supp. 3d 1150, 1159 (D. Or. 2018), is unavailing. There, in holding the court had jurisdiction, the court emphasized that 8 U.S.C. § 1252(b)(9) only applies to removal proceedings and the detainees had never been placed in removal proceedings or served with Notices to Appear. *Id.* Here, *Innovation Law Lab* is factually distinguishable because all detainees at the facilities that SPLC represents are in removal proceedings. Second Amend Complaint ¶ 97.

Jennings, 138 S. Ct. at 841, supports the conclusion that the Court lacks jurisdiction. In *Jennings*, plaintiff on behalf of a class of similarly situated individuals brought, a writ of habeas corpus, as well as declaratory and injunctive relief concerning his detention during immigration proceedings for more than six months without a bond hearing. *Id.* at 838-39. Plaintiff asserted constitutional and statutory claims requiring individualized bond hearings. *Id.* at 841. In deciding the case was not subject to the jurisdictional bar, the Supreme Court noted that plaintiff was challenging the extent of detention authority and, “[i]f that challenge fails, [plaintiffs] are then contesting the constitutionality of the entire statutory scheme under the Fifth Amendment.” *Id.* Thus, because the extent of the government’s detention authority is not a matter of “discretionary judgment,” “action,” or “decision,” the Supreme Court had no difficulty concluding “the statutory framework that permits [plaintiffs] detention without bail,” falls outside of the scope of the INA’s jurisdictional bars. *Id.* Here, unlike *Jennings*, Plaintiff does not challenge the extent of Defendants’ authority or any statutory or regulatory framework as a whole. *Jennings*, 138 S. Ct. at 841. Rather, Plaintiff’s complaints are a challenge to operational choices regarding access to counsel capabilities at the facilities that allegedly impact the removal proceedings of individual detainees. SAC ¶ 102 (“Through SIFI, Plaintiff endeavors to provide effective and ethical

removal defense to all their detained clients.”) and Memo 31 (“A TRO would serve the public interest by ensuring the protection of SPLC’s clients’ constitutional rights and upholding the integrity of removal proceedings during the COVID-19 pandemic.”). Accordingly, the Court lacks jurisdiction to consider these claims which may only be raised in removal proceedings.

Section 1252(b)(9) also divests this Court of jurisdiction over many of SPLC’s first-party claims. “[W]hen a statute provides a detailed mechanism for judicial consideration of particular issues at the behest of particular persons, judicial review of those issues at the behest of other persons may be found to be impliedly precluded.” *Block v. Community Nutrition Institute*, 467 U.S. 340, 349 (1984). Congress’s decision to consolidate review of claims “arising from” removal proceedings, 8 U.S.C. § 1252(b)(9), into review of the final removal order itself bars organizations from challenging practices in removal proceedings or right-to-counsel claims in those proceedings on an individual alien’s behalf. *See, e.g., ASAP*, 409 F. Supp. 3d at 227 (dismissing “action for declaratory and injunctive relief brought by organizational plaintiffs”); *P.L.*, 2019 WL 2568648, at *1 (dismissing claims brought by “Organizational Plaintiffs” who “represent” “detained immigrants in removal proceedings”). Notably, in *NIPNLG*, at *8-9, the district court analyzed INA 242(a)(5), (b)(9) within the context of *Jennings* in finding that the court lacked jurisdiction because “Plaintiffs’ access-to-counsel and due process claims arise as a ‘part of the process by which removability will be determined.’ *Jennings*, 138 S. Ct. 841, and this Court thus lacks jurisdiction over them.” *Id.* at *9. The same is true here.

III. PLAINTIFF HAS NOT SHOWN A LIKELIHOOD OF SUCCESS OR ESTABLISHED AND INJURY-IN-FACT WHERE IT FAILED TO SHOW A VIOLATION OF THE CONSITUTIONAL RIGHTS OF THIRD PARTIES

It is well-established that “there is in a civil case no constitutional right to counsel.” *Koller By and Through Koller v. Richardson-Merrell, Inc.*, 737 F.2d 1038, 1052 (D.C. Cir.

1984), *vacated on other grounds sub nom. Richardson-Merrell, Inc. v. Koller*, 472 U.S. 424 (1985); *INS v. Lopez- Mendoza*, 468 U.S. 1032, 1038 (1984) (“Consistent with the civil nature of the proceeding, various protections that apply in the context of a criminal trial do not apply in a deportation hearing.”). Congress, however, has provided aliens a limited right to counsel in civil removal proceedings:

In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.

8 U.S.C. § 1362. This statutory right that Congress has afforded aliens in removal proceedings exceeds the minimum due-process requirement that an alien receive “some form of meaningful or fair hearing.” *Maldonado-Perez v. INS*, 865 F.2d 328, 32 (D.C. Cir. 1989); *Dia v. Ashcroft*, 353 F.3d 228, 243 (3d Cir. 2003) (en banc) (“[a]liens only have those statutory rights granted by Congress”). The non-parties’ procedural-due-process claim is thus subsumed by the non-parties’ statutory right-to counsel claim: “[A]n immigration hearing that satisfies the statutory requirements of [the INA] also satisfies the requirements of the due process clause.” *Skorusa v. Gonzales*, 482 F.3d 939, 943 n.1 (7th Cir. 2007).

Courts have held that the statutory right to counsel in immigration proceedings is violated only where conditions are “tantamount to denial of counsel.” *Biwot*, 403 F.3d at 1098. Whether a denial occurred requires a backward-looking inquiry into “the actual substance of the hearing,” *Lara-Torres*, 383 F.3d at 973, to determine whether the proceedings were “so fundamentally unfair that [the alien] was prevented from reasonably presenting his case,” *Gonzalez v. INS*, 82 F.3d 903, 908 (9th Cir. 1996). And, a violation of the statute alone may not violate due process

absent a showing of prejudice. *See Castro-O’Ryan v. U.S. Dep’t of Immigration and Naturalization*, 847 F.2d 1307, 1312–13 (9th Cir. 1987).

Though Plaintiff alleges various grievances—such as using the postal service, occasionally poor VTC connectivity, scheduling difficulties, delays in email responses, and a PPE requirement due to COVID-19—these allegations are of a different kind and categorically less severe than the effective denial of counsel and forced self-representation that courts have recognized as a denial of the statutory right to counsel. *See, e.g., Biwot*, 403 F.3d at 1096 (finding a violation of the statutory right to counsel when an immigration judge allowed an alien, “who was incarcerated and diligently seeking representation, only five working days to obtain counsel”); *Montes-Lopez v. Holder*, 694 F.3d 1085, 1089–90 (9th Cir. 2012) (violation where, after learning at a hearing that an alien’s counsel had been suspended from the bar, immigration judge refused to grant the alien a continuance to secure new counsel and then denied the alien’s claims for relief). And it is impossible to foretell whether Plaintiff’s allegations will have any effect on the rights of non-parties, let alone result in “substantial prejudice,” before the conclusion of proceedings. *Lara- Torres*, 383 F.3d at 973 (quotation marks omitted). Such a determination can be made only by scrutinizing “the actual substance of the hearing” after the fact. *See id.*

In support of SPLC’s motion, it submits declarations from Laura Rivera, Director of the Southeast Immigrant Freedom Initiative of the Southern Poverty Law Center (Rivera Decl. ¶ 1) and two immigration attorneys who are unaffiliated with SPLC, Benjamin Osorio and Homero Lopez. Assuming *arguendo* that the Lopez and Osorio declarations could be considered evidence of harm to SPLC and SPLC’s clients, neither declaration establishes that SPLC’s clients have been substantially prejudiced by the minor setbacks and inconveniences cited. As to their own

clients, neither Osorio nor Lopez suggest that any of their clients have been effectively denied access to counsel or that they have suffered an adverse outcome in immigration proceedings because of Defendants' COVID-19 response. *See generally* Osorio Decl.; Lopez Decl. Similarly, the Rivera declaration does not disclose the existence of any occasion in which any alien's access to counsel was restricted to a point "tantamount to denial of counsel." *Biwot v. Gonzales*, 403 F.3d 1094, 1100 (9th Cir. 2005). Therefore, SPLC has not shown any constitutional violations of the rights of non-party clients.

1. Plaintiff's own Filings Reveal No Injury Related to In-Person Visits, and No Likelihood of Success on the Merits that in-person Visitation has been Unconstitutionally Restricted

Far from establishing injury occasioned by constitutionally impermissible conduct, Plaintiff's allegations illustrate that it is experiencing the same inconveniences and unsettling that the world is facing during this crisis. SPLC alleges that Defendants' COVID-19 response have intentionally made "in-person legal visits [] functionally impossible during the COVID-19 pandemic due to a variety of factors, including the high-risk of infection and the national shortage of PPE." Memo 20. Plaintiff alleges that Defendants' policies result in a "virtual elimination of in-person visits due to Defendants' COVID-19 restrictions" which includes, namely, a PPE requirement to protect detainees. Memo 19-23. Although Plaintiff complains about "the national shortage of PPE" (Memo 23), Laura Rivera's declaration states that SPLC has access to PPE. Rivera Decl. ¶ 19 ("SIFI had the necessary personal protective equipment to fulfill the remaining requirements."). SPLC complains of a national shortage without once claiming that the shortage is affecting SPLC. Additionally, the declarations of the unaffiliated lawyers neither claim that they themselves do not possess PPE in spite of the claimed shortage, nor do they claim to have even attempted in-person visitation. *See* Osorio Decl. ¶ 8 ("Because of

a number of factors, including local and state directives on social distancing, ICE's requirements for attorneys to procure personal protective equipment (which is in short supply), and in order to limit exposure, I proceeded with preparation for this client's individual hearing via VTC.”); Lopez Decl. ¶ 12 (“... even when visitation is allowed, it is not in the interest of myself, my client, or the public health for me to conduct the visit in person.”). Indeed, as Defendants have shown, *all* of the facilities make PPE freely available to counsel visiting in person with clients. Fourth Washburn Decl. ¶¶ 30-32; Rice Decl. ¶ 41; Staiger Decl. ¶ 36; Second Paulk Decl. ¶ 9; MISSING. At PPIPC, PLC continues to perform in-person legal visits without issue. Staiger Decl. ¶ 37.

Second, SPLC omits from its argument that SPLC’s *own policy* has limited in-person visits to “certain circumstances” since “early March.” Rivera Decl. ¶ 17 (“In early March, as reports of confirmed COVID-19 cases spread across the country, SIFI adopted guidelines for in-person client visits consistent with public health experts’ advice. To reduce the risk of transmission between SIFI staff and clients, SIFI staff were required to follow certain safety precautions, *and to limit in-person visits to certain circumstances.*” (emphasis added)).

Third, in addition to SPLC’s corporate policy limiting in-person visitation, SPLC cannot earnestly claim that it does not conduct in-person visits solely because of ICE’s PPE requirement. Indeed, each declaration cites a number of reasons why they have not performed in-person visits, and any PPE requirement being the least compelling of all of them. Williams Decl. ¶ 10 (“Legal visits must be remote due to ICE’s personal protective equipment (PPE) requirement for attorney visitation, the applicable shelter-in-place and stay-at-home orders, restrictions on travel, and medical vulnerabilities of members of Habeas Counsel.”); Osorio Decl. ¶ 8 (“Because of a number of factors, including local and state directives on social

distancing, ICE's requirements for attorneys to procure personal protective equipment (which is in short supply), and in order to limit exposure, I proceeded with preparation for this client's individual hearing via VTC.”); Rivera Decl. ¶ 20 (“The combination of ICE’s PPE requirements, local and state constraints on interpersonal interactions, including shelter-in-place orders, and the recorded COVID-19 outbreaks at the four facilities, has effectively paused in-person visitation to detention centers for the foreseeable future.”). Accordingly, SPLC is unable to establish any injury from ICE’s PPE requirement, much less that ICE’s PPE requirement somehow violates a third party’s constitutional rights.

Moreover, Defendants’ PPE requirements are not only sensible, but reflect a level of flexibility. For example, at Stewart, “[a]ttorneys have visited detainees at the facility wearing surgical-type or even homemade cloth masks” and “[n]o in-person attorney visitors has been turned away for failure to bring personal protective equipment.” Fourth Washburn Decl. ¶ 4. Decisively, however, all facilities provide free PPE to legal representatives who fail to bring their own. Rice Decl. ¶ 41; Staiger Decl. ¶ 36; Second Paulk Decl. ¶ 9; Fourth Washburn Decl. ¶ 32 (subject to inventory levels). It cannot go without comment that SPLC continues in-person visits to at least one of the facilities, and could verify that PPE is freely distributed. Staiger Decl. ¶ 41. Accordingly, Plaintiff has not established any unconstitutional restriction.

2. Plaintiff’s VTC & Telephone Related Complaints do not Warrant a Preliminary Injunction

As mentioned above, SPLC has not shown that the various alleged connectivity issues, scheduling delays, and appointment mishaps warrant a preliminary injunction because Plaintiff has not shown a violation of the statutory right to access counsel or the constitutional right of access to courts. As a preliminary matter, a claim concerning “access to courts” is of a different nature than a statutory “access to counsel” claim under 8 U.S.C. § 1362, to which a Fifth

Amendment due process interest attaches. As contrasted from the statutory right of access to counsel, the *constitutional* right to access courts is not so expansive that a missed VTC appointment or phone call establishes constitutional liability. *Lewis v. Casey*, 518 U.S. 343, 351 (1996) (“an inmate cannot establish relevant actual injury simply by establishing that his prison's law library or legal assistance program is subpar in some theoretical sense.... ‘[M]eaningful access to the courts is the touchstone,’ ... and the inmate therefore must go one step further and demonstrate that the alleged shortcomings in the library or legal assistance program hindered his efforts to pursue a legal claim.” (citations omitted)). SPLC’s claim for standing is as weak on an “access to courts” claim as it is on a statutory “access to counsel” claim. *Id.* Plaintiff’s allegations of various instances of coordination failure among the facilities, unnamed attorneys (some of whom are unaffiliated with SPLC), and unnamed detainees are not only unverifiable and based on hearsay, but do not establish prejudice to any particular detainee.

Additionally, Defendants have established they comply with and exceed PBNDS requirements. In any event, the PBNDS does not form the constitutional floor, as even state statutory rights do not become constitutionalized under the Fifth Amendment. *Brown v. Grabowski*, 922 F.2d 1097, 1100 (3d Cir. 1990) (“Ultimately, however, plaintiff's theory that defendants violated Evans' right of access to the civil courts by failing to provide her with the assistance required by New Jersey law is not constitutionally cognizable. The constitutional right of access to the civil courts simply is not expansive enough to encompass th[ose] state statutory rights....”). However, SPLC has not shown a violation of the PBNDS, much less the constitutional rights of any non-party.

For example, while Plaintiff alleges that Defendants’ COVID-19 response “impedes” the non-party clients’ ability to access the courts (Memo 23), the only declaration from any non-

party alien, Aristoteles Sanchez Martinez, shows that Mr. Sanchez Martinez is successfully pursuing two federal lawsuits on opposite sides of the country. Sanchez Martinez Decl. ¶ 2 (“I am a named plaintiff in *Frailhat v. ICE*. I am also a petitioner in *Sanchez Martinez v. Donahue*.”). Though Sanchez Martinez states that he “faced many obstacles trying to speak to [his] attorneys in *Frailhat* ... and *Sanchez-Martinez v. Donohue*”, it is clear that he has not been impeded from pursuing his legal claims to the level of a constitutional violation.

The only concrete example SPLC provides of some adverse impact is from the Williams declaration, in which she states that on April 15, an attorney was unable to interview an anonymous potential client for potential inclusion in *Sanchez Martinez v. Donahue*, No. 7:20-cv-00062 (M.D. Ga.) due to Irwin personnel’s failure to immediately respond to an appointment request. Williams ¶ 19. However, this does not establish that this detainee’s constitutional right of access to courts was violated. In *Sanchez Martinez*, SPLC’s motion for a preliminary injunction—which requested immediate unconditional release—was denied. The district court concluded that “based upon the present record, the Court does not find that the only way to remedy Petitioners’ alleged constitutional violations is to release them from custody.” *A.S.M. v. Donahue*, No. 7:20-CV-62 (CDL), 2020 U.S. Dist. LEXIS 65226, at *5 (M.D. Ga. Apr. 10, 2020). No relief has been accorded in that case, which is still ongoing. Notably, the *Sanchez Martinez* petitioners added four additional detained petitioners via an amended complaint on April 24, 2020. Amended Petition (Dkt. 20), *Sanchez Martinez v. Donahue*, No. 7:20-cv-00068 (M.D. Ga.). Common to many of SPLC’s claims, because the Williams declaration is vague, Defendants cannot discern whether this “potential plaintiff” (*i.e.*, non-client detainee) was ultimately included in the litigation, or was excluded from the litigation for unrelated reasons. See Williams Decl. ¶ 19. Regardless, the fact that SPLC added detained petitioners to the

litigation midstream is, in and of itself, evidence that SPLC has had access to detainees during the pandemic.

SPLC’s remaining list of remaining grievances concerning VTC do not rise to the level of a constitutional violation, much less such a severe violation that it requires the extraordinary relief of a preliminary injunction. For example, SPLC demands a system that involves both appointments of unlimited time and duration (Request for Relief #3), but also a system that is free of delays. *See* Memo, *passim*; Rivera Decl. ¶ 24 (complaining of delays), ¶ 25 (complaining of the one-hour time limitation). The two are mutually incompatible – a system that requires Defendants permit all attorneys to take unlimited time inevitably creates backlogs, delays, and scheduling issues. Regardless of the impracticalities of SPLC’s requested relief, it is beyond the role of the Court to involve itself in the day-to-day operations of the facilities, “[i]t is the role of courts to provide relief to claimants, in individual or class actions, who have suffered, or will imminently suffer, actual harm; it is not the role of courts, but that of the political branches, to shape the institutions of government in such fashion as to comply with the laws and the Constitution.” *Lewis v. Casey*, 518 U.S. 343, 349 (1996). In this specific context, the Supreme Court has opined, “it is for the political branches of the State and Federal Governments to manage prisons in such fashion that official interference with the presentation of claims will not occur.” *Id.* Without exception, each one of Plaintiff’s preliminary injunction requests requires close supervision of each Facility by the Court. Over Defendants’ first-hand declarations contradicting the factual allegations contained in SPLC’s anonymous double-hearsay, SPLC demands that the Court engage in micromanagement of the facilities—all of which are located outside of this district—enforceable with contempt power upon any anonymized complaint of a dropped call, poor VTC connection, or scheduling misstep. *See also Valentine v. Collier*, No.

20-20207, 2020 U.S. App. LEXIS 12941, at *19 (5th Cir. Apr. 22, 2020) (“[I]t’s hard to see how an injunction that prescribes both a prisonwide testing regime and a cleaning schedule down to the half-hour interval is ‘narrowly drawn’ or the ‘least intrusive means’ available. So too with the requirement that every single sink have a sign over it with COVID-19 information. These may be salutary health measures. But that level of micromanagement, enforced upon threat of contempt, does not reflect the principles of comity commanded by the PLRA.”) (citations omitted); *Swain v. Junior*, --- F.3d ---, 2020 WL 2161317, at *5 (judicial intervention of detention facilities constitute “assum[ing] the role of ‘super-warden’ that our decisions repeatedly condemn.”) (citations omitted) As *Swain* has instructed:

[A]n “injunction hamstring[s] . . . officials with years of experience running correctional facilities, and the elected officials they report to, from acting with dispatch to respond to this unprecedented pandemic. They cannot respond to the rapidly evolving circumstances on the ground without first seeking a permission slip from the district court.”

Id.

It would be plainly unreasonable to convert every video conference with poor picture quality, any dropped phone call, or a scheduling mishap into a federal lawsuit, which would be the precise effect of the requested injunction. Moreover, while SPLC claims oversight is needed to comply with the PBNDS, much of what Plaintiff seeks is either already provided at a level greater than required by the PBNDS, or is not a PBNDS requirement. For example, SPLC ignores that the PBNDS does not require *any* generalized access to VTC, only access to telephones. PBNDS 5.6(G). Further, Defendants have far exceeded the PBNDS minimum requirement of 25 phones and a minimum limit of 20 minutes per legal call. *Supra* Factual

Background II(A)-(D). SPLC does not hide the ball on this point: the “relief SPLC seeks [] is beyond the mere enforcement of the PBNDS[.]” Memo 33.⁵

Many of SPLC’s allegations lack first-hand knowledge. For example, SPLC claims “Stewart set a weekly cap on the number of VTC calls a SIFI attorney could have with the same client” because Stewart personnel “refus[ed] counsel’s request for a two-hour session” with the same client in a single day. Memo 11. However, Stewart only has a *daily* limit of one hour per attorney-client pairing (Fourth Washburn Decl. ¶ 64), which is reasonable under the PBNDS to ensure that all detainees have “orderly and fair” access. PBNDS 5.6(V)(F)(1); Fourth Washburn Decl., ¶ 82. Next, SPLC claims that Stewart has not extended its VTC hours because “SIFI staff at Stewart reported on April 24 and April 27 that they were offered the same hours for VTC slots as before [the pandemic]—9am-3pm.” Memo 10-11. However, SPLC was apparently offered those slots because the slots between 4:00 pm and 7:00 pm had simply been booked on the requested dates. Fourth Washburn Decl. ¶ 63. All SPLC’s evidence shows is that there were six free hours each on April 24 and April 27 in which detainees could make appointments to speak with their attorneys, and that SPLC was offered a large selection of appointment times. Memo 10-11. Likewise, SPLC claims a SIFI attorney on April 16, was unable to speak to one of four individuals inside Stewart with whom he had scheduled VTCs and “was forced to reschedule the [noon] meeting with that individual for six days later, April 22.” Yet, as the Washburn Decl. ¶

⁵ SPLC misapprehends the PBNDS. *E.g.*, Compare Memo 31 (“All Facilities were always supposed to have, for example, ... legal calls unlimited in number or duration ..., but simply never have.” (citing PBNDS 5.6(V)(F)(1)), with PBNDS 5.6(V)(F)(1) (“A facility may neither restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of such calls by rule or automatic cut-off, *unless necessary for security purposes or to maintain orderly and fair access to telephones*. If time limits are necessary ..., they shall be no shorter than 20 minutes.... *A facility may place reasonable restrictions on the hours, frequency and duration of such direct and/or free calls* but may not otherwise limit a detainee’s attempt to obtain legal representation.” (emphasis added)).

67 shows, there were 24 open slots between April 13-17, and it is unknown why the SIFI attorney selected to reschedule six days later. None of these claims warrant a preliminary injunction.

Next, SPLC complains that “some SIFI staff at LaSalle have moved exclusively to using legal phone calls” and while it is within SPLC’s prerogative to make that choice, SPLC omits the fact that they are given special VTC treatment at LaSalle. Rice Decl. ¶ 34. This specialized treatment includes a daily exclusive two-hour VTC window from 5:00pm-7:00pm on one of LaSalle’s VTC consoles, provided SPLC invokes its monopoly over that time-slot by 10:00 am that morning. *Id.* Additionally, even by SPLC’s declarations, all of the facilities currently exceed the PBNDS’s minimum 1:25 ratio of telephones to detainees, and many exceed the “optimal” ratio of 1:10. Rivera Decl. ¶ 47 (“one client detained at Irwin was in a unit that was at capacity – with 32 detained individuals in 2-person cells, and three telephones in the common area for all of them to share.” (a 1:10.67 ratio)); *id.* (“Another detained individual at Irwin reported that in their unit, which is an open dorm with 40-50 bunk beds, there are 6 to 7 telephones for everyone to share.” (at worst, a 1:8.3 ratio)); *id.* (“one client reported on April 29 that their unit, which holds 92 people, has 9 telephones but only 7 that are working.” (at worst, a 1:13 ratio)); *id.* (“Another individual at Stewart is in a pod with about 60 people and 8 shared telephones.” (a 1:7.5 ratio)); *id.* (“On April 30, a client detained at LaSalle reported that there are 8 telephones in their unit that currently has about 56 individuals, but there have been up to 88 people at various points.” (at worst, a 1:11 ratio)); *id.* (“On April 30, a client detained at Pine Prairie provided that his unit, while it currently has 45 people, has had up to 56-57 people in the past and all share eight telephones.” (at worst, a 1:7.125 ratio)).

Finally, Plaintiff notes that it has “set up an internal method to allow [SPLC] to pay for these collect calls from clients at the Facilities” because—based on the allegations of anonymous member attorneys—“access to such calls is so difficult to obtain.” Memo at 14. Defendants do not agree that legal calls are difficult to obtain. Rice Decl. ¶ 37, Staiger Decl. ¶ 36; Fourth Washburn Decl. ¶¶ 55-60; Second Paulk Decl. ¶¶ 39-40. However, regardless of this factual dispute, that SPLC has established a collect-call system cuts against their claim for a preliminary injunction. If SPLC’s clients have access to SPLC through this system, SPLC’s clients have suffered *no* harm. If SPLC simply takes issues with the costs of their hotline, SPLC’s harm is monetary in nature, and SPLC has not shown that the cost of their hotline is one from which SPLC will never recover. “‘Mere injuries, however substantial, in terms of money, time and energy’ are not enough to meet the threshold for irreparable harm, a preliminary injunction will only issue when the injury is utterly, and entirely, beyond compensatory relief.” *Econ. Research Servs. v. Resolution Econ., LLC*, 140 F. Supp. 3d 47, 52 (D.D.C. 2015) (quoting *Sampson v. Murray*, 415 U.S. 61, 88 (1974)). Therefore, SPLC is not entitled to a preliminary injunction—either on behalf of itself, or on behalf of non-parties.

3. Plaintiff does not Establish a Likelihood of Success on its Third Party Postal Mail and Document Transmission-Related Constitutional Claims

Plaintiff impliedly alleges that requiring the use of the postal service during the pandemic violates third party’s statutory access to counsel rights under the INA and Fifth Amendment right to access the courts. Memo at 16-18, 23. This is so because “[p]ost mail has proven unreliable to SIFI staff” and “Defendants’ policies requiring attorneys to rely on post mail to exchange legal documents and submit parole requests is also excessive relative to any justification that may be proffered.” *Id.* at 26. Plaintiff acknowledges that the PBNDS does not require that Defendants devise an alternative system to legal mail. Memo 33.

First, Defendants note that the purpose behind requiring that legal documents be sent by post is to ensure confidentiality. *E.g.*, Fourth Washburn Decl. ¶ 73. Plaintiff's cannot demand that Defendants devise a system to provide "detained persons with documents through fax or email, for instance, at facilities where attorneys already communicate with staff through fax or email" (Memo 33) while SPLC is, in their Second Amended Complaint, attempting to hold Defendants' liable for breaching confidentiality, specifically concerning document exchanges. SAC ¶ 140; *id.* ¶ 212 ("Defendants' other agents have also inspected and commented on legal files held by attorneys and confiscated legal papers from detainees.").

Second, Plaintiff incongruently demands that Defendants engage in the very conduct that it alleges infringes the rights of third parties. The practicalities of such a system render confidentiality an impossibility; as Warden Washburn points out (with whom Facility Administrators Rice and Staiger agree), SPLC's proposed document-ferry system would likely require Defendants to inspect the documents for completeness, both when facsimiles or emails are sent and received. Fourth Washburn Decl. ¶ 73 ("Facility personnel would necessarily need to look at the documents to ensure that all pages printed correctly, or were scanned or sent..."); *see* SAC ¶ 140 ("On occasion the guards ... offer to take confidential papers from one person and deliver them to the person on the other side of the partition. Guards who do so frequently search the documents."). While Irwin has voluntarily created such a system (Second Paulk Decl. ¶¶ 59-62), it is understandable that the other facilities are hesitant to create a system that exposes itself to litigation when a constitutional, low-risk alternative is available. PBNDS at 357 ("Detainees shall be permitted to send special correspondence or legal mail to a specified class of persons and organizations, and incoming mail from these persons shall be opened only in the presence of the detainees (unless waived) to check for contraband (except when contamination is

suspected).”). Thus, “Defendants’ policies requiring attorneys to rely on post mail to exchange legal documents and submit parole requests” (Memo 23) are plainly justified by the constitutional demands with regard to the confidentiality of legal mail.

4. *Plaintiff’s Requests that the Court Order Expedited Timeframes on Humanitarian Parole Adjudications and Custody Redeterminations is Outside the Scope of Litigation*

Plaintiff’s request that the Court order Defendants to devise “a system that requires Deportation Officers to provide immigrants and their attorneys confirmation of receipt of any parole request or custody redetermination requests within 24 hours and to provide a final determination within seven (7) days.” Proposed Order at 2. The Court should deny this request for the simple reason that SPLC has not given adequate notice of the claim and that it is not brought against the proper party. Even the most liberal construction of Plaintiff’s Second Amended Complaint does not reveal any claims concerning the pace at which humanitarian parole requests are adjudicated. *See* SAC; *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Oviedo v. Wash. Metro. Area Transit Auth.*, 948 F.3d 386, 392 (D.C. Cir. 2020). Notice pleading has limits. Defendants have had no notice of SPLC’s new claims concerning humanitarian parole.

Similarly, SPLC demands that custody redeterminations be adjudicated within seven days. Proposed Order at 3. Custody redetermination hearings are conducted before an immigration judge within the Executive Office of Immigration Review. 8 U.S.C. § 1226; 8 C.F.R. § 236.1(d)(1). As such, SPLC’s request improperly seeks an *ex parte* preliminary injunction against an agency which has had no notice. Fed. R. Civ. P. 65(d)(2). The Court should deny.

Dated: May 15, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2020, I served a copy of the foregoing Defendants' Opposition to Plaintiff's Motion for Temporary Restraining Order upon Plaintiff's counsel of record via the Court's CM/ECF filing system.

/s/ David Byerley
Attorney for Defendants

Preface

In keeping with our commitment to transform the immigration detention system, U.S. Immigration and Customs Enforcement (ICE) has revised its detention standards. These new standards, known as the Performance-Based National Detention Standards 2011 (PBNDS 2011), are an important step in detention reform.

ICE is charged with removing aliens who lack lawful status in the United States and focuses its resources on removing criminals, recent border entrants, immigration fugitives, and recidivists. Detention is an important and necessary part of immigration enforcement. Because ICE exercises significant authority when it detains people, ICE must do so in the most humane manner possible with a focus on providing sound conditions and care. ICE detains people for no purpose other than to secure their presence both for immigration proceedings and their removal, with a special focus on those who represent a risk to public safety, or for whom detention is mandatory by law.

The PBNDS 2011 reflect ICE's ongoing effort to tailor the conditions of immigration detention to its unique purpose. The PBNDS 2011 are crafted to improve medical and mental health services, increase access to legal services and religious opportunities, improve communication with detainees with no or

limited English proficiency, improve the process for reporting and responding to complaints, and increase recreation and visitation.

The PBNDS 2011 are also drafted to include a range of compliance, from minimal to optimal. As such, these standards can be implemented widely, while also forecasting our new direction and laying the groundwork for future changes.

In closing, I would like to thank the ICE employees and stakeholders who provided significant input and dedicated many hours to revising these standards. I appreciate the collaboration and support in this important mission - reforming the immigration detention system to ensure it comports with our national expectations. The PBNDS 2011 are an important step in a multiyear process and I look forward to continued collaboration within ICE, with state and local governments, nongovernmental organizations, Congress, and all of our stakeholders as we move forward in reforming our detention system.

John Morton
Director

5.1 Correspondence and Other Mail

I. Purpose and Scope

This detention standard ensures that detainees shall be able to correspond with their families, the community, legal representatives, government offices and consular officials consistent with the safe and orderly operation of the facility.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities. Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Detainees shall be able to correspond with their families, the community, legal representatives, government offices and consular officials.
2. Detainees shall be notified of the facility’s rules on correspondence and other mail through the detainee handbook, or supplement, provided to

each detainee upon admittance.

3. The amount and content of correspondence detainees send at their own expense shall not be limited, except to protect public safety or facility security and order.
4. Indigent detainees shall receive a specified postage allowance to maintain community ties and necessary postage for privileged correspondence.
5. Detainees shall have access to general interest publications.
6. Incoming and outgoing mail, with the exception of special correspondence or legal mail, shall be opened to inspect for contraband and to intercept cash, checks and money orders.
7. General correspondence shall be read or rejected only to protect the safe, secure and orderly operation of the facility, and detainees shall be notified in writing when correspondence is withheld in part or in full.
8. Detainees shall be permitted to send special correspondence or legal mail to a specified class of persons and organizations, and incoming mail from these persons shall be opened only in the presence of the detainees (unless waived) to check for contraband (except when contamination is suspected).
9. Incoming and outgoing letters shall be held for no more than 24 hours and packages no more than 48 hours before distribution, excluding weekends, holidays or exceptional circumstances.
10. Detainees in Special Management Units (SMU) shall have the same correspondence privileges as detainees in the general population.
11. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the

provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

III. Standards Affected

This detention standard replaces “Correspondence and Other Mail” dated 12/2/2008.

VI. References

American Correctional Association 4th Edition, *Standards for Adult Detention Facilities*: 4-ALDF-5B-05, 5B-06, 5B-07, 5B-08, 5B-09, 5B-10, 2A-27, 2A-60, 6A-09.

V. Expected Practices

A. General

Each facility shall have written policy and procedures concerning detainee correspondence and other mail.

The quantity of correspondence a detainee may receive or send at his/her own expense shall not be limited. Facilities shall not limit detainees to postcards and shall allow envelope mailings. For reasons of safety, security and the orderly operation

of the facility, non-correspondence mail, such as packages and publications, shall be subject to certain restrictions.

B. Indigent Detainees

Ordinarily, a detainee is considered “indigent” if he/she has less than \$15.00 in his/her account. Facilities shall make a timely determination as to whether a detainee is indigent.

Each facility shall have written procedures that explain how indigent detainees can request postage at government expense. Such procedures shall also be posted in a common area where all detainees can view them.

At government expense, as determined by ICE/ERO, indigent detainees shall be permitted to post a reasonable amount of mail each calendar week (see “J. Postage Costs”) below, including the following:

1. an unlimited amount of special correspondence or legal mail, within reason;
2. three pieces of general correspondence; and/or
3. packages as deemed necessary by ICE/ERO.

C. Detainee Notification

The facility shall notify detainees of its rules on correspondence and other mail through the detainee handbook, or supplement, provided to each detainee upon admittance. At a minimum, the notification shall specify:

1. That a detainee may receive mail, the mailing address of the facility, and instructions on how envelopes shall be addressed;
2. That a detainee may send mail, the procedure for sending mail, and instructions on how outgoing mail must be addressed;
3. That general correspondence and other mail addressed to detainees shall be opened and inspected in the detainee’s presence, unless the facility administrator authorizes inspection without the detainee’s presence for security

reasons;

4. The definition of special correspondence or legal mail, including instructions on the proper labeling as “special correspondence” or “legal mail” to ensure that it is treated as privileged mail; the notification shall clearly state that it is the detainee’s responsibility to inform senders of the labeling requirement;
5. That incoming special correspondence or legal mail may only be opened in the detainee’s presence, and may be inspected for contraband, but not read, and that outgoing special correspondence or legal mail shall not be opened, inspected or read;
6. That packages may neither be sent nor received without advance arrangements approved by the facility administrator, as well as information regarding how to obtain such approval;
7. A description of mail which may be rejected by the facility and which the detainee shall not be permitted to keep in his/her possession;
8. That identity documents, such as passports, birth certificates, etc., in a detainee’s possession are contraband and may be used by ICE/ERO as evidence against the detainee or for other purposes authorized by law (however, upon request, the detainee shall be provided a copy of each document, certified by an ICE/ERO officer to be a true and correct copy; the facility shall consult ICE/ERO with any and all requests for identity documents);
9. The procedure to obtain writing implements, paper and envelopes; and
10. The procedure for purchasing postage (if any), and the rules for providing indigent and certain other detainees free postage.

The rules notification shall be posted in each housing area.

The facility shall provide key information to

detainees in languages spoken by any significant portion of the facility’s detainee population. Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

D. Processing

Detainee correspondence and other mail shall be delivered to the detainee and to the postal service on regular schedules.

1. Incoming correspondence shall be distributed to detainees within 24 hours (one business day) of receipt by the facility.
2. Outgoing correspondence shall be delivered to the postal service no later than the day after it is received by facility staff or placed by the detainee in a designated mail depository, excluding weekends and holidays.
3. An exception may be made for correspondence or other mail that requires special handling for security purposes. For example, in exceptional circumstances, special correspondence may be held for 48 hours, to verify the status of the addressee or sender.

As a routine matter, incoming mail shall be distributed to detainees on the day received by the facility. Incoming priority, overnight, certified mail and deliveries from a private package delivery service, etc., shall be recorded with detainee signatures in a logbook maintained by the facility.

E. Packages

Each facility shall implement policies and procedures concerning detainee packages.

Detainees shall not be allowed to receive or send packages without advance arrangements approved by the facility administrator. The detainee shall pay postage for packages and oversized or overweight mail.

F. Inspection of Incoming Correspondence and Other Mail

1. General Correspondence and Other Mail

All facilities shall implement procedures for the inspection of all incoming general correspondence and other mail (including packages and publications) for contraband.

Staff shall open and inspect incoming general correspondence and other mail (including packages and publications) in the presence of the detainee unless otherwise authorized by the facility administrator. Incoming general correspondence may be read to the extent necessary to maintain security, as authorized by the facility administrator.

Inspection is generally for the purpose of detecting contraband. Reading of mail, which requires approval of the facility administrator, may be conducted at random. Mail may also be read when a specific security concern arises with respect to an individual detainee, including, but not limited to, for obtaining information such as escape plots, plans to commit illegal acts and plans to violate institution rules.

2. Special Correspondence or Legal Mail

“Special correspondence” or “legal mail” shall be defined as the term for detainees’ written communications to or from any of the following:

- a. private attorneys and other legal representatives;
- b. government attorneys;
- c. judges and courts;
- d. embassies and consulates;
- e. the president and vice president of the United States;
- f. members of Congress;
- g. the Department of Justice (including the DOJ Office of the Inspector General);
- h. the Department of Homeland Security (including

U.S. Immigration and Customs Enforcement, ICE Health Services Corps, the Office of Enforcement and Removal Operations, the DHS Office for Civil Rights and Civil Liberties, and the DHS Office of the Inspector General);

- i. outside health care professionals;
- j. administrators of grievance systems; and
- k. representatives of the news media.

Correspondence shall only be treated as special correspondence or legal mail if the title and office of the sender (for incoming correspondence) or addressee (for outgoing correspondence) are unambiguously identified on the envelope, and the envelope is labeled “special correspondence” or “legal mail.”

All facilities shall implement procedures for inspecting for contraband, in the presence of the detainee, all special correspondence or legal mail. Detainees shall sign a logbook upon receipt of special correspondence and/or legal mail to verify that the special correspondence or legal mail was opened in their presence.

Staff shall neither read nor copy special correspondence or legal mail. The inspection shall be limited to the purposes of detecting physical contraband and confirming that any enclosures qualify as special correspondence or legal mail.

G. Inspection of Outgoing Correspondence and Other Mail

1. General Correspondence and Other Mail

Outgoing general correspondence and other mail may be inspected or read if:

- a. the addressee is another detainee; or
- b. there is evidence the item might present a threat to the facility’s secure or orderly operation, endanger the recipient or the public or facilitate criminal activity.

The detainee must be present when the

correspondence or other mail, including packages, is inspected, unless otherwise authorized by the facility administrator.

2. Special Correspondence or Legal Mail

Staff shall neither read nor copy outgoing special correspondence or legal mail. The inspection shall be limited to the purposes of detecting physical contraband and confirming that any enclosures qualify as special correspondence or legal mail.

Staff shall treat outgoing correspondence as special correspondence or legal mail only if the name, title and office of the recipient are clearly identified on the envelope and the envelope is labeled “special correspondence” or “legal mail.”

H. Rejection of Incoming and Outgoing Mail

All facilities shall implement policies and procedures addressing acceptable and non-acceptable mail. Detainees may receive as correspondence any material reasonably necessary for the detainee to present his/her legal claim, in accordance with this standard.

Incoming and outgoing general correspondence and other mail may be rejected to protect the security, good order or discipline of the institution; to protect the public; or to deter criminal activity.

When incoming or outgoing mail is confiscated or withheld (in whole or in part), the detainee shall be notified and given a receipt.

The facility administrator shall ordinarily consult a religious authority before confiscation of a religious item that constitutes “soft” contraband.

Correspondence and publications that may be rejected include, but are not limited to, the following.

1. Material depicting activities that present a significant risk of physical violence or group disruption (e.g., material with subjects of self-

defense or survival, weaponry, armaments, explosives or incendiary devices); however, note that newspaper articles that depict or describe violence in a detainee’s country of origin may be relevant to a detainee’s legal case and should not automatically be considered contraband;

2. Information regarding escape plots, or plans to commit illegal activities, or to violate ICE/ERO rules or facility guidelines;
3. Information regarding the production of drugs or alcohol;
4. Sexually explicit material that is obscene or prurient in nature;
5. Threats, extortion, obscenity or gratuitous profanity;
6. Cryptographic or other surreptitious code that may be used as a form of communication; or
7. Other contraband (any package received without the facility administrator’s prior authorization is considered contraband).

Both sender and addressee shall be provided written notice, signed by the facility administrator, with explanation, when the facility rejects incoming or outgoing mail. Rejected mail shall be considered contraband and handled as detailed in the next section of this standard.

A detainee may appeal rejection of correspondence through the Detainee Grievance System.

I. Contraband Recording and Handling

When an officer finds an item that must be removed from a detainee’s mail, he/she shall make a written record that includes:

1. the detainee’s name and A-number;
2. the name of the sender and recipient;
3. a description of the mail in question;
4. a description of the action taken and the reason for it;

5. the disposition of the item and the date of disposition; and
6. the officer's signature.

Prohibited items discovered in the mail shall be handled as follows:

1. A receipt shall be issued to the detainee for all cash, which shall be safeguarded and credited to the detainee's account in accordance with standard "2.5 Funds and Personal Property."
2. Identity documents (e.g., passports, birth certificates) shall be placed in the detainee's A-file and, upon request, the detainee shall be provided with a copy of the document, certified by an ICE/ERO officer to be a true and correct copy.
3. Other prohibited items found in the mail shall be handled in accordance with standard "2.3 Contraband"; however, at the discretion of the facility administrator, soft contraband may be returned to the sender.
4. The facility administrator shall ensure that facility records of the discovery and disposition of contraband are accurate and current.

J. Postage Costs

1. The facility shall not limit the amount of correspondence detainees may send at their own expense, except to protect public safety or facility security and order.
2. The facility shall provide a postage allowance at government expense under two circumstances:
 - a. to indigent detainees only; or
 - b. to all detainees, if the facility does not have a system for detainees to purchase stamps.
3. Free postage is generally limited to letters weighing one ounce or less, with exceptions allowed for special correspondence; however, in compelling circumstances, the facility may also provide free postage for general correspondence and other mail.

4. Detainees who qualify for a postage allowance as defined above shall be permitted to mail, at government expense, the following:

- a. a reasonable amount of mail each week, including at least three pieces of general correspondence;
- b. an unlimited amount of correspondence related to a legal matter, within reason, including correspondence to a legal representative, free legal service provider, any court, opposing counsel or to a consulate, potential legal representative and any court, as determined by the facility administrator; and
- c. packages containing personal property, when the facility administrator determines that storage space is limited and that mailing the property is in the government's best interest. See standard "2.5 Funds and Personal Property" for detailed information.

K. Writing Implements, Paper and Envelopes

The facility shall provide writing paper, writing implements and standard sized envelopes at no cost to detainees. Special sized envelopes may be provided to detainees at their cost.

L. Detainees in Special Management Units (SMU)

All facilities shall have written policy and procedures regarding mail privileges for detainees housed in an SMU.

Detainees in administrative or disciplinary segregation shall have the same correspondence privileges as detainees in the general population.

M. Correspondence with Representative of the News Media

A detainee may use special correspondence to communicate with representatives of news media.

A detainee may not receive compensation or anything of value for correspondence with news media, including, but not limited to, publishing under a byline. A detainee may not act as a reporter.

Representatives of news media may initiate correspondence with a detainee; however, such correspondence shall be treated as special correspondence only if the envelope is properly addressed with the name, title and office of the media representative and is clearly labeled “special correspondence.”

N. Notaries, Certified Mail and Miscellaneous Needs Associated With Legal Matters

If a detainee without legal representation requests

certain services in connection with a legal matter, such as notary public or certified mail, and has no family member, friend or community organization to provide assistance, the facility shall consult with ICE/ERO to provide the necessary services and shall assist the detainee in a timely manner.

If it is unclear whether the requested service is necessary in pursuit of a legal matter, the respective ICE Office of Chief Counsel shall be consulted.

O. Facsimile Communication

When timely communication through the mail is not possible, the facility administrator may in his/her discretion allow for a reasonable amount of communication by means of facsimile device between the detainee and his/her designated legal representatives.

5.6 Telephone Access

I. Purpose and Scope

This detention standard ensures that detainees may maintain ties with their families and others in the community, legal representatives, consulates, courts and government agencies by providing them reasonable and equitable access to telephone services.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities. Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (**) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Detainees shall have reasonable and equitable access to reasonably priced telephone services.

2. Detainees with hearing or speech disabilities shall be granted reasonable accommodations to allow for equal access to telephone services.

3. Detainees in Special Management Units (SMU) shall have access to telephones, commensurate with facility security and good order.
4. Detainees and their legal counsel shall be able to communicate effectively with each other.
5. Privacy for detainee telephone calls regarding legal matters shall be ensured.
6. Telephone access procedures shall foster legal access and confidential communications with attorneys.
7. Detainees shall be able to make free calls to the ICE/ERO-provided list of free legal service providers for the purpose of obtaining initial legal representation, to consular officials, to the Department of Homeland Security (DHS) Office of the Inspector General (OIG), and to the ICE Office of Professional Responsibility (OPR) Joint Intake Center (JIC). Indigent detainees, who are representing themselves pro se, shall be permitted free calls on an as-needed basis to family or other individuals assisting with the detainee’s immigration proceedings.
8. Telephones shall be maintained in proper working order.
9. Facilities shall strive to reduce telephone costs, including through the use of emerging telecommunications, voiceover and Internet protocol technologies.
10. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide

detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

III. Standards Affected

This detention standard replaces “Telephone Access” dated 12/2/2008.

IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-2A-65, 2A-66, 5B-11, 5B-12, 6a-02, 6A-09.

ICE/ERO *Performance-based National Detention Standards 2011*: “2.13 Staff-Detainee Communication,” in regard to monitoring and documenting telephone serviceability.

V. Expected Practices

A. Telephones and Telephone Services

1. Number

To ensure sufficient access, each facility shall provide at least one operable telephone for every 25 detainees.

***Facilities shall be operating at the optimal level when at least one telephone is provided for every ten (10) detainees.*

2. Cost

Generally, detainees or the persons they call shall be responsible for the costs of telephone calls; required exceptions are listed below.

Each facility shall provide detainees with access to reasonably priced telephone services. Contracts for such services shall comply with all applicable state and federal regulations and be based on rates and surcharges comparable to those charged to the general public. Any variations shall reflect actual costs associated with the provision of services in a detention setting. Contracts shall also provide the broadest range of calling options including, but not limited to, international calling, calling cards and collect telephone calls, determined by the facility administrator to be consistent with the requirements of sound detention facility management. Facilities shall post a list of card and calling rates in each housing unit. Facility administrators are encouraged to explore the use of new technologies which can facilitate the provision of cost effective means for enhancing detainees’ ability to communicate by telephone, such as, and not limited to, wireless and/or internet communications.

3. Maintenance

Each facility shall maintain detainee telephones in proper working order. Designated facility staff shall inspect the telephones daily, promptly report out-of-order telephones to the repair service so that required repairs are completed quickly. This information shall be logged and maintained by each Field Office. Facility staff shall notify detainees and the ICE/ERO free legal service providers of procedures for reporting problems with telephones.

ICE/ERO headquarters shall maintain and provide Field Offices a list of telephone numbers for current free legal service providers, consulates and the Department of Homeland Security’s (DHS) Office of the Inspector General (OIG), as determined by ICE. All Field Offices are responsible for ensuring facilities which house ICE detainees under their jurisdiction are provided with current pro bono legal service

information.

4. Monitoring Detainee Telephone Services

a. Facility Staff Requirements

Facility staff members are responsible for ensuring on a daily basis that telephone systems are operational and that the free telephone number list is posted. After ensuring that each phone has a dial tone, when testing equipment the officers must be able to demonstrate that an individual has the ability to make calls using the free call platform. Any identified problems must immediately be logged and reported to the appropriate facility and ICE/ERO staff. ICE/ERO staff shall review and follow up on problems reported by detainees and others.

B. Monitoring of Detainee Telephone Calls

Each facility shall have a written policy on the monitoring of detainee telephone calls. If telephone calls are monitored, the facility shall:

1. include a recorded message on its phone system stating that all telephone calls are subject to monitoring;
2. notify detainees in the detainee handbook, or equivalent, provided upon admission; and
3. at each monitored telephone, place a notice that states the following:
 - a. that detainee calls are subject to monitoring; and
 - b. the procedure for obtaining an unmonitored call to a court, a legal representative or for the purposes of obtaining legal representation.

ICE/ERO and the facility shall coordinate in posting the notice in Spanish and in the language of significant segments of the population with limited English proficiency, where practicable.

A detainee's call to a court, a legal representative, DHS OIG, DHS Civil Rights and Civil Liberties (CRCL) or for the purposes of obtaining legal

representation, may not be electronically monitored without a court order.

C. Detainee Notification

Each facility shall provide telephone access rules in writing to each detainee upon admission, and also shall post these rules where detainees may easily see them. ICE/ERO and the facility shall coordinate in posting these rules where practicable in Spanish and in the language of significant segments of the population with limited English proficiency.

Telephone access hours shall also be posted. Updated telephone and consulate lists shall be posted in detainee housing units. Translation and interpretation services shall be provided as needed.

D. Detainee Access

Each facility administrator shall establish and oversee rules and procedures that provide detainees reasonable and equitable access to telephones during established facility "waking hours" (excluding the hours between lights-out and the morning resumption of scheduled activities). Telephones shall be located in parts of the facility that are accessible to detainees. Telephone access hours shall be posted near the telephones.

Each facility shall provide detainees access to international telephone service.

Ordinarily, a facility may restrict the number and duration of general telephone calls only for the following reasons.

1. Availability

When required by the volume of detainee telephone demand, rules and procedures may include, but are not limited to, reasonable limitations on the duration and the number of calls per detainee, the use of predetermined time-blocks and institution of an advanced sign-up system.

2. Orderly Facility Operations

Calls may be restricted or limited if necessary to

prevent interference with counts, meals, scheduled detainee movements, court schedules, or other events constituting the orderly operation of the facility.

3. Emergencies

Telephone access and use may be limited in the event of escapes, escape attempts, disturbances, fires, power outages, etc. Telephone privileges may be suspended entirely during an emergency, but only with the authorization of the facility administrator or designee and only for the briefest period necessary under the circumstances. If suspension of telephone access exceeds 12 hours, ICE/ERO should be notified.

E. Direct or Free Calls

Even if telephone service is generally limited to collect calls, each facility shall permit detainees to make direct or free calls to the offices and individuals listed below. The Field Office Director shall ensure that all information is kept current and is provided to each facility. Updated lists need to be posted in the detainee housing units. A facility may place reasonable restrictions on the hours, frequency and duration of such direct and/or free calls, but may not limit a detainee's attempt to obtain legal representation. Full telephone access shall be granted in order for a detainee to contact the following:

- the Executive Office for Immigration Review or local immigration court;
- the Board of Immigration Appeals;
- federal and state courts where the detainee is or may become involved in a legal proceeding;
- consular officials;
- DHS/OIG;
- legal representatives, to obtain legal representation, or for consultation when subject to expedited removal (when a detainee is under an expedited removal order, his/her

ability to contact pro bono legal representatives shall not be restricted);

- legal service providers or organizations listed on the ICE/ERO free legal service provider list;
- United Nations High Commissioner for Refugees (UNHCR), from asylum-seekers and stateless individuals;
- federal, state or local government offices to obtain documents relevant to his/her immigration case;
- immediate family or others for detainees in personal or family emergencies or who otherwise demonstrate a compelling need (to be interpreted liberally); or
- ICE/OPR Joint Intake Center (JIC).

1. Request Forms

Free and direct calls shall be easily accessible. If detainees are required to complete request forms to make direct or free calls, facility staff must assist them as needed, especially illiterate or non-English speaking detainees. The detainees should also be permitted to seek assistance from their legal representatives, family, or other detainees.

2. Time Requirements

Staff shall allow detainees to make such calls as soon as possible after submission of requests, factoring in the urgency stated by the detainee. Access shall be granted within 24 hours of the request, and ordinarily within eight facility-established "waking hours." Staff must document and report to ICE/ERO any incident of delay beyond eight "waking hours."

3. Indigent Detainees

Ordinarily, a detainee is considered "indigent" if he/she has less than \$15.00 in his/her account for ten (10) days. A facility shall make a timely effort to determine indigence.

Indigent detainees are afforded the same telephone access and privileges as other detainees. Each facility

shall enable all detainees to make calls to the ICE/ERO-provided list of free legal service providers and consulates at no charge to the detainee or the receiving party. The indigent detainee may request a call to immediate family or others in personal or family emergencies or on an as-needed basis.

4. Phone System Limitations

If the limitations of an existing phone system preclude meeting these requirements, the facility administrator must notify ICE/ERO so that a means of telephone access may be provided.

SPCs, CDFs, and dedicated IGSAAs shall require its telephone service providers to program and keep current, the telephone system to permit detainees free calls to numbers on the official pro bono legal representation list and to consulates. Other facilities shall adopt equivalent procedures.

F. Legal Calls

1. Restrictions

A facility may neither restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of such calls by rule or automatic cut-off, unless necessary for security purposes or to maintain orderly and fair access to telephones. If time limits are necessary for such calls, they shall be no shorter than 20 minutes, and the detainee shall be allowed to continue the call at the first available opportunity, if desired.

A facility may place reasonable restrictions on the hours, frequency and duration of such direct and/or free calls but may not otherwise limit a detainee's attempt to obtain legal representation.

2. Privacy

For detainee telephone calls regarding legal matters, each facility shall ensure privacy by providing a reasonable number of telephones on which detainees can make such calls without being overheard by staff or other detainees. Absent a court order, staff may not monitor phone calls made in reference to legal

matters.

The facility shall inform detainees to contact an officer if they have difficulty making a confidential call relating to a legal proceeding. If notified of such a difficulty, the officer shall take measures to ensure that the call can be made confidentially.

Privacy may be provided in a number of ways, including:

- a. telephones with privacy panels (side partitions) that extend at least 18 inches to prevent conversations from being overheard;
- b. telephones placed where conversations may not be readily overheard by others; or
- c. office telephones on which detainees may be permitted to make such calls; and
- d. detainees shall be supervised within eyeshot, but out of earshot

G. Telephone Access for Detainees with Disabilities

The facility shall provide a TTY device or Accessible Telephone (telephones equipped with volume control and telephones that are hearing-aid compatible for detainees who are deaf or hard of hearing). Detainees who are deaf or hard of hearing shall be provided access to the TTY on the same terms as hearing detainees are provided access to telephones. Except to the extent that there are time limitations, detainees using the TTY shall be granted additional time, consistent with safety and security concerns..

If an Accessible Telephone or TTY is not available in the same location as telephones used by other detainees, detainees shall be allotted additional time to walk to and from the Accessible Telephone or TTY location. Consistent with the order and safety of the facility, the facility shall ensure that the privacy of telephone calls by detainees using Accessible Telephones or TTY is the same as other detainees using telephones.

*** The facility shall maintain other equipment, such as video relay service and video phones, for detainees who are deaf or hard of hearing.*

Accommodations shall also be made for detainees with speech disabilities.

Consistent with Standard 4.8 “Disability Identification, Assessment, and Accommodation,” the facility shall engage in an interactive and individualized process that considers whether a detainee with a disability needs any additional accommodation to access facility telephones.

H. Telephone Privileges in Special Management Units (SMU)

While there are differences in telephone access in SMU, depending on whether a detainee is in Administrative Segregation or Disciplinary Segregation, in general a detainee in either status may be reasonably restricted from using or having access to a phone for the following reasons.

- If that access is used for criminal purposes or would endanger any person, including that detainee.
- If the detainee damages the equipment provided.
- For the safety, security and good order of the facility.

In such instances, staff must clearly document why such restrictions are necessary to preserve the safety, security and good order of the facility in the appropriate SMU log. Detainees and their legal counsel shall nevertheless be accommodated in order for them to be able to communicate effectively with each other. Telephone access for legal calls, courts, government offices (including the DHS OIG and the DHS JIC) and embassies or consulates shall not be denied.

1. Administrative Segregation

Generally, detainees in administrative segregation

should receive the same privileges available to detainees in the general population, subject to any existing safety and security considerations. This requirement applies to a detainee in Administrative Segregation pending a hearing because he/she has been charged with a rule violation, as well as a detainee in Administrative Segregation for other than disciplinary reasons, such as protective custody or suicide risk.

2. Disciplinary Segregation

Detainees in Disciplinary Segregation may be restricted from using telephones to make general calls as part of the disciplinary process. Even in Disciplinary Segregation, however, detainees shall have some access for special purposes. Ordinarily, staff shall permit detainees in Disciplinary Segregation to make direct and/or free and legal calls as previously described in above in sections V.E and V.F, except in the event of compelling and documented reasons of threats to the safety, security and good order of the facility.

I. Inter-facility Telephone Calls

Upon a detainee’s request, facility staff shall make special arrangements to permit the detainee to speak by telephone with an immediate family member detained in another facility. Immediate family members include spouses, common-law spouses, parents, stepparents, foster parents, brothers, sisters, natural or adopted children and stepchildren.

Reasonable limitations may be placed on the frequency and duration of such calls. Facility staff shall liberally grant such requests to discuss legal matters and shall afford the detainee privacy to the extent practicable, while maintaining adequate security.

J. Incoming Calls

The facility shall take and deliver telephone messages to detainees as promptly as possible.

When facility staff receives an emergency telephone

call for a detainee, the caller's name and telephone number shall be obtained and promptly given to the detainee. The detainee shall be permitted to promptly return an emergency call at their own cost

within the constraints of security and safety. The facility shall enable indigent detainees to make a free return emergency call.

5.7 Visitation

I. Purpose and Scope

This detention standard ensures that detainees shall be able to maintain morale and ties through visitation with their families, the community, legal representatives and consular officials, within the constraints of the safety, security and good order of the facility.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities. Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (**) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

News media interviews and tours are outlined in standard “7.2 Interviews and Tours.”

Conjugal visits for ICE/ERO detainees are prohibited.

II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Facilities are encouraged to allow detainees to

maintain ties to their family and friends in the community. Detainees shall be able to receive visits from legal representatives, consular officials and others in the community.

2. Visits between legal representatives and assistants and an individual detainee are confidential and shall not be subject to auditory supervision. Private consultation rooms shall be available for such meetings.
3. Detainees shall be advised of their right to contact their consular representatives and receive visits from their consulate officers.
4. Facilities are encouraged to provide opportunities for both contact and non-contact visitation with approved visitors during both day and evening hours.
5. Information about visiting policies and procedures shall be readily available to the public.
6. The number of visitors a detainee may receive and the length of visits shall be limited only by reasonable constraints of space, scheduling, staff availability, safety, security and good order. Generally visits should be for the maximum period practicable but not less than one hour with special consideration given to family circumstances and individuals who have traveled long distances.
7. Visitors shall be screened and approved upon arrival and shall be required to adequately identify themselves and register to be admitted into a facility, so that safety, security and good order can be maintained.
8. A background check shall be conducted on all new volunteers prior to their being approved to provide services to detainees.
9. Each new volunteer shall complete an appropriate, documented orientation program and sign an acknowledgement of his or her understanding of the applicable rules and procedures and agreement to comply with them.

10. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

III. Standards Affected

This detention standard replaces “Visitation” dated 12/2/2008.

IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF: 5B-01, 5B-02, 5B-03, 5B-04, 2A-21, 2A-27, 2A-61, 6A-06, 7B-03, 7C-02, 7F-05, 7F-06.

ICE/ERO *Performance-based National Detention Standards 2011*:

- “2.10 Searches of Detainees”;

- “3.1 Disciplinary System”; and
- “7.2 Interviews and Tours.”

V. Expected Practices

A. Overview

Facilities that house ICE/ERO detainees shall provide visiting procedures for detainees to maintain communication with persons in the community. Safety, security and good order are always primary considerations in a detention facility, and visitors must be properly identified and attired and are subject to search upon entering the facility and at any other time. Except as otherwise permitted herein, visitors may not give anything directly to a detainee, although it may be permissible for visitors to leave certain items and funds for a detainee with a staff member, at the discretion of the facility administrator. An itemized receipt that lists funds and property brought for the detainee shall be provided to the visitor.

Any violation of the visitation rules, by the detainee, may result in disciplinary action against the detainee and introduction of contraband or other criminal violations may lead to criminal prosecution of a visitor, detainee or both.

Differences in the various conditions of each visit, including who may visit, when they may visit, how they may be approved to visit and where in the facility they may visit, are detailed later in this standard and are dependent on the type of visitation, according to the following designations:

1. social visitation: family, relatives, friends and associates; minors may be subject to special restrictions (see “I. Visits by Family and Friends” in this standard);
2. legal visitation: attorneys, other legal representatives, legal assistants (see “J. Visits by Legal Representatives and Legal Assistants” in this standard);

3. consultation visitation: for detainees subject to expedited removal (see “K. Consultation Visits for Detainees Subject to Expedited Removal” in this standard);
4. consular visitation: similar to legal visitation but with consular officials who have state department issued identification (see “L. Consular Visitation” in this standard);
5. community service organization visitation: representatives of civic, religious, cultural groups, etc. (see “M. Visits from Representatives of Community Service Organizations” in this standard); and
6. other special visitation (see “N. Other Special Visits” in this standard; for non-governmental organizations (NGO) please see standard “7.2 Interviews and Tours.”)

B. General

Each facility shall establish written visiting procedures, including a schedule and hours of visitation and make them available to the public.

Each facility administrator shall decide whether to permit contact visits, as appropriate for the facility’s physical plant and detainee population. Exceptions to this standard can be made by the facility administrator on a case-by-case basis when warranted by compelling circumstances or individual needs or conduct.

A facility administrator may temporarily restrict visiting when necessary to ensure the security and good order of the facility. Each restriction or denial of visits, including the duration of and reasons for the restriction, shall be documented in writing.

C. Notification of Visiting Rules and Hours

Each facility shall:

1. Provide written notification of visitation rules and hours in the detainee handbook or local supplement given each detainee upon admission,

and post those rules and hours where detainees can easily see them. Such information shall be posted in each housing unit.

2. Make the schedule and procedures available to the public, both in written form and telephonically. A live voice or recording shall provide telephone callers the rules and hours for all categories of visitation.
3. Post schedule, procedures and notification of visitation rules and hours in the visitor waiting area in English, Spanish and, where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

D. Visitor Logs

Each facility shall maintain a log of all general visitors, and a separate log of legal visitors. If the stated purpose of the visit is for Expedited Removal consultation, the visit shall be logged in the Legal Visitation Log. Staff shall record in the general visitors’ log:

1. the name and alien-registration number (A-number) of the detainee visited;
2. the visitor’s name and address;
3. the visitor’s relationship to the detainee; and
4. the date, arrival time and departure time.

E. Incoming Property and Funds for Detainees

In accordance with standard “2.5 Funds and Personal Property,” each facility shall have written procedures regarding incoming property and money for detainees.

The facility administrator may permit a visitor to leave cash or a money order with a designated staff member for deposit in a detainee’s account; the staff member must provide the visitor a receipt for all money or property left at the facility. Under no circumstances may visitors give property or money

directly to a detainee.

The shift supervisor must approve all items brought for detainees. The visiting room officer may not accept articles or gifts of any kind for a detainee, unless the facility administrator and/or shift supervisor has approved these items in advance.

Due to the relatively short length of stay and the fact that ICE/ERO provides all necessities, detainees may receive only minimal amounts of personal property, including:

1. small religious items;
2. religious and secular reading material (soft cover);
3. legal documents and papers;
4. pictures: 10 maximum, measuring 5" x 7" or smaller each;
5. prescription glasses;
6. dentures;
7. personal address book or pages;
8. correspondence;
9. wedding rings;
10. telephone calling cards; and
11. other items approved by the facility administrator.

F. Sanctions for Violation of Visitation and Contraband Rules

Any violation of the visitation rules by the detainee may result in disciplinary action against the detainee, including loss of visitation privileges, excluding legal and consular visits. Visiting privileges may be revoked only through the formal detainee disciplinary process. However, the facility administrator has the authority to restrict or suspend a detainee's ordinary visiting privileges temporarily when there is reasonable suspicion that the detainee has acted in a manner constituting a threat to the

safety, security or good order of the facility. Each incident shall be documented, and the restriction or suspension shall be limited to the time required to investigate and complete the disciplinary process. Legal visitation shall be suspended only if necessary to maintain the safety or security of the facility.

A visitor's failure to abide by visiting rules may result in immediate cancellation or termination of a visit and/or suspension of future visitation privileges.

Introduction of contraband or other criminal violations may lead to criminal prosecution of a visitor, a detainee or both.

G. Dress Codes for Visitors

If the facility establishes and maintains a dress code for visitors, it shall be made available to the public, e.g., posted on the facility's website, telephone message and included in the detainee handbook.

H. Visiting Room Conditions

The facility's visiting areas shall be appropriately furnished and arranged, and made as comfortable and pleasant as practicable. Also, as practicable, space shall be provided outside of the immediate visiting areas for the secure storage of visitors' coats, handbags and other personal items.

The facility administrator shall provide adequate supervision of all visiting areas, and the visiting area officer shall ensure that all visits are conducted in an orderly and dignified manner.

I. Visits by Family and Friends

1. Hours and Time Limits

Each facility shall establish a visiting schedule based on the detainee population and the demand for visits. Visits shall be permitted during set hours on Saturdays, Sundays and holidays, and to the extent practicable, facilities shall also establish visiting hours on weekdays and during evening hours. The facility shall accommodate the scheduling needs of

visitors for whom scheduled visiting hours pose a hardship, for example, authorizing special visits for family visitors.

To accommodate the volume of visitors within the limits of space and staff resources, and to ensure adequate security, the facility administrator may restrict visits (e.g., some or all detainees and visitors may be limited to visiting on Saturday or on Sunday, but not both days). ICE/ERO does not require a facility to permit every visitor to visit on both days of a weekend, nor to permit every detainee to have visits on both days of a weekend. However, to the extent practicable, ICE/ERO encourages the facility administrator to establish visiting hours for each detainee on both days of the weekend, and to try to accommodate visitors who can only visit on a specific weekend day.

The facility's written rules shall specify time limits for visits, no less than one hour, under normal conditions.

ICE/ERO encourages more generous limits when possible, especially for family members traveling significant distances. In unforeseen circumstances, such as the number of visitors exceeding visiting room capacity, the facility administrator may modify visiting periods.

2. Persons Allowed to Visit

Individuals from the following categories shall be permitted to visit, unless they pose a threat to the security and good order of the facility:

- a. **Immediate Family:** Immediate family may include mothers, fathers, stepparents, foster parents, brothers, sisters, stepbrothers, stepsisters, biological and adopted children, stepchildren, foster children and spouses, including common-law spouses.

Immediate family members detained at the same facility may visit with each other during normal visiting hours, regardless of gender, when practicable.

- b. **Minors:** Facilities should have provisions to allow for contact or non-contact visitation with minor children, stepchildren and foster children. Facilities that allow visitations by minor children, stepchildren and foster children should try to facilitate contact visitation when possible. Facilities should allow detainees to see their minor children as soon as possible after admission. Generous time allotments for visitation with minor children are recommended.

At facilities where there is no provision for visits by minors, upon request, ICE/ERO shall arrange for a visit by children, stepchildren and foster children within the first 30 days. After that time, upon request, ICE/ERO shall consider a request for transfer, when possible, to a facility that shall allow such visitation. Upon request, ICE/ERO shall continue monthly visits, if transfer is not approved, or until an approved transfer can be effected.

At the supervisor's discretion, a minor without positive identification may be admitted if the accompanying adult visitor vouches for his/her identity. Minors must remain under the direct supervision of an adult visitor so as not to disturb other visitors, and excessively disruptive conduct by minors may result in termination of the visit.

- c. Others may include grandparents, uncles, aunts, in-laws, cousins, nieces, nephews, non-relatives and friends.

3. Visitor Identification and Search Procedures

Staff shall verify each adult visitor's identity before admitting him/her to the facility. No adult visitor may be admitted without government-issued photo identification. All visitors shall be subject to identification and personal search in accordance with standard "2.4 Facility Security and Control."

The facility administrator may establish a procedure for random criminal background and warrant checks for the purpose of ensuring facility safety, security

and good order. Visitors shall not be precluded from visiting a detainee solely because of a past conviction. Facilities can exclude visitors based on an examination of the underlying conduct of the conviction.

Staff shall escort visitors to the visiting room only after completing identification and inspection as provided in the facility's written procedures. All visitors are subject to a personal search, which may include a pat ("pat-down") search as well as a visual inspection of purses, briefcases, packages and other containers. Written procedures shall be publicly available to inform visitors that they are subject to search procedures. Any person who refuses to be searched is prohibited from visiting a detainee.

In each facility, written procedures shall provide for the prevention, cancellation or termination of any visit that appears to pose a threat to safety, security or good order. Visiting area officers or other staff, who believe a situation poses such a threat, shall alert the shift supervisor or equivalent; the supervisor may then prevent, cancel or terminate the visit.

The inspecting officer may ask the visitor to open a purse, briefcase, package, and other container for visual inspection of its contents. If warranted, the officer may ask the visitor to remove the contents and place them on a table; however, the officer may not place his or her hands inside the container. Facilities shall provide and promote visitors' use of lockers or a secure area provided for safekeeping of personal belongings during visits.

Only an officer with the rank of supervisor or above may deny or cancel a visit. In those cases, the officer shall document his or her action in a memorandum sent through official channels to the facility administrator. The visiting room officer, with concurrence from the shift supervisor, may terminate visits involving inappropriate behavior.

Facilities shall not require approved visitor lists from ICE/ERO detainees.

4. Contact Visits

Written procedures shall detail the limits and conditions of contact visits in facilities that permit them. Ordinarily, within the bounds of propriety, handshaking, embracing and kissing are permitted only at the beginning and end of the visit; however, staff may limit physical contact to minimize opportunities for contraband introduction and to otherwise maintain the orderly operation of the visiting area.

Detainees receiving contact visits shall be given a thorough pat-down search prior to entering the visiting room. Upon exiting, searches of detainees shall be conducted in accordance with facility policy and procedures, which should be reflective of such factors as:

- a. the nature of the facility;
- b. whether the facility houses detainees pending trial for violent or drug-related crimes;
- c. the availability of appropriate screening devices; monitoring technology; and/or
- d. concern for contraband entering the facility.

A facility may only adopt a policy permitting strip searches after contact visits in the absence of reasonable suspicion if detainees have the right to choose non-contact visitation instead. Detainees must be fully informed of that option and the policy generally in a language or manner they understand. The facility must document all strip searches that are performed based on such policy.

5. Visits for Administrative and Disciplinary Segregation Detainees

While in administrative or disciplinary segregation status, a detainee ordinarily retains visiting privileges.

Segregated detainees may ordinarily use the visiting room during normal visiting hours. However, the facility may restrict or disallow visits for a detainee who violates visiting rules or whose behavior

indicates that he/she may be a threat to the security or good order of the visiting room.

Under no circumstances may detainees be permitted to participate in visitation while in restraints. If the detainee's behavior warrants restraints, the visit may not be granted under general population visiting conditions. Any restriction or denial of visits shall be documented in writing.

Detainees in protective custody, and violent and/or disruptive detainees, shall not use the visitation room during normal visitation hours. In cases in which a visit may present an unreasonable security risk, visits may be disallowed for a particular detainee.

J. Visits by Legal Representatives and Legal Assistants

1. General

In visits referred to as "legal visitation," each detainee may meet privately with current or prospective legal representatives and their legal assistants. Legal visits may not be terminated for routine official counts.

2. Hours

Each facility shall permit legal visitation seven days a week, including holidays, for a minimum of eight hours per day on regular business days (Monday through Friday), and a minimum of four hours per day on weekends and holidays.

The facility shall provide notification of the rules and hours for legal visitation as specified above. This information shall be prominently posted in the waiting areas and visiting areas and in the housing units.

On regular business days, legal visitations may proceed through a scheduled meal period, and the detainee shall receive a tray or sack meal after the visit.

In emergency circumstances, facilities may consider

requests from legal representatives for extended visits or visits outside normal facility visiting hours.

3. Persons Allowed to Visit

Subject to the restrictions stated below, individuals in the following categories may visit detainees to discuss legal matters:

- a. **Attorneys and Other Legal Representatives:** An attorney is any person who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth or the District of Columbia, and is not under an order of any court suspending, enjoining, restraining, disbaring or otherwise restricting him/her in the practice of law.

A legal representative is an attorney or other person representing another in a matter of law, including: law students or law graduates not yet admitted to the bar under certain conditions; accredited representatives; and accredited officials and attorneys licensed outside the United States. See 8 C.F.R. § 292.1 for more detailed definitions of these terms.
- b. **Legal Assistants:** Upon presentation of a letter of authorization from the legal representative under whose supervision he/she is working, an unaccompanied legal assistant may meet with a detainee during legal visitation hours. The letter shall state that the named legal assistant is working on behalf of the supervising legal representative for purposes of meeting with the ICE/ERO detainee(s).
- c. **Translators and Interpreters:** The facility shall permit translators and interpreters to accompany legal representatives and legal assistants on legal visits, subject to "Visitor Identification and Search Procedures" detailed above.
- d. **Messengers:** The facility shall permit messengers (who are not legal representatives or legal assistants) to deliver documents to and from the facility, but not to visit detainees.

4. Identification of Legal Representatives and Legal Assistants

Prior to each visit, all legal representatives and assistants shall be required to provide appropriate identification, such as a bar card from any state, a document demonstrating partial or full accreditation from the U.S. Department of Justice (DOJ) Executive Office for Immigration Review (EOIR), or a letter of authorization from the legal representative or attorney under whose supervision the individual is working as detailed above.

Legal representatives and legal assistants shall not be asked to state the legal subject matter of the meeting.

Legal representatives and legal assistants are subject to a non-intrusive search—such as a pat-down search of the person or a search of the person’s belongings—at any time for the purpose of ascertaining the absence of contraband.

5. Identification of Detainee to Be Visited

While identification by A-number is preferable, a facility may not require legal representatives and assistants to submit a detainee’s A-number as a condition of visiting. Where the legal representative or assistant provides alternative information sufficient to reasonably identify the specific detainee, the facility shall make a good-faith effort to locate a detainee.

6. Call-Ahead Inquiries

Each facility shall establish a written procedure to allow legal representatives and assistants to telephone the facility in advance of a visit to determine whether a particular individual is detained there. The request must be made to the on-site ICE/ERO staff or, where there is no resident staff, to the ICE/ERO office with jurisdiction over the facility.

7. Pre-Representation Meetings

During the regular hours for legal visitation, the facility shall permit detainees to meet with prospective legal representatives or legal assistants.

The facility shall document such “prerepresentation meetings” in the logbook for legal visitation.

To meet with a detainee, a legal service provider’s representative need not complete a Form G-28 (stating that he/she is legal representatives of the detainee) at the “pre-representation” stage.

8. Form G-28 and Attorney/Client Meetings

Attorneys representing detainees on legal matters unrelated to immigration are not required to complete a Form G-28.

Once an attorney-client relationship has been established, or if an attorney-client relationship already exists, the legal representative shall complete and submit a Form G-28, available in the legal visitation reception area. Staff shall collect completed forms and forward them to ICE/ERO.

9. Private Meeting Room and Interruption for Head Counts

Visits between legal representatives or legal assistants and an individual detainee are confidential and shall not be subject to auditory supervision. Private consultation rooms shall be available for such meetings.

Officers may terminate legal visits at the end of the allotted time or to maintain security, but not for routine official counts.

Staff shall not be present in the confidential area during the meeting unless the legal representative or legal assistant requests the presence of an officer; however, as long as staff cannot overhear the conversation, staff may observe such meetings visually through a window or camera, to the extent necessary to maintain security.

When a situation arises in which private conference rooms are in use and the attorney wishes to meet in a regular or alternate visiting room, the request shall be accommodated to the extent practicable. Such meetings shall be afforded the greatest possible degree of privacy under the circumstances.

10. Materials Provided to Detainees by Legal Representatives

The facility's written legal visitation procedures must provide for the exchange of documents between a detainee and the legal representative or assistant, even when contact visitation rooms are unavailable.

Documents or other written material provided to a detainee during a visit with a legal representative shall be inspected but not read. Detainees are entitled to retain legal material received for their personal use. Quantities of blank forms or self-help legal material in excess of those required for personal use may be held for the detainee with his/her property. The detainee shall be permitted access to these documents utilizing the established avenues of communication.

11. Administrative and Disciplinary Segregation

Detainees in administrative or disciplinary segregation shall be allowed legal visitation. If the facility administrator considers special security measures necessary, he/she shall notify the legal service provider of the security concerns prior to the meeting.

12. Group Legal Meetings

Upon request of a legal representative or assistant, the facility administrator may permit a confidential meeting (with no officer present) involving the requester and two or more detainees. This may occur for various purposes (e.g., pre-representational, representational, removal-related). The facility shall grant such requests to the greatest extent practicable, if it has the physical capacity and if the meeting shall not interfere with the safety, security and good order of the facility. Each facility administrator shall limit detainee attendance according to the practical concerns of the facility, or the security concerns associated with the meeting in question.

See also standard "6.4 Legal Rights Group Presentations."

13. ICE/ERO-Provided List of Free Legal Service

Providers and Detainee Sign-Up

ICE/ERO shall provide each facility the official list of local free legal service providers, updated quarterly by the local DOJ Executive Office for Immigration Review. The facility shall promptly and prominently post the current list in detainee housing units and other appropriate areas.

Any legal organization or individual on the current list may write the facility administrator to request the posting and/or general circulation of a sign-up sheet.

The facility administrator shall then notify detainees of the availability of the sign-up sheet and according to established procedures, ensure coordination with the pro bono organization.

14. Legal Visitation Log

Staff shall maintain a separate log to record all legal visitors, including those denied access to the detainee. The log shall include the reason(s) for denying access.

Log entries shall include the following information:

- a. date;*
- b. time of arrival;*
- c. visitor's name;*
- d. visitor's address;*
- e. supervising attorney's name (if applicable);*
- f. detainee's name and A-number;*
- g. whether the detainee currently has a G-28 on file;*
- h. time visit began; and*
- i. time visit ended.*

Staff shall also record any important comments about the visit.

15. Availability of Legal Visitation Policy

The facility's written legal visitation policy shall be available upon request. The site-specific policy shall specify visitation hours, procedures and standards

and address, at a minimum, the following:

- a. telephone inquiries;
- b. dress code;
- c. legal assistants working under the supervision of an attorney;
- d. pre-representational meetings;
- e. Form G-28 requirements;
- f. identification and search of legal representatives;
- g. identification of visitors;
- h. materials provided to detainees by legal representatives;
- i. confidential group legal meetings; and
- j. detainee sign-up.

K. Consultation Visits for Detainees Subject to Expedited Removal

1. General

Detainees who are subject to expedited removal and who have been referred to an asylum officer are entitled by statute and regulation to consult with persons of the detainee's choosing, both prior to the interview and while the asylum officer's decision is under review. Such consultation visitation is for the general purpose of discussing immigration matters, not for purely social visits covered earlier.

- a. The consultation visitation period begins before any interview with an asylum officer and continues while the asylum officer's determination is under review by the supervisory asylum officer or immigration judge.
- b. The consultation visitation period ends with the issuance of a Notice to Appear and once the detainee is placed in removal proceedings before an immigration judge; however, the detainee retains legal and other visitation privileges in accordance with this standard.

"Consultation visitation" may neither incur

government expense nor unduly delay the removal process.

2. Method of Consultation

Because expedited removal procedures occur within short time frames, each facility shall develop procedures that liberally allow for consultation visitation, to ensure compliance with statutory and regulatory requirements and to prevent delay in the expedited removal process. Given the time constraints, consultation by mail is highly discouraged.

Facility staff shall ensure that consultation, whether in person, by telephone or by electronic means, proceed without hindrance. Staff shall be sensitive to individual circumstances when resolving consultation-related issues.

Consultation visitation shall be allowed during legal visitation hours and during general visitation hours. If necessary to meet demand, the facility administrator shall increase consultation visiting hours.

3. Persons Allowed to Visit for Consultation Purposes

Detainees subject to expedited removal may consult whomever they choose, in person, by phone or by other electronic means, at any time during the first 48 hours of detention. Consultants might include, but are not limited to, attorneys and other legal representatives, prospective legal representatives, legal assistants, members of non-governmental organizations (NGOs) and friends and family.

Consultants are subject to the same identification and security screening procedures as general visitors. If documented security concerns preclude an in-person visit with a particular individual, the facility administrator shall arrange for consultation by telephone or other electronic means. If security reasons also preclude consultation by telephone or other electronic means, the facility administrator, through the Field Office Director, shall consult the respective ICE Office of Chief Counsel.

4. Privacy

Consultation visits, whether in person, by telephone or other electronic means, shall receive the same privacy as communications between legal representatives and detainees.

5. Admittance for Asylum Officer Interview

Detainees subject to expedited removal may bring and consult advisors during the asylum officer interview. The presence of persons to consult is also allowed during the Immigration Judge's review of a negative credible fear determination, at the judge's discretion.

6. Log

Staff shall record consultation visits in the legal visitation log.

7. Form G-28 for Consultation Visits

Visitors are not required to file a Form G-28 to participate in a consultation visit or provide consultation during an asylum officer interview or Immigration Judge's review of a negative credible fear determination. This stipulation applies even if the visitor is an attorney or legal representative.

8. Other Considerations for Consultation Visits

The above procedures for "Visits by Legal Representatives and Legal Assistants" apply to other considerations in regard to consultation visits such as the following:

- a. group consultations;
- b. call-ahead inquiries;
- c. searches;
- d. detainee identification;
- e. materials provided to detainees by the visitor;
- f. consultation visits for detainees in administrative and disciplinary segregation;
- g. pro-bono list and detainee sign-up; and
- h. availability of consultation visitation policy.

L. Consular Visitation

According to international agreements and under regulation 8 C.F.R. § 236.1, detainees must be advised of their right to consular access and ICE/ERO shall facilitate the detainee's access to consular officers. ICE/ERO policy and practice stipulate that all detained individuals be provided with notice, through the facility administrator, of their right to contact their consular representative(s) and receive visits from their consulate officer(s).

The facility administrator shall ensure that all detainees are notified of and afforded the right to contact and receive visits from their consular officers. The same hours, privacy and conditions that govern legal visitation apply to consular visitation. Consular visits may be permitted at additional times outside normal visitation hours, with the facility administrator's prior authorization.

To conduct such visits, consular officers must present Department of State-issued identification.

M. Visits from Representatives of Community Service Organizations

The facility administrator may approve visits to one or more detainees by individuals or groups representing community service organizations, including civic, religious, cultural, therapeutic and other groups. Volunteers may provide a special religious, educational, therapeutic or recreational activity.

The facility administrator's approval shall take into account such factors as:

1. safety and security considerations;
2. availability of detention personnel to supervise the activity; and
3. sufficient advance notification to the facility administrator.

Detainees' immediate family and other relatives, friends and associates, as detailed above under

“Persons Allowed to Visit,” may not serve as volunteers.

To inform the facility administrator’s decision, facility staff (such as chaplains and recreation specialists) shall verify the organization’s bona fide interests and qualifications for this kind of service.

Groups and/or individuals from those groups must:

- 1. Provide the facility with advance notification of the names, dates of birth and social security numbers or unexpired passport number of the group members who shall be visiting;*

All volunteers, regardless of title or position, are subject to a background check that includes, but is not limited to, a criminal history check, verification of identity and occupation and verification of credentials for the type of activity involved;

- 2. Provide identification for individual members of the group upon arrival at the facility.*

Standard “2.4 Facility Security and Control” details procedures for checking a visitor’s identity, issuing visitor passes and accounting for visitors while they are in the facility;

- 3. Comply with visitation rules: each approved volunteer shall receive an appropriate orientation to the facility, and shall acknowledge his/her understanding of rules and procedures by signing an agreement to comply with them, particularly in regard to permissible behavior and relationships with detainees. The orientation and signed agreement shall include at a minimum, the following functions:*

- a. specify lines of authority, responsibility and accountability for volunteers; and*
- b. prohibit volunteers from:*
 - 1) using their official positions to secure privileges for themselves or others;*
 - 2) engaging in activities that constitute a*

conflict of interest; and

- 3) accepting any gift from or engaging in personal business transactions with a detainee or a detainee’s immediate family.*

All volunteers shall be held accountable for compliance with the rules and procedures.

- 4. Read and sign a waiver of liability that releases ICE/ERO of all responsibility in case of injury during the visit before being admitted to any secure portion of the facility or location where detainees are present.*

N. Other Special Visits

1. Independent Medical Service Providers and Experts

A detainee or his/her legal representative may seek an independent medical or mental health examination to develop information useful in administrative proceedings, in accordance with “EE. Examinations by Independent Medical Service Providers and Experts” found in standard 4.3 “Medical Care.” Once the Field Office Director has approved the request for an independent examination, the facility shall provide a location for the examination but no medical equipment or supplies and the examination must be arranged and conducted in a manner consistent with maintaining the security and good order of the facility.

2. Law Enforcement Officials’ Visits

Facility visitation procedures shall cover law enforcement officials requesting interviews with detainees. Facilities shall notify and seek approval from ICE/ERO of any proposed law enforcement officer visit with a detainee.

3. Visitation by Former Detainees or Aliens in Proceedings

Former ICE/ERO detainees, individuals with criminal records and individuals in deportation proceedings shall not be automatically excluded from visitation. Individuals in any of these categories

must so notify the facility administrator before registering for visitation privileges. The facility administrator shall weigh the nature and extent of an individual's criminal record and/or prior conduct against the benefits of visitation in determining visitation privileges. A potential visitor's failure to disclose such matters may preclude visitation privileges.

4. Business Visitors

A detainee may not actively engage in business or professional interests or activities; however, in the event that a detainee must make a decision that shall substantially affect the assets or prospects of a

business, the facility administrator may permit a special visit.

ICE/ERO does not recognize or sanction any work-release program.

5. Visiting Rules Regarding Animals

Each facility shall establish and disseminate a policy and implementing procedures governing whether and, if so, under what circumstances animals may accompany human visitors onto or into facility property.

However, service animals shall be permitted to accompany all persons with disabilities.

Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities

This interim guidance is based on what is currently known about the transmission and severity of coronavirus disease 2019 (COVID-19) as of **March 23, 2020**.

The US Centers for Disease Control and Prevention (CDC) will update this guidance as needed and as additional information becomes available. Please check the following CDC website periodically for updated interim guidance: <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

This document provides interim guidance specific for correctional facilities and detention centers during the outbreak of COVID-19, to ensure continuation of essential public services and protection of the health and safety of incarcerated and detained persons, staff, and visitors. Recommendations may need to be revised as more information becomes available.

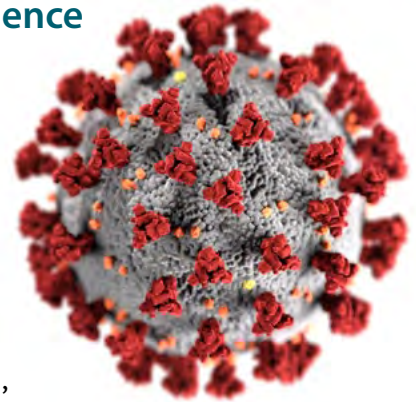
In this guidance

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- Prevention
- Management
- Infection Control
- Clinical Care of COVID-19 Cases
- Recommended PPE and PPE Training for Staff and Incarcerated/Detained Persons
- Verbal Screening and Temperature Check Protocols for Incarcerated/Detained Persons, Staff, and Visitors

Who is the intended audience for this guidance?

This document is intended to provide guiding principles for healthcare and non-healthcare administrators of correctional and detention facilities (including but not limited to federal and state prisons, local jails, and detention centers), law enforcement agencies that have custodial authority for detained populations (i.e., US Immigration and Customs Enforcement and US Marshals Service), and their respective health departments, to assist in preparing for potential introduction, spread, and mitigation of COVID-19 in their facilities. In general, the document uses terminology referring to correctional environments but can also be applied to civil and pre-trial detention settings.

This guidance will not necessarily address every possible custodial setting and may not use legal terminology specific to individual agencies' authorities or processes. **The guidance may need to be adapted based on individual facilities' physical space, staffing, population, operations, and other resources and conditions.** Facilities should contact CDC or their state, local, territorial, and/or tribal public health department if they need assistance in applying these principles or addressing topics that are not specifically covered in this guidance.



cdc.gov/coronavirus

Why is this guidance being issued?

Correctional and detention facilities can include custody, housing, education, recreation, healthcare, food service, and workplace components in a single physical setting. The integration of these components presents unique challenges for control of COVID-19 transmission among incarcerated/detained persons, staff, and visitors. Consistent application of specific preparation, prevention, and management measures can help reduce the risk of transmission and severe disease from COVID-19.

- Incarcerated/detained persons live, work, eat, study, and recreate within congregate environments, heightening the potential for COVID-19 to spread once introduced.
- In most cases, incarcerated/detained persons are not permitted to leave the facility.
- There are many opportunities for COVID-19 to be introduced into a correctional or detention facility, including daily staff ingress and egress; transfer of incarcerated/detained persons between facilities and systems, to court appearances, and to outside medical visits; and visits from family, legal representatives, and other community members. Some settings, particularly jails and detention centers, have high turnover, admitting new entrants daily who may have been exposed to COVID-19 in the surrounding community or other regions.
- Persons incarcerated/detained in a particular facility often come from a variety of locations, increasing the potential to introduce COVID-19 from different geographic areas.
- Options for medical isolation of COVID-19 cases are limited and vary depending on the type and size of facility, as well as the current level of available capacity, which is partly based on medical isolation needs for other conditions.
- Adequate levels of custody and healthcare staffing must be maintained to ensure safe operation of the facility, and options to practice social distancing through work alternatives such as working from home or reduced/alternate schedules are limited for many staff roles.
- Correctional and detention facilities can be complex, multi-employer settings that include government and private employers. Each is organizationally distinct and responsible for its own operational, personnel, and occupational health protocols and may be prohibited from issuing guidance or providing services to other employers or their staff within the same setting. Similarly, correctional and detention facilities may house individuals from multiple law enforcement agencies or jurisdictions subject to different policies and procedures.
- Incarcerated/detained persons and staff may have [medical conditions that increase their risk of severe disease from COVID-19](#).
- Because limited outside information is available to many incarcerated/detained persons, unease and misinformation regarding the potential for COVID-19 spread may be high, potentially creating security and morale challenges.
- The ability of incarcerated/detained persons to exercise disease prevention measures (e.g., frequent handwashing) may be limited and is determined by the supplies provided in the facility and by security considerations. Many facilities restrict access to soap and paper towels and prohibit alcohol-based hand sanitizer and many disinfectants.
- Incarcerated persons may hesitate to report symptoms of COVID-19 or seek medical care due to co-pay requirements and fear of isolation.

CDC has issued separate COVID-19 guidance addressing [healthcare infection control](#) and [clinical care of COVID-19 cases](#) as well as [close contacts of cases](#) in community-based settings. Where relevant, community-focused guidance documents are referenced in this document and should be monitored regularly for updates, but they may require adaptation for correctional and detention settings.

This guidance document provides additional recommended best practices specifically for correctional and detention facilities. **At this time, different facility types (e.g., prison vs. jail) and sizes are not differentiated. Administrators and agencies should adapt these guiding principles to the specific needs of their facility.**

What topics does this guidance include?

The guidance below includes detailed recommendations on the following topics related to COVID-19 in correctional and detention settings:

- ✓ Operational and communications preparations for COVID-19
- ✓ Enhanced cleaning/disinfecting and hygiene practices
- ✓ Social distancing strategies to increase space between individuals in the facility
- ✓ How to limit transmission from visitors
- ✓ Infection control, including recommended personal protective equipment (PPE) and potential alternatives during PPE shortages
- ✓ Verbal screening and temperature check protocols for incoming incarcerated/detained individuals, staff, and visitors
- ✓ Medical isolation of confirmed and suspected cases and quarantine of contacts, including considerations for cohorting when individual spaces are limited
- ✓ Healthcare evaluation for suspected cases, including testing for COVID-19
- ✓ Clinical care for confirmed and suspected cases
- ✓ Considerations for persons at higher risk of severe disease from COVID-19

Definitions of Commonly Used Terms

Close contact of a COVID-19 case—In the context of COVID-19, an individual is considered a close contact if they a) have been within approximately 6 feet of a COVID-19 case for a prolonged period of time or b) have had direct contact with infectious secretions from a COVID-19 case (e.g., have been coughed on). Close contact can occur while caring for, living with, visiting, or sharing a common space with a COVID-19 case. Data to inform the definition of close contact are limited. Considerations when assessing close contact include the duration of exposure (e.g., longer exposure time likely increases exposure risk) and the clinical symptoms of the person with COVID-19 (e.g., coughing likely increases exposure risk, as does exposure to a severely ill patient).

Cohorting—Cohorting refers to the practice of isolating multiple laboratory-confirmed COVID-19 cases together as a group, or quarantining close contacts of a particular case together as a group. Ideally, cases should be isolated individually, and close contacts should be quarantined individually. However, some correctional facilities and detention centers do not have enough individual cells to do so and must consider cohorting as an alternative. See [Quarantine](#) and [Medical Isolation](#) sections below for specific details about ways to implement cohorting to minimize the risk of disease spread and adverse health outcomes.

Community transmission of COVID-19—Community transmission of COVID-19 occurs when individuals acquire the disease through contact with someone in their local community, rather than through travel to an affected location. Once community transmission is identified in a particular area, correctional facilities and detention centers are more likely to start seeing cases inside their walls. Facilities should consult with local public health departments if assistance is needed in determining how to define “local community” in the context of COVID-19 spread. However, because all states have reported cases, all facilities should be vigilant for introduction into their populations.

Confirmed vs. Suspected COVID-19 case—A confirmed case has received a positive result from a COVID-19 laboratory test, with or without symptoms. A suspected case shows symptoms of COVID-19 but either has not been tested or is awaiting test results. If test results are positive, a suspected case becomes a confirmed case.

Incarcerated/detained persons—For the purpose of this document, “incarcerated/detained persons” refers to persons held in a prison, jail, detention center, or other custodial setting where these guidelines are generally applicable. The term includes those who have been sentenced (i.e., in prisons) as well as those held for pre-trial (i.e., jails) or civil purposes (i.e., detention centers). Although this guidance does not specifically reference individuals in every type of custodial setting (e.g., juvenile facilities, community confinement facilities), facility administrators can adapt this guidance to apply to their specific circumstances as needed.

Medical Isolation—Medical isolation refers to confining a confirmed or suspected COVID-19 case (ideally to a single cell with solid walls and a solid door that closes), to prevent contact with others and to reduce the risk of transmission. Medical isolation ends when the individual meets pre-established clinical and/or testing criteria for release from isolation, in consultation with clinical providers and public health officials (detailed in guidance [below](#)). In this context, isolation does NOT refer to punitive isolation for behavioral infractions within the custodial setting. Staff are encouraged to use the term “medical isolation” to avoid confusion.

Quarantine—Quarantine refers to the practice of confining individuals who have had close contact with a COVID-19 case to determine whether they develop symptoms of the disease. Quarantine for COVID-19 should last for a period of 14 days. Ideally, each quarantined individual would be quarantined in a single cell with solid walls and a solid door that closes. If symptoms develop during the 14-day period, the individual should be placed under [medical isolation](#) and evaluated for COVID-19. If symptoms do not develop, movement restrictions can be lifted, and the individual can return to their previous residency status within the facility.

Social Distancing—Social distancing is the practice of increasing the space between individuals and decreasing the frequency of contact to reduce the risk of spreading a disease (ideally to maintain at least 6 feet between all individuals, even those who are asymptomatic). Social distancing strategies can be applied on an individual level (e.g., avoiding physical contact), a group level (e.g., canceling group activities where individuals will be in close contact), and an operational level (e.g., rearranging chairs in the dining hall to increase distance between them). Although social distancing is challenging to practice in correctional and detention environments, it is a cornerstone of reducing transmission of respiratory diseases such as COVID-19. Additional information about social distancing, including information on its use to reduce the spread of other viral illnesses, is available in this [CDC publication](#).

Staff—In this document, “staff” refers to all public sector employees as well as those working for a private contractor within a correctional facility (e.g., private healthcare or food service). Except where noted, “staff” does not distinguish between healthcare, custody, and other types of staff including private facility operators.

Symptoms—[Symptoms of COVID-19](#) include fever, cough, and shortness of breath. Like other respiratory infections, COVID-19 can vary in severity from mild to severe. When severe, pneumonia, respiratory failure, and death are possible. COVID-19 is a novel disease, therefore the full range of signs and symptoms, the clinical course of the disease, and the individuals and populations most at risk for disease and complications are not yet fully understood. Monitor the [CDC website](#) for updates on these topics.

Facilities with Limited Onsite Healthcare Services

Although many large facilities such as prisons and some jails usually employ onsite healthcare staff and have the capacity to evaluate incarcerated/detained persons for potential illness within a dedicated healthcare space, many smaller facilities do not. Some of these facilities have access to on-call healthcare staff or providers who visit the facility every few days. Others have neither onsite healthcare capacity nor onsite medical isolation/quarantine space and must transfer ill patients to other correctional or detention facilities or local hospitals for evaluation and care.

The majority of the guidance below is designed to be applied to any correctional or detention facility, either as written or with modifications based on a facility's individual structure and resources. However, topics related to healthcare evaluation and clinical care of confirmed and suspected COVID-19 cases and their close contacts may not apply directly to facilities with limited or no onsite healthcare services. It will be especially important for these types of facilities to coordinate closely with their state, local, tribal, and/or territorial health department when they encounter confirmed or suspected cases among incarcerated/detained persons or staff, in order to ensure effective medical isolation and quarantine, necessary medical evaluation and care, and medical transfer if needed. The guidance makes note of strategies tailored to facilities without onsite healthcare where possible.

Note that all staff in any sized facility, regardless of the presence of onsite healthcare services, should observe guidance on [recommended PPE](#) in order to ensure their own safety when interacting with confirmed and suspected COVID-19 cases. Facilities should make contingency plans for the likely event of [PPE shortages](#) during the COVID-19 pandemic.

COVID-19 Guidance for Correctional Facilities

Guidance for correctional and detention facilities is organized into 3 sections: Operational Preparedness, Prevention, and Management of COVID-19. Recommendations across these sections can be applied simultaneously based on the progress of the outbreak in a particular facility and the surrounding community.

- **Operational Preparedness.** This guidance is intended to help facilities prepare for potential COVID-19 transmission in the facility. Strategies focus on operational and communications planning and personnel practices.
- **Prevention.** This guidance is intended to help facilities prevent spread of COVID-19 from outside the facility to inside. Strategies focus on reinforcing hygiene practices, intensifying cleaning and disinfection of the facility, screening (new intakes, visitors, and staff), continued communication with incarcerated/detained persons and staff, and social distancing measures (increasing distance between individuals).
- **Management.** This guidance is intended to help facilities clinically manage confirmed and suspected COVID-19 cases inside the facility and prevent further transmission. Strategies include medical isolation and care of incarcerated/detained persons with symptoms (including considerations for cohorting), quarantine of cases' close contacts, restricting movement in and out of the facility, infection control practices for individuals interacting with cases and quarantined contacts or contaminated items, intensified social distancing, and cleaning and disinfecting areas visited by cases.

Operational Preparedness

Administrators can plan and prepare for COVID-19 by ensuring that all persons in the facility know the [symptoms of COVID-19](#) and how to respond if they develop symptoms. Other essential actions include developing contingency plans for reduced workforces due to absences, coordinating with public health and correctional partners, and communicating clearly with staff and incarcerated/detained persons about these preparations and how they may temporarily alter daily life.

Communication & Coordination

✓ Develop information-sharing systems with partners.

- Identify points of contact in relevant state, local, tribal, and/or territorial public health departments before cases develop. Actively engage with the health department to understand in advance which entity has jurisdiction to implement public health control measures for COVID-19 in a particular correctional or detention facility.
- Create and test communications plans to disseminate critical information to incarcerated/detained persons, staff, contractors, vendors, and visitors as the pandemic progresses.

- Communicate with other correctional facilities in the same geographic area to share information including disease surveillance and absenteeism patterns among staff.
 - Where possible, put plans in place with other jurisdictions to prevent [confirmed and suspected COVID-19 cases and their close contacts](#) from being transferred between jurisdictions and facilities unless necessary for medical evaluation, medical isolation/quarantine, clinical care, extenuating security concerns, or to prevent overcrowding.
 - Stay informed about updates to CDC guidance via the [CDC COVID-19 website](#) as more information becomes known.
- ✓ **Review existing pandemic flu, all-hazards, and disaster plans, and revise for COVID-19.**
- Ensure that physical locations (dedicated housing areas and bathrooms) have been identified to isolate confirmed COVID-19 cases and individuals displaying COVID-19 symptoms, and to quarantine known close contacts of cases. (Medical isolation and quarantine locations should be separate). The plan should include contingencies for multiple locations if numerous cases and/or contacts are identified and require medical isolation or quarantine simultaneously. See [Medical Isolation](#) and [Quarantine](#) sections below for details regarding individual medical isolation and quarantine locations (preferred) vs. cohorting.
 - [Facilities without onsite healthcare capacity](#) should make a plan for how they will ensure that suspected COVID-19 cases will be isolated, evaluated, tested (if indicated), and provided necessary medical care.
 - Make a list of possible [social distancing strategies](#) that could be implemented as needed at different stages of transmission intensity.
 - Designate officials who will be authorized to make decisions about escalating or de-escalating response efforts as the epidemiologic context changes.
- ✓ **Coordinate with local law enforcement and court officials.**
- Identify lawful alternatives to in-person court appearances, such as virtual court, as a social distancing measure to reduce the risk of COVID-19 transmission.
 - Explore strategies to prevent over-crowding of correctional and detention facilities during a community outbreak.
- ✓ **Post [signage](#) throughout the facility communicating the following:**
- **For all:** symptoms of COVID-19 and hand hygiene instructions
 - **For incarcerated/detained persons:** report symptoms to staff
 - **For staff:** stay at home when sick; if symptoms develop while on duty, leave the facility as soon as possible and follow [CDC-recommended steps for persons who are ill with COVID-19 symptoms](#) including self-isolating at home, contacting their healthcare provider as soon as possible to determine whether they need to be evaluated and tested, and contacting their supervisor.
 - Ensure that signage is understandable for non-English speaking persons and those with low literacy, and make necessary accommodations for those with cognitive or intellectual disabilities and those who are deaf, blind, or low-vision.

Personnel Practices

- ✓ **Review the sick leave policies of each employer that operates in the facility.**
- Review policies to ensure that they actively encourage staff to stay home when sick.
 - If these policies do not encourage staff to stay home when sick, discuss with the contract company.
 - Determine which officials will have the authority to send symptomatic staff home.

- ✓ **Identify staff whose duties would allow them to work from home. Where possible, allowing staff to work from home can be an effective social distancing strategy to reduce the risk of COVID-19 transmission.**
 - Discuss work from home options with these staff and determine whether they have the supplies and technological equipment required to do so.
 - Put systems in place to implement work from home programs (e.g., time tracking, etc.).
- ✓ **Plan for staff absences.** Staff should stay home when they are sick, or they may need to stay home to care for a sick household member or care for children in the event of school and childcare dismissals.
 - Allow staff to work from home when possible, within the scope of their duties.
 - Identify critical job functions and plan for alternative coverage by cross-training staff where possible.
 - Determine minimum levels of staff in all categories required for the facility to function safely. If possible, develop a plan to secure additional staff if absenteeism due to COVID-19 threatens to bring staffing to minimum levels.
 - Consider increasing keep on person (KOP) medication orders to cover 30 days in case of healthcare staff shortages.
- ✓ **Consider offering revised duties to staff who are at [higher risk of severe illness with COVID-19](#).** Persons at higher risk may include older adults and persons of any age with serious underlying medical conditions including lung disease, heart disease, and diabetes. See [CDC's website](#) for a complete list, and check regularly for updates as more data become available to inform this issue.
 - Facility administrators should consult with their occupational health providers to determine whether it would be allowable to reassign duties for specific staff members to reduce their likelihood of exposure to COVID-19.
- ✓ **Offer the seasonal influenza vaccine to all incarcerated/detained persons (existing population and new intakes) and staff throughout the influenza season.** Symptoms of COVID-19 are similar to those of influenza. Preventing influenza cases in a facility can speed the detection of COVID-19 cases and reduce pressure on healthcare resources.
- ✓ **Reference the [Occupational Safety and Health Administration website](#) for recommendations regarding worker health.**
- ✓ **Review [CDC's guidance for businesses and employers](#)** to identify any additional strategies the facility can use within its role as an employer.

Operations & Supplies

- ✓ **Ensure that sufficient stocks of hygiene supplies, cleaning supplies, PPE, and medical supplies (consistent with the healthcare capabilities of the facility) are on hand and available, and have a plan in place to restock as needed if COVID-19 transmission occurs within the facility.**
 - Standard medical supplies for daily clinic needs
 - Tissues
 - Liquid soap when possible. If bar soap must be used, ensure that it does not irritate the skin and thereby discourage frequent hand washing.
 - Hand drying supplies
 - Alcohol-based hand sanitizer containing at least 60% alcohol (where permissible based on security restrictions)
 - Cleaning supplies, including [EPA-registered disinfectants effective against the virus that causes COVID-19](#)

- Recommended PPE (facemasks, N95 respirators, eye protection, disposable medical gloves, and disposable gowns/one-piece coveralls). See [PPE section](#) and [Table 1](#) for more detailed information, including recommendations for extending the life of all PPE categories in the event of shortages, and when face masks are acceptable alternatives to N95s.
- Sterile viral transport media and sterile swabs [to collect nasopharyngeal specimens](#) if COVID-19 testing is indicated
- ✓ **Make contingency plans for the probable event of PPE shortages during the COVID-19 pandemic, particularly for non-healthcare workers.**
 - See CDC guidance [optimizing PPE supplies](#).
- ✓ **Consider relaxing restrictions on allowing alcohol-based hand sanitizer in the secure setting where security concerns allow.** If soap and water are not available, [CDC recommends](#) cleaning hands with an alcohol-based hand sanitizer that contains at least 60% alcohol. Consider allowing staff to carry individual-sized bottles for their personal hand hygiene while on duty.
- ✓ **Provide a no-cost supply of soap to incarcerated/detained persons, sufficient to allow frequent hand washing.** (See [Hygiene](#) section below for additional detail regarding recommended frequency and protocol for hand washing.)
 - Provide liquid soap where possible. If bar soap must be used, ensure that it does not irritate the skin and thereby discourage frequent hand washing.
- ✓ **If not already in place, employers operating within the facility should establish a [respiratory protection program](#) as appropriate, to ensure that staff and incarcerated/detained persons are fit tested for any respiratory protection they will need within the scope of their responsibilities.**
- ✓ **Ensure that staff and incarcerated/detained persons are trained to correctly don, doff, and dispose of PPE that they will need to use within the scope of their responsibilities.** See [Table 1](#) for recommended PPE for incarcerated/detained persons and staff with varying levels of contact with COVID-19 cases or their close contacts.

Prevention

Cases of COVID-19 have been documented in all 50 US states. Correctional and detention facilities can prevent introduction of COVID-19 from the community and reduce transmission if it is already inside by reinforcing good hygiene practices among incarcerated/detained persons, staff, and visitors (including increasing access to soap and paper towels), intensifying cleaning/disinfection practices, and implementing social distancing strategies.

Because many individuals infected with COVID-19 do not display symptoms, the virus could be present in facilities before cases are identified. Both good hygiene practices and social distancing are critical in preventing further transmission.

Operations

- ✓ **Stay in communication with partners about your facility's current situation.**
 - State, local, territorial, and/or tribal health departments
 - Other correctional facilities
- ✓ **Communicate with the public about any changes to facility operations, including visitation programs.**

- ✓ **Restrict transfers of incarcerated/detained persons to and from other jurisdictions and facilities unless necessary for medical evaluation, medical isolation/quarantine, clinical care, extenuating security concerns, or to prevent overcrowding.**
 - Strongly consider postponing non-urgent outside medical visits.
 - If a transfer is absolutely necessary, perform verbal screening and a temperature check as outlined in the [Screening](#) section below, before the individual leaves the facility. If an individual does not clear the screening process, delay the transfer and follow the [protocol for a suspected COVID-19 case](#)— including putting a face mask on the individual, immediately placing them under medical isolation, and evaluating them for possible COVID-19 testing. If the transfer must still occur, ensure that the receiving facility has capacity to properly isolate the individual upon arrival. Ensure that staff transporting the individual wear recommended PPE (see [Table 1](#)) and that the transport vehicle is [cleaned](#) thoroughly after transport.
- ✓ **Implement lawful alternatives to in-person court appearances where permissible.**
- ✓ **Where relevant, consider suspending co-pays for incarcerated/detained persons seeking medical evaluation for respiratory symptoms.**
- ✓ **Limit the number of operational entrances and exits to the facility.**

Cleaning and Disinfecting Practices

- ✓ **Even if COVID-19 cases have not yet been identified inside the facility or in the surrounding community, begin implementing intensified cleaning and disinfecting procedures according to the recommendations below. These measures may prevent spread of COVID-19 if introduced.**
- ✓ **Adhere to [CDC recommendations for cleaning and disinfection during the COVID-19 response](#).** Monitor these recommendations for updates.
 - Several times per day, clean and disinfect surfaces and objects that are frequently touched, especially in common areas. Such surfaces may include objects/surfaces not ordinarily cleaned daily (e.g., doorknobs, light switches, sink handles, countertops, toilets, toilet handles, recreation equipment, kiosks, and telephones).
 - Staff should clean shared equipment several times per day and on a conclusion of use basis (e.g., radios, service weapons, keys, handcuffs).
 - Use household cleaners and [EPA-registered disinfectants effective against the virus that causes COVID-19](#) as appropriate for the surface, following label instructions. This may require lifting restrictions on undiluted disinfectants.
 - Labels contain instructions for safe and effective use of the cleaning product, including precautions that should be taken when applying the product, such as wearing gloves and making sure there is good ventilation during use.
- ✓ **Consider increasing the number of staff and/or incarcerated/detained persons trained and responsible for cleaning common areas to ensure continual cleaning of these areas throughout the day.**
- ✓ **Ensure adequate supplies to support intensified cleaning and disinfection practices, and have a plan in place to restock rapidly if needed.**

Hygiene

- ✓ **Reinforce healthy hygiene practices, and provide and continually restock hygiene supplies throughout the facility, including in bathrooms, food preparation and dining areas, intake areas, visitor entries and exits, visitation rooms and waiting rooms, common areas, medical, and staff-restricted areas (e.g., break rooms).**
- ✓ **Encourage all persons in the facility to take the following actions to protect themselves and others from COVID-19. Post signage throughout the facility, and communicate this information verbally on a regular basis. [Sample signage and other communications materials](#) are available on the CDC website.** Ensure that materials can be understood by non-English speakers and those with low literacy, and make necessary accommodations for those with cognitive or intellectual disabilities and those who are deaf, blind, or low-vision.
 - **Practice good [cough etiquette](#):** Cover your mouth and nose with your elbow (or ideally with a tissue) rather than with your hand when you cough or sneeze, and throw all tissues in the trash immediately after use.
 - **Practice good [hand hygiene](#):** Regularly wash your hands with soap and water for at least 20 seconds, especially after coughing, sneezing, or blowing your nose; after using the bathroom; before eating or preparing food; before taking medication; and after touching garbage.
 - **Avoid touching your eyes, nose, or mouth without cleaning your hands first.**
 - **Avoid sharing eating utensils, dishes, and cups.**
 - **Avoid non-essential physical contact.**
- ✓ **Provide incarcerated/detained persons and staff no-cost access to:**
 - **Soap**—Provide liquid soap where possible. If bar soap must be used, ensure that it does not irritate the skin, as this would discourage frequent hand washing.
 - **Running water, and hand drying machines or disposable paper towels for hand washing**
 - **Tissues** and no-touch trash receptacles for disposal
- ✓ **Provide alcohol-based hand sanitizer with at least 60% alcohol where permissible based on security restrictions.** Consider allowing staff to carry individual-sized bottles to maintain hand hygiene.
- ✓ **Communicate that sharing drugs and drug preparation equipment can spread COVID-19 due to potential contamination of shared items and close contact between individuals.**

Prevention Practices for Incarcerated/Detained Persons

- ✓ **Perform pre-intake screening and temperature checks for all new entrants. Screening should take place in the sallyport, before beginning the intake process,** in order to identify and immediately place individuals with symptoms under medical isolation. See [Screening section](#) below for the wording of screening questions and a recommended procedure to safely perform a temperature check. Staff performing temperature checks should wear recommended PPE (see [PPE section](#) below).
 - **If an individual has symptoms of COVID-19** (fever, cough, shortness of breath):
 - Require the individual to wear a face mask.
 - Ensure that staff who have direct contact with the symptomatic individual wear [recommended PPE](#).
 - Place the individual under [medical isolation](#) (ideally in a room near the screening location, rather than transporting the ill individual through the facility), and refer to healthcare staff for further evaluation. (See [Infection Control](#) and [Clinical Care](#) sections below.)
 - Facilities without onsite healthcare staff should contact their state, local, tribal, and/or territorial health department to coordinate effective medical isolation and necessary medical care.

○ **If an individual is a [close contact](#) of a known COVID-19 case (but has no COVID-19 symptoms):**

- Quarantine the individual and monitor for symptoms two times per day for 14 days. (See [Quarantine](#) section below.)
- Facilities without onsite healthcare staff should contact their state, local, tribal, and/or territorial health department to coordinate effective quarantine and necessary medical care.

✓ **Implement [social distancing](#) strategies to increase the physical space between incarcerated/detained persons (ideally 6 feet between all individuals, regardless of the presence of symptoms).** Strategies will need to be tailored to the individual space in the facility and the needs of the population and staff. Not all strategies will be feasible in all facilities. Example strategies with varying levels of intensity include:

○ **Common areas:**

- Enforce increased space between individuals in holding cells, as well as in lines and waiting areas such as intake (e.g., remove every other chair in a waiting area)

○ **Recreation:**

- Choose recreation spaces where individuals can spread out
- Stagger time in recreation spaces
- Restrict recreation space usage to a single housing unit per space (where feasible)

○ **Meals:**

- Stagger meals
- Rearrange seating in the dining hall so that there is more space between individuals (e.g., remove every other chair and use only one side of the table)
- Provide meals inside housing units or cells

○ **Group activities:**

- Limit the size of group activities
- Increase space between individuals during group activities
- Suspend group programs where participants are likely to be in closer contact than they are in their housing environment
- Consider alternatives to existing group activities, in outdoor areas or other areas where individuals can spread out

○ **Housing:**

- If space allows, reassign bunks to provide more space between individuals, ideally 6 feet or more in all directions. (Ensure that bunks are [cleaned](#) thoroughly if assigned to a new occupant.)
- Arrange bunks so that individuals sleep head to foot to increase the distance between them
- Rearrange scheduled movements to minimize mixing of individuals from different housing areas

○ **Medical:**

- If possible, designate a room near each housing unit to evaluate individuals with COVID-19 symptoms, rather than having them walk through the facility to be evaluated in the medical unit. If this is not feasible, consider staggering sick call.
- Designate a room near the intake area to evaluate new entrants who are flagged by the intake screening process for COVID-19 symptoms or case contact, before they move to other parts of the facility.

- ✓ **Communicate clearly and frequently with incarcerated/detained persons about changes to their daily routine and how they can contribute to risk reduction.**
- ✓ **Note that if group activities are discontinued, it will be important to identify alternative forms of activity to support the mental health of incarcerated/detained persons.**
- ✓ **Consider suspending work release programs and other programs that involve movement of incarcerated/detained individuals in and out of the facility.**
- ✓ **Provide [up-to-date information about COVID-19](#) to incarcerated/detained persons on a regular basis, including:**
 - [Symptoms of COVID-19](#) and its health risks
 - Reminders to report COVID-19 symptoms to staff at the first sign of illness
- ✓ **Consider having healthcare staff perform rounds on a regular basis to answer questions about COVID-19.**

Prevention Practices for Staff

- ✓ **Remind staff to stay at home if they are sick.** Ensure that staff are aware that they will not be able to enter the facility if they have symptoms of COVID-19, and that they will be expected to leave the facility as soon as possible if they develop symptoms while on duty.
- ✓ **Perform verbal screening (for COVID-19 symptoms and close contact with cases) and temperature checks for all staff daily on entry.** See [Screening](#) section below for wording of screening questions and a recommended procedure to safely perform temperature checks.
 - In very small facilities with only a few staff, consider self-monitoring or virtual monitoring (e.g., reporting to a central authority via phone).
 - Send staff home who do not clear the screening process, and advise them to follow [CDC-recommended steps for persons who are ill with COVID-19 symptoms](#).
- ✓ **Provide staff with [up-to-date information about COVID-19](#) and about facility policies on a regular basis, including:**
 - [Symptoms of COVID-19](#) and its health risks
 - Employers' sick leave policy
 - **If staff develop a fever, cough, or shortness of breath while at work:** immediately put on a face mask, inform supervisor, leave the facility, and follow [CDC-recommended steps for persons who are ill with COVID-19 symptoms](#).
 - **If staff test positive for COVID-19:** inform workplace and personal contacts immediately, and do not return to work until a decision to discontinue home medical isolation precautions is made. Monitor [CDC guidance on discontinuing home isolation](#) regularly as circumstances evolve rapidly.
 - **If a staff member is identified as a close contact of a COVID-19 case (either within the facility or in the community):** self-quarantine at home for 14 days and return to work if symptoms do not develop. If symptoms do develop, follow [CDC-recommended steps for persons who are ill with COVID-19 symptoms](#).
- ✓ **If a staff member has a confirmed COVID-19 infection, the relevant employers should inform other staff about their possible exposure to COVID-19 in the workplace, but should maintain confidentiality as required by the Americans with Disabilities Act.**
 - Employees who are [close contacts](#) of the case should then self-monitor for [symptoms](#) (i.e., fever, cough, or shortness of breath).

