

JOSEPH H. HUNT
Assistant Attorney General
WILLIAM C. PEACHEY
Director, District Court Section
Office of Immigration Litigation
WILLIAM C. SILVIS
Assistant Director, District Court Section
Office of Immigration Litigation
SARAH B. FABIAN
Senior Litigation Counsel, District Court Section
Office of Immigration Litigation
P.O. Box 868, Ben Franklin Station
Washington, D.C. 20044
Tel: (202) 532-4824
Fax: (202) 305-7000
Email: sarah.b.fabian@usdoj.gov

Attorneys for Defendants

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

JENNY LISETTE FLORES; <i>et al.</i> ,	)	Case No. CV 85-4544
	)	
Plaintiffs,	)	NOTICE FILING RESPONSE TO
	)	JUNE 25, 2020 AMICUS BRIEF, ECF
v.	)	NO. 831
	)	
WILLIAM P. BARR, Attorney	)	
General of the United States; <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	
	)	

1 On June 26, 2020, the Court ordered that “Defendants may respond to the
2 amicus brief [Doc. # 831] by July 2, 2020.” ECF No. 833 at ¶ 3. In accordance with
3 the Court’s order, Defendants file the attached response from Ms. Deane Dougherty,
4 the Juvenile Coordinator for U.S. Immigration and Customs Enforcement.
5

6
7 DATED: July 2, 2020

Respectfully submitted,

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9 JOSEPH H. HUNT
Assistant Attorney General

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11 WILLIAM C. PEACHEY
Director, District Court Section
12 Office of Immigration Litigation

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14 WILLIAM C. SILVIS
Assistant Director, District Court Section
15 Office of Immigration Litigation

16 /s/ Sarah B. Fabian
17 SARAH B. FABIAN
Senior Litigation Counsel
18 Office of Immigration Litigation
District Court Section
19 P.O. Box 868, Ben Franklin Station
20 Washington, D.C. 20044
21 Tel: (202) 532-4824
22 Fax: (202) 305-7000
Email: sarah.b.fabian@usdoj.gov

23 *Attorneys for Defendants*
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CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2020, I served the foregoing pleading and attachments on all counsel of record by means of the District Clerk's CM/ECF electronic filing system.

/s/ Sarah B. Fabian
SARAH B. FABIAN
U.S. Department of Justice
District Court Section
Office of Immigration Litigation

Attorney for Defendants

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

JENNY LISETTE FLORES; <i>et al.</i> ,	)	Case No. CV 85-4544-DMG
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
ERIC H. HOLDER, JR., Attorney General	)	
of the United States; <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	
	)	
	)	

**RESPONSE OF THE ICE JUVENILE COORDINATOR DEANE DOUGHTERY
TO THE AMICUS BRIEF FILED JUNE 25, 2020**

On June 25, 2020, *amici* RAICES, Proyecto Dilley and Aldea filed a brief before this Court. On June 26, 2020, the Court ordered that any response to that brief be filed by July 2, 2020. As ICE Juvenile Coordinator, I am filing the present response on behalf of Immigration and Customs Enforcement (ICE).

ICE does not agree with any of the allegations raised by *amici* in their brief and notes that many of the allegations are hearsay, speculation and proffer opinions regarding matters that are not within the expertise of many of the declarants. However, ICE will limit its responses to the most salient points raised by the Court in its June 26, 2020 Order.

I. Saturation Testing is Complete and Intake Testing has been Implemented

Amici have alleged inadequate testing. ECF 831-2, page 22. However, as of June 25, 2020, all three family residential centers (FRCs) have instituted saturation testing, which means that the entire resident population has been tested. The Berks Family Residential Center (Berks)

conducted testing on June 22, 2020; Karnes Family Residential Center (Karnes) conducted testing on June 22, 2020 through June 29, 2020; and the South Texas Family Residential Center at Dilley (Dilley) conducted testing on June 23-24, 2020. All testing was completed by June 29, 2020, and testing revealed *none* of the residents who were present during the quarantine period and released into the general population are positive. The 11 individuals who tested positive during saturation testing at Karnes had not been released into the general population as they are new intakes and were cohorting apart from the general population for the U.S. Centers for Disease Control and Prevention recommended 14 days.

In addition, new intakes are now tested as part of the intake process. In addition, ICE has been reporting any positive test results to the Court in *O.M.G. v. Wolf*, 1:20-cv-00786-JEB, (D.D.C filed March 21, 2020), these reports are attached to this response.

II. FRCs Follow Public Health Best Practices

The Court states in its Order that *amici* raised, among other things, ICE's "failure to implement best public health practices." ECF 833 at 2. However, there is no basis for this inasmuch as FRCs are currently complying with all CDC guidelines and have implemented the following practices:

1. Berks Family Residential Center (Berks)

Berks initially issued masks to residents on April 7, 2020. As explained in previous filings, residents are issued masks and can request masks if they lose or damage their current mask.

Only one family is housed per room at Berks, and only one family is seated per dining table during mealtimes. The tables are separated to permit social distancing.

2. South Texas Family Residential Center at Dilley (Dilley)

At Dilley, masks were issued to all residents on April 23, 2020. Additionally, masks were, and remain, available to residents upon requests as early as March 1, 2020.

Since April 2020, only 1 family is housed per 722 square foot suite. No families are sharing suites. Up to eight people can dine per table at the cafeteria, however, meals are scheduled in order to limit the number of persons in the dining area at one time. With this schedule, every family is afforded their own table. Tables are spaced out greater than six feet apart in all directions and staggered.

3. Karnes Family Residential Center (Karnes)

At Karnes, masks were issued to all residents on April 15, 2020. Additional masks remain available upon request.

Since the last interim report was filed on June 10, 2020, Karnes is housing only 1 family per 300 square foot suite. No families are sharing suites. Only 1 family is seated per table, measuring 4 feet by 4 feet, in the dining hall. Tables are spaced out to allow for social distancing.