- ✓ **When feasible and consistent with security priorities, encourage staff to maintain a distance of 6 feet or more from an individual with respiratory symptoms while interviewing, escorting, or interacting in other ways.**
- ✓ **Ask staff to keep interactions with individuals with respiratory symptoms as brief as possible.**

Prevention Practices for Visitors

- ✓ **If possible, communicate with potential visitors to discourage contact visits in the interest of their own health and the health of their family members and friends inside the facility.**
- ✓ **Perform verbal screening (for COVID-19 symptoms and close contact with cases) and temperature checks for all visitors and volunteers on entry.** See [Screening](#) section below for wording of screening questions and a recommended procedure to safely perform temperature checks.
 - Staff performing temperature checks should wear [recommended PPE](#).
 - Exclude visitors and volunteers who do not clear the screening process or who decline screening.
- ✓ **Provide alcohol-based hand sanitizer with at least 60% alcohol in visitor entrances, exits, and waiting areas.**
- ✓ **Provide visitors and volunteers with information to prepare them for screening.**
 - Instruct visitors to postpone their visit if they have symptoms of respiratory illness.
 - If possible, inform potential visitors and volunteers before they travel to the facility that they should expect to be screened for COVID-19 (including a temperature check), and will be unable to enter the facility if they do not clear the screening process or if they decline screening.
 - Display [signage](#) outside visiting areas explaining the COVID-19 screening and temperature check process. Ensure that materials are understandable for non-English speakers and those with low literacy.
- ✓ **Promote non-contact visits:**
 - Encourage incarcerated/detained persons to limit contact visits in the interest of their own health and the health of their visitors.
 - Consider reducing or temporarily eliminating the cost of phone calls for incarcerated/detained persons.
 - Consider increasing incarcerated/detained persons' telephone privileges to promote mental health and reduce exposure from direct contact with community visitors.
- ✓ **Consider suspending or modifying visitation programs, if legally permissible. For example, provide access to virtual visitation options where available.**
 - If moving to virtual visitation, clean electronic surfaces regularly. (See [Cleaning](#) guidance below for instructions on cleaning electronic surfaces.)
 - Inform potential visitors of changes to, or suspension of, visitation programs.
 - Clearly communicate any visitation program changes to incarcerated/detained persons, along with the reasons for them (including protecting their health and their family and community members' health).
 - If suspending contact visits, provide alternate means (e.g., phone or video visitation) for incarcerated/detained individuals to engage with legal representatives, clergy, and other individuals with whom they have legal right to consult.

NOTE: Suspending visitation would be done in the interest of incarcerated/detained persons' physical health and the health of the general public. However, visitation is important to maintain mental health.

If visitation is suspended, facilities should explore alternative ways for incarcerated/detained persons to communicate with their families, friends, and other visitors in a way that is not financially burdensome for them. See above suggestions for promoting non-contact visits.

- ✓ **Restrict non-essential vendors, volunteers, and tours from entering the facility.**

Management

If there has been a suspected COVID-19 case inside the facility (among incarcerated/detained persons, staff, or visitors who have recently been inside), begin implementing Management strategies while test results are pending. Essential Management strategies include placing cases and individuals with symptoms under medical isolation, quarantining their close contacts, and facilitating necessary medical care, while observing relevant infection control and environmental disinfection protocols and wearing recommended PPE.

Operations

- ✓ **Implement alternate work arrangements deemed feasible in the [Operational Preparedness](#) section.**
- ✓ **Suspend all transfers of incarcerated/detained persons to and from other jurisdictions and facilities (including work release where relevant), unless necessary for medical evaluation, medical isolation/quarantine, care, extenuating security concerns, or to prevent overcrowding.**
 - If a transfer is absolutely necessary, perform verbal screening and a temperature check as outlined in the [Screening](#) section below, before the individual leaves the facility. If an individual does not clear the screening process, delay the transfer and follow the [protocol for a suspected COVID-19 case](#)—including putting a face mask on the individual, immediately placing them under medical isolation, and evaluating them for possible COVID-19 testing. If the transfer must still occur, ensure that the receiving facility has capacity to appropriately isolate the individual upon arrival. Ensure that staff transporting the individual wear recommended PPE (see [Table 1](#)) and that the transport vehicle is [cleaned](#) thoroughly after transport.
- ✓ **If possible, consider quarantining all new intakes for 14 days before they enter the facility's general population (SEPARATELY from other individuals who are quarantined due to contact with a COVID-19 case).** Subsequently in this document, this practice is referred to as **routine intake quarantine**.
- ✓ **When possible, arrange lawful alternatives to in-person court appearances.**
- ✓ **Incorporate screening for COVID-19 symptoms and a temperature check into release planning.**
 - Screen all releasing individuals for COVID-19 symptoms and perform a temperature check. (See [Screening](#) section below.)
 - If an individual does not clear the screening process, follow the [protocol for a suspected COVID-19 case](#)—including putting a face mask on the individual, immediately placing them under medical isolation, and evaluating them for possible COVID-19 testing.
 - If the individual is released before the recommended medical isolation period is complete, discuss release of the individual with state, local, tribal, and/or territorial health departments to ensure safe medical transport and continued shelter and medical care, as part of release planning. Make direct linkages to community resources to ensure proper medical isolation and access to medical care.
 - Before releasing an incarcerated/detained individual with COVID-19 symptoms to a community-based facility, such as a homeless shelter, contact the facility's staff to ensure adequate time for them to prepare to continue medical isolation, or contact local public health to explore alternate housing options.

✓ **Coordinate with state, local, tribal, and/or territorial health departments.**

- When a COVID-19 case is suspected, work with public health to determine action. See [Medical Isolation](#) section below.
- When a COVID-19 case is suspected or confirmed, work with public health to identify close contacts who should be placed under quarantine. See [Quarantine](#) section below.
- Facilities with limited onsite medical isolation, quarantine, and/or healthcare services should coordinate closely with state, local, tribal, and/or territorial health departments when they encounter a confirmed or suspected case, in order to ensure effective medical isolation or quarantine, necessary medical evaluation and care, and medical transfer if needed. See [Facilities with Limited Onsite Healthcare Services](#) section.

Hygiene

- ✓ **Continue to ensure that hand hygiene supplies are well-stocked in all areas of the facility.** (See [above](#).)
- ✓ **Continue to emphasize practicing good hand hygiene and cough etiquette.** (See [above](#).)

Cleaning and Disinfecting Practices

- ✓ **Continue adhering to recommended cleaning and disinfection procedures for the facility at large.** (See [above](#).)
- ✓ **Reference specific cleaning and disinfection procedures for areas where a COVID-19 case has spent time ([below](#)).**

Medical Isolation of Confirmed or Suspected COVID-19 Cases

NOTE: Some recommendations below apply primarily to facilities with onsite healthcare capacity. [Facilities with Limited Onsite Healthcare Services](#), or without sufficient space to implement effective medical isolation, should coordinate with local public health officials to ensure that COVID-19 cases will be appropriately isolated, evaluated, tested (if indicated), and given care.

- ✓ **As soon as an individual develops symptoms of COVID-19, they should wear a face mask (if it does not restrict breathing) and should be immediately placed under medical isolation in a separate environment from other individuals.**
- ✓ **Keep the individual's movement outside the medical isolation space to an absolute minimum.**
 - Provide medical care to cases inside the medical isolation space. See [Infection Control](#) and [Clinical Care](#) sections for additional details.
 - Serve meals to cases inside the medical isolation space.
 - Exclude the individual from all group activities.
 - Assign the isolated individual a dedicated bathroom when possible.
- ✓ **Ensure that the individual is wearing a face mask at all times when outside of the medical isolation space, and whenever another individual enters.** Provide clean masks as needed. Masks should be changed at least daily, and when visibly soiled or wet.
- ✓ **Facilities should make every possible effort to place suspected and confirmed COVID-19 cases under medical isolation individually. Each isolated individual should be assigned their own housing space and bathroom where possible.** [Cohorting](#) should only be practiced if there are no other available options.

- If cohorting is necessary:
 - **Only individuals who are laboratory confirmed COVID-19 cases should be placed under medical isolation as a cohort. Do not cohort confirmed cases with suspected cases or case contacts.**
 - Unless no other options exist, do not house COVID-19 cases with individuals who have an undiagnosed respiratory infection.
 - Ensure that cohorted cases wear face masks at all times.

✓ **In order of preference, individuals under medical isolation should be housed:**

- Separately, in single cells with solid walls (i.e., not bars) and solid doors that close fully
- Separately, in single cells with solid walls but without solid doors
- As a cohort, in a large, well-ventilated cell with solid walls and a solid door that closes fully. Employ [social distancing strategies related to housing in the Prevention section above](#).
- As a cohort, in a large, well-ventilated cell with solid walls but without a solid door. Employ [social distancing strategies related to housing in the Prevention section above](#).
- As a cohort, in single cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells. (Although individuals are in single cells in this scenario, the airflow between cells essentially makes it a cohort arrangement in the context of COVID-19.)
- As a cohort, in multi-person cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells. Employ [social distancing strategies related to housing in the Prevention section above](#).
- Safely transfer individual(s) to another facility with available medical isolation capacity in one of the above arrangements
(NOTE—Transfer should be avoided due to the potential to introduce infection to another facility; proceed only if no other options are available.)

If the ideal choice does not exist in a facility, use the next best alternative.

✓ **If the number of confirmed cases exceeds the number of individual medical isolation spaces available in the facility, be especially mindful of [cases who are at higher risk of severe illness from COVID-19](#).** Ideally, they should not be cohorted with other infected individuals. If cohorting is unavoidable, make all possible accommodations to prevent transmission of other infectious diseases to the higher-risk individual. (For example, allocate more space for a higher-risk individual within a shared medical isolation space.)

- Persons at higher risk may include older adults and persons of any age with serious underlying medical conditions such as lung disease, heart disease, and diabetes. See [CDC's website](#) for a complete list, and check regularly for updates as more data become available to inform this issue.
- Note that incarcerated/detained populations have higher prevalence of infectious and chronic diseases and are in poorer health than the general population, even at younger ages.

✓ **Custody staff should be designated to monitor these individuals exclusively where possible.** These staff should wear recommended PPE as appropriate for their level of contact with the individual under medical isolation (see [PPE](#) section below) and should limit their own movement between different parts of the facility to the extent possible.

✓ **Minimize transfer of COVID-19 cases between spaces within the healthcare unit.**

- ✓ **Provide individuals under medical isolation with tissues and, if permissible, a lined no-touch trash receptacle.** Instruct them to:
 - **Cover** their mouth and nose with a tissue when they cough or sneeze
 - **Dispose** of used tissues immediately in the lined trash receptacle
 - **Wash hands** immediately with soap and water for at least 20 seconds. If soap and water are not available, clean hands with an alcohol-based hand sanitizer that contains at least 60% alcohol (where security concerns permit). Ensure that [hand washing supplies](#) are continually restocked.
- ✓ **Maintain medical isolation until all the following criteria have been met. Monitor the [CDC website](#) for updates to these criteria.**

For individuals who will be tested to determine if they are still contagious:

- The individual has been free from fever for at least 72 hours without the use of fever-reducing medications **AND**
- The individual's other symptoms have improved (e.g., cough, shortness of breath) **AND**
- The individual has tested negative in at least two consecutive respiratory specimens collected at least 24 hours apart

For individuals who will NOT be tested to determine if they are still contagious:

- The individual has been free from fever for at least 72 hours without the use of fever-reducing medications **AND**
- The individual's other symptoms have improved (e.g., cough, shortness of breath) **AND**
- At least 7 days have passed since the first symptoms appeared

For individuals who had a confirmed positive COVID-19 test but never showed symptoms:

- At least 7 days have passed since the date of the individual's first positive COVID-19 test **AND**
- The individual has had no subsequent illness

- ✓ **Restrict cases from leaving the facility while under medical isolation precautions, unless released from custody or if a transfer is necessary for medical care, infection control, lack of medical isolation space, or extenuating security concerns.**

- If an incarcerated/detained individual who is a COVID-19 case is released from custody during their medical isolation period, contact public health to arrange for safe transport and continuation of necessary medical care and medical isolation as part of release planning.

Cleaning Spaces where COVID-19 Cases Spent Time

Thoroughly clean and disinfect all areas where the confirmed or suspected COVID-19 case spent time. Note—these protocols apply to suspected cases as well as confirmed cases, to ensure adequate disinfection in the event that the suspected case does, in fact, have COVID-19. Refer to the [Definitions](#) section for the distinction between confirmed and suspected cases.

- Close off areas used by the infected individual. If possible, open outside doors and windows to increase air circulation in the area. Wait as long as practical, up to 24 hours under the poorest air exchange conditions (consult [CDC Guidelines for Environmental Infection Control in Health-Care Facilities for wait time based on different ventilation conditions](#)), before beginning to clean and disinfect, to minimize potential for exposure to respiratory droplets.
- Clean and disinfect all areas (e.g., cells, bathrooms, and common areas) used by the infected individual, focusing especially on frequently touched surfaces (see list above in [Prevention](#) section).

✓ **Hard (non-porous) surface cleaning and disinfection**

- If surfaces are dirty, they should be cleaned using a detergent or soap and water prior to disinfection.
- For disinfection, most common EPA-registered household disinfectants should be effective. Choose cleaning products based on security requirements within the facility.
 - Consult a [list of products that are EPA-approved for use against the virus that causes COVID-19](#). Follow the manufacturer's instructions for all cleaning and disinfection products (e.g., concentration, application method and contact time, etc.).
 - Diluted household bleach solutions can be used if appropriate for the surface. Follow the manufacturer's instructions for application and proper ventilation, and check to ensure the product is not past its expiration date. Never mix household bleach with ammonia or any other cleanser. Unexpired household bleach will be effective against coronaviruses when properly diluted. Prepare a bleach solution by mixing:
 - 5 tablespoons (1/3rd cup) bleach per gallon of water or
 - 4 teaspoons bleach per quart of water

✓ **Soft (porous) surface cleaning and disinfection**

- For soft (porous) surfaces such as carpeted floors and rugs, remove visible contamination if present and clean with appropriate cleaners indicated for use on these surfaces. After cleaning:
 - If the items can be laundered, launder items in accordance with the manufacturer's instructions using the warmest appropriate water setting for the items and then dry items completely.
 - Otherwise, use products [that are EPA-approved for use against the virus that causes COVID-19](#) and are suitable for porous surfaces.

✓ **Electronics cleaning and disinfection**

- For electronics such as tablets, touch screens, keyboards, and remote controls, remove visible contamination if present.
 - Follow the manufacturer's instructions for all cleaning and disinfection products.
 - Consider use of wipeable covers for electronics.
 - If no manufacturer guidance is available, consider the use of alcohol-based wipes or spray containing at least 70% alcohol to disinfect touch screens. Dry surfaces thoroughly to avoid pooling of liquids.

Additional information on cleaning and disinfection of communal facilities such can be found on [CDC's website](#).

✓ **Ensure that staff and incarcerated/detained persons performing cleaning wear recommended PPE.** (See [PPE](#) section below.)

✓ **Food service items.** Cases under medical isolation should throw disposable food service items in the trash in their medical isolation room. Non-disposable food service items should be handled with gloves and washed with hot water or in a dishwasher. Individuals handling used food service items should clean their hands after removing gloves.

✓ **[Laundry from a COVID-19 cases](#) can be washed with other individuals' laundry.**

- Individuals handling laundry from COVID-19 cases should wear disposable gloves, discard after each use, and clean their hands after.
- Do not shake dirty laundry. This will minimize the possibility of dispersing virus through the air.
- Launder items as appropriate in accordance with the manufacturer's instructions. If possible, launder items using the warmest appropriate water setting for the items and dry items completely.

- Clean and disinfect clothes hampers according to guidance above for surfaces. If permissible, consider using a bag liner that is either disposable or can be laundered.
- ✓ **Consult [cleaning recommendations above](#) to ensure that transport vehicles are thoroughly cleaned after carrying a confirmed or suspected COVID-19 case.**

Quarantining Close Contacts of COVID-19 Cases

NOTE: Some recommendations below apply primarily to facilities with onsite healthcare capacity. [Facilities without onsite healthcare capacity](#), or without sufficient space to implement effective quarantine, should coordinate with local public health officials to ensure that close contacts of COVID-19 cases will be effectively quarantined and medically monitored.

- ✓ **Incarcerated/detained persons who are close contacts of a [confirmed or suspected COVID-19 case](#) (whether the case is another incarcerated/detained person, staff member, or visitor) should be placed under quarantine for 14 days (see CDC guidelines).**
 - If an individual is quarantined due to contact with a suspected case who is subsequently tested for COVID-19 and receives a negative result, the quarantined individual should be released from quarantine restrictions.
- ✓ **In the context of COVID-19, an individual (incarcerated/detained person or staff) is [considered a close contact](#) if they:**
 - Have been within approximately 6 feet of a COVID-19 case for a prolonged period of time OR
 - Have had direct contact with infectious secretions of a COVID-19 case (e.g., have been coughed on)

Close contact can occur while caring for, living with, visiting, or sharing a common space with a COVID-19 case. Data to inform the definition of close contact are limited. Considerations when assessing close contact include the duration of exposure (e.g., longer exposure time likely increases exposure risk) and the clinical symptoms of the person with COVID-19 (e.g., coughing likely increases exposure risk, as does exposure to a severely ill patient).

- ✓ **Keep a quarantined individual's movement outside the quarantine space to an absolute minimum.**
 - Provide medical evaluation and care inside or near the quarantine space when possible.
 - Serve meals inside the quarantine space.
 - Exclude the quarantined individual from all group activities.
 - Assign the quarantined individual a dedicated bathroom when possible.
- ✓ **Facilities should make every possible effort to quarantine close contacts of COVID-19 cases individually. [Cohorting](#) multiple quarantined close contacts of a COVID-19 case could transmit COVID-19 from those who are infected to those who are uninfected. Cohorting should only be practiced if there are no other available options.**
 - If cohorting of close contacts under quarantine is absolutely necessary, symptoms of all individuals should be monitored closely, and individuals with symptoms of COVID-19 should be placed under [medical isolation](#) immediately.
 - If an entire housing unit is under quarantine due to contact with a case from the same housing unit, the entire housing unit may need to be treated as a cohort and quarantine in place.
 - Some facilities may choose to quarantine all new intakes for 14 days before moving them to the facility's general population as a general rule (not because they were exposed to a COVID-19 case). Under this scenario, avoid mixing individuals quarantined due to exposure to a COVID-19 case with individuals undergoing routine intake quarantine.

- If at all possible, do not add more individuals to an existing quarantine cohort after the 14-day quarantine clock has started.

✓ **If the number of quarantined individuals exceeds the number of individual quarantine spaces available in the facility, be especially mindful of [those who are at higher risk of severe illness from COVID-19](#).** Ideally, they should not be cohorted with other quarantined individuals. If cohorting is unavoidable, make all possible accommodations to reduce exposure risk for the higher-risk individuals. (For example, intensify [social distancing strategies](#) for higher-risk individuals.)

✓ **In order of preference, multiple quarantined individuals should be housed:**

- Separately, in single cells with solid walls (i.e., not bars) and solid doors that close fully
- Separately, in single cells with solid walls but without solid doors
- As a cohort, in a large, well-ventilated cell with solid walls, a solid door that closes fully, and at least 6 feet of personal space assigned to each individual in all directions
- As a cohort, in a large, well-ventilated cell with solid walls and at least 6 feet of personal space assigned to each individual in all directions, but without a solid door
- As a cohort, in single cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells creating at least 6 feet of space between individuals. (Although individuals are in single cells in this scenario, the airflow between cells essentially makes it a cohort arrangement in the context of COVID-19.)
- As a cohort, in multi-person cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells. Employ [social distancing strategies related to housing in the Prevention section](#) to maintain at least 6 feet of space between individuals housed in the same cell.
- As a cohort, in individuals' regularly assigned housing unit but with no movement outside the unit (if an entire housing unit has been exposed). [Employ social distancing strategies related to housing in the Prevention section above](#) to maintain at least 6 feet of space between individuals.
- Safely transfer to another facility with capacity to quarantine in one of the above arrangements

(NOTE—Transfer should be avoided due to the potential to introduce infection to another facility; proceed only if no other options are available.)

✓ **Quarantined individuals should wear face masks if feasible based on local supply, as source control, under the following circumstances** (see [PPE](#) section and [Table 1](#)):

- If cohorted, quarantined individuals should wear face masks at all times (to prevent transmission from infected to uninfected individuals).
- If quarantined separately, individuals should wear face masks whenever a non-quarantined individual enters the quarantine space.
- All quarantined individuals should wear a face mask if they must leave the quarantine space for any reason.
- Asymptomatic individuals under [routine intake quarantine](#) (with no known exposure to a COVID-19 case) do not need to wear face masks.

✓ **Staff who have close contact with quarantined individuals should wear recommended PPE if feasible based on local supply, feasibility, and safety within the scope of their duties** (see [PPE](#) section and [Table 1](#)).

- Staff supervising asymptomatic incarcerated/detained persons under [routine intake quarantine](#) (with no known exposure to a COVID-19 case) do not need to wear PPE.

- ✓ **Quarantined individuals should be monitored for COVID-19 symptoms twice per day, including temperature checks.**
 - If an individual develops symptoms, they should be moved to medical isolation immediately and further evaluated. (See [Medical Isolation](#) section above.)
 - See [Screening](#) section for a procedure to perform temperature checks safely on asymptomatic close contacts of COVID-19 cases.
- ✓ **If an individual who is part of a quarantined cohort becomes symptomatic:**
 - **If the individual is tested for COVID-19 and tests positive:** the 14-day quarantine clock for the remainder of the cohort must be reset to 0.
 - **If the individual is tested for COVID-19 and tests negative:** the 14-day quarantine clock for this individual and the remainder of the cohort does not need to be reset. This individual can return from medical isolation to the quarantined cohort for the remainder of the quarantine period.
 - **If the individual is not tested for COVID-19:** the 14-day quarantine clock for the remainder of the cohort must be reset to 0.
- ✓ **Restrict quarantined individuals from leaving the facility (including transfers to other facilities) during the 14-day quarantine period, unless released from custody or a transfer is necessary for medical care, infection control, lack of quarantine space, or extenuating security concerns.**
- ✓ **Quarantined individuals can be released from quarantine restrictions if they have not developed symptoms during the 14-day quarantine period.**
- ✓ **Meals should be provided to quarantined individuals in their quarantine spaces.** Individuals under quarantine should throw disposable food service items in the trash. Non-disposable food service items should be handled with gloves and washed with hot water or in a dishwasher. Individuals handling used food service items should clean their hands after removing gloves.
- ✓ **Laundry from quarantined individuals can be washed with other individuals' laundry.**
 - Individuals handling laundry from quarantined persons should wear disposable gloves, discard after each use, and clean their hands after.
 - Do not shake dirty laundry. This will minimize the possibility of dispersing virus through the air.
 - Launder items as appropriate in accordance with the manufacturer's instructions. If possible, launder items using the warmest appropriate water setting for the items and dry items completely.
 - Clean and disinfect clothes hampers according to guidance above for surfaces. If permissible, consider using a bag liner that is either disposable or can be laundered.

Management of Incarcerated/Detained Persons with COVID-19 Symptoms

NOTE: Some recommendations below apply primarily to facilities with onsite healthcare capacity. Facilities without onsite healthcare capacity or without sufficient space for medical isolation should coordinate with local public health officials to ensure that suspected COVID-19 cases will be effectively isolated, evaluated, tested (if indicated), and given care.

- ✓ **If possible, designate a room near each housing unit for healthcare staff to evaluate individuals with COVID-19 symptoms, rather than having them walk through the facility to be evaluated in the medical unit.**
- ✓ **Incarcerated/detained individuals with COVID-19 symptoms should wear a face mask and should be placed under medical isolation immediately. Discontinue the use of a face mask if it inhibits breathing. See [Medical Isolation](#) section above.**

- ✓ **Medical staff should evaluate symptomatic individuals to determine whether COVID-19 testing is indicated.** Refer to CDC guidelines for information on [evaluation](#) and [testing](#). See [Infection Control](#) and [Clinical Care](#) sections below as well.
- ✓ **If testing is indicated (or if medical staff need clarification on when testing is indicated), contact the state, local, tribal, and/or territorial health department. Work with public health or private labs as available to access testing supplies or services.**
 - If the COVID-19 test is positive, continue medical isolation. (See [Medical Isolation](#) section above.)
 - If the COVID-19 test is negative, return the individual to their prior housing assignment unless they require further medical assessment or care.

Management Strategies for Incarcerated/Detained Persons without COVID-19 Symptoms

- ✓ **Provide [clear information](#) to incarcerated/detained persons about the presence of COVID-19 cases within the facility, and the need to increase social distancing and maintain hygiene precautions.**
 - Consider having healthcare staff perform regular rounds to answer questions about COVID-19.
 - Ensure that information is provided in a manner that can be understood by non-English speaking individuals and those with low literacy, and make necessary accommodations for those with cognitive or intellectual disabilities and those who are deaf, blind, or low-vision.
- ✓ **Implement daily temperature checks in housing units where COVID-19 cases have been identified, especially if there is concern that incarcerated/detained individuals are not notifying staff of symptoms.** See [Screening](#) section for a procedure to safely perform a temperature check.
- ✓ **Consider additional options to intensify [social distancing](#) within the facility.**

Management Strategies for Staff

- ✓ **Provide clear information to staff about the presence of COVID-19 cases within the facility, and the need to enforce social distancing and encourage hygiene precautions.**
 - Consider having healthcare staff perform regular rounds to answer questions about COVID-19 from staff.
- ✓ **Staff identified as close contacts of a COVID-19 case should self-quarantine at home for 14 days and may return to work if symptoms do not develop.**
 - See [above](#) for definition of a close contact.
 - Refer to [CDC guidelines](#) for further recommendations regarding home quarantine for staff.

Infection Control

Infection control guidance below is applicable to all types of correctional facilities. Individual facilities should assess their unique needs based on the types of exposure staff and incarcerated/detained persons may have with confirmed or suspected COVID-19 cases.

- ✓ **All individuals who have the potential for direct or indirect exposure to COVID-19 cases or infectious materials (including body substances; contaminated medical supplies, devices, and equipment; contaminated environmental surfaces; or contaminated air) should follow infection control practices outlined in the [CDC Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 \(COVID-19\) in Healthcare Settings](#). Monitor these guidelines regularly for updates.**

- Implement the above guidance as fully as possible within the correctional/detention context. Some of the specific language may not apply directly to healthcare settings within correctional facilities and detention centers, or to facilities without onsite healthcare capacity, and may need to be adapted to reflect facility operations and custody needs.
- Note that these recommendations apply to staff as well as to incarcerated/detained individuals who may come in contact with contaminated materials during the course of their work placement in the facility (e.g., cleaning).
- ✓ **Staff should exercise caution when in contact with individuals showing symptoms of a respiratory infection.** Contact should be minimized to the extent possible until the infected individual is wearing a face mask. If COVID-19 is suspected, staff should wear recommended PPE (see [PPE](#) section).
- ✓ **Refer to [PPE](#) section to determine recommended PPE for individuals persons in contact with confirmed COVID-19 cases, contacts, and potentially contaminated items.**

Clinical Care of COVID-19 Cases

- ✓ **Facilities should ensure that incarcerated/detained individuals receive medical evaluation and treatment at the first signs of COVID-19 symptoms.**
 - If a facility is not able to provide such evaluation and treatment, a plan should be in place to safely transfer the individual to another facility or local hospital.
 - The initial medical evaluation should determine whether a symptomatic individual is at [higher risk for severe illness from COVID-19](#). Persons at higher risk may include older adults and persons of any age with serious underlying medical conditions such as lung disease, heart disease, and diabetes. See [CDC's website](#) for a complete list, and check regularly for updates as more data become available to inform this issue.
- ✓ **Staff evaluating and providing care for confirmed or suspected COVID-19 cases should follow the [CDC Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease \(COVID-19\)](#) and monitor the guidance website regularly for updates to these recommendations.**
- ✓ **Healthcare staff should evaluate persons with respiratory symptoms or contact with a COVID-19 case in a separate room, with the door closed if possible, while wearing [recommended PPE](#) and ensuring that the suspected case is wearing a face mask.**
 - If possible, designate a room near each housing unit to evaluate individuals with COVID-19 symptoms, rather than having them walk through the facility to be evaluated in the medical unit.
- ✓ **Clinicians are strongly encouraged to test for other causes of respiratory illness (e.g., influenza).**
- ✓ **The facility should have a plan in place to safely transfer persons with severe illness from COVID-19 to a local hospital if they require care beyond what the facility is able to provide.**
- ✓ **When evaluating and treating persons with symptoms of COVID-19 who do not speak English, using a language line or provide a trained interpreter when possible.**

Recommended PPE and PPE Training for Staff and Incarcerated/Detained Persons

- ✓ **Ensure that all staff (healthcare and non-healthcare) and incarcerated/detained persons who will have contact with infectious materials in their work placements have been trained to correctly don, doff, and dispose of PPE relevant to the level of contact they will have with confirmed and suspected COVID-19 cases.**

- Ensure that staff and incarcerated/detained persons who require respiratory protection (e.g., N95s) for their work responsibilities have been medically cleared, trained, and fit-tested in the context of an employer's [respiratory protection program](#).
- For PPE training materials and posters, please visit the [CDC website on Protecting Healthcare Personnel](#).
- ✓ **Ensure that all staff are trained to perform hand hygiene after removing PPE.**
- ✓ **If administrators anticipate that incarcerated/detained persons will request unnecessary PPE, consider providing training on the different types of PPE that are needed for differing degrees of contact with COVID-19 cases and contacts, and the reasons for those differences (see [Table 1](#)). Monitor linked CDC guidelines in Table 1 for updates to recommended PPE.**
- ✓ **Keep recommended PPE near the spaces in the facility where it could be needed, to facilitate quick access in an emergency.**
- ✓ **Recommended PPE for incarcerated/detained individuals and staff in a correctional facility** will vary based on the type of contact they have with COVID-19 cases and their contacts (see [Table 1](#)). Each type of recommended PPE is defined below. **As above, note that PPE shortages are anticipated in every category during the COVID-19 response.**
 - **N95 respirator**

See below for guidance on when face masks are acceptable alternatives for N95s. N95 respirators should be prioritized when staff anticipate contact with infectious aerosols from a COVID-19 case.

 - **Face mask**
 - **Eye protection**—goggles or disposable face shield that fully covers the front and sides of the face
 - **A single pair of disposable patient examination gloves**

Gloves should be changed if they become torn or heavily contaminated.

 - **Disposable medical isolation gown or single-use/disposable coveralls, when feasible**
 - If custody staff are unable to wear a disposable gown or coveralls because it limits access to their duty belt and gear, ensure that duty belt and gear are disinfected after close contact with the individual. Clean and disinfect duty belt and gear prior to reuse using a household cleaning spray or wipe, according to the product label.
 - If there are shortages of gowns, they should be prioritized for aerosol-generating procedures, care activities where splashes and sprays are anticipated, and high-contact patient care activities that provide opportunities for transfer of pathogens to the hands and clothing of staff.
- ✓ **Note that shortages of all PPE categories are anticipated during the COVID-19 response, particularly for non-healthcare workers. Guidance for optimizing the supply of each category can be found on CDC's website:**
 - [Guidance in the event of a shortage of N95 respirators](#)
 - Based on local and regional situational analysis of PPE supplies, **face masks are an acceptable alternative when the supply chain of respirators cannot meet the demand.** During this time, available respirators should be prioritized for staff engaging in activities that would expose them to respiratory aerosols, which pose the highest exposure risk.
 - [Guidance in the event of a shortage of face masks](#)
 - [Guidance in the event of a shortage of eye protection](#)
 - [Guidance in the event of a shortage of gowns/coveralls](#)

Table 1. Recommended Personal Protective Equipment (PPE) for Incarcerated/Detained Persons and Staff in a Correctional Facility during the COVID-19 Response

Classification of Individual Wearing PPE	N95 respirator	Face mask	Eye Protection	Gloves	Gown/ Coveralls
Incarcerated/Detained Persons					
Asymptomatic incarcerated/detained persons (under quarantine as close contacts of a COVID-19 case*)	Apply face masks for source control as feasible based on local supply, especially if housed as a cohort				
Incarcerated/detained persons who are confirmed or suspected COVID-19 cases, or showing symptoms of COVID-19	–	✓	–	–	–
Incarcerated/detained persons in a work placement handling laundry or used food service items from a COVID-19 case or case contact	–	–	–	✓	✓
Incarcerated/detained persons in a work placement cleaning areas where a COVID-19 case has spent time	Additional PPE may be needed based on the product label. See CDC guidelines for more details.			✓	✓
Staff					
Staff having direct contact with asymptomatic incarcerated/detained persons under quarantine as close contacts of a COVID-19 case* (but not performing temperature checks or providing medical care)	–	Face mask, eye protection, and gloves as local supply and scope of duties allow.			–
Staff performing temperature checks on any group of people (staff, visitors, or incarcerated/detained persons), or providing medical care to asymptomatic quarantined persons	–	✓	✓	✓	✓
Staff having direct contact with (including transport) or offering medical care to confirmed or suspected COVID-19 cases (see CDC infection control guidelines)	✓**		✓	✓	✓
Staff present during a procedure on a confirmed or suspected COVID-19 case that may generate respiratory aerosols (see CDC infection control guidelines)	✓	–	✓	✓	✓
Staff handling laundry or used food service items from a COVID-19 case or case contact	–	–	–	✓	✓
Staff cleaning an area where a COVID-19 case has spent time	Additional PPE may be needed based on the product label. See CDC guidelines for more details.			✓	✓

* If a facility chooses to routinely quarantine all new intakes (without symptoms or known exposure to a COVID-19 case) before integrating into the facility's general population, face masks are not necessary.

** A NIOSH-approved N95 is preferred. However, based on local and regional situational analysis of PPE supplies, face masks are an acceptable alternative when the supply chain of respirators cannot meet the demand. During this time, available respirators should be prioritized for procedures that are likely to generate respiratory aerosols, which would pose the highest exposure risk to staff.

Verbal Screening and Temperature Check Protocols for Incarcerated/Detained Persons, Staff, and Visitors

The guidance above recommends verbal screening and temperature checks for incarcerated/detained persons, staff, volunteers, and visitors who enter correctional and detention facilities, as well as incarcerated/detained persons who are transferred to another facility or released from custody. Below, verbal screening questions for COVID-19 symptoms and contact with known cases, and a safe temperature check procedure are detailed.

✓ **Verbal screening for symptoms of COVID-19 and contact with COVID-19 cases should include the following questions:**

- *Today or in the past 24 hours, have you had any of the following symptoms?*
 - *Fever, felt feverish, or had chills?*
 - *Cough?*
 - *Difficulty breathing?*
- *In the past 14 days, have you had contact with a person known to be infected with the novel coronavirus (COVID-19)?*

✓ **The following is a protocol to safely check an individual's temperature:**

- Perform hand hygiene
- Put on a face mask, eye protection (goggles or disposable face shield that fully covers the front and sides of the face), gown/coveralls, and a single pair of disposable gloves
- Check individual's temperature
- **If performing a temperature check on multiple individuals, ensure that a clean pair of gloves is used for each individual and that the thermometer has been thoroughly cleaned in between each check.** If disposable or non-contact thermometers are used and the screener did not have physical contact with an individual, gloves do not need to be changed before the next check. If non-contact thermometers are used, they should be [cleaned routinely as recommended by CDC for infection control](#).
- Remove and discard PPE
- Perform hand hygiene



ERO

U.S. Immigration and Customs Enforcement Enforcement and Removal Operations

COVID-19 Pandemic Response Requirements



**U.S. Immigration
and Customs
Enforcement**

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PURPOSE AND SCOPE

The U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) Coronavirus Disease 2019 (COVID-19) Pandemic Response Requirements (PRR) sets forth expectations and assists ICE detention facility operators to sustain detention operations, while mitigating risk to the safety and well-being of detainees, staff, contractors, visitors, and stakeholders due to COVID-19. Consistent with ICE's overall adjustments to its immigration enforcement posture,¹ the ERO PRR builds upon previously issued guidance and sets forth specific mandatory requirements expected to be adopted by all detention facilities housing ICE detainees, as well as best practices for such facilities, to ensure that detainees are appropriately housed and that available mitigation measures are implemented during this unprecedented public health crisis. The ERO PRR has been developed in consultation with the Centers for Disease Control and Prevention (CDC) and is a dynamic document that will be updated as additional/revised information and best practices become available.

INTRODUCTION

As the CDC has explained:

COVID-19 is a communicable disease caused by a novel (new) coronavirus, SARS-CoV-2, that was first identified as the cause of an outbreak of respiratory illness that began in Wuhan Hubei Province, People's Republic of China (China).

COVID-19 appears to spread easily and sustainably within communities. The virus is thought to transfer primarily by person-to-person contact through respiratory droplets produced when an infected person coughs or sneezes; it may transfer through contact with surfaces or objects contaminated with these droplets. There is also evidence of asymptomatic transmission, in which an individual infected with COVID-19 is capable of spreading the virus to others before exhibiting symptoms. The ease of transmission presents a risk of a surge in hospitalizations for COVID-19, which would reduce available hospital capacity. Such a surge has been identified as a likely contributing factor to the high mortality rate for COVID-19 cases in Italy and China.

Symptoms include fever, cough, and shortness of breath, and typically appear 2-14 days after exposure. Manifestations of severe disease include severe pneumonia, acute respiratory distress syndrome (ARDS), septic shock, and multi-organ failure. According to the [World Health Organization], approximately 3.4% of reported COVID-19 cases have resulted in death globally. This mortality rate is higher among older adults or those with compromised immune systems. Older adults and people who have severe chronic medical conditions like heart, lung or kidney disease are also at higher risk for more serious COVID-19 illness. Early data suggest older people are twice as likely to have serious COVID-19 illness.

¹ See, e.g., Attachment A, U.S. Immigration and Customs Enforcement, *Updated ICE statement on COVID-19* (Mar. 18, 2020), <https://www.ice.gov/news/releases/updated-ice-statement-covid-19>.

Notice of Order Under Sections 362 and 365 of the Public Health Service Act Suspending Introduction of Certain Persons From Countries Where a Communicable Disease Exists, 85 Fed. Reg. 17060 (Mar. 26, 2020) (internal citations omitted).

Given the seriousness and pervasiveness of COVID-19, ICE is taking necessary and prompt measures in response. ICE is providing guidance on the minimum measures required for facilities housing ICE detainees to implement to ensure consistent practices throughout its detention operations and the provision of medical care across the full spectrum of detention facilities to mitigate the spread of COVID-19. The ICE detention standards applicable to all facilities used to house ICE detainees have long required that each such facility have written plans that address the management of infectious and communicable diseases, including, but not limited to, testing, isolation, prevention, treatment, and education. Those requirements include reporting and collaboration with local or state health departments in accordance with state and local laws and recommendations.² The measures set forth in the PRR, allow ICE personnel and detention providers to properly discharge their obligations under those standards in light of the unique challenges posed by COVID-19.

OBJECTIVES

The ERO PRR is designed to establish consistency across ICE detention facilities by establishing mandatory requirements and best practices all detention facilities housing ICE detainees are expected to follow during the COVID-19 pandemic. Consistent with ICE detention standards, all facilities housing ICE detainees are required to have a COVID-19 mitigation plan that meets the following four objectives:

- To protect employees, contractors, detainees, visitors to the facility, and stakeholders from exposure to the virus;
- To maintain essential functions and services at the facility throughout the pendency of the pandemic;
- To reduce movement and limit interaction of detainees with others outside their assigned housing units, as well as staff and others, and to promote social distancing within housing units; and
- To establish means to monitor, cohort, quarantine, and isolate the sick from the well.³

² See, e.g., Attachment B, ICE National Detention Standards 2019, Standard 4.3, Medical Care, at II.D.2 (p. 114), https://www.ice.gov/doclib/detention-standards/2019/4_3.pdf; Attachment C, 2011 ICE Performance-Based National Detention Standards (PBNDS), Revised 2016, Standard 4.3, Part V.C.1 (p. 261), <https://www.ice.gov/doclib/detention-standards/2011/4-3.pdf>; Attachment D, 2008 ICE PBNDS, Standard 4-22, Medical Care, V.C.1 (pp. 5-6), https://www.ice.gov/doclib/dro/detention-standards/pdf/medical_care.pdf.

³ A *cohort* is a group of persons with a similar condition grouped or housed together for observation over a period of time. Isolation and quarantine are public health practices used to protect the public from exposure to individuals who have or may have a contagious disease. For purposes of this document, and as defined by the CDC, *quarantine* as the separation of a person or group of people reasonably believed to have been exposed to a communicable disease but not yet symptomatic, from others who have not been

CONCEPT OF OPERATIONS

The ERO PRR is intended for use across ICE's entire detention network, applying to all facilities housing ICE detainees, including ICE-owned Service Processing Centers, facilities operated by private vendors, and facilities operated by local government agencies that have mixed populations of which ICE detainees comprise only a small fraction.

DEDICATED ICE DETENTION FACILITIES

All ICE dedicated detention facilities⁴ must:

- Comply with the provisions of their relevant ICE contract or service agreement.
- Comply with the ICE national detention standards applicable to the facility, generally the [Performance-Based National Detention Standards 2011](#) (PBNDs 2011).
- Comply with the CDC's [Interim Guidance on Management of Coronavirus Disease 2019 \(COVID-19\) in Correctional and Detention Facilities \(Attachment E\)](#).
- Follow ICE's March 27, 2020 Memorandum to Detention Wardens and Superintendents on COVID-19 Action Plan Revision 1, and subsequent updates (Attachment F).
- Report all confirmed and suspected COVID-19 cases to the local ERO Field Office Director (or designee), Field Medical Coordinator, and local health department immediately.
- Notify both the local ERO Field Office Director (or designee) and the Field Medical Coordinator as soon as practicable, but in no case more than 12 hours after identifying any detainee who meets the CDC's identified populations potentially being at higher-risk for serious illness from COVID-19, including:
 - People aged 65 and older
 - People of all ages with underlying medical conditions, particularly if not well controlled, including:
 - People with chronic lung disease or moderate to severe asthma
 - People who have serious heart conditions
 - People who are immunocompromised

exposed, to prevent the possible spread of the communicable disease. For purposes of this document, and as defined by the CDC, *isolation* as the separation of a person or group of people known or reasonably believed to be infected with a communicable disease and potentially infectious from others to prevent the spread of the communicable disease.

⁴ Dedicated detention facilities are facilities that house only ICE detainees. Dedicated facilities may be ICE-owned Service Processing Centers, privately owned Contract Detention Facilities, or facilities operated by state or local governments that hold no other detention populations except ICE detainees.

- Many conditions can cause a person to be immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications
- People with severe obesity (body mass index [BMI] of 40 or higher)
- People with diabetes
- People with chronic kidney disease undergoing dialysis
- People with liver disease

Notification shall be made via e-mail from the facility's Health Services Administrator (HSA) (or equivalent) and contain the following subject line for ease of identification: "Notification of COVID-19 High Risk Detainee (A-Number)." At a minimum the HSA will provide the following information:

- Detainee name
- Detention location
- Current medical issues as well as medications currently prescribed
- Facility medical Point of Contact (POC) and phone number

NON-DEDICATED ICE DETENTION FACILITIES

All non-dedicated detention facilities and local jails housing ICE detainees must:

- Comply with the provisions of their relevant ICE contract or service agreement.
- Comply with the ICE national detention standards applicable to the facility, generally [PBNDS 2011](#).
- Comply with the [CDC Interim Guidance on Management of Coronavirus Disease 2019 \(COVID-19\) in Correctional and Detention Facilities](#).
- Report all confirmed and suspected COVID-19 cases to the local ERO Field Office Director (or designee), Field Medical Coordinator, and local health department immediately.
- Notify both the ERO Field Office Director (or designee) and Field Medical Coordinator as soon as practicable, but in no case more than 12 hours after identifying any detainee who meets the CDC's identified populations potentially being at higher-risk for serious illness from COVID-19, including:
 - People aged 65 and older
 - People of all ages with underlying medical conditions, particularly if not well controlled, including:
 - People with chronic lung disease or moderate to severe asthma
 - People who have serious heart conditions
 - People who are immunocompromised

- Many conditions can cause a person to be immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications
- People with severe obesity (body mass index [BMI] of 40 or higher)
- People with diabetes
- People with chronic kidney disease undergoing dialysis
- People with liver disease

Notification should be made via e-mail from the facility's HSA (or equivalent) and should contain the following subject line for ease of identification: "Notification of COVID-19 High Risk Detainee (A-Number)." Other standardized means of communicating this information to ICE are acceptable. At a minimum the HSA will provide the following information:

- Detainee name
- Detention location
- Current medical issues as well as medications currently prescribed
- Facility medical POC and phone number

ALL FACILITIES HOUSING ICE DETAINEES

In addition to the specific measures listed above, all detention facilities housing ICE detainees must also comply with the following:

PREPAREDNESS

Administrators can plan and prepare for COVID-19 by ensuring that all persons in the facility know the symptoms of COVID-19 and how to respond if they develop symptoms. Other essential actions include developing contingency plans for reduced workforces due to absences, coordinating with public health and correctional partners, and communicating clearly with staff and detainees about these preparations and how they may temporarily alter daily life.

➤ Develop information-sharing systems with partners.

- Identify points of contact in relevant state, local, tribal, and/or territorial public health department before cases develop.
- Communicate with other correctional and detention facilities in the same geographic area to share information including disease surveillance and absenteeism patterns among staff.

➤ Review existing pandemic, influenza, all-hazards, and disaster plans, and revise for COVID-19, and ensure that they meet the requirements of ICE's detention standards.

- **Offer the seasonal influenza vaccine to all detained persons (existing populations and new intakes) and staff throughout the influenza season, where possible.**

- **Staffing**

- Review sick leave policies to ensure that staff can stay home when sick and determine which officials will have the authority to send symptomatic staff home. Staff who report for work with symptoms of COVID-19 must be sent home and advised to follow CDC-recommended steps for persons exhibiting COVID-19 symptoms.
- Staff who test positive for COVID-19 must inform their workplace and personal contacts immediately. If a staff member has a confirmed COVID-19 infection, the relevant employers will inform other staff of their possible exposure to COVID-19 in the workplace consistent with any legal limitations on the sharing of such information. Exposed employees must then self-monitor for symptoms (i.e., fever, cough, or shortness of breath).
- Identify staff whose duties would allow them to work from home and allow them to work from home in order to promote social distancing and further reduce the risk of COVID-19 transmission.
- Determine minimum levels of staff in all categories required for the facility to function safely.
- Follow the Public Health Recommendations for Community-Related Exposure.⁵

- **Supplies**

- Ensure that sufficient stocks of hygiene supplies (soap, hand sanitizer, tissues), personal protective equipment (PPE) (to include facemasks, N95 respirators, eye protection, disposable medical gloves, and disposable gowns/one-piece coveralls), and medical supplies (consistent with the healthcare capabilities of the facility) are on hand, and have a plan in place to restock as needed if COVID-19 transmission occurs within the facility.
- Note that shortages of N95 respirators are anticipated during the COVID-19 response. Based on local and regional situational analysis of PPE supplies, face masks should be used when the supply chain of N95 respirators cannot meet the demand.
- Follow COVID-19: Strategies for Optimizing the Supply of PPE.⁶
- Soiled PPE items should be disposed in leak-proof plastic bags that are tied at the top and not re-opened. Bags can be disposed of in the regular solid waste stream.

⁵ Attachment G, Centers of Disease Control and Prevention, *Public Health Recommendations for Community-Related Exposure*, <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html> (last visited Apr. 9, 2020).

⁶ Attachment H, Centers for Disease Control and Prevention, *Strategies to Optimize the Supply of PPE and Equipment*, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/> (last visited Apr. 9, 2020).

- Cloth face coverings should be worn by detainees and staff (when PPE supply is limited) to help slow the spread of COVID-19. Cloth face masks should:
 - fit snugly but comfortably against the side of the face
 - be secured with ties or ear loops where possible or securely tied
 - include multiple layers of fabric
 - allow for breathing without restriction
 - be able to be laundered and machine dried without damage or change to shape.

➤ **Hygiene**

- Reinforce healthy hygiene practices and provide and restock hygiene supplies throughout the facility, including in bathrooms, food preparation and dining areas, intake areas, visitor entries and exits, visitation rooms, common areas, medical, and staff-restricted areas (e.g., break rooms).
- Require all persons within the facility to cover their mouth and nose with their elbow (or ideally with a tissue) rather than with their hand when they cough or sneeze, and to throw all tissues in the trash immediately after use. Provide detainees and staff no-cost access to tissues and no-touch receptacles for disposal.
- Require all persons within the facility to maintain good hand hygiene by regularly washing their hands with soap and water for at least 20 seconds, especially after coughing, sneezing, or blowing their nose; after using the bathroom; before eating or preparing food; before taking medication; and after touching garbage.
- Provide detainees and staff no-cost, unlimited access to supplies for hand cleansing, including liquid soap, running water, hand drying machines or disposable paper towels, and no-touch trash receptacles.
- Provide alcohol-based hand sanitizer with at least 60% alcohol where permissible based on security restrictions.
- Require all persons within the facility to avoid touching their eyes, nose, or mouth without cleaning their hands first.
- Post signage throughout the facility reminding detained persons and staff to practice good hand hygiene and cough etiquette (printable materials for community-based settings can be found on the [CDC website](#)). Signage must be in English and Spanish, as well as any other common languages for the detainee population at the facility.
- Prohibit sharing of eating utensils, dishes, and cups.
- Prohibit non-essential personal contact such as handshakes, hugs, and high-fives.

➤ **Cleaning/Disinfecting Practices**

- Adhere to CDC recommendations for cleaning and disinfection during the COVID-19 response.⁷
- Several times a day using household cleaners and Environmental Protection Agency-registered disinfectants, clean and disinfect surfaces and objects that are frequently touched, especially in common areas (e.g., doorknobs, light switches, sink handles, countertops, toilets, toilet handles, recreation equipment). The Environmental Protection Agency's (EPA) list of certified cleaning products is located [here](#).
- Staff should clean shared equipment several times per day and on a conclusion of use basis (e.g., radios, service weapons, keys, handcuffs).
- Ensure that transport vehicles are thoroughly cleaned after carrying a confirmed or suspected COVID-19 case.
- Facility leadership will ensure that there is adequate oversight and supervision of all individuals responsible for cleaning and disinfecting these areas.

CDC Recommended Cleaning Tips

Hard (Non-porous) Surfaces

- If surfaces are dirty, they should be cleaned using a detergent or soap and water prior to disinfection.
- For disinfection, most common EPA-registered household disinfectants should be effective.
 - A list of products that are EPA-approved for use against the virus that causes COVID-19 is available [here](#). Follow the manufacturer's instructions for all cleaning and disinfection products for concentration, application method and contact time, etc.
 - Additionally, diluted household bleach solutions (at least 1000ppm sodium hypochlorite) can be used if appropriate for the surface. Follow manufacturer's instructions for application, ensuring a contact time of at least 1 minute, and allowing proper ventilation during and after application. Check to ensure the product is not past its expiration date. Never mix household bleach with ammonia or any other cleanser. Unexpired household bleach will be effective against coronaviruses when properly diluted.
 - Prepare a bleach solution by mixing:
 - 5 tablespoons (1/3 cup) bleach per gallon of water or
 - 4 teaspoons bleach per quart of water

Soft (Porous) Surfaces

⁷ Attachment I, Centers for Disease Control and Prevention, *Cleaning and Disinfection for Community Facilities*, <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html> (last visited Apr. 9, 2020).

- For soft (porous) surfaces such as carpeted floor, rugs, and drapes, remove visible contamination if present and clean with appropriate cleaners indicated for use on these surfaces. After cleaning:
 - If the items can be laundered, launder items in accordance with the manufacturer's instructions using the warmest appropriate water setting for the items and then dry items completely.
 - Otherwise, use products that are EPA-approved for use against the virus that causes COVID-19 and that are suitable for porous surfaces.⁸

Electronics

- For electronics such as tablets, touch screens, keyboards, remote controls, and ATM machines, remove visible contamination if present.
 - Follow the manufacturer's instructions for all cleaning and disinfection products.
 - Consider use of wipeable covers for electronics.
 - If no manufacturer guidance is available, consider the use of alcohol-based wipes or sprays containing at least 70% alcohol to disinfect touch screens. Dry surfaces thoroughly to avoid pooling of liquids.

Linens, Clothing, and Other Items That Go in the Laundry

- In order to minimize the possibility of dispersing virus through the air, do not shake dirty laundry.
- Wash items as appropriate in accordance with the manufacturer's instructions. If possible, launder items using the warmest appropriate water setting for the items and dry items completely. Dirty laundry that has been in contact with an ill person can be washed with other people's items.
- Clean and disinfect hampers or other carts for transporting laundry according to guidance above for hard or soft surfaces.

PREVENTION

Detention facilities can prevent introduction of COVID-19 from the community and reduce transmission if it is already inside by reinforcing good hygiene practices among incarcerated/detained persons, staff, and visitors (including increasing access to soap and paper towels), intensifying cleaning/disinfection practices, and implementing social distancing strategies.

Because many individuals infected with COVID-19 do not display symptoms, the virus could be present in facilities before cases are identified. Both good hygiene practices and social distancing are critical in preventing further transmission.

⁸ Attachment J, U.S. Environmental Protection Agency, *List N: Disinfectants for Use Against SARS-CoV-2*, <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2> (last visited Apr. 9, 2020).

➤ **Perform pre-intake screening for all staff and new entrants for symptoms of COVID-19.**

Screening should take place before staff and new intakes enter the facility or just inside the facility, where practicable. For new admissions, this should occur before beginning the intake process, in order to identify and immediately isolate any detainee with symptoms before the individual comes in contact with others or is placed in the general population. This should include temperature screening of all staff and new entrants, as well as a verbal symptoms check.

- Verbal screening for symptoms of COVID-19 and contact with COVID-19 cases should include the following questions based on [Interim Guidance: Managing COVID-19 in Correctional/Detention Facilities](#):
 - Today or in the past 24 hours, have you had any of the following symptoms?
 - Fever, felt feverish, or had chills?
 - Cough?
 - Difficulty breathing?
 - In the past 14 days, have you had contact with a person known to be infected with COVID-19 where you were not wearing the recommended proper PPE?
- If staff have symptoms of COVID-19 (fever, cough, shortness of breath): they must be denied access to the facility.
- If any new intake has symptoms of COVID-19:
 - Require the individual to wear a face mask.
 - Ensure that staff interacting with the symptomatic individual wears recommended PPE.
 - Isolate the individual and refer to healthcare staff for further evaluation.
 - Facilities without onsite healthcare staff should contact their state, local, tribal, and/or territorial health department to coordinate effective isolation and necessary medical care.
- If an individual is a close contact of a known COVID-19 case or has traveled to an affected area (but has no COVID-19 symptoms), quarantine the individual and monitor for symptoms two times per day for 14 days.

➤ **Visitation**

- During suspended (social) or modified (legal) visitation programs, provide access to virtual visitation options where available. When not possible, verbally screen all visitors on entry for symptoms of COVID-19 and perform temperature checks, when possible. ICE continues to explore opportunities to enhance attorney access while legal visits are being impacted. For facilities at which immigration hearings are conducted or where detainees are otherwise held who have cases pending immigration proceedings, this may include:

- Adding all immigration attorneys of record to the Talton Pro-bono platform.
 - Requiring facilities to establish a process for detainees/immigration attorneys to schedule appointments and facilitate the calls.
 - Leveraging technology (e.g., tablets, smartphones) to facilitate attorney/client communication.
 - Working with the various detention contractors and telephone service providers to ensure that all detainees receive some number of free calls per week.
 - Communicate with the public about any changes to facility operations, including visitation programs. Facilities are encouraged to prohibit or, at a minimum, significantly adopt restricted visitation programs, and to suspend all volunteer work assignments for detainees assigned to food service, and other assignments where applicable.
- **Where possible, restrict transfers of detained non-ICE populations to and from other jurisdictions and facilities unless necessary for medical evaluation, isolation/quarantine, clinical care, or extenuating security concerns.**
- **Consider suspending work release programs for inmates at shared facilities to reduce overall risk of introduction and transmission of COVID-19 into the facility.**
- **When feasible and consistent with security priorities, encourage staff to maintain a distance greater than six feet from an individual that appears feverish or ill and/or with respiratory symptoms while interviewing, escorting, or interacting in other ways, unless wearing PPE.**
- **Additional Measures to Facilitate Social Distancing**
- Although strict social distancing may not be possible in congregate settings such as detention facilities, all facilities housing ICE detainees should implement the following measures to the extent practicable:
 - Efforts should be made to reduce the population to approximately 75% of capacity.
 - Where detainee populations are such that such cells are available, to the extent possible, house detainees in individual rooms.
 - Recommend that detainees sharing sleeping quarters sleep “head-to-foot.”
 - Extend recreation, law library, and meal hours and stagger detainee access to the same in order to limit the number of interactions between detainees from other housing units.
 - Staff and detainees should be directed to avoid congregating in groups of 10 or more, employing social distancing strategies at all times.

- Whenever possible, all staff and detainees should maintain a distance of six feet from one another.
- If practicable, beds in housing units should be rearranged to allow for sufficient separation during sleeping hours.

MANAGEMENT

If there has been a suspected COVID-19 case inside the facility (among incarcerated/detained persons, staff, or visitors who have recently been inside), begin implementing Management strategies while test results are pending. Essential Management strategies include placing cases and individuals with symptoms under medical isolation, quarantining their close contacts, and facilitating necessary medical care, while observing relevant infection control and environmental disinfection protocols and wearing recommended PPE.

ICE Custody Review for Potentially High-Risk Detainees

Upon being informed of a detainee who may potentially be at higher risk for serious illness from exposure to COVID-19, ERO will review the case to determine whether continued detention is appropriate.⁹ ICE will make such custody determinations on a case-by-case basis, pursuant to the applicable legal standards, with due consideration of the public health considerations implicated.

- **Considerable effort should be made to quarantine all new entrants for 14 days before they enter the general population.**
 - To do this, facilities should consider cohorting daily intakes; two days of new intakes, or multiple days on new intakes, in designated areas prior to placement into the general population. Given the significant variance in facility attributes and characteristics, cohorting options and capabilities will differ across the various detention facilities housing ICE detainees. ICE encourages all facilities to adopt the most effective cohorting methods practicable based on the individual facility characteristics taking into account the number new intakes anticipated per day.
- **For suspected or confirmed COVID-19 cases:**
 - Isolate the individual immediately in a separate environment from other individuals. Facilities should make every possible effort to isolate persons individually. Each isolated individual should be assigned his or her own housing space and bathroom where possible. Cohorting should only be practiced if there are no other available options. Only individuals who are laboratory-confirmed COVID-19 cases should be isolated as a cohort. Do not cohort confirmed cases with suspected cases or case contacts.
 - Ensure that the individual is always wearing a face mask (if it does not restrict breathing) when outside of the isolation space, and whenever another individual

⁹ Attachment K, Assistant Director Peter Berg, Enforcement and Removal Operations, *Updated Guidance: COVID-19 Detained Docket Review* (Apr. 4, 2020).

enters the isolation room. Masks should be changed at least daily, and when visibly soiled or wet.

- If the number of confirmed cases exceeds the number of individual isolation spaces available in the facility, then ICE must be promptly notified so that transfer to other facilities, transfers to hospitals, or release can be coordinated immediately. Until such time as transfer or release is arranged, the facility must be especially mindful of cases that are at higher risk of severe illness from COVID-19. Ideally, ill detainees should not be cohorted with other infected individuals. If cohorting of ill detainees is unavoidable, make all possible accommodations until transfer occurs to prevent transmission of other infectious diseases to the higher-risk individual (For example, allocate more space for a higher-risk individual within a shared isolation room).
- Review the CDC's preferred method of medically isolating COVID-19 cases here depending on the space available in a particular facility. In order of preference, individuals under medical isolation should be housed:
 - Separately, in single cells with solid walls (i.e., not bars) and solid doors that close fully.
 - Separately, in single cells with solid walls but without solid doors.
 - As a cohort, in a large, well-ventilated cell with solid walls and a solid door that closes fully. Employ social distancing strategies related to housing in the Prevention section above.
 - As a cohort, in a large, well-ventilated cell with solid walls but without a solid door. Employ social distancing strategies related to housing in the Prevention section above.
 - As a cohort, in single cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells. (Although individuals are in single cells in this scenario, the airflow between cells essentially makes it a cohort arrangement in the context of COVID-19.)
 - As a cohort, in multi-person cells without solid walls or solid doors (i.e., cells enclosed entirely with bars), preferably with an empty cell between occupied cells. Employ social distancing strategies related to housing in the Prevention section above.
- Maintain isolation until all the CDC criteria have been met:
 - The individual has been free from fever for 72 hours without the use of fever-reducing medications.
 - The individual's other symptoms have improved (e.g., cough, shortness of breath).
 - The individual has tested negative in at least two consecutive respiratory specimens collected at least 24 hours apart.

- At least 7 days have passed since the date of the individual's first positive COVID-19 test and he or she has had no subsequent illness.
- Meals should be provided to COVID-19 cases in their isolation rooms. Isolated cases should throw disposable food service items in the trash in their isolation room. Non-disposable food service items should be handled with gloves and washed with hot water or in a dishwasher. Individuals handling used food service items must clean their hands after removing gloves.
- Laundry from a COVID-19 case can be washed with other individuals' laundry.
 - Individuals handling laundry from COVID-19 cases should wear disposable gloves, discard gloves after each use, and clean their hands after handling.
 - Do not shake dirty laundry. This will minimize the possibility of dispersing the virus through the air.
 - Launder items as appropriate in accordance with the manufacturer's instructions. If possible, launder items using the warmest appropriate water setting for the items and dry items completely.
 - Clean and disinfect clothes hampers according to guidance above for surfaces. If permissible, consider using a bag liner that is either disposable or can be laundered.

ATTACHMENTS

ATTACHMENT LETTER	DOCUMENT NAME AND CITATION
A	U.S. Immigration and Customs Enforcement, <i>Updated ICE statement on COVID-19</i> (Mar. 18, 2020), https://www.ice.gov/news/releases/updated-ice-statement-covid-19 .
B	ICE National Detention Standards 2019, Standard 4.3, Medical Care, https://www.ice.gov/doclib/detention-standards/2019/4_3.pdf .
C	2011 ICE Performance-Based National Detention Standards, Revised 2016, Standard 4.3, https://www.ice.gov/doclib/detention-standards/2011/4-3.pdf .
D	2008 ICE Performance-Based National Detention Standards, Standard 4-22, Medical Care, https://www.ice.gov/doclib/dro/detention-standards/pdf/medical_care.pdf .
E	Centers of Disease Control and Prevention, <i>Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities</i> (Mar. 23, 2020), https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidance-correctional-detention.pdf .
F	Memorandum from Executive Associate Director Enrique Lucero, Enforcement and Removal Operations, <i>Memorandum on Coronavirus 2019 (COVID-19) Action Plan, Revision 1</i> (Mar. 27, 2020).
G	Centers of Disease Control and Prevention, <i>Public Health Recommendations for Community-Related Exposure</i> , https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html (last visited Apr. 9, 2020).
H	Centers for Disease Control and Prevention, <i>Strategies to Optimize the Supply of PPE and Equipment</i> , https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/ (last visited Apr. 9, 2020).
I	Centers for Disease Control and Prevention, <i>Cleaning and Disinfection for Community Facilities</i> , https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html (last visited Apr. 9, 2020).

J	U.S. Environmental Protection Agency, <i>List N: Disinfectants for Use Against SARS-CoV-2</i> , https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2 (last visited Apr. 9, 2020).
K	Assistant Director Peter Berg, Enforcement and Removal Operations, <i>Updated Guidance: COVID-19 Detained Docket Review</i> (Apr. 4, 2020).

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA**

MARTINEZ *et. al.*

on their own behalf and on behalf of others similarly situated,

Case No. 7:20-cv-00062

Petitioners-Plaintiffs,

v.

MICHAEL DONAHUE, warden Stewart Detention Center;
MATTHEW ALBENCE, in his official capacity as the Acting
Director for U.S. Immigration and Customs Enforcement;
UNITED STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT; CHAD WOLF, in his official capacity as
Secretary of the U.S. Department of Homeland Security;
UNITED STATES DEPARTMENT OF HOMELAND
SECURITY;

Respondents-Defendants.

DECLARATION OF OFFICER IN CHARGE JOHN BRETZ

I, John Bretz, make the following statements under oath and subject to the penalty of perjury:

1. I am employed by U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), and currently serve as the Officer in Charge. I have held this position since 2019.
2. I provide this declaration based on my personal knowledge, belief, reasonable inquiry, and information obtained from various records, systems, databases, other DHS employees, employees of DHS contract facilities, and information portals maintained and relied upon by DHS in the regular course of business.
3. In my current position, I am an Officer in Charge at the Stewart Detention Center, at the Atlanta Field Office, employed by the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). In this capacity, I manage ERO personnel and provide oversight over ERO's operations at the Stewart Detention Center. I have been employed by the former Immigration and Naturalization Service (INS) and ICE since 1995.

4. ICE Health Service Corps (IHSC) provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation.
5. IHSC's FMCs ensure that the provision of medical care by contractors to the ICE detainees within the IGSA facilities meets detention standards, as required by the IGSA contract. The FMCs do not provide hands-on care or direct the care within the IGSA facilities but monitor the medical care and services provided by the contract facilities. Medical staff at the contract facilities are directly responsible for medical care at the facility.
6. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals.
7. Since the onset of reports of Coronavirus Disease 2019 (COVID-19), ICE epidemiologists have been tracking the outbreak, regularly updating infection prevention and control protocols, and issuing guidance to field staff on screening and management of potential exposure among detainees.
8. In testing for COVID-19, IHSC is also following guidance issued by the Centers for Disease Control (CDC) to safeguard those in its custody and care.
9. Each detainee is screened for disabilities upon admission by a qualified healthcare professional. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.
10. At the facility, during intake medical screenings, detainees are assessed for fever and respiratory illness, are asked to confirm if they have had close contact with a person with laboratory-confirmed COVID-19 in the past 14 days, and whether they have traveled from or through area(s) with sustained community transmission in the past two weeks.
11. The detainee's responses and the results of these assessments will dictate whether to monitor or isolate the detainee. Those detainees who present symptoms compatible with COVID-19 will be placed in isolation, where they will be tested. If testing is positive, they will remain isolated and treated. In case of any clinical deterioration, they will be referred to a local hospital.
12. In cases of known exposure to a person with confirmed COVID-19, asymptomatic detainees are placed in cohorts with restricted movement for the duration of the most recent incubation period (14 days after most recent exposure to an ill detainee) and are monitored daily for fever and symptoms of respiratory illness. Cohorting is an infection-prevention strategy which involves housing detainees together who were exposed to a person with an infectious organism but are asymptomatic. This practice lasts for the duration of the incubation period of 14 days, because individuals with these and other communicable diseases can be contagious before they develop symptoms and can serve as undetected source patients. Those that show onset of fever and/or respiratory illness are referred to a medical provider for evaluation. Cohorting is discontinued when the 14-day incubation period completes with no new cases. Per ICE policy, detainees diagnosed

with any communicable disease who require isolation are placed in an appropriate setting in accordance with CDC or state and local health department guidelines.

13. Stewart Detention Center has the following medical capabilities:

- o The facility, which manages males only, provides daily access to sick calls in a clinical setting, and infirmary and access to specialty services and hospital care.

14. As of 1:00 p.m. on April 9, 2020, IHSC has the following information:

- a. There are 30 ICE detainee suspected cases of COVID-19 in the facility who are on medical observation per CDC guidelines.
- b. There are 5 confirmed cases of COVID-19 among ICE detainees in the facility. The 5 confirmed cases are isolated and receiving medical treatment consistent with CDC guidelines.

15. The facility has populations within their approved capacities and are not overcrowded.

16. The facility has increased sanitation frequency and provides sanitation supplies as follows:

- o The facility provides 24-hour access to sanitation supplies including, disinfectants, hand sanitizer, and soap in every housing unit at the facility. The administration is encouraging both staff and the jail general population to use these tools often and liberally.

17. The facility has suspended in person social visitation and facility tours. Noncontact legal visitation is still permitted provided the visitor provides their own personal protective equipment and submits to screening prior to entering the facility.

18. The facility is screening all staff and vendors when they enter the facilities including body temperatures.

19. The facility is screening all detainee intakes when they enter the facilities including travel histories, medical histories and checking body temperatures and have procedures to continue monitoring the populations' health.

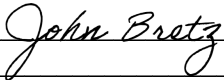
20. The facility provides education on COVID-19 to staff and detainees to include the importance of hand washing and hand hygiene, covering coughs with the elbow instead of with hands, and requesting to seek medical care if they feel ill. The facilities provide detainees daily access to sick call.

21. The facility has identified housing units for the quarantine of patients who are suspected of or test positive for COVID-19 infection to be addressed as set forth in paragraphs 8, 9 and 10, *supra*.

22. ICE has reviewed its detained “at risk population” as identified by the CDC guidelines to determine if detention remains appropriate, considering the detainee’s health, public safety and mandatory detention requirements, and adjusted custody conditions, when appropriate, to protect health, safety and well-being of its detainees.

I declare, under penalty of perjury under 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge and based on information obtained from other individuals employed by ICE.

DATED: April 9, 2020

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Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SOUTHERN POVERTY LAW CENTER,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

Defendants.

Civil Action No. 18-0760 (CKK)

DECLARATION OF GARY W. CHAMBARLAIN, JR.

Pursuant to 28 U.S.C. § 1746, I, Gary W. Chamberlain, Jr., declare the following:

1. I am employed by United States Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), and currently serve as the Acting Assistant Field Office Director (a)(AFOD), New Orleans Field Office. I have held this position since April 21, 2020. I have been employed by ICE since July 13, 2003. As (a)AFOD, I provide oversight over a number of detention facilities within the New Orleans Field Office, including the Pine Prairie ICE Processing Center (PPIPC), in Pine Prairie, Louisiana.
2. I provide this declaration based on my personal knowledge, belief, reasonable inquiry, and information obtained from various records, systems, databases, other DHS employees, employees of DHS contract facilities, and information portals maintained and relied upon by DHS in the regular course of business.
3. PPIPC is a private detention center operated by The GEO Group, Inc. (GEO). GEO is an independent contractor that provides the facility, management, personnel and services for the 24-hour supervision of the detainees at PPIPC, who are exclusively ICE detainees.
4. Conditions of detention at PPIPC are governed by the ICE Performance-Based National Detention Standards 2011, revised 2016 (PBNDS 2011). PBNDS 2011 reflects ICE's ongoing effort to tailor the conditions of civil immigration detention to its unique purpose while maintaining a safe and secure detention environment for detainees and staff.
5. ERO New Orleans (Oakdale) is responsible for managing the immigration cases of detained individuals. In addition, ERO is responsible for monitoring GEO to determine its level of compliance with PBNDS 2011 in its administration, management, and operation of PPIPC.

6. As an (a)AFOD, I manage the detained docket for the aliens who are detained at PPIPC, including supervising Supervisory Detention and Deportation Officers and other detention and deportation staff who are responsible for the review and tracking of aliens' removal proceedings and detention placements. My primary responsibilities include immigration case management for those detained at PPIPC and general oversight at PPIPC, including monitoring compliance with PBNDs 2011.
7. In my current position, I work with an assigned ICE Health Service Corps (IHSC) Field Medical Coordinator (FMC) to conduct medical oversight at PPIPC. FMCs serve as medical consultants to the ICE field offices and oversee clinical services at Inter-Governmental Service Agreement (IGSA) facilities and monitor clinical services at some Contract Detention facilities (CDF) that house ICE detainees, including the PPIPC.
8. IHSC provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation.
9. IHSC's FMCs ensure that the provision of medical care by contractors to the ICE detainees within the IGSA facilities meets ICE's detention standards, as required by the IGSA. The FMCs do not provide hands-on care or direct the care within the IGSA's but monitor the medical care and services provided by the contract facilities. Medical staff at the contract facilities are directly responsible for medical care at the facility.
10. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals.
11. Since the onset of reports of Coronavirus Disease 2019 (COVID-19), ICE epidemiologists have been tracking the outbreak, regularly updating infection prevention and control protocols, and issuing guidance to field staff on screening and management of potential exposure among detainees.
12. In testing for COVID-19, IHSC is also following guidance issued by the Centers for Disease Control (CDC) to safeguard those in its custody and care.
13. Each detainee is screened for disabilities upon admission by a medical professional at PPIPC. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.
14. At PPIPC, during intake medical screenings, detainees are assessed for fever and respiratory illness, are asked to confirm if they have had close contact with a person with laboratory-confirmed COVID-19 in the past 14 days, and whether they have traveled from or through area(s) with sustained community transmission in the past two weeks.
15. The detainee's responses and the results of these assessments will dictate whether to monitor or isolate the detainee. Those detainees who present symptoms consistent with COVID-19 will be placed in isolation, where they will be tested. If testing is positive, they will remain isolated and treated. In case of any clinical deterioration, they will be referred to a local hospital.

16. In cases of known exposure to a person with confirmed COVID-19, asymptomatic detainees are placed in cohorts with restricted movement for the duration of the most recent incubation period (14 days after most recent exposure to an ill detainee) and are monitored daily for fever and symptoms of respiratory illness. Cohorting is an infection-prevention strategy which involves housing detainees together who were exposed to a person with an infectious organism but are asymptomatic. This practice lasts for the duration of the incubation period of 14 days, because individuals with these and other communicable diseases can be contagious before they develop symptoms and can serve as undetected source patients. Those detainees who show onset of fever and/or respiratory illness are referred to a medical provider for evaluation. Cohorting is discontinued when the 14-day incubation period completes with no new cases. Per ICE policy, detainees diagnosed with any communicable disease who require isolation are placed in an appropriate setting in accordance with CDC or state and local health department guidelines.
17. PPIPC has the following medical capabilities:
 - a. PPIPC, which manages males only, provides daily access to sick calls in a clinical setting, four negative pressure observation rooms, and a medical clinic.
 - b. Specialty and hospital care are provided through an off-sight provider as needed.
18. As of 4:15 p.m. on May 14, 2020, IHSC has the following information:
 - a. There are seven confirmed cases of COVID-19 among the detainees at PPIPC. The seven individuals are isolated in a single cell located in Bravo Alpha Unit and receiving treatment by medical personnel at PPIPC consistent with CDC guidelines. Currently no detainee who is positive for COVID-19 has been transferred to the hospital or another detention facility.
 - b. There no suspected case of COVID-19 among the remaining detainees at PPIPC.
19. PPIPC houses only ICE detainees and has a capacity of 730. As of May 15, 2020, there are 435 detainees at PPIPC. This number is a decline from 471 on April 13, 2020, to promote social distancing and separation during the COVID-19 global pandemic.
20. PPIPC has increased sanitation frequency and provides sanitation supplies as follows:
 - a. PPIPC provides disinfectant sprays and wipes, hand sanitizer, soap, masks, gloves to staff and detainees. Appropriate personal protective equipment (PPE), such as gowns, gloves, masks, face shields, are provided for use in isolation as medically indicated. The administration is encouraging both staff and the jail general population to use these tools often and liberally.

- b. PPIPC has increased the frequency of sanitation through the frequent disinfection of high touch surfaces, the cafeteria, and recreation yard are sanitized after each pod moves through, and there are increased number of sanitation workers throughout the facility.
- 21. PPIPC has limited professional visits to noncontact visits and has suspended in-person social visitation and facility tours. All visitors must wear PPE and if they do not have it the facility will provide it to them.
- 22. PPIPC is screening all staff and vendors when they enter the facility, including body temperatures.
- 23. PPIPC is screening all detainee intakes when they enter the facility, including travel histories, medical histories and checking body temperatures, and have procedures to continue monitoring the populations' health.
- 24. PPIPC provides education on COVID-19 to staff and detainees to include the importance of hand washing and hand hygiene, covering coughs with an elbow instead of with hands, and requesting to seek medical care if they feel ill. The facilities provide detainees daily access to sick call.
- 25. PPIPC has identified housing units for the quarantine of patients who are suspected of or test positive for COVID-19 infection to be addressed as set forth in paragraphs 13, 14, and 15 above.
- 26. ICE has reviewed and continues to review its detained "at risk population" as identified by the CDC guidelines to determine if detention remains appropriate, considering the detainee's health, public safety and mandatory detention requirements, and adjusted custody conditions, when appropriate, to protect health, safety and well-being of the detainees.
- 27. Attorney visits and communications are generally governed by PBNDS 2011.
- 28. Attorney phone or video teleconference (VTC) calls, through Skype, with a detainee are scheduled by the attorney sending an email to ppipcnotify@geogroup.com with the following information:
 - a. Date and time that they wish to have an attorney/client conference;
 - b. Detainee name and A number;
 - c. Copy of attorney bar card;
 - d. Copy of attorney identification, and identification for any translator and other legal representatives who will be involved in the attorney/client conference;

- e. Skype name; and
 - f. Phone number where attorney can be reached in the event of a connection error.
- 29. Attorney phone and Skype calls are allowed Mondays through Fridays from 8:00 a.m. to 7:00 p.m., and Saturdays, Sundays, and holidays from 8:00 a.m. to 2:00 p.m. PPIPC must receive the attorney or legal representative request by 3:00 p.m. the previous day.
- 30. Detainees may submit a request to call their attorney. If the detainee submits a request, a Case Manager contacts the attorney by the phone number the detainee provides to set up a date and time for the call with the attorney.
- 31. Attorney visits are scheduled by the attorney sending an email to ppipcatv@geogroup.com with the following information:
 - a. Date and time that they request to have an in-person legal visit;
 - b. Detainee name and alien number;
 - c. Copy of attorney bar card; and
 - d. Copy of attorney identification, and identification for any translator and other legal representatives who will be involved in the in-person visit.
- 32. Attorney visits are allowed Mondays through Fridays from 8:00 a.m. to 7:00 p.m., and Saturdays, Sundays, and holidays from 8:00 a.m. to 2:00 p.m.
- 33. All parties involved in the legal visit must fill out the "Visitor Screening-COVID-19 Questionnaire" and enter and clear screening to be allowed to enter the facility.
- 34. All parties involved in in-person visits must wear PPE equipment and PPIPC will provide it to those persons who do not have PPE.
- 35. In person legal visits are conducted in an open space in the visitation area with a six-foot social distancing rule enforced by setting the attorney and detainee at either end of a six-foot table.
- 36. Legal representatives and the detainee are seated six feet apart with a table in between them.
- 37. Sanitation is conducted before each attorney-client Skype meeting, phone call, and in-person visit. This consists of an officer wiping down the table, chairs, phone, and door handles with HDQ Neutral, which is a one-step cleaning and disinfectant liquid solution, and a paper towel, or hard surface disinfecting wipes.

38. At this time, there are no restrictions on attorney-client visits due to Covid-19. Most attorney-client Skype meetings, phone calls, and in-person visits are scheduled for 30 minutes. When the attorney asked for additional time, it is generally accommodated.
39. All immigration removal proceedings at PPIPC are conducted via VTC with an immigration judge in Oakdale, Louisiana, and the detainee in a separate VTC room at PPIPC. DHS counsel are appearing remotely by teleconference. Attorneys representing detainees participate via teleconference.
40. During the hearing, if the attorney appearing by teleconference wants to consult with the detainee, the immigration judge will exit the courtroom, the DHS attorney will be disconnected from the call, and the ERO officers will exit the VTC room to allow the attorney and detainee to talk privately.
41. Sanitation is conducted in the VTC room at PPIPC between each proceeding. This consists of an ERO officer wiping down the table, chairs, phone, and door handles with HDQ Neutral and a paper towel, or hard surface disinfecting wipes.
42. Sanitation is conducted in the law library at PPIPC between each detainee use. This consist of an officer wiping down the table, chairs, phone, and door handles with HDQ Neutral and a paper towel, or hard surface disinfecting wipes. The law library also is sanitized/sprayed four times during each eight-hour shift using pump sprayers full of HDQ Neutral. Hand sanitizer is sprayed or pumped on each detainee's hands when he enters and exits the law library.
43. Stamps or pre-stamped envelopes are available for purchase through the commissary. If a detainee is indigent, *i.e.*, the detainee has an account balance of \$15.00 or less in his account, he is allowed to send up to three personal letters per week as well as unlimited legal mail at no cost to the detainee.
44. Currently there have been no issues with VTC with connectivity or access via VTC and have made many accommodations to ensure the attorneys have access as required by PBNDS 2011. VTC connection speed has a download of 96.51 Mbps and an upload of 54.13 Mbps. All VTC units have been tested multiple times with successful results each time. The video receptions have been clear with strong connections, clear voices, and appropriate volume. There has been no identifiable echoing effect or interruption when tested.
45. A detainee and his legal representative may also communicate by legal mail. Legal mail from an attorney or legal representative should be clearly be marked as such and will be delivered unopened by facility staff to the detainee. In the presence of the detainee, staff will open the envelope to ensure that it does not contain contraband and give the communication to the detainee. Detainees may similarly, seal clearly marked legal mail and deposit it in the facility mail, where it will not be opened by facility staff.

46. Per GEO's policy, detainees housed at PPIPC are not permitted to receive stamps or pre-stamped envelope due to the fact that stamps from outside the facility are considered contraband and can be used as a form of currency and used to introduce drugs into a secured detention environment.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this 15th day of May, 2020



Gary W. Chamberlain Jr.
Acting Assistant Field Office Director, New Orleans, LA
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NATIONAL IMMIGRATION PROJECT OF
THE NATIONAL LAWYERS GUILD, *et al.*,

Plaintiffs,

v.

EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW, *et al.*,

Defendants.

Civil Action No. 1:20-cv-00852-CJN

EXHIBIT 4

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NATIONAL IMMIGRATION PROJECT OF THE

NATIONAL LAWYERS GUILD, et al.

Case No. 1:20-cv-00852

on their own behalf and on behalf of others similarly situated,

Petitioners-Plaintiffs,

v.

EXECUTIVE OFFICE OF IMMIGRATION REVIEW, et
al.

Respondents-Defendants.

DECLARATION OF RUSSELL HOTT

I, Russell Hott, declare the following under 28 U.S.C. § 1746, and state that under penalty of perjury the following is true and correct to the best of my knowledge and belief:

I. Personal Background

1. I am currently employed by the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) as the Acting Assistant Director for the Custody Management Division (CMD). I have held this position since February 2020. CMD provides policy and oversight for the administrative custody of ICE's highly transient and diverse population of immigration detainees. CMD is composed of three divisions led by three Deputy Assistant Directors under my direct supervision: (1) the Alternatives to Detention Division; (2) the Detention Management Division; and (3) the Custody Programs Division.

2. As the Acting Assistant Director, I am responsible for the effective and proficient performance of these three Divisions and their various units, including the oversight of compliance with ICE's detention standards and conditions of confinement at ICE detention facilities generally. I am further responsible for managing ICE detention operations efficiently and effectively to provide for the safety, security, and care of an average of about 40,000 detainees daily and roughly 500,000 detainees annually, at approximately 250 facilities nationwide, including three family residential shelters located in Texas and Pennsylvania.

3. From May 2017 to February 2020, I served as the Field Office Director for the Washington, DC ERO Field Office, responsible for the District of Colombia and Virginia. In my role as Field Office Director, I provided operational and policy oversight for ERO's interior enforcement efforts within the local area of responsibility, spanning 43,000 square miles, three district courts, a cadre of nearly 200 employees, and 1,400 detention beds.

4. I began my career with the U.S. Government as a detention enforcement officer with the former Immigration and Naturalization Service in New York, NY. I advanced through a variety of positions including Immigration Enforcement Agent, Deportation Officer, Instructor at the Federal Law Enforcement Training Center, Supervisory Detention and Deportation Officer, acting Assistant Field Office Director, National Program Manager, Unit Chief, Acting Deputy Chief of Staff for ERO, Chief of Staff for the ICE Deputy Director, Deputy Field Office Director for both the Boston and Washington field offices, Field Office Director, and Acting Deputy Assistant Director.

II. Overview of ICE ERO

5. ICE is charged with the enforcement of more than 400 federal statutes, and its mission is to protect the United States from the cross-border crime and illegal immigration that threaten national security and public safety through enforcement of the federal laws governing border control, customs, trade, and immigration. To carry out this mission, ICE focuses on enforcing federal immigration laws, preventing terrorism, and combating transnational criminal threats. As an operational program of ICE, ERO is responsible for the planning, management, and direction of broad programs relating to the supervision, detention, and removal of aliens who are removable from the United States under the U.S. immigration laws.

6. ERO's mission is to identify, arrest, and remove aliens who present a danger to national security or are a risk to public safety, as well as those who enter the United States illegally or otherwise undermine the integrity of our immigration laws and our border control efforts. CMD is one of six headquarters Divisions. The other five are: Enforcement, Removal, Field Operations, the ICE Health Service Corps (IHSC), and Operations Support.

7. CMD provides policy and oversight for the administrative custody of one of the most highly transient and diverse populations of any correctional or detention system in the world. CMD manages ICE detention operations efficiently and effectively to provide for the safety, security, and care of aliens detained in ICE custody.

8. As a part of my official duties, I am familiar with a complaint filed in *National Immigration Project of the National Lawyers Guild. v. Executive Office of Immigration Review*, No. 1:20-cv-00852 (D.D.C. filed Mar. 30, 2020),¹ in which Plaintiffs seek an order suspending

¹ The correct name of the first named Defendant agency is the "Executive Office *for* Immigration Review." See www.justice.gov/eoir (accessed April 10, 2020) (emphasis added).

in-person immigration hearings for detained individuals for the duration of the COVID-19² pandemic, providing “robust access alternatives for detained individuals who wish to proceed with their hearings,” guaranteeing “secure and reliable remote communication” between detainees and counsel, and requiring, if personal protective equipment (PPE) is mandated to be worn by detainees and visitors, that the government provide such equipment. I understand that Plaintiffs are also arguing for temporary release from custody in the alternative, should detainees have “inadequate access to alternative means of remote communication” with counsel. I submit this declaration to explain the extensive and continuing actions ICE is already taking to protect detainees in response to this unprecedented pandemic. The information in this declaration is based upon my personal knowledge and experience as a law enforcement officer and on information provided to me in my official capacity. Due to the constantly evolving nature of this crisis, operational realities are fluid with new decisions being required on a regular basis. The information in this declaration is current and accurate as of the time I signed below.

III. ICE Detention Facilities and Practices Nationwide

9. As an operational program of ICE, ERO is responsible for the planning, management, and direction of broad programs relating to the supervision, detention, and removal of aliens from the United States under the U.S. immigration laws. ERO’s statutory responsibilities include detention of aliens during the pendency of proceedings to determine whether they will be removed from the United States, as well as aliens subject to an administratively final removal order, pending their removal from the United States. The

² According to the Centers for Disease Control and Prevention (CDC), on February 11, 2020 the World Health Organization announced an official name for the disease that is causing the 2019 novel coronavirus outbreak, first identified in Wuhan, China. The new name of this disease is coronavirus disease 2019, abbreviated as COVID-19. In COVID-19, ‘CO’ stands for ‘corona,’ ‘VI’ for ‘virus,’ and ‘D’ for disease. Formerly, this disease was referred to as “2019 novel coronavirus” or “2019-nCoV”. See <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#Coronavirus-Disease-2019-Basics> (accessed April 10, 2020).

immigration laws also mandate detention of certain categories of aliens, including “arriving aliens” and certain categories of criminal and terrorist aliens.

10. The length of an individual alien’s detention depends on a number of factors, including whether the alien is subject to mandatory detention under the U.S. immigration laws, the duration of any removal proceedings before the Department of Justice’s Executive Office for Immigration Review (EOIR), appeals before the federal courts of appeals, and issues regarding execution of a final removal order. ERO also transfers aliens in its custody for a number of legal and operational purposes such as attendance at immigration court hearings, to facilitate removal, provide for appropriate medical care, and transfers between facilities for other reasons. In Fiscal Year 2019, ICE housed an average daily population of 50,165 aliens nationwide. In Fiscal Year 2020, through April 4, 2020, ICE housed an average daily population of 42,738 nationwide.

11. ICE coordinates the acquisition of detention bed space for removable adult aliens through: (1) Service Processing Centers (SPCs); (2) Contract Detention Facilities (CDFs); and (3) Intergovernmental Service Agreement (IGSA) facilities (collectively, “immigration detention facilities”). SPCs are owned by ICE and staffed by a combination of federal and contract employees. CDFs are owned by private companies that contract directly with the government and are predominantly staffed by contract employees. Dedicated IGSA facilities can be public facilities or privately owned and can be operated by local governments or private companies operating under contracts with local governments.

12. Many IGSA facilities house a very small ICE population compared to the local inmate population, while others are almost exclusively committed to housing ICE detainees. Other facilities used by ICE under various contractual arrangements include: facilities used by ICE through a contract awarded by the U.S. Marshals Service (USMS), facilities operated by the

Federal Bureau of Prisons (BOP), staging facilities for transportation, holding facilities for temporary detention, and hospitals for emergency care, among other types of facilities.

13. ICE used about 30 dedicated (or largely dedicated) immigration detention facilities throughout the United States in Fiscal Year 2019. Of these facilities, 13 were privately operated CDFs that are typically privately owned, housing an average daily population of 9,387 alien detainees; five were SPCs owned by the federal government and privately operated through contractors, housing an average daily population of 3,799 alien detainees; and 14 were dedicated (or largely dedicated) IGSAAs, housing an average daily population of 12,635 alien detainees.³

14. All immigration detention facilities are bound by strict detention standards to ensure that detainees in ICE custody reside in safe, secure and humane environments and under appropriate conditions of confinement. The first of these standards, the National Detention Standards (NDS), was issued in September 2000, to facilitate consistent conditions of confinement, access to legal representation and safe and secure operations across the detention system. In particular, NDS required facilities to allow detainees to meet privately with current or prospective legal representatives and their assistants, as well as with consular representatives.⁴ The standards established consistency of program operations and management expectations, accountability for compliance and a culture of professionalism.

15. In 2008, ICE revised NDS to more clearly delineate the results or outcomes to be accomplished by adherence to their requirements. The Performance-Based National Detention Standards (PBNDS 2008), developed in coordination with agency stakeholders, prescribe both the expected outcomes of each detention standard and the expected practices required to achieve

³ The remaining average daily population (approximately 24,344 alien detainees) was housed in other facilities that are not entirely dedicated to immigration detention, namely: 143 non-dedicated IGSA facilities, 121 facilities under intergovernmental agreements with other federal agencies, and 20 other facilities, such as BOP facilities.

⁴ <https://www.ice.gov/doclib/dro/detention-standards/pdf/visit.pdf> (accessed April 10, 2020).

them. PBNDS 2008 was also designed to improve safety, security and conditions of confinement for detainees. Regarding visitation, PBNDS 2008 maintained and expanded on the provisions in NDS, requiring each facility to permit legal visitation 7 days a week, including holidays, for a minimum of eight hours per day on weekdays and a minimum of four hours per day on weekends and holidays.⁵ In addition to legal representatives and assistants, interpreters and messengers are also permitted. PBNDS 2008 also expanded and clarified confidentiality provisions, added a requirement for private meeting rooms and confidential exchange of documents, and provides for group legal meetings.

16. The PBNDS was revised in 2011, reflecting ICE's ongoing effort to tailor the conditions of immigration detention to its unique purpose while maintaining a safe and secure detention environment for staff and detainees. In developing the revised standards, ICE incorporated the input of many agency employees and stakeholders, including the perspectives of nongovernmental organizations and ICE field offices. PBNDS 2011 is crafted to improve medical and mental health services, increase access to legal services and religious opportunities, improve communication with detainees with limited English proficiency, improve the process for reporting and responding to complaints, and increase recreation and visitation. PBNDS 2011 was revised in 2016 to ensure consistency with federal legal and regulatory requirements as well as prior ICE policies and policy statements. PBNDS 2011 contains the same visitation policies as PBNDS 2008.⁶

17. In 2019, ICE issued new National Detention Standards (NDS 2019) for non-dedicated facilities which supersede the NDS. These updated, modernized standards focus on ICE's essential requirements, encourage greater communication between facilities and their local

⁵ <https://www.ice.gov/doclib/dro/detention-standards/pdf/visitation.pdf> (accessed April 10, 2020).

⁶ <https://www.ice.gov/doclib/detention-standards/2011/5-7.pdf> (accessed April 10, 2020).

ICE field offices, and provide a comprehensive list of circumstances in which such communication is required. Based on ICE's experience with its state and local law enforcement partners, and the understanding that local practice appropriately covers many requirements that were explicitly enumerated in NDS, NDS 2019 streamlines several prior standards. NDS 2019 also incorporates substantive additions, addressing topics such as medical care, segregation, disability access, sexual assault and abuse prevention and intervention, and language access. NDS 2019 will apply to the approximately 45 IGSA facilities currently operating under the NDS, approximately 35 USMS facilities used by ICE and which ICE inspects against the NDS, as well as approximately 60 facilities (both IGSA and USMS) which do not reach the threshold for ICE annual inspections – generally those with an Average Daily Population of less than 10. These are facilities across the country where ICE's state and local law enforcement partners successfully manage their own populations under federal, state, and local regulations, and assist ICE with housing immigration detainees to enforce immigration laws and improve national safety and security. Importantly, with this superseding NDS, the visitation requirements applicable to facilities covered by PBNDS 2008 and PBNDS 2011 are now applicable to all facilities.⁷

18. In addition to adult-only immigration detention facilities, ICE also utilizes three Family Residential Centers (FRCs) located in Texas and Pennsylvania. Visitation standards applicable to these facilities are substantively similar to those referenced above for adult immigration detention facilities.⁸

IV. NATIONWIDE ICE EFFORTS IN RESPONSE TO COVID-19

19. The health, welfare and safety of ICE detainees is one of the agency's highest priorities. Since the initial reports of COVID-19, ICE epidemiologists have been tracking the

⁷ https://www.ice.gov/doclib/detention-standards/2019/5_5.pdf (accessed April 10, 2020).

⁸ https://www.ice.gov/doclib/dro/family-residential/pdf/rs_visitation.pdf (accessed April 10, 2020).

outbreak, regularly updating infection prevention and control protocols, and issuing guidance to staff for the screening and management of potential exposure among detainees.

20. ICE continues to adapt and, through daily monitoring of the Centers for Disease Control and Prevention (CDC) website,⁹ incorporate in its procedures any updates to the CDC's COVID-19 guidance, which is built upon well-established infectious disease monitoring and management protocols already in use by the agency.

21. On March 13, 2020, social visitation at all immigration detention facilities was suspended indefinitely in order to mitigate the potential transmission of COVID-19. However, legal visitation was permitted to continue, subject to facility-specific determinations that such visitation poses a threat to the safety and security of any given facility. Due to the highly contagious nature of COVID-19, ICE has been encouraging the use of communication services such as teleconferencing, video visitation (e.g. Skype, FaceTime), email, and/or the use of tablets, where possible, in lieu of in-person visitation. Recognizing that the unique nature of some legal consultations requires in-person communication, ICE recommends non-contact visitation to the maximum extent possible. Where requested, and where local conditions allow, contact visitation has been permitted if requested.

22. On March 20, 2020, as the COVID-19 situation continued to evolve, ICE revised the temporary limitation on visitation to add a requirement that all visitors provide and wear PPE when entering any facility, for the protection of detainees, staff, and visitors alike. ICE further announced that legal representatives seeking to enter any immigration detention facility may be subject to additional, enhanced screening procedures. Specific measures taken to prevent the

⁹ Specifically, ICE closely follows the CDC's *Interim Guidance on Management of Coronavirus 2019 (COVID-19) in Correctional and Detention Facilities* at <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>, and its general public guidance at <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

spread of COVID-19 to residents, staff, and/or visitors may differ from facility to facility, based on varying local conditions and contractual requirements.

23. The U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) requires employers to provide PPE to employees who could be exposed to infectious individuals or materials. An ICE-wide acquisition plan is underway to obtain bulk purchases of PPE and coordinate distribution of equipment to agency staff and, as inventory allows, assist medical units in ICE detention facilities that are experiencing a critical reduction in supply. ICE does not have a requirement or expectation to source PPE to the public, including private attorneys or other visitors who have been retained to provide legal services to detainees. While the use of alternate supply chains is being continually explored to obtain PPE, at this time, ICE does not have on hand enough inventory to offer PPE to the public. Due to the global shortage of PPE caused by the crisis,¹⁰ ICE must be judicious in utilizing this limited resource. As noted by the CDC, PPE are “critical supplies that must continue to be reserved for healthcare workers and other medical first responders, as recommended by current CDC guidance.”¹¹

24. ICE has been, and will continue to be, committed to ensuring that detainees are always able to communicate with legal representatives. Facilities have been instructed that, should it become necessary to suspend in-person legal visitation, they must ensure detainee communication with legal representatives continues unimpeded by leveraging all available forms of video technology, email, and messaging. ICE will also take steps to facilitate such

¹⁰ See <https://www.who.int/news-room/detail/03-03-2020-shortage-of-personal-protective-equipment-endangering-health-workers-worldwide> (accessed April 13, 2020); <https://www.fda.gov/medical-devices/personal-protective-equipment-infection-control/faqs-shortages-surgical-masks-and-gowns> (accessed April 13, 2020).

¹¹ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html> (accessed April 13, 2020).

communication, in the absence of visitation, through extended access to telephones and other reasonable means.

25. At the onset of COVID-19, ICE consulted with telecommunications service providers to expand access to electronic and phone services during diminished contact visitation. The service providers agreed to provide increased access to telecommunications equipment, free phone and video services, and extended hours where possible. Further, the service providers agreed to provide indigent aliens with regular, unfettered phone access. ERO expounded on the commitments of the service providers and agreed to double the amount of free access to all detainees and purchase additional telecommunications equipment such as mobile tablets enabled with videoconferencing and texting services, where available.

26. Since March 2020, ICE has participated in discussions with service providers and pro bono attorneys to identify possible solutions to increase attorney accessibility through other communication methods. ICE has experienced an outpouring of support from service providers to further expand and build upon existing capabilities. Existing ICE practices, consistent with most other detention and corrections systems, incorporate time limitations to ensure equal access. Beginning on March 27, the ICE detainee telephone system (DTS), provided by Talton Communications at certain dedicated facilities, committed to expanding system capabilities and access, including some free international capabilities that were previously unavailable. This includes providing detainees with a free 15-minute video call or two free 5-minute calls per week. To further enhance accessibility, ICE committed additional funds to double this access, so that detainees have up to two free 15-minute video calls and four free 5-minute voice calls per week. Although specific rules vary by facility, in general if no other detainees are waiting to utilize the equipment (i.e. phone, tablet, or kiosk), the detainee may be permitted to participate in

a cumulative call. Detainees at facilities with DTS may opt to use free calls to speak with their attorneys privately, without monitoring. They may also call families and friends free of charge. Additionally, as of the week of April 12, ICE began providing free 30-minute calls through the DTS to detainees with pending court actions. This access is in addition to the existing pro bono platform. Furthermore, ICE has been working with Talton Communications to install an additional 200 tablets across facilities by April 30, with the possibility of adding another 350 tablets shortly thereafter, to further facilitate all forms of electronic communication. For other facilities, such as non-dedicated IGSA's that have other phone contractors or operations, ICE has been working with those other service providers to provide the same or similar services as those made available on the DTS platform.

27. ICE continues to explore opportunities to enhance attorney access while legal visits are being impacted. For facilities at which immigration hearings are conducted or where detainees are otherwise held who have immigration proceedings pending, this may include options such as adding immigration attorneys to the pro bono communications platform, requiring facilities to establish a process for detainees and/or attorneys to schedule appointments and facilitate the calls, further leveraging the use of technology, and working with the various detention contractors and communications service providers to ensure that all detainees receive a number of free calls per week.

28. With respect to immigration court hearings, on March 18, 2020, ICE requested that EOIR suspend the in-person requirements for detainee appearance before immigration judges in removal proceedings. EOIR committed to considering individual, case-by-case motions for telephonic appearances. As of April 7, 2020, most immigration judges nationwide have standing orders permitting telephonic appearance of the parties, while a few others continue

to consider requests on a case-by-case basis. Additionally, EOIR has made electronic filing available for parties before the immigration courts.¹²

29. On April 10, 2020, ERO issued *COVID-19 Pandemic Response Requirements* (PRR), developed in consultation with the CDC, which sets forth expectations and assists ICE detention facility operators to sustain detention operations, while mitigating risk to the safety and well-being of detainees, staff, contractors, visitors, and stakeholders due to COVID-19.¹³ The PRR builds upon previously-issued guidance and sets forth specific mandatory requirements and best practices on a number of issues, including visitation, for all immigration detention facilities.

30. The continually-evolving nature of the COVID-19 emergency requires ongoing review and frequent adaptation of agency policy. ICE continues to explore all available options to ensure the health and safety of its diverse detained population while also safeguarding important detainee legal rights.

This declaration is based upon my personal and professional knowledge, information obtained from other individuals employed by ICE, and information obtained from various records and systems maintained by DHS. I provide this declaration based on the best of my knowledge, information, belief, and reasonable inquiry for the above captioned case.

Signed on this 13th day of April 2020.



Russell Hott
Acting Assistant Director
Custody Management Division
ICE Enforcement and Removal Operations

¹² <https://www.justice.gov/eoir/filing-email> (accessed April 10, 2020).

¹³ <https://www.ice.gov/sites/default/files/documents/Document/2020/eroCOVID19responseReqsCleanFacilities.pdf> (accessed April 13, 2020).

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SOUTHERN POVERTY LAW CENTER,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

Defendants.

Civil Action No. 18-0760 (CKK)

DECLARATION OF TRACY MOTEN

Pursuant to 28 U.S.C. § 1746, I, Tracy Moten, do hereby declare:

1. I am employed by United States Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), Atlanta field office (ATL), and currently serve as a Supervisory Detention and Deportation Officer. I have held this position since September 30, 2007, and have been employed by the former Immigration and Naturalization Service and ICE since April 1992.
2. I provide this declaration based on my personal knowledge, belief, reasonable inquiry, and information obtained from various records, systems, databases, other DHS employees, employees of DHS contract facilities, and information portals maintained and relied upon by DHS in the regular course of business.
3. In my current position, I manage ERO personnel and provide oversight over compliance at the Stewart Detention Center (Stewart).
4. ICE contracts with the CoreCivic, Inc. (CoreCivic), for the management and operation of Stewart, pursuant to an Intergovernmental Service Agreement (IGSA).
5. Conditions of detention at Stewart are governed by the ICE Performance-Based National Detention Standards 2011, revised 2016 (PBNDS 2011). The PBNDS 2011 reflects ICE's ongoing effort to tailor the conditions of civil immigration detention to its unique purpose while maintaining a safe and secure detention environment for detainees and staff.

6. ERO ATL is responsible for managing the immigration cases of detained individuals at Stewart. In addition, ERO is responsible for monitoring CoreCivic to determine its level of compliance with PBNDS 2011 in its administration, management and operation of Stewart.
7. ICE Health Service Corps (IHSC) provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation, including Stewart.
8. IHSC's Field Medical Coordinators (FMC) ensure that the provision of medical care by contractors to the ICE detainees within the IGSA facilities meets detention standards, as required by the IGSA. The FMCs do not provide hands-on care or direct the care within the IGSAs but monitor the medical care and services provided by the contract facilities. Medical staff at the contract facilities are directly responsible for providing medical care at the facility.
9. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals.
10. Since the onset of reports of Coronavirus Disease 2019 (COVID-19), ICE epidemiologists have been tracking the outbreak, regularly updating infection prevention and control protocols, and issuing guidance to field staff on screening and management of potential exposure among detainees.
11. On April 10, 2020, ERO released its *ERO COVID-19 Pandemic Response Requirements (PRR)*, a guidance document that builds upon previously issued guidance and sets forth specific mandatory requirements expected to be adopted by all detention facilities housing ICE detainees, as well as best practices for such facilities, to ensure that detainees are appropriately housed and that available mitigation measures are implemented during this pandemic.
<https://www.ice.gov/sites/default/files/documents/Document/2020/eroCOVID19responseReqsCleanFacilities.pdf>.
12. In testing for COVID-19, IHSC is also following guidance issued by the Centers for Disease Control and Prevention (CDC) to safeguard those in its custody and care.
13. Each detainee is screened for disabilities upon admission by a qualified healthcare professional. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.
14. At Stewart, during intake medical screenings, detainees are assessed for: vital signs, medical and mental health history, disability screening, TB screening, women's health screening and social screening. Detainees are also assessed for fever and respiratory illness, are asked to confirm if they have had close contact with a person with laboratory-confirmed COVID-19 in the past 14 days, and whether they have traveled from or through area(s) with sustained community transmission in the past two weeks.

15. The detainee's responses and the results of these assessments will dictate whether to monitor or isolate the detainee. Those detainees who present symptoms consistent with COVID-19 will be placed in isolation, where they will be tested. If testing is positive, they will remain isolated and treated. In case of any clinical deterioration, they will be referred to a local hospital.
16. In cases of known exposure to a person with confirmed COVID-19, asymptomatic detainees are placed in cohorts with restricted movement for the duration of the most recent incubation period (14 days after most recent exposure to an ill detainee) and are monitored daily for fever and symptoms of respiratory illness. Cohorting is an infection-prevention strategy which involves housing detainees together who were exposed to a person with an infectious organism but are asymptomatic. This practice lasts for the duration of the incubation period of 14 days, because individuals with these and other communicable diseases can be contagious before they develop symptoms and can serve as undetected source patients. Those that show onset of fever and/or respiratory illness are referred to a medical provider for evaluation. Cohorting is discontinued when the 14-day incubation period completes with no new cases. Per ICE policy, detainees diagnosed with any communicable disease who require isolation are placed in an appropriate setting in accordance with CDC or state and local health department guidelines.
17. Stewart has the following medical capabilities:
 - Stewart, which houses males only, provides daily access to sick calls in a clinical setting, and infirmary and access to specialty services and hospital care.
18. As of 2:30 p.m. on May 14, 2020, IHSC has the following information:
 - a. 17 total detainees have tested positive for COVID-19 at Stewart.
 - 4 of the 17 detainees who have tested positive for COVID-19 are in medical isolation at Stewart receiving treatment in compliance with CDC guidance.
 - 1 of the 17 detainees who have tested positive for COVID-19 is receiving treatment at Piedmont Columbus Regional Hospital.
 - 9 of the 17 detainees who have tested positive for COVID-19 have recovered and been returned to general population.
 - 3 of the 17 detainees who have tested positive for COVID-19 have been released from custody.
 - b. There are 217 detainees in cohort.
19. As of 9:00 a.m. on May 15, 2020, Stewart's detained population is 1,129 with a capacity of 2,040. This number is a decline from the 1,681 detainees who were housed at Stewart on March 18, 2020, to promote social distancing and separation during the COVID-19 global pandemic.
20. The facility has increased sanitation frequency and provides sanitation supplies as follows:

- The facility provides 24-hour access to sanitation supplies including, disinfectants, hand sanitizer, and soap in every housing unit at the facility. The administration is encouraging both staff and the jail general population to use these tools often and liberally.
21. Stewart has suspended in person social visitation and facility tours.
 22. Stewart is screening all staff and vendors when they enter the facility including body temperatures.
 23. Stewart is screening all detainee intakes when they enter the facility including travel histories, medical histories, and checking body temperatures and have procedures to continue monitoring the populations' health.
 24. Stewart provides education on COVID-19 to staff and detainees to include the importance of hand washing and hand hygiene, covering coughs with the elbow instead of with hands, and requesting to seek medical care if they feel ill. The facility provides detainees daily access to sick call.
 25. Stewart has identified housing units for the quarantine of detainees who are suspected of or test positive for COVID-19 to be addressed as set forth in paragraphs 15 and 16 above.
 26. ICE has reviewed its detained "at risk population" as identified by the CDC guidelines to determine if detention remains appropriate, considering the detainee's health, public safety and mandatory detention requirements, and adjusted custody conditions, when appropriate, to protect health, safety and well-being of its detainees.
 27. In-person non-contact (*e.g.*, communication through a plexiglass barrier) legal visitation remains permitted at Stewart. All attorneys are allowed 24/7 access to in-person non-contact visitation with detainees.
 28. Currently, all visitors who wish to enter Stewart must submit to a temperature check and complete a questionnaire to determine COVID-19 risk. All visitors, including attorneys, must also wear personal protective equipment (eye protection, surgical or N95 mask, and latex gloves or equivalent) in order to enter the facility. Stewart will provide visiting attorneys with surgical masks and latex or non-latex gloves. Stewart will also provide visiting attorneys with protective eyewear upon request.
 29. All detainees have access to telephones, mail, and to Skype devices.
 30. Stewart detainees have access to telephones in the housing pods from 4:00 a.m. until 11:00 p.m., Sundays through Thursdays, and until 1:00 a.m., Fridays and Saturdays. During counts, which occur 7 times in a 24-hour period,

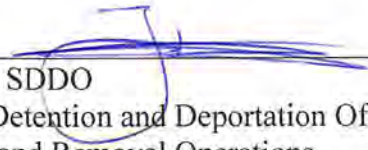
and last approximately 45 minutes, access to phones is automatically blocked and resumes immediately when counts are completed.

31. Together, Talton Communications and ICE have provided all detainees with 13 free 10-minute calls which are distributed every Wednesday. They expire and do not roll over to the next week so they cannot be used as barter or currency. If a detainee is indigent, Stewart will provide the detainee with free five-minute phone calls as needed to call immediate family or others in case of a family or personal emergency for the duration of the time the detainee is indigent.
32. Detainees have access to telephones that can be used for confidential and private calls for legal visitation. Phones are available for detainees upon request on a first-come, first-serve basis. In order to maintain orderly and fair access to telephone calls, telephones are available from 8:00 a.m. until 8:00 p.m., Mondays through Fridays, for one-hour periods. Three-way calling is available during these calls if initiated by the attorney.
33. All telephones used for legal visitation are operational and kept in good working order.
34. Unmonitored free calls can be made to attorneys and organizations on the pro bono list from the telephones in the housing units. Stewart will make funds available for indigent detainees, to the extent necessary, to place telephone calls in accordance with the 2011 PBNDS.
35. All detainees have access to private confidential legal visitation via two Skype devices. In order to maintain orderly and fair access to Skype legal visitation, Skype is available 8:00 a.m. until 6:00 p.m., Mondays through Fridays, for one-hour periods. The Skype devices are operational and kept in good working order. Should mechanical difficulties interrupt a Skype call, the detainee is permitted a full hour of Skype time.
36. Attorneys may request Skype meetings with their client 24 hours in advance by emailing StewartVTC@CCA.com. The attorney is required to show appropriate identification, (e.g., a bar card from any state, or other documentation of bar membership) and government issued identification.
37. All areas and equipment are disinfected between calls and visits. Stewart also permits attorneys to bring their own disinfectant wipes if they choose.
38. All detainees have access to mail. Detainees are provided three pre-paid envelopes per week. Stamps are otherwise not allowed to be sent to detainees through the mail due to the potential risk of introducing contraband into the facility, the risk of the stamps being used in exchange for contraband, and theft which can lead to disruptions among the detainees

39. Stewart does not accept faxes or emails for detainees. Detainees can communicate with attorneys via email to which all detainees at Stewart have access. There are 27 kiosks at Stewart that detainees can access email by using a prepaid process.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this 15th day of May, 2020



Tracy Moten, SDDO
Supervisory Detention and Deportation Officer
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

ARISTOTELES SANCHEZ	:	
MARTINEZ, <i>et al.</i>	:	
	:	
Petitioner,	:	
v.	:	Case No. 7:20-CV-62-CDL-MSH
	:	28 U.S.C. § 2241
WARDEN, Stewart County Detention	:	
Center, <i>et al.</i>	:	
	:	
Respondents.	:	
	:	

**RESPONDENTS' OPPOSITION TO PETITIONERS'
MOTION FOR A TEMPORARY RESTRAINING ORDER**

The COVID-19 pandemic is currently threatening all individuals within the United States, to include those in custody and those in the community at large. U.S. Immigration and Customs Enforcement (ICE) is committed to reduce the risk for immigration detainees, including reducing detainee populations, increasing sanitation, adding screening, limiting visitors, providing testing, and creating isolation protocols. However, the Petitioners' fear of contracting COVID-19 while detained does not provide a legal basis for their release. The Petitioners are either subject to mandatory detention or have been found to be a danger to the community and/or a flight risk, and the current pandemic does not change that legal detention status. Moreover, this is not a situation where COVID-19 is spreading in the detention facilities, but not among the general public; COVID-19 has been rapidly spreading nationwide. In light of this pandemic, ICE has been exercising its discretion to reduce the population at the Stewart Detention Center and Irwin County Detention Center, and Petitioners have given this Court no basis to substitute their self-selection for the discretion vested in ICE by statute and regulation.

FACTUAL BACKGROUND

The facts represented below have been compiled on an extremely short timeline. Further, because of the nature of COVID-19, the circumstances are changing rapidly. As a result, the United States represents that the facts below have been compiled based on a series of communications with representatives of SDC and ICDC, and these facts are supported generally by the attached declarations submitted to the Court for review.¹

I. The Facilities

Pursuant to contracts with ICE, SDC and ICDC both house immigration detainees, including Petitioners, and are managed by CoreCivic and LaSalle, respectively. The clinical health care services provided at SDC and ICDC are overseen by field medical coordinators who work for the ICE Health Service Corps (IHSC). IHSC provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation. IHSC's field medical coordinators ensure that the provision of medical care by contractors to the ICE detainees within SDC and ICDC, as well as other detention facilities, meet detention standards. The field medical coordinators do not provide hands-on care or direct the care within the facilities but monitor the medical care and services provided by the contract facilities. Medical staff at the contract facilities are directly responsible for medical care at the facilities.

Since the onset of reports of Coronavirus Disease 2019 (COVID-19), ICE epidemiologists have been tracking the outbreak, regularly updating infection prevention and control protocols, and issuing guidance to field staff on screening and management of potential exposure among

¹ The declaration of Russell Washburn is submitted without signature. Respondents will file the signed copy as soon as possible.

detainees. In testing for COVID-19, IHSC is also following guidance issued by the Centers for Disease Control (CDC) to safeguard those in its custody and care.

A. Stewart Detention Center (SDC)

As of 1:00 pm on April 9, 2020, IHSC has confirmed that there are five confirmed cases of COVID-19 among ICE detainees at SDC. These five detainees have been isolated and are receiving medical treatment consistent with CDC guidelines. There are 30 additional ICE detainees who are suspected to have COVID-19, and those individuals are under medical observation per the CDC guidelines.

1. Affirmative Steps Taken at SDC in light of COVID-19

As outlined more fully below, in response to the COVID-19 pandemic, ICE has taken a number of steps to combat the spread of COVID-19 at SDC.

Identify high-risk population. ICE has proactively worked to reduce the overall number of immigration detainees at SDC by reconsidering custody determinations and parole requests, and issuing orders of supervision on release for those aliens who are not subject to mandatory custody, do not pose a danger to the community or flight risk, or there is no significant likelihood of removal in the foreseeable future. Specifically, several weeks ago, SDC medical personnel, at the request of ICE, generated a list of detainees at SDC with certain underlying medical conditions or who are over the age of 60. The list of high-risk detainees is continuing to be updated and is being reviewed on a regular basis.

Increased screening. All attorneys, as well as CoreCivic staff, facility contractors, ICE, immigration court personnel, and detainee intakes are screened for symptoms of COVID-19 prior to being permitted entrance to SDC. That includes completion of a screening questionnaire and a temperature check in accordance with the CDC Interim Guidance on Management of Coronavirus

Disease 2019 (COVID-19) in Correctional and Detention Facilities. The screening area has been set up outside of SDC. If the initial health screening is inconclusive, medical staff is responsible for making any final determination on screening. If screening shows that an individual may be at risk, they are denied entry to the facility, and instructed either to remain at home for a specified quarantine period, or to consult and obtain clearance from their medical provider before they will be admitted to the facility.

Enhanced sanitization practices. As has long been the case at SDC, staff have been educated and reminded to follow universal precautions to prevent the spread of any pathogen. Signs are posted throughout SDC advising and providing instruction on how to stop the spread of germs; handwashing practices; and what to do if you are sick. In addition, there have been several town hall meetings for the SDC detainee population, where guidance was provided on personal hygiene, as well as cleaning and disinfecting individual living areas. Flyers related to the prevention of COVID-19 have been distributed throughout the facility as a reminder of preventative measures. Detainees also have 24-hour access to sanitation supplies and materials to clean and disinfect their individual living areas, as well as to disinfect telephones or kiosks prior to use. SDC has increased its inventory of cleaning chemicals and supplies and has installed hand sanitizer units throughout the facility.

SDC is also continuing its practice of issuing hygiene products to detainees twice a week, including but not limited to soap, toothpaste, shampoo, lotion, and toilet paper. If any detainee has need for additional supplies between the scheduled distribution times, they may, consistent with past practices, ask for additional supplies. In addition, since the outbreak of COVID-19, disinfecting wipes have been made available for detainee use in each of the housing areas at SDC,

and additional disinfectants, hand sanitizer, soap, and masks are made readily available for staff and detainee use.

Additional protective measures for legal visitors. Social visits have been discontinued entirely. As to visits by legal counsel, SDC's procedures require that facility staff use personal protective equipment during all detainee escorts to reduce the risk of exposure to potential pathogens. Attorneys are now also required to bring in their own personal protective equipment and may bring sanitizing wipes for use during legal visits. Legal visitation areas are being sanitized before and after each legal visit, including wiping down chairs, tables, phones, and VTC equipment with a disinfectant. Social distancing practices are also being used with visitors.

Encouraging social distancing. SDC has taken several steps to ensure that detainees are not in groups larger than ten when outside of their housing pod. SDC has also taken steps to limit the interactions of detainees for separate housing areas by using satellite feeding in housing pods, removing contact sports like basketball and soccer from the recreation program, and eliminating crews of detainees participating in the voluntary work program. Further, SDC is at 70% of design capacity to encourage distance between detainees where possible.

2. Medical Care at SDC

SDC is equipped with the medical capabilities necessary to provide daily access to sick calls in a clinical setting for its detainees and also, when necessary, to provide access to specialty services and hospital care. With respect to medical care in the specific context of COVID-19, SDC has the capacity to effectively quarantine and medically isolate any detainee who is confirmed, presumed, or suspected positive for COVID-19. In cases of known exposure to a person with confirmed COVID-19, asymptomatic detainees are placed in cohorts with restricted movement for the duration of the most recent incubation period (*i.e.*, 14 days after most recent

exposure to an ill detainee) and are monitored daily for fever and symptoms of respiratory illness. Cohorting is an infection-prevention strategy which involves housing detainees together who were exposed to a person with an infectious organism but are asymptomatic. This practice lasts for the duration of the incubation period of 14 days. Those that show onset of fever or respiratory illness are referred to a medical provider for evaluation. Cohorting is discontinued when the 14-day incubation period completes with no new cases. SDC has identified specific housing units for the quarantine of patients who are suspected or test positive for COVID-19, consistent with the cohort policies set forth above.