III. Sponsor Information Did Not Include Parental Consent

Amici alleged in their filing that sponsor information was provided to ICE, an allegation that was cited by the Court's in its order. ECF 833 at 3. However, the facilities reported that the sponsor information did not include, or was not accompanied by, explicit permission from the parent to release only the minor children to these sponsors. Rather, the "Class Members and their parents have repeatedly provided ICE with the name, phone number, address, and relationship of the adult who is ready and willing to receive *the family*." ECF 831 at 7 (emphasis added). As a result, this information was not actionable for ICE under the *Flores* parole process. ICE is

currently participating in a Court-ordered meet and confer with Plaintiffs to negotiate the implementation of a process whereby this permission can be obtained if the parent so chooses.

Respectfully submitted,

Deane Dougherty
Juvenile Coordinator

O.M.G. v. Wolf
FILINGS

1 ANDREA SHERIDAN ORDIN (SBN 38235)
2 STRUMWASSER & WOOCHELL LLP
3 10940 Wilshire Boulevard, Suite 2000
4 Los Angeles, California 90024
5 Telephone: (310) 576-1233
6 Facsimile: (310) 319-0156
7 E-mail: aordin@strumwooch.com

8 *Special Master/ Independent Monitor*

9
10 **UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
12

13 JENNY LISETTE FLORES, *et al.*,

14 Plaintiffs,

15 v.

16 WILLIAM P. BARR, Attorney
17 General of the United States, *et al.*,

18 Defendants.
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CASE NO. CV 85-4544-DMG (AGR_x)

**NOTICE OF FILING OF INTERIM
REPORT ON COVID-19 BY
INDEPENDENT MONITOR**

1 On October 5, 2018, the Court ordered the appointment of Andrea
2 Sheridan Ordin as Special Master/Independent Monitor (“Monitor”) and ordered
3 the Monitor to file formal Reports and Recommendations to the Court. [Doc #494.]
4 On May 22, 2020, the Court ordered, among other things:

5 “Dr. Paul Wise and the Independent Monitor Andrea Ordin shall provide enhanced
6 monitoring of the FRCs’ care of minors, and shall have the ability to (a) request
7 and obtain copies of medical care data and policies; (b) have telephone or
8 videoconference access to persons most knowledgeable at the FRCs with whom
9 they can discuss the baseline of custodial medical care, health care protocols, and
10 COVID-19 prevention practices; (c) consider protocols for identifying minors who
11 have serious medical conditions that may make them more vulnerable to COVID-
12 19; (d) interview minors with serious medical conditions or, as appropriate, their
13 guardians; and (e) make such recommendations for remedial action that they deem
14 appropriate.”

15 In accordance with the Court’s Orders, the Monitor submits the attached
16 Interim Report on Covid-19 by Independent Monitor.

17 DATED: June 25, 2020

Respectfully submitted,

18 Andrea Sheridan Ordin
19 STRUMWASSER & WOOCHER LLP

20 By /s/ Andrea Sheridan Ordin
21 Andrea Sheridan Ordin

22 *Special Master / Independent Monitor*
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In the United States District Court
Central District of California – Western Division

JENNY LISETTE FLORES, *et al.*, Plaintiffs,

v.

WILLIAM P. BARR, *et al.*, Defendants.

Case No. CV 85-4544-DMG (AGRx)

Hon. Dolly M. Gee, United States District Judge

Interim Report on Covid-19
by Independent Monitor

Andrea Sheridan Ordin
Special Master/Independent Monitor
Strumwasser & Woocher LLP
1094 Wilshire Boulevard, Suite 2000
Los Angeles, California 90024
(310) 576-1233

INTRODUCTION

On May 22, 2020, this Court ordered (Doc. 799), among other things, that:

Dr. Paul Wise and the Independent Monitor Andrea Ordin shall provide enhanced monitoring of the FRCs' care of minors, and shall have the ability to (a) request and obtain copies of medical care data and policies; (b) have telephone or videoconference access to persons most knowledgeable at the FRCs with whom they can discuss the baseline of custodial medical care, health care protocols, and COVID-19 prevention practices; (c) consider protocols for identifying minors who have serious medical conditions that may make them more vulnerable to COVID-19; (d) interview minors with serious medical conditions or, as appropriate, their guardians; and (e) make such recommendations for remedial action that they deem appropriate.

REVIEW OF MONITORING

After review of the Court's Order and questions raised, the Independent Monitor, working with Dr. Wise, proceeded to determine the baseline of custodial medical care, health care protocols, and COVID-19 prevention practices. Dr. Wise had prepared a note on May 21, 2020 reviewing the challenge ICE faces in protecting detained minors and their families from Covid-19. The CDC's "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities" begins with an articulation of why these kinds of facilities are at higher risk. In summary:

- (1) ICE facilities convey an inherently greater risk of COVID-19 than most settings after general release;
- (2) Even good compliance with CDC guidance will not likely be sufficient to fully protect minors and their families from Covid-19 while in ICE detention;

- (3) The risk of COVID-19 in ICE facilities will likely reflect the prevalence of COVID-19 in surrounding communities, as facility staff will likely be a primary mechanism of virus introduction. Of special concern is the spread of COVID-19 from one ICE facility to another via the interchange of ICE staff, contracted workers, or leadership between facilities;
- (4) The implementation of protective measures, including screening, the use of masks, social distancing, and isolation and/or cohorting of detainees should be assessed;
- (5) The criteria and procedures utilized to assess elevated medical risk for Covid-19 among minors require urgent review.

The Monitor then examined the Report filed by ICE Juvenile Coordinator Deane Dougherty on June 10, 2020 (Doc. 813), which, pursuant to this Court's April 24, 2020 Order (Doc. 784), focused on ICE's response to the Covid-19 pandemic.

Subsequently, the Independent Monitor received a request for enhanced monitoring and investigation into medical care at ICE Family Residential Centers (FRCs). This request, made by Counsel from Proyecto Dilley, RAICES, and ALDEA, included declarations from Class Members and medical professionals alleging failures in ICE's health care system.