In the unlikely event that cases should grow beyond the number that can safely be treated by the medical personnel at SDC, SDC has memoranda of understanding with three regional hospitals (specifically, hospitals in Cuthbert, GA; Columbus, GA; and Albany, GA). If necessary, detainees can be transported to those facilities if they require higher levels of care or monitoring than can be appropriately provided at the facility.

B. Irwin County Detention Center (ICDC)

As of 12:30 p.m. on April 9, 2020, there is one confirmed case of COVID-19 at ICDC. The one detainee with a confirmed case has been isolated and is receiving medical treatment consistent with CDC guidelines.

1. Affirmative Steps Taken at ICDC in light of COVID-19

As outlined more fully below, in response to the COVID-19 pandemic, ICE has taken a number of steps to affirmatively combat the spread of COVID-19 at ICDC.

Identify high-risk population. ICE, in conjunction with ICDC medical supervisors, maintains a current record of ICDC detainees with chronic medical conditions. Based on that list and related medical input, ICE has planned for and executed the release of a number of ICDC

inmates determined to be particularly vulnerable to serious illness or death if infected by COVID-19. ICDC houses those detainees whom it has determined to be particularly vulnerable to serious illness or death if infected by COVID-19 (but who are not eligible for release based on their offenses) in units with fewer detainees to create maximum social distancing opportunities. Moreover, ICDC unit counts overall have been reduced to facilitate social distancing.

Increased screening. ICDC has put a process in place that requires mandatory temperature checks and the successful completion of a questionnaire prior to entry into the facility by staff or visitors, including any newly arriving detainees. If any question on the questionnaire receives an affirmative response, or if a temperature of 100.4 or higher is recorded, then the visitor will be assessed by medical staff and must be cleared by the Medical Director before entering ICDC. Otherwise, access will be denied.

Enhanced sanitization practices. In addition to the standard cleaning procedures at ICDC, ICDC has ensured that there is increased access to disinfectants, and has ordered multiple cleanings of all housing units and common areas each day with disinfecting agents. Additionally, gloves are provided for cleaning detail usage, and all staff have been provided masks to wear while in the facility. Showers in group housing units are pressured washed daily and sanitized regularly. Shared equipment, like keyboards, is sanitized between uses, and transportation vehicles and equipment are likewise sanitized between each use. ICDC has provided and continues to provide education on COVID-19 to staff and detainees, including the importance of hand washing and hand hygiene, covering coughs with the elbow instead of with hands, and requesting to seek medical care if they feel ill. Hygiene products are distributed regularly to detainees.

Additional protective measures for legal visitation. While social visits have been discontinued, ICDC's legal access procedures have not been significantly modified, aside from, as

noted above, the requirement that anyone attempting to enter the ICDC facility take a required temperature check and complete a questionnaire before gaining access. As to visitation by legal counsel, specifically, ICDC has had a program in place to allow for attorney phone calls and skype, and that protocol remains in place. ICDC is presently looking into ways to further expand its skype capabilities. When visits with legal counsel must occur in person, any equipment used for attorney access (*i.e.*, monitors, iPads, phones, etc.) or meeting areas where detainees and their attorneys may meet are disinfected between uses with disinfecting wipes and spray, as well as a bulk chemical cleaner verified by the CDC on their list of approved products used to kill COVID-19. Per ICE, all visiting attorneys are required to bring their own personal protective equipment (PPE).

2. Medical Care at ICDC

If a detainee is presumed or confirmed to have COVID-19, that individual will be placed in isolation in a negative pressure cell, which is a room with a specialized ventilation system that removes air from the cell and releases it away from the rest of the unit. In the event of an outbreak, ICDC will immediately quarantine the affected unit(s). ICDC has reviewed and plans to follow established guidelines provided by the CDC, under the guidance and supervision of the medical director.

There are four hospitals within an approximate twenty-mile radius of ICDC that are equipped to handle medical emergencies. ICDC officials have been and continue to work with these facilities to establish appropriate protocols, and determine the availability of isolation rooms and any necessary equipment at these hospitals, in case a need arises. In critical situations, emergency medical technicians are stationed less than 150 yards away from ICDC and are able to transport detainees to local hospitals. Additionally, Life Flight helicopters are able to arrive and depart directly from ICDC grounds.

II. Petitioners

Petitioners are immigration detainees housed at SDC and ICDC. Each Petitioner is discussed individually in more detail below.

A. SDC Petitioners

Aristoteles Sanchez Martinez. Mr. Martinez is housed at SDC. He is a 47-year-old with a history of recent hernia surgery, Type II diabetes, hypertension, neuropathy, avascular necrosis, non-palpable pulses in his lower extremities, and venous insufficiencies. He was previously convicted of giving a false statement and aggravated identity theft. His requests for parole have been twice denied, and he has not filed a bond motion.

Michael Robinson. Mr. Robinson, who is housed at SDC, is a 53-year-old male with hypertension, asthma, cardiac murmur, high blood pressure, and benign prostatic hyperplasia. He has been in custody for 76 days pursuant to 8 U.S.C. § 1225. He was previously denied bond and has not requested parole.

Peter Owusu. Mr. Owusu is a 40-year-old male who is housed at SDC. He has no known history of pre-existing conditions. Mr. Owusu withdrew a previous bond request in April 2019, and had his parole request denied in July 2019.

B. ICDC Petitioners

Joseph Lloyd Thompson. Mr. Thompson is a 49-year-old male who is housed at ICDC with blood pressure issues, a prior aortic aneurysm, and diabetes. A cardiologist reviewed his case and determined that surgery is unnecessary to treat his aneurysm. As to allegations regarding his diabetes medication, Mr. Thompson previously kept his medication in his room, but it was discovered that he was not taking it. As a result, he was required to obtain the medication from ICE staff each day, which he has failed to do. Mr. Thompson has a prior conviction for family

violence battery in violation of O.C.G.A. § 1-5-23.1, which is an aggravated felony crime of violence and also a crime of domestic abuse, and he is detained under 8 U.S.C. § 1226(c), which requires mandatory detention of criminal aliens. Mr. Thompson applied for bond, which was denied on November 29, 2019, and submitted a parole request as recently as February 14, 2020.

Ansumana Jammeh. Mr. Jammeh is a 43-year-old male with diabetes and hemorrhoids who is housed at ICDC. He was convicted of forgery offenses including false statements, which renders him an aggravated felon. As such, he is detained under 8 U.S.C. § 1226(c), which requires mandatory detention of criminal aliens. Bond was denied for Mr. Jammeh at a hearing on May 13, 2019.

Karen Lopez. Ms. Lopez is a 42-year-old female who has a pacemaker and also has multiple sclerosis. She is housed at ICDC, where she has been in custody for 38 days. She was convicted of conspiracy to violate the Georgia Controlled Substances Act and is therefore detained under 8 U.S.C. § 1226(c), which requires mandatory detention of criminal aliens. She has not filed any bond motions or made any parole requests.

Nilson Fernando Barahona Marriaga. A 38-year-old male, Mr. Marriaga has diabetes and hypertension. He is housed at ICDC and has been in custody for 55 days. He has multiple arrests on his record, including drugs, probation violations, and a pending DUI, and he is detained under 8 U.S.C. § 1226(a). Bond was recently denied at a February 4, 2020 hearing, and a parole request was denied on March 26, 2020.

Shelley Dingus. Ms. Dingus is a 52-year-old woman housed at ICDC, who reports a medical history of asthma, chronic obstructive pulmonary disease, migraine headaches, depression, anxiety, and eczema. Ms. Dingus was convicted of distribution of a controlled substance. She has been in custody for 78 days pursuant to 8 U.S.C. § 1226(c), which requires

mandatory detention of criminal aliens. Ms. Dingus’s parole request was denied based on her criminal convictions on April 7, 2020, and she has not filed a bond motion.

ARGUMENT

This Court should deny Petitioners motion for a temporary restraining order. Initially, the Court lacks jurisdiction over Petitioners’ claims. If the Court finds that it has jurisdiction, Petitioners motion must still be denied because Petitioners fail to meet their heavy burden of establishing that they are entitled to a temporary restraining order.

I. This Court lacks jurisdiction over Petitioners’ claims.

“Article III of the U.S. Constitution limits the judicial power of the federal courts so that they may only exercise jurisdiction over “Cases” and “Controversies.” *L.M.P. ex rel. E.P. v. Sch. Bd. of Broward Cty.*, 879 F.3d 1274, 1280 (11th Cir. 2018). “Accordingly, subject matter jurisdiction requires a justiciable case or controversy within the meaning of Article III.” *Id.* Article III similarly “limits the jurisdiction of the federal courts to cases and controversies of sufficient concreteness to evidence a ripeness for review. *Digital Props., Inc. v. City of Plantation*, 121 F.3d 586, 589 (11th Cir. 1997). Petitioners lack standing and present claims that have not matured. This Court thus lacks jurisdiction, the case should be dismissed, and Petitioners motion for a TRO should be denied.

A. Petitioners lack standing.

“Standing to sue is a doctrine rooted in the traditional understanding of a case or controversy. The doctrine developed in our case law to ensure that federal courts do not exceed their authority as it has been traditionally understood.” *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016) (citation omitted). The “irreducible constitutional minimum of standing contains three elements.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). First, a plaintiff must

have suffered an “injury in fact—an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical.” *Id.* (internal quotations omitted). Second, “the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the Court.” *Id.* (internal quotation and alterations omitted). “Third, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.” *Id.* at 560-61 (internal quotations omitted). Petitioners do not raise a cognizable injury and the alleged injury is not redressable by this Court.

1. Petitioners lack an injury in fact.

Injury in fact is a “constitutional requirement” and is the “first and foremost of standing’s three elements.” *Spokeo*, 136 S. Ct. at 1547 (quotation and internal alteration omitted). To establish injury in fact, a plaintiff must show that he or she suffered “an invasion of a legally protected interest that is concrete and particularized and actual or imminent, not conjectural or hypothetical.” *Id.* at 1548 (internal quotation omitted). “A concrete injury must be *de facto*; that is, it must actually exist,” be “real,” and not “abstract.” *Id.* (internal quotation omitted). While the risk of harm may, in some circumstances, be sufficiently concrete, “imminence . . . cannot be stretched beyond its purpose, which is to ensure that the alleged injury is not too speculative for Article III purposes—that the injury is *certainly* impending.” *Lujan*, 504 U.S. at 564 n.2 (internal quotation omitted) (emphasis in original).

Petitioners assert that, because of their age and/or medical conditions, they have elevated risk of serious, adverse outcomes if they contract COVID-19. Because of their alleged high risk status, they then assume that they will *necessarily* get COVID-19 if they remain detained. This assertion is purely speculative. SDC and ICDC have implemented procedures and protocols to

protect the detainees in its care—they have introduced screening procedures, increased cleaning and sanitation, and reduced detainee and unit population to allow for social distancing. Even assuming a concentrated detainee population, crowding in and of itself does not cause COVID-19 infection.²

Petitioners’ claims of future injury are hypothetical; they are not entitled to release from detention based on a conjectural injury that they have not suffered and are not immediately threatened with.³ An injunction is “unavailable absent a showing of irreparable injury, a requirement that cannot be met where there is no showing of any real or immediate threat that the plaintiff will be wronged . . .—a likelihood of substantial and immediate irreparable injury.” *Los Angeles v. Lyons*, 461 U.S. 95, 111 (1983) (internal quotation omitted).

Moreover, Petitioners cannot show that Respondents are unprepared to respond to COVID-19. ICE, CoreCivic, and LaSalle have expended extensive resources and efforts to address the very issues that Petitioners have identified, and are prepared to address the challenges posed by COVID-19. In light of the efforts ICE has made to contain and protect detainees from COVID-19, Petitioners cannot show that there is a “likelihood of substantial and immediate irreparable injury.” *Lyons*, 461 U.S. at 111; *see Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 416 (2013)

² COVID-19, however, is spreading rapidly in the communities into which Petitioners seek to be released. For example, multiple Petitioners assert that, if released, they would return to the Atlanta area, which has a much greater outbreak of COVID-19 than either Stewart or Irwin Counties. *See, e.g.*, Georgia Department of Health COVID-19 Daily Status Report, <https://dph.georgia.gov/covid-19-daily-status-report> (reporting four COVID-19 cases in Stewart County and eleven in Irwin County versus over 3000 cases in the direct Atlanta area as of 9:30 pm on April 8, 2020). Of more concern, two Petitioners ask for release and state that they would return to New York—specifically Queens and Long Island or Brooklyn—which contains the most severe outbreak of COVID-19 in the nation. *See Sanchez Martinez Decl.* ¶ 28, ECF No. 5-15; *Robinson Decl.* ¶ 28, ECF No. 5-16; CDC Coronavirus Cases in the U.S., <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last visited Apr. 8, 2020).

³ Although there are now confirmed cases of COVID-19 in the detainee population at SDC, there are none in the two units which Petitioners are detained. Regardless, SDC has implemented the policies discussed herein to contain and prevent COVID-19 spread.

(finding standing based on fear, even one that is reasonable, “improperly waters down the fundamental requirements of Article III”).

2. Petitioners’ alleged injury is not redressable by release.

Petitioners’ alleged injury—that they are subject to a heightened risk of death or serious illness if they contract COVID-19—will not be redressed by ordering their release. For purposes of standing, a plaintiff’s injury is redressable where there is “a substantial likelihood that the requested relief will remedy the alleged injury.” *Vt. Agency of Nat. Res. v. United States ex rel. Stevens*, 529 U.S. 765, 771 (2000) (internal quotation omitted). “[I]t must be *the effect of the court’s judgment on the defendant* . . . that redresses the plaintiff’s injury, whether directly or indirectly.” *Lewis v. Gov of Ala.*, 944 F.3d 1287, 1301 (11th Cir. 2019). Petitioners’ requested relief will not ameliorate or diminish their claimed heightened risk of injury or death resulting from COVID-19, nor can a court order requiring release prevent Petitioners from contracting COVID-19.

Petitioners do not explain how release from the facilities at issue will reduce their risk of injury; it certainly cannot eliminate it. Because of their detention, Petitioners actually have greater access to medical care than many in the general public.⁴ Ordering their release could leave them without their present access to health care and put them at greater risk of serious complications in the event that any of them contract COVID-19. There is little evidence in the record about Petitioners’ travel plans or housing conditions if released, such as whether they also involve people living in close quarters, and living with individuals who present a risk of exposure. Given the

⁴ In an apparent attempt to preemptively address this argument, Petitioners assert that SDC and ICDC are “geographically isolated from appropriate levels of medical care to treat COVID-19.” Mem. in Supp. of Mot. for TRO 7. There are multiple hospitals in the areas surrounding SDC and ICDC. CoreCivic and LaSalle have relationships with those hospitals to ensure care for ICE detainees. This argument is wholly without merit.

current community spread of COVID-19, it is not unlikely that Petitioners will be exposed to COVID-19 through community transmission over the coming months if released. Indeed, it is conceivable that Defendant's risk of exposure is lower in detention, because the facilities at issue strictly control outsiders' access, and have taken extensive measures to avoid the spread of COVID-19.

B. Petitioners' claims are not ripe.

"The ripeness doctrine protects federal courts from engaging in speculation or wasting their resources through the review of potential or abstract disputes." *Digital Props.*, 121 F.3d at 589. It "seeks to avoid entangling courts in the hazards of premature adjudication." *Id.* "Ripeness analysis involves the evaluation of two factors: the hardship that a plaintiff might suffer without court redress and the fitness of the case for judicial decision." *Elend v. Basham*, 471 F.3d 1199, 1211 (11th Cir. 2006). "The fitness prong is typically concerned with questions of finality, definiteness, and the extent to which resolution of the challenge depends upon facts that may not yet be sufficiently developed." *Harrell v. The Fla. Bar*, 608 F.3d 1241, 1258 (11th Cir. 2010) (internal quotation marks and citation omitted). "The hardship prong asks about the costs to the complaining party of delaying review until conditions for deciding the controversy are idea." *Id.*

Petitioners' claims are premature. Petitioners state: "*If* Petitioners contract COVID-19," they are at high-risk for needing critical care and may face serious illness. Memo. in Supp. of Mot. for TRO 1, ECF No. 5-1 (emphasis added). Petitioners do not currently have COVID-19, nor is there evidence that they have been directly exposed to it. Other courts, in addressing requests for relief in light of the COVID-19 pandemic, have held that "[t]he 'possibility' of harm is insufficient to warrant the extraordinary relief of a TRO." *Dawson v. Asher*, No. C20-0409JLR-MAT, 2020 WL 1304557, at *3 (W.D. Wash. Mar. 19, 2020) (quoting *Winter*, 555 U.S. at 22); *Francisco v.*

Decker, Case 2:20-CV-02176-CCC at pgs. 3-4 (D.N.J. March 25, 2020) (“Although he expresses his fear of the coronavirus which is presently afflicting the United States, two cases of which have occurred at the jail in which he is housed, Petitioner himself does not allege that he has contracted or been directly exposed to the virus, and his fears of contracting it at this point are speculative.”). Likewise, Petitioners here have brought this claim before any real harm exists, let alone has been suffered.⁵ The Petition and TRO should therefore be denied and dismissed.

II. Assuming The Court Has Jurisdiction, Petitioners Do Not Satisfy The Requirements For a TRO.

Petitioners ask this Court to grant an emergency request for release from legal custody. In order to obtain preliminary injunctive relief, a movant must establish each of the following four factors: 1) likelihood of prevailing on the merits; 2) irreparable injury unless an injunction issues; 3) the balance of equities tips in the movant’s favor; 4) an injunction is in the public interest. *Winter v. Natural Res. Defense Council*, 555 U.S. 7, 20 (2008). “The preliminary injunction is an extraordinary and drastic remedy not to be granted unless the movant ‘clearly carries the burden of persuasion’ as to the four prerequisites.” *Zardui-Quintana v. Richard*, 768 F.2d 1213, 1216 (11th Cir. 1985) (citations omitted). “In exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction.” *Winter*, 555 U.S. at 24.

A. Petitioners are unlikely to succeed on the merits.

Petitioners are unlikely to succeed on the merits for several reasons. First, they are not entitled to habeas relief because they are legally detained. Second, Petitioners’ conditions of

⁵ Additionally, several of Petitioners’ claims are not ripe because, as explained in the factual background section, those Petitioners failed to avail themselves of the administrative remedies available to them to obtain release—either through a request for bond or discretionary parole.

confinement claims are not cognizable in a habeas action. Third, if this Court reaches Petitioners' constitutional claim, it is likewise meritless. Finally, release from custody is not an appropriate remedy for Petitioners' claims.

1. Petitioners are legally detained.

Petitioners here are detained under several different provisions—pre-final order of removal under 8 U.S.C. § 1226(a) and § 1226(c), and post-final order of removal under § 1225(b) and § 1231. Congress has expressly prohibited release for individuals detained under §§ 1226(c) or 1231.⁶ An immigration detainee held under certain detention statutes may be granted a discretionary grant of parole for “urgent humanitarian reasons or significant public benefit” under 8 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. §§ 212.5(b), 235.3. Additionally, detainees held under § 1226(a) can ask for a bond hearing and appeal that decision.

Petitioners do not contend that they are illegally held pursuant to any immigration statute such that they should be entitled to habeas relief. They likewise do not allege that they have all pursued bond or parole to the fullest extent and that those decisions should be reviewed or overturned. Regardless, to the extent that Petitioners have requested parole or bond, this Court is without jurisdiction to review those decision under 8 U.S.C. § 1226(e) and § 1252(a)(2)(B)(ii). The statutory provisions strip the Court of jurisdiction to review a discretionary bond or parole decision.⁷ *See United States v. Velasquez Velasquez*, 524 F.3d 1248, 1252 (11th Cir. 2008) (explaining that the district court “lacked authority” to review and overturn “the IJ’s decision to

⁶ For aliens who have final administrative removal orders, custody is generally mandatory during the removal period under 8 U.S.C. § 1231(a)(2). Once the removal period has expired, custody becomes discretionary under 8 U.S.C. § 1231(a)(6), and release on supervision may be appropriate if there is no significant likelihood of removal in the foreseeable future.

⁷ The statute refers to the Attorney General rather than the Secretary of Homeland Security. On March 1, 2003, the Department of Homeland Security assumed this responsibility, and the discretion formerly vested in the Attorney General was conferred on the Secretary of Homeland Security. *See* 6 U.S.C. § 271(b); 6 U.S.C. § 551(d).

release Velasquez on bond pending his immigration proceedings”). Moreover, the Eleventh Circuit has determined that there is no due process interest in immigration parole. *See, e.g., Tefel v. Reno*, 180 F.3d 1286, 1300-01 (11th Cir. 1999) (explaining that “aliens lacked a liberty interest in being paroled[.]” because of the “Executive’s complete discretion to make parole decisions”).

2. Petitioners cannot challenge their conditions of confinement in a habeas petition.

“Petitioner[s]’ § 2241 petition is not the appropriate vehicle for raising an inadequate medical care claim, as such a claim challenges the conditions of confinement, not the fact or duration of that confinement.” *Vaz v. Skinner*, 634 F. App’x 778, 781 (11th Cir. 2015); *see also, e.g., Daker v. McLaughlin*, No. 5:18-cv-171, 2018 WL 5304115, at *2 (M.D. Ga. Oct. 25 2018) (“The Eleventh Circuit has since determined that habeas is not the appropriate vehicle for raising claims which challenge the conditions of a prisoner’s confinement.”) Although not as widely discussed in the context of a § 2241 habeas, this principle is firmly established in the Eleventh Circuit regarding habeas claims under 28 U.S.C. § 2254 and civil rights claims under § 1983. Claims where a detainee “seeks injunctive relief challenging the fact of his conviction or the duration of his sentence . . . fall within the ‘core’ of habeas corpus and are thus not cognizable when brought pursuant to § 1983.” *Nelson v. Campbell*, 541 U.S. 637, 643 (2004). On the other hand, “constitutional claims that merely challenge the conditions of a prisoner’s confinement . . . fall outside of that core and may be brought pursuant to § 1983 in the first instance.” *Id.* “These avenues are mutually exclusive[.]” *Hutcherson v. Riley*, 468 F.3d 750, 754 (2006). “When an inmate challenges the ‘circumstances of his confinement’ but not the validity of his conviction and/or sentence, then the claim is properly raised in a civil rights action[.]” *Id.*

Petitioners here do not challenge the validity of their detention or its duration. They attempt to contort their claims into a habeas action by calling their detention “illegal,” Pet’rs’ Suppl.

Memo. 1-5, but they are not challenging the legality of their immigration detention under the Immigration and Nationality Act, 8 U.S.C. §§ 1225, 1226, or 1231. They similarly do not challenge the duration of their detention under *Zadvydas v. Davis*, 533 U.S. 678 (2001). Instead, they challenge the conditions of their confinement—claiming a lack of proper cleaning supplies, personal protective equipment, or ability to social distance. These claims are not properly asserted in a habeas action.

3. Petitioners have not established that the conditions of their confinement violate the Fifth Amendment.

Under the Fifth Amendment Due Process Clause, “a detainee may not be punished prior to an adjudication of guilt in accordance with due process of law.” *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). For conditions of confinement to constitute “punishment,” the Petitioners must show either (1) “an expressed intent to punish on the part of detention facility officials,” or an implied intent to punish through a condition or restriction that a “is not reasonably related to a legitimate goal—if it is arbitrary or purposeless[.]” *Id.* at 538-39. “Thus, if a particular condition or restriction of pretrial detention is reasonably related to a legitimate governmental objective, it does not, without more, amount to ‘punishment.’” *Id.* at 539.

Petitioners fail to show that their detention is not proportionately related to the government’s non-punitive responsibilities and administrative purposes. While civil detainees retain greater liberty protections than individuals convicted of crimes, *see, e.g., Youngberg v. Romeo*, 457 U.S. 307, 321-22 (1982), the continued immigration detention of Petitioners pending removal cannot be described as punitive or excessive in relation to the legitimate government purpose of protecting the public and ensuring their removal. *See, e.g., Demore v. Kim*, 538 U.S. 510, 523 (2003) (“[T]his Court has recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process.”); *Dawson v. Asher*, No. 20-cv-0409-JLR-MAT, 2020 WL 1304557, at *2 (W.D.

Wash. Mar. 19, 2020). The COVID-19 outbreak does not change this analysis or weaken the government's legitimate interest in Petitioners' detention pending removal. *Id.*

In denying a request for release from immigration detention in the Western District of Washington last month, when Seattle was the epicenter of the COVID-19 outbreak in this country, the court noted that "Plaintiffs do not cite to authority, and the court is aware of none, under which the fact of detention itself becomes an 'excessive' condition solely due to the risk of a communicable disease outbreak—even one as serious as COVID-19." *Dawson*, 2020 WL 1304557, at *2. As in *Dawson*, Petitioners here have not established that their conditions of detention are unconstitutional. ICE and its contractors are undertaking appropriate measures to prevent the spread of the disease, which unfortunately is found throughout our country and is certainly not unique to detention facilities. *See Dawson*, 2020 WL 1304557, at *2.

To the extent Petitioners are arguing that the facilities' populations should be reduced, ICE has already taken steps to do so, and will continue to evaluate cases that may be at high risk for COVID-19. The detainee population at both SDC and ICDC have been greatly reduced. Each facility is currently operating under capacity. That these Petitioners have not been beneficiaries of this exercise of ICE's discretion does not constitute a due process violation.

Petitioners cannot plausibly argue that Respondents are subjecting them to punishment. ICE has implemented procedures and protocols to protect the detainees in its care, including at the facilities at issue in this case, and has also exercised its discretion to reduce the detainee populations at those facilities. These precautions taken at the two facilities at issue carry far more weight than the generalized opinions expressed in the various declarations submitted by Petitioner's proffered experts about populations in immigration detention centers in general and other detention and institutional settings.

Unlike in the cases cited by Petitioners, the present situation is not one where a detainee is being exposed *because of* his detention—for example, where a communicable disease is spreading within the detention centers, while the general public remains unaffected. *See, e.g., Helling v. McKinney*, 509 U.S. 25, 28, 32-35 (finding that an inmate can assert constitutional claim for exposure to environmental tobacco smoke where he was assigned to cell with another inmate who smokes five packs of cigarettes per day); *Gates v. Collier*, 501 F.2d 1291, 1300 (5th Cir. 1974) (constitutional violations at state penitentiary included, *inter alia*, water contaminated by sewage, leading to the spread of infectious disease, and permitting infected prisoners to mingle with the general population); *see also Hutto v. Finney*, 437 U.S. 678, 682-83 (1978) (constitutional violations in state prison system’s punitive isolation cells due to, *inter alia*, a practice of sharing mattresses with prisoners who “suffered from infectious diseases such as hepatitis and venereal disease”). Instead, the disease is spreading in the general population of Georgia and the United States. Petitioners’ argument that continued detention amounts to a constitutional violation simply lacks merit.

4. Petitioners are not entitled to release from custody.

Assuming that Petitioners could show that they were likely to prevail on their habeas claim that the conditions of their detention violate the Due Process Clause, they cannot establish that they are entitled to immediate release “as opposed to injunctive relief that would leave [them] detained while ameliorating any alleged violative conditions within the facility.” *Dawson*, 2020 WL 1304557, at *2.⁸ This type of relief is explicitly preferred in the Eleventh Circuit—“even if a prisoner proves an allegation of mistreatment in prison that amounts to cruel and unusual

⁸ Petitioners have not sought any changed conditions in the facilities, let alone met their burden to show that they would be entitled to mandatory injunctive relief.

punishment, he is not entitled to release.” *Gomez v. United States*, 899 F. 2d 1124, 1126 (11th Cir. 1990). “The appropriate Eleventh Circuit relief from prison conditions that violate the Eighth Amendment during legal incarceration is to require the discontinuance of any improper practices, or to require correction of any condition causing cruel and unusual punishment.” *Id*; *see also Vaz*, 634 F. App’x at 781 (“[E]ven if Petitioner established a constitutional violation, he would not be entitled to the relief he seeks because release from imprisonment is not an available remedy for a conditions-of-confinement claim.”).

Petitioners, however, do not ask this Court to order any different medical treatment or sanitation practices for detainees at SDC and ICDC. Instead, Petitioners argue that the facilities must reduce their detainee populations in order to address the COVID-19 situation. They urge this Court to ignore ICE’s statutory and regulatory authority and discretion regarding detainee release, and instead agree with Petitioners’ self-selection as the detainees to be released. This Court should not oblige them.

Petitioners have not shown that they are likely to succeed on the merits and their motion for a TRO should be denied.

B. Petitioners have not shown irreparable harm.

Petitioners have not demonstrated that they will suffer irreparable injury absent the mandatory injunctive relief they seek. “The injury must be neither remote nor speculative, but actual and imminent.” *Ne. Fla. Chapter of the Ass’n of Gen. Contractors of Am. v. City of Jacksonville*, 896 F.2d 1283, 1285 (11th Cir. 1990) (internal quotation marks and citation omitted). Merely showing a “possibility” of irreparable harm is insufficient. *See Winter*, 555 U.S. at 22. Moreover, mandatory injunctions are not granted unless extreme or very serious damage will result. *Marlyn Nutraceuticals, Inc.*, 571 F.3d at 879 (internal citation omitted). “Issuing a

preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court’s] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter*, 555 U.S. at 22.

Petitioners claim that release from detention will spare them the heightened risk of adverse consequences from COVID-19. This is not only speculative, it is unlikely, given that COVID-19 is spreading throughout the country. Indeed, as set forth above, certain petitioners seek to be released into communities where the percentage of COVID-19 infections are significantly higher than in their current situation. *See, e.g.*, Sanchez Martinez Decl. ¶ 28; Robinson Decl. ¶ 28. Fundamentally, as in *Dawson*, “[t]here is no evidence . . . that Defendants’ precautionary measures are inadequate to contain such an outbreak or properly provide medical care should it occur.” 2020 WL 1304557, at *3.

Petitioners have not shown irreparable harm and their motion for a TRO should be denied.

C. The balance of equities and public interest favors Respondents.

It is well settled that the public interest in enforcement of United States’ immigration laws is significant. *See, e.g.*, *United States v. Martinez-Fuerte*, 428 U.S. 543, 556-58 (1976); *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) (“The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant.”) (citing cases); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) (“There is always a public interest in prompt execution of removal orders: The continued presence of an alien lawfully deemed removable undermines the streamlined removal proceedings IIRIRA established, and permits and prolongs a continuing violation of United States law.”) (internal quotation omitted).

Petitioners ask the Court to declare their detention unconstitutional, despite Respondents’

valid statutory bases for detaining them. The implications of such an order, were it followed by other courts in this and other jurisdictions, would be far-reaching. ICE detains—and provides the medical care for—many individuals who fall into the categories considered vulnerable to COVID-19. The disruptive effect of an order releasing Petitioners could long survive the COVID-19 pandemic, and could serve as precedent for releasing many non-citizens slated for removal. This type of burden and attendant harm, and its potential impact on ICE operations nationwide, is too great to be permissible at this preliminary stage. Moreover, the public interest is best served by allowing immigration facilities to follow the orderly medical processes and protocols implemented by government professionals, as ICE and its contractors have been doing. *Youngberg*, 457 U.S. at 322-23 (urging judicial deference and finding presumption of validity regarding decisions of government professionals concerning conditions of confinement).

Petitioners have not shown that the balance of hardships and public interest tips in their favor and their motion for TRO should be denied.

CONCLUSION

For all of the foregoing reasons, Petitioners have not satisfied their high burden of establishing entitlement to mandatory injunctive relief, and their Motion for a Temporary Restraining Order (ECF No. 5) should be denied.

Respectfully submitted this 9th day of April, 2020.

CHARLES E. PEELER
UNITED STATES ATTORNEY

BY: s/ Amelia G. Helmick
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**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA**

MARTINEZ *et. al.*

on their own behalf and on behalf of others similarly situated,

Case No. 7:20-cv-00062

Petitioners-Plaintiffs,

v.

MICHAEL DONAHUE, warden Stewart Detention Center;
MATTHEW ALBENCE, in his official capacity as the Acting
Director for U.S. Immigration and Customs Enforcement;
UNITED STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT; CHAD WOLF, in his official capacity as
Secretary of the U.S. Department of Homeland Security;
UNITED STATES DEPARTMENT OF HOMELAND
SECURITY;

Respondents-Defendants.

DECLARATION OF OFFICER IN CHARGE JOHN BRETZ

I, John Bretz, make the following statements under oath and subject to the penalty of perjury:

1. I am employed by U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), and currently serve as the Officer in Charge. I have held this position since 2019.
2. I provide this declaration based on my personal knowledge, belief, reasonable inquiry, and information obtained from various records, systems, databases, other DHS employees, employees of DHS contract facilities, and information portals maintained and relied upon by DHS in the regular course of business.
3. In my current position, I am an Officer in Charge at the Stewart Detention Center, at the Atlanta Field Office, employed by the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). In this capacity, I manage ERO personnel and provide oversight over ERO's operations at the Stewart Detention Center. I have been employed by the former Immigration and Naturalization Service (INS) and ICE since 1995.

4. ICE Health Service Corps (IHSC) provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation.
5. IHSC's FMCs ensure that the provision of medical care by contractors to the ICE detainees within the IGSA facilities meets detention standards, as required by the IGSA contract. The FMCs do not provide hands-on care or direct the care within the IGSA's but monitor the medical care and services provided by the contract facilities. Medical staff at the contract facilities are directly responsible for medical care at the facility.
6. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals.
7. Since the onset of reports of Coronavirus Disease 2019 (COVID-19), ICE epidemiologists have been tracking the outbreak, regularly updating infection prevention and control protocols, and issuing guidance to field staff on screening and management of potential exposure among detainees.
8. In testing for COVID-19, IHSC is also following guidance issued by the Centers for Disease Control (CDC) to safeguard those in its custody and care.
9. Each detainee is screened for disabilities upon admission by a qualified healthcare professional. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.
10. At the facility, during intake medical screenings, detainees are assessed for fever and respiratory illness, are asked to confirm if they have had close contact with a person with laboratory-confirmed COVID-19 in the past 14 days, and whether they have traveled from or through area(s) with sustained community transmission in the past two weeks.
11. The detainee's responses and the results of these assessments will dictate whether to monitor or isolate the detainee. Those detainees who present symptoms compatible with COVID-19 will be placed in isolation, where they will be tested. If testing is positive, they will remain isolated and treated. In case of any clinical deterioration, they will be referred to a local hospital.
12. In cases of known exposure to a person with confirmed COVID-19, asymptomatic detainees are placed in cohorts with restricted movement for the duration of the most recent incubation period (14 days after most recent exposure to an ill detainee) and are monitored daily for fever and symptoms of respiratory illness. Cohorting is an infection-prevention strategy which involves housing detainees together who were exposed to a person with an infectious organism but are asymptomatic. This practice lasts for the duration of the incubation period of 14 days, because individuals with these and other communicable diseases can be contagious before they develop symptoms and can serve as undetected source patients. Those that show onset of fever and/or respiratory illness are referred to a medical provider for evaluation. Cohorting is discontinued when the 14-day incubation period completes with no new cases. Per ICE policy, detainees diagnosed

with any communicable disease who require isolation are placed in an appropriate setting in accordance with CDC or state and local health department guidelines.

13. Stewart Detention Center has the following medical capabilities:

- o The facility, which manages males only, provides daily access to sick calls in a clinical setting, and infirmary and access to specialty services and hospital care.

14. As of 1:00 p.m. on April 9, 2020, IHSC has the following information:

- a. There are 30 ICE detainee suspected cases of COVID-19 in the facility who are on medical observation per CDC guidelines.
- b. There are 5 confirmed cases of COVID-19 among ICE detainees in the facility. The 5 confirmed cases are isolated and receiving medical treatment consistent with CDC guidelines.

15. The facility has populations within their approved capacities and are not overcrowded.

16. The facility has increased sanitation frequency and provides sanitation supplies as follows:

- o The facility provides 24-hour access to sanitation supplies including, disinfectants, hand sanitizer, and soap in every housing unit at the facility. The administration is encouraging both staff and the jail general population to use these tools often and liberally.

17. The facility has suspended in person social visitation and facility tours. Noncontact legal visitation is still permitted provided the visitor provides their own personal protective equipment and submits to screening prior to entering the facility.

18. The facility is screening all staff and vendors when they enter the facilities including body temperatures.

19. The facility is screening all detainee intakes when they enter the facilities including travel histories, medical histories and checking body temperatures and have procedures to continue monitoring the populations' health.

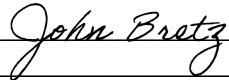
20. The facility provides education on COVID-19 to staff and detainees to include the importance of hand washing and hand hygiene, covering coughs with the elbow instead of with hands, and requesting to seek medical care if they feel ill. The facilities provide detainees daily access to sick call.

21. The facility has identified housing units for the quarantine of patients who are suspected of or test positive for COVID-19 infection to be addressed as set forth in paragraphs 8, 9 and 10, *supra*.

22. ICE has reviewed its detained “at risk population” as identified by the CDC guidelines to determine if detention remains appropriate, considering the detainee’s health, public safety and mandatory detention requirements, and adjusted custody conditions, when appropriate, to protect health, safety and well-being of its detainees.

I declare, under penalty of perjury under 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge and based on information obtained from other individuals employed by ICE.

DATED: April 9, 2020

_____

Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA**

THOMPSON, *et. al.*

on their own behalf and on behalf of others similarly situated,

Case No. 7:20-cv-00062

Petitioners-Plaintiffs,

v.

PHIL BICKHAM, warden Irwin County Detention Center;
MATTHEW ALBENCE, in his official capacity as the Acting
Director for U.S. Immigration and Customs Enforcement;
UNITED STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT; CHAD WOLF, in his official capacity as
Secretary of the U.S. Department of Homeland Security;
UNITED STATES DEPARTMENT OF HOMELAND
SECURITY;

Respondents-Defendants.

DECLARATION OF ASSISTANT FIELD OFFICE DIRECTOR PATRICK MUSANTE

I, Patrick Musante, make the following statements under oath and subject to the penalty of perjury:

1. I am employed by U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), and currently serve as the Assistant Field Office Director. I have held this position since March 29, 2020.
2. I provide this declaration based on my personal knowledge, belief, reasonable inquiry, and information obtained from various records, systems, databases, other DHS employees, employees of DHS contract facilities, and information portals maintained and relied upon by DHS in the regular course of business.
3. In my current position, I am an Assistant Field Office Director, Atlanta Field Office, employed by the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). In this capacity, I manage ERO personnel and provide oversight over many of ERO's operations in the Atlanta Field Office. I also provide oversight over a number of detention facilities within the Atlanta Field Office, including the Irwin County Detention Center. I have been employed by the former Immigration and Naturalization Service (INS) and ICE since May 15, 2000.

4. ICE Health Service Corps (IHSC) provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation.
5. IHSC's FMCs ensure that the provision of medical care by contractors to the ICE detainees within the IGSA facilities meets detention standards, as required by the IGSA contract. The FMCs do not provide hands-on care or direct the care within the IGSA's but monitor the medical care and services provided by the contract facilities. Medical staff at the contract facilities are directly responsible for medical care at the facility.
6. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals.
7. Since the onset of reports of Coronavirus Disease 2019 (COVID-19), ICE epidemiologists have been tracking the outbreak, regularly updating infection prevention and control protocols, and issuing guidance to field staff on screening and management of potential exposure among detainees.
8. In testing for COVID-19, IHSC is also following guidance issued by the Centers for Disease Control (CDC) to safeguard those in its custody and care.
9. Each detainee is screened for disabilities upon admission by medical professional. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.
10. At the facility, during intake the following medical screening are assessed: vital signs, medical and mental health history, disability screening, TB screening, women health screening and social screening. Detainees are also assessed for fever and respiratory illness, are asked to confirm if they have had close contact with a person with laboratory-confirmed COVID-19 in the past 14 days, and whether they have traveled from or through area(s) with sustained community transmission in the past two weeks.
11. The detainee's responses and the results of these assessments will dictate whether to monitor or isolate the detainee. Those detainees who present symptoms compatible with COVID-19 will be placed in isolation, and transferred to the hospital for testing. If testing is positive, they will remain isolated and treated. In case of any clinical deterioration, they will be referred to a local hospital.
12. In cases of known exposure to a person with confirmed COVID-19, asymptomatic detainees are placed in cohorts with restricted movement for the duration of the most recent incubation period (14 days after most recent exposure to an ill detainee) and are monitored daily for fever and symptoms of respiratory illness. Cohorting is an infection-prevention strategy which involves housing detainees together who were exposed to a person with an infectious organism but are asymptomatic. This practice lasts for the duration of the incubation period of 14 days, because individuals with these and other communicable diseases can be contagious before they develop symptoms and can serve as undetected source patients. Those that show onset of fever and/or respiratory illness are referred to a medical provider for evaluation. Cohorting is discontinued when the 14-

day incubation period completes with no new cases. Per ICE policy, detainees diagnosed with any communicable disease who require isolation are placed in an appropriate setting in accordance with CDC or state and local health department guidelines.

13. Irwin County Detention Center has the following medical capabilities:

- The facility which manages both males and females, provides daily access to sick calls in a clinical setting and access to specialty services via referral as well as hospital care. The facility is also equipped with a 6 bed observation unit with 2 negative pressure rooms.

14. As of 12:30 p.m. on April 9, 2020, IHSC has the following information:

- a. There is 1 confirmed case of COVID-19 in the facility. The 1 confirmed case is isolated and receiving medical treatment consistent with CDC guidelines.
- b. The facility has populations within their approved capacities and are not overcrowded.
- c. The facility has increased sanitation frequency and provide sanitation supplies as follows:
 - The facility provides cleaning products to each housing unit daily. Hand cleaner dispensers have been installed in all units and are regularly filled. Hygiene products are handed out regularly and commissary products are available as well.
 - Housing units and common areas are sanitized multiple times each day. Showers in group housing units are pressure washed daily and sanitized regularly. Shared keyboards and equipment are sanitized between uses.
- d. The facility has suspended in person social visitation and facility tours. Professional visits are permitted without contact and can be conducted via Skype.
- e. The facility is screening all staff and vendors when they enter the facilities including body temperatures.
- f. The facility is screening all detainee intakes when they enter the facilities including travel histories, medical histories and checking body temperatures and have procedures to continue monitoring the populations' health.
- g. The facility provides education on COVID-19 to staff and detainees to include the importance of hand washing and hand hygiene, covering coughs with the elbow instead of with hands, and requesting to seek medical care if they feel ill. The facilities provide detainees daily access to sick call.

- h. The facility has identified housing units for the quarantine of patients who are suspected of or test positive for COVID-19 infection to be addressed as set forth in paragraphs 8, 9 and 10, *supra*.
- i. ICE has reviewed its detained “at risk population” as identified by the CDC guidelines to determine if detention remains appropriate, considering the detainee’s health, public safety and mandatory detention requirements, and adjusted custody conditions, when appropriate, to protect health, safety and well-being of its detainees.

I declare, under penalty of perjury under 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge and based on information obtained from other individuals employed by ICE.

DATED: April 9, 2020



Patrick Musante, AF01

Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA**

ARISTOTELES SANCHEZ MARTINEZ
MICHAEL ROBINSON
PETER OWUSU
Stewart County Detention Center
146 CCA Road
Lumpkin, GA 31815

and

JOSEPH LLOYD THOMPSON
ANSUMANA JAMMEH
KAREN LOPEZ
NILSON FERNANDO BARAHONA MARRIAGA
SHELLEY DINGUS
Irwin County Detention Center
132 Cotton Drive
Ocilla, GA 31774

Petitioners/Plaintiffs,

v.

Case No.

MICHAEL DONAHUE
Warden, Stewart Detention Center
146 CCA Road
P.O. Box 248
Lumpkin, GA 31815;

and

DAVID PAULK
Warden, Irwin County Detention Center
132 Cotton Drive
Ocilla, GA 31774;

and

THOMAS GILES
Field Office Director U.S. Immigration and Customs
Enforcement
Atlanta Field Office,
180 Ted Turner Drive, SW, Suite 522
Atlanta, GA 30303;

MATTHEW T. ALBENCE
Deputy Director and Senior Official Performing the Duties
of the Director
U.S. Immigration and Customs Enforcement
500 12th Street, SW
Washington, D.C. 20536;

and

CHAD WOLF
Acting Secretary
Department of Homeland Security,
3801 Nebraska Avenue, NW
Washington, D.C. 20016;

and

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
500 12th Street, SW
Washington, D.C. 20536;
Respondents/Defendants.

DECLARATION OF DAVID PAULK

My name is David Paulk and I serve as the Warden at Irwin County Detention Center. I am an adult resident of Georgia, I am over 21 years of age, and I am competent to testify and have personal knowledge regarding the matters set forth in this Declaration.

Introduction

1. I am presently employed as the Warden of Irwin County Detention Center (ICDC). My duties and responsibilities include oversight and management of all ICDC's operations. This includes the steps recently taken to maintain the health of all staff and detainees and prevent the spread of COVID-19, as further described below.
2. ICDC takes the health and safety of its staff and detainees seriously. As such, it takes all requisite measures to adhere to standards required to ensure humane conditions. In addition to the usual cleaning and sanitizing measures already in place, ICDC has instituted additional measures to ensure the health of its staff and detainees in light of the spread of COVID-19.
3. To date, no confirmed cases of COVID-19 have occurred within ICDC internal security staff. One outside transportation officer tested positive for COVID-19. In response, all CDC guidelines were immediately implemented and all staff who had contact with this individual were tested and sent home until the results become available. No detainees came into direct contact with this officer. One detainee has tested positive for COVID-19; however, this

detainee was just recently transported to ICDC. The detainee was transported in required PPE gear and kept in isolation due to ICDC being notified that there was a very high risk he had been exposed prior to arrival. This detainee was then transferred to medical isolation for testing, and at no point was this detainee in contact with any other detainee or security staff member.

Enhanced Intake Procedure

4. Upon entrance into the facility, every individual, including staff and new inmates, once processed into the facility, is advised to stand six feet apart from one another; no crowding or grouping is allowed throughout the facility. At processing, all inmates must complete a temperature check and a questionnaire designed to determine whether anyone is at risk of having contracted COVID-19. If an inmate has temperature over 100.4 degrees, or a positive response to any of the health risk questions, that individual is sent to be assessed by the facility's medical staff to determine appropriate action. The individual will not be released into the facility's general population until clearance is provided by the Medical Director.

Enhanced Cleaning Regimen

5. In addition to the usual cleaning procedures in place, the facility now implements additional, mandatory sanitization checklists and policies. For example, ICDC has purchased chemical cleaners on the list of approved products issued by the CDC to use to kill the virus. All units are required to undergo sanitization procedures throughout the dorms and common areas multiple times each day, including bathrooms, air vents, kitchens, and dining areas. Food carts and food prep areas are sanitized on a regular basis and are monitored daily by staff and by the local health department.
6. Likewise, all equipment used by detainees for attorney access (monitors, iPads, phones, etc.) are wiped down and sprayed with Lysol and/or CDC approved equivalents between each and every use. Given the shortage of available hand sanitizer, additional handwashing signs and hand soap dispensers have also been installed in every unit. Gloves are provided to all staff and detainees assigned to clean these areas. Further, all staff have been provided masks to wear while in the facility and directed to wear them.
7. All group showers are pressure washed daily, and CDC-approved chemicals are available for detainees to clean showers on an intermittent basis in 2-4 person cells. Additionally, approved sanitizer is sprayed in the shower units multiple times daily. Damaged or non-cleanable curtains are replaced upon detainee request and as is otherwise needed.
8. All ICDC transportation vehicles and equipment are sanitized in between each use. The transportation staff have been provided with and employ all proper PPE materials.
9. Detainees are allowed to purchase hygiene items from the commissary whenever they wish. Additionally, detainees are provided daily access at no charge to soap, shampoo, lotions, etc. as mandated under Performance-Based National Detention Standards (P.B.N.D.S.).

Enhanced Social Distancing and Critical Inmate Release

10. A number of ICDC inmates whom I understand were determined to be particularly vulnerable to serious illness or death if infected by COVID-19 have already been removed from the facility.
11. ICDC houses other detainees whom it has determined to be particularly vulnerable to serious illness or death if infected by COVID-19 but whom I understand are not eligible for release based on their offenses have been placed in units with fewer detainees in order to create maximal social distancing opportunities. Moreover, all ICDC unit counts have been reduced to the greatest extent possible to facilitate social distancing among inmates.
12. ICDC has been able to accomplish this because it is not currently at maximum capacity. Unfortunately, while detainees have been afforded every opportunity and are repeatedly advised by staff to practice social distancing measures in addition to CDC recommended handwashing procedures, detainees often choose not to follow this protocol.

Medical Emergency Protocol

13. ICDC is staffed with all necessary medical personnel with any additional needs or projected shortage filled via multiple established contracts with professional nursing agencies in the region. Any detainee may request a medical appointment via the provided Detainee Request Form, verbally through their daily interaction with an assigned Case Manager, via an iPad in units so equipped, or they may submit a Detainee Request Worksheet to immigration. Additionally, detainees may use the preexisting grievance system via Detainee Request Forms and/or iPads. Administrative personnel conduct daily inspections and walk throughs five days a week, and detainees have access to those individuals in order to voice any complaints for follow-up by staff. The medical staff respond to all requests for medical attention within the time frames mandated by P.B.N.D.S. or sooner in order to triage and treat detainees. If a complaint is reported to be critical, it is expedited on the facility's daily sick call roster, and the detainee will be seen the same day or immediately, if necessary.
14. Should a medical emergency occur, detainees notify a staff member, who then initiates a pre-existing protocol to provide assistance. Medical staff are trained to respond to such calls in minutes and to provide immediate treatment. In critical situations, Emergency Medical Technicians are stationed less than 150 yards away from the facility to transport detainees to local hospitals. Additionally, Life Flight Helicopters are able to arrive and depart directly from ICDC grounds.
15. There are four (4) hospitals within an approximate 20-mile radius of the facility: Irwin County Hospital, Tiff Regional Medical Center, Dorminy Medical Center, and Coffey Regional Medical Center. To the best of my knowledge and based on my experience, each is fully equipped to handle medical emergencies.
16. ICDC is a non-narcotic facility. Detainees arriving with narcotics or alleging that they were taking narcotics previously are processed through the facility physician, at which point an alternative medication is ordered consistent with established facility policy. Otherwise, detainee

complaints in reference to medication are reviewed by the appropriate medical staff. All facility medical staff must adhere to a list of approved medications provided by ICE medical staff.

17. Based on the information provided herein and my knowledge of the people trained to undertake these protocols, I believe ICDC is and will remain capable of taking all adequate safeguards to protect staff and the inmate population from a COVID-19 outbreak at the facility.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 9th day of April, 2020



David Paulk

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA**

ARISTOTELES SANCHEZ MARTINEZ, et al.,

Petitioners/Plaintiffs,

v.

MICHAEL DONAHUE, et al.,

Respondents/Defendants.

No. 7:20-CV-00062-CDL-MSH

DECLARATION OF RUSSELL WASHBURN

I, Russell Washburn, hereby state the following based upon my personal knowledge, make the following Declaration:

1. I am over the age of 18 years and competent to testify to the matters set forth in this Declaration.

2. I have personal knowledge of the facts set forth in this Declaration, and if called as a witness, could competently testify to these facts.

3. I have been employed by CoreCivic, Inc. since 1996. For the past 12 years, I have held the position of Warden at several CoreCivic facilities.

4. Effective April 1, 2020, I became Warden of the Stewart Detention Center (“SDC”), in Lumpkin, GA. SDC is owned and operated by CoreCivic, Inc. CoreCivic is the service provider for an Intergovernmental Service Agreement between Stewart County, Georgia and U.S. Immigration and Customs Enforcement.

5. While SDC has design capacity of 2,266 ICE detainees, on April 9, 2020, the facility was operating at approximately 55% of that capacity, with only 1,248 ICE detainees present at the facility.

6. CoreCivic recognizes the unique and exceptional nature of the current COVID-19 pandemic, and takes seriously its responsibility to protect the safety and security of the detainees and inmates in its facilities, its staff, its contractors' employees, its governmental partners' employees, and the public as a whole.

7. CoreCivic's Facility Support Center is providing ongoing guidance and instruction to its facilities, in accordance with and consistent with recommendations of the CDC and its governmental partners, as well as state and local health authorities where its facilities are located. As additional recommendations are made, and in consideration of localized health conditions, practices to prevent the spread of COVID-19 at SDC have evolved, with changes occurring sometimes on a daily basis.

8. While I understand that several declarations submitted in support of Petitioners' Motion for Temporary Restraining Order describe past events and conditions, or relate the concerns of unidentified third-parties, this Declaration focuses on the current situation, procedures and practices in place at SDC as of the time of its execution.

9. As an initial matter, several weeks ago, SDC medical staff began, at the request of ICE to generate a list of detainees with certain medical conditions or who were over the age of 60, for consideration for potential release. Dr. Owusu reviewed that list, along with the medical records of all listed detainees, and initially identified 78 with heightened COVID-19 risk-factors. Those lists were provided to ICE, and ICE has made decisions to release certain of those detainees on its list. 43 of those detainees remained at SDC as of March 30, 2020.

10. ICE subsequently requested that SDC provide expanded lists, including detainees with additional underlying medical conditions, for additional release consideration. On April 6, 2020, SDC provided ICE with a list of all 150 detainees at SDC who providers identified during

intake as having a chronic cardiac, insulin, immunodeficiency, pulmonary, and/or seizure condition, for consideration.

11. The 43 remaining detainees identified by Dr. Owusu identified as being higher-risk, were moved to a protective cohort, in two housing units at SDC, to prevent the mixing of high and low custody ICE detainees. Thirteen (13) of those detainees have been released from SDC. Currently 30 detainees are housed in these two units.

12. The purpose of this protective cohort is to limit contact between these vulnerable detainees and the general population in the event that any detainee at SDC is infected by COVID-19. These two restricted units are in a protective area, essentially the opposite of a containment area, with the express objective of keeping the space free of COVID-19 virus. These units are staffed with a dedicated cadre of nurses, providers and security staff, which minimizes the risk of transmission of the virus from other parts of the facility or free world into that protective area. All personnel entering these units wear protective garments (paper isolation gowns, shoe covers, latex or nitrile gloves, and N-95 masks) to ensure staff are clean upon entering the area, for the safety of the detainees. All meal, medical services, and programming services are provided to these detainees in the protective cohort units. For those detainees, non-emergency and optical services which cannot be provided on the unit have been suspended.

13. SDC, has implemented a daily COVID-19 checklist. Daily responsibilities are assigned to the Warden (or the Administrative Duty Officer); each Shift Supervisor (or designed Assistant Shift Supervisor); Unit Manager; Safety Manager; Health Services Administrator; contracted Food Service Manager; and, Quality Assurance Manager. The purpose of this checklist is to make sure that each of those facility supervisors is timely aware of new developments; is speaking with staff and detainees about following appropriate precautions;

encouraging staff and detainees to seek medical care if they feel ill or show signs of illness; monitoring staff and detainees for signs of illness; engaging in ongoing education efforts with staff and detainees; verifying ample supplies of appropriate materials; and, conducting sanitation inspections on a daily basis in their delegated area of responsibility.

Efforts to Mitigate Risk of Introduction of COVID-19 at SDC

14. Initially SDC took steps to focus on preventing the introduction of COVID-19 into the facility. The following steps remain in place at SDC.

15. Social visitation (both contact and non-contact), has been suspended.

16. All persons entering the facility (whether a CoreCivic employee, contractor, federal employee, or attorney visitor) are subject to health screening, as a pre-requisite to entrance to the facility. Consistent with the CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (“CDC Interim Guidance”), that screening consists of a screening questionnaire and temperature check.

17. A screening area has been set up outside of the facility. Attachment A is a true and correct copy of photographs taken on April 9, 2020 depicting the facility entrance. In particular, the photographs demonstrate the placement of orange cones, where individuals who are waiting to be screened are to stand, to ensure that recommended physical distancing is maintained.

18. If the health screening is inconclusive, medical staff responds to make any final determination on screening. Where screening shows that an individual may be at risk, they are denied entry to the facility, and instructed either to remain at home for a specified quarantine period, or to consult and obtain clearance from their medical provider, before they will be admitted to the facility.

19. Following health screening, individuals permitted to access to the facility, are still required to completed standard security screening. Like most airport security screenings, items carried by, or to be removed from, a person screened are placed on bins and sent through a scanner. At SDC, the practice of the Detention Officers managing the scanner, is to disinfect the bins each time following the screened persons' removal of items they initially placed in the bin. Those Detention Officers wear gloves, so that the only people who make ungloved contact with the disinfected bin is the individual whose items are scanned.

20. Attorney visitors at SDC are not only permitted, but required to bring their own Personal Protective Equipment ("PPE") (and may also bring sanitizing wipes) if making an in-person legal visit. However, attorney visitors are not permitted to provide PPE or wipes to the detainee population. Such items would need to be physically inspected for potential contraband (including metal pieces which could be broken off and fashioned into weapons or tools to facilitate an escape) prior to exchange, and may have any sterility compromised by that inspection.

21. In-person attorney visits at SDC occur in secure visitation areas, with a secure divider between the detainee and attorney visitor. Social distancing practices are followed with any in-person attorney visitor at SDC. Visitation staff sanitizes legal visitation areas before and after each legal visit. This includes, but is not limited to, wiping down chairs, tables, phones, and other surfaces and equipment using HDQ Neutral disinfectant.

22. In addition, SDC staff who escort detainees to in-person legal visits, are also wearing Personal Protective Equipment, to reduce the risk of exposure to any potential pathogen, including COVID-19.

23. If attorneys do not wish to visit in person, they may have confidential communications with detainees either through the detainee telephone system or through the Video Teleconference System. SDC has begun providing expanded hours for VTC appointments, and further has placed additional VTC equipment in the facility, significantly expanding the number of available VTC appointments. These VTC units are also available for use in lieu of detainee physical appearances in immigration court.

24. Newly received detainees at SDC, as well as those returning to the facility from any outside transport, are similarly screened at intake in accordance with the CDC Interim Guidance. Any detainee who is symptomatic or otherwise does not pass health screening, is immediately referred to medical personnel for further examination, diagnosis and potential testing.

25. SDC does not want its employees who may have come into contact with anyone infected with COVID-19 to enter the facility. Out of an abundance of caution, such employees are instructed to remain home, but will be paid for the 14-day self-quarantine period, without that time being charged against their leave balance. This is designed to eliminate any “incentive” for a potentially infected employee to “tough it out” and attempt to report to work.

26. As of April 8, 2020 four employees at SDC had tested positive for COVID-19, none of those four have been present at the facility since March 27, 2020 or earlier. On April 9, 2020, SDC received word that a fifth facility employee had tested positive for COVID-19. That employee had recently worked on April 4th and 5th, 2020 in a housing unit which was under cohort quarantine at that time. No infected staff member has been assigned to work in any of the protective cohort facilities.

Staff and Detainee Education

27. SDC has a long track record of training its staff with respect to potential exposure to pathogens and following appropriate universal precautions.

28. For SDC staff, there is an on-demand recorded COVID-19 briefing from facility administration and medical staff providing information on prevention; sanitization instruction; symptoms of COVID-19 exposure and infection; directions for access to testing and care; and, encouraging employees to stay home if ill. This briefing is updated at least weekly, if not more frequently based upon interim changes in official guidance.

29. In accordance with the CDC Interim Guidelines, educational materials have been posted throughout the facility and in all housing units, regarding COVID-19 symptoms, what to do if you are sick, and steps to be taken to reduce the risk of exposure. Attachment B is a true and correct copy of photographs taken on April 9, 2020 detailing some of those postings in place in detainee areas at SDC.

30. Medical personnel, including Dr. Owusu, and SDC Safety Manager Laboy have conducted multiple town hall meetings in each housing unit to educate detainees on proper sanitation, personal hygiene, sanitation etiquette, prevention practices, and instructions to clean and disinfect individual living areas.

Maintaining Physical Distancing Among the Detainee Population

31. Although it is challenging to maintain six feet of physical distance in a custodial setting, at SDC several practices have been implemented to promote physical distancing.

32. In particular, SDC has taken several steps to ensure that detainees are not in groups larger than ten (10), when outside their housing pod. For example, Attachment C is a

photograph of posted signs on facility gates instructing detainees to limit numbers when attempting to move to the recreation area.

33. While detainees at SDC typically receive their meals in a large chow hall, SDC is currently using Satellite Feeding in all housing pods. Under the Satellite Feeding program, detainees receive their meal trays and eat them in their housing areas, rather than going to the chow hall, where they would mix with detainees from other housing areas and typically be seated less than six feet from another detainee during the meal periods.

34. All contact-type sports, including soccer and basketball have been removed from the SDC recreation program, to promote social distancing among detainees.

35. Detail crews of detainees participating in the Voluntary Work Program have been eliminated entirely or reduced in size, to limit potential exposure.

36. Because the current facility population is approximately 55% of design capacity, detainees are distanced where possible. In particular, where detainees are housed in a dormitory-style unit, rather than individual two-person cells, detainees are being spread out, particularly those detainees who are in a protective cohort. Of the protective cohort areas being used for at-risk detainees identified by Dr. Owusu, one is an 89-bed pod, which is being used to house only 23 detainees, and the other is a 66-bed pod which is currently housing only 7 detainees. Use and Issuance of Personal Protective Equipment

37. SDC personnel have long been issued protective gloves, to reduce the risk of exposure to or transmission of any pathogen. The use of masks by staff working outside of the protective and/or cohort areas, are optional. Staff are permitted to bring their own masks, or may request replacement masks.

38. SDC has ordered additional Personal Protective Equipment, including gloves and appropriate face masks, for use by staff and detainees.

39. Gloves and masks are provided to detainee participants in the Voluntary Work Program who work as pod porters, as well as those working details in other parts of the facility where the physical plant design prevents effective social distancing. If any detainee or staff is working in any area which has been under cohort, they are also provided with protective gowns and face coverings, in accordance with CDC guidelines.

40. Gloves and masks are also provided to certain other categories detainees at SDC, based upon direction from ICE, such as detainees who are being transported outside of the facility.

41. SDC's current plan is to issue a mask to every detainee at the facility, upon receipt of masks in sufficient quantity, those have not yet been received. During the interim, SDC facility staff have not been instructed to tell detainees that they cannot use unaltered towels or items of clothing as a face mask. However, detainees are not permitted to alter or destroy facility materials to fashion their own masks, and must uncover their face at appropriate times, so that staff may confirm and verify the detainee's identity.

Enhanced Sanitation Practices

42. SDC has recently undertaken enhanced practices to promote sanitation throughout the facility.

43. In recognition of the potential future shortage of sanitation supplies, SDC increased its inventory of cleaning chemicals and supplies. That inventory is checked and restocked daily, to maintain a sufficient supply on hand, particularly if additional shortages occur in the public market.

44. SDC's facility housekeeping plan was reviewed, updated and enhanced to comply with the CDC Interim Guidelines. In particular instructions were included pertaining to the safe and recommend use of antiviral cleaning agents, as well as appropriate use of Personal Protective Equipment in areas where the COVID-19 virus may be present.

45. Hand sanitizer units have been installed in all units and throughout SDC.

46. Sanitary wipes have been made available in all units and throughout SDC, and are available to detainees. During town hall meetings, detainees have been instructed how to safely sanitize common area surfaces they may come into contact with during the day—such as detainee telephones and kiosks—before and after use.

47. Detainees are permitted access to facility-approved chemicals, soap, and hand sanitizer for personal hygiene and to clean their immediate living areas. Such access is available 24-hours a day, seven days a week.

48. Pump dispensers for HDQ Neutral, a multi-purpose disinfecting antibiotic and antiviral cleaning solution, have been installed in SDC areas for use by individual detainees as well as Voluntary Work Program participants.

49. Sani-T-10 has been procured and issued to the kitchen for sanitation of areas where food contact may occur.

50. SDC continues its practice of issuing hygiene products to detainees twice a week. Issued hygiene products include soap, toothpaste, shampoo, lotion and toilet paper. While soap is now available 24/7, if any detainee has a need for any of the other items between distributions, they may receive a replacement from facility staff by exchanging their empty shampoo bottle, toothpaste tube, toilet paper roll, etc. for a full replacement. That one-for-one exchange serves to

prevent the stockpiling by detainees of materials which can be used in larger quantities to create safety and security risks to staff and other detainees.

51. Facility vehicles used at SDC are also subject to enhanced cleaning and disinfecting procedures, with recommended antiviral cleaning agents before and after each transport. While certain detainees at SDC have asked for bleach to be made available to them 24/7, due to safety and security risks, it is not being provided for general population use. Detainee pod porters, who have been trained in the proper and safe use of bleach, are instructed and supervised in its use it to clean showers and other appropriate areas of each housing unit.

Access to Detainee Health Care and Plans in the Event of Detainee Infection

52. Since CoreCivic employees have begun providing health care services at SDC, detainees requesting medical assistance submit a sick call request in the secure box in their housing unit. Medical staff collect those requests once each day, triage them, and schedule the detainee for follow-up care.

53. If a detainee believes that he is experiencing an urgent or medical condition, which cannot await the sick call process, the detainee should notify their the CoreCivic Detention Officer stationed in that area, who will notify the nursing staff of the medical problem, and nursing will respond appropriately. Trained staff is available to administer emergency first aid and life saving techniques. If after normal provider hours at the facility, providers are available on an on-call basis at all times.

54. If a detainee returns from an outside medical appointment, including from any hospital, they are given the same health screening as all new detainee intakes. In particular any detainee who is returning to SDC from an outside hospital visit, is also assessed by a medical

provider who reviews their medical status and will determine medically appropriate actions for care and housing, prior to the detainee returning to their assigned housing local.

55. If a staff member observes and suspects that any detainee at SDC may be symptomatic of potential COVID-19 infection, staff immediately refers those detainees to medical for screening. Any detainee who exhibits such symptoms, including a fever is isolated in the medical area pending the results of any provider reported testing.

56. At the time a detainee is referred to medical and subject to testing, the original housing unit is placed on cohort status, pending results of the testing for the suspected detainee. Detainees in such cohorted housing units are restricted to their units and subject to daily medical monitoring for fever and symptoms of respiratory illness. Any that show signs of fever and/or respiratory illness will be referred to medical. Cohorting will be discontinued following a 14-day period with no new cases, following the last positive test result.

57. As of April 8, 2020, there were no positive COVID-19 test results, although results were pending for 8 detainees.

58. On April 9, 2020, SDC received results that five detainees had tested positive for COVID-19. Each unit where those detainees resided had previously been put on cohort status, and the detainee transferred to medical. None of those detainees had been present in the protective cohort area for at-risk detainees identified by Dr. Owusu.

59. SDC has developed and is constantly reviewing its contingency plans for confirmed or presumptive COVID-19 positive detainees.

60. SDC has highly security-sensitive and confidential emergency plans for a Medical Emergency (including specifically COVID-19) and Pandemic Flu Preparedness, as part of its Emergency Response Policy. The disclosure of the specific details of those plans poses an

unreasonable safety and security risk should they be communicated to the detainee population or any member of the public.

61. SDC conducts quarterly and annual Emergency Response training exercises for staff regarding, which include both function and full-scale exercises.

62. SDC has capacity to effectively quarantine and medically isolate any detainee who is confirmed, presumed, or suspected positive for COVID-19. There are the four negative air pressure cells located in the SDC medical unit, which would be the first use for any confirmed or presumed positive detainee. The SDC medical unit has three additional observation cells. SDC has four additional observation cells in other areas of the facility, where detainees can be medically isolated from the detainee population and most facility staff, while still receiving appropriate medical care.

63. Should additional space be needed, SDC has the ability to clear detainees from a housing area, and dedicate that housing area as a cohort or quarantine to limit the potential for exposure to other detainees or staff.

64. In the exceptional event that the number of cases of COVID-19 reach levels beyond those, CoreCivic can provide additional support, supplies or personnel to SDC, and also make additional unutilized bed space at other CoreCivic facilities available on short notice.

65. Should a detainee require higher levels of care or monitoring than SDC can provide, SDC has agreements with hospital facilities in Cuthbert, Columbus, and Albany where detainees can be transferred to receive higher levels of care or monitoring.

RESPONSE TO ADDITIONAL ALLEGATIONS

66. I understand that several other allegations relating to SDC have been asserted in the Declarations supporting Petitioners' Motion for Temporary Restraining Order. While

sufficient detail was not provided to investigate each one in this short time period, I do provide the following responses.

67. There was no death of a detainee at SDC on April 6, 2020 from complication of COVID-19.

68. On April 6, 2020, three detainees were transported for outside medical evaluation. None of these were for COVID-19 symptoms. Once detainee was transported due to abdominal pains and was treated by an outside provider for reflux. A second detainee was diagnosed with anxiety. A third detainee who complained of chest pains and shortness of breath, was diagnosed as being asthmatic.

69. There was a recent use of force incident involving OC on Unit 4 in the hallway. No detainee in any of the housing pods was directly exposed to OC spray. In accordance with SDC practice, exhaust fans are used to ventilate any area where OC spray is used and the area is decontaminated to remove any trace of over-spray from areas where it may be used.

70. While detainee Aristoteles Sanchez Martinez does use a wheelchair, I have personally watched video of him self-propelling his wheelchair across the dayroom in the protective cohort housing area where he has been housed at SDC since March 30th, without any apparent difficulty.

71. As SDC Detainees “Michael Robinson” and “Peter Owusu” are proceeding under a pseudonym, I do not know their identify and cannot comment on other specific individual allegations, such as “Peter Owusu”’s claim that he was denied access to his CPAP machine, or “Michael Robinson”’s claim that he has not received his medical records or was personally exposed to OC spray.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this ____ day of April, 2020 in Lumpkin, Georgia.

Russell Washburn

ATTACHMENT A

ATTACHMENT A







STEWART DETENTION CE



ATTACHMENT B

ATTACHMENT B





PAPERAS

**LA COMBINACIÓN CON LA DDM ES LA MEJOR
MANERA DE REFORZAR SUS PAPELES**
DMSO, el solvente más utilizado en la industria farmacéutica, es el único que garantiza una correcta absorción de los principios activos.

THESE RESULTS ARE



POURQUOI ?



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अपने आपको **गलगण्ड** से सुरक्षित रखें

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लिखित संपादक-अभ्यास तयार करावे.

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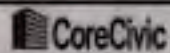
Source: U.S. Census Bureau, *Marriage, Divorce, Remarriage in the 1990s*, Washington, D.C., 1995.



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 offered 1 point per letter it used:
 a: 4 points c: 3 points e: 4 points
 i: 4 points o: 4 points u: 4 points

WE'VE BEEN HEARD TO SAY IT IN IT OF THE PAST
IT IS OF THE PAST AND IT IS OF THE PAST

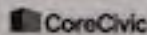


CORONAVIRUS
(COVID-19)

Prevention

There is currently no vaccine to prevent coronavirus disease 2019 (COVID-19). The best way to prevent illness is to avoid being exposed to the virus. CoreCivic always recommends preventive actions to help prevent the spread of respiratory diseases, including:

- Avoid close contact with people who are sick.
- Avoid touching your eyes, nose, and mouth.
- Stay home when you are sick.
- Cover your cough or sneeze with a tissue, then throw the tissue in the trash.
- Clean and disinfect frequently touched objects and surfaces using a regular household cleaning spray or wipe.



COVID-19
Information for Inmates and Detainees

The second component, or **COMPONENT 19**, is a respiratory device that is easily transportable through the air and on surfaces of protective equipment and self contained. We all need to do our part for keeping our facility, body and healthy.

universales del docente =



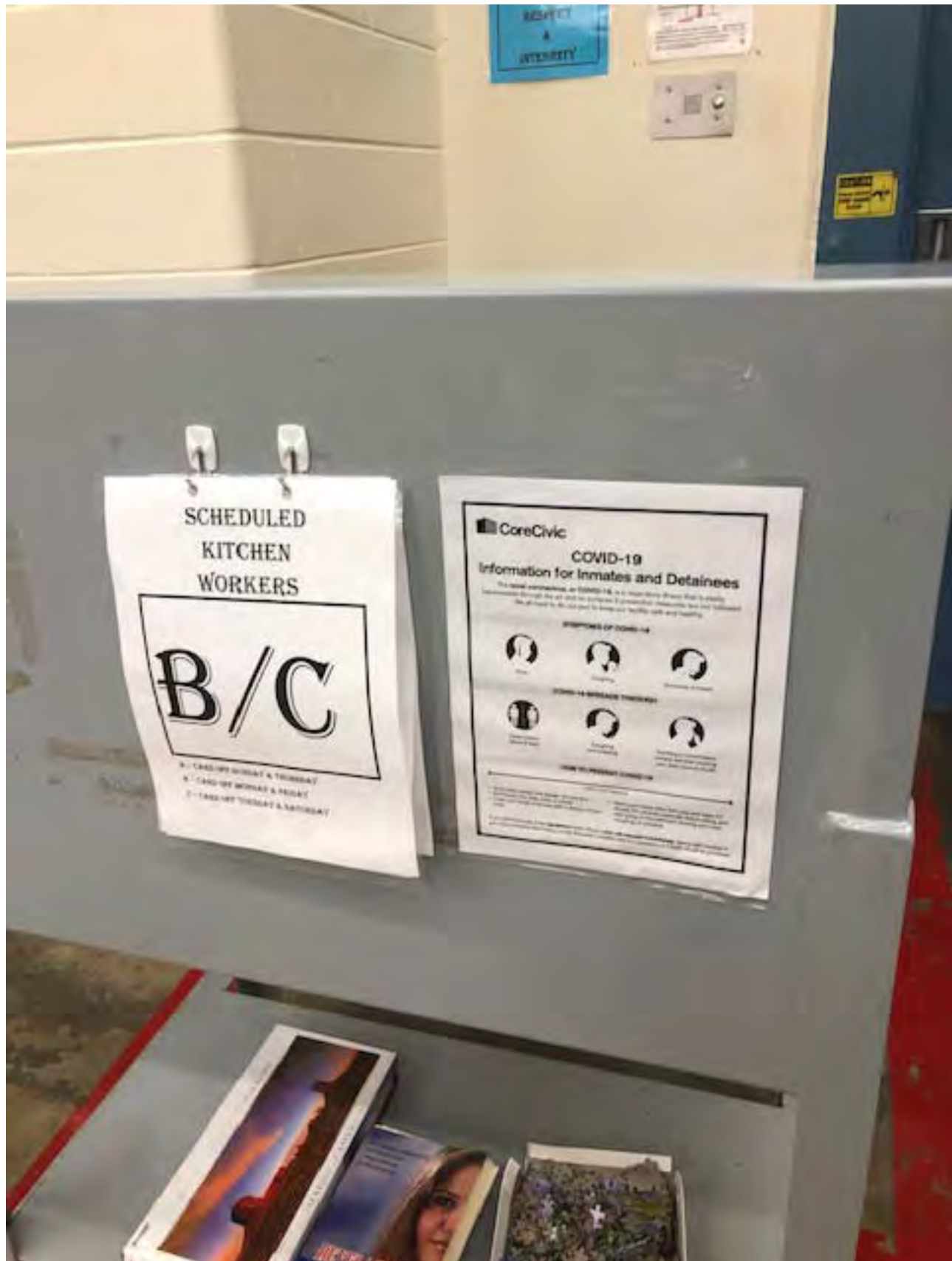
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- Many studies suggest that people who are high on Machiavellianism are more likely to cheat
- Low Machiavellianism is associated with a more ethical stance
- Machiavellianism is a personality trait that is characterized by a desire for power and a willingness to use unethical means to achieve one's goals

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ATTACHMENT C

ATTACHMENT C

...OS A LA
...PUEDEN
...AR POR LA
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ONLY TWO AT A
TIME MAY ENTER
THE GATE.
PLEASE
EXERCISE SOCIAL
DISTANCING.

FULLY OPEN BEFORE
...ING THIS FACILITY

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SOUTHERN POVERTY LAW CENTER,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

Defendants.

Civil Action No. 18-0760 (CKK)

DECLARATION OF PATRICK MUSANTE

Pursuant to 28 U.S.C. § 1746, I, Patrick Musante, do hereby declare:

1. I am employed by United States Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), Atlanta field office, and currently serve as the Assistant Field Office Director (AFOD). I have held this position since March 29, 2020, and have been employed by the former Immigration and Naturalization Service and ICE since May 15, 2000.
2. I provide this declaration based on my personal knowledge, belief, reasonable inquiry, and information obtained from various records, systems, databases, other DHS employees, employees of DHS contract facilities, and information portals maintained and relied upon by DHS in the regular course of business.
3. In my current position, I manage ERO personnel and provide oversight over many of ERO's operations in the Atlanta Field Office. I also provide oversight over a number of detention facilities within the Atlanta Field Office, including the Irwin County Detention Center (Irwin).
4. ICE contracts with LaSalle Corrections for the management and operation of Irwin, pursuant to an Intergovernmental Agreement (IGA). Conditions of detention at Irwin are governed by the ICE National Detention Standards 2000, and Irwin voluntarily complies with the Performance-Based National Detention Standards 2008 (PBNDS 2008). The PBNDS 2008 reflects ICE's ongoing effort to tailor the conditions of civil immigration detention to its unique purpose while maintaining a safe and secure detention environment for detainees and staff.

5. ERO is responsible for managing the immigration cases of detained individuals at Irwin. In addition, ERO is responsible for monitoring LaSalle Corrections to determine its level of compliance with PBNDS 2008 in its administration, management, and operation of Irwin.
6. ICE Health Service Corps (IHSC) provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation .
7. IHSC's Field Medical Coordinators (FMCs) serve as medical consultants to the ICE field offices and ensure that the provision of medical care by contractors to the ICE detainees meets detention standards, as required by the IGA. The FMCs do not provide hands-on care or direct the care within the IGAs but monitor the medical care and services provided by the contract facilities. Medical staff at the contract facilities are directly responsible for providing medical care at the facility.
8. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals.
9. Since the onset of reports of Coronavirus Disease 2019 (COVID-19), ICE epidemiologists have been tracking the outbreak, regularly updating infection prevention and control protocols, and issuing guidance to field staff on screening and management of potential exposure among detainees.
10. On April 10, 2020, ERO released its *ERO COVID-19 Pandemic Response Requirements (PRR)*, a guidance document that builds upon previously issued guidance and sets forth specific mandatory requirements expected to be adopted by all detention facilities housing ICE detainees, as well as best practices for such facilities, to ensure that detainees are appropriately housed and that available mitigation measures are implemented during this pandemic.
<https://www.ice.gov/sites/default/files/documents/Document/2020/eroCOVID19responseReqsCleanFacilities.pdf>.
11. In testing for COVID-19, IHSC is also following guidance issued by the Centers for Disease Control and Prevention (CDC) to safeguard those in its custody and care.
12. Each detainee is screened for disabilities upon admission by a medical professional. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.
13. At Irwin during intake medical screenings, detainees are assessed for: vital signs, medical and mental health history, disability screening, TB screening, women's health screening and social screening. Detainees are also assessed for fever and respiratory illness, are asked to confirm if they have had close contact with a person with laboratory-confirmed COVID-19 in the past 14 days, and whether they have traveled from or through area(s) with sustained community transmission in the past two weeks.

14. The detainee's responses and the results of these assessments will dictate whether to monitor or isolate the detainee. Those detainees who present symptoms consistent with COVID-19 will be placed in isolation and transferred to the hospital for testing. If testing is positive, they will remain isolated and treated. In case of any clinical deterioration, they will be referred to a local hospital.
15. In cases of known exposure to a person with confirmed COVID-19, asymptomatic detainees are placed in cohorts with restricted movement for the duration of the most recent incubation period (14 days after most recent exposure to an ill detainee) and are monitored daily for fever and symptoms of respiratory illness. Cohorting is an infection-prevention strategy which involves housing detainees together who were exposed to a person with an infectious organism but are asymptomatic. This practice lasts for the duration of the incubation period of 14 days, because individuals with these and other communicable diseases can be contagious before they develop symptoms and can serve as undetected source patients. Those that show onset of fever and/or respiratory illness are referred to a medical provider for evaluation. Cohorting is discontinued when the 14-day incubation period completes with no new cases. Per ICE policy, detainees diagnosed with any communicable disease who require isolation are placed in an appropriate setting in accordance with CDC or state and local health department guidelines.
16. Irwin has the following medical capabilities:
 - o The facility which manages both males and females, provides daily access to sick calls in a clinical setting and access to specialty services via referral as well as hospital care. The facility is also equipped with a six-bed observation unit with two negative pressure rooms.
17. As of 9:00 a.m. on May 15, 2020, IHSC has the following information:
 - a. Seven total detainees have tested positive for COVID-19 at Irwin.
 - Five of the seven detainees who have tested positive for COVID-19 are in medical isolation at Irwin receiving treatment in compliance with CDC guidance.
 - One of the five detainees who have tested positive for COVID-19 has recovered and been returned to general population.
 - There is one detainee with suspected COVID-19 whose test results remain pending. This detainee is current isolated.
 - b. There are 28 detainees in cohort.
18. As of May 15, 2020, at 9:00 a.m. Irwin's current ICE detained population is 497 detainees with a capacity of approximately 920 ICE detainees. This number is a decline from the 615 ICE detainees who were housed at Irwin on March 18, 2020, to promote social distancing and separation during the COVID-19 global pandemic.
19. Irwin has increased sanitation frequency and provide sanitation supplies as follows:

- The facility provides cleaning products to each housing unit daily. Hand cleaner dispensers have been installed in all units and are regularly filled. Hygiene products soap, masks, are handed out regularly and commissary products are available as well.
 - Housing units and common areas are sanitized multiple times each day. Showers in group housing units are pressure-washed daily and sanitized regularly. Shared keyboards and equipment are sanitized between uses.
- a. Irwin has suspended in person social visitation and facility tours. Professional visits are permitted without contact and can be conducted via Skype.
 - b. Irwin is screening all staff and vendors when they enter the facility, including body temperatures.
 - c. Irwin is screening all detainee intakes when they enter the facility, including travel histories, medical histories and checking body temperatures and have procedures to continue monitoring the populations' health.
 - d. Irwin provides education on COVID-19 to staff and detainees to include the importance of hand washing and hand hygiene, covering coughs with an elbow instead of with hands, and requesting to seek medical care if they feel ill. The facility provides detainees daily access to sick call.
 - e. Irwin has identified housing units for the quarantine of detainees who are suspected of or test positive for COVID-19 to be addressed as set forth in paragraphs 15 and 16 above.
 - f. ICE has reviewed its detained "at risk population" as identified by the CDC guidelines to determine if detention remains appropriate, considering the detainee's health, public safety and mandatory detention requirements, and adjusted custody conditions, when appropriate, to protect health, safety and well-being of its detainees.
20. In-person non-contact (*e.g.*, communication through a plexiglass barrier) legal visitation remains permitted at Irwin. All attorneys are allowed access to in-person non-contact visitation with detainees seven days a week from 8:00 a.m. until 5:00 p.m.
21. Currently, all visitors who wish to enter Irwin beyond the lobby must submit to a temperature check and complete a questionnaire to determine COVID-19 risk. All visitors, including attorneys, must also wear personal protective equipment (eye protection, surgical or N95 mask, and latex gloves or equivalent) in order to enter the facility. If an attorney does not have a mask, Irwin will provide the attorney with a surgical mask for non-contact visits. Vinyl powder free gloves are also available.

22. All detainees have access to telephones, mail, and Skype devices.
23. Irwin detainees have access to telephones from 4:30 a.m. until 11:00 p.m., Sundays through Thursdays, and until 1:00 a.m., Fridays and Saturdays. Phone calls can be made in 15-minute increments. A facility phone is also available for calls due to an emergency, family death or illness outside of normal hours. During detainee count, which occur three times per day at eight-hour intervals, access to phones is automatically blocked and resumes immediately when the count is completed.
24. Detainees at Irwin use Pin Debit, Prepaid Accounts, or Calling Cards to make telephone calls. Correct Solutions Group (CSG) operates the Pin Debit phone accounts at Irwin. Currently, CSG provides 125 free minutes of calling to each detainee every Friday; these minutes rollover to be used by the detainees when they choose.
25. Detainees have access to five telephones that can be used for confidential and private calls for legal visitation. Attorneys can set up their own account with CSG, incurring the cost of calls made by detainees. Such an account allows any detainee to make free calls to that specific number. Three-way calling is available for interpreters if initiated by the detainee's attorney.
26. Unmonitored free calls can be made to attorneys and organizations on the pro bono list from the telephones in the housing units. Irwin will make funds available for indigent detainees, to the extent necessary, to place telephone calls in accordance with the PBNDS 2008.
27. All detainees have access to private legal visitations via four Skype devices for video conferencing capability. In order to maintain orderly and fair access to Skype legal visitation, Skype devices are available 9:00 a.m. until 4:00 p.m., Mondays through Fridays, for one-hour periods. Attorneys can request additional time for Skype legal visitations when appointments are made.
28. Appointments for both Skype and legal telephone calls can be made by emailing Irwinice@irwindc.com or calling. (229) 468-4121, ext 251/252.
29. All telephones and Skype devices are operational and kept in good working order.
30. Telephones, tablets, Skype devices, and the law library are wiped down with disinfectant wipes after each use.
31. All detainees have access to mail. Pre-paid envelopes and stamps are available through the commissary. Stamps are otherwise not allowed to be sent to detainees through the mail due to the potential risk of introducing contraband into the facility.
32. Detainees who do not have adequate funds can send their mail out via LaSalle Corrections' indigent program, which is frequently utilized.

33. Attorneys sending documents for detainee signature and return often send pre-paid return envelopes. In the event that this does not occur, and the detainee does not have adequate funds available for postage, Irwin can process it through the indigent program.
34. Attorneys can also send legal documents for detainees to Irwin by mail or fax along with instructions for processing. Assigned staff will follow up with the detainee to obtain signatures and will return the documents back to the attorney per the instructions, if provided.
35. Detainees can request that legal or case sensitive documents be faxed or scanned and emailed. Detainees have access to Case Managers five days per week, Mondays through Fridays, from 8:00 a.m. to 5:00 p.m., and can request assistance in sending and/or receiving documents as well.
36. Irwin staff provide notary services at no cost to the detainees.
37. The Legal Orientation Program sends files identified by detainee name and alien number to Irwin. The Inmate Services Administrator assigns the appropriate staff to distribute the documents in the same manner as legal mail. The Southern Poverty Law Center has forwarded documents for distribution in the same manner.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this 15th day of May, 2020



Patrick Musante, AFOD
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA**

ARISTOTELES SANCHEZ MARTINEZ
MICHAEL ROBINSON
PETER OWUSU
Stewart County Detention Center
146 CCA Road
Lumpkin, GA 31815

and

JOSEPH LLOYD THOMPSON
ANSUMANA JAMMEH
KAREN LOPEZ
NILSON FERNANDO BARAHONA MARRIAGA
SHELLEY DINGUS
Irwin County Detention Center
132 Cotton Drive
Ocilla, GA 31774

Petitioners/Plaintiffs,

v.

Case No.

MICHAEL DONAHUE
Warden, Stewart Detention Center
146 CCA Road
P.O. Box 248
Lumpkin, GA 31815;

and

DAVID PAULK
Warden, Irwin County Detention Center
132 Cotton Drive
Ocilla, GA 31774;

and

THOMAS GILES
Field Office Director U.S. Immigration and Customs
Enforcement
Atlanta Field Office,
180 Ted Turner Drive, SW, Suite 522
Atlanta, GA 30303;

MATTHEW T. ALBENCE
Deputy Director and Senior Official Performing the Duties
of the Director
U.S. Immigration and Customs Enforcement
500 12th Street, SW
Washington, D.C. 20536;

and

CHAD WOLF
Acting Secretary
Department of Homeland Security,
3801 Nebraska Avenue, NW
Washington, D.C. 20016;

and

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
500 12th Street, SW
Washington, D.C. 20536;
Respondents/Defendants.

DECLARATION OF DAVID PAULK

My name is David Paulk and I serve as the Warden at Irwin County Detention Center. I am an adult resident of Georgia, I am over 21 years of age, and I am competent to testify and have personal knowledge regarding the matters set forth in this Declaration.

Introduction

1. I am presently employed as the Warden of Irwin County Detention Center (ICDC). My duties and responsibilities include oversight and management of all ICDC's operations. This includes the steps recently taken to maintain the health of all staff and detainees and prevent the spread of COVID-19, as further described below.
2. ICDC takes the health and safety of its staff and detainees seriously. As such, it takes all requisite measures to adhere to standards required to ensure humane conditions. In addition to the usual cleaning and sanitizing measures already in place, ICDC has instituted additional measures to ensure the health of its staff and detainees in light of the spread of COVID-19.
3. To date, no confirmed cases of COVID-19 have occurred within ICDC internal security staff. One outside transportation officer tested positive for COVID-19. In response, all CDC guidelines were immediately implemented and all staff who had contact with this individual were tested and sent home until the results become available. No detainees came into direct contact with this officer. One detainee has tested positive for COVID-19; however, this

detainee was just recently transported to ICDC. The detainee was transported in required PPE gear and kept in isolation due to ICDC being notified that there was a very high risk he had been exposed prior to arrival. This detainee was then transferred to medical isolation for testing, and at no point was this detainee in contact with any other detainee or security staff member.

Enhanced Intake Procedure

4. Upon entrance into the facility, every individual, including staff and new inmates, once processed into the facility, is advised to stand six feet apart from one another; no crowding or grouping is allowed throughout the facility. At processing, all inmates must complete a temperature check and a questionnaire designed to determine whether anyone is at risk of having contracted COVID-19. If an inmate has temperature over 100.4 degrees, or a positive response to any of the health risk questions, that individual is sent to be assessed by the facility's medical staff to determine appropriate action. The individual will not be released into the facility's general population until clearance is provided by the Medical Director.

Enhanced Cleaning Regimen

5. In addition to the usual cleaning procedures in place, the facility now implements additional, mandatory sanitization checklists and policies. For example, ICDC has purchased chemical cleaners on the list of approved products issued by the CDC to use to kill the virus. All units are required to undergo sanitization procedures throughout the dorms and common areas multiple times each day, including bathrooms, air vents, kitchens, and dining areas. Food carts and food prep areas are sanitized on a regular basis and are monitored daily by staff and by the local health department.
6. Likewise, all equipment used by detainees for attorney access (monitors, iPads, phones, etc.) are wiped down and sprayed with Lysol and/or CDC approved equivalents between each and every use. Given the shortage of available hand sanitizer, additional handwashing signs and hand soap dispensers have also been installed in every unit. Gloves are provided to all staff and detainees assigned to clean these areas. Further, all staff have been provided masks to wear while in the facility and directed to wear them.
7. All group showers are pressure washed daily, and CDC-approved chemicals are available for detainees to clean showers on an intermittent basis in 2-4 person cells. Additionally, approved sanitizer is sprayed in the shower units multiple times daily. Damaged or non-cleanable curtains are replaced upon detainee request and as is otherwise needed.
8. All ICDC transportation vehicles and equipment are sanitized in between each use. The transportation staff have been provided with and employ all proper PPE materials.
9. Detainees are allowed to purchase hygiene items from the commissary whenever they wish. Additionally, detainees are provided daily access at no charge to soap, shampoo, lotions, etc. as mandated under Performance-Based National Detention Standards (P.B.N.D.S.).

Enhanced Social Distancing and Critical Inmate Release

10. A number of ICDC inmates whom I understand were determined to be particularly vulnerable to serious illness or death if infected by COVID-19 have already been removed from the facility.
11. ICDC houses other detainees whom it has determined to be particularly vulnerable to serious illness or death if infected by COVID-19 but whom I understand are not eligible for release based on their offenses have been placed in units with fewer detainees in order to create maximal social distancing opportunities. Moreover, all ICDC unit counts have been reduced to the greatest extent possible to facilitate social distancing among inmates.
12. ICDC has been able to accomplish this because it is not currently at maximum capacity. Unfortunately, while detainees have been afforded every opportunity and are repeatedly advised by staff to practice social distancing measures in addition to CDC recommended handwashing procedures, detainees often choose not to follow this protocol.

Medical Emergency Protocol

13. ICDC is staffed with all necessary medical personnel with any additional needs or projected shortage filled via multiple established contracts with professional nursing agencies in the region. Any detainee may request a medical appointment via the provided Detainee Request Form, verbally through their daily interaction with an assigned Case Manager, via an iPad in units so equipped, or they may submit a Detainee Request Worksheet to immigration. Additionally, detainees may use the preexisting grievance system via Detainee Request Forms and/or iPads. Administrative personnel conduct daily inspections and walk throughs five days a week, and detainees have access to those individuals in order to voice any complaints for follow-up by staff. The medical staff respond to all requests for medical attention within the time frames mandated by P.B.N.D.S. or sooner in order to triage and treat detainees. If a complaint is reported to be critical, it is expedited on the facility's daily sick call roster, and the detainee will be seen the same day or immediately, if necessary.
14. Should a medical emergency occur, detainees notify a staff member, who then initiates a pre-existing protocol to provide assistance. Medical staff are trained to respond to such calls in minutes and to provide immediate treatment. In critical situations, Emergency Medical Technicians are stationed less than 150 yards away from the facility to transport detainees to local hospitals. Additionally, Life Flight Helicopters are able to arrive and depart directly from ICDC grounds.
15. There are four (4) hospitals within an approximate 20-mile radius of the facility: Irwin County Hospital, Tiff Regional Medical Center, Dorminy Medical Center, and Coffey Regional Medical Center. To the best of my knowledge and based on my experience, each is fully equipped to handle medical emergencies.
16. ICDC is a non-narcotic facility. Detainees arriving with narcotics or alleging that they were taking narcotics previously are processed through the facility physician, at which point an alternative medication is ordered consistent with established facility policy. Otherwise, detainee

complaints in reference to medication are reviewed by the appropriate medical staff. All facility medical staff must adhere to a list of approved medications provided by ICE medical staff.

17. Based on the information provided herein and my knowledge of the people trained to undertake these protocols, I believe ICDC is and will remain capable of taking all adequate safeguards to protect staff and the inmate population from a COVID-19 outbreak at the facility.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 9th day of April, 2020



David Paulk

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SOUTHERN POVERTY LAW CENTER,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

Defendants.

Civil Action No. 18-0760 (CKK)

DECLARATION OF DAVID PAULK

I, David Paulk, hereby state the following based upon my personal knowledge, and make the following Declaration:

1. I am over the age of 18 years and competent to testify to the matters set forth in this Declaration.

2. I have personal knowledge of the facts set forth in this Declaration, and if called as a witness, could competently testify to these facts.

3. I am presently employed as the Warden of Irwin County Detention Center ("ICDC"). I have worked at ICDC for approximately fifteen (15) years, and during that time have served as Sergeant, Lieutenant, Captain, Major, Deputy Warden, and Warden. I have held the position of Warden of ICDC since September 16, 2018. My duties and responsibilities include oversight and management of all of ICDC's operations. This includes the steps taken to maintain the health of all staff and detainees, prevent the spread of COVID-19, and ensure that detainees have adequate means to communicate and share information with legal counsel.

4. ICDC is owned and operated by LaSalle Corrections Management LLC (“LaSalle”). LaSalle is the service provider for an Intergovernmental Service Agreement between ICDC and U.S. Immigration and Customs Enforcement.

5. ICDC recognizes the unique and exceptional nature of the current COVID-19 pandemic, and it takes seriously its responsibility to protect the safety and security of the detainees housed in its facility, particularly recognizing the importance of adequate and confidential attorney-client communications and information exchange.

6. LaSalle, as the corporate manager of ICDC, provides ongoing guidance and instruction to its facilities, in accordance with and consistent with recommendations of the CDC and its governmental partners, as well as state and local health authorities where its facilities are located. As additional recommendations are promulgated, and in consideration of local health conditions, practices to prevent the spread of COVID-19 while ensuring that detainees have adequate access to confidential communications with their attorneys at ICDC have evolved, with changes occurring sometimes on a daily basis.

7. While I understand that several declarations submitted in support of Petitioners’ Motion for Temporary Restraining Order describe past events and conditions, or relate the concerns of unidentified third parties, this Declaration focuses on the current procedures and practices in place at ICDC as of the time of its execution.

8. As an initial matter, on April 13, 2020, pursuant to CDC guidelines and directives, LaSalle required of its facilities that all in-person visitation be temporarily prohibited to prevent the risk of COVID-19 entering and spreading through its facilities, with the exception of in-person attorney visitation. At that time, attorneys were to provide their own personal protective equipment (“PPE”). ICDC implemented this policy on the following day, April 14, 2020.

9. Subsequently, on April 14, 2020, pursuant to applicable guidelines, LaSalle required of its facilities that although personal visitation be suspended, attorney visitation would continue to be permitted but all such visits would take place in a non-contact visitation room. Per LaSalle's directive, attorneys are to use a mask during in-person visitation, but if they do not bring their own mask, ICDC is to provide them with one. ICDC has made masks available for visiting attorneys that did not have one since April 14, 2020.

10. Non-contact visitation rooms are separate, secure visitation rooms where attorneys and detainees are entirely separated by a secure divider, and there is no opportunity or potential for the two communicants to come into physical contact with one another. ICDC nevertheless implements LaSalle's policy and provides a mask to any attorney who does not bring his/her own. Because it is impossible for the attorney and detainee to have physical contact in a non-contact visitation room, LaSalle and ICDC consider the use of a mask to be sufficient PPE for these encounters, per CDC guidelines.

11. ICDC has a sufficient supply of masks to provide to attorneys making in-person visits, and ICDC has ensured that it has an avenue to purchase additional masks if its current supply is depleted. Additionally, LaSalle maintains a sufficient supply of PPE for its facilities from which ICDC can obtain additional masks at any time.

12. All attorneys, in addition to all entrants, who have visited ICDC since the inception of the COVID-19 pandemic are screened at the facility's entry. This screening involves taking the individual's temperature, along with requiring that the individual complete a COVID-19 questionnaire to determine if s/he has been exposed to COVID-19 or has experienced any related symptoms. This screening questionnaire was developed pursuant to CDC guidelines. A true and correct copy of the screening questionnaire is attached hereto as **Exhibit A**.

13. Social distancing practices are followed with all in-person visitors at ICDC.

14. In addition, ICDC staff who escort detainees to in-person attorney visits wear personal protective equipment, including masks and gloves, to reduce the risk of exposure to any pathogen, including COVID-19.

15. All non-contact visitation rooms are thoroughly cleaned and sanitized between each visitation, both on the visitor side and the detainee side. This includes, but is not limited to, wiping down chairs, tables, phones, and other surfaces and equipment using CDC recommended disinfectant or another disinfectant of similar strength and efficacy.

16. Non-contact visitation rooms are each separate rooms with a closing door that allows for complete and total privacy between the visiting attorney and detainee. ICDC staff have been trained and instructed not to enter a non-visitation room during a visit unless summoned or to inquire as to whether the visit is ongoing. This policy is enforced, and staff do not enter non-visitation rooms while a meeting is taking place, thus ensuring privacy and confidentiality for the attorney and detainee.

17. In-person attorney visits are available from 8:00 AM – 5:00 PM, seven (7) days a week at ICDC. However, attorneys arriving after 5:00 PM are not turned away as long as ICDC has sufficient security staff to escort and monitor in-person meetings.

18. Additionally, if attorneys do not wish to visit in person, they may participate in confidential communications with detainees through video telecommunication (“VTC”) devices. ICDC has worked to ensure that detainees have adequate access to VTC devices with which to conduct confidential communications with attorneys. ICDC currently maintains four (4) fully operational VTC devices for this specific purpose. Each device is located in a secure, separate

room with a closing door to ensure full privacy for the VTC meeting. VTC calls are not recorded, nor are they monitored in any way.

19. All VTC devices have maintained full functionality during the COVID-19 pandemic. Two (2) full-time staff members oversee VTC communications, with the assistance of four (4) court officers as necessary. These staff members are trained to rectify any technical, maintenance, or operational problems with VTC devices quickly upon notice of a deficiency.

20. ICDC has phased-out the use of headsets to conduct VTC communications, allowing detainees to use VTC devices without the need to touch those devices. When detainees use VTC devices, their call is already set up on the device, so detainees simply need to speak into the computer's microphone to communicate with their attorney without touching the device.

21. Additionally, all VTC devices are thoroughly cleaned and sanitized between each call. This includes, but is not limited to, wiping down all surfaces and equipment using CDC recommended disinfectant or another disinfectant of similar strength and efficacy. This is handled by the two (2) ICDC staff members who oversee VTC communications and the four (4) court officers referenced above.

22. In addition, ICDC staff who escort detainees to VTC calls also wear personal protective equipment, including masks and gloves, to reduce the risk of exposure to any pathogen, including COVID-19.

23. VTC calls each take place in a separate room with a closing door. Only one detainee is allowed in the room during his or her scheduled call time and during the pendency of the call, ensuring confidentiality of the call. An ICDC staff member is placed outside of the entrance to the VTC room to ensure that there are no entrants and to protect the privacy of the communications.

24. ICDC staff have been trained and instructed not to enter a VTC room during an attorney call unless summoned or to inquire as to whether a visit is ongoing. ICDC receives many requests for attorney VTC calls, and it maintains a regimented schedule for calls so that all detainees can adequately experience confidential access to their attorney(s). To adhere to this schedule, it is occasionally necessary for ICDC staff enter the VTC room for the limited purposed of inquiring whether the call is ongoing. While it is necessary to adhere to the VTC call schedule to ensure equal access to VTC equipment, ICDC staff are careful not to abruptly cut-off a detainee's call with his or her attorney(s) when a call is ongoing. This policy is enforced, and staff do not enter VTC calls rooms while a meeting is taking place, thus ensuring privacy and confidentiality for the attorney and detainee.

25. During VTC calls, an ICDC officer sits in the hallway monitoring the detainee from the outside. It is necessary that the officer maintain visual contact with the detainee for security reasons. The VTC device is situated against the wall with the camera facing outwards toward the hallway.

26. During VTC court sessions, an ICDC officer is stationed in the back of the courtroom or conference room. This is standard procedure for all court appearances held at ICDC unless specified by the judge who is presiding.

27. Because of the increased need for attorney VTC communications, and to ensure that all detainees have equal access to confidential communications with their attorneys, VTC calls are scheduled by appointment. Appointments are typically scheduled between 9:00 a.m. – 4:00 p.m., Monday through Friday, but this availability time can be and has been expanded when increased need arises.

28. Attorneys may make appointments for VTC calls with detainees by calling or emailing the Inmates' Services Department. ICDC employs one full-time clerk to manage attorney scheduling for VTC calls. ICDC maintains a separate email account and phone line specifically for attorney communication requests.

29. When an attorney contacts ICDC via email to request an appointment, ICDC typically responds within twenty-four (24) hours to this appointment request to schedule the appointment. An attorney may not receive a response within twenty-four hours if the request is made on a Friday, or the day before, or on, a holiday. When an attorney calls ICDC to make an appointment, all resulting voicemail messages are checked twice a day. ICDC also provides a response to requests made via telephone typically within twenty-four (24) hours, barring requests made on Friday, or the day before, or on, a holiday.

30. Because of the increased need for VTC appointments, appointments are typically allotted a one-hour timeframe; however, attorneys may request a longer meeting when making the appointment, whether more time is needed because of the need for an interpreter or for any other reason. Maintaining the one-hour time structure for calls is necessary to ensure that all detainees have equal access to confidential VTC calls with their attorneys. Attorneys are advised when making VTC appointments about the one-hour time frame, and they are advised to request additional time if necessary.

31. Requests for additional time beyond the one-hour allotment are routinely granted and arranged. It is ICDC's experience that the majority of attorneys and detainees utilizing VTC communications do not use the full allotted one-hour time for appointments, and attorneys have at times spoken with more than one detainee during that time frame.

32. When attorneys request a VTC appointment with ICDC, attorneys are asked to provide their availability and preference for a call time.

33. ICDC makes every effort to schedule the VTC appointment during the requesting attorney's preferred time. Because there are many requests for VTC appointments and the schedule is constantly changing, if the attorney's preferred date and time are not available, ICDC provides available time slots to attorneys who then select their preference. ICDC works to schedule attorney appointments for the available date and time closest to their preferred appointment time.

34. Attorneys are informed of their appointment time when their request is addressed. Attorneys are provided with the date and time of their VTC appointment either via email addressing their request, or in the telephone call responding to their request. VTC appointments are not scheduled for detainees without the date and time for the appointment having been communicated to the attorney in advance. Attorney VTC appointments are scheduled sufficiently ahead of the appointment so as to provide the attorney with adequate time for preparation, subject to the attorney's preference for appointment time. As stated, in the vast majority of circumstances, attorneys select their own appointment time. However, ICDC works diligently with attorneys to reschedule their VTC appointment time if a conflict arises.

35. If an attorney notifies ICDC that s/he needs an expedited or emergency VTC appointment with a detainee, ICDC works diligently to schedule that appointment, going so far as to schedule appointments for the same day as the request if necessary and possible to complete. Such emergency requests are routed to the attention of the Inmate Services Administrator, who quickly handles the accommodation of such requests.

36. ICDC has posted in several locations around the facility information for detainees providing instructions as to how they can access attorney communications via VTC. Information

regarding access to attorney communications is also provided in the ICDC Handbook which is available to all detainees. True and correct copies of the relevant sections of the ICDC Handbook and the ICE flyer explaining how VTC communications take place at ICDC is attached hereto as **Exhibit B.**

37. Additionally, as stated, ICDC employs two (2) full-time staff members to oversee administration of the VTC communications process who are available to detainees to answer questions about confidential attorney access. Further, ICDC employs three (3) full-time case managers who are available to detainees to answer questions regarding VTC communications. Two to three (2-3) ICDC staff members also conduct walk-throughs of each housing unit once every week day. These staff members are fully trained and educated regarding confidential attorney communications, and they are available to detainees to answer questions regarding the same. Finally, an ICDC officer is stationed in each housing unit all day, every day. These officers are fully trained and educated regarding confidential attorney communications, and they are available to detainees to answer questions regarding the same.

38. Detainees may request an appointment for a VTC call either by making a written request or via a tablet device. These requests are collected and reviewed every day, and ICDC responds within twenty-four (24) hours to each such request and works to coordinate an appointment.

39. Attorneys wishing to speak to a detainee via telephone are advised that phone calls are recorded and monitored, and attorneys are recommended to schedule a VTC appointment to speak to detainees for full confidentiality.

40. Attorneys requesting to have a confidential conversation with a detainee via detainee telephones are instructed and provided information on how to set up a PPC account with

Correct Solutions Group, ICDC's telephone vendor. This will allow the detainee to call a specific number for which the cost of the call can be pre-paid by the attorney. Using this system, Correct Solutions Group can facilitate a three-way call between detainees, their attorney, and an interpreter if necessary. Calls that are set up in this way are not monitored or recorded. Instructions for setting up such a call are provided in the ICDC Handbook and are posted in several areas around the facility, including above the housing unit telephones.

41. Other than via a PPC account with Correct Solutions Group, collect calls are not permitted from housing unit phones, and detainees will be charged for all calls. Additionally, calls that are not previously established with Correct Solutions Group are not confidential and are generally limited to fifteen (15) minutes. Attorneys and detainees are informed of this by the disclaimer at the beginning of the phone call, in the ICDC Handbook, and through information provided by ICDC and posted above the housing unit telephones.

42. All telephones are thoroughly cleaned and sanitized between each call. This includes, but is not limited to, wiping down all surfaces and equipment using a CDC recommended disinfectant or another disinfectant of similar strength and efficacy.

43. Detainees can place phone calls from either the phones in their housing units, or they can request to make a call from a community phone located in the library and available to the entire facility. Requests to use the library phone can be made either by making a written request or via a tablet device. These requests are collected and reviewed every day, and ICDC responds within twenty-four (24) hours to such requests and works to coordinate an appointment.

44. When a detainee makes a phone call using the library phone, s/he is escorted to the phone area two (2) at a time to maintain social distancing guidelines per the CDC. There is a bench outside of the library where one detainee waits while the other detainee is able to place the call in

the library. ICDC staff who escort detainees to library phone calls are also wearing personal protective equipment, including masks and gloves, to reduce the risk of exposure to any pathogen, including COVID-19.

45. The library phone is located in a secured, separate room with a closing door. When a detainee uses the library phone, the detainee is in the room alone and can close the door, ensuring privacy and confidentiality from others in the facility. Calls from the library phone are not subject to monitoring and recording.

46. Telephones located in housing units are in an open area that allows for social distancing. Social distancing has been consistently and repeatedly encouraged in these areas. ICDC has not experienced an issue with overcrowding or detainees being close together while waiting in these areas. There is sufficient space for detainees to wait to use these phones separate from other detainees, including tables set up near the phone banks. It is ICDC's experience that detainees mostly separate themselves from other detainees and sit at these tables while waiting to use the phone.

47. Additionally, all detainees have been provided with two (2) cloth face masks, and additional masks are available for replacement purposes. Per CDC guidelines detainees are consistently encouraged to wear face masks while in community areas around other detainees, including in and around the housing unit.

48. Each housing unit telephone is separated by a partition. Detainees are informed that calls placed from the housing units are monitored and recorded in the disclaimer at the beginning of each phone call, in the ICDC Handbook, and in information posted around the facility including above the telephones, and they are also informed that such calls are not confidential unless their attorney has previously set up a secure line with Correct Solutions Group per Paragraph 40 above.

49. ICDC has the following types of housing units: 16 units with closed cells that can house 32 individuals apiece, 6 open dormitory units that can house 100 individuals apiece, and 4 open dormitory units that can house 24 individuals apiece.

50. There are three (3) telephones in each of the closed-cell units. In total, there are forty-eight (48) telephones available for use in closed-cell units.

51. There are four (4) telephones in each of the open dormitory units. In total, there are forty (40) telephones available for use in open dormitory units.

52. With the library telephone, there are eighty-nine (89) telephones available for use at ICDC.

53. Telephones are available for use on Sunday through Thursday from 5:00 AM – 11:00 PM, and on Friday and Saturday from 5:00 AM – 1:00 AM.

54. ICDC works to ensure that detainees and attorneys can sufficiently communicate via mail sent through the U.S. Postal Services, FedEx, UPS, and other delivery services. Standard mail received at ICDC is opened and examined for contraband in the mailroom and then distributed to detainees. However, legal mail is taken directly to the detainee in his or her housing unit daily upon arrival. The mail is then opened in front of the detainee, and the ICDC staff member completes a cursory check for contraband in front of the detainee, maintaining extreme care in protecting the confidentiality of the mail and in not examining the communications therein.

55. Detainees can send confidential legal mail to their attorney by securing postage supplies from the commissary, assembling mail, and providing it to ICDC's outgoing mail service.

56. Attorneys can send pre-stamped envelopes to detainees that detainees can use to provide information. This mail is treated like all other legal mail and provided to the detainee in his or her housing unit daily upon arrival. The detainee must then follow the attorney's instructions

within the mail to assemble the necessary mailing package and return it to ICDC's outgoing mail service, which will send it out. ICDC collects and sends outgoing mail from detainees daily.

57. ICDC provides stamps for sale in the commissary. These stamps are obtained from a verified vendor so that ICDC can ensure that they do not contain contraband. ICDC currently does not allow outside stamps to be mailed to detainees in the facility. As outside stamps are not verified or sourced, this poses a risk of contraband coming into the facility.

58. ICDC does not share a post office box with any other person or entity, and its receipt of mail is secure. Mail directed to ICDC is sorted at the U.S. Post Office in Ocilla, Georgia, and brought directly to ICDC.

59. ICDC additionally works to ensure that detainees have adequate access to a facsimile machine to send documents and information to their attorneys. ICDC makes an announcement to the entire facility every day notifying detainees that ICDC staff will come to each housing unit to pick up materials to be faxed, and of the time that this collection will occur.

60. ICDC staff have been fully trained and educated regarding the confidentiality of faxed materials to attorneys. ICDC staff members use extreme care in maintaining the confidentiality of such documents and in not examining the communications therein when taking documents to the facsimile machine.

61. Documents gathered from detainees are faxed daily, after which an ICDC staff member delivers a fax confirmation receipt to the detainee after the fax transmits.

62. Further, ICDC maintains a specific, designated legal fax number for use by outside attorneys to fax information to detainees. This number is disseminated to attorneys. Incoming faxes from attorneys are treated like legal mail and delivered to detainees daily upon receipt.

RESPONSE TO ADDITIONAL ALLEGATIONS

63. I understand that several allegations related to ICDC were asserted in the Declarations supporting Petitioners' Motion for Temporary Restraining Order. While sufficient detail was not provided to investigate each one in this short time period, I provide the following responses.

64. On April 15, 2020, Victoria Mesa emailed a request for a VTC appointment with the timestamp showing 6:03 PM. This email was received after the monitoring clerk had left ICDC for the day. Ms. Mesa requested April 16, the following day, as the date for her appointment, and she requested appointment times that were already scheduled for another detainee or attorney. ICDC responded on April 17 providing available dates and times.

65. On April 15, 2020, Hillary Li emailed a request for a VTC appointment with the timestamp showing 2:38 PM. Ms. Li requested a VTC appointment for the following day, April 16. On April 15, ICDC emailed a response to Ms. Li advising that there were no appointments available for April 16.

66. On April 17, 2020, Loreili Williams sent an email to ICDC at 8:40 AM requesting an urgent VTC appointment and stating that she needed to speak to her clients any time that day except between 2:00 – 3:00 PM. To accommodate the urgency of this request, her clients were scheduled for VTC appointment at 10:00 AM.

67. On April 15, 2020, Benjamin Osorio emailed ICDC to request a VTC appointment. ICDC responded to this request on April 15, scheduling an appointment for April 17 with his client. At this time, appointments were also scheduled for his client for April 20 and 21.

Pursuant to 28 U.S.C. § 1746(2) and Local Rule 5.1(f)(2) I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 15th day of May, 2020 in Ocilla, Georgia.



Warden David Paulk

EXHIBIT A

COVID -19 Employee/Visitor/Attorney/Contractor Screening Form

1. Have you had close contact with a laboratory confirmed COVID-19 case in the last 14 days without wearing the appropriate PPE (Personal Protective Equipment) to include a gown, mask, goggles or face shield and gloves?

Close contact of a COVID-19 case—In the context of COVID-19, an individual is considered a close contact if they a) have been within approximately 6 feet of a COVID-19 case for a prolonged period of time or b) have had direct contact with infectious secretions from a COVID-19 case (e.g., have been coughed on). Close contact can occur while caring for, living with, visiting, or sharing a common space with a COVID-19 case. Data to inform the definition of close contact are limited. Considerations when assessing close contact include the duration of exposure (e.g., longer exposure time likely increases exposure risk) and the clinical symptoms of the person with COVID-19 (e.g., coughing likely increases exposure risk, as does exposure to a severely ill patient).

2. In the last 24 hours have you experienced any of the symptoms below?

Cough

Fever (Temperature equal to or over 100.4 degrees Fahrenheit)

Felt feverish

Experienced chills

Difficulty breathing

Shortness of breath

TEMPERATURE _____

IF THERE ARE ANY "YES" ANSWERS TO ANY QUESTIONS ABOVE AND/OR IF THE TEMPERATURE IS EQUAL TO OR GREATER THAN 100.4 DEGREES FARENHEIT, MEDICAL STAFF WILL BE NOTIFIED. THE INDIVIDUAL WILL NOT BE ALLOWED ACCESS TO THE FACILITY AND ADVISED TO SEEK MEDICAL ATTENTION.

SIGNATURE _____

PRINTED NAME _____

DATE _____

EXHIBIT B

ACCESS TO TELEPHONE

Telephones are provided in all dormitories and housing areas for your use. Access to TTY devices is available to all inmates/detainees.

When telephone demand is high you are expected to limit your phone calls to 15 minutes to permit others the same telephone privileges. The telephones are available for your use between the hours of 5:00 a.m. through 11:00 p.m. Telephone usage is not permitted during count. In case of an emergency, such as illness or death in your family; your unit housing officer can assist you in making telephone calls when access to telephones would not normally be available. Routine telephone calls to Attorneys are not considered to be emergencies. All calls must be made collect or through the purchasing of a Calling Card from Commissary. **All telephones are automatically shut off at 11:00PM Sunday thru Thursday and 1:00AM Friday and Saturday. All Phone calls may be monitored.**

Unmonitored Phone Calls and Virtual Meetings

2. ICE Detainees Only: Attorneys and reedited representatives may request virtual meetings with their clients 24 hours prior to the requested meeting time by email at Irwinice@irwincdc.com. They will be need to include the following information in their email:
- Attorney's Full Name
 - Attorney's Contact Information which includes all phone numbers and email address.
 - Name and ID # of the client.

The Law Library Clerk will contact the attorney or the point of contact and schedule a virtual meeting at a time that's convenient for the attorney and the law library clerk.

Visits will be scheduled for 60 minutes and will automatically terminate.

The legal representatives will be required to show appropriate identification, such as bar card from any state or other available documentation demonstrating bar membership, as is required for in-person visits. Additionally, attorneys will be required to provide government issued identification.