Declarants asserted that ICE had not implemented adequate measures to protect detainees from Covid-19, especially with regard to minors at elevated risk due to pre-existing medical conditions.

On June 17, 2020, Plaintiffs filed a Response to the ICE Juvenile Coordinator Report (Doc. 824). A hearing was scheduled for June 19, 2020 and later postponed to June 26, 2020 at 11:00 a.m. Plaintiffs' response raised further concerns over conditions at FRCs in light of the Covid-19 crisis.

The Independent Monitor and Dr. Wise's continued monitoring efforts are set forth below in a note on June 25, 2020, reviewing the central medical considerations regarding the risk of infection by the SARS-CoV-2, the virus that causes the disease, Covid-19, among minors being held in ICE facilities:

Current Assessment

The assessment of the preventive and medical provisions addressing the threat of Covid-19 in two ICE facilities was conducted during the period May 29, 2020 through June 24, 2020. No site visits were possible due to Covid-19 travel restrictions and facility precautions. Elements of the assessment that was conducted included:

- (1) Discussions with senior officials of the ICE Health Services Corps;
- (2) Discussions with ICE supervisory officials for the South Texas Family Residential Center (Dilley) and the Karnes County Residential Center (Karnes);
- (3) Discussions with Health Service Corps officials and pediatricians responsible for medical care in the Dilley and Karnes facilities;
- (4) Discussions with 9 detained women with children, including interviews with 4 of the children;
- (5) Review of video tapes and still photographs of the common living areas, including play areas and cafeterias, and temperature screening of staff upon entry into the facilities.

These discussions and the review of the provided materials lead to several findings:

- (1) **Medical system for children.** While there are isolated complaints that merit further investigation, the descriptions of the medical system for children in these two facilities seems adequate. Medical personnel are present in the facility at all

times and advanced practice clinicians (physician assistants or nurse practitioners) during daytime hours. Pediatricians hold clinical sessions several days each week and are available on call. Acute or complicated patient needs are addressed through referral to the children's hospital in San Antonio or a local health facility. The quality of these services, however, could not be addressed given the time and procedural constraints of this assessment, and will be addressed in a future report.

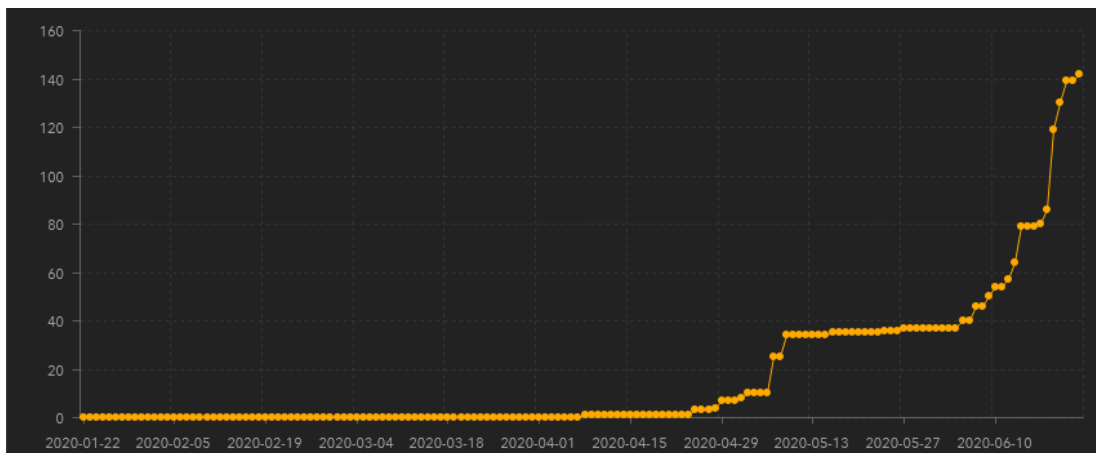
(2) **Covid-19 Provisions.** There are several components of the CDC Covid-19 recommendations that are of special concern.

- (a) **Screening of staff upon entry to the facilities.** Screening was reported to include a review of symptoms and a temperature check. Still photographs of these screenings were provided and appeared appropriate.
- (b) **Assessment of elevated medical risk.** Discussions with the medical staff and pediatricians serving the facilities suggested that significant medical risk would be identified if such conditions existed in detained children. The assessment of elevated risk is based on the interpretation of CDC guidance and the clinical judgment of pediatric staff. Provided data suggested that when significant chronic illness was identified, minors and family were released. The medical staff reported that any condition that would imply elevated risk are reported to ICE officials.
- (c) **Cohorting of new entrants.** Symptom and temperature screening was also reportedly conducted on all new detainees upon entry to the facility. In addition, all newly entered families are held in a separate area of the facility for 14 days and monitored for the appearance of any worrisome symptoms.
- (d) **Masking.** The stated policy is for all staff and detainees to wear a mask at all times (except while eating). However, the provided video for Dilley revealed only partial compliance with masking requirements among

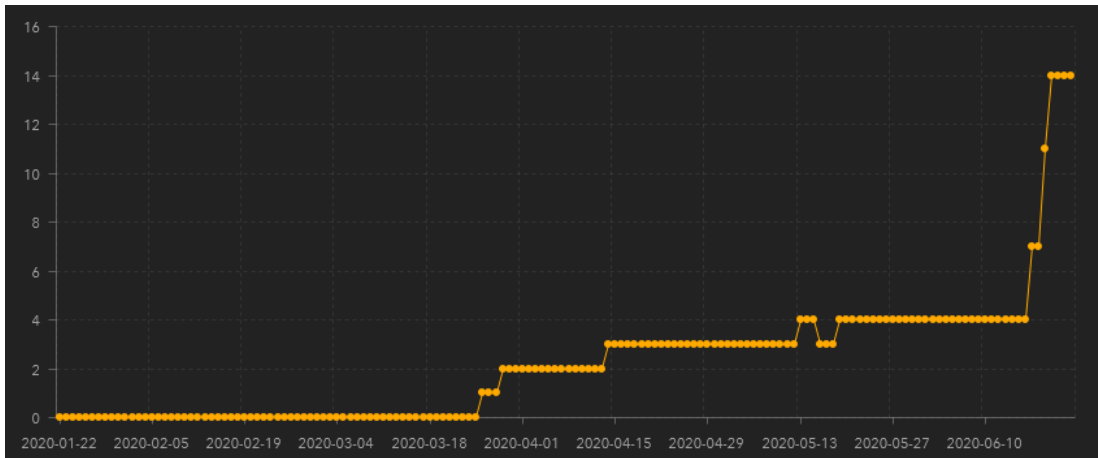
staff. Interviews with the detained women confirmed that masking among staff is only intermittently enforced.

- (e) **Distancing.** The provided videos showed appropriate distancing among staff and detainees. However, all the detained women reported that distancing was not practiced in the common dining room. Six to 8 persons of different families were seated at each table without distancing during meals.
- (f) **Covid-19 cases in surrounding communities.** As noted in the prior note, the risk to these facilities is largely dependent upon the prevalence of Covid-19 in surrounding communities, as facility staff will likely be a primary mechanism of virus introduction. Indeed, the Independent Monitor has learned of four confirmed cases of Covid-19 at the FRC at Dilley: two STFRC contract staff, who had contact with residents, and two deportation officers, who had limited contact with staff. The recent trends in this regard are worrisome (data from Johns Hopkins Coronavirus Resource Center, available at URL: <https://coronavirus.jhu.edu/us-map>)

Frio County (Dilley) Confirmed Covid-19 Cases (as of 6/23)



Karnes County Confirmed Covid-19 Cases (as of 6/23)



In sum, while the general medical system at the facilities appears to be appropriate for the care of children in custody, the risk of Covid-19 to minors and their families in ICE custody continues to grow. The lack of consistent compliance with recommended masking among some staff and distancing requirements in common eating areas elevate the risk that the virus once introduced into the facility may not be well contained. This finding is of particular concern given the recent increase in Covid-19 cases in the surrounding communities.

SUBSEQUENT DEVELOPMENTS

At 9 a.m. on Thursday, June 25, 2020, the Independent Monitor learned of multiple Covid-19 infections at the Karnes facility from Juvenile Coordinator Deane Dougherty. “Saturation” testing of all Karnes residents commenced on June 22, and medical staff notified ERO San Antonio that 11 residents tested positive for Covid-19. All detainees are currently stable, asymptomatic, and remain housed in medical isolation rooms, where GEO Medical staff continues to monitor for any symptoms.

Also on Thursday, June 25, the Independent Monitor received confirmation of the four non-resident Covid-19 cases at Dilley. (See Letter to

Deane Dougherty from Richard Hunt, dated June 25, 2020, attached as Exhibit A.) However, because testing at Dilley did not start until June 23, results will not be available until Friday, June 26 or Saturday, June 27.

CONCLUSION

Because of the news received today regarding the multiple cases of Covid-19, this Interim Report focuses on the reports, conditions, and procedures related to preventing Covid-19 infections in the FRCs. The Independent Monitor proposes to file a supplemental Interim Report on additional topics of enhanced monitoring, including quality of medical care, and issues of hygiene and nutrition.

EXHIBIT A

Letter to Deane Dougherty
from Richard Hunt, dated
June 25, 2020

Enforcement and Removal Operations
U.S. Department of Homeland Security
South Texas Family Residential Center
300 El Rancho Way
Dilley, Texas 78017



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

June 25, 2020

MEMORANDUM FOR: Deane Dougherty
Deputy Assistant Director
Alternatives to Detention Division

FROM: Richard M. Hunt 
Assistant Field Office Director
South Texas Family Residential Center

SUBJECT: Summary of Positive COVID employees

At the request of the court appointed Special Monitor over the Flores Settlement Agreement, the below summary of employees who have tested positive for COVID 19 at the South Texas Family Residential Center in Dilley, Texas. To date, zero residents have tested positive or displayed symptoms related to the COVID 19 virus.

Core Civic employee One

On June 15, 2020, Core Civic Resident Supervisor (RS) at the South Texas Family Residential Center (STFRC), reported receiving a positive result for COVID19 testing. The COVID19 test was conducted on June 12, 2020, after the employee was made aware that they had been in contact with a COVID positive individual outside of work on June 11, 2020. Upon notification of the positive result, Core Civic conducted in depth contract tracing through employee interviews and extensive review of closed-circuit video footage of the employee's movement throughout the residential center. Contact tracing revealed; The employee's last day at the facility was June 9, 2020. The employee's last contact with residents at the facility was June 8, 2020. The five residents identified as having contact with the RS were identified and housed in the Blue Butterfly neighborhood for medical observation due to the possibility of exposure. The residents were not tested at that time, at the discretion of IHSC, due to the CDC suggested 48-hour timeline for contract tracing of an asymptomatic individual. Any staff members identified through contact tracing, were notified and placed on self-quarantine for 14 days or have a test conducted, with negative results. This test must be completed after a minimum of 5 days in quarantine. No residents or employees have tested positive as a result of exposure in this case. The RS role is to attend to the needs of the residents at the STFRC. The RS assists residents in their dorms, dayrooms and recreation areas, as well as ensures safety and supervision throughout the residential center.