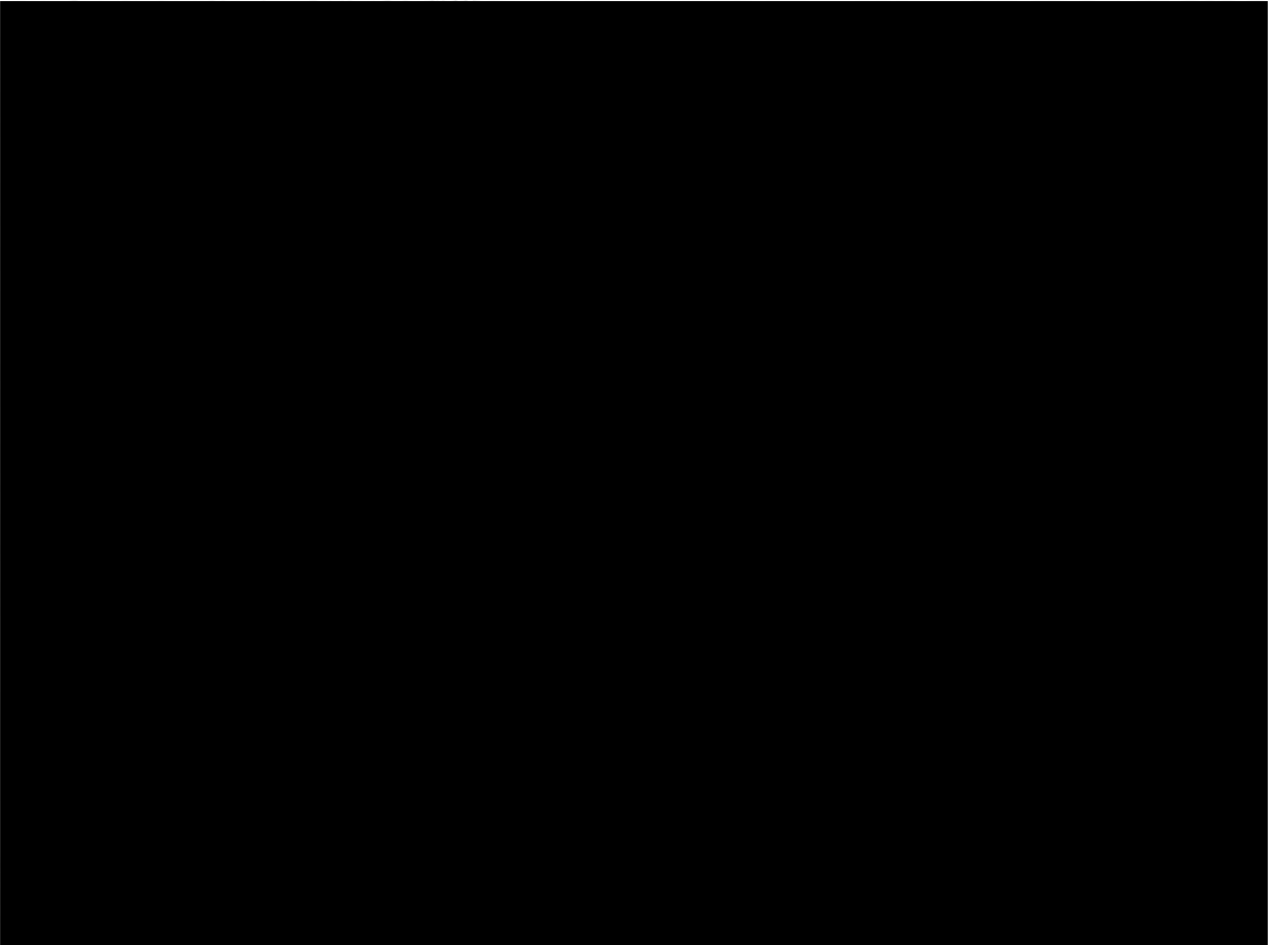
3. Unmonitored legal phone calls can be made through the Inmate/Detainee phone system. *Only the Legal Representative can set up the account.* The attorney of record can set up an account through the phone company by emailing a request on their letterhead to gasupport@solutionsgroup.com. The Legal Representative should include the facility ID# 24027 on the request.

ICE Detainees Only who are indigent may request a call to immediate family or others in personal or family emergencies or for a compelling need.



ATTORNEY VISITS

Legal representatives or paralegals may visit inmates/detainees seven (7) days a week generally between the hours of 8:00 a.m. thru 5:00 p.m. If necessary, you will be given the option to meet with your legal representative during meal hours and you will be provided with a menu tray or sack meal. Appointment cancellations will not be accomplished on your behalf by, or through, an officer or another inmate/detainee.





U.S. Immigration and Customs Enforcement

VIDEO TELECONFERENCING TECHNOLOGY

for ATTORNEY/CLIENT MEETINGS at Irwin County Detention Center

VTC

VIDEO TELECONFERENCING PILOT

U.S. Immigration and Customs Enforcement (ICE) detention standards require that detainees in ICE facilities be allowed confidential contact with **ATTORNEYS** and their authorized representatives in person, on the telephone, and through correspondence. ICE is committed to ensuring that individuals detained in ICE facilities are allowed confidential contact with their attorneys and authorized representatives.

Irwin County Detention Center is piloting video teleconferencing (VTC) via the free Skype internet application to facilitate virtual attorney/client meetings.

VTC IMPLEMENTATION:

- Private areas have been set aside to accommodate VTC meetings.
- Computers loaded with the free Skype internet application will be available in the VTC meeting rooms.
- A camera and video monitor will allow the client to see and speak with his or her legal representative.
- Attorney/client VTC meetings will be confidential.

Irwin will begin accepting requests for virtual legal visits by email @ Irwinice@irwincdc.com

For additional questions about this process, please contact Irwin County Detention Center at (229) 468-4121 ext. 252

PROCESS FOR REQUESTING A VIRTUAL LEGAL VISIT AT IRWIN:

- Attorneys and accredited representatives may request virtual meetings with their clients 24 hours prior to the requested meeting time by email at Irwinice@irwincdc.com.
- Visits will be scheduled for 60 minutes and will automatically terminate.
- Legal representatives will be required to show appropriate identification, such as a bar card from any state, or other available documentation demonstrating bar membership, as is required for in-person visits. Additionally, attorneys will be required to provide government issued identification.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SOUTHERN POVERTY LAW CENTER,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

Defendants.

Civil Action No. 18-0760 (CKK)

DECLARATION OF MATTHEW W. REAVES

Pursuant to 28 U.S.C. § 1746, I, Matthew W. Reaves, declare the following:

1. I am employed by United States Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), and currently serve as an Acting Assistant Field Office Director (a)(AFOD), New Orleans Field Office. I have held this position since March 2020. I have been employed by the former Immigration and Naturalization Service (INS) and ICE since 2002. As (a)AFOD, I provide oversight over a number of detention facilities within the New Orleans Field Office, including the LaSalle ICE Processing Center (LIPC) in Jena, Louisiana.
2. I provide this declaration based on my personal knowledge, belief, reasonable inquiry, and information obtained from various records, systems, databases, other DHS employees, employees of DHS contract facilities, and information portals maintained and relied upon by DHS in the regular course of business.
3. LIPC is a private detention center operated by The GEO Group, Inc. (GEO). GEO is an independent contractor that provides the facility, management, personnel and services for the 24-hour supervision of the detainees at LIPC, who are exclusively ICE detainees.
4. Conditions of detention at the LIPC are governed by the ICE Performance-Based National Detention Standards 2011, revised 2016 (PBNDS 2011). The PBNDS 2011 reflects ICE's ongoing effort to tailor the conditions of civil immigration detention to its unique purpose while maintaining a safe and secure detention environment for detainees and staff.
5. ERO New Orleans (Oakdale) is responsible for managing the immigration cases of individuals detained at LIPC. In addition, ERO is responsible for monitoring GEO to determine its level of compliance with PBNDS 2011 in its administration, management, and operation of the LIPC.

6. As an (a)AFOD, my primary responsibilities include general oversight at the LIPC, including monitoring compliance with PBNDS 2011.
7. In my current position, I work with an assigned ICE Health Service Corps (IHSC) Field Medical Coordinator (FMC) to conduct medical oversight at LIPC. FMCs serve as medical consultants to the ICE field offices and oversee clinical services at Inter-Governmental Service Agreement (IGSA) facilities and monitor clinical services at some Contract Detention facilities (CDF) that house ICE detainees, including the LIPC.
8. IHSC provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation, including LIPC.
9. IHSC's FMCs ensure that the provision of medical care by contractors to the ICE detainees within the IGSA facilities meets ICE's detention standards, as required by the IGSA. The FMCs do not provide hands-on care or direct the care within the IGSA's but monitor the medical care and services provided by the contract facilities. Medical staff at the contract facilities are directly responsible for medical care at the facility.
10. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals.
11. Since the onset of reports of Coronavirus Disease 2019 (COVID-19), ICE epidemiologists have been tracking the outbreak, regularly updating infection prevention and control protocols, and issuing guidance to field staff on screening and management of potential exposure among detainees.
12. In testing for COVID-19, IHSC is also following guidance issued by the Centers for Disease Control and Prevention (CDC) to safeguard those in its custody and care.
13. Each detainee is screened for disabilities upon admission by a medical professional at LIPC. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.
14. During intake medical screenings at LIPC, detainees are assessed for fever and respiratory illness, are asked to confirm if they have had close contact with a person with laboratory-confirmed COVID-19 in the past 14 days, and whether they have traveled from or through area(s) with sustained community transmission in the past two weeks.
15. The detainee's responses and the results of these assessments will dictate whether to monitor or isolate the detainee. Those detainees who present symptoms consistent with COVID-19 will be placed in isolation, where they will be tested. If testing is positive, they will remain isolated and treated. In case of any clinical deterioration, they will be referred to a local hospital.
16. In cases of known exposure to a person with confirmed COVID-19, asymptomatic detainees are placed in cohorts with restricted movement for the duration of the most recent incubation period (14 days after most recent exposure to an ill detainee) and are

monitored daily for fever and symptoms of respiratory illness. Cohorting is an infection-prevention strategy which involves housing detainees together who were exposed to a person with an infectious organism but are asymptomatic. This practice lasts for the duration of the incubation period of 14 days, because individuals with these and other communicable diseases can be contagious before they develop symptoms and can serve as undetected source patients. Those detainees who show onset of fever and/or respiratory illness are referred to a medical provider for evaluation. Cohorting is discontinued when the 14-day incubation period completes with no new cases. Per ICE policy, detainees diagnosed with any communicable disease who require isolation are placed in an appropriate setting in accordance with CDC or state and local health department guidelines.

17. LIPC has the following medical capabilities:
 - a. LIPC, which manages both males and females, provides daily access to sick calls in a clinical setting, four negative pressure observation rooms, and a medical clinic.
 - b. Specialty and hospital care are provided through an off-site provider as needed.

18. As of 9:00 a.m. on May 14, 2020, IHSC has the following information:
 - a. There is currently one confirmed case of COVID-19 among the detainees at LIPC. The individual is receiving treatment by medical personnel at LIPC consistent with CDC guidelines. The subject is currently isolated from other detainees and being monitored by medical professionals. There have been 10 other LIPC detainees who tested positive for COVID-19 and these detainees have since remained asymptomatic, passed their mandated quarantine time, and been returned to general population (in accordance with CDC guidelines).
 - b. Other than the 11 known positive cases, there is currently one suspected case of COVID-19 at LIPC. IHSC is currently awaiting this detainee's test results.

19. LIPC houses only ICE detainees and has a capacity of 1,160. At present, there are 769 detainees at LIPC. This number is a decline from the 1,123 detainees who were housed at LIPC on April 1, 2020, to promote social distancing and separation during the COVID-19 global pandemic.

20. LIPC has increased sanitation frequency and provides sanitation supplies as follows:
 - a. LIPC provides disinfectant sprays and wipes, hand sanitizer, soap, masks, and gloves to staff and detainees. Appropriate personal protective equipment (PPE), such as gowns, gloves, masks, and face shields, are provided for use in isolation as medically indicated. The administration is encouraging both staff and the jail general population to use these tools often and liberally.

- b. LIPC has increased the frequency of sanitation through the frequent disinfection of high touch surfaces; the cafeteria, and recreation yard are sanitized after each pod moves through; and there are increased number of sanitation workers across the facility.
- 21. LIPC has suspended social visitation and facility tours.
- 22. LIPC is screening all staff and vendors when they enter the facilities including body temperatures.
- 23. LIPC is screening all detainee intakes when they enter the facilities including travel histories, medical histories and checking body temperatures and have procedures to continue monitoring the populations' health.
- 24. LIPC provides education on COVID-19 to staff and detainees to include the importance of hand washing and hand hygiene, covering coughs with an elbow instead of with hands, and requesting to seek medical care if they feel ill. The facilities provide detainees daily access to sick call.
- 25. LIPC has identified housing units for the quarantine of patients who are suspected of or test positive for COVID-19 to be addressed as set forth in paragraphs 13, 14, and 15 above.
- 26. ICE has reviewed and continues to review its detained "at risk population" as identified by the CDC guidelines to determine if detention remains appropriate, considering the detainee's health, public safety and mandatory detention requirements, and adjusted custody conditions, when appropriate, to protect health, safety and well-being of its detainees.
- 27. Attorney visits and communications are generally governed by PBNDS 2011.
- 28. Attorney phone or video teleconference (VTC) calls, through Skype, with a detainee are scheduled by the attorney sending an email to visitrequest@geogroup.com with the following information:
 - a. Date and time that they wish to have an attorney/client conference;
 - b. Detainee name and alien number;
 - c. Copy of attorney bar card;
 - d. Copy of attorney identification, and identification for any translator and other legal representatives who will be involved in the attorney/-client conference;
 - e. Skype name; and

- f. Phone number where attorney can be reached in the event of a connection error.
29. Attorney phone and Skype calls are allowed seven days per week, including holidays, between the hours of 7:00 a.m. and 7:00 p.m. GEO has permitted the Southern Poverty Law Center to reserve a Skype unit from 5:00 p.m. to 7:00 p.m., provided that it reserve the unit before 10:00 a.m. that morning.
30. Telephones are provided for detainees in each housing unit and the booking areas. Detainees are permitted to utilize the telephones in their respective units 24-hours a day. All phone calls are collect unless the detainee purchases a calling card from Talton Phone Systems. The telephone system is tested daily for functionality by GEO staff and weekly by an ERO officer. If any issues are found, they are reported to the contractor, Talton Phone Systems. In addition, detainees can notify GEO or ERO at any time of phone connectivity issues and the issue will be relayed to Talton Phone Systems for correcting.
31. Detainees may submit a request to call their attorney. If the detainee submits a request, a Case Manager contacts the attorney at the phone number the detainee provides to set up a date and time for the call with the attorney.
32. Attorney visits are allowed seven days per week, including holidays, between the hours of 6:00 a.m. and 11:00 p.m.
33. All parties involved in the legal visit must fill out the "Visitor Screening-COVID-19 Questionnaire" and enter and clear screening to be allowed to enter the facility.
34. Legal visits are non-contact and are conducted in private rooms where the detainee and their attorney-legal representative are divided by a clear partition and communicate via speaker or telephone (telephone also provided in case translation services are needed).
35. Sanitation is conducted before each attorney-client Skype meeting, phone call, and in-person visit. This consists of an officer wiping down the table, chairs, phone, and door handles with disinfectant and a paper towel, or hard surface disinfecting wipes.
36. At this time, there are no restrictions on attorney/client visits due to Covid-19. Most attorney-client Skype meetings, phone calls, and in-person visits are scheduled for 30 minutes. When the attorney asks for additional time, it is generally accommodated.
37. Normally, immigration removal proceedings at LIPC are conducted with an immigration judge and the detainee in the same courtroom in Jena, La. Due to recent events, any detainees who are cohorted at the time of their scheduled proceedings are having their proceedings conducted via VTC while they are in one courtroom and the presiding immigration judge is in another courtroom at the LIPC. At this time, DHS counsel appear via VTC or teleconference. Attorneys representing detainees either appear in person or participate via teleconference.

38. During the hearing, if the attorney appearing by teleconference wants to consult with the detainee, the immigration judge will exit the courtroom, the DHS attorney will be disconnected from the call, and the officers will exit the courtroom with VTC capability to allow the attorney and detainee to talk privately.
39. Sanitation is conducted in the VTC room at LIPC between each proceeding. This consists of an officer wiping down the table, chairs, phone, and door handles with disinfectant and a paper towel, or hard surface disinfecting wipes.
40. Sanitation is conducted in the law library at LIPC between each detainee use. This consists of an officer wiping down the table, chairs, phone, and door handles with disinfectant and a paper towel, or hard surface disinfecting wipes. It is also sanitized/sprayed four times during the shift. Hand sanitizer is sprayed or pumped on the detainees' hands when entering and exiting the law library.
41. Stamps or pre-stamped envelopes are available for purchase through commissary. If a detainee is indigent (the detainee has an account balance of 15.00 or less in his/her account), they are allowed to send up to three personal letters per week as well as unlimited legal mail at no cost to the detainee.
42. LIPC's VTC connection speed has a download of 96.51 Mbps and an upload of 54.13 Mbps. All VTC units have been tested multiple times with successful results each time. The video receptions have been clear with strong connections, clear voices, and appropriate volume. There has been no identifiable echoing effect or interruption when tested.
43. Per GEO's policy, detainees housed at LIPC are not permitted to receive stamps or pre-stamped envelopes due to the fact that stamps are considered contraband. Stamps may be used as a form of currency, may be subject to theft, and can also be utilized to introduce drugs into a secure detention environment.
44. Detainees housed at LIPC exchange paper documents via the United States Postal Service. There is no fax service available for detainees at LIPC.

I declare, under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this 15th day of May, 2020



Matthew W. Reaves
Acting Assistant Field Office Director, New Orleans
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SOUTHERN POVERTY LAW
CENTER,

Plaintiff,

v.

U.S. DEPARTMENT OF
HOMELAND SECURITY, *et.al*

Defendants.

Case No.: 18-0760

DECLARATION OF FACILITY
ADMINISTRATOR SHAD RICE

1 I, SHAD RICE, make the following statement under oath subject to penalty of perjury
2 pursuant to the laws of the United States and the State of Louisiana:
3

- 4 1. I am the Facility Administrator at the LaSalle ICE Processing Center (LIPC). I am over the
5 age of eighteen (18), and I am competent to testify in this matter. My statement is based upon
6 my personal knowledge, education, training, and experience. I started my
7 correctional/detention career nearly fifteen years ago as a correctional officer and have held
8 many positions of responsibility throughout the years in both correctional/detention settings. I
9 was appointed as the Facility Administrator at LIPC on April 20th, 2020. Prior to working at
10 LIPC, I was the Facility Administrator at the Broward Transitional Center in Pompano Beach,
11 FL, which is also an ICE facility.
12
- 13 2. I was asked to address the precautions we have made to limit the spread of the COVID-19
14 virus as well as the access to legal representation by detainees at LIPC.
15
- 16 3. GEO provides this declaration for purposes of aiding the Court in making an informed
17 decision.
18
- 19 4. The health, safety, and well-being of detainees at LIPC correlates with the health, safety, and
20 well-being of GEO staff, GEO administration, and our families. Our interests are aligned with
21 respect to mitigation strategies to slow the spread of the coronavirus and resulting infections
22 of COVID-19.
23
- 24 5. LIPC follows the Centers for Disease Control and ICE guidelines for protecting against the
25 COVID-19 virus in detention facilities.
26
- 27 6. My declaration below provides some specifics about GEO's implementation of the guidelines
28 at LIPC. I have not attempted to describe in totality each and every action I have taken to
29 implement the guidelines or any other precautions, nor could I do so with the short timeframe
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upon which this declaration must be produced. However, I hope to convey to the Court that GEO is being proactive and is taking COVID-19 seriously to reduce the risk of infection.

7. To achieve our common goal of protecting the health, safety, and welfare of those individuals either detained, working at, or visiting LIPC, we have implemented the following precautions with Immigration and Customs Enforcement (“ICE”) oversight.

Operational and Communications Preparations for COVID-19

8. **Recognizing Signs and Symptoms.** LIPC operates solely as an ICE processing center with the full advantages of onsite health care services provided by ICE Health Services Corps medical professionals. In coordination with ICE, we have informed staff and detainees how to recognize the symptoms of COVID-19, and how to respond if symptoms develop or are observed.
9. **Communication and Coordination.** LIPC leadership meet routinely and daily with on-site ICE acting Assistant Field Office Director (“AFOD”) Matthew Reaves and the Health Services Administrator (“HSA”) Commander William Harris for the Immigration Health Services Corps (“IHSC”). We have been jointly implementing precautions as information develops specific to COVID-19. We have a positive collaborative working relationship that allows us to adapt operations and communications appropriately and according to CDC Guidelines.
10. **Contingency Planning.** GEO is operating below capacity and is not overpopulated, nor does GEO anticipate an overpopulation status at LIPC in the foreseeable future. As of today’s date, GEO has 769 detainees at LIPC, despite capacity for up to 1335 and a contract with ICE to house 1160. This represents less than 58% of total capacity. GEO has a sufficient workforce to operate at capacity and without staffing shortages in the event any GEO staff become symptomatic. GEO has developed contingency plans for reduced workforces, and we are

1 coordinating with our community partners about our preparedness and preparations specific to
2 COVID-19 that may temporarily alter day to day operations.

3
4 **11. Review of Existing Pandemic Protocols and Disaster Preparedness and Revisions for**

5 **COVID-19** All detainees have been issued masks to reduce the likelihood of COVID-19
6 transmission. Each detainee is provided with 3 masks each week. If additional masks are
7 needed, they are available to anyone who requests them any time day or night. GEO has
8 dedicated housing areas for purposes of isolating confirmed COVID-19 cases, individuals
9 displaying COVID-19 symptoms, and to quarantine known close contacts of cases. At LIPC
10 medical isolation and quarantine locations are separate.

11
12
13 **12. Coordination with Court Officials.** Regarding Court operations, GEO has taken direction
14 from and coordinated with the Executive Office for Immigration Review (“EOIR”) and ICE.
15 GEO has accommodated continuing Court operations for essential hearings through video
16 conferencing from separate rooms. All procedures for modified court appearances are
17 approved and directed by EOIR.

18
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20 **13. Signage.** GEO has posted signage that identifies symptoms of COVID-19 in multiple
21 languages, and that provide hand hygiene instructions. GEO has described symptoms and has
22 demonstrated hand hygiene instructions in briefings referred to as “town hall” meetings with
23 detainees. Additional information is also delivered to the detainees via messaging with tablets
24 provided by GTL. Detainees have been asked to report symptoms to staff immediately so the
25 appropriate medical response is provided.

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28 **14. Transfers and Movements.** GEO has cooperated with ICE implementation of newer ICE
29 policy directives that have reduced the number of detainees entering LIPC. Internal movements
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1 have been limited and social distancing protocols have been implemented to prevent the spread
2 for COVID-19, see below.

3
4 A. External Transfers: ICE controls who is housed at LIPC. GEO does not transfer
5 detainees externally among GEO facilities. Anyone transferred to or from LIPC are moved on
6 orders from ICE in conformance with ICE protocols implemented in response to COVID-19.
7 GEO may not use the additional bed space available given the reduced ICE detainee population
8 to house non-ICE detainees. GEO has utilized the available bed space to implement COVID-
9 19 protocols.

10
11 B. Internal Movements: With respect to people entering or leaving the facility, GEO
12 as a secure private facility with ICE as its sole client may regulate who enters and exits the
13 facility and under what conditions with ICE oversight more easily than the courts, grocery
14 stores, hospitals, jails, and prisons. In this regard, GEO has taken the following precautions:

15
16 i. Incoming Detainees. Incoming detainees are screened by IHSC medical
17 staff before being housed in the general population. Any symptomatic detainee is placed by
18 him or herself into a single housing unit where his or her symptoms are monitored by ICE's
19 public health care providers. The ICE public health doctors may test individual detainees per
20 medical standards, and medically treat any detainee in need of care. GEO does not place any
21 such individual back into the general population without medical clearance provided by IHSC.

22
23 ii. Staff. Anyone coming into LIPC to work completes a screening
24 questionnaire that GEO personnel use to decide whether the person has been exposed. If
25 exposed or at an unreasonable risk of having been exposed the individual may not enter. GEO
26 staff take the body temperature of all individuals before entry. Anyone who tests above 100.4°F
27 must return home until cleared medically. Staff are advised to stay home when sick, if they
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1 have COVID-19 symptoms, or have been in close contact with anyone who has COVID-19.
2 GEO has informed staff that if staff develop symptoms while on duty, the staff person must
3 leave the facility as soon as possible and follow CDC recommended steps for persons who are
4 ill with COVID-19 symptoms, including self-isolating at home, contacting their healthcare
5 provider as soon as possible to determine whether the staff person needs to be evaluated and
6 tested, and contact human resources. GEO has identified staff whose duties would allow them
7 to work from home and has planned for staff absences. GEO has offered revised duties to staff
8 who are at higher risk of severe illness. GEO staff have been offered the seasonal influenza
9 vaccine. ICE follows its protocols for providing vaccines to detainees, which has included
10 influenza vaccines.
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14 Enhanced cleaning/disinfecting and hygiene practices

15
16 **15. Supplies.** I have assessed LIPC's stock of hygiene supplies, cleaning supplies, PPE, and
17 medical supplies (separately from Public Health) to ensure LIPC has on hand and available
18 proper supplies. I have a plan in place to keep supply stocks replenished as needed if a COVID-
19 19 transmission occurs within the facility. LIPC has supplies that comply with CDC
20 guidelines. Detainees do not have to purchase soap. Detainees are issued hygiene supplies
21 twice a week, which exceeds PBNDS requirements, and additional supplies are placed on unit
22 for a one/one exchange should detainees need additional supplies. We have paper towels,
23 tissues, toilet paper, and sanitary protection. Additional hand hygiene soap products are placed
24 at every sink basin for use.
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28 **16. Respiratory Protection.** GEO has an established respiratory protection program with fit
29 testing and training so that PPE is correctly donned, doffed, and disposed of properly. GEO
30 has issued each staff and detainee a surgical face mask.
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17. **Intensified Cleaning.** GEO has implemented intensified cleaning of surfaces and objects that are frequently touched such as tables, door knobs, phones, VTC equipment, recreation equipment, etc. GEO has instructed detainees and staff to clean and disinfect shared equipment and property with frequency. GEO uses EPA-registered disinfectants that are represented to be effective against the virus that causes COVID - 19. GEO is not diluting disinfectants below effective levels. GEO has gloves and eye protection for use with cleaning. Cleanings occur throughout the day and night multiple times. I have not received any complaints about the availability of cleaning supplies from detainees.

18. **Reinforced Hygiene.** GEO has reinforced healthy hygiene practices and has made supplies available to encourage safe hygiene practices. We teach good cough etiquette, good hand hygiene, and advise against touching eyes, nose, or mouth without cleaning hands first. We inform detainees and staff to avoid sharing eating utensils, dishes, and cups, and to avoid non-essential physical contact. We have running water, hand soap, and hand drying capabilities throughout the facility. Additional hand sanitizing stations have been strategically placed throughout the facility for use.

19. **Property.** The property in a detainee's possession upon intake is inventoried and placed in storage in individualized containers. The storage is secure location. Any access to detainee storage requires a detainee request that is processed through multiple levels of review that would likely prevent contamination within the facility.

20. **Air Circulation.** LIPC follows the guidelines from the CDC to increase fresh air exchange to prevent the spread of airborne illness throughout the facility.

Social Distancing Strategies

21. Certain social distancing recommendations have already been part of GEO's operations. GEO has limited open movement. LIPC provides tablets in each housing unit for legal research and other activities which reduces excess trips to the law library. Nonetheless, should a detainee request access to the law library they are escorted there after which time the law library is thoroughly sanitized. Individual detainees are not moving in mass from location to location at will. Recreational space and time are dedicated by housing unit. Detainees are not all using the same recreational space at the same time. There is sufficient space for individuals to recreate six feet from one another. Meals are served inside housing units and cells. Group activities occur by housing unit. Medical screens new intakes separately from the main medical facility and general population.

22. GEO has encouraged staff and detainees to increase the space between one another as feasible and has placed several floor demarcations as visual reminders of such expected practice.

Visitors

23. ICE has authorized GEO to temporarily stop visitors from meeting with detainees, except legal counsel who confer with clients in separate rooms through glass enclosures.

Infections Control/PPE

24. **PPE.** GEO staff have personal protective gear, including N95 respirators where needed. PPE are stored in spaces in the facility where PPE can be accessed when needed and in an emergency. Staff have been trained to perform hand hygiene after removing PPE. Attorney visitors must wear eye protection and face masks. If the attorney visitor does not bring eye protection and a face mask, GEO provides them at no charge to the attorney visitor.

Verbal Screening and Temperature Check Protocols

25. **Screening.** GEO screens all staff, attorneys, court visitors, and detainees. Subcontractors and vendors never enter the facility. Staff get their temperature checked and answer screening questions. Detainees who enter LIPC are screened prior to entry into the main secured facility. Detainees must answer questionnaires and have their temperature checked. Screening includes questioning whether today or in the past 24 hours the person has had symptoms like fever, felt feverish, or had chills, cough, or difficulty breathing. It is asked whether in the past fourteen days the person had contact with a person known to be infected with the novel coronavirus COVID-19. Detainees who have observable symptoms are placed in medical isolation. Staff wear PPE when performing temperature checks.

Medical Isolation and Quarantine

26. GEO has the capacity to medically isolate and quarantine detainees who test positive for COVID-19. LIPC has four (4) negative pressure rooms that can be used for isolation purposes.

27. GEO defers to physicians and medical health professionals of IHSC with respect to their medical isolation and quarantine protocols for detainees.

Healthcare Evaluation/Clinical Care

28. LIPC has onsite health care services staffed by medical professionals from IHSC. Detainees at LIPC have access to timely health care 24 hours a day, 7 days a week, and 365 days a year.

High Risk Individuals

29. Children are not housed at LIPC. Children and families are not entering LIPC during the crisis for social visitation. If a detainee has a court hearing, and a detainee has identified a minor as an essential witness, the immigration Judge will have final say as to if or how the witness will appear.

Access to Legal Representation

30. As a result of the COVID-19, LIPC has increased the rooms available for private video (VTC) conferencing between detainees and their legal representation. Prior to COVID-19 the facility operated with one VTC and has since increased this availability to three total units.
31. We have also increased the number of hours we allow the use of the video teleconference rooms (VTC) so that it can be used from 7 AM to 7 PM, seven (7) days a week. Additional reasonable accommodations will also be made upon request. In person legal visitation is available from 6:00 AM through 11:00 PM every day to include weekends and holidays. There are no limitations to the number of visits, in any form, that a legal representative can request within the visiting timeframes. VTC visits are only limited based on the number of machines available with respect to appointments received for each device.
32. All video conferences and telephone calls between detainees and their legal counsel is in private and are completely confidential and comply with PBNDS 5.6 (Telephone Access).
33. LIPC complies with all of the requirements of PBNDS 5.1 & 5.6 to include legal calls and correspondence. Should legal documents need detainee signature, legal representatives are permitted to obtain signatures during in person visitation or through legal mail correspondence.
34. As a special accommodation to legal representation from the Southern Poverty Law Center, (SPLC) LIPC has agreed to a special two hour block (5 PM to 7 PM) automatically scheduled for them on one of our VTC machines. SPLC must call by 10 AM on the morning of or notify LIPC the day before they want to use the VTC machine so that we can make arrangements for the client detainee to be in the room. Additionally, SPLC has access to any other available time slots between 7 AM and 7 PM on all VTC machines.

35. The last request for VTC usage from SPLC was May 5, 2020 at 2 PM. They had requested it that morning. The call was successfully connected at 2:01 PM. There have been no other requests from SPLC since that date for VTC usage as of 5/12/20 at 4:00 PM.

36. After each use, law library, telephones, visiting rooms, and VTC rooms are sanitized. There are additional cleaning supplies available in each room. There are a total of one hundred sixty six (166) phones for detainee use located throughout the facility to include each dorm. Additionally, each detainee tablet has telephone calling capabilities just like the wall mounted phone banks. This exceeds the required amount available per PBNDS of one phone for every ten detainees (PBNDS 5.6). The detainee phone banks are inspected daily to ensure functionality by facility staff. Detainees are permitted to utilize the phones in their respective units twenty four hours a day.

37. To reserve a VTC appointment or Legal Call, legal representatives have been provided with a scheduling email address, visitrequest@geogroup.com, or the representative can call the facility and arrange the visit. Arrangements are made so that the detainee can meet with their legal representative in the agreed upon time slot. In person legal visits are conducted on an open schedule every day from 6:00 AM through 11:00 PM to include weekends and holidays.

38. We were told that SPLC claimed that they have had a connectivity and sound quality issues with our VTC equipment and telephones. We have again had them tested and they functioned appropriately. There is no issue with incoming or outgoing calls. They are connected and are functioning without interference.

39. Detainees are also provided access to tablets in order to communicate with their legal representation by video. Each unit is provided a sufficient number of tablets (1:10 minimum) to be available in each unit to permit access.

40. Detainees can call SPLC/SIFI free of cost. The SPLC, SIFI phone number can be reached free of cost by dialing 388# as instructed on the U. S. Department of Homeland Security speed dial number list posted in all detainee housing units. All pro bono or legal calls are unmonitored.
41. All legal representatives are provided access to come into LIPC and consult with their client every day from 6:00 AM through 11:00 PM including weekends and holidays.
42. All legal representatives are screened for COVID-19 and are provided with eye protection, and a face mask should they not be able to provide their own.
43. A detainee and their legal representative may also communicate by legal mail. Legal mail from an attorney should be clearly be marked as such, and will be delivered unopened by facility staff to the detainee. In the presence of the detainee, staff will open the envelope to ensure that it does not contain contraband, and give the communication to the detainee. All receipt of legal mail is signed for on delivery by the detainee. Detainees may similarly, seal clearly marked legal mail and deposit it in the facility mail, where it will not be opened by facility staff.
44. I am unaware of any delivery issues relating to the receipt or sending of legal mail by or from detainees at LIPC.
45. Detainees at LIPC may purchase postage for outgoing letters from the commissary, and if indigent, are entitled to indigent postage. Attorneys are also permitted to send their clients pre-metered envelopes for use.
46. Detainees are not permitted to receive stamps or pre-stamped envelopes. Stamps are considered contraband. They can be used as a form of currency, may be subject to theft, and are not necessarily utilized to correspond with the intended recipient. In addition, I am aware of instances where stamps placed on envelopes have been used to hide and introduce

1 contraband, including drugs into a secure detention facility. For that reason, outgoing mail is
2 posted in the facility mail room, and detainees at LIPC are not permitted to receive stamps or
3 pre-stamped envelopes.
4

5 47. I am aware of requests for installing "confidential telephone booths" in the day room areas
6 which may allow detainees to make more confidential legal calls. It is my opinion, based upon
7 my nearly fifteen year's career as a corrections professional, that such a proposal is ill-advised.
8 Allowing the detainee population to access such booths would present significant safety and
9 security concerns as the interior of the booths is outside of the sight-lines of staff, which would
10 make them a prime location for assaults or where detainees could engage in other prohibited
11 activities.
12
13

14 48. I am also aware of requests for facility personnel to be tasked with the responsibility of printing
15 emails and attached documents, or receiving faxes for detainees, and also sending legal
16 documents to counsel by email or facsimile. If LIPC personnel were directed by ICE to provide
17 such services, the confidentiality of the communications could not be ensured. Facility
18 personnel would necessarily need to look at the documents to ensure that all pages printed
19 correctly, or were scanned or sent, and to also ensure that communications are only sent to the
20 intended detainee, that the pages from the printer or fax machine do not contain any
21 confidential documents intended for a different detainee. Based upon my experience, the most
22 efficient and secure means to provide confidential communication involving the exchange of
23 documents between detainees and their counsel is to continue to use the existing legal mail
24 process.
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29 The above information provides an overview of the protective measures that GEO has
30 implemented at LIPC and the ability of detainees to communicate with their legal
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1 representative. GEO will continue to pursue vigilance with respect to new and changing
2 recommendations and protocols from the CDC.
3

4 Dated this 14th day of May, 2020 at Jena, LA.

5 

6 Shad Rice
7 Facility Administrator, LIPC
8 The GEO Group, Inc.
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SOUTHERN POVERTY LAW
CENTER,

Plaintiff,

v.

Case No.: 18-0760

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et.al*

DECLARATION OF FACILITY
ADMINISTRATOR ERIC STAIGER

Defendants.

1

1 I, ERIC STAIGER, make the following statement under oath subject to penalty of
2 perjury pursuant to the laws of the United States and the State of Louisiana:

- 3 1. I am the Facility Administrator at the Pine Prairie ICE Processing Center (PPIPC). I am over
4 the age of eighteen (18), and I am competent to testify in this matter. My statement is based
5 upon my personal knowledge, and my education, training, and experience.
6
- 7 2. I am a certified Corrections Executive under the American Correctional Association (ACA)
8 where I am also a member. I also serve as an Auditor for the ACA.
9
- 10 3. I have been involved with correctional facilities since January 1990, starting as a correctional
11 officer and working my way up various positions, including Chief of Security (Major),
12 Assistant Warden, Senior International Trainer, and Facility Administrator. In my various
13 capacities, I have had to deal with protocols needed to prevent the spread of communicable
14 illnesses, like the current COVID-19 virus. I have also had to deal with the issues of access to
15 communications between detainees and their legal representatives.
16
- 17 4. I have been the Facility Administrator for PPIPC since June 2019.
18
- 19 5. I was asked to address the precautions we have made to limit the spread of the COVID-19
20 virus as well as the access to legal representation by detainees at PPIPC.
21
- 22 6. GEO provides this declaration for purposes of aiding the Court in making an informed
23 decision.
24
- 25 7. I am familiar with the Centers For Disease Control and Prevention Coronavirus Disease 2019
26 (COVID-19) Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) In
27 Correctional and Detention Facilities (CDC Guidance), which is the guidance GEO has used
28 to educate its personnel and detainees at PPIPC on COVID-19. My declaration below provides
29 some specifics about GEO's implementation of the guidelines at PPIPC. I have not attempted
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1 to describe in totality each and every action I have taken to implement the guidelines or any
2 other precautions, nor could I do so within the limitations of the short timeframe upon which
3 this declaration must be produced. However, I hope to convey to the Court that GEO is being
4 proactive and is taking COVID-19 seriously to reduce the risk of infection.
5

6 8. The health, safety, and well-being of detainees at PPIPC correlates with the health, safety, and
7 well-being of GEO staff, GEO administration, and our families. Our interests are aligned with
8 respect to mitigation strategies to slow the spread of the coronavirus and resulting infections
9 of COVID-19.
10

11 9. If we remain diligent, with the support and cooperation of both detainees, employees, and
12 visitors, we expect to survive the COVID-19 pandemic in the same manner and with the same
13 success as our present performance measures indicate to date and as we have done with past
14 pandemics and epidemics.
15

16 10. To achieve our common goal of protecting the health, safety, and welfare of those individual
17 either detained, working at, or visiting PPIPC, we have implemented the following precautions
18 with Immigration and Customs Enforcement ("ICE") oversight.
19

20
21 Operational and Communications Preparations for COVID-19

22 11. **Recognizing Signs and Symptoms.** PPIPC operates solely as an ICE processing center with
23 the full advantages of onsite health care services. In coordination with ICE, we have informed
24 staff and detainees how to recognize the symptoms of COVID-19, and how to respond if
25 symptoms develop or are observed.
26

27 12. **Communication and Coordination.** I meet routinely and daily on site with ICE Officer in
28 Charge ("OIC") Balvin Dunn and the Health Services Administrator ("HSA"), Amanda
29 Bowdon. We have been jointly implementing precautions as information develops specific to
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1 COVID-19. We have a positive collaborative working relationship that allows us to adapt
2 operations and communications appropriately and according to CDC Guidelines.

3
4 **13. Contingency Planning.** GEO is operating below capacity and is not overpopulated, nor does
5 GEO anticipate an overpopulation status at PPIPC in the foreseeable future. At present GEO
6 has 433 detainees at PPIPC, despite capacity for 1088. This represents less than 40% of total
7 capacity. GEO has a sufficient workforce to operate at capacity and without staffing shortages
8 in the event any GEO staff become symptomatic. GEO has developed contingency plans for
9 reduced workforces, and we are coordinating with our community partners about our
10 preparedness and preparations specific to COVID-19 that may temporarily alter day to day
11 operations.
12

13
14 **14. Review of Existing Pandemic Protocols and Disaster Preparedness and Revisions for**
15 **COVID-19** All detainees have been issued masks to reduce the likelihood of COVID-19
16 transmission. GEO has dedicated housing areas and bathrooms and other physical locations
17 for purposes of isolating confirmed COVID-19 cases and individuals displaying COVID-19
18 symptoms, and to quarantine known close contacts of cases. At PPIPC medical isolation and
19 quarantine locations are separate. We have planned for contingencies for multiple locations
20 for simultaneous use to avoid cohorting as defined in CDC Guidance.
21

22
23 **15. Signage.** GEO has posted signage that identifies symptoms of COVID-19 in multiple
24 languages, and that provide hand hygiene instructions. GEO has described symptoms and has
25 demonstrated hand hygiene instructions in daily briefings referred to as “town hall” meetings
26 with detainees. Detainees have been asked to report symptoms to staff.
27

28
29 **16. Transfers and Movements.** GEO has cooperated with ICE implementation of newer ICE
30 policy directives that have reduced the number of detainees entering PPIPC. Internal
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1 movements have been limited and social distancing protocols have been implemented to
2 prevent the spread for COVID-19, see below.

3
4 A. External Transfers: ICE controls who is housed at PPIPC. GEO does not transfer
5 detainees externally among GEO facilities. Anyone transferred to or from PPIPC are moved
6 on orders from ICE in conformance with ICE protocols implemented in response to COVID-
7 19. GEO may not use the additional bed space available given the reduced ICE detainee
8 population to house non-ICE detainees. GEO has utilized the available bed space to implement
9 COVID-19 protocols to include separating incoming ICE detainees to reduce contact.
10

11 B. Internal Movements: With respect to people entering or leaving the facility, GEO
12 as a secure private facility with ICE as its sole client may regulate who enters and exits the
13 facility and under what conditions with ICE oversight more easily than the courts, grocery
14 stores, hospitals, jails, and prisons. In this regard, GEO has taken the following precautions:
15

16
17 i. Incoming Detainees. Incoming detainees have a fourteen-day waiting
18 period before housed in the general population. During the waiting period, new detainees are
19 screened for COVID-19 exposure before moving into an assigned housing unit. Any
20 symptomatic detainee is placed by him or herself into a single housing unit where his or her
21 symptoms are monitored by ICE's public health care providers. The health care professionals
22 may test individual detainees per medical standards, and medically treat any detainee in need
23 of care. GEO does not place any such individual back into the general population without
24 medical clearance provided by a medical doctor.
25

26
27 ii. Staff. Anyone coming into PPIPC to work completes a screening
28 questionnaire that GEO personnel use to decide whether the person has been exposed. If
29 exposed or at an unreasonable risk of having been exposed the individual may not enter. GEO
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1 staff take the temperature of employees before entry. Anyone who tests above 100.4°F must
2 return home until cleared medically. Staff are advised to stay home when sick or if they have
3 COVID-19 symptoms or have been in close contact with anyone who has COVID-19. GEO
4 has informed staff that if staff develop symptoms while on duty, the staff person must leave
5 the facility as soon as possible and follow CDC recommended steps for persons who are ill
6 with COVID-19 symptoms, including self-isolating at home, contacting their healthcare
7 provider as soon as possible to determine whether the staff person needs to be evaluated and
8 tested, and contact the supervisor. GEO has identified staff whose duties would allow them to
9 work from home and has planned for staff absences. GEO has offered revised duties to staff
10 who are at higher risk of severe illness. GEO staff have been offered the seasonal influenza
11 vaccine in the past. PPIPC follows ICE protocols for providing vaccines to detainees, which
12 has included influenza vaccines.

13 Enhanced cleaning/disinfecting and hygiene practices

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18 17. **Supplies.** Twice a week, each detainee is provided with shampoo/body wash, tissue paper
19 along with other hygiene products, as required and followed by facility issuance schedule,
20 exceeding the Performance Based National Detention Standards (PBNDS). We also sanitize
21 the living areas 4 times a shift with sanitizing spray. Additional hygiene products are available
22 at all times if needed. Additionally, bars of soap are placed at each sink daily for hand washing.
23 Additional soap is also available when needed. There have been no shortage of supplies and
24 facility inventory levels are monitored to assured adequate supplies for long term.
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26
27 18 **Respiratory Protection.** GEO has an established respiratory protection program with fit
28 testing and training so that PPE is correctly donned, doffed, and disposed of properly. GEO
29 has issued each staff and detainee a face mask.
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19. **Intensified Cleaning.** GEO has implemented intensified cleaning of surfaces and objects that are frequently touched, especially in common areas. This includes the video telecommunications (VTC) consoles, telephone and visitation rooms that are cleaned between each use. GEO has instructed detainees and staff to clean and disinfect shared equipment and property with frequency. GEO uses EPA-registered disinfectants that are represented to be effective against the virus that causes COVID- 19. GEO is not diluting disinfectants below effective levels. GEO has gloves for use with cleaning. Cleanings occur throughout the day multiple times. Detainees have not complained about the availability of cleaning supplies.
20. **Reinforced Hygiene.** GEO has reinforced healthy hygiene practices and has made supplies available to encourage safe hygiene practices. We teach good cough etiquette, good hand hygiene, and advise against touching eyes, nose, or mouth without cleaning hands first. We inform people to avoid sharing eating utensils, dishes, and cups, and to avoid non-essential physical contact. We have running water and hand drying capabilities throughout the facility.
21. **Property.** The property in a detainee's possession upon intake is inventoried and placed in storage in individualized containers. The storage is secure location. Any access to detainee storage requires a detainee request that is processed through multiple levels of review that would likely prevent contamination within the facility.
22. **Air Circulation.** PPIPC follows the guidelines from the CDC to increase fresh air exchange to prevent the spread of airborne illness throughout the facility.

Social Distancing Strategies

23. Certain social distancing recommendations have already been part of GEO's operations. GEO has limited open movement. The barbershop has been closed and hair clippers are being made available inside each housing unit for use by detainees. PPIPC provides tablets located in each

1 housing unit for legal research which prevents excess trips to the law library. Nonetheless,
2 should a detainee request access to the law library they are escorted there after which time the
3 law library is thoroughly cleaned. Individual detainees are not moving in mass from location
4 to location at will. Recreational space and time are dedicated by housing unit. Detainees are
5 not all using the same recreational space. There is sufficient space for individuals to recreate
6 six feet from one another. Meals are served in the dining hall utilizing social distancing
7 strategies for the general population, while detainees on Cohort status are served in the housing
8 units or their individual room. Movements are by housing unit. Group activities occur by
9 housing unit. Medical screens new intakes separately from the main medical facility and
10 general population.
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14 24. GEO has encouraged staff and detainees to increase the space between one another as feasible.
15

16 Visitors

17 25. ICE has authorized GEO to temporarily stop visitors from meeting with detainees, except legal
18 counsel who confer with clients in visitation rooms while practicing social distancing. Each
19 visitation room is sanitized before and after each use.
20

21 Infections Control/PPE

22 26. PPE. GEO staff have personal protective gear, including N95 respirators. PPE are stored in
23 spaces in the facility where PPE can be accessed when needed and in an emergency. Staff
24 have been trained to perform hand hygiene after removing PPE. Attorney visitors must wear
25 gloves and face masks. If the attorney visitor does not bring gloves and a face mask, GEO
26 provides them.
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Verbal Screening and Temperature Check Protocols

27. **Screening.** GEO screens all staff, attorneys, court visitors, and detainees. Subcontractors and vendors never enter the facility. Staff get their temperature checked and answer screening questions. Detainees who enter PPIPC are screened prior to entry into the main secured facility. Detainees must answer questionnaires and have their temperature checked. Screening includes questioning whether today or in the past 24 hours the person has had symptoms like fever, felt feverish, or had chills, cough, or difficulty breathing. It is asked whether in the past fourteen days the person had contact with a person known to be infected with the novel coronavirus COVID-19. Detainees who have observable symptoms are placed in medical isolation. Staff wear PPE when performing temperature checks.

Medical Isolation and Quarantine

28. GEO has the capacity to medically isolate and quarantine detainees who test positive for COVID-19. PPIPC has four (4) negative pressure rooms that can be used for isolation purposes.

29. GEO defers to ICE public health with respect to their medical isolation and quarantine protocols for detainees.

Healthcare Evaluation/Clinical Care

30. PPIPC has onsite health care services. Detainees at PPIPC have access to timely health care that I do not have, and my staff do not have on the outside.

Access to Legal Representation

31. As a result of the COVID-19, PPIPC has doubled the rooms available for private video or telephonic conferencing between detainees and their legal representation. These rooms are separate and apart from the rooms used for video conferences and hearings with the Court. In terms of the Southern Poverty Law Center (SPLC), we have accommodated their request more

1 than any other organization, including allowing VTC or visitation on short notice or no notice,
2 extending times for them to meet with their clients, accepting unscheduled arrivals and adding
3 additional client detainees requested while the legal representative is present or via the VTC.
4

5 32. We have also increased the number or hours we allow visitation, to include both video
6 telecommunication (VTC) conference rooms and in person legal visitation. It now starts at 8
7 AM and ends at 7 PM Monday through Friday and 8 AM to 2 PM on Saturday and Sunday. .
8 However, we also make additional accommodations whenever necessary both in person and
9 via the VTC and have allowed in person and VTC communications between legal
10 representatives and detainee clients to go past closing times. We also place no restriction on
11 the number of visits, or how often a legal representative can communicate with a detainee
12 client.
13
14

15 33. All video conferences and telephone calls between detainees and their legal counsel are in
16 private and are completely confidential and comply with PBNDS 5.6 (Telephone Access).
17

18 34. PPIPC complies with all of the requirements of PBNDS 5.6.
19

20 35. After each use the rooms are sanitized and there are additional cleaning supplies are available
21 in each room. This includes the law library. It, too, is sanitized, including the LexisNexis
22 computers after each use, as well as four (4) times per shift.
23

24 36. To reserve a room for video or telephonic conferencing, a legal representative calls or contacts
25 our facility and requests a time to speak with their client. Arrangements are made so that the
26 detainee can meet with their legal representative. At PPIPC, we have a redundant system that
27 allows SPLC and other legal representatives to schedule meetings with their client detainees
28 either in person or via the VTC. They either call or email my executive assistant Tammy
29 Fontenot or the Classification Supervisor, Monica Duplechain, to schedule a meeting. Both
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1 Tammy and Monica are included on the emails so that it will be done as quickly as possible.

2 At PPIPC, we never turn anyone away from meeting with their client and there are always
3 times available.
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5 37. Detainees are also provided access to tablets in order to communicate with their legal
6 representation by video. At PPIPC, we have 166 tablets available for this use.
7

8 38. As a result of the COVID-19, Detainees are provided free minutes to use the telephone to
9 confidentiality consult with their legal representatives. There is no restriction on the use and
10 are available 24 hours a day, 7 days a week in the housing units.
11

12 39. All legal representatives are provided access to visit PPIPC and consult with their client. There
13 are two main rooms and the visitation gallery available for use. VTC hours were expanded to
14 mirror normal in person hours. Before COVID-19, attorney or legal representation VTC hours
15 were 8 AM to 12 PM. We increased the VTC hours to match the hours for in person legal
16 representation visits, 8 AM to 7 PM, to ensure more than adequate access was maintained.
17

18 40. All legal representatives are screened for COVID-19 and are provided with eye protection,
19 face mask and gloves free of charge if they do not have their own.
20

21 41. Legal representatives for the Southern Poverty Law Center continue meet with clients at PPIPC
22 on a frequent basis.
23

24 42. A detainee and their legal representative may also communicate by legal mail. Legal mail
25 from an attorney or legal representative should be clearly be marked as such, and will be
26 delivered unopened by facility staff to the detainee. In the presence of the detainee, staff will
27 open the envelope to ensure that it does not contain contraband, and give the communication
28 to the detainee. Detainees may similarly, seal clearly marked legal mail and deposit it in the
29 facility mail, where it will not be opened by facility staff.
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1 43. I am unaware of any delivery issues relating to the receipt or sending of legal mail by or from
2 detainees at PPIPC.

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4 44. Detainees at PPIPC may purchase postage for outgoing letters from the commissary, and if
5 indigent, are entitled to indigent postage. Attorneys are also permitted to send their clients pre-
6 metered envelopes for use.

7
8 45. I am aware of requests for installing "confidential telephone booths" in the day room areas
9 which may allow detainees to make more confidential legal calls. It is my opinion, based upon
10 my 30 years career as a corrections professional, that such a proposal is ill-advised. Allowing
11 the detainee population to access such booths would present significant safety and security
12 concerns as the interior of the booths is outside of the sight-lines of staff, which would make
13 them a prime location for assaults or where detainees could engage in other prohibited
14 activities.
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17 46. I am also aware of requests for facility personnel to be tasked with the responsibility of printing
18 emails and attached documents, or receiving faxes for detainees, and also sending legal
19 documents to counsel by email or facsimile. If PPIPC personnel were directed by ICE to
20 provide such services, the confidentiality of the communications could not be ensured. Facility
21 personnel would necessarily need to look at the documents to ensure that all pages printed
22 correctly, or were scanned or sent, and to also ensure that communications are only sent to the
23 intended detainee, that the pages from the printer or fax machine do not contain any
24 confidential documents intended for a different detainee. Based upon my experience, the most
25 efficient and secure means to provide confidential communication involving the exchange of
26 documents between detainees and their counsel is to continue to use the existing legal mail
27 process or exchanges during in-person visits.
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1 The above information provides an overview of the protective measures that GEO has
2 implemented at PPIPC. GEO will continue to pursue vigilance with respect to new and
3 changing recommendations and protocols from the CDC.
4

5 Dated this 14th day of May, 2020 at Pine Prairie, LA.

6 

7 Eric Staiger
8 Facility Administrator, PPIPC
9 The GEO Group, Inc.
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**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA**

ARISTOTELES SANCHEZ MARTINEZ, et al.,

Petitioners/Plaintiffs,

v.

MICHAEL DONAHUE, et al.,

Respondents/Defendants.

No. 7:20-CV-00062-CDL-MSH

DECLARATION OF RUSSELL WASHBURN

I, Russell Washburn, hereby state the following based upon my personal knowledge, make the following Declaration:

1. I am over the age of 18 years and competent to testify to the matters set forth in this Declaration.

2. I have personal knowledge of the facts set forth in this Declaration, and if called as a witness, could competently testify to these facts.

3. I have been employed by CoreCivic, Inc. since 1996. For the past 12 years, I have held the position of Warden at several CoreCivic facilities.

4. Effective April 1, 2020, I became Warden of the Stewart Detention Center (“SDC”), in Lumpkin, GA. SDC is owned and operated by CoreCivic, Inc. CoreCivic is the service provider for an Intergovernmental Service Agreement between Stewart County, Georgia and U.S. Immigration and Customs Enforcement.

5. While SDC has design capacity of 2,266 ICE detainees, on April 9, 2020, the facility was operating at approximately 55% of that capacity, with only 1,248 ICE detainees present at the facility.

6. CoreCivic recognizes the unique and exceptional nature of the current COVID-19 pandemic, and takes seriously its responsibility to protect the safety and security of the detainees and inmates in its facilities, its staff, its contractors' employees, its governmental partners' employees, and the public as a whole.

7. CoreCivic's Facility Support Center is providing ongoing guidance and instruction to its facilities, in accordance with and consistent with recommendations of the CDC and its governmental partners, as well as state and local health authorities where its facilities are located. As additional recommendations are made, and in consideration of localized health conditions, practices to prevent the spread of COVID-19 at SDC have evolved, with changes occurring sometimes on a daily basis.

8. While I understand that several declarations submitted in support of Petitioners' Motion for Temporary Restraining Order describe past events and conditions, or relate the concerns of unidentified third-parties, this Declaration focuses on the current situation, procedures and practices in place at SDC as of the time of its execution.

9. As an initial matter, several weeks ago, SDC medical staff began, at the request of ICE to generate a list of detainees with certain medical conditions or who were over the age of 60, for consideration for potential release. Dr. Owusu reviewed that list, along with the medical records of all listed detainees, and initially identified 78 with heightened COVID-19 risk-factors. Those lists were provided to ICE, and ICE has made decisions to release certain of those detainees on its list. 43 of those detainees remained at SDC as of March 30, 2020.

10. ICE subsequently requested that SDC provide expanded lists, including detainees with additional underlying medical conditions, for additional release consideration. On April 6, 2020, SDC provided ICE with a list of all 150 detainees at SDC who providers identified during

intake as having a chronic cardiac, insulin, immunodeficiency, pulmonary, and/or seizure condition, for consideration.

11. The 43 remaining detainees identified by Dr. Owusu identified as being higher-risk, were moved to a protective cohort, in two housing units at SDC, to prevent the mixing of high and low custody ICE detainees. Thirteen (13) of those detainees have been released from SDC. Currently 30 detainees are housed in these two units.

12. The purpose of this protective cohort is to limit contact between these vulnerable detainees and the general population in the event that any detainee at SDC is infected by COVID-19. These two restricted units are in a protective area, essentially the opposite of a containment area, with the express objective of keeping the space free of COVID-19 virus. These units are staffed with a dedicated cadre of nurses, providers and security staff, which minimizes the risk of transmission of the virus from other parts of the facility or free world into that protective area. All personnel entering these units wear protective garments (paper isolation gowns, shoe covers, latex or nitrile gloves, and N-95 masks) to ensure staff are clean upon entering the area, for the safety of the detainees. All meal, medical services, and programming services are provided to these detainees in the protective cohort units. For those detainees, non-emergency and optical services which cannot be provided on the unit have been suspended.

13. SDC, has implemented a daily COVID-19 checklist. Daily responsibilities are assigned to the Warden (or the Administrative Duty Officer); each Shift Supervisor (or designed Assistant Shift Supervisor); Unit Manager; Safety Manager; Health Services Administrator; contracted Food Service Manager; and, Quality Assurance Manager. The purpose of this checklist is to make sure that each of those facility supervisors is timely aware of new developments; is speaking with staff and detainees about following appropriate precautions;

encouraging staff and detainees to seek medical care if they feel ill or show signs of illness; monitoring staff and detainees for signs of illness; engaging in ongoing education efforts with staff and detainees; verifying ample supplies of appropriate materials; and, conducting sanitation inspections on a daily basis in their delegated area of responsibility.

Efforts to Mitigate Risk of Introduction of COVID-19 at SDC

14. Initially SDC took steps to focus on preventing the introduction of COVID-19 into the facility. The following steps remain in place at SDC.

15. Social visitation (both contact and non-contact), has been suspended.

16. All persons entering the facility (whether a CoreCivic employee, contractor, federal employee, or attorney visitor) are subject to health screening, as a pre-requisite to entrance to the facility. Consistent with the CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (“CDC Interim Guidance”), that screening consists of a screening questionnaire and temperature check.

17. A screening area has been set up outside of the facility. Attachment A is a true and correct copy of photographs taken on April 9, 2020 depicting the facility entrance. In particular, the photographs demonstrate the placement of orange cones, where individuals who are waiting to be screened are to stand, to ensure that recommended physical distancing is maintained.

18. If the health screening is inconclusive, medical staff responds to make any final determination on screening. Where screening shows that an individual may be at risk, they are denied entry to the facility, and instructed either to remain at home for a specified quarantine period, or to consult and obtain clearance from their medical provider, before they will be admitted to the facility.

19. Following health screening, individuals permitted to access to the facility, are still required to completed standard security screening. Like most airport security screenings, items carried by, or to be removed from, a person screened are placed on bins and sent through a scanner. At SDC, the practice of the Detention Officers managing the scanner, is to disinfect the bins each time following the screened persons' removal of items they initially placed in the bin. Those Detention Officers wear gloves, so that the only people who make ungloved contact with the disinfected bin is the individual whose items are scanned.

20. Attorney visitors at SDC are not only permitted, but required to bring their own Personal Protective Equipment ("PPE") (and may also bring sanitizing wipes) if making an in-person legal visit. However, attorney visitors are not permitted to provide PPE or wipes to the detainee population. Such items would need to be physically inspected for potential contraband (including metal pieces which could be broken off and fashioned into weapons or tools to facilitate an escape) prior to exchange, and may have any sterility compromised by that inspection.

21. In-person attorney visits at SDC occur in secure visitation areas, with a secure divider between the detainee and attorney visitor. Social distancing practices are followed with any in-person attorney visitor at SDC. Visitation staff sanitizes legal visitation areas before and after each legal visit. This includes, but is not limited to, wiping down chairs, tables, phones, and other surfaces and equipment using HDQ Neutral disinfectant.

22. In addition, SDC staff who escort detainees to in-person legal visits, are also wearing Personal Protective Equipment, to reduce the risk of exposure to any potential pathogen, including COVID-19.

23. If attorneys do not wish to visit in person, they may have confidential communications with detainees either through the detainee telephone system or through the Video Teleconference System. SDC has begun providing expanded hours for VTC appointments, and further has placed additional VTC equipment in the facility, significantly expanding the number of available VTC appointments. These VTC units are also available for use in lieu of detainee physical appearances in immigration court.