SUBJECT: Summary of Positive COVID employees
#38858

Page 2

Core Civic employee Two

On June 20, 2020, Core Civic Resident Supervisor (RS) at STFRC, reported receiving a positive result for COVID19 testing. The COVID19 test was conducted on June 19, 2020, after the employee began to feel ill. Upon notification of the positive result, Core Civic conducted in depth contract tracing through employee interviews and extensive review of closed-circuit video footage of the employee's movement throughout the residential center. Contact tracing revealed; The employee's last day at the facility was June 19, 2020. The employee did not have close contact with any residents during the five days prior to the testing. The reason for no contact is due to the neighborhood in which the RS is assigned is currently under renovation and there are zero residents housed there. Any staff members identified through contact tracing, were notified and placed on self-quarantine for 14 days or have a test conducted, with negative results. This test must be completed after a minimum of 5 days in quarantine. No residents or employees have tested positive as a result of exposure in this case. The RS role is to attend to the needs of the residents at the STFRC. The RS assists residents in their dorms, dayrooms and recreation areas, as well as ensures safety and supervision throughout the residential center.

ICE employee One

On June 20, 2020, an Immigration and Customs Enforcement (ICE) officer at STFRC reported receiving a positive result for COVID19 testing. The COVID19 test was conducted on June 13, 2020, after the employee began to feel ill. Upon notification of the positive result, ICE conducted in depth contract tracing through employee interviews and extensive review of closed-circuit video footage of the employee's movement throughout the residential center. Contact tracing revealed; The employee's last day at the facility was June 10, 2020. The employee did not have close contact with any residents during the five days prior to the testing. It is common for this officer to not have contact with residents, as he works in the front office area of STFRC and does not frequently engage with residents. Any staff members identified through contact tracing, were notified and placed on self-quarantine for 14 days or have a test conducted, with negative results. This test must be completed after a minimum of 5 days in quarantine. No residents or employees have tested positive as a result of exposure in this case. The officers role at STFRC, is to communicate via telephone with residents sponsors to establish a travel plan for release and to prepare the release manifest.

ICE employee Two

On June 23, 2020, an Immigration and Customs Enforcement (ICE) officer at STFRC reported receiving a positive result for COVID19 testing. The COVID19 test was conducted on June 22, 2020, after the employee began to feel ill. Upon notification of the positive result, ICE conducted in depth contract tracing through employee interviews and extensive review of closed-circuit video footage of the employee's movement throughout the residential center. Contact tracing revealed; The employee's last day at the facility was June 19, 2020. The employee did not have close contact with any residents during the five days prior to the testing. It is common for this officer to not have contact with residents, as he works in the compliance / standards area of STFRC and does not frequently engage with residents. Any staff members identified through contact tracing, were notified and placed on self-quarantine for 14 days or have a test conducted, with negative results. This test must be completed after a minimum of 5 days in quarantine. No residents or employees have tested positive as a result of exposure in this case. The officer's role at STFRC, is to communicate via telephone with residents' sponsors to establish a travel plan for release and to prepare the release manifest.

SUBJECT: Summary of Positive COVID employees
38659

Page 2

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF COLUMBIA

O.M.G., *et al.*;

Petitioners,

v.

Chad WOLF, Acting Secretary of the U.S.
Department of Homeland Security, *et al.*,

Respondents.

Case No. 1:20-cv 00786-
JEB

**NOTICE OF COVID-19 POSITIVE
CASES**

The Honorable James E. Boasberg

Pursuant to the June 25, 2020 minute order, Respondents hereby notify the Court that several additional employees in the Family Residential Centers have tested positive for COVID-19. On June 19, 2020, Immigration and Customs Enforcement (ICE) informed the Department of Justice (DOJ) of these new positive cases. The declaration of Mellissa B. Harper, with details about these new cases, testing, and risk mitigation steps in process, is attached hereto as Exhibit 1.

I. Karnes County Family Residential Center (“Karnes FRC”)

In addition to the transportation officer who tested positive at Karnes FRC, ECF No. 70, three additional employees, a nurse, an intake officer, and a compliance standard officer, have also tested positive. These individuals are in quarantine. *See* Ex. 1 at ¶¶ 5-6.

II. South Texas Family Residential Center (“Dilley FRC”)

There are two more confirmed cases among employees, a compliance officer and a nurse. Ex. 1 at ¶¶ 7-8. Both employees are symptomatic and in quarantine. *Id.*

III. Berks County Family Residential Center (“Berks FRC”)

Currently, there are no reported cases of staff or residents at the Berks FRC. Ex. 1 ¶

9.

Respondents will appraise the Court of any further developments as it receives them from ICE.

RESPECTFULLY SUBMITTED this 29th day of June 2020.

MICHAEL R. SHERWIN
Acting United States Attorney
District of Columbia
DANIEL VAN HORN
Assistant U.S. Attorney
555 4th St. NW
Washington, DC 20530
Telephone: (202) 252-2506
Email: Daniel.VanHorn@usdoj.gov

JOSEPH H. HUNT
Assistant Attorney General
Civil Division
WILLIAM C. PEACHEY
Director
Office of Immigration Litigation
District Court Section
ELIANIS PEREZ
Associate Director

s/ Vanessa Molina
VANESSA MOLINA
Trial Attorney
P.O. Box 868, Ben Franklin Station
Washington, DC 20044
Telephone: (202) 532-4413
Facsimile (202) 305-7000
Email: Vanessa.Molina@usdoj.gov
Matthew.Seamon2@usdoj.gov

Attorneys for Defendants

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

O.M.G., <i>et al.</i> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Case No.: 1:20-cv-00786-JEB
	)	
CHAD WOLF, Acting Secretary of the U.S.	)	
Department of Homeland Security, <i>et al.</i> ,	)	
	)	
Respondents.	)	
_____	)	

SUPPLEMENTAL DECLARATION OF MELLISSA B. HARPER

I, Mellissa B. Harper, hereby make the following declaration with respect to the above-captioned matter:

1. I am the Chief of the Juvenile and Family Residential Management Unit (JFRMU), Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS). JFRMU addresses issues confronting unaccompanied alien children (UAC) and alien family groups who come into ERO custody, including those detained at a Family Residential Center (FRC). JFRMU develops policies sensitive to the various vulnerabilities and needs of these populations. JFRMU trains, monitors, and advises Field Office Juvenile Coordinators (FOJCs). These officers serve as subject matter experts on juvenile and family matters in their respective field offices. As JFRMU advises FOJCs, they in turn, advise their fellow officers who encounter minors during enforcement activities. JFRMU oversees and monitors the implementation of nationwide court orders that impact this population, including those in the present case.