24. Newly received detainees at SDC, as well as those returning to the facility from any outside transport, are similarly screened at intake in accordance with the CDC Interim Guidance. Any detainee who is symptomatic or otherwise does not pass health screening, is immediately referred to medical personnel for further examination, diagnosis and potential testing.

25. SDC does not want its employees who may have come into contact with anyone infected with COVID-19 to enter the facility. Out of an abundance of caution, such employees are instructed to remain home, but will be paid for the 14-day self-quarantine period, without that time being charged against their leave balance. This is designed to eliminate any “incentive” for a potentially infected employee to “tough it out” and attempt to report to work.

26. As of April 8, 2020 four employees at SDC had tested positive for COVID-19, none of those four have been present at the facility since March 27, 2020 or earlier. On April 9, 2020, SDC received word that a fifth facility employee had tested positive for COVID-19. That employee had recently worked on April 4th and 5th, 2020 in a housing unit which was under cohort quarantine at that time. No infected staff member has been assigned to work in any of the protective cohort facilities.

Staff and Detainee Education

27. SDC has a long track record of training its staff with respect to potential exposure to pathogens and following appropriate universal precautions.

28. For SDC staff, there is an on-demand recorded COVID-19 briefing from facility administration and medical staff providing information on prevention; sanitization instruction; symptoms of COVID-19 exposure and infection; directions for access to testing and care; and, encouraging employees to stay home if ill. This briefing is updated at least weekly, if not more frequently based upon interim changes in official guidance.

29. In accordance with the CDC Interim Guidelines, educational materials have been posted throughout the facility and in all housing units, regarding COVID-19 symptoms, what to do if you are sick, and steps to be taken to reduce the risk of exposure. Attachment B is a true and correct copy of photographs taken on April 9, 2020 detailing some of those postings in place in detainee areas at SDC.

30. Medical personnel, including Dr. Owusu, and SDC Safety Manager Laboy have conducted multiple town hall meetings in each housing unit to educate detainees on proper sanitation, personal hygiene, sanitation etiquette, prevention practices, and instructions to clean and disinfect individual living areas.

Maintaining Physical Distancing Among the Detainee Population

31. Although it is challenging to maintain six feet of physical distance in a custodial setting, at SDC several practices have been implemented to promote physical distancing.

32. In particular, SDC has taken several steps to ensure that detainees are not in groups larger than ten (10), when outside their housing pod. For example, Attachment C is a

photograph of posted signs on facility gates instructing detainees to limit numbers when attempting to move to the recreation area.

33. While detainees at SDC typically receive their meals in a large chow hall, SDC is currently using Satellite Feeding in all housing pods. Under the Satellite Feeding program, detainees receive their meal trays and eat them in their housing areas, rather than going to the chow hall, where they would mix with detainees from other housing areas and typically be seated less than six feet from another detainee during the meal periods.

34. All contact-type sports, including soccer and basketball have been removed from the SDC recreation program, to promote social distancing among detainees.

35. Detail crews of detainees participating in the Voluntary Work Program have been eliminated entirely or reduced in size, to limit potential exposure.

36. Because the current facility population is approximately 55% of design capacity, detainees are distanced where possible. In particular, where detainees are housed in a dormitory-style unit, rather than individual two-person cells, detainees are being spread out, particularly those detainees who are in a protective cohort. Of the protective cohort areas being used for at-risk detainees identified by Dr. Owusu, one is an 89-bed pod, which is being used to house only 23 detainees, and the other is a 66-bed pod which is currently housing only 7 detainees. Use and Issuance of Personal Protective Equipment

37. SDC personnel have long been issued protective gloves, to reduce the risk of exposure to or transmission of any pathogen. The use of masks by staff working outside of the protective and/or cohort areas, are optional. Staff are permitted to bring their own masks, or may request replacement masks.

38. SDC has ordered additional Personal Protective Equipment, including gloves and appropriate face masks, for use by staff and detainees.

39. Gloves and masks are provided to detainee participants in the Voluntary Work Program who work as pod porters, as well as those working details in other parts of the facility where the physical plant design prevents effective social distancing. If any detainee or staff is working in any area which has been under cohort, they are also provided with protective gowns and face coverings, in accordance with CDC guidelines.

40. Gloves and masks are also provided to certain other categories detainees at SDC, based upon direction from ICE, such as detainees who are being transported outside of the facility.

41. SDC's current plan is to issue a mask to every detainee at the facility, upon receipt of masks in sufficient quantity, those have not yet been received. During the interim, SDC facility staff have not been instructed to tell detainees that they cannot use unaltered towels or items of clothing as a face mask. However, detainees are not permitted to alter or destroy facility materials to fashion their own masks, and must uncover their face at appropriate times, so that staff may confirm and verify the detainee's identity.

Enhanced Sanitation Practices

42. SDC has recently undertaken enhanced practices to promote sanitation throughout the facility.

43. In recognition of the potential future shortage of sanitation supplies, SDC increased its inventory of cleaning chemicals and supplies. That inventory is checked and restocked daily, to maintain a sufficient supply on hand, particularly if additional shortages occur in the public market.

44. SDC's facility housekeeping plan was reviewed, updated and enhanced to comply with the CDC Interim Guidelines. In particular instructions were included pertaining to the safe and recommend use of antiviral cleaning agents, as well as appropriate use of Personal Protective Equipment in areas where the COVID-19 virus may be present.

45. Hand sanitizer units have been installed in all units and throughout SDC.

46. Sanitary wipes have been made available in all units and throughout SDC, and are available to detainees. During town hall meetings, detainees have been instructed how to safely sanitize common area surfaces they may come into contact with during the day—such as detainee telephones and kiosks—before and after use.

47. Detainees are permitted access to facility-approved chemicals, soap, and hand sanitizer for personal hygiene and to clean their immediate living areas. Such access is available 24-hours a day, seven days a week.

48. Pump dispensers for HDQ Neutral, a multi-purpose disinfecting antibiotic and antiviral cleaning solution, have been installed in SDC areas for use by individual detainees as well as Voluntary Work Program participants.

49. Sani-T-10 has been procured and issued to the kitchen for sanitation of areas where food contact may occur.

50. SDC continues its practice of issuing hygiene products to detainees twice a week. Issued hygiene products include soap, toothpaste, shampoo, lotion and toilet paper. While soap is now available 24/7, if any detainee has a need for any of the other items between distributions, they may receive a replacement from facility staff by exchanging their empty shampoo bottle, toothpaste tube, toilet paper roll, etc. for a full replacement. That one-for-one exchange serves to

prevent the stockpiling by detainees of materials which can be used in larger quantities to create safety and security risks to staff and other detainees.

51. Facility vehicles used at SDC are also subject to enhanced cleaning and disinfecting procedures, with recommended antiviral cleaning agents before and after each transport. While certain detainees at SDC have asked for bleach to be made available to them 24/7, due to safety and security risks, it is not being provided for general population use. Detainee pod porters, who have been trained in the proper and safe use of bleach, are instructed and supervised in its use it to clean showers and other appropriate areas of each housing unit.

Access to Detainee Health Care and Plans in the Event of Detainee Infection

52. Since CoreCivic employees have begun providing health care services at SDC, detainees requesting medical assistance submit a sick call request in the secure box in their housing unit. Medical staff collect those requests once each day, triage them, and schedule the detainee for follow-up care.

53. If a detainee believes that he is experiencing an urgent or medical condition, which cannot await the sick call process, the detainee should notify their the CoreCivic Detention Officer stationed in that area, who will notify the nursing staff of the medical problem, and nursing will respond appropriately. Trained staff is available to administer emergency first aid and life saving techniques. If after normal provider hours at the facility, providers are available on an on-call basis at all times.

54. If a detainee returns from an outside medical appointment, including from any hospital, they are given the same health screening as all new detainee intakes. In particular any detainee who is returning to SDC from an outside hospital visit, is also assessed by a medical

provider who reviews their medical status and will determine medically appropriate actions for care and housing, prior to the detainee returning to their assigned housing local.

55. If a staff member observes and suspects that any detainee at SDC may be symptomatic of potential COVID-19 infection, staff immediately refers those detainees to medical for screening. Any detainee who exhibits such symptoms, including a fever is isolated in the medical area pending the results of any provider reported testing.

56. At the time a detainee is referred to medical and subject to testing, the original housing unit is placed on cohort status, pending results of the testing for the suspected detainee. Detainees in such cohorted housing units are restricted to their units and subject to daily medical monitoring for fever and symptoms of respiratory illness. Any that show signs of fever and/or respiratory illness will be referred to medical. Cohorting will be discontinued following a 14-day period with no new cases, following the last positive test result.

57. As of April 8, 2020, there were no positive COVID-19 test results, although results were pending for 8 detainees.

58. On April 9, 2020, SDC received results that five detainees had tested positive for COVID-19. Each unit where those detainees resided had previously been put on cohort status, and the detainee transferred to medical. None of those detainees had been present in the protective cohort area for at-risk detainees identified by Dr. Owusu.

59. SDC has developed and is constantly reviewing its contingency plans for confirmed or presumptive COVID-19 positive detainees.

60. SDC has highly security-sensitive and confidential emergency plans for a Medical Emergency (including specifically COVID-19) and Pandemic Flu Preparedness, as part of its Emergency Response Policy. The disclosure of the specific details of those plans poses an

unreasonable safety and security risk should they be communicated to the detainee population or any member of the public.

61. SDC conducts quarterly and annual Emergency Response training exercises for staff regarding, which include both function and full-scale exercises.

62. SDC has capacity to effectively quarantine and medically isolate any detainee who is confirmed, presumed, or suspected positive for COVID-19. There are the four negative air pressure cells located in the SDC medical unit, which would be the first use for any confirmed or presumed positive detainee. The SDC medical unit has three additional observation cells. SDC has four additional observation cells in other areas of the facility, where detainees can be medically isolated from the detainee population and most facility staff, while still receiving appropriate medical care.

63. Should additional space be needed, SDC has the ability to clear detainees from a housing area, and dedicate that housing area as a cohort or quarantine to limit the potential for exposure to other detainees or staff.

64. In the exceptional event that the number of cases of COVID-19 reach levels beyond those, CoreCivic can provide additional support, supplies or personnel to SDC, and also make additional unutilized bed space at other CoreCivic facilities available on short notice.

65. Should a detainee require higher levels of care or monitoring than SDC can provide, SDC has agreements with hospital facilities in Cuthbert, Columbus, and Albany where detainees can be transferred to receive higher levels of care or monitoring.

RESPONSE TO ADDITIONAL ALLEGATIONS

66. I understand that several other allegations relating to SDC have been asserted in the Declarations supporting Petitioners' Motion for Temporary Restraining Order. While

sufficient detail was not provided to investigate each one in this short time period, I do provide the following responses.

67. There was no death of a detainee at SDC on April 6, 2020 from complication of COVID-19.

68. On April 6, 2020, three detainees were transported for outside medical evaluation. None of these were for COVID-19 symptoms. Once detainee was transported due to abdominal pains and was treated by an outside provider for reflux. A second detainee was diagnosed with anxiety. A third detainee who complained of chest pains and shortness of breath, was diagnosed as being asthmatic.

69. There was a recent use of force incident involving OC on Unit 4 in the hallway. No detainee in any of the housing pods was directly exposed to OC spray. In accordance with SDC practice, exhaust fans are used to ventilate any area where OC spray is used and the area is decontaminated to remove any trace of over-spray from areas where it may be used.

70. While detainee Aristoteles Sanchez Martinez does use a wheelchair, I have personally watched video of him self-propelling his wheelchair across the dayroom in the protective cohort housing area where he has been housed at SDC since March 30th, without any apparent difficulty.

71. As SDC Detainees “Michael Robinson” and “Peter Owusu” are proceeding under a pseudonym, I do not know their identify and cannot comment on other specific individual allegations, such as “Peter Owusu”’s claim that he was denied access to his CPAP machine, or “Michael Robinson”’s claim that he has not received his medical records or was personally exposed to OC spray.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this ____ day of April, 2020 in Lumpkin, Georgia.

Russell Washburn

ATTACHMENT A

ATTACHMENT A







STEWART DETENTION CE

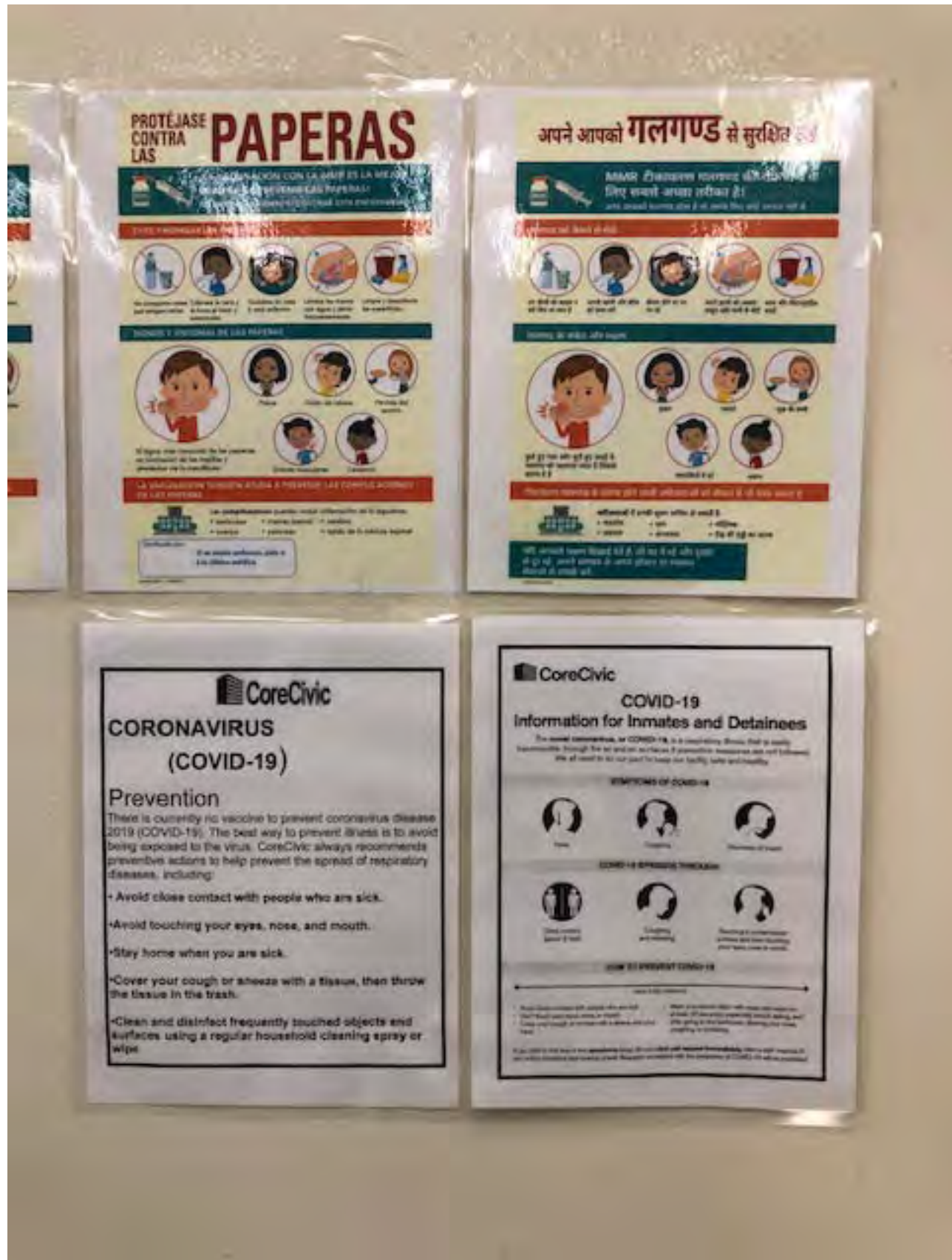


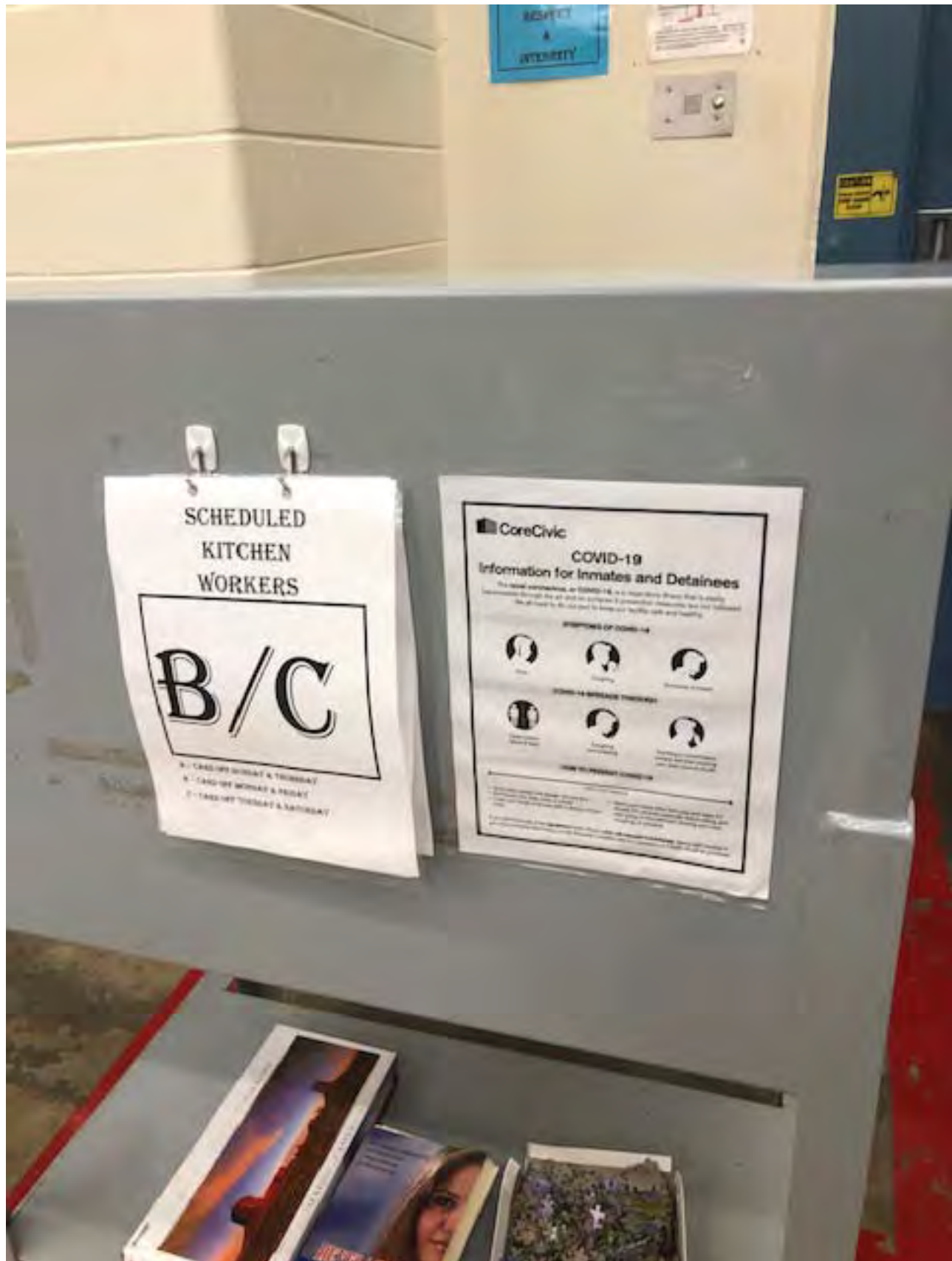
ATTACHMENT B

ATTACHMENT B









ATTACHMENT C

ATTACHMENT C

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ONLY TWO AT A
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PLEASE
EXERCISE SOCIAL
DISTANCING.

FULLY OPEN BEFORE
...ING THIS FACILITY

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA**

ARISTOTELES SANCHEZ MARTINEZ, et al.,

Petitioners/Plaintiffs,

v.

MICHAEL DONAHUE, et al.,

Respondents/Defendants.

No. 7:20-CV-00062-CDL-MSH

SECOND DECLARATION OF RUSSELL WASHBURN

I, Russell Washburn, hereby state the following based upon my personal knowledge, make the following Second Declaration:

1. I am over the age of 18 years and competent to testify to the matters set forth in this Declaration.

2. I have personal knowledge of the facts set forth in this Declaration, and if called as a witness, could competently testify to these facts.

3. I have been employed by CoreCivic, Inc. since 1996. For the past 12 years, I have held the position of Warden at several CoreCivic facilities.

4. Effective April 1, 2020, I became Warden of the Stewart Detention Center ("SDC"), in Lumpkin, GA. SDC is owned and operated by CoreCivic, Inc. CoreCivic is the service provider for an Intergovernmental Service Agreement between Stewart County, Georgia and U.S. Immigration and Customs Enforcement.

5. While SDC has current capacity of 2,040 ICE detainees, on May 3, 2020, the facility was operating at approximately 54% of that capacity, with only 1,097 ICE detainees present at the facility.

6. As of May 3, 2020, only twelve detainees at Stewart Detention Center have tested positive for COVID-19. Of those, eight have fully recovered, and been cleared by medical to return to general population. Two detainees have returned from an outside hospital, and are continuing their recovery in the facility medical isolation area, with a third detainee scheduled to return from the hospital to the facility on May 4, 2020. One ICE detainee remains hospitalized for COVID-19. The most recent positive detainee test result was on April 30, 2020.

7. As of May 3, 2020, 44 Stewart Detention Center employees have tested positive for COVID-19. 15 of them have fully recovered, and been cleared to return to work. Most of those who are positive, are expected to have fully recovered and be cleared to return to work by the end of this week. The most recent positive employee test result was on April 29, 2020.

8. Two pods, 2B and 4C remain on protective cohort status, as they were designated to house the most medically vulnerable detainees in an environment to limit potential exposure to COVID-19 infection. While 67 detainees were originally slated for movement into those unit, following ongoing release decisions by ICE, those units currently house a total of 21 and 4 detainees, respectively, based upon custody level. No detainee assigned to the protective cohort areas in pods 2B or 4C has tested positive for COVID-19.

9. When detainees at SDC appeared symptomatic, they were moved to medical isolation pending COVID-19, and their housing area was placed on cohort/quarantine status, to reduce the possibility for cross-pod infection of other detainees. Medical personnel would approve the release of a unit from cohort/quarantine status after a fourteen consecutive day period of no additional symptomatic detainees.

10. The last general population housing unit at Stewart came off cohort/quarantine status on April 30, 2020. There are no detainees in active cohort/quarantine at Stewart.

11. ICE stopped sending new detainees to the facility approximately 3 weeks ago.

12. Medical personnel report that they have also seen a decline in the number of detainees reporting to sick call with symptoms of COVID-19.

13. Effective April 10, 2020, I issued a direction making it mandatory for all detainees and Stewart personnel to wear protective masks. Masks have been issued to detainees on several occasions, and are also available for replacement upon request of any unit personnel.

14. Additional practices have changed at Stewart Detention Center to promote social distancing. For example, in accordance with CDC guidelines, detainees assigned to bunk-beds have been instructed to lay in a “criss-cross” fashion, with one detainees head at one end of the bunk, and the other detainees head at the other end of the bunk, to create more distance should a detainee sneeze or cough. Additionally, detainee housing assignments have been adjusted to place as much physical space as possible between detainees, considering other factors relating to security level and other medical and mental health needs.

15. Staff are directed to remind detainees to practice social distancing practices in the dayroom and recreation areas. While Stewart Detention Center is required to follow the ICE Disciplinary Policy set forth in the current Performance Based National Detention Standards, I am not aware of any detainee receiving a disciplinary report for violating social distancing guidelines.

16. As housing units have come off of cohort/quarantine status, movement practices in the facility have been altered to promote social distancing. For example, movement of detainees through doors and sally ports is controlled by staff to ensure that detainees do not move through those narrow points in groups, but wait until the previous detainee has cleared the area by at least six feet.

17. While detainees were on cohort/quarantine status, they were not permitted to work in any off-unit Voluntary Work Program position, including in the kitchen. Meals were prepared by CoreCivic security staff working in conjunction with Trinity food serve staff, and served on Styrofoam trays delivered to the unit. I have heard reports from detainees that the presentation of food served, was not as good as the meals served fresh off the line in the chow hall.

18. Detainee kitchen workers at Stewart are housed in the same unit. Before arriving to the kitchen, each detainee kitchen worker is provided a new mask.

19. Beginning on April 27, 2020, as detainee housing units came off of cohort/quarantine status, the chow hall has been used. Tape stripes has been placed on the floor to promote social distancing between detainees waiting in line to receive their meals. Detainees are to sit no more than two to a table. Further, meals are staggered, to keep housing units together and separate during meals, so that potential exposure between housing units do not occur if another detainee has COVID-19. The Stewart Detention Center chow hall has two clusters of tables separated by approximately ten feet of space, and detainees from different housing units are seated so as not to intermix with detainees from other units.

20. Upon arriving at the chow hall, detainees are required to use hand sanitizer before entering the chow hall, and again upon leaving. Detainees are permitted to remove their masks only to eat in the chow halls. Once detainees finish their meal, the tables, stools, and other hard surfaces where detainee contact is likely are cleaned and sanitized.

21. Additional cleaning and sanitation is also occurring at Stewart. While not normally used widely in a secure detention setting, due to security and safety risks, all housing units and common facility areas are cleaned with a bleach solution every other day.

22. On May 4, 2020, with assistance from the Georgia Department of Corrections and National Guard provided training, Stewart will be “fogged” with a deep-cleaning solution to sanitize all areas of the facility from floor to ceiling. Staff and detainees have been advised of this schedule, and were universally receptive to that cleaning being done.

23. In addition, ICE personnel at Stewart have discontinued going into multiple housing areas on a daily basis to speak with detainees. When they desire to speak to a detainee, a CoreCivic staff member escorts the detainee to a telephone where they can speak with the ICE employee.

24. While the current trend of downward COVID-19 cases gives us encouragement that we are making strong movement in the right direction, with respect to this pandemic, I am deeply concerned that any change would put the facility back at a positive risk for heightened COVID-19 infections. In particular, I see any inspection of the facility which involves outside parties entering multiple housing areas or the chow hall, and/or in-person contact meetings between detainees assigned to more than one housing pod, would permit the COVID-19 virus to spread among multiple housing units at the facility.

25. Finally, on April 27th, I was provided a communication from Erin Argueta of the Southeast Immigrant Freedom Initiative, in which she relayed an allegation that one of her client’s was subjected to an excessive use of force. I directed my facility investigator to conduct an investigation to determine whether there was any misconduct by Stewart personnel. She interviewed the detainee for approximately 15 minutes on April 30, 2020. Based upon review of additional evidence, the investigator found the allegations of excessive use of force to be unfounded. On May 1, 2020, I approached the detainee to speak with him regarding reports that he was not eating. During that 5-6 minute discussion, the detainee voluntarily repeated his

allegation that he was subject to excessive force. While the detainee decided voluntarily to show me his back, I did not observe any marks, bumps, or bruises which would be indicative of any impact. These interactions with detainees are a normal part of the operation of a secure detention facility, and are necessary to ensure that detainees remain in a safe and secure environment.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this ___ day of May, 2020 in Lumpkin, Georgia.



Russell Washburn

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA**

ARISTOTELES SANCHEZ MARTINEZ, et al.,

Petitioners/Plaintiffs,

v.

MICHAEL DONAHUE, et al.,

Respondents/Defendants.

No. 7:20-CV-00062-CDL-MSH

THIRD DECLARATION OF RUSSELL WASHBURN

I, Russell Washburn, hereby state the following based upon my personal knowledge, make the following Second Declaration:

1. I am over the age of 18 years and competent to testify to the matters set forth in this Declaration.

2. I have personal knowledge of the facts set forth in this Declaration, and if called as a witness, could competently testify to these facts.

3. I have been employed by CoreCivic, Inc. since 1996. For the past 12 years, I have held the position of Warden at several CoreCivic facilities.

4. Effective April 1, 2020, I became Warden of the Stewart Detention Center (“SDC”), in Lumpkin, GA. SDC is owned and operated by CoreCivic, Inc. CoreCivic is the service provider for an Intergovernmental Service Agreement between Stewart County, Georgia and U.S. Immigration and Customs Enforcement.

5. All of the COVID-19 protocols and practices that were described in my April 10, 2020 Declaration, and about which I provided testimony to the Court on April 10, 2020 are still

in place at the Stewart Detention Center, and have been supplemented by additional protocols and practices described here.

6. While SDC has current capacity of 2,040 ICE detainees, on May 5, 2020, the facility was operating at approximately 53% of that capacity, with only 1,088 ICE detainees present at the facility.

7. As of May 5, 2020, only twelve detainees at Stewart Detention Center have tested positive for COVID-19. Of those, eight have fully recovered, and been cleared by medical to return to general population. Three detainees have returned from an outside hospital, and are continuing their recovery in the facility medical isolation area. One ICE detainee remains hospitalized for COVID-19. The most recent positive detainee test result was on April 30, 2020.

8. As of May 5, 2020, 44 Stewart Detention Center employees have tested positive for COVID-19. 15 of them have fully recovered, and been cleared to return to work. Most of those who are positive, are expected to have fully recovered and be cleared to return to work by the end of this week. The most recent positive employee test result was on April 29, 2020.

9. Two pods, 2B and 4C, are “protective cohort” areas to house the most medically vulnerable detainees in an environment to limit potential exposure to COVID-19 infection. While 67 detainees were originally slated for movement into those units, following ongoing release decisions by ICE, those units currently house a total of 4 and 20 detainees¹, respectively, based upon custody level. Pod 2B has a capacity of 66 beds, and is currently at approximately 6% occupancy. Pod 4C has a capacity of 88 beds, and is currently at less than 23% capacity. No

¹ This corrects an error in my Second Declaration which inadvertently switched the reported population of the two units.

detainee assigned to the protective cohort areas in pods 2B or 4C has tested positive for COVID-19.

10. When detainees at SDC appear symptomatic, they were moved to medical isolation pending COVID-19, and their housing area was placed on cohort/quarantine status, to reduce the possibility for cross-pod infection of other detainees. Medical personnel have been approving the release of a unit from cohort/quarantine status after a fourteen consecutive day period of no additional symptomatic detainees.

11. Effective April 30, 2020 Stewart medical providers authorized the release of all housing areas, except the protective cohort areas, off of cohort/quarantine status.

12. ICE stopped sending new detainees to the facility approximately 3 weeks ago. While no new detainees have been admitted to Stewart, detainees continue to be transported out of the facility.

13. On the evening of May 4, 2020, three detainees who were not symptomatic and had been cleared by medical for transfer to the Alexandria Staging Facility, were returned to Stewart Detention Center due purportedly positive rapid COVID-19 test results. I am personally aware of significant inaccuracies involving both false positives and false negatives with the use of these tests, and requested that much more accurate nasal-swab COVID-19 tests be administered upon their return to Stewart. These detainees have been medically isolated at Stewart pending results of their tests, and the three housing units where were housed prior to transport, have returned to cohort/quarantine status pending the results of those tests.

14. Medical personnel report that they have also seen a significant decline in the number of detainees reporting to sick call with symptoms of COVID-19.

15. Effective April 10, 2020, I issued a directive making it mandatory for all detainees and Stewart personnel to wear protective masks. Masks have been issued to detainees on several occasions, and are also available for replacement upon request of any unit personnel.

16. Additional practices have changed at Stewart Detention Center to promote social distancing. For example, in accordance with CDC guidelines, detainees assigned to bunk-beds have been instructed to lay in a “criss-cross” fashion, with one detainees head at one end of the bunk, and the other detainees head at the other end of the bunk, to create more distance should a detainee sneeze or cough. Additionally, detainee housing assignments have been adjusted to place as much physical space as possible between detainees, considering other factors relating to security level and other medical and mental health needs.

17. Staff are directed to remind detainees to practice social distancing practices in the dayroom and recreation areas. While Stewart Detention Center is required to follow the ICE Disciplinary Policy set forth in the current Performance Based National Detention Standards, I am not aware of any detainee receiving a disciplinary report for violating social distancing guidelines.

18. As housing units have come off of cohort/quarantine status, movement practices in the facility have been altered to promote social distancing. For example, movement of detainees through doors and sally ports is controlled by staff to ensure that detainees do not move through those narrow points in groups, but wait until the previous detainee has cleared the area by at least six feet.

19. Detainees who live in a pod which is on cohort/quarantine status, including those in the protective cohort pods, are not permitted to work in any off-unit Voluntary Work Program position, including in the kitchen. For a brief time while all meals were prepared by CoreCivic

security staff working in conjunction with Trinity food serve staff, and served on Styrofoam trays delivered to the unit, I heard reports from detainees that the presentation of food served, was not as good as the meals served fresh off the line in the chow hall.

20. Since pods housing the detainee kitchen workers at Stewart, who are housed in the same unit, have come off cohort/quarantine status, detainees have begun returning to the kitchen to prepare meals. Before arriving to the kitchen, each detainee kitchen worker is provided a new mask.

21. Beginning on April 27, 2020, as detainee housing units came off of cohort/quarantine status, the chow hall has been used. Tape stripes has been placed on the floor to promote social distancing between detainees waiting in line to receive their meals. Detainees are to sit no more than two to a table. Further, meals are staggered, to keep housing units together and separate during meals, so that potential exposure between housing units do not occur if another detainee has COVID-19. The Stewart Detention Center chow hall has two clusters of tables separated by approximately ten feet of space, and detainees from different housing units are seated so as not to intermix with detainees from other units.

22. Upon arriving at the chow hall, detainees are required to use hand sanitizer before entering the chow hall, and again upon leaving. Detainees are permitted to remove their masks only to eat in the chow halls. Once detainees finish their meal, the tables, stools, and other hard surfaces where detainee contact is likely are cleaned and sanitized.

23. Hand sanitizing stations are also located near the door to each of the housing pods at Stewart Detention Center, and detainees are permitted to use hand sanitizer before entering and existing their housing area.

24. Additional cleaning and sanitation is also occurring at Stewart. While not normally used widely in a secure detention setting, due to security and safety risks, all housing units and common facility areas are cleaned with a bleach solution every other day.

25. On May 4, 2020, with assistance from the Georgia Department of Corrections and National Guard, Stewart was given a deep floor-to-ceiling sanitization in all areas of the facility, except for food and medication storage areas. Staff and detainees have been advised ahead of time, were universally receptive to that cleaning being done, and were removed from the areas to other spaces in the recreation yard, hallways, or empty housing areas, while the cleaning occurred.

26. In addition, ICE personnel at Stewart have discontinued going into multiple housing areas on a daily basis to speak with detainees. When they desire to speak to a detainee, a CoreCivic staff member escorts the detainee to a telephone where they can speak with the ICE employee.

27. In accordance with ICE guidelines, all social visits, tours, contract inspections, and in-person visits by religious volunteers have been suspended. In addition, limitations have been placed on the number of Legal Orientation Program (“LOP”) participants at the facility, and non-LOP legal rights group presentations offered by volunteers have been suspended until further notice, to protect the health and welfare of detainees and facility personnel.

28. While the current trend of downward COVID-19 cases gives us encouragement that we are making strong movement in the right direction, with respect to this pandemic, I am deeply concerned that any change would put the facility back at a positive risk for heightened COVID-19 infections. In particular, any inspection of the facility which involves outside parties (particularly anyone who utilizes air travel to get to Lumpkin, Georgia), entering multiple

housing areas or the chow hall, and/or in-person contact meetings between detainees assigned to more than one housing pod, would permit the COVID-19 virus to spread among multiple housing units at the facility.

29. Further, I understand that that COVID-19 virus can remain on surfaces for an extended period of time. I am concerned that any item brought by an outside person into the secure area of the facility—including, but not limited to: personal effects, writing materials, electronic devices, or even PPE—might be contaminated and pose a risk of introducing COVID-19 and compromise the health and welfare of the SDC detainee population and facility personnel.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 6th day of May, 2020 in Lumpkin, Georgia.



Russell Washburn

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**SOUTHERN POVERTY LAW
CENTER,**

Plaintiff,

v.

**U.S. DEPARTMENT OF HOMELAND
SECURITY, et al.,**

Defendants.

No. 1:18-cv-00760-CKK-RMM

DECLARATION OF RUSSELL WASHBURN

I, Russell Washburn, hereby state the following based upon my personal knowledge, make the following Declaration:

1. I am over the age of 18 years and competent to testify to the matters set forth in this Declaration.

2. I have personal knowledge of the facts set forth in this Declaration, and if called as a witness, could competently testify to these facts.

3. I have been employed by CoreCivic, Inc. since 1996. For the past 12 years, I have held the position of Warden at several CoreCivic facilities.

4. I am a member of the American Correctional Association. I am also the First Vice President of the North American Association of Wardens and Superintendents ("NAAWS"). I will become the NAAWS President in January 2021.

5. Effective April 1, 2020, I became Warden of the Stewart Detention Center ("SDC"), in Lumpkin, GA. SDC is owned and operated by CoreCivic, Inc. CoreCivic is the

service provider for an Intergovernmental Service Agreement between Stewart County, Georgia and U.S. Immigration and Customs Enforcement.

6. Stewart Detention Center is a dedicated IGSA facility, and is subject to annual compliance audits relating to its compliance with the 2011 Performance Based National Detention Standards. Auditors who inspected Stewart in 2017, 2018, and 2019, found the facility met 39 of the standards, and that three additional standards, relating to transportation, escorted trips for non-medical emergencies, and medical care (women) have been rated “Not Applicable.” No deficiencies have been noted with respect to the operation of the detainee telephone system, visitation, or legal access.

7. I have previously provided Declarations in another matter, relating to COVID-19 protections and legal access. Attachment A is a true and correct copy of my April 10, 2020 Declaration submitted in the United States District Court for the Middle District of Georgia. All of the COVID-19 protocols and practices that were described in that Declaration, and about which I provided testimony to the Court on April 10, 2020 are still in place at the Stewart Detention Center, and have been supplemented by additional protocols and practices described here.

Stewart Detention Center Operational Status

8. While SDC has current capacity of 2,040 ICE detainees, on May 13, 2020, the facility was operating at approximately 48% of that capacity, with only 984 ICE detainees present at the facility.

9. As of May 13, 2020, fifteen detainees at Stewart Detention Center have tested positive for COVID-19. Of those, eight have fully recovered, and been cleared by medical to return to general population. One ICE detainee remains hospitalized for COVID-19. The most recent positive detainee test result was on May 11, 2020. As of May 13, 2020, 51 Stewart

Detention Center employees have tested positive for COVID-19. 29 of them have fully recovered, and been cleared to return to work.

Additional Practices to Mitigate Potential COVID-19 Transmission at Stewart.

10. Two pods, 2B and 4C, are “high-risk sheltered housing” areas dedicated to providing an environment to limit and prevent potential COVID-19 infection to the most medically-vulnerable detainees. While 67 detainees were originally slated for movement into those units, following ongoing release decisions by ICE, on May 13, 2020 those units currently house a total of 2 and 19 detainees, respectively, based upon custody level. Pod 2B has a capacity of 66 beds, and is currently at approximately 3% occupancy. Pod 4C has a capacity of 88 beds, and is currently at less than 22% capacity. No detainee assigned to the high-risk sheltered housing areas of Stewart Detention Center (pods 2B or 4C) has tested positive for COVID-19.

11. When detainees at SDC appear symptomatic, they were moved to medical isolation pending COVID-19, and their housing area was placed on cohort/quarantine status, to reduce the possibility for cross-pod infection of other detainees. Medical personnel have been approving the release of a unit from cohort/quarantine status after a fourteen consecutive day period of no additional symptomatic detainees.

12. Effective April 30, 2020 Stewart medical providers authorized the release of all housing areas, except the protective cohort areas, off of cohort/quarantine status.

13. On the evening of May 4, 2020, three detainees who were not symptomatic and had been cleared by medical for transfer to the Alexandria Staging Facility, were returned to Stewart Detention Center due purportedly positive rapid COVID-19 test results. I am personally aware of significant inaccuracies involving both false positives and false negatives with the use of these tests, and requested that much more accurate nasal-swab COVID-19 tests be administered upon

their return to Stewart. These detainees have been medically isolated at Stewart pending results of their tests, and the three housing units where were housed prior to transport, have returned to cohort/quarantine status. The nasal swab results showed that two of these detainees were positive for COVID-19 and one was negative.

14. Medical personnel report that they have also seen a significant decline in the number of detainees reporting to sick call with symptoms of COVID-19.

15. Effective April 10, 2020, I issued a directive making it mandatory for all detainees and Stewart personnel to wear protective masks. Masks have been issued to detainees on several occasions, and are also available for replacement upon request of any unit personnel.

16. Detainees in a housing pod which is on cohort status must don appropriate PPE, which includes gloves in addition to a mask, any time the detainee leaves their housing area.

17. Additional practices have changed at Stewart Detention Center to promote social distancing. For example, in accordance with CDC guidelines, detainees assigned to bunk-beds have been instructed to lay in a “criss-cross” or “head-to-toe” fashion, with one detainees head at one end of the bunk, and the other detainees head at the other end of the bunk, to create more distance should a detainee sneeze or cough. Additionally, detainee housing assignments have been adjusted to place as much physical space as possible between detainees, considering other factors relating to security level and other medical and mental health needs.

18. Staff are directed to remind detainees to practice social distancing practices in the dayroom and recreation areas. While Stewart Detention Center is required to follow the ICE Disciplinary Policy set forth in the current Performance Based National Detention Standards, I am not aware of any detainee receiving a disciplinary report for violating social distancing guidelines.

19. As housing units have come off of cohort/quarantine status, movement practices in the facility have been altered to promote social distancing. For example, movement of detainees through doors and sally ports is controlled by staff to ensure that detainees do not move through those narrow points in groups, but wait until the previous detainee has cleared the area by at least six feet.

20. Detainees who live in a pod which is on cohort/quarantine status, including those in the protective cohort pods, are not permitted to work in any off-unit Voluntary Work Program position, including in the kitchen. For a brief time while all meals were prepared by CoreCivic security staff working in conjunction with Trinity food serve staff, and served on Styrofoam trays delivered to the unit, I heard reports from detainees that the presentation of food served, was not as good as the meals served fresh off the line in the chow hall.

21. Since pods housing the detainee kitchen workers at Stewart, who are housed in the same unit, have come off cohort/quarantine status, detainees have begun returning to the kitchen to prepare meals. Before arriving to the kitchen, each detainee kitchen worker is provided a new mask.

22. Beginning on April 27, 2020, as detainee housing units came off of cohort/quarantine status, the chow hall has been used. Tape stripes has been placed on the floor to promote social distancing between detainees waiting in line to receive their meals. Detainees are to sit no more than two to a table. Further, meals are staggered, to keep housing units together and separate during meals, so that potential exposure between housing units do not occur if another detainee has COVID-19. The Stewart Detention Center chow hall has two clusters of tables separated by approximately ten feet of space, and detainees from different housing units are seated so as not to intermix with detainees from other units.

23. Upon arriving at the chow hall, detainees are required to use hand sanitizer before entering the chow hall, and again upon leaving. Detainees are permitted to remove their masks only to eat in the chow halls. Once detainees finish their meal, the tables, stools, and other hard surfaces where detainee contact is likely are cleaned and sanitized.

24. Hand sanitizing stations are also located near the door to each of the housing pods at Stewart Detention Center, and detainees are not only permitted, but encouraged, to use hand sanitizer before entering and exiting their housing area.

25. Additional cleaning and sanitation is also occurring at Stewart. While not normally used widely in a secure detention setting, due to security and safety risks, all housing units and common facility areas are cleaned with a bleach solution every other day.

26. On May 4, 2020, with assistance from the Georgia Department of Corrections and National Guard, Stewart was given a deep floor-to-ceiling sanitization in all areas of the facility, except for food and medication storage areas. Staff and detainees have been advised ahead of time, were universally receptive to that cleaning being done, and were removed from the areas to other spaces in the recreation yard, hallways, or empty housing areas, while the cleaning occurred.

27. In addition, ICE personnel at Stewart have discontinued going into multiple housing areas on a daily basis to speak with detainees. When they desire to speak to a detainee, a CoreCivic staff member escorts the detainee to a telephone where they can speak with the ICE employee.

28. In accordance with ICE guidelines, all social visits, tours, contract inspections, and in-person visits by religious volunteers have been suspended. In addition, limitations have been placed on the number of Legal Orientation Program ("LOP") participants at the facility, and non-

LOP legal rights group presentations offered by volunteers have been suspended until further notice, to protect the health and welfare of detainees and facility personnel.

In-Person Legal Visitation

29. In-person, non-contact, attorney visitation continues to be available at the Stewart Detention Center on a 24/7 basis as detailed in paragraphs 16-22 of my April 10, 2020 Declaration, with the following clarifications.

30. The medical screening questionnaire has been updated to include questions relating to additional COVID-19 symptoms per evolving CDC guidance.

31. While Stewart Detention Center instructs attorney visitors to bring their own PPE, Stewart has never required an attorney visitor to bring an N-95 respirator for a non-contact visit. Attorneys have visited detainees at the facility wearing surgical-type or even homemade cloth masks.

32. No in-person attorney visitors has been turned away for failure to bring personal protective equipment. In fact, effective May 1, 2020, ICE has directed Stewart Detention Center, based on availability, to provide PPE to legal visitors who do not have their own PPE. Masks and gloves may be requested by attorney-visitors at the facility check-in area.

33. In-person attorney visits occur in secure visitation areas, with a secure divider between the detainee and attorney visitor. Social distancing practices are followed with any in-person attorney visitor at SDC. Visitation staff sanitizes legal visitation areas before and after each legal visit. That process includes, but is not limited to wiping down chairs, tables, phones and other surfaces and equipment using HDQ Neutral disinfectant. HDQ Neutral is an EPA-approved, multipurpose antibiotic and antiviral cleaning solution.

34. While the areas are cleaned and sanitized, attorneys are permitted to also bring and use sanitary wipes or cleaners, if they wish to sanitize hard-contact surfaces they may encounter in the facility.

35. Available records indicate that there have been 20 in-person legal visits at Stewart Detention Center, since April 1, 2020 and May 11, 2020.

36. It is my understanding that Governor Kemp's Executive Order 04.02.20.01, defined legal services as part of Critical Infrastructure, and that the Stay At Home Order, does not prevent attorneys from having in-person visits with detainees at Stewart Detention Center.

37. If an attorney has large documents which must be reviewed or signed by a detainee, which do not fit through the non-contract visitation slot, Stewart personnel are available to facilitate delivery of the documents between the attorney visitor and the detainee.

Detainee Telephone System

38. General population housing areas at Stewart Detention Center have two basic structures. Housing Pods in Units 1, 2, and 3 are dormitory-style housing, and each pod has a capacity of 62 or 66 detainees. Housing Pods in Units 4, 5, and 6 have two-person cell-type housing, with a capacity of 80 or 88 detainees per pod. Housing Unit 7 is a Restrictive Housing Unit, with a capacity of 38 detainees in one pod, and 80 detainees in the other pod.

39. Detainees housed in the general population areas are permitted to use the Detainee Telephone System to place legal calls, except during times when they are to be in their cell or bunk area for count, or lockdown. Typically, detainees at Stewart are permitted telephone access between the hours of 4AM and midnight Sunday-Thursday, and longer on weekend.

40. Detainees housed in the Restrictive Housing Unit, are permitted to place social calls at scheduled times, provided they are not on an approved telephone restriction. Legal calls are not

limited, and detainees are permitted to make them upon reasonable request, and normally during the same times that general population detainees may use the telephones.

41. Stewart Detention Center has a total of 214 detainee telephones in the housing areas. At capacity, the detainee-to-phone ratio is 9.53 detainees per telephone. At Stewart's current population of 1,060 as of May 11, 2020, the detainee-to-phone ratio is 4.95 detainees per telephone.

42. The Detainee Telephone System ("DTS") is operated by Talton, pursuant to a contract between Talton and ICE. Stewart Detention Center does not set the rates for the calls or receive any profit from the Detainee Telephone System. It is my understanding that the per-minute rates for interstate calls placed by ICE detainees using the Talton DTS are considerably less than the FCC-approved interim rate caps of interstate long-distance calls placed by detainees and inmates in other facilities.

43. Detainees who are indigent, as defined by the PBNDS, are eligible to request a certain amount of free phone calls, per month, which may be used at their discretion for legal or prepaid social calls.

44. The Talton DTS has the ability to restrict the monitoring and recording of calls placed by Detainees to their attorneys. Detainees or attorneys can request that their numbers be placed on the do not monitor/do not record list.

45. Attorneys who wish to be placed on this list should provide the facility with a request, along with their state bar identification and driver's license, phone number(s) and G-28 form reflecting representation of at least one detainee at the facility. This information may be sent to the facility via facsimile or email. Attorneys do not need to send a request for multiple detainees, and once on the list should remain.

46. Attorneys who are not sure their number(s) are on the do not monitor or record list, are welcome to submit a request via facsimile or email, along with a copy of their state bar identification, driver's license, and a G-28 form reflecting representation of at least one detainee at the facility. If attorneys change their phone numbers, they should also submit updated numbers when those occur.

47. Detainees wishing to ensure that their calls using the DTS are not monitored or recorded, need to provide a request through their unit team, listing their attorneys name and phone number. Once the information is verified by the facility investigator, the attorney number will be placed on the do not monitor/do not record list in the DTS.

48. Detainee Telephones at Stewart are not located near the posts for CoreCivic Detention Officers, and Officers are not able to overhear any such conversations from inside the housing unit.

49. I understand that ICE also has certain pro bono numbers set up in the Talton DTS, which are calls which may be completed free of charge and are not subject to monitoring or recording. Stewart Detention Center does not have the authority to add any numbers to the approved pro bono list.

50. As detailed in paragraph 46 of my April 10, 2020 Declaration, detainees have been provided with instructions and sanitizing wipes, and are encouraged to sanitize each hard surface in common areas, including detainee telephones and kiosks.

Detainee Kiosks

51. In addition to the detainee telephone in each unit, there are a total of 63 kiosks installed in the general population housing areas at Stewart Detention Center.

52. Kiosks may be used to correspond with facility staff including facility administrative and unit team staff, place commissary orders, and to send e-mail.

53. Detainees who choose to purchase e-mail services, may use the kiosks to send electronic mail, including messages to their attorneys. The cost to send an external email message is comparable to first-class postage to mail a letter. Kiosks are available during the same hours as the Detainee Telephone System.

54. Kiosks are floor mounted in the facility, as all-in-one units which a touch screen and keyboard, and do not contain any peripherals such as scanners or printers.

Facilitated Confidential Legal Calls

55. While detainees are unable to receive any incoming telephone calls, including from counsel, Stewart Detention Center has long had a history of taking and delivering messages to detainees, including requests for the detainee to call their attorneys.

56. Starting on April 24, 2020, Stewart Detention Center has implemented a new process to facilitate legal calls between detainees and their counsel. Under this procedure, the attorney contacts the facility, calling the Warden's Secretary during normal business hours, 7AM-3PM, Monday-Friday, with documentation establishing the attorney-client relationship with a detainee and a time for the call. The Warden's Secretary schedules and notifies unit team staff of the time for the call. At the appointed time, the detainee is taken to the Unit Manager's Office at the facility, and is placed on the phone with the attorney.

57. While the telephone lines in these offices are not recorded or monitored, detainees may not be left unsupervised in staff offices during call, since confidential detainee records are also likely to be present in those offices. Detainees participating in facilitated legal calls, remain

subject to visual monitoring by CoreCivic staff, who observe the detainee from a window outside of the office.

58. Unit team offices where these calls are scheduled to occur are cleaned and sanitized, at least once daily. The staff member who occupies the office is responsible for the cleaning, and may clean and disinfect more frequently.

59. Since April 24, 2020 Stewart Detention Center has only received 10 requests for facilitated attorney calls, and all of those requests have been provided.

Video Teleconferences (“VTC”)

60. In addition to using traditional voice telephone through the detainee telephone system, Stewart Detention Center also permits detainees and their counsel, to communicate through a Video Teleconference (“VTC”) system, similar to Skype.

61. Stewart Detention Center has two sets of VTC equipment dedicated for use only for attorney visits.

62. Attorney visits are scheduled on a first-come, first-served basis, in 60-minute blocks. In late March 2020, the available hours were expanded and visits may now be scheduled between 8AM and 6PM, Eastern Time, on Monday through Friday. This schedule permits up to 100 VTC legal visits to be conducted at Stewart each week.

63. I understand that there is an allegation that an attorney was told on April 24th and April 27th, that the VTC hours were from 9AM to 3PM. Upon information and belief, because appointments are scheduled on a first-come, first-served basis, the only appointments on those days which were available when the attorney contacted the facility, were between 9AM and 3PM, because the 8AM and later afternoon time slots had already been reserved.

64. Attorneys are not limited on the number of VTC appointments they can request, but no attorney is permitted more than one 60-minute appointment with any one detainee on any single calendar day. The 60-minute per appointment slot is to ensure that attorneys and detainees with later appointments the same day, are permitted to begin on schedule, and will not have to be cancelled or rescheduled because another attorney or detainee ran over time. Attorneys who anticipate a need for longer consultation, are permitted to schedule multiple visits with a single detainee on consecutive days.

65. Available time slots for VTC attorney visits are seldom completely filled on any given day. When that occurs, the requesting attorney is free to request the next available slot.

66. Because Stewart recognizes that attorneys tend to face multiple time constraints, Stewart will generally not suggest alternative VTC visit times, but expects that the attorney to request other dates and times which work for them, should a requested appointment time be full.

67. A review of the VTC records, shows that there have been 368 VTC attorney visits at Stewart since March 30, 2020. 78 occurred during the week from March 30 – April 3, 2020. 70 occurred during the week from April 6 – April 10, 2020. 76 occurred during the week from April 13 – April 17, 2020. 73 occurred during the week from April 20 – April 24, 2020. 71 occurred during the week from April 27 – May 1, 2020.

68. Based upon these numbers, there are typically 25-30 VTC appointments which are available but not scheduled for an attorney visit in any given week.

69. Those 368 completed VTC attorney visits involved 129 different attorneys. 28 different attorneys participated in four or more VTC meetings. Of that number, four attorneys participated in ten or more VTC meetings, with one attorney participating in 24 scheduled VTC

meetings and another attorney participating in 29 scheduled VTC meetings with detainees at Stewart.

70. While Stewart Detention Center records the name and identifying information of the detainee participating in a legal VTC visit, along with the name of the attorney requesting to schedule the session, the facility does not make a record of the firm or non-profit affiliation of any attorney or other third person who may join a VTC session. Nevertheless, it is my belief that a significant percentage of the VTC sessions scheduled at Stewart in the past month, include attorneys affiliated with either the SPLC or SIFI. Further, I believe that while many sessions are concluded in less than 60-minutes, attorneys from SPLC or SIFI tend to use the full 60-minute period.

71. Similarly, those 368 completed VTC attorney visits involved 248 different Stewart detainees. 24 Stewart detainees have participated in three or more VTC meetings, with one Stewart detainee participating in twelve VTC meetings, and another Stewart detainee participating in 17 VTC meetings with attorneys.

72. VTC attorney visits at Stewart are set up and confirmed on the device by facility staff. Detainees participating in a VTC attorney visit should not handle or touch the equipment. Keeping detainees from touching the VTC equipment, not only helps ensure that the equipment remains in good working order, but also reduces a potential means of transmission of infectious diseases, such as COVID-19.

73. Stewart Detention Center does not unilaterally cancel attorney VTC visits. I am aware of only two circumstances where a visit may be canceled. The first is when a detainee refuses to leave their housing area and go to the VTC call area of the facility. The second is when a detainee with whom a legal VTC appointment has been set, has been discharged from the facility.

74. VTC areas dedicated for attorney calls, as well as those separate VTC areas used for Immigration Court appearances, are cleaned and sanitized at least once a day, when not in use.

Additional Means of Detainee-Attorney Communication

75. Detainee and their counsel may communicate by legal mail. Legal mail from an attorney should be clearly be marked as such, and will be delivered unopened by facility staff to the detainee. In the presence of the detainee, staff will open the envelope to ensure that it does not contain contraband, and give the communication to the detainee. Detainees may similarly, seal clearly marked legal mail and deposit it in the facility mail, where it will not be opened by facility staff.

76. I am unaware of any delivery issues relating to the receipt or sending of legal mail by or from detainees at Stewart.

77. Detainees at Stewart may purchase postage for outgoing letters from the commissary, and if indigent, are entitled to indigent postage. Attorneys are also permitted to send their clients pre-metered envelopes for use.

78. Detainees are not permitted to receive stamps or pre-stamped envelopes. Stamps are considered contraband. They can be used as a form of currency, may be subject to theft, and are not necessarily utilized to correspond with the intended recipient. In addition, I am aware of instances where stamps placed on envelopes have been used to hide and introduce contraband, including drugs into a secure detention facility. For that reason, outgoing mail is posted in the facility mail room, and detainees at Stewart are not permitted to receive stamps or pre-stamped envelopes.

79. I am aware of requests for installing “confidential telephone booths” in the day room areas which may allow detainees to make more confidential legal calls. It is my opinion,

based upon my twenty-five years career as a corrections professional, that such a proposal is ill-advised. Allowing the detainee population to access such booths would present significant safety and security concerns as the interior of the booths is outside of the sight-lines of staff, which would make them a prime location for assaults or where detainees could engage in other prohibited activities.

80. I am also aware of requests for facility personnel to be tasked with the responsibility of printing emails and attached documents, or receiving faxes for detainees, and also sending legal documents to counsel by email or facsimile. If Stewart Detention Center personnel were directed by ICE to provide such services, the confidentiality of the communications could not be ensured. Facility personnel would necessarily need to look at the documents to ensure that all pages printed correctly, or were scanned or sent, and to also ensure that communications are only sent to the intended detainee, that the pages from the printer or fax machine do not contain any confidential documents intended for a different detainee. Based upon my experience, the most efficient and secure means to provide confidential communication involving the exchange of documents between detainees and their counsel is to continue to use the existing legal mail process or exchanges during in-person visits.

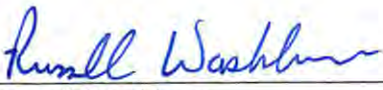
81. While the current trend of downward COVID-19 cases gives us encouragement that we are making strong movement in the right direction, with respect to this pandemic, I am deeply concerned that any change would put the facility back at a positive risk for heightened COVID-19 infections. In particular, adding any devices or building secure meeting locations in housing units, would require the entry of outside contractors to install and run additional telecommunications lines, who would need to enter multiple units of the facility, which could enhance the risk of permitting the COVID-19 virus to spread across multiple-housing units of the facility. For that

reason, additional detainee telecommunications upgrades, including facility site inspections for the planning and installation of telecommunications infrastructure equipment necessary to support the issuance and distribution of tablet devices to Stewart Detention Center detainees, has been delayed.

82. It is my professional experience and judgment that any secure facility functions more smoothly and efficiently, when detainees are subject to a predictable schedule and understand that they are fairly treated the same as other detainees. If certain detainees are permitted to have VTC visits without any time limitation imposed, I am concerned that detainees who are not permitted to have a VTC visit they expected because a prior detainees visit ran more than the currently permitted-60 minutes, may feel that another detainee is favored, any may take out that frustration on not having their own legal visit, upon staff or the detainee who had a longer visit, particularly if that detainee makes it known upon his return to his housing area. This is a legitimate safety and security risk, not only for the detainees, but facility staff. Further, to the extent that visits would be extended at the whim of an attorney, detainees who are participating may be required to miss recreation, library time, meals, or medical appointments, which can otherwise be accommodated with a predictable and pre-set maximum length of a 60-minute VTC visit.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 15 day of May, 2020 in Lumpkin, Georgia.



Russell Washburn