2. This declaration is to supplement my prior declarations, dated April 6, April 13, April 22, April 27, May 15, May 20, June 19, and June 26 submitted in the instant case.
3. The statements contained in this declaration are based on my personal knowledge and information provided to me in my official capacity.
4. As previously reported as of June 25, 2020, all three FRCs have instituted saturation testing. ICE has received further results as detailed below. In addition, other cases have emerged amongst the staff at two of the three facilities, the Karnes Family Residential Center (Karnes) and the South Texas Family Residential Center at Dilley (Dilley).
5. With respect to the staff testing conducted at Karnes, 342 staff have been tested thus far. Three GEO employees have tested positive, although there are still test results outstanding. As previously reported to the Court, one GEO transportation officer was tested on June 25, 2020 and positive results were received on June 26, 2020. She is asymptomatic and was sent home on a 14-day self-quarantine on June 26. The transportation officer had been in contact with 15 GEO employees who tested negative, and all are asymptomatic. All are self-observing for any symptoms for the next 14 days and are required to wear a mask and have their temperature taken twice daily while working. The transportation employee had no contact with any residents. The other two GEO employees who tested positive were a nurse and an intake officer who were tested on June 23, 2020. Their results were received on June 29, 2020. They were last present at work on June 28, 2020. Contact tracing and video review of their activities is currently being compiled.
6. Separate from the saturation testing, a JFRMU Compliance Standards Officer (CSO) at Karnes was exposed to another person with COVID-19. Although asymptomatic, he was

tested on June 24, 2020, with positive results. He has not been present at an ICE facility since June 22, 2020. He is currently in a 14-day self-quarantine. The CSO's responsibility at an FRC is to ensure ICE's detention standards are met; therefore, while he was on site at the facility, he wore a mask and maintained social distancing at all times.

7. A CSO at Dilley, tested positive for COVID-19 on June 22, 2020. On June 18, 2020, he began experiencing symptoms of COVID-19. He was tested on June 22, 2020 and received his positive test results on June 23, 2020. He has been in self-quarantine since that time. The last day that the CSO was at the facility was June 17, 2020. Video review of his activities was conducted and confirmed he wore a mask at all times while inside the facility.
8. A Registered Nurse at Dilley excused herself from work after a family member was placed in quarantine for COVID-19. The nurse became symptomatic on June 23, 2020 and was tested on June 24, 2020. She received a positive test result on June 24, 2020, and she notified the facility. Her last day onsite was June 19, 2020 on a 4:00 p.m. to 2:30 a.m. shift.
9. Currently, there are no reported positive COVID-19 cases of staff or residents at Berks County Family Residential Center.
10. 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 29th day of June 2020.

A handwritten signature in blue ink, appearing to read "MBH", is written over a horizontal line.

Melissa B. Harper
Unit Chief, Juvenile and Family Residential Management Unit
ICE Enforcement and Removal Operations

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF COLUMBIA

O.M.G., *et al.*;

Petitioners,

v.

Chad WOLF, Acting Secretary of the U.S.
Department of Homeland Security, *et al.*,

Respondents.

Case No. 1:20-cv 00786-
JEB

**NOTICE OF COVID-19 POSITIVE
CASES**

The Honorable James E. Boasberg

Pursuant to the June 25, 2020 minute order, Respondents hereby notify the Court that several additional employees in the Family Residential Centers (“FRCs”) have tested positive for COVID-19. On June 30, 2020, Immigration and Customs Enforcement (“ICE”) informed the Department of Justice (“DOJ”) of these new positive cases, provided further details about the circumstances described in June 29, 2020 notice, ECF No.73, and an updated census to include releases and intakes. The declaration of Mellissa B. Harper, with details about these new cases, testing, the risk mitigation steps in process, and the census, is attached hereto as Exhibit 1.

I. Karnes County Family Residential Center (“Karnes FRC”)

In addition to the four employees who have previously tested positive, two additional employee, an intake officer and a nurse, tested positive on June 29, 2020. *See* Ex. 1 at ¶ 8(b)-(c). Both individuals were tested as part of the saturation testing at Karnes. *Id.*

Between June 25, 2020 and June 30, 2020, four individuals, two adults and two minors, were released from Karnes. *Id.* ¶ 6(a). During the same period there were 38 new intakes, 22 adults and 16 minors. *Id.* ¶ 5(a). All 38 new intakes were tested for COVID-19, and are pending

results. Each family unit was assigned to their own room in a cohort section of the facility, and will continue to reside in their individual room. *Id.* ¶ 5(a)(i).

As of June 30, 2020, there were 107 individuals, comprised of 60 adults and 47 minors. *Id.* at ¶ 4(a).

II. South Texas Family Residential Center (“Dilley FRC”)

There are two more confirmed cases among employees, a resident counselor and resident supervisor. Ex. 1 at ¶¶ 10-11.

Between June 25, 2020 and June 30, 2020, there were a total of three new intakes, two adults and one minor, at Dilley. *Id.* at ¶ 5(b). They are housed in separate dorms without contact with other families. The family unit is pending results for COVID-19, and there is plan to treat should results return positive. *Id.* at ¶ 5(b)(i).

As of June 30, 2020, there were 157 individuals, comprised of 70 adults and 87 minors. *Id.* at ¶ 4(b).

III. Berks County Family Residential Center (“Berks FRC”)

Currently, there are no reported cases of staff or residents at the Berks FRC. Ex. 1 ¶ 12. As of June 30, 2020, there were 13 individuals, comprised of 8 adults and 5 minors. *Id.* at ¶ 4(c). Between June 25, 2020 and June 30, 2020, there were no new intakes at the Berks. *Id.* at ¶ 5(c).

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Respondents will appraise the Court of any further developments as it receives them from ICE.

RESPECTFULLY SUBMITTED this 1st day of July 2020.

MICHAEL R. SHERWIN
Acting United States Attorney
District of Columbia
DANIEL VAN HORN
Assistant U.S. Attorney
555 4th St. NW
Washington, DC 20530
Telephone: (202) 252-2506
Email: Daniel.VanHorn@usdoj.gov

JOSEPH H. HUNT
Assistant Attorney General
Civil Division
WILLIAM C. PEACHEY
Director
Office of Immigration Litigation
District Court Section
ELIANIS PEREZ
Assistant Director

s/ Vanessa Molina
VANESSA MOLINA
Trial Attorney
P.O. Box 868, Ben Franklin Station
Washington, DC 20044
Telephone: (202) 532-4413
Facsimile (202) 305-7000
Email: Vanessa.Molina@usdoj.gov

Attorneys for Defendants

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

O.M.G., <i>et al.</i> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Case No.: 1:20-cv-00786-JEB
	)	
CHAD WOLF, Acting Secretary of the U.S.	)	
Department of Homeland Security, <i>et al.</i> ,	)	
	)	
Respondents.	)	
_____	)	

SUPPLEMENTAL DECLARATION OF MELLISSA B. HARPER

I, Mellissa B. Harper, hereby make the following declaration with respect to the above-captioned matter:

1. I am the Chief of the Juvenile and Family Residential Management Unit (JFRMU), Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS). JFRMU addresses issues confronting unaccompanied alien children (UAC) and alien family groups who come into ERO custody, including those detained at a Family Residential Center (FRC). JFRMU develops policies sensitive to the various vulnerabilities and needs of these populations. JFRMU trains, monitors, and advises Field Office Juvenile Coordinators (FOJCs). These officers serve as subject matter experts on juvenile and family matters in their respective field offices. As JFRMU advises FOJCs, they in turn, advise their fellow officers who encounter minors during enforcement activities. JFRMU oversees and monitors the implementation of nationwide court orders that impact this population, including those in the present case.

2. This declaration is to supplement my prior declarations, dated April 6, April 13, April 22, April 27, May 15, May 20, June 19, June 26, and June 29 submitted in the instant case.
3. The statements contained in this declaration are based on my personal knowledge and information provided to me in my official capacity.
4. As of June 30, 2020, the number of individuals housed at the FRCs are as follows:
 - a. At Karnes, there were a total of 107 individuals, comprised of 60 adults and 47 juveniles.
 - b. At Dilley, there were a total of 157 individuals, comprised of 70 adults and 87 juveniles.
 - c. At Berks, there were a total of 13 individuals, comprised of 8 adults and 5 juveniles.
5. From June 25, 2020, through June 30, 2020, there were 41 total new intakes into ICE FRCs. The breakdown of these new intakes are as follows:
 - a. At Karnes, there were a total of 38 intakes during this time period, comprised of 22 adults and 16 juveniles.
 - i. All 38 new intakes were tested for COVID-19 and are pending results. Each of these family units are cohorted in their own room in one of two cohort sections of the facility, pending results. Each family unit will continue to remain in their own room as the current population at the facility remains well below capacity.
 - b. At Dilley, there were a total of 3 intakes during this time period, comprised of 2 adults and 1 juvenile.

- i. All 3 new intakes have been tested for COVID-19 and are pending results. They are housed in separate dorms for the 14-day observation period and do not have contact with other families to prevent potential cross-contamination. Should the test results return positive, the family unit will be moved to the medical housing unit and will be housed in a negative pressure room and treated accordingly. Should the results return negative, the family will complete the 14-day observation period prior to being transferred to general population.
 - c. At Berks, there were no intakes during this time period.
- 6. From June 25, 2020, through June 30, 2020, ICE released¹ 6 total individuals from its FRCs. The breakdown of these releases are as follows:
 - a. At Karnes, there were a total of 4 individuals released from custody during this time period, comprised of 2 adults and 2 juveniles.
 - b. At Dilley, there were a total of 2 individuals released from custody during this time period, comprised of 1 adult and 1 juvenile.
 - c. At Berks, there were no individuals released from custody during this time period.
- 7. As previously reported as of June 25, 2020, all three FRCs have instituted saturation testing of the residents housed there at the time of testing. In addition, other positive COVID-19 cases have emerged amongst the staff at two of the facilities, the Karnes Family Residential Center (Karnes) and the South Texas Family Residential Center at Dilley (STFRC).

¹ Released into the U.S. interior. The source for this is data pulled from ENFORCE on 6/30/2020.

8. The last update notified the court that three GEO employees—at transportation officer, a nurse and an intake officer—tested positive for COVID-19. Additional details with respect to those individuals are now available.
 - a. On June 26, 2020, GEO Transportation Officer (TO) at the Karnes County Family Residential Center (KCFRC), reported receiving a positive result for COVID19 testing. The COVID19 test was conducted on June 25, 2020, as part of saturation testing at KCFRC. Upon notification of the positive result, GEO conducted in depth contract tracing through employee interviews and extensive review of closed-circuit video footage of the employee’s movement throughout the residential center. Contact tracing revealed; The employee’s last day at the facility was June 26, 2020. The employee had no contact with residents at the facility. Any staff members identified through contact tracing, were notified and are self-observing for any symptoms for the next 14 days and are required to wear a mask and have their temperature taken twice daily while working. No residents have tested positive as a result of exposure in this case. The TO role is to attend to the needs of the residents at the KCFRC. The TO is responsible for securely transporting residents between destinations and ensuring that the vehicles used for transportation activities are safe and properly maintained. Through contact investigations, it was determined that on June 20, 2020, the four positive GEO employees were all together outside the facility on personal time. They admitted to congregating outside the facility without PPE. It was also determined that the nurses carpool together and two employees cohabitate.

- b. On June 29, 2020, GEO Intake Officer (IO) at KCFRC, reported receiving a positive result for COVID19 testing. The COVID19 test was conducted on June 23, 2020, as part of saturation testing at KCFRC. Upon notification of the positive result, GEO conducted in depth contract tracing through employee interviews and extensive review of closed-circuit video footage of the employee's movement throughout the residential center. Contact tracing revealed; The employee's last day at the facility was June 28, 2020. The employee had no contact with residents at the facility. Any staff members identified through contact tracing, were notified and are self-observing for any symptoms for the next 14 days and are required to wear a mask and have their temperature taken twice daily while working. No residents have tested positive as a result of exposure in this case. The IO role is to attend to the needs of the residents entering and leaving KCFRC. The IO assists residents with their property, documents, monies, health, safety, and well-being, as well as ensures safety and supervision throughout the residential center. Through contact investigations, it was determined that on June 20, 2020, the four positive GEO employees were all together outside the facility on personal time. They admitted to congregating outside the facility without PPE. It was also determined that the nurses carpool together and two employees cohabitate.
- c. On June 29, 2020, GEO Nurse (Nurse One) at KCFRC, reported receiving a positive result for COVID19 testing. The COVID19 test was conducted on June 23, 2020, as part of saturation testing at KCFRC. Upon notification of

the positive result, GEO conducted in depth contract tracing through employee interviews and extensive review of closed-circuit video footage of the employee's movement throughout the residential center. Contact tracing revealed; The employee's last day at the facility was June 29, 2020. The employee's last contact with residents at the facility was June 29, 2020. The thirty-seven residents identified as having contact with Nurse One were identified and notified of the exposure. Eleven of these residents were those that were in isolation for positive results. No residents have tested positive as a result of exposure in this case. The Nurse's role under the direction of an RN is to develop nursing care plans for residents, performs physical assessments and medical history, assists physicians with patients screenings, ensures prescribed medications are administered, makes observation rounds on patients, and records progress notes, attend to the needs of the residents at the KCFRC. The Nurse assists residents in their medical rooms when housed in isolation and treats those residents who seek medical assessment at the medical clinic, as well as, ensures safety and supervision throughout the medical facility. Through contact investigations, it was determined that on June 20, 2020, the four positive GEO employees were all together outside the facility on personal time. They admitted to congregating outside the facility without PPE. It was also determined that the nurses carpool together and two employees cohabitate.

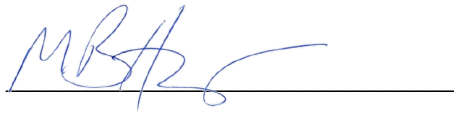
9. There is one additional employee at KCFRC who has tested positive. On June 29, 2020, GEO Nurse (Nurse Two) at KCFRC, reported receiving a positive result for

COVID19 testing. The COVID19 test was conducted on June 29, 2020, at her PCP office in preparation for a medical procedure. Nurse Two received a COVID19 test on June 23, 2020, as part of saturation testing at KCFRC, but that test result was negative. Upon notification of the positive result, GEO conducted in depth contract tracing through employee interviews and extensive review of closed-circuit video footage of the employee's movement throughout the residential center. Contact tracing revealed; The employee's last day at the facility was June 29, 2020. The employee's last contact with residents at the facility was June 29, 2020. The thirty-seven residents identified as having contact with Nurse Two were identified and notified of the possible exposure. Eleven of these residents were those that were in isolation for positive results. No residents have tested positive as a result of exposure in this case. The Nurse's role under the direction of an RN is to develop nursing care plans for residents, performs physical assessments and medical history, assists physicians with patients screenings, ensures prescribed medications are administered, makes observation rounds on patients, and records progress notes, attend to the needs of the residents at the KCFRC. The Nurse assists residents in their medical rooms when housed in isolation and treats those residents who seek medical assessment at the medical clinic, as well as, ensures safety and supervision throughout the medical facility. Through contact investigations, it was determined that on June 20, 2020, the four positive GEO employees were all together outside the facility on personal time. They admitted to congregating outside the facility without PPE. It was also determined that the nurses carpool together and two employees cohabitate.

10. On June 28, 2020, Core Civic Resident Counselor (RC) at the STFRC, reported receiving a positive result for COVID-19 testing. The COVID-19 test was conducted on June 27, 2020, after the employee began experiencing symptoms of COVID-19. Upon notification of the positive result, Core Civic conducted in depth contract tracing through employee interviews and extensive review of closed-circuit video footage of the employee's movement throughout the residential center. Contact tracing revealed that the employee's last day at the facility was June 25, 2020, in which the employee left after three hours of work. The employee did not have contact with residents at the facility within five days prior to experiencing symptoms. Additionally, video review revealed the employee was wearing their mask and did not have close contact with other staff. No residents or employees have tested positive as a result of exposure in this case. The RC role as trained member of the Unit Management Team, who is responsible for resolving daily resident issues before they become significant matters, incidents or grievances.
11. On June 29, 2020, Core Civic Resident Supervisor (RS) at the STFRC, reported receiving a positive result for COVID-19 testing. The COVID-19 test was conducted on June 28, 2020, after the employee began experiencing symptoms of COVID-19. Upon notification of the positive result, Core Civic conducted in depth contract tracing through employee interviews and extensive review of closed-circuit video footage of the employee's movement throughout the residential center. Contact tracing revealed that the employee's last day at the facility was June 16, 2020, and the employee had taken Personal Time Off (PTO) in conjunction with his/her assigned days off duty. The employee did not have contact with residents or staff at the

- facility within five days prior to testing. No residents or employees have tested positive as a result of exposure in this case. The RS role is to attend to the needs of the residents at the STFRC. The RS assists residents in their dorms, dayrooms and recreation areas, as well as ensures safety and supervision throughout the residential center.
12. Currently, there are no reported positive COVID-19 cases of staff or residents at Berks County Family Residential Center.
13. 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 30th day of June 2020.



Mellissa B. Harper
Unit Chief, Juvenile and Family Residential Management Unit
ICE Enforcement and Removal Operations